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Improving court productivity: Two New Jersey experiences

by Randall Guynes and Neal Miller

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ACQUISITIONS

In 1980, the superior court of Hudson County, New Jersey, had a backlog of 3,800 cases awaiting grand jury action. One-third of the cases were more than 6 months old. Five years later, that backlog had been reduced to 900, and no case had been in queue more than 6 months.

New Jersey's Middlesex County presents a similar success story. The Presiding Criminal Court Judge is able to resolve fairly and expeditiously at first arraignment 50 percent of the cases, substantially reducing the number of felony cases that must go to trial.

The two counties, through procedural changes in Hudson and administrative changes in Middlesex, have succeeded in relieving the enormous backlogs that plague courts of similar size elsewhere. This article tells the story of what Hudson and Middlesex counties did. It offers ideas for other jurisdictions that want to reduce backlogs by improving court productivity.

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Courts look for ways to solve the problem of crowded dockets

Urban courts across the country have been searching for ways to cope with continuing increases in the number of cases brought to court. The problem is more acute when there are not enough resources to keep up with the new demands.

Historically, the way most jurisdictions tackle case overload is to increase the number of judges. Most States maintain a formula for determining how many judges they need with respect to the number of filings or dispositions produced by the court. Some States use a case weighting system to justify to State legislatures the need to increase the number of judges. A few States with centralized judicial authority use the formulas to reassign judges and to enlist the services of part-time (retired) judges.

But having more judges does not always lead to desired improvement in court performance. Accordingly, some courts have adopted managerial approaches, making organizational changes that include adding court management positions and improving technical management support in the form of trained trial court administrators, calendar clerks, and other staff.

Researchers working under a National Institute of Justice grant were attempting to measure the productivity effects of various administrative and managerial patterns. They turned to New Jersey,

which in the past several years has experimented with measures to reduce delay and improve efficiency. New Jersey centralized its bench, reassigning judicial personnel to reduce backlogs where needed. Researchers found that individual jurisdictions in the State had used different types of court processes and achieved different productivity results.¹

New Jersey focuses on local trial courts

New Jersey's two-tiered court system includes a superior court (court of general jurisdiction) and municipal courts (courts of limited jurisdiction).

New Jersey separates criminal cases into indictable and nonindictable offenses, a distinction essentially the same as that between felony and misdemeanor in other States.

Despite the improvements brought about by consolidation, criminal court processing in New Jersey is complex. It includes first a bail hearing in the municipal court in the city where the felony was committed, then referral to the State prosecutor, grand jury indictment, arraignment in superior court, and trial or plea, followed by a sentencing hearing. This long procedure, designed to ensure due process, also leads to criminal case backlogs.

¹ Thomas A. Henderson et al., *The Significance of Judicial Structure: The Effects of Unification on Trial Court Operations*. Washington D.C.: U.S. Department of Justice, National Institute of Justice, 1984.

Improving court productivity: Two New Jersey experiences

New Jersey courts have another characteristic that contributes to court delay. Exclusionary motion hearings may only be heard in the superior court; there is no judicial authority to dismiss indictable cases or reduce charges in the municipal court because the State prosecutor is not present in that court. Thus the burden of meeting speedy trial requirements lies in the prosecutor's office. After the prosecutor's review, cases may be returned to the lower court, dismissed, or referred for grand jury action.

In 1980, the New Jersey State Supreme Court, in an effort to increase efficiency, decided to focus on the first step in the court process: the local trial court. It required each trial court to develop a management plan to improve case processing. Two of these plans, in Hudson

and Middlesex counties, involved major innovations in the structure and operations of local trial courts.

The Hudson County (Jersey City) experiment

Hudson County is in the heart of the blue-collar, high-density urban area surrounding New York City. In Hudson County, as in other New Jersey jurisdictions, a large number of felony cases are pled in the court of general jurisdiction—the superior court. The cases are uncomplicated and routinely handled but still require *four court appearances and a grand jury indictment*.

The simplicity of these cases argued for a less complicated process. It looked as

though some of the county's felony cases could be handled appropriately through a decisionmaking process—one similar to that used in misdemeanor courts—if the cases involved uncomplicated legal and fact issues.²

In 1981, the county established a Central Judicial Processing (CJP) Court where all indictable offenses (felonies) are first heard. The CJP Court makes its screening decisions usually within 24 hours of arrest. It is staffed by representatives of the State prosecutor and public defender offices. The presence and cooperation of these offices permit some pleas and diversions that could not otherwise occur within this timeframe. Many lower

² See box below.

