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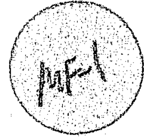
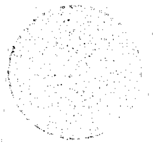

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Executive Summary

The Enforcement of Fines as Criminal Sanctions:

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James K. Stewart
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U.S. Department of Justice
National Institute of Justice

The Enforcement of Fines as Criminal Sanctions:

The English Experience and Its Relevance to American Practice

by

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November 1986

104329

U.S. Department of Justice
National Institute of Justice

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ABSTRACT

This Executive Summary presents findings from a study of four English magistrates' courts with respect to strategies for setting and enforcing criminal fine sentences. It complements earlier research on the use of fines in American criminal courts conducted by the Vera Institute and the Institute for Court Management (Hillsman et al., 1984). The principal source of empirical data for the current study are samples of cases from three urban and one town magistrates' courts that target offenders convicted of non-trivial offenses who were at risk of being sentenced to a term of incarceration and who, because of their poverty, were at risk of non-payment if fined as an alternative sentence. Quantitative case record data are augmented by extensive qualitative data obtained from interviews with court and other criminal justice system personnel and with civilians involved in fine enforcement and from observation of all aspects of the fining process. The qualitative data focus particularly on the two most coercive fine enforcement techniques used in England--distress (seizure of property) and committal to custody for fine default.

The data suggest that fines are near the core of English sentencing policy, including their use as the courts' major alternative to imprisonment; they are used frequently for non-trivial offenses and for offenders characterized by prior offense records and limited financial means. The data suggest further that, in setting fine amounts, magistrates emphasize the severity of the offense and do not always review thoroughly the information available to them on offenders' means. Thus, the total fine amounts set are often high and inconsistent with offenders' means; this is evident especially when the total financial penalty imposed by the court (and referred to as "the fine") includes restitution payments.

Overall, the empirical evidence collected supports the basic assumption underlying the sentencing system--that fines, when set rationally in relation to means as well as offense severity, can be collected from offenders, even when they are poor. Voluntary payment and the degree of success courts have eliciting payment are directly related to the size of the fine obligation imposed and the degree of the compatibility with an offender's means. Courts with the most successful fine enforcement strategies are those that use short terms for payment (rather than longer installment plans), and that identify non-payment swiftly and react rapidly and personally with a steady progression of responses characterized by mounting pressure and increasing threat of more coercive techniques: first the seizure of property (distress) and, only then, committal to custody. The research also shows that courts rarely exhaust the enforcement options available to them before they resort either to the most coercive (and most costly) enforcement device--committal to prison--or to writing-off the fine as uncollectable. In particular, many courts fail to try distress, despite a recent increase in its use in England, and its apparent effectiveness. Distress, as do other enforcement techniques, works primarily by threat rather than by the actual seizure and sale of property.

The study makes a series of policy recommendations for American courts interested in expanding their use of fines or in improving current fine collection and enforcement activities. The recommendations also suggest ways English magistrates' courts might improve their own operations to further

enhance the credibility of this important sanction. The recommendations focus on the need to professionalize fine administration and to rationalize decision-making processes, especially by centralizing the responsibility for fine enforcement; by experimenting both with a day-fine system of setting fines in relation to offense severity and offender means and with distress as an enforcement device; and by expanding options available to the court when committal to custody for default appears the only remaining means of ensuring the fine sentence is enforced.

ACKNOWLEDGEMENTS

The current research on fine enforcement in England grows organically from a broader, exploratory study of fining in American criminal courts completed by Vera in 1984. The study of American practice was stimulated initially by the National Institute of Justice, which has provided primary financial support for both projects. Therefore, we wish particularly to thank Bernard Auchter and Cheryl Martorana of the Adjudication Division of NIJ for their encouragement and substantive contributions during the course of this research, as well as for their willingness to sponsor a study conducted far from home. We anticipated at the outset that the magistrates' courts in England would be a strategic research site, providing timely, policy-relevant information not readily available from American sources. The Vera Institute's ten years of action research in England, conducted in collaboration with British colleagues, particularly in the Home Office, encouraged us to proceed. Now, at the conclusion of our work, we hope that both British and American readers of the project's reports will share our view of the utility of this cross-cultural research.

We appreciate the cooperation extended to us by the Research and Planning Unit of the Home Office, without which this study could not have been done. In particular, Bronwen Fair, David Moxon, Patricia Morgan and Hugh Pullinger provided enthusiasm, encouragement, advice and considerable support when it was needed most. Their generous contributions to our work are gratefully acknowledged.

Three consecutive directors of Vera's London Office deserve our special thanks for their help and for their tolerance as we carried out this relatively complex project. Thomas W. Church, Jr., played a crucial role in devising the plan for the research and was a constant advisor and contributor, especially during the project's first year and during the process of editing and revising the final report. Barry Mahoney also gave liberally of his considerable knowledge of the English and American court systems. As co-principal investigator of our original study of fine use in American courts (which was conducted in collaboration with the Institute for Court Management in Denver, Colorado), Barry's contribution to this second study of fine enforcement was extremely important, particularly as we strove to draw linkages between the English and American experience. Finally, Floyd Feeney provided much needed support and encouragement toward the end of the project as we attempted to wrap-up the research and to write coherently by trans-Atlantic mail from the vast quantity of data we had compiled.

Others associated with the Vera Institute's London Office provided tireless, skilled assistance as we attempted to understand the complex process of fine setting and administration in four diverse and geographically disparate magistrates' courts. Mary Baginsky carried out much of the qualitative interviewing and generally supervised the collection of case record data. The quality of the empirical data owes much to her sensitivity and perseverance. Our thanks also to Sharon White and Kimberly Patrick for leading research teams in the field as well as to Sue Gorbing. Valrose Hayes and Joan Bowring, in London, and Scott Sparks, in New York, brought welcome humor, as well as many hours of hard work, to the preparation of the project's many draft (and, now, final) manuscripts.

Finally, we offer thanks to the many people, at the four research sites, on whom the success of England's sentencing policy of relying on fines as the sentence of choice rests so heavily. In particular, the Chief Clerks and their staffs gave generously of their scarce time, considerable knowledge, their broad expertise, and their insights into the strengths and weaknesses of the fining process. The magistrates themselves were always concerned and helpful, despite our intrusions and endless questions. The Chief Constables and members of their police forces offered us much needed assistance as we sought access to past record information. And the Governors and staffs at the prisons we visited were always cooperative and informative as we tried to understand the problems fine enforcement pose for them.

We hope our manuscript manages to convey the dedicated and competent professional service these individuals provide in what is a central, but often difficult and generally unheralded part of the criminal justice process. We have drawn upon their own observations and critiques to enrich our understanding of the problems they face day-to-day. We hope we have carried out this task accurately and with sensitivity.

It is our hope that, by putting together what we have learned about the strengths and limitations of current fine setting and enforcement practices in magistrates' courts in England and by attempting to place them in a systematic framework, we will stimulate creative policy discussion and encourage experimentation and research both in England and in the United States. Fines have been demonstrated to be of considerable use as a punishment, within the rather narrow repertoire of criminal sanctions, and we believe their use could be extended further; but fines have almost been ignored in policy discussions and research, especially in the United States, in large measure because the sentencing activities of lower courts generally have been neglected. We view this set of empirical studies as one step toward rectifying this situation.

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ENFORCEMENT OF FINES AS CRIMINAL SANCTIONS:
THE ENGLISH EXPERIENCE AND ITS RELEVANCE TO AMERICAN PRACTICE

EXECUTIVE SUMMARY

I. INTRODUCTION

One important trend in contemporary criminal justice policy and research has been a search for ways to expand the repertoire of sentencing options available in criminal cases and to provide meaningful alternatives to incarceration. Improving fining practices and expanding the use of fines as a sentencing alternative seems an obvious direction for policy consideration. The fine is a penal sanction already in place and extensively used in legal systems on both sides of the Atlantic. Its overall use as an alternative to short-term custody has been growing, at least in Europe. But, until quite recently, there has been little information available about the use and enforcement of fine sentences in the United States.

During the last decade, research on fines has been undertaken both in Britain (e.g., Softley, 1973, 1978; Morgan and Bowles, 1981; NACRO Working Party, 1981; Casale, 1981; Softley and Moxon, 1982) and more recently in the United States (Hillsman et al., 1984; Gillespie, 1980, 1981, 1982). These studies have acknowledged the need to focus on the link between the way fines are imposed at sentencing and the methods by which they are collected and enforced. Nevertheless, most studies have explored one or another discrete aspect of the fine as a sentence rather than explore, as we do here, fining as a process in which imposition and implementation (collection and enforcement) are inextricably interwoven. This latter type of research is important for policymaking because, unlike other major criminal penalties, a fine typically involves the court itself in action to ensure punishment.

Fining involves complex relationships among most units of a court's staff and other elements of the criminal justice system. The close examination of these relationships undertaken for this study leads us to the conclusion that the final outcome of a fine sentence (payment or non-payment) depends as much upon how the initial stage--the imposition of the sentence--is handled as it does upon the post-sentencing strategies employed to implement the sentence, but that successful management of the complex interaction between sentencing and enforcement decisions is crucial. The viability of the fine as a criminal sanction depends upon the integrity and internal consistency of the overall fining process.

This research builds upon our earlier study of fines as criminal sanctions in the United States (Hillsman et al., 1984). That work suggested that, despite widespread use of fines in this country, the perception of serious collection problems and enforcement failures discourages policymakers from closer examination of the potential for improvement and expansion of the fine's use as a punishment. Unfortunately, data on American courts' experiences with different strategies for imposing and collecting fines are frag-

mentary, and the chaotic state of official court record systems in this country makes policy research on fines extremely difficult.

The situation in England is appreciably different. There, as elsewhere in Europe, the fine has long been the mainstay of the sentencing armory. It is also the courts' major alternative to imprisonment. Thus, evidence of uneven patterns of success in fine collection in English courts has attracted policy attention and has led researchers to explore how fines are used and enforced. This has been possible because information on most aspects of the fine collection and enforcement process are available in the records of the English lower court system.

The experience of English magistrates' courts with respect to the collection and enforcement of fines is of relevance to American policymakers interested in better (and perhaps wider) use of the fine as a sentencing alternative. The magistrates' courts, which have criminal jurisdiction roughly analogous to that of American limited jurisdiction criminal courts, handle all aspects of over 90 percent of the criminal cases in England and Wales, and fines are used in approximately half of their sentences for indictable offenses (See Table 1 below, p. 43).

As in the United States, the threat of imprisonment has long been regarded in England as a primary tool for enforcing fine payments. But, perhaps because of a greater desire to employ fines as an alternative to incarceration, the English have also given attention to other mechanisms to ensure payment. Some of these, such as reminder letters and warrants or summons to bring defaulters back to court, are known in American courts although they are often used differently. Other mechanisms employed by English courts, such as the attachment of earnings and the issuance of distress warrants, are provided for by statute in some American states but appear to be used rarely.[1]

Because the English legal system has much in common with the American system, and because fining policies and practices have developed to a greater extent in Britain than in the United States, it should be possible for Americans to gain useful insights in this area through examination of the English system.

For American policymakers interested in the effective use of the fine as a sentencing alternative (including as a way to reduce reliance on short-term custodial sentences), the heart of the problem is the poor defendant accused of a non-trivial offense. In many American lower courts, fining such cases is often thought to be inappropriate, because of the perception that the fine either cannot or will not be paid. Given the lack of other enforceable options for punishment, however, the result is frequently the imposition of a short jail sentence. The English appear to take a somewhat different view,

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[1] When a fined offender is in default, the court may issue a warrant authorizing the forcible seizure and sale of the offender's personal property to pay the amount in default. Such warrants, usually executed in England by bailiffs who are private businessmen under contract to the court, are known as "distress warrants" and the overall process is referred to as "distress." The use of distress has increased dramatically in English courts in recent years.

commonly using a fine even when American courts might sentence the offender to jail. It is this difference—and the practical experiences that underlie it--which makes an examination of fining practice in English magistrates' courts a worthwhile undertaking.

The current research was designed to achieve three principal objectives: first, to describe how specific fine imposition and enforcement procedures actually work in English courts, and to identify the problems that are encountered; second, to assess the implications of these practices and problems for American policy development, focusing in particular on the efficacy of the fine as a sanction for non-trivial offenses and for offenders who are both poor and have prior criminal records; and third, to develop suggestions regarding imposition and enforcement practices with which American lower courts might experiment.

The approach followed in this study is largely descriptive and is based upon combining qualitative data obtained from interviews and observations with quantitative data collected from actual case records obtained from four English magistrates' courts. While no four courts are representative of the more than 600 magistrates' courts in England and Wales,[2] we chose courts in distinctly different geographic areas that also varied with respect to four other factors of importance to the fining process: the transience of the population; the socio-economic status of the offender population; the nature of the court's criminal caseload; and the type of fine enforcement strategy employed by the court. Three of the magistrates' courts selected are located in urban settings: one in Inner London and two in major urban areas in England's industrial heartland that have been hard hit by recent years of recession. The fourth court, in a small provincial center, provides a contrast to the English urban courts and has much in common with many American courts located outside large cities. Two of the four courts selected make considerable use of distress warrants (seizure of property) as an enforcement device while the other two did not use it at all during the period covered by our research. One court had a semi-automated record system for monitoring fine payments and for producing official collection documents; the others operated entirely with manual systems.

