

# UNDERSTANDING THE ATTITUDES AND BELIEFS OF WISCONSIN MUNICIPAL JUDGES TOWARD THE ROLE OF MUNICIPAL COURTS

**Douglas M. Ihrke, PhD**  
Professor and Chair  
Department of Public and Nonprofit Administration  
University of Wisconsin-Milwaukee

**Scott R. Letteney, JD MPA**  
City Attorney, City of Racine, Wisconsin  
Municipal Judge, Town of Geneva, Wisconsin  
Lecturer, Nonprofit and Public Administration  
University of Wisconsin-Milwaukee



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## INTRODUCTION THE STUDY OF MUNICIPAL COURTS

- The purpose of our research is to understand municipal courts as they fit within government and public administration, the court system, and organizational theory and practice.



"The wise know their weakness too well to assume infallibility, and he who knows most knows best how little he knows."  
Thomas Jefferson

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## INTRODUCTION STUDY OF MUNICIPAL COURTS

- Initial study of "municipal courts" of American states
- Which states have municipal courts?
- Differing municipal court powers
- Differing municipal court structures
- Differing municipal court jurisdiction
- Demographics of municipal court judges
- Attitudes of municipal court judges



"Trying to please everybody is impossible - if you did that, you'd end up in the middle with nobody liking you. You've just got to make the decision about what you think is your best, and do it."  
John Lennon

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INTRODUCTION  
STUDY OF MUNICIPAL COURTS

- Why examine municipal courts?
  - Municipal courts adjudicate a significant share of all court cases
  - Municipal courts may be the only level of court directly affecting most Americans
  - Focus due to Ferguson, Missouri
  - Largely unstudied in academia
    - Sparse literature



"I cannot give you the formula for success, but I can give you the formula for failure, which is: Try to please everybody."  
Herbert B. Swope

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INTRODUCTION  
WHAT ARE "MUNICIPAL COURTS"?

- Our working definition of "municipal court":
  - A trial court of limited subject matter jurisdiction, funded largely by a unit or units of local municipal government, with a geographic jurisdiction coterminous with such local units of government.



"Wherever Law ends, Tyranny begins."  
John Locke

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INTRODUCTION  
WHAT ARE "MUNICIPAL COURTS"?

- Our working definition of "municipal court":
  - Trial court
  - Limited subject matter jurisdiction
  - Funded largely by a unit or units of local municipal government
  - Geographic jurisdiction coterminous with such local units of government



"What is it that makes us trust our judges?  
Their independence in office and manner of appointment."  
John Marshall

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INTRODUCTION  
WHAT ARE "MUNICIPAL COURTS"?

- Subject matter jurisdiction of "municipal court":
  - Commonly includes traffic and civil ordinance violations
    - Subject matter jurisdiction might include:
      - Small claims cases
      - Domestic cases
      - Misdemeanor offenses
      - Preliminary proceedings in felony cases
      - Other



"Good judges develop certain habits of mind. One of those is the habit of delaying reaching conclusions until everything is considered."  
Samuel Alito

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INTRODUCTION  
WHAT ARE "MUNICIPAL COURTS"?

- Where do municipal courts fit in state court structures?
  - Ordinarily they are, in fact, within the state court system
  - Typically the lowest court in a state court system's hierarchy
  - Appeals from municipal courts ordinarily are taken to trial courts with general subject matter jurisdiction
    - Appeals may be upon the record of the municipal court proceedings or de novo



"I have always found that mercy bears richer fruits than strict justice."  
Abraham Lincoln

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INTRODUCTION  
WISCONSIN MUNICIPAL COURTS

- Wisconsin Constitution, Article VII, Section 2
  - The judicial power of this state shall be vested in a unified court system consisting of one supreme court, a court of appeals, a circuit court, such trial courts of general uniform statewide jurisdiction as the legislature may create by law, and a municipal court if authorized by the legislature under section 14.



"A good judge conceives quickly, judges slowly."  
George Herbert

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## INTRODUCTION WISCONSIN MUNICIPAL COURTS

- 240 Municipal Judges
- 2017 Cases Disposed:
  - Traffic Forfeiture Cases – 381,951
    - OWI/PAC 1<sup>st</sup> – 8,874
  - Non-Traffic (Ordinance) Forfeiture Cases – 88,680
  - Juvenile Ordinance Cases – 17,977
- 249 Circuit Judges
- 2017 Cases Disposed:
  - Traffic Forfeiture Cases – 57,087
    - OWI/PAC 1<sup>st</sup> – 8,304
  - Non-Traffic (Ordinance) Forfeiture Cases – 10,618
  - Juvenile Ordinance Cases - 689



"Law students are trained in the case method, and to the lawyer everything in life looks like a case."  
Statistics: Supreme Court of Wisconsin Edward Packard, Jr.

