

**REPORT
OF THE
TEMPORARY COMMISSION
ON
JUDICIAL COMPENSATION**



State of New York

1982

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INTRODUCTION

The Temporary State Commission on Judicial Compensation was established in 1980 by legislative act because of continuing concern about "the issue of parity of compensation between judges and justices in the unified court system" and to make recommendations regarding "adequate levels of compensation for such judges and justices." The statute that created the Commission (see Appendix A) directed its attention to "whether fairness dictates" uniform compensation for judges or justices performing similar duties. The statute also mandates examination of the adequacy of judicial pay, including consideration of the economic climate, salary levels of other professionals and the state's financial ability.

The Commission submits this report and recommendations only after careful research and deliberations addressing the areas outlined for study by the statute. In addition to holding its own meetings, the Commission held public hearings in Albany and New York City to receive the views of interested individuals and groups. The Commission also engaged the services of two consulting organizations in the compensation field and called on various State agency and other public personnel to assist its collection and analysis of data pertinent to its conclusions.

The Commission respectfully offers this report to the Governor and the Legislature of the State of New York, and to the people of this State, for their consideration and action.

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The Commission also wishes to acknowledge the assistance of Elinor Koehne, William Joyce, Paula Ptaschnik, and Alice Perry.

COMMISSION REPORT

The Problem of Judicial Pay

A serious problem confronts our State concerning its system of civil and criminal justice. The essence of the problem is that because of inflation and other developments during the 1970s, present levels of judicial pay discourage both able judges from remaining in their posts and able candidates from seeking careers in judicial service. Unless this problem is addressed meaningfully, it will inevitably erode the quality of our judicial system, a result which would have only unfortunate consequences for the people of this State.

This serious problem concerning adequacy of judicial salaries has been entangled with questions about disparities in judicial salaries since 1977, when state payments fully relieved localities from sharing the burden of judicial pay. If the issues involved in the adequacy of judicial salary and in the disparity between different judicial salaries in the same position were not complex, it would not have been necessary for the Legislature and the Governor to create this Commission. Quite clearly, if the only issue was whether judicial salaries should be increased in 1983 based upon economic events occurring since the last judicial salary bill in 1980, the mandate of an independent state-wide commission to conduct an extensive study would not have been necessary.

Increases in judicial pay are necessary now in part because state judicial salaries were either frozen or increased only modestly during years of high inflation and fiscal crisis without the equivalent retroactive pay adjustments subsequently extended to other areas of public employment. If the highest 1967 pay level of a New York Supreme Court justice, for example, were adjusted by the inflation index many economists prefer—the index for consumer expenditures in the gross national product (Personal Consumption Deflator)—that pay level at the outset of 1982 would have been \$91,102 annually instead of the actual figure, \$65,163.¹ During the same period, compensation for senior attorneys in the private sector reached new highs. Current compensation opportunities in private practice for highly-qualified lawyers have made judicial salaries widely non-competitive in the New York City area.

The increases we propose will not make judicial pay truly competitive, but they should encourage able persons to conclude that their compensation will be sufficient to meet their financial responsibilities. This will encourage excellent judges to remain in judicial service—a real, current problem—and should encourage excellent lawyers to seek judicial service. We shall have to rely on the psychic income that accompanies a judicial position to compensate such persons for the remainder of real income foregone.

Among the dilemmas inherent in addressing the judicial pay problem is the lack of uniformity in the pay increases required in this large and diverse State. Large increases in judicial salaries uniformly applied around the State—or applied to achieve uniformity of pay—could in some areas compensate judges at levels much higher than those achieved by excellent lawyers in private practice there, while leaving judicial pay scarcely attractive to highly-qualified private practitioners in the metropolitan New York City area. A

¹ If adjusted instead by the Consumer Price Index—the index which adjusts Social Security payments and many private collective bargaining agreements but which tends to overstate the effects of inflation—the pay level of a justice would have been \$103,691 in January 1982.

commitment to the concept of a single statewide salary schedule which ignores very real disparities in competitive factors in various parts of the State would create an insurmountable barrier to the intelligent address of the problem of adequate judicial salaries in all areas of the State.

The tension between the taxpayer's right to and interest in a sound system of criminal and civil justice, on the one hand, and prudent use of his tax dollars, on the other, presents another dilemma. Higher judicial pay levels should be accompanied by greater public interest in the election and appointment of judges and in scrutiny of other related issues. One must acknowledge, therefore, that appropriate increases in judicial pay will not alone resolve all the problems of the State judicial system. Other measures beyond the mandate of this Commission must be, and are being, considered. Their successful implementation would count for little, however, if action to increase judicial pay is further delayed.

The Basis for Action

We do not base our recommendations on the "principle of comparability" with the private sector often used in setting public sector salaries; at the highest levels of the public sector, pay cannot and need not be comparable, even if comparability could, in fact, be determined. We employ instead a lesser criterion of competitive adequacy and apply it to the different areas of the State. In doing so, we believe the judgment as to what level of pay is adequate should be based on whether a reasonable supply of well-qualified attorneys will make themselves available to become or remain judges in the courts concerned. The lowest pay which produces an adequate supply of well-qualified candidates for the various courts is the only pay level which is fair to State taxpayers; any higher pay would require unnecessarily higher taxes.

In its simplest terms our approach requires the public paying what is required to obtain what is needed, and no more. Conversely, to pay less than what is required to get what is needed in any given area of the State will inevitably result in the inability to obtain what is required. This is a simple truism of the marketplace that business-like government must recognize.

Implementation of this approach requires recognition of several important realities.

Pay levels that can produce good judges for all courts need not be uniform among all courts if aided by other factors that move men and women to seek various judicial positions. Service on the State's Supreme Court, for example, is generally regarded as more prestigious than service on other State trial courts. Indeed, service in other trial courts is often seen as a path toward service on the Supreme Court. These common perceptions both enable and require us to propose Supreme Court salaries somewhat higher than those of other statewide trial courts. Accordingly, we need not draw conclusions about the relative importance of these courts—whether, for example, the duties of judges in Family Courts in today's society or in upstate County Courts are equal in importance to those of justices in the State Supreme Court. For us, the lowest pay levels which can supply well-qualified candidates for all of the courts are the proper levels of pay and the levels to which the public is entitled.

Economic realities in this diverse State must in particular be recognized.

The alternative of private practice is always open to able persons who are now, or might become, judges. Resignations from State judicial service in recent years largely or partially attributable to lagging judicial pay and increasing attractiveness of private sector alternatives make this all too clear.² Moreover, litigation lawyers with at least ten years experience in private practice are the largest pool from which trial court judges are drawn. In order to determine how well experienced lawyers predominantly involved in litigation are compensated in various areas around the State, the Commission employed a respected national consulting firm, Sibson & Co., Inc., to survey this subject in seventeen locations. While detailed data by location was limited because of the high cost which an extensive study would require, the consultant concluded:

“There is a significant disparity between average and median levels of compensation paid to senior litigation attorneys in New York City versus all other New York State locations.”

From responses to its survey, the consultant estimated that senior litigation attorneys practicing in New York City probably tend to make about twice as much as their counterparts in other areas of the State. This condition is reflected in the New York City Corporation Counsel’s call to leading City law firms early this year to limit starting salaries for law school graduates to about \$43,000, a starting annual salary level that was already exceeded by some City law firms.