For reasons of American policy interest indicated above, we wanted to focus on cases in these four courts having two characteristics: (a) the defendant was a likely candidate for a custodial sentence because of the non-trivial nature of the offense and/or a long prior record, and (b) there was risk of non-payment if a fine sentence was imposed as an alternative because of the defendant's limited financial resources. To accomplish this, our collection of case record data was limited to defendants convicted of two categories of offenses which are among the more serious handled by the magistrates' courts: those involving certain offenses against property (shoplifting, taking and driving away a motor vehicle (t.d.a.), other types of theft,

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[2] The administration of justice in the United Kingdom is not subsumed under one system. Scotland and Northern Ireland have separate court systems. Reference in this study to the system in England and Wales concerns a single system of magistrates' courts and Crown courts that operates throughout these two areas.

handling stolen property, and criminal damage); and those involving certain offenses against the person (assaultive behavior without a weapon or serious injury to the victim). Further, we selected the samples from cases involving defendants who had applied to the court for legal aid, as such applications suggest the defendants are at the lower end of the income scale. Because legal aid is not granted automatically by the court, even when a defendant has demonstrated financial need, defendants who apply tend to be those at some risk of imprisonment if convicted. For research purposes, focusing on this group of cases was also strategic because, when an offender applies for legal aid, the court record includes detailed self-reported information on the defendant's financial circumstances; such data has been lacking in virtually all research to date on fined offenders in either England or the United States.

In each of the four courts, we drew a general sample of about 300 such cases, and then analyzed in greater detail the approximately 100 cases from each sample in which a fine was imposed at sentence. From this data base, we have first built a picture of overall sentencing patterns in the four courts to see how the magistrates use fines for offenders at risk of incarceration or of non-payment if they are fined as an alternative sentence; we then examine outcomes of the collection and enforcement process, for those who were fined, in light of the somewhat different enforcement strategies followed by each court. Our analysis of these official case data has been supplemented by structured interviews with practitioners in these courts and by observation of court processes which center on the working of two types of highly coercive enforcement mechanisms--distress warrants and committal to prison.

A full discussion of the methods, findings and recommendations of this study may be found in the project's Final Report.

Key findings and conclusions found in this discussion include the following:

- The fine, practically and philosophically, is near the core of English sentencing policy, including its increasing use as the courts' major alternative to imprisonment. The heavy use of fines by a court appears to be inversely related to its use of custodial sentences.

- The fine is used as the sole penalty in most cases, rarely in combination with custody or probation (the latter being imposed infrequently in England). However, fine sentences often include amounts for restitution, court costs and other fees. These amounts are usually set separately by the court, which tends to ignore the magnitude of the total sum it is levying on the defendant.

- In setting fine amounts, magistrates emphasize the severity of the offense; as a result, magistrates often do not review thoroughly all the information on the offender's means that is readily available to the court. Thus, fine amounts tend to be high because fines are often imposed as a sanction for offenders at risk of imprisonment because of the charge severity or their prior records.

- The extent of voluntary payment and the degree of success magistrates' courts have eliciting payment tend to be

directly related to the size of the total fine obligation and, particularly, to the degree of compatibility between the amount imposed and the means of the offender. Therefore, English courts are discussing how to encourage magistrates to make greater use of the means information already available to them, including how to introduce a formal day-fine system (based on those found in Scandinavia and the Federal Republic of Germany).

° Most empirical evidence supports the expectation in the English sentencing system that fines--when set rationally in relation to means as well as offense severity--can be collected from offenders, even when they have limited financial resources, _if_ the collection and enforcement process is swift to identify and respond to non-payment and if it moves systematically through the variety of enforcement options at the court's disposal.

° Successful fine enforcement strategies emphasize continuous supervision of fined offenders, beginning with routine contact and notification procedures that make it clear that the court views the fine obligation seriously and unequivocally expects payment. Successful enforcement strategies are characterized by short terms for fine payment (rather than longer installment plans); when these terms are not met, the court's response is rapid and personal, with a steady progression of responses characterized by mounting pressure and increasing threat of more coercive techniques: first the seizure of property (distress) and, finally, committal to prison.

° Although threat of imprisonment appears a necessary coercive tool in a court's repertoire of enforcement devices, English sentencing policy holds that its use should be limited--for jurisprudential as well as practical reasons--to the blatantly defiant offender. Our research suggests, however, that few courts exhaust all other enforcement options before resorting to committal; in particular, many fail to try distress. More magistrates' courts in England are experimenting with distress, especially employing private entrepreneurs as collection agents. The process appears effective, operating largely by threat rather than actual seizure.

° When imprisonment appears the only remaining device to enforce a fine, the court should be certain the non-payment is a result of willful disregard of the court's order and not the excessive size of the fine amount, or the irresponsibility of the offender. Despite frequent means hearings, this is not always done in magistrates' courts. If the offender is having difficulty meeting the fine payments, the court typically adjusts the terms of payment rather than reducing the amount. It thus prolongs the problem rather than solves it. Furthermore, courts tend not to have trained personnel to supervise the offender closely and assist him manage his

affairs so as to cope better with his financial obligations to the court.

- From a policy perspective, in devising and implementing a successful fine setting and enforcing process, a court is confronted with administrative tasks that are unlike its other managerial activities. While court administration is an emerging field on both sides of the Atlantic, far greater attention must be paid to professionalizing fines administration if the fine is to remain (or become) an important criminal sanction, particularly if it is imposed in lieu of imprisonment. Although England has traveled further in this direction than has America, more effort is needed to rationalize fine administration and refine the entire decision-making process.

II. USING THE FINE AS A CRIMINAL SANCTION: SENTENCING PRACTICES IN THE MAGISTRATES' COURTS

A. The Magistrates' Courts - An Overview

Our research is confined to the magistrates' courts because it is here that the predominance of the fine is most apparent. These courts deal with about 95 percent of court business arising from criminal offenses, and they are broadly analogous to the courts of limited jurisdiction in the United States in which fine use as a criminal sanction is also most extensive.

The magistrates' court is composed of either a bench of two or more lay Justices of the Peace, non-lawyers not paid for this work, or a stipendiary (paid) magistrate, a professional judge with past experience in the practice of law. The magistrates' courts system runs primarily with lay justices, who are appointed on the recommendation of local committees by the Lord Chancellor. Stipendiaries are rare and found only in the largest cities.

In the English system, criminal offenses are divided into three categories: summary, "either-way," and indictable. Summary offenses may be tried only in the magistrates' courts and, therefore, not by jury. Either-way offenses, as their name suggests, may be tried either in the magistrates' court or in the Crown Court. The offender charged with an either-way offense may exercise a choice of mode of trial: by a bench of lay justices or a single stipendiary magistrate in the magistrates' court, or by jury in the Crown Court. The main advantage of trial by magistrates' court lies in the limited powers of punishment available to the magistrate: a maximum of six months imprisonment imposable for a single offense. Purely indictable offenses (comparable to more serious felonies in the United States) originating in the magistrates' court are not triable there; they must be referred to the Crown Court for trial.

A central role in the magistrates' court is played by the clerk to the justices. Although the justices are usually lay magistrates with only training course experience in the law and the workings of the criminal justice system, the clerks are usually fully qualified solicitors. The clerk has overall responsibility for all the day-to-day administrative work of the court, including the collection of fines and deciding who will receive legal aid. In addition, the clerk and his deputies perform the function of "clerk to the court." This means directing courtroom sessions and performing many of the oral tasks, such as putting to the defendant questions regarding his identity and address, plea and choice of venue. In many magistrates' courts, the clerk is the sole legally qualified person available to advise on points of law. As we shall discuss below, this authority has important implications for the imposition and enforcement of fines.

B. The Fine in Relation to Other Sanctions: English Law and Practice

The fine is the pre-eminent sanction for criminal offenses in the English system. Under English criminal law, magistrates and judges have enormous sentencing discretion, and it is permissible for sentencers to impose fines in almost all cases. That they do so in a high proportion of cases reflects the

prevailing view of the fine as a useful and appropriate punishment in most criminal cases.[3]

During this century, there has been a trend in England, as elsewhere in Europe, away from short-term imprisonment in favor of fining as a means of punishment. Between 1938 and 1960, in England, the increase in the use of the fine for violent offenses was far greater than any other penalty, especially after conviction for indictable offenses. This policy direction has been explained in terms of four factors (many of which are present today in the United States): (a) the proportional increase in young offenders convicted of crimes of violence and the prevailing policy of using alternatives to imprisonment for offenders under 21 years of age; (b) a general disenchantment with short-term imprisonment; (c) prison overcrowding; and (d) the increase in non-stranger crimes of violence (McKlintock, 1963).

The predominance of the fine is reflected in the aggregate sentencing statistics for England and Wales. The fine accounts for 86 percent of all offenders sentenced in 1980. Even among the more serious offenses, the fine is the most frequent penalty imposed (for 48% of offenders convicted of indictable offenses). The dominant position of the fine is the more dramatic because, in contrast to practice in other European countries, the fine in England is typically the sole punishment for the offense; statutory restrictions limit the courts' ability to combine it with other penalties.

However, aggregate figures mask differences among individual courts. In England, the greatest variance in sentencing practices is found in courts' use of fines. Research in the early 1960s indicated that the proportion of convicted offenders sentenced by means of a fine varied among magistrates' courts from a maximum of 81 percent to a minimum of 25 percent (Hood, 1962); more recent data suggest a somewhat narrower range, 76 percent to 46 percent (Tarling, 1979). Not surprisingly, courts that tend to use fines frequently imprison sparingly, and vice versa (Hood, 1962:99).

There is also considerable variation in fining patterns by offense type. Aggregate data indicate that among indictable offenses, robbery is rarely dealt with by a fine (6%) and burglary in less than a quarter of cases. Violence against the person, however, is frequently handled by a fine (50%) as are theft or handling (stolen property) offenses (52%) and criminal damage (42%). But the use of fines also varies across courts by offense type with the range for burglary being 19% and 62% (Tarling, 1979).

The high incidence of fines as punishment for non-trivial property and assaultive offenses in the English system recommends them for closer examination, especially in light of American research indicating that in some courts

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[3] Fines also generate considerable revenue, which distinguishes them from other penalties which expend resources without recovering them. As in American courts (Hillsman, et al., 1984: 19), fining in England is big business. For example, the West Court Fines Office banks over £30,000 weekly; in 1981, the court disposed of more than 63,000 criminal cases, recovering over £1.5 million in fine revenues. Capital Court dealt with over 22,000 cases that year and recovered nearly half a million pounds.

fining is less extensive for these offense categories and that there may be room for expanding their use, including as an alternative to short custodial sentences (Hillsman et al., 1984). Therefore, we include here six brief profiles of fined cases from our research samples. Their purpose is to give the reader, as best we can from the official data recorded on the case, a "feel" for the nature of non-trivial cases fined in the magistrates' courts. The six are not atypical; they have been selected because (1) they are assault cases that might not have received a fine in American courts; (2) the offenders were unemployed or casually employed; (3) the offenders had previous criminal convictions and had previously been fined; and (4) they paid their current fines either at once or eventually.

Case 1

An 18-year-old male on unemployment benefit of £19 per week was convicted of assault as a result of a street brawl. No permanent injury was recorded. He had one previous conviction, also for assault (sentence not recorded). The sentence on the current conviction was: £40 fine and £25 legal aid contribution, to be paid at £5 per week. The offender did not pay until a reminder letter was sent; he then paid regular installments until the sum was paid in full.[4]

Case 2

A 53-year-old male on disability of £48 per week, with £4 per week from his father with whom he lived, was recorded as being an unemployed taxi driver. He was convicted of assault as a result of a pub fight; the victim's injuries were recorded as bruises and a lost tooth. The offender had two previous convictions, both for assault; the latter was dealt with by a fine (status of fine: paid, but no details of whether within terms set or after enforcement). He was sentenced to: £75 fine, £25 costs and £28 compensation, to be paid in 28 days. After three reminder letters he eventually paid the lump sum.

Case 3

A 25-year-old male, casually employed as a brick layer and currently earning £80 per week and receiving £4 per week from his father, who lives with him, was convicted of assault; the location of the offense was a work site, but no details of injury were recorded. He had three previous convictions (charges not recorded); one of these had been dealt with by means of a fine; which had been paid after enforcement. He was sentenced to: £80 fine, £50 costs and £50 compensation, to be paid at £10 per week. He paid outside the terms set by the court, but without court action.

Case 4

A 51-year-old male on unemployment benefit of £28 per week was convicted of assault against an acquaintance in the street. He had four previous convictions for offenses other than assault and had been fined once before. His

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[4] See figure 1 below, page 44, to convert £s to $s.

fine was not outstanding at the time of the current fine. He was sentenced to: £40 fine to be paid in 28 days. He paid in full within 28 days.

