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DRUG OFFENDERS
AND THE COURTS

A NATIONAL ASSESSMENT

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DRUG OFFENDERS AND THE COURTS

Results of a National Assessment

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ABOUT THE PRINCIPAL INVESTIGATORS

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This project was supported by Grant Number 91-IJ-CX-0023 awarded to The Lazar Institute by the National Institute of Justice, U.S. Department of Justice. The investigators would like to express gratitude to Voncile B. Gowdy, who served as our Program Monitor and made numerous contributions to the survey. Points of view and opinions in this document are, of course, those of the authors and do not necessarily represent positions or policies of the U.S. Department of Justice.

ABSTRACT

This national survey of felony court prosecutors and judges was designed to examine how drug offenders are identified and sentenced at the State and local level. In addition, questions addressing felony court system performance and trends in drug-related crime were included in the survey questionnaire. The response rate was high, with 88 percent of jurisdictions contacted returning answers.

The survey has revealed that even though resources to combat drug-related crime have increased substantially since 1989, felony court systems are still having great difficulty coping with criminal cases involving drugs. Indeed, Lazar concluded that, despite the major Federal anti-drug initiative which began to be implemented in 1989, felony courts have not been able to manage successfully the huge influx of cases resulting from law enforcement efforts to detect and prosecute drug-associated crime. Clearly, policy makers in the criminal justice system must focus on balancing its various components, for without better distribution of resources, many police efforts at the front end of the process are likely to represent wasted time.

With regard to sentencing practices, the survey revealed that the location of a felony court system strongly influenced sentencing practices. In this regard, two geographic aspects were strongly correlated with sentence severity. One was population density. Felony court systems serving rural areas tended to produce more severe sentences. Also, convicted defendants in the South tended to receive harsher penalties than in other regions of the country.

Lazar noted a compelling need to improve the supervision and monitoring of persons charged with drug-related crimes but not in jail or prison. This held true in both pre- and post-trial settings. In addition, felony courts' handling of drug-related cases would benefit from more effective treatment services for defendants. Such innovative processes as "drug courts" and improved pretrial and post-conviction risk assessment efforts stood out as program tools with the potential to help address these needs.

Lazar also sees merit in education programs that would allow felony court judges to become more familiar with the nature of substance abuse addiction and treatment, and in research projects such as developing better methods to estimate the costs of court system improvements in the context of the environment in which they operate. The study results also suggested that research should be undertaken on the usefulness and effectiveness of sentencing guidelines and mandatory minimum sentences.

In summary, it is recommended that, in light of the significant level of resources devoted to drug enforcement by all levels of government, prudent steps such as those mentioned above be taken to increase the ratio of effectiveness to cost in our felony court system. Unless a better resource balance is achieved between the courts and other criminal justice system components, the overall effectiveness of the national war on drugs will fall short of its potential.

PREFACE

This report details The Lazar Institute's study entitled "Drug Offenders and the Courts." The research for this report spanned the period between October 1991 and October 1992 and was conducted under the National Institute of Justice's National Assessment Program. The report is an analysis of responses received from a survey mailed to 300 different jurisdictions.

In accordance with the study's objectives, this report summarizes jurisdictions' approaches to identifying and sentencing drug offenders. Judges and prosecutors who participated in the survey responded to questions about the local definition of drug-related crime, court burdens and policies, court resources, sentencing practices and court system performance. Although a number of insights about the quality of the programs are presented, no definitive evaluation of felony courts' handling of drug offenders emerges. Rather, we are convinced that the information obtained establishes the need for a more intense study.

Many individuals furnished valuable assistance to Lazar during the course of this study. In particular, the authors would like to express gratitude to Voncile B. Gowdy of the National Institute of Justice, who served as our program monitor.

Twenty-five specialists with expertise in substance abuse identification and treatment and criminal justice were interviewed by telephone and made valuable suggestions regarding Lazar's initial survey design. Two of these people contributed an extraordinary amount of time assisting with the study design and reviewing our study products: Walter F. Smith, Deputy Director, Pretrial Services Resource Center; and John A. Carver III, Director, District of Columbia Pretrial Services Agency. We are especially grateful for their help. Special thanks should also be extended to Jerome H. Jaffe, M.D., Associate Director, Center for Substance Abuse Treatment; Sally T. Hillsman, Ph.D., Vice President for Research and Technical Services at the National Center for State Courts; Barbara Smith, Ph.D., Criminal Justice Section, American Bar Association; and Allen L. Tapley, Executive Director, The Sentencing Institute.

We also appreciate the special assistance and data provided by Calvin Beale and John Cromartie of the Economic Research Service, U.S. Department of Agriculture; J. Harper Wilson, Chief of the Uniform Crime Reporting Program, Federal Bureau of Investigation; and Richard Forstall of the Population Division, Bureau of the Census. Finally, we would like to thank the many prosecutors and judges who took time from their already busy work days to respond to our survey. Without their selfless contribution the report would not have been possible.

We hope this study is useful. If we have succeeded in reporting accurately, then we have those who helped us to thank. Any errors of fact or judgment are, of course, solely our responsibility.

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1.0 BACKGROUND AND PROBLEM STATEMENT

For the past two decades, drug abuse has been a widespread, though poorly understood, phenomenon in this country--taking many forms and affecting many different types of individuals. In 1981, experts estimated that the number of heroin addicts in the United States ranged from 500,000 to 750,000,^{1/} and the 1980s witnessed the increasing popularity of cocaine and its "crack" derivative, PCP, and other "recreational" drugs. The problem is something of a "moving target," with new drugs emerging periodically. More recently, for example, high purity heroin which can readily be smoked has surfaced and become increasingly popular. Related to this phenomenon, Health and Human Services' Drug Abuse Warning Network reported heroin-related emergency room cases rose by 25 percent between the fourth quarter of 1990 and the second quarter of 1991. Drug abuse is an extremely widespread problem with many studies suggesting that approximately one of every 10 Americans uses some illicit drug each month.^{2/}

The crime and other problems associated with drug abuse have resulted in steadily increasing attention to this issue at the national as well as State and local levels. During both the 1988 and 1992 Presidential campaigns, candidates stressed the problems associated with drug abuse in this country and advocated increased attention to enforcement and prevention efforts. Congress communicated its concern with the passage of the Anti-Drug Abuse Act of 1988 (P.L. 100-690), legislation which designated a Federal "drug czar" and increased funds available for drug enforcement, treatment and education. Although increased funding has been available for over three years, it is only recently that these resources have been translated into significantly altered program services, reflecting the substantial period of time required to plan and implement such initiatives. The expectation of policy makers has been that the increased attention and resources would have produced some advances in the "war against drugs."

As drug abuse (and public awareness of it) spread in the 1960s and early 1970s, the criminal justice and health care systems adopted a wide range of procedures and programs designed to respond to the problems and needs caused by expanding drug usage. In the case of the criminal justice system, the approaches included increasing the resources devoted to drug law enforcement (e.g., to apprehending and prosecuting suppliers and dealers), and initiating activities like the Treatment Alternatives to Street Crime (TASC) Program, which originated at the instigation of the Federal government and subsequently received funding from States and localities. The TASC Program involves directing selected arrestees with drug problems into treatment programs, thereby reducing the workload of the courts, contributing to efforts to alleviate overcrowding of correc-

1 John Kapkan, The Hardest Drug: Heroin and Public Policy, Chicago, University of Chicago Press, 1983, p. 2.

2 See, for example, The White House Conference for a Drug Free America: Final Report, Washington, D.C., U.S. Government Printing Office, June 1988, p. 1, or Mathea Falco, The Making of a Drug Free America, New York, Random House (Times Books), 1992, p. 1.

tions facilities, and providing help for individuals by giving them strong incentives to remain in treatment.^{3/}

In the case of the health care system, a variety of treatment programs were established. These programs incorporated diverse methods for dealing with drug abuse, such as long-term (e.g., one year or more) residence in "therapeutic communities;" group and individual counseling on an outpatient basis; hospitalization for detoxification; the use of chemical substances, such as methadone, for the maintenance of heroin addicts; and other approaches.^{4/} These programs were instituted both in community settings and, within the corrections environment, in jails and prisons.

With the increase in drug-related arrests in the 1980s, more drug treatment programs within jails and prisons were instituted. In addition, the court system was forced to seek new approaches to deal with the overwhelming numbers of drug offenders, including imposing sentences that take advantage of alternatives to traditional incarceration, such as electronic monitoring, frequent drug testing, and shock incarceration. Jurisdictions in Florida and California have established special "drug courts" that divert many substance abusers into treatment. In Miami, for example, the drug court handles first time felony drug possession cases and diverts those that wish to participate into a one-year treatment program which focuses heavily on vocational rehabilitation. Program graduates are reported to have a rearrest rate of approximately 3 percent, which is one tenth that of comparable offenders who have not been through the drug court; and, of course, program costs are but a small fraction of the costs of incarceration.^{5/} The importance to the criminal justice system of the outcomes of these court efforts to deter future drug abuse and other drug-related offenses is obvious given the magnitude of the problem and its links to crime.

Crime related to drug abuse ranges from the sale and distribution of illegal drugs, to the use or possession of such substances, to other crime carried out by individuals engaged in drug abuse. The former types of criminal activity are the focus of Federal, State and local efforts to crack down on drug peddlers and users, and are resulting in increasing workloads for the police, prosecutors, defenders, courts, jails and prisons. With respect to the other category of drug-related criminal activity, evidence indicates that drug abusers are very frequently involved in additional crimes.

A National Institute of Justice (NIJ) Research Program Plan states, "Surveys indicate that almost two-thirds of all prisoners in state

3 Mary A. Toborg, Raymond H. Milkman, et al., Treatment Alternatives to Street Crime (TASC) Projects, National Evaluation Program, LEAA, U.S. Department of Justice, 1976.

4 See James V. DeLong, "Treatment and Rehabilitation," in Dealing with Drug Abuse, (New York City, N.Y.: Praeger Publishers, 1972) and Raymond Glasscote, et al., The Treatment of Drug Abuse (Washington, D.C.: Joint Information Service of the American Psychiatric Association, 1972); Dale G. Parent, Shock Incarceration: An Overview of Existing Programs, (Washington, D.C., National Institute of Justice, 1989); and Kevin T. Smyley, "New Approaches to Drug Offenders," Corrections Today, June 1989.

