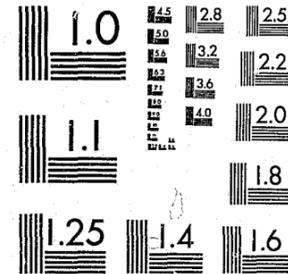


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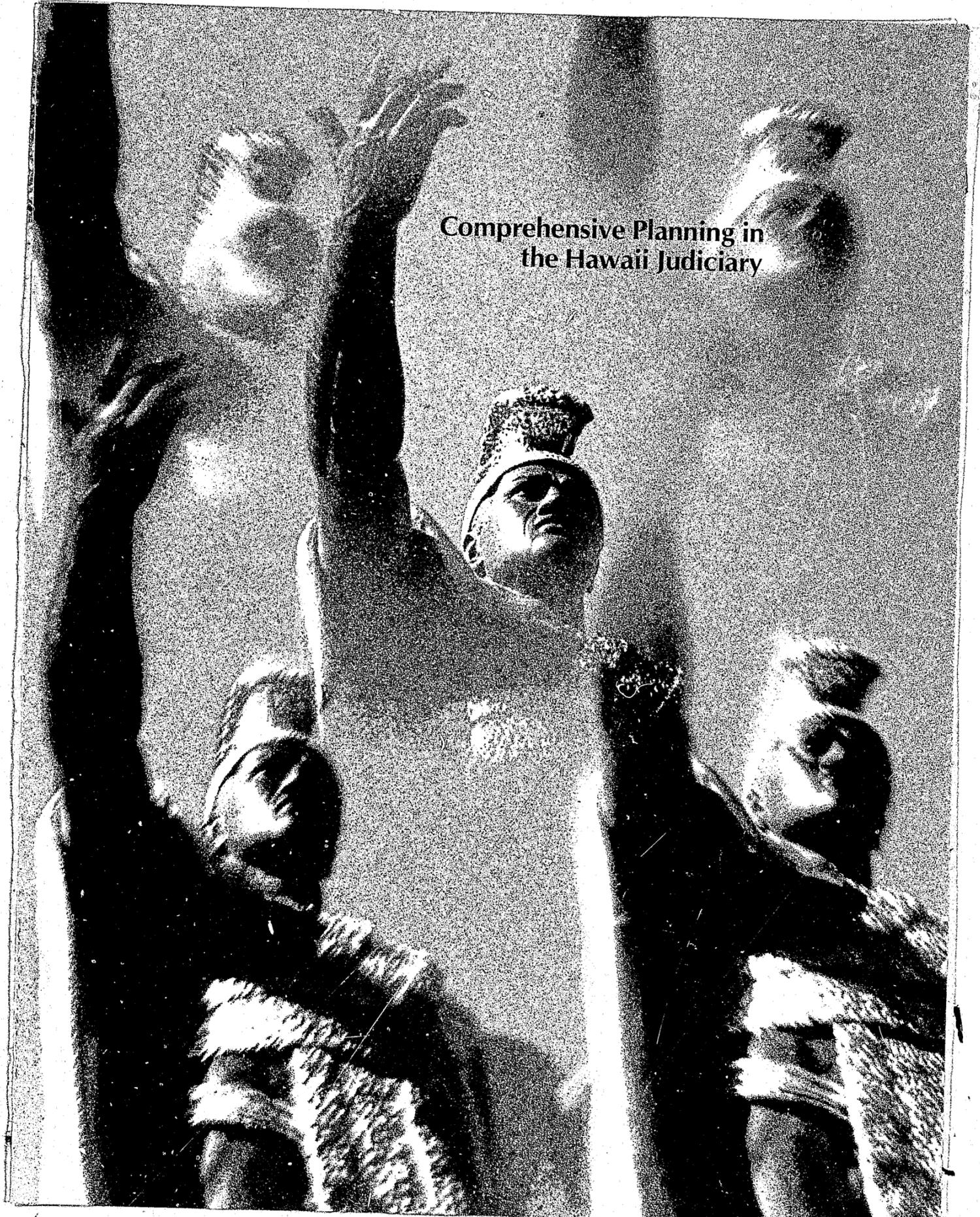
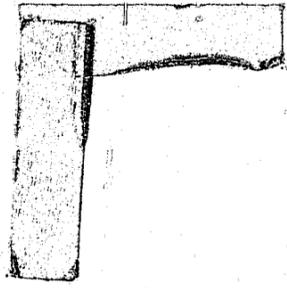
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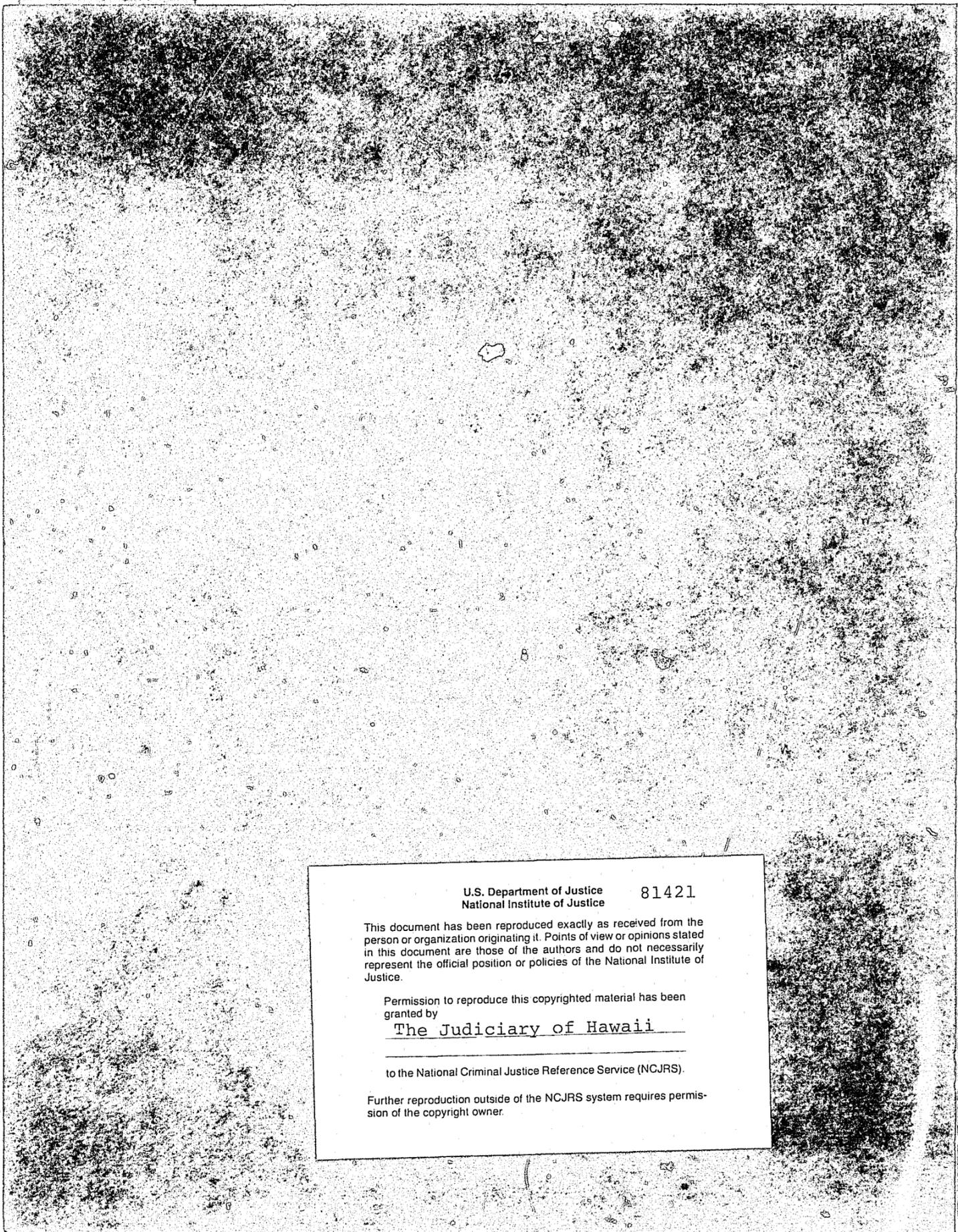
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**Comprehensive Planning in
the Hawaii Judiciary**



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Message from the Chief Justice

The adoption of a comprehensive planning system for the Hawaii Judiciary is a major achievement for which we may each take pride. It reaffirms my personal commitment, shared by all our judges, administrators, and staff, to provide Hawaii's citizens with the finest judicial system in the United States.

Through this planning process we enhance the possibility of developing the fullest potential of our unified court structure. The system outlines methods for meeting present needs, anticipating future needs, and honestly evaluating the programs designed to achieve these needs.

An effort of this magnitude could be accomplished only by a large group of dedicated individuals, and it is to them that we owe our gratitude. But we owe ourselves and the future something more.

We must resolve, first, to use this planning methodology conscientiously, and second, to fully effectuate the identified mechanisms that will implement our desired goals. Only then can we rest comfortably with the knowledge that the future will be a reflection of our past endeavors.

It is my hope, therefore, that all who read this document will have a better understanding of The Judiciary and find purpose and direction in all that we do.

William S. Richardson

William S. Richardson
Chief Justice



Message from the Administrative Director of the Courts

It is with both pride and pleasure that I view my part in establishing a comprehensive planning mechanism in the Judiciary. For this planning process is an exceptional tool for improving the quality of judicial and administrative services to the people of our State. We have created an effective system for identifying goals on a statewide basis, developing objectives at the program level which implement these goals, and utilizing the budgetary process to allocate resources to achieve these objectives and goals.

Equally significant and perhaps more inspired is the concept of using futures research to influence the direction of the Judiciary. This technique not only serves as a catalyst for innovative and encyclopedic planning but also promotes a marriage of effort between the Judiciary, through its planning office, and the University of Hawaii, through its Political Science Department and Law School. It also adds a new and vital dimension in our planning effort that will strengthen our continuing efforts to achieve the highest standards of justice attainable under our system of government.

The adoption of the comprehensive planning system outlined in this document must therefore rank as one of the most significant achievements of the Hawaii Judiciary in recent years. For with it, we can approach the future with the confidence that we can handle the challenges that await us.

Lester E. Cingcade
Administrative Director of the Courts

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Foreword

In an endeavor to improve the quality of justice in general and the planning function of the Hawaii Judiciary in particular, the Administrative Director of the Courts, in accordance with the terms of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, applied for and was awarded a grant by the State Law Enforcement and Juvenile Delinquency Planning Agency for the Court Planning Project, Project Number 77A-5.7a.

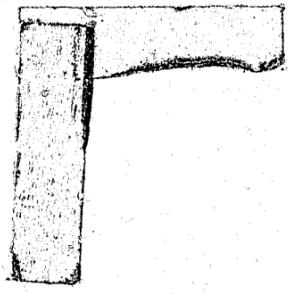
The Office of Planning and Statistics was established in the Office of the Administrative Director of the Courts under the general direction of the Administrative Director of the Courts and the Chief Justice of the Supreme Court, who, pursuant to constitutional authority, has the ultimate administrative responsibility for the State's judicial system.

Since its inception, the principal purpose of the planning office has been to establish and maintain a comprehensive planning capability within the Hawaii Judiciary. Thus, until now, the bulk of the planning effort has been directed towards developing formalized mechanisms for comprehensive planning in the courts. This handbook, entitled *Comprehensive Planning in the Hawaii Judiciary*, culminates this effort by capturing, in a clear and succinct written form, the essence of that experience.

It is hoped that this handbook will help fill a current information void and thus stimulate a continuing exchange of planning ideas and experiences among the judges and administrators of the Hawaii Judiciary. Much appreciation is expressed for the support provided by the Honorable William S. Richardson, Chief Justice of the Supreme Court; Mr. Lester E. Cingcade, Administrative Director of the Courts; and, Mr. Tom Okuda, Deputy Administrative Director of the Courts. Also, special gratitude for their contributions to this handbook go to the many judges, court administrators, program managers and support personnel of the Judiciary who have enthusiastically supported our planning efforts to date. Without their foresight and dedication, this handbook would not have been possible.

Gregory C. Sugimoto
Court Planner
The Judiciary
State of Hawaii

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Introduction

The Purpose of This Handbook

This handbook, entitled *Comprehensive Planning in the Hawaii Judiciary*, has been specifically developed for the judges, administrators, and support personnel of the Hawaii Judiciary. It is intended to serve as a general blueprint of action for comprehensive court planning in the Hawaii Judiciary. It is also intended to serve as a useful and usable instructional tool, reference book, and resource to guide the development and implementation of the general and specialized court plans called for by our approach to comprehensive planning. Thus, the intelligent use of this handbook will enable the busy administrator to quickly grasp the fundamental principles and methods of comprehensive planning, develop an acceptable method of analyzing problems and establishing effective and workable objectives and plans, and acquire a sufficient knowledge of comprehensive planning to approach any problem in the area that is likely to be presented.

Scope of Material Covered in the Handbook

This handbook describes the fundamental concepts, facts, ideas, processes and procedures of comprehensive planning and shows how they have been applied to the unified court system of Hawaii. Thus, the areas covered by the subject matter of this handbook include all important facets of comprehensive planning. This includes a detailed discussion of the concept of comprehensive planning;

the techniques of effective goal and objective formulation; selected definitions of key planning terms; and, the concepts and techniques of alternative futures explorations and contingency planning. Also included is a clear and concise description of how the budgetary process can be used to translate long-range strategic plans into current decisions. Finally, a preliminary statement of the missions and goals of the Judiciary and its programs is presented to illustrate how the principles and practices of comprehensive planning as expressed herein have been effectively applied to a state judicial system.

The subject matter presented in this handbook is well balanced. Throughout this handbook, attempts have been made to blend some of the most advanced concepts and principles of modern corporate planning with the more traditional methods of court planning. Where appropriate, those aspects of comprehensive planning which are unique to the Hawaii Judiciary have been isolated from those which have more universal applicability. While this handbook has essentially taken a managerial viewpoint, notably those of the principal decision-makers or "top" management of the Judiciary, other viewpoints, notably those of middle and lower-level court administrators, have not been ignored. The scope of material covered by this handbook, therefore, is quite broad; it encompasses all administrative levels of the court system and all essential aspects of comprehensive planning. This handbook should therefore establish a firm founda-

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tion from which to strengthen the current state of the art of planning within the unique context of a unified state court system.

Organization of this Handbook

This handbook is organized into six major parts.

Part I, consisting of Chapters One and Two, provides general background information regarding the "system" for which comprehensive planning is undertaken. It examines the concept of court unification and describes some of the more salient characteristics of Hawaii's unified court system. It also focuses upon the functions and activities of the Judiciary from the standpoint of its eight major parts.

Part II, consisting of Chapters Three, Four, and Five, describes the method by which we propose to plan for the Hawaii Judiciary and the nature and concept of comprehensive planning which underlies our approach to planning for the unified court system of Hawaii. It also examines the organizational aspects of comprehensive planning and the implementation mode which we have adopted to develop and execute plans.

Part III, which consists of Chapters Six, Seven, and Eight, describes the specialized features of the comprehensive planning process of the Judiciary. Chapter Six examines the conceptual framework which has been developed to organize and relate the various components of the planning process as well as to show the multi-dimensional character of the Judiciary. Chapter Seven describes the comprehensive coding system which was devised to identify, coordinate, and relate the various components of the planning process. Chapter Eight describes the nature and concept of futures research which, as part of the strategic planning process, represents the means by which contingency planning and alternative futures explorations will be undertaken.

Part IV examines the principal mechanism for implementing the plans of the Judiciary and its programs—the Program Planning and Budgeting (PPB) system of the State. It describes the steps

which will be taken to fully integrate the Judiciary's comprehensive planning process with the budgeting system of the State so as to improve the quality of resource-allocation decision-making and thereby maximize the quality of services provided by the Judiciary.

Part V, consisting of Chapters Ten, Eleven, and Twelve, focuses upon the substantive aspects of planning by presenting, in narrative and summary form, the goals of the Judiciary and its programs. Chapter Ten describes the goals of the Judiciary which serve as the foundation for the development of all successive plans in the comprehensive planning process and toward the achievement of which the resources and energies of the Judiciary will be directed. Chapter Eleven sets forth the goals of the programs of the Judiciary which reflect the particular means by which a given structural division of the Judiciary will accomplish the goals of the organization as a whole. Chapter Twelve presents a summary description of the goals of the Judiciary and its programs within the conceptual framework of the Judiciary described in Chapter Six.

Part VI contains the Appendices. Appendix A consists of the definitions of terms used in this handbook and in planning generally. Appendix B contains the Judicial Article of the Constitution of the State of Hawaii which establishes the framework for Hawaii's unified court system. Appendix C presents selected statutes relating to the administration of the unified court system of Hawaii. Appendix D is the Consensus Statement Of The Citizen's Conference On The Administration Of Justice which was published in 1967. This is followed by Appendix E which traces the historical development of the judicial system of Hawaii. Appendix F describes how the components of the planning process are formulated. Appendix G reviews the forecasting methodologies utilized as part of futures research. Appendix H presents the Executive Budget Act of 1970 which establishes the Program Planning and Budgeting (PPB) system for the State of Hawaii. Finally, Appendix I provides the text of Act 159, S.L. 1974 and Act 159, S.L. 1977. These acts clarified the relationship of the three branches of State government.

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The Unified Court System of Hawaii

1

In Part I, the Hawaii Judiciary is described from two broad structural perspectives: First, as a unified system of courts; and, second, as a collection of separate parts called programs for budgetary purposes. Chapter One describes the Judiciary from the former perspective which focuses upon the principal characteristics of the Judiciary as a unified court system. Chapter Two focuses upon the constituent parts which make up the judicial system of Hawaii. In brief, the purpose of Part I is to describe the total system for which planning must be undertaken, and to provide answers to the basic question: What is the Judiciary and how does it function in a modern society?

In order to fully comprehend the nature and concept of the planning process which was designed for the Hawaii Judiciary and to understand the role of formalized planning in a judicial context, it is necessary to describe, as a preliminary matter, the kind of system in which such planning is being undertaken. This chapter will focus upon the principal characteristics of the Judiciary as a totality or a unified system of courts.

The Concept of Court Unification

The concept of court unification has been the central theme in nearly all proposals for state court reform in this century. Simply stated, a unified system of courts is one which is organized according to uniform and simple divisions of jurisdiction and operates under a common administrative authority. Typically, such systems are characterized by the following four components:¹

- The elimination of overlapping and conflicting jurisdictional boundaries (of both subject-matter and geography);
- Hierarchical and centralized state court structure with administrative responsibility vested with the chief justice and the state court of last resort. Such administrative authority often includes the authority to deal with the assignment of judges, promulgation of rules, designation of presiding judges of local trial courts and general administrative procedures relating to jury selection, case processing time standards, monitoring techniques, and statistical collection;

- Unitary budgeting and financing of the courts at the state level;
- Separate personnel system centrally run by the state court administrator covering a range of personnel functions (recruitment, selection, promotion, etc.) and encompassing all personnel including clerks of court.

The premise underlying the movement towards unifying a court system is the expectation that equal justice throughout a court system is possible only if the system as a whole applies equal standards through a rationally allocated effort.

Hawaii's Unified Court System

Over the years, the Judiciary of the State of Hawaii has evolved from a fragmented collection of county and state courts with overlapping jurisdictions and separate sources of financing into a totally *integrated* system of state courts.² At present, it functions under one administrative head—the Chief Justice of the Supreme Court; is funded by one source—the State Legislature; and administers its own personnel system. Court rules, procedures and forms are consistent throughout all jurisdictions, and a central administrative office, headed by a director appointed by the Chief Justice with the approval of the Supreme Court, assists in supervising operations statewide. In addition, broad rule-making power is granted to the Supreme Court, and a judicial council serves in an advisory capacity to the Court.

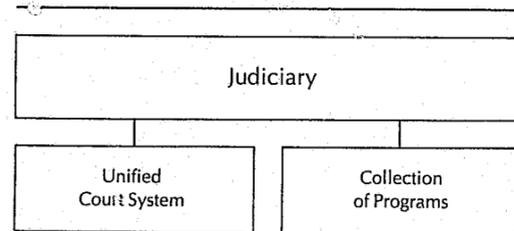


Fig. 1.1 Structural Perspectives of the Judicial System

Principal Features Of Hawaii's Unified Court System

The principal features of the unified court system of Hawaii are described below.

Integrated Court Structure

The Judiciary is a statewide system of courts consisting of four integrated court levels of appellate and trial courts. These four court levels are:

- the Supreme Court, the highest court of the State with appellate jurisdiction;
- the Intermediate Court of Appeals, the second highest court of the State with concurrent and limited appellate jurisdiction;
- the Circuit Courts, trial courts of general jurisdiction; and,

- the District Courts, trial courts of limited jurisdiction (non-jury).

In addition, there are three specialized courts of limited jurisdiction—the Land Court, the Tax Appeal Court, and the Family Courts.

Each of Hawaii's four counties constitutes a separate judicial circuit in the Hawaii judicial system and each circuit is served by at least one Circuit Court, a District Court, and a Family Court. The Land Court and Tax Appeals Court are statewide courts of record and are based in Honolulu.

All justices and judges of the Hawaii Judiciary are selected, compensated, disciplined, and retained in accordance with the provisions of the State Constitution and as specified by law.³

Within this integrated court structure, there is no overlapping of judicial functions. Cases heard in one court are not heard in another. All appeals are taken from the trial level to the appellate level thereby simplifying the litigation process and avoiding a multiplicity of actions and unnecessary expenses to the litigant.

Centralized Administration

The second characteristic of Hawaii's unified Judiciary involves administrative and procedural centralization. Hawaii's Constitution has long designated the Chief Justice as the administrative head of

the courts. As such, he is responsible for the overall administration of the judicial system and for the effective and expeditious operation of all courts in the State. Constitutional and statutory provisions provide, however, for an administrative director to assist the Chief Justice in maintaining the judicial machinery. At present, the Office of the Administrative Director of the Courts provides a number of centralized staff services to all divisions of the statewide judicial system. The Supreme Court is also authorized to appoint a judicial council whose function is to advise the Court of matters relating to the administration of justice in the courts.

Centralized Rulemaking Power

Another dimension of the centralized administration characteristic of the Judiciary involves the rulemaking power of the Supreme Court. It has generally been advocated that courts should have the authority to prescribe rules of procedure governing judicial proceedings as a means of preserving the integrity of the judicial process. In addition, this scheme provides flexibility because amendments to rules can be made by the Court without resort to the slower legislative process.

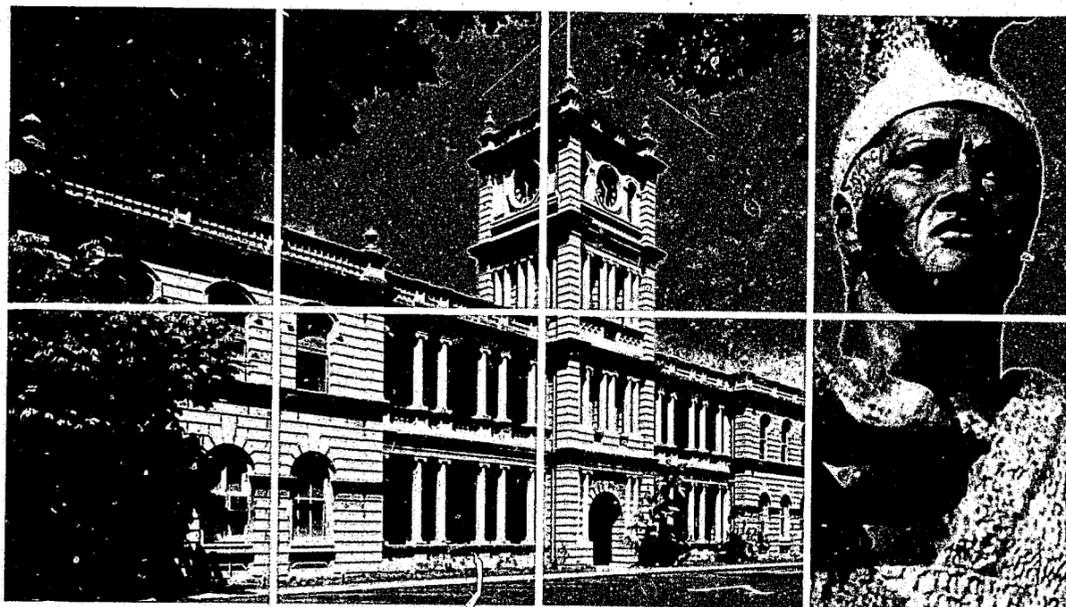
Hawaii's Constitution has granted the Supreme Court such authority since statehood in 1959. Thus, the Court may promulgate rules and regulations for

all civil and criminal proceedings for all courts relating to process, practice, procedures, and appeals, which have the force and effect of law. The Court's rulemaking power is exclusive; the Legislature has no veto power over the rules promulgated by the Court. Presently, Hawaii's Rules of Court include rules of civil and criminal procedures, rules for all the courts listed above, rules for the Family Court division of the Circuit Courts, and rules for the Small Claims division of the District Court.

Unitary Financing and Budgeting

The third characteristic of Hawaii's unified court system is its unitary financing and independent budgetary system. Since 1965, when the District Courts were transferred from the counties to the State, the Judiciary has been funded by one source—out of revenues appropriated by the State Legislature. However, it was not until 1974 that the Judiciary was allowed to develop its own budgetary system free from budget preparation controls of the executive branch and to submit its budget and related documents directly to the Legislature.

In the 1974 general election, the people of Hawaii voted to amend the State Constitution to exclude the Judiciary's budget from the item veto power of the Governor. In addition, the Legislature enacted Act 159 which provided for a separate Judiciary



budget that was independent of the executive budget. Under the new law, the Chief Justice is responsible, together with the administrative director and his deputy, for the preparation and submittal to the Legislature of a unified budget covering all programs of the Judiciary. The statute also required the State Comptroller to make available to the Judiciary the total amount appropriated to it by the Legislature.

The purpose of these changes to the budgetary and fiscal functions of the Judiciary was twofold; that is, to safeguard the judicial processes from executive domination and to confer upon the Judiciary the separate and co-equal status intended by the Constitution.

Separate Personnel System

The fourth and final characteristic of Hawaii's judicial system is its separate personnel management system. Although some reform in the area of personnel administration in the Judiciary was brought about by Act 159 of 1974,⁴ it was not until 1977, when the Ninth Legislature passed Act 159, that the Judiciary was allowed to create its own personnel system separate and apart from that of the executive branch.

Prior to the adoption of Act 159 in 1977, nonjudicial staff of the courts were subject to the civil service regulations covering employees of the executive branch. Moreover, existing statutes permitted

the executive branch to exercise administrative controls over judicial personnel management. Finding that these conditions were not consistent with the constitutional principle of the separation of powers among co-equal branches of government, the Legislature chose to remedy this discrepancy by amending the personnel laws of the State to conform to the concept of the Judiciary as a separate branch of government.⁵ It did this by granting to the Judiciary the authority necessary to establish a separate *personnel system*.⁶ Thus, with the reorganization of the Judiciary's personnel office in 1978, unification of Hawaii's Judiciary was complete.

Summary

Generally speaking, unification and independence are characteristics which have traditionally been utilized as the criteria for assessing the relative "modernity" of a state court system. As the preceding text clearly shows, the recent history of the Hawaii Judiciary in this regard has been a positive one. It has evolved from a fragmented collection of county and state courts with overlapping jurisdictions and separate financing into a *system* of courts which is completely unified and centralized. In fact, the unique structure of Hawaii's Judiciary is considered by many legal authorities to be the most completely unified system in the United States⁷—one that is increasingly realizing the intent of the Framers of the Constitution to establish the Judiciary as a separate and co-equal branch of government.

1. Geoff Gallas, "The Conventional Wisdom of State Court Administration: A Critical Assessment and an Alternative Approach," *The Judicial System Journal*, Spring 1976, p. 35. See also, Berkson, Larry C., "The Emerging Ideal of Court Unification," *Judicature*, March 1977, p. 373.

2. The major events and forces which helped to shape the present organizational structure of the Hawaii Judiciary are chronicled in Appendix E as part of the historical development of the Judiciary.

3. Hawaii's method for selecting, compensating, disciplining, and retaining judges and justices is discussed in detail in Appendix E.

4. Act 159 of 1974 provided for representation from the Judiciary at meetings of the State and County civil service commissioners and directors of the State Department of Personnel Services. It also permitted the Judiciary greater input in the decision-making process of the personnel and civil service systems with respect to position classification and formulation of rules and regulations affecting the Judiciary. In addition, the Act gave the Chief Justice ultimate authority in any administrative dispute arising between himself and the Director of Personnel Services relating to requests for action by the Judiciary.

5. Finally, it allowed Judiciary employees to continue to enjoy the benefits of the civil service merit system and collective bargaining provisions. See Appendix I for more information concerning Act 159 and its effect upon the Judiciary.

6. Such an approach is consistent with the American Bar Association's position that the personnel of a court system be selected and managed by regulations promulgated by the Judiciary itself. American Bar Association, *Standards Relating to Court Organization* (1974), p. 4.

7. The new statute recognized that the State's civil service system was composed of two separate and distinct parts: the executive civil service system and the judicial civil service system. Within the judicial civil service system, the Chief Justice is equated with the Governor while the administrative director is viewed as the counterpart of the executive branch's Director of Personnel Services. To avoid any potential conflict of interest, however, the Governor is considered the employer for both the judicial and executive branches.

8. Indeed, as early as 1968, former Associate Justice Tom Clark of the United States Supreme Court, in a speech in Hawaii, declared that "Hawaii has one of the best judicial structures in the nation."

A Description of the Programs of the Judiciary

2

In the preceding chapter, some of the more outstanding characteristics of Hawaii's unified court system were described in order to provide an insight into the kind of system in which comprehensive planning is being undertaken. In this chapter, the Judiciary will be more specifically described in terms of its constituent parts which are called programs¹ for budgetary purposes.

The program descriptions are presented so as to stimulate a greater awareness and familiarity with the context in which comprehensive planning will be undertaken as well as to elicit a deeper understanding and appreciation of the Judiciary's diverse role in modern society.

The Programs of the Judiciary

Program Structure

Under the unified budgeting system of the Judiciary, which is based upon the State's Planning, Programming, and Budgeting System (PPB), the Judiciary is organized into eight separate programs functionally arranged in a *program structure*² under two major program categories "court operations" and "support services."

The programs falling under the category of "court operations" include the Courts of Appeal, the Land Court and Tax Appeal Court, the Circuit Courts, the Family Courts, and the District Courts. These programs handle the whole array of cases filed in the courts from the commencement of actions to the termination of cases.

The other major program category, "support ser-

vices," refers to those services rendered statewide which are primarily non-adjudicative or administrative in nature which support the ongoing activities of the courts. The programs that fall under this category are: the Administrative Director Services, the Law Library, and the Driver Education and Training Program.

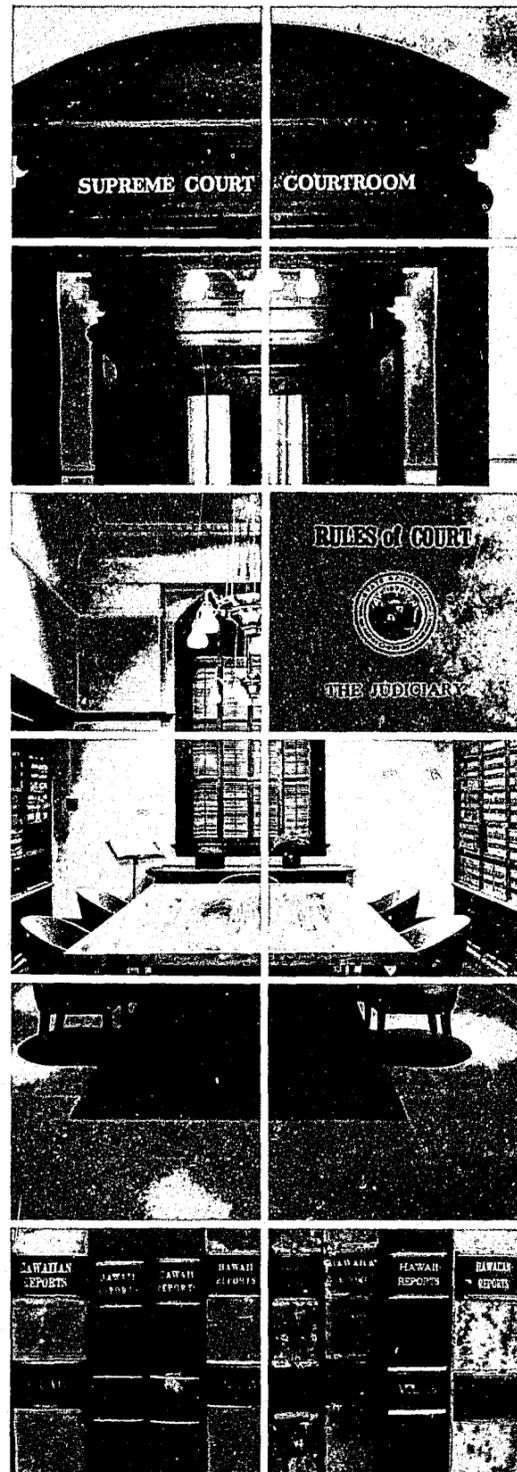
The following is a display of the programs of the Judiciary together with their respective *program identification numbers*.³ The programs are listed under the umbrella title, "The Judicial System."

Program Title	Program I.D. No.
The Judicial System	JUD 000
Court Operations	
Courts of Appeal	JUD 101
Land Court and Tax Appeal Court	JUD 102
Circuit Courts	JUD 111
Family Courts	JUD 112
District Courts	JUD 121
Support Services	
Administrative Director Services	JUD 201
Law Library	JUD 202
Driver Education and Training	JUD 221

Fig. 2.1 The Program Structure of the Judiciary

The Program Descriptions

The remainder of this chapter will be devoted to a detailed description of the operations of the Judiciary from the standpoint of its programs. This will be accomplished by describing the major characteristics of each program as discerned from a review of its principal functions and activities.



I. Courts of Appeal (JUD 101)

Program Characteristics

The Courts of Appeal program consists of the Supreme Court and the newly created Intermediate Court of Appeals, both of which are mandated by Article VI of the State Constitution. Their responsibilities include the administration of justice in appellate proceedings, the expeditious determination of proceedings and the proper administration of all courts.

A. Supreme Court

The Supreme Court is the highest judicial body in the State with ultimate administrative responsibility and rule-making power for all courts. Attached to the Supreme Court are the Disciplinary Counsel and the Board of Examiners, which serve to ensure the maintenance of high professional standards by members of the bar. In addition, there is a Judicial Council which serves as an advisory body to the Supreme Court and assists the Judiciary in further improving the quality of justice in the State.

Adjudicatory Services

The Supreme Court consists of a Chief Justice and four associate justices. The justices are assisted by their immediate support staff.

The Supreme Court in full court session hears arguments on cases appealed to it from the lower courts to determine questions of law or mixed law and fact. In addition to review of lower court decisions, the Court also reviews decisions of quasi-judicial administrative bodies such as the Public Utilities Commission and the Labor and Industrial Relations Appeals Board.

After oral argument on the merits of a case, the Court may dispose of it in a number of ways: written opinion, memorandum opinion, order granting motion for dismissal, and order granting withdrawal of appeal. However, in those cases where a written opinion is issued, considerable legal research and deliberation occurs involving numerous conferences among the justices, and drafting and redrafting of proposed opinions.

In accordance with its appellate function, the Supreme Court has the power to issue writ of habeas corpus, mandamus, certiorari, prohibition, and all other necessary and proper writs.

Administrative Services

Chief Justice: As the administrative head of the Judiciary, the Chief Justice is responsible for the effective and efficient operation of all the courts in this State, and for the expeditious dispatch of all judicial business.

He has the power to assign a judge or judges of the Intermediate Court of Appeals or a Circuit Court to serve temporarily on the Supreme Court, a judge of the Circuit Court to serve temporarily on the Intermediate Court of Appeals and a judge of the District Court to serve temporarily on the Circuit Court. Retired justices of the Supreme Court may serve temporarily on the Supreme Court if requested by the Chief Justice.

The Chief Justice makes calendar assignments among the Circuit judges in the Circuit Court of the First Circuit for such periods as he may determine and appoints District judges to fill vacancies in the District Courts from lists presented by the Judicial Selection Commission. He also appoints per diem District Court judges.

Office of the Chief Clerk: The Office of the Chief Clerk of the Supreme Court consists of a chief clerk, a deputy chief clerk and assistant clerks.

The principal functions of this office are to process legal documents filed in the Supreme Court, maintain a current court calendar, set cases and motions for argument, and act as custodian of records for the Supreme Court and the Intermediate Court of Appeals.

Where applicable, filing fees are collected, written notices are issued when cases are set for hearing, records and minutes of court sessions are prepared and maintained, and the status of cases pending are reported to the Court.

The chief clerk administers the centralized purchasing of supplies and equipment for this program and submits a comprehensive program plan and budget under the direction of the Chief Justice.

The chief clerk and deputy chief clerk serve as secretary and assistant secretary, respectively of the Board of Examiners. They coordinate the efforts of the Supreme Court and the Board of Examiners in the administration, evaluation, and review of the semi-annual bar examination.

The Office of the Chief Clerk provides information and assistance to attorneys, legal secretaries, bar applicants, clerks of the lower courts, and the gen-

eral public on matters relating to appeal procedures, case calendars, preparing applications for the bar examination, law incorporation, and the use of appeal forms. The clerk's office is also responsible for the coordination of "galley proofs" between the Court and the printer and the distribution of the advance sheets to the "Hawaii Reports," which is a publication containing all written opinions of the Supreme Court.

Disciplinary Board

The Disciplinary Board of the Hawaii Supreme Court was created in 1974 by Rule 16 of the Supreme Court. The board is empowered to consider and investigate any alleged ground for discipline or alleged incapacity of any attorney called to its attention, or upon its own motion, and to take appropriate action. The power of the board to perform the duties conferred and imposed upon it by the Disciplinary Rules applies to any attorney admitted to practice law in this State. Members are appointed by the Chief Justice and serve on a voluntary basis, meeting at least monthly.

Office of the Disciplinary Counsel

The Office of the Disciplinary Counsel serves as the operational arm of the 18-member Disciplinary Board and has the power to investigate and dispose of, subject to the review of the Disciplinary Board, all matters involving alleged misconduct or incapacity of attorneys. The counsel has a staff of four, including two full-time attorneys and is supported by an annual fee paid by all attorneys licensed to practice in Hawaii, which is collected by the Disciplinary Board.

Board of Examiners

The Board of Examiners is a committee consisting of 18 members from the bar appointed by the Supreme Court. This board is responsible for screening and certifying all applicants qualified to take the bar examination for the Hawaii Bar. This board is also responsible for devising the questions which are asked in the bar examinations, administering these examinations which are given twice a year, and grading them.

Judicial Council

The Judicial Council is a special division of the Supreme Court created in 1959 by the Legislature which serves as an advisory body to the Judiciary.

The council's 16 members include judges, attorneys, and citizens who serve on a voluntary basis. They are appointed by the Chief Justice, who is the chairman of this group. Since its formation, the council has played a major role in the codification of Hawaii's criminal and probate laws. The advisory body has focused on specific areas of court operations, providing both judges and administrators with guidelines for improving operations.

B. Intermediate Court of Appeals

The Intermediate Court of Appeals is the second highest court in the State. Like the Supreme Court, the Intermediate Court of Appeals has the power to hear appeals allowed by law from any other court or agency to determine whether the trial court or agency erred, and if so, correcting such errors.

Adjudicatory Services

The Intermediate Court of Appeals is composed of a chief judge and two associate judges. The chief judge is responsible for the administrative duties of the Court. Each judge has a secretary and a law clerk to assist him in carrying out his duties.

This court has the power to issue writs of habeas corpus, mandamus, certiorari, prohibition, and all other proper writs and acts as necessary to carry into full effect the powers which are or shall be given to it by law on matters brought before it.

The Intermediate Court of Appeals has concurrent jurisdiction with the Supreme Court in reviewing appeals. There is a bypass mechanism which the Supreme Court can use to immediately hear special types of appeals. However, it is anticipated that this mechanism will be utilized only occasionally. Any party may request review of a decision of the Intermediate Court of Appeals by the Supreme Court, but such review is discretionary and therefore in most instances, appellate review is expected to terminate at the intermediate appellate level.

Administrative Services

Administrative services is presently being provided to the Intermediate Court of Appeals by the Office of the Chief Clerk of the Supreme Court.

This office presently processes legal documents, maintains the current court calendar, sets cases and motions for argument, and acts as custodian for records, books, papers, exhibits, and other matters relating to the Intermediate Court of Appeals.

II. Land Court and Tax Appeal Court (JUD 102)

Program Characteristics

The Land Court and Tax Appeal Court program consists of two special courts of record with statewide jurisdiction. These courts are the Tax Appeal Court and the Land Court.

A. Land Court

The Land Court, which administers a system of land registration (an adaptation of the Torrens System), is based in Honolulu with exclusive original jurisdiction over all applications for the registration of title to fee simple land and easements or rights in fee simple land within the state. The court has the power to hear and determine all questions arising from these applications.

Adjudicatory Services

The Chief Justice of the Supreme Court designates a first judge and a second judge of the Land Court from among the judges of the Circuit Court of the First Circuit. The Land Court is administered by the first judge of the Land Court. In the event that he is unavailable, then the second judge carries out this responsibility.

The judge presides at hearings to determine the facts upon which the application to register title to land are based. In appropriate cases, the issues may be presented to the judge in briefs without hearings. The judge determines, on the basis of the facts and evidence presented, whether to grant or deny the application.

Appeals from the Land Court, which are based on questions of fact but not of law, may be taken to the Circuit Court for jury trial and thereafter may be appealed to the Supreme Court and Intermediate Court of Appeals. All other appeals are made to the Supreme Court and assigned to the appropriate Appellate Court.

Administrative Services

The Land Registration Office consists of a registrar, who works under the direction of the judge of the Land Court, and assistant registrars.

The functions of this office are: to examine and research all applications and other instruments, determining whether such are suitable for registration, ascertaining which laws are applicable, and decid-

ing on behalf of the judge of the court each case filed; to officiate at court sessions, maintaining notes on cases; to process all instruments relating to such cases, as well as those which hearings are not scheduled; and, to resolve numerous disputes without the court and provide direction and research assistance to the legal community, governmental agencies, financial institutions, title and real estate companies, and the general public in the preparation of applications, petitions, and appeals regarding land matters. The staff in the Land Registration Office also prepares and transmits all necessary documents and records to the Circuit Court, the Supreme Court, or the Intermediate Court of Appeals if a case is so appealed.

The registrar may act in any judicial circuit. He has the custody and control of all instruments filed in the Land Registration Office. He may make all memoranda affecting the title and enter and issue certificates of title.

B. Tax Appeal Court

The Tax Appeal Court was created by law for the purposes of providing a court of record which decides all questions of fact and law, including constitutional questions, with respect to matters of taxation within its jurisdiction, without the intervention of a jury.

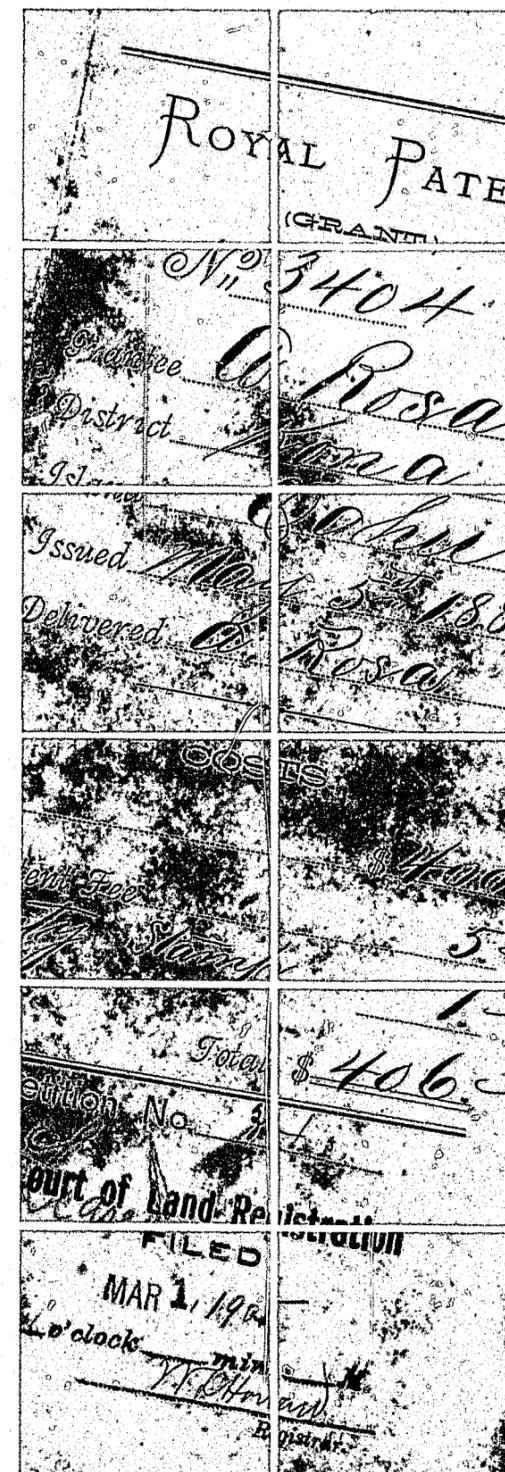
The jurisdiction of the Tax Appeal Court is limited to the amount of valuation or taxes, as the case may be, claimed by the taxpayer or county on one hand, and on the other hand by the amount of the assessment, or if increased by the board, the assessment as so increased.

Adjudicatory Services

The Chief Justice of the Supreme Court designates a first judge and a second judge of the Tax Appeal Court from among the judges of the Circuit Court of the First Circuit. The Tax Appeal Court is administered by the first judge. In the event that the first judge is unavailable, the second judge carries out this responsibility.

When hearing appeals, the Tax Appeal Court has all the powers and authority of a circuit court with respect to the summoning and examining of witnesses, the production of papers and documents, and the punishment of contempts.

The judge may conduct prehearing conferences, hold hearings to decide on motions as well as hearings on the appeals.





The decisions of the judge are entered on the record as written orders.

Administrative Services

The registrar of the Land Court shall be ex officio the clerk of the Tax Appeal Court. It is the function of the clerk to examine all appeals and other instruments, determining whether such are suitable for registration, registering those which are, and refusing all others, and to perform any other duties which the court may assign to him.

Upon the entry of any written order of the court, the clerk is vested with the responsibility of transmitting a copy thereof to all parties of interest. The records are kept in the office of the clerk, who makes them available to members of the bar association and their associates, governmental agencies, financial institutions, and the general public.

The clerks also provide research assistance to interested parties with regard to the preparation of appeals as well as other types of instruments in tax appeal matters.

III. Circuit Courts (JUD 111)

Program Characteristics

Circuit Courts are trial courts of general jurisdiction. They have exclusive jurisdiction in all criminal felony cases, probate and guardianship proceedings and in civil cases involving more than \$5,000. All jury trials are held in the Circuit Courts, including trials for criminal misdemeanor and civil cases where the amount in controversy exceeds \$1,000 which were initially filed in the District Courts but transferred when a jury trial was demanded.

Circuit Courts exercise concurrent jurisdiction with District Courts in civil matters where the amount in dispute exceeds \$1,000 but does not exceed \$5,000.

All appeals are made to the Supreme Court and after review, assigned to the Supreme Court or the Intermediate Court of Appeals.

Program Organization

The Circuit Courts Program consists of four Circuit Courts. Each Circuit Court exercises jurisdiction over matters expressly provided by statute which fall within its geographic boundaries.

The Circuit Court of the First Circuit has jurisdiction over the First Judicial Circuit; the Circuit Court of

the Second Circuit, over the Second Judicial Circuit; the Circuit Court of the Third Circuit, over the Third Judicial Circuit; and the Circuit Court of the Fifth Circuit, over the Fifth Judicial Circuit. In 1943, what was then the Fourth Judicial Circuit was merged with the Third Judicial Circuit. Thus, there is no Fourth Judicial Circuit.

The Circuit Court of the First Circuit is located in Honolulu, Oahu; the Circuit Court of the Second Circuit is located in Wailuku, Maui; the Circuit Court of the Third Circuit is located in Hilo, Hawaii; and the Circuit Court of the Fifth Circuit is located in Lihue, Kauai. Both jury trials and jury-waived trials are conducted in the courts at the place designated in Chapter 603, H.R.S., "Circuit Courts."

Adjudicatory Services

There are twenty judges authorized to serve the four Circuit Courts: fifteen in the First Judicial Circuit; two each in the Second and Third Judicial Circuits; and one in the Fifth Judicial Circuit. Circuit judges must have been licensed to practice law in Hawaii by the Supreme Court for a period of not less than ten years preceding appointment. The appointments are made by the Governor with the consent of the Senate from a list of at least six nominees for the vacancy, presented by the Judicial Selection Commission. The term of a Circuit Court judge is ten years.

The Chief Justice designates one of the Circuit Court judges in each judicial circuit as the administrative judge. The administrative judge has the responsibility to supervise judicial proceedings. This means coordinating case assignments to promote prudent and efficient use of judicial time.

A court session is held by one Circuit judge, separate sessions may be held at the same time. Unlike the appellate courts, only one judge presides at a session.

Circuit judges preside at calendar calls, hearing on pretrial motions, pretrial conferences, jury trials, jury-waived trials, dispositional hearings, hearings on special proceedings and hearings on post trial motions as well as other post judgment matters. For all formal hearings, the judge is attended by a court reporter, court clerk and a bailiff or law clerk. Based on the evidence presented, the judge renders his decision both orally and in written form.

The judges who serve in the Circuit Court of the First Circuit are assigned by the Chief Justice of the Su-

preme Court to the Civil Calendar, Criminal Calendar, or the Family Court Calendar.

In all other circuits, the judges divide their time to hear all types of cases within their jurisdiction.

Administrative Services

Office of the Chief Clerk: The function of the Office of the Chief Clerk is to keep the matters brought to the court from initial filing to final disposition as current as possible, and prepared for the action of the judge or judges. The chief clerk is the administrative support officer for this program and serves under the direction of the administrative judge. He plans, directs and coordinates the adjudicatory and administrative aspects of court management.

The chief clerk is provided a staff to oversee the receiving, docketing, indexing, and otherwise processing of court documents, records, moneys, and jury management.

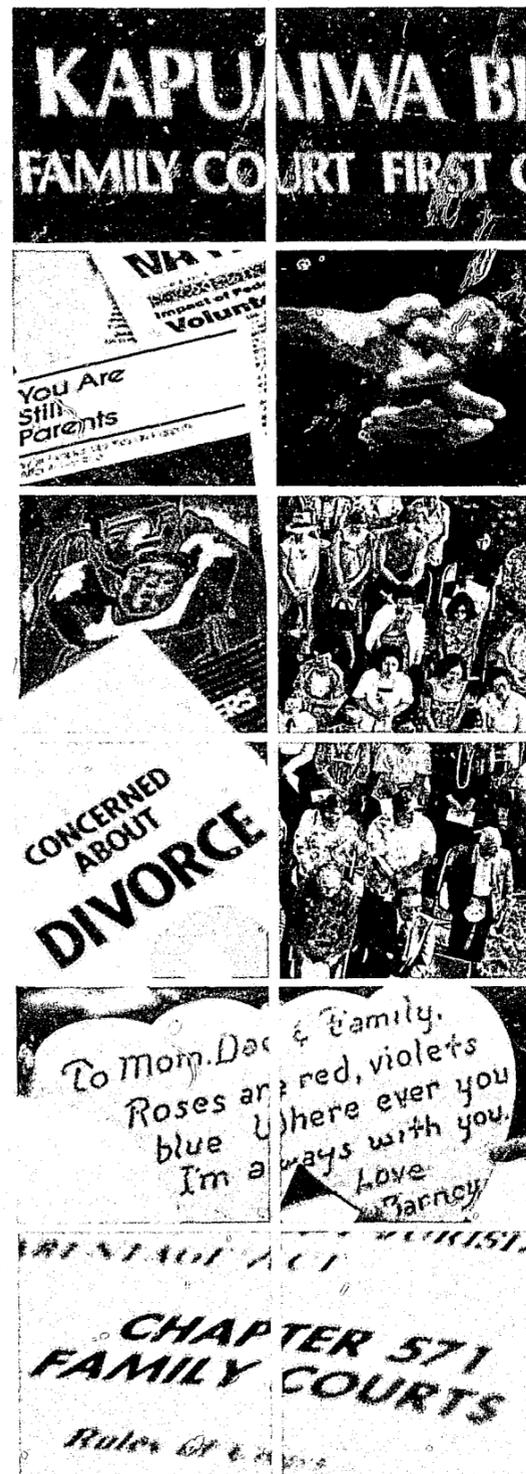
Upon the initiation of a case, a case number is assigned and all subsequent documents filed as a part of that case are maintained together. An alphabetical index is prepared in order to locate and retrieve case records where appropriate. When case records are confidential, they are kept separate and locked, so that the public does not have access to these records. When cases are scheduled for review or hearing by the court, they are located and delivered to the judge assigned to hear them.

The fiscal staff maintains financial records on court realizations such as fines and court fees, as well as payments made to the court for alimony and child support.

Other financial accounting that is maintained relates to the administration of small estates and small guardianships in which the chief clerk is appointed administrator.

In the Circuit Court of the First Circuit, due to the great number of cases filed, the Office of the Chief Clerk is divided into three specialized branches handling specific functions: the Legal Documents Branch, the Estate and Guardianship Branch, and the Fiscal Branch. In the Second, Third, and Fifth Judicial Circuits, these corresponding services are provided by staff in smaller organizational units.

Juror Selection: In order to prepare a prospective list of jurors to serve either on the grand jury or the petit juries, the chief clerk and the four other persons appointed to serve on the jury commission use



a master list from which by random selection names are placed in a master jury wheel in such number the jury commission considers sufficient to provide the number of jurors required for the following year. Persons qualified and selected to serve on the grand jury serve for a period of one year, while persons qualified and selected to serve on the petit juries serve for one month.

Adult Probation Division

The Adult Probation Division provides support services to the judges assigned to the Criminal Calendar. This division has two major functions: investigating convicted defendants prior to sentencing and supervising defendants sentenced to probation.

In the First Judicial Circuit, the Adult Probation Division is established as a separate unit because of the large volume of cases being handled. In all other judicial circuits, the functions of the Adult Probation Division are carried out by the staff in the Family Courts.

The Adult Probation Division of the First Judicial Circuit is divided into two branches to handle the two major functions of this division. These branches are the Intake and Presentence Investigation Branch and the Supervision Branch. There is also a Special Services Section located in the Adult Probation Division of the First Judicial Circuit which administers the Interstate Compact Agreement for Parole and Probation. This section processes all requests for courtesy supervision, investigation, and other pertinent inquiries (sending and receiving) of parolees and probationers, and maintains a central master file and monitors the movements of all parolees and probationers entering or leaving the state.

IV. Family Courts (JUD 112)

Program Characteristics

In 1965, the Family Court system was created by the Legislature as divisions within the Circuit Courts for the purpose of establishing a single mechanism to deal with children and families. It replaced the Juvenile Court and the Domestic Relations Court. The Family Court system is based on the concept of the preservation of the unity and well-being of the family.

The Family Courts have exclusive original jurisdiction in proceedings concerning children:

- alleged to have committed an act which is a viola-

tion or attempted violation of any federal, state, or local law or municipal ordinance prior to achieving the age of eighteen years;

- who are neglected as to proper or necessary support, or as to medical or other care necessary for their well-being, or are abandoned; who are subjected to physical or emotional deprivation or abuse; who are beyond the control of their parent(s) or other custodian or whose behavior is injurious to their own or other's welfare; who are neither attending school nor receiving educational services required by law;

- to determine the custody of or appoint a guardian of the person of any child;

- for the adoption of a person under Chapter 578, "Adoption";

- for the termination of parental rights under Section 571-61, "Termination of parental rights; petition," Section 571-62, "Hearing; investigation and report," and Section 571-63, "Findings and judgment";

- for judicial consent to the marriage, employment, or enlistment in the armed services of a child, when such consent is required by law;

- for the treatment or commitment of a mentally defective, mentally retarded, or mentally ill child; and,

- under the Interstate Compact of Juveniles under Chapter 582, "Interstate Compact on Juveniles."

Exclusive original jurisdiction over adults by the Family Court extends:

- to try any offense committed against a child by his parent or guardian or by any other person having his legal or physical custody, and any violation of Section 707-723, "Custodial interference," Section 709-902, "Abandonment of a child," Section 709-903, "Persistent nonsupport," Section 709-904, "Endangering the welfare of a minor," or Section 709-905, "Endangering the welfare of an incompetent person";

- to try any adult charged with deserting, abandoning, or failing to provide support for any person in violation of law or an offense other than a felony, against the person of the defendant's husband or wife;

- in all proceedings under Chapter 580, "Annulment, Divorce, and Separation" and Chapter 584, "Uniform Parentage Act";

- in proceedings under Chapter 575, "Uniform Desertion Nonsupport Act," and under Chapter 576, "Uniform Reciprocal Enforcement of Support Act";

- for commitment of an adult alleged to be mentally defective or mentally ill;

- in all proceedings for support between parent and child or between husband and wife, and in all proceedings to appoint a guardian of the person of an adult; and,

- in all proceedings for waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in Section 571-22, "Waiver of jurisdiction; transfer to other courts."

All appeals are filed with the Supreme Court and then assigned to the appropriate Appellate Court.

Program Organization

The Family Courts Program consists of four Family Courts, which are divisions of the Circuit Courts. In addition, in each judicial circuit, there are District Family Courts.

The Circuit judges in the Second, Third, and Fifth Judicial Circuits are judges of the Family Courts when exercising jurisdiction under Chapter 571, "Family Courts." In every circuit where there is more than one Circuit judge exercising jurisdiction as a Family Court judge, the Chief Justice of the Supreme Court designates one of the judges as senior judge.

Adjudicatory Services

In the First Judicial Circuit, the Chief Justice designates two of the judges as judges of the Family Court. In all other circuits, the Circuit judges serve both the Circuit Court Proper as well as the Family Court Divisions of the Circuit Court.

In addition, there are five District Family Court judges in the District Family Court of the First Circuit, while the District Court judges in the Second, Third, and Fifth Judicial Circuits serve as judges of their respective District Family Courts.

The qualifications, nominations, and appointment procedure for Circuit judges have been described in the Circuit Court program. The qualifications of a District Family Court judge are: the judge must reside in the judicial circuit for which he is appointed and must have been an attorney licensed to practice law in all the courts of the State for at least five years. Nominations of a list of at least six persons are pre-

sented by the Judicial Selection Commission to the Chief Justice of the Supreme Court, who is the appointing authority. The term of office of a District Family Court judge is six years.

Criminal cases falling within the jurisdiction of the Family Courts may be tried by the court or by jury in accordance with the Hawaii Rules of Penal Procedure. All other actions shall be tried by the court.

The District Family Court holds sessions at such places and as often as the Family Court judge or the senior Family Court judge, if there is more than one, of the judicial circuit prescribes.

Board of Family Court Judges: All Circuit Court judges who are designated Family Court judges, together with the District Family Court judges constitute the Board of Family Court Judges.

The Board of Family Court Judges was created for the purpose of achieving agreement on general policies for the conduct of the Family Courts and forms for use in such courts. It is the function of the Board to recommend for adoption by the Supreme Court, rules of court governing procedure and practices in such courts. The Board may seek the consolidation of statistical and other data on the work and services of the Family Courts and research studies that may be made of the problems of families and children dealt with by the courts to achieve the highest possible degree of uniformity throughout the State in the treatment of children and families, and to the further end that knowledge of treatment, methods, and therapeutic practices be shared among the family courts. The Board may also formulate recommendations for remedial legislation. However, all actions by the Board are subject to the regulatory supervision of the Chief Justice of the Supreme Court.

Administrative Services

For each Family Court, the Circuit judge or the senior judge where there is more than one judge appoints a director who is the chief administrative officer for the Family Court. The duties of the Family Court director are specified in Section 571-6, "Appointment and duties of employees."

The director of each Family Court prepares an annual budget for the court; formulates procedures governing the routine administration of court services; makes recommendations to the court for improvement in court services; makes recommendations to the senior judge or the judge for the

appointment of administrative, supervisory, and other necessary professional and clerical personnel to perform the duties assigned to the court and the director; collects necessary statistics and prepares an annual report of the work of the court; provides supervision and consultation to the administrative and supervisory staff regarding the administration of court services, recruitment of personnel, in-service training, and fiscal and office management; performs such other duties as the senior judge or the judge shall specify.

Board of Family Court Directors: The directors of the four Family Courts constitute the Board of Family Court Directors. The board meets monthly to discuss mutual concerns such as operational problems, community concerns, cooperation with other public and private agencies, and actions of the legislature and the resultant impact on the Family Courts. Recommendations of the Board of Family Court Directors are made to the Board of Family Court Judges or the Administrative Director of the Courts or both.

Program Activities

Three major functional areas which all Family Courts presently serve are (1) services to children, (2) detention or shelter care services to children, and (3) adult services.

The extent and level of services varies from circuit to circuit.

In the First Judicial Circuit, the Family Court operational structure is organized into branches to provide these services. In the other judicial circuits, the Family Court staffs provide services to children, adults, and adult offenders.

Children and Youth Services: The primary purposes of this functional area are to conduct investigations, prepare cases for court according to due process requirements, make social studies, and recommend dispositions of matters relating to law violation or legal custody or protective supervision of minors. In some instances, children may be referred simultaneously for two or more types of evaluation, such as for law violation and protective supervision. Probation and protective supervision services are provided to adjudicated minors in their own home or in placement in foster home or group home care. Services are provided in cases arising under the Interstate Compact on Juveniles.

Referrals may be initiated by any law enforcement

agency, parents of a minor, the Department of Education, the Department of Social Services and Housing, and by other social agencies.

Court officers trained in social work conduct the initial screening and investigations of referrals. These cases may be disposed of by the court officer whenever appropriate or may be referred to the court for hearing by the filing of a petition for judicial action.

Where court action is required, the court officer coordinates the adjudication process by setting cases for hearing, sending written notices for appearance in court of the child and his parents, guardian or other legal custodian. Upon adjudication, if the judge determines that the Family Court has jurisdiction in the matter, an order is entered for the court officer to conduct a social study. The court officer prepares a written report detailing the results of the investigation with a recommendation as to the disposition of the child prior to the dispositional hearing.

If the disposition made by the judge is probation or protective supervision, then the court officer is responsible for supervising and counseling the child or the judge may order other dispositions.

Detention Services: The creation of a detention home is authorized in Section 571-33, H.R.S., "Detention facilities," which states, "Provisions shall be made for the temporary detention of children or minors in a detention home, to be conducted as an agency of the court."

The detention home serves as a place of secure custody to detain juveniles for their immediate welfare or for the protection of the community pending disposition of their cases by the court. By law, no detainee may be held longer than 48 hours (excluding Sundays and court holidays) without a hearing before a judge.

Within the State of Hawaii, there are two detention facilities. One is operated by the Family Court of the First Circuit and the other by the Family Court of the Second Circuit.

Hale Ho'omalua is the detention facility operated by the Family Court of the First Circuit and is located in Honolulu. The emphasis at Hale Ho'omalua is on a secure, yet therapeutic and constructive environment. The staffing at Hale Ho'omalua is multidisciplinary with juvenile detention workers, court officers, and recreational therapists. Also, medical services are provided by a full-time staff nurse, aug-

mented by contract physician services from Kapiolani-Children's Medical Center. Classroom instruction is provided by two full-time Department of Education teachers. Detention hearings are held at the facility.

The Maui Live-In Center is the detention facility operated by the Family Court of the Second Circuit and is located in Wailuku. The center has dual purposes: to serve as a detention facility and to serve as a home away from home. In the latter capacity, minors who are already on probation and whose behavior is deemed detrimental to their own or others' welfare, are placed in a semi-restricted status. Placement is temporary pending development of viable community alternatives. Affected minors can earn certain privileges such as attending schools, pursuing employment, and participating in recreational and social activities within the community. Such privileges are earned through the contingency management treatment model. The center's goal is to release the minors to their own homes or to other suitable facilities in the community expeditiously and within reasonable safeguards.

In response to changes in federal legislation and regulations, the court is preparing to limit detention services to children referred for law violation, and provide other living arrangements for children referred for status offense (non-law violation).

In the Third and Fifth Circuits, there are no facilities utilized exclusively for detaining juveniles; therefore, detention and shelter services for these circuits are provided by the Family Courts of the First and Second Circuits.

Adult Services: The purpose of this program is to provide services to families in turmoil with a concerted effort to resolve their familial conflicts. The services include court-ordered child custody studies, marital counseling, court-ordered conciliation, counseling and assistance to abused spouses, interstate and intrastate inquiries regarding requests for home studies and evaluations, and studies on persons contemplated for appointment as guardians of the persons of incapacitated adults.

As with children's services, social workers conduct these studies or counsel clients.

Other Services

The Family Courts also handle proceedings regarding adoption, termination of parental rights, appointment of a guardian of a person, consent to



marriage, employment or enlistment in the armed services of minors, and commitment of mentally defective, retarded or mentally ill persons to a psychiatric facility or to Waimano Training School or Hospital.

In addition, the Family Courts assist and participate with various organizations and agencies in the area of juvenile delinquency and toward promoting the general welfare of children and families.

Family Court of the First Circuit

Unlike the Second, Third, and Fifth Circuits, the Family Court of the First Circuit provides other specialized services: Family Crisis Services and Support Enforcement Services.

Family Crisis Services: The purpose of this program is to provide short-term counseling to families in a crisis situation, usually to children and parents who are experiencing disturbed family relationships. Clients include youngsters who run away from home or who are beyond their parents' control, parents with marital difficulties, divorced persons who need help adjusting and families experiencing difficulty with interpersonal relationships.

Support Enforcement Services: In cases where alimony and or child support payments are not paid as ordered by the court, Support Enforcement Services may be extended. Support payment managers research delinquent accounts to determine the amount in arrears and encourage or counsel the payor to bring the account up to date.

Mental Health Services: In addition, a clinical psychologist and a psychiatrist from the Department of Health's Mental Health Team for Court and Corrections work very closely with the staff in the Family Court of the First Circuit as consultants. They assist by conducting psychological or psychiatric examinations and evaluations.

V. District Courts (JUD 121)

Program Characteristics

The District Courts are courts of record established by the Constitution with limited jurisdiction in both civil and criminal matters. The District Courts conduct non-jury trials in both types of cases, and are governed by rules, regulations, and procedures prescribed by the Supreme Court.

The jurisdiction of the District Courts is set by the legislature. At present, the District Courts have ex-

clusive original jurisdiction in civil cases involving less than \$1,000 and small claims actions.

In criminal matters, the District Courts have exclusive original jurisdiction over violations of the state and county traffic codes, criminal misdemeanors, petty misdemeanors, and violations as well as any other infractions of the state code or rules and regulations promulgated thereunder. The District Courts also have jurisdiction to try all cases arising from the violation of county ordinances and to impose penalties for such violations. This includes violations of laws governing traffic, airport ramp, dog leash and license, fish and game, harbor boating, industrial safety, etc.

In felony cases where an arrest has been made, the accused is brought before a District judge for initial arraignment and is held over for preliminary hearing to determine if the evidence is sufficient to commit the case to the Circuit Courts for grand jury action.

In both civil and criminal actions where the right to trial by jury is prescribed by law, cases may be transferred to the Circuit Courts for jury trial if so requested by the defendant.

Appeals are filed with the Supreme Court and assigned to the appropriate appellate court.

Program Organization

The District Court Program consists of four District Courts. They are: the District Court of the First Circuit, the District Court of the Second Circuit, the District Court of the Third Circuit, and the District Court of the Fifth Circuit. There is no Fourth Judicial Circuit.

Each judicial circuit is, in turn, subdivided into judicial divisions.

The District Court of the First Circuit has seven divisions. They are: the Honolulu Division, Ewa Division, Waianae Division, Waialua Division, Wahiawa Division, Koolauloa Division, and Koolaupoko Division. In addition, the District Court of the First Circuit has jurisdiction over the Kalawao District on the island of Molokai.

The District Court of the Second Circuit is subdivided into six divisions: the Wailuku Division, Makawao Division, Hana Division, Lahaina Division, Molokai Division, and Lanai Division.

The District Court of the Third Circuit is subdivided into seven divisions: the North and South Hilo Divi-

Circuit and Divisions	Location
First Circuit	
Honolulu Division	Honolulu*
Ewa Division	Pearl City
Waianae Division	Waianae
Waialua Division	Haleiwa
Wahiawa Division	Wahiawa
Koolauloa Division	Kaneohe
Koolaupoko Division	Kaneohe
Second Circuit	
Wailuku Division	Wailuku*
Makawao Division	Paia
Hana Division	Hana
Lahaina Division	Lahaina
Molokai Division	Kaunakakai
Lanai Division	Lanai City
Third Circuit	
North and South Hilo Division	Hilo*
Puna Division	Keaau
Hamakua Division	Honokaa
North Kohala Division	Kapaa
South Kohala Division	Kamuela
Kona Division	Captain Cook
Ka'u Division	Naalehu
Fifth Circuit	
Lihue Division	Lihue*
Koloa Division	Koloa
Waimea Division	Waimea
Kawaihau Division	Kapaa
Hanalei Division	Hanalei

*Location of main courthouse

Fig. 2.2 Location of Courthouses of the District Court

sion, Puna Division, Hamakua Division, North Kohala Division, South Kohala Division, Kona Division, and Ka'u Division.

The District Court of the Fifth Circuit is subdivided into five divisions: the Lihue Division, Koloa Division, Waimea Division, Kawaihau Division, and Hanalei Division.

In each judicial circuit, the main courthouse is located in the principal city, with additional facilities located in the other judicial divisions within the circuit. The location of these courthouses is indicated in Figure 2.2.

Adjudicatory Services

There are eighteen full-time judges authorized to serve the four District Courts of the State: twelve in the First Judicial Circuit, two in the Second Judicial Circuit, three in the Third Judicial Circuit, and one in the Fifth Judicial Circuit.

District judges are appointed by the Chief Justice from a list of not less than six nominees presented to him by the Judicial Selection Commission. To be eligible for appointment as a District judge, a person must be a resident and citizen of the State and the United States and be licensed to practice law in the State by the Supreme Court for a period of not less than five years preceding nomination. The term of office of a District judge is six years.

In addition to the full-time District Court judges, the Chief Justice is authorized by statute to appoint per diem District judges to supplement the judicial staff as may be necessary. The Chief Justice also designates one of the District judges in each judicial circuit as the administrative judge for the circuit. The administrative judge has the responsibility to assign judges to areas where congestion is acute and to assure the fair division of work among the available judges.

District Court sessions are presided over by a District judge. The law provides that the District Courts shall hold such sessions at such places in their respective circuits and as often as the respective District judges deem essential to the promotion of justice.

District judges preside at arraignments, preliminary hearings, hearings on motions, calendar calls, non-jury trials, and dispositional hearings. They are empowered to administer oaths, subpoena and compel the attendance of witnesses from any part of the State, and compel the production of books, papers, documents or tangible things, enter final judgments, enforce judgments, and issue garnishee summons. In criminal cases, the District judges are empowered to alter, set aside or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant.

Administrative Services

The administrative support services for each District Court, with the exception of the First Judicial Circuit, are managed by a chief clerk who serves under the direction of the administrative judge of the District Court of the respective circuit. In the First Judicial Circuit, there is a deputy chief clerk for the Honolulu Division and a deputy chief clerk for the rural divisions of the District Court who serve under the direction of the administrative judge. The chief clerks and deputy chief clerks are responsible for the smooth operation and coordination of activity

between and among the judicial and administrative support staff. In addition, the clerks must maintain an effective record-keeping system since they have custody over all records, books, papers, moneys, exhibits and other materials of the District Courts.

Program Activities

The District Court Program is comprised of various operating divisions which are assigned specific functions and activities. These operating divisions are the Court Services Division, the Traffic Violations Bureau, the Office of the Sheriff, the Counseling Services Division, and the Small Claims Division.

Court Services Division: The administrative support is provided to the judges by the clerks and other staff of the court.

They set cases for hearing, collect bail where appropriate, maintain court records, and prepare court calendars of all non-traffic cases and all continued cases. Clerks maintain records on convicted defendants ordered to pay fines, when fine payments are made in installments over a period of time and they issue summonses when the payments are not made as scheduled.

The court clerks may issue process, administer oaths, take depositions, and perform all other duties pertaining to their office.

Court reporters are responsible for recording minutes of court proceedings and taking verbatim testimony as directed, and receiving and filing papers and documents incident to court proceedings. The court reporters may be required to furnish typewritten transcripts of court proceedings within a reasonable time after the hearing.

Traffic Violations Bureau: Violations of state and county traffic codes fall within the jurisdiction of the district courts. In order to handle the citations issued for these violations, a division within the District Court Program called the Traffic Violations Bureau was established. This bureau is administered by a director. At present, the Deputy Administrator of the Courts is also the director of the Violations Bureau.

The bureau serves as the central depository for all traffic records. The maintenance of such records is mandated under provisions of the Hawaii Highway Safety Act. As the depository for all traffic records in all circuits, the bureau provides for a uniform state-

wide processing and record-keeping system. One of the outgrowths of this function is the bureau's preparation of traffic abstracts of motorists' records for all courts, as well as for federal and local government agencies and interested insurance firms.

