

# Judicial Process Puerto Rico Court System Case Study Law Essay

Mr. Governor, You recently asked me to undertake an enormous task of creating a new court system for the 53rd state of Puerto Rico. I took the outline from three state court systems of New York, Alaska, and Colorado. I divided the State into 4 equal parts to distribute the courts equally.

The current Judicial System is directed by the Supreme Court. The Supreme Court is formed by 7 judges (a chief justice and six associate justices) named by the Governor. The structure of the Judicial System includes a Court of Appeals, Superior Court, a District Court (civil & criminal), and Municipal Court. There are 12 judicial districts. The State of Puerto Rico also has a district court comparable to those of the states of US. Each district court has at least one district judge and can have more than a score of district judges, as well as a clerk, a United States Attorney, a United States Marshall, one or more United States Magistrates, bankruptcy judges, probation officers, court reporters, and their staffs. Each state has a court system that is independent of the Federal Court system. State courts have trial courts at the bottom level (village, town) and appellate courts at the top. Some states have two appellate levels; Puerto Rico will be set up to have only one appellate court.

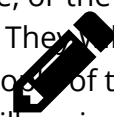
## Town Courts or Village Courts

Town and village courts have jurisdiction over a broad range of matters including vehicle and traffic laws, small claims, evictions, civil and criminal matters. The Town and village courts will play a vital role in the 78 municipalities of Puerto Rican Court System. These courts have broad jurisdiction and they hear both civil and criminal matters.

On the civil side, the Town and Village Courts hear actions seeking monetary awards up to \$3,000 and small claims proceedings for awards up to \$3,000. These courts also handle landlord/tenant matters that may result in an eviction as well as a money judgment for back rent that is due. Town and Village Courts are best known for their small claims parts. Small claims proceedings are intended to provide a low-cost, simplified and informal procedure for individuals to resolve disputes involving limited monetary claims. Often individual litigants do not use an attorney in these matters and are not required to do so.

On the criminal side, these courts are authorized to handle matters involving the prosecution of misdemeanors and violations that are committed within the towns or villages geographic boundaries. The Town and Village Courts also conduct arraignments and preliminary hearings in felony matters. In addition, these courts hear Vehicle and Traffic Law misdemeanors and traffic infractions. Town and Village Justices are required to be on-call 24 hours a day and are often called upon to arraign misdemeanor and felony charges as well as to act as Family Court judges when Family Court is not in session. In cases involving domestic violence, the judges are also authorized to issue orders of protection.

In NY, town and village justices are elected to four year terms. This will be the same for Puerto Rico. The majority are not attorney. In order to serve as a town or village justice must complete a certification course and participate in ongoing judicial education. With the new Puerto Rican courts all judges whether they are town, village, or the highest in the state will all have to be attorneys currently practicing for a minimum of 2 years. They will have to submit their name to the local election officials to get their name on a ballot. The people of the local town or village will have to elect the justice to a two years term. With the town and village justices they will have a maximum of 5 two year terms. In the event of a death or resignation of a justice while currently serving, but before the end of his or her term, the local mayor or highest elected official of that municipal will have to appoint a judge pro-tem. The mayor will select the judge within a selected period of time. When the deceased judge's term is up and the temporary judge is on the bench, he or she will have to go through the process to be official elected to the bench. Puerto Rico, will also model its Justice selection based on, Alaska's Constitution that provides for the merit selection of judges. The Judicial Council is required to screen judicial applicants based on their ability to be fair and competent judges, rather than their political contributions, party connections or how well they look on TV.



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## Municipal or County Courts

Puerto Rico is going to be divided in to 4 different counties. Within these four counties will be Municipal or County courts. Within the County Courts will be Family Court, Juvenile Court, tax court, small claims court and drug court. The County court is the court of original jurisdiction. They will deal with felony or high misdemeanor cases. There are two types of judges in the County court: County judges and associate judges. County judges are elected for a six year term and may be retained by voters for additional six year terms. They can hear any County court case. County judges are initially elected either County-wide, from the county where they reside or from a sub County within a county, depending on the type of vacancy they are filling. Associate judges are appointed by County judges, pursuant to Supreme Court rules, for four-year terms. An associate judge can hear any case, except criminal cases punishable by a prison term of one year or more (felonies). An associate judge can be specially authorized by the Supreme Court to hear all criminal cases. There are three sub-courts within the County Courts jurisdiction within the state of Puerto Rico that will handle all family related case, juvenile cases and drug courts.

