DOCUMENTATION AND PRIORITIZATION OF MISDEMEANOR COURT MANAGEMENT PROBLEMS AND PROPOSED MANAGEMENT INNOVATIONS

TABLE OF CONTENTS

TABLES AND FIGURES

This report is submitted pursuant to special condition number 9 of the Misdemeanor Court Management Research Program (Grant No. 76NI - 99 - 0114), being conducted jointly by the American Judicature Society and the Institute for Court Management. The report is divided into two parts. The first portion of the report (Documentation and Prioritization of Misdemeanor Court Management Problems) contains the findings of Phase One, which covers the period from August 1, 1976, to March 31, 1977. The second portion (Proposed Management Innovations) contains the findings of Phase Two covering the period from April 1, 1977, to May 31, 1977.

P H A S E O N E

DOCUMENTATION AND PRIORITIZATION OF MISDEMEANOR COURT MANAGEMENT PROBLEMS

This portion of the report documents the findings of Phase One of the Misdemeanor Court Management Research Program regarding the operational and management problems of misdemeanor courts. The first section summarizes the methodology utilized by the project staff to determine prevalent operational and management problems of these courts. These problems are documented and discussed in the second section and prioritized in the third. The third section also introduces the innovative management techniques that were developed during Phase Two.

I. Methodology

The project staff employed several techniques to identify misdemeanor court management problems. The first was an exhaustive literature search which enabled the staff to produce an extensive bibliography of writings pertaining to misdemeanor court concerns.

As the literature search was being conducted, staff members began preparation of a telephone interview instrument designed to elicit comparable categories of information concerning misdemeanor court staffing, organization, caseload, and operations; and to determine the perceptions of court personnel with respect to the existence and nature of management problems in these courts.[1] The instrument was finalized after numerous drafts, and the staff completed telephone interviews with misdemeanor court judges and court administrators across the country.[2]

Information provided by the literature search and the telephone interviews was basic to the selection of twelve courts for on-site visits. The staff was concerned with observing, in the field, the major organizational

and operational problems identified during the two earlier stages of investigation. In addition, a representative sample of courts reflecting organizational, operational, and regional variation was considered desirable. The twelve courts chosen ranged from multi-judge metropolitan courts to rural courts staffed by a single part-time judge.[3] Each of these courts was visited for 2 or 3 days by a member of the project staff.

To provide as complete an information base as possible, a mail questionnaire was sent to a nationwide, random sample of misdemeanor court judges. Two criteria were used to determine the appropriate universe from which to sample: the courts chosen were primarily involved with misdemeanor cases[4] and being a judge was the primary occupation of judges serving on these courts.[5] The resultant universe contained more than 5,000 lower court judges in 49 states.[6] Utilizing a 25 percent random sampling procedure, the potential number of judge-respondents was 1,366.

To survey these judges, a questionnaire was drafted and circulated among project staff. After undergoing numerous revisions, the questionnaire was finalized and mailed. A follow-up mailing was conducted three weeks later. These efforts resulted in 743 judges returning the questionnaire, representing a final response rate of 54 percent. These responses were then coded, computerized and analyzed statistically.

Following this, a mailing inquiry was conducted to elicit specific information concerning selected innovative programs that had been identified through our literature search, initial field visits, press releases, contacts with members of other judicial research organizations, and GMIS and NCJRS printouts.[7] A follow-up telephone survey was also conducted to learn more about certain innovative programs.

Eight innovative courts were then selected for site visits during January and February. Each court administered one or more innovative programs in areas such as caseflow management, pretrial release, probation, diversion and police citation procedures.[8]

II. Problem Documentation

A. Literature Survey[9]:

If the observations contained in the substantial body of misdemeanor court literature are surveyed, it is apparent that most attention has been focused on relatively few operational deficiencies. The rapid rate of case processing, and its attendant phenomena of incomprehensible proceedings and indecorous atmosphere, are heavily criticized. Delay is only infrequently cited. Deficient caseflow management techniques are, to date, substantially unreported.

One of the more important insights provided by the literature search is the infrequency with which the delay question is addressed. Unreasonable delay is not a commonly identified defect of misdemeanor justice. However, even in the absence of delay, the lack of individual attention given to misdemeanor cases is cited frequently, together with several reasons for such a condition. Among these, judicial attitude is frequently noted. Boredom has been identified as a primary cause of rapid case processing,[10] upon the finding that speedy processing occurs regardless of caseload volume.[11] There is an inference that although some measure of boredom is inherent in the role of the misdemeanor court judge, an additional factor is at work -- judicial undervaluation of the importance of misdemeanor cases. In has also been proposed by some authors that as a result of societal undervaluation of

misdemeanor justice, misdemeanor court judges view defendants as unworthy of any treatment other than assembly line processing.[12] There are also frequent suggestions in the literature that judges are overburdened by administrative tasks and need professional administrative assistance. However, such comments go no further and do not seem directed principally toward the misdemeanor courts. The only clearly relevant references simply indicate that misdemeanor court judges often spend less time on the bench than their caseloads seem to justify.[13]

The practice of having only a morning call is one operational aspect of the court which receives frequent attention. It is commonly noted that this practice compels witnesses and bailed defendants to waste considerable time waiting for their cases to be called.[14] It is one author's conclusion that the crowding of courtrooms with defendants and witnesses, who must wait hours before their cases are called, increases noise and confusion and needlessly reduces the level of decorum.[15] Another frequent complaint directed against misdemeanor court operations is that courtroom facilities are inadequate and contribute to undignified proceedings.[16] Criticism is also made that the location of court facilities does not permit adequate separation of the police and judicial functions.[17] It is apparent that such a condition may be outside the control of the court. However, appropriate procedures, instituted by the court and motivated by concern for dignity and decorum, could moderate facility-related deficiencies.

B. On-Site Observations:

The on-site observations substantiated many of the concerns expressed in the literature while illuminating specific operational shortcomings unique to

misdemeanor courts. The visits also indicated that problems encountered by urban misdemeanor courts usually do not parallel those found in rural misdemeanor courts.

A few complaints were cited often, regardless of locale. Not surprisingly, insufficient resources and excessive caseloads were noted by both urban and rural judges as hindering effective court operations. Many judges who handled "excessive" caseloads felt that they were being asked to decide cases that were beyond the reach of the courts. In specific, judges felt they lacked the professional expertise or the resources to deal with the "societal" problems that confronted them on a daily basis.[18]

This project's capacity to solve the basic problem of inadequate resources is obviously limited. The resource problem stems from inadequate court financing, which is not a judicial, but a legislative prerogative. Similarly, the belief that many acts now defined as misdemeanors should be removed from the judicial process raises the issue of decriminalization, a legislative prerogative. Short of decriminalization, caseloads in many courts could be reduced by screening out certain cases before they reach the court, but this is generally an area which most (but not all) judges perceive to fall within the discretion of the local prosecutor, not the court.

The use of judicially administered pre-trial diversion programs may provide at least a partial response to the problems of excessive caseloads and "victimless" crimes. However, after visiting courts with effective diversion programs, it became clear that the success of such programs is dependent upon the need for substantial funding.[19] Because our charge was

to develop management techniques that could be implemented within the existing resources of individual courts, we have directed our attention elsewhere. Specifically, we sought to determine whether similar improvements could be attained by utilizing more effective management techniques. Could some of the problems be solved, in part, by reallocating certain tasks among existing personnel? Is the pressure felt by judges from case volume exacerbated by faulty operating procedures or by attitudinal proclivities of other criminal justice system personnel? Could the courts make greater use of presently-existing community resources?

It must be noted that the problem of "inadequate" resources is not a unidimensional one. Field observations indicated, for example, that judges in most courts had enough support personnel to provide assistance to the court. However, inadequate salaries caused excessive turnover, with a resultant lack of continuity in the support services provided.[20]

Facilities -- office and courtroom space -- were often mentioned as deficiencies by the judges. However, this took on different meanings in urban and rural locales. In some city courts, office and courtroom space was lacking, which limited the management capability of the staff.[21] In rural courts, office and courtroom space was generally sufficient. However, capital improvements were desperately needed to make such space useable. One rural judge maintained separate office accomodations outside the court building because he refused to move into a (slightly) renovated coffee room.[22]

Perhaps the most pervasive problem observed in the field was the judges' perception that misdemeanor cases are not important enough to warrant their

serious attention. This feeling was reinforced by similar attitudes held by the local criminal justice system participants. Prosecutors and defense attorneys alike tended to shun the misdemeanor court, preferring not to "waste their time" on petty offenses.[23] Several deputy or assistant district attorneys claimed their felony caseload was too heavy and prevented them from handling misdemeanors. Implicit in such claims is that the career mobility of both prosecutors and public defenders in enhanced by the successful handling of criminal cases involving serious offenses. Thus, the handling of misdemeanor cases is to be avoided because the successful handling of such cases generally has a minimal affect on career mobility. The ability of the misdemeanor court judge to control this situation is necessarily limited. However, one public defender claimed that even when she did wish to become involved in a misdemeanor case it was impossible to do so. The judge simply refused to appoint an attorney, stating the defendant would not be incarcerated and was, therefore, ineligible for representation as an indigent.[24] Such a situation points up a serious consequence of the judges' attitudinal predispositions toward misdemeanor cases -- the possibility that standards of due process can be completely disregarded.

The attitude that misdemeanor cases represent unimportant, relatively undifferentiated types of offenses tends to increase the boredom factor in the job of judging. The result is routine, perfunctory treatment of these cases, with minimal individualized judicial attention to defendants appearing before the bench.[25]

Judicial frustration is exacerbated by the demand to confront offenses which reflect social problems existing within the community rather than truly

"criminal" behavior. Rural judges, particularly, indicated that public drunkenness and private alcoholism are prime contributors to their misdemeanor caseloads. However, very few judges were aware of any local agencies or programs, such as alcohol rehabilitation centers, which could be utilized by the court to deal with these offenders.[26] Consequently, judicial frustration mounted because judges were restricted in their ability to sanction an offense appropriately. They viewed fines or imprisonment as their only sentencing alternatives.

Not only does judicial ignorance of, or sensitivity to, community services curtail the effectiveness of the judicial function, but many court services are not made available to the misdemeanor judge, which further underscores his sense of unimportance and ineffectiveness. Probation services, where they do exist in a community, may be available infrequently because the general trial court's felony caseload takes precedence.[27] Even some state court administrative offices appear to disregard the needs of their misdemeanor judge.[28] Judges of the general trial court also discourage interaction with the misdemeanor judge. In one locale, the general jurisdiction judge enlisted the aid of the prosecutor to communicate with the misdemeanor judge rather than dealing with him directly.[29]

The picture, then, of a typical misdemeanor court judge -- particularly in a single-judge court[30] -- is that of an individual functioning in isolation. He and his court operate autonomously with little input from other criminal justice participants, community service agencies, state judicial officials or even from other misdemeanor and felony court judges. No one is willing to help him improve the quality of services rendered to his clientele, and in many instances, some participants are an impediment to innovation and produc-

tive change. The judges' creativity is stifled, his sensitivity to community problems is blunted, and his ability to meet the sociological challenge of his office is diminished. It is not surprising that the end result is one of boredom and frustration.

Another operational condition found to be prevalent in misdemeanor courts is the lack of case information and caseload statistics.[31] This is a pervasive problem pertaining to both urban and rural courts, although in differing degrees. In many urban courts computerized case information systems are utilized. However, in three[32] of the four urban courts visited, court personnel were dissatisfied with performance. The systems either broke down too frequently, leaving personnel to handle paperwork manually, or failed to generate interpretable statistics. In rural courts, adequate statistics were not generated even on a manual basis. Consequently, courts in urban and rural locales were unable to monitor case progress and, therefore, unable to pinpoint problem areas within their system. Most judges, particularly rural ones, possessed only a vague notion as to the average length of time required to process a case. Many of them believed intuitively that continuances were not a problem to caseflow. However, neither they nor their clerks substantiated such notions with accurate data.[33] "Gut" feelings such as these are more than suspect since many of the prosecutors reported that obtaining continuances was merely a matter of "picking up the phone." In some locales the prosecutor was the de facto court scheduler, instructing the clerk when to set particular cases and suggesting which judge to be assigned.[34]

Many rural misdemeanor courts also defer to the police on certain administrative matters that should either be handled by, or under the direction of, the court. The police, in conjunction with the prosecutor, often determine when and how often defendants will be transported to court from the

lock-up for their first appearance.[35] Usually this is done at the convenience of the prosecutor, while the judge believes himself powerless to alter the situation. Police officers have also been known to hold prisoners for days at a time before delivering them for their initial court appearance.[36] Again, judges have not attempted to intervene or otherwise counteract this behavior.

The absence of adequate statistics and case monitoring systems is symptomatic of a more serious malaise common in misdemeanor courts -- their inability or refusal to develop case processing standards. They make little distinction between traffic or misdemeanor cases, between recidivists or first offenders, between continuance-prone or conscientious attorneys. Rules or mechanisms to control the flow of cases within the court do not exist, with the resultant effect that no one is entirely sure how long each step in the process takes.

Urban courts are handicapped in controlling caseflow due to the high incidence of plea bargaining.[37] Since this bargaining is rarely formalized or controlled by the court, it can create havoc on the day of trial,[38] emphasizing that many courts' scheduling techniques are inefficient because the court organizes its calendar around an event (the trial) that, more often than not, does not take place. There generally is a great deal of case "fall-out" in urban misdemeanor courts as a result of cases being subjected to plea negotiations at the last minute.[39] The result is a "soft" calendar that wastes not only judicial time, but the time of police officers and civilian witnesses as well. In many cases it may also result in the underutilization of jurors.[40]

Beyond having adverse effects on case processing efficiency, lack of court managerial attention to the plea negotiation process can have an adverse

effect on the quality of justice. If the negotiations take place in a hurried manner on the day of trial -- with little or no judicial review of the propriety of the bargain -- there will be less than adequate assurance that the defendant understands his situation, his rights, and the consequences of the pleas and that the plea is not coerced.

Scheduling difficulties are further aggravated by the priorities of the criminal justice system personnel: the misdemeanor court schedule is consistently subordinated to that of the general trial court, even if the misdemeanor appearance was arranged first. That is, attorney and police officer appearance conflicts are generally resolved in favor of the general trial court. Consequently, continuances are the order of the day in many misdemeanor courts. In none of the locales visited had any serious attempts been made to correct this situation through the development of a means whereby administrative communication and coordination among the misdemeanor court, the general trial court, and other local criminal justice system organizations would be insured on an ongoing basis.

C. Questionnaire Survey Findings [41]:

Based upon our preliminary analysis of the questionnaire data, it is clear that the courts observed in the field, with their corresponding problems, were indeed indicative of the misdemeanor court population. Also, the initial thesis derived from field observations that a urban/rural dichotomy exists among these courts is even more convincingly demonstrated by the questionnaire results.

As mentioned earlier, questionnaires were mailed to more than 1,300 judges, a significant increase from the 200 contemplated in the project proposal. The staff believed this action was warranted in order to acquire a more complete picture of misdemeanor court operations to supplement the on-site observations. This effort has been extremely successful and, to date, we have received responses from 743 judges, or 54% of the total. The largest single group of responses (41%) were from judges who characterized their area as "rural." Only 10% of the judges characterized their community as "big city." Seventeen percent chose "small city," 14% chose "medium-size city," and 18% chose "suburban area."[42]

In analyzing the questionnaire data, we found a consistently parallel response pattern between the responses of "suburban area" and "medium-size city" judges and "small city" and "rural area" judges. For this reason, we have combined the responses of "small city" judges with those of "rural area" judges in presenting the questionnaire data, and have combined the responses of "suburban area" and "medium-size city" judges.