The Sibson survey also indicated that of the respondents located in New York City, 92% rated judicial pay as “considerably less”—and 8% deemed it “somewhat less”—than compensation opportunities available to them in private practice; on the other hand, 44% of respondents outside the metropolitan New York City area regarded judicial pay as “comparable” to or “somewhat higher” than compensation opportunities in their areas.³

Because the cost of living at a given salary level at various locations also affects the willingness of persons to become or remain judges, an eminent firm in the field of business relocation expense—Runzheimer and Company, Inc.—was engaged to survey sixteen locations in New York State. The Runzheimer findings showed it was significantly more expensive to live in the metropolitan New York City area, including Westchester, Nassau, and Suffolk counties, than in other parts of the State. The higher the salary level compared, the greater the dollar disparity between the metropolitan area and other locations. For example, a \$65,000 salary in one part of the State will purchase a standard of living which could be equalled only by a salary of about \$79,000 in the New York City area; a \$45,000 salary in the same location is equivalent to a salary of about \$53,000 in the City.⁴

² Among those who have resigned are: Owen McGivern, former Presiding Justice, Appellate Division, First Department (resigned in 1975); Leonard L. Finz, former Supreme Court Justice, First District (resigned in 1978); Morton B. Silberman, former Supreme Court Justice, Ninth District (resigned in 1979); Joseph A. Suozzi, former Associate Justice, Appellate Division, Second Department (resigned in 1979); Irwin Brownstein, former Court Justice, Second District (resigned in 1980); and Millard Midonick, former Surrogate, County of New York (resigned in 1982).

³ See excerpt from the Sibson report at Appendix B.

⁴ Excerpts from the Runzheimer and Company, Inc. study are in Appendix C.

With empirical data from these studies at hand to illustrate these economic facts of life, the Commission concludes that the optimum means of retaining good judges and attracting good candidates to State judicial service—and to avoid overtaxing the taxpayer in doing so—is to create a system under which all judges in the same statewide court receive the same basic pay, with an adjustment related to competitive compensation opportunities added to the pay of those who serve in the metropolitan New York City area.

This system of judicial pay seems clearly preferable to two major alternative options, both of which are equally unsatisfactory. One option would be to adopt a single statewide standard which, if adequate upstate, would fail to address adequately the basic problem of retaining and recruiting good judges in that congested area of the State where the challenges to the administration of justice are the greatest and most complex. The other option would be a single statewide standard equal to that required by the economics of downstate New York. This would impose upon the taxpayers a burden far in excess of that required to recruit and retain judges of the needed caliber elsewhere in the State.

In calling for a judicial pay adjustment in the metropolitan New York City area based on competitive considerations, we are mindful of possible implications for other classes of employees. However, the alternative career compensation opportunities available there in the private sector to experienced and well-qualified litigation attorneys—the fundamental criterion we have employed—seem virtually unique to this category of State employees. Moreover, movement to a judicial position constitutes a career decision with obligations unlike any others. The word “career” is critical here, for a single judicial term typically has a life of from 10 to 14 years, and two successive terms on the bench can create a judicial career spanning almost three decades. Legislative approval of the salary adjustment we propose, based on the rationale for its enactment, is not a precedent for broader use of similar adjustments elsewhere.

Recommendations on Pay Levels

In reaching its conclusions, the Commission has limited its recommendations to the minimum which the facts indicate is necessary in order to provide properly an essential State service—the administration of civil and criminal justice. Such a limit is always appropriate for the expenditure of public funds and is especially appropriate now, given current State budgetary problems.

Present judicial pay levels became effective January 1, 1982 for trial courts other than City Courts outside New York City and are as follows, with the variations indicated between certain counties:

Supreme Court	\$65,163
Court of Claims	65,163
County Courts	53,928-65,163
Surrogate's Courts	53,928-65,163
Family Courts	53,928-65,163
NYC Civil & Criminal Courts	57,299
District Courts (Nassau and Suffolk) ⁵	55,052-56,175

⁵ This particular disparity in pay earlier this year was found to be unconstitutional. *Weissman v. Evans* 56 N.Y. 2d 458 (1982)

We recommend legislation to set the levels of judicial pay specified below, effective January 1, 1983. While evidence exists which supports higher pay levels, we perceive that levels of pay higher than those recommended here are not attainable, and we have scaled pay levels for the various courts down from the highest levels recommended on the basis of the rationale indicated earlier. We have divided the State into two areas, in accordance with data in the Sibson & Co. survey, and have suggested a percentage adjustment for service in the metropolitan New York City area which is undoubtedly modest.

Proposed Pay Levels

	Base	+	16% Adjustment	=	Total
Supreme Court and Court of Claims	\$78,000		\$12,480*		\$78,000-90,480
County, Surrogate's** and Family Courts	67,000		10,720*		67,000-77,720
NYC Civil/Criminal and District Courts (Nassau and Suffolk)	65,000		0***		65,000

*In the counties of New York City, Westchester, Nassau and Suffolk.

**Surrogate judges in the counties of New York City, Nassau, Suffolk and Westchester, whose salaries have been tied to Supreme Court pay levels, would continue to receive Supreme Court pay levels for those counties because of the nature and scope of their courts. Other judges in these counties would receive the adjustment indicated.

***Since these courts exist only in counties with respect to which the Commission recommends an adjustment for state-wide courts, considerations relating to salary increments in these courts have been included in base salary.

In considering the amount and percentage of these proposed increases, one should bear in mind that they are one-time increases after a period which includes 5 years during the 1970s with no salary increase. The Commission's recommendations, if taken together with salary increases actually received since 1967 when the present inflationary period in America began, would result in an increase in State Supreme Court judicial pay equal to a compound annual average of 5.8 percent from 1967 through 1983. The 1983 salary of a State Supreme Court justice would still be below a justice's 1967 salary as adjusted for inflation. Even with the adjustment suggested for justices in the metropolitan New York City area, the percentage increase in the proposed 1983 salary of these justices over their 1967 level is slightly less than the percentage increase upstate justices would receive in their salaries for the same period, under our recommendations.

Under our plan, a judge temporarily assigned to another court or another county in which pay is higher would receive the total pay applicable to that court of temporary assignment for the period of assignment.

As to the proposed payment of location-related adjustments to certain judges in the same statewide court, it should be noted that in the period before 1974, locality-paid increments to State-paid base salaries resulted in justices of the Supreme Court in metropolitan

New York City judicial districts receiving more pay—by as much as 32%—than justices in other judicial districts.⁶ While the sizes of the increments were a product of many factors, they were at root a reflection of local judgments related to competitive compensation opportunities in those areas.

