



IJIS Institute

COURTS 101: AN UNDERSTANDING OF THE COURT SYSTEM



IJIS Institute

Courts Advisory Committee

October 2, 2012

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This project was supported by **Grant No. 2009-DB-BX-K107** awarded by the *Bureau of Justice Assistance*. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.

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INTRODUCTION

Understanding the court system in the United States is no easy task. There are multiple layers of jurisdiction, authority, and responsibility that span state, county, municipal and federal boundaries, and employ thousands of individuals in roles such as judges, commissioners, clerks, bailiffs and advocates. Adding to the confusion are the many state and federal regulations, case types, and court processes that make it difficult to understand the role of the courts or to describe their place in the overall administration of justice.

This paper was prepared to help you better understand the intricacies of the Judicial Branch in local, state, and federal courts by providing a high level overview of the court system, its processes, responsibilities, case flow, and person roles. It provides an overview of federal and state court systems and the different jurisdictions within these systems, and demonstrates why integration with other stakeholders is vital to the efficacy and efficiency of all court and the successful assimilation of the judicial branch in the integrated justice process today.

See [Appendix A](#) for a full glossary of terms used in this document.

OVERVIEW

Two fundamental concepts in the *United States Constitution* affect the organizational structure of the courts in the United States: separation of powers and federalism. First, the federal court system balances executive and legislative power with the judicial branch judging the constitutionality of legislation and executive rules, policies, and procedures. The second concept, federalism, resulted in two independent court systems: the federal court system and the state court system. Although independent, the federal courts provide checks on the decisions and case law in the various state courts, with the U.S. Supreme Court always retaining the last resort right to review decisions from the individual state courts and/or state Supreme Courts.

Federal and State Court Systems

Just as there are multiple levels of criminal justice agencies, there are also multiple levels of courts. These levels are commonly distinguished by characteristics such as the geographical jurisdiction (*i.e.* local, county, state, and federal) and the case type jurisdiction (*i.e.* limited, general/trial, appellate, and special). There is also a distinction between trial and appellate courts. The following table from the [United States Courts](#) website compares the case types heard by courts in the federal and state court systems.

TYPES OF CASES HEARD	
Federal Court System	State Court System
<ul style="list-style-type: none"> ♦ Cases that deal with the constitutionality of a law under the <i>United States Constitution</i>; ♦ Cases involving the laws and treaties of the U.S., ambassadors, and public ministers; ♦ Disputes between individuals or entities in two or more states; ♦ Disputes between two or more states; ♦ Admiralty law; and, ♦ Bankruptcy. 	<ul style="list-style-type: none"> ♦ Most criminal cases; ♦ Most small claims / minor civil cases (landlord tenant, debt, municipal matters); ♦ Probate (involving wills and estates); ♦ Most contract cases, tort cases (personal injuries); ♦ Family law (marriages, divorces, adoptions, etc.); ♦ Juvenile law; ♦ Mental health cases; and, ♦ Traffic cases. <p>State courts are the final arbiters of state laws and constitutions, unless there is contention that the state statute or constitution conflicts with the United States Constitution. Those cases can make their way into the federal court system and may, ultimately, be appealed to the U.S. Supreme Court. The Supreme Court may choose to hear or not to hear such cases.</p>

TABLE 1. TYPE OF CASES HEARD IN THE FEDERAL AND STATE COURT SYSTEMS¹

Federal Court System

The federal court system hears only about 5% of all court cases. All federal cases are first heard in a U.S. Federal District Court and are potentially moved to higher courts through the appeals process. The 94 U.S. judicial districts are organized into 12 regional circuits, each of which has a court of appeals. A court of appeals hears appeals from the district courts located within its circuit, as well as appeals from decisions of federal administrative agencies. In addition, the Court of Appeals for the Federal Circuit has nationwide jurisdiction to hear appeals in specialized cases, such as those involving patent laws and cases decided by the Court of International Trade and the Court of Federal Claims.

District Courts

There are 94 federal court districts, with at least one in each state. In addition to the district courts there are also specialized courts including: the U.S. Court of International Trade, a U.S. Court of Federal Claims, and a bankruptcy court, which have multiple locations. If any party loses in a district court or one of these specialized courts, then they can appeal the case to the appropriate circuit court.

1

<http://www.uscourts.gov/EducationalResources/FederalCourtBasics/CourtStructure/JurisdictionOfStateAndFederalCourts.aspx>

Circuit Courts

The United States courts of appeals (or circuit courts) are the intermediate appellate courts of the United States federal court system. A court of appeals decides appeals from the district courts within its federal judicial circuit, and in some instances from other designated federal courts and administrative agencies.

The United States Court of Appeals includes 12 Circuit Courts located throughout the country in the 12 geographic federal circuits regions. The 11 “numbered” circuits and the [D.C. Circuit](#) are geographically defined. For example, the Fourth Circuit Court of Appeal handles appeals from US District courts located in Virginia, West Virginia, Maryland, North and South, while the 12th Circuit handles appeals from the District of Columbia. These Courts are known as the First through 12th Circuits Courts of Appeal.

There is also a specialized Court of Appeals for the Federal Circuit which has nationwide jurisdiction to hear appeals from any District Court for certain specialized cases such as patent appeals, as well as appeals from special jurisdiction courts such as the Court of International Trade and the Court of Federal Claims.

Supreme Court

The United States Supreme Court has nine justices and is the final court of review. In addition to some mandatory appeals, the justices may choose which appealed cases from the circuit courts and State Supreme Courts to review.

Due to the small number of criminal justice related cases in the federal court system, and because the federal court system is not a common participant in IJIS Institute and/or Institute Member company efforts, the balance of this paper will focus on state court systems.

State Court System

The organizational structure of a state court is determined by individual state constitutions – none are exactly the same – but the following levels of courts, discussed in greater detail in later sections, exist in the majority of states. See [Appendix B](#) for state court structure diagrams.

Courts of Limited Jurisdiction

Courts of limited jurisdiction generally comprise the first tier of the judicial systems in the states. The reference to limited jurisdiction indicates that state legislatures limited the scope of these courts when they were created. These courts usually hear “less serious” or minor cases, including, but not limited to: small claims (*e.g.* landlord/tenant actions, debt matters, non-injury accident claims, etc.) where, typically, self-represented litigants bring claims of a “limited,” up to a pre-set, monetary value; traffic cases; city ordinance violations; and, specialized cases, such as juvenile or family matters.

Courts of limited jurisdiction also tend to be where the first appearance, charging, and bail setting for criminal cases happens in an arrest or criminal matter.

Courts of General Jurisdiction

Courts of general jurisdiction represent the second tier the judicial systems in the states, and are considered the “trial courts” in the state systems. They serve a similar function to district courts in the federal system. Although caseloads vary from state to state, general jurisdiction courts typically handle: felony cases, both criminal and civil; higher-level misdemeanor cases; special case types, such as probate, mental health, and juvenile cases; family and domestic violence; and, appeals from limited jurisdiction courts. Courts of general jurisdiction are where most jury trials occur. It should also be noted that some states combine the jurisdiction of the limited and general jurisdiction court into a single general jurisdiction court with different divisions for minor versus major matters, or specialize by case type.

Appellate Courts

Appellate courts are commonly considered review courts only and not courts where citizens initiate cases. All states have an appellate level of court; some have a multi-tiered level. Most appellate matters are cases where one of the parties is not happy with the decision from the trial court and petitions the appeals court in their state to get a review of the matter. Some states have “Intermediate Appellate Courts” (see below), which handle specific appeals to which an appeal is almost guaranteed. Appeals to the “Court of Last Resort” in those states are generally discretionary. There are states, however, which do not have an intermediate appellate court and, in this case, all appeals generally go directly to the single Appellate level “Court of Last Resort.”

State court systems generally follow this structure of limited/high volume courts – trial/general jurisdiction courts – appellate/review courts; however, there are three common variations that an IJIS Institute staff or Member company may encounter and that are important to integrated justice: specialty courts, juvenile courts, and intermediate appellate courts, which have many anomalies at the state level.

Specialty Courts

There are many types of limited or general jurisdiction courts – *specialty courts* – that have been established to deal with a specific type of case or a specific problem. These courts are established as stand-alone separate courts, a separate division of a larger court, or just a separate docket (calendar) of a larger court. Specialty courts may be part of the Judicial Branch or the Executive Branch, depending on the state constitution. While specialty courts may occur at the limited jurisdiction level, they are more common at the trial level. Some examples include: specific courts assigned to deal with issues such as complex litigation (business courts), tax issues (tax courts), environmental issues (water or environmental courts), or drug offenses (drug courts), and, most recently, gun courts to fast track weapons-specific offenses.

Juvenile Courts

Juvenile courts are special courts or departments of a trial court that deals with underage defendants charged with delinquency – committing offenses that would be criminal matters if committed by an adult, status offenses (violations that occur because of their age – underage drinking, truancy, runaways) – or minors who are involved in abuse and neglect matters. The normal age of these defendants is under 18, with some states allowing juveniles usually over age ~14 to also be charged as adults. The juvenile court does not have jurisdiction in these cases in which minors are charged as adults. The procedure in juvenile court is not adversarial (although the minor is entitled to legal representation by a lawyer), and is seen more as a

mediation and consultative environment. There is often the involvement of advocates, social services, and probation officers in the process to achieve positive results and to save the minor from involvement in further crimes; however, serious crimes and repeated offenses can result in sentencing juvenile offenders to a juvenile correctional or detention facility, and later transfer to state prison upon reaching adulthood with limited maximum sentences. Where abuse, neglect, and family support (care and safety of the child) are at issue, the juvenile court may work with foster care agencies and the child may be treated as a ward of the court.

Intermediate Appellate Courts

Many, but not all, states have *intermediate appellate courts*, which are located between the trial courts of general jurisdiction and the highest court in the state. Any party, except in a case where a defendant in a criminal trial has been found not guilty, who is not satisfied with the judgment of a state trial court may appeal the matter to an appropriate intermediate appellate court. Such appeals are usually a matter of right (meaning the court must hear them); however, these courts address only alleged procedural mistakes and errors of law made by the trial court. They do not generally review the judgment of the lower court (guilt/innocent) and do not review the facts of the case, which have been established during the trial, nor do they accept additional evidence. Instead, these courts look to see that the process and procedures (*e.g.* jury instructions was correctly provided; evidence was properly admitted; parties were given their rights in court; discovery during the trial process, etc.). These courts usually sit in panels of two or three judges. Moreover, appellate decisions are normally to uphold the verdict/decision of the lower court, to reverse the decision of the lower court, or to return the case for re-hearing.