One of the most conclusive findings from this survey is that dispositions reached by guilty plea are equally significant in urban and rural courts. Overall, sixty percent of the judges said they dispose of more than 70% of their cases by guilty plea. In small city and rural courts, the guilty plea is much more likely to occur at the initial appearance. The small city and rural judges said that 72% of their guilty pleas occur at this stage, as compared with 28% in the big city courts. But during the stage between first appearance and trial, guilty pleas are much more likely to be entered in the big city courts (43%) than in rural and small city courts (10%). Therefore,

both big city and small city/rural area courts dispose of the greatest number of their cases by guilty plea. From a management perspective, it is significant that it takes the guilty pleas longer to surface in the big city courts.

Our data suggest that this is a function of the frequency of attorney presence, which in turn influences the frequency of plea negotiations. When the rural/small city defendant pleads guilty, he is more likely than the big city defendant to be doing so without the advice of counsel. According to the judges, an attorney is "always or frequently" present at guilty plea in only 45% of the small city/rural area courts as compared with 94% of the big city courts. Our data also show that 72% of the guilty pleas entered in small city/rural area courts are made at the first appearance. However, in big city courts, where attorney presence is substantially higher, the majority of guilty pleas (43%) are at the stage between first appearance and trial after the defendant has had the benefit of counsel. This is corroborated by statistics showing the influence of attorney presence on frequency of plea negotiations: when a defense attorney is "always" or "frequently" present, 64% of the judges responded that plea negotiations are "always" or "frequently" used in their courts; when an attorney is "infrequently" or "never" present, 71% of the judges responded that plea negotiations are "infrequently" or "never" used in their courts. These data confirm our on-site observations that plea bargaining is used much more extensively in urban courts than in rural area and small city courts.

The fact that plea negotiations are of decisive importance in the case disposition of big city courts, while guilty pleas at first appearance are

the prevalent dispositional mode in small city/rural area courts, will have serious ramifications on management innovations proposed for misdemeanor courts. If one wants to impose some certainty into the scheduling systems of larger misdemeanor courts it will be essential to concentrate resources and manpower at the plea negotiation stage. Conversely, the initial court appearance should be focused upon in smaller courts when attempting to devise applicable management innovations.

Another difference between the responses of big city judges and small city/rural area judges concerns the nature of the judges' perceptions that they are under significant pressure to process cases quickly. From their responses it is obvious that most judges (56%) "always" or "frequently" feel such pressure. Big city judges feel it most acutely. Ninety percent of the big city judges responded that they feel such pressure as opposed to only 42% of the small city/rural area judges. The suburban area/medium-size city judges fell in-between, with 70% responding that they experienced such pressure. Perhaps a more critical difference between urban and rural locales is the source of such pressure. Overall, judges most frequently cited "heavy caseload volume itself" as the primary pressure source. Eighty-five percent of all of the judges who reported that they experienced rapid case-processing pressure identified this variable as a significant source of pressure.

"Police" were the next most frequently cited pressure source and, as such, present the most dramatic difference between big city and small city/rural area responses. Eighteen percent of the small city/rural area judges considered the police a pressure source, while only 3% of the big city judges cited the police. Big city judges identified judicial system sources, such

as the state court administrator or chief justice, most often as the source of pressure. Small city/rural area judges cited sources from within the local criminal justice system, such as police, most frequently. This was true even though some of those sources -- prosecutors and defense attorneys -- are much less likely to be present in their courtrooms. Judges from suburban areas and medium-size cities cited sources from within the judicial system and the local criminal justice system with relatively equal frequency.

Although judicial perceptions concerning the extent and nature of rapid case-processing pressure varied depending upon the urban/rural locale of the court, the court's locale did not significantly influence judicial satisfaction with various resources available to their court and with administrative procedures used by their court. Specifically, judges were asked to rate their satisfaction with 16 types of resources which might be available to a misdemeanor court, and 22 administrative procedures which might be employed. Respondents were provided with a five-point scale, ranging from "very satisfied" (5) to "very dissatisfied" (1); there was also an opportunity to refrain from a rating if the resource or procedure was "not used" (0).

From the aggregate responses of Table One, it is apparent that the respondents are less than fully satisfied with the majority of resources and procedures presently at their disposal. However, within this framework, operational procedures are viewed with more satisfaction (mean = 3.54) than resources (mean = 3.24). Also, judges tend to be more satisfied with repetitive daily procedures (accepting guilty pleas, scheduling first appearances) than with less frequently used procedures (e.g., pretrial screening, civilian

witness notification, etc.) or, from a different view, with procedures which facilitate rapid case-processing.

Table One (see following page) shows the satisfaction levels for all variables according to the judges' mean response rate. The highest satisfaction response (mean = 4.1) was elicited on the question regarding procedures used for accepting guilty pleas. Monies available for staff salaries were listed as the least satisfactory area (mean = 2.7) of all resources and procedures.

Upon closer analysis of Table One, one can see that 11 of the 12 highest response rates (means of 3.6 to 4.1) were given on procedures. At the other end, the 6 most criticized areas (means of 2.7 to 3.0) were concerned with resources. Satisfaction with certain kinds of procedures -- particularly in the areas of jury management and record-keeping, may be a function of second-hand (imperfect) knowledge. It is possible that these procedures rated as high as they did because many judges delegate such functions to a clerk or assistant. By doing so, they may not be fully aware of problems in these areas.

The high level of satisfaction with probation services is surprising, in light of information obtained from the on-site observations and from the questionnaire responses indicating that relatively few judges sentence misdemeanants to probation supervised by a probation officer (34%). Perhaps, since the lack of probation services is unlikely to slow the processing of cases, there is less reason for a judge to register dissatisfaction if such a service

TABLE 1

MISDEMEANOR JUDGES' SATISFACTION LEVEL: COURT RESOURCES AND PROCEDURES

Rank	Code	Resource/Procedure	Mean Satisfaction Level*
1	(P)	Guilty plea procedures	4.1
2	(P)	Scheduling first appearances	4.0
3	(P)	Case assignment	3.9**
4	(P)	Scheduling trials	3.8
5	(P)	Waiver of counsel procedures	3.8
6	(P)	Impaneling juries	3.8
7	(P)	Fiscal recordkeeping	3.8
8	(R)	Number of judges	3.8
9	(P)	Juror orientation	3.8**
10	(P)	Records accessibility	3.7
11	(P)	Probation service	3.6
12	(P)	Case filing system	3.6
13	(R)	Courtroom space	3.6
14	(R)	Secretarial staff	3.6
15	(R)	Records personnel	3.6
16	(P)	Presentence reports	3.5
17	(P)	General trial court assistance	3.5**
18	(R)	Administrative staff	3.5**
19	(R)	Office supply budget	3.5
20	(P)	Determination of indigence	3.4
21	(P)	Scheduling police officer appearances	3.4
22	(P)	Quickness of record availability	3.4
23	(R)	Statistics personnel	3.4
24	(P)	Number of continuances	3.3
25	(P)	Civilian witness notification	3.3
26	(R)	State administrative staff	3.3**
27	(R)	General office space	3.2
28	(R)	Proximity of records	3.2
29	(P)	Amount of paperwork	3.1
30	(P)	Pretrial screening	3.0**
31	(P)	Diversion programs	3.0**
32	(P)	Quality of diversion programs	3.0**
33	(R)	Capital improvement budget	3.0
34	(R)	Pretrial conference rooms	2.9
35	(R)	Juror facilities	2.9**
36	(R)	Record storage space	2.9
37	(R)	Extraordinary budget item	2.8
38	(R)	Salary budget	2.7

*These "mean responses" were calculated only on the responses of judges who answered 1 through 5. That is, the "not applicables" (0) are not included in the calculation.

**High percentage (22% or more) of judges responded that this area was "not applicable." In some instances, "NA" was the model response.

does not exist. Also, in a separate question on the availability of pre-sentence reports, 64% of all judges indicated that they are "infrequently" or "never" used. These data support the site observations that such court supported services are insufficiently available to misdemeanor courts. They also support the observation that there were unrealistically high probation caseloads when such services were available to the misdemeanor court.

Diversion programs and pretrial screening are viewed as least satisfactory of all procedures. This is not surprising in light of our on-site observations, where we found diversion programs to be practically nonexistent. Pretrial screening, routinely accomplished in felony cases, was observed to be highly inadequate in misdemeanor cases, since prosecutors rarely are compelled, or choose, to devote their time to misdemeanors.

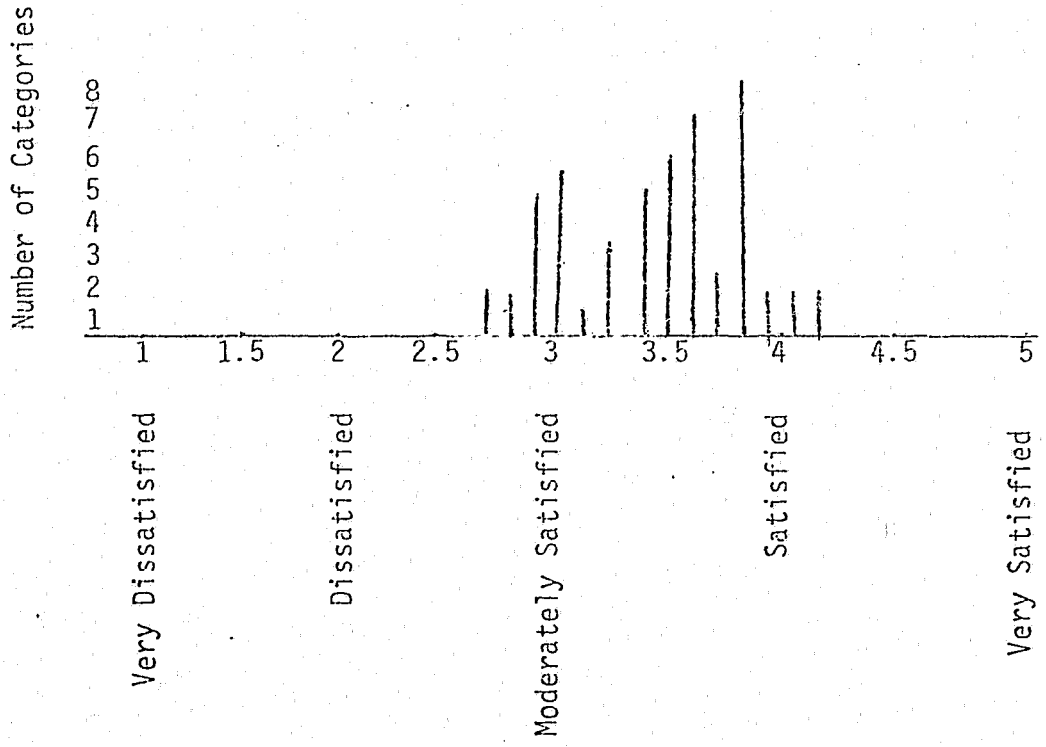
Overall satisfaction with resources is lower than with procedures. It is interesting to note, however, which resources are most satisfactory. The number of judges, courtroom space and secretarial staff reveal the highest satisfaction level of all resources. These resources are also the most necessary in the day-to-day operations of the court. Satisfaction with the office supply budget is also rated relatively high, while allocations for salaries and extraordinary budget items are listed as least satisfactory. These latter two, in addition to the availability of pretrial conference rooms, juror facilities, record storage space and allocations for capital improvement, comprise the six most unsatisfactorily-viewed resource areas. It is probable that because these resources are less obviously related to the daily task of case processing, they are unlikely to receive adequate funding.

No correlations have been found between judges' levels of satisfaction with resources and procedures, generally or in specific, and external variables. In other words, judges' satisfaction levels appear not to be significantly influenced by the size of the court or urban/rural locale of the court. Nor does satisfaction correlate with a judge's legal training (lawyer v. non-lawyer) or years of judicial service.

In summary, the judges responses to the mail questionnaire indicate that misdemeanor court judges are generally satisfied with misdemeanor court resources and procedures. This is reflected in Figure I.

FIGURE 1

Judicial Satisfaction with Resources and Procedures (Mean Responses)



The relatively high levels of judicial satisfaction with court resources and procedures, coupled with the lack of correlation between satisfaction levels and external variables, may appear to be inconsistent with our on-site observations concerning the problems of misdemeanor courts. Upon closer analysis, however, such apparent inconsistencies are readily explained. Our experience with field interviews indicated that participants' and observers' perceptions of the court system under observation varied greatly: a "problem" turned upon the frame of reference applied to conditions in the court. Local justice system personnel were likely to use past practices in their court as their reference point, contrasting current conditions and practices with the days when untrained judges sat part-time and relied upon the arresting officer for legal advice. As a result, justice system personnel usually felt that their courts were well-run on a day-to-day basis, and saw the court's "problems" arising from causes outside the court's control.[43] Observers, on the other hand, had the benefit of comparing court conditions and practices with those of "well-run" misdemeanor courts that they had either read about or observed.

In a real sense then, one "problem" with misdemeanor courts is that judges and court personnel do not adequately see the problems. They are, on the whole, too uncritical of practices which lack administrative efficacy and sometimes, which compromise "due process." In part, the challenge of expanding the "world view" of lower court judges -- to include an awareness of, and respect for, well-managed courts in different parts of the country -- may be hampered by systemic pressures (including judges' own career mobility) not to "make waves." Nevertheless, management innovations in misdemeanor courts must address themselves to the professional isolation which many, if not most, of

these judges feel. Equally, there is a great need to make innovation itself a respectable commodity in the lower criminal justice system -- in the eyes of the bar, the community, and judges themselves.

III. Prioritization of Problems and Proposed Innovative Solutions

The myriad problems identified in misdemeanor courts do not lend themselves to presentation in prioritized, laundry-list fashion. As demonstrated, some problems tend to be indigenous to either large city or small city/rural area courts, while other problems are endemic to misdemeanor courts regardless of locale. In addition, some problems can be addressed directly by court management innovations, while others can, at best, be only indirectly affected by such innovations. Finally, many of the problems are interrelated to such a degree that it would be meaningless to attempt to address certain problems in isolation from other deficiencies and problems.

For these reasons, we have grouped and prioritized misdemeanor court problems in three "sets." Although there is some overlap among these sets of problems, the overlap is negligible and is clearly outweighed by the efficacy of grouping interrelated problems that affect specific court environments. We have considered each "problem set" in order of its priority and discussed the proposed solutions to each problem set immediately following our discussion of each problem grouping. It must be stressed that each of these proposed solutions are preliminary in nature and will be more fully developed at the workshops in Phase II of this project.

A. Problem Set I

The first set of problems is endemic to misdemeanor courts regardless of court locale. Because the phenomenon of rapid case-processing in

misdemeanor courts is symptomatic of this problem set, they should be given first priority. This grouping includes the following broad problem areas:

1. Insufficient resources to allow the court to accomplish its goal of individualized justice in individual cases.
2. Underutilization of available resources that result in the withholding of general court services, such as probation and diversion programs.
3. Misdemeanor court isolation from the local community, the local criminal justice community, and other courts within the local and state court system.
4. Judicial and societal undervaluation of misdemeanor cases.

