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## THE USE OF LAY MAGISTRATES IN THE UNITED STATES

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### INTRODUCTION

Every year, police in America conduct over 10 million arrests.<sup>1</sup> Once in the criminal justice system, these individuals face a dizzying series of bail hearings, pretrial conferences, plea deals, trials and in all likelihood, a sentencing. At each of these decision points, nothing less than a person's freedom hangs in the balance. As such, it may seem a reasonable assumption that the person evaluating the merits of the case and applying the law will be an experienced jurist with a trained legal mind. And yet, in some places that person may not have even gone to college, let alone passed the bar exam or practiced law.<sup>2</sup>

Instead, many Americans find their fates in the hands of a motley assortment of officials serving as front-line judicial officers or in courts of limited jurisdiction. Whatever

1. Federal Bureau of Investigation, "Persons Arrested," U.S. Dept. of Justice, Fall 2017. <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/topic-pages/persons-arrested>.

2. See, e.g., Governor Charles Baker, "Executive Order no. 558," Commonwealth of Massachusetts, Feb. 5, 2015. <https://www.mass.gov/files/documents/2016/09/rv/eo-558.pdf>.

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the moniker attached,<sup>3</sup> these magistrates have the right to deprive an individual of her freedom through a collection of powers such as the ability to set bails, issue warrants and sometimes even preside over certain criminal trials themselves. While their decisions are subject to review by more traditionally educated and legally trained judges, in our messy, overburdened criminal justice system, this is often too little, too late. Appellate review, for example, is of limited value to a person already placed in pretrial detention, and is of even less value to a person who has chosen a guilty plea to avoid an even longer period of incarceration.

Moreover, unlike the lawyers who practice before them, these magistrates do not face any universal requirements or tests like the bar exam. Indeed, while the increasing complexity of our laws and a greater appreciation for the awesome power that judges wield led to higher professional standards over the last century for most other judicial offices and the legal profession as a whole, the same is not true for these magistrates. Despite holding many of the same judicial powers and facing the same set of byzantine procedural rules and complex case law as other judges, they are often able to take the bench with only minimal legal training or education.

Accordingly, what follows is an examination of these magistrates. It will begin by describing the four primary categories of lay officials that hold judicial powers of detention, the scope of their powers and their qualifications. Next, it will explain how their authority over the front end of the criminal justice process and misdemeanors can give them outsized, if sometimes underappreciated, power. It will then discuss why the use of nonlawyers in these roles and other minimal qualifications currently in use are particularly concerning. And finally, it will consider what minimum standards jurisdictions should adopt in order to ensure that their

3. For simplicity's sake, all of these officials will hereafter be referred to as "magistrates," unless referring to a particular subset of these officials.

magistrates are able to effectively and equitably serve as the gatekeepers of the criminal justice system.

## LAY MAGISTRATES IN THE UNITED STATES

Thirty-seven states allow individuals without a law degree to make detention decisions in at least some criminal cases. These states authorize individuals serving in a variety of roles with little more than a high school diploma and less than a week's worth of training to make critical criminal justice decisions. While each state's grant of authority is unique, these officials largely fall into four categories: town and municipal court judges, justices of the peace, nonjudge court personnel with judicial powers and mayoral court judges.

### Town and Municipal Courts

Sixteen states still allow nonlawyer judges to preside over at least some of their town or municipal courts. These courts generally serve two roles: to oversee criminal cases deriving from transgressions against local law, and to conduct initial proceedings for more serious crimes. They usually have jurisdiction from case inception to sentencing over cases involving all local ordinances as well as certain misdemeanors and traffic violations within a particular municipality or township. In addition, they often have the ability to conduct bail and other preliminary hearings relating to more serious misdemeanors and felonies before transferring these cases to superior courts.<sup>4</sup>

In four of these states, whether a law degree is required to serve on a town or municipal court is a question of population. In these states, in any jurisdiction with a population under an established threshold, individuals are only required to obtain a high school degree to serve on a town or municipal court. Although often this threshold is only five to ten thousand residents, these numbers can quickly add up across municipalities into the tens and even hundreds of thousands statewide.

Perhaps due to the local nature of municipal and town courts, states have largely avoided setting qualification requirements for these judges in statute. Instead, each municipality or town is generally able to devise their own standards, and statewide requirements remain sparse. Only four of the 16 states with nonlawyers serving in their municipal or town courts require a statewide certification exam of any kind.<sup>5</sup> Similarly, the educational requirements to assume office rarely appear in statute; to the extent they are listed, the minimum require-

ments involve high school or an equivalent degree. Although states have likewise tended not to address initial credit-hour training requirements, almost all of these states require by law or court rule at least some minimal number of continuing education hours to maintain the position of judge, though usually this averages only 10-15 hours per year.

### Justices of the Peace

In 14 states, individuals without a law degree may preside over a justice of the peace, magistrate or alderman's court (hereinafter, simply "justice of the peace" court). These courts are a special class of limited jurisdiction courts that have long been a pivotal part of justice in towns and villages across the United States. During the early stages of the American court system, justices of the peace needed only to be a "well-informed citizen," and the courts acted in various criminal justice capacities, including assessing fines, issuing warrants and trying cases.<sup>6</sup> In the modern era, these courts typically continue to give their judicial officers wide-ranging powers over a set of lower-level criminal offenses. Whereas municipal and city courts largely enforce city-specific ordinances, justice of the peace courts often focus on laws at the county level or state misdemeanor criminal offenses.

Of all the courts investigated, this category is closest to a traditional court in terms of its concentration of powers. Generally, justices of the peace have the greatest authority of any limited jurisdiction court to oversee preliminary hearings and set bail, issue warrants, and conduct trials and sentences for misdemeanors and traffic cases. Indeed, of the 14 states with lay justices of the peace, only Louisiana does not empower its justices of the peace to hear and try misdemeanors. Similarly, a little over half of these states allow their justices of the peace to preside over preliminary hearings and all except Arizona authorize these justices to issue warrants.

Among these states, only South Carolina requires a bachelor's degree to serve as a justice of the peace,<sup>7</sup> with seven other states mandating high school and the rest remaining silent on the issue of education. All of these states, however, require the completion of at least some form of training program to serve as a justice of the peace. These requirements range from only 24 hours to 160 hours of training, and in some states, judges may have as long as two years to complete them. The continuing education requirements for these judges likewise range dramatically from as little as a single course each year to as much as 80 hours over a two-year

4. See, e.g., Miss. Code § 21-23-7 (2017).

5. Kan. Stat. § 12-4114 (2017); Miss. Code § 9-11-3 (2017); Montana Judicial Branch. [https://leg.mt.gov/bills/mca/title\\_0030/chapter\\_0100/part\\_0020/section\\_0020/0030-0100-0020-0020.html](https://leg.mt.gov/bills/mca/title_0030/chapter_0100/part_0020/section_0020/0030-0100-0020-0020.html); S.C. Code § 22-1-10 (2017).

