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San Francisco Jail Population Management Plan: Resource Materials

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March 13, 1991

Sheriff Mike Hennessey
San Francisco Sheriff's Department
City Hall, Room 333
San Francisco, CA 94102

Dear Sheriff Hennessey:

Enclosed are some excellent resource materials relevant to your deliberation over the issues presented in the draft Solutions report. They are:

1. "Court's Role;"
2. "Prosecution's Role;"
3. "Speedy Trial Experiences from Other Counties;" and,
4. "Court Delay Information."

More time appears needed to allow you to meet with each other, review and in turn, provide us with your feedback on the solutions. In light of this, the CJAG meeting schedule has been extended as follows:

3/27	Meet to discuss final solutions
4/~~8~~10	Meeting regarding the draft plan
4/24	Final meeting.

We hope you will find the materials helpful and look forward to our next meeting with CJAG on March 27th. Please contact us with any questions or information you may have.

Sincerely,

Alan Kalmanoff
Executive Director

ASK/mw

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The National Institute of Justice is a research branch of the U.S. Department of Justice. The Institute's mission is to develop knowledge about crime, its causes and control. Priority is given to policy-relevant research that can yield approaches and information that State and local agencies can use in preventing and reducing crime. The decisions made by criminal justice practitioners and policymakers affect millions of citizens, and crime affects almost all our public institutions and the private sector as well. Targeting resources, assuring their effective allocation, and developing new means of cooperation between the public and private sector are some of the emerging issues in law enforcement and criminal justice that research can help illuminate.

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- Evaluates the effectiveness of justice improvement programs and identifies programs that promise to be successful if continued or repeated.
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James K. Stewart
Director

U.S. Department of Justice
National Institute of Justice

Dealing Effectively with Crowded Jails:

A Manual for Judges

by

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D. Alan Henry

July 1986

National Institute of Justice
James K. Stewart
Director

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Project Monitor

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Special thanks are also accorded to the members of the Review Panel—Hon. Joseph Glancey, Hon. Gayle Guynup, and Hon. Inge Johnson—for their advice and comments.

Thanks are especially due Bruce Johnson, the NIJ Program Monitor, for his ideas throughout the project and editing assistance, and to Angie Bailey, of the Pretrial Services Resource Center, for her invaluable help in the preparation of this document.

Abstract

A recent study by the National Institute of Justice found that jail crowding is the most pressing problem facing local criminal justice systems today. The problem of jail crowding must be recognized as one which demands the involvement of all key criminal justice system actors. Echoing this view, James K. Stewart, director, National Institute of Justice, suggested that "while we need to focus our attention on the overcrowding problem...if we deal with it on a piecemeal basis, we will not be meeting the needs of the whole system." Judges and prosecutors have been identified as key decisionmakers, each playing a pivotal role in managing case flow and influencing jail population levels. Dealing Effectively with Crowded Jails: A Manual for Judges and its companion, The Implications of Effective Case Processing for Crowded Jails: A Manual for Prosecutors, are intended to assist judges and prosecutors, respectively, in implementing procedural changes which achieve the dual goals of effective use of detention space and improved case processing and administration of justice.

Judges' decisions concerning issuance of summonses, setting bail and release conditions, bail review, continuances and sentencing bear directly on the number of offenders in jail and/or their length of confinement. In numerous jurisdictions judges have been instrumental in instituting changes aimed at dealing with the jail crowding problem and resulting in positive improvements in case processing.

Judges have provided systemwide leadership in such jurisdictions as Brevard County, Florida; Milwaukee County, Wisconsin; Frederick County, Virginia; Mecklenburg County, North Carolina; Salt Lake County, Utah; and Lucas County, Ohio. In King County, Washington, the district court has established guidelines for pretrial services personnel to use in releasing certain defendants pretrial and in making pretrial release recommendations for others. A district court in

ampbell County, Kentucky, has instituted a policy
rohibiting the detention of misdemeanor defendants, a
ajor factor in reducing the jail population by one-half.

ncreased use of nonfinancial pretrial release options by
idicial officers was a key element in achieving a
ibstantial drop in the jail population in Shawnee
ounty, Kansas.

idges have introduced delay reduction strategies in
exar County, Texas; Maricopa County, Arizona; and
ddlesex County, New Jersey, which have served to
pedite case processing, as well as minimize the number
pretrial detainees in jail. Judges have also
iccessfully implemented a full range of sentencing
ternatives, including community service and restitution
ograms in Genesee County, New York, and Quincy County,
ssachusetts, and treatment programs for persons
nvicted of alcohol-related offenses in Quincy County
d Sarpy County, Nebraska.

is report provides information on specific policies and
ocedures which have had an impact on jail population
vels without detracting from the operations of the
fice and, in most instances, contributing to
provements in case processing and the administration of
stice.

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Introduction

There is abundant evidence of the pervasiveness of the jail crowding "crisis" in the United States. In a recent National Institute of Justice study, state and local officials indicated that jail crowding is the most serious problem facing them today. 1/ Numerous studies show that no jail, whatever its location or size, is immune to the problem of crowding. 2/ The large number of jails involved in litigation or under court order to correct crowded conditions underscores the widespread nature of the problem. 3/ In some jurisdictions courts have placed limits on jail populations, resulting in the early release of detainees or a ban on new admissions. 4/

Jail crowding seems to defy easy solutions. Despite recent developments improving the cost efficiency and timing of jail construction, building new facilities may not meet the immediate demand for space. 5/ Simply releasing incarcerated persons until the population reaches an acceptable level is no more feasible, because the threat to community safety could dramatically increase. Finally, the option of continuing current practices—in effect doing nothing—virtually ensures that such jurisdictions will soon find themselves defendants in jail crowding litigation.

What should be done? In the past, the problem of crowded jails has been ascribed to those responsible for the maintenance of the facility and the care of those incarcerated—usually the county sheriff. Yet, while jail administrators may lobby city and county legislators for a larger budget to expand jail capacity, they have little or no control over the population level. Control over the number of persons sent to the facility and the length of time they are to remain incarcerated is held by others in the criminal justice system. Consequently, in recent years, as the cost (and time) associated with building new jail beds has increased, county funders have been forced to look to other solutions; specifically, re-evaluating the traditional roles played by the criminal

justice system actors, from police to probation officers, in the use of that scarce resource—jail space.

Jail population levels are influenced by the policies and practices of numerous criminal justice actors, including the police, prosecutors, defense counsel, pretrial services agents, sheriffs, correctional officials, probation and parole officers. Accordingly, while a systemwide approach is therefore warranted to resolve the crowding problem, judges play the key role in the functioning of the criminal justice system and are directly responsible for the incarceration of persons in local jails. 6/ Their decisions—in setting bail, revoking conditional release, and sentencing, among other functions—have the largest impact on the jail's population level. However, simple adjustment of judicial practices when jail populations increase to an unacceptable level is not in order, for two reasons: First, judicial decisions are, for the most part, prescribed by statutory and case law; and second, where discretion does exist, judicial decisions are guided by the precept of safeguarding the individual defendant's constitutional rights.

We acknowledge that the realities of the judicial role require that in the course of meting out individualized justice, a judge cannot be concerned with jail crowding *per se*. Still, judicial decisions do affect the level of jail crowding. The underlying purpose of this manual then, is to demonstrate how a judge's practices can help alleviate jail crowding without negatively affecting the individualized dispensation of justice and, concurrently, improving the administration of justice. To do this, the manual focuses on three general areas of judicial interest.

First, by virtue of their status as key decisionmakers in individual cases, judges are interested in the full range of decision options throughout the adjudication process. Such decisions involve questions of pretrial release or detention, as well as post-adjudication confinement. This manual provides examples of both traditional and innovative options that have been shown to effectively

ensure community safety and maintain the integrity of the judicial system without requiring incarceration.

Second, judges are concerned that the "judicial intent" underlying decisions in individual cases be fulfilled. For example, the decision to set "affordable" money bail usually signifies the judge's intention to grant pretrial release, while high money bail is frequently used, albeit unofficially, as a surrogate form of preventive detention. Judicial intent may be circumvented, however, when "low bail" defendants fail to secure their release. This manual presents a number of procedures which have been undertaken to ensure that the intent of judicial decisions is satisfied.

Finally, activities of judges entail more than the dispensation of justice in individual cases; the judicial role also includes an administrative dimension. This manual furnishes information about judicial actions which can enhance system efficiency and overall court administration, which in turn engender more effective use of detention space.

In each case, modification of a judge's policies and practices can produce a decrease in jail use without compromising the integrity of the administration of justice. It is this type of action which is the focus of this manual.

The manual is divided into two parts: Section I presents the case processing activities of individual judges, describing each major stage of the process, the type of practical and policy choices available to judges at each stage, and the implications of those choices on jail admissions and length of confinement. Section II describes the administrative activities of individual trial judges, collective actions taken by judges to improve case administration, as well as the leadership role of administrative or presiding judges and their impact on the jail population. Examples are furnished of jurisdictions where administrative changes have produced more efficient case management and reductions in jail populations.

Information contained in this manual was obtained from an extensive literature review and interviews with 16 judges representing different court levels and regions of the country. 7/ Individual judges were selected from lists compiled from several studies of the judicial role in criminal case processing generally, and jail crowding concerns in particular. Additional names were provided by individuals knowledgeable in this area contacted for purposes of this manual. The success of individual judges in alleviating a jail crowding problem was the primary factor in the final selection.

Section I
Case processing activities

This section of the manual describes the activities of judges at the various stages of case processing and includes: (1) the decision points in the criminal case process at which judicial actions may affect the jail population level and the options available to judges at each; (2) the implications of choosing certain options on the level of the jail population; and (3) examples of judges' personal experiences with the use of specific options.

For purposes of this section, criminal case processing is divided into four stages: PRE-INITIAL APPEARANCE; INITIAL APPEARANCE; ADJUDICATION; and SENTENCING. Judicial involvement in the PRE-INITIAL APPEARANCE stage is restricted to signing arrest warrants and issuing summonses. The INITIAL APPEARANCE, also referred to as a "preliminary arraignment," "preliminary hearing," "magistrate's hearing," or "presentment", involves the entering of a plea, bail setting, advising the defendant of his charges and rights, and appointing defense counsel. The ADJUDICATION stage includes rulings on motions, holding hearings and conferences, and conducting trials. Finally, the SENTENCING stage encompasses sentence imposition.

Stage 1: Pre-initial appearance

Summonses vs. Arrest Warrants

Judges may influence the lot of the alleged offender before there is any personal contact between them by issuing an arrest warrant or summons to bring someone into custody or require his appearance in court.

Although an arrest warrant and a summons are both court-issued writs, only the former requires that a law enforcement officer apprehend and hold the accused in custody until bail is posted or initial appearance. 1/ A summons simply orders the named accused person to appear in a designated court at a specified time to answer specific charges but, unlike an arrest warrant, does not result in incarceration. 2/

While the specific authority for issuing a warrant or summons varies by state statute or court rule, the judiciary traditionally is afforded discretion as to which to use. When the judiciary relies exclusively on warrants in lieu of summonses, the impact is felt at the jail, as measured by an increase in short-term detention.

The American Bar Association standard on issuance of summonses calls for "judicial officers to liberally utilize this authority unless a warrant is necessary to prevent flight...imminent bodily harm to the defendant or another, or subject a defendant to the jurisdiction of the court when the defendant's whereabouts are unknown." 3/ Similarly, the National Association of Pretrial Services Agencies' (NAPSA) Standards on Pretrial Release provide that summonses be issued in lieu of arrest warrants in all misdemeanor cases and suggest liberal usage in the case of felonies. 4/

Several states have statutes that reflect these standards. For example, a Wisconsin law authorizes judges to issue a summons in a felony case and makes the use mandatory in misdemeanor cases, unless the judge

believes that the defendant will not appear. 5/ Other states with such legislation include Florida, Illinois, Montana, and Texas. 6/ While no research efforts have examined the specific impact of increased usage of summonses in lieu of arrest warrants, it would logically follow that their prudent use can decrease short-term detention.

Stage 2: Initial appearance

The initial appearance represents the most important stage in the criminal process when examined in the jail population management context. At this hearing, judicial officers inform defendants of their rights, appoint counsel, and determine the appropriate conditions of release or detention pending trial. Since on a national average over half of all persons confined in jail are awaiting trial, the pretrial release decision made by the judicial officer has the most obvious impact on population levels. 7/

Information Needed at Initial Appearance

Crucial to deciding the most appropriate conditions of pretrial release is the availability of relevant information on the defendant. Consistent with most pretrial release or bail statutes, such information usually includes residence and employment history, family ties in the local community, criminal record (including the individual's history of appearance for court proceedings), drug/alcohol use, and the potential danger that the release of the individual might pose to the community.

Judges may rely on any of several sources of information, including law enforcement and corrections records; police, prosecutor and defense counsel's statements; and defendant's own testimony. In many jurisdictions, judicial officers routinely put the defendant under oath and inquire about his background in determining the appropriate conditions of release.

A common source of defendant information at the initial appearance is a pretrial screening agency. 8/ Certain functional and organizational differences notwithstanding, most pretrial release programs share common features, such as: (1) screening all detainees for possible release; (2) gathering background information;

(3) verifying that information; and (4) evaluating the information and developing appropriate recommendations.

Assessments of such programs have shown that they have become an integral part of local criminal justice systems. The National Evaluation of Pretrial Release Programs, sponsored by the National Institute of Justice (NIJ), found that pretrial release programs greatly influence judicial release decisions and that the resulting higher percentage of nonfinancial releases do not significantly affect the pretrial criminality and failure-to-appear rates. 9/

Besides the community ties information provided by pretrial agencies, judges often require appraisals of persons with mental health, drug, alcohol, and/or language problems. In several jurisdictions a pretrial services staff member screens defendants for mental illness and refers them to a counselor or psychiatrist for an evaluation or identification of an appropriate treatment program. The Cobb County (Marietta), Georgia, pretrial program makes specific treatment recommendations. In Multnomah County (Portland), Oregon, the pretrial release program facilitates third-party release under the care of qualified professionals for individuals suffering from a mental disability or substance abuse.

To assist the judge in dealing expeditiously with special defendants at the first hearing, some jurisdictions have turned to private sources. The Monroe County (Rochester, NY) Mental Health Clinic for Socio-Legal Services, working under local contract, evaluates a defendant's competency to stand trial, identifies any threat of danger or risk flight the defendant may pose, and makes recommendations related to special needs of the defendant. Also, a defendant's language handicap may unnecessarily delay or complicate a judge's bail determination. In some cities the need for qualified interpreters, fluent in the language required, is far greater than the number available. 10/

Decision Point: Pretrial Release or Detention

While most bail or pretrial release statutes indicate a clear preference for release on recognizance, 11/ judges retain a great deal of leeway in determining whether or not to release and on what conditions. Two general types of nonfinancial release exist: release on recognizance (ROR) and conditional release, including supervised release and third-party custody. In addition, there are usually a number of financial release options available to the judicial officer, including unsecured bail, nominal bail, privately secured bail, full cash bail, property bonds, deposit bail, and surety bail. 12/

Option: Release on Recognizance

According to the ABA Standards on Pretrial Release, there should be a presumption that the defendant "is entitled to be released on his or her own recognizance (ROR). The presumption may be overcome by a finding that there is a substantial risk of nonappearance or a need for additional conditions." 13/

Research findings support the appropriateness of such a presumption. The National Evaluation of Pretrial Release found that in the studied jurisdictions no relationship existed between rates of release and rates of pretrial flight and criminality. Jurisdictions with higher release rates did not experience concomitantly higher pretrial rearrest or nonappearance rates. The study concluded that "more defendants could be released pending trial and that rates of failure to appear and pretrial criminality would not increase substantially, if at all." 14/

Option: Conditional Release

In situations where the judicial officer determines that release on recognizance should be monitored to ensure appearance, conditional release can be considered. 15/ This form of release requires that the defendant agree to

specific nonfinancial conditions in order to be released. The ABA standard on conditional release states that "the mere existence of the conditions is likely to reduce the risk of recidivism and flight and provide an 'early warning system' to identify those defendants who cannot safely be allowed to remain free." 16/ Although judges can and do release defendants on unsupervised conditions, studies have shown that some form of supervision enhances the conditional release. 17/ Under the supervised form of release, the defendant is supervised by a release agency or a third-party custodian, either an individual or organization. The supervising agency or person agrees to monitor the defendant's compliance with the conditions of release and to notify the court of any violations.

In an evaluation of an NIJ-sponsored test design in Milwaukee County (Milwaukee), Wisconsin; Dade County (Miami), Florida; and Multnomah County (Portland), Oregon, supervised release of higher risk defendants (vis-a-vis those released on ROR) produced a marked decrease in jail bed-days in the three jurisdictions without increasing failure-to-appear or rearrest rates. In fact, the nonappearance and rearrest rates for defendants on supervised release were lower than for those released on ROR. Furthermore, more than three-fourths of the felony defendants supervised who were eventually convicted were sentenced to community service, typically as a condition of probation. 18/

Some judges favor releasing defendants to a third party who is responsible for assuring their appearance in court. In 1980 district judges in Fayette County (Covington/Newport), Kentucky, began releasing public inebriates and DWI offenders to the custody of a third party. The impetus for choosing this option was to free jail space used to detain defendants arrested late at night. According to the state Administrative Office of the Courts, the third-party custody program successfully attained its goal of boosting court appearances of these targeted defendants and removing them from jail overnight. 19/

The District of Columbia Superior Court has used organizational third-party custodians for many years. The court has established formal standards, monitored by the Pretrial Services Agency and enforced by the judiciary, to ensure that the custody organizations provide satisfactory services to both the court and the supervised defendants. 20/

While conditional release has proven useful to facilitate the release of some defendants pretrial, it can also be overused, with conditions being employed unnecessarily. To test this hypothesis, the National Institute of Justice sponsored an evaluation of changes in the District of Columbia Pretrial Service Agency's bail recommendation scheme. The changes involved having the agency increase its recommendations for unrestricted personal recognizance release (PR) and nonfinancial release (both unrestricted and conditional PR) and reduce the average number of conditions recommended for defendants. The changes by the Agency affected judges' decisions and defendants' subsequent release outcomes without any detrimental effect on FTA or pretrial rearrest rates. Unrestricted PR release increased, although total rates of nonfinancial release were unchanged, and judges set fewer conditions for defendants under the new system. Thus, the less restrictive release practices were attained with no increases in rates of pretrial misconduct. 21/

Option: Deposit Bail

Under this release option, the defendant posts with the court a percentage, usually 10 percent, of the total amount of bail. The deposit is returned—less an administrative fee in some jurisdictions—once the defendant appears in court. Should he fail to appear, the defendant is liable for the full amount of the bail. 22/

Based on a survey of findings from several studies of jurisdictions with 10 percent deposit bail, one study concluded that in jurisdictions with both surety bail and

percentage deposit bail as a judicial option, the latter is used very little by the judiciary. Jurisdictions which implemented a defendant-option deposit bail system, however, found that surety bail dramatically decreased. Deposit bail was not associated with an increase in the failure-to-appear rate, and in some instances, a decline in the jail population was noted. 23/

Option: Surety Bail

This option of financial bail requires the judge to decide only the dollar amount involved. It is perhaps a misnomer to discuss surety bail as a "judicial" option, since once the dollar amount is set, the crucial question of whether or not the defendant is actually released pending trial is passed on to a surety agent or bail bondsman. It is the agent or bondsman who decides whether or not to "write the bond" which effectively releases the defendant.

In practice, surety bail may result in a contradiction of judicial intent. A judicial officer's intention to release the defendant by setting a relatively low bail may be overridden by a bondsman's unwillingness to accept a low premium and the risk associated with the bail amount, thus resulting in unintended detention.

Option: Property Bond

In most states, bail statutes allow the judicial officer to accept real property in lieu of the bail amount imposed. In many cases, the statute specifically requires that the evidence of real property must be double in value the amount of the bail set. While authorized in virtually every state, the use of property bail is relatively minimal, except in western states. Judicial officers have found that such a condition of release in the western states is appropriate for persons charged with an offense who are "land poor," having little money readily available, but holding title to tracts of land.

The requirements imposed by local court rules can also affect the level of usage of property bail. In some jurisdictions, requirements that include formal title searches and verification insure that any such release will take a number of days, while other jurisdictions have developed mechanisms to speed up the verification process, and in turn, the release of defendants pretrial.

Option: Pretrial Detention

While the longstanding primary rationale for bail or other forms of pretrial conditions has been to insure appearance at future court proceedings, many states and the federal government have expanded the intent of bail to include protecting the community from potentially dangerous defendants. According to a National Institute of Justice study currently underway, in 31 states, the District of Columbia and the federal government, such "danger" laws allow judges in setting bail or pretrial release conditions to consider whether a released defendant might pose a danger to public safety. 24/ The state statutes are by no means uniform, however.

"Preventive detention" provisions constitute the most extreme form of danger laws. Such provisions authorize judicial officers to hold a defendant without bond, upon a finding that no condition or combination of conditions would reasonably assure either the safety of the community or the appearance of the person at future court proceedings. Despite the paucity of data on the frequency of enforcement of state danger laws, their potential impact on jail population levels is readily apparent. 25/

The question as to release or detention and the proper form of release are perhaps the most crucial decisions affecting an arrested individual and the most difficult facing a judicial officer. Because the initial presentment takes only minutes or even seconds, the need for complete and accurate information to assist judicial officers in their decisionmaking is even more evident. With such information, judicial officers will be able to

make prudent decisions that both protect the integrity of the justice system and the safety of the community while decreasing unnecessary pretrial detention.

Decision Point: Appointment of Defense Counsel

A second decision point during the initial appearance stage is appointment of counsel. The Supreme Court has ruled that the right to counsel extends to every critical stage of criminal proceedings, including felony arraignment and preliminary hearings. 26/ The ABA Standards Relating to Providing Defense Services urge the appointment of counsel "as soon as feasible after he [the defendant] is taken into custody, when he appears before a committing magistrate, or when he is formally charged, whichever occurs earliest." 27/

There is now evidence that earlier representation results in accelerated release decisions and release on less restrictive conditions. An NIJ-funded evaluation of the impact of early representation by defense counsel found that in the jurisdictions tested [Passaic County (Paterson), New Jersey; Shelby County (Memphis) Tennessee; and Palm Beach County (West Palm Beach), Florida], the defendants afforded early representation were released in less time than others who were provided the normally scheduled defense services. Specifically, "test clients obtained pretrial release much sooner (from two to five days) than control clients." 28/ Case processing generally was greatly improved:

> "[E]arly investigation, early plea negotiation and increased public defender involvement in cases at the lower municipal court level resulted in the early resolution of a higher proportion of test cases than control cases, and considerably reduced the average time from arrest to disposition for all test cases. The savings in case processing time and money were achieved by the test grantees without appreciable increase in the expenditure of resources." 29/

Thus it appears that judicial efforts to accelerate the appointment of counsel process can accrue benefits not just for the jail, but for the broader criminal justice system as well.

Stage 3: Adjudication

Pleas and Continuances

The adjudication stage refers to those actions that take place between the initial appearance and the disposition of the case. Of principal interest here is the way judicial officers choose to handle requests for continuances and their role in plea negotiations. Many of the judicial decisions influencing the jail population level determine not only whether or not a person will be detained in jail, but the length of confinement. How a judge rules on motions for continuances by prosecutors and defense counsel determines to a great extent the duration of the case. Such decisions usually depend on what is viewed as acceptable in the local legal culture; in some courtrooms, it may be an established rule not to ask for continuances or the reverse may be true, where continuances are routinely sought and granted. 30/ As continuances are granted, cases decay and the possibility of unnecessary detention increases.

