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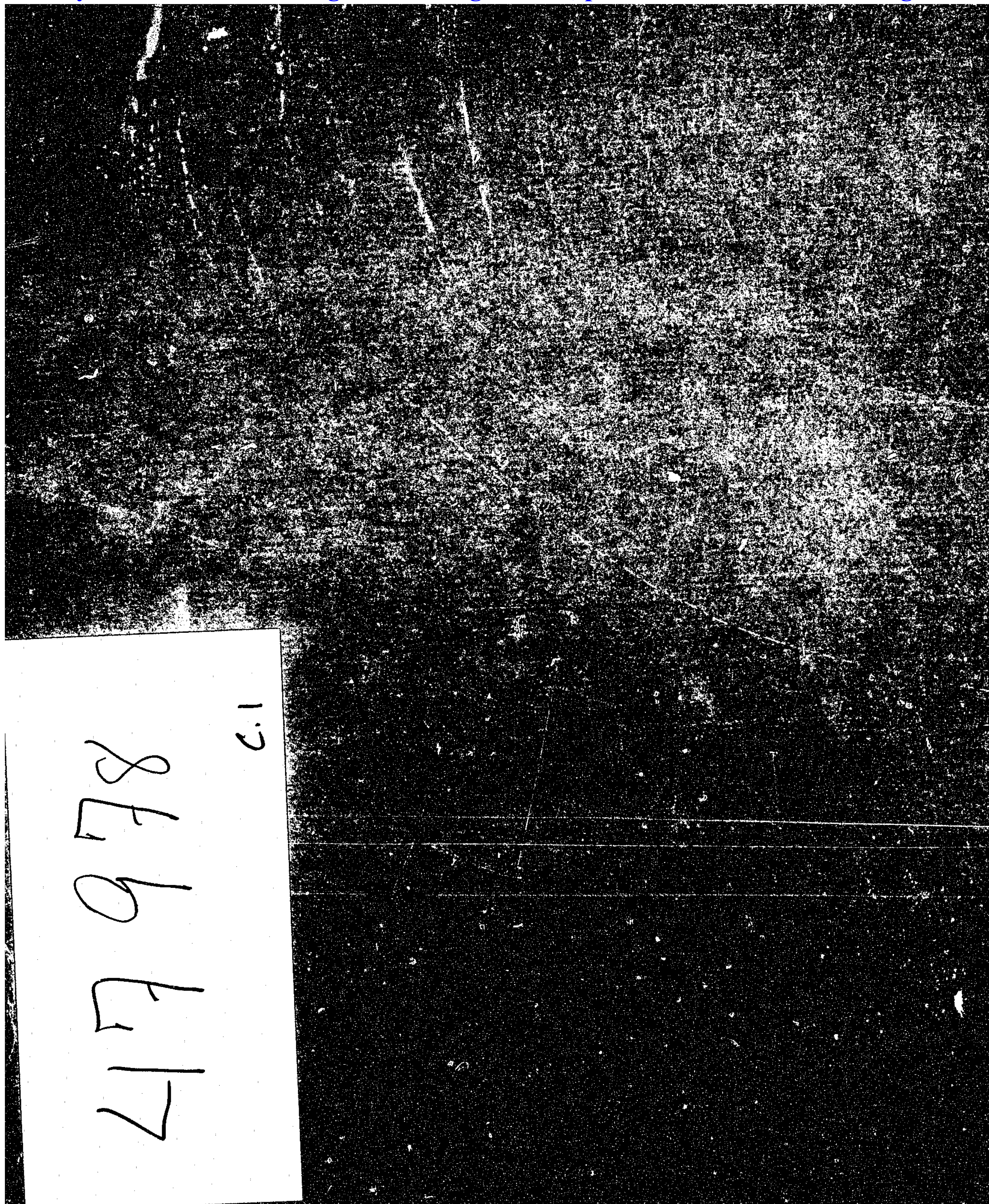

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MISDEMEANOR COURT MANAGEMENT

RESEARCH PROGRAM

PART I

A Joint Project of:

The American Judicature Society

and

The Institute for Court Management

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TABLE OF CONTENTS

Preface viii

Introduction ix

CHAPTER I: The Misdemeanor Courts

A. Introduction 1

B. A Definitional Perspective 1

C. An Historical Perspective 4

D. A Management Perspective 7

E. Summary 15

CHAPTER II: Methodology

A. Introduction 16

B. Phase One: Identification of Problems and Development of Management Innovations 16

C. Phase Two: Workshops 26

D. Phase Three: Pilot Project Implementation and Research 28

E. Phase Four: Qualitative Evaluation and the Final Project Report 28

CHAPTER III: Misdemeanor Court Problem Identification and Prioritization

A. The Literature 30

B. On-Site Observations 34

C. Questionnaire Survey 40

D. Prioritization of Misdemeanor Court Problems 44

CHAPTER IV: Community Resource Program

A. Model Components 47

B. Research Objectives 51

C. Research Methods 51

D. Site Description Prior to Pilot Implementation 52

E. Description and Analysis of Component Implementation. 57

F. Conclusions. 79

CHAPTER V: Case Management and Information System (CMIS)

A. Program Objectives 83

B. The Management Problems of State Misdemeanor Courts 84

C. Components of the Model System 88

D. Research Approach 89

E. Feasibility Testing of the CMIS Information-Data Support Component 92

F. Analysis of the Feasibility Testing of the CMIS Information Component. 96

G. Implications Concerning the Management Component. 102

H. Recommendations for Future Implementation 104

I. Conclusions. 107

CHAPTER VI: Pretrial Settlement Conferences

A. Introduction 109

B. Pretrial Settlement Conference Research. 110

C. Conclusions 125

CHAPTER VII: A Plan for Further Research

A. Research Objectives. 129

B. Research Questions and General Research Design 129

C. Conclusion 138

APPENDICES

Chapter I 139

Chapter II 145

Chapter IV 152

Chapter V 158

Chapter VI 177

BIBLIOGRAPHY

I. General Management Theory 186

II. Court Management 187

III. Misdemeanor Court Management 190

IV. Selected Works on Criminal Justice 192

V. Misdemeanor Justice 194

VI Relevant Court Studies 196

VII. Relevant Criminal Justice Standards 201

TABLES AND FIGURES

CHAPTER I: The Misdemeanor Courts

Table One:	State Definition of "Misdemeanor"	2
Table Two:	Criminal Jurisdiction of State Misdemeanor Courts	3
Table Three:	Influence of Community Size Upon Dispositions at Initial Court Appearance	8
Table Four:	Frequency of Attorney Presence at Disposition by Community Size	9
Table Five:	Influence of Prosecuting Attorney's Presence at Trial on Plea Negotiations	10
Table Six:	Influence of Defense Attorney's Presence at Trial on Plea Negotiations	10
Table Seven:	Timing of Guilty Pleas by Community Size	11
Table Eight:	Defense Attorney Presence Upon a Plea of Guilty According to the Timing of the Plea	12
Table Nine:	Rapid Case Processing Pressure on Misdemeanor Court Judges	13
Table Ten:	Sources of Rapid Case Processing Pressure on Misdemeanor Court Judges	14

CHAPTER II: Methodology

Figure One:	Research Methods	17
Table One:	Misdemeanor Courts Telephone Survey	20-21
Table Two:	On-Site Visits to Develop Innovative Management Techniques	25

CHAPTER III: Misdemeanor Court Problem Identification and Prioritization

Figure One:	Judicial Satisfaction with Resources and Procedures (Mean Responses)	41
Table One:	Misdemeanor Judges' Satisfaction Level: Court Resources and Procedures	42

CHAPTER IV: Community Resource Program

Table One:	Service Agencies Available to Pierce Co. Probation Department By Type (1976)	73

CHAPTER V: Case Management and Information System (CMIS)

Figure One:	Sample Caseload Monitoring Card	90
Table One:	Annual Caseload	94
Table Two:	Data Generated from the CMIS Information Component First District Court of Northern Middlesex (Ayer) For Cases Filed in November, 1977	99
Table Three:	Pending Caseload Statistics Generated from the CMIS Information Component First District Court of Northern Middlesex County (Ayer) Case Filings: Status as of February 1, 1978	100

CHAPTER VI: Pretrial Settlement Conferences

Figure One:	Preliminary Conferences, Court Trials, and Jury Demands in the Hennepin County Municipal Court in State Misdemeanor and Traffic Cases (1972 - 1976)	115
Table One:	Trial Delayin Misdemeanor and Traffic Cases in Hennepin County (1972, 1974, 1976)	116
Table Two:	Hypothetical Model of Overall Effect of Pretrial Program on Trial Court Delay	117
Table Three:	Pretrial Hearing Statistics in Ramsey and Hennepin County Municipal Courts (January 1 - June 30, 1977)	119
Table Four:	The Relationship of Misdemeanor Judges' Participation in Negotiations and Sentencing Practices with Productivity in Securing Guilty Pleas, Controlling for Attorney	121
Table Five:	Public Defender and Private Defense Counsel Perceptions of Judicial Activity in Plea Negotiations (Ramsey County Municipal Court)	123
Table Six:	The Relationship of Misdemeanor Judges' Inquiry into Facts and Voluntariness with Productivity in Securing Guilty Pleas, Controlling for Attorney	125

CHAPTER VII: A Plan for Further Research

Table One:	Misdemeanor Court Problems, Causes, and Solutions	128

PREFACE

This report is presented at the conclusion of Part I of a two stage research program focusing on the nation's misdemeanor courts. Part I was primarily concerned with the identification of misdemeanor court management problems and a preliminary analysis of the organizational and operational dynamics of attempts to remedy certain of these problems in specific misdemeanor courts. Part II of this research program will be concerned with a more comprehensive documentation and analysis of the impact of court-initiated attempts to resolve certain critical management problems.

The reader is cautioned that the findings and conclusions presented in this report are tentative in nature. More definitive statements and conclusions -- particularly with regard to the effects of court-initiated attempts to remedy specific management problems -- will be forthcoming at the conclusion of Part II of this project.

INTRODUCTION

By general consensus, "misdemeanor courts" constitute the principal weakness in most state court systems. In 1967, the Courts Task Force Report of the President's Commission on Law Enforcement and the Administration of Justice stated that none of its findings were more disquieting than those relating to the condition of the lower criminal courts. That report emphasized that not only would crime prevention efforts be rendered ineffective without significant reform of these courts, but the conditions encountered by persons coming into contact with minor courts were counterproductive to rehabilitation. In 1973, the Task Force on Courts of the National Advisory Commission on Criminal Justice Standards and Goals cited no significant change in the national picture. To remedy this situation, both of these national commissions had recommended abolition of these courts. As we demonstrate in Chapter I, however, this solution generally has not been accepted by the states.

Thus, the misdemeanor court problem persists, in large measure, because the conventional wisdom is to encourage the abolition rather than the improvement of these courts. More than any other institution in our justice system, the misdemeanor courts have suffered from "benign neglect." Chief Justice Arthur T. Vanderbilt thought this neglect "incomprehensible" in view of the critical importance of these courts to society. Vanderbilt stated that on these courts "rests the primary responsibility for the maintenance of peace in the various communities of the states, for the safety on our streets and highways and, most important of all, for the development of respect for law on the part of our citizenry on which in the last analysis, all of our democratic institutions depend. . ."*

Misdemeanor courts are the ordinary citizens' most frequent point of contact with the criminal justice system. With upwards of 15,000 judges, they carry by far the largest load of criminal cases – about 90 percent. Most of these cases involve traffic offenses, petit larceny, prostitution, drunkenness, minor drug violations, and violations of local ordinances. Relatively few cases tried in misdemeanor courts are appealed. Thus, these courts usually have the final say in citizens' non-felony clashes with the criminal law. Equally important, misdemeanor courts also process preliminary matters in felony cases, including the accused's right to bail. Precisely because misdemeanor courts have such a direct influence over so many citizens in various stages of criminal prosecution, they are of vital importance.

Unfortunately, misdemeanor courts have come to mirror their position on the bottom rung of the judicial ladder. The sheer volume of cases in relation to personnel, the generally poor preparation, training and utilization of judicial and non-judicial personnel, inadequate facilities, lack of administrative coordination, and the fragmentation of jurisdiction simply underscore the shortcomings of mis-

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*Vanderbilt, "The Municipal Court, the Most Important Court in New Jersey: Its Remarkable Progress and its Unsolved Problems," 10 Rutgers Law Review 647, 650 (1956).

demeanor courts and the myriad problems which must be overcome to compensate for years of neglect.

In December of 1975 the National Institute of Law Enforcement and Criminal Justice of the Law Enforcement Assistance Administration, U.S. Department of Justice, solicited proposals to initiate a "Misdemeanor Court Management Research Program." As a result of this solicitation, the American Judicature Society and the Institute for Court Management were awarded a grant to conduct Part One of this program. This 20 month study of the nation's misdemeanor courts began on August 1, 1976, and had the following objectives:

— identification of current misdemeanor court management problems;
— identification and development of management techniques specifically designed to remedy these problems; and
— the pilot testing and research of these management techniques on a limited basis.

Because the program was intended to be national in scope, the grantees were cautioned not to focus attention on the particular difficulties of a single jurisdiction in achieving these objectives. In addition, case processing improvements which reduce caseloads through such techniques as decriminalization of specific offenses (e.g., public intoxication) or transfer of traffic cases to specialized administrative tribunals were specified as being outside the range of inquiry of this research program.

Given the nature and scope of this research program, it was anticipated that achievement of the research objectives would result in a clearer understanding of the nation's misdemeanor courts along the following lines:

— identification of the full diversity (range) of misdemeanor courts, particularly the differences in the operations, problems and administrative environment of misdemeanor courts; and
— development and refinement of hypotheses concerning the ability and willingness of misdemeanor courts to participate in the creation and introduction of particular innovative programs.

This report details the findings of Part One of the "Misdemeanor Court Management Research Program." It also outlines the research design for Part Two of this project.

CHAPTER I

The Misdemeanor Courts

A. Introduction

This chapter provides an overview of the state misdemeanor courts, presenting three different perspectives in an effort to identify basic similarities and differences. The definitional perspective tends to reveal the jurisdictional diversity of these courts while the historical perspective gives us a clearer understanding of their differing organizational and structural contexts. Finally, the management perspective reveals critical differences in misdemeanor court operations and courtroom environments.

B. A Definitional Perspective

Because there are no courts in the United States that handle only misdemeanor cases, the term, "misdemeanor court," requires definition. For purposes of this study, we have chosen to define "misdemeanor court" as a court in which the handling of violations of state misdemeanor offenses represents the most significant portion of the court's total criminal workload. This definition excludes general jurisdiction trial courts that have misdemeanor jurisdiction, because their felony caseloads represent the most significant portion of their total criminal workloads. It also excludes limited jurisdiction courts whose criminal jurisdiction is limited to the handling of local ordinance violations.

Before we can identify the various state courts that fit this definition, we must first consider how the states define the term "misdemeanor." Forty states define "misdemeanor" as a criminal offense for which a maximum term of imprisonment and a maximum fine may be imposed.[1] As indicated in Table One, these maximum periods of incarceration vary among the states. Thirty states define a misdemeanor as an offense punishable either by imprisonment for less than one year or, similarly, by imprisonment other than in a penitentiary. Four states call an offense a misdemeanor if the maximum term of imprisonment is less than six months, and Minnesota has established a three-month maximum. The remaining five states set forth a maximum penalty of more than one year in their general definition of misdemeanor.

Because 44 states use the general term "misdemeanor" to establish the criminal jurisdiction of their limited jurisdiction courts, the misdemeanor courts in these states are easy to identify. However, the criminal workloads of these courts differ in two important respects. First, they differ to the extent

[1] The ten states that do not have a general definition of misdemeanor are Alaska, Delaware, Indiana, Kentucky, Maine, Maryland, Michigan, Mississippi, North Dakota, and South Carolina. They identify misdemeanors on an offense by offense basis.

TABLE ONE

State Definition of "Misdemeanor"
(Maximum Time of Imprisonment)
(N = 50)

Term	N	States
Three Months	N=1	Minnesota
Six Months	N=4	Idaho; Nevada; Utah; Washington
One Year	N=19	Arkansas; Connecticut; Florida; Georgia; Hawaii; Illinois; Iowa; Montana; New Hampshire; New Mexico; New York; Ohio; Oklahoma; Oregon; Rhode Island; South Dakota; Tennessee; Texas; Virginia
Two Years	N=3	Colorado; North Carolina; Vermont
Five Years	N=1	Pennsylvania
Seven Years	N=1	New Jersey
Other than Penitentiary	N=11	Alabama; Arizona; California; Kansas; Louisiana; Massachusetts; Missouri; Nebraska; West Vriginia; Wyoming; Wisconsin
No General Definition	N= 10	Alaska; Delaware; Indiana; Kentucky; Maine; Maryland; Michigan; Mississippi; North Dakota; South Carolina

that they include criminal cases involving penalties of varying degrees of severity. For example, although both Colorado and Minnesota give their county courts jurisdiction over all misdemeanors there is considerable difference between their definitions of "misdemeanor." Colorado's definition calls for a maximum penalty of two years, while in Minnesota it calls for a maximum penalty of three months.

Second, the criminal workloads differ to the extent that these limited jurisdiction courts share responsibility for processing criminal cases with a trial court of general jurisdiction or another trial court of limited jurisdiction. In Table Two, we have indicated the jurisdiction of the state misdemeanor courts in the 44 states that use the term "misdemeanor" to define the criminal jurisdiction of their limited jurisdiction courts. As indicated, 23 states give their limited jurisdiction court jurisdiction of all misdemeanors concurrent with the general trial courts. Eleven states grant their lower courts exclusive jurisdiction over all misdemeanors. Four states allow their limited jurisdiction court to handle some felony cases in addition to their misdemeanor caseload. Six states limit the misdemeanor jurisdiction of their lower courts to less serious misdemeanors.

TABLE TWO

Criminal Jurisdiction of State Misdemeanor Courts

(N = 44)

Jurisdiction	N	States
All Misdemeanors: concurrent with General Trial Court	N=23	Alaska; Alabama; Arkansas; Colorado; Delaware; Florida; Georgia; Indiana; Kansas; Kentucky; Maine; Minnesota; Mississippi; Missouri; Nebraska; New Hampshire; New York; North Dakota; Pennsylvania; Rhode Island; Tennessee; Utah; Washington
All Misdemeanors: exclusive	N=11	California; Connecticut; Hawaii; Michigan; Nevada; New Mexico; North Carolina; Ohio; Oregon; Texas; Virginia
All Misdemeanors; some felonies	N=4	Maryland; Massachusetts; South Carolina; Vermont
Some Misdemeanors	N=6	Arizona; Louisiana; Montana; Wisconsin; West Virginia; Wyoming

In the remaining six states, jurisdiction over misdemeanors essentially has been delegated to the trial court of general jurisdiction. Court reorganization efforts in four of these states (Idaho, Illinois, Iowa, and South Dakota) have resulted in the consolidation of all trial courts into a single statewide trial court of general jurisdiction. Although technically there are no limited jurisdiction courts in these four states, each has established special divisions or classes of judges in their general trial courts to handle misdemeanor cases. In the remaining two states (New Jersey and Oklahoma) there are limited jurisdiction courts that handle more than just petty offenses in the criminal area. In New Jersey the municipal courts handle local ordinance violations and can hear misdemeanors if the defendant waives indictment. The Oklahoma municipal courts hear violations of local ordinances that carry maximum penalties of three months confinement or a $300 fine.

Therefore, in every state there is at least one limited jurisdiction court (or a special division or class of judges within a general trial court) that conforms to our definition of misdemeanor court. But, as we have seen, these courts vary greatly with respect to their criminal workloads. They also vary with respect to their civil jurisdiction. (Appendix I-A lists the state misdemeanor courts and indicates their criminal and civil jurisdictional limits.)

C. An Historical Perspective

Despite the intensity of criticism directed at misdemeanor courts in recent years, it is surprising to find so many of these courts still in existence. A decade ago, the President's Commission on Law Enforcement and Administration of Justice was "shocked" by the conditions of the nation's lower criminal courts. It characterized the operation of these courts as "assembly line justice," and concluded that they should be abolished outright. Accordingly, the commission recommended the unification of felony and misdemeanor courts and their ancillary agencies.[2] Such recommendations were not new, since the Wickersham Commission had recommended abolition of these courts more than 30 years before.

The Task Force on Courts of the LEAA-funded National Advisory Commission on Criminal Justice Standards and Goals also addressed the problems of the lower courts in its 1973 report. It reiterated the conclusion of the President's Commission that none of its findings were more "disquieting" than the condition of the lower courts, and it recommended the unification of all trial courts in each state into a single trial court with general criminal as well as civil jurisdiction.[3] Practically speaking, this recommendation would abolish the lower criminal courts. One year later, in 1974, the American Bar Association's Commission on Standards of Judicial Administration also recommended that

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[2] President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, 128-129 (1967).

[3] Task Force on Courts of the National Advisory Commission on Criminal Justice Standards and Goals, Courts, Standard 8.1, 160-167 (1973).

the court of original proceedings in each state "should be organized as a single court."[4]

These recommendations have not received widespread acceptance at the state level. Numerous court reorganization studies have been conducted on the state level, many with LEAA funds channelled through state planning agencies. Only a few of these studies have recommended eliminating the lower criminal courts.[5] Most often, they have proposed a two-tier trial court with responsibility for handling misdemeanor offenses vested in a second or lower court.[6]

Although the abolition of the lower courts generally has been rejected by studies conducted at the state level, numerous structural, organizational, and administrative changes in state trial court systems have been effected in recent years. During the past ten years, twenty states have made major changes in their trial court system through constitutional revision or statutory enactment.[7] Only three of these states have adopted a single level trial court. The remaining states have retained one or more limited jurisdiction courts. However, in some of these states the courts have remained essentially locally autonomous, while in other states they have become a part (organizationally and administratively) of the state court system.

Eleven of these twenty states upgraded their lower court system but each preserved one or more lower courts on a localized basis.[8] For example, while Oklahoma eliminated a variety of limited jurisdiction courts, it retained its municipal courts, retaining their local autonomy. Consequently, these courts did not become part of a unified, statewide trial court system.

Six states replaced their multiple lower courts with a single statewide trial court of limited

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[4] American Bar Association, Standards Relating to Court Organization, Standard 1.12, 17 (1974).

[5] See, e.g., Arizona State University College of Law, "Arizona Court System," 1 Law and the Social Order 45 (1973); Kansas Judicial Study Advisory Committee, "Recommendations for Improving the Kansas Judicial System," 19 Washburn Law Journal 279 (1974); and Wisconsin Citizens' Study Committee on Judicial Organization, Report to Governor Patrick J. Lucey (1973).

[6] See, e.g., Alabama Judicial Conference, Comprehensive Master Plan for Court Services, Prosecutorial Services, Defense Service and Law Reform (1974); Booz, Allen & Hamilton, Inc., California Lower Court Study (1971); Commission on Judicial Reform, Final Report to the Governor and the General Assembly of Maryland, (1974); Governor's Commission on Judicial Reform, Final Report to the Governor of Oregon (1975); and Institute of Judicial Administration, The Judicial Systems of South Carolina (1971).

[7] Four additional states (Connecticut, Kentucky, Missouri, and North Dakota) have adopted new judicial articles or passed legislation that anticipates changes in their trial court system that will take effect after December 31, 1977.

[8] Indiana, Kansas, Michigan, Minnesota, New Mexico, Ohio, Oklahoma, Pennsylvania, Rhode Island, West Virginia, and Wyoming.

jurisdiction.[9] This effectively established a unified two-tier trial court system. The limited jurisdiction court in Maryland (the district court) has been made subject to a statewide administrative scheme similar to that already in effect for the limited jurisdiction courts (district courts) in Massachusetts and North Carolina. The Maryland Commission on Judicial Reform called the single level trial court a "phantom reform:"

> The practical design of the single level system almost requires differentiation into lower (misdemeanor, small claims) and higher trial courts. In large urban jurisdictions, like Chicago, the new system bears an uncanny resemblance to its predecessor courts with a variety of police courts and committing magistrates, traffic court and the like. It is therefore not at all clear that the structural change of a single unified system leads to significant substantive results in terms of upgrading the functions, the status, and the quality of entry level justice.[10]

The "Chicago" system referred to by the commission was established by a new judicial article in 1964. The article created the first state single level trial court system (the circuit court) in the nation. Included in this trial court, however, were separate classes of judges (associate judges and magistrates) who had been judges of the former limited and special jurisdiction courts. In 1971, the magistrates became associate judges and the associate judges became circuit judges. The associate judges usually handle minor matters, including misdemeanor offenses.

The remaining three states (Idaho, Iowa, and South Dakota) that have made substantial changes in their trial court systems during the past ten years emulated the Illinois system. All the lower courts were abolished and a single level trial court established. But, like Illinois, each of these states included in the general trial court a separate class of judges to handle minor matters, particularly misdemeanors.

Thus, despite the call for abolition of the lower courts at the national level and the significant strides made toward reforming state trial court systems during the past ten years, misdemeanor courts remain in all states. In fact, recent reforms appear to have contributed to even greater diversity with respect to the structure and organization of misdemeanor courts.

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[9] Alabama, Florida, Maryland, Nebraska, Vermont, and Virginia. Alabama's third trial court – the municipal court – may be retained or eliminated on a local option basis.

[10] Commission on Judicial Reform, supra n. 6 at 92.

D. A Management Perspective

1. Management Theory

Just as the misdemeanor courts differ along jurisdictional and organizational lines, they also differ in the practices and procedures they employ to accomplish their objectives. This section adopts a management perspective to contrast the differences among misdemeanor court operations, analyzing, in the process, a portion of our questionnaire data[11] in the context of modern organization theory.

Although most research on organizational behavior has concentrated on the business corporation, many organization theorists have generalized the concept of "organization" to include such diverse entities as schools, hospitals, armies, community agencies, etc. If one accepts Amitai Etzioni's definition of "organizations" as "social units which pursue specific goals,"[12] the misdemeanor court may be viewed as an organization whose official goal is "individualized justice in individual cases."[13]

While "individualized justice in individual cases" may be the official goal of the misdemeanor courts, the operative goal is that of obtaining dispositions in misdemeanors cases.[14] The literature on misdemeanor courts reveals that many misdemeanor courts have chosen to further operationalize this goal in terms of rapid case-processing. Observers of these courts have indicated that "speed is the watchword"[15] and this creates the appearance of "assembly line justice."[16] While our observations and data generally support this conclusion, the practices and procedures used by the misdemeanor courts to accomplish this goal usually vary with the size of the community.

2. Case Processing Practices, Procedures and Environment

In the more populous areas, misdemeanor courts often engage in plea negotiations simply to speed the processing of cases. Seventy-eight percent of the big city respondents and 73 percent of the suburban and medium size city judges reported that plea negotiations "always" or "frequently" take

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[11] A detailed explanation of the administration of the questionnaire, response rate, etc., is contained in Chapter II.

[12] Etzioni, Modern Organizations (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1964), 5.

[13] Friesen, Gallas, and Gallas, Managing the Courts (Indianapolis: Bobbs-Merrill, 1971).

[14] For a discussion of the distinction between "official" and "operative" goals, see, Perrow, "The Analysis of Goals in Complex Organizations," 26 American Sociological Review 854 (1961).

[15] The President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Courts, 30 (1967).

[16] President's Commission, supra n. 2 at 128.

place in their courts. Only 51 percent of the rural and small city courts "always" or "frequently" engage in plea negotiations.

Instead of relying on plea negotiations, rural and small city courts dispose of most cases at the initial court appearance. Seventy-two percent of these judges indicated that 50 percent or more of their caseload was disposed of at this initial appearance; only 20 percent of the big city judges made this statement.

The difference in the courts' rates of disposition at the initial appearance is demonstrated even more decisively by the statistics in Table Three. Nearly 40 percent of the rural and small city judges report that more than 80 percent of their caseload is disposed of at initial appearance. Only nine percent of the big city judges feel this way, suggesting that a case probably will go through more stages and take more time in the big city court.

TABLE THREE

Influence of Community Size Upon Dispositions at Initial Court Appearance

	Type of Area		
% of Caseload Disposed of at First Appearance	% of Big City Judges	% of Suburban & Medium Size City Judges	% of Small City and Rural Judges
81 - 100 Percent	9%	18%	37%
51 - 80 Percent	31	38	35
0 - 50 Percent	60	44	28
	100%	100%	100%
	(N=64)	(N=217)	(N=397)

In attempting to explain the phenomenon of rapid case processing in misdemeanor courts, most observers have looked to internal factors – burdensome caseloads, insufficient and poorly trained personnel, meager facilities and poor administrative practices. In our survey we considered certain environmental factors and the extent to which they influence case processing techniques. Our attention was directed toward two environmental factors: the presence or absence of attorneys – two

key actors in the "courtroom workgroup"[17] – and external pressures on judges to dispose of cases quickly.

As previously noted, plea negotiation is most likely to occur in big city courts, wher is dispositions at the initial appearance are more characteristic of rural and small city courts. Our data suggest that this may be related to the presence or absence of the prosecuting attorney and defense attorney.

According to the judges' responses, a prosecuting attorney and defense attorney are more likely to be present at a big city trial than at a rural or small city trial. As Table Four demonstrates, it is unusual for an attorney to be absent at a trial in a big city, suburban, or medium size city court. Attorneys are present at trial less frequently in small cities and rural areas.

TABLE FOUR

Frequency of Attorney Presence at Disposition by Community Size

Presence of Attorney (Always or Frequently)	Big City Judges	Suburban & Medium Size City Judges	Small City & Rural Judges
Prosecuting Attorney	100%	95%	81%
Defense Attorney - at Trial	97	96	83
Defense Attorney - Upon Plea of Guilty	94	69	45

However, it should be underscored that these data concerning attorney presence at trial presents an incomplete picture. According to our data, the vast majority of misdemeanor cases are disposed of by guilty plea, with 60 percent of the judges responding indicating that they dispose of more than 70 percent of their cases by pleas of guilty. Consequently, the data concerning the presence of the defense attorney at guilty plea is more relevant than presence at trial.

As Table Four indicates, a defense attorney is always or frequently present at guilty plea in only 45 percent of the small city and rural area courts, but the defense attorney is always or frequently present at guilty plea in 94 percent of the big city courts.

[17] Eisenstein and Jacob, Felony Justice: An Organizational Analysis of Criminal Courts (Boston: Little, Brown, 1977). Eisenstein and Jacob have used this term to refer to judges, attorneys, clerks, bailiffs, etc.

Our data also indicate that there is a relationship between the frequency of attorney presence at trial and the frequency of plea negotiations.[18] Tables Five and Six show that plea negotiations occur more frequently in courts where a prosecutor or defense attorney is more likely to be present at trial. Conversely, plea negotiations take place less often when an attorney generally is not present at trials. Since attorneys appear more frequently in large communities, it is easy to understand why plea negotiations also occur more frequently in such locales.

TABLE FIVE

Influence of Prosecuting Attorney's Presence at Trial on Plea Negotiations

	Prosecuting Attorney's Presence at Trial	
Frequency of Plea Negotiations	Always or Frequently	Infrequently or Never
Always or Frequently	64%	33%
Infrequently or Never	36	67
	100%	100%
	(N=605)	(N=84)

TABLE SIX

Influence of Defense Attorney's Presence at Trial on Plea Negotiations

	Defense Attorney's Presence at Trial	
Frequency of Plea Negotiations	Always or Frequently	Infrequently or Never
Always or Frequently	64%	29%
Infrequently or Never	36	71
	100%	100%
	(N=601)	(N=79)

[18] The hypothesis that attorney presence will affect the rate of plea negotiations is not a new one. See, Neubauer, Criminal Justice in Middle America (Morristown, N.J.: General Learning Press, 1974), 209-210.

Although plea negotiations are more characteristic of big city courts, dispositions reached by guilty plea appear to be equally significant in urban and rural courts. The majority of judges in all categories reported that 50 percent or more of their caseload was disposed of by the defendant pleading guilty. (The percentages of judges so reporting are 69 percent big city, 77 percent suburban and medium size city, and 83 percent rural and small city.)

TABLE SEVEN

Timing of Guilty Pleas by Community Size

Timing of Guilty Pleas	% of Big City Judges	% of Suburban & Medium Size City Judges	% of Small City & Rural Judges
Initial Appearance	28%	49%	72%
Pretrial	43	23	10
Trial Date	29	28	18
	100%	100%	100%
	(N=60)	(N=200)	(N=358)

From Table Seven one can see that in small city and rural courts the guilty plea is much more likely to occur at the initial appearance. But during the pretrial stage, guilty pleas are more likely to be given in the larger city and suburban courts than in the rural and small city courts. All courts process the greatest number of their guilty pleas prior to the date of trial: it simply takes the larger courts' guilty pleas a longer time to surface. This information corroborates the data discussed earlier regarding dispositional rates at first appearance.

In explaining the difference with respect to the timing of guilty pleas among the courts, it is again helpful to look at the presence or absence of attorneys. Table Eight demonstrates that when the defendant pleads guilty at the initial appearance, he is probably doing so without the advice of counsel. But when the plea is made after the first appearance, and before the date of trial, 83 percent of the responding judges reported that, at that point, the defendant will "always" or "frequently" be represented.

Thus, the small city/rural defendant probably will not be represented before he pleads guilty. On the other hand, the big city defendant probably will have had the benefit of counsel by the time he enters a plea of guilty. And since the amount of plea bargaining increases as the size of the community increases, the big city defendant is likely to strike a better bargain with the prosecution than the defendant in smaller communities.

TABLE EIGHT

Defense Attorney Presence Upon a Plea of Guilty According to the Timing of the Plea

Defense Attorney Presence at Plea of Guilty	Initial Appearance	Pretrial Stage	Trial
Always or Frequently	41%	83%	78%
Infrequently or Never	59	17	22
	100%	100%	100%
	(N=392)	(N=114)	(N=141)

These results indicate the courtroom environment affects the processing of misdemeanor cases. Recently, theorists have begun to analyze organizational performance in terms of how organizations deal with different environmental conditions. In particular, they have focused on the pressures that elements from the broader environment place on the organization.[19] In this way, they hope to be better able to determine the kinds of administrative and management structures and techniques that should be established to deal with different environmental conditions.

What is most important in this respect with regard to misdemeanor courts is the extent to which the judges perceive themselves to be subjected to rapid case processing pressure. Thus, in surveying the judges we sought to determine:

— the extent to which the judges felt significant pressure to process a substantial number of misdemeanor cases on a daily basis; and

— the sources of such pressure.

As indicated in Table Nine, most misdemeanor court judges feel significant pressure to process cases. Fifty-six percent of all judges always or frequently felt such pressure, while only 44 percent infrequently or never experienced such pressure. Such pressure is felt most acutely by big city judges.

[19] See, e.g., Lawrence and Forsch, Organization and Environment (Homewood, Ill.: Richard D. Irwin, Inc., 1969).

TABLE NINE

Rapid Case Processing Pressure on Misdemeanor Court Judges (N=682)

Frequency of Pressure	Big City Judges	Suburban & Medium Size City Judges	Small City & Rural Judges
Always or Frequently	89%	69%	42%
Infrequently or Never	11	31	58
	100%	100%	100%
	(N=66)	N=220)	(N=396)

We asked the judges who experienced such pressure to indicate its source by choosing no more than three elements from among ten that compose the court's "task environment." James D. Thompson coined this term to describe the individuals and groups that affect the organization in setting or attaining its goals.[20]

For misdemeanor courts, the elements of the task environment fit into three categories:

- Local Criminal Justice System
  - Prosecuting attorney
  - Defense counsel
  - Police
- Judicial System
  - State judicial official (state court administrator or chief justice)
  - Chief judge of general trial court
  - Chief judge of misdemeanor court
  - Clerk of court or local administrator
- Local Community
  - Local media
  - Community groups

[20] Thompson, Organizations in Action (New York: McGraw-Hill, 1967), 27 - 28.

A tenth source of pressure that judges could choose, "heavy caseload volume itself," was the most frequently cited source of pressure. Eighty-five percent of the judges who reported any pressure identified heavy caseload volume as a significant source of pressure. The police ran a distant second with only 14 percent identifying them as a significant pressure source.

Although none of the elements of the judges' task environments emerged as a primary source of case processing pressure, the responses again varied depending upon size of their community. As Table Ten indicates, the big city judges identified judicial system sources most often as the source of pressure. Small city and rural area judges cited sources from within the local criminal justice system most frequently, even though those sources – prosecution 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 both the judicial system and the local criminal justice system with relatively equal frequency.

TABLE TEN

Sources of Rapid Case Processing Pressure on Misdemeanor Court Judges

	% of Judges Citing These Elements as Sources of Pressure		
Elements of the Environment	Big City Judges	Suburban & Medium Size City Judges	Small City & Rural Judges
State Judicial Official	14%	8%	6%
Chief Judge: Misdemeanor Court	12	5	5
Prosecuting Attorney	9	11	12
Local Administrator	7	11	6
Chief Judge: General Trial Court	7	2	1
Defense Counsel	7	7	11
Local Media	7	3	5
Police	3	10	18
Community Groups	2	2	4

The most dramatic differences appear in responses concerning the police as a pressure source. Eighteen percent of the small city and rural area judges considered the police a pressure source, but only three percent of the big city judges felt that way. The suburban area and medium size city judges fell in between; ten percent of these judges called the police a pressure source.

Some of these differences can be readily explained. Small city courts are often single judge courts without a chief judge or local administrator who could be a source of pressure. But since all the other seven elements are present in every community, we can only speculate about why rural judges sense pressure from the local criminal justice system more frequently, particularly from the police. One reason may be that the judge from the big city, multi-judge court does not feel pressure from prosecutors, defense counsel, and police because he hasn't developed personal relationships with them.

Also, the big city judges may be insulated from rapid case processing pressures by the chief judge or court administrator, especially if the big city court uses a master calendar system (a big city phenomenon). Under such a system, control of the caseflow is shifted from the individual judge to the chief or assignment judge and his administrator. Thus, it would appear that the chief judge and his administrator are more likely to be subjected to pressure from prosecutors, defense attorneys and police. They, in turn, pass this pressure on to the individual judges within their courts.

E. Summary

That state misdemeanor courts are diverse is the height of understatement. In this chapter, we have attempted to identify the jurisdictional, organizational, administrative, and environmental variables that contribute to this diversity.

We have sought to take full account of the differences among the misdemeanor courts in identifying their problems and identifying and developing innovative management solutions to these problems. The next chapter explains our approach in this regard and details the variety of methodological techniques employed in conducting this research.

CHAPTER II

Methodology

A. Introduction

Because of the complexity and diversity of misdemeanor courts, we employed a multi-faceted methodological approach to the identification of misdemeanor court management problems and innovations. Complementary research techniques were successively utilized during the course of the project. These included:

— a literature review of published and unpublished secondary source materials;

— telephone interviews with judicial and non-judicial staff;

— mail questionnaire surveys;

— field interviews and observations; and

— workshops involving misdemeanor court judges and non-judicial personnel.

This approach facilitated accurate identification and analysis of problems common to a broad cross section of misdemeanor courts.

This chapter presents a detailed, phase-by-phase discussion of our research methodology. We have emphasized the research conducted during Phase One (Identification of Problems and Development of Management Innovations) and Phase Two (Workshops). The methodology of Phase Three (Implementation and Evaluation of Management Techniques) is presented in Chapters IV, V and VI for each of the three innovative management programs that were developed, pilot tested, and researched during this project.

B. Phase One: Identification of Problems and Development of Management Innovations

Phase One required eight months. During this phase, AJS and ICM project staff identified major administrative and management problems facing metropolitan and rural misdemeanor courts, identified innovative management approaches, and developed innovative management programs to address these problems. The latter results were expanded upon and refined during subsequent phases of the project. The specific research methods utilized by project staff are discussed in the following subsections. Figure One gives a breakdown of the sequence of Phase One activities.

1. Literature Survey

A review of published and unpublished secondary source materials was conducted by the project staff early in the first phase. From this inquiry a preliminary report on identified innovations was produced as well as a comprehensive and cumulative bibliography on relevant management and criminal justice topics. The bibliography suggests a logical sequence of topic consideration and identifies

FIGURE ONE

Research Methods

Months	Phase One								Phase Two		Phase Three							Phase Four			
Research Methods	Aug 1 1976	Sept 2	Oct 3	Nov 4	Dec 5	Jan 6 1977	Feb 7	Mar 8	Apr 9	May 10	June 11	July 12	Aug 13	Sept 14	Oct 15	Nov 16	Dec 17	Jan 18 1978	Feb 19	Mar 20	Apr

PHASE ONE

1. Literature Survey
2. Statutory Survey
3. Telephone Survey
4. On-Site Visits to Identify Management Problems
5. Mail Questionnaire Survey
6. Innovative Programs Mailing
7. On-Site Visits to Develop Innovative Management Techniques

PHASE TWO

8. Pretrial Settlement Conference Telephone Survey
9. Caseflow Management Systems Mail Survey
10. Workshops

PHASE THREE

11. Pilot Project Implementation and Research

PHASE FOUR

12. Final Report Draft
13. Workshop
14. Finalize Project Report

\+ — Advisory Committee Meeting

different types of resource materials. The literature is arranged under seven general headings:

- General Management Theory
- Court Management
- Misdemeanor Court Management
- Selected Works on Criminal Justice
- Misdemeanor Justice
- Relevant Court Studies
- Relevant Criminal Justice Standards

Numerous sources were consulted in compiling the bibliography and preliminary report on innovations. The Index to Legal Periodicals, the Social Sciences and Humanities Index, and the Public Affairs Information Service were examined from 1943 to the present. All issues of the Index to Periodical Articles Relating to Law were consulted, as was National Criminal Justice Reference Service's Document Retrieval Index. The files and extensive court study collection of the American Judicature Society were also examined thoroughly. Judicature (formerly the Journal of the American Judicature Society) was reviewed from 1945 to the present. The Criminal Justice Newsletter as well as the publication, From the State Courts, also were consulted. Other national organizations were consulted and tapped for resources and information not otherwise available. Those organizations consulted most frequently included the Institute of Judicial Administration, the Judicial Administration Division of the American Bar Association, and the National Center for State Courts. Additionally, LEAA's Grants Management Information Service was consulted in an effort to identify innovative management programs presently in operation. Finally, all relevant standards of the American Bar Association and the National Advisory Commission on Criminal Justice Standards and Goals were reviewed and critiqued.

As a result of this literature search, two in-house memoranda were prepared. The first provided a review and critique of the literature on misdemeanor justice. The second memorandum posited a theoretical basis – developed from organization and management theory – for analyzing the problems of misdemeanor courts and considering potential solutions to such problems. Both memoranda were later expanded and developed into articles for publication.

2. Statutory Survey

As the literature search was being concluded, a thorough review of the statutes of all fifty states was begun to define the term "misdemeanor" and determine various types of courts across the nation which handle these cases. The different jurisdictional limits (e.g., criminal, civil, juvenile) of courts handling misdemeanors were also investigated to ascertain the relative weight of the misdemeanor caseload in these courts. (See, Appendix I-A for a listing of state misdemeanor courts and their jurisdictional limits.)