5 Falco, p. 140.

facilities were under the influence of one or more illegal drugs when they committed the crimes for which they were incarcerated, or had drunk heavily just before the offense."^{6/} Drug abusers often turn to crime in order to support the cost of their drug dependency and evidence of close relationships between drugs and crime has increased. For example, California prisoners who were heroin addicts reported committing 15 times as many robberies and 20 times as many burglaries as non-drug users.^{7/} A more recent NIJ Research Plan (Fiscal Year 1989) reported that "[of the] arrestees tested by the NIJ-developed Drug Use Forecasting (DUF) system, from half to over three quarters showed evidence of illegal drug consumption within the preceding two to three days."^{8/} In writing about heroin, John Kapkan comments that "many addicts are extremely prolific criminals," and notes that studies tend to show a significant increase in criminality during a "run" of heroin.^{9/} Other studies support this link, showing that "heroin-using offenders are more likely than other offenders to commit robbery and weapons offenses, and equally likely to engage in violent crimes."^{10/} A similar cocaine-crime linkage has also emerged, with 1986 data in New York showing that "between 59 percent and 92 percent of those charged with robbery tested positive for cocaine, as did more than 70 percent of those charged with burglary."^{11/}

While evidence abounds that drug abusers engage in other crimes, there is no consensus on the definition of drug-related crime. Similarly, there is no agreement as to what constitutes drug abuse or illegal drug sale and distribution activity. A primary reason for this situation appears to be the disparity of State and local laws with respect to which drugs are illegal and what activities related to the use and sale of drugs are criminal offenses. Definitions of drug-related crime also vary by jurisdiction because of State or local policy decisions and drug testing policies and procedures.

Despite recognition that there is tremendous variety in the policies, practices and procedures used to identify drug offenders, there is minimal information on how individual State and local jurisdictions identify drug abusers and define drug-related crimes. Similarly, although most agree that sentencing is the pivotal component of U.S. drug

6 National Institute of Justice, Research Program Plan FY'87 (Washington, D.C.: U.S. Department of Justice), p. 5.

7 Mary G. Graham, "Controlling Drug Abuse and Crime: A Research Update," NIJ Reports, SNI 202, National Institute of Justice, March/April, 1987.

8 National Institute of Justice, Research Program Plan, FY'89, (Washington, D.C.: U.S. Department of Justice), p. 52.

9 Kapkan, pp. 57-58.

10 Bernard A. Gropper, "Drug Addiction is a Major Problem," in David L. Bender and Bruno Leone (ed.), Chemical Dependency, St. Paul, Minnesota, Greenhaven Press, 1985, p. 160.

11 Mary G. Graham, op. cit. There is an extensive literature in the drugs/crime field. An excellent synthesis of knowledge is contained in Jeffery A. Roth, et al., (ed.), Drugs and Crime: Workshop Proceedings, Washington, D.C., National Research Council, June 1987. It should be noted that information about drug/crime relationships is increasing rapidly as a result of the Drug Use Forecasting system (DUF) that has been implemented by the National Institute of Justice and the Bureau of Justice Assistance.

policy,^{12/} no comprehensive data is available with respect to sentencing practices for such offenders. Again, however, it is common knowledge that State and local approaches vary widely. Many different methodologies exist for case assessment and development of sentencing guidelines, and each State and local court utilizes whichever methodology or combination of methodologies it believes is most appropriate or mandated by law. In general, States with guidelines develop them by statistically analyzing past cases and deriving "factors" which have been used by judges as they fashion sentences. A committee then uses the statistical evidence to set guidelines and, if adopted, judges are often asked to explain in writing any of their sentences which deviate from the guidelines.^{13/} Ten States require jail or prison time for a conviction of DUI, while eight States require community service for such a conviction.^{14/}

The multiplicity of approaches and the need for more efficient and effective practices for handling the overwhelming number of drug offense cases led the Bureau of Justice Assistance and the National Center for State Courts to sponsor an April 1989 conference for court representatives to discuss drug issues, new drug initiatives, and steps State courts should take to improve their effectiveness. The conferees, who represented courts from the nine most populous States, testified to the tremendous increases in drug cases; acknowledged the overwhelming demand being placed on the judiciary as a result; and called for researchers to "identify successful [sentencing] programs that can be matched to offenders' needs and a study of what sentences are most effective."^{15/}

The purpose of this survey conducted by Lazar is to respond to the need identified by the State court representatives and others by documenting the policies, procedures and practices employed in identifying and sentencing drug offenders. Lazar conducted this assessment of identification and sentencing practices by identifying key issues in cooperation with selected experts and determining what is known about them through a national survey of State and local court systems.

This report discusses the methodology Lazar developed to conduct the national survey as well as its findings and conclusions. It is comprised of three more sections: the next, which summarizes the survey design, and subsequent sections which present the survey's results as well as Lazar's findings, conclusions and policy-related recommendations.

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- 12 J.C. Weisman, "Drug Offense Sentencing Practices in the United States of America," New York, Bulletin on Narcotics, Vol. 36, No. 3., United Nations, 1984.
 - 13 Richard F. Sparks, et al., Stumbling Toward Justice, Newark, New Jersey, Rutgers University School of Criminal Justice, 1982.
 - 14 Sentencing Reform and Alternatives to Incarceration, Special Committee on Sentencing Alternatives, Office of the Speaker of the Assembly of the State of Nevada, No. 87-6, 1987.
 - 15 Robert D. Lipscher, "The Judicial Response to the Drug Crisis," State Court Journal, Fall 1989.

2.0 SURVEY AIMS AND DESIGN

2.1 Survey Aims

In a sense, State and local courts in the U.S. are on trial, because of the widespread perception that they have failed to protect the American people from criminal violence. Some critics attribute the failure to the arbitrary nature of criminal sentencing; which leads to wide disparities in the punishments given to offenders guilty of the same crime. This is not a valid criticism for most offenses; in fact, the overwhelming majority of sentences can be predicted if one knows the nature of the offense and the offender's prior record. It may, however, have some validity for drug-related crimes, where sentences may vary more because of differences in local attitudes about drug use and strategies for controlling it.

In order to improve the state of knowledge about how the judiciary handles drug cases, the National Institute of Justice issued in 1991 an invitation for research proposals to document "how State and Local jurisdictions identify and define different types of drug offenders and determine which sentencing options to impose on what type of offender."¹⁶ This project fell under the category of national assessments involving surveys of appropriate agencies and the development of recommendations for further research.

The model is quite similar to that employed under the National Evaluation Program (NEP), an initiative developed by the Law Enforcement Assistance Administration's National Institute of Law Enforcement and Criminal Justice in the mid-1970s. That program began with a series of so-called Phase I studies which identified key issues, assessed what was known about them and developed methods for more intensive evaluation at both the national and local level. Phase II projects had the goal of filling the knowledge gaps identified in Phase I. The NEP was generally regarded as successful and it is appropriate that the model be applied to other issue areas, including drug offender identification and sentencing.

With regard to this survey, Lazar had the following aims.

- To learn how States and other jurisdictions currently identify and sentence drug offenders. The focus was on both policies and practices. Although the principal issue of concern has been sentencing, identification and processing was also studied to place sentencing practices in proper context.
- To analyze court system performance as well as trends in drug-related crime at the local level and to identify jurisdictions which appear to be most successful in improving their system's ability to deal with drug offenders.

2.2 Survey Design

2.2.1 Overview

The survey targeted two respondents (chief judges and lead prosecutors) in each jurisdiction because of their differing perspectives and

¹⁶ National Institute of Justice 1991 Research Plan, Washington, D.C., U.S. Department of Justice, 1991, p. 17.

focus. As can be seen from the questions employed (see Appendix A), the survey has focused on a variety of study issues, including:

- Definition of Drug-Related Crime and Severity of Local Court Problems: the nature of applicable drug laws and the classification of violations (possession, sale or use of drugs or drug paraphernalia, etc.). Also, issues such as whether drug-related court cases are on the rise, and whether the court is overburdened to the point that some arrests do not result in charges.
- Role of Drug Testing: whether drug testing is employed and when, and the percentage of arrestees given drug tests.
- Resources and Programs Available: the types of programs (TASC and other diversion, shock incarceration, jail-based drug treatment, etc.) available within the jurisdiction; jail and prison capacity; and overcrowding problems. Also, the desirability and priority of obtaining particular resources not currently available.
- Additional Resource Needs and Programs: whether the responding jurisdictions need additional resources and programs (e.g., drug courts, drug treatment centers) and, if so, the priority for each.
- Court System Operations and Performance: whether sentencing guidelines and/or mandatory minimum sentences exist, and sentencing practices for various drug offense categories. Also, overall court system performance three years ago versus today, as well as the status of particular variables related to the courts (e.g., time from arrest to disposition, pending case loads). In addition, the nature of the local data base and its degree of automation, and trends in the rate of criminal recidivism of those who have been sentenced.
- Charge and Sentence Practices: the approach to handling drug cases has been analyzed by presenting three "fact patterns" describing particular cases (e.g., 22-year-old male arrested in possession of three \$20 rocks of crack cocaine . . . defendant has history of three prior arrests for drug possession . . .) and inquiring about the indicted charge(s), the expected charge(s) offered as plea bargain, the expected sentence associated with plea bargain charge, and expected sentence if found guilty of original charge (i.e., if plea bargain rejected).

A number of assessment techniques were employed in the survey instruments. They included:

- True versus false (or Yes/No) categorizations (e.g., Do sentencing guidelines exist in your jurisdiction; within the last three years, has there been a significant increase in arrests for drug-related crime in your jurisdiction?);
- Four or five-point scales (e.g., Please comment on the status of the variable "average time between arrest and disposition" three years ago versus today. Is it "much worse today," "somewhat worse today," "about the same today," "somewhat better today," or "much better today");

- Ten-point scales (e.g., Please assume that a score of 10 represents a court system in your jurisdiction which is functioning perfectly with regard to dealing with drug offenders and a score of 0 represents a court system which is totally non-functional. Using this 0 to 10 scoring system, please rate your felony court's overall effectiveness in dealing with drug offenders three years ago versus today.

In addition, there was a requirement in the fact pattern analysis that charges and sentences associated with particular cases be described.

