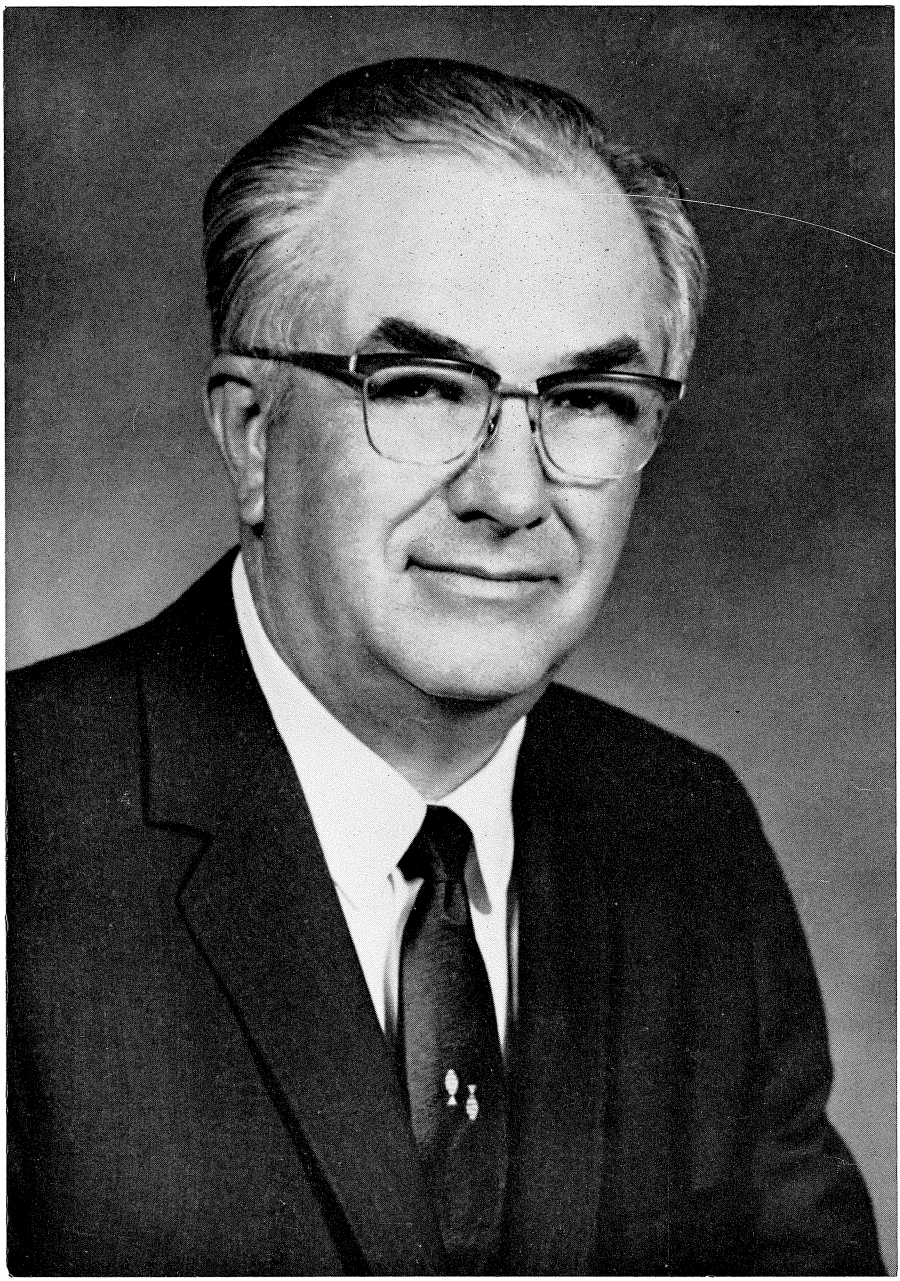
Kansas Judicial Council Bulletin

OCTOBER, 1969 PARTS 1, 2 AND 3—FORTY-THIRD ANNUAL REPORT



MAURICE A. WILDGEN

President

The Kansas Bar Association

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Kansas
Judicial Council Bulletin

Proposed Kansas Code of Criminal Procedure

(Articles I through XVII)

The Proposed Kansas Code of Criminal Procedure is the product of a study undertaken by the Kansas Judicial Council pursuant to a Request of the 1963 Session of the Kansas Legislature.

PRINTED BY
ROBERT R. (BOB) SANDERS, STATE PRINTER
TOPEKA, KANSAS
1969

33-920

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Foreword

The Honorable Maurice A. Wildgen, President of the Kansas Bar Association, has been requested to prepare an article on a subject of his choosing for publication in this issue of the COUNCIL BULLETIN. He has done so, and we believe his article will be of particular interest to attorneys throughout the state. It is entitled *"Does Kansas Need Minimum Standards of Criminal Justice?"*

Maurice A. Wildgen was born in Hoisington, Kansas. His grandparents had come to Barton County in the mid 1870's, and his family has been in the lumber business in that county continuously since 1888.

He was educated in the public schools of Hoisington. He attended St. Benedict's College at Atchison in 1928-30, and the University of Kansas School of Law in 1930-33 where he received his LL. B. He also attended the University of Colorado School of Law in the summer of 1931, and was a student and faculty advisor of the first session of the National College of State Trial Judges held at Boulder in 1964.

He was admitted to practice in Kansas in 1933. He entered into private practice in Larned that year, which he continuously carried on until 1963 when he became District Judge. During his private practice he was a partner and was associated with the late George W. Finney; also with Glee S. Smith, Jr., and Donald L. Burnett.

He served on the Kansas State Board of Tax Appeals in 1957-58; he was Larned's City Attorney from 1935 to 1938 and its Police Judge from 1952 to 1956. He was also a City Councilman, and has been active in civic affairs, serving on the City Library Board and on the City Planning Commission. Presently he is a member and chairman of the Kansas Judges Retirement Board.

He is presently a member of the Sacred Heart Catholic Church in Larned, also the Kiwanis Club, the Southwest Kansas Bar Association, the American Judicature Society, the American Bar Association and, of course, the Kansas Bar Association, having served on its executive council since 1958.

In 1935 he married Pauline E. Yeager of Larned. They have three daughters: Mrs. Robert H. (Susanne) Haymaker of Larned; Mrs. Robert C. (Paula Beth) Brown of Washington, D. C.; and Maureen of Rochester, Minnesota.

Besides his family and his profession he maintains an interest in music, golf, fishing, hunting and stamp collecting.

This issue of the BULLETIN also contains summarized tables showing the volume of work in the Supreme Court, the district courts, probate courts, county and city courts of the state for the year ending June 30, 1969.

Also published herewith is the proposed Kansas Code of Criminal Procedure, the product of a study undertaken by the Kansas Judicial Council pursuant to a request of the 1963 Session of the Kansas Legislature. An introductory state-

ment concerning the proposed Code of Criminal Procedure prepared by Paul Wilson, reporter for the Council's advisory committee working on the code, precedes the publication of the code.

Does Kansas Need Minimum Standards of Criminal Justice?

An observation was made recently by a well known Federal Judge that many members of the Kansas Bar will soon become criminal lawyers whether they like it or not. In any event we know that in the future our Kansas lawyers are going to be appointed in both the Federal and State Courts to defend persons accused of crime, and in that sense, those lawyers become criminal lawyers. As all lawyers know, their oath makes refusal to serve when appointed exceedingly difficult.

Unfortunately "there are members of the bar who either never see the inside of a courtroom, or who practice in the rarified atmosphere of the civil courtroom and who peer down their noses at the criminal lawyers with that deprecating look that a parent usually reserves for the errant child." (Samuel Leibowitz, Supreme Court in New York City.) This statement has a sad ring of truth to it; but the members of our bar that presently peer down their noses with contempt for the criminal lawyer may soon find themselves looking in a mirror at themselves. Whether this is good or bad for the profession is subject to debate. How a particular lawyer feels about it personally is not important. What is important is that we are presently in the midst of a situation which cannot be changed, and it is our duty as professional men to meet it head on, unpleasant though it may be.

The epoch-making decisions of our U. S. Supreme Court starting even earlier than Mapp v. Ohio, and followed by Gideon, Escobedo and Miranda have rewritten the rules of evidence in criminal trials. While these decisions not only affect the life and liberty of our citizens and redefine the rights of an accused person, they also demand and require a new procedural outlook in the handling of criminal cases and an updating of law enforcement techniques, including the use of the science of criminology and the broader spectrum of social sciences, including psychiatry. Instead of methods based on tradition and precedent, it is suggested that we should strive to use more modern scientific methods. Too much emphasis has been placed in tradition and precedent, if you believe what Dr. Karl Menninger has said in his recent book "The Crime of Punishment." Today, when probably every member of the bar is soon to become directly involved in criminal defense work, it is apparent that new skills and techniques will have to be learned and developed. A lawyer defending an accused does not want to be charged in a post-conviction motion with incompetency or inadequacy. Therefore, he will not only have to be skilled as an expert trial advocate; but he must, of necessity, develop an expertise in motion drafting and discovery techniques. In this connection an interesting technique is being explored in San Antonio in the Federal Courts known as an "Omnibus Hearing." It is simply a hearing where the issues in a criminal case which normally would be raised at the trial are fully explored beforehand in a formal conference in open court in a manner similar to that contemplated by the Federal Rules of Civil Procedure. The Court and the attorneys for both

the prosecution and the defense who have used omnibus have concluded that it expedites the trial of the cases; that it provides defense counsel with Government proof upon which he may better advise his client whether to plead guilty or not guilty; that it is economically advantageous to the lawyers on both sides; and it speeds up trial and eliminates delays. Most Kansas prosecutors do not believe in discovery and pre-trial in criminal cases. They would do well to study what has happened in San Antonio before closing the door to the suggestion.

The Section on Criminal Law of the American Bar has anticipated many of the problems that are presently confronting the profession in criminal law and its administration. Minimum standards for the administration of criminal justice have been prepared. These standards deserve our serious study and consideration. They are carefully spelled out, and lawyers are neglecting their professional education if they do not examine and thoughtfully consider them. A Special Committee to implement the minimum standards was directed by Hon. Tom C. Clark, and the over-all Chairman of the Special Committee on the Minimum Standards for the Administration of Criminal Justice was Warren E. Burger, now Chief Justice of the U. S. Supreme Court. Recently Chief Justice Burger commented that he knew that sometime in the future there would be occasions when what he had written or approved as the head of the special committee would be called to his attention, perhaps because of a change of point of view. He said he had a ready answer to such criticism. He only had to remind his critics that he had approved the standards before he became infallible.

Nine reports have been drafted so far. All of them have been approved by the ABA House of Delegates. The subjects covered by the drafts are (1) Pretrial Release; (2) Providing Defense Services; (3) Joinder and Severance; (4) Pleas of Guilty; (5) Speedy Trial; (6) Trial by Jury; (7) Sentencing Alternatives and procedures; (8) Appellate Review of Sentences; and (9) Post-Conviction Remedies. It would be impossible to review each Standard in this article. It is probably best to merely state that the standards seek to improve both the Federal and State systems presently used to administer criminal justice. The decisions of the Supreme Court of the United States have been carefully considered and followed, as well as appropriate State court decisions. The drafts are fully annotated and contain comments and examples to aid lawyers in their study of the standards.

No doubt the Standards will be made the subject of State-wide seminars and institutes, sponsored by the Kansas Bar Association, along with institutes to study the new criminal code and the anticipated new code of criminal procedure. The Judicial Council established an Advisory Committee on Criminal Law Revision in 1963. Its work has been substantially adopted by our legislature. What it produced has much merit. With the help of the Advisory Committee any seminar or institute on the subject of criminal law and its fair and efficient administration will be worthwhile and merit strong attendance by the members of the Bar.

One step which Kansas has taken recently is to be certain that an attorney is available to an accused for advice and counsel at an early stage in the prosecution. House Bill No. 1098, passed this year, makes it possible for an accused to have the advice of an attorney shortly after arrest and at all subsequent

stages of the prosecution. It also provides for adequate compensation to the attorney on whom this responsibility falls. No longer can an attorney excuse himself for any neglect on his part merely because he is not being paid. There is no charity involved as there may have been 25 years ago when counsel would often recommend a plea of guilty by the accused because the attorney was working for nothing, and felt it was a waste of his time to defend his client. Dr. Karl Menninger in his recent book "The Crime of Punishment" in a chapter entitled "Crimes Against Criminals" describes a hypothetical interrogation by a court-appointed attorney and an accused which illustrates just how this has been done in the past. Dr. Menninger's book is recommended reading for all Kansas lawyers because he is a Kansan and sees the problem of administering criminal justice from the viewpoint of a Kansan. He writes intending to shock us into immediately accepting and acting now on our responsibilities towards the accused, many of whom are poor, often negro, uneducated and without friends. Another book recommended to Kansas lawyers was written by a Kansan by adoption but not by birth or choice. Bill Larson was only recently an inmate in the Kansas Penitentiary. Following his recent release from prison he wrote "Hear Me Barabbas." It forcefully and rather colorfully verifies much of what Dr. Menninger says. Both books are a harsh indictment of our system of criminal justice, and they should alert us to do a better job of administering criminal justice in the future.

It would be wrong not to recognize the planned activity of Governor Docking's Committee on Criminal Administration. Ernest J. Rice, Chairman of the Bar Committee on Criminal Law is also Chairman of the Governor's Committee. Our Bar expects to cooperate fully with the Governor's Committee in its efforts in this field. The Governor's Committee has made concrete beginnings for a training seminar for prosecutors to be given in various judicial districts throughout the State. The seminars are funded by a grant made under the Omnibus Crime Control and Safe Streets Act of 1968. The first seminar will be presented starting in late October this year, and later on the Committee intends to conduct seminars emphasizing the defense of an accused; and it is also wisely considering seminars to teach magistrate, juvenile, county and district judges concerning their duties and responsibilities in the administration of fair and efficient criminal justice. In the western portion of our State many of the county judges and magistrates are laymen and not trained in law. They need this kind of training.

Kansas lawyers and the judges of its courts are diligently trying to keep up with the times. Great social changes are upon us. The Bar of Kansas is trying to think about tomorrow, in spite of the fact that in law the emphasis has been on yesterday. The past, which we call precedent, has been a persistent and often overriding concern of the law. While past experience is good, there are many signs which indicate that the solutions of the past may not be appropriate to solve the problems of the present.

One need only recall that while the Sixth Amendment provided for the assistance of counsel for an accused in criminal cases it was not until Gideon (372 U. S. 335) was decided in 1963 that it became mandatory on State courts to provide an accused with counsel. And when we reflect that today we have crimes not even dreamed of a few short years ago, we can understand why precedent cannot be our sole guide. Where can we find precedent to properly

guide courts and lawyers when we consider criminal violations of school segregation laws, or civil rights laws, or fair housing? Does precedent adequately teach us how to deal with a multitude of violations by large numbers of people? How do we deal with ghetto riots, or with college student riots? Do we use the cases that were an outgrowth of the Haymarket Riots in Chicago, or of the Bonus March in Washington as precedent? Or do we use the cases that arose as a result of the sit-down, or sit-in, strikes of the 1930's? We are obviously ill prepared if we merely let precedent alone guide us.

It has been said that lawyers are disinclined to innovate if left to their own choice. The lawyers of Kansas have disproved that statement many times. Our new Criminal Code is but one good example.

Lawyers believe in law and order. Law enforcement is presently in a state of crisis. The reasons are debatable; but the crisis is obvious. The minimum standards developed by the ABA Special Committee deserves serious study by the Kansas Bar. The standards are not full of innovations, though there are obviously some. A study of the standards, in conjunction with a study of our new codes of criminal law and procedure, is appropriate. Serious study of these items should bring about better law enforcement, and doubtlessly will promote the fair and efficient administration of justice in the criminal field.

Kansas Code of Criminal Procedure

Foreword

In 1963 the Kansas Judicial Council established an Advisory Committee on Criminal Law Revision. The committee was given responsibility for studying and evaluating the substantive and procedural criminal law of the state, and for recommending appropriate revisions of chapters 21 and 62, Kansas Statutes Annotated. In April, 1968 the Judicial Council published its recommendations for revision of the substantive criminal law of the state (see Kansas JUDICIAL COUNCIL BULLETIN, Special Report, April, 1968). That proposal with some modification, was enacted into law (chapter 180, Laws of 1969,) and will become effective on July 1, 1970. This publication contains the major portion of the Judicial Council's recommendation for revision of the procedural parts of the Kansas criminal law. Thus, the result of the work of the Kansas Judicial Council and its Advisory Committee on Criminal Law Revision may result in an entirely new body of criminal law for the state.

Members of the Advisory Committee during the period the Proposed Code of Criminal Procedure has been under consideration are the following: Judge Doyle E. White of Arkansas City, Chairman; E. Lael Alkire, of Wichita; J. Richard Foth of Topeka; Charles F. Forsyth of Erie; Lee Hornbaker of Junction City; Selby S. Soward of Goodland; and George T. VanBebber of Troy. Professor Paul E. Wilson of the University of Kansas School of Law has served the Advisory Committee as its Reporter.

Ideas have been drawn from several sources. In every case in the drafting process began with an evaluation of existing Kansas Law. Where it was found to be adequate, no changes are recommended. Indeed, the proposed code of Criminal Procedure represents few dramatic departures from existing practices. Such variations as appear relate mainly to matters of detail. Wherever feasible, Federal Statutes and Federal Rules of Criminal Procedure have been followed. In other instances, recent state revisions have been drawn upon—notably those in Illinois and Montana.

The objective of the proposed procedural revision, like those of the substantive code, is to provide a more useful and effective vehicle for the administration of criminal justice. The drafters have

sought to produce a clear and concise statement of standards governing the investigation, trial and appeal of criminal cases, incorporating modern concepts of procedure and giving appropriate regard to ideas of due process that have become pervasive in the law.

Lawyers and judges will be particularly concerned with those areas where innovations are recommended. Among the provisions to which special attention should be given are those relating to arrest, surveillance, search and seizure, pre-trial release, discovery, depositions, motions to suppress evidence and appeals in criminal cases.

No amendments are proposed in several articles of chapter 62. These consist mainly of uniform state legislation, proposed by the National Conference of Commissioners on Uniform State Laws and adopted by the Legislature of Kansas. In each case it will be recommended that the article be relocated in new chapter 22.

The draft now published includes seventeen proposed articles. These cover virtually the entire spectrum of criminal procedure. A few articles have not yet been approved by the Judicial Council and will be published in a later issue of the BULLETIN, prior to the convening of the Legislature. These will relate to *in rem* proceedings, costs in Criminal Cases, proceedings to determine paternity and areas in which no changes are recommended.

The comments of the Bench and Bar concerning the proposals published herewith are solicited. Communications may be addressed to Judge Doyle E. White, Chairman of the Advisory Committee, Court House, Winfield, Kansas, or to Professor Paul E. Wilson, Reporter, The University of Kansas School of Law, Lawrence, Kansas. The proposal will be the basis for legislation to be proposed to the 1970 session of the Legislature.

Kansas Code of Criminal Procedure

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CHAPTER 22

Kansas Code of Criminal Procedure

Article I. *Title and Scope*

22-101. *Title.*. This Code is called and may be cited as the Kansas Code of Criminal Procedure.

Section superseded. 62-101.

22-102. *Scope.* The provisions of this Code shall govern proceedings in all criminal cases in the courts of the state of Kansas and the police and municipal courts of all municipalities thereof, except where a different procedure is specifically provided by law.

COMMENT

The proposal is for a uniform procedure applicable in all courts, excepting only those matters in which the legislature has specifically provided for exceptional procedures.

22-103. *Purpose and Construction.* This Code is intended to provide for the just determination of every criminal proceeding. Its provisions shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

COMMENT

For a similar provision, see Rule 2, Federal Rules of Criminal Procedure.

A counterpart relating to the Kansas Rules of Civil Procedure is found in K. S. A. 60-102.

Commenting upon the federal rule, one of the drafters has said:

"The purpose of the committee in inserting the rules is to indicate to the trial judges in the first instance and to the appellate judges on review that they not only have the power but the responsibility of seeing to it that the Rules are interpreted and applied so that they do in fact bring about a just determination of every criminal proceeding and that they do in fact secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. Rule 2 expresses the spirit that is intended to motivate the application of all the sixty rules promulgated by the Supreme Court and to make it very clear that they are not in any case to be interpreted technically so as to defeat the ends of justice."

22-104. *Prosecutions in the Name of State.* All prosecutions for violations of the criminal laws of this state shall be in the name of the state of Kansas.

Section superseded. 62-1001.

Article II. General Definitions

22-201. *Interpretation of Words and Phrases.* (1) In interpreting this Code, such words and phrases as are defined in this article shall be given the meanings indicated by their definitions, unless a particular context clearly requires a different meaning.

(2) Words or phrases not defined in this Code but which are defined in the Kansas Criminal Code shall have the meanings given therein except when a particular context clearly requires different meanings.

(3) Words and phrases used in this Code and not expressly defined shall be construed according to the rules governing the construction of statutes of this state.

COMMENT

Words and phrases which occur throughout this Code are defined in this article. General definitions of words and phrases which appear frequently in the criminal code appear in K. S. A. 21-3110. Other definitions of less general import are found in other sections of both chapters 21 and 22. Because of the close relationship of the Kansas Criminal Code and the Kansas Code of Criminal Procedure, words and phrases used in both Codes must be ascribed uniform meanings wherever used.

22-202. *Definitions.* (1) "Appearance bond" means an undertaking, with or without security, entered into by a person in custody by which he binds himself to comply with such conditions as are set forth therein.

(2) "Arraignment" means the formal act of calling the defendant before a court having jurisdiction to impose sentence for the offense charged, informing him of the offense with which he is charged, and asking him whether he is guilty or not guilty.

(3) "Arrest" means the taking of a person into custody in order that he may be forthcoming to answer for the commission of a crime. The giving of a notice to appear is not an arrest.

(4) "Bail" is the security given for the purpose of insuring compliance with the terms of an appearance bond.

(5) "Charge" means a written statement presented to a court accusing a person of the commission of a crime and includes a complaint, information or indictment.

(6) "Complaint" means a written statement of the essential facts constituting a crime. It shall be made upon oath before a magistrate or other officer empowered to commit persons charged with crimes against the state of Kansas or any municipality thereof.

(7) "Custody" means the restraint of a person pursuant to an arrest or the order of a court or magistrate.

(8) "Detention" means the temporary restraint of a person by a law enforcement officer.

(9) "Indictment" means a written statement, presented by a grand jury to a court, which charges the commission of a crime.

(10) "Information" means a verified written statement signed by a county attorney or other authorized representative of the state of Kansas presented to a court, which charges the commission of a crime. An information verified upon the information and belief by the county attorney or other authorized representative of the state of Kansas shall be sufficient.

(11) "Law enforcement officer" means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes.

(12) "Magistrate" means an officer having power to issue a warrant for the arrest of a person charged with a crime and includes:

(*a*) The justices of the Supreme Court.

(*b*) The judges of district courts.

(*c*) Judges of courts exercising limited criminal jurisdiction under the laws of the state of Kansas.

(*d*) Judges of municipal or police courts.

(13) "Notice to appear" means a written request issued by a law enforcement officer that a person appear before a designated court at a stated time and place.

(14) "Preliminary examination" means a hearing before a magistrate on a complaint to determine if a felony charged in the complaint or some lesser included felony has been committed and if there is probable cause to believe that the person charged committed it.

(15) A "search warrant" is a written order made by a magistrate directed to a law enforcement officer commanding such officer to search the premises described in such search warrant and to seize property described or identified therein.

(16) "Summons" means a written order issued by a magistrate directing that a person appear before a designated court at a stated time and place and answer to a charge pending against him.

(17) A "warrant" is a written order made by a magistrate directed to any law enforcement officer commanding such officer to arrest the person named or described therein.

(18) To "bind over" means to require a defendant to appear and answer in a court having jurisdiction to try the defendant for the crime with which he is charged.

(19) "Prosecuting attorney" means any attorney who is authorized by law to appear for and on behalf of the state of Kansas in a criminal case, and includes the attorney general, an assistant attorney general, the county attorney, an assistant county attorney, and any special prosecutor whose appearance is approved by the court. In the case of prosecution for violation of a city ordinance, "prosecuting attorney" means the city attorney or any assistant city attorney.

COMMENT

The foregoing definitions define terms that will appear throughout the draft. Terms that are used in limited and specialized contexts will be defined in the sections or articles where they appear.

Article III. *Preliminary Proceedings*

22-301. *Commencement of Prosecution.* Unless otherwise provided by law, a prosecution shall be commenced by filing a complaint with a magistrate. A copy of the complaint shall forthwith be supplied to the county attorney of the county and a copy thereof shall be furnished to the defendant or his attorney upon request.

COMMENT

The normal way of commencing a prosecution is by filing a complaint with a magistrate. The terms "complaint" and "magistrate" are defined in section 22-203. Although the section does not require that the person filing the complaint have the prior approval of the county attorney, it contemplates that the officer be notified forthwith.

22-302. *Issuance of Warrant or Summons on Complaint.* If it appears from the complaint, or from an affidavit or affidavits filed with the complaint, that there is probable cause to believe both that a crime has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue. Upon the request of the prosecuting attorney a summons instead of a warrant may issue. More than one warrant or summons may issue on the same complaint. If a defendant fails to appear in response to the summons, a warrant shall issue.

COMMENT

This section parallels, with slight modifications, Rule 4 (*a*) Federal Rules of Criminal Procedure. The most significant departure from the former Kansas practice is the enlarged use of the summons in lieu of warrant for arrest. Warrants, and arrests thereunder, are thought to be unnecessary in cases where the crime charged is minor in nature or where the defendant is known to be a person likely to appear in response to the magistrate's summons. The summons

will be used only when requested by the prosecuting attorney, with the ultimate discretion to issue the summons vested in the magistrate before whom the complaint is filed.

22-303. *Issuance of Warrant on Indictment or Information.* When a prosecution is begun by the filing of an indictment or information, the clerk of the court shall issue a warrant forthwith unless otherwise directed by the court. The warrant may be signed by the clerk, but shall be in the same form and executed and returned in the same manner as other warrants.

COMMENT

Charges based on grand jury investigations and misdemeanor prosecutions in the district court are begun when the indictment or information is filed. This section provides for the issuance of warrants under such circumstances.

Sections superseded. 62-1101, 62-1102.

22-304. *Form of Warrant or Summons.* (1) The warrant shall be signed by the magistrate and shall contain the name of the defendant, or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. It shall describe the crime charged in the complaint. It shall command that the defendant be arrested and brought before a magistrate, as provided by law. If an appearance bond is to be required, the amount thereof shall be stated in the warrant.

(2) The summons shall be in the same form as the warrant except that it shall summon the defendant to appear before the court at a stated time and place. The summons shall be signed by the magistrate or the clerk of his court.

COMMENT

The language follows Rule 4 (*b*), Federal Rules of Criminal Procedure. The section departs from the federal rule in that it allows the summons to issue over the signature of the clerk of the court. On the other hand, as a warrant contemplates the arrest of the person named therein, the signature which gives the warrant its validity should be that of a judicial officer.

Section 22-801 indicates the place where the arrested person is to be taken.

22-305. *Execution or Service and Return of Warrant or Summons.* (1) The warrant shall be executed by a law enforcement officer. The summons may be served by any person authorized to serve a summons in a civil action.

(2) The warrant may be executed or the summons may be served at any place within the jurisdiction of the state of Kansas.

(3) The warrant shall be executed by the arrest of the defendant. The officer need not have the warrant in his possession at the time of the arrest, but upon request he shall show the warrant to the defendant as soon as possible. If the officer does not have the warrant in his possession at the time of the arrest, he shall then inform the defendant of the offense charged and of the fact that a warrant has been issued.

(4) The summons shall be served upon a defendant by delivering a copy to him personally, or by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by mailing it to the defendant's last known address.

(5) The officer executing the warrant shall make return thereof to the magistrate before whom the defendant is brought. At the request of the prosecuting attorney any unexecuted warrant shall be returned to the magistrate by whom it was issued and shall be cancelled by him. On or before the return day the person to whom a summons was delivered for service shall make return thereof to the magistrate before whom the summons is returnable. At the request of the prosecuting attorney made at any time while the complaint is pending, a warrant returned unexecuted and not cancelled or a summons returned unserved or a duplicate thereof may be delivered by the magistrate to the officer or other authorized person for execution or service.

COMMENT

Proposed sections 22-302, 22-303, and 22-304 follow, with only minor changes, Rule No. 4, Federal Rules of Criminal Procedure.

The provisions of Rule 4 (*c*), Federal Rules of Criminal Procedure, are followed with minor variations. Subsections (1) and (2) contemplate that any authorized person may serve either a warrant or a summons in any county within the state. Subsection (3) clarifies the status of the officer who makes an arrest under the authority of a warrant not in his possession. Other provisions follow current practice.

Sections superseded. 62-201, 62-601, 62-602, 62-603, 62-1201, 62-1202, 62-1203.

22-306. *Defective Warrant.* A warrant shall not be quashed or abated nor shall any person in custody for a crime be discharged from such custody because of any technical defect in the warrant.

COMMENT

This is a new statutory provision in Kansas. However, it states a rule that is commonly applied to pleadings.

Article IV. *Arrest*

22-401. *Arrest by Law Enforcement Officer.* A law enforcement officer may arrest a person when:

(*a*) He has a warrant commanding that such person be arrested; or

(*b*) He has probable cause to believe that a warrant for the person's arrest has been issued in this state or in another jurisdiction for a felony committed therein; or

(*c*) He has probable cause to believe that the person is committing or has committed

(1) A felony; or

(2) A misdemeanor, and the law enforcement officer has probable cause to believe that:

(*i*) Such person will not be apprehended or evidence of the crime will be irretrievably lost unless such person is immediately arrested; or

(*ii*) Such person may cause injury to himself or others or damage to property unless immediately arrested; or

(*d*) Any crime has been or is being committed by such person in his view.

COMMENT

The proposal confers somewhat broader powers than the present law. Under subsection (*b*) an officer may arrest under the authority of a warrant not in his possession if he has probable cause to believe it has been issued. Also, arrests for misdemeanors may be made on probable cause in certain emergency situations.

22-402. *Stopping of Suspect.* (1) Without making an arrest, a law enforcement officer may stop any person in a public place whom he reasonably suspects is committing, has committed or is about to commit a crime and may demand of him his name, address and an explanation of his actions.

(2) When a law enforcement officer has stopped a person for questioning pursuant to this section and reasonably suspects that his personal safety requires it, he may search such person for firearms or other dangerous weapons. If the law enforcement officer finds a firearm or weapon, or other thing, the possession of which may be a crime, he may take and keep it until the completion of the questioning, at which time he shall either return it, if lawfully possessed, or arrest such person.

COMMENT

This proposal substantially follows the language of the New York "stop and frisk" law, N. Y. Code Crim. Proc. § 180-a which was before the Supreme Court of the United States in *Sibron v. New York,* 88 S. Ct. 1889. While the Supreme Court declined to approve expressly the language of the New York statute, it found that in the particular case the conduct of an officer acting within the statute was not offensive to the Fourth and Fourteenth Amendments.

In the absence of legislation of this kind, it may be argued that a police officer has no power to search a suspect for weapons until an arrest has actually been made. And it is basic that the minimum condition that will justify an arrest is probable cause that a crime has been committed. The proposal would clarify the power of the investigating officer to make a preliminary search for weapons prior to the actual arrest. The justification and limitations applicable to such powers are expressed by the Supreme Court in *Terry v. Ohio,* 88 S. Ct. 1868, a companion case to *Sibron v. New York,* supra:

"We are now concerned with more than the governmental interest in investigating crime; in addition, there is the more immediate interest of the police officer in taking steps to assure himself that the person with whom he is dealing is not armed with a weapon that could unexpectedly and fatally be used against him. Certainly it would be unreasonable to require that police officers take unnecessary risks in the performance of their duties. American criminals have a long tradition of armed violence, and every year in this country many law enforcement officers are killed in the line of duty, and thousands more are wounded. Virtually all of these deaths and a substantial portion of the injuries are inflicted with guns and knives.

"In view of these facts, we cannot blind ourselves to the need for law enforcement officers to protect themselves and other prospective victims of violence in situations where they may lack probable cause for an arrest. When an officer is justified in believing that the individual whose suspicious behavior he is investigating at close range is armed and presently dangerous to the officer or to others, it would appear to be clearly unreasonable to deny the officer the power to take necessary measures to determine whether the person is in fact carrying a weapon and to neutralize the threat of physical harm.

"We must still consider, however, the nature and quality of the intrusion on the individual rights which must be accepted if police officers are to be conceded the right to search for weapons in situations where probable cause to arrest for crime is lacking. Even a limited search of the outer clothing for weapons constitutes a severe, though brief, intrustion upon cherished personal security, and it must surely be an annoying, frightening, and perhaps humiliating experience. Petitioner contends that such an intrusion is permissible only incident to a lawful arrest, either for a crime involving the possession of weapons or for a crime the commission of which led the officer to investigate in the first place. However, this argument must be closely examined.

"Petitioner does not argue that a police officer should refrain from making any investigation of suspicious circumstances until such time as he has probable cause to make an arrest; nor does he deny that police officers in properly discharging their investigative function may find themselves confronting persons who might well be armed and dangerous. Moreover, he does not say that an officer is always unjustified in searching a suspect to discover weapons. Rather, he says it is unreasonable for the policeman to take that step until such time as the situation evolves to a point where there is probable cause to make an arrest. When that point has been reached, petitioner would concede the officer's right to conduct a search of the suspect for weapons, fruits or instrumentalities of the crime, or 'mere' evidence, incident to the arrest.

"There are two weaknesses in this line of reasoning, however. First, it fails to take account of traditional limitations upon the scope of searches, and thus

recognizes no distinction in purpose, character, and extent between a search incident to an arrest and a limited search for weapons. The former, although justified in part by the acknowledged necessity to protect the arresting officer from assault with a concealed weapon, *Preston v. United States*, 376 U. S. 364, 367, 84 S. Ct. 881, 883, 11 L. Ed. 2d 777 (1964), is also justified on other grounds, *ibid.*, and can therefore involve a relatively extensive exploration of the person. A search for weapons in the absence of probable cause to arrest, however, must like any other search, be strictly circumscribed by the exigencies which justify its initiation. *Warden v. Hayden*, 387 U. S. 294, 310, 87 S. Ct. 1642, 1652, 18 L. Ed. 2d 782 (1967) (Mr. Justice Fortas, concurring). Thus it must be limited to that which is necessary for the discovery of weapons which might be used to harm the officer or others nearby, and may realistically be characterized as something less than a 'full' search, even though it remains a serious intrusion."

22-403. *Arrest by Private Person.* A person who is not a law enforcement officer may arrest another person when:

(1) A felony has been or is being committed and the person making the arrest has probable cause to believe that the arrested person is guilty thereof; or

(2) Any crime has been or is being committed by the arrested person in the view of the person making the arrest.

COMMENT

The power of the citizen to make an arrest is recognized in Kansas (*Garnier v. Squires*, 62 Kan. 321; *Koch v. Murphy*, 151 Kan. 988), but the limitations are not defined by statute. This is an effort to fill that void.

22-404. *Arrest by Law Enforcement Officer From Another Jurisdiction.* (1) As used in this section:

(*a*) "State" means any state of the United States and the District of Columbia.

(*b*) "Law enforcement officer" means any member of any duly organized state, county or municipal law enforcement organization of another state.

(*c*) "Fresh pursuit" means the immediate pursuit of a person who has committed a crime, or who is reasonably suspected of having committed a crime. As used herein, fresh pursuit does not necessarily imply instant pursuit, but pursuit without unreasonable delay.

(2) Any law enforcement officer of another state who enters this state in fresh pursuit and continues within this state in fresh pursuit of a person in order to arrest him on the ground that he has committed a crime in the other state has the same authority to arrest and hold such person in custody as law enforcement officers of this state have to arrest and hold a person in custody.

(3) If an arrest is made in this state by a law enforcement officer of another state in accordance with the provisions of this section he

shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest is made. Such magistrate shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful, he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state, or the waiver thereof, or shall permit such person to go at large upon giving an appearance bond, with or without surety. If the magistrate determines that the arrest was unlawful, he shall order the discharge of the person arrested.

COMMENT

This proposal involves no substantial change from the present law.

Sections superseded. 62-632, 62-633, 62-634, 62-635, 62-636, 62-637, 62-638.

22-405. *Method of Arrest.* (1) An arrest is made by an actual restraint of the person arrested or by his submission to custody.