Case 5

A 27-year-old male on unemployment benefit of £42 per week was convicted of assault in a dispute involving friends. No permanent injury recorded, but he hit someone with a shovel. He had 11 previous convictions, "several for assault" (sentences not recorded, but known to have had two previous fines, neither currently outstanding). He was sentenced to: £75 fine to be paid at £5 per week. He did make a couple of payments, then defaulted, but paid the remainder as a lump sum when the means warrant was executed.

Case 6

A 32-year-old male was receiving £45 per week National Insurance and £12 from his father towards the household funds. This unemployed offender was convicted of assault and theft. He attacked the shop owner who was trying to detain him; the victim required stitches. The offender had 13 previous convictions and had had 8 fines (none now outstanding). He was sentenced to: £95 fine, £45 costs and £75 compensation, to be paid in 42 days or else he was to attend a means inquiry on the forty-second day. He did not pay, but attended the means inquiry, when his terms were reduced to £1.50 per week. He eventually paid the full amount through these regular small installments. It would have taken him about three years from sentence at these reduced terms, but after a year he paid off the remainder in a couple of large amounts (no record as to change in means).

C. The Sentencing Decision

Although English law calls for the court to decide the type of sentence according to the nature and circumstances of the offense, an operational notion exists that, with certain exceptions, the fine is the preferred sentence. Courts vary with respect to these exceptions. Some magistrates express reluctance to fine first offenders and discharge them instead; others routinely fine them. Some magistrates are reluctant to fine sexual offenders. Some proceed on the principle that an offender with three or more past convictions who is convicted of a non-trivial offense requires a more severe penalty than a fine. Some magistrates will not fine offenders who are obviously "down and out," particularly when they are of dubious address or no fixed abode.

Under English law the sentencing decision to fine is separate from the decision as to the amount of the fine. The High Court requires a sentencer "to consider first what type of sentence is appropriate. If [he] decides that the appropriate type of sentence is a fine, it is then necessary to consider what would be the appropriate amount of fine, having regard to the gravity (or otherwise) of the offense. Finally, the court should consider whether or not to modify this amount, having regard to the offender's means" (Latham, 1980: 85-86).

This is an important point. The separation of the decision stages should ensure that an offender is neither imprisoned because he appears to have no

means to pay a fine nor fined rather than imprisoned simply because the court could exact a very heavy financial penalty. From our court observations, however, this separation often appears theoretical at best; as we shall show, this departure from the ideal has significant consequences for fine collection and enforcement.

As in the United States, most sentenced offenders have been convicted on a guilty plea. Therefore, the court normally will have heard only a brief statement of the facts of the incident, and will know from the police of the offender's criminal history and a few details of his circumstances, including his employment, residence status, and how much cash he had on him at arrest. Unless the court has adjourned the case in contemplation of a possible custodial, probation, or community service sentence, it is rare for a social enquiry report (presentence investigation) to be prepared. In relatively serious cases, however, most of which involve legal aid grants, the defendant or the defense solicitor supplies the court with details of the offender's work, living arrangements and "character." Our observations suggest that the sentencing court's decision whether to fine or not may be influenced by practical economic considerations; legally, however, these factors should only come into play when the court, having decided a fine is the appropriate punishment, is considering the amount and terms of this sentence.

D. Sentencing Patterns in Four Magistrates' Courts

1. Offenders to be Sentenced: A Profile of the High-Risk Samples

In order to appreciate fully the use of the fine in the four courts examined here, it is important to emphasize that our samples of convicted offenders focus upon non-trivial offenses and offenders with a relatively high likelihood of having prior criminal records and low incomes.

At all the courts more than half the offenders in our general sample had criminal records, some quite extensive. Many of those with prior records had a recent conviction. At least ten percent of sentenced offenders had served prior prison sentences.[5] Furthermore, in the three urban courts, the majority were unemployed, and even at the provincial court close to half were out of work. Sizeable proportions at each court belong to the unskilled or laboring work force. Those who did have a job tended to come within the weekly wage range £30 to £75, with most at the lower end of this range. Offenders on public assistance received weekly benefits generally in the £16 to £30 range. At least half the offenders sampled at each court reported less than £35 of income coming into the household each week; few had more than £75 coming into their household and one in five reported £20 or less per week. Thus, many of

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[5] In England and Wales, there is no distinction between jails and prisons; all individuals in custody (pretrial or post-sentence, short-term and long-term) are in facilities run by the Prison Service which is part of the Home Office. References in this text to "prison" sentences, therefore, encompass shorter terms (more typically referred to as "jail" sentences in America) as well as longer terms of confinement.

the offenders sampled were living at or below the poverty level. In addition, many were young. In three of the samples, two in five offenders were under the age of 21, as were slightly over one in four at the fourth court; approximately 70 percent were under the age of 30. At all the courts roughly four out of five sample offenders were men.

2. Penalties Imposed

That the fine is the predominant sentence for this offender population is particularly striking because the samples target the more serious offenses dealt with in the magistrates' courts and offenders who have prior records, as well as those living close to or below the poverty level. Fines represent between 34 percent and 47 percent of the sentences imposed on these offenders, outranking immediate imprisonment at all four of the courts (between 3% and 13%). The use of fine sentences by these magistrates' courts for offenses against the person is as extensive as it is for the major categories of offenses against property (Table 2, p. 45). Between 39 percent and 48 percent of sample offenders convicted of assaultive offenses were sentenced to a fine at the four courts.

More detailed analysis of the sample data indicates that, as might be expected, the courts show a tendency to fine male first offenders: over half the offenders sampled across the four courts who received fines were in this category. The proportion fined among retired or student male first offenders is particularly high (71%); it is also high for those with some employment (either continuous or sporadic) over the past year (60% and 63%, respectively). Offenders in these samples with prior convictions are fined less often across the courts than are first offenders; the proportion fined decreases from half to 43 percent for males with one to three convictions, and for those with longer criminal records it drops more dramatically to 29 percent. And it is the male offender who combines both a poor criminal record and a poor employment history who is fined least often; the courts fined one in four unemployed males on public assistance who had serious criminal records whereas they fined over half the unemployed male first offenders on public assistance. Nevertheless, from a comparative perspective, this level of fining is still quite high for male offenders with prior convictions. As the men's criminal records deteriorate, the courts place a heavier emphasis on prison for offenders with no reported income. Still prison sentences are not common; fewer than one out of ten offenders in these samples across the four courts were imprisoned.

To the extent that the courts are calculating the risks of fining offenders in the light of their prior record, the calculation is not a sophisticated one. For fining purposes, some distinction does seem to be made on the basis of criminal convictions; but the more subtle distinction that could be made between offenders with good previous fine payment histories and those with histories of default is not made. Despite the extensive information available in the magistrates' courts' administrative records, sentencers do not routinely have fine payment history information available at sentencing. This is clear from interviews with magistrates and Fines Officers, from court observation, and from our sample data in which more than 30 percent of offenders with outstanding fines were fined again.

While these lower court sentencing patterns are not unexpected, what is striking from a comparative perspective is, first, the degree of preference for the fine, even for non-trivial offenses and poor defendants; and, second, the fact that prison ranks low among sentences imposed, although our samples focused on those offenders who were likely to be considered for incarceration.

III. THE NATURE OF THE FINE SENTENCE IMPOSED

A. The Amount of the Fine

1. Law and Practice

Under English law, the amount and payment terms of the fine sentence are left to the discretion of the sentencer. There are few legal constraints upon its size. Although it may not exceed £1,000, it is rare to find sums close to this level. The largest sums imposed, however, tend to encompass not only a fine proper, but also other financial penalties, including compensation (restitution), prosecution costs and legal aid contributions. Indeed, a compensation order (which may be up to £400 per offense) is apt to exceed a fine proper and to inflate considerably the total sum imposed by the court. That "the fine" may contain several different components complicates the process of setting and administering the sentence. Most important, the court's decision-making when relating the total sum imposed to the offender's means is made more complex.

Given the importance of fines to England's sentencing structure, the lack of policy agreement over central questions—the proper amount of a fine and its relation to the offender's means and to the gravity of the offense--is striking. Consideration of these issues is confused further by inconsistent use of the term "fine," so that it is not clear whether the fine proper or the total financial penalty is under discussion. While there is support for a policy of uniformity in fining, with the amount set by a tariff system geared to the offense, in practice, courts have no clearly articulated tariff systems for criminal fines. Those who propose closer regard for the individual offender's means, as well as the offense, in deciding the amount of the fine, take a policy perspective more in line with the concept of the day-fine, which has attracted considerable interest in Europe and in the United States. Begun in Sweden and successfully adapted to the Federal Republic of Germany's criminal justice system, the day-fine refers to a two-stage process of setting a fine. First, the number of units to be fined is determined on the basis of offense gravity and circumstances; then the monetary value of each unit is set on the basis of the specific offender's financial means.

Currently, English law reads that "in determining the amount of a fine, a magistrates' court shall take into consideration among other things the means of the person on whom the fine is imposed so far as they appear or are known to the court" (Magistrates' Courts Act, 1980, 535). However, in practice, many clerks and magistrates do not interpret this as placing much (or any) responsibility upon them to inquire actively into the offender's means at sentence. Although we have observed frequent rudimentary communications at sentence about the offender's ability to pay, these are usually in connection with questions about what terms of payment to impose, rather than the amount of the fine. In general, there seems considerable variability in the amount-setting process among courts, and it is our sense that the chief clerk's view of the matter tends to determine the policy adopted in his court.

This is not surprising because he is the main source of information to the bench, particularly when it is a lay bench, which often displays a strong reliance upon this experienced professional. This relationship differs if the court has a stipendiary magistrate; as an experienced lawyer, a stipendiary is less likely to require the legal advice of his clerk. Although it is not possible to make sweeping generalizations about such practices, we have observed that stipendiaries tend to view their proper role on the bench as a more active one than do lay benches, and often want to know more about the financial circumstances of the offender. The lay justices appear to rely more passively on the police and clerk to supply whatever information they deem appropriate.

In the typical case of the unemployed poor offender, few magistrates go into the exact details of the offender's economic circumstances. Although we have observed some sentencing stipendiaries asking about debts and weekly expenses and making rough calculations, the amount of the fine and of other sums imposed has usually been decided already and what is at issue are the terms of payment, usually the installment rate.

In particular, the amount of compensation (restitution) frequently appears to be set without regard for its effect upon the total sum imposed, much less for the relationship of that total to the offender's means. The factor uppermost in the court's deliberations about compensation appears to be the extent of damage or injury to the victim. While clearly relevant to setting the amount of a financial penalty, compensation calculations appear more often than not to divert courts from seriously considering whether the total amounts they are imposing are realistic and justifiable when measured against offenders' economic circumstances.

The court will typically listen to the police summary of the facts of the case, arrive at a decision, and then announce the amounts of the fine, compensation and costs, often adding up these sums only at the conclusion. This practice underlines the observation that the fining decision does not usually focus on whether the resulting total is realistic. Typically, the court then asks the offender whether he wants time to pay, or how he intends to pay, or refers him to the court's Fines Office for clarification of payment options, but it rarely inquires directly whether the offender can pay the full amount it has imposed.

In theory, compensation encompasses the notion that the offender is aware he is paying restitution to the person(s) he has harmed. In practice this idea becomes submerged in the business of paying or collecting monies. From observations in court, we conclude that magistrates and clerks rarely make clear to the defendant the distinction between the imposition of a fine and a compensation order. It is our impression that the offender merely registers the fact that his punishment takes the form of a total amount owed the court. Subsequent dealings with the Fines Office do nothing to dispel this notion: the staff commonly refer to all monies owed as "the fine," and it is the total that counts both to the offender paying it and to the court staff collecting it.

2. Sums Imposed by the Four Magistrates' Courts

The case records of our samples of relatively serious offenders sentenced by magistrates' courts provide empirical data about how financial penalties are imposed. While we first present data on the separate amounts of fines, compensation orders and costs, court practice and offenders' perceptions lead us to focus thereafter mainly on the total sum imposed by the court--"the fine." This amount tends to exceed the size of the fine alone by a substantial amount.

Considering the amount of fine alone, there is some obvious variation among the four courts. At West Court and Capital Court the fines imposed tended to be smaller than at Midland and East Courts: 38 percent of the fined sample at West and one quarter at Capital Court were fined £25 or less, as compared with 16 percent at East Court and only 11 percent at Midland Court. At the latter two, a quarter were fined over £100.

Our data suggest even greater variation among the courts in the assignment of court costs to fined offenders. At Capital Court this occurred infrequently (15%) and at West Court not at all. At Midland and East Courts, however, the majority of fined offenders had to pay some costs (68% and 80% respectively); indeed more than a third were ordered to pay over £20 in costs.

To some extent, the Midland and East Court samples also showed a higher proportion of compensation orders ordered in cases where fines were imposed (30 percent and 36 percent, respectively, as compared with 21 percent at Capital Court and 20 percent at West Court). The variation in amounts of compensation orders imposed was not striking, however. The mean was £13 at Capital, Midland and West Courts; East Court's mean was higher, at £20, primarily as a result of a few very large compensation orders.