The bureau is responsible for accepting bail forfeitures, and for the accounting, recording, and controlling of all traffic complaints, summonses and parking citations issued, as well as for violations of environmental codes and laws governing weights and measures, fish and game, harbor-boating, parks and recreation, airport ramps, industrial safety, animal quarantine, and dog license and leash.

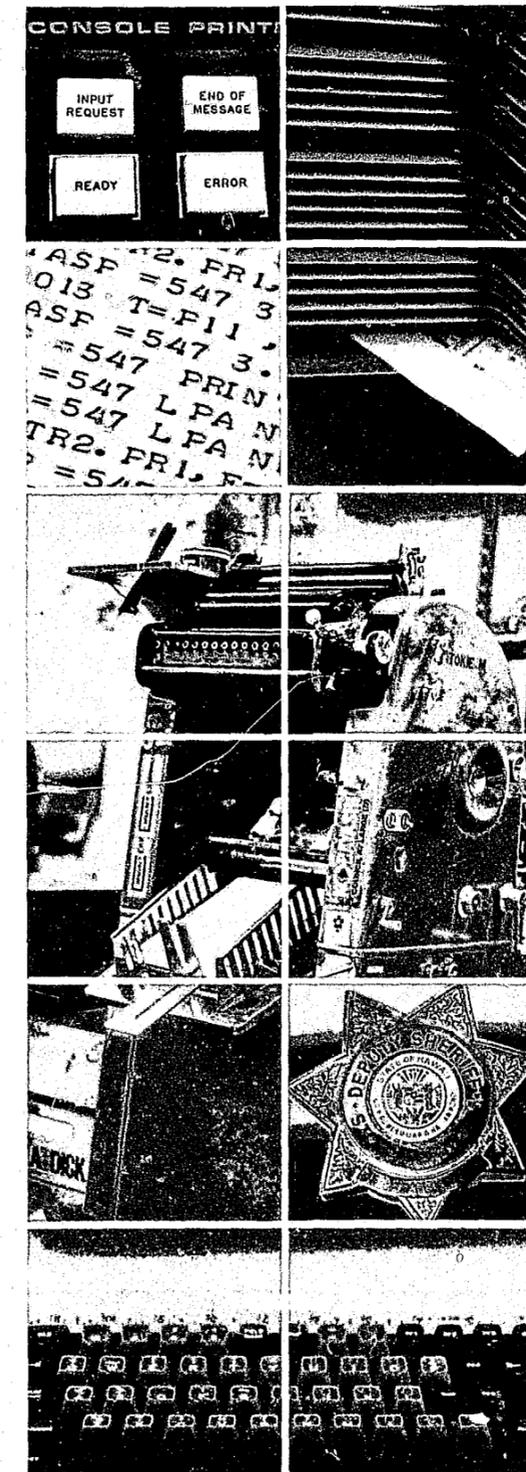
Cases terminated by bail forfeiture become the direct responsibility of the bureau, while for those cases that go to trial, the bureau staff prepares pre-trial calendars with necessary supporting documents. In delinquent cases, preparation of additional notices and penal summonses compound the workload of the staff.

In order to facilitate its work and for the convenience of the citizens of Hawaii, the bureau director developed a return-by-mail, postage-paid uniform citation system. The system allows bail forfeiture by mail for lesser offenses which do not require appearance before a judge. This system has met with unparalleled success in reducing the number of delinquent citations.

The Data Processing Unit: The main function of the Data Processing Unit is to support traffic records processing and case management. It also assists other programs in the judicial system.

The Data Processing Unit is headed by a unit supervisor. It utilizes electronic data processing equipment to prepare delinquent notices, court calendars, penal summons, and daily lists of citations issued. The computer also prepares reports on the workload statistics of the Traffic Violations Bureau and maintains an accounting system of monies collected by the bureau. The unit also prepares statistical reports, budget and personnel reports for the Administrative Director.

Periodically, listings of drivers who have not responded to traffic citations are prepared by the Data Processing Unit and forwarded to the respective counties so that these citations can be cleared before the drivers' motor vehicle operators' licenses are renewed. When a number of uncleared parking citations have accumulated, listings are prepared indicating the motor vehicles involved. These are forwarded to the county so that the annual motor



vehicle registration is withheld until all citations are cleared.

Printshop: The printshop serves not only the bureau, but the entire judicial system. Court forms, informational leaflets, pamphlets, and other publications are printed by the printshop.

Office of the Sheriff: The Office of the Sheriff is responsible for the service of process and execution of any order of court issued by the clerks of the trial courts: Land Court, Tax Appeal Court, Circuit Courts, Family Courts, and District Courts, statewide. The office is headed by a sheriff who supervises and directs operations throughout the state. There are deputy sheriffs based on Oahu, Maui, Molokai, Lanai, Hawaii, and Kauai to serve documents and perform other functions of the Office of the Sheriff.

Upon specific authorization and direction of the Chief Justice of the Supreme Court, the sheriff or a deputy sheriff shall have all the power of a police officer, including the power to arrest.

Counseling Service: The Counseling Service serves as an important adjunct to the administration of justice by providing judges with an alternative to imposing a fine or imprisonment.

Social workers conduct investigations and prepare pre-sentence reports; supervise adult misdemeanants placed on probation, Deferred Acceptance of Guilty Plea (DAGP), or conditional release status under Section 704-411(b) of the Hawaii Penal Code; coordinate and supervise the Alternative Community Services Program (ACSP); and serve as psychiatric social work consultant to the District Court on Oahu.

In the First, Third, and Fifth Circuits, the Counseling Service is a separate division of the District Court, but in the Second Circuit, the Family Court staff performs the Counseling Service function for the District Court.

Referrals to the Counseling Service are made by the judges of the District Courts in both the criminal and traffic divisions. The Office of the Prosecuting Attorney and the Driver Improvement Program also send appropriate referrals.

In the First Circuit, a clinical psychologist and a psychiatrist are assigned as consultants by the Department of Health to assist the social workers in handling their clients.

Small Claims Division: The Small Claims Division of the District Courts is designed to settle everyday disputes for recovery of moneys up to \$1,000 and disputes involving residential security deposit disputes, or on a counter-claim filed by a defendant.

In cases arising from residential security deposit disputes, the jurisdiction of the Small Claims Division is exclusive.

A Small Claims Division judgment is usually final. However, a losing party has ten days after the decision to ask the judge to reconsider the case, or if a default judgment was entered, ten days to ask the judge to set aside the default judgment.

In the Small Claims Division, the plaintiff can settle a dispute with or without an attorney. However, in security deposit disputes, no attorney is allowed.

The clerk of the court assists the plaintiff in filing the claim by preparing the papers required to be filed. After the hearing, if the judge rules for the plaintiff, the clerk prepares the written judgment for him. However, if the plaintiff is engaged in business, he prepares his own judgment with the clerk's assistance.

The clerk also assists the plaintiff in preparing and filing post judgment documents such as Motion for Order for Examination and Motion for Issuance of Garnishee Summons.

VI. Administrative Director Services (JUD 201)

Program Characteristics

The Administrative Director Services Program was established to assist the Chief Justice in carrying out his constitutionally-mandated responsibility for the administration of the state court system. The program is responsible for the overall operation of the Judiciary and the establishment of uniform policies and procedures statewide on management of personnel and other public resources.

Program Organization

This program is headed by the Administrative Director who is appointed by the Chief Justice with the approval of the Supreme Court assisted by a Deputy Administrative Director.

Within the Administrative Director Services Program are the Budget and Fiscal Office, Personnel Office, and Planning and Research Office which

are directly involved in the management function. In addition, there are the Public Information Office, the Computer Systems Office, the Volunteer Services Office, and the Staff Attorney's Office.

Administrative Director

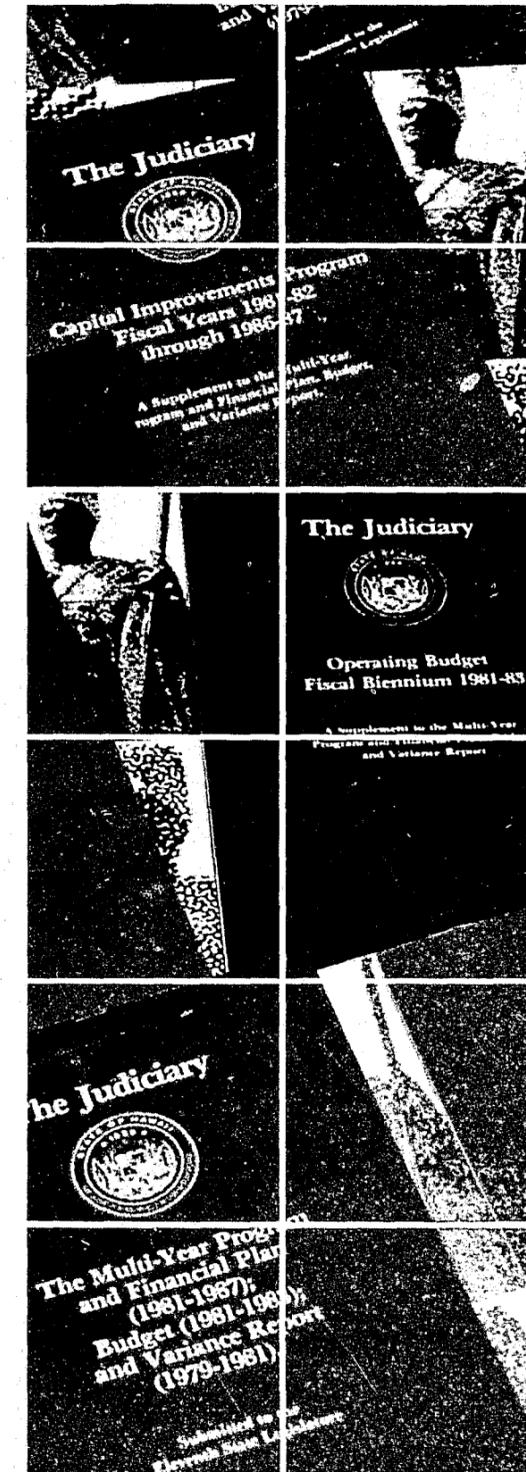
It is the responsibility of the Administrative Director of the Courts, subject to the direction of the Chief Justice, to examine the administrative methods of the courts and make recommendations to the Chief Justice for their improvement; examine the state of the dockets of the courts, secure information as to their needs for assistance, if any, prepare statistical data and reports of the business of the courts and advise the Chief Justice to the end that proper action may be taken; examine the estimates of the courts for appropriations and present to the Chief Justice his recommendations concerning them; examine the statistical systems of the courts and make recommendations to the Chief Justice for a uniform system of judicial statistical and other data concerning the business of the courts; assist the Chief Justice in the preparation of the budget, the six-year program and financial plan, the variance report, and any other reports requested by the Legislature; carry out all duties and responsibilities that are specified in Title 7 as it pertains to employees of the Judiciary; and attend to such other matters as may be assigned by the Chief Justice.

Budget and Fiscal Office

The Budget and Fiscal Office is responsible for the centralized accounting, purchasing, payroll, and pre-audit activities of the Judiciary; analyzing and making recommendations of resource requirements for all Judiciary programs, documenting and articulating program reviews and special studies to promote efficiency in operations; and establishing and maintaining a system of internal control.

The Budget and Fiscal Office is comprised of three branches: the Fiscal Branch, the Budget and Program Review Branch, and the Internal Audit Branch.

Fiscal Branch: The Fiscal Branch is responsible for the fiscal management of the Judiciary. Its functions are to develop, implement, and revise the accounting system to meet the needs of the Judiciary and to comply with all State and Federal laws, rules, and regulations; maintain control and summary accounts of all public funds appropriated or authorized to be under the custody of the Judiciary; pre-



audit and process summary warrant vouchers for check preparation by the Department of Accounting and General Services; prepare the semi-monthly payroll for all Judiciary employees; secure and negotiate for services, materials, and other resources necessary to the efficient and economical accomplishment of the Judiciary's goals and mission; prepare, analyze, and interpret financial statements and results of operations; and determine the information needs and data processing requirements involved to streamline and modernize the accounting system.

Budget and Program Review Branch: The Budget and Program Review Branch is responsible for the procedural and technical aspects of the Judiciary's Planning-Programming-Budgeting (PPB) system. Its functions are to analyze, evaluate, and make recommendations of resource requirements for all Judiciary programs; prepare the program and financial plan and budget, variance report, budget testimony, and budget bill for submittal to the Legislature; respond to requests for information from the Legislature; execute the Judiciary budget, review all programs to ascertain whether legislative and Judiciary policies are being met and to determine accomplishments of programs; review and evaluate proposed personnel action which affect program and expenditure plans; determine the information needs and data processing requirements involved to streamline and modernize the Judiciary's PPB system; and conduct special studies to promote efficiency in operations.

Internal Audit Branch: The Internal Audit Branch is responsible for establishing and maintaining a system of internal control. Its functions are to devise an internal audit program, and on a timely basis, review and update the program; make surveys and inspections and recommend changes to assist management to achieve efficiency in fiscal operations; recommend and suggest improvements of accounting methods and procedures; evaluate the reliability of financial records; and provide advice to management by interpreting program operations as revealed by accounting data, reports, and trends.

Personnel Office

The Personnel Office is responsible for building a career service designed to attract, select, and retain employees of the highest caliber in order to render the best possible service to the State; and provide a sense of belonging, unity, and common

purpose to its employees to motivate them toward better and higher achievement.

The four functional divisions within the Personnel Office are the Recruitment, Examination, and Placement Branch; the Administrative Services Branch; the Classification and Pay Branch; and the Training and Labor Relations Branch.

Recruitment, Examination, and Placement Branch: The Recruitment, Examination, and Placement Branch is responsible for administering a central recruitment and examination program that will interest the most capable persons and provide a selection system that insures the highest caliber employee; ascertaining and organizing staffing needs for recruitment purposes; preparing and disseminating vacancy announcements through the public media; establishing minimum qualification requirements and testing standards; developing and administering tests; rating and ranking applicants, establishing lists of eligibles; investigating work histories of applicants, interviewing and corresponding with applicants; evaluating placements through follow-up inquiry; and supervising the conduct of job analysis.

Administrative Services Branch: The Administrative Services Branch ensures that personnel actions are taken in compliance with applicable laws, rules, and regulations and union contracts; provides general administrative support services to all employees, including a variety of counseling services affecting appointment, pay, separation, retirement, etc.; processes appointment, promotion, and other actions, checking for adherence to laws and regulations; maintains proper personnel control of records to comply with State and Federal laws, Judiciary rules and regulations and negotiated union contracts; maintains a centralized personnel reporting and information system on classified and exempt positions; implements and coordinates the Judiciary Affirmative Action Plan and Equal Employment Opportunity Program; sponsors employee incentive awards and suggestions, a program to recognize exceptional employees and to encourage employee participation in work improvement; arranges for provisions of adequate health services; interprets leave policy; and administers an employee performance evaluation program focusing attention on employee performance rather than employee rating.

Classification and Pay Branch: The Classification and Pay Branch maintains a Judiciary position clas-

sification plan and compensation system to conform with State Personnel Rules and Regulations; conducts studies and formulates new and amended class specifications, including minimum qualifications, adopts and publishes specifications, analyzes the scheme of classes for needed improvement; conducts periodic audits and position reviews to assure proper classification of positions; analyzes and proposes assignment of new classes to salary ranges or grade; reviews requests for repricing; participates in the biennial deliberation of the conference of Personnel Directors; classifies and allocates all positions within the Judiciary; recommends changes in procedures and methods of redistribution of functions to eliminate overlap or duplication of functions; conducts management studies to improve organizational structure and efficiency and participates in activities involving major reorganization; provides technical and staff guidance and assistance to operating officials on classification and pay matters; and explains and advises on the application of classification standards, practices and procedures and in the interpretation of administrative policy as they relate to position classification and wages and salary administration.

Training and Labor Relations Branch: The Training and Labor Relations Branch administers the Judiciary's employee development and training program; establishes and implements training programs based upon identified needs and conducts follow-up evaluation on training activities; provides advice and assistance to operating divisions and offices on employee development and training; develops, coordinates, and conducts orientation, training programs for Judiciary employees, including supervisory, clerical and safety workshops; prepares training material; studies training plans for the Judiciary; directs and administers a statewide training and continuing education program for judges, supervisory, administrative as well as professional and clerical personnel; coordinates training activities provided by the State and through Federally funded programs; serves on Judiciary training committees; coordinates activities in evaluating training programs; seeks out training facilities; reviews qualifications of candidates for training and recommends individual training; provides a rational method for dealing with disputes and maintains a favorable working environment through the proper application of the collective bargaining agreement, gives advisory guidance and assistance to management representatives in the application of contractual provisions; provides instruction and advice to

supervisors on the proper and timely handling of grievances; meets with union representatives as well as employee groups to discuss matters affecting pay, hours of work, and other conditions of employment; and seeks to provide a harmonious and cooperative environment between management and employees through uniform interpretation and application of provisions contained in collective bargaining agreements, personnel rules and regulations, and Federal and State laws, thus eliminating grievances arising under the application of such provisions.

Planning and Research Office

The Planning and Research Office is responsible for providing the statewide Judiciary with guidance and overall direction in meeting the community's demands for judicial services. Its activities include all aspects of comprehensive planning, statistical research, and grants management.

This office provides statistics and plans for the orderly and coordinated development of the Judiciary. It is involved with the development of statistical data and rationale for decisions which affect the direction, rate, and character of growth of the Judiciary and the services to the people of the State over a significant period of time.

Planning Branch: The Planning Branch is involved in formulating strategic plans, which are statements of goals and recommend courses of actions. The operation of this branch involves the collection, analysis, and evaluation of an extensive variety of physical, social, and legal factors; identification and clarification of public opinion, Judiciary missions, and the determination of problems to obtain a comprehensive perspective of conditions and concerns for which the plans are being prepared; integration and reconciliation of such factors including the consideration of the relationships among resources, functions, and services; identification and resolution, where possible, of conflicting goals, objectives, policies, applicable laws, rules, regulations, and practices; formulation of plans for the areas of concern consisting of alternatives for action over a significant period of time and supportive documentation for the use of administrative decision-makers. Supportive documentation includes statements of consequence of alternative actions or no action, risks and uncertainties involved, recommendations as to the alternative time sequences of programs, and relative priorities for the effectuation of public plans.

This branch is also concerned with maintaining, reviewing, updating, and revising judiciary plans as laws, priorities, social conditions, and other factors change.

The Planning Branch is responsible for seeking and initiating applications for funding from external sources, for projects which are consistent or compatible with the goals of the Judiciary and which enables the program within the Judiciary to strengthen and improve the administration of justice in Hawaii while utilizing funding from sources outside of the Judiciary.

Research and Statistics Branch: The Research and Statistics Branch is responsible for developing and maintaining a uniform statistical information system for the statewide Judiciary. It is also responsible for collecting, analyzing, and presenting court statistical data which provide the decision-makers of the Judiciary with a summary picture of current operations, so as to facilitate evaluation of trends, influential factors, or variables affecting court workload and efficiency.

Public Information Office

The Public Information Office (PIO) is responsible for creating public awareness on how the courts operate and what types of judicial services are available to the community. It is also responsible for the production of all internal publications, including a monthly newsletter for volunteers. The office also provides information about court services on Oahu by answering telephone inquiries.

PIO serves as the Judiciary's primary publisher of internal publications including all legal and administrative forms used in court operations, and brochures; providing typesetting, production and design services to all divisions statewide. The office also has the responsibility for ensuring uniform standards in all forms and publications.

Judiciary Computer Systems Office

The Judiciary Computer Systems Office is responsible for providing a statewide automated system which is responsive and useful to the needs of the operating agencies within the Judiciary of Hawaii by providing up-to-date case records and a current statewide calendaring system when fully implemented.

The Judiciary Computer Systems has been organized to serve six major functions: case manage-

ment, calendaring, servicing, financial management, management and statistical reporting, and the Traffic Violations Bureau. These major functions will be translated into computer program design specifications and ultimately into computer programs and user procedures to operate the system.

Case Management: The case management function will control the collection, maintenance, and dissemination of data directly related to individual cases. This function will control the entering of new case data from indictments, complaints, petitions, etc.

Calendaring: The calendaring function will provide assistance to court clerks in the scheduling of cases for court appearance and the production of physical calendars for use by persons directly involved in the courtroom. To support the calendaring process, the system will provide for inquiry into the Calendar and Case Files.

Servicing: The servicing function will provide automated support to the court clerks responsible for preparing and controlling certain documents issued by the court for service upon individuals and organizations. The system will provide this support initially for bench warrants only, but will be designed to include other service documents.

Financial Management: The financial management function will automate the accounting and reporting of transactions for non-appropriated funds of the Judiciary. The system will produce various monthly, quarterly, and annual financial reports, and control reports via batch processing.

Management and Statistical Reporting: The management and statistical reporting function will involve the preparation of various types of reports of court operations to assist in the administration of the courts. The management and statistical reports will be designed more for the development of court policies with respect to planning for future court operations and assuring that existing court operations are optimally and efficiently executed.

Traffic Violations Bureau: The Traffic Violations Bureau function will maintain an inventory of citation books issued to and returned from enforcement agencies and will provide computer system support to the Traffic Violations Bureau in maintaining traffic citations and violator history records.

Volunteer Services Office

The Volunteers in Public Services (VIPS) to the Courts is established to facilitate and promote citizen involvement and participation in the criminal and juvenile justice systems, serving as both a medium for increased public awareness of the Judiciary and its programs, as well as helping to improve the level of services to the community and its clientele within all judicial circuits throughout the State.

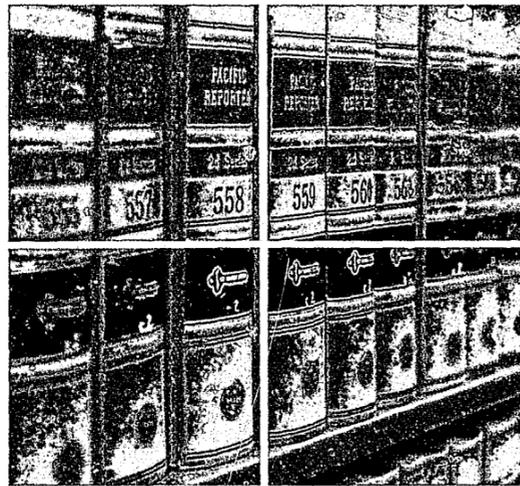
Program Function: The function of the program requires that it remain responsive to the needs of both the organization and its employees and conjointly work with the community citizenry in providing opportunities to learn more about the courts' problems and concerns in administering justice. In keeping with this philosophy, the program has continued to include and develop those activities which provide greater opportunities for citizen awareness and/or direct involvement in the judicial system in areas of public concern.

A major activity of the program is to formalize volunteer opportunities for citizen participants within the court system into specific job activities based on input and consultation with court staff on where volunteers are needed and can be effectively used. Volunteers are then selectively recruited, screened, trained, assigned, and supervised. Currently, there are twenty-four volunteer positions in such areas as one-to-one companions to court clients; aides to assist court officers; tutors; aides for law library, clerical, research and evaluation, bailiff, recreation; and teachers for academic subjects and crafts. Flexibility is maintained to create new volunteer positions as the need and the volunteers' work experience or training provides.

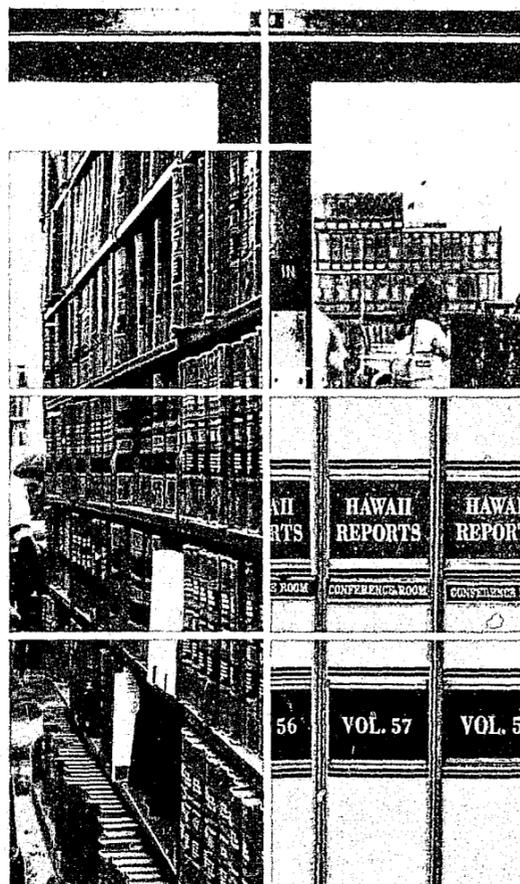
Extension of Court Staff: The utilization of volunteer citizen participants within the Judiciary is intended to provide for the better utilization of staff time where volunteers are trained to supplement and/or extend the services of regular-paid staff; direct benefits in the form of improved services to clients under court jurisdiction when social service plans are carried out by volunteers under the supervision of court staff; and provide opportunities within the Judiciary where citizen participants can increase their awareness of the rehabilitative needs of clients and direct involvement in the service area of the courts.

Coordination of Orientation Tours: A second ac-





SUPREME COURT LAW LIBRARY



tivity is the coordination of all public orientation tours of the Judiciary. The service includes the scheduling of interest groups and organizations on days and times that would enable them to have an opportunity to sit in on actual court hearings. A trained volunteer or program staff guide provides an orientation on the court system, the roles of individuals in the courtroom, at what stage the trial may be, and other pertinent information about the case to help individuals better understand the proceedings.

Arrangements are also made with other resource persons in the Judiciary or legal community for presentations on specific areas of interest when requested. Tour groups are normally directed to the Circuit Courts for interest and availability of courtroom space. The program assumed the coordination of court tours from July, 1976 and is an integral part of the program's function. Since its outset, the number of groups and individuals has steadily increased to over 7,000 visitors annually.

Supervision of Public Service: Another major program activity is the coordination of a sentencing program which enables an offender to engage in public service work as a sentence condition. The community can potentially benefit from the skills, background experiences, training, and education the offender offers in service. Individuals and organizations also have an opportunity for greater public involvement in the criminal justice system and increased awareness of the rehabilitative needs of offenders. The offenders benefit in cases where a fine and/or restitution would impose a financial hardship. The public service work enables the offender to bear full responsibility for the carrying out of the sentence and serves as a form of restitution to the community for a violation of its law or ordinances. For other offenders, such community service activities could provide a learning experience, possible job reference, or serve as a stronger deterrent.

Staff Attorney's Office

The Staff Attorney's Office is attached to the Administrative Director's Office. It advises the director as to the administration of the court system as requested, assists with the Judiciary's legislative program during each session and with the implementation of new legislation which affects the Judiciary, assists with the revision of court rules as needed, and provides information to the public and to the bar.

VII. Law Library (JUD 202)

Program Characteristics

The Law Library Program operates as a legal reference library available to all who have need of its resources for legal research and study. Its primary responsibility is to provide justices, judges, and the staffs of the state courts with necessary information and materials related to legal research and judicial administration. The library is also utilized by attorneys and their staffs, members of the Legislature, other government agencies, university faculty and students, and the general public.

Program Organization

Law Library and reference services are furnished through the state law library system which consists of the central collection in the Supreme Court Law Library in Honolulu and the satellite collections located in the Circuit Courts of the Second, Third, and Fifth Circuits. The collections, particularly that of the Supreme Court Law Library, which is the largest in the state, functions as public law libraries. In addition, small collections are maintained in the District Courts of each circuit. Chamber libraries are furnished for the Supreme Court justices, Intermediate Court of Appeals judges, Circuit Court judges, and District Court judges, and a conference room library is provided for the Supreme Court. The system also provides materials to judicial support staffs.

It is administered by a law librarian who is responsible for formulating policy and preparing budget requests for all areas of the system. The law librarian is assisted by a central library staff in the Supreme Court Law Library. The Law Library Program also utilizes volunteer help to insure the best service possible for its patrons.

Program Activities

The state law library system collects, organizes, and disseminates information and materials related to legal research and judicial administration through its central collection in the Supreme Court Law Library and the libraries of the Circuit Court of the Second, Third, and Fifth Circuits.

Standardized collections are developed and maintained in each circuit with ready access to the central collection as a backstop.

This program also acts as the court bookstore for the sale of "Hawaii Reports" and the "Rules of Court."

The central library staff in the Supreme Court Law Library is responsible for cataloging, indexing, and maintaining books through rebinding and termite-proofing. They also service the circulation desk by helping patrons in checking out library materials.

They provide assistance to private law firms in the nature of advice on organization, acquisition, and library procedures in the development of their personal libraries.

VIII. Driver Education and Training (JUD 221)

Program Characteristics

The Driver Education and Training Program is a unified statewide program. It operates without any taxpayers' money and is financed by a one dollar assessment made by the court on all individuals convicted of a moving violation and also receives a portion of one dollar collected by insurance companies on each vehicle insured. It is a preventive and rehabilitative endeavor directed to both adult and juvenile traffic offenders which provides counseling and instructional services in the area of traffic safety.

Program Organization

The program is headed by a director who is responsible for the administration of a comprehensive traffic safety education program for the Judiciary on a statewide basis.

Under the supervision of the director, the driver improvement advisors are responsible for interviewing and doing casework services on all traffic referrals. They also counsel, educate, and provide information on safe driving to traffic violators, and when necessary, make appropriate referrals of cases to the court counseling services for further assistance.

The program also employs a graphic designer who is responsible for the preparation of educational materials used in the driver education classes. He is also responsible for designing all graphics used in education campaigns sponsored by the program and the production of audio-visual aids.

Program Activities

This program is responsible for planning, coordinating, and administering a comprehensive traffic safety education program for both adult and juve-



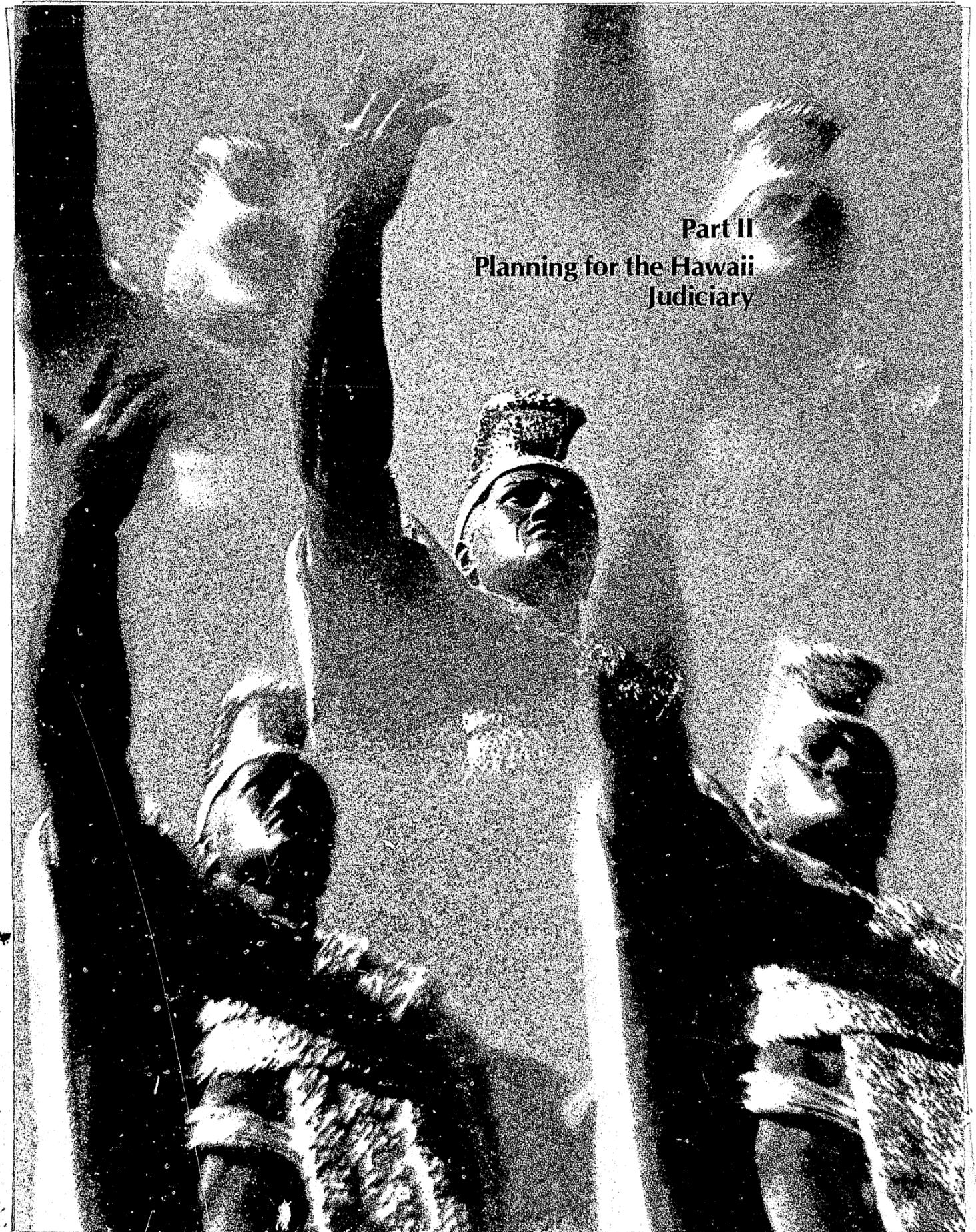
nile offenders referred. Any driver who has caused an accident, committed a serious traffic violation, or displays a history of erratic driving behavior may be referred to the program at the discretion of the courts or the police. There he is counseled and may be assigned to take one of the courses offered by the program. Courses which are offered are: Defensive Driving Course (DDC), Remedial Drivers' Training (RDT), and Driving While Intoxicated (DWI) Counterattack Course. It is the responsibility of the instructors to provide those enrolled in the course with information on how to avoid traffic accidents.

After counseling, examination, or remedial training, offenders are evaluated on the basis of attendance, test scores, and attitude. If a violator's case still awaits disposition by the court, the evaluation is formally reported to the referring judge, along with a recommendation for sentencing.

The Driving While Intoxicated program was implemented in December, 1973. Its purpose is to provide information on the consequences of drinking and driving, with special focus on individual differences and tolerance to alcohol, to explore reasons why people drink and drive, and to induce offenders to develop countermeasures for their individual problems. Follow-up counseling services by mental health agencies are recommended to students whose problems with alcohol require specialized treatment.

1. A "program" represents a combination of resources designed to produce results which contribute towards the attainment of specified ends or objectives.
2. A "program structure" is a hierarchical grouping of the activities of an organization by common objectives and areas of endeavor, so that activities having similar objectives can be considered together when determining how best to allocate resources among them.
3. "Program identification numbers" are utilized in the budget to identify a given program of the Judiciary. These numbers are presented here because they serve as a basis for the development of a comprehensive coding system for identifying the goals and objectives of the programs. This identification scheme is discussed in greater detail in Chapter Eight, *infra*.

Part II Planning for the Hawaii Judiciary



In Part I, the Judiciary was described from two broad structural perspectives; that is, as a unified court system and in terms of its structural divisions. Part Two describes how the comprehensive planning process of the Judiciary was initiated and developed, the nature and concept of comprehensive planning which has been adopted, and specifically how the Judiciary is organized for comprehensive planning.

Developing a Comprehensive Planning Capability in the Judiciary

3

In this chapter the groundwork is laid for the remainder of Part II by describing how the comprehensive planning process of the Judiciary was initiated and developed. Specifically, the focus is upon those factors which contributed towards the development of the kind of planning process described in this Part.

The Decision to Develop and Maintain a Formalized Planning Capability

Although planning is universally recognized as a basic management function, the decision to develop and maintain a formalized planning capability within the organizational structure of a system, be it public or private, is necessarily a top-level management decision. This is especially true if such a decision is coupled with the expectation of institutionalizing a long-range planning capability within the system.

The principal decision-makers of the Judiciary have long recognized that planning is essential to express intelligibly the objectives and ideals of the organization and to insure that its courts will remain vital, relevant, and responsive in a constantly changing environment. The strategy directing this effort is founded on the belief that the Judiciary has a responsibility, as the third branch of government, to assume a more active role in the development of its internal processes and in consciously anticipating and responding to the future concerns it will be called upon to deal with. Thus, in view of this belief, it is hardly surprising that, in 1975, at a time when unification and independence of the Hawaii court system was virtually complete, the principal

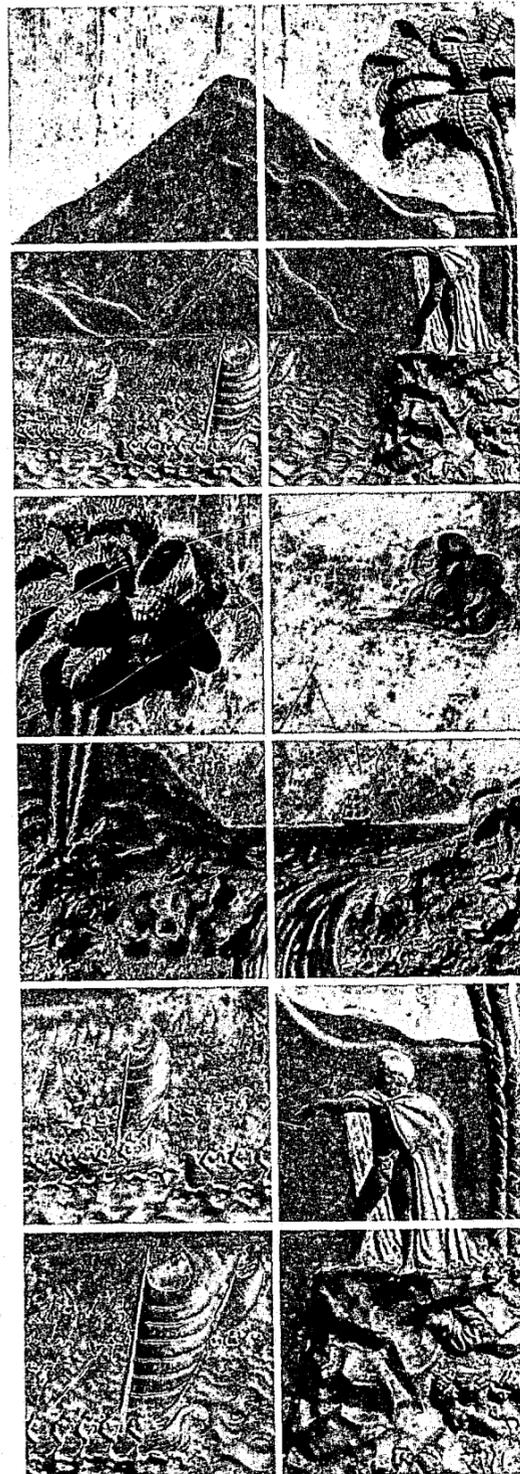
decision-makers determined that some sort of formalized planning capability should be developed in order to maintain the continued vitality of the Judiciary.

The Creation of the Planning Office

Once the decision to develop a formalized planning capability was made by top management, quite obviously, the next step involved translating the decision into action; that is to say, to devise a strategy for undertaking planning within the organization. Towards this end, several alternatives were identified and considered. It was determined that the first step towards the development of a formalized planning capability in the Hawaii Judiciary would be the creation of a planning unit within the administrative structure of the system.

In 1976, an application was made to the Law Enforcement Assistance Administration for a federal grant to develop a pilot planning program which was subsequently awarded to the Judiciary. With the hiring of a court planner in 1977, the planning office was established within the Office of the Administrative Director of the Courts under the general direction of the Administrative Director, his Deputy and the Chief Justice of the Supreme Court.

The expressed purpose of the planning office was to develop and maintain an effective planning capability within the Judiciary and to provide the statewide organization with long-range direction and overall guidance in meeting the community's demands for judicial services. Specifically, the office was charged with the responsibility to assist the



principal decision-makers of the Judiciary in defining long-range goals, developing and analyzing strategic alternatives and recommending the best courses of action for the orderly, systematic, and coordinated development of the unified court system of Hawaii. It was hoped that by creating a planning office to handle the above functions, systematic planning at each administrative level of the Judiciary would be developed and encouraged.

The Preliminary Task of the Planning Office

Once the planning office was established within the administrative structure of the Hawaii judicial system, the task of determining a suitable means to undertake formalized planning shifted to those in the planning office. To properly undertake this task, it was incumbent upon those charged with the responsibility to plan to determine the parameters for planning; that is, to ascertain exactly what was desired from the formalized planning effort. This was done by identifying what top management desired or expected from a formalized planning effort.²

Identifying Top Management's Expectations

Through a series of personal consultations and conferences with the principal decision-makers of the Judiciary, it was determined that a consensus existed with respect to the kind of planning mechanism desired for the Hawaii Judiciary. Briefly, what was desired was a planning mechanism which encompassed all aspects of the court system and provided overall direction and guidance for the orderly and systematic development of the organization as a whole. However, two caveats were expressed by top management.

- First, the planning process should not put a straight-jacket on decision-making. Rather, it should be flexible enough to effectively deal with unexpected contingencies that would inevitably arise from rapidly changing circumstances and conditions which characterized a system as dynamic as the Judiciary.

- Second, the role of the judge in hearing and deciding cases had to be excluded from the planning process.

Top management also expected the planning program to strengthen the ability of the Judiciary as a whole to meet the diverse demands of the people of the State of Hawaii for speedy and fair justice and to

assist it in meeting the long-range judicial needs of the community. In addition, the planning process had to effectively satisfy locality-specific requirements in the present. This meant that it had to effectively fulfill present and future needs.

The planning process was also envisioned as the vehicle for the development of a rational criteria for resource allocation decision-making; so there would be a "marriage," so to speak, between the planning process and the budgetary process.

Finally, top management hoped that the planning process would yield the positive by-product of greater cooperation among all agencies involved in the administration of justice in the State of Hawaii, thus creating a general overall improvement and cooperation among all agencies involved in the administration of justice statewide to the benefit of all of the citizens of Hawaii.

Translating Top Management's Expectations into Action— The Development of Planning Premises

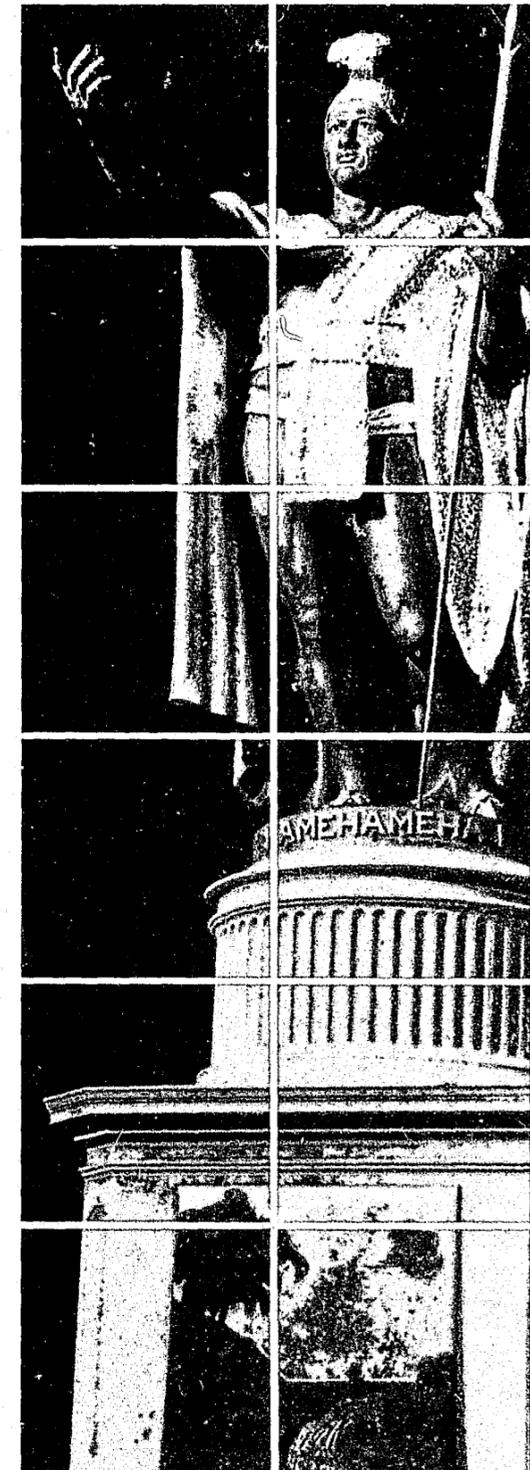
Once the expectations with respect to planning were identified, the planning office's task was to "translate" these expectations into tentative planning premises which would constitute the basis to develop a prototype system for planning for the court system.

The following guidelines were adopted:

First, planning had to be comprehensive. The planning process would have to cover the entire scope of functions and activities in the Judiciary. That is to say, every component within the management structure of the organization and every identifiable subdivision of the organization would have to be included in the process—except for those activities specifically excluded by top management.

Second, the planning perspective had to be long-range. The planning office had to establish a mechanism to monitor the environment of the Judiciary so that it could anticipate and respond to the changing needs and demands of the community for judicial services and justice.

Third, there had to be consistency between the budgetary process and the planning process so that an eventual link-up of the two would be realized. Only by using this approach could formalized planning be used as a framework for resource allocation decision-making.





Fourth, all planning within the organization had to be integrated with that of the organization as a whole to insure control and coordination of planning for the judicial organization on a statewide level.

Finally, the mode utilized to develop and implement plans had to reflect the existing decisional process to insure flexibility and the ability to deal quickly and effectively with locality-specific requirements. In other words, the organizational structure and management style of the judicial system had to be identified and analyzed in order to determine how decisions are actually made in the organization.

Developing a Suitable Process for Planning

Having adopted tentative planning premises, the planning office's next task was to develop a process for planning which was consistent with those premises. The planning process would have to be one which was within the planning office's capability to develop and implement.

After considerable research and testing, a prototype planning mechanism was fashioned which was consistent with the planning premises.³ This mechanism or "model" is the subject of Chapter Four entitled "The Nature And Concept Of Comprehensive Planning."

Assessing the System

With a "theoretical" model developed for planning, the next task was to determine whether the planning process was compatible with the system in which it would be implemented. This was accomplished by doing a systems assessment to determine if the planning mechanism and the court system were compatible.⁴ If so, the next step would be to organize a system for comprehensive planning (which essentially entailed the application of the theoretical planning process to the actual system). However, if the planning process and the court system were incompatible, then adjustments would have to be made to either (a) the planning process; (b) the court system; or, (c) top management's expectations and desires with respect to planning.

Based upon the planning office's analysis of the court system, the following conclusions with respect to the compatibility of the planning process with the courts system were made.

First, since the court system was unified and integrated in fact, planning could be undertaken for the whole organization.

Second, since the budgetary program structure consisted of logical and clearly identifiable subdivisions which were understood and accepted by the Legislature and administrators associated with or in the Judiciary, the organization was, for the most part, already effectively organized for the type of planning which the planning office proposed.

Third, since all functions and activities of the Judiciary were grouped according to common objectives under the budgetary program structure, by integrating the budgetary program structure into the planning process, both systems would be compatible.

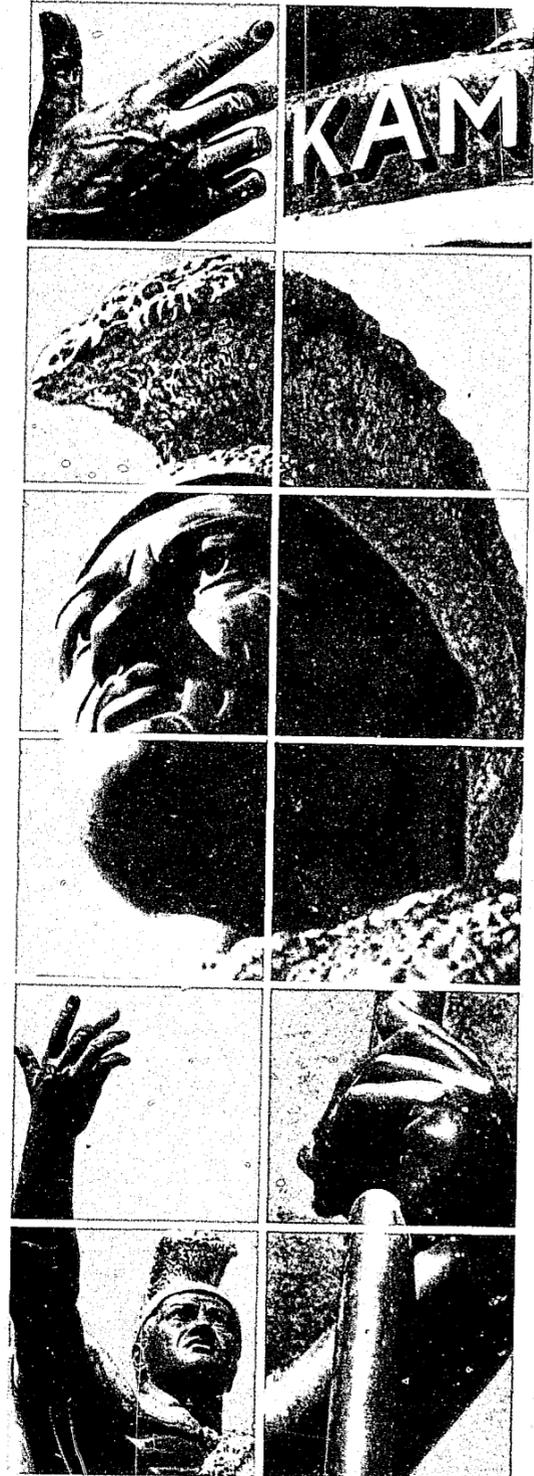
Finally, the organizational structure and management style of the organization was highly conducive to the type of planning proposed. This is discussed in detail in Chapter Four on "Organizing For Comprehensive Planning."

Developing a Planning Program

Having assessed and tentatively concluded that the theoretical planning process was highly compatible with the Hawaii court system, the next step involved developing a suitable planning program for the Hawaii Judiciary. It is here that the kinds of plans and the manner in which they are developed (planning activities) had to be clearly delineated. Also, the roles and responsibilities of each person who was to develop plans had to be specifically defined. In addition, the timetables and order for the development of the plans had to be agreed upon. Since this is the subject of a later chapter, further discussion of the planning program will be deferred until that time. Suffice to say that the end result of this activity is the development of a planning program that is particularly suited to the organization for which it was developed and indicates what is to be done, when and where it will be done, how it will be done, and who is to do it.

Obtaining Top Management's Approval and Support for the Planning Program and Its Implementation

Once a suitable planning program had been designed for the organization, the next task was to obtain top management's approval and support of it. Fortunately, this was not a difficult task. Indeed, since top management had participated in all steps



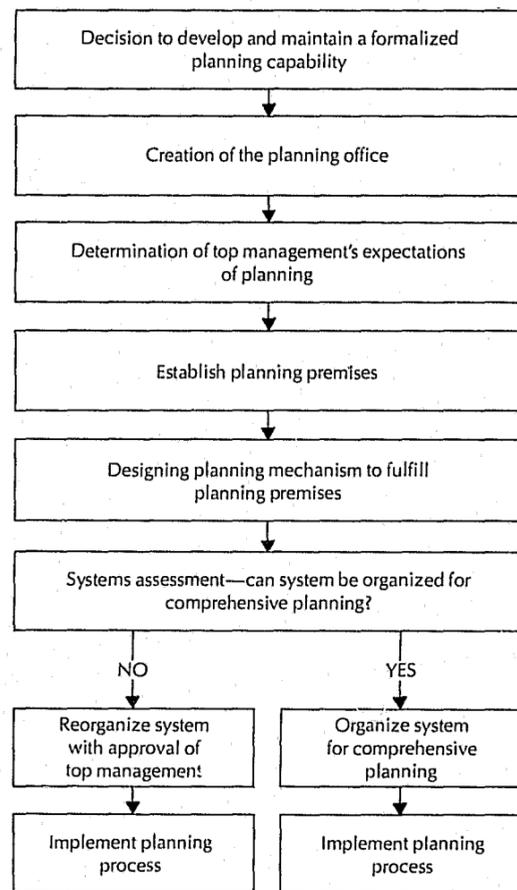


Fig 3.1 Steps In The Establishment Of A Comprehensive Planning Process

in the development of the planning program, its approval and support was not only immediate but was also coupled with a high degree of enthusiasm.

With such a commitment by top management, the planning program was thereby formally institutionalized in the system. Thus, it became the formal and legitimate mechanism for change in the organization.

Summary

This chapter presented an overview of the steps involved in developing a formalized planning capability in the Judiciary. It also discussed the reasons for

the development of a comprehensive planning capability and identified the stages involved in the adoption of a comprehensive planning program. These stages are depicted in Figure 3.1.

In the next two chapters, covered in greater detail will be some of the areas that were touched upon in this chapter. Specifically, the nature and concept of comprehensive planning will be described and the process by which it is undertaken. Finally, the actual process will be described by which plans will be developed in the Judiciary.

1. The term, "principal decision-makers" and "top management" are used interchangeably to refer to those in the organization who, in fact, are ultimately responsible for its proper administration and maintenance. With respect to the Judiciary, the principal decision-makers, and therefore its top management, include the Chief Justice of the Supreme Court and the Administrative Director and his Deputy. Depending upon the circumstances, however, other high-level administrative judicial officers in the organization can be construed as "principal decision-makers" and therefore part of top management.

2. Although this may appear, at first glance, to be an inherently logical and common sense approach, such a determination is literally fraught with numerous unseen difficulties and pitfalls. For example, in most cases, top management has only an intuitive notion of what formalized planning should be, yet alone what it should accomplish for the organization. Then, too, each decision-maker oftentimes has a different conception of what is to be derived from formalized planning. Moreover, in view of the formal and informal structures of an organization, the determination of the exact composition of the top management of the organization may be extremely difficult. Fortunately, with respect to the Hawaii Judiciary, this was not a serious problem. For, under Hawaii's unified court system, the Chief Justice is specifically designated by the Constitution as the "administrative head" of the Judiciary. To assist him in directing the administration of the Judiciary, the Chief Justice is empowered by law to appoint an administrative director of the courts who, in turn, is authorized by law to appoint a deputy and such assistants as may be necessary to assist him. Together, they are ultimately responsible for the smooth functioning of Hawaii's court system and therefore they constitute, at least for administrative purposes, the top management of the Judiciary.

3. Briefly, the model consists of five separate and distinct planning activities that results in three different kinds of plans which are totally integrated into a structural hierarchy through the use of the systems approach to planning which necessitates subaggregation of organizational missions into attainable and workable goals and objectives. These plans—strategic, program, and operating plans—differ only in the level of specificity, time frame, and breadth of perspective. The principal feature of the planning process is its treatment of the organization as an entity in and of itself with definite purposes, strategies, and priorities. Indeed, for the most part, the model was derived from modern corporate planning principles.

4. Such an assessment would reveal whether or not the planning mechanism was workable from the standpoint of the organizational structure and management style of the system and whether the planning process could be successfully implemented without modification.

The Nature and Concept of Comprehensive Planning

4

In the preceding chapter, an overview was presented of the factors and circumstances which must be considered in order to properly plan for a unified state court system. Also addressed was the threshold question as to why the Judiciary has chosen to undertake formalized planning and to do so in a comprehensive manner.

This chapter will describe the nature and concept of comprehensive planning as well as the kinds of planning activities and the types of plans that are embraced by the Judiciary's concept of comprehensive planning.¹

The Meaning of Comprehensive Planning

From a management standpoint, comprehensive planning is concerned with the necessity of making today's decisions in the light of an informed anticipation of tomorrow's realities. Comprehensive planning deals with the futurity of present decisions² and inherently involves assessing the future and making provision for it. This, in turn, suggests one of two things, or both.

First, comprehensive planning examines future alternative courses of action which are available to an organization. The process of choosing among these courses of action establishes an umbrella, a perspective, or a frame of reference for current decisions.³ Second, comprehensive planning examines the evolving chains of cause and effect likely to result from current decisions. Indeed, a basic task of comprehensive planning is reasoning about how an organization will get to where it wants to go. Thus,

comprehensive planning involves both visualizing the organization as its principal decision-makers want it to be in the future and reasoning about how it will get there. In other words, comprehensive planning involves designing a desired future and identifying the means to bring it about.

It is quite apparent, therefore, that the concept of comprehensive planning contains two separate but interrelated components; namely, a substantive component which injects a long-range perspective into current decision-making and a procedural component which serves to structure contemporary reality as a means of guiding the organization through the future and of altering events to the organization's greatest advantage. So viewed, comprehensive planning consists both of a perspective and process. A perspective is a general orientation towards an alternative future state or condition or end-result of an organization that serves to guide decision-making in the present. A process is a series of specific, interrelated steps which leads the organization to a desired state or condition some time in the future. Comprehensive planning involves both the present articulation of desired "ends" as well as the present formulation of the "means" by which such ends are to be achieved at some time in the future.

The remaining sections of this chapter describe how this concept of comprehensive planning has been applied in developing a comprehensive planning process for the Judiciary. First, the planning perspective of the Judiciary will be described in terms of how it was derived. This will then be followed by a discussion of the Judiciary's planning

process which will relate the kinds of planning activities and types of plans which are contemplated.

The Planning Perspective

The first component of comprehensive planning is the so-called *planning perspective* which represents "the general orientation towards an alternative future state or condition or end-result of the organization that serves to guide decision-making in the present." This component of comprehensive planning refers to the substantive conception of management as to what the organization should be, or, stated another way, where management wants the organization to be at some point in the future.

In practice, it is the planning perspective that guides and directs the planning process. The establishment and clear delineation of an organization's planning perspective generates, in the present, a gross perception of the "ideal" state of the organization in the subjective sense. This "ideal" state, in turn, represents the set of desired conditions that hopefully will materialize at some point in the future if the current resources and energies of the organization are directed towards their attainment. Thus, from the standpoint of the principal decision-makers of the organization, the organization can be seen as striving towards some preconceived and preferred future state or condition or end-result which reflects an "ideal" state of being.

Although normative and conceptual in nature, the "ideal" state of an organization is manifested in the present by its stated missions and goals, the attainment of which is tentatively approximated by the present implementation of appropriate policies and programs directed towards those ends—the "means" to the "ideal" state. Consequently, as the organization attains its goals and objectives, it moves closer to its "ideal" state. And the closer the organization gets to attaining its "ideal" state, the "better" it is, at least from the standpoint of its principal decision-makers.

Although some difficulty may be encountered in terms of conceptually ascertaining exactly what the planning perspective of an organization should be, in general, the principal difficulty is not in identifying *what* the substantive "ideal" state of an organization should be (in most cases, top management will have a clear conception of where the organization should be going and would also have established, in the present, at least a few long-range goals), rather, it lies in terms of choosing the proper *means*

to establish the perspective⁴ since, for the most part, *how* a perspective is derived will determine to a large extent *what* that perspective will be.

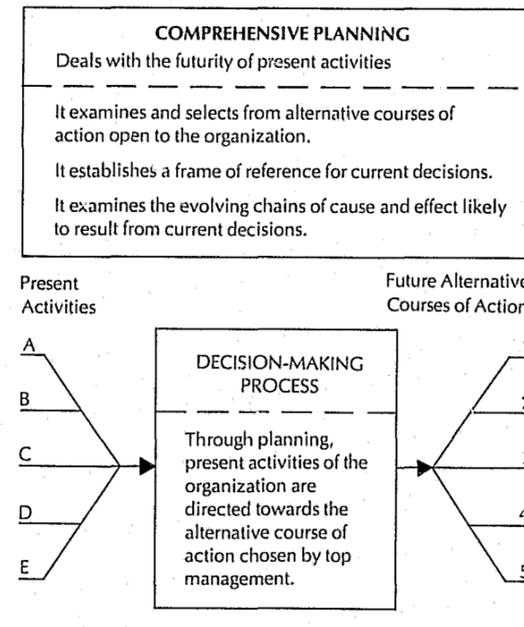


Fig. 4.1 The Meaning Of Comprehensive Planning

Establishing the Perspective

There are essentially three basic approaches that can be used to establish a planning perspective. These approaches are:

- The problem-oriented approach
- The purpose-oriented approach
- The future-oriented approach

Each of these approaches is utilized to establish the planning perspective of the Judiciary.

The problem-oriented approach: The problem-oriented approach identifies problems or needs of an organization and formulates alternative solutions that represent the condition or state or end-result wherein a problem is eliminated or a need is satisfied. The approach is based on the concept that the resolution of all problems and the fulfillment of all needs results in the "ideal" state of an organization.

The approach basically involves the inductive techniques of problem-identification and needs assessment. By identifying particular problems, determin-

ing specific needs, and formulating alternative solutions to meet those needs, a general state or condition or end-result is established as a "goal" which, in theory, is reasonably calculated to resolve the problem or to meet the previously unmet need. Upon the attainment of the goal, the problematic condition which gave rise to the problem is displaced by a new condition which represents the elimination of the problem-situation or the satisfaction of a need. Thus, from a purely theoretical standpoint, the culmination of this effort is the attainment of a kind of "problemless" state for the organization which, when taken to its logical conclusion, generates a perspective that equates the "ideal" state of the organization with a problemless one.

The purpose-oriented approach: The purpose-oriented approach focuses on the purposes of the organization and culminates in plans which serve to effectuate those purposes. The approach is predicated upon the assumption that an "ideal" organization is one that is fulfilling its basic purposes by optimal means. Thus, the governing standard under this approach is that the purposes of an organization provide the focus for all planning activities of the organization.

The purpose-oriented approach involves the identification of the basic purposes of the organization and the formulation of goals designed to fulfill those purposes. Assuming, therefore, that appropriate goals are specified, the achievement of the goals would signify the fulfillment of the organization's purposes and, correspondingly, the achievement of an "ideal" state.

The future-oriented approach: The future-oriented approach attempts to assess the future environment in which the organization will operate and formulates plans based on anticipated future needs. This approach is founded on the premise that an organization must foresee the future environment in which it will operate and focus upon the long-range alternative future states of the organization. Thus, in each case, the task is to find the most probable future courses of events bearing upon the organization and to use that knowledge to guide the development of the plans.

The future-oriented approach establishes a planning perspective that is based upon an informed anticipation of the most likely future course of events bearing upon the organization. Thus, under this approach, the "ideal" state of the organization



is one in which the organization adequately fulfills anticipated future demands placed upon it.

The Planning Perspective of the Judiciary—An Integrated Approach

The planning perspective of the Judiciary was established by utilizing the three approaches to planning identified in the preceding section. By synthesizing the concepts of each of these approaches the resulting planning perspective combines the realities of problem-solving with directional input from the purpose-oriented and the future-oriented approaches to planning. Such a planning perspective is balanced by theory and idealism on the one hand, and pragmatism and reality on the other. In addition, by integrating these approaches, a three-dimensional mode for formulating the "ideal" state of the Judiciary is manifested (see Fig. 4.2).

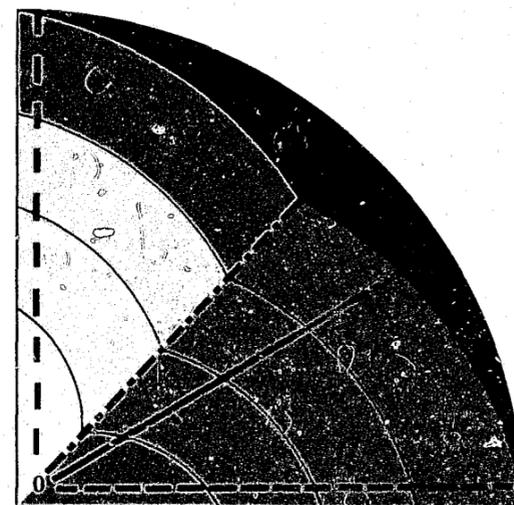
By incorporating into the planning perspective the concepts of fulfilling an organization's purposes, providing for its current problems and needs, and anticipating and focusing upon its alternative future states, the perspective is both long-range in concept and comprehensive in scope. Furthermore, it affords the decision-makers of the organization the opportunity to assess the efficacy of a goal in terms of both its perceived impact upon the basic purposes and future condition of the organization and in terms of its propensity to resolve existing operational problems, if any. In other words, it enables the decision-maker to observe the effect of a goal on the basic purposes of the organization at some point in the future as well as to assess the long-range consequences of present decisions. Thus, from the standpoint of decision-making, considerations of the long-term effects of present planning decisions are built into the comprehensive planning mechanism.

The Planning Process

The second component of comprehensive planning is the *planning process* which represents "the series of specific, interrelated steps which lead to a desired state or condition at some time in the future." These "steps" refer to the various kinds of *planning activities* which must be undertaken as part of comprehensive planning as well as the specific types of *plans* that result from each planning activity.⁵

Types of Plans

The Judiciary's definition of comprehensive



RANGE OF ALTERNATIVE FUTURES

- Alternative 1: Problem-oriented Approach
- Alternative 2: Purpose-oriented Approach
- Alternative 3: Future-oriented Approach
- The Judiciary's Integrated Approach*

*The planning perspective of the Hawaii Judiciary represents a synthesis of the problem-oriented, purpose-oriented, and future-oriented approaches to planning. In the above diagram, it is assumed that the farther from point zero the organization gets, the better it is according to that particular approach.

Fig. 4.2 A Schematic Presentation of the Judiciary's Integrated Approach to Establishing a Planning Perspective

planning contemplates a planning process in which an internally consistent hierarchy of interrelated plans is developed, starting with the long-range general plan for the organization as a whole, continuing downward with the intermediate or medium range plans for each major operating division or "program," and ending with the shorter-range budgets and operating plans which encompass all program activity.⁶ The three major levels of plans integrate organizational activity with the missions of the system through successive levels of objectives designed to reach the missions.

Specifically, the plans in our planning process are:

- The strategic plan
- The Program Plans
- The operating plans and budgets

The strategic plan: The strategic plan is a long-

range general plan which establishes overall direction for the organization as a whole and guides the formulation of all subordinate plans in the planning process. It indicates, in general terms, *what* the organization should do as well as *how* it will be done. Thus, the strategic plan contains not only the missions and goals of an organization but the policies and strategies that will be used to achieve them. Collectively, the missions, goals, policies and strategies outlined in the strategic plan constitute the basis and framework for all future changes towards the achievement of which the resources and energies of the organization will be directed. Indeed, in this area, we are dealing with the major, the most important and fundamental ends sought by the organization and the major approaches to achieve them.

Priority directions are also incorporated into the strategic plan. These organizational preferences and directions provide the values and boundaries for all subsidiary plans, and represent the fundamental determinants of all substantive endeavors. They dictate the areas of emphasis which each operating division is expected to pursue in order to accomplish the desired ends of the organization. In addition, issues identified by the futures research mechanism will be part of the strategic plan.

Program plans: Program plans are intermediate or medium-range plans that specifically delineate how a given structural division of an organization will carry out the broader plans of strategy outlined in the strategic plan. They attempt to develop for each major structural division of the organization, the preferred means of achieving the ends desired by the organization. Thus program plans indicate what a given organizational unit will do and when.

Since program plans embody the specific courses of action to implement the strategies and policies of the strategic plan, they provide for the smooth transition from the broad goals, policies, and strategies outlined in the strategic plan to the specific activities covered in the operating plans. Indeed, individuals who must perform operational tasks can do so in a correct fashion only if they know precisely what it is that they are supposed to do. Program plans aid in forming the proper individual role prescriptions by parcelling strategic goals, plans, and policies into manageable dimensions for each identifiable division of the organization. They are intended to make possible the achievement of planned objectives as effectively and efficiently as possible within

the guidelines and policies established by the strategic plan.

Program plans embrace all aspects of an organization's operations—the so-called "totality" of the system—and unlike the strategic planning process, follow a prescribed format or timetable. Typically, program plans cover a set period of time, usually three to five years. Whatever the period covered, plans are worked out in considerable detail for each year of the planning period. However, program plans may vary in the degree of detail, comprehensiveness, and time horizon.

Normally, several successive program plans are necessary to translate the policies, priorities, and strategies developed by top management in the strategic planning process into a strategy for implementation at the program level. Thus, such plans will contain subobjectives, subpolicies, and substrategies for their own operations. They may have a separate set of objectives, policies, and strategies for each of their functional areas or structural divisions. Or, one set of plans may be developed for the entire division.

Operational plans: Operational or operating plans are short-range plans which are used to translate intermediate plans into definitive, result-producing actions. In other words, operating plans focus on the ways and means of accomplishing the specific goals of the intermediate program plans. As a result, therefore, operating plans normally contain a specific series of objectives and associated actions designed to carry out the broader plans of the organization.

It is the operational plans that give substance to strategy. They have the most specific objectives and the most specific activity requirements of any plan. They specify the exact resources needed and the precise manner in which they are to be obtained and utilized. Thus, operating plans emphasize rules, procedures, and integrative activity. They are concerned with adjustments to current levels of program activities, and their aim is to increase the efficiency and effectiveness of operating activities and provide specific detail of short-term operations.

Operating plans result from operational planning which is normally undertaken by middle- and lower-level management. Typically, such plans cover a period of one year, although their length may vary depending upon the circumstances. And, as with intermediate program plans, these plans

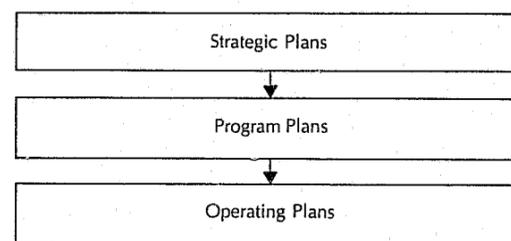
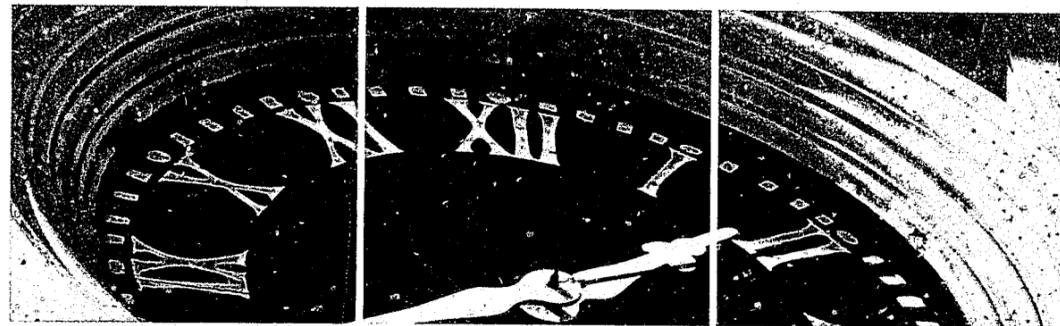


Fig 4.3 The Kinds of Plans Within Our Comprehensive Planning Process

vary in degree of detail and comprehensiveness. Usually, however, numerous operating plans exist in a given organization.

The most common of the specific operational plans is the budget. Indeed, the budget is usually referred to as a financial operating plan. For, the budget translates plans of action, usually operating plans, into dollar commitments. Through the budget, the organization determines whether or not an operating plan is acceptable on the bottom line.⁷

Procedures are very specific operational plans. They are the series of steps which are to be used by individuals in carrying out more comprehensive operational plans. Procedures are task-oriented and are usually quite detailed. They are the steps which are to be followed as long as a given task is to be performed. Procedures are usually found in operating or policy manuals, and are utilized by individuals to perform their jobs.

Kinds of Planning Activities

Each of the foregoing types of plans are developed through a series of distinct planning activities which take place in the organization in a continuous and systematic fashion called the planning cycle. The planning activities in the planning process are:

- Futures research
- Strategic planning
- Program planning
- Operational planning
- Implementation, evaluation, and review

Futures research: The first kind of planning activity contemplated by the planning process is futures research. Futures research may be defined as:

"... the process of discovering and articulating the more important of alternative futures and estimating the trajectory likely to be produced by contemplated policies."⁸

Futures research studies the future and analyzes the trends, issues and forecasts within the relevant external environment in which the organization will operate and which, in turn, will impact upon its alternative future states. In this sense, forecasting, which involves predicting, projecting or estimating some future event or condition as an aid to decision-making in the present, can be perceived as part of futures research.

Futures research is included as part of the planning process because, in order to plan effectively and comprehensively for an organization on a long-range basis, considerable effort must be expended to find the most probable future course of events for the organization and to use that knowledge to guide the development of the plans. Indeed, the essence of comprehensive planning is to see opportunities and threats in the future and, respectively, to exploit or combat them as the case may be. Thus, to properly plan for an organization such as the Judiciary, one of the initial steps would entail a determination of where the organization as a whole is going and what the probable future course of events bearing upon the organization will be.⁹

Strategic planning: The second major planning activity is strategic planning. Strategic planning can be defined as:



"... the process of deciding on the major objectives of an organization, on changes in those objectives, on the resources used to attain those objectives, and on the policies and strategies that are to govern the acquisition, use, and disposition of those resources."¹⁰

This definition of strategic planning combines two types of planning that are often viewed as quite distinct from each other; namely, (1) choosing objectives for the organization, and (2) planning how to achieve those objectives. Strategic planning is designed to determine not only what the organization should do and why but also what it can do and how.

As the term is used here, strategic planning is concerned with the formulation of long-range strategic objectives that determine or change the character or direction of an organization. It includes every type of activity of concern to an organization. Indeed, in this area, planning deals with the major, the most important and basic objectives, policies and strategies of an organization.

The principal function of strategic planning is the development of strategies to deal with particular issues, problems, and opportunities that may arise in the future. In performing this function, an analysis of the missions of the organization, its strengths and weaknesses, and the trends and forecasts of the external environment in which the organization will operate is required. Thus, strategic planning results in the identification of strategic alternatives and their evaluation, the formulation of appropriate programs and contingency plans, and the development of guidelines for tactical planning.