B. Community Resources Program (CRP)

In response to this grouping of misdemeanor court problems, we are proposing a Community Resource Program. There are four major components to such a program. The four areas are closely intertwined; however, it should be remembered that one or two of the components will carry greater significance in urban courts than in more rural locales or vice versa.

The first element of this program is the organization of fundamental probation services along brokerage lines rather than the traditional one-to-one counseling model. By redefining the probation officer's role from one of case counselor to community resource manager, the court will more effectively utilize the services of local community agencies. This approach abandons the probation officer's individual caseload and casework function.

Instead, caseloads are pooled. Each officer serves as a functional specialist in an area of client needs. For example, as a drug and alcohol specialist, the officer is responsible for "connecting" probationers with drug and alcohol services in the area, and for taking necessary action to insure that these services are delivered. Each officer has a secondary functional speciality, such as housing services or legal services. Deliberate efforts, at the initiation of the probation office, are undertaken to organize community agencies to improve referral efficacy.

This approach is more suitable for medium and large sized communities which maintain a variety of employment, drug and alcohol, physical and mental health, education, vocational training, housing, welfare, legal and other agency services. It is probably less adaptable to rural areas, however, some North Dakota district probation officials have had some success in "brokering" their functions to other local criminal justice participants.

This concept of CRP becomes more tenable in rural areas if combined with the program's second component: the formation of a community advisory board to serve the entire limited jurisdiction court. Many of the services available in larger communities do not exist in rural areas; therefore, some modification becomes necessary. Establishing an advisory board composed of criminal and civil justice officials (attorneys, police, judges, clerks), media representatives and prominent lay members of the community would not only encourage the interagency communication and cooperation so sorely lacking in these courts, it would also elevate the court's visibility within the com-

munity. By so doing its needs will also become known to individuals within the community who may possess an area of expertise that could be utilized by the court. It is also feasible that the particular talents of some board members, in such areas as management, administration, financial/fiscal record-keeping or public relations, could benefit the court. While the formation of an advisory board may be most important to rural areas where services are poor, this component could prove valuable to larger communities if service agency representatives also become board members. In urban locales it may also be preferable to form subcommittees: one could be composed of criminal justice participants, another could include service agency representatives, to deal more specifically with concerns relevant to these members.

The two remaining components of the CRP heavily interface with the resource broker and advisory board concepts. A "community service hours program" could supplement the alternatives available to the resource broker. In addition to referring a probationer to a specific community service, the probationer could be ordered by the court to reimburse the community through serving a designated number of hours assisting public and non-profit community agencies (park clean-up, building maintenance, clerical assistance, etc.). The coordinator of this program could be a probation officer, para-professional or volunteer.

The use of volunteer assistance in the misdemeanor probation organization represents the final facet of CRP. In addition to helping in the execution of the community service hours program, volunteer roles could include performance of presentence investigations, services in conjunction with pretrial release and diversion programs, and assistance to the community resource manager.

The combined effect of the four-faceted community resource program is to encourage interagency communication as well as to provide the judge with needed support services. The role of the probation officer, as a community resource manager, will expand the sentencing alternatives available to a misdemeanor judge. In doing so perhaps this will mitigate against some of the frustration and boredom inherent in the role of judging. Too often, judges have ignored the sociological challenge of their office. By emphasizing this aspect through the use of community agencies and local individual participation -- by involving misdemeanor judges in something which potentially interests them -- perhaps they can be pointed in a new direction. The existence of a community advisory board will also focus concern on the operations of misdemeanor courts. It could greatly facilitate the successful initiation and implementation of changes responsive to community, as well as court, needs. Such a body may also become a quasi-institutionalized problem-solving entity for the court -- a resource the court is able to draw upon during any crisis. The involvement of lay citizens, either on the board or as volunteers, is important to ensure the efficient and effective use of all local resources. When used in conjunction with judicial oversight they become very valuable tools in the attainment of improved management techniques.

C. Problem Set II

Although the second set of problems have been found to exist in misdemeanor courts in both urban and rural locales, they are most prevalent in smaller city and rural area courts staffed by a single judge. However, this set of problems should be given high priority, because, as previously

noted, more than 80% of the nation's limited jurisdiction courts operate with a single judge. In addition, the deficiencies inherent in this problem grouping directly affect a court's ability to manage its resources effectively. Thus, our observation that misdemeanor courts generally have not developed the means to identify and critically analyze their problems is symptomatic of this problem set, which includes the following deficiencies:

1. Lack of case processing standards.
2. Failure to monitor case progress and to maintain case and caseflow information statistics.
3. Inability to adequately resolve scheduling conflicts.
4. Inability to deal adequately with continuance requests.

D. Case Progress Monitoring System

The development of a case monitoring system designed to deliver the necessary statistics, is the first step towards alleviating this situation. A statistical case control mechanism would focus the court's attention on problem areas: if cases are consistently stymied at a particular stage in the process this will become apparent from the time processing statistics. (For instance, this may be the best device available to convince judges of the fallacy of one morning-call per day. The staff could extrapolate from the data that a staggered call would be just as efficient, but would provide the additional advantage of more individual judicial attention devoted to cases that warranted it). Once this is known the court will be better equipped to delegate resources more efficiently. Along these same lines, a case monitoring system will provide statistics that

could be used as supporting criteria in the court's funding requests. By documenting and justifying the need for additional resources and prioritizing these needs, the court will be able to attack the problem of insufficient funding. It is a long standing budgetary practice of any funding agency to insist that proper documentation accompany requests. However, in most misdemeanor courts such information is unavailable. A case progress monitoring system will change that.

Designing a case monitoring system implies the formulation of judicial policies on tolerable time standards, acceptable grounds for continuances and remedial measures for cases that do not conform to court policies. Issues such as these confront basic due process questions. Accordingly, the introduction of a monitoring system is likely to be highly controversial and will eventually impact upon police, prosecutors and defense attorneys. Even so, the project staff is recommending that tentative time standards and other court policies be articulated by the court before the monitoring system is superimposed on an existing court operation. By so doing criteria will have been established that can be used to measure the performance of the court. It would serve little purpose to collect statistics simply for the sake of having information. Perhaps if the court is not adhering to its own expectations and standards, possibly due to a lax continuance policy or chronically busy attorneys, it will take more initiative in compelling compliance from appropriate individuals.

The mechanics of such a system will be largely dependent upon the locale of the court. Presently, it is contemplated that this innovation

is more suitable for smaller city and rural area courts. The existence of automated case monitoring systems in large urban courts precludes its introduction in such a locale. However, if a monitoring system is successful in the pilot project locale, standards for misdemeanor case processing will be the result. These kinds of standards should be applicable for urban courts as well, perhaps with some modification.

E. Problem Set III

The third set of problems is encountered most often in courts in the larger cities. This problem grouping is given third priority not because the detrimental effects of these problems are less critical to the quality of misdemeanor justice than the first two problem sets, but because this project can offer, at best, only a partial solution to these problems. The root cause of these problems is heavy caseload volume. In most cases additional resources as well as management techniques are needed. However, short of adding additional resources (e.g., more judges, administrative staff, etc.), certain management innovations could temper the following problems:

1. Indecorous and somewhat chaotic misdemeanor courtroom environments.
2. Heavy case "fallout" on the day of trial, resulting in the inefficient use of judicial time, underutilization of jurors, and inconvenience to police officer and civilian witnesses.
3. Lack of sustained judicial attention to individual misdemeanor cases.

F. Pre-Trial Settlement Conference

As indicated in the Alfini and Doan article (attached to the second progress report) rural and small city misdemeanor courts tend to dispose of the bulk of their cases at initial court appearance, while urban courts dispose of the bulk of their cases through plea negotiations that occur after the initial court appearance. Our field observations in misdemeanor courts tend to corroborate these findings. However, our field observations also indicated that the lack of attention that many urban courts give to the pretrial negotiation process results in significant management problems in these courts.

Like many other observers of urban misdemeanor courtroom scenes, our staff observers noted that the typical courtroom scene in certain urban misdemeanor courts bordered on absolute chaos. To a great extent, this is due to the fact that the court's calendar is organized around an event (the trial) that, more often than not, does not take place. There generally is a great deal of case fallout in urban misdemeanor courts as a result of cases being subjected to plea negotiations at the last minute. This results not only in a waste of judicial time, but the time of police officers and civilian witnesses as well. In some cases, it may also result in the underutilization of jurors.

It would appear, therefore, that the development of a mechanism that allows for greater judicial control of the plea bargaining process could lead to more efficient and just case processing in urban misdemeanor courts. This is not to suggest that plea bargaining should be introduced in courts

that have satisfactory alternatives. Rather, it is directed to improving the plea negotiation process in courts that rely upon the negotiated plea as the means for disposing of the bulk of their cases.

We visited one urban court that attempts to impose some measure of judicial control over the plea bargaining process. The Hennepin County Court (Minneapolis, Minnesota) has been conducting "preliminary conferences" since February, 1974. Prior to 1974, the court had scheduled such conferences sporadically. However, they began scheduling all D.W.I. cases for preliminary conferences in 1974 because of a significant increase in jury demands in D.W.I. cases as a result of a county-wide crackdown on drunk drivers. Now, preliminary conferences are scheduled in all cases with a jury demand.

Although the "preliminary conference" procedure in Hennepin County has had an uneven history, most participants seem to favor the idea. The administrative staff is convinced that the court would be facing a huge backlog if it had not initiated this pre-trial procedure. Approximately 70 percent of the cases scheduled for a preliminary conference are disposed of at the conference. Some of the judges interviewed felt that the procedure professionalized the plea negotiation process, thereby reducing the likelihood that the negotiations would produce an unjust result. Even the public defenders interviewed apparently like the procedure.

There is no doubt that the preliminary conference has the effect of "hardening" the jury trial calendar. However, it apparently has had other

effects as well. As indicated in Table Two, the number of court trials has decreased dramatically since the procedure was initiated, while the number of jury demands and jury trials has increased.

TABLE II

MISDEMEANOR CASES PROCESSED BY HENNEPIN COUNTY COURT

(1972 - 1976)

	1972	1973	1974	1975	1976
Arraignments	11,722	12,109	12,251	12,428	13,106
Court Trials	1,089	1,171	805	423	287
Jury Demands	185	494	505	1,700	3,062
Preliminary Conferences	---	---	1,669	2,829	3,569
Jury Trials	11	6	10	15	77

A partial explanation for the dramatic increase in jury demands and trials is that the new Supreme Court Rules of Criminal Procedures (effective July, 1975) now allow jury demands in all criminal cases where there is a possibility of incarceration. However, this may not provide a complete explanation. In our conversations with public defenders, there was some indication that many defendants make jury demands to get a preliminary conference. Thus, by making the jury demand the criterion for scheduling a preliminary conference, we may have a case of the tail wagging the dog.

The dramatic decrease in court trials also raises some important questions. With the decrease in court trials there has been a corresponding increase in guilty pleas. Has the increase in guilty pleas resulted in an

increase in "guilty" dispositions? If so, is the preliminary conference procedure encouraging guilty pleas from defendants who might otherwise have been found not guilty or had their case dismissed?

The preliminary conference procedure also raises questions relating to judicial efficiency. The procedure adds another stage to the caseflow process and it is possible, therefore, that the procedure may actually increase the amount of time a judge is required to spend on each case. However, as we have already emphasized in an earlier section, delay is not the "problem" in misdemeanor courts.

In an effort to determine the extent to which other urban misdemeanor courts have instituted analogous pretrial procedures, we conducted a telephone survey of approximately 25 urban misdemeanor courts. We discovered that more than half of these courts do have an established, court-controlled, pretrial procedure. In most cases, the criterion for scheduling a pretrial conference is the jury demand, but in no other city are jury demands entered in as great a percentage of the not-guilty plea cases as is the case in Hennepin County. Thus, in most cities where pretrials are scheduled by the court, they are scheduled in a relatively small percentage of cases. In only two of the cities that we contacted are pretrials scheduled for all cases in which a plea of not guilty is entered (Phoenix, Arizona and Flint, Michigan).

In conclusion, it appears that some urban misdemeanor courts have developed mechanisms for achieving a greater measure of court control over

the plea negotiation process for at least a portion of their caseload. Because the jury demand generally is the criterion for scheduling the pretrial conference, the purpose of holding such conferences in most jurisdictions seems to be to "harden" the jury trial calendar. Would extending a program to all cases in which not guilty pleas are entered "harden" the entire calendar? Would it result in greater judicial efficiency? Would it generally give a more just result?

P H A S E T W O

PROPOSED MANAGEMENT INNOVATIONS

This portion of the report discusses the management techniques that were identified during Phase One, and refined and finalized during Phase Two. During Phase Two, two workshops were conducted in Denver, Colorado. The first workshop was held on May 15 - 17, 1977, and brought together misdemeanor court actors from large and medium-size cities. The second workshop was held on May 22 - 24, 1977, and included participants from small city and rural area misdemeanor courts.

All workshop participants received an information packet approximately two weeks prior to the workshop. These packets contained a discussion of the efficacy and applicability of each of the proposed innovations, supplemented with selected readings on the topic. A problem or model was devised for each of the innovations and was also included in the packet.[44] Participants were asked to familiarize themselves with these materials and to be prepared to solve the problem and critique and evaluate the models during the 2-day workshop session.

The format of the workshops was designed to obtain the maximum amount of input from all participants. Orientation to the project and introductions to the project staff were handled Sunday evening so that the participants could begin work in earnest early Monday morning. On Monday the ten participants broke down into two task forces, each to address a particular innovation. All of Monday and part of Tuesday morning was spent discussion and evaluating the model. Through this discussion and evaluation session the workshop participants developed their own model innovations. They also articulated the concomitant

issues and court concerns which the misdemeanor court must address in order to successfully implement such changes. The latter part of Tuesday was devoted to reciprocal presentations. Each task force presented its results to the other group for their comments and criticisms. This method of proceeding maximized the input from the workshop participants. Because all the participants are involved in one way or another with a misdemeanor court, an individual invited on the basis of his experience with one innovation was likely to have relevant comments pertaining to the other proposed management techniques.

The following subsections of this portion of the report present the findings and conclusions of the four task forces. The Community Resources Program, which was discussed at both workshops, is presented in the first subsection. The Case Progress Monitoring System, which was discussed at the latter workshop, is detailed in the second subsection, and the Pre-Trial Settlement Conference, discussed at the first workshop, is described in the third subsection.

I. Community Resources Program

A. Workshop Participants

Task force participants from the two workshops who assessed this program included:

Workshop I

Judge William V. Hopf
Circuit Court
201 South Reber
Wheaton, IL 60187

Judge David Caldwell
Municipal Court - 6th Floor
City-County Building
Indianapolis, IN 46204

Mr. John O'Toole
Court Administrator
Cleveland Municipal Court
601 Lakeside Avenue
Cleveland, OH 44114

Ms. Frances Cox, Supervisor
Central City Misdemeanor Unit
Travis County Adult Probation Department
510 West Tenth
Austin, TX 78701

Mr. Paul Johnson
Boston Housing Authority
71 Prentice St.
Roxbury, MA 02120

Workshop II

Mrs. Ann Dees
Court Coordinator
Brazoria County Courthouse
Angelton, TX 77515

Mr. Edward F. Eden
Chief Probation Officer
Sutter County Probation Dept.
Courthouse
Yuba City, CA 95991

Mr. Jay M. Newberger
Director of Court Services
Supreme Court Administrator Office
State Capitol
Pierre, S. D. 57501

Judge Galen Hathaway
Little Lake Justice Court
191 N. Main St.
Willits, CA 95490

Ms. Joan Lee
302 Greenup Street
Covington, KY 41012

The participants had been selected to represent different functions and viewpoints which would be important to the analysis of the proposed models. Participants were selected because they represented potential settings for a pilot project of the Community Resources Program. The

participants included three judges, two court administrators, three probation directors, and two citizens who were members either of a court's citizen advisory board or of a professional-citizen advisory board to a court-related project.