3. Telephone Survey

After identifying the nation's misdemeanor courts, we selected a representative cross section of these courts to contact by phone. This telephone survey was conducted to obtain basic information on the operations of these courts and to solicit the perceptions of court personnel as to the nature and extent of management problems in their courts.

Thirty-three courts were contacted. Their selection was based on a variety of organizational and jurisdictional variables. Careful attention was also given to the geographic and demographic profiles of the locales. Variables that were considered in the selection process included:

— the extent of consolidation and simplification of the state court structure;
— the extent of a centralized state court management system;[1]
— criminal and civil jurisdictional limits of the individual courts; and
— the locale of court (with respect to both community size and geographic region).

In applying demographic criteria, we categorized the courts by community size: "big city" (above 400,000 population), "medium size city" (100,000 to 400,000 population), "small city" (25,000 to 100,000 population) and "rural" (less than 25,000 population). Table One shows the distribution of the 33 courts across these variables.

Once these courts were selected, the (presiding) judge and ranking administrative officer were contacted. Our questions concerning court organization and operation included inquiry into judicial and non-judicial staffing patterns, administration, jurisdiction, caseload, probation services, and jury management. Interviewees were also asked to elaborate on management problems that confront their court and to offer any general comments they may have regarding court operations.

4. On-Site Visits to Identify Management Problems

Telephone interviewees were asked if they would be interested in participating further in this project by allowing project staff to visit their court and observe its operations for a period of two or three days. As noted on Table One, twelve courts were selected from those that agreed to participate further. Twelve courts represent a significant expansion of the five sites originally envisaged in the project proposal. This expanded effort was possible since two sites in close proximity to each other were visited on each field trip.

[1]Consolidation of the state court structure and the extent of a centralized state court management system are considered two indicators of the degree of state court unification within a state. See, Larry C. Berkson, "Unifying Court Systems: A Ranking of the Fifty States," Justice System Journal, forthcoming.

TABLE ONE

Misdemeanor Courts Telephone Survey

Name of Court	Selection Variables					State Classification Indices[1]	
			Jurisdictional Limits				
	Location	Population with in Jurisdiction	Criminal	Civil	State Classification by Region and Culture[2]	Trial Court Consolidation	Centralized Court Management
BIG CITY (More than 400,000):							
1. Franklin County Municipal Court	Columbus, OH (Pop. 540,000)	540,000	1 year	$ 10,000	I	6	7
2. Marion County Municipal Court	Indianapolis, IN (Pop. 746,000)	764,000	1 year	10,000	I	0	5
3. Maricopa County City Court	Phoenix, AZ (Pop. 583,000)	583,000	6 months	500	S	12	6
* 4. Duval County Court	Jacksonville, FL (Pop. 529,000)	529,000	1 year	2,500	S	15	10
5. Allegheny County District Justice Court	Pittsburgh, PA (Pop. 520,000)	1,605,000	3 months	1,000	I	6	12
* 6. San Francisco Municipal Court	San Francisco, CA (Pop. 716,000)	716,000	OTP	5,000	I	12	6
7. Fulton County "State" Court	Atlanta, GA (Pop. 495,000)	605,000	1 year	Unlimited	S	4	5
8. Hennepin County Municipal Court	Minneapolis, MN (Pop. 434,000)	960,000	3 months	6,000	I	6	5
* 9. Erie County City Court	Buffalo, NY (Pop. 463,000)	463,000	1 year	6,000	I	0	14
10. Hamilton County Municipal Court	Cincinnati, OH (Pop. 451,000)	451,000	1 year	10,000	I	6	7
MEDIUM SIZE CITY (100,000 – 400,000):							
11. Douglas County Municipal Court	Omaha, NB (Pop. 347,000)	389,000	1 year	5,000	SP	9	12
* 12. Norfolk County General District Court	Norfolk, VA (Pop. 308,000)	308,000	1 year	5,000	S	15	9
13. Bernalillo County Magistrate Court	Albuquerque, NM (Pop. 244,000)	316,000	1 year	2,000	S	8	11
* 14. Providence County Municipal Court	Providence, RI (Pop. 179,000)	179,000	1 year	5,000	I	8	11
15. Salt Lake County City Court	Salt Lake City, UT (Pop. 176,000)	176,000	6 months	2,500	SP	9	10
* 16. Pulaski County Municipal Court	Little Rock, AR (Pop. 132,000)	287,000	1 year	300	S	2	8
17. Clark County Municipal Court	Las Vegas, NV (Pop. 126,000)	126,000	6 months	300	F	12	3

[1]Consolidation and simplification of trial court structure and centralized management are considered to be two essential components of unification. The numerical values listed under each category represent that state's index score using four indicators to determine the extent to which each state has achieved each of these elements of unification. The range of possible scores for each element is 0–16 with a score of 16 showing the greatest degree of unification. See, Larry C. Berkson, "Unifying Court Systems: A Ranking of the Fifty States," Justice System Journal, forthcoming.

[2]This classification is based on 118 political, economic and policy variables as indicators of cultural similarity among the 50 states. Better than 50 percent of the typical state's behavior on these 118 variables is accounted for by the state's classification into one of four classes or cultures: I = Industrial; S = Southern; SP = Sparsely Populated; and F = Frontier. These four classes, while somewhat geographically continguous, vary considerably from regional groupings. See, Norman R. Luttbeg, "Classifying the American States: An Empirical Attempt to Identify Internal Variations," 15 American Journal of Political Science, 1971.

TABLE ONE

Misdemeanor Courts Telephone Survey Continued

	Selection Variables						
			Jurisdictional Limits			State Classification Indices[1]	
Name of Court	Location	Population within Jurisdiction	Criminal	Civil	State Classification by by Region and Culture[2]	Trial Court Consolidation	Centralized Court Management
SMALL CITY (25,000 – 100,000):							
18. Hillsborough County District Court	Manchester, NH (Pop. 88,000)	224,000	1 year	3,000	SP	9	9
19. Cumberland County District Court	Portland, ME (Pop. 65,000)	193,000	OTP	20,000	I	12	12
* 20. Arapahoe County Court	Littleton, CO (Pop. 26,000)	162,000	2 years	1,000	SP	8	16
21. New Castle County Municipal Court	Wilmington, DE (Pop. 80,000)	80,000	Misdemeanors (NGD)	3,000	I	2	11
22. Cass County Court	Fargo, ND (Pop. 53,000)	74,000	1 year	1,000	SP	9	8
* 23. Clay County Court	Moorhead, MN (Pop. 30,000)	47,000	3 months	5,000	I	6	5
24. Grand Forks County Court	Grand Forks, ND (Pop. 35,000)	61,000	1 year	1,000	SP	9	8
* 25. Santa Fe County Magistrate Court	Santa Fe, NM (Pop. 41,000)	55,000	1 year	2,000	S	8	11
26. Dutchess County City Court	Poughkeepsie, NY (Pop. 32,000)	32,000	1 year	6,000	I	0	14
27. Androscoggin County District Court	Lewiston, ME (Pop. 42,000)	91,000	OTP	20,000	I	12	12
RURAL (Less than 25,000):							
28. Apache County Justice Court	Sanders, AZ (Pop. 250)	32,000	6 months	1,000	S	12	6
29. McKinley County Magistrate Court	Gallup, NM (Pop. 15,000)	43,000	1 year	2,000	S	8	11
* 30. Mendocino County Justice Court	Willits, CA (Pop. 3,000)	3,000	1 year	1,000	I	12	6
31. Becker County Court	Detroit Lakes, MN (Pop. 6,000)	24,000	3 months	5,000	I	6	5
* 32. San Miguel County Magistrate Court	Las Vegas, NM (Pop. 14,000)	22,000	1 year	2,000	S	8	11
* 33. Barnes County Court	Valley City, ND (Pop. 8,000)	15,000	1 year	1,000	SP	9	8

KEY: * The courts asterisked (*) were visited by project staff to identify management problems.

OTP All crimes and offenses not punishable by imprisonment in the state penitentiary.

NGD No general definition of misdemeanor.

The same variables with respect to court organization, geography and demography were considered in the selection of field visit sites. In addition, specific operational variables of the individual courts influenced the selection process. These variables included judicial and non-judicial staffing patterns (e.g., courts that did/did not employ court administrators; courts with/without extensive staff support) and case assignment systems (e.g., master or individual calendar). Using these criteria, the twelve courts ranged from complex urban systems to rural courts having only a part-time judge.

A single staff member visited each court and spent two to three days interviewing the judge(s), court administrator or clerk, prosecutor, public defender or other regularly appointed defense attorney, probation director, chief of police, and other criminal justice system personnel (including deputy clerks, secretaries and police officers). Separate field interview instruments were drafted for the court, defense services, prosecution, police department, and probation services. When possible during the on-site visits, staff members spent time in court, usually observing procedures at first appearance. Also, informal court proceedings were observed where feasible and appropriate.

5. Mail Questionnaire Survey

Field observations and analysis of the literature served as the basis for determining typical procedures employed by misdemeanor courts and key administrative/management problem areas. To test the validity of these preliminary determinations, a mail questionnaire survey of misdemeanor court judges was undertaken. In the project proposal a "small, stratified random sample (N = 200) of chief judges" originally was intended to receive the questionnaire. However, since state court systems vary dramatically from one another and a prototypical misdemeanor court does not exist, the mail survey was expanded considerably. This provided a more complete information base for further research and testing of hypotheses. Also, the results of the survey minimized inaccurate or misleading interpretations of possibly aberrant field observation data.

The mail questionnaire inquired into a variety of court operational concerns and problem areas. The three major sections of the questionnaire dealt with:

— court operation;
— court problems; and
— background information.

Within these major groups, specific questions pertained to: caseload mix, sources and extent (if any) of case processing pressures, disposition modes, judicial participation in plea negotiations, prosecution of misdemeanor offenses, probation services, calendar control, administrative burdens, judicial satisfaction with court resources and procedures, size of court, and years of judicial service. (See Appendix II-A for a copy of the mail questionnaire.)

The questionnaires were mailed to a random sample of 25 percent of the judges in all courts

where it could be determined that:

- being a judge was the primary occupation of most of the judges on the court; and
- misdemeanor cases represented the most significant portion of the court's total workload.

The first criterion had the effect of eliminating courts with judges who are part-time in the extreme (e.g., the justice courts in New York, Mississippi and Texas). The second criterion eliminated general jurisdiction courts that handle both felony and misdemeanor cases. The resultant universe contained more than 5,000 judges of courts of limited jurisdiction in 49 states.[2] Using a 25 percent random sampling procedure the questionnaire was mailed to 1,366 judges. Judges surveyed in each state represented a proportionate approximation of each state's contribution to the universe of misdemeanor court judges. Three weeks after the initial mailing a follow-up was conducted. These efforts resulted in 743 judges returning the questionnaire representing an overall response rate of 54 percent. The geographic profile (i.e., urban, suburban and rural) of these respondent judges was representative of national population distribution.[3]

Questionnaire responses were coded and computerized for statistical analysis. Since these computer files were created, much of the operational and procedural data has been analyzed for various purposes during the life of the project. However, we are still analyzing portions of this data base.

6. On-Site Visits to Develop Innovative Management Techniques

As the preliminary analysis of mail questionnaire data was being performed, another mailing was conducted. Individual courts identified during the literature search as having initiated innovative management programs were contacted to elicit information concerning their programs. Over one hundred courts were contacted. Generally, these programs included innovative approaches to the following areas:

- records management;
- data processing;

[2] Illinois was the only state not polled in this survey. Although the Associate Judges of the Circuit Court in Illinois generally are limited in the criminal area to the handling of misdemeanor cases, many of these judges have been designated by the Illinois Supreme Court to hear any criminal case upon a showing of need. Thus, we were unable to identify the universe of judges handling misdemeanor cases in Illinois.

[3] Fifty-six percent of the judges indicated that the population 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 7 percent indicated that it was 250,000 — 500,000. Only 9 percent of the respondents indicated that their court served an area with a population of greater than 500,000. In 1970, 17 percent of the population resided in population centers of 500,000 or more; 5 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 (96th edition). Washington, D. C., 1975, p. 19.

- omnibus hearings;
- pretrial settlement conferences;
- arbitration;
- calendaring practices;
- use of volunteers;
- pretrial diversion;
- jury/witness management;
- community service programs; and
- innovations in probation management.

Subsequent to this mailing, a selective telephone survey was conducted to particular court administrative personnel, including respondents to the mail survey and other courts that had come to the staff's attention during the course of the project.

From these contacts eight innovative courts were selected for site visits. Each court administered one or more innovative programs in areas such as caseflow management, pretrial release, pretrial settlement conferences, probation, diversion and police citation procedures. Table Two lists the courts visited and their programs.

7. Advisory Committee Meeting

The remainder of Phase One was devoted to the systematic development of management innovations for presentation to the Advisory Committee at the conclusion of this phase.[4] Five topics were prepared for discussion at this meeting:

- caseflow management;
- community advisory board;
- pretrial conference;

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[4]At the time of this meeting, the Advisory Committee was composed of five members who represented varying judicial and administrative perspectives pertaining to misdemeanor court concerns. The five members were:

- Jerome S. Berg, Director, Administrative Office of the District Courts; Massachusetts (Misdemeanor courts' administrator);
- Honorable T. Patrick Corbett, King County Municipal Court; Seattle, Washington (Misdemeanor court judges);
- Professor Elmer K. Nelson, School of Public Administration; University of Southern California (Authority on court probation services); and
- Charles R. Work; Peabody, Rivlin, Lambert and Myers; Washington, D. C. (Practicing attorney).

Subsequently, a sixth member was selected when Judge Corbett was elevated to the Superior Court:

- Honorable Dorothy Binder, Adams County Court; Brighton, Colorado (Misdemeanor court judge).

- resource broker; and
- pre-court screening.

Input received from the five committee members prioritized three major substantive areas for further research:

- a community resource program that combines the community advisory board with the resource broker concept;
- caseflow management; and
- pretrial conferences.

TABLE TWO

On-Site Visits to Develop Innovative Management Techniques

	Court	Location	Programs
1.	Hennepin County Municipal Court	Minneapolis, MN Population: 434,000	Caseflow Management; Police Citation Programs; Preliminary Conferences
2.	Ramsey County Municipal Court	St. Paul, MN Population: 310,000	Pretrial Release; Diversion; PROJECT REMAND
3.	El Paso County Constitutional County Court	El Paso, TX Population: 322,000	Resource Broker; Probation
4.	Polk County District Court	Des Moines, IA Population: 201,000	Pretrial Release; Diversion; Probation
5.	Clark County Municipal and Justice Courts	Las Vegas, NV Population: 126,000	Caseflow Management; Mass Case Coordinator
6.	Minehana County Circuit Court, Magistrate Division	Sioux Falls, SD Population: 72,000	Caseflow Management; Effect of Organizational Changes to Single Level Trial Court
7.	Watonwan County and District Courts	St. James, MN Population: 4,000	Caseflow Management; Rural Court Administrator
8.	Administrative Office of the Courts	Frankfort, KY	Pretrial Release; Community Advisory Boards

In addition, a consensus was reached that the community resource and the pretrial conference programs were concepts most applicable to urban and medium size city misdemeanor courts. The caseflow management system was deemed most appropriate to small city and rural misdemeanor courts. The advisory committee members recommended additional research in each of these three areas. However, committee members agreed that pretrial settlement conferences could not be adequately tested in the context of a pilot project. Therefore, they recommended that the staff consider conducting research in jurisdictions presently using such conferences rather than designing a model for pilot project implementation.

Advisory committee members considered the fifth topic, pre-court/pretrial screening, too ambitious and costly an undertaking to pursue further. Also, this concept is being studied extensively by other organizations. Subsequent to the committee meeting, working drafts of innovative management techniques and research approaches in the three substantive areas were prepared by project staff. These drafts served as the basis of the program models discussed in the next section.

C. Phase Two: Workshops

Refinement and additional research of the three concepts developed during Phase One continued into the second phase. This phase lasted two months; its primary objective was to finalize the three management innovations using task force workshops as the final vehicle for achieving this goal.

1. Questionnaire Surveys

Prior to and during this phase, three questionnaire surveys were conducted to learn more about pretrial conferences and caseflow management systems. A telephone survey of 21 misdemeanor courts in cities over 300,000 population was conducted to determine the extent to which pretrial settlement conferences were used in these courts.[5] A mail questionnaire survey of 110 misdemeanor courts in cities less than 250,000 population was conducted to determine the types of caseflow management and monitoring systems used in these courts. Telephone follow-ups were made to selected court administrative respondents who indicated their court operated an effective case management system. The third questionnaire surveyed state court administrative offices and the nature and extent to which they provided management assistance to their respective misdemeanor courts.

2. Workshops

During the latter half of this phase the two workshops were administered. The first workshop brought together misdemeanor court actors from large and medium size cities while the second workshop included participants from small city and rural area misdemeanor courts. The community resource

[5] See, Chapter VI, footnote 5 of this report for a list of the 21 courts contacted in this survey.

program, being the most ambitious of the three areas, was discussed at both workshops. The pretrial settlement conference was discussed at the first workshop and the caseflow management system was discussed at the second.

Judicial and administrative participants were selected on the basis of their involvement in the aforementioned subject areas. Ten participants, selected for the two community resource workshops, represented different functions and viewpoints which would be important to the analysis of the proposed models. These 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.

Five participants for the pretrial settlement conference workshop were selected from the 21 courts surveyed earlier. Four judges and administrators whose courts participate in formal pretrial programs were invited to attend the first workshop. A fifth judge, opposed to the use of pretrials on efficiency grounds, also was asked to participate.

Five individuals possessing a day-to-day familiarity with misdemeanor case processing as well as those with a statewide system perspective were invited to attend the caseflow management workshop. Two judges, two court administrators and a former state court administrator presently administering a trial court were invited to the second workshop.[6]

Two weeks prior to the workshop, participants received an information packet discussing the efficacy and applicability of each of the proposed innovations. A problem or model was devised for each of the innovations with supplementary readings included in the packet. 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 two-day workshop session.

Both workshops were administered by the Institute for Court Management. Two staff members from the American Judicature Society, as well as the project consultant, attended both workshops.

The workshop format was designed to obtain the maximum amount of input from all participants. On Sunday evening task forces were orientated to the project and introduced to the project staff. On Monday two task forces were formed, each to address a particular innovation. All day Monday and Tuesday morning were spent discussing and evaluating the model. In so doing, the workshop participants developed their own model innovations. They also articulated the concomitant issues and court concerns which a misdemeanor court should address in order to successfully implement the innovations.

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[6] See, Appendix II-B for a listing of the workshop participants.

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. Proceeding in this manner helped to maximize the input from the workshop participants by providing an opportunity for all to comment on both proposed management techniques.

D. Phase Three: Pilot Project Implementation and Research

At the conclusion of Phase Two, the models and recommendations of the task forces were presented at the second advisory committee meeting. Committee members aided in prioritizing the components of the community resource program and caseflow management system and recommended an approach to the research being conducted on pretrial settlement conferences. Members' input was also sought regarding the manner in which pilot site selection should proceed with a tentative identification of sites willing to implement particular innovations. During this meeting, it was decided to pilot test the community resource program in one urban locale while pilot testing the case management system in two small city courts. In addition, committee members concurred that the pretrial settlement conference research should proceed in two locales to enable a comparative analysis of the conference's strengths and weaknesses.[7]

The research and the implementation process in three pilot sites began immediately following the advisory committee meeting. Detailed descriptions of the implementation process for the community resource program and the caseflow management system are contained in Chapters IV and V of this report. Chapter VI discusses the research conducted on pretrial settlement conferences.

E. Phase Four: Qualitative Evaluation and the Final Project Report

The fourth and final phase of this project required three months. During Phase Four, quantitative and qualitative analyses of the impact of the management innovations pilot tested during Phase Three were concluded. These results were synthesized and presented during the final workshop conducted in the third month of this phase.

At the Pilot Project-Evaluation Workshop judges and court administrative personnel from the three pilot project locales discussed and evaluated the effectiveness of management innovations tested in their courts. The implementation procedures employed during the pilot period were also discussed. Other participants in this workshop included project staff, advisory committee members, and the

[7] Three pilot test sites and evaluation research in two locales is another expansion of what was envisaged in the project proposal. Originally, only two courts - one urban and one rural - were to be selected for pilot tests and no evaluation research was contemplated.

project consultant. In addition, this workshop was used as a forum to articulate more succinctly the policy issues to be addressed in Part Two of the Misdemeanor Court Management Research Program. A final advisory committee meeting was held at the conclusion of this phase to obtain final committee input on the draft of the project report. On the basis of workshop results and committee recommendations the project staff revised and finalized the project report.

CHAPTER III

Misdemeanor Court Problem Identification and Prioritization

Court analysts have traditionally assumed that better management techniques and more resources would automatically improve misdemeanor court performance. Such assumptions fail to recognize both the complex environment within which these courts operate and the multiplicity of problems with which they are plagued.

Three sets of related problems have been synthesized from empirical evidence, including court observations, interviews with court personnel, responses to a national mail questionnaire survey, and an analysis of existing literature. Problems were grouped according to the type of locale in which they most frequently occur, their significance, and the degree to which they can be solved through judicially-initiated reforms. Each set thereby represents related prioritized court management problems which can be addressed by implementing innovations pilot tested in this project.

Because the problem sets do not include all problems identified, the findings of each research method will be presented first. Then each set of problems will be discussed. One critical caveat must be noted at the outset: there is no "typical" misdemeanor court; as indicated in Chapter I, the difference between urban and rural courts is particularly marked. Consequently, the problems plaguing different types of courts vary. These variations will be noted throughout the discussion.

A. The Literature

In 1967, the President's Commission on Law Enforcement and Administration of Justice listed volume of cases, the limited number and competence of court personnel, and administrative deficiencies as the primary "problems" afflicting misdemeanor justice. These conditions, the report concluded, collectively promote rapid case processing as the primary objective of the lower criminal courts.[1]

Since the commission's report was published, much has been written about the lower criminal courts. The literature has concentrated on relatively few operational deficiencies. The rapid rate of case processing, and its attendant phenomena of incomprehensible proceedings and indecorous atmosphere, are heavily criticized. Management areas such as case progress monitoring, resource allocation, deficient continuance policies, poor scheduling procedures, inadequate witness notification, and faulty recordkeeping are virtually unreported.

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[1] President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Courts 29 (1967).

A useful organizational framework for analysis of this literature is suggested by the court performance measurement system devised by John B. Jennings.[2] That system provides four broad evaluative categories within which system performance can be evaluated: quality of justice, processing efficiency, burden on participants, and peripheral criteria.[3]

1. Quality of Justice

A primary indicator of the quality of justice, according to Jennings, is the amount of attention given to individual misdemeanor cases. The literature suggests that such attention is generally inadequate, and offers several explanations. The most frequent of these is the volume of cases, a complex constraint. It is the product of legislative action (definition of crimes and allocation of jurisdiction) and social forces (the continuing increase in the crime rate). However, there is some evidence that perfunctory treatment of misdemeanor cases is likely to occur irrespective of caseload.[4]

Judicial attitude is another frequently cited factor. Some authors observe rapid case processing in the absence of caseload pressure and conclude that the motivating force is an inexplicable "desire to process cases as rapidly as possible."[5] Others attribute this desire to judicial boredom. Herbert Jacob describes the job of the criminal court judge as "mind-deadening" and "stupefying."[6]

Another school of thought holds that, although some measure of boredom is inherent in the work of misdemeanor court judges, a more significant factor is that judges underrate the importance of misdemeanor cases. Finally, an attitude bordering on antipathy is occassionally identified. It has been proposed that society undervalues misdemeanor justice, so misdemeanor court judges view defendants as unworthy of any treatment other than assembly line processing.[7]

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[2] John B. Jennings, Evaluation of the Manhattan Criminal Court's Master Calendar Project, Phase I (1972).

[3] Jennings contrasts these measures with the cost-effectiveness of operating a court system.

[4] Malcolm M. Feeley, "The Effects of Heavy Caseloads," paper delivered at the Annual Meeting of the American Political Science Association, San Francisco, September 5, 1975.

[5] Note, 24 Alabama Law Review 513-14 (1972).

[6] Herbert Jacob, Urban Justice: Law and Order in American Cities 67 (1973).

[7] J. Robertson, ed., Rough Justice: Perspectives on Lower Criminal Courts XVII-XXIX (1974).

Management deficiencies are commonly identified as a reason for the limited attention given to individual misdemeanor cases. These deficiencies are often cited indirectly: often authors imply the existence of a particular inefficiency by proposing a management technique designed to resolve it.[8]

A second measure of the quality of justice is the pace at which justice moves. The speed/delay question is rarely addressed in the literature. The single source that directly addresses the question of delay in misdemeanor cases suggests that, overall, case delay is not a common defect of misdemeanor justice.[9]

The quality of prosecution and defense, which can be analyzed most objectively from the perspective of continuity of representation, is a third relevant aspect of the quality of justice. Those authors, including Jennings, who have considered the issue of continuity of defense and prosecution have done so in the context of a master calendar system.[10] This suggests that the courts' control over the continuity of representation depends upon their control over their calendaring arrangements.

Finally, the quality of justice may be measured by the comprehensibility of court proceedings. If defendants do not understand proceedings,they cannot participate intelligently. If witnesses do not appreciate the difference between a dismissal and a continuance, they cannot cooperate effectively. Unfortunately, this extremely important measure is often treated as just one part of the larger question of individual attention and decorum.

2. Processing Efficiency

"Processing efficiency" can be evaluated in terms of two criteria: the use of judicial time and the frequency of lost convictions.

Frequently, it is suggested that judges are overburdened by administrative tasks and require professional administrative assistance. Such comments, however, do not seem directed principally toward the misdemeanor courts. The only relevant references simply indicate that misdemeanor court

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[8] See, e.g., N. Elkind, et. al., Implementation of Argersinger v. Hamlin: A Prescriptive Program Package 39, 54-55 (1974).

[9] Lucinda Long, "Organization and Innovation in Urban Misdemeanor Courts," unpublished Ph.D. dissertation, Johns Hopkins University, 1976.

[10] See, e.g., Note, "The All-Purpose Parts in the Queens Criminal Court: An Experiment in Trial Docket Administration, 80 Yale Law Journal 1637 (1971).

judges often spend less time on the bench than their caseloads seem to justify.[11] But, it is unclear whether this reflects administrative or attitudinal problems.

The frequency of lost convictions also draws occasional comment. The common observation is that defendants and counsel often adopt delaying strategies with the hope of waiting out prosecution witnesses.[12] Despite general acknowledgement of such behavior, no study has shown that dilatory tactics yield substantial results.[13]

3. Burden on Participants

Little has been written about the burden that court procedures place on defendants, witnesses (both police and non-police), and court-related agencies (including local corrections agencies). The only informative consideration of misdemeanor court witness notification practices, appearance scheduling and continuance policies, analyzed a procedure adopted by the Hamilton County Municipal Court (Cincinnati), which was designed to minimize the total number of witness appearances by revising arraignment procedures.[14] Court control over notification and related matters varies widely. In many courts such procedures are conducted by the prosecutor or police, and must be accepted as externally determined.

One aspect of the "burden on participants" that has received frequent attention is the arrangement of having only a morning call. This practice compels witnesses and bailed defendants to waste a considerable amount of time waiting for their cases to be called.[15] Unlike witness notification, responsibility for scheduling calls typically rests with the courts, so it is unlikely that present conditions reflect externally imposed limitations.

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[11] See, e.g., Harris,"Annals of the Law in Criminal Court," New Yorker, April 14 and 21, 1973, 45-88 and 44-87; and Mileski, "Courtroom Encounters: An Observation Study of a Lower Criminal Court," 5 Law and Society Review 473 (1971).

[12] See, e.g., Pye, Mass Production Justice and the Constitutional Ideal 31-35 (C. Whitebread II, ed., 1970).

[13] Laura Banfield and C. David Anderson, "Continuances in the Cook County Criminal Courts," 35 University of Chicago Law Review 259 (1968).

[14] Note, "The Municipal Court Misdemeanor Arraignment Procedure of Hamilton County, Ohio: An Empirical Study," 41 University of Cincinnati Law Review 623 (1972).

[15] See, Pye, supra n. 12, and Goldstein, "Trial Judges and the Police: Their Relationship in the Administration of Criminal Justice," 14 Crime and Delinquency 14 (1968).

4. Peripheral Criteria

Among the "peripheral" concerns that may be considered relevant to court performance, the question of dignity and decorum is noted with particular frequency in misdemeanor justice literature.[16] These criticisms may be separated into procedure-related and facility-related categories.

Herman Goldstein's criticism of single-call scheduling is clearly procedure-related.[17] Goldstein concludes that crowding 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.

On the other hand, findings presented in "Jury Trials for Misdemeanants in New York City: The Effects of Baldwin," indicate that the implementation of misdemeanor court jury trials raised the level of dignity in nonjury parts.[18] Such findings suggest that the basic problem is attitudinal.

Examples of facility-related criticisms are Robert J. Patterson, Jr.'s, "Our Lower Courts are Disgraceful,"[19] and Wayne E. Green's "Rough Justice? How the Law Works in a Criminal Court Run by a Busy Judge."[20] Patterson complains that courtroom facilities (particularly in New York City) are inadequate and contribute to undignified proceedings. Green offers the criticism, appropriate to many lower criminal courts, that the location of court facilities does not permit adequate separation of the police and judicial functions.

External constraints obviously contribute to these problems, but these undignified conditions are not entirely beyond the control of the courts. Appropriate procedures motivated by concern for dignity and decorum may moderate facility-related deficiencies.

B. On-Site Observations

On-site observations substantiated many of the concerns expressed in the literature and illuminated specific operational shortcomings unique to misdemeanor courts. The visits also indicated

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[16] See, e.g., L. Downie, Jr., Justice Denied: The Case for Reform of the Courts (1971).

[17] Goldstein, supra n. 15.

[18] Note, 7 Columbia Journal of Law and Social Problems 173, 191-92 (1971).

[19] 57 Legal Aid Review 5 (1970).

[20] Wall Street Journal, September 25, 1972, at 1, col. 1.

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

In all locales several complaints often were cited. Both urban and rural judges explained that insufficient resources and excessive caseloads hindered effective court opeations. Many judges who handled "excessive" caseloads felt that they were being asked to decide cases that were beyond the reach of the courts. Many judges felt they lacked the professional expertise or the resources to deal with the "societal" problems that confronted them on a daily basis.

These problems have dimensions both within and outside the court's control. The resource problem is a combination of the lack of adequate resources, the failure of the court to utilize existing resources in the most optimal manner, and the failure of the court to develop needed resources. Although courts often are unable to convince funding agencies to provide the courts with needed resources, courts often can better utilize existing community resources. This is particularly evident in communities such as El Paso, where court probation services were reorganized in order to more effectively utilize community service agencies in the treatment of misdemeanants. Similarly, the court could inform such agencies of the treatment needs of misdemeanant probationers and encourage these agencies to develop services to meet these needs.

The caseload problem also results from variables within and beyond the court's control. The legislature, not the court, defines crimes; and pretrial case screening is generally a prosecutional prerogative. Nevertheless, our observation of institutionalized pretrial settlement conferences in Minneapolis indicates that the court can effectively require that cases be screened before trial, and thereby gain some control over its caseload.

Facilities – office and courtroom space – were one resource often deemed deficient by the judges. These deficiencies differed 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, though 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]

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[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.

P. haps 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 shunned the misdemeanor court, preferring not to "waste their time" on petty offenses.[23] Several deputy or assistant district attorneys claimed their felony caseload prevented them from handling misdemeanors. Implicit in such claims is that the career mobility of both prosecutors and public defenders is enhanced by the successful handling of criminal cases involving serious offenses. Thus, the handling of misdemeanor cases is to be avoided because it 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 misdemeanor cases, 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] This situation identifies a serious consequence of the judges' attitudinal prediposition toward misdemeanor cases – the possibility that standards of due process can be completely disregarded.

The attitude that misdemeanor cases represent unimportant, undifferentiated types of offenses increases the boredom in 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 community social problems rather than truly "criminal" behavior. Rural judges, particularly, indicated that public drunkenness and private alcoholism are prime contributors to their misdemeanor caseloads. Nevertheless, few judges were aware of local agencies or programs, such as alcohol rehabilitation centers,

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[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 judges 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.

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 community services curtail the effectiveness of the judicial function, but many court services are not available to the misdemeanor judge. This further underscores his sense of unimportance and ineffectiveness. Probation services, where they exist, 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 deal with him directly.[29]

The typical misdemeanor court judge – particularly in a single judge court[30] – functions 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 productive 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 results are boredom and frustration.

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[26] Public drunkenness was specifically cited as a significant factor in contributing to the misdemeanor caseload by judges in Las Vegas, New Mexico; 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. Government Printing Office, Washington, DC, 1973, p. 2.

Another prevalent condition found 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 of the four urban courts visited, court personnel were dissatisfied with performance.[32] 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 identify problem areas within their system. Most judges, particularly rural ones, possessed only a vague notion of the average length of time required to process a case. Many of them believed intuitively that continuances did not constitute a problem with respect to caseflow. However, neither they nor their clerks substantiated such notions with accurate data.[33] This attitude is suspect because many prosecutors reported that continuances were easily obtained. In some locales the prosecutor served as the de facto court scheduler, instructing the clerk when to set particular cases and suggesting which judge was to be assigned.[34]

Many rural misdemeanor courts also defer to the police on certain administrative matters that should either be handled by, or be under the direction of, the court. The police, in conjunction with the prosecutor, usually determine when and how often defendants will be transported to the 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 before delivering them for their initial court appearance.[36] Again, judges have not attempted to intervene or otherwise counteract this behavior.

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[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.

[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.

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 minor traffic or serious misdemeanor cases, between jury and nonjury cases, between recidivists or first offenders, and between continuance-prone or conscientious attorneys. Although there is some evidence that, overall, delay is not a common problem in misdemeanor courts,[37] our field visits indicate that there is significant delay in certain types of misdemeanor cases (e.g., jury demand cases, cases involving complicated fact situations or numerous witnesses, etc.) Because these "non-routine" or "problem" cases generally constitute only a small percentage of a court's total misdemeanor caseload, they are not adequately reflected in overall case delay statistics. However, they are significant, and the knowledge that such cases will incur lengthy delays may discourage defendants and defense counsel from exercising certain rights (e.g., the right to a jury trial), from trying the case as it should be tried, or even from bringing the case to trial. The fact that rules or mechanisms to monitor and control the flow of cases within the court do not exist may, therefore, seriously affect the rights of many defendants.

Urban courts are handicapped in controlling caseflow by the high incidence of plea bargaining.[38] Since this bargaining is rarely formalized or controlled by the court, it can create havoc on the day of trial.[39] This emphasizes that the inefficiency of many courts' scheduling techniques results from organizing the calendar around the trial, which most often does not take place. Plea negotiations in urban courts result in a high incidence of case "fall-out" before trial.[40] As a consequence, there is an inaccurate calendar that wastes the time of judges, police officers, and witnesses. In many cases it may also result in the underutilization of jurors.[41]

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[37] See, Long, supra n. 9.

[38] All four urban courts were found to be dependent on plea bargaining to achieve dispositions while only one rural court emphasized the negotiation process. In Norfolk, Virginia, the prosecutor explained that misdemeanors are routinely subjected to plea negotiations "sight unseen."

[39] 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.

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

[41] 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.

Beyond having adverse effects on case processing efficiency, lack of court managerial attention to the plea negotiation process can adversely affect the quality of justice. If the negotiations are hurried 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 his plea.

Scheduling difficulties are further aggravated by the priorities of 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. None of the locales visited had seriously attempted to correct this situation by coordinating the misdemeanor court, the general trial court, and other local criminal justice system organizations.

C. Questionnaire Survey

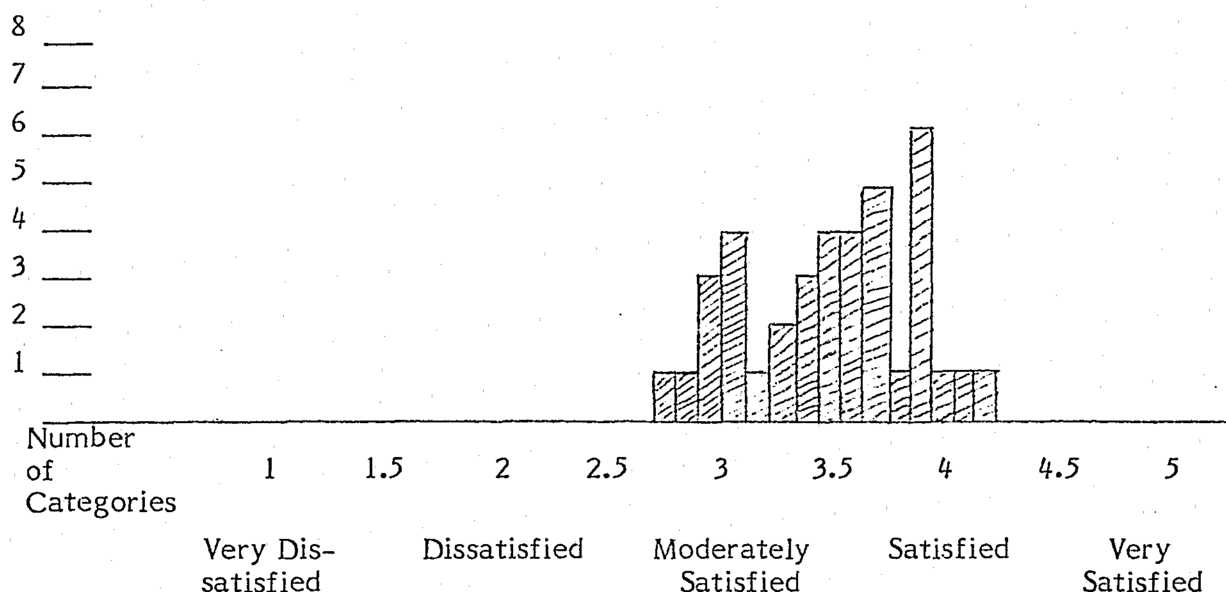
The survey described in Chapter I measured misdemeanor court judge satisfaction with court resources and procedures, thus allowing judges to identify such problems in their courts. Judges were asked to indicate their satisfaction with 16 types of resources which might be available to a misdemeanor court and 22 administrative procedures which might be employed. They responded on a five point scale, ranging from "very satisfied" (5) to "very dissatisfied" (1); respondents could also refrain from rating if the resource or procedure was "not used" (0). These responses were aggregated first by judge, generating a distribution of judicial satisfaction with all available procedures and resources; second, they were aggregated by resource/procedure, generating a ranking of resources and procedures according to judicial satisfaction. Judicial responses indicate that misdemeanor court judges generally are satisfied with misdemeanor court resources and procedures. This is reflected in Figure One. This satisfaction could indicate that resources and procedures generally are adequate, or that judges fail to perceive their inadequacy. On-site observations suggest that the second explanation is valid because court personnel tend to identify external factors as the major misdemeanor court problems.

Judicial satisfaction with particular procedures and resources are presented in Table One. No correlations have been found between judges' levels of satisfaction with resources and procedures, 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 versus nonlawyer) or years of judicial service.

Nevertheless, three basic observations can be made regarding the data presented in Table One.

FIGURE ONE

Judicial Satisfaction with Resources
and Procedures (Mean Responses)



First, respondents usually are satisfied with most resources and procedures presently at their disposal. Second, judges are more satisfied with procedures (Mean = 3.54) than resources (Mean = 3.24). Third, judges are more satisfied with repetitive daily procedures (such as accepting guilty pleas, and scheduling first appearances) than with less frequently used procedures (pretrial screening, civilian witness notification, etc.)

Eleven of the twelve highest mean responses (3.6 to 4.1) were given on procedures. On the other hand, the six 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 imperfect knowledge of how these procedures operate. It is possible that these procedures rated as high as they did because many judges delegate such functions to a clerk or assistant. Consequently, the judges may not be fully aware of problems in these areas. Allocations for salaries and extraordinary budget items are listed as least satisfactory. These latter two resources, 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.

Of further interest are the resources deemed to be 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.

TABLE ONE

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

*This column indicates whether the indep ndant variable is a resource (R) or procedure (P).

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

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

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 percent). 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 does not exist. Also, in a separate question on the availability of presentence reports, 64 percent of all judges indicated that they are "infrequently" or "never" used. These data support the site observations that such court support services are insufficiently available to misdemeanor courts and that misdemeanor probation services, where available, are hampered by large caseloads.

Diversion programs and pretrial screening are viewed as the 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.

The relatively high levels of judicial satisfaction with court resources and procedures, coupled with the lack of correlation between satisfaction levels and external variables, appear to be inconsistent with our on-site observations concerning the problems of misdemeanor courts. However, these apparent inconsistencies are readily explained. Our experience with field interviews indicated that participants' and observers' perceptions of the court system under observation varied greatly; problem definition depended 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.[42] 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.

Survey findings indicate that a critical problem with misdemeanor courts is that judges and court personnel do not adequately perceive administrative problems. They are too uncritical of practices which lack administrative efficacy and 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

[42] 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.

courts in different parts of the country – may be hampered by organizational pressures (including judges' own career mobility) to conform. 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.

D. Prioritization of Misdemeanor Court Problems

The problems identified do not lend themselves to presentation in prioritized, laundry-list fashion. Many problems seem to be indigenous to particular types of locales, while other problems plague all misdemeanor courts indiscriminately. Some problems can be addressed directly by court management innovations, while others can, at best, be affected indirectly only 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." The sets are presented in prioritized order, determined by:

— the generality of the problem;
— the extent to which it impedes attainment of the goal of misdemeanor courts: individualized justice in individual cases; and
— the degree to which the courts are able to effect a solution.

1. Problem Set One

The first set of problems can be found in all misdemeanor courts. For this reason, and because rapid case processing is symptomatic of these problems, they have been given first priority. This grouping includes:

— insufficient resources to allow the court to accomplish its goal of individualized justice in individual cases;
— underutilization of available resources that result in the withholding of general court services, such as probation and diversion programs;
— misdemeanor court isolation from the local community, the local criminal justice community, and other courts within the local and state court system; and
— judicial and societal undervaluation of misdemeanor cases.

The Community Resource Program (CRP), analyzed in Chapter IV, addresses this problem set.

2. Problem Set Two

Although these problems exist in both urban and rural courts, they are most prevalent in smaller city and rural area courts. This set of problems should be given high priority, because, as previously

noted, more than 80 percent of the nation's limited jurisdiction courts operate with a single judge. Furthermore, the deficiencies inherent in this problem grouping directly affect a court's ability to manage its resources effectively. Thus, the general failure of misdemeanor courts to develop the means to identify and critically analyze their problems is symptomatic of this problem set, which includes the following deficiencies:

— lack of case processing standards;
— failure to monitor case progress and to maintain case and caseflow information statistics;
— inability to adequately resolve scheduling conflicts; and
— inability to deal adequately with continuance requests.