The characteristics of strategic planning differ greatly from program and operational planning, differences which will be discussed later in this chapter. At this point, suffice it to say that, unlike pro-

gram planning, strategic planning follows an irregular timetable; that is, it covers different periods of time for different subjects. Indeed, in the usual case, strategic planning is undertaken within the context of an ongoing organization. Thus, it reflects a long-term horizon and serves as a point of reference for all other types of planning activities within an organization.

Strategic planning is initiated by ideas. It is characterized by decisions that are premised upon the expectations and decisions of top management. Strategic planning is therefore a highly subjective activity that reflects the values, thoughts, and philosophy of the principal decision-makers of the organization.

With respect to the Judiciary, strategic planning refers to the activity of planning for the Judiciary as an entity in and of itself, as opposed to planning for the various operating divisions that make up the entity. The organization's missions, goals, policies and priorities must be clearly delineated and effectively conveyed to all divisions of the organization responsible for planning. For, it is conceivable that the goals of the operating divisions may differ radically from the goals of the organization. By planning first for the organization as a whole in the form of strategic planning, consistency is ensured in the overall planning effort of the organization since it is upon this totality of purposes, policies, priorities and goals that all subordinate plans must ultimately be based. In the end, this assures top management overall control over the planning process.

Program planning: The third major planning activity in the planning process is program planning. Program planning is a form of intermediate planning in which detailed, coordinated and comprehensive plans are made for each major functional or structural division of an organization to deploy resources to reach objectives by following the poli-

cies and strategies outlined in the strategic planning process. Program planning therefore seeks to define the preferred means to achieve the desired ends of the organization as expressed in the strategic plan. Such planning is concerned primarily with what an organizational unit will do and when.

Program planning can be defined as:

"... the process by which managers assure that resources are attained and used effectively and efficiently in the accomplishment of the organization's objectives."

This definition is intended to convey three key ideas. First, program planning involves managers. Second, the process takes place within a context of policies and strategies that have been arrived at in the strategic planning process. Third, the relevant criteria for judging the actions taken in this process are effectiveness and efficiency.

For the most part, program planning involves the development of specific goals for the current operations of a given functional area or structural division of an organization. Indeed, it is intended to make possible the achievement of planned objectives as effectively and efficiently as possible within the guidelines of specified policies and goals established by strategic planning. Thus, program planning embraces all aspects of an organization's operations—the "totality" of the organization—and unlike the strategic planning process, follows a prescribed format or timetable. And since program planning is concerned with the ongoing operations of an organization, it is essentially line-oriented and is undertaken by operational managers.

A major characteristic of program planning is its coordinative role with respect to the other types of planning activities. At the strategic planning level, there is an effort to assure broad general coordination among dominant parts of the organization. With program planning, however, there is a specific

and detailed meshing of parts. Thus, with program planning, an effort is made to integrate all important parts of the organizational system.

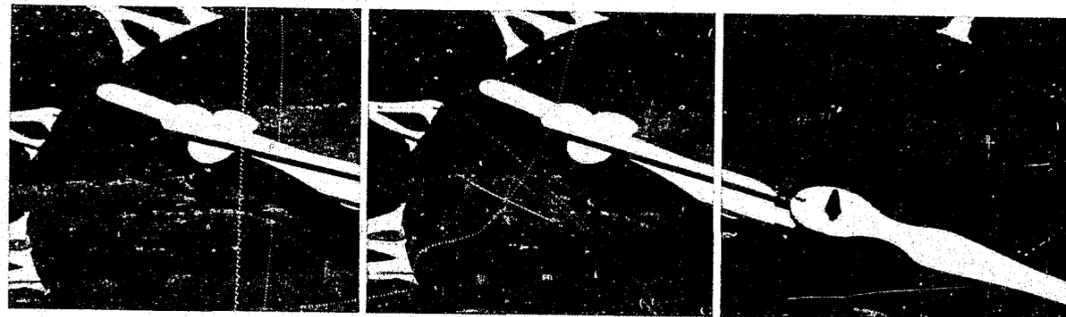
Operational planning: The fourth type of planning activity is operational planning which can be viewed as the continuous iterative process of parcelling strategic objectives into annually obtainable objectives, that make comprehensive planning pragmatic as opposed to pie-in-the-sky. Operational planning, which is basically the responsibility of lower and middle-level management, is usually considered to be a component of implementation and is concerned with what an organizational unit will do and when. Operational planning therefore involves planning for the activities of each functional unit or structural subdivision of an organization. It essentially involves a determination of the preferred level of undertaking a given activity.

Typically, operational planning is the most highly structured of all planning undertaken by an organization simply because of its rather close association with the budgetary and financial processes. It is precisely at this level that planning and budgeting overlap. For, a budget is merely a financial translation of an operating plan. It is an attempt to quantify in monetary terms what is needed to maintain a given level of performance with respect to an identifiable subset of functions and activities within a subdivision of an organization. Thus, operational planning has a somewhat limited perspective when compared to program or strategic planning.

For our purposes, operational planning can be defined as:

"... the process of assuring that specific tasks are carried out effectively and efficiently."

As this definition suggests, the focus of operational planning is on individual tasks or transactions. It is



directed at the level of performance that is expected or sought from a given activity of an organizational unit. In effect, such a desired level of performance becomes a "measure of effectiveness" in budgetary parlance.¹¹ In any case, what is sought is that the activity in question be carried out effectively and efficiently.

Although the above definition of operational planning may appear to be somewhat simplistic in concept, it is intended, nevertheless, to convey the idea that operational planning is to be distinguished from program planning in at least the following key ways:

First, operational planning focuses on specific tasks or transactions whereas program planning focuses on the flowing stream of ongoing operations.

Second, the tasks to which operational planning relate are specific so that little or no judgment is required as to what is to be done; whereas, the activities to which program planning relates are not specific and management decides what is to be done within the general constraints of the strategic plan.

Third, in operational planning, the focus is on execution while in program planning it is on both planning and execution.

Finally, operational planning is essentially objective whereas program planning is essentially subjective.¹²

In any event, the distinction between operational planning and program planning is not entirely clear-cut since the processes do overlap and are interrelated. Operational planning takes place within the context of decisions made and rules formulated in the program planning process, and to some extent in the strategic planning process. In addition, overall performance in activities where operational

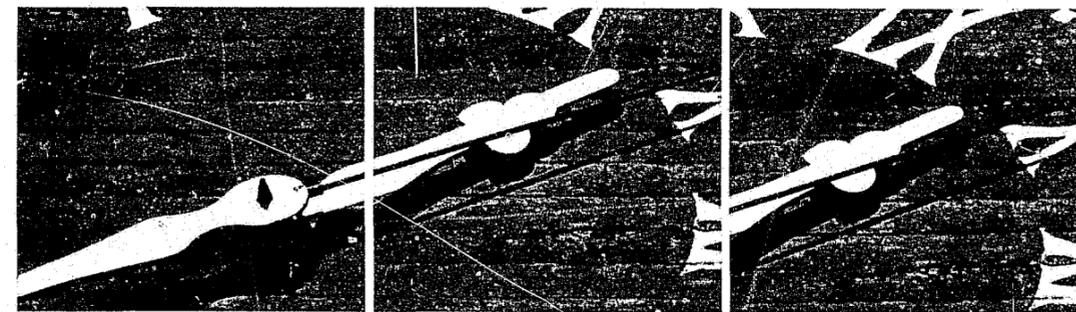
planning is applicable is reviewed as part of the program planning process.

As a rule of thumb, program planning can be viewed as delineating the objectives or "ends" sought to be achieved within a broad functional area while operational planning specifies in detail the "means," within the context of a particular functional area, of attaining these "ends." In other words, operational planning consists of objectives relating to the various tasks which must be done within a subdivision of a program in order for that program to attain its goals.

Implementation, evaluation, and review: The fifth and final activity contemplated by the planning process is the implementation of planned action, the evaluation of actual and planned results, and the review of existing plans to develop new plans or modify existing ones.

Implementation is the process of translating immediate plans and policies into actual results. It is the summation of activities in which human resources are employed in conjunction with other resources to accomplish the objectives of the organization. Proper implementation is the consequence of two primary factors. First, integrative planning and control systems must be utilized to insure that implementation activities are in accordance with plans. Second, once resources—human, financial, capital—are committed to the tasks established in the planning process, they must be properly managed.

Successful implementation also requires that precise objectives be stipulated in strategies and in the intermediate and operational plans derived thereupon. This is accomplished through the use of the management technique of management-by-objectives.¹³ Such a technique, by clarifying the roles of individuals with respect to a given strategy, assures that these individuals will know what is expected of them, and will also provide built-in stan-



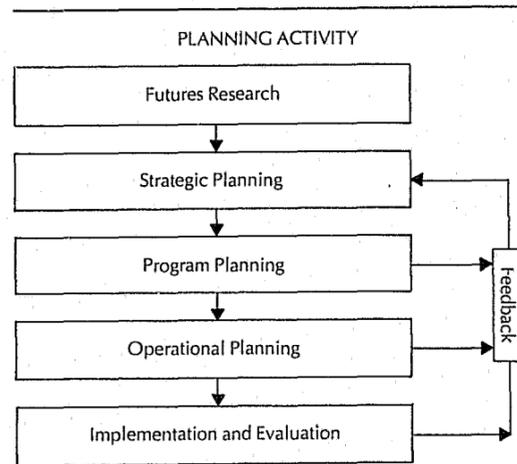


Fig. 4.4 Kinds of Planning Activities in the Comprehensive Planning Process

dards against which performance can be compared for evaluation purposes. But even without a formal mechanism, a clear-cut process of review and evaluation of the impacts of decisions taken must be made and feedback provided to all the other elements in the planning process.

An effective planning program also needs continuous monitoring as well as periodic review to assure that plans are being carried out and that new plans are devised as required. In addition, continuous monitoring must be undertaken to assess the progress towards objectives and appraising performance in general. Finally, such monitoring is necessary to ensure that program and operating plans are being carried out in accordance with the strategic plan of the organization.

The totality of planning activities contemplated by the planning process continues indefinitely in a cyclical pattern which we term the planning cycle.¹⁴ Naturally a review and evaluation of past experience should be a major ingredient in the new planning cycle. Thus, if the results produced are not as planned, it then becomes management's responsibility to find out why. It may be that the plans are not being followed as they should be. In that event, it is the function of management to see that the plans are properly executed. On the other hand, deviation from the plans may very well be quite appropriate in the light of new contingencies and developments. In that event, it is management's job to design and implement new plans with due consideration for the newly discovered condition.

Summary

This chapter introduced the concept of comprehensive planning which consists of two principal components; namely, a substantive component called a *perspective* which represents a general orientation towards an alternative future state or condition of the organization that guides decision-making in the present, and a procedural component called the *process* that embodies the series of specific, interrelated steps that lead to a desired state or condition at sometime in the future.

The perspective, which is a dynamic concept that transcends the purely static conditions of the past and the present, was developed from a synthesis of three different approaches to planning; namely, the problem-oriented, purpose-oriented, and future-oriented approaches. The integrated perspective that results will enable us to plan on a long-range basis and ensure that long-range considerations are brought into current decision-making.

This chapter also introduced a basic and largely normative model for comprehensive planning which was developed on the basis of the planning premises we derived from an analysis of top management's expectations and desires with regard to formalized planning. Briefly, the model consists of five separate and distinct types of planning activities—futures research, strategic planning, program planning, operational planning, and implementation, evaluation, and review—that result in three different kind of plans—strategic, program, operating—which are totally integrated in a structural hierarchy through the use of the systems approach to planning which, in turn, necessitates the subaggregation of the principal missions and goals of the organization into subordinate program goals and objectives and operational subobjectives. These plans differ only in the level of specificity, time frame and breadth of perspective—the essential substance of each component part of a plan, be it a goal or an objective, remains the same. The totality of planning activities and plans contemplated by the planning process occur in a systematic and continuous fashion called the planning cycle.

The principal feature of the planning process, however, is its treatment of the judicial system as an entity in and of itself with definite purposes, strategies, and priorities. This is the result of the application of the systems concept to our planning process which emphasizes the need to plan for the organi-

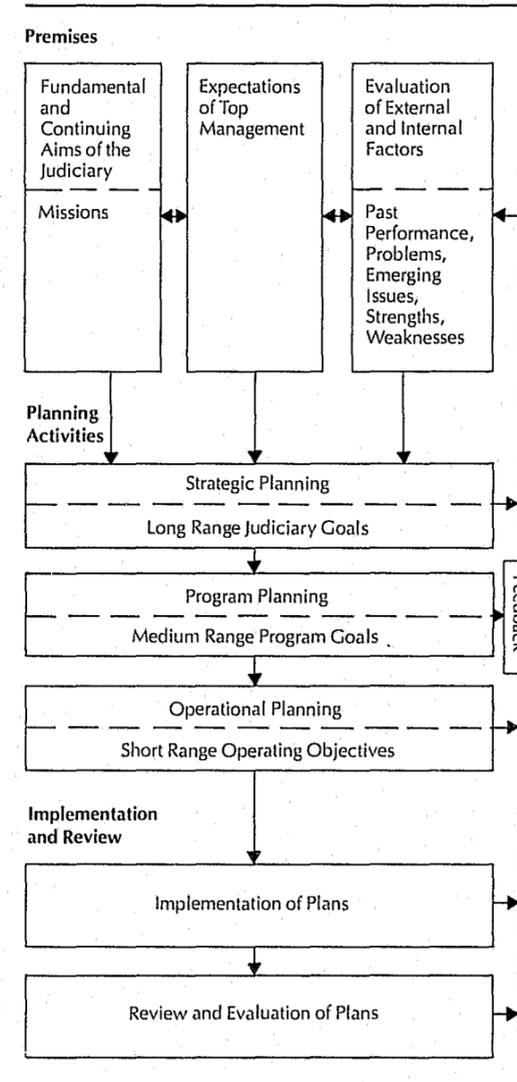
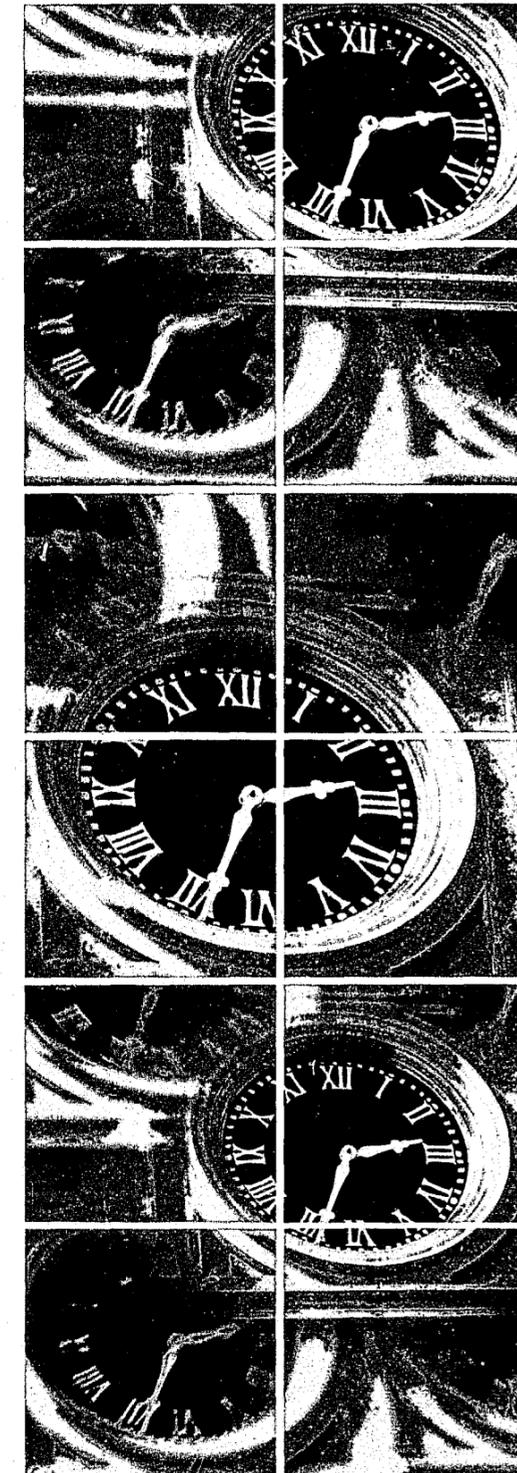


Fig. 4.5 The Judiciary's Planning Process

zation as a unitary whole or "system" rather than planning for each of its subsystems independently of the whole. And, by focusing upon the whole rather than the individual parts of a system, there is an emphasis to optimize the condition of the organization as a whole rather than its parts, thereby avoiding *suboptimization*¹⁵ of the parts at the expense of the whole. In addition, by emphasizing optimization of the organization as a whole, top management is permitted to focus attention upon major issues relevant to the successful survival of the whole organization.



1. It should be noted, at the outset, that the discussion which follows is not meant to be a treatise on comprehensive planning methodologies. Rather, the purpose of the chapter is to present our approach to comprehensive planning which we view, quite frankly, as the best possible means to comprehensively plan for a unified state court system such as the Hawaii Judiciary.
2. Indeed, decisions exist only in the present; the question that faces the decision-maker is not what his organization should do tomorrow but rather what he should do today to be ready for an uncertain tomorrow. Thus, comprehensive planning is concerned with determining what futurity should be built into the present thinking and doing of the decision-makers of an organization including what time spans he should consider as well as how this information can be used to make a rational decision now.
3. What this means is that comprehensive planning looks at the alternative courses of action that are available to the organization in the future, and when choices are made from among alternatives, they become the basis for making current decisions.
4. Indeed, the purpose of planning is to formulate goals and objectives for a system. Since these goals and objectives, in turn, define the "ideal" state of an organization, it would seem that any attempt to determine what the planning perspective of an organization should be would be an exercise in futility since the "ideal" state varies significantly depending on the nature of an organization. Thus, the effort should be spent in terms of defining how an "ideal" should be formulated rather than describing what it is.
5. These steps continue indefinitely in a cyclical and iterative pattern we term the planning cycle. This cycle is discussed in detail in Chapter Five which deals with organizing for comprehensive planning.
6. Such a hierarchical series of interrelated plans results from the application of the systems concept to our comprehensive planning process. The systems concept emphasizes the need to plan for the organization as a unitary whole or "system" rather than planning for each of its subsystems independently of the whole. It does not deal with each separate element of the organization in isolation but rather treats things as parts of a whole. The systems concept also emphasizes the need to integrate and coordinate the various individual plans of the subsystems within the organization with the overall general plan for the organization as a whole. It contemplates a system whereby the planning of each structural division of the organization is woven into the overall planning for the organization as a whole. Thus, full adoption of the systems concept results in an internally consistent hierarchy of interrelated plans.
7. See Chapter Nine, where the integration of budgeting and planning is discussed in detail.
8. Nanus, Burt, "A General Model for Criminal Justice Planning," *Journal Of Criminal Justice*, Vol. 2. p. 343 (1974).
9. See Chapter Eight, *infra.*, for a discussion of the nature and concept of futures research.
10. As used in this context, *policies* are broad guides to action while *strategies* are the means to deploy resources. *Objectives* in the strategic planning process include missions or purposes, if they have not been determined previously, and the specific goals that are sought by the organization. These strategic goals are usually long-range although, in some cases, they may be short-range.
11. See Chapter Nine, *infra.*, for a discussion of the relationship between planning and budgeting.
12. Operational planning is objective in the sense that it is concerned primarily with activities for which the correct decisions can be objectively determined. At least conceptually, and often practically, a valid decision-rule can be stated mathematically and programmed into a computer. On the other hand, program planning is essentially subjective in that decisions in this process inherently involve management judgment, and there is no objective or "scientific" way of determining the best course of action in a given set of circumstances.
13. Management-by-objectives (MBO) is a management planning, control, communication and subordinate development system which focuses on improving both individual and organizational effectiveness. It is a management technique which emphasizes accomplishment and results and which encourages increased participation in the management of the affairs of the organization at all levels. It is also a process whereby superior and subordinate managers of an organization jointly identify its common goals, define each individual's major areas of responsibility in terms of the results expected of him, and use those measures as guides for operating the unit and assessing the contribution of each of its members. The key elements in the process are goal-setting, action planning, self evaluation and control of performance, and periodic progress reviews. However, the term is used here in the sense of its objective-setting function rather than in terms of the behavioral concepts of subordinate development often associated with this technique.
14. What this planning cycle is and how it is employed within the Judiciary will be discussed in the following chapter on organizing for comprehensive planning.
15. "Suboptimization" refers to the condition whereby a given organizational subpart optimizes its output by reducing the efficiency of other subparts or other functions within the organization. Indeed, as a practical matter, simultaneous optimization of all organizational subparts may be impossible in view of existing and foreseeable constraints. Thus, while the ideal combination of plans would call for the optimization of organization-wide operations, such a state may necessitate, in the short-run, suboptimization; that is, operating at less-than-ideal conditions in particular operational units in order that the overall operations of the entire organization might be optimized.

Organizing for Comprehensive Planning

5

In the preceding chapter, the nature and concept of comprehensive planning was described in terms of a perspective and a process. This chapter will describe the actual process by which plans are developed in the Judiciary; that is, specifically how the Judiciary is organized for comprehensive planning. This will include a discussion of the planning cycle and planning phases which indicate the order and manner in which plans are developed in the Judiciary. In addition, the factors which influence the organizational aspects of comprehensive planning will be discussed. In effect, therefore, this chapter presents an overview of comprehensive planning in action—the application to the Hawaii Judiciary of the theoretical concept of comprehensive planning discussed in the preceding chapter.

Factors Influencing Organizing for Comprehensive Planning

Before any discussion of how the Judiciary is organized for comprehensive planning, it is necessary to examine the organizational structure and management style of the organization. Examination of these characteristics of the system provides a means to explore the decision-making process of that system and thereby determine how decision-making authority is dispersed within the system. This, in turn, will determine the following:

- where plans can be developed and implemented within the system;
- the kinds of functions and activities that will be covered by such plans;
- the types of plans that can be developed; and,

- who can develop such plans and establish the strategies and courses of action to attain them.

The Organizational Structure

As was indicated in Chapter Two, under the unitary budgetary system of the Judiciary, which is based upon the State's Program Planning and Budgeting System (PPB), the Judiciary is organized into eight separate programs¹ which are functionally arranged in a program structure² under two major program categories entitled "court operations" and "support services." Together, these two major program categories embrace every function and activity of the organization.

The programs which fall under the category of "court operations" include the Courts of Appeal, the Land and Tax Appeal Courts, the Circuit Courts, the Family Courts, and the District Courts. These programs handle the whole array of cases filed in the courts from the commencement to actions to the termination of cases.

The other major program category, "support services," refers to those services rendered statewide which are primarily nonadjudicative and administrative in nature which serve to support the ongoing activities of the courts. The programs that fall under this category are the Administrative Director Services, the Law Library, and the Driver Education and Training programs.

Each of the eight programs constitutes a separate structural division of the organization. In addition, three of the five programs classified under "court operations"—the Circuit Court, Family Court, and



District Court programs—are further divided into judicial “circuits” which represent structural subdivisions of a program. There are four judicial circuits in each of these programs that correspond to the geographic boundaries established by the island groups that make up the State.³ The five other programs of the Judiciary are statewide operations and therefore are not structurally subdivided. Since each program embodies a distinct set of functions and activities, they are distinct functional units that operate, for the most part, independently of each other.

Under Hawaii’s unified court system, the Chief Justice of the Supreme Court is designated as the administrative head of the Judiciary. To assist him in carrying out this responsibility, the Chief Justice is empowered to appoint an Administrative Director of the Courts who is delegated the responsibility for directing the administration of the Judiciary. The Administrative Director, in turn, may appoint a Deputy Administrative Director to assist him in performing his duties. Together, they are responsible for enhancing the effectiveness and efficiency of all programs by providing executive direction, program coordination, policy development, resource allocation and fiscal control and administrative services.

While each of the eight programs of the Judiciary is administratively placed under the general direction and supervision of the Administrative Director and his deputy, each program has, in fact, a chief administrative officer (called a “program manager” in budgetary parlance) who is responsible for the overall operation of the program. However, in those programs which are divided into circuits, there is a chief administrative officer for each circuit who is directly responsible for the proper functioning of the particular portion of the program represented by his circuit. Collectively, these administrators share in the responsibility for the proper overall administration of the program.⁴

The Management Style

In view of the manner in which decision-making authority is dispersed within the organizational structure of the Judiciary, it is readily apparent that the organization is somewhat *decentralized*.⁵ Indeed, in practice, most operating decisions are made at the lowest practicable level of the organization. However, such decisions are not made within a vacuum; that is, without regard to the legitimate ends of the organization. Rather, operating

and tactical decisions are made, as a general rule, within the confines of the guidelines and policies established by top management on a statewide basis,⁶ and are subject to review by top management.⁷ What this means is that middle and lower-level decision-making is, in effect, “controlled” to some extent by top management. Thus, from the standpoint of *how* decision-making authority is dispersed and exercised in the Judiciary, the overall management style of the organization can be characterized as a kind of “*controlled-decentralization*.” This management style is premised upon the management philosophy that overall executive direction and guidance over middle and lower-level decision-making is necessary to insure that all activities of the organization are directed towards the legitimate ends of the organization as a whole.

In practical effect, controlled-decentralization serves to establish a framework for decision-making that is directed, in every case, towards the attainment of the organization’s principal missions and goals. This management style also serves to delineate the kinds of decisions that can be made by those who must undertake planning within the organization. For it necessitates that all planning in the organization be directed towards the goals, strategies, and priorities established by top management. This, in turn, serves to insure the attainment of the ends desired by top management by means selected by the principal implementers of top management decisions; namely, the operating divisions or programs of the Judiciary.

Conclusions

Based upon the preceding analysis of the organizational structure and management style of the Judiciary, the following conclusions were drawn with respect to how the Judiciary should be organized for comprehensive planning.

First, planning should be consistent with the present organizational structure and management style of “controlled-decentralization” since it is highly conducive to the development of a systematic network of related plans which is necessarily compelled by our approach to comprehensive planning.

Second, planning should be structured along *program lines*.⁸ This means that:

- The persons who are responsible for the overall management of a program, i.e., the program man-

agers, should engage in program planning and develop program plans (which specify how the program will achieve the goals of the organization);

- In those instances where there are more than one person responsible for the overall operation of a program, those persons who jointly share in the responsibility for the overall management of a program should engage in program planning collectively and develop a program plan for the program as a whole; and,

- Plans which serve to implement a particular aspect of a program plan should be developed either by the program manager or delegated to such persons within the program who are responsible for carrying out that aspect of the program plan.

Third, since the Chief Justice and the Administrative Director and his deputy are responsible for the overall administration of the Judiciary and constitute its top management, they should engage in planning which relates to the entire organization and set direction for the organization as a whole (i.e., strategic planning). This implies that:

- Plans developed for the organization as a whole should be used to guide and direct all other planning activities within the system; and,

- The central administrative office should coordinate the development of all plans and should provide staff assistance to the programs in devising and implementing the general plan for the organization.

The Process of Developing Plans

The planning process of the Judiciary⁹ is structured into five distinct phases which represent the order in which the various kinds of planning activities and plans of the planning process are undertaken in the organization. The totality of planning activities and plans contemplated by each phase continues in a cyclical and iterative pattern we call the *planning cycle*. The phases of the planning cycle are in Figure 5.1.

Each of these phases consists, in turn, of a distinct set of *steps* which represent *how* a given type of planning activity is undertaken; that is, in terms of the organizational unit and persons within that unit who perform the various tasks associated with the specific planning activity. The steps that correspond with each phase are described below.

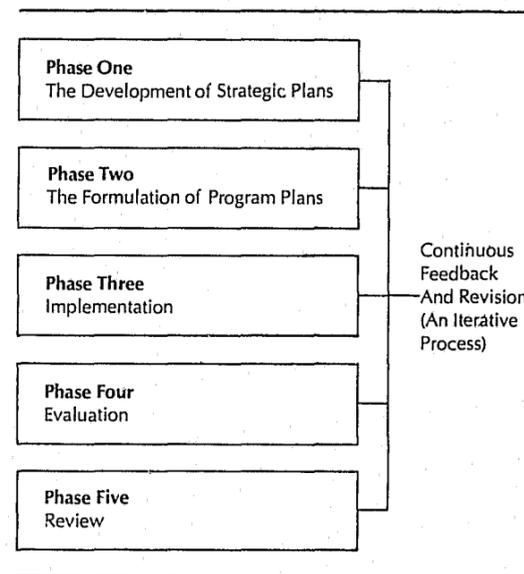
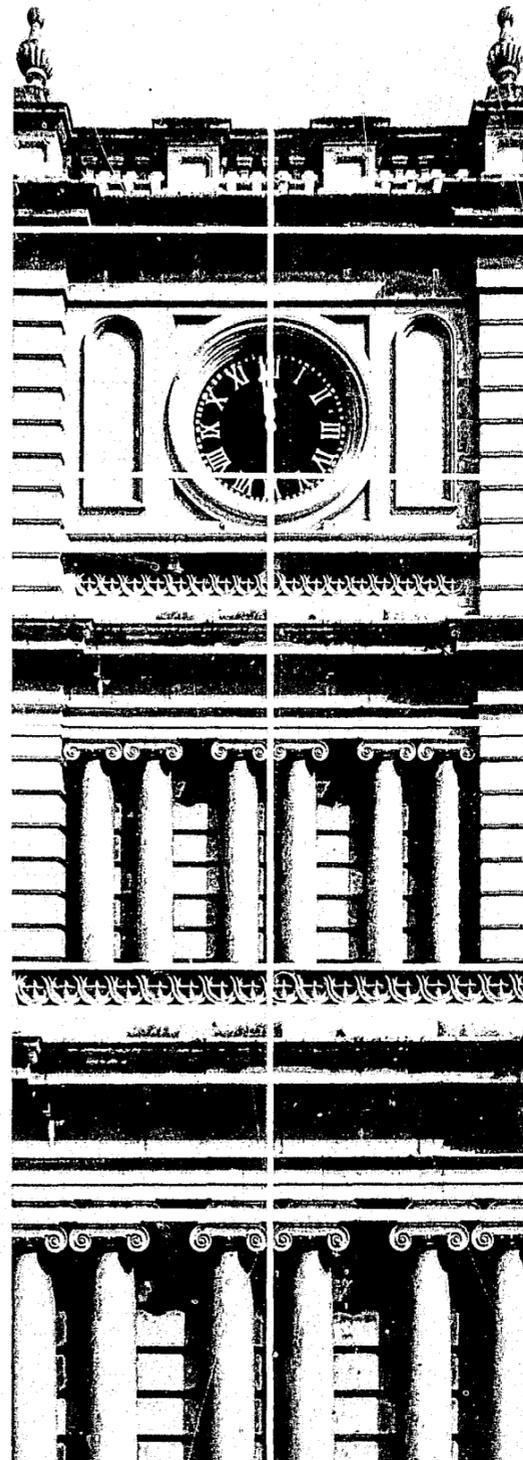


Fig. 5.1 The Planning Cycle

**PHASE ONE:
The Development of Strategic Plans**

The first phase of the planning cycle involves the development of long-range strategic plans for the organization as a whole which focuses on the formation of strategic missions and goals¹⁰ and the plans and policies designed to accomplish those missions and goals. They indicate *what* the organization wishes to do (goal identification and formulation) as well as *how* it will get there (strategy formulation). Strategic plans also include priority directions which designate areas needing special emphasis and broad organizational policy which provide guidance for all other planning in the organization. Such guidance is necessary if actions taken by the organization members are to be consistent with the organization's missions and goals.

The development of strategic plans, which is basically the responsibility of top management, consists of three basic steps. They are identified below.

STEP 1. The Identification of a Desired State or Condition or End-Result for the Organization by Top Management: The first step towards the development of a strategic plan involves the identification of some state or condition or end-result which is desired for the organization as a whole at some time in the future. Essentially, this is a goal formulation exercise.

The procedure used to develop such strategic goals is the strategic planning conference. This conference is conducted by the planning office and is attended by the principal decision-makers of the Judiciary—the Chief Justice, the Administrative Director of the Courts, the Deputy Administrative Director, the Budget and Fiscal Director, and such other persons as may be necessary. During this conference, the “future” of the Judiciary is discussed in terms of the conditions, states or end-results which are desired for the organization in the future.

Such desired conditions, states, or end-results can be identified in a number of ways. For example:

- Top management may identify a problem, need, or come up with an idea which is deemed to merit further consideration by the planning office; or,
- The planning office, budget office, or the programs may identify a “goal” through futures research, budget analysis, problem identification, public interests, etc., which top management feels should be investigated further.

In every case, however, it is a *decision* of top management that “triggers” the strategic planning process since it determines whether or not further action is warranted with respect to any proposed goal.

STEP 2. Preliminary Assessment of Proposed Goal by the Planning Office: Assuming that top management has identified a future state or condition or end-result which is desired for the organization as a whole, a preliminary assessment of the proposed goal is then made by the planning office.

This essentially involves four separate tasks. They are as follows:

- The formulation of a specific goal statement that indicates what is sought to be achieved (hereinafter called the “proposed goal”). This statement will usually be cast in the following form:

“To achieve (a desired state or condition or end-result) by means of (a specific type of strategy).”

- The assignment of a judiciary goal number¹¹ to the proposed goal or the identification of an existing judiciary goal to which the proposed goal relates and the assignment of its corresponding identification number to the proposed goal. Thus, for example, if the proposed goal relates to an existing judiciary goal, this relationship will be indicated in the following manner:

“To achieve (a desired state or condition or end-result) by means of (a specific type of strategy).”
DR3

DR-3 is the Identification Number of an Existing Judiciary Goal to Which the Proposed Goal Relates.

Since we are dealing with a proposed goal that relates to the subject-matter of an *existing* judiciary goal, it is either incorporated into the existing goal or replaces the existing goal. If, on the other hand, the proposed goal does not relate to an existing judiciary goal, then a new judiciary goal number will be assigned to it. Thus, referring to the above example, the proposed goal will be coded and identified thusly:

“To achieve (a desired state or condition or end-result) by means of (a specific type of strategy).”
DR11

DR-11 is the New Judiciary Goal Number Assigned to the Proposed Goal.

The purpose of this task is to ascertain whether the proposed goal is consistent with the missions of the organization and to coordinate the proposed goal with the other components of the planning process.

- The identification of existing programs (by examining their principal functions and activities as prescribed by their functional statements) to determine which programs are affected by the proposed goal and therefore responsible for its attainment.
- The identification of alternative means or strategies which can be used to attain the proposed goal.

This may entail a gross approximation of what resources are necessary with respect to each alternative. In the identification and costing of each alternative, the planning office may consult with other staff units (such as the budget and personnel offices) to ascertain whatever information is needed with respect to each alternative (e.g. costs, position descriptions, classification, compensation, etc.).

The end-result of this step is the formulation of a *proposal* which specifically outlines what result is sought (the proposed goal); the various alternative ways the goal can be achieved; and, the identification of those programs responsible for attaining the goal. This proposal is sent to the participants of the strategic planning conference for their review and approval.

STEP 3. Determination of Strategy by Top Management: Assuming that alternative strategies to achieving the condition or state or end-result desired by top management have been identified and analyzed by the planning office and presented in the form of a proposal to the participants of the strategic planning conference for their review, these decision-makers now have the responsibility to select the alternative they wish the organization to pursue. Once an alternative is chosen, it constitutes the "master" strategy for achieving the desired condition embodied in the proposed goal.

It is in this process, which is an iterative one, that the subjective thoughts and decisions of the principal decision-makers of the organization (i.e., top management) are transformed into a strategic plan for the organization which establishes overall direction for the organization as a whole and guides all other levels of decision-making in the organization. For, through this plan, top management presents to program management the "ends" which the program should strive for, including areas where special emphasis is needed.

With the formulation of a strategic plan, the task of the planning office becomes that of *coordinating* the implementation of the strategy embodied in the plan, and ultimately to attain the condition or state or end-result desired by top management.

**PHASE TWO:
The Development of Program Plans**

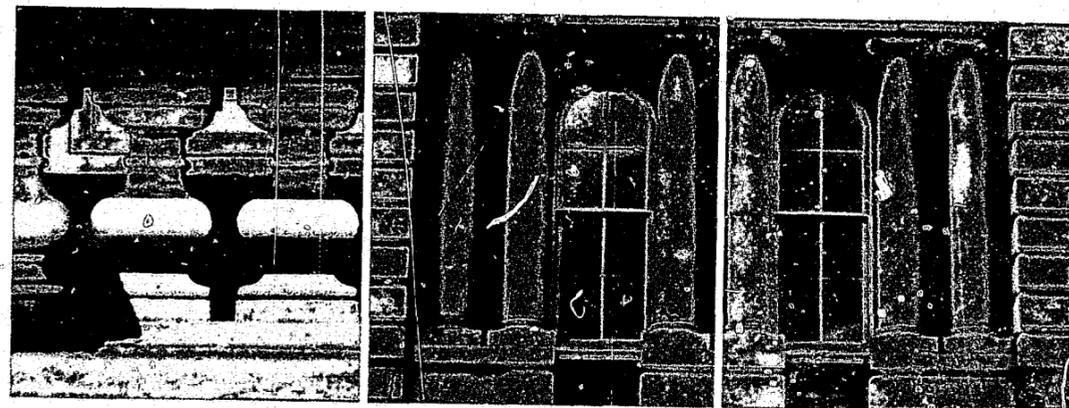
Once top management has formulated and approved a strategic plan, the responsibility to implement it falls on the planning office. Implementation of a strategic plan can occur in a number of ways. In some cases, such implementation may result in the

execution of special projects by the planning office or by outside contractors. Normally, however, implementation of a strategic plan involves the development of program plans which represent the "means" by which the missions and goals of the strategic plan are achieved by the operating divisions of the organization. Since a broad range of activities exist with respect to the programs, the goals and objectives of each program plan will represent different ways of attaining the same ends.

The development of program plans involves the following steps.

STEP 4. Coordinating the Development of Program Plans: It is a function of the planning office to coordinate the development of all plans formulated by the programs affected by the strategic plan.¹³ To properly undertake this function, the planning office must contact the persons responsible for developing such plans for a program (i.e., the program managers) and communicate to them what top management wishes to attain. This is done by conducting a program planning conference in which all persons affected by a strategic plan are brought together to determine how best to achieve the desired state or condition or end-result embodied in the plan. In other words, the purpose of the conference is to determine *how* each program can achieve the goals of the organization; that is, what strategy each program should follow.

The program plans which are formulated should identify the organizational goal sought, that is, the condition or state or end-result sought to be achieved by the program; the alternative means which are being considered; the preferred alternative; the estimation of the total resources required

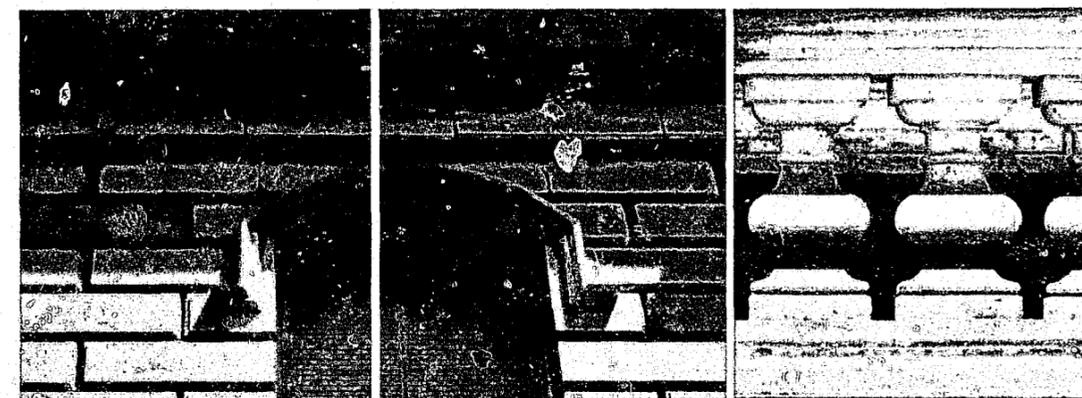


with respect to each alternative, that is, the estimate of the total costs involved; and, the anticipated or potential difficulties that may be incurred, etc.

Each affected program is expected to formulate its own plan to best effectuate the goals of the strategic plan. Again, assistance from the budget and personnel offices may be necessary to formulate these plans. It is also anticipated that the program may require technical assistance from the planning office to develop and implement program plans. Such assistance will be rendered as the situation may from time to time require.

STEP 5. Review and Approval of Program Plans: Once a program plan has been formulated, it is sent to the planning office for review and approval. Copies of the program plan are also distributed to top management and the budget office with instructions to review the merits of the plan. Thereafter, a joint meeting of top management, the budget office, and the planning office is held to determine whether the proposed program plan should be approved. If the plan as written is approved, it is sent back to the program with instructions on what to do next. Usually, this will be to develop an operating plan. If, however, the plan is not approved, it is sent back to the program with instructions reciting the reasons for the disapproval, the areas of the plan needing work, other alternatives to consider, etc.. The program then amends its plan or devises a new one. The amended plan is sent to the planning office for approval and the review process is set into motion once again.

Once a program plan has been approved, the program to which it corresponds becomes responsible for implementing it.



**PHASE THREE:
Implementation**

The third phase of the planning cycle involves the implementation of the program plans by the program to which it corresponds. Implementation is the process of translating intermediate plans such as program plans into results. It is the summation of activities in which human resources engage in utilizing other resources to accomplish the objectives of the strategy. Thus, implementation may consist of immediate action on the basis of the strategy outlined in the program plan, or the development of operating plans and Program Change Requests.

STEP 6. Development of Operating Plans: In the usual case, implementation of a program plan is initiated by the development of operating plans which specify in detail the specific method by which the strategy outlined in the program plan will be achieved. Operating plans are prepared by the program managers or by the division supervisors of each program to whom the responsibility for implementing of the program plan ultimately falls. In some cases, they indicate what a given subdivision of a program will do to achieve the program goal. That is to say, the plan specifically delineates what is to be done by a particular subdivision of a program to meet a goal of the program. In other cases, operating plans may be cast in the form of the budgetary "Program Change Request" which indicates additions or changes to a program's activities which require additional funding. The Program Change Requests specify what action and resources are contemplated by a program to accomplish a certain objective.

Both operating plans and program change requests specify what level of performance is sought from



certain program activities. These measures of effectiveness and program objectives constitute the substance of these plans. Thus, they can be used to measure program performance.

It is anticipated that operating plans will vary according to the nature of the program, the activity being planned for, and the magnitude of the change being planned. In every case, however, the determination of whether an operating plan should be developed is made jointly by the program manager and the planning office.

STEP 7. Review and Approval of Operating Plans:

Once an operating plan or a program change request is developed, it is sent to the planning office, budget office, and top management for review and approval. Although the planning office reviews all operating plans to determine whether they conform to and are otherwise consistent with the program and strategic plans, the approval of program change requests is made by top management and the budget office. However, the disposition of each request is communicated to the planning office. Thus, if a request is modified or amended during this phase, then the plans are adjusted accordingly. The measures of effectiveness are also adjusted at this time.

In any event, once program change requests are approved, they become part of the budget.¹⁴ Upon approval of the budget by the Legislature, the plan is implemented.

Operating plans which merely seek to change the existing structure of activities of a program and do not require additional funding are reviewed by the planning office only to see whether they conform to the program and strategic plans. Such consistency is indicated through our comprehensive coding system.¹⁵ Once operating plans are reviewed and approved by the planning office, they are implemented by the programs.

STEP 8. Execution of Plans: Once plans are approved, they are implemented or executed. What this means is that resources are procured and organized to undertake specified activities and functions which, in turn, must be managed. The totality of actions of an organization constitute *performance*; that is, the actual workings of a system that results in services or other tangible or intangible output.

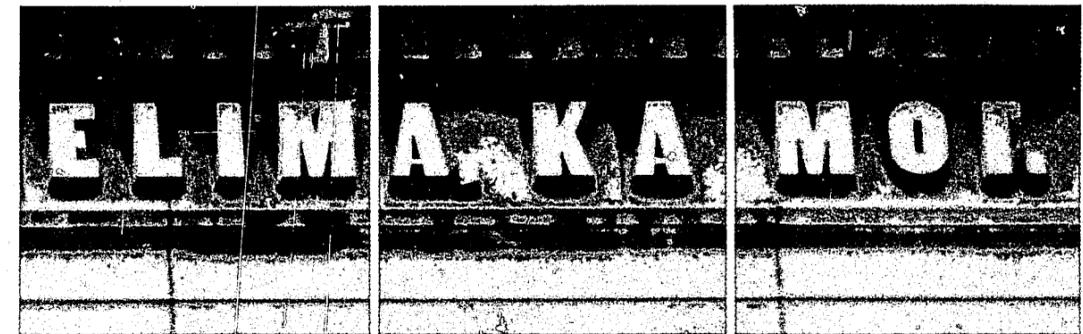
Usually such performance can be measured or quantified. Indeed, the objectives and goals of the plans of an organization provide standards or benchmarks against which to measure performance.

The comparison of actual and planned performance constitutes evaluation, the next phase of the planning cycle.

PHASE FOUR: Evaluation of Performance

The fourth phase of the planning cycle involves appraising progress towards objectives or evaluating performance. Indeed, once a plan is complete—with proper assignments made and understood, and it enters the phase in which the manager checks on actual execution—the function of management becomes one of control.¹⁶ That is to say, once plans have been developed and implemented, they must be evaluated to determine whether they actually result in the kind of performance that is consistent with the original thinking of management. This is the time to make sure that the program is moving forward according to plan and to confirm the original plan and strategy, and, if necessary, to adjust or modify the plans.

Within the planning process, three primary types of evaluative activities exist. However, only two are actually undertaken by the planning office. The third is undertaken by the budget office. These types



of activities are indicated by the following steps.

STEP 9. Strategic Control: Strategic control is the process of evaluating the strategy embodied in the strategic plan. It occurs at two different levels in the planning process; namely, (a) after such strategy is formulated (Step 3 of Phase One); and, (b) after such strategy is implemented (Phase Two).

Once strategy is formulated, it must be evaluated to determine whether it is appropriate to the accomplishment of the missions of the organization. Thereafter, once the strategy has been implemented via the formulation of intermediate or program plans, it must again be evaluated to determine whether it is accomplishing the state or condition or end-result sought by top management.

Strategic control may consist of such inquiries as:

- Is the strategy internally consistent, for example, with the missions of the organization and among its own plans?
- Is the strategy consistent with the environment?
- Is the strategy consistent with internal resources?
- Has the strategy been stated clearly and consistently and are people aware of it?
- Does the strategy have a proper time horizon?
- Is the strategy workable?

STEP 10. Management Control: The second type of evaluative activity is management control, which is the process of assuring that the structural divisions or programs of the organization are progressing towards the accomplishment of the goals of its strategic plan. Within the decentralized organizational structure of the Judiciary, management control means evaluating whether a program is accomplishing the goals it has established to achieve the strategy of the organization embodied in the strate-

gic plan. In other words, performance of the program towards the achievement of the state or condition or end-result desired by top management must be measured to determine whether progress has been made. If the activities of a program are not directed towards its goals or towards the goals of the organization, they must be adjusted to put the program on the proper course.

Of course, some degree of variance is to be expected between the planned and actual performance of a program. Indeed, allowable tolerances must be set for each program. Such tolerances will naturally vary from program to program depending on the nature of the activity being planned for. However, the point to be emphasized here is that progress towards the achievement of the goals of the organization must somehow be evaluated.

STEP 11. Operational Control: The third type of evaluative activity is operational control. Operational control is the process of ascertaining whether or not the day-to-day activities of a program are consistent with established plans and objectives. It is concerned with the evaluation of individual and group role performance as compared with the individual and group role prescriptions required by the operating plans.

This type of evaluative activity focuses upon the specific standards for performance specified by the objectives of the operating plans and the program change requests, which are based on the program plans, which, in turn, are based on the strategy contained in the strategic plan. Performance is compared against objectives at the individual and group levels of a program, and corrective or preventive action is taken where performance does not meet such standards.

Operational control is usually undertaken by the program manager or by the budget office on a regu-

lar basis. Indeed, performance evaluation of individual employees is required by personnel rules once every year. Similarly, financial control or auditing is undertaken on a continuing basis by the budget office. However, for obvious tactical reasons, this type of evaluative activity is not undertaken by the planning office.

Operational control is the responsibility of the budget office which must conduct a regular review of the program performance to determine whether the job is being done as planned. The purposes of this review are:

- To examine the program's progress toward agreed upon objectives;
- To improve the program's performance;
- To confirm, amend or alter objectives;
- To provide a measure of progress within a definite time span;
- To expose problems in the incipient stage so they can be resolved quickly; and,
- To provide continuity in the appraisal process so that more accurate conclusions can be drawn.

PHASE FIVE: Review

The fifth and final phase of the planning cycle is review. By review we mean the analysis of accumulated data to determine whether problem-areas, needs, inconsistencies, etc., exist with respect to the plans, activities, functions, and processes of the organization. Indeed, the purpose of this task is to determine what to do next and how to do it better. That is to say, top management and program managers must determine the action to be taken to keep moving towards the goals of the organization. For, out of this step must come a clear and agreed-upon understanding of the next step, which must then be fed back immediately into the first phase to produce better plans.

Such an analysis is undertaken continuously as comprehensive planning is a dynamic and iterative process. Indeed, information and feedback may come from a variety of sources. Thus, review activities are not confined to the planning office. Rather, they may be undertaken by the programs, the budget office, or top management. The only difference between these review activities is the level or scope of review.

Phase One The Development of Strategic Plans	
Step 1	The Identification of a Desired State or Condition or End-Result for the Organization by Top Management
Step 2	Preliminary Assessment of the Proposed Goal by the Planning Office
Step 3	Determination of Strategy by Top Management
Phase Two The Development of Program Plans	
Step 4	Coordinating the Development of Program Plans
Step 5	Review and Approval of Program Plans
Phase Three Implementation	
Step 6	Development of Operating Plans
Step 7	Review and Approval of Operating Plans
Step 8	Execution of Plans
Phase Four Evaluation of Performance	
Step 9	Strategic Control
Step 10	Management Control
Step 11	Operational Control

Fig. 5.2 The Planning Cycle

Type of Planning Activity	Strategic Planning	Program Planning	Operational Planning
Kind of Plans Developed	Strategic Plans	Program Plans	Operating Plans
Time Horizon	Long-Range	Medium-Term	Short-term
Level of Conduct	Top Management	Program Managers	Program Managers and Delegates
Level of Specificity	Broad statements of desired ends	Statements of desired conditions with regard to the broad ends of the organization	Detailed statements directing tasks of the programs to accomplishing the desired conditions of the program plans
Scope	Organization-wide	Program-wide	Program Subdivisions

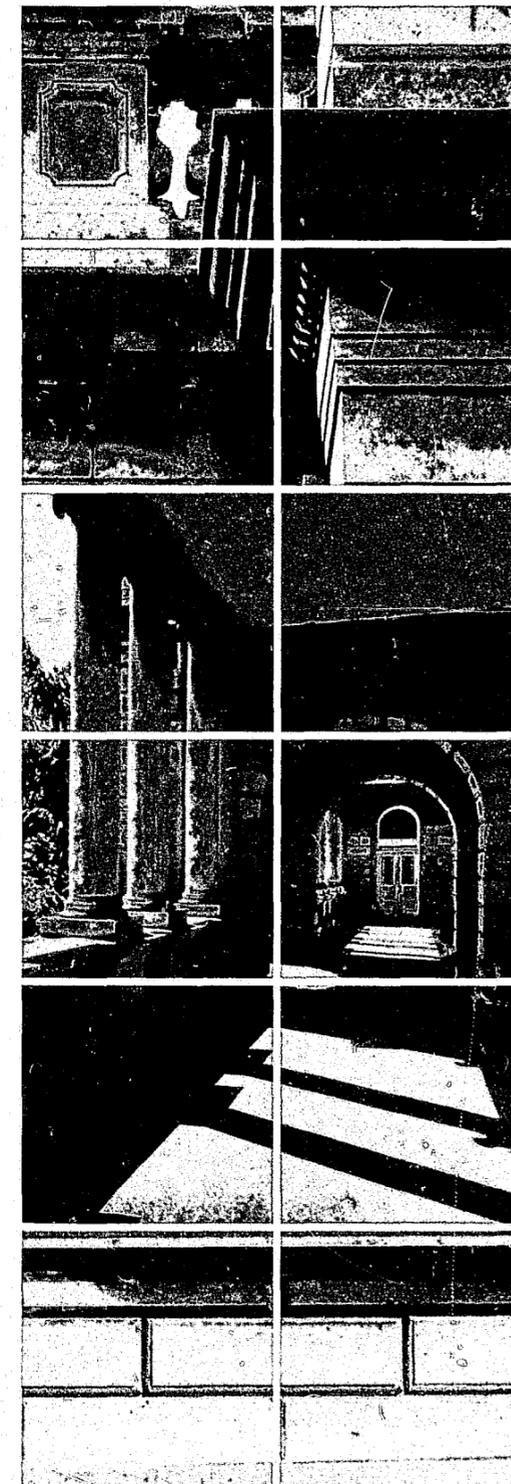
Fig. 5.3 The Planning Program of the Judiciary

Summary

This chapter explored the principal factors which influence the organizational aspects of comprehensive planning; namely, the organizational structure and management style of an organization. The largely decentralized organizational structure of the Judiciary was said to contemplate a participatory management style and decision-making at the lowest practicable level of the organization. However, because middle and lower-level decisions were subject to review by the principal decision-makers of the organization, the overall management style of the Judiciary was characterized as a kind of "controlled-decentralization." This management style is premised upon the management philosophy that executive direction and guidance over middle and lower-level decision-making are necessary to ensure that all activities of the organization are directed towards the legitimate ends of the organization as a whole.

On the basis of the analysis of the organizational structure and management style of the Judiciary, several conclusions were made with respect to organizing for comprehensive planning. Among other things, it was concluded that two principal groups engage in formalized planning in the Judiciary. The first group, the principal decision-makers or top management of the Judiciary, should engage in strategic planning; that is, planning which relates to the organization as a whole. The second group, which is composed of the managers of the operating divisions or programs of the Judiciary, should engage in planning that relates to their particular programs; that is, intermediate-range program planning and short-range operational planning.

Finally, the process by which plans are developed in the Judiciary was described. Briefly, plans are developed within a planning cycle consisting of five separate phases involving different aspects of the planning cycle which, in turn, are subdivided into a series of planning steps which represent how a given type of planning activity is undertaken; that is, in terms of the specific organizational unit and persons within the unit who must, by virtue of their authority and responsibilities, perform the tasks associated with the planning activity of the step. It is within this context that all plans for the organization as a whole and for every part within it are developed. The planning cycle continues indefinitely in a cyclical and iterative pattern which includes the implementation of planned action and the evaluation and review of actual vis-a-vis planned action.



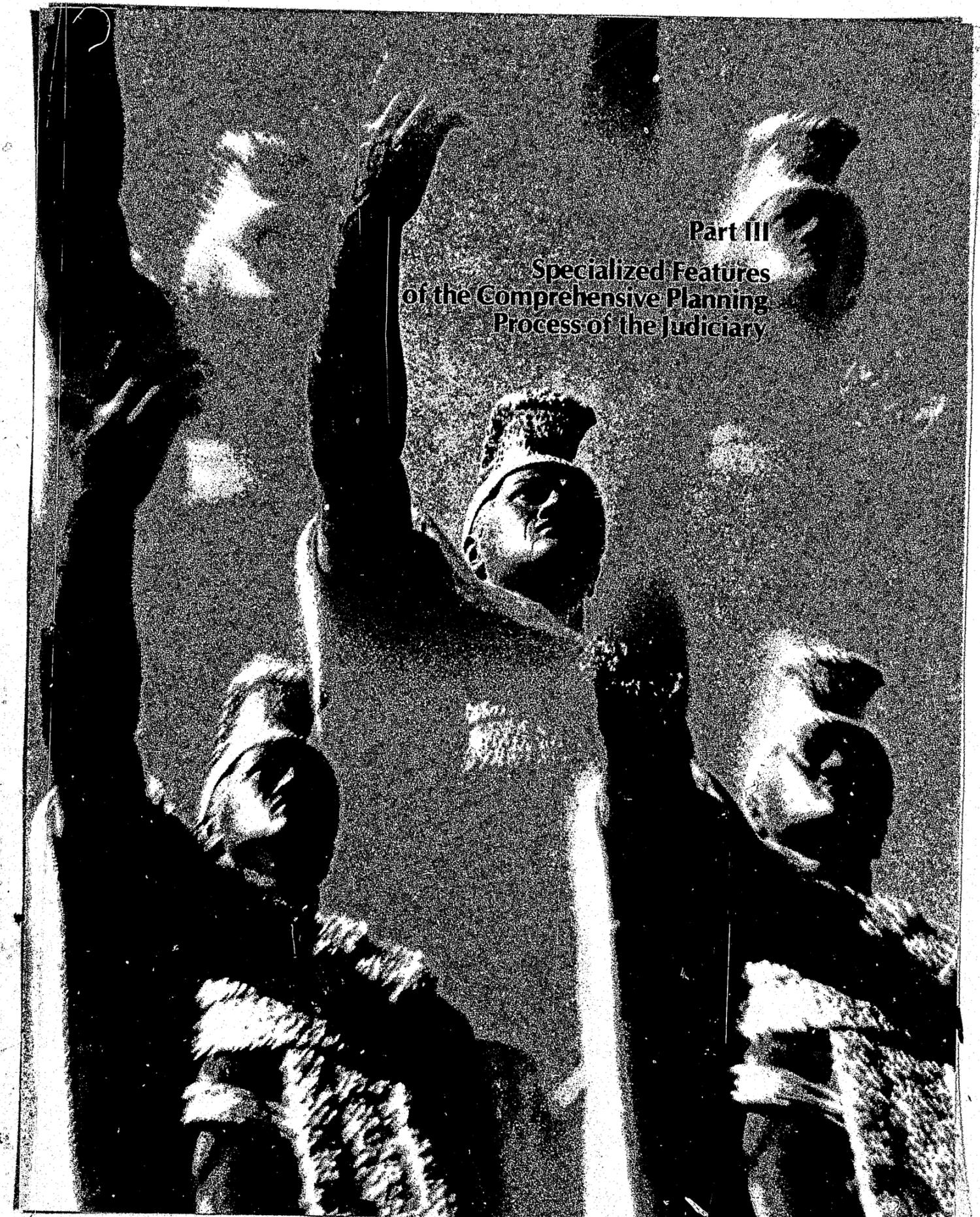
1. A "program" is said to represent the combination of resources and activities designed to achieve an objective or objectives.
2. The "program structure" is the means of grouping the major categories of activities and functions of an organization by common objectives and areas of endeavor so that programs having similar objectives can be considered together when determining how best to allocate resources among them. The program structure determines, to a large extent, how data is collected and analyzed, as well as how decisions are made.
3. The circuit titles and the island groups to which they correspond are as follows: the First Judicial Circuit (Oahu only); the Second Judicial Circuit (Maui, Lanai, and Molokai); the Third Judicial Circuit (Island of Hawaii); and, the Fifth Judicial Circuit (Kauai and Niihau). There is no Fourth Judicial Circuit.
4. It would seem that, at least with respect to the administration of these programs, the organizational structure of the Judiciary contemplates a participatory framework for decision-making. What this means is that important decisions with respect to the overall operation of these programs are made by the "co-managers" of the program collectively rather than individually. Indeed, at present, these administrators meet regularly to formulate uniform policies and procedures as well as to resolve any problems or differences that may affect the overall operation of the program. Since this participatory management concept is seemingly compelled by the organizational structure of the Judiciary and is obviously supported and sanctioned by top management, it must therefore represent a deliberate policy of top management. As such, it should be reflected in the process devised for comprehensive planning.
5. "Decentralization" refers to the philosophy of organization and management that involves the selective dispersion and concentration of decision-making authority to lower levels of the organization. Generally speaking, it has to do with where in an organization decisions are made.
6. Examples of such guidelines and policies would include such things as budgetary and fiscal policies, expenditure restraints, personnel policies, etc. Of course, these policies and guidelines are set with sufficient latitude so as to encourage rather than restrain decision-making at all levels of the organization.
7. This, of course, suggests that there exists a hierarchical structure of decision-making authority within the system that starts with the plenary authority of top management, continues downward to the broad authority of the decentralized program managers, and ending with the somewhat limited authority of intra-program operational management.
8. This organizational scheme was adopted for planning for a number of reasons. The first and foremost reason is simply that such a structural scheme is highly conducive to the development of a systematic network of related plans which was necessarily compelled by our approach to comprehensive planning. For, every activity and function of the organization is contained under one of the eight program titles. There is no apparent overlapping of functions and activities so that, logically speaking, each program could be viewed as an independent unit of the organization which itself contained both an administrative and a judicial structure which was headed by an administrator called a director or chief clerk and an administrative or senior judge. In addition, in those programs

which are subdivided into separate judicial circuits, such circuits represent logical subdivisions of a program which, in turn, greatly facilitates the systematic development of lower-level operational plans. Then, too, the program structure also corresponded to the traditional organizational structure of the courts which is based upon subject-matter jurisdictional lines. This meant that laws relating to a given court system corresponded to a given set of functions and activities of a program. Finally, conforming the planning structure to the structure used by the Judiciary to develop its unified budget would facilitate top management's desire to integrate the budgetary decision-making process with the comprehensive planning process, thereby affording the opportunity to develop a more meaningful and rational criteria for resource allocation decision-making and assuring greater control.

9. The planning process was described in detail in Chapter Four. Briefly, the process consists of five separate and distinct types of planning activities—strategic planning, program planning, operational planning, implementation, evaluation, and review—that result in an integrated structure of plans—strategic, program, and operating—as well as other supporting memoranda.
10. See Chapters Six and Ten, for a discussion of the judiciary goals and a description of the missions of the Judiciary. See also, Chapter Seven, for a discussion of the comprehensive coding system which we have devised for identifying and relating these components.
11. See Chapters Seven and Ten, for a discussion of the comprehensive coding system and a description of the judiciary goals.
12. See Chapters Seven and Eleven, for a discussion of how program goals are coded as well as a description of the program goals.
13. Since the planning process is a complex of many major and derivative plans, and since plans are necessarily related to one another, it is important that they fit together, not only in terms of content and action but also in terms of timing. The principle of timing reflects the fundamental truth that the more plans are structured to provide an appropriately timed, intermeshed network of derivative and supporting programs, the more effectively and efficiently they will contribute to the attainment of enterprise objectives. Thus, as part of its coordination function, the planning office must make sure that derivative plans are consistent with and timed properly to support the goals and other decisions and strategies involved in the major plan.
14. See Chapter Nine, for a more detailed discussion of how the budgetary and planning process of the Judiciary are integrated.
15. See Chapters Six and Seven, for a discussion of the coding system which we have devised to organize and relate the various components of the planning process.
16. In practice, these managerial functions blend into a single whole. The shift to control may be imperceptible, as exemplified in budgeting. Budget making is planning, while budget administration—the follow-up of planning—is control. Even in the course of planning, some follow-up is necessary; managers on each level of the organization must make sure that their subordinates make and integrate derivative plans.

Part III

Specialized Features of the Comprehensive Planning Process of the Judiciary



The Conceptual Framework of the Judiciary

6

Part III focuses on the specialized features of the comprehensive planning process of the Judiciary. Chapter Six examines the conceptual framework which has been developed to organize and relate the various components of the planning process, as well as to show the multi-dimensional nature of the Judiciary. Chapter Seven describes the comprehensive coding system which was devised to identify, coordinate, and relate the various components of the planning process. Chapter Eight describes the nature and concept of futures research which, as part of the strategic planning process, indicates the long-range alternative futures which the Judiciary may encounter.

In order to comprehensively plan for a statewide governmental institution such as the Judiciary of the State of Hawaii, it is necessary to ascertain, as a preliminary matter, precisely what its purposes are so that an accurate assessment can be made as to the nature and scope of the organization's functions and responsibilities. In addition, we need to know why the organization exists in order to determine whether the complete range or spectrum of activities which comprise that institution relate to its basic purposes. Only by undertaking this difficult task can a comprehension be gained of what the organization is and thereby commence to meaningfully plan for it.

Identifying the Purposes of the Judiciary

While the Constitution of the State of Hawaii establishes the Judiciary by vesting the "judicial power of the State" in its court system, it does not, however, either expressly or impliedly set forth the reasons for creating the Judiciary nor does it otherwise indicate what its purposes are, or, for that matter, what is meant by the "judicial power of the State." The absence of any authoritative statement on the purposes of the Judiciary therefore necessitates that such purposes be "implied" from other sources; in the present case, from an analysis of its historic role and a review of its present functions.¹

The Purposes of the Judiciary

As a result of our research, we were able to identify five basic purposes of the Judiciary which collectively represent what we perceive as the legitimate

ends of the organization. These purposes are:

- (a) to preserve, protect, and secure the Constitutions of the State and the United States through the proper exercise of the power of judicial review;
- (b) to dispense justice by equitably and expeditiously resolving matters properly brought before the courts;
- (c) to provide for, promote and ensure the effective and efficient utilization of public resources;
- (d) to promote the effective, expeditious and efficient administration of justice statewide; and,
- (e) to anticipate and respond to the changing judicial needs of the community.

The Effect of Identifying the Purposes of the Judiciary

The purposes of an organization such as the Judiciary are its "raison d'etre", its reason for being. They represent the fundamental and continuing aims of the organization which last throughout its existence and towards which the resources and energies of the organization are ultimately directed. As such, they not only provide broad overall *direction* for the organization as a whole² but necessarily *dictate* the kinds of functions and activities which the organization may assume.³ This, in turn, necessarily implies the following:

- (a) that, in every instance, all *planning* undertaken with respect to the organization as a whole or any part thereof must be directed towards and be otherwise consistent with its purposes;

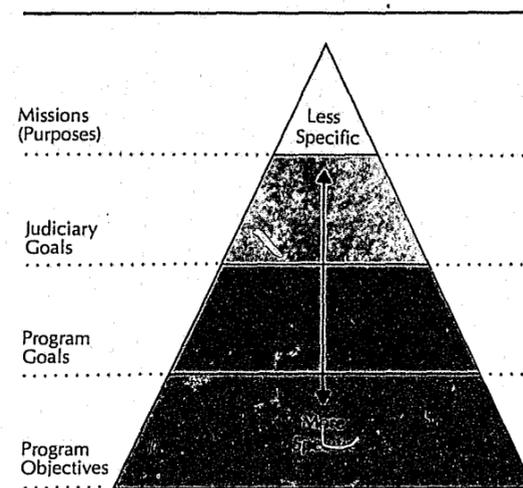


Fig. 6.1 The Components of the Framework

(b) that all *changes* embodied by the plans that result from planning must be related to a purpose of the organization and serve in some way to effectuate it;

(c) that all *goals and objectives* that constitute the model of implementation for such changes must correspond with a recognized purpose of the organization and serve to effectuate it; and,

(d) that there exists a *series* of goals and objectives that corresponds with each purpose of the organization.

It is this relationship between the goals and objectives of an organization and its purposes that serves to integrate and unify the comprehensive planning process of the Judiciary and provides the theoretical rationale for our framework. For such a relationship in the abstract suggests that, in every case, a logical *nexus* exists between the purposes of an organization and the various "components" of a plan (i.e., its goals and objectives). Furthermore, each component part of a plan—whether it be an organizational goal or an operational objective—constitutes a "link" in the chain of means and ends that are ultimately directed towards the attainment of the legitimate ends or purposes of the organization.⁴ Thus, when all such components are taken together with the purposes to which they correspond, a *complex hierarchy* is formed that begins, in each case, with a purpose of the organization, continues

downward to the goals and objectives that serve to effectuate that purpose, and ends with the lowest identifiable component that effectively subaggregates the condition or state or end-result embodied in the purpose (see Fig. 6.1).

Establishing a Conceptual Framework

In the preceding section, we indicated that, as a result of comprehensive planning, there is a hierarchy of goals and objectives that is formed with respect to each of the purposes of the organization towards the achievement of which the resources and energies of the organization are directed. Thus, with respect to the Judiciary, there exists a separate hierarchy of goals and objectives with respect to each of its five purposes (see Fig. 6.2). When all such purposes and their corresponding goals and objectives are taken together, a complex hierarchical structure is formed.

To represent this hierarchical structure in relationship to the Hawaii Judiciary, a conceptual framework has been developed composed of five parts that correspond to each of the five purposes of the Judiciary.⁵ These five purposes are described as "missions" of the Judiciary.⁶ To systematize the principal functions that correspond to each mission, five conceptual "dimensions" have been devised that represent functionally distinct, yet interrelated perspectives of the Judiciary, in terms of its basic purpose and functions. Collectively, the five dimensions represent an integrated spectrum of basic purposes and functions that completely define the perceived scope of the organization. The dimensions also provide a logical means for ordering the missions, goals, and objectives of the Judiciary into a coherent and comprehensive structure. And, by so structuring the organization, the formulation of subordinate goals and objectives takes on additional significance in the sense that their broader ramifications are more clearly visible.

Of the five dimensions, three pertain to the internal aspects of the Judiciary while two relate the Judiciary to its external environment. Specifically, these dimensions are:

Internal dimensions:

- (1) The Judiciary as a branch of government of a constitutional democracy;
- (2) The Judiciary as a forum for resolving disputes;
- (3) The Judiciary as a public agency;

The Judiciary as a:					
Dimension:	Government Branch	Dispute Resolution Forum	Public Agency	Subsystem of the Legal System	Institution of a Changing Society
Mission:	Uphold the constitution—the government it creates, the rights and liberties it guarantees, and the policies and principles that it embodies. (GB)	Ensure to the people of the State the highest standards of justice attainable under our system of government by assuring an equitable and expeditious resolution of all cases and controversies properly brought to the state courts. (DR)	Provide for, promote, and ensure the effective, economical, and efficient utilization of public resources in the administration of the Judicial system. (PA)	Promote the effective and expeditious administration of justice by and among the various subsystems of the legal system. (LS)	Anticipate and respond to the changing judicial needs of society. (SI)

JUDICIARY GOALS

PROGRAM GOALS

PROGRAM OBJECTIVES

Functions and Activities (By Programs)

Fig. 6.2 The Conceptual Framework of the Judiciary

External dimensions:

- (4) The Judiciary as a subsystem of the legal system; and,
- (5) The Judiciary as an institution of a changing society.

The criterion used to identify the dimensions was to determine the global aspects of the organization which, when taken together, completely define its scope. Each of the five dimensions therefore leads to a different way of viewing the judicial system.

However, the dimensions are not meant to be exclusive or unique categories. Rather, they are organizational constructs that are meant to heuristically define the internal and external parameters of the system. Thus, in toto, they represent a multidisciplinary and pragmatic means of understanding the totality of processes that make up the judicial system.

Components of the Framework

Four major components are hierarchically arranged within the five-dimensional structure of the framework. These components are the missions, the judiciary goals, the program goals and the program objectives.⁷ This section will briefly describe the nature of each of these components as well as how they are integrated in the framework.

Missions:

The missions of an organization are its *raison d'être*, its reason for being. They are the fundamental and continuing aims of the organization which last throughout its life and towards which the resources and energies of the organization are ultimately directed. Collectively, the missions represent the immutable principles that guide the everyday operation of the organization.

Within our framework, the missions flow logically from the dimensions. They represent the highest-level "goals" of the system, and, as such, become the focal point for all planning activity within the organization. Specifically, the missions of the Judiciary, together with the dimension to which they correspond, are as follows:

Mission 1: To uphold the Constitution—the government it creates, the rights and liberties it guarantees, and the policies and principles which it embodies (government branch dimension);

Mission 2: To ensure to the people of the State the highest standard of justice attainable under our system of government by assuring an equitable and expeditious resolution of all cases and controversies properly brought to the state courts (dispute resolution forum dimension);

Mission 3: To provide for, promote and ensure the effective and efficient utilization of public resources in the administration of the judicial system (public agency dimension);

Mission 4: To promote the effective and expeditious

administration of justice by and among the various subsystems of the legal system (subsystem of the legal system dimension); and,

Mission 5: To anticipate and respond to the changing judicial needs of society (subsystem of a changing society dimension).

The missions of the Judiciary are grounded in law, history, and fact—they were derived from an analysis of the State Constitution, the statutes relating to the Judiciary, the historical role of the courts in American society, general principles of democratic theory, and empirical observations of the judicial system.

Judiciary Goals

The judiciary goals are broad statements of the condition or state or end-result desired for the organization as a whole towards the achievement of which the resources and energies of the organization are to be directed. They represent the subjective interpretations of the missions by the principal decision-makers of the organization and are comprehensive in scope and long-range in perspective. As such, they provide positive direction for the organization as a whole and for each of its operating divisions (i.e., its programs). Consequently, all lower-level planning must be undertaken within the parameters set by the judiciary goals and in the order established by the principal decision-makers in the form of priority directions.⁸

Within the context of the framework, the judiciary goals represent the intermediate-level extensions of the missions. That is to say, they constitute a part of and give meaning to the various missions and corresponding dimensions of the framework. Thus, the judiciary goals, together with the missions, represent the substantive limits of a particular dimension as well as the unifying theme and conceptual basis of the program goals and objectives.

Program Goals

The program goals flow directly from the judiciary goals and, in a sense, lie at the junction between strategic and program planning. These goals are general statements of the condition or state or end-result desired with respect to the totality of activities embodied by a particular program for the accomplishment of which a course of action will be determined.