(2) An arrest may be made on any day and at any time of the day or night.

(3) All necessary and reasonable force may be used to effect an entry upon any building or property or part thereof to make an authorized arrest.

COMMENT

This is a restatement of existing statutory and case law. The limits on force authorized in making arrests are found in proposed sections 21-216 and 21-217.

Sections superseded. 62-1201, 62-1202, 62-1203, 62-1204, 62-1205.

22-406. *Release by Officer of Person Arrested.* A law enforcement officer having custody of a person arrested without a warrant is authorized to release the person without requiring him to appear before a court when the officer is satisfied that there are no grounds for criminal complaint against the person arrested.

COMMENT

This proposal authorizes a common police practice. Where an officer discovers during the course of investigation that there is no reasonable basis for the further detention of an arrested person, the officer is authorized to release such person forthwith. This provision does not protect the officer from the consequences of an illegal arrest. Also, there is no authority for an officer to release a person arrested upon a warrant. When a warrant has been issued, the arrested person should be released only upon order of a court.

22-407. *Assisting Law Enforcement Officer.* (1) A law enforcement officer making an arrest may command the assistance of any

person over the age of eighteen years who may be in the vicinity.

(2) A person commanded to assist a law enforcement officer shall have the same authority to arrest as the officer who commands his assistance.

(3) A person commanded to assist a law enforcement officer in making an arrest shall not be civilly or criminally liable for any reasonable conduct in aid of the officer or any acts expressly directed by the officer.

COMMENT

Present Kansas statutes expressly authorize certain officers to command assistance from bystanders in cases of unlawful assemblies and threatened lynching (K. S. A. 21-1002, 21-1008), although a broader power is probably derived from common law sources.

The proposal seeks to define the officer's power.

Sections to be superseded. 21-1002, 21-1008.

22-408. *Notice to Appear.* (1) Whenever a law enforcement officer detains any person without a warrant, for any act punishable as a misdemeanor, and such person is not immediately taken before a magistrate for further proceedings, the officer may serve upon such person a written notice to appear in court. Such notice to appear shall contain the name and address of the person detained, the crime charged, and the time and place when and where such person shall appear in court.

(2) The time specified in such notice to appear must be at least 5 days after such notice is given unless the person shall demand an earlier hearing.

(3) The place specified in such notice to appear must be before some court within the county in which the crime is alleged to have been committed which has jurisdiction of such crime.

(4) The person detained, in order to secure release as provided in this section, must give his written promise to appear in the court by signing the written notice prepared by the officer. The original of the notice shall be retained by the officer; a copy delivered to the person detained, and the officer shall forthwith release the person.

COMMENT

The foregoing section, like the summons provision of proposed section 21-402, provides a procedure for getting persons into court without the necessity and inconvenience of arrest. When the person does not obey the summons or notice to appear, an arrest warrant may issue. The notice to appear and summons are now authorized in traffic cases in Kansas (see K. S. A. 8-5,129, 8-5,129a).

22-409. *Crimes Committed by Corporations.* (1) Upon the filing of a complaint, indictment or information charging a corporation with commission of a crime in a court having jurisdiction to try the offense charged, such court shall issue a summons setting forth the nature of the offense and commanding the corporation to appear before such court at a certain time and place.

(2) The summons for the appearance of a corporation may be served in the manner provided for service of summons upon a corporation in a civil action.

(3) If, after being summoned, the corporation does not appear, a plea of not guilty shall be entered by the court, and such court shall proceed to trial and judgment without further process.

(4) Upon appearance by a corporation pursuant to the command of a summons issued upon a complaint, indictment or information, such corporation shall be proceeded against in the same manner as other defendants in criminal cases.

COMMENT

The present law of Kansas authorizes prosecutions of corporations for crimes. The proposal is substantially like the present statutes except that it makes clear that in case of default by a corporation it shall be treated as having entered a plea of not guilty and tried as other defendants. The proposal permits a defaulting corporation to be tried in absentia.

The proposal is adapted from Illinois, Code of Cr. Proc., 43-16.

Sections superseded. 62-1104, 62-1105, 62-1106, 62-1107, 62-1108.

Article V. *Search and Seizure*

22-501. *Search Without Search Warrant.* When a lawful arrest is effected a law enforcement officer may reasonably search the person arrested and the area within such person's immediate presence for the purpose of

(*a*) Protecting the officer from attack;

(*b*) Preventing the person from escaping; or

(*c*) Discovering the fruits, instrumentalities, or evidence of the crime.

COMMENT

Taken from Illinois, 108-1, this section has no counterpart in Kansas statutes. It states a proposition of general law.

22-502. *Custody and Disposition of Things Seized Without a Search Warrant.* Things seized in a search without a search warrant shall be delivered to the magistrate before whom the person arrested

is taken and thereafter handled and disposed of in accordance with sections 22-510 and 22-511. If the person arrested is released without a charge being preferred against him all things seized shall be returned to him upon release.

COMMENT

Provides a method of disposition consistent with seizures under warrants. Illinois 108-2.

22-503. *Grounds for Search Warrant.* Upon the written statement of any person under oath or affirmation which states facts sufficient to show probable cause that a crime has been or is being committed and which particularly describes a person, place or means of conveyance to be searched and things to be seized, any magistrate may issue a search warrant for the seizure of the following:

(1) Any things which have been used in the commission of, or which may constitute evidence of, any crime.

(2) Any person who has been kidnapped in violation of the laws of this state, or who has been kidnapped in another jurisdiction and is now concealed within this state, or any human fetus or human corpse.

COMMENT

Adapted from Illinois, 108-3. Covers the substance of K. S. A. 62-1828 and 62-1829, with enlargements.

Sections superseded. 62-1828, 62-1829.

22-504. *Issuance of Search Warrant.* All search warrants shall show the time and date of issuance and shall be the warrants of the magistrate issuing the same and not the warrants of the court in which he is then sitting and such warrants need not bear the seal of the court or clerk thereof. The statement on which the warrant is issued need not be filed with the clerk of the court nor with the court if there is no clerk until the warrant has been executed or has been returned "not executed."

COMMENT

Adapted from Illinois, 108-4. Also see Montana, 95-706. No similar provision is found in the present Kansas law.

22-505. *Persons Authorized to Execute Search Warrants.* A search warrant shall be issued in duplicate and shall be directed for execution to all law enforcement officers of the state, or to any law enforcement officer specifically named therein.

COMMENT

Adapted from Illinois, 108-5. See K. S. A. 62-1830 for persons now authorized to execute search warrant.

22-506. *Execution of Search Warrants.* A search warrant shall be executed within ninety-six hours from the time of issuance. If the warrant is executed the duplicate copy shall be left with any person from whom any things are seized or if no person is available the copy shall be left at the place from which the things were seized. Any warrant not executed within such time shall be void and shall be returned to the court of the magistrate issuing the same as "not executed."

COMMENT

Adapted from Illinois, 108-6, K. S. A. 62-1833 places a 10 day limit on execution of search warrants.

22-507. *Command of Search Warrant.* A search warrant shall command the person directed to execute the same to search the person, place or means of conveyance particularly described in the warrant and to seize the things particularly described in the warrant.

COMMENT

Adapted from Illinois, 108-7. Similar language is in K. S. A. 62-1830.

22-508. *Use of Force in Execution of Search Warrant.* All necessary and reasonable force may be used to effect an entry into any building or property or part thereof to execute a search warrant.

22-509. *Detention and Search of Persons on Premises.* In the execution of a search warrant the person executing the same may reasonably detain and search any person in the place at the time:

(*a*) To protect himself from attack, or

(*b*) To prevent the disposal or concealment of any things particularly described in the warrant.

COMMENT

These proposals, adapted from Illinois, 108-8 and 108-9, are not found in the present Kansas statutes.

22-510. *Return to Court of Things Seized.* All things seized shall be taken without unnecessary delay before the magistrate issuing the search warrant or before any magistrate named in the warrant or before any court of competent jurisdiction. An inventory of all things seized shall be filed with the return and signed under oath by the person executing the warrant. The magistrate shall upon

request deliver a copy of the inventory to the person from whom or from whose premises the things were taken and to the applicant for the warrant.

COMMENT

Adapted from Illinois, 108-10.

Section superseded. 62-1833.

22-511. *Disposition of Things Seized.* The magistrate or court to whom the things are returned shall enter an order providing for their custody pending further proceedings.

COMMENT

Present Kansas statutes do not provide expressly for the disposition of seized property. The proposals are adapted from Illinois, 108-11 and 108-12.

22-512. *When Search Warrant May Be Executed.* A search warrant may be executed at any time of any day or night.

22-513. *No Warrant Quashed for Technicality.* No search warrant shall be quashed or evidence suppressed because of technical irregularities not affecting the substantial rights of the accused.

COMMENT

Adapted from Illinois, 108-13 and 108-14.

Sections superseded. The material in sections 22-501 to 22-513 supersedes K. S. A. 62-1828 to 62-1833. Hence, all of those sections are to be repealed.

22-514. *Order Authorizing Eavesdropping.* (1) An *ex parte* order authorizing eavesdropping as defined in section 21-4001, may be issued by any magistrate of this state. Such order may be issued upon the oath or affirmation of the attorney general, an assistant attorney general, a county attorney, an assistant county attorney, a special agent of the Kansas Bureau of Investigation, a sheriff, an undersheriff, or any officer above the rank of sergeant of any police department of any political subdivision of the state, that there is probable cause to believe that:

(*a*) A crime directly and immediately affecting the safety of human life or the national security has been committed or is about to be committed; and

(*b*) Evidence will be obtained essential to the solution or prevention of such crime or which may assist in the prosecution of such crime; and

(*c*) There are no other means readily available for obtaining such information.

The application for the order shall particularly describe the person or persons whose conduct is to be observed or whose communications or conversations are to be overheard or recorded, and, in the case of a telephonic or telegraphic communication, shall identify the particular telephone number or telegraph line involved.

(2) The magistrate to whom application for an order authorizing eavesdropping is addressed shall examine, under oath, the applicant and any other witness he may produce and shall satisfy himself that there are reasonable grounds therefor before granting such application. All testimony given on such examination shall be reduced to writing. The order shall be directed to any law enforcement officer of the state of Kansas, or one of its governmental subdivisions or to any law enforcement officer specifically named therein. It shall state the ground for its issuance, and shall particularly describe the premises to be entered upon, the person or persons to be observed or whose communications or conversations are to be intercepted, the telephone number or telegraph line involved.

(3) The order authorizing eavesdropping shall specify the period during which it shall be effective, but in no case shall the said effective period continue more than ten days from the date of issuance unless extended or renewed by the magistrate who signed and issued the original order upon satisfying himself that such extension or renewal is in the public interest.

(4) Within the effective period of the order, the officer executing the order authorizing eavesdropping shall endorse thereon a statement of any action taken pursuant thereto and shall return the same to the magistrate by whom it was issued. If photographs have been taken or sound recordings made pursuant to said order, the return shall so state, and, in the event of the prosecution of any person who has been the subject of eavesdropping, copies and transcripts of such photographs and sound recordings shall be made available to the defendant upon application to the court before whom the prosecution is pending.

22-515. *Eavesdropping Without Order; When Authorized.* A law enforcement officer may eavesdrop, as defined in K. S. A. 21-4001, without the order authorizing eavesdropping provided by section 22-514, only when he has probable cause to believe:

(1) That the conditions specified in section 22-514 (1) (*a*), (*b*) and (*c*) are satisfied; and

(2) That in order to obtain such evidence he must act without delay; and

(3) There is not sufficient time within which to procure an order authorizing eavesdropping.

In any such case an application for an order pursuant to section 22-514 must be made within 24 hours after such eavesdropping commenced, exclusive of Sundays and legal holidays. The application for the order must comply with the requirements of section 22-514, and in addition must contain a statement of the time when such eavesdropping commenced. If the application is granted, the order shall be made effective from the time the eavesdropping commenced. If the application is denied, the eavesdropping must cease immediately and the evidence obtained by such eavesdropping shall not be admissible in any court of this state.

COMMENT

Proposed sections 22-514 and 22-515 provide a procedure whereby law enforcement officers may lawfully eavesdrop while conducting criminal investigations. The procedure is similar to that required for search warrants in that it requires a determination of probable cause by a magistrate before such authorization can be granted. New York Code of Criminal Procedure, 813b and Ore. Rev. Stat. (Supp. 1965) 141.270 have been used as the pattern.

It is suggested that the following proposed section be located in chapter 21:

"Unlawful disclosure of an order authorizing eavesdropping is any disclosure that an order authorizing eavesdropping has been issued pursuant to section 22-515 made prior to the return of such order to any person whose knowledge of such order is not necessary to the effective execution thereof.

"Unlawful disclosure of an order authorizing eavesdropping is a class B misdemeanor."

Article VI. *Venue*

22-601. *Place of Trial.* Except as otherwise provided by law, the prosecution shall be in the county where the crime was committed.

COMMENT

The language of the proposal is, in part, similar to Rule 18, Federal Rules of Criminal Procedure.

Section superseded. 62-401.

22-602. *Crime Committed in More Than One County.* Where two or more acts are requisite to the commission of any crime and such acts occur in different counties the prosecution may be in any county in which any of such acts occur.

Section superseded. 62-404.

22-603. *Crime Committed on or Near County Boundary.* Where a crime is committed on or so near the boundary of two or more

counties that it cannot be readily determined in which county the crime was committed, the prosecution may be in any of such counties.

COMMENT

This proposal is taken from Proposed Montana Code of Criminal Procedure of 1966, sec. 95-403. The only similar provision in the present Kansas law is K. S. A. 62-405, see below.

Section superseded. 62-405.

22-604. *Assisting Another to Commit Crime or Avoid Prosecution.* (1) A person who intentionally aids, abets, advises, counsels or procures another to commit a crime may be prosecuted in any county where any of such acts were performed or in the county where the principal crime was committed.

(2) A person who knowingly harbors, conceals or aids another person who has committed or has been charged with a crime with intent that such other person shall avoid or escape from arrest, trial, conviction or punishment for such crime, may be prosecuted in any county where any of such acts were performed or in the county where the principal crime was committed.

COMMENT

This section relates to prosecutions under sections 21-3205 and 21-3821 of the Criminal Code and places venue in either the county where assistance is rendered or the county of the principal crime.

Section superseded. 62-409.

22-605. *Crimes Committed While in Transit.* If a crime is committed in, on or against any vehicle or means of conveyance passing through or above this state, and it cannot readily be determined in which county the crime was committed, the prosecution may be in any county in this state through or above which such vehicle or means of conveyance has passed or in which such travel commenced or terminated.

COMMENT

This proposal is not specifically covered by present Kansas law. It is intended to reach those crimes committed on trains, aircraft, motor vehicles, etc., where the acts constituting the crime cannot be localized.

22-606. *Death and Cause of Death in Different Places.* If the cause of death is inflicted in one county and the death ensues in another county, the prosecution may be in either of such counties. Death shall be presumed to have occurred in the county where the body of the victim is found.

Section superseded. 62-410.

22-607. *Crime Commenced Outside the State or by Agent.* If a crime commenced outside this state is consummated within this state, or if a person outside this state commits or consummates a crime by an agent or means within this state, the prosecution shall be in the county where the crime was consummated.

COMMENT

The proposal broadens K. S. A. 62-402.

Section superseded. 62-402.

22-608. *Bigamy.* A person charged with the crime of bigamy may be prosecuted in the county where the bigamous marriage ceremony was performed or in any county in which bigamous cohabitation has occurred pursuant to such bigamous marriage.

Section superseded. 21-904.

22-609. *Kidnapping.* A person charged with the crime of kidnapping may be prosecuted in any county in which the victim has been transported or confined during the course of the crime.

COMMENT

No counterpart in present Kansas venue statutes.

22-610. *Failure to Appear.* A person who has been released from custody upon an appearance bond given in one county for appearance in another county, and who fails to appear, as provided in section 21-3813 may be prosecuted for such failure to appear either in the county where the appearance bond was given or the county where the defendant was bound to appear.

COMMENT

This proposal should be read with proposed 22-802, to which it is intended to apply.

22-611. *Change of Venue.* (1) The court upon motion of the defendant shall order that the case be transferred as to him to another county or district if the court is satisfied that there exists in the county where the prosecution is pending so great a prejudice against the defendant that he cannot obtain a fair and impartial trial in that county.

(2) When a case is ordered transferred to another county or district the court shall certify the order of transfer to the departmental justice who shall designate another county or district to which the proceeding shall be transferred.

(3) When a transfer is ordered the clerk of the court where the case is pending shall transmit to the clerk of the court to which the case is transferred all papers in the case or duplicates thereof and any appearance bond taken, and the prosecution shall continue in the court to which the transfer is ordered.

(4) When any case is transferred to another county under this section the responsibility for prosecution of the case shall remain with the original prosecuting attorney, or his successor.

(5) When any case is transferred to another county under this section all taxable costs in such case shall be taxed to the county in which the case originated and such county shall be liable for the payment thereof.

COMMENT

The proposed section parallels Rule 21, Federal Rules of Criminal Procedure, except in that the assignment is to be made by the departmental justice.

22-612. *Notice of Transfer.* When a change of venue has been granted and the new place of trial has been designated, the clerk of the court of the county where the case originated shall give notice in writing to the defendant and all persons under bond to appear in the case of the time, date and place for appearance in the county to which the case has been transferred.

Sections superseded. 62-1316, 62-1317, 62-1318, 62-1319, 62-1320, 62-1321, 62-1322, 62-1323, 62-1324, 62-1325, 62-1326, 62-1327, 62-1328, 62-1329, 62-1336.

22-613. *Time of Motion.* A motion for change of venue must be made at or before arraignment or at such later time as the court may in the interest of justice determine.

COMMENT

Similar to Rule 22, Federal Rules of Criminal Procedure.

Sections superseded. 62-1324, 62-1325.

Article VII. *Uniform Criminal Extradition Act*

PRELIMINARY NOTE. K. S. A. 62-727 through 62-757 is essentially the Uniform Criminal Extradition Act. This legislation was drafted by the National Conference of Commissioners on Uniform State Laws and enacted by the Kansas legislature in 1937. Only a few amendments are now recommended. Those sections that are to be relocated only, but not changed as to content, are not reproduced here. In each case the proposed text will be identical with the text of the K. S. A. section cited under the heading.

22-701. *Definitions.* K. S. A. 62-727.

22-702. *Fugitives From Justice; Duty of Governor.* K. S. A. 62-728.

22-703. *Form of Demand.* No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under section 6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole, *or that the sentence or some portion of it remains unexecuted and that the person claimed has not been paroled or discharged or otherwise released therefrom.* The indictment, information affidavit or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

COMMENT

K. S. A. 62-729 requires that the demand for the extradition of one who has been sentenced allege that he has escaped from confinement or has broken the terms of his bail, probation or parole. It does not expressly cover the case of the person who has been sentenced in another jurisdiction and returned to Kansas to complete a prior sentence here or for any other reason not involving escape or violation of release terms. The proposed amendment clarifies the status of the person who owes time to another jurisdiction but has not escaped or violated his release. It is consistent with the result reached in *Hedge v. Campbell,* 192 K. 623.

The proposed section supersedes K. S. A. 62-727.

22-704. *Governor May Investigate Case.* K. S. A. 62-730.

22-705. *Extradition of Persons Imprisoned or Awaiting Trial in Another State or Who Have Left the Demanding State Under Compulsion.* K. S. A. 62-731.

22-706. *Persons Not Present in the Demanding State at Time of Commission of Crime.* K. S. A. 62-732.

22-707. *Issue of Governor's Warrant of Arrest; Recitals.* K. S. A. 62-733.

22-708. *Manner and Place of Execution.* K. S. A. 62-734.

22-709. *Authority of Arresting Officer.* K. S.A. 62-735.

22-710. *Rights of Accused Person; Application for Writ of Habeas Corpus.* No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting attorney of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

22-711. *Penalty for Noncompliance With Preceding Section.* Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in willful disobedience to the last section, shall be guilty of a class B misdemeanor.

COMMENT

Proposed sections 22-710 and 22-711 are sections 10 and 11 of the Uniform Criminal Extradition Act. They were included in the Act as originally enacted in Kansas (L. 1937, ch. 273) but were later repealed (L. 1941, ch. 290).

22-712. *Confinement in Jail When Necessary.* K. S. A. 62-738.

22-713. *Arrest Prior to Requisition.* Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under section 6 with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, *or with being under sentence, some portion of which remains unexecuted, from which such person has not been paroled or discharged or otherwise*

released, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 6 has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, *or with being under sentence, some portion of which remains unexecuted, from which such person has not been paroled or discharged or otherwise released,* and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

COMMENT

See comment under 22-703 for explanation of suggested amendments.

22-714. *Arrest Without a Warrant.* K. S. A. 62-740.

22-715. *Commitment to Await Requisition; Bail.* K. S. A. 62-741.

22-716. *Bail; in What Cases; Conditions of Bond.* K. S. A. 62-742.

22-717. *Extension of Time of Commitment; Adjournment.* K. S. A. 62-743.

22-718. *Forfeiture of Bail.* K. S. A. 62-744.

22-719. *Persons Under Criminal Prosecution in This State at Time of Requisition.* K. S. A. 62-745.

22-720. *Guilt or Innocence of Accused; When Inquired Into.* K. S. A. 62-746.

22-721. *Governor May Recall Warrant or Issue Alias.* K. S. A. 62-747.

22-722. *Fugitives From This State; Duty of Governors.* K. S. A. 62-748.

22-723. *Application for Issuance of Requisition; by Whom Made; Contents.* (1) K. S. A. 62-749 (1).

(2) When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the term of his bail, probation or parole *or is under sentence, some portion of which remains unexecuted, from which he has not been paroled, discharged or otherwise released,* the prosecuting attorney of the county in which the offense was committed, the parole board, the director of penal institutions, or the warden of the institution or the sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement *or other removal from the custody of this state* or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

(3) K. S. A. 62-749 (3).

COMMENT

See comment at 22-703 for explanation.

22-724. *Costs and Expenses.* K. S. A. 62-750.

22-725. *Immunity From Service of Process in Civil Actions.* K. S. A. 62-751.

22-726. *Written Waiver of Extradition Proceeding; Duty of Judge.* Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of his bail, probation or parole, *or alleged to be under sentence, some part of which remains unexecuted, from which he has not been paroled, discharged or otherwise released,* may waive . . . (continue with balance of K. S. A. 62-752).

COMMENT

See comment at 22-703 for explanation.

22-727. *Non-Waiver by This State.* K. S. A. 62-753.

22-728. *No Right of Asylum; No Immunity From Other Criminal Prosecutions While in This State.* K. S. A. 62-754.

22-729. *Uniformity of Interpretation.* K. S. A. 62-755.

22-730. *Invalidity of Part.* K. S. A. 62-756.

Article VIII. *Pre-Trial Release*

PRELIMINARY NOTE. Current bail reform legislation usually follows a consistent pattern. Statutes and rules are designed to encourage the release of the accused person without money bail and to minimize the number of cases where an accused will be detained pending trial. Release on the accused's recognizance is the normal pretrial disposition and money bail or pretrial detention in lieu thereof, is contemplated only when special circumstances exist which can best be met by the use of traditional bail. A wide range of discretion to impose alternative pretrial release conditions is conferred upon committing magistrate. While in every case an appearance bond will be executed by the accused as a condition of release, the requirement of sureties is dispensed with when it is determined that other conditions will assure the presence of the accused when needed.

It is noted that failure of the accused to appear pursuant to an appearance bond is made a class B misdemeanor by section 21-3813 of chapter 180, Laws of 1969. (Reporter's Query: Should not the penalty be more severe for failure to appear to answer a felony charge? Also, should the statute require that the penalty run consecutively to that imposed in the principal offense?)

The following proposal draws heavily on the Federal Bail Reform Act of 1966 (18 U. S. C. secs. 3141-3152) and the implementing rule (Rule 46, F. R. Cr. P.).

22-801. *Declaration of Purpose.* The purpose of this article is to assure that all persons, regardless of their financial status, shall not needlessly be detained pending their appearance to answer charges or to testify, or pending appeal, when detention serves neither the ends of justice nor the public interest.

22-802. *Release in Non-Capital Cases Prior to Trial.* (1) Any person charged with a crime, other than a crime punishable by death, shall, at his first appearance before a magistrate, be ordered released pending preliminary examination or trial upon the execution of an unsecured appearance bond in an amount specified by the magistrate. Such bond shall be conditioned upon the appearance of such person before the magistrate when ordered and, in the event of his being bound over to the district court for felony, in the district court. If the magistrate determines, in the exercise of this discretion, that such a release will not reasonably assure the appearance of the person as required, he shall impose such of the following additional conditions of release as will reasonably assure the appearance of the person for preliminary examination or trial:

(*a*) place the person in the custody of a designated person or organization agreeing to supervise him;

(*b*) place restrictions on the travel, association, or place of abode of the person during the period of release;

(*c*) require the execution of an appearance bond with sufficient solvent sureties who are residents of the state of Kansas or corporations authorized to do business in Kansas, or the deposit of cash in the amount of the bond;

(*d*) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody during specified hours.

(2) In determining which conditions of release will reasonably assure appearance, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the crime charged, the weight of the evidence against the defendant, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and his record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

(3) The appearance bond shall set forth all of the conditions of release.

(4) A person for whom conditions of release are imposed and who continues to be detained for more than 72 hours as a result of his inability to meet the conditions of release shall be entitled, upon application, to have the conditions reviewed without unnecessary delay by the magistrate who imposed them. In the event the magistrate who imposed conditions of release is not available, any other magistrate in the county may review such conditions.

(5) A magistrate ordering the release of a person on any conditions specified in this section may at any time amend his order to impose additional or different conditions of release. If the imposition of additional or different conditions results in the detention of the person, the provisions of subsection (4) shall apply.

(6) Statements or information offered in determining the condition of release need not conform to the rules of evidence. No statement or admission of the defendant made at such a proceeding shall be received as evidence in any subsequent proceeding against the defendant.

(7) The appearance bond and any security required as a condition of the defendant's release shall be deposited in the office of the magistrate or the clerk of the court where the release is ordered. If the defendant is bound to appear before a magistrate or court other than the one ordering the release, the order of release, to-

gether with the bond and security shall be transmitted to the magistrate or clerk of the court before whom the defendant is bound to appear.

COMMENT

The first 6 subsections of the proposal are adapted from 18 U. S. C. 3146.

22-803. *Review of Conditions of Release.* A person who remains in custody after review of his application pursuant to section 22-802 (4) or 22-802 (5) by a magistrate other than a judge of the district court, may apply to a judge of the district court of the county in which the charge is pending to modify the order fixing conditions of release. Such motion shall be determined promptly.

COMMENT

Adapted from 18 U. S. C. 3147 (*a*).

22-804. *Release in Capital Cases or After Conviction.* (1) A person who is charged with a crime punishable by death or who has been convicted of a crime and is either awaiting sentence or has filed a notice of appeal may be released by the district court under the conditions provided in section 22-802 if the court or judge finds that the conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community.

(2) A person who has been convicted of a crime and has filed a notice of appeal to the supreme court shall make his application to be released to the court whose judgment is appealed from or to a judge thereof. If an application to such court or judge has been made and denied or action on the application did not afford the applicant the relief to which he considers himself entitled, such person may make an application for release to the supreme court or a justice thereof. An application to the supreme court or a justice thereof shall state the disposition of the application made by the district court or judge. Any application made under this subsection shall be made upon reasonable notice to the prosecuting attorney, not less than one day. Any appearance bond which may be required under this subsection shall be filed in the court from which the appeal was taken.

(3) A person who has been convicted of a crime in a court of limited jurisdiction may, upon taking an appeal to the district court, apply to be released as provided herein. If the application is made when the appeal is taken or before the transcript of proceedings is

certified to the district court, the conditions of release shall be determined by a judge of the court from which the appeal is taken. If the application is made after the transcript of proceedings has been certified to the district court the conditions of release shall be determined by a judge of the district court. Any appearance bond which may be required under this subsection shall be deposited in the court where it is fixed.

COMMENT

18 U. S. C. 3148 supplies the point of beginning for this proposal. However, the section has been expanded in drafting the proposal.

22-805. *Release of Material Witness.* If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and it is shown that it may become impracticable to secure his presence by subpoena, the court or magistrate may require him to give bond in an amount fixed by the court or magistrate, or to comply with other conditions to assure his appearance as a witness. If the person fails to comply with the conditions of release the court or magistrate may, after hearing, commit him to the custody of the sheriff or marshal pending final disposition of the proceeding in which the testimony is needed. The court or magistrate may order his release if the witness has been detained for an unreasonable length of time and may at any time modify the conditions of release. No material witness shall be detained because of inability to comply with any condition of release if the testimony of such witness can be secured for use at trial by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable time until the deposition of the witness can be taken pursuant to section 22-1211.

COMMENT

This combines elements of Rule 46 (*b*) F. R. Cr. P. and 18 U. S. C. 3149.

22-806. *Justification of Sureties.* Every surety, except a corporate surety which is approved as provided by law, shall justify by affidavit and may be required to describe in the affidavit the property by which he proposes to justify and the encumbrances thereon, the number and amount of other bonds and undertakings for bail entered into by him and remaining undischarged and all his other liabilities. No bond shall be approved unless the surety thereon appears to be qualified.

COMMENT

Adapted from Rule 46 (*e*) F. R. Cr. P.

22-807. *Forfeiture.* (1) If there is a breach of condition of an appearance bond the court in which the bond is deposited shall declare a forfeiture of the bail.

(2) The court may direct that a forfeiture be set aside, upon such conditions as the court may impose, if it appears that justice does not require the enforcement of the forfeiture.

(3) When a forfeiture has not been set aside, the court shall on motion enter a judgment of default and execution may issue thereon. If the forfeiture has been decreed by a magistrate and the amount of the bond exceeds the limits of the civil jurisdiction of his court, the fact of forfeiture shall be certified by such magistrate to the district court of the county where a judgment of default shall be entered on motion. By entering into a bond the obligors submit to the jurisdiction of any court having power to enter judgment upon default and irrevocably appoint the clerk of that court as their agent upon whom any papers affecting their liability may be served. Their liability may be enforced on motion without the necessity of an independent action. The motion and notice thereof may be served on the clerk of the court, who shall forthwith mail copies to the obligors to their last known addresses. No default judgment shall be entered against the obligor in an appearance bond until more than 10 days after notice is served as provided herein.

(4) After entry of such judgment, the court may remit it in whole or in part under the conditions applying to the setting aside of forfeiture in paragraph (2) of this section.

COMMENT

Adapted from Rule 46 (*f*), F. R. Cr. P.

22-808. *Exoneration.* When the condition of the appearance bond has been satisfied or the forfeiture thereof has been set aside or remitted, the court shall exonerate the obligors and release them from liability. A surety may be exonerated by a deposit of cash in the amount of the bond or by a timely surrender of the defendant into custody.

COMMENT

Adapted from Rule 46 (*g*), F. R. Cr. P.

22-809. *Surrender by Surety.* Any person who is released on an appearance bond may be arrested by his surety or any person

authorized by such surety and delivered to a custodial officer of the court in which he is charged and brought before any magistrate having power to commit for the crime charged; and at the request of the surety, the magistrate shall commit the party so arrested and indorse on the bond, or a certified copy thereof, the discharge of such surety; and the person so committed shall be held in custody until released as provided by law.

COMMENT

Adapted from 18 U. S. C. 3142.

Article IX. *Procedure After Arrest*

22-901. *Appearance Before the Magistrate.* (1) When an arrest is made in the county where the crime charged is alleged to have been committed, the person arrested shall be taken without unnecessary delay before a magistrate of the court from which the warrant was issued. If the arrest has been made on probable cause, without a warrant, he shall be taken without unnecessary delay before the nearest available magistrate and a complaint shall be filed forthwith.

(2) When an arrest is made in a county other than where the crime charged is alleged to have been committed, the person arrested may be taken directly to the county wherein the crime is alleged to have been committed without unnecessary delay or at the request of the defendant he shall be taken without unnecessary delay before the nearest available magistrate. Such magistrate shall ascertain the nature of the crime charged in the warrant and the amount of the bond, if any, endorsed on the warrant. If no warrant for the arrest of the person is before the magistrate he shall make use of telephonic, telegraphic or radio communication to ascertain the nature of the charge and the substance of any warrant that has been issued. If no warrant has been issued, a complaint shall be filed and a warrant issued in the county where the crime is alleged to have been committed, and the nature of the charge, the substance of the warrant, and the amount of the bond shall be communicated to the magistrate before whom the defendant is in custody. Upon receipt of such information, the magistrate shall proceed as hereinafter provided.

(3) The magistrate shall fix the terms and conditions of the appearance bond upon which the defendant may be released. If the first appearance is before a magistrate in a county other than where the crime is alleged to have been committed, the magistrate

may release the defendant on an appearance bond in an amount not less than that endorsed on the warrant. The defendant shall be required to appear before the magistrate who issued the warrant or a magistrate of a court having jurisdiction on a day certain, not more than 10 days thereafter.

(4) If the defendant is released on an appearance bond to appear before the magistrate in another county, the magistrate who accepts the appearance bond shall forthwith transmit such appearance bond and all other papers relating to the case to the magistrate before whom the defendant is to appear.

(5) If the person arrested cannot provide an appearance bond, or if the crime is not bailable, the magistrate shall commit him to jail pending further proceedings or shall order him delivered to a law enforcement officer of the county where the crime is alleged to have been committed.

(6) The provisions of this section shall not apply to a person who is arrested on a bench warrant. Such persons shall without unnecessary delay be taken before the magistrate who issued the bench warrant.

Sections superseded. 62-608, 62-609, 62-610, 62-611, 62-614, 62-615, 62-618.

22-902. *Preliminary Examination.* (1) Every person arrested on a warrant charging a felony shall have a right to a preliminary examination before a magistrate, unless such warrant has been issued as a result of an indictment by a grand jury.

(2) The preliminary examination shall be held before a magistrate of a county in which venue for the prosecution lies within ten days after the arrest of the defendant. Either the state or the defendant shall, upon request, be granted a continuance of not more than 15 days. Further continuances may be granted only for good cause shown.

(3) The defendant shall not enter a plea at the preliminary examination. The defendant shall be personally present and the witnesses shall be examined in his presence. The defendant's voluntary absence after the preliminary examination has been begun in his presence should not prevent the continuation of the examination. The defendant shall have the right to cross-examine witnesses against him and introduce evidence in his own behalf. If from the evidence it appears that there is probable cause to believe that a felony has been committed by the defendant the magistrate shall order him bound over to the court having jurisdiction to try the case; otherwise, the magistrate shall discharge him.

(4) If the defendant waives preliminary examination the magistrate shall order him bound over to the court having jurisdiction to try the case.

COMMENT

This section includes elements of K. S. A. 62-610, 62-611, 62-614, 62-615, 62-618 and Montana Criminal Code, 95-1202. Except for limitations on continuances, the section reflects the present Kansas practice.

22-903. *Exclusion and Separation of Witnesses.* During the examination of any witness or when the defendant is making a statement or testifying the magistrate may, and on the request of the defendant or state shall, exclude all other witnesses. He may also cause the witnesses to be kept separate and to be prevented from communicating with each other until all are examined.

COMMENT

The section differs from K. S. A. 62-616, which it supersedes, in that it requires the exclusion of witnesses from the courtroom if requested by the parties. Otherwise, the magistrate may exercise his discretion.

22-904. *Testimony Reduced to Writing.* The magistrate may, and shall when requested by the prosecuting attorney or the defendant or his counsel, cause a record of the proceedings to be made. The cost of preparation of such record shall be paid by the party requesting it. If neither party requests the record or the request is made by an indigent defendant, such costs shall be paid from the general fund of the county and taxed as costs in the case.

COMMENT

The present law requires that testimony of the preliminary examination be reduced to writing when the magistrate so requires. The proposal continues this provision, but expressly authorizes either party to have a record prepared at his own expense.

Section superseded. 62-617.

22-905. *Proceedings After the Preliminary Examination.* (1) When a defendant is bound over to the district court for a crime charged against him, the magistrate shall forthwith prepare a transcript of all proceedings before him and shall certify and transmit such transcript, together with the appearance bond and any security taken by him, to the clerk of the district court in which the accused is ordered to appear.

(2) When a defendant is bound over to the district court, the prosecuting attorney shall file an information in the office of the clerk of the district court, charging the crime for which the defendant was bound over.