An extensive study of the nature of case processing in 21 metropolitan courts found that in many jurisdictions scheduling of trials influenced the time of eventual case disposition. 31/ The faster courts were characterized by a shared expectation of early case settlement, be it accomplished by trial or plea. Conversely, "in the slower courts...no routine pattern exists to carry a case either to trial or nontrial disposition in a timely fashion." 32/

Where they exist, speedy trial laws and local court rules specify the time frame for case processing. How strictly judges enforce adherence to these laws can affect jail population levels. According to a Kentucky statute, for example, a preliminary hearing must be held within 10 days for those in jail and 20 days if released. If the hearing is not held within the time allocated, the case can be dismissed. This is a potent sanction which judges are not reluctant to use. As a result, in excess of 85

percent of the cases plead out before the 10- or 20-day limits, with an obvious effect on the jail population. 33/

The guilty plea is the most prevalent form of disposition of criminal cases in the United States. 34/ In many instances these pleas are a direct result of negotiation or plea bargaining. 35/ Whatever the stand on the appropriateness or propriety of plea bargaining, it contributes to expeditious case disposition, which in turn leads to reduced pretrial confinement. 36/

In Lycoming County (Williamsport), Pennsylvania, a procedure was instituted in 1982 whereby a list of criminal cases scheduled for preliminary hearing is sent to the judge, prosecutor, and defense counsel. The three then meet, together with a court stenographer and a representative of the Court Administrator's Office, within 24 hours of the preliminary hearing to review the case. Plea negotiations typically are conducted at this session. This procedure has contributed to a decrease in the pretrial jail population, according to the Court Administrator's Office. 37/

By taking an active role in expediting case processing, judges can be very influential not only in reducing pending caseloads and increasing disposition rates, but also in reducing the length of confinement of detained defendants. The judge can achieve these objectives by strictly enforcing an accelerated trial calendar for defendants in custody, not tolerating unjustified delays, and participating in such events as pretrial conferences where appropriate.

Stage 4: Sentencing

In the public mind, it is perhaps the sentencing function which most embodies the judicial role. While the judge's discretion in the area of sentencing has been curtailed somewhat in recent years by the passage of mandatory sentencing laws, habitual offender statutes and sentencing guidelines, judges still maintain a great deal of control over the fate of defendants at this stage. 38/

Judges may choose from a number of sentences, including incarceration or a non-jail penalty, such as fines, probation, community service, restitution to the victim, halfway house residency, treatment, or some combination. Finally, they may choose to suspend sentence or stay the execution of sentence.

Information Needed for Sentencing Decisions

Similar to the initial appearance, judicial decisions at sentencing require accurate and complete information to ensure that the most appropriate decision is made. The judge's sentencing decision is influenced by several factors. First, the judge bases his decision on the information received from other actors in the criminal justice system. Second, the judge's choice of sentence is proscribed by the discretion he is allowed. And third, the judge is influenced by the availability of sentencing alternatives in the community.

The most often-used source of information for judges at sentencing is the presentence investigation (PSI) report prepared by the local probation department. The timeliness of PSI reports affects the length of confinement of detained defendants awaiting sentencing. 39/ Also, prisoners destined for state facilities remain in jail unnecessarily if PSI preparation is unduly protracted.

Middlesex County, New Jersey, has adopted a procedure of "simultaneous sentencing" which does not require

conventionally generated PSI reports. Under this system, a probation case supervisor keeps abreast of the status of a case and prepares a PSI report in advance of the time when most pleas are negotiated. This allows the trial judge to accept a plea and "simultaneously" sentence the defendant. During the first month the process was examined (July 1984), of a possible 26 defendants, 25 had simultaneous sentences imposed, with an estimated five-to-seven weeks of normal PSI preparation time saved. 40/ Since its implementation in June 1984, an estimated 25 percent of all sentences have been handled simultaneously.

Sentencing options available to judges are tempered by certain constraints. In the past 15 years, for example, most states have enacted mandatory sentences for certain offenses. The most prevalent mandatory incarceration law involves driving while intoxicated (DWI). As of January 1986, 16 states had laws requiring jail or an alternative sanction for first-time DWI offenders, and 41 states had laws mandating a two-day to six-month jail term or other sanction for the second offense. 41/ Additionally, 15 states have instituted determinate sentencing, and another 13 either have passed or are considering the institution of sentencing guidelines. 42/ In some states (Oregon, Kansas, Indiana, Ohio, Virginia, Iowa, California and Minnesota), on the other hand, certain enhancements for introducing and/or expanding alternatives to incarceration have emerged, such as the state Community Corrections Acts. 43/

A recent NIJ study on the impact of mandatory incarceration for drunk driving legislation in five jurisdictions found that such laws put an additonal strain on correctional facilities as well as the courts. Minneapolis was the only site of the five examined able to effectively cope with the impact of mandatory incarceration legislation without expending additional resources. Anticipating the potential problem associated with the DWI law, the Minneapolis criminal bench developed a plan which included the requirement that offenders begin serving jail sentences within 48 hours of conviction to avoid weekend overcrowding. 44/

Besides the effect of increasing the number of admissions, mandatory incarceration legislation may extend the length of confinement of pretrial detainees. First, in the states with DWI mandatory incarceration legislation, a considerable rise in the arrest rate (due to publicity surrounding the law and its implementation) can cause a chain reaction throughout the criminal justice system, increasing the criminal court caseload and processing time—thereby the pretrial confinement—and incarceration rate. Second, by eliminating the incentive to plea bargain, pretrial detention can be also extended as a greater proportion of defendants opt to go to trial, particularly jury trials. 45/ To avoid surges in the court caseload, judges in Minneapolis devised a calendaring scheme which spreads court cases evenly throughout the week and, to offset expenditures, require convicted drunk drivers to pay the cost of their treatment and confinement. 46/

Decision Point: Sentencing Alternatives

Option: Probation

Probation is a court-ordered, community-based form of supervision requiring the offender to report to a probation agency for a designated period of time and to adhere to certain specified conditions.

For many first offenders the most prevalent form of sentence is unsupervised probation, whereby the person is ordered to remain arrest-free for a specific period of time and need not report to a probation officer on a regular basis. Should a rearrest occur, the judicial officer is notified and may revoke probation and order incarceration or increase the level of supervision for the probationary period.

Coined by the Advisory Commission on Intergovernmental Relations (ACIR) as the "63% solution" (the proportion of all offenders in correctional care), probation is clearly the most used form of correctional supervision program.

Although in Georgia and Texas the intensive supervision program is restricted to the prison-bound population, other states, such as New York and New Jersey, are adopting similar programs for misdemeanants, as well. The New York Intensive Supervision Program is state funded and locally administered. In 1982, 60 percent of the ISP cases were misdemeanants. An evaluation of the program revealed that:

> "[T]hose on ISP, even though they were high risk probation cases, were more likely to succeed than regular probationers; they were less likely to be arrested for new crimes, and when they were arrested, their crimes were not as serious. About 40 percent of those on ISP for a year were transferred to regular probation, and after that 95 percent kept out of trouble." 51/

Its potential as an effective jail-reduction technique having been demonstrated, judges and probation officers alike stress the need to impose intensive probation only on persons who would otherwise be incarcerated; otherwise, it becomes an alternative to probation, rather than jail.

Option: Fine

The fine is frequently overlooked as an alternative to incarceration in the United States because its long and widespread use is generally underestimated. An endorsement by the National Advisory Commission on Criminal Justice Standards and Goals (NAC) has done little to alter this perception. 52/ Findings of a recent study document the extensive use of the fine in courts throughout the United States. 53/ Of the surveyed courts of limited jurisdiction (municipal courts and county or state courts which handle ordinance violations and/or state misdemeanors), one-fourth responded that fines are applied in all or virtually all criminal cases other than parking or routine traffic offenses. Another fifty percent of these courts indicated that fines are used for most of such cases. Of the general jurisdiction

courts, a majority reported that fines are used for most cases. 54/

Although incarceration or the threat thereof is the most typical form of inducement for payment of overdue fines, there are many alternative strategies which are currently in use, such as work programs, seizure of property, garnishment of wages, and driver's license revocation which obviate the need to incarcerate those individuals who are in arrears. Thus, in order to be an effective alternative to incarceration, increased reliance on the fine must be accompanied by nonincarcerative methods of enforcement.

Option: Community Service/Restitution

This form of sentence requires a defendant to perform uncompensated services for a specified amount of time for a public or private sponsoring organization. As of 1982, 100 community service programs were estimated to exist nationwide. 55/ Descriptions of four such programs follow:

- New York City Community Service Sentencing Project

  New York City has instituted an alternative to incarceration program which caters to offenders who ordinarily would be sentenced to between 30 and 90 days in jail. The client group is made up predominantly of unemployed, unskilled, minority members with prior records. Offenders participating in this program are sentenced to 70 hours of supervised community work in lieu of jail, subject to the condition that failing to comply with the program's requirements will result in resentencing.

  The recidivism rate for defendants participating in the community service project was no higher than for a comparable group sentenced to serve a short jail term: Approximately 50 percent of both groups were rearrested within 180 days of release. The New York Criminal Justice Agency has estimated that 70 jail

cells were saved by the project during one year, ending June 30, 1982. An additional benefit of the project was the 38,000 hours of unpaid community work performed by the offenders. 56/

- Prisoner and Community Together Community Service Restitution Program (PACT CSR)

PACT was conceived in 1977 in Porter County, Indiana, as an alternative sanction to local jail incarceration for non-violent offenders (as of 1985, 6 counties in Northern Indiana were operating PACT programs). The judge refers an offender to PACT and in a written contract specifies the number of hours of community work to be served—6 hours per jail day. The private agency responsible for administering the program then determines which of the referred defendants it will accept.

Notwithstanding the optimistic intentions of PACT to serve as an alternative to jail incarceration, one report suggested that "at best, 50 percent of the offenders receiving sentences would have actually served time in jail or prison. While this observation is certainly a disappointment in terms of the initial expectation of the program, it actually is rather good in terms of the 'state of the art' in this county." 57/ It appears that one of the program's goals, to take persons with more serious charges, has been achieved. An evaluation of the program revealed that over half of the participants had been convicted of either a serious misdemeanor or a felony and over a third had prior records.

- Fresno Adult Offender Work Program

Aimed specifically at reducing weekend jail overcrowding, the Adult Offender Work Program was instituted by the Fresno County (California) Sheriff's Department in 1979 and expanded in 1982. The program offers the courts an alternative sentencing option in the form of community improvement projects for low-risk, non-violent criminal offenders. The judge

may refer to the program individuals sentenced to jail for 30 days or less. (Persons sentenced to longer terms are eligible for the county work furlough program.)

In 1984 the program accepted 2,664 offenders sentenced to jail terms resulting in an estimated savings of $550,000 in incarceration costs. Reducing jury trials, especially of DWI defendants, and accelerating case processing are added benefits ascribed to the program. 58/

- Earn-It Restitution Program

  Launched in Quincy County, Massachusetts, in 1976, the "Earn-It" program was the first of its kind. Primarily targeted for youths, the program gives less serious offenders a "second chance", by allowing them to pay restitution instead of serving a jail term. Although the impact of the program on the jail population level has not been formally evaluated, the judges and community applaud other gains of the program. With the cooperation of community businessmen, there were 624 adult restitution determinations in 1980 and 150 adult placements in private or CETA jobs. Between January 1979 and January 1980, adult offenders paid over $140,000 to their victims. 59/

Option: Client Specific Planning

The court, public defender, probation officer, or other interested party may contract for the services of a private agency to develop an individualized alternative sentence plans for an offender. One such agency, the National Center on Institutions and Alternatives (NCIA), provides highly structured sentencing plans developed from a wide menu of alternatives to incarceration. During a recent 39-month period, NCIA prepared 350 plans nationally, of which two-thirds were accepted by the courts. 60/ Another private organization, the Tennessee Sentencing Support Center operates a similar program in

Nashville. As of January 1985, the Center reported that judges have accepted 46 of 62 submitted plans. In most cases these plans are used for those who are prison- or jail-bound. 61/

Option: Alcohol Treatment Programs

In the area of DWI and other alcohol-related offenses, judges have been particularly innovative in devising and implementing alternatives to incarceration. Quincy County (Quincy), Massachusetts, District Court judges have initiated a mechanism for handling offenders convicted of crimes committed while under the influence of alcohol. The strategy combines assessment and treatment of alcoholism with imposition of penalties. As a condition of a suspended sentence or as an alternative to a 48-hour mandatory jail sentence, offenders undergo a two-day assessment. If diagnosed as having an alcohol problem, the person may be required to enter a treatment program, which can entail as many as four Alcoholics Anonymous meetings a week for 30 weeks. If a family member participates, the period can be reduced to 20 weeks. An evaluation of the program indicated that during a three year period, over three-fourths of the participants (210 out of 279) sucessfully completed program requirements. The 5 percent recidivism rate for program participants was considerably lower than an estimated 15-17 percent state average for a similar group. 62/

A similar program which is reported to have had an impact on the jail population level is operating in Greene County (Springfield), Missouri, where the Circuit Court suspends the jail sentence (when less than 30 days) and orders the offender to attend a highly structured 46-hour session of counseling and treatment. The program requires that each individual pay a $200 fee, but hours of unpaid community service work may be substituted for those unable to meet this payment.

At each stage of the criminal case process, judges' decisions can influence the administration of individual

as well as systemic justice. The examples presented in this section demonstrate that in dispensing justice on a case-by-case basis, judges can concurrently and without jeopardizing the rights and fairness due each case, achieve efficient case processing and effective use of jail space.

To summarize, judges' use of summonses in lieu of arrest warrants can accomplish the dual goals of ordering the appearance in court of persons charged with violating the law and obviating the necessity to expend jail resources. In addition, judges can successfully use alternatives to pretrial detention or surety bail, such as release on recognizance, conditional release, supervised release and deposit bail without incurring an increase in the fugitivity or criminality rates. By keeping continuance abuse in check and holding pretrial hearings aimed at early case disposition, judges can facilitate expeditious case processing and thereby reduce the length of pretrial confinement. Judges can also ensure that the guilty not go unpunished by imposing alternative sentences, including probation, restitution, community service and special alcohol treatment programs, which are usually less expensive than incarceration and in some cases provide such societal benefits as voluntary labor, victim compensation and offender rehabilitation. The use of alternatives also allows jail space to be reserved for those offenders who pose a danger to the safety of the community.

The following section will present examples of other ways in which judges can affect jail population, principally through their leadership and administrative roles.

Section II
Administrative activities

> "The feeling that a judge is an all-powerful figure can only be held by someone who has never been in the court system. A good part of a judge's function is that of traffic manager, a manager who tries to see that a great number of things come together at the same time so that something can happen with the case. But even the best judge is constantly frustrated by his inability to make these things happen. Extraordinary cooperation between all sorts of people and agencies is required before anything takes place." 1/

Besides the individual case processing options available to judges and described in Section I, other judicial actions, more administrative and systemic in nature, can affect jail population levels. The above quotation demonstrates the most obvious administrative role example involving the management of ongoing courtroom activities. Judges' collective actions in promoting constructive and innovative responses to various criminal justice problems, including jail crowding, constitutes another example. These actions may take the form of changes in local court rules, such as revision of a local bail schedule, or enforcement of an already existing rule, such as the expansion of the use of summonses in lieu of arrest warrants.

In addition, judges in designated leadership roles—chief, administrative or presiding judges—can effectuate changes which will have a positive impact on jail populations. Benefitting from a comprehensive perspective of the criminal justice system, judges in leadership positions not only can identify problems, but can also focus the attention of others on those problems and marshall their collective efforts to address them. Chief judges can institute policy and rule changes,

enforce their implementation, disseminate information, and provide a forum for discussion of their colleagues' suggestions.

Finally, judges can become involved in extra-judicial activities, such as participating on task forces and commissions concerned with jail crowding. 2/ In this area, judges can ensure that the work of the group reflects the realities of the justice process and that any findings or recommendations have credence with the other members of the criminal justice system. Perhaps most important is the leadership role that judges assume in such a setting. While difficult to quantify, experiences from the LEAA Jail Overcrowding Project, National Institute of Corrections technical assistance efforts and the survey information obtained for this report indicate that a strong correlation exists between the jurisdictions that have successfully addressed jail crowding and the degree of judicial involvement and leadership present in the jurisdiction. 3/

Each of the examples provided in this section depict the fact that administrative actions by judicial officers ensue from the gathering and analysis of certain data, relevant to the particular action. In some jurisdictions, chief judges keep statistical records of various judicial activities such as disposition rates, age of cases and pending caseload, which they may use as indicators of both judicial productivity and efficiency of case processing. These reports can aid both chief and trial judges in identifying problem areas, such as unduly protracted processing of certain cases, untimely PSI preparation, and discrepancies and/or inconsistencies among judges in pretrial release, sentencing and continuance policies.

A census of the jail population is another useful tool for assessing the efficiency and effectiveness of caseload management. For the best results, a jail population census should minimally provide judges with the following information: the number of persons in jail, their length of stay and their status (i.e., pretrial, sentenced, awaiting transfer to other facility,

including INS holds, state prisons, and mental or treatment center). Equipped with this information, judges can determine whether defendants for whom low money bail was set were actually able to post bond, whether the cases of defendants in pretrial custody were placed on an accelerated calendar, and whether large portions of the jail population are comprised of persons pending trial, convicted persons awaiting sentence, or sentenced persons awaiting transfer to another facility.

The examples of particular administrative actions taken by judicial officers who have addressed jail crowding are divided into three categories: actions of chief judges; collective judicial actions; and task force participation.

Actions of chief/presiding judges

Delay Reduction Program: Maricopa County, Arizona

The Chief Circuit Court Judge of Maricopa County (Phoenix), Arizona, was particularly instrumental in the initiation in July 1981 of a one-year experiment in criminal case delay reduction and its subsequent institutionalization. The experiment confirmed that the problem of jail crowding was in large part a by-product of calendaring. Thus, the implementation of a delay reduction program accounted for the initial reduction in the jail population in Maricopa County.

The Chief Judge formed a planning group composed of local criminal justice actors to develop more stringent local rules regarding case processing that press the parties to meet deadlines and to have cases prepared earlier. Specifically, the rules call for the disposition of felony cases within 120 days of arrest, including the 30 days allowed for sentencing after a determination of guilt. Once a person is bound over from a lower court, pretrial conference and trial dates are set at the arraignment. Even if the conference is postponed, the trial date usually stands. Moreover, to promote early pleadings exchange of discovery was pushed forward to the outset of the case.

To achieve the successful implementation of the needed rule changes, it was crucial that key actors cast aside their traditional manner of proceeding with cases. It was important, the Chief Judge noted, to ingrain the sense that "these are the rules and everyone should know them." The Chief Judge related that "lawyers traditionally procrastinated, but by establishing these rules and changing the psychology of doing things, the old habits were broken. The idea was to use time more productively." 4/

Collective judicial actions

Delegated Release Authority: King County, Washington

To achieve reductions in court processing time as well as jail admissions and length of confinement, local courts in some jurisdictions have opted to delegate pretrial release authority—subject to review by a judicial officer—to another agency, such as a pretrial release program. In King County (Seattle), Washington, the District Court has established guidelines for a "three-tier" release policy to be used by pretrial services personnel. The guidelines specify the types of charges for which the pretrial staff may release under its own authority, affect release only after phone consultation with a duty judge, or, for the majority of felony cases, render specific recommendations to the court.

Authorization to Deny Jail Admission to Persons Charged with Misdemeanor: Snohomish County, Washington

Another example of judicial delegation of release authority involves Snohomish County (Everett), Washington. Judges of both the lower and courts of general jurisdiction have permitted the jail administrator to refuse to detain persons charged with misdemeanors and, in all but the most serious felony charges, to release others on their own recongizance pending trial.

Expanded Bail Setting: Mecklenburg County, North Carolina

An expanded bail-setting mechanism, such as the use of 24-hour magistrates, can accelerate the release of defendants. Bail magistrates in Mecklenburg County, North Carolina, for example, are on duty on a 24-hour basis to comply with bail laws that call for magistrate screening at an early stage. As each defendant appears before the magistrate, conditions of release are set.

Conclusion

The research undertaken for this manual indicates that judicial involvement is the necessary force underlying successful attempts to deal with jail crowding. At each stage of the criminal case process judges decide who goes to jail and/or for how long. Their exercise of this discretion, however, is constrained by such factors as the existing legal framework, the availability of resources, and public attitudes. Even with such constraints, the manual provides numerous illustrations of practices and procedures which judges have been able to utilize to reduce jail crowding.

While the causes and solutions to jail crowding are systemic in nature, judges play a key part responding to the problem. It is hoped that the examples of successful judicial actions presented in this manual will better equip judges and other local criminal justice system actors to choose the most appropriate means of addressing jail crowding.

Appendix A
Names of judges interviewed

The Honorable Robert Broomfield
Chief Judge, Maricopa County Court
(since apointed to U.S. District Court)
Phoenix, Arizona

The Honorable Victor Manian
Chief Judge, Milwaukee County Court
Milwaukee, Wisconsin

The Honorable William Carpenter
Administrative Judge
Shawnee County Court
Topeka, Kansas

The Honorable David Simpson
General District Court
Winchester, Virginia

The Honorable Thomas Knopf
Chief Judge
Louisville, Kentucky

The Honorable Charles Edelstein
Dade County District Court
Coral Gables, Florida

The Honorable Lois Forer
Court of Common Pleas
Philadelphia, Pennsylvania

The Honorable Charles W. Fleming
Cleveland Municipal Court
Cleveland, Ohio

The Honorable Albert Kramer
Quincy District Court
Quincy, Massachusetts

The Honorable Frank Snepp
General Court of Justice
Charlotte, North Carolina

Stephen North, Esq.
Nashville, Tennessee
(formerly with the Davidson County District Court)

The Honorable Ernest Hayeck
District Court of Worcester
Worcester, Massachusetts

The Honorable Daniel Hanlin
Juvenile Court
San Francisco, California

The Honorable George Nicola
Presiding Judge, Middlesex County
New Brunswick, New Jersey

The Honorable Gilbert S. Goshorn
Brevard County Courthouse
Titusville, Florida

The Honorable Bruce Rutland
Lower Summary Court
Cayce, South Carolina 29033

Appendix B-1
Local contacts for programs and procedures cited in section I

Initial Appearance

- Mental health treatment recommendations

  Cobb County, GA: Wanda Stokes, Cobb County Pretrial Court Services Agency, P. O. Box 649, Public Safety Building, Marietta, GA 30061, (404) 424-0926

- Screening to divert mentally disabled

  Multnomah County, OR: Charles Wall, Director, Pretrial Release Office, 1120 Southwest Third Avenue, Room 301, Portland, OR 97204, (503) 248-3893

- Prompt assessment of mental health problems

  Monroe County, NY: Dr. Jim Clark, Mental Health Clinic for Socio-Legal Services, Room 20A, Hall of Justice, Rochester, NY 14614, (716) 428-4530

- Supervised pretrial release

  Dade County, FL: Tim Murray, Director, Pretrial Services, 1500 Northwest 12th Avenue, Suite 736, Miami, FL 33136, (305) 547-7987

  Milwaukee County, WI: Jill Fuller, Wisconsin Correctional Service, Court Intervention Program, 436 West Wisconsin Avenue, Milwaukee, WI 43203, (414) 271-1750

  Multnomah County, OR: Charles Wall, Director, Pretrial Release Office, 1120 Southwest Third Avenue, Room 301, Portland, OR 97204, (203) 248-3893

- Third party custody release

  District of Columbia: Jay Carver, Director, D.C. Pretrial Services Agency, 400 F Street, NW, Third Floor, Washington, DC 20001, (202) 727-2911

  Kentucky: John Hendricks, Director, Kentucky Pretrial Services, Administrative Office of the Courts, 403 Wapping Street, Frankfort, KY 40601, (502) 564-2350

- Prompt indigency screening appointment of counsel and defendant contact

  Palm Beach, Passaic and Shelby Counties--from URSA Institute evaluation: Ernest J. Fazio, J.D., The URSA Institute, Pier 1-1/2, San Francisco, CA 94111, (415) 398-2040

Adjudication

- Early plea negotiations

  Lycoming County, PA: Raymond Holland, Court Administrator, 48 West Third Street, Williamsport, PA 17701, (717) 327-2330

Sentencing

- Simultaneous sentencing

  Middlesex County, NJ: The Hon. George J. Nicola, Presiding Criminal Court Judge, One J. F. Kennedy Square, New Brunswick, NJ 08903, (201) 745-4155

- Handling DWI cases in mandatory incarceration jurisdictions

Minneapolis, MN: Michael Cunniff, Deputy Court Administrator, Hennepin County Government Center, C 851, Minneapolis, MN 55487, (612) 348-2263 or Sig Fine, Superintendent, Adult Corrections Facility, 1145 Shenandoah Lane, Plymouth, MN 55447, (612) 475-4201

- Probation

Alameda and Los Angeles Counties—from Rand Corp. study: Joan Petersilia, Rand Corporation, 1730 Main Street, P.O. Box 2138, Santa Monica, CA 90406, (213) 393-0411

- Intensive supervised probation

Georgia: Vince Fallin, Deputy Commissioner, Probation Department, No. 2 Martin Luther King Drive, Room 954 East, Atlanta, GA 30334, (404) 656-4747

New York: James Testani, Public Information Officer, New York State Office of Probation and Correctional Alternatives, 60 South Pearl Street, Albany, NY 12207, (518) 473-0684

New Jersey: Harvey Goldstein, Director, Intensive Supervision Program, Administrative Office of the Courts, CN037, Trenton, NJ 08625, (609) 984-0076

- Community service sentencing

New York, NY: Dick Rikkens, Community Service Sentencing Project, c/o Vera Institute of Justice, 377 Broadway, New York, NY 10013, (212) 334-1300

Indiana: Mark Umbreit, Executive Director, PACT, Inc. (Prisoners and Community Together), 23 East Lincoln Way, Valparaiso, IN 46383, (219) 464-1400

- Community service sentencing (cont.)

