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THE IMPACT OF DETERMINATE SENTENCING LAWS ON DELAY, TRIAL RATES, AND PLEA RATES IN SEVEN STATES

October 2000

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Abstract
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I. INTRODUCTION

Under determinate sentencing, when the defendant is sentenced to prison, the judge sets a specific term, and there is no discretionary release by a parole board (Tonry, 1987 and 1988; Reitz and Reitz, 1993). Its antithesis is indeterminate sentencing, under which the judge imposes a sentence that is a broad range of prison time, and the parole board decides when to release the inmate within the range or even earlier than the minimum. With determinate sentencing, one can estimate the actual term to be served by taking the sentence length set by the judge and subtracting credits expected for pre-trial detention and for good time in prison.

Determinate sentencing is one of the most important sentencing innovations in recent decades, and the American Bar Association Sentencing Standards in 1993 adopted it, after supporting indeterminate sentencing for many decades (Reitz and Reitz, 1993). Its major rationale is the belief that imprisonment does not effectively rehabilitate inmates and that parole board decisions are often arbitrary and not based on the supposed rehabilitation of the prisoner (e.g., von Hirsch and Hanrahan, 1981; Casper, 1984; Griswold and Wiatrowski, 1983). Those advancing determinate sentencing emphasize other goals for imprisonment, primarily deterrence, incapacitation, and "just deserts" punishment.

Between 1976 and 1984 determinate sentencing laws were adopted in ten states, California, Colorado, Connecticut,

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Illinois, Indiana, Maine, Minnesota, New Mexico, North Carolina, and Washington (Marvell and Moody, 1996a; Tonry, 1988; see Bureau of Justice Assistance, 1998). Then no additional states adopted determinate sentencing for more than a decade, until Virginia did for crimes committed after January 1, 1995. In these states, judges sentence defendants to a specific term, rather than a range of years. Also, all eleven states abolished parole, and all provide for term reduction through good time and other factors. The possible reductions usually vary from approximately one-third to one-half of the sentence (von Hirsch and Hanrahan, 1981).

Determinate sentencing laws in seven of the eleven states narrow the judges' discretion by establishing presumptive ranges, which judges must honor, except that they can depart if they give reasons in writing (Marvell and Moody, 1996a; Tonry, 1987). These laws are found in California, Indiana, Minnesota, New Mexico, North Carolina, Virginia, and Washington. The remaining four determinate sentencing states permit judges to sentence within a fairly wide range, although only in Maine is the range as broad as it was under indeterminate sentencing. Because determinate sentencing laws, except in Maine, establish minimum prison sentences for major felony convictions, they are mandatory minimum sentencing laws, although not as strict as the typical narrow mandatory sentencing law (e.g., for committing a felony with a firearm) in that they allow judges to depart from the minimum if reasons are put in writing and if the appellate court does not object to the reasoning.

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The impacts on court delay and the number of trials held have long been major concerns for those studying sentencing. They are more important with respect to determinate sentencing laws then other sentencing changes; the determinate sentencing laws affect sentencing in all felony cases, whereas other sentencing reforms (except for sentencing guidelines) affect sentencing in few cases. For example, three strikes laws and mandatory minimums for violent crimes or gun crimes pertain to only a small portion of prosecutions, and even in these they seldom have much impact because the judges and attorneys circumvent the laws and because the defendants would usually receive a substantial sentence in any event, at least as great as required by the law (e.g., Tonry, 1992). Because their application is a fairly rare event, these other sentencing reforms can have little impact on overall trial rates and court delay.

Expected Impacts of the Laws on Guilty Pleas and Delay

There exists considerable theory and a moderate amount of research concerning the impact of determinate sentencing on decisions to go to trial or to plea guilty, and a lesser amount of theory and research concerning court delay. The theory most commonly advanced with respect to plea bargaining, derived from general bargaining theory, is that agreement is easier when the parties have more information about what the consequences are of a proposed agreement. If the agreement leaves the ultimate results uncertain, parties are reluctant to give up rights and other

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bargaining assets they presently have. Determinate sentencing increases certainty because 1) the judge's discretion is severely limited in most determinate sentencing states, and 2) the substitution of good time credits for parole greatly increases the ability to forecast the actual prison term (e.g., McCoy, 1984; Tonry, 1987:165-166). This theory applies whether plea bargaining is predominantly sentence bargaining or charge bargaining. With sentence bargaining (where the prosecution and defendant agree to a sentence and present the agreement to the court) the length of prison term is more predictable under determinate sentencing because release is not established by the parole board. With charge bargaining (where the defendant pleads to some charges and the prosecution drops other charges, often charges in other indictments) the presumptive sentence and actual prison term are narrowly prescribed.

