

Report

ANCHORAGE TRIAL COURTS

CASE PROCESSING AND CLERICAL
PROCEDURES PROJECT

ANALYSIS AND RECOMMENDATIONS

April 1978

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National Center for State Courts

Western Regional Office

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ACQUISITIONS

ANCHORAGE TRIAL COURTS

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ANALYSIS AND RECOMMENDATIONS

April 1978

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I. INTRODUCTION

In 1976, the Administrative Director of the Alaska Court System contracted with the National Center for State Courts to conduct an analysis of the clerical operations and case processing procedures in the Anchorage Trial Courts. The purpose of this analysis was to eliminate any duplicative, unnecessary or inefficient procedures, thereby improving the operation of the court. The National Center divided its analysis into the following subject areas: general recommendations, misdemeanors, felonies and civil.¹ The following chapters outline present practices and contain an analysis with recommendations for each area.

¹ Traffic procedures have been excluded for the present since traffic case processing is undergoing an extensive change due to the addition of a traffic commissioner and the elimination of traffic arraignments. Also, traffic matters presently are the subject of analysis by the Office of Technical Operations.

II. METHODOLOGY

To carry out the assigned task, the National Center divided the subject areas into major components: calendar practices, clerical procedures, use of forms and staffing levels. Calendar practices were analyzed through review of calendaring procedures and interviews with the area court administrator, his assistant and court personnel involved in the calendar process. Annual statistics maintained by the Office of Technical Operations were analyzed, and samples of disposed cases were drawn to assess the effectiveness of the phases in the calendar process. Other system performance indicators such as continuance rates were examined also.

Clerical procedures were analyzed in two steps. First, a desk audit was conducted for each clerk in the clerk's office. Then, procedures for processing cases were followed and documented step by step. Forms usage also was documented allowing for subsequent analysis of the applicability and necessity of forms.

Staffing levels were considered through comparative statistics with other jurisdictions. The filings and dispositions for similar sized general and limited jurisdiction courts in two states, Washington and California, were compared to the Anchorage trial courts (Tables 1 and 2). While such comparisons must be made cautiously because of statistical reporting differences among states, in each instance comparable sized courts have greater caseloads and more dispositions than Anchorage courts. Thus, increased judicial personnel was not further considered.



TABLE 1
EIGHT JUDGE GENERAL JURISDICTION COURTS
COMPARATIVE STATISTICS
1976

State & Court	Criminal		Civil		Family Law		Probate		Juvenile		Other		Totals			
	Fil.	Dis.	Fil.	Dis.	Fil.	Dis.	Fil.	Dis.	Fil.	Dis.	Fil.	Dis.	Filed	Filings per Judge	Disposi-tions	Dispos. per Judge
Anchorage	516	642	2,256	1,586	3,201	2,856	979	805	557	490	NA	NA	7,509	938	6,346	793
California ^a																
Kern ^b	782	747	4,274	3,023	2,810	2,374	838	788	1,805	1,923	202 ^c	270 ^c	10,711	1,339	9,125	1,141
Fresno ^b	1,220	1,279	5,269	2,813	3,378	2,927	1,608	1,676	1,763	1,569	403 ^c	329 ^c	13,369	1,671	10,362	1,295
Washington ^d																
Spokane	1,052	NA	6,479	NA	Listed Under Civil		1,635	NA	1,506	NA	306	NA	10,978	1,372	NA	NA

^aSource: Monthly Statistical Reports to the Administrative Office of the California Courts.

^bStatistics from June 30, 1976, to June 30, 1977.

^cIncludes appeals and mental health.

^dSource: Monthly Statistical Reports to the Office of Administrator for the Courts.

TABLE 2
SEVEN JUDGE LIMITED JURISDICTION COURTS
COMPARATIVE STATISTICS
1976

Courts	Traffic ^a		Criminal		Civil		Small Claims		Totals			
	Filed	Dispos.	Filed	Dispos.	Filed	Dispos.	Filed	Dispos.	Filed	Filings per Judge	Dispos.	Dispos. per Judge
Anchorage District	31,784	30,193	8,465	7,792	2,205	1,883	2,288	1,833	45,219	6,460	41,701	5,957
California ^b												
Fresno	50,704	50,485	8,996	7,894	6,617	4,905	7,118	5,202	73,435	10,490	68,486	9,784
Long Beach	75,536	71,656	15,538	13,200	6,265	4,834	9,261	7,084	106,500	11,844	96,774	10,753
Washington ^c												
Spokane	41,553	NA	7,176	NA	5,165	NA	1,816	NA	55,710	7,958	NA	NA

^aExcluding parking.

^bSource: Monthly statistical reports to the Administrative Office of the California Courts.

^cSource: Monthly statistical reports to the Office of Administrator for the Courts.

Since similar statistics are unavailable for nonjudicial personnel, no conclusions on nonjudicial staffing could be drawn. More detailed study of workloads will have to be conducted for that purpose.

Recent changes implemented in the Anchorage trial courts also were considered. The project staff has concluded that case processing has improved significantly because of these changes. Since they affect problems that might otherwise be considered in this report and influenced the focus of the Center's work, the changes are summarized as follows:

1. Remodeling of the clerk's office.

The clerk's office was remodeled in 1977. Open work space was added, file storage space was increased 100 percent, and wasted or unusable space was reduced. While the clerk's office is still overcrowded and suffers from the poor design of the building, the remodeling represents a major improvement.

2. Adoption of new file folders and open files.

The clerk designed new file folders and purchased new files for file storage. The file folders are color coded by case type and have end tabs for case numbers which improves file organization, accuracy and retrieval.

The open files replaced more expensive sliding drawer files. The latter were inefficient because use of one drawer made the drawer behind it inaccessible. The new files allow rapid acquisition of case files and can accommodate several people working the files at the same time.

3. Enforcing file control procedures and establishing a file research facility for the public.

Clerical operations have been hampered by the lack of control over case files and the consequent problem of not being able to find files. A major element of this problem was the policy of open access to files by lawyers, law clerks and other parties. While an out card system existed, it was frequently ignored.

Movement of the files has allowed the clerk and the supervisor of central files to limit access of nonclerical personnel to the files. At the same time, a research area serviced by central file clerks has been established. Case files can be requested and studied in this area. This change protects the integrity of the files while providing a needed service to the public.

4. Relocating clerical supervisors to work stations within their departments.

Prior to remodeling, some department supervisors were located in private offices apart from the staff they supervised. These private offices were eliminated, and the supervisors moved to locations which allow more direct supervision of and access to employees.

5. Transferring the small claims office from the main clerk's office to a separate location.

Until 1976, the small claims files, clerks and public area were a part of the main clerical work

space. Since small claims matters generally involve nonlawyers who often require detailed explanations and instructions, their presence at the main counter was a source of congestion. Therefore, the area formerly occupied by the appellate clerks was converted into the small claims department and now contains files, a front counter, forms storage, clerk work space and a public work space. In accomplishing this shift, the number of clerks working the two front counters was increased from three to five (three criminal and civil and two small claims). Also, the clerks working the main front counter were relieved of responsibility for answering questions regarding small claims matters.

6. Realigning front counter assignments in the clerk's office so that more knowledgeable and experienced clerks deal with the public.

Prior to this change, entry level clerks in the civil department received papers and answered questions for criminal matters. Also, the front counter was seen as a training ground for clerks. The inexperience and lack of knowledge of these clerks undoubtedly contributed to subsequent paper processing errors.

Under the new system, criminal and civil front counter positions are staffed by experienced personnel of the respective departments. Coupled with the removal of small claims and research to other areas of the

clerk's office and the increase in personnel serving the front counter, the capacity of the clerk's office to handle front counter paper flow expeditiously has increased.

7. Adopting a flexible staffing system for the clerk's office.

The clerk's office historically has had high turnover in personnel. A partial reason for this turnover was that clerks could more easily reach a higher pay scale, most typically from a range 8 to a range 10, either by seeking promotion to another part of the court system or leaving the court system altogether. Under the new system, established by the Director of Personnel for the Alaska Court System, clerks can reach the range 10 classification in their present jobs by achieving proficiency levels in designated phases of their department's work.

The benefits of this program should be considerable. Clerks will develop increased knowledge and skills while the turnover problem should be lessened.

8. Giving the assistant court administrator increased responsibility for district court matters.

The area court administrator in appointing a new assistant has assigned greater responsibility for district court matters. Already meetings have been held with related agencies, such as the prosecutor, to explore means to improve case processing. Additionally, the assistant area court administrator is working to improve relations among the internal court department involved in case processing.

9. Consolidating clerical functions related to case processing under the court clerk/assistant area court administrator.

The area court administrator recently consolidated clerical functions related to case processing under the direction of the court clerk/assistant area court administrator. Thus, for the first time in-court clerks and departmental clerks are under the control of one person. Since in-court and departmental clerks historically have had coordination problems, this change should be beneficial.

10. Creating the position of assistant clerk of court.

The previously noted changes affecting the clerk of court/assistant area court administrator should have a positive benefit on the court system. The possible negative impact could be on the clerk of court/assistant area court administrator himself. The additional duties make this position one of the most demanding in the court system. Fortunately, in making these changes the area court administrator created the position of assistant clerk of court to assist with the workload.

The outlined changes have or should improve the processing of court matters. They should be seen, however, as steps in a continuing process of system improvement. It is hoped that this report and its recommendations will be another step. It addresses the next level of problems facing the trial courts in case

processing which are: improving work flow with other agencies, improving clerical efficiency in the calendar process, establishing greater court control of calendars and improving the use of forms in the clerical process.

III. GENERAL RECOMMENDATIONS

Recommendation: Complaints generated on matters in which there is no arrest (summons and complaint and misdemeanors cited on the uniform traffic citation), should be filed with the prosecutor or district attorney prior to filing with the clerk.

The present system of filing complaints directly with the court creates unnecessary clerical work. Complaints at times are dismissed by the prosecution prior to the first appearance because charges cannot be substantiated, improper citing or other reason. In 1976, for example, 375 of the 6,855 misdemeanor dispositions or five percent were disposed of prior to the first appearance.² Under the present system even though these cases are dismissed prior to first appearance, a case file has been opened. Screening noncustody cases prior to filing a complaint will eliminate some of the nonmeritorious cases and the attendant clerical work effort and paper flow. This recommendation is particularly important because of the new policy of allowing minor misdemeanor cases to be cited without arrest on the uniform traffic citation (UTC). This procedure will increase the number of noncustody cases.

Improved prosecutorial screening, in general, would result in significant relief for nonjudicial staff involved in district court criminal matters. Dismissal rates at all phases are high. For example, 1,904 or 28 percent of total misdemeanor dispositions were dismissals either prior to first appearance or at a subsequent pretrial appearance.³

² Alaska Court System, 1976 Annual Report, p. D-22.
³ Ibid., pp. D-22, D-25, D-26.

This figure reflects an attitude of using the court as a holding area while a decision is made whether or not to prosecute. If the prosecutor more carefully screened cases, the court's ability to dispose of cases in a timely and efficient manner would be increased.

Recommendation: Strict timetables for filing matters with the court should be established. Agencies or individuals not adhering to these schedules should be appropriately sanctioned.

A continuing problem with agencies that interface with the court, namely the jail, law enforcement agencies, the city prosecutor and the district attorney, is their failure to file required papers with the court in a timely manner. A typical example is the enclosed complaint (page 13) which was not filed with the court until May 11th although the arrest was made on May 7th. Since the defendant was in custody, she had to be arraigned on May 8th without a complaint on file. This meant establishing a dummy file and arraigning the defendant without a complaint actually being on file.

Both superior and district courts should establish schedules for filing papers. For example, complaints for the 1:30 arraignment calendar should be received in the criminal department by 11:00 a.m. to allow proper case preparation. Once established, consistent violations of these schedules should be brought to the attention of the presiding judge and appropriate measures taken.

PLAINTIFF

VS

~~_____~~
A, DOB 5-25-55
N 372-36-1640
ASKA HOTEL RM 202

DEFENDANT(S)

CASE NO.

77-~~_____~~

77-31683

STATE OF ALASKA
THIRD JUDICIAL DISTRICT
MAY 11 9 14 AM 1977
CLERK TRIAL COURTS
BY DEPUTY CLERK

COMPLAINT

THE UNDERSIGNED COMPLAINANT (NAME) WILLIAM CASTO, AN ANCHORAGE POLICE OFFICER
NOTARY
PERSONALLY APPEARING BEFORE THE UNDERSIGNED ~~NOTARY~~ AND BEING DULY SWORN, STATES

THAT ON OR ABOUT THE 7th DAY OF MAY 19 77

AT OR NEAR (APPROXIMATE LOCATION) TURF NEWS ANCHORAGE,

ALASKA, THIRD JUDICIAL DISTRICT

(NAME OF DEFENDANT) ~~_____~~ DID UNLAWFULLY

COMMIT THE FOLLOWING OFFENSE (NAME OF OFFENSE) LOITERING FOR SOLICITATION

TO WIT: (DESCRIPTION OF OFFENSE) THE DEFENDENT DID WILLFULLY AND UNLAWFULLY LOITER IN A PUBLIC
PLACE (TURF NEWS) IN SUCH AMANNER AND UNDER SUCH CIRCUMSTANCES AS TO MANIFEST THE PURPOSE OF
SOLICITING, INTICING OR PROCURING ANOTHER TO PARTICIPATE IN AN ACT OF PROSTITUTION.

WHICH IS IN VIOLATION OF SECTION 8.14.110 ANCHORAGE CODE OF ORDINANCES,
ANCHORAGE.

THE COMPLAINANT STATES THAT THIS COMPLAINT IS BASED ON PERSONAL OBSERVATIONS OF THE DEFENDENT
~~_____~~ A CONVICTED PROSTITUTE, BETWEEN THE HOURS OF 2215 AND 2250
DURING WHICH TIME SHE CONTACTED AND TALKED WITH FOUR (4) MALE SUBJECTS. ON FOURTH AVE
AND IN THE TURF NEWS. THE LAST SUBJECT THE DEFENDENT CONTACTED, WILLIAM WENTON YOUNG
ACCOMPANIED TAYLOR TO ROOM #202 OF THE ALASKA HOTEL; AND THE COMPLAINANT OVERHEARD
THE DEFENDENT TO SAY, WHILE SHE WAS IN THE ROOM WITH YOUNG, THAT ~~_____~~

William Casto
COMPLAINANT

WILLIAM CASTO, A POLICE OFFICER

TITLE

SWORN TO AND SUBSCRIBED BEFORE ME THIS

11 DAY OF May 1977

Frank A. Deane
NOTARY

Recommendation: The Anchorage trial court should encourage the appointment of liaison officers in the agencies with which it works.

A hindrance to improved coordination with other agencies, particularly law enforcement agencies, is the lack of a designated person to whom court personnel can direct procedural problems. The area court administrator has taken an important first step in this area by assigning the assistant area court administrator to act as liaison for the district court with other agencies. Initial meetings have been held and if continued should produce positive results.

Recommendation: Jail personnel should more carefully prepare papers transmitted to the court and carry out court orders in a timely manner.

The paper flow between the jail and the court is a source of problems. Papers often are not filled out completely or with adequate documentation. A specific area needing improvement is the custody list sent daily to the court. This list should include the type of appearance for which the defendant is scheduled (see proposed form). At present, defendants are just listed, requiring research by the criminal clerks to determine the appearance for which they are scheduled.

CUSTODY LIST

Date _____

L #	NAME	DATE OF BIRTH	CHARGE	TIME	APPEARANCE

Recommendation: Requests of clerical personnel for research data or statistics other than required by judges, statutes or rules should be approved by the area court administrator prior to fulfilling the request.

The demands on nonjudicial staff for statistics and data are significant. While most requests are for necessary research, they must be weighed relative to the normal workload of the clerks. In some instances, requests may have to be denied or personnel hired to fulfill them. In any event, the area court administrator should be made aware of and, after consultation with the appropriate supervisor, approve any such requests of the staff.

Recommendation: The professional staff of the Administrative Office should be organized into an in-house consultant service and their services made available to the Anchorage and other trial courts.

Presently, in addition to carrying out daily administrative functions, staff members of the Administrative Office conduct project activity directed toward improving operations of the trial courts. Revision of court forms and developing automated systems for listing pending cases, fines due and case indices are examples of recent project work by Administrative Office staff members in the Anchorage trial courts.

More middle to long range project activity should be undertaken. It is suggested that more projects have not been initiated, because the trial courts have been unaware of the legal, management and technical skills available, and because the staff of the Administrative Office has not made known the availability of this expertise. The creation of a formal in-house consultant service should change this situation.

While such a service cannot supply all needed assistance, it would have the dual advantage of not incurring additional costs to the Alaska court system while obtaining maximum use of a staff well-versed in the often unique problems of Alaska courts.

Such a service is not without precedent. The California courts organized a calendar management team as an adjunct to the Administrative Office of the Courts in 1973. That team has responded to requests for assistance from over 120 courts in its three year existence.

A consultant coordinator should be appointed to (1) process trial court requests for assistance; (2) determine the extent to which resources within the Administrative Office can satisfy the need for assistance; (3) arrange for outside expert assistance when needed to supplement services furnished by the Administrative Office; and (4) encourage requests and problem identification by the trial courts. The Office of Planning is a suggested place for these responsibilities.

As with private consultants, written agreements for services should be prepared. These agreements should outline work to be conducted, personnel to be used, expected work products and a work timetable. This formality will provide for accountability for both trial court and Administrative Office personnel, an element which at times has been lacking in work relationships between the Administrative Office and the trial courts.

Recommendation: Regular training and review sessions of clerical procedures should be conducted for clerical personnel to improve clerical efficiency and reduce errors.

A significant portion of the clerical workload consists of rectifying human error. To illustrate, clerks in the criminal department were asked to keep a record of work necessitated by human error as opposed to normal work flow during a one week period. While no quantification of the amount of time dedicated to these activities was attempted, a sample of the work requirements and their causes is illuminating:

<u>CASE NUMBER</u>	<u>ACTIVITY AS REPORTED BY COURT CLERK</u>
76-2111	Case disposed of in April of 1976 by family court but not dismissed in district court. A court date was set and missed and a warrant typed and signed. Warrant was eventually quashed and dismissal obtained from district attorney.
77-874	In-court clerk returned the file with an order to produce the defendant in 24 hours but did not call the bondsman to get the defendant into court.
76-7143	Original of warrant and order appointing attorney sent to the attorney in error.
Several	Bail review not placed on daily calendar and as a result prisoners not brought from jail and hearings postponed.

CASE NUMBER

ACTIVITY AS REPORTED BY COURT CLERK

76-2366

Case came back from court without court notes or exhibits. The personal notes of the judge were in the file. Exhibits eventually returned without receipts (this case had wolf hides and guns with four or five pages of exhibits).

77-1383

Paper work sent to Anchorage Police but never received.

76-5089

Condition for limited license on judgment did not have expiration date.

Several

In-court clerk kept files for cases which were continued for two to three days but returned files of cases continued only to the next day. These files were not flagged to indicate the continuance.

77-639/640/641

Files had to be returned to court to clarify bail and bench warrant.

These errors reflect either a lack of knowledge of correct procedures or poor adherence to them. Periodic training and review sessions should be used to emphasize the importance of properly carrying out duties assigned.

Since many of the problems occur between two departments, such as criminal and in-court clerks, or between the court and an agency, such as the court and the jail, such sessions should emphasize interface procedures.

Recommendation: A procedures manual and job descriptions should be adopted for the Anchorage clerk's office.

A procedures manual and job descriptions should be adopted for the Anchorage clerk's office to use in training new personnel, reviewing work responsibilities and clerical procedures. The National Center for State Courts has developed a procedural manual for misdemeanor, felony, and civil case flow as well as detailed job descriptions for clerk's office personnel (Appendix 1). The material is the result of the interviews conducted with and observation of clerical personnel. After review, it should be adopted for use by the Anchorage trial courts.

Recommendation: To reduce turnover and improve salary equity, the flexible staffing system instituted in the clerk's office should be expanded to include possible advancement to a range 12.

A significant factor affecting the efficiency of clerical operations in the Anchorage Clerk's Office is the high turnover of lower classification personnel. From June 30, 1976 to June 30, 1977, for example, the 22 permanent range 6-8 positions experienced a 110 percent turnover due to either promotions (7) or employees leaving the court system (16) (Table 3). This necessitated the hiring of 23 new entry level clerks during a one year period. The range 10 level experienced a 45 percent turnover with nine new hires and six promotions.

TABLE 3
 ANCHORAGE TRIAL COURTS
 TURNOVER IN CLERICAL PERSONNEL
 JUNE 30, 1976 - JUNE 30, 1977

<u>RANGE</u>	<u>NUMBER OF PERMANENT POSITIONS</u>	<u>TURNOVER</u>		<u>% CHANGE</u>
		<u>NEW HIRE</u>	<u>PROMOTIONS</u>	
6-8	22	23	1	109.1
10	33	9	6	45.4
12	46	4	3	15.2
13-14	8	2	3	62.5
Managerial/ Professional: 21-26	3	0	0	0

The supervisor of the criminal department estimates that a minimum of three months training is required before a clerk can become effective. Using this figure as a guideline, from June 30, 1976, to June 30, 1977, almost 14 percent of the clerks in ranges 6 to 10 were in training requiring supervisory time both to train and to correct errors made because of inexperience.

The adoption of a flexible staffing program for clerks in the Anchorage Clerk's Office in 1977 allows a range 8 clerk to advance to a range 10 by achieving proficiency in designated phases of the department's work. While this program is laudable, it should be extended to include a final step to a range 12. The clerk's office still has a high turnover rate at the range 10 level, 45 percent from June 30, 1976 - June 30, 1977. The offering of another step to a range 12 hopefully would reduce this turnover rate and build the stability in the middle level line functions.