6. Matt Ford, "When Your Judge Isn't A Lawyer," *The Atlantic*, Feb. 5 2017. <https://www.theatlantic.com/politics/archive/2017/02/when-your-judge-isnt-a-lawyer/515568>.

7. S.C. Code § 22-1-10 (2017).

period,<sup>8</sup> though most states require somewhere between 15 and 30 hours annually.

### Nonjudge Court Personnel with Judicial Powers

Eighteen states allow certain court personnel other than judges to exercise judicial functions involving detention decisions.<sup>9</sup> The vast majority of this delegation of judicial power to other court personnel involves handling various procedural matters for the court including bail hearings, preliminary hearings and the issuance of warrants. The notable exceptions are South Dakota,<sup>10</sup> which grants its clerk magistrates the ability to try petty offenses, and Wyoming, which entrusts its circuit court magistrates, at the direction of a judge, to hear cases and sentence defendants in misdemeanor cases with penalties of up to a year in jail.<sup>11</sup> Most states, however, tend to place limitations on the authority of these court personnel that relate to either the time of day or status of the judge. In Tennessee, for example, the law authorizes a court clerk to oversee bail only if the judge is not expected to appear in court within three hours.<sup>12</sup>

The statutory requirements to serve in these court personnel positions tend to be nonexistent or relatively light. For example, only three states address educational requirements; two require a high school degree<sup>13</sup> while one mandates a bachelor's degree.<sup>14</sup> Moreover, these states rarely specify initial training requirements for these positions in statute, and generally grant generous grace periods for the completion of any requirements that do exist. Perhaps reflecting that many of the duties of court personnel require limited legal knowledge, most states neglect to specify in statute any continuing education requirements for these court personnel positions. Of those that do address continuing education, Virginia<sup>15</sup> has the most extensive training requirement at 20 hours each year,<sup>16</sup> while others require as little as 12 hours.<sup>17</sup>

### Mayoral Courts

Only two states still use mayoral courts: Louisiana and Ohio. These courts grant a town's mayor or her designee the authority to decide cases involving alleged ordinance violations. Representing a rare investiture of judicial power in executive officials, these courts fell into disfavor in most jurisdictions due to public distrust and concerns over the lack of a separation of powers.<sup>18</sup> Today, Louisiana and Ohio utilize them to help decide cases that often involve potential fines but can include jail time in some instances. In Louisiana, mayoral courts can also conduct bail hearings and issue arrest warrants, which in concert with their jurisdiction over ordinances, makes them a critical entry point for the Louisiana justice system.<sup>19</sup> Ohio's mayoral courts cast a similarly large shadow over their justice system; in 2017 alone, they heard 288,370 cases, including over 50,000 that involved misdemeanors.<sup>20</sup>

Louisiana does not explicitly outline their training requirements in statute, while Ohio requires only two six-hour training sessions to gain the full range of the court's power. The first Ohio course allows an individual to serve on the court and hear prosecutions involving alcohol- or drug-related traffic offenses.<sup>21</sup> A second course expands their authority to encapsulate all other charges heard in a mayoral court including traffic and municipal violations.<sup>22</sup> This means that within the 64 of Ohio's 88 counties that retain mayoral courts, residents can face sentencing from an individual with no prior qualifications and less than two days of training.<sup>23</sup> Further, Ohio requires its mayoral court judges to complete a mere three hours of continuing legal education each year, one of the lowest such requirements among all the officials surveyed in this paper.<sup>24</sup>

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8. Miss. Code § 9-11-4 (2017); [Texas Rules of Judicial Education](#); 42 Pa. Cons. Stat § 3115 (2017); 42 Pa. Cons. Stat. § 3118 (2017).

9. This includes officials with titles such as clerk of court, magistrate and bail commissioner.

10. S.D. Codified Laws § 16-12C-11 (2017).

11. Wyo. Stat. § 5-9-129 (2017), Wyo. Stat. § 5-9-130 (2017).

12. Tenn. Code § 40-11-105 (2017).

13. S.D. Codified Laws § 16-12C-2 (2017); Neb. Code § 24-508 (2017).

14. Va. Code § 19.2-37 (2017).

15. Office of the Executive Secretary, "Magistrate Manual," Department of Magistrate Services, July 2018, p. 12. <http://www.courts.state.va.us/courtadmin/aoc/mag/resources/magman/chapter01.pdf>.

16. Utah's Sheriff Bail Commissioners must complete 40 hours of annual peace officer training, but this represents general police training rather than anything targeted toward their bail duties.

17. [Tenn. Code § 40-1-111](#).

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18. Matthew John Pendy, "What If Issues in Assuming Mayor's Court Jurisdiction," Institute for Court Management, May 2015, pp. 5-6, <https://www.ncsc.org/-/media/Files/PDF/Education%20and%20Careers/CEDP%20Papers/2015/PendyWhat%20If-Issues%20in%20Assuming%20Mayors%20Court%20Jurisdiction.ashx>.

19. La. Rev. Stat. § 33:441. See also, Jerry J. Guillot, "Mayor's Court Handbook," Louisiana Municipal Association, 2015. [https://www.lma.org/docs/Publications/MAYORS\\_COURT\\_HANDBOOK\\_2015.pdf](https://www.lma.org/docs/Publications/MAYORS_COURT_HANDBOOK_2015.pdf).

20. Maureen O'Connor et al., "2017 Mayor's Courts Summary," The Supreme Court of Ohio, 2017, p. 5. <https://www.supremecourt.ohio.gov/Publications/mayorscourt/mayorscourtreport17.pdf>.

21. Maureen O'Connor et al., "Mayor's Courts Forms Instructions and Education & Procedure Rules," The Supreme Court of Ohio, 2018, p. 34. <https://www.supremecourt.ohio.gov/JCS/mayors/rules.pdf>.

22. Ibid.

23. Sri Thakkilapati, "What is a Mayor's Court," ACLU Ohio, Feb. 22, 2018. <https://www.acluohio.org/archives/blog-posts/what-is-a-mayors-court>.

24. "Mayor's Courts Forms Instructions and Education & Procedure Rules," p. 5. <https://www.supremecourt.ohio.gov/JCS/mayors/rules.pdf>.

## THE IMPORTANCE OF MAGISTRATES

### The Lasting Power of First Impressions

Magisterial authority is disproportionately placed at the front end of the judicial process, representing a considerable leverage point from which to exert influence over the criminal justice system. As the first judicial officials to scrutinize cases and evidence, their decisions help to establish the status quo. In concert with pervasive cognitive biases and a justice system that tends to calcify initial decisions and resolve cases early, ruling first can be indistinguishable from ruling last. As such, though magistrates may be junior members of the judiciary, they are among its most powerful.