While all state court systems are different, Figure 1 below graphically depicts the responsibilities and relationships between the common levels in a state court system.

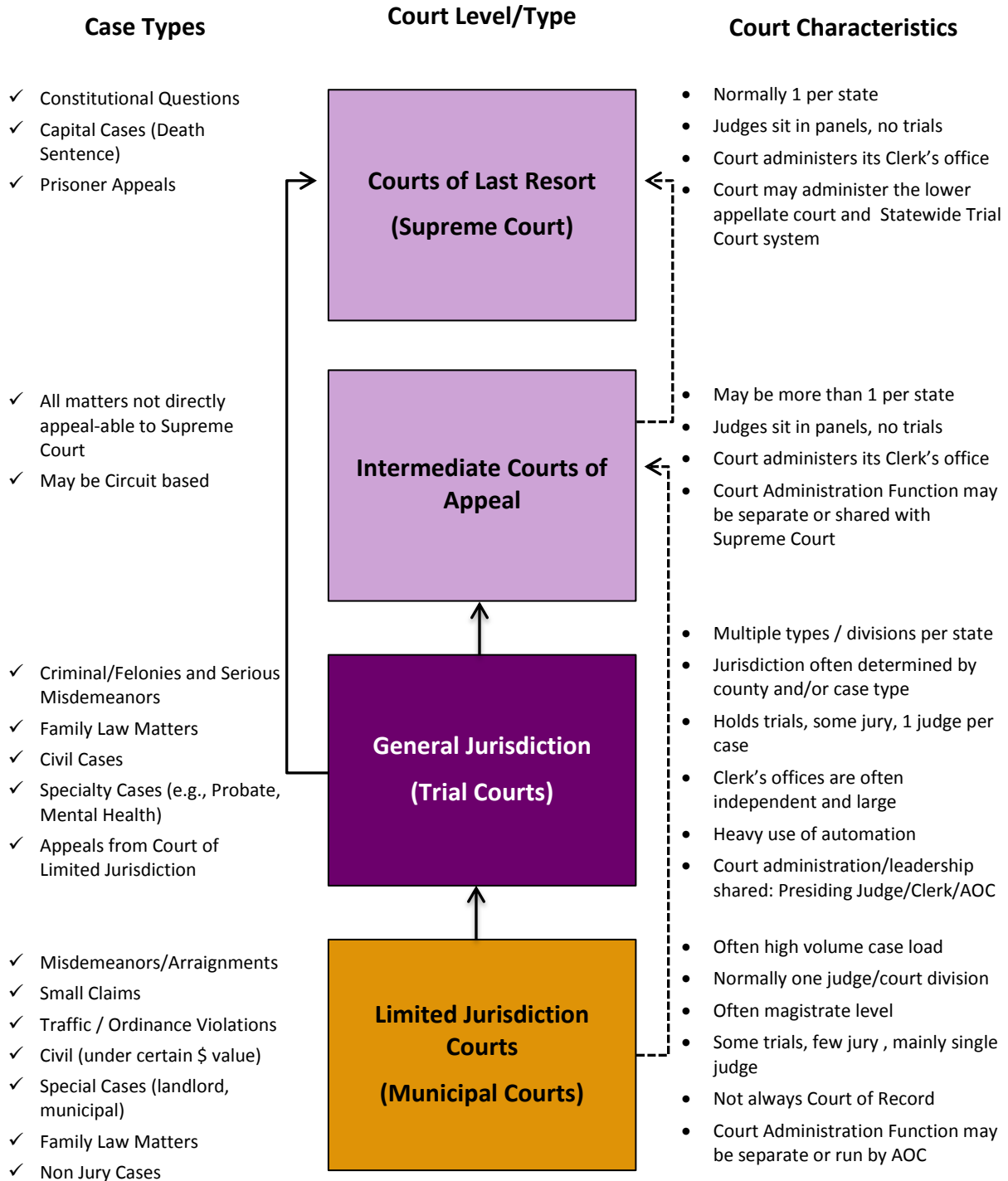


FIGURE 1. COURT CASE FLOW²

² Adapted with permission from "Courts 101: A Primer for Justice Agencies"; SAL Consulting, LLC 2011©, page 15

Although specific court structure varies from state to state, each state follows the same basic flow of cases shown below. Examples of specific state court structures can be found in [Appendix B](#).

Primary Court Participants

Courts hear a variety of case types and these types dictate the court participants that will be involved. Common court participants that an IJIS Institute professional or Member company may encounter in criminal matters usually include the following types of participants.

Judicial Officer / Magistrate / Judge / Justice

The role of a *judicial officer / magistrate* is perhaps the most dynamic across the variety of court types. In limited jurisdiction courts, the “law giver” is often a judicial officer or a magistrate, and may not be a “sworn” judge. In trial courts, *judges* (called *justices* in some state systems) are responsible for maintaining order, determining the admissibility of the evidence presented, and giving instructions to the jury regarding laws applicable to the case. Judges are also often responsible for sentencing in criminal cases. In bench trials (no jury), judges are responsible for hearing the facts of the case and determining the outcome. In trial courts, there is normally only one judge presiding over the case; however, appellate courts are more likely to be governed by a panel of judges or justices.

Magistrates and judges at the state and local level may be appointed or elected, depending upon the jurisdictions’ rules. All judges in the federal court system are appointed by the President, approved by the United States Senate, and serve for a good tenure (usually life), while state judges are either appointed or elected and the length of their terms can vary depending on the court and the jurisdiction. You may hear judicial officers being referred to in a variety of ways (*e.g.* judges, justices, magistrates, referees, etc.) in various levels of courts, depending on the specific court and jurisdiction.

Court Administrator

The duties of *court administrators* vary depending on the jurisdiction, location, and size of the court in which they are employed. They may be competitively hired or appointed on recommendation by the chief/presiding judge. Typically, court administrators are responsible for administrative functions, rather than legal areas, such as: court policy; human resource management; fiscal administration; technology management; space planning and facility management; community relations; performance management; and, project leadership and oversight.

Clerk of Court

The *Clerk of Court* is responsible for the administrative tasks of the trial and physical exhibits presented as evidence in the trial. In most jurisdictions, they are responsible for maintaining the official court record, whether it is in paper form or electronic form. They collect the information/forms, store them, retrieve them, and distribute them. In some jurisdictions, they are also responsible for providing clerical staff help in the courtrooms. The Clerk of Court can be appointed by the Court, hired through a competitive process, or elected to that office. There are differences in the latitude and role of the Clerk of Court based upon the jurisdiction, their appointment/election type, and the organizational structure of the court. In some courts, the Clerk of Court may also function as the court administrator.

Prosecutor

The *prosecutor* is responsible for bringing criminal charges against defendants and presenting evidence relative to the charges. The prosecutor tries the case on behalf of the federal or state government. In most jurisdictions, they also play a major role in managing victims' rights and processing restitution.

Defense Counsel

The *defense counsel* can be either a privately retained lawyer or an appointed public defender. When a criminal defendant is determined to be unable to pay for legal services, they are appointed a public defender because they have the right to counsel. The defense counsel is responsible for preparing the defendant's case and evidence, cross examining witnesses, and advising the defendant about pleas and negotiated agreements.

State Grand Juries

Most states – all but Connecticut and Pennsylvania – and the District of Columbia retain the option of a *state grand jury* indictment. Every state uses a grand jury for some function, although such use has diminished. State grand juries are generally made up of 6-23 people with a statutory term of service of up to one year, which is much longer than the typical term of service required by petit jurors (trial jurors). The scope of activities varies but usually includes criminal indictments and investigations. Some states also allow grand juries to take on other roles, such as investigating public officials and public buildings or serving as special review committees (e.g. as part of a statewide grand jury to examine larger crime problems, such as drug distribution and gang violence).³

Trial Jury

A *civil petit jury*, normally 12-15 jurors, decides the outcome of a case and sets compensation if applicable. A *criminal petit jury*, customarily 6-15 jurors, determines the facts of a criminal case and arrives at a verdict. Many limited jurisdiction courts will also employ a "*six person*" jury for minor matters. Jury Commissioners and jury selection processes vary by state and locality.

Court Reporter

The *court reporter* is responsible for creating a verbatim transcript of court proceedings. The transcript is available upon request of either party, and is especially important when a case is appealed. Not all courts use court reporters – some are not courts of record, meaning there is no verbatim transcript of the proceeding, while others use audio or video technology to capture the record, and only transcribe the record upon request of a party.

Bailiff / Courtroom Clerk

The *bailiff* maintains order in the courtroom, monitors juror independence, and calls witnesses to testify. The bailiff may be an officer of the court, or may be provided as part of a court security unit that is operated by the local sheriff or law enforcement agency. In many courts, there is also a *courtroom clerk* that functions as the judge's in-court assistant handling court reporting, producing forms, and calling witnesses, while a separate sheriff's deputy or court security office handles the order and security of the actual courtroom. When the trial or matter is highly confidential, sensitive, high profile, or of media interest, there may be additional

³ <http://www.ncsc.org/Topics/Jury/Grand-Juries/Resource-Guide.aspx>.

officers and clerks assigned to assist in maintaining the sanctity and safety of the court and the participants.

Court Administration

The division of responsibilities for the administration of and record keeping for courts varies from state to state. In some states, record keeping, calendaring, scheduling, and case management is supported by the Clerk of Court. Because court systems are often organized to align with county boundaries, the Clerk of Court may also be the City or County Clerk, especially when they are elected, which means that the court records and the computer systems that maintain those records are the responsibility of the City or County Clerk.

In other states, some or all of these responsibilities are addressed on a statewide basis for all court levels or only for some court levels. State court administrations provide an organization to maintain control over the administrative aspects of the judicial system, which provides simplified organization, centralized administration, and unitary budgeting. While there is no single model for these statewide organizations, most report to the chief justice. These statewide court administrative organizations are managed by a state court administrator and staff. These organizations are often referred to as the *administrative office of the courts (AOC)*, whose function is to carry out the judiciary's administrative duties.