2.2.2 Sampling Plan

A stratified random sample of 300 jurisdictions was selected for the court system survey, although some smoothing and replacement techniques were employed to assure that all State systems were represented and that "small sample" categories were not skewed. The structure of the sample was as follows:

- the 35 largest cities (population approximately 325,000 and greater);
- the 35 largest counties (population 750,000 and greater);
- 50 medium-sized cities (population 100,000 to 325,000);
- 50 medium-sized counties (population 150,000 to 750,000);
- 25 small cities (population 50,000 to 100,000);
- 25 small counties (population 50,000 to 150,000)
- 25 rural cities (population 2,500 to 50,000 and not contiguous with a Metropolitan Statistical Area);
- 25 rural counties (population 2,500 to 50,000 and not contiguous with a Metropolitan Statistical Area);
- 15 very small cities in the vicinity of metropolitan centers (population 2,500 to 50,000 and part of a Metropolitan Statistical Area); and
- 15 very small counties in the vicinity of metropolitan centers (population 2,500 to 50,000 and part of a Metropolitan Statistical Area).

The general procedure followed was to draw a random sample of jurisdictions (utilizing 1990 Census data) for all categories except the largest cities and counties. Survey instruments were then forwarded to representatives of the court system serving each jurisdiction. Also, it should be noted that some adjustments to the sample were made:

- Substitutions to assure the inclusion of the 19 exemplary jurisdictions recommended for study by experts surveyed during the study design phase. This process required that three of these sites be added to the sample. The other 16 exemplary sites were either large jurisdictions or appeared in the random sample.

- Substitutions to assure that all States were represented. The largest jurisdiction in States not represented in the original sample was added. This required replacement of eight medium-sized jurisdictions and three small jurisdictions.
- Deletion of jurisdictions (city or county) appearing in the original sample if they were served by the same court system.

These adjustments assured that all State courts and exemplary jurisdictions were included in the survey and that no court system was included twice because it served more than one jurisdiction.

2.2.3 Survey Implementation Procedures

The survey instrument was pilot tested before implementation and found to require approximately 20 minutes to complete. Minor alterations were made to the instrument's format as a result of comments received from participants in the pilot test. Implementation of the survey took place over a three-month period and involved three mail contacts and one telephone follow-up to nonrespondents. The three mailings to judges and prosecutors consisted of: (1) a full survey packet, (2) a follow-up letter and (3) a follow-up letter accompanied by a second full survey packet. These procedures yielded a response rate of 54 percent; telephone follow-up thereafter raised the response rate to 66 percent. Eighty-eight percent of the jurisdictions contacted had at least one respondent.

2.2.4 Analysis of Survey Data

The statistical analysis plan included calculation of measures of central tendency (mean, median, mode) and dispersion (standard deviation) using EXCEL 4.0 ¹⁷/ software. Responses were also stratified according to their jurisdiction of origin in the following three ways (defined in more detail in Appendix B):

- Geographic Region. U.S. Bureau of the Census definitions were utilized to create five regional categories (Northeast, South, Midwest, Mountain West, and Pacific).
- Population Character. U.S. Department of Agriculture definitions were utilized to classify jurisdictions as urban, metropolitan or rural.
- Level of Drug-Related Crime. Federal Bureau of Investigation Uniform Crime Reporting System data were utilized to divide jurisdictions into five crime-level categories.

In addition to calculating basic measures of central tendency and dispersion, statistical hypothesis tests were employed to determine whether regional differences in responses existed, as well as whether difference in respondents from urban, metropolitan and rural jurisdictions or jurisdictions with varying crime rates could be detected. These tests were employed with a Type I error established at both .05 and .1. The following chapter, entitled Survey Results, describes the results of the analysis of data which was conducted.

¹⁷ Trademark of Microsoft Corporation.

3.0 SURVEY RESULTS

3.1 Overview

The key finding that has emerged from Lazar's national survey is that, despite substantially increased resources, felony court systems are still having great difficulty in dealing with drug-related crime. To place the significance of this finding in context, it should be noted that the resources available to wage the drug war increased substantially during the 1988-1989 "crisis" period as a result of passage of the Anti-Drug Abuse Act of 1988 (P.L. 100-690), signed into law on November 18 of that year. This legislation designated a Federal "drug czar" and increased funds available for drug enforcement, treatment and education.

The results of this survey of felony court systems suggest that the expanded resources have increased the number of individuals charged with drug-related crimes, but failed to strengthen felony court systems commensurately. As reflected by the findings represented below, by many measures, there has been little or no improvement in felony court systems' ability to handle the caseload associated with drug-related crime. In fact, by some measures, their capability has deteriorated.

The following key findings which emerged from the survey are described in more detail in subsequent sections of this chapter:

- The ability of court systems to handle drug-related crime has improved slightly in recent years, but is still inadequate, particularly in urban and metropolitan areas. Indeed, the improvement reported is so slight as to be statistically insignificant.
- Arrests for drug-related crime and the number of drug-related court cases have increased significantly since 1989.
- Court system personnel, particularly in large jurisdictions, are not satisfied with the tools available to them for handling drug-related cases.
- Pretrial release programs do not provide adequate supervision and monitoring of drug-abusing defendants.
- Although some improvement has occurred in recent years, a significant percentage of judges are still deficient with respect to knowledge about substance abuse and treatment options.
- Drug testing is common practice and used almost universally for post-conviction monitoring. Use of drug testing for pretrial supervision is least common in rural areas.
- Drug treatment following conviction is also common practice and, when it occurs, is usually employed as an alternative to incarceration.
- Differences among jurisdictions in the percentage of crimes classified as drug-related are not attributable to different definitions of what constitutes a drug-related crime. There is considerable uniformity in the jurisdictions' definitions.

- Jails and prisons have become increasingly crowded.
- Court systems are lagging with respect to the computerization of records.
- Mandatory minimum sentences exist in most jurisdictions and often result in inappropriate sentences.
- Sentences for drug-related crime are significantly harsher in rural areas and in the South.

In general, the survey is viewed by Lazar as successful based on both its high response rate (88 percent of jurisdictions returning questionnaires) and the knowledge gained.

3.2 Defining Drug-Related Crime

Lazar inquired about whether "a crime is classified as drug-related in the respondent's jurisdiction" if:

- Drugs or drug paraphernalia are present at the scene of the crime;
- An arrestee's drug test is positive;
- An arrestee has a history of drug use; or
- An arrestee admits that he/she has a drug problem.

The survey found that all jurisdictions classify a crime as drug-related if it directly involves the use, sale or distribution of drugs. In addition, most jurisdictions classify a crime as drug-related if drugs or drug paraphernalia are present at the scene. As can be seen from Table 1, only in the Pacific region was there less than a majority reporting the use of this latter definition. The other defining factors (e.g., arrestee having a positive drug test, etc.) were not commonly used. No significant relationship was found between the level of drug-related crime in a jurisdiction and the factors incorporated in its definition of drug-related crime.

TABLE 1
DEFINING DRUG-RELATED CRIME

- Percentage of Jurisdictions Which Include Various Factors -

DEFINING FACTOR	STRATIFICATION VARIABLE								
	ALL	Urban	Metropolitan	Rural	Northeast	South	Midwest	Mountain	Pacific
Drugs or drug paraphernalia are present at crime scene	66%	62%	68%	60%	74%	70%	65%	59%	40%
An arrestee's drug test is positive.	23%	15%	22%	33%	4%	22%	34%	26%	25%
An arrestee has a history of drug use.	19%	13%	20%	21%	13%	20%	24%	9%	21%
An arrestee admits that he/she has a drug problem.	27%	15%	30%	29%	17%	32%	31%	13%	26%

3.3 Court Burdens and Policies

3.3.1 Changes in the Level of Drug-Related Crime Between 1989 and 1992

As can be seen in Figures 1 and 2, court system representatives report almost unanimously that there has been a significant increase in arrests for drug-related crimes and the number of drug-related court cases. Eighty-six percent of the court systems reported a significant increase in arrests for drug-related crime, as well as in the number of court cases for drug-related crime. Although more urban and metropolitan areas report increases in drug-related crime during the period 1989 to 1992, most rural areas also indicate that their drug-related crimes and court cases have increased during this time period. The problem is most significant in the Northeast and South, but all regions report increases. As noted above, these are probably attributable at least in part to the expanded resources available for drug enforcement.

3.3.2 Use of Drug Testing

The question of whether drug testing is used in local criminal justice systems, as well as its purpose and frequency of use, was also addressed by the survey. Judges were asked whether drug testing occurs and, if so, whether it is used as a pretrial and/or post-trial monitoring tool. In addition, judges were asked to estimate the percentage of arrestees in their jurisdiction who are given drug tests. The three categories given as choices were "nearly all (roughly 80-100%)," "a significant percentage (roughly 30-80%)," and "some (roughly 5-30%)."

As can be seen in Figure 3, drug testing is utilized in almost all (96 percent) of the responding jurisdictions, most frequently as a post-conviction monitoring tool. Half (50 percent) of the responding jurisdictions report using drug testing for pretrial supervision, with urban areas most likely to report using drug testing as a pretrial monitoring device and rural areas least likely. As Figure 4 indicates, many jurisdictions (47 percent) test a significant portion or nearly all arrestees.

3.4 Court Resources

The question of which tools a felony court system has at its disposal is quite important and reflects to some extent the level of sophistication with which the system has attacked its drug problem. A contemporary urban or metropolitan court typically must deal with a large number of drug-related cases and would be expected to have numerous pretrial and post-trial programs to assist with its burden of defendant risk assessment, processing and sentencing. However, as can be seen in Figure 5, many tools are not available on a widespread basis, yet are desired by local judges and prosecutors. As can be seen, the drug court, which assures expedited handling of drug offenders, is a resource not widely available (only 14 percent of responding jurisdictions have one), but desired by a large number (41 percent) of those to whom it is unavailable. The drug court is, not surprisingly, most attractive to those seeking to improve court operations in urban and larger metropolitan areas. Few rural areas (17 percent, or less than 1 in 5) have a desire to establish such a unit.