  Fresno County, CA: Ronald Worley, Program Director, Adult Offender Work Program, Fresno County Probation Department, 808 South Tenth Street, Fresno, CA 93702, (209) 488-3565

- Restitution

  Quincy County, MA: The Hon. Albert Kramer, Quincy District Court, "Earn-It Program", Dennis Ryan Parkway, Quincy, MA 02169, (617) 471-1650

- Client specific sentence planning

  Alexandria, VA: Jerome Miller, Director, or Herbert J. Hoelter, Project Director, National Center on Institutions and Alternatives, 814 North Saint Asaph Street, Alexandria, VA 23314, (703) 684-0373

  Davidson County, TN: Susan Cannon, Director, Sentencing Support Center of the Opportunity House, Inc., 625 West Iris Drive, P.O. Box 40139, Nashville, TN 37204, (615) 297-7785

- Special treatment programs for DWI offenders

  Quincy County, MA: Andrew Klein, Chief Probation Officer, Quincy District Court, Quincy, MA 02169, (601) 471-1650

  Greene County, MO: Dr. Elissa Lewis, Director, Weekend Intervention Program, Southwest Missouri State University, Springfield, MO 65804, (417) 836-5802

Appendix B-2
Local contacts for programs and procedures cited in section II

Actions of Chief/Presiding Judges

- Delay reduction program

  Maricopa County, AZ: The Hon. Robert Broomfield, Chief Judge (since appointed to U. S. District Court), Maricopa County Court, 101 West Jefferson, Phoenix, AZ 85003, (602) 262-3916

- Vertical case management plan

  Middlesex County, NJ: The Hon. George Nicola, Presiding Criminal Court Judge, One J. F. Kennedy Square, New Brunswick, NJ 08903, (201) 745-4155

- Executive committees/development of nonfinancial release options and programs for special populations

  Milwaukee County, WI: The Hon. Victor Manian, Chief Judge, Milwaukee County Courthouse, 901 North Ninth Street, Milwaukee, WI 53233, (414) 278-4588

- Meetings and directives

  Wayne County, MI: The Hon. Samuel C. Gardner, Chief Judge, The Recorder's Court for the City of Detroit, 1441 St. Antoine, Detroit, MI 48226-2384, (313) 224-2474

Collective judicial actions

- Delegated release authority

  King County, WA: Frank Fleetham, Jr., Director, Court Services Section, King County Department of Corrections, E-119 King County Courthouse, Seattle, WA 98104, (206) 344-4020

- Court policy opposing detention of persons charged with misdemeanors

  Snohomish County, WA: William B. Harper, Snohomish County Department of Corrections, Fourth Floor County Courthouse, Everett, WA 98201, (206) 259-9395

- Expanded bail setting mechanisms

  Mecklenburg County, NC: Chief Distrcit Court Judge James E. Lanning, 800 East Fourth Street, Charlotte, NC 28202, (704) 373-6735

  Frederick County, VA: Judge David Simpson, General District Court, P. O. Box 526, Winchester, VA 22601, (703) 667-5770

- Early disposition of cases

  Hudson County, NJ: Robert Zucconi, Central Judicial Processing Court, 595 Newark Avenue, Jersey City, NJ 07306, (201) 795-6400

- Local rule providing incentive for early pleas

  Davidson County, TN: Diane Clark, Court Administrator, General Sessions Court, 301 Metro Courthouse, Nashville, TN 37201 (615) 742-8311

Task Force/Commission Participation

- Leadership in Systemwide Crowding Alleviation Efforts

  Brevard County, FL: The Hon. Gil Goshorn, Chief Judge of Circuit Court, P. O. Drawer T, Titusville, FL 32780-0143, (305) 269-8115

  Frederick County, VA: The Hon. David Simpson, General District Court, P. O. Box 526, Winchester, VA 22601, (703) 667-5770

- Leadership in Systemwide Crowding Alleviating Efforts (cont.)

Mecklenburg County, NC: The Hon. Frank W. Snepp, Senior Resident Superior Court Judge, 800 East Fourth Street, Charlotte, NC 28202, (704) 373-6736

Milwaukee County, WI: The Hon. Victor Manian, Chief Judge, Courthouse, 901 North Ninth Street, Room 500, Milwaukee, WI 53233, (414) 278-5112

Shawnee County, KS: The Hon. William Carpenter, Administrative Judge, Shawnee County Courthouse, 214 East 7th Street, Topeka, KS 66603, (913) 295-4365

References

Introduction

1/ Abt Associates, National Assessment Program: Assessing Needs in the Criminal Justice System (Washington, DC: National Institute of Justice, January 1984), p. 9.

2/ For a discussion of jail conditions during the 1970's, see Karen Reixach and David Weimer, "American Jails: Still Cloacal After Ten Years," in Jameson W. Doig, ed., Criminal Corrections: Ideals and Realities (Lexington, Massachusetts: Heath Lexington Books, 1983), p. 95; Institute of Economic and Policy Studies, Correctional Economics Center, "Strategies for Implementing Jail Standards/ Inspection Programs" (Washington, DC: National Institute of Corrections, 1981); Albert Price et al., "Judicial Discretion and Jail Overcrowding," The Justice System Journal, Vol. 2, No. 2, (Summer 1983), p. 222.

3/ According to a 1982 National Sheriffs' Association report, 11 percent of the jails surveyed nationally were involved in law suits concerning conditions and another 20 percent were under court order. See Ken Kerle and Francis R. Ford, The State of Our Nation's Jails (Washington, DC: National Sheriffs' Association, August 1983), p. 12.

4/ See Duran et al. v. Elrod et al., CA7, No. 83-1547, 7/22/83, involving the Cook County (Illinois) jail; Badgely v. Varelas, CA2, No. 83-2345, 2/27/84, involving a New York jail; and Inmates of Allegheny County Jail v. Wecht; USDC WPa Civ. No. 76-743, 10/20/83, involving the Pittsburgh jail.

5/ Under a project sponsored by the National Institute of Justice, "New Directions in Correctional Facilities" (Grant No. 84-IJ-CX-0019), Project Director Charles B. Dewitt surveyed new construction techniques to identify

those which result in time and cost savings. For more information, contact the Construction Information Exchange/NCJRS, Box 6000, Rockville, MD 20850, (800) 851-3420 or (301) 251-5500.

6/ Earlier efforts, including the Law Enforcement Assistance Administration's Jail Overcrowding Project, have documented the need for a systemwide perspective by jurisdictions seeking to implement solutions to jail crowding. See Jerome R. Bush, Jail Crowding: Guide to Data Collection and Analysis (Washington, DC: LEAA, May 1982), and Walter Busher, Jail Overcrowding: Identifying Causes and Planning for Solutions (Washington, DC: LEAA, February 1983). Andy Hall et al., Alleviating Jail Crowding: A Systems Perspective (Washington, DC: NIJ, November 1985), provides a similar approach. Also, a companion manual has been developed for prosecutors to assist them in dealing with detention space issues while maintaining or improving community safety and the integrity of the system. See Jolanta J. Perlstein and D. Alan Henry, The Implications of Effective Case Processing for Crowded Jails: A Manual for Prosecutors (Washington, DC: National Institute of Justice, 1986).

7/ See Appendix A for a list of the 16 judges interviewed.

Section I

1/ SEARCH Group, Inc., Dictionary of Criminal Justice Data Terminology (Washington, DC: Bureau of Justice Statistics, 1981), p. 24. Other writs include bench and search warrants.

2/ Ibid, p. 200. Although both summonses and citations are used in lieu of arrest, the issuing sources differ. A judicial officer issues a summons, while a citation is issued by a law enforcement officer.

3/ American Bar Association, Standards Relating to the Administration of Criminal Justice, Second Edition, Vol.

II, Chapter 10, "Pretrial Release" (Boston: Little, Brown & Company, 1978), ABA 10-3.1.

4/ National Association of Pretrial Services Agencies, Performance Standards and Goals for Pretrial Release and Diversion: Release (Washington, DC: LEAA, 1978), NAPSA II(D).

5/ Wis. Stat. Ann. Section 968.04(1) West (1971).

6/ Fla. R. Crim. P. 3.120; Ill. Rev. Stat. Ch. 38 Section 107-11(a) (1977); Mont. Rev. Codes Ann. Sections 95-603-612(a) (1969); Tex. Crim. Pro. Code Ann. Section 15.03(b) (Vernon 1977).

7/ James J. Stephan, BJS Bulletin: The 1983 Jail Census (Washington, DC: Bureau of Justice Statistics, November 1984), p. 5.

8/ Pretrial release programs originated with the Manhattan Bail Project, established in 1961 as an experiment to identify defendants who might be released on their own recognizance. The National Association of Pretrial Services Agencies estimates that there are currently over 400 such programs in operation.

9/ Specifically, four jurisdictions--Pima County, Arizona; Baltimore City, Maryland; Lincoln, Nebraska; and Jefferson County, Texas--were selected for an experiment to test the impact of pretrial release programs. For purposes of the experiment, program operations were expanded, and less restrictive criteria were developed to extend eligibility for release on recognizance to defendants lacking sufficient "points" under existing point scales. Analysis of the experiment showed that use of less restrictive program criteria not only achieved a higher release rate, but did so without an adverse effect on the pretrial arrest or failure-to-appear rates. The report concluded that "this experiment had the strongest impact on release outcomes of any conducted: more defendants were released; more were released nonfinancially; release was secured more quickly; and release outcomes showed greater equity by ethnicity and

employment status. Despite the fact that many more defendants were released, the rates of failure to appear and pretrial arrest for the experimental group were no different than those for the control group." See Mary Toborg and Martin Sorin, "Pretrial Release Program Recommendation Practices: Should They Be Revised?," Pretrial Services Annual Journal, Vol. IV (Washington, DC: Pretrial Services Resource Center, July 1981) pp. 148-154.

Lending further support to less restrictive release criteria was the finding that judges were often likely to release more defendants on personal recognizance than the programs recommended. See Mary A. Toborg, National Evaluation Program, Phase II Report—Pretrial Release: A National Evaluation of Practices and Outcomes (Washington, DC: National Institute of Justice, October 1981), p. 59. The presiding judge in Maricopa County noted that the pretrial services agency in his jurisdiction has been identifying progressively more of the likely ROR candidates and, by providing verified information, has boosted the judges' confidence in the accuracy of their decisions. Echoing these sentiments, bail commissioners in that jurisdiction voiced the opinion that the more input they receive about the defendant, the better informed their decision. They felt that "taking away the guesswork reflects positively on the jail population."

10/ A Cambodian immigrant accused of theft remained in jail for three months in 1983 because he could not understand the Vietnamese interpreter who interviewed him. At disposition, he received a ten-day jail sentence. See Elizabeth Gaynes, ed., The Pretrial Reporter, Vol. VII, No. 4 (November 1983), p. 5. Besides the problem of interpreters' availability, there is the equally troublesome issue of insuring the accuracy of an interpreter's work. The 1978 Court Interpreters Act requires that all interpreters in the federal courts be certified as competent by the Administrative Office of the U.S. Courts. See also Beverly N. W. Lee, "Issues and Practices: Court Interpreting Services" (Washington, DC: National Institute of Justice).

11/ Release on Recognizance is the preferred option in 23 states and the District of Columbia, see John S. Goldkamp, Two Classes of Accused: A Study of Bail and Detention in American Justice (Cambridge, Massachusetts: Ballinger Publishing Company, 1979), p. 60.

12/ Not all states include all of these options in their bail statutes. Kentucky, for example, has officially banned private bail bondsmen, and only half of the states have legislation that specifically authorizes deposit bail.

13/ ABA, op. cit., Standard 10-5.1(a). NAPSA, op. cit., Standard III(E).

14/ Donald E. Pryor and Walter F. Smith, Pretrial Issues, No. 4, "Significant Research Findings Concerning Pretrial Release" (Washington, DC: Pretrial Services Resource Center, February 1982), p. 4.

15/ NAPSA, op. cit., Standard IV(B) states that the burden of rebutting the presumption of release on personal recognizance should fall on the prosecutor and that the prosecutor "must prove by clear and convincing evidence any need for restrictive conditions of release."

16/ ABA, op. cit., Standard 10-5.2.

17/ Paul Wice, Freedom For Sale (Lexington, Massachusetts: D.C. Heath and Co., 1976), pp. 77-79.

18/ James Austin, Barry Krisberg, and Paul Litsky, Supervised Pretrial Release Test Design Evaluation: Final Report (San Francisco, CA: National Council on Crime and Delinquency, June 1, 1984) 155 pp.

19/ See D. Alan Henry, ed., The Pretrial Reporter, Vol. IV, No. 3 (May 1980), pp. 9-10.

20/ Copies of the District of Columbia Standards on Third Party Custody are available from the D.C. Pretrial Services Agency, 400 F Street, NW, Third Floor, Washington, DC 20001.

21/ Mary Toborg et al., Pretrial Release Assessment of Danger and Flight: Method Makes a Difference (McLean, Virginia: Lazar Management Group, Inc., June 1984).

22/ There are two kinds of deposit bail: "defendant option," in which the defendant may choose between percentage deposit and other methods of meeting the financial bail requirement once the dollar amount is set, and "court option," in which the court decides both the amount and the method of satisfying the bond, giving the defendant no option. Sixteen states have percentage bail as a "court option", two with the administrative fee and fourteen without any fee. Six have "defendant option" deposit bail without a fee. Michigan and Ohio have defendant option in misdemeanor cases and court option for felonies. See D. Alan Henry, Ten Percent Deposit Bail (Washington, DC: Pretrial Services Resource Center, January 1980).

23/ Ibid., pp. 7-11.

24/ Barbara Gottlieb, Public Danger as a Factor in Pretrial Release (Washington, DC: Toborg Associates, January 1984), p. 1.

25/ For an excellent analysis of the various laws and the possible impact they might have on local criminal justice practices and jail population levels, see John S. Goldkamp, "Danger and Detention: A Second Generation of Bail Reform," Journal of Law and Criminology (Spring 1985). Findings of the forthcoming NIJ study by Toborg Associates cited above are expected to yield important information about the usage and impact of state danger laws. The federal government is also gathering information on the instances in which the new federal bail law has been applied.

26/ In Gideon v. Wainwright, 372 U. S. 335 (1963) the Supreme Court held that the Sixth Amendment right to counsel is applicable to the states, through the Due Process Clause, in all felony cases and extended that right to misdemeanor cases in Argersinger v. Hamilton, 407 U. S. 367 (1979), decision. The court ruled in U.S.

v. Wade, 368 U.S. 218 (1967), that a post-indictment lineup is a "critical stage" of the adversary system which warrants a defendant's right to counsel. Other critical stages of an adversary proceeding include arraignments and preliminary hearings. See Kirby v. Illinois, 406 U.S. 682 (1972).

27/ American Bar Association Project on Minimum Standards for Criminal Justice, Standards Relating to Providing Defense Services (Washington, DC: American Bar Association, 1968), Standard 5.1, pp. 43-44.

28/ Ernest J. Fazio, Jr. et al., Early Representation by Defense Counsel Field Test: Final Evaluation Report, Executive Summary (San Francisco: URSA Institute, August 1984), p. i.

29/ Ibid., p. ii.

30/ See James Eisenstein and Herbert Jacob, Felony Justice: An Organizational Analysis of Criminal Courts (Boston: Little, Brown & Company, 1977), for a discussion of the courtroom workgroup and the impact of workgroups and their environment on case dispositions in three jurisdictions: Baltimore, Chicago and Detroit.

31/ Thomas W. Church, Jr., Justice Delayed: The Pace of Litigation in Urban Trial Courts (Williamsburg, Virginia: The National Center for State Courts, 1978), 42-50.

32/ Ibid., p. 46

33/ In a recent examination of jail crowding in Rhode Island by NIC consultants, data on the jail population showed that only 4.5 percent of the persons detained pretrial during fiscal year 1983-84 were held over 90 days. But if a 90-day time limit had existed, the jail population would have decreased by almost 40 percent, from 250 to 159 inmates, during the same period, demonstrating the disproportionate effect that a small number of persons can have on jail population levels.

34/ Jeffrey L. Sedgwick et al., BJS Special Report: The Prevalence of Guilty Pleas (Washington, DC: Bureau of Justice Statistics, December 1984), p. 1.

35/ Although there is no universal definition of plea bargaining, one which is often used is "the defendant's agreement to plead guilty to a criminal charge with the reasonable expectation of receiving consideration from the state." See Herbert S. Miller et al., "Plea Bargaining in the United States" (Washington, DC: LEAA, 1978), p. 232.

36/ The ABA Standards Relating to Plea Discussions and Plea Agreements, 14.3.1, holds that plea discussions may take place when "it appears that the interest of the public in the effective administration of justice...would thereby be served." ABA Project on Standards for Criminal Justice, ABA Standards Relating to the Prosecution and the Defense Function, Approved Draft (Washington, DC: American Bar Association, 1971), p. 103. Furthermore, in Santobello v. New York, 404 U.S. 257 (1971), Chief Justice Burger noted that plea bargaining is "an essential component of the administration of justice." Taking an opposite stand, in 1973 the National Advisory Commission on Criminal Justice Standards and Goals called for the abolition of plea negotiations "as soon as possible, but in no event later than 1978." National Advisory Commission on Criminal Justice Standards and Goals, Task Force Report: Courts (Washington, DC: Government Printing Office, 1973), Standard 3.1, p. 46.

Different views are held about the proper role (if any) of the judge in plea bargaining. See Miller, op. cit., p. xxxix ff. The Federal Rules of Criminal Procedure, Rule 11(e), prohibit judges from participating in plea negotiations; the ABA standards relating to pleas of guilty recommend that the judge's role be supervisory and not participatory. ABA Project on Standards for Criminal Justice, Standards Related to Pleas of Guilty, Section 3.3(a) (Washington, DC: American Bar Association, 1968). In many states, however, judges' participating in plea negotiations is an accepted practice. See Eisenstein and

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v. Wade, 368 U.S. 218 (1967), that a post-indictment lineup is a "critical stage" of the adversary system which warrants a defendant's right to counsel. Other critical stages of an adversary proceeding include arraignments and preliminary hearings. See Kirby v. Illinois, 406 U.S. 682 (1972).

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Jacob, op. cit., p. 249. A study of Chicago felony case processing found that judges actively participate in plea negotiations. Judges in favor of plea bargaining have stated that "it moves the caseload and disposes of cases which should not be tried." See Miller, op. cit., p. 232.

37/ Elizabeth Gaynes, ed., "Special Issue," The Pretrial Reporter (August 1983), pp. 4-5.

38/ See Sandra Shane-DuBow, Alice P. Brown, and Erik Olsen, Sentencing Reform in the United States: History, Content, and Effect (Washington, DC: National Institute of Justice, August 1985).

39/ In some jurisdictions PSI reports take what some judges find to be an inordinate amount of time. While some jurisdictions lament the fact that PSI preparation requires three or four weeks, others would welcome such an interval as an improvement. Some judges presented less grim scenarios. In Dade County PSI reports can be obtained at the judge's request in ten days for the incarcerated and six weeks for those released.

40/ The scheme is detailed in Section II.

41/ American Correctional Association, The Drunk Driver and Jail: Alternatives to Jail, Vol. 2 (Washington, DC: National Highway Traffic Safety Administration, 1986), p. vii.

42/ Shane-DuBow, op. cit., Table 32, pp. 290-292 and p. 280.

43/ Advisory Commission on Intergovernmental Relations (ACIR), Jails: Intergovernmental Dimensions of a Local Problem (Washington, DC: May 1984), pp. 66-74. Hereinafter "ACIR."

44/ Fred Heinzelmann et al., NIJ Research in Brief—Jailing Drunk Drivers: Impact on the Criminal Justice System (Washington, DC: National Institute of Justice, November 1984), p. 3.

45/ Ibid., p. 2.

46/ Ibid. Instead of mandatory sentences or sentencing guidelines, one judicial officer has suggested that plenary appeals of sentences be instituted. Under this system judges would retain wide discretion in the sentences they imposed, but their decisions would be subject to appeal at the instigation of both the defense and state. Judges who stray too far afield from the mainstream sentence, whether in the harsh or lenient direction would be checked by this procedure. Thus, the intended consistency of sentencing guidelines can be achieved by this procedure, while leaving what is thought to be a fundamentally judicial function, sentencing, in the hands of the judges.

47/ ACIR, op. cit., p. 68.

48/ Ibid., p. 65.

49/ See Joan Petersilia et al., Granting Felons Probation: Public Risks and Alternatives (Santa Monica, California: Rand Corporation, 1985).

50/ Stephen Gettinger, "Intensive Supervision: Can It Rehabilitate Probation?", Corrections Magizine, Vol. IX, No. 2 (April 1983), p. 7.

51/ Ibid., p. 16.

52/ The NAC stated that "properly employed, the fine is less drastic, far less costly to the public, and perhaps more effective than imprisonment or community service". National Advisory Commission on Criminal Justice Standards and Goals, Task Force Report: Corrections (Washington, DC: Government Printing Office, 1973), p. 570; see also Robert W. Gillespie, "Sentencing Traditional Crimes with Fines: A Comparative Analysis." International Journal of Comparative and Applied Criminal Justice, 5 (Winter 1981), pp. 197-204. Data from England, West Germany and Sweden indicate that fines are used extensively as a criminal sanction, including for some violent offenders. See James A. Carter and George

F. Cole, "The Use of Fines in England: Could the Idea Work Here?" Judicature 64, 4 (October 1979), pp. 154-161. Robert W. Gillespie, "Fines as an Alternative to Incarceration: The German Experience," Federal Probation, Vol. XXXXIV, No. 4 (December 1980), pp. 20-26.

53/ Although the research revealed that fines are the predominant sanction of limited jurisdiction courts, the frequency of their use as the sole sanction could not be determined. See Barry Mahoney, Fines in Sentencing: A Study of the Use of Fine as a Criminal Sanction (Washington, DC: National Institute of Justice, 1984), pp. 28-30.

54/ Ibid., p. 80

55/ Kevin Krajick, "The Work Ethic Approach to Punishment," Corrections Magazine (October 1982), p. 8. Many of these programs have come under criticism because they allegedly are typically used for first-time, middle-class, white offenders who otherwise may have received probation or suspended sentence.

56/ Vera Institute of Justice, "The New York Community Service Sentencing Project: Development of the Bronx Pilot Project" (New York: Vera Institute of Justice, 1981). See also ACIR, op. cit., pp. 69-70.