Various elements of a state court administrative system may include the following:

- ❖ A *court of last resort* that includes a division/staff, which sets administrative policy for the judicial branch, often reflecting this policy in rules of court, directives, or orders;
- ❖ A *chief justice* who generally serves as an executive overseer to see that court policy is implemented;
- ❖ A *state court administrator* whose office provides administrative support to the chief justice and the court in implementing policy and in serving various other administrative or legal functions;
- ❖ *Chief judges of trial courts and intermediate appellate courts* who administer the operations of their respective courts in conformity with the policy set by the supreme court and by the court they serve; and/or,
- ❖ *Trial court administrators and trial court administrative offices* that provide the principal, but not the sole, assistance to the chief judges in implementing their administrative responsibilities⁴

The Chief Justice is one of two key decision makers for a statewide court system. While responsible for judicial administration statewide, some chiefs involve some or all members of their court in administrative decisions. Others may establish a “cabinet” model, enlisting the state court administrator and presiding judges from limited and general jurisdiction courts. The power and authority of chief justices vary according to the method by which they are selected, their tenure, and the degree of unification within the court system.

⁴ <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=101> (p. 25)

Perhaps the most important factor in the power of a chief is the degree of court unification. Strong vertical lines of authority running from the Supreme Court down through the trial court system, buttressed by control over the trial court budget, can greatly enhance the authority of the chief justice and the Supreme Court.⁵

The second key decision maker in a state court system is the state court administrator. This person serves the state supreme court, the chief justice, or a judicial council as the principal administrative officer of the state court system. Court administrators bring professional knowledge and experience to the judiciary and relieve the administrative burdens of judges so they can devote more time to adjudication.⁶

Of importance to the IJIS Institute community is that this assignment of responsibility and control impacts what court information is collected, where it is maintained, how the system is funded, when it is published, and how it is otherwise shared. Courts may be more focused on the efficiency of court operations, maintaining tools, and sharing information that aids scheduling and case management. Clerks may focus their resources on ensuring the completeness, accuracy, and security of their records. State court administrators may have more of a statewide focus for records, systems, and information sharing than county clerks serving as record keepers for their local jurisdictions.

COURT RECORDS

As any criminal investigator knows, person identification and records are key to solving a case. As a result, law enforcement and public safety information is most often person centric. In contrast, court records handle matters as “*case*” not “*person*” records, resulting in different record structures, indices, content, relationships, and rules.

This is different from the predominant model upon which courts operate, which is that of a case-based record. A case consists of people, schedules, documents, and data. Systems that support courts, no matter if the court uses paper-based or electronic cases, must present information from each perspective and must interrelate. Examples of different systems used in courts may include:

- ❖ A scheduling system calendars and resources;
- ❖ A case management system, which knows about case data, case action and status, and rules;
- ❖ A financial tracking system, which maintains case financial and payment data;
- ❖ A document management system, which knows about documents, folders, and metadata;
- ❖ A paper-based case folder, which contains documents, and sometimes notes and other information;
- ❖ Email or electronically captured communications; or,
- ❖ Multimedia audio and video files.

⁵ <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=101> (pp. 28-29)

⁶ <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=101> (p. 29)

The true context of a case is derived from the composite view of all supporting information across multiple systems. This view should include all the information listed above, as well as supporting information available from law enforcement, corrections, social services, health agencies, and other peer stakeholders.

The breadth and depth of content in court systems also generates information sharing issues and concerns, including:

- ❖ Law and rule relative to the release of information in an ongoing proceeding;
- ❖ Records (in particular images) that blend public and private data;
- ❖ Sanctions and consequences of improper release of court records; and,
- ❖ The cost of modifying, maintaining, and operating data, applications, and infrastructure to share information with justice partners.

CRIMINAL LAW VS. CIVIL LAW

The justice system includes all judicial branch courts at the state, local and federal level that administer justice, including any agency involved in the arrest, investigation, prosecution, adjudication, detention, custody, and disposition of adult criminal actions and civil matters. As discussed earlier, there are often separate systems for processing matters dealing with children, youth and families, and specialized actions for securities, probate, intellectual property, and other matters; however, at the most basic level, the courts' involvement with the adult justice system can be understood as including two case types: *criminal* and *civil* matters.

Criminal Law

Courts handle *criminal* matters on a state, local, and federal level. Cases or "matters" are considered criminal if the actions violate a criminal law and result in harm to persons, property, or the public trust. Criminal law also establishes the punishment to be imposed on those who breach these laws.

In criminal law, the courts have two parties: *Prosecution*, which is the government; and, *Defense*, which refers to the party or individual that allegedly committed the crime. In criminal courts, the case is always initiated by the government following a violation of criminal law, commission of a crime, or other identification of a defendant or party who "committed" or participated in a criminal act. The case is always filed/started in the courts by the government agency responsible for prosecuting the action (*e.g.* the state's attorney, the prosecutor).

Punishment Law

In criminal law, a guilty defendant is punished by either:

- ❖ Incarceration in a jail or prison,
- ❖ Community supervision or probation,
- ❖ Fine paid to the government, or, in exceptional cases,
- ❖ Execution.

Summary offenses – such as traffic and municipal ordinance violations – are not included in the definition of criminal matters, as they do not normally result in incarceration. Crimes are divided into two broad classes:

- 1) *Felonies* generally have a maximum possible sentence of more than one year incarceration.
- 2) *Misdemeanors* generally have a maximum possible sentence of less than one year incarceration.

Burden of Proof

In criminal litigation, the *burden of proof* is always on the state. The state must prove that the defendant is guilty. The defendant is assumed to be innocent. The state must prove the defendant is responsible for each element of the statutory definition of the crime, “beyond a reasonable doubt.”

There are many steps and events in the criminal justice process. Figure 2 below represents common events and/or processes in criminal proceedings. Those involving the courts are noted in red.



FIGURE 2. CRIMINAL CASE EVENTS AND PROCESSES⁷

⁷ “Courts 101: A Primer for Justice Agencies”; SAL Consulting, LLC 2011, Page 22

As noted above, the court is an integral part of the criminal justice system. However, criminal cases and matters handled by the court normally start with another justice agency, as illustrated in Figure 3 below.

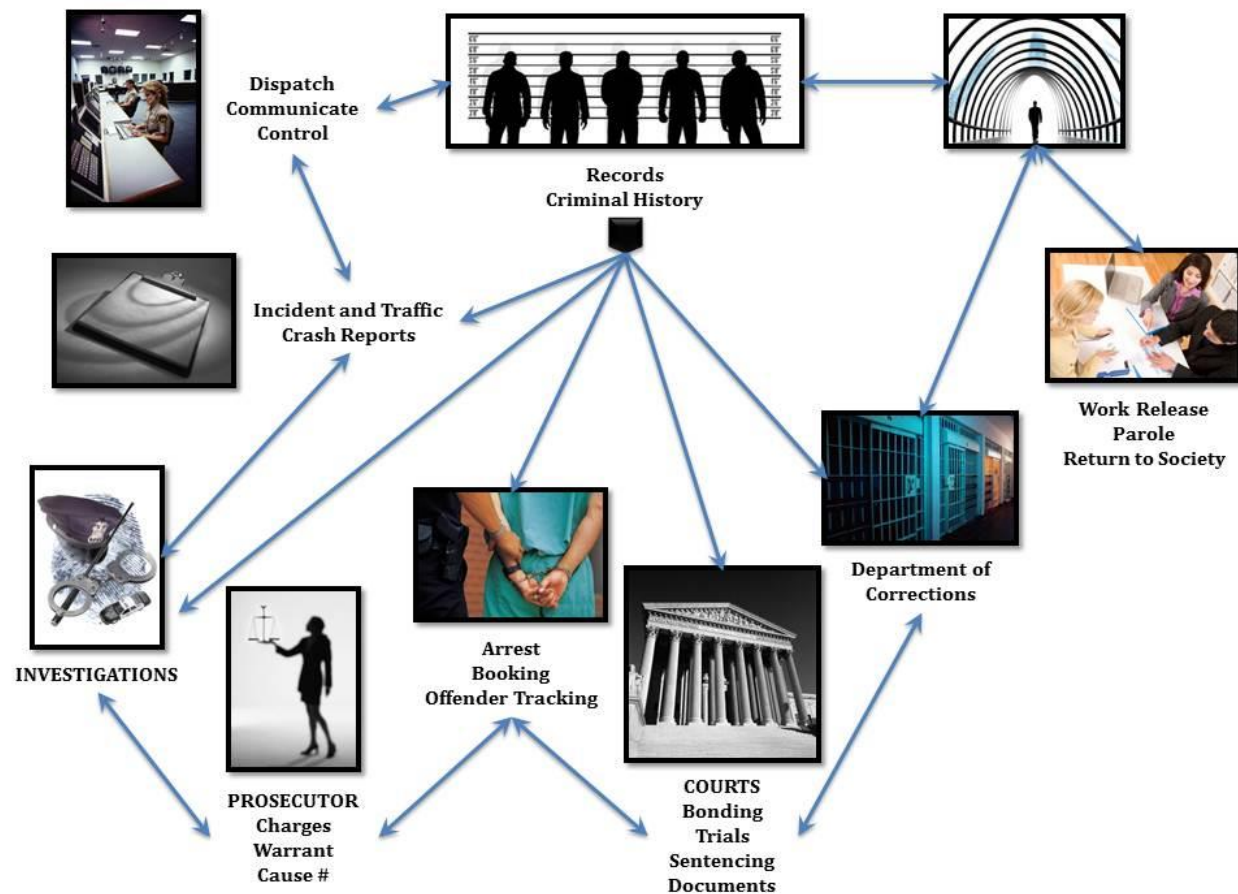


FIGURE 2. CRIMINAL CASE FLOW⁸

Civil Law

Courts also handle *civil* cases. Civil cases or matters are noncriminal cases in which an individual or business sues another to protect, enforce, or redress private or civil rights. Civil cases include small claims, claims for money damages, medical malpractice, divorce, child custody, tort cases, contracts, and judgments. In contrast to criminal matters, a defendant in civil litigation is not incarcerated and never executed. In general, a losing defendant in civil litigation only reimburses the plaintiff for losses caused by the defendant's behavior. In a civil case under tort law, there is a possibility of punitive damages.

In civil litigation, the burden of proof is initially on the plaintiff, and the plaintiff wins the dispute if the preponderance of the evidence favors the plaintiff; for example, if the jury believes there is more than a 50% probability that the defendant was negligent in causing the plaintiff's injury, then the plaintiff wins. This is a low standard of proof in comparison to the "beyond a reasonable doubt" standard in criminal law.