The introduction of the range 12 step also would begin to achieve parity for clerk's office employees relative to in-court clerks. At present the in-court clerks are flexibly staffed from range 10 to 12, while clerks in the clerk's office are flexibly staffed from range 8 to 10. Based on observation of work volume,

responsibilities and importance of work to the court system, this difference does not appear to be justified. This differential should be reviewed by the personnel director.

The qualifications for the range 12 position should include highest proficiency at all department work stations and the ability to train other new employees. Reducing training burdens on departmental supervisors should give them more time for analysis of work flow and developing possible system improvements.

Recommendation: Clerks in some departments, particularly in-court clerks, should be cross-trained in other court functions.

Cross-training of clerks in the work responsibilities of other departments offers potential savings in future staff increases. In-court clerks who at times have free time because of open court calendars should be cross-trained. Recently, the in-court clerks have assisted in the criminal department when time is available. Another utilization of available time would be to assist the transcript department in typing transcripts. In-court clerks are familiar with in-court proceedings, have transcription equipment available and have on occasion typed rough drafts of transcripts. Since the timely production of transcripts has become a problem, this cross-training should prove invaluable.

Recommendation: The Office of Technical Operations should send lists of pending cases quarterly to the court. These lists should include cases that exceed adopted maximum time standards for disposition. The standards should be developed and adopted by the court.

<u>Case Type</u>	<u>Include on Pending Case List If Pending More Than ___ Days</u>
Misdemeanors	180
Felony	180
Civil	
Superior *	540
District *	360
Small Claims	180
Traffic	180
Probate	180
Domestic Relations	180

*Also with no activity within one year.

The disposition of older cases is as important in case processing management as the disposition of recently-filed cases. There are many possible explanations for delays in processing, but whatever the reason, a case should be reviewed by the court when it exceeds a court-adopted maximum reasonable time from filing to disposition.

Older cases have been accumulating in the Anchorage trial courts as shall be seen in subsequent sections. Fortunately, the Office of Technical Operations currently is developing a computer program which will enable the court to purge these cases and provide the means to implement this recommendation.

Recommendation: Calendar control reports should be adopted and distributed to all superior and district court judges on a monthly basis.

Studies of the advantages and disadvantages of different types of calendar systems generally conclude that individual calendar systems, when a judge controls the progress of a case from filing to disposition, result in greater concern by judges for their individual performance.⁴ These studies also have shown that master calendar techniques, when cases are centrally controlled and assigned to an available judge for court appearances, result in more rapid disposition of cases.⁵

One method of instilling great judicial interest in case processing efficiency in an essentially master calendar system, such as in Anchorage, is the utilization of calendar control reports which are maintained for individual judges and distributed on a monthly basis. For example, on the following page is one of the forms used by the Los Angeles Superior Court Criminal Division.

At present both the district and superior courts have statistical reports. However, these reports are summarized for the court as a whole and have limited distribution. Maintaining statistics for individual judges and with distribution to the entire bench will instill healthy peer group interest in judicial performance and provide information for individual judges to use in improving performance.

⁴ California Judicial Council, Master-Individual Calendar Study, July, 1974, pp. .

⁵ Ibid., pp. 13-50.



CENTRAL DISTRICT

LOS ANGELES SUPERIOR COURT
CRIMINAL COURT WORKLOAD REPORT

JULY 1977

COURT NUMBER	MORGN PETA	D/T CODE	DEFER CONTINUANCES			TRIAL DATE		SUB ON COURT		SANITY H.C.		PES POST		TOTAL WORK-LOAD	TRIAL PROCEEDINGS				
			995 PRGS	1530.5 PRGS	5 DDVTH PRGS	TRIAL DATE	ALL OTHER	THURS	OTHER	JURY	H.C. PRGS	PES PRGS	PRON		MISC	SUSP	RESMC		
004														6					
007														1					
020								2						3					
021														9					
022														17					
023														16					
025														2					
026														11					
029														5					
030														8					
031														3					
033														6					
036														13					
038														3					
039														9					
040														12					
053														16					
061														3					
064														8					
081														1					
082														16					
083														6					
085														15					
086														12					
089														11					
091														1					
100	1		1			11	0	23			21	9	16	253	243	2			
101	36		1			75		53			14	15	12	49	254				
102	30		2		1	46	36	29			8	7	29	45	213	3			
103	16		4		4	52	19	49		6	10	14	17	56	243	4			
106	4	1	5		1	89	11	38			1	13	32	233		1			
108	22					71	2	11			25	18	42	17	230				
109	11		8			32	11	10		2	2	10	9	11	115				
111	20	4	1		1	84	16	24			26	18	10	42	251				
112	12	15	4		5	72	0	26			1	23	8	27	217				
113	24	1	1		2	81	11	21		3	25	8	25	66	235				
114	13		3			40	11	30			7	9	8	19	160	2			
115	22	20	4			105	9	31		4	20	16	45	18	244	1			
116	20	11			1	89	11	20			18	1	29	24	231	5			
117	25		3		4	74	22	54		3	16	2	34	36	286	2			
118	15		1		3	91	29	12		1	19	1	20	47	211				
119	20	8	5		1	122	11	32		1	16	7	23	87	364	2			
120	16	2	1			35	1	23		1	3	5	6	31	174	2			
121	20	6	2		1	101	29	44		2	1	23	15	33	272	2			
122	4					17	3	9			8	3	2	24	77	1			
123	26	11			1	53	33	16		6	17	17	10	71	250				
124	22	3	3			58	36	50		1	21	18	15	46	271	1			
125	18	11	2			19	7	22			4	15	42	41	188	2			
126	24		3		1	49	45	25		3	6	18	41	62	293				
127	20		5		5	49	16	17		2	18	7	27	15	150	2			
128	18	2	2		1	92	31	17			22	5	56	97	346				
129	20	23	4		2	69	30	10			23	7	23	53	270	1			
130	2	7	1		1	41		11			34	8	14	34	155				
131	15	10	4		1	71	23	16			16	12	30	34	256				
132	25	6	2		2	106	32	24			16	9	30	44	307				
133	18		1		2	49	30	32		1	11	16	22	49	232	3			
136														17		2			
206														3		6			
TOTAL	593	144	41	37	8	1433	577	905	13	69	423	10	26	366	239	1612	7489	26	20

The contents of these reports should be determined by the area court administrator, presiding judge and district court assignment judge. The information should be compiled by the calendar department, as is presently done for the superior court.

Recommendation: Judges' secretaries with the exception of the secretaries of the presiding judge, should obtain and return case files from the clerk's office.

The central file clerks presently carry case files to and from the judges' chambers several times per day. At times, this duty leaves central files short-handed to carry out filing operations and deal with requests from the public for information and files. The judges' secretaries, with the exception of the presiding judge's secretaries, have more time to carry out this function and should this responsibility.

Recommendation: A directory of personnel, offices and courtrooms should be installed in the lobby of the court building. Other informational and directional signs should be placed in strategic locations throughout the building.

Front counter personnel in the clerk's office now receive and answer a wide variety of questions unrelated to case processing. The majority of these questions concern the location of particular courtrooms, jury rooms or offices within the court building. Responding to such inquiries is time consuming and often interrupts work of a more important nature.

One reason these questions are directed toward front counter personnel is the absence of an adequate building directory. There is a directory at present situated across from the elevators in the lobby of the court building. It is small and not near the entrance to the building. A more appropriate directory should be designed with clear, concise information on room and agency locations. Offices should be listed both under the official designation and by popular title. Personnel also should be listed by both name and function. In addition, the directory should list agencies, such as the federal district court, commonly thought to be in the court building and their correct location.

This directory should be complemented by well-placed, easy-to-read signs throughout the court building. Directional signs should be located near elevators and stairwells and all offices should be clearly and accurately labeled.

Recommendation: A copy of the automated alpha index should be placed in the central files area for use of staff members and the public.

Persons requesting case files from central files personnel are required to know case numbers. If they do not have this information they must go to the front counter to obtain the correct number. This can be frustrating to people requesting files.

Elsewhere in this report it is recommended that the criminal, civil and small claims indices be computerized. When this is accomplished, copies of each index should be

placed in the central files area for the use of the public. These indices will be of benefit to central files personnel, who also frequently must refer to the index in the front counter area to verify case numbers.

IV. MISDEMEANORS

A. BACKGROUND

1. PHASES IN MISDEMEANOR PROCESSING

The phases in the processing of misdemeanor cases are outlined completely on pages 72-83. Briefly, they are:

a. Filing

Misdemeanor cases can be divided into four categories with the main distinction between these categories being the time allowed from the time of arrest or filing of the complaint to arraignment. These categories are:

i. Complaint and summons (non-arrest)

Arraignments are scheduled within approximately three weeks of filing.

ii. Complaint with arrest and defendant in custody

Defendants are arrested and in custody for failure to make bail. Arraignments are scheduled within 24 hours of arrest.

iii. Complaint with arrest and defendant not in custody

Defendants are arrested but have posted bail. Arraignments are scheduled within 48 hours of arrest.

iv. Citation (non-arrest)

New procedure using the uniform traffic citation for minor misdemeanors such as shoplifting. Arraignments are scheduled for between five to 21 days depending on the citing agency. This scheduling allows for the consolidation of appearances by officers.

b. Arraignment

c. Calendar Call or In-Chambers Conference

i. Calendar Call

Calendar call is a proceeding used for state cases. The hearing is held in open court approximately three weeks after arraignment. The purpose of the proceeding is to determine if the case will proceed to trial and if so to assign a trial date.

ii. In-Chambers Conference

The in-chambers conference is held for City of Anchorage cases and is a plea bargaining session. The appearance is conducted by the prosecutor. No member of the judiciary is present. If a plea bargain is made, the defendant is scheduled for a change of plea hearing before a judge. If not, a trial date is set by a member of the prosecutor's staff.

d. Trial

Trials are set approximately four weeks (non-jury trial) and six weeks (jury trial) after the calendar call/in-chambers conference. On the day of trial parties are scheduled to the department of the assignment judge and then assigned to the first available judge.

2. CALENDAR ORGANIZATION

The district court misdemeanor calendar is organized as outlined in Table 4. Non-custody arraignments are held at 9:00 a.m. daily and custody arraignments are held at 1:30 p.m. daily by a judge assigned to hear arraignments for a week at a time. Approximately 50 arraignments per day is the present capacity of the court. Defendants wishing to change their plea are scheduled for an 11:00 a.m. or 3:00 p.m. change of plea hearing.

In-chambers conferences are scheduled for Thursday morning and afternoon while the calendar call is scheduled at 1:30 p.m. on Friday. Trials are scheduled as follows:

City Jury:	Monday, Tuesday, Wednesday
City Non-Jury:	Wednesday, Friday
State Jury:	Monday, Tuesday, Wednesday, Thursday
State Non-Jury:	Thursday, Friday

Non-jury trials are assigned directly to a judge for trial. One trial is scheduled for each half hour. Jury trials are scheduled to the department of the assignment judge where they are assigned to departments for trial on an availability basis. Between three and four trials a day are scheduled for each available department. The last week of each month is designated a civil week and no misdemeanor trials are scheduled.

Motions, sentencing, and fugitive hearings are heard by the assignment judge or the first available judge at 9:00 a.m. Bail hearings are heard on the change of plea calendar at 3:00 p.m.

Table 4
 DISTRICT COURT CALENDARS
 MISDEMEANORS

TIME	MONDAY				TUESDAY				WEDNESDAY				THURSDAY				FRIDAY						
8:00																							
9:00	Arr. Non-Custody	Motions Sent. Fugitive	Call of Calendar		Arr. Non-Custody	Motions Sent. Fugitive	Call of Calendar		Arr. Non-Custody	Motions Sent. Fugitive	Non-Jury City Trials	Call of Calendar		Arr. Non-Custody	Motions Sent. Fugitive	State Non-Jury Trials	In Chambers Conf.	Call of Calendar	Arr. Non-Custody	Motions Sent. Fugitive	Call of Calendar	Non-Jury State Trials	
10:00			Jury City Trials	Jury State Trials			Jury City Trials	Jury State Trials			Trials	Jury City Trials	Jury State Trials					Jury State Trials				Non-Jury City Trials	
11:00	C. of Plea				C. of Plea				C. of Plea					C. of Plea					C. of Plea				
1:00	Arr. Custody		Jury City Trials	Jury State Trials	Arr. Custody		Jury City Trials	Jury State Trials	Arr. Custody	Non-Jury City Trials	Jury City Trials	Jury State Trials	Arr. Custody			In Chambers Conf.	Jury State Trials	Arr. Custody	Call of Calendar			Non-Jury City Trials	Non-Jury State Trials
2:00	Change of Plea Bail Hearing				Change of Plea Bail Hearing				Change of Plea Bail Hearing					Change of Plea Bail Hearing				Change of Plea Bail Hearing			Fel. Prelim. Hear.		
3:00																							
4:00																							

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3. PERSONNEL

a. Judicial and Judicial Support

The district court consists of seven judges. The immediate judicial support staff consists of: one law clerk, three secretaries, one receptionist/calendar clerk, seven in-court clerks assigned to judges and one in-court clerk acting as a floater.

b. Clerical

Since the consolidation of the clerk's office, clerical personnel handle both superior and district court matters and consequently, personnel are not assigned to district court matters exclusively. The criminal section consists of: one supervisor, one assistant supervisor, one arraignment clerk, one front counter clerk, two superior court clerks, one district court clerk, two weekend clerks and two file clerks.

c. Calendaring

The calendaring of district court criminal matters is carried out within several departments. The calendar department coordinates the work done by these departments and finalizes the daily court calendar.

Personnel of the calendar department includes: one supervisor, one assistant supervisor, one district court clerk, one family district court clerk and one superior court clerk. In addition, the district court receptionist/calendar clerk carries out calendar

functions as does the Anchorage municipal coordinator who is a municipal employee who calendars City of Anchorage cases. The criminal department calendars arraignments.

d. Administration

The area court administrator has overall responsibility for the non-judicial personnel of the courts. Day to day responsibility for the personnel in charge of processing district criminal matters is divided as follows: the criminal department is under the authority of the clerk of court, the in-court clerks are under the authority of the assistant area court administrator, the calendar department is under the authority of the area court administrator and the municipal coordinator is under the authority of the city prosecutor.

4. BUSINESS OF THE COURTS 1973-1976

Misdemeanor filings including the category "other criminal" have increased steadily in recent years rising from 7,019 in 1973 to 8,465 in 1976, an increase of 21 percent.

TABLE 5
ANCHORAGE DISTRICT COURT
MISDEMEANOR FILINGS AND DISPOSITIONS
1973 - 1976

<u>Years</u>	<u>Filings</u>	<u>Dispositions</u>
1973	7,019	7,068
1974	6,958	6,611
1975	8,003	6,712
1976	8,465	7,341

This increase in filings has been offset by the increase in the number of judges. The number of misdemeanor filings per judge has actually decreased from 1973, when they were 1,404, to 1976, when they were 1,209.

Since 1973, district court dispositions have not kept pace with filings. Misdemeanor dispositions, including the category "other criminal," have increased by four percent. Significant improvement in the disposition rate was achieved in 1976 when dispositions increased by nine percent over the previous year.

The disposition rate per 100 filings was 87 in 1976 and the number of pending cases was 3,390. These are not favorable statistics. However, analysis conducted as a part of this project indicates these statistics are largely due to the accumulation of inactive cases within the backlog.

Other statistics indicate that the major portion of misdemeanor cases are disposed of expeditiously (Table 6). Only six percent actually go to trial and the median age of misdemeanor cases at disposition is 23 days.

Table 6

ANCHORAGE DISTRICT COURTS
MISDEMEANORS
1976

Stage of Disposition

Disposition Stage	Number	Percent
Before Arraignment	375	5.5
Arraignment	2,878	42.0
Before Pretrial	3,073	44.9
Pretrial	46	.6
After Pretrial but Before Trial	41	.6
Trial	417	6.0
- Court	179	2.3
- Jury	238	3.7
Change of Venue	25	.4
Total	6,855	100.0

Age at Disposition

Statistic	Days ¹
Average	61
Median	23
% Over 120 Days	12

¹ From first appearance to guilty plea, dismissal, acquittal, or conviction.

Age of Pending Cases

Statistic	Days
Average	272
Median	120
% Over One Year	62

Source: Administrative Office, Alaska Court System

B. ANALYSIS AND RECOMMENDATIONS

1. SYNOPSIS

Misdemeanor case processing is a high volume activity for both judges and clerks. Jury trials rarely proceed beyond two days and nonjury trials usually require no more than one hour. On any day numerous court appearances are scheduled, requiring considerable cooperation among court personnel to insure that defendants, prospective jurors, case files, judges, and other materials are in the proper place at the proper time.

In calendaring, the court uses a type of master calendar system with the assignment judge in charge of pretrial matters and trials assigned on the day of trial. This system provides a good base for strong court control of case processing. In practice, however, the use of in-chambers conferences and allowing the municipal coordinator to schedule trials erodes some of this control. Also, calendaring responsibilities are fragmented with the criminal department, calendar department, and staff of the district court and prosecutor all playing roles.

Setting practices appear to slightly under-utilize judicial resources. Adjustments in trial schedules and increased reliance on empirical data to determine trial settings should eliminate this problem.

Well-organized, nonduplicative and easy to use forms are essential to minimize human error in a high-volume operation. Some of the forms in present use do not fulfill these requirements and result in wasted clerical time.

A backlog of misdemeanor cases is developing largely because older cases which can be disposed of are not. Procedures for closing cases with outstanding bench warrants, deferred prosecutions or suspended imposition of sentence are required.

2. CALENDAR PRACTICES.

Recommendation: The Court's involvement in the in-chambers conference should cease.

The in-chambers conference was established as a plea bargaining session for City of Anchorage cases. These conferences are scheduled by the court at arraignment and staffed by court clerical personnel.

In scheduling these conferences, the court appears to violate its position of neutrality between prosecution and defense and assumes prosecutorial responsibilities. Although there is no judicial involvement, the court is scheduling a mandatory appearance. Two in-court clerks are provided to serve the prosecutors, and both the criminal and calendar departments are involved.

At these conferences the prosecutor schedules the trial date. This gives the prosecutor control over what is normally considered a court function. Also, since the prosecutor knows the trial judges available for non-jury trial assignments, judge shopping may occur.

In-chambers conferences are scheduled as high volume appearances with approximately three scheduled per prosecutor for every 15-minute interval. Two members of the prosecutor's staff handling these hearings are not attorneys, but interns. The space where the conferences are held is small and inadequately furnished, lending an air of confusion and discomfort to the proceedings.

The statistics reflecting the outcome of these proceedings are not favorable (Table 7). Of the conferences scheduled for misdemeanor cases from January to March, 43 percent were continued. Another seven percent were dismissed by the prosecutor. Thus, one-half of the scheduled hearings were not held. Thirty-one percent of the cases were disposed of, 20 percent by change of plea. The remainder were disposed of either by bail forfeiture or dismissal; both of which, it could be argued, would occur without such an appearance.

Recommending the elimination of the in-chambers conference may be questioned by the city prosecutor and even by the court. It may be argued that this conference is necessary for adequate case preparation and assists the court to eliminate matters that might otherwise fill trial court calendars. It also may be suggested that the court could work with the prosecutor to eliminate some of the noted problems, namely the high continuance rate and the lack of adequate prosecutorial staff. However, even if these problems are solved, the basic issues of court involvement in prosecutorial hearings and prosecutorial control over court calendars will remain. These problems suggest experimentation with alternatives, namely scheduling all misdemeanor cases for calendar call. Furthermore, this recommendation does not preclude the prosecutor from continuing to schedule similar voluntary conferences without court involvement.

Table 7

ANALYSIS OF RESULTS OF IN-CHAMBERS CONFERENCES

MISDEMEANORS

January - March 1977

<u>Action</u>	<u>Number</u>	<u>Percent</u>
Continued	593	43.2
Deferred Prosecution	70	5.1
Cases Disposed	432	31.5
Bail Forfeiture	60	4.4
Change of Plea or Set for Change of Plea	275	20.0
Dismissed	97	7.0
Trial Date Set	215	15.6
Court	40	2.9
Jury	175	12.7
Bench Warrant Issued (85) or Did Not Appear (7)	44	3.2
Other	20	1.4
Bail Review	2	.1
Summons Issued	1	.1
Prosecutor to Notice	13	.9
Court Did Not Accept Negotiated Plea	4	.3
TOTALS	1,374	100.0

Recommendation: All misdemeanor cases should be scheduled for calendar call on Fridays approximately three weeks after arraignment.

City as well as state misdemeanor cases should be set for a calendar call or pretrial appearance before the assignment judge. The purpose of this appearance should be either to dispose of the case, set a motion hearing or set a trial date.

Adoption of this procedure should allow the court to gain control of the progress of its cases, minimize continuances and reduce the risk of judge shopping. Case progress will be controlled and continuances minimized as the prosecutor will no longer have the authority to schedule trials or grant continuances. As mentioned, the continuance rate for in-chambers conferences was 43 percent from January to March. For calendar call, the continuance rate was only 14 percent (Table 8). Possible judge shopping will be reduced as nonjury trial judges will be assigned by the assignment judge and not by the prosecutor as is presently the practice.

The practicality of this recommendation will have to be determined through experimentation. It may result in a greater number of cases being set for trial. Statistics from the January to March calendar call appearances suggest this possibility. After eliminating continued cases, in-chambers conferences did eliminate more cases from the trial calendar than calendar call.