Other resources which should be highlighted on the basis of their desirability are pretrial risk assessment systems, which 54 percent of

FIGURE 1
ARRESTS FOR DRUG-RELATED CRIME

- Percentage of Jurisdictions Reporting Significant Increase in Last Three Years -

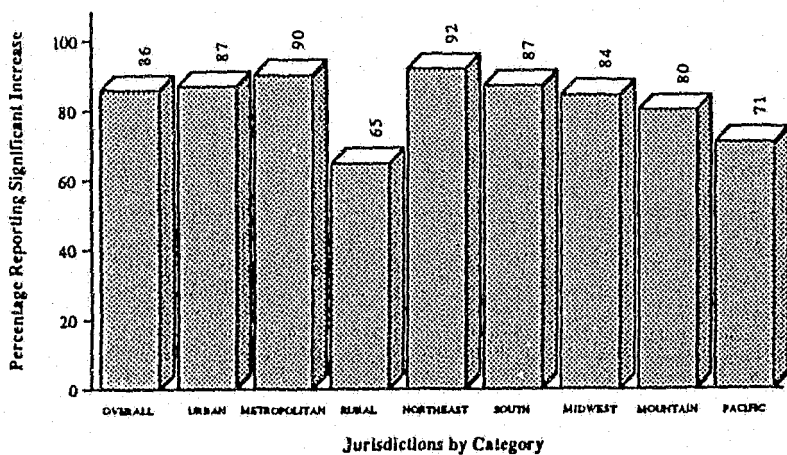


FIGURE 2
COURT CASES FOR DRUG-RELATED CRIME

- Percentage of Jurisdictions Reporting Significant Increase in Last Three Years -

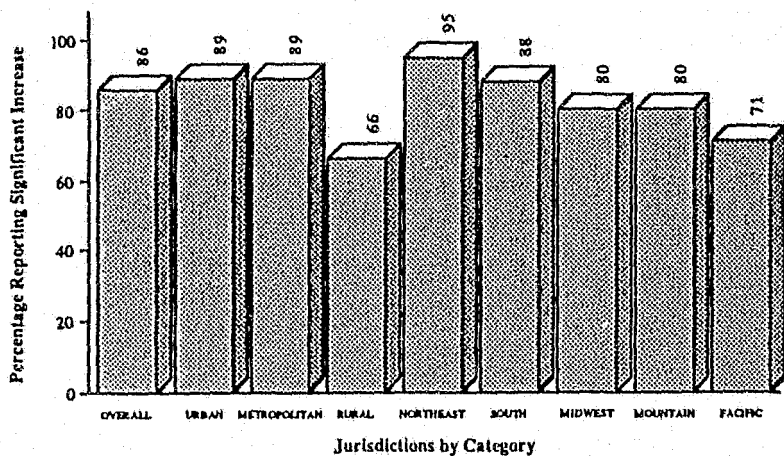


FIGURE 3
USE OF DRUG TESTING IN THE CRIMINAL JUSTICE SYSTEM

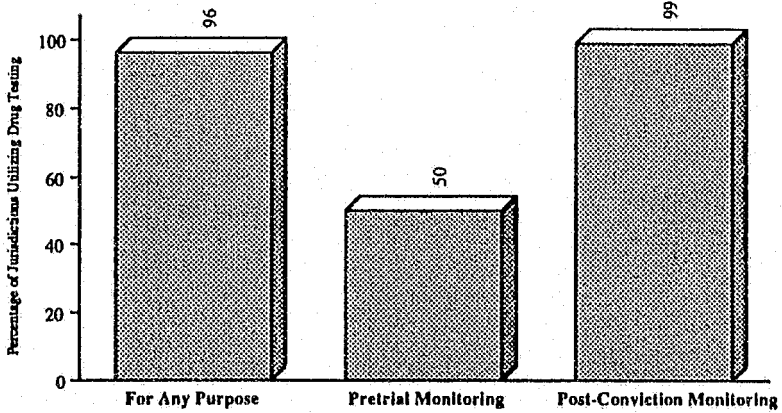


FIGURE 4
DRUG TESTING OF ARRESTEES
 - Percentage of Arrestees Given Drug Tests -

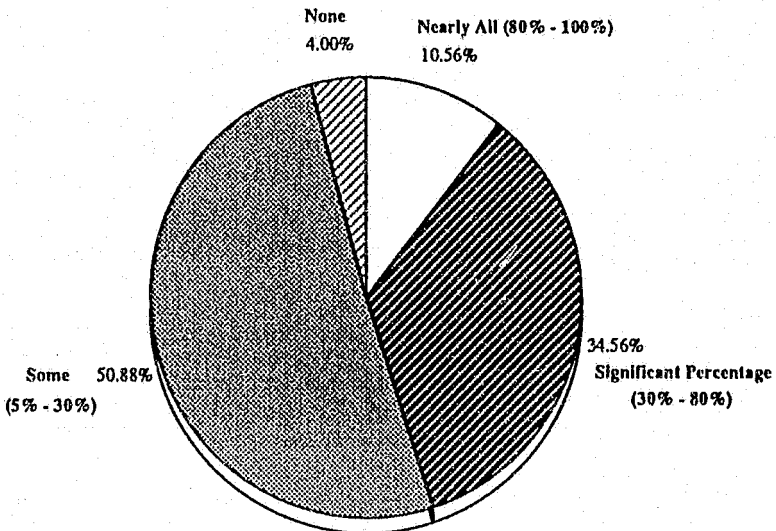


FIGURE 5
COURT RESOURCES

- Available and Desired -

RESOURCES	AVAILABLE (Percentage reporting available in their jurisdiction)	DESIRED (Percentage reporting resource should be added if not available)	AVAILABLE OR DESIRED
Community service.....	94	3	97
Postconviction intensive supervised probation.....	88	8	96
Postconviction residential drug treatment	85	9	94
Postconviction outpatient drug treatment	88	6	94
Suspended sentence	89	3	92
Split sentences (including boot camps, weekend sentences)...	82	9	91
Postconviction house arrest (with electronic monitoring).....	69	21	89
Other monetary penalties	86	2	88
Postconviction halfway houses.....	66	18	84
Pretrial defendant risk assessment	54	28	82
Postconviction defendant risk assessment	65	16	81
Centralized intake and defendant screening	52	28	80
Pretrial residential drug treatment	52	28	80
Pretrial house arrest (with electronic monitoring).....	43	34	77
Pretrial outpatient drug treatment.....	57	18	76
Shock incarceration	56	25	75
Pretrial intensive supervised probation.....	37	34	71
Treatment Alternatives to Street Crime or equivalent program.....	40	29	69
Postconviction day reporting centers	27	36	63
Multiple case processing tracks	38	22	60
Pretrial day reporting centers.....	16	41	57
Pretrial halfway houses.....	18	38	56
Postconviction house arrest (without electronic monitoring)..	18	38	56
Postconviction special programs for HIV-positive defendants ..	8	48	56
Drug court.....	14	41	55
Day fines.....	35	19	54
Pretrial house arrest (without electronic monitoring).....	29	24	53
Pretrial special programs for HIV-positive defendants	2	50	52

responding jurisdictions have and 28 percent of those to whom it is unavailable wish to have. Multiple case processing tracks, like drug courts, appeal primarily to more urbanized jurisdictions. Currently, 80 percent of urban and 60 percent of metropolitan jurisdictions respectively report either having or wanting this resource, while two-thirds of rural jurisdictions expressed no interest. As seen in Figure 5, other program tools that are viewed favorably by jurisdictions (i.e., a high percentage of respondents either have or want them) include:

- Pretrial risk assessment system;
- Treatment Alternatives to Street Crime (TASC) program (or its equivalent); 18/
- Shock incarceration;
- Centralized intake and defendant screening; and
- Post-conviction risk assessment system.

18 It should be noted that rural areas were not strongly desirous of having TASC programs (only 25 percent of rural areas without TASC programs expressed a desire to add this resource to their criminal justice system).

These results have implications for both evaluation and technical assistance priorities which may be established by the Justice Department as well as private foundations and associations actively interested in fostering improvements in non-Federal felony court systems.

The availability and desirability of particular resources are correlated with the size of responding jurisdictions but not surprisingly, the larger a jurisdiction is, the more it tends to have a given resource, and the more likely it is to want it if it does not have it. Conversely, smaller rural jurisdictions are less likely to have a given program and less likely to be interested in acquiring it. Other interesting findings include:

- Jurisdictions with very high drug-related crime rates (greater than 1,000 per 100,000 population) are less likely than other respondents to have certain programs, including multiple case processing tracks, pretrial intensive supervised probation, pretrial day reporting centers, post-conviction day reporting centers, pretrial halfway houses, post-conviction halfway houses, post-conviction outpatient drug treatment, post-conviction defendant risk assessment, and post-conviction house arrest. This is possibly related to the poor fiscal condition of many of these places.
- The most widely available pretrial program is outpatient drug treatment; over 67 percent of urban, 56 percent of metropolitan and 50 percent of rural jurisdictions report having this option. This is the only resource that as many as half of all rural jurisdictions report having.
- Pretrial day reporting centers and halfway houses are not widely available but are rather strongly desired by urban and metropolitan areas (nearly half wish to add them). The same is true for special programs for HIV-positive defendants. Just 9 percent of urban and a mere 1 percent of metropolitan jurisdictions report having such a program (no rural locales have this resource), but 56 percent of urban places and 50 percent of metropolitan areas report wanting to add an AIDS-specific program.
- The unavailability of interpreters is a minor problem nationally, with only 12 percent of urban and 4 percent of metropolitan jurisdictions reporting that a dearth of bilingual court system workers inhibits effective court processing. This problem is confined to fewer than nine urban areas scattered around the country, plus three small metropolitan jurisdictions near the Mexican and Canadian borders.
- Post-conviction defendant risk assessment systems are most common in areas with the lowest drug-related crime rates (69 percent of these have such systems), while only 56 percent of jurisdictions with the highest drug-related crime rates report that they exist in their court systems.
- Drug treatment is firmly established as a post-conviction court resource, with 92 percent, 86 percent and 71 percent of urban, metropolitan and rural jurisdictions respectively reporting that treatment is routinely imposed as a mandatory condition at dis-

position for offenders with a substance abuse problem. Smaller, but nonetheless substantial, majorities (74 percent, 70 percent, and 78 percent respectively) report that substance abuse treatment is widely employed as a post-conviction alternative to incarceration. It is interesting that, in this case, rural areas take the lead in preferring treatment options to incarceration.

- Programs offering courts alternatives to traditional incarceration have grown substantially in the last several years. Here again, it is the larger jurisdictions that offer the most programs. It should also be noted that jurisdictions plagued with higher drug-related crime rates tend to have more sentencing options. As can be seen in Figure 5, community service is by far the most widely available alternative sentence. Other very commonly available intermediate sanctions are: suspended sentences; other monetary penalties; split sentences (i.e., weekend sentences, boot camps); and shock incarceration. Treatment Alternatives to Street Crime (TASC) programs are much less common, with interest in this program focused in larger jurisdictions. Only one-quarter of responding rural jurisdictions expressed interest in establishing a TASC program. In contrast, three quarters of urban and metropolitan jurisdictions have or want TASC programs; indeed, nearly half already have them. Perhaps not surprising is the finding that 91 percent of jurisdictions with the highest drug-related crime rate already have a TASC program--a rate nearly twice that of any other jurisdiction, as defined by levels of drug-related crime.
- In general, data systems in urban areas are better developed than in metropolitan and rural places. As can be seen in Figure 6, data elements most frequently available in automated form are:
 - records of initial and final charges;
 - arrest records;
 - records of sentences imposed;
 - time from arrest to disposition;
 - time from disposition to sentence;
 - pretrial custody status of defendant; and
 - sentence history of defendant (i.e., time served, probation served).

