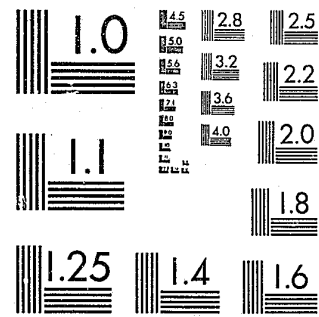


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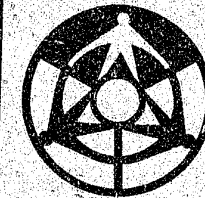
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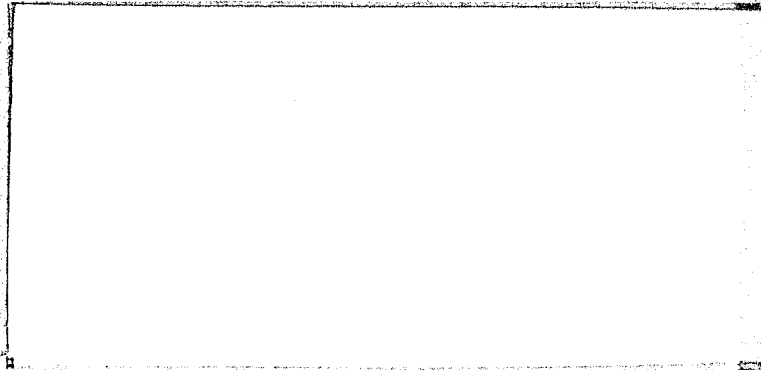


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Institute for Advanced Studies in Justice
The American University Law School
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CASEFLOW MANAGEMENT STUDY:
FULTON COUNTY, GEORGIA,
STATE COURT

June 1980

NCJRS

AUG 7 1980

CONSULTANTS:

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CONDITIONS

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I. INTRODUCTION

The courts of Fulton County, Atlanta, Georgia have been forced to make certain organizational changes as a result of recent legislation. The two formerly separate entities of the five-judge civil court plus the two-judge criminal court and the courts of limited jurisdiction have been merged and another criminal court added. At the support level, the Civil and Criminal Clerks' offices have been merged and the Chief Civil Clerk has been appointed as the Chief Clerk of the State Court of Fulton County. Within months, the present presiding Chief Judge, Thomas L. Camp, will turn over control to a new, as yet undesignated, Chief. The new magistrates, positions created by this legislation, will assume their duties in the north, south, and central parts of the county. At least three new judges will be elected to replace those who are expected to retire in the coming year.

With the advent of these changes, the Administrative Office of the Courts requested that the Criminal Courts Technical Assistance Project provide professional consulting services to: (1) examine the feasibility and desirability of converting from the court's existing master calendar system to an individual calendar; and (2) address related issues dealing with automation applications which can assist the court in its calendar and caseflow management efforts. Bruce Beaudin, Director of the District of Columbia Pretrial Services Agency, and Gordon Allison, Court Administrator in Phoenix, Arizona were chosen to provide this consulting service. The consultants studied the Fulton County calendaring system on-site April 16-18, 1980. The consultants' analysis and recommendations are presented in this technical assistance report.

II. ANALYSIS OF THE EXISTING SITUATION

Fulton County is a mixed urban and rural community. In the unincorporated towns, justices of the peace dispense most criminal and civil justice. In the incorporated municipalities, city courts handle disputes at the grassroots level. Under varying circumstances, cases that originate in these courts may be resolved ultimately in the State Court of Fulton County -- a court of limited jurisdiction.

In attempting an analysis of any "system" -- particularly one which intends justice as its end -- an assessment of the climate in which it operates is a prerequisite. It is crucial to know something of the "legal culture" of the court including its present day functions as well as some of the history and tradition that have combined to make it what it is. There are questions, the answers to which are not always immediately apparent, that need to be addressed. For example, is the court a "lawyer's court" (one that adjusts to accommodate the special needs of attorneys)? Is it a "people's court" (one which protects the litigant to the greatest extent possible while consistent with the canons of ethics)? Is it static or dynamic? The answers to these types of questions influence change more drastically than other factors.

In order to permit easy cross references between this section and the recommendations contained in Section III, we have divided the sections into five major areas: (A) The Organizational and Physical Structure of the Courts; (B) The Organizational and Physical Structure of the Clerk's Office; (C) Civil Case Processing; (D) Criminal Case Processing; and (E) Miscellaneous.

A. The Organizational and Physical Structure of the Courts

In 1976 the State Court of Fulton County was created by statute. The law provided that the preexisting five civil courts and two criminal courts be merged and that a third criminal court be added. According to those interviewed,

the intent of the law was to centralize the courts' businesses and provide for the elimination of repetitive tasks and for flexibility of judicial assignment according to need.

On its face, the statute has been implemented. In fact, the implementation may be more cosmetic than functional.