A second theory why determinate sentencing might facilitate pleas is based on the fact that, due to the restrictions on the judges' discretion, determinate sentencing can increases prosecutors' power. That is, the charge agreed to largely determines the sentence, and the prosecutor determines the charge. Meithe (1987) reasoned that determinate sentencing would increase pleas if prosecutors used their discretionary power to reduce charges to entice defendants to plead.

On the other hand, there are arguments why determinate sentencing might reduce pleas. First, with indeterminate sentencing the upper end of the sentence range is often very high

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and might frighten defendants into pleading guilty so they would not run the risk of very long terms; determinate sentencing limits this fear (Tonry, 1987:165-66). Second, the prison term called for under determinate sentencing is often relatively short, such that prosecutors have little room to offer incentives for bargaining and defendants might believe that they have little to lose by going to trial (Clarke, 1983; Alschuler, 1978). Third, Meithe (1987) argues that when the determinate sentencing law gives the judge little discretion, the likelihood of sentence bargaining is reduced; unless this is counterbalanced by an increase in charge bargaining, the overall level of plea bargaining will decline.

The impact of determinate sentencing on court delay is more speculative. The determinate sentencing procedures are often more complex than the procedures they replaced, and some argue that this can delay disposition (e.g., Clarke, 1993:4). If determinate sentencing leads to more pleas and fewer trials, judge time and other court resources should be freed to reduce backlogs. However, most research has found that more pleas do not necessarily translate into less delay (e.g., Bureau of Justice Statistics, 1984; Marvell, Luskin, and Moody, 1988), perhaps because courts generally assign enough resources to criminal cases (and away from civil cases) to keep backlogs under control. Finally, the added certainty provided by determinate sentencing facilitates plea bargaining and is likely to induce defendants to

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accept agreements more quickly, thus producing pleas well before trials are scheduled.

In this respect it would be helpful to obtain the opinions of judges and lawyers concerning their perceptions of the impact of the laws. Since all but one of the laws were passed at least 15 years ago, however, too much time has lapsed to get reliable accounts. The exception is Virginia, where the law went into effect in 1995. Thus, we interviewed a small sample of knowledgeable participants (four judges, five defense attorneys, eight prosecutors, and three court administrative personnel). Almost all said that they noticed little impact on delay. An exception is that two persons said that minor cases tended to be decided sooner: when the sentencing law did not call for prison sentences, defendants desired to finish their cases quickly, which would not have happened under the old sentencing laws because the defendants were not sure that they would escape prison sentences.

The respondents also could discern little impact on guilty plea rate. Most noted that the new law makes plea negotiations easier because it provides a convenient beginning point for negotiations, and it helps defense attorneys explain to their clients what to expect. But that was not seen as a factor that produced more pleas.

The biggest impact seen was on jury trials, due to the fact that, unlike almost all other states, Virginia has jury sentencing. That is, if there is a jury trial, the jury, rather than the judge, determines the sentence. Until 2000 Virginia law

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did not permit the judge or counsel to tell the jury about the determinate sentence law, and lawyers and defendants believed that jurors still sentenced as if they were governed by indeterminate sentencing. That is, jurors tended to give sentences under the misapprehension that the defendant would be let out on parole well before the end of the term. Therefore, the determinate sentencing law caused defendants to be wary of jury trials, opting for judge trials.

Another factor discouraging jury trials is that soon after the determinate law, a statute permitted jurors to view the defendant's criminal record during the sentencing phase (but of course not before the verdict). Therefore, defendants with many prior convictions become less likely to request jury trials.

Research on the Impact of the Laws

Many studies have evaluated determinate sentencing laws (see the summaries in Cohen and Tonry [1983] and Marvell and Moody [1996a]), but most did not addressed the impact on court delay or trial and guilty plea rates. Apparently there has been only one study of delay in this regard. Clarke (1983) studied twelve North Carolina courts in the two years before the determinate sentencing law went into effect and two years afterwards. He found that the time to decision declined moderately between the two periods, which he cautiously attributed to the determinate sentencing law.