These variations in sentencing practice are reflected in the total financial penalties imposed at the four courts. Midland and East Courts imposed much larger sums. At West Court and Capital Courts 30 percent and 19 percent of fined offenders, respectively, were ordered to pay a total of £25 or less, whereas at Midland and East Courts only three percent and four percent of fined offenders, respectively, were ordered to pay a total amount that low. In contrast, about half the fined sample at each of the latter two courts was ordered to pay total amounts over £100, compared to 12 percent of the West Court fined sample and 29 percent of the Capital Court fined sample.

Because our samples targetted non-trivial cases, we would expect the composite financial penalties in these courts to be higher than the average for the fined offender populations at magistrates' courts generally. This is indeed the case (Casale, 1981). They are also higher than the mean amount of fines in New York City, found in our previous research (Hillsman et al., 1984). What is as important, however, is the variation among the four courts studied in the amounts imposed when sentencing apparently similar offenders for similar offenses.

Overall, Midland and East Courts dealt more severely with fined offenders than did West and Capital Courts. One possible explanation lies in structural differences among these courts. Midland and East Courts are served by lay magistrates, whereas Capital and West Courts have stipendiaries. There is a

common belief that stipendiaries tend to impose lower fine amounts than lay benches. Differences in social class and political ideology are sometimes said to encourage this, but it seems more likely that the differences in sentencing behavior are a function of stipendiaries' professional experience. We have already noted that they appear to take a more active approach in considering the offender's means when setting fine payment terms, asking for details rather than relying on information the police or clerks volunteer. Stipendiaries may also have more awareness than lay magistrates of the practical problems courts encounter in collecting fines, problems to which we turn shortly. Finally, that the stipendiaries at Capital and West Courts are less likely to burden offenders with court costs whereas the lay magistrates at Midland and East Courts routinely order such contributions from offenders, may suggest a more punitive or conservative attitude on the part of lay justices: the offender, not the tax-payer, should foot the bill for the criminal justice process.

3. Offense Severity and Offender Means as Factors Affecting Amounts Imposed

Despite variation across the courts, our data indicate the direct relationship between the amount imposed and the seriousness of the offense that has been found in previous research (Softley, 1978). Offenses of violence against the person and offenses involving property of substantial value (as in t.d.a. offenses) evoke generally higher fines. At East Court and Midland Court the male assault offenders were fined most severely, most over £120. At Capital and West Courts, they also drew larger fines than other offenders but this tendency was less marked (29% received fines in the highest range at Capital Court, but none did so at West Court). The less serious offenses, such as shoplifting, tended to draw lower fines.

As we have indicated, English law is open to interpretation and court practice is flexible (perhaps unfortunately) as to the nature of the sentencing court's obligation to inquire into the offender's circumstances when setting a fine. Nevertheless, fine amounts reflect some appraisal of means. While one knowledgeable official characterized magistrates' courts generally as operating rough and ready, simplified day-fine systems, our observations, interviews and data indicate this is not uniformly so. Our case record data show quite striking differences among the courts studied in the relationship between the total sums imposed and offenders' self-reported means. Data from the Capital and West Courts indicate a fairly consistent pattern of a direct relationship between fines and funds; cases there cluster around two poles--"low" fines matched with "low" incomes and "high" fines matched with "high" incomes (the terms "high" and "low" being relative). But at the East and Midland Courts, the pattern is less clear, and there is a disproportionate use of higher fines for lower income offenders. This could either be a result of disregard (or ignorance) by the lay magistrates, in the latter courts, of the offenders' means when setting the fines and compensation orders, or it could arise from a discrepancy between self-reported means on legal aid forms (the source of our data) and means declared in court. However, our interviews provide no evidence that Midland and East Court offenders, when reporting similar means on their legal aid applications and in court, are less consistent than those at Capital and West Courts.

Interplay between offense severity, offender means and fine amount is most evident among offenders at the upper end of these three dimensions. For example, male offenders who are steadily employed tend to draw relatively high fines at all four courts. In particular, the steadily employed offenders convicted of fairly serious assault and t.d.a. offenses drew the largest fines at the Midland and East Courts, as they did, though less frequently, at Capital and West Courts.

However, this interplay between offense, means, and fine is not as clear at the other end of the spectrum: low income offenders did not consistently draw the lowest (or, even, lower) fines. And they fare differently at the four courts in the way their means and offenses relate to the amount of their fines. This is despite the fact that, as the majority of these offenders are unemployed and on public assistance, they have readily verifiable incomes. Across the four courts, about half of these offenders were ordered to pay relatively low fines (£60 or less). But offense had a primary role: the more serious assault and t.d.a. offenders among them tended to draw the larger fines in these courts, despite their limited means.

Therefore, although these data suggest that very low income mitigates fine amounts at some (but not all) courts, what they chiefly reveal is the overriding importance of offense gravity in determining the amount of fine imposed. Offenders with £20 or less coming into the household each week were ordered to pay over £120—by Midland Court in 48 percent of fined cases, by East Court in 26 percent, by Capital in 15 percent, by West Court in only four percent of fined cases. (The imposition of £120 or more is equivalent to ordering these offenders to pay to the court six weeks of their livelihood; even at very low installment rates, it is questionable whether this is affordable or feasible within 12 months, the generally agreed upon maximum period of time for fine payment.) More serious t.d.a. and criminal damage offenses accounted for most of these very high fines, and compensation particularly appears to be an important factor in raising the total amount of penalties imposed on low income offenders. At Midland Court, for example, of those offenders without jobs and on public assistance who were convicted of criminal damage, eight percent were ordered to pay over £120.

B. <u>Setting the Terms of Payment</u>

While sentencers seem to perceive the amount and the terms as separate aspects of a fine sentence, to offenders they are quite clearly related because together they determine the duration of the punishment. Court observations and interviews with sentencers lead us to observe that, in imposing a fine at X amount to be paid at £Y per week, the court typically has no clear perception that it is sentencing the offender to pay the fine over the course of two or three years. Despite clear guidelines that fine payment normally should be completed within twelve months of imposition, actual amounts and terms of payment set by these four courts often entailed far longer periods for total payment--in one case, as much as four years.

By law the decision to set a fixed term or installment rate for fine payment rests with the court. (The choice has important implications for subsequent fines administration. As we shall show later, the fixed term is far easier to monitor and thus more readily collected.) At the four courts

studied the payment terms were initially arrived at in court, generally after the full amount was imposed. At Capital Court, where most fines were imposed on fixed terms, the clerk typically asked whether the offender wanted time to pay and if so how soon he could pay the total sum. The offender's answer might be reflected in the magistrate's order for the term of payment, but this was generally the case only if the offender had suggested a period within the two-month range favored by this court.

At the other three courts, and at Capital Court when installment payment was at issue, the clerk would ask what the offender was offering to pay each week. The process was uniformly cursory, depending more on the offender's offer to pay than on a formal calculation by the court based on details solicited from the offender or court papers about his actual circumstances. At all four courts, some offenders subsequently asked the Fines Office if they could extend the fixed term deadline or lower the installment rate originally set in court. The administrative staff of each court exercised discretion in granting or refusing such applications but could not change the overall amount set by the court. Even the sentencing court itself rarely did this at later default hearings, preferring to continue to adjust the terms rather than the amount.

Our samples reveal a striking difference between the courts' practices in setting terms for fine payment. Midland, East and West Courts used installment terms in 77 percent to 85 percent of the fined cases. By contrast, 81 percent of fined offenders at Capital Court were ordered to pay within a fixed term; none was allowed more than two months.

The three courts using installments adopted quite different approaches in doing so. Midland Court tended to impose low weekly rates (£1 or less per week in over a third of the sample, the median weekly rate being £1.50). East Court set high installment rates: only three offenders were ordered to pay as little as £1 per week; a third of East Court's installment orders were for more than £3 per week. West Court's use of installments lay somewhere in between: 15 percent were ordered to pay £1 or less per week and half had weekly dues of £2 or less; however, a third were ordered to pay over £3 per week.

C. Terms and Amounts

What patterns are found overall in the relationship between fine amount and terms? The profiles of fine amounts and terms imposed at these four courts reveal severer fines (higher amounts) at Midland and East Court, but severer terms (fixed) at Capital Court. West Court appears most lenient on both, combining the lowest overall fine amounts with the most frequent use of the more accommodating installment terms. Although these patterns might appear superficially contradictory, they reflect a consistency in fining policy. The imposition of relatively low fines may suggest to the court that stringent fixed payment conditions are appropriate, as seen at Capital Court. It may be viewed as appropriate to set more accommodating terms when larger fines are levied, as at East and Midland Courts. Finally, the overall leniency at West Court may reflect the relatively greater poverty of its offender population, compared to the other sample populations (though it should not be forgotten that all four samples are characterized by low income and high unemployment).

At Capital Court the incidence of fixed terms decreased as the fine amount increased, the larger fines being imposed on installments. The other three courts used fixed terms infrequently; when they did, it was generally because the offender had a temporary or no fixed address and low income, and had been ordered to pay a relatively small fine. The prevalence in these three courts of more lenient installment conditions reflects realistic thinking on the part of courts about heavily fined offender groups characterized by limited means to pay. However, as we observed earlier, it is typically over the issue of terms, rather than total fine amounts, that courts are "realistic" about taking means into consideration.

Whether the initial decision to impose heavier fines reflects realistic sentencing is another matter and depends, in part, on the outcome of the payment/enforcement process (to which we now turn). In this connection the sentencing policy at Capital Court is interesting because it arguably reflects a practical attitude to the whole fining process. Sentencers seem realistic about imposing heavier amounts--they may be paid on installment; but the majority of the fines are relatively small and are to be paid on fixed terms. This overall policy may spring from a desire both to take offenders' poverty into account and keep down the court's administrative costs and to put pressure on offenders to pay soon after sentence (reflecting the desirability of swift punishment).

It is harder to discern a consistent policy behind Midland Court's fining practices. The heavier fining, especially when offenders declare very limited means, does not bode well for the successful outcome of the sentence--payment. The low weekly installment rates at Midland Court indicate that the magistrates are aware of offenders' limited means. But the combination of high fines and low payment rates means long payment periods. Are the magistrates making this connection when they fine? Either they do not view the fining process in its totality or, if they do so, other considerations take priority.

Research has pointed to the link between the nature of the fine sentence (the amount and terms) and the outcome of the payment/collection process (Softley, 1973). Our own data, presented below, confirm this: low fines tend to be paid without the court taking any action or after only limited action (e.g., reminder letters); higher fines tend to be paid in full only after more coercive measures are taken, or they are cancelled by prison time served in lieu of payment, paid in part with the remainder written off as uncollectable, or remain outstanding for long periods.

IV. PATTERNS OF PAYMENT: PAYMENT BEFORE ENFORCEMENT

A. Defining the Stages of the Fine Payment and Enforcement Process

Fine payment is a complex subject. There are a variety of ways in which sums may be forthcoming in payment of court-imposed financial penalties. Systematic information about the payment process and why certain cases result in only partial or no payment is sparse, and there is ambiguity in the terms used to describe the process.

Although we have information about partially outstanding or partially written off fines, we are primarily concerned with whether the fined offender complied in full with the sentence. This focus stems from our interest in the appropriateness of the original amount and terms of the sentence and with whether the court was obliged to take action to elicit payment. When we speak of 'non-payment,' therefore, we refer to failure to pay the entire amount owed. For our data collection, the cut-off date for final payment was 15 months after sentence.

We use the terms 'non-payment' or 'failure to pay' because the more usual term 'default' is open to various interpretations. It may signify ultimate failure to pay the full amount. (Thus when a fined offender is committed to prison for non-payment of a fine, it is typically referred to as imprisonment for fine default.) However, default is also used to signify an initial failure to comply with the original payment conditions that may, or may not, be followed by full payment of the fine. (Thus when a court is said to have a default rate of 50 percent, this often means that half of those it fines violated the original payment conditions while half paid in full according to those terms.) We confine our usage to this second meaning as signified by the term 'interim default.'

We refer to the various payment permutations as follows:

1) voluntary payment: full payment either (a) in accordance with the conditions of payment (i.e., without interim default); or (b) after a technical interim default but before the court initiates any action to elicit payment;

2) interim default: failure to pay fully in accordance with the conditions of payment;

3) elicited payment: full payment after interim default and initiation of court action;

4) ultimate payment: voluntary or elicited payment of the full amount (i.e., any payment in full with or without court action);

5) non-payment: ultimate failure to pay in full (i.e., by the 15-month research cut-off date), whether or not the court chooses to enforce the fine sentence by imposing a prison term in lieu of payment.

B. Prior Research on Payment and Default

From studies of fining conducted in England over the last fifteen years, a picture emerges of a sizeable non-payment problem in the magistrates' courts. Research indicates considerable variation across courts but suggests about a quarter of the offender population fined for non-trivial offenses ultimately fails to pay the full fine imposed (Softley, 1978). This may be favorably contrasted, however, to the somewhat higher rate of one-third found in the New York City lower court system for all fines imposed (Hillsman et al., 1984:83).

Past research also provides evidence of the considerable administrative effort involved in eliciting fine payments. In Manchester in 1972, for example, about 100,000 fines were imposed; 18,000 were paid without action having to be taken. Eventually warrants were issued against 4,200 defaulting offenders, and of these 884 offenders were committed to prison for fine non-payment (Latham, 1973).