**Juvenile Court-** Children who have been arrested and held may be brought directly to family court by the Police, or when court is not in session, may be held overnight in a detention facility until the next court day. In the alternative, a child may be arrested and released after being given an "appearance ticket" directing him or her to appear in court on a certain date. In court, the child and his parent or guardian are given a copy of the petition. For a "respondent" to be eligible to have his or her case before the family court, they must be not be charged with murder, kidnapping, rape 1st degree, or any 1st degree drug charges.

**Drug Courts-** These courts are interdisciplinary, non-adversarial judicial processes; they are a new collaboration in the way the justice deals with drug offenders. Upon the offender voluntary entry into court-supervised programs, non violent offenders become part of the drug court. Rules of participation are defined clearly in a contract agreed upon by the defendant, the defendant's attorney, the district attorney and the court. The rules of the drug courts must be followed. It is an eighteen month program. The offender must seek or keep employment, treatment, counseling and meet

regularly with the court. If an offender violates these rules or fails to complete the drug –treatment program, then the offender can face being sent to prison and have a criminal record. If the offender completes the program then he or she is released on a conditional probation. This program is not intended to be abused. If an offender comes before the court on three separate occasions then it is automatic prison sentence. Puerto Rico will have 4 drug courts per county.

**Family Court-** The Family Court has jurisdiction to hear all petitions for divorce and any motions in conjunction with divorce proceedings, such as property distribution, alimony, support, child custody, and orders of protection. It hears petitions for separate maintenance and complaints regarding support for parents and children. It has jurisdiction over matters relating to delinquent, wayward, dependent, neglected, abused, or mentally deficient or disordered children. It also has jurisdiction over adoptions, child marriages, paternity proceedings, and other matters involving domestic relations and juveniles.

**Tax Court:** - Puerto Rico will adopt a Tax Court similar to Indiana. The Tax Court has exclusive Jurisdiction over any case that involves under the Tax Law of the State of Puerto Rico and that is an initial appearance of the final determination made by the Revenue Department or Tax Review Department. It will also have jurisdiction over appeals of inheritance tax, new taxes applied to Non-taxable entities.

**Small Claims Court-** This court will have the authority to hear and decide case that involve small claim cases in which the plaintiff is seeking money judgment of up to \$4,500.00. Before they can proceed to a contested hearing before the court, parties are required to meet with a mediator to see whether they can resolve the case by agreement. If the parties cannot reach an agreement, the mediator will inform the court. The plaintiffs will have to testify under oath and the Judge has to authority to admit all evidence that he or she see as having probative value. The plaintiff must prove the elements to win their case.

.Any case heard either small claims, tax, family, or juvenile court can be appealed to the Court of Appeals.

## Appellate Court

Puerto Rico Court of Appeals will meet regularly in Ponce, which is Puerto Rico second largest city. The Court of Appeals for Puerto Rico has the authority to hear appeals in cases involving criminal prosecution, post conviction, juvenile delinquency, extradition, habeas corpus, parole and probation sentencing matters and bail. The Court of Appeals will consist of a 5 panel judge system having one Chief Judge and four Associate Judges. The Judges will be selected by the Governor and will have to have the State Legislature's approval or confirmation to be appointed. Judge on the Court of Appeals will serve a term of 10 years. They can be re-selected under the current Governor to serve an additional 10 years, not to exceed a max of 20 years. The court of appeals has jurisdiction to hear appeals in cases involving criminal prosecutions, post-conviction relief, juvenile delinquency, extradition, habeas corpus, probation and parole, bail, and the excessiveness or lenience of a sentence: Merit Appeals- (issues concerning the merits of a conviction) or Sentence Appeals- (the excessiveness or leniency of a sentence) - The court of appeals must hear appeals from final decisions by the superior court or the district court. Petitions - The court of appeals may exercise its discretion to hear appeals of non-final decisions from the superior court or the district court or from final

decisions of the superior court on review of the district court's decisions. Original Applications - The court of appeals may exercise its discretion to hear cases in which relief cannot be obtained from the court through one of the above types of appeals (Alaska Court Systems). Support staff for each judge consists of one secretary and one law clerk, although a judge may have two law clerks, one of which typically performs secretarial work. Each is a confidential employee and serves at the pleasure of the judge. Staff for the entire court includes the Reporter of Decisions and the clerk of the court and his eight employees. Further, there are nineteen full-time staff attorneys with a small support staff, whose activities and functions are described below. In all, there are about 105 employees, including judges (Colorado State Judicial Branch, Protocols).