57/ Mark S. Umbreit, "Community Service Sentencing: Jail Alternative or Added Sanction?", Federal Probation, Vol. 45, No. 3 (September 1981), p. 9. In terms of financial savings, the community received a total benefit of $196,000 during one operating year based on 15,000 hours of community service work performed for a total of 56 institutions. See PACT, Inc., "Community Service Restitution: A Re-examination" (April 1, 1981), Appendix 10.

58/ Richard Worley, "Adult Offender Work Program: Work as an Alternative to Jail Confinement," Adult Probation Services Annual Report, February 1985, p. 5.

to reduce the jail population, some Council members feared that the lack of judicial input into formulating those plans would impede the Council's effectiveness. "If the judges, as a body, don't agree with whatever approach that the Criminal Process Coordinating Council would take, that approach wouldn't be nearly as effective," remarked the Council's chairman, District Attorney Doug Harcelerood. Reported in the Eugene, Oregon, Register-Guard, July 27, 1985.

4/ Telephone conversation with the Honorable Robert Broomfield, Chief Judge, Maricopa County, AZ.

5/ Paul B. Wice, "An Experiment in Responsible Case Management: How Middlesex County (New Jersey) Was Able to Cement the Cracks in its Justice System," unpublished paper, Drew University (October 1984), p. 24. As of mid-August 1985, Judge Nicola has established a plan of taking the court to the jail. Once a week, the judge attended by his courtroom staff, holds court in the visiting room of the jail. This procedure, according to Judge Nicola, allows him to dispose of more cases and expand use of release on recognizance. The sheriff is pleased because he is no longer responsible for transporting prisoners to and from the court.

6/ Paul Wice quoted in The Home News, August 26, 1984.

7/ See note 4, supra, p. 20.

8/ Michigan Criminal Rules 8.108 - Michigan Criminal Rules 8.110.

9/ February 14, 1983, Memorandum to All Recorder's Court Judges, from Chief Judge Samuel C. Gardner.

10/ Besides the Administrative Judge, other Shawnee County criminal justice system decisionmakers involved in formulating the plan included the District Attorney, the director of the County Department of Corrections, the director of the Jail and a County Counselor.

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The Implications of Effective Case Processing for Crowded Jails:

A Manual for Prosecutors

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James K. Stewart
Director

U.S. Department of Justice
National Institute of Justice

The Implications of Effective Case Processing for Crowded Jails:
A Manual for Prosecutors

by

Jolanta J. Perlstein, Ph.D.
D. Alan Henry

July 1986

Although none of the standards set forth any provisions for certain types of sentences, an ABA standard stipulates that "the prosecutor should not make the severity of sentences the index of effectiveness...he should seek to assure that a fair and informed judgment is made on the sentence and to avoid unfair sentence disparities." 21/

Recommending Sentencing Alternatives

Although the judge ultimately decides the sentence, the recommendation made by the Kalamazoo, Michigan, District Attorney's Office of a rehabilitation program for drug abusers and other alternative sentences is usually approved. The Kalamazoo Probation Enhancement intensive probation program was created in 1981 by the district attorney for persons who might otherwise be sentenced to 3 to 6 months incarceration. The program has contributed to lowering the sentenced jail population.

Cooperating in "Simulataneous Sentencing Plans"

The prosecutor can also play a role in reducing the time elapsed between conviction and sentencing. For instance, a plan developed by the Hudson County, New Jersey, Presiding Judge to expedite the sentencing process can only succeed with the cooperation of the district attorney and defense counsel called simultaneous sentencing. Called simultaneous sentencing, it involves having a case manager—typically a probation officer also trained to deal with pretrial matters—be responsible for tracking every defendant from the time of arrest in order to complete a presentence investigation report prior to the time when most pleas are negotiated. At the arraignment or other court hearing during which the defendant pleads guilty, the judge, if the prosecutor and defense counsel agree, simultaneously sentences the defendant. By conceding to simultaneous sentencing, the prosecutor (and defense counsel) can cut four to five weeks off case disposition time necessary for the preparation of a full presentence investigation report.

Chapter 3: Leadership role

It is obvious that as law enforcement agent, prosecutor and officer of the court, the state's attorney has a multi-faceted role in the criminal justice system. In fulfilling the principal duty of administering justice, the prosecutor no longer merely takes an interest in the prosecution and incarceration of individual offenders, but in the broader issues of expediting case processing and making effective use of limited detention space.

The prosecutors surveyed for this publication described a wide variety of measures to achieve efficient and effective case processing and reduction or control of jail population levels. To this list, "leadership in crowding alleviation efforts" should be added.

> "The prosecutor is the fulcrum upon which the criminal justice system pivots. The positive interaction between the prosecutor and other segments of that system are critical to the achievement of the overall goals of justice. Because of the importance of the prosecutor's position, this interaction must also be extended to all branches of the government. The prosecutor has the knowledge and expertise to be a leader in the criminal justice system's development. He should use his office and personal abilities to effectuate needed changes and establish realistic alternatives consistent with modern trends, and both national and local values. A fine balance must be achieved between valued traditions and conservative community values, and new rational and far-reaching indicators of administrating what we've come to call 'justice.'" 22/

Although primarily concerned with strategies emphasizing the reduction of case processing time, prosecutorial actions also influence arrest procedures, pretrial confinement and sentencing. Because he plays a key role

in the local criminal justice system, legislators, executives, other criminal justice officials and the public rarely propose any modifications to criminal case-handling without the prosecutor's support.

The prosecutor can also play an active role in responding to a court order involving jail conditions. To comply with a federal court order to maintain the jail population within a specific capacity, the district attorney for Marion County, Indiana, required regular assessments of how his office's caseload processing efforts affected the level of the jail population. As a result of this policy, the district attorney receives a print-out identifying the individuals held in jail on $1,000 bond or less and brings this information to the attention of the court. In Dallas, Texas, the district attorney took the initiative to create a jail case coordinator position in the prosecutor's office. The position involves daily montioring of the jail population for the specific purpose of disposing as quickly as possible of those cases involving individuals with the longest periods of confinement.

Finally, as members of Task Forces and community groups, numerous prosecutors have assumed a leadership role in advocating a system-oriented approach—all the components of the criminal justice system hold joint responsibility for jail population levels and criminal case processing—to alleviate jail crowding and improve the administration of justice.

The Mecklenburg County, North Carolina, district attorney, who is one of five members of a "key court officials" group established to address jail crowding, remarked that "the most appropriate role for the prosecutor is to expedite cases and move people out of jail as soon as possible." This view has spurred efforts to involve the prosecutor—particularly those with considerable experience—as early as possible in the criminal process, including the pre-arrest warrant reviewing and felony screening stages. Membership in the Task Force has also achieved increased cooperation among the officials, contributing to efficient case processing.

Chapter 4: Conclusion

As an increasing number of jurisdictions are experiencing crowded jails, the problem has come to be recognized as one demanding involvement by all of the key actors in the criminal justice system. Given the broad range of prosecutorial activities in the criminal case process, the prosecutor's participation in efforts to alleviate jail crowding is essential. Crowded jails frustrate the execution of prosecutorial functions. Crowding severely constrains the prosecutor's ability to deal with individual cases in which incarceration is warranted but space is unavailable. Prosecutor's access to inmates may be impaired by overcrowded facilities. Other ramifications of jail crowding, such as court delay, financial strain and legal pressure to curb jail population growth contribute to making the prosecutor's role more difficult. The survey for this publication has demonstrated that prosecutors can assume a prominent role in reversing jail population growth.

Prosecutors who attended a jail crowding symposium expressed the following views:

> One prosecutor remarked that although the traditional role for police and prosecutors is to incarcerate, he felt that it is important that prosecutors become involved in alternatives.
>
> Another prosecutor advocated the use of imaginative methods of rehabilitation and ways to ease jail crowding, such as halfway houses and weekend sentences, in order to leave room for those who must be incarcerated.
>
> Several prosecutors strongly urged the increase use of summonses, diversion programs, and intensified probation as alternatives to the institutionalization of individuals.

There was also a call for concern for overcrowding in the jail and a concerned effort to solve it.

This manual has provided examples of prosecutorial actions which can better equip prosecutors to assess and choose the most appropriate means of addressing jail crowding. The focus was placed on strategies for improving case processing which resulted in reducing the jail population. The scope of activities ranged from pre-arrest screening of warrants to sentencing recommendations. The fact that prosecutors developed and implemented each of the described strategies suggests that others might achieve equal or greater success with replicating such efforts.

Appendix A: Survey participants

Warren Bosworth, Esq.
Assistant District Attorney
Dallas, Texas

Nolan Brown, Esq.
District Attorney
Golden, Colorado

Robert Donnelly, C.A.O.
District Attorney
New Orleans, Louisiana

Norman Early, Esq.
Deputy District Attorney
Denver, Colorado

Walter R. Ellet, Esq.
Chief Deputy County Attorney
Salt Lake City, Utah

James E. Flynn, Esq.
First Assistant Prosecutor
Jersey City, New Jersey

Peter S. Gilchrist III, Esq.
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References

1/ Jails are usually locally administered correctional facilities designed to hold persons awaiting trial or serving short sentences. Jails can be distinguished from prisons, which are state-run and house persons convicted of felonies for longer sentences, usually over one year. According to the latest jail census conducted by the Bureau of Justice (BJS), there were 223,551 persons detained in local jails throughout the United States in June, 1983. This total constituted a 41 percent increase since the last jail census in February 1978. The occupancy rate in large jails, where the majority of inmates are housed, rose from 77 percent in 1978 to 96 percent in 1983, exceeding the American Correctional Association's suggested population of 90 percent of available capacity. James T. Stephen, BJS Bulletin: The 1983 Jail Census (Washington, D.C.: BJS, November 1984).

2/ The Law Enforcement Assistance Administration (LEAA) launched the Jail Overcrowding Project in the 1970's to aid communities in developing jail population reduction strategies. Several publications describing the Project's format for jail population management planning were produced. See, for example, John Galvin, Instead of Jails, Vols. 1-5 (Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1977) and Walter Busher, Jail Overcrowding: Identifying Causes and Planning for Solutions (Washington, D.C.: Office of Justice Assistance, Research and Statistics, 1983).

3/ Abt Associates, Inc., National Assessment Program: Assessing Needs in the Criminal Justice System (Washington, D.C.: National Institute of Justice, 1984).

4/ According to a 1982 National Sheriffs' Association (NSA) report, 11 percent of the jails surveyed were involved in law suits concerning jail conditions, and another 20 percent were under court order. See Ken Kerle and Francis R. Ford, The State of Our Nation's Jails (Washington, DC: NSA, August 1983), p. 12.

5/ A companion guidebook has been produced by the Pretrial Services Resource Center to assist for local practitioners and policymakers in planning systemwide strategies to reduce jail crowding. See Andy Hall et al., Alleviating Jail Crowding: A Systems Perspective (Washington, DC: National Institute of Justice, November 1985).

6/ For a complete list of participants, see Appendix A.

7/ According to standards promulgated by the National District Attorneys Association (NDAA), "the exercise of prosecutorial discretion in the screening decision is an integral part of the American Criminal Justice System. The prosecutor commonly and normally screens potential violations and selects those which he feels warrant an investigation and prosecution." See NDAA, National Prosecution Standards (Chicago, IL: 1977), p. 128.

8/ Prosecutors screen cases on the basis of several criteria, including whether prosecution will have deterrent value or, relative to the seriousness of the offense, whether the case can be better handled by diversion or other alternatives to prosecution. For a complete list of factors that are recommended for consideration by the prosecutor in screening cases, see NDAA, op. cit., pp. 125, 131.

9/ For example, in New Orleans Parish, Louisiana, the prosecutor has 10 days to file charges. Prosecutors in Florida have up to 21 days before filing must occur.

10/ A Michigan statute provides that prosecutors approve in writing all applications for warrants. Michigan Public Acts 1983, No. 108; 1929, No. 290. The prosecutor or the magistrate, without the approval of the other, is authorized to issue warrants in Wisconsin. Wis. Stat. Ann. Sections 954.01-02 (1958). In many other states, even in the absence of comparable legislation, the prosecutor prepares and/or approves issuance of arrest warrants. NDAA, op. cit., p. 118.

11/ Joan E. Jacoby, Leonard R. Mellon and Walter F. Smith, Policy and Prosecution (Washington, D.C.: National Institute of Justice, 1982), p. 13.

12/ For a list of studies examining nonfinancial versus surety bond pretrial release in terms of assuring appearance and preventing rearrest, see Donald E. Pryor and Walter F. Smith, Pretrial Issues: Significant Research Findings Concerning Pretrial Release (Washington, D.C.: Pretrial Services Resource Center, 1982). The NDAA standards include a policy favoring pretrial release. See NDAA, op. cit., pp. 134-135. Also, the National Association of Pretrial Services Agencies' (NAPSA) release standards stipulate that there be a presumption in favor of release on personal recognizance at the initial appearance. See NAPSA, Performance Standards and Goals for Pretrial Release and Diversion: Release (Washington, DC: 1978), pp. 15-19.

13/ According to the National Advisory Commission on Criminal Justice Standards and Goals (NAC), both law enforcement agencies and the prosecutor are authorized to divert offenders. However, the suggested diversion guidelines should either be promulgated by the prosecutor or, in the case of police diversion, promulgated by the police after consultation with the prosecutor, according to the NAC. See NAC, Report on Courts (Washington, DC: Government Printing Office, 1973), pp. 39-41.

14/ The Agency also operates a deferred prosecution program for eligible first-time felony DWI defendants. New York State law requires that convicted DWI offenders who are rearrested for drunk driving be prosecuted for felony DWI, which carries a mandatory jail sentence. However, successful completion of the program results in conviction on a misdemeanor DWI, which does not require incarceration. The program acts as a broker, receiving referrals from the district attorney's office, assessing the seriousness of the alcohol abuse problem, making referrals to appropriate service agencies, and monitoring the defendant's progress. The impact of the program is reflected in the fact that in the first three years, no diversion clients were rearrested for a DWI which upon

conviction would have mandated a jail sentence. See Andrea Valerio, Kathleen Kane, and Florie Saiger, "DWI Diversion in Monroe County: The Role of Pretrial Diversion in Effecting Client Change in a Non-Traditional Alcohol Treatment Program," and George Appleton and Joel Katz, "DWI Diversion in Monroe County: Creative Interventions in an Alcohol Awareness Program," both in Elizabeth Gaynes, ed., Pretrial Services Annual Journal, Vol V. (Washington, DC: Pretrial Services Resource Center, 1982), pp. 94-115.

15/ Alaska banned plea bargaining in 1975.

16/ Herbert S. Miller et. al., Plea Bargaining in the United States (Washington, D.C.: Law Enforcement Assistance Administration, 1978). Herbert Jacob and James Eisenstein, Felony Justice (Boston, MA: Little, Brown and Company, 1977).

17/ Santobello v. New York, 404 U.S. 257, 260 (1971).

18/ Thomas Church et. al., Justice Delayed: The Pace of Litigation in Urban Trial Courts (Williamsburg, VA: The National Center for State Courts, 1978), p. 44.

19/ See NDAA, op. cit., Standard 18.1, p. 289, and American Bar Association (ABA) Project on Standards for Criminal Justice, Standards Relating to the Prosecution Function and the Defense Function, Approved Draft, (Washington, DC: American Bar Association, March 1971), Standard 6.1, pp. 131-133.

20/ ABA Project for Standards for Criminal Justice, Standards Relating to Sentencing Alternatives and Procedures, Approved Draft (Chicago, IL: ABA, 1968), pp. 242 and 245.

21/ ABA Project on Standards for Criminal Justice, Standards Relating to the Prosecution Function and the Defense Function, Approved Draft, (Washington, DC: ABA, March 1971), Standard 6.1, pp. 131-133.

22/ NDAA, op. cit., p. 22.

EARLY PLEA AND DISPOSITION CALENDARS IN SANTA CLARA COUNTY

BACKGROUND

Santa Clara County is a large metropolitan area located in the Bay Area and is the state's fourth most populous county. During the last three decades the number of its inhabitants has increased dramatically. Unfortunately, but predictably, so has its felony filings; 8507 for calendar year 1989.

The superior court in Santa Clara County has historically utilized the provisions of Penal Code Section 859a vigorously, but by the late 1970's, it became obvious that this vehicle in conjunction with the pretrial conference could not service the entire caseload adequately and that more structured and tailored systems were necessary to compliment these traditional tools of disposition.

Trial and error led to the adoption of two additional devices, Superior Court Review and Narcotic Case Review. Although all current systems tend to overlap one another, it is an interesting anomaly that no one program has to any extent displaced another. Each has proven over time its own distinct separate value to the court.

The Santa Clara systems are premised upon three basic principles. First, the court must accomplish all constitutionally and statutorily assigned missions in a timely fashion and must so distribute and allocate judicial resources that this is achieved. It is unacceptable that civil and family law cases be put on hold because otherwise available trial departments have been conscripted to fight the war on drugs and crime and there simply can be no justification for shunting juvenile and mental health matters to the rear of the court bus. Second, the court is wedded to the master calendar system of case management and has a strong desire to retain that system. It provides needed flexibility and allows full utilization of court resources. Third, it is in the public's interest that a healthy spirit of cooperation should exist between the court and public agencies, including the District Attorney's Office and the Office of the Public Defender. No plan or program should be instituted or any existing one changed until there has been thorough discussion with and agreement by an affected agency. This is not the kind of game that should be played with surprises.

THE SYSTEMS THEMSELVES

What follows is a brief description of each system employed by Santa Clara County to resolve felony cases prior to trial. Each system is separate to itself and, as previously noted, while some overlapping may occur, each addresses a distinct problem that the others cannot.

After each description is a summary of the advantages and disadvantages of each system as experience has shown.

1. Penal Code 859a Early Plea Calendar

This system is the most legitimate and noncontroversial as it is specifically authorized by the Penal Code. It is utilized to a greater or lesser extent, in every county. A defendant charged with a felony offense by way of complaint may enter a guilty plea before a magistrate in the lower court and be certified to Superior Court for sentencing.

As currently implemented, Santa Clara County has two such calendars, one for defendants represented by retained counsel and the other for public defender cases. Both are large, high-volume calendars. Each is managed by an experienced criminal judge who works at a fast clip and is agreeable to both sides of the aisle. These judges are also full-time trial departments. Each spends but one morning weekly hearing this calendar. Predictability and reasonable parameters are the watchwords here.

Advantages: The defendant is entitled to the full benefit of an early plea. Having thrown himself or herself on the mercy of the court, the defendant may reasonably expect a measure of leniency and it is most unlikely the prosecutor would be hostile if leniency is displayed. This calendar thrives on a steady diet of nonviolent thefts, welfare frauds, minor drug cases that involve no legal issues and the like. Most cases are of the no state prison variety.

Disadvantages: The vast majority of these cases do not involve an agreed upon sentence. Preparation of a probation report is necessary, followed by full and sometimes lengthy discussion prior to sentencing. In the Santa Clara County system, the sentencing judge will have rarely participated in any pre-plea discussions.

There calendars simply do not contemplate the truly serious felony case where prison exposure is evident or the factually complex case. While a convenient tool for disposing of routine no state prison cases, this system cannot deal with the problem

cases. There are also defendants who simply will not plead blind and a great many attorneys would like some ball-park sentence figure before advising a client to plead guilty.

2. Superior Court Review Calendar

This system evolved from an experiment first attempted in the early 1980s to deal with the inherent limitations of the PC 859a calendar. As originally envisioned, the subject matter of this calendar would be limited to those cases that both sides agreed warranted a state prison sentence. At the first appearance in municipal court, the case would be calendared before a superior court judge within one week for review. If a bargain was struck at this review, the parties would stipulate, then and there, that the superior court judge could sit as arraigning magistrate. A preliminary examination was waived and a guilty plea was entered and accepted at this time by the superior court judge - magistrate. Certification to Superior Court pursuant to PC 859a immediately followed. It was hoped that this rather informal arrangement might resolve twelve to fifteen felony cases each month.

It did that and more. Once it was realized that the limitation of state prison cases only was artificial and served no legitimate purpose any felony case which the attorneys agreed would benefit from review became a proper subject of this calendar. By 1983, this system had become institutionalized and had a name, Superior Court Review. In 1984, the SCR calendar was regularly disposing of 100 cases a month. In 1990, an additional judge was added and the SCR calendar presently accounts for nearly 300 cases per month.

Mechanically, it works as follows. At the arraignment in municipal court, the attorneys indicate SCR is desired. A date is set for SCR the following week. At the same time, a return date in municipal court for entry of plea and preliminary examination setting is given. No plea is entered at this appearance; the ten day in custody limitation is not triggered. The SCR date is determined by the nature of the charge. In 1982 the District Attorney's Office adopted a team concept that is case specific. The SCR calendar has been structured in light of this. Burglary/theft and sexual assault cases are reviewed Wednesday mornings; outlying counts, robbery/assault and felony DUI cases are reviewed Wednesday afternoons; drug cases Thursday mornings; and so on. If a case settles here, the future municipal court date is vacated; if not, the return date remains viable and no further action need be taken.

The calendar is staffed by two experienced probation officers, thoroughly versed in the workings of the calendar. Sentencing may, at the defendant's option and with the

concurrence of the prosecutor, immediately follow entry of plea and certification. The probation officers assigned to the calendar are familiar with the cases and will render an oral report and recommendation upon request.

Advantages: Although this system appears highly structured, it is only so in the sense that it has a name and that the cases are calendared for a certain day and time of the week. For defendants with multiple cases, cross-setting is common. Misdemeanor cases pending in municipal court may be packaged with felony cases and pending probation violations may be concurrently examined and disposed of. Defending upon the attitude of the SCR judge, tremendous flexibility is possible here for this system allows a superior court judge to perform many functions at once and almost at will. In many instances, it becomes a central clearing house for a defendant who has more than one outstanding problem with the justice system.

Disadvantages: The SCR calendar is probably viewed as the least legitimate system. One judge is perceived to be wearing too many hats and indeed, it must be confessed that at times, a close inspection is required to determine just what hat he or she is presently wearing. In a single proceeding, with a single defendant, the judge might accept a plea as an arraigning magistrate; impose a sentence as a superior court judge; modify, terminate or revoke a grant of probation in another case; indicate a sentence in a misdemeanor case; terminate a drug diversion grant, reinstate criminal proceedings and accept a plea in yet another case, and so on. Such a flurry of activity might well incline one who believes formality is sacred to blow a whistle, call time out, and make inquiry as to what is going on here. There is no easy answer to this inquiry except to say that if the proceedings were viewed in slow motion, it would be evident the minimum formalities are scrupulously observed. But running the proceedings in slow motion defeats the very benefits of this calendar.

Others view the SCR judge with suspicion and are ever vigilant to the threat that this judge, who displays such chameleon-like qualities, might somehow invade their territory and trench on functions reserved to themselves. Vicious turf wars do occasionally erupt and regardless of outcome, are replaced eventually by simmering animosities that linger long after formal hostilities are concluded. This has a most unsettling effect.

3. Narcotic Case Review Calendar

This system was formulated in theory in 1983-84. The SCR judge and certain attorneys noted that many narcotic cases simply were not ripe for disposition at the SCR level. Narcotic cases are different in the sense that most often there is minor disagreement as to who had the dope, but major disagreement as to whether the police obtained it legally. These concerns are not jury issues; they are probable cause issues and local lawyers, mindful of the concerns of their malpractice carriers, were not inclined to waive what appeared to be a viable suppression motion. The change in search and seizure motion procedure, limiting a defendant to a single factual hearing, and the reluctance of lawyers to have these motions heard at the municipal court level meant that these cases would have to be processed through municipal court and sent to superior court where the suppression motion could be heard. It was only after the motion was litigated and ruled upon that meaningful settlement discussions might be initiated.