We were told, for example, that while the 8 sitting judges may be rotated in assignment, the 5-3 split is still a subliminal, controlling factor. An exemplary civil docket coexists with a criminal docket that could use help. There seems to be reluctance to disturb the 5-3 assignment pattern. In addition, some judges, elected when the civil and criminal branches were separate courts, intended to serve specifically as civil or criminal case judges and have expressed legitimate concern over the handling of cases apparently foreign to their election mandates.

As has been mentioned, the State Court is a court of limited jurisdiction serving as a committal court in some felonies, as a trial court in some traffic and misdemeanor cases, and as a trial court of original jurisdiction in certain civil cases e.g., contract and landlord/tenant. In 1979 the court handled approximately 118,000 matters: 83,000 civil cases; 13,000 criminal cases; 15,000 traffic cases; and 7,000 criminal warrants.

Recently the legislature enacted a bill creating three magistrate positions that are scheduled to become functional in July of this year. It is anticipated that the magistrates will perform some of the warrant and committal functions presently carried out by the judges of the State Court. While this new resource should help to reduce the overall workload of the 8 judges, without careful planning and consolidation of functions, serious accountability problems may arise. In addition, we noted that the three floors of the courthouse were assigned particular offices and functions more consistent with the old separate courts than with a unified court. Criminal courts and those portions of support staff that served them were on one floor while Civil courts and services were

on another. This type of division, based on traditional practices, impedes the logical development of case and people flow.

Our analysis leads us to conclude that the merger of the separate criminal and civil courts into a single State Court with civil and criminal branches has been mostly cosmetic and requires a good deal of effort to become the functioning entity that was envisioned in the legislation.

B. The Organizational and Physical Structure of the Office of the Clerk of the State Court

The operation of the Clerk's Office is spread among the ground floor, first and second floors of the State Court Building. This is reminiscent of the two-court structure, where the criminal courts were located on the ground floor and the civil courts were on the upper floors. It appears as though the locations of the offices remain as they were prior to the merger in 1976. (The organization of the Clerk's Office can be seen in Appendix C.)

Prior to the 1976 merger of the two courts, there were two Chief Clerks; one civil, one criminal. At the time of the merger the Civil Clerk became the Chief Clerk over the combined functions. The Chief Clerk, therefore, plays a dual role by supervising the Civil Section in addition to his responsibility over criminal, though actually his Chief Deputy maintains responsibility over the civil functions.

The Chief Clerk has administrative responsibility for the court with the Chief Judge. In essence, the Chief Clerk serves as the Court Administrator for the court. He is appointed by the judges for one-year terms. His administrative responsibility includes all typical housekeeping functions such as budget, purchasing, space allocation, furniture requisition, and all fiscal matters. He also is responsible for all procedural matters of a nonjudicial nature.

The Chief Clerk, Sanford "Sammy" Jones, Esq., has been on the job since May, 1979, and plays a very aggressive and active role in the management of the court.

His attitude is extremely positive and he is amenable to change; particularly if changes will provide greater labor and cost efficiency for the system. Mr. Jones is a strong leader in the court, and his attributes should be utilized to the best advantage of the court.

The State Court of Fulton County is relatively small and has an unusually large caseload. Most of the cases are of short duration and Mr. Jones has set procedural goals accordingly. For example, flat file folders are not used because the time taken to prepare a folder and the space required to file it are not worth the cost in that a majority of the cases are collection type cases and will be terminated rapidly by default or settlement. A judgment is prepared for each case via the computer which results in long-term time savings. The docketing system is also shortened and simplified as much as possible.

The Clerk's operation employs approximately 42 people on the civil side and 13 people on the criminal side. It is easy to see that personnel do not lack for work. The staff has assumed the volume of work to be done because no comments were made about a need for additional staff at the time of the merger. (A complete organization and personnel breakdown is shown in Appendix C.)

C. Civil Case Processing: Alternative Calendaring Methods and Automation

The routing of civil cases through the entire system appeared to be much more complicated than in the average court. A complete, step-by-step analysis from filing through calendaring, docketing and termination was not carried out due to time limitation. Only the broad concepts were observed.

In the initial filing stages there appeared to be confusion in the paper flow from the filing desk to cashiers to the "IBM" room where the numbers were assigned and docket pages prepared. Though the employees have no problem with the process, it appeared confusing and did not move in a logical production type sequence.

Another procedure that appeared overly complicated was the setting of cases for trial (or other hearing). This involved listing cases as they were filed by trial week and predetermining whether they would be jury trials, court trials, defaults, etc. These lists are kept in a blue loose-leaf binder; therefore the name Blue Book has been used for the process. As calendars are set, the cases from the Blue Book are pulled off and set on a trial calendar.

