E PLURIBUS UNUM ?

RESEARCH ON PROCESSING TIME IN CRIMINAL CASES

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The Problem of Delay

Delay in the processing of criminal charges has long been perceived as a serious national problem not easily controlled by executive, legislative or judicial branches of government (Taft, 1908; U. S. Attorney General, 1957; Zeisal, et al., 1958; President's Commission, 1967; American Bar Association, 1968; National Advisory Commission, 1973; Church, et al., 1978b; Feeley, 1979). Delay undermines the effectiveness of the criminal justice system by putting off the punishment of the guilty and the vindication of the innocent (Feeley, 1979). Victims and witnesses, severely burdened by the necessity of repeated court appearances, lose interest or refuse to cooperate (Cannavale, 1976). Delay dilutes the strength of the prosecution and increases the cost of defense, especially when the defendant remains incarcerated prior to trial. When not incarcerated prior to trial, dangerous defendants are free to commit new crimes (Senate Judiciary Committee, 1971; National Bureau of Standards, 1970).

Court delay is a shorthand, derogatory term for what is perceived as excessive time between the initiation of criminal charges and the disposition of those charges. Some "delay" in the administration of justice is traditionally considered a virtue and denotes a deliberate, thoughtful consideration of the facts. The pace of justice is often intermingled with or balanced against other important constitutional values like the provision of effective counsel, the right to examine the evidence, and the preparation of an adequate defense. Delay can serve other purposes as well. It permits defense counsel to be paid before a verdict (Feeley, 1983). It increases a defendant's willingness

to accept a plea bargain and save the court the time and effort of a trial (Levin, 1977). Prosecutors can use delay as a means to bring pressure against a defendant without actually proving the charges made. Deferring a prosecution can be used to encourage a defendant to get a job, to enroll in drug rehabilitation treatment or to make restitution to his victims (Baker and Sadd, 1981).

Research on Court Delay

Research on court delay has generated an extensive literature (Church, et al., 1978b; Fort, et al., 1978). However, only a dozen or so studies have been published in the last twenty years that report findings from the systematic collection and analysis of case level data about case processing time. Section 1 describes the nature of each of the published studies and the variability in approach taken by these research efforts. Section 2 reviews some of the salient characteristics of these studies. The findings of this research are reviewed in Section 3. Section 4 is a critical assessment of that research and Section 5 sets out the prospects for advancing court delay as a field of criminological research.

Section 1

INDIVIDUAL STUDIES

The empirical research on court delay is diverse, reflecting the diverse interests and methods of the authors and the policies they examined. The earliest of these studies (Katz, et al., 1972) assessed case processing time in Cleveland by describing the mean case processing time between arrest and disposition for 1616 felony cases. They report the percent of cases disposed of in various time intervals and then display the distributions, for example, of pled cases with those that go to trial. Nimmer (1975) uses a similar comparison of the time interval distributions to assess the time between filing and a verdict for cases disposed of in federal court in San Diego in 1966, before the introduction of an "omnibus hearing" procedure, and in 1967, after the introduction of the reform. Levin (1977) uses a tabular format to report data on the median time to trial for several hundred felony cases in Minneapolis and Pittsburgh. In addition, he uses aggregate data published elsewhere to compare these jurisdictions with courts in Chicago and Washington, D.C.

In more recent research Eisentein, et al. (1983) compare median times between filing and disposition for thousands of cases in 3 cities in each of 3 states. Ames, et al. (1980) use a tabular format to report median disposition times and the percentage of cases in 10 federal courts that are incompliance with the provisions of the Federal Speedy Trial Act. Church, et al. (1978a) assess the role of court characteristics by reporting the rank order of the median times between filing and verdict in 21 urban courts.

By far the most common approach to analyzing individual case level data on court delay is the use of ordinary least squares regression. Eisenstein and Jacob (1977) use this procedure for several thousand 1972 felony cases in Baltimore, Chicago and Detroit. Neubauer, et al. (1981), Neubauer and Ryan (1982) and Luskin and Luskin (1983) analyze case, court and policy characteristics from various subsets of 1976, 1977 and 1978 data from the LEAA evaluation of court delay reduction programs in Detroit, Providence, Dayton and Las Vegas. Hausner and Seidel (1981) focus their attention on over 2000 felony and over 7000 misdemeanor cases disposed of in Washington, D.C. during 1974 and 1975.

Rhodes (1976) uses 1968 data from 83 federal district courts as part of his aggregate level regression analyses. Gillespie's (1977) study of federal district courts from 1968 through 1974 regressed median processing time against a variety of court characteristics. Grau and Sheskin (1982) combine cross-sectional analyses with a time series perspective to analyze individual level felony cases in three Ohio jurisdictions in the late 60s and early 70s. Bridges (1982) plots annual data from federal criminal cases to construct a 10 year time series; Garner (1987) statistically analyzes case processing time for the same courts for the 150 months from January 1970 to June 1982. Nimmer (1975) uses an experimental design to investigate the delay reduction potential of the "omnibus hearing" in two federal courts; Kerstetter and Heinz (1979) similarly evaluate the omnibus hearing in Dade County, Florida.