Although the problem was noted, no affirmative action was deemed necessary as the number of these cases did not then have the clogging effect on the master trial calendar it would later display. Then the drug epidemic really hit Santa Clara County. In 1987, three events joined together that mandated the establishment of the NCR calendar. The county received money from the federal government to help expedite drug cases. The number of drug cases had risen to a point that it represented fifty percent or more of the matters on the weekly master trial calendar. Finally, the court planned a purge of the master trial calendar to reduce the overall number of cases in inventory. The NCR calendar was initiated on the heels of the purge with the hope it could permanently preserve the gains in raw numbers achieved by the purge and it could keep the number of drug cases below twenty five percent of total master trial calendar matters. Since other forces beyond the control of the NCR calendar are at work, it has not been successful in preserving the overall gains of the 1987 purge; regarding the twenty-five percent of total calendar limitation it remains eminently successful.

The NCR calendar is so structured that the NCR judge hears all law and motion matters regarding drug cases. This is deemed to be a critical function and is a convenient control tool. Monday is motion day. The case review date is set at the time of arraignment together with a trial date and a date beyond which motions may not be filed or heard. Experience confirms that review is premature until all motion matters have been disposed of and time limits must be strictly enforced. The review will occur in the week preceding the trial date, on a Wednesday or Thursday. There are three members of the district attorney's drug trial team (call them X, Y, and Z) and two additional attorneys are assigned to prosecute major narcotic vendors.

Attorney X's cases are set for Wednesday mornings, Attorney Y's cases for Wednesday afternoons, Attorney Z's cases Thursday mornings and major narcotic vendor cases Thursday afternoons. The attorneys work closely together and will cover for each other when one is in trial. The NCR judge is intimately familiar with each case, having read the file and any preliminary examination transcript beforehand and having previously ruled on any pretrial motion. An experienced probation officer is assigned to the NCR department and actively participates in settlement discussions. If a settlement is reached, a plea may be taken immediately. Instant sentencing is the norm. Preparation of a written probation report and recommendation is viewed as superfluous as a veteran probation officer is at hand and it is doubtful that a few pages of background material prepared by a probably less experienced probation officer will prevent the occasional errant sentencing call. It happens that time will not allow the taking of a plea or a defendant may wish to contemplate a settlement offer over the weekend. Such cases are referred back to the NCR department from the master trial calendar, called on Monday, for disposition Tuesday. Although the operation may appear somewhat loose, it works amazingly well.

Advantages: This calendar concentrates a certain class of case in one department. To a large extent it curtails forum shopping. It serves as a safety valve to relieve pressure from the master trial calendar. The NCR judge at the end of a week can communicate to the master calendar judge the status and readiness of each case, which ones are hard goers and which ones are soft.

Disadvantages: A heavy motion calendar on Monday can have a ripple effect on the calendar through the rest of the week. Extended hearings may consume time normally reserved for case review. There is no effective control over the number of cases scheduled each week for review. The cases set are a product of the arraignment calendar and the rather arbitrary number of defendants arraigned on drug charges in any given week.

Drug cases are set within forty-five days of arraignment. All activity on the case is compacted into a short time period. Overloading has, at times, occurred. In light of the policy to short set, this is unavoidable.

CONCLUSIONS

The programs described have evolved over time to meet the specific needs of Santa Clara County. Whether these programs would address the needs of other counties is open to question.

The fact is the programs have worked here and continue to do so. Raw numbers for the month of October, 1990, show the PC 859a calendars disposed of 394 cases, the SCR calendar, 273 cases, and the NCR calendar, 100 even. That totals 767 felony cases. If success is measured in numbers only, some success has been achieved. While numbers may be fundamentally irrelevant to what judges and courts are supposed to do, they may control and dictate when and how judges and courts do what they are supposed to do. In short, numbers left unattended, can kill a court.

The three principles previously mentioned are supported and advanced by the programs. The court's ability to service all areas of its responsibility has not been unduly hampered by the general increase in criminal filings nor the more specific problem of narcotic cases. Each program is consistent with and adds additional efficiency to the master calendar system of case management. Interagency cooperation and harmony has been promoted by allowing affected agencies to have a voice in the selection the judges assigned to these calendars and the conduct of their day-to-day operations.

PERSONAL OBSERVATIONS

Since some courts might be interested in experimenting with one or more of the described programs some comments on past experience and a word or two of caution appear appropriate.

A court, like any other organization, must set for itself certain goals and intermediate objectives. A method of overall court management must be adopted. Any program initiated is to be used as a tactical tool, in light of the management system selected, to achieve the goals and objectives previously set.

The programs used in this county are by-products of the court's master calendar system of management. The workload is steered to the point of least resistance, or more precisely, to the point of probable resolution. In counties that employ a direct calendar system or some form of case management other than a master calendar system, the Santa Clara programs may be irrelevant. Yet, it remains a fact that in a nonmaster calendar system, the PC 859a and SCR calendars could probably survive as they are not totally foreign to other systems. Each functions in a preinformation setting and suitably tailored, each would be compatible with other systems, including a direct calendar system. The NCR calendar is not so flexible as it is too interwoven with the master trial calendar. One of its chief functions is to download the trial calendar for the following week. Its concentration and centralization of cases in a single department would conflict with a direct calendar system.

Other alternatives exist. A team approach might be an acceptable compromise. In this system, the criminal departments

of a court would be divided into teams and assigned crime-specific types of cases. The team leader would be responsible for arraignments, settlements, motions, and trial assignments. Team members would conduct the actual trials. Many variations on this theme are possible and it appears compatible with either a master or direct calendar system. The concept has yet to be adequately explored.

Staffing any program is a recurring nightmare. Calendar work is seen as boring, tedious, repetitious and, on occasion overwhelming. Quality family time for a judge so assigned is a scarce commodity and burnout always looms large on the horizon. A calendar judge will compensate for this by establishing close personal relationships with the calendar attorneys; they work with each other on a daily basis. A mutual support system is ultimately established that is intolerant to outsiders and hostile to any change in personnel. A calendar judge must constantly be on guard to the subtle influences of this support system. The judge fears favoritism will somehow be perceived and judicial fairness and impartiality will be questioned. A sort of twenty-four hour a day paranoia sets in. There are not many volunteers standing in line for calendar assignments. Some jurists regard the work as menial, more properly performed by a plow horse. Newcomers tend to avoid them as these calendars are reputed to restrict career growth and development. Others are simply scared off by the workload.

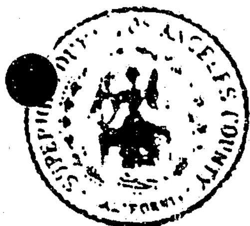
The pool of judges capable of managing a calendar is further reduced to those viewed as acceptable. Regardless of the qualities of a judge, if that judge is deemed unsuitable for a particular calendar and is assigned in spite of that, the calendar stops working. The potential to overload other systems is evident. To prevent this, the same judges are seen to be doing the same calendars time and again. For variation, these judges may exchange calendars periodically with one another but the pool remains largely the same. A calendar assignment can be compared to a jail sentence with no work furlough and no county parole. It terminates upon death, retirement or the invocation of Lucifer's defiant retort, "I will not serve." While the first two might be socially acceptable, the third is hardly calculated to cultivate warm feelings with a presiding judge already beset with difficulties.

One solution to this problem is to expand the pool to include qualified municipal court judges designated by cross assignment. Such an arrangement has been successful in San Diego County and, no doubt, in others. It is not presently employed in Santa Clara County due to a shortage of municipal court judges.

Future legislation and initiative measures may definitely impact these types of programs. Although SCR survived Proposition 8's ban on plea bargaining serious felonies, as it

operates at the complaint/preinformation stage, its continued survival in a post Proposition 115 world is by no means guaranteed. The PC 859a system is also at risk. If prosecutorial authorities regularly proceed by grand jury indictments and bypass the felony complaint stage, these two systems will become as extinct as the dodo bird. While this change in format will not affect the NCR system directly, the possibility of overload becomes distinctly real. The NCR calendar has a natural enemy of its own. The current enthusiasm to codify direct calendaring, if realized, will seal its fate.

While the settlement programs in Santa Clara County are presently healthy and productive, it cannot be said this state of affairs will continue indefinitely. What the future holds for such programs in Santa Clara County or in any county remains, as it must, a mystery, always subject to forces and pressures external to the court system itself.



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REPORT TO THE PRESIDING JUDGE

DECEMBER
1990

INTRODUCTION

"All of these criminals are getting out of jail early. It's the judge's fault." "The courts are in gridlock. Cases are being delayed and delayed. It's the judge's fault." "Almost 60% of the inmates in county jail are awaiting felony trials. Enlightened public officials know that jail overcrowding is the fault of the glacial pace with which our court system processes felons." "Without control, the county shouldn't waste any more of its valuable resources on this headless monster." All of these comments were made by public officials and others in the last several years. They are simply untrue. These comments and similar statements concern the Superior Court and its ability to handle the criminal caseload. Much of the criticism leveled at the Court fails to consider the impact of increased criminal filings on the court system and what the response of the Superior Court has been to meet the challenge of the filing overload.

In FY 1979-80, there were 19,328 felony filings in the Superior Court. In FY 1985-86 that number had increased to 35,783. By FY 1989-90, there were 54,539 felony filings, an increase of 182% over 1979-80. **There were almost three times as many filings in 1989-90 than there were in 1979-80.** The yearly filings from FY 1979-80 to FY 1989-90 are listed in Attachment I. The resources necessary to meet the requirements of these increased filings have not been provided to either the Court or other justice agencies. The increased filings, together with the lack of increased resources, is the major cause of the tension which exists between the Court, other justice agencies, and the legislative and executive branches of government.

The Superior Court has made a concerted effort to deal with the challenge of filing overload by concentrating its activities in three areas. First, educating the justice agencies, Board of Supervisors, legislature, the press and the public as to the real facts relating to the operation of our court system. For instance, statements were continually being made that 60% of the inmates in county jail were awaiting felony trial in the Superior Court. In fact, since 1985, the inmate population awaiting felony trial in the Superior Court has never been higher than 21% of the total inmate population. The Court has attempted, through reports, meetings, interviews, contact with the media, and direct meetings and discussions with the heads of agencies and members of the Board of Supervisors, to present the true picture of our court system so that all participants can have accurate information and deal with problems in an intelligent manner.

Second, developing new methods and procedures within the Court to increase our efficiency and maintain the high quality of justice that is demanded by the public. Judicial conferences have been held dealing with the management of the caseload and the court. Judicial committee work has been intensified and has resulted in new policies aimed at controlling costs and streamlining procedures. These efforts will continue and be expanded in the future.

Third, providing leadership in the development of cooperative programs to increase the coordinated participation of all agencies in the criminal justice system. Programs such as the Effective Arraignment Program, Same Day Arraignment, Probation Violation In-Lieu-Of Program, 14-Day Probation Reports and others have been developed with the willing cooperation of all justice agencies and have received the support of the Board of Supervisors. The development of consensus among the justice agencies has been the key to the progress that has taken place. The Superior Court has been instrumental in creating and maintaining this consensus.

REVIEW OF PERFORMANCE

CRIMINAL FILINGS AND INVENTORY

A key indicator of the effectiveness of court operations is to examine new criminal filings and the number of criminal cases that are pending in the Court, i.e., the inventory of pending cases. A

comparison of criminal filings and inventory over the years will give an indication of the Court's ability to manage its caseload. It also provides information that clearly demonstrates the enormity of the challenge the system confronts.

A review of the record of filings and inventory reveals that for the entire Court, and in almost every District, the Superior Court has been able to absorb and process the enormous increase in filings and caseload. In spite of the filing increase, the inventory of pending cases has been held constant and, in some Districts, substantially reduced. This has been accomplished without a substantial increase in judicial resources.

FILINGS AND INVENTORY OF CRIMINAL CASES COMPARING THE FIRST SEVEN MONTHS OF 1988 TO THE FIRST SEVEN MONTHS OF 1990-JAN THRU JULY

TOTAL COUNTY	**1988**	**1989**	**1990**	**PERCENTAGE CHANGE**	
Filings	**25,147**	**28,704**	**32,901**	**30.8%**	**increase**
Inventory	**6183**	**5912**	**5824**	**5.8%**	**decrease**
CENTRAL	1988	1989	1990	PERCENTAGE CHANGE	
Filings	9197	10580	11533	25.39%	increase
Inventory	2210	2141	2172	1.7%	decrease
EAST	1988	1989	1990	PERCENTAGE CHANGE	
Filings	1851	2037	2551	37.8%	increase
Inventory	280	209	237	15.3%	decrease
NORTHWEST	1988	1989	1990	PERCENTAGE CHANGE	
Filings	2175	2325	2464	13.28%	increase
Inventory	501	488	398	20.5%	decrease
NORTHEAST	1988	1989	1990	PERCENTAGE CHANGE	
Filings	1642	1947	2249	36.9%	increase
Inventory	658	577	562	14.58%	decrease
SOUTHWEST	1988	1989	1990	PERCENTAGE CHANGE	
Filings	1748	1816	2261	29.34%	increase
Inventory	468	347	289	38.2%	decrease
WEST	1988	1989	1990	PERCENTAGE CHANGE	
Filings	1596	1598	1428	10.5%	decrease
Inventory	517	425	254	50.87%	decrease
NORTH VALLEY	1988	1989	1990	PERCENTAGE CHANGE	
Filings	1400	1875	2288	63.42%	increase
Inventory	541	484	430	20.5%	decrease

SOUTH CENTRAL	1988	1989	1990	PERCENTAGE CHANGE	
Filings	1982	2506	3092	56%	increase
Inventory	251	457	792	215%	increase

SOUTH	1988	1989	1990	PERCENTAGE CHANGE	
Filings	1680	2125	2332	38.8%	increase
Inventory	304	350	245	19.4%	decrease

SOUTHEAST	1988	1989	1990	PERCENTAGE CHANGE	
Filings	1876	1895	2703	44.08%	increase
Inventory	453	434	445	1%	decrease

CRIMINAL CASES TRANSFERRED TO CENTRAL CIVIL

The amount of criminal cases transferred to the Central Civil District for trial has been reduced substantially since 1987. In 1987, 675 criminal cases were sent to Department 1 for trial; in 1988 - 538, and in 1989 - 546 cases were transferred. In 1990, 209 cases have been transferred to Department 1 through October. If the same rate continues through November and December, there will be 252 criminal cases sent to Central Civil. This would represent a decrease of 53% over 1989, and a reduction of 62% over the number of cases sent in 1987.

A review of these numbers indicates that the Criminal Division has managed its caseload and has been better able, in spite of the increase in cases, to contain criminal cases within the courts assigned to criminal. It is clear that this containment may not continue as criminal filings continue to soar. Law and public policy dictate that criminal cases have priority over other matters. If a criminal case is ready, it will go to trial, regardless of what other cases may be interrupted or continued. If it becomes necessary to transfer criminal matters to Departments outside of the Criminal Division, they will be transferred.

ADJUDICATION TIME

Adjudication time is the number of days from the filing of the accusatory pleading in the Superior Court to the date of disposition of the case, that is, a finding of guilt/innocence or dismissal. In short, it is the amount of time it takes to process a criminal case. It does not include the time required for sentencing or the time spent in the Municipal Court. Sentencing normally takes 14 days for custody cases and 28 days for non-custody cases.

The Superior Court began to keep statistics relating to case processing time in 1987. Various measurements are compiled: 1) Mean- the average time it takes to process a case; 2) Median- the middle value of a range of data, 50% of the cases are processed within the time stated, 50% after that time; 3) Percentiles- how long it take to process a certain percentage of the cases.

CRIMINAL CASE ADJUDICATION TIME IN THE SUPERIOR COURT COUNTYWIDE, COMPARING THE DAYS REQUIRED TO DISPOSE OF A CRIMINAL CASE FROM JULY-DECEMBER, 1987 TO JANUARY-AUGUST, 1990

TOTAL COUNTY	**1987**	**1990**	**PERCENTAGE CHANGE**
Custody			
Median	**28**	**22**	**21.4% decrease**
Mean	**66**	**54**	**18.1% decrease**
Non-Custody			
Median	**67**	**55**	**17.9% decrease**
Mean	**118**	**97**	**17.8% decrease**
Combined			
Median	**39**	**28**	**28.2% decrease**
Mean	**82**	**64**	**21.9% decrease**

ADJUDICATION TIME FOR EACH DISTRICT FOR CUSTODY AND NON-CUSTODY CASES COMBINED, COMPARING JULY-DECEMBER, 1987 TO JANUARY-AUGUST, 1990

CENTRAL	1987	1990	PERCENTAGE CHANGE
Median	29	25	13.7% decrease
Mean	76	59	22.3% decrease
EAST	1987	1990	PERCENTAGE CHANGE
Median	29	0	100% decrease
Mean	54	29	46.2% decrease
NORTHEAST	1987	1990	PERCENTAGE CHANGE
Median	53	37	30.1% decrease
Mean	92	83	9.7% decrease
NORTHWEST	1987	1990	PERCENTAGE CHANGE
Median	50	61	22% increase
Mean	111	109	1.8% decrease

NORTH VALLEY	1987	1990	PERCENTAGE CHANGE
Median	53	66	24.5% increase
Mean	93	113	21.5% increase

WEST	1987	1990	PERCENTAGE CHANGE
Median	28	22	21.4% decrease
Mean	98	68	30.6% decrease

SOUTHWEST	1987	1990	PERCENTAGE CHANGE
Median	39	20	48.7% decrease
Mean	92	70	23.9% decrease

SOUTH	1987	1990	PERCENTAGE CHANGE
Median	42	52	23.8% increase
Mean	69	72	4.3% increase

SOUTHEAST	1987	1990	PERCENTAGE CHANGE
Median	29	32	10.3% increase
Mean	66	55	16.6% decrease

SOUTH CENTRAL	1987	1990	PERCENTAGE CHANGE
Median	56	14	75% decrease
Mean	84	52	38% decrease

In 1987, 90% of all custody cases were resolved within 164 days. By 1990, that figure has been reduced to 133 days, a reduction of 18.9%. The combined custody and non-custody figure has been reduced from 214 days in 1987 to 166 days in 1990, a decrease of 22.4% in the time it takes to resolve 90% of the criminal cases in the Superior Court.

The Superior Court, together with the Municipal Court and other justice agencies, has made a concerted effort to reduce the time it takes to process a criminal case. In spite of an increase of filings of over 32% during this period, progress has been made. Criminal cases are being processed quickly and the Court's performance compares favorably with any jurisdiction in the United States.

CRIMINAL DEFENDANT POPULATION SURVEY

Each month the Superior Court conducts a Defendant Population Survey. This Survey records each defendant that has a future Court date. The Superior Court uses this information to compare its caseload from month to month and year to year. It can also determine the status of each defendant and from this can evaluate

the age of its caseload, the custody status of each defendant, and make some judgements concerning the effect of its programs and management decisions. (See Attachment II)

The Defendant Population Survey is also an important tool in assisting the Court and other justice agencies in dealing with the problem of jail overcrowding. A clear picture of the felony jail population can be drawn from a review of the monthly Survey. A comparison of Surveys from different time periods can give us important information to be used for evaluation of existing programs and for future planning.

The first Defendant Population Survey was conducted in June, 1985. The next was in November, 1987. The Survey has been conducted each month since February of 1988. This Report compares the Survey results of June, 1985 to the results of June, 1990. Filings, arrests, pending cases and other matters affecting the defendant population all are subject to seasonal changes. A comparison of the same month, June, in 1985 and in 1990 should provide the most accurate gauge of the Court's performance.

A review of the results of the Defendant Population Survey, comparing June, 1985 to June, 1990 shows the following:

- **Total defendants pending trial and/or sentence has been reduced from 11,076 to 9226, a decrease of 16.7%.**

- **Total custody defendants pending trial and/or sentence has remained stable, going from 5373 to 5248, an actual decrease of 2.3%.**

- **The percentage of the jail population of custody defendants pending trial and/or sentence has been reduced from 32% to 25%. This is in spite of the fact that several hundred thousand defendants have been released under the Sheriff's early release program to maintain the cap on the jail population.**

- **The age of cases pending trial has changed significantly. In 1985, 47% of the cases were from 0 to 60 days old. In 1990, that percentage was increased to 57%, with cases over 60 days, 43%. This indicates that the entire criminal process is operating on a much more efficient level.**

- **In 1985, the percentage of the jail population of custody felony defendants pending trial was 21%. In 1990, the percentage is 20%. In the past five years there has never been 60% of the jail population awaiting trial in the Superior Court.**

PROGRAMS AND COURT STRUCTURE

The Superior Court has, in the last several years, implemented and participated in many programs designed to streamline the court system and enhance the effectiveness of its procedures. This effort is based on the principle that the Court and other justice agencies have a common goal and are able to work together to reach that goal. Each agency desires a criminal justice system that is effective, efficient, and delivers high quality justice with due process of law. Cooperative efforts can ensure that we will continue to deliver such a system.

EFFECTIVE ARRAIGNMENT PROGRAM (EAP)

The Effective Arraignment Program (EAP) began in the North Valley District (San Fernando) on February 5, 1990 and in three courts in the Central District on March 5, 1990. The goals of the Program are twofold: 1) To achieve early disposition of criminal cases; and 2) To reduce the court appearances necessary to process a criminal case.

The Program operates as follows: At the conclusion of a preliminary hearing and a finding of sufficient cause to hold a custody defendant to answer (HTA), the Municipal Court judge orders a pre-plea probation report and sets the matter 14 days later in the Superior Court for arraignment. At the arraignment, the pre-plea report aids in the resolution of the case by giving the judge and counsel background information, including the defendant's prior record, the victim's statement, and a summary of the case. If the defendant pleads guilty at this first appearance, the availability of the pre-plea probation report allows the Court to sentence the defendant immediately. If there is no disposition of the case at the first appearance, the matter may be set for trial. If at some point there is a finding of guilt, the Court, using the previously ordered pre-plea report, may sentence the defendant immediately.

A study of the first three months of operation shows that in the Central District, the median time from HTA to Disposition was reduced from 22 days to 17 days; the median time from HTA to Sentencing was reduced from 23 days to 17 days; the median time from information filing date to disposition was reduced from 18 days to 0 days. The median number of appearances to reach a disposition was reduced from two (2) appearances to one (1). The results were similar in the North Valley District (San Fernando).

The Effective Arraignment Program is being expanded to all criminal courts in the Central District and preparations for the Program's introduction into the Southwest District (Torrance) are going forward. Currently, the Program is also operating in all of the criminal courts in the Northwest District (Van Nuys).

PROBATION VIOLATION IN-LIEU-OF PROGRAM

The Probation Violation In-Lieu-Of Program currently operates on a countywide basis. If there is a felony arrest the District Attorney reviews the case. If the defendant is on felony probation, if the facts of the new case constitute a new felony, if the new felony is less than or equal to the probationary case in severity, and if there is sufficient punishment (in the District Attorney's view) remaining, the District Attorney will file a probation violation against the defendant in lieu of filing a new felony case. The violation of probation is filed directly in the Superior Court.

The available statistics for the Central District Program indicate that, in 1989, there were 1356 probation violations filed in the Program. 39% of these cases were resolved on the first appearance in the Superior Court. 68% of the cases were resolved within three weeks of arrest. If the probation violations had been filed as new felonies, they would constitute 6% of the total filings in the Central District.

This Program has been successful because of the coordinated efforts of the Superior Court, District Attorney, Public Defender, Probation Department, County Clerk and the Sheriff's Department. It is clear that the In-Lieu-Of Program has saved an enormous amount of time, effort and resources, including: elimination of the entire Municipal Court process or arraignment and preliminary hearing; elimination of the need for jury trial in the new case; considerable reduction of transportation requirements for the Sheriff; reduction of the need for supportive defense and prosecution services; prompt removal of prisoners from Sheriff's custody in those cases resulting in state prison commitments; expeditious reclassification and transfer to County Jail prisoners; and savings of time and personnel for the Court, District Attorney; Public Defender, Probation Department, Sheriff, court reporters and county clerks.

120-DAY PROGRAM

The 120-Day Program was developed in late 1988 by the Superior Court and the Continuance Task Force. It was determined that the Court and counsel should develop a procedure that would concentrate efforts on the "old" cases, that is, on cases that were pending in the Superior court for 120 days or longer.