Processing cases in court: Three models

The experience recounted on these pages illustrates that there is more than one way courts can deal with the cases that come before them. An overview of what those ways are and why and how they differ may be helpful in understanding the New Jersey approach to improving court productivity. American courts generally process cases according to three models:

- The **procedural model**, marked by many court appearances to ensure that all due process rights are provided. This process is usually long and expensive, but it is the traditional approach used by courts of general jurisdiction.
- The **decisional model**, seen most often in the misdemeanor courts. This process focuses on the quick resolution of uncomplicated legal and fact issues.

- The **diagnostic model**, which focuses as much on diagnosing the needs of the litigant as on developing the legal and factual aspects of a case. The juvenile court exemplifies this model, which can consume even more resources than the procedural model without as many clearly defined steps.

A particular court may use processes that draw on all three models, but one model will predominate. The models have different impacts on court productivity and thus are important concepts for legislators and policymakers to use in developing ways for courts to process cases more efficiently.

One way to streamline case processing is to determine how often a particular court is processing cases that do not "fit" its model. For example, a general jurisdic-

tion court—in which the procedural model predominates—may be hearing many criminal cases that do not require the numerous hearings associated with this model.

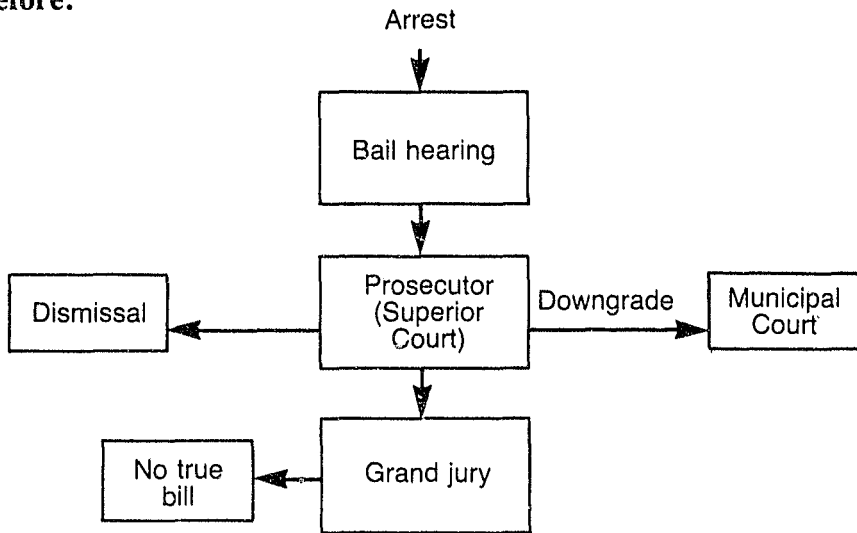
Such mismatching has several consequences, among them higher rates of case disposition by means other than disposition on the merits, increased costs, and longer delays. Use of a more appropriate model should increase judicial productivity, lower costs, and reduce court backlogs without any adverse effects on the quality of justice.

The foregoing analysis of court characteristics was first developed by Thomas A. Henderson, Cornelius M. Kerwin, Randall Guynes, Carl Baar, Neal Miller, Hildy Saizow, and Robert Griener in their 1984 research cited at the beginning of this article.

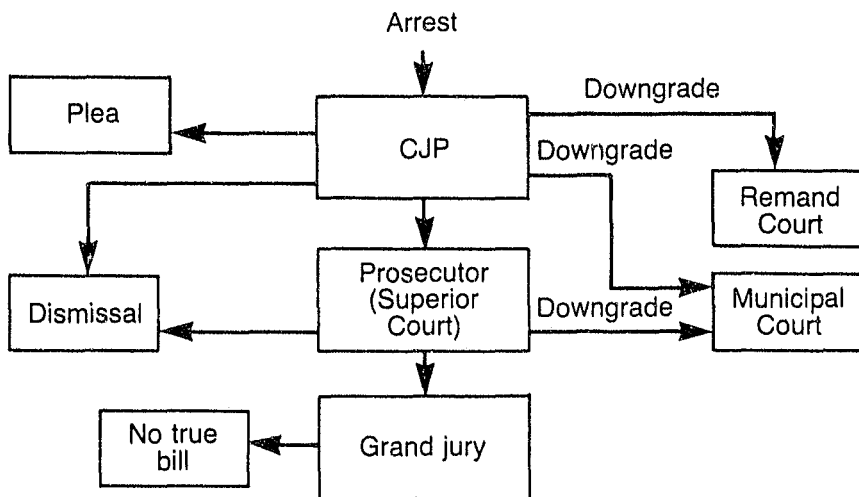
Figure 1.