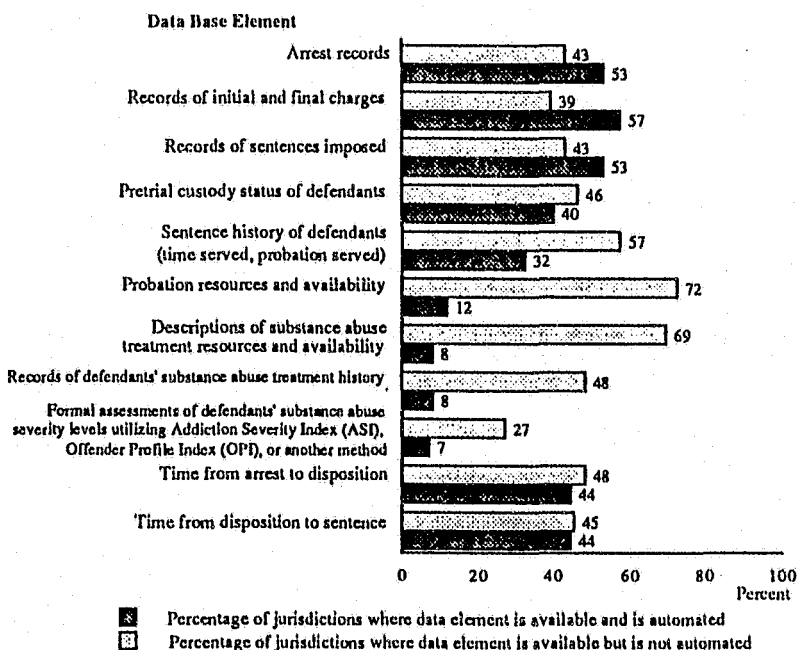
3.5 Court System Performance

Both judges and prosecutors were asked to provide both an assessment of their felony court's overall effectiveness in dealing with drug offenders and an evaluation of the status of particular aspects of court operations. The inquiry regarding overall effectiveness took the following form:

Please assume that a score of 10 represents a court system in your jurisdiction which is functioning perfectly with regard

FIGURE 6
DATA SYSTEMS IN STATE AND LOCAL FELONY COURTS

- Percentage of Jurisdictions Where Data is Available and Automated -



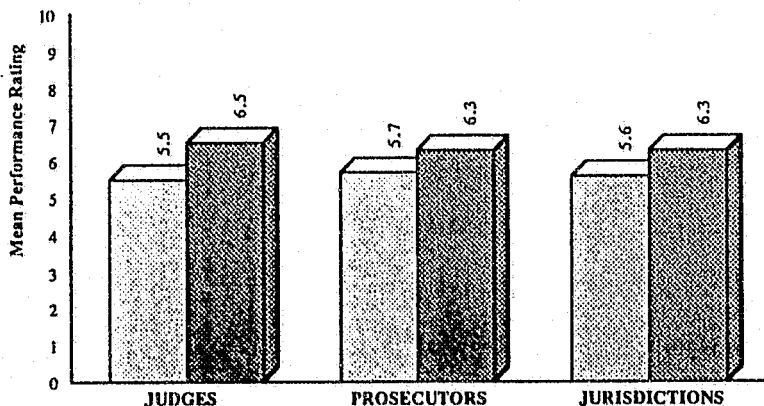
to dealing with drug offenders and a score of 0 represents a court system which is totally non-functional. Using this 0 to 10 scoring system, please rate your felony court's overall effectiveness in dealing with drug offenders three years ago versus today.

As can be seen in Figure 7, jurisdictions' ratings of themselves have risen from an average rating of 5.6 three years ago to an average rating at present of 6.3, representing an increase of 13 percent. Urban jurisdictions reported slightly better overall performance improvement, having risen from 5.5 three years ago to 6.4 today, a 16 percent increase. Regionally, the Midwest has shown the most increase, rising by 17 percent, while the Northeast and the Mountain West report below average improvement rates of only 8 percent. The Pacific was the only region to show an actual deterioration, having reported a decline of 1.3 percent.

Seventeen individual indicators of court performance are depicted in Figure 8. Eight variables have shown very minor improvement, three are essentially unchanged, four have worsened somewhat and two have worsened substantially.

FIGURE 7
COURT SYSTEM'S ABILITY TO DEAL WITH DRUG OFFENDERS

- Assessment of Overall Court System -



Rating Scale:

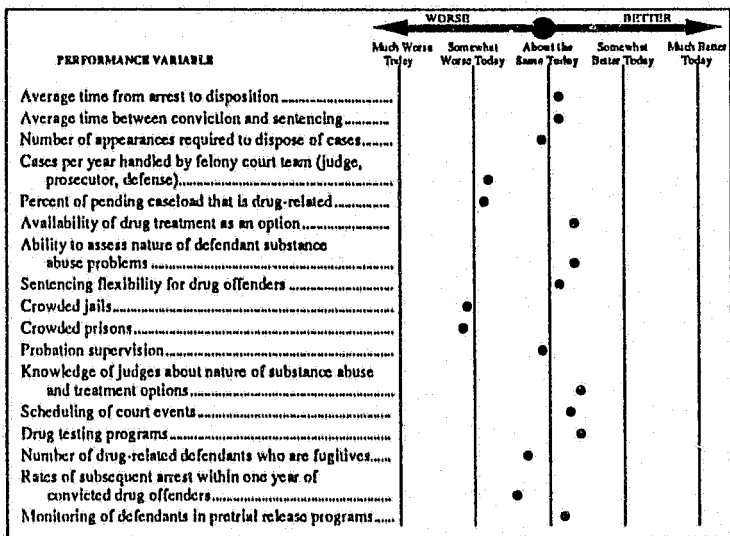
10 = Functioning perfectly

0 = Totally nonfunctional

□ 1989
▨ 1992

FIGURE 8
COURT PERFORMANCE INDICATORS

- 1989 Versus 1992 -



As Figure 8 indicates, there has been little or no improvement in any of the variables studied. The knowledge of judges about the nature of substance abuse and treatment options and the general ability of court systems to assess the nature of defendants' substance abuse problems have improved only very slightly but these improvements have tended to occur in urban areas, the South, and jurisdictions with higher rates of drug-related crime. Very slight performance improvement has also occurred in the effectiveness of drug testing programs, particularly in areas with high drug-related crime rates. Also, the availability of drug treatment as an option has increased nationally, but the improved availability is reported as progressively smaller as one moves from East to West.

Most of the administrative and organizational measures of court performance have improved insignificantly or not at all in three years. Average time from arrest to disposition and between conviction and sentencing, the scheduling of court events, and the number of appearances required to dispose of cases are variables that follow this pattern. Sixty-five percent reported that the average time between arrest and disposition of drug related cases in their felony court is the same or longer than it was three years ago. Sixty-eight percent reported that the average time between conviction and sentencing of defendants convicted of a drug-related felony is the same as or longer than it was three years ago. Seventy-four percent reported that the number of appearances required to dispose of cases is the same or more today when contrasted with the situation three years ago (12 percent reported conditions to be worse).

The status of the variable "probation supervision" bears mention. In the aggregate, things are "about the same today" with regard to this variable. Ratings of probation supervision show a strong relationship to the character of a jurisdiction, however. Rural and metropolitan jurisdictions report little or no change, but urban places, and the Pacific region (which is heavily urban), report that probation supervision has worsened. Recidivism, overburdened court dockets, overworked felony court teams, and crowded jails and prisons all are reported as significant problems by the responding jurisdictions. The number of defendants charged with drug-related crimes who are fugitives and the rates of arrest for other crimes within one year of convicted drug offenders have increased everywhere in the last three years, possibly related in part to increased police resources during this period. Ninety-one percent report the rates of subsequent arrest within one year of felons convicted of a drug-related crime to be the same or higher than three years ago (29 percent report conditions have worsened). Not surprising is the fact that the recidivism has increased the most in urban areas. For example, San Diego, Atlanta, Boston, Cleveland, Philadelphia, Houston and Seattle all report that their situation is "much worse" than in 1989.

The burgeoning number of drug cases has, accordingly, led to greater strain on the court system as indicated by a worsening (increased) number of cases handled per year by a felony court team (judge, prosecutor, defense) and the percentage of the pending case load that is drug-related. Seventy-seven percent reported that the number of cases handled by the felony court team is the same as or more than it was three years ago (54 percent reported conditions to be worse). Eighty-seven percent reported the percentage of their pending caseload that is drug-related to be the same or larger than it was three years ago (60 percent report that their pending drug-related caseload is larger). Felony court teams

appear to be coping better in urban and rural jurisdictions than in metropolitan ones. However, not surprisingly, the percent of the pending case load that is drug-related has risen the most in urban and metropolitan areas. Rural areas, while worse off compared to 1989, rate their situation somewhat better.

By far the most uniformly deteriorated variables of court system performance are crowded jails and prisons. Virtually every single jurisdiction rated these variables as "somewhat worse" or "much worse" compared to 1989. Jails, by a very small margin, are not considered quite as overburdened as prisons.

3.6 Other Policy-Related Questions

The survey questionnaire raised a number of other policy related questions with both judges and prosecutors. They were presented in a true versus false format and worded as follows, with the overall percentage of respondents (both judges and prosecutors) who reported the statement as true indicated in parentheses.

- Many arrests for drug-related crimes do not result in charges because the court is overburdened. (True, 2 percent.)
- Judges associated with the felony court are knowledgeable about the nature of substance abuse addiction, the various kinds of treatment available and the effectiveness of alternative treatment approaches. (True, 78 percent.)
- Judges are able to make informed bail decisions. (True, 87 percent.)
- Substance abusing defendants are adequately supervised and monitored in pretrial release programs. (True, 2 percent.)
- Substance abuse treatment is widely employed as a pretrial alternative to incarceration. (True, 77 percent.)
- Substance abuse treatment is widely employed as a post-conviction alternative to incarceration. (True, 72 percent.)
- Treatment is routinely imposed as a mandatory condition at disposition for offenders with a substance abuse problem. (True, 84 percent.)
- The unavailability of interpreters inhibits effective court processing. (True, 5 percent.)