The Superior Court developed the 120-Day Report. The purpose of the Report is as follows: 1) Highlight information for the court and counsel on the cases pending adjudication over 120 days, including the name and type of counsel appointment and the dates and locations of the various proceedings; 2) Allow the Court and the administrators of the District Attorney, Public Defender, and the Alternate Defense Counsel to focus and allocate resources to expedite the older cases; 3) Give information to the Court to enable it to concentrate its efforts to adjudicate the older cases where the defendants are either in custody or non-custody; 4) Establish a data base by which all concerned agencies can assess and evaluate their productivity, and analyze efforts to reduce the number of older cases. The Report is given to the trial judge, with copies sent to the Presiding Judge and administrators of the District Attorney, Public Defender, and Alternate Defense Counsel. The Central District was selected to begin the Program.

The first 120-Day case study was completed in December, 1988. The most recent study was completed in July, 1990. The results of the 120-Day program are as follows:

	12/88	7/90	% CHANGE
Defendants pending disposition more than 120 days	**713**	**542**	**- 24%**
Custody defendants pending Disposition more than 120 days	338	307	- 9%
Defendants pending disposition more than 120 days with Public Defender representation	274	187	- 32%
Defendants pending disposition more than 120 days with the allegation of P.C. 187	106	159	+ 50%

The results of the Program show a substantial reduction in older cases. The Program demonstrates the effectiveness of combining the resolve and determination of the Superior Court judges to speed the process with the information necessary to concentrate their efforts in the appropriate manner.

SAME DAY ARRAIGNMENT (INSTANT ARRAIGNMENT)

The Same Day (Instant) Arraignment Program creates a procedure wherein the defendant is arraigned on a felony Information immediately after the preliminary hearing. The purpose of the Program is to start the sixty (60) day statutory time requirement running at the end of the preliminary hearing, thus theoretically speeding up the overall time required to adjudicate a criminal case.

The Program operates as follows: 1) After a preliminary hearing and a finding of cause to hold the defendant to answer, the District Attorney files a Superior Court Information; 2) The Municipal Court judge, sitting as a Superior Court judge for the purposes of arraignment, arraigns the defendant on the Information; 3) The Municipal Court judge orders a pre-plea probation report and sets the matter in the Superior Court fourteen or twenty-one days later for pretrial and trial setting.

The Same Day Arraignment Program is currently in operation in the Northeast (Pasadena), West (Santa Monica), and Southeast (Norwalk) Districts. The Program was started several years ago in the North Valley (San Fernando) District. Studies of the Program indicated that, at least in the North Valley District, the cases were taking longer to adjudicate under the Same Day Arraignment Program than under the old system. The North Valley District terminated the Program early in 1990 and started the Effective Arraignment Program (EAP).

14-DAY PROBATION REPORTS

In December, 1985, the Central District began a pilot project reducing the time between adjudication and sentencing from 28 to 21 days for defendants in custody. The project was found to be effective and was expanded countywide. A second pilot project, to further reduce the time for obtaining the probation report from 21 to 14 days, was implemented in the South Central District (Compton) and to a limited degree in the West District (Santa Monica) in January, 1988. The 14-Day Probation Report Program was begun in the Central District in December, 1988. Currently, 14-Day

probation reports for custody defendants are available in every Superior court District of the county and shortly will be available in all Municipal Courts for use with Certified Pleas and Pre-Plea Probation Reports (EAP, Same Day Arraignment, Superior Court Review).

Probation Department statistics indicate that in the 1989/90 fiscal year it received 15,076 14-day referrals; based on 14 days saved per referral from the previous 28-day standard , there were 229,308 custody days saved; based on a jail rate of $33 per day thru February and $39.19 per day beginning in March, 1990, the amount of jail bed cost avoidance savings was $8,172,831.

The 14-Day Probation Report Program also allowed the Court to implement the Effective Arraignment Program (EAP) without requiring a time waiver from a defendant. Pre-plea probation reports can be ordered and be available for the Superior Court arraignment within 14 days of the preliminary hearing, thus providing the probation report within the 15 day statutory requirements.

STATISTICAL RETRIEVAL AND RECORD KEEPING

The Superior Court records and analyzes the work that comes before it. We can now determine the amount of time it takes to process each case and break down that information to each District. We can determine the amount of filings, certified pleas, jury trials, motions and other matters that gives us information about our caseload. Each month the Defendant Population Survey is completed. It gives us a complete description of the status of every defendant in the court system.

The Superior Court now has some of the information necessary for it to plan for the present and the future. It has the ability to try new programs and ideas and then to determine, with some accuracy, the impact of these programs and ideas on the system.

Reliable information can be used to dispel inaccurate or improper statements or accusations concerning the Court. It also builds understanding with elected officials, law enforcement, the legislature and others, so that they may make decisions based on reality, not supposition or myth.

DIRECT CALENDARING SYSTEM

A direct calendaring system now exists in every Superior Court District. New cases are received directly from the Municipal Court for arraignment to the trial court and remain in that court through

disposition. If a case is ready for trial and the direct calendar court is engaged, the trial will normally be transferred to a court that acts as a master calendar for the placement of the ready case into an open court.

There are some variations in the use of direct calendaring systems. In the West District (Santa Monica), for instance, there are four direct calendar courts and several courts that do nothing but civil and criminal trials. In the Central District, there are twenty-seven direct calendar courts that "keep their own cases" and are assigned cases for all purposes at the time of arraignment; there are seven courts that operate off of a master calendar (Department 100) and do nothing but trials, and Department 100. Most Districts use either one of the direct calendar courts or the civil master calendar to act as a master calendar for cases that are ready for trial and need to be placed.

EARLY DISPOSITION PROJECT

The purpose of the Early Disposition Project is to increase the amount of felony certified pleas, particularly at the time of the municipal court arraignment. The Project was developed by the District Attorney and Public Defender Offices. It requires the use of experienced Felony Municipal Court Case Coordinators who are assigned to Municipal Court arraignments. These Deputy District Attorneys and Deputy Public Defenders must have felony Superior Court experience sufficient to understand the value of a felony case. They must also have the authority to negotiate and make final decisions concerning a case at the earliest stages of the proceedings. After a felony plea is taken in Municipal Court, a probation report is ordered and the case is certified to the Superior Court for sentencing.

The Project began in October, 1989, as a pilot program in the Inglewood Municipal Court. The felonies from the Inglewood Court are sent to the Torrance Superior Court. In the twelve months prior to October, 1989 the Court averaged five (5) certified pleas per month. Since the inception of the Project, the Inglewood Court has increased its average to eighty-six (86) certified pleas per month.

The Project was expanded in March, 1990 to the East Los Angeles Municipal Court. The felonies from the East Los Angeles Court are sent to the Central District Superior Court. In the months prior to March, 1990 the Court averaged five (5) certified pleas per

month. Since the inception of the Project, the East Los Angeles Court has increased its average to thirty-one (31) certified pleas per month.

The Superior Court has, for several years, advocated the implementation of early disposition programs and procedures. Criminal cases should be resolved at the earliest possible time that is consistent with the proper representation of the prosecution and the defendant. The Early Disposition Project is a program that meets such requirements.

The Early Disposition Project has been supported by the Superior Court. It has been fully funded and will be expanded to all "Area" municipal courts; that is, municipal courts that do no have Superior Courts at the court site. The Project has obvious benefits for all justice agencies, including the defendant charged with a crime. Cases are processed quickly, appropriate cases are resulting in guilty pleas or dismissals without going through lengthy court procedures, and both the defendant and the People are being represented by experienced counsel at the earliest stage of a case.

SUPERIOR COURT REVIEW

The Superior Court Review Program places a Superior Court preliminary pre-trial hearing between the municipal court arraignment and the preliminary hearing. The purpose of the hearing is to resolve the case and reach a disposition at the earliest possible time in the proceedings.

The Program operates as follows: 1) A defendant is arraigned in the Municipal Court, a pre-plea probation report is ordered, and a Preliminary Pre-Trial Hearing Conference (PPT) is set within fifteen (15) days in the Superior Court; 2) The Superior Court judge discusses the case with counsel in an attempt to reach an early disposition; 3) If a defendant decides to plead guilty, the defendant is arraigned, enters a plea, the preliminary hearing date is vacated and the defendant is sentenced; 4) If the defendant does not wish to plead guilty, the matter is placed off calendar and is returned to the municipal court for preliminary hearing.

The Superior Court Review Program has been in operation in the East District (Pomona) since 1982. The West District (Santa Monica) began the Program in 1989. The Program has proved to be very effective. The East District has been able to resolve almost one-half of its criminal cases at the time of the Preliminary Pre-Trial

Hearing Conference. This has given the East District judges the time to concentrate their efforts on cases that must go to trial. The West District has reported similar results.

EXPANSION IN THE USE OF PRE-PLEA PROBATION REPORTS

A substantial increase in the use of pre-plea probation reports has occurred in the past three years. Judges are now ordering pre-plea probation reports in the vast majority of the cases before them. Many of these reports are being ordered on the day of the first appearance in the Superior Court.

Judges are finding the pre-plea report to be of great assistance in the processing of a criminal case. The report provides the information to the judge and counsel that is necessary for a thorough understanding of the defendant and the case. A disposition can be achieved that is based on an intelligent review of the facts of a case, instead of a disposition based on possible speculation.

A great benefit of the pre-plea probation report is the ability of the judge to use the report to sentence the defendant on the day of the finding of guilt. This results in the elimination of further appearances in court and, in cases where the defendant is in custody, it eliminates the need for further custody transportation of a defendant.

The use of the pre-plea probation report is the key ingredient of the Effective Arraignment Program (EAP) and the Same Day Arraignment Program. The report gives the court and all parties the information necessary to resolve a case and sentence the defendant on the day of the first appearance in the Superior Court.

CONCLUSION

The Superior Court has met the challenge of the explosion of criminal filings in several ways. It has attempted to educate other justice agencies, governmental entities, and the public as to the true nature of the criminal justice system and the realities of the problems which confront it. It has developed new methods and procedures to increase the speed and effective management of the court system and has created new guidelines to ensure the cost

effective delivery of indigent legal defense service. The Court has taken a leadership role in creating new and productive programs that have enhanced the quality and efficiency of the processing of criminal cases. It has helped to develop the consensus among justice agencies that is imperative if we are to continue to make progress.

In spite of the enormous increase in criminal filings and the lack of a substantial increase in judicial resources, the Court has managed to maintain or slightly reduce its inventory, substantially reduce the time it takes to resolve a criminal case, and reduce the number of old cases pending in the court system. This has been accomplished by the hard work of the judges and staff, and by the cooperative efforts of virtually all justice agencies in the County. This effort will be continued in the future.

If the growth rate of criminal filings continues, no amount of creative programs and strong management of the court will prevent the flow of criminal cases into other areas of the Court's business. In the last decade there has been an 182% increase in criminal filings, but only a 21% increase in judges. If judicial resources are not expanded to meet the onslaught of new criminal cases, the civil court process and other court services are in danger of coming to a halt. Plans for the expansion of judicial resources and facilities must be made now and must be acted upon by the Board of Supervisors and the legislature.

Several ideas and proposals should be considered for the immediate future:

- Increase the number of judges and judicial support personnel to accommodate the increase in criminal filings.

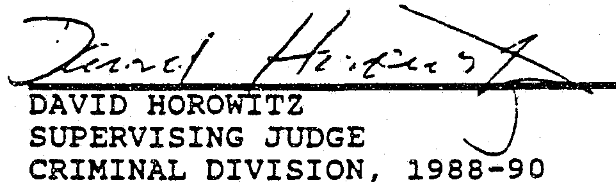
- Construct and develop a criminal court facility in the Central District to provide at least sixty Superior and Municipal courts. In fact, a Central District criminal justice center is required, providing full criminal justice service to the downtown area.

- The time required to obtain a probation report on a custody defendant should be reduced from 14 days to 7 days. The time required for a non-custody defendant should be reduced from 28 days to 14 days. This would allow the court to receive a pre-plea probation report within statutory limits for an arraignment in the Superior Court of a non-custody defendant.

- The Effective Arraignment Program, 120-Day Program, Probation Violation In-Lieu-Of Program, and the Early Disposition Program should be fully implemented and expanded throughout the County.

The ultimate goal of the court system is to provide fair and just treatment to every person who comes before the court. The citizenry deserves nothing less. Each program, idea, procedure and policy which is developed must be continually measured against that ultimate goal to ensure that our desire for speed and efficiency does not overpower the fundamental requirements of individual fairness and justice. The Superior Court will continue in its efforts to deliver the kind of criminal justice system that will have the trust and confidence of our citizens.

RESPECTFULLY SUBMITTED,



DAVID HOROWITZ
SUPERVISING JUDGE
CRIMINAL DIVISION, 1988-90

ATTACHMENT I

CRIMINAL FILINGS

LOS ANGELES SUPERIOR COURT

Fiscal Year	
1979-80	19,328
1980-81	21,604
1981-82	24,049
1982-83	25,950
1983-84	26,238
1984-85	29,357
1985-86	35,783
1986-87	41,165
1987-88	41,937
1988-89	47.428
1989-90	54,539

ATTACHMENT II

LOS ANGELES SUPERIOR COURT
CRIMINAL DEFENDANT
SURVEY COMPARISON

	JUNE 28, 1985	NOVEMBER 30, 1987	FEBRUARY 29 1988	APRIL 29, 1988	MAY 31, 1988	JUNE 30, 1988	JULY 29, 1988	
SUMMARY								
TOTAL PENDING DEFENDANTS	13287	11535	11344	11621	11432	11840	11749	
TOTAL JAIL POPULATION (MONTHLY AVERAGE DAILY INMATE POPULATION)	17172	21440	22182	22934	23177	22101	21034	
PENDING CUSTODY DEFENDANTS	6236(36%)*	6272 (29%)	5693 (26%)	5691 (26%)	5776 (25%)	6038 (27%)	6032 (29%)	
L A COUNTY SHERIFF'S DEPT PENDING POPULATION WITH FUTURE SUPERIOR COURT DATE	6113	6202	5821	6108	6068	6018	6112	
PRE-CONVICTION								
TOTAL PRE-CONVICTION	7508	7675	7201	7203	7063	7305	7211	
CUSTODY PRE-CONVICTION	3580 (21%)	3860 (18%)	3486 (16%)	3684 (16%)	3663 (16%)	3770 (17%)	3696 (18%)	
AGE FROM FILING 0 TO 60 DAYS (% OF TOTAL PRE-CONV.)	47%	NOT MEASURED	46%	52%	50%	71%	69%	
OVER 60 DAYS	53%	NOT MEASURED	54%	48%	50%	29%	31%	
POST-CONVICTION								
TOTAL POST-CONVICTION	5615	3860	4143	4418	4369	4535	4538	
CUSTODY POST-CONVICTION	2656 (15%)	2412 (11%)	2207 (10%)	2277 (10%)	2113 (9%)	2268 (10%)	2336 (11%)	
TOTAL PENDING P & S	3568	2533	2294	2243	2053	2225	2157	
CUSTODY PENDING P & S	1862 (11%)	1411 (7%)	1297 (6%)	1233 (6%)	1076 (5%)	1272 (6%)	1200 (6%)	
TOTAL PENDING VIOLATIONS	2047	1327	1849	2175	2053	2310	2381	
CUSTODY PENDING VIOLATIONS	791 (5%)	1002 (5%)	910 (4%)	1044 (4%)	1037 (4%)	996 (5%)	1136 (5%)	

* (%) represents percentage of total jail population

Compiled by LASC Criminal Court Services
Revised: August 29, 1988

systems to recognize the importance of developing such a section. It is from this section that the Drug Use Forecasting (DUF) project, CODAP program and the Women's Criminal Justice program will be administered. These programs, as previously noted, were developed during the CADA period by CADA personnel. The statistical information obtained from the DUF project could be the basis on which the County could plan its strategy for dealing with the problem of drugs on an on-going basis. With the approval of the CODAP proposal there is also a clear indication of Santa Clara County's comittment to work on the issues surrounding the drug abusing criminal offender.

The criminal justice system is a multi-faceted system that deals with a multitude of legal, social and health issues, and at a glance the problems can appear to be unmanageable and overwhelming. However, the CADA project has demonstrated that by focusing on individual aspects of the criminal justice system, positive changes can materialize.

IV. SUGGESTIONS FOR OTHER JURISDICTIONS CONTEMPLATING THE USE OF THE CADA PROGRAM

When contemplating the implementation of a program such as CADA, it is vital to consider the following:

1. The development of an active Management Team comprised of representives of all involved criminal justice agencies and other related agencies.

2. The development of a data collection system providing management type information on a continuous basis.

3. An analysis of the existing system before implementation so as to effectively utilize all resource.

4. Identifying a Coordinator of the project to continuously monitor the operations of the project.

5. Identifying a Resource Developer to focus on the treatment issues surrounding the criminal drug offender.

the development of the CADA Management Team. This group, which consisted of representatives from the involved criminal justice agencies, provided the forum to develop a working management team. This Management Team has demonstrated the ability for various criminal justice agencies to take a system-wide approach in improving and expediting the processing of felony drug cases through the criminal justice system, as well as providing a useful forum for the discussion of ideas and resolution of issues in a variety of other areas. Consequently, there has been support from the participants of the group to continue this working group, regardless of second year funding.

With approximately 44% of the felony cases arraigned in Superior Court having a felony drug charge as the primary charge, there was a need to provide a way to effectively deal with these cases. Consequently, the Narcotics Cases Review (NCR) department in Superior Court was developed, providing an additional opportunity for cases to settle before going to trial. All cases whose primary charge was a drug charge had to make a mandatory court appearance in the NCR deparment before the trial court date. Throughout the grant, Superior Court was pleased with the operations of the NCR department and an analysis conducted for a four month period in 1989, reflected that approximately 41% of the cases assigned to the NCR department settle before there trial date. The department has been so successful in its endeavors that it has been institutionalized in Superior Court and continues to operate well.

By focusing attention on the Crime Lab and purchasing several pieces of equipment and developing a new CJIC screen, there has been a significant and positive impact on the way felony drug cases are processed through the criminal justice system in Santa Clara County.

Another major impact of the CADA project was the establishment of a section of the Bureau of Drug Abuse Services, called Criminal Justice Services. The development of this new section provided the much needed bridge between the Criminal Justice and Drug Treatment systems. The awareness created by the CADA project prompted the County's criminal justice and drug treatment

solving issues or problems related to felony drug cases and other related criminal justice matters. For instance, a problem identified at one of the Management meetings by both the District Attorney's Office and the Public Defender's Office regarding to the diversion program was resolved by the time of the next meeting. In instances where defendants were identified as eligible for diversion, and information such as police reports and lab analyses results were not available, the defense attorney was unable to properly advise their clients regarding their diversion options. Exhibit 11 reflects the agreement that was reached between the Court, the District Attorney's and Public Defender's Office, which resolved the problem. Topics at these meetings have also included discussions on the preliminary statistical analyses, brainstorming on newand innovative ways of improving the processing of drug cases in the county (including Municipal Court), proposals for new Crime Lab forms and plans for additional funding for a second year of the grant. There has been demonstated support for the continuation of these meetings as they are seen to provide a useful forum for the discussion of ideas and resolution of issues in a number of areas.

Participants of the CADA Management team also engaged in a joint venture with personnel from the Center for Urban Analysis, to produce a report on the issue of crime and drugs in Santa Clara County, in comparison to other counties in the State of California. (See Attachment J).

Throughout the course of the grant the Justice System Steering Committee has been kept up-to-date on the progress of the CADA grant. Through this they have been kept aware of the progress of the DUF program, the CODAP proposal, the statistics developed over the course of the grant and other important issues. The JSSC provided the much needed support for the implementation of the DUF project and the CODAP proposal.

III. IMPACT OF THE CADA PROJECT

One of the greater contributions of the CADA project was

FILED

JUN 13 1989
JAMES H. DEMPSEY
Clerk-Administrative Officer
Municipal Court, Santa Clara Co. Jud. Dist.
By ________ Deputy

Exhibit 11

AGREEMENT CONCERNING IN-CUSTODY DIVERSION PROGRAM

~~It is~~ hereby agreed that the following procedures will be used for the in-custody diversion program.

The Santa Clara County Public Defender's Office agrees to make a special appearance for the purposes of arraignment only at the first court appearance for a diversion eligible in-custody defendant arraigned in Department Six of the Santa Clara County Municipal Court, San Jose Facility. The Public Defender's Office will not appear for an uninterviewed in-custody defendant for the diversion eligibility hearing. The Public Defender's Office will not be the attorney of record on these cases unless and until the defendant is interviewed by the Public Defender's Office.

If a defendant is released from custody at his or her first court apearance, the defendant shall be advised that they may come to the Public Defender's Office for an interview. If the defendant qualifies for the services of the Public Defender, the Public Defender's Office will advise the defendant as to the diversionary process.

If, subsequent to the initial determination of eligibility and release from custody, it is determined that meritorious motions may exist or that the lab results will not support a conviction, the Santa Clara County District Attorney's Office will agree to restitute the defendant to the same status as before the diversionary process began. The defendant will remain diversion eligible just as if the earlier referral had not been made. This agreement will not render a defendant who would not otherwise meet the Penal Code §1000 et seq criteria eligible for diversion.

6/12/89
Dated

Patricia J. [signature]
PATRICIA JEAN TIEDEMAN
Deputy Public Defender

6/12/89
Dated

R. Beard
RICHARD A. BEARD
Deputy District Attorney

6/13/89

State Office of Alcohol and Drug Programs. This resulted in the Bureau of Drug Abuse Services receiving funds for the "Women's Criminal Justice Programs". This program provides assessment, treatment, case management, and pro-social support services to female intravenous drug using clients in the criminal justice system.

An unanticipated, but significant accomplishment in this intervention was the establishment of a section of the Bureau of Drug Abuse Services, known as the Criminal Justice Services. This new section provides a bridge between the Criminal Justice and Drug Treatment systems. The CADA Resource Development, DUF project, CODAP program and the Women's Criminal Justice Programs are all administered from this section (see Attachment I). The CADA Resource Developer will be the Manager of this section, and has been, and will continue to be, the key contact person for the Courts and other interested criminal justice personnel.

E. Intervention #5 – RATIONAL JUSTICE PLANNING

Objective: 1. To establish and carry out a rational planning process to guide policy, program and operational planning concerned with the future processing of narcotic cases, and

2. To establish an analytical process which will provide continuous feedback to the Justice System Steering Committee, the Project Management Team, and the sponsors of this national program.

The monthly CADA Management team meeting has provided a forum for a working group of mid-level managers from the criminal justice system. It an excellent example of how diverse members of the criminal justice system can work together to guide policies and plan the operations of an interagency system-wide approach to the processing of felony drug cases in Santa Clara County.

These meetings provide a welcome forum for identifying and

level of drug use and abuse in the County. This type of information will be extremely useful in the development and expansion of treament resources within the County.

The DUF program was fully implemented in August 1989, when testing began in the mens', womens', and juvenile detention facilities. Attachment F reflects the type of valuable preliminary data that can be obtained from such a program.

Attachment G illustrates the Comprehensive Offender Drug Abuse Programming (CODAP) proposal which was developed by the Resource Developer. This proposal came about as the result of months of extensive work with representaives from the various criminal justice and drug treatment agencies. The CODAP proposal provides a comprehensive approach to the problem of drug abusing criminal offenders and the much needed link between the criminal justice and drug treatment systems.

Initially, full funding of the CODAP proposal was not approved by the Board of Superivors because of the enormous financial committment that was required to implement such a proposal, but with the enthusiasm and persistence of top administrators within the criminal justice and drug treatment systems, funding for the first phase of a five year implementation plan was approved by the Board In December 1989.

The development of a "Resource Directory of Drug Treatment and Support Services" guide began during the course of the grant. This Guide details all available treatment resources and support services existing in the County, for substance abusers. Attachment H illustrates the layout of this highly desirable document, which when completed, will be disseminated to the key personnel, including judges, district attorneys, public defenders, probation officers and to other persons in need of the information. Completion of this Guide would represent a major achievement of the objectives outlined for this intervention.