Particularly when it comes to bail, magisterial decisions can be hard to shake. After all, the trial judge or any other superior judge to whom a defendant might appeal for a more manageable bail does not get to approach the issue in a vacuum. Regardless of the legal rules of a jurisdiction about the standard of review or an individual judge's desire to consider the matter with fresh eyes, the decision will likely be skewed to some degree by powerful psychological traps.

Human beings do not evaluate their options *de novo* – that is, what has come before or exists presently, almost inevitably shapes our decisions on what should come next. We have a marked and significant preference for whatever we perceive to be the existing state of affairs.<sup>25</sup> This status quo bias is supported by an associated inclination to favor omission over action, which in turn disproportionately benefits that same status quo.<sup>26</sup> This preference is due in part to a reduced sense of agency—choosing to do nothing does not even seem like a choice at all, making us feel less responsible for the outcome.<sup>27</sup>

When a choice involves numerical values, another cognitive effect can take hold: anchoring. In evaluating a numerical choice, people tend to place undue influence on a reference number, selecting a value that is closer to that figure than would otherwise be merited.<sup>28</sup> In the judicial context, studies have suggested that judges may use a variety of anchors in

decisions such as criminal sentencing and damage awards.<sup>29</sup> Even unrelated numbers like a street address, once entered into the narrative, can skew the resulting choices toward them.<sup>30</sup>

It is not hard to see how these biases could work to confound an objective review by a judge of a magistrate's decision to place bail at a particular dollar amount. Upholding the magistrate's bail represents an omission that maintains the status quo, a particularly cognitively pleasing outcome. Even if a judge overcomes these subconscious biases, anchoring makes it more likely that any new bail determination will still be subtly tied to the original. A high bail may come down, but not nearly as low as if the judge had been able to write it on a clean slate.

A magistrate's initial bail is thus resilient to change and resistant to significant alteration. Indeed, this is exactly what data from Harris County, Texas has shown. A report found that judges there altered the magistrate-set bail only about six percent of the time, and lowered it in less than one percent of cases.<sup>31</sup> Another study in Maryland discovered that the initial bail set by its district court commissioners was changed less than a quarter of the time.<sup>32</sup>

### Short Pretrial Jail Stays Can Have Outsized Impact

A magistrate's ability to set a lasting bail amount can have a powerful rippling effect as well, particularly if it results in an individual's pretrial detention. Jail is an isolating and unpleasant place. Consequently, defendants held prior to trial have greater difficulty preparing their cases and face intense pressure to consider options that might end their incarceration sooner, even if it comes with a set of collateral consequences.

This combination has been borne out by research that shows defendants in pretrial detention are more likely to plead

25. William Samuelson and Richard Zeckhauser, "Status Quo in Decision Making," *Journal of Risk and Uncertainty* 1 (March 1988), p. 8. <https://sites.hks.harvard.edu/fs/rzeckhau/status%20quo%20bias.pdf>.

26. See, e.g., Ilana Ritov and Jonathan Baron, "Status-Quo and Omission Biases," *Journal of Risk and Uncertainty* 5 (February 1992), pp. 49-61. <https://www.sas.upenn.edu/~baron/papers.htm/sq.html>.

27. *Ibid.*

28. Amos Tversky and Daniel Kahneman, "Judgment Under Uncertainty: Heuristics and Biases," *American Association for the Advancement of Science* 185:4157 (Sept. 27, 1974), pp. 1124-31. <http://www.its.caltech.edu/~camerer/Ec101/JudgementUncertainty.pdf>.

29. Jeffrey J. Rachlinski et al., "Can Judges Make Reliable Numeric Judgments? Distorted Damages and Skewed Sentences," *Indiana Law Journal* 90:695 (Spring 2015), pp. 695-739. <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2552&context=facpub>.

30. Jeffrey J. Rachlinski and Andrew J. Wistrich, "Judging the Judiciary by the Numbers: Empirical Research on Judges," *Annual Review of Law and Social Science* 13:203-229 (October 2017), p. 19. <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=2668&context=facpub>.

31. Megan Flynn, "Too Poor to Bail Out? Tough Luck In Harris County," *Houston Press*, Dec. 15, 2015. <https://www.houstonpress.com/news/too-poor-to-bail-out-tough-luck-in-harris-county-7998306>.

32. Jean Chug, "Bailing on Baltimore: Voices from the Front Lines of the Justice System," Justice Policy Institute, September 2012, p. 4. <http://www.justicepolicy.org/uploads/justicepolicy/documents/bailingonbaltimore-final.pdf>.

guilty than similarly situated ones that were released.<sup>33</sup> In addition, this group receives longer sentences on average<sup>34</sup> and is more likely to recidivate after the conclusion of their sentence.<sup>35</sup> As such, it is clear that a bail decision is about more than just bail or a defendant's immediate freedom.

Not only are future reviews of magisterial decisions likely skewed in their favor, but many decisions may never even be subject to oversight in the first place. This is because around 97 percent of federal convictions and 94 percent of state convictions are the result of a guilty plea.<sup>36</sup> While some of these are "conditional" or otherwise allow for future appellate review of legal issues, overwhelmingly they represent the end of the case and all attendant controversies. In these instances, the initial determinations of the magistrate, however erroneous, will stand uncontested—yet another monument to their enduring influence over the justice system.

### Limited Sentencing Authority is Still Wide Discretion

When a magistrate has the power to not only set the stage for a conviction but also to oversee the trial or sentencing, the weight of magisterial choices is even greater. Although such discretion is usually confined to low-level offenses, this may actually do relatively little to curtail their potential impact. Many of these ordinances and misdemeanors still raise the specter of immediate incarceration ranging from thirty days to a year for each conviction. This represents more than enough time in jail to emotionally and physically scar an individual as well as throw employment and child-care obligations on the outside into chaos. Additionally, the imposition of only a fine can still ultimately rob a defendant of his freedom, given that many states continue to see incarceration as a valid final step in the debt collection process.<sup>37</sup>

While incarceration is the clearest example of how a magistrate's sentence can deprive an individual of freedom, a host of collateral consequences ensures that even once an individual is freed—or was never incarcerated to begin with—the quality of that freedom is degraded. Collectively, states have thousands of legal prohibitions that curtail the ability

of individuals with a criminal record to partake in all manner of valued activities, including entering various professions, living in certain places and volunteering in some capacities.<sup>38</sup> These black-letter legal barriers are coupled with the attachment of a pervasive social stigma and bias, which can make it difficult to secure even those jobs still available to individuals with a criminal record and make more general reintegration back into society even more difficult to achieve.

### The System's Legitimacy Rests on its Magistrates

In addition to the concrete impact that magisterial decisions have on those within the criminal justice system, they can leave a lasting impression on perceptions of the system itself. With the majority of cases ending well before trial, it is the magistrate and not the trial judge who has been at the center of the most momentous court actions for a significant number of individuals. Likewise, the kinds of low-level cases over which magistrates preside represent the most common criminal justice experience, since misdemeanor cases make up roughly 80 percent of criminal dockets.<sup>39</sup> These two facts ensure that magistrates are one of the most frequently viewed faces of the system, placing much of its legitimacy in the eyes of the public in their hands.<sup>40</sup> If magistrates are perceived as knowledgeable and fair, then the criminal justice system writ large will be—if they are not, the whole system suffers.