Section 2

CHARACTERISTICS OF DELAY RESEARCH

Table 1 attempts to characterize these published studies on the causes and cures of court delay. These studies draw from as few as one court in one jurisdiction and as many as 95 separate courts with nationwide coverage. The earliest data is from 1966 and the latest is 1982. The unit of observation in the cross-sectional studies can be a defendant, a charge, a case, or a court. For time series studies, monthly or yearly averages are employed. The number of observations analyzed is also quite diverse; alternatives range from a handful of courts to thousands of individual cases. Although this review is limited to studies of criminal cases, studies differ sharply in the types of cases they include. Some studies limit their scope to selected felonies; others include all misdemeanor and felony charges that come before the court.

Another characteristic that is not spared disparate treatment by this research is the dependent variable, case processing time. Table 1 contrasts how the event that begins the measurement of processing time can be an arrest, an indictment, or a first court appearance. The termination of the processing period can be a verdict (a dismissal, a plea, or a trial judgment) or the imposition of a sentence. Processing time for individual cases is measured in days or months; when cases are aggregated to a larger unit (crime type, courts, or year), research studies have calculated means, median, various percentiles, and the percent of cases within or over a particular limit (e. g., 0 to 30 days; greater than 90 days).

Efforts to determine the sources of variation in case processing use one or many explanatory variables, employ them singly or in combination, and rely on tabular, rank ordering, linear regression and time series trends. Explanatory variables can represent characteristics of cases, defendants, courts or policies. Findings can include all hypotheses investigated; more often only statistically significant variables are reported.

Section 3

HYPOTHESES ABOUT DELAY

Diversity in approach is not unusual in robust fields of scientific inquiry and can provide support for findings that are independent of any particular research method. In the literature on court delay, diversity has yet not proven to be a strength because there is little consistency in the findings reported. This section considers the many hypotheses about the causes and cures for delay in the criminal courts. For convenience, hypotheses about case and court characteristics and major delay reduction policies are reviewed, separately.

Case Characteristics

Charge Seriousness

The more serious the offense charged, the more that is at stake, and consequently the longer and more deliberate the consideration. Charge seriousness can be rank ordered according to the maximum possible sentence of the crime type. Alternatively, certain aspects of the charge, such as the use of a weapon, are used to distinguish a more serious case from a less serious case. Only Katz, et al. (1972) finds consistent support for this notion in their study of Cleveland; other researchers, notably Luskin and Luskin (1983) and Neubauer, et al. (1981) in their analyses of Detroit, Providence, Dayton and Las Vegas, report occasionally significant independent effects on case processing time from charge seriousness.

Charge Complexity

More complex cases are believed to require more attention and more time to resolve. The notion of charge complexity can incorporate the number of charges, of codefendants, of motions filed, or of victims. Hausner and Seidel (1981) find very strong increases in case processing time attributable to multiple defendants and multiple charges in the District of Columbia. On the other hand, Grau and Sheskin (1982) found no influence of charge complexity. Neubauer, et al. (1981) find different results in different cities.

Crime Type

Homicide and larceny are different types of behavior, engaged in by different types of people and require different responses from the society. This variability is frequently asserted as a cause of differential disposition times. The categories of the FBI's uniform crime reports (homicide, rape, robbery, assault, burglary, larceny and arson) are commonly employed for this purpose.

Eisenstein and Jacob (1977) report a significant effect for "crime type" without any specificity of what their crime typology might be. Hausner and Seidel (1981) test for the effect of homicide, sexual assault, robbery, burglary, and aggravated assault but the only crime type with a significant influence on case processing time is sexual assault, which is associated with a longer time-to-disposition. Neubauer, et al. (1981) find a positive effect (longer processing time) only for burglary in Las Vegas and for assault in Providence. Grau and Sheskin (1982) report no effect from crime type. Bridges (1982)

reports substantial variability in processing times for crime types in the federal system, but Garner (1987) finds that reductions in the time-to-disposition are independent of crime type.

Type of Arrest

On occasion the police are able to apprehend the suspect at or near the scene of the crime; in other cases, arrests are made after a search, after the discovery of incriminating evidence, or after a grand jury has issued an indictment. Only Hausner and Seidel (1981) examined the difference in processing time for cases where the arrest occurred at the scene and they found this type of case was disposed of more quickly.

Age, Race and Sex of Defendant

The sociological and demographic characteristics of defendants are believed to affect the nature of many criminal justice processes (Blumstein, et al., 1983) and there are plausible arguments for thinking that the timing of case processing events is one of them. Defendants under 16 or 18 can be processed in entirely different courts, under different laws, and with the threat of entirely different penalties. While racial and sexual differences do affect the nature of criminal behavior and the way in which police, courts and correctional agencies respond, the precise mechanisms by which these differences could be expected to either speed up or slow down the processing of criminal cases are not well specified.