Of special interest was the significant percentage--33 percent--of judges reported by prosecutors as not being knowledgeable about the nature of substance abuse addiction, the various kinds of treatment available, and the effectiveness of alternative treatment approaches. Also, although 67 percent of prosecutors reported that substance abuse treatment is widely employed as a pretrial alternative to incarceration, 97 percent complained that substance-abusing defendants are inadequately supervised and monitored in pretrial release programs.

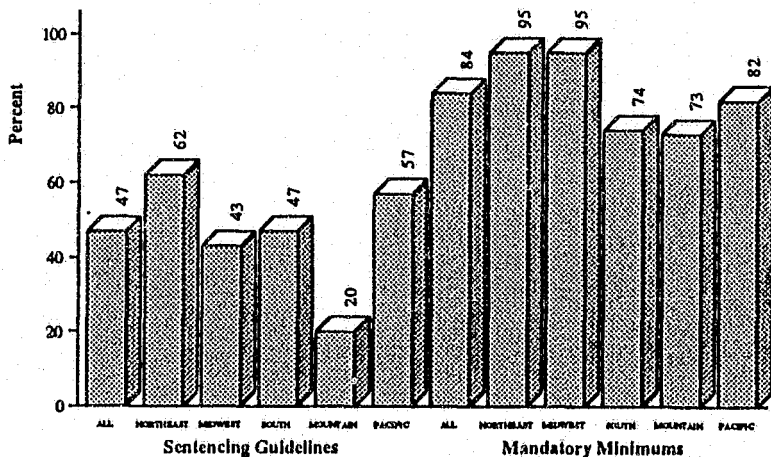
3.7 Sentencing of Drug Offenders

3.7.1 Guidelines and Mandatory Minimums

Many State legislatures have enacted tough and comprehensive drug laws that provide stern punishment guidelines for all drug offenders. The punishments required by the laws may include mandatory terms of imprisonment and periods of parole ineligibility for the more serious offenders.

As can be seen in Figure 9, sentencing guidelines are most common in the Northeast region, followed by the Pacific. In the more sparsely populated Mountain West, just 20 percent use guidelines. Jurisdictions of all types overwhelmingly report that they take steps to avoid imposing an inappropriate sentence under guidelines. But there is also a consistent and substantial majority (nearly 80 percent) reporting that they deviate from guidelines either "infrequently" or only "sometimes." More flexible jurisdictions--those reporting that they depart from guidelines "fairly often" or "frequently"--are most often rural and are located in the Midwestern or Pacific regions.

FIGURE 9
EXISTENCE OF SENTENCING GUIDELINES AND MANDATORY MINIMUMS



Mandatory minimum sentences are more prevalent than guidelines, with very substantial majorities of responding jurisdictions reporting their existence. As depicted in Figure 9, they are most common in the Northeast, the Midwest, and the Pacific.

While solid majorities of 74 percent of urban respondents and 67 percent of metropolitan respondents report that they take steps to avoid

inappropriate sentencing when mandatory minimums exist, only 45 percent of rural jurisdictions report such practices. Ninety-three percent of Pacific jurisdictions report that they try to avoid imposing inappropriate sentences when mandatory minimums exist. The rest of the regions report such practices with substantially less frequency: the Northeast at 66 percent, the South at 66 percent, the Midwest at 61 percent, and the Mountain West at 56 percent. Of those jurisdictions responding that they do take steps to avoid inappropriate sentences under mandatory minimums, 88 percent report that they deviate from them either "infrequently" or only "sometimes."

3.7.2 Plea Bargaining and Sentencing Practices

In order to gain an understanding of plea bargaining and sentencing practices in each jurisdiction, three hypothetical cases were formulated. For each case, respondents were asked to provide the following:

- Original charge(s) that would be made in their jurisdiction;
- Expected charge(s) that would be offered as plea bargain;
- Expected sentence if found guilty (of expected charge(s) offered as plea bargain);
- Expected charge(s) that would stand if plea bargain rejected; and
- Expected sentence if found guilty (of expected charge(s) if plea bargain rejected).

The three cases presented were as follows:

- Case 1: Twenty-two-year-old male arrested in possession of three \$20 rocks of crack cocaine (or its equivalent in your jurisdiction). Defendant has a history of three prior arrests for drug possession. He has previously been a patient in a residential substance abuse treatment program while on probation.
- Case 2: Thirty-year-old female arrested in possession of 20 rocks of crack cocaine (or its equivalent in your jurisdiction). Defendant has a history of six prior arrests for drug possession. All prior possession arrests were for small quantities of illegal drugs (cocaine and marijuana). Defendant has no history of incarceration but has served three periods of probation, ranging from six months to one year, related to drug possession and, in one instance, prostitution.
- Case 3: Twenty-four-year-old male arrested in possession of 25 rocks of crack cocaine (or its equivalent in your jurisdiction) and a concealed weapon without a permit. Defendant has a history of seven prior arrests for crimes including drug possession (small amounts), carrying a concealed weapon without a permit, and armed robbery. Defendant served 16 months in prison related to armed robbery and is currently on parole. He also has a prior history of outpatient substance abuse treatment for a cocaine problem and has been placed on probation on two previous occasions, once for six months and once for 12 months.

The survey revealed the following about each of the above cases.

Case 1: Possession of three rocks, three prior possession arrests.

- Indicted Charge: Approximately six out of seven respondents reported that they would indict with a charge of "Possession of Cocaine." Although the overwhelming majority of district attorneys would indict defendants with "simple possession" (as this charge is popularly known), a noteworthy minority reported that the charge would be the more serious felony "Possession with Intent to Distribute," often denoted as "trafficking." One in five jurisdictions in the Northeast would use this more serious charge, as would 17 percent in the South. Fourteen percent of rural areas and 13 percent of metropolitan jurisdictions would charge defendants with trafficking, while only 5 percent of urban places would do so.
- Plea Bargain: In the plea bargain phase, the percentage of prosecutors willing to let defendants plead to simple possession rises to over 90 percent, with approximately two-thirds of jurisdictions that indicted defendants under trafficking being willing to drop down to this charge.
- Charge if Plea Bargain Offer is Rejected: If the offer is rejected, jurisdictions which charged simple possession almost unanimously hold this charge. About half of the jurisdictions originally charging trafficking opt to use the charge "Possession of Cocaine as a Habitual Offender."
- Sentencing: Sentences for this case, if the plea bargain offer is accepted, average three years. This figure is, however, skewed somewhat by the much harsher sentencing practices in primarily rural, southern, and low drug-crime jurisdictions. Somewhat lower sentences are actually far more common. Typical sentences in urban and metropolitan areas are approximately 29 months, while in rural jurisdictions, the average is eight years. It should be noted, however, that the standard deviation in rural areas is quite high. Regionally, all other areas fall far below the Southern average of five years. Mountain West jurisdictions report an average sentence of 2.5 years; the Midwest jurisdictions average 1.5 years, those in the Northeast, 1.5 years, and those in Pacific are 0.9 years. Jurisdictions with the lowest rates of drug-related crime have the harshest sentencing practices, while areas with the most lenient sentences tend to be those in Crime Category 2; that is, high crime areas but not the highest crime areas (e.g., Fresno County, California, and Broward County, Florida).

If the plea bargain offer is rejected, the average sentence increases by 27 percent to 3.8 years.

Case 2: Possession of 20 rocks, six prior possession arrests, probation served for priors.

- Indicted Charge: Nearly 70 percent of responding jurisdictions reported that they would indict with a charge of "Possession With Intent to Distribute." However, one in four urban jurisdictions would indict with a simple possession charge. Regional differ-

ences were not significant in this instance, nor did jurisdictions with varying overall levels of drug-related crime indict in significantly different ways.

- Plea Bargain: In the plea bargain phase, the most common charge remains "Possession With Intent to Distribute," but the number of jurisdictions willing to allow defendants to plead to simple possession increases from 21 percent to 34 percent.
- Charge if Plea Bargain Offer is Rejected: The modal response here was that the original charge tends to stand and the plea bargain offer is withdrawn.
- Sentencing: If the plea bargain offer is accepted, sentences average 5.8 years. Again, as with Case 1, this figure is skewed somewhat by harsher sentencing practices that exist both in rural jurisdictions and in the South. For example, the average sentence in urban jurisdictions in this case was 3.7 years, while in rural places it was 11.4 years, over 300 percent that of the urban figure. Regional analysis shows the South with harshest sentences, with an average of 9.0 years which contrasts sharply with the Pacific region, which imposed an average sentence of 2.0 years, less than one-fourth of the Southern figure.

Similar patterns exist if the plea bargain is rejected, with the average sentence increasing by 29 percent to 7.5 years. Rural sentences are quite high, averaging 13.3 years, while urban are 5.4 years. The South, again, is higher than other regions, averaging 11.7 years, while the Pacific region is significantly lower, averaging 2.5 years.

Case 3: Possession of 25 rocks and a concealed weapon, numerous priors and time served.

- Indicted charge: The most frequent (modal) charge is "Possession with Intent to Distribute" and "Illegal Possession of a Firearm," a charge employed by 39 percent of all respondents (and by 49 percent of urban respondents). However, "Possession with Intent to Distribute" alone would be the charge used by 27 percent of jurisdictions. Others employ simple possession plus a gun charge or illegal use of a firearm. Regional analysis shows 62 percent of jurisdictions in the Northeast indicting on both trafficking and gun charges, while only 24 percent of those in Mountain West expect to use both charges. Gun charges combined with another drug-related charge (e.g., simple possession) are most common in the Northeast (80 percent) and least common in the Mountain West (48 percent) and South (44 percent).
- Plea bargain: The most frequently offered plea bargain involves dropping gun charges but keeping the charge "Possession with Intent to Distribute" with 42 percent of respondents reporting that this would be their approach, although 29 percent of respondents would keep their gun charge intact. The Northeast is most likely to keep a gun charge--only 20 percent of the responding jurisdictions are willing to drop it.

- Charge if Plea Bargain Offer is Rejected: In the great majority of jurisdictions, the original indicted charge stands if the plea bargain offer is rejected.
- Sentencing: The average sentence is 10.2 years if the plea bargain is accepted and increases by 25 percent to 12.8 years, if the plea bargain is rejected. As in Cases 1 and 2, harsher sentences prevail in rural areas and in the South, with the most leniency found in the Pacific region. In this regard, for example, the average sentence if the defendant accepts a plea is 17.6 years in rural areas and 15.6 years in the South. If the defendant rejects a plea, his or her sentence would rise 18 percent to 20.7 years in rural areas and would increase 21 percent to 18.9 years in the South.