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## INTRODUCTION PILOT STUDY – WISCONSIN

- 1981/1982 National Center for State Courts study of Wisconsin Municipal Courts
  - 1981 Survey of Wisconsin Municipal Judges
  - 155 Municipal Judges responded
  - Provided data regarding judges' demographics, in-court procedures, time spent at judicial duties, costs for court operations, revenue collected, conflict of interest issues, records management, and attitudes toward various topics
- Results were used to formulate recommendations as to future Wisconsin Municipal Court modifications



"Judges ought to be more learned than witty, more reverend than plausible, and more advised than confident.  
Above all things, integrity is their portion and proper virtue."  
Francis Bacon

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## INTRODUCTION PILOT STUDY – WISCONSIN

- 2015/2016 and 2018 Ihrke and Letteney studies of Wisconsin Municipal Courts
  - Survey of Wisconsin Municipal Judges
    - Access to Wisconsin Municipal Judges during 2015 and 2016, and 2018, training seminars
    - Data regarding judges' demographics, in-court procedures, time spent at judicial duties, costs for court operations, revenue collected, conflict of interest issues, records management, and attitudes toward various topics



"Only a mediocre person is always at his best."  
W. Somerset Maugham

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## INTRODUCTION PILOT STUDY – WISCONSIN

### 1981 Study

Gender: 7% Female – 93% Male

Age: Average 51.6 years

Highest Level of Education:

High School Graduate: 26%

Bachelor Degree: 12%

Master Degree: 7%

Juris Doctorate: 34%

Tenure:

0 to 4 years: 45%

5 to 9 years: 23%

10 or more years: 32%

Salary: Average \$3,594

### 2015/2016 Study

Gender: 20% Female – 80% Male

Age: Average 61.26 years

Highest Level of Education:

High School Graduate: 6%

Bachelor Degree: 8%

Master/PhD Degree: 8%

Juris Doctorate: 52%

Tenure:

0 to 4 years: 13%

5 to 9 years: 29%

10 or more years: 58%

Salary: Average \$10,866.67



"The voice of nations and the course of things  
Allow that laws superior are to kings."  
Daniel Dafoe

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## INTRODUCTION PILOT STUDY – WISCONSIN

### 2015/2016 Study

Ethnicity/Race (White, Black, Hispanic, Asian, Native American/First Nations, Other):

White: 97.7%

Black: 0.6%

Other: 1.7%

Municipal judge must be an attorney (Note: 60.6% response rate):

Yes: 45% – No: 55%



"The law should be equal for all, whether it rewards or punishes, whether it protects or restrains."  
Thomas Paine

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## INTRODUCTION PILOT STUDY – WISCONSIN

### 2015/2016 Study

Do you believe there should be a minimum age to be a municipal judge: Yes: 58% – No: 42% (Range: 18 to 35; Mode: 21)

Do you believe there should be a minimum education requirement to be a municipal judge: Yes: 75% – No: 25%

High School Diploma: 31%

Bachelor Degree: 18%

Law Degree: 17%



"Laws are a dead letter without courts to expound and define their true meaning and operation."  
Alexander Hamilton

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## INTRODUCTION PILOT STUDY – WISCONSIN

### 2015/2016 Study

Municipal judges should be Wisconsin-licensed attorneys:

- Strongly disagree: 43%
- Disagree: 14%
- Neutral: 19%
- Agree: 12%
- Strongly agree: 10%



"Laws are a dead letter without courts to expound and define their true meaning and operation."  
Alexander Hamilton

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## INTRODUCTION PILOT STUDY – WISCONSIN

### 2015/2016 Study

Municipal court judicial education prepares non-attorneys to serve as municipal judges:

- Strongly disagree: 2%
- Disagree: 6%
- Neutral: 20%
- Agree: 33%
- Strongly agree: 38%



"Our judges are as honest as other men, and not more so."  
Thomas Jefferson

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## INTRODUCTION CURRENT ANALYSIS

- The purpose of the research being presented today is to explore the attitudes and beliefs of municipal judges as to the appropriate role of municipal courts in Wisconsin.



"A judge is not supposed to know anything about the facts of life until they have been presented in evidence and explained to him at least three times."  
Lord Chief Justice Parker

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INTRODUCTION  
CURRENT ANALYSIS

- Using a pre-determined list of roles and responsibilities for courts informed by both the literature on municipal courts and the experience of one of the authors as a municipal court judge, we are able to explore what municipal judges in Wisconsin feel is the appropriate role of the courts they serve.



"I never speak ill of dead people or live judges."  
Edwin Edwards

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INTRODUCTION  
CURRENT ANALYSIS

- Here we report what Wisconsin municipal court judges believe is the **purpose** of these courts.
- We report on what these judges believe are the appropriate **responsibilities** of the court.
- We also report on **differing beliefs based on gender** of the judge.