Table 8

ANALYSIS OF RESULTS OF DISTRICT COURT CALENDAR CALL
January - March 1977

<u>Action</u>	<u>Number</u>	<u>Percent</u>
Continued	102	14.4
Deferred Prosecution	78	11.0
Cases Disposed	200	28.2
Bail Forfeiture	34	4.8
Change of Plea or Set for Change of Plea	68	9.6
Dismissed	98	13.8
Trial Date Set	250	35.2
Court	97	13.7
Jury	153	21.5
Bench Warrant Issued or Did Not Appear	35	4.9
Other	45	6.3
Set on Motion Calendar	41	5.8
Change of Venue	4	.5
TOTALS	710	100.0

	<u>Disposed/Deferred Prosecution</u>	<u>Set for Trial</u>
In-Chambers Conferences	64.2%	27.5%
Calendar Call	45.7%	41.1%

However, as is outlined in the following sections, the district court calendar does have unused capacity and could absorb some increased trial activity, if necessary.

An argument against elimination of the in-chambers conference is that the municipal coordinator in scheduling trials at the in-chambers conference can coordinate the schedules of the officers of the Anchorage Police Department and thereby save on excessive overtime costs for appearances of police officers. While this argument is true, the district court calendar clerk should be able to realize the same cost savings as is done routinely in other jurisdictions.⁶

To implement this recommendation, the court will have to expand the time allotted for calendar call. From January to March, 608 calendar call appearances, excluding continuances, were held. During the same time period, 781 in-chambers conferences, excluding continuances, were held. Consequently, the time available for calendar call will have to be doubled at a minimum. This suggests that the assignment judge should devote either two afternoons or the entire day on Friday to calendar calls.

⁶ In King County Washington, for example, Mr. Richard Roth, District Court Administrator indicates that court clerks in the 11 limited jurisdiction courts not only coordinate the schedules of the officers within their district but also coordinate these schedules with the other courts in the county in which the officers appear.

Recommendation: Jury trials should be set by court personnel, following policies based on empirical data. Present settings should be increased slightly.

The court policy is to set three jury trials per day for each available judge. For state jury trials, this policy is followed by the calendar department. For city jury trials, the municipal coordinator exceeds the ratio in setting cases. From January to March, 4.3 trials per judge were set.

For the January to March time period, the actual ratio of trials set to trials heard for city and state cases was 5.5. This means that under present setting practices approximately one trial will commence for every two days that trials are set. The average trial is almost 1.5 days.⁷

The above statistics have several implications. First, greater control over the setting of city cases should be exercised. The recommendation to transfer calendar responsibilities carried out by the municipal coordinator to the district court criminal calendar clerk is responsive to this need. Second, comparison of the ratio of trials held to trials set and the average length of trial indicates that jury trial settings can be selectively increased. Specifically, state jury trial settings which had a ratio of trials held to trials set of .14 for the three month sample can be increased.

⁷ Statistics on trial length provided by the Office of Technical Operations of the Administrative Office and based on June to December trials for 1976.

Table 9

DISTRICT COURT
ANALYSIS OF RESULTS OF MISDEMEANOR JURY TRIALS
January - March, 1977

<u>Action</u>	<u>State</u>	<u>City of Anchorage</u>
Set for Trial	310	169
Continued	51	37
Bench Warrant	27	20
Disposition or Action Other Than Trial	197	66
Change of Plea	108	45
Dismissed	39	11
Deferred Prosecution	50	10
Trials	44	43
Jury	32	37
Jury Waiver	12	6
Average Length of Jury Trial	1.4 days	1.5 days
Ratio of Trials held to Trials Set	.14	.25
Continuance Rate (% of cases set for trial that are continued)	16%	21%

A conservative approach to increasing settings would be to set an additional trial on those days when the greatest number of judges are available for jury trials. Consequently, instead of setting nine trials for three judges, 10 would be set. After several months of this policy, the effects on the trial calendar should be examined. In particular, the change in the continuance rate should be measured. The court presently enjoys an acceptable trial continuance rate of 18 percent. If the increased settings can be achieved without affecting this rate, the policy should be continued and further experimentation with increases in settings conducted. If the continuance rate is adversely affected, the benefit of increasing settings must be weighed relative to the percent increase in continuances.

Recommendation: Non-jury trials should be set by court personnel following policies based on empirical data. Criminal and traffic trials should be set on separate calendars and separate setting policies established for each.⁸

For non-jury trials, the court policy is to combine traffic and criminal trials and set one trial for each one-half hour. As with jury trials, this policy appears to underutilize the capacity of the court. According to the sample of cases analyzed, approximately one-half of the cases set actually proceed to trial (Table 10). The average trial time is 54 minutes for criminal trials and 24 minutes

⁸ With the establishment of the position of traffic commissioner, this recommendation will be implemented.

Table 10

ANALYSIS OF NON-JURY TRIALS
February - March, 1977

	<u>State</u>	<u>City of Anchorage</u>
Set for Trial	31	47
Continued	2	5
Bench Warrant		3
Disposition or Action Other Than Trial	11	23
Bail Forfeiture	3	3
Change of Plea	5	4
Dismissed	2	16
Deferred Prosecution	1	
Trials Held	18	18
Average Length of Trial ^a	54 Minutes Criminal 24 Minutes Traffic	
Ratio of Trials Held to Trials Set	.58	.38
Continuance Rate (% of cases set for trial that are continued)	6%	11%

^a Source: June to December trials for 1976, analyzed by the Office of Technical Operations, Administrative Office.

for traffic trials.⁹ For the sample period, 20 percent of the cases set were criminal and the remainder traffic. Thus, the setting policy appears accurate for criminal trials and low for traffic trials. Establishment of separate calendars for each will allow for separate setting policies. The statistics suggest a maximum of two criminal trials per hour until the last hour of the morning and the afternoon when only one trial would be set to accommodate longer than normal trials. For traffic trials, the settings should be higher, initially three per hour. Both of these policies should be reviewed after several months of experimentation.

⁹ Statistics on trial length provided by the Office of Technical Operations of the Administrative Office and based on June to December trials for 1976.

2. CLERICAL PROCEDURES

Recommendation: The alpha index should be automated and if not in violation of privacy statutes a copy placed on the front counter for use by the public.

The alpha index at present is prepared by the criminal front counter clerk as a case is opened. Subsequent references to a case by the public often require referral to the index to obtain the proper case number. The development of an automated index consisting of the defendant's last name and the case number will allow for rapid acquisition of case file numbers. Ideally, this index would be made available to the public to obtain case numbers. First, however, the Administrative Office will have to conduct research to determine if public access to such an index violates prohibitions on public access to criminal histories.

Recommendation: The front counter clerk should assign the arraignment date for non-custody cases directly on the arraignment calendar.

After receiving a complaint in a non-custody case, the front counter clerk fills out a "District Court Routing Slip" requesting an arraignment date three weeks later. This slip is sent to the calendar department where the case is entered in the master calendar and a copy placed in the case file.

This process would be more efficient if the front counter clerk assigned the arraignment calendar as cases are filed, noting the date assigned in the appropriate place on the blue file cover. To carry out this shift in responsibility the clerk will need the available arraignment dates for several months in advance. This information can be made available by the calendar department.

Recommendation: The district court receptionist's involvement in calendaring should cease. Notice of Next Appearance forms should be routed directly to the district court calendar clerk for entry on the master calendar.

At present, in-court clerks route "Notice of Next Appearance" forms for calendar call/in-chambers conference and trial appearances to the district court receptionist for entry into the calendar book. This book subsequently is routed to the calendar department for the preparation of the master calendar.

There is no evidence that this procedure is not carried out adequately by the district court receptionist. However, a continuing problem with misdemeanor calendaring is the omission of scheduled appearances from the printed calendar. Eliminating an unnecessary step in the calendar process reduces the possibility for human error and will allow the district court receptionist to carry out other duties. The district court calendar clerk should be able to assume this responsibility without additional personnel.

Recommendation: As a corollary to the elimination of the court's involvement in scheduling in-chambers conferences, the municipal coordinator's involvement in calendaring cases for trial should cease.

With all misdemeanor cases set for trial by the assignment judge at calendar call, the municipal coordinator's involvement in the calendar process should cease. This change will have the outlined benefits of reducing judge shopping and increased scheduling control. Additionally, paper routing and coordination problems will be reduced as another department will be eliminated from the calendar process.

Recommendation: The district court calendar clerk should be reassigned to the criminal department and misdemeanor master calendars should be prepared by that department.

Shifting the district court calendaring clerk to the criminal department will reduce the number of departments involved in misdemeanor calendar support to the in-court clerks and the criminal department; eliminate the need to use route slips to set hearings; offer the possibility of utilization of the calendar clerk for other tasks; and, most importantly, increase communication and coordination between the calendar and clerical functions through greater administrative control and the proximity of the two functions.

While this recommendation might appear to undermine consolidation and centralization of calendar control, in fact, the calendar function should be strengthened. The responsibility of district court criminal calendar clerks is largely mechanical based on directions from the presiding judge and the area court administrator regarding number of cases to set. This function can be similarly carried out by the criminal department while achieving the additional benefit of centralizing calendar functions into two departments.

Recommendation: All misdemeanor cases pending more than one year should be reviewed every six months. Cases with no activity within one year should be closed statistically.

This procedure presently is being carried out for the first time by the court. As a result, according to the Manager of Technical Operations, approximately 25 percent of the cases currently pending will be disposed. Because it has not been done systematically in the past, this purging is burdensome on clerical staff. However, once the initial purge is

completed, semi-annual auditing of pending cases and elimination of "dead" cases can and should be carried out as a regular function of the clerk's department.

At present, to close a case which has had no activity for an extended period, the clerk's office requests the filing of a dismissal by the prosecutor or district attorney. As the attached memorandum indicates, at least the district attorney has not been responsive. In the future, the court should close these cases statistically (see attached form) and place the case file in inactive storage. This procedure eliminates the need to request a dismissal, separates active and inactive files and still allows the prosecution to reopen the case if desired.

To aid clerks in determining which cases should be brought before a judge to be closed statistically, the court should establish criteria for the closing of pending cases. For civil cases, Rule 41 (e) provides that a case may be dismissed if no proceeding occurs within one year after the last appearance. A similar policy should be adopted for misdemeanor cases.

Deferred prosecution and suspended imposition of sentence cases are a special problem. Presently, these cases are considered pending. Technically, they are, but only a few cases ever require subsequent actions. For example, of the 17 deferred prosecution cases completing the deferral time period in January, 1977, none had any court activity during the deferral period. Problems arise because many of these

Memorandum

Alaska Court System

TO: Pat James
Ass't District Attorney

DATE 8/11/76

FROM: Trial Courts
Criminal Division
K.Grawey - Deputy Clerk

SUBJECT: Bertalotto, James
75-1246 CR.

Please file notice of dismissal on the
above mentioned defendant. This is a third request
for the dismissal.

IN THE (SUPERIOR) (DISTRICT) COURT FOR THE STATE OF ALASKA

AT _____

() STATE OF ALASKA)
())
Plaintiff,)
vs.)
_____)
Defendant(s))

NO. _____

ORDER OF CLOSURE FOR STATISTICAL
PURPOSES

The court, being fully advised in this matter, orders this case
closed for statistical purposes only, for the reason that the

19
Date _____

JUDGE

cases are never officially dismissed. For the January sample, only three of the 17 cases had been disposed by June of 1977.

The court should close these cases statistically at the time the decision to defer prosecution is made. The tickler system which is presently maintained then should be used to monitor them. At the completion of the deferral period, the clerk's office should prepare a dismissal order for a judge's signature, giving the prosecutor or district attorney five days to make known any reason why the case should not be dismissed. Adoption of this procedure will make dispositional information produced by the Office of Technical Operations more reflective of actual workloads and will conform to reporting practices of most other courts in the state.¹⁰

¹⁰ The Technical Operations Supervisor of the Office of Technical Operations indicates that most courts other than Anchorage follow the outlined procedure for reporting deferred prosecution cases.

3. USE OF FORMS

The development of standardized forms for use in the Alaska Court System has been the subject of an extensive work effort by the Administrative Office and the National Center for State Courts.¹¹ Small claims and dissolution of marriage forms have been adopted and are in use while civil, criminal and other forms will be adopted and put into use shortly.

One area of forms usage not studied as a part of the above project, however, is internal use forms. These forms are used primarily to convey information from one department to another within the court system. For misdemeanor matters, several such forms (most importantly the Judgment and Hearing Record and the Notice of Next Appearance forms) are key to the processing of cases. Review of these forms indicates that changes in their content and use are necessary.

Recommendation: The Judgment and Hearing Record form should be revised to:

1. Improve the organization of the form.
2. Reduce the number of copies.
3. Eliminate the need for the Department of Public Safety "Record of Conviction" form except in special cases.
4. Eliminate unnecessary information if possible.

The Judgment and Hearing Record form represents the permanent record of the disposition of a case. At the time of disposition, the judgment is distributed widely with often more than seven copies sent to affected agencies for their records. Because these forms are handwritten and filled

¹¹ National Center for State Courts, Alaska Forms Book (Preliminary), January, 1977.

out during high volume court proceedings, the information on them is often difficult to interpret (see attached examples).

The revised Judgment and Hearing Record form has an improved format over its predecessor primarily due to the introduction of check boxes for a majority of the information required in the judgment section (Proposed Form 1). The check boxes allow judges to maintain their courtroom pace and minimize subsequent interpretation problems.

Other improvements include organizing the form by subject matter. This means related information, for example, personal information about the defendant, is grouped into separate boxes on the form.

The proposed form has only an original and four copies compared to six copies for the present form. Experience in the clerk's office has shown that clear copies generally can be obtained through the fourth copy only. The last three copies often are discarded and replaced by xerox copies. Reducing the number of copies will eliminate this waste.

The introduction of drivers' license information on the form will result in the elimination of the need to fill out the Department of Public Safety Record of Conviction form. A copy of the Judgment and Hearing Record can be forwarded instead. The only exception will be for limited licenses in which the Record of Conviction form becomes the limited license. A separate Record of Conviction still will be necessary in those cases.

THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA
 GREATER ANCHORAGE AREA BOROUGH
 CITY OF ANCHORAGE
 VS

JUDGMENT and HEARING RECORD

DEFENDANT [REDACTED] DOCKET NUMBER 75-1152
 CHARGE DMVI STATUTE/ASAC 23.35.030
 ARRAIGNMENT DATE 2/27/76 CONT'D
 DEFENDANT'S ADDRESS _____ PHONE _____
 DEFENDANT'S EMPLOYMENT _____ PHONE _____
 PROSECUTING ATTORNEY _____ DEFENSE ATTORNEY Hellenthal
 PLEA NG CONT'D
Cil CONFERENCE DATE Mar 19 1:30 CONT'D
 TRIAL DATE (JURY) (NON JURY) _____
 JUDGE/MAGISTRATE [REDACTED]

7/27/76 500 PER
 BAIL POSTED \$ 400.00
 RECEIPT NUMBER AGB
 BAIL SET \$
 CONDITIONS
 BAIL REVIEW
 BAIL EXONERATED 9-13-76-9:30
 BAIL FORFEIT 2/27/76
 BAIL REINSTATED 2/27/76
 BENCH WARRANT [REDACTED]
 SUMMONS
 DISMISSED

CHANGE OF PLEA g DATE 4/6
 INFORMATION CHARGE
 PLEA g DATE
 PRE-SENTENCING REPORT [REDACTED] SENTENCING DATE
 JUDGE/MAGISTRATE [REDACTED]

JUDGMENT

FINDING (COURT) (JURY) g (GUILTY) (NOT GUILTY)
 IMPOSITION OF SENTENCE SUSPENDED FOR
 FINE \$ 5/15 SUSPENDED \$ _____ FINE REINSTATED \$ _____
 JAIL 30 SUSPENDED 15 JAIL REINSTATED _____
 CONDITIONS 1) N.S.V. 3 years 2) attend municipal drunk drive program 3) stay at home
 DRIVERS LICENSE susp TIME 3 years
 CONDITIONS def is able to make rent, [REDACTED]
 DATED 4/6 JUDGE/MAGISTRATE [REDACTED]

DATE: 3/19/76 COP 3/30 11AM Har idg
7:30 AM call was just Court - Renda
9-3-76 - Court to 1:30 = 9 AM
9-13-76 - Re-Set for 1:30 pm today - 4. Rescheduled to Court
9-13-76 @ 1:30 pm - Set to be released 6 PM 9-14-76 + [REDACTED]
to serve [REDACTED] of 11 days in [REDACTED] - [REDACTED] to pay \$400
fine by C.O.B. 9-14-76 - + [REDACTED] @ end of 3 months
by Oct. 4, 1976 - [REDACTED]

THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA
GREATER ANCHORAGE AREA BOROUGH
CITY OF ANCHORAGE
VS

JUDGMENT and HEARING RECORD

APD # 76-52196

DEFENDANT [REDACTED] DOCKET NUMBER 76-6873
CHARGE DWI STATUTE/ORD./REG. 9.23.020
ARRAIGNMENT DATE 10/30/76 CONT'D
DEFENDANT'S ADDRESS 3224 [REDACTED] PHONE 276-4862
DEFENDANT'S EMPLOYMENT [REDACTED] PHONE [REDACTED]
PROSECUTING ATTORNEY [REDACTED] DEFENSE ATTORNEY [REDACTED]
PLEA NG CONT'D
CONFERENCE DATE [REDACTED] CONT'D
TRIAL DATE (JURY) (NON-JURY) 10/28 [REDACTED]
JUDGE/MAGISTRAT [REDACTED]

(COVERS)
BAIL POSTED \$ 300. 76-6869)
RECEIPT NUMBER ABB
BAIL SET \$ 5
CONDITIONS 10/30/76
BAIL REVIEW
BAIL EXONERATED 10-28-76-99-B
BAIL FORFEIT 50
BAIL REINSTATED 10/30/76
BENCH WARRANT
SUMMONS
DISMISSED

CHANGE OF PLEA DATE
INFORMATION CHARGE
PLEA No Contest DATE 11/6/77
PRE-SENTENCING REPORT SENTENCING DATE
JUDGE/MAGISTRATE

JUDGMENT
FINDING (COURT) (JURY) (GUILTY)
IMPOSITION OF SENTENCE SUSPENDED FOR CONDITIONS
FINE \$ 500 SUSPENDED \$ 200 FINE REINSTATED \$ [REDACTED]
JAIL 10 SUSPENDED 9 JAIL REINSTATED [REDACTED]
CONDITIONS ① No \$ for legal. ② Alib securing ③
restoration to [REDACTED] via [REDACTED]
DRIVERS LICENSE limited TIME 90
CONDITIONS base to 6 pm [REDACTED] to 4 pm work & on
Sun & Thurs to 4 pm church department accordingly
DATED 11/17/77 JUDGE/MAGISTRATE [REDACTED]

DATE 10/28 [REDACTED]
10/28 [REDACTED] called [REDACTED] and bill pick up
for [REDACTED] 10/29 [REDACTED]
11/30/76 [REDACTED] - 300⁰⁰ property, bound to be [REDACTED]
[REDACTED] 12:00 [REDACTED]
11/6/77 [REDACTED] Sent [REDACTED] with [REDACTED]
[REDACTED] 11:00 [REDACTED] Jan. 2, 1977 & [REDACTED]

PROPOSED FORM 1

FORM 1: JUDGMENT AND HEARING RECORD

JUDGMENT AND HEARING RECORD

DISTRICT COURT FOR THE STATE OF ALASKA AT ANCHORAGE

STATE OF ALASKA MUNICIPALITY VS

DEFENDANT, DRIVERS LICENSE NO., DEFENDANT'S ADDRESS, CHARGE, PLEA, CHANGE OF PLEA, ARRANGMENT DATE, FINDINGS, SUSPENDED IMPOSITION OF SENTENCE, SENTENCE, DRIVERS LICENSE ACTION, DATE, JUDGE/MAGISTRATE

The revised Judgment and Hearing Record already has been used in the district courts. Further analysis by the Manager of Technical Operations and the Supervisor of the Criminal Department has indicated that the Judgment and Hearing Record, with the additions of the filing date and, if applicable, the Anchorage Police Department number, can substitute for the Case History form and eliminate docketing.

The elimination of docketing is a major step in reducing duplicative procedures in the misdemeanor process. The benefits already are being felt in the criminal department which is current in its workload for the first time in 1977.

Recommendation: Further consideration should be given to the manner of preparation and distribution of the Judgment and Hearing Record including:

- (1) Having the Record typed by in-court clerks or secretaries after the close of court and then reviewed and signed by the judge.
- (2) Providing the defendant with a copy.

The present practice of having the judgment completed by the judge while on the bench should be discontinued. As the permanent record of the disposition of the case, the Judgment and Hearing Record is the most important document in the case file. As such, the Record should be typed and reviewed prior to circulation to other agencies.

Also, at present, only custody defendants receive copies of the judgment. Given the importance of the document, every defendant should have a copy. The high number of Records being returned in the mail undelivered, as apparently was the case when this practice was followed, is not sufficient reason for its discontinuation.

Recommendation: The Notice of Next Appearance form is the central calendar document should be revised to:

- (1) Add additional essential information.
- (2) Eliminate the need for log notes in all but high volume appearances.

The Notice of Next Court Appearance form is the most commonly used form for district court criminal calendaring. This form is the link between the numerous court personnel involved in the calendar process as well as the basic source of information on court appearances for the parties in a case.

The present form does not include essential information such as the defendant's plea, whether the case is jury or non-jury, and several possible appearances such as motion and bail review hearing.

In the proposed form, space is allowed for including the log numbers. In some instances, this will eliminate the need to include the log notes in the case file (Proposed Form 3). Presently, log notes have to be xeroxed by a criminal clerk and put in the case file as a reference to the record on the tape. These log notes often make up over half the papers in the file.