Judicial pay in the appellate courts is a function of State Supreme Court pay. Our recommendations are set out below, with comparisons to pay levels in the federal courts.⁷ In making salary comparisons, one should bear in mind that increases in judicial salaries in other jurisdictions are now under consideration, that State Supreme Court salaries have often exceeded U.S. District Court salaries, and that federal salaries have created well-known problems in retaining District Court judges in the New York City area. It also may be noted that the salary of the Chief Judge of the State Court of Appeals has at times exceeded that of the Chief Justice of the U.S. Supreme Court, the Governor of the State of New York and the Mayor of the City of New York.⁸

FEDERAL JUDICIARY

Since October 1981

Chief Justice	\$96,800
Supreme Court Justice	93,000
Circuit Court Judge	74,300
District Court Judge	70,300

STATE OF NEW YORK

Since 1/1/82

Proposed

Chief Judge, Court of Appeals	\$84,263	\$100,000
Associate Judge, Court of Appeals	80,892	97,000
Presiding Justice, Appellate Division	74,152	85,000-97,000 ⁹
Associate Justice, Appellate Division	69,657	82,000-94,000 ⁹
Supreme Court Justice	65,163	78,000-90,480

As the proposed pay levels indicate, we have severely compressed salary differentials above the level of Supreme Court justice. We do this not because we believe the present differentials unwarranted, but because the proposed levels are adequate and more likely to be acceptable if compressed.

⁶ See Appendix D for salaries of Supreme Court Justices since 1960.

⁷ Appendix J includes information on judicial pay levels in other states. Details on benefits are not included, though they can be significant. For example, federal judges are appointed for life and may retire at age 65 at full salary.

⁸ These proposed salary levels may suggest reason to review the salaries of senior elected State officials which are scheduled to increase as follows on January 1, 1983: Governor \$100,000, and Lieutenant Governor; Attorney General, and Comptroller \$85,000. These officials, however, have expense allowances and perquisites not available to judges. Partly for that reason, the salary of the Chief Judge at times has exceeded that of the Governor.

⁹ Salary adjustments applicable to Supreme Court Justices would apply also in the Appellate Division. An adjustment would exist in the First Department (New York and Bronx counties) and the Second Department (Richmond, Kings, Queens, Westchester, Nassau, Suffolk, Rockland, Orange, Putnam and Dutchess counties).

City Court judges outside the New York City area constitute the only category of judges within our mandate not yet covered by our recommendations. These judges carry a wide variety of titles and serve in sixty-one cities whose populations vary greatly. Some cities have full-time and part-time judges. Legislation introduced in the 1982 session theorized that cities with a population of 40,000 need one full-time City Court judge and proposed that such a judge be paid \$49,000, with the pay of other City Court judges serving there scaled down from that point. The Commission finds merit in this approach. Given the passage of time since that proposal was made, we would suggest a base-line salary of \$50,000 be set in 1983, with a top salary of \$55,000 in the largest cities where full-time judges serve a wide range of functions. Chief judges would receive the present \$1,000 increment for their administrative responsibilities.

Appendix E indicates the locations, positions, and present and recommended salaries of City Court judges outside New York City based on city populations according to preliminary 1980 census figures.

Cost of Commission Recommendations

Without considering City Court judges, our recommendations directly affect 975 judicial positions;¹⁰ with City Court judges included, the total number is 1,127. If our recommendations are accepted and enacted into law, rectifying the problems accumulated from a number of previous years, we estimate their cost in 1983, including all benefits, would be approximately \$20.2 million over that of 1982 pay levels.¹¹ This sum amounts to approximately 4.5 percent of the total budget for the judicial branch of State government in fiscal 1982. Is this a price worth paying to be able to attract good men and women to the bench and keep them there? We wholeheartedly affirm that it is.

While the cost of our recommendations is only about one-tenth of one percent of the present State budget for operations and local assistance, we recognize the substantial deficit which has developed in that budget may suggest enactment of judicial increases geared to the effective date of broad measures taken to deal with that deficit.

Though our recommendations resolve several existing disparities in judicial pay, some may argue that they will not provide equal pay for equal work and will introduce new disparities into State judicial pay. We would respond that our recommendations seek generally equal *effective* pay for equal work, taking into consideration varying costs of living, and that they avoid the pitfall of paying too much where extra pay is not needed to attract good candidates to the bench while paying too little in those locations where it is needed most. Too much for many and too little to gain quality elsewhere is not a prescription which serves the State's or its taxpayers' interest. To pay all Supreme Court, Court of Claims, County Court, Surrogate's Court, and Family Court judges the salary increment which we have recommended for judges in the metropolitan New York City area would require the addition of approximately \$4.4 million to the cost of our recommendations, increasing them unnecessarily by about 22 percent.

We do acknowledge, with regret, that the recommended levels of compensation fall short of an ideal solution as among many judges in various courts, and will at times tax the humanity of judges in the same court who do not receive a salary adjustment. We

¹⁰ See Appendix E.

¹¹ See Appendix G.

hope those thus affected will appreciate that among the values which our Commission must weigh, the highest value should be placed on achieving salary levels which retain and attract an adequate supply of good candidates for all courts in the State at the minimum total cost to the public.

Judicial Increases Compared to Those of Other State Employees

Our studies show that since 1967, the salaries of State employees generally, and of court employees other than judges in particular, rose more than judicial pay. Increases to base salary for employees in the classified service of the State to date amount to a cumulative compounded increase since 1967 of 133.7%.¹² For State Supreme Court judicial salaries the comparable increases in total pay are 106.8% for upstate justices and 76.1% for justices in the metropolitan New York City area.

Under existing legislation, effective September 1, 1984 the salaries of some subordinates of judges will exceed the present salaries of judges who supervise them. On that date, law secretaries to Supreme Court justices will receive a salary equal to almost 91% of the elected justices who employ them and a greater salary than many judges of courts other than the Supreme Court. In contrast, on September 1, 1974 the salary of a law secretary to a Supreme Court justice was equal to less than 57% of the justice's compensation. On September 1, 1974 the salary of the Chief Law Assistant in a New York City Surrogate's Court was approximately 58.5% of the Surrogate's compensation. On September 1, 1984 this same Chief Law Assistant's salary will be 96.8% of the Surrogate's present salary. An increase in the Surrogate's salary at the same scheduled rate as that of his Chief Law Assistant would require a salary in excess of \$109,554 by September 1, 1984. It would seem that the State's response to the competition of the marketplace in recruiting good lawyers for the judicial system was addressed in every area of the judicial system except as to judges themselves.

Since 1978, judicial salaries have increased at a pace similar to, though less than, the rate of increases of other State employees. However, the increases in these years have in no respect addressed the problem created earlier in the 1970s when there were often no adjustments in many judicial salaries. Indeed, since the impact of percentage increases in recent years was diluted by being applied to a salary that was lower than it should have been, the underlying problem has worsened.

It should be noted as well that other State employees normally have received salary increases that are retroactive to the expiration of their last contract, so that subsequent percentage increases become applied to a higher salary base. The impact of this phenomenon has been not only to diminish judicial salaries in relationship to the private sector, but to reduce drastically the position of judicial salaries in the spectrum of public employee salaries.

¹² Source: State Division of the Budget. In the same 1967-1982 period the U.S. Department of Labor, Bureau of Labor Statistics' Hourly Earnings Index for Production or Non-supervisory Workers on Private Non-agricultural Payrolls, All Industries, rose 181.7%.

Salary Disparity

Judicial salary disparity is a problem separate and apart from salary inadequacy. This problem involves judges in the same court being paid widely different salaries without apparent justification. It is a product of a multitude of historical events, not all of which were related to judicial administration.