Eisenstein and Jacob (1977) report a major effect for "characteristics of the defendant" but do not separate out age, race or sex effects. Race is frequently available for evaluation in court delay research but interestingly does not show up as a significant factor in any of the published research. Neubauer, et al. (1981) do find that older defendants take longer to process in Providence and that female defendants take longer in Las Vegas.

Bail Status

Defendants who remain in custody after being arrested tend to have more serious charges placed against them, to have longer criminal histories, and to have fewer personal and financial resources at their disposal. The effects of bail status are striking. Defendants held in custody have consistently been found to have speedier dispositions than those that are released. Grau and Sheskin (1982), Katz, et al. (1972), Luskin and Luskin (1983), Neubauer, et al. (1981), and Neubauer and Ryan (1982) have consistently found significant effects for being in custody prior to disposition. Hausner and Seidel (1981) also tested the effect of release on cash or surety bonds versus unsecured release and determined that cases with less restrictive bail status (unsecured release) took longer to dispose.

Type of Attorney

The potential influence of the defense attorney on how and when a case is disposed is considerable. Privately retained attorneys generally have more affluent clients, file

more motions, defend more serious cases, operate in a less bureaucratic environment, and seek payment for services rendered directly from the defendant. All of these factors suggest that these cases would move more slowly than cases handled by a public defender or an assigned counsel working on a salary or a fixed fee.

The published research tends to support this notion. Cases with private attorneys proceed more slowly (Bridges, 1982; Garner, 1987; Grau and Sheskin, 1982, Katz, et al., 1972, Luskin and Luskin 1983). Neubauer, et al. (1981) report significant effects in Dayton and Detroit but not in Providence or Las Vegas. Neubauer and Ryan (1982) report no significant relationships in Dayton, Providence or Las Vegas. Only Hausner and Seidel (1981) report that, in the District of Columbia, cases with a public defender take longer than cases with a different type of counsel.

Case Disposition

A criminal case can result in dismissal, a guilty plea, or a trial, and how a case is disposed might easily affect the timing of that disposition. Cases going to trial tend to have more at stake, tend to involve real controversies over evidence and guilt, and consistently take longer to prepare for and dispose; dismissals, however, take longer than pleas (Eisenstein and Jacob, 1977; Grau and Sheskin, 1982; Katz, et al., 1972; Luskin and Luskin, 1983; Neubauer et al., 1981; Garner, 1987; Bridges, 1982; and Neubauer and Ryan, 1982). Again, the only contradictory evidence comes from Hausner and Seidel's study of Washington, D.C. where cases dismissed or rejected for prosecution proceeded as a group slightly quicker than cases pled.

Court Characteristics

Caseload

The amount of work waiting to be done by a court is assumed to influence the speed with which that work is completed. Crowded dockets, however, can make courts work harder and therefore more efficiently or they can make them more cumbersome and less efficient. Most courts have civil as well as criminal caseloads, and backlogs in either can reasonably be expected to influence the speed with which current criminal cases are considered and resolved.

The only matter more varied than the findings on this hypothesis is the way in which caseload is defined and measured. Using data from one point in time, Church, et al. (1978a) found a strong positive relationship between criminal and civil caseloads and case processing time. Gillespie (1977) analyzes 8 years of data from the Federal district courts and finds a similarly strong relationship between a court's median case processing time and the number of civil and criminal cases pending at the beginning of the year, but not the number of cases filed during the year.

Hausner and Seidel (1981) calculate the number of people indicted during the four week period prior to the disposition of a case and find a statistically significant but weak, positive relationship with case processing time. Rhodes (1976), on the other hand, finds no correlation between weighted criminal and civil caseload and case processing time in data from 83 Federal district courts. Grau and Sheskin (1982) report no effect for their caseload variable for three Ohio cities.

Modern Technology

Automation in the court room has been promoted by Presidential Commissions (and computer salesmen) as a mechanism to keep track of the court's business. Automation can also be use to schedule courtrooms, judges, attorneys, jurors, witnesses and court reporters. The existence of this equipment is not sufficient; it must be understood and used by the court if it is to become an effective aid in reducing court delay.

The research literature has not tested this proposition, due in part to the absence of appropriate data on case processing time prior to the introduction of automated court record keeping.

Legal Culture

The shared attitudes and common experiences of the major actors in a courtroom work group establish certain expectations as to how and when a criminal case should be disposed. These attitudes and experiences have been described as a "local legal culture" which determines the manner in which cases are processed.