The Caseflow Management and Information System (CMIS), analyzed in Chapter V, addresses these problems.

3. Problem Set Three

The third set of problems is encountered most often in courts in the larger cities. It is given third priority not because 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. Nevertheless, short of acquiring additional resources (e.g., more judges, administrative staff), management innovations could temper the following problems:

— indecorous and somewhat chaotic misdemeanor courtroom environments;
— heavy case "fall-out" on the day of trial, resulting in the inefficient use of judicial time, underutilization of jurors, and inconvenience to police officer and civilian witnesses; and
— lack of sustained judicial attention to individual misdemeanor cases.

As indicated in Chapter I, 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. Our field observations also indicate that the lack of attention that many urban courts give to the pretrial negotiation process results in significant management problems. Therefore, we studied the use and effects of institutionalized pretrial settlement conferences with the basic findings set forth in Chapter VI.

CHAPTER IV

Community Resource Program

Most misdemeanor courts face serious resource problems. Often, their communities possess insufficient resources or underallocate their resources to these courts. Just as often, misdemeanor courts underutilize available resources. For example, rural courts generally do not have adequate alcohol treatment facilities and programs at their disposal to aid them in treating alcohol-affected misdemeanants. On the other hand, urban courts infrequently employ such programs and facilities even though they are usually available.

The sources of misdemeanor courts' resource problems are diverse. The insufficiency of resources often stems from the nature of the locality within which they are located: rural courts simply have few facilities or programs which they can utilize. The lack of resources just as frequently stems from the fiscal crisis which faces government at all levels.[1] Many communities simply lack the tax revenue to finance adequate facilities, personnel, and support agencies.

The misdemeanor courts also underutilize available resources. Judges are not always aware of the treatment facilities and programs within their communities. Misdemeanor probation departments, where they exist, are frequently unfamiliar with community resources.

The lack of awareness of community resources is symptomatic of the isolation of these courts from the communities which they serve. This isolation is ironic, for much misdemeanant misbehavior reflects widespread social problems, particularly overconsumption of alcohol.[2] In a sense, misdemeanor courts function as social agencies which deal with certain minor yet pervasive social problems. The social nature of many misdemeanors often frustrates judges because they lack sentencing alternatives appropriate to address these problems.

One source of these courts' isolation is social and judicial undervaluation of the significance of misdemeanors. The similarity of most misdemeanor cases and the massive caseload combine to bore and frustrate these judges. Judicial boredom and frustration obscure the significance of the large caseload and the repetitiveness of misdemeanor cases: that they reflect pervasive social problems which are insignificant in individual cases but collectively quite important.

The Community Resource Program (CRP) was designed to more fully utilize community resources and probation services by the court, and to provide the court mechanisms to develop resources

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[1] See, generally, James O'Connor, The Fiscal Crisis of the State. New York, St. Martins' Press: 1973.

[2] In Tacoma, for example, a "needs assessment" of the client populations' needs indicated that at least 2/3 of their caseload had alcohol-related problems.

previously unavailable. Better resource development and utilization should decrease isolation by forging stronger ties between the court and the community. By providing judges with tools fitted to deal with the social problems they face, judicial frustration and boredom should be reduced.

The CRP integrates five components to achieve these twin objectives:

- Citizen Advisory Board (CAB);
- Community Resource Brokerage (CRB);
- Community Service Restitution (CSR);
- Expanded Volunteer Services (EVS); and
- Information and Evaluation System (IES).

With exception of the CAB, none of these components is novel. Collectively, however, these components represent a comprehensive approach to expanded utilization of comunity resources by the court. By interacting in ways described below, the effectiveness of the CRP is greater than the sum of its parts.

A. Model Components

In this section, the goals and basic structure of each component are discussed. The operational details were developed during implementation, and are discussed below in a subsequent section.

1. Citizen Advisory Board (CAB)

This component is the most innovative of the program components. The concept is borrowed from the juvenile court field where, for years, juvenile courts have utilized advisory boards to support the procurement of probation, detention, and community agency services.[3] Another goal for these boards has been to improve court liaison with external community agencies and the public. While some juvenile court advisory boards have not been successful, their success in certain communities suggests their potential value in a lower criminal court.

Advisory boards may have differen[illegible]ls, structures, and memberships. One model stresses community input, with the ultimate goal of reducing court isolation by providing a communication channel between court and public. Another model strives to increase communication between different members of the local criminal justice community by gathering representatives from the police, prosecutor's office, public defender's office, other correctional agencies, and the bar. A third type of

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[3] The literature on citizen advisory groups is not extensive. See, Frank Sleggart, Community Action Groups and City Governments: Perspectives from 10 American Cities (Cambridge, Mass.: Ballinger Publishing Co., 1975); and Helenan Lewis, David Houghton and Susan Hannah, "Th[illegible] Effectiveness of Local Citizen Advisory Bodies: Expectations and Realities," paper delivered at the 1978 Annual Meeting of the American Society for Public Administration, April, 1978.

board is designed to provide advice, criticism, and technical assistance to the court by including members with managerial expertise and knowledge of community resources. A final model emphasizes political influence, with the aim of assisting the court to obtain needed resources from funding agencies. While these models are presented here as pure types, in practice, any CAB could be a hybrid.

2. Community Resource Brokerage (CRB)

Standard 10.2, Corrections, National Advisory Commission on Criminal Justice Standards and Goals, urges that "the primary function of the probation officer should be that of community resource manager for probationers." This approach replaces traditional probation counseling with systematic assessment of client needs[4] along with client referral to community agencies specializing in particular forms of service delivery.

The theory underlying resource brokerage is rehabilitative. It assumes that misdemeanant misbehavior reflects social problems and needs, and attempts to eliminate or reduce misbehavior by treating its sources. Its goals are expanded court utilization of existing community treatment agencies and programs and court promotion of the development of the types of agencies and programs the court could utilize in misdemeanant treatment.

By utilizing and developing community resources in this way, the court should reduce its isolation from the community. Judges' frustration at being unable to address the social roots of misdemeanors should be reduced by the provision of better services for misdemeanants. Resource brokering will also increase dialogue between the court and community agencies.

To be successful, resource brokerage requires an adequate number of community agencies and programs. Thus it is more likely to be successful in urban areas than in rural ones. Brokerage can be implemented only where there is a misdemeanor probation program, for it requires the reorganization of probation services. The goal of reducing judicial isolation probably is best achieved by a judicially administered probation program, for executive agency departments would remove the court from contact with community agencies one step further.

Resource brokerage has two basic operational characteristics: the brokering of clients to community agencies and treatment programs, and the development of probation staff specialization in particular areas of client needs. These characteristics are related.

Client brokering requires identification of client needs and matching each client to a community agency or program that specializes in treating the identified problems. Need identification requires

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[4] Ted Rubin, "New Directions in Misdemeanor Probation," 60 Judicature 435 (1977).

certain diagnostic functions be performed at intake, a "needs assessment". It further requires knowledge of the "problem-mix" facing the department (a function of the type of locality and state law, among other things) and of the types of services available.

Staff specialization facilitates need and expanded knowledge of community resources: one staff member can specialize in client diagnosis at intake, another in drug treatment programs, another in alcohol services, another in employment and vocational training, and so on for each area of client needs. Because many clients have more than one problem (X, an unemployed vagrant, consumes too much alcohol and takes drugs), a pooled or partially pooled caseload can be maintained, enabling the client to receive the attention of staff members specializing in each client's identified need areas.

The CAB can aid in the implementation and operation of resource brokerage by identifying existing community service agencies which could be utilized and by encouraging the development of needed agencies and programs . It can promote improved service delivery to probationers by existing community agencies by providing input to the agencies.

3. Community Service Restitution (CSR)

Community Service Restitution is a sentencing alternative which requires the misdemeanant to perform services for public or private community agencies.[5] Like resource brokerage, it utilizes community resources in the treatment of misdemeanants. It also reduces judicial isolation and frustration by allowing judges to deliver useful services to the community and to reintegrate misdemeanants into the community.

CSR performs this reintegration in several ways. It avoids the stigma of jail, which may be inappropriate for many misdemeanors and harmful to many misdemeanants. It also avoids the financial burden of fines that particularly affect indigents. Furthermore, it allows the misdemeanant to regain self-esteem, and self-confidence by constructively aiding the community. Finally, it can provide the offender with work experience and credentials which will aid him in obtaining regular employment.

The mechanics of CSR are simple. After presentence investigation, the judge sentences the offender to perform a fixed number of service hours. The precise number of hours is determined by establishing a quasi-wage rate for service, $3.00/hour, for example, and dividing the amount of the fine for the particular offense by the rate. Other methods could be used to determine hours. The precise nature of the service to be performed can be specified by the judge or the probation department, or the

[5] See, James Behn, Kenneth Carlson, and Robert Rosenblaum, Sentencing to Community Service (Washington, D.C.: GPO, 1977); and John Harding, "Community Service Restitution by Offenders", in Restitution in Criminal Justice, Joe Hudson, Burt Galaway, eds. (Lexington, Mass.: D.C. Heath and Co., 1977).

probationer can select his job slot from the array of agency locations the department has aggregated.

CSR can interact with other CRP components. In exchange for providing service hours to different agencies, the probation department could receive higher priority for clients in need of direct services from those same agencies. The expanded volunteer services component could locate agencies willing to utilize restitution hours, and monitor compliance with court-ordered restitution. The CAB could assist in recruiting these agencies and assist with problems which might arise from such a project.

4. Expanded Volunteer Services (EVS)

While not a new concept, [6] the addition or expansion of volunteer utilization by a court or probation agency also employs a valuable community resource in service of the misdemeanor court. Volunteers can bring both knowledge and skills to a court, enrich probation services and perform a myriad of tasks at little cost.

While volunteers in probation have traditionally been used as counsellors, in the CRP they would primarily be used to perform administrative and monitoring functions. Volunteers could be particularly useful in monitoring clients involvedin resource brokerage and CSR. They could also be utilized by the CAB to perform administrative, clerical, court-watching, and other functions.

5. Information and Evaluation System (IES)

Finally, CRP performance should be monitored to determine whether CRP components should be continued or modified, and to provide information useful to administration of these programs. Quantitative and qualitative evaluation measures provide an objective program assessment for judges, probation officials, and the CAB. [7]

6. Summary

The community resource program should have a number of significant effects. It should enourage interagency communications and provide the court with needed support services. Expanded utilization of community resources should mitigate the frustration and boredom inherent in the role of judging in these courts. The resource broker role of the probation department expands the sentencing alternatives available to misdemeanor judges. It promotes the health, employment, housing, and legal needs of probationers.

[6] See, Donald Beless, William S. Pilcher, and Ellen Jo Ryan, "Use of Indigenous Nonprofessionals in Probation and Parole," Federal Probation, March 1972, p. 10; William Burnett, The Volunteer Probation Counselor 52 Judicature, 285 (February 1969); Keith Leenhouts, "Volunteers in the Lower Courts," 55 Judicature 239 (January 1972); Ivan Scheier, Using Volunteers in Court Settings, (Washington, D.C.: GPO, 1969).

[7] See, Beka, et al., supra, pp. 45-60.

The CAB focuses community concern on the operations of misdemeanor courts. It could initiate changes responsive to community and court needs. The CAB could also be an institutionalized problem-solving entity for the court. The involvement of lay citizens, on the board or as volunteers, taps a latent reservoir of knowledge and talent. Lay citizens can both perform judicial oversight and help attain improved management techniques.

Having described CRP components, the problems they address, and how they individually and collectively address them, we now turn to a discussion of the research objectives of CRP pilot testing. After research methods have been identified, the implementation and operations of each component will be described and analyzed. Evaluation criteria will be identified in the discussion of each component below. Finally, tentative conclusions will be offered. These conclusions will focus on the implementation process.

B. Research objectives

Because of the short duration of the pilot-test period, pilot-test goals were limited. The goals were to:

- -- determine the feasibility of implementing the CRP;
- -- identify and evaluate the operational characteristics and problems of the components individually and collectively; and
- -- identify and analyze the implementation strategy employed.

The first objective asks whether the components can be made operational. The second probes the operational structure and function of the components, inquiring into how the components operate and what problems arise in their operation. The goal here, however, is not to quantitatively assess the effectiveness of the components, but to identify critical operational variables and to qualitatively evaluate them. The third objective explores the process of making the components operational. It requires investigation of the forces, choices, and conditions which facilitated or hindered implementation.

C. Research Methods

1. Site selection

Because the CRP is a complex set of components, it was anticipated that it would be difficult to find a court willing to undertake the entire program and one which possesses the managerial competence to execute it. The two most innovative parts, CAB and CRB, were deemed necessary conditions for implementation; the remaining components were judged desirable, but not critical. It was known that the CRB had been adopted in at least two misdemeanor courts: El Paso, Texas, and Kansas City, Missouri.

Like most misdemeanor courts, however, neither of these courts possessed a CAB component. Additional site selection criteria were employed:

— an urban court in a community of at least medium size;
— a court with a judicially-administered probation agency or a local probation agency primarily responsible to the misdemeanor court judiciary;
— a community having a substantial number of service agencies;
— a community with a significant crime problem; and
— a court and a probation agency which were not fully satisfied with their present achievements.

The site selected was District Court #1 of Pierce County, Washington, and the Pierce County Probation Department, both officed in Tacoma. The possibility of implementing the CRP in Tacoma was first discussed with the court administrator, and then with the probation director of the Pierce County Probation Department. The entire program was discussed further with the acting presiding judge of that court.

During July, 1977, the judges of District Court #1 agreed to invite a project staff representative to Tacoma for discussions concerning the CRP. On July 28, 1977, the judges voted to implement this program.

2. Methodology

The CRP has been evaluated in predominatly qualitative terms. Consequently, the main research tool was the interview. These interviews were conducted by project staff during the course of six onsite visits. Interviewees included: the judges of the court, the court administrator, the probation department director, probation professional staff, probation clerical staff, CAB members, and probation volunteers. Interviews were conducted before and during implementation to:

— ascertain the goals and operations of the court and probation department prior to implementation; and
— thereby identify changes in attitude and operations effected by implementation.

Court and probation department documents and reports also were examined by project staff.

Quantitative evaluation was rendered impossible by the short duration of the pilot test. Because CSR,CRB, and EVS were not operational during the test period, statistical data on referrals, treatment success rates, and recidivism rates could not be collected.

D. Site Description Prior to Pilot Implementation

In order to properly assess the organizational, operational, and attitudinal changes effected by CRP implementation, and to understand the ways in which existing relationships, conditions, and

operations affected implementation efforts, it is necessary to describe the structure, operation, and history of the court and its probation department. This section therefore examines the organization of the court and probation department, the attitudes of probation staff and judges, and the history and performance of the probation department prior to implementation. This information will provide a baseline against which to compare the changes resulting from implementation.

1. District Court #1

a. Environment and organizational framework

Pierce County is the second largest county in the state of Washington and has a population of approximately 411,000. Two of its dominant economic forces are the lumbering industry and the Fort Lewis Military Reservation. Wood product firms manufacture plywood and paper products, among other items. Tacoma has a major deep water port, and is served by three transcontinental railroads. County labor unions are politically influential. Service industries and agriculture are also important segments of its economy. Pacific Lutheran University and the University of Puget Sound are located within the county; there are two community college districts, Fort Steilacoom and Tacoma.

District Court #1, housed in the County-City Building in Tacoma, is the largest of the four district courts in the county. It has the highest volume of cases, and serves the widest geographical area. In 1979, District Court #2, located in Gig Harbor (also in Pierce County), will merge with District Court #1. There also are municipal courts in the city and the county.[8] Neither the district courts nor the municipal courts are courts of record.

District Court #1 is served by three full-time elected judges and by the Gig Harbor District Court Judge, who sits in District Court #1 as a commissioner-judge four days each week. The court's major caseload consists of criminal misdemeanors, civil complaints to a maximum of $1,000, and traffic offenses. In 1978, the civil jurisdiction will be increased to a $3,000 maximum. The court's case volume in 1976 was 37,932 cases. For 1977, the case volume is projected at 40,000 filings. In recent years, annual case volume growth has been approximately seven percent. The court's 1976 budget was $436,071 and its 1977 budget was $667,787. The court's revenues approximate or slightly exceed

[8] The jurisdiction of the municipal courts is limited to municipal ordinance violations. The district court's jurisdiction encompasses misdemeanor and gross misdemeanor violations. These jurisdictional differences result in a difference in the case-mix each court refers to the probation department. All of the criminal referrals come from the district courts served by the department though most of the referrals from these courts are traffic-related. Nevertheless, the impact of municipal court referrals on the case mix faced by the probation department is small: District Court #1 accounts for 73% of all referrals to probation. The crucial point is that staff estimates 75% of the clients' problems are alcohol related. Fully 54% of all cases referred to the department are Driving While Intoxicated. The second highest offense category, Larceny, accounted for only 8% of the probation referrals in 1977. See, 1977 Annual Report: Pierce County Probation Department.

expenditures. The probation department, however, submits its own budget.

The judges are not organized into criminal, civil, or traffic divisions, but hear all types of matters within the court's overall jurisdictions. Court policies are determined by majority vote in collegial meetings.

With the assistance of its first professional court administrator, the court adopted numerous innovations during 1977. Among the changes were:

- establishment of a traffic violations bureau on the first floor of the county-city building.
- institution of "trial by declaration" , a process to simplify access to the court for minor traffic violators;
- promulgation of comprehensive local court rules;
- redesign of the automated data processing operation;
- revision of accounting procedures and new cashiering equipment;
- an audit of internal records;
- introduction of a micro-fiche system of recordkeeping for case indices;
- an integrated five year case history index;
- review of its jury management system; and
- procurement of technical assistance services designed to assist the court's request for reorganization of its courtrooms and clerical space.

b. Attitudes of judges

Judicial attitudes regarding CRP feasibility were probed prior to implementation for two reasons. First, this would allow comparison to later held attitudes, indicating whether they became less or more enthused about the components. Second, judicial attitudes prior to implementation could affect implementation. To analyze these effects, it was necessary to identify the attitudes.

(1) Citizen Advisory Board

While the judges, as a body, generally supported CAB implementation, there was a significant variation in judicial attitudes. Two judges were enthusiastic, one mildly enthusiastic, and the fourth extremely pessimistic about the CAB's potential.

One enthusiastic judge felt that the board would provide a pool of expertise that could be drawn upon by the court. She emphasized that the nature of the membership would allow the board to analyze community needs and the resources available to fulfill those needs. She also felt that judges would use the board frequently. She saw public relations for the court as a primary function of the CAB, and was disappointed that the influential chairman of the Central Labor Council refused appointment to the board.

The second enthusiastic judge had initiated a small advisory group during the 1960's to work with

him . Although that group had been disbanded after accomplishing its limited objectives, the judge had hoped to reestablish the board on an ongoing basis.

The mildly optimistic judge felt that the differing backgrounds of the membership would generate suggestions helpful to the court. He had given little consideration to possible objectives for the board, however. Drawing from his experience with community boards, he indicated the fear that the CAB might become "another PTA".

The fourth judge saw little hope that the board could perform any useful function. It could not be used as a panel of experts to advise the court in matters of judicial administration because it was unlikely it would possess such expertise; even if it did, the judges would not know how to utilize it properly. Furthermore, the select nature of the membership would preclude grassroots input to the courts. On the other hand, the board could not be sufficiently influential to make any impact on community opinion or on community decision makers. Finally, he concluded, the interest of the members would dissipate within two years, resulting in the board's internal collapse.

(2) Probation program

In general, the judges favored the probation components of the CRP. The judges also supported the CSR program. They earlier had given approval for the probation department to initiate volunteer recruitment. They had difficulty, however, in understanding Community Resource brokerage. Nevertheless, their strong community orientation facilitated acceptance of the probation redesign. The judge who was pessimistic about the CAB also lacked confidence in the probation department and, therefore, was pessimistic about the potential for probation improvement. He had little faith in the competence of the probation director and most of the probation staff. He nevertheless voted with the other three judges to adopt the probation components, perhaps assuming that these changes could not make probation services any worse and might lead to minor improvements.

2. Pierce County Probation Department

a. Organizational framework

The department was established by the County Board of Commissioners in 1971 to serve District Court #1. A state statute authorizes local initiation of such programs through local funding. The county ordinance authorizes the probation department to make services available to other district courts and municipal courts in the county on a purchase of service basis. During 1977, 73% of probationers supervised by the department were referred by District Court 31, 11 percent by the Tacoma Municipal Court, and the remainder from a variety of other lower courts in the county. The department's approved budget for 1977 was $190,221. The department requested nine dollars less for 1978 than its approved 1977 budget, and anticipated offsetting revenues from sale of services to local

courts in the county of $35,600. The department is negotiating with several municipal courts to provide probation services for the first time.

During Fall, 1977, as part of a county budget retrenchment, the probation department was advised that its staff would be reduced. Two special hearings with the county commissioners, attended by probation department and judicial representatives, restored this staff cut. From October 1, 1974, until May 2, 1977, the probation department also administered El Cid, an adult pretrial diversion program. El Cid, which had initially limited its function to providing a wide variety of nonresidential services to first offense misdemeanants, added property felony cases to its eligibility group at the end of 1975.

In May, 1977, El Cid, on the recommendation of the Pierce County Probation Department director, was transferred to the administration of the county prosecutor's office. Nevertheless, El Cid maintains a very close working relationship with the probation department.

The department consists of a director and seven probation counselors. Although a local mental health center assigns a professional staff member full time to the department to provide mental health services to probationers, this position may be discontinued due to funding restraints.

Major probation staff duties include the preparation of presentence reports and supervision of misdemeanant probationers. Probation officers also prepare post-sentence reports, make referrals to external service agencies, monitor anti-abuse medication, supervise a limited number of jail inmates placed on work release programs, and conduct jail interviews.

Before the implementation of the pilot project, the seven Pierce County probation counselors maintained individual caseloads. The average caseload was approximately 100, though actual caseloads ranged from 75 to 125, varying by counselor and the time of the year. There was some specialization on staff, certain counselors having training or experience in the areas of drugs, alcohol, sex education, and orthomolecular diagnosis. Clients, however, were seldom allocated to counselors according to specialization because of the volume of cases and each counselor's large caseload. Consequently, each counselor was required to assist probationers over a wide variety of areas. Departmental guidelines required each probationer to meet with a counselor a minimum of once a month. Counselors typically met with ten to twenty clients per week. These meetings were held almost exclusively in the counselor's office, though field visits were occasionally made. Visits averaged an hour in length. Nevertheless, counselors spent more time per month with clients who were considered to be higher risks, or who had more numerous or complex problems. It was estimated that 40 clients out of approximately 700 currently require more intensive treatment.

Traffic offenders represent approximately 70 percent of the supervision caseload.[9] Within this

[9] 1978 Annual Report, Pierce County Probation Department.

group, driving while intoxicated cases total more than 73 percent of the traffic charges. Among criminal misdemeanors, the largest group is larceny (31 percent), followed by assault (16 percent), and disorderly persons/resisting arrest (12 percent). Approximately 85 percent of the department's clients are white and male. Fifty-six percent of clients have an annual family income of less than $5,000. Fifty-two percent of clients are employed full-time.[10]

b. Pre-implementation performance

Reliable, quantified data on the impact of probation on treatment and recidivism were extremely scarce for the pre-implementation period. While the opinions of judges and probation staff varied as to the current effectiveness of the program, there was some consistency in their evaluations.

Several staff members, including the director, felt that the department was not satisfactorily achieving its goals, including the provision of quality services to probationers, response to clients' needs, and community involvement in probation. Reasons given for this failure included the inadequacy of community services, the inconsistent quality of existing services, low client motivation, and the failure to define objectives for the department. Most staff felt that generally probationers perceived probation as helpful to them.

No current statistics are available on recidivism or employment status after termination. Probation staff recidivism estimates ranged from 2 percent to 70 percent, though most estimates fell between 5 percent and 15 percent. A three year study of the probation department, completed in 1975 and conducted by the county Law and Justice Office, found a 30 percent recidivism rate after three years.

E. Description and Analysis of Component Implementation

In this section, we will describe the process of implementation of each component, explain and evaluate the structure and operation of the two components which were succesfully implemented, CAB and CSR, and analyze the problems encountered in implementing all five components.

1. Successfully implemented components: CAB and CSR

Of the five components introduced, only two of them, CAB and CSR, were successfully implemented during the pilot-test period. Here we will explain the process by which they were implemented, how they operated , and why their implementation was successful.

a. CAB

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[10] Id.

(1) Description

CAB implementation began in August, 1977. The court administrator assisted in the creation of the CAB, and planned and coordinated the first meeting. She solicited prospective names from all four judges and from the directors of the probation department and El Cid. Judges conferred with acquaintances and community elites to obtain prospective nominations. The names of all prospective CAB members were reviewed by the presiding judge and acting presiding judge to reduce representational duplication. In August, 1977, 37 letters of invitation were mailed. Each letter set forth certain CAB objectives and requested a response. Twenty-one persons accepted membership. A number of others expressed interest but stated they could not join the board at this time.

One person stated that it would be an honor to serve in such an important and humane project. Another was enthusiastic about the potential benefits the project could have upon the probation services. A third stated that such a board was "timely and needed". Another respondent commented that he was vitally interested in working for improvements in the court and criminal justice system.

Membership on the CAB includes:

- the dean of the University of Puget Sound Law School;
- a professor from the University of Puget Sound Law School;
- a personnel and equal opportunity officer, Port of Tacoma;
- a law student who was formerly director of El Cid;
- an educational/social service consultant;
- an insurance broker;
- A United Way labor representative;
- a union official (American Federation of State, County and Municipal Employees);
- a board member of the Tacoma Civil Service Commission;
- a captain of the Tacoma Police Department;
- the codirector of a narcotics center and one who has been active on other community agency boards;
- an insurance agent, a former police officer, newly elected as a city councilman in Puyallup;
- a housewife and involved citizen;
- the chairman of the department of Sociology and Anthropology, Pacific Lutheran University;
- a counselor from the Community Alcohol Center;
- a business and social research consultant;
- the program director of the Puyllup Indian Alcoholism Program;

— a retired attorney;
— a builder and realtor who resigned subsequently following his appointment to a federal position;
— a citizen whose work and activities were not identified.

Verbatim minutes of the first CAB meeting reflect the court's open invitation for citizen assistance. This meeting was attended by 15 CAB members. Project staff and the presiding judge explained the reasons behind the creation of the board. The only formal action taken by the board was to appoint a three person nominating committee.

The second meeting took place November 10, 1977, and was attended by twelve members and a member of the project staff. The board elected temporary officers and divided itself into a court subcommttee and a probation subcommittee. It was agreed that the board would draw its own by-laws. The temporary chairman, the former director of El Cid , took over the chair from the presiding judge.

The CAB agreed that subcommittee meetings with court and probation department personnel would intensify members' knowledge of the issues and concerns of these organizations, and would facilitate the identification of policy areas in which board input would be most useful.

Subsequently, the temporary chairman met with the probation director and court administrator and contacted project staff, who supplied him with information concerning the work of other citizen groups which have worked with court systems. Also, following the second meeting, the board attended an open house at the probation office which enabled them to become better acquainted with each other, with the two judges who joined them, and with the probation department.

2. Evaluation

The CAB has been assessed along seven related dimensions: the defined goals of the board; the manner in which board members were selected and their characteristics; the manner in which the board sought to implement its goals; the administrative organization and operation of the board; the manner in which the court utilized the board; and the extent of community awareness of board operation.

The judges, with the assistance of the court administrator and the probation director, decided the board should have several broadly defined goals. First, the board was to provide a body of advisors to the court, especially regarding administrative matters. Second, the board was to provide similar assistance to the probation department, particularly in the implementation of the probation components of the CRP.

Third, the board was to provide "a balanced impression of what the public finds unfair and unjust

about the (criminal justice) system."[11] The court believed that this critical function would properly be performed only if the board was representative of the public and relatively independent of the court. Consequently, it charged the board to be " skeptical and direct, to examine every part of the court's operation that law and ethics would allow, and to structure itself in whatever way it pleased within the law" and the court's broad guidelines.[12] Finally, the board would assist the court in providing the public "a more realistic picture" of the criminal justice system.[13] Like the previous aim, this goal required a representative board that could address different social and community groups.

The impetus for the first two objectives seems to have come from the court administrator and the probation director because the goals envisioned by the judges varied. Two judges saw advisory potential in the CAB; the others feared it would soon degenerate into a "PTA." Not even the two enthusiastic judges, however, had clearly defined board objectives.

The method of board selection adopted in Pierce County was both functional and effective. While all four judges nominated candidates, the court administrator and probation director were heavily involved in the nomination process, advising the judges as to selection criteria and actual nominations. The input of these two administrative actors was functional in two respects. First, they were more familiar than the judges with many of the administrative problems of the court and probation departments. Second, insofar as the board dealt with court and probation administrative problems, it would work directly with these two administrators more often than with the judges. The early involvement of the court administrator and probation director thereby promoted two objectives for the board: administrative assistance to both the court and probation department.

Three criteria were used in the membership selection process. First, persons with experience with community agencies were sought. People with such backgrounds were expected to possess administrative experience useful to the court and the probation department. They were also expected to have knowledge of community resources useful to the probation department and the CRP, and experience in working with committees. Second, diverse occupational, social, and community groups were to be represented, including labor, law enforcement officers, women, members of the organized bar, legal academia, eductors, and the ministry. It was felt that diversity would broaden the audience towards which the court could direct its public information efforts. Also, it was believed that it would provide a variety of perspectives and backgrounds from which to critique and advise the court. Finally, people were sought who would be willing to commit time and effort.

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[11] Letter of Justice Hedlund to CAB members, Dec. 2, 1977.

[12] Id.

[13] Id.

The resulting board membership was diverse, and furthered the broad objective defined by the court. The membership was characterized by a high degree of involvement in community service organizations, particularly those which either had worked with the probation department or might do so in the future. It was the hope that this membership characteristic would facilitate assistance to the probation department. Indeed, one board member, the insurance man, assisted the probation department, in acquiring an insurance policy for CSR.

Nearly all the groups the judges sought to represent were represented, though two members of the local bar and a prominent labor leader declined appointment.

One judge indicated this might preclude the board from acting as a vehicle of "grass roots" participation in the criminal justice system. According to this judge, it would also hamper public relations with Tacoma's politically powerful trade unions. Nevertheless, labor was represented by two influential members.

Beyond this, many board members have held leadership positions in various community organizations.[14] This influence could help the board perform its public information role. Leadership experience in such organizations also implies administrative knowledge which may be utilized by the court.

At its second meeting, the board organized administratively to promote the broad goals defined by the court, establishing a court subcommittee and a probation subcommittee. This division enables board members to develop some sophistication and specialization in each area. Division allows each subcommittee to work more closely with the administrative official in each area. Division also reduced the operational difficulties inherent in a 19 member board.

The board has begun to define further goals. It has articulated two general goals, the most important being the development of "intervention strategies." These strategies will attempt to fulfill the overarching goals of administrative assistance to the court and probation department. But before developing such strategies, the board decided it must become familiar with the current operation of the court and probation department. Each subcommittee scheduled meetings to achieve this familiarity.

After studying court and probation operations, the CAB established several operational goals. According to the board's chairman, a substantial amount of the CAB's first 5-6 months of operation has been concerned with defining their purpose and the scope of their duties. Both subcommittees have conducted "brainstorming" sessions to define and prioritize goals. The Court's Committee articulated five:

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[14] See, supra, pp. 58-59.

- -- studying the sentence philosophies of the judges;
- -- dealing with the problems of the Pierce County Jail, because conditions there affect judicial sentencing;
- -- studying judicial philosophy; that is, how the judges perceive their function in the judicial system;
- -- studying the philosophies of the prosecutors' and public defenders' personnel; and
- -- addressing the court's space and budget problems.

By defining specific goals, the CAB has laid groundwork to conduct limited intervention strategies. In particular, the board has helped the court obtain additional space in the County-City building. Board members effected this by convincing County Board Commissioners that the court needed additional facilities. The board has exercised restraint in implementing its intervention strategies. As noted above, one prior goal was dealing with the problems of the Pierce Co. Jail. Early in 1978, an election year, the Pierce Co. sheriff asked the board to conduct a "Blue Ribbon" investigation of the jail because of reports of violence within the jail. The sheriff's request was relayed to the judges.

This request posed a dilemma; the judges wished to maintain CAB independence; at the same time, they felt that separation of powers considerations should preclude CAB investigation. As a result, the presiding judge requested that the CAB not investigate the sheriff, an executive officer. The tone of this request was cautionary; the board was not ordered to not intervene. The decision to decline the sheriff's invitation was made by the board on the recommendation of the chairman, who had been advised of the court's position by the presiding judge.

Several conclusions can be drawn from these examples of intervention and nonintervention. First, both examples indicate that the board can formulate concrete objectives based upon its study and analysis of the court's problems. Beyond this, the board in both cases indicated a willingness to implement its goals. Finally, the decision not to accept the sheriff's offer demonstrates a capacity to discriminate between areas inside the legitimate purview of the board and those outside it. This ability to discriminate prevents dilution of effort among dispersed objectives and preserves board independence.

The jail episode raises the further question of relations between court and board. It indicates that board and court are sensitive not only about board independence from agencies outside the court but about board autonomy from the court as well. This autonomy is essential if the board is to critique court operations. It also adds to the board's credibility to funding agencies: the board is not seen as the court's puppet.

Indeed, the distribution of authority between court and board is appropriate. The task of goal

definition was well divided. The court decided what type of board it wanted: one that could critique, advise, and assist in obtaining resources both from the County Board of Commissioners and from community agencies. The board was left to define operational goals within these broad guidelines. Beyond this, the board was left free to develop intervention strategies to implement its operational goals. Only when the board threatened to violate the separation of powers did the court intervene. This intervention was not coercive; it was suggestive and was backed by a rationale which the board found persuasive.

The board has also received requests for advice from the court. For example, one judge has asked the board to consider how the cost of appearing in court to challenge an improper charge could be made less than the fine on the charge. While other judges have not considered how to use the board for such specific types of advice, this demonstrates that the board maybe used in this capacity as well.

Board members have, on occasion, questioned judges about particular cases. Such activity could be destructive , particularly where judges are elected, for board members could use their ability to allocate publicity to influence case outcomes. This does not appear to be a problem at the present time, however, because: 1) such requests have been infrequent; and 2) where they have been made, judges have refused to discuss the cases.

The board has further increased community awareness about the board and the court. Community awareness of the board has been promoted by press coverage of board meetings, organization, and goals. One press account reported the first CAB meeting and discussed board goals and membership.[15] A second feature article described the division of the board into its subcommittees and outlined its activities.[16] Press liaison has been established between the local newspaper and the board through the court administrator. The board has also promoted community awareness of the court by asking judges to make public speaking appearances before community groups. Publicity has served the board goal of promoting public awareness of court operations and the program objective of overcoming court isolation from the community.

Finally, the board has assisted the implementation of other CRP components. The insurance broker-board member helped the probation department obtain coverage for misdemeanants performing community service restitution. This assistance indicates that the board can aid implementation and that board members can utilize their backgrounds in the service of the court. The board has also reviewed CSR plans and participated in hearings on these plans.

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[15] Tacoma Review, Nov. 1, 1977. See, Appendix IV-B.

[16] The News Tribune, January 1, 1978. See, Appendix IV-C.

The CAB has been established successfully. The court defined broad goals for the board. The definition of goals was necessary to establish direction and purpose during implementation. Specific but flexible implementation plans were developed to operationalize the goals. Membership criteria were adopted which reflected the critical, advisory, and public information goals established by the court. The court urged the board to be autonomous, facilitating its critical role and lending credibility to its public information role. Autonomy also injected flexibility into implementation by allowing the board to define operational goals and strategies as it saw fit. Its division into court and probation subcommittees fostered specialization which would facilitate its critical advisory roles.

The implementation process actively involved all parties essential to the board's operation. At the administrative level, the judges allowed and encouraged broad input from the court administrator and probation director, who would be responsible for administering the CRP during and after implementation. Furthermore, the judges granted the board authority and responsibility for implementation within board guidelines. At the community level, the judges sought to include representatives from a broad spectrum of social groups and community agencies. This involvement, they felt, would accurately reflect public views of the court.

b. Community Service Restitution (CSR)

(1) Description

CSR implementation had three steps. First, a coordinator was appointed from among the staff. Second, insurance covering restituters was procured to protect both the county and the restitutor. Finally, guidelines were developed to operationalize the component.

Each step required time. While the coordinator was appointed in November the requirements of her caseload precluded her from allocating sufficient time to CSR implementation. This delayed insurance procurement and contact with community agencies. In response to this problem, the director assumed responsibility for insurance procurement, and later restricted the coordinator's caseload to give her more time to devote to CSR. To assist him, the director hired a CETA employee, whom he charged with developing guidelines. The director judged such guidelines would aid procurement by describing the component in practical, concrete terms, digestible by certainty-minded insurance companies. These guidelines required two months to draft: the literature was surveyed; the experiences with restitution in Pierce County and other Washington jursdictions were assessed; and community agencies were contacted and consulted.

To gain information support for the program, the probation department held open hearings which were publicized in local papers and by announcement to community agencies. Community volunteer coordinators were solicited to provide input. The program was also explained to the judges of Tacoma Municipal Court, the Director of the County Department of Assigned Counsel, the County Prosecutor,

and the County Commissioners. Significantly, the tentative plan was submitted to the CAB for criticism. As a result of these efforts, community support for the program was high.

While these three steps were being taken. CSR was experimented with in order to provide first-hand experience with its operation. 1,076 community service hours were served in Pierce County in 1977, providing a base of experience from which to draft guidelines.[17]

The first draft of the guidelines was completed in January, 1978. The final draft was approved by the county commissioners on February 7, 1978. Insurance was procured from a private company in January. The program, named Alternative Community Service to be better understood by largely lower income clients, became operational on March 1, 1978.

The program operates as follows. If a judge sentences a misdemeanant to perform community service, he sets the number of hours according to established conversion tables from fines or jail time. Eight hour increments were decided upon at the suggestion of the agencies in which the misdemeanants will be placed. Initially, it was decided that sentences would range from 24 to 200 hours.

After sentencing, the client makes his first of three visits to the probation department . At this visit, he fills out forms providing information on skills, interests, current address and phone, medical condition, and employment situation. The program coordinator informs the client of the five dollar insurance fee which he will be assessed, and schedules a second appointment with the client.

Between the first and second client visits, the program coordinator obtains the client's arrest record. On the basis of this information and the background information provided by the client at the first visit, the coordinator contacts appropriate agencies for possible placement.

On the second visit, the client pays the insurance fee and chooses one of the alternative placements. The client then calls the agency and makes an appointment with the agency director. The coordinator sets the completion date for the assigned service. After signing an agreement to abide by the regulations of the program, the client proceeds to the agency with a referral form which explains the rights of the agency. He also gives the agency a time card which is to be filled out by the agency upon the clients completion of service.

The program coordinator then awaits a call from the agency to indicate that:

— the client was accepted as a volunteer; or

— the client was not accepted as a volunteer, and why; or

— the client did not appear for his appointment.

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[17] 1978 Annual Report - Pierce County Probation Department.

If the client is not accepted, the coordinator attempts to secure another placement. If the client does not appear, the coordinator summons him to appear or files a violation report with the court. The coordinator monitors a client's service by periodically phoning the agency for progress reports and to verify the completion date of the assignment.

When service hours are completed, the volunteer brings the completion card back to the probation department. If the client fails to return this card, the coordinator will contact him and remind him to return it. If this request is not honored, the client is reported to the court for failure to complete the program.

(2) Evaluation

Alternative Community Service was developed effectively. The survey of service restitution literature provided developers background as to the goals of such programs and examples of how other communities have implemented and operationalized them. Operating programs were also examined. The employment of a CETA program developer seems particularly useful because such a person does not have a caseload to consider and can concentrate his efforts on design. Public hearings and discussions with local volunteer coordinators provided necessary input as to how to structure and operate the program. It also gathered support for the program among the local criminal justice community and community agencies. Finally, the development of a written program proposal facilitated the procurement of insurance coverage.

The role played by the CAB in development was also important. The CAB reviewed the program proposal, and assisted in the development and procurement of insurance.

The structure of the program developed in Tacoma appears workable. Operational responsibility is clearly delegated to the program coordinator. The decision to decrease her caseload facilitated her concentration on administering the program. The designation of a backup coordinator ensured the continued presence of a program administrator in the office at all times.

Clients performing alternative service are not closely monitored by the department as they perform their service. This presents the problem that the agencies will be lax in their enforcement of alternative service or that clients could "pay off" agencies in return for falsified certification of completion of service. Agency representatives , however, indicated during development-stage discussions that the transaction costs of close monitoring by the department of its clients would make the program too costly for the agencies to participate in. Furthermore, given the indigent nature of most clients sentenced to community service, it is unlikely that corruption would be a major problem.

The program has been operational too short a period to present even suggestive statistics regarding how many misdemeanants have been sentenced to service restitution, what types of service they

have been sentenced to, what the distribution of sentence lengths was, whether jail or recidivism rates were reduced by it, or so on. Such questions are proper objects of further inquiry.

2. Components not successfully implemented within the pilot project period

Of the five CRP components, three were not successfully implemented: the Information and Evaluation System (IES); the Expanded Volunteer Services (EVS); and Community Resource Brokerage (CRS). The reasons for the failure to implement them within the pilot period vary in nature and significance. In this section, we will examine the structure of the components as they were attempted to be implemented, the implementation process, and, of most importance, why implementation was not successful.

a. Information and Evaluation System (IES)

Two systems were developed by project staff, neither of which was adopted. The first emphasized quantified measures of CSR and CRB success and failure; the former measured in terms of changes in clients' needs assessment profiles, which were calculated from needs assessment forms completed for each client[18]; and recidivism rates, which were calculated from post probation termination arrest data.[19] Both the probation director and the probation staff suggested that this scheme required too much paperwork and calculation. Certain staff also questioned the validity of recidivism rates because of the difficulty in determining what types of subsequent arrests would be included as repeat violations. It is likely that an unstated concern of staff was that quantified measures of success and failure might accurately or inaccurately reflect less than desirable performance, particularly in light of the discrepancy between staff estimates of recidivism (8 to 15%) and the county's estimate (30%).

In response to the criticism that this evaluation system was too complex, project staff devised a modified scheme that eliminated the calculation of success and recidivism rates and emphasized aggregates. This system has not been made operational, however, because it required both CSR and CRB to have been implemented, and because probation staff already felt overburdened with paperwork.

b. Expanded Volunteer Services (EVS)

EVS implementation was approached cautiously. During 1977, seven volunteers were recruited to provide experience from which guidelines could be developed and a program estab-

[18]See, Appendix IV-A.

[19]The original teams were: Employment, Vocational Training, Academic Training (3 counselors); Alcohol and Drug Abuse, and Mental Health (4 counselors); and Transportation, Financial Assistance, Housing, Legal Problems, and Physical Health (one counselor).

lished. These volunteers performed traditional roles such as counseling and providing transportation. In assessing experiences with these volunteers, both the probation director and the staff concluded that volunteers in quasi-counselor roles were undesirable because volunteers were not properly trained in counseling or therapy.

