



## The Journal of Sociology & Social Welfare

Volume 11  
Issue 3 *September*


Article 11

September 1984

# Social Workers as Magistrates or JPs?

Donald E. Maypole  
*University of Northern Iowa*

Follow this and additional works at: <https://scholarworks.wmich.edu/jssw>

 Part of the [Law Commons](#), and the [Social Work Commons](#)

### Recommended Citation

Maypole, Donald E. (1984) "Social Workers as Magistrates or JPs?," *The Journal of Sociology & Social Welfare*: Vol. 11 : Iss. 3 , Article 11.  
Available at: <https://scholarworks.wmich.edu/jssw/vol11/iss3/11>

This Article is brought to you for free and open access by the Social Work at ScholarWorks at WMU. For more information, please contact [maira.bundza@wmich.edu](mailto:maira.bundza@wmich.edu).



## SOCIAL WORKERS AS MAGISTRATES OR JPs?

DONALD E. MAYPOLE, Ph.D., ACSW  
Associate Professor  
Department of Social Work  
University of Northern Iowa  
Cedar Falls, Iowa

### Abstract

An inspection of data on magistrates and justices of the peace revealed that in many states the statutes do not require law degrees for the positions. A survey of a randomly selected sample of magistrates in one mid-western state found support for the claim that a law degree was not a pre-requisite for a magistrate's position. The author argues that social workers have the education and skills for magistrate and justice of the peace positions and proposes them as areas of employment.

---

This study examines the commonly held belief that law degrees are required to hold lower-level judicial positions. The specific characteristics of magistrates in a midwestern state are studied as an exemplar. What are their educational backgrounds? Must one be an attorney? What is their gender distribution? What legal knowledge is required? What problems do they experience? The answers to these

questions and others are supplemented by a social worker's reflections on her serving as a magistrate. An inspection of the magistrate and justice of the peace court systems nationwide is followed by the single-state study methodology and findings.

A study of the magistrate and justice of the peace (JPs) court systems in the U.S. was conducted by referring to information published by the Conference of State Court Administrators and the National Center for State Courts (1982). In reference to Table I, it can be seen that twenty-five states have magistrate and/or Justice of the peace/justice courts. All of these courts seem to have roughly similar responsibilities in handling lower-level litigation and legal affairs. Other states, such as Wisconsin, have municipal courts with roughly the same jurisdiction, but the nation-wide variation was such in municipal courts that they were left out of the study. In very few states are law degrees required of magistrates or justices, although several of the states mandate completion of law-related educational experiences.

The magistrate system in Iowa was developed about ten years ago. The number of magistrates assigned to each county depends on the size of the county. The responsibilities of the magistrate include: simple-misdemeanor trials (both jury and non-jury), search warrants, small claims (up to \$1,000), initial appearances (ranging from simple-misdemeanors to felonies), mental health/substance abuse commitments, marriages and preliminary hearings (1979 Code of Iowa).

Table I

States with Magistrate or Justice of the Peace/Justice Courts, Methods of selection and Educational Requirements

<u>States</u>	<u>Selection</u>		<u>Law Degree</u>	
	Appointed	Elected	Yes	No
Alaska				
Magistrate	X			X
Arizona				
Magistrate (city) (locally determined)				X
Justice of the Peace		X		X
Arkansas				
Justice of the Peace		X		X
California				
Justice Court		X	X	
Delaware				
Justice of the Peace	X			X
Georgia				
Justice of the Peace		X		X
Magistrate (locally determined)			(varies with county)	
Idaho				
Magistrate	X			X
Iowa				
Magistrate	X		X	X
			(full time)	(part time)
Kansas				
Magistrate		X	X	(can substitute certification)

States	Selection		Law Degree	
	Appointed	Elected	Yes	No
Louisiana				
Justice of the Peace		X		X
Mississippi				
Justice Court		X	X	
			(education may be substituted)	
Montana				
Justice of the Peace		X		X
Nevada				
Justice of the Peace		X		X
New Mexico				
Magistrate		X		X*
New York				
Justice court (locally determined)				X
North Dakota				
Justice Court		X	X	
Oregon				
Justice Court		X		X
Pennsylvania				
Justice of the Peace		X		X
Magistrate (Pittsburgh)	X			X
South Carolina				
Magistrate	X			X
South Dakota				
Magistrate	X			X
Texas				
Justice of the Peace		X		X
Utah				
Justice of the Peace		X		X
Washington				
Justice of the Peace		X	X	X
			(depends on cases)	

<u>States</u>	<u>Selection</u>		<u>Law Degree</u>	
	Appointed	Elected	Yes	No
West Virginia Magistrate		X		X
Wyoming Justice of the Peace	X			X

\* Must be members of the bar, if jurisdiction is over 100,000 people.

Magistrates deal with a wide range of community agencies, such as substance abuse agencies, mental health institutions, court pre-trial services, department of corrections, sheriff's departments, police departments, highway patrol, juvenile probation and the department of social services. The magistrate's position requires a high of degree of technical competence to meet the statutory responsibilities of the office, to ensure just decisions and to relate to the various kinds of community agencies. Applicants for the position, however, need only be a county elector under the age of 72.