A narrower problem of legitimacy arises in the context of mayoral courts, which concentrate an incredible amount of power in one individual. A mayor presiding over one of these courts simultaneously holds executive, legislative and judicial powers. She may have a vote (or veto) over the enactment of an ordinance, power over its enforcement and discretion over whether it has been violated and what the penalty ought to be. This is the kind of situation against which American government's separation of powers doctrine is intended to insulate. It also raises inherent conflict-of-interest questions. For example, the fines assessed in a mayoral court might go into government coffers that the presiding mayor oversees. It is easy to see how defendants facing one of these tribunals might question the impartiality of the justice they will receive.<sup>41</sup>

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33. Megan Stevenson "Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes," *George Mason Legal Studies Research Paper* No. LS 18-30, February 2019, pp. 1-40. [http://home.ubalt.edu/id86mp66/PTJC/SymposiumReadings/Distortion-of-Justice\\_Stevenson.pdf](http://home.ubalt.edu/id86mp66/PTJC/SymposiumReadings/Distortion-of-Justice_Stevenson.pdf).

34. Marian R. Williams, "The Effect of Attorney Type on Bail Decisions," *Criminal Justice Policy Review* 28:1 (December 2014), p. 3-17. <http://journals.sagepub.com/doi/full/10.1177/0887403414562603>.

35. Arpit Gupta et al., "The Heavy Costs of High Bail: Evidence from Judge Randomization," *Journal of Legal Studies* 45:2 (June 2016), pp. 471-505. <http://www.columbia.edu/~cjh2182/GuptaHansmanFrenchman.pdf>.

36. *Missouri v. Frye*, 566 U.S. 134 (2012).

37. Matthew Shaer, "How Cities Make Money by Fining the Poor," *The New York Times*, Jan. 8, 2019. <https://www.nytimes.com/2019/01/08/magazine/cities-fine-poor-jail.html>.

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38. See, e.g., "National Inventory of Collateral Consequences of Conviction" database: <https://niccc.csjusticecenter.org>.

39. Terry Gross, "'Punishment Without Crime' Highlights The Injustice Of America's Misdemeanor System," *NPR*, Jan. 2, 2019. <https://www.npr.org/2019/01/02/681606995/punishment-without-crime-argues-that-americas-misdemeanor-system-targets-the-poo>.

40. See e.g., "Plea Negotiations and Plea Agreements," Oklahoma County, p. 131. <https://www.oklahomacounty.org/DocumentCenter/View/784/Plea-Negotiations-PDF?bidid>.

41. Indeed, in *Ward v. Village of Monroeville*, 490 U.S. 57 (1972), the U.S. Supreme Court raised exactly these conflict-of-interest and impartial-justice concerns as they ruled a defendant was denied due process in front of an Ohio mayoral court. While this may have curbed some of the more excessive conflicts, the continued use of mayoral courts suggests that the ruling was not enough to entirely quell the practice or the issues it raises.

## FIXING THE SYSTEM

The formidable power of magistrates makes the current lack of legal training described in this paper a cause for significant concern. These magistrates must not simply decide matters of fact—what happened—but rule directly or incorporate into their analysis matters of law—what legal conclusion the facts require. While basic analytical skills and good judgment may be enough to decide matters of fact, they are insufficient to adequately act as the arbiter on matters of law, which turn on legal definitions, procedural minutiae and centuries of case law. Translating facts into legal conclusions in this manner requires study and a broad base of legal knowledge, which must be regularly updated in response to ongoing legal developments.

As such, it is unlikely to be the kind of task that even the most talented amateur can consistently complete correctly. No doubt this is why almost every inquiry into the capabilities of nonlawyer judges has concluded that they “lack sufficient knowledge to conduct a modern criminal trial.”<sup>42</sup> It also explains why the other lay participants in the justice system, jurors, are not expected or allowed to draw these conclusions. When these issues present themselves, jurors receive legal counsel from a trained attorney, such as through the jury instructions provided by a judge to jurors prior to the commencement of trial deliberations. Even then, there is reason to doubt the ability of lay jurors to adequately digest and apply such information in so short a time.<sup>43</sup>

It is for many of these same reasons that we do not trust individuals who have not passed the bar exam to practice law; “Legalese” is not a native tongue and the stakes at play are too great to ignore the risk of error. Indeed, society subjects lawyers to a host of high professional standards and obligations in large part because they hold in their hands the well-being of individuals who generally cannot hold them accountable by evaluating their technical expertise and often have little meaningful choice in their selection. These issues are only magnified for judges, who wield tremendous power over individuals, have little transparency to their decisions or accountability for their actions and are not selected by the parties before them. These factors likewise set magistrates apart from the multitude of private-sector roles for which government-imposed or supported standards are unjustified or ill advised.

While the decision of some states to resist the trend toward higher judicial standards—whether by raising legal training requirements or abolishing courts that traditionally lacked them— is disquieting, the rural-urban divide within jurisdic-

tions is even more so.<sup>44</sup> A number of the states examined in this paper require law degrees for judicial officers in larger towns and cities, but lower their standards for those with fewer residents (usually under 5,000-10,000, but as high as 200,000). Likely, these exceptions are motivated by fears that there will not be enough qualified applicants in smaller towns, but differential standards create problems for legitimacy and justice. Rural citizens deserve the same justice as their urban counterparts and inconsistent legal training requirements manage to both recognize the desirability of legal training while simultaneously denying it to rural citizens.

## Recommended Minimum Qualifications and Training

The simplest solution to these concerns over legal training is, naturally, for states to require their magistrates to be members of the bar. Ideally, for those magistrates with full judicial powers, including overseeing trials and determining sentences, their qualifications would match those of other trial judges in the state. This may mean, as it does in many jurisdictions, that in addition to bar membership, a candidate will have to prove that they have actually practiced law for some period of time, thereby suggesting greater familiarity with not just legal theory but legal practice.

The world, of course, is far from ideal, and while raising magisterial standards to those of other judges may represent a final step for jurisdictions, other interim ones are clearly necessary in many places. Indeed, bar membership and even legal practice are admittedly blunt tools for assessing legal aptitude, which could instead be measured directly through an entrance exam, as a handful of the states in this study do. Such an exam, however, must actually test legal knowledge, including criminal law, rules of evidence and criminal procedure. General intelligence tests, like South Carolina’s reliance on the Wonderlic test,<sup>45</sup> are insufficient to prove a present capacity to navigate the nuances of the law, even if they might suggest that a candidate has the potential to handle the intellectual rigors of office.