Relatively speaking, in terms of substantive content,

the program goals are factually more specific and conceptually less abstract than the judiciary goals. They attempt to define the limits of a particular program in relation to the judiciary goals. Thus, in every case, the program goals are directly related to the judiciary goals. This relationship is reflected in the code designations for the program goals which make reference to one or more of the judiciary goals to which a given program goal relates.⁹

Program Objectives

The lowest-level components of the framework are the program objectives which are statements of specific courses of action which are to be undertaken by the program with respect to the attainment of its goals. The program objectives flow directly from the program goals and reflect conditions or states or end-results desired with respect to the existing functions and activities of a program in terms of both the size of those activities as well as the level of performance that is expected. Thus, program objectives must be susceptible to quantification for purposes of evaluation. That is, they should be stated in terms which can be empirically verified so as to facilitate the assessment and appraisal of program performance.

Program objectives differ from program goals in several important respects. First, in terms of substantive content, program goals are generally more specific than program objectives. That is to say, since program objectives generally indicate what results can be expected from certain well-defined activities of a program, they are necessarily quite specific in terms of their factual content. Second, program objectives generally encompass a narrower scope of activity than program goals. In most cases, only a small part of the total activities of a program are covered by a program objective while a program goal covers all the activities of a program. Third, program objectives generally have a very short time-frame. In most cases, they do not exceed a period of one year.

Finally, because of their susceptibility to quantification, program objectives can be construed as measures of effectiveness since they reflect the indices and standards by which performance towards the achievement of specified ends can be measured. That is, they specify the degree to which results can be expected. Thus, the condition that a given court dispose of a case within six months from the date of initial filing can be construed as both an objective

as well as a measure of effectiveness with respect to the goal of handling cases more expeditiously (without, of course, any sacrifice in the level of justice rendered in each case). Indeed, upon the expiration of six months, we can determine whether or not the court has attained its objective.

Advantages of the Framework

As was indicated in the preceding sections, the conceptual framework is divided into five parts that represent distinct perspectives or *dimensions* of the Judiciary. These dimensions are intended to identify the complete scope of the Judiciary at the conceptual level. With each dimension, a statement of a *mission* is attached thereto which specifies the ultimate ideals toward which the Judiciary is committed to aspire. Following the missions are the *goals* of the Judiciary and its programs which are general statements that more concretely define what the Judiciary should do. Finally, statements of *objectives* are formulated which specifically delineate the means by which the goals are to be achieved. Thus, the framework establishes a *logical structure* for organizing the various components of the planning process into a coherent and comprehensive whole.

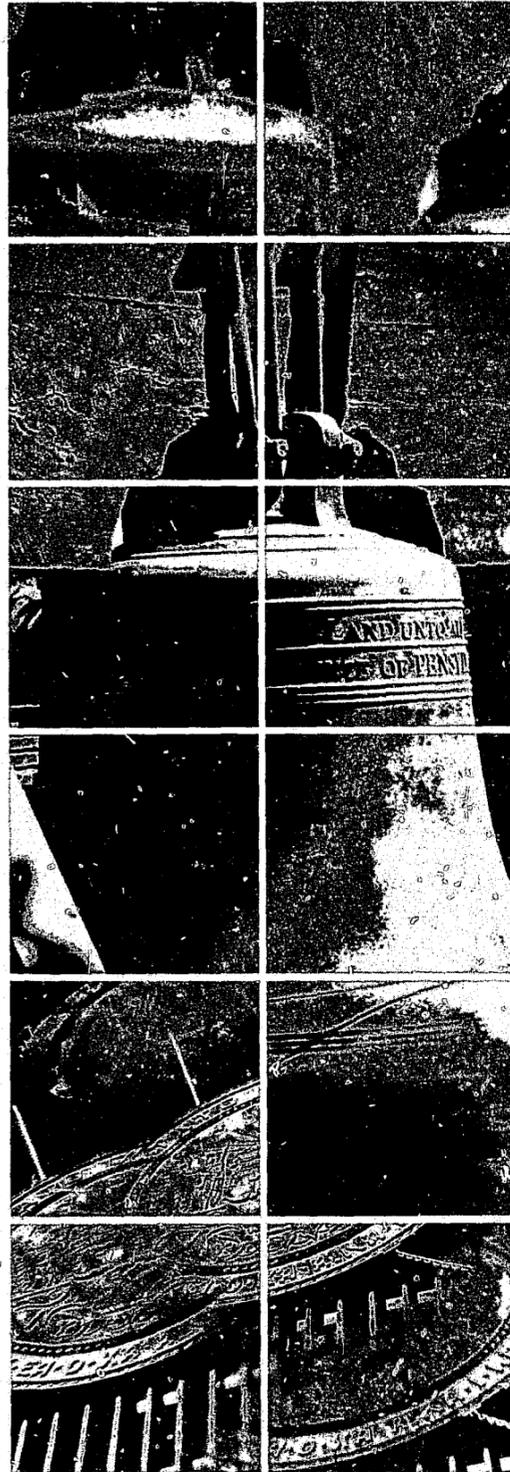
Integrative System: The framework not only serves as a tool for organizing the components of the planning process, but when taken together with the comprehensive coding system which we have devised,¹⁰ also provides a means for systematically *identifying, ordering, and relating* the various components of the planning process into an integrated structure. Thus, in practical effect, the framework serves to *unify* the planning process and thereby facilitate greater coordination and control by those who are ultimately responsible for the proper administration of the unified court system of Hawaii.

The framework also aids in understanding the nature and function of the Judiciary in contemporary society. For by organizing the various components of the planning process into a logical and consistent whole, the framework serves as a kind of abstract "model" of the Judiciary. This, in turn, affords the decision-makers of the organization the opportunity to assess the potential impact of their decisions upon the total system. Thus, by so structuring the planning process, the formulation of subordinate goals takes on additional significance in the sense that their broader ramifications are more clearly visible.

Long-Range Perspective: By presenting an overview of the goals and objectives of the Judiciary and its programs within a hierarchical structure, the framework serves to establish a long-range perspective the attainment of which the Judiciary is committed to aspire. That is to say, the decision-makers of the organization are afforded a unique insight into the "ideal" state or condition sought to be attained by the Judiciary at some time in the future. Thus, from the standpoint of decision-making, considerations of the long-term effects of present planning decisions are built into the framework.

Standard: The framework can also be viewed as a "standard" against which to assess the validity and propriety of objectives formulated by the techniques of problem identification and needs assessment. That is to say, since the goals of the Judiciary represent logical extensions of the perceived purposes or missions of the organization, they can be viewed as standards or benchmarks against which to evaluate proposed objectives for their internal consistency with the desired ends of the organization. While readily conceding that such a standard is at best, quite crude, nevertheless, with continued refinement, a more precise and workable standard will emerge. Indeed, one of the key attributes of the framework is its inherent capability to afford the opportunity for systematic reevaluation of the goals of the Judiciary and its programs in the light of new information or the identification of additional problems and needs.

Priority Direction: When the planning process is fully implemented, it is anticipated that all resources and energies of the organization will be directed towards the attainment of specific goals. However, in view of the finite nature of the Judiciary's resources, these organizational goals must be attained in the order of their relative importance. It is precisely at this point that the *priority direction* concept is brought into play. For even assuming that a viable set of goals has been established by the principal decision-makers, a long-range strategy will still have to be developed with respect to the order for their attainment. This means that the goals of the Judiciary will have to be prioritized, and thereafter systematically implemented and attained in accordance with such priorities. It is here that the framework is invaluable in that it affords the opportunity for systematic evaluation and review of the strategies and priorities of the organization with respect to all of its goals.



An Excursus on the Meaning of the Dimensions of the Judiciary: The Development of a Modern Multi-Dimensional Concept of the Judiciary

Traditionally, the judicial branch of government has been analyzed and understood from a unitary perspective; that is, as a forum for the resolution of dispute. Yet, in view of its diverse functions, the Judiciary of today is multi-dimensional in concept; it consists of a number of separate but overlapping elements which must be considered together to gain a reasonable understanding of what the Judiciary is and how it functions in a modern democratic society.

Set forth below are the commentaries which depict the sum and substance of each of the major components which we have identified as the functional perspectives or dimensions that make up the total picture of the Judiciary.

I. The Judiciary as a Government Branch

Principal Mission: To uphold the Constitution—the government it creates, the rights and liberties it guarantees, and the policies and principles that it embodies.

The Constitution of the State of Hawaii, by vesting the "judicial power of the State" in "one supreme court, one intermediate appellate court, circuit courts, district courts, and in such inferior courts as the legislature may from time to time establish," thereby established the Judiciary as the third branch of the State government. The government branch dimension thus serves to emphasize the Judiciary's role as a creature of a constitutional governmental system.

Independent and Co-equal Branch

Hawaii's Constitution not only creates a governmental system for the State, but equally important, limits the power to be exercised by that government. To avoid the unbridled exertion of the State's inherent power and to secure governmental self-restraint in the exercise of its power, the Constitution provides for three separate and co-equal branches of government with each branch sharing only a part of that power, so that each may "check" and "balance" the actions of the others. The principles of constitutionalism therefore require the Judiciary to

maintain its status as a separate and independent branch of State government, co-equal with the legislative and executive branches, so that it may effectively exercise the power conferred upon it by the people through their constitution.

Guardian of the Constitution

Since the Constitution is the fundamental law of the State, it necessarily follows that the courts, as guardians of the Constitution, must ensure that all state laws conform to its provisions by the proper exercise of its power of judicial review. This means that the Judiciary must exercise its power to interpret and review the laws enacted by the legislative branch as well as how they are administered and enforced by the executive branch. For the Constitution embodies the collective will of the people, and it is the people who demand that their collective will be enforced. Consequently, the Judiciary, as a separate and co-equal branch of State government entrusted with the judicial power of the State, must once again acknowledge its acceptance of the sacred trust of the people and respond with renewed vigor to its challenge to uphold the Constitution through the proper exercise of the judicial power of the State.

The Judiciary is also entrusted with certain basic responsibilities thought to be inherent in the concepts of "constitutionalism." Such an inherent responsibility is the preservation and protection of the policies and principles embodied in the Constitution. For the State Constitution, by its very nature, sets forth only the basic outline of governmental powers and individual rights. The obvious generality of the basic document of the State necessitates that the courts inject meaning into its terms. Furnished with no guide in this area, the courts must interpret the Constitution in accordance with the general policies of constitutionalism. What this means, in practical effect, is that the body of case law emanating from an interpretation of the Constitution must, in fact, serve to preserve and protect the policies and principles which it embodies. If this were otherwise, then the Constitution stands as but an empty promise to the people of this State.

Protector of Individual Rights

A derivative of the above constitutional requirement is the Judiciary's responsibility to preserve and protect individual rights and liberties guaranteed by the Constitution. While this responsibility may be said to attach generally to all three branches of state

government, the Judiciary nevertheless plays a critical role in this area by serving as the final adjudicator of individual rights and liberties at the state level. In essence, the entire body of decisional law founded upon an interpretation of individual rights and liberties contained in the Constitution attests to this role of the Judiciary.

Responsive to Society

The government branch dimension also serves as a vehicle for the establishment of the Judiciary's policy of openness and accessibility to the public it serves. A democratic system is predicated upon the principle that it derives its authority to govern from the consent of those governed—its people—so that it is they who, in theory, ultimately govern themselves. To be effective self-governors, the people need to know not only how their government institutions operate, but that their government institutions are in fact working for their best interests. All institutions, government and otherwise, have a tendency to substitute the goals of those who staff them for the broader goals that brought them into existence. Yet ours is a government of laws and not men. Consequently, only by being open and accessible can the Judiciary guard against this tendency and ensure that the courts continue to be responsive to the people they serve.

Accountability and Responsibility

In acknowledging the Judiciary's responsibility to be open and accessible to the people of this State, it should also be borne in mind that no government agency can, as a practical matter, be so open and accessible as to compromise its other equally valid and compelling responsibilities. Indeed, this policy commitment may sometimes be frustrated by the countervailing need for privacy and security in legal proceedings. Nevertheless, its presence in the plan ensures the attainment of another essential condition of good government—accountability. For a government which secures onto itself the policy of openness and accessibility will necessarily be accountable to the people it serves. Accountability, in turn, begets responsibility, and in the final analysis, it is responsible government that is demanded by a free society.

We recognize the inherent difficulty of establishing meaningful goals and standards in this area. But, by making such a policy commitment in its plan, the Judiciary has insured that progress in this area will be forthcoming.

Summary

The government branch dimension serves to remind the decision-makers of the Judiciary that the Judiciary is a separate and independent branch of State government, created by the people through their Constitution, and charged with specific constitutional powers and duties. As such, the Judiciary is under a continuing duty to maintain its independence and co-equality with the executive and legislative branches. It must also preserve and protect the rights and liberties which the Constitution guarantees as well as the policies and principles which it embodies. Moreover, the government branch concept requires the Judiciary to be open and accessible, and thereby accountable and responsible to the people it serves. To the extent, therefore, that the Judiciary secures unto itself these legitimate ends, then to that extent it has fulfilled its constitutional role in a modern democratic society.

II. The Judiciary as a Dispute Resolution Forum

Principal Mission: To ensure to the people of the State the highest standard of justice attainable under our system of government by assuring an equitable and expeditious resolution of all cases and controversies properly brought to the state courts.

A fundamental function of every civilized state is to preserve unto itself and its citizens domestic tranquility and thereby provide for the general welfare of its people. The State must protect itself from internal breaches of peace and prevent the undermining of its social order by keeping open the avenues of social progress including the adjudication of disputes between itself and its citizens and between citizens.

Social Conflict Management

It is in this process of social conflict management that the Judiciary plays a prominent role, for it represents the State's formal mechanism for lessening the tensions and strife that is inevitable in any social order. Moreover, in the performance of this function, the Judiciary serves to safeguard the democratic processes and secure the rights and interests of individuals. It is therefore this primary function of the Judiciary—the formal resolution of disputes—that is the central focus of this dimension.¹¹

Informal Conflict Resolution

Before elaborating upon the other aspects of the

dispute resolution dimension, it may be helpful to examine this dimension from a broader perspective. Of immediate concern here is the fact that the Judiciary is not the only instrumentality involved in dispute resolution and social conflict management. There exist other formal and informal mechanisms that serve to resolve conflicts and thereby "share" in this function of the Judiciary.

An example of an informal mechanism for conflict resolution is the police, who, as keepers of the peace, are oftentimes called upon to mediate intra-familial disputes and other interpersonal conflicts. In performing this important function, the police are instrumental in resolving minor conflicts and in containing potentially explosive situations which might otherwise necessitate the invocation of the law and the formal mechanism of the Judiciary. Similarly, out-of-court settlement of claims by insurance companies, members of the bar as well as by other institutions of society serve to resolve societal disputes which would otherwise require recourse to the courts.

Formal Conflict Resolution

Formal conflict resolution devices include such non-governmental methods as arbitration, plea-bargaining, neighborhood justice centers, family crisis centers, marital counseling, and such special mechanisms as the for-profit "private court" recently developed by a law corporation in New York City. There are also formal governmental forums which not only include the courts but such entities as the State Ombudsman's Office (an independent arm of the legislature designed to resolve citizen grievances against the executive branch agencies) as well as the administrative tribunals of the executive agencies such as the labor appeals board, worker compensation board, and other special regulatory and licensing proceedings of the executive agencies.

Final Forum

The feature which distinguishes the Judiciary from other dispute resolution mechanisms is that it is the final forum to which cases are brought for resolution at the state level. Indeed, the characteristic feature of the courts as forums for the resolution of disputes, is the symbolic meaning which they possess which transcends their strictly adjudicatory function. The courts are viewed as final arbiters, and a matter once adjudicated by them is deemed *res judicata*—a matter at rest.

The finality attached to the judicial process reflects, in large part, the degree of respect, trust, and confidence which the people have for the law and the machinery of justice. Such a sacred trust necessarily imposes a heavy responsibility upon the Judiciary. And it is therefore incumbent upon the Judiciary to acknowledge and accept this responsibility and continue to remain committed to the improvement in the quality of justice which they provide. Only in this manner can the Judiciary positively perpetuate its symbolic role as the final arbiter and ensure the continuing respect for its pronouncements.

As forums for the resolution of disputes, the courts aspire to achieve two somewhat conflicting "ends": the rendering of justice in individual cases (i.e., fairness) and promptness (i.e., the expeditious resolution of a case on the premise that "justice delayed is justice denied"). Only a moment's reflection will reveal the dilemma inherent in the pursuit of those two ends. Speedy resolution of cases may be neither necessary nor sufficient for achieving case-by-case justice. More to the point, strict adherence to the requirement of speed may, in fact, result in gross injustice. The converse is also true. Inordinate delay may also result in injustice as memories fade, witnesses become inaccessible, the Statute of Limitations expires, etc.

Promptness and Fairness

Given this dilemma, the difficult task for the Judiciary is to maintain the proper balance between the requirements of promptness and fairness. The caveat being raised here is that any proposal to facilitate promptness needs to be tempered by considerations of fairness. Only by the simultaneous realization of the two can it be said that justice has been rendered.

The dispute resolution forum dimension also embodies a basic tenet of our democratic system; namely, the emphasis upon the procedural components of the law over its substance. Indeed, a striking characteristic of our legal system is its concern for procedure that is equal to, if not greater than, its substantive aspects. This is evidenced perhaps most vividly in our constitutional requirement of due process of law, for it stands as the cornerstone of our democratic system.

The concept of due process of law, however, is not a static one. For it is couched in the context of the adversarial process—the system that requires the parties to sharpen the issues in the context of litigation.

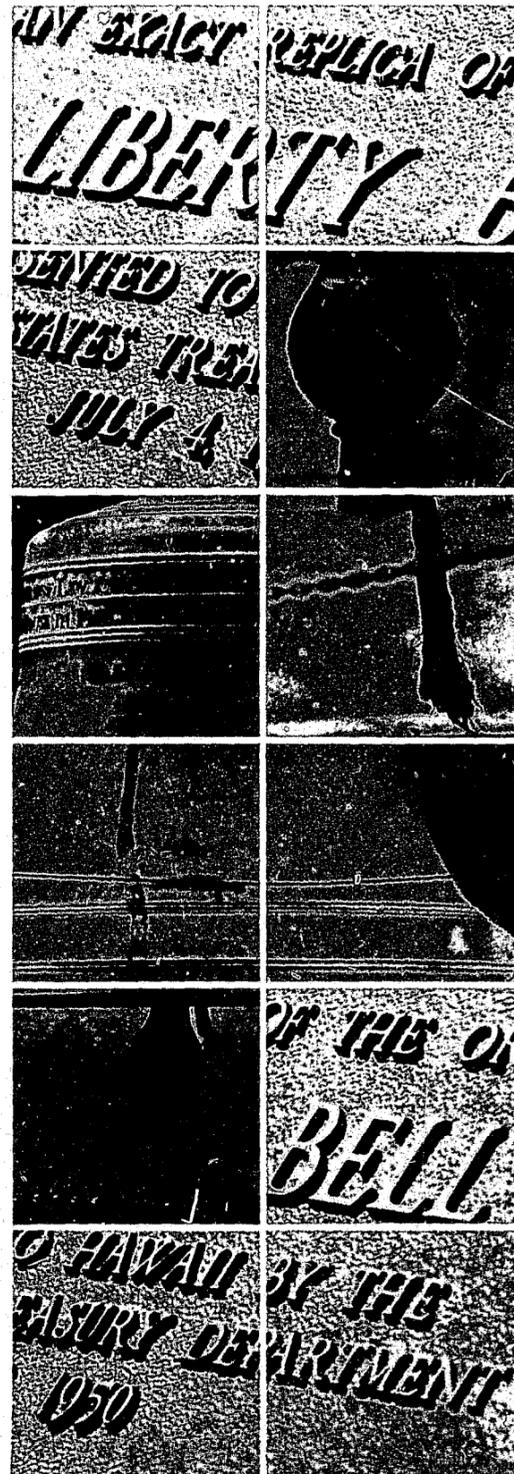
tion induced by the parties themselves. Increasingly, however, the government has become the initiator of litigation whenever the collective norms or standards of the community are transgressed by individuals or groups. It is the function of the courts to resolve such conflict within the confines of the constitutional mandate of due process. Nevertheless, conceptions of what constitutes due process do change. Today's procedures may become too cumbersome and become antiquated remnants of yesterday's era. If this is so, then change will be compelled. Yet such change must comport with the present notions of fairness and reasonableness. The dispute resolution dimension then recognizes the need for controlled change—change not for its own sake but based upon the reasonable expectations of the people towards the law and the legal process.

Rules and Procedures

The dispute resolution dimension also encompasses the system of rules and procedures promulgated by the Supreme Court so as to provide governance of the legal system. The Rules of the Supreme Court, Circuit Courts, Family Courts, and District Courts are examples of the exercise of the rulemaking power of the Judiciary. Obviously, in order to comprehensively plan for the judicial system, these rules must be carefully scrutinized in their compatibility with the basic objectives of the organization, especially since they serve to enhance the procedural aspects of the dispute resolution function of the courts. While rulemaking per se has traditionally been a matter primarily for judges whose knowledge and experience with the rules greatly facilitated their revision, the guiding concept from the planning standpoint will be to maintain a judicial process that minimizes procedural complexity while promoting fairness and promptness.

Basic Policy of the Law

The dispute resolution dimension also serves as the vehicle from which to enunciate the basic policy of the law, and for that matter the Judiciary as well, of insuring every person his right to his day in court. Indeed, the Constitution further enhances this policy by guaranteeing the right to trial by jury in most civil and criminal cases. In spite of these mandates, however, the concept of access to the courts is gradually eroding today largely because of forces external to the courts. Indeed, the growing demands of society in general for immediate solutions to complex social problems by judicial decision



have caused the courts' caseload and backlog to increase tremendously over the past decade. Moreover, the rapid growth of both the general population and the Bar have placed a tremendous burden upon the machinery of justice and have caused it to slow down considerably. Furthermore, there is convincing evidence, during the past decade, of a rising social propensity to litigate. These and other problems, nevertheless, must be reckoned with, and from the standpoint of comprehensive planning, the necessary first step towards this eventual solution can be made.

Summary

The dispute resolution forum dimension of the Judiciary highlights the courts' traditional adjudicatory function. The principal focus of this dimension is upon the judicial process—upon the system of courts, records, judges and juries, and their respective decision-making function on matters of law and fact which symbolize *in toto* the machinery of justice in action. From this standpoint, therefore, the mission of the Judiciary must be to dispose of, in an equitable and expeditious manner, those cases and controversies properly brought to it for resolution, and to do so in a manner consistent with the highest standards of justice attainable.

III. The Judiciary as a Public Agency

Principal Mission: To provide for, promote, and ensure the effective, economical, and efficient utilization of public resources in the administration of the judicial system.

Like all governmental agencies which are created and funded by the people through general tax revenues, the Judiciary is obligated to utilize its appropriated resources in an effective, economical, and efficient manner.¹² That is to say, since the Judiciary's resources are, at any one point in time, finite and limited, this limitation acts as a general constraint upon its activities. Thus, it must choose from among many endeavors those to which its limited resources will be devoted. In addition, it must also determine how much of those resources is to be allocated to each of its programs. Thus, the Judiciary must always *balance* the requirements of efficiency and effectiveness; that is to say, it must seek to provide services of the highest quality possible within the constraints imposed by limited resources.

Management System

Since at any one point in time the resources available to the courts are finite and limited, the Judiciary is confronted with the task of providing services of the highest quality possible within budgetary and fiscal constraints. To perform this difficult task, a modern management system needs to be maintained and administered for the Judiciary. This not only entails the incorporation of available technologies such as computers and microfiche, but also the continued use of such traditional investments in human resources as personnel training and development. In addition, the development of a modern management system would also necessitate improvement in the organization's informational processing and communication systems in order to assist management in making informed decisions, improve operational capabilities, and increase overall control. Then, too, such systems can assist in implementing, evaluating, and reviewing managerial decisions.

Decision Making Balance

A management system does not operate in a vacuum. The structure of the organization being managed sets significant parameters within which management must maneuver. Overall management effectiveness requires a reasonable balance between centralized decision-making and decentralized administration so as to provide flexibility in meeting locality-specific requirements. Indeed, the need for centralized decision-making in a unified court system must be balanced by the equally compelling need for decentralized administrative decision-making whenever feasible in order to provide the necessary flexibility to meet exigent circumstances that are characteristic of a judicial system. This view is consistent with our notion of decentralization as it relates to the theory of management by objectives. Thus, from a management point of view, the organizational structure itself should be periodically reviewed since a structure which has worked well in the past may be dysfunctional for the present and disastrous in the future.

Quest for Uniformity

Since the Judiciary only recently has attained the status of a co-equal and independent branch of State government with complete control and responsibility for the management of its internal affairs, only now can it extend its jurisdiction statewide so that the formulation and implementation of

uniform policies, practices, and objectives can be facilitated. The quest for uniformity has generated the need for even greater centralization so that review and evaluation of the operational effectiveness, economy, and efficiency of the programs of the Judiciary are possible. In the future, greater uniformity in management practices will certainly become prevalent. Nevertheless, the governing standard is eternal—the relative effectiveness, economy, and efficiency of the means used in relation to the ends sought to be achieved.

Administrative Support

For our purposes, the public agency dimension is limited primarily to the administrative support services aspect of the Judiciary which involves basically clerical and other ministerial functions which do not directly impinge upon the functioning of the courts and which do not involve the purely discretionary decision-making powers of court administrators. However, in theory, the public agency dimension extends to all operations of the programs of the Judiciary. Thus, even functions and activities traditionally associated with the adjudicatory process are covered by the public agency dimension notwithstanding the obvious fact that the end of effectiveness, economy, and efficiency may not necessarily be conducive to sound judicial practices nor to traditional notions of justice. Indeed, least-cost considerations should not be a component of justice—the economical disposition of cases in the sense of pure cost-effectiveness may not necessarily be proper from the legal standpoint and may certainly offend traditional notions of due process of law. Nevertheless, while the concept of due process may not be compatible with contemporary notions of effectiveness and efficiency, both the adjudicative and support services aspects of the Judiciary's programs are covered within this dimension. In effect, however, what this means is that, with respect to the adjudicative services of the Judiciary, basically only the clerical and other non-discretionary functions which relate indirectly to the adjudicatory function of the courts will be covered within this dimension.

Public Assistance

Lastly, public agencies are, by definition, bureaucracies in the neutral sense of the term. Rightly or wrongly, however, the public tends to regard all public agencies pejoratively, i.e., as bureaucracies full of red tape, perennial run-around, and callous,

insensitive employees. To maintain the public's high respect for the law and the courts, the Judiciary cannot afford even the appearance that it has assumed the role of a bureaucracy in the negative sense. The Judiciary must, therefore, actively assist the public in utilizing the services provided by the courts and minimize all unnecessary barriers to such utilization. In addition, it should assist the public in understanding the Judiciary, its responsibilities and functions, and the services it provides.

Summary

The public agency dimension emphasizes the fact that the Judiciary, in addition to being a branch of government and a forum for the resolution of disputes, is a public agency charged with the duty to operate effectively, economically, and efficiently in the rendering of public services. The Judiciary can attain this optimum condition through proper planning and programming of its functions and activities (operations).

The planning process extends only to management control functions; that is to say, upon the collective operation of the Judiciary and not upon individual tasks or transactions characteristic of its programs. This is because although the Hawaii Judiciary adheres to the concept of centralization and uniformity of operations statewide, it also adheres to a policy that local autonomy should be retained and supported whenever possible.

IV. The Judiciary as a Subsystem of the Legal System

Principal Mission: To provide for and promote the effective and expeditious administration of justice by and among the various subsystems of the legal system.

The boundaries of the legal system are fluid and today represent an expanding concept. As laws proliferate¹³, so, too, does the need to administer and interpret the law. While various constitutional and statutory provisions are present which help to define the traditional role of the Judiciary, the current increase in the amount and kind of legal services wrought by changes in the law as well as the increased demand by the public for formalized justice has caused the Judiciary's role to change with respect to the changing contours of society. Because of this, it is necessarily incumbent upon the Judiciary to be cognizant of its changing role in society. What this means, from the standpoint of

comprehensive planning, is that it must periodically reevaluate and redefine its principal missions and goals in the light of its emerging role within the legal system.

The Legal System

The subsystem of the legal system dimension relates to the role of the State Judiciary to the totality of processes we term the "legal system." The immediate environment of concern here is the so-called "legal system" of which the Judiciary is a part. It consists of all governmental and non-governmental processes that to some extent enact, enforce, or otherwise administer the laws which govern our lives. Thus, the legislative and executive branches of our State government are part of this system. So, too, are the county governments. Indeed, even such non-governmental or quasi-governmental bodies as the organized bar, the legal aid and public defender programs as well as the law school are included as part of the legal system. In short, the boundary defining the legal system is the law—its administration and maintenance. And, it is the totality of processes and persons that deal with the law that constitute the substantive aspects of the legal system.

Obviously, the concept of a "legal system" not only involves static agencies and processes but the "players" within the system as well. By "players" we mean those persons charged in some way with enacting or otherwise administering the law: the legislator who sponsors the enactment of a law; the policeman who arrests and charges a suspect accused of breaking the law; the grand jury who indicts a suspect, the judge who sets bail and hears the plea; the prosecutor who presents the State's case; the lawyer who defends the accused; the jury who finds the accused innocent or guilty; and the trial judge who sentences the guilty upon recommendation of probation officers; etc. All of these "players" of the legal system interact, within an adversarial context, in a manner as to comport with the requirements of the Constitution. In the end, it is equal justice for all that is sought.

Coordinating Adversarial Interaction

A question necessarily arises as to who or what controls or otherwise coordinates, directly or indirectly, the adversarial interaction among the players within the legal system. It is the Judiciary which has traditionally guided the adversarial process and upon whom the final responsibility for its manage-

ments and smooth functioning rests. The subsystem of the legal system dimension thus highlights this role of the Judiciary in our legal system.

When all subsystems of the legal system are identified, it becomes readily apparent that their individual goals can and do conflict. Thus, while all subsystems share a common purpose—the attainment of justice through the law—they, nevertheless, operate autonomously, with separate mandates, perspectives, and publics.

Differentiation of Responsibility

The differentiation of responsibilities for the overall administration of the law is a fundamental prerequisite of a free society. An alternative to this would be to vest some central authority with the power to compel the various subsystems to realign their conflicting goals so as to make the administration of the law somehow more efficient. In that situation, however, there would be no countervailing check on the central authority and the propensity for abuse would be enormous. Thus, the present system of checks and balances, with all of its inherent inefficiencies, is the preferred one for a society based on the concept of ordered liberty.

The present system is preferred for another equally important reason. It is believed that justice can be attained only through the adversarial relationships that exist between the autonomous subsystems of the legal system. An example of this is the court's role in protecting the due process rights of the criminally accused from actions of the police. More generally, the courts serve to protect individuals from the arbitrary exercise of power by any government agency. For the legal system as a whole, therefore, the adversarial nature of our legal system is the principal means by which justice is attained.

Unfortunately, in the day-to-day press of business, means sometimes become confused for ends. Among the subsystems of the legal system, this is manifested in the erection of boundaries that isolate one subsystem from the others. A strictly dichotomized "we-they" attitude takes hold and the overall purpose which all subsystems share tends to be lost, at least temporarily, and the mission of the organization degenerates into a single myopic state that distorts its true role in relation to the other subsystems.

Cooperation and Coordination

Within this milieu, it is incumbent upon the Judi-

ciary to pursue programs of cooperation and coordination among the subsystems of the legal system. This is not to suggest that the Judiciary should attempt to change the goals or meddle with the affairs of the other subsystems. The requirement is simply that of cooperation and coordination. The courts are in a unique position to undertake this role because of the perspective they possess as the convergent element of the legal system. For, outputs from the sub-systems become, in fact, the Judiciary's inputs.

The Judiciary should also encourage the participation of the other subsystems in its own efforts for court improvement. The perspectives of the other subsystems can be usefully harnessed to inform those efforts. Historically, the Bar as well as the Legislature have been actively doing this. Participation by other subsystems should, therefore, also be encouraged.

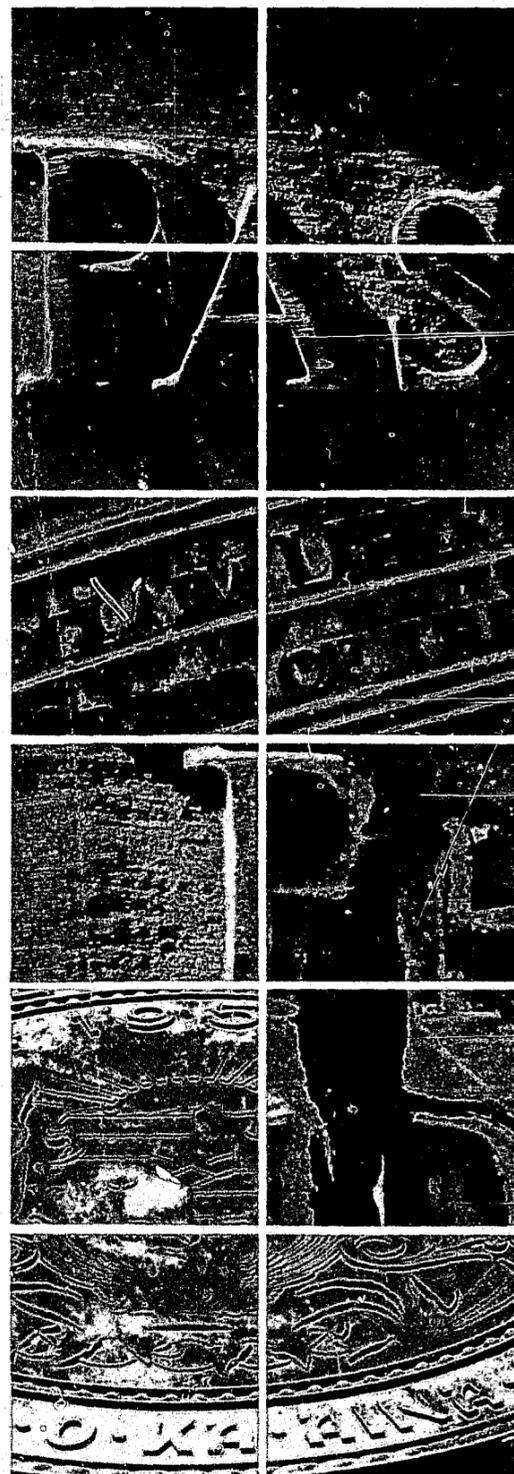
Summary

The subsystem of the legal system dimension relates to the role of the Hawaii Judiciary to the totality of processes we term the "legal system." Unlike the preceding three dimensions of the Judiciary which are basically internal in nature, this dimension relates the Judiciary to its external environment. It is predicated upon the belief that the legal system is a dynamic process and that the Judiciary, as a relevant subsystem of this system, must actively assess its role therein and provide for and promote the effective and expeditious administration of justice by and among the various subsystems of the legal system.

V. The Judiciary as an Institution of a Changing Society

Principal Mission: To anticipate and respond to the changing judicial needs of society.

The institutions of society play a vital role in balancing society's countervailing need for stability and for change. Institutions are devices by and through which people order and conduct their affairs. The inherently conservative character of institutions, i.e., the caution exercised when confronted with change, assure societal continuity and stability through time. Nevertheless, through institutions, the requirements to accommodate and to induce change are mediated by (1) the creation of new institutions; (2) the demise of old institutions; and (3) more commonly, by changes in the structures



and functions of existing institutions.

Over the years, the Judiciary has taken an active role in meeting the requirements for change. Steps were taken such that the current internal organization of the Judiciary evaluates well against contemporary standards. These changes, moreover, have resulted in making the Judiciary a truly separate and co-equal branch of state government.

Rationale for Change

But while the *initiative for change* originated within the Judiciary, the *directive for change*, i.e., the rationale for change, came from without. For example, the ideas supporting court reorganization were espoused as early as 1906 and refined since then. Thus, a blueprint for court reorganization existed and was used to guide the organizational development of the Judiciary. The courts themselves, however, have been less active as a catalyst for change.

A primary reason for this is the close association which traditionally has been made between the judge's role in hearing and deciding cases and that of the Judiciary as a whole. The courts, as dispute resolution forums, were viewed as the sole dimension of the Judiciary, with the Judiciary as a government branch, a derivative. Given this traditional perception of the judicial system, coupled with the requirement that the judge's decisions be independently derived, it was seldom contemplated that the Judiciary could itself serve as an agent for change.

But in view of the Judiciary's emerging role in society, it can be a catalyst for change. Indeed, it can take an active role in defining its missions and goals, structures and functions, and in initiating appropriate changes to the judicial system. This, of course, entails a commitment to experimentation and innovation, to the development of ideas (e.g., research) tested by experiments (e.g., pilot programs), with the eventual aim of system-wide adoption by the courts. Thus, it is incumbent upon the Judiciary to develop suitable mechanisms for the monitoring of the present and future changing demands of society as well as for developing appropriate means to accommodate its changing needs whenever the pressures of such needs are manifested in the present.

Constraints on Change

Obviously, there are constraints which correctly circumscribe the Judiciary's role as a change agent. These include the law, resource limitations, and the

continued influence of tradition. Within the context of the change perspective, however, the impact of each of these constraints is relative. That is to say, they too change. If only for this reason alone, the Judiciary should be actively involved in the change processes of society.

From the preceding discussion, it should be evident that the Judiciary does not operate in a vacuum. The activities of other institutions in its environmental set have profound impacts upon the organization, feel impacts from the organization, and have impacts on one another. These impacts all add up to an ever-changing set of considerations with respect to the formulation of goals, objectives, policies, and strategies. Indeed, priorities change as pressures are exerted on the organization from the environment and vice versa. This inevitability of change therefore requires the Judiciary to continuously examine its missions, goals and programs, and make appropriate adjustments as necessary.

Meaningful Alternatives

The implications of including such a conceptual dimension in the planning framework are many. For, it suggests the need for the planning, research, and development of meaningful alternatives to meet the emerging needs of society. It further suggests the need to keep abreast of developments within and without the Judiciary which may signal future needs. It provides the necessary framework for change and for the recognition that while change itself is inevitable, change for the sake of change alone is meaningless unless undertaken with an understanding and an appreciation of the Judiciary's emerging role in society.

Summary

The social institution dimension of the Judiciary implies an obligation on the part of the Judiciary towards society in general. For, as an identifiable subsystem of society, the Judiciary has a general responsibility to operate in conformity with the public interest. Such interest may take various forms and can consist merely of the identification of the changing judicial needs of society. The inevitability of change therefore requires the Judiciary to continually reassess its role in society, and to make appropriate changes as deemed necessary. In some cases, this in turn, may entail anticipating and responding to external (societal) forces of change before they are actually experienced.

That this dimension represents a bold, new step for the traditionally conservative Judiciary is self-evident. But the Judiciary recognizes that it does not stand in isolation from the rest of society. Rather, it is an integral part of the social environment of the

people. Consequently, the Judiciary, in a never-ending quest for a more perfect judicial system, has decided to venture beyond the realm of the conventional to seek a more meaningful future for itself and Hawaii.

1. We fully understand and appreciate the difficulties inherent in this approach. For any attempt to *infer* what the purposes of the Judiciary are would necessarily be suspect simply because such an attempt would naturally entail the exercise of subjective judgment. Yet, in the absence of any express purposes, it would seem that by confining our research to an analysis of the historical role of the Judiciary and a review of its current functions, any purposes so derived would be valid if only because they can be substantiated by what the Judiciary is, in fact, doing right now.
2. While this is true for both public and private institutions, it is especially true for governmental systems such as the Judiciary which exist by virtue of the collective will of the people of the State as embodied in their Constitution. Indeed, the Constitution is the basic source from which government derives its authority to govern. In it, governmental powers are both conferred and circumscribed. These powers are further defined by law. Thus, in every case, governmental systems such as the Judiciary must operate within the scope of the authority granted to them by the law, and that scope is, in turn, reflected by the purposes of the organization.
3. This suggests that (a) in every instance, all functions and activities of an organization must serve to effectuate its purposes; and, (b) there exists within an organization a distinct set of functions and activities that corresponds with each identified purpose of the organization.
4. See Appendix F for a discussion of the concept of the means-end chain in goal and objective formulation in comprehensive planning.
5. A conceptual framework is a framework or structure which in toto represents a conceptualized account or an idealized version of what an organization in general should be. It is an image of the organization that is formed by the totality of its purposes, goals, and objectives.
6. By developing this type of framework, we have deliberately chosen to structure the programs of the Judiciary in a mission-oriented framework. A mission-oriented framework is a framework in which programs are grouped according to legitimate public purposes of a continuing nature toward which

- government efforts are directed. Such a structure focuses upon the long-term goals of the organization. We have chosen this approach because we believe that it is the most appropriate means of classifying the major program categories of the Judiciary.
7. These components of the planning process are discussed at length in Chapters Ten and Eleven and Appendix F.
 8. Priority directions are the list of actions and policies and specific implementing directives established by the principal decision-makers of the Judiciary which focus on areas of concern which require immediate attention. Thus, in practical effect, the priority directions represent the prioritization of the Judiciary goals in the order of their importance and their attainment. In some cases, however, they may serve as the basis for the development of previously unidentified goals for the organization.
 9. The comprehensive coding system which we have devised to identify and relate the various component parts of the planning process is discussed at length in the next chapter.
 10. See Chapter Seven, *infra.*, for a discussion of the comprehensive coding system.
 11. In the present context, the term "dispute" is used generically to refer to each and every case involving conflict between individuals, government, and non-governmental entities.
 12. In this context, "effective" means the rendering of services of the highest possible quality to achieve a desired end; "efficient" means the optimal utilization of resources; and, "economy" means the use of resources efficiently or without waste, loss, or extravagance.
 13. The creation of laws occurs in all branches of government. The Legislature enacts statutory laws. The Judiciary develops the system of laws called the common law. The administrative agencies of the executive branch promulgate rules and regulations pursuant to broad grants of rulemaking power from the Legislature. Thus, the legal system, as we know it, consists of the system of substantive laws as well as those persons charged with some aspect of administering the law. Through this process, we derive what we conceive as justice.

A Comprehensive Coding System for Identifying and Integrating the Component Parts of the Planning Process

7

In an attempt to systematize the logical progression of plans that result from the application of the systems approach to planning, a comprehensive coding system was devised which serves not only to identify a given goal or objective but also to effectively indicate its relationship to the other component parts of the planning process.

The coding system consists of a series of related code designations that correspond to each goal and objective of the Judiciary and its programs. These code designations vary in form depending upon the nature of the goal or objective being coded and the level at which it is formed. However, in every case, they serve to identify a particular goal or objective precisely so that no two code designations are exactly alike.

Identification Codes

Under the coding system, each goal or objective of the Judiciary and its programs is assigned an identification code consisting of alphabetic and numeric characters. The resulting code designation for each goal and objective is referred to by different labels depending upon what is being identified. Thus, code designations for the statewide goals of the Judiciary are labeled *Judiciary goal numbers* while the codes for the goals and objectives of the programs are labeled *program goal numbers* and *program objective numbers*, respectively. The method for deriving the codes for the program goals and objectives is discussed in greater detail later on in this chapter. However, the manner for formulating the codes for the Judiciary goals is discussed below.

Formulating Identification Codes for the Judiciary Goals

Under the coding system, each of the five dimensions of the Judiciary (in the conceptual framework discussed in Chapter Six) is assigned a code consisting of two alphabetic characters. These codes are as follows:

Dimension Title	Dimension Identifiers
Government Branch	GB
Dispute Resolution Forum	DR
Public Agency	PA
Subsystem of the Legal System	LS
Subsystem of a Changing Society	SI

Fig. 7.1 The Dimensional Codes

These dimensional identifiers are then followed by a *hyphen* and a *number* which specifically identifies a particular goal. The resulting combination of dimensional codes and numerical characters constitutes the *Judiciary goal number* which then serves to completely identify a given Judiciary goal. These numbers are placed in parentheses at the end of each goal statement.

The following is an example of a Judiciary goal number:

GB-3
Dimension Identifier
GB-3
Judiciary Goal I.D. Number

Fig. 7.2 An Example of a Judiciary Goal Number

The code designation above refers to the third state-

CONTINUED

1 OF 3

wide goal of the Judiciary under the Government Branch dimension and mission.

By utilizing the technique just described, we can identify any number of statewide goals and immediately recognize the mission and dimension to which they correspond. Moreover, by incorporating these codes into the code designations for the goals and objectives of the programs (which we have done in the next section), the effective link-up of all relevant component parts of the planning process is complete.

Formulating Identification Codes for the Program Goals and Objectives

In the interest of fully systematizing the various component parts of the planning process as well as to integrate the planning and budgeting processes, a system has been devised for identifying and classifying the goals and objectives of the programs which incorporates the budgetary code designations for the programs and the identification codes for the Judiciary goals.

Program Identification Numbers: Under the budgetary system, each of the eight major programs of the Judiciary is assigned a code number. These program identification numbers and their corresponding program titles are as follows:

Program Title	Program I.D. No.
Courts of Appeal.....	JUD 101
Land Court/Tax Appeal Court.....	JUD 102
Circuit Courts.....	JUD 111
Family Courts.....	JUD 112
District Courts.....	JUD 121
Administrative Director Services.....	JUD 201
Law Library.....	JUD 202
Driver Education and Training.....	JUD 221

Fig. 7.3 The Program Identification Numbers

The identification system which was devised for the program goals and objectives utilizes the above program identification numbers as part of the code designation for a particular goal or objective of a program. These code designations are termed *program goal numbers* and *program objective numbers*, respectively. These numbers are placed in parentheses at the end of each statement of a goal and objective of a program.

Program Goal Number: The program goal number is composed of two parts. The first part consists of the program identification number followed by a hyphen and a numerical designation for a particular program to which a goal corresponds as well as to

indicate what its particular identification number is. The second part identifies the statewide goal or goals to which the program goal relates and is, in fact, implementing. This code designation is identical to that discussed in the preceding section on the Judiciary goals.

The two parts of a program goal number are separated by a *colon*. Taken together, they completely identify a particular program goal including (a) its relationship to a given goal, mission and dimension of the Judiciary, and (b) the program to which it corresponds.

The following illustrates the various parts which make up a program goal number:

JUD 101-7: GB-3
Program I.D. Number
JUD 101-7: GB-3
Goal I.D. Number
JUD 101-7: GB-3
Dimension Identifier
JUD 101-7: GB-3
Judiciary Goal I.D. Number

Fig. 7.4. The Elements of a Program Goal Number

With respect to the above example of a program goal number, it can be "read" thusly: The first part, "JUD 101-7," indicates that the particular statement which we are looking at is the seventh goal of the Courts of Appeal Program. The second portion of the number, "GB-3," indicates that this particular program goal is directed towards the implementation of the third statewide goal of the Judiciary under the Government Branch dimension and mission.

It is possible that a given program goal may, in effect, correspond to more than one Judiciary goal. In such a case, its identification code designation will be adjusted accordingly to reflect this fact. Thus, for example, the program goal number "JUD 101-7: GB-1, DR-5" tells us that the seventh goal of the Courts of Appeal Program is related to two Judiciary goals—goal number one of the Government Branch dimension and goal number five of the Dispute Resolution Forum dimension.

Program Objective Number: Program objectives, which are derived from operational planning, identify and reflect the specific means by which a given program goal is to be achieved. Since a program objective must, by definition, relate and correspond to a given program goal, it is designated in a manner

similar to that of a program goal. The only difference is that the specific objective identification number is placed after a *period* which follows the program goal number.

Under our coding system, each objective is assigned a code consisting of an alpha character and a numeric character. The alpha character identifies the program division for which the objective is written. The numeric character identifies the particular objective for a program division.

The alpha characters and their corresponding designations are presented below:

Program Division Designations	Program Division Identifiers
First Circuit.....	A
Second Circuit.....	B
Third Circuit.....	C
Fifth Circuit.....	D
Supreme Court.....	E
Intermediate Court.....	F
of Appeals	

Fig. 7.5 Program Division Identifiers

The following is an example of a *program objective number*:

JUD 101-7. E1:GB-1
Objective Identification Number

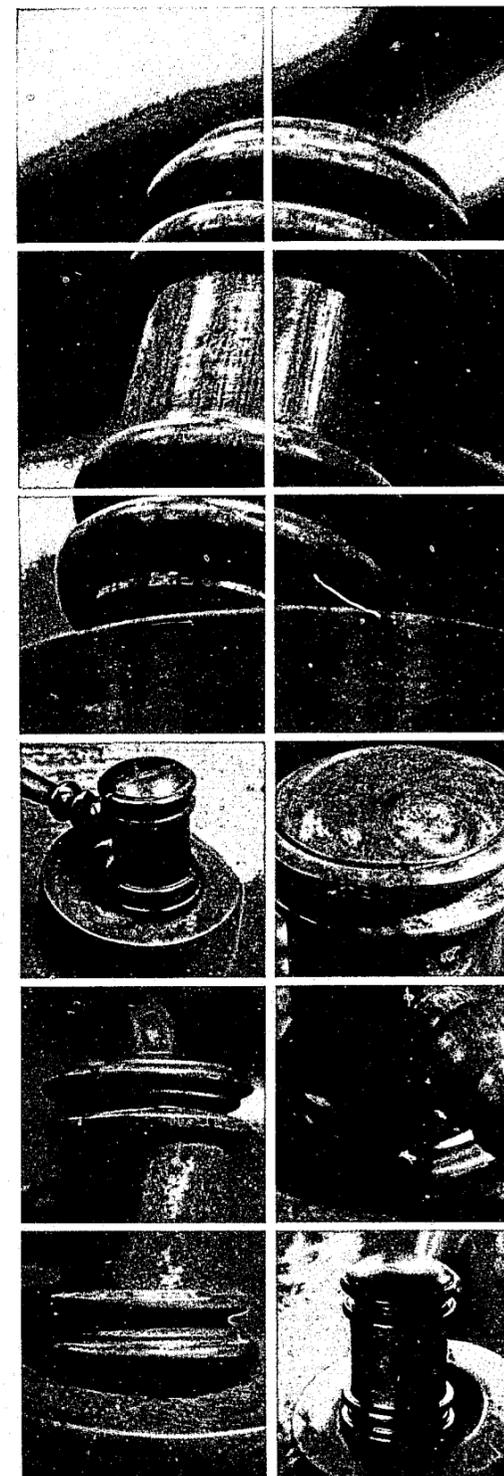
Fig. 7.6. Example of an Objective Identification Number

The objective identification in the above example tells us that this objective is the first objective of the Supreme Court Division of the Court of Appeals Program which is directed towards the attainment of the seventh goal for this program.

Through this method of designating the identity of a program objective, we immediately know the following things about the objective. First, we know which program and which of its divisions the objective is aimed at. Second, we can recognize the program goal to which the objective relates. Third, we can ascertain the particular objective to which the number relates. Fourth, we can relate the program objective to the judiciary goal to which it relates. Finally, we know the dimension and related mission to which the objective corresponds.

A Concluding Note: The Development of a Control Mechanism for the Statewide Planning Process

By now it should be quite apparent that the comprehensive coding system which has been described is



ideally suited to the type of planning which the Judiciary has chosen to undertake for the unified court system of Hawaii. For, when such a coding system is utilized in conjunction with the conceptual framework of the Judiciary described in Chapter Six, not only are all component parts of the planning process specifically identified and correlated, but they are also systematically structured and integrated into a unified and comprehensible whole, thereby affording better centralized coordination and control of the planning process by top management. While the implications are numerous and far-reaching, some of its more significant effects will be briefly mentioned below.

Controlled Decentralization: First, by facilitating greater centralized coordination and control of the planning process while enabling all operating units of the organization to fashion different means to attain specified ends, the control mechanism is not only consistent with the Judiciary's administrative philosophy of controlled decentralization but also serves to enhance it. This philosophy results in decisions being made at the lowest practicable level in the organization hierarchy. And, since these decisions are made within the broad guidelines and policies established by top management, greater consistency in management planning and decision-making will be realized as well as increased participation and cooperation by all Judiciary personnel.

Comprehensive Strategy: Second, by virtue of the information provided by the control mechanism, changes in organizational priorities can easily be communicated and implemented within the organization since the control mechanism indicates what programs are, actually or potentially, affected by priority changes. Thus, a comprehensive strategy for implementation can be developed in advance to determine whether any changes in existing program plans is required.

Analysis: Third, by identifying the key relationships of a particular goal or objective of a program, top management can ascertain exactly how the programs are implementing organizational goals simply by "tracing" the data contained in the codes. Such an analysis will also reveal the present status of a given organizational goal. From this standpoint, therefore, the control mechanism facilitates better decision-making at all levels of the organization.

Computerization: Fourth, it is our firm belief that with greater sophistication and experience, the goals and objectives of the Judiciary and its program can be successfully computerized upon the basis established by the control mechanism. At such time, among other things, instantaneous information with respect to the present status or disposition of any goal or objective can be transmitted to the principal decision-makers at whatever level we may choose to observe.

Compatibility: Fifth, the compatibility of the control mechanism of the planning process with the budgetary process should allow for the smooth link-up of planning and budgeting without unnecessary adjustments in either system. And since budgetary decisions will be made upon the basis of pre-approved strategies to attain desired objectives, a more meaningful and rational criteria for resource allocation decision-making will emerge.

Overall Picture: Finally, since the control mechanism provides a current "big picture" of the missions and goals of the Judiciary and its programs, all program administrators and other key administrative personnel are afforded a means to specifically ascertain how their goals and objectives serve to implement the policies, priorities, and purposes of the Judiciary as a whole. Thus, since overall direction is clearly established to guide the planning for the respective programs, better program planning can be expected.

Futures Research

8

Futures Research As A Tool For Planning: A Societal Perspective

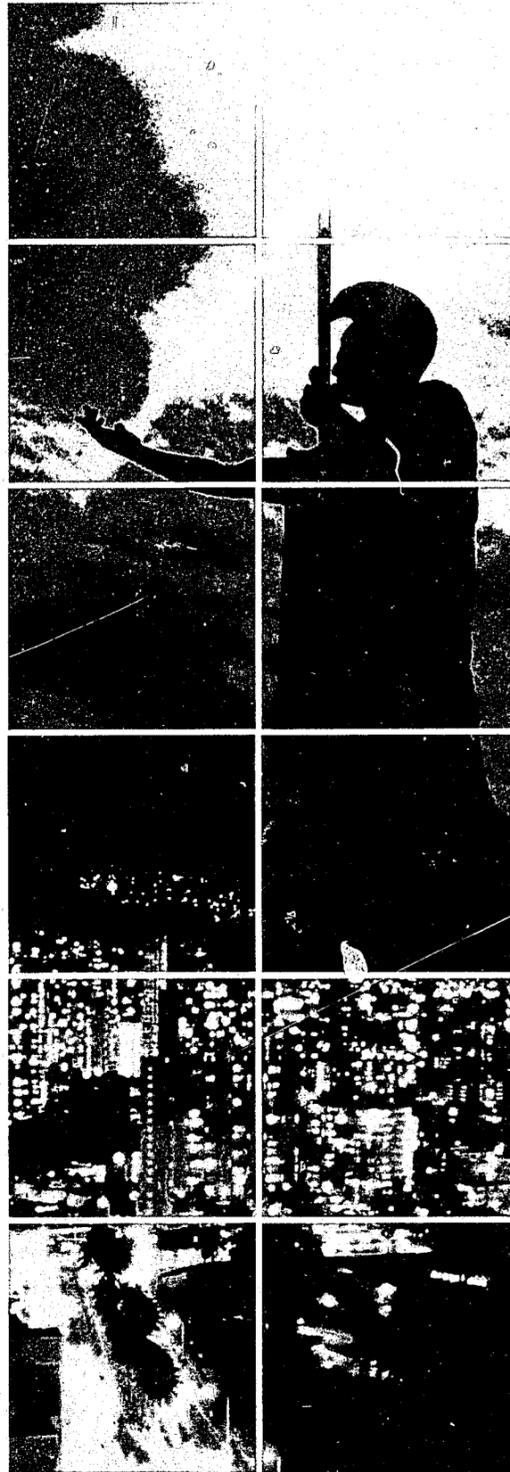
In planning the future course of an organization such as the Judiciary, an initial step involves the determination of its basic policies, purposes, and priorities, which are outlined in Chapter Six. In conjunction with this exercise, however, an equally compelling need is to predict, anticipate, or project the future environment and conditions under which the Judiciary will operate and to estimate the trajectory likely to be produced by contemplated policies and plans. It is in this effort that futures research is brought into play since it emphasizes more systematic, public, and responsible techniques for decision-making on the basis of consequence rather than precedence. Indeed, futures research stresses the need to try and decide, not on the basis of conforming our decisions to the past, but on the basis of how we perceive the future and how our present decisions will affect that future.

The adoption of a comprehensive planning approach integrates all the levels of planning (strategic planning, program planning, operational planning, and implementation, evaluation and review) so that a balanced perspective is gained between present needs and anticipated demands at all levels. At the highest level of planning lies the concept of strategic planning and futures research. In this chapter, the theoretical assumptions will be explained as well as the working relationships between these two concepts. Specifically, the Judiciary's adoption of an "Alternative Futures" perspective and the technique of "Emerging Issue Analysis" will be highlighted, for these approaches augment the more conventional future research strategy. But first, let us examine the societal origins of a long-range view.

Although speculation about future states of affairs dates well back into human history, the societal need for such information probably was not of critical importance. Changes within past societies occurred frequently, yet the rate of change was moderate at best. Moreover, the predictability of societal changes further reduced the need for future information, as past state of affairs could reasonably be utilized as a guide for future actions.

The want for future information was not lacking though, as evidenced by numerous historical forecasting examples, such as the oracle at Delphi, predictive astrology, prophesying, fortune telling, and other related activities. However, the majority of these predictions dealt with the future of individuals and personal affairs rather than societal futures. The stable nature of past societies for the most part ensured against the likelihood of radical changes.

Macro-Level Changes: Recently, however, societal adjustment to macro-level changes has become an increasingly important arena of concern. Rapid changes within the political, economic, and social environments have increasingly taxed the adaptive ability of organizations and individuals, as the past can no longer provide adequate insight into the future state of affairs. In fact, much of the past no longer exists or has been reduced to obsolescence and obscurity. A person has only to recall whether physical and social manifestations of one's childhood neighborhood still exist today. We are literally



in a position where we can never truly return to our past.

Our alienation toward our past stems in part from the increasing rate and magnitude of social changes. The interconnectedness of our industrial society precludes isolation and induces interdependencies, thus increasing the impact of crises upon the system. The rate of societal changes is also influenced by the nature and role of technology within our highly industrialized society. New developments in technology create choices where none existed before the advent of the innovation. Furthermore, the effects of technology upon society are complex and spawn the generation of unintended second- and third-order effects. Thus, many unforeseen consequences arise from the implementation of new technologies.

The consequence of these developments has been the increasing frequency of large-scale crises, much of which can be termed as being "problematic" in nature. That is, solutions to these require either in-exorbitant costs (financial, social, political, etc.) or are basically caused by systematic factors in which the solution lies in a restructured system.

As a result of these crises and discontinuities with the past, a great deal of uncertainty arises as to the state of affairs in the future. The need to gain foresight increases as a direct function of the level of uncertainty and the impact of systemic dilemmas. Perhaps, too, the realization that a desirable state of affairs is attainable through guiding human action led to the initiation of integrated strategies and goal formulation. Thus, the advent of *planning* and *futures research* arose out of a desire to avoid the crises of the present and to realize a more favorable situation.

The Utility of Futures Research in a Planning Context

Strategic planning and futures research share much in common on a conceptual and pragmatic level in that both concepts deal with the examination and articulation of broad missions and goals, and are premised by a long time horizon. As such, the activities and conceptual premises of these two concepts are in close affinity and serve to mutually complement the abilities of each other.

Strategic Planning: Strategic planning essentially involves the guidance of an organization through the future by altering events to the organization's greatest advantage (the strategy). This implies the

existence of a specified goal or ideal and of alternative strategies that will be utilized in order to attain that goal. To formulate these goals and strategies, a large amount of information about the internal environment is required. The constant and evolving nature of strategic planning also mandates that the monitoring of these environments proceed on an ongoing and continual basis.

Predictive Forecasting: The basic role of most conventional futures research activities within a planning situation is to examine exogenous factors in order to produce a forecast of the *probable* environmental context of the future. This is accomplished through *predictive forecasting* activities, which are premised by the particular methodological route taken.¹ More than 100 distinct methodologies exist which may be broadly classified into four general categories:

1. extrapolative methods;
2. judgmental techniques;
3. quantitative-modelling exercises; and
4. scenarios.

(Five of the dominant methodologies through which the major assumptions and theoretical considerations can be ascertained are described in Appendix G.) Forecasts derived from these activities are utilized in strategic planning in order to illuminate the likely external environment in which the organization will be expected to operate and are thus a prerequisite of long-range planning.

However, while predictive forecasting methods aid strategic planning by probing the external environment, they are restrained by the common element of uncertainty. Although different forecasts may be posited as possessing differing probabilities of occurrence, in a sense all forecasts still share the same logical prospect of occurrence since there are no *future facts*. The wide array of forecasts and images generated by the various methodologies may tend at times to hamper rather than facilitate the planning process by virtue of their contradictions. This dilemma is attributable to the often misconceived notion that futures research will solve the problem of an uncertain future by producing one good set of forecasts. This is certainly not so, and nothing could be further from the truth.

Forecasting Limits: Predictive forecasting methods are only able to uncover the range of *determinative* and to a certain extent *normative* futures. That is,

forecasting is limited to postulating future states of affairs that are either products of recognizable social change patterns, such as trends (determinative futures) or goal-seeking activities (normative futures). Random and chance events, e.g., natural disasters, unforeseen developments, or surprise events, which may totally alter the future, are not generally disclosed by most forecasting activities since the goal in forecasting is to produce a *likely* description of the future. Moreover, lacking a validated theory of social change and poorly understanding the dynamics of second- and third-order effects, many of the forecasts derived from the predominant forecasting methodologies prove inadequate. Trends change direction, and the impact of expected changes and events produces unexpected impacts and side effects. Unanticipated events and developments may influence trends in such a way that the assumptions underlying what was thought to be a highly probabilistic future disappear or are no longer relevant. Furthermore, these unforeseen developments may enhance the possibility of previously impossible futures.

Thus, while forecasting does provide much insight into the future, planning based upon a single conception of the future is likely to be disastrous indeed. Instead, the notion that a multiplicity of alternative possibilities exists is of critical importance and underlies the conceptual basis of an *Alternative Futures* perspective.

An Alternative Futures Perspective

The concept of alternative futures is premised upon the view that differing sectors of society hold divergent images of the future and tend to colonize the future on the basis of that image through conscious and unconscious processes. These images may be defined as an internally conceptualized vision of a future state of being that is held either individually or collectively.

Colonization: Colonization of the future through unconscious processes can be likened to the *self-altering prophecy* (SAPr) phenomena, described by sociologists Richard Henshel and Leslie Kennedy.² The concept of SAPr encompasses both the notions of *self-fulfilling prophecies* (SFP) and *self-defeating prophecies* (SDP) and is defined as a process which "generates a sequence of events in reaction to (a) prediction of a future state such that the reaction alters what would otherwise have occurred."³

An image or forecast of the future must first be ac-

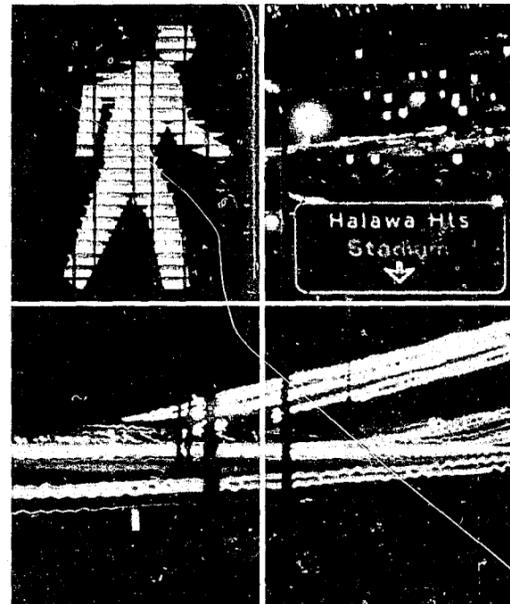
cepted as reflecting a *possible* and *probable* reality. Once accepted, present actions will be guided by a desire either to realize an image (SFP) or to circumvent its attainment (SDP). SAPr thus refers to a process whereby the future is determined by whatever it is *accepted* or *believed* to be. Common examples of SAPr are "bandwagon" (SFP) and "underdog" (SDP) effects, "placebo" effects in medical and psychological research, and the effect of IQ test score realization on subsequent academic performance. The relevance of the SAPr phenomena to the alternative futures concept is that it alludes to phenomena in which a goal is attained (or negated) devoid of any particular strategy or plan.

Efficacy: By contrast, *conscious* and *overt* attempts to create a future are based upon the explicit realization of the efficacious nature of human actions in achieving a desired goal. The notion of efficacy is inherent within the concept of planning and derives much of its justification from the instrumentality of human intervention and guiding actions. Images and goals are realized through conscious attempts, e.g., strategies, plans, etc., which culminate in the attainment of a desired state.

A variety of these images and goals, which are often at variance with one another, are in a constant process to be realized by the various elements which sustain them. Thus, the future is a continuing endeavor of *conflict* and *compromise*, whereby differing images attempt to be realized through either conscious or unconscious occurrences. This reflection, together with the variable effect of unforeseen and random events, renders the reliance upon a single forecast or image of the future to a precarious position indeed. Rather, the realization that a variety of alternative futures exists is paramount to the Judiciary in its attempt to meet the challenges of an uncertain future.

Within a planning context, the perception that alternate future states exist entails that the range of societal images be known such that *contingency* planning can occur. An eclectic approach, one which utilizes data gained through various predictive forecasting methodologies as well as statements regarding a desirable state of the future, gives an indication of the possible range of anticipated and postulated societal images.

Conditional Strategies: Knowledge of these alternative images enables the planner to envision the organization operating within a variety of external environments and under various organizational

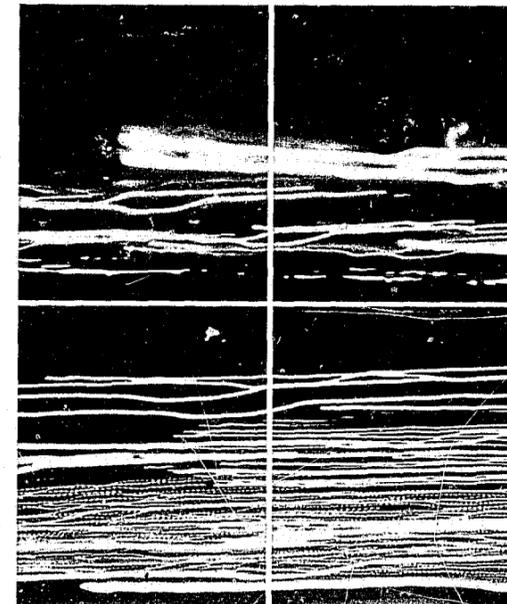


configurations and capacities. A set of conditional strategies emerges which is formulated in order to reduce *opportunity loss*,⁴ which is defined as the difference between the utility that results from a given strategy and the highest utility obtainable from the best possible action.

This is how futures research is utilized in many strategic planning environments, and yet the process may be characterized as being essentially passive and reactive in nature. Realizing the limitation of this facet of futures research, the Judiciary has recognized the need for a more *proactive* and *instrumental* type of futures research. In pursuit of this end, the Judiciary has adopted a relatively new methodology, termed "Emerging Issue Analysis," to augment the capabilities of the more conventional futures research activities.⁵ Basically, an Emerging Issue Analysis supplies an ongoing scan of *potential* and *latent* developments and events and their effect upon alternative images in order that the *potentiality* of the event (or trend) may be increased or decreased, dependent upon its postulated effects upon the realization of a desirable future.

Theoretical Assumptions of Emerging Issue Analysis

Emerging Issue Analysis, like most futures research methodologies, deals with the examination and analysis of relevant societal patterns and trends. Issues and factors that develop into trends usually



display a "S-curve" pattern when the growth rate is plotted against time (see Fig. 8.1). There are basically three distinct stages in the life of a trend:

1. (emergent) the trend begins as a relatively small and innocuous movement of seemingly unrelated events, usually involving the deviant or innovative sectors of society;
2. (takeoff) the number of events increases in frequency as a recognizable pattern becomes discernable, with "trend analysis" taking place during this stage; and
3. (maturity) the "growth" rate passes its zenith and slows down, as the benefits (and damages) have largely taken place (this is usually the stage of problem solving and crisis management).

The growth pattern of a trend indicates that it is most susceptible to directional changes during the first or *emergent* stage, before the rapid takeoff begins and exacerbates the solvability of an issue. Emerging Issue Analysis seeks to uncover issues, events, and developments during this emergent stage and postulates the expected societal and organizational impacts and effects that would occur if a clearly defined trend emerged. The possible scope of such occurrences include: events and precursor trends that might (or will) affect present trends; issues which may become trends in the future; unforeseen developments without precedent; and potential trend discontinuities.

Main Benefit: The main benefit derived from "Emerging Issue Analysis" is the potentiality to deal with conceivable crises and problems before they become unmanageable or solvable only at great economic, social, and political costs. Emergent trends that are desirable can also be detected and allowed to foster and develop. In this manner, the Judiciary's societal responsibility will not be neglected and may very well serve to benefit the public.

Futures research involves looking at parts of these life-cycles or "S-curves," and based upon them, projecting what the future will be. Figure 8.1 illustrates what the "S-curve" looks like.

The Judiciary's Futures Research Program

The Judiciary's involvement with futures research originally began in 1972 when it sponsored the Citizens' Conference on the Administration of Justice in Hawaii. Noted persons within the legal as well as the futures research field were convened to discuss the future of law and the Judiciary within a rapidly changing society.

Since then, the Judiciary has actively pursued its concern for the future, most notably by opting for a

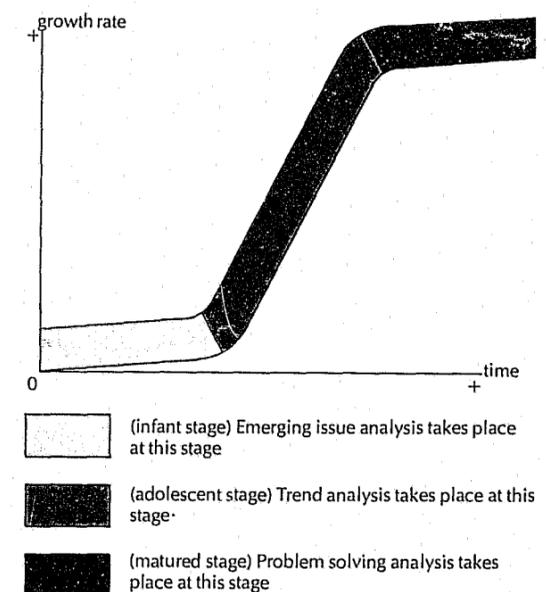


Fig. 8.1 The "S-Curve"—The Time-series Analysis of Ideas, Policies, Programs, and Beliefs

comprehensive, long-range planning approach which incorporates a futures research component. The services of Dr. James Dator, an internationally prominent futurist, was retained in order to develop this component. One of the earlier tasks which Dr. Dator completed was a series of reports, prepared by various undergraduate and graduate students at the University of Hawaii, which focused on various aspects of the future of law and the Judiciary.

Most recently, a graduate internship program was initiated between the Planning unit of the Judiciary and Futures Research program of the University of Hawaii's Political Science Department. Currently these interns are engaged in attempting to develop an appropriate model for Emerging Issue Analysis and a computerized system to integrate the various program plans of the Judiciary in order to facilitate the monitoring of organizational objectives.

An Exploratory Methodology for Emerging Issue Analysis

Although the Judiciary's Emerging Issue Analysis program has yet to be finalized, a tentative and exploratory method has been formulated and is presented here in order to shed light on the general features of the process. The process, as it is envisioned, will integrate the discrete activities of separate institutions within Hawaii's legal and academic community, thus assuring a degree of societal participation.

The analysis of emerging issues may be subdivided into the following stages: 1. discovery and selection of the initial pool of emergent issues and events; 2. screening and selection of relevant items for in-depth investigation; and 3. analysis of expected impacts and effects.

First Stage: The first stage of the analysis involves the compilation of a large initial pool of candidate issues to be undertaken by graduate interns from the University of Hawaii. The object of this initial search is to collect items which display the following characteristics: a potential to cause large-scale social changes which are currently dormant; are new and innovative discoveries; or are unprecedented but possible situations.

This search is most likely to take place within the context of an intensive review of current literature, sampled from a diverse range of fields and topics. A few strategies that may be of assistance to the compilers have been summarized by futurist Theodore Gordon in his article, "The Nature of Unforeseen

Developments."⁶ Gordon relates three approaches which accomplish the dual purpose of discovering emerging issues and reducing the potential population of such issues.

The first approach is called a "paradigmatic technique" because it searches for impending paradigm shifts by examining deep-seated crises and conflicts within organizations or disciplines. A paradigm may be defined as a system of beliefs and "laws" that are internally consistent. Challenges to these beliefs produce crises and contradictions until either the new beliefs are proven false, or the set of old beliefs falls and changes to accommodate the new knowledge.

Paradigmatic shifts have occurred on numerous occasions within science, as new evidence sometimes does not fit within accepted scientific theory, thus producing a crisis and eventually a paradigm shift. When a shift occurs, discontinuous developments arise as a result of the "progression" engendered by the new system of beliefs. The paradigmatic technique thus searches for impending or potential shifts by focusing on important developments that represent *anomalies* within a given field. Two examples which Theodore Gordon relates are the discovery of quasars and the development of parapsychology within the fields of astronomy and psychology, respectively.