In the long history of this State, up until 1977, the court system developed largely as a local phenomenon. Judges were elected or selected locally. In most cases, compensation was fixed locally. Thus, in 1977, when the State government assumed the full cost of the judicial system, New York State had a pattern of judicial salaries that, except for a state-wide minimum, was a product of a combination of the acts of at least fifty-eight different local legislative bodies—New York City and the remaining fifty-seven counties of the State—over a period of generations. Added to this was a potpourri of legislative enactments passed at the behest of localities that, when enacted, involved expense only to the localities and not to the State. This conglomeration was assumed “as is” by the State when it totally relieved localities of the cost of the administration of justice. This placed the State in the position of employing judges with the same title at different salaries with no evident basis for the disparity except for historical events.

At the inception of the State’s total assumption of the costs of the judicial system, this circumstance was recognized as one in need of rectification. It has been the subject of study, concern and substantial litigation involving the unseemly circumstance of judges litigating their own rights in the court system of which they are a part. To date, the problem has not been addressed in any way except by increases in the minimum salary payable to judges of the Family Court, Surrogate’s Court and County Court. This has served only to eliminate some disparity at the very bottom of the spectrum but has left the overall problem essentially as it existed in April, 1977, at the time of the State takeover.

There is virtually unanimous agreement that the salary of judges in the same court should be fixed on a rational basis reflective of reasonable criteria.¹³ Despite the acceptance of this simple premise, incongruities exist which have paralyzed meaningful action on the problem to date. One incongruity, simply stated, is that in some counties, the salary of Surrogate’s, Family, and County Court judges has been equal to the salary of Supreme Court justices, and the demand to equalize all salaries at the level of the highest salary paid in each court is in effect a proposal to pay all judges (other than City Court judges outside of New York City) the same salary as Supreme Court justices.

Other incongruities exist stemming from historical events long buried. For example, since the time when New York City had a Domestic Relations Court instead of a Family Court like the rest of the State, the City’s Civil Court, Criminal Court and Family Court judges have all been paid the same salary. This is a different salary from that paid to the Family Court in areas outside of New York City. Should the salary of Family Court judges in New York City be coordinated with that of Family Court judges in adjacent counties and if so, can one then justify the same salary for New York City Civil and Criminal Court judges? If so, what about District Court judges in Nassau and Suffolk Counties, who traditionally have been paid the same salary as New York City Criminal Court judges but less than judges of the County Court and Family Courts in Nassau and Suffolk Counties?

¹³ *Cass v. State of N. Y.*, 88 App. Div. 2d 305 (3d Dept. 1982)

The Commission has wrestled with these and other incongruities in its search for a fair and viable solution. In endeavoring to unravel that which has defied all previous efforts, the Commission has proposed a solution which has placed the public's interest foremost; it has not equalized all salaries at the highest level.

It is not the intention of the Commission to enter into an analysis of the relative responsibilities involved in the jurisdiction of the various courts. However, to an extent germane to its duty, it has evaluated substantial testimony from representatives of the different courts. This testimony establishes that the highest level of judicial compensation paid to Supreme Court justices and Surrogates administering large courts in the metropolitan New York area is justified by the complexity of the problems addressed. It has not been established that there is a justification for imposing on the taxpayers of this State the larger financial burden of paying to all judges the same level of compensation applicable there.

It should be noted that in the present structure of the Unified Court System, widespread temporary assignment to the Supreme Court of the most competent jurists from the so-called lower courts allows those performing Supreme Court functions to receive Supreme Court level pay. This could continue under our plan.

Procedure for Periodic Pay Review and Adjustment of Judicial Pay

Witnesses testifying in Commission hearings strongly urged us to attempt to establish a continuing vehicle to assure judges that they were not likely to suffer again from the pincers movement which afflicted them in the middle 1970s—high price inflation on the one hand and pay freezes on the other. Many witnesses urged indexing judicial pay to increases in the Consumer Price Index after salaries were raised to appropriate levels.

While we recognize some need to reassure those contemplating continued or initial career service on the bench that the purchasing power of higher judicial salaries will not be severely eroded once again, we are not prepared to recommend the statutory linkage of judicial pay to some inflation index. Our reservation is based on the view that indexing judicial salaries in New York would lead to efforts to index other public sector salaries. Moreover, we believe the peculiar conjunction a decade ago of unusually high inflation and an unanticipated State fiscal crisis is not likely to reoccur soon.

In lieu of total or partial indexing, we recommend instead the establishment of a permanent commission to make recommendations for periodic adjustments in judicial compensation. Indeed, if our pay recommendations are adopted, the extent of the locational pay increment should be reexamined every several years to determine adjustments beyond those indicated more frequently by inflation alone.

Nearly 20 states have established such commissions, though virtually all of them review the salaries of specified legislative and executive officials as well.¹⁴ In some states commission recommendations become law if not acted upon by the Legislature; other states require at least their consideration by the Legislature; and in other states commission recommendations are simply advisory.

¹⁴ See Appendix H.

A permanent commission on judicial compensation could be constituted on a basis similar to our own: 7 persons, 3 appointed by the Governor, including the chairman, 2 by the Temporary President of the Senate, and two by the Speaker of the Assembly. Like us, they would serve without pay and receive actual and necessary expenses. A four-year term coincident with the Governor's seems desirable to provide some continuity. The nature and breadth of their mandate we shall leave to the Governor and the Legislature, if they consider this proposal worthwhile.

Consideration of Benefit Plans

We believe it is wise to concentrate our recommendations on adequate levels of judicial pay, rather than to add suggestions for benefit plan changes in a State system which the Legislature has recently considered and which includes judges among all other State employees. If pay levels are not increased in accordance with our recommendations, however, the case for separate and improved benefit plans for judges will become much stronger. While stronger, though, that case would still not support the benefit available to a federal court judge—retirement at full salary, as adjusted by future judicial salary increases.

One new retirement benefit option we considered which may be worthy of further study is set forth in Appendix H.

Conclusion

The Commission is deeply sensitive to the gravity and complexity of the multiple challenges facing the administration of both civil and criminal justice in this State. It is aware of the programs being initiated and implemented by the Governor, the Legislature and the leadership of the Unified Court System to meet these challenges. At the threshold of all approaches to this area, however, stands the inescapable fact that the successful implementation of any program to maintain and improve the administration of justice requires judges of the highest capacity, integrity and diligence. While a proper salary structure is clearly not alone the answer to any problems, it is fundamental to providing the judicial system with an adequate supply of its basic asset: able, competent and dedicated jurists.

As indicated earlier, the pay level of State Supreme Court justices is the key to the issue and to determining judicial salaries in all state-wide courts. At our proposed level of \$78,000, with an adjustment of \$12,480 in certain locations, the salary of such a justice would be close to—though somewhat less than—the inflation-adjusted salary level of a justice elected to a 14-year term in 1968. A decision to reject our proposal is a decision to accept the permanent diminution of the importance of the judicial branch of government of this State. Who would rally the people to such a standard? Yet who could blame good judges elected in 1968, and good candidates rejecting judicial service in recent years, for concluding that others had accepted unconsciously a diminished role for the courts?

