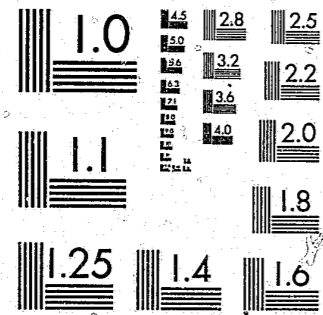


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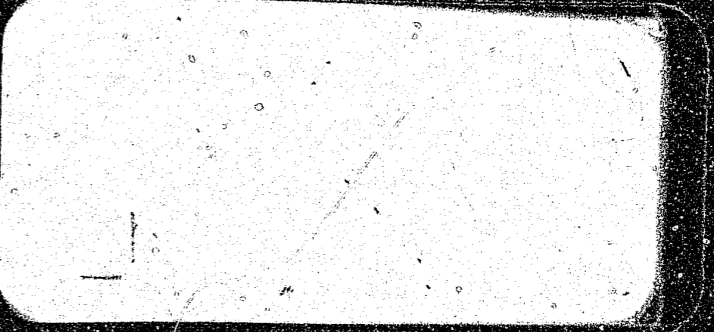
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MINNESOTA

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RESEARCH
REPORT

A Preliminary Report
of the
Plea Negotiation Study

produced by the
Minnesota Statistical Analysis Center

by
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Crime Control Planning Board
444 Lafayette Rd.
St. Paul, Minn. 55101

September, 1977

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COURT DELAY IN MINNESOTA
DISTRICT COURTS

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Table of Contents

	<u>Page</u>
List of Figures	v
List of Tables	vii
I. Introduction - Plea Negotiation Study	1
II. Sampling and Data Collection	3
III. Results	
A. Introduction - Court Delay	8
B. Actual Court Processing Time Compared to Time Limits Set Forth in Rules of Criminal Procedure	13
C. Court Processing Time: A Comparative Analysis Before and After Rules of Criminal Procedure	19
D. Relationship Between Court Processing Time and Case-Related Variables	34
1. Court Processing Time and Case-Related Variables: Before and After Rules of Criminal Procedure	36
2. Descriptive Analysis: Relationships Between Court Processing Time and Case-Related Variables After Rules of Criminal Procedure	38
a. Relationship Between Type of Offense Charged and Court Processing Time	38
b. Relationship Between Mode of Disposition and Court Processing Time	40
c. Relationship Between Change in Plea and Court Processing Time	43
d. Relationship Between Type of Defense Counsel and Court Processing Time	45
e. Relationship Between Prior Conviction Record of Defendant and Court Processing Time	46
f. Relationship Between Race of Defendant and Court Processing Time	48
IV. Summary and Conclusions	50
V. Appendix	53

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iii

List of Figures

<u>Title</u>		<u>Page</u>
Figure 1	Number of Court Days from Arrest to First Appearance- Post-Rules Cases	15
Figure 2	Number of Court Days from First Appearance to Arraignment - Post-Rules Cases	16
Figure 3	Stages of Criminal Procedure Before and After Rules	19
Figure 4	Median Number of Court Days Between Court Appearances	22
Figure 5	Number of Court Days from First Appearance to Disposition Before and After Rules	31

List of Tables

<u>Title</u>		<u>Page</u>
Table 1	Sampling	5
Table 2	Number of Court Days from Arrest to Sentencing Before and After Rules	25
Table 3	Number of Court Days from First Appearance to Sentencing Before and After Rules	27
Table 4	Number of Court Days from Arrest to Disposition Before and After Rules	28
Table 5	Number of Court Days from First Appearance to Disposition Before and After Rules	30
Table 6	Number of Court Days from First Appearance to Disposition by Type of Offense Charged- Post-Rules Cases	39
Table 7	Number of Court Days from First Appearance to Disposition According to Mode of Disposition- Post-Rules Cases	42
Table 8	Number of Court Days from First Appearance to Disposition According to Change in Plea - Post-Rules Cases	44
Table 9	Number of Court Days from First Appearance to Disposition According to Type of Defense Counsel - Post-Rules Cases	45
Table 10	Number of Court Days from First Appearance to Disposition According to Prior Conviction Records of Defendants - Post-Rules Cases	47
Table 11	Number of Court Days from First Appearance to Disposition by Race of Defendant - Post-Rules Cases	48

I. Introduction - Plea Negotiation Study

In 1976 the Governor's Commission on Crime Prevention and Control initiated a statewide research study of plea negotiations. The study was designed with several purposes in mind. First, it was designed to empirically describe the nature and extent of plea negotiations at the felony level in Minnesota's district courts, since information regarding plea negotiations has not been compiled to date on a statewide basis. While the majority of cases are settled by guilty pleas, it is not known how many pleas are the result of a plea agreement reached by prosecution and defense counsel. Plea bargaining is an essential and pervasive component of criminal prosecutions today and, therefore, merits further explication and research effort. This study will examine the practice of plea negotiations utilizing data collected from district court and county attorney files concerning felony cases filed in 1975.

Further, the study was designed to describe the criminal processing of defendants from arrest to disposition. At present, information is not available concerning the characteristics of defendants being prosecuted for felonies in the state. There is also little or no empirical data available on a statewide basis concerning the types of offenses being prosecuted, the delay involved from arrest to disposition, the types of and length of sentences being imposed, and the probabilities of conviction for persons prosecuted on felonies. This information

is essential to the understanding of the district courts in the state and is necessary in the analysis of plea negotiations. The Minnesota Offender Based Transaction Statistics (OBTS) system, the State Judicial Information System (SJIS), and the Offender Based State Corrections Information System (OBSCIS) will soon be providing such information. However, these systems were not fully operational at the time the study began.

Because the study was designed to encompass a broad range of topics, a large quantity of data was gathered.¹ There are five major areas contained within the study: delay, offenses and the offender, dispositions, plea negotiations and sentencing. Each area merits special attention, and in each area a preliminary report will be generated. The preliminary reports will contain largely descriptive data and will be completed in the order listed above. The final report will utilize information contained in the preliminary reports and present a more comprehensive and conclusive analysis. The final report should be completed by July of 1978.

This report presents the preliminary findings of the Plea Negotiation Study on the topic of court delay. Because it is a preliminary report and further and more extensive analyses are necessary, the findings are limited to description and are, therefore, suggestive rather than conclusive.

¹For additional information regarding the purpose and scope of the study, see "Research Design - Plea Negotiation Study" which is available upon request at the Crime Control Planning Board, 444 Lafayette Road, St. Paul, MN 55101.

II. Sampling and Data Collection

A. Sampling

1. Stage One - Sample Size

There are ten judicial districts in Minnesota which range in size from one to seventeen counties. Each district has three or more judges who travel to the counties within the district to hold district court. The population of the districts ranges from 180,000 to 924,000.

District court is the court of original jurisdiction in all felony and gross misdemeanor cases and in civil matters where the amount in dispute exceeds \$1,000. District courts also hear appeals from the county courts throughout the state.

In 1975 there were 7,453 criminal dispositions in Minnesota's district courts.² A sample consisting of 1,342 cases was selected, representing approximately one sixth of all criminal dispositions in the state. Given the diversity of district courts in Minnesota, in terms of population and community type, it was felt that the sample should be large enough to reflect those differences.

²Twelfth Annual Report - 1975 Minnesota Courts, Office of State Court Administrator.

In July, 1975 Minnesota enacted Rules of Criminal Procedure.³ It is an additional intent of the study to examine the processing of cases prior to the Rules and after the Rules became effective. Therefore, the year 1975 was selected in order to facilitate such comparisons.

The sample was limited in scope to cases that had proceeded to an arraignment in district court. Accordingly, for cases including negotiated pleas, the study is limited to plea bargaining that occurs after arraignment in district court. The sample does not include cases that are appeals from county court, nor does it include escape and fugitive cases. Prior to the Rules, cases that were dismissed as the result of a probable cause hearing are not included, since the sample is limited to felony cases which proceed to district court arraignment.

2. Stage Two - District Selection

With the total sample size set at 1,342, the percentage of total dispositions that each district represents was then determined (see Table 1). The first column of the table presents the total number of criminal dispositions broken down by district, while the next column presents the percentage of the

³Minnesota Rules of Court 1975, West Publishing (1975). For the Rules of Criminal Procedure, see pp. 281-643.

total these dispositions represent. The technique used was proportionate sampling whereby the number of dispositions to be drawn from each district was based on the percentage of the total each district represents. Accordingly, the last three columns of the table show the proportionate contribution of each district to the sample size.

The discrepancy between the ideal and actual sample size is due to the nuances of sampling and the deviations are not major, with the exception of the second and fourth districts. At the time of data collection in these districts, 1975 figures were not yet available. Therefore, the sample size for these two districts was based on 1974 information.⁴

TABLE 1
SAMPLING

Judicial Districts	1975 Criminal Dispositions	% of Total	Ideal Sample Size	Actual Sample Size	% of Total Sample
1	576	7.7	97	100	7.5
2	970	13.0	163	217	16.2
3	527	7.1	89	91	6.8
4	2057	27.7	347	305	22.7
5	412	5.5	69	75	5.6
6	477	6.4	80	85	6.3
7	584	7.8	98	106	7.9
8	261	3.5	44	50	3.7
9	835	11.2	140	147	11.0
10	744	10.0	125	166	12.4
TOTAL	7453	99.9	1252	1342	100

⁴The second and fourth districts are the most populated and metropolitan districts in the state. Combining the ideal and actual sample sizes for these two districts, the results are 510 and 522 cases respectively. Because these cases represent approximately the same proportion of total cases, the observed deviations within the two districts should not have a significant effect on the representiveness of the sample.

3. Stage Three - Selection Within Districts

Once the quota for each district was determined, there remained the selection of counties within each district. Districts range in size from one to seventeen counties. Due to the unfeasibility of traveling to all of Minnesota's eighty-seven counties, a proportionate sampling technique could not be utilized. Therefore, selection of counties was based upon those counties within each district which had an ample number of dispositions to accommodate the district quota. The implication of this is that only those counties with relatively large caseloads were sampled. However, this bias was weighed against the practical considerations involved in any alternative method. The exception to this is in the Ninth District in which there was no one county with a caseload large enough to fulfill the district quota. Therefore, out of the counties that could meet at least one-half of the quota, two counties were randomly selected.

4. Stage Four - Selection of Cases Within Counties

A primary consideration in the selection of cases is the study's focus on the Minnesota Rules of Criminal Procedure. In order to measure the adjudication process before and after the Rules became effective, approximately one-half of the sample contains cases handled before the Rules and one-half after the Rules. The sample was stratified on the Rules, with July 1, 1975 as the date they became effective.