Case flow in Hudson County before and after creation of Central Judicial Processing (CJP) and Remand Courts

Before:



After:



Before Central Judicial Processing, more than 90 percent of cases were directed to the grand jury. After CJP was introduced, less than 50 percent were directed to the grand jury (see Figure 2).

The creation of the CJP and Remand Courts did not affect the steps in the process following grand jury indictment: arraignment, pretrial hearings, trial.

felony charges can immediately be reduced to nonindictable (misdemeanor) status and then immediately move to acceptance of a guilty plea and sentencing—or they can be dismissed, if appropriate.

Cases that are not downgraded or dismissed are then referred, as in other counties, to the prosecutor's office for indictment review. If that office does not seek indictment, the cases are remanded to the municipal court for disposition or dismissed administratively.

A second innovation introduced in 1984 allowed for more appropriate treatment of some of these remanded cases. The innovation was the Remand Court, a municipal court that hears downgraded indictable cases originating in Jersey City and involving repeat offenders or multiple offenders. These cases are deemed not to merit superior court hearing but are nonetheless considered "serious" cases. Thus they are usually heard within 2 weeks of first appearance in the CJP Court or within 1 week for drug offenders.

The Remand Court is distinguished from other municipal courts in that it is staffed with an assistant county prosecutor so that cases can receive the continued attention of the prosecutor's office despite the reduction to a nonindictable charge. Figure 1 portrays case flow before and after the experiment took place.

The Middlesex County experiment

Middlesex County, unlike Hudson, is a suburban county on the southernmost fringe of the New York metropolitan area. Like Hudson, Middlesex established a central intake for all felony cases, but instead of creating a Central Judicial Processing (CJP) Court at the municipal court level, Middlesex gave the central intake responsibility to the presiding judge of the criminal division of the superior court.

At arraignment the presiding judge may divert cases, accept pleas, and sentence offenders without requesting a further sentencing investigation by probation officers. The presiding judge can make these decisions because he has immediate access to centralized probation office information.

Improving court productivity: Two New Jersey experiences

This centralized information is the key element in the Middlesex approach to court productivity. Instead of adopting the Hudson approach (reducing less serious cases from felonies to misdemeanors), Middlesex improved the nature and extent of the information available to the superior court so that by the time the case is arraigned in that court, the near equivalent to a presentence investigation is available. The aim was to speed up superior court decisionmaking and to avoid complex, time-consuming repeat appearances in court.

Probation staff are geographically assigned to all felony cases referred from a municipal court and are responsible for ensuring that information gathered from bail through sentencing reports is integrated and quickly available to the superior court.

The first use of the extensive data is made in the Early Settlement Program (ESP) located within the prosecutor's office. ESP is in effect an extended prosecutorial screening unit through which the prosecutor and public defender make evaluations and offer recommendations to the presiding judge on case handling prior to indictment. Among the options are dismissing or downgrading cases, diverting them, and accepting pleas to reduced charges.