Basic legal training courses can provide a valuable initial foundation in the law as well as useful ongoing training, but they cannot take the place of an entrance exam for lay magistrates. They should not act as an exam substitute because there is no guarantee that these courses actually raise a prospective magistrate’s understanding of the law to acceptable levels. Likewise, for basic courses to be effective, they

42. Petition for Writ of Certiorari, *Davis v. Montana* 137 S.Ct. 811 (2017) pp. 5-7. <https://www.scotusblog.com/wp-content/uploads/2016/08/16-123-petition.pdf>.

43. See, e.g., J. Alexander Tanford, “The Law and Psychology of Jury Instructions,” *Nebraska Law Review* 69:1 (1990), pp. 71-111. <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1742&context=nlr>.

44. Allan Ashman and David L. Lee, “Non-Lawyer Judges: The Long Road North,” *Chicago-Kent Law Review* 53:3 (January 1977), pp. 567-69. <https://scholarship.kent-law.iit.edu/cgi/viewcontent.cgi?article=2266&context=cclawreview>.

45. Robert L. McCurdy, “Memorandum-Magistrate Eligibility Examination Information and Resource,” South Carolina Court Administration, March 13, 2018. <https://www.sccourts.org/Wonderlic-Watson-GlaserInfoSheet.pdf>.

must be required prior to a magistrate assuming the bench—grace periods such as in North Carolina or Georgia still allow potentially unqualified magistrates to rule on cases.<sup>46</sup> These courses, however, could be included as part of ongoing legal training meant to shore up fundamental legal concepts and respond to developments in the law. Montana and South Carolina provide another interesting method of ensuring continued magisterial competence that other jurisdictions may want to consider: requiring all magistrates to retest their legal knowledge every four and eight years, respectively.

When it comes to mayoral courts, there should be no half measures. Vesting so much judicial authority in an executive branch official offends our separation of powers and raises the risk of conflicts of interest to unacceptable levels. Even if these courts are run with diligence and integrity, the appearance of potential impropriety is so great as to undermine their legitimacy and recommend their abolition. Further, there is simply no need for these courts; they do not have any unique capabilities or functions that could not easily be subsumed by the purely judicial courts present in these states.

States should likewise eliminate the qualification disparity between urban and rural jurisdictions. Whether the individual ruling on your freedom understands the law should not turn on whether the county you happen to be in has crossed an arbitrary population threshold. In some of these less populated areas, it may be possible to do away with the local magistrate altogether and have the rare case that would otherwise cross her path diverted to whichever court handles more serious cases. To the extent a magistrate is still necessary in these places, instead of lowering the bar for judges, states should allocate funding or create other incentives to help attract and retain qualified candidates.

Similarly, states should pay particular attention to the lack of standards for nonjudge court personnel who hold judicial powers. While most states require their municipal court judges and justices of the peace to engage in at least some minimal initial and ongoing training, the same is not true when it comes to these other officials. Though their powers are generally more limited than other magistrates, these nonjudge court personnel nevertheless make detention decisions for thousands of Americans each year and states ignore their legal qualifications at their peril.

Increasing magisterial qualification requirements in these states is entirely feasible; after all, these same states often operate exacting licensing regimes for all manner of professions with a lot less responsibility and power than magistrates. For example, while Georgia only demands its high-school-educated magistrates complete 80 hours of legal

training within two years of assuming office,<sup>47</sup> it requires dietitians to be college educated and complete 900 hours of coursework.<sup>48</sup> Likewise, although North Dakota relaxes its magistrate requirements in towns with fewer than 5,000 residents,<sup>49</sup> no similar exemption helps cosmetologists in those same towns who must still complete 1,800 hours of training.<sup>50</sup> This is not to suggest that these other licensing requirements are justified—for the most part, they are not—but rather to show that any arguments that higher magisterial standards are impossible are, at best, misguided.

## CONCLUSION

One of the most fearsome powers of government is its ability to deprive its citizens of their liberty, and one of the primary purposes of our laws is to ensure that this authority is exercised only with precision and restraint. This combination ensures that the decision of whether to detain an individual is both weighty and difficult. This is true even when we circumscribe when and where someone may wield the power to detain. As a result, any with whom we entrust this authority must have qualifications and training commensurate with the task.

Too many magisterial standards fail to ensure that this is the case. Requirements that stop short at local residency and a high school diploma do not go far enough to certify the legal aptitude of a prospective magistrate. Likewise, training that can be completed months or even years after an individual assumes the bench does not do enough to safeguard the rights of those who face these magistrates prior to that point. The law is too difficult and the stakes too high to leave to chance a magistrate's ability to wrestle with these complex and weighty decisions.

Raising these standards for magistrates is by no means an impossible task. Indeed, states as different as Rhode Island and Idaho already mandate bar admission for all magistrates.<sup>51</sup> With an arrest occurring once every three seconds in the United States and magistrates called to adjudicate the freedom of many of these individuals, the remaining states need to follow suit and professionalize their magistrates.<sup>52</sup> The power of magistrates is simply too awesome to leave in untrained hands.

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47. Ga. Code § 15-10-137 (2017).

48. "Dietitians: Frequently Asked Questions," Georgia Secretary of State, 2018. <http://sos.ga.gov/index.php/licensing/plb/19/faq>.

49. N.D. Century Code Chapter 40-18.

50. N.D. Century Code Chapter 43-11.

51. R.I. [Gen. Law 8-2-39 \(2017\)](#); Idaho Fourth Judicial District Court, "Magistrate Court." <https://fourthjudicialcourt.idaho.gov/ada/magistrate.html>.

52. Rebecca Neusteter and Megan O'Toole, "Every Three Seconds," Vera Institute of Justice, January 2019. <https://www.vera.org/publications/arrest-trends-every-three-seconds-landing/arrest-trends-every-three-seconds/overview>.

46. NC Gen Stat § 7A-177 (2016). <https://law.justia.com/codes/north-carolina/2016/chapter-7a/article-16/section-7a-177>; GA Code § 15-10-137 (2017). <https://law.justia.com/codes/georgia/2017/title-15/chapter-10/article-8/section-15-10-137>.