B. Task Addressed by Participants

Prior to each workshop, participants were mailed a task force assignment (see Attachments): statistical and descriptive data were included from two courts and their probation agencies (one court and probation department were mythical creations), together with a detailed outline of questions in its review of the four components: Resource Broker, Community Service Restitution, Expanded Volunteer Services, and Citizen Advisory Board. Participants were also requested to outline the types of evaluative measures which might be utilized in assessing these four components. Each task force produced a written outline of considerations and recommendations concerning these areas, and presented it to the companion task force on the final day of the workshop.

Background readings had been mailed to participants prior to the workshops. These materials included:

-Standard 10.2, Services to Probationers, National Advisory Commission on Criminal Justice Standards and Goals, Corrections.

-Dell'Apa, Adams, Jorgensen, and Sigurdson, "Advocacy, Brokerage, Community: The ABC's of Probation and Parole", Federal Probation, January, 1977.

-Excerpts from Seattle Municipal Court Municipal Probation Services 1974 Annual Report (Community Service Hours Program, Volunteer Program).

-Volunteer Roles in Adult Probation, Institute for Court Management.

-Excerpts from California Welfare and Institutions Code, Alabama Juvenile Code, Utah Code Annotated, and Annotated Code of Maryland: Statutory Provisions for Juvenile Justice Commissions, Delinquency Prevention Commissions, and Juvenile Court Advisory Boards.

C. Workshop Outcomes

Participants at both workshops reacted very favorably to the four components of the Community Resources Program, and strongly encouraged the research project to demonstrate these components in a pilot court. Each component could be implemented at virtually no cost. In general, the citizen advisory board was considered the freshest innovation among the four components. The impact of such a board, if appropriately selected and planfully utilized, was seen as having an extremely positive potential on the improvement of misdemeanor courts. While used for many years in the juvenile court field, only two such boards have been identified thus far in misdemeanor courts: The Municipal Court, Dorchester District, Massachusetts, and the Baker City Court, Louisiana. A member of the Dorchester board participated in Workshop I. A judge from the Baker court was present at Workshop II, and although assigned to a different task force, commented favorably, as did the Dorchester member, on the value of such a board.

In general, the resource broker model for probation service delivery was considered viable, and particularly appropriate for misdemeanor probation services with their typical staff and caseload limitations. Problems in obtaining judicial and probation staff support for this approach were

considered likely. The retention of probation officer accountability and the surveillance function with medium and high risk probationers was stressed. While carefully considered resource broker models were being demonstrated in a few misdemeanor courts through the Western Interstate Commission on Higher Education, there are vast numbers of misdemeanor courts which could benefit from such an approach.

Well planned community service restitution programs received strong approval, and expansion of this approach was urged. The integration of this component with the other three components was seen as natural. This component was seen as particularly beneficial to community attitudes toward courts and probation agencies, and to the offenders themselves. Community service restitution was seen as a viable alternative to the payment of fines by some defendants, and as an alternative to incarceration or as a supplement to probation assignment for others. The cost benefit result should be very favorable. The issue of liability concerning injuries to probationers or injuries caused by probationers during their work assignments needs to be investigated and resolved on a local basis.

Citizen volunteers, carefully selected, trained, and supervised, can be of inestimable value to probation agencies. They can assist all component parts of the Community Resources Program, and strengthen and expand probation and court resources.

1. Resource Broker

Basic assumptions:

-The application of the medical model to probation has not been effective.

-Probationers in greatest need of counseling are the least receptive to counseling, and vice-versa.

-A significant role change is necessary to shift from the probation officer as counselor model to the resource broker approach.

-Resource brokerage will impact more significantly on recidivism rates than probation officers as counselors.

-Resource brokerage will free probation staff to take on a greater workload without staff additions.

Operationalizing:

-Obtain judicial/probation administration/court administration support.

-In larger departments, begin operationalization with a unit of six to eight probation staff.

-In small departments, borrow staff from employment services, drug/alcohol agency, vocational rehabilitation, etc. to round out brokerage team.

-Identify resistance sources and overcome.

-Retrain staff.

-Assess probationer resource/service needs.

-Identify and marshall present resources.

-Determine primary and secondary role functions of probation personnel.

-Establish a meaningful monitoring system for service referrals.

-Promote advocacy and resource development.

-Maintain flexibility in adapting model to local settings.

Use of external agency services:

-Visit and meet with all relevant community agencies.

-Develop catalog of agency services: particular services provided, eligibility requirements, key staff members for referrals.

-Update catalog regularly (volunteers can assist).

-Facilitate needed resource development using probation team, judiciary, citizen advisory board, volunteer assistance, community agency consortium assistance; identify persons with grant writing skills.

-Constantly evaluate and improve monitoring system for referrals.

-Capitalize on existing favorable attitudes by other agencies to brokerage approach.

Note: Agencies will need to provide specific information to the probation agency on what happened with probation referrals, who did or did not do what for probationers, what critical incidents have occurred in probationer's behavior during the provision of services, and the provision of a check list for agency reports on probationer performance.

Caseloads:

-Pooled for monitoring.

-Individualized for surveillance.

Note: A direct surveillance/reporting function should be maintained by a probation officer for high risk and certain medium risk, cases. The responsibilities of no risk, low risk, and other designated medium risk probationers to adhere to probation conditions can, in general, be handled by team monitoring of external agency service provisions and reports, supplemented by probationer reporting to team members as appropriate.

Responsibilities:

-Probation officers will collect data and information from community agencies.

-All legal responsibilities will remain with the probation department.

-Probation officers will present probation violations to the court.

-Probation staff will prepare or coordinate the preparation of written reports for the court.

Purchase of services fund:

-In general, the use of such a fund for the purchase of agency services by a probation department is contraindicated.

-In general, services for probationers are available through community agencies without the necessity to purchase services.

-Probation department should use advocacy methods to insure services are obtained for probationers.

-Limited funds would be beneficial, in some cases, on a loan basis to probationers, i.e. to purchase tools necessary for beginning employment.

-Such loans should be repaid by probationers.

-Approval of the expenditure of such funds should be by the chief probation officer.

Caseflow process:

Preliminary needs assessment → sentence →

terms of probation → client's changing needs →

needs assessment → knowledge of resources →

matching of needs with resources → referral to community →

agencies → monitoring system / surveillance → case review (accountability)

→ information and data update → time standards

(including early termination) → report of violation/successes

→ revocation/termination → closed.

2. Community Service Restitution

Principles:

The program objective is to provide an opportunity for a defendant to work out his penalty in a constructive manner. The defendant should be able to reject, at any time, his participation in a community service restitution program without fear of facing a more stringent penalty than originally determined or for which he was originally eligible. Wherever possible, the skills and interests of the defendant should be utilized, and risks should be minimized in matching defendants to work experiences. In no event should personal gain accrue to any official of the court, criminal justice system, or community agency through the restitution program. The number of service hours assigned should not be escalated to meet an agency's service needs at that time.

Operationalizing:

-Obtain commitments of judges, probation staff, court administration, citizen advisory board, present to city council/county commissioners, and obtain counsel of the city or county attorney.

-Locate agencies which can use court assigned defendants, help determine their needs, and secure agency agreements to use assigned persons. Expand number/type of agencies utilized as program gains acceptance and effectiveness.

-Establish sentencing guidelines: minimum of one day of service; more generally, minimum of twenty-five hours of service and a maximum of one hundred hours of service; relationship of number of hours to type of offenses.

-Develop approach to assessing defendants' service capabilities and interests.

-Establish procedures for matching probationers' capabilities and interests with agencies' needs.

-Obtain media coverage on program's initiation and periodically thereafter.

Further Guidelines:

-Individual courts should establish guidelines for when such a program may be utilized: in lieu of fine; in lieu of incarceration; as a supplement to probation; other.

-A dollar equivalency should be established for service hours. The amount of a fine can then be translated into the number of service hours. No less than the minimum wage rate should be utilized. Eight hours of volunteer work is the equivalent of one day in jail.

-Determine the types of work which are appropriate, and exclude inappropriate assignments such as chain gangs.

-Probation department should share defendant's offense with agency. Initial program phases should utilize low risk defendants.

-Exclude defendants with special problems from assignments involving substantial risks to agencies.

-Defendant must agree willingly (informed consent) to perform an assignment.

Probation and court procedures:

-Supervise and monitor.

-Service in lieu of fine may be handled by court clerk without assignment to probation department.

-Probation department should monitor service hours where judge orders service hours in conjunction with summary probation.

-In general, probation departments will work out particular assignments with defendants. This is seen as preferable to a judge making a particular determination at sentencing.

Staffing and monitoring:

-Program can be operated by volunteers or paraprofessionals under supervision of probation department, or by assigned probation personnel.

-Cooperative agencies should provide relevant orientation and supervision to defendants who provide service hours.

-On-site monitoring of service performance should be conducted by the community agency.

-Agencies should file written report, on forms supplied, with probation department or court.

-Failure by defendant to perform work satisfactorily should be reviewed in face-to-face conference prior to formal court review of violation.

Face-to-face meetings between victims and defendants:

-In general, this was seen as a more appropriate consideration with direct restitutional repayments to victims than with community service restitution. There is benefit in a probation officer's advising a victim that community service restitution has been ordered. In special cases, and with the informed consent of the victim following explication of possible risks, a face-to-face conference with the victim may be arranged with the probation officer present.

Costs:

-Accomplishable with no additional costs through staff restructuring or added volunteer component. A probation officer serving as supervisor of a community services project can be a member of a resource broker team. Certain costs may be incurred by collaborative community agencies to obtain insurance to cover damages or injuries caused by defendants in work assignments.

Note: A central concern to the implementation of such a program is the clarification and resolution of the liability issue. Certain governmental agencies presently cover all employees as well as volunteers (insurance coverage may be construed to include persons assigned to community service hours). Further, a number of private non-profit agencies maintain insurance which covers liability for employees and volunteers. As part of the court's agreement with an agency to provide persons to perform service hours, the court, through the probation department, should obtain a written statement from the agency that its insurance covers workmen's compensation and other liability coverage for assigned persons.

Court rule should authorize this program in the absence of

a statute. Even with a statute, a court rule may be desirable to expand upon the statutory provisions.

Labor union opposition to this program may need to be overcome in certain communities.

3. Expanded Volunteer Services

Volunteers are seen as an important asset to misdemeanor probation agencies, assuming careful screening, training, and supervision procedures are utilized. Clearly, they can improve probation service delivery and public understanding/appreci. ion of courts and probation programs. Negative factors in such a program include the possibilities of weak volunteer motivation and carry through, volunteer discouragement caused by a poor match with a particular probation. r task, time demands on probation officers in supervising volunteers, and breaches of confidentiality by volunteers.

Issues regarding liability for volunteer negligence (i.e., a transportation volunteer who is negligent in driving a probationer to a job interview with injuries suffered by the probationer) need to be reviewed and resolved.

Volunteers should be recruited and selected from a cross section of the community. Special efforts should be directed toward recruiting lower income citizens, including ex-offenders. A stipend may be necessary to attract such persons into volunteer roles in order to offset any costs incident to volunteering.

Volunteers can be fruitfully utilized with a resource broker model (assisting in offender needs assessments, ascertaining and marshalling agency resources, developing resources, brokering services, monitoring services delivered, etc.), with community service restitution (arranging agencies where services will be delivered, negotiating agency agreements, monitoring service hours performed, assisting with offender selection of worksite, etc.), and with regular probation functions (assisting with pre-sentence investigations, providing educational programs for probationers, performing clerical duties, etc).

Operationalizing a volunteer program will require the commitment of the judges and probation department. Resistance by the latter may be strong, and will need to be handled and resolved.

Volunteers can be recruited from both the non-professional and professional communities. From the former, the one-to-one volunteer was seen as a priority, followed by an assistant role to a discussion group leader, and clerical volunteers. Other important roles included assisting with pre-sentence investigations and job placements, research assistance, and jail visitation.

Priorities for professional volunteers were the one-to-one volunteer and discussion group leader. Other important roles included educational programs concerning financial management and job preparation/job interview conduct, tutoring, and research and public information.

4. Citizen Advisory Board

Objectives:

To reduce community apathy to the court; to broaden citizen input to court administration (lower court - criminal and civil); to improve the justice system; to enhance public satisfaction with the courts; to increase public knowledge of the courts; to bring community concerns and complaints to court attention; to protect court from unwarranted attacks.

Role functions:

-Advisory: to the judges, court administration, probation department, other court officials, and to the community.

-Analysis: review of the court's budget, facility needs, workload, day-to-day procedures and practices, court studies, and other programs and needs.

-Initiative: to facilitate the development of resources needed by the court and related agencies, and the court's public information program.

-Endorsement: to support court efforts for an adequate budget and needed resources, needed legislative changes and executive branch changes, and to interpret advisory board actions and recommendations.

-Volunteer and resource recruitment: to assist in the recruitment of volunteers for all court and probation programs and to facilitate community agency resources to assist the court and court clientele.

Board structure and organization:

The board should be sufficiently large to be representative of the community, but sufficiently small to be workable and efficient. Nine to fifteen members was considered to be ideal. The board should include representation from different geographical units within the court's jurisdiction, and to the degree feasible, should be inclusive of:

-Business
-Young adult
-Elderly
-Women
-Education
-Victims
-Offenders
-Alcoholics Anonymous
-Public/mental health
-Consumers
-Court watchers
-Court critics
-Media (upper echelon)
-United Way
-Churches
-Attorney
-Disadvantaged
-Ethnic
-Agricultural
-Labor
-Fraternal
-Banks

Terms should be staggered and should be either for two years or three years. Reasonable turnover should be encouraged, and in general, long term membership discouraged. By rule, a member who has missed three consecutive meetings without legitimate excuse should be removed automatically, by implied resignation, from the board.

The original appointment of the board should be by the chief judge of the court following review of nominees by all judges of the court. The chief judge may wish to write community groups requesting nominees. The chief judge should appoint successor members following review by the other judges of nominations submitted by the existing board and the judiciary. An alternative, suitable for courts serving relatively small geographical areas, would provide for the chief judge to conduct community meetings where participants would be asked to volunteer for board membership. The court should provide an orientation for new members. The board

would appoint ad hoc professional advisory committees to assist in given projects.

The board should be authorized by local court rule. The rule should specify board purposes, membership by type and number, provisions for appointment, and other organizational procedures. The board should elect its own officers. The chief judge should be ex-officio. The board chairman should set the agenda for meetings, in consultation with the chief judge and court administrator The board may have an executive committee.

The board should meet monthly and not less often than bi-monthly. At its organizational meeting, the chief judge together with the board should define board functions and roles. Announcement of the organization of the board should be made to the media; periodic media releases should be provided following major board decisions or projects.

Preferably, the board should arrange its own servicing needs such as minutes, mailings, and notices. The resources of the court should be made available, however, to provide logistics support when necessary.