It is not clear whether the log notes can be eliminated for all appearances, particularly high volume activities, such as calendar call and motions. The practice of taking cases out of order and the speed with which the proceedings are conducted argues against this possibility. Only experimentation will provide the answer.

PROPOSED FORM 3

____ ANCHORAGE VS. _____ CASE NO. _____
 ____ STATE

DISTRICT COURT FOR THE STATE OF ALASKA AT ANCHORAGE
 NOTICE OF NEXT COURT APPEARANCE/HEARING RECORD

	DATE	TIME	COURTROOM
CALENDAR CALL	_____	_____ AM/PM	2
CHAMBERS CONFERENCE	_____	_____ AM/PM	ROOM 224
CHANGE OF PLEA	_____	_____ AM/PM	_____ *
BAIL REVIEW	_____	_____ AM/PM	_____ *
MOTION	_____	_____ AM/PM	_____ *
TRIAL Jury _____ Non-Jury _____	_____	_____ AM/PM	_____ *
PRELIMINARY HEARING	_____	_____ AM/PM	_____ *
SENTENCING	_____	_____ AM/PM	_____ *
	_____	_____ AM/PM	_____ *

Before Judge _____

DATE: _____

TAPE: _____

COMMENCED: _____

ENDED: _____

DEFENDANT: Present _____ Not Present _____

PLEA: Guilty _____
 Not Guilty _____
 Nolo Contendere _____

BAIL: _____

* Check the daily calendar posted in the courthouse hallways on the day of appearance for courtroom assignment.

	/	
	Judge	Clerk
		Copies To
DA/AP	_____	_____
PD	_____	_____
		Calendar
		Other

ORIGINAL TO DEFENDANT

Log Notes

FILE COPY

Recommendation: The temporary order form should be redesigned to allow the clerk to sign it.

The clerk should be allowed to sign a temporary order. The clerk fills out the order based on the record of open court proceedings. Therefore, the order is clerical rather than judicial in nature. If interpretation problems do exist, the clerk can resolve them with the judge prior to completing the order. This proposed procedure coincides with present practice for the superior court.

Recommendation: The Superior Court Report Card form should be used as a substitute for the Temporary Order for cases in which no action is taken at a court appearance.

The Superior Court Report Card form at one time was used in the district court for cases in which no change in a defendant's status occurred during a court appearance. This form minimizes the amount of information the clerk must include. The reduced information and the elimination of the necessity for a judge's signature should make reporting "no change in status" information to the jail more efficient (Proposed Form 4).

Recommendation: The Superior and District Court Routing slip should be combined.

Whenever two forms perform the same purpose and convey essentially the same information, they should be combined. The superior and district court reporting forms fit into this category (Proposed Form 5).

PROPOSED FORM 4

TRIAL COURT REPORT CARD

_____ CR.
Case No.

_____ A.M.
P.M.
Date and Time

Name

Offense

Log Notes

(SEAL)

Deputy Clerk of Court

ASC-118 (11/75)

PROPOSED FORM 5

SUPERIOR AND DISTRICT COURT
CALENDAR ROUTING SLIP

Case No. _____

_____ vs. _____
Plaintiff Defendant

Plaintiff Attorney: _____

Defendant Attorney: _____

Defendant Address: _____

Set For:	<u>Date</u>	<u>Before</u>
Arraignment:	_____	_____
Motion:	_____	_____
Pre-Trial:	_____	_____
Trial:	_____	_____
Other:	_____	_____

Reassign To: _____

4 Month Date: _____

Continued From: _____

Length of Trial: _____

Routed By: _____

Recommendation: The forms used for processing district court criminal matters should be submitted for periodic review by the Alaska Court Forms Committee.

The Alaska Court Forms Committee was established to insure that forms used in the Alaska court system are accurate, well-designed and uniform to the extent possible. The Committee has developed considerable expertise in forms design during its existence. It should be used as a resource by the trial courts for improving its operations. All forms, including those used internally, should periodically be submitted to the Committee for review and revision.

C. CASE PROCESSING UNDER THE PROPOSED SYSTEM

Under the proposed system, arraignment calendars will be set up by the criminal arraignment clerk for custody defendants (as is now the practice) and the front counter clerk for non-custody defendants. The district court criminal calendar clerk will combine them on the master calendar for distribution. Cases will be scheduled for 9:00 a.m. or 1:30 p.m. arraignment, with change of plea hearings scheduled for 11:00 a.m. and 3:00 p.m. as is the present practice.

All cases will be scheduled for calendar call on Fridays before the assignment judge or his designee. The calendar clerk will compile the master calendar for calendar call from the "Notice of Next Appearance" forms routed by the in-court clerks.

Trials will be entered on the master calendar in a similar fashion. The available dates for arraignment, conferences and trials will be obtained and provided to in-court and criminal department clerks by the district court calendar clerk after determining scheduled absences of judges and consultation with the assignment judge regarding the number of cases to set per available judge for the different appearances.

The impact of these changes can be seen in more detail in the following section. The present case processing procedures and paper flow are outlined, together with the changes in these procedures and paper flow that will result from the adoption of the outlined recommendations.

CLERICAL PROCESSING FOR MISDEAMEANOR CASES

PRESENT SYSTEM

PROPOSED CHANGES

I. SETTING FOR ARRAIGNMENT

A. Complaint and summons (non-arrest)

1. Filed at front counter by district attorney, prosecutor, Fish and Game, AST, APD, park rangers, and other enforcement agencies, either in person or by Loomis delivery at 9:00 a.m. each day.

Non-arrest complaints will be filed with the district attorney or prosecutor for screening prior to filing with the court.

2. Front counter clerk opens case file

a. Adds

"Judgement and Record" form

Form revised

"Case History" form

Eliminated

"Notice of Next Appearance" form

Form revised

b. Types alpha index card

Alpha index will be automated eliminating the need for individual cards. Name and case number will be placed on a list and forwarded to Technical Operations daily.

c. Fills out "District Court Routing Slip" requesting arraignment setting three weeks hence

Front counter clerk will assign arraignment date on calendar of available dates and note day on case file. Route slip and copy is eliminated.

1. Original of routing slip goes to calendar department.

2. Copy to case file.

d. Completes summons, filling in date of appearance, and seals summons and complaint.

- Original and copy is placed in a pick up box for matters to be served. (Served by AST or APD after signing in receipt

PRESENT SYSTEM

PROPOSED CHANGES

B. Citation: New procedure using the uniform traffic citation for minor misdemeanors such as shoplifting. No arrest is made.

1. Citation is filed at front counter by citing agency.
2. Procedures for non-arrest cases followed except arraignments are set five days for APD and two to three weeks for AST after issuance of the citation.

C. Complaint (custody): Defendant cannot post bail as per bail schedule at the jail.

1. Custody list is sent by the jail to the criminal section supervisor each morning.
2. Custody list is passed on to the arraignment desk for research to determine what exists on a case, i.e., has a complaint been filed, is there a case file.
3. Arraignment clerk sets up, types and makes copies of 1:30 custody arraignment calendar.
4. Complaint is filed at the front counter during the morning by prosecutor, district attorney or law enforcement agency.
5. Front counter clerk opens case file
 - a. Adds

"Judgment and Hearing Record"

"Case History" form

"Temporary Order" form

Non-arrest citations will be filed with the district attorney or prosecutor for screening prior to filing with the court.

Custody list reorganized to include more information, e.g., reason for appearance, and minimize research required by clerks. Timely filing of complaints by prosecutors will minimize the need to set up dummy files.

Form revised

Eliminated

PRESENT SYSTEM

PROPOSED CHANGES

b. Types alpha index card.

Alpha index will be automated.

D. Complaint (non-custody): Bail/Bond has been posted at jail or the court.

1. Defendant is given release which indicates the next court appearance.
2. Bail/bonds are sent to the criminal section supervisor at 8:00 from jail via Loomis.
3. Supervisor
 - a. Checks bail and bonds for accuracy.
 - b. Approves each corporate bond.
 - c. Gives bail/bond to the arraignment clerk.
4. Arraignment clerk handles bail/bonds as follows:
 - a. If cash, routes the file and cash to the cashier to be receipted; case file with the receipt returned to the arraignment clerk;
 - b. If bond, the bond is put in the case file.
5. Arraignment clerk assembles the case file including:
 - "Judgment and Hearing Record"
 - "Case History" form
6. Arraignment clerk types the alpha index card.
7. Arraignment clerk sets up arraignment list setting arraignments 48 hours after arrest at 9:00 a.m.

Form revised

Alpha index will be automated.

PRESENT SYSTEM

PROPOSED CHANGES

II. ARRAIGNMENT

A. Fourteen copies of arraignment calendars are made for:

1. Bulletin boards
2. District attorney
3. Public defender
4. In-court clerks
5. Pre-trial services

B. Case file is taken by messenger to courtroom and given to judge.

C. Recording of Information

1. Judge fills out "Judgment and Hearing Record"
2. In-court clerk fills out log notes which include tape number and action taken. Notes must be xeroxed and placed in the case file.

D. Actions

1. Not guilty plea
 - a. In-court clerk schedules appearance in three weeks for either

"Judgment and Hearing Record" revised to eliminate unnecessary information and use check boxes wherever possible for legibility and speed. Long run proposal includes eliminating calendar information from the form and having the form typed.

Log notes incorporated into revised "Notice of Next Court Appearance" form eliminating a form and the need for subsequent xeroxing.

PRESENT SYSTEM

PROPOSED CHANGES

- Calendar call (state cases) or,
- In-chambers conference (city cases)

All cases will be scheduled for calendar call.

b. Original of the "Notice of Next Appearance" form is given to the defendant and copies are given to:

- i Public defender
- ii District attorney/prosecutor
- iii Case file
- iv Court clerk (State cases).
- v Municipal clerk (Municipal cases)

Municipal clerk will not be involved in the calendar process.

2. Guilty plea

a. If sentenced at arraignment,

- 1. "Judgment and Hearing Record" completed by judge
- 2. Non-custody case: "Notice of Next Appearance" form showing sentence is filled out by clerk and given to defendant
- 3. Custody case; "Temporary Order" is filled out and sent with the defendant to the jail

Form revised

Form revised

- Original of the temporary order is certified by the jail and returned to the criminal section

PRESENT SYSTEM

PROPOSED CHANGES

III. SETTING FOR CALENDAR CALL/IN-CHAMBERS CONFERENCE

- A. Cases are set by the judge after receiving an available date from the in-court arraignment clerk for approximately three weeks later.
1. In-chambers conference Thursdays at 9:00 a.m. and 1:30 p.m.
 2. Calendar call on Friday at 1:30 p.m.
- B. In-court clerk gives copy of "Notice of Next Appearance" form to the district court receptionist for entry into the calendar book.
- C. Calendar book sent to calendaring department to enter the calendar call/in-chambers conference date on the master calendar.
- D. Calendar department sends calendar to criminal department.
- E. For calendar call, case files are pulled and routed to the assignment judge. Case files are not pulled prior to in-chambers conferences.

All cases will be scheduled for calendar call.

The "Notice of Next Appearance" form will be forwarded directly to the calendar clerk. The district court receptionist will not be involved in the calendar process.

District court calendar clerk will be located in criminal department.

The need to send the calendar to the criminal department will be eliminated.

Case files will be pulled for all cases.

PRESENT SYSTEM

PROPOSED CHANGES

IV. CALENDAR CALL/IN-CHAMBERS CONFERENCE

A. Calendar call

1. Held on Friday before the assignment judge.

Calendar call schedule will be expanded to accomodate municipal cases.

2. Recording information

a. In-court clerk fills out

- Log notes

- "Notice of Next Appearance" form

Form revised

b. Judge fills out "Judgment and Hearing. Record" form

Form revised

3. Actions

a. Not-guilty plea

1. Trial date set approximately four weeks later for non-jury and six weeks later for jury cases.

2. Original of "Notice of Next Court Appearance" form is given to the defendant with copies to:

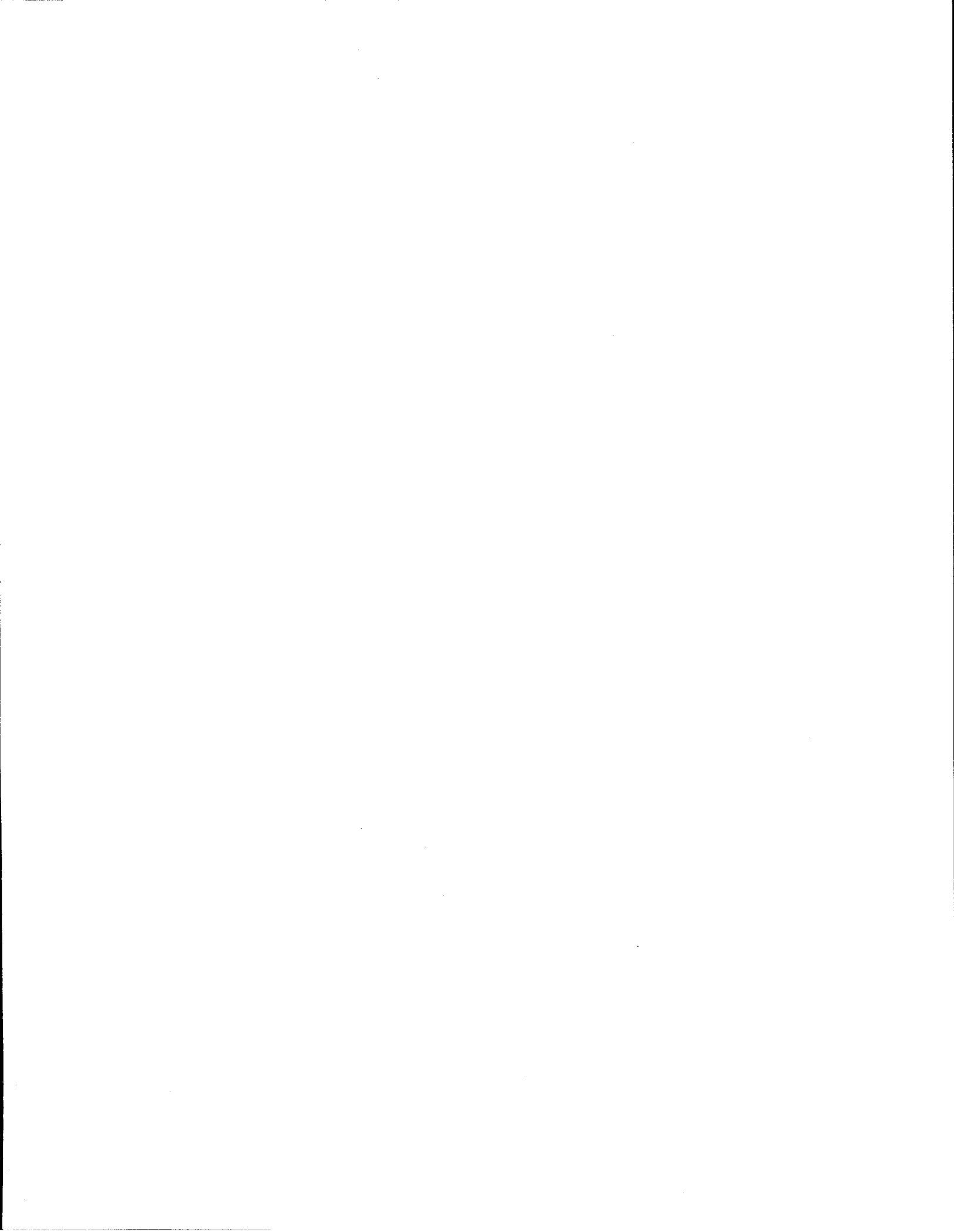
- Public defender

- District attorney/prosecutor

- Case file

- District Court receptionist

Copy will be routed directly to the district court calendar clerk.



CONTINUED

1 OF 3

PRESENT SYSTEM

PROPOSED CHANGES

3. District court receptionist uses copy of "Notice of Next Appearance" form to enter trial date into the calendar book.

District court receptionist eliminated from the calendar process.

4. Calendar department enters onto master calendar.

Routing through the calendar department eliminated.

b. Guilty plea

1. Defendant scheduled for 3:00 p.m. change of plea hearing or another court date for sentencing.

2. 3:00 p.m. change of plea hearing

a. "Judgment and Hearing Record" form is filled out and signed by judge.

Form revised.

b. Non-custody case: "Notice of Next Appearance" form showing sentence is filled out by clerk and given defendant.

Form revised. Defendant also will receive a copy of the "Judgment and Hearing Record".

c. Custody case: "Temporary order" is filled out and sent with the defendant to the jail.

- Original of the temporary order is certified by the jail and returned to the criminal section.

B. In-chambers conference

1. Held on Thursday at 9:00 a.m. and 1:30 p.m. before a city prosecutor (two prosecutors and two interns hold conferences).

The court's participation in the in-chambers conference eliminated.

2. Two in-court clerks are present and note actions taken on calendar sheet

PRESENT SYSTEM

PROPOSED CHANGES

3. Actions

a. Guilty plea

1. Defendant scheduled for 11:00 a.m. or 3:00 p.m. change of plea calendar or another court date.
2. Case file routed to change of plea department.
3. "Judgment and Hearing Record" form filled out and signed by judge.
4. Non-custody defendant given "Notice of Next Appearance" form which indicates fine, sentence, etc.
5. "Temporary Order" filled out for the jail. Defendant given a copy.

b. Not-guilty plea

1. Trial date set by municipal coordinator six weeks hence for jury trials and four weeks for non-jury trials. Available dates and number of courtrooms are provided by calendar department.
2. "Notice of Next Court Appearance" form filled out. Original given to the defendant with copies to:
 - Public defender
 - Prosecutor
 - Case file

PRESENT SYSTEM

PROPOSED CHANGES

3. Municipal coordinator fills the trial date in calendar book. District court receptionist types final dates from list checking with "Notice of Next Court Appearance" forms and sends to calendaring.

PRESENT SYSTEM

PROPOSED CHANGES

V. SETTING FOR TRIAL

A. From calendar call

1. Assignment judge calendars trials at the calendar call.

State jury trials held Monday through Thursday

- Three trials set for each available department

State non-jury trials held on Friday

- One case set for each one-half hour

2. Clerk fills out "Notice of Next Court Appearance" form and enters date in calendar book.
3. District court receptionist types trial dates from list checking with "Notice of Next Court Appearance" forms.
4. Calendar department enters onto master calendar.

District court receptionist eliminated from calendar process. Routed directly to district court calendar clerk.

PRESENT SYSTEM

PROPOSED CHANGES

VI. TRIAL

A. Jury

1. Parties are scheduled to appear for the call of the calendar in the courtroom of the assignment judge at 9:00 a.m.
2. Assignments to judge for trial are made by assignment judge.
3. Peremptory challenges are made in calendar call and judge reassignments made as necessary.
4. Trials are scheduled to begin at 10:00 a.m.

B. Non-Jury

1. Parties are scheduled directly to a judge for trial beginning at 9:00 a.m. with one case scheduled each one-half hour.
2. If peremptory challenge is made, case assigned back to the assignment judge for reassignment.

V. FELONIES

A. BACKGROUND

1. PHASES IN FELONY PROCESSING

The phases in the processing of felony cases are outlined completely on pages 113-124. Briefly, they are:

a. District Court Arraignment

Arraignment for custody defendants is held within 24 hours of arrest before the district court judge assigned to hear arraignments that week. Noncustody defendants are arraigned generally within 48 hours of arrest.

b. Preliminary Hearing

A preliminary hearing is scheduled within 10 days after arraignment for custody defendants and 20 days for noncustody defendants. In practice, few preliminary hearings are held as most defendants are indicted before the scheduled date for preliminary hearing.

c. Grand Jury Indictment

Grand jury indictments are relied on almost exclusively by the district attorney in lieu of preliminary hearing. Cases scheduled for preliminary hearing are either dismissed by the district attorney under Civil Rule 43a or a continuance is requested. The case is then brought before the grand jury and an indictment is returned.

d. Superior Court Arraignment

After grand jury indictment, a superior court arraignment is held before the presiding judge. Custody defendants are arraigned within 24 hours after the filing of the indictment while noncustody defendants generally are arraigned within 48 hours.

e. Omnibus Hearing

An omnibus hearing is set for all cases before the presiding judge approximately 30 days after superior court arraignment. The purpose of the hearing is to consolidate motions into one appearance. Parties must file all papers, motions, etc., five days prior to the hearing date. Parties may waive the hearing by phone.

f. Calendar Call

Calendar call is held before the presiding judge on Monday afternoon for cases scheduled for trial during the following week. At the calendar call, the trial readiness of a case is determined. A start date is assigned.

g. Assignment of the Trial Judge

The trial judge is assigned on Tuesday morning of the week prior to trial. Assignment at this time allows for the filing of peremptory challenges. Judges are assigned on a rotational basis.

h. Trial

Trials are set approximately 60 days after superior court arraignment. Parties appear directly in the trial department.

2. CALENDAR ORGANIZATION

The superior court felony calendar is organized as outlined in Table 11. Arraignments in district court are held daily, noncustody at 9:00 a.m. and custody arraignments at 1:30 p.m. by the district court judge assigned to hear arraignments for that week. Preliminary hearings are scheduled for Friday at 1:30 p.m.

Grand jury returns are made before the presiding judge at the termination of grand jury sessions. Superior court arraignments are scheduled for 9:00 a.m. and 1:30 p.m. before the superior court presiding judge. The presiding judge also holds omnibus hearings at 10:00 a.m. daily, calendar call on Monday at 3:30 p.m. and hears any other criminal motions including motions for continuances.

All superior court judges hear criminal trials, with the general exception of the presiding judge who presides over a trial only in unusual circumstances and if the trial is of short duration. Trial judges are available from 8:30 to 10:00 for sentencing, revocation and other matters pertinent to criminal processing. Trials commence between 9:00 and 10:00 a.m. each day.