The second approach simply asks the question, "what is it that ought to happen?", in order to ascertain the state of *normative* possibilities. The basis behind the use of a normative search is somewhat related to the earlier discussed phenomena of self-altering prophecies. While the normatively derived possibilities may or may not be realized, the approach itself stimulates the imagination in order to provoke unprecedented ideas and possibilities.

The third approach explores all avenues of potential developments by asking, "What can happen?" A "morphological" analysis simply lists all possible alternative solutions or methods for a given task or function.

Other possible strategies are aimed at examining what experts, innovators, or futurists feel are the potential problem areas of the future. Still another approach extrapolates key societal trends into the future in order to examine if absurdities would occur if the trend continued on its course unabated.

Together, these procedures and strategies provide working criteria for the pooling of possible emer-

gent issues and events. This stage of the analysis is meant to be an ongoing activity, thus ensuring the constant monitoring of the environment.

Second Stage: Once the initial scan is completed for a given time period, a list of the findings along with a brief descriptor is sent to the Judiciary for the second part of the analysis. The Judiciary screens and selects items for a more in-depth investigation and examination based upon a set of rating criteria. These criteria may be based upon: the immediacy of attention required before negative (or positive) impacts begin; the perceived severity and magnitude of impact; and the likelihood of enhancing or decreasing the potentiality of occurrence.

These criteria involve *intuitive* and *judgmental* knowledge based upon two dimensions:

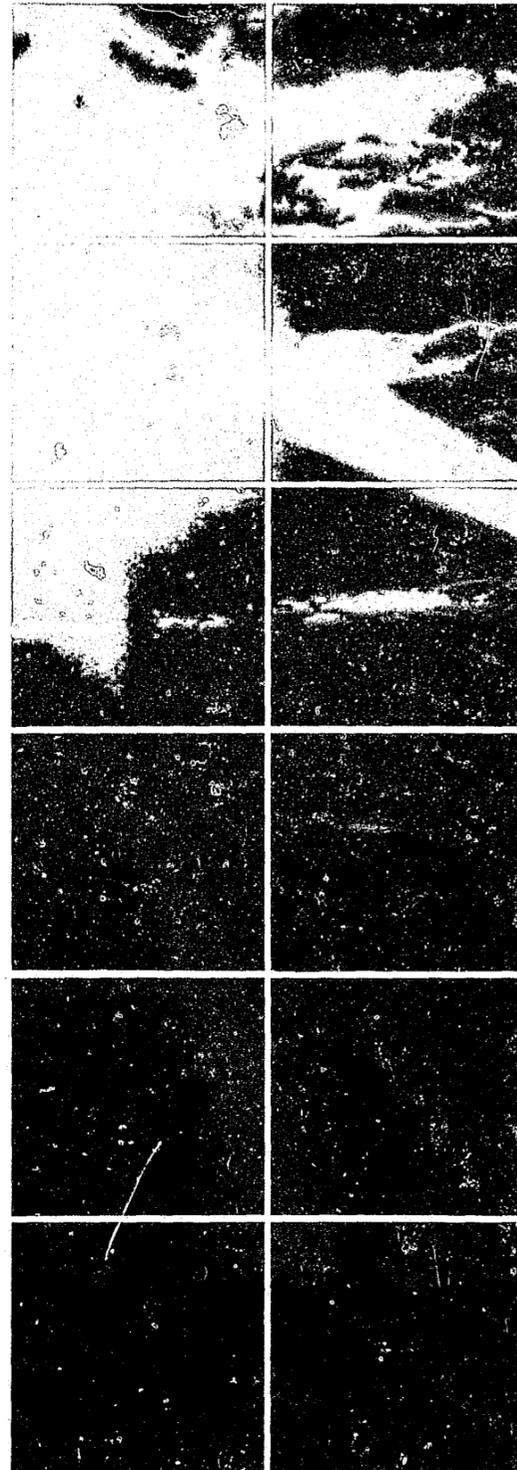
1. the perceived probability of occurrence (whether the issue is thought to have a high or low probability); and
2. the perceived importance and relevance of the issue.

Items which are thought to be highly probable and of importance will tend to warrant further investigation while those that are considered as trivial and having a low probability will tend to be excluded. A word of caution is advisable here, for it is precisely the nature of unforeseen developments which may prove the probability judgment wrong. Or, what may have been thought to be of trivial consequence may turn out to have important ramifications due to second- and third-order effects.

Perhaps, at this point the screening process may be systematized by conducting a "mini-Delphi" analysis, i.e., a systematic attempt to organize judgmental knowledge, described in the appendix, among the key decision-makers and other chosen experts. In this fashion a certain element of objectivity in judgment and intuition can be introduced. However, at this juncture the use of Delphi is purely optional.

Third Stage: The third and final stage of the analysis calls for an assessment of the expected impact of the selected items upon both the general environment and the Judiciary itself. A number of options are available here. First, a series of impact reports may be generated by different sectors within the academic and legal community. The Futures Research program at the University and selected participants from the School of Law may embark upon a cooperative endeavor to produce qualitative scenario-type





descriptions of the possible impacts and consequences of the emergent issues, taking into account the effects upon alternative images of the future and the desired future of the Judiciary.

Another option would augment the first approach by introducing a systematic, *quantitative* analysis of impact. In addition to the qualitative impact reports, a *Trend Impact Analysis* or *Cross Impact Analysis* (described in the appendix) may be performed utilizing experts within the academic and legal community. Responses may be elicited through a Delphi-type approach, through simple questionnaires, or through interview techniques. In any case, the goal would be to gather opinions from *diverse* points of view and to systematically analyze the results through a Trend Impact or Cross Impact analysis.

Whichever option is taken, the results would then be sent to the planning unit of the Judiciary in order to become assimilated into the planning process. In the end, the long-range planning efforts of the Judiciary can only be enhanced through these activities as they provide a progressive, forward-oriented feedback device.

Illustrations of Emerging Issues

In one sense it is premature to attempt to indicate the kinds of issues which may be uncovered by emerging issue analysis. And, yet, because of the relative novelty of this approach as an integral aspect of strategic planning, a few simple illustrations of the kinds of issues that might be generated and their possible impact upon the Judiciary seem to be in order. The following are illustrations only and are not to be taken as examples of the actual issues which the process described above might generate. Neither are these examples of full reports, nor is there any indication in what follows of how the Judiciary might evaluate the issues or how it may act upon them.

In the material which follows, we will illustrate the emerging issue concept by reference to two items which might develop in the intermediate future (a period of ten to twenty-five years from the present) and which, if they were to occur, would significantly impact upon Hawaiian society and the Judiciary. For illustrative purposes only, we indicate:

Example 1: Economic Activity Impact Statements

Before a new developmental activity can be undertaken on State or Federal property, it is necessary to

file an *environmental impact statement*, which shows the impact of the development activity on the natural environment. Congress is presently overwhelmed by legislative proposals calling for minority impact statements, youth impact statements, female impact statements, and the like. Judiciaries across the nation are asking for judicial impact assessments from legislatures before any new laws are passed in order that they will understand how new legislation will affect their workload.

In certain environmental areas, before permission is granted to undertake a temporary but intense economic activity, some assurance that the environment will be returned to its original state or better after the activity is completed must be given. This is a requirement for some strip coal mining operations, for example.

Impact on People: But what about the impact that economic activity will have on people? In the past; many large economic enterprises have moved into economically stable (if not stagnant) areas and opened up some new enterprise of such size as to totally transform the economic—and often demographic—character of the area. Then, the reason for the invasion passes, e.g., the silver seam runs out; the oil fields dry up; the cost of labor becomes prohibitive; a new mode of production renders the activity obsolete; taxpayers revolt; or what have you. In any event, the economic activity ceases, the company moves elsewhere, and a ghost town develops. The economic and human condition of the area is worse than it was before.

Hawaii has had, is having, and is likely to have in the future more than its share of such situations. Would it not be reasonable then to insist that before an economic activity of a specified scale is able to cease, the company which profited from the activity must file a termination impact statement and restore the economic and human life of the area to at least its pre-activity condition in much the same way that strip-mining enterprises are required *vis-a-vis* the landscape?

Focus: This does not mean that very small mom-and-pop or wholly local enterprises must all be bound by this provision. However, in an economy such as Hawaii's where most of the economic activities are controlled by multinational (or at least external to Hawaii) corporations whose main focus is not on the economic health of Hawaii *per se* but on their own globally dispersed profit and loss ledgers, it is not reasonable to require that these large

firms (including the U.S. government) be held responsible for that portion of the economic and human crisis precipitated by the cessation of their economic activities.

If this provision were to become law in Hawaii, what impact would this have upon society and upon the Judiciary? What are the alternative conditions under which such impact and recovery statements might actually become binding in Hawaii? When in the future might this occur?

Example 2: New Youth Activism

In the 1950's many scholarly as well as popular writers and commentators seemed to believe that each succeeding generation of Americans would continue to be better educated, more achievement-oriented, more consumer-oriented, more loyal but apolitical, more "modern" and even more "futuristic" than the preceding generation had been. To them this was an inevitable consequence of modernization and social development. Then came the 1960's with an unexpected and unexplainable rise of student activism (first centered around the Civil Rights Movement) and the emergence of a counter-culture of Hippies and Yippies who seemed to contradict the expectations of the previous decade.

Greening of America: While many people deplored these Anti-Establishment types whom they regarded as the "new barbarians", others viewed them as a start of a new trend. The greening of America, with each new generation getting more in touch with themselves and with nature and rejecting the plastic artificiality which modernism and futurism seemed to imply had spawned a generation that was intensely political, one interested not in consumption but in conservation and yearning not for a Buck Rogers future but for roots in the past.

Expectations were then modified, and people began to believe that these characteristics of youth would continue into the future. After all, weren't young people by nature radical and change-oriented? Couldn't youth be depended on to be opposed to the status quo, to search out the hypocrisy of the Establishment and to seek to create a better world?

'Me Generation:' And, then, also unexpectedly came the youth of the mid-1970's, sometimes characterized as the "Me Generation" due to the group's apparent apathy, lack of political or any other external interests, conformity, lack of social criticism, and willingness to undertake the most

menial tasks in the hope of getting a "good job." Campuses became completely "quiet" once again to the dismay of once-radical teachers.

At the present time, no one is thinking about, planning for, or expecting a renewal of student activism. Youthful quietism is expected to persist indefinitely. However, how realistic is this assumption? Is it so impossible to posit likely situations in which young people (and presumably other elements of our society) might become politically active again in the future?

While a new youth activism can be predicted with no more certainty than can any other significant social phenomena, it is possible to posit on the basis of alternate causal assumptions, conditions and probabilities of occurrence in differing time frames.

Isolated From Society: For example, one apparent cause of the activism of the 1960's was the emergence of an unprecedentedly large proportion of the American population in the 16-24 age group, the products of the post-World War II "baby boom" who, by virtue of their institutionalization in high schools, colleges and universities, and the military, were isolated from the rest of society. Given the considerable affluence of the time, a significant portion of which was concentrated in this 16-24 age group; the emergence of a new form of electronically amplified music and the long-playing record; and the swing toward liberalism in what might be called a natural social pendulum between the popular liberal and conservative moods; the rise of a youth culture and its emergence as a politically active force may be understandable and, perhaps, predictable.

Tomorrow: Are similar causative events likely to occur in the future? While fertility is declining or stabilizing at a low level in Hawaii and the mainland U.S., the sheer size of the baby boom cohort means that these people will also produce a large number of children. If those future young people should enter the 16-24 age bracket at a time when

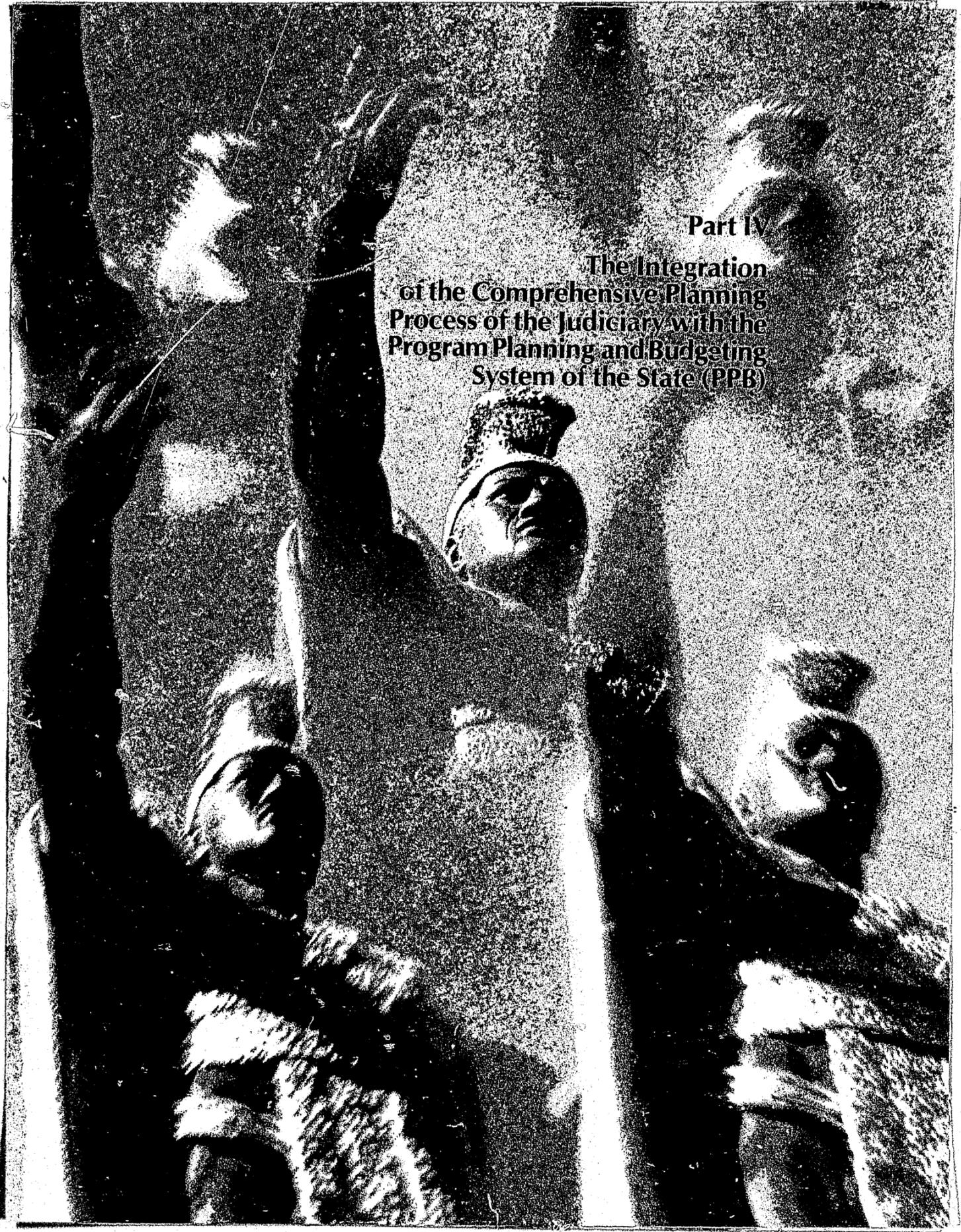
the social climate is much akin to that of their parents, then, a new activism may result. On the other hand, an analysis may show that other emerging factors produce activism among different groups in Hawaii, e.g., future immigrants.

The point is that an analysis of the possible alternative sets of conditions for new youth (or any other group) may indicate that political activism is a likely candidate for an emerging issue of interest to the Hawaii Judiciary and to Hawaii in general.

Summary

Futures research, as an integral part of the planning process, is enhanced when the efficacious and proactive elements are emphasized. The recognition of this fact by the Judiciary marks a prominent step towards the attainment of a more publicly responsive institution and a desirable future. The *Alternative Futures* concept assures us that certain flexibility in strategies will be maintained while the products of the *Emerging Issue Analysis* will provide a constant source of information pertaining to what is to come. Together, these concepts enable the Judiciary to face the challenges of the coming decades without fearing the unknown.

1. J. Galtung, "On the Future Research and Its Role in the World," in *Challenge from the Future*, Kodansha, Ltd., 1970, pp. 103-104.
2. R. Henshel and L. Kennedy, "Self-Altering Prophecies: Consequences for the Feasibility of Social Prediction," *General Systems*, Vol. 18 (Annual), 1973, pp. 119-126.
3. R. Henshel, "Self-Altering Predictions," in J. Fowles (ed.) *Handbook of Futures Research*, Greenwood Press, 1978.
4. D. Wood and R. Fildes, "Forecasting Quality—the Decision Interface," in R. Fildes and D. Wood (eds.), *Forecasting and Planning*, Praeger Publishers, 1978, pp. 138.
5. J. Dator, *Emerging Issue Analysis of the Judiciary, State of Hawaii*, the Judiciary of Hawaii, 1979.
6. T. Gordon, "The Nature of Unforeseen Developments," in W. Boucher (ed.), *The Study of the Future: An Agenda for Research*, Division of Intergovernmental Science and Public Technology, 1977.



Part IV The Integration of the Comprehensive Planning Process of the Judiciary with the Program Planning and Budgeting System of the State (PPB)

The Budget as a Tool for Implementation of the Plans of the Judiciary and Its Programs

9

With the enactment of Act 185 in 1970, the Legislature established a planning-programming-budgeting system (PPB) for the State of Hawaii. This budgetary system represents a conceptually superior method for allocating resources and assessing the effectiveness of resource allocation decision-making by instilling an element of accountability into all stages of the budgetary process.

In this Part IV, it will be demonstrated how the comprehensive planning process of the Judiciary has been effectively integrated with the State's budgetary system to provide a more effective mechanism for resource allocation decision-making.

In this chapter, discussion centers on how the comprehensive planning process of the Judiciary has been integrated with the budgetary process to produce an effective management tool for directing, controlling, coordinating, and reviewing the activities of the organization while, at the same time, insuring the proper implementation of the plans of the Judiciary and its programs. The chapter begins by briefly describing the nature of the budgeting process of the Judiciary. Thereafter, described in detail is the planning-budgeting cycle that has been developed to integrate the formalized comprehensive planning process with the existing budgetary system of the Judiciary.

An Introduction to Program Planning and Budgeting (PPB)

Traditionally, the line-item budgetary system was utilized by the State to develop its budget.¹ In recent years, however, the traditional line-item budgetary system has come under a great deal of criticism because of its apparent inability to provide decision-makers with the kind of information needed to formulate sound resource allocation decisions. Thus, in order to ameliorate some of the more persistent deficiencies of the traditional line-item budgetary system² and to generally improve the process by which resources are allocated, the State Legislature enacted, in 1970, Act 185, the so-called Executive Budget Act,³ which established for the government of the State of Hawaii, the planning-programming-budgeting system which was later to be known as the Program Planning and Budgeting System (PPB). With the

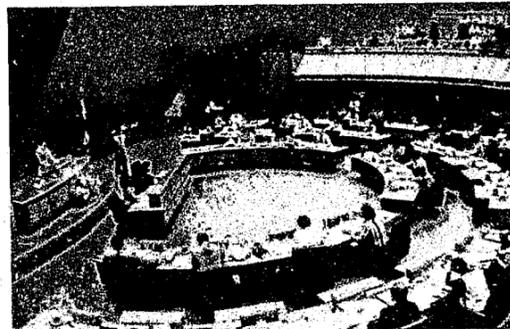
passage of this Act, the Judiciary, as the third branch of the State government system, was obliged to utilize this budgetary system to develop its budget.

The PPB Concept: The PPB system combines the concept of planning and budgeting into a single framework so that the goals and objectives are linked directly with resource allocation decisions.⁴ It represents, in effect, a conceptually superior method for allocating resources and assessing the effectiveness of resource allocation decision-making by instilling an element of accountability into all stages of the budgetary process. Thus, PPB provides the budgetary process with guidance and direction as to how appropriations should be allocated while also furnishing the planning process with a tool for assuring that the programs of the organization will be allocated the resources necessary for achieving their plans.

Objectives of PPB: Simply stated, the objectives of Hawaii's Program Planning and Budgeting system are as follows:

- To link program and budget decisions;
- To identify and state program objectives and goals more explicitly;
- To facilitate the analysis and evaluation of existing and alternative programs;
- To improve management information and decisions; and,
- To improve output from public programs.

Principal characteristics: As the objectives indicate, PPB is a system which allows management to



reach better decisions with regard to the allocation of resources among alternative methods of attaining organizational goals. It also allows managers to focus more sharply on the objectives for which they are responsible and compare progress towards these objectives in terms of time, dollars, man-hours, and materials.

Some of the more distinctive characteristics of PPB are as follows:

- It focuses on the formulation of goals and relates all activities of the organization to these goals. Budget choices are explicitly stated in terms of these goals and their related costs rather than solely in terms of the resources needed to finance the organization's activities and functions.
- The future implications of present decisions are explicitly identified through the estimation of multi-year costs of planned activities. Long-range fiscal planning thus becomes an inherent part of the budgetary process as programs are viewed through a perspective that considers not only the expenditures of the immediate budget period but also for the years ahead.
- Plans and programs are continuously reviewed. The performance of each program in terms of progress towards objectives is reviewed each year and appropriate revisions are considered when new and previously unknown factors come into play or when previous judgments have to be corrected. Periodic review also affords the determination of whether existing and proposed program plans are the most effective ways of accomplishing a particular goal.
- A program evaluation cycle consisting of progress reports and program revisions is established and maintained on a continuing basis. Planning is therefore linked to budget decisions and program evaluation to planning.

- Systematic analysis of alternatives is performed. Formal consideration is given to alternative means of accomplishing established goals. This essentially involves: (a) the identification of goals; (b) the explicit and systematic identification of alternative ways of attaining the goals; and, (c) the estimation of the total cost implications of each alternative.

The following section will describe the major features of this budgetary system.

Major Features of Hawaii's Program Planning and Budgeting System

The major features of Hawaii's Program Planning and Budgeting system flow from principles which have been specifically incorporated into the budget format. These principles are as follows:

- Programs
- Goals
- Full Costs
- Planned Program Size
- Levels of Effectiveness
- Multi-Year Time Frame
- Variances

Programs: The basic building blocks in the budget are programs, i.e., or objectives. The programs are arranged in a *program structure* which displays programs in groups according to the objectives to be achieved or the functions to be performed. The program structure serves not only as the structure for planning, programming, and budgeting, but also as the structure for appropriations.

As was indicated in Chapter Two, each of the eight programs of the Judiciary are classified according to the objectives they are intended to serve, and they all fall under two major program categories—court operations and support services. The programs falling under court operations are the Courts of Appeal, Land and Tax Appeal Courts, Circuit Court, Family Court, and District Court programs. The programs classified under support services are the Administrative Director Services, Law Library, and Driver Education and Training programs.

Goals: For each program, specific program goals have been formulated. These goals are broad statements of purpose expressing profound and desirable conditions or states or end-results toward the

achievement of which the resources of the program are directed. As may be obvious from the definition, goals are seldom quantifiable. However, program objectives, which are specific statements of the conditions or states or end-result desired for the accomplishment of which a course of action is to be taken, are quantifiable; that is, they lend themselves to some degree of measurement.

With respect to each program goal, specific program objectives are formulated which effectively subaggregate the goal. Since these objectives are operational in nature, they are quite specific and serve as effectiveness measures with respect to program activities.

Full system costs: PPB requires that all costs associated with a given program be displayed in the budget. Such a placement of the full costs associated with the program included in the program structure enables one to adopt a systems view of a program, and also enables one to determine whether all costs have been considered.⁵

Hawaii's system classifies costs according to three basic categories. They are as follows:

- Research and Development
- Capital Investment
 - Land Acquisition
 - Design
 - Construction
- Operating
 - Personnel Services
 - Other Current Expenses
 - Equipment
 - Motor Vehicles

These cost categories are potentially a useful way of looking at costs and on controlling the implementation of programs.

Planned program size: For each program, the size of the program is required to be displayed using several program size indicators. The purpose is to indicate what is expected to be "bought" by the budgeted amounts. Even if the measures are sometimes quite crude, they do serve as a quick reminder of the basis of prior period decisions on program size; they indicate how the program might expand or contract with changes in expenditures, and they flag out issues on projected expenditures which might require further inquiry.

Effectiveness Measures and Planning Levels of Effectiveness: The results intended for each program are to be revealed by effectiveness measurements which indicate how the program will be assessed, and planned levels of effectiveness which reveal the degree to which the objective will be attained.

Multi-Year Time Frame: The information which is required to be presented to the Legislature is set against a multi-year forward time frame of six years. The six-year programming period is rather arbitrary, the chief consideration being that Hawaii had a tradition of planning its capital improvements six years into the future. The multi-year approach emphasizes the future cost implications of current decisions. It enables the decision-maker to have a broader perspective of how new programs are to be phased in, how old programs are to be phased out, the total cost of all programs—current or proposed—and whether major financial imbalances are likely to occur when future costs are balanced against estimated resources.

Variances: The system requirements discussed thus far are oriented to the future. However, the Hawaii PPB system also builds into the budget system a retrospective view. There is the requirement of an annual variance report, in which for each program, comparisons between what was planned and what actually happened are revealed. Comparisons are made between planned expenditures and actual expenditures, planned number of personnel positions and the number of positions actually filled, and planned levels of effectiveness and actual levels of effectiveness.

Major Products of the Budgetary System

The Program Planning and Budgeting system produces, on a regular basis, certain documents for specific purposes. In addition, other documents are produced as needed. The major products of the system are listed below, with a brief description and date of publication of each.

The Multi-Year Program and Financial Plan: The Multi-Year Program and Financial Plan displays the Judiciary's programs, grouped in accordance with the objectives to be achieved. The document contains most of the information describing the Judiciary's approved program plans as well as the cur-



rent biennial budget request based on approved plans. Also included is a financial plan which shows the fiscal implications of the recommended programs for the next six fiscal years. Thus, not only is the two-year budget request for each program plan supported by the data describing the plan, the financial implications of the requested budget over the six-year planning period are shown as well.⁶

The Multi-Year Program and Financial Plan is published biennially, in December of each even-numbered calendar year. The document is prepared for use during the legislative session convening during January of the following odd-numbered calendar year.

The Budget: The Budget presents the financial requirements for the next two fiscal years to carry out the recommended programs. The requirements are the amounts which must be budgeted if the plans are to be implemented as recommended. The document provides detailed information for the first two budget-period years of the financial plan. Thus, the requested appropriations and the number of personnel positions by means of financing, for each of the cost categories (research and development, operating, capital investment), and in total are shown.⁷

The Budget is published biennially, at the same time as the Multi-Year Program and Financial Plan, for use by the Legislature during each odd-numbered calendar year.

Program Memorandum: The Program Memorandum is a narrative document which is prepared for each major program. This document provides an overview of each major program, the principal changes being proposed for it along with the analytic rationale for those changes, an assessment of emerging problems and alternative solutions thereto, and finally, a possible program of analysis to meet emerging problems.

The Program Memorandum (PM) draws on and incorporates the work done both in the individual program evaluations and in issue analyses. PM's attempt not only to interpret and summarize each of the individual analyses done within a particular major program, but they also try to show how these studies bear on one another, how in total they affect other programs which were not the direct objects of analysis themselves, and how they illuminate larger unsuspected issues and heretofore unquested objectives and assumptions. Finally, Program Memo-

randas provide an overall supporting rationale for the changes being proposed in a current approved program. In short, while Program Memoranda are also synthesizing and constructive in the sense that they attempt to go beyond the individual studies and their immediate consequences; they attempt to ascertain what should be the shape, direction, and balance of the program as a whole.

Program Memoranda are published biennially, in conjunction with the submission of program plans and the budget. The Program Memoranda are expected to be delivered to the Legislature by the opening day (in January) of each odd-numbered calendar year sessions.

The Variance Report: The Variance Report is a document which attempts to compare each year's estimate of revenues, expenditures, personnel, activities, and accomplishments with actual figures for those items. The purpose of this report is to identify and explain variances in actual program performance and planned program performance. Variance in effectiveness, costs, personnel positions, and program size indicators (target groups and activities) are included.

Variances shown in the Variance Report are based on information pertaining to three periods: the last completed fiscal year, the first three months of the fiscal year in progress, and the last nine months of the fiscal year in progress. Certain variances, however, are described by comparing the data for two complete fiscal years rather than considering the year in progress in terms of three-month and nine-month periods. The specific variances shown for a program depend on the type of data and the program's position in the program structure.

Variance Reports are published annually, no less than twenty days prior to the convening of each regular session of the Legislature, for use in the legislative session convening the following January. The Variance Report is the only document required on an annual basis.

The Supplemental Budget: During each even-numbered year's legislative session, the Administrative Director may submit to the Legislature a Supplemental Budget to amend any appropriation for the current fiscal biennium. The Supplemental Budget must reflect the changes being proposed in the Judiciary's program and financial plan. The document is not a legal biennial requirement, but as a practical matter, it is almost a certainty that one will be required every other year.



The Planning-Budgeting Cycle

At the beginning of this chapter a description was given on how the comprehensive planning process of the Judiciary has been integrated with its existing budgetary process called Program Planning and Budgeting (PPB). This integration between formalized planning and institutional budgeting can be illustrated by the various phases and steps involved in the integrated system called the *planning-budgeting cycle*.

The planning-budgeting cycle of the Judiciary is divided into five operational *phases* which represent specific planning and budgeting activities. These phases are:

- The Development of Strategic Plans
- The Development of Multi-Year Program Plans
- Implementation
- Evaluation of Performance
- Review

Each of the five phases contains a series of steps which represent distinct planning and budgeting activities. (Those steps relating to the planning cycle are outlined in Chapter 5. Figure 9.1 shows the relationship between the planning and budgeting cycles.) The phases and their related steps are described below.

PHASE ONE: The Development of Strategic Plans

The Strategic Planning phase involves the development of long-range strategic plans for the organization as a whole which focus on the formation of strategic goals and the strategies and policies which will be used to accomplish those goals. The development of strategic plans take into consideration the missions of the organization, anticipated or current issues, and the future environment which may effect the organization. Strategic plans also include

priority directions which designate areas needing special emphasis and broad organizational policy which provide guidance for all other planning in the organization.

The development of strategic plans consists of three basic steps. They are identified below.

STEP 1. The Identification of a Desired State of Condition or End-Result for the Organization: The first step towards the development of a strategic plan involves the identification of some state or condition or end-result which is desired for the organization as a whole at some time in the future.

The procedure used to develop such strategic plans is the strategic planning conference. This conference is conducted by the planning office and is attended by the principal decision-makers of the Judiciary—the Chief Justice, the Administrative Director of the Courts, the Deputy Administrative Director of the Courts, the Budget and Fiscal Director, and such other persons as may be necessary. During this conference, issues confronting the Judiciary as well as its "future" are discussed in terms of the conditions, states or end-results which are desired for the organization at some time in the future.

STEP 2. Preliminary Assessment of the Proposed Goals by the Planning Office: Assuming that top management has identified a future state or condition or end-result which is desired for the organization as a whole, a preliminary assessment of the proposed goals is then made by the planning office. The end-result of this step is the formulation of a proposal which specifically outlines what desired conditions are being sought; the various alternative ways the goal can be achieved; and, the identification of those programs responsible for achieving the plans. This proposal is sent to the participants of the strategic planning conference for their review and approval.

STEP 3. Determination of Strategy: Assuming that alternative strategies to achieving the condition or state or end-result desired by top management have been identified and analyzed by the planning office and presented in the form of a proposal to the participants of the strategic planning conference for their review, these decision-makers now have the responsibility to select the alternative they wish the organization to pursue. Once an alternative is chosen, it constitutes the "master" strategy for achieving the desired conditions embodied in the proposed goal.

Phase One: The Development of Strategic Plans

The Planning Cycle

- Step 1 The identification of a desired state or condition or end-result for the organization by top management.
- Step 2 Preliminary assessment of the proposed goal by the planning office.
- Step 3 Determination of strategy by top management.

The Budgeting Cycle

- Step 1 Determination of the program structure.

Phase Two: The Development of Multi-Year Program Plans

The Planning Cycle

- Step 4 Coordinating the development of program plans.
- Step 5 Review and approval of program plans.

The Budgeting Cycle

- Step 2 Preparation of multi-year program plans.
- Step 3 Review of program plans for completeness.
- Step 4 Analysis of program plans.
- Step 5 Issuance of program plan decisions.

Phase Three: Implementation of Multi-Year Program Plans: Development of Operating and Financial Plans and the Budget

The Planning Cycle

- Step 6 Development of operating plans.
- Step 7 Review and approval of operating plans.
- Step 8 Execution of plans.

The Budgeting Cycle

- Step 6 Issuance of budget instructions.
- Step 7 Review of budget requests.
- Step 8 Analysis of budget requests.
- Step 9 Budget requests and executive review.
- Step 10 Preparation of the Budget and the Multi-Year Financial Plan; preparation of the Program Memoranda.
- Step 11 Legislative analysis of the Multi-Year Financial Plan and the Budget.
- Step 12 Legislative Action.
- Step 13 Modification of Multi-Year Financial Plan. Issuance of budget execution policies. Preparation of quarterly expenditure, revenue, activity, personnel and effectiveness estimates.
- Step 14 Establishment of appropriation account codes.
- Step 15 Update of the Program Plan file and Budget Data file.
- Step 16 Establishment of the Appropriation Ledger Accounting System file.
- Step 17 Accounting transactions.

Phase Four: Evaluation of Performance

The Planning Cycle

- Step 9 Strategic control.
- Step 10 Management control.
- Step 11 Operational Control.

The Budgeting Cycle

- Step 18 Issuance of instructions for Variance Report preparation.
- Step 19 Review of the Variance Report data and establishment of the Variance Data file.
- Step 20 Preparation of the annual Variance Report.

Phase Five: Review

The Planning Cycle

- Step 12 Review.

The Budgeting Cycle

- Step 21 Program change requests, program analysis, and update of Program Plan file.

Fig. 9.1 Relationship of the Planning Cycle with the Budgeting Cycle

**PHASE TWO:
The Development of Multi-Year Program Plans**

The program planning phase involves the development of multi-year program plans which represent the "means" by which the goals of the strategic plan are achieved by the operating divisions or programs of the organization.

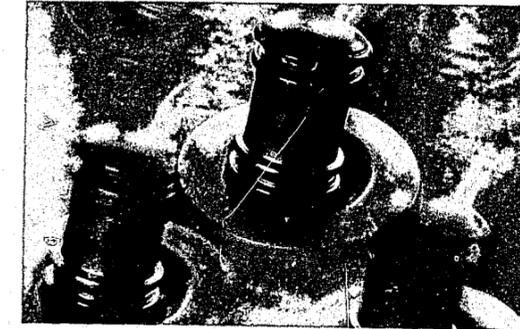
The goals or the programs are derived from the goals of the organization as a whole. They are functional in nature and serve to define the particular program in relation to the Judiciary goals. As such, they do not readily lend themselves to cost analysis. Therefore, the formulation and selection of these intermediate-level goals are not bound by budgetary constraints. Rather, once these intermediate-level goals are selected, the role of PPB is to analyze the cost and benefits of the various strategies formulated to attain a given goal. These strategies are formulated in the operational planning phase. Accordingly, the integration of planning and budgeting is concentrated in the lower operational levels of the planning hierarchy where the formulation of specific courses of action, or objectives, which can be measured in terms of costs, can be found.

The development of multi-year program plans involves the following steps.

STEP 4. Coordinating the Development of Multi-Year Program Plans: It is a function of the planning office to coordinate the development of all plans formulated by the programs affected by the strategic plan. To properly undertake this function, the planning office must contact the persons responsible for developing such plans for a program and communicate to them what top management wishes to attain. The purpose of the conference is to determine how each program can achieve the goals of the organization; that is, what strategy each program should follow.

Each affected program is expected to formulate its own plan to best effectuate the goals of the strategic plan. Assistance from the budget and personnel offices may be necessary to formulate these plans. It is also anticipated that the program may require technical assistance from the planning office to develop and implement program plans. Such assistance will be rendered as the situation may from time to time require.

STEP 5. Preparation of Multi-Year Program Plans: In even-numbered calendar years, the planning office will issue instructions for the preparation of

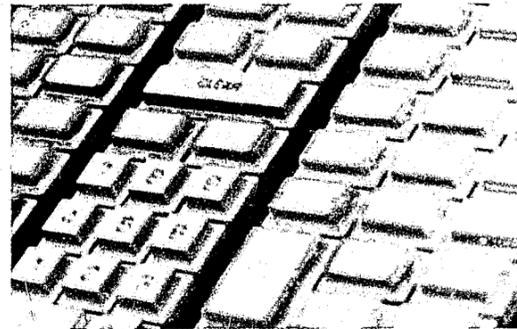


multi-year program plans. If a Current Approved Program Plan is already on record, then it is expected that all that will be required is the addition of tabular data for two additional biennial planning years. It is anticipated that computer-prepared tables will be furnished, indicating the data for the Current Approved Plan as recorded in the Program Plan File. Space will be provided for program managers to indicate any change from the plan as recorded and to add two additional years' data. All changes will require an explanation by the program manager.

In addition to updating the Current Approved Plan, the programs may wish to request that basic changes be made from the plan as currently approved, in which case a Program Change Request (PCR)—with appropriate analysis, etc.—must be submitted for approval. The PCR may sometimes be referred to as the Recommended Program Plan. If approved, the Recommended Program Plan will become the new Current Approved Plan for the Program.

Multi-year program plans are prepared during even-numbered calendar years only (budget preparation years). The plans include data for the two forthcoming Budget Period years, the two years preceding the Budget Period, and the four years following the Budget Period.

STEP 6. Review of Multi-Year Program Plans for Completeness and Establishment of the Program Plan File: As multi-year program plans are received by the planning office, they are reviewed to determine that they are complete in terms of supplying the information requested in the required format. Copies of the program plan are also distributed to top management and the budget office with instructions to review the merits of the plan. Thereafter, a joint meeting of top management, the budget office, and the planning office is held to determine



whether the proposed program plan should be approved. If the plan as written is approved, it is sent back to the program with instructions on what to do next and a copy is retained by the planning office in the Program Plan File. Usually, the instructions will be to develop an operating plan. If, however, the plan is not approved, it is sent back to the program with instructions reciting the reasons for the disapproval, the areas of the plan needing work, other alternatives to consider, etc. The program then amends its plan or devises a new one. The amended plan is sent to the planning office for approval and the review is sent into motion once again.

STEP 7. Issuance of Program Plan Decisions; Update of Program Plan File: Based on the analysis of the multi-year program plans, decisions will be issued indicating the approval or disapproval of the Current Approved Programs—also, if Program Change Requests have been approved, approved with modifications, or disapproved. These decisions will define a new multi-year Current Approved Program and are to be adhered to in preparing the forthcoming budget. Since the decisions will be based on analyses made by the operating divisions at the program plan level and by other organizations at higher levels in the program structure, the subsequent budget preparation process should be largely an itemization of the required details for the appropriate two years of the planning-budgeting period, within the specified cost and personnel position limitations.

PHASE THREE: Implementation of the Multi-Year Program Plans: Development of Operating and Financial Plans and the Budget

The implementation phase involves the actual implementation of the multi-year program plans by the programs to which they correspond. Implementation is the process of translating intermediate

Phase One: The Development of Strategic Plans

- Step 1 The Identification of a Desired State or Condition or End-Result for the Organization.
- Step 2 Preliminary Assessment of the Proposed Plans by the Planning Office.
- Step 3 Determination of Strategy.

Phase Two: The Development of Multi-Year Program Plans

- Step 4 Coordinating the Development of Multi-Year Program Plans.
- Step 5 Preparation of Multi-Year Program Plans.
- Step 6 Review of Multi-Year Program Plans for Completeness and Establishment of the Program Plan File.
- Step 7 Issuance of Program Plan Decisions; Update of Program Plan File.

Phase Three: Implementation of Multi-Year Program Plans: Development of Operating and Financial Plans and the Budget

- Step 8 Issuance of Budget Instructions; Preparation of Operating Plans.
- Step 9 Review and Analysis of Budget Requests—Operating Plans; Budget and Plan Recommendations.
- Step 10 Update of Budget Data File and Program Plan File in Accordance with Budget Decisions.
- Step 11 Preparation of the Budget and the Multi-Year Program and Financial Plan.
- Step 12 Legislative Analysis of the Multi-Year Program and Financial Plan and Budget.
- Step 13 Legislative Action.
- Step 14 Modification of the Multi-Year Program and Financial Plan. Issuance of Budget Execution Policies. Preparation of Quarterly Expenditure, Revenue, Activity, Personnel and Effectiveness Estimates.
- Step 15 Establishment of Appropriation Account Codes.
- Step 16 Establishment of the Appropriation Ledger Accounting System File.
- Step 17 Accounting Transactions.

Phase Four: Evaluation of Performance

- Step 18 Issuance of Instructions for Variance Report Preparation.
- Step 19 Review of the Variance Report Data and Preparation of the Annual Variance Report.

Phase Five: Review

- Step 20 Program Change Requests, Program Analysis, and Update of Program Plan File.

Fig. 9.2 Summary of the Planning-Budgeting Cycle of the Judiciary

plans such as multi-year program plans into results. Thus, implementation may consist of action on the basis of the strategy outlined in the multi-year program plan and the development of program change requests.

It is during the implementation phase that various *alternative* courses of action for achieving program goals are considered. PPB recognizes that there are several alternative courses of action, or strategies, for achieving any given goal and that determining the appropriate strategies require the consideration of cost in relation to anticipated benefits.⁸

The presentation of the selected goals, objectives, and related costs for each program is included in the Budget and Multi-Year Program and Financial Plan, which also includes consolidated expenditures for the Judiciary as a whole. The accumulation and summation of all this data into these two documents affords top management a better perspective in allocating resources to each program. Top management is able to compare each program's costs and benefits to the other programs, relate the costs and benefits to the organization as a whole and determine the allocation of resources on that basis. In other words, management can further direct the organization by allocating more resources to programs whose objectives focus on the attainment of "preferred" organizational goals.

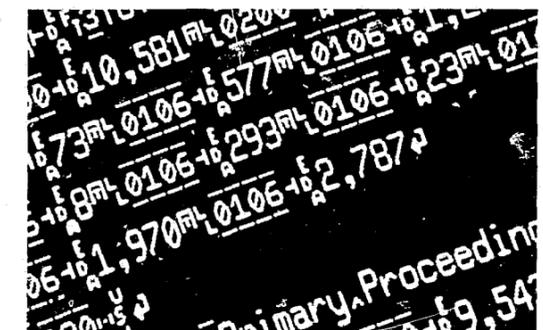
The implementation of the multi-year program plans involves the next ten steps.

STEP 8. Issuance of Budget Instructions; Preparation of Operating Plans: Implementation of a program plan is initiated by the budget office's budget instructions for the preparation of budget requests to the program managers or the division supervisors of each program who are responsible for implementing the program plans. This operation is largely one of detailing the costs of implementing the program plans as approved.

STEP 9. Review and Analysis of Budget Requests—Operating Plans; Budget and Plan Recommendations: Budget requests are reviewed by the budget office for completeness and whether they are in the requested format and within the prescribed limits. They are analyzed to determine that the detailed requests represent an implementation of program plans as approved and that all required details have been provided for the preparation of the Budget. These budget requests are maintained in the Budget Data File which is used to prepare reports which are required during the budget request analysis.

Type of Activity	Action Taken
Preparation of Strategic Plans	The Identification of a Desired State or Condition or End-Result for the Organization. Preliminary Assessment of the Proposed Plans by the Planning Office. Determination of Strategy.
Preparation of Multi-Year Program Plan	Coordinating the Development of Multi-Year Program Plans. Preparation of Multi-Year Program Plans. Review of Multi-Year Program Plans for Completeness and Establishment of the Program Plan File. Issuance of Program Plan Decisions; Update of Program Plan File.
Preparation of Operating Plans	Issuance of Budget Instructions; Preparation of Operating Plans. Review and Analysis of Budget Requests—Operating Plans; Budget and Plan Recommendations. Update of Budget Data File and Program Plan File in Accordance with Budget Decisions. Preparation of the Budget and the Multi-Year Program and Financial Plan and Budget. Legislative Analysis of the Multi-Year Program and Financial Plan and Budget. Legislative Action. Modification of the Multi-Year Program and Financial Plan. Issuance of Budget Execution Policies. Preparation of Quarterly Expenditure, Revenue, Activity, Personnel and Effectiveness Estimates.

Fig. 9.3 Activities Involved in the Planning-Budgeting System of the Judiciary



STEP 10. Update of Budget Data File and Program Plan File in Accordance with Budget Decisions:

Once the budget recommendations have been made and the final decisions have been issued, the two basic files of information (Planning and Budget) will be updated accordingly. This is scheduled for November and is required in order to produce the Budget and Multi-Year Financial Plan, which are submitted to the Legislature in December of each even-numbered calendar year.

STEP 11. Preparation of the Budget and the Multi-Year Program and Financial Plan: Although the Budget and the Plan could be prepared as two separate documents, the administration has chosen to combine the plan and budget documents into a single submittal, the Plan-Budget. The Plan-Budget is prepared by the budget office.

STEP 12. Legislative Analysis of the Multi-Year Program and Financial Plan and Budget: During the Legislative Session, the Legislature will hold hearings on, and make analyses of, the Multi-Year Program and Financial Plan and Budget as submitted by the Chief Justice of the Supreme Court. Available to the Legislature, to assist in the analyses, are specially requested reports which will be prepared by the budget office or the affected program. The reports will be prepared in accordance with the Legislature's requirements.

STEP 13. Legislative Action: By the close of the session, the Legislature issues its appropriation bills, budgeting funds for the next biennial period, or modifying appropriations for the current biennial period. The bills will appropriate funds based on the budget as submitted as well as funds for projects the requests for which were initiated by the Legislature itself. The bills are then submitted for Executive review and signing into law.

STEP 14. Modification of the Multi-Year Program



and Financial Plan. Issuance of Budget Execution Policies. Preparation of Quarterly Expenditure, Revenue, Activity, Personnel and Effectiveness Estimates: Upon passage of the Appropriations Acts, necessary modifications must be made to the multi-year program plans in order to reflect the action taken by the Legislature. The budget office then issues Budget Execution Policies for the operating departments to follow during the year. The operating departments then prepare monthly estimates of expenditures, revenues, activities, personnel, and accomplishments for each program plan. These estimates will be used later in the cycle in the preparation of the Variance Report.

STEP 15. Establishment of Appropriation Account Codes: Account codes are established for each program specified in the Appropriation Acts. The codes are used in the recording of expenditure, encumbrance, and other accounting transactions.

STEP 16. Establishment of the Appropriation Ledger Accounting System File: This file is part of the Statewide Accounting System and is established primarily for the Department of Accounting and General Services (DAGS) purposes, based on DAGS' instructions.

STEP 17. Accounting Transactions: Throughout the year, expenditures, encumbrances, revenues, and other accounting transactions are recorded as part of the Statewide Accounting System. This information will be used in preparation of variance reports.

**PHASE FOUR:
Evaluation of Performance**

Once a plan is complete, the function of management becomes one of control. That is to say, once plans have been developed and implemented, they must be evaluated to determine whether they actually result in the kind of performance that is consistent with the original thinking of management. Thus, the evaluation of performance phase involves appraising progress towards objectives.

The PPB system uses an integrative approach to measure program performance by matching the budgetary considerations of costs expended with the planning considerations involved with the attainment of objectives. Therefore, in addition to the traditional approach of accumulating data on program expenditures,⁹ PPB also requires the accumulation of data on the success of the programs in attaining their objectives.

The evaluation process covers all programs but normally isolates and directs immediate attention to programs whose actual performance deviates significantly from planned levels. This generally involves an assessment of the following factors and circumstances:

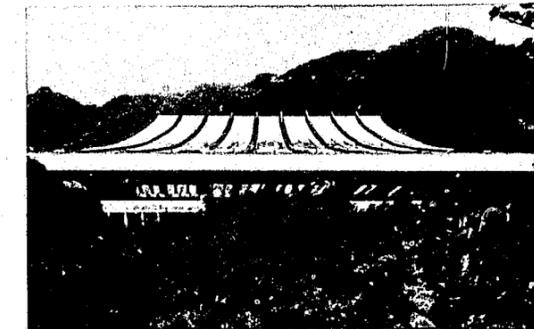
1. Identification of variances from planned levels of performance and the causes of such variances.
2. Proposed changes to reduce or eliminate the variances.
3. Consideration of alternatives, i.e., more efficient courses of action for achieving program goals. This exercise should be performed regardless of whether the program is achieving its objectives simply because one of the basic objectives of PPB is to continually seek out more effective and efficient ways of attaining the goals of a program.
4. A report to top management of the above and other relevant comments.

The evaluation of program performance helps both program administrators and top management determine how well the programs are progressing in attaining their objectives and whether the organization's funds have been expended as effectively and efficiently as possible. In addition, rather than solely evaluating each program for its own achievements, they can be evaluated on the basis of their contribution towards the achievement of organizational goals.

The evaluation of program performance, which is undertaken primarily by the budget office, consists of two steps. They are identified below.

STEP 18. Issuance of Instructions for Variance Report Preparation: Each year estimates of revenues, expenditures, personnel, activities, and accomplishments are compared with the actual figures for those items. In August of each year, the instructions for preparing Variance Reports, along with certain pre-printed budget and planning data, are sent to the operating departments.

STEP 19. Review of the Variance Report Data and Preparation of the Annual Variance Report: Upon receipt of the Variance Report Data in November, it is reviewed by the budget office. This data is used for the preparation of the Annual Variance Report which is submitted to the Legislature no less than twenty days prior to the convening of each regular session.



**PHASE FIVE:
Review**

The review phase involves the analysis of accumulated data to determine whether problem areas, needs, inconsistencies, etc., exist with respect to the plans, activities, functions, and processes of the organization. The purpose of this phase is to determine what to do next and how to do it better. For out of this phase must come a clear and agreed upon understanding of *the next step*, which must then be fed back immediately into the first phase to generate better plans.

Such an analysis is undertaken on a continuing basis as part of comprehensive planning because the process of planning itself is dynamic and iterative. Indeed, information and feedback may come from a variety of sources. Thus, review activities are not confined solely to the planning office. Rather, they may be undertaken by the programs, the budget office, or even top management. The only difference between these review activities is the level and scope of review.

The principal step associated with the review phase is as follows:

STEP 20: Program Change Requests, Program Analysis, and Update of Program Plan File: As programs are continuously reviewed by the operating departments, the program managers may feel that certain changes to the plans are in order. The system provides for program change requests at any time. If approved, the Program Plan File is updated accordingly. Program analysis can take place at any time, with resultant recommendations made by the planning office, the budget office or the programs themselves.

Summary

In this chapter we examined the budgetary system

of the Judiciary and described how it has been integrated with the comprehensive planning process to produce an effective management tool for directing, controlling, coordinating, and reviewing the activities of the organization while also insuring the proper implementation of the plans of the Judiciary and its programs. Briefly, this integration of formalized planning and budgeting occurs through:

- the preparation and submission of budget requests which focus on program objectives derived from organizational goals which, in turn, flow from the principal missions of the organization;¹⁰
- the consideration of alternative courses of action for achieving a given goal on the basis of anticipated benefits and estimated costs; and,
- the monitoring and evaluation of program per-

formance as measured by the achievement of objectives and the expenditure of funds.

This comprehensive and integrative approach to planning and budgeting provides the principal decision-makers with an understanding of the judicial system and its constituent parts in terms of direction, goals, activities, objectives, costs, and performance. It thereby enhances the ability of top management to formulate resource allocation decisions which will optimize the effectiveness and efficiency of the Judiciary in providing a multitude of services to the people of Hawaii. Equally important, it is anticipated that this approach will foster a better understanding of the Judiciary on the part of the program administrators and the members of the Legislature which, in the end, will contribute towards the betterment of Hawaii's judicial system.

1. Briefly, a line-item budgetary system is one in which the principal budget categories consists of organizational units and objects of expenditures. The emphasis of such a system is on control. It is used to establish a uniform framework for developing and maintaining orderly records which comply with the requirements of the law. Thus, its principal focus is on the execution of specific tasks to insure that funds expended are only for items or services specifically authorized.

2. Some of the more prominent deficiencies of the line-item budgetary system are (a) its obvious emphasis on the control of expenditures rather than on the planning aspects; (b) its apparent emphasis upon the resources needed and the process of work rather than the results desired (in terms of goals and objectives) and the purposes of work; (c) its short-range focus in terms of next year's cost and program requirements rather than on the attainment of long-range strategic goals and missions of the organization; (d) its absence of systematic analysis of the costs and benefits of alternative courses of action; and, (e) its absence of any concerted effort to measure the effectiveness of programs in terms of achievement towards stated objectives.

3. See Appendix H, *infra.*, for the entire text of Act 185, Session Laws of Hawaii (1970).

4. The integration of planning and budgeting results in the allocation of resources in accordance with the goals and objectives of the organization. Thus, while the planning process assures that all activities of the organization are directed towards the attainment of the principal missions and goals of the organization as a whole (as stated in its strategic plans), the integrative aspects of the planning process with the budgetary process assures that resources are similarly allocated towards the missions and goals of the organization as a whole which, in turn, ensures their eventual attainment.

5. The treatment of costs in Hawaii's system follows the concept of full-system costs or life-cycle costs which essentially means that all programs flow through a sequential life cycle.

6. In general, the document first presents the basic cost, means of financing, and personnel position information in terms of appropriations—as requested for the budget period (The Budget), and as expected to be required for the entire planning period (The Plan). The program plan cost details focus on expenditure rather than appropriation data.

7. Costs are shown for the preceding two-year period (in total), for each of the budget period years, and for the total of the two budget period years. Also shown are the actual and percentage increases (or decreases) from the preceding two-year period to the budget period.

8. Different alternatives will have varying costs and anticipated benefits depending on their scope and nature. The alternative which produces the most acceptable results in terms of anticipated benefits may have a prohibitive cost while an alternative which is the least expensive may produce such negligible benefits that the expenditures on such an endeavor may be considered inefficient. Thus, in selecting from the various alternatives, the decision-maker must strike a balance between costs expended and benefits derived. Such a consideration should focus on a long-range perspective rather than on a one-year orientation. Indeed, the cost implications and anticipated benefits of each alternative should be projected for several ensuing years to insure that the best possible alternatives are selected.

9. In the traditional line-item budget, program performance is normally measured by comparing the actual expenditure of funds with the planned amounts. This measure of "performance" did not indicate how well the funds were expended because measures of program benefits or achievements were neither established nor monitored.

10. To ensure that the program objectives are derived from the goals of the organization, we devised a comprehensive coding system (Chapter Seven) to bridge the gap between the conceptual and sometimes nebulous organizational goals and the concrete and measurable program objectives.



Part V
A Preliminary Statement
of the Principal Goals
of the Judiciary
and its Programs

The Judiciary Goals

10

The preceding parts examined the judicial system of Hawaii and its comprehensive planning process. This Part examines the substantive aspect of comprehensive planning; namely, the goals of the Judiciary and its programs. Chapter Ten examines the goals of the Judiciary which serve as the foundation for the development of all successive plans in the planning process. Chapter Eleven describes the goals of the programs of the Judiciary which reflect the means by which the Judiciary goals will be attained. Chapter Twelve provides a summary description of the goals of the Judiciary and its programs within the conceptual framework of the Judiciary described in Chapter Six. This chapter is intended to illustrate the application of some of the concepts described in Parts II and III as well as to demonstrate how the Judiciary can be effectively planned for as a total system.

Earlier, in Chapters Six and Seven, the conceptual framework of the Judiciary was described as well as the comprehensive coding system which was devised to identify, coordinate, and relate the various component parts of the planning process. In this chapter, the foundation is laid for the development of all successive plans in the comprehensive planning process by identifying and specifying the principal goals of the Hawaii Judiciary.

The Judiciary Goals

The judiciary goals are broad statements of the end-result or condition desired toward the achievement of which the resources and energies of the organization are to be directed. As such, they are necessarily comprehensive in scope and long-range in perspective, and can be likened to qualitative "states" or "targets" which collectively define where the organization as a whole is going. The judiciary goals therefore provide positive direction for the entire judicial system.

For the most part, the goals of the Judiciary represent the logical extension of the organization's principal missions which have been discerned from an analysis of its present functions and activities. Thus, in most cases, the goals have a functional basis. In certain instances, however, they embody the subjective preferences, policies, and priorities of the principal decision-makers of the organization as expressed in the form of priority directions. To that extent, therefore, the Judiciary goals reflect the management decisional process of the judicial system.

The Judiciary goals also represent the unifying theme as well as the conceptual basis for the subsequent development of program goals and objectives which are more finite and specific statements of how a particular organizational unit of the Judiciary will achieve an organizational goal. The program goals will be presented in the next chapter.

The statewide goals of the Judiciary, together with their respective identification numbers, are set forth below. They are presented in accordance with the dimension to which they correspond under our conceptual framework of the Judiciary discussed in Chapter Six.

The Goals of the Judiciary as a Government Branch

- To maintain the Judiciary's status as an independent and co-equal branch of State government. (GB-1)
- To properly exercise the judicial power of the State. (GB-2)
- To insure to the people of this State the highest standards of justice attainable under our constitutional system of government. (GB-3)
- To ensure that the judicial branch of State government is open and accountable to the citizens of the State. (GB-4)

The Goals of the Judiciary as a Dispute Resolution Forum

- To safeguard the rights and interests of persons by

determining, in a manner consistent with the Constitution of the State and the United States, all cases within the jurisdiction of the state courts. (DR-1)

- To equitably, effectively and expeditiously resolve cases by judicial decisions that agree with the facts of the case while insuring that such facts are obtained in accordance with the rules of procedure and evidence. (DR-2)

- To maintain a judicial process that minimizes procedural complexity while promoting fairness and promptness. (DR-3)

- To maintain a judicial process that insures to the people of this State the highest standards of justice attainable. (DR-4)

- To administer the judicial process fairly and promptly from initial filing to final disposition. (DR-5)

- To investigate, develop, and implement appropriate changes in court structure process, and procedures for dispute resolution. (DR-6)

- To provide for equal and ready access to the adjudicatory services of the Judiciary. (DR-7)

The Goals of the Judiciary as a Public Agency

- To improve the functioning of the statewide court system by employing sound management practices and techniques. (PA-1)

- To develop and maintain a management information processing system that is modern, timely and relevant. (PA-2)

- To ensure the uniform delivery of services statewide of the highest possible quality. (PA-3)

- To provide reasonable balance between centralized decision-making and decentralized administrative flexibility in meeting locality-specific requirements. (PA-4)

- To assist the public in understanding the Judiciary, its responsibilities and functions and services it provides. (PA-5)

- To provide equal and ready access to the non-adjudicatory services of the Judiciary and to court records where appropriate. (PA-6)

The Goals of the Judiciary as a Subsystem of the Legal System

- To maintain a continuing liaison and cooperate with all agencies and persons within the legal system to improve and coordinate activities for the effective overall administration of justice. (LS-1)

- To reduce the impediments to justice unnecessarily resulting from the separation of powers doctrine, federalism and the rigid boundaries which have traditionally isolated the various parts—police, attorneys, prosecutors, public defenders—of the legal system. (LS-2)

- To assist in the assessment and revision of the substantive and procedural laws of Hawaii. (LS-3)

- To assist, where appropriate, in the investigation and development of alternative methods for dispute resolution external to the courts. (LS-4)

The Goals of the Judiciary as a Subsystem of a Changing Society

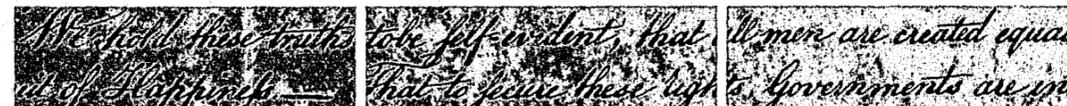
- To assist in solving community problems and pursue social reforms as deemed appropriate when viewed from the unique perspective of the judicial branch of State government. (SI-1)

- To develop competent, specialized means to assist the Judiciary in planning to meet future needs and emerging legal issues. (SI-2)

- To develop methods and processes to critically examine basic questions concerning the proper purposes and goals of the Judiciary in a changing society. (SI-3)

Summary of the Judiciary Goals

The preceding statements of the goals of the Judiciary were identified and formulated, for the most part, from a review of its principal missions, functions and activities. In some cases, however, the goals were identified from an analysis of the historic role of the Judiciary. To facilitate easy reference to these goals, a table has been prepared which classifies and summarizes the Judiciary goals in accordance with the five-dimensional framework of the Judiciary established in Chapter Six. This table is presented on the following page.



Conceptual Framework of the Judiciary

Dimensions	The Missions of the Judiciary
Government Branch	Uphold the Constitution—the government it creates, the rights and liberties it guarantees, and the policies and principles that it embodies. (GB)
Dispute Resolution Forum	Ensure to the people of the State the highest standards of justice attainable under our system of government by assuring an equitable and expeditious resolution of all cases and controversies properly brought to the state courts. (DR)
Public Agency	Provide for, promote, and ensure the effective, economical and efficient utilization of public resources in the administration of the Judicial system. (PA)
Subsystem of the Legal System	Promote the effective and expeditious administration of justice by and among the various subsystems of the legal system. (LS)
Institution of a Changing Society	Anticipate and respond to the changing judicial needs of society. (SI)
Dimensions	The Goals of the Judiciary
Government Branch	To maintain the Judiciary's status as an independent and co-equal branch of State government. (GB-1) To properly exercise the judicial power of the State. (GB-2) To insure to the people of this State the highest standards of justice attainable under our constitutional system of government. (GB-3) To ensure that the judicial branch of State government is open and accountable to the citizens of the State. (GB-4)
Dispute Resolution Forum	To safeguard the rights and interests of persons by promptly hearing and effectively and equitably determining, in a manner consistent with the Constitution of the State and the United States, all cases within the jurisdiction of the state courts. (DR-1) To equitably, effectively, and expeditiously resolve cases by judicial decisions that agree with the facts of the case while insuring that such facts are obtained in accordance with the rules of procedure and evidence. (DR-2) To maintain a judicial process that minimizes procedural complexity while promoting fairness and promptness. (DR-3) To maintain a judicial process that insures to the people of this State the highest standards of justice attainable. (DR-4) To administer the judicial process fairly and promptly from initial filing to final disposition. (DR-5) To investigate, develop, and implement appropriate changes in court structure process, and procedures for dispute resolution. (DR-6) To provide for equal and ready access to the adjudicatory services of the Judiciary. (DR-7)
Public Agency	To improve the functioning of the statewide court system by employing sound management practices and techniques. (PA-1)

**Subsystem of the
Legal System**

To develop and maintain a management information processing system that is modern, timely and relevant. (PA-2)

To ensure the uniform delivery of services statewide of the highest possible quality. (PA-3)

To provide a reasonable balance between centralized decision-making and decentralized administrative flexibility in meeting locality-specific requirements. (PA-4)

To assist the public in understanding the Judiciary, its responsibilities and functions, and services it provides. (PA-5)

To provide equal and ready access to the non-adjudicatory services of the Judiciary and to court records where appropriate. (PA-6)

To maintain a continuing liaison and cooperate with all agencies and persons within the legal system to improve and coordinate activities for the effective overall administration of justice. (LS-1)

To reduce the impediments to justice unnecessarily resulting from the separation of powers doctrine, federalism, and the rigid boundaries which have traditionally isolated the various parts—police, attorneys, prosecutors, public defenders—of the legal system. (LS-2)

To assist in the assessment and revision of the substantive and procedural laws of Hawaii. (LS-3)

To assist, where appropriate, in the investigation and development of alternative methods for dispute resolution external to the courts. (LS-4)

**Institution of a
Changing Society**

To assist in solving community problems and pursue social reforms as deemed appropriate when viewed from the unique perspective of the judicial branch of State government. (SI-1)

To develop competent specialized means to assist the Judiciary in planning to meet future needs and emerging legal issues. (SI-2)

To develop methods and processes to critically examine basic questions concerning the proper purposes and goals of the Judiciary in a changing society. (SI-3)

The Program Goals

11

In the preceding chapter, the principal goals of the Judiciary as a whole were presented. In this chapter, the goals of the eight major programs of the Judiciary will be set forth, together with their respective identification numbers.

The Program Goals (Generally)

Under the hierarchical scheme of missions, goals and objectives that result from our comprehensive approach to planning, immediately following the statewide goals of the Judiciary are the program goals. These goals are general statements of the end-result or condition desired by a particular program of the Judiciary for the accomplishment of which a course of action is to be determined.

Program goals reflect desired states or conditions with respect to the existing activities of a program in terms of both the size of those activities (quantitative aspects) as well as what they are expected to accomplish (qualitative aspects).

The program goals differ from the judiciary goals in two important respects. First, in terms of their substantive content, program goals are, relatively speaking, factually more specific and conceptually less abstract than judiciary goals (though they are not quite as specific and concrete as the program objectives).

Secondly, because of their shorter time frame and narrower scope, program goals are more susceptible to quantification. By comparison, the judiciary goals are comprehensive in scope and long-range in perspective and, by their very nature, are gener-

ally not susceptible to quantification.

The program goals flow directly from the organizational goals of the Judiciary and serve in some manner to implement them. In every case, therefore, the goals of the Judiciary and the goals of its constituent programs are *directly related*. This relationship is reflected in the code designations for the program goals which make reference to one or more of the judiciary goals to which a given program goal relates.

The Program Goal Statements

The program goals which follow have been formulated by the top administrators of the various programs of the Judiciary during a series of planning conferences held for that purpose. The goals, for the most part, were discerned from a review of the present activities of the programs. In some instances, however, the goals were derived from an analysis of the major functions of a program. Some of the program goals, therefore, have a functional origin.

The goal statements for each program of the Judiciary are preceded by a brief narrative description of the major characteristics of the program under consideration. These narrative descriptions recite those features of a program which serve to distinguish it from the other programs. The eight programs of the Judiciary and their respective goals are presented in the same order in which they appear in the budgetary program structure discussed in Chapter Two.

I. Courts of Appeal (JUD 101)

Program Description:

The Courts of Appeal program consists of the Supreme Court and the new Intermediate Court of Appeals. They are responsible for the administration of justice in appellate proceedings, the expeditious determination of all proceedings, and the proper administration of all courts.

The Supreme Court is the highest judicial body in Hawaii's court system. As such, it exercises ultimate administrative responsibility and rule-making power for all courts in the State and is empowered to issue all writs necessary and proper to carry out its appellate function.

The Supreme Court is also responsible for examining and granting licenses to practice law in Hawaii as well as to establish professional standards of conduct and to discipline members of the legal profession.

The Intermediate Court of Appeals was established to handle the more routine appellate cases of reviewing trial court determinations for errors and to correct such errors thereby relieving the Supreme Court from this very necessary but time-consuming function and allowing it to devote more time to its principal duty of selective review and the formulation of decisional law.

Program Goals:

- To promptly hear and conclusively determine, in a manner consistent with the proper exercise of the appellate power, all questions of law, or mixed law and fact, which arise from decisions of the lower courts and are properly brought on any appeal allowed by law. (JUD 101-1:GB-2,3)
- To exercise the ultimate rule-making power relating to the process, practice, procedures and appeals for all judicial proceedings throughout the court system so as to maintain a judicial system that minimizes procedural complexity while promoting fairness and promptness. (JUD 101-2:GB-3,DR-3)
- To provide for the continued improvement in the quality of justice in this State by establishing, enforcing and maintaining the highest standards of professional conduct for members of the legal profession and by judiciously administering the system for licensing those who practice law in this State. (JUD 101-3:GB-3,LS-1)
- To safeguard the rights and interests of individuals

by assuring an effective, equitable and expeditious review of lower court decisions for errors, and to remedy such errors, so as to provide for an appellate process that gives each case the attention and deliberation it needs without undue delay.

(JUD 101-4:DR-1,4)

- To develop and maintain a sound management system for the Courts of Appeal which incorporates the most modern administrative practices and techniques so as to insure the uniform delivery of services of the highest possible quality while providing for and promoting the effective, economical and efficient utilization of public resources.

(JUD 101-5:PA-1)

- To develop and maintain an accurate and reliable information processing system which incorporates the most advanced and sophisticated storage techniques available so as to optimize existing data storage capabilities while minimizing overall turn-around time but with due consideration for the proper handling of confidential records.

(JUD 101-6:PA-2)

- To maintain a continuing liaison with all other agencies within the legal system so as to establish and maintain a positive legal framework for the effective enforcement of the substantive and procedural laws of the State.

(JUD 101-7:LS-1,3)

- To assist in solving community problems and pursue social reforms where deemed appropriate when viewed from the unique perspective of the Courts of Appeal program.

(JUD 101-8:SI-1)

II. Land Court/Tax Appeal Court (JUD 102)

Program Description:

The Land Court, which administers a system of land registration (an adaptation of the Torrens System), is a statewide court of record based in Honolulu with exclusive original jurisdiction over all matters involving legal title to fee simple land and easements.

The Tax Appeal Court is a statewide court of record based in Honolulu with original jurisdiction in all appeals between the tax assessor and the taxpayer.

Program Goals:

- To provide for an effective, equitable and expeditious system for the adjudication and registration of title to land and easements and rights to land within the State.

(JUD 102-1:DR-1)

- To assure an effective, efficient and expeditious adjudication of all appeals between the tax assessor and the taxpayer with respect to matters of taxation committed to its jurisdiction.

(JUD 102-2:DR-1)

- To provide a guaranteed and absolute register of land titles which simplifies for landowners the method for conveying registered land.

(JUD 102-3:DR-3,7)

- To develop and maintain a sound management system for the program which incorporates the most modern administrative standards and practices so as to assure the uniform delivery of services of the highest possible quality while providing for and promoting effective, economical and efficient utilization of public resources.

(JUD 102-4:PA-1,3)

- To maintain accurate and complete court records as required by law and to permit immediate access to such records, where appropriate, by employing a records management system which minimizes storage and retention requirements.

(JUD 102-5:PA-2,5)

- To effectively assist the public in preparation of applications, petitions and appeals, and to provide where possible, research assistance to attorneys, real estate brokers and financial institutions.

(JUD 102-6:PA-5,6)

III. Circuit Courts (JUD 111)

Program Description:

The Circuit Courts are trial courts of general jurisdiction. They exercise exclusive jurisdiction in all criminal felony cases, probate and guardianship proceedings and in all civil cases involving more than \$5,000. In civil actions involving \$1,000 to \$5,000, Circuit Courts have concurrent jurisdiction with the District Courts. Appeals are made directly to the Intermediate Court of Appeals and the Supreme Court.

Program Goals:

- To assure a proper consideration of all competing interests and countervailing considerations intertwined in questions of law arising under the Constitution of the State and the United States in order to safeguard individual rights and liberties and protect the legitimate interests of the State and thereby ensure to the people of this State the highest standard of justice attainable under our system of government.

(JUD 111-1:GB-2,3)

- To administer a system for the selection of qualified individuals to serve as jurors so as to insure fair and impartial trials and thereby effectuate the constitutional guarantee of trial by jury.

(JUD 111-2:GB-3)

- To safeguard the rights and interests of persons by assuring an effective, equitable and expeditious resolution of civil cases properly brought to the Circuit Courts by providing a proper legal remedy for legally recognized wrongs.

(JUD 111-3:DR-1)

- To provide for the fair and prompt resolution of criminal proceedings so as to insure public safety and promote the general welfare of the people of the State but with due consideration for safeguarding the constitutional rights of the accused.

(JUD 111-4:DR-1)

- To assure an effective and equitable review and prompt determination of all administrative appeals generated from decisions of the adjudicatory forums of other governmental agencies of the State.

(JUD 111-5:DR-1)

- To properly effectuate the provisions of the probate code so as to preserve, protect and secure the right of succession to property and wealth in this State.

(JUD 111-6:DR-1)

- To conduct presentence and other predispositional investigations in a fair and prompt manner for the purpose of assisting the criminal courts in rendering appropriate sentences and other dispositions with due consideration for all relevant facts and circumstances.

(JUD 111-7:DR-2)

- To administer, to the fullest extent permitted by law the judgments pronounced by the Circuit Courts so as to maintain the integrity of the judicial process.

(JUD 111-8:DR-2,4)

- To ensure the public equal and ready access to the adjudicatory forums of the program by creating an awareness and understanding of the Circuit Courts' functions and activities so as to assure every person the right to his day in court.

(JUD 111-9:DR-6,PA-5)

- To develop and maintain a sound management system for the Circuit Court program which incorporates the most modern administrative practices and techniques so as to assure the uniform delivery of services of the highest possible quality while providing for and promoting the effective, economical and efficient utilization of public resources.

(JUD 111-10:PA-1)

- To maintain accurate and complete court records as required by law and to permit immediate access to such records, where appropriate, by employing a records management system which minimizes storage and retention requirements.

(JUD 111-11:PA-2)

- To maintain a continuing liaison with other agencies within the legal system so as to provide for and establish and maintain a positive legal environment for the effective enforcement of the substantive and procedural laws of the State.

(JUD 111-12:LS-1)

- To supervise convicted and deferred law violators who are placed on probation or given deferments of guilty pleas by the courts to assist them towards socially acceptable behavior and thereby promote public safety.

(JUD 111-13:SI-1)

IV. Family Court (JUD 112)

Program Description:

The Family Courts are specialized courts of record with exclusive original jurisdiction in cases involving children, family and domestic matters. The types of cases handled by the Family Courts include the following:

- marital actions, which include divorces, annulments, separations and enforcement of family support judgments;
- adoptions and paternity cases;
- certain criminal cases involving spouses or children;
- juvenile cases, including minors referred to the court because of a law violation or a behavioral problem; and,
- involuntary commitments of mentally ill persons.