In the last analysis the success of any program to maintain and improve the quality of justice in the State of New York lies in the capacity of the State to attract to and retain in judicial service quality lawyers of experience and integrity who can make the adminis-

tration of the law the rendition of justice. The most well-reasoned programs are doomed to failure unless we can keep available the quality of jurists who can achieve the high purpose of those programs. As stated by Judge Benjamin Cardozo, one of the giants of New York's judicial system, "There is no guarantee to justice except the personality of the judge."

It is sheer folly, divorced from the realities of everyday life, to believe that unless judicial compensation is realistically fixed in relation to the economy from which judges are recruited that the result will not be a drastic erosion in the quality of justice. High standards are long in development; once eroded, the cure is far more difficult than the prevention of the erosion. The erosion has begun. It should be arrested immediately.



Respectfully submitted,
TEMPORARY COMMISSION ON JUDICIAL COMPENSATION
by William T. Dentzer, Jr., Chairman

APPENDIX A

The Temporary State Commission on Judicial Compensation was established by legislative act in 1980. The text of its governing statute (Ch. 881, † 17, 1980 N.Y. Laws) follows:

†17. (a) A temporary state commission on judicial compensation is hereby created to examine, evaluate and make recommendations with respect to (a) the issue of parity of compensation between judges and justices in the unified court system, and (b) determining adequate levels of compensation for such judges and justices.

Such commission shall review with particular care whether fairness dictates that judges or justices in the unified court system performing similar duties be compensated uniformly. In addition, the commission shall examine the adequacy of pay received by the judiciary taking into account the overall economic climate, the levels of salaries received by other professionals in government and private enterprise and the ability of the state to fund increases in compensation.

(b) The commission shall consist of seven members to be appointed as follows: three shall be appointed by the governor; two shall be appointed by the temporary president of the senate; and two shall be appointed by the speaker of the assembly. The governor shall designate the chairman from among the members so appointed. Vacancies in the membership of the commission shall be filled in the same manner as the original appointment.

(c) The commission may employ and at pleasure remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available therefor by budgetary appropriation.

(d) The commission may meet within and without the state, shall hold public hearings, and shall have all the powers of a legislative committee pursuant to the legislative law.

(e) The members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder.

(f) No member, officer, or employee of the commission shall be disqualified from holding any other public office or employment, nor shall he forfeit any such office or employment by reason of his appointment hereunder, notwithstanding the provisions of any general, special, or local laws, ordinance, or city charter.

(g) To the maximum extent feasible, the commission shall be entitled to request and receive and shall utilize and be provided with such facilities, resources and data of any court, department, division, board, bureau, commission or agency of the state or any political subdivision thereof as it may reasonably request to carry out properly its powers and duties hereunder.

(h) The commission shall make a final report to the governor and the legislature of its findings, conclusions, and recommendations not later than September first, nineteen hundred eighty-two, and shall submit with its reports such legislative proposals as it deems necessary to implement its recommendations.

(i) The sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, is hereby appropriated to pay the expenses including personal service, in carrying out the provisions of this section. Such moneys shall be payable out of the state treasury after audit by and on the warrant of the comptroller upon vouchers certified or approved by the chairman of the commission as prescribed by law.

APPENDIX B

EXCERPT FROM SIBSON & COMPANY, INC. REPORT*

The fact that relative earnings levels are significantly different between New York City and All Other Locations Combined was also reflected in the responses received to the following question:

“What is your assessment of the overall competitiveness of judicial pay in relation to the compensation opportunities available to experienced litigation attorneys in your area?”

	ALL OTHER LOCATIONS COMBINED	NEW YORK CITY
Considerably Less	37%	92%
Somewhat Less	19	8
Comparable	42	0
Somewhat Higher	2	0
Considerably Higher	0	0

As may be readily observed, judicial pay is universally regarded as inferior in New York City whereas 44 percent of the respondents in other locations regarded it as comparable or somewhat higher.

*from pages 22 and 23

APPENDIX C

Page 1

RUNZHEIMER REPORT TO
STATE OF NEW YORK

DATE 3/31/82

SUMMARY TABLE
TOTAL ANNUAL COSTS

INCOME LEVEL: About \$45,000
FAMILY SIZE: 4
BASED ON 6-YR. HOMEOWNERSHIP

LINE NO.	DOLLAR COMPARISONS	LOCATION	INDEX COMPARISONS
1	\$ 53,754	NEW YORK CITY (B1) NY	119.5
2	\$ 53,557	NYC (WESTCHESTER-S3) NY	119.0
3	\$ 52,875	NYC (AREA COMPOSITE) NY	117.5
4	\$ 52,190	NYC (LONG ISLAND-S5) NY	116.0
5	\$ 49,935	ROCHESTER NY	111.0
6	\$ 49,847	KINGSTON NY	110.8
7	\$ 49,042	ALBANY NY	109.0
8	\$ 48,732	BINGHAMTON NY	108.3
9	\$ 48,714	MASSENA NY	108.3
10	\$ 47,977	SYRACUSE NY	106.6
11	\$ 47,450	ELMIRA NY	105.4
12	\$ 47,441	GLENS FALLS NY	105.4
13	\$ 47,177	BUFFALO NY	104.8
14	\$ 46,998	PLATTSBURGH NY	104.4
15	\$ 46,604	STANDARD CITY USA	103.6
16	\$ 46,454	BATAVIA NY	103.2
17	\$ 45,374	WATERTOWN NY	100.8
18	\$ 45,000	BATH NY	100.0

Comment

This table shows income required at various locations to maintain an equivalent standard of living if income at the Index 100 location is \$45,000. The widest difference between locations is \$8,754.

APPENDIX C

Page 2

RUNZHEIMER REPORT TO
STATE OF NEW YORK

SUMMARY TABLE
TOTAL ANNUAL COSTS

INCOME LEVEL: About \$65,000
FAMILY SIZE: 4
BASED ON 6-YR. HOMEOWNERSHIP

LINE NO.	DOLLAR COMPARISONS	LOCATION	INDEX COMPARISONS
1	\$ 80,127	NYC (WESTCHESTER-S3) NY	123.3
2	\$ 79,290	NYC (AREA COMPOSITE) NY	122.0
3	\$ 78,449	NYC (LONG ISLAND-S5) NY	120.7
4	\$ 78,417	NEW YORK CITY (B1) NY	120.6
5	\$ 73,122	ROCHESTER NY	112.5
6	\$ 71,076	KINGSTON NY	109.3
7	\$ 70,875	GLENS FALLS NY	109.0
8	\$ 70,718	BINGHAMTON NY	108.8
9	\$ 70,476	ALBANY NY	108.4
10	\$ 70,109	SYRACUSE NY	107.9
11	\$ 69,830	MASSENA NY	107.4
12	\$ 69,401	BUFFALO NY	106.8
13	\$ 68,597	ELMIRA NY	105.5
14	\$ 68,116	PLATTSBURGH NY	104.8
15	\$ 67,689	STANDARD CITY USA	104.1
16	\$ 67,126	WATERTOWN NY	103.3
17	\$ 66,470	BATAVIA NY	102.3
18	\$ 65,000	BATH NY	100.0

Comment

This table shows income required at various locations to maintain an equivalent standard of living if income at the Index 100 location is \$65,000. The widest difference between locations is \$15,127.