⁸ Adapted with permission from "Courts 101: A Primer for Justice Agencies"; SAL Consulting, LLC 2011©, Page 20

In civil matters, the activities and work of managing the case may be housed in different court and justice agencies from state to state but, unlike the criminal justice flow, civil matters start in the court by the filing of the matter by an agency, individual, or corporation, as shown in Figure 5 below. Civil matters are most often brought to the court by individuals/corporations and private entities that pay a filing fee to bring this matter forward.

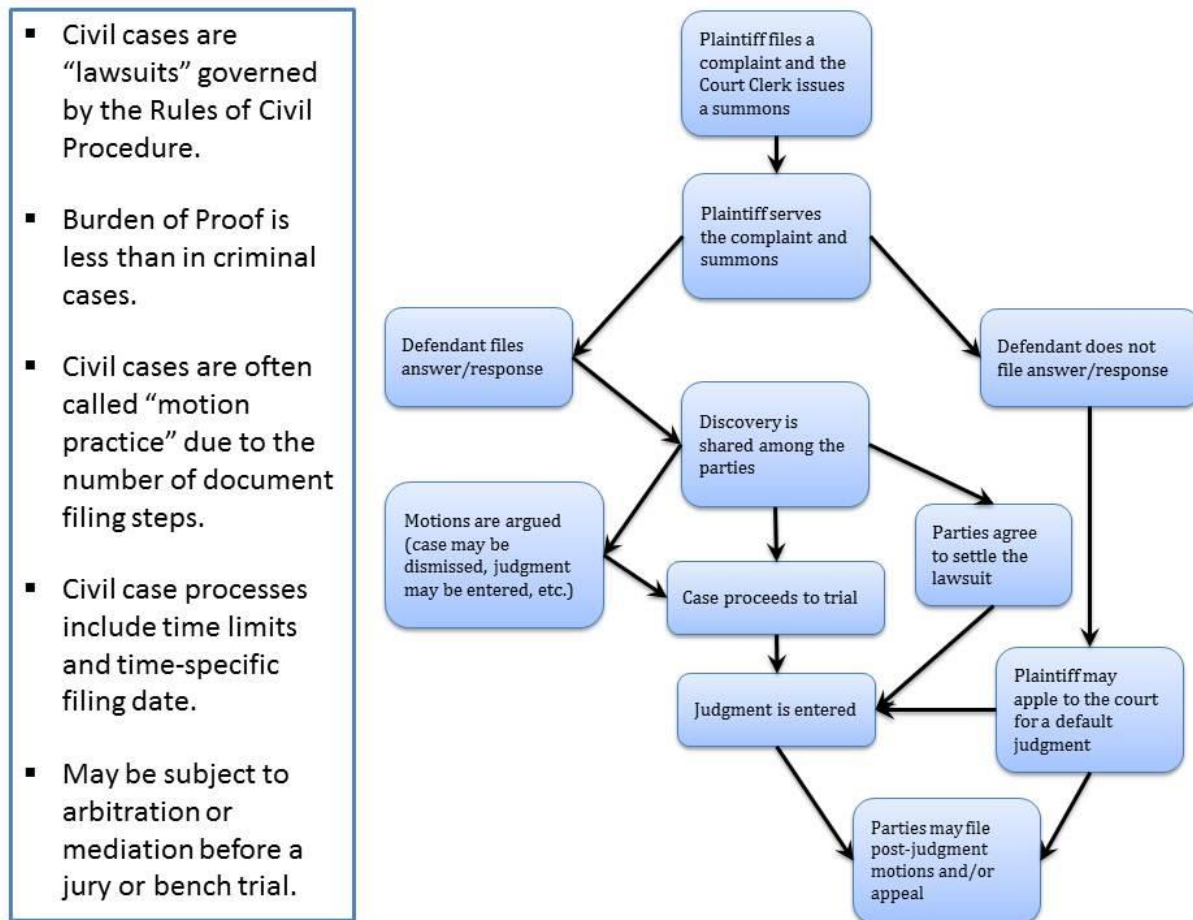


FIGURE 3. CIVIL CASE FLOW⁹

Civil cases add additional terminology to the process:

- ❖ Numerous names are given to the parties involved civil proceedings, but *Plaintiff* and *Defendant* are most common.
- ❖ *Persons of interest* or *interested parties* can also be attached to the case.

⁹ Adapted with permission from “Courts 101: A Toolkit for the Non Lawyer”, SAL Consulting, LLC, 2011 ©, Page 26

- ❖ *Motion practice*—Civil case processing involves more passing of papers and motions throughout the case. As no one is in custody, this is called “motion practice” and involves time specific flows for receiving a filing or document, registering that document in the court record, informing the opposing side of the document, and receiving the answer to the document from the other side, or a judgment of the court.

The overall number of civil cases is increasing, while the number of criminal cases is decreasing nationwide. This influx creates an increasing need for and focus on information sharing outside the criminal justice community. There is a greater emphasis on e-filing, portals, and access to civil records on line.

Unlike criminal cases, where the court plays a role at a specific point in the criminal justice process, in civil matters, the court is the lead agency responsible for managing the case, and can be involved in all the case events and actions highlighted in red in Figure 6 below.

- ♦ Incident / Matter in Controversy
- ♦ Initial Filings by Parties
- ♦ Court Processes
 - Summons
 - Claims
 - Discovery
 - Filings
 - Answers
 - Jointure
 - Motions
 - Preliminary Hearings
 - Pleadings
 - Witness Statements
 - Depositions
- ♦ Trial Court Actions
 - Disposition / Settlement
 - Civil Sanctions, Fines, Fees
 - Restitution / Reclamation
 - Stop Orders, Denial (of Contract), Rescission, Repeal
- ♦ Appeals
 - Decision Upheld
 - Decision Overturned and Remand for Hearing
- ♦ Post Settlement Payment Programs
 - Restitution
 - Fines / Remuneration
- ♦ Post Settlement Monitoring
- ♦ Stop Work Orders and Injunctions

FIGURE 4. CIVIL CASE PROCESS AND EVENTS¹⁰

¹⁰ “Courts 101: A Primer for Justice Agencies”; SAL Consulting, LLC 2011©, Page 28

COURT FUNDING MODELS

For the IJIS Institute community, understanding the complex nature of court funding may be of critical importance when attempting to assist justice agencies in improving information sharing. State and local courts systems are often interested in applying new technologies to improve performance and to provide greater access to justice for the general public. Since technological applications usually require a financial investment, it is incumbent on providers of technology, training, and technical assistance to be conversant with court funding models and to understand how funding is evolving.

Unified, Decentralized, and Hybrid

In the field of court administration, those states that provide most, if not all, funding for trial court operations are referred to as *unified*. Within unified court systems, there tends to be greater administrative and budgetary control exercised at the state level, often through the Administrative Office of the Courts. Unified systems are also more likely to have statewide policies on information sharing, as well as integrated case management systems.

In *decentralized* jurisdictions, the primary court funding originates at the local level (county and municipal), often through a County Board of Commissioners or a City Council. When trial courts are funded at the local level, large financial expenditures (e.g. technology projects) often require multiple approvals (e.g. court administrator, chief judge, county IT director, county administrator, etc.) rather than in unified courts where the state court administrator and/or chief justice can authorize the expenditure of appropriated funds in a more streamlined fashion.

In recent years, many states have attempted to improve the overall level of court funding, which has led to the emergence of *hybrid* court funding scenarios. In hybrid situations, the state, usually through an appropriation to the state court of last resort, provides funding for significant portions of local court expenses. In some jurisdictions, this hybrid state funding may pay for judicial salaries or due process costs (e.g. court appointed counsel, interpreters, jury costs, etc.), while other employee costs or facility costs or technology costs remain the responsibility of the local unit of government – often counties.

Trends in Court Funding

While appellate courts have been state funded, trial courts were traditionally funded by county and municipal government; however, there has been a trend over the years toward state funding for the trials courts as well. In addition, the American Bar Association called for state financing of trial courts in its 1974 *Standards of Judicial Administration*. In most states, trial courts are currently funded from a combination of state and local funds, with judicial salaries the most likely expense to be funded at the state level, while non-judge employees, facilities, and local services remain in the county and municipal budgets.

As part of the court unification movement, reformers pushed for state funding as a way to equalize justice within the states and to improve efficiency by simplifying and centralizing budgeting. Opponents argued that a decrease in local control would result in a decline in responsiveness and would stifle innovation; however, towards the end of the twentieth century, local jurisdictions were themselves increasingly supportive of state funding as costs increased and local revenues came under pressure. The

actual effects of state-level funding appear to be limited. Overall funding does not appear to increase with state funding, though the flexibility to move funds across jurisdictions has improved. It is likely that funding for the courts in most states will remain a shared responsibility between state and local governments.

Historically, state trial court budgets have been funded at the local level or through some combination of state and local support. From 1987 to 2004, the number of states fully funding both general and limited jurisdiction trial court expenses increased. The largest increase was in the number of states funding general operating expenses in general jurisdiction courts, which increased from 15 to 22 states. See Figure 5 below.¹¹

Trial court expenses	Number of states providing full state funding			
	In all general jurisdiction courts		In all limited jurisdiction courts	
	1987	2004 ^a	1987 ^b	2004 ^c
Judicial salaries	43	44	10	13
Court reporters	31	34	8	11
Capital equipment	21	20	8	11
Building/property expenses	7	9	4	9
General operating expenses	15	22	7	10

Note: Includes trial courts in all 50 states for which data were available.

^aTwo states were missing funding data for the categories of capital equipment, building/property, and general operating expenses. One state either did not have court reporters or could not provide data on the funding of court reporters.

^bStates without limited jurisdiction trial courts are not included. An additional ten states either did not have court reporters or could not provide information on the funding of court reporters.

^cStates without limited jurisdiction trial courts are not included. An additional two states either did not have court reporters or could not provide data on the funding of court reporters. One state did not provide information on capital equipment or building/property expenses

FIGURE 5. TRIAL COURT BUDGETS FUNDED ENTIRELY BY STATE GOVERNMENT, 1987 AND 2004

As a separate and co-equal branch of government, the judiciary might expect significant control over their own budget; however, there is considerable variability among the states as to the degree to which the court budget is subject to the legislature's power of the purse and the executive's control over the state budget. Such division of budgetary control tends to contribute to tension between the branches. Similar conflicts can develop at the local level where the county board or city council controls funding and where the clerk's responsibilities are to both judicial and legislative functions.

¹¹ Thomas Cohen and Lynn Langton. U.S. DOJ, OJP, BJA. *BJA Special Report: State Court Organization, 1987-2004*. October 2007, NCJ 217996. Page 7.