Generally, the method of case selection was based upon the random selection of two months before July and two months including and after July. Cases were selected from these months commencing with the first case filed and continuing until one quarter of the quota was met. In counties where the number of dispositions was too small to accommodate this method, selection began with January and continued until one-half of the quota was met, and likewise post-Rules cases were collected beginning with July.

III. Results

A. Introduction - Court Delay

An area of major importance in the prosecution of felonies is the amount of time the adjudication process takes. Indeed, the Sixth Amendment to the Constitution states, "In all criminal prosecutions, the accused shall enjoy the right to a speedy...trial." In spite of the fact that today most convictions are the result of a guilty plea, not a trial,⁵ it is nevertheless evident that prompt processing of criminal cases is an inherent goal of the courts. However, in practice, court backlog and delay are not uncommon in U.S. courts.

A basic factor contributing to court delay is simply the increase in the number of cases prosecuted. In Minnesota, the number of new criminal cases filed annually increased by 48% from 1970 to 1975.⁶ This dramatic increase in court filings, however, has not been accompanied by a comparable increase in judicial manpower. Thus, a situation exists wherein criminal court dockets are more crowded than ever before. Modern business management techniques have yet to be systematically applied to courts' management to

⁵ Newman, Donald, Conviction: The Determination of Guilt or Innocence Without Trial, Little, Brown & Co., (1966), 3.

⁶ Eighth Annual Report, 1971 Minnesota Courts and Twelfth Annual Report, 1975 Minnesota Courts, Office of the State Court Administrator. There were 5,392 new criminal cases filed in 1970 and 7,991 in 1975.

alleviate the problem.⁷ Instead one finds, in many cases, archaic record keeping and time management systems struggling to cope with the increasing number of criminal cases. One obvious result is court backlog and delay. Delay in this context may be seen as a function of court caseload administration.

Another source of delay may be the use of continuances. In theory, a continuance (postponement until a future date) may be granted in order to allow adequate time for case preparation by either the prosecution, defense counsel, or both. In practice, however, and perhaps due to the nature of the adversary system, continuances have become a major defense strategy or a means to ensure fee collection, especially in the case of the retained attorney.⁸ This source of delay will not be examined by the study, however, since information concerning the use of continuances was not collected.

⁷ Chief Justice Warren Burger, "The State of the Judiciary - 1970", ABA Journal, 56, (1970), 929.

⁸ Levin, Martin, "Delay in Five Criminal Courts," Journal of Legal Studies, 4, (1975), 91. See also Banfield & Anderson "Continuances in Cook County Criminal Courts," University of Chicago Law Review, 35, (1968), 285. This study concluded that the majority of continuances granted to retained attorneys represent "the tactical use of delay, scheduling inefficiencies, fee collection, and other causes not directly related to administration of a case and not legitimate within the framework of the legal system." The study also reported that such "abusive" use of continuances was more prevalent among retained vs. appointed attorneys.

Delay can also occur due to unforeseen issues that may arise in the course of the criminal process. Witnesses may be difficult to locate, psychiatric and other types of examinations may be ordered by the court, evidence may require extensive crime lab analyses, or the defendant may fail to appear in court. These circumstances require continuances and rescheduling and, therefore, contribute to delay. This type of delay, however, is primarily a result of the processes inherent in our legal system, not necessarily a consequence of caseload management.

The study will focus on delay inasmuch as it will examine the numbers of days in between court appearances. It will look at the relationships between delay and other components of the system. The causes of delay, e.g., continuances, psychiatric examinations, unavailability of witnesses, etc., were not systematically recorded and, therefore, statements concerning the sources of delay cannot be made as they are beyond the scope of the study.

The consequences of delay are as far-reaching as they are complex. To the public, an image of court inefficiency and ineffectiveness is fostered by undue delay in criminal proceedings. To the defendant awaiting trial in jail, the consequences of delay are obvious. To the bailed defendant, on the other hand, delay represents

prolonged freedom and may work to his advantage.⁹ It may allow him more time to aid his attorney in preparation of his defense, or it may provide him additional time during which he can maintain a job and family contact, or commit additional crimes.

The consequences of delay for the criminal justice system are, perhaps, the most perplexing. Observers of the system have argued that the deterrent effect of prosecution is lost unless the process is swift and certain.¹⁰ The offender must first know that action will be taken against him, and once taken that it will proceed swiftly. Delay has the effect of lengthening the time from apprehension to disposition, thus diminishing the deterrent effect of prosecution. Similarly, delay may serve to weaken the prosecution's chance of conviction as witnesses disappear or forget the circumstances surrounding the crime. Banfield & Anderson found that as the number of court appearances increases the proportion of guilty dispositions decreases. "The most salient relationship between number of court appearances and convictions is that, with few exceptions, the conviction

⁹ Banfield & Anderson (note 7 supra) found that bailed cases take longer than jailed cases. This finding is also supported by Levin (note 7 supra, at 109, 110).

¹⁰ Clark, Ramsey, Crime in America, Simon & Schuster, (1970), 118, 119.

rate decreases as case length increases."¹¹

This preliminary report of the Plea Negotiation Study on the topic of court delay will address the research questions listed below:

1. In 1975 the Supreme Court of Minnesota instituted Rules of Criminal Procedure which, among other things, set proposed time limits within which court appearances should occur. Within the limits of the data, to what extent are these time limits being followed? (See Section B)
2. Has enactment of Rules of Criminal Procedure served to hasten the adjudication process? This question will be addressed by comparing case processing time for cases handled prior to the Rules with cases filed after the Rules. (See Section C)
3. If differences are found in the amount of court processing time for before and after Rules cases, can these differences be explained by variables other than the Rules themselves? Other case-related variables, their relationship with court processing time, and their relationship with the Rules

¹¹ See Banfield & Anderson, supra note 7, at 287. This finding, however, is contrary to the conclusions of Levin who found the data related to whether long delay leads to lower probability of conviction inconclusive. Banfield & Anderson also found that the proportion of guilty dispositions involving reduced charges increases over time.

will be presented in Section D (1).

4. What are the relationships between court processing time and other case-related variables? Cases filed after the Rules will be examined, since they are more reflective of current practices than are cases filed prior to their enactment.

(See Section D (2)).

B. Actual Court Processing Time Compared to Time Limits Set Forth in Rules of Criminal Procedure

The Supreme Court of Minnesota in 1975 promulgated Rules of Criminal Procedure which went into effect in July of that year. It was the purpose of the Rules to hasten the adjudication of felony cases by, among other things, establishing a suggested timetable of events. The Rules set forth time limits within which court appearances should occur.¹² This section will discuss the extent to which the time limits are being followed, on the basis of the sample data.

The Rules state that the initial appearance subsequent to arrest shall be no more than 36 hours after arrest.¹³

¹² It should be noted that within the first year under the Rules "...the district and county courts are urged to be tolerant of insubstantial deviations from the Rules where good faith effort has been made to comply with the Rules." Minnesota Rules of Court - 1976, "Modification Order" p. 292.

¹³ Rules 4.02 subd. 5(1) and 3.02 subd. 2(3). The Rules also provided for the issuance of citations in lieu of arrest. Cases in which citations were issued are excluded from the present analysis.

In Minnesota, the first appearance occurs in county court.¹⁴
 The intent is to set conditions of release and to inquire into the financial status of the defendant for purposes of appointing counsel if appropriate.

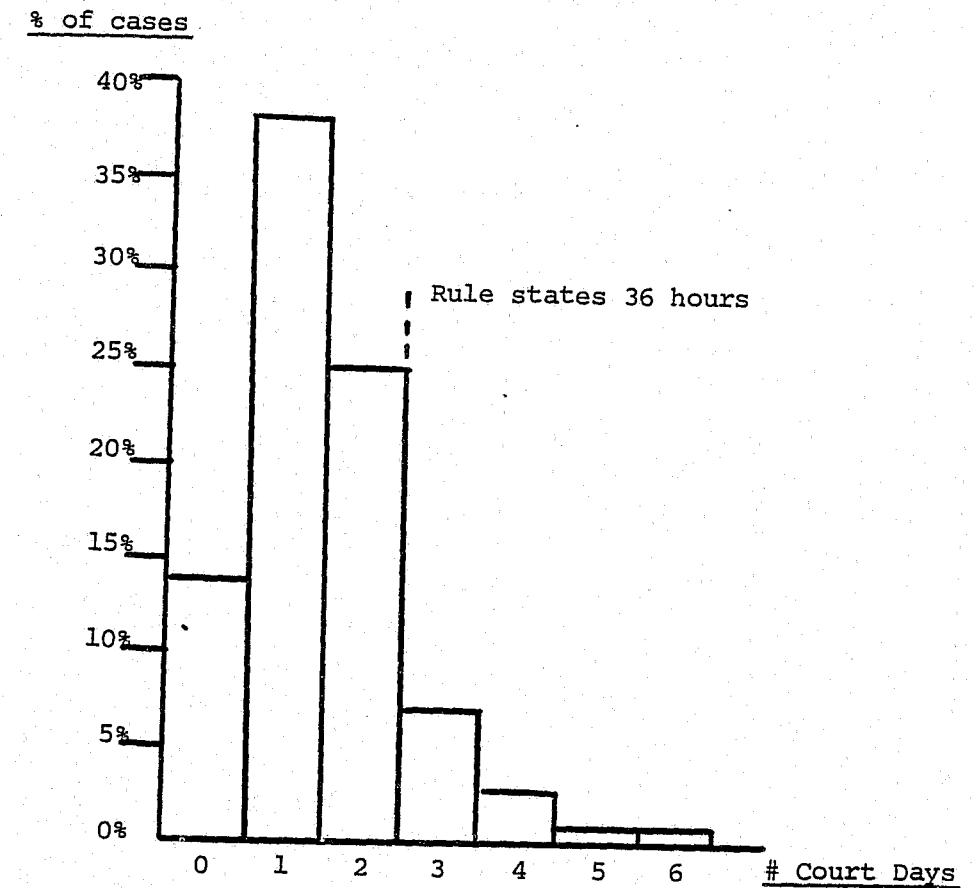
For the purposes of the study, the time lapse between arrest and first appearance is measured in terms of court days, not hours.¹⁵ Court days are defined as all days in a year, excluding weekends and legal holidays. Therefore, cases in which the number of court days is less than or equal to two are considered to be in compliance with the 36-hour Rule.¹⁶

¹⁴Under the Rules it is also allowable to hold initial appearances in district court if certain criteria are met. See "Modification Order", Minnesota Rules of Court - 1976 p. 291.

¹⁵This calculation of number of court days from arrest to first appearance in county court excludes the day of arrest, weekends and legal holidays.

¹⁶Within the legal community, there exists considerable disagreement in terms of how to interpret this 36-hour Rule. For example, in regard to whether Saturdays should be "counted", the opinions are mixed. See Minnesota Criminal Rules Study - 1976, Elledge, Melinda, S., Project Consultant, Governor's Commission on Crime Prevention and Control Grant ID. #3311015875.