More research has addressed the impact on plea bargaining and trials. In his North Carolina study Clarke (1983) found that

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plea rates did not change appreciably between the two years before and two years after the law. In Minnesota, Meithe (1987) found that the plea rate went from .76 in a year before the law, to .65 in a year soon after the law, to .75 in a year starting two years after the law; these results could be interpreted either as a slight lessening of plea rates or as evidence of little change.

The rest of the research on this topic concerns the California determinate sentencing law. Casper, Brereton, and Neal (1982, 1983) studied three California courts during the 3.5 years before the law and 1.5 years afterwards, and they found that plea bargaining rates changed little. This finding is contrary to the opinions of lawyers and judges interviewed, who believed that the plea rate would increase under determinate sentencing.

Utz also found that the California law had little or no impact on plea rates, based on a study of trends in five courts from two years before the law to the year after (as reported in Cohen and Tonry, 1983). On the other hand, McCoy (1984) concluded that the California law facilitated plea bargaining because the state-wide guilty plea rate for four years after the law was greater than the rate during the two years prior. This interpretation, however, is uncertain because the plea rate grew throughout the period studied, and the before-and-after change may result only from a secular trend.

Thus, the studies suggest that determinate sentencing has little impact on plea rates and that it reduces delay. The evidence, however, is not strong. There is only one study of

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delay. The studies of guilty pleas encompass only three states, and their results are not consistent. More important, the before-and-after research designs used are weak. Three reviews of this literature (Cohen and Tonry, 1983:442-444; Marvell and Moody, 1996a; Tonry, 1988:272-275) severely criticize the research designs, mainly because the short time spans mean that apparent changes might be only parts of long-term trends, because the before or after periods might be idiosyncratic for reasons unrelated to the determinate sentencing laws, and because the full impact of the law might not become clear until much later as the participants become accustomed to the new system.

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II. MULTIPLE TIME SERIES RESEARCH DESIGN

The present research estimates the impact of determinate sentencing laws in seven states on court delay and plea rates by using the multiple time series design, which is a much stronger design than used in the earlier research. The data are court-level statistics obtained from state court annual reports. The seven states are California, Connecticut, Illinois, New Mexico, North Carolina, Virginia, and Washington. These states have available state court data for at least two years before the determinate sentencing law went into effect and four years afterwards. (Four determinate sentencing states, Colorado, Indiana, Maine and Minnesota, do not have data fitting this criteria and, thus, are not included in this study.) The delay analysis uses six states, since Washington do not have delay data. The trial rate analysis uses also six states; New Mexico does not have data on the number of trials.

Each state has from 18 to 25 years of data (see Table 1), and the multiple time series design pools these data. These states have a total of 192 courts with data, 179 with trial data and 154 with delay data. The data sets have approximately 3500 observations for the trial rate analysis and 3000 for the delay analysis.

The multiple time series has long been considered the best evaluation design when, as is the case here, random experiments are not possible (e.g., Lempert, 1966:120-131; Campbell and

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Stanley, 1967:55-57; Cook and Campbell, 1979:214-225; Berk, et al., 1979). The design is now widely used in criminology (e.g., Lott and Mustard, 1997; Marvell and Moody, 1996b). Among other advantages, the design 1) provides a large sample size, 2) provides control groups because the other courts act as controls when analyzing the impact of the law on each individual court, and 3) permits one to enter a large number of control variables.

The unit of analysis is the court, which depending on the state. is organized at the county level or the multi-county district level. In California the court units the same as the county. In Connecticut the unit is also the county, except that one county is divided into several units. In Washington, they are mainly county, but a few counties are joined to combined a unit. In Illinois, New Mexico, North Carolina, and Virginia the units are usually multi-county, and only counties with sizeable cities have their own court unit. A problem encountered is that several states split court units during the period of this study. In Connecticut Stamford split off from Bridgeport, in Illinois District 12 split off from District 21. In North Carolina 3rd, 4th, 6th, 7th, 8th, 9th, 11th, 15th, 16th, 17th, 19th, 20th, 25th, 27th and 30th Districts split. In Washington, Mason and Thurston Counties were combined in one district and split in 1987, and Chelan and Douglas were combined in one district and split in 1999. In these circumstances, data were joined after the split, such that the series for each state is the same as if there were no splits.