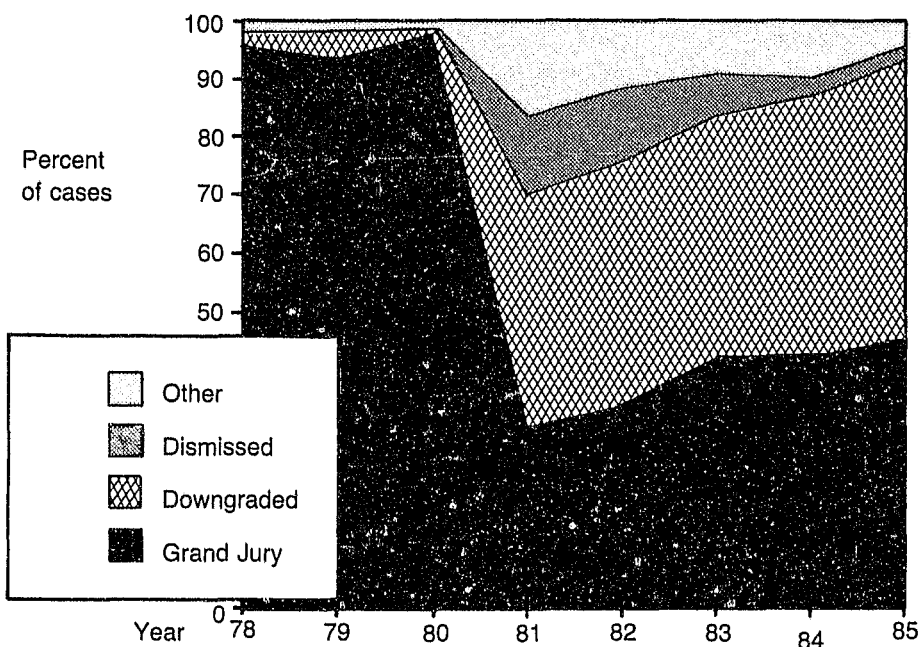
The presiding judge retains jurisdiction over the felony cases that remain until they have completed the pretrial conference stage. Other judges of the superior court's criminal division pick up the process from there and hear cases when they are ready for trial or plea acceptance.

Evaluating the Hudson and Middlesex approaches to case delay

The National Institute of Justice commissioned a study to measure the success of the two counties' changes in terms of their effectiveness in reducing case processing time and their efficiency in lowering overall costs. The investigators compared case processing time for samples of lower felony cases before and after the introduction of the Remand Court in Hudson County. In Middlesex County they studied a single sample. Case processing time was estimated

Figure 2.

Effect of Central Judicial Processing on case distribution in Hudson County



The Central Judicial Processing Court was introduced in 1980. Separate data on dismissals did not exist prior to 1980. In the above chart, dismissals prior to 1980 are included in the "grand jury" category.

from judge time and case records. They also looked at case outcome, including sentencing data, to ensure that reductions in time and money did not undermine the quality of justice. This is what they found.

Hudson County redirects 89 percent of felony cases to municipal courts

In Hudson, the creation of the Central Judicial Processing and Remand Courts had a dramatic effect on case backlogs. In 6 years of operation, the new CJP court redirected 85 percent of indictable charges to the municipal courts; additional prosecutor remands raised this figure to 89 percent. This had the effect of reducing case processing time for lesser felonies by nearly two-thirds—from 376 days in 1979 to 121 days in 1983.³

³ Barry Mahoney, Larry L. Sipes, and Jeanne A. Ito, *Implementing Delay Reduction and Delay Prevention Programs in Urban Trial Courts*. Williamsburg, Virginia: National Center for State Courts, 1985.

While the proportion of cases going to trial went down (from 23 percent to 5 percent), conviction rates at trial were correspondingly higher (70 percent, up from the previous 49 percent).

The advent of the Remand Court in Jersey City produced further productivity improvements in Hudson County. Just 6 months after implementation of the Remand Court, the proportion of Jersey City dismissals was down to 4.2 percent (from the previous 15.2 percent), indicating that the screening process had saved a corresponding proportion of court time down the line. Fewer defendants failed to appear at trial. The speed with which cases reached the Remand Court was undoubtedly a significant factor in this result. Figure 2 shows the effects of the CJP and Remand Courts on case distribution.

Cost savings. Not surprisingly, these productivity improvements were accompanied by cost cuts. Costs in lower courts are far less per case than in higher courts. Redirecting 85 percent of cases from the

superior court to the municipal court thus achieved immediate cost savings. The average cost per case before creation of the Remand Court was \$120. The cost was cut to \$103 after the Remand Court began operation.

Individual disposition costs (for court personnel only and not including prosecution and defense) range from \$38.85 for a diversion in the Central Judicial Processing Court to an average of \$5,073 for a jury trial in superior court. Even the *most expensive* disposition in the newly created municipal courts (CJP, Remand)—\$101.86—was significantly lower than the *least expensive* disposition in the superior court (\$131.93).

Differences in judicial salaries do not explain these cost benefits, since CJP and Remand Court judges receive the same salary as superior court judges. The major factor is the reduction in time

spent in court. Required appearances in municipal courts are fewer and shorter than in superior court.

Sentencing outcomes. Sentencing patterns have not changed markedly. There was a small increase (5 percent) in jail sentences but a slight decrease in their length, and a substantial rise in the use of diversion in the municipal courts. Probation has displaced fines as a primary punishment. For those few cases still being heard in the superior court, incarceration penalties have increased 30 percent while probation sentences have decreased 22 percent.