Fig. 1.--Number of court days from arrest to first appearance-post rules cases.*



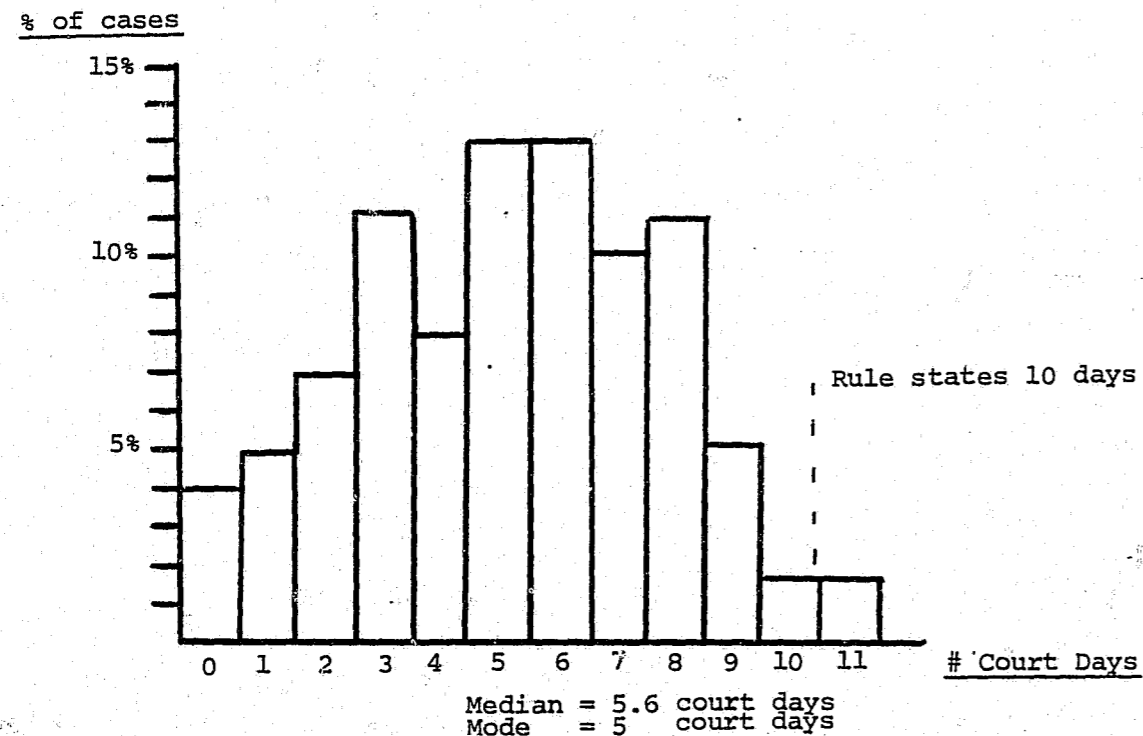
Median = 1.4 court days
 Mode = 1 court day

*Appendix Table G was utilized in the construction of this graph. Missing cases = 61. N = 612.

Figure 1 presents a percentage histogram of the number of court days from arrest to first appearance for 90% of the sampled cases handled under the Rules of Criminal Procedure. There are an additional 61 cases (10%) in which the number of days ranges from seven to 86, and these cases are excluded from the graphic presentation, although included in the

computations.¹⁷ The median number of court days from arrest to first appearance is 1.4, which means that 50% of the cases have the first appearance within 1.4 days of arrest. Seventy-seven percent of the cases fall within two days, while 90% fall within six days. The most frequent score (mode) was one, which indicates that more cases had the first appearance on the first court day after arrest than on any other day. Twenty-two percent of the cases did not have the first appearance within 2 court days of arrest.

Fig. 2.--Number of court days from first appearance to arraignment--post rules cases*



*Appendix Table H was utilized in the construction of this graph. Missing cases = 30. N = 643.

¹⁷ Because of the broad range within which these cases fall, they were excluded from graphic presentation. Further analysis revealed, however, that, aside from the delay involved, these cases are not necessarily atypical of the general patterns found in the majority of cases.

Rule 5.03 states that the first appearance in district court shall not be later than ten days after the defendant's initial appearance in county court. Figure 2. presents a percentage histogram of the number of court days from first appearance in county court to first appearance in district court for 90% of the sampled cases that were handled under the Rules.¹⁸ The median number of days is 5.7, indicating that 50% of the cases have first appearance in district court (arraignment) within 5.7 court days of initial appearance in county court. Eighty-one percent of the cases fall within eight days, while 90% fall within eleven days. The mode is five days, which indicates that more cases had the first appearance in district court on the fifth court day following appearance in county court than on any other day.

In summary, it can be seen that the large majority of cases fall within the time limits prescribed by the Rules of Criminal Procedure. In reference to the number of days from arrest to first appearance, only 22% of the cases exceed the time limit. Looking at the number of days from initial appearance to first appearance in district court, 19% of the

¹⁸ There are an additional 64 cases (10%) in which the number of days ranges from 12 to 89. Because of the broad range within which these cases fall, they are excluded from graphic presentation. Further analysis revealed, however, that, aside from the delay involved, these cases are not necessarily atypical of the general patterns found in the majority of cases.

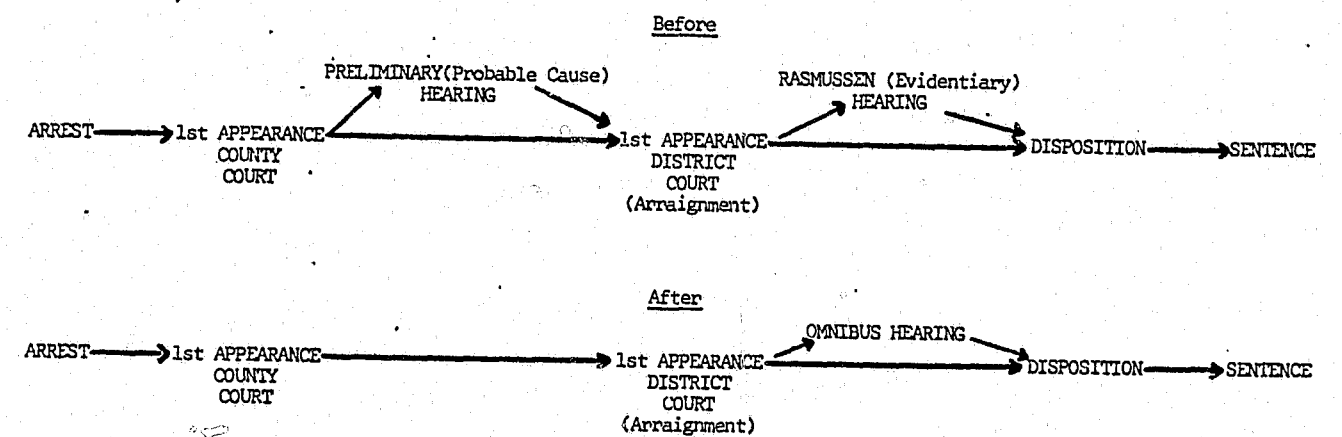
cases exceed the ten day limit.¹⁹ Given the nuances of individual cases, it is not anticipated that all cases should fall within the suggested limits. As stated in the Rules, these time limits may be extended for good cause, thus allowing for special circumstances which may arise in the course of any individual case. In addition, the reader should bear in mind that these cases were filed within the first six months under the Rules. It is a common notion that any system requires time to adjust to structural reorganization (regardless of preparation). Accordingly, it is not expected that complete compliance will occur overnight. In light of the above, the discrepancies found are not unusual or surprising. In conclusion, it appears that a concerted effort was made to meet the requirements of the Rules and that generally the effort was successful.

¹⁹ See Appendix Tables G and H.

C. Court Processing Time: A Comparative Analysis Before and After Rules of Criminal Procedure

In addition to establishing proposed time limits, the Rules of Criminal Procedure significantly altered the sequence of court appearances. The Rules abolished the preliminary (probable cause) hearing and the pre-trial (Rasmussen) hearing, incorporating them into one hearing called the Omnibus Hearing. Figure 3 presents graphically the changes in procedure precipitated by the Rules.

Fig. 3.--Stages of Criminal Procedure Before and After Rules.



Before the Rules, a preliminary hearing, if demanded, took place in county court after the initial appearance, but prior to arraignment in district court. The purpose of this hearing was to establish whether there was probable cause to believe 1) that an offense had been committed, and

2) that the person being prosecuted committed it.²⁰ If probable cause was established, the defendant was then "bound over" to district court for arraignment. Upon arraignment, if the circumstances of the case warranted, the defendant could demand a Rasmussen (pre-trial) hearing. "The Rasmussen hearing is a proceeding initiated by the Minnesota Supreme Court for the pre-trial determination of the admissibility of evidence which might be open to challenge on the basis of infringement of defendant's constitutional rights."²¹

The Rules changed this procedure to one in which the probable cause and evidentiary (Rasmussen) issues were dealt with at one court proceeding called the Omnibus Hearing. Under the Rules, a person arrested should have his first appearance in county court within 36 hours of arrest. Then, the first appearance in district court should occur no later than ten days after the first appearance in county court. Upon first appearance in district court (arraignment), the defendant may waive or demand an Omnibus Hearing. If held, the Omnibus Hearing deals with either probable cause issues

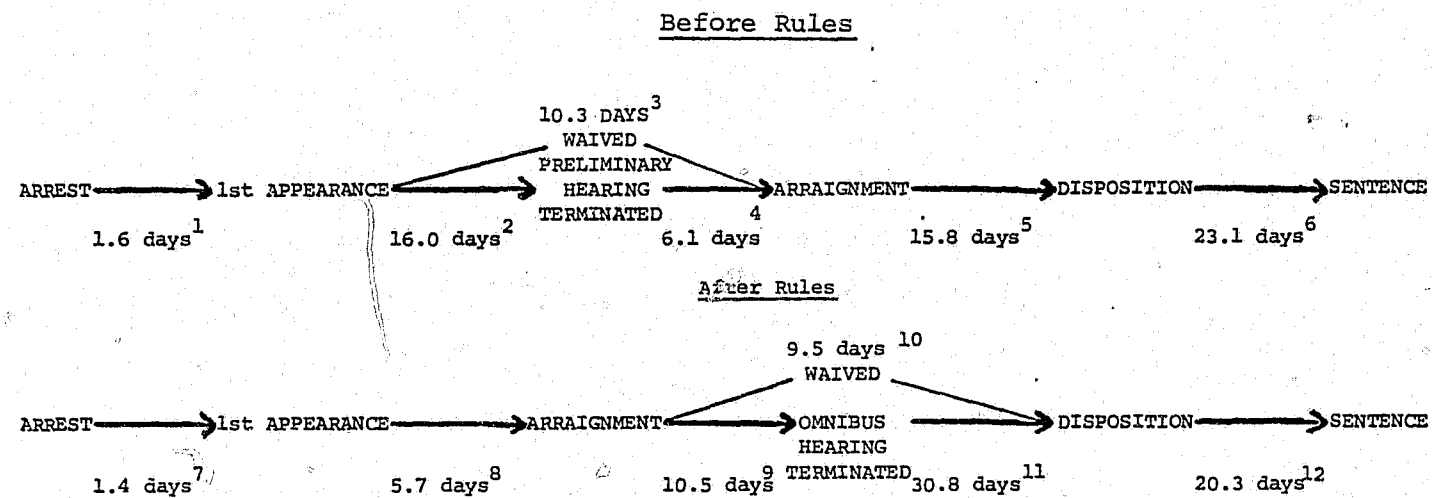
²⁰ For further information see: McCarr, Henry W., and Roston, David G., Minnesota Criminal Law and Procedure, Minneapolis, Minnesota (1974) pp. 48-53.