The Resource Developer also co-authored a proposal to the

Attachment D refers to the report presented to the City of San Jose Project Crackdown Task Force Committee as part of a collaborative effort by personnel from the City of San Jose Police Department, the Office of the County Executive, the District Attorney's Office, Probation Department, Superior Court, Department of Correction and the Center for Urban Analysis. This report illustrates the way felony drug charges are processed through the criminal justice system in Santa Clara County.

Two Law Clerks located in the Public Defender's office were hired under the grant, to assist the Research Department and the felony trial attorneys, in the research, screening and preparation of motions in felony drug cases. The Law Clerks proved to be a tremendous asset to the Research Department and the Attorneys handling felony matters. Attachment E illustrates the documents that were designed by the law clerks for assisting the attorneys on the Preliminary Examination team. Reports from the Public Defender's office throughout the grant, have reflected the invaluable assistance of the law clerks, which has led to fewer continuances being requested to prepare motions, and an overall increased productivity in that area.

D. Intervention #4 - RESOURCE DEVELOPMENT

Objective: Develop plans to increase the number and range of treatment resources available to the target population upon conviction or entry of a guilty plea.

A Program Manager was hired under the grant and located in the Bureau of Drug Abuse Services to meet the objectives previously outlined.

During the third quarter the County of Santa Clara agreed to enter into an interagency agreement with the National Institute of Justice (NIJ), to institute the Drug Use Forecasting (DUF) program in the County. The information derived from DUF will provide useful data regarding the

Exhibit 10

SUPERIOR COURT ARRAIGNMENT CALENDAR

MEAN DAYS PRETRIAL DETENTION

CHARGE	1987		1988	
	TOTAL CASES	MEAN DAYS	TOTAL CASES	MEAN DAYS
POSSESSION	31	295	43	62
POSSESSION FOR SALE	27	298	16	67
SALES, TRANSPORTATION MANUFACTURE	28	323	20	112
OTHER	5	381	1	1
TOTAL CASES	93	310	80	68

Exhibit 9a.

SUPERIOR COURT ARRAIGNMENT CALENDAR

CHARGE AT DISPOSITION

CHARGE	1987		1988		PERCENT CHANGE 1987 -1988
	FREQUENCY	PERCENT	FREQUENCY	PERCENT	
POSSESSION	32	34%	45	53%	19%
POSSESSION FOR SALE	27	29%	18	21%	8%
SALES, TRANSPORTATION MANUFACTURE	28	30%	21	25%	5%
CULTIVATION	1	1%	0	0%	1%
OTHER *	5	5%	1	1%	4%
TOTAL CASES	93	100%	85	100%	

Exhibit 9b.

SUPERIOR COURT ARRAIGNMENT CALENDAR

MEAN DAYS FROM SUPERIOR COURT ARRAIGNMENT TO SENTENCING

CHARGE	1987		1988		DIFFERENCE MEAN DAYS 1987-1988	PERCENT CHANGE 1987-1988
	TOTAL CASES	MEAN DAYS	TOTAL CASES	MEAN DAYS		
POSSSESSION	31	119	43	104	15	13%
POSSESSION FOR SALE	27	138	16	112	26	19%
SALES, TRANSPORTATION MANUFACTURE	28	173	20	122	51	29%
OTHER *	5	195	NA	NA	NA	NA
TOTAL CASES	91	146	80	109	37	25%

* 'OTHER' MAY INCLUDE SUCH CHARGES AS FURNISHING DRUGS TO A MINOR, ADULT INDUCING A MINOR TO VIOLATE H&S PROVISIONS AND UNLAWFUL USE OF A PRESCRIPTION.

Exhibit 8a

MUNICIPAL COURT ARRAIGNMENT CALENDAR

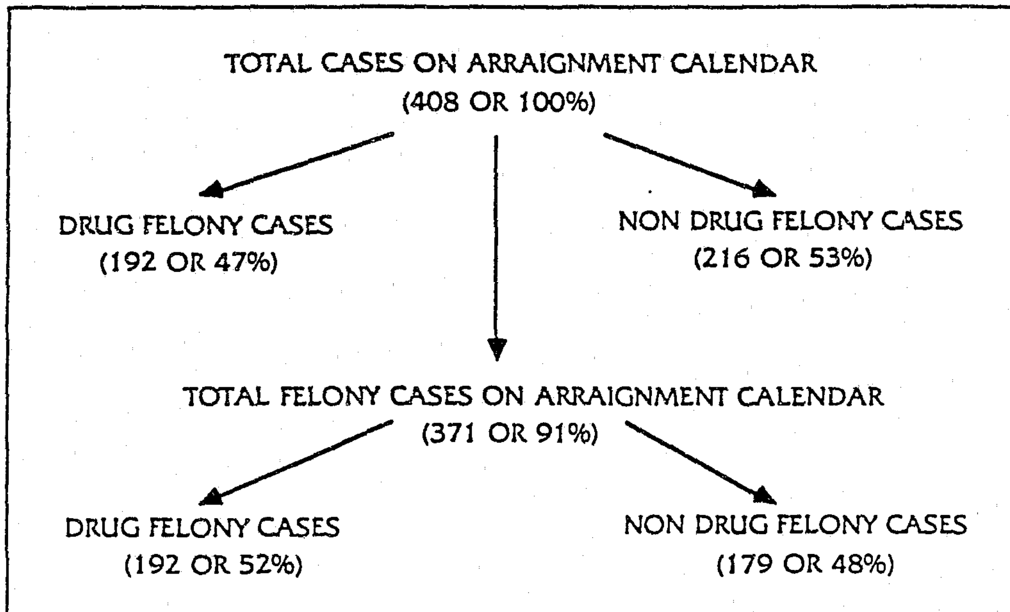
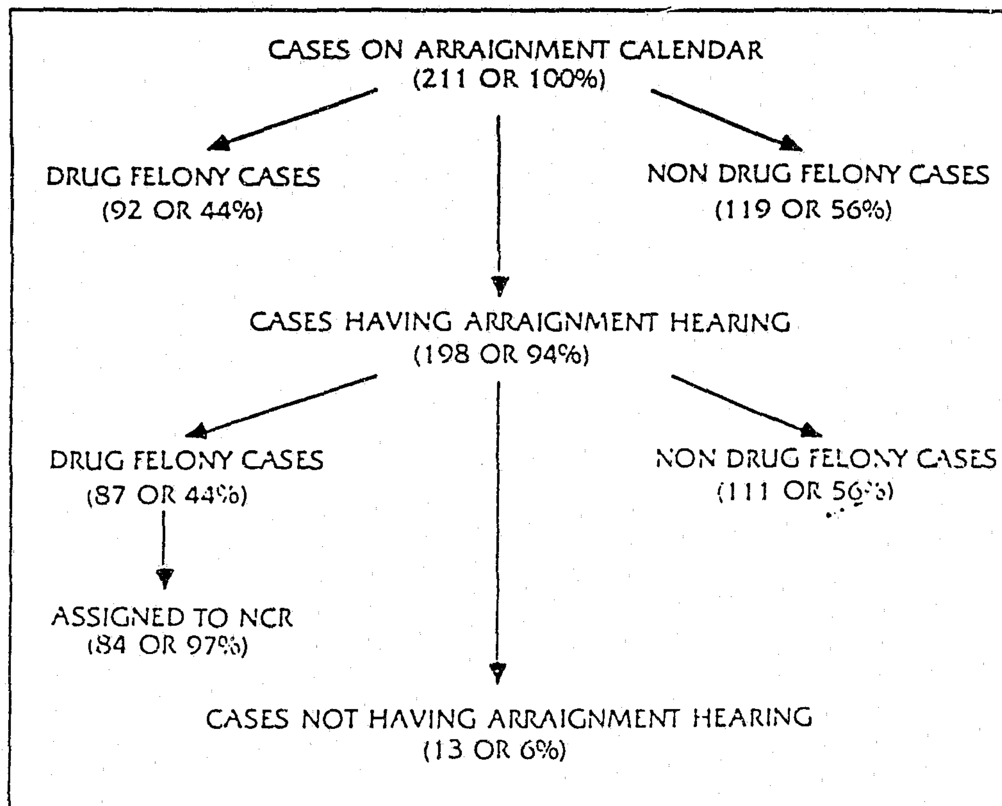


Exhibit 8b

SUPERIOR COURT ARRAIGNMENT CALENDAR



The Municipal Court, San Jose facility arraignment calendar was examined for two weeks in 1989. This two week snap shot picture revealed that of the total number of felony cases appearing on the calendar, 52% were being arraigned for a felony drug charge (see Exhibit 8a)

A similar analysis was done examining the Superior Court Arraignment calendar for a four month period, January to April 1989, to determine the percentage of cases that were primarily felony drug cases. As seen in exhibit 8b 44% of the cases were felony drug cases. A further analysis of those cases appearing on the calendar and actually having an arraignment hearing, as opposed to the cases being continued or having a bench warrant issued was also undertaken, and again the findings revealed that 44% of the cases were primarily felony drug cases. These findings are a clear indication of the high volume of drug cases that Santa Clara County's criminal justice system must process through its courts, house in its detention facilities and allocate resources to deal with the problems associated with the drug abusing criminal offender.

An analysis was conducted examining felony drug cases that were arraigned in Superior Court for the periods September to December 1987 and a comparable period in 1988. With regard to the highest felony drug charge at the time of disposition, there was an increase of 19% of the total number of cases from 1987 to 1988, where the highest charge was possession of a controlled substance. (see Exhibit 9.a.)

Exhibit 9.b. depicts the average number of days from the date a case was arraigned in Superior Court, to the date the defendant was sentenced. Overall, there was a 25% decrease in the average number of days from Superior Court arraignment to the date of sentencing, from 1987 to 1988.

In reviewing the average number of days a defendant spends in pretrial detention, there was a significant reduction from 1987 to 1988. In 1987 the average number of days spent in pretrial detention for all cases was 310 days. This is significantly greater than the average of 68 days for all cases in 1988. (See Exhibit 10).

Exhibit 7

MASTER TRIAL CALENDAR

A preliminary analysis was done to examine the Master Trial Calendar of the Superior Court in San Jose. All figures represent the number of cases appearing on the calendar for a four month period from January to April 1988 and 1989. Percentages have been rounded up to the nearest possible value.

CHARACTERISTIC	1988		1989		COMPARISION 1988 TO 1989	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
TOTAL CASES	2760	100%	1680	100%	↓ 1080	↓ 39%
DRUG FELONY CASES	1013	38%	425	25%	↓ 588	↓ 58%
NON DRUG FELONY CASES	1747	63%	1255	75%	↓ 492	↓ 28%

Exhibit 6a

NARCOTICS CASE REVIEW

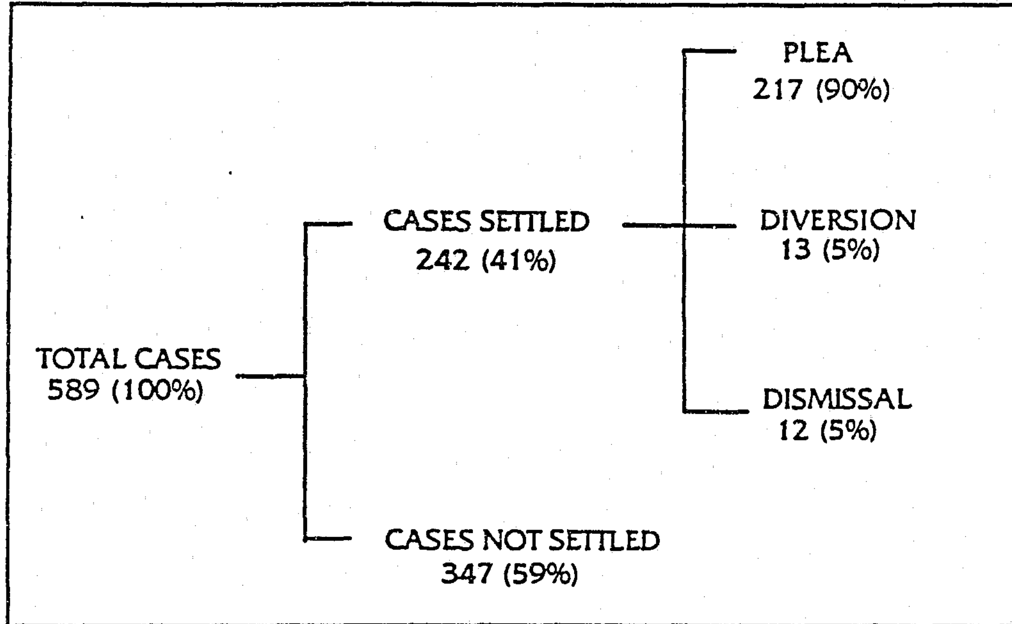
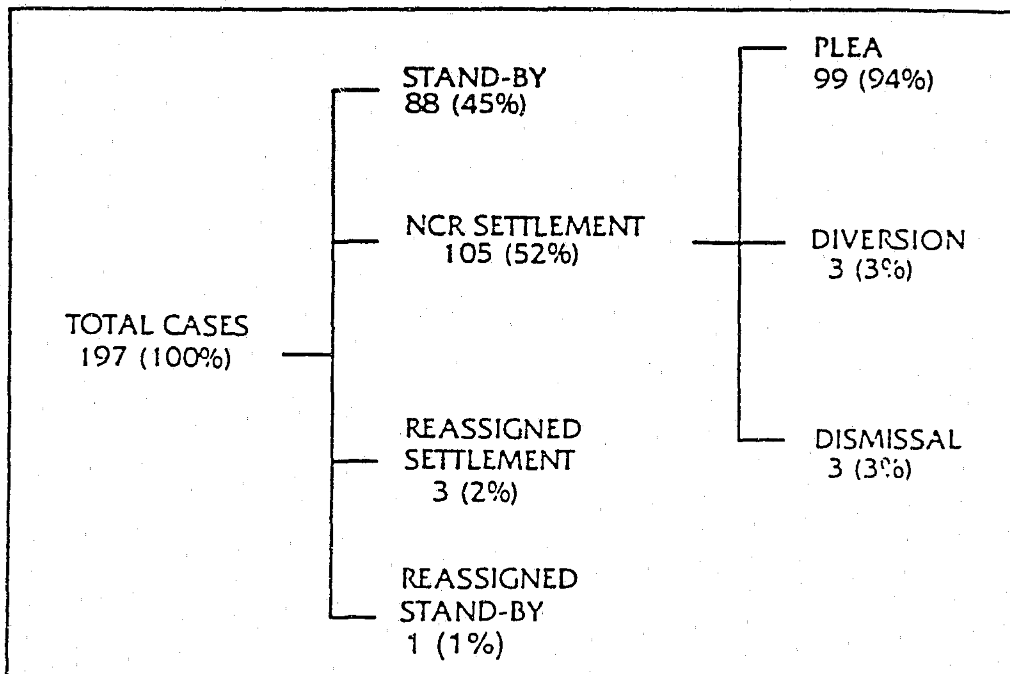


Exhibit 6b

NARCOTICS CASE REVIEW

OFF THE MASTER TRIAL CALENDAR



2. Prevention of reappearances of narcotic case backlog.
3. Reduction in the time and number of appearances from initial charging to final disposition.
4. Reduction in the number of days served in pretrial detention.

The specialized Narcotics Case Review (NCR) Court was established and staffed with a Courtroom Clerk and a Probation Officer courtesy of the grant. The court operated as anticipated, and provided an effective mechanism for the resolution of a number of felony drug cases. The presence of the Probation Officer in the courtroom where pretrials were conducted, as well as the availability of a CJIC terminal to check credit for time served and other information, proved to be valuable tools that greatly enhanced the opportunity to settle cases. It has also increased the judges ability to sentence a defendant at the time of plea, resulting in a decrease in the number of court appearances.

An analysis that was done during a four month period from January to April 1989 shows that 41% of the cases assigned to the NCR department settled there, before the trial date. (See Exhibit 6a). In some instances, for certain reasons, a case may not settle the first time it appears in the NCR department, and as a result, appears on the master trial calendar. Exhibit 6b shows that 52% of the cases that were assigned back to the NCR department off the Master Trial calendar settled.

Exhibit 7 depicts the findings of an analysis of the Master Trial Calendar for a four month period in 1988 and 1989. Keeping in mind that 1988 was an unusual year, in that, during the months of March and April the Superior Court purge of criminal cases occurred. It is still, however, interesting to note that while there was an overall decrease in the percentage of cases appearing on the trial calendar, there was a significantly larger decrease of 58% in the number of felony drug cases appearing on the calendar. This indicates that the NCR department worked efficiently as it settled cases, and continues to settle cases before they appear on the trial calendar.

Exhibit 5a.

IN-CUSTODY EARLY DRUG DIVERSION

DAYS FROM ARREST TO FINAL DISPOSITION

DISPOSITION	1988			1989		
	MEAN DAYS	MAX DAYS	MIN DAYS	MEAN DAYS	MAX DAYS	MIN DAYS
DIV. GRANTED	104	446	33	65	183	21
SENTENCED	174	454	27	71	141	37
BENCH WARRANT	297	443	24	106	178	66
FURTHER	305	440	68	108	203	32
DISMISSAL	191	370	11	49	66	29
DIV. REINSTATED	343	452	273	NA	NA	NA

Exhibit 5b.

IN-CUSTODY EARLY DIVERSION

MONTHS FROM ARREST TO DISPOSITION

MONTHS	1988		1989	
	FREQUENCY	PERCENT	FREQUENCY	PERCENT
0 - 60 DAYS	28	28%	47	47%
61 - 120 DAYS	21	21%	41	41%
121 - 180 DAYS	10	10%	9	9%
181 DAYS +	42	41%	3	3%
TOTAL CASES	101	100%	100	100%

Exhibit 4a.

IN-CUSTODY EARLY DIVERSION

NUMBER OF COURT APPEARANCES TO DISPOSITION

DISPOSITION	1988			1989		
	MEAN	MAX	MIN	MEAN	MAX	MIN
DIV. GRANTED	5	11	2	4	9	2
SENTENCED	7	13	2	8	12	5
BENCH WARRANT	5	9	2	4	7	2
FURTHER	10	12	6	6	13	3
DISMISSAL	8	16	2	4	6	3
DIV. REINSTATED	6	10	3	NA	NA	NA
TOTAL	6	16	2	4	13	2

Exhibit 4b.

IN-CUSTODY EARLY DIVERSION
MONTHS OF PRETRIAL DETENTION

MONTHS	1988		1989	
	FREQUENCY	PERCENT	FREQUENCY	PERCENT
0 - 30 DAYS	87	86%	92	93%
31 - 90 DAYS	12	12%	6	6%
91 - 180 DAYS	1	1%	1	1%
181 DAYS +	1	1%	0	0%
TOTAL CASES	101	100%	100	100%

The in-custody early diversion program was aimed at identifying those defendants who were eligible for diversion by their first court appearance, and making this information available to the court. This program was reported to have operated smoothly throughout the grant.

An analysis of both the in and out-of-custody early diversion programs were undertaken during the course of the grant. For the in-custody early diversion program, data were collected on approximately 100 cases for both the pre-CADA period of January - May 1988 and the CADA period which extended for a comparable period, January - May 1989.

Exhibit 4 a. reveals, that the average number of court appearances taken, for an in-custody defendant to be granted diversion decreased from 1988 to 1989 by one day. Exhibit 4.b. indicates that of the total number of defendants in each period, the percentage of defendants who spend one month or less in pretrial detention increased from 86% in 1988 to 93% in 1989. In 1988 the average number of days from arrest to a final disposition of diversion granted was 104 days. In 1989 however, the average number of days to reach the same disposition of diversions granted decreased to 65 days. (see Exhibit 5.a). Overall, it appears as though cases were reaching final disposition in much shorter time periods. With respect to the length of time from arrest to final disposition for the in-custody diversion program, on the average, between 1988 and 1989, the percentage of cases reaching a final disposition in two months or less, increased from 28% to 47%. (See Exhibit 5.b)

A second sampling of the out-of-custody warrant diversion program was conducted for the period June through August 1989. The analysis revealed that 64% of the cases had achieved drug diversion in one court appearance as anticipated. On the average it took 78 days from the date of the defendant's arrest to the date diversion was granted.

C. Intervention #3 - SPECIALIZED COURT CONSTELLATION

Objective: 1. Reduction of narcotic case backlog.

B. Intervention #2 - EARLY DRUG DIVERSION

Objective: In-custody: Have all persons eligible for drug diversion under Penal Code 1000 qualified for diversion at arraignment.

Out-of-custody: Notify all persons eligible for drug diversion under Penal Code 1000, allowing them to complete the diversion process in their first court appearance.

The paralegal positions hired under the grant assisted in the implementation of the early diversion program for both in and out-of-custody defendants, and also provided support to the attorneys on the Narcotics team.

Attachment B represents the procedures for the out-of-custody Warrant Diverison program, which allows defendants identified as eligible for drug diversion to complete their suitability screening with the Probation Department, prior to a pre-arranged court date, and to avoid arrest on a warrant if they appear in court for their diversion hearing on the date set forth in the letter sent to them by the District Attorney. This protocol would allow defendants to be diverted at their first court appearance and avoid all unnecessary incarceration.

A backlog of one hundred and eight cases developed by December 1989, while this protocol was being drafted and approved by Municipal Court. This backlog created a problem, because it appeared that, if a defendant was not contacted about the program immediately after their arrest, the chances of contacting him via the telephone or through the mail decreased. Consequently, a Pretrial Release Specialist was hired under the grant, to work with the paralegals in the District Attorney office to eliminate the backlog. Attachment C shows the protocol that was designed for the procedures to be used in attempting to contact the defendants and sending letters. By the fourth quarter the backlog was completely eliminated and all cases were current.

During the first quarter of the project, a new field for the entry of solid substance test results on the Criminal Justice Information Control (CJIC) system screen was developed. The addition of this new screen allows appropriate criminal justice users quick and ready access to solid substance test results, in addition to the toxicological sample results which were already entered on the screen.

The two additional CJIC terminals and printer supplied to the lab, allowed greater and easier access to the newly developed CJIC screen, and provided the Office Clerk, hired under the grant, the ability to input the solid substance test results once the analyses were completed. An instructional and informational memorandum regaring this new field was designed and disseminated to the appropriate users. (See Attachment A). The memorandum received favorable comments as users were appreciative of the availabilty of the solid substance test results via their CJIC terminals. Information from the courts and other involved criminal justice agencies indicated that lab test results were available more quickly in the system which resulted in fewer continuances of cases or delayed filings for that reason.

With streamlining the operations of the lab, and updating and modernizing the laboratory procedures in the fourth quarter, the backlog of approximately eight thousand (8,000) solid substance and toxicological cases estimated at the onset of the grant, was reduced to approximately five hundred (500) cases.

The Forensic Chemist position under the grant became vacant during the third quarter, and although it was anticipated to be filled by end of the fourth quarter, the person initially offered the position, accepted a full-time permanent position elsewhere. This position was never filled through the duration of the project, simply because the position was so temporary in nature. However, the Director of the Crime Lab made a commitment to continue staffing the solid substance section of the lab at the level anticipated by the grant, so the objectives of the grant could be accomplished.