All appeals from the Family Courts are filed with the Supreme Court, and then assigned to the appropriate appeals court.

Program Goals:

- To assist and protect children and families whose rights and well-being are jeopardized by securing such rights through action by the court thereby promoting the community's legitimate interest in the unity and welfare of the family and the child.

(JUD 112-1:GB-3)

- To provide a forum for the fair and prompt resolution of domestic and juvenile matters to the end that

children and families whose rights and well-being are jeopardized shall be assisted and protected and secured in those rights.

(JUD 112-2:DR-5)

- To provide for the fair and prompt resolution of all criminal proceedings coming within the jurisdiction of the Family Courts so as to insure public safety and promote the general welfare of the people of the State but with due consideration for safeguarding the constitutional rights of the accused.

(JUD 112-3:DR-1)

- To administer, to the fullest extent permitted by law, the order and decrees pronounced by the family courts so as to maintain the integrity of the judicial process.

(JUD 112-4:DR-2,4)

- To develop and maintain a sound management system for the family court program which incorporates the most modern administrative practices and techniques so as to assure the uniform delivery of services of the highest possible quality while providing for and promoting the effective, economical and efficient utilization of public resources.

(JUD 112-5:PA-1)

- To maintain accurate and complete court records as required by law and to permit, where appropriate, immediate access to such records, by employing a records management system which minimizes storage and retention requirements.

(JUD 112-6:PA-2)

- To ensure the public equal and ready access to the adjudicatory forums of the Family Courts by creating an awareness and understanding of its functions and activities.

(JUD 112-7:PA-5)

- To maintain a continuing liaison and coordination with other agencies within the legal system in order to provide for the effective administration of justice by and among all agencies who deal with matters within the purview of the family court system.

(JUD 112-8:LS-1)

- To supervise law violators who are placed on probation by the family courts to assist them towards socially acceptable behavior and thereby promote public safety.

(JUD 112-9:SI-1)

- To protect minors whose environment or behavior is injurious to themselves or others and restore them to society as law-abiding citizens.

(JUD 112-10:SI-1)

- To transcend the strictly adjudicatory function of the Family Courts by providing a number of counsel-

ing, guidance, self-help, detention and other necessary and proper services for both children and adults and thereby effectively utilize, to the fullest extent possible, all available state and community resources, to preserve family unity and protect the rights and improve the welfare of children.

(JUD 112-11:SI-1)

V. District Courts (JUD 121)

Program Description:

The District Courts are courts of record with limited jurisdiction in civil and criminal matters and conduct non-jury trials in both types of cases.

In civil cases, District Courts have exclusive jurisdiction in actions involving not more than \$1,000. Concurrent jurisdiction is exercised with the Circuit Courts in all civil cases where the amount in controversy is more than \$1,000 but less than \$5,000.

The District Courts also have exclusive jurisdiction in all landlord-tenant cases involving residential security deposit disputes and all small claims actions which are suits where the maximum amount in controversy does not exceed \$1,000.

In criminal matters, the jurisdiction of the District Courts is limited to misdemeanors, traffic offenses and cases filed for alleged violations of county ordinances and the rules of the State's regulatory agencies. In felony cases where an arrest has been made, the District Courts are required to hold a preliminary hearing unless such hearing is waived by the accused. All trials are conducted by judges. However, criminal misdemeanor cases and civil actions involving more than \$1,000 may be transferred to the Circuit Courts for jury trial. All appeals are made directly to the Intermediate Court of Appeals and the Supreme Court.

Program Goals:

- To assure a proper consideration of all competing interests and countervailing considerations intertwined in questions of law arising under the Constitution of the State and the United States in order to safeguard individual rights and liberties and protect the legitimate interests of the State.

(JUD 121-1:GB-2,3)

- To safeguard the rights and interests of persons by assuring an effective, equitable and expeditious resolution of civil cases properly brought before the District Courts by providing a proper legal remedy

for legally recognized wrongs. (JUD 121-2:DR-1)

- To provide for the fair and prompt resolution of criminal proceedings so as to insure public safety and promote the general welfare of the people of the State but with due consideration for safeguarding the constitutional rights of the accused.

(JUD 121-3:DR-1)

- To conduct presentence and other predispositional investigations in a fair and prompt manner for the purpose of assisting the court in rendering appropriate sentences and other dispositions with due consideration for all relevant facts and circumstances:

(JUD 121-4:DR-2)

- To administer, to the fullest extent permitted by law, the judgments pronounced by the District Courts so as to maintain the integrity of the judicial process.

(JUD 121-5:DR-2,4)

- To develop and maintain a sound management system for the district court program which incorporates the most modern administrative practices and techniques so as to assure the uniform delivery of services of the highest possible quality while providing for and promoting the effective, economical and efficient utilization of public resources.

(JUD 121-6:PA-1)

- To maintain court records as required by law and to permit immediate access, where appropriate, by employing a records management system which is accurate and complete yet minimizes storage and retention requirements.

(JUD 121-7:PA-2)

- To ensure the public equal and ready access to the adjudicatory forums of the District Courts by creating an awareness and understanding of their functions and activities so as to assure every person the right to his day in court.

(JUD 121-8:PA-5,DR-6)

- To maintain a continuing liaison with other agencies within the legal system so as to provide for and establish and maintain a positive legal environment for the effective enforcement of the substantive and procedural laws of the State.

(JUD 121-9:LS-1)

- To assist the court in the prevention of crime by employing its sentencing power as a positive, constructive force for rehabilitating the individual offender.

(JUD 121-10:SI-1)

VI. Administrative Director Services (JUD 201)

Program Description:

The Administrative Director Services Program was

established to assist the Chief Justice in carrying out his constitutionally-mandated responsibility for the administration of the state court system.

The program is responsible for the overall operation of the Judiciary and the establishment of uniform policies and procedures statewide.

Within the Administrative Director Services Program are the Budget and Fiscal Office, Personnel Office, and the Planning and Research Office which are directly involved in the management function. In addition, there are the offices of Public Information, Computer Services and Volunteer Services.

Program Goals:

- To enhance the effectiveness and efficiency of judicial programs by providing executive direction, program coordination, policy development, resource allocation and fiscal control, and administrative services. (JUD 201-01:PA-1)

Budget and Fiscal Office:

- To provide current, accurate and complete financial and accounting data in a form useful to decision-makers. (JUD 201-11:PA-1)
- To establish a long-range planning and budgeting system that will serve as the mechanism by which the required resources to achieve the long-range goals and objectives of the Judiciary will be identified and articulated to top-level management. (JUD 201-12:PA-1)
- To develop a budgeting system which will result in periodic analyses of the benefits and needs of existing activities to determine where their appropriateness and benefits have diminished with changing conditions. (JUD 201-13:PA-1)
- To ensure adequate and reasonable accounting control over assets, liabilities, revenues and expenditures in accordance with generally accepted accounting principles, laws, policies and rules and regulations of the State and the Judiciary. (JUD 201-14:PA-1)

Personnel Office:

- To administer a central recruitment and examination system that will interest the most capable persons and provide a selection system that will ensure the highest caliber employee, without regard to race, color, religion, sex, national origin, ancestry,

age, physical handicap, marital status or political affiliation. (JUD 201-21:PA-3)

- To secure the ablest persons for employment at the Judiciary and maintain a well-trained, satisfied and productive work force. (JUD 201-22:PA-3)
- To maintain a Judiciary position classification/compensation plan which conforms to the State Personnel Rules and Regulations and which seeks to attract and retain competent persons at the Judiciary by establishing and maintaining a high level of efficiency and adequately compensating them for their performance. (JUD 201-23:PA-3)

- To promote judicial services of the highest quality to the citizens of Hawaii through employee development and personal growth, and to provide a harmonious and cooperative environment between Judiciary management and its employees through uniform interpretation and application of provisions contained in the collective bargaining agreements, personnel rules and regulations and Federal and State laws. (JUD 201-24:PA-3)

Planning and Research Office:

- To develop and maintain an effective and comprehensive planning capability within the Judiciary to provide the statewide organization with overall guidance and long-range direction in meeting the community's demands for judicial services. (JUD 201-31:PA-1)
- To assist top management of the Judiciary in defining long-range goals, developing and analyzing strategic alternatives and recommending the best courses of action for the orderly, systematic and coordinated development of the unified court system of Hawaii. (JUD 201-32:PA-1,3)
- To provide technical assistance to the principal administrators of the various programs of the Judiciary in the development, programming and evaluation of plans and advise and assist them in developing their own program planning capabilities through the proper application of planning concepts and methods so as to enhance the overall effectiveness and efficiency of the unified court system of Hawaii. (JUD 201-34:PA-3,4)

- To coordinate the planning process of the Judiciary with those of interfacing agencies at all levels and sectors in the legal system so as to provide for and promote the effective and expeditious administration of justice by and among all subsystems of the

legal system.

(JUD 201-35:LS-1)

- To develop and analyze new approaches to achieving the strategic goals of the Judiciary and conduct special studies relating to new methods, techniques and procedures that might be of long-term benefit to the organization so as to assist the principal decision-makers of the organization in reviewing, updating and revising the various plans of the Judiciary as external conditions change. (JUD 201-36:PA-1,DR-6,SI-2,3)

- To develop and maintain a uniform statistical information system for the statewide Judiciary which identifies what data is needed as well as how the data shall be collected, tabulated, analyzed and interpreted so as to permit the periodic reporting of statistics of court cases to the principal decision-makers of the Judiciary and thereby facilitate evaluation of influential factors or variables affecting court workload and efficiency. (JUD 201-37:PA-1,2)

- To initiate applications, from external funding sources, for projects which are consistent or compatible with the goals of the Judiciary so as to improve and enhance the overall effectiveness and efficiency in the administration of justice in Hawaii while maximizing opportunities presented by funding sources outside of the Judiciary. (JUD 201-38:PA-1,3)

Public Information Office:

- To promote public awareness and understanding of the Judiciary by disseminating information through publications, the news media and direct dealings with the general public concerning the role of the Judiciary and the services that it provides. (JUD 201-41:PA-5)
- To administer a forms control system to ensure the uniformity of all court and administrative forms and provide for the effective, economical and efficient utilization of public resources. (JUD 201-42:PA-3)
- To acquaint the Legislature with the program and policies of the Judiciary in order to convey the ongoing needs and the importance of its role as an independent branch of government. (JUD 201-43:PA-5)
- To provide publication, and associated services, for all judicial publications, both for public and internal use, and for all legal and administrative forms

used in court operations. (JUD 201-44:PA-3)

Computer Systems Office:

- To provide a statewide automated record system that is responsive to the needs of the Judiciary in order to provide accurate and timely court information. (JUD 201-51:PA-3)

Volunteer Services Office:

- To effectively utilize volunteer citizen participants from a cross-section of the community in formalized volunteer positions based on the needs of the Judiciary and the skills, talents and interest of the volunteers. (JUD 201-61:PA-3)
- To amplify the extent and level of staff services and to increase manpower-cost benefits in providing rehabilitative, administrative and clerical services to the Judiciary and its clients. (JUD 201-62:PA-3,SI-1)
- To promote the opportunities for greater citizen understanding and awareness of the purposes and activities of the Judiciary and its organizational components. (JUD 201-63:PA-5)

VII. Law Library (JUD 202)

Program Description:

Law Library and reference services are furnished through the State law library system which consists of a central collection in the Supreme Court Law Library in Honolulu and the satellite collections located in the Second, Third and Fifth Circuit Courts. The collections, particularly that of the central library, which is the largest in the State, function as public law libraries. In addition, small collections are maintained in the District Courts of each Circuit.

Chamber libraries are furnished for each Supreme Court justice, Intermediate Court of Appeals judge and Circuit Court judge, and a conference room library is provided for the Supreme Court and the Intermediate Court of Appeals. The system also provides materials and information related to legal research and judicial administration to judicial support staff.

Program Goals:

- To provide for the centralized and standardized selection and purchasing of legal books, periodi-

cals and documents which meet the needs of those who utilize its resources. (JUD 202-1:DR-4,PA-3)

- To collect, organize and disseminate information and materials relating to legal research and judicial administration in order to enhance the effectiveness of the judicial process. (JUD 202-2:DR-4,PA-3)
- To provide for a continual rebinding and maintenance program for the volumes of worn law books in order to optimize their utilization. (JUD 202-3:PA-3)
- To enhance the effectiveness of the judicial process by providing legal reference and resources which meet the needs of those who utilize such services. (JUD 202-4:LS-1)
- To provide assistance regarding the organizational and procedural aspects in the development of personal libraries. (JUD 202-5:LS-1)

VIII. Driver Education and Training (JUD 221)

Program Description:

The Driver Education and Training Program constitutes a major preventive endeavor directed at both adult and juvenile traffic offenders. Any driver who has caused an accident or committed a serious traffic violation may be referred to the program at the discretion of the courts or the police. Courses presented by this program conform to the goals of the National Highways Safety Act and emphasizes traffic safety and safe driving techniques.

Counseling is also provided to problem drunk drivers. Upon completion of the course, drivers are evaluated on the basis of attendance, test scores and attitude. If a violator's case still awaits disposition by the court, the evaluation is formally reported to the referring judge, along with recommendation for sentencing.

Program Goals:

- To develop and maintain a sound management system for the driver education program which incorporates the most modern administrative practices and techniques so as to assure the uniform delivery of services of the highest possible quality while providing for and promoting the effective,

economical and efficient utilization of public resources. (JUD 221-1:PA-1)

- To maintain a continuing liaison with other agencies so as to provide the latest techniques and services in improving the driving behavior of the traffic offender. (JUD 221-2:LS-1)
- To coordinate and administer a comprehensive traffic safety education program as a preventive rehabilitative endeavor directed to both adult and juvenile traffic offenders in order to reduce the number of deaths and injuries resulting from traffic mishaps. (JUD 221-3:SI-1)
- To advise and counsel convicted traffic offenders who are referred to the program and to assist them in improving their attitudes and driving performance and thereby promote public safety. (JUD 221-4:SI-1)

Concluding Remarks

As was indicated in Chapter Four, from the program goals outlined above, specific courses of action and strategies will be developed for each program by its top administrators in the form of program and operational plans. These plans, which constitute the lowest level in our hierarchical structure of plans, are comprised primarily of program objectives which embody the specific "means" by which the program goals will be attained.

Prior to this time, however, priority directions would have been established by the principal decision-makers of the organization in the strategic plan of the Judiciary which will set overall direction for all successive plans. Thus, in all likelihood, additional program goals may have to be formulated or existing ones modified or clarified depending upon the circumstances then existing.

The point being emphasized at this time is that the process which has been outlined is a dynamic and flexible one. Thus, with increasing experience, it is our sincere belief that the missions, goals and objectives of the Judiciary and its programs will continually be reevaluated, reformulated and refined, not only through the natural evolutionary processes of change, but also as a result of comprehensive top-management planning so that, in the end, a more ideal judicial system will emerge.

A Summary Presentation of the Missions and Goals of the Judiciary and its Programs within the Conceptual Framework of the Judiciary

12

In the preceding two chapters, the principal goals of the Judiciary and its programs were set forth. In this chapter, we will present a summary of all the missions and goals of the Judiciary and its programs, together with their respective identification numbers, within the context of the multidimensional framework of the Judiciary established in Chapter Six. This summary presentation of the principal missions and goals of the Judiciary and its programs is intended to demonstrate the hierarchical structure of the planning process as well as the method by which we have chosen to coordinate and control it. It is also intended to show how the various parts of the Judiciary have been brought together to establish a unified whole which can be planned for effectively in the aggregate or as a total system.

The Missions and Goals of the Judiciary and Its Programs: A Graphical Summary

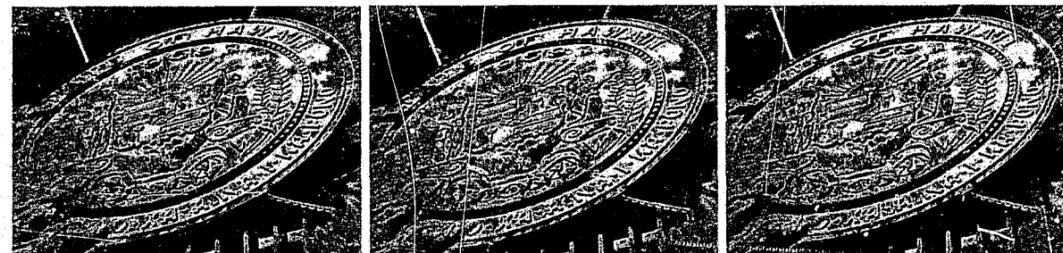
The following is a graphical summary of the principal missions and goals of the Judiciary and its programs within the context of the conceptual framework of the Judiciary.

Conceptual Framework of the Judiciary

Dimensions	The Missions of the Judiciary
Government Branch	Uphold the Constitution—the government it creates, the rights and liberties it guarantees, and the policies and principles that it embodies. (GB)
Dispute Resolution Forum	Ensure to the people of the State the highest standards of justice attainable under our system of government by assuring an equitable and expeditious resolution of all cases and controversies properly brought to the state courts. (DR)
Public Agency	Provide for, promote, and ensure the effective, economical and efficient utilization of public resources in the administration of the Judicial system. (PA)
Subsystem of the Legal System	Promote the effective and expeditious administration of justice by and among the various subsystems of the legal system. (LS)
Institution of a Changing Society	Anticipate and respond to the changing judicial needs of society. (SI)

Dimensions The Goals of the Judiciary

- Government Branch** To maintain the Judiciary's status as an independent and co-equal branch of State government. (GB-1)
- To properly exercise the judicial power of the State. (GB-2)
- To insure to the people of this State the highest standards of justice attainable under our constitutional system of government. (GB-3)
- To ensure that the judicial branch of State government is open and accountable to the citizens of the State. (GB-4)
- Dispute Resolution Forum** To safeguard the rights and interests of persons by promptly hearing and effectively and equitably determining, in a manner consistent with the Constitution of the State and the United States, all cases within the jurisdiction of the state courts. (DR-1)
- To equitably, effectively, and expeditiously resolve cases by judicial decisions that agree with the facts of the case while insuring that such facts are obtained in accordance with the rules of procedure and evidence. (DR-2)
- To maintain a judicial process that minimizes procedural complexity while promoting fairness and promptness. (DR-3)
- To maintain a judicial process that insures to the people of this State the highest standards of justice attainable. (DR-4)
- To administer the judicial process fairly and promptly from initial filing to final disposition. (DR-5)
- To investigate, develop, and implement appropriate, changes in court structure process, and procedures for dispute resolution. (DR-6)
- To provide for equal and ready access to the adjudicatory services of the Judiciary. (DR-7)
- Public Agency** To improve the functioning of the statewide court system by employing sound management practices and techniques. (PA-1)
- To develop and maintain a management information processing system that is modern, timely and relevant. (PA-2)
- To ensure the uniform delivery of services statewide of the highest possible quality. (PA-3)
- To provide a reasonable balance between centralized decision making and decentralized administrative flexibility in meeting locality-specific requirements. (PA-4)
- To assist the public in understanding the Judiciary, its responsibilities and functions, and services it provides. (PA-5)



- To provide equal and ready access to the non-adjudicatory services of the Judiciary and to court records where appropriate. (PA-6)
- Subsystem of the Legal System** To maintain a continuing liaison and cooperate with all agencies and persons within the legal system to improve and coordinate activities for the effective overall administration of justice. (LS-1)
- To reduce the impediments to justice unnecessarily resulting from the separation of powers doctrine, federalism, and the rigid boundaries which have traditionally isolated the various parts—police, attorneys, prosecutors, public defenders—of the legal system. (LS-2)
- To assist in the assessment and revision of the substantive and procedural laws of Hawaii. (LS-3)
- To assist, where appropriate, in the investigation and development of alternative methods for dispute resolution external to the courts. (LS-4)
- Institution of a Changing Society** To assist in solving community problems and pursue social reforms as deemed appropriate when viewed from the unique perspective of the judicial branch of State government. (SI-1)
- To develop competent specialized means to assist the Judiciary in planning to meet future needs and emerging legal issues. (SI-2)
- To develop methods and processes to critically examine basic questions concerning the proper purposes and goals of the Judiciary in a changing society. (SI-3)
- Dimensions The Goals of the Courts of Appeal**
- Government Branch** To promptly hear and conclusively determine, in a manner consistent with the proper exercise of the appellate power, all questions of law, or mixed law and fact, which arise from decisions of the lower courts and are properly brought on any appeal allowed by law. (JUD 101:GB-2,3)
- To exercise the ultimate rule-making power relating to the process, practice, procedures and appeals for all judicial proceedings throughout the court system so as to maintain a judicial system that minimizes procedural complexity while promoting fairness and promptness. (JUD 101-2:GB-3)
- To provide for the continued improvement in the quality of justice in this State by establishing, enforcing and maintaining the highest standards of professional conduct for members of the legal profession and by judiciously administering the system for licensing those who practice law in this State. (JUD 101-3:GB-3)
- Dispute Resolution Forum** To exercise the ultimate rule-making power relating to the process, practice, procedures and appeals for all judicial proceedings throughout the court system so as to



maintain a judicial system that minimizes procedural complexity while promoting fairness and promptness. (JUD 101-2:DR-3)

To safeguard the rights and interests of individuals by assuring an effective, equitable and expeditious review of lower court decisions for errors, and to remedy such errors, so as to provide for an appellate process that gives each case the attention and deliberation it needs without undue delay. (JUD 101-4:DR-1,4)

Public Agency To develop and maintain a sound management system for the Courts of Appeal which incorporates the most modern administrative practices and techniques so as to insure the uniform delivery of services of the highest possible quality while providing for and promoting the effective, economical and efficient utilization of public resources. (JUD 101-5:PA-1)

To develop and maintain an accurate and reliable information processing system which incorporates the most advanced and sophisticated storage techniques available so as to optimize existing data storage capabilities while minimizing overall turnaround time but with due consideration of the proper handling of confidential records. (JUD 101-6:PA-2)

Subsystem of the Legal System To provide for the continued improvement in the quality of justice in this State by establishing, enforcing and maintaining the highest standards of professional conduct for members of the legal profession and by judiciously administering the system for licensing those who practice law in this State. (JUD 101-3:LS-1)

To maintain a continuing liaison with all other agencies within the legal system so as to establish and maintain a positive legal framework for the effective enforcement of the substantive and procedural laws of the State. (JUD 101-7:LS-1,3)

Institution of a Changing Society To assist in solving community problems and pursue social reforms where deemed appropriate when viewed from the unique perspective of the Courts of Appeal program. (JUD 101-8:SI-1)

Dimensions The Goals of the Land Court/Tax Appeal Court

Dispute Resolution Forum To provide for an effective, equitable and expeditious system for the adjudication and registration of title to land and easements and rights to land within the State. (JUD 102-1:DR-1)

To assure an effective, efficient and expeditious adjudication of all appeals between the tax assessor and the taxpayer with respect to matters of taxation committed to its jurisdiction. (JUD 102-2:DR-1)

To provide a guaranteed and absolute register of land titles which simplifies for landowners the method for conveying registered land. (JUD 102-3:DR-3,7)



Public Agency To develop and maintain a sound management system for the program which incorporates the most modern administrative standards and practices so as to assure the uniform delivery of services of the highest possible quality while providing for and promoting effective, economical and efficient utilization of public resources. (JUD 102-4:PA-1,3)

To maintain accurate and complete court records as required by law and to permit immediate access to such records, where appropriate, by employing a records management system which minimizes storage and retention requirements. (JUD 102-5:PA-2,5)

To effectively assist the public in the preparation of applications, petitions, and appeals, and to provide, where possible, research assistance to attorneys, real estate brokers, and financial institutions. (JUD 102-6:PA-5,6)

Dimensions The Goals of the Circuit Courts

Government Branch To assure a proper consideration of all competing interests and countervailing considerations intertwined in questions of law arising under the Constitution of the State and the United States in order to safeguard individual rights and liberties and protect the legitimate interests of the State and thereby ensure to the people of this State the highest standard of justice attainable under our system of government. (JUD 111-1:GB-2,3)

To administer a system for the selection of qualified individuals to serve as jurors so as to insure fair and impartial trials and thereby effectuate the constitutional guarantee of trial by jury. (JUD 111-2:GB-3)

Dispute Resolution Forum To safeguard the rights and interests of persons by assuring an effective, equitable and expeditious resolution of civil cases properly brought to the Circuit Courts by providing a proper legal remedy for legally recognized wrongs. (JUD 111-3:DR-1)

To provide for the fair and prompt resolution of criminal proceedings so as to insure public safety and promote the general welfare of the people of the State but with due consideration for safeguarding the constitutional rights of the accused. (JUD 111-4:DR-1)

To assure an effective and equitable review and prompt determination of all administrative appeals generated from decisions of the adjudicatory forums of other governmental agencies of the State. (JUD 111-5:DR-1)

To properly effectuate the provisions of the probate code so as to preserve, protect and secure the right of succession to property and wealth in this State. (JUD 111-6:DR-1)

To conduct presentence and other predispositional investigations in a fair and



prompt manner for the purpose of assisting the criminal courts in rendering appropriate sentences and other dispositions with due consideration for relevant facts and circumstances. (JUD 111-7:DR-2)

To administer, to the fullest extent permitted by law, the judgments pronounced by the Circuit Courts so as to maintain the integrity of the judicial process. (JUD 111-8:DR-2,4)

To ensure the public equal and ready access to the adjudicatory forums of the program by creating an awareness and understanding of the Circuit Courts' functions and activities so as to assure every person the right to his day in court. (JUD 111-9:DR-6)

Public Agency To ensure the public equal and ready access to the adjudicatory forums of the program by creating an awareness and understanding of the Circuit Courts' functions and activities so as to assure every person the right to his day in court. (JUD 111-9:PA-5)

To develop and maintain a sound management system for the Circuit Court program which incorporates the most modern administrative practices and techniques so as to assure the uniform delivery of services of the highest possible quality while providing for and promoting the effective, economical and efficient utilization of public resources. (JUD 111-10:PA-1)

To maintain accurate and complete court records as required by law and to permit immediate access to such records, where appropriate, by employing a records management system which minimizes storage and retention requirements. (JUD 111-11:PA-2)

Subsystem of the Legal System To maintain a continuing liaison with other agencies within the legal system so as to provide for and establish and maintain a positive legal environment for the effective enforcement of the substantive and procedural laws of the State. (JUD 111-12:LS-1)

Institution of a Changing Society To supervise convicted and deferred law violators who are placed on probation or given deferments of guilty pleas by the courts to assist them towards socially acceptable behavior and thereby promote public safety. (JUD 111-13:SI-1)

Dimensions The Goals of the Family Courts

Government Branch To assist and protect children and families whose rights and well-being are jeopardized by securing such rights through action by the court thereby promoting the community's legitimate interest in the unity and welfare of the family and the child. (JUD 112-1:GB-3)

Dispute Resolution Forum To provide a forum for the fair and prompt resolution of domestic and juvenile matters to the end that children and families whose rights and well-being are jeopardized shall be assisted and protected and secured in those rights. (JUD 112-2:DR-5)



dized shall be assisted and protected and secured in those rights. (JUD 112-2:DR-5)

To provide for the fair and prompt resolution of all criminal proceedings coming within the jurisdiction of the Family Courts so as to insure public safety and promote the general welfare of the people of the State but with due consideration for safeguarding the constitutional rights of the accused. (JUD 112-3:DR-1)

To administer, to the fullest extent permitted by law, the orders and decrees pronounced by the Family Courts so as to maintain the integrity of the judicial process. (JUD 112-4:DR-2,4)

Public Agency To develop and maintain a sound management system for the Family Court program which incorporates the most modern administrative practices and techniques so as to assure the uniform delivery of services of the highest possible quality while providing for and promoting the effective, economical and efficient utilization of public resources. (JUD 112-5:PA-1)

To maintain accurate and complete court records as required by law and to permit, where appropriate, immediate access to such records, by employing a records management system which minimizes storage and retention requirements. (JUD 112-6:PA-2)

To ensure the public equal and ready access to the adjudicatory forums of the Family Courts by creating an awareness and understanding of its functions and activities. (JUD 112-7:PA-5)

Subsystem of the Legal System To maintain a continuing liaison and coordination with other agencies within the legal system in order to provide for the effective administration of justice by and among all agencies who deal with matters within the purview of the Family Court system. (JUD 112-8:LS-1)

Institution of a Changing Society To supervise law violators who are placed on probation by the Family Courts to assist them towards socially acceptable behavior and thereby promote public safety. (JUD 112-9:SI-1)

To protect minors whose environment or behavior is injurious to themselves or others and restore them to society as law-abiding citizens. (JUD 112-10:SI-1)

To transcend the strictly adjudicatory function of the Family Courts by providing a number of counseling, guidance, self-help, detention and other necessary and proper services for both children and adults and thereby effectively utilize, to the fullest extent possible, all available state and community resources, to preserve family unity and protect the rights and improve the welfare of children. (JUD 112-11:SI-1)



Dimensions The Goals of the District Courts

Government Branch To assure a proper consideration of all competing interests and countervailing considerations intertwined in questions of law arising under the Constitution of the State and the United States in order to safeguard individual rights and liberties and protect the legitimate interests of the State. (JUD 121-1:GB-2,3)

Dispute Resolution Forum To safeguard the rights and interests of persons by assuring an effective, equitable and expeditious resolution of civil cases properly brought before the District Courts by providing a proper legal remedy for legally recognized wrongs. (JUD 121-2:DR-1)

To provide for the fair and prompt resolution of criminal proceedings so as to insure public safety and promote the general welfare of the people of the State but with due consideration for safeguarding the constitutional rights of the accused. (JUD 121-3:DR-1)

To conduct presentence and other predispositional investigations in a fair and prompt manner for the purpose of assisting the Court in rendering appropriate sentences and other dispositions with due consideration for all relevant facts and circumstances. (JUD 121-4:DR-2)

To administer, to the fullest extent permitted by law, the judgments pronounced by the District Courts so as to maintain the integrity of the judicial process. (JUD 121-5:DR-2,4)

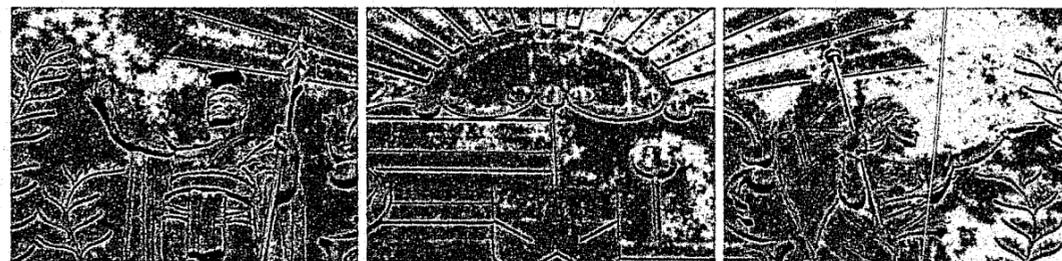
To ensure the public equal and ready access to the adjudicatory forums of the District Courts by creating an awareness and understanding of its functions and activities so as to assure every person the right to his day in court.(JUD 121-8:DR-6)

Public Agency To develop and maintain a sound management system for the District Courts program which incorporates the most modern administrative practices and techniques so as to assure the uniform delivery of services of the highest possible quality while providing for and promoting the effective, economical and efficient utilization of public resources. (JUD 121-6:PA-1)

To maintain court records as required by law and to permit immediate access, where appropriate, by employing a records management system which is accurate and complete yet minimizes storage and retention requirements. (JUD 121-7:PA-2)

To ensure the public equal and ready access to the adjudicatory forums of the District Courts by creating an awareness and understanding of their functions and activities so as to assure every person the right to his day in court.(JUD 121-8:PA-5)

Subsystem of the Legal System To maintain a continuing liaison with other agencies within the legal system so as to provide for and establish and maintain a positive legal environment for the effective



enforcement of the substantive and procedural laws of the State. (JUD 121-9:LS-1)

Institution of a Changing Society To assist the Court in the prevention of crime by employing its sentencing power as a positive, constructive force for rehabilitating the individual offender. (JUD 121-10:SI-1)

Dimensions The Goals of the Administrative Director Services

Dispute Resolution Forum To develop and analyze new approaches to achieving the strategic goals of the Judiciary and conduct special studies relating to new methods, techniques and procedures that might be of long-term benefit to the organization so as to assist the principal decision-makers of the organization in reviewing, updating and revising the various plans of the Judiciary as external conditions change.(JUD 201-36:DR-6)

Public Agency To enhance the effectiveness and efficiency of judicial programs by providing executive direction, program coordination, policy development, resource allocation and fiscal control, and administrative services. (JUD 201-01:PA-1)

To provide current, accurate and complete financial and accounting data in a form useful to decision-makers. (JUD 201-11:PA-1)

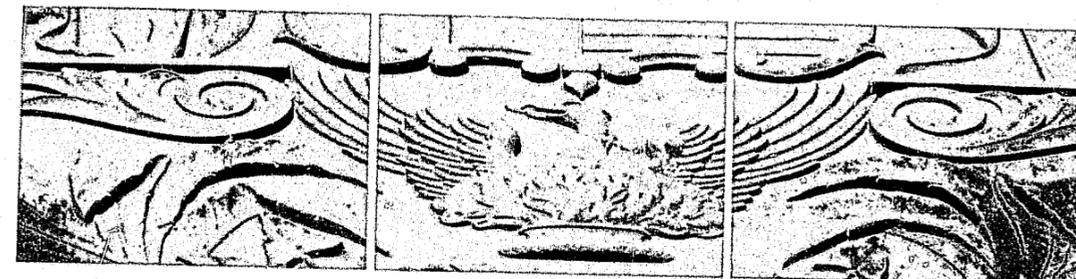
To establish a long-range planning and budgeting system that will serve as the mechanism by which the required resources to achieve the long-range goals and objectives of the Judiciary will be identified and articulated to top-level management. (JUD 201-12:PA-1)

To develop a budgeting system which will result in periodic analyses of the benefits and needs of existing activities to determine whether their appropriateness and benefits have diminished with changing conditions. (JUD 201-13:PA-1)

To ensure adequate and reasonable accounting control over assets, liabilities, revenues and expenditures in accordance with generally accepted accounting principles, laws, policies and rules and regulations of the State and the Judiciary. (JUD 201-14:PA-1)

To administer a central recruitment and examination system that will interest the most capable persons and provide a selection system that will ensure the highest caliber employee, without regard to race, color, religion, sex, national origin, ancestry, age, physical handicap, marital status or political affiliation. (JUD 201-21:PA-3)

To secure the ablest persons for employment at the Judiciary and maintain a well-trained, satisfied and productive work force. (JUD 201-22:PA-3)



To maintain a Judiciary position classification/compensation plan which conforms to the State Personnel Rules and Regulations and which seeks to attract and retain competent persons at the Judiciary by establishing and maintaining a high level of efficiency and adequately compensating them for their performance.
(JUD 201-23:PA-3)

To promote judicial services of the highest quality to the citizens of Hawaii through employee development and personal growth, and to provide a harmonious and cooperative environment between Judiciary management and its employees through uniform interpretation and application of provisions contained in the collective bargaining agreements, personnel rules and regulations and Federal and State laws.
(JUD 201-24:PA-3)

To develop and maintain an effective and comprehensive planning capability within the Judiciary to provide the statewide organization with overall guidance and long-range direction in meeting the community's demands for judicial services.
(JUD 201-31:PA-1)

To assist top management of the Judiciary in: defining long-range goals, developing and analyzing strategic alternatives and recommending the best courses of action for the orderly, systematic and coordinated development of the unified court system of Hawaii.
(JUD 201-32:PA-1,3)

To provide technical assistance to the principal administrators of the various programs of the Judiciary in the development, programming and evaluation of plans and advise and assist them in developing their own program planning capabilities through the proper application of planning concepts and methods so as to enhance the overall effectiveness and efficiency of the unified court system of Hawaii.
(JUD 201-34:PA-3,4)

To develop and analyze new approaches to achieving the strategic goals of the Judiciary and conduct special studies relating to new methods, techniques and procedures that might be of long-term benefit to the organization so as to assist the principal decision-makers of the organization in reviewing, updating and revising the various plans of the Judiciary as external conditions change.(JUD 201-36:PA-1)

To develop and maintain a uniform statistical information system for the statewide Judiciary which identifies what data is needed as well as how the data shall be collected, tabulated, analyzed and interpreted so as to permit the periodic reporting of statistics of court cases to the principal decision-makers of the Judiciary and thereby facilitate evaluation of influential factors or variables affecting court workload and efficiency.
(JUD 201-37:PA-1,2)

To initiate applications, from external funding sources, for projects which are con-



sistent or compatible with the goals of the Judiciary so as to improve and enhance the overall effectiveness and efficiency in the administration of justice in Hawaii while maximizing opportunities presented by funding sources outside of the Judiciary.
(JUD 201-38:PA-1,3)

To promote public awareness and understanding of the Judiciary by disseminating information through publications, the news media and direct dealings with the general public concerning the role of the Judiciary and the services that it provides.
(JUD 201-41:PA-5)

To administer a forms control system to ensure the uniformity of all court and administrative forms and provide for the effective, economical and efficient utilization of public resources.
(JUD 201-42:PA-3)

To acquaint the Legislature with the program and policies of the Judiciary in order to convey the ongoing needs and the importance of its role as an independent branch of government.
(JUD 201-43:PA-5)

To provide a statewide automated record system that is responsive to the needs of the Judiciary in order to provide accurate and timely court information.
(JUD 201-51:PA-3)

To effectively utilize volunteer citizen participants from a cross-section of the community in formalized volunteer positions based on the needs of the Judiciary and the skills, talents, and interest of the volunteers.
(JUD 201-61:PA-3)

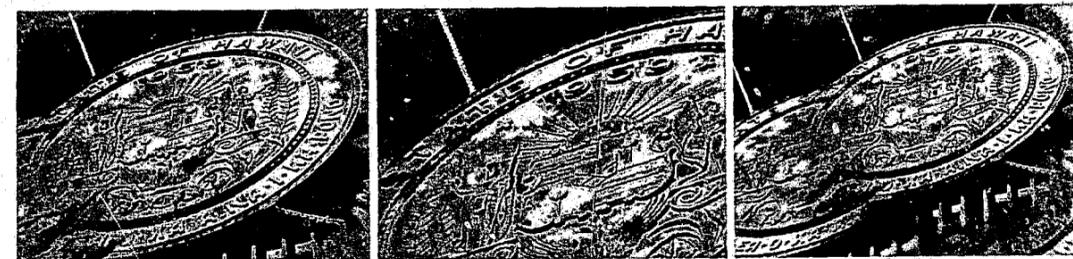
To amplify the extent and level of staff services, and to increase manpower-cost benefits in providing rehabilitative, administrative, and clerical services to the Judiciary and its clients.
(JUD 201-62:PA-3)

To promote the opportunities for greater citizen understanding and awareness of the purposes and activities of the Judiciary and its organizational components.
(JUD 201-63:PA-5)

Subsystem of the Legal System To coordinate the planning process of the Judiciary with those of interfacing agencies at all levels and sectors in the legal system so as to provide for and promote the effective and expeditious administration of justice by and among all subsystems of the legal system.
(JUD 201-35:LS-1)

Institution of a Changing Society To develop and analyze new approaches to achieving the strategic goals of the Judiciary and conduct special studies relating to new methods, techniques and procedures that might be of long-term benefit to the organization so as to assist the principal decision-makers of the organization in reviewing, updating and revising the various plans of the Judiciary as external conditions change.(JUD 201-36:SI-2,3)

To amplify the extent and level of staff services, and to increase manpower-cost



benefits in providing rehabilitative, administrative, and clerical services to the Judiciary and its clients. (JUD 201-62:SI-1)

Dimensions The Goals of the Law Library

Dispute Resolution Forum To provide for the centralized and standardized selection and purchasing of legal books, periodicals and documents which meet the needs of those who utilize its resources. (JUD 202-1:DR-4)

To collect, organize and disseminate information and materials relating to legal research and judicial administration in order to enhance the effectiveness of the judicial process. (JUD 202-2:DR-4)

Public Agency To provide for the centralized and standardized selection and purchasing of legal books, periodicals and documents which meet the needs of those who utilize its resources. (JUD 202-1:PA-3)

To collect, organize and disseminate information and materials relating to legal research and judicial administration in order to enhance the effectiveness of the judicial process. (JUD 202-2:PA-3)

To provide for a continual rebinding and maintenance program for the volumes of worn law books in order to optimize their utilization. (JUD 202-3:PA-3)

Subsystem of the Legal System To enhance the effectiveness of the judicial process by providing legal reference and resources which meet the needs of those who utilize such services. (JUD 202-4:LS-1)

To provide assistance to private law firms regarding the organizational and procedural aspects in the development of their personal libraries. (JUD 202-5:LS-1)

Dimensions The Goals of Driver Education and Training

Public Agency To develop and maintain a sound management system for the driver education program which incorporates the most modern administrative practices and techniques so as to assure the uniform delivery of services of the highest possible quality while providing for and promoting the effective, economical and efficient utilization of public resources. (JUD 221-1:PA-1)

Subsystem of the Legal System To maintain a continuing liaison with other agencies so as to provide the latest techniques and services in improving the driving behavior of the traffic offender. (JUD 221-2:LS-1)

Institution of a Changing Society To coordinate and administer a comprehensive traffic safety education program as a preventive and rehabilitative endeavor directed to both adult and juvenile traffic offenders in order to reduce the number of deaths and injuries resulting from traffic mishaps. (JUD 221-3:SI-1)

To advise and counsel convicted traffic offenders who are referred to the program and to assist them in improving their attitudes and driving performance and thereby promote public safety. (JUD 221-4:SI-1)

**Part VI
Appendices**





Selected Definitions for Planning

A

This appendix contains definitions of terms used in this document, except as otherwise clearly indicated by the context.

Activity: means a specific set of actions or duties to be taken in carrying out a program.

Administration: means the process and agency which is responsible for the determination of the aims for which an organization and its management are to strive, which establishes the broad policies under which they are to operate, and which gives general oversight to the continuing effectiveness of the total operation in reaching the objectives sought.

Allocation: means an authorization by a designated official of a department making funds available within a prescribed amount to an operating agency for the purpose of making allotments.

Alternative Futures: means the concept that stresses that there is no single future state set before us. The future depends on many factors, each of which will influence the future differently.

Appropriation: means legislation permitting a government entity to commit or obligate the government to certain expenditures of public funds.

Audit: means an in-depth, detailed examination of an agency's systems and processes.

Budget: means a financial plan for the accomplishment of objectives within a definite time period including an estimate of resources required together

with an estimate of resources available, usually compared with one or more past periods.

Centralization: means a concept where all management functions for an organization are controlled by a management unit which oversees all operations within the organization.

Comprehensive Planning: refers to a specific kind of planning concept which consists of two separate but interrelated components; namely, a substantive component which injects a long-range perspective into current decision-making, and a procedural component which serves to structure contemporary reality as a means of guiding the organization through the future and of altering events to the organization's greatest advantage.

Comprehensive planning therefore consists of a perspective—a general orientation towards an alternative future state or condition that serves to guide decision-making in the present—and a process—a series of specific interrelated steps which leads to the desired state or condition or end-result at some time in the future.

Conceptual Framework: means a structure which presents an idealized version of what an organization in general should be. It reflects an image of the organization formed by the process of generalizing from particulars an "ideal" system designed to accomplish specified purposes.

Consistent Classification: means the classification of several systems, e.g., budget, planning, accounting, so that data generated are consistent with and can be related to each.

Constraint: means a resource limitation, which may be specific (e.g., the supply of skilled manpower or a particular metal), or general (e.g., total available funds).

Controlled-Decentralization: refers to a management style that reflects the philosophy of top management with regard to how decision-making authority is dispersed within the organization as well as how it is to be exercised generally; that is, within the guidelines and policies established by top management.

Cost-Benefit Analysis; Cost-Effectiveness Analysis; and Cost-Utility Analysis: although there are technical differences, they are used interchangeably to mean a systematic examination designed to define objectives and to identify that alternative which yields the greatest benefits or effectiveness for any given cost, or which yields a specified amount of benefits or effectiveness for the least cost. The primary ingredients of such analysis are:

- (1) objectives—that is, end-results which are desired;
 - (2) alternative means or systems whereby the objectives may be attained;
 - (3) data as to costs (resources) required of each alternative;
 - (4) identification of the outputs or effectiveness to be derived from each alternative;
 - (5) a comparison of the alternatives in terms of the quantified costs and benefits of each;
 - (6) a model to aid in analysis; and
 - (7) a criterion for choosing the preferred alternative.
- The term "cost-benefit analysis" usually applies to situations in which the outputs can be quantified in dollars; and the terms "cost-effectiveness analysis" usually applies to situations in which the outputs cannot be easily quantified in dollars.

Decentralization: refers to a philosophy of organization and management which involves the selective dispersal of decision-making authority to lower levels of the management hierarchy of an organization. It means that decision-making authority is delegated and dispersed throughout the organization.

Dimension: means the range over which, or the degree to which something extends. It is one of the elements or factors making up a complete entity. It represents a distinct functional perspective of the organization.

Division Supervisor: refers to the managerial posi-

tion, responsible for the operational units within each program. It refers to the lowest level of management involved in the planning process.

Effective: means the rendering of services of the highest possible quality to achieve a desired end.

Efficient: means the optimal utilization of resources.

Emerging Issue Identification: means the analysis and identification of relevant societal patterns and trends in its earliest stages. It supplies an ongoing search of potential and latent development and events and their effect upon alternative images in order that the potentiality of the event may be increased or decreased, dependent upon its postulated effects upon the realization of a desirable future.

Forecasting: refers to an attempt to define possible courses of future events. It may include estimating probabilities associated with each course of events.

Function: means one of a group of related actions contributing towards the accomplishment of larger action. A similar process actually or potentially involving mental action.

Futures Research: refers to the process of discovering and articulating the more important alternative futures and estimating the trajectory likely to be produced by contemplated policies.

Goal: means a broad statement of profound and desirable conditions toward the achievement of which agency and program attention should be directed. It represents the statement of the end result or product or state of condition desired at some point in the future.

Internal Control: means a method of checks and balances to assure that directives are properly and effectively carried out.

Management Control: refers to the process by which managers assure that resources are obtained and used effectively and efficiently in the accomplishment of the organization's goals.

Management by Objectives: refers to an administrative concept that allows the organization the advantages of both centralization and decentralization concurrently. Under this concept, the major goals of the organization are established centrally and the actual achievement of the goals is left to decentralized managers. It is a concept which en-

courages increased participation in the management of affairs of the organization at all levels.

Management Information System: refers to a formalized system of presenting information required for management decision-making. It refers to an all-inclusive system for providing management with information for effective decision-making.

Marginal Analysis: means the process of identifying the benefits or costs of alternative behaviors as unitary changes in the alternative variables occur and equalizing the benefit-cost ratios to form a point of indifference (trade-off) for decision-making purposes.

Matrix: means a rectangular array of terms called elements, used to facilitate the study of problems in which the relation between these elements is fundamental.

Measures of Effectiveness: refers to the standards by which progress toward the attainment of a predetermined end can be measured. They are built into objectives so evaluation can be made as to the organization's progress in attaining these objectives.

Mission: refers to the broad statement of purpose representing the aspiration or continuing aim which lasts through the life of the organization towards which the resources and energies of the organization are to be directed.

Objective: refers to the statement of a specific course of action that must be taken to accomplish a stated goal.

Operation: refers to an organization set up to handle a course of action or a series of acts, to carry out some assigned task, to effect a certain purpose, or to undertake a destined function.

Operational Planning: refers to the process of assuring that specific tasks are carried out effectively and efficiently within a subdivision of a program.

Opportunities: means the difference between "what is" and what could be.

Optimization: refers to the attainment of the best possible result, i.e., the maximization (or minimization) of some desirable (or undesirable) criterion measure, subject to the constraints imposed on the choice of solution.

Plans: mean commitments to specific courses of

action arising out of the mental process of planning. They represent the tangible evidence of the thinking of those who plan. Thus, they may be written or expressed verbally, as, for example, with spoken orders.

Planning: means the mental process of thinking through what is desired and how it will be achieved. It is the intellectual exercise that precedes the activity being planned and involves thoughts and decisions concerning a proposed course of action, the conscious determination of objectives and courses of action to resolve problems and control the course of future events by foresight, systematic thinking, investigation, and the exercise of value preferences in choosing among alternative lines of action. The essence of planning, therefore, is decision-making on the basis of clearly defined ends. It is the process of deciding in advance what to do, when and where to do it, how to do it, and who is to do it.

Planning Process: is an organizational concept that refers to the totality of interactions of specific activities and roles of individuals and groups within an organization who undertake the management function or activity of planning and formulating plans. It represents the conscious determination of who is to plan, when and where planning occurs, what kinds of planning activities and plans to develop, and how to develop them. Usually, it begins with the setting of objectives, the definition of strategies, policies, and detailed plans to achieve them, the establishment of an organization to implement decisions, and, the review of performance and feedback to introduce a new planning cycle.

Process: means the series of steps or actions leading to a desired state or condition.

Planning, Programming, and Budgeting (PPB): refers to an integrated system for rational ordering of inputs and outputs of an organization, with focus on identifiable goals. It involves interrelating outputs (goals) with the budget (costs) for each component of an organization.

Policy: means a definite course of action or acceptable procedure selected from among alternatives in the light of given conditions to guide and determine present and future decisions.

Priority Direction: is the overall direction and specific implementing directives established by top management. It is the subjective preferences and

priorities of top management and represents the prioritization of goals and objectives in the order of their importance and immediacy of attainment.

Problem: in the organizational sense, means the difference between "what is" and "what should be".

Procedure: means a customary method of handling future activities which serves as a guide to action by detailing the exact manner in which a certain activity must be accomplished. Their essence is a chronological sequence of required actions.

Program: means the hierarchical grouping of the activities of an organization by common objectives and areas of endeavor, so that activities having similar objectives can be considered together when determining how best to allocate resources among them. A program represents a combination of resources and activities designed to achieve an objective or objectives.

Program Manager: refers to the person primarily responsible for a given functional area (program) of the Judiciary.

Program Planning: refers to the process by which program managers assure that resources are attained and used effectively and efficiently in the accomplishment of the program goals.

Purpose: refers to the fundamental and continuing aims of an organization which last throughout its life and towards which resources and energies of the organization are ultimately directed.

Quantify: means to qualify with respect to quantity. To translate observed physical relationships into analogous mathematical relationships.

Sampling: means a small part or a single item selected for inspection or analysis as to the quality or characteristic of the whole or the group from which the part or item is selected.

Self-Altering Prophecy: is a process which generates a sequence of events in reaction to a prediction of a future state such that the reaction alters what would otherwise have occurred. If the predicted future state is a wanted future state, all present activities are geared towards the attainment of that future state and the state is therefore attained at some time in the future. If the predicted future state

is an unwanted state, all present activities are geared to ensure that this future state is not realized thereby preventing this predicted future state from occurring.

Simulation: means an act or process under test conditions to reproduce phenomena likely to occur in actual performance.

Strategy: means the selection of a course of action through a systematic consideration of alternatives in order to attain specific organizational goals and objectives.

Strategic Planning: refers to the process of deciding on goals of the organization, changes in those goals, the resources used to attain those goals, and the policies that are to govern the acquisition, use, and disposition of those resources. These goals serve as guides for all other planning within the organization.

Suboptimization: means the selection of the best alternative course of action which will necessitate operating at less than ideal conditions in particular programs in order that the overall operations of the entire organization might be optimized.

System: refers to an orderly combination, arrangement, or collection of interacting or interdependent bodies under the influence of related forces forming a unified whole.

Systems Approach: refers to planning for an organization as a unitary whole or "system" rather than planning for each of its subsystems independently of the whole. Viewing a subject as a whole composed of interdependent parts and delineated by clear boundaries.

Tactic: refers to actions or means of less magnitude than those of strategy which are carried out with only a limited or immediate end in view.

Task: refers to a specific function or activity of a structural subdivision of an organization.

Top Management: refers to the central decision-making body for the entire organization.

Unified Court System: means a court system which is organized according to uniform and simple divisions of jurisdiction and operates under a common administrative authority which is independent from other branches of state government.

Judicial Article of the Hawaii State Constitution (Article VI)

B

Article VI The Judiciary

Note. This article was renumbered from Article V to be Article VI by Const Con 1978 and election Nov 7, 1978. The former Article VI now appears as Article VII.

Judicial Power

SECTION 1. The judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts and in such other courts as the legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with their rules.

[Ren and am Const Con 1978 and election Nov 7, 1978]

Supreme Court; Intermediate Appellate Court; Circuit Courts

SECTION 2. The supreme court shall consist of a chief justice and four associate justices. The chief justice may assign a judge or judges of the intermediate appellate court or a circuit court to serve temporarily on the supreme court, a judge of the circuit court to serve temporarily on the intermediate appellate court and a judge of the district court to serve temporarily on the circuit court. As provided by law, retired justices of the supreme court also may serve temporarily on the supreme court at the request of the chief justice. In case of a vacancy in the office of chief justice, or if the chief justice is ill,

absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the supreme court shall serve temporarily in place of the chief justice.

[Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

Appointment Of Justices and Judges

SECTION 3. The governor shall, with the consent of the senate, fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than six nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

The chief justice shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the

judicial commission. If the chief justice fails to make the appointment within thirty days of presentation, the appointment shall be made by the judicial selection commission from the list. The chief justice shall appoint per diem district court judges as provided by law.

Qualifications for Appointment

Justices and judges shall be residents and citizens of the State and of the United States, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding nomination.

No justice or judge shall, during the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State or its political subdivisions.

Tenure; Compensation; Retirement

The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods as provided by law. At least six months prior to the expiration of a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of an intention to retire. If the judicial selection commission determines that the justice or

judge should be retained in office, the commission shall renew the term of office of such justice or judge for the period provided by this section or by law.

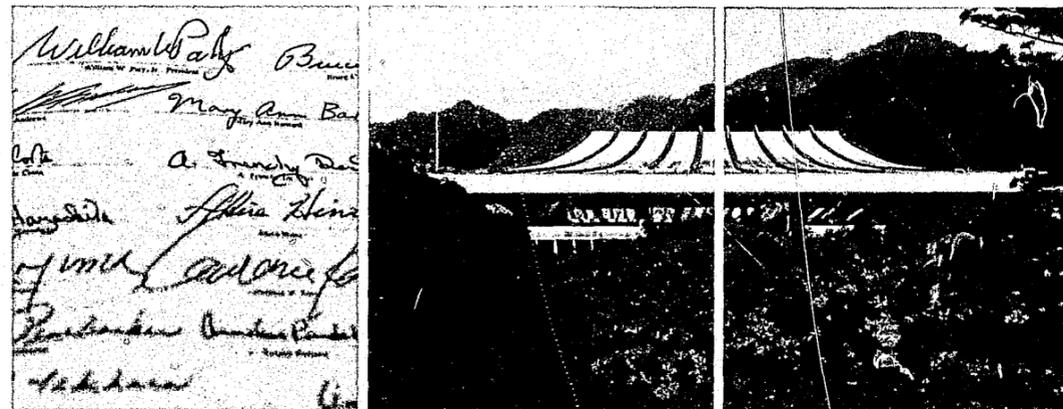
There shall be a salary commission to review and recommend salaries for justices and judges of all state courts. Justices and judges shall have salaries as provided by law. Their compensation shall not be decreased during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State.

[Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

Judicial Selection Commission

SECTION 4. There shall be a judicial selection commission that shall consist of nine members. The governor shall appoint three members to the commission. No more than one of the three members shall be a licensed attorney. The president of the senate and the speaker of the house of representatives shall each respectively appoint one member to the commission. The chief justice of the supreme court shall appoint two members to the commission. No more than one of the two members shall be a licensed attorney. Members in good standing of the bar of the State shall elect two of their number to the commission in an election conducted by the supreme court or its delegate. No more than four members of the commission shall be licensed attorneys.

The commission shall be selected and shall operate in a wholly non-partisan manner. After the initial formation of the commission, elections and ap-



pointments to the commission shall be for staggered terms of six years each. No member of the commission shall serve for more than one full six-year term on the commission.

Each member of the judicial selection commission shall be a resident of the State and a citizen of the United States. No member shall run for or hold any other elected office under the United States, the State or its political subdivisions. No member shall take an active part in political management or in political campaigns. No member shall be eligible for appointment to judicial office of the State so long as the person is a member of the judicial commission and for a period of three years thereafter.

No act of the judicial selection commission shall be valid except by concurrence of the majority of its voting members.

The judicial selection commission shall select one of its members to serve as chairperson. The commission shall promulgate rules which shall have the force and effect of law. The deliberations of the commission shall be confidential.

The legislature shall provide for the staff and operating expenses of the judicial selection commission in a separate budget. No member of the judicial selection commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties.

The judicial selection commission shall be attached to the judiciary branch of the state government for purposes of administration.

[Add Const Con 1978 and election Nov 7, 1978]

Retirement; Removal; Discipline

SECTION 5. The supreme court shall have the power to reprimand, discipline, suspend with or without salary, retire or remove from office any justice or judge for misconduct or disability, as provided by rules adopted by the supreme court.

The supreme court shall create a commission on judicial discipline which shall have authority to investigate and conduct hearings concerning allegations of misconduct or disability and to make recommendations to the supreme court concerning reprimand, discipline, suspension, retirement or removal of any justice or judge.

[Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

Administration

SECTION 6. The chief justice of the supreme court shall be the administrative head of the courts. The chief justice may assign judges from one circuit court to another for temporary service. With the approval of the supreme court, the chief justice shall appoint an administrative director to serve at the chief justice's pleasure.

[Ren and am Const Con 1978 and election Nov 7, 1978]

Rules

SECTION 7. The supreme court shall have power to promulgate rules and regulations in all civil and criminal cases for all courts relating to process, practice, procedure and appeals, which shall have the force and effect of law.

[Ren Const Con 1978 and election Nov 7, 1978]



Statutes Relating to the Administration of the Unified Court System of Hawaii

C

The following statutes are from Title 32: Courts and Court Officers of the Hawaii Revised Statutes.

CHAPTER 601 COURTS GENERALLY

§601-1 Judiciary. There shall be a branch of government, styled the judiciary. [L 1892, c 57, §1; RL 1925, §2211; RL 1935, §3570; RL 1945, §9571; RL 1955, §213-1; am L 1959, c 259, §1(a); HRS §601-1; am L 1974, c 159, §14]

Cross References

Judicial power vested in supreme court and circuit courts, and in inferior courts established by legislature, see State Const. Art. V, §1.

§601-2 Administration. (a) The chief justice shall be the administrative head of the judiciary. He shall make a report to the legislature, at each regular session thereof, of the business of the judiciary and of the administration of justice throughout the State. He shall present to the legislature a unified budget, six-year program and financial plan, and variance report for all of the programs of the judiciary. He shall direct the administration of the judiciary, with responsibility for the efficient operation of all of the courts and for the expeditious dispatch of all judicial business.

(b) He shall possess the following powers, subject to such rules as may be adopted by the supreme court:

(1) To assign circuit judges from one circuit to another;

(2) In a circuit court with more than one judge, (A) to make assignments of calendars among the circuit judges for such period as he may determine

and, as deemed advisable from time to time, to change assignments of calendars or portions thereof (but not individual cases) from one judge to another, and (B) to appoint one of the judges, for such period as he may determine, as the administrative judge to manage the business of the court, subject to the rules of the supreme court and the direction of the chief justice;

(3) To prescribe for all of the courts a uniform system of keeping and periodically reporting statistics of their business;

(4) To procure from all of the courts estimates for their appropriations; with the cooperation of the representatives of the court concerned to review and revise them as he deems necessary for equitable provisions for the various courts according to their needs and to present the estimates, as reviewed and revised by him, to the legislature as collectively constituting a unified budget for all of the courts;

(5) To exercise exclusive authority over the preparation, explanation, and administration of the judiciary budget, programs, plans, and expenditures, including without limitation policies and practices of financial administration and the establishment of guidelines as to permissible expenditures, provided that all expenditures of the judiciary shall be in conformance with program appropriations and provisions of the legislature, and all powers of administration over judiciary personnel that are specified in title 7; and

(6) To do all other acts which may be necessary or appropriate for the administration of the judiciary.

(c) The budget, six-year program and financial plan, and the variance report of the judiciary shall be submitted by the chief justice to the legislature in accordance with the schedule of submission specified for the governor in chapter 37 and shall contain the program information prescribed in that chapter. By November 1 of each year preceding a legislative session in which a budget is to be submitted, the chief justice shall provide written notification to the governor of the proposed total expenditures, by cost categories and sources of funding, and estimated revenues of the judiciary for each fiscal year of the next fiscal biennium. [L 1959, c 259, pt of §1(b); am imp L 1965, c 97, §24; Supp, §213-1.5; HRS §601-2; am L 1972, c 88, §1(a),(b); am L 1974, c 159, §15]

Cross References

Generally, see State Const. Art. V, §5.
Annual reports, see §93-12.

§601-3 Administrative director. The chief justice with the approval of the supreme court, shall appoint an administrative director of the courts to assist him in directing the administration of the judiciary. The administrative director shall be a resident of the State for a continuous period of three years prior to his appointment, and shall be appointed without regard to chapters 76 and 77 and shall serve at the pleasure of the chief justice. He shall hold no other office or employment. Effective July 1, 1975, he shall receive a salary of not more than \$36,800 a year. Effective January 1, 1976, he shall receive a salary of not more than \$40,000 a year. He shall, subject to the direction of the chief justice, perform the following functions:

(1) Examine the administrative methods of the courts and make recommendations to the chief justice for their improvement;

(2) Examine the state of the dockets of the courts, secure information as to their needs of assistance, if any, prepare statistical data and reports of the business of the courts and advise the chief justice to the end that proper action may be taken;

(3) Examine the estimates of the courts for appropriations and present to the chief justice his recommendations concerning them;

(4) Examine the statistical systems of the courts and make recommendations to the chief justice for a uniform system of judicial statistics;

(5) Collect, analyze, and report to the chief justice statistical and other data concerning the business of the courts;

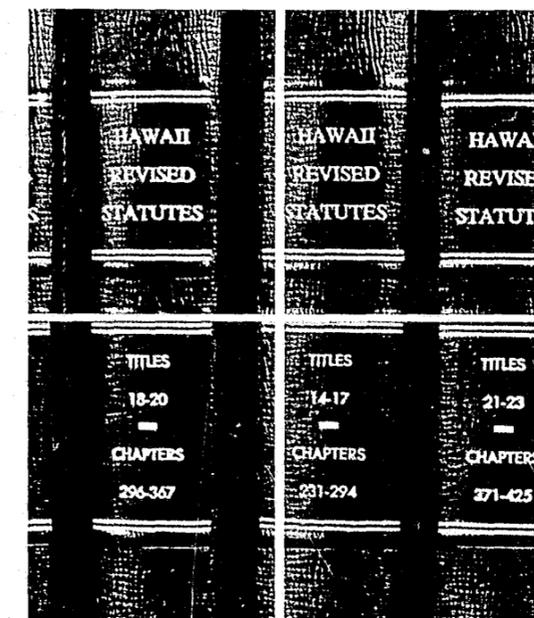
(6) Assist the chief justice in the preparation of the budget, the six-year program and financial plan, the variance report and any other reports requested by the legislature;

(7) Carry out all duties and responsibilities that are specified in title 7 as it pertains to employees of the judiciary; and

(8) Attend to such other matters as may be assigned by the chief justice.

The administrative director shall, with the approval of the chief justice, appoint a deputy administrative director of the courts subject to chapter 76 but not subject to chapter 77 and such assistants as may be necessary. Such assistants shall be appointed subject to chapters 76 and 77. The salary of the deputy administrative director shall be ninety-five per cent of the administrative director's salary. The administrative director shall be provided with necessary office facilities.

The judges, clerks, officers, and employees of the courts shall comply with all requests of the administrative director for information and statistical data relating to the business of the courts and expenditure of public funds for their maintenance and operation. [L 1959, c 259, pt of §1(b); am imp L 1965, c 97, §24; am L 1965, c 223, §11; Supp, §213-1.6, HRS §601-3; am L 1969, c 127, §9; am L 1974, c 159, §16; am L 1975, c 58, §25; am L 1976, c 82, §1]



Consensus Statement of the Citizen's Conference on the Administration of Justice

D

The organization of the judicial system in Hawaii is basically sound. Desirable existing features include centralization of administrative, budgetary and statistical control in the Chief Justice, the creation of the office of Administrative Director appointed by and acting under the Chief Justice, the granting of broad rule making powers to the Supreme Court and the establishment of the Judicial Council to serve in an advisory capacity. These features together provide for an integrated system that permits judicial business to be conducted expeditiously, effectively and justly.

However, the operation of our judicial system in its entirety falls short of the standard that can and should be attained.

One of our most important needs is an improvement in the method of selection and in the tenure of judges.

Delay in the termination of litigation is working a serious hardship on many people.

Physical facilities throughout the system are woefully inadequate.

Modern management methods including mechanization and the use of computers have not been fully adopted.

The lack of public understanding of the judicial system and the absence of any active program of communication and education to overcome this are matters of concern.

Statutory revision has not kept pace with the administrative problems of the courts.

Organization and Administration:

No change in the relationship between the Supreme and Circuit Courts appears necessary. There is an overlap in functions between the Circuit and District Courts, however, and corrective action is clearly indicated in this area. Insofar as administration is concerned, our primary difficulty lies in the backlog of cases awaiting trial in the First Circuit Court. This appears to be as much an administrative problem as a staffing problem. The control of cases within the system needs improvement.

Selection and Tenure of Judges:

The selection of judges should be based on merit and should be removed as far as possible from the influence of partisan politics.

This can best be accomplished by the adoption of a commission modeled substantially after that of the Model Judicial Article, which provides for both lawyers and laymen to seek out and review available and qualified prospective appointees and present panels to the appointing authority from which the selection will be made.

The Conference is cognizant of the Governor's concern with judicial appointments and is aware that Constitutional revision can be a time-consuming process. As an immediate first step, the Governor is respectfully requested to institute this commission system for the selection of Circuit and Supreme Court judges by executive order until the necessary Constitutional amendment can be adopted.

Action should also be taken to improve the tenure

of judges. Judges should have security from the time of their appointment until some mandatory retirement age, provided that a systematic review of performance and capability is undertaken at least once within a prescribed time after appointment and preferably at regular intervals thereafter. The method and procedure for review should be a subject of further study, it being the opinion of the conference that the unopposed re-election system utilized in certain other states may not be desirable for adoption here and that a thorough analysis of available alternatives should be made.

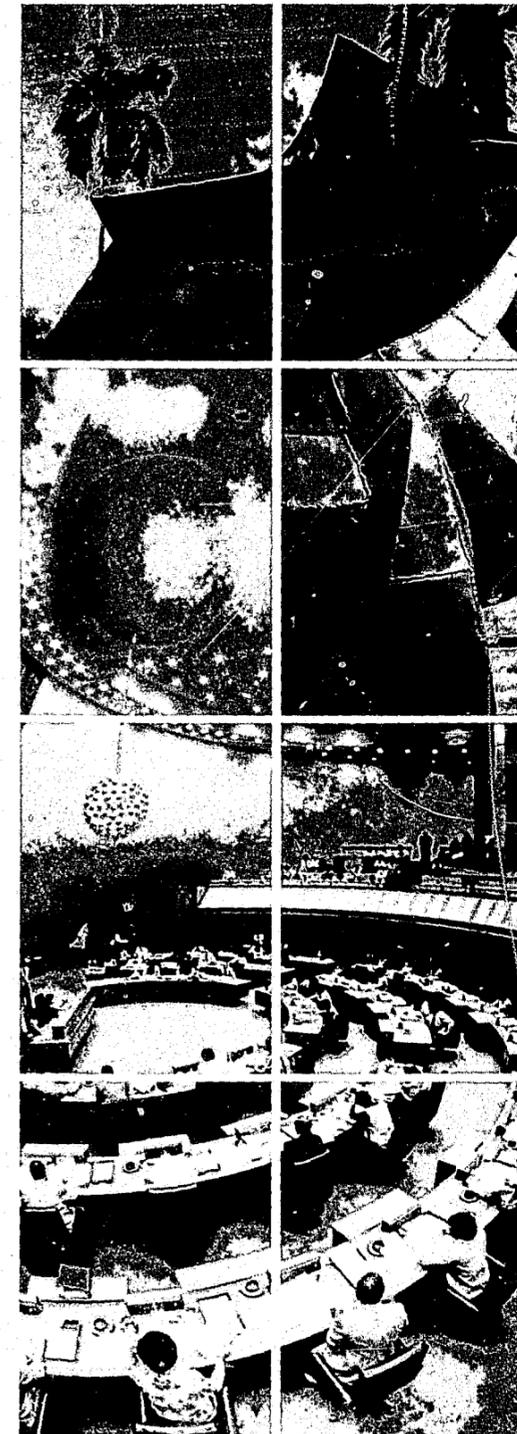
Judicial Compensation, Retirement, Discipline and Removal:

Judicial compensation must be maintained at such levels that Hawaii's best qualified attorneys can be encouraged to offer themselves for public service as judges without undue financial sacrifice. Although the salaries of Hawaii's judges now compare favorably with those of many other states, the retirement law needs liberalization; it fails to make adequate provision for judges who have not had prior government service because their tenure is too brief to provide a satisfactory pension and it is inadequate with respect to judges' widows.

A commission composed of judges, attorneys and lay citizens should be established to receive, investigate and hear in confidence complaints against judges and, in appropriate cases, to recommend to the Supreme Court censure or removal of the judge concerned.

Action Program:

A citizens' organization should be formed to provide for the continuing improvement and public understanding of the judicial system. A steering committee has been established to provide organization for this group. All conferees will be invited to be charter members and other interested citizens will be encouraged to join. The group will consist entirely of lay persons. It should give priority to the appropriate means of putting into effect the conclusions of this conference.



Historical Development of the Judicial System of Hawaii

E

Hawaii is the only state whose government has successively evolved from feudal absolutism, through constitutional monarchy, independent Republic, territory of the United States, and finally the Fiftieth State of the Union. This remarkable evolution has taken place in the less than 200 years since Captain James Cook discovered the islands in 1778.

At the time of Captain Cook's arrival, the Hawaiians were living in a Stone Age culture under a long established feudal system, with several small kingdoms, each ruled by a powerful *alii* or chief. The chief was sole proprietor of the land and apportioned it among his followers who in turn reapportioned it among theirs, all holding as tenants at will.

Although all legislative, executive and judicial powers were vested in the highest chiefs, there existed a substantial body of legal custom, preserved by memorization and oral transmission since there was no written language. These oral edicts related to such basic areas of civil law as fishing rights,

water rights and land use. Criminal offenses included murder, assault, theft and breaches of etiquette towards superiors. Penalties ranged from death for murder, the breaking of a limb of a party guilty of assault, or recovery of stolen goods by taking anything needed from the house of the thief without retaliation.

Political, social and religious systems were closely interwoven and the largest body of law consisted of religious *kapus* (tabus) which were highly structured and oppressive.

The Kingdom of Hawaii

By 1795, a high chief of the island of Hawaii, Kamehameha I, had succeeded in conquering all the islands except Kauai and Niihau which acknowledged his sovereignty in 1810. Thus the Kingdom of Hawaii was born.

Kamehameha I issued one of the best-known early

laws of general applicability, *mamala hoe kanawai*, or the law of the splintered paddle. One legend has it that Kamehameha landed his canoe on a beach and encountered two of his enemies while making his way inland. Giving chase, he caught his foot in a crevice and was trapped. His quarry turned on him, beat him over the head with his canoe paddle, and left him for dead. Fortunately, his head withstood the beating. At a later date, the king had the offenders brought before him and in an act of mercy and statesmanship, set the offenders free. Later, referring to his own helpless plight at the time of the attack, he issued the Law of the Splintered Paddle, which can be translated, "Let the woman and the child, the aged and the infirm walk freely along the byways and lie down peacefully at the side of the road. No one shall molest them."

Western Influence

For many years after the discovery of the islands, the absolute monarchy continued, but western influence increased as traders and explorers from America, Great Britain and Russia visited the islands to obtain water and provisions and to leave such products of the western world as firearms, metal tools, cloth and domestic animals. Many westerners came to the islands and some stayed to serve as advisors to the King. He also had an advisory council of chiefs but his word continued to be law.

As contact with the west increased, the ancient *kapu* system gradually broke down and after Kamehameha I's death in 1819, his son, Kamehameha II, abolished the *kapu* system and with it most of the ancient religion of the Hawaiians. Thus, when American missionaries and their families arrived in 1820, they entered a spiritual vacuum and met early acceptance of a new God.

Laws continued to be proclaimed by oral edict, but the printing press brought by the missionaries soon served to issue laws in more permanent form. On March 8, 1822, a "notice" having the effect of law provided that if any seaman was found riotous or disturbing the peace, he should be imprisoned and detained there until \$30 was paid for his release. Another notice on the same broadside ordered that any foreigner who was guilty of molesting strangers or in any way disturbing the peace should be confined in the fort and then sent from the islands on the first ship. Printed regulations for Honolulu harbor

were issued in 1825 by the Hawaiian equivalent of a prime minister.

In 1824, the Queen regent, Kaahumanu, proclaimed an oral code which showed the influence of the new religion.

1. There shall be no murder.
2. There shall be no theft of any description.
3. There shall be no boxing or fighting among the people.
4. There shall be no work or play on the Sabbath, but this day shall be the sacred day of Jehovah.
5. When schools are established, all the people shall learn the *palapala* (writing).

Growing commercial problems, the presence of many foreigners and the teachings of the American missionaries soon led the rulers of Hawaii to the realization of a need for more formal laws to regulate and protect both natives and foreigners.