A citizen advisory board, rather than a combination advisory group of criminal justice representatives together with citizens, was seen as the more desirable body. The board should be granted sufficient independence to generate its own directions. Unless strongly supported by the judiciary, the potential of such a board will not be realized. Unless provided at the outset and periodically thereafter with definite task assignments, the board

will flounder. Critics of the court should be represented on the board. Board meetings should be open meetings which the press is free to cover. Care should be taken to insure that the board does not become a rubber stamp public relations vehicle for the court.

5. Approaches to Evaluation

(a) Resource Broker

(1) The comparison of needs assessments of probationers at time one (upon assignment to probation), time two (after ninety days), and ideally, at time three (one hundred eighty days or one year following assignment to probation, depending upon community patterns as to duration of probation - six months probation norm, twelve months probation norm, early termination practices). A needs assessment scale, such as is used in Monterey, California, should be utilized at each stage, and comparisons made and tabulated. The final assessment should constitute an "exit profile" to show the court, as with early termination of probation, any progress with a probationer's profile.

(2) Number and type of completed referrals.

(3) Recidivism rate: ideally, prior to a resource broker organization compared with a later date which affords sufficient time to permit a valid comparative measure.

(4) Comparison of the numbers of offenders employed at the time of assignment to probation and three or six months later, including data on income, employment, and reduced welfare expenditures.

(b) Community Service Restitution

(1) Data concerning number of participants, number of service hours performed as translated into dollar value, number of agencies utilized, number of probationer failures to complete program, and the number of jobs for which offenders were later employed in agencies where they had performed community service. An overall cost benefit analysis should be performed.

(2) Recidivism rates.

(3) Impact of program on jail rates.

(4) Measurement of probationer attitudes toward the probation experience, those performing service hours as the experimental group compared with a matched sample of persons not performing service hours as the control group.

(5) Measurement of the attitudes of collaborative agencies, possibly compared with those of non-collaborative agencies, toward the court and probation department.

(c) Expanded Volunteer Services

A cost benefit analysis of the volunteer program with services rendered translated into dollars, as offset by costs. Attitudes of volunteers toward court and probation could be gathered pre and post, together with probationer assessment of volunteer services and probation officer assessment of volunteer services.

(d) Citizen Advisory Board

Clearly defined board goals and objectives which can be assessed as to achievement. Simple measures would include representativeness of the board, frequency of meetings, attendance, etc. Further measures would evaluate the attainment of specific performance objectives such as the board's impact upon the court's budget, caseflow, probation services, executive liaison, public information program, etc. Interviews could be utilized with judges, board members, and agency officials to assess board impact.

D. Potential Pilot Sites

Participants at the two workshops expressed interest in consulting with local officials about the possible use of their court-probation department for a Community Resources Program pilot project. These communities include:

-Tacoma, Washington: Some judicial interest in citizen board. Strong probation interest in change.

-Wheaton, Illinois: Innovative judicial leadership in unified trial court. Integrated probation department has interest in resource broker, community service hours.

-Cleveland, Ohio: Court, probation management interest in improving probation referral system, community service restitution, volunteer program.

-Austin, Texas: Already has a combined professional - citizen advisory board. Interest in probation components.

-Massachusetts: Interest in considering demonstration of one component each in each of four district courts.

-Angelton, Texas: Court has encouraged independent youth council board. No misdemeanor probation program, though interest in examining.

-Yuba City, California: Extreme interest in progressing with three probation components of the program.

-South Dakota: Chief Justice priority to enrich misdemeanor probation statewide. Potential interest in citizen board in Rapid City.

II. Caseflow Monitoring System

A. Introduction

The essential purpose of a good caseflow monitoring system is to provide the court with basic information on caseload and caseflow. As was indicated in the problem documentation section of this report, the misdemeanor court must have accurate information regarding the speed and manner in which cases proceed through its system. However, it is precisely this kind of data which is sorely lacking within the majority of misdemeanor courts throughout the country. Without the necessary statistics on case filings, dispositions and points of case delay, the court is precluded from making intelligent decisions regarding the efficient allocation of resources. The lack of case information is all the more critical in light of the paucity of resources available to these courts.

The caseflow monitoring task force has devised a model case monitoring system that can alleviate the problem of inadequate case information. It is a system designed so that individual case information, as well as aggregate caseload data, is easily accessible. The system will also be capable of identifying "bottlenecks", or points of delay in the court process while determining areas of court performance that require additional judicial attention. In so doing, the monitoring system will increase the organizational capability of the court by enabling it to more effectively allocate its scarce resources. It should be noted, however, that the monitoring system proposed here is a model. That is, it is merely one example of how a court can monitor its caseload. The components of the

system and their interrelationships are presented here in detail, but further refinements and modifications will be necessary. The scope and nature of these changes will be dependent upon the characteristics of each judicial locale. Changes such as these and commensurate benefits therein will be explored and evaluated during the pilot implementation phase of the project.

B. Workshop Participants

Great care was taken to select workshop participants representative of the various misdemeanor court systems operating throughout the country. Individuals possessing a day-to-day familiarity with misdemeanor case processing as well as those with a state-wide system perspective were invited to attend the workshop.

The caseflow monitoring task force included judges, administrators and clerks from small-city and rural-area locales. The participants were selected on the basis of their expertise with court operations: each of them is presently involved with a court system that has maintained or recently introduced some type of statistical case reporting system. Judge Smith of Baker, Louisiana was selected because his city court is one of the few rural courts in Louisiana that maintains caseload statistics. Wayne Berg of Clare, Michigan has developed a case monitoring system for his one-judge court in response to recent supreme court directives for monthly statistical reports. Dorothy Coy, newly appointed district court administrator for Tacoma, Washington, was a clerk

with the municipal court in California. As clerk she administered a manual case reporting system that tracked cases by using a chronological case filing system. Judge Schindler's County Court in Blue Earth, Minnesota is part of a judicial district administrative scheme that is being attempted on a pilot basis in that state. The district court administrator of his court has recently implemented new case reporting techniques in the five county regional area to generate accurate caseload statistics for each of the five misdemeanor courts. Ellis Pettigrew, District Court Executive in Ogden, Utah has been actively involved in court administration for several years. Prior to coming to Utah, he was a staff member at the Institute for Court Management and state court administrator for South Dakota.

C. Workshop Outcomes

1. Goals and Purpose

The fundamental requisite for the introduction of innovative improvements into any operating system, be it court system or otherwise, is the availability of accurate and timely data from which system participants can make intelligent, rationale decisions on the efficacy and efficiency of all system elements. Therefore, the primary goal of a good misdemeanor court case monitoring system is the provision of accurate and timely information on any case that is being processed through the system. Statistics on new filings, dispositions and pending cases must also be generated. And it must be relatively easy to break down this information on the basis of case type, case age or disposition type according to the needs of the individual court.

What a court does with this information will vary from jurisdiction

to jurisdiction. That is, the purpose(s) behind the objective of accurate caseload and caseflow data will depend upon the individual needs of the particular misdemeanor court. One court may desire caseload information only to satisfy the monthly statistical reporting requirements of its state court administrative office. Another court may want such information in order to actively and aggressively move cases to disposition. Another court's objective may be to use the caseload information to justify budget requests. The most progressive court will use the information in its attempts to plan for future needs.

The task force strongly felt that the monitoring system designed during the workshop be capable of fulfilling all these objectives. Specifically, however, the task force participants recommend that the misdemeanor court use the monitoring system as a means to accomplish the following:

1) With the statistical information produced by the monitoring system the court should exercise its prerogative to insure the speedy disposition (trial or otherwise) of all cases. It will be possible for the court to accomplish such an end because the system will provide a mechanism to identify "bottlenecks" or points of delay in the case process.

2) The monitoring system should also enable the court to determine the effect policies of other criminal justice agencies may be having on caseflow processing. It may be that impediments to effective caseflow management caused by other agencies, such as the police or prosecutor, could be minimized with appropriate information available from the monitoring system.

3) It is equally important to minimize "lost" cases within the system.

The monitoring system provides a series of checks and balances which will pick up overlooked or misplaced case filings. Constant monitoring such as this will also encourage better calendar management through more efficient allocation of court resources.

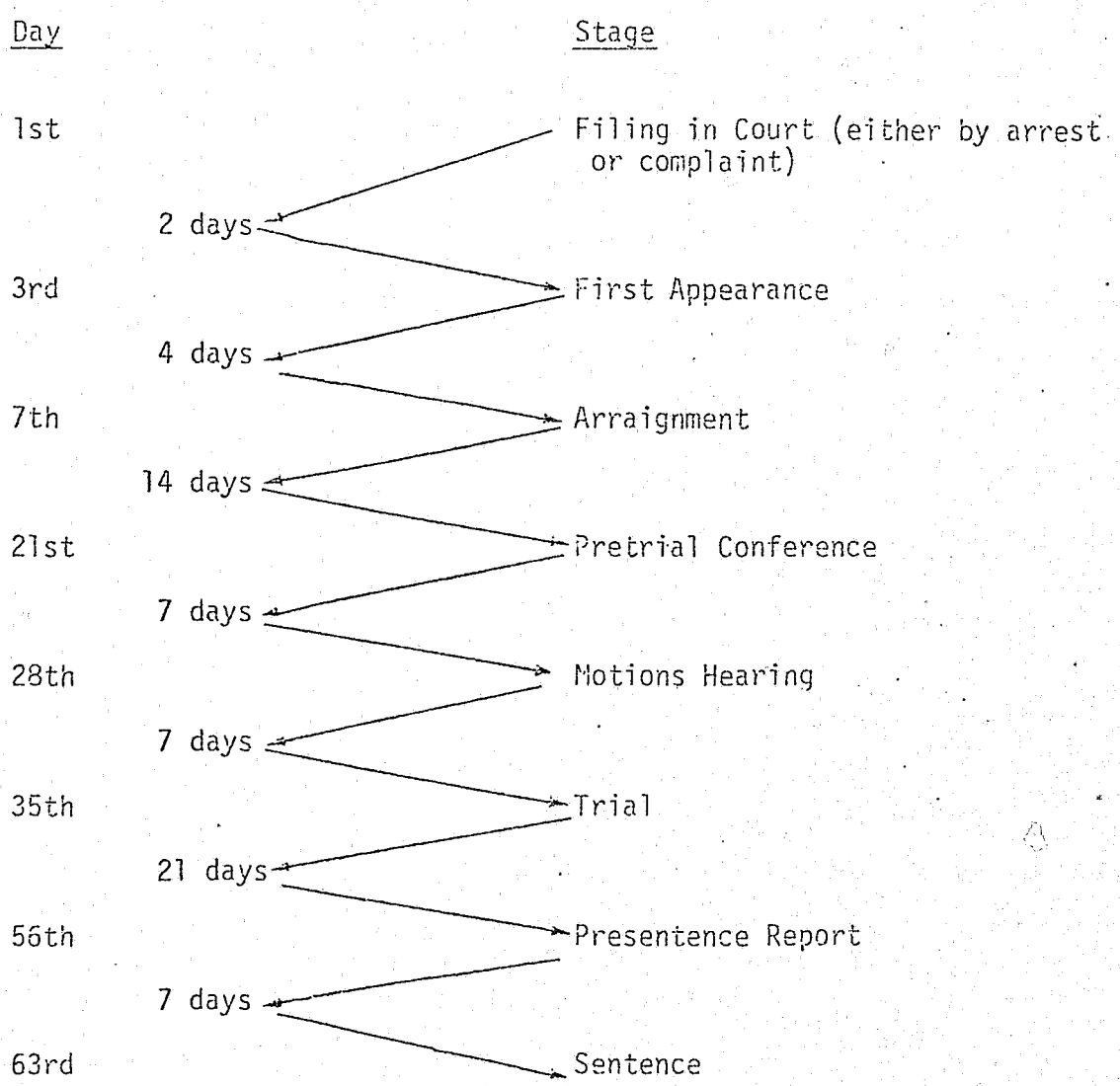
2. Enabling Policies

To develop a caseflow monitoring system the participants initially addressed a variety of underlying caseflow problems prevalent in misdemeanor courts. These problems included the following deficiencies: (1) lack of case processing time standards; (2) lack of case scheduling priorities and inability to satisfactorily resolve scheduling conflicts; and, (3) the lack of guidelines for ruling on and granting continuances. It was felt that these concerns must be resolved before an effective case monitoring system could be developed. That is, an articulation of the parameters of judicial responsibility for caseflow management and the development of case processing standards must be made to provide a basis from which to monitor and analyze the performance of a misdemeanor court.

Accordingly, the task force has recommended a set of case-progress time standards that allow a maximum of 63 days from filing to disposition. Figure II shows the maximum time intervals allowable between each stage of the process. These time limits are for cases in which the defendant is not in custody and in which a jury trial has been requested.

FIGURE II

Misdemeanor Case Progress Time Standards



Because these time standards are based on maximum limits, it is expected that any case within a given jurisdiction will adhere to these guidelines. The task force does not believe this to be an unreasonable expectation. When constructing these standards an attempt was made to allow for statutory or constitutional constraints under which most state courts operate. For instance, some states (most noticeably California) have a statutory 21 day limit between the date of trial and the submission to the court of the presentence report. Other states' probation departments are under the control of the executive agency and as such have refused to use the short form for presentence investigations. Because these types of constraints exist, the task force deemed it necessary to use the 21 day maximum. However, the task force members specifically noted in their workshop report that the majority of cases should require significantly fewer days between the trial and sentencing date. A similar caveat is made for each of the other stages: these are maximum intervals, not averages. Only a slight percentage of the total caseload will need the maximum allocation for successful completion of each step.

The task force recognizes that some of the stages delineated under Figure II will not be applicable in some jurisdictions. Many courts may not use pretrial conferences or motions hearings. Or, those courts that do schedule pretrial conferences in jury cases may not use them in non-jury cases. In such instances, the time interval is eliminated. In other words, jurisdictions without pretrial conferences will allow only 7 days between arraignment and motions hearings.

The 63 day maximum should be shortened considerably if the defendant is incarcerated.* The task force recommends a 21 day maximum from arrest to trial for defendants in custody. This could be accomplished by compressing stages of the process together. In specific, scheduling the first appearance immediately after arrest with the arraignment would decrease the time interval by a few days. Eliminating the pretrial conference or holding it within 7, rather than 14 days, would further decrease the time span. Also, the filing of motions could be made immediately prior to trial eliminating another 7 days.

Within the 63 day maximum, one 7 day continuance will be tolerated at the arraignment date for the appointment of counsel. The arraignment may be held on the 7th or 14th day of the process. Some states have prearraignment matters that must be dealt with by counsel. In other jurisdictions appointed counsel are not present in court at arraignment and notification must be sent to them. Circumstances such as these are justifiable reasons for one 7 day delay.

Although one continuance may be necessary, it should not be granted automatically. The task force recommends that certain guidelines be followed in scheduling cases and ruling on continuances requests. First, continuances should not be granted merely because both parties stipulate to it.

*The task force believes different time frames for incarcerated versus unincarcerated defendants are warranted. Many courts must rely on mailed notices to inform individuals of upcoming court dates, hence, additional time is required.

A continuance should only be granted for good cause: an automatic delay is not to be assumed by either party. When a continuance is granted the case must always be reset for a date and purpose certain. The date should be in the near future so that even with a continuance the case can be completed within the 63 day time span.

Continuance requests should be made in writing with the specific reasons for the request succinctly outlined. Counsel must appear in court when requesting a continuance and the judge should make some verbal inquiry into the reasons for the request to determine its legitimacy. For example, counsel may be requesting a delay on the basis of an absent witness. However, with further probing the court may decide the witness' testimony is not crucial to the case. In such an instance the request should be denied.