Levin (1977), Eisenstein and Jacob (1977), Church et. al. (1978a) and Neubauer et. al. (1981) assert the significance of this factor on the basis of their personal assessment of how local courtrooms operate. Church (1982b) surveyed judges, prosecutors, and public defenders in Miami, Pittsburgh, Detroit, and the Bronx and found similarities within cities and differences across cities with regard to the amount of time believed appropriate for the disposition of criminal cases. Church also found a consistent relationship between a city's average expected time to disposition and its

average actual time to disposition. Grossman (1982), however, takes exception to the conceptualization and measurement of "local legal culture" as well as its importance as a determinant of delay.

Policies to Reduce Delay

The major policies advocated as solutions to court delay include case screening, additional resources for the courts, consolidated pretrial hearings, individual calendars, master calendars, crash programs, court rules, case monitoring, and speedy trial standards. Assessments of these policies in the research literature share the mood that permeates the larger policy analysis literature. The predominant finding is one of policy failure or, at least, lack of success; some studies have uncovered situations where delay reduction policies appear to lower case processing time, but few consistent findings about the success or failure of particular policies exist.

Court Resources

Case processing time is believed to be the product of the resources available to a court. Gillespie (1977) constructs a measure of judicial productivity by dividing the number of filed and the number of pending cases by the number of available judgeships for each federal district court. He finds a decrease in judicial productivity when the number of judges is increased, suggesting to him the existence of slack resources in the federal Courts. Hausner and Seidel (1981) report that the number of judges available to initiate a trial at the time a case is ready to go to trial decreases a case's processing time.

An eighteen city cross-sectional analysis found no consistent correlation between available resources and speed (Church, et al., 1978a). The effectiveness of federal delay reduction initiatives persisted in the face of increased judicial resources (Garner 1987).

Consolidated Hearings

Judges frequently consider only one pretrial motion at a time and delays are believed to accumulate by the serial nature of these varied hearings. Two independent experimental evaluations of courts that used the "omnibus" hearing where all pretrial motions were heard atone time were unable to detect reductions in case processing time attributable to this reform. (Nimmer, 1975; Kerstetter and Heinz, 1979).

Calendars

Criminal courts schedule cases in a variety of different ways. At one extreme--the individual calendar system--all judicial involvement in a case is the job of a particular judge. At the other extreme--the master calendar system--each step in the processing of a case is handled by the judge who happens to be available at that time. Improved celerity in the processing of cases is attributed to both the personal accountability of the individual calendar and the managerial flexibility of the master calendar. Conversely, backlogs and delay are alleged to result from the inefficiencies of individual calendars and the irresponsibility of the master calendar.

The evidence on this issue is slim. Church, et al. (1978a) find that, out of eighteen courts, the three fastest have individual calendars and the three slowest courts

have master calendars, but that there are slow individual calendar courts and fast master calendar courts. Luskin and Luskin (1983) report for Detroit a weak interaction effect of calendars, disposition type, judge type and caseload on case processing time, with individual calendars associated with slower times to disposition.

Case Monitoring

It is argued that by merely monitoring case processing time courts can overcome delay. This viewpoint emphasizes visibility and self-discipline over legal or technical solutions. The collection and occasional publication of case processing times is believed to motivate judges and other courtroom actors. Church reports that this notion receives support from his comparison of 21 courts (Church, et al. 1978a). Grau and Sheskin (1982), Neubauer, et al. (1981), and Luskin and Luskin (1983) argue that the attention paid to processing time by the court delay reduction programs they studied contributed to the success of these programs; however, it was impossible for them to separate out the effects of case monitoring from other elements of these programs.

Crash Programs

The evidence from the Law Enforcement Assistance Administration (LEAA) programs evaluated by Neubauer, et al. (1981) demonstrates that court delay can be reduced. Case processing time was reduced in all four jurisdictions studied and reduced dramatically in three of the four. Unfortunately, the LEAA programs implemented many diverse components at about the same time and the program evaluation was

unable to determine which of the many program elements contributed to the success of these efforts.

Constitutional Rights

The right to a speedy trial is one of the guarantees of the U. S. Bill of Rights and many state constitutions. Appellate Courts, including the U.S. Supreme Court, have established standards and imposed penalties for the violation of this right. The successful exercise of this right by defendants or the protection of this right by a court order could influence the pace of litigation, much as the right to an attorney in criminal cases has led to the near universal provisional of legal counsel in U. S. criminal cases.

Although it finds no instance of successful legal action at the State or Federal level, Malcolm Feeley's synthesis of research on court delay concludes that the achievement of the speedy trial right requires a litigious, "rights based" approach as opposed to the "administrative" approach of improved management or speedy trial legislation (Feeley, 1983).

Prosecutorial Screening

American prosecutors are given considerable latitude to decide which charges to bring against which defendants and which to drop. Early screening of cases can reduce the caseload and eliminate difficult cases. Federal prosecutorial policy can either emphasize certain crimes, such as bank robbery, or arrange for these cases to be tried in State or local courts.