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The courts are those that handle felony cases, and the cases studied here are almost all felony cases (in some states, a few misdemeanors, such as appeals from the limited jurisdiction trial court, are included). Dependent variables in the regressions are delay, trials and guilty pleas for each year in each court. The most important independent variables are dummy variables for the determinate sentencing laws. (That is, the design here is a multiple interrupted time series design, but with far more controls than available with a single interrupted time series.) The standard regression procedure for a multiple time series is the fixed effects model (Mundlak, 1978; Pindyck and Rubinfeld, 1991:224-226; Hsiao, 1986:41-58); this has dummy variables for each unit and each year (except the first). The unit dummies mean that cross-section variance does not enter the results, thus the specification problems that hinder cross-section analyses are not encountered. The year dummies control for changes that occur over the courts in all seven states generally (this control is somewhat inexact because data for three states is on a fiscal year basis, as seen in Table 1). They control for variables not entered in the analysis to the extent that such variables raise or lower the dependent variable mean over the courts for any year. This has the practical effect of making all other courts, especially those in other states, control courts for the purpose of studying the impact of determinate sentencing laws on any one court. The year dummies, however, do not control for year-to-year changes in a state that differ from general changes

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in the seven states. Additional controls, therefore, include separate trend variables for each state, as described later.

The use of year dummies and trend variables are especially important because there are broad state-wide and nation-wide trends in both trial rates and delay. In general, trial rates are declining and delay is increasing. The coefficient on the law variable, in the absence of the controls for trends, would be spurious in a negative direction in the trial rate regressions and in a positive direction in the delay regressions.

The regressions were conducted in levels, rather than differences, for two reasons. First, with the fixed effect model, using levels is the proper procedure even if variables are not stationary (Phillips and Moon, 1999). Second, modeling the laws with dummy variables is very imprecise when dependent variables are differenced. The law variables also must be differences (otherwise, the law dummy coefficients represent expediential impacts, which do not have any reasonable interpretation in the present situation), but the variable would greatly understate impact of the law unless its full impact occurs felt immediately.

The continuous variables are expressed as natural logs to moderate the impact of outliers and of the largest court units. Heteroscedasticity is likely because variation in ratio variables is greater in smaller courts, and it is corrected by using weighted regressions, with the weight determined by Breusch-Pagan test (population to the .2 power for the delay analysis, and to the .4 power for the trial and plea analyses). We also tested for

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multicollinearity and found no problems with the key variable, the law dummies. The fixed effects and state trends did encounter collinearity problems, but that has no impact on the results.

Autocorrelation is encountered in all regressions, as indicated by the Durbin-Watson statistics given in the regressions tables (Tables 4 to 20). The Durbin-Watsons are generally 1.3 or less, and as a rule of thumb figures below approximately 1.8 suggest autocorrelation problems. The presence of autocorrelaton means that the t ratios are probably inflated, such that results that appear to be statistically significant might not be. We mitigate autocorrelaton problems by adding lagged dependent variables, although this causes the loss of one year of data in the before-law period. The lagged dependent variable also provides an extra control, because it incorporate factors that affect the dependent variable, although only the lagged component of the impact of such factors. In practice, entering the lagged dependent variable reduces the apparent impact of the determinate sentencing laws in the regressions, both in terms of coefficient size and significance levels. It is not possible to claim, however, that these results are more accurate than with out the lagged dependent variables because they might be due to losing the first year of data, and thus cutting the before-law data period to two or three years in some states (see Table 1)

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III. VARIABLES AND DATA

The continuous variables are from state court annual reports published by state court administrative offices, supplemented in a few states by unpublished statistical reports. These data are often used in research, but they suffer from the fact that the researcher is limited to the data categories specified by the courts. Data from court annual reports are probably more accurate than data that researchers obtain from case files; the court staff who compile data are knowledgeable about court operations and have a long-term stake in the accuracy of the data. The data elements and the states studied are described more thoroughly later.

Determinate Sentencing Laws

The effective dates of the determinate sentencing laws are given in Table 1. We constructed two variables to represent the laws, used in separate regressions. The first is a step dummy. Each determinate sentencing variable is scored zero in the years before its effective date, and one in the years afterwards. For the year the law went into effect, the variable is the portion of the year (or fiscal year if the data are collected on a fiscal year basis) in which the law was in effect, less one-third. The latter adjustment is necessary because determinate sentencing and eliminating parole are applicable only to crimes committed on or after the effective date of the law, and because the median time

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from arrest to sentencing is approximately four months (Solari, 1992). Most laws went into effect at mid-year, and the variable is .17 for that year in states with calendar year data and .67 for the next year in states with fiscal year data.