APPENDIX E
CITY COURT JUDGES*

Full-time Judges

City	Population	Position	Present Pay	Proposed Pay
Binghamton	55,754	City Court Judge (2)	\$ 48,311	\$ 55,000
Buffalo	357,384	Chief Judge	\$ 50,558	\$ 56,000
		Associate City Court Judge (11)	\$ 48,311	\$ 55,000
Jamestown ¹	35,687	City Court Judge	\$ 48,311	\$ 50,000
Long Beach	34,022	City Court Judge	\$ 48,311	\$ 55,000
Mt. Vernon	66,023	City Court Judge (2)	\$ 48,311	\$ 55,000
New Rochelle	70,519	City Court Judge	\$ 48,311	\$ 55,000
Niagara Falls	71,344	Chief Judge	\$ 49,491	\$ 56,000
		Associate City Court Judge	\$ 48,311	\$ 55,000
Rochester	241,539	City Court Judge (6)	\$ 48,311	\$ 55,000
Rome	43,732	City Court Judge	\$ 48,311	\$ 55,000
Syracuse	170,292	Chief Judge	\$ 49,479	\$ 56,000
		City Court Judge (5)	\$ 48,311	\$ 55,000
Troy ²	56,614	Police Court	\$ 48,311	\$ 50,000
Utica	75,435	Chief Judge	\$ 52,805	\$ 56,000
		City Court (2)	\$ 51,681	\$ 55,000
White Plains	46,799	City Court	\$ 53,928	\$ 55,000
Yonkers	194,601	Chief Judge	\$ 56,175	\$ 56,000
		City Court (4)	\$ 55,052	\$ 55,000

*Excluding New York City Civil and Criminal Court Judges.

¹ Civil jurisdiction limited to \$2000, in contrast to \$5000 or \$6000 jurisdiction of other full-time city courts.

² Civil jurisdiction rests in a part-time city court judge for the City of Troy.

Part-time Judges

City	Population	Position	Present Pay	Proposed Pay
Albany	101,767	Police Court Judge	\$ 33,705	\$ 37,750
		Recorder	\$ 10,112	\$ 20,000
		City Court Judge (3)	\$ 10,112	\$ 19,000
Amsterdam	21,838	Police Court Judge	\$ 10,112	\$ 19,000
		City Court Judge	\$ 10,112	\$ 13,000
Auburn	32,442	Administrative City Judge	\$ 16,853	\$ 18,000
		Associate Judge	\$ 22,470	\$ 24,000
		Acting City Judge	\$ 66.58	\$ 100 per diem
Batavia	16,667	City Court Judge	\$ 17,976	\$ 22,000
		Acting City Judge	\$ 52.88	\$ 100 per diem
Beacon	12,908	City Court Judge	\$ 10,112	\$ 10,800
		Assistant City Judge	\$ 6,741	\$ 6,600
Binghamton	55,754	Acting City Judge		\$ 100 per diem
Canandaigua	10,361	City Court Judge	\$ 13,482	\$ 16,000
		Acting City Judge (2)	\$ 39.95	\$ 100 per diem
Cohoes	18,158	Police Court Judge	\$ 7,865	\$ 14,000
		City Court Judge	\$ 6,741	\$ 10,800
Corning	12,894	City Court Judge	\$ 11,235	\$ 19,000
		Acting City Court Judge	\$ 43.09	\$ 100 per diem
Cortland	20,094	City Court Judge	\$ 13,482	\$ 26,000
		Acting City Judge	\$ 5,618	\$ 11,000
Dunkirk	15,255	City Court Judge	\$ 21,347	\$ 21,000
		Acting City Court Judge	\$ 66.58	\$ 100 per diem
Elmira	35,363	City Court Judge	\$ 19,100	\$ 19,000
		Recorder	\$ 24,717	\$ 29,000
		Acting City Court Judge	\$ 2,247	\$ 3,300
		Acting Recorder	\$ 6,741	\$ 7,700
Fulton	13,274	City Court Judge	\$ 10,112	\$ 18,000
		Acting City Court Judge	\$ 66.58	\$ 100 per diem
Geneva	15,068	City Court Judge	\$ 14,606	\$ 21,000
		Acting City Court Judge	\$ 39.95	\$ 100 per diem
Glen Cove	24,516	City Court Judge	\$ 24,717	\$ 23,000
		Associate City Court Judge	\$ 10,112	\$ 10,000

City	Population	Position	Present Pay	Proposed Pay
Glens Falls	15,884	City Court Judge (2)	\$ 13,482	\$ 12,000
Gloversville	17,751	City Court Judge	\$ 13,482	\$ 24,000
		Assistant City Court Judge	\$ 3,371	\$ 6,050
Hornell	10,225	City Court Judge	\$ 10,112	\$ 15,000
Hudson	7,925	City Court Judge	\$ 13,482	\$ 11,000
		Acting City Judge	\$ 13.33	\$ 100 per diem
Ithaca	28,846	City Court Judge	\$ 17,976	\$ 27,000
		Acting City Court Judge	\$ 6,741	\$ 11,000
Jamestown	35,687	Acting City Court Judge	\$ 5,618	\$ 6,050
Johnstown	9,345	City Court & Recorder	\$ 12,359	\$ 10,800
		Acting City Court & Recorder	\$ 4,494	\$ 3,300
Kingston	24,427	City Court Judge	\$ 13,482	\$ 25,000
		Special City Court Judge	\$ 3,371	\$ 6,600
Lackawanna	22,730	City Court Judge	\$ 28,088	\$ 22,000
		Acting City Court Judge	\$ 14,606	\$ 12,000
Little Falls	6,153	City Court Judge	\$ 10,112	\$ 10,800
		Acting City Court Judge	\$ 66.58	\$ 100 per diem
Lockport	24,857	Police Court Judge	\$ 14,606	\$ 20,000
		City Court Judge	\$ 10,112	\$ 14,000
		Acting Police Court Judge	\$ 66.58	\$ 100 per diem
		Acting City Court Judge	\$ 66.58	\$ 100 per diem
Long Beach	34,022	Acting City Court Judge	\$ 10,112	\$ 11,000
Mechanicville	5,481	City Court Judge	\$ 13,482	\$ 13,000
		Acting City Judge	\$ 2,247	\$ 2,200
Middletown	21,459	City Court Judge	\$ 12,359	\$ 33,000
		Acting City Court Judge	\$ 3,371	\$ 8,800
Mt. Vernon	66,023	Associate City Judge	\$ 22,470	\$ 27,000
New Rochelle	70,519	Acting City Court Judge	\$ 24,717	\$ 31,000
Newburgh	23,116	City Court Judge	\$ 17,976	\$ 34,000
		Acting City Court Judge	\$ 6,741	\$ 13,000