Only Gillespie (1977) investigates this question. He finds that the smaller the proportion of matters brought to a Federal prosecutor that result in a criminal filing, the speedier the average disposition time in that Federal District Court.

Court Rules

The U. S. Supreme Court and many State appellate courts exercise oversight and administrative authority over trial courts within their jurisdiction. Rules issued by these courts, especially those designed to address the issue of delay, are posited to improve case processing times.

Grau and Sheskin (1982) find dramatic effects in three cities for the rules promulgated under the newly unified courts of Ohio. After the new rules were implemented, case disposition time dropped in Columbus and Youngstown, but not in Cincinnati. Garner (1987) reports evidence that the rules adopted by the federal courts to address excessive case processing time did in fact result in speedier dispositions. These studies were unable to establish the mechanism by which court rules influenced processing time or to distinguish the role of the rules themselves played in reducing case processing time from the role played by the sensitivity to delay that generated the adoption of the court rules in the first place.

Speedy Trial Legislation

Virtually every state legislature has enacted some form of legislation mandating a speedy trial in criminal cases. These laws vary considerably in their time to trial

standards and in the enforcement mechanisms available. They represent a major form of legislative initiative to increase the speed of disposition. Fort, et al. (1978) conclude that existing speedy trial laws in the states do not affect disposition times due to their lengthy standards, numerous loopholes and ineffectual sanctions. On the other hand, Grau and Sheskin (1982) find stronger delay reduction effects for Ohio's speedy trial law than for the Ohio rules. Even recalcitrant Cincinnati exhibited reduced delay.

Ames, et al. (1980), Bridges (1982), and Garner (1987) evaluated the Federal Speedy Trial Act. Ames and her colleagues examined the number of violations of the Federal Speedy Trial Act standards in 18 districts and found that 93 percent of the cases in 1980 were in compliance with the Act's standards. For their study, however, a speedy trial violation did not occur when the total elapsed time exceeded 100 days if one or more of the Speedy Trial Act's 18 excludable time provisions were utilized. Thus, the level of compliance reported could have been achieved by new record keeping procedures without changing case processing times at all.

Bridges (1982) reports annual median time to disposition for the eleven year period from 1970 to 1980, and after noting that the federal courts handled slightly fewer but apparently more complex cases during this time period, he concludes that the "time required to process most criminal cases changed little following passage of the Act". He attributes the federal courts' high level of compliance with the provisions of the Speedy Trial Act to the increased use of the excludable time provisions reported by Ames and her colleagues.

Based on the use of multiple, monthly measures of case processing time for a thirteen year period from 1970 to 1982, Garner (1987) concludes that the Federal Speedy Trial Act was followed by substantial reductions in actual case processing time in the federal courts. Garner emphasizes monthly differences in the mean time to disposition; Bridges relies on the annual median; and Ames et al. use the number of cases that exceed the speedy trial limits.

Section 4

AN ASSESSMENT OF THE LITERATURE

Methodological Critique

The advent of systematic empirical research has not brought consensus to the literature on court delay. Only the defendant's bail status is consistently correlated with time to disposition; contradictatory results exist for every other hypothesis considered. A further review of Table 1 offers some notion why these findings are so disparate.

The literature primarily describes criminal case processing time in large metropolitan courts where delay has traditionally been a problem; still, some studies (especially those examining Federal courts) assess data from cases disposed in some highly rural courts. Felony charges dominate the studies. However, many charges are plea bargained down to misdemeanors and this results in a great diversity in the type of cases disposed. The types of crimes included in this research also depend upon the particular characteristics of these courts during the time at which they are being studied and whether the cases selected for study were a sample of arrests, filings, or dispositions. Perhaps more importantly, Table 1 shows that there is little consistency in how case processing time itself is measured. Some studies start the measurement at the point of arrest; others use the day of first court appearance. The day the grand jury brings an indictment is also used to signify the start of the case processing time. Interestingly, no research uses the day the criminal event occurred.

The day on which a case is disposed suffers from similar disagreement. Cases dismissed or pled have obvious disposition dates, but jury and bench trials can be considered disposed at the start of the trial or the day of the verdict. Fortunately, trials rarely last more than a week. More problematic is the use of the sentencing date as the date of disposition because the lag between case disposition and sentencing can be considerable and because this time is counted only for those defendants found guilty.

Another difference in the measurement of case processing time stems from the use of either individual or aggregate level data. Explaining variation in case processing time across some 1000 individual cases is one approach (Hausner and Seidel, 1981; Katz, 1972); explaining variation in the mean or median time to disposition across a handful of courts is a quite different perspective (Church, et. al., 1978a; Church, 1982b; Eisenstein, et. al., 1983; Gillespie, 1977).