Middlesex County succeeds in clearing calendar

Since 1984, Middlesex County has led the State in reducing backlog, and this was accomplished while the number of

superior court judges assigned to criminal cases was reduced.

Data collected after the reforms were put in place showed a distinct clearing of the superior court calendar. Half the cases were resolved by the presiding judge at arraignment or at a second plea acceptance hearing and thus did not go to trial.

Costs. Disposition cost in Middlesex County was \$108 per case, roughly comparable to Hudson's \$103. A major factor in reducing costs was the frequent use of diversionary alternatives (33.7 percent of all cases and 75 percent of cases adjudicated by the court). However, since eligibility for diversion is set by law in New Jersey, the court can exercise little control over its use. For first offenders, increases in case severity would probably be accompanied by a rise in costs. Nonetheless, the Middlesex

The personal element in reducing court delay

Some of the dramatic results achieved in Hudson and Middlesex counties can be attributed to factors other than the new processes—judicial systems that *permit* innovation, a cooperative political climate, and strong leaders on the bench and behind the scenes who make the systems work.

Both Hudson and Middlesex had all these benefits, especially the leadership. Hudson County had Judge Edward Francis Zampella and former prosecutor Harold Ruvoldt, and Middlesex had Judge George J. Nicola. These men brought energy, commitment, and strong, effective leadership to the delay reduction process.

Middlesex County's Judge George Nicola spent several years in the Middlesex County juvenile courts and was instrumental in setting up the nationally known Scared

Straight Program at Rahway State Prison.

Now, as Presiding Judge of the Criminal Court, Judge Nicola continues his untraditional approaches to justice. When he became Criminal Presiding Judge 5 years ago, he gathered and analyzed information to discover the extent of duplication in the work performed by the court's six support units. He says cooperation among the principal players, including the chief of probation, the administrative judge, and the county prosecutor, was a key element in the successful functional merging of the six units into one. Judge Nicola says the new matrix system—often called vertical case management—has enabled the county to process twice as many cases with half the number of judges.

The Hon. Edward Francis Zampella was Chief Judge of the Jersey City Municipal Court before his "temporary" appointment to the CJP court

in 1981 (a post he still holds). Judge Zampella points out that in the first 10 months of the CJP court's operation Hudson County moved from last to first place among New Jersey's 21 counties in successful reduction of case backlog.

A man who has spent his professional life on the New Jersey bench, Judge Zampella says jurisdictions considering the CJP/Remand system should make sure they have an experienced prosecutor like Harold Ruvoldt, who participated in both the design and implementation of the CJP/Remand procedure in Hudson until returning to private practice in 1986. Ruvoldt, who brought to the prosecutor's office 15 years of experience as managing partner of a law firm, strongly recommends that the prosecutor put the most experienced staff at the beginning of the judicial process, where court delay reduction measures have the greatest impact.

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approach is seen as cost effective for its particular mix of cases.

Sentencing. Although Middlesex County levies jail or prison sentences for a relatively small proportion of offenders (4 percent), the median sentence to incarceration is long (46 months). Probation sentences are also typically long (43.6 months).

Middlesex appears to levy more serious penalties to relatively fewer persons than Hudson County, while Hudson levies less severe penalties to relatively more persons. Since criminal penalties require the use of scarce public resources, differences in sentencing policies reflect strategic decisions on how these resources are to be used.

The two New Jersey jurisdictions chose ways to reduce court delay that were tailored to their own situations and resources, but their experiences are transferable to other places. Basically, two factors determine the amount of "due process" required in a case—the complexity of the facts and the potential severity of the sanctions. The two counties found ways to weed out simple cases of intermediate seriousness from their superior court and relegate them to a simpler, speedier process. Such cases turned out to be the bulk of their superior court caseload.

Hudson modified its process by screening cases within the first 24 hours and redirecting most to lesser courts. Middlesex retained its process but advanced information gathering to an ear-

lier stage, where the information could have a more substantial effect on subsequent case processing. Both approaches succeeded in shortening case time and cutting case costs.

Both counties were able to achieve these significant improvements in court performance at no apparent cost to the quality of justice and with no significant negative impact on law enforcement or corrections.

The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program Offices and Bureaus: National Institute of Justice, Bureau of Justice Statistics, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime.

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