²¹ Ibid p. 53.

or evidentiary issues or both. It is held in district court and should commence no later than fourteen days after the defendant's first appearance in district court.

Figure 4 presents the median number of court days between court appearances for sampled cases filed before and after the Rules. Data concerning pre-trial Rasmussen hearings was not collected, and therefore descriptive information concerning those hearings is not presented. Because the distributions are highly skewed, the median is the most appropriate summary measure. The median is the point in the distribution below which 50% of the cases fall. It is important to note that the medians of number of court days between court appearances are not additive, in the sense that they cannot be added together to yield the median time from arrest to sentencing.

Fig. 4.--Median Number of Court Days
Between Court Appearances.*



*Court days are defined as all days in a year excluding weekends and legal holidays. For frequency distributions of the time intervals used in the construction of this table, see appendix.

1. This refers to the median number of days in between the date of arrest and the date of the defendant's first appearance in county court. N=590. Missing cases=76. 75% of the cases fall within 2 days. See Appendix Table A.
2. This refers to the median number of days in between the first appearance and the date upon which the preliminary hearing was terminated. N=188. Missing cases=120. 76% of the cases fall within 26 days. See Appendix Table B.
3. This refers to the median number of days in between the first appearance and arraignment in district court for cases in which the preliminary hearing was waived. N=299. Missing cases=43. 75% of the cases fall within 22 days. See Appendix Table C.
4. This refers to the median number of days between the date upon which the preliminary hearing was terminated and arraignment in district court. N=219. Missing cases=89. 74% of the cases fall within 15 days. See Appendix Table D.
5. This refers to the median number of days between arraignment and disposition. N=644. Missing cases=12. 75% of the cases fall within 45 days. See Appendix Table E.
6. This refers to the median number of days in between the date of disposition and sentencing. N=572. Missing cases = 84. 75% of the cases fall within 36 days. See Appendix Table F.
7. This refers to the median number of days in between the date of arrest and first appearance in county court. Cases in which citations were issued in lieu of arrest are not included. N=614. Missing cases=59. 78% of the cases fall within 2 days. See Appendix Table G.
8. This refers to the median number of days between the first appearance in county court and arraignment in district court. N=646. Missing cases=30. 70% of the cases fall within 7 days. See Appendix Table H.
9. This refers to the median number of days between the arraignment in district court and the date upon which the Omnibus Hearing was terminated. N=227. Missing cases=14. 76% of the cases fall within 22 days. See Appendix Table I.
10. This refers to the median number of days between arraignment in district court and the date of disposition for cases in which the Omnibus Hearing was waived. N=362. Missing cases=12. 75% of the cases fall within 27 days. See Appendix Table J.
11. This refers to the median number of days between the date upon which the Omnibus Hearing was terminated and the date of disposition. N=217. Missing cases=24. 76% of the cases fall within 41 days. See Appendix Table K.
12. This refers to the median number of days between disposition and sentencing. N=594. Missing cases=79. 74% of the cases fall within 32 days. See Appendix Table L.

Due to the change in procedure brought about by the Rules, it can be seen that many of the time intervals are not directly comparable to each other. For those time spans which are comparable, a Kolmogorov-Smirnov 2 sample test was performed to determine if the differences in time are statistically significant.²² This non-parametric test is the most appropriate given the nature of the data (i.e. the parameters of the population are unknown, and the population distributions are not theoretically assumed to be normal).

Looking first at the number of court days from arrest to first appearance, the median is 1.6 days for cases

²²The problem is one of determining if the two sample distributions are from populations with differing distributions, or if the distributions of the populations are the same. The Kolmogorov-Smirnov statistic is based upon the logic that "different populations have different distribution functions and it is expected that samples from these different populations will have sample distribution functions that differ ... a very large discrepancy between sample distribution functions might reasonably serve as the basis for an inference that the populations are different!" Lindgren, B.W., Statistical Theory, Macmillan & Co., (1962), p. 334. The test assumes that 1) the samples are random, 2) that the two samples are mutually independent, and 3) that the measurement scale is at least ordinal. The null hypothesis is that the groups are from populations with the same distribution. The alternate hypothesis is that one group is from a population distribution significantly larger than the other group. (This implies the use of a one-tailed test.) The probability level is .01. The Kolmogorov-Smirnov statistics generated are functions of the vertical distance between the distributions. For a general discussion of this type of test see Conover, W. J., Practical Nonparametric Statistics, John Wiley & Sons, Inc., (1971), Chapter six.

handled before the Rules and 1.4 days for cases handled after the Rules. Using a one tailed Kolmogorov-Smirnov 2 sample test where $p = .01$, the null hypothesis could not be rejected. This means that the population distributions (of arrest to first appearance) are not significantly different for cases filed before the Rules compared to cases filed after the Rules. From this it is inferred that the difference in the number of court days from arrest to first appearance for before and after the Rules is not significant. (See Appendix A and G).

The second time interval that is comparable before and after the Rules is the number of court days from disposition to sentencing. The median number of court days is 23.1 and 20.3 respectively. Using the above procedure, again the results indicate that the population distributions of number of court days from disposition to sentencing are not significantly different for cases filed before and after the Rules. (See Appendix Tables F and L).

Given that there are only two comparable intervals when viewing the process in a piecemeal fashion (see Figure 4.), attention will now be directed toward the broader, more encompassing time intervals. The largest time interval includes the number of court days from arrest to sentencing. Examination of this time interval means looking at the total time involved in the adjudication process, from start to finish.

TABLE 2
NUMBER OF COURT DAYS FROM
ARREST TO SENTENCING BEFORE AND AFTER RULES*

# Court Days	Before Rules		After Rules	
	% (f)	cumulative	% (f)	cumulative
0-9	2.3 (11)	2.3	5.7 (30)	5.7
10-19	5.3 (25)	7.6	9.0 (47)	14.7
20-29	7.9 (37)	15.5	9.4 (49)	24.1
30-39	8.3 (39)	23.8	7.6 (40)	31.7
40-49	9.3 (44)	33.1	11.8 (62)	43.5
50-59	10.4 (49)	43.5	9.4 (49)	52.9
60-69	9.8 (46)	53.3	7.8 (41)	60.7
70-79	6.4 (30)	59.7	8.0 (42)	68.7
80-89	7.2 (34)	66.9	8.4 (44)	77.1
90-99	5.7 (27)	72.6	6.1 (32)	83.2
100-109	5.3 (25)	77.9	4.8 (25)	88.0
110-119	3.0 (14)	80.9	1.5 (8)	89.5
120-129	4.2 (20)	85.1	2.5 (13)	92.0
130-139	3.6 (17)	88.7	1.3 (7)	93.3
140-149	1.7 (8)	90.4	2.3 (12)	95.6
150 & over	9.5 (45)	99.9	4.4 (23)	100.0
TOTAL	99.9 (471)		100.0 (524)	

* (f) stands for frequency

*For before Rules cases, missing cases = 185. For after Rules cases, missing cases = 149.

Table 2 is a percentage table of the number of court days from arrest to sentencing for sampled cases handled before and after the Rules. The results of the Kolmogorov-Smirnov test indicate that the difference between the two distributions is statistically significant at the .01 level. Using the median as a measure of central tendency, the respective medians before and after the Rules are 64.7 and 56 court days. We consider this difference meaningful,

in addition to its meeting the conditions of statistical significance.

Given that there is a significant difference in number of court days from arrest to sentencing for cases filed before and after the Rules, the next procedure is to try to locate the stage in the process at which the difference is generated. Since there were no differences found in the distributions of number of court days from arrest to first appearance, and from disposition to sentencing, the decision was made to remove those two components from the distribution of total system time (i.e. number of court days from arrest to sentencing).

First, the total system time interval will be examined when the number of court days from arrest to first appearance is excluded. This results in an interval which covers the number of days from first appearance to sentencing. Then the distribution of number of court days from disposition to sentencing will be removed from the total system time interval, resulting in an interval which measures the time from arrest to disposition. Finally, with both of the non-significant time intervals excluded, the interval of time from first appearance to disposition will be examined.

TABLE 3
NUMBER OF COURT DAYS FROM
FIRST APPEARANCE TO SENTENCING BEFORE AND AFTER RULES*

# Court Days	Before Rules		After Rules	
	% (£)	% cumulative	% (£)	% cumulative
0-9	4.2 (21)	4.2	7.4 (42)	7.4
10-19	5.8 (29)	10.0	9.2 (52)	16.6
20-29	8.4 (42)	18.4	9.9 (56)	26.5
30-39	9.0 (45)	27.4	10.1 (57)	36.6
40-49	8.4 (42)	35.8	10.8 (61)	47.4
50-59	12.8 (64)	48.6	7.3 (41)	54.7
60-69	7.6 (38)	56.2	6.0 (34)	60.7
70-79	6.8 (34)	63.0	9.7 (55)	70.4
80-89	6.2 (31)	69.2	8.5 (48)	78.9
90-99	6.0 (30)	75.2	5.0 (28)	83.9
100-109	3.4 (17)	78.6	3.4 (19)	87.3
110-119	4.0 (20)	82.6	1.9 (11)	89.2
120-129	4.0 (20)	86.6	3.2 (18)	92.4
130-139	2.6 (13)	89.2	1.2 (7)	93.6
140-149	2.6 (13)	91.8	2.1 (12)	95.7
150 & over	8.4 (42)	100.2	4.3 (24)	100.0
TOTAL	100.2 (501)		100.0 (565)	

*For before the Rules cases, missing = 155. For after Rules cases, missing = 108.