Existing studies also have addressed the question of how sentence, offender or system variables are linked to interim default, payment and non-payment. They suggest that interim default and ultimate failure to pay increase with fine severity (Softley, 1978). Yet other evidence suggests interim default decreases with strict conditions of payment (Softley, 1973; Casale, 1981).

There are also links between the payment outcome and offenders' circumstances. Various studies indicate that the extent of the offender's prior record appears highly related to non-payment (Softley, 1973). But offenders with serious records also tend to have bad employment records, low income and poor social ties. Unfortunately, past research provides limited information about the association between economic means and payment outcomes because available data on offenders' means have not been systematically collected.

In short, "little is known about the characteristics and circumstances of fine defaulters and the reasons for their default" (NACRO, 1981). Yet the relationships between the payment outcome, the nature of the fine sentence and the offender's means are central to the whole fining process. The success of that process and, within it, of fine enforcement activities depends heavily upon the original sentencing decision. To address these issues, we proceed from the idea that, to understand why some offenders default, it is important to examine why others pay readily. Therefore we begin our examination of the fine administration process by exploring the relationship between offender characteristics and voluntary payment.

C. Voluntary Payment and the Resulting Problems of Enforcement in Four Magistrates' Courts

Across the four magistrates' courts studied, one in three fined offenders paid in full voluntarily, that is, without any court action (Figure 2, p. 46, below). However, at Capital and East Courts approximately 40 percent pay without the courts having to take any action to encourage payment, compared to 30 percent and 27 percent, respectively, at West and Midland Courts. While these voluntary payers may be responding to the potential threat of enforce-

ment (i.e., they know precisely what lies in store for them if they default), it is hard to regard this as the prime motivating force. It seems more likely that the voluntary payment is associated with offender characteristics and with the nature of the fine sentence.

Broadly speaking Capital, West and Midland Courts have similar fined offender populations: there is large-scale unemployment in these urban communities and the funds available each week to offenders' families are limited. East Court's fined offenders are somewhat better off and their unemployment rate is lower. Thus the variation in voluntary payment is not simply explained by relative prosperity.

Behind the similarity in Capital and East Courts' better voluntary payment rates lie very different sentencing patterns. The amounts imposed at Capital were generally lower than at the other courts though closer to the sums set at West Court; at Capital, however, the conditions of payment were more severe with heavier reliance on short fixed terms rather than installment terms. Yet despite these significant differences, Capital and East Courts had similar higher rates of voluntary payment. Voluntary payment rates appear linked both to sentencing policy and offender characteristics, particularly the degree of match between the total amount of the sentence and the offender's economic circumstances.

Across the four courts, certain types of offenders stand out as particularly good fine risks (i.e., they pay voluntarily): female offenders generally and male first offenders. Female offenders are an interesting group despite their small representation within our sample of non-trivial fined offenders (approximately 10%). Across all the courts women paid their fines: 72 percent ultimately paid, and 41 percent paid voluntarily. Most are women first offenders with higher household incomes of over £60 per week. But even women with one to three prior convictions tended to pay voluntarily, if they had funds over £60 coming into the household each week. What stands out about the women who paid voluntarily is that most had relatively small fines in comparison to their household incomes. Even the women at East and Midland Courts, who were generally fined rather more heavily than at Capital and West Court, paid voluntarily if their family incomes were relatively high.

Most of the male voluntary payers were also first offenders (69%) and 41 percent had steady employment (although only 30% of the male fined offender population were steadily employed). Most of the unemployed men on benefits who paid voluntarily (84%) had small sums of under £61 to pay. And a numerically small group of student and retired men are also found among the first offender voluntary payers.

Overall, the same pattern of explanation emerges from our discussion of men and women who pay voluntarily: the size of the fine is congruent with the means available from employment, or family, or both. We know that Capital and East Courts show the highest overall voluntary payment rates. As with the women, the male voluntary payers at East Court tended to pay higher fines (half were over £120), were mainly in steady employment, and were in the moderate to high income brackets. At Capital Court the male voluntary payers were either (a) unemployed men on benefits paying lower fines under £30, or (b) men in steady work and in the highest income brackets (almost all over £60 per week) paying higher fines over £90. This pattern resembles West Court,

except that there were few voluntary male payers at West Court paying higher fines. By contrast, there were fewer voluntary payers of any type at Midland Court, but especially with low fines under £30, and the small number of male voluntary payers was made up chiefly of a group which, like the male voluntary payers at East Court, had relatively high incomes, steady jobs and high fines.

However, although at Capital, West and Midland Courts the voluntary payers rarely combined low incomes and high fines, at East Court a number of voluntary payers fitted this unusual profile. Why does this pattern not occur at Midland Court where higher fines are also imposed on offenders with lower incomes? We can suggest speculative but plausible explanations. First, the mismatch between fine and means is simply more glaring at Midland Court. Second, offenders at Midland Court live in a city more clearly hit by the recession. Unlike imprisonment or probation, the fine is an impersonal penalty; someone else may contribute to the payments. Poorer East Court offenders may differ from their counterparts at Midland Court by having a network of somewhat better-off individuals upon whom to draw for financial support.

These explanations tend to elaborate our general finding that voluntary payment is more likely when there is congruence between fine amount and the financial resources available to the offender. However, there is a final possibility arising from the nature of the fine enforcement process (to which we now turn). At East Court, enforcement activity is more varied and more personally carried out than at the other courts studied. The enforcement process in this small community, therefore, may provide a more effective deterrent to interim default for those whose more limited means make payment of larger fines difficult.

V. FINE ENFORCEMENT: TECHNIQUES AND STRATEGIES TO IMPLEMENT THE FINE SENTENCE

The enforcement stage is that part of the overall fining process directed at eliciting full payment from those who have not paid voluntarily. About two-thirds of all fined offenders at each court fail to pay in full without court action and thus are in interim default on fine payment (again see Figure 2, p. 46). Some eventually pay: that is, they appear to respond to enforcement action, although the causal link between court action and payment is not always clear (particularly when long gaps occur between enforcement action and payment). Others persist in not paying for 15 or more months; they are the failures of the fining process.

Enforcement activity is highly variable across courts and lacks overall coherence. Although a court's enforcement strategy may be intimately bound up with its fine sentencing practices, more typically it operates reactively: enforcement starts only after interim default has been detected. The histories of most fines reveal a process characterized more by a succession of hiccups than by a smooth continuous flow from sentence through implementation. Fine implementation requires organization and, in this area of court activity, organizational linkages may be tenuous.

Although the magistrates are theoretically still in control, after sentencing the fine becomes the delegated responsibility of the court's Fines Office. However, rarely is one official held accountable for the outcome. Furthermore, while the Fines Office generally receives responsibility for the successful outcome of the fining process, it neither can exercise any influence over the definitive stage--the original sentence--nor can it subsequently reduce the amount of the fine. The Fines Office, therefore, decides when to take official action and what action to take but it cannot control the size of the amount it is to collect.

The major activity of the Fines Office is to detect and monitor offender action and official response. Given the extensive use of fines in the English system, this poses a substantial set of organizational and managerial tasks. Therefore, when we use the terms 'enforcement approach' or 'enforcement strategy,' we mean not only the specific enforcement techniques used by a Fines Office to elicit payment but the whole system of administrative and operational policies called into play over time to implement the sentence.

A. Specific Enforcement Techniques Available to Magistrates' Courts

The statutory means available to the English courts to enforce fine payment are many and varied. These include enforcement techniques chosen at sentencing which at least partially structure future payment: for example, prison alternatives fixed at sentence, means inquiry dates set at sentence, money payment supervision orders (MPSOs) and attachment of earnings (AOEs) ordered at sentence. Generally, however, there is a lack of continuity between the sentencing and enforcing stages in the fine process. We have already noted that courts do not commonly articulate awareness of payment implications when deciding how heavily to fine an offender. Similarly, sentencing magistrates do not pay much attention to the enforcement strategy at their

courts; nor is there much feedback between the Fines Office and the magistrates to let the latter know what enforcement problems are routinely encountered in the sentences they impose. Thus, few enforcement techniques have direct relationship to the sentencing stage, although they should.

1. Techniques Linking the Fine Sentence to its Implementation

In magistrates' courts, there is a limited use of the fine with a fixed alternative prison term set at sentencing. This technique is often merely an administrative convenience to rid the court of further proceedings on a potentially bad fine risk while avoiding direct imposition of a sentence of imprisonment. It takes the form of a sentence such as "£5 or 1 day" and is not popular among magistrates generally. It tends to be used primarily with small fines imposed on the "socially inadequate offender," someone with no money in his pocket and no fixed abode, who is convicted of a crime such as public drunkenness or vagrancy. The offender typically "chooses" to serve time in lieu of payment and does so either in detention at the courthouse during the day of sentence or by time already served before arraignment. Clearly such a sentence is only technically a fine followed by imprisonment for non-payment.

The attachment of earnings order (AOE) has potential as a tool for sentencing courts to ensure the success of the fine through guaranteed regular payment by deduction. In practice, however, it is eschewed on the grounds that it places the burden on the employer and that there is a risk of precipitating loss of employment. This argues for restricting its use to offenders working for large institutional employers, such as the military. However, the greatest disadvantage of the AOE is the pre-requisite that the offender be steadily employed, not the usual condition we have found for fined offenders in England.

The other tool that links the imposition of fine sentences and their implementation is the money payment supervision order (MPSO). However, sentencing courts rarely use it, reportedly because it is disliked by the Probation Service, which is charged with its administration. In England, probation sentences are not perfunctory, as is so often the case in the United States, but involve a substantial social work component. Probation officers are said to be concerned that fine enforcement duties will strain their relationships with offenders. However, this disadvantage of the MPSO adheres merely to the use of a probation officer as the supervising agent. The courts could employ instead some other agent to perform the supervisory role (e.g., a court enforcement officer in its Fines Office). The remaining question is whether the expense of this individualized handling would be worthwhile, even if restricted to a small number of interim defaulters. Would its use avoid imprisonment? While there is limited direct evidence available, there are indications both in English and in American research that personalized treatment does have a positive effect on ultimate payment in some fine cases.

2. Techniques Confined to the Fine Implementation Stage

The enforcement process in magistrates' courts tends to focus on a few widely used measures that are essentially reactive tools for responding to interim default. The two most common are the reminder letter and the means warrant. Conceptually the reminder should be the first formal step taken by the

Fines Office after--or perhaps even before--it has detected interim default. Involving little expense, it may be used repeatedly in the same case. Oddly, although a simple and relatively inexpensive technique, not all Fines Offices use reminders. Some initiate formal action instead by issuing a means warrant, a choice which immediately shifts the enforcement workload, at least temporarily, to external agents--the police.

The means warrant, ostensibly a method of bringing defaulting offenders back to court for a means inquiry, often works to elicit payment prior to or on the court date. As with reminder letters, the means warrant works by threat but both instruments could make stronger use of this key element. Typically both types of notification to appear are couched in language that suggests only the mildest of warnings.

Most courts, and all those we studied, use means warrants, but their reliance on this expensive measure varies considerably. In addition, individual cases often involve repeated means inquiries. While this technique offers a degree of supervision, it is a costly method because it uses the court rather than the Fines Office as the supervising agent.

The means inquiry (or default court) is designed to examine the offender's circumstances and to determine whether (a) to adjust the terms of payment, (b) to take more coercive action (i.e., issuing a warrant for prison committal) or (c) to remit the fine amount in part or in full. As we shall see from our sample data, the remission option is rarely used. Magistrates appear loath to alter an original sentencing decision made by their colleagues. However, if the original fine is grossly mismatched to the offender's means (as we have shown is not uncommon), there is clearly a place for reconsideration and remission of at least part of the fine. That this occurs only rarely suggests an inflexibility in the sentencing review process that is oddly at variance with the prevailing flexibility of Fine Office enforcement operations.

There are two far more coercive techniques available to elicit payment: distress and prison committal. Distress seems little used, if its use is measured on a nation-wide basis, but it is intensively employed by a few courts and it is gaining in popularity; therefore, the next section of this report is devoted to a special examination of distress as well as committal. Distress recommends itself to busy Fines Offices because it places the case, at least for a while, in the hands of an external agent (usually a civilian bailiff), and because it tends to work by threat rather than by actual seizure of property--the arrival at the offender's doorstep of a determined individual interested in obtaining payment.

Committal also appears to work largely by threat and, again, the arrival of an individual at the offender's home, in this instance a police officer, appears to have a forceful impact eliciting payment. A committal warrant may be made effective immediately or may be suspended by the default court, giving the offender a last chance to pay. In practice, however, considerable time often elapses after renewed interim default before the committal warrant is given to the police for execution.

B. Variations in Four Courts' Overall Enforcement Approaches

Across magistrates' courts the combination of measures regularly adopted as part of a routine enforcement strategy varies markedly and the differences have important implications for payment/default results. The sequence of measures alone does not constitute the enforcement approach. The organization of the Fines Office--its staffing, policies regarding exercise of discretion, and record-keeping and monitoring procedures--is a complex fusion of elements that affect the payment process. A recent Home Office Research Study (Softley and Moxon, 1982) found that speed of action after detecting interim default and in following up successive enforcement techniques was the most salient factor affecting enforcement performance. Although this quantitative analysis showed no link between staffing levels or degree of automation and performance, the authors concluded that "the quality and organization of staff were possibly more important than numbers."