One staff member drafted proposed guidelines which the director felt required substantial revision. The task of revising the guidelines was delegated to the CETA program developer; he was to begin after completion of CSR guidelines. Probation staff and volunteer coordinators for community volunteer agencies were consulted to obtain their suggestions for EVS design.

The director has outlined the prospective program which evolved from these discussions. Instead of obtaining volunteers and then allocating tasks to them, probation staff will determine what types of tasks for which they will need or desire volunteer assistance, and then obtain an appropriate volunteer to perform the tasks. When a staff member desires volunteer assistance, he will draft a work order describing the tasks to be performed and what types of skills or interests would be needed . This work order will then be sent to one of the volunteer coordinators in the community (United Way or the County-City Volunteer Office). The volunteer coordinators then draft a job description, and search their volunteer pool for an appropriate person. If such a person is found, he is sent to the probation department.

Both the probation director and the CAB chairman foresee the CAB participating in the expanded utilization of volunteers. They see the CAB assisting in volunteer recruitment and role definition. They also feel that volunteers can be directly utilized by the CAB to perform research, for example.

Thus the main reason EVS has not become operational during the pilot test is that the pilot test period was too short. The probation department proceeded deliberately, experimenting before attempting to operationalize the program. As with CSR, the CETA employee was used to draft guidelines based on the experimental experience. This allowed a concentration of effort that a caseload-burdened counselor could not contribute. The CETA employee could not concentrate on EVS immediately because CSR had received implementation priority.

The approach employed to develop EVS in Tacoma was effective. The entire probation staff was involved in the process of conducting and critiquing the volunteer experiment. According to the probation director, their input was crucial in defining the current EVS design: they suggested the work order scheme. Community volunteer coordinators also were involved in the development of the program, allowing them to inform the probation department of the types of services and individuals it could provide, as well as how to acquire volunteers from the volunteer agencies.

The decision to utilize volunteer agencies appears sound. It attempts to use existing community

agencies, and avoids establishing a duplicitous recruitment structure. Probation staff is not overburdened with the administration of such a structure, and the marginal burden on community volunteer coordinators is minimal.

Finally, the suggestion that the CAB use volunteers and assist in recruitment and role definition indicates three more areas in which the CAB can enhance the operation of another CRP component.

c. Community Resource Brokerage (CRB)

Community Resource Brokerage was given high implementation priority; yet it was not successfully implemented. The reasons for this are highly complex and include the history of relations between previous probation directors, the probation staff, and various judges on the court.

(1) Description

The CRB training was conducted in August, 1977, by Herbert Sigurdson of the Western Interstate Commission on Higher Education (WICHE). Ted Rubin of the project staff conducted the CSR training session on the second day. The entire probation staff attended the sessions where they participated in an informal assessment of Pierce County probationer needs, caseload characteristics, and community services availability.

The program was justified to staff by reference to Abraham Maslow's hierarchy of needs-survival, shelter-comforts, social, and self-actualization. Sigurdson suggested that the probation field deals with many people who are at the lower level of needs, and that survival needs should be met before individual counseling.

The theoretical construct of CRB was discussed, with the suggestion that staff members' caseloads be integrated (at least in part) into the community's social services network. Preliminary consideration was given to techniques for establishing knowledge of this network and using it more effectively.

Staff members identified several dozen problems anticipated in the implementation of CRB, and then ranked them according to priority. The six most serious problems anticipated, in order of seriousnes, were: teamwork; need for secretarial management expertise; appraising judges of new directions; additional training; timing of the change-over; and adjusting to a new system. The consultant suggested that the sixth priority would rapidly become the first.

The training also focused on team building (i.e., developing staff specializations) and individual concerns regarding teamwork. This led to the development of an action plan. Certain resistance was converted to positive participation.

Sigurdson was employed by the probation department to return in October, 1977, to work with the staff in further developing the plan and in team-building. Ultimately, an implementation plan was agreed upon, which assigned responsibilities and established time frames. The change-over date was delayed until the completion of the final task.

Discovering the structure of client needs was among the first steps. Accordingly, staff members completed needs assessment forms for all 530 active cases, (see Appendix IV-A). This assessment, which incorporates Maslow's needs hierarchy, is based on client needs as of the time of entry into probation.

The three most pressing service needs determined were:

- employment;
- alcohol services; and
- vocational training.

All of the other needs ranked quite low. The staff was surprised that only 32 probationers showed a need for drug abuse services and only 38 probationers for mental health services. The needs assessment process resulted in the modification of the measurement chart which had been supplied by the WICHE consultant. As an example, the category that reflects unemployment may not indicate a real need. The probationer may be an unemployed housewife who is not seeking a job. Further, staff suggested special examination of military personnel probationers and the availability of various services on the Fort Lewis base.

The originally-determined team specialization assignments,[19] were later modified, based on needs assessment findings, staff interests, and organizational needs. In particular, staff feared that totally pooling clients would harm a significant number of clients whom they felt needed counseling and not brokering. Consequently, staff suggested organizing the entire office under the CRB approach, but to retain smaller individual caseloads. The staff developed a concept, Partners in Probation Progress (PIPP), which referred to the two person teams which would cover the following areas:

- employment and education;
- alcohol abuse and physical health;
- drug abuse and mental health; and
- housing, transportation, financial assistance, and legal problems.

The latter unit was to be comprised of one probation officer and several volunteers.

[19]The original teams were: Employment, Vocational Training, Academic Training (3 counselors); Alcohol and Drug Abuse, and Mental Health (4 counselors); and Transportation, Financial Assistance, Housing Legal Problems, and Physical Health (one counselor).

The PIPP concept would enable one team person to be available at all times in the office. This person would cover if the other is ill, on vacation, at an agency, in court, or seeing a probationer at his home.

Staff began developing a new intake approach, intake guidelines, and determined the optimum time to conduct an initial needs assessment (after the first or second probation officer interview). The staff also designed a referral sheet with a list to be checked and signed by the judge following an assignment to the probation department. The PIPP teams were to phase in as readily as practicable; the deadline for the complete conversion was set May-12, 1978. For reasons, explained below, however, when and whether CRB implementation will be completed is still in doubt.

(2) Evaluation

Resource brokerage has been evaluated along two dimensions. First, the mechanics and operations of the component designs developed by the probation department are assessed in terms of their assumptions about client needs, resource availability, and administrative viability. Second, the imple-mentation process is analyzed in terms of its organizational dynamics.

(a) Assessment of mechanics

The "straight team" model, which would have provided primary and secondary staff specializations and a wholly pooled caseload, was not viable in Pierce County because of the distribution of client needs there. Nearly seventy percent of the clients had alcohol-related problems. Under a strict team model, the alcohol specialist would have handled 70 percent of the cases, or 70 percent of the counselors would have had to become alcohol specialists. The former would have resulted in a highly unequal distribution of work within the office; the latter would have defeated the purpose of specialization for there would have been, in effect, only one specialization.

Initial team assignments also harbored staff jealosies and discontent, hampering administrative viability. One councelor was upset with the director for having appointed someone else to head the alcohol team; she felt that she was the ackowledged alcohol expert on staff. Another was upset that he was appointed to the vocational employment team because he desired to create and fill a new role as diagnostician.

The structure of client needs and discontent over team assignments led to the development of the "PIPP" concept described above. This redesign of CRB, however, did not eliminate several other administrative problems which were perceived by probation staff. Of course, some of these perceptions were better grounded than others.

Counselors criticized the increase in paperwork necessitated by the adoption of brokerage. Two new forms were criticized in particular: the needs assessment form and the quarterly report. The

needs assessment form was criticized for several reasons. The needs categories it defined were depicted as too vague and not comprehensive. For example, a housewife would appear as unemployed on the form, but unemployment might not be a problem for her. Some problems, such as being the victim of physical abuse, could not be noted on the form. The severity scaling system also was deemed to be misleading, especially when the severity of one need was compared to the severity of another need. In combination, these two problems resulted in descriptions of client needs which the counselors felt were often grossly misleading.

Nevertheless, these problems are surmountable. Categories can be redefined and expanded, and additional space can be provided to note excluded problems. Severity comparison across need categories could be made valid by weighting the value of each category.

Quarterly reports were to be written in order to provide a narrative summary on each client for other team members. The director felt such a report was necessary because, under the proposed organization, teams would pool caseloads, each client being handled by several case workers and intimately known by none of them. The quarterly reports were objected to as being no better than chronological reports already kept, time-consuming to write, and requiring too much secretarial effort to type. Nevertheless, the director maintained they were necessary because chronological reports were usually unclear and illegible.

Some staff members further suggested that Tacoma was too small to support expanded resource brokerage. They felt that there were too few community services and that those which existed were too poor to utilize. Other staff and the probation director disagreed. Tacoma, they indicated, had more than enough agencies. While some programs, they agreed, were of poor quality, they felt that dialogue with those agencies would improve programs.

Since the program did not become operational, it is premature to assess the sufficiency of available programs. Nevertheless, preliminary assessment of the number and types of available agencies and programs summarized in Table One indicates that they could be adequate. The capabilities, quality of services provided , and actual performance would have to be examined to draw less tenuous conclusions.

TABLE ONE

Service Agencies Available to Pierce Co. Probation Department
By Type (1976)

Type of Agency	Number Available
Alcohol	19
Drug	12
Employment / Job Training	15
Food	5
Housing	16
Clothing and Necessities	8
Financial Assistance	10
Health (public and reduced fee)	14
Legal	7
Family and personal problems	31
Transportation	5
Veterans	5
Minority	36

Source: Where To Turn: A Directory of Health, Welfare, and Recreational Services, Tacoma Department of Human Development, Metropolitan Development Council, and United Way of Pierce County, Tacoma: 1976.

(b) The historical dynamics of organizational conflict

The CRP encountered a complex set of dynamic organizational relationships. The CRP, particularly the CRB, and the manner by which the court made its decision to implement it, rapidly became issues to involved actors. Implementation served to heighten and intensify existing conflicts among the judges of District Court #1, the county board, the director of the probation department, and the probation department staff. In turn, escalating conflict hampered implementation efforts, and further contributed to staff frustration.

Seven sets of actors were involved in the implementation process: the judges of District Court #1, the district court administrator, the director of the probation department, the probation department

staff, County Commissioners, CAB members, and AJS-ICM staff. The interests and goals of these actors varied.

As discussed above, the judges generally perceived the potential utility of the various CRP elements; consequently, they voted unanimously to adopt the CRP. This decision made CRP implementation a goal of the court. This apparent unanimity, however, disguised a variety of attitudes. Two judges enthusiastically supported the CRP, deeming it to be beneficial; one judge was skeptically indifferent; the fourth opposed it, but voted for it in order to test it. Thus, even at this early stage, the commitment of the court to the goal of implementation varied in intensity and direction.

Because the judges collectively possessed authority to fix probation department policy, and thus accept or reject any CRP component at any time, the dynamics of their decision making process and the relative influence of each on the others and on funding agencies bear examination. The judge who opposed the CRP and CRB in particular, appeared to influence budgetary decisions of the county commissioners, perhaps because he had served as the county's chief civil deputy before appointment to the bench, and had developed significant expertise in fiscal matters. The other judges apparently deferred to his budgetary expertise, and allowed him to informally represent the court's fiscal interests at budget time. Furthermore, this judge's history of appointment to public posititions indicated that he possessed a political base of support outside of the court. None of the other judges had similar influence over the county board on budgetary matters, similar records of appointment; nor did they possess commensurate political influence.

The position of presiding judge, which rotates annually among the judges, conveys certain powers to its holder, including the authority to implement decisions of the judges, act for the court between meetings, and receive information unavailable to the other judges. This is not to say that the presiding judge had a monopoly of information about court operations, for this information was largely compiled by the court administrator and the director of the probation department; rather, the presiding judge had preferential access to the type of information compiled by and known to court functionaries. During implementation, this position was held by the two judges most supportive of the CRP.

Despite the influence attributes of individual judges, court policy was determined by majority vote of the judges. The principle of majority rule limited the individual influence of particular judges with respect to policy determination. Still, the critical position of influence within the court was the position of presiding judge.

The district court administrator was a critical actor in both the decision to adopt a CRP and in implementation. She perceived the CRP to be a set of management innovations which would benefit the district court, she therefore devoted significant efforts to convince the judges of the desirability of the CAB.

The administrator's influence stemmed from her position and the competence with which she performed her duties:, which enhanced her credibility and persuasiveness to the court. She administered the daily operations of the court and, better than anyone else, knew the administrative problems of the court and the types of administrative assistance the court needed. The administrator also possessed an additional resource. As administrator of the court, she controlled information regarding court operations which, within limits, she could bestow upon or withhold from various judges. As a court employee, she was nevertheless subject to the court.

The director of the probation department was another critical actor. Like the court administrator, he believed that the probation and general court components of the CRP were innovative management techniques which would benefit misdemeanant probationers and the court. He, too, attempted to persuade the judges to adopt the CRP. As a court employee, he also was bound by court policy determinations. Nevertheless, the judges viewed him as an "expert" in the field. His image as an energetic and innovative administrator helped him persuade the judges first to hire him and then to adopt the CRP.

Beyond this, the director administratively controlled the probation department. He had authority both to execute court determined policy and to formulate and execute his own probation policy within guidelines established by the court. He also possessed authority to hire and fire staff within guidelines established by the court and the county personnel agency. Still, like the court administrator, he was ultimately subject to the court.

The presiding judge, the court administrator, and the probation director, shared an intellectual and philosophical commitment to the CRP. They worked closely to implement it and to deal with the implementation difficulties discussed below.

The next set of actors, the probation staff, were directly responsible to the probation director. Their function was to execute probation policies as articulated by the director. Their major resource was the manner in which they executed the policy at the work place level. This resource can be formidable, particularly with professional functionaries, whose professional status grants substantial discretion in the manner in which work is to be performed.[20]

The counselors' collective attitude toward CRP implementation was related to their attitudes toward the director of probation. In general, the collective attitude at the outset of the director's administration and of CRP implementation was one of mild enthusiasm, though there was doubt regarding resource brokerage and team building; by December, 1977, mild enthusiasm had turned to suspicion and mistrust of the director and dissatisfaction with brokerage.

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[20] Amatai, Etzioni, Modern Organizations, (Englewood Cliffs, N.J.: Prentice Hall, 1964), p. 80.

The intensity of these attitudes was as varied as their sources. The strongest dissatisfaction was felt by three counselors who may have had personal motives for disliking the director. Two counselors had been with the department for several years and had competed with the current director for that position. The third counselor, the first counselor hired by the director, maintained that the director breached his employment agreement by not allowing him to conduct intake diagnosis for all clients. The director also reprimanded him, both informally and formally, for practicing unauthorized treatment on clients. Other counselors did not have similarly strong personal motives, and their opposition was a varying mixture of the substantive concern discussed above and their belief that the director was guilty of professional misconduct.

As the county legislative agency, the Pierce County Board of Commissioners wielded power in the most critical of all places: the budget. Commissioners' positions are elective, and, therefore, commissioners are sensitive to the political forces in the community. Their main interest was providing a satisfactory level of county services at a minimal tax cost.

Before the current director of probation was hired, the probation department experienced significant operational and management problems. The prior director, according to several observers, was absent from his office more often than he was present. He was reportedly inaccessible to staff and the judges. The department was administered, according to the director, by one of the secretaries. As a result, the quality of probation services deteriorated. Several judges became disgruntled and considered abolishing the department. The director compounded this dissatisfaction by complaining of the incompetence of his staff to the judges, and blaming the counselors for the quality of services. This action was deeply resented by the staff, and resulted in staff insecurity regarding their tenure and their competence. It also bred mistrust of the position of director.[21]

One judge was particularly disgruntled. He advocated abolishing the department, though he continued to use its services. Nevertheless, he would refer cases to only two counselors whom he respected. When the prior director resigned, this judge supported the bid of one of these counselors to become the new director.

The court, however, conducted an extensive national search for a new director with superior administrative abilities. The two leading candidates for the position were the current director, and a counselor supported by the judge who wished to abolish the department. The current director was appointed despite the opposition of this judge.

Upon assuming his position, the new director instituted a number of administrative and operational reforms; these included a number of managerial refinements, the introduction of orthomolecular

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[21]Staff complained to the County Board of Commissioners in a memorandum contained in Appendix IV - D.

therapy [22] and, with the approval of the court, the probation elements of the CRP. The probation staff was not consulted regarding the decision to adopt the probation elements of the CRP. The director, the court administrator, and the judges approved this direction as a management prerogative. Project staff also accepted the decision as a management prerogative, and negotiated with, and advised only management personnel -- the director, the court administrator and the judges.

Probation staff in Tacoma felt they had been ignored in the decision to adopt the probation-related CRP components and in the development of plans to implement them. They particularly resented the failure of the probation department director and the court to consult them about instituting resource brokerage. This failure resulted in a deterioration of staff trust in the director (given their experience with the previous director, they were not predisposed to trust anyone in that position). Hostility was also heightened when the director hired a counselor (a PhD.) to specialize in orthomolecular diagnosis at one step above normal entrance pay.

After the decision to implement the CRP, plans were formulated by the director in consultation with project staff and probation staff. The significance of probation staff input to planning is disputed. The director maintains that the staff was encouraged to contribute to the process and did, in fact, provide input that was considered. The probation staff, on the other hand, maintains that input was discouraged and, when given, was inadequately considered.

Training sessions conducted by project staff and retained consultants had mixed results. Ideas and implementation techniques were presented which made brokerage seem desirable and realizable. These ideas and the interaction of probation staff with project staff generated enthusiasm for CRP implementation. Nevertheless, the rigidity with which the staff perceived the team model to have been presented caused dissatisfaction with the CRP, project staff, and the director. Staff complained that the critical operational and theoretical questions which they raised at these training sessions (such as who should write presentence reports and who would appear in court under a team model), were not answered by project staff or the director. Some staff alleged that the WICHE consultant and project staff demeaned them by suggesting that opposition to brokerage and team building masked staff insecurity. They feared that the "consensus building" emphasized by project staff at the training sessions meant, in practice, uncritical acceptance of team building and resource brokerage, and not consensus reached through dialogue.

As implementation proceeded, staff morale deteriorated from the moderate level of enthusiasm

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[22] This involves the diagnosis and treatment of the biochemical and dietary sources of clients' misbehavior. See, Barbara Reed, Back to the Basics, (Cuyahoga County: 1977) and Wall Street Journal, June 2, 1977, p. 1.

the training sessions generated because staff resented their exclusion from the decision to implement. This resentment kindled the growth of substantive objections to CRB over time. Implementation plans, such as the ones developed at the outset of implementation, were not adhered to. The staff did not demand rigid adherence to an unrealistic plan, but thought that the plans, instead of being modified, had been discarded and not replaced. This "administrative drift" caused staff to question the director's credibility and competence.

The critical posture of the staff grew as questions left unanswered at the training sessions remained unanswered. They began to question the capacity of Tacoma to support brokerage. In the opinion of some counselors, there were too few services and resources. Counselors questioned the viability of teams where two-thirds of the cases were alcohol-related. Furthermore, there was an increase in the paperwork in preparation for the move to brokerage. But because they did not recognize brokerage as an innovation, the counselors viewed the additional paperwork only as a burden, even though the paperwork was intended by the director as an important administrative step toward brokerage.

Three other factors contributed to the deterioration of staff morale. One was the apparent attempt by one judge, the former chief civil deputy of Pierce Co., to influence the County Board of Commissioners to reduce the probation staff by two positions. This threat to the department required the director to develop political support for retaining the positions. The development of political support detracted from the time the director could devote to implementation.

Second, the split that existed between the director and one of his rivals for the directorship over the desirability of brokerage became more distinct. As it heightened, this counselor became the leading critic of the CRP and the director within the staff. Her criticism struck responsive chords with the other counselors, who shared many of her substantive positions. Collective criticism grew in response to her leadership and the actual progression of the implementation effort. In addition, this counselor apparently felt that she could rely upon the support of the influential judge who had supported her bid for the directorship. There may have been a basis for this reliance since rumors had circulated that this judge would attempt to cut three staff positions from the department and create three probation positions under his direct administrative supervision. It was suspected that this counselor was to head this new unit.

Finally, conflict between the director and staff escalated to the point that charges of professional misconduct were levied by certain probation staff membersagainst the director. These charges were made to the county personnel department, the prosecutor's office, the district court, the county commissioners, and project staff. The presiding judge of the court investigated the charges and found them groundless.

Nevertheless, in early January, 1978, at the request of the presiding judge, a meeting was held between probation staff and the judges of the court to allow the staff to formally air its grievances against the director. The probation director was invited to attend, but was not permitted to answer the allegations made.

While the purpose of this meeting in the eyes of the presiding judge was to "clear the air", its major effect was to further demoralize the probation director. He felt that he should have been given an opportunity to confront complaints made against him before the entire court. More importantly, he felt that the judges' failure to clearly direct the staff that he alone was responsible for administration and policy making within the department made it impossible for him to effectively carry out his duties. By failing to underscore his authority, he believed the court encouraged dissident staff to continue to confront him and covertly criticize him to other county officials.

The probation director resigned his position as director effective March 13, 1978, to become a training officer for the Washington State Criminal Justice Training Commission.

Existing relationships hampered CRB implementation by creating an environment of mistrust that centered on the probation department. Threatening moves precipitated countermoves which diverted attention from implementation. The probation director had concentrated his efforts on building community support for the department and the CRP. But this effort diluted implementation efforts to reorganize the department. Fear of one judge increased administrative drift, staff frustration, and staff mistrust of the director. This mistrust bred greater staff criticism of the CRP and decreased the staff's desire to solve implementation problems.

F. Conclusions

While the short duration of the pilot testing phase precluded collection of data measuring component impact on misdemeanants, tentative conclusions can be drawn about the feasibility of implementing these components, the operational characteristics of the components, the manner in which the components interact, and the strengths and weaknesses of the implementation strategy and tactics. This dicusssion will center on the implementation strategy because the conclusions about it are less tentative, and, more importantly, because the discussion of strategy encompasses the manner in which the components interact and how they are operationalized.

All strategy requires the definition and ordering of objectives. What goals we choose and how we order them depends upon analysis of our needs and wants, the means at out disposal to attain them, and

the constraints imposed upon us by the environment and other actors.[23]

In Tacoma, the end goals were defined as the successful implementation of the CRP components. The general strategic problem at the outset of implementation was, then, defining the order of component implementation. This was to be accomplished by analyzing the environment and the means available to implement the components. To the extent that this analysis was properly performed, implementation was successful; to the extent it was inadequately performed, implementation was beset with difficulties. In short, the ultimate decision to successfully implement the CAB first, CSR second, EVS third, and CRB last, reflected the relative difficulties of implementing these components. It also attempted to build later implementation efforts on earlier successes and experiences.

The CAB was the easiest component for the court to operationalize and the component which offered the greatest potential for assisting the implementation of the other components. The CAB did not alter or increase the tasks performed by the court or the probation department. It did not threaten traditional roles played by actors in the court and probation department. The impetus for implementation was provided initially by the presiding judge, court administrator, and probation department director. The participation of all three was critical to the successful implementation of the CAB. These three persons gave consideration to the functions they desired the CAB to perform, and suggested persons who could serve as members.

After the board was chosen, the court administrator and probation director educated the board in the operations of the court and probation department and maintained a dialogue with the board about how the board could serve the court and the probation department. The presiding judge provided information to the board and monitored board operations to prevent it from compromising its independence and the independence of the court. Nevertheless,the board rapidly assumed responsibility for itself and began operating autonomously. It defined its own goals and began developing its own strategies for "intervention". The board's ability to function autonomously reflects the care with which the court chose its members, who all expressed deep interest in the courts and who nearly all had wide experience with operating in committees. It also indicated a desire and ability of the members to criticize the court.

Beyond this, most of the board members were or had been associated with various community agencies which could be utilized by CSR, EVS, and CRB. This knowledge and experience were utilized by the probation department director in acquiring CSR insurance and formulating operational designs for CSR and EVS. Thus not only did the board directly assist the court in obtaining additional resources (additional space in the County-City Building); it also aided the court by assisting in the implementation of other CRP components.

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[23]Liddel Hart, Strategy, (N.Y., Pantheon Press: 1969).

CSR and EVS were slightly more difficult to implement because they required additional tasks to be performed by the probation department: additional presentence reports, development of a community agency referral network, client referrals, client monitoring, volunteer task definition, volunteer recruitment, and volunteer supervision. Furthermore, some counselors perceived volunteers as threats when used in therapy or counselor roles.

Nevertheless, the probation director devised implementation techniques which minimized the administrative burdens and role threats posed by these components. Responsibility for developing operational plans was delegated to a CETA program developer, avoiding placing the burden on a caseload-burdened counselor. Still, counselors were allowed input into program development; their input was crucial in developing a functional approach to volunteer utilization.

The manner in which the experience in developing CSR was adapted to the development of EVS indicates that an incremental implementation maximizes the ability to concentrate efforts and learn through experience. The utility of a CETA program developer was learned during CSR development and was therefore employed in EVS development. By concentrating implementation efforts on CSR, time and energy were not diluted. Of course, one reason CSR was not implemented until the seventh month of implementation was that implementation efforts were divided among CSR, CAB, and, most importantly, CRB. The successful implementation of CSR also increased the staff morale by demonstrating that at least one probation-related component was operable.

Furthermore, an operable CSR provided a set of potential volunteer roles, such as intake interviewer and client monitor. Thus it is important that CSR was implemented before EVS.

Difficulties in implementing CRB resulted from trying to implement it too quickly and at the same time as the other components. Its complexity and counselor-threatening nature dictated a more cautious approach.

CRB is the most complex of the components and the most threatening to probation staff. Its complexity stems from the massive reorganization of probation service delivery that it entails. Client needs must be defined and measured. Service and treatment agencies and programs must be identified and their cooperation obtained. Brokerage of clients to agencies must be phased in while individual caseloads are phased out.

The threat which CRB poses to tradition-bound probation counselors compounds its complexity. At one level, the massive restructuring of probation services is understood by staff as an indication that their past performance has been unsatisfactory. At another level, the role of resource broker can make staff feel that their previous professional training and experience is no longer considered relevant or

valuable. Indeed, their experience and training may lead them to conclude that CRB depersonalizes clients and does not serve their complex needs as well as individual counseling does, a criticism which may be valid for many clients.

All of these misgivings were felt by the staff in Tacoma. They were intensified by relationships predating implementation, the prior limited use of brokerage, substantive problems encountered during implementation, and exclusion of staff from the decision to implement CRB. Of these factors, only the particular pre-existing relationships were unique to Tacoma. In other communities, the relations between probation director, staff, and judges on the court may be more conducive to implementation of CRB. Nevertheless, the Tacoma experience indicates that such relationships should be carefully studied and accounted for in the development of implementation strategy.

Attempts to implement the complex, threatening CRB simultaneously with CSR and EVS resulted in the delay in implementing CSR and EVS and contributed to the failure to implement CRB. The efforts to simultaneously implement the components diffused the effort to implement each one of them. The failure to implement one of them decreased the opportunities to learn from the experience of implementing it. Even more important was that the intense opposition engendered by CRB decreased staff morale, frustrating efforts to implement other components.

Only when CRB implementation was delayed were CSR and EVS implemented: implementation efforts were finally concentrated; less staff hostility to CRB was projected onto the other components. Staff opposition to CRB might be mitigated in several ways. Staff might be consulted in the decision to implement CRB. They could be included in the development of CRB. Limited individual probation caseloads could be retained to assist certain clients directly. Beyond exhibiting greater deference to staff, existing relationships between staff, director, court and community deserve greater study than they initially received in Tacoma.

Furthermore, implementation of the CRB could be facilitated by implementing CAB, CSR, and EVS first. Because these components are less complex and less threatening to involved parties, their implementation is more likely to be successful than CRB implementation. This success could build staff morale and confidence in the CRP concept. This order of implementation could also allow the development of useful implementation techniques, such as the utilization of a CETA employee as a program developer. Finally, implemented CAB, CSR, and EVS components could provide resources to aid CRB implementation, much as the CAB assisted in CSR and EVS implementation in Tacoma. CSR and the CAB both could provide contacts with community agencies which could be utilized in brokerage. CSR could provide experience with the mechanics of directing clients to community agencies. EVS could provide volunteers to perform tasks such as client monitoring. An incremental implementation strategy may have avoided much of the conflict implementation ultimately engendered.

CONTINUED

1 OF 3

CHAPTER V

Case Management and Information System (CMIS)

A. Program Objectives

The Case Management and Information System (CMIS) is a program designed to assist the smaller city/rural misdemeanor court with less than 25,000 misdemeanor case filings annually. These courts generally are one or two judge courts and probably comprise well over 80 percent of the nation's misdemeanor courts.[1]

In recent years, many of these courts have been reorganized and included within statewide court administrative systems. Because of the organizational and structural changes, these courts are being subjected to greater official and public scrutiny. In light of this heightened visibility and the burgeoning litigation in these courts, it is becoming more and more important to apply sound management principles to their administrative operations. The CMIS provides a simple yet comprehensive approach for introducing these concepts to the misdemeanor court.

The CMIS program has three principal objectives:

- develop management policies, including case progress and disposition time standards;
- integrate and coordinate scheduling and calendaring practices that facilitate adherence to these policies; and
- provide basic case information through the use of a simple manual recordkeeping system, that enables court personnel to monitor case progress and evaluate the effectiveness of their management policies.

The case information aspect of the CMIS program is based on a simple, manual recordkeeping system for case-progress monitoring and statistics that permits the court to track the progress of each individual case, identify sources of delay (whether caused by the parties, the court's own processes, or the actions of other criminal justice agencies), and test the effectiveness of policy and procedural changes in the caseflow system. It can also improve the overall recordkeeping system of the court since it carries the potential for organizing, in one record, a significant amount of case management data.

In the future, it is likely that the nominal cost of computer hardware and technological assis-

[1] U.S. Department of Justice, Law Enforcement Assistance Administration, National Survey of Court Organization (Washington, D.C., 1973), p. 2.

tance will enable many misdemeanor courts to use these technological advances. However, courts often computerize their operations before acquiring a good manual control system. Hence, the computer is used primarily for information storage. It is rare to encounter a court which uses its computer to manage and schedule cases.[2] The adoption of CMIS prior to computerization will establish a basic management system for the misdemeanor court. Thus, the court will be in a better position to design a computerized scheduling system. This could be an important long-term benefit to be derived from the CMIS.

For the immediate future, however, introducing a simple, manually-maintained card system tests the general hypothesis that technology is not the crux of court control and case progress monitoring. Thus, the opportunity to test monitoring techniques in a receptive environment should produce a simple system adaptable to most misdemeanor courts in this country.

B. The Management Problems of State Misdemeanor Courts

1. Introduction

Our research and experience in misdemeanor courts throughout the United States indicate that, for the most part, these courts do not operate under a comprehensive management plan. Although urban courts tend to be better managed than their rural counterparts, a reactive mode of operation is prevalent in both types of locales. Operational practices designed to remedy an immediate problem evolve into standard operating procedures. As a result, the efforts of court personnel are apt to be uncoordinated, and sometimes duplicative.

The reason this lack of coordination persists is because misdemeanor court judges, like their general jurisdiction counterparts, are reluctant to assume case progress management responsibility. This may be due to the judges' traditional view that case movement is the responsibility of the lawyers, litigants, and prosecutors, not the court. This judicial disinterest in management generally inhibits court administrative personnel from initiating effective operating procedures. Even though administrative personnel may see the need for adopting more efficient practices, they generally are unwilling to do so in the absence of specific directives from the judge. These directives are seldom forthcoming because the nature of the judge's work causes him to focus on the individual case rather than the aggregate caseload. The judge often does not realize the condition of the court's caseload as a whole since he does not have timely and useful management information at his disposal.

Thus the lack of useful case management information is a root cause of the management problems in state misdemeanor courts. It precludes the judges and administrative personnel from

[2] Institute for Law and Social Research, Guide to Court Scheduling (Washington, D.C.: Institute for Law & Social Research, 1977).

identifying and critically analyzing potential caseflow problems. The development of this capability is essential if state misdemeanor courts are to improve their management practices.

Misdemeanor court personnel , however, usually feel their courts are well-run on a day-to-day basis with few problems that warrant innovative procedural and administrative change. On the other hand, project staff observers, comparing court conditions and practices to those of a "well-run" misdemeanor court, found many courts to be mismanaged with inefficient case processing procedures. This difference in perceptions is attributable to the fact that the outside observers analyzed court performance in light of objective standards, whereas court personnel generally had not developed performance standards for their courts. [3]

Because current practices generally receive high levels of judicial support, reforms cannot realistically be expected without first altering this attitudinal perspective. Even if more resources were available, it can be argued that current procedures would not be changed, but that new resources would be directed toward reinforcing existing levels of performance. Therefore, an important first step in the direction of changing these attitudes is the development of a management and information system that would encourage the court to set performance standards and would provide the court with the necessary information to measure its performance against these standards.

2. Specific management problems

Before developing such a system, however, we must have a clear understanding of the specific management problems that such a system is intended to address. The management problems we generally found in misdemeanor courts fall into five categories: lack of court control over calendaring; lost cases; delay in particular cases; high fallout on trial day; and inconvenience to civilian and police witnesses and court support personnel caused by inefficient court procedures. Developing solutions to these problems is a complex process because sources of these problems reflect both attitudinal and technical deficiences within the court. Thus, we shall discuss these management problems in more detail and indicate the manner in which elements of the case management and information system relate to these problems.

a. Lack of calendar control

The unwillingness or inability of the court to exercise control over case progress is the overarching source of management problems in misdemeanor courts. The lack of court control over the calendar generally slows the progress of cases through the system, prevents efficient allocation of judicial time, and exacerbates the problem of understaffed administrative offices with inefficient

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[3] Karen M. Knab and Brent Lindberg, "Misdemeanor Justice: Is Due Process the Problem," 60 Judicature 416-424 (1977).

management procedures. Without judicial interest in calendar control, a continuance policy is absent or unenforceable, calendaring practices are geared to goals other than case processing and individual justice objectives, caseload and caseflow statistics aren't collected, and case processing time standards for monitoring case progress are not formulated.

The case management and information system would provide the court with the necessary tools to exercise its control over the caseflow process. Even if the court is not convinced that it needs to exercise calendar control, the system would allow the court to determine if management problems do exist and thus encourage the court to seek alternative solutions for these problems.

b. High incidence of lost cases

High incidence of "lost cases" is also a major management problem in state misdemeanor courts. This phenomenon can occur in two ways. First, the case may become physically and permanently lost, making it necessary to recreate the case file and history. In these instances, the case is lost because of poor recordkeeping systems and unlimited access to the court's files. Second, cases may be viewed as "l st" if they have been off the calendar for an excessive length of time. This happens when a court has no system of monitoring case progess and its calendaring practices do not require a next court appearance to be assigned at the conclusion of each hearing. Very few courts file the docket or case papers in a manner that would help to ensure that cases appear on the daily calendar on a regular basis until dispostion is reached. Also, the court's recordkeeping system generally does not alert the court to lagging cases. The alphabetical and numerical indexing systems usually used in these courts do not indicate the age of a case.

Both types of lost cases are minimized using the CMIS. To maintain the integrity of the system, court personnel would have to follow a policy of limited access to case files by individuals other than court administrative staff. The incidence of off-the-calendar lost cases would also be minimized through the use of improved calendaring procedures and a chronological filing system. To prevent cases from escaping court attention, the court is required to set "next action dates" and the case control card is filed according to that date.

c. Delay in individual cases

Although excessive delay may not be reflected in the overall case statistics in misdemeanor courts, lengthy delays are encountered in "non-routine" or "problem" cases in many of these courts. Again, the absence of case monitoring techniques is partially responsible for this phenomenon. Some cases are delayed unnecessarily and do not receive adequate court attention because of their "off calendar" status. The monitoring function of the CMIS will minimize this source of delay.

Other cases are delayed knowingly, showing 4 to 5 continuances before being terminated. The

severity of this problem may depend upon the court's case mix. More serious cases or cases in which there is a jury demand are apt to be delayed in this manner. The major source of this delay is the absence of a clearly defined continuance policy and case processing time standards. Few statistics are collected to demonstrate the need for a continuance policy or the desirability of distinguishing different types of cases for purposes of case processing.

A continuance policy is utilized under the CMIS to encourage the court to minimize unnecessary delay. The data support component of the CMIS produces summary management information that allows the court to make distinctions among cases to determine those cases that are prone to delay. With that information, the court can decide if it wants to monitor these cases more closely.

d. High case fallout on trial day

High case fallout, particularly the day of trial, is a prominent problem for misdemeanor courts. It is more prevalent in urban courts but its incidence in rural courts is also significant. In effect, too many events drop from the calendar at the last minute because cases are pled, settled, dismissed or continued. Some fallout is expected and courts regularly apply a "setting factor" when constructing their daily calendars.[4] But often the misdemeanor court will overcompensate for this phenomenon by excessively oversetting cases in an attempt to ensure a full workload for the court on that day. Furthermore, oversetting is done intuitively with only exceptional courts using actual caseflow data on which they base calendaring decisions.

Many of these cases fall out because of the high incidence of plea bargaining on the day of trial.[5] Therefore, a partial solution to this problem is the initiation of early case screening procedures and improved guilty plea practices. (See Chapter VI). However, the most effective case screening procedures will not completely eliminate case fallout on the day of trial. Even in the most efficiently run courts, some amount of oversetting will be necessary.

More accurate predictions of the case fallout are possible with case feedback provided under the CMIS. The CMIS includes a manual data support component that collects information on the court's caseload and case dispositional processes. Enhancing the accuracy of fallout estimates can minimize case processing inefficiency by improving scheduling practices.

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[4] A setting factor has been defined as the ratio of cases set for court appearance to those cases which actually appear. See, Institute for Law & Social Research, supra n.2, p. 28.

[5] Case fallout is defined as the dropping of events from the calendar after they were scheduled because the case was pled, settled or dismissed. See, Institute for Law and Social Research, supra n. 2, p. 44.

C. Components of the Model System

The model case management and information system (CMIS) has two general components: an information system and a management component that includes calendaring techniques and enabling policies. Although the specific requirements within each component will vary among jurisdictions, the model described here is adaptable for use by most small city and rural misdemeanor courts. Elements of the CMIS considered essential to its operation are specifically noted in the ensuing discussion.[6]

1. Information-data support component

While the recordkeeping functions of the CMIS require relatively few changes in a court's existing mode of operations, it is essential that a case control card be utilized to monitor cases. In many locales it will be possible to redesign an existing court record (e.g., index card and docket card) tosatisfy this requirement. In courts where this is not possible a separate case control card can be utilized by the court. Figure One is a sample punchout case control card that can also serve as the courts' alphabetical index card. With this card, a court can collect data on filings (by significant case types), dispositions (by significant case types and dispositional points), and continuances granted per case through the use of the next-action dates .

Additionally the card allows easy identification of old cases. Case progress can be monitored and information about case age may facilitate court development of case progress time standards. Further, this feature helps prevent undue delay in individual cases and helps foreclose the possibility that cases may become lost in the system. Information is included on the card to allow rapid tabulation of a wide variety of statistical information on open or closed cases. It is expected that regular tabulation of statistics can lead to policy formulation to correct any problems identified by the statistics.

If the card is used as an alphabetical or numerical file it will be necessary to file the case chronologically according to the next-action date. In other courts, it may be preferable to file the case control cards chronologically to minimize changes in the filing systems. Because the case control card can be created and maintained at the time a case is docketed, it is relatively easy to incorporate.

2. Management component

a. Calendaring techniques

Specific calendaring techniques must be employed by the court to facilitate its control of case progress. The court, not the prosecutor or defense counsel, must schedule all action dates. Cases must be set to a date and purpose certain at the conclusion of each court proceeding; so

[6] This model system was designed during the Task Force Workshop on caseflow monitoring systems. See Appendix II-A for a description of the participants and the workshop format.

that a chronological case file or case control card can be maintained.[7].

At the conclusion of each court appearance the case control card will be pulled from the file and updated -- a procedure many courts already follow in updating their docket records and case files. Maintaining the cards and case files in this manner is essential to the monitoring function of the CMIS. A next-action date on the cards serves as a locator of the chronologically-filed case and as a summary reference of the individual case's progress. Moreover, updating the card at the conclusion of each hearing is a simple procedure which ensures that case monitoring effectively complements the major steps in the caseflow process.

b. Enabling policies

The calendaring techniques discussed above facilitate policy commitment by the court to active control of case progress. The utility of data collected by the court's information system also depends on the general caseflow management policies promulgated by the court. The most effective use of the CMIS requires policy commitment toward court control of continuances and a definition of time standards for case processing.[8] These standards act as the guideline against which the court can measure its own performance.

D. Research Approach

1. Research objectives

In an ideal pilot test period, the research objectives of CMIS implementation would have ad dressed all components of the innovation. An effort would have been made to involve judicial personnel in the formulation of new management policies; and time standards for case processing; judicial and administrative personnel would have been encouraged to develop calendaring techniques in accordance with these policies; and clerical and administrative personnel would have been assisted by project staff in developing a data support component that supplied relevant case management information.

The time constraints of this pilot project period prevented us from attempting the ideal test. It would be unreasonable to expect a court system to drastically alter policies, procedures and record-keeping systems and be operational in a few months. Consequently, our efforts were concentrated on implementation and documentation of the feasibility of the data support component of CMIS in misdemeanor courts. Toward this end, evaluation and analysis of the pilot test was made on the basis of two research objectives:

- determination of the degree to which new management information is made available to the court and the utility of the information; and

[7] James B. Zimmermann, "Caseflow Management and the Computer: The Dallas Connection," V Court Crier 171 (1976).

[8] See Appendix V-A for the Task Force recommendations on time frames within a 63 day maximum.

FIGURE ONE

Sample Caseload Monitoring Card

Month of Filing: J F M A M J J A S O N D N.M.V.

DEFENDANT NAME:

Docket No.,

D.O.B.

AGENCY:

ENTRY DATE:

CLERK'S HEARING ☐

COMPLAINTS:
- Oper. under influence
- Oper. so as to endanger
- Using w/o authority
- Larceny of motor vehicle
- Other motor vehicle
- Nonsupport
- Robbery
- Assault/Assault-DW/Assault-B
- Breaking and Entering
- Larceny
- Receiving stolen goods
- Fraud
- Narcotics offenses
- Disorderly Conduct
- All other
- Motor vehicle trial waiver
- Appeal to jury session:
  - District Court
  - Superior Court

DISPOSITIONS:
- Disposed w/o Appearance
- Disposed at Arraignment
- Disposed bet. Arraign./Trial
- Disposed at Trial — G. Plea
- Disposed at Trial — Tr. Held
- Disposed at Trial — Other
- Closed after Cont'd. w/o F.
- Default warrant issued

CONTINUANCES:
- No continuance
- One (1) continuance
- Two (2) continuances
- Three (3) continuances
- More than 3 continuances

Action Taken

NEXT ACTION DATES
- Arraignment:____
- Cont'd:____
- App. Counsel:____
- Cont'd:____
- Trial Set'g:____
- Cont'd:____
- Trial Date:____
- Cont'd:____
- Cont'd:____
- Sentencing:____
- Cont'd. w/o F.____

-- identification of structural and court management variables that affect the feasibility of introducing the case control card into a court's recordkeeping system.