Table 3 presents the percentage distribution of number of court days from first appearance to sentencing for sampled cases filed before and after the Rules. The median number of court days before the Rules is 60.4, while 54.4 is the median number of days for cases filed after the Rules. The difference between the two distributions is found to be statistically significant.²³

²³Kolmogorov-Smirnov 2 sample test where p = .01.

TABLE 4
NUMBER OF COURT DAYS FROM
ARREST TO DISPOSITION BEFORE AND AFTER RULES*

# Court Days	Before Rules		After Rules	
	(f)	% cumulative	(f)	% cumulative
0-9	7.3 (38)	7.3	13.5 (79)	13.5
10-19	12.2 (64)	19.5	19.6 (115)	33.1
20-29	13.7 (72)	33.2	11.9 (70)	45.0
30-39	12.4 (65)	45.6	8.5 (50)	53.5
40-49	11.3 (59)	56.9	11.3 (66)	64.8
50-59	7.6 (40)	64.5	9.2 (54)	74.0
60-69	9.3 (49)	73.8	6.5 (38)	80.5
70-79	4.0 (21)	77.8	5.5 (32)	86.0
80-89	5.1 (27)	82.9	3.6 (21)	89.6
90-99	2.7 (14)	85.6	2.6 (15)	92.2
100-109	2.7 (14)	88.3	.9 (5)	93.1
110-119	2.5 (13)	90.8	1.2 (7)	94.3
120-129	.8 (4)	91.6	1.0 (6)	95.3
130-139	2.5 (13)	94.1	.9 (5)	96.2
140-149	1.9 (10)	96.0	1.2 (7)	97.4
150 & over	4.0 (21)	100.0	2.7 (16)	100.1
TOTAL	100.0 (524)		100.1 (586)	

*For before Rules cases, missing = 132. For after Rules cases, missing = 87.

Table 4 presents the percentage distribution of number of court days from arrest to disposition for sampled cases filed before and after the Rules. For cases filed before the Rules, the median number of days is 42.7, compared to 33.5 days after the Rules. The difference between the two distributions is statistically

significant.²⁴ In short, there is a difference between the distributions of time from arrest to disposition, and this difference is a significant one.

Now that the non-significant distributions (arrest to first appearance and disposition to sentencing) have been removed singularly from the total system time interval (see Tables 3 and 4 respectively), the remaining time interval we examine is one from which both of these intervals have been removed simultaneously. This interval consists of the number of court days from first appearance to disposition. Conceptually, this interval is the most appropriate measure of "court time" in that it covers the time from the first court appearance to case disposition. (Disposition is defined as the final determination of guilt or innocence, whether arrived at by trial, guilty plea or dismissal.) The defendant's time in court commences with the initial appearance in county court, and for some defendants (dismissals and acquittals) terminates at disposition.

²⁴. Kolmogorov-Smirnov 2 sample test, where $p = .01$.

TABLE 5
NUMBER OF COURT DAYS FROM
FIRST APPEARANCE TO DISPOSITION - BEFORE & AFTER RULES*

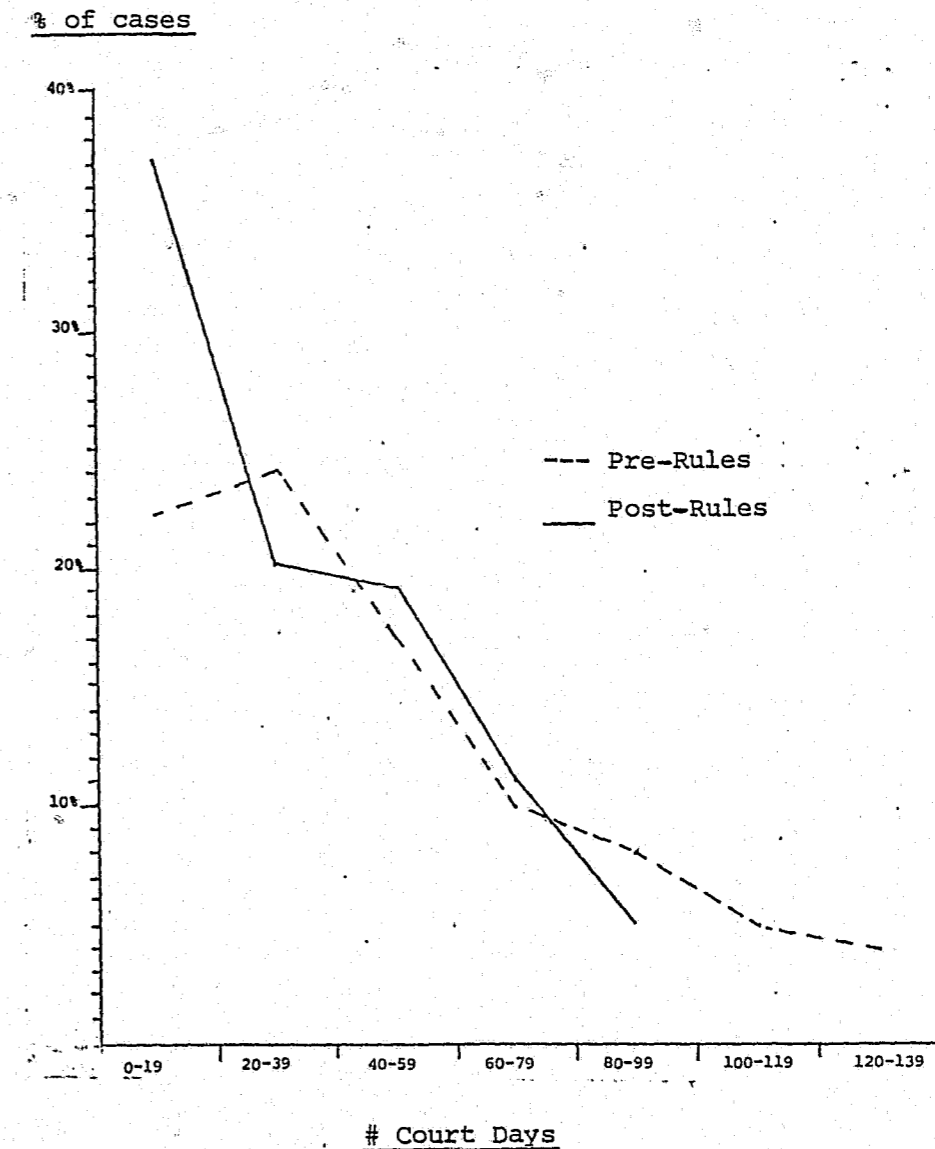
# Court Days	Before		After	
	%	Cumulative %	%	Cumulative %
0-19	22.1	22.1	36.6	36.6
20-39	24.4	46.5	20.1	56.7
40-59	16.6	63.1	19.2	75.9
60-79	9.9	73.0	11.3	87.2
80-99	7.8	80.8	5.0	92.1
100-119	5.1	85.9	2.0	94.2
120-139	4.1	90.0	2.3	96.5
140 & over	10.2	100.2	3.5	100.0
	100.2		100.0	

*For before Rules cases N=629, missing cases = 27.
For after Rules cases N=661, missing cases = 12.
For the frequency distribution utilized in the
construction of this table, see Appendix Table M.

Table 5 presents a percentage distribution of number of court days from initial appearance in county court to disposition for cases filed before and after the Rules. The median number of days before the Rules is 43.3, compared to 30.4 court days for post-Rules cases. It is interesting to note that after the Rules approximately 76% of the cases reached disposition with 60 court days. When compared to 63% of the pre-Rules cases, this represents a 13% increase from before to after the Rules. Not only did this meet the conditions of statistical significance, but it was the strongest result in terms of the differences between the two distributions.²⁵

²⁵ Kolmogorov-Smirnov 2 sample test, where $p = 0.1$. The K-S statistic indicates that the difference between these 2 distributions (i.e. first appearance to disposition) is a greater difference than the difference between any of the other comparisons (i.e. arrest to sentencing, first appearance to sentencing, arrest to disposition).

Fig. 5.-- Number of court days from first appearance to disposition before and after Rules*



*This figure presents the percentage distributions of the number of court days from first appearance to disposition for 90% of the cases that were handled before the Rules, and for 90% of the cases handled after the Rules. For cases handled before the Rules, there were 64(10.2%) cases in which the number of days exceeded 139. N = 629. Missing = 27. For the cases handled after the Rules, there were 66(10%) cases in which the number of days exceeded 89. N = 661. Missing = 12. Table 5 was used in the construction of this figure.

Viewing the same distribution in a different way, Figure 5 presents a comparison of the number of court days from first appearance to disposition for cases filed before and after the Rules. The lines represent the percentage of cases that fall within the day categories beneath them. For example, within the 40-59 court day category are approximately 19% of the post-Rules cases and 17% of the pre-Rules cases. Approximately 90% of the cases (for both before and after the Rules) are presented in the graph.²⁶

The most dramatic difference between the two distributions occurs within the first month (0-19 court days). Before the Rules 22% of the cases were disposed of by this time, compared to 37% of the cases handled after the Rules. This represents a 15% increase from before to after the Rules. There is also a marked difference between the two groups in terms of the range within which approximately 90% of the cases fall. After the Rules 92.2% of the cases are disposed of within 99 court days. Before the Rules, 90.0% of the cases reach disposition within 139 court days. This represents a difference of about 2 months from before to after the Rules (20 court days are approximately

²⁶ This was done simply to facilitate graphic presentation. Approximately the same percent (90) of cases are shown for before and after the Rules.

equivalent to one actual month). The standard deviations are 60.9 and 40.4 respectively for before and after the Rules. This indicates a substantial decrease in the amount of variation from before to after the Rules.²⁷

In summary, this section has addressed the question of whether or not differences exist in the amount of time involved in the adjudication process for cases filed before and after the Rules of Criminal Procedure. Generally, this analysis began by looking at the two time intervals that are directly comparable before and after the Rules. It was found that the time involved from arrest to first appearance and from disposition to sentencing did not change significantly from before to after the Rules.

Secondly, the total system time (arrest to sentencing) interval was examined. It was found that a significant difference does exist between cases handled before and after the Rules. In an attempt to locate the time interval within the system which could account for this difference, several other time intervals were analyzed.

This process involved removing from the total system

²⁷ "The variance is simply an average of squared deviations of scores from the arithmetic means, and the standard deviation is the square root of the variance" McTavish, Donald G., and Loether, Herman, J., Descriptive Statistics for Sociologist, Allyn & Bacon, Inc. (1974) p.146. The standard deviation is more readily interpretable because the scores are in units which are equivalent to the units being measured.

time interval those time spans which were not significantly different before and after the Rules. Specifically, this yielded three additional time intervals. Examination of these reveals that there are significant distributional differences between cases filed before and after the Rules.