The methodological approaches of these studies are also quite disparate. As we have seen, the unit of analysis in cross-sectional analyses can be either the case or the court. For time series analyses, monthly or yearly averages for courts are used. The sampling frame may use cases initiated, cases terminated, or cases reported terminated. Cases with fugitive defendants or defendants undergoing psychiatric examination are frequently, but not universally, excluded from the analysis. Neubauer, et al. (1981) exclude from their analysis, all cases settled on the day they are filed. Sample sizes vary from thousands of cases to a handful of courts.

When used, explanatory variables can be as few as one or greater than twenty. As Table 1 reveals, research projects tend to emphasize either case characteristics, court

characteristics or policy innovations as explanations for case processing time, but rarely all three. Explanatory factors are evaluated separately in some studies and competitively in others.

Perhaps nothing reveals the diversity of this literature more than the three studies analyzing data from the evaluation of the LEAA Court Delay Program. Data was collected from four cities and originally reported in Neubauer, et. al. (1981). Subsequent publications by Neubauer and Ryan (1982) and by one of the Neubauer et. al. team (Luskin and Luskin, 1983) report different numbers of cases, use different measures for ostensibly the same concept, and generate different conclusions about the causes of court delay. With such disagreement among close colleagues, there can be little surprise at the lack of unanimity across disciplines, institutions, and jurisdictions. The literature on court delay research has other annoying features for researcher looking to build knowledge and policy makers seeking guidance. Apparently, only the Luskins' report the results of all their tests. The normal format is to report only significant results, leaving the reader to wonder which hypotheses were tested. This is particularly bothersome in studies with very large sample sizes and very large variable lists, such as Hausner and Seidel (1981). With over 7000 cases and hundreds of variables, practically every difference is statistically significant.

Another annoyance is that virtually every study appears to collect information on the race of the defendant, but none displays even the simplest of descriptions about racial difference in time to disposition. Similarly, no study reports whether it makes a

difference which judge handles a case, even though information on judges is readily available.

Court Delay: Theory and Policy

In addition to these discontinuities in research methods and substantive findings, court delay research does not have a coherence derived from theory. The use of theory, either for guidance in how to conduct the research or for the interpretation of the results, is scanty. Rhodes (1976) seeks to build upon Landes' application of micro-economic theory to the criminal courts, but Rhodes (and Landes) are primarily interested in the determination of guilt and sentencing decisions, not processing time. In a similar vein, Gillespie (1977) employs econometric methods to investigate variation in judicial productivity; however, he does not employ a recognizable economic theory to interpret his findings. These theory-conscious efforts are rare exceptions; the bulk of the research on court delay is content to collect data and report findings without any specification of their theoretical implications.

Policy relevance is similarly overlooked in court delay research. Although various classification schemes are proposed to group variables together (Eisenstein and Jacob, 1977; Luskin, 1982) there is no conscious effort to distinguish between those characteristics which are clearly policy choices (e.g., calendaring system) from characteristics which are less clearly subject to determination by public policy makers (e.g., age, race, and sex of a defendant). The major evaluation of the LEAA Delay Reduction Program, for instance, combines without comment on the causal implications

or theoretical relevance the age of the defendant and the existence of the delay reduction programs in an equation which "explains" case processing time (Neubauer, et al. 1981). Moreover, policies that are studied are either highly amorphous to begin with--the LEAA everything-but-the-kitchen-sink delay reduction programs--or poorly described by the research report--Ohio's Rules of Superintendence.

Criminological Research

Court delay research is not only lacking a theoretical or a policy anchor, it appears to exist in isolation from other criminological research. The introductory section of this paper references the integral role case processing time is asserted to play in numerous aspects of crime and justice, yet none of the literature on court delay seeks to integrate its understanding about delay with other criminological themes. Garner (1987), for instance, notes the historical origins of the federal initiative against delay in the Nixon administration's proposals for the pretrial detention of dangerous defendants, but his analysis does not attempt to determine the whether or not the observed delay reduction in the federal system was related to the amount of crime committed by defendants between the filing and the termination of their cases.

Court delay is a research topic that tends to attract scholars interested in legal research, political science and court management. Legal scholars have a natural interest in legal institutions as institutions and court management is an important, if narrow, field of study. Despite my own training in political science, I cannot generate a plausible explanation for why this discipline tends to dominate this field, especially since virtually

none of the efforts to understand delay in the criminal courts incorporate any variables that could reasonably be interpreted as political or partisan. The central importance of court delay as a research topic, however, stems from its contribution to criminology and, of the principal investigators listed in Table 1, only Bridges is a criminologist by training.

Section 5

PROSPECTS FOR COURT DELAY RESEARCH

This paper has reviewed the existing research on court delay and concluded that:

1) the research methods and procedures employed in this research are highly disparate, occasionally suspect, and unlikely to build in a cumulative body of knowledge;

2) few, if any, hypotheses about delay or delay reduction are consistently supported by the available evidence; and

3) neither theoretical construct, policy orientation or disciplinary training provides a unifying dimension for this research tradition.