(3) When the defendant is bound over to the district court, the magistrate shall fix the type of bond which will assure the appearance of the defendant in the district court and the amount and conditions of such bond in accordance with the provisions of section 22-802. If the bond given in the magistrate court is continuing in nature and is conditioned upon the appearance of the defendant before the magistrate and before the district court, if bound over, then no new bond shall be required unless the magistrate or district judge before whom the case is pending shall find that the appearance bond previously given to the magistrate or the sureties thereon are insufficient to secure the appearance of the defendant in the district court. If the amount of the appearance bond is increased, the appearance bond previously given shall continue in force and effect and the defendant shall be required to furnish an additional appearance bond only in such amount as the new appearance bond may exceed the appearance bond previously furnished.

Article X. *Grand Juries*

22-1001. *Summoning Grand Juries.* (1) The district judge, or, in a multi-judge district, the district judges acting *en banc,* may order a grand jury to be summoned in any county in the district when it is determined to be in the public interest.

(2) A grand jury shall be summoned in any county within sixty days after a petition praying therefor shall be presented to the district court bearing the signatures of a number of electors equal to one hundred plus two percent of the total number of votes cast for governor in the county in the last preceding election. The petition shall be in substantially the following form:

> The undersigned qualified electors of the county of _____ and state of Kansas hereby request that the District Court of _____ County, Kansas, within 60 days after the filing of this petition, cause a grand jury to be summoned in the county to investigate alleged violations of law and to perform such other duties as may be authorized by law.

The signatures to the petition need not all be affixed to one paper, but each paper to which signatures are affixed shall have substantially the foregoing form written or printed at the top thereof. Each signer shall add to his signature his place of residence, giving the street and number or rural route number, if any, and shall show the precinct and ward or township of which he is an elector. One of the signers of each paper shall verify upon oath that each signanature appearing on the paper is the genuine signature of the person whose name it purports to be and that he believes that the statements in the petition are true. The petition shall be filed in the

office of the clerk of the district court who shall forthwith transmit it to the election commissioner in a county having an election commissioner, or the county clerk in other counties who shall determine whether the persons whose signatures are affixed to the petition are qualified electors of the county. Thereupon, the election commissioner or county clerk, as the case may be, shall return the petition to the clerk of the district court, together with his certificate stating the number of qualified electors of the county whose signatures appear on the petition and the aggregate number of votes cast for all candidates for governor in the county in the last preceding election. The judge or judges of the district court shall then consider the petition and if it is found that the petition is in proper form and bears the signatures of the required number of electors, a grand jury shall be ordered to be summoned.

(3) The grand jury shall consist of fifteen members and shall be drawn and summoned in the same manner as petit jurors for the district court. Twelve members thereof shall constitute a quorum. The judge or judges ordering the grand jury shall direct that a sufficient number of legally qualified persons be summoned for service as grand jurors.

COMMENT

At common law prosecution for all serious crimes was upon indictment by grand jury. This method of prosecution was used in Kansas at the beginning of statehood. In 1868 the legislature provided for the commencement of prosecutions by information, and further provided that grand juries should be summoned only when ordered by the district court. (G. S. 1868, ch. 82, secs. 66 and 73.) In 1887 the law was amended to require that grand juries be called at two terms each year in the district court of each organized county (Laws of 1887, ch. 167). The amendment also provided for the summoning of a grand jury upon the presentation of a petition signed by 200 taxpayers. An amendment in 1889 provided for the calling of a grand jury upon presentation of a petition but permitted the district court to decline to summon if it deemed the grand jury unnecessary. (Laws of 1889, ch. 153.) A 1901 enactment required the calling of a grand jury for a particular term upon the presentation of petitions, but authorized it in no other case. (Laws of 1901, ch. 235.) The present provision, enacted in 1935, is to the same effect (K. S. A. 62-901). The normal manner of commencing a prosecution in Kansas is by complaint or information, and the grand jury is rarely used and only under extraordinary circumstances.

Despite its relative non-use, the continuation of the grand jury is recommended. There are several reasons for the recommendation. First, it gives to the people an instrumentality for investigation in areas where official action is

deemed not responsive to or consistent with the public interest. Secondly, possibility of the grand jury investigation constitutes a wholesome check upon official action. Finally, the recommendation anticipates the prospect of the Fifth Amendment guarantee of indictment by grand jury being held applicable to the states.

The proposal combines elements of Rule 6 (*a*), F. R. Cr. P. and K. S. A. 62-901 and 62-902. It enlarges the present law in that it permits the calling of a grand jury upon a judicial determination that it is required by the public interest. Also, it requires that a grand jury be called when a petition is filed by a sufficient number of electors. The latter alternative is similar to the present law.

Also, the proposal does not limit the grand jury to a particular term as does the present law.

Sections superseded. 62-901, 62-902.

22-1002. *Objections.* (1) The prosecuting attorney may challenge the array of jurors on the ground that the grand jury was not selected, drawn or summoned in accordance with law, and may challenge an individual juror on the ground that the juror is not legally qualified. Challenges by the state shall be made before the administration of the oath to the jurors and shall be tried by the court.

(2) A motion to dismiss the indictment made by the defendant may be based on objections to the array or on the lack of legal qualification of an individual juror. An indictment shall not be dismissed on the ground that one or more members of the grand jury were not legally qualified if it appears from the record kept pursuant to section 22-1004 that 12 or more jurors, after deducting the jurors not legally qualified, concurred in finding the indictment.

COMMENT

See Rule 6 (*b*), F. R. Cr. P., for federal counterpart.

Sections superseded. 62-907, 62-908, 62-909.

22-1003. *Oath of Grand Jurors.* An oath or affirmation shall be administered to the members of the grand jury, which, in substance, shall be as follows:

"You, and each of you, do solemnly swear (or affirm) that you will support the Constitution of the United States and the Constitution of the State of Kansas; that you will abide by the instructions of the Court and faithfully discharge the duties of a grand juror. So help you God." (Omit last sentence in case of affirmation and add "under pains and penalties of perjury.")

COMMENT

This is essentially the language of the oath to public officers of Kansas, adapted for use of grand jurors.

Sections superseded. 62-905, 62-906.

22-1004. *Foreman and Deputy Foreman.* The court shall appoint one of the jurors to be foreman and another to be deputy foreman. The foreman shall have power to administer oaths and affirmations and shall sign all indictments. He or another juror designated by him shall keep a record of the name of each juror concurring in the finding of every indictment and shall file the record with the clerk of the court, but the record shall not be made public except on order of the court. During the absence of the foreman, the deputy foreman shall act as foreman.

COMMENT

See Rule 6 (*c*), F. R. Cr. P.

Sections superseded. 62-904, 62-905, 62-906, 62-910, 62-911.

22-1005. *Charge by the Court.* (1) When a grand jury is impaneled and sworn, it shall be charged by the judge who summoned it. In so doing, the judge shall give the grand jurors such information as he deems proper and as is required by law, as to their duties, and as to any charges of crimes known to the court and likely to come before the grand jury.

(2) When the grand jury has been impaneled, sworn and charged, it shall retire to a private room, and inquire into the crimes cognizable by it.

COMMENT

Adapted from Montana, 95-1404.

22-1006. *Compensation; Employees.* (1) Persons summoned for service as grand jurors shall be compensated for their service and expenses at the rates provided by law for the compensation of petit jurors in the district court. Such compensation shall be paid from the general fund of the county.

(2) The grand jury shall employ a certified shorthand reporter who shall make a stenographic record of all testimony and other proceedings before the grand jury. The compensation of the reporter shall be fixed by the district court and paid from the general fund of the county.

(3) The grand jury may, with the approval of the district court, employ special counsel, investigators, and incur such other expense

for services and supplies as it and the court may deem necessary. Compensation for such services and supplies shall be fixed by the district court and shall be paid from the general fund of the county.

COMMENT

The proposal is self-explanatory.

Sections superseded. 62-912, 62-913.

22-1007. *Duty of Prosecuting Attorney.* (1) When requested by any grand jury it shall be the duty of the prosecuting attorney to attend sessions thereof for the purpose of examining witnesses or giving the grand jury advice upon any legal matter.

(2) The prosecuting attorney shall, upon his request, be permitted to appear before the grand jury for the purpose of giving information relative to any matter cognizable by the grand jury, and may be permitted to interrogate witnesses if the grand jury deems it necessary.

COMMENT

The proposal differs from present provisions in that it permits the prosecuting attorney to examine witnesses only if requested by the grand jury.

Sections superseded. 62-914, 62-915.

22-1008. *Witnesses; Examination.* (1) Whenever required by any grand jury, or the foreman thereof, or by the prosecuting attorney, the clerk of the court in which such jury is impaneled shall issue subpoenas and other process to bring witnesses to testify before such grand jury.

(2) If any witness duly summoned to appear and testify before a grand jury shall fail or refuse to obey, compulsory process shall be issued to enforce his attendance, and the court may punish the delinquent in the same manner and upon like proceedings as provided by law for disobedience of a subpoena issued out of such court in other cases.

(3) If any witness appearing before a grand jury shall refuse to testify or to answer any questions asked in the course of his examination, the fact shall be communicated to the district judge in writing, on which the question refused to be answered shall be stated, and the judge shall thereupon determine whether the witness is bound to answer or not, and the grand jury shall be immediately informed of the decision.

(4) No witness before a grand jury shall be required to incriminate himself. The district judge may, if he determines that the

interests of justice require, grant any witness before the grand jury immunity from prosecution or punishment on account of any matter concerning which he shall be compelled to testify. Prior to any such grant of immunity, notice shall be given to the prosecuting attorney whose recommendations on the matter of the grant of immunity shall be heard by the judge before the grant of immunity is made.

(5) If the judge determines that the witness must answer, and if the witness persists in his refusal to answer, he shall be brought before the judge, which shall proceed in the same manner as if the witness had been interrogated and had refused to answer in open court.

Sections superseded. 62-916, 62-917, 62-918, 62-919, 62-920.

22-1009. *Counsel for Witness.* (1) Any person called to testify before a grand jury must be informed that he has a right to be advised by counsel and that he may not be required to make any statement which will incriminate him. Upon a request by such person for counsel, no further examination of the witness shall take place until counsel is present. In the event that counsel of the witness' choice is not available, he shall be required to obtain other counsel in order that the work of the grand jury may proceed. If such person is indigent and unable to obtain the services of counsel, the court shall appoint counsel to assist him who shall be compensated as counsel appointed for indigent defendants in the district court.

(2) Counsel for any witness may be present while the witness is testifying and may interpose objections on behalf of the witness. He shall not be permitted to examine or cross examine his client or any other witness before the grand jury.

COMMENT

The general rule appears to be that a witness who is not in custody and against whom an indictment is not being sought, need not be advised of his Fifth and Sixth Amendment rights before testifying. In every case, however, he retains the right to refuse to answer incriminating questions as they are asked. In most jurisdictions the witness has no right to have counsel present while he is being interrogated by the grand jury.

Important rights are placed in jeopardy when the witness testifies in a grand jury investigation. Questions involving possible self-incrimination, privileged communications, pertinency and other legal limitations designed to protect the individual are inevitable in such a proceeding.

In the light of current recognition of the importance of counsel in providing effective notice of rights, it is difficult to maintain that the state ought to be

permitted to compel individuals to make binding decisions concerning these rights in the enforced absence of counsel. Hence, the traditional approach is abandoned.

The proposal follows, in part, section 77-19-3 of the Utah Code. It goes further than the Utah provision in that it requires appointment of counsel for the indigent witness.

22-1010. *Who May Be Present.* Prosecuting attorneys, special counsel employed by the grand jury, the witness under examination and his counsel, interpreters when needed and, for the purpose of taking the evidence, the reporter for the grand jury, may be present while the grand jury is in session, but no person other than the jurors may be present while the grand jury is deliberating or voting.

COMMENT

Similar to Rule 6 (*d*), F. R. Cr. P. The proposal goes further than the federal rule in that it authorizes counsel for the witness to be present.

22-1011. *Finding and Return of Indictment.* (1) An indictment may be found only on the concurrence of 12 or more grand jurors. When an indictment is found the foreman shall endorse thereon "a true bill" and shall sign his name as foreman.

(2) When 12 or more grand jurors do not concur in finding an indictment, the foreman shall certify that such indictment is "not a true bill."

(3) Indictments found by the grand jury shall be presented by their foreman in their presence to the court, and shall be filed and remain as records of the court.

Sections superseded. 62-927, 62-928, 62-929.

22-1012. *Secrecy of Proceedings and Disclosure.* Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror may be made to the prosecuting attorney for use in the performance of his duties. Otherwise a juror, attorney, interpreter, reporter or any typist who transcribes recorded testimony may disclose matters occurring before the grand jury only when so directed by the court preliminarily to or in connection with a judicial proceeding or when permitted by the court at the request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury. No obligation of secrecy may be imposed upon any person except in accordance with this rule. The court may direct that an indictment shall be kept secret until the defendant is in custody or has given bail, and in that event the clerk

shall seal the indictment and no person shall disclose the finding of the indictment except when necesary for the issuance and execution of a warrant or summons.

COMMENT

See Rule 6 (*e*), F. R. Cr. P.

Sections superseded. 62-923, 62-924, 62-925, 62-926.

22-1013. *Discharge and Excuse.* (1) A grand jury shall serve until it shall advise the court in writing that it has completed its investigation, but no grand jury shall serve for more than three months unless extended by order of the district court. The district court may, before the expiration of the tenure of a grand jury, make an order extending such grand jury for an additional period of not to exceed three months if the court finds that an investigation begun by the grand jury cannot be completed within the initial three months period and that the public interest requires the continuation of the grand jury. The tenure and powers of a grand jury are not affected by the beginning or expiration of a term of court.

(2) At any time for cause shown the court may excuse a juror either temporarily or permanently, and in the latter event the court may impanel another person in place of the juror excused.

COMMENT

Grand juries presently serve during the term of court for which they are summoned. Neither the court nor the grand jury can extend its existence beyond the end of the term (*In re Frye,* 173 Kan. 392).

For most purposes, terms of Kansas district courts are no longer significant. Thus, the proposal specifies a period of three months service for the grand jury, without regard to terms of court, with power in the court to extend the life of the grand jury for an additional three months period.

Subsection (2) is taken from Rule 6 (*g*), F. R. Cr. P.

22-1014. *Witness Fees.* Witnesses attending a grand jury in response to a subpoena shall be allowed the same fees as are allowed witnesses in criminal cases in the district court; such fees are to be paid from the general fund of the county upon a certificate of attendance signed by the foreman of the grand jury.

Article XI. *Inquisitions in Criminal Cases*

22-1101. *Inquisitions; Witnesses.* (1) If the attorney general, an assistant attorney general, or the county attorney of any county is informed or has knowledge of any alleged violation of the laws of Kansas, he may apply to a judge of the district court to conduct

an inquisition. An application for an inquisition shall be in writing, verified under oath, setting forth the alleged violation of law. Upon the filing of the application, the judge with whom it is filed shall, on the written praecipe of the attorney general, assistant attorney general or county attorney, issue a subpoena for the witnesses named in such praecipe commanding them to appear and testify concerning the matters under investigation. Such subpoenas shall be served and returned as subpoenas for witnesses in criminal cases in the district court.

(2) Each witness shall be sworn to make true answers to all questions propounded to him touching the matters under investigation. The testimony of each witness shall be reduced to writing and signed by the witness. Any person who disobeys the subpoena issued by the judge or refuses to be sworn as a witness or answer any proper question propounded during the inquisition, may be adjudged in contempt of court and punished by fine and imprisonment.

22-1102. *Privilege Against Self-Incrimination; Grants of Immunity.* No person called as a witness at an inquisition shall be required to make any statement which will incriminate him. The attorney general, assistant attorney general or county attorney may, on behalf of the state, grant any person called as a witness at an inquisition immunity from prosecution or punishment on account of any transaction or matter about which such person shall be compelled to testify and such testimony shall not be used against such person in any prosecution for a crime under the laws of Kansas or any municipal ordinance. After being granted immunity from prosecution or punishment, as herein provided, no person shall be excused from testifying on the ground that his testimony may incriminate him.

22-1103. *Use of Testimony.* If the testimony taken at an inquisition discloses probable cause to believe that a crime has been committed within the county, the attorney general, assistant attorney general or county attorney may file such testimony, together with his complaint or information, verified on information and belief, against the person or persons alleged to have committed the crime. The complaint and the testimony filed therewith shall have the same effect as if the complaint or information had been verified positively and a warrant shall thereupon be issued for the arrest of such person or persons as in other criminal cases.

22-1104. *Counsel for Witness.* (1) Any person called to testify at an inquisition must be informed that he has a right to be advised by counsel and that he may not be required to make any statement which will incriminate him. Upon a request by such person for counsel, no further examination of the witness shall take place until counsel is present. In the event that counsel of the witness' choice is not available, he shall be required to obtain other counsel in order that the inquisition may proceed. If such person is indigent and unable to obtain the services of counsel, the judge shall appoint counsel to assist him who shall be compensated as counsel appointed for indigent defendants in the district court.

(2) Counsel for any witness shall be present while the witness is testifying and may interpose objections on behalf of the witness. He shall not be permitted to examine or cross examine his client or any other witness at the inquisition.

22-1105. *Witness Fees.* Witnesses attending an inquisition in response to a subpoena shall be allowed the same fees as are allowed witnesses in criminal cases in the district court; such fees are to be paid by the county in which the inquisition is held upon a certificate of attendance signed by the judge before whom the witness has appeared.

COMMENT

Present Kansas statutes provided for two general types of inquisition proceedings:

(*a*) In cases involving alleged violations of the laws relating to gambling or intoxicating liquors or where the accused is a fugitive from justice, the county attorney or attorney general may, upon his own initiative, call and examine witnesses. In such instances the presence of a judge or magistrate is not required.

(*b*) In cases not included in (*a*) above, the county attorney may file a statement before a judge or magistrate alleging violations of law and cause the judge to subpoena witnesses for interrogation. In this case, the examination of witnesses must be in the presence of the judge or magistrate.

The proposal is that all inquisitions be conducted before a district judge. The inquisition may intrude upon sensitive areas, involving self-incrimination, privileged communications, grants of immunity, and other important rights of the witness called to testify. Hence, it seems appropriate that in all cases the inquisition should be subject to mature judicial supervision and control. For the same reasons, the proposal provides for counsel to advise the witness concerning his testimony.

Except for the matters noted, the proposal is substantially like the present law.

Sections superseded. 62-301, 62-302.

Article XII. *Proceedings Before Trial*

22-1201. *The Charge.* (1) Prosecutions in the district court shall be upon indictment or information. Prosecutions in other courts shall be upon complaint.

(2) The complaint, information or indictment shall be a plain, concise and definite written statement of the essential facts constituting the crime charged. An indictment shall be signed by the foreman of the grand jury. An information shall be signed by the county attorney, the attorney general, or any legally appointed assistant or deputy of either. A complaint shall be signed by some person with knowledge of the facts. Allegations made in one count may be incorporated by reference in another count. The complaint, information or indictment shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged to have violated. Error in the citation or its omission shall not be ground for dismissal of the complaint, information or indictment or for reversal of a conviction if the error or omission did not prejudice the defendant.

(3) The court may strike surplusage from the complaint, information or indictment.

(4) The court may permit a complaint or information to be amended at any time before verdict or finding if no additional or different crime is charged and if substantial rights of the defendant are not prejudiced.

(5) When a complaint, information or indictment charges a crime but fails to specify the particulars of the crime sufficiently to enable the defendant to prepare his defense the court may, on written motion of the defendant, require the prosecuting attorney to furnish the defendant with a bill of particulars. At the trial the state's evidence shall be confined to the particulars of the bill.

(6) The prosecuting attorney shall endorse the names of all witnesses known to him upon the information or indictment at the time of filing the same. He may endorse thereon the names of other witnesses as may afterward become known to him, at such times as the court may rule or otherwise prescribe.

COMMENT

Subsection (1) reflects the present practice in Kansas. Subsections (2), (3) and (4) are modifications of Rule 7, F. R. Cr. P. Subsection (5) is from Illinois Code of Criminal Procedure, 47-6. Subsection (6) is taken from K. S. A. 62-802.

Sections superseded. 62-801, 62-802, 62-803.

22-1202. *Joinder of Charges and Defendants.* (1) Two or more crimes may be charged against a defendant in the same complaint, information or indictment in a separate count for each crime if the crimes charged, whether felonies or misdemeanors or both, are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

(2) When a felony and misdemeanor are joined as separate counts in the same complaint, both of such counts shall be tried together in the district court to which the defendant is bound over on the felony count. If the defendant is not bound over on the felony count, he shall be tried on the misdemeanor count by the magistrate before whom the complaint was filed.

(3) Two or more defendants may be charged in the same complaint, information or indictment if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting the crime or crimes. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

COMMENT

Subsections (1) and (3) follow Rule 8, F. R. Cr. P. Subsection (2) is suggested by the committee.

22-1203. *Consolidation for Trial of Separate Indictments or Informations.* The court may order two or more complaints, informations or indictments against a single defendant to be tried together if the crimes could have been joined in a single complaint, information or indictment.

COMMENT

See Rule 13, Federal Rules of Criminal Procedure, with modifications. For criteria governing joinder of crimes in a single charge, see section 22-1202, *supra*.

Sections superseded. 62-1024.

22-1204. *Joinder of Defendants; Separate Trials.* When two or more defendants are jointly charged with any felony, the court shall order a separate trial for any one defendant when requested by such defendant or by the prosecuting attorney; in other cases defendants jointly charged shall be tried separately or jointly, in the discretion of the court.

COMMENT

The proposal preserves the present right of the defendant to a separate trial, but accords a similar right to the state. This is in contrast to Federal Rule 14 which requires that separate trials be ordered only when necessary to avoid prejudice.

Section superseded. 62-1429.

22-1205. *Arraignment.* Arraignment shall be conducted in open court and shall consist of reading the complaint, information or indictment to the defendant or stating to him the substance of the charge and calling upon him to plead thereto. He shall be given a copy of the indictment or information before he is called upon to plead. If the crime charged is a felony, the defendant must be personally present for arraignment; if a misdemeanor, he may with the approval of the court, appear by counsel. The court may direct any officer who has custody of the defendant to bring him before the court to be arraigned.

COMMENT

See Rule 1, Federal Rules of Criminal Procedure, and sections 95-1603 and 95-1604, Proposed Montana Code.

22-1206. *Time of Arraignment.* (1) A defendant charged with a felony in an information shall appear for arraignment upon such information in the district court on the next required day of court which occurs ten or more days after the order of the magistrate binding the defendant to appear in the district court for trial, unless a later time is requested or consented to by the defendant and approved by the court.

(2) A defendant charged with a felony in an indictment shall appear for arraignment upon such indictment in the district court on the next required day of court which occurs ten or more days after his arrest upon a warrant issued on the indictment, unless a later time is requested or consented to by the defendant and approved by the court.

(3) In every judicial district, the judge or judges thereof shall provide by order for one or more required days of court each month in each county of the district, at which time a judge will be personally present at the courthouse for the purpose of conducting arraignments.

COMMENT

The present statutes do not provide expressly when the defendant will be arraigned in the district court. Apparently in most counties the practice is to arraign on the first day of each term all defendants against whom informations

and indictments have been filed during the prior term. This practice often results in a considerable amount of delay. The delay is sometimes compounded by an undue lapse of time between the preliminary examination and the filing of the information.

The proposal seeks to expedite the process by requiring that the defendant be arraigned within a relatively short time after the preliminary hearing or indictment.

Implicit in the proposal is the duty of the prosecuting attorney to file the information or indictment prior to the time for appearance.

22-1207. *Misnomer.* (1) If a defendant be charged or prosecuted by a wrong name, unless he declare his true name before pleading he shall be proceeded against by the name in the complaint, information or indictment.

(2) If the defendant states that another name is his true name, it shall be entered on the minutes of the court; and the subsequent proceedings on the complaint, information or indictment may be had against him by that name.

COMMENT

The proposal restates K. S. A. 62-1434 and 62-1435.

22-1208. *Pleadings and Motions.* (1) Pleadings in criminal proceedings shall be the complaint, information or indictment, and the pleas of not guilty, guilty or with the consent of the court, *nolo contendere.* All other pleas, demurrers and motions to quash are abolished and defenses and objections raised before trial which heretofore could have been raised by one or more of them shall be raised only by motion to dismiss or to grant appropriate relief.

(2) Any defense or objection which is capable of determination without the trial of the general issue may be raised before trial by motion.

(3) Defenses and objections based on defects in the institution of the prosecution or in the complaint, information or indictment other than that it fails to show jurisdiction in the court or to charge a crime may be raised only by motion before trial. The motion shall include all such defenses and objections then available to the defendant. Failure to present any such defense or objection as herein provided constitutes a waiver thereof, but the court for cause shown may grant relief from the waiver. Lack of jurisdiction or the failure of the complaint, information or indictment to charge a crime shall be noticed by the court at any time during the pendency of the proceeding.

(4) The motion to dismiss shall be made at any time prior to arraignment or within 20 days after the plea is entered. The period

for filing such motion may be enlarged by the court when it shall find that the grounds therefor were not known to the defendant and could not with reasonable diligence have been discovered by him within the period specified herein. A plea of guilty or a consent to trial upon a complaint, information or indictment shall constitute a waiver of defenses and objections based upon the institution of the prosecution or defects in the complaint, information or indictment other than it fails to show jurisdiction in the court or to charge a crime.

(5) A motion before trial raising defenses or objections to prosecution shall be determined before trial unless the court orders that it be deferred for determination at the trial.

(6) If a motion is determined adversely to the defendant he shall then plead if he had not previously pleaded. A plea previously entered shall stand. If the court grants a motion based on a defect in the institution of the prosecution or in the complaint, information or indictment, it may also order that the defendant be held in custody or that his appearance bond be continued for a specified time not exceeding one day pending the filing of a new complaint, information or indictment.

COMMENTS

Follows Rule 12, Federal Rules of Criminal Procedure with modifications. See 21-3106 for effect with respect to statutes of limitations.

Section superseded. 62-1436.

22-1209. *Pleas: Effect.* (1) A plea of guilty is admission of the truth of the charge and every material fact alleged therein.

(2) A plea of *nolo contendere* is a formal declaration that the defendant does not contest the charge. When a plea of *nolo contendere* is accepted by the court, a finding of guilty may be adjudged thereon. The plea cannot be used against the defendant as an admission in any other action based on the same act.

(3) A plea of not guilty denies and put in issue every material fact alleged in the charge.

(4) If a defendant refuses to plead or if a defendant corporation fails to appear, the court shall enter a plea of not guilty on behalf of the defendant.

22-1210. *Plea of Guilty or Nolo Contendere.* Before or during trial a plea of guilty or *nolo contendere* may be accepted when:

(1) The defendant or his counsel enters such plea in open court; and

(2) In felony cases the court has informed the defendant of the consequences of his plea and of the maximum penalty provided by law which may be imposed upon acceptance of such plea; and

(3) In felony cases the court has addressed the defendant personally and determined that the plea is made voluntarily with understanding of the nature of the charge and the consequences of the plea; and

(4) The court is satisfied that there is a factual basis for the plea.

(5) In felony cases the defendant must appear and plead personally and a record of all proceedings at the plea and entry of judgment thereon shall be made and a transcript thereof shall be prepared and filed with the other papers in the case.

(6) In misdemeanor cases the court may allow the defendant to appear and plead by counsel.

(7) A plea of guilty or *nolo contendere* may be withdrawn at any time before sentence is adjudged. To correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his plea.

COMMENT

Many current post-conviction proceedings raise questions concerning pleas of guilty. Claims of coercion, lack of advice and lack of understanding are common in such cases. The proposal seeks to avoid these problems.

22-1211. *Depositions.* (1) If it appears that a prospective witness may be unable to attend or prevented from attending a trial or hearing, that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice, the court at any time after the filing of an information or indictment may upon motion of a defendant and notice to the parties order that his testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place.

(2) If a witness is committed for failure to give bond to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may order that his deposition be taken. After the deposition has been subscribed the court may discharge the witness.

(3) The prosecuting attorney may apply to the court for an order authorizing him to take the deposition of any witness for any of the reasons and subject to the limitations stated in subsection (1). Upon the filing of such application, the court shall set the matter

for hearing and shall make an order requiring the defendant to be present at such hearing. If, upon hearing, the court determines that a prospective witness may be unable to attend or prevented from attending a trial or hearing, that his testimony is material and that it is necessary to prevent a failure of justice the court may authorize the prosecuting attorney to take the deposition of such witness in the county where the information or indictment has been filed.

(4) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time.

(5) A deposition shall be taken in the manner provided in civil actions. The court upon request of the defendant may direct that a deposition be taken on written interrogatories in the manner provided in civil actions.

(6) In every instance in which the court authorizes the taking of a deposition, other than a deposition upon written interrogatories, the court shall make a concurrent order requiring that the defendant be present when the deposition is taken. If it appears that the presence of the defendant may be coercive to the witness whose deposition is to be taken, the court shall order that the deposition be taken before a judge.

(7) At the trial or upon any hearing, a part or all of a deposition, so far as otherwise admissible under the rules of evidence, may be used if it appears:

(*a*) That the witness is dead; or

(*b*) That the witness is out of the state of Kansas and his appearance cannot be obtained, unless it appears that the absence of the witness was procured by the party offering the deposition; or

(*c*) That the witness is unable to attend or testify because of sickness or infirmity; or

(*d*) That the party offering the deposition has been unable to procure the attendance of the witness by subpoena or other process.

Any deposition may also be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness. If only a part of a deposition is offered in evidence by a party, an adverse party may require him to offer all of it which is relevant to the part offered and any party may offer other parts.

(8) Objections to receiving in evidence a deposition or part thereof may be made as provided in civil actions.

COMMENT

The proposal follows Rule 15, Federal Rules of Criminal Procedure.

22-1212. *Discovery and Inspection.* (1) Upon motion of a defendant the court may order the prosecuting attorney to permit the defendant to inspect and copy or photograph any relevant (*a*) written or recorded statements or confessions made by the defendant, or copies thereof, which are or have been in the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (*b*) results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case, or copies thereof, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (*c*) recorded testimony of the defendant before a grand jury or at an inquisition; and (*d*) memoranda of any oral confession made by the defendant and a list of the witnesses to such confession, the existence of which is known, or by the exercise of due diligence may become known to the prosecuting attorney.

(2) Upon motion of a defendant the court may order the prosecuting attorney to permit the defendant to inspect and copy or photograph books, papers, documents, tangible objects, buildings or places, or copies or portions thereof, which are or have been within the possession, custody or control of the prosecution upon a showing of materiality to the case and that the request is reasonable. Except as provided in subsections (1) (*b*) and (1) (*d*), this section does not authorize the discovery or inspection of reports, memoranda, or other internal state government documents made by state officers in connection with the investigation or prosecution of the case, or of statements made by state witnesses or prospective state witnesses (other than the defendant) to agents of the state except as may be provided by law.

(3) If the court grants relief sought by the defendant under subsection (1) (*b*) or subsection (2) of this section, it may, upon motion of the prosecution, condition its order by requiring that the defendant permit the attorney for the prosecution to inspect and copy or photograph scientific or medical reports, books, papers, documents, tangible objects, or copies or portions thereof, which the defendant intends to produce at the trial, upon a showing of materiality to the case and that the request is reasonable. Except as

to scientific or medical reports, this subsection does not authorize the discovery or inspection of reports, memoranda, or other internal defense documents made by the defendant, or his attorneys or agents in connection with the investigation or defense of the case, or of statements made by the defendant, or by prosecution or defense witnesses, or by prospective prosecution or defense witnesses, to the defendant, his agents or attorneys.

(4) An order of the court granting relief under this section shall specify the time, place and manner of making the discovery and inspection permitted and may prescribe such terms and conditions as are just.

(5) Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted or deferred or make such other order as is appropriate. Upon motion by the prosecution the court may permit the prosecution to make such showing, in whole or in part, in the form of a written statement to be inspected privately by the court. If the court enters an order granting relief following such a private showing, the entire text of the prosecution statement shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal by the defendant.

(6) A motion under this section may be made only within 10 days after arraignment or at such reasonable later time as the court may permit. The motion shall include all relief sought under this section. A subsequent motion may be made only upon a showing of cause why such motion would be in the interest of justice.

(7) If, subsequent to compliance with an order issued pursuant to this section, and prior to or during trial, a party discovers additional material previously requested or ordered which is subject to discovery or inspection under this section, he shall promptly notify the other party or his attorney or the court of the existence of the additional material. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this section or with an order issued pursuant to this section, the court may order such party to permit the discovery or inspection of materials not previously disclosed, grant a continuance, or prohibit the party from introducing in evidence the material not disclosed, or it may enter such other order as it deems just under the circumstances.

COMMENT

This proposal is based upon Rule 16, F. R. Cr. P. There are no parallel provisions in the present statutes of Kansas.

22-1213. *Demands for Production of Statements and Reports of Witnesses.* (1) In any criminal prosecution brought by the state of Kansas, no statement or report in the possession of the prosecution which was made by a state witness or prospective state witness (other than the defendant) to an agent of the state shall be the subject of subpoena, discovery, or inspection until said witness has testified on direct examination in the trial of the case.

(2) After a witness called by the state has testified on direct examination, the court shall, on motion of the defendant, order the prosecution to produce any statement (as hereinafter defined) of the witness in the possession of the prosecution which relates to the subject matter as to which the witness has testified. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.

(3) If the prosecution claims that any statement ordered to be produced under this section contains matter which does not relate to the subject matter of the testimony of the witness, the court shall order the prosecution to deliver such statement for the inspection of the court in camera. Upon such delivery the court shall exercise the portions of such statement which do not relate to the subject matter of the testimony of the witness. With such material excised, the court shall then direct delivery of such statement to the defendant for his use. If, pursuant to such procedure, any portion of such statement is withheld from the defendant and the defendant objects to such withholding, and the trial is continued to an adjudication of the guilt of the defendant, the entire text of such statement shall be preserved by the prosecution and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defendant pursuant to this section, the court in its discretion, upon application of said defendant, may recess proceedings in the trial for such time as it may determine to be reasonably required for the examination of such statement by said defendant and his preparation for its use in the trial.

(4) The term "statement," as used in subsections (2) and (3) of this section in relation to any witness called by the prosecution means—

(*a*) a written statement made by said witness and signed or otherwise adopted or approved by him; or

(*b*) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the state and recorded contemporaneously with the making of such oral statement.

COMMENT

The foregoing section is patterned after 18 U. S. C., sec. 3500, commonly referred to as the Jencks Act. The effect of the section is to make available to the defendant, for purposes of cross-examination, the prior statements given to state investigators by persons called as prosecution witnesses. "Statement" is defined as including a written statement and a substantially verbatim contemporaneous recording of an oral statement.

The federal act permits the prosecuting attorney to elect not to comply with the order to produce statements, subject to the condition that the testimony of the witness be stricken or a mistrial declared. [See 18 U. S. C., sec. 3500 (*d*).] This provision has been deleted by the advisory committee.

22-1214. *Subpoenas.* (1) The prosecution and any person charged with a crime shall be entitled to the use of subpoenas and other compulsory process to obtain the attendance of witnesses. Except as otherwise provided by law, such subpoenas and other compulsory process shall be issued and served in the same manner and the disobedience thereof punished the same as in civil cases.

(2) All courts having criminal jurisdiction shall have the power to compel the attendance of witnesses from any county in the state to testify either for the prosecution or for the defendant.

(3) It shall not be necessary to tender any fee or mileage allowance to any witness when he is served with a subpoena to attend any criminal case and give testimony either on behalf of the prosecution or the defendant.

COMMENT

Subpoenas in civil cases, including deposition proceedings, are governed by K. S. A. 60-245. It is the intent of this proposal that that section also govern process for witnesses in criminal cases. The proposed section is intended to emphasize and define the right of the parties and the power of the court to compel testimony in criminal cases.

Sections superseded. 62-1308, 62-1309, 62-1310, 62-1311, 62-1312, 62-1313, 62-1314, 62-1315.

22-1215. *Motion to Suppress Confession or Admission.* (1) Prior to the trial a defendant may move to suppress as evidence any confession or admission given by him on the ground that it is not admissible as evidence.

(2) The motion shall be in writing and shall allege the grounds upon which it is claimed that the confession or admission is not admissible as evidence.

(3) If the motion alleges grounds which, if proved, would show the confession or admission not to be admissible the court shall conduct a hearing into the merits of the motion.

(4) The burden of proving that a confession or admission is admissible shall be on the prosecution.

(5) The issue of the admissibility of the confession or admission shall not be submitted to the jury. The circumstances surrounding the making of the confession or admission may be submitted to the jury as bearing upon the credibility or the weight to be given to the confession or admission.