Since there is no advice from counsel as to whether or not they are ready for trial, 100% of the civil cases filed are processed for trial as expeditiously as possible. If a case is set for trial and the attorneys do not go through with the trial, the case can proceed through a myriad of steps, depending upon what happens. (See Appendix B-1.) Motions may be filed, additional discovery may be requested, a continuance may be requested, etc., and the case will be placed on an inactive calendar waiting for the attorneys to request that it come off and be set for trial. It appears as though cases may remain on this list indefinitely or for at least five years. When reactivated, the case is again placed at the end of the Blue Book.

The rules provide for a peremptory calendar for the dismissal of cases, but it does not appear to be used.

The philosophy of the court appears to be to push cases through for trial rather than let the attorneys request trial dates through a "Certificate of Readiness" or a "Motion to Set". As a result, the court spends a lot of time tracking cases which are not really active and ready for trial.

In the same vein there is a strong possibility that cases can stagnate and sit inactive for an inordinately long period of time. A healthy attitude might be to allow attorneys a reasonable time to get ready for trial (or other disposition) after which the court could exert pressure either on the cases ready for trial or on the cases where there is no activity. The litigant whose case

has gone nowhere needs the help of the court in getting his attorney to proceed or have the case dismissed. This should be a reasonable period of time such as a year or 18 months.

By waiting until counsel wants a case to proceed to trial, the book work of case tracking for calendaring purposes would be simplified and save time and possible error. The more a case is manipulated through the "Blue Book" and copied, the more chance for error in transposition of numbers.

It appears as though data entry into the computer is all carried out in the data processing department but is not always taken from the source documents. Some source documents are sent to the data processing department but often required information is received on handwritten sheets prepared exclusively for data entry. This process consumes a large amount of time. It would probably be easier to enter trial dates into the computer as they are set, rather than into the "Blue Book".

By updating the computer with counsel's names and other major changes, the computer would be ready to print the calendar and judgment.

This computer printing of judgments is an innovative feature but is predicted on the fact that the majority of cases will have a judgment. They are printed in 100% of the cases and kept in numerical order by docket clerks at their work stations. Routine collection cases terminated by default comprise the majority of the preprinted judgments. Obviously, cases that have a prayer for large amounts of money would probably not use a preprinted judgment. We are not sure that the process of preprinting judgments saves time. It may actually consume more time and is worthy of further study.

In our meeting with the County Data Processing staff, we perceived them to be extremely professional, aware of modern systems and hardware techniques, and able to offer the court system valuable assistance. There are feelings that

the automation application in the Superior Court should not be duplicated for the State Court. We emphatically agree with this in that the two judicial systems are inherently different in their goals, objectives, operations, and needs. The Superior Court keeps detailed records of its cases which are lengthier cases involving personal injury, property damage, and real estate.

Existing software in the State Court operating the on-line index is antiquated and should be updated. A move to consolidate all index files into one should be considered. Under this arrangement a single computer terminal would be able to access a case of any type from any location. The fact that the criminal and civil functions are one floor apart is no reason to preclude similar functions from being performed in a similar manner.

Complaints were heard about the reliability of the automated system with respect to being "up and running". The data processing staff contend that the system is operational 96% of the time. Logs should be kept to establish how much time the system is unavailable to the user. By logging the dates and times of "down time", the data processing staff can provide a good analysis of the operational record of the system. Also, when the system is "down" a call should always be placed to the computer room to determine the reason and to alert those responsible to the fact that the system is down. Often they may not know.

The management of the court has a positive attitude about using data processing but there is no indication whether the employees want to use it or will use it. Employees must be involved from the beginning in developing the various systems so they will have a proprietary interest in its successful implementation.

To accomplish the complete data processing approach it would be good to create a "Users' Group" among the Clerk's employees. Such a group should include staff from Civil Records, Civil Calendar, Criminal Records, Criminal Calendar,

Cashier, Marshal's Office, Dispossessory Section, the Solicitor's Office, and, of course, Data Processing. Essentially, these people would be the court experts, the "users" who can relate to the data processing analyst and assist them in developing system concepts. They will then be in a position to be active in the implementation phase.

In designing an automation plan data elements should be used which are common to other courts and other agencies. For example, if "Directed Verdict" is used by the Solicitor as a type of disposition, this term should be used by the court as a disposition so as to have consistency among offices and agencies. Perhaps the Administrative Office of the Courts could assist in coordinating this phase of the design.

The ultimate goal of automation should be to print the civil and criminal court calendars. This would not be too difficult and would save a tremendous amount of manpower. The index and management statistics are natural by-products of this objective. Another goal that would be easy to accomplish would be the handling of cash, receipts and case numbers by computer. This would provide an audit trail for balancing cash and daily deposits. A mini-computer could handle such functions and double as a data entry terminal for the main computer. It is not really essential to update civil records on-line and a mini-computer would allow updating of the main file at night. The cashier could then take answer fees and other payments that would be reflected in the case record the next day. The data processing staff are aware of the needs and the type of equipment that would fulfill these needs.