Having identified these weaknesses, I feel compelled to identify existing and potential strengths for court delay research. Far from being negative about the prospects for this field, I am confident that it can make major contributions to other research concentrations. What follows is a personal prescription for invigorating court delay research. The prescription has three parts--improvements in methodological rigor, attention to policy variables, and integration with criminological research.

Methodological Rigor

Our prescription begins with the acknowledgment that methodological rigor can and must be more seriously addressed in future court delay research. There is nothing inherently unscientific about the study of case processing time; neither are the scholars and disciplines involved without the requisite skills. This field requires major technical improvements including common or at least comparable measurement of key variables such as case processing time. More attention to how the selection of cases under study

might influence the findings is paramount to building an knowledge base across jurisdictions and across studies. Research with cross-sectional designs cannot be content to build a regression model on a single sample and report the results. Procedures calling for separate construction and validation samples have been used in research on prediction to increase the reliability of findings and court delay research can benefit from adopting these advances.

Court delay research has a certain natural affinity for time series analyses, but the predominate form of time series "analysis" has been the use of charts and graphs. Research in this field that has generated statistical analyses of data from different time periods (Gillespie, 1977; Garner, 1987) has been rudimentary and not informed by the advances in intervention modeling popularized in the past decade. The reanalysis of existing data from previous studies can move us toward common definitions and comparable cases; it can also involve the use of similar data analysis techniques across various studies. It remains to be seen whether such a "meta-analysis" will resolve the contradictory findings. Future data collection efforts, if there are to be any, must explicitly build on the strengths as well as overcome the weaknesses of previous research and a rigorously thorough secondary analysis of prior research will go a long way to establishing those strengths and weaknesses. Unfortunately, at the present time only a handful of the data used in this research have been archived for public use.

Hypotheses of Interest

The lack of consistent findings in previous research on court delay can be used to our advantage. These results suggest that there are no immoveable objectives or irresistible forces in the way of improving case processing time. We should remember that most of the evaluations of delay reduction programs have found dramatic delay reduction effects. We may not now know why these programs worked or for how long, but these results are encouraging and in sharp contrast to general malaise in public policy analysis. One prominent assessment of public policy analysis in other fields concludes that there is a pattern of policy failure best summarized as "grandiose pretensions, faulty execution, (and) puny results" (Elmore, 1978).

Simply stated, more should be made of policy successes--the LEAA demonstration program and the court rules and speedy trial legislation in Ohio and the federal system. None of these programs were designed to test hypotheses about delay reduction, and we could expect to learn a great deal more from carefully planned experiments. The failure of the omnibus hearing research to find a successful program should not blind us to the fact that randomized field experiments are powerful tools for discovering what does work and why.

Criminological Theory

Delay reduction alone is not worthy of the commitment to a long term research program. Court delay, however, is a central concept in a large body of contemporary criminological research. Two of the most hotly contested issues in criminology and in criminal justice policy making today and for the foreseeable future are the deterrent and incapacitative effects of sanctions. Both of these fields acknowledge but have not yet

addressed the importance of case processing time. Deterrence, in both its classical and its modern traditions, include three elements--certainty, severity and celerity of punishment (Blumstein, et al., 1978). Deterrence research, due in part to the narrowness of the scholarly disciplines that it attracts (economics and sociology), has yet come to grips with measuring the time between a criminal act and the imposition of an official sanction such as an arrest or conviction. Similarly, research on criminal careers and incapacitation policies recognizes temporal patterns of offending, especially among high rate offenders, but little attention has been paid to those patterns and case processing times (Blumstein, et al., 1986). Of all the existing research on court delay only Ames, et al. (1985) attempt to capture the date the crime occurred and the date that it first came to the attention of law enforcement officials. Coupling this information with data on the time from first attention to the time formal charges are filed in court broadens greatly our ability to understand case processing as well as to contribute to deterrence and incapacitation research.

Court delay research can also benefit by returning to its early attention to pretrial release decisions and crime committed while on bail. The influential work by the National Bureau of Standards (1970) that found a connection between case processing time and pretrial criminality warrants a second look in light of modern time to failure statistical models and the new federal criminal code that authorizes preventive detention. The pretrial area is so important for research on the prediction of future criminal behavior because, unlike sentencing decisions where prediction is inherently confounded with considerations of just deserts, preventive detention decisions are entirely one of

prediction. Court delay research's potential contribution to the field of prediction is more than their expertise on the length of time a defendant will be free to recidivate; it is also the capacity to integrate the role of successful delay reduction policies within the larger societal goal of crime control.

Conclusions

The essential challenge for court delay research is in the broader issues of crime and justice. Our ability to contribute to due process and crime control issues depends on our methodological rigor, our attention to policy making, and our willingness to extend our expertise into other research arenas where attention to processing time is needed. Individual research projects cannot be responsive to this challenge unless the field is responsive to this challenge. A program of research, united in its commitment to excellence, relevance, and integration, can.