(6) The motion shall be made before trial, unless opportunity therefor did not exist or the defendant was not aware of the ground for the motion, but the court in its discretion may entertain the motion at the trial.

COMMENT

This section provides for the suppression of an involuntary confession or admission. The determination of when a confession or admission is voluntary is to be made on a continuing case by case method. The truth or falsity of a confession is not to be considered in determining its voluntariness. The tests set forth by the U. S. Supreme Court will govern the determination of motions under this section.

22-1216. *Motion to Suppress Illegally Seized Evidence.* (1) Prior to the trial a defendant aggrieved by an unlawful search and seizure may move for the return of property and to suppress as evidence anything so obtained.

(2) The motion shall be in writing and state facts showing wherein the search and seizure were unlawful. The judge shall receive evidence on any issue of fact necessary to determine the motion and the burden of proving that the search and seizure were lawful shall be on the prosecution. If the motion is granted the property shall be restored, unless otherwise subject to lawful detention, and it shall not be admissible in evidence against the movant at any trial.

(3) The motion shall be made before trial, unless opportunity therefor did not exist or the defendant was not aware of the ground for the motion, but the court in its discretion may entertain the motion at the trial.

COMMENT

This section provides the machinery for enforcing the constitutional protection against illegal searches and seizures as found in Kansas constitution, B. of R., sec. 15, and U. S. Constitution, 14th Amendment which applies to the states since *Mapp v. Ohio,* 367 U. S. 643. In accordance with *Mapp,* the 14th Amendment denies the admission of illegally seized evidence. This section continues the requirement that the motion be made before trial but subsection (3) provides that if the grounds for the motion were unknown to the defendant he may make it later. Montana Code, 95-1806 is the basis for the proposal.

The procedure to be followed by state courts in determining the voluntariness of a confession has been set forth in the case of *Jackson v. Denno,* 378 U. S. 368. This case requires that the court must first hold an evidentiary hearing regarding the confession outside the presence of the jury. The court must then make a determination whether the purported confession was voluntary or involuntary. If the confession is found to be involuntary it may not be admitted into evidence. If it is found to be voluntary it may be admitted for consideration by the jury. This procedure must be followed whenever the voluntariness of a confession is put in issue, whether by motion prior to trial as provided for by this section or by objection during trial.

The proposal follows the Montana Code, 95-1805.

22-1217. *Pretrial Conference.* At any time after the filing of the indictment or information the court upon motion of any party or upon its own motion may order one or more conferences to consider such matters as will promote a fair and expeditious trial. At the conclusion of a conference the court shall prepare and file a memorandum of the matters agreed upon. No admissions made by the defendant or his attorney at the conference shall be used against the defendant unless the admissions are reduced to writing and signed by the defendant and his attorney. This section shall not be invoked in the case of a defendant who is not represented by counsel.

COMMENT

There is presently no authorized procedure for pretrial conference in Kansas criminal cases. The proposal is based on Rule 17.1, Federal Rules of Criminal Procedure.

22-1218. *Plea of Alibi; Notice.* (1) In the trial of any criminal action in the district court, where the complaint, indictment or information charges specifically the time and place of the crime alleged to have been committed, and the nature of the crime is such as necessitated the personal presence of the one who committed the crime, and the defendant proposes to offer evidence to the effect that he was at some other place at the time of the crime charged, he shall give notice in writing of that fact to the prosecuting attor-

ney. The notice shall state where defendant contends he was at the time of the crime, and shall have endorsed thereon the names of witnesses which he proposes to use in support of such contention.

(2) On due application, and for good cause shown, the court may permit defendant to endorse additional names of witnesses on such notice, using the discretion with respect thereto now applicable to allowing the prosecuting attorney to endorse names of additional witnesses on an information. The notice shall be served on the prosecuting attorney at least seven days before the commencement of the trial, and a copy thereof, with proof of such service, filed with the clerk of the court. On due application and for good cause shown the court may permit the notice to be served at any time before the jury is sworn to try the case.

(3) In the event the time and place of the crime are not specifically stated in the complaint, indictment or information, on application of defendant that the time and place be definitely stated in order to enable him to offer evidence in support of a contention that he was not present, and upon due notice thereof, the court shall direct the prosecuting attorney either to amend the complaint or information by stating the time and place of the crime, and thereafter defendant shall give the notice above provided if he proposes to offer evidence to the effect that he was at some other place at the time of the crime charged.

(4) Unless the defendant gives the notice as above provided he shall not be permitted to offer evidence to the effect that he was at some other place at the time of the crime charged. In the event the time or place of the crime has not been specifically stated in the complaint, indictment or information, and the court directs it be amended, or a bill of particulars filed, as above provided, and the prosecuting attorney advises the court that he cannot safely do so on the facts as he has been informed concerning them; or if in the progress of the trial the evidence discloses a time or place of the crime other than alleged, but within the period of the statute of limitations applicable to the crime and within the territorial jurisdiction of the court, the action shall not abate or be discontinued for either of those reasons, but defendant may, without having given the notice above mentioned, offer evidence tending to show he was at some other place at the time of the crime.

22-1219. *Plea of Insanity; Notice and Procedure.* (1) Evidence of mental disease or defect excluding criminal responsibility is not admissible upon a trial unless the defendant serves upon the prose-

cuting attorney and files with the court a written notice of his intention to rely upon the defense of insanity. Such notice must be served and filed before trial and not more than thirty days after entry of the plea of not guilty to the information or indictment. For good cause shown the court may permit notice at a later date.

(2) A defendant who files a notice of intention to rely on the defense of insanity thereby submits and consents to abide by such further orders as the court may make requiring the mental examination of the defendant and designating the place of examination and the physician or physicians by whom such examination shall be made. No order of the court respecting a mental examination shall preclude the defendant from procuring an examination by a physician of his own choosing. A report of each mental examination of the defendant shall be filed in the court and copies thereof shall be supplied to the defendant and the prosecuting attorney.

COMMENT

Kansas law does not presently require notice of intention to defend on the ground of insanity. The proposal is taken from the proposed New York Criminal Procedure Law, 130.10.

Article XIII. *Competency of Defendant to Stand Trial*

22-1301. *Definitions.* (1) For the purpose of this article, a person is "incompetent to stand trial" when he is charged with a crime and, because of mental illness or defect is unable:

(*a*) to understand the nature and purpose of the proceedings against him; or

(*b*) to make or assist in making his defense.

(2) Whenever the words "competent," "competency," "incompetent" and "incompetency" are used without qualification in this article, they shall refer to the defendant's competency or incompetency to stand trial, as defined in subsection (1) of this section.

22-1302. *Proceedings to Determine Competency.* (1) At any time after the defendant has been charged with a crime and before pronouncement of sentence, the defendant, his counsel or the prosecuting attorney may request a determination of the defendant's competency to stand trial. If, upon the request of either party or upon his own knowledge and observation, the judge or magistrate before whom the case is pending finds that there is reason to believe that the defendant is incompetent to stand trial the proceedings shall be suspended and a hearing conducted to determine the competency of the defendant.

(2) If the issue of the competency of a defendant charged with a felony is raised prior to indictment or information, and the magistrate before whom the case is pending determines that there is reason to believe that the defendant is incompetent to stand trial, such magistrate shall certify the case to the district court for proceedings to determine the defendant's competency.

(3) All proceedings under this section in felony cases shall be in the district court of the county in which the case is pending. The court shall determine the issue of competency and may appoint a commission of two physicians or impanel a jury of six persons to assist in making such determination. No statement made by the defendant in the course of any examination into his competency, provided for by this section, whether the examination shall be with or without the consent of the defendant, shall be admitted in evidence against him in any criminal proceeding.

(4) If the defendant is found to be competent the proceedings which have been suspended shall be resumed. If the proceedings were suspended before or during the preliminary examination, the district judge may conduct a preliminary examination or remand the case to the magistrate for such examination.

(5) If the defendant is found to be incompetent to stand trial he shall be committed or remain subject to the further order of the court in accordance with section 22-1303.

(6) If proceedings are suspended and a hearing to determine the defendant's competency is ordered after the defendant is in jeopardy, the court may either order a recess or declare a mistrial.

(7) Proceedings to determine competency in misdemeanor cases shall be conducted in the manner provided by this section but shall be in the court where the case was pending when the question was raised.

22-1303. *Commitment of Incompetent.* (1) A defendant charged with a crime who is found to be incompetent to stand trial may be committed to any appropriate state, county or private institution during the continuance of that condition. Upon application of the defendant and in the discretion of the court, the defendant may be released to any appropriate private institution upon terms and conditions as the court may prescribe.

(2) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is now competent the court in which the criminal case is pending shall conduct a hearing in accordance with section 22-1302 to determine the per-

son's present mental condition. Reasonable notice of such hearing shall be given to the prosecuting attorney, the defendant and to his attorney of record, if any. If the court, following such hearing, finds the defendant to be competent the proceedings pending against him shall be resumed.

(3) A defendant committed to a public institution under the provisions of this section who is thereafter sentenced for the crime charged at the time of his commitment may be credited with all or any part of the time during which he was committed and confined in such public institution.

22-1304. *Parole of Committed Person.* If in the judgment of the chief medical officer of the institution to which any defendant is committed under this article, such defendant is not competent to stand trial but is in a condition to be paroled under supervision, the institution shall report to the committing court the reasons for such judgment and plans which have been made for such parole. If the court does not file objection to the parole within thirty days from the date of the receipt of the report, the defendant may be paroled.

COMMENT

Proposed sections 22-1301 to 22-1304 are in lieu of K. S. A. 62-1531. Several changes in practice are recommended. They may be summarized as follows:

(*a*) Present statutes authorize an inquiry as to competency only for persons under information or indictment. There is no provision for raising the question of competency at the complaint stage of a felony prosecution or in a misdemeanor case prosecuted on a complaint. The proposal would permit the question to be raised at any stage of either a felony or misdemeanor prosecution.

(*b*) A person found incompetent may be committed to any appropriate institution. Present statutes provide for commitment to the state security hospital only.

The Illinois Code of Criminal Procedure, 40-1 to 40-3 and K. S. A. 62-1531 were drawn upon in drafting the proposal.

Section superseded. 62-1531.

Article XIV. *Trials and Incidents Thereto*

22-1401. *Time of Trial.* All persons charged with crimes shall be tried without unnecesary delay. Continuances may be granted to either party for good cause shown.

22-1402. *Discharge of Persons Not Brought Promptly to Trial.* (1) If any person charged with a crime and held in jail shall not be brought to trial within ninety days after his arraignment on the

charge, he shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant, or a continuance shall be ordered by the court.

(2) If any person charged with a crime and held to answer on an appearance bond shall not be brought to trial within 180 days after arraignment on the charge, he shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant, or a continuance shall be ordered by the court.

(3) The time for trial may be extended beyond the limitations of subsections (1) and (2) of this section for any of the following reasons:

(*a*) The defendant is incompetent to stand trial;

(*b*) A proceeding to determine the defendant's competency to stand trial is pending and a determination thereof may not be completed within the time limitations fixed for trial by this section;

(*c*) There is material evidence which is unavailable; that reasonable efforts have been made to procure such evidence; and that there are reasonable grounds to believe that such evidence can be obtained and trial commenced within the next succeeding ninety days. Not more than one continuance may be granted the state on this ground;

(*d*) Because of other cases pending for trial, the court does not have sufficient time to commence the trial of the case within the time fixed for trial by this section. Not more than one continuance of not more than thirty days may be ordered upon this ground.

COMMENT

The purpose of statutes of this kind is to implement the constitutional guarantee of speedy trial. Similar provisions are found in K. S. A. 62-1301, 62-1431, 62-1432 and 62-1433. However, the limitations have been shortened and are expressed in days after arraignment rather than court terms after the filing of the information or indictment.

Sections superseded. 62-1301, 62-1431, 62-1432, 62-1433.

22-1403. *Method of Trial of Felony Cases.* (1) The defendant and prosecuting attorney, with the consent of the court, may submit the trial of any felony to the court. All other trials of felony cases shall be by jury.

(2) A jury in a felony case shall consist of twelve members. However the parties may agree in writing, at any time before the verdict, with the approval of the court that the jury shall consist of any number less than twelve.

(3) When the trial is to a jury questions of law shall be decided by the court and issues of fact shall be determined by the jury.

COMMENT

Subsection (1) is a restatement of K. S. A. 62-1401, with modifications.

Subsection (2) codifies the present law (see *State v. Scott,* 156 Kan. 11). The statement of the rule is similar to Rule 23 (*b*) F. R. Cr. P.

Subsection (3) is adopted from sec. 95-1901, Mont. Code of Cr. Proc. It states a basic concept in jury trials. It rebuts any possible theory that might be urged in libel prosecutions that issues of law are decided by the jury (see K. S. A. 21-2406).

Sections superseded. 62-1401.

22-1404. *Method of Trial in Misdemeanor Cases.* (1) The trial of misdemeanor cases in the district court, including appealed cases, shall be in the manner provided for the trial of felony cases.

(2) The trial of misdemeanor cases in a state court other than the district court shall be to the court unless a jury trial is requested by the defendant. Such request shall be in writing and shall be filed at least 48 hours prior to the time set for trial.

(3) A jury in a misdemeanor case tried in a state court other than the district court shall consist of six members unless the defendant requests a jury of twelve or another number is agreed upon by the parties. The parties may agree in writing, at any time before the verdict, with the approval of the court, that the jury may consist of any number less than twelve.

(4) Trials in the municipal or police court of a city shall be to the court.

(5) Except as otherwise provided by law, the rules and procedures applicable to jury trials in felony cases shall apply to jury trials in misdemeanor cases.

22-1405. *Presence of Defendant.* (1) The defendant in a felony case shall be present at the arraignment, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by law. In prosecutions for crimes not punishable by death, the defendant's voluntary absence after the trial has been commenced in his presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by counsel for all purposes.

(2) The defendant must be present, either personally or by council, at every stage of the trial of a misdemeanor case.

COMMENT

The proposal incorporates parts of F. R. Cr. P. 43 and of Montana Code of Criminal Procedure, 95-1904.

Section superseded. 62-1411.

22-1406. *Time to Prepare for Trial.* After arraignment, the defendant shall be entitled to a reasonable time to prepare for trial.

COMMENT

The proposal, taken from Montana, 95-1907, states a basic standard of fairness.

22-1407. *Motion to Discharge Jury Panel.* (1) Any objection to the manner in which a jury panel has been selected or drawn shall be raised by a motion to discharge the jury panel. The motion shall be made at least five days prior to the date set for trial if the names and addresses of the panel members and the grounds for objection thereto are known to the parties or can be learned by an inspection of the records of the clerk of the district court at that time; in other cases the motion must be made prior to the time when the jury is sworn to try the case. For good cause shown, the court may entertain the motion at any time thereafter.

(2) The motion shall be in writing and shall state facts which, if true, show that the jury panel was improperly selected or drawn.

(3) If the motion states facts which, if true, show that the jury panel has been improperly selected or drawn, it shall be the duty of the court to conduct a hearing. The burden of proof shall be on the movant.

(4) If the court finds that the jury panel was improperly selected or drawn, the court shall order the jury panel discharged and the selection or drawing of a new panel in the manner provided by law.

COMMENT

This section clearly outlines the procedure for challenges to the panel of jurors. The objection is directed toward the panel and must state facts which show the improper selection. Source: Montana Code of Criminal Procedure, 95-1908.

22-1408. *Trial Jurors.* (1) When drawn, a list of prospective jurors and their addresses shall be filed in the office of the clerk of the court and shall be a public record.

(2) (*a*) The qualifications of jurors and grounds for exemption from jury service in civil cases shall be applicable in criminal trials, except as otherwise provided by law.

(*b*) An exemption from service on a jury is not a basis for challenge, but is the privilege of the person exempted.

(3) The prosecuting attorney and the defendant or his attorney shall conduct the examination of prospective jurors. The court may conduct an additional examination. The court may limit the examination by the defendant, his attorney or the prosecuting attorney if the court believes such examination to be harassment, is causing unnecessary delay or serves no useful purpose.

22-1409. *Trial Jurors in Magistrate Courts.* When a jury trial is demanded, as provided by law, in a magistrate court, the court shall summon not less than twenty-four (24) prospective jurors from the source and in the manner provided for the summoning of petit jurors in the district court in the county in which such magistrate court is located, except that the persons to draw said jurors shall be the judge of the magistrate court and the official having custody of the names of prospective jurors. Except as herein provided, the provisions of law relating to examination, challenges and swearing of jurors in criminal trials in the district court shall be applicable in the magistrate court.

COMMENT

The procedure here outlined parallels that provided for civil cases in the magistrate courts by section 61-1716 (*d*) of House Bill 1501, effective January 1, 1970. Present jury selection procedures in criminal cases in magistrate courts are governed by K. S. A. 63-303, *et seq.*, which provides a procedure for the alternate striking of names from a list of 24 jurors prepared by the magistrate.

Sections superseded. 63-303, 63-304, 63-308.

22-1410. *Challenges for Cause.* (1) Each party may challenge any prospective juror for cause. Challenges for cause shall be tried by the court.

(2) A juror may be challenged for cause on any of the following grounds:

(*a*) He is related to the defendant, or a person alleged to have been injured by the crime charged or the person on whose complaint the prosecution was begun, by consaguinity within the sixth degree, or is the spouse of any person so related;

(*b*) He is attorney, client, employer, employee, landlord, tenant, debtor, creditor or a member of the household of the defendant or a person alleged to have been injured by the crime charged or the person on whose complaint the prosecution was instituted;

(*c*) He is or has been a party adverse to the defendant in a civil action, or has complained against or been accused by him in a criminal prosecution.

(*d*) He has served on the grand jury which returned the indictment or on a coroner's jury which inquired into the death of a person whose death is the subject of the indictment or information, or on any other investigatory body which inquired into the facts of the crime charged.

(*e*) He was a juror at a former trial of the same cause.

(*f*) He was a juror in a civil action against the defendant arising out of the act charged as a crime.

(g) He was a witness to the act or acts alleged to constitute the crime.

(*h*) He occupies a fiduciary relationship to the defendant or a person alleged to have been injured by the crime or the person on whose complaint the prosecution was instituted.

(*i*) His state of mind with reference to the case or any of the parties is such that there is doubt that he can act impartially and without prejudice to the substantial rights of any party.

(3) All challenges for cause must be made before the jury is sworn to try the case.

22-1411. *Felony Trials; Number of Jurors Called.* In all felony trials, upon the request of either the prosecution or the defendant, the court shall cause enough jurors to be called, examined, and passed for cause before any peremptory challenges are required, so that there will remain sufficient jurors, after the number of peremptory challenges allowed by law for the case on trial shall have been exhausted, to enable the court to cause twelve jurors to be sworn to try the case.

COMMENT

The above alternative is presently allowed by K. S. A. 62-1412.

22-1412. *Peremptory Challenges; Swearing of Jury.* (1) Peremptory challenges shall be allowed as follows:

(*a*) Each defendant charged with a class A felony shall be allowed twelve peremptory challenges.

(*b*) Each defendant charged with a class B felony shall be allowed eight peremptory challenges.

(*c*) Each defendant charged with a felony other than a class A or class B felony shall be allowed six peremptory challenges.

(*d*) Each defendant charged with a misdemeanor shall be allowed four peremptory challenges.

(*e*) Additional peremptory challenges shall not be allowed on account of separate counts charged in the complaint, information or indictment.

(*f*) The prosecution shall be allowed the same number of peremptory challenges as all the defendants.

(2) After the parties have interposed all of their challenges to jurors, or have waived further challenges, the jury shall be sworn to try the case.

COMMENT

Proposed sections 22-1408 through 22-1413 provide guidelines for jury selection. Existing Kansas statutes and Montana Code of Criminal Procedure, 95-1909, have been drawn upon in the drafting process.

Sections superseded. 62-1402, 62-1403, 62-1404, 62-1405, 62-1406, 62-1407, 62-1408, 62-1409, 62-1410.

22-1413. *Juror's Knowledge of Material Fact.* If a juror has personal knowledge of any fact material to the case, he must inform the court and shall not speak of such fact to other jurors out of court. If a juror has personal knowledge of a fact material to the case, gained from sources other than evidence presented at trial and shall speak of such fact to other jurors without the knowledge of the court or the defendant, he may be adjudged in contempt and punished accordingly.

COMMENT

Restatement of K. S. A. 62-1445.

22-1414. *Order of Trial.* (1) The prosecuting attorney shall state the case and offer evidence in support of the prosecution. The defendant may make his opening statement prior to the prosecution's offer of evidence, or may make such statement and offer evidence in support thereof after the prosecution rests.

(2) The parties may then respectively offer rebutting testimony only, unless the court, for good cause, permits them to offer evidence upon their original case.

(3) At the close of the evidence or at such earlier time during the trial as the judge reasonably directs, any party may file written requests that the court instruct the jury on the law as set forth in the requests. The judge shall instruct the jury at the close of the evidence before argument and the judge may, in his discretion, after

the opening statements, instruct the jury on such matters as in his opinion will assist the jury in considering the evidence as it is presented.

The court shall pass upon the objections to the instructions and shall either give each instruction as requested or proposed or refuse to do so, or give the requested instruction with modification, and shall mark or endorse upon each requested instruction in such a manner that it shall distinctly appear what instructions were given, modified or refused. All instructions given or requested must be filed as a part of the record of the case.

The court reporter shall record all objections to the instructions given or refused by the court, together with modifications made, and the rulings of the court.

No party may assign as error the giving or failure to give an instruction unless he objects thereto before the jury retires to consider its verdict stating distinctly the matter to which he objects and the grounds of his objection unless the instruction is clearly erroneous. Opportunity shall be given to make the objections out of the hearing of the jury.

(4) When the jury has been instructed, unless the case is submitted to the jury on either side or on both sides without argument, the prosecuting attorney may commence and may conclude the argument. If there is more than one defendant, the court shall determine their relative order in presentation of evidence and argument. In arguing the case, comment may be made upon the law of the case as given in the instructions, as well as upon the evidence.

COMMENT

The proposal is adapted from the Montana Code of Criminal Procedure, 95-1910, and K. S. A. 60-251.

Sections superseded. 62-1438, 62-1447.

22-1415. *Laws Applicable to Witnesses.* The provisions of law in civil cases relative to compelling the attendance and testimony of witnesses, their examination, the administration of oaths and affirmations, and proceedings as for contempt, to enforce the remedies and protect the rights of the parties, shall extend to criminal cases so far as they are in their nature applicable, unless other provision is made by statute.

COMMENT

Present K. S. A. 62-1413 with slight modification in language.

22-1416. *Prisoners as Witness.* No prisoner in the custody of the director of penal institutions shall be required to attend as a witness

in any criminal action or proceeding except on order of the court before whom the prosecution is pending and under such terms as the court may prescribe.

COMMENT

See K. S. A. 62-1425 for present law.

22-1417. *Objections to Rulings.* Formal exceptions to rulings or orders of the court are unnecessary. It is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him.

COMMENT

This is the same as K. S. A. 60-246.

22-1418. *View of Place of Crime.* Whenever in the opinion of the court it is proper for the jurors to have a view of the place in which any material fact occurred, it may order them to be conducted in a body under the charge of an officer to the place, which shall be shown to them by some person appointed by the court for that purpose. They may be accompanied by the defendant, his counsel and the prosecuting attorney. While the jurors are thus absent, no person other than the officer and the person appointed to show them the place shall speak to them on any subject connected with the trial. The officer or person appointed to show them the place shall speak to the jurors only to the extent necessary to conduct them to and identify the place or thing in question.

COMMENT

Provision is made by K. S. A. 60-248 for views by jurors in civil cases and by K. S. A. 62-1818 for views in criminal cases. The above contains a verbatim restatement of K. S. A. 62-1818. The last sentence has been added.

Section superseded. K. S. A. 62-1818.

22-1419. *Motion for Judgment of Acquittal.* (1) The court on motion of a defendant or of its own motion shall order the entry of judgment of acquittal of one or more crimes charged in the complaint, indictment or information after the evidence on either side is closed if the evidence is insufficient to sustain a conviction of such crime or crimes. If a defendant's motion for judgment of

acquittal at the close of the evidence offered by the prosecution is not granted, the defendant may offer evidence without having reserved the right.

(2) If a motion for judgment of acquittal is made at the close of all the evidence, the court may reserve decision on the motion, submit the case to the jury and decide the motion either before the jury returns a verdict or after it returns a verdict of guilty or is discharged without having returned a verdict.

(3) If the jury returns a verdict of guilty or is discharged without having returned a verdict, a motion for judgment of acquittal may be made or renewed within 7 days after the jury is discharged or within such further time as the court may fix during the 7-day period. If a verdict of guilty is returned the court may on such motion set aside the verdict and enter judgment of acquittal. It shall not be necessary to the making of such a motion that a similar motion has been made prior to the submission of the case to the jury.

COMMENT

This proposal is substantially like Rule 29, F. R. Cr. P.

22-1420. *Conduct of Jury After Submission.* (1) When the case is finally submitted to the jury, they shall retire for deliberation. They must be kept together in some convenient place under charge of a duly sworn officer until they agree upon a verdict, or be discharged by the court, subject to the discretion of the court to permit them to separate temporarily at night, and at their meals. The officer having them under his charge shall not allow any communications to be made to them, or make any himself, unless by order of the court; and before their verdict is rendered he shall not communicate to any person the state of their deliberations, or the verdict agreed upon. No person other than members of the jury shall be present in the jury room during deliberations.

(2) If the jury is permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court that it is their duty not to converse with, or allow themselves to be addressed by any other person on any subject of the trial, and that it is their duty not to form or express an opinion thereon until the case is finally submitted to them, and that such admonition shall apply to every subsequent separation of the jury.

(3) After the jury has retired for deliberation, if they desire to be informed as to any part of the law or evidence arising in the

case, they may request the officer to conduct them to the court, where the information on the point of the law shall be given, or the evidence shall be read or exhibited to them in the presence of the defendant and his counsel and after notice to the prosecuting attorney.

(4) The jury may be discharged by the court on account of the sickness of a juror, or other accident or calamity, or other necessity to be found by the court requiring their discharge, or by consent of both parties, or after they have been kept together until it satisfactorily appears that there is no probability of their agreeing.

COMMENT

This section is a verbatim restatement of K. S. A. 60-248 (*c*), (*d*), (*e*) and (*f*), to which the last sentence of subsection (1) has been added.

Sections superseded. 62-1446, 62-1448.

22-1421. *Verdict.* The verdict shall be written, signed by the foreman, and read by the clerk to the jury, and the inquiry made whether it is their verdict. If any juror disagrees, the jury must be sent out again; but if no disagreement be expressed, and neither party requires the jury to be polled, the verdict is complete, and the jury discharged from the case. If, however, the verdict be defective in form only, the same may, with the assent of the jury, before they are discharged, be corrected by the court.

COMMENT

This is a verbatim restatement of K. S. A. 60-248 (*g*).

Sections superseded. 62-1501, 62-1502, 62-1503.

22-1422. *Allocution.* When the defendant appears for judgment, he must be informed by the court of the verdict of the jury, or the finding of the court and asked whether he has any legal cause to show why judgment should not be rendered. If none is shown the court shall pronounce judgment against the defendant.

COMMENT

The proposal incorporates the content of K. S. A. 62-1510 and 62-1511.

Sections superseded. 62-1510, 62-1511.

22-1423. *Mistrials.* (1) The trial court may terminate the trial and order a mistrial at any time that he finds termination is necessary because:

(*a*) It is physically impossible to proceed with the trial in conformity with law; or

(*b*) There is a legal defect in the proceedings which would make any judgment entered upon a verdict reversible as a matter of law and the defendant requests or consents to the declaration of a mistrial; or

(*c*) Prejudicial conduct, in or outside the courtroom, makes it impossible to proceed with the trial without injustice to either the defendant or the prosecution; or

(*d*) The jury is unable to agree upon a verdict; or

(*e*) False statements of a juror on voire dire prevent a fair trial; or

(*f*) The trial has been interrupted pending a determination of the defendants' competency to stand trial.

(2) When a mistrial is ordered, the court shall direct that the case be retained on the docket for trial or such other proceedings as may be proper and that the defendant be held in custody pending such further proceedings, unless he is released pursuant to the terms of an appearance bond.

COMMENT

The present Kansas statutes do not spell out the conditions which require a mistrial. The proposal, taken from the Model Penal Code, 1.08 (4) (*b*), provides guidelines for the courts. A properly ordered mistrial does not prevent a subsequent trial on the same charge, even though the order is made after the defendant has been placed in jeopardy.

22-1424. *Judgment and Sentence.* (1) The judgment shall be rendered and sentence imposed in open court.

(2) If the verdict or finding is not guilty, judgment shall be rendered immediately and the defendant shall be discharged from custody and the obligation of his appearance bond.

(3) If the verdict or finding is guilty, judgment shall be rendered and sentence pronounced without unreasonable delay, allowing adequate time for the filing and disposition of post-trial motions and for completion of such pre-sentence investigation as the court may require.

(4) Before imposing sentence the court shall afford counsel an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement on his own behalf and to present any evidence in mitigation of punishment.

(5) After imposing sentence in a case which has gone to trial on a plea of not guilty, the court shall advise the defendant of his right to appeal and of the right of a person who is unable to pay

the costs of an appeal to appeal in *forma pauperis*. If the defendant so requests the clerk of the court should prepare and file forthwith a notice of appeal on behalf of the defendant.

COMMENT

Subsections (1) and (2) require what is apparently the common current practice. Subsection (3) provides more flexibility in fixing the time for sentencing. The present 10 day limitation (K. S. A. 62-1722) or 5 days after a motion for new trial has been denied (K. S. A. 62-1723) may not allow sufficient time for full utilization of facilities for pre-sentence investigation. The standard "without unreasonable delay" is found in Rule 32 (1), F. R. Cr. P. Subsections (4) and (5) are taken verbatim from Rule 32 (1) and (2), F. R. Cr. P.

Sections superseded. 62-1510, 62-1511, 62-1722.

22-1425. *Commitment for Failure to Pay Fine and Costs.* (1) When a defendent is adjudged to pay a fine and costs, the court shall order him to be committed to the county jail until such fine and costs are paid.

(2) When a person upon whose complaint a prosecution is initiated is adjudged to pay costs, the court shall order him committed to the county jail until such costs be paid or security for their payment be furnished and approved by the court.

(3) Any person confined in the county jail for failure to pay a fine or costs may be released by the court which imposed sentence, upon satisfactory proof that such person is unable to pay such fine and costs. A release under this section shall not discharge a person from his liability to pay the fine and costs adjudged against him, but they may thereafter be collected by execution as on judgments in civil cases.

COMMENT

The proposal states the content of K. S. A. 62-1513, 62-1514 and 62-1515. The only material change is that under the proposal the sentencing court instead of the board of county commissioners (see 62-1515) determines if the defendant is to be released on account of inability to pay the fine and costs adjudged against him.

22-1426. *Record of Judgment.* When judgment is rendered or sentence of imprisonment is imposed, upon a plea or verdict of guilty, a record thereof shall be made upon the journal of the court which record among other things shall contain a statement of the crime charged, and under what statute; the plea or verdict and the judgment rendered or sentence imposed, and under what statute, and a statement that the defendant was duly represented by counsel naming such counsel, or a statement that the defendant has stated in writing that he did not want counsel to represent him.

If the sentence is increased because defendant previously has been convicted of crime the record shall contain a statement of each of such previous convictions, showing the date, in what court, of what crime and whether the same was a felony or a misdemeanor; also, a brief statement of the evidence relied upon by the court in finding such previous convictions and the facts pertaining thereto. Defendant shall not be required to furnish such evidence.

It shall be the duty of the court personally to examine with care the entry prepared for the journal, or the journal when written up, and to sign the same and to certify to the correctness thereof.

COMMENT

Same as K. S. A. 62-1516.

22-1427. *Execution of Sentence; Duty of Sheriff or Marshal.* (1) When any person has been convicted of a violation of any law of the State of Kansas and has been sentenced to any punishment, it shall be the duty of the sheriff of the county or marshal of the court, upon receipt of a certified copy of the journal entry of judgment, to cause such person to receive the punishment to which he was sentenced.

(2) The certified copy of a judgment and sentence to confinement or imprisonment shall be sufficient authority for the jailer or warden or other person in charge of the place of confinement to detain such person for the period of the sentence.

COMMENT

Contains the substance of K. S. A. 62-1517 and 62-1518.

22-1428. *Acquittal Because of Insanity.* (1) When a person is acquitted on the ground that he was insane at the time of the commission of the alleged crime the verdict shall be "not guilty because of insanity," and the person so acquitted shall be committed to the state security hospital for safekeeping and treatment.

(2) Whenever it appears to the chief medical officer of the state security hospital that a person committed under this section is not dangerous to other patients, he may transfer such person to any state hospital. Any person committed under this section may be granted convalescent leave or discharge as an involuntary patient after thirty days notice shall have been given to the county attorney and sheriff of the county from which such person was committed.

COMMENT

Substantially like K. S. A. 62-1532. However, the proposal permits transfer of non-dangerous patients committed under the section to any state hospital. Presently such transfer can be made only to the Larned State Hospital.

22-1429. *Deferring Sentence Pending Mental Examination.* After conviction and prior to sentence and as part of the pre-sentence investigation authorized by K. S. A. 21-4604, the trial judge may order the defendant committed to a state hospital or any suitable local mental health facility for mental examination, evaluation and report. If adequate private facilities are available and if the defendant is willing to assume the expense thereof such commitment may be to a private hospital. A report of the examination and evaluation shall be furnished to the judge and shall be made available to the prosecuting attorney and counsel for the defendant. A defendant may not be detained for more than 120 days under a commitment made under this section.

22-1430. *Commitment to Certain State Institutions, When: Costs; Order of Commitment; Appeal.* If the report of the examination authorized by the preceding section that the defendant is in need of medical or psychiatric care and treatment and that such treatment may materially aid in his rehabilitation; and that the defendant and society is not likely to be endangered by permitting the defendant to receive such psychiatric care and treatment, in lieu of confinement or imprisonment, the trial judge shall have power to commit such defendant to any state or county institution provided for the reception, care, treatment and maintenance of mentally ill persons, in lieu of other sentence and the court may direct that the defendant be detained in such institution until further order of the court. The trial judge shall, at the time of such commitment, make an order imposing liability upon the defendant, or such person or persons responsible for the support of the defendant, or upon the county or the state, as may be proper in such case, for the cost of admission, care and discharge of such defendant.

The defendant may appeal from any order of commitment made pursuant to this section in the same manner and with like effect as if sentence to a jail, or to the custody of the Director of Penal Institutions had been imposed in this case.

22-1431. *Restoration; Sentence or Probation.* Upon release or discharge from a state or county institution to which he has been com-

mitted under section 22-1430, the defendant shall be returned to the court where convicted and sentenced and shall be committed, granted probation or discharged as the court deems best under the circumstance. The time spent in a state or county institution pursuant to a commitment under section 22-1430 shall be credited against any sentence to confinement or imprisonment imposed on the defendant.

COMMENT

Sections 22-1429, 22-1430 and 22-1431 are proposed to supersede K. S. A. 62-1534 through 62-1540, as amended. Present sections refer specifically to sex offenders and violators of drug laws. The proposals are drawn with sufficient breadth to include all situations contemplated by the present laws and, in addition, all other cases where treatment may be appropriate.

22-1432. *Information for Board of Probation and Parole Concerning Person Convicted.*. It shall be the duty of the county attorney of the county in which a person has been convicted of a felony and sentenced to imprisonment to furnish to the state board of probation and parole information pertaining to the facts and circumstances surrounding the commission of the offense, including any aggravating or mitigating circumstances, and such other information which has come to the attention of the county attorney which might have a bearing in determining the possibility of the prisoner thereafter becoming a useful citizen. This information shall be set forth on forms provided by the board and shall be submitted at the time the prisoner is committed.

COMMENT

This section was enacted in 1967, K. S. A. 62-1541.

Article XV. *Post-Trial Motions*

22-1501. *New Trial.* (1) The court on motion of a defendant may grant a new trial to him if required in the interest of justice. If trial was by the court without a jury the court on motion of a defendant for a new trial may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment. A motion for a new trial based on the ground of newly discovered evidence may be made only before or within two years after final judgment, but if an appeal is pending the court may grant the motion only on remand of the case. A motion for a new trial based on any other grounds shall be made within 10 days after the verdict or finding of guilty or within such further time as the court may fix during the 10-day period.

(2) A motion for a new trial shall be heard and determined by the court within 45 days from the date it is made.

COMMENT

Subsection (1) is a verbatim statement of Rule 33, F. R. Cr. P.