The new magistrates court which will open July 1, 1980 will provide some assistance primarily in the criminal area. They have civil jurisdiction and can assist in that area also. We recommend that blocks of the magistrates'

time be devoted to hearing defaults. Up to 30 defaults an hour can be calendared depending upon the appearance rate. This would take some of the burden off the judges, who could then devote more time to trials.

The magistrates should also handle ex parte matters where attorneys walk into the courthouse for an order. Although we did not have an opportunity to consider in great detail what the magistrates' schedules would be and how the procedural aspects would work, we recommend that care be exercised in the calendaring process using the simplest procedures feasible.

D. Criminal Case Processing: Alternative Calendaring Methods and Automation

The processing of a criminal misdemeanor case from arrest through disposition in Fulton County is most complex. Aside from traffic cases -- which are characterized and processed as criminal cases as they are in many jurisdictions -- misdemeanor cases enter the system via a number of different routes. Arrests based upon warrants issued by employees of the clerk's office and committals from Justices of the Peace and Municipal Courts, seem to account for most of the caseload. Regardless of the source, all cases appear to have one uniquely common characteristic, i.e., that no cases are filed until the Solicitor prepares what is called an Accusation (a formal charge supported by an affidavit or a warrant and an affidavit depending upon origin). Most courts do not "officially" recognize cases until a prosecutor has filed formal charges; however, the system in place in Fulton County is unusual in that it requires this special support.

When an arrest is made, whether based upon an affidavit and a warrant or on the basis of an act committed in the presence of an officer, a defendant is entitled to a committal hearing within 24 to 48 hours. If the committal hearing results in a probable cause finding the case is bound over to the State Court. At this point, however, the State Court will be "officially" unaware of the

existence of a case unless and until the Solicitor files the requisite

Accusation. This process results in a number of drawbacks:

- Since warrants are issued from many sources there is no accurate means for assessing how many are issued, whether or not there is a delay in service, how many are served, etc.;
- Once a committal court has found probable cause the State Court has no actual control of the case since it is in the hands of the Solicitor;
- A minimum of one week after receipt of the warrant now passes before an Accusation is prepared. This delay prevents a defendant from pleading guilty for at least 7 to 10 days following his bindover day;
- With an indefinite "next report date" the potential for failure to appear, bond forfeiture, and bench-warrant issuance is great;
- Given the above, there is little room to experiment with alternative calendaring and judge scheduling.

As previously noted, three judges are presently assigned to hear criminal cases. A master or general calendar, prepared by the clerk's office after the filing of Accusations by the Solicitor, is called. Once the calendar is called the Solicitor retains control over which cases of those that are "ready" will be tried. The court, therefore, falls into the very difficult posture of having little control over the movement of cases. Examination of a "typical" (so it was described) week discloses that of 134 cases called:

- 9 (7%) were "dead docketed";
- 24 (18%) were re-set;
attendant warrants and re-sets; and
- 74 (55%) were disposed of.

These figures are probably indicative of the following:

- Since 38% were reset, an individual calendar would require too much wasted effort readying cases that could not be reached;
- Since 20% resulted in bond forfeitures there is some question of the efficacy of surety release or of the notice system presently in place;
- Since 38% of the cases are to be reset, there will probably be a growing backlog as old cases are added to new; and
- Since 7% were "dead docketed" at what was probably the last hour, prosecutorial screening may not be extremely efficient.

In another vein, we discussed with various officials the difficulties involved in tracking cases. With 118,000 filings, consideration of some type of automated index seemed a logical step to take and, indeed, has commenced. It appears that the indexes presently in the design/use phase may represent only a first step in what should probably become a much larger project.

As was discussed in Section B, the present physical structure contributes to decentralization and isolation of functions. While an index which combines civil, criminal, and traffic cases in the same data file lends itself to supporting a central "information" function there are probably more automation enhancements that should be considered. Full treatment of those possibilities was, however, beyond the scope of this particular assignment.

E. Miscellaneous.

The subjects treated under this heading concern topics that were not directly related to the assignment but represent tangential problems that come to our attention during the course of our three-day site work.

1. Pretrial Release.

We noticed that most pretrial releases were accounted for by surety

bond. Of the cases examined in the sample week only 1 (one) of 125 (one hundred twenty-five) was at liberty on personal recognizance. None were at liberty on cash or percent deposit. In addition, it is interesting to note that 20% of the cases called resulted in bond forfeitures, the issuance of warrants, and "re-sets."

In light of the American Bar Association's recommendations with respect to surety bond, 10% deposit, and the use of personal recognizance we found the situation somewhat surprising. We learned that a "Release" program exists in the City Court of Atlanta but none seemed to be in operation here - a misdemeanor court.