CONCLUSION: ADVANCING INTEGRATED JUSTICE

The courts are at the nexus of information sharing in the criminal justice community; however, in many communities, they are seen as byzantine institutions that set up roadblocks and dead ends on the path to implementing integrated justice information systems. This paper provided critical insights that provide an enabling perspective for information sharing with the courts. Understanding these concepts and court characteristics empowers the IJIS Institute professional or Member company to build bridges between the courts and their justice partners. Chief among these are:

- ❖ Courts have specific jurisdictions and, as a separate branch of government, determine the information they maintain and share.
- ❖ Courts have a hierarchical structure – meaning that criminal matters that are part of an integrated justice flow may begin in one court and be disposed of in another.
- ❖ There are many participants involved in and contributing information in a court case.
- ❖ Depending on the jurisdiction, access to court records and systems may be controlled:
 - At a state, county, or city level;
 - By one or more judges, administrators, and/or clerks; or,
 - By the containment of different records in local or limited access systems that do not interface.
- ❖ Most of the caseload for a court is NOT criminal. Criminal cases are not the court’s primary focus.
- ❖ The vast majority of cases are resolved before trial and without juries.
- ❖ Court case records:
 - Are organized and maintained by case not person;
 - Are comprised of a variety of records systems;
 - Include artifacts containing personal data; and,
 - Are subject to severe penalties for improper release of information.
- ❖ Funding for the court (and IJIS Institute projects) may be provided at the state, county, or city level.

Advancing integrated justice information systems, which include the courts, becomes easier when there is an understanding of their structure, focus, processes, motivations, and general nature.

APPENDICES

*Appendix A – Glossary*¹²

Abstention – A federal court’s relinquishment of jurisdiction when necessary to avoid needless conflict with a state’s administration of its own affairs.

Acquittal – The legal certification, usually by jury verdict, that an accused person is not guilty of a charged offense.

Adversary System – A procedural system involving active and unhindered parties contesting with each other to put forth a case before an independent decision-maker.

Appeal – A proceeding undertaken to have a decision reconsidered by a higher authority, especially for review and possible reversal.

Arraignment – The initial (adversarial) step in a criminal prosecution whereby the defendant is brought before the court to hear the charges and to enter a plea.

Arrest – The taking or keeping of a person in custody by legal authority, especially in response to a criminal charge and for the purpose of bringing that person before a court.

Attorney – One who is designated to transact business for another; an **attorney at law** or **lawyer** is an attorney who practices law (is designated to transact legal business for another and is expected to advocate zealously on behalf of a client).

Attorney-Client Privilege – The client’s right to refuse to disclose and to prevent any other person from disclosing confidential communications between the client and the attorney.

Authority – A legal writing taken as definitive or decisive; especially a judicial or administrative decision cited as precedent; it includes decisions of tribunals, statutes, ordinances, and administrative rulings.

Mandatory (imperative, binding) authority is authority that is absolutely binding on a court. **Persuasive authority** is authority that carries some weight but is not binding on a court. **Primary authority** is authority that issues directly from a law-making body (legislation and the reports of litigated cases); it may or may not be mandatory on a court. **Secondary authority** is authority that explains the law but does not itself establish it, such as a treatise, annotation, or law review article; it is never mandatory on a court.

Bail – A security such as cash or a bond, especially a security required by a court for the release of a prisoner who must appear at a future time.

Bench Trial – A trial before a judge without a jury (hence the judge decides questions of fact in addition to questions of law).

¹² All glossary terms are taken from *Black’s Law Dictionary* (Bryan A. Garner ed., 9th ed. for the Android, Thomson Reuters 2011)

Book – To record the name of a person arrested in a sequential list of police arrests, with details of the person’s identity, particulars about the alleged offense, and the name of the arresting officer.

Case Law – The law to be found in the collection of reported cases that form all or part of the body of law within a given jurisdiction.

Cause of Action – A group of operative facts giving rise to one or more bases for obtaining a remedy in court by bringing a suit against another person.

Civil Procedure – The body of law, usually rules enacted by the legislature or courts, governing the methods and practices used in civil litigation.

Common Law – The body of law derived from judicial decisions rather than from statutes or constitutions.

Competence – A basic or minimal ability to do something, especially to testify.

Complaint – The initial pleading that starts a civil action and states the basis for the court’s jurisdiction, the basis for the plaintiff’s claim, and the demand for relief.

Conditional Release – A discharge from an obligation based on some condition, the failure of which defeats the release. An early discharge of a prison inmate, who is then subject to the rules and regulations of parole.

Contempt – Conduct that defies the authority or dignity of a court or legislature, punishable usually by fine or imprisonment.

Controversy (actual) – A case that requires a definitive determination of the law on the facts alleged for the adjudication of an actual dispute, and not merely a hypothetical, theoretical, or speculative legal issue.

Conviction – The act or process of judicially finding someone guilty of a crime, usually based on the verdict at a trial or a plea by the defendant.

Court – A governmental body consisting of one or more judges who sit to adjudicate disputes and administer justice.

Crime – An act that the law makes punishable.

Damages – Money claimed by, or ordered to be paid to, a person as compensation for loss or injury.

Decree – A court’s final judgment.

Defendant – A person sued in a civil proceeding or accused in a criminal proceeding.

Deposition – A witness’s out-of-court testimony that is reduced to writing for later use in court or for discovery purposes.

Dictum – A statement of opinion or belief considered authoritative because of the dignity of the person making it (not formally part of the decision).

Discharge – Any method by which a legal duty is extinguished, especially the payment of a debt or satisfaction of some other obligation. The release of a prisoner from confinement.

Discovery – The act or process of finding or learning something that was previously unknown (perhaps even from non-parties, and including devices such as interrogatories, depositions, requests for admission and requests for production).

Disposition – The act of transferring something to another's care or possession. A final settlement or determination.

Diversion Program – A program that refers certain criminal defendants before trial to community programs which, if successfully completed, may lead to dismissal of the charges.

Docket – A schedule of pending cases.

Due Process – The conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights, including notice and the right to a fair hearing before a tribunal with the power to decide the case.

Evidence – Something (including testimony, documents, and tangible objects) that tends to prove or disprove the existence of an alleged fact.

Ex Parte – [Latin: "from the part"] On or from one party only, usually without notice to or argument from the adverse party.

Exhaustion (of remedies) – The doctrine that, if an administrative remedy is provided by statute, a claimant must seek relief first from the administrative body before judicial relief is available.

Exigent Circumstance – A situation in which a police officer must take immediate action to effectively make an arrest, search, or seizure for which probable cause exists, and may thus do so without first obtaining a warrant (*e.g.* when a person's safety is threatened, a suspect's escape is imminent, or evidence is about to be lost).

Felony – A serious crime, usually punishable by imprisonment for more than one year or by death.

Finality (doctrine) – The rule that a court will not judicially review the action of a lower court or administrative agency until the action is final.

Finding (of fact) – A determination by a judge, jury, or administrative agency of a fact supported by the evidence in the record, usually presented at the trial or hearing.

General Jurisdiction (court) – A court's authority to hear a wide range of cases, civil or criminal, that arise within its geographic area.

Grand Jury – A body of individuals (chosen to sit for typically at least a month) who decide *ex parte* (for the benefit of only one party) whether to issue indictments.

Immunity – An exemption from a duty, liability, or service of process, especially such an exemption granted to a public official or government unit.

Incident – A discrete occurrence or happening.

Indictment – The formal written accusation of a crime, made by a grand jury and presented to a court for prosecution against the accused person.

Injunction – A court order commanding or preventing an action, typically issued when an irreparable injury will result unless the relief is granted.

Judge – A public official appointed or elected to hear and decide legal matters in court (sometimes used interchangeably with “**court**”).

Judicial Restraint – The principle that, when a court can resolve a case based on a particular issue, it should do so without reaching unnecessary issues (e.g., by avoiding deciding a constitutional issue when a case can be decided on a procedural or statutory ground).

Jurisdiction – 1. A government’s general power to exercise authority over all persons and things within its territory; especially a state’s power to create interests that will be recognized under common-law principles as valid in other states. 2. A court’s power to decide a case or issue a decree (**competent jurisdiction**). 3. A geographic area within which political or judicial authority may be exercised.

Jury – A group of persons selected according to law and given the power to decide questions of fact and return a verdict in the case submitted to them.

Justiciability – The quality or state of being appropriate or suitable for adjudication by a court.

Law Enforcement – The detection and punishment of violations of the law.

Litigation – The process of carrying on a lawsuit.

Malpractice – An instance of negligence or incompetence on the part of a professional.

Mediation – A method of nonbinding dispute resolution involving a neutral third party who attempts to assist the disputing parties in reaching a mutually agreeable solution.

Miranda Rule – The doctrine that a criminal suspect in police custody must be informed of certain constitutional rights before being interrogated (else any evidence obtained may be excluded from use at trial except for impeachment).

Misdemeanor – A crime that is less serious than a felony and is usually punishable by fine, penalty, forfeiture, or confinement, usually for a brief term, in a place other than prison.

Mootness (doctrine) – The principle that American courts will not decide cases in which there is no longer any actual controversy.

Motion – A written or oral application requesting a court to make a specified ruling or order.

Notice – Legal notification required by law or agreement, or imparted by operation of law as a result of some fact.

Objection – A formal statement opposing something that has occurred, or is about to occur, in court and seeking the judge's immediate ruling on the point. The party objecting must usually state the basis for the objection to preserve the right to appeal an adverse ruling.

Offender – A person who has committed a crime.

Offense – A violation of the law.

Parole – The conditional release of a prisoner from imprisonment before the full sentence has been served.

Personal Recognizance – The release of a defendant in a criminal case in which the court takes the defendant's word that he or she will appear for a scheduled matter or when told to appear.

Peremptory Challenge – One of a party's limited number of challenges that do not need to be supported by a reason unless the opposing party makes a prima facie showing that the challenge was used to discriminate on the basis of race, ethnicity, or sex.

Petitioner – A party who presents a petition to a court or other official body, especially when seeking relief on appeal.

Plaintiff – The party who brings a civil suit in a court of law.

Plea Bargain – A negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to a lesser offense or to one of multiple charges in exchange for a concession by the prosecutor (lenient sentence, dismissal of other charges).

Pleading – A formal document in which a party to a legal proceeding sets forth or responds to allegations, claims, denials, or defenses.