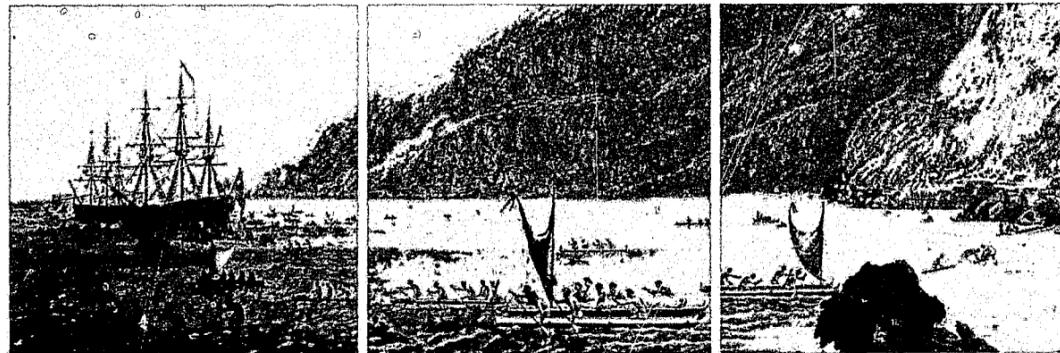
In 1827, formal law enactment began when the King proclaimed five laws, drawn up by him and the council of chiefs, prohibiting murder, theft, rum selling, prostitution and gambling, and providing penalties. Some foreigners objected so strongly to the last three proposed laws, that their adoption was postponed although they were printed together with three laws adopted on murder, theft and adultery on December 8, 1827.

As late as 1824, capital punishment was inflicted at the will of the King or superior chief and without trial. After 1825, trial by jury was introduced and execution was by hanging. By 1828, the equivalent of prosecuting attorneys and justices of the people had been appointed on the several islands.

A penal code of five chapters was proclaimed and signed by King Kamehameha III, on January 5, 1835. It dealt with and provided penalties for murder and lesser degrees of homicide, theft, unlawful sexual intercourse and divorce, fraud and falsehood, drunkenness and offenses committed while intoxicated.

Declaration of Rights

In 1838, a missionary, William Richards, was asked by the King and chiefs to instruct them on points of civil policy and the laws of nations so that they might better deal with the various foreign consuls, other foreigners, and that they might learn how to advocate their own cause and maintain their own rights. The 1839 Declaration of Rights and the Con-



stitution of 1840, began the constitutional monarchy.

The Declaration of Rights, frequently called Hawaii's Magna Carta, begins "God hath made of one blood all nations of men to dwell on the earth in unity and blessedness. God has also bestowed certain rights alike on all men and all chiefs, and all people of all lands." The Declaration recognized the rights of all the people to "life, limb, liberty, the labor of his hands and the productions of his mind," and provided protection of lands and property. ("... Nothing whatsoever shall be taken from any individual except by express provision of the laws.")

Constitution of 1840

Modern judicial history dates from October, 1840 when Kamehameha III signed the first Constitution. It provided, among other things, for legal redress of injury, punishment of crime by trial conducted according to law, and that no one be permitted to sit as judge or act on a jury to try his particular friend (or enemy) or one who is especially connected with him. Should the latter occur, a new trial was allowed.

The King was declared the chief judge of the Supreme Court, which consisted of himself, the premier and four persons appointed by the representative body (one of two legislative houses). The King appointed four Governors of the islands who in turn appointed and presided over all the judges of his island, two or more for each island. These judges had tenure unless they were impeached or their terms limited by law. Their jurisdiction extended to all cases except those regarding taxation or difficulties between land agents, or landlord and tenant. Decisions could be appealed to the Supreme Judges, who settled all cases left unsettled by the tax officers and the common judges. New trials according to law were provided, and the decisions of the Supreme Judges were final.

Early Laws

In 1842, a "Law for the Regulation of Courts," relating chiefly to juries, was passed. Provision was made for the foreign as well as the native population in setting forth requirements for composition of the jury. In cases where both parties were natives, the jury was to be made up of natives. Where both parties were foreigners, the jury was to be com-



posed of foreigners. In cases where one party was a native and the other a foreigner, the jury was to be composed of half natives and half foreigners. Twelve members were required for a jury, except that foreign juries, other than those hearing capital offenses, could be reduced to not less than eight, were there not enough foreigners to make a full panel.

A unanimous verdict was required for cases involving a capital offense, but in trials for other crimes three-fourths of the jury was sufficient to decide the case. The judge had the discretionary power to "send them into a tight room, shut the door, set a guard and confine them there until three-fourths are agreed."

After the Constitution of 1840, many laws, both criminal and civil, relating to such matters as taxation, debts, schools, parental duties, ships, and animals were passed and compiled in the Constitution and Laws of the Hawaiian Islands, published in 1842. As the translator says in the preface to the 1842 Laws, "At these Islands as well as in more civilized countries there is something like a system of common law, independent of special statutes. It consists partly in their ancient taboos, and partly in the practices of the celebrated chiefs as the history of them has been handed down by tradition, and at



the present period the principles of the Bible are fully adopted. The established customs of civilized Nations have also in most cases the force of law in these Islands provided that custom is known."

Some of these early laws were proposed by foreign visitors or residents, but in several cases the original laws were drafted by native Hawaiians who had studied at Lahainaluna School, established by missionaries. All laws were reviewed, discussed, and sometimes altered by the House of Nobles and the House of Representatives meeting in council, before being signed by the King and Premier.

So far as is now known, all of these legal advancements took place without the benefit of the advice of a lawyer, for the first lawyer, John Ricord, did not arrive in Hawaii until 1844. Ten days after his arrival he was appointed Attorney General of the Kingdom and contributed substantially to the subsequent reorganization of the government, including the Judiciary.

Act of 1847

The "First Act of Kamehameha III" (1845) organized the executive ministry, the "Second Act" (1846) organized the several executive departments, but it is the "Third Act" (1847), which or-

ganized the Judiciary department, which is of most interest here. This act provided that the judges should be "distinct from and in all respects independent of the executive department". The same person could exercise several functions in the various branches of government, although the functions were intended to be clearly separated.

As required by the Constitution of 1840, the Supreme Court continued in existence, but the greater part of its work was assigned to the superior court of law and equity which functioned as a Supreme Court in all but name, with both original and full appellate jurisdiction, subject to review and reversal of the Supreme Court. The representatives of the people in the Legislature appointed three judges "learned if possible in the law", with one designated Chief Justice. William Little Lee, the second lawyer to come to Hawaii, was named Chief Justice and his associates were Lorrin Andrews and John Ii. The 1847 Act also created four judicial districts with Circuit Courts which were courts of record. Each Circuit Court was presided over by one of the judges of the superior court, assisted by two local Circuit Court judges appointed by the Governor of the district. District judges, appointed by the Governor, presided over justices' courts, which were not courts of record. There were twenty-four districts, each with one or more district justices, as required.

Attorney General John Ricord left the Islands in the fall of 1847 and it is to William Little Lee, who had studied law at Harvard, that Hawaii owes much of the strong foundation of its legal and judicial system. He arrived in Honolulu in 1846 on his way to Oregon where he hoped to practice law and improve his health, but when his vessel stopped in Honolulu he decided to remain, and became presiding judge of the Oahu Court. Before his death in 1857, at the age of 36, he made significant contributions to all phases of Hawaiian government and life, but only those in the legal and judicial field are touched on here. By 1850, he had drafted a penal code which has served as the basis of Hawaii's criminal law to the present day. Much of it was borrowed from codes prepared for Massachusetts and Louisiana. He began but could not complete the civil code of 1859.

Constitution of 1852

It was the Constitution of 1852, of which Lee was

the principal architect, which clearly established the essential framework of a judicial system which has remained viable throughout the passage of time and the several major changes in forms of government.

Three classes of courts were established: A Supreme Court consisting of a Chief Justice, and two associate justices, appointed by the King with the advice of his Privy Council, to hold office during good behavior, subject to removal upon impeachment—its jurisdiction was largely but not entirely appellate; Circuit Courts as trial courts on each of the major islands, with judges appointed in the same manner as justices; and district magistrates' courts in each judicial district. The district justices were appointed by the island governors with the advice of the Supreme Court for renewable two-year terms.

Any judge of a court of record could be removed for mental or physical inability by concurrent resolution of two-thirds of both branches of the Legislature.

The first volume of Hawaii Reports covers the period 1846–1856 and was published in 1857, with a dedication to the first Chief Justice William Little Lee, who wrote many of the opinions published therein. Since the Supreme Court exercised original jurisdiction in many matters prior to the Judiciary Act of 1892, some of the early reports include decisions of single justices at law, equity, admiralty and probate, as well as purely appellate decisions.

1852 – 1900

Provisions on judicial organization similar to those in the Constitution of 1852 were continued in the Constitutions of 1864 and 1867 and in the Constitution of the Republic of Hawaii, adopted in 1894 after the overthrow of the Monarchy.

An Act to Reorganize the Judiciary Department, passed by the 1892 Legislature, retained the three-tiered structure, and clarified the jurisdiction of each level with the Supreme Court almost purely an appellate court (except for the issuance of certain writs). This act also provided that, *"The common law of England, as ascertained by English and American decisions, is hereby declared to be the common law of the Hawaiian Islands in all cases except as otherwise expressly provided for by the Hawaiian Constitution or laws, or fixed by Hawaiian judicial precedent or established by Hawaiian national usage, provided, however, that no person shall be subject to criminal proceedings except as provided by the Hawaiian laws."* This provision has survived as part of section 1, Revised Laws of Hawaii 1955.

Hawaii was annexed to the United States in 1898 and became an organized territory under the Hawaiian Organic Act. (Act of April 30, 1900, 31 Stat. 141).

1900–1957

In the Territory of Hawaii, the three-tiered system of Supreme, Circuit and District courts, so deeply rooted in history was continued with certain



changes which have sometimes been viewed as steps backward. Justices and Circuit Court judges were appointed by the President of the United States with the approval of the United States Senate. Four year terms for justices were substituted for the former life tenure and the terms of Circuit Court judges were reduced from six to four years.

In its nearly sixty years as a Territory, the Judiciary of Hawaii lived through problems as well as progress. During World War II, the courts were closed under martial law, an action later held illegal and unconstitutional in *Duncan v Kahanamoku* (327 U.S.304).

Efforts to achieve full status as a State began almost as soon as Hawaii became a Territory. In 1950, a Constitutional Convention was called which established the judicial structure under which Hawaii's courts operate today, although this Constitution could not take effect until Hawaii was admitted as a State in 1959.

The Chandler Act

In 1957, the Honorable Philip L. Rice, Chief Justice of the Supreme Court of the Territory of Hawaii, retained Henry P. Chandler, a former Director of the Administrative Office of the United States Courts, to survey the administration of justice in Hawaii and to recommend means for its improvement. In his report, he stated that the courts in Hawaii were disjointed to an extreme degree and that responsible direction was lacking not only for separate courts as parts of a whole, but even within the one Circuit Court that had more than one judge—the First Circuit Court. He concluded that the way for improvement was by unifying the court system of Hawaii.

This report prompted the enactment, in 1959, of what has come to be known as the Chandler Act, which, in effect, laid the groundwork for establishing a stronger administrative system for the Judiciary by bringing all the courts under the supervision of the Chief Justice of the Supreme Court. The Chief Justice was also empowered to appoint an administrative director to assist him in fulfilling his administrative responsibilities. In 1960, the first director was appointed.

Statehood

In 1959, the Constitution that came with statehood

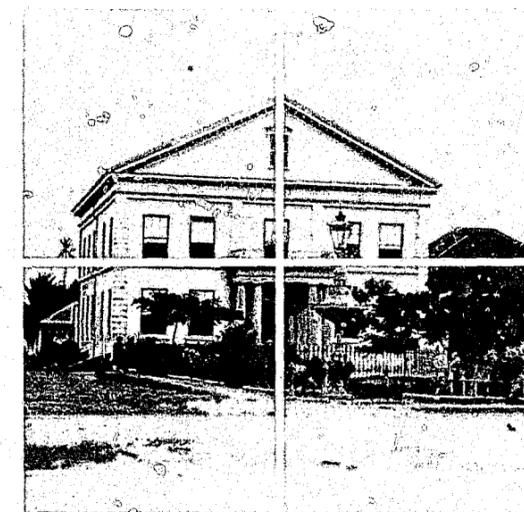
provided for a judicial system that was very simple in structure and with a potential for very efficient operation. The judicial power was vested in a Supreme Court, Circuit Courts, and such inferior courts as the Legislature may from time to time establish. All justices of the Supreme Court and judges of the Circuit Courts were appointed by the Governor with the advice and consent of the Senate. District Court magistrates were appointed by the Chief Justice. A person had to have been admitted to the Hawaii Bar for not less than ten years. Retirement was compulsory at age seventy. A judge could be removed for cause with the concurrence of each house of the Legislature sitting in joint session. There was further provision for removal for incapacity. The Chief Justice was named the administrative head of the courts.

Unification

Steps to unify Hawaii's court system date from 1965. Prior to that time, the District Courts were the responsibility of each of the individual counties in the State. However, in that year, the Legislature transferred the responsibility for funding the District Courts from the counties to the State thereby placing their administration and operation in the hands of the state government. Thus, for the first time in the history of Hawaii, all courts of the State were placed within a single system.

The Richardson Years (1966–)

In 1966, William S. Richardson, then the Lieutenant



Governor of the State, was appointed Chief Justice of the Supreme Court. Coupling soft-sell with quiet persistence to revitalize the Judiciary, the Chief Justice appointed an Administrative Director of the Courts and began a major overhaul requiring an unflagging effort to unify, develop, update, streamline, revise, improve, and innovate within the Judiciary. Some of the major events since his appointment which reshaped the Judiciary into a unified court system are outlined below.

• • •

In 1966, the Family Court was founded as a separate and distinct division of the Circuit Courts upon the philosophy that the problems of families and children, and their interaction, are best handled on an integrated basis rather than being under the jurisdiction of a multiplicity of judicial agencies. In that same year, the Supreme Court Law Library was established as a statewide system and was opened to the public as a reference library.

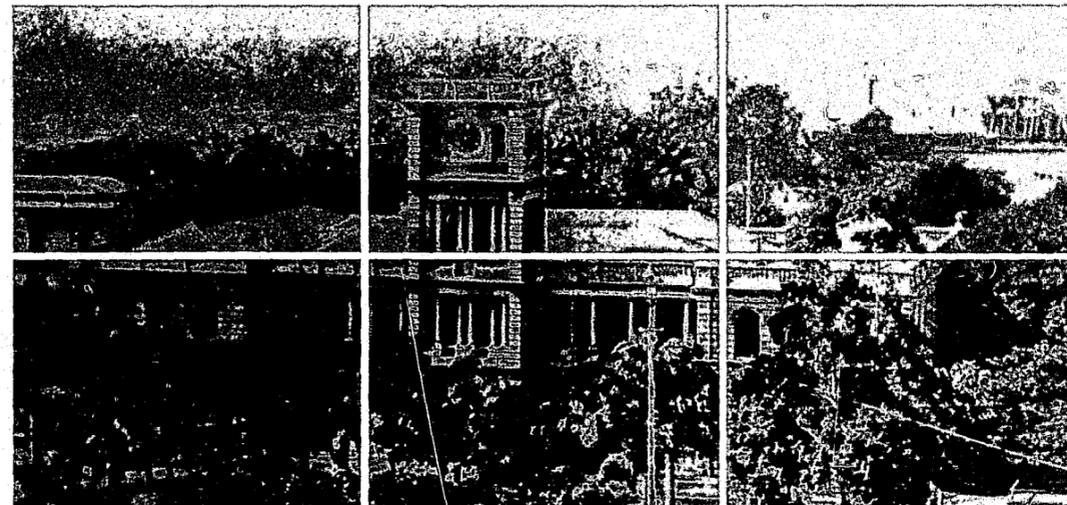
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In 1967, the Tax Appeals Court was created as a full-time division of the Judiciary to hear disputes between the state tax assessor and the taxpayer.

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In 1968, the terms of judges were lengthened and a Judicial Qualifications Commission was established.

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In 1972, the District Courts became courts of record with appeals taken directly from these bodies to the Supreme Court. Before that change, it was necessary to appeal to the Circuit Courts to establish a record. At the same time, magistrates and Family Court referees were elevated to District Court judges and the twenty-seven separate District Court jurisdictions were consolidated into four, reflecting the same geographic boundaries as the Circuit Courts. With such changes, Hawaii's judicial system became a two-tier trial court system.

• • •

In 1974, Act 159, the so-called "emancipation act" of the Judiciary, was enacted into law by the Legislature. In addition to clarifying the then existing law to conform to the constitutional principle of the separation of powers among the three branches of State government, the legislation allowed the Judiciary to develop its own budgetary system free from executive controls and required the State Comptroller to make available to the Judiciary the total amount appropriated to it by the Legislature.

It also provided for representation from the Judiciary at meetings of the State and County civil service commissioners and directors of the State Department of Personnel Services and permitted the Judiciary greater input in the decision-making process of personnel and civil service systems regarding position classification and formulation of rules and regulations affecting the Judiciary. Moreover, the Chief Justice was given ultimate authority in any

administrative disputes arising between himself and the Director of Personnel Services relating to requests for action by the Judiciary. Finally, Judiciary employees were allowed to continue to enjoy the benefits of the civil service merit system and collective bargaining provisions.

• • •

In 1977, the Legislature passed Act 159 which allowed the Judiciary to create a separate personnel administration system which covers all personnel functions and all Judiciary personnel and is centrally run by the state court administrator. Prior to the adoption of the act, nonjudicial staff of the courts were subject to the civil service regulations covering employees of the executive act. The purpose of the act was to conform the personnel laws of the State to the concept that the Judiciary is a separate branch of government. Thus, with the passage of this act, judicial unification and independence were finally realized.

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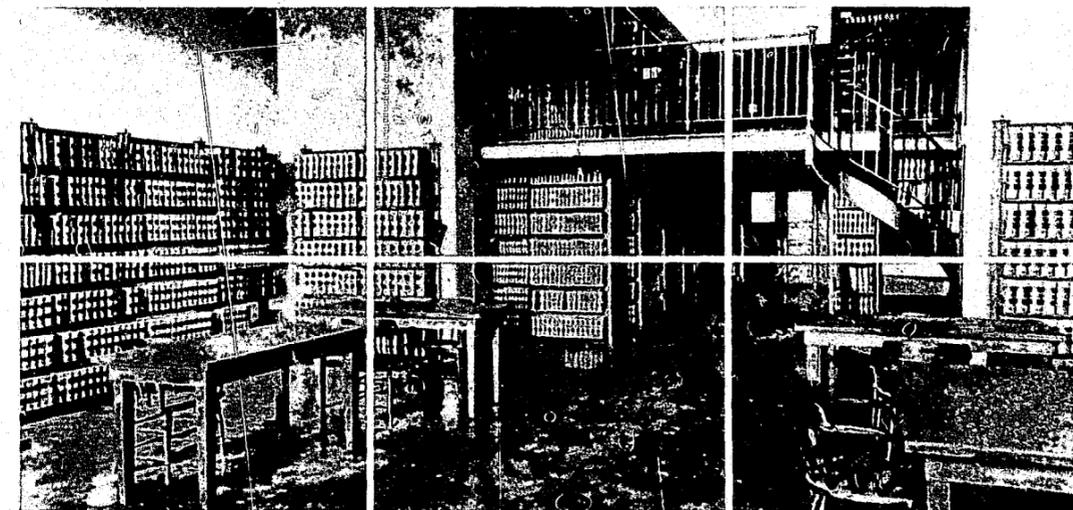
In 1978, the Constitution, which was essentially unchanged since statehood, was amended to provide for the creation of a new Intermediate Appellate Court, the development of a new method for selecting judges with the establishment of a nine-member judicial selection commission, the placement with the Supreme Court of the sole and exclusive responsibility for disciplining judges, and the establishment of a commission to review judicial salaries.

The District Courts were also transformed from statutory courts to constitutional courts.

• • •

During the same period, other significant developments, though not legislative or constitutional in nature, occurred which contributed towards the development of the unified court system of Hawaii. For example, courts throughout the State were unified by the revision of existing court rules and the promulgation of new ones that were statewide in scope. Forms and operating manuals were adopted for all courts, and uniform operating and budgeting procedures were developed. In addition, comprehensive training programs for judges, management and professional staff were introduced. A Driver Improvement Program was also started to provide defensive driver and traffic safety education throughout the State, and an Office of Disciplinary Counsel was created to investigate allegations of lawyer misconduct. Finally, a sixteen-member Judicial Council, appointed by the Supreme Court and established for the purpose of advising the Court on important policy matters, laid the groundwork for extensive law revision.

Several other projects were initiated with funding from the federal government. The Hawaii Criminal Justice Statistical Analysis Center was established in 1972 to provide data collection, dissemination and analysis for all agencies in the criminal justice system. A Computer Services Center was organized, in



1974, for the purpose of streamlining and updating court operations by computerization, and, in 1976, the Office of the Court Planner was created for the purpose of developing a comprehensive planning capability within the Judiciary.

There exists little, if any, doubt as to the profound effect of these developments upon the Judiciary. In point of fact, the net effect of these changes was to gradually transform the "old" judicial system into its present unified form. Thus, the judicial system of 1978 was vastly different from the one that existed at statehood. The next section will describe the Judiciary as it exists today.

The Judiciary Today

The courts of the Hawaii Judiciary are organized into two general levels: an appellate level in the form of the Supreme Court and the Intermediate Court of Appeals; and a trial level, which includes the Circuit Courts and the District Courts. In addition, there are three specialized courts of limited jurisdiction: the Land Court, the Tax Appeal Court, and the Family Courts.

Supreme Court: The highest court of the State is the Supreme Court. Article VI of the Constitution provides that the Supreme Court shall consist of a Chief Justice and four associate justices who are nominated by the nine-member Judicial Selection Commission and appointed by the Governor with the advice and consent of the Senate for ten-year terms. The Supreme Court has appellate jurisdiction to hear



and determine all questions of law, or mixed law and fact, which are properly brought before it from the other courts of the State. It has the power to issue writs of mandamus, certiorari, prohibition, habeas corpus, and all other writs necessary and proper to the complete exercise of its appellate jurisdiction. The Court is also empowered to make rules and regulations relating to the process, practice, procedures, and appeals for all civil and criminal cases in all courts.

Intermediate Court: The Intermediate Court of Appeals consists of a chief judge and two associate judges who are nominated by the Judicial Selection Commission and appointed by the Governor with the advice and consent of the Senate for ten-year terms. The principal function of the Intermediate Court of Appeals is to handle the more routine appellate cases which usually entail the review of trial court determinations for errors and correcting such errors. Indeed, it was hoped that by relieving the Supreme Court from this necessary but time-consuming function, more time could be devoted by the Court to its principal function of selective review and the formulation of decisional law. Thus, like the Supreme Court, the Intermediate Court of Appeals is empowered to hear appeals allowed by law from any other court or agency to determine whether the trial court or the agency erred, and if so, to correct such errors. It also has the power to issue writs of habeas corpus, mandamus, certiorari, prohibition and all other writs and acts necessary and proper to carry into full effect the powers which are conferred to it by law on matters properly brought before it.

This two-tiered appellate system serves a two-fold purpose. It preserves both the vital law-shaping function of the Supreme Court and insures a litigant's right to a meaningful appeal by affording a review on the merits without unnecessary delay. Like the appellate level, the trial level of the Hawaii Judiciary is a two-tier system composed of the Circuit Courts and the District Courts.

There are four judicial circuits in the State with boundaries co-equal to county boundaries: the First Judicial Circuit—Honolulu and the county of Kala-wao on the Island of Molokai; the Second Judicial Circuit—Maui, Lanai and part of Molokai; the Third Judicial Circuit—the Island of Hawaii; and, the Fifth Judicial Circuit—Kauai and Niihau. There is no Fourth Judicial Circuit.

Circuit Courts: The Circuit Courts are trial courts of general jurisdiction. They have exclusive jurisdiction in all criminal felony cases, probate and guardianship proceedings and in all civil cases involving more than \$5,000. All jury trials are held in the Circuit Courts including trials for criminal misdemeanors and all civil cases, where the amount in controversy exceeds \$1,000, which are filed in the District Courts but subsequently transferred when a jury trial is demanded. The Circuit Courts exercise concurrent jurisdiction with the District Courts in all civil matters where the amount in dispute exceeds \$1,000 but is less than \$5,000. All appeals are made either to the Supreme Court or to the Intermediate Court of Appeals.

Circuit Court judges, like Supreme Court justices and judges of the Intermediate Court of Appeals, are nominated by the Judicial Selection Commission and appointed by the Governor with the advice and consent of the Senate for ten-year terms.

District Courts: The lowest tier of the judicial structure of Hawaii are the District Courts. The District Courts are courts of record with limited jurisdiction in both civil and criminal matters. They conduct non-jury trials in both types of cases. The District Courts have exclusive jurisdiction in civil cases involving less than \$1,000 and small claims. In criminal matters, they have exclusive jurisdiction over violations of the state and county traffic codes, criminal misdemeanors, petty misdemeanors, and violations as well as any other infractions of the

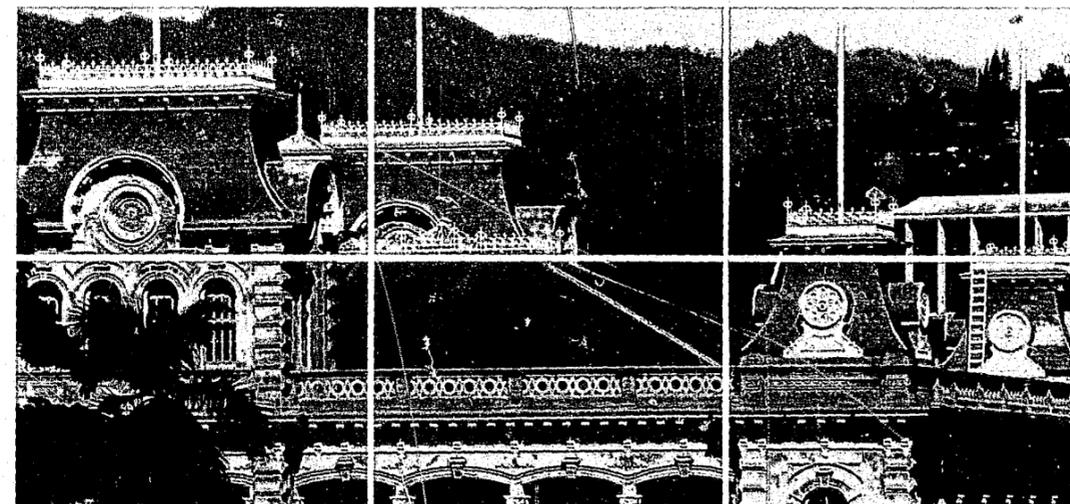
state code or rules and regulations promulgated thereunder. The District Courts also have jurisdiction to try all cases arising from the violation of county ordinances and to impose penalties for such violations. In felony cases where an arrest has been made, the accused is brought before a district judge for initial arraignment and is held over for preliminary hearing to determine if the evidence is sufficient to commit the case to the Circuit Courts for jury trial. Appeals are made to the Supreme Court and the Intermediate Court of Appeals.

District judges are appointed for six-year terms by the Chief Justice who selects them from a list of not less than six nominees presented by the Judicial Selection Commission. Eighteen full-time judges now serve in Hawaii's District Courts.

Within this unique framework of the trial courts on both circuit and district levels, there is no overlapping of judicial functions. Cases heard in one particular court are not heard in another. Appeals are taken directly from the trial level to the appellate courts.

Specialized Courts: There are three other specialized courts with limited statewide jurisdiction in the judicial structure of Hawaii. They are the Land Court, the Tax Appeals Court, and the Family Courts.

The Land Court is a statewide court based in Honolulu with exclusive original jurisdiction over all applications for the registration of title to fee simple



land and easements or rights in fee simple land within the State. The Court has the power to hear and determine all questions arising from these applications and its primary function is to register title to land through a judicial proceeding. This is especially important in Hawaii where many land rights date back to the monarchy. A judge from the First Circuit Court is assigned by the Chief Justice to this court. All appeals go directly to the Supreme Court.

The Tax Appeal Court is a statewide court of record based in Honolulu with original jurisdiction in all disputes between the state tax assessor and the taxpayer. It was created for the purpose of providing a court of record which decides all questions of fact and law, including constitutional questions, with respect to matters of taxation committed to its jurisdiction, without the intervention of a jury. The jurisdiction of the Tax Appeal Court is limited to the amount of valuation or taxes claimed by the taxpayer or county or the amount of the assessment as the case may be.

The Family Court system was created in 1965 as a separate division of the Circuit Courts to deal expressly with juvenile offenders and domestic relations matters such as divorces and adoptions. The intent of the Legislature was to establish a single mechanism to deal exclusively with children and families. Towards this end, therefore, the Family Court transcends the strictly adjudicatory function of a court by providing a number of counseling, guidance, self-help, detention and supervision pro-

grams for both children and adults.

Court Administration: Under Hawaii's unified court system, the Chief Justice is designated by the Constitution as the administrative head of the courts. As such, he is ultimately responsible for the statewide operations of the Judiciary. To assist in carrying out his constitutionally-mandated responsibilities, the Constitution provides that the Chief Justice may appoint, with the approval of the Supreme Court, an administrative director of the courts who is responsible for the day-to-day operations of the courts. The administrative director, in turn, is empowered by statute to appoint a deputy administrative director.

The director is administratively responsible for all courts except the District Courts, which are the administrative responsibility of the deputy director. The director also administers the State Law Library System which is composed of the Supreme Court Library and its satellite collections in the Second, Third, and Fifth Circuits. In addition to these duties, the director is also the personnel director of the Judiciary.

The Office of the Administrative Director of the Courts is responsible for statewide budget and fiscal, personnel, planning and research, public information functions, staff attorney services, computer services, and the volunteers in public service program.

The deputy director is administratively responsible



for all District Courts as well as the Traffic Violations Bureau, the Driver Improvement Program, and the Counseling Services Program.

Justices and Judges

The justices and judges of the Hawaii Judiciary are selected, compensated, disciplined, and retained in accordance with the provision of the Judicial Article (Article VI) of the Constitution and as otherwise specified by law. Each of these areas will be discussed separately below.

Selection: The Judicial Article of the State Constitution authorizes the Governor of the State, with the advice and consent of the Senate, to appoint qualified persons from a list of not less than six nominees presented by the Judicial Selection Commission, to fill vacancies in the Supreme Court, Intermediate Appellate Court, and the Circuit Courts. District Court judges are appointed by the Chief Justice under a similar process.

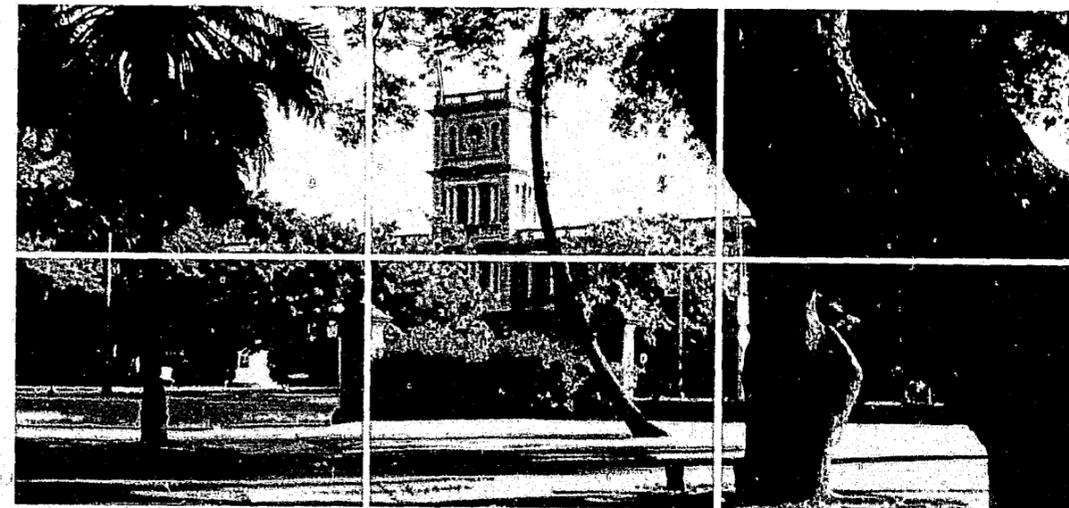
The Judicial Selection Commission is composed of nine members who serve staggered six-year terms, with each member limited to one full term. Members of the commission must be residents of the State and citizens of the United States, with no more than four of the members being licensed attorneys. While on the commission, members are banned from taking part in political management or political campaigns and are also ineligible for appointment to any judicial office during or for three years after the expiration of their term. Such restrictions

were established to ensure that the Commission operates in a wholly nonpartisan manner.

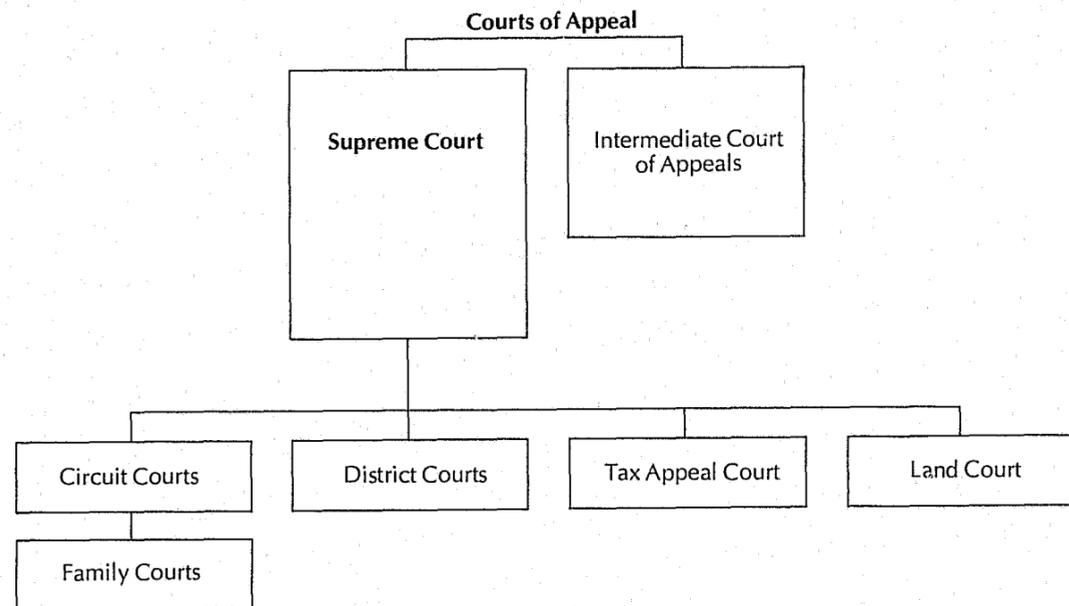
The principal function of the Judicial Selection Commission is to review the qualifications of prospective candidates for judgeships and to recommend to the appointing authority those deemed best qualified for appointment whenever a vacancy occurs. The Commission is also empowered to evaluate the performance of all justices and judges at the end of their terms to determine whether a justice or judge should be reappointed.

Qualification: Justices and judges of the Supreme Court, Intermediate Appellate Court and the Circuit Courts must be residents of the State and citizens of the United States and also licensed to practice law in the State for a period of not less than ten years preceding their nominations. District Court judges have similar requirements with the exception that they need be licensed to practice law in this State for a period of not less than five years preceding their nominations. All justices and judges, however, are prohibited from engaging in the practice of law, running for or holding any office or position of profit under the United States, the State or any of its political subdivisions during the term of their offices.

Tenure and Retention: The State Constitution provides for ten-year terms for all justices of the Supreme Court and judges of the Intermediate Appellate Court and the Circuit Courts. The term of a District Court judge is set at six years. Every justice and judge is required to petition the Judicial Selec-



Judicial Organizational Chart



tion Commission for retention in office at least six months prior to the expiration of his term of office; or, if he does not seek such retention, then to inform the Commission of his intention to retire. Where reappointment is sought by a justice or judge, it is the Commission's responsibility to determine whether, on the basis of an evaluation of his record and performance in his respective court, retention should be granted. The Commission's determination on this matter is final as there exists no right to appeal.

All justices and judges are required by the Constitution to retire at the age of seventy. Retired justices, however, may serve temporarily on the Supreme Court upon the request of the Chief Justice.

Discipline: Article VI of the State Constitution gives the Supreme Court the power to reprimand, discipline, suspend with or without salary, retire or remove from office any justice or judge for misconduct or disability, as provided by such rules adopted by the Court.

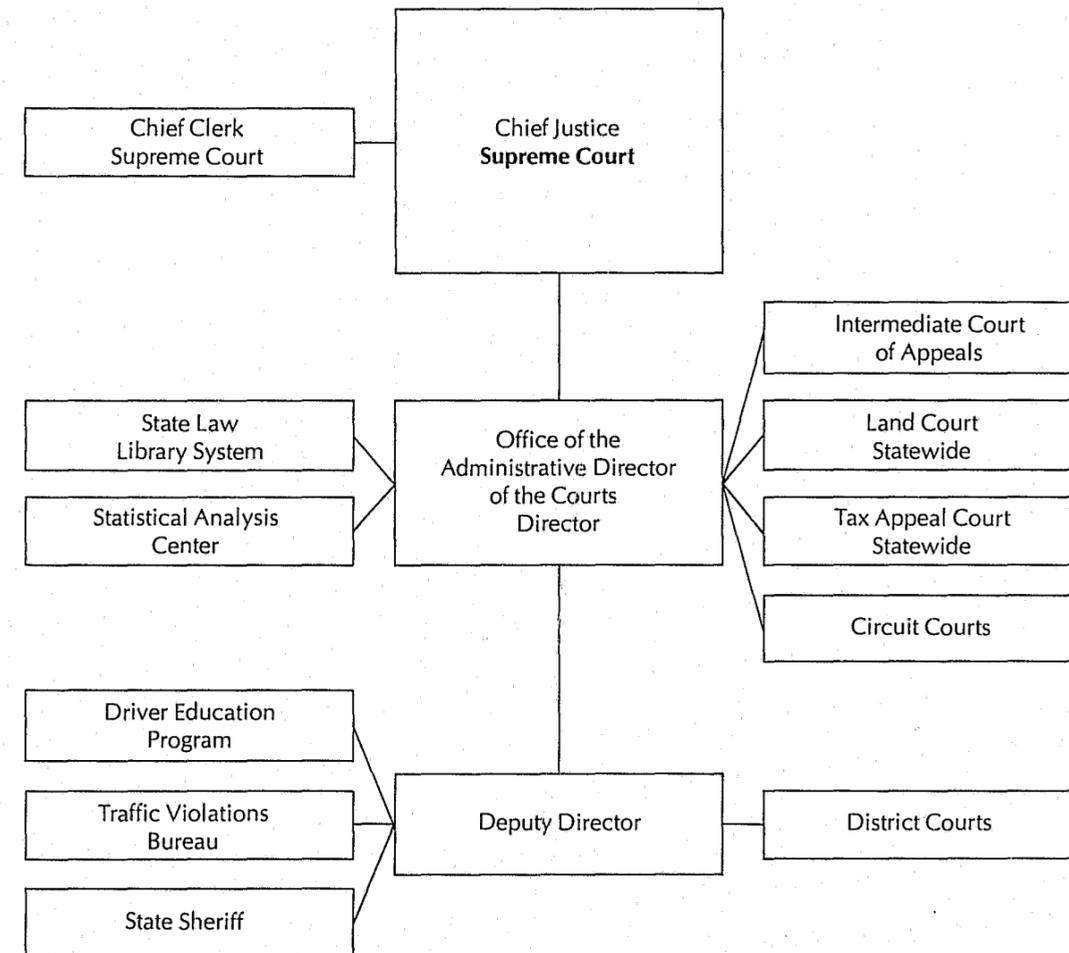
Prior to the ratification of this amendment in 1978, the Executive Branch had the primary responsibility

for investigating complaints against the Circuit Court judges and Supreme Court justices. Only the District Court judges could be removed by the Supreme Court. Moreover, the only type of disciplinary action available against a judge was removal from office or retirement. The new judicial article expands upon the disciplinary options to include reprimand, discipline, and suspension without salary.

The new judicial article also authorizes the Supreme Court to create a Commission on Judicial Discipline which has the authority to investigate and conduct hearings concerning allegations of misconduct or disability with respect to any justice or judge and to make recommendations to the Supreme Court concerning the appropriate disciplinary action to be taken. Guidelines for disciplining judges will be established by court rule.

Compensation: Article VI authorizes the establishment of a salary commission to review the salaries of all justices and judges and to make such recommendations as it deems appropriate to the State Legislature, which has the authority to set judicial compensation.

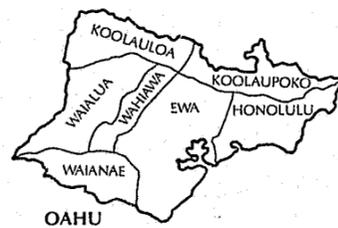
Administrative Organization Chart



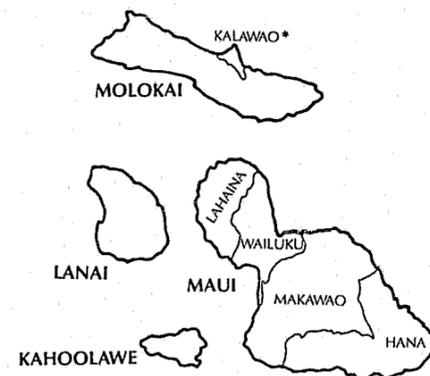
Appointed Boards and Commissions attached to the Judiciary for administrative purposes.

Judicial Council	Judicial Selection Commission	Commission on Judicial Discipline	Board of Examiners	Disciplinary Board of the Supreme Court
Serves as an advisory body to the Judiciary.	Makes nominations for judgeships and reappoints judges.	Responsible for investigating complaints against judges.	Responsible for giving the examination for admission to the Hawaii Bar.	Responsible for investigating complaints against attorneys.

The Judicial Circuits of the Hawaii Judiciary

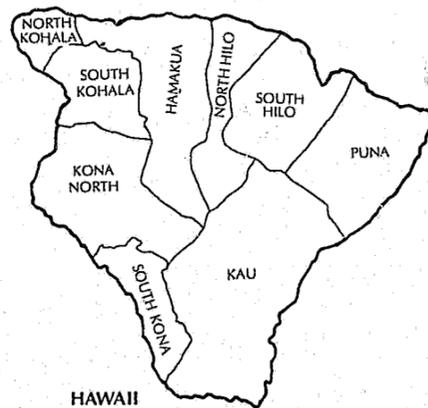


First Judicial Circuit

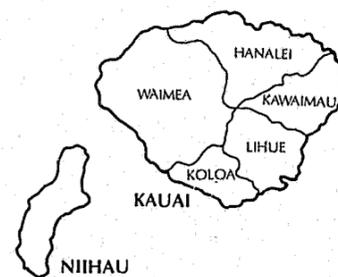


*County of Kalawao belongs to the First Judicial Circuit.

Second Judicial Circuit



Third Judicial Circuit



Fifth Judicial Circuit

The Components of the Planning Process

F

This appendix covers the principal components of the comprehensive planning process of the Judiciary. It will define what each component is and describe how they are formulated within the planning process. It will also attempt to show how the components are related. Finally, examples of goals and objectives found in other state court plans will be presented to show how such components are developed and utilized in those states.

Definitions

Missions are broad statements of purpose which represent the fundamental and continuing aims of an organization which last throughout its life and towards which the resources and energies of the organization are ultimately directed. The missions of an organization are its *raison d'être*, its reason for being.

Goals are broad statements expressing an expected or desired condition or state or end-result towards the achievement of which the resources and energies of the organization are to be directed.

There are two types of goals which are contemplated by the comprehensive planning process of the Judiciary, the judiciary goal and program goal.

Judiciary goals are broad statements of the condition or state or end-result desired for the organization as a whole towards the achievement of which organization-wide and program attention are to be directed. They represent logical extensions of the

missions of the organization as well as the subjective ideals, policy commitments, and problem solutions of the principal decision-makers of the organization which lead to the attainment of the missions of the organization. As such, they are comprehensive in scope and long-range in perspective.

Program goals are essentially sub-goals of the judiciary goals and are designed to guide the activities of a program. Specifically, program goals are general statements of the condition or state or end-result desired or expected with respect to the totality of activities embodied by a particular program for the accomplishment of which a course of action will be determined.

Program objectives, the lowest-level component of the planning process, are statements of specific courses of action which are to be undertaken by a program or its subdivisions in order to accomplish the program goals. They represent the "means" for attaining the program goals and are generally more immediate in time than goals. As such, they must be clearly defined so that everyone responsible for attaining them knows exactly what is expected of them.

Built into the objectives are standards or "measures of effectiveness" which specify the degree to which results are expected. That is to say, they posit certain quantitative indicators which if maximized (or minimized as the case may be) represent actual operational achievement of the objectives of the program. Thus, objectives serve as the criteria against which to measure and control the level of program performance.

Mission Formulation

Earlier, missions were defined as broad statements of purpose which represent the fundamental and continuing aims of the organization which last throughout its existence and towards which the resources and energies of the organization are ultimately directed. Because of the absence of any authoritative statement on the purposes of the Judiciary, it is necessary that such purposes be implied from secondary sources. Thus, from an analysis of the State Constitution, statutes relating to the Judiciary, and general principles of democracy, as well as a review of the historic role and function of the Judiciary, five basic purposes were discerned which resulted in the formulation of five specific mission statements.

Goal Formulation

Judiciary goals are derived through subjective interpretations of the missions. By this we mean that the missions are examined and interpreted by the principal decision-makers of the organization who then "project" these missions or purposes into desired conditions or states or end-results. These desired conditions or states or end-results then become the goals of the Judiciary. As such, they provide positive direction for the organization as a whole and for each of its programs. Moreover, the formulation of judiciary goals within the framework of established missions insures that the Judiciary's reasons for being are adequately fulfilled and that appropriate "means" for accomplishing the missions have been devised.

Program goals flow directly from the judiciary goals. They are formulated by relating the judiciary goals to the totality of activities contemplated by a program and thereby deriving the desired condition or state or end-result for that program. In effect, the program goals represent the subaggregation or condensation of the judiciary goals to fit the constraints of a particular program's activities.

Objective Formulation

Developing appropriate program objectives is certainly the most important part of the entire planning process. Since an objective represents a course of action for achieving a program goal, it is imperative that the objective be wholly and exactly congruent with the goal to which it relates. If this is the case, then the achievement of the objective assures us

that the related program goal is also being achieved. If however, the objective is not congruent with its related goal, then the activities undertaken to achieve the objective may be unwarranted simply because they do not contribute to the overall attainment of the specified program goal.

In developing appropriate program objectives, the following points should be considered:

- The objectives must be clearly stated in order to form the basis for delegation of responsibility.
- The objectives must be stated operationally and be practical and attainable with whatever resources are under the control of those persons who are charged with attaining the objective.
- The objectives must be quantifiable and provide standards by which to measure how well the organization is accomplishing what it seeks to achieve so that management may measure and control its efforts. Objectives should state the minimum acceptable level of performance or a range of acceptable performance.

Approaches to Objective Formulation

The planning process of the Judiciary recognizes two approaches to the formulation of program objectives. These two approaches are termed the "problem-oriented" approach and the "goal-oriented" approach.

The Problem-Oriented Approach: Objectives formulated using a problem-oriented approach are derived empirically as a result of field research, personal interviews, direct observation, informal meetings, as well as formal conferences with those to be ultimately charged with the implementation of a plan. These objectives, for the most part, are derived from the process of problem identification and needs assessment—the objectives themselves representing conditions which reflect the solution to a problem. The objectives formulated by this approach can therefore be deemed "problem-oriented."

This approach to objective formulation is characterized by the process of inductive reasoning; that is to say, by assessing particular problems, determining specific needs, and formulating solutions to meet those needs, a general condition is prescribed to resolve the problem or to meet the need. Thus, in theory at least, the attainment of inductively-derived objectives leads the organization into a

"problemless" state since, by definition, the objectives represent the condition of the elimination of the problem. Diagrammatically, this process can be depicted as follows:

Step 1. Identification of problems or assessment of organizational needs.

Step 2. Formulation of objectives to resolve the problem or to meet the need.

Step 3. Formulation of alternative strategies.

Step 4. Implementation, evaluation, and review.

Step 5. The elimination of the problem or need.

As can be seen from the above diagram, the problem-oriented approach is clearly an inductive process. It proceeds from the identification of specific problems and needs to the formulation of generalized objective statements which reflect the condition of a non-problematic state.

A number of difficulties, however, are engendered by this approach. The principal difficulty is that the inductive process leads to objectives which are restrictive in terms of their scope. Oftentimes, the objectives formulated by this approach reflect only a single dimension of a complex multidimensional problem. So restricted, planning then becomes oriented exclusively towards operational control and the planner's role is reduced to that of an "efficiency expert." While this may be a valid function of planning, it certainly is not its only function.

Furthermore, even if the scope of the objectives were to be broadened, there is still no guarantee that the desired condition reflected thereby is suitable from an organization-wide standpoint. Indeed, the focus upon problems of the organization may channel the planning process into areas which are properly the province of operational managers since such problems will often involve tasks rather than the larger management control function. Unfortunately, this is a very real difficulty for planners generally; that is to say, where to draw the line between management control activities which are properly within the purview of comprehensive planning, and operational control activities which should be left to the discretion and exclusive control of the program managers.

Then, too, the formulation of problem or need-oriented objectives ultimately fails to properly take into account the potential impact and broader ramifications of the objective in relation to the ultimate

purpose or purposes of the organization. We do not know the relative merits of a given objective unless we know how well it can stand in relation to the other objectives as well as the degree to which it conforms to the goals of the organization. Thus, problem-oriented objectives may divert attention away from long-range desirable conditions or states and focus instead on short-range solutions to immediate problems.

Finally, another difficulty with the inductive approach to objective formulation is that even if we were to assume that such a process can generate valid objectives, there is no criterion by which to assess the state of conditions which will exist once the organizational objectives are attained. Indeed, at least from an intuitive standpoint, a "problemless" state harbors no inherent qualitative index. That is to say, merely attaining a condition where a problem is non-existent is not indicative of whether or not that condition is an ideal one.

To illustrate what this means, assume that an organization has as an objective the elimination of delay in its caseload processing. Assume, further, that all delay is thereafter eliminated. Is this condition desirable? Does this condition comport with other equally compelling considerations such as due process and fairness?

The fact of the matter is that the elimination of delay in caseload processing is or is not a desirable end depending upon the perspective one chooses to take. In reality, the principle of due process demands reasonable delay. On the other hand, total adherence to the standard of efficiency in governmental operations would necessitate the complete elimination of delay. What then should be the governing principle or standard?

Obviously, an organization which has for its objective the complete elimination of delay in caseload processing has postulated a condition which is undesirable as well as unattainable. Moreover, it is equally obvious that the problem is not so much the elimination of delay per se but in determining what constitutes acceptable or tolerable delay. We can readily discern, therefore, the dilemma of formulating objectives solely on the basis of problem identification and analysis.

What the above example clearly demonstrates is the basic fact that the elimination of a problem situation is no way tantamount to the attainment by the organization of an "ideal" state. The question there-

fore arises as to what then should be the "ideal" state of an organization. To answer this question, we must proceed to the second approach to formulating objectives; namely, the goal-oriented approach.

The Goal-Oriented Approach: Objectives formulated using the goal-oriented approach are conceptually derived from established goals such that their achievement contributes to the attainment of the specified desired condition or state or end-result contained in the goal. The conceptual framework described in Chapter Six was devised, in part, to facilitate the formulation of objectives based on the goal-oriented approach. Using the conceptual framework, we can generate objectives which are logically consistent with the broader goals and missions of the Judiciary. That is to say, the objectives so generated represent logical extensions of the goals and missions of a particular dimension such that collectively they reflect an "ideal" state; their attainment would place the organization closer to a preferred and predetermined state that is in tune with the principal purposes and functions of the organization.

How an objective is formulated through the goal-oriented approach can be seen in the following example. Let us assume that every government agency must operate effectively and efficiently. In addition, a governmental institution such as the Judiciary, as a separate and coequal branch of government, must defend the Constitution. This means that it must protect the principle of due process of law. Assume further that there exists much delay in the processing of cases. Obviously, therefore, the Judiciary is not, with respect to caseload processing, operating effectively or efficiently.

A problem-oriented objective would seek to eliminate the problem of delay without regard to other considerations. On the other hand, a goal-oriented objective generated from our conceptual framework would attempt to deal with the problem only after other considerations have been fully analyzed. Thus, even though an effective and efficient government institution should experience no delay in the processing of a case, the Judiciary, as a government branch, can eliminate delay only to the extent that it does not conflict with the principle of due process which it is obligated by law to uphold. What this means is that unreasonable delay should be

eliminated, not the problem of delay in its entirety.

It should be noted that the above illustration of objective formulation could be conceived of totally in the abstract. Indeed, the standards governing the selection of a suitable objective can be derived logically from the concepts embodied in each dimension. That is to say, with respect to our example, we know that a government branch which must safeguard individual rights must do so in a manner that comports with the requirements of the Constitution. This means that expedited proceedings which may tend to dissipate the protection afforded by the Constitution are not tolerable except in extraordinary circumstances. Consequently, in terms of caseload processing, the government branch concept would dictate that reasonable delay be tolerated.

The underlying rationale of an objective generated from the conceptual framework has its roots in the theoretical constructs of the respective dimension from whence it originated. Thus, unlike a problem-oriented objective, a goal-oriented objective reflects a condition or state or end-result that is desirable from the standpoint of the conceptualized "ideal" state of the organization. Obviously, this is a considerable advantage over the problem-oriented objective which harbors no qualitative index other than the elimination of a current problem. It should be emphasized, however, that the goal-oriented approach alone does not lead to the "ideal" state of the organization since such a state, as we see it, should be one where the problems and needs of the organization are also minimized. Thus, in order to attain this "ideal" state, the objectives of the planning process should satisfy the requirements of both approaches.

A "Hybrid" Approach: The requirements of the problem-oriented approach and the goal-oriented approach can be synthesized to formulate a technique for developing objectives that are both consistent with the established goals of the organization and are reasonably calculated to resolve existing problems and needs. That is to say, both approaches can be integrated to form "hybrid" objectives which satisfy a two-level criteria for objective formulation formed from the requirements of both approaches. Thus, objectives so formed will be consistent with the established goals of the organization and, at the same time, will serve to resolve a problem or meet a need identified empirically from the field.

This technique for formulating objectives, then, affords the planner with the opportunity to assess the potential effect of an objective in terms of its perceived impact upon the principal missions of the organization as well as its propensity to resolve existing operational problems, if any. In addition, such objective when formulated satisfies two conditions—the real and the conceptually ideal—and are therefore valid in theory and in fact. The decision-maker is also afforded the opportunity to view an objective in a comprehensive and logical context. That is to say, this technique enables him to observe the impact of an objective on the basic purposes of the organization and to obtain a clear conception of the state or condition or end-result sought not only for a given organizational subdivision but for the organization as a whole as well. Thus, from the standpoint of decision-making, considerations of the long-run effects of present planning decisions are built into the objective formulation process.

Formulating Measures of Effectiveness

Developing good measures of effectiveness is perhaps the hardest part of the planning process. Effective planning is dependent upon the ability to understand why a program is or is not effective. To do this, measures of effectiveness should reveal progress in and deviation from the objective and whether or not the objective is really leading the organization towards its goals.

The most satisfactory form of a measure of effectiveness would be to have a single measure of ultimate benefit for an entire program which subsumed all of the particular lower-level measures of effectiveness and which is, itself, measurable in economic terms so that direct marginal analysis of program benefits and costs would be possible. Although this is seldom realizable, every effort should be made to move in the direction of this ideal. This means using measures of ultimate benefit wherever possible rather than lower-level narrow measures of effectiveness; it means using economic measures where valid, instead of physical measures; it means using a few integrating measures rather than a large number of discrete and separate measures.

Lower-level, generally physical measures of effectiveness, must be analytically derivable from higher level measures of ultimate benefit. In all cases, the ability to specify unique measures of physical effec-

tiveness implies a complete understanding of the activity in question. In many cases, such analytical insight is either incomplete or absent and hence it is difficult and dangerous to attempt to specify unique measures of effectiveness for all of the lower level program activities.

In most major programs, there are a number of measures of program benefit or effectiveness, no one of which subsumes the others or which is itself dominant. In these cases, all of the measures must be considered simultaneously in making judgments about the value or "effectiveness" of the program.

In some cases, there are higher level measures of program benefit which reflect in a major way accomplishment of the program's objectives, but for which no one sub-group, or group of individual sub-programs, can be held accountable. They all contribute in some degree to the overall effect, but each is either individually small or linked by a little-understood chain of causal effects to the larger measure. For example, in the major objective of employment, a good overall measure of effectiveness is the unemployment rate; but none of the sub-programs within that overall program can be fairly held accountable for changes in the rate. Each is partially responsible but in a way which is not yet ascertainable analytically.

As noted above, measures of effectiveness do not necessarily change from one level to another except with respect to factual specificity.

Conceptually correct measures of effectiveness should be identified even where the necessary data is not currently available. This stimulates good analytical thinking, provides a better judgmental basis for correct program choices, and provides guidance for the development of better information systems.

The Concept of the Means-End Chain

The concept of the "means-end" chain is a useful device to illustrate the hierarchical relationship of the components of the planning process. Under this concept, the condition or state or end-result at the highest point of the chain is effectively subaggregated into parts and subparts such that an evolving "chain" of means and ends is formed. Thus, the "means" utilized at a given level of the chain becomes the "ends" for the next successive level, and so on down the line. Figure F.1, which follows, illustrates this concept.

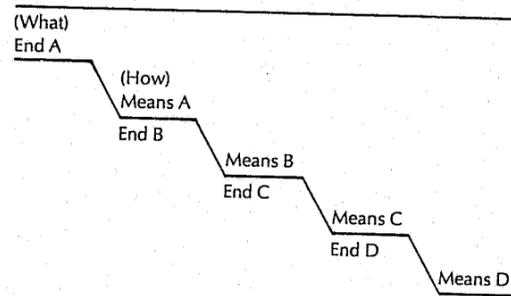


Fig. F.1 Means-End Chain

Note that in Figure F.1, the justification for employing MEANS A is to secure END A which is the condition or state or end-result or "what" is to be attained. Moreover, to achieve END A, one must employ MEANS A, which represents "how" END A will be achieved. Similarly, the justification for employing MEANS B is to secure END B. Thus, MEANS A and END B are one and the same.

Figure F.2, presented below, shows the relationship between the components of the planning process—the missions, judiciary goals, program goals, and program objectives—using the means-end chain concept. By using this concept, a program objective can be traced up through the component hierarchy to the mission to which it ultimately is related. The opposite is also true. Starting with the mission, it is possible to point out which goals and objectives the organization must strive to achieve in order for that mission to be met.

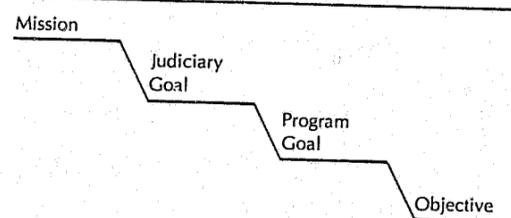


Fig. F.2 Hierarchy of Components as Illustrated with the Means-End Chain Concept

Under the concept of the means-end chain, each component of the planning process is viewed both as a means and as an end. In other words, the condition or state or end-result embodied in a component represents a means of attaining the condition or state or end-result of the next higher component as

well as a desired end in itself. Thus, by observing the evolving chains of means and ends that exist with respect to each mission, we can determine *how* each component of the planning process is directed towards the legitimate ends of the organization as well as *why* a particular goal or objective was formulated. It is this causal sequence of means and ends that is the basis of the comprehensive coding system (Chapter Seven) and the conceptual framework (Chapter Six) of the Judiciary.

The specific application of the concept of the means-end chain to our planning process is shown in the following illustration.

Mission Statements	To safeguard the rights and interests of persons by assuring an equitable and expeditious resolution of cases and controversies brought to the state court.
Judiciary Goals	<ol style="list-style-type: none"> 1. To provide a speedy resolution to individual cases. 2. To make fair and just decisions. 3. To process large volumes of cases efficiently.
Program Goals	<ol style="list-style-type: none"> 1. To expedite case decision in criminal cases. 2. To improve the quality of judicial opinions. 3. To establish procedures which will allow court hearings within the time available.
Objectives	<ol style="list-style-type: none"> 1. To dispose of misdemeanors within 60 days from the defendant's first appearance; to dispose of felonies within 90 days from being bound over. 2. To provide a comprehensive training program for judges; to facilitate the factual presentation of cases. 3. To decrease the number of pending cases; to lower the average times it takes to hear all cases; to increase the number of court trials.

Fig. F.3 An Application of the Means-End Chain Concept

Illustrations of Goals and Objectives from Other State Court Plans

In order to understand what goals and objectives look like within the operational context of a court system, the following illustration of goals and objectives contained in the plans of various state court systems is presented below. These goals and objectives are not offered as either good or bad examples, but only as examples of how other courts have ap-

proached the problem of goal and objective formulation.

In reviewing the specific examples which follow, note the following:

1. National Center Model Plan—developed without reference to a specific factual environment; illustrates "goal-oriented" objectives which flow naturally from the stated goals. The general goals could apply to most court systems.

2. New Hampshire—note major goal, "the prompt, fair resolution of disputes," as recurring in other state court plans. Review the format for objectives, noting speedy trial objective, 11.0, as an example of a quantifiable and measureable objective.

3. Maryland—note similar mission statement as New Hampshire: "to provide the opportunity for individual justice in the resolution of disputes." Review the nine major goals and sample objectives.

4. Georgia—note the format: goal spawn objectives, which in turn spawn "standards."

5. Utah—note that "E. Matters Related to Court Support Personnel," could be expressed as "To Strengthen or Expand Court Support Personnel."

6. Idaho—note how state umbrella goals are similar to the major goals in other state court systems, particularly North Dakota's.

7. North Dakota—note that major goals 1 and 4 are identical to Idaho's plan. North Dakota presents a classic, clear planning format; that is, starting from goals to objectives to tasks.

This review of examples from other state court plans should provide a basic feeling for what constitutes a goal and an objective.

Model Plan—National Center for State Courts

C. Statement of Goals and Objectives

GOAL 1: To Improve the Organizational and Legal Structure of the Court System

Objective 1.1 To provide an appellate court structure which guarantees speedy appellate review and concentration on major legal issues.

Objective 1.2 To provide an effective and effi-

cient administrative structure for appellate and trial courts.

Objective 1.3 To provide a trial court system WHICH is jurisdictionally and administratively coherent.

Objective 1.4 To provide a legal framework of organic and procedural law which is consonant with current norms of justice and sound practice.

Objective 1.5 To provide a court financial structure which clarifies state-local roles in funding courts and in sharing court revenues.

GOAL 2: To Improve the Operation of Appellate and Trial Courts Through Strengthening Administrative Services and Functions.

Objective 2.1 To improve management of caseflow in trial courts, particularly in high-volume courts.

Objective 2.2 To improve appellate caseflow and technology for recording and transcribing cases.

Objective 2.3 To improve jury management and juror selection.

Objective 2.4 To improve basic administrative services for all courts:

- records management
- personnel management and training
- financial management and budgeting

Objective 2.5 To improve court facilities.

Objective 2.6 To improve management reporting systems at state and local levels and technology for information storage and processing.

GOAL 3: To Achieve and Maintain High Standards of Judicial Excellence

Objective 3.1 To maintain high standards of judicial performance and behavior.

Objective 3.2 To attract the best attorneys to a judicial career.

Objective 3.3 To provide adequate support services, legal materials and equipment to the judiciary.

Objective 3.4 To provide initial and in-service educational programs for judges.

GOAL 4: To Strengthen Court Communication and Liaison With Related Government Agencies, the Bar and the Public

Objective 4.1 To develop liaison mechanisms with the legislative and executive branches.

Objective 4.2 To develop public information systems.

Objective 4.3 To develop liaison mechanisms with state and local bar associations.

New Hampshire

II. Statement of Purposes and Priorities

GOALS: The goals, major purpose, of this court system include *the prompt, fair resolution of disputes*. The provision of equal access, adequate representation, and effective and efficient proceedings and procedures is envisioned as critical to the accomplishment of this goal. Given this set of long range, ultimate goals, a series of standards, benchmarks or measures, have been developed to aid the justice system in evaluating its performance against the system's ultimate goals. These standards or desired results represent intermediate goals designed to direct the court's activities.

Standards and Priorities: The court system standards are presented as a group to demonstrate the comprehensive nature of their impact; and secondly, as a listing of eight priorities. The priority ranking was assigned after tabulating the comments of over 200 justice system participants, legislators, and citizens from throughout the state. The process of establishing priorities is dynamic and influenced by changes in the availability of resources, public concern and changes in the law.

While the priorities listed represent an accurate reflection of present thought, modifications or alternations to these priorities may be anticipated as conditions change.

The quantified objectives for each program area are included at the end of the multi-year forecast of results and accomplishments.

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.

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.

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 probationer.

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.

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 un-speedy 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.

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 (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 required 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.

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.

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, clerk probation and policy personnel.

Maryland

Chapter I

Mission Statement: The major purpose or goal of the Maryland Judicial System is not expressly stated in the Maryland Constitution or in the Public General Laws of Maryland. However, in several Articles of the Declaration of Rights, the major functions of the Maryland Courts System are alluded to: For example, Article 19 entitled *Remedy for Injury to Person or Property*, states "That every man, for any injury done to him in his person or property, ought to have remedy by the course of the Law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay according to the Law of the land," (See also Articles 20 and 21 of the Declaration of Rights.) While this particular language is couched in terms of the rights afforded to an individual, it does provide an idea as to the role the Courts must play.

Simply stated, the purpose or the primary objective of the Courts is to provide the opportunity for individual justice in the resolution of disputes. This must be done both on an efficient and effective basis with complete regard to the rights of the individuals involved. Many corollaries could be developed as to this particular goal; however, in essence the mission remains the same of providing individual justice in individual cases.

Chapter II

GOALS: Nine major goals can be identified for the courts in addressing the mission statement. Most of these are long range in nature and do not specifically identify individual tasks or timetables by which they need to be accomplished. To the extent possible, these will be addressed later in the Objective/Proposal Section of the plan or in subsequent judicial plans where more consideration can be given to each of these individual subject areas.

Training and Competency 1.1

GOAL: To assure that all judicial and nonjudicial personnel are competent to perform their responsi-

bilities within the courts system and to facilitate and encourage on a continual basis preservice and in-service training programs for all court personnel employed at either the State or local levels.

Manpower and Personnel Allocation 1.2

GOAL: To make certain that there are adequate number of judges available to try cases and that sufficient personnel exist to perform support functions.

Facilities and Resources 1.3

GOAL: To make certain that there are adequate facilities and resources available to the Judicial Branch of Government so that the adjudication of cases and support operations can be accomplished in an efficient and effective manner.

Rules and Legislation 1.4

GOAL: To make certain that there is an adequate system of rules developed and maintained on a regular basis so that the courts can perform their primary function of adjudicating cases in a fair and equal manner and to provide input to the legislative process when it is felt that statutory revision is necessary.

Records and Retention of Data 1.5

GOAL: To make certain that records are maintained as required to preserve the findings and orders of the court and to permit access to court records where appropriate.

Efficient Processing and Case Disposition 1.6

GOAL: To make certain that all cases are processed in an efficient manner before the court and that when final dispositions are reached, they reflect an effective and uniform application of the laws.

Public Accessibility and Accommodation 1.7

GOAL: To make certain that the public has access to the courts on an equal basis and to make sure that the public is accommodated when coming in contact with the courts in an efficient and effective manner.

Management Information System and Planning 1.8

GOAL: To maintain a management information and statistics system to assist in planning, managing, budgeting and evaluating the overall activities of the courts.

Liaison and Coordination 1.9

GOAL: To maintain a continuing liaison and coordination with all agencies and persons within the court system and within the justice environment to

foster system-wide efficiency and effectiveness.

Standard 2.202(1)(d)

Judicial Library

Each Superior Court Judge and full-time Judges of State and Juvenile Courts should be provided with the *Georgia Code Annotated*, the *Georgia Law Reporter* and other daily reference material which shall be maintained currently.

Standard 2.202(1)(e)

County Library

Each county should be provided, by the State, with a library for use of the courts consisting of the *Georgia Code Annotated*, the *Georgia Digest*, *Georgia Reports*, and *Appeal Reports*, *Shepard's Georgia*, *United States Citations* and other authoritative digests.

Standard 2.202(1)(f)

Legal Research

Legal Research services should be provided at the State level for those courts that do not qualify for a law clerk.

Standard 2.202(1)(g)

Bench Book

Bench Books should be developed and maintained for Superior, State, Probate and Juvenile Courts.

Standard 2.202(1)(h)

Circuit Court Administrators

Each Judicial Circuit should be provided with adequate Court Administrator services.

Standard 2.202(1)(i)

Dispute Resolution Without Trial

Where appropriate, projects should be developed and tested which can resolve certain disputes without the need of a more costly trial procedure.

Objective 2.202(2)

Upgrading Prosecution Services

Take appropriate actions that administrative, technical and support services are provided to prosecutors to enhance their effectiveness with primary responsibility for providing these services being vested in the Prosecuting Attorney's Council.

Utah

D. Matters Relating to Court Facilities

1. Obtain additional space for Salt Lake City Courts by 1977 (new Courts building).

2. Obtain additional space for the additional judges in the Second and Third District Court by July, 1977.

3. Develop a method of insuring that judicial needs will be included in any new or remodeled court-houses in state. Develop a program with local officials to accomplish this.

4. Develop a set of minimum standards for court libraries by 1976. Upgrade libraries in those courts identified as falling below the standards by the end of 1977.

5. Complete a comprehensive statewide court facilities study by end of 1976. Begin remodeling and/or refurbishing of judicial quarters in those courthouses identified as deficient by end of 1977.

E. Matters Relating to Court Support Personnel

1. Complete a comprehensive survey of all District and City Courts to identify court personnel, full and part time, their duties, supervision, manner of selection and retention, and compensation by the end of 1976.

2. Develop a plan for installation of District Trial Court Coordinators in First, Second, Third and Fourth Districts by end of 1976.

3. Begin the development of an independent court personnel system including a phased plan for state financing of positions, e.g. present coordinators or field representatives, by the 1977 Legislative Session.

4. Obtain for judiciary direct authority to control the administration of its own affairs in the area of court clerical operations. Secure the repeal of that portion of 57-13-6 (8) permitting executive control over judicial branch employees in the 1977 Legislative Session. (Example: ambiguous status of court reporters.)

5. Develop a basic training program for court support personnel. Include funds in the 1975-76 LEAA grant for judicial education to begin this effort.

6. Establish district courtroom security officers (bailiffs) as full-time state employees of the judiciary by 1977 to replace present county sheriff system.

7. Expand use of referees and commissioners through appropriate legislation in the 1976 Budget Session.

F. Matters Relating to Court System Financing and Budgeting

1. Develop a 1977 legislation program to begin phased assumption of those costs of Utah court system the Judicial Council determines should be borne by state. Coordinate with counties in relation to identifying appropriate items to be financed by state.

2. During 1975-77, increase the ability of the Office of the Court Administrator to function as central source of information on court finances and revenues. Secure information from both state and local sources on operating costs and revenues for both City and District Courts. (Develop a state financial plan for the judiciary.)

Idaho

Philosophy for Idaho Court Operations

Working with the trial judges, the Supreme Court has identified six major goals for the Idaho court system:

- Increasing the accessibility and improving the service of courts to the public.
- Eliminating delays in case processing while maintaining the quality and justice of legal decisions.
- Protecting the confidentiality of personal, private information concerning individuals involved in court actions, while allowing free access to court information that is of public record.
- Maintaining the independent nature of the courts as a separate branch of government and allowing the Supreme Court to fulfill its constitutional authority and responsibility to manage the affairs of the judiciary.
- Strengthening and increasing the unification of the Idaho judicial system through centralized standards and rules, regionalized implementation of operations, and a greater communication with individual judges of the goals of unification.
- Increasing the level of professional excellence of all court personnel.

Each year the Supreme Court establishes planned objectives designed to achieve these goals.

North Dakota

Goal and Objectives For The North Dakota Judicial System For the FY 1977-1979 Biennium

GOALS

The following goals are adopted for the FY 1977-79 Biennium

GOAL 1: to strengthen the North Dakota judicial system.

GOAL 2: to increase the accessibility and improve the services of all courts to the public.

GOAL 3: To improve communication among courts and between courts and citizens at all levels of the North Dakota judicial system.

GOAL 4: To increase the level of professional excellence of all court personnel.

These goals provide the broad context for focusing the efforts of all court personnel in the North Dakota judicial system for the 1977-1979 Biennium. The pursuit of these goals will focus efforts in meeting our responsibilities to the citizens of North Dakota.

Objectives

In order to implement the broad goals set forth above, a series of specific objectives have been identified as steps toward attaining the goals. The efforts of court personnel may be directed toward meeting these objectives, and the results of these efforts can be evaluated against the objectives.

GOAL 1: To Strengthen the North Dakota Judicial System

Objective 1.1: To contribute to the new judicial article implementation process.

Objective 1.2: To establish a comprehensive planning procedure for each judicial district and the unified court system of North Dakota.

Objective 1.3: To clarify and strengthen the role of the presiding judge in the management of court services within each judicial district.