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## APPENDIX A: NONLAWYER MAGISTRATES—POWERS

	Bail	Issuance of Warrants	Preliminary Hearings	Misdemeanors	Ordinance Violations	Traffic	Statutes
<b>MAYORAL COURTS</b>							
Ohio (Mayor's Court)				X	X	X	Ohio Rev. Code § 1905.01 (2017)
Louisiana (Mayor's Court)	X	X			X		La. Rev. Stat. § 33:441 (2017)
<b>JUSTICE OF THE PEACES</b>							
Arizona (Justice Court)			X	X		X	Ariz. Rev. Stat. § 22-301 (2017)
Delaware (Alderman Court)				X		X	21 Del. Code § 708 (2017), 11 Del. Code § 4503 (2017), 11 Del. Code § 5303 (2017)
Delaware (Justice of the Peace Court)	X	X	X	X	X		11 Del. Code § 2702 (2017), 11 Del. Code §§ 5901-5917 (2017)
Georgia (Magistrate Court)	X	X		X			Ga. Code § 15-10-2 (2017)
Louisiana (Justice of the Peace Court)	X	X			X		La. Rev. Stat. § 13:2586 (2017)
Mississippi (Justice Court)	X	X	X	X		X	Miss. Code § 99-33-1 (2017), Miss. Code § 9-11-15 (2017), Miss. Code § 99-3-21 (2017), Miss. Code § 99-5-11 (2017)
Montana (Justice of Peace Court)			X	X		X	Mont. Code § 3-10-118 (2017), Mont. Code § 3-10-303 (2017)
Nevada (Justice Court)		X		X		X	Nev. Rev. Stat. § 4.370 (2017), Nev. Rev. Stat. § 4.3762 (2017)
New Mexico (Magistrate's Court)	X	X	X	X	X	X	N.M. Stat. § 35-3-4 (2017)
Pennsylvania (Magisterial District Judges)	X	X	X	X		X	42 Pa. Cons. Stat. § 1513 (2017), 42 Pa. Cons. Stat. § 1515 (2017)
Oregon (Justice Court)	X	X		X	X	X	Or. Rev. Stat. § 51.050 (2017), Or. Rev. Stat. § 51.070 (2017), Or. Rev. Stat. § 133.020 (2017), Or. Rev. Stat. § 133.030 (2017)
South Carolina (Magistrate's Court)	X	X	X	X			S.C. Code § 22-5-10 (2017), S.C. Code § 22-5-510 (2017), S.C. Code § 22-5-320 (2017), S.C. Code § 22-3-540 (2017)
Texas (Justice Courts)	X	X		X		X	Tex. Gov. Code § Title 2-Subtitle A-Chapter 27 (2017), Tex. Gov. Code § Title 1-Article 2.09 (2017), Tex. Gov. Code § Title 1-Chapter 15 (2017), Tex. Gov. Code § Title 2-Subtitle A-Chapter 17 (2017)
Utah (Justice Court )	X	X		X	X		Utah Code § 78A-7-106 (2017), Utah Code § 78-20-1 (2017), Utah Code § 77-1-3 (2017), Utah Code § 77-7-5 (2017)
West Virginia (Magistrate Court)	X	X	X	X			W.Va. Code § 50-2-3 (2017)



NONJUDGE COURT PERSONNEL WITH JUDICIAL POWERS							
Alabama (District & Municipal Magistrate)	X	X					Ala. Code § 12-17-251 (2017)
Alaska (Deputy Magistrate)	X	X	X				Alaska Stat. § 22.15.100 (2017), Alaska Court Rule 18 (2017)
Connecticut (Bail Staff/Police)	X						Conn. Gen. Stat. § 54-63d (2018), Conn. Gen. Stat. § 54-64a (2018), Conn. Gen. Stat. § 54-53 (2018)
Maine (Bail Commissioner)	X						15 Me. Rev. Stat. § 1023 (2017)
Maryland (District Bail Commissioner)	X						Md. Cts. & Jud. Pro. Code § 2-607 (2017)
Massachusetts (Clerk Magistrate)	X		X				Mass. Gen. Laws ch. 221 § 62B (2017), Mass. Gen. Laws ch. 221 § 62C (2017), Mass. Gen. Laws ch. 276 § 58 (2017)
Michigan (District Magistrate)	X	X					Mich. Comp. Laws § 600.8511
Nebraska (Clerk Magistrate)	X	X	X				Neb. Code § 24-519 (2017)
New Hampshire (Bail Commissioner)	X						N.H. Rev. Stat. Ann. 597:18 (2017)
North Carolina (Magistrate)	X	X	X				N.C. Gen. Stat. § 7A-273 (2017), N.C. Gen. Stat. § 7A-292 (2017)
North Dakota (Magistrate)	X						N.D.C.C. § 27-05-31 (2017), N.D. Admin. Rule 20
South Dakota (Clerk Magistrate)	X	X	X	X			S.D. Codified Laws § 16-12C-7 (2017), S.D. Codified Laws § 16-12C-9 (2017), S.D. Codified Laws § 16-12C-10 (2017), S.D. Codified Laws § 16-12C-11 (2017)
Tennessee (Clerk)	X						Tenn. Code § 40-11-105 (2017)
Tennessee (Judicial Commissioner)	X	X					Tenn. Code § 40-1-111 (2017)
Utah (Sheriff Bail Commissioners)	X						Utah Code § 17-32-1 (2017)
Vermont (Clerk)	X						Vt. Stat. Ann. tit. 4 § 692 (2017)
Virginia (District Court Magistrate)	X	X					Va. Code § 19.2-45 (2017)
West Virginia (Municipal Court Clerk)		X			X		W.Va. Code § 8-10-1 (2017), W.Va. Code § 8-10-2 (2017)
Wyoming (Circuit Court-Magistrate)	X	X	X	X	X		Wyo. Stat. § 5-9-129 (2017), Wyo. Stat. § 5-9-208 (2017), Wyo. Stat. § 5-9-132 (2017), Wyo. Stat. § 5-9-133 (2017)
TOWN AND MUNICIPAL COURTS							
Arizona (Municipal)	X	X	X	X	X	X	Ariz. Rev. Stat. § 22-402 (2017), Ariz. Rev. Stat. § 22-301 (2017), Ariz. Rev. Stat. § 22-421 (2017), Ariz. Rev. Stat. § 22-424 (2017)
Colorado (Municipal)	X	X			X		Colo. Rev. Stat. § 13-10-104 (2017), Colo. Rev. Stat. § 13-10-112 (2017)
Colorado (County)				X			Colo. Rev. Stat. § 13-6-106 (2017), Colo. Rev. Stat. § 13-6-501 (2017), Colo. Rev. Stat. § 13-6-502 (2017)
Kansas (Municipal)	X	X			X		Kan. Stat. § 12-4104 (2017), Kan. Stat. § 12-4212 (2017), Kan. Stat. § 12-4213 (2017)
Mississippi (Municipal)	X	X	X	X	X		Miss. Code § 21-23-7 (2017)
Missouri (Municipal)	X	X			X	X	Mo. Rev. Stat. § 479.020 (2017), Mo. Rev. Stat. § 479.100 (2017)
Montana (City)	X	X	X	X		X	Mont. Code § 3-11-102 (2017), Mont. Code § 3-11-103 (2017), Mont. Code § 3-11-109 (2017)