Exhibit 3

GOALS PLANNED FOR THE CADA PROJECT

INTERMEDIATE GOAL:
IMPROVE AND EXPEDITE THE PROCESSING OF FELONY DRUG CASES THROUGH THE CRIMINAL JUSTICE SYSTEM

FIVE PROGRAMMATIC INTERVENTIONS

1	2	3	4	5
CRIME LAB	EARLY DRUG DIVERSION	SPECIALIZED COURT CONSTELLATION	RESOURCE DEVELOPMENT	RATIONAL JUSTICE PLANNING
PROVIDE JUSTICE AGENCIES WITH TIMELY, RELIABLE DETERMINATIONS OF THE NATURE AND NET WEIGHT OF SUBSTANCES SUBMITTED FOR ANALYSIS	IN-CUSTODY: HAVE ALL PERSONS ELIGIBLE FOR DRUG DIVERSION UNDER PC 1000 QUALIFIED FOR DIVERSION AT ARRAIGMENT. OUT-OF-CUSTODY: NOTIFY ALL PERSONS ELIGIBLE FOR DRUG DIVERSION UNDER PC 1000 ALLOWING THEM TO COMPLETE THE PROCESS IN FIRST COURT APPEARANCE	1. REDUCTION OF NARCOTIC CASE BACKLOG. 2. PREVENTION OF REAPPEARANCE OF NARCOTIC CASE BACKLOG. 3.REDUCTION IN TIME AND NUMBER OF APPEARANCES FROM INITIAL CHARGING TO FINAL DISPOSITION. 4. REDUCTION IN NUMBER OF DAYS SERVED IN PRETRIAL DETENTION. 5. OVERALL REDUCTION IN JAIL OVERCROWDING..	MAKE A LARGER NUMBER AND RANGE OF TREATMENT SERVICES AVAILABLE TO TARGET POPULATION UPON CONVICTION OR ENTRY OF GUILTY PLEAS.	1. ESTABLISH AND CARRY OUT A RATIONAL PLANNING PROCESS TO GUIDE POLICY, PROGRAM AND OPERATIONAL PLANNING CONCERNED WITH FUTURE PROCESSING OF NARCOTIC CASES. 2. ESTABLISH AN ANALYTICAL PROCESS WHICH WILL PROVIDE FEEDBACK TO THE JUSTICE SYSTEM STEERING COMMITTEE, THE PROJECT MANAGEMENT COMMITTEE, AND SPONSORS OF THE NATIONAL PROGRAM.

Projects Division, housed within the County Executive's Office, handled the administrative responsibilties of the CADA Grant. It was determined that the CADA Project Coordinator would be located in the Justice Projects Division so as to have easy access to the top officials of all three branches of government.

Exhibit 2 depicts the key agencies that were participants of the CADA Management Team and the personnel that were assigned to the various interventions of the CADA project.

B. Goals and Objectives Planned for the CADA Project:

The main goal of the CADA project involved the joint reduction of jail overcrowding and court congestion. The intermediate goal however was to improve and expedite the processing of felony drug cases through the criminal justice system.

In reviewing the original goals, it was determined that modifications needed to be made. (see Exhibit 3) Because the opening of the Main Jail initially eliminated the jail overcrowding situation, it was determined that the overall goal of the project would focus instead, on what had been labled, the intermediate goal, of improving and expediting the processing of felony drug cases through the criminal justice system. Although some modifications were made, the overall goals of the project and its five interventions remained the same.

With regard to the five programmatic interventions, their objectives were identified as:

1. Intervention #1: Crime Lab

Objective: To provide justice agencies and defendants with timely, reliable determinations of the nature and net weight of substances submitted for analysis.

Exhibit 2

PERSONNEL AND DEPARTMENTAL STAFFING FOR THE CADA GRANT
COUNTY OF SANTA CLARA

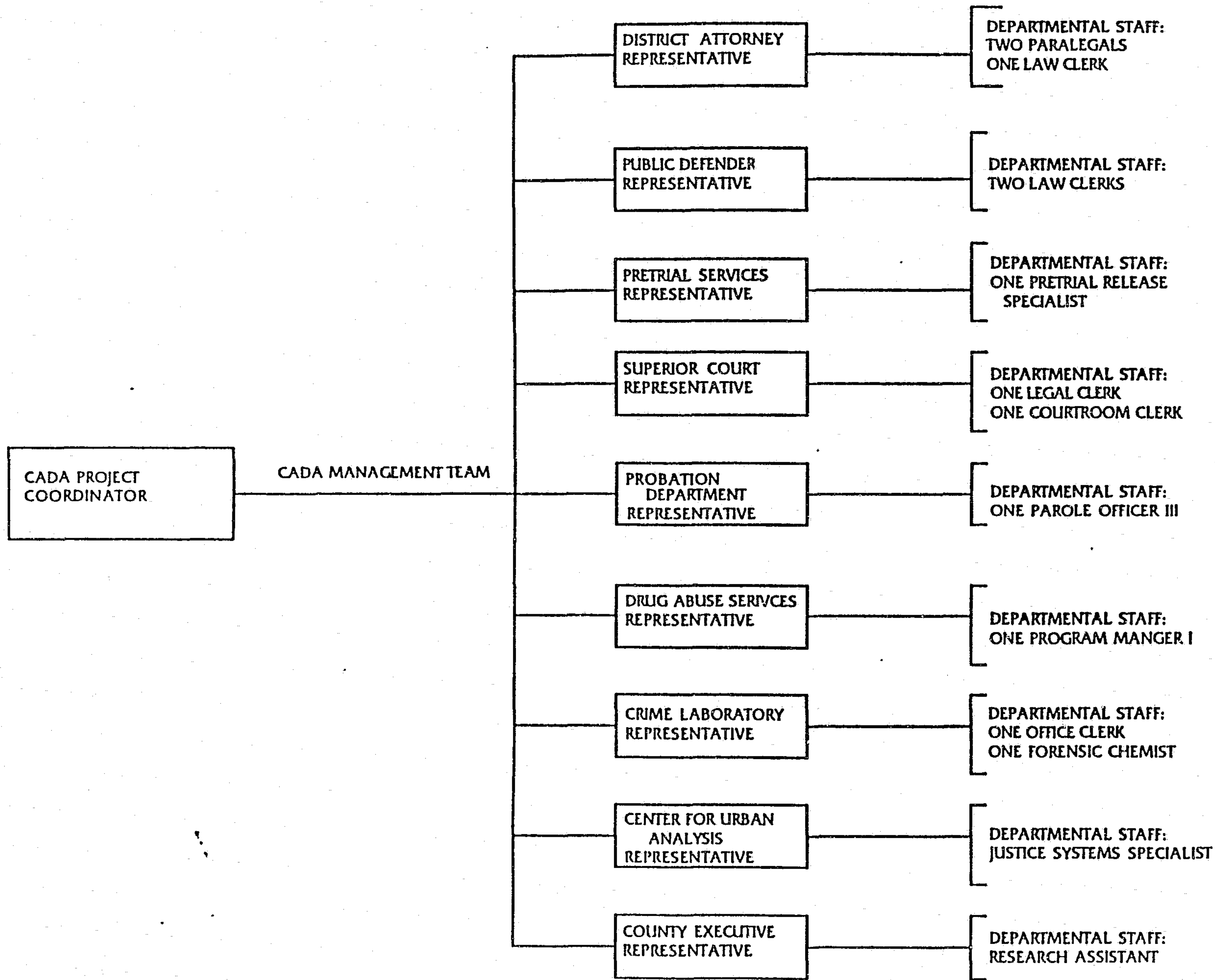
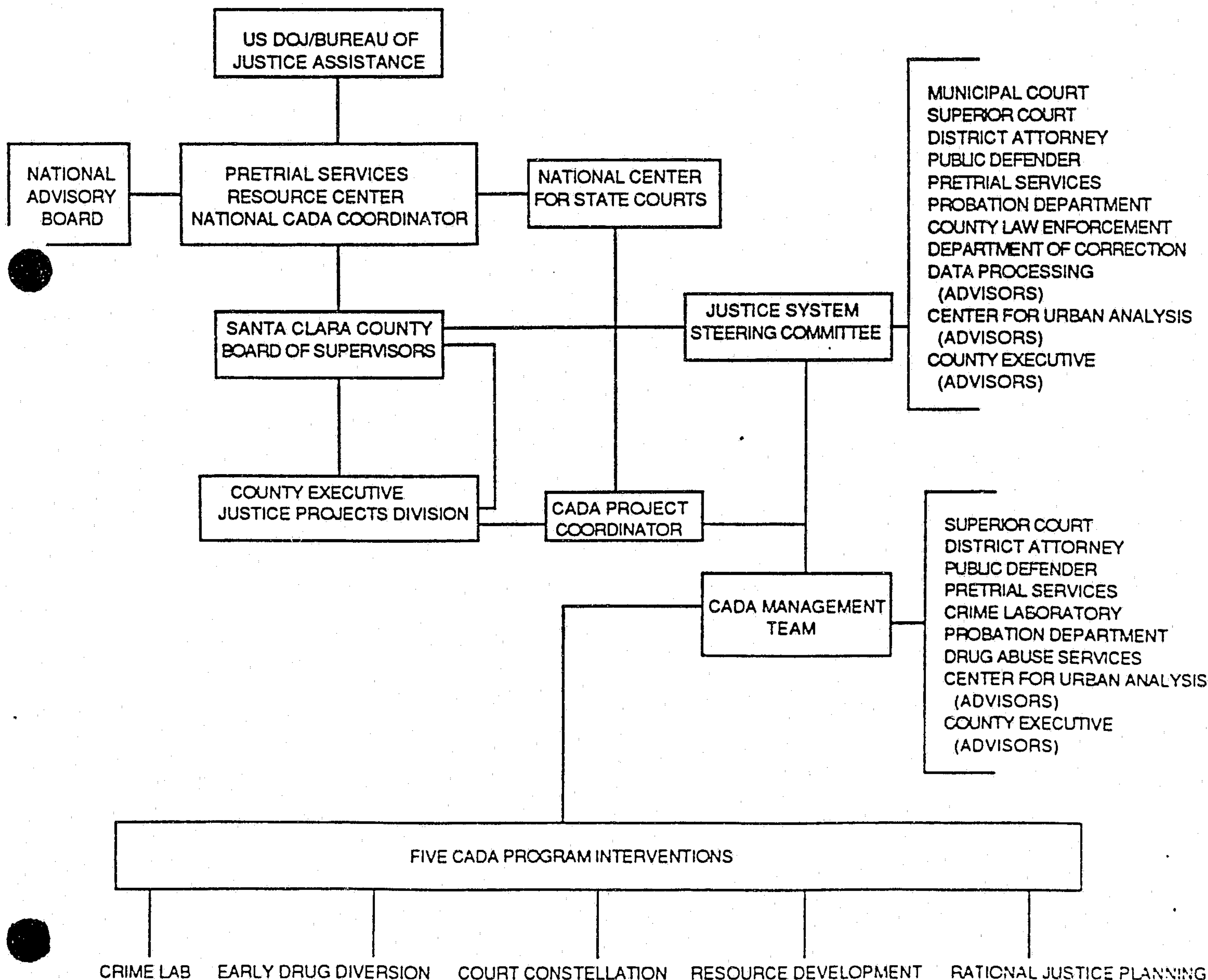


Exhibit 1.

SANTA CLARA COUNTY ORGANIZATION MODEL FOR THE COMPREHENSIVE ADJUDICATION OF DRUG ARRESTEES (CADA) PROGRAM



COMPREHENSIVE ADJUDICATION OF DRUG ARRESTEES (CADA)

YEAR END PROJECT ACTIVITY REPORT

Period Covered in Report - July 1988 through December 1989.

Jurisdicition : Santa Clara County (San Jose) California

I. OBJECTIVES OF THE CADA PROJECT

A. Introduction:

Once County Officials were made aware that CADA grants were available, several planning meetings were held with representatives from the key agencies including the County Executive's Office, Pretrial Services, Public Defender's office, Probation Department, Bureau of Drug Abuse Services, District Attorney's office, Superior Court and the Crime Lab. These meetings centered on discussing the project's implementation and determining the needs of the County in relation to its drug caseload problem.

Five interventions with specific objectives were identified as a result of these meetings. They were designed to increase the coordination among criminal justice agencies, improve the processing of felony drug cases through a more efficient allocation of criminal justice resources, and develop a coordinated system wide approach to the adjudication of felony drug cases in the County.

The Comprehensive Adjudication of Drug Arrestees Program began operations on July 1st, 1988, pursuant to a grant awarded by the Bureau of Justice Assistance (BJA) and administered by the Pretrial Services Resource Center (PSRC).

Exhibit 1 illustrates the organization of the Santa Clara County CADA program. The County Board of Supervisors has the ultimate responsibility of all operations of the County government. The Justice

ATTACHMENTS:

A. Memorandum : New Crime Lab CJIC Screen
B. Protocol for the Pilot 849 and Drug Diversion Procedure
C. Protocol for Contacting Defendants: Warrant Diversion Program
D. Project Crackdown Task Force Report
E. Public Defender: Law Clerk Documents
F. Preliminary Findings: Drug Use Forecasting (DUF) Project
G. Comprehensive Offender Drug Use Programming (CODAP) Proposal
H. Treatment Resource Guide
I. Office of Criminal Justice Services
J. Drug Arrests and Dispositions in Santa Clara County

COMPREHENSIVE ADJUDICATION OF DRUG ARRESTEES

YEAR-END REPORT

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B. GOALS AND OBJECTIVES 2

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C. SPECIALIZED COURT CONSTELLATION 7
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IV. SUGGESTIONS FOR OTHER JURISDICTIONS CONTEMPLATING THE USE OF THE CADA PROGRAM 13

COMPREHENSIVE ADJUDICATION OF DRUG ARRESTEES (CADA) PROJECT

1988 - 1990

Submitted by

Office of the County Executive, Justice Services Division

Nancy Fowler, Director, Justice Services Division

Prepared by

Nicole Headley-Edwards

Deborah A. Ryan

CADA Project Coordinators

Deborah A. Ryan	July 1988 - October 1989
Nicole Headley-Edwards	October 1989 - January 1990

Fiscal Analyst

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Richard Beard	District Attorney's Office
Nancy Brewer	Public Defender's Office
Jean Pennypacker	Superior Court
Jay Mark	District Attorney Crime Lab
Benny Del Re	District Attorney Crime Lab
John Cavelli	Probation Department
Jim Grubbs	Probation Department
Robert Garner	Bureau of Drug Abuse Services
Trudy Kilian	Bureau of Drug Abuse Services
Robert Cushman	Center for Urban Analysis

Justice System Steering Committee (JSSC)

Judge Herlihy (Chairperson)

YEAR END REPORT

COMPREHENSIVE ADJUDICATION OF DRUG ARRESTEES

(CADA) PROGRAM

COUNTY OF SANTA CLARA

JANUARY 1990

L O S   A N G E L E S   S[illegible]R I O R   C O U R T

C R I M I N A L   D E F E N D A N T   S U R V E Y   C O M P A R I S O N

	JUN 28 1985	JUL 31 1989	AUG 31 1989	SEP 29 1989	OCT 31 1989	NOV 30 1989	DEC 29 1989	JAN 29 1990	FEB 28 1990	MAR 30 1990	APR 30 1990	MAY 31 1990	JUN 29 1990	JUL 31 1990
SUMMARY														
TOTAL PENDING DEFENDANTS	13287	11458	12443	11503	12145	12120	12514	12370	12150	12480	12464	12562	12436	11898
TOTAL JAIL POPULATION (MONTHLY AVERAGE DAILY INMATE POPULATION)	17172	22156	22356	22370	22278	21809	20748	21119	22099	22460	21563	21869	21703	21582
PENDING CUSTODY DEFENDANTS	6236 (36%)*	6224 (28%)	6744 (30%)	6505 (29%)	6567 (29%)	6719 (31%)	6669 (32%)	6600 (31%)	6554 (30%)	6719 (30%)	6612 (31%)	6605 (30%)	6542 (30%)	6174 (29%)
L A COUNTY SHERIFF'S DEPT PENDING POPULATION WITH FUTURE SUPERIOR COURT DATE	6113	7059	7279	7213	7376	7217	7153	7029	7315	7029	7208	7079	6944	7431
PRE-CONVICTION														
TOTAL PRE-CONVICTION	7508	6910	7289	7045	7161	7264	7460	7340	7398	7395	7451	7394	7232	6957
CUSTODY PRE-CONVICTION	3580 (21%)	3907 (18%)	4322 (19%)	4235 (19%)	4227 (19%)	4344 (20%)	4368 (21%)	4255 (20%)	4298 (19%)	4314 (19%)	4319 (20%)	4264 (19%)	4245 (20%)	4049 (18%)
AGE FROM FILING 0 TO 60 DAYS (% OF TOTAL PRE-CONV.)	47%	52%	54%	54%	51%	55%	55%	54%	55%	60%	58%	56%	57%	54%
OVER 60 DAYS	53%	48%	46%	46%	49%	45%	45%	46%	45%	40%	42%	44%	43%	46%
POST-CONVICTION														
TOTAL POST-CONVICTION	5615	4548	5154	4458	4984	4856	5054	5030	4752	4994	5013	5168	5204	4941
CUSTODY POST-CONVICTION	2656 (15%)	2317 (10%)	2422 (11%)	2270 (10%)	2340 (10%)	2375 (11%)	2301 (11%)	2345 (11%)	2256 (10%)	2340 (10%)	2292 (11%)	2341 (11%)	2297 (11%)	2125 (10%)
TOTAL PENDING P & S	3568	1980	1989	1784	1822	1786	1936	1975	1804	1917	1944	1857	1994	1786
CUSTODY PENDING P & S	1865 (11%)	1132 (5%)	1155 (5%)	1001 (4%)	1030 (5%)	1049 (5%)	1017 (5%)	1075 (5%)	980 (4%)	1018 (4%)	1047 (5%)	972 (4%)	1003 (5%)	910 (4%)
TOTAL PENDING VIOLATIONS	2047	2568	3165	2674	3162	3070	3118	3055	2948	3077	3069	3311	3210	3155
CUSTODY PENDING VIOLATIONS	791 (5%)	1185 (5%)	1267 (6%)	1269 (6%)	1310 (6%)	1326 (6%)	1284 (6%)	1270 (6%)	1276 (6%)	1322 (6%)	1246 (6%)	1369 (6%)	1294 (6%)	1215 (6%)

* (%) represents percentage of total jail population

Compil: LASC Criminal Court Services September 17, 1990

LOS ANGELES SUPERIOR COURT

CRIMINAL DEFENDANT SURVEY COMPARISON

	JUN 28 1985	JUL 29 1988	AUG 31 1988	SEP 30 1988	OCT 31 1988	NOV 30 1988	DEC 29 1988	JAN 31 1989	FEB 28 1989	MAR 31 1989	APR 30 1989	MAY 31 1989	JUN 30 1989	JUL 31 1989
SUMMARY														
TOTAL PENDING DEFENDANTS	13287	11749	12081	11967	11738	11538	11071	11248	11533	11606	12305	12240	11539	11458
TOTAL JAIL POPULATION (MONTHLY AVERAGE DAILY INMATE POPULATION)	17172	21034	21284	21197	21726	21791	21046	21185	22159	NOT AVAIL	NOT AVAIL	NOT AVAIL	NOT AVAIL	NOT AVAIL
PENDING CUSTODY DEFENDANTS	6236 (36%)*	6032 (29%)	6230 (29%)	6171 (29%)	6007 (28%)	6092 (28%)	5625 (27%)	5936 (28%)	6068 (27%)	5970	6166	6293	6037	6224
L A COUNTY SHERIFF'S DEPT PENDING POPULATION WITH FUTURE SUPERIOR COURT DATE	6113	6112	6124	6235	6269	6508	6207	6368	6905	7064	6965	6879	6922	7059
PRE-CONVICTION														
TOTAL PRE-CONVICTION	7508	7211	7321	7274	7153	7206	6827	6667	6861	6967	7049	7171	6669	6910
CUSTODY PRE-CONVICTION	3580 (21%)	3696 (18%)	3860 (18%	3866 (18%)	3821 (18%)	3955 (18%)	3657 (17%)	3596 (17%)	3758 (17%)	3781	3924	3962	3709	3907
AGE FROM FILING 0 TO 60 DAYS (% OF TOTAL PRE-CONV.)	47%	48%	47%	48%	49%	49%	50%	48%	48%	56%	54%	53%	54%	52%
OVER 60 DAYS	53%	52%	53%	52%	51%	51%	50%	52%	52%	44%	46%	47%	46%	48%
POST-CONVICTION														
TOTAL POST-CONVICTION	5615	4538	4760	4693	4585	4332	4244	4581	4682	4639	5256	5069	4870	4548
CUSTODY POST-CONVICTION	2656 (15%)	2336 (11%)	2370 (11%)	2305 (11%)	2186 (11%)	2137 (10%)	1968 (9%)	2340 (11%)	2310 (10%)	2189	2242	2331	2328	2317
TOTAL PENDING P & S	3568	2157	2188	2125	2039	2104	1875	2083	1926	1925	1984	2052	1950	1980
CUSTODY PENDING P & S	1865 (11%)	1200 (6%)	1257 (6%)	1253 (6%)	1196 (6%)	1217 (6%)	1059 (5%)	1188 (6%)	1121 (5%)	1095	1103	1146	1066	1132
TOTAL PENDING VIOLATIONS	2047	2381	2572	2568	2546	2228	2369	2498	2686	2714	3272	3017	2920	2568
CUSTODY PENDING VIOLATIONS	791 (5%)	1136 (5%)	1113 (5%)	1052 (5%)	990 (5%)	920 (4%)	909 (4%)	1152 (5%)	1189 (5%)	1094	1139	1185	1262	1185

* (%) represents percentage of total jail population

Compil[illegible] 'ASC Criminal Court Services August 30, 1989

("August 1990 Delay Reduction Consortium Survey: Trial Court Delay Reduction — What Works")

KEEPING DELAY REDUCTION

Humboldt County Superior Court is very pleased "that delay reduction has gone beyond the pilot project stage and is now an accepted fact of caseload management," the court wrote. "Delay reduction and, more importantly, judicial management of a court's caseload, is a long-overdue facet of the California judicial system."

Judge Brown concedes that the program "presents a burden, to a certain extent. It's a lot more work, individually shepherding cases." But he also does not hesitate to say, "It's worth it in its benefits to litigants."

UPDATE

Delay Reduction

TIME STANDARDS TAKE EFFECT

Statewide case-processing time standards for municipal and justice courts, as adopted by the Judicial Council of California in December 1989, took effect January 1.

The standards, contained in section 2.3 of the Standards of Judicial Administration Recommended by the Judicial Council, are part of the council's continuing effort to reduce trial court delay in California and are intended "to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts."

A number of municipal and justice courts have instituted or are now developing local rules and programs to reduce unnecessary delay in their courts.

In adopting the specific time periods, the council considered the following: a year-long study on the current pace of litigation in California's lower courts; existing delay reduction programs and standards in municipal courts; and comments on proposed standards from the trial courts, bar associations, prosecutors, defense attorneys, and others interested in court administration.

The standards were adopted in the five case categories of general civil, small claims, unlawful detainer, misdemeanor, and felony preliminary examinations.

CASE TYPE	STANDARD
Felony preliminary examinations (excluding death penalty cases)	90% disposed in 30 days 98% disposed in 45 days 100% disposed in 90 days
Misdemeanor cases	90% disposed in 30 days 98% disposed in 90 days 100% disposed in 120 days
General civil cases	90% disposed in 12 months 98% disposed in 18 months 100% disposed in 24 months
Small claims defendants	30 days (in county) 60 days (outside county)
Unlawful detainer	90% disposed in 30 days 100% disposed in 45 days

APPELLATE COURTS

Unique conference convened

Following a two-year effort to reduce litigation cost and delay, the Court of Appeal, First Appellate District (San Francisco), sponsored a conference on appellate delay reduction for all involved in the preparation of appellate records at the trial and appellate levels. More than 100 participants from the district's 12 counties attended, including appeals supervising judges, executive officers and clerks, members of the Certified Shorthand Reporters Board and court shorthand reporters, and appellate lawyers.

The conference used a common sense approach to critique rules and procedures adopted to reduce delay in records preparation.

The mission of the conference in September—the first of its kind—was "to invite personnel from trial courts to critique the rules and procedures [affecting them] that we have adopted to reduce delay," explains Justice Carl West Anderson, Presiding Justice of Division Four and Administrative Presiding Justice of the First Appellate District. Results are being assembled, says Justice Anderson, who expressed hope that they would lead to a reasonable list of duties of an appeals supervising judge in monitoring records preparation.