Implementation feasibility, which refers primarily to the ease with which a court introduces the case control card into its present paperflow system, was evaluated on the basis of:

-- immediate changes necessary within each court to facilitate the card's introduction;
— the burden on the court and its operating procedures in instituting these changes; and
— the extent to which alterations in the card and maintenance procedures of the card are needed to accommodate the court's preferred mode of operation.

The innovation's success in supplying statistical and management information to the court was evaluated at the conclusion of the pilot test. The monitoring program's case control card for each court was designed to facilitate collection of this data. The degree to which the card was a useful mechanism for compilation of such information would reflect the relative success of the pilot implementation. Thus, the program's ability to supply case disposition information (e.g., how many cases are closed without an appearance; how many cases are disposed by guilty plea, trial or some other disposition) and continuance information (either in the aggregate or by case types) was evaluated. None of these data, except gross figures on filings and dispositions, were available in the pilot sites at preimplementation.

Another evaluation criterion was the system's ability to identify lagging cases. To encourage case progress monitoring and caseflow control the card must provide an efficient mechanism for identifying off-calendar cases that otherwide might exceed the court's time standard for case processing. The cards were tested for this purpose during the implementation period.

2. Research design

a. Site selection

Careful selection of sites for pilot testing was considered important. Of primary importance to a fair test was a court's willingness to commit resources to maintaining the CMIS. Since the testing might not necessarily be to the immediate benefit of the test site itself, some difficulty was anticipated in finding "willing" sites. Second, since the heart of the CMIS is a manually-maintained card, the test sites should not be involved in automated court recordkeeping systems. Third, the test courts should be small, with less than 25,000 misdemeanor cases filed annually. The test courts should maintain a chronological case filing system since such a filing system is a recommended feature of the CMIS, and it would be unrealistic to expect a court to change to that type of filing system for a four-month test period. Finally, the test courts should have some flexibility with their recordkeeping system so that it might be feasibile to combine the card with another record.

To minimize travel expenses, the staff wanted to find two test locations in reasonable proximity. Additionally, the presence in the court system of an on-site observer to provide assistance to the court and monitor implementation efforts was deemed desirable. Aside from the obvious liaison benefits to the project, an insider would encourage criticisms and suggestions by court personnel.

The Administrative Office of the District Courts of Massachusetts indicated an interest in the project and a willingness to assist in locating suitable test sites. The CMIS was perceived as consistent with certain long-range goals of the Administrative Office concerning introduction of court-controlled case management policies and procedures. The possibility of eventual state-wide implementation of a system with some characteristics of CMIS was no doubt a consideration by the Administrative Office.

Agreement to serve as a test site did not require commitment by a court to maintenance of the CMIS past the end of the test period. The desirability of specific post-implementation calendar management changes would be determined independently by the courts at the conclusion of the pilot test. Two Massachusetts district courts which fulfilled the site selection criteria outlined above were selected to serve as test sites.

b. Methodology

The same process was used in both pilot sites to implement the information data support component of the CMIS. Six on-site visits by project staff and consultant were made to each court. Visits were made to:

— negotiate with the courts as to the level of resources they would need to commit to the test;
— document the case management and scheduling techniques of the two test courts;
— design a case control card suitable for the courts' objectives and our research objectives;
— instruct court personnel on card implementation;
— collect case management data from the cards; and
— present an analysis of the data to the court.

These data collected during implementation have been used to measure our success in meeting the first research objective. To fulfill the remaining research objective we relied on our observations of court processes and interviews with court administrative personnel performed during the course of implementation.

E. Feasibility Testing of the CMIS Information-Data Support Component

The design of the information system, the case control card and its maintenance procedures were determined by the courts' operation and recordkeeping systems. Card modifications were made so that

the data support component fulfilled the particular needs of these two courts. The first section of this discussion presents a description of the test courts. The second section describes the information data support component designed for the two courts.

1. First District Courts of Essex (Salem, MA) and Northern Middlesex (Ayer, MA) site description prior to implementation

a. Jurisdiction and caseload

The district courts are the commonwealth's principal courts of limited jurisdiction. The 72 district courts have unlimited original jurisdiction in contract, tort, replevin and summary actions concurrent with the superior court. Civil jurisdiction includes exclusive jurisdiction of commitment hearings and of juvenile matters, if there is no separate juvenile court.[9] The district court also hears support cases, municipal code violations and has small claims jurisdiction up to $400.

The district court has original jurisdiction, concurrent with the superior court, for municipal ordinance violations, all misdemeanors except libel, felonies punishable by imprisonment for less than five years and probable cause hearings, regardless of final jurisdiction. Since district court judges cannot commit offenders to the state penal institution, in practice the maximum sentence is 2 1/2 years --the maximum sentence for offenders sent to county correctional institutions. Original criminal cases are tried without a jury in all district courts, but the defendant can appeal for a trial de novo in superior court or choose to be tried before a "jury of six" in certain district courts. The Ayer court does not hear "jury of six" appeals. In Salem, these appeals are heard at periodic sessions, but do not constitute the major portion of the caseload.

The district courts' caseloads as of June 30, 1976, are shown in Table One according to significant offense category. In Salem more than half the court's official caseload is parking tickets and complaints, more than half of the residual is minor criminal motor vehicle complaints. The remainder is spread evenly over civil complaints, small claims and criminal complaints. In Ayer, no parking tickets are handled by the court. Minor motor vehicle cases are 80% of the court's formal caseload. Other criminal complaints are a high proportion of the caseload, although they are about the same in absolute number.

[9] American Judicature Society, Financing Massachusetts Courts (Chicago: American Judicature Society, 1974) pp. 44-45.

TABLE ONE

Annual Caseload[10]

	Ayer	Salem
Total Civil Complaints Filed	400	2,000
Small Claims Entered	1,200	2,300
Criminal Complaints (excluding minor traffic and parking)	2,900	3,100
Minor Criminal Motor Vehicle Complaints (excluding parking)	9,400	11,000
Parking (tickets and complaints)	0	21,400

b. Administration and judicial manpower

The Massachusetts court administrative structure is organized "horizontally," with a chief justice of the district courts having statewide administrative authority. The Massachusetts Supreme Judicial Court has general superintendence of the administration of all courts in the commonwealth. The chief justice of the district courts is authorized to assign all judges to sit in district courts other than the ones to which they were originally appointed, and does so frequently.[11]

Two judges sit in the Salem District Court part-time. One judge sits nearly full-time and a visiting judge is assigned for at least three days of each week. Chief Justice Zoll of the district court also sits in this locale for one day a week, usually Friday. When the part-time judge is assigned by the District Court Administration Office to sit elsewhere, another judge must be assigned to take his place.

One full time judge sits in the Ayer Court with a visiting judge assigned one day per week to hear small claims and civil cases. One Friday each month the full time judge is assigned to another district court and that judge is assigned to the Ayer court.

Support personnel in each district court consist of a clerk of court appointed for life by the governor, a chief probation officer appointed by the district court Presiding Justice, and support staffs. The Office of Clerk of Court issues criminal complaints in addition to performing the necessary administrative functions that facilitate court operations.[12] Nevertheless, the administrative

[10] Administrative Office of the District Court, "Statistics for the District Courts of Massachusetts for the Year Ending June 30, 1976 as Reported by Clerks of Said Courts."

[11] As of March, 1968, there were 142 full-time salaried judicial positions in the district courts. These judges are supported by 25 part-time special justices who serve as needed. All judges are appointed by the governor and serve until age 70. No qualifications are prescribed by law. See, Courts of Limited Jurisdiction, edited by Karen M. Knab, (Washington, D.C.: Government Printing Office, 1977) p. 171-72.

[12] American Judicature Society, supra n. 9, p. 46.

accountability of these offices to their respective judges is limited since the clerk is appointed by the governor for life.

Nine clerical persons in Salem, and eight in Ayer, including the office supervisors, are responsible for the daily processing of the case paperwork. Responsibilities are functionally allocated, with one person compiling the court's daily calendar, another docketing all motor vehicle offenses, another processing small claims, and so on. Introduction of the case management and information system primarily affected three clerical persons in Salem and four in Ayer. They are responsible for various aspects of the motor vehicle and nonmotor vehicle criminal caseload.

c. Case management in pilot site courts[13]

This discussion describes certain features of the test courts' case management practices that we feel are indicative of misdemeanor courts in general. Also, the impact of these management practices could be assessed with the information produced by the CMIS information-recordkeeping system. Both courts used the case file as the primary informational document. Accordingly, the case files were handled by a variety of individuals both within and out of the court. This resulted in a number of lost or misplaced case files -- a complaint voiced by some of the attorneys practicing in the two courts. As a consequence, inaccurate daily calendars were constructed since the courts relied on their chronological case filing system to assemble the docket. The case control card, if substituted for the file as the primary informational record, could alleviate this problem.

Misdemeanor court judges often do not realize the condition of the court's caseload as a whole. Individual cases instead of the aggregate caseload receive the judge's attention. This perspective was held by the judges in the two test sites and is reflected by the courts' informal calendaring procedures. No specific criteria for setting cases on the calendar had been promulgated by the court. Daily limits as to the number of cases set were not specified. Based on past experience, clerical personnel estimated the number of cases that would be disposed by payment of fine when they set first appearance dates. They possessed no calendaring data on which to make these scheduling decisions.

Neither court had a clearly defined continuance policy. The clerks often exercised their authority to grant continuances when requested by both parties on a case. The parties were responsible for notifying any witnesses of new court dates since the court did not take an active part in the notification process. In Ayer, and to a lesser degree in Salem, the judges did not distinguish between a well ordered process, where each step served a specific purpose, and an ad-hoc scheduling system

[13]See Appendix V-B for a more detailed analysis of the management and scheduling operations of these courts.

concerned with disposing cases in the quickest manner possible. One judge, hoping for nontrial dispositions, found it preferable to continue a case to another arraignment session, keeping the case on a Wednesday "track," his busiest court day. Continuance information might indicate such a practice is ineffective in disposing of particular cases.

2. Implementation of the information data support system

The case control card was the only new form added to the courts' docketing and calendaring system. Since case files were arranged chronologically by next-action date, the card was designed so that it also served as the courts' alphabetical defendant index.

The informational needs varied between the courts, hence, the design of the card for the Salem district court is slightly different from that of the Ayer court. Personnel in the Salem district court were interested in the number of filings made by each agency within the district. The card, therefore, listed agencies and charges to enable such identification. Aside from that, the two cards are the same.

A control card for each charge was created by the court as a case was filed. Entry information included: the defendant's name; date of birth; filing date and docket number; a hole punch to indicate the month of filing; a punch to indicate the charge; and entry of the first scheduled appearance date. As the case proceeded through the system, court personnel were asked to pull the case control card at the conclusion of each court appearance and enter next-action date information. When a case was disposed, personnel entered the disposition and continuance information by making the appropriate punch. Card samples and more detailed, step-by-step instructions for them are contained in Appendix V-C.

It was agreed that the pilot test of the case control card would span three months to enable a realistic assessment of the time and resource requirement of the system. Neither court was asked to make a long term commitment beyond the pilot test period to maintain the CMIS information system.

F. Analysis of the Feasibility Testing of the CMIS Information Component

The goals of this feasibility test were to test the component's effectiveness in providing case information and statistics and in providing a simple mechanism for case progress control. Our analysis discusses the component's success in meeting these criteria and measures the time and resources required to operate the system. This discussion of the feasibility test first summarizes the total range of information available from the two test designs of the case control card. Second, the actual information collected from the test sites is discussed in the context of its potential user to a misdemeanor court. Finally, the time and resource requirements to maintain the case control file and compile its information are presented.

1. Information available from the case control card

The test designs of the case control card allows collection of the following statistical and management information:

- number of filings per month, by case types;
- number of dispositions per month, by case type;
- number of pending cases, by case type;
- various ages of pending cases, by case type;
- number of dispositions without a court appearance, by case type;
- number of dispositions at arraignment by case type;
- number of dispositions at various dispositional points after the arraignment, by case type;
- number of continuances per case, by case type; and
- age of case at disposition.

Any of these data could be cross-tabulated with another if the court so desired. For example, a court might be interested in knowing the number of continuances already granted to cases in its pending file. Tabulation of these data is a simple procedure using the cards.

2. Data generated from the test sites and their utility

To evaluate the use of the control card to compile case management information, the project team designed several simple reports of the type that a court might wish to generate regularly. The CMIS control cards were used to tabulate this information during the nexttolast site visit conducted in February. The information shown on these reports (See tables Two and Three) represents a relatively small proportion of the total data available from the card. Those data can be used from time to time for special case management reviews or reports as desired by the court.

The data compiled in the sample reports were developed by the Ayer district court during the three month testing period. Similar data are available for Salem.[14] Table Two provides caseload, disposition and continuance information for the court's November filings. November was the first test month for which complete data were available. The case control cards were an especially effective method for tabulating this information.[15]

At the time a case is filed, a notch is punched from the top of the card corresponding to the month of filing. Thus, to collect the data in Table Two project staff pulled all cards showing a

[14] See Appendix V-D for the data generated by the Salem Court.

[15] Salem card design also allowed a further breakdown of the filing information into filings by agency.

November, 1977 date punch at the top of the card. These cards constituted all the motor vehicle and non-motor vehicle cases filed during November, 1977 (See Section A-1, Table Two). Further sorts were made on the November filings to tabulate the number of filings within the offense categories.

At the time a case is disposed, a notch is punched from the bottom of the card corresponding to tthe type of disposition reached. Cards which showed a disposition then were separated from those cards that were still open. The open cards were returned to the active card file. Additional sorting was performed on the disposition cards to determine the number of dispositions at various stages in the case process. Also, sorts were made on the disposition cards to tabulate the continuance information.

The continuance information is unclear. In 89 disposed cases we were unable to determine the number of continuances granted. Our closing interviews with court personnel indicated that this result was due to a difference between project staff and the court in definition of continuances.

Nevertheless, summary information such as this on dispositions and continuances would prove useful to a court concerned with its disposition modes and continuance rates. These data would enable the court to adjust or modify its scheduling practices in accordance with its needs. It also permits the court to estimate projections of future caseloads on the basis of past caseload trends. One clerk noted the importance of this function, especially in terms of justification for his future budgetary requests to the local funding agencies.

It is clear from these tables that the CMIS information component generated data that should be an integral part of a court's efforts to remedy the management problems identified earlier in this chapter. For example, in the participating courts, the judges indicated that sixty days from filing to disposition was a desirable time frame for misdemeanor cases. But, data from the CMIS control cards revealed that 40% of all cases filed in November, and 60% of the non-motor vehicle cases, remained open as of February 2, rendering them older than the desirable 60-day limit (see Table Three).

3. Monitoring function performed by the case control card

The availability of this information would encourage a court to take steps to bring all dispositions within the 60-day standard. Knowing that a significant percentage of its caseload exceeds the time standard, a court first would want to identify individually these cases in its pending file. The case control cards proved extremely useful in this regard. The notch punched from the top of the card corresponding to the month of filing allows court personnel to visually identify all open cases whose age exceeds the court's time standard. Subsequent inspection of the docket book or case papers for each such case is then possible to attempt to ascertain the reasons for delay and to determine whether immediate court action could dispose of the case.

TABLE TWO

Data Generated from the CMIS Information Component

First District Court of Northern Middlesex (Ayer)

For Cases Filed in November, 1977

	Offense Type		
	Motor Vehicle	Non-Motor Vehicle	Total
A. Caseload information			
1. Cases Filed	878	64	942
2. November Filings Disposed by 2-1-78	535	27	562
3. November Filings still Pending as of 2-1-78	343	37	370
B. Disposition Information			
1. Disposed without Court Appearance	374	-	374
2. Disposed at Arraignment	45	16	61
3. Disposed between Arraignment and Trial	2	1	3
4. Disposed at Trial:			
a. By Guilty Plea	6	1	7
b. By Trial	9	4	13
c. Other	-	-	-
5. Default Warrant Issued	73	-	73
6. Closed after Continued Without Finding	19	5	24
7. Filed to Locate	7	-	7
TOTAL DISPOSITIONS:	535	27	562
C. Continuance Information			
1. Unknown	89	-	89
2. Cases with No Continuance	433	16	449
3. Cases with One Continuance	8	6	14
4. Cases with 2 - 3 Continuances	5	2	7
5. Cases with more than 3 Continuances	-	-	-

TABLE THREE
Pending Caseload Statistics Generated from the CMIS Information Component
First District Court of Northern Middlesex County (Ayer)
Case Filings: Status as of February 1, 1978

I. Intake

Category	Pending End of October 1977	Filed During November 1977	Terminated as of 2-1-78	October and November Filings Pending as of 2-1-78	Net Increase or Decrease
Non-Motor Vehicle	6	64	27 (42%)	43	+37
Motor Vehicle	180	878	535 (61%)	523	+343
TOTAL	186	942	562 (60%)	566	+380

II. Age of Pending Caseload

Category	Less Than One Month	Between One and Two Months	Between Two and Three Months	Between Three and Four Months
Non-Motor Vehicle	—	—	37	6
Motor Vehicle	—	—	343	180
			Backlog Cases	

The CMIS cards were tested for this purpose. Project personnel, using the cards maintained by the Ayer District Court, on 2-1-78 pulled from the active card file the 37 cases having a November, 1977 date punch at the top of the card. As of 2-1-78, cases filed in November would have been between 63 and 92 days old. The docket entries for each of these cases were then reviewed to determine the current status of the case, the last action in the case, and the reason (if one could be determined) why the age of the cases exceeded the 60-day standard advocated by the judge and clerk of the court.

Inspection of the docket books revealed the current status of the cases to be as follows:

Cases Disposed of (cards for these cases should have been posted and removed from the active file)	= 7
Non-Support Cases -- continued to a future date certain for review	= 8
Cases Continued without a Finding (case will be dismissed on future date unless new offense is committed by defendant)	= 11
Case Open -- last action a continuance to a date certain in Feb., Mar., Apr., or May	= 11
Total	37

The final category, "Case Open", would be of interest to a court for further analysis and possible action. It is assumed that a court would want to examine the eleven cases in this category (17% of the cases filed) to ascertain 1) whether these cases could have been disposed of more expeditiously and 2) whether the experience in these cases is instructive for expediting future cases. For example, one interesting fact, noted from the docket entries, was that these 11 cases had had the scheduled hearing continued an average of 3.36 times. Acquisition of this information might cause a court to examine its continuance policy to see whether modification could bring disposition in all cases within the 60-day goal.

4. Other uses

Beyond the utility of CMIS for case progress monitoring and tabulating statistics, certain features of the CMIS control card lend themselves to other functions. Because the test courts filed case records chronologically by the next assigned date, it was possible to file the CMIS control cards alphabetically by defendant name. Accordingly the control card can serve as an alphabetical defendant index, in effect combining two court records. In fact, the Salem district court intends to continue use of the card on that basis. Further, the entry of the next assigned action date on the card allows immediate location of the case file. Formerly, it was necessary to obtain the case number from the alphabetical index and go to the numerically-maintained docket books to obtain the date under which the case papers were filed.

One clerk felt the control card could be redesigned as a docket management system. With such a system the card could be used as the numerically maintained docket record. Such a system would allow the court to perform all of the CMIS functions at less cost. Staff time would be minimized since most docket records routinely include next action date information.

Court staff articulated other functions performed by the case control card. For a court that has not taken any steps to establish a management system, they felt the card effectively organized, in one place, management issues for the court. It summarized continuance and disposition information and allowed quick access to these data on a case-by-case basis by obviating the need for an elaborate docket search. Also, it provided a more effective method than presently employed by the court for collection of the statistical information required by the state court administrative office. Finally, use of the control card as an informational document minimized the use of the case file for that purpose. This decreased the potential of lost case files.

5. Time and resource requirements

In Ayer, court personnel reported that about three more hours per day were devoted to the creation, updating and closing out of the CMIS control cards. In Salem approximately two man hours were required. Recording dispositions was judged the most time-consuming because it was at this point

that the total number of continuances in the case was computed and punched into the card. However, this commitment could be expected to decrease as court personnel became more familiar with the system. Also contributing to the additional time requirements is the fact that many defendants are charged initially with three or four offenses, and a control card is created for each. Entries are required on all cards.

The other function served by the case control card, identification and review of old cases, required nominal staff time. In our test of the cards for this purpose thirty-seven cases were identified and reviewed in less than an hour. Pilot site personnel believed this to be a major advantage of the system. It permits them to monitor case progress, identify problem cases and investigate these cases without conducting an elaborate and time consuming docket search.

Evaluation of the resources required to maintain and use the cards in the test sites is difficult. Ordinarily such an evaluation is a relative matter. "Are the resources required justified by the information provided?" or " To what extent do the resources required exceed the resources required to maintain similar information under the former system?" Both types of questions are difficult to answer in the test courts because:

- these courts did not maintain case management data prior to introduction of CMIS; and
- the courts have not articulated case management goals toward whose attainment CMIS data would be directed.

Accordingly, there is no management context against which to judge court staff evaluation of the resources required to maintain CMIS.

Since no management information was maintained previously, it is not surprising that court staff viewed the time required as burdensome. Nevertheless, project staff concluded that, though some streamlining modifications should be considered, the overall time required was nominal when compared to the wealth of information the system makes available.

G. Implications Concerning the Management Component

The choice of test sites provided ample opportunity for observation of the way in which the management characteristics of the court influence perception of the CMIS. As indicated earlier, the courts' staffs generally offered the opinion that, while CMIS is a workable system and may hold potential for consolidating certain court records, the system itself would not be particularly useful in their courts. The reasoning behind this opinion bears examination since it should be instructive for future implementation of CMIS elsewhere. Why were no immediate benefits perceived by court staff? Project staff concluded that the answer lay in the absence of a case-management orientation on the part of the judiciary. This lack of perceived need for case progress monitoring or case management statistics clearly influenced the attitudes and initiative of the clerks of court and their deputies. For

example, the cards' capability to present disposition information and monitor case age had little relevance to administrative personnel because case disposition time standards do not exist in the district court system.[16] Continuance information also was not useful for the same reason. One clerk noted the absence of judicial demand for management information as his basic rationale for discontinuing the CMIS at the end of the test period.[17]

Another example of how judicial disinterest inhibited the initiation of more effective operating procedures was evident from one clerk's reaction to the case control cards' potential as a docket record. He saw no inherent problem with using the card in this manner. In fact, for his court, combining the control card with the docket record would have been preferable to continuing it with the alphabetical defendant index. In this test, however, he felt such an undertaking was beyond his authority to initiate. He felt such an alternative must first receive support from the judges and most probably state officials as well, since the docket is the court's official record.

In an effort to cultivate judicial interest , during our last site visit the judges were presented with a management analysis of the data. The analysis discussed the court's filings, pending caseload, disposition modes and continuance information. Even so, this presentation seemed to have little impact on the judges' interests in case management. This result indicates that in future implementations effective judicial involvement should be cultivated and obtained early in the process.

Judicial disinterest in management is partially explained by the judges' isolation from their administrative staff support. Our earlier research on misdemeanor courts documented the judicial isolation endemic to these courts. Massachusetts' policy of statewide judicial reassignment, which is premised on the philosophy that the administration of justice is better served by discouraging familiarity between judges, prosecutors, defense attorneys and police, may intensify this isolation. The reassignment policy impedes the necessary ongoing judicial interest in and responsibility for case management by requiring judges to sit in more than one locale.[18] The clerk's life tenure appointment by the

[16] A District Courts Caseflow Committee is now developing misdemeanor processing time standards.

[17] See, Jerome S. Berg, "Judicial Interest in Administration: The Critical Variable," 57 Judicature 251-55 (1974); James A. Gazell, "Indicators of Managerial Consciousness in an Urban Bureaucracy." 49 Denver Law Journal 493, (1973); Steven W. Hays, "The Traditional Managers: Judges," Managing the State Courts, ed. Larry C. Berkson, et. al (St. Paul: West Publishing Co., 1977), pp. 165-174; and Maureen Solomon, Caseflow Management in the Trial Court (Chicago: American Bar Association, 1973).

[18] Eight states, generally in the more populous northeastern regions, have statewide assignment of judges.

governor also may contribute to the judges' sense of isolation from his court's administrative operations. With such an appointment process, the judge may feel his authority to exercise administrative supervision over the clerk's office is diminished. Since our pilot tests have demonstrated that judicial interest in management is essential to the long term effectiveness of CMIS, local procedures and conditions such as these are apt to impact significantly on further implementations of CMIS.

H. Recommendations for Future Implementation

The feasibility tests of the CMIS information component have demonstrated that the case control card can be integrated into the courts' recordkeeping system. The cards provided useful statistical and management information while acting as a simple case monitoring mechanism. The tests also showed the importance of a management component accompanying implementation of the information system.

This section on recommendations for future implementation discusses variables a court should examine and consider when implementing the management component and information systems of the CMIS. These variables relate to necessary local conditions for effective long-term implementation, modifications of the information system and case control card design that may be desirable for some locales , and steps within the implementation process that should be emphasized.

1. Necessary conditions for effective CMIS implementation

The most important pre-condition for effective implementation is the presence of judicial and administrative policy level commitment to a management program. This management component sets the court's case processing priorities and standards against which it can evaluate its own performance. Without such a management focus, any information on the court's caseload and caseflow would have little relevance to the court's operations. Thus, judges and administrative staff should have specific management goals and informational needs when implementing the CMIS.

Beyond that, the court should have some flexibility with its recordkeeping system. When feasible, it is preferable to combine the case control card with another court record. This approach minimizes necessary alterations in the court's internal recordkeeping practices with CMIS introduction.

In general, resources required to implement CMIS are nominal. The only additional cost pertains to the procurement of case control cards. When purchased in quantity, the cost per card is extremely low.

2. Design of the information system

Necessarily, the overall design of the system will depend upon the management objectives and needs of the court. Based on our feasibility tests, however, it is important that a court implementing CMIS carefully review its intact recordkeeping system. Its present system also will

determine the feasibility of different aspects of the CMIS information component, as well as the design of the case control card.

A chronological filing system is essential for CMIS. To fulfill this requirement the case file or case control card could be filed according to the next court appearance date. Filing the case control card chronologically may preclude the card from being combined with other court documents. For example, a combination case control and alphabetical defendant index card would not allow chronological filing. This is also true for a combination case control and numerical docket card. However, if the case control card is filed chronologically, it becomes more feasible for the card design to be structured by defendant rather than by charge. This is significant since pilot site personnel felt the latter design would minimize the amount of staff time needed to maintain the card.

Filing the case file chronologically will alter the design of the card. With chronological case files it may not be as critical to the court for next action date information to be entered on the card. Deletion of this information from the card also would significantly reduce necessary staff time to maintain the card. Furthermore, chronological case files encourage the combination of the case control card with the numerical docket or alphabetical defendant index.

The most creative use of this information system would be a combination alphabetical docket record, chronological case control card and numerical case file; or a chronological docket, alphabetical defendant case control card and numerical case file. Since most courts maintain their case files numerically, little is lost by changing filing of the docket, also generally filed numerically. In fact, many of the courts visited during this project felt the only useful service provided by the docket was to officially record the history of the case. This important function of the docket record could be fulfilled whether or not the docket is arranged numerically.

3. Desirable modifications to the case control card

The general design of this card, perhaps, is most dependent upon the court's decisions regarding the overall design of the information system as discussed above. Nevertheless, our experience in the pilot courts suggests certain modifications to the card may be desirable for most misdemeanor courts.

Management supervision may be unnecessary for the total misdemeanor caseload since a substantial majority of these cases are minor motor vehicle offenses disposed at or before the first court appearance date. The more serious offenses, which often constitute 20% or less of the court's criminal caseload, proceed beyond the first appearance date and should be subject to more stringent management supervision. Disposition, continuance and next action date information is relevant only for these latter cases.

Although close management supervision may not be necessary for the entire caseload, this does not negate the importance of monitoring the age of all cases. Thus, the dichotomous nature of the misdemeanor caseload between more and less serious offenses suggests the need for a bifurcated management system. Cases not disposed at first appearance would be subject to more stringent monitoring and data collection techniques than those cases disposed at arraignment. For example, the case control card for the less serious offenses might involve simply the monthly punch without disposition, continuance and next action date information. The simpler format would allow the court to monitor the ages of those cases while avoiding the collection of superfluous data. A significant advantage to this approach is a considerable reduction in staff time spent on maintaining the case control cards.

Changing the card's design so that one card is created per defendant is another modification that should be considered. Such an alteration is feasible with an alphabetical defendant index and case control card or with the chronological case control card. The major change in the card format would involve the disposition information since a defendant often is charged with numerous offenses. The design would need to accomodate more than one entry of disposition information.

4. Recommended implementation steps

Specific steps should be followed when implementing the data support component of the CMIS. The sequence of recommended steps discussed below are suggested on the basis of our experiences in the test courts and the card modifications offered above. Generally, these suggestions involve:

— extensive investigation and evaluation of the court's present recordkeeping practices, to include an investigation of a random sample of the caseload; and
— additional on-site staff time devoted to initial phases of implementation (introduction and early monitoring), to include a formal training and education workshop.

The court's recordkeeping practices should be extensively investigated so that all formal and informal documents are evaluated. Thus if it is not feasible to combine the case control card with the court's formal records (e.g., docket, alphabetical index) it may be possible to combine it with one or more informal records (i.e., records kept by individual deputy clerks for their specific needs). This analysis of recordkeeping practices should also result in the most efficient information system design for the court whereby some documents are eliminated.

As part of this analysis, various types of cases should be proportionately sampled from the entire caseload. Analysis of the disposition process of these cases should identify:

— the kinds of cases which proceed beyond the first appearance date; and
— points of delay and case termination in the court's dispositional processes.

The first identification will determine which cases should receive close management supervision through the use of a more complex case control card. The second identification will determine the kinds of disposition and continuance information the court may wish to measure. For example, the sampling may reveal that many cases are disposed between arraignment and trial day. In this context the court might want to collect information on how these dispositions are reached - by guilty plea, at a pretrial hearing, or some quasi-institutionalized settlement procedure.

Additional on-site assistance from project staff is needed to train court personnel in implementation procedures and to monitor implementation progress. The informal training of court clerical personnel conducted during our pilot tests dealt strictly with creating and maintaining the case control card. Management issues, impleications of the data and various advantages that might accrue to the court from the information system received only superficial attention. A formal training and education workshop whould have focused on issues such as these. However, our implementation time constraints made such an undertaking unrealistic. In future implementations that are not constrained by such limits, a workshop is recommended. At an optimum, it should include judges, administrators and clerical personnel so that court participants can discuss and understand the interrelatedness of the management component and information system. A formal workshop of all relevant participants would also minimize any misunderstandings in system definitions and operations.

Additional on-site monitoring by project staff would reduce further the likelihood of an misunderstandings during implementation. More technical assistance could be provided to the court with additional on-site time. Furthermore, this on-site presence allows project staff to evaluate more closely the problems involved in implementing the total case management and information systems. This analysis would be useful for refinement of the systems for other implementations.

In summary, the recommended steps to implementation are:

- extensive evaluation of the court's intact recordkeeping system;
- an investigation of a sample of cases and their dispositional processes;
- a formal workshop to introduce the CMIS, explain use of the case control card and train personnel; and
- close monitoring of the implementation process, particularly during its initial phases.

I. Conclusions

Testing of the CMIS information component and research conducted furing its implementation demonstrate:

- the feasibility of introducing a simple manual information and control system;
- the system we have designed performs the function originally envisaged and as such allows the court to improve its internal management system; and

— the necessity for a judicial management component that provides a goal structure and internal focus for members of the misdemeanor court environment.

Additionally, this experience points to the need for further research on implementation of the total CMIS package. Contrary to the process followed under the CRP, the nature of the CMIS permitted us to separate its components and pilot test only the information-data support element. Consequently, we have documented little about the dynamics of the management component — the relative ease with which it can be developed and its overall effect on court operations. These issues should be addressed in future research. Specfically, the research should address the process of developing and initiating the implementation strategy and the impact CMIS implementation has on the court's management techniques and case dispositions. A plan for further research is outlined in Chapter VII.

CHAPTER VI

Pretrial Settlement Conferences

A. Introduction

As indicated in Chapter III, the lack of attention that many misdemeanor courts give to the pretrial process results in significant management problems in these courts. One potential solution to these management problems is the pretrial settlement conference. This procedural device brings together the misdemeanor defendant, defense counsel, prosecutor and judge — on a scheduled date between arraignment and trial -- for the purpose of arriving at a negotiated settlement of the case. As such, the pretrial conference is intended to improve upon the guilty plea practices of the misdemeanor courts from both a management perspective and a due process perspective. In this chapter, we analyze the use of pretrial settlement conferences in two misdemeanor courts from both perspectives.

The negotiated guilty plea is the principal case dispositional mode in metropolitan area misdemeanor courts.[1] However, the administrative practices of these courts do not reflect this situation. Rather, the misdemeanor court's calendar generally is organized around an event (the trial) that most often does not take place. On a typical day, many misdemeanor courts may set as many as ten times the number of cases for trial as will actually be tried on that day. Although continuances may account for some of this case "fall-out," most of the fall-out results from guilty pleas arrived at through last minute negotiations.[2] Accordingly, most misdemeanor courts "overset" their calendars.[3] For example, a misdemeanor court may know from experience that for every jury trial that is actually tried, it must set on the average of eight cases for jury trial. Thus, if a judge can be expected to try two jury cases a day (one in the morning and one in the afternoon), the court may set as many as sixteen jury trials for that judge on a single day.

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[1]See, Alfini and Doan, "A New Perspective on Misdemeanor Justice," 70 Judicature, 425, 431 (1977).

[2]"Fall-out has been defined as "the dropping of events from the calendar after they were scheduled because the case was pled, settled, dismissed, or continued, Guide to Court Scheduling (Washington, D.C.: Institute for Law and Social Research, 1976 p. 44.

[3]"Oversetting" has been defined as, "the process of setting more events than the court can handle on a given day on the presumption that some events will fall-out because of settlements, continuances, dismissals, etc" Id.

What happens, however, if only six cases are pled out or continued, leaving the judge with ten jury trials? But, what is more likely to happen is that all sixteen cases are pled out or continued and the court's docket is cleared within the first hour or two. What happens then? The former situation results in frustration and wasted time for attorneys, defendants, and witnesses in cases that cannot be tried on that day. The latter results in the wasted time of police officers, civilian witnesses, the judge and jurors. Even if all goes as planned – two cases tried before a jury and fourteen cases pled out or continued – the time of numerous police and civilian witnesses will have been wasted as a result of last minute pleas.

The pretrial settlement conference is intended to remedy this situation by encouraging more case dispositions at an earlier stage of the caseflow process. This, in turn, should reduce the uncertainties on trial days and "harden" the trial calendar.

The pretrial settlement conference is also a possible answer to many of the criticisms of the plea bargaining process. Though plea bargaining is now openly acknowledged, and has been explicitly approved by the United States Supreme Court[4], it is still commonly perceived as illegitimate. Those who would reform plea bargaining are split into two camps — one favoring its complete abolition[5], and the other believing that the practice must continue, but should be conducted more formally and openly.[6] Because of the reliance of misdemeanor courts on negotiated guilty pleas, the latter would appear to be the more feasible option. A more visible setting for plea negotiations may reduce disparities in treatment and alleviate some of the due process problems inherent in traditional guilty plea practices in misdemeanor courts. A more formal setting for plea negotiations may also give the defendant a better understanding of the criminal justice process, and may increase the legitimacy of the system in his eyes.

B. Pretrial Settlement Conference Research

1. Site selection

To determine the extent to which pretrial settlement conferences are used in urban misdemeanor courts, we conducted a telephone survey of 21 misdmeanor courts in cities of over 300,000

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[4]See, e.g., Santobello v. New York, 404 U.S. 257, 260 (1971); Blackledge v. Allison, 431 U.S. 63 (1977); and Bordenkircher v. Hayes, 98 Sup. Ct. 663 (1978).

[5]See, e.g., National Advisory Commission on Criminal Justice Standards and Goals, Courts 46 (1973) and Rossett, "The Negotiated Guilty Plea", 374 Annals 70 (1967).

[6]See, e.g., President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society 134-136 (1967) and Lambros, "Plea Bargaining and the Sentencing Process", 53 F.R.D. 509 (1972).

population.[7] Eleven courts (52 percent) reported that some or all of the judges regularly scheduled pretrial conferences in misdemeanor cases.[8]

Our telephone survey revealed that although most of these eleven misdemeanor courts permit or encourage the use of such settlement conferences on an ad hoc basis, a few courts have regularized this procedure to such an extent that it has become a formalized part of the caseflow process and can therefore be viewed as an integral part of the court's management component.

In considering the suitability of a state misdemeanor court for the pretrial research effort, we applied the following criteria:

- existence of a formalized, court-operated pretrial program;
- existence of an "open discovery" policy in misdemeanor cases;
- willingness of the court to cooperate with the research effort;
- availability and accessibility of pretrial case disposition data; and
- absence of a court rule or statute barring judicial participation in plea negotiations.[9]

All things considered, we preferred courts geographically proximate to each other and to Chicago, because the pretrial research effort had not been contemplated in the original grant proposal and we thus desired to conserve travel funds. We chose the Ramsey County Municipal Court (St. Paul) and the Hennepin County Municipal Court (Minneapolis) because they satisfied the above criteria and were similar enough in size (number of judges), caseload and percentage of jury demands to allow us to perform a comparative analysis of the two programs.

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[7]Philadelphia (Pennsylvania) Municipal Court; Baltimore (Maryland) District Court; Cleveland (Ohio) Municipal Court; Indianapolis (Indiana) Municipal Court; Milwaukee (Wisconsin) County Court; San Diego (California) Municipal Court; San Antonio (Texas) Municipal Court; Boston (Massachusetts) Municipal Court; Phoenix (Arizona) City Court; Columbus (Ohio) Municipal Court; Seattle (Washington) Municipal Court; Jacksonville (Florida) County Court; Buffalo (New York) City Court; Cincinnati (Ohio) Municipal Court; Minneapolis (Minnesota) Municipal Court; Toledo (Ohio) Municipal Court; Portland (Oregon) District Court; Omaha (Nebraska) Municipal Court; Louisville (Kentucky) Police Court; Miami (Florida) County Court; and St. Paul (Minnesota) Municipal Court.

[8]The courts in Cleveland, Indianapolis, San Diego, Phoenix, Columbus, Seattle, Cincinnati, Minneapolis, Toledo, Omaha, and St. Paul.

[9]These criteria were developed at a workshop in Denver, Colorado in May, 1977, that was attended by representatives of four misdemeanor courts that presently have pretrial settlement conference programs: Chief Judge O. Harold Odland, Hennepin County Municipal Court (Minneapolis); Presiding Judge Alan Hammond, Phoenix City Court; Richard Friedman, Court Administrator, Toledo (Ohio) Municipal Court; and David Jackson, Executive Aide, Connecticut Court of Common Pleas.

2. Program Descriptions

a. St. Paul Program

Located in St. Paul, Minnesota, the Ramsey County Municipal Court has jurisdiction over municipal ordinance violations (mainly minor traffic offenses), misdemeanors[10] and civil cases involving $6,000 or less. The population of Ramsey county was 476,350 in 1970.[11] Eleven judges serve fulltime on the Ramsey County Municipal Court. In 1976, the new filings and complaints were as follows: 22,797 traffic cases; 9,603 misdemeanors; and 14,632 civil cases.

Although the court's caseload has steadily increased during the past decade, the rate of increase was particularly high during the late 1960's. According to the Ramsey county court administrator, this rapid rise in caseload, together with the establishment of a public defender office and a corresponding increase in criminal jury demands, prompted the court to institute a "pretrial hearing" program in 1969. The court administrator explained that the court had been forced to schedule eleven criminal jury trials per day. Although many of these cases would typically plead out at the last minute, it was difficult to project, on a daily basis, how many misdemeanor jury cases would be tried. Therefore, a pretrial procedure was instituted as a means of encouraging defendants to enter their guilty pleas at an earlier stage of the caseflow process so as to reduce the level of uncertainty in the scheduling of misdemeanor jury cases.

At present, the court schedules two types of pretrial hearings. The first type of pretrial is conducted on the same day that the case is arraigned. Normally, arraignments are conducted each morning by a single judge assigned to hear arraignments for a one week period. Pretrials are then scheduled at arraignment to be heard before the arraignment judge on that same afternoon. But only cases in which the defendant appears with counsel at arraignment are scheduled for a same-day pretrial. As a practical matter, these are generally cases in which the defendant is represented by the public defender. The second type of pretrial is normally scheduled for a date that is within 15 to 30 days of arraignment. These pretrials are scheduled for all misdemeanor cases in which there is a jury demand and which are not disposed of on the date of arraignment. This includes cases in which a same-day (as arraignment) pretrial was conducted but did not result in a guilty plea. The judges are scheduled for half-day pretrial sessions on a daily basis. Generally, seven to ten cases are set for each pretrial session. However, the more productive judges may be assigned twice as many cases, requiring the presence of two prosecutors.

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[10] In Minnesota, "misdemeanor" is defined as a crime for which a sentence of not more than 90 days or a fine of not more than $300, or both, may be imposed.

[11] County and City Data Book

b. Minneapolis Program

Located in Minneapolis, Minnesota, the Hennepin County Municipal Court has subject matter jurisdiction identical to that of the Ramsey County Municipal Court. The population of Hennepin County was 960,080 in 1970.[12] Seventeen judges serve full-time on the Hennepin County Municipal Court. In 1976, new filings and complaints were as follows: 34,873 traffic cases; 13,106 misdemeanors; and 44,010 civil cases.

In February, 1974, the court began to schedule "preliminary conferences" in all D.W.I. cases. Prior to 1974, the court had scheduled such conferences sporadically, but, it began scheduling all D.W.I. cases for preliminary conferences in 1974 because of a significant increase in jury demands as a result of the initiation of the county ASAP (Alcoholic Safety Action Program) efforts. Now, preliminary conferences are scheduled in all cases in which there has been a jury demand.

The preliminary conference program has had an interesting history in this court. Initially, all judges were rotated into pretrial assignments on a regular basis. But because many of the judges believed their presence at the conference was unnecessary, the court, in the summer of 1974, began to employ "judicial officers" to handle the conferences. The judicial officers were private attorneys who were paid a daily rate. After a period of approximately a year and a half, there was dissatisfaction with the operation of the program. Some judges were so confident in the judicial officers that they ratified negotiations without ever having seen the parties, while other judges lacked confidence in the judicial officers and were reluctant to participate in the program. Thereafter, the court resorted to the use of "facilitators" to handle the conferences. The facilitators were senior administrative staff members of the court. After approximately six months, this approach was abandoned and the judges decided to return to the original scheme of having the judges handle the pretrials.