New Mexico (Municipal)	X	X			X	X	N.M. Stat § 35-14-2 (2017), N.M.R.A. Rule 8-401
New York (Town and Village Justice Court)		X	X	X		X	N.Y. Const. Art. VI § 17, N.Y. C.P.L. 10.30
North Dakota (Municipal)	X	X			X		N.D.C.C. 40-18-01 (2017)
Oklahoma (Municipal)					X	X	Okla. Stat. § 11-27-103 (2017)
Oklahoma (Special District)	X	X		X			Okla. Stat. § 20-123 (2017)
Oregon (Municipal)	X	X		X	X	X	Or. Rev. Stat. 221.339 (2017), Or. Rev. Stat. 135.280 (2017), Or. Rev. Stat. 133.030 (2017), Or. Rev. Stat. 135.245 (2017)
South Carolina (Municipal)	X	X			X		S.C. Code § 14-25-45 (2017)
Texas (Constitutional County Courts)	X			X			Tex. Code § Title 2-Subtitle A-Chapter 26 (2017)
West Virginia (Municipal)		X			X		W.Va. Code § 8-10-1 (2017), W.Va. Code § 8-10-2 (2017)
Wisconsin (Municipal)		X			X		Wis. Stat. § 755.045 (2017), Wis. Stat. § 800.02 (2017)
Wyoming (Municipal Court)	X	X		X	X		Wyo. Stat. § 5-6-201 (2017), Wyo. Stat. § 5-6-202 (2017), Wyo. Stat. § 5-6-301 (2017), Wyo. Stat. § 5-6-109 (2017)

## APPENDIX B: NONLAWYER MAGISTRATES—QUALIFICATIONS

	Education	Initial Training	Grace Period	Ongoing Training	Exam	Population Threshold	Statutes and Rules
<b>MAYORAL COURTS</b>							
Ohio (Mayor's Court)	Unaddressed in statute	12 hours	N	6 Hours	N		Ohio Rev. Code § 1905.03 (2017), Ohio Rev Code § 1905.031 (2017), Ohio Mayors Court Rules 3 and 4
Louisiana (Mayor's Court)	Unaddressed in statute	Unaddressed in statute	N	Unaddressed in statute	N		La. Rev. Stat. § 33:384 (2017)
<b>JUSTICES OF THE PEACE</b>							
Arizona (Justice Court)	Unaddressed in statute	Unaddressed in statute	N	16 hours annually	N		Ariz. Rev. Stat. § 22-122 (2017), Arizona Code of Judicial Administration 1-302
Delaware (Alderman Court)	Unaddressed in statute	Unaddressed in statute	N/A	Unaddressed in statute	N		See e.g., Del. Code 49-21A
Delaware (Justice of the Peace Court)	Unaddressed in statute	11 weeks	N	24 hours over 2 years	N		Del. Const., Article IV, §§ 29 & 30, Del. Code tit. 10 § 9210 (2017), Delaware Rules for Continuing Legal Education 4(a) and 4(c) (2016)
Georgia (Magistrate Court)	HS	80 hours over 2 years	2 years	Unspecified (delegated to Georgia Magistrate Courts Training Council)	N		Ga. Code § 15-10-22 (2017), Ga. Code § 15-10-137 (2017)
Louisiana (Justice of the Peace Court)	HS	One training course	6 months	One course annually	N		La. Rev. Stat. § 13:2582 (2017), La. Rev. Stat. § 49:251.1 (2017)
Mississippi (Justice Court)	HS	80 hours	N	24 hours annually	Y		Miss. Code § 9-11-3 (2017), Miss. Code § 9-11-4 (2017), Miss. Const. § 171
Montana (Justice of Peace Court)	Unaddressed in statute	One training course	As soon as practicable	2 annual training conferences (15 hours)	Y (within 6 months, and every 4 years thereafter)		Mont. Code § 3-10-204 (2017), Mont. Code § 3-10-203 (2017), Mont. Code § 3-1-1502 (2017), Mont. Commission on Courts of Limited Jurisdiction

Nevada (Justice Court)	HS	2 weeks	"N* 24 month grace for Ethics course"	13 hours	N	100,000	Nev. Rev. Stat. § 4.010 (2017), Nev. Rev. Stat. § 4.035 (2017), Supreme Court of Nevada Administrative Office of the Courts Judicial Education Policies
New Mexico (Magistrate's Court)	HS	One training course	45 days	1 course annually (12 hours)	N	200,000	N.M. Stat. § 35-2-1 (2017), N.M. Stat. § 35-2-3 (2017), N.M. Stat. § 35-2-4 (2017)
Oregon (Justice Court)	Unaddressed in statute	One training course	12 Months	30 hours every 2 years	N		Or. Rev. Stat. § 51.240 (2017), Or. Rev. Stat. § 51.245 (2017)
Pennsylvania (Magisterial District Judges)	Unaddressed in statute	160 hours	N	32 hours annually	Y		42 Pa. Cons. Stat. § 3101 (2017), 42 Pa. Cons. Stat. § 3112 (2017), 42 Pa. Cons. Stat. § 3113 (2017), 42 Pa. Cons. Stat. § 3118 (2017)
South Carolina (Magistrate's Court)	Bachelor's	One training course	12 Months	18 hours annually	Y		S.C. Code § 22-1-10 (2017), S.C. Code § 22-2-5 (2017), S.C. Supreme Court Rule 510
Texas (Justice Courts)	Unaddressed in statute	80 hours	12 Months	20 hours annually	N		Tex. Code § Title 2-Subtitle A-Chapter 27 (2017)
Utah (Justice Court )	HS	Orientation seminar (unspecified length)	N	24 hours annually	N		Utah Code § 78A-7-201 (2017), Utah Code § 78A-7-205 (2017), U.C.J.A. Rule 14-402
West Virginia (Magistrate Court)	HS	Unspecified course of instruction	N	30 hours every two years	N		W. Va. Code § 50-1-4 (2017), W. Va. Judicial Disciplinary Procedure Rule 7.14
<b>NONJUDGE COURT PERSONNEL WITH JUDICIAL POWERS</b>							
Alabama (District & Municipal Magistrate)	Delegated by statute to state supreme court (unaddressed by court rule)	One training course	12 months (district court), 6 months (municipal court)	Unspecified	N		Ala. Rule of Jud. Admin. 18, Ala. Code § 12-17-251 (2017)
Alaska (Deputy Magistrate)	Delegated by statute to state supreme court (unaddressed by court rule)	Unspecified training on duties by a judge	N	Unaddressed in statute	N		Alaska Stat. § 22.15.160 (2017), Alaska Court Rule 19.2 (2017)
Connecticut (Bail Staff/ Police)	Unaddressed in statute	Unaddressed in statute	N/A	Unaddressed in statute	N		N/A
Maine (Bail Commissioner)	Unaddressed in statute	One bail training program	12 months	Unspecified	N		15 Me. Rev. Stat. § 1023 (2017)
Maryland (District Bail Commissioner)	Unaddressed in statute	Unaddressed in statute	N/A	Unaddressed in statute	N		Md. Cts. & Jud. Pro. Code § 2-607 (2017)
Massachusetts (Clerk)	Unaddressed in statute	Unaddressed in statute	N/A	Unaddressed in statute	N		See, Mass. Exec. Ord. 558
Michigan (District Magistrate)	Unaddressed in statute	Unspecified course required for traffic powers	No	Unaddressed in statute	N		Mich. Comp. Laws 600.8507, Mich. Comp. Laws 600.8512
Nebraska (Clerk)	HS	Unspecified, must comply with court rules	N/A	Unspecified, must comply with court rules	N		Neb. Code § 24-508 (2017)
New Hampshire (Bail Commissioner)	Unaddressed in statute	Unaddressed in statute	N/A	One meeting annually	N		N.H. Rev. Stat. 597:17, N.H. Rev. Stat. 597:18a
North Carolina (Magistrate)	Waived upon 8 years relevant experience	40 hours	6 Months	Unspecified in statute (12 hours every 2 years by court rule)	N		N.C. Gen. Stat. § 7A-171.2 (2017), N.C. Gen. Stat. § 7A-177 (2017), Conference of Chief District Court Judges
North Dakota (Magistrate)	Unaddressed in statute	Unaddressed in statute	N/A	One course every 2 years	N		N.D. Admin. Rule 20
South Dakota (Clerk Magistrate)	HS	One "institute" on duties of magistrate	N	Unaddressed in statute	N		S.D. Codified Laws § 16-12C- 2 (2017), S.D. Codified Laws § 16-12C-3 (2017)