The most striking contract with the present law is found in the recital of grounds for new trial. K. S. A. 62-1603 enumerates the specific grounds on which new trials can be granted, while the proposal would permit a new trial whenever the interest of justice requires.

The time limitation in subsection (2) is suggested by the Advisory Committee.

Sections superseded. 62-1601, 62-1602, 62-1603, 62-1604, 62-1723.

22-1502. *Arrest of Judgment.* The court on motion of a defendant shall arrest judgment if the complaint, information or indictment does not charge a crime or if the court was without jurisdiction of the crime charged. The motion for arrest of judgment shall be made within 10 days after the verdict or finding of guilty, or after a plea of guilty or *nolo contendere,* or within such further time as the court may fix during the 10-day period.

COMMENT

See Rule 34, F. R. Cr. P.

Sections superseded. 62-1605, 62-1606, 62-1607.

22-1503. *Arrest of Judgment Without Motion.* Whenever the court becomes aware of the existence of grounds which would require that a motion for arrest of judgment be sustained, if filed, the court may arrest the judgment without motion.

COMMENT

Not found in the federal rules. But see K S. A. 62-1606

22-1504. *Correction of Sentence.* (1) The court may correct an illegal sentence at any time. The defendant shall receive full credit for time spent in custody under the sentence prior to correction. The defendant shall have a right to a hearing, after reasonable notice to be fixed by the court, to be personally present and to have the assistance of counsel in any proceeding for the correction of an illegal sentence.

(2) Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

COMMENT

Subsection (1) is adapted from a part of Rule 35, F. R. Cr. P. Subsection (2) is a restatement of Rule 36, F. R. Cr. P.

Article XVI. *Appeals*

22-1601. *Appeals by the Defendant.* An appeal to the Supreme Court may be taken by the defendant as a matter of right from any judgment against him in the district court and upon appeal any decision of the district court or intermediate order made in the progress of the case may be reviewed.

COMMENT

Restatement of 62-1701.

22-1602. *Appeals by the Prosecution as Matters of Right.* Appeals to the Supreme Court may be taken by the prosecution from the district court as a matter of right in the following cases, and no others:

(*a*) From an order dismissing a complaint, information or indictment;

(*b*) From an order arresting judgment;

(*c*) Upon a question reserved by the prosecution.

COMMENT

The proposal states the grounds for appeal by the state contained in K. S. A. 62-1703.

Section superseded. 62-1703.

22-1603. *Interlocutory Appeals by the State.* When a district judge prior to the commencement of trial of a criminal action makes an order quashing a warrant or a search warrant, suppressing evidence or suppressing a confession or admission and such district judge is of the opinion that the order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order is in the interest of justice, he shall so state in writing in such order. The Supreme Court may, thereupon, in its discretion, permit an appeal to be taken by the prosecution from such order if application is made to it within ten days after entry of the order under such terms and conditions as the court may fix. Further proceedings in the district court shall be stayed pending determination of the appeal.

22-1604. *Effect of Interlocutory Appeal.* If an interlocutory appeal is taken by the prosecution under section 22-1603 and the order of the district court is sustained in its entirety, the defendant shall be discharged from further prosecution on the charge.

COMMENT

The foregoing sections are intended to permit Supreme Court review of trial court rulings on pre-trial motions which may be determinative of the case and are not otherwise subject to appeal. The committee believes that in the case of trial court rulings which suppress evidence essential to proof of a prima facie case, the prosecution should have an opportunity for review in the Supreme Court if a substantial question exists as to the correctness of the trial court's decision. Note that the appeal authorized is not a matter of right. Also, if the appeal is decided adversely to the prosecution, the defendant will be discharged. Thus the prosecution is not encouraged to take an interlocutory appeal if other evidence is available to prove the case.

The civil code authorizes discretionary appeals of matters not appealable of right in K. S. A. 60-210 (*b*).

22-1605. *Release of Defendant Pending Appeal by Prosecution.* (1) A defendant shall not be held in jail nor subject to an appearance bond during the pendency of an appeal by the prosecution.

(2) The time during which an appeal by the prosecution is pending shall not be counted for the purpose of determining whether a defendant is entitled to discharge under section 22-1402 of this code.

COMMENT

This is a new proposal, following Illinois Criminal Code 56-3.

22-1606. *Decision and Disposition of Case on Appeal.* The Supreme Court may reverse, affirm or modify the judgement or order appealed from, and may if necessary and proper order a new trial. In either case the cause must be remanded to the court below with proper instructions, and the opinion of the court, within the time and in the manner to be prescribed by rule of the court.

COMMENT

Same as K. S. A. 62-1716.

22-1607. *Procedure on Appeal.* Except as otherwise provided by statute or rule of the Supreme Court, the statutes and rules governing appeals to the Supreme Court in civil cases shall apply to and govern appeals to the Supreme Court in criminal cases.

COMMENT

Article 6 of chapter 60, K. S. A. relates to appeals in civil cases. Insofar as possible, appellate procedure in criminal cases should parallel that in civil cases. The proposal would make the code of civil procedure applicable to criminal appeals, allowing the opportunity for modification by statute or rule when a different procedure seems necessary or desirable.

22-1608. *Custody of Defendant When Judgment Reversed.* When a judgment of conviction or sentence is reversed, and it appears that no crime has been committed, the Supreme Court shall direct that the defendant be discharged. If it appears that the defendant is guilty of a crime, although improperly charged or convicted, the Supreme Court shall order the defendant to be held in custody, subject to the order of the court in which he was convicted.

COMMENT

This is a restatement of K. S. A. 62-1717.

Section superseded. 62-1717.

22-1609. *Time for Appeal to Supreme Court.* (1) If the defendant does not seek to have the execution of his sentence stayed, or release from custody pending his appeal, he may appeal from a judgment of the district court at any time within 60 days from the date of sentence.

(2) If the defendant seeks to stay the execution of the sentence, or release from custody, or both, pending his appeal, he shall appeal and file his application for stay within ten days after sentence.

COMMENT

The time limitations of the proposal are the same as those presently found in 62-1724. It is suggested that the necessary procedural standards be provided by rule. Bail and other conditions of release pending appeal are covered in section 22-804.

Section superseded. 62-1724 Supp.

22-1610. *Appeals to District Court.* (1) The defendant shall have the right to appeal to the district court of the county from any judgment of a court of limited jurisdiction which adjudges the defendant guilty of a violation of the laws of Kansas or the ordinances of any municipality of Kansas and imposes a sentence of fine or confinement or both. The appeal shall stay all further proceedings upon the judgment appealed from.

(2) An appeal to the district court shall be taken by filing a notice of appeal in the court where the judgment appealed from was rendered, and by supplying an appearance bond with such sureties and subject to such conditions as the magistrate of such court may order. The appearance bond shall require the appearance of the defendant in the district court of the county on the next court day occurring more than 10 days after the date of the appeal to answer the complaint against him. No appeal shall be taken more than 10 days after the date of judgment appealed from.

(3) The magistrate whose judgment is appealed from shall certify the complaint, warrant and appearance bond to the district court of the county on or before the next court day of such district court occurring more than 10 days after the date of the appeal.

22-1611. *Hearing on Appeal.* When a case is appealed to the district court, such court shall hear and determine the cause on the original complaint, unless the complaint shall be found defective, in which case the court may order a new complaint to be filed and the case shall proceed as if the original complaint had not been set aside. The case shall be tried *de novo* in the district court.

22-1612. *Judgment on Appeal.* If upon appeal to the district court the defendant is convicted, the district court shall impose sentence upon him and render judgment against him for all costs in the case, both in the district court and in the court appealed from.

COMMENT

Proposed sections relate to appeals from courts of limited jurisdiction. This procedure is presently governed by article 4 of chapter 63, K. S. A.

Sections superseded. 63-1401, 63-402, 63-403, 62-404.

Also, K. S. A. 20-301 should be amended by deleting the last sentence.

Article XVII. *Release Procedures*

NOTE: Where citation to present law appears in lieu of text, no change is recommended.

22-1701. *Pardons and Commutations.* (1) The Governor may pardon, or commute the sentence of, any person convicted of a crime in any court of this state upon such terms and conditions as he may prescribe in the order granting the pardon or commutation.

(2) The state board of probation and parole shall adopt rules and regulations governing the procedure for initiating, processing, hearing and determining applications for pardon or commutation of sentence filed by and on behalf of persons convicted of crime.

(3) No pardon or commutation of sentence shall be granted until more than 30 days after written notice of the application therefor has been given to the prosecuting attorney and the judge of the court in which the defendant was convicted. Notice of the hearing on such application shall be given by publication in the official county paper of the county of conviction not more than 30 nor less than 15 days prior to such hearing. The form of notice shall be prescribed by the board and the cost of publication thereof shall be paid by the state.

(4) All applications for pardon or commutation of sentence shall be referred to the state board of probation and parole. The board shall examine each case and submit a report, together with such information as the board may have concerning the applicant, to the Governor within thirty days after referral to the board. The Governor shall not grant or deny any such application until he shall have received the report of the board or until thirty days after the referral to the board, whichever time is the shorter.

(5) In each case in which pardon or commutation of sentence is recommended the board shall cause an investigation to be made by the state department of probation and parole, which investigation shall include an inquiry as to the attitudes and recommendations of the victim of the crime or his survivors and representatives of the community in which the crime was committed. The report of such investigation shall be forwarded to the governor with the other papers in the case.

COMMENT

The proposal incorporates the provisions of K. S. A. 62-2216 with the following exceptions: (*a*) The board is charged with responsibility for developing procedures for processing applications for pardons and commutations; (*b*) one publication of notice is required; and (*c*) a pre-clemency investigation is required where pardon or commutation is recommended.

Section superseded. 62-2216.

22-1702. *Form of Pardon.* A pardon shall be in writing, signed by the governor, attested by the great seal of the state and shall be authority for the release and discharge of the person named therein.

Section superseded. 62-2217.

22-1703. *Report of Pardons to Legislature.* K. S. A. 62-2218.

22-1704. *Reprieves in Capital Cases.* In cases where the death penalty has been imposed the Governor may order the postponement of the execution of the sentence for a limited time. At the expiration of such time the sentence of the court shall be carried out.

Section superseded. 62-2219.

22-1705. *Reduction of Penalty.* The Governor may, when he deems it proper or advisable, commute a sentence in any criminal case by reducing the penalty as follows:

(*a*) If the sentence is death, to imprisonment for life or for any term not less than ten years;

(*b*) If the sentence is to imprisonment, by reducing the duration of such imprisonment;

(*c*) If the sentence is a fine, by reducing the amount thereof;

(*d*) If the sentence is both imprisonment and fine, by reducing either or both.

Section superseded. 62-2220.

22-1706. *Contingent Fee Prohibited. Affidavit as to Employment.* No person acting as agent or representative for an applicant seeking pardon or commutation of sentence shall contact for or receive a fee contingent upon the granting of such application. Such agent or representative shall submit his statement on the applicant's behalf to the board in writing and shall submit therewith an affidavit stating his name; place of residence; the name of the applicant he represents or has represented; the fee, if any, paid to him or to be paid to him by any person for such services; that such fee is not or was not contingent upon the granting or denial of such application for pardon or commutation of sentence. If any person representing any applicant for pardon or commutation of sentence shall fail to file such affidavit the application for pardon or commutation shall not be considered. Any affidavit filed as provided in this section shall be a public record.

Section superseded. 62-2220a.

22-1707. *State Board of Probation and Parole: Appointment; Terms: Vacancies; Removal.* The state board of probation and parole shall consist of three (3) members to be appointed by the Governor with the advice and consent of the senate. The term of office of the members of the board shall be four (4) years: In case of a vacancy in the membership of the board occurring before the expiration of the term of office a successor shall be appointed in like manner as original appointments are made, for the remainder of the unexpired term.

The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty or malfeasance in office. Before such removal, he shall give the member a written copy of the charges against him and shall fix the time when he can be heard in his defense at a public hearing, which shall not be less than ten (10) days thereafter. Upon removal, the Governor shall file in the office of the secretary of state a complete statement of all charges made against the member and the findings thereupon, with a complete record of the proceedings.

Section superseded. 62-2228.

22-1708. *Compensation.* Each of the members of the board shall receive an annual salary of ten thousand dollars ($10,000) payable in equal monthly installments and in addition thereto shall be allowed all actual traveling and necessary expenses incurred while in the discharge of any of his official duties.

Section superseded. 62-2229.

22-1709. *Organization; Officers; Director.* K. S. A. 62-2230.

22-1710. *Seal, Orders, Records, Reports.* K. S. A. 62-2232.

22-1711. *Certain Records Privileged; Protection of Records.* K. S. A. 62-2233.

22-1712. *Residence, Diagnostic and Treatment Facilities for Probationers or Parolees.* K. S. A. 62-2234.

22-1713. *State Director of Probation and Parole; Appointment; Other Officers and Employees; Traveling Expenses.* The board shall appoint a state director of probation and parole who shall appoint and prescribe the duties of, with the approval of the board, a deputy director, a sufficient number of assistant directors, probation and parole officers, and other employees required to administer the provisions of this act.

The deputy director may exercise such powers and perform such duties of the director as may be authorized by the board. The director and all other officers and employees of the board shall be within the classified service of the Kansas Civil Service Act, and all persons employed under the provisions of this act as probation or parole officers shall have and exercise police powers to the same extent as other law enforcement officers and such powers may be exercised by them anywhere within the state: *Provided,* That the residence requirements of the Kansas Civil Service Act shall not apply to the appointment of said director or deputy director. All officers and employees of the board shall, in addition to their regular compensation, receive their actual and necessary traveling and other expenses incurred in the performance of their official duties.

Section superseded. 62-2235.

22-1714. *Duties of Director.* K. S. A. 62-2236.

22-1715. *Duties of Probation and Parole Officers.* Probation and parole officers shall investigate all persons referred to them for investigation by the director of probation and parole or by any court

in which they are authorized to serve. They shall furnish to each person released under their supervision a written statement of the conditions of probation or parole and shall instruct him regarding these conditions. They shall keep informed of his conduct and condition and use all suitable methods to aid and encourage him and and to bring about improvement in his conduct and condition. Probation and parole officers shall keep detailed records of their work; and shall make such reports in writing and perform such other duties as may be incidental to those above enumerated, as the court or the director may require. They shall coordinate their work with that of other social welfare agencies.

Section superseded. 62-2237.

22-1716. *Arrest of Probationer, Subsequent Disposition; Procedure.* (1) At any time during probation or suspension of sentence the court may issue a warrant for the arrest of a defendant for violation of any of the conditions of release, or a notice to appear to answer to a charge of violation. Such notice shall be personally served upon the defendant. The warrant shall authorize all officers named therein to return the defendant to the custody of the court or to any suitable detention facility designated by the court. Any probation officer may arrest such defendant without a warrant, or may deputize any other officer with power of arrest to do so by giving him a written statement setting forth that the defendant has, in the judgment of the probation officer, violated the conditions of his release. The written statement delivered with the defendant by the arresting officer to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the defendant. After making an arrest the probation officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with crime shall be applicable to the defendants arrested under these provisions.

(2) Upon such arrest and detention, the probation officer shall immediately notify the court and shall submit in writing a report showing in what manner the defendant has violated the conditions of release. Thereupon, or upon an arrest by warrant as herein provided, the court shall cause the defendant to be brought before it without unnecesary delay for a hearing on the violation charged. *The hearing shall be in open court and the state shall have the burden of establishing the violation. The defendant shall have the right*

to be represented by counsel and he shall be informed by the judge that if he is financially unable to obtain counsel, an attorney will be appointed to represent him. The defendant shall have the right to present the testimony of witnesses and other evidence on his behalf. Relevant written statements made under oath shall be admitted and considered by the court along with other evidence presented at the hearing. If the violation is established, the court may continue or revoke the probation or suspension of sentence, and may require the defendant to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed.

(3) A probationer or defendant under suspension of sentence for whose return a warrant has been issued by the court shall, if it is found that the warrant cannot be served, be deemed to be a fugitive from justice. If it shall appear that he has violated the provisions of his release, the court shall determine whether the time from the issuing of the warrant to the date of his arrest, or any part of it, shall be counted as time served on probation or suspended sentence.

Section superseded.. 62-2244.

22-1717. *Parole Authority and Procedure.* (1) The board shall have power to release on parole those persons confined in institutions who are eligible for parole when in the opinion of the board, there is reasonable probability that such persons can be released without detriment to the community or to themselves.

(2) Persons confined in institutions shall be eligible for parole

(*a*) After 15 years if sentenced to life imprisonment or to a minimum term which, after deduction of work and good behavior credits, aggregates more than 15 years;

(*b*) After 16 months if sentenced pursuant to conviction for a first offense to a minimum term which, after work and good behavior credits, aggregates more than 16 months, and the person sentenced is under 21 years of age at the time of sentence;

(*c*) After service of the minimum term of the sentence less work and good behavior credits in all other cases.

(3) Within one year after his admission and at such intervals thereafter as it may determine, the board shall consider all pertinent information regarding each prisoner, including the circumstance of his offense; the pre-sentence report; his previous social history and criminal record; his conduct, employment, and attitude in prison; and the reports of such physical and mental examinations as have been made.

(4) Before ordering the parole of any prisoner, the board shall have the prisoner appear before it and shall interview him unless impractical because of the prisoner's physical or mental condition or absence from the institution. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. A prisoner shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen or that he should be released for hospitalization, deportation or to answer the warrant or other process of a court. Every prisoner while on parole shall remain in the legal custody of the institution from which he was released but shall be subject to the orders of the board until the expiration of the maximum term or terms for which he was sentenced.

The board may adopt such other rules not inconsistent with the law as it may deem proper or necessary, with respect to the eligibility of prisoners for parole, the conduct of parole hearings, or conditions to be imposed upon parolees. Whenever an order for parole is issued it shall recite the conditions thereof.

Section superseded. 62-2245.

22-1718. *Conditional Release.* A prisoner who has served his maximum term or terms, less such work and good behavior credits as have been earned, shall, upon release, be subject to such written rules and conditions as the board may impose, until the expiration of the maximum term or terms for which he was sentenced or until he is otherwise discharged.

Section superseded. 62-2246.

22-1719. *Information From Prison Officials.* K. S. A. 62-2247.

22-1720. *Information to Board From Persons Representing Prisoners Must Be Written; Affidavits as to Fees.* K. S. A. 62-2248.

22-1721. *Subpoena Power; Procedure.* K. S. A. 62-2249.

22-1722. *Return of Parole Violator; Issuance of Warrant; Arrest; Procedure.* K. S. A. 62-2250 with the following amendment: Following the second sentence in the second paragraph insert, "Relevant written statements made under oath shall be admitted and considered by the board along with other evidence presented at the hearing."

22-1723. *Discharge; Restoration of Civil Rights.* K. S. A. 62-2252.

Summary of the Work of the Supreme Court

The following is a summary of the work of the Supreme Court for the year ending June 30, 1969, and the cases pending July 1, 1969.

The Supreme Court disposed of 298 cases during the year. Included in the total terminated by the Court were 181 appealed civil cases, 79 appealed criminal cases and 38 original cases.

Of the total civil appeals, 107 were affirmed, 47 were reversed, 16 dismissed, and 11 affirmed in part and reversed in part.

Of the appealed criminal cases 57 were affirmed, 3 were reversed, 16 dismissed, 2 affirmed in part and reversed in part, and 1 appeal sustained.

Judgment was for the defendant in 31 original cases. The Court dismissed 7 original cases.

The Supreme Court also issued 890 orders prior to final disposition of cases pending during the year and in addition ruled upon 83 post-decision motions.

During the year 16 civil appeals were also docketed in the Supreme Court under Rule No. 6 (*j*). In such cases, 6 applications for intermediate orders were granted, 9 were denied, and 1 was pending at the end of the fiscal year. In 5 cases, the regular appeal was later docketed and in 11 cases the appeal was either pending or terminated in the district court.

There were 7 applications for permission to take interlocutory appeals (Rule 5) filed in the Supreme Court, 6 of which were denied, and 1 allowed.

Pending in the Supreme Court as of July 1, 1969, were 324 cases, of which 203 were appealed civil cases, 111 appealed criminal cases and 10 original cases. The average number of cases pending on July 1, for the past ten years, is 306.

During the year ending June 30, 1969, opinions were filed in 261 cases terminated by the Court. In 218 cases opinions were filed on or before the first regular opinion day; in 11 cases on or before the second regular opinion day; in 2 cases on or before the third opinion day; and in 1 case after the fourth opinion day. 29 cases were decided on the day they were submitted.

The regular opinion day is ordinarily a month after the case is submitted, more accurately it is the Saturday of the week hearings are had the next month after the case is submitted.

In 167 appealed civil cases in which opinions were filed within the year ending June 30, 1969, the time between the date the case was docketed in this Court and the date the case was submitted on its merits was as follows: Within three months, 1 case; in three to four months, no cases; in four to six months, 17 cases; in six to eight months, 14 cases; in eight to ten months, 8 cases; in ten to twelve months, 13 cases; and in over twelve months, 114 cases.

In 63 appealed criminal cases in which opinions were filed during the year ending June 30, 1969, the time between the date notice of appeal was filed in this Court and the date the case was submitted on its merits was as follows: Within three months, no cases; in three to four months, no cases; in four to six months, no cases; in six to eight months, 2 cases; in eight to ten months, 3 cases; in ten to twelve months, 3 cases; and in over twelve months, 55 cases.

In the forty-two years that the Clerk of the Supreme Court has furnished us detailed information of the work of the Supreme Court, it has disposed of 17,637 cases, of which 5,787 were dismissed before submission, and 11,850 were submitted on the merits and written opinions filed.

SUPREME COURT—FORTY-SECOND YEAR SUMMARY

Year ended June 30	Cases	Disposed of	Dismissed	Submitted
1928	Appealed, civil	529	143	386
	Appealed, criminal	101	44	57
	Original	46	13	33
	Totals	676	200	476
1929	Appealed, civil	475	128	347
	Appealed, criminal	72	29	43
	Original	36	18	18
	Totals	583	175	408
1930	Appealed, civil	504	143	351
	Appealed, criminal	77	37	40
	Original	52	16	36
	Totals	633	196	437
1931	Appealed, civil	490	131	359
	Appealed, criminal	63	29	34
	Original	38	13	25
	Totals	591	173	418
1932	Appealed, civil	522	159	363
	Appealed, criminal	74	45	29
	Original	32	6	26
	Totals	628	210	418
1933	Appealed, civil	459	135	324
	Appealed, criminal	66	35	31
	Original	23	5	18
	Totals	548	175	373
1934	Appealed, civil	427	149	278
	Appealed, criminal	52	30	22
	Original	42	11	31
	Totals	521	190	331
1935	Appealed, civil	506	167	339
	Appealed, criminal	58	26	32
	Original	25	11	14
	Totals	589	204	385
1936	Appealed, civil	475	156	319
	Appealed, criminal	66	31	35
	Original	39	19	20
	Totals	580	206	374
1937	Appealed, civil	397	103	294
	Appealed, criminal	56	27	29
	Original	33	9	24
	Totals	486	139	347
1938	Appealed, civil	388	131	257
	Appealed, criminal	41	25	16
	Original	32	6	26
	Totals	461	162	299
1939	Appealed, civil	397	114	283
	Appealed, criminal	32	17	15
	Original	15	4	11
	Totals	444	135	309
1940	Appealed, civil	426	117	309
	Appealed, criminal	31	10	21
	Original	39	20	19
	Totals	496	147	349

SUPREME COURT SUMMARY—CONTINUED

Year ended June 30	Cases	Disposed of	Dismissed	Submitted
1941	Appealed, civil	314	103	211
	Appealed, criminal	31	14	17
	Original	64	39	25
	Totals	409	156	253
1942	Appealed, civil	293	82	211
	Appealed, criminal	23	4	19
	Original	27	6	21
	Totals	343	92	251
1943	Appealed, civil	290	72	218
	Appealed, criminal	28	14	14
	Original	35	17	18
	Totals	353	103	250
1944	Appealed, civil	216	59	157
	Appealed, criminal	77	7	10
	Original	16	5	11
	Totals	249	71	178
1945	Appealed, civil	186	51	135
	Appealed, criminal	9	8	1
	Original	15	6	9
	Totals	210	65	145
1946	Appealed, civil	178	44	134
	Appealed, criminal	19	6	13
	Original	43	15	28
	Totals	240	65	175
1947	Appealed, civil	189	55	134
	Appealed, criminal	13	4	9
	Original	59	19	40
	Totals	261	78	183
1948	Appealed, civil	244	63	181
	Appealed, criminal	23	8	15
	Original	93	73	20
	Totals	360	144	216
1949	Appealed, civil	284	54	230
	Appealed, criminal	22	8	14
	Original	96	31	65
	Totals	402	93	309
1950	Appealed, civil	304	91	213
	Appealed, criminal	17	4	13
	Original	19	8	11
	Totals	340	103	237
1951	Appealed, civil	327	83	244
	Appealed, criminal	22	8	14
	Original	26	18	8
	Totals	375	109	266
1952	Appealed, civil	244	57	187
	Appealed, criminal	42	17	25
	Original	10	3	7
	Totals	296	77	219
1953	Appealed, civil	291	96	195
	Appealed, criminal	43	13	30
	Original	33	11	22
	Totals	367	120	247

SUPREME COURT SUMMARY—CONTINUED

Year ended June 30	Cases	Disposed of	Dismissed	Submitted
1954	Appealed, civil	280	91	189
	Appealed, criminal	48	26	22
	Original	32	12	20
	Totals	360	129	231
1955	Appealed, civil	306	114	192
	Appealed, criminal	19	6	13
	Original	20	5	15
	Totals	345	125	220
1956	Appealed, civil	318	120	198
	Appealed, criminal	31	8	23
	Original	29	8	21
	Totals	378	136	242
1957	Appealed, civil	295	112	183
	Appealed, criminal	24	7	17
	Original	27	7	20
	Totals	346	126	220
1958	Appealed, civil	388	172	216
	Appealed, criminal	23	9	14
	Original	17	4	13
	Totals	428	185	243
1959	Appealed, civil	320	138	182
	Appealed, criminal	24	7	17
	Original	41	10	31
	Totals	385	155	230
1960	Appealed, civil	371	142	229
	Appealed, criminal	43	28	15
	Original	39	8	31
	Totals	453	178	275
1961	Appealed, civil	366	171	195
	Appealed, criminal	57	31	26
	Original	37	9	28
	Totals	460	211	249
1962	Appealed, civil	418	216	202
	Appealed, criminal	42	24	18
	Original	53	15	38
	Totals	513	255	258
1963	Appealed, civil	391	196	195
	Appealed, criminal	82	41	41
	Original	33	11	22
	Totals	506	248	258
1964	Appealed, civil	338	150	188
	Appealed, criminal	47	20	27
	Original	28	13	15
	Totals	413	183	230
1965	Appealed, civil	227	40	187
	Appealed, criminal	65	20	45
	Original	36	5	31
	Totals	328	65	263
1966	Appealed, civil	224	29	195
	Appealed, criminal	60	26	34
	Original	44	6	38
	Totals	328	61	267

SUPREME COURT SUMMARY—CONCLUDED

Year ended June 30	Cases	Disposed of	Dismissed	Submitted
1967	Appealed, civil	198	25	173
	Appealed, criminal	86	27	59
	Original	52	6	46
	Totals	336	58	278
1968	Appealed, civil	201	15	186
	Appealed, criminal	77	20	57
	Original	41	12	29
	Totals	319	47	272
1969	Appealed, civil	181	14	167
	Appealed, criminal	79	16	63
	Original	38	7	31
	Totals	298	37	261
	Grand totals	17,637	5,787	11,850

TABLE A-1.—ROSTER OF JUDICIAL OFFICIALS AS OF JULY 1, 1969

County	Jud. Dist.	District Judge	Clerk of Court	Probate Judge
Allen	4	Floyd H. Coffman	Jeanne Smith	Leslie L. Norton*
Div. 1		Robert F. Stadler		
Div. 2		Alex Hotchkiss		
Div. 3				
Anderson	4	Floyd H. Coffman	Roberta Bowman	Charles W. Lybarger*
Div. 1		Robert F. Stadler		
Div. 2		Alex Hotchkiss		
Div. 3				
Atchison	1	Kenneth Harmon	Mary Lou Underwood	Frank Hunn
Div. 1		James W. Lowry		
Div. 2				
Barber	19	Doyle E. White	Donna Garten	H. Lynn Randels*
Div. 1		Charles H. Stewart		
Div. 2		John A. Potucek		
Div. 3				
Barton	20	Frederick Woleslagel	Geneva Steincamp	William J. Laughlin*
Div. 1		Herbert Rohleder		
Div. 2				
Bourbon	6	Charles M. Warren	Betty O'Dell	Samuel I. Mason*
Brown	22	Chester C. Ingels	Edna Boicourt	Ernest Honnbaum*
Butler	13	George S. Reynolds	Virginia Elmore	Roy B. Darlington*
Div. 1		Page W. Benson		
Div. 2				
Chase	5	Jay Sullivan	Myrtle Austin	George L. Imthurn*
Chautauqua	13	George S. Reynolds	Grace Sears	Carrol Burch*
Div. 1		Page W. Benson		
Div. 2				
Cherokee	11	Don Musser	Nina Coldiron	David Davison*
Div. 1		William P. Meek		
Div. 2		Hal Hyler		
Div. 3		George W. Donaldson		
Div. 4				
Cheyenne	17	William B. Ryan	Dorothy Finley	Arthur Lueschen*
Div. 1		Donald J. Magaw		
Div. 2				
Clark	16	Ernest M. Vieux	Hope Grimes	W. H. Shattuck*
Clay	21	Lewis L. McLaughlin	Lucille Murrison	James Young*
Div. 1		Joseph W. Menzie		
Div. 2				
Cloud	12	Marvin O. Brummett	Marguerite Larson	Marvin L. Stortz*
Coffey	4	Floyd H. Coffman	Mayree E. White	Orville E. Steele*
Div. 1		Robert F. Stadler		
Div. 2		Alex Hotchkiss		
Div. 3				
Comanche	16	Ernest M. Vieux	Ellen M. Erwin	Ralph R. Klepinger*
Cowley	19	Doyle E. White	Barbara Gilland	Richard E. Cook
Div. 1		Charles H. Stewart		
Div. 2		John A. Potucek		
Div. 3				
Crawford	11	Don Musser	Janice Caruthers	Richard D. Loffswold
Div. 1		William P. Meek		
Div. 2		Hal Hyler		
Div. 3		George W. Donaldson		
Div. 4				
Decatur	17	William J. Ryan	Alice J. Vernon	Elmer J. Tacha*
Div. 1		Donald J. Magaw		
Div. 2				
Dickinson	8	Walter E. Hembrow	Seth Barter, Jr.	Thomas E. Nold*
Div. 1		Albert B. Fletcher, Jr.		
Div. 2				
Doniphan	22	Chester C. Ingels	Alice F. Crane	Virgil W. Begesse*
Douglas	7	Frank R. Gray	Lucille E. Allison	Charles C. Rankin*
Edwards	24	Maurice A. Wildgen	Cecil Matthews	Richard Miller*
Elk	13	George S. Reynolds	Gertrude Loyd	Edith M. Barkley*
Div. 1		Page W. Benson		
Div. 2				
Ellis	23	Benedict P. Cruise	W. J. Billinger	Donald F. Rowland*
Ellsworth	20	Frederick Woleslagel	F. A. Vanek	Gerhard Haase*
Div. 1		Herbert Rohleder		
Div. 2				
Finney	25	Bert J. Vance	Rose Murray	Mike J. Frieson*
Ford	16	Ernest M. Vieux	Genevieve Fredelake	Camilla K. Haviland*
Franklin	4	Floyd H. Coffman	Christina Woke	Donald L. White*
Div. 1		Robert F. Stadler		
Div. 2		Alex Hotchkiss		
Div. 3				
Geary	8	Walter E. Hembrow	Edward C. Verbeke	G. W. Schmidt*
Div. 1		Albert B. Fletcher, Jr.		
Div. 2				
Gove	23	Benedict P. Cruise	Mabel Fagan	Vaudie Schaible*
Graham	15	C. E. Birney	Margaret A. Hildebrand	Henry C. Albertson*
Grant	26	L. L. Morgan	Edna M. Walker	Bernard Dalton*
Gray	16	Ernest M. Vieux	Grace Cunningham	Maurice L. Johnson*
Greeley	25	Bert J. Vance	Margaret L. Pile	Carol A. Graber*
Greenwood	13	George S. Reynolds	Alma K. Long	B. M. Beyer*
Div. 1		Page W. Benson		
Div. 2				
Hamilton	25	Bert J. Vance	Ruth Noggle	Martin R. Tomson*

TABLE A-1—CONTINUED. Roster of Judicial Officials as of July 1, 1969

County	Jud. Dist.	District Judge	Clerk of Court	Probate Judge
Harper	19	Doyle E. White	Florence M. Stone	J. Howard Wilcox*
Div. 1		Charles H. Stewart		
Div. 2		John A. Potucek		
Div. 3				
Harvey	9	Sam H. Sturm	Joe Fox	L. H. Goossen*
Haskell	26	L. L. Morgan	Mildred Duver	E. C. Bolinger*
Hodgeman	24	Maurice A. Wildgen	Agnes C. Gleason	Francis Sinclair*
Jackson	2	John W. Brookens	Florence Clements	H. E. Crosswhite*
Jefferson	2	John W. Brookens	Marion Steffey	Edwin Pence*
Jewell	12	Marvin O. Brummett	Carol E. Ross	Jack D. Bradrick*
Johnson	10	Herbert W. Walton	Pat Holland	Benjamin F. Farney
Div. 1		Harold L. Hammond		
Div. 2		Raymond H. Carr		
Div. 3		Harold R. Riggs		
Div. 4		Phillip L. Woodworth		
Div. 5				
Kearny	25	Bert J. Vance	Elizabeth Williams	Patricia L. Jones*
Kingman	19	Doyle E. White	Janis McIlrath	Gene Shay*
Div. 1		Charles H. Stewart		
Div. 2		John A. Potucek		
Div. 3				
Kiowa	16	Ernest M. Vieux	Billie M. Huckriede	Frank Peters*
Labette	11	Don Musser	Mary C. Morris	E. W. Beeson*
Div. 1		William P. Meek		
Div. 2		Hal Hyler		
Div. 3		George W. Donaldson		
Div. 4				
Lane	24	Maurice A. Wildgen	Eva Cramer	Dayton Schmalried*
Leavenworth	1	Kenneth Harmon	Mary Kate Gausz	Walter I. Biddle
Div. 1		James W. Lowry		
Div. 2				
Lincoln	12	Marvin O. Brummett	Jennie Panzer	D. J. Lamer*
Linn	6	Charles M. Warren	Ferne Bearly	Clarence H. Nation*
Logan	23	Benedict P. Cruise	H. Belle Selley	Annabel M. Peck*
Lyon	5	Jay Sullivan	Alice M. Long	Owen Samuel, Jr.*
Marion	8	Walter E. Hembrow	Geraldine Seibel	Henry F. Loveless*
Div. 1		Albert B. Fletcher, Jr.		
Div. 2				
Marshall	21	Lewis L. McLaughlin	Wilma Jean Blaser	Wilma Kirkwood*
Div. 1		Joseph W. Menzie		
Div. 2				
McPherson	9	Sam H. Sturm	Alma Bretches	H. Dean Cotton*
Meade	16	Ernest M. Vieux	Edyth Cooper	Ruth E. Gwartney*
Miami	6	Charles M. Warren	Zora Winkler	Brooks Hinkle*
Mitchell	12	Marvin O. Brummett	Neva Wagner	Lyle A. Newell*
Montgomery	14	David H. Scott	Bessie Scofield	W. J. Fitzpatrick
Independence Div.				
Coffeyville Div.				
Morris	8	Walter E. Hembrow	Nellie McMichael	A. J. Schmidt*
Div. 1		Albert B. Fletcher, Jr.		
Div. 2				
Morton	26	L. L. Morgan	Verda Mae Allen	Dale L. Pratner*
Nemaha	22	Chester C. Ingels	Ruth Shaffer	Blanche Riffer*
Neosho	11	Don Musser	Virginia Embry	Alberta Gough
Div. 1		William P. Meek		
Div. 2		Hal Hyler		
Div. 3		George W. Donaldson		
Div. 4				
Ness	24	Maurice A. Wildgen	Opal Burdett	Valdah M. Bovard*
Norton	17	William B. Ryan	Elsie Brault	Jean W. Kissell*
Div. 1		Donald J. Magaw		
Div. 2				
Osage	4	Floyd H. Coffman	Margaret Knight	Frank Garrett*
Div. 1		Robert F. Stadler		
Div. 2		Alex Hotchkiss		
Div. 3				
Osborne	17	William B. Ryan	Irene Laffoon	Ethel McCammon*
Div. 1		Donald J. Magaw		
Div. 2				
Ottawa	28	Morris V. Hoobler	Esther Plunkett	Aline Funk*
Div. 1		L. A. McNalley		
Div. 2				
Pawnee	24	Maurice A. Wildgen	Eulah Almquist	Spencer C. Ackerman*
Phillips	17	William B. Ryan	Evelyn M. Parker	Martha Kellogg*
Div. 1		Donald J. Magaw		
Div. 2				
Pottawatomie	2	John W. Brookens	Deane L. Arnold	Gordon Bradshaw*
Pratt	19	Doyle E. White	Mabel Axline	Gladys Scott*
Div. 1		Charles H. Stewart		
Div. 2		John A. Potucek		
Div. 3				

TABLE A-1.—CONCLUDED. Roster of Judicial Officials as of July 1, 1969

County	Jud. Dist.	District Judge	Clerk of Court	Probate Judge
Rawlins....Div. 1	17	William B. Ryan.....	Bessie Peterson.....	George W. Buk*
Div. 2		Donald J. Magaw		
Reno.....Div. 1	27	William A. Gossage....	George Walter.....	E. Victor Wilson
Div. 2		James H. Rexroad		
Republic.....	12	Marvin O. Brummett..	Earl J. Baldridge.....	Warren A. Scott*
Rice.....Div. 1	20	Frederick Woleslagel...	Laura Saint.....	Paul W. Cline*
Div. 2		Herbert Rohleder		
Riley.....Div. 1	21	Lewis L. McLaughlin..	Joseph F. Musil.....	Jerry L. Mershon*
Div. 2		Joseph W. Menzie		
Rooks.....	15	C. E. Birney.....	Irma Renner.....	James H. Gilbert*
Rush.....	24	Maurice A. Wildgen...	Clara Humburg.....	Bennie A. Parker*
Russell.....Div. 1	20	Frederick Woleslagel...	Gladys Kling.....	F. J. Hartman*
Div. 2		Herbert Rohleder		
Saline.....Div. 1	28	Morris V. Hoobler.....	Betty J. Just.....	J. Herb Wilson
Div. 2		L. A. McNalley		
Scott.....	25	Bert J. Vance.....	Irene Cunningham.....	Eythel Hollingsworth*
Sedgwick...Div. 1	18	William C. Kandt.....	Dorothy I. Van Arsdale	Clark V. Owens
Div. 2		Howard C. Kline.....		
Div. 3		B. Mack Bryant		
Div. 4		James V. Riddel, Jr.		
Div. 5		James J. Noone		
Div. 6		Robert T. Stephan		
Div. 7		Tom Raum		
Seward.....	26	L. L. Morgan.....	Pauline F. Strickland..	H. E. Malin*
Shawnee....Div. 1	3	William Randolph Carpenter.....	Lucile M. Carter.....	Malcolm Copeland
Div. 2		Michael A. Barbara		
Div. 3		E. Newton Vickers		
Div. 4		David Prager		
Sheridan.....	15	C. E. Birney.....	Eula Farber.....	Ward Gilliland*
Sherman.....	15	C. E. Birney.....	Viva Peter.....	Bonnie L. Carleton*
Smith.....Div. 1	17	William B. Ryan.....	Florence Vincent.....	Clarence N. Gillott*
Div. 2		Donald J. Magaw		
Stafford....Div. 1	20	Frederick Woleslagel...	Arlene E. McCandless..	Earline Scott*
Div. 2		Herbert Rohleder		
Stanton.....	26	L. L. Morgan.....	Marjorie Newton.....	Maurice L. Gillum*
Stevens.....	26	L. L. Morgan.....	John F. Fulkerson.....	F. M. Crawford*
Sumner.....Div. 1	19	Doyle E. White.....	Mary E. Carter.....	Lloyd K. McDaniel*
Div. 2		Charles H. Stewart		
Div. 3		John A. Potucek		
Thomas.....	15	C. E. Birney.....	Thelma Livingston....	Morgan H. Cole*
Trego.....	23	Benedict P. Cruise.....	Virginia Webb.....	David L. Rhoades*
Wabaunsee.....	2	John W. Brookens.....	Mary E. Tolbert.....	Harold Bennett*
Wallace.....	23	Benedict P. Cruise.....	Evelyn A. Warren.....	John L. Smyth*
Washington.....	12	Marvin O. Brummett..	Lois Acree.....	Wayne W. Healy*
Wichita.....	25	Bert J. Vance.....	Margie Ames.....	John E. Ley*
Wilson.....Div. 1	11	Don Musser.....	Leslie V. York.....	Dwaine Spoon*
Div. 2		William P. Meek		
Div. 3		Hal Hyler		
Div. 4		George W. Donaldson		
Woodson...Div. 1	4	Floyd H. Coffman.....	Arline Brooks.....	Ted West*
Div. 2		Robert F. Stadler		
Div. 3		Alex Hotchkiss		
Wyandotte Div. 1	29	O. Q. Claflin, III.....	Richard D. Shannon...	Francis J. Donnelly
Div. 2		William J. Burns		
Div. 3		Harry G. Miller, Jr.		
Div. 4		Joe H. Swinehart		
Div. 5		Leo J. Moroney		

* Also judge of county court.