After this adjustment, the shortest number of years before the law for the delay analysis is three years (California and Connecticut) and the first year of the step dummy is .67. Only in the fifth year does the dummy reach one. The shortest number of years for the trial rate analysis is essentially three. In Washington, there are two years of data, and the step dummy is only .17 in the third year; so for all practical matters there are data for three years beforehand.

The period after the law is at least ten years for all states except Virginia, where the law went into effect at the beginning of 1995 and data runs through 1999. Thus, the step dummy is scored .67 for 1995 and one for the next four years.

Using the step dummy assumes that the law has an immediate impact, and the impact stays constant after the first year. If the law has an impact, the impact pattern departs from this model, as a practical matter, the coefficient on the step dummy represents much of the impact as long as the step model is not too far from reality. Otherwise, use of the step dummy can miss impacts.

Therefore, we use a second procedure for representing the laws, assuming that any impact of the laws occurs gradually. This is a distributed lag variable, which posits that the impact is

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small initially and reaches its full extent only after six years. To make the distributed lag variable, we create lags of the step dummies, add them, and divide by the number used. Here we add the current-year step dummy and five lagged versions, and divide the totals by six. The variable, therefore, is one after six years and is a regularly increasing decimal for years one to six.

We constructed variables 1) for each state law and 2) for all laws combined. First, all court units within a state have the same variable, and it is scored zero for all observations in court units in other states. The second is a single dummy variable that encompasses all the laws, which is zero only in states and years that do not have a determinate sentencing law. The coefficient on the single variable might be seen as a rough average of the impacts of the several state laws. But it has two problems. First, it might be dominated by states that have more court units, simply because observations in these states comprise a an excessively large portion of the total number of observations. Second, it hides the differences between states, and if the differences are sizeable (that is, if the regression violates the assumption of constant coefficients due to the fact that determinate sentencing laws have different impact in different states) then the coefficient on the single aggregate variable can be biased. Therefore, we present the results with both the aggregate variable and with separate determinate sentencing law variables in each state. The latter variables, again, are zero everywhere except in the state in question, where they are the

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same as the aggregate variable. In other words, aggregate determinate sentencing law variable is the sum of the several state determinate sentencing law variables.

Court Data - General Considerations

The criminal cases statistics used are for felonies and are counted after being bound over to the general jurisdiction court after a preliminary hearing or indictment in grand jury indictment. Often cases originally filed as felonies are downgraded to misdemeanor charges. Whether these cases are counted depends on where the change is made. If made in the limited jurisdiction court, before the case is bound over, the cases is not included in the statistics (this is generally the case in California). If the change is made later, the cases are included in the felony case data. In Illinois there is no limited jurisdiction court, and felony filings are the number of original felony complaints less those that are transferred to the misdemeanor dockets.

The unit of count differs between states. In California, New Mexico, and Washington it is the defendant. Thus if a felony complaint lists two defendants it is counted as two cases, and if two defendants are tried in the same trial, it is counted as two trials. In Connecticut and North Carolina the unit of count is the case, and there would be only one filing and one trial in the above examples. In Illinois the count is the case for filing, disposed, and pending data, but it is the defendant for trial

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data. In Virginia the unit is the "count," which is each charge brought against each defendant. When a defendant, for example, is charged with two similar burglaries or with rape and murder in a single crime, there are two counts and thus, two cases. State-wide the number of felony counts filed is approximately twice the number of defendants charged, although this ratio differs substantially from circuit to circuit. In effect, the case statistics are affected by prosecutors' charging practices.

The differences between states in case-counting practices do not affect the analysis because the fixed effect model controls for overall differences between states (and between court units). There is a problem, however, if practices changes in some states or units, but not in others. In this regard, possible variations in prosecutors' practices could be a problem in Virginia.

Plea and Trial Rates

Measuring the extent of plea bargaining is more difficult than apparent. The most obvious measure, the number of plea dispositions divided by the number of total dispositions, encounters several problems. First, state courts do not often gather data on plea dispositions, and only four of the seven states studied have such data (California, Illinois, North Carolina, and Virginia).

Second, it is probably not correct to categorize dismissals as dispositions that are not the result of plea bargaining. Dismissals are agreed to by both prosecution and

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defense, and they are often part of plea bargains whereby the defendant pleads guilty to one indictment in return for having one or more other indictments dismissed. Thus, one can argue that dismissals should be classified as plea agreements, such that the extent of plea bargaining is the portion of cases that go to trial, the number of trial dispositions divided by the total number of dispositions.