The interval in which the difference is most significant is the number of court days from first appearance to disposition. This finding is not surprising in light of the fact that this interval does not include both of the non-significant time intervals. Therefore, we conclude that most of the testable total system (arrest to sentencing) difference is generated by the interval from first appearance to disposition.

In response to the question of a difference between case processing time before and after the Rules, we conclude that there is a significant and meaningful difference between the two groups of cases. Generally, a larger percent of cases reach disposition sooner for cases handled after the Rules when compared to cases handled before the Rules. In addition, there is a substantial difference in the variance between the two groups.

D. Relationships Between Court Processing Time and Other Case-Related Variables

In Section C it was established that significant differences do exist between cases filed before and after

the Rules; after the Rules, more cases proceed to disposition more quickly. Given this difference, attention must now be directed toward other case-related variables to determine whether or not fluctuations in these variables can explain the difference in court processing time between pre-and post-Rules cases. In other words, it may be that some variable, other than the Rules, is causing the discrepancy in time. Accordingly, this section will focus on other case-related variables, their relationship with delay, and their relationship with the Rules.

There are six variables that will be examined: type of offense charged, mode of disposition, change in plea, type of defense counsel, prior criminal record of defendant, and race of defendant. These variables are chosen because of their possible relationship with the temporal aspects of the adjudication process. With regard to the first variable, type of offense, we anticipate that the time involved in a case will vary depending upon the type of offense charged. In terms of the second variable, mode of disposition, it is expected that trials take longer than cases settled by a plea of guilty. Further, it is anticipated that a case in which the defendant initially enters a plea of not guilty and later withdraws it to plead guilty, will take longer than cases in which a change of plea does not occur.

The next three variables were selected on the basis of

previous research which indicates, 1) that retained attorney cases take longer than public defender cases, 2) defendants with prior records take longer to try than defendants with no prior record, and 3) that cases involving white defendants take longer than cases involving non-white defendants.²⁸

Throughout this section, the time interval used is number of court days from first appearance in county court to disposition. This choice was made in view of the findings of the previous section which indicate that the most pronounced differences between pre-and post-Rules cases occur within this interval.

1. Court Processing Time and Case-Related Variables Before and After Rules of Criminal Procedure

In order to determine whether these variables can account for the discrepancies in court processing time for before and after Rules cases (see Fig. 5.), the relationship between time and the Rules was examined while controlling for each of the case-related variables. In each instance, the analysis reveals that the control variables (e.g. type of offense charges, type of defense counsel, mode of disposition, etc.) cannot explain the difference in court processing time from before to after the Rules. Even when controlling for these variables, the pattern remains in which after the Rules more cases reach disposition more quickly

²⁸ See Banfield & Anderson, supra note 7, at 279.

and the range within which cases reach disposition is substantially smaller. In short, the introduction of additional case-related variables does not significantly alter the distributions of case processing time for pre-and post-Rules cases.

There are, however, two exceptions to the above pattern and they are discussed below. While the general pattern after the Rules was one of increased proportions of cases falling within the 0-19 court day interval, this did not occur for cases going to trial. This is not surprising, however, because it is not anticipated that many cases (either before or after the Rules) will reach the trial stage within nineteen court days of first appearance.

Secondly, within the prior conviction record category, we found that the court processing time did not increase significantly for persons with heavy prior conviction records. ("Heavy" is defined as more than one felony conviction). In other words, court processing time did not diminish after the Rules for defendants with heavy conviction records; defendants with heavy records did not reach disposition any sooner after the Rules than before.

Now that it has been established that the six case-related variables cannot account for the difference

in court processing time before and after the Rules, attention will be directed toward a descriptive discussion of the variables and their relationship with court processing time. Because cases before the Rules generally went slower and the intent is to provide information about how court time varies according to different variables, only cases that were handled after the Rules will be discussed. We felt that these cases more closely approximate present practices than cases handled prior to the Rules.

2. Descriptive Analysis: Relationships Between Court Processing Time and Case-Related Variables After Rules of Criminal Procedure

This section will focus on the relationships between case-related variables and court processing time. Attention is limited to only those cases which were handled under the Rules of Criminal Procedure, in that they are more reflective of current practices than cases handled prior to enactment of the Rules.

a. Relationship Between Type of Offense Charged and Court Processing Time

In order to reflect both the type of case and the seriousness of a charge, a measure has been developed whereby both elements are viewed in combination with each other. The type of offense is determined by looking at the most

serious offense charged in a case and placing it in the appropriate offense type category. Most serious refers to the offense which carries with it the longest maximum statutory penalty. It represents the most serious charge alleged against a defendant, and therefore indicates generally the type of offense around which the case may center. The time element of this measure refers to the maximum statutory penalty as prescribed by law for the most serious offense charged in the case. For examples of the types of offenses which fall into the offense type categories see Appendix Table N.

TABLE 6
NUMBER OF COURT DAYS FROM FIRST APPEARANCE TO DISPOSITION BY TYPE OF OFFENSE CHARGED POST-RULES CASES*

# Court Days	Property Crimes		Crimes Against Persons		Drug Crimes		Other	
	<10 (£)	>10 (£)	<10 (£)	>10 (£)	<10 (£)	>10 (£)	<10 (£)	>10 (£)
0-19	41.7 (115)	42.5 (51)	21.6 (8)	28.9 (24)	36.9 (38)	- (5)	29.4 (1)	14.3 (1)
20-39	22.5 (62)	20.8 (25)	10.8 (4)	15.7 (13)	20.4 (21)	13.3 (2)	17.6 (3)	42.9 (3)
40-59	13.8 (38)	19.2 (23)	16.2 (6)	30.1 (25)	24.3 (25)	26.7 (4)	17.6 (3)	14.3 (1)
60-79	12.0 (33)	10.0 (12)	16.2 (6)	12.0 (10)	6.8 (7)	26.7 (4)	11.8 (2)	14.3 (1)
80-99	4.7 (13)	2.5 (3)	10.8 (4)	3.6 (3)	4.9 (5)	6.7 (1)	11.8 (2)	14.3 (1)
100-119	1.1 (3)	1.7 (2)	8.1 (3)	6.0 (5)	-	-	-	-
120-139	2.5 (7)	2.5 (3)	8.1 (3)	1.2 (1)	-	6.7 (1)	-	-
140 & over	1.8 (5)	.8 (1)	8.1 (3)	2.4 (2)	6.8 (7)	20.0 (3)	11.8 (2)	-
TOTAL	100.1 (276)	100.0 (120)	99.9 (37)	99.9 (83)	100.1 (103)	100.1 (15)	100.0 (17)	100.1 (7)

* <10 yr. category refers to charges for which the statutory maximum penalty is less than ten years. The >10 yr. category refers to charges for which the maximum statutory penalty is equal to or greater than ten years. Missing = 15.

Table 6 presents the number of court days from first appearance to disposition for various offense type categories. As can be seen from the table, more property offenses reach disposition within one actual month (0-19 court days) than any other type of offense. In addition, property offenses account for 60.2% of all offenses charged.

In terms of more or less serious offenses, it appears that approximately the same proportion of cases reach disposition within the given time periods for the property crimes. On the other hand, within the categories of crimes against the person, 48.6% of the less serious crimes and 74.7% of the more serious crimes reach disposition within 60 court days. Generally, less serious drug crimes reach disposition before the more serious drug crimes, but the number of serious drug crimes disallows meaningful comparisons.

b. Relationship Between Mode of Disposition and Court Processing Time

Generally, mode of disposition refers to the outcome of a case (whether there was a conviction or not) and to the manner in which that determination of guilt or innocence was reached (trial, guilty plea, dismissal). For purposes of the study, this variable includes the following categories as defined below.

There are two categories of guilty pleas: straight guilty pleas and negotiated guilty pleas. A straight plea is one in which no indication of a plea agreement was contained in the county attorney and district court files. Typically, the defendant would appear in court to plead guilty as charged, but the plea was not the result of a pre-arranged plea agreement between the prosecutor and defense counsel. A negotiated guilty plea, on the other hand, refers to a case in which the plea was the direct result of a plea negotiation as indicated in the county attorney and district court files. Typically, the judge, prior to acceptance of the plea, would inquire as to whether a plea agreement had been reached, upon which the defense counsel or prosecutor would state the terms of the agreement.²⁹ The Rules now require that such an inquiry be made.

The trial categories include both trials by jury and court trials. The "other" category includes a small number of unusual cases in

²⁹ Upon occasion, the transcript of the court proceeding would not contain evidence of a plea agreement, but the county attorney files would. In these instances county attorney files were seen as the most reliable source of information.

which there was no disposition in the formal sense.³⁰
 (e.g. the defendant was found incompetent to stand trial and the matter referred to probate court, or the sentence and judgment of guilty were vacated for case-specific, unusual circumstances).

The following percentage table presents the number of court days from first appearance to disposition according to the mode of disposition.

TABLE 7
 NUMBER OF COURT DAYS FROM FIRST APPEARANCE
 TO DISPOSITION ACCORDING TO MODE OF DISPOSITION
 POST-RULES CASES*

# Court Days	Straight Guilty	Negotiated Guilty	Conviction Trial	Acquittal Trial	Dismissals and Other
	(£)	(£)	(£)	(£)	(£)
0-19	57.5 (61)	36.5 (161)	-	6.3 (1)	27.7 (18)
20-39	14.2 (15)	22.7 (100)	10.3 (3)	18.8 (3)	15.4 (10)
40-59	17.9 (19)	18.6 (82)	41.4 (12)	31.3 (5)	12.3 (8)
60-79	6.6 (7)	10.4 (46)	13.8 (4)	37.5 (6)	18.5 (12)
80-99	1.9 (2)	4.5 (20)	17.2 (5)	-	9.2 (6)
100-119	-	1.6 (7)	6.9 (2)	-	6.1 (4)
120-139	-	1.8 (8)	3.4 (1)	-	9.2 (6)
140 & over	1.9 (2)	3.9 (17)	6.9 (2)	6.3 (1)	1.5 (3)
TOTAL	100.0 (106)	100.0 (441)	99.9 (29)	100.2 (16)	99.9 (65)

* Missing cases = 16.

³⁰ There are six such cases before the Rules and one "other" case after the Rules.

When viewing the above table, it can be seen that guilty plea cases are the "fastest" mode of disposition. More guilty plea cases are resolved within one month than cases involving any other mode of disposition. Within the guilty pleas, more straight pleas reach disposition within the first month than negotiated pleas. As expected, trials take longer than guilty pleas to reach disposition. Within the trial category, generally, the number of court days from first appearance to disposition is greater for cases in which there is a conviction.