Presently, one of the 17 judges rotates into the pretrial assignment each week. Each day, 16 cases are scheduled for pretrial at 20 minute intervals. Recently, some of the more productive judges have been scheduled for "double loads" – 32 cases per day scheduled at ten minute intervals. At least one of the judges who has been scheduled for "double loads" has threatened to refuse such an assignment unless the administrative staff routinely schedules all judges for a "double load."

3. Impact on Case Processing

Because time and resources precluded our collecting extensive case data, we relied primarily upon aggregate case data compiled by the court's administrative staff in analyzing the effect of the pretrial programs on misdemeanor case processing in the Hennepin and Ramsey County Municipal Courts. Thus, most of our observations concerning the apparent impact of the pretrial programs are

[12] Id.

made for the purpose of formulating and refining hypotheses concerning the impact of a pretrial program and should not be viewed as conclusive.

a. Effect on Case Disposition Mode and Case Outcome

As previously noted, the principal criterion for scheduling pretrials in both courts is the jury demand. Jury demands are entered in a significant number of misdemeanor and serious traffic cases in both courts. For example, jury demands were made by 3,062 misdemeanor defendants and by 5,931 defendants in serious traffic cases in Minneapolis in 1976.[13] However, jury trials were held in only 77 misdemeanor cases and 51 traffic cases during 1976. It is impossible to predict from available data whether the number of jury trials would increase if the pretrial program were abandoned, because so many variables appear to influence the jury trial rate, including those factors surrounding a defendant's decision to waive the jury trial and proceed with a bench trial on or before the trial date. However, Figure One suggests that the number of court trials would increase if the pretrial program were abandoned. Figure One indicates that the number of court trials decreased steadily between 1972 and 1976 (from 3277 to 1455), while the number of preliminary conferences increased (from 616 to 8660).[14]

Predictably, the most dramatic changes in court trials occurred between 1973 and 1974, when the number of court trials conducted decreased from 2,999 to 1,884. Again, the preliminary conference program was instituted on a formalized basis in 1974. In 1974, 7,538 preliminary conferences were conducted, as opposed to only 810 the previous year (1973).

Considered alone, these data would appear to indicate that the formalized preliminary conference program has had the effect of encouraging guilty pleas from some defendants who would not have entered guilty pleas if their cases had not been pretried. That is, the pretrial program appears to have an influence on the mode of case disposition (plea versus trial).

Although the pretrial program could influence case disposition mode without necessarily having a corresponding effect on case outcome (guilty versus innocent), these data suggest that additional research would be justified to test the hypothesis that the pretrial program has had an impact not only on case disposition mode (plea versus trial) but on case outcome (guilty versus innocent) as well. If this hypothesis were confirmed, it would raise serious questions concerning the coerciveness of the settlement procedures.

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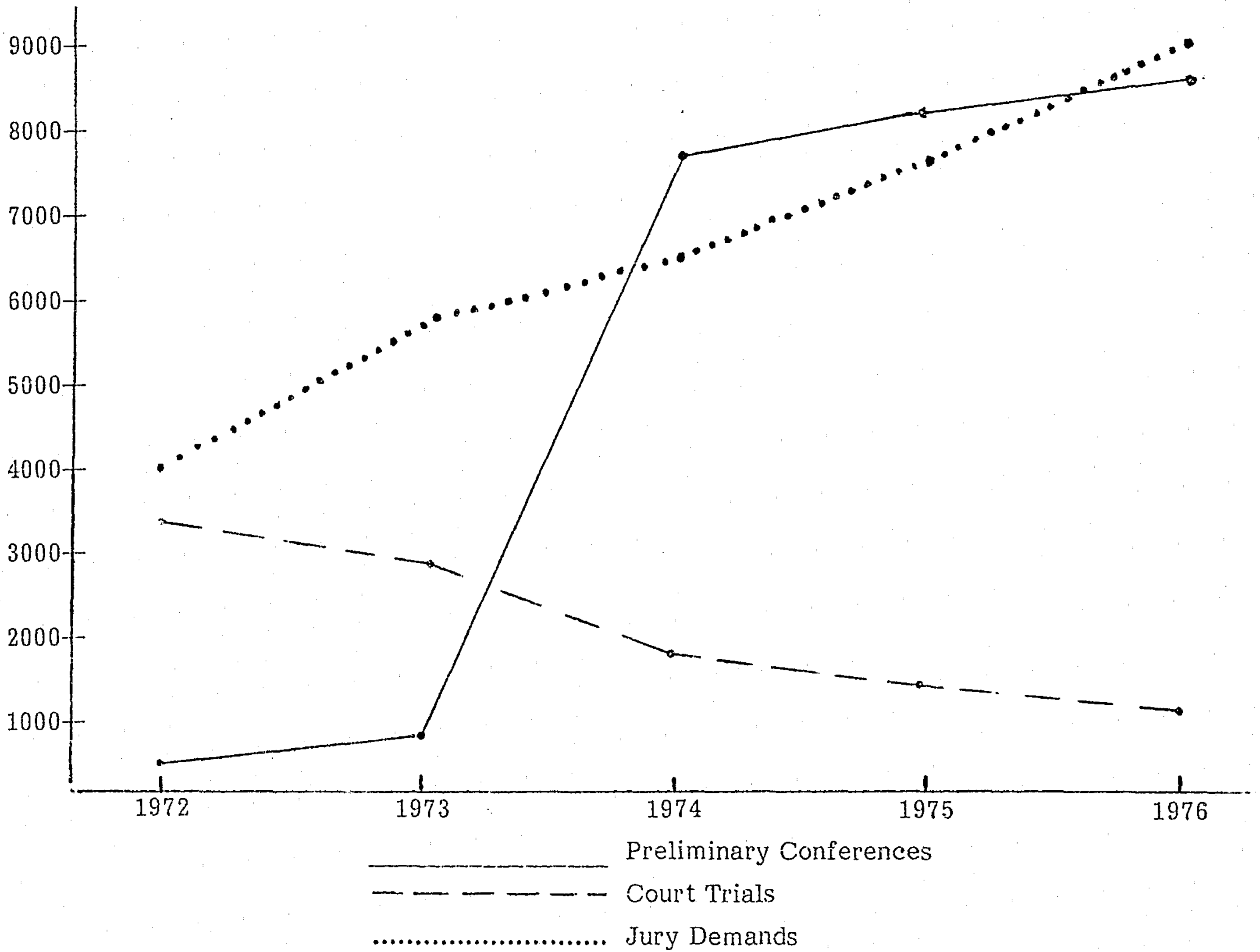
[13] Similar data were not readily available from the administrative office in the Ramsey County court. Generally speaking, more extensive case and caseload data were available from the Hennepin County court because of its larger administrative staff and computerized information system.

[14] During this period, the total number of arraignments in state misdemeanor and traffic cases increased from 43,393 in 1972 to 47,979 in 1976.

FIGURE ONE

Preliminary Conferences, Court Trials, and Jury Demands in the Hennepin County Municipal Court in State Misdemeanor and Traffic Cases (1972 - 1976)



b. Effect on jury demands

The data in Figure One also indicate a steady increase in jury demands during this period, with a marked increase in 1976. One explanation for this increase is that the new Minnesota Supreme Court Rules of Criminal Procedure became effective on July 1, 1975. The new rules extended the right to a jury trial to minor misdemeanor cases. However, this does not explain the annual increase in jury demands between 1972 and 1975. A more plausible explanation for the increase in jury demands may be found in the popularity of the preliminary conference program. Without exception, all of the prosecutors, public defenders, and private defense counsel we interviewed favored the continuation of the preliminary conference program. In fact, when we asked a more experienced public defender why he routinely made a jury demand on behalf of the misdemeanants he represented, he replied, "to get a preliminary conference." Thus, in making it known that the jury demand is the sine qua non of the preliminary conference, the court may be contributing unwittingly to the increase in jury demands.

c. Effect on trial delay

Another factor that may influence the jury demand decision of a defense attorney or a defendant is the delay factor. The defendant may be discouraged from making a jury demand if, in so doing, he has to wait six months to a year to have his case heard. The data in Table One suggest that the preliminary conference program may have reduced jury trial delay in both misdemeanor and traffic cases.

TABLE ONE

Trial Delay in Misdemeanor and Traffic Cases
in Hennepin County (1972, 1974, 1976)

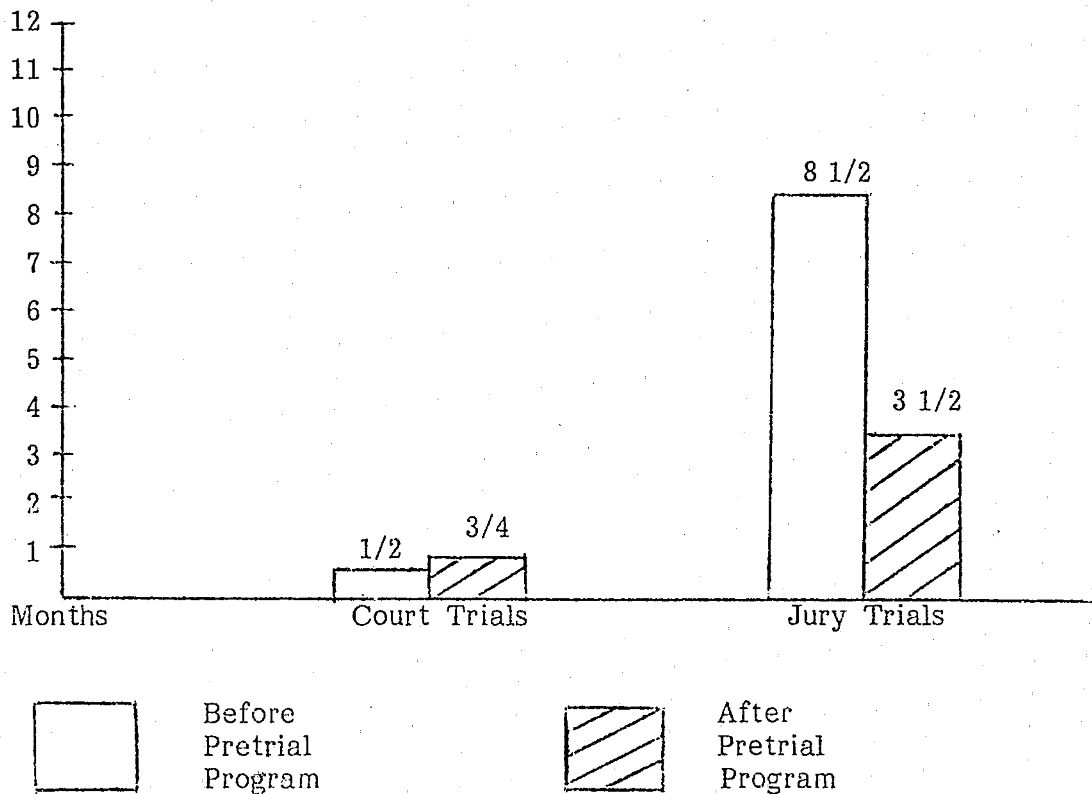
	Average Number of Months from Filing of Complaint to Trial	
	Non-Jury	Jury
MISDEMEANOR		
1972	1/2 month	6 months
1974	3/4 month	5 months
1976	3/4 month	3 1/2 months
TRAFFIC		
1972	1/2 month	11 months
1974	3/4 month	9 months
1976	3/4 month	3 1/2 months

Thus, the program may be encouraging, indirectly, more jury demands by having reduced jury

trial delay to an acceptable level. The data in Table One also suggest that the program may have increased court trial delay, insofar as it has added a stage to the pretrial process – the preliminary conference. However, the data indicate that this increase has been minimal.

The overall effect on trial delay appears to be that of having minimized the differences in delay between court and jury trials. Available data in Minneapolis suggest that the preliminary conference program has affected court delay along the lines indicated in Table Two.

TABLE TWO
Hypothetical Model of Overall Effect
of Pretrial Program on Trial Court Delay



Thus, based on available information, we would hypothesize that the overall effect of the pretrial program is to minimize differences in delay not only between court and jury trials, but between court trials and jury demand cases which eventually are disposed of by guilty plea or court trial. Again, there are a significant number of jury demand cases in both Minneapolis and St. Paul. If most of the jury demand cases are disposed of at the pretrial session, the pretrial program has had a considerable impact in reducing delay in a significant number of cases.

The fact that the pretrial program appears to have reduced delay significantly in misdemeanor jury trial cases may provide at least a partial explanation for the significant increase in jury trials. In 1974, the Hennepin County Municipal Court conducted only 10 misdemeanor jury trials. This figure rose to 15 in 1975 and 77 in 1976. Again, the new rules of criminal procedure (effective July 1, 1975) may provide at least a partial explanation for the increase in jury demands, which logically should have had a corresponding effect on the jury trial rate. However, misdemeanor jury demands increased by only 80% between 1975 and 1976, while the percentage increase in the jury trial rate was 413%. Expressed in different terms, there was one jury trial for every 113 misdemeanor jury demands in 1975 and for every 40 jury demands in 1976. Therefore, an alternative explanation for the significant increase in the misdemeanor jury trial rate may be found in the fact that while a misdemeanor defendant was required to wait 5 months on the average to have his case tried before a jury in 1974, the average time between the filing of the criminal complaint to jury trial had been reduced to 3 1/2 months in 1976. Thus, the pretrial program indirectly may be encouraging misdemeanor defendants to exercise their right to a jury trial.

d. Pretrial "success" rate and case backlog

The data in Table Three indicate that the pretrial programs in Minneapolis and St. Paul are "successful," insofar as they have the effect of producing dispositions at pretrial in a significant number of cases. During the first half of 1977, the St. Paul court disposed of 1,358 cases and the Minneapolis court disposed of 3,169 through their respective pretrial programs. Because both courts schedule their pretrials within one month of arraignment, a significant number of cases in both courts are being disposed of at a very early stage of the pretrial process. Again, if the courts were to abandon their pretrial programs, we could assume that the average time from arraignment to disposition in these cases would increase from less than one month to six months to a year. Thus, it would appear that the pretrial program has a significant effect in controlling case backlog.

It is not surprising, therefore, that the administrative staff interviewed in both courts were unanimous in supporting the continuation of their respective pretrial programs. It is their belief that the pretrial programs have accomplished the management goal of concentrating plea negotiations at an early stage of the pretrial process, thereby reducing case fall-out on the day of trial and controlling case backlog.[15] They also stated that the pretrial programs result in a more efficient and effective use of judge time.

While judges in both courts were also unanimous in supporting the continuation of the pretrial programs, the reasons for their support differed. Some of the judges saw the pretrial program as a necessary evil. Although they felt uncomfortable about dealing with cases in less than a strictly

[15] The program may also have contributed to a reduction in jury case delay. Although the average time period between complaint and court trial in misdemeanor and traffic cases in Minneapolis has risen from 1/2 month to 3/4 month between 1972 and 1976, the average time period in jury cases has decreased from 6 to 3 1/2 months in misdemeanor cases and from 11 to 3 1/2 months in traffic cases.

adversarial context, they saw the need for the program insofar as it promoted case processing efficiency. These judges generally refused to participate directly in the plea negotiations and were careful about getting the facts of the case and the voluntariness of the plea on the record. On the other hand, other judges not only viewed the program as administratively efficacious, but preferred dealing with cases in the more relaxed, non-adversarial context of the pretrial sessions. These judges generally were more willing to participate in plea negotiations and were not as concerned about getting all details on the record.

TABLE THREE

Pretrial Hearing Statistics in Ramsey and Hennepin County Municipal Courts (January 1 - June 30, 1977)

	Pretrials Scheduled	Continu- ances and No-Shows	Pretrials Conducted	Dispositions (Pleas and Dismissals)	Disposition Rates	
					As % of Pretrials Scheduled	As % of Pretrials Conducted
Ramsey County (Same day)	760	--	--	393	52%	--
Ramsey County (Later day)	1,687	278	1,409	965	57%	68%
Hennepin County	5,502	971	4,531	3,169	58%	70%

4. Guilty plea practices

Although our interviews and observations gave us greater insight into the participants' attitudes towards the pretrials and pretrial practices, we believed that the collection of additional data was necessary to assess more fully the dynamics of the pretrial process. Initial interviews and observations revealed differences in judicial attitudes toward pretrials and judicial practices at the pretrial sessions. They also suggested that some judges were more productive than others at the pretrial sessions. We thus sought to determine whether the judges' attitudes and practices had an effect on their "productivity" at the pretrials. Because time and resources during Part One precluded our collecting per-judge pretrial data, we relied primarily upon the perceptions of attorneys and administrative staff to analyze the effect that various factors have on pretrial productivity. Although we collected such data in both Hennepin and Ramsey counties, the Ramsey county data was more complete. Thus we are reporting only the Ramsey county data at this time.

In August of 1977, we visited the Ramsey County Municipal Court for a one week period. During that visit, we conducted in-depth interviews with prosecutors, public defenders, private defense counsel, and seven of the eleven municipal court judges. We also attended two arraignment day pretrial sessions and one later-scheduled pretrial session (each presided over by a different judge). In addition, we delivered self-administered questionnaires to seven prosecutors, five public defenders, and four private defense attorneys (see Appendix VI-A). We estimated that these attorneys represent the prosecution and defense in at least 80 percent of the misdemeanor cases pretried in the St. Paul court. The attorneys were asked to rate each of the eleven judges across a seven point scale (semantic differential) on the following factors relating to their behavior in the pretrial hearing: sentencing philosophy (tough/lenient); participation in sentence or charge negotiations (active/passive); predictability as to sentence he or she will impose under a given set of circumstances (predictable/unpredictable); inquiry into the facts of the case (lengthy inquiry/no inquiry); and inquiry into the voluntariness of the plea and the defendant's understanding of the consequences of the plea (lengthy inquiry/no inquiry).

Finally, we asked the individual on the court administrative staff responsible for pretrial assignments to rate each of the judges across a seven point scale (semantic differential) on only one factor: productivity at the pretrial session (very productive/least productive) (see Appendix VI-B). Again, we defined "productivity" as the actual number of dispositions a particular judge generally could obtain over the course of many pretrial sessions. Thus, the assignment officer on the administrative staff was required to consider both the judge's speed (i.e., time required) in handling pretrials and his ability to facilitate dispositions at the pretrial session. This avoided a high productivity rating for the judge who is "quick" and therefore often assigned a "double load" of pretrials, but who also obtains a relatively low percentage of dispositions. Conversely, it avoided a high rating for judges who are generally able to obtain a high percentage of dispositions, but who are so "slow" that they are never assigned a "double load."

Because judicial participation in plea negotiations is often defended as the only means to facilitate case dispositions in a high volume court, we would hypothesize that the more actively a judge participates in the negotiating process, the more productive he will be (i.e., the more negotiated settlements he will be able to obtain). However, we could also expect that, no matter how willing the judge is to participate in negotiations, he will not be very productive if he has a reputation as a tough sentencer, because defense counsel will be reluctant to settle their cases before him. A closely related factor may be the judge's predictability in sentencing. Even though the judge's general reputation may be that of a lenient sentencer, his ability to secure more dispositions within a given period of time might be improved to the extent that he is predictable in sentencing. Thus, we would hypothesize that the judge who is most productive in terms of obtaining negotiated settlements is one who actively participates in the bargaining process and who is both lenient and predictable in his sentencing practices.

To test this hypothesis, we correlated a court administrative staff member's perceptions of the judges' productivity in pretrial conferences with attorneys' perceptions of the judges' willingness to participate in negotiations and their sentencing philosophy and predictability. However, we could not simply aggregate the perceptions of different actors (prosecutors, public defenders, and private defense counsel), because their perceptions may systematically vary according to different "role sets" or actual differences in judge behavior toward them. Table Four, then, presents the Pearson correlation coefficients between productivity and three aspects of judicial behavior from the perspective of prosecutors, private defense counsel and public defenders, separately.

TABLE FOUR

The Relationship of Misdemeanor Judges' Participation in Negotiations and Sentencing Practices with Productivity in Securing Guilty Pleas, Controlling for Attorney

	Productivity by . . .		
	Participation in Negotiations	Sentencing Toughness	Sentencing Predictability
Prosecutors	.32	-.76	-.63
Private Defense Counsel	.78	-.75	.53
Public Defenders	-.11	-.78	-.24

The data contained in Table Four indicate striking variation among the perceptions of the three groups of attorneys. Only private defense counsel perceive the judges who are rated high on productivity by the court administrative office to be lenient, and predictable in sentencing, and actively involved in negotiations. Public defenders also see the "productive" judges as lenient and the "unproductive" judges as tough, but do not differentiate these judges with respect to sentencing predictability or participation in negotiations. Prosecutors, likewise, perceive the "productive" judges to be lenient, and slightly more likely to be involved in negotiations; unlike private counsel, however, they see the "productive" judge as unpredictable in sentencing. These variations in perceptions of the judges' behavior in pretrial conferences can best be understood by an elaboration of the operation of the pretrial conference program, as we observed it.

In observing pretrial sessions and interviewing the various participants in the negotiation process, it became apparent that it is important to distinguish between charge bargaining and sentence bargaining when describing the pretrial process in the Ramsey County Municipal Court.[16] All of the judges require the attorneys first to discuss the case outside their presence. These discussions between prosecutor and defense counsel generally focus on charge reduction or dismissal. Although the attorneys may discuss the possibility of the prosecutor making a sentence recommendation, sentence discussions generally are very tentative in nature. After the attorneys enter the judges' chambers, the prosecutor normally presents the terms of the attorneys' agreement as to charge reduction or dismissal and may sometimes make a sentence recommendation. At this point, the defense counsel and the judge become the principal negotiators. This may explain why the prosecutors' perceptions of judicial participation are only slightly correlated with productivity (r=.32). The prosecutor generally views himself as having played his principal negotiating role in the charge bargaining process and is now relegated to a secondary role with respect to sentence bargaining.

Defense counsel, on the other hand, encourage judicial participation in the sentence bargaining process by seeking to obtain a sentence commitment, or indication, from the judge prior to having the defendant enter his plea of guilty on the record. Thus, the extent to which a judge participates in the bargaining process may be influenced more by the willingness of defense counsel to bargain with a particular judge than by the judge's inherent bargaining proclivities. Indeed, our quantitative data indicate quite clearly that public defenders and private counsel do not agree as to which of the judges are actively involved in plea negotiations. The differences in perceptions are quite sharp, in fact, as Table Five demonstrates.

For eight of the eleven judges, a full point or more separates the mean ratings of public defenders and private counsel along the "active-passive" semantic differential. Interestingly, the directions of the disagreements are not random. Rather, they are sharply correlated (r= -.85) with the sentencing philosophy of the judge (tough-lenient) as seen by an involved third party – the prosecutor. That is, private counsel perceive the lenient judges to be actively involved in negotiations, but not the tough judges. Public defenders perceive exactly the opposite. We believe this is an example not of faulty or inaccurate perceptions but of differences in the behavior of defense counsel which they then project onto the judge.

Specifically, our interviews indicate that private counsel in St. Paul are more experienced than public defenders, are more likely to view the judge as a peer than an authority figure, and engage in extensive judge-shopping. If private counsel end up in the chambers of a "tough" sentencer at the

[16] The distinction between charge and sentence bargaining (as described in the text) also holds true in the Hennepin County Municipal Court.

pretrial, they simply disengage from the proceeding. Rather than trying to bargain with a tough sentencer, they will wait for the trial date, hoping to be assigned to a more lenient sentencer with whom they can then strike an agreement. Public defenders, in contrast, do not judge-shop significantly, based upon our interviews. In fact, one of the private defense counsel interviewed stated that he believed that the public defenders were too inexperienced to engage in such a judge-shopping strategy. Thus, rather than actively avoiding or refusing to plead before the tough judge, the public defenders evidently view themselves as being faced with an uphill fight with the tough judge and, however reluctantly, encourage his participation in the bargaining process. On the other hand, the public defenders evidently see very little to be gained by pressing the lenient judge to participate in the bargaining process. Private counsel, however, do see some need to press the lenient judge for even greater concessions than he might normally be willing to offer. In our interviews, private counsel pointed out that the pretrial session provided them with an excellent opportunity to demonstrate to their client that they were earning their fee.

TABLE FIVE

Public Defender and Private Defense Counsel Perceptions
of Judicial Activity in Plea Negotiations (Ramsey County Municipal Court)*

Judge	Public Defenders (X)	Private Defense Counsel (X)
A	5.4	3.8
B	4.2	2.3
C	4.4	3.8
D	3.4	4.5
E	2.8	5.3
F	2.8	5.3
G	3.4	4.5
H	4.4	3.0
J	5.0	2.0
K	3.8	3.0
L	6.0	5.5
N	(5)	(4)

*Figures represent mean scores for a semantic differential from "7" (Active) to "1" (Passive).

We believe the above discussion presents a plausible, field-grounded explanation of the reversed directionality of the correlation between perceptions of judicial participation in negotiations and sentencing toughness (implied in Table Five). Among private counsel, that correlation is -.78; among public defenders, the correlation is +.59. A similar phenomenon appears to explain the sharp difference in the

correlation between perceptions of judicial participation in negotiations and sentencing toughness (implied in Table Five). Among private counsel, that correlation is -.78; among public defenders, the correlation is +.59. A similar phenomenon appears to explain the sharp difference in the correlation between perceptions of judicial predictability in sentencing and sentencing toughness among private counsel (r= -.67) as opposed to public defenders (r= +.07). Again, public defenders and private counsel do not agree as to which judges are predictable in their sentencing decisions. For seven of the eleven judges, the difference in mean ratings for the two groups exceeds one point. Once again, these differences are explainable by correlating them with the prosecutor's view of sentencing philosophy (r = .76). Private counsel see the lenient judges as quite predictable while public defenders tend to see the lenient judges and the tough judges as about equally predictable. Private counsel avoid the tough judges through judgeshopping, so these judges understandably are less familiar to them, and therefore less predictable. Public defenders cannot effectively avoid tough judges perhaps due to inexperience, but perhaps also because of their closer ties to the "courtroom workgroup" and therefore come to know the tough judges and their sentencing vagaries quite well.

In addition to the extent of judicial participation in the bargaining process, sentencing philosophy, and sentencing predictability, two other aspects of a judge's behavior may affect his productivity at pretrial sessions:

— the extent to which the judge inquires into the facts of the case at the pretrial hearing; and

— the extent to which the judge inquires into the voluntariness of the plea and the defendant's understanding of the consequences of the plea.

Although judicial interrogation of the defendant as to each of these items prior to acceptance of a guilty plea has become the recommended practice,[17] one would assume that it would rob the pretrial hearing process of some of its efficiency. We would hypothesize, therefore, that the more productive the judge at pretrial, the less lengthy his inquiry as to these items. The data presented in Table Six indicate that this is the case.

Although the correlation between judicial productivity and the perceptions of private defense counsel as to the lengthiness of the judge's inquiry into the facts is weak, all three attorney groupings tend to perceive the productive judges as being less likely to inquire into the facts and the voluntariness of the plea.

Judicial inquiry into these two areas could be viewed as a form of judicial participation in the bargaining process or as a means of facilitating such participation. However, after observing pretrial sessions and interviewing participants in the bargaining process, it became clear that neither of these is

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[17] American Bar Association Project on Standards for Criminal Justice, Standards Relating to Pleas of Guilty (Chicago: American Bar Association, 1968), secs. 1.4 - 1.6.

an accurate reflection of the situation in Ramsey County. If these inquiries are to influence the bargaining process, they must necessarily occur prior to a plea agreement. In the Ramsey County Municipal Court, however, these inquiries generally occur after a plea agreement has been reached, and they are made on the record for the purpose of complying with the Minnesota Rules of Criminal Procedure,[18] which reflects the ABA Standards.[19] Thus, the facts and voluntariness inquiry by the judge at the pretrial sessions in this court is better characterized as an element of judicial ratification of a plea agreement than judicial participation in the bargaining process.

TABLE SIX

The Relationship of Misdemeanor Judges' Inquiry into Facts and Voluntariness with Productivity in Securing Guilty Pleas, Controlling for Attorney

	Productivity by . . .	
	Facts	Voluntariness
Prosecutors	-.67	-.59
Private Defense Counsel	-.17	-.44
Public Defenders	-.37	-.46

C. Conclusions

Because the research reported in this chapter necessarily was limited in nature, conclusions concerning the efficacy of such programs would be so tentative as to be both unjustified and misleading. Rather, our aim was to examine empirical patterns that would permit us to draw tentative conclusions and to formulate and refine hypotheses concerning the efficacy of pretrial settlement conferences. Some of these conclusions and hypotheses are related to the practicability, or efficacy, of pretrial conferences, while others are related to the general effect, or impact, that pretrial settlement conferences have on case processing and guilty plea practices in misdemeanor courts.

[18] Minn. R. Crim. P. 15.02.

[19] ABA Standards, supra note 17, sec. 1.7.

1. The Efficacy of Formal Pretrial Programs

Although the size of a court's misdemeanor caseload may be an important factor in assessing the practicability of a formal pretrial program, the nature of the misdemeanor caseload may be even more important. A court that perceives itself to be under a heavy workload may not see the need for a formal pretrial program unless "problem cases" (e.g., cases in which there are jury demands) comprise a significant percentage of the court's total misdemeanor case load. Although the St. Paul program was initiated approximately five years prior to the Minneapolis program both courts cited difficulties in contending with increased numbers of jury demand cases as a principal reason for initiating the program. Our telephone survey revealed that even in courts in which misdemeanor cases are pretried on a less formal basis, the principal criterion for scheduling a pretrial is the jury demand.

A second factor which relates to the practicability of initiating a formal pretrial program is the willingness of the key actors to participate in the program. In both locales, the judges, prosecutors, and defense counsel who were interviewed indicated their general support for the program. They also evidenced their support of the program by operating in a manner that would insure its viability. The prosecutors "open discovery" policies encouraged defense counsel participation, and judicial willingness to participate in plea negotiations injected a degree of certainty into the process.

2. Impact on Case Processing

In both courts, approximately 70% of the cases in which pretrials are conducted are disposed of on the pretrial date. The overall effect of the pretrial program, therefore, is to concentrate guilty plea dispositions at an early stage of the pretrial process, thereby reducing case fall-out on the day of trial and reducing case backlogs.

The pretrial program also reduces differences in average case delay between jury trial and court trial cases. Although the increase in average case processing time in court trial cases is minimal, the decrease in average case processing time in jury trial cases is substantial and may actually account for an overall increase in jury trials.

3. Impact on guilty plea practices

Because judicial productivity at pretrial sessions is positively correlated with sentencing leniency, the formalized pretrial program may have the overall effect of encouraging leniency in misdemeanor and serious traffic cases. However, the formal pretrial program appears to encourage only token adherence to standards relating to the acceptance of guilty pleas. The judges who are most productive at the pretrial sessions are least prone to make lengthy inquiries into the facts of the case and the voluntariness of the plea.

CHAPTER VII

A Plan for Further Research

The problems encountered by misdemeanor courts are numerous and diverse. We have identified three major sets of problems in these courts, inquired into the sources of their problems , developed and pilot tested two programs designed to address their problems, and studied a third such program. These problems, sources, and solutions are summarized in Table One.

Resource problems are endemic to misdemeanor courts in jurisdictions of all sizes, and are characterized by court isolation from the community and community resources. To address this set of problems, we designed the Community Resource Program, which aims to decrease court isolation and increase court utilization of social resources.

Management problems are most prevalent in smaller misdemeanor courts, which comprise more than 80 percent of the nation's limited jurisdiction courts. Court failure to identify and analyze problems was symptomatic of this set. To address these problems, we designed the Caseflow Management and Information System. Unlike the CRP, which relates the court to its environment, CMIS stresses internal management reform. Thus it can succeed without external resources which are likely to be absent in smaller communities and without additional expenditures on computer technology.

Due process problems are encountered most often in larger cities' courts. These problems have numerous sources, among them judicial undervaluation of cases and the rapid rate of case processing. One method courts have adopted to influence caseload has been the pretrial settlement conference. Like CMIS, it addresses court problems by altering internal caseflow management practices, though it affects actors outside the court, such as the prosecutor and defense counsel.

Pilot testing enabled us to test the feasibility of implementing these programs in diverse types of misdemeanor courts. The research we were able to conduct in the brief pilot testing and research phase allowed us to formulate a number of hypotheses regarding the operation of various components of the program and the dynamics of implementing such innovations. These hypotheses require further testing and refinement to determine their validity and to allow comparative study of program implementation in similar locales.

The remainder of this chapter outlines questions for further research. Research objectives are stated and research variables are identified for each of the three research areas. This discussion also

TABLE ONE

MISDEMEANOR COURT PROBLEMS, CAUSES, AND SOLUTIONS

PROBLEMS	SOURCES/CAUSES	SOLUTIONS (ADDRESSED BY INNOVATIONS)
A. Resource Problem Set	A. Of Resource Problems	A. To Resource Problems
—inadequate facilities —inadequate numbers and quality of personnel —inadequate court support services —inadequate community resources —underutilization of existing resources	—fiscal crisis —nature of locale —lack of sentencing alternatives —insufficient knowledge of resources —isolation from community —insufficient managerial skills —judicial non-recognition of social nature of misdemeanor problems	—citizen advisory board —community resource brokerage (CRP) —community service restitution (CRP) —expanded volunteer services (CRP) —improve awareness of community resources (CRP) —develop new resources (CRP) —increase budget (CRP)
B. Management Problem Set	B. Of Management Problems	B. To Management Problems
—high fallout on trial day —lost files —delay in particular cases —inconvenience to civilian and police witnesses and court support personnel	—prosecution and defense control over calendaring —caseload —lack of statistics and processing guidelines —calendaring policies (over and under setting) —inadequate case screening —absence of case processing standards and statistics —lack of communications within court —lack of continuance policies —morning only calls	—judicial control over calendar (CMIS) —improved guilty plea practices (CMIS and Pretrials) —collection of caseload, caseflow statistics (CMIS) —case processing standards and monitoring techniques (CMIS) —continuance policy (CMIS) —judicial control over scheduling (CMIS) —reduce fallout on trial day (CMIS and Pretrials)
C. Due Process Problem Set	C. Of Due Process Problems	C. To Due Process Problems
—practices discourage defendants from exercising rights (e.g. jury trials) —incomprehensibility of proceedings —limited sentencing alternatives	—undervaluation of cases —rapid rate of case processing —excessive caseloads —high fallout rates —judicial unwillingness to treat cases individually —heavy trial caseload —undifferentiated nature of cases —lack of sentencing alternatives —better jury trial screening	—improve guilty plea practices (Pretrials) —expand sentencing alternatives (CRP) —reduce delay in individual cases (CMIS and Pretrials) —increase understandability of proceedings (Pretrials) —encourage defendants to exercise rights (Pretrials)

outlines a research design for each area. A detailed plan for such further research is proposed in our "Proposal for Continuation of the Misdemeanor Court Management Research Program" submitted, concurrently, with this report.

A. Research Objectives

Further research should analyze the implementation and operation of CRP, CMIS, and pretrial programs in diverse misdemeanor courts by:

- documenting the operational and interactional dynamics of the implementation process;
- measuring and analyzing the impact of the innovations on misdemeanor case processing; and
- determining each program's level of success in addressing specific misdemeanor court management problems.

It is important that selected research sites display diversity to replicate, as far as possible, the diversity displayed by misdemeanor courts in general. Our research (see Chapter I) indicates that diversity should be reflected in the selection of courts from different sized communities. The innovative programs we have developed and studied are designed to address problem sites peculiar to different types of locales:

- pretrial settlement conferences addresses problems common to big city courts;
- CMIS addresses the case management problems faced by the 80 percent of the nation's misdemeanor courts that are located in rural or small city locales; and
- CRP, while it addresses problems endemic to all misdemeanor courts, is designed to operate in medium sized cities which have community resources that courts could utilize.

Further study of these programs in the varied types of locales they were designed for will improve our understanding of how these diverse problems should be approached.

B. Research Questions and General Research Design

1. CRP

CRP research should identify actors and organizations involved in implementation, their goals and relationships, and conflicts between them. It should further document the implementation process, identify dynamics associated with implementation, and gather CRP impact data for specified variables.

a. Citizen advisory board (CAB)

Experience in Tacoma indicates that board success depends upon the definition of board goals by the board and the court, and upon the means adopted by the court and board to opera-

tionalize these goals. Thus, the chosen goals and the appropriateness of adopted means should be analyzed.

Board membership, experience in Tacoma indicates, also affects board ability to attain its goals. For example, a CAB with the goal of supporting court efforts for an adequate budget and legislative changes would likely select a board with a great deal of community and statewide political influence, and include individuals willing to wield this influence. On the other hand, a CAB with the goal of identifying and developing community service agencies for use by the court would probably select persons familiar with existing community resources and experienced in developing new resource agencies.

Board effectiveness also depends on its ability to function as a body: its administrative structure, its size, how often it meets, its internal politics, and so on. If community education is defined as a goal, effectiveness also depends on the amount of public exposure board activity is given. Finally, board effectiveness depends on how well the court utilizes the board which it has created.

b. Resource brokerage.

CRB success depends upon the identification and development of such service agencies by the misdemeanor court and probation department and upon the extent and quality of available services. Of particular importance is the relation between the supply of available services and the structure of the client population's needs. Furthermore, as shown by our experience in Tacoma, the introduction of resource brokerage results in significant changes in administrative structure, functions, and responsibilities in the probation department. These changes, and the decision to make these changes, often result in friction between probation department staff and administration over issues such as accountability, specialization, and paperwork. In Tacoma, the court's failure to involve the staff in the initial decision to implement brokerage also resulted in staff discontent. Thus, the following implementation process variables should be examined:

- The extent of available community services:
  - types of available services;
  - clientele size the agencies can handle.

- Quality of available community services:
  - structure of client population needs;
  - problems in measuring client needs;
  - the extent to which existing community service agencies are utilized by the court and probation department in relation to clients' needs.

- The extent to which the court and probation department attempt to cultivate or develop community services to better fulfill client needs.

- The nature and extent of changes in administrative structure, function, and responsibility of the probation department resulting from brokerage implementation.

- The extent and nature of probation staff discontent with brokerage implementation.

c. Community service restitution.

Community service restitution requires identification of agencies willing and able to utilize service hours and identification of client skills, abilities, and interests. The extent to which agencies are properly utilized should be measured by collecting data for the following variables:

- the number of participating agencies;
- types of service "jobs" provided by each agency; and
- number of hours of service provided:
  - by all agencies;
  - for each job type;
  - by each agency; and
  - for each type by each agency.

Judicial interaction with the probation department is also of crucial importance to community service restitution. Theoretically, judges will utilize service restitution as an alternative to fines and incarceration, but they could use it improperly. One improper use would be the escalation of service hour sentences to meet agencies' service needs. Thus, it is important to investigate:

- judicial criteria for sentencing restitution;
- the total number of referrals from each judge;
- the number and relative proportions of jail, fine, restitution and not guilty sentences:
  - for all judges; and
  - for each judge;.
- the time lag between initiation of judicial CSR sentencing and actual operationalization of CSR; and
- the size of the resulting backlog.

Because service restitution hours are designed as sentencing alternatives to jail and fines where the latter are inappropriate, the introduction of community service hours could have several measurable effects. The introduction of community service hours should result in more total referrals to probation services than when service hours were not a legal or practical possibility, and should decrease the proportion of sentences resulting in either fine or incarceration.

d. Volunteer utilization.

Volunteer utilization should increase the number and types of tasks which are performed by the probation department, including new tasks such as manual statistical compilation and

provision of transportation services for probationers. Volunteer utilization also should free professional staff from certain administrative tasks. The extent to which this component affects task definition and performance can be measured by probation staff analyses before and after implementation.

e. Continuing information and evaluation

This component should provide information which is utilized by the judges, court administrators, and the probation department in allocating court resources. The usefulness of generated information should be measured by interviewing the judges, the court administrator, and probation staff. Interviewees should be asked what information they feel should be provided and how they would use it. Usefulness should also be measured by the willingness of the court and probation department to have a paid or volunteer member of the probation staff assume the responsibility of compiling this information.

f. Summary

Initial pilot testing has demonstrated the high degree of interaction among CRP components and actors. Interaction should be documented in at least the following areas:

- CAB/Probation Department:
  - identification of service agencies;
  - development of service agencies;
  - identification of volunteer sources;
  - identification of agencies providing restitution "jobs;" and
  - managerial advice on administrative reorganization and personnel management.

- Brokerage/Service Restitution:
  - identification of service agencies;
  - development of service agencies;
  - identification of misdemeanant needs; and
  - evaluation of treatment and agency success.

- Brokerage/Volunteer Utilization/Service Restitution:
  - development of staff specialization; and
  - administrative reorganization.

- Continuing Information Component (All Other Components)
  - generation of information regarding component performance.

Related to the interaction of CRP components is the overall implementation strategy of the court and the probation department. In particular, does the court operationalize each component and

adopt timetables for the achievement of each operational goal? Failure to adopt an explicit strategy, it was observed in Tacoma, adversely affects staff morale by increasing staff uncertainty about how implementation is to proceed. Operational goals and timetables will undoubtedly be modified to respond to new and unexpected conditions, mistakes, and new ideas. This process should be documented.

Furthermore, the relation of CRP innovations to community groups outside the justice system should be examined. For example, one possible source of opposition to community service restitution and volunteer utilization is trade and public employee unions. Similar sources of opposition and support should be identified.

Finally, the potential for probation staff resistance to CRP implementation must be emphasized. Experience in Tacoma indicates that professional probation staff resists the changes in role definition, job description, and accountability which accompany brokerage. Several hypotheses can be offered to explain this resistance. First, the CRP may require staff to perform more work for the same pay, or it may so seem to probation staff. Second, the change in the probation counselor role which is the basis of resource brokerage may be seen as theoretically undesirable: counselors may believe that their clients are "whole" people who must be dealt with as such by the counselor, and not by an impersonal, specialized "broker" or service agency. Third, the change to brokerage may be seen as personally threatening to counselors trained in the traditional counselor model and who practice consistently with this model. CRP research should measure the extent of staff opposition, the reasons for it, and the ways in which the court and probation administration deal with it.

2. CMIS

Pilot implementation of the CMIS demonstrated that collection of basic management information is feasible in a misdemeanor court and can be accomplished without unduly disrupting the court's established operations. That is, CMIS can be implemented with few changes in the court's operating procedures. Although we established the feasibility of introducing CMIS, time constraints prevented us from fully investigating the innovation's actual impact on case control and participants' perceptions of case management control. We were also unable to fully identify the nature and variety of court variables that determine the scope and range of that impact.

These issues should be addressed. The court operational variables which must be considered when a court develops its own standards should be identified. The techniques employed by each court in developing, adopting and realizing court management goals and maintaining adherence to standards should be documented and analyzed. Finally, the operational and interactional dynamics of the implementation process should be analyzed.