"The bedrock of our democracy is the rule of law and that means we have to have an independent judiciary, judges who can make decisions independent of the political winds that are blowing."  
Caroline Kennedy

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INTRODUCTION  
CURRENT ANALYSIS

- The finding should be of interest to those scholars and practitioners interested in the workings of municipal governments, as well as those with a general interest in the administration of justice.



"Speak softly, and carry a big stick."  
Theodore Roosevelt

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## THEORY AND HYPOTHESES

- We believe that males and females will view certain **purposes** and **responsibilities** of the court in significantly different ways, including:
  - Women will view more strongly than males the court as having a role in promoting economic and social justice.



"Judicial abuse occurs when judges substitute their own political views for the law."  
Lamar S. Smith

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## DATA AND METHOD

- Data come from a population survey of Wisconsin municipal court judges from across the state.
- Surveys were given to nearly every municipal court judge – 240 in total – and 179 responded for a response rate of approximately 74.6 percent, which is higher than any response rate of a study on judges than these authors have ever come across.



"I pick up my guitar and play, just like yesterday,  
I get on my knees and pray we won't get focked again."  
Pete Townshend

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## DATA AND METHOD

- We use the following measures to get at what judges feel are the appropriate **purposes** of municipal courts (1=Strongly Disagree, 2=Disagree, 3=Neutral, 4=Agree, 5=Strongly Agree):
  1. "A purpose of municipal courts is to do justice."
  2. "A purpose of municipal courts is to enhance social order."
  3. "A purpose of municipal courts is to maintain rule of law."
  4. "A purpose of municipal courts is to generate revenue."
  5. "A purpose of municipal courts is to ensure due process."
  6. "A purpose of municipal courts is to deter unlawful behavior."



"All judges have cases that touch our passions deeply,  
but we all struggle constantly with remaining impartial."  
Sonia Sotomayor

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## COURT RESPONSIBILITIES ANALYSIS AND FINDING

- Our findings reveal there is a great deal of agreement as to the **responsibilities** of the municipal court.
  - It **is** the court's responsibility to:
    1. Make impartial decisions;
    2. Ensure fairness under the law;
    3. Defend constitutional rights and freedoms;
    4. Protect civil rights;
    5. Protect individual rights; and
    6. Resist political pressure



"Judges have to have the humility to recognize that they operate within a system of precedent, shaped by other judges equally striving to live up to the judicial oath."  
John Roberts

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## COURT RESPONSIBILITIES ANALYSIS AND FINDING

- Our findings reveal there is a great deal of agreement as to the **responsibilities** of the municipal court.
  - It **is not** the court's responsibility to:
    1. Raise municipal revenues through forfeitures and fees, or to
    2. Advance social and economic justice.
  - Judges were **neutral** as to whether it is the court's responsibility to:
    1. Be an independent check on the other branches of government, or to
    2. Dispense punishment for violations of the law.



"To write well, express yourself like the common people, but think like a wise man."  
Aristotle

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## COURT RESPONSIBILITIES ANALYSIS AND FINDING

- Were there any differences between male and female judges and what they viewed as the appropriate **responsibilities** of the court?



"Judges are the weakest link in our system of justice, and they are also the most protected."  
Alan Dershowitz

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## DISCUSSION AND CONCLUSIONS

- It appears that Wisconsin judges believe that municipal courts have a set of **purposes**.
  - The purposes of the court are not to:
    1. Enhance social order; or to
    2. To generate revenue.



"Judges have to be neutral, but they don't have to be eunuchs."  
Jed S. Rakoff

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## DISCUSSION AND CONCLUSIONS

- Wisconsin municipal judges have common beliefs about the court's **responsibilities**.
  - Wisconsin municipal judges believe the responsibilities of the court are to:
    1. Make impartial decisions;
    2. Ensure fairness under the law;
    3. Defend constitutional rights and freedoms;
    4. Protect civil rights;
    5. Protect individual rights; and
    6. Resist political pressure.



"Writing is the geometry of the soul."  
Plato

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## DISCUSSION AND CONCLUSIONS

- Wisconsin municipal judges have common beliefs about the court's **responsibilities**.
  - Wisconsin judges believe that it is not among the responsibilities of the court to:
    1. Raise municipal revenues through forfeitures and fees;
    2. Advance social and economic justice.



"When the judges shall be obliged to go armed, it will be time for the courts to be closed."  
Stephen J. Field

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## FUTURE RESEARCH

- We will try to explain these attitudes and beliefs using a host of demographic and personality variables of the judges themselves, along with a series of control variables that deal with court finances and municipal demographics.



"Part of me suspects that I'm a loser, and the other part of me thinks I'm God Almighty."  
John Lennon

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## QUESTIONS?

UNDERSTANDING THE ATTITUDES AND BELIEFS  
OF WISCONSIN MUNICIPAL JUDGES  
TOWARD THE ROLE OF MUNICIPAL COURTS

**Douglas M. Ihrke, PhD**  
dihrke@uwm.edu

**Scott R. Letteney, MPA JD**  
scott.letteney@cityofracine.org



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