Table 11
 SUPERIOR COURT CALENDARS
 FELONIES

TIME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
8:00					
9:00	Arraignment Sentencing, Revocation and Other Matters	Arraignment Sentencing, Revocation and Other Matters	Arraignment Sentencing, Revocation and Other Matters	Arraignment Sentencing, Revocation and Other Matters	Arraignment Sentencing, Revocation and Other Matters
10:00	Orn H n e i a b Trials	Orn H n e i a b Trials	Orn H n e i a b Trials	Orn H n e i a b Trials	Orn H n e i a b Trials
11:00	ru i s n g	ru i s n g	ru i s n g	ru i s n g	ru i s n g
1:00					
2:00	Ar r m a e i n g t n Trials	Ar r m a e i n g t n Trials	Ar r m a e i n g t n Trials	Ar r m a e i n g t n Trials	Ar r m a e i n g t n Trials
3:00	Call of the Calendar				
4:00		Bail hearings and motions are heard before the presiding judge as scheduled.			

3. PERSONNEL

a. Judicial and Judicial Support

The superior court consists of eight judges, a probate master and a standing master. The immediate support staff consists of eight law clerks and nine secretaries. The family division has three intake officers, a custody investigator, a court clerk and three secretaries. The probate division has a secretary and a court clerk.

b. Clerical

As outlined in the section on misdemeanors, the clerical personnel in the criminal department handle both superior and district court matters. Consequently, personnel are not assigned to superior court matters exclusively. However, the primary clerical work is carried out by the assistant criminal department supervisor and two superior court clerks.

c. Calendaring

Calendaring functions are carried out by several departments. The arraignment clerk in the criminal department sets district court arraignment.

The district court receptionist determines the date of the preliminary hearing.

Superior court arraignment is set by the in-court clerk within parameters established either by court rule or court policy. Omnibus hearing, calendar call and trial week are scheduled by the calendar department. Dates for these appearances are established prior to arraignment by the calendar department. They are entered on the "Order for Omnibus Hearing, Pretrial Assignment of Judge and Trial" by the judge's secretary and given to the in-court clerk. If a party has conflict with the pre-set date, the in-court clerk uses a hot line telephone to the calendar department to obtain a different date. Any subsequent changes of calendar dates are handled by the calendar department. Motions and other hearings are scheduled by the presiding judge or the calendar department and assigned to judges on an availability basis.

4. BUSINESS OF THE COURTS

Felony case activity has declined steadily during the last four years. The number of felony filings in superior court decreased from 900 in 1973 to 516^{12/} in 1976 while dispositions declined from 734 to 610^{12/} during the same time period. Felony filings in the district court dropped from 517 in 1973 to 477 while dispositions dropped from 519 to 451.

ANCHORAGE SUPERIOR COURT
FELONY CASES

FILINGS AND DISPOSITIONS
1973-1976

Court	1973		1974		1975		1976	
	Filed	Dispos.	Filed	Dispos.	Filed	Dispos.	Filed	Dispos.
District	517	519	581	606	656	523	477	451
Superior	900	734	710	616	582 ^a	514 ^a	516 ^a	610 ^a
Total	1,417	1,253	1,291	1,222	1,238	1,1037	993	1,061

^aIncludes other criminal filings and dispositions.

The total number of separate felony cases is somewhat lower than indicated by the totals for district and superior courts. A significant percentage of district court filings and dispositions, over 40 percent according to the Manager of Technical Operations, were refiled in superior court through the indictment process.

^{12/}Includes other criminal.

The average age of cases at disposition, measured from the first appearance to dismissal, acquittal or sentencing was 221 days while the median was 106 days.^{13/} The difference between the mean and the median indicates a number of extremely old cases are being disposed, resulting in a high mean. However, cases normally are disposed of expeditiously as indicated by the low median and the fact that no cases were dismissed because of failure to meet the 120 day rule requirement.

^{13/} Alasks Court System 1976 Annual Report. Op. cit., p. 59.

B. ANALYSIS AND RECOMMENDATIONS

1. SYNOPSIS

Felony case processing involves low case volume but complicated calendaring procedures. Trials and hearings can be protracted but often are disposed of or continued before scheduled appearances. This can leave gaps in the calendars of judges assigned to criminal matters.

In calendaring, the court has established a policy of setting omnibus hearings for all matters. Evidence indicates that omnibus hearings frequently are never held, suggesting a modification in the procedure. Complex cases, i.e., cases involving multiple defendants and/or serious crimes, move through the system with numerous and perhaps some unnecessary court appearances. Assignment of complex cases to one judge may speed up the processing of these cases.

The condition of the felony calendar is good, but this achievement may result in a clogged civil calendar. Selective adjustments in trial priorities (criminal versus civil) at times may improve the overall court calendar without seriously affecting criminal case processing. Continuances of calendar call and trial dates are higher than desired. Stricter adherence to continuance policies should be sought.

Clerical procedures generally function well. This is partially attributable to the lower case volume which reduces the pressures associated with misdemeanor cases.

A major source of unnecessary clerical work involves closing and re-opening cases as a result of the prosecuting attorney's use of grand jury procedures in lieu of preliminary hearings. At present, however, no solution appears available. Some overlap of duties exists, for example, both the calendar and the criminal departments separately monitor the four-month rule. The high incidence of vacating the omnibus hearing date and continuing calendar call and trial dates requires clerical work in rescheduling. Implementation of recommendations to reduce these problems should improve clerical efficiency.

2. CALENDAR PRACTICES

Recommendation: Preliminary hearings should be scheduled on the custody arraignment calendar once a week.

Preliminary hearings presently are scheduled for Friday afternoons. The practice of the district attorney is to by-pass the preliminary hearing and seek a grand jury indictment. Consequently, for the 178 hearings scheduled from February to June, none actually were held (Table 12). Analysis of the log notes of the courtrooms in which these hearings were scheduled indicates the court was unable to schedule other matters in those courtrooms, resulting in the loss of available judicial bench time. Setting preliminary hearings on the arraignment calendar will eliminate this problem while providing a hearing room should a preliminary hearing proceed.

The basic problem of why hearings which are never heard must be scheduled remains unresolved. Significant clerical time is expended in scheduling these matters and preparing case files. This time can be saved if the district attorney changes the practice of waiting until the eve of the preliminary hearing to continue the case or dismiss it under Rule 43a and seek an indictment. The court should ask the cooperation of the district attorney in this matter.

Table 12

ANALYSIS OF RESULTS OF PRELIMINARY HEARINGS
February - June 1977

Number of Preliminary Hearings Scheduled	178
Number of Preliminary Hearings Held	0
Other Actions	
Case Dismissed Pursuant to Rule 43a	75
Defendant(s) Indicted	68
Case Transferred	3
Deferred Prosecution	1
Continued	31

Recommendation: Further study of the effectiveness of the indictment process should be undertaken.

The impact of the grand jury indictment system on the Anchorage trial courts has not been adequately documented. The Alaska Judicial Council conducted a study in 1975 which focused primarily on the advantages and disadvantages of the grand jury system from the point of view of the defendant. The author found grand juries to be "cumbersome, not inexpensive [and] they do not appear to advance the progress of most cases toward final resolution."^{14/} He concluded that "the grand jury indictment process is no longer fulfilling its intended functions and should be replaced by a probable cause hearing procedure."^{15/}

It is not within the scope of this project to confirm or deny these assertions. However, the existence of this dual criminal process results in wasted clerical effort. Calendaring preliminary hearings which never occur has been discussed. Also, if a case is dismissed under Rule 43a, as were 75 from February to June, the case file must be closed and a dismissal routed throughout the criminal justice system (police agencies, district attorney, public defender, technical operations, defendant and the case file at a minimum). Since a defendant often is subsequently indicted, frequently a new case file

^{14/}Michael L. Rubinstein, The Grand Jury in Alaska: Tentative Recommendations to the Judicial Council, Alaska Judicial Council, February, 1975, p. 39.

^{15/}Ibid.

must be opened with the attendant procedural requirements. Consequently, the court is employing a procedure which is inefficient from a clerical standpoint and also is apparently failing to fulfill its substantive purpose in the criminal process. It should be thoroughly reviewed and alternatives considered.

At the writing of this report the preliminary hearing/indictment process is under study within the district attorney's office. The recommendations and comments made will have to be considered in light of changes resulting from this study.

Recommendation: The omnibus hearing should be eliminated except when requested by the parties.

The purpose of the omnibus hearing is to consolidate motion practice into a single hearing as well as establish a time after which constitutional issues cannot be raised. In practice, the omnibus hearing often is not held. Even when held, motions continue to be made at times other than at omnibus hearing. For example, in a sample of cases drawn from indictment cases filed from July to December in 1976, 29 of the 52 scheduled omnibus hearings were not held (Table 13). Additionally, for the 23 cases in which an omnibus hearing was held, 59 other appearances were made (excluding change of plea hearings) or a total of 3.6 appearances per case for motions and hearing. Cases not having an omnibus hearing had a total of 66 appear-

ances or only 2.3 per case for similar purposes. For this sample, therefore, holding the omnibus hearing resulted in at least one additional court appearance per case.

The additional appearances might be justified if higher levels of pretrial dispositions were achieved. Such was not the case, however. Only two cases were disposed of at the omnibus hearing and of the 23 cases having an omnibus hearing, six or 26 percent continued on to trial compared to six or only 21 percent of the 29 cases which did not have an omnibus hearing.

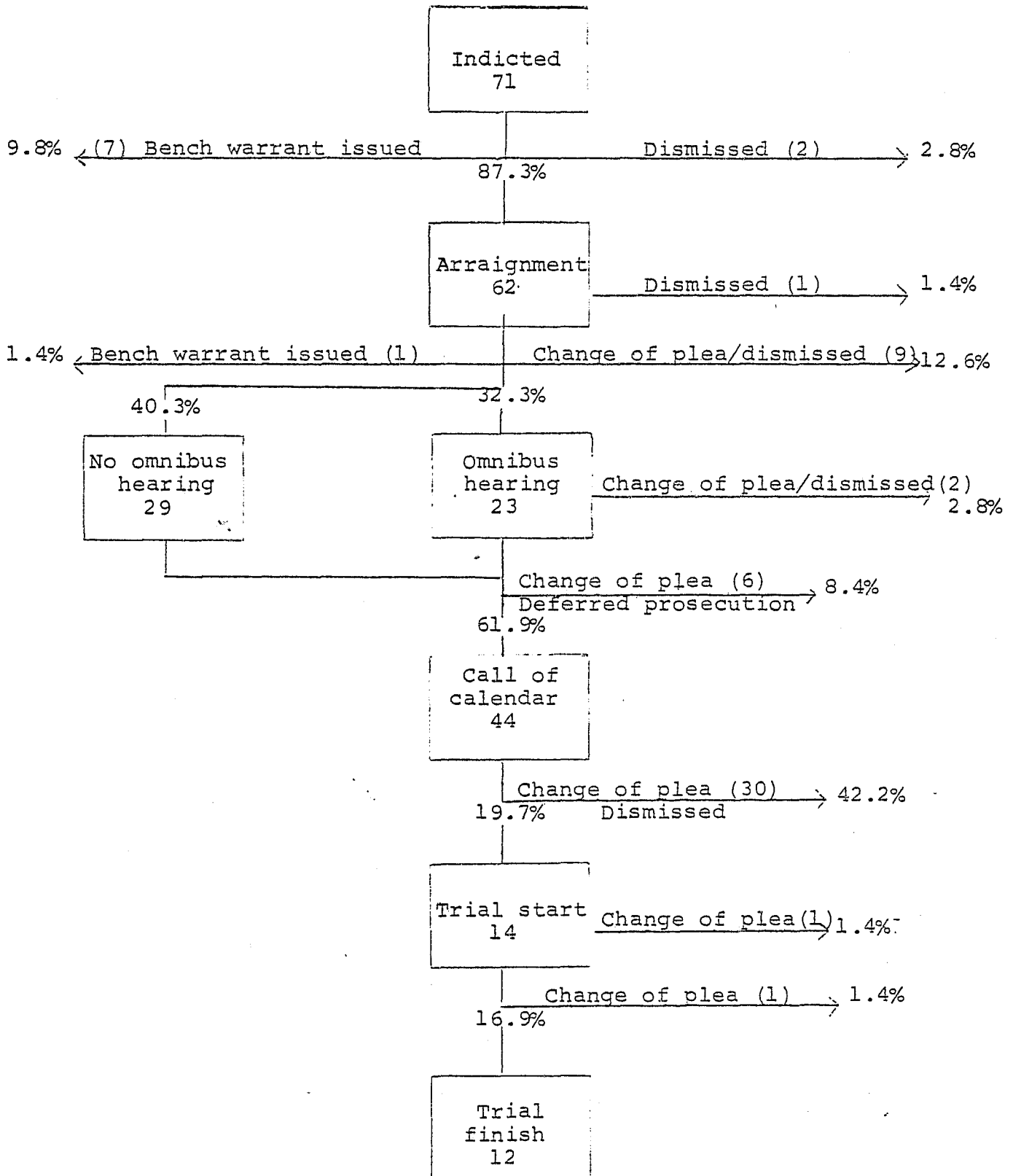
Additionally, examination of the nature of the pretrial appearances other than at omnibus hearing (and arraignment) indicates that many do not lend themselves to consolidation into a hearing at a predetermined date (Table 14). Bail hearings, changes of plea, and withdrawals as counsel are examples of proceedings that may occur at any time in the criminal process.

The above sample is small for drawing major conclusions. However, the statistics do suggest that the omnibus hearing is not performing its designated function nor contributing significantly to pretrial dispositions. Establishing time limits on raising constitutional issues could be accomplished through a pretrial order or stipulation without an appearance. Consequently the policy of automatically assigning an

Table 13

ANCHORAGE SUPERIOR COURTS
 SAMPLE OF INDICTED CASES
 JULY-DECEMBER
 1976

DISPOSITIONS ^a



^aOne case is still pending and is not included.

Table 14

ANCHORAGE SUPERIOR COURTS
 SAMPLE OF INDICTMENT CASES^a
 JULY-DECEMBER
 1976

MOTION AND HEARING APPEARANCES

<u>Type</u>	<u>Number</u>
Change of plea	42
Continuances	23
Bail hearing	15
Dismiss	14
Supress evidence including videotape deposition	14
Waive four month rule	8
Withdraw as counsel	8
Appoint attorney	7
Set hearing	6
Sever from other cases/counts	5
Competency	3
Waive jury trial	2
Remove from calendar	2
Return particular monies	2
Issue bench warrant	2
Other	<u>10</u>
TOTAL	163

^aExcluding seven cases in which bench warrants were issued and one case still pending.

omnibus hearing date should be revised. Only those cases in which the attorneys request an omnibus hearing or the presiding judge, in his opinion, believes an omnibus hearing is necessary should be set for this appearance.

Recommendation: The court should establish tighter, more restrictive policies regarding attorney withdrawals after appointment.

For the sample of cases examined, 8 of the 71 had hearings on petitions from the attorney of record to withdraw. Four were from the public defender citing conflicts, but the other four were from private attorneys citing trial conflicts in other courts. One petition was denied but the other three were granted resulting in the vacating of dates set for omnibus hearing and trial and setting another hearing for the appointment of a new attorney. The attorneys in these cases waited until the day of the scheduled court appearance to make their motions. If attorneys were required to file motions for withdrawal within 24 hours after appointment, the integrity of the calendar could be better maintained.

Recommendation: The court should set change of plea hearings 10 days after the call of the calendar.

The time period between calendar call and trial is the greatest source of dispositions in the criminal process. Of the 62 dispositions in the July to January sample, 30 or 48 percent were recorded during this time period. The realization of impending trial and perhaps more importantly the knowledge of who the trial judge

will be undoubtedly are the primary sources of the high incidences of change of plea. At present, however, these hearings are occurring significantly after the calendar call. For the 29 changes of plea after call of the calendar and before trial, the mean time interval was 16.8 days. (Table 15) This time is excessive.

Recommendation: After superior court arraignment, complex cases should be assigned to one judge to hear all motions, hearings and trial.

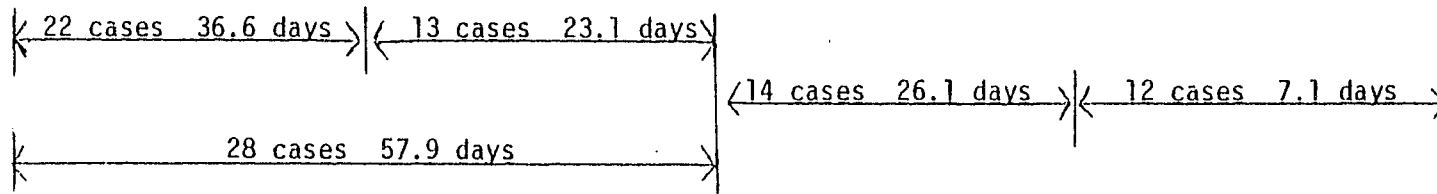
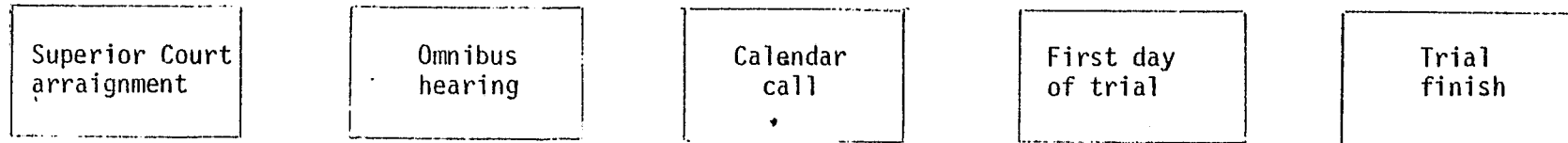
Further analysis of the average time from calendar call to trial start indicates that the main source of the high mean time from calendar call to trial start was five cases which averaged 57 days from calendar call appearance to trial start. These five cases were complex matters as evidenced by the 29 motion and hearing appearances made. As would be expected, they can be characterized as involving serious issues (murder, use of a firearm/robbery, assault with a dangerous weapon, escape and burglary) and often involving more than one defendant (three of the five).

Other jurisdictions using master calendar techniques have found that using individual calendaring for complex matters, that is, assigning the case to one judge from arraignment to trial, offers several advantages.^{16/} Often hearings can be consolidated, dilatory motions

^{16/}John G. Fall, Master-Individual Calendar Study, pages 107, 195. This practice is fairly common in California superior courts and also was noted in the Wayne County (Detroit) Court of Common Pleas.



Table 15
 ANCHORAGE SUPERIOR COURTS
 SAMPLE OF INDICTED CASES ^a
 JULY-DECEMBER
 1976
 MEAN TIME INTERVALS IN CALENDAR DAYS



^a Excluding seven cases in which a bench warrant has been issued and one case still pending.

eliminated, and the parties brought to the issues earlier in the process. Furthermore, having one judge handle all aspects of the case minimizes the time required for the judge to become familiar with the case.

Standards should be established for when such assignments should be made. Certainly multiple defendant cases involving serious crimes and capital offense cases should be considered. Using these standards as guidelines, the presiding judge should make the appropriate assignment at superior court arraignment.

Recommendation: The area court administrator periodically should adjust trial scheduling priorities to allow backlogged non-criminal matters to have priority.

The system performance profile developed for criminal cases analyzed indicates criminal matters are handled expeditiously. This healthy condition is reflected in the mean and median times from superior court arraignment to disposition, excluding time for sentencing. The mean is 79.6 days and the median was 72 days (Table 16). Even allowing 20 days for processing cases through the district court, cases are being disposed of well within the 120 day rule limit.

Since superior court judges hear both civil and criminal trials, this healthy criminal calendar allows for more flexibility in setting priorities, and the court at times should allow other matters, particularly cases involving witnesses from outside Alaska, to have priority over criminal cases.

Table 16
 ANCHORAGE SUPERIOR COURTS^a
 SAMPLE OF INDICTMENT CASES^a
 JULY-DECEMBER
 1976

SYSTEM PERFORMANCE PROFILE

<u>Index</u>	<u>Performance Level</u>
A. Time to disposition:	
Time from superior court arraignment to disposition (excluding time required for sentencing)	
Mean number of days	79.6
Median number of days	72.0
B. Continuances	
Mean number of continuances per case	.61
C. Mean number of appearances scheduled	
	7.6
D. Mean number of appearances other than arraignment, omnibus hearing, calendar call and trial	
	2.6
E. Scheduling:	
$\frac{\text{Appearances held}}{\text{Appearances scheduled}} = \frac{342}{409} =$.84
F. Omnibus hearings:	
$\frac{\text{Omnibus hearings held}}{\text{Omnibus hearings scheduled}} = \frac{23}{52} =$.42
G. Trials per disposition:	
$\frac{\text{Trials completed}}{\text{Dispositions}} = \frac{12}{64} =$.19

^aExcluding seven cases in which a bench warrant was issued and one pending case.

Recommendations: A trial setting formula based on empirical data should be employed in setting criminal trials. Present statistics indicate that five cases should be set for every trial expected.

Criminal trials should be set based on empirical data reflecting the ratio of trials held to trials set. According to statistics maintained by the calendar department, 353 trials were set from September 1976, to May, 1977, and 60 or 17 percent actually proceeded to a court or jury trial (Table 17). The statewide ratio of trials to trial settings for 1976 was somewhat lower at 12 percent. Consequently, the five to one ratio suggested should be conservative and allow for some greater than expected trial activity. Under the present system, 10 trials are set per week for the two judges hearing criminal matters. This system is satisfactory if two criminal trials are desired.

Recommendation: Continuance policies, particularly of calendar call and trial dates, should be strictly enforced.