Our present study combines quantitative and qualitative data on our four courts' enforcement approaches that include details about the sequence of techniques used, the recording and monitoring of fine payments, systems of default detection, and the exercise of discretion by the court, the Fines Office staff and other court agents.

1. The Context and Organizational Character of the Fines Offices

East Court's Fines Office is a small-town operation with all the characteristics of that setting: individuals or families are known to each other and the intimacy extends to the atmosphere in the Fines Office. Its system of record keeping is entirely manual. Fines are predominantly payable by installment, and there is no way of organizing the manual diary system to flag default automatically or immediately. However, there is a relatively low case volume and the small East Court Fines Office staff are familiar with the names recurring in its list of fined offenders. The personal quality of the enforcement proceedings in the East Court Fines Office is not to be confused with laxity. The cashier of twenty years is a stern and knowing clerk who views the succession of excuses and pleadings with a strict and experienced eye. Even so, because it takes between three and four weeks for staff to work through the card files, there is an element of luck in how rapidly interim default is detected.

The three urban courts, on the other hand, share that blanket of anonymity that seems inevitably to attach itself to large bureaucratic operations that deal with a high turn-over of people (both staff and clients). Despite this, these large courts deal with similar offender populations in quite different ways.

Capital Court has a strong commitment to modern management techniques which is less in evidence at Midland and West Courts with their more traditional manual systems and timeworn administrative structures and policies. The elements of Capital's organization that set it apart are primarily in its administrative system. Its line of administrative command has been thought out carefully and levels of authority are clearly demarcated. Record keeping and monitoring of fines are semi-automated, but the smoothness of operations is largely due to the preponderance of fixed term fines imposed by the sentencing bench. With or without automatic equipment, these can be easily

diaried for the date when the fixed period elapses, and a daily review readily reveals those fines not paid by the due date. A machine producing duplicate copies of the fine notice for reminders enables the clerical staff to follow through quickly with notification.

Although the other urban courts--Midland and West--were both in the process of adopting computer systems, at the time of our research they were operating Fines Offices with manual systems. Midland Court in particular presented a striking contrast to Capital Court. The Midland Fines Office staff worked in two crowded rooms piled high with papers and bundles of cards; the counter surfaces were covered with card trays for active fines in different stages of enforcement. The half dozen staff seemed submerged in paper.

Both Midland Court and West Court have a high volume of installment fine cases; manual monitoring to identify interim default in such a caseload required the clerks periodically to go through the full complement of open records, case by case. This procedure took up to six weeks to complete. West Court's ledger system seemed more up-to-date than Midland's array of card trays but both systems ultimately rely on the time-consuming and labor-intensive business of staff slowly leafing through individual records, reviewing each case's status.

In all the Fines Offices, substantial decision-making discretion is exercised by the clerical staff. Theirs is a difficult role: they are faced with an overwhelming and mundane daily workload; at the same time, they are entrusted with the delicate task of handling people. They must listen to excuses over and over and yet take a firm line when appropriate. This is not an easy task for staff with little incentive to succeed other than personal pride in their work because they receive little public or professional recognition. They are not specialists, but mainly clerical staff with some on-the-job training. Only a few magistrates' courts employ special enforcement officers to coordinate their fine collection strategy.

2. Fines Offices' Enforcement Strategies and Their Outcomes

Despite different administrative structures, Capital and East Court adopted similar enforcement strategies. Midland and West Court, with relatively similar organizational patterns but different caseloads, also adopted almost identical strategies but ones that differ markedly from those of Capital and East Court.

Midland and West Courts concentrated on a few tools--the means warrant, the means inquiry and committal. This strategy has clear disadvantages: (a) the central focus is the costly means inquiry (default court); (b) the progression to the ultimate recourse--incarceration--is direct, as preliminary techniques are quickly exhausted; and (c) considerable enforcement burden is placed upon the police, who execute two of the three measures.

In contrast, the keynote of Capital and East Courts' strategy was variety. They used reminder letters, distress warrants and/or means warrants, means inquiries and committal warrants. The two measures they used which the other courts did not--reminder and distress--greatly increased the permutations of combined techniques. Capital and East Courts gradually applied in-

creasingly coercive pressure to weed out defaulters before bringing into play the ultimate recourse: committal to prison.

The speed of the enforcement process depends upon a number of factors: (a) the variety of techniques used; (b) the Fines Office's organizational style and monitoring system; and (c) whether dominant payment terms are fixed terms or installments. Therefore, although Midland and West Courts used fewer enforcement tools, they proceeded fairly slowly, compared with Capital Court where the process moved automatically and relentlessly from step to step without much slack time. Both courts favored installment terms, so few payments were received on the day of sentence. Given this preponderance of installment terms and the delay in interim default detection due to the slow manual checking process, Midland and West Courts had dispensed with the use of reminder letters and issued means warrants as soon as interim default was detected, effectively shifting the onus of fines collection immediately to the police.

At Midland Court these means warrants functioned as a substitute for reminder letters because the police typically gave low priority to their execution; instead they sent mailed notifications to offenders that warrants for their attendance at court were in police possession. This process acted as a powerful reminder, inducing one-third of defaulters against whom means warrants were issued to pay their fines in full after receipt of the police letter but before the actual court appearance date. Similarly at West Court the means warrant had the effect of eliciting full payment from 39 percent of offenders served with means warrants.

Thus at West Court, the use of actual means inquiries (appearance at a default court) was not as frequent as the issuance of means warrants would suggest because many paid in full before the court hearing. At Midland Court, however, it was not only via a means warrant that defaulters were required to attend a means inquiry. Midland Court made extensive use of the provision permitting the court to set a means inquiry date at the time of sentencing so that the offender had to appear automatically at a default court on a specified date if he did not meet the terms of payment. This seems to have encouraged many offenders to delay payment until the means inquiry, when they applied to the court for a reduction in installment rates; this routinely delayed the point at which the enforcement process got underway. Midland Court's and especially West Court's reliance on the means warrant, therefore, enhanced the likelihood of frequent and costly means inquiries, the major outcome of which was merely to have the court adjust the original payment terms.

The other outcome of the means inquiry strategy emphasized by these two courts was a quick escalation in their enforcement efforts: issuance of suspended committal warrants. The Midland and West default courts issued suspended committal warrants against over half the offenders coming before them. This coerced full payment in only one of the twenty cases at Midland Court (5%) and in six of the fourteen at West Court (43%). Nevertheless, even at Midland Court, only a few fined offenders were eventually committed. The ineffectiveness of the suspended committals is attributable largely to administrative inefficiency. Because of the backlog at both courts, many of them were never activated; that is, despite continued default, the suspended committal warrants were not identified by the Fines Office staff and sent to the police for execution. Thus, following a common enforcement approach centering on means inquiries, Midland and West Courts found themselves, after 15 months

in which to elicit payment, with write-offs or outstanding fines for 36 percent and 29 percent of our samples respectively.

More than at any of the other courts, the enforcement strategy at Capital Court was linked to the sentence because of its use of fixed terms. As previously discussed, a higher proportion of offenders who paid after sentence at Capital Court paid within the terms originally set at sentencing, because of the preponderance of fixed term fines. In addition, more offenders were dealt with on the sentence day at Capital Court than at the other courts because of orders to pay forthwith coupled with fixed alternatives of imprisonment.

However, Capital Court's fine collection record reflects differences in Fines Office enforcement policy and practice as well. The combination of fixed terms, a diary system, and a semi-automated method of producing court action documents (reminders, warrants, etc.) reduced the proportion of cases in which any appreciable time elapsed between interim default and initiation of enforcement action. The outcome of this overall strategy is that 42 percent of the Capital Court fined sample paid in money (or, for a very few, in time immediately served in court) without the Fine Office's initiating any collection action. Thus, Capital Court needed to take enforcement action after the day of sentencing against fewer of their fined offenders than did the other courts.

At Capital Court the first enforcement step, after detection of interim default, was a mailed reminder notice. Although the success rate on this first reminder was only one in six, this is not an insignificant rate given the low cost of the procedure. If offenders failed to pay after a reminder, Capital Court used either a means warrant or a distress warrant. Although distress was used against few offenders during the study period, and its use was not particularly successful in terms of fines collected, the court had only just begun experimenting with this technique. Since then, Capital Court has used distress more extensively and its records indicate that more than one in three distress warrants produce full payment.

Capital Court issued means warrants against two-thirds of all defaulters not responding to reminder letters or distress warrants. A quarter paid their fines rather than appear for the means inquiry, and another quarter paid after attending it. Thus Capital Court's means inquiries achieved the same rate of full payment as did Midland Court's (25% and 26% respectively), which was better than at West Court (17%); but Capital Court used this expensive enforcement tool less frequently than either of the other two courts.

As at Midland and West Courts, the main outcome of the means inquiries at Capital Court was adjustment of the original terms of payment. Some suspended committal warrants were also issued, but Capital Court had a more stringent approach to them which meant they ultimately had fewer fines to write-off. However, such a policy has important implications for the fine system and for the criminal justice system as a whole because it relies more heavily upon the most coercive fine enforcement tool available and because it uses a scarce and expensive resource--prison space.

East Court provides an example of how a small town court can successfully enforce fines without much reliance on imprisonment. East Court started out with the advantage of a high proportion of voluntary payers which cannot be

attributed to fixed term payments (as at Capital Court) but to its different offender population and setting. The East Court Fines Office was confronted with the need to take enforcement action against 60 percent of the fined offenders in the sample. As at Capital Court, East Court's first action was almost always a reminder letter. Over half the reminded interim defaulters paid in full. After this step, East Court adopted a variety of measures. In a limited number of cases, a means summons was issued; in still fewer cases, a means warrant was issued. More frequently, a distress warrant was issued; these were highly successful, largely through the threat of rather than the actual seizure of property.

Therefore, in contrast to other courts, East Court made very limited use of the means inquiry, and then with the purpose of bringing matters to a head by threatening committal if the offender failed to respond with full payment to the court's compromise of adjusting the terms of payment. However, East Court's reliance on the threat of committal resulted in a low rate of actual incarceration, partially because the Fines Office used a wider range of techniques before threatening this final step and because it permitted longer gaps between steps in its generally slower enforcement approach. Nevertheless, the larger lower middle class component in East Court's offender population was probably more able to pay fines easily than the populations fined at the other courts. Capital Court used the same range of techniques in the same sequence as East Court and implemented the sequence more rapidly, but Capital Court found itself ultimately relying more heavily on imprisonment in lieu of payment.

C. Characteristics of Offenders From Whom Payment Is Elicited

Our research samples consist of offenders who had been fined despite a higher than usual risk of a custodial sentence and who were also at risk of fine non-payment because of their relative poverty. If we look at the rate of elicited payment as a proportion of those offenders against whom the courts needed to take enforcement action, the success rates were: 37 percent at Capital Court, 38 percent at Midland Court, 46 percent at West Court and 63 percent at East Court. Apart from their particular enforcement strategies, what explains the differences between the courts?

We can identify certain types of offenders who appear likely to pay after enforcement action. They are similar in many ways to the voluntary payers. Women and the steadily employed males, if they do not pay voluntarily, generally pay eventually. So do the students and the retired. The smallest of these groups is the pensioners, who have more extensive criminal records than the women or students, but who are also not difficult to trace if the court has the will to do so. Students too are easy to trace because they are attached to educational institutions and often receive local government grants. They may also be susceptible to threat, because they fear termination of their studies if committed to prison for non-payment. The women (especially housewives) and the steadily employed male offenders also fit this pattern: they are generally traceable and vulnerable to threat; they cannot easily disappear and they have something to lose if they defy the court (providing the enforcement system does not break down).

What else in common have the offenders who responded to enforcement efforts? Our data suggest that, among poorer offenders, the proportion of

elicited payment increases as the fine amounts imposed decrease. In contrast, among moderately or well funded offenders, similar proportions of elicited payment occur regardless of the amount imposed. Thus, the general pattern of elicited payment reflects once again the notion that payment tends to occur when amounts imposed by the court are consistent with offenders' means.

D. Characteristics of Fine Failures

The data from these samples of relatively more serious fined offenders identify about one-third who do not pay their fines in full within 15 months after sentence. Who are these failures of the fine process? If full payment is more likely when amounts imposed reflect offenders' means, we would expect some of the fine failures to reveal such mismatches. They do. Over a third of the fined offenders who failed to pay had been fined more than £120, and over half had been fined more than £90. Of the non-payers with over £90 to pay, two-thirds had under £41 in weekly household income. While not all these non-payers were unemployed, the finances of even the steadily employed non-payers reveal rather modest sums coming into the household each week.

Do such mismatches shed light on traditional notions about bad fine risks? Both in England and in the United States there is consensus that the unemployed recidivist male is the protypical bad fine risk (although in England many such offenders are, in fact, fined). Our data on fine imposition patterns revealed that offenders with four or more previous convictions tended to draw heavier fines than their counterparts with less serious records. We have also remarked on the link between past record, work history and income level. This relationship suggests that the rather frequent imbalance between fine amount and financial circumstances is part of what lies behind labeling this offender type a bad fine risk. Indeed, although there were few unemployed men among the voluntary payers, three out of five of the unemployed paid eventually if they were first offenders or had minor records. Among the unemployed recidivists, however, only one in three paid eventually.