2. Need For Accusations In All Cases

As previously mentioned, no case can proceed through the Court prior to the filing of an Accusation by the Solicitor. Although there have been recent efforts to speed this process (such as by omitting an affidavit if a warrant and an affidavit already exist, or if there has been a committal hearing) many expressed the opinion that some cases could proceed without Accusations. In certain traffic cases the citation already serves as "official" charges. Some believe that other traffic cases - e.g., 68-B cases, could also be handled in this manner.

When assessing delay, a key problem seems to be continuances issued to permit the filing of Accusations. We learned that a jailed defendant may not enter a plea until an Accusation is filed, normally, 10 days to two weeks after the bail hearing or initial presentment. This process is unconscionable and may be unconstitutional.

3. Warrant Accountability

To the best of our knowledge, the warrants that form the basis for misdemeanor prosecution originate in many different places. Some come from

the court itself via the warrant clerks. Some come from individual Justices of the Peace throughout the County. Some come from municipal courts. Since these are independent sources, there is no real method for tracking the warrants. The Solicitor is unaware of his potential workload until it arrives. The court must wait until the Solicitor acts before it can determine its caseload. With three new magistrates to begin in the summer it should be fairly obvious that a centralized warrant tracking function should exist if the Court wishes to plan its scheduling and account for its business intelligently.

4. Complex Law

The law that created the new magistrate courts is one of the most detailed we have ever seen. It occurred to us that a much more preferable way of establishing the necessary details would have been to create broad powers by statute and allow the court to set the necessary details by court rule. It seems axiomatic to us that the inherent power of the court to govern itself is seriously hindered by the enactment of this detailed statute.

III. RECOMMENDATIONS

A. Make judicial assignments according to need; consider court rules that would place calendar control in the court and not in the hands of the attorneys; and give the clerk the authority and support to modify the physical structure where appropriate.

Commentary:

As has been noted, three of the 8 present judges will probably be retiring within the year. (See Appendix D). The newly appointed clerk has the confidence of the present presiding judge and, apparently, other members of the Court. He is imaginative, enthusiastic, and willing to experiment with alternatives in seeking the ends of justice. Three new magistrates will relieve the judges of some duties thus enabling some experimentation.

What we recommend here has been tried and successfully implemented in other jurisdictions. Judicial assignments are a particularly sensitive area. No one judge wishes to disappoint colleagues and few are willing to let a non-judge call the shots. Yet, this most important function of applying resources where most needed, is not a particularly judicial function. Judges should judge, write opinions, referee law suits, impose sanctions, etc., and can well leave the management of other activities to others. Given the trust the bench seems to have in the present clerk and his willingness to assume whatever duties he is asked to carry out, we believe he should be given the authority, with the concurrence of the Presiding Judge, to establish assignments according to need. Further, we believe that given the present status of the caseload, an additional judge should be assigned temporarily to criminal matters.

At present, there seems to be no way to monitor the number of warrants that lead to filed criminal cases. We believe that consideration should be given to the pre-numbering of all warrants and that some method be designed to

measure accountability. Given the present law which empowers the Solicitor alone to commence the court phase of a criminal case by the filing of an Accusation, we think that a first step in placing full calendaring responsibility in the court might be the monitoring of warrants and the time between warrant issuance and the filing of Accusations.

Finally, now that the courts have merged, it seems logical to rearrange physical facilities to accommodate better paper and people flow. For example, calendar call courts, filing access to the clerk's office, and information points belong on the ground floor so that, to the extent possible, the most intense public traffic can be confined to the ground floor. Again, with no detailed analysis of the physical layout, we can only suggest that the clerk, on behalf of the court, undertake such an analysis - perhaps with the assistance of the Administrative Office of the Courts - and make appropriate changes.

B. Consolidate similar functions within the clerk's office into one location.

Commentary:

There is adequate space on the ground floor, first and second floor so that most public contacts could be limited to the ground floor. Activities such as the civil warrant function, the arraignment court, the filing counters, the cashiers and public information could be relocated to the ground floor. Docketing, record, and management functions could be transferred to the upper floors.

By consolidating all docketing and calendaring functions, there should be more opportunity for cross-training. This should result in the ability to rotate more people into more functions and the ability to establish one information point. A functional physical organization should be an advantage to the administration of the court in planning future changes. In accomplishing this it is suggested that the facilities planner at the Administrative Office

of the Courts assist in schematic layouts thereby helping to keep any remodeling costs at a minimum.

The present staffing pattern is divided into criminal and civil functions. Warrants are under civil even though warrants are issued for criminal acts and may become criminal cases at some point. Because there were separate criminal and civil courts which were consolidated is no reason to maintain these functions as separate. The objective of the court and management priorities should be the true consolidation of all clerical functions.

C. There are several recommendations that we believe will improve the case flow of civil cases:

1. Unify the index for civil, traffic and criminal cases into one computer file and if storage space is not adequate for several years, consider using computer output microfilm and microfiche.