TABLE A-2.—SUMMARY OF DISTRICT COURTS, BY DISTRICTS
YEAR ENDING JUNE 30, 1969

Judicial Dist.	County	Civil cases including domestic relations						Criminal cases					
		Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months	Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months
1	Atchison	230	189	216	203	87	32	14	42	52	4	3	1
	Leavenworth	739	515	607	647	271	161	87	108	103	92	70	20
	Totals	969	704	823	850	358	193	101	150	155	96	73	21
2	Jackson	62	94	77	79	47	21	9	17	15	11	6	4
	Jefferson	54	106	119	41	38	3	5	14	17	2	2	0
	Pottawatomie	23	81	65	39	35	5	2	11	12	1	1	0
	Wabaunsee	32	33	47	18	12	5	1	15	11	5	5	0
	Totals	171	314	308	177	132	34	17	57	55	19	14	4
3	Shawnee	985	2,351	2,367	969	865	95	169	458	473	154	138	15
4	Allen	87	165	176	76	66	9	4	10	13	1	1	0
	Anderson	16	53	46	23	19	2	2	9	9	2	2	0
	Coffey	27	61	57	31	27	3	9	15	14	10	5	2
	Franklin	60	230	222	68	67	1	5	45	41	9	9	0
	Osage	78	146	136	88	73	10	14	51	48	17	17	0
	Woodson	27	44	57	14	12	2	2	6	7	1	1	0
	Totals	295	699	694	300	264	27	36	136	132	40	35	2
5	Chase	20	39	29	30	23	5	1	8	9	0	0	0
	Lyon	129	288	270	147	129	14	23	78	68	33	29	3
	Totals	149	327	299	177	152	19	24	86	77	33	29	3
6	Bourbon	67	168	156	79	71	6	3	10	7	6	4	2
	Linn	22	71	56	37	32	3	9	10	17	2	2	0
	Miami	89	213	198	104	92	12	4	16	13	7	7	0
	Totals	178	452	410	220	195	21	16	36	37	15	13	2

TABLE A-2.—CONTINUED. Summary of District Courts, by Districts—Year Ending June 30, 1969

Judicial Dist.	County	Civil cases including domestic relations						Criminal cases					
		Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months	Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months
7	Douglas	290	517	383	424	306	81	23	100	86	37	33	1
8	Dickinson	112	186	207	91	76	7	14	42	32	24	20	2
	Geary	209	374	402	181	147	22	12	77	57	32	29	1
	Marion	62	84	78	68	46	18	6	14	12	8	5	3
	Morris	26	51	46	31	18	4	2	7	2	7	7	0
	Totals	409	695	733	371	287	51	34	140	103	71	61	6
9	Harvey	172	199	204	167	84	43	15	24	25	14	11	1
	McPherson	113	128	151	90	55	16	13	21	17	17	16	1
	Totals	285	327	355	257	139	59	28	45	42	31	27	2
10	Johnson	1,507	2,355	2,061	1,801	1,256	336	144	347	374	117	107	7
11	Cherokee	158	254	253	159	114	37	11	25	25	11	6	5
	Crawford	149	375	340	184	161	16	40	76	86	30	25	3
	Labette	134	287	292	129	103	20	13	30	32	11	9	1
	Neosho	64	213	211	66	59	7	5	14	16	3	3	0
	Wilson	22	117	106	33	31	2	6	12	15	3	3	0
	Totals	527	1,246	1,202	571	468	82	75	157	174	58	46	9
12	Cloud	36	71	80	27	20	5	5	10	11	4	3	1
	Jewell	33	27	45	15	11	3	2	3	5	0	0	0
	Lincoln	11	25	23	13	12	1	0	3	2	1	1	0
	Mitchell	34	35	36	33	21	11	1	9	7	3	2	1
	Republic	27	50	55	22	14	6	5	14	12	7	6	1
	Washington	27	37	41	23	17	5	3	3	5	1	1	0
	Totals	168	245	280	133	95	31	16	42	42	16	13	3

TABLE A-2.—CONTINUED. Summary of District Courts, by Districts—Year Ending June 30, 1969

Judicial Dist.	County	Civil cases including domestic relations						Criminal cases					
		Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months	Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months
13	Butler	331	460	448	343	250	55	36	134	116	54	49	2
	Chautauqua	71	89	88	72	35	30	4	11	8	7	7	0
	Elk	15	50	45	20	19	1	1	6	3	4	4	0
	Greenwood	62	161	164	59	53	6	4	10	12	2	2	0
	Totals	479	760	745	494	357	92	45	161	139	67	62	2
14	Montgomery	221	499	473	247	212	28	19	69	62	26	22	4
15	Graham	37	70	69	38	24	11	7	5	8	4	4	0
	Rooks	28	75	71	32	29	2	6	8	7	7	4	1
	Sheridan	8	19	19	8	7	1	1	0	1	0	0	0
	Sherman	73	80	111	42	25	16	1	16	15	2	1	1
	Thomas	22	47	45	24	17	5	0	6	3	3	3	0
	Totals	168	291	315	144	102	35	15	35	34	16	12	2
16	Clark	15	12	17	10	6	2	0	4	0	4	4	0
	Comanche	15	16	16	15	9	1	3	3	4	2	2	0
	Ford	197	222	230	189	124	34	16	26	20	22	17	2
	Gray	30	43	36	37	26	7	3	1	1	3	1	1
	Kiowa	27	16	16	27	11	13	1	7	4	4	3	0
	Meade	24	27	32	19	11	3	2	9	8	3	3	0
	Totals	308	336	347	297	187	60	25	50	37	38	30	3
17	Cheyenne	28	21	11	38	19	12	0	1	0	1	1	0
	Decatur	10	33	29	14	11	3	0	3	2	1	1	0
	Norton	21	54	50	25	23	2	1	5	6	0	0	0
	Osborne	12	44	42	14	9	5	2	8	8	2	2	0
	Phillips	26	52	36	42	29	8	0	4	1	3	3	0
	Rawlins	8	23	17	14	10	3	1	7	4	4	3	0
	Smith	21	43	52	12	9	1	3	10	13	0	0	0
	Totals	126	270	237	159	110	34	7	38	34	11	10	0

TABLE A-2.—CONTINUED. Summary of District Courts, by Districts—Year Ending June 30, 1969

Judicial Dist.	County	Civil cases including domestic relations						Criminal cases					
		Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months	Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months
18	Sedgwick	2,970	5,412	5,988	2,394	2,220	151	450	1,252	1,210	492	461	31
19	Barber	17	56	49	24	20	2	3	9	9	3	1	2
	Cowley	158	360	343	175	140	31	10	54	53	11	11	0
	Harper	27	36	43	20	15	3	2	9	8	3	2	0
	Kingman	32	75	66	41	36	3	6	16	13	9	8	0
	Pratt	52	129	118	63	54	8	7	21	17	11	6	5
	Sumner	190	160	157	193	80	35	12	23	25	10	7	1
	Totals	476	816	776	516	345	82	40	132	125	47	35	8
20	Barton	236	338	387	187	150	34	15	54	52	17	17	0
	Ellsworth	18	30	40	8	7	1	3	0	2	1	0	1
	Rice	33	76	77	32	30	2	0	10	8	2	2	0
	Russell	60	286	96	250	238	3	1	18	9	10	10	0
	Stafford	23	59	55	27	26	1	1	4	3	2	2	0
	Totals	370	789	655	504	451	41	20	86	74	32	31	1
21	Clay	44	51	64	31	18	7	4	11	12	3	2	0
	Marshall	49	96	89	56	40	8	1	5	4	2	1	0
	Riley	195	264	276	183	133	32	9	74	75	8	8	0
	Totals	288	411	429	270	191	47	14	90	91	13	11	0
22	Brown	28	53	42	39	28	8	6	7	13	0	0	0
	Doniphan	52	83	82	53	42	6	4	4	7	1	0	1
	Nemaha	20	30	34	16	12	2	1	1	2	0	0	0
	Totals	100	166	158	108	82	16	11	12	22	1	0	1

TABLE A-2.—CONTINUED. Summary of District Courts, by Districts—Year Ending June 30, 1969

Judicial Dist.	County	Civil cases including domestic relations						Criminal cases					
		Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months	Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months
23	Ellis	82	175	157	100	86	12	6	22	23	5	4	1
	Gove	27	37	40	24	24	0	0	1	1	0	0	0
	Logan	13	39	38	14	11	1	2	4	5	1	1	0
	Trego	13	21	28	6	4	1	0	4	4	0	0	0
	Wallace	9	22	23	9	7	1	0	2	1	1	1	0
	Totals	144	295	286	153	132	15	8	33	34	7	6	1
24	Edwards	13	34	28	19	16	1	2	3	3	2	2	0
	Hodgeman	18	20	28	10	9	1	2	1	3	0	0	0
	Lane	11	28	24	15	15	0	3	2	5	0	0	0
	Ness	25	35	41	19	13	5	5	1	3	3	0	3
	Pawnee	35	80	76	39	33	2	1	10	9	2	1	0
	Rush	65	43	65	43	25	7	9	7	7	9	5	4
	Totals	167	240	262	145	111	16	22	24	30	16	8	7
25	Finney	75	226	215	86	76	7	7	53	50	10	10	0
	Greeley	7	14	18	3	2	1	0	0	0	0	0	0
	Hamilton	10	25	32	3	3	0	0	0	0	0	0	0
	Kearny	19	23	35	7	6	1	1	4	2	3	3	0
	Scott	26	52	57	21	18	2	2	2	4	0	0	0
	Wichita	13	33	33	13	12	0	1	0	1	0	0	0
	Totals	150	373	390	133	117	11	11	59	57	13	13	0
26	Grant	29	48	45	32	22	3	1	8	7	2	2	0
	Haskell	24	34	31	27	18	9	7	2	5	4	1	1
	Morton	52	22	25	49	12	5	1	7	2	6	5	0
	Stanton	20	20	21	19	14	5	0	6	1	5	5	0
	Stevens	280	34	34	280	17	8	2	0	0	2	0	0
	Seward	159	228	212	175	128	36	36	53	41	48	38	9
	Totals	564	386	368	582	211	66	47	76	56	67	51	10

TABLE A-2.—CONCLUDED. Summary of District Courts, by Districts—Year Ending June 30, 1969

Judicial Dist.	County	Civil cases including domestic relations						Criminal cases					
		Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months	Pending July 1, 1968	Commenced	Terminated	Pending July 1, 1969	Number pending less than 12 months	Pending 12 to 24 months
27	Reno	367	712	769	310	275	29	44	161	173	32	29	3
28	Ottawa	16	34	32	18	14	2	1	1	2	0	0	0
	Saline	423	623	667	379	297	56	22	73	74	21	18	3
	Totals	439	657	699	397	311	58	23	74	76	21	18	3
29	Wyandotte	4,118	3,350	4,375	3,093	2,058	694	262	521	508	275	212	27
	Grand totals	17,388	25,995	27,187	16,196	11,989	2,504	1,746	4,627	4,512	1,861	1,600	178

SUMMARY OF DISTRICT COURTS, BY COUNTIES

TABLE A-3.—DISPOSITION OF CIVIL CASES, INCLUDING DOMESTIC RELATIONS—YEAR ENDING JUNE 30, 1969

Counties	Total number cases	Number dismissed	Number not contested	Contested trials					Appeals docketed (Supreme Court)
				Number	To court	To jury	Time from petition to trial		
							Number less than 12 months	12 to 24 months	
Allen	176	68	70	38	32	6	34	4	1
Anderson	46	10	28	8	8	0	7	1	0
Atchison	216	78	65	73	68	5	61	12	3
Barber	49	16	28	5	4	1	5	0	0
Barton	387	165	89	133	124	9	105	28	4
Bourbon	156	61	69	26	25	1	22	4	2
Brown	42	13	16	13	13	0	11	2	1
Butler	448	176	167	105	102	3	85	20	4
Chase	29	14	7	8	8	0	4	4	0
Chautauqua	88	24	34	30	27	3	23	7	0
Cherokee	253	75	99	79	75	4	70	9	0
Cheyenne	11	2	6	3	2	1	1	2	0
Clark	17	11	5	1	1	0	0	1	1
Clay	64	22	20	22	21	1	21	1	0
Cloud	80	20	35	25	23	2	20	5	0
Coffey	57	16	28	13	12	1	11	2	1
Comanche	16	6	9	1	1	0	1	0	0
Cowley	343	103	139	101	99	2	96	5	2
Crawford	340	106	136	98	92	6	82	16	5
Decatur	29	13	14	2	2	0	2	0	0
Dickinson	207	80	76	51	47	4	41	10	2
Doniphan	82	34	18	30	29	1	26	4	1
Douglas	383	140	128	115	113	2	102	13	4
Edwards	28	8	9	11	11	0	10	1	1
Elk	45	14	18	13	13	0	9	4	0

TABLE A-3.—CONTINUED. Disposition of Civil Cases, Including Domestic Relations—Year Ending June 30, 1969

Counties	Total number cases	Number dismissed	Number not contested	Contested trials					Appeals docketed (Supreme Court)
				Number	To court	To jury	Time from petition to trial		
							Number less than 12 months	12 to 24 months	
Ellis	157	55	55	47	45	2	41	6	1
Ellsworth	40	16	10	14	14	0	13	1	1
Finney	215	66	87	62	59	3	57	5	2
Ford	230	77	97	56	53	3	45	11	5
Franklin	222	72	60	90	84	6	85	5	1
Geary	402	120	194	88	86	2	66	22	1
Gove	40	7	0	33	33	0	10	23	0
Graham	69	26	30	13	12	1	11	2	0
Grant	45	23	10	12	12	0	10	2	0
Gray	36	17	13	6	5	1	5	1	0
Greeley	18	5	8	5	5	0	4	1	0
Greenwood	164	38	106	20	20	0	16	4	0
Hamilton	32	12	16	4	4	0	4	0	0
Harper	43	9	16	18	18	0	16	2	0
Harvey	204	63	53	88	84	4	69	19	2
Haskell	31	14	14	3	2	1	1	2	1
Hodgeman	28	11	9	8	8	0	6	2	3
Jackson	77	26	27	24	23	1	22	2	1
Jefferson	119	38	30	51	49	2	41	10	0
Jewell	45	19	12	14	13	1	14	0	0
Johnson	2,061	762	758	541	514	27	425	116	13
Kearny	35	14	7	14	12	2	12	2	0
Kingman	66	26	31	9	9	0	9	0	2
Kiowa	16	4	8	4	4	0	3	1	0
Labette	292	85	100	107	101	6	99	8	1

TABLE A-3.—CONTINUED. Disposition of Civil Cases, Including Domestic Relations—Year Ending June 30, 1969

Counties	Total number cases	Number dismissed	Number not contested	Contested trials					Appeals docketed (Supreme Court)
				Number	To court	To jury	Time from petition to trial		
							Number less than 12 months	12 to 24 months	
Lane	24	13	3	8	7	1	5	3	0
Leavenworth	607	303	155	149	146	3	125	24	5
Lincoln	23	4	12	7	7	0	6	1	1
Linn	56	15	20	21	18	3	20	1	0
Logan	38	14	13	11	10	1	10	1	0
Lyon	270	82	114	74	67	7	68	6	1
Marion	78	24	17	37	34	3	34	3	0
Marshall	89	45	16	28	23	5	22	6	1
McPherson	151	40	55	56	54	2	41	15	1
Meade	32	10	7	15	11	4	12	3	0
Miami	198	65	67	66	58	8	62	4	0
Mitchell	36	10	15	11	11	0	10	1	2
Montgomery	473	155	191	127	118	9	115	12	2
Morris	46	10	10	26	26	0	25	1	1
Morton	25	7	10	8	7	1	7	1	0
Nemaha	34	8	10	16	16	0	15	1	0
Neosho	211	73	111	27	26	1	25	2	0
Ness	41	14	11	16	16	0	13	3	0
Norton	50	18	24	8	8	0	5	3	0
Osage	136	42	23	71	65	6	63	8	2
Osborne	42	9	16	17	17	0	17	0	0
Ottawa	32	9	9	14	13	1	13	1	0
Pawnee	76	29	19	28	25	3	26	2	0
Philips	36	7	24	5	5	0	4	1	3
Pottawatomie	65	19	15	31	30	1	30	1	2
Pratt	118	39	64	15	12	3	13	2	1
Rawlins	17	2	11	4	3	1	3	1	1
Reno	769	291	307	171	162	9	144	27	3
Republic	55	23	17	15	14	1	11	4	1
Rice	77	24	19	34	34	0	25	9	1

TABLE A-3.—CONCLUDED. Disposition of Civil Cases, Including Domestic Relations—Year Ending June 30, 1969

Counties	Total number cases	Number dismissed	Number not contested	Contested trials					Appeals docketed (Supreme Court)
				Number	To court	To jury	Time from petition to trial		
							Number less than 12 months	12 to 24 months	
Riley	276	88	110	78	73	5	52	26	2
Rooks	71	19	45	7	5	2	6	1	0
Rush	65	18	39	8	3	5	1	7	1
Russell	96	34	26	36	32	4	29	7	2
Saline	667	242	256	169	155	14	132	37	4
Scott	57	9	25	23	21	2	20	3	0
Sedgwick	5,988	2,496	1,994	1,498	1,344	154	1,307	191	42
Seward	212	81	107	24	18	6	17	7	1
Shawnee	2,367	955	901	511	487	24	455	56	12
Sheridan	19	10	8	1	1	0	0	1	0
Sherman	111	41	40	30	25	5	22	8	0
Smith	52	16	8	28	28	0	27	1	1
Stafford	55	14	21	20	15	5	17	3	1
Stanton	21	7	10	4	1	3	2	2	0
Stevens	34	13	18	3	3	0	3	0	1
Sumner	157	49	66	42	41	1	34	8	2
Thomas	45	12	21	12	12	0	10	2	0
Trego	28	15	13	0	0	0	0	0	0
Wabaunsee	47	18	16	13	10	3	8	5	0
Wallace	23	7	12	4	4	0	2	2	0
Washington	41	12	19	10	10	0	5	5	0
Wichita	33	12	16	5	5	0	4	1	0
Wilson	106	29	59	18	16	2	18	0	1
Woodson	57	16	33	8	7	1	6	2	0
Wyandotte	4,375	1,878	1,298	1,199	1,112	87	612	587	17
Grand totals	27,187	10,375	9,610	7,202	6,692	510	5,691	1,511	181

SUMMARY OF DISTRICT COURTS, BY COUNTIES

TABLE A-4.—DISPOSITION OF DOMESTIC RELATIONS CASES—YEAR ENDING JUNE 30, 1969

Counties	Total number cases terminated	Divorce						Annulment	Separate maintenance	Recip-in	Recip-out	Other
		Total	Dismissed	Not contested	Contested	Granted*	Denied					
Allen	94	80	34	44	2	48	0	0	6	6	1	1
Anderson	22	21	2	15	4	19	0	0	0	1	0	0
Atchison	103	85	40	29	16	46	0	1	6	8	3	0
Barber	24	20	6	14	0	14	0	1	1	2	0	0
Barton	201	169	79	48	42	99	1	4	18	3	6	1
Bourbon	80	77	32	34	11	44	1	1	0	1	0	1
Brown	12	10	2	6	2	8	0	2	0	0	0	0
Butler	252	197	63	92	42	137	1	1	24	3	26	1
Chase	9	7	4	1	2	3	0	0	1	1	0	0
Chautauqua	25	24	6	6	12	18	0	0	0	1	0	0
Cherokee	158	143	45	75	23	97	1	4	4	7	0	0
Cheyenne	4	3	0	3	0	3	0	0	0	0	0	1
Clark	7	6	3	2	1	3	0	0	0	1	0	0
Clay	35	33	14	10	9	19	0	0	0	1	1	0
Cloud	37	30	5	19	6	25	1	0	3	2	2	0
Coffey	26	26	11	11	4	15	0	0	0	0	0	0
Comanche	8	8	2	5	1	6	0	0	0	0	0	0
Cowley	224	191	47	94	50	148	0	2	8	10	13	0
Crawford	177	160	43	84	33	122	1	2	10	1	4	0
Decatur	13	12	3	8	1	9	0	1	0	0	0	0
Dickinson	121	95	45	37	13	53	1	1	11	5	9	0
Doniphan	31	27	6	15	6	22	0	0	1	1	0	2
Douglas	217	199	59	79	61	145	0	3	6	5	1	3
Edwards	12	11	1	7	3	10	0	0	0	1	0	0
Elk	10	9	2	3	4	7	0	0	0	1	0	0
Ellis	37	28	11	6	11	17	0	0	7	0	2	0
Ellsworth	20	17	7	2	8	10	0	0	2	0	1	0
Finney	112	105	29	53	23	76	0	1	0	5	0	1
Ford	108	98	25	54	19	77	1	1	5	4	0	0
Franklin	126	113	32	22	59	81	0	0	3	3	7	0

TABLE A-4.—CONTINUED. Disposition of Domestic Relations Cases—Year Ending June 30, 1969

Counties	Total number cases terminated	Divorce						Annulment	Separate maintenance	Recip-in	Recip-out	Other
		Total	Dismissed	Not contested	Contested	Granted*	Denied					
Geary	298	186	65	92	29	131	0	38	31	18	24	1
Gove	3	2	0	0	2	2	0	0	1	0	0	0
Graham	31	29	9	19	1	20	0	0	0	2	0	0
Grant	23	22	13	7	2	9	0	1	0	0	0	0
Gray	8	6	3	0	3	3	0	0	0	2	0	0
Greeley	6	5	2	3	0	3	0	0	0	0	0	1
Greenwood	51	50	13	34	3	37	0	0	0	1	0	0
Hamilton	18	17	3	12	2	15	0	0	1	0	0	0
Harper	24	23	4	11	8	19	0	0	0	1	0	0
Harvey	113	95	21	37	37	74	0	4	1	12	1	0
Haskell	9	8	1	7	0	7	0	0	0	1	0	0
Hodgeman	9	9	4	5	0	5	0	0	0	0	0	0
Jackson	42	32	9	18	5	27	0	0	8	1	1	0
Jefferson	50	43	8	24	11	36	0	1	5	1	0	0
Jewell	18	18	8	8	2	10	0	0	0	0	0	0
Johnson	1,097	824	216	357	251	652	0	29	102	64	76	2
Kearny	12	12	2	5	5	10	0	0	0	0	0	0
Kingman	28	25	5	18	1	19	0	1	1	1	0	0
Kiowa	11	10	0	7	3	10	0	0	1	0	0	0
Labette	180	160	38	73	49	126	0	6	3	8	0	3
Lane	5	5	2	2	1	3	0	0	0	0	0	0
Leavenworth	347	284	142	96	46	152	0	5	34	12	8	4
Lincoln	9	8	0	6	2	8	0	0	1	0	0	0
Linn	24	21	5	12	4	16	0	0	2	0	1	0
Logan	6	3	1	1	1	3	0	0	2	1	0	0
Lyon	141	125	31	66	28	96	0	2	7	2	5	0
Marion	19	18	9	3	6	9	0	0	0	0	1	0
Marshall	31	28	9	12	7	19	0	1	0	1	1	0
McPherson	64	59	10	36	13	50	0	0	3	2	0	0
Meade	12	11	4	6	1	7	0	0	0	1	0	0

TABLE A-4.—CONTINUED. Disposition of Domestic Relations Cases—Year Ending June 30, 1969

Counties	Total number cases terminated	Divorce						Annulment	Separate maintenance	Recip-in	Recip-out	Other
		Total	Dismissed	Not contested	Contested	Granted*	Denied					
Miami	93	77	19	41	17	59	0	3	4	8	1	0
Mitchell	15	14	6	7	1	8	0	0	0	0	0	1
Montgomery	270	229	70	109	50	164	0	4	17	1	17	2
Morris	12	12	0	6	6	12	0	0	0	0	0	0
Morton	9	8	1	6	1	7	0	0	0	0	0	1
Nemaha	13	12	4	4	4	8	0	0	0	0	1	0
Neosho	87	83	36	38	9	46	1	0	0	4	0	0
Ness	16	14	5	5	4	9	0	0	2	0	0	0
Norton	22	17	4	11	2	16	0	1	3	1	0	0
Osage	41	38	16	8	14	22	0	2	0	0	1	0
Osborne	18	17	2	13	2	14	1	1	0	0	0	0
Ottawa	17	12	2	7	3	12	0	0	4	1	0	0
Pawnee	32	26	8	9	9	17	1	0	2	3	1	0
Phillips	11	10	2	6	2	8	0	1	0	0	0	0
Pottawatomie	26	21	4	9	8	19	0	2	2	1	0	0
Pratt	77	58	15	40	3	43	0	1	2	4	12	0
Rawlins	4	3	0	3	0	3	0	1	0	0	0	0
Reno	524	424	181	169	74	248	3	7	37	18	37	1
Republic	25	18	11	7	0	7	0	0	2	2	3	0
Rice	31	27	6	9	12	21	0	1	0	2	0	1
Riley	146	120	30	62	28	91	0	2	7	5	12	0
Rooks	39	35	6	28	1	29	0	1	1	1	1	0
Rush	9	7	2	5	0	6	0	0	1	1	0	0
Russell	29	24	9	10	5	17	0	0	4	1	0	0
Saline	382	293	121	112	60	183	0	2	33	17	36	1

TABLE A-4.—CONCLUDED. Disposition of Domestic Relations Cases—Year Ending June 30, 1969

Counties	Total number cases terminated	Divorce						Annulment	Separate maintenance	Recip-in	Recip-out	Other
		Total	Dismissed	Not contested	Contested	Granted*	Denied					
Scott	18	14	1	11	2	13	0	0	0	1	3	0
Sedgwick	3,779	2,847	1,168	1,161	518	1,706	2	52	335	204	131	210
Seward	131	113	48	53	12	67	0	2	10	3	3	0
Shawnee	1,469	1,118	419	507	192	747	2	45	149	47	62	48
Sheridan	5	4	1	3	0	3	0	0	1	0	0	0
Sherman	47	42	12	19	11	31	0	0	3	1	1	0
Smith	15	15	6	4	5	9	0	0	0	0	0	0
Stafford	19	17	6	3	8	11	0	1	1	0	0	0
Stanton	2	1	0	0	1	1	0	0	1	0	0	0
Stevens	20	18	6	11	1	12	0	1	0	1	0	0
Sumner	87	81	24	40	17	57	0	1	4	0	0	1
Thomas	20	19	3	11	5	16	0	0	0	1	0	0
Trego	5	5	0	5	0	5	0	0	0	0	0	0
Wabaunsee	8	7	2	2	3	5	0	0	1	0	0	0
Wallace	3	2	0	2	0	2	0	0	0	0	1	0
Washington	9	4	1	1	2	3	0	0	1	1	3	0
Wichita	16	16	5	10	1	11	0	0	0	0	0	0
Wilson	51	46	13	26	7	33	0	1	0	3	1	0
Woodson	9	7	2	5	0	5	0	1	0	1	0	0
Wyandotte	2,835	2,165	1,135	726	304	1,070	2	94	302	153	83	38
Grand totals	15,490	12,282	4,708	5,179	2,395	7,835	20	340	1,248	690	604	326

* Includes divorces granted in separate maintenance and annulment cases.

SUMMARY OF DISTRICT COURTS, BY COUNTIES

TABLE A-5.—TYPES OF CIVIL CASES COMMENCED—YEAR ENDING JUNE 30, 1969

Counties	Divorce	Other domestic relations	Auto negligence	Other tort	Actions under 60-1507	Foreclosure	Real property	Contractual	Injunctions, mandamus quo warranto	Other	*Total number cases
Allen	69	17	11	1	0	0	22	38	2	5	165
Anderson	22	1	5	4	1	2	10	0	0	8	53
Atchison	84	7	16	2	1	1	27	40	4	7	189
Barber	26	6	1	2	0	2	7	6	0	6	56
Barton	150	24	25	16	0	10	13	85	1	14	338
Bourbon	82	4	14	4	2	0	27	30	2	3	168
Brown	15	3	11	2	1	1	1	17	0	2	53
Butler	231	40	21	2	5	7	38	77	3	36	460
Chase	11	2	0	0	0	0	5	6	0	15	39
Chautauqua	22	2	0	1	1	2	12	41	0	8	89
Cherokee	148	15	6	7	0	4	38	20	2	14	254
Cheyenne	10	0	1	0	0	4	1	4	0	1	21
Clark	3	1	0	0	0	1	0	4	2	1	12
Clay	17	3	9	2	0	0	3	13	1	3	51
Cloud	25	7	3	1	1	2	9	16	0	7	71
Coffey	22	0	3	1	0	1	14	8	0	12	61
Comanche	7	1	0	0	0	2	3	0	2	1	16
Cowley	206	28	15	10	3	4	31	48	2	13	360
Crawford	168	26	23	1	0	4	25	91	6	31	375
Decatur	9	2	1	1	0	0	3	12	0	5	33
Dickinson	80	14	17	6	3	5	17	34	2	8	186
Doniphan	25	3	6	4	0	1	28	14	0	2	83
Douglas	240	38	72	19	0	13	50	61	6	18	517
Edwards	12	1	0	1	0	2	5	11	0	2	34
Elk	11	2	0	1	0	2	13	18	0	3	50
Ellis	32	14	18	10	1	17	15	52	0	16	175
Ellsworth	17	1	0	1	0	0	2	6	0	3	30
Finney	115	11	3	4	2	9	15	54	0	13	226
Ford	91	14	6	3	0	8	15	65	3	17	222
Franklin	129	12	9	4	2	5	16	37	4	12	230

TABLE A-5.—CONTINUED. Types of Civil Cases Commenced—Year Ending June 30, 1969

Counties	Divorce	Other domestic relations	Auto negligence	Other tort	Actions under 60–107	Foreclosure	Real property	Contractual	Injunctions, mandamus quo warranto	Other	*Total number cases
Geary	164	107	23	2	0	11	19	36	3	9	374
Gove	2	2	0	2	0	3	6	7	0	15	37
Graham	31	1	1	3	0	3	6	15	0	10	70
Grant	21	1	2	1	0	1	6	15	0	1	48
Gray	12	3	1	0	0	1	6	15	0	5	43
Greeley	5	0	0	0	0	2	2	4	0	1	14
Greenwood	48	3	2	2	0	1	27	72	0	6	161
Hamilton	14	1	1	0	0	0	1	7	0	1	25
Harper	18	1	2	1	0	0	5	8	0	1	36
Harvey	101	14	17	2	0	6	18	30	2	9	199
Haskell	7	2	2	1	0	1	3	15	1	2	34
Hodgeman	4	1	1	4	0	3	1	3	0	3	20
Jackson	37	7	11	1	2	0	16	17	0	3	94
Jefferson	32	11	5	5	0	5	19	23	1	5	106
Jewell	10	0	1	1	2	1	10	1	0	1	27
Johnson	971	294	217	116	2	111	56	350	35	203	2,355
Kearny	8	0	1	1	2	0	6	5	0	0	23
Kingman	29	5	8	6	0	3	7	14	1	2	75
Kiowa	10	0	0	0	0	0	2	2	0	2	16
Labette	161	23	17	8	2	3	21	45	3	4	287
Lane	8	1	3	0	1	0	1	13	0	1	28
Leavenworth	214	53	39	12	7	7	42	76	9	56	515
Lincoln	7	3	1	2	0	1	3	6	0	2	25
Linn	24	5	1	2	0	1	14	14	1	9	71
Logan	3	4	1	0	0	6	7	17	0	1	39
Lyon	137	16	18	10	0	5	22	50	0	30	288
Marion	18	3	2	2	2	5	25	20	1	6	84
Marshall	30	1	8	1	0	0	46	7	1	2	96
McPherson	54	4	7	2	0	1	20	35	1	4	128
Meade	9	1	3	0	2	4	5	2	0	1	27

TABLE A-5.—CONTINUED. Types of Civil Cases Commenced—Year Ending June 30, 1969

Counties	Divorce	Other domestic relations	Auto negligence	Other tort	Actions under 60-1507	Foreclosure	Real property	Contractual	Injunctions, mandamus quo warranto	Other	*Total number cases
Miami	97	20	12	7	0	2	46	23	0	6	213
Mitchell	12	0	2	4	0	2	9	5	0	1	35
Montgomery	253	50	12	6	0	10	45	101	7	15	499
Morris	15	2	3	0	0	1	16	7	1	6	51
Morton	8	3	3	1	0	0	1	5	0	1	22
Nemaha	13	2	2	0	0	1	6	1	0	5	30
Neosho	94	5	11	9	0	5	34	52	0	3	213
Ness	12	2	3	3	2	1	1	10	0	1	35
Norton	19	4	1	0	0	5	4	15	0	6	54
Osage	42	3	10	8	1	0	29	40	0	13	146
Osborne	15	1	2	0	0	0	17	5	0	4	44
Ottawa	17	4	1	1	0	1	6	4	0	0	34
Pawnee	30	4	4	5	3	3	6	12	1	12	80
Philips	12	1	3	3	0	1	14	12	0	6	52
Pottawatomie	26	6	6	1	0	3	19	13	1	6	81
Pratt	61	18	15	9	0	6	6	9	0	5	129
Rawlins	5	2	1	0	0	2	5	7	0	1	23
Reno	365	96	39	25	4	16	23	80	9	55	712
Republic	18	8	5	1	0	0	5	11	0	2	50
Rice	28	5	6	2	0	6	10	14	3	2	76
Riley	121	26	21	12	1	1	16	56	4	6	264
Rooks	42	5	0	0	0	4	3	7	3	11	75
Rush	8	3	0	0	0	5	6	20	0	1	43
Russell	24	2	2	2	0	4	7	235	1	9	286
Saline	293	75	15	15	3	43	18	153	2	6	623
Scott	12	2	5	0	2	3	6	17	4	1	52
Sedgwick	2,568	868	388	227	33	236	126	727	24	215	5,412
Seward	111	28	5	15	0	17	4	44	0	4	228
Shawnee	1,128	341	220	60	21	64	86	202	34	195	2,351
Sheridan	3	1	1	0	0	2	2	9	0	1	19

TABLE A-5.—CONCLUDED. Types of Civil Cases Commenced—Year Ending June 30, 1969

Counties	Divorce	Other domestic relations	Auto negligence	Other tort	Actions under 60–107	Foreclosure	Real property	Contractual	Injunctions, mandamus quo warranto	Other	*Total number cases
Sherman	35	5	1	4	2	3	14	14	1	1	80
Smith	12	2	4	0	0	1	18	2	1	3	43
Stafford	17	2	3	5	1	5	9	13	1	3	59
Stanton	2	0	0	2	0	1	5	8	0	2	20
Stevens	12	2	0	0	0	2	0	12	0	6	34
Sumner	81	14	6	4	0	5	20	25	1	4	160
Thomas	18	3	1	1	0	4	3	16	0	1	47
Trego	6	0	3	1	0	1	4	3	0	3	21
Wabaunsee	4	0	4	2	0	3	6	9	0	5	33
Wallace	2	2	2	0	0	1	1	14	0	1	23
Washington	6	5	3	2	0	2	7	9	0	3	37
Wichita	16	1	1	1	0	3	3	6	2	0	33
Wilson	47	8	6	0	0	1	14	36	2	3	117
Woodson	8	1	0	3	0	0	5	27	0	0	44
Wyandotte	1,575	482	354	152	9	184	109	267	32	186	3,350
Grand totals	11,561	2,980	1,877	890	127	954	1,681	4,189	235	1,501	25,995

* This total does not include foreign transcripts.