City	Population	Position	Present Pay	Proposed Pay
Niagara Falls	71,344	Acting City Judge	\$ 19,100	\$ 19,500
North Tonawanda	35,717	City Court Judge	\$ 35,952	\$ 37,750
		Acting City Court Judge	\$ 66.58	\$ 100 per diem
Norwich	8,070	City Court Judge	\$ 8,988	\$ 11,000
		Acting City Judge	\$ 33.29	\$ 100 per diem
Ogdensburg	12,372	City Court Judge	\$ 13,482	\$ 18,000
		Special City Judge	\$ 4,494	\$ 6,050
Olean	18,188	City Court Judge	\$ 21,347	\$ 24,000
		Acting City Court Judge	\$ 4,494	\$ 5,225
Oneida	10,779	City Court Judge	\$ 13,482	\$ 15,000
		Acting City Judge	\$ 3,371	\$ 3,575
Oneonta	14,810	City Court Judge	\$ 16,853	\$ 21,000
		Acting City Judge	\$ 2,247	\$ 2,750
Oswego	19,737	City Court Judge	\$ 24,717	\$ 28,000
		Acting City Judge	\$ 93.20	\$ 100 per diem
Peekskill	18,247	City Court Judge	\$ 22,470	\$ 17,000
		Assistant City Court Judge	\$ 13,482	\$ 10,000
Plattsburgh	21,074	City Court Judge	\$ 15,729	\$ 27,000
		Acting City Court Judge	\$ 4,494	\$ 7,700
Port Jervis	8,680	City Court Judge	\$ 15,729	\$ 12,000
		Acting City Judge	\$ 66.58	\$ 100 per diem
Poughkeepsie	29,677	City Court Judge	\$ 20,223	\$ 22,000
		Assistant City Judge	\$ 17,976	\$ 19,000
Rensselaer	9,006	City Court Judge	\$ 12,359	\$ 13,000
Rome	43,732	Associate City Judge	\$ 6,741	\$ 7,700
Rye	15,055	City Court Judge	\$ 19,100	\$ 19,000
		Assistant City Judge	\$ 2,247	\$ 2,200
Salamanca	6,849	City Court Judge	\$ 12,359	\$ 10,800
		Acting City Judge	\$ 66.58	\$ 100 per diem
Saratoga Springs	23,901	City Court Judge	\$ 21,347	\$ 32,000
		Acting City Judge	\$ 66.58	\$ 100 per diem

City	Population	Position	Present Pay	Proposed Pay
Schenectady	67,877	City Court Judge	\$ 21,347	\$ 37,750
		Police Court Judge	\$ 21,347	\$ 37,750
Sherrill	2,818	City Court Judge	\$ 5,618	\$ 4,400
Tonawanda	18,701	City Court Judge	\$ 17,976	\$ 19,000
		Acting City Judge	\$ 7,865	\$ 8,800
Troy	56,614	City Court Judge	\$ 20,223	\$ 23,000
Watertown	27,900	City Court Judge	\$ 28,088	\$ 37,000
		Acting City Judge	\$ 12,359	\$ 16,000
Watervliet	11,322	City Court Judge	\$ 15,729	\$ 16,000
White Plains	46,799	Acting City Judge	\$ 10,112	\$ 10,000
		Associate City Judge (2)	\$ 3,371	\$ 3,300

APPENDIX F
NUMBER OF PERSONS AFFECTED
BY COMMISSION RECOMMENDATIONS

The table below shows the number of persons at each court level whose pay will be affected by the Commission's recommendations. The column entitled "Positions Subject to Adjustment" includes positions in the five counties comprising the City of New York and in Westchester, Nassau and Suffolk counties. The column entitled "Positions Not Subject to Adjustment" includes positions in all other counties of the State.

The table includes 98 new judicial positions, created by 1982 legislation, that will become effective between December 1, 1982 and January 1, 1984. It does not include 44 full-time and 108 part-time judicial positions in City Courts outside New York City which are listed in a separate appendix to this report. It also excludes those county district attorneys whose salaries have been linked to judicial pay in the past.

Court	Positions Not Subject to Adjustment	Positions Subject to Adjustment
Court of Appeals		
Chief Judge	1	
Associate Judges	6	
Appellate Division		
Presiding Justices	2	2
Associate Justices (a)	16	28
Supreme Court		
Present Justices (b)	84	224
New Positions (c)	6	21
Court of Claims		
Presiding Judge	1	
Judges	7	9
New Positions (d)	17	

(a) Includes 24 permanently authorized positions and 24 temporary designations, 9 of which are Certificated Retired Justices.

(b) Includes 40 Certificated Retired Justices and 17 Court of Claims Judges temporarily assigned to State Felony Parts of the Supreme Court. Pursuant to recent legislation, those 17 temporary positions have been extended for nine years beginning January 1, 1983.

(c) Recent legislation created 27 new Supreme Court justice positions, 21 in the Second, Ninth, Tenth and Eleventh Judicial Districts, and 6 in the Fifth, Sixth, Seventh and Eighth Judicial Districts, effective January 1, 1983.

(d) Seventeen additional temporary positions, effective January 1, 1983, were created by recent legislation. Because the legislation does not require judges filling these positions to sit in particular localities and because no decision about where these judges should sit has been made, it has been assumed that they will receive the base salary.

Court	Positions Not Subject to Adjustment	Positions Subject to Adjustment
County Courts		
Judges	81	25
New Positions (e)	5	5
Family Courts		
Judges*	47	60
New Judges (f)	1	6
Surrogate's Courts		
Judges*	25	9
New York City Civil Court		
Judges	120	
New Positions(g)	11	
New York City Criminal Court		
Judges	98	
New Positions (g)	9	
District Courts		
Presidents of the Boards of Judges	2	
Judges	47	
Totals	586	389
Grand Total		975

*excludes Family Court and Surrogate's Court judges who also serve on County Court

(e)Recent legislation created positions for ten additional county judges, five in Oswego, Chemung, Monroe, Allegany and Erie counties, and five in Westchester and Suffolk Counties, effective January 1, 1983.

(f)Three Family Court judicial positions in New York City, effective December 1, 1982, were created by recent legislation. The legislation also established three new Family Court positions in Westchester and Suffolk counties and one in Onandaga County.

(g)Recent legislation created 11 additional positions in the New York City Civil Court, effective January 1, 1984, and nine new positions in the New York City Criminal Court, effective December 1, 1982.

APPENDIX G

ANNUALIZED BUDGET IMPACT OF COMMISSION RECOMMENDATIONS

Court	Present Compensation Costs ¹	Estimated Additional Cost of Commission Recommendations ²
Court of Appeals and Appellate Division	\$ 5,151,914	\$ 1,385,006
Supreme Court, Court of Claims, County Courts, Family Courts and Surrogate's Courts ³	\$ 51,378,119	\$ 15,220,478
New York City Civil and Criminal Courts, District Courts (Nassau and Suffolk Counties)	\$ 21,403,991	\$ 2,996,749
City Courts ⁴	\$ 4,427,906	\$ 644,649
TOTAL	\$ 82,351,930	\$ 20,246,882

¹ Assumes 98 judgeships created by 1982 legislation existed since January 1, 1982.

² Includes fringe benefits based on State estimate of 30.8% of judicial pay; assumes no future link between pay of County Court judges and some District Attorneys.

³ Includes \$2,000 each for 18 Supreme Court justices with administrative responsibilities who would continue to receive this annual increment.