More specifically, introduction of the CMIS in a particular court environment should produce observable changes in the court's management and operations. Interactions between the various court

participants will be focused upon to determine how misdemeanor court personnel operationalize their goals. Our pilot experiences indicate that non-judicial personnel perform a crucial role. Although the goals of the participants may be similar, their specialized roles within the system dictate different, perhaps conflicting, objectives. The interplay of these interests influence the implementation process. Implementing CMIS may be more or less threatening to different staff members, either simply because it is new or because it may result in significant changes in administrative functions and responsibilities. The process court personnel engage in to resolve such internal conflicts should be fully investigated.

Implementation also may falter due to inertia or lack of incentives, not only with staff, but with judges as well. If, as our research indicates, misdemeanor court judges are satisfied with current practices, the issue of judicial incentives to implement management innovations is critical. Judges satisfied with present operations will not encourage innovative change. Without this judicial support, administrators may be discouraged from initiating their own innovations. It is our expectation that judicial attitudes regarding case processing procedures will change with information supplied by CMIS.

In addition to changes in attitudes and court procedures, CMIS should produce actual differences in case processing characteristics, with or without observable procedural changes. For example, after receiving monthly performance reports on average number of continuances granted, a judge may grant fewer numbers of such requests without necessarily implementing new guidelines. The ultimate effect of such changes should be a reduction in the variance of ages of pending cases, not only for the age of cases from filing to disposition, but also for the particular steps within the disposition process. That is, the lapse of time between steps (e.g., arraignment to trial date) should become standardized for a greater proportion of the caseload. We know from earlier research that most misdemeanor courts do not have clearly defined management policies or standards; consequently, the absence of uniform case processing standards permits a number of cases (particularly "non-routine" or "problem" cases) to languish in the court. Irregular treatment allows for wide variation in case processing times for similar types of cases. As the court utilizes management information, develops standards for case processing efficiency, and attempts to adhere to such standards, greater uniformity in case disposition time frames should be observed.

To test these hypotheses, the CMIS should be implemented and pilot tested over a 12-18 month period in two jurisdictions. Qualitative research of the pilots should be made on the basis of on-site interviews with court personnel and direct observations of court processes. Descriptions of attitudes and perceptions of court personnel should be compiled using workshops with judicial and nonjudicial staff, supplemented with follow-up interviews and observations. Through direct observation of the court, a management analysis should be conducted to more precisely define the court's administrative and procedural problems. Also, similar interviews should be conducted with prosecution and defense attorneys to assess their attitudes and perceptions of misdemeanor court operations. These "baseline"

attitudes and problems should be compared with the court's status at the conclusion of the project to determine whether court personnel, prosecutors, and defense attorneys feel better equipped to describe and analyze the court's processes, procedures and problems, and to assess their perceptions and attitudes as to the changes that have occured as a result of introducing the CMIS.

The impact of the CMIS on case processing should be measured by collecting information on case management and case progress characteristics. Exact identification of these variables will depend on each court's individual requirements. At a minimum, however, longitudinal analysis should be conducted of variables such as:

— average number of continuances for cases initiated;
— percentage of cases disposed at various points in the case process;
— percentage of cases disposed by guilty plea or other disposition mode;
— average age of cases at disposition; and
— age of pending caseloads.

These variables should also be analyzed to determine distinctions in case processing techniques for different significant case types. Possible approaches and recommendations for more in-depth analysis of these data should also be investigated during the course of the project.

In each of the six months prior to the beginning of the pilot projects, data on these variables should be gathered from random samples of cases initiated and disposed of in the courts. Approximately 100 cases should be sampled in each jurisdiction for each month, but the exact size of the samples would depend on the volume of cases processed. Information on these variables for the duration of the project could be collected by court personnel, with the aid of an on-site research assistant, on a monthly basis from case control cards. The purpose of this analysis would be the estimation of the magnitude of the impact of CMIS and resulting procedural changes on measures of court performance.

The innovation may also produce a measurable effect on operations of local criminal justice agencies. For example, the court may learn through the monthly statistics generated from the control card that a substantial number of guilty pleas are offered on the day of trial. We might expect the court to alter its scheduling practices to encourage pleas before the day of trial (i.e., perhaps the court would institute a mandatory settlement conference). This change in procedure may obviate many police officer appearances on the day of trial or lead to more efficient deployment of public defenders and prosecuting attorneys. This is the intention of the Salem district court's presiding judge who hopes to better coordinate the court schedules of county public defenders on the basis of information generated by the control/index card. To the extent possible, indirect effects such as this should be documented and analyzed. Records, calendars and schedules on court appearances maintained by police agencies, public defenders and prosecutors should be examined prior to, and at the conclusion of, the pilot. Significant patterns of change regarding the interaction between the court and criminal justice agencies should be researched to calculate specifically the innovation's impact in this sphere.

The CMIS should be pilot tested in two sites to research its effectiveness at facilitating court control of case progress. Several selection criteria should be considered. Most important is the court's level of commitment to the proposed innovation. Introduction of the CMIS may necessitate considerable change in operating procedures; hence, the court must have a degree of flexibility and willingness to accommodate such a program. Furthermore, a policy commitment concerning court control of cases and definition of time standards for case processing is required. Since this research effort will last 12-18 months, the court must be willing to adopt CMIS essentially on a permanent basis.

Beyond that, sites should be selected to obtain a cross section of courts with varied management practices. Different management practices may require significant alterations in the pilot procedures for CMIS. The potential impact of various management techniques must be tested and evaluated to enable refinement of the CMIS and insure its general adaptability to misdemeanor courts. Specific management practices which should be considered in site selection are case assignment systems (master v. individual), calendar mode (date certain or continuous) and continuance guidelines. The size of court (i.e., number of judges and misdemeanor caseload) will also be a factor in the selection, because this system is suitable for small to medium size cities. Thus, courts with annual misdemeanor caseloads of less than 25,000 are preferable.

The presence of a court administrator or management oriented clerk of court in each locale is also believed to be relevant. Courts with administrative personnel have a higher probability of maintaining commitment to the CMIS. This individual is likely to have specific goals and personal incentives for implementing the program. Furthermore, his administrative orientation should permit a better understanding of the long range goals implicit in the CMIS.

3. Pretrial settlement conferences

Although most misdemeanor courts that permit or encourage the use of settlement conferences do so on an ad hoc basis, some courts have regularized this procedure to such an extent that it has become a formalized part of the caseflow process. Although time and resources have precluded collection of extensive per judge case data in the municipal courts in Minneapolis and St. Paul, sufficient aggregate case data and perceptual data were collected to allow formulation of preliminary hypotheses concerning pretrial settlement practices in these misdemeanor courts.

First, it appears that the pretrial programs in both cities have accomplished the purely organizational or management goals of concentrating plea negotiations at an early stage of the pretrial process, thereby reducing case fall-out on the day of trial. Thus, police and civilian witnesses need not make futile appearances in cases in which a guilty plea is taken at the pretrial. It also appears that the pretrials result in a more efficient use of judge and attorney time. Further documentation of these hypothesized effects is necessary.

Second, some judges appear more productive at the pretrial session than others. Our data indicate that the judges' productivity is highly correlated with their reputations for sentencing leniency. That is, the more lenient the judge, the more negotiated settlements he will be able to obtain at pretrial. In addition, it would appear that the closer the judge adheres to published standards for accepting guilty pleas, the less productive he will be at pretrial. That is, the judge who makes lengthy inquiry into the facts and the voluntariness of the plea, and is generally unwilling to make a sentencing commitment prior to entry of the plea, is least productive at the pretrial sessions. These hypotheses should be tested by collecting per judge pretrial data. We relied on the perceptions of attorneys and administrative staff to analyze the effect that these factors had on pretrial productivity. Based on these perceptual data we might hypothesize that such a pretrial program would not work in a court with a preponderance of judges who had reputations for being tough sentencers and for being cautious in accepting guilty pleas.

Although our data might permit us to tentatively conclude that instituting pretrial settlement conferences in Minneapolis and St. Paul has made the processing of misdemeanor cases more "efficient," the extent to which this is attributable to judicial variables or to procedural variables is unclear. For example, because our data indicate that certain judges are more productive than others at the pretrial, it would appear that the pretrial programs would be most efficient if only certain judges are assigned to pretrials. An alternative approach to increasing the efficiency of the pretrial program might be found in the adoption of an "individual" case assignment system. Under such an assignment system, the individual judges manage their own caseloads and thus, the scheduling of pretrials would be at the discretion of each judge. Presumably, only judges who possess the attributes which our Minneapolis/St. Paul data indicate are highly correlated with pretrial productivity, would schedule pretrials.

However, one could hypothesize that there is an additional incentive for a defendant to plead guilty at the pretrial in a court with an individual case assignment system; namely, the defendant will be faced with the same judge at trial. Under a master assignment system such as that used in the municipal courts of Minneapolis and St. Paul, the defendant can refuse to plead guilty if he is faced with a tough sentencer at pretrial and hope that he will have the opportunity of pleading before a more lenient judge on the trial date. Under an individual assignment system, if the defendant receives a tough sentencer at pretrial, he will receive the same tough sentencer at trial, and will probably be less likely, therefore, to refuse to plead at the pretrial. Thus, it may be that the tough sentencer would have a higher pretrial productivity rate under an individual case assignment system than he would under a master case assignment system.

A comparative analysis of formalized pretrial programs should be conducted in two urban courts – one with an "individual" and another with a "master" case assignment system – to test these hypotheses. In each court, perceptual and attitudinal data, and individual case disposition data should be collected. Perceptual and attitudinal data on such variables as perceptions of judge's participation in

negotiations and judge's sentencing philosophy and "productivity" should be gathered from judges, prosecutors, defense counsel and administrative staff.

Aggregate case disposition data should also be collected in each court for years before and after the initiation of pretrial settlement procedures. This would permit the identification of dysfunctions that may have resulted from the use of pretrials.

Finally, case disposition data on cases pretried by each judge should be collected. This would permit the measurement of actual differences in productivity, sentencing, and rates of pleas. It would also permit the analysis of variations in rates of pleas by charge across judges and courts and the analysis of differences in patterns of pleas between individual and master calendar systems.

C. Conclusion

More citizens come into contact with the misdemeanor courts than with any other part of the judicial system. Yet these courts are plagued with resource and management problems. Defendants are too often discouraged from exercising their rights and faced with incomprehensible proceedings. The complexity of these problems requires the development of comprehensive programs such as CRP and CMIS.

In this project, we have identified the problems of these courts and have begun to test the programs we developed to address them. The findings contained in this report provide a solid foundation upon which to build further research efforts.

CHAPTER I APPENDICES

A. Misdemeanor Courts

APPENDIX I-A

Misdemeanor Courts

State	Court	Criminal Jurisdiction*	Other Jurisdic-dictional Areas**
Alabama	County[1]	"Misdemeanors" (OTP)	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 Misdemeanor" (OTP)	FP; OV; T; C ($5,000)
	Justice	1 year and/or $1,000	FP; OV; T; C ($1,000)
Colorado	County	2 years	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: (NGD)	C ($3,000)
	Municipal (Wilmington)	"Misdemeanors" (NGD)	FP; OV; T
	Justice+	"Minor Misdemeanors" (NGD)	T; C ($1,500)
Florida	County	1 year	FP; OV; C ($2,500)

*The maximum term for imprisonment is indicated in parentheses: NGD = no general definition of misdemeanor; OTP = other than in penitentiary.

**Other jurisdictional areas handled by misdemeanor courts are coded according to the following scheme: T = traffic; J = juvenile; C ( ) = civil (maximum limit); C (V) = civil, limit varies; FP = felony preliminary hearings; OV = ordinance violations; and 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.

APPENDIX I-A

Misdemeanor Courts

State	Court	Criminal Jurisdiction*	Other Jurisdic-dictional 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 $1,000	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" (1 year)	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" (NGD)	FP; OV; D ($20,000)
Maryland	District	3 years and/or $2,500	FP; OV; T; C ($5,000)

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

APPENDIX I-A

Misdemeanor Courts

State	Court	Criminal Jurisdiction*	Other Jurisdic-dictional Areas**
Massachusetts	District	5 years	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 & Ramsey Counties	3 months	FP; OV; T; C ($6,000)
Mississippi	County	"Fine and/or imprisonment in Jail" (NGD)	FP; T; J; C ($10,000)
	Justice+		C ($500)
Missouri	Magistrate	1 year and/or $500-$1,000	T; C ($2,000)
	St. Louis Court 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 ($1,000)
	Justice	6 months and/or $500	FP; T; C ($1,500)
Nebraska	County	"Most Misdemeanors" (OTP)	P; Jp; 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" (7 years)	OV; C ($100)

APPENDIX I-A

Misdemeanor Courts

State	Court	Criminal Jurisdiction*	Other Jurisdic- dictional Areas**
New Mexico	Magistrate	1 year	FP; C ($2,000)
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" (1 year)	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 and 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 Court	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" (NGD)	F; C ($1,000)

APPENDIX I-A

Misdemeanor Courts

State	Court	Criminal Jurisdiction*	Other Jurisdic-dictional Areas**
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 $2,000	FP; P; J; 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
Utah	Justice	6 months and/or $300	FP; OV; C ($300)
	City	6 months and/or $300	OV; C ($2,500)
Vermont	District	"Less than life imprisonment" (2 years)	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 (OTP)	FP
	Justice+	1 year and/or $1,000	FP; C ($300)
Wisconsin	Municipal	6 months nad/or $200 (OTP)	OV
	County (Milwaukee County)+	1 year and/or $1,000	C (unlimited); J
Wyoming	Justice	6 months and/or $100 (OTP)	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.

CHAPTER II APPENDICES

A. Mail Questionnaire

B. Misdemeanor Court Management Task Force
(Workshop Participants)

Appendix II-A. Mail Questionnaire

DIRECTIONS: Please indicate your answer to each question by placing a check(X) on the line beside the appropriate answer or by writing in a number where requested in the particular question.

I. COURT OPERATION

1. Of all cases that come before you, which types comprise the heaviest portion of your workload? Rank in order from "1" (most time consuming) to "6" (least time consuming) the following subject matter areas. Place a "0" beside any area that you do not handle.

	RANK
Civil (including probate, mental health small claims, etc.)	____
Felony (including felony preliminaries)	____
State Misdemeanor (including traffic offenses for which the defendant may be incarcerated)	____
Other Traffic	____
Local Ordinance Violations	____
Juvenile (non-traffic)	____

2. How would you characterize the total volume of cases handled by you?

____ Heavy

____ Moderate

____ Light

The remaining questions are concerned with the handling of state misdemeanor cases. This includes violation of all state misdemeanor laws, including traffic offenses for which the defendant may be incarcerated, but excluding all other traffic offenses. If you indicated in question "1" above that you do not handle state misdemeanor cases, please stop here and return the questionnaire in the enclosed envelope. However, if you do handle state misdemeanor cases please complete the remainder of the questionnaire.

3. On days when you hear state misdemeanor cases, how often are you under significant pressure to process a substantial number of these cases?

____ Always ____ Infrequently

____ Frequently ____ Never

4. To the extent that you experience such pressure, from what source(s) is the pressure felt? (Check the most significant -- no more than 3)

____ I never feel such pressure

____ Chief judge of your court

____ Chief judge of general jurisdiction court

____ Clerk of court or local court administrator

____ State court administrator, chief justice, or judicial council

____ Prosecuting attorney

____ Defense counsel

____ Police

____ Local media

____ Community groups

____ Heavy caseload volume itself

5. How often are you able to stay current with your state misdemeanor caseload?

____ Always ____ Infrequently

____ Frequently ____ Never

6. To the extent that you are unable to stay current with your state misdemeanor caseload, what is the single most important reason?

____ I am always able to stay current.

____ Heavy caseload volume often requires that cases be continued because of inadequate bench hours to complete the docket.

____ Too many delays in individual cases due to the actions of the prosecutor and/or defense counsel.

____ Other (please specify): ________________

____

7. Approximately what percentage of your state misdemeanor cases are disposed of by guilty plea, dismissal, trial, diversion, etc. at initial court appearance?

____ 0-25% ____ 71-80%

____ 26-50% ____ 81-90%

____ 51-70% ____ 91-100%

8. How often does plea negotiation with respect to charge or sentence take place in state misdemeanor cases before your court?

____ Always ____ Infrequently

____ Frequently ____ Never

9. To the extent that plea negotiation takes place, which statement best characterizes your role generally?

____ Plea negotiation never takes place in my court.

____ I participate in plea discussions.

____ I am present during plea discussions but do not participate in the discussions.

____ I only ratify agreements reached outside my presence.

10. How often does a prosecuting attorney conduct the prosecution at the trial of state misdemeanor defendants?

____ Always ____ Infrequently

____ Frequently ____ Never

11. To the extent that the prosecuting attorney does not conduct the prosecution at trial, who usually prosecutes the case?

____ The prosecuting attorney always conducts the prosecution

____ The arresting officer

____ A police officer other than the arresting officer

____ The judge

12. How often is the state misdemeanor defendant represented by an attorney upon a plea of guilty?

____ Always ____ Infrequently

____ Frequently ____ Never

13. How often is the state misdemeanor defendant represented by an attorney at trial?

____ Always ____ Infrequently

____ Frequently ____ Never

14. What type of defense services are ordinarily provided for indigents?

____ Private assigned counsel

____ Public defender

____ About equally split between assigned counsel and public defender

15. Approximately what percentage of state misdemeanor defendants plead guilty to a misdemeanor offense?

____ 0-50% ____ 81-90%

____ 51-70% ____ 91-100%

____ 71-80%

16. When do most of these guilty pleas occur?

____ At initial court appearance

____ At pre-trial conference (other than trial date)

____ On day of trial

17. How often are written pre-sentence reports available to the court at the time of sentencing?

____ Frequently

____ Infrequently

____ Never

18. How often do you sentence misdemeanants to probation?

____ Frequently

____ Infrequently

____ Never

19. To the extent that you sentence misdemeanants to probation, what is the nature of their supervision, if any?

____ I never sentence to probation

____ Unsupervised

____ Supervised by the judge

____ Supervised by a probation officer

____ Supervised by a volunteer in probation

20. Who is responsible for the ultimate control of the court's calendar of state misdemeanor cases (moving cases to their final disposition)?

____ the prosecutor

____ the police

____ the court

____ defense counsel

21. Approximately how much of your time each week is spent personally attending to administrative tasks (case scheduling, recordkeeping, etc.)?

____ 0-20% ____ 61-80%

____ 21-40% ____ 81-100%

____ 41-60%

22. How do you feel about this time that you are required to spend in personally attending to administrative tasks?

____ I am required to spend too much time in attending to administrative tasks.

____ I should be spending more time on administrative tasks, but am unable to do so, because of my other responsibilities.

____ I spend just about the right amount of time on administrative tasks.

II. COURT PROBLEMS

The continuum shown below indicates possible levels of satisfaction with resources and procedures used in processing state misdemeanor cases. Indicate your satisfaction with each area by marking a number from "1" (very dissatisfied) through "5" (very satisfied). Mark "0" if the resource or procedure is not used in your court.

0	1	2	3	4	5
Not Used	Very Dissatisfied	Dissatisfied	Moderately Satisfied	Satisfied	Very Satisfied

RESOURCES AVAILABLE FOR PROCESSING STATE MISDEMEANOR CASES	Satisfaction Level
Availability of courtroom space	____
Number of judges	____
Availability of general office space for support staff	____
Availability of pre-trial conference rooms	____
Availability of juror facilities	____
Availability of record storage space	____
Proximity of record storage space	____
Staff support provided to judge:	
Secretarial/clerical staff available within your office	____
Administrative staff (court administrator or counterpart) available in your office	____
Personnel available to oversee recordkeeping and record retention	____
Personnel available to compile statistics regarding caseflow and caseload	____
Administrative support from state level office	____
Financial support provided to court:	
For office equipment and supplies	____
For capital improvements	____
For extraordinary budget items (new programs)	____
For salary increases (secretarial and administrative staff)	____

PROCEDURES INVOLVED IN THE PROCESSING OF STATE MISDEMEANOR CASES	Satisfaction Level
Scheduling first appearances	____
Scheduling trials	____
Determining indigence for assignment of counsel	____
Extent of pre-trial screening available to the court	____
Availability of pre-trial diversion programs	____
Quality of diversion programs	____
Procedures followed with respect to waiver of counsel	____
Procedures followed with respect to accepting guilty pleas	____
Number of continuances granted	____
Impaneling juries	____
Orientation of jurors	____
Notifying and scheduling civilian witnesses	____
Scheduling police officer appearances	____
Probation services	____
Pre-sentence reports	____
Assistance (information, administration, etc.) provided by general trial court	____
Assignment of cases among judges (in multi-judge courts only)	____
Amount of paperwork required to process misdemeanor cases	____
Case filing system	____
Accessibility of court records	____
Fiscal recordkeeping	____
Length of time required to retain records	____

(over)

WE WELCOME ANY COMMENTS YOU HAVE TO OFFER WITH REGARD TO SPECIFIC PROBLEMS YOU ARE FACING. WE WOULD ALSO APPRECIATE RECEIVING YOUR COMMENTS ON ANY SOLUTIONS YOU HAVE DEVISED TO DEAL WITH PROBLEMS WHICH HAVE FACED YOUR COURT (FEEL FREE TO CONTINUE YOUR COMMENTS ON ADDITIONAL PAPER IF THE SPACE PROVIDED BELOW IS INADEQUATE).

III. BACKGROUND INFORMATION

1. What is the population of the geographic area covered by your court's jurisdiction?

   ____ Under 15,000

   ____ 15,000-50,000

   ____ 50,000-100,000

   ____ 100,000-250,000

   ____ 250,000-500,000

   ____ 500,000-1,000,000

   ____ Over 1,000,000

2. Which of the following best characterizes this area?

   ____ rural

   ____ small city

   ____ medium size city

   ____ surburban area

   ____ big city

3. How many judges, including yourself, are assigned to your court?

   ____

4. On the average, how many hours per week do you spend in performing all of the duties and responsibilities relating to your judicial office?

   ____

5. How many years have you served as a judge?

   ____

6. Are you a lawyer?

   ____ yes

   ____ no

Thank you for your cooperation in completing the questionnaire.

Appendix II-B: Task Force Participants

Workshop #1

Task Force - Preliminary Conferences

Hon. O. Harold Odland
Chief Judge
Hennepin County Court
951 C. Government Center
Minneapolis, Minnesota

Hon. Alan Hammond
Presiding Judge
Phoenix Municipal Court
12 N. 4th Avenue
Phoenix, Arizona 85003

Hon. Bush P. Mitchell
Presiding Judge
Dayton Municipal Court
335 W. 3rd Street - Rm. 306
Dayton, Ohio 45402

Mr. David Jackson, Esquire
Executive Aide
Court of Common Pleas
P.O. Box 316
New Britain, Connecticut 06050

Mr. Richard Friedmar
Court Administrator
Toledo Municipal Court
525 North Erie Street
Toledo, Ohio 43624

Task Force - Community Resources Program

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

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

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

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

Mr. Paul Johnson
Boston Housing Authority
71 Prentice Street
Roxbury, Massachusetts 02120

Appendix II-F: Task Force Participants

Workshop #2

Task Force - Design of a Case Monitoring System

Wayne Berg
Court Administrator
City Hall Annex
Clare, Michigan 48617

Dorothy J. Coy
Court Administrator
District Court #1
924 City-County Building
Tacoma, Washington 98402

Bill Schindler
Judge
County Court
Courthouse
Blue Earth, Minnesota 56013

Ellis Pettigrew
Trial Court Executive
Fourth Floor
Municipal Building
Ogden, Utah 84401

Prentice L. G. Smith, Jr.
Judge
Baker City Court
P.O. Box 1
Baker, Louisiana 70714

Task Force - Community Resources Program

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

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

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

Judge Galen Hathaway
Little Lake Justice Court
191 North Main Street
Willits, California 95490

Ms. Joan Lee
Legal Aid Society
302 Greenup Street
Covington, Kentucky 41012

CHAPTER IV APPENDICES

A. Needs Assessment Form

B. Tacoma Review, 11/1/77

C. The News Tribune, 1/1/78

D. Letter of Probation Staff to Board of Pierce County Commissioners, 1/28/77

Appendix IV-A: Needs Assessment Form

PIERCE COUNTY PROBATION DEPARTMENT

NEEDS ASSESSMENT FORM

Client Name ______________ (last) ______________ (first) ______________ (mid. int.) Case No. ______________ Today's Date ______________

Judge Code ______________ PD# ______________ D.O.B. _____/_____/_____

EMPLOYMENT A	VOCATIONAL TRAINING B	ACADEMIC TRAINING C	MENTAL HEALTH D	ALCOHOL ABUSE E	DRUG ABUSE F	LEGAL PROBLEMS G	HOUSING H	TRANS-PORTATION I	FINANCIAL ASSISTANCE J	RISK CATEGORY K	PHYSICAL HEALTH L
Without a job	No marketable skills	Very much a need	Highly unstable	Needs detoxification and treatment	Needs detoxification and treatment	Habitual civil problems	Constant transient	No means of getting around	Needs immediate assistance	High	Incapacitated. Needs medical services
Part-time work	Some skills	Could use additional education	Occasional loss of control	Occasional abuse, needs support	Occasional abuse, needs support	Occasional civil problems	Moves often, poor housing	Has some access to transportation	Needs financial planning advice	Medium	Occasionally ill. Needs medical attn.
Working near potential	Achieved full potential for work	Not needed	No overt signs of problems	No known alcohol problem	No known drug problem	No current legal problems	Owns home or rented over one year	Owns vehicle	No assistance needed	Low	In sound health. Seldom ill

Tacoma Review 11/1/77 Page 2

District Court opens door to citizens' input

The people gathered in a Tacoma conference room on a recent afternoon had apparently little in common.

They were of all ages, both sexes, a variety of races. There were among them a young mother, a police captain, a law student, a university professor, an attorney—in all, about 22 citizens. There were also three district court judges.

The group was meeting for the first time. Their purpose: to act as a citizens' advisory board to Pierce County's District Court Number One, one of the busiest courts in the state.

Judicial experts say this is the only group of its kind in the nation. District Court Number One has been chosen as the national model court for a one-of-a-kind demonstration project.

The American Judicature Society, a Chicago-based organization for judicial reform, made the selection and is the project's "sponsor."

According to Jim Alfini, the society's Director of Research, the project, called a Community Resources Program, has four parts: expansion of probation services; establishment of community service as a way in which probationers can "pay back" their communities; more use of volunteers to ease the administrative burden in District Court; and the implementation of the advisory board concept.

Alfini explains that courts nationwide, particularly those at the district level which handle misdemeanor cases, are laboring under "staggering" caseloads. They try as many as ninety percent of all criminal cases, yet they lack the resources to operate effectively.

The Judicature Society, founded in 1913 to effect judicial reform, began a nationwide study to find ways to remedy this condition, Alfini says, and chose Tacoma as the model city.

The Community Resources Program is based upon the notion that the courts must be more aware of community services, resources, and attitudes. Court officials here agree.

Presiding District Court Judge Willard Hedlund explains that the citizen has not usually been heard from in court operations.

"In this criminal justice system," Hedlund says, "one of the things we have never thought of is that the public should have a chance to contribute its ideas."

Pointing out the "rarefied atmosphere" in which judges operate, Hedlund likens the operation of the court system to the formulation of American foreign policy at the State Department—too complicated for public participation, traditionalists have claimed.

The advisory group concept is intended to dispel that notion, and to promote interaction and understanding between the court and the community which it serves.

Although advisory boards have been implemented in isolated areas for specific situations, this is believed to be the first time such a group has been formed to assist the court in every facet of its operations.

Judicial experts give several theories why citizen input to the justice system has not been practiced more commonly. Alfini suggests that the courts, apart from being too complicated, are also the least visible arm of government; being apolitical, they have "no natural constituency," he states.

District Court Judge Ellis Otto points out that courts have historically been considered "undesirable" places for "nice people" to enter. She termed the lack of citizen input an "attitudinal" problem.

Along with Hedlund and Otto, District Court Judges Arthur Verharen and Frank Ruff have supported the citizens' board idea strongly—unlike other judges in other parts of the nation. Alfini says that the American Judicature Society encountered much resistance to the concept in making their nationwide search for a model court.

"We talked to a number of judges," he says, "who just said, 'Oh, my God, no!' " when approached with the idea of establishing a citizens' advisory board.

The board has met only once, but its activities are expected to continue to expand in the foreseeable future, court officials emphasize. Initially, the members of the board will familiarize themselves with court operations through tours of the Probation Department and of the Court itself.

Public input to the board's deliberations will be encouraged and actively solicited, board members agree.

Tacoma, Sun., Jan. 1, 1978 The News Tribune

County district court seeks public input

By RICHARD SYPHER
TNT Courts Writer

For generations, apologetic Americans have listened solemnly as courts denounced the errors of our ways.

Pierce County District Court now is offering citizens an opportunity to turn the tables.

In a federally funded pilot project of the American Judicature Society, the court has helped establish a Citizens' Advisory Board to act as a vehicle to communicate to the courts the criticisms and constructive ideas of the general public.

Advisory board members will summarize criticisms and suggestions received from the public for the courts, and, in turn, communicate the needs and problems of the judicial system to the public. The board will tackle the myriad problems thus raised by individual members and attempt to devise solutions. The result is hoped to be better service by the district courts through improved communication in both directions.

THE ADVISORY BOARD concept is one of four equally important facets of the court's experimental Community Resources Program, a project undergoing trial here in Minneapolis-St. Paul, Minn., and Dorchester, Mass. Other components include resource brokerage, restitution services and wider use of volunteers.

All of the trial projects are spearheaded by the judicature society, a judicial reform organization founded in 1913 to promote effective administration of justice. The programs are designed to improve public perception of district courts and to expand the rehabilitative services available to offenders.

Ironically, the most widespread problem observed in similar nationwide studies of misdemeanor courts reportedly has been a perception by judges that misdemeanor cases are not important enough to warrant their serious attention.

In a report of its own on the studies, the Natonal Council on Crime and Delinquency said the judges' attitudes were shared by the prosecutors and defense attorneys with the result that typical misdemeanor judges dispensed "routine, perfunctory treatment . . . with minimal indivualized judicial attention to defendants appearing before the bench."

The report indicated misdemeanor judges become frustrated over lack of alternative dispositions for defendants, other than issuing fines or ordering jail time. Availability of alternatives such as detoxification centers for alcoholics or community service or employment programs for others have remained largely unknown to courts and therefore, unutilized.

PIERCE COUNTY'S advisory board will evaluate some of these alternatives as part of its job. Dorothy Coy, District Court administrator, said she is encouraged by the possibilities.

"The board is not only to be an advisory board," she said, "but they have the ability to evaluate what they see — to evaluate what they perceive as our faults."

"If the people have access to the board members who have access to the courts, perhaps there will be a better two-way understanding."

Board members, who will meet as a group about once a month, were drawn from a cross-section of backgrounds and vocations. They include James Beaver of the UPS law school; Charles Billinghurst; Connie Cole of the Community Alcohol Center; Hezekiah Gilven; Randall Gordon of Puyallup; Dr. Leonard Cuss; Mrs. Noel Hagens; Mrs. Velma Halliburton and James Hushagen.

Others are Ree Hutchinc; Dr. Richard Jobst, chairman of the Sociology and Anthropology Department at PLU; Capt. Burton Joyce of the Tacoma Police Department; Ruth Kors; Bruce Meyer, dean of the UPS law school; Lily Piva; Herb Simon; Almor Stern; Helen Val, and Rodger C. Vandergrift.

They represent a cross-section of the public they are to serve — old, young, black white, Indian, high and low income.

MS. COLE SAID her work with the courts and persons referred by them to the alcohol center has given her the perspective that neither really understands the other. Involvement in the project is a "learning experience" which she can pass on to clients, she said.

"I can say, 'Hey, look, here's the situation you are in, here's how the court works, and here's what you can do.

"I think understanding the courts will help people to realize that being convicted of drunk-driving means you have broken the law," she said. "We really don't see drinking drivers as breaking the law. We just see them as getting caught at something."

Ms. Cole is meeting with a sub-committee of the advisory board dealing specifically with trying to improve the courts. Capt. Joyce is working with a second sub-commitee dealing with the probation system.

"It will be interesting to me, from a police standpoint, to see what can be done in the area of probation," he said. "It's a little early yet, we've just gotten started, but it looks like we're going to have a good group."

SOME 90 PER CENT of public contacts with the court system occur at the district or municipal court level. Pierce County's three district court judges and one commissioner deal with misdemeanor crimes frmm drunk-driving to shoplifting to minor drug and traffic cases.

Joyce predicted that once the general public understands how the district court system works, what its caseload is and what its problems are, it will become easier for each to deal with the other.

He said it was critical that the public provide its views to board members if the concept is to be successful.

The other three components of the Community Resource Program represent means of dealing with the various problems facing the district courts, the probationers flowing through the system and the community itself.

Resource brokerage tends to expand on the traditional one-on-one approach to probation service. Under this concept, probation officers seek out existing programs within the community which might be of help to individual probationers, including alcoholism treatment, mental health counseling and employment services. The idea is to find what services the community already has to offer which could be beneficial to probationers whose needs have been defined. Problem drinkers for example, are deemed better off dealing with therapists in that field than discussing the problem periodically with probation officers.

COMMUNITY SERVICE restitution calls or probationers to be sent into the community to literally work off their debt to society in a constructive way.

Alex Schauss, director of the Pierce

Appendix IV-D: Letter of Probation Staff to Board of Pierce County Commissioners, 1/28/77

January 28, 1977

BOARD OF PIERCE COUNTY COMMISSIONERS
Room 1046, County-City Building
Tacoma Avenue, South
Tacoma, WA 98402

Gentlemen:

The staff of Pierce County Probation Department received the attached memo 1/27/77. Needless to say, we are very concerned about the content. This was written by a person who has not been in the office enough to understand the true meaning of probation. We as a staff have had little, if any, direct supervision from Mr. Franzen in the past year.

. . . Staff called a meeting at one point expressing their concern regarding his (Mr. Franzen's) excessive absence from the office. He responded that he was bored and the commissioners knew it; implying they knew of his frequent tee times.

. . . Mr. Franzen's memo is not in line with his past activities; i.e., creating the position of assistant director to shift the responsibilities which had been traditionally handled by the director. (The assistant director could be carrying a caseload; in fact, when this change was made, the courts were requested to reduce their refferals.) If Mr. Franzen had applied himself in the appropriate manner, administering two programs would have been more than a full-time job.

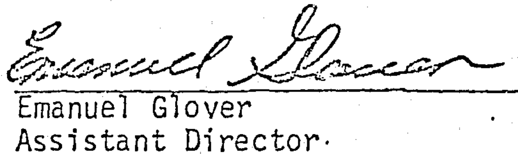
. . . It is true that Mr. Franzen did approach individuals at an earlier date verbalizing his belief that there was not a sufficient amount of work to keep a director of probation and EL CID justifiably busy. These verbalizations came at a time when to minimize his position as director would increase the possibility of additional income through empire building; i.e., court administrator and jail administrator.

BOARD OF PIERCE COUNTY COMMISSIONERS
January 28, 1977
Page two.

. . . Why, if the salaried position of director and the budget were excessive, did (1) he request a raise; (2) did he request a County car that has not been available for departmental use; (3) did he persist in attending out-of-State conferences?

In conclusion, it is our belief that Mr. Franzen has misused his position as director of this department and the EL CID program for personal gain. The points made here are major issues. There are numerous minor issues which could be made. If in the future, you feel the need to discuss this further, we, as a staff, would welcome the opportunity.

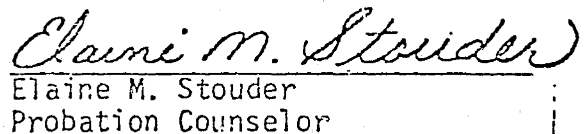
Sincerely,



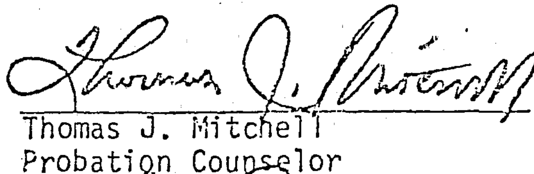
Emanuel Glover
Assistant Director

Thomas M. Briese
Probation Counselor

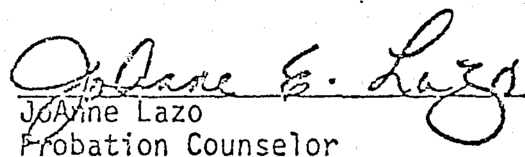
absent from work today
Diane Warner
Probation Counselor



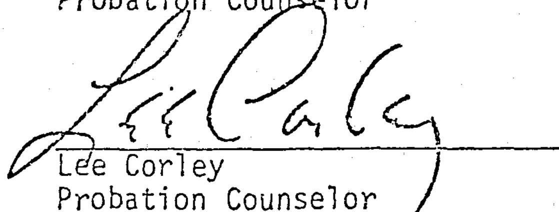
Elaine M. Stouder
Probation Counselor



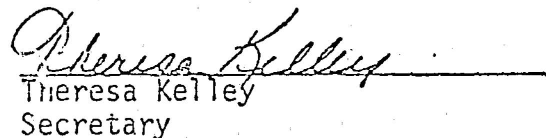
Thomas J. Mitchell
Probation Counselor



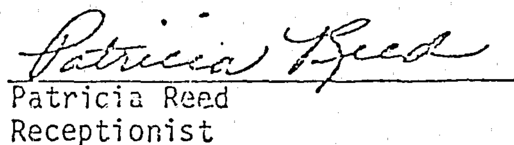
JoAnne Lazo
Probation Counselor



Lee Corley
Probation Counselor



Theresa Kelley
Secretary



Patricia Reed
Receptionist

attachment
cc: The Honorable Arthur Verharen
The Honorable Filis Otto
The Honorable Willard Hedlund
The Honorable Frank Ruff

CHAPTER V APPENDICES

A. Task Force Recommendations on Case Dispositional Time Frames

B. Court Scheduling Processes

C. Procedures for Maintaining Case Control Card and Sample Cards

D. Salem Caseload Statistics

Appendix V-A: Recommended Dispositional Time Frames
Misdemeanor Case Progress Time Standards*

Day	Stage
1st	Filing in Court (either by arrest or complaint)
3rd	First Appearance
7th	Arraignment
21st	Pretrial Conference
28th	Motions Hearing
35th	Trial
56th	Presentence Report
63rd	Sentence

*These limits do not apply for defendants who are incarcerated. A 21 day maximum period from arrest to trial is recommended for defendants in custody. This could be accomplished by compressing various stages of the process. For example, scheduling the first appearance immediately after arrest with the arraignment would decrease the time interval by a few days. Either eliminating the pretrial conference or holding it within seven, rather than fourteen days, would further decrease the time span. Also, filing motions immediately prior to trial could eliminate another seven days.

Appendix V-B: Court Scheduling Processes

1. Case Initiation. In both courts a case generally is initiated by an application for complaint from a police officer. When the clerk's office receives an application on a defendant in custody, a complaint is typed and numbered immediately, and the defendant arraigned that day. If the defendant is not in custody, the application is held until the following Monday. On Monday, in Salem, all motor vehicle and non-motor vehicle applications that have been held over are distributed among the clerical staff and the complaints and summons (or warrants) are created and case numbers and arraignment dates are assigned. In Ayer, individuals who have been released on bail, usually on a personal recognizance bond, automatically are scheduled for arraignment on the following Wednesday.

In both offices, clerks not responsible for docketing the complaints type the file. Once the case file is typed it is then routed to the docketing clerks who handle motor vehicle or non-motor vehicle offenses. Case information (including the case number and arraignment date) is entered into the docket book and the case is filed chronologically according to its arraignment date.

When cases are initiated by private citizens, the process is identical to that described above once the clerk's hearing has been held and it has been determined that probable cause exists. However, several steps must be taken before reaching this point. In Salem and Ayer, one clerk is entirely responsible for setting the hearings when a citizen's complaint is filed. In Salem only four to five hearings are set per day, with the citizen verbally informed of the hearing. No case number is assigned, nor is any official court document drawn up for the hearing, although a follow-up letter is mailed as a reminder. In Ayer the procedure for processing citizen initiated complaints is more formalized in that a hearing index card and hearing file is created prior to the assignment of a case number. Those cases in which the clerk's hearing has been requested are processed by one deputy clerk. A daily calendar list for hearings is compiled similar to the one used on arraignment days. At the conclusion of the hearing, complaints with assigned docket numbers and next-action dates will be created for those cases in which probable cause has been found to exist. The complaint case file is then processed in the same manner as described previously. Figure Three shows the estimated time frames for these steps in the case process.

2. Assembling the Calendar. Cases are set on Salem's court calendar according to the guidelines of the part-time judge. These guidelines require that specific times of the day be devoted to particular types of cases. Since no master calendar is maintained by the judge or the clerk's office, no one is aware of the actual number of cases set per day until the calendar is assembled.