Licensed attorneys are given first consideration (1979 Code of Iowa). Selection is made by the local judge and attorney members of the local commission. This relative "open-endedness" permits flexible appointments, which, in turn, may lead to problems in meeting the duties of the office.

## STUDY METHODOLOGY

### Sample

A cross sectional survey of county magistrates was conducted during the fall of

1982. A random sample of 49 counties (including 76 magistrates) was drawn from the roster of 99 counties (with 166 magistrates) in the State, by using a table of random numbers.

### Data Collection

A paper and pencil questionnaire was mailed to each of the 76 magistrates. Ten days later a second wave of questionnaires was mailed. The questionnaire included both open-ended and closed-ended questions concerning opinions on the level and areas of education which are required for the position of magistrate, types of legal knowledge which are useful in performing the duties, the human relation skills used, primary problems of magistrates and satisfaction with the position of magistrate. To enhance internal face validity, the questionnaire was pre-tested for clarity. The net questionnaire return rate from the 76 magistrates was 75 percent.

## FINDINGS

### Sample Characteristics

Of the respondents in the sample, 11 out of 57 (19.3%) are females as compared to 32 (19.3) of the total state group of 166 magistrates. Thirty-eight (67%) of the respondents have law degrees. The mean age for both males and females is 43 years, but for law degree holders it is 39 years and for non-law degree respondents it is 51 years. The mean number of years a magistrate has served is 5.28 (the maximum was 9 at the time of the survey which reflects the duration of the magistrate program in the study state). Seventy-five percent of the magistrates reported that they served in rural areas, reflecting the preponderantly rural nature of

the state.

Education

The first question asked was, "What educational background is sufficient to perform the duties of a magistrate?" The results shown in Table 2 reveal that one-half of the respondents believe that a law degree is sufficient. Of those respondents with law degrees, 78 percent believe it is sufficient, but none of the respondents without law degrees agree.

---

Table 2

Sufficient Education

---

Education	N	(%)
High School	17	(30%)
Bachelor's Degree	11	(20%)
Master's Degree	0	(0%)
Law Degree	28	(50%)
Totals	56	(100%)

---

The second question asked was, "What educational area of study is sufficient to perform the duties of a magistrate?" Table 3 shows that fifty-six percent of the respondents believe an education in law is sufficient, but twenty-six percent believe that different areas of study are sufficient. Nineteen percent of the respondents believe that no specific area is needed. Of those respondents with law degrees, 77 percent think a law background is sufficient but of the respondents without law degrees, only 16



percent believe a law background is sufficient. As shown in Tables 1 and 2, there is a close correlation between the number of respondents who believe that a law degree is sufficient (50%) and those who believe that formal education in law is sufficient (56%).

Table 3  
Sufficient Areas of Study

Area	N	(%)
Social Sciences	2	(4%)
Political Science	1	(2%)
Business	6	(11%)
Law	30	(56%)
Other	5	(9%)
None	10	(19%)
Total	54	101 *

\*rounding error

### Legal Knowledge Required

The respondents were next asked, "What specific types of legal knowledge are required to perform the duties of a magistrate?" The results are listed in Table 4. As one would expect in reading the magistrates' duties, knowledge of civil and criminal law, contracts and codes, court procedures and rules of evidence is required. However, many of the respondents asserted that common sense and an ability to search for information and precedents in legal documents were also needed. Certainly, the library skills involved in document searches would be possessed by baccalaureate graduates. Possession of a law degree is not an important factor in the

respondents' opinions on legal knowledge required.

---

Table 4

Legal Knowledge Required

- 
- \*Civil/Criminal Law & Procedure
  - \*State Contracts/Codes
  - \*Research Ability
  - \*Common Sense
  - \*Rules of Evidence
  - \*Basic Knowledge of Court Procedure
- 

Human Relation Skills

The question, "What human relations skills do you use in relating to a variety of defendants and plaintiffs" elicited a variety of skills. The most frequently used skills are listed in Table 5. Again, possession of a law degree does not account for any variation in the listing. These skills involve those of every day human interaction; However, in social work education, they are major topics of study in the practice (including counseling) courses.

---

Table 5

Human Relations Skills Needed

- 
- \*Patience
  - \*Listening

- \*Common Sense
  - \*Fairness
  - \*Understanding
  - \*Explanation
  - \*Communication Skills
  - \*Non-Prejudicial
- 

### Problems Experienced

In response to the question, "What are the primary problems you experience in your magistrate job?" a length list was produced. The salient problems are noted in Table 6. Possession of a law degree was not a significant variable in relation to the magistrates' opinions on the problems they experience. Workload and paperwork are the usual bureaucratic types of organizational problems. Lack of sentencing options indicates structural defects in the court system. Determining veracity and explaining procedures to defendants will always be necessary.

---

Table 6

### Problems Experienced

- 
- \*Lack of understanding procedure by defendant
  - \*Workload/time factor
  - \*Paperwork/bookkeeping
  - \*Lack of sentencing options
  - \*Determining who's telling the truth
- 

### Satisfaction with the Position

Ninety-five percent of the respondents reported being satisfied/very satisfied. Controlling for gender, possession of a law degree and rural/urban setting produced no statistically significant differences between groups.