Moreover, guilty pleas account for 83.3% of all dispositions. Out of the total number of cases settled by a plea of guilty, 80.6% are negotiated pleas. Within sixty court days of first appearance in county court, 89.6% of straight plea cases are resolved compared to 77.8% of negotiated plea cases. Within the same time period 53.3% of all trials reach disposition.

c. Relationship Between Change in Plea and Court Processing time

A change in plea refers to instances in which the defendant initially enters a plea of not guilty and subsequently withdraws it in order to enter a plea of guilty. Upon entry of a not guilty plea,

a date is set for either a pre-trial hearing or a trial. A change in plea, as defined above, can only occur in cases which eventually culminate in a guilty plea. Table 8 presents the number of court days from first appearance to disposition according to whether the cases involved a change in plea.

TABLE 8
NUMBER OF COURT DAYS FROM FIRST APPEARANCE TO DISPOSITION
ACCORDING TO CHANGE IN PLEA - POST-RULES CASES*

# Court Days	Plea Change		No Plea Change	
	% (f)	Cumulative %	% (f)	Cumulative %
0-19	18.0 (38)	18.0	56.0 (182)	56.0
20-39	21.8 (46)	39.8	20.3 (66)	76.3
40-59	27.5 (58)	67.3	12.6 (41)	88.9
60-79	17.1 (36)	84.4	4.3 (14)	93.2
80-99	5.2 (11)	89.6	3.4 (11)	96.6
100-119	2.4 (5)	92.0	.3 (1)	96.9
120-139	2.4 (5)	94.4	.9 (3)	97.8
140 & over	5.7 (12)	100.1	2.1 (7)	99.9
TOTAL	100.1 (211)		99.9 (325)	

* Missing = 19

In reference to the table, it is interesting to note that 56% of the cases in which there was no plea change reach disposition within one month of first appearance. This compares to 18% for cases that do not involve a change in plea. Because a plea of not guilty constitutes either

a demand for hearing or a demand for trial, this finding is not unusual or surprising. Of the sampled cases which are settled by a plea of guilty, 39.4% involve a plea change while 60.6% do not.

d. Relationship Between Type of Defense Counsel and Court Processing Time

For purposes of the study, type of defense counsel consists of two categories: public defenders and privately retained attorneys. In counties with the appointed counsel system, court appointed attorneys are placed in the same category as public defenders. The following table presents the number of days from first appearance to disposition according to the type of defense counsel.

TABLE 9
NUMBER OF COURT DAYS FROM FIRST APPEARANCE TO
DISPOSITION ACCORDING TO TYPE OF DEFENSE COUNSEL - POST-RULES CASES*

# Court Days	Public Defender		Private Attorney	
	% (f)	Cumulative %	% (f)	Cumulative %
0-19	41.3 (187)	41.3	26.2 (54)	26.2
20-39	21.4 (97)	62.7	17.5 (36)	43.7
40-59	7.4 (79)	80.1	23.3 (48)	67.0
60-79	9.7 (44)	89.8	15.0 (31)	82.0
80-99	4.2 (19)	94.0	6.8 (14)	88.1
100-119	1.5 (7)	95.5	2.4 (5)	91.2
120-139	1.8 (8)	97.3	3.4 (7)	94.6
140 & over	2.6 (12)	99.9	5.3 (11)	99.9
TOTAL	99.9 (453)		99.9 (206)	

*Missing = 14

In reference to the above table it can be seen that within the first month (0-19 court days), 41.3% of the public defender cases reach disposition. This compares to 26.2% of the cases involving privately retained defense attorneys. Within sixty court days from first appearance in county court, 80.1% of the public defender cases reach disposition, compared to 67% of the cases involving private attorneys. This result supports the findings of previous research in the area, which indicates that public defender cases are resolved more quickly than cases with privately retained defense attorneys.³¹ It should be noted that the percent of sampled cases handled by public defenders and private attorneys are 68.6 and 31.4 respectively.

e. Relationship Between Prior Conviction Record of Defendant and Court Processing Time

The prior conviction records of defendants are categorized and defined in the following manner:

NONE - no convictions, or convictions for petty misdemeanors (including traffic violations), or one misdemeanor conviction

³¹ See Banfield & Anderson, supra note 25.

LIGHT - more than one misdemeanor conviction, or one felony conviction

HEAVY - more than one felony conviction

Table 10 presents the number of court days from first appearance to disposition according to the prior conviction records of the defendants.

TABLE 10
NUMBER OF COURT DAYS FROM FIRST APPEARANCE TO DISPOSITION ACCORDING TO PRIOR CONVICTION RECORDS OF DEFENDANTS - POST-RULES CASES*

# Court Days	None		Light		Heavy	
	(%)	Cumulative (%)	(%)	Cumulative (%)	(%)	Cumulative (%)
0-19	41.2 (169)	41.2	27.6 (37)	27.6	27.1 (19)	27.1
20-39	19.5 (80)	60.7	23.1 (31)	50.7	18.6 (13)	45.7
40-59	18.5 (76)	79.2	25.4 (34)	76.1	17.1 (12)	62.8
60-79	9.5 (39)	88.7	11.2 (15)	87.3	20.0 (14)	82.8
80-99	4.6 (19)	93.3	5.2 (7)	92.5	5.7 (4)	88.5
100-119	1.5 (6)	94.8	2.2 (3)	94.7	2.9 (2)	91.4
120-139	2.2 (9)	97.0	1.5 (2)	96.2	4.3 (3)	95.7
140 & over	2.9 (12)	99.9	3.7 (5)	99.9	4.3 (3)	100.0
TOTAL	99.9 (410)		99.9 (134)		100.0 (70)	

* Missing = 59

The results presented in the preceding table indicate that defendants with no prior conviction record proceed to disposition at a faster rate than do defendants with light and heavy prior conviction records. This result supports the findings of previous research in the area.³²

³² Ibid., p. 279

In addition, defendants without prior conviction records constitute approximately two-thirds (66.7%) of all sampled defendants whose cases were handled under the Rules of Criminal Procedure. Defendants with light and heavy prior conviction records account for 21.8% and 11.4%, respectively, of the post-Rules cases.

f. Relationship Between Race of Defendant and Court Processing Time

Table 11 presents the number of court days from first appearance to disposition according to the race of the defendant. Included in the "other" category are Native Americans, Mexican Americans, and Oriental Americans.

TABLE 11
NUMBER OF COURT DAYS FROM FIRST APPEARANCE TO DISPOSITION BY RACE OF DEFENDANT - POST-RULES CASES*

# Court Days	White		Black		Other	
	%	Cumulative	%	Cumulative	%	Cumulative
0-19	38.1 (209)	38.1	27.8 (20)	27.8	38.5 (10)	38.5
20-39	18.4 (101)	56.5	30.6 (22)	58.4	19.2 (5)	57.7
40-59	18.6 (102)	75.1	22.2 (16)	80.6	23.1 (6)	80.8
60-79	11.9 (65)	87.0	9.7 (7)	90.3	7.7 (2)	88.5
80-99	4.7 (26)	91.7	5.6 (4)	95.9	3.8 (1)	92.3
100-119	1.8 (10)	93.5	2.8 (2)	98.7	-	92.3
120-139	2.7 (15)	96.2	-	98.7	-	92.3
140 & over	3.6 (20)	99.8	1.4 (1)	100.1	7.7 (2)	100.0
TOTAL	99.8 (548)		100.1 (72)		100.0 (26)	

* Missing = 27

The results presented in Table 11 indicate that within the first month category, the proportion of blacks is less than the proportion of any other category. This means that fewer blacks (than whites or others) reach disposition within 0-19 days. However, by the end of the second month all groups have approximately the same percent of cases reaching disposition (i.e., 56.5, 58.4 and 57.7 percent for whites, blacks and others respectively). These results do not support the previous finding that cases involving white defendants take longer than cases involving non-white defendants.³³

Further, it is interesting to note that whites constitute 84.8% of all sampled post-Rules cases. The percent of blacks and others is 11.2% and 4.0% respectively.

³³ Ibid., p.279.

IV. Summary and Conclusions

The Rules of Criminal Procedure established time limits within which court appearance should occur. The data allow examination of only two such limits, and the results indicate that at least three-fourths of the sampled cases are in compliance with the Rules. From this we conclude that there has been a good faith effort to comply with the limits set forth in the Rules. Further, it is hypothesized that whatever the delay is at present, it would be greater without the Rules of Criminal Procedure.³⁴

Secondly, when examining court processing time for cases before and after implementation of the Rules we found that significant differences do exist. After the Rules, more cases reach disposition more quickly, and the amount of variation is significantly less than in pre-Rules cases. However, there are two exceptions to this pattern. First, the time from arrest to first appearance is not significantly different after the Rules. In this regard, it should be noted that the time for both before and after Rules cases is not extreme, and is well within reason. Secondly, the distributions of days from disposition to sentencing are not significantly different from each other, when comparing before and after Rules cases. This

³⁴ Perhaps the percent of cases in adherence to the Rules is greater today because practitioners have had time to adapt to the changes. However, given the continued increase in caseloads, this may or may not be the case.

again, is not surprising in view of the fact that the Rules did not contain time specifications concerning this interval.

In an attempt to explain the difference in court processing time, several case-related variables were explored. We found that fluctuations in these variables cannot account for the difference in time between before and after Rules cases.

Given the meaningful difference in court processing time, and the failure of other variables to explain it, the implication is that the implementation of the Rules of Criminal Procedure produced the difference. This conclusion would seem a logical consequence in light of the fact that the Rules replaced two hearings with one Omnibus Hearing. Before the Rules, a demand for hearings could be construed to reflect a defense delay tactic; it was a way to bide time, and there was no policy stating how long the delay could go on. The Rules not only reduced the opportunity for this to occur, by replacing two hearings with one, but, under the Rules, a hearing must occur within fourteen days of first appearance in district court.

Further, the conclusion that the Rules of Criminal Procedure created the differences in court processing time is warranted by the assumption that without guidelines cases will not proceed as swiftly as they would if there are prescribed standards to follow. The Rules established guidelines for court processing time, and, in the absence of such guidelines, it is not anticipated that cases would move as quickly.

In conclusion, it appears that the district courts are not plagued with an inordinate amount of court delay at the felony level. This is supported by the fact that approximately three-fourths of the sampled cases reach disposition within sixty court days of arrest. The Rules of Criminal Procedure have apparently reduced the amount of court processing time, and perhaps other states could benefit from the Minnesota example.