3.8 Significance Testing (Tests of Statistical Hypotheses)

In order to explore possible relationships between selected demographic characteristics and responses to the national court survey, a series of statistical significance tests were performed. In this regard, a two sample z-test with Type I error set at .05 and .1 was utilized. In general, three types of hypotheses were developed. The hypotheses stated that outcomes (responses to particular survey questions) differed:

- In different regions of the U.S. Five regions (Northeast, South, Midwest, Mountain West, and Pacific) were established to determine the existence of regional differences.
- In jurisdictions with different population densities. Three categories (urban, metropolitan and rural) were established for the purpose of hypothesis testing.
- In jurisdictions with different rates of drug-related crime. Five categories were established for this aspect of hypothesis testing.

Not surprisingly, the variable most clearly related to both the level of court resources available and court system performance was population density. In particular, with Type I error set at .05, the following hypotheses were accepted:

- Urban felony court systems are more likely (than metropolitan or rural systems) to report that
 - they use drug testing as a post-trial supervision/monitoring tool; and
 - the quality of probation supervision is worse today than three years ago.
- Metropolitan felony court systems are more likely (than urban or rural systems) to report that a greater number of cases are handled by their felony court team (judge, prosecutor, defense) today than in 1989.
- Rural felony court systems are less likely (than urban or metropolitan systems) to report that:

- they make some accommodations to mandatory minimums;
- the average time between arrest and disposition is longer today than three years ago;
- the percentage of their pending caseload that is drug-related is higher today than three years ago;
- jails are more crowded today than three years ago;
- drug testing programs are worse today than three years ago;
- the number of drug-related defendants who are fugitives has increased in the last three years; and
- they have comprehensive data bases.

Clearly, Lazar's hypothesis testing verifies that the problem of dealing with drug offenders is reported as being much more manageable by the courts in rural areas than in urban (center city) and metropolitan jurisdictions.

Significance testing was also undertaken to analyze indictment and sentencing patterns across the nation. In this regard, responses to the hypothetical cases (fact patterns) included in the survey were analyzed using a two-sample z test with Type I error set at .05. This analysis revealed that:

- Sentences for drug-related crime are significantly longer in the South than in other regions.
- Sentences for drug-related crime are significantly longer in rural areas than in urban and metropolitan jurisdictions.

Less general statements can be made with regard to the process of the indicted charge and plea bargaining process, but analysis of Case 3 (i.e., possession of 25 rocks of crack cocaine and a concealed weapon by a 24-year-old male parolee with a history of seven prior arrests for drug-related crimes and armed robbery) revealed:

- Jurisdictions in the Northeast and Midwest are significantly more likely to indict the defendant on gun charges than are jurisdictions in other regions of the U.S. An indictment on gun charges is also significantly more likely in jurisdictions with high rates of drug-related crime than in other jurisdictions (i.e., those with medium and low rates).
- Jurisdictions in the Midwest are significantly more likely to drop gun charges as part of a plea bargain agreement than are jurisdictions in other regions of the U.S. Jurisdictions with high rates of drug-related crime are significantly less likely to drop gun charges during the plea bargaining process.

4.0 CONCLUSIONS AND RECOMMENDATIONS

Lazar's national survey has revealed that even though resources to combat drug-related crime have increased substantially since 1989, felony court systems are still having great difficulty coping with the drug crisis. Even if the assumption is made that the increase in funding for the war on drugs has allowed police to operate more effectively and substantially increase arrests, it must be concluded that policy makers have not learned how to create a proper "balance" among criminal justice system components. Like any human service system which operates in serial fashion, the police-courts-corrections complex is only as strong as its weakest link. If police resources are increased but courts and corrections not proportionately strengthened, arrestees will "pile up" and the arraignment, plea bargain and trial process will be forced to "leak" inappropriately. In essence, the police effort will have been wasted.

Lazar's survey shows that felony courts are not capable of coping with their present workload and that, in general, the courts are functioning at approximately the same level of effectiveness today as in 1989, when a major new national anti-drug initiative was implemented. Clearly, the criminal justice system must focus more on balancing its various components, for without better distribution of resources, police, who are at the front end of the process, are likely to waste time and effort.

With regard to sentencing practices, Lazar's survey revealed that locational characteristics of a felony court system did serve as good predictors of their policies. In this regard, two geographic aspects were strongly correlated with sentence severity. One was population density--felony court systems serving rural areas tend to have more severe sentencing practices. Also, convicted defendants in the South tended to receive harsher penalties than in other regions of the country. Research to determine if these harsher sentences lead to a reduced rate of recidivism among drug offenders would be relatively simple and inexpensive to perform. Such research should be helpful to jurisdictions in assessing the value of relatively costly long-term incarceration.

Some deficiencies of State and local felony courts stood out: a need to improve supervision and monitoring, and rehabilitation of defendants while they are not residing in jail or prison. This problem exists particularly during the pretrial phase and suggests that technical assistance that helps court systems implement improved pretrial release risk assessment systems as well as new program tools such as drug courts would be desirable. In particular, development of case studies which document the operations of exemplary drug courts and risk assessment models would be useful. These studies should, of course, address the different operational needs in urban, metropolitan and rural jurisdictions.

Another study that would be extremely beneficial relates both to the pretrial supervision and monitoring problems reported in this study and its finding that jails and prisons are increasingly crowded. Currently, little is known about the relative value of various intermediate sanctions applied individually or in combination. Consequently, judges' confidence in such remedies would be increased if their costs versus benefits were accurately determined. In this regard, implementing a

controlled study which explores the outcomes associated with comprehensive drug treatment combined with other selected approaches such as graduated sanctions would be of great value, especially if such a program could be initiated through a drug court.

A number of other research and demonstration initiatives are sorely needed to address weaknesses highlighted in Lazar's survey. For example:

- Knowledge about how to balance police, courts and corrections resources could be improved greatly through the design and implementation of simulation models that allow alternative resource allocation strategies to be tested.
- Education programs that allow felony court judges to become more familiar with the addiction process as well as fundamental concepts of substance abuse prevention and treatment should be developed. The programs should include video and written materials as well as accompanying short courses which are offered in all States on at least an annual basis.
- A follow-up study which examines the long-term impact of innovative court system approaches (e.g., drug courts) should be initiated so the costs versus benefits of such programs can be accurately determined.
- In this era of shrinking public sector resources, more attention should be paid to unglamorous research topics such as developing better approaches for estimating the costs of various criminal justice program improvements in the context of the environments in which they operate. Too often, the initial investment and ongoing operations cost of programs are not well understood by local policy makers and, as a result, critical investments in areas such as staff training or computer support are not made at appropriate levels.
- Policy-related research which focuses on the usefulness and effectiveness of sentencing guidelines and mandatory minimums should be undertaken. In particular, the national assessment study approach employed by NIJ could be applied to this topic.

In summary, it is recommended that, in light of the significant level of resources devoted to drug enforcement by all levels of government, prudent steps such as those mentioned above be taken to increase the cost effectiveness of our felony court system. As mentioned previously, unless a better resource balance is achieved among the courts and other criminal justice system components such as police, the overall effectiveness of the national war on drugs will fall short of its potential.

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APPENDIX A

SURVEY QUESTIONS UTILIZED IN NATIONAL ASSESSMENT OF DRUG OFFENDERS AND THE COURTS

Note: Two similar questionnaires were employed, one directed to chief judges and the other to lead prosecutors. A notation at the beginning of each question indicates if it appeared in one questionnaire or both.

DRUG OFFENDERS AND THE COURTS

- A National Assessment of Identification, Processing and Sentencing Practices -

A SURVEY

SUPPORTED UNDER A GRANT FROM THE U.S. DEPARTMENT OF JUSTICE

Information about person completing survey form:

Name _____ Telephone () _____
Title _____
Organization _____
Address _____

With the support of a grant from the National Institute of Justice, U.S. Department of Justice, the Lazar Institute is conducting a study of the methods that State and local felony courts use to identify, process and sentence drug offenders in their jurisdictions. To gather information for this research, we are surveying a sample of felony courts in States, counties and cities to learn more about the approaches they use to deal with drug offenders and to determine the impact of the methods being employed. In this regard, we would appreciate your response to the following questions about procedures in your area. If you have any questions, please do not hesitate to contact Raymond H. Milkman, the Project Director, who may be reached by telephone at (703) 821-0900, or in writing at the Lazar Institute, 6726 Lucy Lane, McLean, Virginia 22101.

IMPORTANT PREFATORY NOTE

As can be seen from the enclosed letters, a number of key organizations are interested in obtaining the results of this survey, which has been limited to a small, but nationally representative, sample of courts. Your response is crucial to the survey's success and, although it is understood that you may ask another individual who is especially knowledgeable about drug issues to respond to the questionnaire, it is hoped that you will ensure that the form is completed and returned in the next ten days. Please be aware that the pilot test of this instrument revealed that it takes between 10 and 20 minutes to complete.

OVERVIEW OF COURT OPERATIONS AND RESOURCES

1. (Judges and Prosecutors)

Please indicate which of the following options are available in your jurisdiction. For those which are not available, please indicate which you feel should be added as a resource and what priority you attach to their being made available.

	Please mark X if available	Please mark X if you feel option should be added as a local resource	If you advocate adding this option, please assign it a score: (A - highest priority) (B - medium priority) (C - lower priority)
Centralized intake and defendant screening.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Multiple case processing tracks.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Drug court.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Treatment Alternatives to Street Crime (TASC) or equivalent program.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Shock incarceration.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Split sentences (including boot camps, weekend sentences).....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Suspended sentence.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Day fines.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other monetary penalties.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Community service.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Pretrial defendant risk assessment.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Postconviction defendant risk assessment.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Pretrial intensive supervised probation.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Postconviction intensive supervised probation.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Pretrial house arrest (with electronic monitoring).....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Postconviction house arrest (with electronic monitoring).....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Pretrial house arrest (without electronic monitoring).....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Postconviction house arrest (without electronic monitoring).....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Pretrial residential drug treatment.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Postconviction residential drug treatment.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Pretrial halfway houses.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Postconviction halfway houses.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Pretrial outpatient drug treatment.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Postconviction outpatient drug treatment.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Pretrial day reporting centers.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Postconviction day reporting centers.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Pretrial special programs for HIV-positive defendants.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Postconviction special programs for HIV-positive defendants.....	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other -- please specify: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____
_____	<input type="checkbox"/>	<input type="checkbox"/>	_____

2. (Judges and Prosecutors)

- a. Do sentencing guidelines exist in your jurisdiction? Yes No
 If you answered "Yes" to a, please answer b. Otherwise, please go on to 3.
- b. Does your court ever take steps to avoid imposing what appears to be an inappropriate sentence under the guidelines?
 Yes, we must make some accommodations. No, we strictly follow the guidelines.
- c. If yes, how often? Infrequently Sometimes Fairly often Frequently

3. (Judges and Prosecutors)

- a. Do mandatory minimum sentences exist in your jurisdiction? Yes No
 If you answered "Yes" to a, please answer b. Otherwise, please go on to 4.
- b. Does your court ever take steps to avoid imposing what appears to be an inappropriate sentence under the mandatory minimums?
 Yes, we must make some accommodations. No, we strictly follow the guidelines.
- c. If yes, how often? Infrequently Sometimes Fairly often Frequently

4. (Judges only)

a. Does drug testing occur in your criminal justice system? Yes No

If you answered "Yes," please complete the following.