Continuances are not a problem in felony case processing until the case nears the scheduled trial date. Overall, for the sample of cases analyzed, a total of 62 continuances per case was noted, a rate of eight percent for all appearances (Table 16). However, calendar call, the last appearance before trial, was frequently continued, pushing back the trial start date and resulting in an average time from calendar call to trial start of 26.1 days for the cases in the sample.

The trial date was continued 33 percent of the time for all Superior Court felony trials commencing from September 1976 to May 1977 (Table 17). This figure is significantly higher than the continuance rate of 18 percent recorded for misdemeanor trials. The court should review its continuance policies and insure that they are strictly adhered to.

Table 17
SUPERIOR COURT

Analysis of Results of Superior Court Criminal Trials
September 1976-May, 1977

<u>Action</u>	<u>Number</u>
Set for Trial	353
Continued	116
Bench Warrant Issued	6
Disposition or Action Other than Trial	167
Change of Plea	102
Dismissed	49
Deferred Prosecution	16
Trials	60
Jury	49
Court	11
Other (Under advisement, removed from calendar, change of venue, stayed)	4
Average Length of Jury Trial	5.1 Days
Average Length of Court Trial	2.2 Days
Ratio of Trials Held to Trials Set	17.0
Continuance Rate	.33

Recommendation: The court should adopt standards for the commencement and the reconvening of trials, ideally commencing at 9:30 a.m. and reconvening at 1:30 p.m.

Recent statistical analysis conducted by the Manager of the Office of Technical Operations indicates that Anchorage Superior Court trial judges average 3.34 hours of bench time daily.^{17/} This figure is below average compared to other courts. For example, empirical data gathered in the development of a weighted caseload system in Washington indicates that judges in superior courts with six or more judges average slightly over four hours a day of bench time.^{18/}

One reason for the lower averages in Anchorage is that there is some variation among judges with regard to the time trials commence in the morning and reconvene in the afternoon. An analysis of log notes from January and February showed trial start times ranging from 9:00 a.m. to 10:30 a.m. and reconvening from 1:00 p.m. up until 2:30 p.m. While this variation is dictated to some extent by pretrial hearings and motions, the court should establish a goal of commencing trial at 9:30 a.m. and reconvening after lunch at 1:30 p.m.

^{17/} Preliminary analysis of bench time study, Office of Technical Operations, Administrative Office.

^{18/} National Center for State Courts, Washington Superior Court, Weighted Caseload Project, 1977, p. 16.

3. CLERICAL PROCEDURES

Recommendation: The court should clarify and designate any responsibility for monitoring the four-month rule.

The responsibility for monitoring the four-month rule has never been clearly defined as being either a court or prosecutorial function. The rule presently is monitored by both the criminal department and the calendar department. The court should determine whether the rule should be monitored and, if so, by what department.

C. CASE PROCESSING UNDER THE PROPOSED SYSTEM

Under the proposed system, felony case processing will continue to function essentially as it does now. A separate hearing time for preliminary hearings will be eliminated and these hearings will be placed on the arraignment calendar. Felony case arraignments will be scheduled in the same manner as misdemeanor cases in the criminal department.

Subsequent appearances will be scheduled with omnibus hearings optional unless ordered by the presiding judge, and some complex cases will be assigned to one judge after arraignment.

PRESENT SYSTEM

I. SETTING FOR ARRAIGNMENT

II. ARRAIGNMENT

- A. Fourteen copies of arraignment calendars are made for:
 - 1. Bulletin boards
 - 2. District Attorney
 - 3. Public defender
 - 4. In-court clerks
 - 5. Pre-trial services
- B. Case file is taken by messenger to courtroom and given to judge.
- C. Judge
 - 1. Fills out "Hearing Record" including date of arraignment, bail, and signature.
- D. In-court clerk:
 - 1. Fills out log notes
 - 2. Gives judge preliminary hearing date obtained from the district court receptionist.
- E. Actions
 - 1. Defendant advised of his rights
 - 2. Bail is set
 - 3. Preliminary hearing date set

PROPOSED CHANGES

Changes noted in the misdemeanor section apply to felony cases for setting arraignments.

PRESENT SYSTEM

PROPOSED CHANGES

OR 4. Preliminary hearing waived

- Defendant signs "Waiver, of Preliminary Hearing" form.
- Judge signs "Order Holding Defendant to Answer After Waiver of Preliminary Hearing".

III. SETTING FOR PRELIMINARY HEARING

- A. Dates are set by judge after receiving an available date from the in-court arraignment clerk as follows:
- Within 10 days for custody defendants
 - Within 20 days for noncustody
- B. In-court clerk gives copy of "Notice of Next Appearance" form to the district court receptionist for entry into the calendar book.
- C. Calendar book sent to calendaring department to enter the preliminary hearing date on the master calendar.
- D. Calendar department sends calendar to criminal department.

Preliminary hearing will be set on the regular arraignment calendar, adhering to the same time frames.

The "Notice of Next Appearance" form will be forwarded directly to the calendar clerk. The district court receptionist will not be involved in the calendar process.

District court calendar clerk will be located in the criminal department.

The need to send the calendar to the criminal department will be eliminated.

PRESENT SYSTEM

PROPOSED CHANGES

IV. PREPARATION FOR GRAND JURY INDICTMENT

- A. District Attorney makes up "Working Sheet" list of defendants to be indicted several days prior to Grand Jury day. Information includes:
- Defendant's name
 - Case number (no case number listed for defendants who have not been arraigned).
- B. "Work Sheet" routed to criminal department which fills in (if available):
- Attorney
 - Bail
 - Custody status
- C. District Attorney informs court of exactly which defendants will go before Grand Jury and order of appearance.
- D. Criminal department types "Report and Presentment of Indictment" form including:
- Case number
 - Defendant's name
 - Attorney
 - Bail/bond information including bonding company
 - Custody status
- E. "Report and Presentment of Indictment" routed to in-court clerk of judge (usually presiding judge) to hear indictment returns.

PRESENT SYSTEM

PROPOSED CHANGES

V. GRAND JURY INDICTMENT RETURNS

A. Heard in Superior Court courtroom

B. Recording information

1. Judge signs indictment and sets bail.

2. In-court clerk fills out "Report and Presentment of Indictment." Original is sent to the criminal department. Copies go to calendaring and to telex operator in charge of cassettes of grand jury indictments.

C. Actions

1. In-court clerk

a. Custody defendant

- Completes "Temporary Order" adding charges, bail, true bill, seal and judge's signature and sends to jail with a copy to the case file
- Criminal department partially fills out "Temporary Order" prior to return hearing
- Original and one copy are sent to Judicial Services for delivering to the jail
- Sets on Superior Court arraignment calendar for 9:00 a.m. or 1:30 p.m. the next day on "Report and Presentment of Indictment." Copies to:
 - Calendar
 - Criminal

PRESENT SYSTEM

PROPOSED CHANGES

b. Noncustody defendant

- Notes issue "Summons" or "Bench Warrant" on "Report and Present-ment of Indictment"
- If bond exists on a defendant, calendar calls bondsman and notifies of the arraignment date.

2. Criminal Department

a. Sets up case file, if no file exists

b. Adds

- "Four Month Rule Card"
- "Calendar Card" (used by calendar to monitor Four Month Rule Card)

c. Pulls all superior court cases involving defendant and joins with case file

d. Fills out "Case History" form, xeroxes and gives copy to Technical Operations

e. For non-custody defendants:

1. Fills out "Summons"

- Prepares "Summons" with Superior Court arraignment date set for one week hence
- Sends "Route Slip" to calendar department

Eliminate the calendar card or Four Month Rule card depending on court's decisions regarding monitoring the four month rule.

PRESENT SYSTEM

PROPOSED CHANGES

- OR 2. Makes out "Bench Warrant" (no arraignment date assigned)
3. "Summons" or "Bench Wafrant" carried to AST for service.
- D. Defendant may waive indictment by filling out "Waiver of Indictment".
- Scheduled directly for Superior Court arraignment
- E. Dismissing indictment
1. At any time in the process the indictment or counts of the indictment may be dismissed.
 2. Judge fills out "Order Dismissing (Counts of) Indictment".
 3. Criminal department closes "Case History" form and routes copies of order to affected agencies.

PRESENT SYSTEM

PROPOSED CHANGES

VI. PRELIMINARY HEARING/REMOVAL OF INDICTMENT CASES

A. Elimination of cases from preliminary hearing calendar

1. Returned indictments

- Send "Route Slip" to calendar

2. Dismissed

- Close "Case History" form

- Copies of dismissal to:

- File

- Department of Corrections

- District Attorney

- Defendant's attorney

- Law Enforcement Agency

- If there is subsequent indictment, transfer old case documents to new case file, assign new number.

3. Case continued with indictment the next week

- Use same case number and put district court matters in case file.

B. Remaining cases routed by messenger at noon for 2:00 p.m. preliminary hearing calendar.

Cases routed along with arraignment cases to the arraignment department.

C. Recording information

1. Judge fills out "Record of Preliminary Hearing"

2. Clerk fills out log notes

PRESENT SYSTEM

PROPOSED CHANGES

D. Actions

1. Held to answer

- a. Judge signs "Order Holding Defendant to Answer After Preliminary Hearing"
- b. File Routed to Criminal Department
- c. Defendant placed on Grand Jury list by District Attorney
- d. Criminal department maintains tickler file to insure defendant placed on Grand Jury list.

2. Reduced to misdemeanor

- a. District attorney files dismissal on felony charge
- b. Information filed reducing charge to misdemeanor
- c. Arraigned on information at preliminary hearing
 - Judge fills out "Judgment and Hearing Record"
 - Clerk fills out "Notice of Next Appearance"
- d. If necessary, scheduled for calendar call and proceeds as other misdemeanors
- e. After case file routed back to criminal department, case transferred from felony file folder to misdemeanor file folder
 - Felony dismissal routed to affected agencies
 - If dismissal of felony filed prior to arraignment, case given new number

PRESENT SYSTEM

PROPOSED CHANGES

3. Not held to answer

- a. "Order Discharging Defendant" signed by judge and routed to affected agencies

VII. SUPERIOR COURT ARRAIGNMENT

A. Held before Superior Court presiding judge

B. Actions

1. Guilty

- Occurs only on rare occasions, would be set for sentencing hearing

2. Not guilty

- Set for omnibus hearing, calendar call, trial week and the trial judge is assigned using the form "Order for Omnibus Hearing, Pretrial, Assignment of Judge and Trial"
- Judge's secretary fills in form with dates obtained from calendaring prior to the arraignment
- If there is a conflict on dates, clerk calls calendar department on hot line for another date

Cases set for omnibus hearing only in the discretion of the presiding judge or if the parties request such a hearing.

Complex cases will be assigned to one judge for all subsequent proceedings.

PRESENT SYSTEM

PROPOSED CHANGES

VIII. SETTING FOR OMNIBUS HEARING, CALENDAR CALL
AND TRIAL WEEK

- A. Dates for omnibus hearing, calendar call and trial week given to in-court clerk prior to arraignment
- B. If conflict arises, in-court clerk calls calendar department from courtroom for another date.
- C. Hearings are set according to following schedule:
 - Omnibus hearing: 30 days after arraignment (maximum four per day)
 - Calendar call: week prior to trial
 - Trial week: 60 days after arraignment (maximum of 10 per week)

IX. OMNIBUS HEARING

- A. Central files pulls and routes file by messenger the day prior to the hearing.
- B. Hearing held before presiding judge or assigned judge if presiding judge unavailable from 10 a.m. to 12 p.m. daily
- C. Criminal department enters papers from hearing

PRESENT SYSTEM

PROPOSED CHANGES

X. CALENDAR CALL

- A. Held Monday prior to trial week before the presiding judge.
- B. Judge determines what cases are trial ready.
- C. Clerk from calendar department is in the courtroom to resolve any date conflicts should they arise.
- D. At the conclusion of the hearing the district attorney goes to calendar department to get actual trial date.
- E. Calendar department notifies the defense attorney of the date.
- F. Trial judge is assigned in rotation on Tuesday morning. Assignment allows five days for filing of peremptory challenge.

XI. TRIAL

- A. Parties appear in trial courtroom.

PRESENT SYSTEM

PROPOSED CHANGES

XII. PRESENTENCE REPORT

A. Judge orders

1. In-court clerk prepares "Order for Presentence Report"
 - Calls Department of Corrections
 - Routes order to the Criminal Department
2. Criminal Department
 - Original to file
 - 1 copy to Department of Corrections
 - 1 copy placed in presentence folder

B. Presentence Report Filed

1. Criminal Department
 - Types on envelope
 - Title
 - Case number
 - Charge
 - Date presentence was filed
 - Enters information on case file and "Case History Form"
 - Routes original of report and file to judge
 - Keeps copy with outcard showing to which judge routed

VI. CIVIL (SUPERIOR)

A. BACKGROUND

1. PHASES IN THE CIVIL CASE PROCESSING SYSTEM

The phases of the processing of superior court civil cases are fully outlined on pages 151-159.

Briefly they are:

a. Filing of a Complaint

Complaints are received and process is issued by front counter clerks in the civil department. A motion judge is assigned at the time of filing.

b. Motions

Appearances for motions are scheduled by calendaring. Motions are heard daily from 9:00 to 10:00 a.m.

c. Filing of Memorandum to Set

When the parties have completed discovery, a memorandum to set a trial date is filed. The memorandum is held for 13 days allowing for the filing of any counter memorandums and then a trial setting conference date is set.

d. Trial Setting Conference

The trial setting conference is held before the area court administrator. Trial dates are set at this appearance.

e. Assignment of Trial Judge

Assignment of the trial judge is made under the supervision of the presiding judge the week prior to trial. Attorneys are notified by the calendaring

department on Thursday or Friday prior to the week of trial of the probable trial judge and actual start date.

f. Trial

Trials begin at 10:00 a.m. on the day scheduled.

2. CALENDAR ORGANIZATION

The superior court civil calendar is organized as outlined in Table 18. Civil trials are scheduled at 10:00 a.m. daily. Oral argument on motions, ex-parte matters and settlement conferences are heard Monday through Friday from 9:00 to 10:00 a.m.

Judgment debtor examinations, default hearings, and garnishee hearings are scheduled before a standing master at 8:30 a.m. on Tuesday and Thursday. The standing master also hears change of name matters on Tuesdays and Thursdays at 8:30 a.m.

Uncontested divorces are scheduled daily from 10:00 a.m. through 2:30 p.m. before a superior court master. Motions, orders to show cause, temporary restraining orders and miscellaneous hearings are scheduled before the master at 3:00 p.m. Monday through Thursday.

Child proceedings and delinquency proceedings are heard daily at 9:00 a.m. and 1:30 p.m.

Adoptions are heard by the probate master at 9:30 a.m. daily. Other probate matters are heard daily both mornings and afternoons. Family emergency welfare matters are held daily at 2:00 p.m.

TABLE 18
SUPERIOR COURT CALENDARS
CIVIL

TIME	MONDAY				TUESDAY				WEDNESDAY				THURSDAY				FRIDAY			
8:00					Change of Name Hearings				Judgment Debtor Exams; Default & Garnishee Hearings				Change of Name Hearings				Judgment Debtor Exams; Default & Garnishee Hearings			
9:00	Motions Ex-Parte Matters Settlement Confs., etc.	Chil			Motions Ex-Parte Matters Settlement Confs., etc.	Chil			Motions Ex-Parte Matters Settlement Confs.	Chil			Motions Ex-Parte Matters Settlement Confs.	Chil			Motions Ex-Parte Matters Settlement Confs.	Chil		
10:00	Trials	Proce	Adoption &	Uncon	Trials	Proce	Adoption &	Uncon	Trials	Proce	Adoption &	Uncon	Trials	Proce	Adoption &	Uncon	Trials	Proce	Adoption &	Uncon
11:00		ed	Probate Matters	test		ed	Probate Matters	test		ed	Probate Matters	test		ed	Probate Matters	test		ed	Probate Matters	test
1:00				Div				Div				Div				Div				Div
2:00	Delinquency Proceedings	Family Emerg. Welfare		Proce	Delinquency Proceedings	Family Emerg. Welfare		Proce	Delinquency Proceedings	Family Emerg. Welfare		Proce	Delinquency Proceedings	Family Emerg. Welfare		Proce	Delinquency Proceedings	Family Emerg. Welfare		Proce
3:00			Probate Matters	Family motions OSC, TRO & Misc. Hearings			Probate Matters	Family motions OSC, TRO & Misc. Hearings				Probate Matters	Family motions OSC, TRO & Misc. Hearings			Probate Matters	Family motions OSC, TRO & Misc. Hearings			Probate Matters
4:00																				

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3. PERSONNEL

a. Clerical

The civil department of the clerk's office consists of a supervisor and backup supervisor, three journaling clerks, three front counter clerks, one new case clerk and two small claims clerks.

b. Calendaring

Following rules established by the court, the calendaring function is carried out primarily by the area court administrator for trials and by the calendar department for other appearances.

4. BUSINESS OF THE COURTS 1973-1976

Civil case activity has increased in recent years although it is difficult to determine how much of this increase is attributable to domestic relations cases (Table 19). Prior to 1976, domestic relation cases were counted with other civil matters. Beginning in 1976, domestic relations and other civil cases are counted separately.

Table 19
Anchorage Superior Courts
Other Civil Filings and Dispositions
1973-1976

<u>Year</u>	<u>Filings</u>	<u>Dispositions</u>
1973	3,476 ^a	2,704 ^a
1974	3,861 ^a	2,722 ^a
1975	4,644 ^a	3,167 ^a
1976	2,256 (5,460 including domestic relations)	1,585 (4,441 including domestic relations)

^aInclude domestic relation cases and are not comparable to 1976 figures.

The combined other civil and domestic relations filing since 1973 have increased by 57 percent. Dispositions have increased by 64 percent. Filing levels exceed the disposition levels by approximately 1,000 cases per year. Since subsequent analysis indicates that cases are being brought to trial within reasonable time frames, the implication is that many cases which are filed are not pursued. This suggests strong enforcement of Civil Rule 41.

B. ANALYSIS AND RECOMMENDATIONS

1. SYNOPSIS

Superior court civil cases generally are processed within satisfactory time frames relative to other court systems. The median time from the filing of the memorandum to set to trial for the cases analyzed for this project was nine months. In California in 1976, the average time interval from the filing of an at-issue memorandum (similar to the memorandum to set) to trial for the 18 courts with five or more judges was 15.3 months.^{19/} No major deterrent to maintaining this generally satisfactory condition is foreseen, especially since filings per judge actually decreased in 1977 with the addition of a new judge.^{20/}

Improvements in the system can be made, however. In calendaring, use of settlement conferences should be explored. Settlement conferences have proved a successful method for early elimination of matters from trial calendars in other jurisdictions.

The merit of and timing of the trial setting conference should be examined. Whether attorneys should have to appear solely to set a trial date is questioned. However, if the purpose of the conference were expanded to include considering whether to hold a settlement conference, the appearance might still have merit.

^{19/}Annual Report of the Judicial Council of California, January 1, 1977, page 223.

^{20/}Statistics of the Office of Technical Operations indicate that filings in Anchorage Superior Court per full-time equivalent judge will drop from 754 in 1976 to 717 in 1977. This latter figure is based on actual filings for nine months and estimated filings for the last quarter.

Clerical procedures can be improved primarily through elimination of unnecessary papers presently included in the typical case file. This issue has been and will be a topic of consideration at all court levels in Alaska. This report recommends a conservative first step in shifting responsibility from the court to the litigants for storing papers not relevant to the ultimate resolution of a dispute.

As with the processing of other case types, lines of authority should be reorganized in some instances to insure better accountability. Required forms should be simplified to require only essential information. Finally, computer systems increasingly should be employed to store and convey necessary data.

2. CALENDAR PRACTICES

Recommendation: Civil cases in which settlement possibility is high should be set for a pretrial conference before a judge.

The civil process at present does not include a pretrial conference although Civil Rule 16 anticipates the use of such conferences. That rule defines the purpose of such a conference as considering the following:

- (1) The simplification of the issues.
- (2) The necessity or desirability of amendments to the pleadings.
- (3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof.
- (4) The limitation of the number of expert witnesses.
- (5) The advisability of a preliminary reference of issues to a master for findings to be used as evidence when the trial is to be by jury.
- (6) Such other matters as may aid in the disposition of the action.

(Civil Rule 16(a))

Also, Section (d)(2) of Rule 16 states that settlement may be an issue at the conference.

Courts in other jurisdictions have used pretrial or settlement conferences as a mechanism to bring the parties to a consideration of the issues of a case prior

to trial.^{21/} The theory is that parties resist initiating serious settlement discussions prior to or near the trial date for fear of indicating a weak position. The theory continues that if such discussions are initiated by the court with the pretrial judge as an active participant in negotiating a possible settlement, more and earlier settlements of civil cases will result. This will both reduce the number of cases on the civil trial calendar and result in better predictability of cases that actually will go to trial. The need for this greater predictability is evidenced by the fact that 60 cases had to be removed from the civil trial calendar from September, 1976, to May, 1977, for lack of a trial judge (Table 20).

The cost of this recommendation is the judicial time required to hold the conferences. Allocation of such judicial time may not prove beneficial in all instances. Consequently, cases should be screened for whether or not pretrial conferences should be held. Several possible screening methods exist. Cases may be set for pretrial

^{21/} In California, for example, the Standard of Judicial Administration recommended by the Judicial Council for superior court civil calendar procedures states: "To insure the prompt disposition of civil cases, each superior court should adopt the practice of assigning a firm trial date to each ready case. A trial setting or pretrial conference should be conducted some six to eight weeks before the scheduled trial date and a settlement conference 20 days before that date." (California Rules of Court, Standards of Judicial Administration Recommended by the Judicial Council, Section 9.) While the Judicial Council does not maintain statistics on the use of settlement conferences, Mr. George Barbour, Chief of Statistics and Analysis, reports that the courts using settlement conferences have found them useful in reducing trial calendars particularly when the court faces a significant backlog.

conferences based on their characteristics. For example, personal injury motor vehicle cases involving less than \$2,000 in special damages should have high settlement possibility because of the cost of proceeding to trial relative to the amount in controversy. Default judgment and injunction cases, on the other hand, are not appropriate for a pretrial conference. Other possible methods to screen cases are election by the parties themselves or review by the area court administrator after a pretrial conference.