Adherence to a strict continuance policy is only one means by which a court gains some control of its calendar. More importantly, all scheduling of cases should be performed by the court. As part of this, every case without exception must be set for a date and purpose certain at the end of each action date. It is the courts responsibility to process cases through the system which can only be accomplished if it schedules its own calendar. Reliance on attorneys to insure rapid case disposition will only result in inefficient and ineffective caseflow management.

3. Model System and Procedures

The task force has developed a model monitoring system which will generate the information necessary for the accomplishment of the aforementioned

goals. The three main components of this model caseload monitoring system are: 1) the caseload monitoring card; 2) the courts docketing/index card; and 3) the case-file out card. The information contained on these three documents overlap and interface one another. Together they establish a case filing system for the court that enables it to monitor each case from the first action onward. This system is suitable for all cases handled by the court and need not be limited to misdemeanor cases in particular. It is ideally suited for a small-city/rural court with annual filings (civil and criminal) of approximately 15,000. At this juncture it is important to emphasize again that this is a generalized case monitoring program that could be modified in varying degrees for different court locales. It is also likely that its system-wide applicability will be improved upon from the experience gained during the pilot implementation phase.

The primary element of this monitoring system is the caseload monitoring card. The caseload card is the only new form added to the court's present docketing/calendaring system. Much of the information needed for this card is already compiled in one form or another by many misdemeanor courts. It will simply be a matter of reorganizing the information and entering the data onto the caseload card at the appropriate time. Generally, this function can be performed at the same time an entry is made on the court's docketing card.* The format of the caseload card is flexible

*Terminology varies among jurisdictions. The docketing card may also be referred to as the index card, file docket, docket book, docketing sheet, etc. It is simply that document which briefly details each successive action taken in a case.

and will be designed to suit the particular system of each court. (See Figure III for a sample caseload monitoring card.) With the use of NCR (no-carbon-required) forms it may be possible to design the docketing card and caseload card so that only one entry per action is made for both cards. If redesign is not feasible given the court's present method of docketing, the caseload card can be designed so that the clerk merely punches out a particular hole to indicate the action taken. This would be less time-consuming than writing out the information a second time.

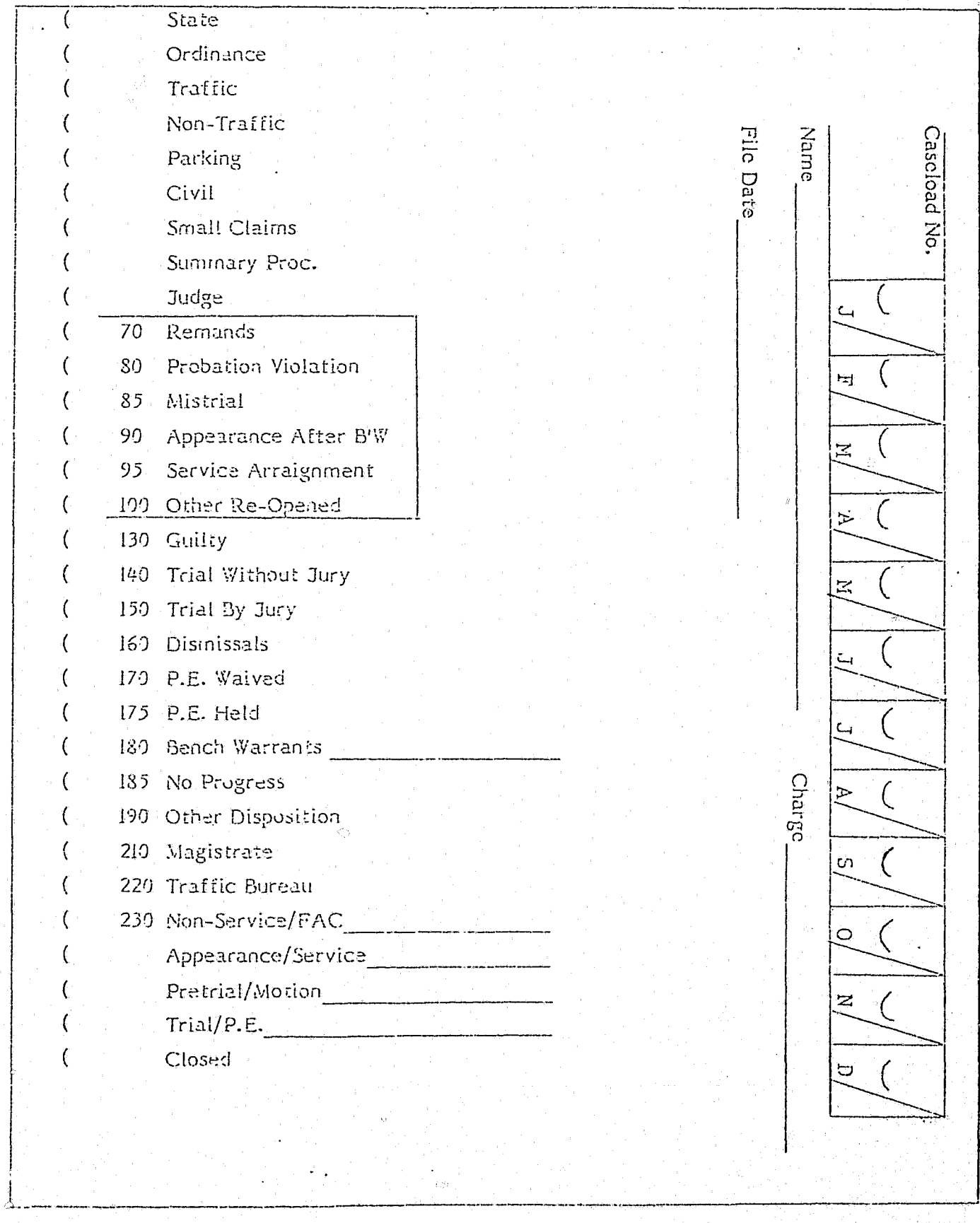
Whether a printout or handwritten caseload card is used, the top of the card will list the months of the year. At the time of filing the appropriate month will be punched. If the court desires a monitoring period of less than thirty days it can simply show that breakdown on the top of the card.

Each time a clerk goes through the caseload file the punch will provide an easily visible means of quickly determining cases that are 15-30-45 days old. Those that appear to be exceeding the time limit can be pulled and the reasons behind the delay can be investigated.

The ease of incorporating the caseload monitoring card (and, therefore, the monitoring system) should be relatively high. Only one additional form is necessary and minimal clerk time will be needed to maintain it. Another advantage to this system is cost. Costs of introduction are nominal since no additional staff is required and only the card must be reproduced. If printed in large quantities (5,000 or more) the cost per card

FIGURE III

Sample Punch-Out Caseload Card



will be less than $0.01.

The general workflow for the case processing and monitoring system is as follows: At the time a case is filed a sequential caseload number is assigned. If a case is filed by complaint the number is assigned prior to the first appearance. If the case enters court immediately after an arrest the number is assigned at the first appearance. When the number is assigned, docketing and caseload cards are created and the appropriate entries are made on both. Also at this point the appropriate month will be punched on the caseload card. The initial entry, and every subsequent one until the case is closed, will include a notation as to the next action date for the case.

Following the task force policy guideline, the court, not the police or prosecution, will schedule all action dates. If a case is entering the court system because of an arrest, the defendant will be brought to court within 48 hours; at that time the judge will specify the arraignment date. If a case is entering on a citation the first appearance date will be stated on the form according to predetermined judicial guidelines. If a summons is the means by which a case enters the court system, a clerk will assign the first appearance date using guidelines previously established by the court.

A next action date must be assigned by the court at the conclusion of each court proceeding on a particular case. The success of the monitoring system will be directly related to the degree to which the court

adheres to this guideline. If the court is lax in this regard the effectiveness of the monitoring system is greatly dissipated if not entirely undermined.

It is highly likely in a misdemeanor court that the defendant will plead guilty at the first appearance and thereby negate the need for further monitoring.* However, it is critically important for the court to keep records on these cases as well as those that run the gamut of the system. This is necessary if the court intends to maintain accurate caseload statistics. Docketing and caseload cards will be made out for guilty pleas rendered at first appearance, but the cards will also be "closed out" with this entry. At the end of the monitoring period (2 weeks or 1 month) the caseload card is pulled from the active file. Once the information is gleaned from the card (for monthly statistical reports, etc.) the card can be destroyed. The docketing card remains in the file for the statutorily required retention period.

If the defendant pleads not guilty at the first appearance the appropriate entry or punch will be made and the date of the next court appearance will be noted on the cards. In the event a continuance is granted, the next court appearance date will be slashed and a new date

*According to our earlier research, when the defendant pleads guilty at the first appearance, he is probably doing so without the advice of counsel. In this regard the task force has recommended that such pleas be made in writing with the defendant acknowledging an understanding of his legal rights. This was the only recommendation given by the task force on the manner in which these pleas should be handled.

written above the original entry. The line through the earlier date will signal the clerk that one continuance has already been given and future requests should be more carefully scrutinized.

During the period between court appearances, the docketing card will be filed alphabetically by defendant's name; the caseload card will be filed numerically by caseload number; and the case file itself will be filed chronologically according to its next action date. That is, the case file will move from its original numerical (by caseload number) file to a date and month chronological file on the basis of the next court appearance date for that case. An out card will replace the case file in the original numerical file. Information on the out card will indicate the next action date for the cases. By so doing it also pinpoints the actual physical location of the case file.

The chronological case file, when coupled with the out card, constitutes an essential element of the monitoring system. If this file is monitored every 2 or 3 weeks, it can alert administrative personnel to "problem" cases. To simplify the monitoring of the chronological file, the "problem" case files (e.g. those that may require some type of administrative attention prior to a court date) could be tab color coded. The tabbed files could be pulled approximately 10 days before the court date and the necessary details attended to.

A chronological file such as this provides another means, in addition to the caseload card, for monitoring the entire progress of the case.

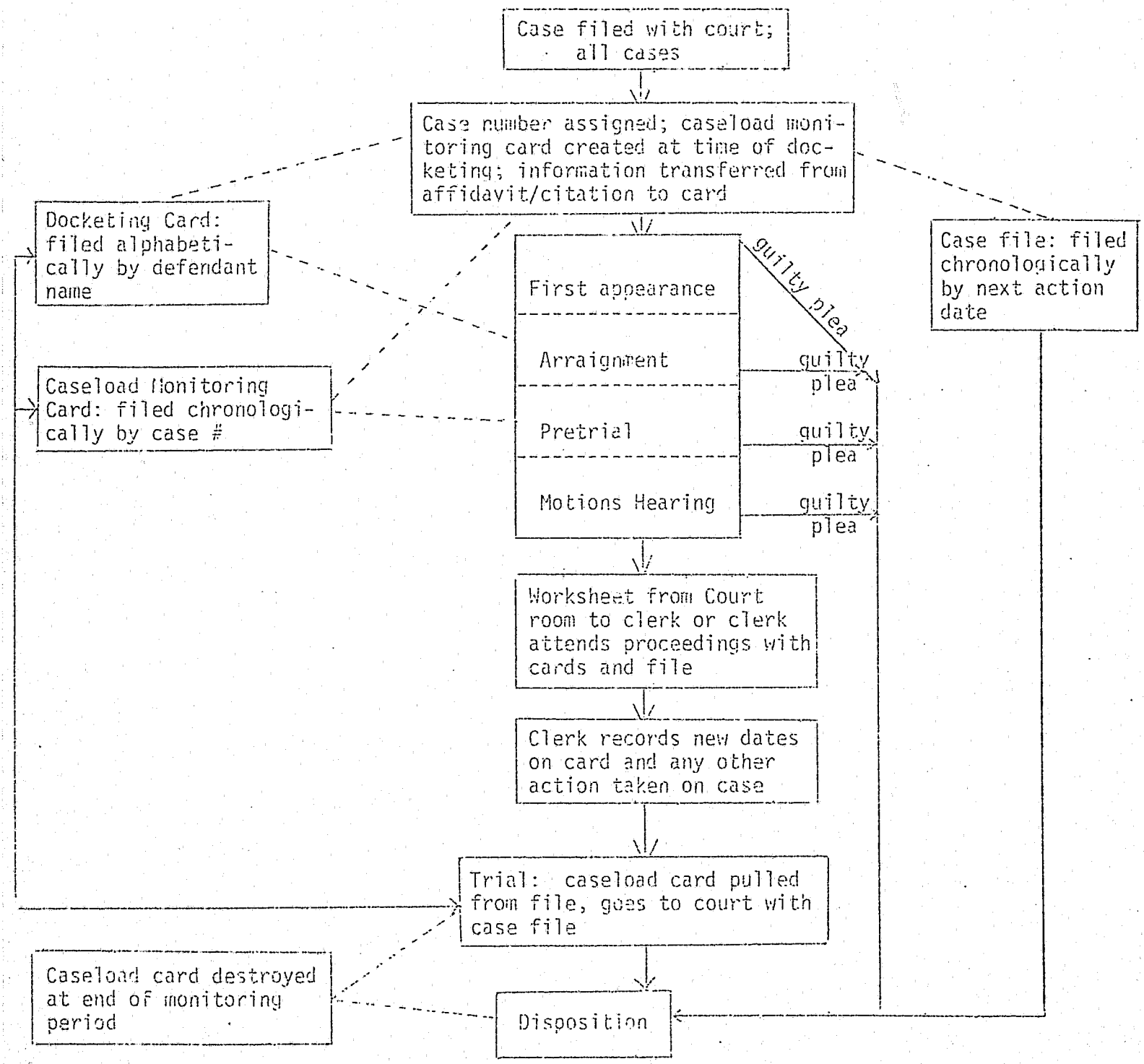
Because every case must be set for a date and purpose certain the case file should not appear in the numerical file until it has been closed out. If it is situated in the numerical file prior to disposition then the clerk would be quickly alerted to the fact that the case has gone off the calendar.

The three filing systems -- alphabetical, numerical, and chronological -- minimize "lost" files because every case is cross referenced under defendant name, caseload number, and the next action date. If a caseload card is inadvertently misplaced, the chronologically filed case file will be a check to insure the case comes before the court on a timely basis. And vice versa: if the case file is misplaced, the docketing and caseload cards will prevent the case from slipping off the calendar entirely.

Figure IV shows the manner in which each step in the monitoring system relates to the major steps in the caseflow when the scheduling guidelines are followed. As Figure IV demonstrates, the docketing and caseload cards are pulled and updated during or immediately after each court appearance. If a clerk accompanies the judge to court the cards can be updated during the proceedings. If a clerk is not present in court and the judge is disinclined to make these entries, his worksheet will be transferred to the clerk's office at the end of each day. At that point the cards will be pulled and updated. The case file is also pulled for each court appearance and moved after each event to its new position within the chronological file.

FIGURE IV

Relationship Between Monitoring System and Caseflow Process



It was mentioned earlier that one goal of a good monitoring system is the ability to pinpoint bottlenecks in the caseflow process caused by other criminal justice agencies. With the caseload monitoring card, it will be possible to monitor outside agencies by: 1) the number of cases filed; 2) the number of cases plea bargained out (this is feasible since the original charge is written in or punched out in addition to the reduced charge); and 3) using color coded tabs for particular types of cases (DWI's, etc.). If there are several days delay in the transfer to court of ticket citations, this will also become apparent through the use of the caseload card. The number of continuances requested by the individual prosecutors and defense attorneys could also be monitored. Judges granting the most continuances can be monitored as well as the types of cases in which delay tactics proliferate.