Yes No Drug testing is used for pretrial supervision/monitoring.

Yes No Drug testing is used for post-trial supervision/monitoring.

b. Which of the following best characterizes the percentage of arrestees that are given drug tests?

Nearly all (roughly 80-100%) A significant percentage (roughly 30-80%) Some (roughly 5-30%)

c. Is drug testing used by the criminal justice or drug treatment system in other ways? Yes No

If you answered "Yes," please specify below.

POLICY-RELATED QUESTIONS

5. (Judges and Prosecutors)

Please indicate whether the following statements are true or false in your jurisdiction.

True False Within the last three years there has been a significant increase in arrests for drug-related crime.

True False Within the last three years there has been a significant increase in the number of court cases for drug-related crime.

True False Many arrests for drug-related crimes do not result in charges because the court is overburdened.

True False Judges associated with the felony court are knowledgeable about the nature of substance abuse addiction, the various kinds of treatment available and the effectiveness of alternative treatment approaches.

True False Judges are able to make informed bail decisions.

True False Substance abusing defendants are adequately supervised and monitored in pretrial release programs.

True False Substance abuse treatment is widely employed as a pretrial alternative to incarceration.

True False Substance abuse treatment is widely employed as a post-conviction alternative to incarceration.

True False Treatment is routinely imposed as a mandatory condition at disposition for offenders with a substance abuse problem.

True False The unavailability of interpreters inhibits effective court processing.

6. (Judges and Prosecutors)

No matter what crime is charged, a crime is classified as drug-related in your jurisdiction if:

Yes No Drugs or drug paraphernalia are present at the scene of a crime.

Yes No An arrestee's drug test is positive.

Yes No An arrestee has a history of drug use.

Yes No An arrestee admits that he/she has a drug problem.

7. (Prosecutors only)

Which of the following factors are the two most important in determining what charge(s) of those available will be prosecuted? (Please check no more than two.)

- | | | |
|--|--|--|
| <input type="checkbox"/> Overcrowded jails | <input type="checkbox"/> Sentencing guidelines | <input type="checkbox"/> Nature of offense |
| <input type="checkbox"/> Estimated probability of conviction | <input type="checkbox"/> Mandatory minimum sentences | |
| <input type="checkbox"/> Prior criminal record of defendant | <input type="checkbox"/> Court workload | |

COURT SYSTEM PERFORMANCE

8. (Judges and Prosecutors)

Please assume that a score of 10 represents a court system in your jurisdiction which is functioning perfectly with regard to dealing with drug offenders and a score of 0 represents a court system which is totally non-functional. Using this 0 to 10 scoring system, please rate your felony court's overall effectiveness in dealing with drug offenders:

Three years ago _____ At present _____

9. (Judges and Prosecutors)

Please contrast the status of your jurisdiction's court operations three years ago versus today by commenting on the status of the following variables:

	Much Worse Today	Somewhat Worse Today	About the Same Today	Somewhat Better Today	Much Better Today
Average time from arrest to disposition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Average time between conviction and sentencing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Number of appearances required to dispose of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Number of cases per year handled by felony court team (judge, prosecutor, defense)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Percent of pending caseload that is drug-related	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Availability of drug treatment as an option	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ability to assess nature of defendant substance abuse problems	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sentencing flexibility for drug offenders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Crowded jails	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Crowded prisons	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Probation supervision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Knowledge of judges about nature of substance abuse and treatment options	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scheduling of court events	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Drug testing programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Number of drug-related defendants that are fugitives	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rates of rearrest within one year of convicted drug offenders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monitoring of defendants in pretrial release programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

LOCAL DATA BASE

10. (Judges only)

Please indicate which of the following data elements are available on defendants in your jurisdiction and whether each element is readily available through an automated (computer) retrieval system.

	Information Available	Part of Automated Information System Available to the Court
Arrest records	<input type="checkbox"/>	<input type="checkbox"/>
Records of initial and final charges	<input type="checkbox"/>	<input type="checkbox"/>
Records of sentences imposed	<input type="checkbox"/>	<input type="checkbox"/>
Pretrial custody status of defendants	<input type="checkbox"/>	<input type="checkbox"/>
Sentence history of defendants (time served, probation served)	<input type="checkbox"/>	<input type="checkbox"/>
Probation resources and availability	<input type="checkbox"/>	<input type="checkbox"/>
Descriptions of substance abuse treatment resources and availability	<input type="checkbox"/>	<input type="checkbox"/>
Records of defendant's substance abuse treatment history	<input type="checkbox"/>	<input type="checkbox"/>
Formal assessments of defendants' substance abuse severity levels by utilizing Addiction Severity Index (ASI), Offender Profile Index (OPI), or another method	<input type="checkbox"/>	<input type="checkbox"/>
Time from arrest to disposition	<input type="checkbox"/>	<input type="checkbox"/>
Time from disposition to sentence	<input type="checkbox"/>	<input type="checkbox"/>

COURT OPERATIONS AND OUTCOMES

11. (Prosecutors only)

Please provide your assessment of the following hypothetical cases by commenting on the original charge that would be made in your jurisdiction as well as the charge that would be offered as a plea bargain and, finally, the charge that would stand after plea bargaining. Also, please indicate what sentence you think would be imposed (on the average) if this case were heard in your jurisdiction.

Case 1: Twenty-two-year-old male arrested in possession of three \$20 rocks of crack cocaine (or its equivalent in your jurisdiction). Defendant has a history of three prior arrests for drug possession. He has previously been a patient in a residential substance abuse treatment program while on probation.

Indicted charge(s): _____

Expected charge(s) offered as plea bargain: _____

Expected sentence if found guilty (of expected charge(s) offered as plea bargain): _____

Expected charge(s) that would stand if plea bargain rejected: _____

Expected sentence if found guilty (of expected charge(s) if plea bargain rejected): _____

Case 2: Thirty-year-old female arrested in possession of 20 rocks of crack cocaine (or its equivalent in your jurisdiction). Defendant has a history of six prior arrests for drug possession. All prior possession arrests were for small quantities of illegal drugs (cocaine and marijuana). Defendant has no history of incarceration but has served three periods of probation, ranging from six months to one year, related to drug possession and, in one instance, prostitution.

Indicted charge(s): _____

Expected charge(s) offered as plea bargain: _____

Expected sentence if found guilty (of expected charge(s) offered as plea bargain): _____

Expected charge(s) that would stand if plea bargain rejected: _____

Expected sentence if found guilty (of expected charge(s) if plea bargain rejected): _____

Case 3: Twenty-four-year-old male arrested in possession of 25 rocks of crack cocaine (or its equivalent in your jurisdiction) and a concealed weapon without a permit. Defendant has a history of seven prior arrests for crimes including drug possession (small amounts) carrying a concealed weapon without a permit, and armed robbery. Defendant served 16 months in prison related to armed robbery and is currently on parole. He also has a prior history of outpatient substance abuse treatment for a cocaine problem and has been placed on probation on two previous occasions, once for six months and once for 12 months.

Indicted charge(s): _____

Expected charge(s) offered as plea bargain: _____

Expected sentence if found guilty (of expected charge(s) offered as plea bargain): _____

Expected charge(s) that would stand if plea bargain rejected: _____

Expected sentence if found guilty (of expected charge(s) if plea bargain rejected): _____

APPENDIX B
EXPLANATION OF STATISTICAL STRATIFICATION APPROACH

All jurisdictions were classified by size, region, and level of drug-related crime.

By size, jurisdictions have been classified as urban, metropolitan or rural using the 0 - 9 code system developed in "Rural-Urban Continuum Codes for Metro and Nonmetro Counties," a publication by Margaret A. Butler of the Economic Research Service, Agriculture and Rural Economy Division, of the U.S. Department of Agriculture. Urban counties, Code 0, are central counties of metropolitan areas of one million population or more. Metropolitan counties, Codes 1 - 6, plus 8, are any non-central counties within a metropolitan area, plus any nonmetropolitan counties adjacent to a metropolitan area. Rural counties, Codes 7 and 9, are completely rural or have urban populations of less than 20,000 and are not adjacent to metropolitan areas.

Regionally, the jurisdictions were divided into five categories devised and used by the U.S. Census Bureau.* They are the Northeast: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey and Pennsylvania; the South: Delaware, Maryland, the District of Columbia, Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma and Texas; the Midwest: Ohio, Indiana, Michigan, Illinois, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, and Kansas; the Mountain West: Montana, Idaho, Wyoming, Nevada, Utah, Colorado, Arizona, New Mexico; and the Pacific: Alaska, Washington, Oregon, California and Hawaii.

Finally, jurisdictions were broken into five categories according to their level of drug-related crime as reported for 1990 by the FBI's Uniform Crime Reporting (UCR) System. In descending order of drug-crime level, Crime Category 1 jurisdictions report more than 1,000 drug-related crimes per 100,000 population for the year; Crime Category 2, between 700 and 999; Crime Category 3, between 500 and 699; Crime Category 4, between 250 and 499; and Crime Category 5, fewer than 249. Ten jurisdictions had no UCR data available.

* Lazar created a fifth region by splitting one of the four Census Bureau regions (the West region) into its component parts, Mountain and Pacific. In the interests of clarity and convenience, the Mountain division was renamed the "Mountain West." This decision to subdivide was based on the study's revelation that these two areas have very different attitudes and approaches toward drug issues and could therefore best be studied as separate entities.