Table 20

SUPERIOR COURT

ANALYSIS OF RESULTS OF SUPERIOR COURT CIVIL TRIALS
September, 1976 - May, 1977

<u>Action</u>	<u>Number</u>
Set for trial	790
Continued	197
Disposed without trial	254
Settled	194
Dismissed	59
Default	1
Removed from calendar without disposition	96
No judge available	60
Removed at parties' or area court administrator's request	33
Change of venue	3
Trials	187
Nonjury	155
Jury	32
Average length of jury trial	4.1 days
Average length of court trial	1.8 days
Ratio of trials held to trials set	.25
Continuance rate of trial date	.27

Source: Monthly Reports to the Calendar Department

Recommendation: The purpose and function of the trial setting conference should be reevaluated relative to the court's action on establishing pretrial conferences.

At present, trial setting conferences are held for triable cases with the exception of some matters such as defaults and injunctions. The trial setting conference is held by the area court administrator and at least the following is considered:

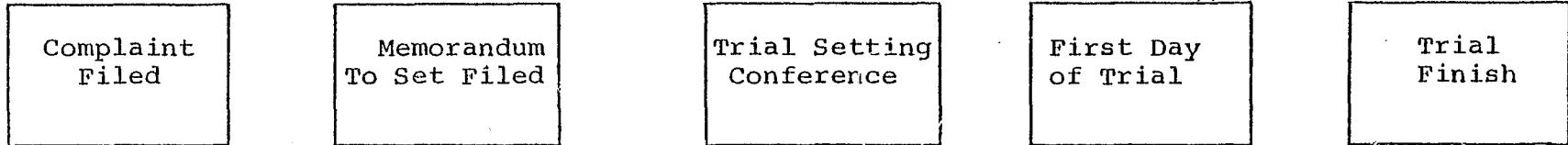
- (1) If the matter is trial ready.
- (2) Limits on time for motions, discovery, exchanging of witness lists, stipulations and briefs.
- (3) Estimate of trial length.
- (4) Whether a jury is demanded.
- (5) Trial date and starting time.

For the sample of cases analyzed, the trial setting conference was held an average of four months prior to the trial date (Table 21).

If the court elects to establish pretrial conferences, the need for making an appearance for a trial setting conference may be eliminated. Many of the issues discussed at the conference could be resolved without requiring an appearance. On the other hand, the trial setting conference could be used as a means to determine if a case should be scheduled for a pretrial conference. Those cases not scheduled for a subsequent conference would proceed directly to trial as under the present system.



Table 21
 ANCHORAGE SUPERIOR COURTS
 GENERAL CIVIL MATTERS AND CIVIL DAMAGE
 CASES TRIED
 JANUARY - APRIL 1977
 MEAN TIME INTERVALS IN MONTHS



|←44 cases 12.1 months^a→| |←44 cases 7.6 months^a→| |←50 cases 4.0 months→| |←43 cases 3.8 days^b→|

^a Some cases such as default and injunction cases did not have memorandums to set filed accounting for the lower number of cases versus the number shown for trial setting conferences and trials.

^b Default and injunction cases are not included in the total.

Source: Analysis of case files conducted by the National Center for State Courts.

Recommendation: Appearances for motions are the prime source of court appearances. The court should continue to attempt to minimize these appearances through enforcement of Rule 77(f).

In 1975, Ernest C. Friesen prepared a technical assistance report on the Superior and District Courts of Anchorage in which he found that appearances for oral argument was excessive and often resulted in "full scale hearing and study of relatively minor procedural questions."^{22/} As a result of that report, Civil Rule 77 was modified to provide for better judicial control over motion practice^{23/} and specifically to allow for oral argument on motions only in the discretion of the judge.

Since no statistics on the number of motions and appearances per case were included in the Friesen report, it is not clear whether motion appearances have been reduced since Rule 77 was modified. However, for the sample of cases analyzed, 1.8 motion appearances were made per case (Table 22). Since the mean number of appearances per case was 4.4, 41 percent of the appearances for the sample cases were for motions (Table 23). The court should continue to exercise its discretion to minimize unnecessary appearances for oral arguments.

^{22/} Ernest C. Friesen, "Technical Assistance Report on the Superior and District Courts," Anchorage, Alaska, 1975, page 7.

^{23/} Supreme Court Order 236 effective March 1, 1976.

Table 22

ANCHORAGE SUPERIOR COURTS
 GENERAL CIVIL MATTERS AND CIVIL DAMAGE
 CASES TRIED
 JANUARY - APRIL, 1977

MOTION HEARINGS

Summary Judgment	16
Attorneys Fees	7
Compel Answer or Production	5
Withdraw as Counsel	5
Dismiss	5
Protective Order	4
Set Aside an Order	4
Set Aside Default Judgment	4
Preliminary Injunction	4
Quash Deposition	3
Amend Complaint	3
New Trial	3
Take Deposition	3
Right of Entry	2
Sanctions	2
Reconsideration	2
Other	<u>23</u>
Total	95
 Motion Hearings per Case	 1.8

Recommendation: The court should strive to reduce continuances, particularly of trial dates.

Continuances of certain court appearances are higher than desirable. For the sample of cases analyzed, the mean number of continuances per case was .69 which is not excessive considering the average case had 4.4 appearances (Table 23). However, continuances of the trial date are the major source of this figure. For the 50 trials started, the start date was continued at least once for 17 cases or for 34 percent of the cases. Continuances of trial dates undermine the confidence of the bar in the court's capacity to operate calendars and can cause major rescheduling problems. The proposal for more pretrial screening through a pretrial conference should reduce the continuance rate and strengthen the integrity of the calendar.

Table 23

ANCHORAGE SUPERIOR COURTS
 CIVIL CASES SCHEDULED FOR TRIAL
 January, 1977 - April, 1977
 SYSTEM PERFORMANCE PROFILE

<u>Index</u>	<u>Performance Level</u>
A. Time	
Time from filing the memorandum to set to disposition	
Mean number of months	11.6
Median number of months	9.0
B. Mean number of continuances per case	.69
C. Mean number of appearances scheduled per case	4.4
D. Mean number of appearances other than trial or trial setting conference	1.8
E. Scheduling	
$\frac{\text{Appearances held}}{\text{Appearances scheduled}} = \frac{189}{221} =$.85
F. Settlement	
$\frac{\text{Cases settled}}{\text{Cases scheduled for trial}} = \frac{75}{323} =$.23
G. Trials	
$\frac{\text{Trials completed}}{\text{Trials scheduled}} = \frac{86}{323} =$.27 (16 jury and 70 nonjury)

Recommendation: Screening of motions by superior court law clerks prior to review by judges should be eliminated in the interest of protecting the integrity of the case file.

Prior screening of motions by superior court law clerks has long been a matter of controversy in the Anchorage trial court. Recommendations regarding elimination of motion screening have been made in the past by various individuals and groups.

While there are a number of reasons for eliminating motion screening, emphasis in this report is placed upon protection of the integrity of the case file. Because motions are now screened by superior court law clerks, motions and supporting documents filed must be routed to them along with related papers filed by opposing attorneys. In addition, at the expiration of the required waiting period, the case file must be pulled and routed to the court attorneys. A significant amount of paperflow is thus created, as motions, files and other documents circulate among the civil department clerks, the superior court law clerks, the file clerks and the messengers. This frequent case movement creates increased possibility for human error. Papers may be lost or misfiled, and must be constantly tracked down as they are needed by attorneys and court personnel.

Much of this paperflow could be eliminated if only motions requiring research were submitted to the law clerks for memoranda. Many motions are of a routine nature, and can be submitted directly to a motion judge for appropriate action. In those cases in which the judge determines that the motion represents a legal question of some complexity, the motion then can be submitted to a law clerk for research.

The tickler files now monitored by the law clerks should be transferred to the civil department and maintained by the clerks there. All papers relating to motions received at the front counter should be routed directly to the superior court civil clerks. These clerks can note pertinent dates, check the tickler file for expiration of the 20 day waiting period, and route files as necessary to the court for consideration of motions. Papers and files thus would be confined to the civil department/central files area. Paperflow will be reduced and files will be generally more accessible to attorneys and court personnel.

3. CLERICAL PROCEDURES

Recommendation: The civil case history form should be redesigned and simplified.

The civil case history form is complex, listing nearly all possible civil case actions. Most of this information is not at present docketed. In both district and superior court cases only significant actions such as the complaint, issuance of a summons, final judgment or order, satisfaction of judgment, and trial by court or jury, are docketed. The remainder of the information appearing on the form is not utilized.

The listing of the additional information does not serve a useful purpose. It can be confusing to clerks, increasing the potential for error. The Manager of Technical Operations, with the assistance of the Civil Department Supervisor and the Clerk of Court, should determine precisely what information should be docketed in civil cases. Following this determination, a simpler case history form should be designed.

Recommendation: Civil file clerks should be supervised by the civil department supervisor rather than the central files supervisor.

The work of the civil file clerks is closely related to the work of the civil department clerks. Both file clerks and civil clerks must have the ability to scan civil documents for pertinent information, recognize the function of each document, and make certain necessary action is taken. In addition, the work of the file clerks is critical to the proper functioning of the civil

department. Unless the file clerks route papers and files in a timely manner to the proper desks within the civil department, the civil clerks are unable to assure that all documents are processed as required. Errors made by the file clerks have a profound effect on the civil clerks.

Because of this relationship, responsibility for the work of the file clerks is more appropriately placed in the civil department. The file clerks should be supervised and accountable to the civil supervisor. This will assure better management of the flow of paperwork from filing to docketing.

There also will be benefits in crosstraining. Since the work of the file clerks and that of the civil clerks are similar in purpose and methodology, new clerks in the one area can be readily trained in the other area. Efficiency should result from the ability to move personnel from one area to another.

The criminal file clerks have been supervised by the criminal supervisor for several months. This arrangement has proved successful, and there is no reason to believe that the same success will not be enjoyed if similar action is taken with the civil file clerks.

Recommendation: Depositions and interrogatories should be filed with exhibits and not in the case file.

A continuing problem for clerical processing is the volume of material included in the average case file, particularly in civil cases. In 1976, the Administrative Office conducted research into the contents of case files to determine if the documents filed were essential for inclusion. The conclusion of the task force conducting the research are summarized in a memorandum to the Administrative Director.

The case files in the Alaska Court System are filled with documents which are not really necessary to the movement of a case through the court system. The additional clerical time involved in filing these documents and the judicial time wasted in searching through thick files for the pertinent or critical forms is slowing the judicial process and limiting the workload capacity of the court. In the face of increasing caseloads, these wasted efforts are a luxury which must be eliminated if the court system is to remain current in its work.^{24/}

The task force focused on the following documents as potentially unnecessary for inclusion in the case file, except when contested: subpoenas, affidavits of mailing, notices of taking depositions, notices of cancellation of deposition, depositions, interrogatories and answers to interrogatories. The affidavit of mailing, which can be a critical document in determining time allowed for a response, was recommended for replacement by a certificate of mailing stamped on the face of the document filed with

^{24/}Memorandum to Arthur H. Snowden II, Administrative Director, from Richard P. Barrier, Manager of Fiscal Operations, June 24, 1976.

the court. This recommendation coincides with general practice in other states such as California.

The judges of the Anchorage Superior Court unani- mously endorsed the proposed changes as they applied to civil procedure (see proposed change to Civil Rule 5). A survey of the members of the Bar Association, however, indicated some resistance to the concept, and no further action was taken.

The resistance by bar members is natural as the effect of the rule change would place more responsibility on attorneys to "retain complete and accurate files and deal honestly and fairly with each other on the time limits to respond to interrogatories, acknowledging receipt of notices of deposition and other areas where the court file would no longer be the initial repository of discovery materials."^{25/} This resistance should not deter the court, however. As cited previously, a sub- stantial source of court workload stems from performing work which more logically should be the responsibility of the parties in the case.^{26/} The increased volume of case activity no longer allows for this luxury, especially when the court is subject to criticism for not carrying out its work in a timely manner.

^{25/} Memorandum to the Administrative Director, op. cit., p. 2.

^{26/} See pp. 11 and 41.

PROPOSED CHANGE TO CIVIL RULE 5

CONTENTS OF CASE FILE

PROPOSED:

- (1) Either before service upon a party, or within a reasonable time thereafter the party making service shall file with the court the original of the following papers: the pleadings, with returns of service; appearances; motions and other applications to the court for specific relief in accordance with Rules 7 and 77, together with briefs, memoranda, and other documents in support of, or in opposition to the granting of such motion or relief; proposed orders, findings of fact and conclusions of law, judgments, and decree.

In addition to the foregoing, there shall be filed in every case all orders by the court, the written record of all proceedings recorded on magnetic tape required by Rule 47 (c) Rules of Administration, chronologically arranged, and such other papers as may be ordered filed by the court.

- (2) Specifically, the case file shall exclude the following documents unless they are filed in support of a motion or other request for relief:
 - a. Subpoenas
 - b. Affidavits of Mailing
 - c. Notices of Taking Depositions
 - d. Notices of Cancellation of Depositions
 - e. Interrogatories
 - f. Answers to Interrogatories
 - g. Depositions

As a first step in eliminating unnecessary materials from the case files, interrogatories and depositions should be filed with exhibits and only their existence noted in the case file. This proposal parallels reforms instituted in other states. Similar procedures are used in Massachusetts and Washington, while in California, Section 2030 of the Code of Civil Procedure was amended to provide that only the first page of interrogatories identifying the parties and any other party directed to answer are filed with the court.

While the recommendation is less ambitious than the proposed change in Civil Rule 5, it has the advantage of being more readily implementable and will create a process of change which should lead to the eventual full implementation of the original proposal, not only for civil practice but also, where applicable, for other case types.

Recommendation: The index of plaintiffs and defendants should be computerized.

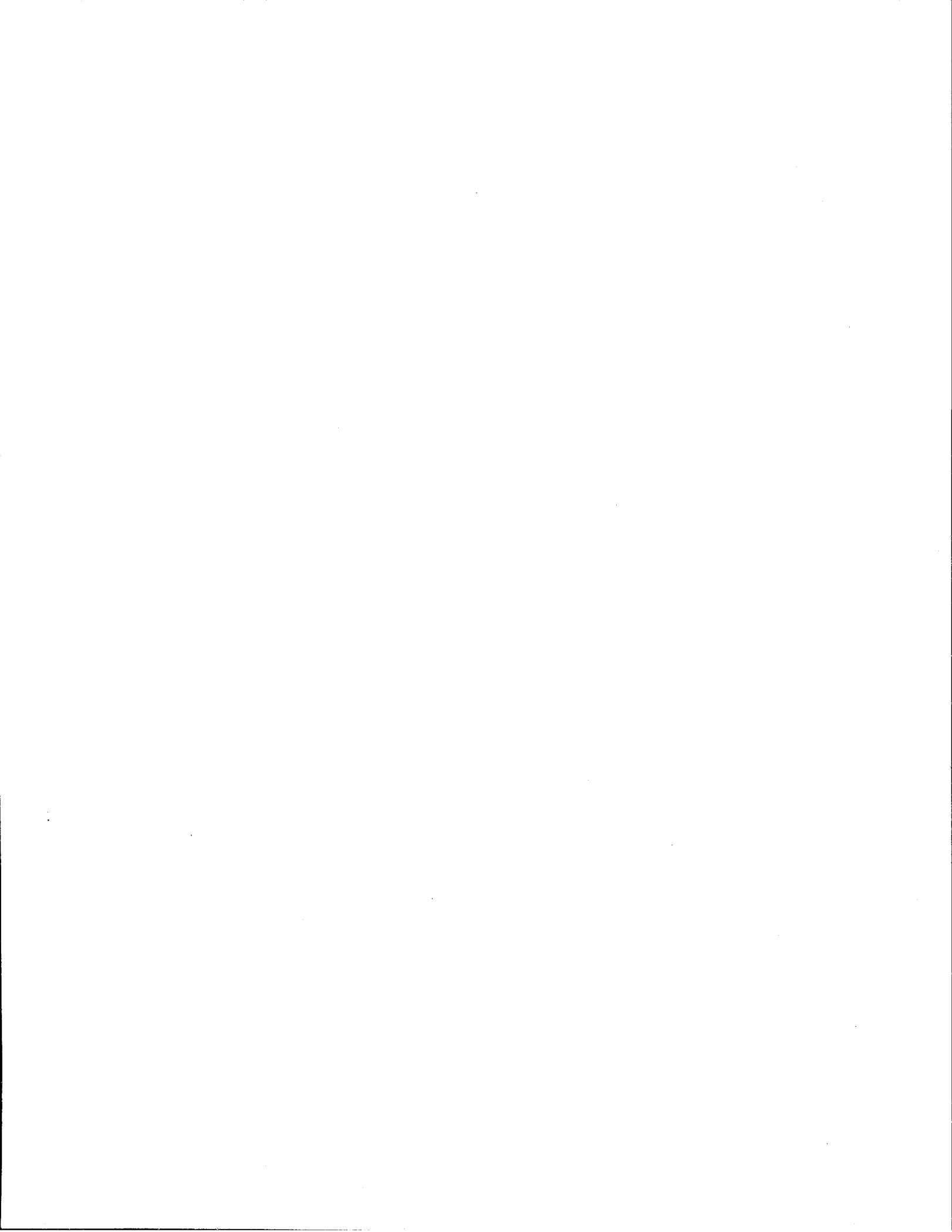
The civil index contains entries for both plaintiffs and defendants. Case numbers also are entered on the cards, which are prepared by the new case clerk. This index should be computerized. Computerization would not only speed retrieval of information but would

protect against loss of information through misfiling or misplacing of cards. The computerized index should be made available to the public for quick retrieval of case numbers.

C. CASE PROCESSING UNDER THE PROPOSED SYSTEM

Under the proposed system, motion screening by superior court law clerks will be eliminated. Motions and supporting documents will no longer be routed to the law clerks but will be processed by civil department clerks. Case files will remain in the civil department/central files area until they are routed to a motion judge. Only those motions designated by the judge for review and memoranda will be routed to the law clerks. The quantity of papers flowing to the files will begin to be reduced as the recommendations on reducing the elements of the case file are implemented.

The calendar process will involve the possibility of a pretrial or settlement conference to be held before a designated judge. These appearances will be scheduled either after the trial setting conference or in lieu of that conference.



CONTINUED

2 OF 3

CLERICAL PROCESSING FOR CIVIL CASES

PRESENT SYSTEM

PROPOSED CHANGES

I. COMPLAINT

- A. Plaintiff or plaintiff's attorney pays filing fee in accounting department.
1. Case number assigned.
 2. Motion judge assigned.
- B. Plaintiff or plaintiff's attorney files complaint at front counter.
1. Complaint time stamped.
 2. "List of New Civil Cases" form completed.
 3. Process issued.
- C. Complaint and copy of "Summons" routed to new case clerk.
1. Case file set up.
 2. Index cards prepared and filed.
 3. "Case History" form filled out.
- D. File routed to central files.
1. If motion pending, routed to court attorneys.
- E. Upon return of service, "Summons" is time stamped and filed.

Building directory will divert more case-related questions away from front counter personnel leaving more time to deal with relevant inquiries.

Index will be automated eliminating card preparation and filing.

Case History form simplified.

File will be routed to civil department clerks, then directly to central files.

PRESENT SYSTEM

1. If defendant not found, papers time stamped and filed.
 2. If plaintiff makes a motion for supplemental summons and motion granted, supplemental summons issued.
- F. If plaintiff files dismissal before answer, papers time stamped and routed to civil department for docketing of necessary information.

PROPOSED CHANGES

PRESENT SYSTEM

PROPOSED CHANGES

II. ANSWER

- A. Defendant files answer (and counterclaim) at front counter.
 - 1. All papers time stamped and filed.
 - 2. Motions routed to court attorneys.
- B. Plaintiff files reply to answer.
- C. If no answer is received, plaintiff may file a motion for default.
 - 1. All papers time stamped and routed to clerk of court.
 - 2. Clerk enters default.
 - a. For sum certain, default judgment by clerk.
 - b. For sum not certain, default judgment by court.

Routing of motions to court attorneys will be eliminated.

PRESENT SYSTEM

PROPOSED CHANGES

III. DISCOVERY

A. Interrogatories

1. Interrogatory along with affidavit of service filed by plaintiff or defendant.
2. Answer to interrogatory and affidavit of service filed by opposing party.
3. All papers time stamped and filed by clerk.

The district court will be granted exclusive jurisdiction over certain civil matters. This will increase the number of civil filings in the district court and result in a decrease in the amount of superior court clerical and judicial time spent on discovery matters.

Interrogatories will not be filed in the case file. The first page will be xeroxed and filed but the interrogatory will be lodged with exhibits.

B. Request for Admission

1. Request for Admission and affidavit of service filed by either party.
2. Response and affidavit of service filed by responding party.
3. All papers time stamped and filed.

Further efforts to eliminate certain elements from the case file will reduce the court's involvement in deposition filing and in other discovery matters.

C. Deposition

1. Deposition notice filed by either plaintiff or defendant.
2. "Subpoena for Taking of Deposition" form completed by clerk. All papers time stamped and filed.
3. Return of service time stamped and filed.
4. Deposition received and routed to central files.
 - a. Deposition lodged.
 - b. Deposition filed.