D. Potential Pilot Sites

Although some task force participants believe this monitoring system is only feasible in a smaller court, one with an annual caseload of approximately 15,000 filings, the project staff is skeptical about such a limitation. Good manual monitoring/reporting systems are known to exist in several multi-judge courts, most notably in some of Ohio's larger metropolitan areas.* Also, if the proposed monitoring system was divisionalized within the court (i.e., one clerk handling civil matters, another traffic, another serious misdemeanors, and so on) such a limitation

*Members of the project staff are in the process of contacting other misdemeanor courts (in Ohio and elsewhere) that have good manual monitoring systems. If appropriate, features of these monitoring systems will be utilized in the pilot sites.

imposes an artificial restriction. For these reasons, the project staff is tentatively contemplating the feasibility (both substantively and financially) of implementing this innovation in two pilot sites. One would qualify under the task force's maximum 15,000 annual filings. In fact, one workshop participant whose court has less than 10,000 annual filings has already expressed an interest in introducing a case monitoring system. Beyond that, the staff believes it would be especially worthwhile to also attempt this innovation in a three or four judge court, preferably with this and the smaller court situated in the same state. This would control for outside influences such as state statutes and increases the degree of comparability between the two pilot sites.

The following courts have been contacted and have expressed an interest in serving as a pilot site(s) to implement a manual caseload monitoring system:

Massachusetts District Courts (72)

Contact: Jerome Berg
Administrative Director

Baker City (La.) Court

Contact: Judge Prentice Smith

Norfolk (Va.) District Court

Contact: Judge Shapiro

Broward County (Fla.) Court

Contact: William Freeman
Circuit Court Administrator

Ogden (Utah) City Court

Contact: Julie Newman
Court Administrator

Cumberland County (Maine) District Court

Contact: Thomas Joyce
Regional Court Administrator

III. Pre-Trial Settlement Conference

In our discussion of the use of pre-trial settlement conferences (pp. 31 - 35), we explained how some urban misdemeanor courts have developed mechanisms for achieving a greater measure of court control over the plea negotiation process. Such a device is unreported in the literature on misdemeanor courts and sparked a good deal of discussion during our first advisory committee meeting. Although the advisory committee members agreed that such conferences could be an important management tool to misdemeanor courts and thus warranted further study, they felt that such a device could not be adequately tested in the context of a pilot project. As one of the advisory committee members stated: prior to pilot testing this innovation, the project staff should be able to predict the jurisdictional and administrative circumstances under which an institutionalized pre-trial conference would be successful. Therefore, the advisory committee recommended that the staff consider conducting evaluation research in jurisdictions presently using preliminary conferences.

A. Workshop Participants

Toward this end four judges and administrators from misdemeanor courts that use pretrial conferences were invited to attend the first workshop: Chief Judge O. Harold Odland, Hennepin County Court (Minneapolis); Presiding Judge Alan Hammond, Phoenix Municipal Court; David Jackson, Executive Aide, Connecticut Court of Common Pleas; and Richard Friedmar, Court Administrator, Toledo (Ohio) Municipal Court. These individuals were chosen because of the telephone survey (referred to on p.3) revealed that each represented a court system that participates in a formal pretrial program. The fifth

task force member was Chief Judge Bush Mitchell of the Dayton (Ohio) Municipal Court. Judge Mitchell is opposed to the use of pretrial conferences on efficiency grounds. He believes that other measures, such as restrictive continuance policies, obviate the need to pre-try misdemeanor cases.

At the workshop, the task force sought to accomplish the following:

1. identify basic similarities and differences among their pretrial conference programs;
2. identify the jurisdictional, organizational, and administrative variables that would tend to make the pretrial conference efficacious;
3. list the types of data that we should seek to collect in evaluating a pretrial conference program; and
4. identify alternative sites for evaluation research projects.

B. Comparison of Pretrial Programs

The Toledo program is unlike the Minneapolis, Phoenix, and Connecticut programs in that it is run by the prosecutor. The defendant or his counsel may request a pre-trial prior to, or at, arraignment. The pre-trial is conducted in the prosecutor's office. If a plea is agreed upon, it is entered on a special form, along with the prosecutor's sentencing recommendation. It is then taken to a judge, who is in no way bound by the agreement.

The Toledo pre-trial program began in September of 1975 in anticipation of the Ohio Rules of Superintendence for Municipal Courts, which took effect in January of 1976. In addition to setting forth specific speedy trial provisions, the rules mandated an individual case assignment system. That is, when a plea of not guilty is entered, the case is randomly

assigned to a judge, who will be responsible for that case until its completion.

The Toledo Municipal Court schedules one of its judges to serve as "Duty Judge" each week. That judge is available to handle a variety of matters including the acceptance of guilty and not guilty pleas from defendants who have gone through a pre-trial conference. Because the Toledo pre-trial system gives a defendant a chance to negotiate a plea prior to arraignment, the court claims that it reduces the administrative workload of the court.

Although the judges in the Phoenix City Court also operate essentially under an individual case assignment system, pre-trials are scheduled by the court at arraignment. Pretrial conferences are scheduled for all but minor traffic cases. Each of the twelve Phoenix judges is scheduled for a pre-trial disposition conference one half day each week. Between 20 and 35 cases normally are scheduled for each session, which begins at 8:30 a.m. The session is conducted in the courtroom with only one prosecutor present. Normally, the judge makes a few preliminary announcements, including an explanation of the purpose of the session. The judge then will typically leave the bench and the prosecutor distributes his files to the defense counsel and defendants. Each file generally includes a recommended offer in the case log. If an agreement is reached, a standard "plea agreement" form is completed and signed by the defendant, defense counsel, and the prosecutor. The form enumerates the defendant's constitutional rights and sets forth the plea agreement. The plea agreement is generally presented

to the judge in chambers so that the noise level from the courtroom does not interfere with the proceedings. A court reporter is present in the judge's chambers.

The Phoenix City Court disposes of approximately 80 percent of the cases scheduled for pretrial on the pretrial date. The judges believe they would be facing a substantial backlog of cases if they had not initiated the pretrial program. Judge Hammond, in particular, believes that they would be overloaded for trial settings and would encounter turmoil on the day of trial.

Like the Phoenix City Courts, both the Minneapolis County Court and the Connecticut Courts of Common Pleas schedule pre-trials. (A description of the Minneapolis preliminary conference program appears on pp. 32 - 34 of this report.) However, in Minneapolis the pretrial conference is scheduled at arraignment, whereas in Connecticut the pretrial is scheduled at a "plea session" which takes place within 14 days of arraignment. In both Minneapolis and Connecticut, most judges "attend" and some actually participate in the conference. Those judges that do "participate" generally serve as "mediators" or "facilitators" rather than assuming an adversarial role. In Connecticut, approximately 60 percent of the cases scheduled for pretrial are disposed of on the pretrial date. In Minneapolis approximately 70 percent of the cases scheduled for a preliminary conference are disposed of on that date.

All four representatives of courts with pretrial programs agreed that the programs were effective because the local prosecutor operated with an

"open discovery" policy. They also agreed that such a program would not be as meaningful unless the court was faced with a heavy workload. Judge Mitchell, in particular, stated that a principal reason for his aversion to pretrials was that they were unnecessary, given the workload in his court. However, the type of case assignment system did not appear to be a critical variable. The Minneapolis court and multi-judge courts in Connecticut operate under a master case assignment system, while the Phoenix and Toledo courts operate under individual assignment systems. Yet, all pretrial programs apparently dispose of upwards of 60 percent of the cases scheduled for pretrial on the pretrial date.

C. Evaluation of Pretrial Programs

In an effort to determine the kinds of statistical information that should be collected in evaluating the efficacy of a pretrial program, the workshop participants were presented with a "problem." They were asked to assume the role of court administrator in a 10 judge misdemeanor court. The hypothetical court had a history of conducting court-scheduled pretrials in misdemeanor cases. However, the new chief judge questions the efficacy of the pretrial conference program. He has asked the court administrator to provide him with statistics that would permit him to assess the utility of the pretrial conference program.

After considering the problem, the workshop participants recommended that the following should be considered in evaluating the pretrial program:

1. Average time it takes to pre-try a case as opposed to average time it takes to try a case.

2. Number of cases eligible for jury trial, as compared with the number and cost of cases that actually go to jury trial.

3. Number of cases the court has to set for trial to get a particular number of cases tried ("setting factor").

4. Extent to which civilian witnesses and police officers are released without being asked to testify.

5. Delay and backlog statistics, including the average misdemeanor case age.

6. Average administrative costs incurred in pre-trying a case as opposed to trying a case.

7. Attitudes of participants, including those of defendants, prosecutors, defense counsel, judges, police officers, and victims toward the pretrial program.

8. Comparative case processing statistics, "before" and "after" the initiation of the pretrial program.

D. Evaluation Research

The workshop participants agreed that the compilation of "before" and "after" statistics would be of critical importance in evaluating a pretrial program. However, they all acknowledged that it would be difficult to collect such information in a single jurisdiction. Two potential alternatives were discussed.

The first alternative anticipates a research effort in a multi-judge court in which approximately half of the judges conduct pretrials and half do not. Because the Ohio Rules of Superintendence mandate an individual case assignment system, we discussed the possibility of conducting the research in a municipal court in Ohio. However, we had contacted a number of Ohio cities during our earlier telephone survey (see p. 34) and none of those contacted seemed appropriate. The only city that might be considered is Cincinnati, where some of the ten municipal

court judges conduct pretrials in misdemeanor cases and others do not However, it appears that those judges that do conduct pretrials do so on an ad hoc basis, with the jury demand being the principal criterion for holding a pretrial. Thus, this would not appear to be a feasible alternative unless we could identify a court where some of the judges were involved in a more formal pretrial "program", on an ongoing basis.

The second alternative anticipates a research effort in two cities in the same state. This would allow the project staff to evaluate the relative effect of the pretrial program by collecting comparative data in both courts. As indicated, both Minneapolis and Phoenix have formalized pre-trial programs. We have determined that the misdemeanor courts in both St. Paul and Tucson also have "effective" pre-trial programs. Both courts claim to dispose of more than 60 percent of the cases scheduled for pretrial at pretrial. However, the misdemeanor court in Duluth, Minnesota (which also has a pretrial program) disposes of only 30 percent of the cases scheduled for pretrial at pretrial. Therefore, a research effort aimed at determining why the Minneapolis pretrial program is effective and the Duluth program is not appears to offer the best alternative. At the second advisory committee meeting, the advisory committee recommended that a research project aimed at comparing the effectiveness of the Duluth and Minneapolis pretrial programs should be undertaken if the necessary funds are available.

FOOTNOTES

FOOTNOTES

1. Of necessity, the nation's "misdemeanor courts" were also identified at an early stage of the project. A state-by-state listing of these courts is contained in Appendix A.

2. See, First Interim Progress Report for copy of telephone interview instrument. After considering a wide range of court organizational, geographic, and demographic variables, a representative sample of 31 courts were contacted: Phoenix (AZ) Municipal Court; Sanders (AZ) Justice Court; Little Rock (AR) Municipal Courts; Willits (CA) Justice Court; Wilmington (DE) Municipal Court; Duval County Court (Jacksonville, FL); Atlanta (GA) Civil/Criminal Court; Indianapolis (IN) Municipal Court; Lewiston (ME) District Court; Portland (ME) District Court; Becker County Court (Detroit Lakes, MN); Minneapolis (MN) Municipal Court; Clay County Court (Moorhead, MN); Douglas County Court (Omaha, NB); Las Vegas (NV) Justice of the Peace; Manchester (NH) District Court; Albuquerque (NM) Magistrate Court; Gallup (NM) Magistrate Court; Las Vegas (NM) Municipal Court; Santa Fe (NM) Magistrate Court; Buffalo (NY) City Court; Poughkeepsie (NY) City Court; Cass County Court of Increased Jurisdiction (Fargo, ND); Grand Forks County Court of Increased Jurisdiction (Grand Forks, ND); Barnes County Court (Valley City, ND); Cincinnati (OH) Municipal Court; Columbus (OH) Municipal Court; Pittsburgh (PA) District Justice Courts; Providence (RI) District Court; Salt Lake City (UT) City Court; Norfolk (VA) General District Court.

3. The following courts were selected for on-site visits (population figures were obtained from the County and City Data Book):

COURT	CITY (Population)	STATE
Municipal Court	Little Rock (132,500)	Arkansas
Justice Court	Willits (5,000)	California
Municipal Court	San Francisco (715,000)	California
Arapahoe County Court	Littleton (26,400)	Colorado
Duval County Court	Jacksonville (528,900)	Florida
Magistrate Court	Las Vegas (14,000)	New Mexico
Magistrate Court	Santa Fe (41,200)	New Mexico
Municipal Court	Providence (179,200)	Rhode Island
Clay County Court	Moorhead (29,700)	Minnesota
City Court	Buffalo (462,800)	New York
Barnes County Court	Valley City (7,500)	North Dakota
General District Court	Norfolk (309,000)	Virginia

In addition to considering geographic, demographic, and jurisdictional variables, organizational variables such as the extent of state court unification, as well as operational variables such as judicial and non-judicial staffing patterns, and case assignment systems influenced site selection. See, First Interim Progress Report for copies of the field interview instruments.

4. This had the effect of eliminating general jurisdiction judges who have misdemeanor as well as felony jurisdiction. By the same token, it also eliminated judges of limited jurisdiction courts who essentially handled minor traffic and ordinance violation cases.

5. This effectively eliminated those judges who were part-time in the extreme (e.g., justice courts in New York, Mississippi and Texas). The state-by-state listing of misdemeanor courts, contained in Appendix A, indicates which misdemeanor courts were not polled in this survey.

6. Although the Associate Judges in the Circuit Court in Illinois generally are limited in the criminal area to the handling of misdemeanor cases, certain of these judges have been designated by the Supreme Court of Illinois to hear any criminal case upon a showing of need. Thus, it was not feasible, in practice, to attempt to identify the universe of judges handling misdemeanor cases in Illinois.

7. See, Second Interim Progress Report for copies of the three form letters.

8. The following sites were visited for the reasons listed: Hennepin County Court, Minneapolis, MN (caseflow management, police citation program and preliminary conferences); District Court, Des Moines, IA (pretrial release, diversion and probation); Project Remand, St. Paul, MN (pretrial release and diversion); Administrative Office of the Courts, Frankfort, KY (pretrial release); El Paso, TX (probation -- resource broker concept); Magistrate Division of the Circuit Court, Sioux Falls, SD (caseflow management, effect of organizational change to single-level trial court); Watonwan County Court, St. James, MN and District Court, St. James, MN (rural court administrator, and caseflow management); Municipal Court, Las Vegas, NV and Justice Court, Las Vegas, NV (mass case coordinator and caseflow management).

9. See, Knab-Lindberg article in issue of JUDICATURE appended to this report for additional comments on the literature. The bibliography compiled as a result of the literature search is appended to the First Interim Progress Report.

10. Herbert Jacob, Urban Justice: Law and Order in American Cities, (1973).

11. See, e.g., Malcolm M. Feeley, "The Effects of Heavy Caseloads," paper presented at 1975 Annual Meeting of the American Political Science Association. Feeley argues that the lack of individual attention is the result of organizational factors in misdemeanor courts which predispose all participants to cooperate in completing the day's workload as rapidly as possible.