FIGURE ONE

Case Processing: Police Initiated Complaint

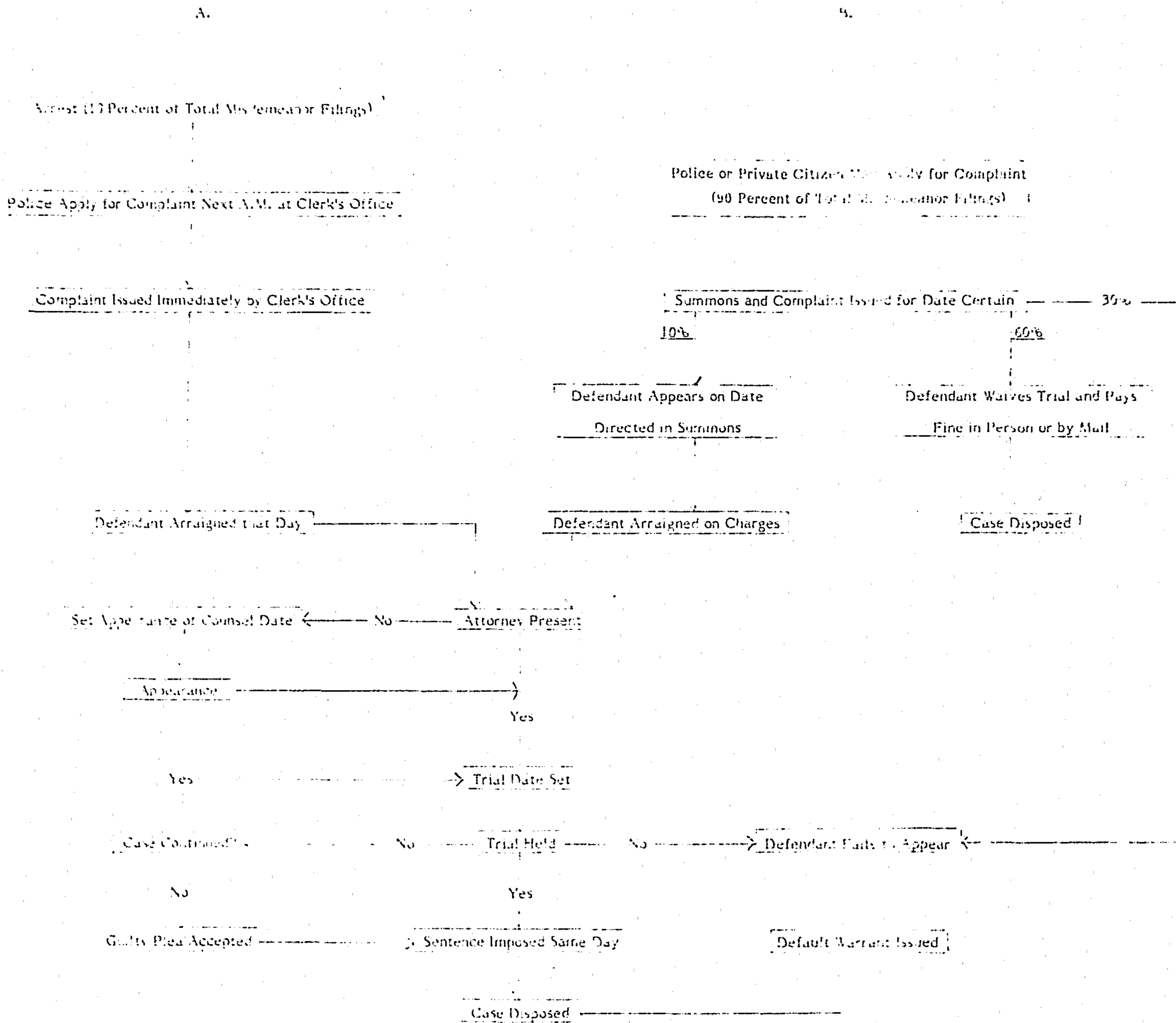


Figure Two

Case Process: Citizen Initiated Complaint

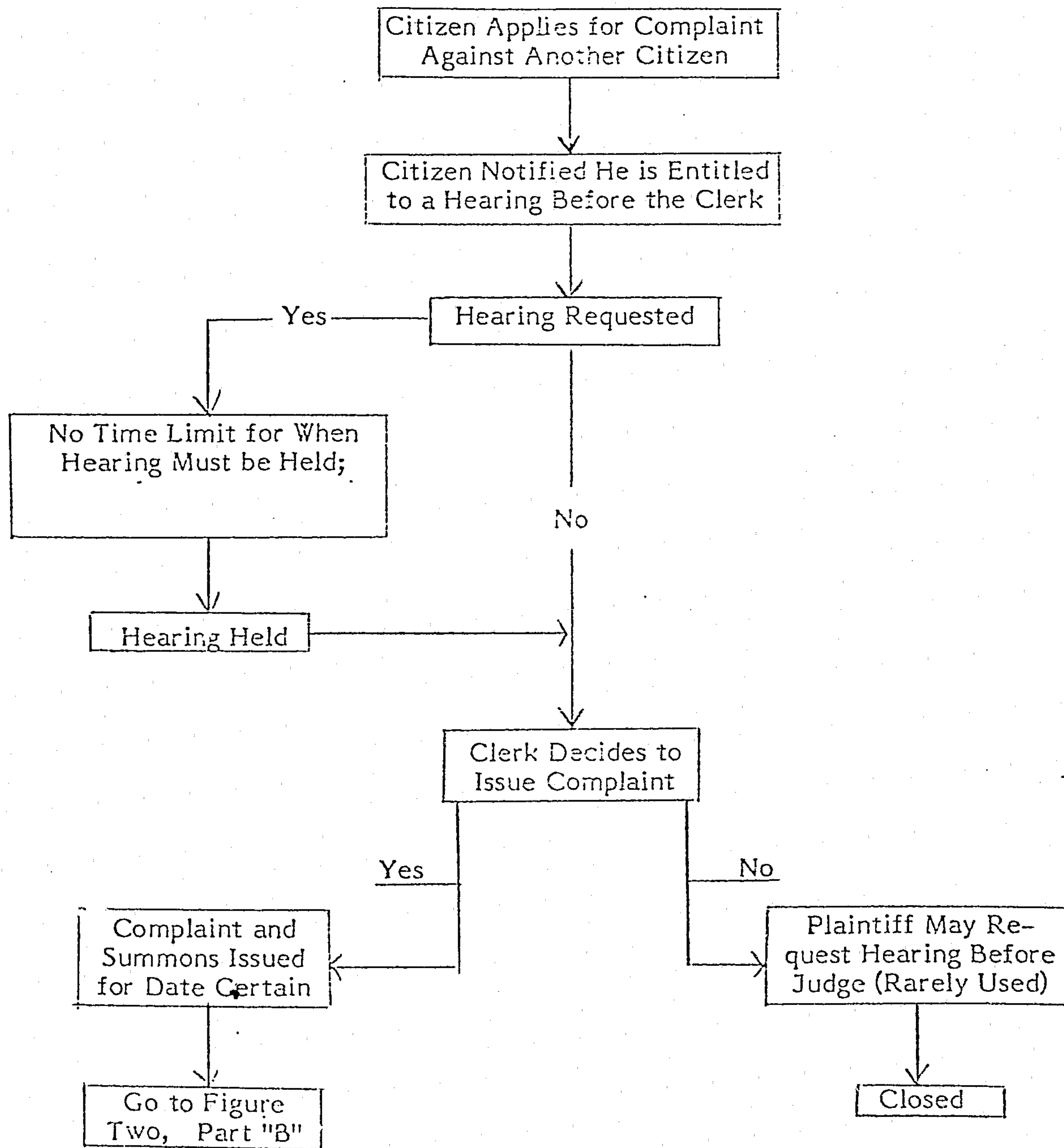
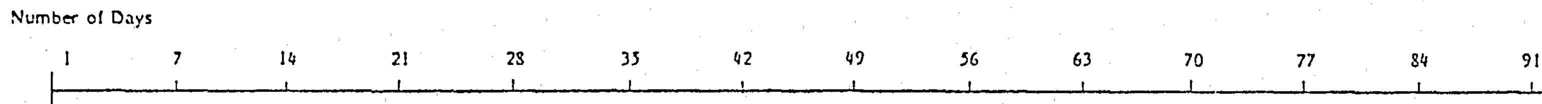
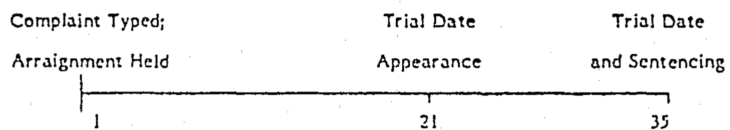


Figure Three

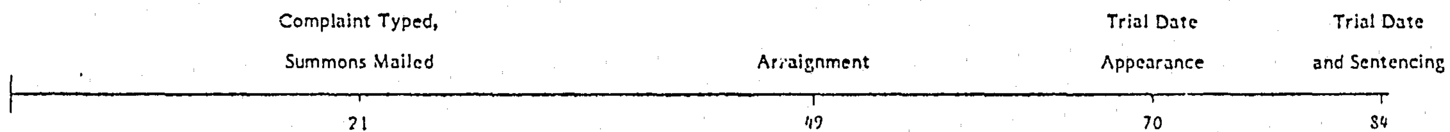
Ayer District Court Estimated Case Processing Time Frames



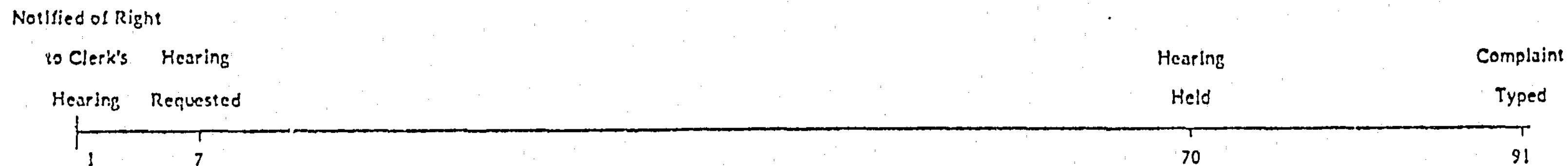
A. APPLICATION FILED BY POLICE: DEFENDANT IN CUSTODY



B. APPLICATION FILED BY POLICE: DEFENDANT NOT IN CUSTODY



C. APPLICATION FILED BY CITIZEN



As in Salem, judicial guidelines in Ayer divide the weekly calendar so that specific times of each day are devoted to particular types of cases. The court order delineating the calendar format established five different criminal sessions. Two of these are devoted strictly to criminal trials while the other three are essentially arraignment sessions. Also as in Salem, no limits are imposed on the size of the daily calendar.

The courts' daily calendars usually are compiled one day in advance by pulling the case files from the chronological file for that court day. The case file is the primary informational document of the clerk's offices. Consequently, it is extremely difficult to prevent lost or misplaced cases. Prior to each court day in Salem the calendar list and case files are routed to the "waiver" clerk (i.e., the deputy clerk responsible for processing all payments of fines where defendants have waived their right to trial and plead guilty) to check whether any of the cases already have been disposed of by payment of the fine. In these cases the clerk notes the dispositionand payment of the fine on the trial list and complaint.

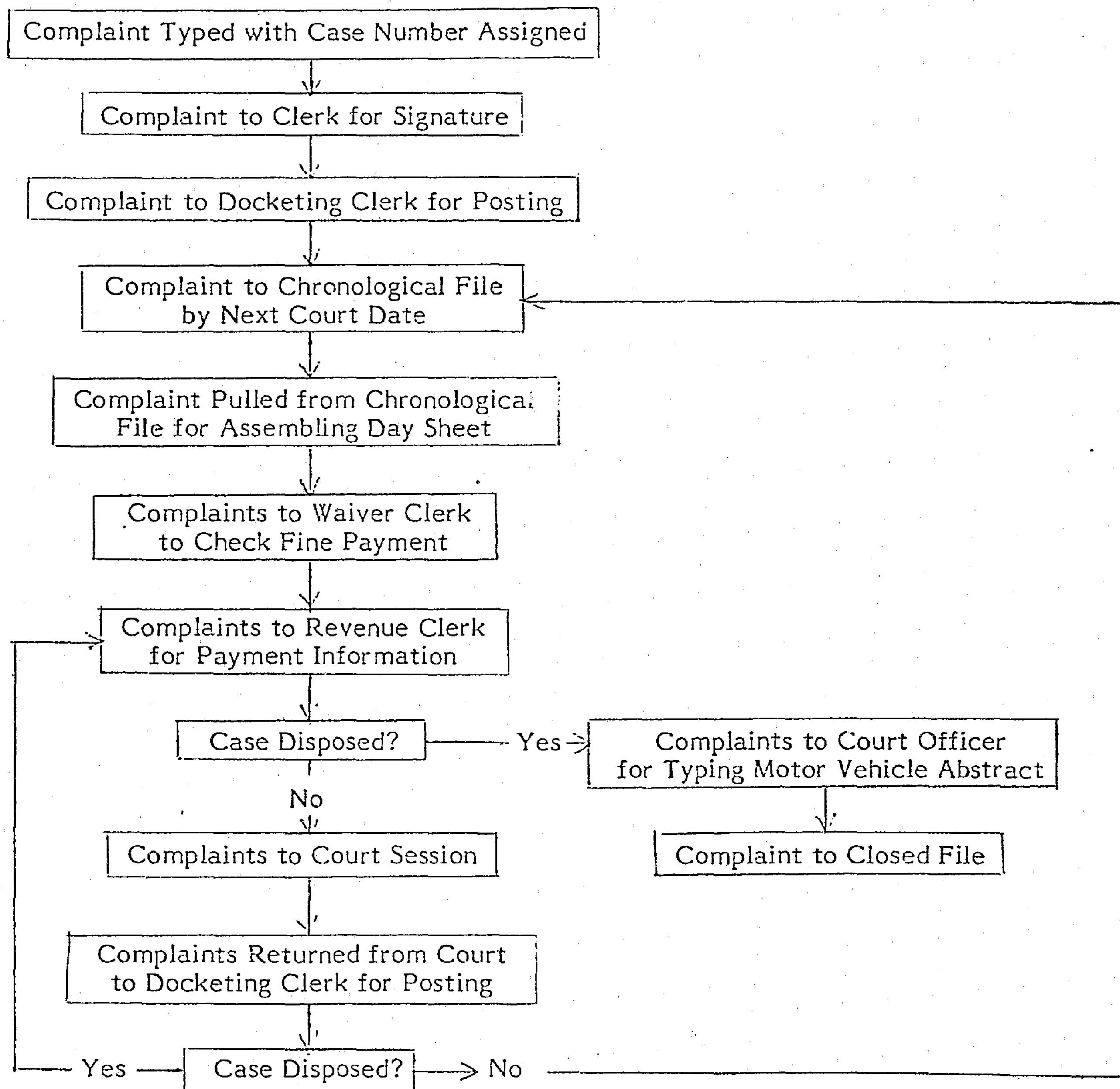
According to clerks' estimates in Salem and Ayer, this method of disposition accounts for 90 percent of the motor vehicle caseload. This is significant since motor vehicle offenses in which an appearance is not required comprise approximately 75 percent of the court's caseload. Closed case files are then routed to the supervisory clerk for reporting the court's revenue and are then filed in the closed alphabetical files as time permits. A comparable process is followed in Ayer.

For those cases still open, the case files and day sheets are picked up by the clerk each day and taken into court. In both courts, the clerks use the list and files to call the calendar. Once a case has been heard, the Ayer clerk notes the action taken on the case file; no such information is added to the calendar list in Salem. The closed and open case files are returned to the clerk's office at the end of the session and routed to the appropriate docketing clerk. Docket entries are generally made the same day. Case files are also routed to the probation department on a regular basis so its personnel may be able to verify their records. The files usually are returned promplty and cases which are still open are refiled by the docket clerk according to next-action dates.

3. Controlling Police Officer Appearances. A few years ago the county commissioners of Essex County (including Salem) decided that police appearances in district court on the officers' days off were too expensive. At that time anofficer was paid a flat three hours overtime for any court appearance made after regular working hours. To alleviate this burdensome cost, the police department created the position of a "Prosecuting Officer" responsible for handling misdemeanor cases in the district court.

Generally, the prosecuting officer is a senior member of the department (a lieutenant or captain)

Complaint – Case File: Paperflow



who may not be an attorney. He prepares cases for trial and acts as prosecutor at all court appearances. A deputy prosecutor is assigned to the corut on a county-wide basis for any police agency that requests assistance in handling a case. Nevertheless, the prosecuting officers rarely request his assistance; consequently the deputy prosecutor generally is involved with only felony preliminary matters.

The prosecuting officer also functions as liaison between the clerk's office and police agency. When an individual officer has completed an application for a complaint in a case which does not require an arrest, the prosecuting officer transfers the application to the clerk's office. He secures the complaint and ensures that the summons and other notifications are mailed.

The greatest savings in cost to the county accrue at the arraignment. Unless an arrest is made, the prosecuting officer is the only officer whose presence is required. If the defendant pleads not guilty at arraignment and a trial date is set, the police officer is informed by the prosecuting officer of the upcoming date. It is the responsibility of the individual officer from that point onward to maintain contact with the clerk's office in the event the date is changed.

Informal procedures are used in Ayer to notify arresting officers of the upcoming court appearance dates. The court depends upon theassigned court officer from each agency to relay court dates to the arresting officers. However, the court assignment rotates within the agency, inhibiting continuous information flow to and from the court. Occasionally, if there is no officer in court, the clerk notes on the complaint that a particular officer should be notified of the next-action date on the case. In such instances a court list of such cases will be drawn up and sent to the individual agencies. However, neither of these mechanisms is foolproof. During one on-site visit an agency representative was complaining that four continued cases were on the list that day without his knowledge. At his suggestion the clerk's office agreed to send Wednesday's calendar list to each agency a day in advance of the court date to prevent a recurrence of this problem. Since these lists are compiled routinely by the clerk's office, this procedure provides a relatively simple remedy for ensuring police officer appearances.

Appendix V-C: Control Card Procedures

Procedure for Maintaining Case Control - Index Card

(Ayer, Massachusetts)*

A case is initiated in the court by a filing of an application for a complaint. The control-index card is created at the time the complaint is typed. If there is more than one charge to the complaint a control-index card must be typed for each charge. On arrests, the complaint is typed immediately. With non motor vehicle and serious motor vehicle offenses (i. e., appearances required) complaints are typed every Monday for the following Wednesday (Wednesday is arraignment day). Bailed defendants automatically are given (by the bail bondsman) the upcoming Wednesday date as their first appearance date. "Regular" applications (i. e., no bail or arrest) are typed as staff time permits with the Supervisor in the Clerk's office assigning the first action date. She is also responsible for distributing the applications to the appropriate clerks: one clerk types all non-motor vehicle complaints while another maintains and closes out these cases; a third clerk creates all motor vehicle complaints; a fourth clerk closes out all motor vehicle and non-motor vehicle cases in which a fine has been assessed. Once the complaint and card have been typed and the docket number assigned the card is immediately filed in the alphabetical index file and the complaint is filed chronologically by its first action date.

The information which must be listed on the card at filing is delineated below.

A. Creating the control-index card (one card per charge):

1. Type name of defendant, last name first.
2. Type docket number
3. Type date of birth
4. Type in offense
5. Type or write in entry date (i. e., date the application for complaint is filed in the Clerk's Office)
6. Type or write in agency (city or town) filing complaint.
7. Type or write in date set for arraignment on the line provided in the section entitled "Next Action Date."
8. Two punches must be made on card when it is typed:

   a. To denote the month in which case was filed (for monitoring purposes) punch out the appropriate letter of those running across the top of the card (see sample).

   b. To denote the complaint category which applies to this particular offense (for statistical reporting purposes), punch out the appropriate entry of those listed in the section title "Complaints" (see sample).

*Procedures for the Salem district court are comparable.

CONTINUED

2 OF 3

COMPLAINTS:

- Oper. under influence
- Oper. so as to endanger
- Using w/o authority
- Larceny of motor vehicle
- Other motor vehicle
- Nonsupport
- Robbery
- Assault/Assault-DW/Assault-B
- Breaking and Entering
- Larceny
- Receiving stolen goods
- Fraud
- Narcotics offenses
- Disorderly Conduct
- All other
- Motor vehicle trial waiver
- Appeal to jury session:
  - District Court
  - Superior Court

(8b)

DISPOSITIONS:

- Disposed w/o Appearance
- Disposed at Arraignment
- Disposed bet. Arraign./Trial
- Disposed at Trial — G. Plea
- Disposed at Trial — Tr. Held
- Disposed at Trial — Other
- Closed after Cont'd. w/o F.
- Default warrant issued

CONTINUANCES:

- No continuance
- One (1) continuance
- Two (2) continuances
- Three (3) continuances
- More than 3 continuances

DEFENDANT (1)
NAME: (4)

(2) Docket No.,

(3) D.O.B.

(5) ENTRY DATE:

(6) AGENCY:

CLERK'S HEARING ☐

J F M A M J J A S O N D (8a)

N.M.V. (9)

NEXT ACTION DATES (7)

Arraignment:______
Cont'd:______
App. Counsel:______
Cont'd:______
Trial Set'g:______
Cont'd:______
Trial Date:______
Cont'd:______
Cont'd:______
Sentencing:______
Cont'd. w/o F:______

9. A third punch will be required if the offense is non-motor vehicle. If it is a non-motor vehicle offense punch out the hole labeled "N.M.V." at top of card (see sample).
10. File card alphabetically.
11. On complaint, next to the docket number or in upper right hand corner, mark notation "√" or "C" to indicate a control-index card was typed for the case. File case chronologically.

B. If a clerk's hearing is held on the case, a control index card will be created before a docket number is assigned (this number will be assigned at the conclusion of the hearing if the Clerk decides to issue a complaint on one or more of the charges). The procedure is very similar to the above, however, only entries #1, 3, 4, 5 and 6 are made on the card prior to the hearing. Also, the box marked "Clerk's Hearing" is checked with the assigned hearing number entered on to the card next to the box. At this point the card is filed in the separate hearing index file. At the conclusion of the hearing, if a complaint is issued, the card will be pulled from the index file, the docket number will be assigned, the arraignment date will be entered on to the card and the appropriate punches will be made (See entries #7, 8 and 9 above). The card is then filed in the alphabetical index file. A notation is made on the complaint (either a "√" or "C" to indicate a control-index card was created before the complaint is filed chronologically.

C. "Next Action Date" Card Entries"

Information on the card must be updated after each court appearance. This is done at the same time entries in the docket book are made. This process continues throughout the life of the case until a disposition is reached. It is also important that to the extent possible one clerk maintain and update these cards so as to minimize the possibility of lost or misplaced cards. These entries will be made under the section titled "Next Action Date" on the card.

At the end of each court day (arraignment day or otherwise) the files are returned from the courtroom by the Clerk. The files are sorted according to the type complaint and action taken: cases (motor vehicle and non-motor vehicle) disposed of with a fine imposed are routed to Jean for docketing; motor vehicle and non-motor vehicle cases still open and cases disposed of without a fine assessed are routed to Vicki for docketing. If a case is disposed of at this point go to Section D below for information on the disposition entries that need to be made on the card.

On the date of the each court appearance, the card is pulled from the file when the case is returned to the clerk from the courtroom. Whatever action has taken place on the case must be noted on the card at the time the clerk does the usual docket entries.

It was agreed generally that, perhaps, the quickest way to accomplish this is to arrange the files numerically for making the docket entries (as is presently done); once docketing is completed, the files will be rearranged alphabetically so that one "run" through the index file is made to update the individual cards. In so doing it will be unnecessary for the clerk to actually pull the cards from the file. However, the actual procedure employed for facilitating this step is left to each clerk's discretion.

12. a. If at arraignment the case has been continued generally (i. e., not specifically for the defendant to retain his own attorney) then this date must be entered on o the "cont'd" line under the "arraignment" date.

    b. If at arraignment the case has been continued for the defendant to retain his own attorney, enter this date after "App. Counsel."

    c. If the trial date is set at arraignment, enter this date after the line "Trial Date."

D. Disposition Card Entries:

At the time a case is disposed, certain additional information must be noted on the control-index card. Depending upon how the case is disposed, different punches need to be made on each of the cards.

13. On motor vehicle cases, if the defendant does waive his right to trial, pleads guilty and pays his fine (either through the mail or over the counter), the following punches are made:

a. Under COMPLAINTS, punch out "Motor vehicle trial waiver."
b. Under DISPOSITIONS, punch out "Disposed w/o Appearance."
c. Under CONTINUANCES, punch out "No Continuance."

Return the card to the open index file until monthly statistics are tabulated. (Please note that it is not necessary to enter any fine information onto the card unless the clerk making this entry believes it would be helpful.)

14. If a motor vehicle or non-motor vehicle case is disposed of on its first appearance (i. e., the case has never been continued, either to the following Wednesday or otherwise), the following punches are made:

a. Under DISPOSITIONS, punch out "Disposed at Arraignment."
b. Under CONTINUANCES, punch out "No Continuance."

Return the card to the active index file until monthly statistics are tabulated.

15. If a case is continued after the arraignment (either for the appearance of counsel or merely for "further arraignment") and subsequently is disposed of on that date, the following punches are made:

a. Under DISPOSITIONS, punch out "Disposed bet. Arraign./Trial" if the case had been continued.
b. Under CONTINUANCES, punch out the appropriate entry.

16. If a case is set to trial and is disposed of on that date, the following punches are made:
a. If the defendant pled guilty and no trial was held under DISPOSITIONS, punch out "Disposed at Trial-G.Plea"
b. If a trial was held on the day set for trial with a disposition reached, under DISPOSITIONS punch out "Disposed at Trial - Tr. Held"
c. If the defendant appeals to a jury session, under COMPLAINTS punch out the appropriate court.
d. If the case was dismissed or disposed of by some other means than trial or guilty plea, under DISPOSITIONS punch out "Disposed at Trial - Other."

COUNTING CONTINUANCES:

When counting the number of continuances on a case, please use the following guidelines:
1. If the defendant is arrested and has his arraignment (i. e., first court appearance) on a weekday other than Wednesday it is not unusual for the judge to continue the case to the following Wednesday. This is generally referred to as "continued for further arraignment" or "continued for trial setting conference." (This date would appear next to the "Cont'd" line under "Arraignment" in the NEXT ACTION DATE box.) Continuing a case for this reason will count as one (1) continuance.
2. If at arraignment a case has been continued for "own attorney" to the following Wednesday (or to any other criminal court day if such is the case) this date will appear next to the line "App. Counsel" in the NEXT ACTION DATE block. In this instance, since the case has been continued for a special purpose, this will not count as a continuance. Therefore, if a case was continued once "for further arraignment" and continued again for "own attorney" before it was disposed of, this case would show a total of one continuance with that hole being punched.
3. Once arraignment is completed, with the possibility of a subsequent date set on the case for the defendant to hire his own attorney, the case usually is set to trial. If, on the day set for trial, the case is continued this also counts as one continuance. Thereafter each time the case is continued will count as one continuance. For example, if a case is continued for the appearance of counsel and is also continued twice after the trial date has been set, the case will show a total of two continuances.

4. If a case is "continued without a finding", this will not count as a regular continuance for our purpose of tabulation.

17. If at any time during the life of the case, it is continued without a finding and is disposed of on that date, the following punches are made.

a. Under DISPOSITIONS, punch out "Closed after Cont'd w/o F."
b. Under CONTINUANCES, punch out the appropriate entry.

Return card to active index file until monthly statistics are tabulated.

18. If, at any time during the life of the case, the defendant fails to appear and a default warrant is issued, the following punches are made:

a. Under DISPOSITIONS, punch out "Default warrant issued."
b. Under CONTINUANCES, punch out the appropriate entry.

Return card to active index file for tabulation of monthly statistics.

If the warrant is rescinded before the card is pulled from the active file and filed in the default warrant index file, then enter the date it was rescinded on the card next to "Default warrant issued" in the DISPOSITION block. These cards will be checked when statistics are tabulated. Those showing a date will not be pulled from the active index file.

E. After Disposition:

When a case is diposed the control-index card is not immediately pulled from the active pending casefile index. Cards remain in the file until that month's statistics have been tabulated. Once these tabulations have been made, cards indicating a disposition are pulled and alphabetically filed in the closed index file. Cases which indicate a default warrant has been issued also will be pulled and placed in the court's separate index file for default warrants.

Some cases will have a fine payment schedule established for them by the court. In these cases the disposition information will be punched at the time the court formally notes the fine on the complaint. What is, the case is considered disposed of even though the payment of money may not be complete.

Salem District Court

Case Control Card

J F M A M J J A S O N D N.M.V.

DEFENDANT NAME:

Docket No.

D.O.B.

ENTRY DATE:

NEXT ACTION DATES

Arraignment: ______

Cont'd: ______

App. Counsel: ______

Cont'd: ______

Trial Date: ______

Cont'd: ______

Cont'd: ______

Cont'd: ______

Sent'g. Date: ______

Cont'd. w/o F: ______

DISPOSITIONS:

- Disposed w/o Appearance
- Disposed at Arraignment
- Disposed bet. Arraign./Trial
- Disposed at Trial — G. Plea
- Disposed at Trial — Tr. Held
- Disposed at Trial — Other
- Closed after Cont'd. w/o F.
- Default warrant issued

CONTINUANCES:

- No continuance
- One (1) continuance
- Two (2) continuances
- Three (3) continuances
- More than 3 continuances

- Clerk's Hearing
- Records Sealed

COMPLAINTS:

- Oper. w/o insurance
- Oper. after revocation
- Trespass
- Sex Offenses
- Oper. under influence
- Oper. so as to endanger
- Using w/o authority
- Larceny of motor vehicle
- Other motor vehicle
- Nonsupport
- Robbery
- Assault/Assault-DW/Assault-B
- Breaking and Entering
- Larceny — over $100
- Larceny — under $100
- Receiving stolen goods
- Fraud
- Narcotics offenses
- Disorderly conduct
- All other
- Motor vehicle trial waiver
- Appeal to jury session
- District Court
- Superior Court

AGENCIES:

- Beverly
- Danvers
- Hamilton
- Manchester
- Middleton
- Salem
- Topsfield
- Wenham
- State Police
- Registry

Appendix V-D: Salem Caseload Statistics

Motor Vehicle Caseload Information
for the Salem District Court

			October, 1977
A.	General Information		
	1.	October, 1977 Motor Vehicle Case Filings	486
	2.	October Filings Disposed as of February, 1, 1978	370
	3.	October Filings Pending as of February 1, 1978	116
B.	Disposition Information		
	1.	Disposed without Court Appearance	273
	2.	Disposed at Arraignment	--
	3.	Disposed between Arraignment and Trial	1
	4.	Disposed at Trial:	
		a. By guilty plea	--
		b. By trial	12
		c. Other	--
	5.	Default warrant issued	84
	6.	Closed after continued without finding	--
C.	Continuance Information		
	1.	Cases with no Continuance	273
	2.	Cases with one Continuance	6
	3.	Cases with 2-3 Continuances	--
	4.	Cases with more than 3 Continuances	--

Non-Motor Vehicle Caseload Information
for Salem District Court for November and December, 1977

			November 1977	December 1977
A.	General Information			
	1.	Monthly Filings	128	168
	2.	November and December Filings Disposed as of February 1, 1978	83	50
	3.	November and December Pending as of February 1, 1978	45	118
B.	Disposition Information			
	1.	Disposed without Court Appearance	--	--
	2.	Disposed at Arraignment	1	2
	3.	Disposed between Arraignment and Trial	1	5
	4.	Disposed at Trial:		
		a. By guilty plea	3	6
		b. By Trial	36	19
		c. Other	6	5
	5.	Default warrant issued	43	13
	6.	Closed after continued without finding	--	--
C.	Continuance Information			
	1.	Unknown		
	2.	Cases with no Continuance	38	--
	3.	Cases with one Continuance	1	2
	4.	Cases with 2-3 Continuances	40	9
	5.	Cases with more than 3 Continuances	1	--

Salem District Court

Monthly Case Filings by Agencies For October, 1977

Complaints:	B	D	H	Ma	Mi	S	T	W	SP	R	Total
					Agencies*						
1. Oper. without insurance	1				2	3			1		7
2. Oper. after revocation											
3. Trespass											
4. Sex offenses											
5. Oper. under influence	1					1					2
6. Oper. so as to endanger		1		1		2	1				5
7. Using without authority											
8. Larceny of motor vehicle											
9. Other motor vehicle	90	18	1	5	17	82	19		118	2	352
10. Nonsupport											
11. Robbery											
12. Assault; Assault with a Deadly Weapon; Assault and Battery											
13. Breaking and Entering											
14. Larceny											
15. Receiving stolen goods											
16. Fraud											
17. Narcotics offenses											
18. Disorderly conduct											
19. All other											
TOTALS:	92	19	1	6	19	88	20	-0-	119	2	366

*KEY:

B= Beverly
D= Danvers
H= Hamilton
Ma= Manchester
Mi= Middleton
S= Salem
T= Topsfield
W= Wenham
SP= State Police
R= Registry

CHAPTER VI APPENDICES

A. Semantic Differential Scales used in Pretrial Conference Research

Appendix VI - A: Semantic Differential Scales

1) Rate each judge according to his/her <u>sentencing philosophy</u> by circling a number from "7" (tough) to "1" (lenient) on the scale alongside each name. If you have not appeared before the judge, please check the box to the left of his/her name in lieu of rating the judge.

N/A	Judge									
/_/	Albrecht	Tough	7	6	5	4	3	2	1	Lenient
/_/	Christensen	Tough	7	6	5	4	3	2	1	Lenient
/_/	Farrell	Tough	7	6	5	4	3	2	1	Lenient
/_/	Gill	Tough	7	6	5	4	3	2	1	Lenient
/_/	Hart	Tough	7	6	5	4	3	2	1	Lenient
/_/	Johnston	Tough	7	6	5	4	3	2	1	Lenient
/_/	Lindberg	Tough	7	6	5	4	3	2	1	Lenient
/_/	McCarr	Tough	7	6	5	4	3	2	1	Lenient
/_/	Murphy	Tough	7	6	5	4	3	2	1	Lenient
/_/	Odland	Tough	7	6	5	4	3	2	1	Lenient
/_/	Pierce	Tough	7	6	5	4	3	2	1	Lenient
/_/	Riley	Tough	7	6	5	4	3	2	1	Lenient
/_/	Rogers	Tough	7	6	5	4	3	2	1	Lenient
/_/	Schumacher	Tough	7	6	5	4	3	2	1	Lenient
/_/	Sykora	Tough	7	6	5	4	3	2	1	Lenient
/_/	Wolner	Tough	7	6	5	4	3	2	1	Lenient

2) Rate each judge according to the extent of his/her participation in negotiations regarding sentence or charge, at the preliminary conference, by circling a number from "7" (active) to "1" (passive) on the scale alongside each name. If you have not appeared before the judge, please check the box to the left of his/her name in lieu of rating the judge.

N/A	Judge									
[ ]	Albrecht	Active	7	6	5	4	3	2	1	Passive
[ ]	Christensen	Active	7	6	5	4	3	2	1	Passive
[ ]	Farrell	Active	7	6	5	4	3	2	1	Passive
[ ]	Gill	Active	7	6	5	4	3	2	1	Passive
[ ]	Hart	Active	7	6	5	4	3	2	1	Passive
[ ]	Johnston	Active	7	6	5	4	3	2	1	Passive
[ ]	Lindberg	Active	7	6	5	4	3	2	1	Passive
[ ]	McCarr	Active	7	6	5	4	3	2	1	Passive
[ ]	Murphy	Active	7	6	5	4	3	2	1	Passive
[ ]	Odland	Active	7	6	5	4	3	2	1	Passive
[ ]	Pierce	Active	7	6	5	4	3	2	1	Passive
[ ]	Riley	Active	7	6	5	4	3	2	1	Passive
[ ]	Rogers	Active	7	6	5	4	3	2	1	Passive
[ ]	Schumacher	Active	7	6	5	4	3	2	1	Passive
[ ]	Sykora	Active	7	6	5	4	3	2	1	Passive
[ ]	Wolner	Active	7	6	5	4	3	2	1	Passive

3) Rate each judge according to his/her predictability with respect to the sentence he or she will impose under a given set of circumstances, by circling a number from "7" (highly predictable) to "1" (highly unpredictable) on the scale alongside each name. If you have not appeared before the judge, please check the box to the left of his/her name in lieu of rating the judge.

N/A											
/_/	Albrecht	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Christensen	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Farrell	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Gill	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Hart	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Johnston	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Lindberg	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	McCarr	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Murphy	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Odland	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Pierce	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Riley	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Rogers	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Schumacher	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Sykora	Predictable	7	6	5	4	3	2	1	Unpredictable
/_/	Wolner	Predictable	7	6	5	4	3	2	1	Unpredictable

4) Does the judge usually encourage the attorneys to work out a settlement before the conference? Answer yes or no for each judge before whom you have appeared, by checking the appropriate box in front of each judge's name.

N/A	Judge	Yes		No	
☐					
☐	Albrecht	Yes	☐	No	☐
☐	Christensen	Yes	☐	No	☐
☐	Farrell	Yes	☐	No	☐
☐	Gill	Yes	☐	No	☐
☐	Hart	Yes	☐	No	☐
☐	Johnston	Yes	☐	No	☐
☐	Lindberg	Yes	☐	No	☐
☐	McCarr	Yes	☐	No	☐
☐	Murphy	Yes	☐	No	☐
☐	Odland	Yes	☐	No	☐
☐	Pierce	Yes	☐	No	☐
☐	Riley	Yes	☐	No	☐
☐	Rogers	Yes	☐	No	☐
☐	Schumacher	Yes	☐	No	☐
☐	Sykora	Yes	☐	No	☐
☐	Wolner	Yes	☐	No	☐

5) Rate each judge according to the extent to which he/she inquires into the facts of the case at the preliminary conference, by circling a number from "7" (lengthy inquiry) to "1" (no inquiry), for each judge before whom you have appeared.

N/A	Judge									
/_/	Albrecht	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Christensen	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Farrell	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Gill	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Hart	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Johnston	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Lindberg	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	McCarr	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Murphy	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Odland	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Pierce	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Riley	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Rogers	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Schumacher	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Sykora	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Wolner	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry

6) Rate each judge according to the extent to which he/she inquires into the voluntariness of the plea and the defendant's understanding of the consequences of the plea, at the preliminary conference, by circling a number from "7" (lengthy inquiry) to "1" (no inquiry), for each judge before whom you have appeared.

N/A	Judge									
/_/										
/_/	Albrecht	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Christensen	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Farrell	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Gill	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Hart	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Johnston	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Lindberg	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	McCarr	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Murphy	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Odland	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Pierce	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Riley	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Rogers	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Schumacher	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Sykora	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry
/_/	Wolner	Lengthy Inquiry	7	6	5	4	3	2	1	No Inquiry

Rate each judge according to his productivity at the pretrial session by circling a number from "7" (very productive) to "1" (least productive) on the scale alongside each name.

	Very Productive						Least Productive
Albrecht	7	6	5	4	3	2	1
Christensen	7	6	5	4	3	2	1
Farrell	7	6	5	4	3	2	1
Gill	7	6	5	4	3	2	1
Hart	7	6	5	4	3	2	1
Johnston	7	6	5	4	3	2	1
Lindberg	7	6	5	4	3	2	1
McCarr	7	6	5	4	3	2	1
Murphy	7	6	5	4	3	2	1
Odland	7	6	5	4	3	2	1
Pierce	7	6	5	4	3	2	1
Riley	7	6	5	4	3	2	1
Rogers	7	6	5	4	3	2	1
Schumacher	7	6	5	4	3	2	1
Sykora	7	6	5	4	3	2	1
Wolner	7	6	5	4	3	2	1

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1. <u>Courts.</u>

Standard Number	
1.2	Procedure for Screening
2.1	General Criteria for Diversion
2.2	Procedure for Diversion Programs
3.1	Abolition of Plea Negotiation
4.1	Time Frame for Processing of Criminal Cases
4.2	Citation and Summons in Lieu of Arrest
4.3	Procedure in Misdemeanor Prosecutions
4.8	Preliminary Hearing and Arraignment
4.9	Pretrial Discovery
4.10	Pretrial Motions and Conference
4.11	Priority Case Scheduling
4.12	Continuances
4.13	Jury Selection
4.15	Trial of Criminal Cases
6.1	Transcript Preparation
8.2	Administrative Disposition of Certain Matters Now Treated as Criminal Offenses
9.1	State Court Administration
9.2	Presiding Judge and Administrative Policy of Trial Court
9.3	Local and Regional Trial Court Administrators
9.4	Caseflow Management
10.1	Courthouse Physical Facilities
10.2	Court Information and Service Facilities
10.3	Court Public Information and Education Programs
10.5	Participation in Criminal Justice Planning
10.6	Production of Witnesses
10.7	Compensation of Witnesses
11.1	Court Administration
12.9	Prosecutor Relationships with Public and Other Agencies of the Criminal Justice System
13.1	Availability of Publicly Financed Representation in Criminal Cases

13.3	Initial Contact with Client
13.5	Method of Delivering Defense Services
13.12	Workload of Public Defenders
13.15	Providing Assigned Counsel

2. Police.

4.1	Cooperation and Coordination
4.3	Diversion
4.4	Citation and Release on Own Recognizance
4.5	Criminal Case Follow-up
Recommendation 4.1	Alcohol and Drug Abuse Centers
9.6	Traffic Operations
11.2	Use of Professional Expertise
11.2	Legal Assistance

3. Corrections.

2.1	Access to Courts
2.2	Access to Legal Services
2.18	Remedies for Violation of an Offender's Rights
3.1	Use of Diversion
4.1	Comprehensive Pretrial Process Planning
4.3	Alternatives to Pretrial Detention
4.5	Procedures Relating to Pretrial Release and Detention Decisions
4.10	Expediting Criminal Trials
5.1	Sentencing Agency
5.4	Probation
5.5	Fines
5.9	Continuing Jurisdiction of Sentencing Court
5.11	Sentencing Equality
5.14	Requirements for Presentence Report and Content Specification
5.15	Preparation of Presentence Report Prior to Adjudication
5.17	Sentencing Hearing - Right of Defendant
5.18	Sentencing Hearing - Role of Council
5.19	Imposition of Sentence
10.1	Organization of Probation
10.3	Misdemeanant Probation
10.5	Probation in Release on Recognizance Program

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1. Urban Police Function.

Standard Number	
3.3	Need for clarified, properly limited authority to use methods other than the criminal justice system.
4.4	PART IV: Law Enforcement Policy Making
8.1	PART VIII: Police Performance in Criminal Justice System

2. The Prosecution Function.

2.9	Prompt disposition of criminal charges
3.8	Discretion as to non-criminal disposition
3.9	Discretion in the charging decision
3.10	Role in first appearance and preliminary hearing
5.1	Calendar control

3. The Defense Function.

1.2	Delays; punctuality
4.5	Compliance with discovery procedures
6.2	Duty to explore disposition without trial

4. Providing Defense Services.

2.1	Systematic Assignment

5. The Function of the Trial Judge.

1.4	Obligation to use judicial time effectively
3.1	Issuance or review of warrants
3.6	Pretrial procedures
3.8	Responsibility for the criminal docket

6. Fair Trial and Free Press.

3.2	Change of venue or continuance

7. Pretrial Release.

2.1	Policy favoring issuance of citations
2.2	Mandatory issuance of citations
2.3	Permissive authority to issue citations in all cases
3.1	Authority to issue summons
3.2	Mandatory issuance of summons
3.3	Application for an arrest warrant or summons
4.3	Nature of first appearance
5.10	Accelerated trial for detained defendants

8. Discovery and Procedure Before Trial.

1.2	Scope of discovery
1.4	Responsibility of the trial court and of counsel
1.5	Applicability
5.1	General procedural requirements
5.2	Exploratory Stage and Setting of Omnibus Hearing
5.3	Omnibus Hearing
5.4	Pretrial Conference

9. Speedy Trial.

1.1	Priorities in scheduling criminal cases
1.2	Court control; prosecutor's duty to report
1.3	Continuances
2.1	Speedy trial time limits

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1. Standards Relating to Court Organization (1974).

1.40	Court Administrative Services: General Principle
1.50	Court System Financing and Budgeting: General Principle

2. Standards Relating to Trial Courts (Tentative Draft) (1975).

2.00	Fair and Effective Procedure: General Principle
2.10	Right of Jury Trial
2.20	Assistance of Counsel
2.30	Efficient Trial Court Administration: General Principle

2.31	Responsibilities of Judge and Lawyers
2.33	Responsibilities of the Presiding Judge
2.34	Divisional and Associate Presiding Judges
2.35	Assignment of Judges
2.37	Cooperation Between Courts
2.40	Trial Court Staff Services
2.41	Trial Court Administrative Services
2.50	Caseflow Management: General Principle
2.51	Caseflow Management Program
2.52	Standards of Timely Disposition
2.53	Identifying and Managing Protracted Cases
2.60	Administration of Jury Selection and Use
2.61	Juror Selection Procedure

END