Nevertheless, if they do not pay their fines, the unemployed men tend to end up in prison for non-payment regardless of their prior record. It is hard to avoid concluding from our data that the combination of large fine amounts and declared low income contributed to prison time being served for non-payment, rather than writing off the fine or leaving it outstanding. The dynamics of the situation seem fairly clear, especially at Midland and West Courts where this outcome may have been hard to avoid. The Fines Offices' enforcement strategies lacked diversity, and escalation of enforcement action brought these courts rapidly to their last resort: committal. Thus the nature of the court's enforcement strategy contributes to the problems found in the sentencing process, and together they make up a complex formula for non-payment and imprisonment.

Another group of offenders whose payment record deserves attention is assaultive offenders. This group is particularly interesting from the American perspective because it represents a type more often dealt with by fines in the English than in the American system, as far as we may judge from existing data. Assaultive offenders tend to draw large fines in England because of a sentencing philosophy in which the fine amount strongly reflects the gravity of the offense and in which assaultive offenses are viewed as more serious than property offenses.

Despite relatively high fines, many assaultive offenders were good payers. However, these offenders tended to be those in steady employment and/or having relatively high levels of household income. But there remains a sizeable minority of assaultive offenders (30%) who ultimately do not pay. What characterizes this sub-group is their youth and lack of stable or continuous work, not the magnitude of the fine imposed on them. With this subgroup, enforcement strategy variables appear more helpful in explaining nonpayment than a mismatch between means and fine amounts. In some cases the interim defaulters continued to pay their fines sporadically, not according to the installment terms laid down by the court, but on an on-going, erratic basis which the Fines Offices tolerated. Others were in total default, having ceased to pay even token amounts, but suspended committal warrants issued against them remained unactivated by the court. It is this somewhat haphazard enforcement process that offers the most plausible explanation for many of these fine failures.

VI. COERCIVE ENFORCEMENT: DISTRESS AND COMMITTAL

The most common overall enforcement strategy proceeds, in a clear progression of the degree of coercion applied, from reminders and means warrants, through the stage of the default court's means inquiry to an escalation of pressure in the form of the committal warrant. Committal, of course, represents the ultimate deprivation--loss of liberty--and for this reason it cannot be relied upon until relatively late in the process. Some courts, however, introduce other high levels of coercion, particularly distress, earlier in the enforcement process. Distress brings into play an imminent threat of real deprivation. Absent a distress warrant and short of committal, the worst that could happen to an offender is an arrest to enforce appearance at a default court.

Whereas committal is a phenomenon known to American criminal justice systems, distress is less familiar. In England as well as in the United States, frequent imprisonment is not considered an appropriate outcome of the fining process because it is viewed as a failure of the intent of the original sentence and because prison resources are scarce and costly. The main interest, therefore, from both the English and the American perspective is the same: how do these two coercive measures actually operate, what determines the efficiency of their application, and what implications do their use have for the court and for the defendant.

A. Distress

Distress involves the court's issuance of a warrant empowering its agents to seize property belonging to an offender who is in interim default on payment of monies due the court; the property may be sold publicly to meet the debt. There are restrictions on its use, the most important of which is the protection of certain necessities: chiefly clothes, bedding and tools of trade. In addition, as property seized must belong to the offender, practical problems may arise when bailiffs arrive at an offender's home. Apart from this, there is little statutory regulation of its practice.

Theoretically a number of different agents might operate distress on behalf of the courts: court enforcement officers, police officers or civilian bailiffs. English practice favors firms of civilian bailiffs, which often consist of former police officers. Whatever their background, bailiffs are prepared to make their presence felt and do not shrink from work that succeeds chiefly by threat.

Civilian bailiff firms have gained business in England by forceful salesmanship and because word of mouth in professional circles has reported their success. The bailiffs also recommend themselves to court administrators because they remove the case from the attention of the Fines Office (until payment or failure), involve little paperwork on the court's part (the bailiffs keep the subsequent files on the case, monitor progress and render simple final financial accounts to the court), and cost the court nothing.

The routine practice of most bailiff firms is to call at the offender's home within seven days of their receipt of the distress warrant from the

court. The bailiffs serve notification that they hold a warrant to levy distress for the outstanding fine amount plus costs. Access is not always easy. Although operatives may lie in wait, they will not force entry. The traditional picture of the bailiff encamped on the doorstep does not correspond to modern business realities--bailiffs do not spend a great deal of waiting time on individual cases. Therefore, warrants are sometimes returned to court marked "no access."

At the first visit the bailiffs may "mark" certain goods as seizable. If there are no goods worth seizing, the bailiffs return the warrant to the court. Sometimes an article may be marked although its intrinsic value is not great, because it is clearly of sentimental value to the family. As one bailiff remarked "Everyone has something they don't want to lose." In fact, it is rare for goods actually to be seized. The costs involved in seizure can be considerably higher than the bailiffs' fees which are based on a percentage of the fine owed plus taxes. The hope is that marking will bring the threat of loss home to the offender who will then find the fine money.

In advertising for distress business in a professional journal, one firm of bailiffs claims a success rate of 86 percent. Although this sounds implausible, it may not be a gross exaggeration. We have conflicting reports and sporadic information to compare with this claim, but figures point to substantial variation in distress outcomes among courts. In part the explanation probably lies in different selection procedures. If a court is merely sloughing off all initial problem cases to see what impact the bailiffs have in reducing the numbers of offenders in interim default, one would expect fairly high rates of warrants returned without payment. However, this does not appear to be the general practice, and the evidence suggests that a substantial proportion of offenders against whom distress warrants are issued respond by paying. Bailiffs do report that various types of offenders are more or less likely to pay: they see the worst risks as those cases in which large amounts are outstanding from offenders living in poor neighborhoods--in other words, when the fine is disproportionate to the offender's means.

On the whole, the relationship between the Fines Offices and bailiffs is a simple business arrangement. The main operational issue is the basis for the bailiffs' fee rather than the mechanisms by which the Fines Office monitors their distress operations. There is considerable variation in the fee arrangements across courts. Some courts used to pay from £2.50 to £5 out of local public funds per unproductive distress warrant returned; this has stopped but some courts do apply to the Home Office for reimbursement of bailiffs' fees (approximately £2.50 per case) for unproductive distress warrants. At courts with no such reimbursement arrangements someone else must carry the cost of unsuccessful cases. It would appear the bailiffs do not. The firm operating at East Court charges a paying offender, in addition to collecting the outstanding fine, 15 percent of the amount outstanding plus tax (17.25%); because this exceeds direct costs, these offenders are paying for fellow-offenders with whom distress is unsuccessful.

A further complication in unproductive distress warrants arises when the offender subsequently pays the fine to the court. Because the bailiffs have performed their function by trying to levy distress and the threat at least appears to have worked, they generally feel they are entitled to their fee. Some courts apparently add this to the sum due from the offender, thereby be-

ing in the position of collecting the bailiffs' fees. Other courts refuse to do so, but some have agreed not to accept payment directly from the fined offender while the distress warrant is in the hands of the bailiff. This raises the curious scenario of courts turning away fined offenders, money in hand.

The fact that distress is operated as a business has both advantages and disadvantages. The profit motive carries certain implications for efficiency: procedures tend to be streamlined, records up to date and actions swift and incisive. It is sometimes argued that the profit motive encourages excessive pressure, but from our observations, the popular image of burly, sinister bailiffs inserting a foot in the door is a myth. Yet there are more subtle forms of pressure and court monitoring remains necessary; our observations suggest, however, that courts tend to know relatively little about the details of private bailiffs' operations.

Most arguments against distress center on the poverty of the fined offenders. But behind this concern lies a more profound discomfort arising from the uncivilized connotations of "distress." Courts' apparent distaste for the sordid image of seizing property must be weighed against the alternative. If its introduction into a court's fine enforcement strategy significantly reduces its rate of committal, distress may be the less uncivilized option. Apart from its use as an alternative to committal, the use of distress as a routine step in the escalation of court enforcement activity will depend upon the degree of control courts develop over its operation and upon the financial arrangements courts devise to pay for it.

B. Committal

The final recourse of the fine process is committal to prison for non-payment. If the offender actually goes to prison, the fine process has failed in the sense that the original non-custodial sentence is recognized as wrong--whether responsibility for the mistake lies with the court, its enforcement agents, or the offender. By law a committal order may not be issued unless the court has inquired into the offender's means in his presence and is satisfied that he is able to pay. At a means inquiry, the court typically issues and then suspends the committal warrant pending the outcome of a "last chance" grace period. The threat posed by the suspended committal together with the court's flexibility, as evidence by an adjustment of the original terms of payment, are the main ways the default court tries to elicit payment.

Committal warrants are executed by the police or by civilian warrant processors. Prior to arresting offenders, some police forces routinely write to those defaulters with committal warrants who might respond with payment. There is substantial latitude for discretion on the part of the police (and other officials later in the committal process) either to force the pace of committal or to allow extra time for its threat to take effect. Arguably, no one wants the committal process to proceed to imprisonment for non-payment, and everyone agrees that its threat creates powerful pressure to elicit payment. Yet the system is not geared to maximize this opportunity.

When the police arrest offenders for committal to prison they take them to the police station or local police lock-up. Practices vary as to whether

officers try to maximize the opportunity for them to pay the fine and get out of custody before transport to the prison. In many places, people are picked up off the streets without being able to make a call or make even the most basic domestic arrangements. There is general agreement among the police and prison staff interviewed that offenders' lack of communication with their families or associates at this critical moment results in wasted effort because at least some offenders do eventually arrange last minute pay-outs, either before completing the reception process at a prison or after only a short time there. At three of the four prisons we studied, there was no opportunity for a prisoner to contact anyone on the outside at the time of his reception into custody; at the fourth, some could make "unofficial" telephone calls. However, at each establishment the prison officers in reception expressed the wish that the police would take greater advantage of opportunities for arrested fine defaulters to contact friends or relatives before bringing them to the prison. Thus, because no one agent has overall responsibility for overseeing the committal process, small economies are realized at the expense of greater system resources.

Admittedly, these fine defaulters have been warned of the consequences of non-payment. Some arrive at a belated realization of the urgent need to pay their fines only to find their efforts to do so obstructed by the machinery of fine enforcement. While the specifics of these problems noted here may be peculiar to the English system, the issue is crucial for American policy-making: the threat of imprisonment should work in such a way as to maximize the payment of fines and minimize the actual use of custody. The heart of the problem seems to be that committal, as a tool of fine enforcement, is grafted on to existing systems of prison administration, which understandably are geared to the offender originally sentenced to incarceration rather than to the fine defaulter.

Yet, in the final analysis, committal should, and does, work more by threat than by actual incarceration for the full term. If we set aside "lodged" committal warrants (where the offender is already imprisoned for another offense), the proportion of offenders paying under threat of committal ranged from 65 percent at West Court, to 40 percent at Capital Court, to 33 percent at East Court, and to 25 percent at Midland Court. Data for 35 courts in the English system show that at 20 courts two-thirds of the committals did not result in actual prison receptions, and at nine courts the rate was half or less (NACRO, 1981). As a police officer at West Court put it:

> "The amazing fact that never ceases to surprise me is that you only have to lock someone up and the money usually appears, even if there has been ages to pay up."

VII. FINE ADMINISTRATION: POLICY SUGGESTIONS FOR IMPROVING THE FINING PROCESS

Examining the practices of English lower courts, we are struck--as we were exploring American courts--with how important the fine is as a criminal sanction, yet how often it is handled as a poor relation within the family of sentencing options. While the fine is nearer the core of English sentencing practice and policy than other sanctions, the decision-making processes involved in imposing fines are among the least refined, and the operational processes intrinsic to its successful implementation are among the least well coordinated. Our work in both American and English courts suggests that a major source of this problem is that fining practices are not subject to the same level of administrative and policy concern as are other important, but less frequently used, sanctions.

This lack of attention is particularly important because, unlike other sentences, fines involve the court directly in complex tasks that are different from its other administrative activities. If a fine is to be credible, particularly as a custodial alternative, it requires the court to develop greater professional expertise in the organization and oversight of coherent, flexible but ultimately coercive strategies to supervise offenders who are in the community. These strategies require coordination across many different criminal justice and civilian agencies which act as the court's agents but which are ultimately not responsible for the outcome of the sentence.

Court administration is an emerging field; but fine administration has not been anything like a major thrust of its development. While this is less so in England, where skilled court administrators have been discussing fine problems for some time, professional fine administrators are still rare in the English courts and virtually non-existent in America.

Fine administration is ripe for further professionalization and for the rationalization of process and procedure this would encourage. This is a central policy issue for English courts if fine enforcement is to be improved significantly. It should also be a primary focus for policy discussion in American courts if practitioners want to utilize fines more effectively and if policy-makers want fines to be part of their strategy to reduce the pressure of jail and prison overcrowding. Professionalization certainly requires more training and specialization. It may mean more court personnel as well; but even so, increased fine revenue and reduced reliance on incarceration for default would probably cover the added expenses. (See, for example, the Scottish experience introducing specialized fine enforcement officers (Millar, 1984).) Fining is, after all, already a big business in both England and the United States. Primarily, however, professionalization implies a basic policy change that makes fine administration a higher priority in courts and that centralizes the responsibility for fine outcomes.