12. J. Robertson, ed., Rough Justice: Perspectives on Lower Criminal Courts, xvii-xxix (1974).

13. See, e.g., Richard Harris, "Annals of Law in Criminal Court," New Yorker, April 14 and 21, 1973, 45-88 and 44-87; Mileski, "Courtroom Encounters: An Observation Study of a Lower Criminal Court," 5 Law and Society Review

473 (1971); and Feeley, "Two Models of the Criminal Justice System: An Organizational Perspective," 7 Law and Society Review 407 (1973).

14. See, e.g., Pye, "Mass Production Justice and the Constitutional Ideal" in Mass Production Justice and the Constitutional Ideal, 31-35 (C. Whitebread II, ed., 1970).

15. See, e.g., Goldstein, "Trial Judges and the Police: Their Relationship in the Administration of Criminal Justice," 14 Crime and Delinquency 14 (1968).

16. See, e.g., Patterson, "Our Lower Courts Are Disgraceful," 57 Legal Aid Review 5 (1970).

17. Wayne E. Green, "Rough Justice? How this Law Works in a Criminal Court Run by a Busy Judge," Wall Street Journal, September 25, 1972, at 1, col. 1.

18. The Barnes County Court judge (Valley City, ND) was particularly vehement on this point. "The court has no business being in the mental health area."

19. Diversion programs were observed in Des Moines, Iowa, and St. Paul, Minnesota.

20. The chief clerk of the Santa Fe magistrate court especially felt that court clerks were substantially underpaid for the level of responsibility the job entails. She indicated that staff usually quit within the first year or so of employment.

21. Of the twelve courts visited, nine referenced inadequate office accomodations. Only one, the city court in Buffalo, appeared to have all the modern facilities it desired.

22. One of the two local magistrates in Las Vegas, New Mexico, refused "office space" in the court building. By establishing his office in a neighborhood adjacent to the town, individuals are encouraged to "judge shop" with the resultant effect that one magistrate has a much heavier caseload then the other.

23. In only four of the locales was a prosecutor assigned full-time to the misdemeanor court; in four others he is assigned only on a part-time basis. In Barnes County Court (Valley City, North Dakota) only five to ten percent of the misdemeanants are represented, while in Duval County Court (Jacksonville, Florida) there is a definite failure to represent the misdemeanant adequately, especially at first appearance, where most of the cases are disposed.

24. In Las Vegas, New Mexico, the prosecutor has a "policy of not trying misdemeanor cases." This also influenced the judge to refuse to appoint a public defender. In Santa Fe, the judge believes the magistrate court is "the people's court and attorney presence just inhibits its ability."

25. The judge in Norfolk, Virginia, estimated that he spends less than one minute on each case. He felt he was subjected to "pressure to process"

because of poor administrative practices. He was required to finish all cases and adjourn by 1:00 p.m. every afternoon in order that the clerk could keep up with the paperwork from the morning call.

26. Public drunkenness was specifically cited as a significant factor in contributing to the misdemeanor caseload by judges in Las Vegas, Nevada; Valley City, North Dakota; and Willits, California. Only one judge, who had been a probation officer, was aware of any appropriate community agencies.

27. Probation services were utilized in only two of the courts. In one locale (Jacksonville, Florida) the state refused to fund misdemeanor probation so it is presently being handled by the local chapter of the Salvation Army.

28. This was the situation in New Mexico where one judge stated his court is "at the mercy of the state court administrator." He felt the state court administrator ignored his budget requests and only supplied him with the absolute minimum in appropriations. However, the North Dakota state court administrator does supply monitoring information/statistics every midmonth to the court; also, the court can request additional data if desired. This appears to be an exception, in view of information from other site visits.

29. The district court judge in Las Vegas, New Mexico, prevailed upon the prosecutor to draft a memorandum to the magistrate regarding the proper documentation of indigency determination.

30. In 1973 it was reported that 83 percent of the nation's limited jurisdiction courts operate with a single judge. U.S. Department of Justice, Law Enforcement Assistance Administration, National Survey of Court Organization, U.S. Gov't. Printing Office, Washington, DC, 1973, p. 2.

31. Caseload statistics were generally not compiled in any manner in the rural and small city courts (Santa Fe and Las Vegas, New Mexico; Moorhead, Minnesota; Willits, California; and Little Rock, Arkansas). In other courts, when they were generated, they often served little purpose to the court's operations.

32. Jacksonville, Florida; San Francisco, California; and Buffalo, New York.

33. In fact ten judges said specifically that they do not have a court-controlled continuance policy: Providence, Rhode Island; Buffalo, New York; Norfolk, Virginia; Jacksonville, Florida; Las Vegas and Santa Fe, New Mexico; San Francisco and Willits, California; Little Rock, Arkansas; and Moorhead, Minnesota. The remaining two may have such a policy but it is questionable as to the degree it is enforced. It is interesting to note that in Little Rock the judge feels it is the police and prosecutor's responsibility to keep track of their cases.

CONTINUED

1 OF 2

34. In Norfolk it was noted that "lawyers and police officers dictate the pace of disposition." The police assemble the docket and maintain the master index.

35. In Barnes County Court (Valley City, North Dakota) the judge cited as a problem the non-consolidation of misdemeanor cases. (Because they come in on a "hit or miss" basis, there are no rules regarding time between arrest and first appearance.)

36. In Santa Fe, the public defender noted that police will hold defendants without any charge for several days and that the judge refuses to intervene or dismiss the case.

37. All four urban courts were found to be dependent on plea bargaining to achieve dispositions while only one rural court emphasized the negotiation process.

38. In the district court in Providence, Rhode Island, prosecutors and defense counsel use the courthouse lobby for plea negotiations. This usually occurs immediately before trial and causes serious "decorum" problems for this court.

39. This was particularly true in Norfolk, Providence, Little Rock and the larger urban courts.

40. In Jacksonville, where jurors are almost always dismissed, the court administrator has devised a procedure that minimized the waste of time for jurors. Individuals who are selected for jury duty are not called until they are actually needed for trial. That is, jury demands are called at 9:00 a.m. -- with trials scheduled for 1:00 p.m. that afternoon. Therefore, the defendant can drop his jury demand that morning and not cause any inconvenience to prospective jurors.

41. For a more complete analysis of the questionnaire findings, see the Alfini-Doan article in attached issue of JUDICATURE. See, Second Interim Progress Report for a copy of the mail questionnaire.

42. These characterizations tended to be corroborated by survey responses. A majority of the judges (56 percent) indicated that the population of the geographic area covered by their court's jurisdiction was 50,000 or less, with half of this number (28 percent of the total) indicating that the population of their area was 15,000 or less. Twenty-nine percent of the judges indicated that the population was 50,000 - 250,000, and seven percent indicated that it was 250,000 - 500,000. Only eight percent of the respondents indicated that their court served an area with a population of greater that 500,000. These data conform relatively closely with the population statistics contained in the most recent census figures. In 1970, 16 percent of the population resided in population centers of 500,000 or more; five percent in places of 250,000 - 500,000; 15 percent in places of 50,000 - 250,000; and 64 percent in places of 50,000 or less. U.S. Bureau of

the Census, Statistical Abstract of the United States: 1975 (95th edition). Washington, D.C., 1975, p. 19.

43. An exception was the Clerk of Courts in Clay County, Minnesota. He sensed that the County Court was not "well-run" and had initiated certain new procedures and projects. However, he felt uneasy about what he was doing. His basic complaint was that he had no means for evaluating his efforts.

44. Copies of the materials distributed to the workshop participants are attached as Appendix B.

45. The workshop materials for the caseflow monitoring task force contained in Appendix B discuss more thoroughly the purpose and goal of a misdemeanor case monitoring system.

APPENDIX A

STATE MISDEMEANOR COURTS

THE MISDEMEANOR COURTS

State	Court	Misdemeanor Jurisdiction (maximums)	Other Jurisdictional Areas+
Alabama	County[1]	"misdemeanor"	FP;T;C(V)
Alaska	District	1 year and/or $500	FP;OV;C($10,000)
Arizona	Justice	6 months and/or $300	FP;C($1,000)
	City	6 months and/or $300	FP;OV;T
Arkansas	Municipal	1 year and/or $250	FP;OV;C($300)
	Justice	1 year and/or $250	FP;OV;T:C($300)
	Police	1 year and/or $250	FP;OV;T:C($300)
	City	1 year and/or $250	FP;OV;T;C($300)
California	Municipal	"all misdemeanors"	FP;OV;T;C($5,000)
	Justice	1 year and/or $1,000	FP;OV;T;C($1,000)
Colorado	County	1 year	FP;C($1,000)
Connecticut	Court of Common Pleas	1 year and/or $1,000	FP;OV;C($5,000)
Delaware	Court of Common Pleas	"all misdemeanors"	C($3,000)
	Municipal (Wilmington)	"misdemeanors"	FP;OV;T
	Justice*	"minor misdemeanors"	T;C($1,500)
Florida	County	1 year	FP;OV;C($2,500)

+Other jurisdictional areas handled by misdmeanor courts are coded according to the following scheme:
F= partial or total felony juridiction
T= traffic
J= juvenile
C( )= civil(maximum limit); C(V)=civil, limit varies
FP= felony preliminary hearings
OV= ordinance violations
P= probate

*Judges from these courts were not polled in the AJS questionnaire survey.

[1]As of January 1, 1977, these courts were replaced by new statewide district courts of limited jurisdiction.

State	Court	Misdemeanor Jurisdiction (maximums)	Other Jurisdictional Areas+
Georgia	"State"	1 year	C(unlimited)
Hawaii	District	1 year and/or $1,000	FP;OV;C($5,000)
Idaho	District (Magistrate division)	1 year and/or $1,000	FP;P;J;C($5,000)
Illinois	Circuit (Associate Judges)*	1 year	----
Indiana	County	1 year and/or $1000	OV;T;C($3,000)
	City	6 months and/or $500	OV;T;C($1,000)
	Municipal (Marion County only)	1 year and/or $1,000	OV;T;C($10,000)
Iowa	District (Judicial Magistrates and Associate Judges)	"indictable misdemeanors"	FP;OV;T;C($3,000)
Kansas	County	1 year and/or $2,500	FP;T;C($1,000)
	City	1 year and/or $2,500	FP;C($3,000)
	Magistrate	1 year and/or $2,500	FP;T;C($3,000)
Kentucky[2]	County (Quarterly)	1 year and/or $500	FP;P;J;
	Police	1 year and/or $500	FP;OV;C($500)
	Justice*	1 year and/or $500	FP;C($500)
Louisiana	City	6 months and/or $500	FP;C(V)
	Parish	6 months and/or $500	FP;C($1,000)
Maine	District	"all crimes and offenses not punishable by imprisonment in the state prison"	FP;OV;D($20,000)

[2]In late 1975, Kentucky passed a constitutional amendment effective January 1, 1978 replacing the variety of limited jurisdiction courts with a statewide district.

State	Court	Misdemeanor Jurisdiction (maximums)	Other Jurisdictional Areas+
Maryland	District	3 years and/or $2,500	F;FP;OV;T;C($5,000)
Massachusetts	District	5 years	F;FP;OV;J;C (unlimited)
	Boston Municipal Court	5 years	FP;OV;
Michigan	District	1 year and/or fine	FP;OV;T;C($10,000)
	Municipal	3 months and/or $500	FP;OV;T;C(V)
Minnesota	County	3 months and/or $300	FP;OV;T;P;J;C($5,000)
	Municipal (Hennepin & Ramsay Counties)	all misdemeanors	FP;OV;T;C ($6,000)
Mississippi	County	"fine and/or imprisonment in jail"	FP;T;J;C($10,000)
	Justice*	"fine and/or imprisonment in jail"	C($500)
Missouri	Magistrate	1 year and/or $500-$1,000	T;C($2,000)
	St. LouisCourt of Criminal Corrections	1 year and/or $500-$1,000	FP;OV;
	Municipal*	6 months and/or $500	OV;T;
Montana	Municipal	6 months and/or $500	FP;OV;C($1,500)
	City	6 months and/or $500	FP;OV;C($1,500)
	Justice	6 months and/or $500	FP;T;C($1,500)
Nebraska	County	"most misdemeanors"	P;J;OV;C ($5,000)
	Municipal	1 year and/or $1,000	C($5,000)
Nevada	Municipal	6 months and/or $500	T;OV;C($300)
	Justice	6 months and/or $500	FP;C($300)
New Hampshire	District	1 year and/or $1,000	FP;J;C($3,000)
	Municipal	1 year and/or $1,000	FP;J;C($300)
New Jersey	Municipal	"specified misdemeanors where defendant waives indictment"	OV;C($100)
New Mexico	Magistrate	1 year	FP;C($2,000)

State	Court	Misdemeanor Jurisdiction (maximums)	Other Jurisdictional Areas+
New York	District	1 year and/or $1,000	FP;OV;C($6,000)
	City (outside New York City)	1 year and/or $1,000	FP;T;C($6,000)
	New York City Criminal	"non-indictable misdemeanors"	FP;OV;
	Town*	1 year and/or $1,000	FP;T;C($1,000)
	Village*	1 year and/or $1,000	FP;T;C($1,000)
North Carolina	District	2 years and/or fine	J;C($5,000)
North Dakota	County Court of Increased Jurisdiction	1 year and/or $1,000	FP;P;C($1,000)
	County Justice	1 year and/or $1,000	FP;C($200)
Ohio	County	1 year and/or $1,000	T;C($500)
	Municipal	1 year and/or $1,000	OV;T;C($10,000)
Oklahoma	Municipal (Tulsa & Oklahoma City)	3 months and/or $300	OV;T;
Oregon	District	1 year and/or $3,000	FP;OV;C($2,500)
	Justice	1 year and/or $500	T;C($1,000)
Pennsylvania	Philadelphia Municipal	5 years and/or $5,000	FP;C($500)
	Justice	3 months and/or $500	T;OV;C($1,000)
	Pittsburgh City Court	3 months and/or $500	FP;OV
Rhode Island	District	1 year and/or $500	C($5,000)
South Carolina	County	"all offenses except certain enumerated felonies"	F;C($1,000)
South Dakota	Circuit(Magistrate Division):		
	lawyer	1 year and/or $500	FP;OV;C($1,000)
	non-lawyer	30 days and/or $100	FP;C($500)
Tennessee	General Sessions	1 year and/or fine	FP;C($3,000)
Texas	Constitutional County	1 year and/or $2,000	FP;P;J;C($1,000)
	Justice*	$200	FP;T;C($200)
	Municipal*	$200	FP;OV;T;

State	Court	Misdemeanor Jurisdiction (maximums)	Other Jurisdictional Areas+
Utah	Justice	6 months and/or $300	FP;OV;C($300)
	City	6 months and/or $300	OV;C($2,500)
Vermont	District	2 years	F;J;C($5,000)
Virginia	General District	1 year and/or $500	FP;OV;C($5,000)
Washington	District Justice	6 months and/or $500	FP;OV;C($1,000)
	Justice	6 months and/or $500	FP;C($1,000)
	Municipal	6 months and/or $500	FP;OV;
West Virginia[3]	Municipal	1 year and/or $1,000	FP
	Justice*	1 year and/or $1,000	FP;C($300)
Wisconsin	Municipal	6 months/$200	OV
	County (Milwaukee County)*	1 year and/or $1,000	C(unlimited);J
Wyoming	Justice	6 months/$100	C($1,000)

[3]Effective January 1, 1977, magistrates replaced justices of the peace; also, municipal court's jurisdiction will be limited to enforcement of municipal ordinances.

END