## State Supreme Court

The Puerto Rico Supreme Court is the highest court within the state. Its decisions are binding within the State. It is located in Puerto Rico's largest city and capitol, San Juan. The State Supreme Court meets 4 times a year to hear cases from the Court of Appeals. The Supreme is not a court of original jurisdiction, but only in cases of treason high crimes or misdemeanor and misconduct involving the Governor or Legislators, statutes which are held to be unconstitutional. The Court is made up of nine judges, one Chief Justice which is also the head of the Puerto Rico Judicial System., and eight associate judges. The Judges are selected by the Governor, and need Legislative approval. A vacancy in a judicial position occurs when a judge dies, retires, resigns, or is removed from office. The Judges of the Supreme Court shall be at least thirty years of age, of good moral character, having no or any pending misconduct charges against them within the last two years, be certified and practicing attorney with in Puerto Rico, citizen of the United States and two years a resident of the State, and who has been a practicing lawyer eight years, or whose service upon the bench of any court of record, when added to the time he may have practiced law, shall be equal to eight years (Arkansas Judiciary).

## Ethics for Judges

A critical issue is how to judge the judges. Judges, with the exception of part-time municipal court judges, are prohibited from engaging in the private practice of law while serving in a judicial position. A Judicial Conduct commission will be created as an arm of the Governor. The Commission will consist of judges, attorneys, and other designees the Governor sees fit. Judges and attorneys with Puerto Rican courts are going to be held to a higher standard. Like other states judges will and do have discretion in deciding case. These decisions will be based on the Puerto Rican constitution, and law. Judges may choose to sentence a criminal to probation, community service, or prison. This Commission will convene to decide on whether a Judge will face sanctions, which will range from written reprimands to suspension to being removed from the bench. Systems for removing or discipline unfit judges will fall to this commission. Like Indiana's rules, Puerto Rico's judicial officers may be disciplined for any of the following reason, but not limited to. Conviction of felonies, moral turpitude, willful and persistent failure to perform duties, willful misconduct while in office, repeated failure to adhere to rules of procedures. Most judicial misconduct involves some form of corruption. Including but not limited to, criminal charges, bribes, unlawful conduct involving a person before their court. Some sanctions that can be levied upon a Judge are removal, suspension, fine, reprimands or retirement. A retirement does not have to be for disciplinary reasons. A judicial officer may be involuntarily retired when a physical or mental disability seriously interferes with the performance of

judicial duties. Even though Judges have discretion in handing out sentences, the commission will review sentences that appear to not fit the crime. If a judge hands down a sentence to a suspect because he or she is too small for prison, then the commission can review the sentence, but not over turn it. The purpose of the review is to decide if the Judge needs to face sanctions. When a Judge is presiding over a criminal or civil matter and that Judge knows the client or suspect, or has any impartial knowledge of the case he/she must remove themselves from presiding over the case. This is to prevent any impartiality or appearance thereof.

## Attorneys

The purpose of lawyer discipline proceedings is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are unlikely to discharge their professional duties to clients, the public, the legal system, and the legal profession properly (Florida Bar Section 1.1); Attorneys will be held to strict ethics under the Puerto Rico Rules of Conduct. Attorneys are required to have a minimum of a Bachelor Degree in any related course of study. When they finish they have to attend a three year accredited law school of their choosing. Upon completion of Law School, before they can become practicing attorneys for the State Of Puerto Rico they must pass a Bar exam. Like the Colorado Bar Association Rule 8.4 Misconduct Lawyers are subject to disciplinary action when they violate or attempt to violate the Rule of Professional Conduct, or knowingly assist or induce another to do so. These can include, but not limited to committing a criminal act, dishonesty, fraud deceit, engage in conduct that is prejudicial to the administration of justice, influence or attempt to influence a government agency or agent, or assist another lawyer, judge or judicial officer in unlawful conduct (Rule 8.4 Misconduct, CBA). Puerto Rico's attorneys will be disciplined by the Supreme Court. Such disciplinary action can be but not limited to.

Admonishment-This is where the attorney goes before a judicial board for minor misconduct or violation of minor rules and regulation. Probation- The respondent may be placed on probation for a stated period of time of not less than 6 months or more than 3 years or for an indefinite period determined by conditions stated in the order. The judgment shall state the conditions of the probation, which may include but are not limited to the following: restitution, completion of a professional program. Suspension.-The respondent may be suspended from the practice of law for a definite period of time or an indefinite period thereafter to be determined by the conditions imposed by the judgment. During the suspension, the individual may continue to be a member of the bar, but will lose their practicing privileges. Disbarment- For the most serious offenses, the lawyer may face disbarment. There are two forms are disbarment. Permanent and temporary. A lawyer who is permanently disbarred may not reapply for readmission, an attorney who faces temporary disbarment may reapply for re-admission after 5 years (Florida Bar Rule 3-5.1).

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