## DISCUSSION

As indicated in Table 1, half of the states have magistrate and/or justice of the peace courts. Tables 2 and 3 show that only half of the total Iowa respondents believed that a law degree or educational background in law is necessary to be a magistrate. Only 78 percent of the magistrates who are attorneys believed that a law degree is necessary for the position. The required human relation skills are not unique just to the magistrate position, but rather reflect the generic skills needed in many types of positions in public and private sector jobs. None necessarily require that someone be college trained; however, in the helping professions, such as social work, they are skills learned in the course of study. The problems experienced by the respondents reflected their organizational setting, problems in the structure of the laws (such as lack of sentencing options) and a general public which is understandably ignorant of the laws.

Although a legal background is desirable in the role of magistrate (or its cousin, the JP) it is not a criterion which would prevent helping professionals from becoming magistrates. Of the helping professions, social workers may be the best prepared, at the baccalaureate level, because of their counseling and community oriented courses. If one possesses the necessary human relations skills and is willing to undergo the available legal training, the duties should be manageable.

Magistrates in the study state attend a yearly two-three day training program. This mandatory training program covers recent legal decisions, new laws, administrative regulations, sentencing alternatives, pre-trial and trial matters in criminal cases, small claims and renting laws, judicial attitudes and perceptions, judicial conduct and decision-making. Other schools are held for nonlawyers throughout the U.S. The National Judicial College in Reno, Nevada, encompasses one to two weeks and covers constitutional basics, search and seizure, arrest warrants, pleas, arraignment, pre-trial release, preliminary hearings, probable cause, legal research techniques, etc.

Social work values (which are shared by other helping professions) can be used in this type of position. Objectivity, fairness, concern for equality and empathy are highly important. Individual human dignity and the right to self-determination, within the law, match social workers' concerns. Often used social work skills include establishing rapport, collecting and evaluating data, applying knowledge of human behavior to social situations and the use of problem-solving techniques in case decisions. A social work background prepares one for working with representatives of other agencies, as well as for understanding community-level social problems.

Additional problems encountered by magistrates are oftentimes those of keeping a well-balanced trial, when one side has an attorney and the other does not; trying to give a "mini-course" on the judicial system prior to the beginning of a case; trying to keep plaintiff and defendant emotions on an even level; differences in opinion as to financial claims (especially when the decision is not the one they want). Negotiating skills are necessary, as well as the skill of em-

pathizing with the client and with law enforcement personnel.

This study shows that attorney and non-attorney magistrates held differing views in regard to educational background and area of study sufficient to perform the duties of a magistrate. Attorneys tend to believe that a law degree is needed, but those without a law degree disagree. There is also a significant difference in age between magistrates with law degrees and those without, which suggests that the position may be primarily an early career endeavor for attorneys.

The findings regarding human relation skills needed and problems encountered by the magistrates showed little significant difference in opinions between attorneys and non-attorneys. This is significant, because it demonstrates that regardless of the education of the magistrate, they all encounter the same problems.

A literature review revealed few materials on law and social work preceding the 1970s. Since the beginning of the 1970s, three themes have emerged. The first is the need for social work education to include relevant information on the legal system into its curriculum (Jankovic and Green, 1981). The second relates social work to specific legislation of legal questions (Dickson, 1976). The third supports the need for collaboration between attorneys and social workers (Sherrer, 1976). A fourth theme can now be introduced, namely, social workers working in the role of officers of the court, such as magistrates or JPs.

The need for social workers to be knowledgeable of civil and criminal law to work with clients is well known. Usually this brings to mind specific social work employment in corrections or child welfare; however, this

study finds that there are few concrete barriers to social workers taking magistrate positions in any states. Although a minority, even some attorneys believe that a law degree is not necessary. Variations among states in their requirements for magistrates, will have to be studied by interested social workers.

As potentially new areas of employment, the magistrate and justice of the peace systems represent an opportunity for social workers. Social workers have the background, training and technical skills to work in this legal area. As job opportunities constrict, the appeal of these jobs may increase.

Appreciation is expressed to Ms. Debra Murphy-Schuermann, social worker and magistrate, for her assistance with the project. The project was funded by a grant from the Graduate College of the University of Northern Iowa.

#### REFERENCES

- Conference of State Court Administrators and the National Center for State Courts  
1982 State Court Organization 1980,  
Williamsburg, Va: National Court  
Statistics Project.
- Dickson, Don  
1976 "Law in Social Work: Impact of  
Due Process," Social Work, (July)  
21: 274-278.
- Jankovic, Joanne and Green, Ronald  
1981 "Teaching Legal Principles to

Social Workers," Journal of  
Education for Social Work, (Fall)  
17: 28-35.

Scherrer, James

1976 "How Social Workers Help Lawyers,"  
Social Work (July) 21: 279-283.

State of Iowa

1978 Volume III, Code of Iowa, Section  
602.42:71.