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Table 1: CHARACTERISTICS OF RESEARCH ON COURT DELAY

Author(s)	Jurisdiction	Years	Unit of Analysis	Number of Units	Dependent Variable[1]	Number of Independent Variables: Cases	Courts	Policy	Method[2]	
Ames/ et al.	10 Federal Dist. Courts	1979	Courts	10	Median A to D	-	-	6	Table	
Bridges	94 Federal Dist. Courts	1970-1979	Years	11	Median F to S	-	-	-		Time Series
Church/ et al.	21 Urban Courts	1976	Cases (F) Courts	11,000 21	Median F to V	-	20	-		Rank Order
Eisenstein/ Jacob	Baltimore	1972	Felony	457	?A to V	5	-	-		OLS
	Chicago	"	Cases	604	?A to V	5	-	-		OLS
	Detroit	"		1114	?A to V	5	-	-		OLS
Eisenstein/ et al.	Dupage, IL.	1978-1980	Felony	902	F to D	-	2	-		Table
	Peoria, IL.	1980	Cases/	1042	"	-	2	-		"
	St. Clair, IL.	1980	Courts	1142	"	-	2	-		"
	Oakland, MI.	1979-1980		901	"	-	2	-		"
	Kalamazoo, MI.	1979-1980		708	"	-	2	-		"
	Saginaw, MI.	1979-1980		661	"	-	2	-		"
	Montgomery, PA.	1980		687	"	-	2	-		"
	Dauphin, PA.	1980		766	"	-	2	-		"
	Erie, PA.	1980		513	"	-	2	-		"
Garner	All Federal District Cts.	1970-1982	Months	150	Mean/Median F to S	6	2	2		Time Series
Gillespie	90 Federal Dist. Courts	1968-1974	Courts	90 F to S	Median	-	6	-		OLS/ TS
Grau/ Sheskin	Cinnicinnati	1967-1977	Felony	892	?	14	1	2		OLS/TS
	Columbus	"	Cases	647	?	14	1	2		OLS/TS
	Youngstown	"		728	?	14	1	2		OLS/TS
Hausner/ Seidel	Washington, D.C.	1974 - 1975	Felony/ Misdemeanor Cases	2387 7126	F to D F to D	9 6	- 2	3 -		OLS OLS
Katz/ et al.	Cleveland	1968	Felony Cases	1616	A to D	4	-	-		Table

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ABBREVIATIONS

1. A - Arrest; D - Dissmissal, Plea or Start of Trial; F - Filing; S - Dismissal or Sentence; V - Verdict

2. OLS - Ordinary Least Squares Regression; Table - Tabular Presentation; TS - Time Series

CHARACTERISTICS OF RESEARCH ON COURT DELAY
(Continued)

Author(s)	Jurisdiction	Years	Unit of Analysis	Number of Units	Dependent Variable[1]	Number of Independent Variables: Cases	Courts	Policy	Method[2]
Kerstetter/ Heinz	Dade County	1979	Cases	1073		320	0	1	Experiment
Levin	Washington, D.C.	1966	Felony	1453	?	-	-	-	Table
	Chicago (Lower)	1966	Cases	16000	?	-	-	-	" "
	Chicago (Upper)	1965		5000	?	-	-	-	" "
	Minneapolis	1966		700	?	-	-	-	" "
	Pittsburgh	1966-1967		7205	?	-	-	-	" "
Luskin/ Luskin	Providence	1976-1978	Felony	852	F to V	10	1	7	OLS/TS
	Dayton	1977-1979	Cases	425	F to V	10	-	4	OLS/TS
	Detroit	1976-1978		1233	F to V	13	2	4	OLS/TS
Neubauer/ et al.	Providence	1976-1978	Felony	1381	F to V	9	-	-	OLS/TS
	Dayton	1977-1979	Cases	700	F to V	5	-	-	OLS/TS
	Las Vegas	1977-1979		844	F to V	6	-	-	OLS/TS
	Detroit	1976-1978		2079	F to V	12	-	-	OLS/TS
Neubauer/ Ryan	Providence	1976-1978	Felony	995	?F to V	7	-	-	OLS/TS
	Dayton	1977-1979	Cases	435	?F to V	7	-	-	OLS/TS
	Las Vegas	1977-1979		644	?F to V	7	-	-	OLS/TS
Nimmer	San Diego		Felony						Experiment
	El Paso		Cases						
Rhodes	83 Federal Dist. Courts	1968	Courts	83	F to S	-	2	-	OLS

ABBREVIATIONS

1. A - Arrest; D - Dissmissal, Plea or Start of Trial; F - Filing; S - Dismissal or Sentence; V - Verdict

2. OLS - Ordinary Least Squares Regression; Table - Tabular Presentation; TS - Time Series