Tennessee (Clerk)	Unaddressed in statute	Unaddressed in statute	N/A	Unaddressed in statute	N		Tenn. Const., art. VI, § 8
Tennessee (Judicial Commissioner)	Unaddressed in statute	Unaddressed in statute	N/A	12 hours annually	N		Tenn. Code § 40-1-111 (2017)
Utah (Sheriff Bail Commissioners)	Unaddressed in statute	Complete peace officer training (no additional requirements to act as bail commissioner)	N	40 hours (peace officer training)	Y		Utah Code § 53-6-205 (2017), Utah Code § 53-13-103 (2017), Utah Sheriff Requirements
Vermont (Clerk)	Unaddressed in statute	Unaddressed in statute	N/A	Unaddressed in statute	N		N/A
Virginia (District Court Magistrate)	Bachelor's	Delegated by statute to the state Committee on District Courts	9 Months	20 hours annually	Y		Va. Magistrate Manual, Va. Code § 19.2-37 (2017), Va. Code § 19.2-38.1 (2017)
West Virginia (Municipal Court Clerk)	Unaddressed in statute	One training course	Next available course	One course annually	N		W.Va. Code § 8-10-2 (2017)
Wyoming (Circuit Court-Magistrate)	Unaddressed in statute	Unaddressed in statute	N/A	Unaddressed in statute	N		Wyo. Stat. § 5-9-201 (2017), Wyo. Stat. § 5-9-208 (2017)
<b>TOWN AND MUNICIPAL COURTS</b>							
Arizona (Municipal)	Delegated by statute to municipalities	Unaddressed in statute	N/A	16 hours annually	N		Ariz. Rev. Stat. § 22-403 (2017), Code of Jud. Admin. Chapter 3 § 1-301
Colorado (Municipal)	HS	One institute or training	N	45 hours every 3 years	N		Colo. Rev. Stat. § 13-10-106 (2017), Colo. Rev. Stat. § 13-6-203 (2017), Colo. Supreme Court Rule 250.2
Colorado (County)	HS	One institute or training	N	45 hours every 3 years	N		Colo. Rev. Stat. § 13-6-203 (2017), Colo. Supreme Court Rule 250.2
Kansas (Municipal)	HS	One training course	18 months	10 hours annually	Y	15,000 (25,000 upon special waiver)	Kan. Stat. § 12-4105 (2017), Kan. Stat. § 12-4114 (2017), Kan. Stat. § 13-101 (2017)
Mississippi (Municipal)	HS	80 hours	N	24 hours annually	Y	20,000	Miss. Code § 9-11-3 (2017), Miss. Code § 9-11-4 (2017), Miss. Const. § 171, Miss. Code § 21-23-5 (2017)
Missouri (Municipal)	Unaddressed in statute	One training course	6 months	15 hours annually	N	7,500	Mo. Rev. Stat. § 479.020 (2017), Mo. Supreme Court Rule 18.05
Montana (City)	Unaddressed in statute	One training course	N	2 training sessions annually (15 hours)	Y (within 6 months and every 4 years thereafter)		Mont. Code § 3-10-202 (2017), Mont. Code § 3-11-202 (2017), Mont. Code § 3-11-204 (2017), Mont. Code § 3-1-1502 (2017), Mont. Commission on Courts of Limited Jurisdiction
New Mexico (Municipal)	Delegated by statute to municipalities	Unaddressed in statute	N/A	One course annually (12 hours)	N		N.M. Stat § 35-14-3 (2017), N.M. Stat § 35-14-10 (2017)
New York (Town and Village Justice Court)	Unaddressed in statute	One training course	N (no grace period for initial basic instruction, but "next available" for advanced instruction)	12 hours annually	N		N.Y. Const. Art. VI § 20, New York Justice Court Manual, 22 N.Y. C.R.R. 17.2
North Dakota (Municipal)	Unaddressed in statute	One training course	3 months	18 Hours over 3 years	N	5,000	N.D.C.C. 40-18-01, N.D. Admin. Rule 20, N.D. Admin. Rule 36
Oklahoma (Municipal)	Unaddressed in statute	6 hours	N	12 hours annually	N		Okla. Const. § VII-8, Okla. Rules for Mandatory Judicial Continuing Legal Education Chapter 1, Appendix 4B
Oklahoma (Special District)	Unaddressed in statute	Unaddressed in statute	N	12 hours annually	N		Okla. Const. § VII-8, Okla. Rules for Mandatory Judicial Continuing Legal Education Chapter 1, Appendix 4B
Oregon (Municipal)	Unaddressed in statute	One training course	12 months	Unaddressed in statute	N		Or. Rev. Stat. 221.142 (2017)

South Carolina (Municipal)	Unaddressed in statute	One training course	12 Months	14 hours annually	Y (within 12 months and every 8 years thereafter)		S.C. Code § 14-25-15 (2017), S.C. Supreme Court Rule 510
Texas (Constitutional County Courts)	Unaddressed in statute	30 hours	12 Months	16 hours annually	N		Tex. Code § Title 2-Subtitle A-Chapter 26 (2017), Tex. Rules of Judicial Education Rule 2
West Virginia (Municipal)	Unaddressed in statute	One training course	Next available	30 hours every 2 years	N		W.Va. Code § 8-10-2 (2017), W.Va. Judicial Disciplinary Procedure Rule 7.14
Wisconsin (Municipal)	Unaddressed in statute	One training course	Next available	4 hours annually	N		Wis. Stat. § 755.18 (2017), Wis. Supreme Court Rule 33
Wyoming (Municipal Court)	Delegated by statute to municipalities	Unaddressed in statute	N/A	Unaddressed in statute	N		Wyo. Stat. § 5-6-103 (2017)