2. Make decisions concerning data processing changes through a coordinated effort by a user's group of Court personnel, the Solicitor's Office, the Marshal's Office, and other involved agencies.

3. Create a one directional paper flow through the filing and record creation stages in the Clerk's Office.

4. Analyze and simplify manual paper flow and procedures so that automation will flow easily. (This applies to the filing and cashier process and the "Blue Book" procedures. The method of getting cases calendared for trial should be simplified.)

5. Allow data entry to be performed by clerk's employees in the Clerk's Office. (One person should be able to enter both civil and criminal data.)

6. Consider establishing a court rule concerning the dismissal of cases that are not ready for trial.

7. Develop unified data elements with common definitions by sharing the development effort with other user agencies.

8. Analyze "down time" on the computer to determine whether the amount is excessive or normal.

9. Consolidate money collections into one place and develop an accounting system that will produce balancing data and provide for an easy audit. Ultimately, the system should be automated.

Commentary:

Section II C sufficiently details descriptions of the present system of processing.

Calendar System

The court's caseload is presently assigned by a central or master calendar. There is discussion of creating individual calendars for at least the civil divisions. Primary arguments for this are that you don't know what cases you are going to have and that someone else has heard the preliminary motions, and you have not had an opportunity to become familiar with the case.

In that the court has a high volume of civil cases that can be quickly disposed of, we do not recommend the introduction of an individual calendar system. It has been established that only 2½% of the civil cases are disposed of directly by a judge. The implementation of an individual calendar system might be worthwhile if used only for those cases set for trial. For this arrangement to be successful, it would require that: (a) only active, good, ready for trial cases would be set; (b) each court would set its own calendar and do the work involved; (c) all settlements and defaults would be handled by magistrates or on a central calendar handled by all judges, and (d) that all pre-active motions would be heard by the judge who would ultimately have the case assigned.

The individual calendar is a self-pacing system and it is essential to equally dividing workload, to publishing statistics on each division, and to

periodically equalizing the active case inventory to accommodate the slower judges. The individual calendar system requires that criminal bench assignments must be made for periods of two years. Civil and criminal cases should not be mixed on an individual calendar.

D. There are several recommendations that we believe will improve the case flow of criminal cases:

1. The clerk should prenumber and assign in advance all warrants and should be notified when a warrant is issued. (The affidavit might be ordered filed with the Clerk at the time the warrant goes to the Sheriff for service);

2. At the time of the committal hearing, the defendant should be given a definite date for arraignment and that date should be communicated to the Solicitor and the Clerk;

3. Pleas of guilty should be accepted without the necessity of a formal Accusation and analysis of statutes and tradition which preclude this practice should be undertaken as soon as possible;

4. Consideration should be given to revising the manner of keeping certain case files - particularly those that are bulky and used more often;

5. Consideration should be given to the establishment of a general status call calendar following arraignment with the idea of setting definite trial dates at the time of the status hearing; and

6. The feasibility study conducted by the Federal Systems Division of IBM should be unearthed and studied for its potential use in long and short range automation plans which might be discussed among court officials.

Commentary:

Warrants.

The ability to project what the court's business will be may be severely hampered without a system that provides some centralized information to the

Clerk's Office. At the same time, since the court has overall responsibility for the quality of justice, it is in the court's interest to be aware of how many cases are "open" and for how long. Any possibility of changing the present relationship between the court and the Solicitor so that the court will have more control of its docket will depend on the court's ability to account for and "move" warrants.

Definite Court Dates For Arraignment

It may well be inappropriate to base conclusions and recommendations on observations of three days and of analysis of a week's work in the criminal court. At the same time, when 20% of the cases called result in bond forfeitures and continuances there is a problem. Experience has taught us that the best protection against failure to appear is a definite court date and a good notification system. Traditionally, the courts have relied on the commercial bail bondsman to produce defendants in a timely fashion. The experience of the past two decades has proved that definite court dates when coupled with notification insures the presence of most people when required.

The opposite is also true. Indefinite court dates account for the highest failure to appear rates. It would make a great deal of sense to set definite arraignment dates at the time of the committal hearing for several reasons:

- Appearance rates should improve;
- The Solicitor would have to return Accusations within a definite time span or account for his failure to do so;
- Scheduling calendar calls would be easier, more accurate, and the cases could be more evenly distributed;
- The committal courts might then be required to notify the State Court of all committals; and
- The defendants would not be "confused" about where and when to appear.

Pleas of Guilty Without Accusation

Assuming that counsel and defendant have consulted at the time of initial presentment and that the defendant wishes to plead guilty, it seems wasteful to require a defendant, particularly a jailed defendant, to wait until the following week to enter a plea. Most courts have provision for waiver of formal Accusation and it is our thought that this prospect be considered. In addition, we believe that certain cases might be able to proceed to disposition without a formal Accusation, e.g., "68-B", cases. Obviously, more cases processed in this manner will result in a more organized and lighter workload.