Political (nonjusticiable) Question – A question that a court will not consider because it involves the exercise of discretionary power by the executive or legislative branch of government.

Precedent – 1. The making of law by a court in recognizing and applying new rules while administering justice. 2. A decided case that furnishes a basis for determining later cases involving similar facts or issues.

Presentence Investigation (Report) – A probation officer's detailed account of a convicted defendant's educational, criminal, family, and social background, conducted at the court's request as an aid in passing sentence.

Pretrial Conference – An informal meeting at which opposing attorneys confer, usually with the judge, to work toward the disposition of the case by discussing matters of evidence and narrowing the issues that will be tried.

Prima Facie – [Latin: “at first sight”] On first appearance, but subject to further evidence or information. Sufficient to establish a fact or raise a presumption unless disproved or rebutted.

Probable Cause – A reasonable ground (more than a bare suspicion but less than the evidence required to justify a conviction) to suspect that a person has committed or is committing a crime or that a place contains specific items connected with a crime. Under the 4th Amendment, probable cause must be shown before a warrant may issue.

Probation – A court-imposed criminal sentence that, subject to stated conditions, releases a convicted person into the community instead of sending the criminal to jail or prison.

Process (Service of) – A summons or writ, especially to appear or respond in court.

Prosecutor – A legal officer who represents the state or federal government in instituting and carrying on a criminal legal action (in a criminal **proceeding**).

Public Defender – A lawyer or staff of lawyers, usually publicly appointed and paid, whose duty is to represent indigent criminal defendants.

Reasonable Doubt. – The doubt that prevents one from being firmly convicted of a defendant’s guilt, or the belief that there is some real possibility that a defendant is not guilty. The burden of proving something **beyond a reasonable doubt** is greater than that to prove something by **clear and convincing evidence** or by a **preponderance of the evidence**.

Remand – The act or instance of sending something (such as a case) back for further action.

Removal – The transfer of an action from a state to a federal court.

Respondent – The party against whom an appeal is taken.

Responsibility – In the criminal law, a person’s mental fitness to answer in court for his or her actions.

Restitution – Compensation for loss, especially that paid by a criminal to a victim as part of a criminal sentence or condition of probation.

Ripeness – 1. The state of a dispute that has reached, but has not passed, the point when the facts have developed sufficiently to permit an intelligent and useful decision to be made. 2. The requirement that this state must exist before a court will decide a controversy.

Sentence – The judgment that a court formally pronounces after finding a criminal defendant guilty.

Service (of Process) – The formal delivery of a writ, summons, or other legal process.

Settlement – An agreement ending a dispute or lawsuit.

Small Claims Court – A court that informally and expeditiously adjudicates claims that seek damages below a specified monetary amount, usually claims to collect small accounts or debts.

Standing – A party's right to make a legal claim or seek judicial enforcement of a duty or right. To have standing in federal court, a plaintiff must show (1) that the challenged conduct has caused the plaintiff actual injury, and (2) that the interest sought to be protected is within the zone of interests meant to be regulated by the statutory or constitutional guarantee in question.

Stare Decisis – [Latin: "to stand by things decided"] The doctrine of precedent, under which a court must follow earlier judicial decisions when the same point arise again in litigation.

Statute of Limitations – A law that bars claims after a specified period to require diligent prosecution of known claims, thereby providing finality and predictability in legal affairs and ensuring that claims are resolved while evidence is reasonably available and fresh.

Subpoena – [Latin: "under penalty"] A writ or order commanding a person to appear before a court or other tribunal, subject to a penalty for failing to comply.

Summary Judgment – A judgment granted on a claim or defense about which there is no genuine issue of material fact and upon which the movant is entitled to prevail as a matter of law.

Temporary Restraining Order – A court order preserving the status quo until a litigant's application for a preliminary or permanent injunction can be heard.

Testimony – Evidence that a competent witness under oath or affirmation give at trial or in an affidavit or deposition.

Tort – A civil wrong, other than breach of contract, for which a remedy may be obtained, usually in the form of damages. A breach of a duty that the law imposes on persons who stand in particular relation to one another.

Trial – A formal judicial examination of evidence and determination of legal claims in an adversary proceeding.

Vacate – To nullify or cancel; make void.

Venire – A panel of persons selected for jury duty and from among whom the jurors are to be chosen.

Venue – [French: "coming"] The proper or a possible place for a lawsuit to proceed, usually because the place has some connection either with the events that gave rise to the lawsuit or with the plaintiff or defendant.

Verdict – A jury's finding or decision on the factual issues of a case.

Victim – A person harmed by a crime, tort, or other wrong.

Voir Dire – [French: “to speak the truth”] A preliminary examination of a prospective juror by a judge or lawyer to decide whether the prospect is qualified and suitable to serve on a jury.

Warrant – A writ directing or authorizing someone to perform an act, especially one directing a law enforcer to make a search, seizure or arrest.

Witness – One who is legally competent to testify and gives testimony under oath or affirmation in person, by oral or written deposition, or by affidavit.

Writ – A court’s written order, in the name of a state or other competent legal authority, commanding the addressee to do or refrain from doing some specified act.

Writ of Certiorari – [Latin: “to be more fully informed”] An extraordinary writ issued by an appellate court, at its discretion, directing a lower court to deliver the record in the case for review.

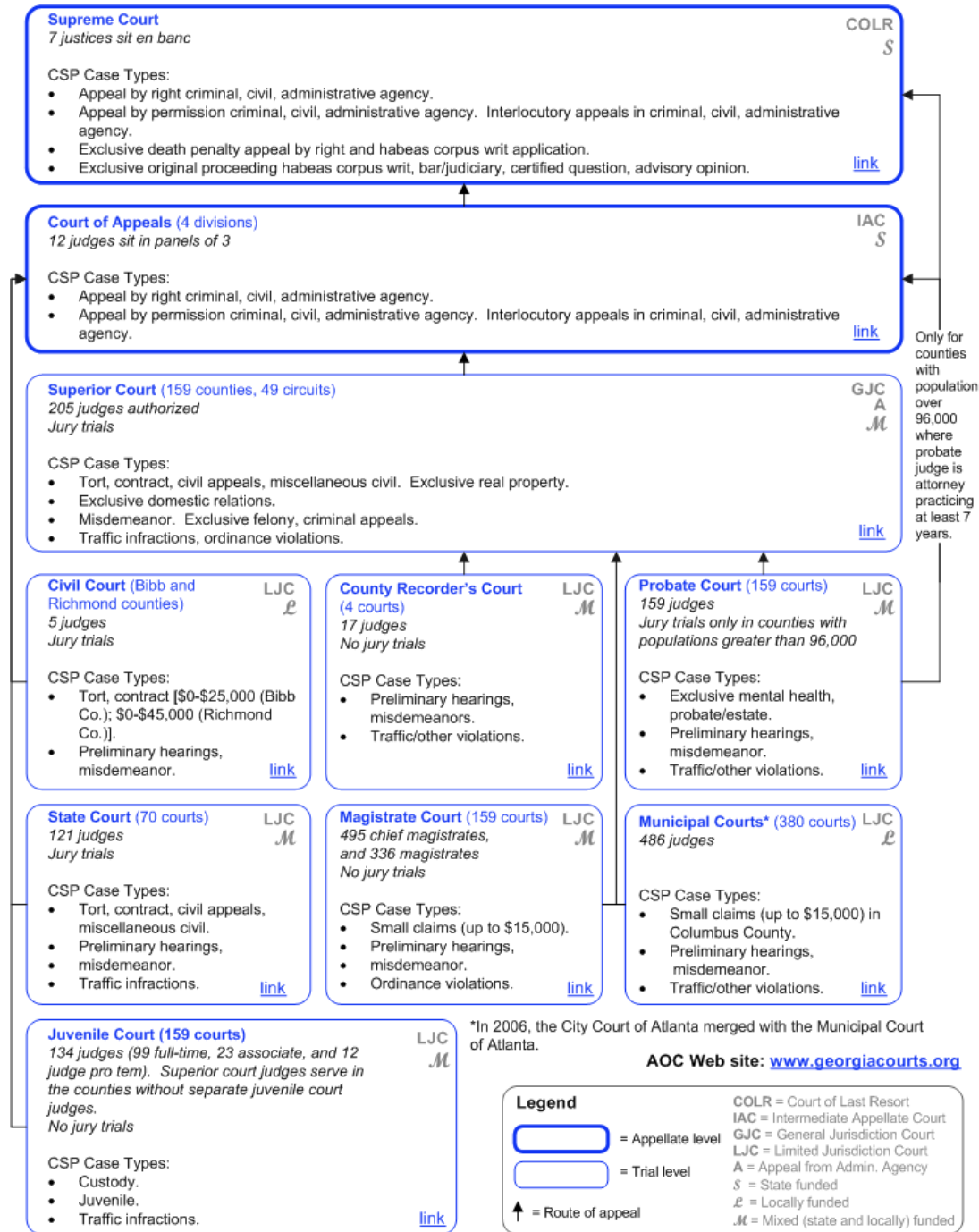
Writ of Habeas Corpus – [Latin: “that you have the body”] A writ employed to bring a person before a court, most frequently to ensure that the person’s imprisonment or detention is not illegal.