Objective 1.4: To strengthen the work of the committees of the Judicial Council.

Objective 1.5: To ease the financial burden on local government of providing court services.

Objective 1.6: To continue to provide uniform rules and procedures for all courts.

GOAL 2: To Increase the Accessibility and Improve the Services of All Courts to the Public

Objective 2.1: To provide legal research services to all judicial personnel.

Objective 2.2: To provide case record management technical assistance to trial courts.

Objective 2.3: To improve trial court administrative services.

Objective 2.4: To improve the physical court facilities available for court services.

Objective 2.5: To facilitate appellate court services.

GOAL 3: To Improve Communication Among Courts and Between Courts and Citizens at All Levels of the North Dakota Judicial System

Objective 3.1: To establish a program of public information regarding the services provided by the courts and the procedures available to citizens in utilizing these services.

Objective 3.2: To continue the implementation of the Judicial Information System Master Plan.

Objective 3.3: To establish services to improve public information and understanding of judicial decisions.

Objective 3.4: To facilitate communication among members of the judiciary at all levels and between judicial and administrative court personnel.

GOAL 4: To Increase the Level of Professional Excellence of All Court Personnel

Objective 4.1: To continue the implementation of the North Dakota Judicial Education Plan.

Objective 4.2: To establish a judicial publications program.

Objective 4.3: To establish uniform administrative rules and procedures.

Objective 4.4: To improve the present status of all judicial and court personnel.

Tasks

In order to implement the objectives described

above, specific tasks are set forth. Upon the completion of these tasks the accomplishment of individual objectives and the attainment of the broad goals of the unified judicial system can be assessed and advanced.

GOAL 1: To Strengthen the North Dakota Judicial System

Objective 1.1: To contribute to the new judicial article implementation process.

Task 1.1.1: To facilitate the work of the Citizens Committee on the New Judicial Article and the joint Legislative Council-Judicial Council Study of judicial article implementation.

Task 1.1.2: To facilitate public discussion of the new judicial article and its implementation in meetings of public service organization throughout the state.

Objective 1.2: To establish a comprehensive planning procedure for each judicial district and the unified court system of North Dakota.

Tasks 1.2.1: To initiate a comprehensive component planning process through the Judicial Planning Committee for the unified court system.

Task 1.2.2: To initiate comprehensive court plans for all levels of court within each judicial district including Municipal Court, County Justice Court, County Court, County Court with Increased Jurisdiction and District Court including its juvenile services.

GOAL 1: To Strengthen the North Dakota Judicial System

Objective 1.3: To clarify and strengthen the role of the presiding judge in the management of court services within each judicial district.

Task 1.3.1: To provide short term management assistance to presiding judges in each judicial district through the Office of State Court Administrator.

Task 1.3.2: To prepare a study of long term judicial district court management assistance needs.

Task 1.3.3: To provide technical assistance to each presiding judge in reviewing and improving court-related record forms and management procedures.

Task 1.3.4: To establish statewide technical assistance services to courts with juvenile and domestic jurisdiction.

Task 1.3.5: To provide technical assistance in developing annual judicial district budgets for court services.

Tasks 1.3.6: To prepare rules to assist presiding judges.

Task 1.3.7: To establish quarterly meetings of the presiding judges.

Tasks 1.3.8: To provide staff services to presiding judges in meetings of judicial personnel and court support personnel within each judicial district.

Task 1.3.9: To study alternative mechanisms for facilitating optimal utilization of judicial manpower.

GOAL 1: To Strengthen the North Dakota Judicial System

Objective 1.4: To strengthen the work of the committees of the Judicial Council.

Task 1.4.1: To provide staff assistance to Judicial

Council committees from the Office of State Court Administrator.

Objective 1.5: To ease the financial burden on local government of providing court services.

Task 1.5.1: To provide a uniform mechanism for the payment of appellate defense counsel fees in indigent defendant cases.

Task 1.5.2: To prepare a study of the present costs of court services to units of county and city government.

Task 1.5.3: To prepare a study of alternative mechanisms for financing court services.

Objective 1.6: To continue to provide uniform rules and procedures for all courts.

Task 1.6.1: To continue to review the implementation of the Rules of Civil and Criminal and Appellate Procedure and Rules of Evidence.

Task 1.6.2: To prepare rules of procedure in specialized court proceedings.

Forecasting Methodologies

G

More than 100 distinct forecasting methodologies exist within the realm of futures research. Five of the dominant and most widely used techniques will be described in order to illuminate some of the assumptions upon which much of futures research activity is based.

Trend Extrapolation

The extrapolation of past phenomena into the future is perhaps the most basic and widespread technique of futures research. Trend extrapolation involves the plotting of historical values of a factor against time in order to discern whether a "trend" exists. Based upon the performance of the factor in the past, the values are extrapolated into the future according to either intuitive-visual techniques or various mathematical methods (i.e., linear and curvilinear regression, "S" curves, etc.). The major underlying premise of trend extrapolation is the assumption that the "causal" factors and relationships of the past shall continue into the future. Thus while the technique itself does not seek to construct a causal framework, it assumes that causality exists. The technique does not take into account the possibility of discontinuities or unforeseen developments, which may alter the rate of change and/or slope of a trend line.

The probability of trend discontinuities increases as a function of time, thus endangering long-term forecasts. "Short" and "Medium" term forecasts utilizing trend extrapolation however, often produce very creditable and precise results.

The amount and accuracy (i.e., reliability) of the

data base also affects the certainty of the extrapolation and supplies the planner or decision-maker with a criterion for accepting or rejecting the historical justification for the forecast.

Trend extrapolation forecasts have been extensively utilized by governmental, corporate, and academic sectors in a wide variety of applications. The corporate sector especially, makes wide use of this method for generating short and medium term forecasts of financial and economic environments. Other widely known uses of trend extrapolations include the forecast of population growth, court caseload requirements, water usage, and manpower demand projections.

Delphi

The Delphi is a method which attempts to organize intuitive knowledge about expected or unexpected developments through a confidential group feedback process. While this technique has been applied in tasks outside the realm of futures research, its main contribution has been to generate forecasts of relatively unexplored topic areas.

The usage of Delphi is generally limited to experts and specialists within the field or subject under consideration, as the technique, when applied to futures research, requires intuitive judgments about the matter at hand. Other variants of Delphi at times utilize non-experts and lay-persons but in doing so, the theoretical assumptions of Delphi are undermined and its utility and reliability as a forecasting method diminishes.

CONTINUED

2 OF 3

A typical Delphi involves provoking qualitative and quantitative responses through a questionnaire on the future of a subject. The results are tabulated and a statistical distribution of the responses is given back to the participants along with the original set of questions. The participants then elicit a second round of responses, but major deviations from the group mode and centroids (i.e., usually the middle 50 percent of the responses) are asked to be justified by a short essay. The results are tabulated and the original set of questions and propositions (along with any new questions that may have evolved) are sent back for a third (and usually last) round of participation. Responses and justifications for deviations are gathered for the final tabulation, which by this time should either reflect a convergence or divergence of opinions.

Convergence indicates that a consensus among the experts exists and that perhaps "confidence" levels may be assigned to the forecast based upon the degree of consensus. On the other hand, disensus on a forecast is indicative of a problematic area in which the essays (requested for deviant and/or divergent opinions) may provide insight into the key points in question.

The Delphi provides a vehicle for "discussion" on a subject analogous to a conference, yet without the potential drawbacks of conferencing (bandwagon effect, persuasive conferees, dominant opinion leaders, etc.). Anonymity of responses, preservation of opinions, and justification for divergent opinion are key elements of Delphi. As such Delphi is not a scientific technique in the strict sense of the term but rather a "heuristic" device aimed at furthering understanding through systematically organizing intuitive, expert knowledge.

Delphi studies have been used in a large number of applications ranging from forecasts of new technological developments, transportation planning, and the future of pension plans.

Simulation-Modelling

Simulation-modelling is based upon the interaction between three concepts: systems, mathematical modelling, and simulation. A "system" may be defined as a group of resources with a common goal, or as a grouping of interactive parts or entities. Systems may be examined and the relationships between the various parts and entities mathematically defined such that a "model" is created. The model

is then postulated to represent reality provided that the relevant parts (i.e., variables or factors) are selected and the relationships between and among them adequately defined. "Simulation" instills a dynamic factor into the model by reproducing the behavior of the system over time, usually with the aid of a computer (in fact most simulations are impossible without the use of computers).

"Second generation" simulation-modelling techniques are capable of introducing random and chance occurrences, introducing elements and effects exogenous to the system, altering the relationships between variables, and introducing time related feedback loops and cybernetic elements. An example of such a "second-generation" technique is "Probabilistic Systems Dynamics" which combines cross-impact analysis with simulation-modelling and which will be discussed later.

Simulation-modelling has been used in a number of areas although its validity and reliability are constrained by the nature and scope of the system and its mathematical representation (i.e., the model). The method is particularly useful when examining alternative courses of action such as, for example, in determining the impact of different policy options on a system. Risks and probabilities become clarified and uncertainties are reduced by decreasing the range of possible options.

However, conclusions from simulation-modelling should be tempered with the following considerations: models simplify reality and therefore they may not accurately represent the system; systems may exhibit random discontinuous behavior; simulation-modelling requires high quality data since the relationships are expressed in mathematical terms. Well-known simulation-models include Donella and Dennis Meadows' global resource-pollution model done for the Club of Rome, military war games, EPA's Strategic Environmental Assessment System, and the National Interregional Agricultural Projection System.

Cross-Impact Analysis

This technique, like the Delphi, attempts to organize expert intuitive judgments through systematic analysis. This basic technique involves assessing the expected impacts and probabilities of occurrence of individual events upon each other. That is, judgmental knowledge is evoked in determining the probabilities of events "occurring" in different

time frames, and their "effects" upon other events. Different probabilities and impacts may be postulated over different time frames and a matrix of possibilities constructed.

"Second-generation" variants of this technique usually are utilized in conjunction with other methodologies such that its forecasting ability is increased.

"Probabilistic System Dynamics" combines simulation-modelling with cross-impact analysis by investigating the effects of events upon the system and the effect of the system upon the event itself. These effects may modify the relationships within the model and/or create new relationships and variables.

Another second-generation technique is "Trend Impact Analysis" (TIA) which investigates not only the effects of events but also their effect upon previously defined trend extrapolations.

These techniques lend themselves particularly well to policy analysis and/or strategic planning, where alternative courses of action may be evaluated in the context of a complex, interacting environment.

Scenarios

Scenarios are narrative and/or mathematical manifestations of a future state of affairs compiled in such a manner that diverse situations, conditions, events, and strategies may be presented in a comprehensible, internally consistent manner. The main pur-

pose of a scenario is to enable the reader to grasp a vision of the future by presenting the forecast or design as if it were a plausible continuation of the present.

Scenarios may be classified along two dimensions: the macro-micro level of analysis; and the forecast-design continuum.

"Macro" level scenarios describe broad environmental conditions (i.e., societal, national, global, etc.). In the planning process, macro level scenarios provide the planner with the general environmental context in which the organization will operate.

On the other hand, "micro" level scenarios describe the organization itself in terms of its goals, structures, and the strategies used to implement the ideal and is thus analogous to strategic planning.

"Forecast" scenarios describe the future based upon prognoses derived from other methodologies and are thus "descriptions" of "probable" futures. A forecast scenario provides a vehicle whereby the often complex results of, say, a cross-impact analysis can be presented in order to facilitate clarity.

"Design" based scenarios are narrative "images" of the future and may be derived from forecasts and/or may be a heuristic which facilitates creativity and the articulation of what is deemed to be a "desirable" state of affairs. A design based scenario is also used as a forecasting technique in its own right based upon the use of "images" as a forecast of the future.

The Executive Budget Act (1970)

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[PART IV. THE EXECUTIVE BUDGET]

[§37-61] Short title. This part may be cited as "The Executive Budget Act." [L 1970, c 185, §1]

§37-62 Definitions. Unless otherwise clear from the context, as used in this part:

- (1) "Agency" means any executive department, independent commission, board, bureau, office, or other establishment of the state government (except the legislature and the judiciary), or any quasi-public institution which is supported in whole or in part by state funds.
- (2) "Bond categories" means types of bonds and includes general obligation bonds, reimbursable general obligation bonds, and revenue bonds.
- (3) "Bond fund" means the fund used to account for the proceeds of bond issues and expenditures therefrom.
- (4) "Bond receipts" means the proceeds from the issuance of governmental bonds.
- (5) "Capital expenditures" means payments to contractors and payments for other items related to the construction of a capital improvement project.
- (6) "Capital investment costs" means costs, beyond the research and development phase, associated with capital improvements, including the acquisition and development of land, the design and construction of new facilities, and the making of renovations or additions to existing facilities. Capital investment costs for a program are the sum of the program's capital improvement project costs.
- (7) "Construction costs" means the costs involved in building, equipping and landscaping capital facilities, including any consultant or staff services required.
- (8) "Cost categories" means the major types of costs and includes research and development, capital investment, and operating.
- (9) "Cost elements" means the major subdivisions of a cost category. For the category "capital investment," it includes land acquisition, design, and construction. For the categories "research and development" and "operating," it includes personal services, other current expenses, equipment, and motor vehicles.



- (10) "Crosswalk" means a reconciliation of the program structure with the structure used for accounting and/or appropriations.
- (11) "Debt service" means interest and principal repayments on monies borrowed.
- (12) "Departmental earnings" means the amounts collected by governmental agencies for services provided and products or property sold; rentals collected for use of public property; fees, fines, forfeitures, and penalties assessed; and other related types of charges.
- (13) "Design costs" means the costs related to the preparation of architectural drawings for capital improvements through its various stages from schematic to final construction drawings. It does not include costs associated with the identification of needs, determining alternative ways of meeting needs, and prescription of standards for capital improvements.
- (14) "Effectiveness measure" means the criterion for measuring the degree to which the objective sought is attained.
- (15) "Federal aid interstate" means funds received from the federal government for the purpose of constructing the interstate highway system in the State.
- (16) "Federal aid primary" means funds received from the federal government for the purpose of constructing primary roadways.
- (17) "Federal aid secondary" means funds received from the federal government for the purpose of constructing secondary roadways.
- (18) "Federal aid urban" means funds received from the federal government for the purpose of constructing roads in urban areas.
- (19) "Federal receipts" means financial aid received from the federal government.
- (20) "Full cost" means the total cost of a program, system or capability, including research and development costs, capital investment costs, and operating costs.
- (21) "General fund" means the fund used to account for all transactions which are not accounted for in another fund.
- (22) "General obligation bonds" means certificates or notes of indebtedness for the payment of the principal and interest of which the full faith and credit of the State are pledged.
- (23) "General obligation reimbursable bonds" means general obligation bonds, the principal and interest of which are paid from the general fund but the general fund is reimbursed to the extent of such payments from other sources.
- (24) "Inter-departmental transfers" means funds which will be used by a program but will be appropriated to a different program.
- (25) "Land acquisition costs" means the costs of obtaining lands, including any consultant or staff services attributable to that acquisition.
- (26) "Means of financing" means the various sources from which funds are available and includes the general fund, special fund, revolving fund, general obligation bonds, reimbursable general obligation bonds, revenue bonds, federal aid interstate highway fund, federal aid primary road fund, federal aid secondary road fund, federal aid urban fund, other federal funds, private contributions, county funds, trust funds, and other funds.
- (27) "Non-add" means a program which is listed with an objective or a program grouping, but the cost of which is not to be included in the

- total cost of that objective or program grouping because it is included in some other objective or program group.
- (28) "Non-tax revenue sources" means sources other than taxes from which revenues are produced and includes departmental earnings of various kinds, reimbursements of principal on general obligation bonds issued for State agencies and counties, federal receipts which are restricted in their use to specified purposes, and other federal receipts.
- (29) "Objective" means a statement of the end result, product, or condition desired, for the accomplishment of which a course of action is to be taken.
- (30) "Operating costs" means recurring costs of operating, supporting and maintaining authorized programs, including costs for personnel salaries and wages, employee fringe benefits, supplies, materials, equipment and motor vehicles.
- (31) "Phases of capital improvement project" means land acquisition, design, construction, and occupancy.
- (32) "Planning" means that process by which government objectives are formulated; measures by which effectiveness in attaining the objectives are identified; alternatives by which objectives may be attained are determined; the full cost, effectiveness and benefit implications of each alternative are determined; the assumptions, risks and uncertainties of the future are clarified; and cost and effectiveness and benefit tradeoffs of the alternatives are identified.
- (33) "Program" means a combination of resources and activities designed to achieve an objective or objectives.
- (34) "Program size" means the magnitude of a program, such as the number of persons serviced by the program, the amount of a commodity, the time delays, the volume of service in relation to population or area, etc.
- (35) "Program size indicator" means a measure to indicate the magnitude of a program.
- (36) "Program structure" means a display of programs which are grouped in accordance with the objectives to be achieved, or the functions to be performed.
- (37) "Programming" means that process by which government's long-range program and financial plans are scheduled for implementation over a six-year period and which specifies what programs are to be implemented, how they are to be implemented, when they are to be implemented, and what the costs of such implementation are.
- (38) "Reimbursable general obligation bonds" means general obligation bonds, the principal and interest of which are paid from the general fund but the general fund is reimbursed to the extent of such payments from other sources.
- (39) "Research and development costs" means costs primarily associated with the development of a new program, system or capability to the point where capital and/or operating costs are required to introduce the program, system or capability into operational use.
- (40) "Resource categories" means types of resources and includes tax revenues, departmental earnings, and federal receipts.
- (41) "Revenue bonds" means certificates or notes of indebtedness payable from and secured solely by the revenues or user taxes, or any combination of both, of a public undertaking, improvement, or system.



- (42) "Revolving fund" means a fund from which is paid the cost of goods and services rendered or furnished to or by a State agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds.
- (43) "Special funds" means funds which are dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds.
- (44) "Taxes" and "tax revenue sources" mean each specific kind of tax.
- (45) "Tax revenues" means the amounts collected from compulsory charges, in the form of taxes, levied by the State for the purpose of financing services performed for the common public benefit.
- (46) "Trust fund" means a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes. [L 1970, c 185, §2; am L 1972, c 72, §1; am L 1974, c 159, §3 and c 219, §1]

§37-63 **Statement of policy.** It is the purpose of this part to establish a comprehensive system for state program and financial management which furthers the capacity of the governor and the legislature to plan, program and finance the programs of the State. The system shall include procedures for:

- (1) The orderly establishment, continuing review and periodic revision of the state program and financial objectives and policies.
- (2) The development, coordination and review of long-range program and financial plans that will implement established state objectives and policies.
- (3) The preparation, coordination and analysis, and enactment of a budget organized to focus on state programs and their costs, that authorizes the implementation of the long-range plans in the succeeding budget period.
- (4) The evaluation of alternatives to existing objectives, policies, plans and procedures that offer potential for more efficient and effective use of state resources.
- (5) The regular appraisal and reporting of program performance. [L 1970, c 185, §3]

§37-64 **Governing principles.** The system shall be governed by the following general principles:

- (1) Planning, programming, budgeting, evaluation, appraisal and reporting shall be by programs or groups of programs.
- (2) The state program structure shall be such as will enable meaningful decisions to be made by the governor and the legislature at all levels of the structure. At its lowest level, it shall display those programs which are the simplest units of activities, about which resource allocation decisions are to be made by the governor and the legislature.
- (3) A program which serves two or more objectives shall be placed in the program structure along with that objective which it primarily serves; where desirable, it shall also be placed with other objectives, but as a non-add item.
- (4) The full cost, including research and development, capital and operating costs, shall be identified for all programs regardless of the means of financing; costs shall be displayed in the year of their anticipated expenditure, regardless of whether such costs have been authorized to

be expended by prior appropriations acts or are authorized to be expended by existing law or require new appropriations or authorizations.

- (5) Objectives shall be stated for every level of the state program structure.
- (6) The effectiveness of programs in attaining objectives shall be assessed.
- (7) Planning shall have a long-range view.
- (8) Systematic analysis in terms of problems, objectives, alternatives, costs, effectiveness, benefits, risks and uncertainties shall constitute the core of program planning. [L 1970, c 185, §4; am L 1974, c 219, §2]

[§37-65] Responsibilities of the governor. The governor shall direct the preparation and administration of state programs, program and financial plans, and budget. He shall evaluate the long-range program plans, requested budgets and alternatives to state objectives and programs; and formulate and recommend for consideration by the legislature the State's long-range plans, a proposed six-year state program and financial plan and a proposed state budget. [L 1970, c 185, §5]

[§37-66] Responsibilities of the legislature. The legislature shall:

- (1) Consider the long-range plans, including the proposed objectives and policies, the six-year state program and financial plan, and the budget and revenue proposals recommended by the governor and any alternatives thereto.
- (2) Adopt programs and the state budget, and appropriate moneys to implement the programs it deems appropriate.
- (3) Adopt such other legislation as necessary to implement state programs.
- (4) Review the implementation of the state budget and program accomplishments and execution of legislative policy direction. Implementation of the state budget and program management, execution, and performance shall be subject to post-audits by the auditor who shall report his findings and recommendations to the legislature as provided in chapter 23. [L 1970, c 185, §6]

[§37-67] Responsibilities of the department of budget and finance. The director of finance shall assist the governor in the preparation, explanation and administration of the state long-range plans, the proposed six-year program and financial plan and the state budget. To this end, subject to this part, the director shall:

- (1) With the approval of the governor, develop procedures and prescribe rules and regulations to guide such state agencies as may be assigned by the director the task of formulating and preparing the initial proposals with respect to long-range plans, program and financial plans, program budget requests and program performance reports and to assure the availability of information needed for effective policy decision-making.
- (2) Assist such state agencies in the formulation of program objectives, preparation of program plans and program budget requests, and reporting of program performance.
- (3) Coordinate, analyze and revise as necessary the program objectives, long-range plans, program and financial plans, program budget re-



quests and program performance reports initially proposed or prepared by such state agencies and develop the state comprehensive program and financial plan, budget and program performance report.

- (4) Administer its responsibilities under the program execution provisions of this part so that the policy decisions and budget determinations of the governor and the legislature are implemented to the fullest extent possible within the concepts of proper management.
- (5) Investigate continuously the administration of the various agencies for the purpose of advising the governor and recommending to the governor, the legislature and the committees of the legislature concerning the duties of the various positions in these agencies, the methods of the agency, the standards of efficiency therein, and changes which in his judgment will produce greater effectiveness of programs and economy in the conduct of government programs and assist in the preparation of program and financial plans, budget requests and program performance reports.
- (6) Provide the legislature and any member or committee of either house of the legislature with such documents and information as may be requested concerning the programs, budget, and fiscal and management operations of the state. [L 1970, c 185, §7]

[§37-68] Responsibilities of agencies. Under such rules and regulations as may be prescribed by the director of finance with the approval of the governor:

- (1) Every agency assigned the task of developing programs and preparing program and financial plans, budgetary requests and program performance reports shall develop such programs and prepare such plans, requests and reports and submit the same to the director of finance at such times, on such forms and in such manner as the director may prescribe.
- (2) Every agency administering state programs and every agency responsible for the formulation of programs and the preparation of program and financial plans, budgetary requests and program performance reports, shall furnish the department of budget and finance all such documents and information as the department may from time to time require. Each agency shall make available to the legislature and any member or committee of either house of the legislature, all documents and information as may be requested.
- (3) The director of finance or any employee of the department of budget and finance, when duly authorized, shall, for the purpose of securing information, have access to and may examine any books, documents, papers or records of any agency. [L 1970, c 185, §8]

§37-69 The six-year program and financial plan. (a) The governor shall prepare a state six-year program and financial plan encompassing all state programs. Not less than twenty days before the legislature convenes in every odd-numbered year, the governor shall submit to the legislature and to each member thereof, the six-year program and financial plan. The program and financial plan shall be annually and continually updated and maintained. The program and financial plan shall, in general, contain:

- (1) The state program structure.
- (2) Statements of statewide objectives and program objectives.
- (3) Program plans which describe the programs recommended to imple-

ment the statewide and program objectives and the manner in which the recommended programs are proposed to be implemented over the next six fiscal years.

- (4) A financial plan which shows the fiscal implications of the recommended programs for the next six fiscal years.
- (b) The information contained in the program and financial plan shall be presented generally in the following manner:
 - (1) Information shall be displayed by programs, or groups of programs.
 - (2) Programs shall be appropriately crosswalked to expending agencies.
 - (3) Data shall be appropriately summarized at each level of the program structure.
 - (4) Program costs shall include all costs, including research and development, operating and capital, regardless of the means of financing except that the means of financing shall be expressly identified; all costs shall be displayed in the year of their anticipated expenditure, regardless of whether such costs have been authorized to be expended by prior appropriations acts or are authorized to be expended by existing law, or require new appropriations or authorizations.
 - (5) Cost data shall be presented in units of thousands of dollars or less.
 - (6) Comparative data for the last completed fiscal year and the fiscal year in progress shall be shown.
- (c) The financial plan for the ensuing six fiscal years shall more specifically include:
 - (1) Economic data for the State and the counties of the following kinds:
 - (A) Population - historical, current and projected population count; population distribution by age and sex; estimated increases and decreases, including increases and decreases by in-migration, etc.
 - (B) Employment - magnitude of labor force by age and sex; labor force participation rates; employment by age and sex; industry and occupational surpluses and shortages; effects of government programs on employment rate, etc.
 - (C) Income - per capita and per family income; disposable income; income distribution, etc.
 - (D) Wages and prices - wages by industry and occupational groups; prices for government procurement items; construction costs; cost of living index; price indices for components of personal consumption, etc.
 - (E) Industry and business trends.
 - (F) Effects of national economic and financial policies and conditions.
 - (2) Brief statements disclosing the basis upon which the revenue estimates in the plan were made, including for each specific tax and non-tax revenue source, the previous projections for the last completed fiscal year and the fiscal year in progress, the variance between the projections and the actual or revised estimate, and the reasons for the variances; the tax or source base and rates; yield projections of existing revenue sources and existing taxes at authorized rates; assumptions made and methodology used in projections; changes recommended, projected yields if changes are adopted, etc.
 - (3) At the lowest level on the state program structure, for each program:
 - (A) The total actual program cost for the last completed fiscal year, the estimated cost for the fiscal year in progress and the estimated cost for each of the next six fiscal years; research and develop-



ment, operating and capital costs shall be included and the means of financing shall be appropriately identified. The number of personnel positions shall be shown for the program, identified by their means of financing.

- (B) The program size indicators; the actual size attained in the last completed fiscal year, the estimated size for the fiscal year in progress and the estimated size for each of the next six fiscal years.
 - (C) The effectiveness measures; the actual level of effectiveness attained in the last completed fiscal year, the estimated level of effectiveness for the fiscal year in progress, and the estimated level for each of the next six fiscal years.
- (4) Appropriate displays of (3) (A) and (C) immediately above, at every level of the state program structure above the lowest level, by the major groupings of programs encompassed within the level. The displays of (3) (A) shall appropriately identify the means of financing and the number of positions included in the level.
 - (5) Financial summaries displaying the State's financial condition, actual for the last completed fiscal year, estimated for the fiscal year in progress, and estimated for each of the next six fiscal years, including:
 - (A) A display of the programmed, total state expenditures, by cost categories, the total state resources anticipated from existing tax and non-tax sources at existing rates, by resource categories (including the fund balance or deficit at the beginning of the fiscal year and bond receipts), and the resulting fund balance or deficit at the close of each fiscal year.
 - (B) The changes proposed to the existing tax and non-tax rates, sources or structure, and the estimated increases or reductions in revenues, the estimated cumulative increases or reductions, and the estimated fund balance or deficit in each of the next six fiscal years as a result of such proposed changes. Proposals for changes in the existing tax and non-tax rates, sources or structure shall be made in every case where the proposed, total state expenditures exceed the total resources anticipated from existing tax and non-tax sources at existing rates.Such financial summaries shall be prepared for the total state expenditures and resources and for the general fund and special fund portions thereof.
 - (6) A summary of the balance of each special fund, actual for the last completed fiscal year and estimated for the fiscal year in progress and estimated for each of the next six fiscal years.
 - (7) A summary of the State's total bond fund required to carry out the recommended programs and the kinds of bonds and amounts thereof through which such requirements were met in the last completed fiscal year, are to be met in the fiscal year in progress, and are proposed to be met in each of the next six fiscal years. The summary shall detail, for each fiscal year:
 - (A) Of the total bond fund requirements, the amount, by cost categories, requiring new bond issuance authorization and the kinds and amounts of bonds planned for issuance under such new authorizations.
 - (B) By bond categories, the total, cumulative balance of bonds authorized in prior years but unissued and the amount thereof proposed to be issued.



- (C) A recapitulation of the total bonds to be issued, including both new authorizations and prior authorizations, by bond categories.
- (8) Separately for general fund tax revenues, special fund tax revenues, general fund non-tax revenues and special fund non-tax revenues:
- (A) By kinds of taxes or sources, the amount of revenue from existing, authorized taxes or sources at existing rates received in the last completed fiscal year and estimated to be received in the fiscal year in progress and in each of the next six fiscal years.
- (B) A summary of the proposed changes in the existing taxes or sources or rates, and the estimated increases or reductions in revenues in each of the next six fiscal years resulting from such changes.
- (C) The total estimated revenues with and without the proposed changes in each of the next six fiscal years.
- (d) The program plans for the ensuing six fiscal years shall more specifically include:
- (1) At the lowest level on the state program structure, for each program:
- (A) A statement of its objectives.
- (B) Measures by which the effectiveness in attaining the objectives is to be assessed.
- (C) The level of effectiveness planned for each of the ensuing six fiscal years.
- (D) A brief description of the activities encompassed.
- (E) The program size indicators.
- (F) The program size planned for each of the next six fiscal years.
- (G) A narrative explanation of the plans for the program. It shall contain, and in general be limited to, the following:
- (i) A description of the kinds of activities carried out or unusual technologies employed;
- (ii) A statement of key policies pursued;
- (iii) Identification of important program or organizational relationships involved;
- (iv) A description of major external trends affecting the program;
- (v) A discussion of significant discrepancies between previously planned cost, effectiveness, and program size levels and those actually achieved;
- (vi) Comments on, and an interpretation of, cost, effectiveness, and program size data over the upcoming budget period, with special attention devoted to changes from the current budget period;
- (vii) Comments on, and an interpretation of, cost, effectiveness, and program size data over the four years of the planning period and how they relate to the corresponding data for the budget period;
- (viii) A summary of the special analytic study, program evaluation, or other analytic report supporting a substantial change in the program where such a major program change recommendation has been made.
- (H) The full cost implications of the recommended programs, by cost categories and cost elements, actually experienced in the last completed fiscal year, estimated for the fiscal year in progress, and estimated for each of the next six fiscal years. The means of financing shall be identified for each cost category. The personal services cost element shall be shown separately; the cost ele-



- ments of other current expenses, equipment, and motor vehicles may be combined. The number of positions included in the program shall be appropriately identified by means of financing.
- (I) A recapitulation of (H) above for the last completed fiscal year, the fiscal year in progress and each of the next six fiscal years, by means of financing grouped under each cost category. The number of positions included in any program shall be appropriately identified.
- (J) An identification of the revenues generated in the last completed fiscal year and estimated to be generated in the fiscal year in progress and in each of the next six fiscal years, and the fund into which such revenues are deposited.
- (K) Details of implementation of each capital improvement project included in the total program cost, including:
- (i) A description of the project, location, and scope;
- (ii) The initially estimated, currently estimated and final cost of the project, by investment cost elements and by means of financing;
- (iii) The amounts previously appropriated by the legislature for the project, by cost elements and by means of financing specified in the acts appropriating the sums, and an identification of the acts so appropriating;
- (iv) The costs incurred in the last completed fiscal year and the estimated costs to be incurred in the fiscal year in progress and in each of the next six fiscal years, by cost elements and by means of financing; and
- (v) A commencement and completion schedule, by month and year, of the various phases of the capital improvement project (i.e., land acquisition, design, construction and occupancy) as originally intended, as currently estimated, and as actually experienced.
- (L) A crosswalk of the program expenditures, by cost categories and cost elements between the program and expending agencies for the next two fiscal years. The means of financing and the number of positions included in the program costs to be expended by each agency shall be specified.
- (2) Appropriate displays at every level of the state program structure above the lowest level. The displays shall include:
- (A) A listing of all major groupings of programs included within the level, together with the objectives, measures of effectiveness and planned levels of effectiveness for each of the ensuing six fiscal years for each such major groupings of programs.
- (B) A summary of the total cost of each cost category by the major groupings of programs encompassed within the level, actual for the last completed fiscal year and estimated for the fiscal year in progress and for each of the next six fiscal years. [L 1970, c 185, §9; am L 1972, c 72, §§2, 5; am L 1974, c 219, §3]



§37-70 Program memoranda. Not later than the third Wednesday of January of each odd-numbered year, the governor shall submit to the legislature and to each member thereof, a program memorandum covering each of the major programs in the statewide program structure. Each program memorandum will include:

- (1) An overview of the program as a whole including a discussion of:
 - (A) Objectives.
 - (B) Component programs.
 - (C) Departments involved.
 - (D) Relationships to other agencies and jurisdictions.
 - (E) Major activities.
 - (F) Important external developments affecting the program.
 - (G) Significant discrepancies between previously planned cost and effectiveness levels and those actually achieved.
 - (H) Trends and comparisons in costs, effectiveness, or activity data over the budget and planning period.
- (2) A statement of the major program changes being recommended for the budget and planning period to include for each proposed change:
 - (A) A brief statement of the recommended change.
 - (B) The cost and program performance consequences of the change over the budget and planning period.
 - (C) A summary of the analytic rationale for the change.
- (3) A discussion of emerging conditions, trends and issues including:
 - (A) Actual or potential impact on the State and its programs.
 - (B) Possible alternatives for dealing with the specific problems occasioned by the emerging conditions, trends, and issues.
 - (C) Suggestions for a program of analyses to resolve the most urgent of the problems.
- (4) Appendices as needed to include appropriate issue papers, special analytic studies, other reports, and crucial source data.
- (b) If it is deemed more desirable, the program memoranda and the six-year program and financial plan may be combined into a single document containing all the information required for each separate document. [L 1972, c 72, §4; am L 1974, c 219, §4]

§37-71 The budget. (a) Not less than twenty days before the legislature convenes in every odd-numbered year, the governor shall submit to the legislature and to each member thereof, a budget which shall contain the program and budget recommendations of the governor for the succeeding two fiscal years. The budget shall, in general, contain:

- (1) The state program structure.
- (2) Statements of statewide objectives.
- (3) The financial requirements for the next two fiscal years to carry out the recommended programs.
- (4) A summary of state receipts and revenues in the last completed fiscal year, a revised estimate for the fiscal year in progress, and an estimate for the succeeding biennium.
- (b) The information contained in the budget shall be presented generally in the following manner:
 - (1) Information shall be displayed by programs or groups of programs.
 - (2) Program financial requirements shall be appropriately crosswalked between the programs and expending agencies.
 - (3) Data shall be appropriately summarized at each level of the program structure.
 - (4) Program costs shall include all costs, including research and development, operating and capital, regardless of the means of financing, except that the means of financing shall be expressly identified, and regardless of whether the expenditure of any sum was authorized by prior appropriations acts, is authorized by existing law, or requires new authorization, except that the amounts requiring new authoriza-



- (5) Financial requirements shall be presented to the nearest dollar, omitting cents; and the summary of state receipts and revenues shall be presented to the nearest thousand dollars.
- (6) The budget shall reflect the ensuing first two fiscal year program costs contained in the six-year program and financial plan.
- (c) The display of financial requirements for the ensuing two fiscal years shall more specifically include:
 - (1) At the lowest level on the state program structure, for each program:
 - (A) The total recommended expenditures, including research and development, capital and operating costs, by cost categories and cost elements for the ensuing biennium; the planned allocation of the total biennial request, by cost categories, and cost elements, between the two fiscal years of the biennium. The means of financing and the number of positions included in any cost category amount shall be appropriately identified.
 - (B) A summary showing means of financing the total recommended expenditures, those amounts requiring and those amounts not requiring legislative appropriation or authorization for spending in each fiscal year of the biennium.
 - (C) A crosswalk of the total proposed biennial expenditures between the program and expending agencies. The means of financing the number of positions included in any cost amount, and the net amount requiring appropriation or authorization shall be appropriately identified for each expending agency.
 - (D) The proposed changes in the levels of expenditures, by cost categories, between the biennium in progress and the ensuing biennium, together with a brief explanation of the major reasons for each change. The reasons shall include, as appropriate, the following:
 - (i) Salary adjustments to existing positions of personnel.
 - (ii) The addition or deletion of positions.
 - (iii) Changes in the number of persons being served or to be served by the program.
 - (iv) Changes in the program implementation schedule.
 - (v) Changes in the actual or planned level of program effectiveness.
 - (vi) Increases due to the establishment of a program not previously included in the State's program structure.
 - (vii) Decreases due to the phasing out of a program previously included in the state's program structure.
 - (viii) Changes in the purchase price of goods or services.
 As appropriate, references to the program and financial plan shall be noted for an explanation of the changes. For each program, the total dollar and percentage change shall also be noted. Notwithstanding the provisions of subsection (b) (5) of this section, the proposed changes in the levels of expenditures may be shown to the nearest thousand dollars.
 - (2) Appropriate summaries of (1)(A) and (C) immediately above at every level of the state program structure above the lowest level. Such summaries shall be by the major groupings of programs encompassed within the level. The summaries of (1)(A) shall identify the means of financing and the number of positions included in any cost category amount.



- (3) A summary listing of all capital improvement projects included in the proposed capital investment costs for the ensuing biennium. The listing shall be by programs at the lowest level of the state program structure and shall show for each project, by investment cost elements:
- (A) The cost of the project.
 - (B) The amount of funds previously appropriated and authorized by the legislature.
 - (C) The amount of new appropriations and authorizations proposed in each of the two fiscal years of the ensuing biennium and in each of the succeeding four years. The amount of the new appropriations and authorizations proposed shall constitute the proposed new requests for the project in each of the fiscal bienniums.

In every instance, the means of financing shall be noted.

- (d) The summaries of the state receipts and revenues shall more specifically include:

- (1) Financial summaries displaying the State's financial condition, to-wit:
- (A) A display of the proposed, total state expenditures, by cost categories, the total state resources anticipated from existing taxes and non-tax sources at existing rates, by resource categories (including the available fund balances or deficits and anticipated bond receipts), and the fund balance or deficit resulting therefrom for the biennium in progress, for the ensuing biennium, and for each of the two fiscal years of the ensuing biennium.
 - (B) The changes proposed to the existing tax and non-tax rates, sources or structure, and the estimated cumulative increases or reductions, and the estimated fund balance or deficit in the ensuing biennium and in each of the two fiscal years of the biennium as a result of such proposed changes. Proposals for changes in the existing tax and non-tax rates, sources or structure shall be made in every case where the proposed, total state expenditures exceed the total state resources anticipated from existing tax and non-tax sources at existing rates.

Such financial summaries shall be prepared for the total state expenditures and resources and for the general fund and special fund portions thereof.

- (2) A summary of the balances of each special fund, actual for the last completed fiscal year and estimated for the fiscal year in progress and for each of the two fiscal years in the ensuing biennium.
- (3) A summary of the State's total bond fund required to carry out the recommended programs and the kinds of bonds and amounts thereof through which such requirements are to be met in the biennium in progress and in each of the two fiscal years in the ensuing biennium. The summary shall detail for the biennium in progress and for each of the two years of the ensuing biennium:
 - (A) Of the total requirements, the amount, by cost categories, requiring new bond issuance authorization and the kinds and amounts of bonds planned for issuance under such new authorization.
 - (B) By bond categories, the total, cumulative balance of bonds authorized in prior years but unissued and the amount thereof planned to be issued.
 - (C) A recapitulation of the total bonds, both new authorizations and



- (4) prior authorizations, by bond categories, proposed to be issued.
- (4) A tentative schedule by quarter and fiscal year of the amount of general obligation bonds and the amount of revenue bonds proposed to be issued in the ensuing fiscal biennium.
- (5) A schedule of projected debt service charges for general obligation bonds outstanding at the time of the submission of the budget and to be issued by the close of the budget biennium in progress and the close of the ensuing budget biennium. The projection shall be separately stated for:
 - (A) Bonds currently outstanding.
 - (B) Bonds to be issued during the remainder of the fiscal biennium in progress and during the ensuing fiscal biennium.
 - (C) The total bonds currently outstanding and to be issued.
 In each case, the projection shall be categorized into debt service to be paid directly from the general fund, debt service to be paid through reimbursements, and total debt service. The projection shall extend at least five years beyond the close of the ensuing fiscal biennium. An explanation shall be appended to the schedule, which shall include among other things, the amount of bonds to be issued during the fiscal year in progress and in each of the two fiscal years of the ensuing biennium, the maturities of the bonds to be issued, the method of retirement, and the interest rate assumed in the projection.
- (6) A schedule of the current state funded debt, legal debt limit and the legal debt margin, including the details thereof.
- (7) Separately for general fund tax revenues, special fund tax revenues, general fund non-tax revenues and special fund non-tax revenues:
 - (A) By kinds of taxes or sources, the amount of revenue from existing, authorized taxes or sources at existing rates received in the last completed fiscal year and estimated to be received in the fiscal year in progress and in each of the two fiscal years in the ensuing biennium, with appropriate totals for the two bienniums.
 - (B) A summary of the proposed changes in the existing taxes or sources or rates, and the estimated increases or reductions in revenues in each of the two years in the ensuing fiscal biennium resulting from such changes.
 - (C) The total estimated revenues with and without the proposed changes.
- (e) The proposed budget shall include such other financial statements, information and data which in the opinion of the governor are necessary or desirable in order to make known in all practical detail the programs, program plans, and financial conditions of the State.
- (f) The proposed budget shall contain an item to be known as the "contingent fund," which sum, upon approval by the legislature, shall be available for allocation by the governor during the ensuing fiscal biennium to meet contingencies as they arise.
- (g) If it is deemed more practical, the six-year program and financial plan and the budget may be combined into a single document containing all the information required for each separate document. [L 1970, c 185, §10; renumbered and am L 1972, c 72, pt of §§3, 6; am L 1974, c 219, §5]



§37-72 Supplemental budget. (a) Not less than twenty days before the legislature convenes in regular session in an even-numbered year, the governor

may submit to the legislature a supplemental budget to amend any appropriation for the current fiscal biennium. The supplemental budget shall reflect the changes being proposed in the State's program and financial plan and shall be submitted, as applicable, in the manner provided in section 37-71.

(b) In each regular session in an even-numbered year, the legislature may amend any appropriation act of the current fiscal biennium or prior fiscal periods. [L 1970, c 185, §11; renumbered L 1972, c 72, §3]

§37-73 Legislative review. The legislature shall consider the governor's proposed program and financial plan and budget; evaluate alternatives to the governor's recommendations; and adopt programs and determine the state budget. It may, from time to time, request the department of budget and finance and any agency to conduct such analysis of programs and finances as will assist in determining the State's program and financial plan and budget. [L 1970, c 185, §12; renumbered L 1972, c 72, §3]

§37-74 Program execution. (a) Except as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law, the several agencies responsible for administering state programs shall administer their program assignments and shall be responsible for their proper management.

(b) The appropriations by the legislature for a biennium shall be allocated between the two fiscal years of the biennium in the manner provided in the budget or appropriations act and as further prescribed by the director of finance. The amounts allocated for each fiscal year shall be subject to the allotment system prescribed in chapter 37, part II. Each agency (except the courts), in estimating its quarterly requirements under chapter 37, part II, shall prepare a plan for the fiscal year for the operation of each of the programs it is responsible for administering. The operations plan shall be in such form and content as the department of budget and finance may prescribe. It shall be submitted, together with the estimated quarterly requirements, to the department of budget and finance on such date as the department may prescribe.

(c) The department of budget and finance shall:

- (1) Review each operations plan to determine that it is consistent with the policy decisions of the governor and appropriations by the legislature, that it reflects proper planning and efficient management methods, and that appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year.
- (2) Approve the operations plan if satisfied that it meets the requirements under paragraph (1). Otherwise, the department of budget and finance shall require revision of the operations plan in whole or in part.
- (3) Modify or withhold the planned expenditures at any time during the appropriation period if the department of budget and finance finds that such expenditures are greater than those necessary to execute the programs at the level authorized by the governor and the legislature, or that state receipts and surpluses will be insufficient to meet the authorized expenditure levels.

(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization. Authorized transfers or changes, when made, shall be reported to the legislature. [L 1970, c 185, §13; renumbered L 1972, c 72, §3; am L 1974, c 219, §6]

§37-75 Variance report. Not less than twenty days prior to the convening of each regular session of the legislature, the governor shall submit to the legislature and to each member thereof, a report on program performance for the



last completed fiscal year and the fiscal year in progress. In format, the report shall generally follow the fiscal requirements portion of the executive budget or budgets. The report shall include:

- (1) At the lowest level of the program structure, for each program contained in the budget finally approved by the legislature for the last completed fiscal year and the fiscal year in progress:
 - (a) A comparison, by the operating and research and development cost categories, of the budgeted expenditures and the actual expenditures for the last completed fiscal year and the budgeted expenditures and the estimated expenditures for the fiscal year in progress.
 - (b) A comparison, for the operating and research and development cost categories, of the budgeted expenditures and positions authorized and the actual expenditures and positions filled in the last completed fiscal year and a comparison of the budgeted expenditures and the number of positions authorized for the fiscal year in progress and the actual expenditures and number of positions filled in the first three months of the fiscal year in progress and the estimated expenditures and number of positions expected to be filled in the remaining months of the fiscal year in progress.
 - (c) The program size indicators, and a comparison of the program size anticipated and the size actually realized in the last completed fiscal year and the program size anticipated and the size estimated for the fiscal year in progress.
 - (d) The effectiveness measures, and a comparison of the level of effectiveness anticipated and the level actually attained in the last completed fiscal year and the level of effectiveness anticipated and the level estimated for the fiscal year in progress.
 - (e) A narrative explanation of the major differences for the last completed fiscal year in each of the comparisons made in (a), (b), (c) and (d), including an explanation of the basis upon which the original estimates were made and the reasons why such estimates proved accurate or inaccurate, and a statement of what the actual experience portends for the future of the program in terms of costs, size and effectiveness.

Expenditure amounts in the comparisons shall be shown to the nearest thousand dollars.

- (2) Appropriate summaries at each level of the state program structure for each major grouping of programs encompassed therein, showing:
 - (a) A comparison of the total budgeted expenditure and the total actual expenditure for the last completed fiscal year and the total budgeted expenditure and the total estimated expenditure for the fiscal year in progress. The expenditure amounts shall be shown to the nearest thousand dollars.
 - (b) The effectiveness measures, and a comparison of the level of effectiveness anticipated and the level actually attained in the last completed fiscal year and the level of effectiveness anticipated and the level estimated for the fiscal year in progress.
 - (c) A narrative explanation summarizing the major reasons for the differences in the comparisons made for the last completed fiscal year in (a) and (b).

- (3) Significant variations in capital improvement costs will be explained in the narrative. Capital improvement project variances will be referenced to the six-year program and financial plan, which will contain the information specified in section 37-69(d) (1) (K). [L 1970, c 185, §14; renumbered L 1972, c 72, §3; am L 1974, c 219, §7]

§37-76 Publication. The state six-year program and financial plan, the budget and the variance report shall be printed with a reasonable number of copies for public distribution. [L 1970, c 185, §15; renumbered L 1972, c 72, §3; am L 1974, c 219, §8]

§37-77 Claims for legislative relief. All claims for refunds, reimbursements, or other payments, authorization for which is sought from the legislature, shall, as a condition to their being considered by the legislature, be filed in quadruplicate with the director of finance at least thirty days prior to the convening of the legislature, together with quadruplicates of all data and documents in support thereof. In the absence of a showing of sufficient reason therefor, failure to comply with this paragraph shall be deemed sufficient cause for refusal of the legislature to consider the claims.

The director shall, immediately upon receipt thereof, refer any claim and data so received by him to the agency concerned, and the agency to which the reference is made shall immediately investigate the claim, secure in triplicate all available data and documents bearing thereon, and prior to the convening of the legislature refer the same back to the director with its recommendations thereon. The director shall, within five days after the opening of the session, transmit the claims in an appropriate legislative bill form, together with all accompanying data so presented, to the legislature. [L 1970, c 185, §16; renumbered L 1972, c 72, §3; am L 1973, c 178, §1]

§37-78 Schedule of implementation. The governor shall submit to the legislature:

- (1) At the regular session of 1975, and every odd-numbered year's session thereafter, the program memoranda described in section 37-70.
- (2) At the regular session of 1975, and every odd-numbered year's session thereafter, his proposed State budget and six-year program and financial plan. [L 1970, c 185, §17; renumbered L 1972, c 72, §3; am L 1974, c 219, §9]

Revision Note

L 1970, c 185, §19, severability, omitted as unnecessary. See §1-23.



Act 159

ACT 159

S.B. NO. 1944-74

A Bill for an Act Clarifying the Relationship of Executive Agencies with the Judicial Branch and the Legislative Branch.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and Purpose. The Constitution of the State of Hawaii provides for three separate and co-equal branches of government, the executive branch, the judicial branch, and the legislative branch.

The legislature finds that, although the Constitution incorporates the principle of separation of powers and the principle that no one branch of government shall dominate another branch, the Hawaii Revised Statutes are not completely consistent with these constitutional principles. This is particularly the case with respect to those statutes which appear to permit the executive branch to exercise various administrative controls over the judiciary and its courts and the legislature and its agencies. Such statutes are in conflict with the constitutional status of the judicial branch and the legislative branch as separate and co-equal branches of government.

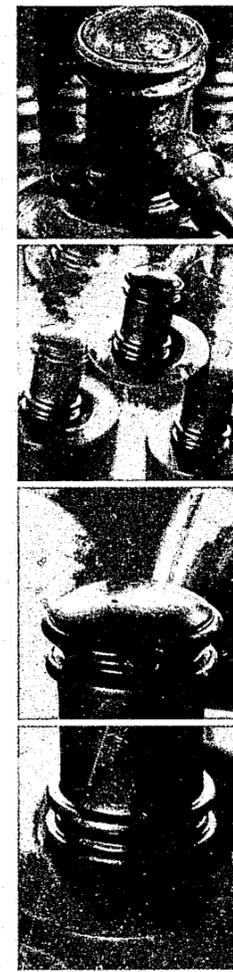
The purpose of this Act is to clarify the Hawaii Revised Statutes and to bring the statutes into conformance with the separate and co-equal status intended by the State Constitution for the executive branch, the judicial branch, and the legislative branch.

SECTION 2. Part I of Chapter 26, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 26- Services to the judiciary and legislature. Any executive department may provide services to the judiciary and the legislature, but nothing in this part and this chapter shall be construed as granting any authority to the governor or any department to exercise control over the organization, programs, functions, operations, and expenditures of the judiciary and the legislature."

SECTION 3. Paragraph (1) of Section 37-62, Hawaii Revised Statutes, is amended to read as follows:

"(1) 'Agency' means any executive department, independent commission, board, bureau, office, or other establishment of the state government (except the legislature and the judiciary), or any quasi-



public institution which is supported in whole or in part by state funds."

SECTION 4. Section 40-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 40-1 Comptroller to supervise accounts, etc. (a) The comptroller shall be the general accountant of the State, and he shall cause to be recorded every receipt and disbursement of money made to, by, or through the treasury. He shall have the power to withhold any disbursement for which no appropriation has been made or which would cause a specific appropriation to be exceeded.

(b) With respect to the executive branch, he shall have complete supervision of all accounts. He shall pre-audit all proposed payments to determine the propriety of expenditures and compliance with such executive orders, rules and regulations as may be in effect. He shall, when necessary, withhold his approval of any payment. Whenever he withholds his approval, he shall promptly notify the department or agency concerned.

(c) With respect to the judiciary and the legislature, he shall make available to the judiciary and the legislature the total amount appropriated to each, except that the judiciary and the legislature may request his services in maintaining custody of the amount appropriated to each and in making payments therefrom. When such services are requested, he shall make all disbursements requested by the judiciary or the legislature, but he shall not make any disbursement for which no appropriation has been made or which would cause a specific appropriation to be exceeded.

(d) Any financial transaction recorded by the comptroller may be inspected by the public."

SECTION 5. Section 40-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 40-2 Accounting systems and internal control; enforcing the use of and inspection of the same. The accounting system installed by the commission on public accountancy under Act 181, session laws of Hawaii 1923, as amended by Act 220, session laws of Hawaii 1925, for use in the offices of the comptroller, director of finance, departmental and agency services of the State and the auditors, treasurers, departmental and agency services of the several counties shall be the accounting and reporting systems of the State and counties. The comptroller shall make such changes and modifications in the accounting system as shall from time to time appear to be in the best interest of the State and counties.

The departments and agencies of the executive branch are respectively charged with the responsibility to maintain an adequate system of internal control and with the further responsibility to see that the internal control system continues to function effectively as designed. The comptroller shall make such investigations and audits from time to time to enforce the use of the accounting system and internal control systems in the executive branch.

The judiciary, the legislature, and each county shall be responsible for the establishment and maintenance of its respective internal control system."

SECTION 6. Section 40-4, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 40-4 Publication of statements. The comptroller shall prepare and submit to the governor, and publish in a newspaper of general circulation in the State, immediately following the close of each fiscal year, a statement of income and expenditure by funds, showing the principal sources of revenue, the function or purpose for which expenditures were made, together with a consolidated statement showing similar information for all funds; also a



statement showing the balance in each fund at the beginning of the fiscal year, plus the receipts, minus the disbursements, and the balance on hand at the close of the fiscal year after deducting outstanding warrants and vouchers. The comptroller may request all agencies, the judiciary, and the legislature to provide such information as may be required for the preparation of the statements."

SECTION 7. Section 40-51, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 40-51 Money drawn only on warrants. Excepting moneys paid for the redemption of bonds of the state debt, and the interest coupons of the same, and for interest on overdue warrants, and drafts against special deposits and for the expenses of the legislature and the judiciary, no money shall be drawn from or out of the treasury except upon warrants, substantially in the form of section 40-52, issued from the comptroller's office, provided that upon request, the comptroller shall provide financial services involving the issuance of warrants on behalf of the legislature and the judiciary. Every such warrant shall be signed by the comptroller or his deputy or by means of any mechanical check signer that may be adopted by the comptroller, and shall be made payable upon such date as may be approved by the director of finance to the order of the person to whom the State is directly indebted."

SECTION 8. Section 76-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 76-3 Uniform administration. It is the intent of the legislature that the system of personnel administration established by this chapter and chapter 77 shall be as uniformly administered as is practicable. In order to promote such uniformity, the several commissioners and directors of the state department of personnel services and of the county departments of civil service and the administrative director of the courts shall meet at least once each year at the call of the director of personnel services of the State."

SECTION 9. Part 1 of Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 76- Employees of the judiciary. It is the intent of the legislature that the personnel of the judiciary are included in the system of personnel administration established by this chapter and chapter 77, unless specifically exempted by this chapter or any other law; provided that:

- (1) In the development of a position classification plan, the formulation of personnel rules and regulations, and the administration of the State personnel system, the director of personnel services shall consult with the chief justice or his representative insofar as such plan, rules and regulations, and administration affect the personnel of the judiciary;
- (2) In all cases where the action of the director of personnel services is required, including the classification, reclassification, allocation, and reallocation of a particular position, the publication of a vacancy announcement, the examination of applicants, and the preparation of an eligible list, any request for any such action submitted by the judiciary with respect to any of its positions shall be acted upon by the director within ninety days after receipt of the request. If the director takes no action within the ninety days, the chief justice, pursuant to the applicable provisions of this chapter, chapter 77, and the personnel rules and regulations, may determine the action to be taken. In case of a disagreement between the director and the chief justice as to the action to be taken on the

request of the judiciary, the chief justice shall prevail. Any action taken by the director of personnel services or the chief justice may be appealed by any employee in the judiciary affected by such action or by any affected exclusive bargaining unit representative of employees of the judiciary to a board of arbitrators composed of three members, one each to be selected by the director of personnel services, the chief justice, and the employee or the exclusive bargaining unit representative concerned. Notwithstanding any other provision of this chapter and chapter 77, the decision of the majority of the arbitrators shall be final and binding on all parties. The cost of such arbitration shall be borne equally by the department of personnel services, the judiciary, and the employee or exclusive bargaining unit representative concerned; and

- (3) Nothing in chapters 76 and 77 shall be construed to require the approval of the governor or any executive agency for the judiciary to establish such positions in the judicial branch as may be authorized and funded by the legislature."

SECTION 10. Paragraph (4) of Section 76-11, Hawaii Revised Statutes, is amended to read:

"(4) 'Department' includes the judicial branch and any department, board, commission, or agency of the State;"

SECTION 11. Paragraph (5) of Section 77-1, Hawaii Revised Statutes, is amended to read as follows:

"(5) 'Department' includes the judicial branch and any department, board, commission, or agency of the State or any of its political subdivisions;"

SECTION 12. Paragraph (12) of Section 77-1, Hawaii Revised Statutes, is amended to read as follows:

"(12) 'Chief executive officer' means the governor in the case of the State, the chief justice of the supreme court in the case of the judiciary, the mayor in the case of the city and county of Honolulu or the chairman of the respective board of supervisors in the case of the counties of Hawaii, Maui, and Kauai;"

SECTION 13. Paragraph (14) of Section 77-1, Hawaii Revised Statutes, is amended to read as follows:

"(14) 'Fiscal officer' means the director of finance in the case of the State, the administrative director of the courts in the case of the judiciary, the director of finance in the case of the city and county of Honolulu, and the respective auditors in the case of the counties of Hawaii, Maui, and Kauai;"

SECTION 14. Section 601-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 601-1 Judiciary. There shall be a branch of government, styled the judiciary."

SECTION 15. Section 601-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 601-2 Administration. (a) The chief justice shall be the administrative head of the judiciary. He shall make a report to the legislature, at each regular session thereof, of the business of the judiciary and of the administration of justice throughout the State. He shall present to the legislature a unified budget, six-year program and financial plan, and variance report for all of the programs of the judiciary. He shall direct the administration of the judiciary, with responsibility for the efficient operation of all of the



courts and for the expeditious dispatch of all judicial business.

(b) He shall possess the following powers, subject to such rules as may be adopted by the supreme court:

- (1) To assign circuit judges from one circuit to another;
- (2) In a circuit court with more than one judge, (A) to make assignments of calendars among the circuit judges for such period as he may determine and, as deemed advisable from time to time, to change assignments of calendars or portions thereof (but not individual cases) from one judge to another, and (B) to appoint one of the judges, for such period as he may determine, as the administrative judge to manage the business of the court, subject to the rules of the supreme court and the direction of the chief justice;
- (3) To prescribe for all of the courts a uniform system of keeping and periodically reporting statistics of their business;
- (4) To procure from all of the courts estimates for their appropriations; with the cooperation of the representatives of the court concerned to review and revise them as he deems necessary for equitable provisions for the various courts according to their needs and to present the estimates, as reviewed and revised by him, to the legislature as collectively constituting a unified budget for all of the courts;
- (5) To exercise exclusive authority over the preparation, explanation, and administration of the judiciary budget, programs, plans, and expenditures, including without limitation policies and practices of financial administration and the establishment of guidelines as to permissible expenditures, provided that all expenditures of the judiciary shall be in conformance with program appropriations and provisions of the legislature; and
- (6) To do all other acts which may be necessary or appropriate for the administration of the judiciary.

(c) The budget, six-year program and financial plan, and the variance report of the judiciary shall be submitted by the chief justice to the legislature in accordance with the schedule of submission specified for the governor in chapter 37 and shall contain the program information prescribed in that chapter. By November 1 of each year preceding a legislative session in which a budget is to be submitted, the chief justice shall provide written notification to the governor of the proposed total expenditures, by cost categories and sources of funding, and estimated revenues of the judiciary for each fiscal year of the next fiscal biennium."

SECTION 16. Section 601-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 601-3 Administrative director. The chief justice with the approval of the supreme court, shall appoint an administrative director of the courts to assist him in directing the administration of the judiciary. The administrative director shall be a resident of the State for a continuous period of three years prior to his appointment, and shall be appointed without regard to chapters 76 and 77 and shall serve at the pleasure of the chief justice. He shall hold no other office or employment. Effective July 1, 1970, he shall receive a salary of not more than \$22,670 a year. He shall, subject to the direction of the chief justice, perform the following functions:

- (1) Examine the administrative methods of the courts and make recommendations to the chief justice for their improvements;
- (2) Examine the state of the dockets of the courts, secure information as to their needs for assistance, if any, prepare statistical data and reports of the business of the courts and advise the chief justice to the end that proper action may be taken;

- (3) Examine the estimates of the courts for appropriations and present to the chief justice his recommendations concerning them;
- (4) Examine the statistical systems of the courts and make recommendations to the chief justice for a uniform system of judicial statistics;
- (5) Collect, analyze, and report to the chief justice statistical and other data concerning the business of the courts;
- (6) Assist the chief justice in the preparation of the budget, the six-year program and financial plan, the variance report and any other reports requested by the legislature; and
- (7) Attend to such other matters as may be assigned by the chief justice.

The administrative director shall, with the approval of the chief justice, appoint such assistants as may be necessary. The assistants shall be appointed subject to chapters 76 and 77. The administrative director shall be provided with necessary office facilities.

The judges, clerks, officers, and employees of the courts shall comply with all requests of the administrative director for information and statistical data relating to the business of the courts and the expenditure of public funds for their maintenance and operation."

SECTION 17. Wherever in the Hawaii Revised Statutes appears the term "judiciary department" or "department" in reference to the judiciary, the revisor of statutes shall reword the term to read, "judicial branch," "judiciary," or "branch," as appropriate.

SECTION 18. Except as modified in Sections 8, 9, 10, 11, 12, and 13 of this Act, no part of this Act shall contravene any part of Chapters 76, 77, 89, or any collective bargaining agreement that may have been or may be negotiated under Chapter 89.

SECTION 19. **Severability.** If any provision of this Act or the application thereof to any person or circumstance is held unconstitutional, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby, and it shall be conclusively presumed that the legislature would have enacted the remainder of this Act without such invalid or unconstitutional provision.

SECTION 20. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 21. This Act shall take effect upon its approval.
(Approved June 6, 1974.)



*Edited accordingly.

A Bill for an Act Relating to Personnel of the Judicial Branch.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and Purpose.

The Constitution of the State of Hawaii provides for three separate and coequal branches of government, the executive branch, the judicial branch, and the legislative branch.

The legislature finds that this concept has been partially implemented, but that the statutes relating to personnel administration are not completely consistent with these constitutional principles.

This remains particularly so with respect to those statutes which appear to permit the executive branch to exercise various administrative controls over the personnel of the judiciary. The purpose of this Act is to conform the personnel laws of the state of Hawaii to the concept that the judiciary is a separate branch of government. At the same time the legislature wishes to preserve the merit principle of judicial administration. This Act recognizes that the state civil service system has two parts, the executive civil service system and the judicial civil service system.

Under this theory the chief justice is generally equated to the governor and the administrative director of the courts is equal to the director of personnel services. For purposes of chapter 89, Collective Bargaining, however, the governor is considered the employer for the judicial as well as the executive branch in order to avoid potential conflict of interest.

To provide additional clarification of the application of Title 7 intended by this Act, the judiciary is given a status coequal with the executive branch of the State and the several counties.

SECTION 2. Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"Sec. 76- Judiciary; powers and duties. All of the powers and duties assigned in parts I, IV, and V of this chapter to the governor or the director of personnel services shall with respect to the judiciary be assigned to the chief justice of the supreme court or the administrative director of the courts."

SECTION 3. Section 76-4, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 76-4 Agreements of state and county departments and judiciary. The state department of personnel services, the judiciary, and the several departments of civil service of the counties may enter into agreements for the joint administration of such matters as may be practicable and consistent with this chapter and chapter 77, including the conducting of examinations and other procedures for the establishment and use of eligible lists, reciprocity in the use of eligible lists, and the conducting of salary studies. All eligible lists established or used under the agreements shall be as fully effective as those established or used separately."

SECTION 4. Section 76-5, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 76-5 Service to judiciary and counties by State. Subject to the rules of the state department of personnel services, the director of state personnel services may enter into agreements with the judiciary and any county to furnish services and facilities of the state department to the judiciary and any county in the administration of civil service including position classification in the judiciary and any county. The agreements may provide for the reimbursement to



the State of the reasonable value of the services and facilities furnished, as determined by the director. The judiciary and all counties are authorized to enter into the agreements."

SECTION 5. Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"Sec. 76- Civil service for the judiciary. There shall be a civil service system for the judiciary. Except as otherwise specifically provided in this section, all of the provisions of part II shall apply to the judiciary.

- (1) All of the powers and duties assigned to the director of personnel services in part II shall, with respect to the judiciary, be exercised by the administrative director of the courts.
- (2) When applying part II to the judiciary, the term "state" wherever it appears means the judiciary; the term "governor" means the chief justice of the supreme court; the "director" means the administrative director of the courts; and the "department" means the judicial branch."

SECTION 6. Section 76-9, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 76-9 Employees of the judiciary. It is the intent of the legislature that the personnel of the judiciary shall form a separately administered part of the system of personnel administration established by this chapter and chapter 77, unless specifically exempted by this chapter or any other law; provided that:

- (1) The judiciary shall have a status coequal with the executive branch of the State and with the several counties for purposes of the development of a position classification plan, the formulation of personnel rules and regulations, and the administration of the judiciary personnel system, including, but not limited to the classification, reclassification, allocation, and reallocation of a particular position, the publication of a vacancy announcement, the examination of applicants, and the preparation of eligible lists;
- (2) In the development of a position classification plan, the formulation of personnel rules and regulations, and the administration of the judiciary personnel system, the chief justice or his designee shall consult with the director of personnel services;
- (3) Any action of the chief justice or his designee including the classification, reclassification, allocation, and reallocation of a particular position, the publication of a vacancy announcement, the examination of applicants, the preparation of an eligible list, and appeals from suspensions, dismissals and demotions may be appealed by any person, employee or the exclusive bargaining unit representative to the judiciary personnel appeals board. The board shall be composed of three members, one representative from the department of personnel services, one representative of the judiciary and one exclusive bargaining unit representative. The provisions contained in section 26-34 shall not apply to the members of the judiciary personnel appeals board. The board shall sit as an appellate body on matter within the jurisdiction of the judiciary with equal authority as the civil service commission established by section 26-5, Hawaii Revised Statutes.
- (4) Nothing in chapter 76 and 77 shall be construed to require the approval of the governor or any executive agency for the judiciary to establish such positions in the judicial branch as may be authorized and funded by the legislature."



SECTION 7. Chapter 77, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 77- Applicability of chapter to judiciary. All of the provisions of this chapter apply with equal force to the judiciary as to the State."

SECTION 8. Section 77-1, Hawaii Revised Statutes, is amended by amending the definition of "director" to read as follows:

- (6) "Director" means the director of personnel services in the case of the State, the administrative director of the courts in the case of the judiciary, director of civil service in the case of the city and county of Honolulu or the respective personnel directors in the case of the counties of Hawaii, Maui, and Kauai."

SECTION 9. Chapter 78, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 78- Applicability of chapter to judiciary. All of the provisions of this chapter apply with equal force to the judiciary as to the State. The powers and duties assigned in this chapter shall, with respect to the judiciary, be assigned to the chief justice of the supreme court in the place and stead of the governor or chief executive officer for the state, and to the administrative director of the courts in the place and stead of the director of personnel services."

SECTION 10. Chapter 79, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 79- Judiciary; powers and duties. All of the powers and duties assigned in this chapter to the governor or the director of personnel services shall with respect to the judiciary be assigned to the chief justice of the supreme court or the administrative director of the courts."

SECTION 11. Chapter 80, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 80- Judiciary; powers and duties. All of the powers and duties assigned in this chapter to the governor or director of personnel services shall with respect to the judiciary be assigned to the chief justice of the supreme court or the administrative director of the courts."

SECTION 12. Chapter 81, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 81- Judiciary; powers and duties. All of the powers and duties assigned in this chapter to the governor or the department or director of personnel services shall with respect to the judiciary be exercised by the chief justice of the supreme court or the administrative director of the courts."

SECTION 13. Chapter 82, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 82- Judiciary; powers and duties. All of the powers and duties assigned in this chapter to the governor or the director of personnel services shall with respect to the judiciary be assigned to the chief justice of the supreme court or the administrative director of the courts."

SECTION 14. Chapter 83, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 83- Judiciary; powers and duties. All of the powers and duties assigned this chapter to the governor or the director of personnel services shall with respect to the judiciary be exercised by the chief justice of the supreme court or the administrative director of the courts."

SECTION 15. Chapter 84, Hawaii Revised Statutes, is amended by adding



to Part IV a new section to be appropriately designated and to read as follows:

"Sec. 84- Judicial branch. The powers and duties assigned in this part IV to the governor shall, with respect to employees in the judicial branch, be assigned to the chief justice of the supreme court."

SECTION 16. Section 89-2(9) is amended by amending the definition of "employer" to read as follows:

"(9) "Employer" or "public employer" means the governor in the case of the State, the respective mayors in the case of the city and county of Honolulu and the counties of Hawaii, Maui, and Kauai, the board of education in the case of the department of education, and the board of regents in the case of the university of Hawaii, and any individual who represents one of these employers or acts in their interest in dealing with public employees. In the case of the Judiciary, the governor shall be the employer for the purposes of this chapter."

SECTION 17. Section 601-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) He shall possess the following powers, subject to such rules as may be adopted by the supreme court:

- (1) To assign circuit judges from one circuit to another;
- (2) In a circuit court with more than one judge, (A) to make assignments of calendars among the circuit judges for such period as he may determine and, as deemed advisable from time to time, to change assignments of calendars or portions thereof (but not individual cases) from one judge to another, and (B) to appoint one of the judges, for such period as he may determine, as the administrative judge to manage the business of the court, subject to the rules of the supreme court and the direction of the chief justice;
- (3) To prescribe for all of the courts a uniform system of keeping and periodically reporting statistics of their business;
- (4) To procure from all of the courts estimates for their appropriations; with the cooperation of the representatives of the court concerned to review and revise them as he deems necessary for equitable provisions for the various courts according to their needs and to present the estimates, as reviewed and revised by him, to the legislature as collectively constituting a unified budget for all of the courts;
- (5) To exercise exclusive authority over the preparation, explanation, and administration of the judiciary budget, programs, plans, and expenditures, including without limitation policies and practices of financial administration and the establishment of guidelines as to permissible expenditures, provided that all expenditures of the judiciary shall be in conformance with program appropriations and provisions of the legislature, and all powers of administration over judiciary personnel that are specified in title 7; and
- (6) To do all other acts which may be necessary or appropriate for the administration of the judiciary."

SECTION 18. Section 601-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 601-3 Administrative director. The chief justice with the approval of the supreme court, shall appoint an administrative director of the courts to assist him in directing the administration of the judiciary. The administrative director shall be a resident of the State of a continuous period of three years prior to his appointment, and shall be appointed without regard to chapters 76 and 77 and



shall serve at the pleasure of the chief justice. He shall hold no other office or employment. Effective July 1, 1975, he shall receive a salary of not more than \$36,800 a year. Effective January 1, 1976, he shall receive a salary of not more than \$40,000 a year. He shall, subject to the direction of the chief justice, perform the following functions:

- (1) Examine the administrative methods of the courts and make recommendations to the chief justice for their improvement;
- (2) Examine the state of the dockets of the courts, secure information as to their needs of assistance, if any, prepare statistical data and reports of the business of the courts and advise the chief justice to the end that proper action may be taken;
- (3) Examine the estimates of the courts for appropriations and present to the chief justice his recommendations concerning them;
- (4) Examine the statistical systems of the courts and make recommendations to the chief justice for a uniform system of judicial statistics;
- (5) Collect, analyze, and report to the chief justice statistical and other data concerning the business of the courts;
- (6) Assist the chief justice in the preparation of the budget, the six-year program and financial plan, the variance report and any other reports requested by the legislature;
- (7) Carry out all duties and responsibilities that are specified in title 7 as it pertains to employees of the judiciary; and
- (8) Attend to such other matters as may be assigned by the chief justice.

The administrative director shall, with the approval of the chief justice, appoint a deputy administrative director of the courts subject to chapter 76 but not subject to chapter 77 and such assistants as may be necessary. Such assistants shall be appointed subject to chapters 76 and 77. The salary of the deputy administrative director shall be ninety-five per cent of the administrative director's salary. The administrative director shall be provided with necessary office facilities.

The judges, clerks, officers, and employees of the courts shall comply with all requests of the administrative director for information and statistical data relating to the business of the courts and expenditures of public funds for their maintenance and operation."

SECTION 19. No regular civil service employees shall lose their status or have their statutory rights and benefits reduced as a result of this Act.

SECTION 20. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 21. This Act shall take effect on July 1, 1977.

(Approved June 2, 1977.)



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*The Resolution and the Discovery at Kealakua Bay. Engraving after Webber.
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*King Lot Kamehameha, Dr. G.P. Judd, Alexander Liholiho
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*Kamehameha V addressing Legislature. Wood engraving by A. Daudenarde
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*A major courthouse on the island of Oahu around 1870.
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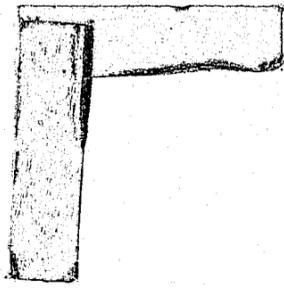
*Ali'iolani Hale-built in 1872-74
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*Law Library, Judiciary Building
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*Statehood! Girl with newspaper
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