For what are probably legitimate cost reasons, the case files of the court are kept in a folded loose-leaf style. We were told of stories of lost files and missing papers in "the old days" with the new Clerk being given the credit for having eliminated most of the problem. Still, the present system of filing is not the best. Flat files (legal size) with fasteners and prenumbered and coordinated colors are preferable. It might be possible to focus on certain types of cases that are more likely to be used than others and prepare and store these differently.

Status Calendar

From what we have been able to determine it appears that once an arraignment date has been met, criminal cases are then scheduled for trial on a master calendar plan. Calendars are called on given dates and cases are certified for trial. Again, since at least 38% of the cases scheduled for one week had to be reset it would seem that the present system is not as efficient as it might be. One way of dealing with the problem might be to set a status call date following arraignment. At this time a judge could investigate to determine whether motions were filed, discovery completed, etc. Such a call

would also provide the opportunity for pleading, washing out those cases that should be, etc. In other words - the status call would provide a true accounting date. Following the call, cases could then be set more realistically for definite trial dates, perhaps, on an individual calendar basis.

Automation

The court has the potential for numerous automation applications. Indexes are already under way. The court should investigate the feasibility of automated scheduling, information retrieval, and procedures that could link with other information systems. We learned that the Federal Systems Division of I.B.M. had recently (within the past few years) conducted a study of the feasibility of automating the several parts of the criminal justice system of Fulton County. Our conversations with County Data Processing personnel, the Clerk, and others, convince us that it would be to the advantage of all concerned to unearth this document, create a small "user" group to study it, determine the applicability of all or portions of it to the court operation, and begin working with Data Processing personnel on long - and short-range changes.

Some immediate improvements might include:

- automated, integrated file retrieval for criminal, civil, and traffic cases;
- access to NCIC and GCIC record information;
- automated audit trail for cash transactions;
- jury lists; and others.

One word of caution is in order. Modern technology can be used to produce more accurate and more comprehensive work. It enables us to do things, better, faster, and with more accuracy than we have ever been able to. There is a real danger, however, to have a tendency to sit back and let the computer technicians "who know lots more about this than I do" create gargantuan problems. Any administrator who begins automation without recognition that

a minimum of half his time will be spent on the design and implementation phase is headed for trouble. An automated system can be no better than the manual system it replaces - or - phrased another way, "Garbage in, garbage out."

If, and when, a decision to automate is reached, it must be shared with those who will implement the system. Great care must be taken not only in training the people concerned to use the system but to familiarize them with the reasons for the decision far in advance and to show them by direction and example that the "top dog" making the decision is absolutely convinced this process will make things better for each person

Consistent dialogue between the system designers (usually programmers, systems analysts and others) and the users - the administrator and those who will "input" the data is a must. Too many systems with great potential have proved to be terrible disasters because of a failure of this dialogue. The tendency to go ahead too fast, with too much, or to pick a piece here and there as need dictates can also be harmful. The clearest and cleanest way to successfully implement an automation project is to create a user group that includes others in the system, carefully analyze and match necessary data elements, and carefully and realistically establish long and short-range objectives.

E. Miscellaneous

1. Pretrial Release

There should be far greater use of "personal" or "own recognizance" release; a defendant option 10% deposit program should be authorized by court rule; and a mechanism should exist for providing judges information concerning an accused's community ties at bail setting.

Commentary:

Fulton County relies upon bail bondsmen as the main avenue of release and insurance against flight. In 1968 the American Bar Association called for the elimination of surety for profit as an anachronism. Alternative programs that are less burdensome and accomplish the same ends have been successfully more than demonstrated in the last 12 years. In fact, the ABA reiterated its position in 1979 when it revised its standards. It is difficult to reconcile the fact that under the present system in Fulton County, the decision as to who will be released from jail is transferred from the judge to a profit motivated individual once the judge sets bond. Those jurisdictions that utilize personal recognizance and the 10% deposit option report far greater success in maintaining calendar integrity than is indicated by the 20% failure rate in our sample week. We believe that with adequate background information judges can safely release more people and reduce the failure to appear rate. That information can be gathered by an agency designated for that purpose or by others. We suggest that the Court consult with Ms. Joan Matthews of the City of Atlanta Pretrial Release Program to learn more about this option.

Finally, we recommend that the present "bond schedule" be amended to permit defendants to post 10% of the amount set. Oregon, Kentucky, and Illinois have enacted defendant option 10% programs by statute and have fared well. After all, in this type of process, rather than pay the 10% as a fee to a bondsman, the defendant - or those who post the money for him - can recover all (or most) of the deposit upon successful completion of the release terms. Any motivation to appear is much more direct when one's own dollars are at stake.

2. Accusations

A Court rule should be established permitting a defendant to waive a formal Accusation and proceed upon the basis of the citation or information already on record.