Appendix B – State Court Structures

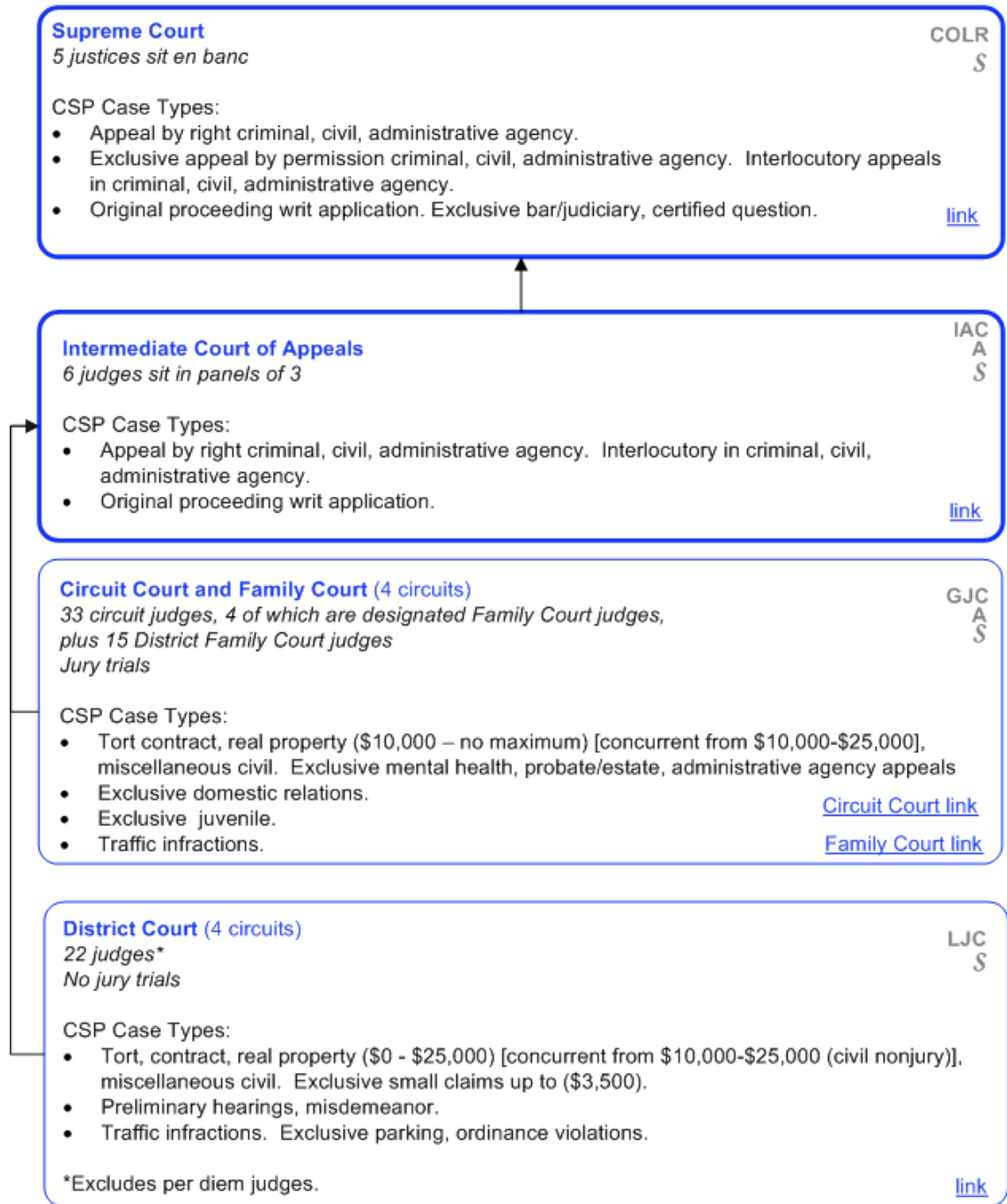
This appendix includes an overview of the state court structures¹³ in Georgia, Hawaii, Louisiana, Minnesota, Pennsylvania, and Texas.

¹³ “State Court Structure Charts,” Court Statistics (CSP). http://www.courtstatistics.org/Other-Pages/State_Court_Structure_Charts.aspx

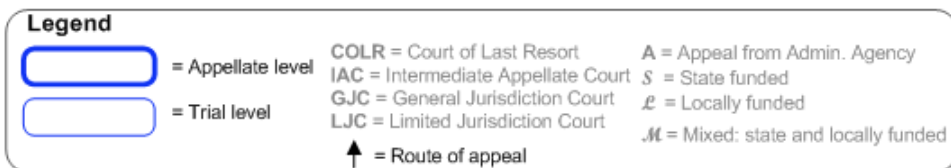
Georgia: Multiple Limited Jurisdiction Trial Courts