A. Fine Administration

The decision to fine is a decision that non-custodial punishment should be achieved by depriving the offender of property. It places the court in a

position easily seen as a bill collector. Collecting money (rather than supervising or rehabilitating offenders) is a task that is understandably distasteful to many court personnel, especially when enforcement requires increasingly energetic pursuit of the "bill" rather than merely the orderly keeping of records.

Stemming from this pervasive distaste for the bill collector's role is an unwillingness in courts to define fine administration as an important, professional task encompassing the organization and management of methods to supervise offenders fulfill their obligation to the sentencing court. As a result, courts rarely designate one position as encompassing the ultimate responsibility for the outcome of the fine sentence. Enforcement tends to be a secondary, rather than primary, activity for those involved, and clear lines of authority across all parts of the fining process are rare. Thus, no one is accountable if it breaks down, and few incentives exist to make fining a success. Instead, most incentives merely encourage people to pass the enforcement task on to someone else as quickly as possible.

The flow of important information into the fining process remains haphazard at all stages. There is little attention to ways of systematically providing information needed at sentencing to assess means adequately, including information on prior fine payment or default. Nor is there routine review of information relevant to assessing whether the initial amount was properly set and, if not, to adjusting it so an offender in difficulty may comply with the sentence. Finally, feedback of information on fine outcomes and on the level and type of enforcement effort they required is generally absent. This inhibits both sentencers and fine administrators from becoming more rational in their decision-making.

The policy implications are clear. Someone within the court should be made accountable for the outcome of the fine process as a whole, not merely for the funds collected. The focus of this process should be the offender and his or her compliance with the sentence of the court and not merely the collection of the sums themselves. Centralization of responsibility should encourage rational and coordinated enforcement strategies. These strategies should emphasize continuous supervision of fined offenders, beginning with routine contact and notification procedures that make it clear to the offender that the court views the fine obligation seriously and unequivocally expects payment. Terms for payment should be short and, when not met, the court's reaction should be swift and personal, with a steady progression of responses characterized by mounting pressure and increased threat of more coercive methods. All the evidence we have collected suggests that such "supervision" works.

B. Specific Issues in Fine Enforcement Practice

The sentencing court needs to pay greater attention to differences among the various financial penalties typically imposed upon offenders. On both sides of the Atlantic, the various components of the penalty are not readily distinguishable to the offender himself, and one may assume this diminishes their effectiveness. Alternatively, the court should simply set a single amount for payment and distribute the revenues to various recipients. The

main implication of the current lack of attention to the various components of the financial penalty is that the court tends not to focus on the total burden it is imposing and on the match between that burden and the offender's means. A major theme emerging from this study is the frequency with which courts set total fine amounts that exceed offenders' ability to pay within reasonable time periods.

Fortunately, most of the tools needed to improve this aspect of the sentencing process are already available to the court, or can be added without dramatic or costly changes. In this context, the idea of experimenting with a day-fine system for setting the fine amount is appealing. This is so for both American and English courts. All fining systems we have studied, including courts in Scandinavia and West Germany that use day-fines as well as courts in the United States and England, set fines based upon financial information that is readily available because it is provided directly by the defendant. However, in the latter two, courts rarely use all the information available or draw upon court documents that either exist or could be compiled easily by court personnel despite the swiftness with which the adjudication process takes place in many fine cases. If sentencing courts focused on the total amount of the financial penalty (regardless of its distribution to, e.g., fine, costs, compensation) and did so in the context of an informed day-fine system, professional fine administrators could assume an ability to pay and thus pursue their subsequent enforcement tasks vigorously.

The bridge between the imposition and the enforcement of the fine is constructed from the terms set for payment. The evidence from this study suggests that sentences characterized by smaller and more manageable amounts collected over shorter periods of time are more likely to be successful. The enforcement of such fines would be most effective if the process continually communicated to the offender the court's expectation that the fine will be paid and the court's commitment to increasingly coercive means to ensure it. The major requirement for such a strategy is the ability of fine administrators to identify non-payers immediately and to respond quickly. In courts that rely on installments, computerized tracking systems are essential, although they need not be elaborate or costly because micro-computer technology is well-advanced, widespread, and increasingly inexpensive. The remaining dimensions of a successful enforcement process are mainly administrative, including creation of the incentives necessary for it to be carried out expeditiously.

C. Coercive Enforcement Techniques: Their Implications for the Use of Fine Sentences

The fine is a sentencing decision not to imprison. If committal is viewed, therefore, as a failure of the fine process, then fine administrators are given an incentive to avoid it, even though the threat of imprisonment is probably a necessary coercive element. If day-fine systems for setting the initial amount of the sentence and built-in review of the original fine amount are successful at ensuring the sentence is reasonable, the incidence of interim default because fines are out of line with means should be reduced. For the remaining defaulters, few courts now systematically exhaust all possible enforcement options before resorting either to actual committal or

threatening it without follow-through. In particular, many courts fail to take advantage of distress. We question whether it is appropriate to eschew an extreme measure of forcible material deprivation in favor of a measure that entails deprivation of liberty. One way to approach the problem of unacceptably high committal rates is to reappraise fining practices so that distress, rather than imprisonment, is viewed as the appropriate coercive device toward which the enforcement process moves. We suggest, therefore, that distress should be more fully subjected to experimention both in England and in America, and that the focus of these experiments should be on using the threat implicit in distress, not the auction of distrained goods, to secure payment.

Finally, the routine introduction of a short-form presentence report into the court's review of a fine sentence before actual imprisonment would help answer whether yet some other non-custodial sentence is more appropriate than committal or whether the offender is demonstrated to have willfully neglected to pay the fine. If the offender's default is merely feckless, it might be appropriate to provide more formal supervision as a substitute for or in conjunction with the fine. In countries other than England, such as Sweden, the trend is towards combined fine and probation sentences. While there may be good reasons, as the English probation professionals claim, not to place fined offenders on probation, such supervision could be provided to some offenders by the court within a more professional system of fine administration. Practical advice to an irresponsible offender on how to manage his affairs so as to cope with the financial obligation to the court, would represent a contribution to the integrity of the fine sentence as well as a potentially useful form of assistance to the offender.

TABLE 1

ENGLAND AND WALES: PERSONS FINED BY MAJOR OFFENSE, 1980

OFFENSE	FINED		ALL PERSONS SENTENCED	
Violence against the person	25,000	(50%)	52,300	(100%)
Sexual Offense	3,600	(45%)	8,000	(100%)
Burglary	16,100	(24%)	67,100	(100%)
Robbery	200	(6%)	3,500	(100%)
Theft/Handling	120,800	(52%)	234,500	(100%)
Fraud/Forgery	11,600	(47%)	24,900	(100%)
Criminal Damage	4,700	(42%)	11,300	(100%)
Other Indictable Offense (excluding Motoring Offenses)	19,400	(69%)	28,000	(100%)
Subtotal indictable (excluding Motoring)	202,200	(47%)	429,700	(100%)
Indictable Motoring Offenses	18,300	(70%)	26,000	(100%)
SUBTOTAL ALL INDICTABLE OFFENSES	220,500	(48%)	455,700	(100%)
Summary Offenses (excluding Motoring Offenses)	412,100	(89%)	462,500	(100%)
Summary Motoring Offenses	1,278,300	(99%)	1,294,300	(100%)
SUBTOTAL SUMMARY OFFENSE	1,690,400	(100%)	1,756,800	(100%)
GRAND TOTAL	1,910,900	(86%)	2,212,500	(100%)

Source: Criminal Statistics England and Wales 1980 (London: H.M.S.O., 1981)

FIGURE 1

CONVERSION CHART: POUNDS STERLING TO U.S. DOLLARS
(1980-81)

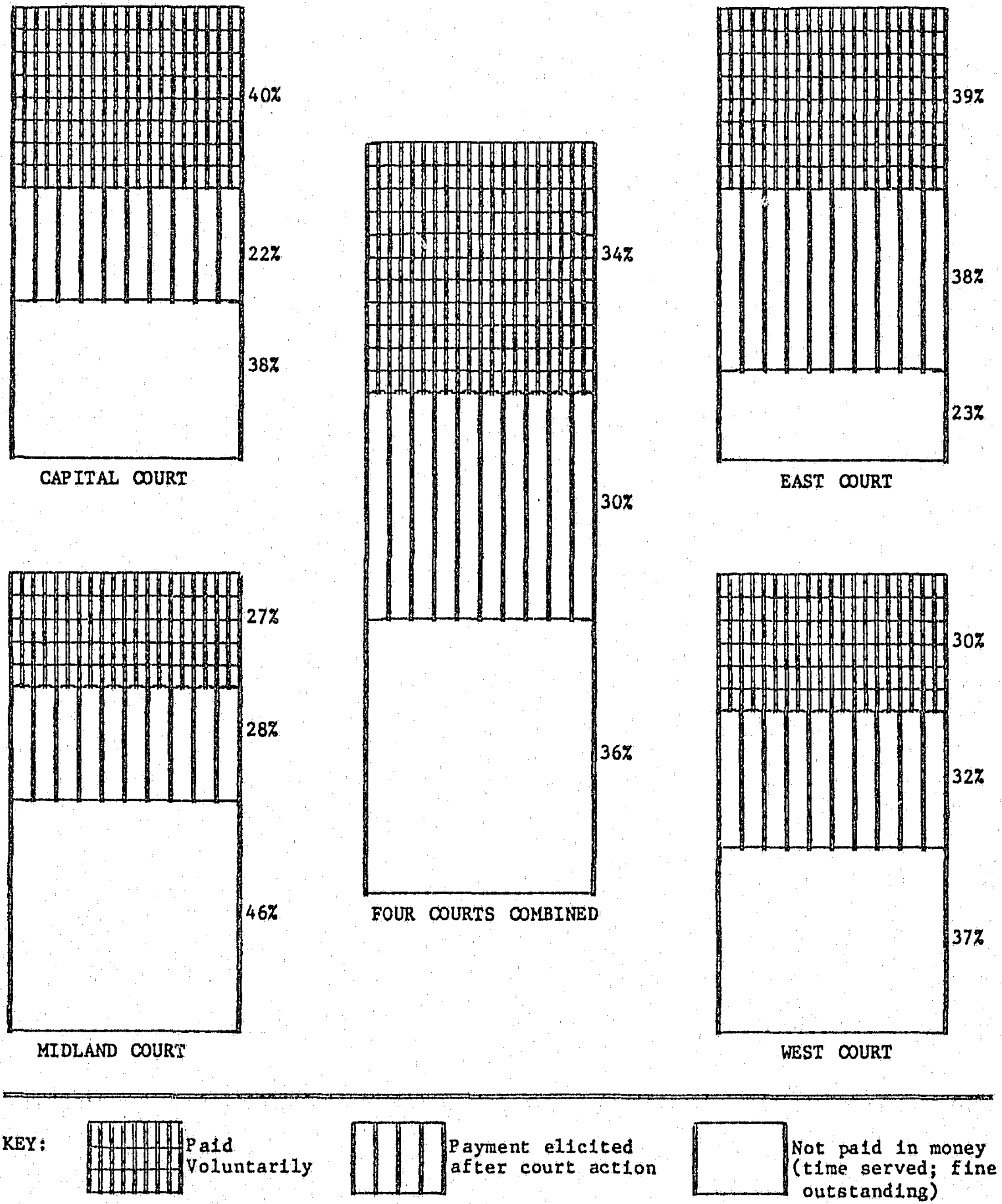
Pounds Sterling (£)	=	U.S. Dollars ($)
1		2.20
5		11.00
10		22.00
15		33.00
20		44.00
25		55.00
30		66.00
35		77.00
40		88.00
45		99.00
50		110.00
60		132.00
70		152.00
80		176.00
90		198.00
100		220.00
125		275.00
150		330.00
175		385.00
200		440.00
225		495.00
250		550.00
275		605.00
300		660.00
350		770.00
400		880.00

TABLE 2

PROPORTION OF OFFENDERS FINED FOR DIFFERENT TYPES OF OFFENSES AT FOUR MAGISTRATES' COURTS

Type of Offense	Capital Court (%)	(N)	Midland Court (%)	(N)	West Court (%)	(N)	East Court (%)	(N)	All Courts (%)	(N)
Violence against the Person	43%	35	48%	28	39%	24	47%	28	44%	115
Shoplifting	37	26	39	35	35	26	36	24	37	111
Taking & Driving Away (t.d.a.)	29	21	54	25	31	10	56	15	40	71
Other Theft	30	34	44	30	57	46	30	31	38	141
Handling	35	6	60	6	75	12	50	9	54	33
Criminal Damage	42	5	70	14	65	26	35	8	56	53
All Offenses	34%	127	47%	138	47%	144	39%	115	41%	524

FIGURE 2
FINE PROCESS OUTCOMES: VOLUNTARY PAYMENT, ELICITED PAYMENT, AND NON-PAYMENT



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