Commentary:

Recognizing that it is a prosecutor's right to file or not file charges, it is unconscionable to hold a defendant on police charges alone for a length of possibly 7-10 days. Some have suggested that statutory change is required; others that, in some cases, proceeding by way of the citation already issued, i.e., 68-B cases, may be proper. The court has the overall authority to see that justice is dispensed. We suggest that the Solicitor be ordered or cajoled into providing more timely charges. It may well be that the detention in jail of a defendant who cannot make the bond set simply to await the return of an Accusation is a violation of the U.S. Supreme Court's dictate in Argesinger v. Hamlin, 407 U.S. 25 (1972).

3. Warrant Accountability

Regardless of the source of issue, all warrants should be prenumbered and assigned by the clerk of the State Court.

Commentary:

Even though we recognize that it would be most difficult to carry out this suggestion since individual Justices of the Peace, municipal courts, and others, control their own dockets, from a management perspective, such a process is vital.

There is now no accountability for warrants issued. They may be issued and unserved. They may have resulted in committal hearings where there has been no contact with the Solicitor. The Solicitor himself may lose cases. Again, we believe that the Court's role in the overall administration of justice requires the monitoring of warrants.

4. Complex Laws

In the future, the courts should seek statutory amendments that are broad in scope and permit the fashioning of details by court rule.

Commentary:

As mentioned, the inherent powers of the courts to govern themselves are severely impeded by a statute as detailed as the one which creates the magistrates. To preserve the separation of powers and its own integrity the court should avoid, to the extent practical, support of legislation so limiting and detailed in its terms.

IV. CONCLUSION

Circumstances in Fulton County combine to create an ideal climate for change. An energetic and capable newly appointed clerk, who enjoys the support of the Bench and his staff, wishes to review and revise the present conduct of the court's business. Newly created magistrate positions portend some lessening of the overall burden on the judges. The court itself, recently the subject of altering legislation, will see a change in its organization within the next year. Data processing personnel seem to have the interest and the resources to assist in automation planning for the State Court. The Administrative Office of the Courts is possessed of extremely well qualified and talented people available to assist where needed.

We believe that the present time and conditions are well suited to accomplishing significant changes that will go a long way toward carrying out the original "merger" intent of the 1976 law. The key to successful implementation of any suggestions is a "team" approach and "team" acceptance of the plan. At the same time, we recognize that without a catalyst to press for reform little good may result. Chief Judge Camp expressed his interest in beginning new and innovative programs despite his impending retirement. Clerk Sanford "Sammy" Jones, esq., impresses us as being singularly qualified to implement the changes herein suggested with backing from the State Court. We believe it would be to his - and the court's - advantage to visit one or two places that have incorporated most of the changes suggested herein (such as Washington, D.C., or Phoenix, Arizona). In any event, we were appreciative of the openness and candor of all those with whom we spoke and believe that if there can be successful implementation of any of our suggestions, it will be carried out only because of exceptional people who administer justice in Fulton County.

APPENDIX A

LIST OF PEOPLE INTERVIEWED

1. Honorable Thomas L. Camp - Presiding Judge, Fulton County State Court
2. Charlene Childers - County Data Processing Division
3. Luke C. Davis - Marshal, Fulton County
4. Robert Doss - Administrative Office of the Courts
5. Honorable Philip Ethridge - Judge, Fulton County State Court
6. Ken Kincaid - Administrative Office of the Courts
7. Honorable Nick Lambros - Judge, Fulton County State Court
8. J. Chris Perrin - Administrative Office of the Courts
9. Ken Roberson - Chief Criminal Clerk, Fulton County State Court
10. Sanford "Sammy" Jones, Esq. - Chief Clerk, Fulton County State Court
11. James Walker - County Data Processing Division
12. James L. Webb, Esq. - Principal Assistant, Solicitor

Appendices

Foldout appendices B-1, B-2 and C are omitted in this copy of "Caseflow Management Study, Fulton County, Georgia State Court." Copies of appendices B-1, B-2 and C can be obtained from the Courts Technical Assistance Project upon request.

APPENDIX D

LIST OF JUDGES OF STATE COURT

1. Honorable Thomas L. Camp - Presiding Judge
Elected circa 1955; Expected retirement
this year.
2. Honorable E.A. Wright
Elected circa 1954; Expected retirement
this year.
3. Honorable Daniel Duke
Elected circa 1960; Expected retirement
this year.
4. Honorable Thomas E. Moran
Elected circa 1974; Expected re-election
to 6 year term 1981.
5. Honorable Nick Lambros
Elected circa 1978; Expected to complete
3 more years of present 6 year term.
6. Honorable William H. Alexander
Elected circa 1977; Expected to complete
6 year term in 1984.
7. Honorable Dorothy T. Beasley
Elected circa 1978; Expected to finish
6 year term in 1984.
8. Honorable Philip F. Etheridge
Elected circa 1979; Expected to finish
6 year term in 1985.

END

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