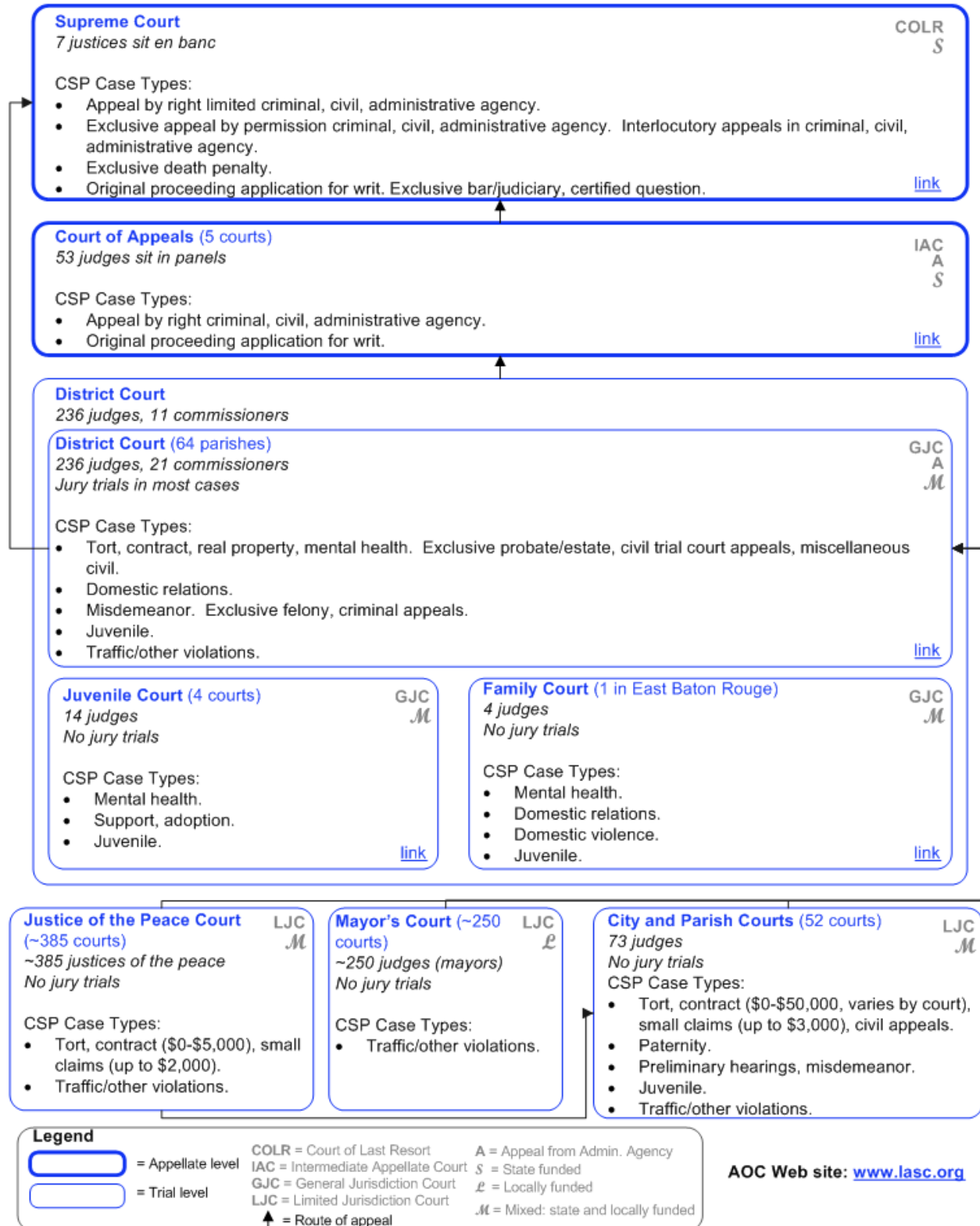
Hawaii: Two-Tiered Trial Courts



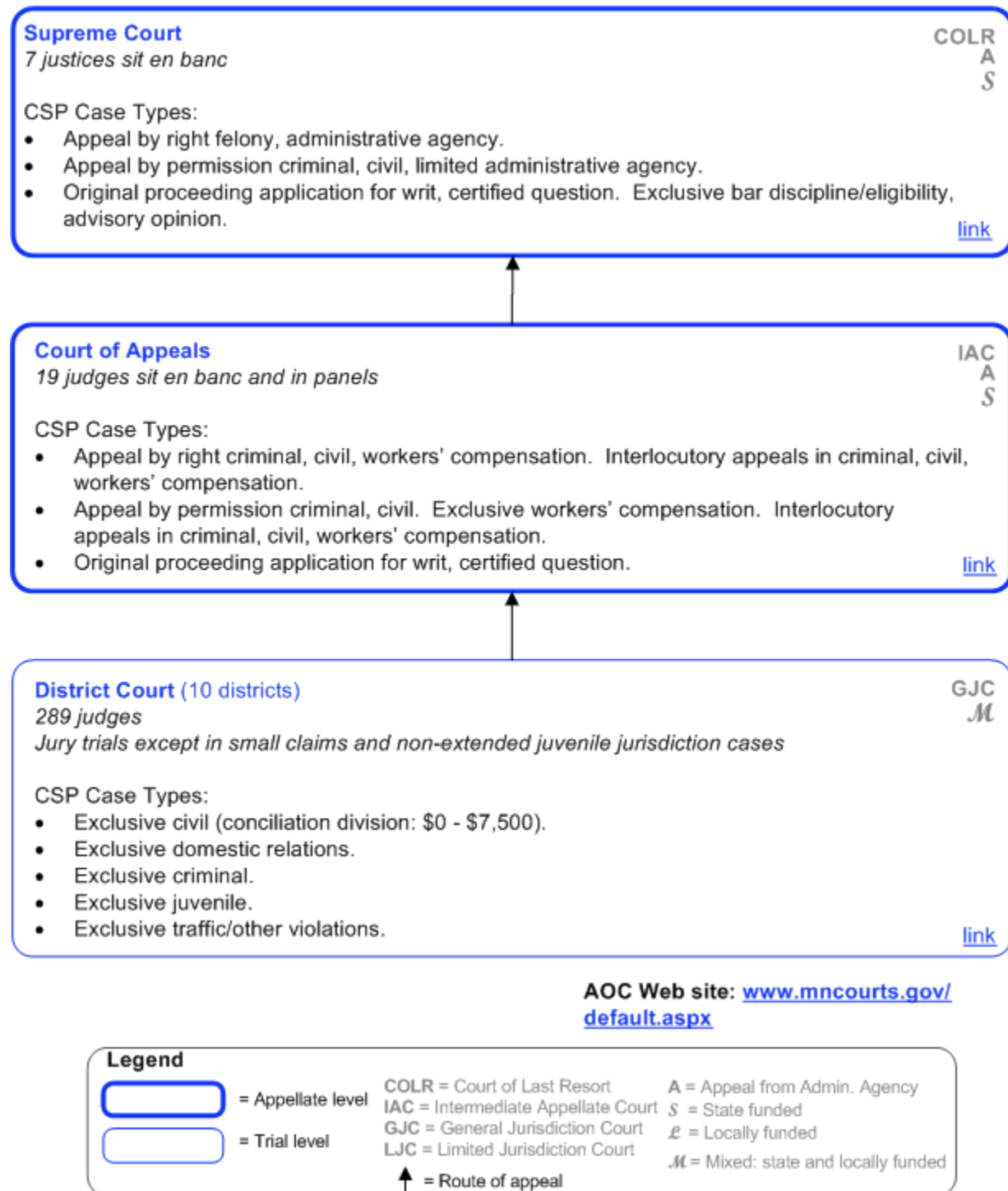
AOC Web site: www.courts.state.hi.us



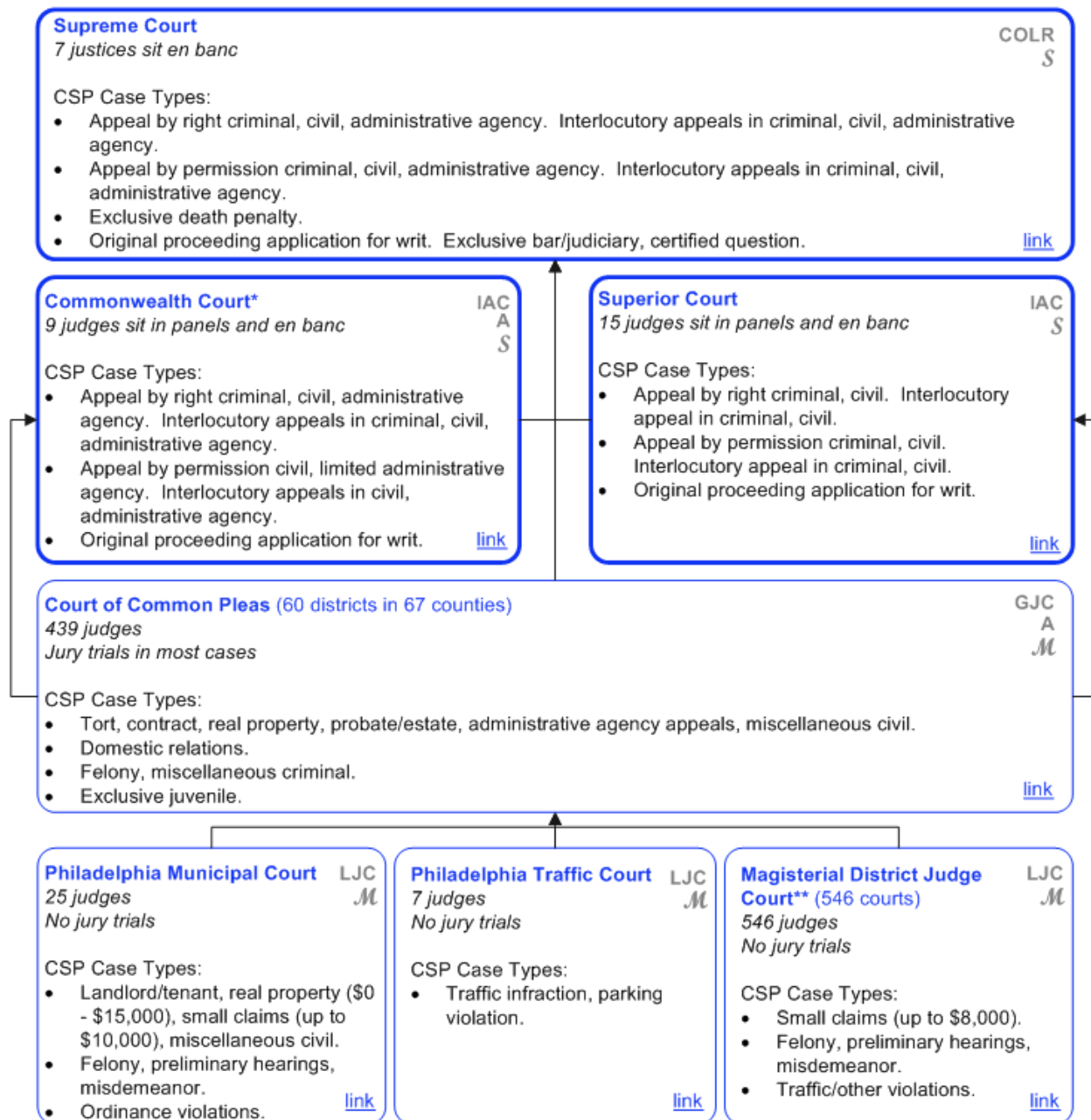
Louisiana: Jurisdictional Parishes



Minnesota: Unified Trial Courts



Pennsylvania: Unified Municipal Courts and Appellate with Country Controlled Trial Courts



*Commonwealth Court hears cases brought by and against the Commonwealth.

**Effective January 1, 2005, the Pittsburgh Municipal Court merged with the Allegheny County Magisterial District Judge Court.

Legend

 = Appellate level

 = Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

S = State funded

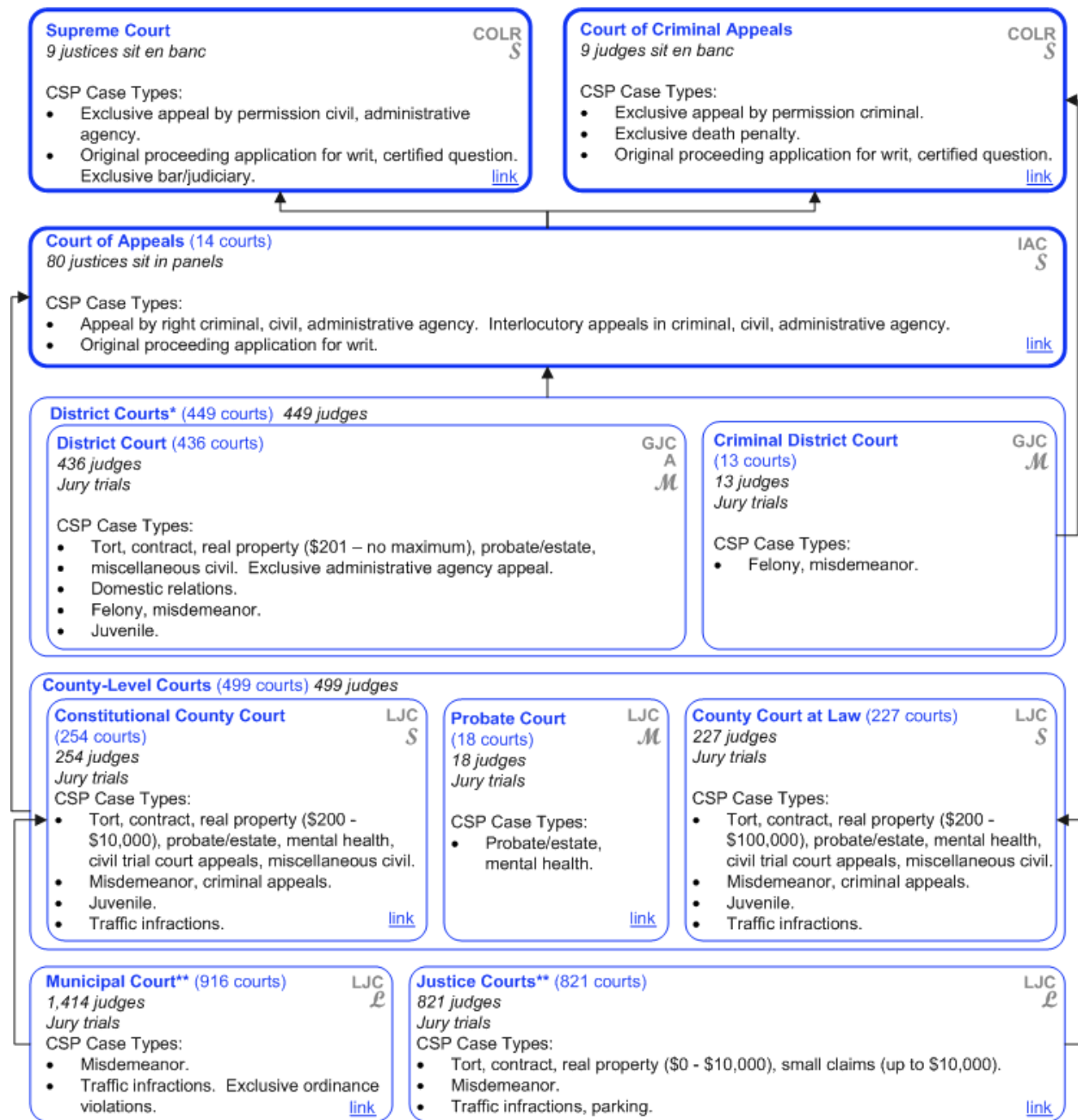
L = Locally funded

M = Mixed: state and locally funded

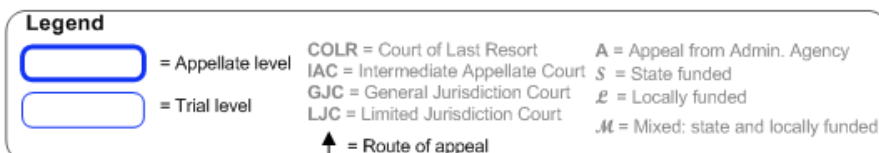
AOC Web site:

www.aopc.org

Texas: Multiple Levels and Courts



**Some Municipal and Justice of the Peace courts may appeal to the District court.



AOC Web site:
www.courts.state.tx.us

ABOUT THE IJIS INSTITUTE

The IJIS Institute unites the private and public sectors to improve critical information sharing for those who provide public safety and administer justice in our communities. The IJIS Institute provides training, technology assistance, national scope issue management, and program management services to help government fully realize the power of information sharing.

Founded in 2001 as a 501(c)(3) nonprofit corporation with national headquarters on The George Washington University Virginia Science and Technology Campus in Ashburn, Virginia, the IJIS Institute has grown to nearly 200 member and affiliate companies across the United States.

The IJIS Institute does its valuable work through the contributions of its member companies. The IJIS Institute thanks the Emerging Technologies Advisory Committee for their work on this document.

The IJIS Institute also thanks the many companies who have joined as members that contribute to the work of the Institute and share in the commitment to improving justice, public safety, and homeland security information sharing.