SUMMARY OF DISTRICT COURTS—STATE AS A WHOLE

TABLE A-6.—TYPES OF CIVIL CASES COMMENCED COMPARED WITH 1964, 1965, 1966, 1967, 1968

	Year ending June 30, 1964	Year ending June 30, 1965		Year ending June 30, 1966	Year ending June 30, 1967	Year ending June 30, 1968	Year ending June 30, 1969
Number of cases	24,751	25,155	Number of cases*	25,385	25,185	25,457	25,995
Recovery of money	4,522	4,644	Divorce	9,942	10,433	10,937	11,561
Damages	2,582	2,944	Other domestic relations	2,618	2,541	2,775	2,980
Foreclosures	1,138	1,025	Automobile negligence	2,344	2,141	2,007	1,877
Quiet title	1,202	1,254	Other tort	1,015	951	844	890
Divorce	9,914	9,530	Actions under K. S. A. 60-1507	204	117	102	127
Replevin	319	568	Foreclosures	1,622	1,272	1,051	954
Ejectment	23	27	Real property	2,294	2,024	1,857	1,681
Injunction	296	171	Contractual	4,123	4,341	4,205	4,189
Partition	262	234	Injunction, Mandamus, Quo Warranto	298	201	251	235
Tax cases	97	40	Other	925	1,164	1,428	1,501
Habeas corpus	170	154					
Probate appeals	140	113					
Other appeals	763	897					
Miscellaneous	3,323	3,554					

* Does not include 1,317 foreign transcripts included in the total of 26,502 on Table A-2, June 30, 1967 or
Does not include 1,363 foreign transcripts included in the total of 26,748 on Table A-2, June 30, 1966 or
Does not include 1,160 foreign transcripts included in the total of 26,315 on Table A-2, June 30, 1965 or
Does not include 783 foreign transcripts included in the total of 25,534 on Table A-2, June 30, 1964 or
Foreign transcript statistics were not collected for the fiscal years 1968 and 1969.

SUMMARY OF DISTRICT COURTS, BY COUNTIES

TABLE B-1.—DISPOSITION OF CRIMINAL CASES—YEAR ENDING JUNE 30, 1969

Counties	Number of cases	Cases not tried		Trials				Time from filing to trial		Appeals docketed (Supreme court)
		Dismissed	Plea of guilty	Jury	Court	Convicted	Acquitted	Number less than 12 months	Number 12 to 24 months	
Allen	13	7	4	1	1	2	0	2	0	0
Anderson	9	3	5	0	1	1	0	1	0	0
Atchison	52	14	32	0	6	6	0	6	0	1
Barber	9	0	8	1	0	1	0	1	0	0
Barton	52	22	24	1	5	5	1	6	0	0
Bourbon	7	3	4	0	0	0	0	0	0	0
Brown	13	5	6	2	0	2	0	2	0	0
Butler	116	42	70	4	0	3	1	4	0	0
Chase	9	3	5	0	1	1	0	1	0	0
Chautauqua	8	2	6	0	0	0	0	0	0	0
Cherokee	25	7	17	1	0	1	0	0	1	0
Cheyenne	0	0	0	0	0	0	0	0	0	0
Clark	0	0	0	0	0	0	0	0	0	0
Clay	12	3	9	0	0	0	0	0	0	0
Cloud	11	3	7	1	0	1	0	1	0	0
Coffey	14	4	8	2	0	1	1	1	1	0
Comanche	4	2	2	0	0	0	0	0	0	0
Cowley	53	11	42	0	0	0	0	0	0	0
Crawford	86	46	39	0	1	1	0	1	0	0
Decatur	2	1	0	1	0	1	0	1	0	0
Dickinson	32	16	13	1	2	2	1	2	1	1
Doniphan	7	2	4	1	0	0	1	1	0	0
Douglas	86	25	44	13	4	11	6	17	0	0
Edwards	3	1	2	0	0	0	0	0	0	0
Elk	3	0	1	1	1	2	0	2	0	0

TABLE B-1.—CONTINUED. Disposition of Criminal Cases—Year Ending June 30, 1969

Counties	Number of cases	Cases not tried		Trials				Time from filing to trial		Appeals docketed (Supreme court)
		Dismissed	Plea of guilty	Jury	Court	Convicted	Acquitted	Number less than 12 months	Number 12 to 24 months	
Ellis	22	6	14	1	2	1	2	2	1	0
Ellsworth	2	2	0	0	0	0	0	0	0	0
Finney	50	18	27	1	4	3	2	5	0	0
Ford	20	3	5	8	4	10	2	11	1	1
Franklin	41	15	23	2	1	2	1	3	0	2
Geary	57	19	30	5	3	7	1	8	0	0
Gove	1	0	1	0	0	0	0	0	0	0
Graham	8	1	2	5	0	4	1	1	4	0
Grant	7	1	5	0	1	1	0	1	0	0
Gray	1	0	1	0	0	0	0	0	0	0
Greeley	0	0	0	0	0	0	0	0	0	0
Greenwood	12	3	9	0	0	0	0	0	0	0
Hamilton	0	0	0	0	0	0	0	0	0	0
Harper	8	1	7	0	0	0	0	0	0	0
Harvey	25	8	17	0	0	0	0	0	0	0
Haskell	5	4	1	0	0	0	0	0	0	0
Hodgeman	3	3	0	0	0	0	0	0	0	0
Jackson	15	4	9	0	2	0	2	2	0	1
Jefferson	17	5	12	0	0	0	0	0	0	0
Jewell	5	1	3	0	1	1	0	1	0	1
Johnson	374	166	147	25	36	49	12	57	4	9
Kearny	2	0	1	0	1	1	0	1	0	0
Kingman	13	3	9	0	1	1	0	1	0	0
Kiowa	4	3	1	0	0	0	0	0	0	0
Labette	32	13	15	4	0	1	3	4	0	0

TABLE B-1.—CONTINUED. Disposition of Criminal Cases—Year Ending June 30, 1969

Counties	Number of cases	Cases not tried		Trials				Time from filing to trial		Appeals docketed (Supreme court)
		Dismissed	Plea of guilty	Jury	Court	Convicted	Acquitted	Number less than 12 months	Number 12 to 24 months	
Lane	5	4	1	0	0	0	0	0	0	1
Leavenworth	103	44	49	5	5	4	6	4	6	0
Lincoln	2	0	1	1	0	1	0	1	0	0
Linn	17	9	7	1	0	0	1	1	0	1
Logan	5	0	1	3	1	4	0	4	0	0
Lyon	68	29	33	6	0	3	3	5	1	0
Marion	12	6	6	0	0	0	0	0	0	0
Marshall	4	2	2	0	0	0	0	0	0	0
McPherson	17	6	8	2	1	2	1	2	1	0
Meade	8	3	4	0	1	0	1	1	0	0
Miami	13	2	11	0	0	0	0	0	0	0
Mitchell	7	1	5	0	1	1	0	1	0	0
Montgomery	62	18	42	2	0	1	1	2	0	5
Morris	2	1	1	0	0	0	0	0	0	0
Morton	2	1	1	0	0	0	0	0	0	0
Nemaha	2	0	2	0	0	0	0	0	0	0
Neosho	16	7	9	0	0	0	0	0	0	0
Ness	3	1	2	0	0	0	0	0	0	0
Norton	6	1	5	0	0	0	0	0	0	0
Osage	48	19	18	8	3	6	5	11	0	1
Osborne	8	5	3	0	0	0	0	0	0	0
Ottawa	2	0	0	2	0	2	0	2	0	0
Pawnee	9	2	6	1	0	1	0	1	0	0
Phillips	1	0	1	0	0	0	0	0	0	0
Pottawatomie	12	3	5	4	0	2	2	4	0	0
Pratt	17	9	5	0	3	1	2	3	0	0
Rawlins	4	0	4	0	0	0	0	0	0	0
Reno	173	59	92	19	3	10	12	22	0	5
Republic	12	3	9	0	0	0	0	0	0	0
Rice	8	3	2	2	1	2	1	3	0	0

TABLE B-1.—CONCLUDED. Disposition of Criminal Cases—Year Ending June 30, 1969

Counties	Number of cases	Cases not tried		Trials				Time from filing to trial		Appeals docketed (Supreme court
		Dismissed	Plea of guilty	Jury	Court	Convicted	Acquitted	Number less than 12 months	Number 12 to 24 months	
Riley	75	21	48	2	4	6	0	6	0	2
Rooks	7	3	4	0	0	0	0	0	0	0
Rush	7	3	3	1	0	1	0	1	0	0
Russell	9	6	3	0	0	0	0	0	0	2
Saline	74	14	46	11	3	9	5	14	0	5
Scott	4	1	2	1	0	1	0	1	0	0
Sedgwick	1,210	444	636	88	42	73	57	128	2	26
Seward	41	21	17	3	0	1	2	3	0	1
Shawnee	473	129	270	29	45	61	13	71	3	8
Sheridan	1	0	1	0	0	0	0	0	0	0
Sherman	15	8	7	0	0	0	0	0	0	0
Smith	13	11	1	1	0	1	0	1	0	0
Stafford	3	2	1	0	0	0	0	0	0	0
Stanton	1	0	0	1	0	1	0	1	0	0
Stevens	0	0	0	0	0	0	0	0	0	0
Sumner	25	5	14	3	3	5	1	6	0	0
Thomas	3	1	2	0	0	0	0	0	0	0
Trego	4	1	3	0	0	0	0	0	0	0
Wabaunsee	11	3	4	4	0	2	2	4	0	0
Wallace	1	0	1	0	0	0	0	0	0	0
Washington	5	2	1	1	1	2	0	2	0	0
Wichita	1	1	0	0	0	0	0	0	0	0
Wilson	15	6	5	4	0	2	2	4	0	0
Woodson	7	1	5	1	0	1	0	1	0	0
Wyandotte	508	222	116	38	132	115	55	162	8	6
Grand totals	4,512	1,644	2,216	325	327	443	209	618	34	74

SUMMARY OF DISTRICT COURTS, BY COUNTIES

TABLE B-2.—TYPES OF CRIMES—YEAR ENDING JUNE 30, 1969

Counties	Felonies				Misdemeanors				Appeals from lower courts				Total criminal cases commenced
	Against person	Against property	Other	Total felonies	DWI	Other traffic	Other	Total misdemeanors	DWI	Other traffic	Other	Total appeals	
Allen	0	1	1	2	1	0	2	3	2	1	2	5	10
Anderson	3	0	0	3	0	0	0	0	1	3	2	6	9
Atchison	4	27	2	33	0	0	1	1	3	1	4	8	42
Barber	4	4	0	8	0	0	0	0	0	1	0	1	9
Barton	11	21	1	33	1	2	1	4	4	9	4	17	54
Bourbon	1	7	2	10	0	0	0	0	0	0	0	0	10
Brown	1	3	0	4	0	0	0	0	0	0	3	3	7
Butler	34	71	3	108	0	0	2	2	17	0	7	24	134
Chase	1	3	1	5	0	1	0	1	0	2	0	2	8
Chautauqua	0	1	0	1	1	0	0	1	0	0	9	9	11
Cherokee	0	15	4	19	1	1	2	4	0	1	1	2	25
Cheyenne	0	1	0	1	0	0	0	0	0	0	0	0	1
Clark	1	3	0	4	0	0	0	0	0	0	0	0	4
Clay	0	10	0	10	0	0	0	0	0	0	1	1	11
Cloud	1	2	6	9	0	1	0	1	0	0	0	0	10
Coffey	4	6	3	13	0	0	2	2	0	0	0	0	15
Comanche	1	1	1	3	0	0	0	0	0	0	0	0	3
Cowley	14	28	4	46	2	0	1	3	5	0	0	5	54
Crawford	8	14	3	25	1	3	0	4	28	15	4	47	76
Decatur	1	0	0	1	0	1	0	1	0	0	1	1	3
Dickinson	6	20	0	26	1	2	11	14	0	2	0	2	42
Doniphan	2	0	1	3	0	0	0	0	1	0	0	1	4
Douglas	25	33	12	70	14	6	3	23	4	0	3	7	100
Edwards	0	3	0	3	0	0	0	0	0	0	0	0	3
Elk	2	1	0	3	0	0	0	0	0	0	3	3	6
Ellis	8	8	1	17	0	0	0	0	1	1	3	5	22
Ellsworth	0	1	1	2	0	0	0	0	0	0	0	0	2
Finney	9	21	8	38	1	0	1	2	1	6	6	13	53
Ford	8	10	2	20	0	0	1	1	2	2	1	5	26
Franklin	1	27	0	28	1	0	2	3	2	5	7	14	45

TABLE B-2.—CONTINUED. Types of Crimes—Year Ending June 30, 1969

Counties	Felonies				Misdemeanors				Appeals from lower courts				Total criminal cases commenced
	Against person	Against property	Other	Total felonies	DWI	Other traffic	Other	Total misdemeanors	DWI	Other traffic	Other	Total appeals	
Geary	30	23	10	63	1	0	0	1	3	0	10	13	77
Gove	0	0	0	0	0	0	0	0	0	0	1	1	1
Graham	2	1	0	3	0	1	1	2	0	0	0	0	5
Grant	1	6	0	7	0	0	0	0	1	0	0	1	8
Gray	0	0	0	0	0	1	0	1	0	0	0	0	1
Greeley	0	0	0	0	0	0	0	0	0	0	0	0	0
Greenwood	4	4	0	8	1	0	0	1	1	0	0	1	10
Hamilton	0	0	0	0	0	0	0	0	0	0	0	0	0
Harper	1	6	1	8	1	0	0	1	0	0	0	0	9
Harvey	1	7	0	8	0	1	0	1	8	7	0	15	24
Haskell	1	1	0	2	0	0	0	0	0	0	0	0	2
Hodgeman	0	0	0	0	0	1	0	1	0	0	0	0	1
Jackson	4	9	2	15	0	0	0	0	1	0	1	2	17
Jefferson	4	5	2	11	1	1	0	2	0	0	1	1	14
Jewell	0	3	0	3	0	0	0	0	0	0	0	0	3
Johnson	27	102	47	176	7	9	3	19	49	68	35	152	347
Kearny	0	0	0	0	1	0	0	1	0	0	3	3	4
Kingman	5	3	0	8	1	0	0	1	1	5	1	7	16
Kiowa	0	1	0	1	0	0	0	0	3	0	3	6	7
Labette	3	9	5	17	2	2	4	8	0	5	0	5	30
Lane	0	0	0	0	0	1	1	2	0	0	0	0	2
Leavenworth	29	28	21	78	0	0	0	0	6	14	10	30	108
Lincoln	2	1	0	3	0	0	0	0	0	0	0	0	3
Linn	3	1	0	4	0	0	0	0	0	0	6	6	10
Logan	0	2	0	2	2	0	0	2	0	0	0	0	4
Lyon	20	29	5	54	3	1	2	6	9	8	1	18	78
Marion	1	6	1	8	0	1	2	3	1	1	1	3	14
Marshall	0	2	0	2	0	0	0	0	0	1	2	3	5
McPherson	3	8	0	11	2	0	0	2	4	3	1	8	21
Meade	1	1	4	6	0	0	0	0	0	0	3	3	9

TABLE B-2.—CONTINUED Types of Crimes—Year Ending June 30, 1969

Counties	Felonies				Misdemeanors				Appeals from lower courts				Total criminal cases commenced
	Against person	Against property	Other	Total felonies	DWI	Other traffic	Other	Total misdemeanors	DWI	Other traffic	Other	Total appeals	
Miami	5	6	1	12	0	0	0	0	0	3	1	4	16
Mitchell	5	4	0	9	0	0	0	0	0	0	0	0	9
Montgomery	21	33	4	58	1	0	0	1	4	4	2	10	69
Morris	0	5	0	5	0	0	1	1	0	1	0	1	7
Morton	2	0	4	6	0	0	1	1	0	0	0	0	7
Nemaha	0	1	0	1	0	0	0	0	0	0	0	0	1
Neosho	5	6	0	11	0	0	0	0	1	0	2	3	14
Ness	0	1	0	1	0	0	0	0	0	0	0	0	1
Norton	1	4	0	5	0	0	0	0	0	0	0	0	5
Osage	19	9	2	30	4	7	4	15	2	2	2	6	51
Osborne	3	4	0	7	0	0	0	0	0	1	0	1	8
Ottawa	0	1	0	1	0	0	0	0	0	0	0	0	1
Pawnee	2	7	1	10	0	0	0	0	0	0	0	0	10
Philips	1	3	0	4	0	0	0	0	0	0	0	0	4
Pottawatomie	8	1	0	9	0	0	0	0	2	0	0	2	11
Pratt	7	9	0	16	0	3	0	3	2	0	0	2	21
Rawlins	4	0	1	5	1	0	0	1	0	1	0	1	7
Reno	24	57	30	111	4	5	2	11	18	14	7	39	161
Republic	0	4	0	4	0	0	4	4	0	1	5	6	14
Rice	0	6	0	6	0	0	0	0	1	3	0	4	10
Riley	10	38	17	65	0	0	3	3	4	1	1	6	74
Rooks	1	5	1	7	0	0	1	1	0	0	0	0	8
Rush	0	0	4	4	1	1	1	3	0	0	0	0	7
Russell	1	1	1	3	3	3	0	6	0	1	8	9	18
Saline	14	41	1	56	3	2	3	8	1	0	8	9	73

TABLE B-2.—CONCLUDED. Types of Crimes—Year Ending June 30, 1969

Counties	Felonies				Misdemeanors				Appeals from lower courts				Total criminal cases commenced
	Against person	Against property	Other	Total felonies	DWI	Other traffic	Other	Total misdemeanors	DWI	Other traffic	Other	Total appeals	
Scott	0	2	0	2	0	0	0	0	0	0	0	0	2
Sedgwick	136	463	164	763	39	39	20	98	28	157	206	391	1,252
Seward	12	20	9	41	2	0	2	4	5	1	2	8	53
Shawnee	125	134	32	291	10	13	21	44	23	63	37	123	458
Sheridan	0	0	0	0	0	0	0	0	0	0	0	0	0
Sherman	5	7	0	12	0	2	1	3	0	1	0	1	16
Smith	5	2	1	8	0	2	0	2	0	0	0	0	10
Stafford	3	0	0	3	1	0	0	1	0	0	0	0	4
Stanton	1	5	0	6	0	0	0	0	0	0	0	0	6
Stevens	0	0	0	0	0	0	0	0	0	0	0	0	0
Sumner	7	7	2	16	2	0	2	4	2	1	0	3	23
Thomas	0	5	1	6	0	0	0	0	0	0	0	0	6
Trego	3	0	0	3	0	0	0	0	0	1	0	1	4
Wabaunsee	1	3	4	8	0	0	0	0	4	0	3	7	15
Wallace	1	1	0	2	0	0	0	0	0	0	0	0	2
Washington	1	0	0	1	2	0	0	2	0	0	0	0	3
Wichita	0	0	0	0	0	0	0	0	0	0	0	0	0
Wilson	3	6	1	10	1	0	0	1	0	1	0	1	12
Woodson	0	1	3	4	1	0	0	1	1	0	0	1	6
Wyandotte	111	117	19	247	0	0	1	1	114	49	110	273	521
Grand totals	839	1,619	457	2,915	121	113	109	343	370	467	534	1,371	4,629

PROBATE COURTS

TABLE C-1.—SUMMARY OF BUSINESS HANDLED—YEAR ENDING JUNE 30, 1969

Counties	Estates of decedents		Guardianships and conservatorships		Trusts under supervision	Juvenile cases	Habeas corpus hearings	Orders in absence of district judge	Adoption proceedings	Care and treatment proceedings	Determination of descent	Miscellaneous	Foreign transcripts
	Opened during year	Closed during year	Opened during year	Closed during year									
Allen	59	72	26	17	15	33	0	0	14	13	22	0	9
Anderson	31	31	4	2	4	3	0	0	7	2	12	4	8
Atchison	67	50	6	12	6	63	0	0	15	14	21	0	4
Barber	52	41	8	11	16	17	0	13	11	5	3	5	24
Barton	90	116	19	12	34	213	0	30	29	48	31	10	53
Bourbon	53	48	20	6	4	97	0	26	11	12	12	29	3
Brown	53	26	15	9	14	35	0	0	10	6	25	7	12
Butler	90	95	29	10	5	202	0	0	44	23	47	0	39
Chase	14	15	5	2	2	13	0	0	1	4	4	0	13
Chautauqua	18	23	4	6	3	24	0	6	3	0	12	12	19
Cherokee	54	41	14	9	8	0	0	8	35	8	65	0	17
Cheyenne	16	19	1	2	0	13	0	0	8	0	12	0	6
Clark	11	4	2	5	0	12	0	1	6	0	0	0	10
Clay	89	56	4	37	14	1	0	0	11	1	14	8	6
Cloud	90	63	1	7	19	10	0	2	11	6	22	11	28
Coffey	38	38	5	6	2	3	0	0	2	0	9	7	4
Comanche	24	16	1	0	0	7	0	9	1	4	6	0	14
Cowley	101	86	46	23	16	48	0	0	45	16	51	9	27
Crawford	71	61	16	18	32	143	0	0	34	46	59	0	20
Decatur	26	24	5	4	3	11	0	5	4	4	12	4	11
Dickinson	90	85	13	12	46	118	0	31	16	41	25	10	16
Doniphan	39	30	14	9	11	19	0	8	10	5	6	4	9
Douglas	89	83	32	9	38	289	0	2	66	54	38	0	5
Edwards	59	51	5	6	4	37	0	0	0	6	0	5	1
Elk	26	31	14	3	3	11	0	5	2	7	15	3	13

TABLE C-1.—CONTINUED. Summary of Business Handled—Year Ending June 30, 1969

Counties	Estates of decedents		Guardianships and conservatorships		Trusts under supervision	Juvenile cases	Habeas corpus hearings	Orders in absence of district judge	Adoption proceedings	Care and treatment proceedings	Determination of descent	Miscellaneous	Foreign transcripts
	Opened during year	Closed during year	Opened during year	Closed during year									
Ellis	59	56	13	11	16	57	0	8	19	20	21	12	56
Ellsworth	44	56	6	4	3	0	0	0	6	4	10	0	22
Finney	39	38	16	4	7	84	0	0	32	22	19	0	38
Ford	60	55	24	10	36	242	0	18	29	20	37	44	26
Franklin	51	50	16	22	13	64	0	4	13	27	43	9	18
Geary	40	39	12	12	11	212	0	22	50	21	20	1	0
Gove	13	19	3	1	2	7	0	2	3	3	0	4	16
Graham	38	25	2	0	3	18	0	0	6	0	4	0	23
Grant	9	10	3	0	3	41	0	0	15	5	3	4	5
Gray	20	14	7	9	4	23	0	8	6	5	5	0	16
Greeley	5	6	2	1	1	0	0	0	0	1	5	1	20
Greenwood	47	36	11	3	5	0	0	0	6	4	21	4	21
Hamilton	6	6	3	1	3	8	0	1	3	4	5	2	23
Harper	48	51	2	2	10	12	0	5	8	2	16	6	40
Harvey	87	71	26	12	31	73	0	8	35	33	18	24	28
Haskell	15	10	1	1	1	8	0	0	2	0	5	3	34
Hodgeman	6	5	3	0	0	14	0	0	0	1	7	0	13
Jackson	32	37	18	5	5	44	0	3	12	10	21	5	10
Jefferson	35	28	10	9	7	20	0	0	15	4	12	13	13
Jewell	32	27	5	1	4	26	0	3	5	11	23	0	15
Johnson	208	196	73	40	84	564	1	0	289	109	75	33	95
Kearny	9	10	5	3	2	15	0	1	6	1	7	1	26
Kingman	60	70	6	7	6	0	0	0	10	7	14	0	20
Kiowa	22	25	1	2	4	0	0	0	1	3	8	0	7
Labette	48	51	21	20	13	88	0	0	24	31	37	1	12
Lane	15	14	2	0	0	0	0	0	4	1	5	1	0
Leavenworth	71	87	26	16	10	231	1	0	44	35	51	46	4
Lincoln	24	26	12	5	6	1	0	4	2	3	16	1	7
Linn	26	14	10	1	7	0	0	0	7	0	18	0	9
Logan	16	17	2	3	2	17	0	0	6	4	9	4	27

TABLE C-1.—CONTINUED. Summary of Business Handled—Year Ending June 30, 1969

Counties	Estates of decedents		Guardianships and conservatorships		Trusts under supervision	Juvenile cases	Habeas corpus hearings	Orders in absence of district judge	Adoption proceedings	Care and treatment proceedings	Determination of descent	Miscellaneous	Foreign transcripts
	Opened during year	Closed during year	Opened during year	Closed during year									
Lyon	75	51	31	17	16	191	1	0	30	24	30	16	7
Marion	57	75	7	16	19	0	0	3	20	6	30	11	19
Marshall	15	63	19	14	12	6	0	0	10	8	28	11	6
McPherson	97	103	18	14	17	9	0	0	27	19	42	0	21
Meade	17	27	2	1	5	14	0	4	2	2	11	1	22
Miami	39	46	19	57	7	158	0	21	17	93	28	0	13
Mitchell	67	37	10	9	5	27	0	3	9	7	14	0	59
Montgomery	96	82	20	15	27	72	0	2	37	27	45	17	16
Morris	23	17	12	7	3	20	0	0	2	3	12	4	11
Morton	17	3	0	0	0	0	0	0	5	0	2	0	3
Nemaha	23	34	11	6	16	4	0	4	10	5	14	2	8
Neosho	76	57	23	10	5	57	0	0	12	22	28	9	7
Ness	31	30	0	5	5	14	0	0	6	2	11	0	29
Norton	33	17	7	15	5	4	0	3	9	17	16	5	13
Osage	37	31	14	7	5	18	0	0	15	15	23	0	13
Osborne	45	44	7	4	11	2	1	1	10	3	7	1	21
Ottawa	32	30	5	4	5	0	0	0	3	0	22	0	16
Pawnee	51	54	19	10	14	0	0	0	9	228	12	0	29
Phillips	35	34	11	3	8	15	0	0	8	6	19	4	11
Pottawatomie	53	57	11	4	3	0	0	0	8	10	12	0	22
Pratt	51	55	6	3	11	0	0	0	0	0	11	4	9
Rawlins	20	25	4	2	4	12	0	0	4	8	2	0	14
Reno	159	149	59	20	80	423	0	0	76	51	90	4	38
Republic	62	57	2	8	5	0	0	0	7	0	17	7	8
Rice	119	65	12	3	14	26	0	7	11	5	0	7	23
Riley	65	55	9	16	21	96	0	13	47	12	21	12	8
Rooks	32	35	11	1	0	0	0	3	9	11	17	3	30
Rush	16	20	3	2	1	11	0	0	4	5	8	0	18
Russell	53	54	9	4	7	10	0	14	9	5	9	6	17
Saline	85	124	15	15	59	417	0	0	54	21	31	0	21

TABLE C-1.—CONCLUDED. Summary of Business Handled—Year Ending June 30, 1969

Counties	Estates of decedents		Guardianships and conservatorships		Trusts under supervision	Juvenile cases	Habeas corpus hearings	Orders in absence of district judge	Adoption proceedings	Care and treatment proceedings	Determination of descent	Miscellaneous	Foreign transcripts
	Opened during year	Closed during year	Opened during year	Closed during year									
Scott	16	17	7	1	4	20	0	1	4	2	5	3	23
Sedgwick	588	430	251	135	221	2,239	0	0	492	394	126	161	64
Seward	46	26	11	4	6	100	0	0	30	15	15	1	17
Shawnee	300	277	176	79	154	677	0	0	271	574	112	67	34
Sheridan	20	19	5	1	3	0	0	0	5	0	10	0	22
Sherman	20	25	4	1	6	32	0	0	18	8	8	0	22
Smith	29	16	25	4	4	32	0	3	3	7	13	0	13
Stafford	45	40	6	7	9	9	0	11	3	3	9	3	35
Stanton	5	10	0	0	0	0	0	0	3	2	4	0	21
Stevens	16	14	6	1	2	13	0	0	2	0	9	0	35
Sumner	83	64	19	13	35	82	0	0	30	23	34	23	57
Thomas	28	27	5	2	8	0	0	0	3	6	8	0	6
Trego	27	24	4	3	4	12	0	0	2	3	9	4	20
Wabaunsee	33	34	10	10	1	13	0	0	7	5	20	6	10
Wallace	10	7	0	0	3	2	0	0	1	8	9	0	4
Washington	32	35	5	4	5	12	0	0	6	5	19	10	12
Wichita	12	12	2	0	0	0	0	0	3	4	1	0	12
Wilson	56	38	10	3	3	23	0	4	9	5	13	6	12
Woodson	5	11	5	8	4	13	0	0	2	1	12	2	11
Wyandotte	475	204	162	47	33	832	0	0	232	208	173	92	54
Totals	5,962	5,215	1,741	1,057	1,493	9,008	4	330	2,650	2,604	2,250	849	2,031

PROBATE COURTS

TABLE C-2.—ESTATES OF DECEDENTS—YEAR ENDING JUNE 30, 1969

Counties	Number pending July 1, 1968	Number filed since July 1, 1968	Total number	Wills		Bonds			Estates closed			Estates pending July 1, 1969		
				With	Without	Personal	Surety	None	Total number closed	Closed within 15 months		Total number pending	Pending less than 1 year	
										Number	Percent		Number	Percent
Allen	87	59	146	85	61	58	25	63	72	45	62	74	59	80
Anderson	47	31	78	52	26	23	12	43	31	17	54	47	31	65
Atchison	94	67	161	109	52	5	65	91	50	38	76	111	67	63
Barber	66	52	118	76	42	48	14	56	41	18	43	77	52	78
Barton	207	90	297	201	96	81	41	175	116	70	60	181	90	43
Bourbon	64	53	117	64	53	34	14	69	48	37	77	69	53	83
Brown	93	53	146	88	58	30	31	85	26	9	34	120	53	44
Butler	161	90	251	163	88	68	36	147	95	44	46	156	90	55
Chase	19	14	33	15	18	4	16	13	15	4	26	18	14	73
Chautauqua	42	18	60	36	24	8	21	31	23	11	47	37	18	48
Cherokee	69	54	123	60	63	32	31	60	41	26	63	82	52	63
Cheyenne	41	16	57	33	24	14	18	25	19	5	26	38	16	42
Clark	0	11	11	10	1	1	1	9	4	4	100	7	7	100
Clay	54	89	143	100	43	48	24	71	56	30	53	87	89	62
Cloud	34	90	124	88	36	17	36	71	63	33	52	61	90	37
Coffey	55	38	93	47	46	15	44	34	38	23	60	55	38	69
Comanche	27	24	51	32	19	16	3	32	16	8	50	35	24	88
Cowley	137	101	238	169	69	44	56	138	86	62	72	152	101	73
Crawford	115	71	186	107	79	15	73	98	61	36	59	125	71	57
Decatur	29	26	55	30	25	22	7	26	24	21	87	31	26	89
Dickinson	107	90	197	149	48	33	42	122	85	71	82	112	90	85
Doniphan	48	39	87	39	48	41	11	35	30	27	93	57	39	81
Douglas	139	89	228	158	70	11	76	141	83	47	56	145	89	64
Edwards	57	59	116	71	45	8	31	77	51	25	49	65	59	96
Elk	39	26	65	36	29	21	18	26	31	16	57	34	26	76