Depositions will not be filed in the case file. The first page will be xeroxed and filed but the deposition will be lodged with other exhibits.

PRESENT SYSTEM

PROPOSED CHANGES

IV. SETTING FOR TRIAL

- A. Plaintiff or defendant files Memorandum to Set for Trial.
1. All papers time stamped by clerk.
 2. Routed to court attorney and placed in tickler file.
- B. If no opposition to memorandum filed within 13 days, court attorney reviews memorandum and routes to calendaring for setting for trial setting conference.
- C. If opposition filed, memorandum and opposition routed to area court administrator for review. Upon resolution of conflict, memorandum to set routed to calendaring.
- D. Calendaring sets for trial setting conference before the area court administrator approximately four to five months after filing of the memorandum to set at the rate of five to eight per day.
- E. Case file routed to area court administrator for trial setting conference. Upon completion of conference, "Trial Setting Conference Order" routed to case file, copies to plaintiff, defendant and calendaring.
- F. Calendaring sets trial on calendar. Attorneys receive "calendaring order" notifying them of the trial judge assigned and the trial date.

Trial setting conference may be eliminated in lieu of a pretrial conference to be held before a designated judge. Decision will be based on analysis and order of presiding judge.

Trial court administrator may set case for pretrial conference to be held approximately 30 days prior to trial.

PRESENT SYSTEM

PROPOSED CHANGES

V. MOTIONS

- A. Plaintiff or defendant files motion and supporting documents.
1. All papers time stamped, filed and routed to court attorney.
 2. Court attorney notes date of filing motion in tickler file.
- B. Within 15 days a memorandum in opposition is filed by the opposing party. Clerks time stamp and file all documents.
- C. Within five days of the date for filing the memorandum in opposition, a reply memorandum is filed by the moving party. The reply is time stamped and filed.
- D. The court attorney checks the tickler file for expiration of the 20 day period. All files needed for review are requested from the file clerks.
- E. Court attorney reviews file and prepares a memorandum on the motion and routes to court.
- F. Court considers motion.
1. On the pleadings.
 2. At a hearing if a request for oral argument has been timely filed.
- G. Court order routed to civil department for docketing. Notice sent to both parties.

Papers will not be routed to court attorneys but will remain in the civil department for processing.

The tickler file will be monitored by civil department clerks. Files will be routed directly to the court from the civil department central files area. Paperflow will be substantially reduced.

Memoranda will be prepared only when warranted by the complexity of the motion.

PRESENT SYSTEM

PROPOSED CHANGES

VI. TRIAL

- A. Trials are scheduled to commence at 10 a.m. Monday through Friday.
- B. Clerks route files to court for trial.
- C. Following trial, case file routed to civil department for docketing. Copy of "Case History" form sent to technical operations.

Form simplified.

PRESENT SYSTEM

PROPOSED CHANGES

VII. JUDGMENT

- A. Clerk receives, time stamps and files proposed judgment form.
- B. Case file routed to court attorney.
 - 1. If approved by opposition as to form, court attorney reviews and prepares memorandum on proposed judgment for court.
 - 2. If not approved, court attorney notes date in tickler file. At end of ten day period, case file requested from clerk for review. Memorandum prepared for court.
- C. If no hearing requested, court reviews file and memorandum and makes judgment.
- D. If hearing requested, calendaring sets for hearing. Hearing held on date scheduled and court reviews on hearing and makes judgment.
- E. Judgment routed to civil department for docketing and notice to parties.

Case history form simplified.

PRESENT SYSTEM

PROPOSED CHANGES

VIII. EXECUTIONS

- A. Clerk receives, time stamps and files "Execution" form and supporting documents.
- B. Clerk issues process.
- C. Upon return of service, clerk receives executed amount, prepares receipt and routes to accounting. All supporting documents time stamped and filed.
- D. Accounting prepares tickler file if necessary and remits executed amount to judgment creditor as appropriate.
- E. File routed to civil department for docketing and processing.
- F. If "Assertion of Claim of Exemption" form filed, clerk routes to calendaring. Calendaring sets for hearing at 8 a.m., Monday through Thursday, in the district court and 8 a.m., Tuesday and Thursday, in the superior court and notifies parties.
- G. Case file routed to court for hearing. Order of court routed to parties and accounting.
- H. Accounting releases deposit to prevailing party pursuant to court order.
- I. Accounting routes case file to civil department for docketing.

Case history form simplified.

VII. CIVIL (DISTRICT COURT)

A. BACKGROUND

1. PHASES IN THE CIVIL CASE PROCESSING SYSTEM

The phases in the processing of district court civil cases are outlined briefly as follows:

a. Filing of Complaint

Complaints are received and process is issued by front counter clerks in the civil department.

b. Motions

Motions are scheduled by calendaring before the judge assigned to motions for a particular week. Motions are heard daily from 9:00 to 9:30 a.m.

c. Filing of a Memorandum to Set

The memorandum to set is filed and held by the district court attorney for 13 days to allow for the filing of counter-memorandums. A period of 10 days is required by rule; an additional three days is allowed for mail transit time.

d. Trial Setting Conference

A trial setting conference is scheduled a minimum of 10 days after the completion of the 13 day waiting period. The conference is held by the area court administrator or his assistant. The trial date is assigned for the civil trial week approximately 45 to 60 days from the date of the conference. Civil trials are held during the last week of each month.

e. Calendar Call

Calendar call is scheduled at 8:30 on Monday during civil trial week. All attorneys are required to appear for assignment of trial start dates and judges.

f. Trial

Trials are scheduled to commence at 9:30 a.m. daily during civil trial week.

2. CALENDAR ORGANIZATION

The district court civil calendar is organized as outlined in Table 4. Civil trials in the district court are scheduled for the last week of each month. Regular civil trials are held on Mondays, Tuesdays and Wednesdays; small claims trials are held on Thursdays and Fridays.

Call of the calendar is scheduled at 8:30 a.m. before the assignment judge each Monday morning of civil trial week. Start dates and judicial assignments are made at that time.

Appearances for motions, oral arguments and pretrial conferences are scheduled daily at 9:00 a.m. Default judgments are heard Tuesday through Thursday at 9:00 a.m.

TABLE 24
DISTRICT COURT CALENDARS
CIVIL*

TIME	MONDAY			TUESDAY			WEDNESDAY			THURSDAY			FRIDAY		
8:00	Call of the Calendar Civil Trials		Judgment Debtor Examinations			Judgment Debtor Examinations			Judgment Debtor Examinations			Judgment Debtor Examinations			
9:00	Motions Oral Argu. Pretrial Confs.	Default Judgments	Civil Trials	Motions Oral Argu. Pretrial Confs.	Default Judgments	Civil Trials	Motions Oral Argu. Pretrial Confs.	Default Judgments	Civil Trials	Motions Oral Argu. Pretrial Confs.	Default Judgments	Small	Motions Oral Argu. Pretrial Confs.		Small
10:00												Claims			Claims
11:00													Trials		Trials
1:00			Civil Trials			Civil Trials			Civil Trials			Small			Small
2:00												Claims			Claims
3:00												Trials			Trials
4:00															

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3. BUSINESS OF THE COURTS

Civil case activity including other civil and small claims has increased slightly in the four-year period, 1973-1976. Filings increased by 4 percent. Dispositions decreased by 33.6 percent between 1973 and 1976. This sharp decrease may be attributable to tabulation as the statistics from 1974 through 1976 define a more logical trend line, showing an increase from 2,537 to 2,716, or 7 percent.

Table 25
Anchorage District Courts
Civil Cases
Filings and Dispositions
1973-1976

Case Type	1973		1974		1975		1976	
	Filed	Dispos.	Filed	Dispos.	Filed	Dispos.	Filed	Dispos.
Small Claims	N/A ^a	N/A ^a	N/A ^a	N/A ^a	N/A ^a	N/A ^a	2,284	1,883
Other Civil	4,290	4,094	3,852	2,537	4,067	2,874	2,205	1,833
Total	4,290	2,094	3,852	2,537	4,067	2,874	4,489	2,716

^aIncluded in other civil.

B. ANALYSIS AND RECOMMENDATIONS

1. SYNOPSIS

Clerical proceedings for district court civil cases are essentially the same as for superior court civil cases. Consequently, the recommendations in the superior court section are referenced here.

Calendaring practice has improved through the institution of civil trial week. As long as this procedure continues to result in the expeditious movement of civil cases, no change should be made. The use of trial setting conferences should be analyzed relative to the possibility of setting cases for pretrial settlement conferences. Motion practice is minimal and does not present any significant problems. Finally, the civil jurisdiction of the district court should be analyzed with the possibility of giving exclusive jurisdiction for smaller civil matters to the district court.

2. CALENDAR PRACTICES

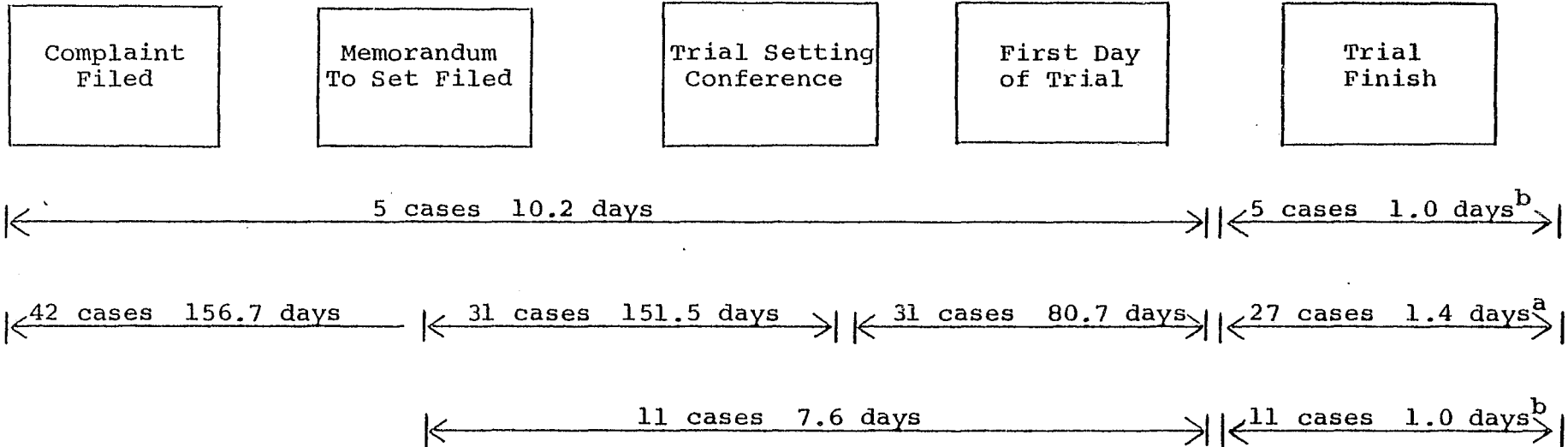
Recommendation: Civil trial week should be continued as long as the procedure results in the expeditious disposition of cases.

Civil trials in the district court are at present heard during the last week of each month. Regular civil trials are conducted Mondays through Wednesdays; small claims trials on Thursdays and Fridays. This procedure seemingly would create management problems in that it results in high workloads for clerks in the civil department and low workloads in the criminal department during that week. However, to date the procedure has enjoyed wide acceptance by both bench and bar. One of the main reasons appears to be that now, once a civil trial is scheduled, the risk of a misdemeanor trial taking calendar priority is eliminated. Consequently, no change in procedure is recommended, but close monitoring of system performance is suggested.

Further analysis of system performance indicators reveals few other problems with civil case processing. Time interval data is somewhat misleading since confining civil trials to one week a month adds to the average time to trial (Table 25). In any event the average time from the filing of the memorandum to set to trial of 7.7 months for the sample taken could be improved upon but is acceptable. Motion practice is minimal with

fewer than .2 motion hearings per case (Table 26).
Litigants make few appearances other than for trial
setting conference and trial (Table 27).

Table 25
 ANCHORAGE DISTRICT COURTS
 SAMPLE OF OTHER CIVIL CASES
 JANUARY - SEPTEMBER 1977
 MEAN TIME INTERVALS IN DAYS



^aThree cases were settled and one case was dismissed after trial commenced.

^bThese cases were defaults, forcible detainer or unlawful entry.

Table 26

ANCHORAGE DISTRICT COURTS
SAMPLE OF OTHER CIVIL CASES TRIED
JANUARY - SEPTEMBER 1977

MOTION HEARINGS

Default	2
Publish Deposition	2
Prejudgment Attachment	2
Summary Judgment	1
Withdraw as Counsel	1
Set Aside Default Judgment	<u>1</u>
Total	9
Motion Hearings per Case	.2

Table 27

ANCHORAGE DISTRICT COURTS
 SAMPLE OF CIVIL CASES TRIED
 January, 1977 - September, 1977

SYSTEM PERFORMANCE PROFILE

<u>Index</u>	<u>Performance Level</u>
A. Time	
Time from filing memorandum to set to trial	
Mean number of days	232.2 (7.7 months)
Median number of days	214
B. Mean number of continuances per case	.36
C. Mean number of appearances scheduled per case	2.3
D. Mean number of appearances other than trial or trial setting conference	.2
E. Scheduling	
$\frac{\text{Appearances held}}{\text{Appearances scheduled}} = \frac{87}{108} =$.19

Recommendation: The district court should be given exclusive jurisdiction over some general civil matters.

According to the Alaska Court System 1976 Annual Report, the average amount of judgment awarded in the Anchorage Superior Court for general civil matters in 1976 was \$3,567.^{27/} This low average is attributed to the practice of many attorneys of filing claims for less than \$10,000 (and less than \$15,000 in motor vehicle cases) in the superior court rather than in district court.^{28/} The practice improperly places before the superior court cases which could and should be handled in the district court. Also, such concurrent jurisdiction undermines efforts to determine future personnel requirements at each court level.

Constitutional, statutory and rule changes should be considered which would give exclusive jurisdiction of civil matters involving certain amounts in controversy to the district court. For example, exclusive jurisdiction over cases for recovery of money or damages not exceeding \$10,000 (\$15,000 in motor vehicles cases) or for recovery of personal property when the value claimed for damages does not exceed \$10,000 might be granted to the district court. All cases involving damages over these limits would be, as at present, the province of the superior court.

^{27/}Alaska Court System, 1976 Annual Report, p. C-48.

^{28/}Id., p. 65.

Recommendation: The court should establish procedures to expedite to trial cases over two years old.

Bringing older cases to trial in a timely manner does appear to be a problem. This is evidenced by the fact the mean time from the filing of the memorandum to set for trial was considerably higher than the median (232 days to 214 days) and 11 of the cases in the sample were over two years old at the time of trial.

It is assumed that the age of these cases by the time of trial is attributable to failure of the attorneys involved to move them more expeditiously. However, to the extent possible, the court should give these cases special consideration in establishing trial priorities. Also, attorneys should be admonished regarding dilatory tactics. If necessary, a pretrial conference should be held before the assignment judge to insure proper movement toward trial.

3. CLERICAL PROCEDURES

Recommendation: Small claims clerks should be under the supervision of the civil department supervisor rather than the central files supervisor.

Small claims clerks are now supervised by the central files supervisor. This is not a logical arrangement and offers no advantages in regard to cross-training or workflow.

The small claims clerks should be supervised by the head of the civil department. Many of the clerical procedures in the civil department are identical to those in the small claims department. Cross-training could be easily accomplished, thus allowing for greater flexibility in staffing patterns in both departments. There would be opportunity for rotating experienced personnel through the small claims department for given time periods. Since small claims work is high volume and demanding, rotation would provide employees with a necessary respite from the pace of the small claims department along with variety in work and time schedules.

This recommendation in no way endorses a return to the former arrangement, when small claims cases were processed with regular civil cases in the civil department. The separation of small claims from civil is a well-founded concept and has proved to be successful and of particular benefit to small claims litigants. This physical separation should continue but small claims

clerks should be brought under the civil supervisor in order to improve training and staffing in the small claims area.

Recommendation: The small claims index should be computerized.

The index to small claims cases, now separated from the civil index, should be computerized. If computerization is not accomplished, the index should be typed on 3" x 5" cards which are secured in and cannot be removed from the file drawer.

Recommendation: A case history sheet should be designed for small claims cases.^{29/}

The civil case history form is now used for docketing small claims cases. This form is detailed and much of the information listed has little relevance to small claims cases. A simplified small claims case history form containing only information which is docketed in small claims cases should be prepared by the Office of Technical Operations.

Recommendation: Standards for taking log notes for in-court clerks should be established.

Analysis of the log notes of the sample of civil cases tried from January to September, 1977, indicates the in-court clerks take log notes at a rate of approximately one page per nine minutes. It is suggested that these log notes are often too detailed and can be counter-productive especially if the in-court clerk has to spend time outside of court recopying these notes.

^{29/} The National Center understands this recommendation is in the process of implementation.

Standards for logging should be established with uniform symbols and parameters for length and detail. This recommendation applies to all case types but is directed primarily at district court civil matters in which the log notes would appear to be least critical.

ADDENDUM I: MISDEMEANORS

On September 21, 1977, a meeting of the Anchorage Case Processing and Clerical Project Advisory Committee was held to discuss the misdemeanor section of the report. During the meeting the committee asked for more updated information in several areas. The information requested is presented in the following addendum.

1. Results of District Court Calendar Calls

The discussion of the recommendation to set all misdemeanor cases for calendar call after in-chambers conferences are abolished, focused on the "success" rate of calendar call in disposing of cases. The statistics for January through March, 1977, indicated that 39 percent of the cases for which a calendar call was held were disposed of either through deferred prosecution, bail forfeiture, change of plea, or dismissal. However, Judge Moody reported that Judge Peterson had noted a significant drop in the cases disposed of at calendar call in recent months. Consequently, the committee asked for updated statistics on calendar call appearances. The statistics for June and July are presented in Table I. (In August the method of reporting the results of calendar call was changed, making these statistics difficult to obtain.)

TABLE 1

ANALYSIS OF RESULTS OF DISTRICT COURT CALENDAR CALL (MISDEMEANORS)

June - July 1977

<u>Action</u>	<u>Number</u>	<u>Percent</u>
Continued	92	27.1
Deferred Prosecution	21	6.2
Cases Disposed	37	10.9
Bail Forfeiture	1	.3
Change of Plea or Set for Change of Plea	22	6.5
Dismissed	14	4.1
Trial Date Set	135	39.7
Court Trial	7	2.1
Jury Trial	128	37.6
Bench Warrant Issued or Did not Appear	23	6.7
Other	32	9.4
Set on Motion Calendar	31	9.1
Change of Venue	<u>1</u>	<u>.3</u>
Totals	340	100.0

2. Use of Public Defender to Provide Orientation and General Advice to Non-Represented Defendants

The committee agreed that a continuing problem in obtaining case dispositions is the lack of knowledge by defendants of the procedures facing them, the possible courses of actions and their consequences. A suggestion was made that perhaps the public defender could employ a lawyer to assist defendants who were not represented or prior to the appointment of counsel. The committee asked that some research be conducted into the existence of such programs elsewhere.

A brief survey of California courts resulted in no exactly similar programs being discovered. In Alameda County, law school students are employed on both day and night shifts to interview recently arrested defendants, ascertain financial condition information and provide an initial impression of the possible disposition of the case for the public defender. While instructed not to give legal advice, the students can describe general court procedures. This program is credited with helping public defenders evaluate cases and earlier resolution of the issues in some cases.

A common practice in California courts is to have a public defender in arraignment court, prior to appointment as counsel but at the request of the judge, informally speak to a defendant briefly outlining the defendant's rights and options. Another practice, apparently less widespread, is for a judge to give

misdemeanor defendants an unsolicited explanation of the consequences of a guilty plea.

3. Personnel Requirements

The question of the adequacy of staffing levels in the Anchorage trial courts was raised. It was stated that personnel requirements were not assessed as a part of this project, although some recommendations should affect the need for personnel.

4. Pretrial Misdemeanor Procedures in Other States

The committee discussed at length the recommendation to establish a three-step pretrial procedure for misdemeanor cases: arraignment, calendar call and trial (motions would be handled as at present). The committee requested more information on what pretrial appearances are used in other jurisdictions. The following is a brief summary thought to be representative for the state listed:

California
Oakland, Municipal Court - 14 judges

1. Arraignment
2. Settlement conference

Within two weeks after arraignment, a conference is held either in a judge's chambers or in a courtroom to explore settlement of the case. Present are the judge, prosecutor and the defendant's attorney.

3. Trial Readiness Conference

Within 60 days after arraignment, a trial readiness conference is held to determine the trial readiness of a case and set a trial date. All motions must be completed by this date. Present are the judge, a prosecuting attorney and the defendant's attorney. The defendant is not necessarily present.

4. Trial

Oregon
Lane County District Court - 5 judges

1. Arraignment

2. Docket call

Within 60 days after arraignment, a hearing is held in open court to determine the trial readiness of a case. Present are the defendant, defendant's attorney, prosecutor and a judge assigned to docket call for a month. The docket call and trial date are set at the same time by a docket clerk shortly after arraignment. The parties are noticed by a trial setting order.

3. Trial

Trial is held approximately two weeks after docket call before any judge.

Washington
King County District Courts (11 courts with a total of 21 judges)

1. Arraignment

2. Trial

In King County and Washington in general, District Court judges have limited misdemeanor jurisdiction

and jury trials are held infrequently (25 out of 5588 trials in 1976).

Nevada
Las Vegas Justice Court - 5 judges

1. Arraignment
2. Pretrial

Pretrial is a trial readiness appearance with the defendant, defendant's attorney, prosecutor and a judge present.

3. Trial