APPENDIX

List of Tables

<u>Title</u>	<u>Page</u>
Table A Frequency Distribution - Number of Court Days from Arrest to First Appearance - Pre-Rules Cases	55
Table B Frequency Distribution - Number of Court Days from First Appearance to Date of Termination of Preliminary Hearing - Pre-Rules Cases	55
Table C Frequency Distribution - Number of Court Days from First Appearance to Arraignment - Pre-Rules Cases	56
Table D Frequency Distribution - Number of Court Days from Date of Preliminary Hearing Termination to Arraignment in District - Pre-Rules Cases	56
Table E Frequency Distribution - Number of Court Days from Arraignment to Disposition - Pre-Rules Cases	57
Table F Frequency Distribution - Number of Court Days from Disposition to Sentencing - Pre-Rules Cases	57
Table G Frequency Distribution - Number of Court Days from Arrest to First Appearance - Post-Rules Cases	58
Table H Frequency Distribution - Number of Court Days from First Appearance to Arraignment - Post-Rules cases	58
Table I Frequency Distribution - Number of Court Days from Arraignment to Date of Omnibus Hearing Termination - Post-Rules Cases	59
Table J Frequency Distribution - Number of Court Days from Arraignment to Disposition - Post-Rules Cases	59
Table K Frequency Distribution - Number of Court Days from Date of Omnibus Hearing Termination to Disposition - Post-Rules Cases	60
Table L Frequency Distribution - Number of Court Days from Disposition to Sentencing - Post-Rules Cases	60
Table M Number of Court Days from First Appearance to Disposition Before and After Rules	61
Table N Types of Offenses Contained in Various Offense Categories	62

TABLE A: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS FROM ARREST TO FIRST APPEARANCE - PRE-RULES CASES

# Court Days	f	%	Cumulative %
0	93	15.8	15.8
1	179	30.3	46.1
2	173	29.3	75.4
3	55	9.3	84.7
4	11	1.9	86.6
5	10	1.7	88.3
6	6	1.0	89.3
7	4	0.7	90.0
8 & Over	59	10.0	100.0
	<hr/>	<hr/>	<hr/>
	590	100.0	100.0

TABLE B: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS FROM FIRST APPEARANCE TO DATE OF TERMINATION OF PRELIMINARY HEARING - PRE-RULES CASES*

# Court Days	f	%	Cumulative %
0-5	19	10.1	10.1
6-10	37	19.7	29.8
11-15	36	19.1	48.9
16-20	29	15.4	64.3
21-25	15	8.0	72.3
26-30	11	5.8	78.1
31-35	8	4.2	82.3
36-40	12	6.4	88.7
41 & Over	21	11.2	99.9
	<hr/>	<hr/>	<hr/>
	188	99.9	99.9

*This table contains information on cases in which a preliminary hearing was demanded.

TABLE C: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS
FROM FIRST APPEARANCE TO ARRAIGNMENT -
PRE-RULES CASES*

# Court Days	f	%	Cumulative %
0-5	92	30.8	30.8
6-10	59	19.7	50.5
11-15	39	13.0	63.5
16-20	28	9.4	72.9
21-25	24	8.0	80.9
26-30	16	5.3	86.2
31-35	5	1.7	87.9
36-40	9	3.0	90.9
41 & Over	27	9.0	99.9
	<u>299</u>	<u>99.9</u>	<u>99.9</u>

*This table contains information on cases in which the preliminary hearing was waived.

TABLE D: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS
FROM DATE OF PRELIMINARY HEARING TERMINATION TO
ARRAIGNMENT IN DISTRICT COURT - PRE-RULES CASES*

# Court Days	f	%	Cumulative %
0-5	101	46.1	46.1
6-10	37	16.9	63.0
11-15	25	11.4	74.4
16-20	17	7.8	82.2
21-25	8	3.7	85.9
26-30	5	2.3	88.2
31 & Over	26	11.9	100.1
	<u>219</u>	<u>100.1</u>	<u>100.1</u>

*This table contains information on cases in which a preliminary hearing was demanded.

TABLE E: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS
FROM ARRAIGNMENT TO DISPOSITION - PRE-RULES CASES

# Court Days	f	%	Cumulative %
0-5	248	38.5	38.5
6-10	38	5.9	44.4
11-15	31	4.8	49.2
16-20	33	5.1	54.3
21-25	47	7.3	61.6
26-30	28	4.3	65.9
31-35	22	3.4	69.3
36-40	23	3.6	72.9
41-45	21	3.3	76.2
46-50	20	3.1	79.3
51-55	12	1.9	81.2
56-60	19	2.9	84.1
61-65	8	1.2	85.3
66-70	7	1.1	86.4
71-75	8	1.2	87.6
76-80	10	1.5	89.1
81 & Over	69	10.7	99.8
	<u>644</u>	<u>99.8</u>	<u>99.8</u>

TABLE F: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS
FROM DISPOSITION TO SENTENCING - PRE-RULES CASES

# Court Days	f	%	Cumulative %
0-5	176	30.8	30.8
6-10	24	4.2	35.0
11-15	20	3.5	38.5
16-20	36	6.3	44.8
21-25	78	13.6	58.4
26-30	54	9.4	67.8
31-35	32	5.6	73.4
36-40	24	4.2	77.6
41-45	17	3.0	80.6
46-50	16	2.8	83.4
51-55	20	3.5	86.9
56-60	6	1.1	88.0
61-65	12	2.1	90.1
66 & Over	57	10.0	100.1
	<u>572</u>	<u>100.1</u>	<u>100.1</u>

TABLE G: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS FROM ARREST TO FIRST APPEARANCE - POST-RULES CASES

# Court Days	f	%	Cumulative %
0	85	13.8	13.8
1	236	38.4	52.2
2	155	25.2	77.4
3	43	7.0	84.4
4	17	2.8	87.2
5	8	1.3	88.5
6	9	1.5	90.9
7 & Over	61	9.9	99.9
	<u>614</u>	<u>99.9</u>	<u>99.9</u>

TABLE H: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS FROM FIRST APPEARANCE TO ARRAIGNMENT - POST-RULES CASES

# Court Days	f	%	Cumulative %
0	26	4.0	4.0
1	33	5.1	9.1
2	48	7.4	16.5
3	69	10.7	27.2
4	49	7.6	34.8
5	84	13.0	47.8
6	81	12.5	60.3
7	65	10.1	70.4
8	70	10.8	81.2
9	32	4.9	86.1
10	14	2.2	88.3
11	11	1.7	90.0
12 & over	<u>64</u>	<u>9.9</u>	<u>99.9</u>
	646	99.9	99.9

TABLE I: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS FROM ARRAIGNMENT TO DATE OF OMNIBUS HEARING TERMINATION - POST-RULES CASES*

# Court Days	f	%	Cumulative %
0-5	59	26.0	26.0
6-10	54	23.8	49.8
11-15	33	14.5	64.3
16-20	18	7.9	72.2
21-25	19	8.4	80.6
26-30	14	6.2	86.8
31-35	3	1.3	88.1
36-40	7	3.1	91.2
41 & Over	20	8.8	100.0
	<u>227</u>	<u>100.0</u>	<u>100.0</u>

*This table contains information for only those cases in which an Omnibus Hearing was demanded.

TABLE J: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS FROM ARRAIGNMENT TO DISPOSITION - POST-RULES CASES*

# Court Days	f	%	Cumulative %
0-5	139	38.4	38.4
6-10	55	15.2	53.6
11-15	32	8.8	62.4
16-20	12	3.3	65.7
21-25	30	8.3	74.0
26-30	10	2.8	76.8
31-35	9	2.5	79.3
36-40	12	3.3	82.6
41-45	9	2.5	85.1
46-50	4	1.1	86.2
51-55	5	1.4	87.6
56-60	5	1.4	89.0
61-65	8	2.2	91.2
66 & Over	32	8.8	100.0
	<u>362</u>	<u>100.0</u>	<u>100.0</u>

*This table contains only information on cases in which the Omnibus Hearing was waived.

TABLE K: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS FROM DATE OF OMNIBUS HEARING TERMINATION TO DISPOSITION - POST-RULES CASES*

# Court Days	f	%	Cumulative %
0-5	39	18.0	18.0
6-10	11	5.1	23.1
11-15	4	1.8	24.9
16-20	13	6.0	30.9
21-25	22	10.1	41.0
26-30	18	8.3	49.3
31-35	22	10.1	59.4
36-40	32	14.7	74.1
41-45	11	5.1	79.2
46-50	11	5.1	84.3
51-55	5	2.3	86.6
56-60	5	2.3	88.9
61-65	5	2.3	91.2
66 & Over	19	8.7	99.9
	<u>217</u>	<u>99.9</u>	<u>99.9</u>

*This table contains information for only those cases in which an Omnibus Hearing was demanded.

TABLE L: FREQUENCY DISTRIBUTION - NUMBER OF COURT DAYS FROM DISPOSITION TO SENTENCING - POST-RULES CASES

# Court Days	f	%	Cumulative %
0-5	211	35.5	35.5
6-10	29	4.9	40.4
11-15	20	3.4	43.8
16-20	39	6.6	50.4
21-25	60	10.1	60.5
26-30	57	9.6	70.1
31-35	49	8.3	78.4
36-40	34	5.7	84.1
41-45	8	1.3	85.4
46-50	14	2.4	87.8
51-55	6	1.0	88.8
56-60	10	1.7	90.5
61 & Over	57	9.6	100.1
	<u>594</u>	<u>100.1</u>	<u>99.9</u>

Table M. Number of Court Days from First Appearance to Disposition Before & After Rules*

# Court Days	Before Rules	After Rules
0-9	10.5 (66)	18.0 (119)
10-19	11.6 (73)	18.6 (123)
20-29	12.9 (81)	11.2 (74)
30-39	11.5 (72)	8.9 (59)
40-49	9.1 (57)	11.0 (73)
50-59	7.5 (47)	8.2 (54)
60-69	6.7 (42)	5.7 (38)
70-79	3.2 (20)	5.6 (37)
80-89	4.5 (28)	2.7 (18)
90-99	3.3 (21)	2.3 (15)
100-109	1.9 (12)	.9 (6)
110-119	3.2 (20)	1.1 (7)
120-129	1.6 (10)	1.1 (7)
130-139	2.5 (16)	1.2 (8)
140-149	1.3 (8)	.6 (4)
150 & over	8.9 (56)	2.9 (19)
	<u>100.2</u>	<u>100.0</u>
TOTAL	(629)	(661)

*For before Rules cases, missing cases = 27. For after Rules cases, missing = 12.

TABLE N. Types of Offenses Contained in
Various Offense Categories

PERSON

- . homicide
- . assaults
- . kidnapping
- . robbery
- . criminal sexual conduct
- . bribery
- . coercion

OTHER

- (includes offenses which do not
fit into any other category)
- . non-support
 - . furnishing liquor to minor
 - . keeping a place of prostitution
 - . prostitution
 - . obstructing arrest
 - . obstructing legal process
 - . game law violations
 - . gambling
 - . misconduct of public employee

PROPERTY

- . burglary
- . arson
- . forgery/altering
- . trespass
- . property damage
- . fraud
- . receiving & concealing
stolen goods
- . all theft
- . unauthorized use of a
motor vehicle

DRUG

- . all drug law violations

END