TABLE C-2.—CONTINUED. Estates of Decedents—Year Ending June 30, 1969

Counties	Number pending July 1, 1968	Number filed since July 1, 1968	Total number	Wills		Bonds			Estates closed			Estates pending July 1, 1969		
				With	Without	Personal	Surety	None	Total number closed	Closed within 15 months		Total number pending	Pending less than 1 year	
										Number	Percent		Number	Percent
Ellis	102	59	161	115	46	38	15	108	56	29	51	105	59	57
Ellsworth	83	44	127	79	48	51	8	68	56	40	71	71	44	62
Finney	65	39	104	71	33	15	24	65	38	22	57	66	39	60
Ford	104	60	164	108	56	2	70	92	55	25	45	109	60	57
Franklin	65	51	116	67	49	34	26	56	50	34	68	66	51	78
Geary	91	40	131	99	32	11	31	89	39	17	43	92	40	43
Gove	36	13	49	24	25	16	10	23	19	7	36	30	13	36
Graham	56	38	94	55	39	45	0	49	25	9	36	69	38	67
Grant	16	9	25	17	8	2	7	16	10	6	60	15	9	60
Gray	16	20	36	28	8	5	9	22	14	9	64	22	20	80
Greeley	16	5	21	16	5	3	6	12	6	6	100	15	5	31
Greenwood	32	47	79	48	31	34	11	34	36	23	64	43	40	93
Hamilton	18	6	24	14	10	7	5	12	6	0	0	18	6	33
Harper	75	48	123	92	31	31	15	77	51	26	51	72	48	64
Harvey	128	87	215	156	59	53	36	126	71	40	56	144	87	63
Haskell	14	15	29	14	15	4	4	21	10	2	20	19	11	58
Hodgeman	11	6	17	10	7	8	7	2	5	3	60	12	6	54
Jackson	37	32	69	42	27	14	24	31	37	30	81	32	32	100
Jefferson	53	35	88	50	38	27	17	44	28	14	50	60	35	58
Jewell	39	32	71	46	25	12	17	42	27	16	59	44	32	73
Johnson	341	208	549	400	149	45	139	363	196	101	51	353	207	60
Kearny	14	9	23	14	9	0	10	13	10	5	50	13	9	64
Kingman	83	60	143	98	45	39	7	97	70	31	44	73	60	82
Kiowa	37	22	59	38	21	21	4	34	25	13	52	34	22	59
Labette	93	48	141	80	61	22	42	77	51	28	54	90	48	51
Lane	18	15	33	23	10	12	0	21	14	7	50	19	15	83
Leavenworth	192	71	263	165	98	17	71	175	87	45	51	176	71	42
Lincoln	36	24	60	26	34	4	25	31	26	19	73	34	24	66
Linn	25	26	51	24	27	33	1	17	14	10	71	37	26	73
Logan	34	16	50	31	19	20	6	24	17	10	58	33	16	47

TABLE C-2.—CONTINUED. Estates of Decedents—Year Ending June 30, 1969

Counties	Number pending July 1, 1968	Number filed since July 1, 1968	Total number	Wills		Bonds			Estates closed			Estates pending July 1, 1969		
				With	Without	Personal	Surety	None	Total number closed	Closed within 15 months		Total number pending	Pending less than 1 year	
										Number	Percent		Number	Percent
Lyon	114	75	189	126	63	9	88	92	51	22	43	138	75	54
Marion	93	57	150	104	46	42	20	88	75	46	61	75	57	76
Marshall	88	15	103	67	36	26	28	49	63	41	65	40	15	37
McPherson	145	97	242	160	82	96	18	128	103	69	66	139	97	66
Meade	39	17	56	41	15	10	7	39	27	14	55	29	17	58
Miami	79	39	118	64	54	3	61	54	46	25	54	72	39	54
Mitchell	83	67	150	81	69	44	18	88	37	27	73	113	67	59
Montgomery	176	96	272	153	119	7	136	129	82	46	56	190	96	54
Morris	37	23	60	31	29	12	26	22	17	11	64	43	23	62
Morton	1	17	18	13	5	0	4	14	3	3	100	15	15	100
Nemaha	59	23	82	54	28	12	29	41	34	26	76	48	23	49
Neosho	69	76	145	92	53	31	31	83	57	49	85	88	76	97
Ness	39	31	70	46	24	20	15	35	30	18	60	40	31	79
Norton	53	33	86	51	35	24	35	27	17	8	47	69	33	45
Osage	60	37	97	60	37	15	33	49	31	20	64	66	37	61
Osborne	57	45	102	58	44	36	19	47	44	24	54	58	45	78
Ottawa	36	32	68	49	19	19	7	42	30	20	66	38	32	88
Pawnee	84	51	135	94	41	26	11	98	54	38	70	81	51	60
Phillips	52	35	87	53	34	33	12	42	34	18	52	53	35	67
Pottawatomie	79	53	132	81	51	42	28	62	57	29	51	75	53	68
Pratt	80	51	131	101	30	31	10	90	55	39	70	76	51	63
Rawlins	37	20	57	26	31	24	13	20	25	14	56	32	26	81
Reno	274	159	433	274	159	3	160	270	149	73	49	284	159	58
Republic	92	62	154	78	76	89	23	42	57	39	68	97	62	67
Rice	52	119	171	105	66	26	25	120	65	37	56	106	59	55

TABLE C-2.—CONCLUDED. Estates of Decedents—Year Ending June 30, 1969

Counties	Number pending July 1, 1968	Number filed since July 1, 1968	Total number	Wills		Bonds			Estates closed			Estates pending July 1, 1969		
				With	Without	Personal	Surety	None	Total number closed	Closed within 15 months		Total number pending	Pending less than 1 year	
										Number	Percent		Number	Percent
Riley	112	65	177	124	53	49	42	86	55	26	47	122	65	58
Rooks	60	32	92	63	29	31	5	56	35	17	48	57	32	53
Rush	43	16	59	39	20	16	10	33	20	10	50	39	16	41
Russell	84	53	137	86	51	57	7	73	54	34	62	83	53	63
Saline	197	85	282	222	60	45	58	179	124	70	56	158	83	52
Scott	25	16	41	28	13	10	6	25	17	8	47	24	16	64
Sedgwick	1,268	588	1,856	1,201	655	229	535	1,092	430	221	51	1,426	588	46
Seward	55	46	101	70	31	5	32	64	26	8	30	75	46	61
Shawnee	638	300	938	557	381	235	264	439	277	147	53	661	300	47
Sheridan	30	20	50	35	15	11	5	34	19	13	68	31	20	66
Sherman	35	20	55	28	27	6	19	30	25	12	48	30	20	66
Smith	39	29	68	41	27	38	0	30	16	9	56	52	39	74
Stafford	93	45	138	77	61	48	30	60	40	17	42	98	45	48
Stanton	18	5	23	14	9	9	0	14	10	0	0	13	5	28
Stevens	21	16	37	31	6	3	4	30	14	9	64	23	16	76
Sumner	98	83	181	48	133	19	51	111	64	39	60	117	83	70
Thomas	49	28	77	51	26	22	8	47	27	14	51	50	28	57
Trego	32	27	59	38	21	25	7	27	24	18	75	35	27	84
Wabaunsee	43	33	76	42	34	28	9	39	34	24	70	42	33	76
Wallace	18	10	28	18	10	6	8	14	7	0	0	21	10	55
Washington	87	32	119	66	53	29	40	50	35	19	54	84	32	36
Wichita	14	12	26	17	9	10	0	16	12	7	58	14	12	80
Wilson	62	56	118	69	49	34	18	66	38	33	86	80	56	70
Woodson	16	5	21	13	8	6	2	13	11	8	73	10	5	50
Wyandotte	499	475	974	514	460	162	291	521	204	115	56	770	475	63
Totals	9,375	5,962	15,337	9,622	5,715	3,135	3,701	8,501	5,215	2,988	59	10,122	5,971	59

PROBATE COURTS

TABLE C-3.—GUARDIANSHIPS, CONSERVATORSHIPS AND TRUSTS—YEAR ENDING JUNE 30, 1969

Counties	Guardianships and conservatorships														Trusts	
	Number pending July 1, 1968	Number filed since July 1, 1968	Number closed during the year	Number pending June 30, 1969	Guardianship	Conservatorship	Both	Voluntary	Involuntary	Bonds			Inventory or account filed during the year		Number under supervision	Number of accounts during year
										Personal	Surety	None	Number	Percent of total		
Allen	117	26	17	126	9	37	97	64	79	93	33	17	29	20	15	5
Anderson	56	4	2	58	50	2	8	27	33	38	13	9	31	51	4	3
Atchison	124	6	12	118	73	2	55	0	130	29	84	17	18	13	6	6
Barber	60	8	11	57	20	43	5	9	59	53	15	0	21	30	16	14
Barton	164	19	12	171	6	22	155	149	34	125	44	14	53	28	34	16
Bourbon	37	20	6	51	12	19	26	27	30	38	14	5	49	86	4	2
Brown	65	15	9	71	43	15	22	5	75	29	24	27	15	18	14	4
Butler	144	29	10	163	43	0	130	118	55	95	50	28	33	19	5	5
Chase	25	5	2	28	13	9	8	8	22	19	11	0	20	66	2	1
Chautauqua	22	4	6	20	19	4	3	1	25	2	20	4	16	61	3	1
Cherokee	90	14	9	95	82	7	15	10	94	55	36	13	18	17	8	3
Cheyenne	24	1	2	23	12	5	8	17	8	13	12	0	16	64	0	0
Clark	4	2	5	1	3	0	3	4	2	2	4	0	4	66	0	0
Clay	87	4	37	54	82	5	4	38	53	63	22	6	30	32	14	12
Cloud	58	1	7	52	0	12	47	0	59	34	23	2	26	61	19	9
Coffey	38	5	6	37	39	3	1	2	41	15	26	2	22	51	2	2
Comanche	18	1	0	19	0	5	14	0	19	15	3	1	3	15	0	0
Cowley	135	46	23	158	23	58	100	14	167	76	69	36	61	33	16	6
Crawford	135	16	18	133	70	15	66	151	0	25	89	37	63	41	32	15
Decatur	39	5	4	40	1	18	25	28	16	34	7	3	16	36	3	2
Dickinson	96	13	12	97	1	17	91	10	99	60	42	7	90	82	46	43
Doniphan	62	14	9	67	0	7	69	2	74	64	7	5	49	64	11	5
Douglas	82	32	9	105	47	44	23	8	106	17	76	21	50	43	38	23
Edwards	33	5	6	32	14	4	20	20	18	4	29	5	16	42	4	2
Elk	17	14	3	28	0	10	21	3	28	19	9	3	18	58	3	3

TABLE C-3.—CONTINUED. Guardianships, Conservatorships and Trusts—Year Ending June 30, 1969

Counties	Guardianships and conservatorships														Trusts	
	Number pending July 1, 1968	Number filed since July 1, 1968	Number closed during the year	Number pending June 30, 1969	Guardianship	Conservatorship	Both	Voluntary	Involuntary	Bonds			Inventory or account filed during the year		Number under supervision	Number of accounts during year
										Personal	Surety	None	Number	Percent of total		
Ellis	104	13	11	106	71	30	16	5	112	83	22	12	53	46	16	7
Ellsworth	42	6	4	44	4	0	44	25	23	41	7	0	47	97	3	3
Finney	81	16	4	93	58	31	8	60	37	75	2	20	19	19	7	0
Ford	133	24	10	147	24	77	56	23	134	15	128	14	42	28	36	21
Franklin	86	16	22	80	52	19	31	45	57	53	30	19	58	57	12	3
Geary	101	12	12	101	93	18	2	71	42	43	59	11	24	21	11	3
Gove	23	3	1	25	14	7	5	2	24	13	10	3	2	7	2	0
Graham	27	2	0	29	19	0	10	28	1	17	2	10	5	17	3	1
Grant	9	3	0	12	3	5	4	2	10	1	10	1	3	25	3	2
Gray	35	7	9	33	7	20	15	15	27	18	19	5	26	66	4	4
Greeley	0	2	1	1	0	1	1	2	0	1	1	0	1	50	1	0
Greenwood	35	11	3	43	8	19	19	11	35	24	17	5	24	52	5	3
Hamilton	19	3	1	21	19	1	2	6	16	10	3	9	3	13	3	2
Harper	30	2	2	30	11	5	16	5	27	20	6	6	6	18	10	3
Harvey	118	28	12	134	73	29	44	12	134	65	56	25	28	12	31	22
Haskell	11	1	1	11	7	2	3	10	2	8	2	2	3	25	1	0
Hodgeman	17	3	0	20	0	3	17	10	10	9	10	1	11	55	0	0
Jackson	3	18	5	16	3	13	5	15	6	3	15	3	18	95	5	2
Jefferson	40	10	9	41	2	8	40	14	36	19	23	8	21	52	7	3
Jewell	14	5	1	18	6	2	11	1	18	7	10	2	12	63	4	4
Johnson	443	73	40	476	82	283	151	2	514	177	224	115	228	46	84	18
Kearny	18	5	3	20	5	8	10	15	8	10	12	1	12	52	2	2
Kingman	22	6	7	21	13	7	8	11	17	18	10	0	21	75	6	4
Kiowa	17	1	2	16	11	2	5	5	13	7	10	1	5	27	4	4
Labette	122	21	20	123	14	19	110	2	141	59	55	29	57	39	13	8
Lane	5	2	0	7	2	4	1	5	2	5	1	1	3	43	0	0
Leavenworth	163	26	16	173	88	9	92	13	176	82	81	26	127	67	10	8
Lincoln	22	12	5	29	19	1	14	0	34	10	24	0	25	73	6	4
Linn	32	10	1	41	2	2	38	2	40	40	2	0	14	34	7	4
Logan	17	2	3	16	10	6	3	19	0	12	6	1	11	58	2	0

TABLE C-3.—CONTINUED. Guardianships, Conservatorships and Trusts—Year Ending June 30, 1969

Counties	Guardianships and conservatorships														Trusts	
	Number pending July 1, 1968	Number filed since July 1, 1968	Number closed during the year	Number pending June 30, 1969	Guardianship	Conservatorship	Both	Voluntary	Involuntary	Bonds			Inventory or account filed during the year		Number under supervision	Number of accounts during year
										Personal	Surety	None	Number	Percent of total		
Lyon	143	31	17	157	88	15	71	5	169	44	105	25	65	31	16	6
Marion	119	7	16	110	96	13	17	12	114	96	23	7	49	38	19	8
Marshall	45	19	14	50	3	10	51	24	40	31	27	6	39	60	12	6
McPherson	66	18	14	70	35	21	28	22	62	78	6	0	51	60	17	10
Meade	28	2	1	29	1	7	22	0	30	16	10	4	4	10	5	4
Miami	87	19	57	49	54	26	26	3	103	20	68	18	68	54	7	3
Mitchell	68	10	9	69	50	5	23	3	75	33	35	10	42	54	5	0
Montgomery	175	20	15	180	141	18	36	7	188	19	91	85	79	40	27	19
Morris	40	12	7	45	27	0	25	0	52	21	24	7	28	53	3	3
Morton	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Nemaha	47	11	6	52	28	13	17	2	56	31	21	6	40	68	16	14
Neosho	68	23	10	81	39	22	30	15	76	50	31	10	25	27	5	4
Ness	50	0	5	45	39	0	11	4	46	40	6	4	16	32	5	2
Norton	73	7	15	65	0	14	66	6	74	49	29	2	62	77	5	4
Osage	56	14	7	63	0	5	65	6	64	31	36	3	42	60	5	3
Osborne	36	7	4	39	0	1	42	3	40	22	21	0	33	76	11	9
Ottawa	14	5	4	15	11	3	5	2	17	8	11	0	15	78	5	3
Pawnee	60	19	10	69	37	15	27	12	67	51	18	10	30	37	14	7
Phillips	53	11	3	61	39	15	10	9	55	24	36	4	28	43	8	8
Pottawatomie	63	11	4	70	44	14	16	34	40	47	15	12	31	41	3	0
Pratt	37	6	3	40	38	5	0	4	39	34	7	2	7	16	11	0
Rawlins	29	4	2	31	0	18	15	9	24	20	11	2	7	21	4	4
Reno	277	59	20	316	92	72	172	14	322	11	286	39	21	60	80	14
Republic	59	2	8	53	45	9	7	25	36	46	14	1	21	34	5	4
Rice	49	12	3	58	28	33	0	28	33	16	19	26	25	40	14	11

TABLE C-3.—CONCLUDED. Guardianships, Conservatorships and Trusts—Year Ending June 30, 1969

Counties	Guardianships and conservatorships														Trusts	
	Number pending July 1, 1968	Number filed since July 1, 1968	Number closed during the year	Number pending June 30, 1969	Guardianship	Conservatorship	Both	Voluntary	Involuntary	Bonds			Inventory or account filed during the year		Number under supervision	Number of accounts during year
										Personal	Surety	None	Number	Percent of total		
Riley	119	9	16	112	8	64	56	17	111	74	50	4	34	26	21	11
Rooks	24	11	1	34	18	17	0	19	16	26	8	1	24	68	0	0
Rush	4	3	2	5	0	5	2	7	0	5	2	0	1	14	1	1
Russell	62	9	4	67	43	16	12	53	18	54	9	8	22	30	7	6
Saline	185	15	15	185	149	22	29	21	179	79	104	17	95	40	59	41
Scott	22	7	1	28	0	7	22	28	1	24	1	4	7	24	4	0
Sedgwick	1,644	251	135	1,760	101	658	1,136	148	1,747	687	929	279	196	10	221	113
Seward	31	11	4	38	20	12	10	0	42	4	29	9	14	33	6	3
Shawnee	731	176	79	828	547	181	179	79	828	417	305	185	352	43	154	112
Sheridan	13	5	1	17	3	0	15	2	16	6	5	7	13	72	3	3
Sherman	24	4	1	27	13	12	3	1	27	10	12	6	10	35	6	2
Smith	6	25	4	27	14	14	3	13	18	25	5	1	5	16	4	0
Stafford	43	6	7	42	31	12	6	7	42	27	19	3	17	35	9	3
Stanton	12	0	0	12	11	1	0	1	11	8	4	0	3	25	0	0
Stevens	17	6	1	22	10	6	7	17	6	11	7	5	7	31	2	2
Sumner	131	19	13	137	3	44	103	18	132	40	98	12	38	25	35	18
Thomas	25	5	2	28	15	6	9	3	27	20	8	2	10	33	8	3
Trego	31	4	3	32	22	13	0	10	25	24	9	2	16	41	4	3
Wabaunsee	25	10	10	25	10	6	19	4	31	11	19	5	22	62	1	1
Wallace	6	0	0	6	0	0	6	4	2	2	4	0	1	16	3	0
Washington	29	5	4	30	0	14	20	13	21	22	11	1	13	38	5	2
Wichita	7	2	0	9	0	0	9	9	0	8	1	0	8	88	0	0
Wilson	26	10	3	33	32	4	0	35	1	29	6	1	9	25	3	3
Woodson	42	5	8	39	39	4	4	25	22	14	21	12	25	53	4	3
Wyandotte	669	162	47	784	687	43	101	134	697	245	317	269	163	19	33	18
Totals	9,191	1,741	1,057	9,875	4,093	2,509	4,330	2,068	8,864	4,672	4,552	1,708	3,616	33	1,493	811

COUNTY COURTS

TABLE D-1.—DISPOSITION OF CIVIL CASES—YEAR ENDING JUNE 30, 1969

Counties	Total number cases	Cases dismissed	Cases not contested	Trials			Number pending	Appeal to district court	Garnishments	Attachments	Replevin	Forcible detainer
				Total number	By court	By jury						
Allen	32	6	12	1	1	0	13	0	7	2	0	0
Anderson	12	6	5	0	0	0	1	0	2	0	0	0
Barber	52	10	28	0	0	0	14	0	3	0	1	0
Barton	407	79	218	6	6	0	104	0	43	1	4	0
Bourbon	31	5	20	0	0	0	6	0	5	0	2	0
Brown	26	12	4	0	0	0	10	0	0	0	0	1
Butler	398	64	161	75	75	0	98	4	52	0	0	0
Chase	5	2	2	0	0	0	1	0	0	0	0	0
Chautauqua	18	2	7	2	2	0	7	0	3	4	0	0
Cherokee	34	13	14	2	1	1	5	1	8	1	1	0
Cheyenne	7	1	1	4	4	0	1	0	2	0	0	1
Clark	4	3	0	0	0	0	1	0	0	0	0	0
Clay	11	2	9	0	0	0	0	0	1	0	0	0
Cloud	17	5	6	0	0	0	6	0	1	0	0	0
Coffey	7	2	5	0	0	0	0	0	2	0	0	0
Comanche	11	0	7	2	2	0	2	0	3	0	2	0
Decatur	15	1	9	1	1	0	4	1	3	0	0	0
Dickinson	43	12	29	1	1	0	1	0	3	1	0	1
Doniphan	25	2	9	1	1	0	13	0	3	1	4	4
Douglas	333	75	133	34	34	0	91	5	77	32	7	7
Edwards	18	3	5	2	2	0	8	0	0	1	0	0
Elk	6	1	5	0	0	0	0	0	0	0	0	0
Ellis	166	42	59	8	8	0	57	1	20	0	5	3
Ellsworth	14	0	10	0	0	0	4	0	0	0	0	0
Finney	135	18	52	6	6	0	59	2	15	5	3	3

TABLE D-1.—CONTINUED. Disposition of Civil Cases—Year Ending June 30, 1969

Counties	Total number cases	Cases dismissed	Cases not contested	Trials			Number pending	Appeal to district court	Garnishments	Attachments	Replevin	Forcible detainer
				Total number	By court	By jury						
Ford	192	39	0	72	72	0	81	0	30	2	2	2
Franklin	153	29	73	19	19	0	32	0	27	3	8	0
Geary	90	9	36	1	1	0	44	0	2	1	4	0
Gove	8	1	3	3	3	0	1	1	2	2	0	2
Graham	10	2	1	7	6	1	0	0	1	1	0	0
Grant	62	2	12	2	2	0	46	1	4	1	0	0
Gray	55	20	15	2	2	0	18	1	2	0	2	0
Greeley	4	1	0	0	0	0	3	0	0	0	0	1
Greenwood	13	1	10	0	0	0	2	0	2	0	1	0
Hamilton	14	2	11	1	1	0	0	1	2	0	0	0
Harper	51	8	32	3	3	0	8	0	6	10	0	0
Harvey	186	100	40	6	6	0	40	0	28	1	2	0
Haskell	24	1	10	0	0	0	13	0	5	4	0	0
Hodgeman	10	0	5	2	2	0	3	0	0	0	0	0
Jackson	21	2	0	9	9	0	10	1	5	3	0	0
Jefferson	28	9	5	0	0	0	14	0	8	3	3	0
Jewell	1	0	1	0	0	0	0	0	0	0	0	0
Kearny	30	22	3	0	0	0	5	0	6	0	0	0
Kingman	40	6	4	0	0	0	30	0	3	1	0	0
Kiowa	6	0	5	0	0	0	1	0	0	1	0	0
Labette	121	34	50	1	1	0	36	0	30	2	2	0
Lane	9	3	3	0	0	0	3	0	2	1	0	0
Lincoln	9	2	5	0	0	0	2	0	0	0	5	0
Linn	17	1	5	0	0	0	11	0	5	4	2	1
Logan	10	0	7	0	0	0	3	0	0	0	0	0

TABLE D-1.—CONTINUED. Disposition of Civil Cases—Year Ending June 30, 1969

Counties	Total number cases	Cases dismissed	Cases not contested	Trials			Number pending	Appeal to district court	Garnishments	Attachments	Replevin	Forcible detainer
				Total number	By court	By jury						
Lyon	154	27	71	6	6	0	50	0	40	0	1	0
Marion	47	17	16	3	3	0	11	0	1	6	4	0
Marshall	10	1	5	1	0	1	3	0	1	0	0	0
McPherson	81	35	0	0	0	0	46	0	12	1	0	0
Meade	19	8	6	1	1	0	4	0	2	4	1	0
Miami	71	16	32	0	0	0	23	0	0	0	0	0
Mitchell	10	1	1	0	0	0	8	0	0	0	0	0
Morris	18	7	0	0	0	0	11	0	3	1	0	0
Morton	18	5	7	0	0	0	6	0	0	0	0	0
Nemaha	11	2	8	0	0	0	1	0	0	0	2	1
Ness	11	2	1	1	1	0	7	1	3	0	0	0
Norton	30	8	2	15	15	0	5	1	5	1	2	0
Osage	49	5	26	1	1	0	17	0	12	0	0	0
Osborne	11	5	3	0	0	0	3	0	1	1	1	0
Ottawa	16	8	2	0	0	0	6	0	4	0	0	0
Pawnee	54	10	33	6	6	0	5	0	6	6	1	0
Phillips	53	12	32	0	0	0	9	0	3	0	0	0
Pottawatomie	11	3	5	0	0	0	3	0	1	0	0	0
Pratt	76	13	35	1	1	0	27	0	3	0	0	0
Rawlins	10	3	2	1	1	0	4	1	1	2	0	0
Republic	5	3	0	0	0	0	2	0	0	0	0	0
Rice	39	11	15	0	0	0	13	0	1	0	1	0
Riley	78	16	33	6	6	0	23	1	10	7	1	1
Rooks	48	12	31	5	5	0	0	0	2	0	0	1
Rush	69	33	24	0	0	0	12	1	8	11	1	0

TABLE D-1.—CONCLUDED. Disposition of Civil Cases—Year Ending June 30, 1969

Counties	Total number cases	Cases dismissed	Cases not contested	Trials			Number pending	Appeal to district court	Garnishments	Attachments	Replevin	Forcible detainer
				Total number	By court	By jury						
Russell	29	6	10	1	1	0	12	0	4	0	1	0
Scott	33	12	2	1	1	0	18	0	3	0	0	1
Seward	90	19	11	6	6	0	54	1	21	1	0	0
Sheridan	6	3	0	0	0	0	3	0	0	1	0	0
Sherman	27	10	3	1	1	0	13	1	5	0	0	3
Smith	13	3	5	1	0	1	4	0	1	0	0	0
Stafford	22	3	8	5	5	0	6	0	5	1	0	0
Stanton	7	2	2	0	0	0	3	0	0	2	0	0
Stevens	11	4	6	1	1	0	0	0	1	1	0	0
Sumner	69	17	29	2	2	0	21	1	12	0	1	0
Thomas	11	5	4	0	0	0	2	0	0	0	0	1
Trego	11	4	5	0	0	0	2	0	0	1	0	0
Wabaunsee	19	7	10	0	0	0	2	0	3	0	0	0
Wallace	2	1	0	0	0	0	1	0	0	0	0	0
Washington	3	0	0	1	1	0	2	0	0	0	0	0
Wichita	7	3	3	1	1	0	0	0	1	1	0	0
Wilson	53	11	23	0	0	0	19	0	17	0	0	0
Woodson	5	1	3	1	1	0	0	0	0	0	0	0
Totals	4,408	1,041	1,653	341	337	4	1,373	27	612	136	77	34

COUNTY COURTS

TABLE D-2.—DISPOSITION OF CRIMINAL CASES—YEAR ENDING JUNE 30, 1969

Counties	Total number cases	Cases not tried		Bound over to district court	Trials			Pending	Paroles granted	Paroles revoked
		Number dismissed	Plea of guilty		Total number	Acquitted	Convicted			
Allen	870	86	767	4	8	1	7	5	9	0
Anderson	574	32	522	6	11	0	11	3	0	0
Barber	434	35	333	9	57	1	56	0	5	0
Barton	1,827	222	1,302	38	125	13	112	140	0	0
Bourbon	1,067	39	1,003	7	18	4	14	0	11	0
Brown	640	44	566	11	17	2	15	2	6	0
Butler	2,681	181	2,372	94	33	4	29	1	107	0
Chase	372	16	347	8	1	0	1	0	0	0
Chautauqua	244	7	215	11	3	2	1	8	12	4
Cherokee	1,266	69	1,135	28	33	0	33	1	14	0
Cheyenne	175	6	164	2	1	1	0	2	0	0
Clark	205	17	168	5	10	0	10	5	2	0
Clay	518	3	498	15	1	1	0	1	7	1
Cloud	632	88	530	6	8	2	6	0	5	0
Coffey	1,080	13	1,053	8	5	1	4	1	1	0
Comanche	71	2	64	1	3	1	2	1	1	0
Decatur	356	21	329	2	3	2	1	1	4	0
Dickinson	1,664	155	1,482	27	0	0	0	0	2	0
Doniphan	646	52	579	4	8	1	7	3	21	1
Douglas	1,461	60	1,225	82	62	15	47	32	76	5
Edwards	557	27	523	3	2	1	1	2	1	0
Elk	119	3	101	5	8	2	6	2	6	1
Ellis	1,269	241	988	18	19	7	12	3	64	1
Ellsworth	1,401	25	1,374	1	0	0	0	1	9	0
Finney	1,694	177	1,457	36	15	5	10	9	3	0

TABLE D-2.—CONTINUED. Disposition of Criminal Cases—Year Ending June 30, 1969

Counties	Total number cases	Cases not tried		Bound over to district court	Trials			Pending	Paroles granted	Paroles revoked
		Number dismissed	Plea of guilty		Total number	Acquitted	Convicted			
Ford	1,154	126	967	20	19	7	12	22	3	0
Franklin	931	109	745	48	27	6	21	2	50	0
Geary	1,787	196	1,252	40	9	4	5	290	115	2
Gove	400	20	376	1	3	1	2	0	5	0
Graham	148	4	136	7	1	0	1	0	4	0
Grant	352	47	290	14	1	0	1	0	0	0
Gray	525	53	464	1	7	4	3	0	2	0
Greeley	52	2	49	0	1	0	1	0	5	0
Greenwood	828	32	777	8	11	1	10	0	28	0
Hamilton	300	27	263	0	0	0	0	10	29	0
Harper	392	35	337	10	2	2	0	8	5	0
Harvey	1,599	259	1,282	8	43	5	38	7	92	2
Haskell	282	22	257	1	1	1	0	1	6	0
Hodgeman	132	0	126	0	6	4	2	0	0	0
Jackson	904	42	766	14	9	0	9	73	2	0
Jefferson	675	55	596	9	14	2	12	1	6	0
Jewell	459	14	434	3	7	3	4	1	17	0
Kearny	273	13	247	4	9	1	8	0	15	1
Kingman	1,082	29	1,012	10	29	0	29	2	9	2
Kiowa	618	12	601	2	1	0	1	2	4	0
Labette	1,157	74	1,011	25	38	1	37	9	6	0
Lane	57	10	44	1	1	1	0	1	3	2
Lincoln	596	33	546	2	1	0	1	14	9	0
Linn	719	43	657	8	11	2	9	0	3	0
Logan	104	2	96	2	0	0	0	4	4	0

TABLE D-2.—CONTINUED. Disposition of Criminal Cases—Year Ending June 30, 1969

Counties	Total number cases	Cases not tried		Bound over to district court	Trials			Pending	Paroles granted	Paroles revoked
		Number dismissed	Plea of guilty		Total number	Acquitted	Convicted			
Lyon	1,959	232	1,617	70	36	14	22	4	54	4
Marion	626	59	540	12	7	1	6	8	9	0
Marshall	534	34	486	3	9	3	6	2	8	2
McPherson	1,830	72	1,709	18	24	11	13	7	74	7
Meade	311	30	262	10	9	2	7	0	16	2
Miami	1,010	58	911	13	28	7	21	0	46	7
Mitchell	361	16	339	3	0	0	0	3	3	0
Morris	209	11	187	6	5	0	5	0	3	0
Morton	73	11	59	3	0	0	0	0	1	0
Nemaha	207	13	190	0	4	2	2	0	2	0
Ness	327	29	296	1	1	0	1	0	1	0
Norton	305	15	276	5	9	0	9	0	17	0
Osage	1,450	85	1,319	30	15	2	13	1	38	3
Osborne	273	7	260	6	0	0	0	0	1	0
Ottawa	291	15	266	3	7	1	6	0	9	0
Pawnee	428	16	382	6	1	1	0	23	3	0
Phillips	188	4	168	5	8	0	8	3	1	0
Pottawatomie	469	44	405	9	9	8	1	2	0	0
Pratt	852	27	768	17	27	1	26	13	6	0
Rawlins	111	8	95	4	4	0	4	0	3	0
Republic	551	18	520	8	5	1	4	0	1	0
Rice	674	46	604	5	16	2	14	3	25	0
Riley	2,099	271	1,700	72	48	8	40	8	75	1
Rooks	304	18	234	5	3	0	3	44	2	1
Rush	329	13	304	11	1	0	1	0	4	0

TABLE D-2.—CONCLUDED. Disposition of Criminal Cases—Year Ending June 30, 1969

Counties	Total number cases	Cases not tried		Bound over to district court	Trials			Pending	Paroles granted	Paroles revoked
		Number dismissed	Plea of guilty		Total number	Acquitted	Convicted			
Russell	1,156	119	1,028	5	4	1	3	0	6	1
Scott	305	16	282	1	3	0	3	3	8	1
Seward	1,484	108	1,324	41	11	0	11	0	0	0
Sheridan	87	5	76	2	4	0	4	0	1	0
Sherman	1,099	36	1,026	17	11	2	9	9	1	0
Smith	279	27	238	7	7	0	7	0	5	0
Stafford	344	7	334	2	1	0	1	0	8	0
Stanton	100	7	88	4	1	0	1	0	3	0
Stevens	197	55	138	0	4	2	2	0	12	4
Sumner	933	62	827	17	10	1	9	17	45	2
Thomas	869	27	836	5	0	0	0	1	0	0
Trego	471	26	436	3	4	2	2	2	2	1
Wabaunsee	1,848	104	1,728	9	6	0	6	1	2	0
Wallace	76	3	71	1	1	1	0	0	0	0
Washington	292	12	261	2	17	1	16	0	1	0
Wichita	78	7	69	1	0	0	0	1	1	0
Wilson	481	25	399	9	45	0	45	3	6	0
Woodson	524	12	505	4	3	1	2	0	1	0
Totals	63,743	4,690	55,991	1,124	1,110	186	924	828	1,283	58

CITY COURTS

TABLE E-1.—DISPOSITION OF CIVIL CASES—YEAR ENDING JUNE 30, 1969

Cities	Total number cases	Cases dismissed	Cases not contested	Trials			Number pending	Appeal to district court	Garnishments	Attachments	Replevin	Forcible detainer
				Total number	By court	By jury						
Arkansas City	167	26	125	4	4	0	12	0	19	1	5	0
Atchison	210	45	140	17	17	0	8	0	12	1	0	4
Chanute	43	9	23	2	2	0	9	0	7	0	0	0
Court of Coffeyville	531	50	438	13	13	0	30	1	322	1	11	6
Hutchison	543	155	224	54	54	0	110	5	62	0	14	0
Magistrate Court												
Independence	167	16	134	14	14	0	3	2	91	3	2	1
Kansas City	5,142	1,235	2,147	649	648	1	1,111	38	837	6	321	627
(Magistrate Court of Wyandotte Co.)												
Leavenworth	328	40	143	25	24	1	120	5	63	0	18	13
Olathe	1,563	237	855	37	37	0	434	12	236	135	50	67
(Magistrate Court of Johnson Co.)												
Pittsburg	140	52	30	30	30	0	28	0	12	0	6	4
Salina	335	76	166	28	28	0	65	6	64	5	1	0
(Magistrate Court of Saline Co.)												
*Topeka	3,156	818	1,810	81	80	1	447	27	412	4	33	76
(Magistrate Court of Shawnee Co.)												
*Wichita	8,140	1,208	5,294	871	871	0	767	79	3,347	12	479	509
(Court of Common Pleas of Sedgwick Co.)												
Winfield	121	46	53	6	6	0	16	0	20	1	1	2
Totals	20,586	4,013	11,582	1,831	1,828	3	3,160	175	5,504	169	941	1,309

* Cases reported for calendar year 1968.

CITY COURTS

TABLE E-2.—DISPOSITION OF CRIMINAL CASES—YEAR ENDING JUNE 30, 1969

Cities	Total number cases	Cases not tried		Bound over to district court	Trials			Pending	Paroles granted	Paroles revoked
		Number dismissed	Plea of guilty		Total number	Acquitted	Convicted			
Arkansas City	461	78	347	25	11	4	7	0	19	1
Atchison	379	14	285	32	41	2	39	7	16	2
Chanute	1,150	111	942	14	12	4	8	71	11	0
Court of Coffeyville	489	64	370	25	20	1	19	10	22	1
Hutchison (Magistrate Court)	2,982	238	2,532	111	33	8	25	68	24	0
Independence	738	48	597	27	56	16	40	10	63	2
Kansas City (Magistrate Court of Wyandotte Co.)	6,402	1,114	4,352	194	260	116	144	482	51	4
Leavenworth	1,125	117	867	69	64	10	54	8	87	2
Olathe (Magistrate Court of Johnson Co.)	5,051	900	3,955	144	35	9	26	17	138	12
Pittsburg	1,576	50	1,213	30	268	14	254	15	40	2
Salina (Magistrate Court of Saline Co.)	3,274	293	2,876	64	32	8	24	9	85	0
*Topeka (Magistrate Court of Shawnee Co.)	4,759	511	3,522	253	337	18	319	136	223	1
*Wichita (Court of Common Pleas of Sedgwick Co.)	8,182	406	6,737	663	298	59	239	78	311	81
Winfield	557	107	401	23	0	0	0	26	23	2
Totals	37,125	4,051	28,996	1,674	1,467	269	1,198	937	1,113	110

* Cases reported for calendar year 1968.

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ROBERT R. (BOB) SANDERS, STATE PRINTER
TOPEKA, KANSAS
1969

33-920