⁴ Excludes New York City; excludes cost of *per diem* increases to \$100 affecting 19 part-time City Court Judges.

APPENDIX H

STATE COMMISSIONS WITH CONTINUING RESPONSIBILITY FOR JUDICIAL COMPENSATION

In recent years, several states have established permanent commissions for examination of appropriate pay levels for various state officials. Each state's treatment of its commission is unique. Some prescribe the composition of the commission by statute, while others authorize the appointment of commission members by government figures and leaders of the local legal community. Some exclude or limit participation by public officers and employees, while others have no such restrictions. In most states, commission members serve without pay or with per diem compensation only.

The scope of commission jurisdiction often extends to examination of compensation for executive and legislative officials as well as the judiciary. The power accorded the commission ranges from that of making only advisory recommendations to the legislature, to making recommendations that must receive legislative consideration (and, in some instances, can be rejected only by a statutorily-defined vote), to making recommendations that become law if not acted upon by the legislature within a specified period of time.

A publication entitled *Judicial Compensation Commissions*, prepared by the National Center for State Courts in 1979, summarized the characteristics for each of the 20 state compensation commissions then in existence with responsibility for examining judicial pay.

APPENDIX I

POSSIBLE ADDITIONAL RETIREMENT BENEFIT OPTION

Within the framework of present state retirement plans, the Commission considered the desirability of encouraging able lawyers to cap their careers with a single term on the bench—typically 14 years in length. Present retirement benefit plans for State employees, however, understandably are geared to encourage a long career in State service and discourage short terms of employment. Under the most recent (Tier 3) plan formula, a judge retiring with 28 years (two typical terms) on the bench with a final year salary of, say, \$85,000 would receive an annual pension of \$47,600; a judge with a single 14-year term on the bench at the same final pay level would get \$19,833 annually.* The aim of any new retirement plan option, of course, would be to encourage good lawyers in private practice to make themselves available for at least one term, without encouraging good judges to leave after only one term because of higher pension benefits.

To attempt to accomplish this result, we considered the addition of an optional retirement plan, for judges only, which would not be available to any present judge. This option would permit a new judge, in the example above, to elect to retire in 14 years with higher pension benefits of about \$34,000 annually.*

This could be accomplished by modifying the fraction used in the present Tier 3 formula from 1/60th to 1/35th. However, to avoid increasing the incentive for judges to retire after only one term, this level of benefits after 14 years of judicial service could be paid only beginning at age 67, five years beyond the present age of 62 to qualify for full retirement benefits. If a one-term judge retired at 62 and elected this option, he or she would receive retirement pay at the level provided by the existing plan until age 67. If a one term judge elected early retirement—at age 55-61—this option would not be available.

*All dollar benefit figures exclude effect of Social Security payments.

APPENDIX J

JUDICIAL PAY LEVELS IN STATE COURTS IN THE U.S. AND FEDERAL COURTS

Listed below are current annual dollar salary figures for associate judges of the highest court of each of the 50 states and associate justices of the U.S. Supreme Court, and for general trial court judges in each state and U.S. District Court judges. Data was taken from the *Survey of Judicial Salaries*, Vol. 8, No. 2, National Center for State Courts, 1982.

State	Highest Court AJ	General Trial Court
Alabama	\$ 58,000	\$ 48,000 (Local supps 1,200 to 19,200)
Alaska	77,760 to 88,646 depending on loca- tion and cost of liv- ing differentials	70,116 to 82,386 depending on loca- tion and cost of liv- ing differentials
Arizona*	57,500	53,000
Arkansas	50,373	46,860
California	77,226	63,267
Colorado	55,600	47,260
Connecticut	55,000	50,000
Delaware	52,920	49,680
Florida	65,805	56,710
Georgia	55,462	46,419 (Local supps to 16,687.80)
Hawaii	56,430	50,490
Idaho	47,300	45,300
Illinois**	58,000	45,000
Indiana	47,244	39,932 to 42,182
Iowa	57,100	50,700

* Salaries effective January 1, 1983.

** Proposed increases pending as of May, 1982.

State	Highest Court AJ	General Trial Court
Kansas	\$ 50,587	\$ 44,730
Kentucky	54,537	50,085
Louisiana	66,566	60,169 (Base)
Maine	40,392	39,760
Maryland	56,200	52,500
Massachusetts	59,000	50,725
Michigan	69,000	37,950 (Local supps. 10,210 to 27,468)
Minnesota	56,000	48,000
Mississippi	46,000	41,000
Missouri	51,840	33,990 to 40,110
Montana	47,023	45,841
Nebraska	48,315	44,382
Nevada	61,500	56,000
New Hampshire	47,513	46,270
New Jersey	78,000	70,000
New Mexico	49,500	45,000
New York	80,892	65,163
North Carolina	57,012	47,928
North Dakota	49,900	46,900
Ohio	58,000	40,000 to 50,500
Oklahoma	53,760	33,600 to 44,800
Oregon	53,308	48,356
Pennsylvania	64,500	55,000 to 57,500, depending on number of judges and population

State	Highest Court AJ	General Trial Court
Rhode Island	\$ 49,186 to 59,023	\$ 46,567 to 55,880 (Based on longevity)
South Carolina	58,944	58,944
South Dakota	46,900	43,750
Tennessee	65,000	60,000
Texas	71,400	50,900 (Local supps up to salary of 59,100)
Utah	50,000	45,000
Vermont	45,100	42,900
Virginia	61,400	57,000
Washington	51,500	44,700
West Virginia	49,000	45,000
Wisconsin	56,016	49,176 (State pay)
Wyoming	63,500	61,000
Federal System	93,000	70,300

APPENDIX K

NEW YORK STATE POPULATION BY COUNTY*

County	Population
Albany	285,908
Allegany	51,742
Bronx	1,168,972
Broome	213,648
Cattaraugus	85,697
Cayuga	79,894
Chautauqua	146,925
Chemung	97,656
Chenango	49,344
Clinton	80,750
Columbia	59,487
Cortland	48,820
Delaware	46,824
Dutchess	245,055
Erie	1,015,472
Essex	36,176
Franklin	44,929
Fulton	55,153
Genesee	59,400
Greene	40,861
Hamilton	5,034
Herkimer	66,714
Jefferson	88,151
Kings	2,230,936
Lewis	25,035
Livingston	57,006
Madison	65,150
Monroe	702,238
Montgomery	53,439
Nassau	1,321,582
New York	1,428,285
Niagara	227,354
Oneida	253,466
Onondaga	463,920
Ontario	88,909
Orange	259,603
Orleans	38,496
Oswego	113,901
Otsego	59,075
Putnam	77,193
Queens	1,891,325
Rensselaer	151,966
Richmond	352,121
Rockland	259,530

*Preliminary 1980 U.S. census figures

County	Population
St. Lawrence	114,254
Saratoga	153,759
Schenectady	149,946
Schoharie	29,710
Schuyler	17,686
Seneca	33,733
Steuben	99,217
Suffolk	1,284,231
Sullivan	65,155
Tioga	49,812
Tompkins	87,085
Ulster	158,158
Warren	54,854
Washington	54,795
Wayne	84,581
Westchester	866,599
Wyoming	39,895
Yates	21,459