Data for this measure are available for six of the seven states (the exception is New Mexico). Also, for five states there are separate data for jury trials, as opposed to judge trials, which permits analysis of the jury trial rate; this is a better measure of the trial court workload, because jury trials typically are more time-consuming than judge trials. In summary, the basic analysis with six states use the trial rate as a measure of the extent of pleas, and alternate regressions with fewer states uses the guilty plea rate and the non-jury-trial rate.

In addition to these three rates, we construct alternate variables that are the number of pleas, trials, and jury trials. Because these vary greatly according to the size of the court units, we construct per capita variables (dividing by population and multiplying by 10,000). Without this adjustment, the coefficients on the law variables would vary greatly depending on court size, thus violating the regression assumption that coefficients are constant.

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Backlog Variables

The most common indicator of a court's docket is the backlog of cases, the number pending in the court at the end of the year. The absolute size of the backlog is a poor indicator of delay, however, because the threat that backlogs present depends on the court's ability to dispose of cases. Therefore, our initial measure of delay is the backlog index, which is the number pending at the end of the year divided by the number disposed during the year. This measure has been used by, among others, Clark and Merryman (1976); Clark (1981); Church et al. (1978:1-2); DonVito (1972); Marvell and Luskin (1991). Six of the seven states have data for the backlog index, the exception being Washington.

In California instead of using the number of pending cases, which is not available (and not very meaningful since in many counties much of the case processing, including plea bargaining, takes place in the limited jurisdiction courts). Instead we use the number of criminal cases awaiting trial. This is a smaller number than the number pending, and thus the backlog index is smaller in California than in other states, but this does not bias the regression results because the fixed effects model, with the court unit dummies, controls for the overall levels. That is, there are no cross section comparisons. The years for which the backlog index is available are given in Table 1. There are at least two years of data before each law.

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Accurate pending data in courts requires periodic counts of the number of cases filed that have not been disposed. Some courts conduct such counts each year, and some count only periodically and estimate pending cases in intervening years by adding filings to the prior year pending and subtracting the number disposed. These estimates can become inaccurate after several years.

It is helpful when courts publish pending data for the beginning of the year as well as the end of the year. The beginning pending count often includes adjustments (which are seldom large), and thus is a better measure of the number pending at the end of the prior year than is found in the prior year reports. Thus, in New Mexico and North Carolina pending data used here are the beginning pending for the next year (except for years in which there are no data for the next year). In addition, Illinois published beginning pending data, but only for early years such that the above adjustment is not feasible. However, we use the beginning pending figure for 1977 for the end pending in 1976, thus extending the time series back an additional year. Adjustments based on recounts can be determined by comparing beginning pending to prior year ending pending, or by comparing end pending in one year to end pending in the prior year. That is, end pending plus positions less filings should approximately equal end pending in the prior years (if the figures match exactly, it is usually a sign that pending figures were estimated rather than based on actual counts). If recounts of pending cases

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are made infrequently, there can be substantial mismatches, which indicates that the pending data in the years before the counts are inaccurate. When that happens, we delete the pending data. As a rule of thumb, we dropped pending cases for a court if recounts resulted in adjustment of more than 25 percent in the number of pending cases. For this reason we deleted pending cases for District 16 in Illinois, Districts 4 and 12 in New Mexico, and Circuits 1, 3, 4, 10, 11, 14, 17, 18, 29, 21, 25, 28, and 29 in Virginia. In Connecticut pending and disposition data are dropped for Danbury after 1994 due to an extreme jump in inactive pending cases. Also in that state pending data (as well as all other data) before 1981 are score missing data for Ansonia-Milford and Danbury districts because the two began operations in 1979 (with zero beginning pending cases), the first year of data for that state.

In California, the measure of pending cases, those awaiting trial, does not permit use of this consistency check. However, the Administrative Office of the Courts informed us that in several counties data for dispositions and guilty pleas were greatly overstated in early years because guilty pleas in felony cases, which are arranged and accepted in the Municipal Court but formally entered in the Superior Court, were not included in Superior Court statistics, as they should have been according to the Office's guidelines. The counties affected are Alamada, Fresno, Humbolt, Nevada, San Joaquin, and San Luis Obispo. Guilty plea and total disposition data are scored as missing data there.

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In addition, we use alternative measures of delay when available. The major one is simply the number of pending cases per capita, which is a simpler measure than the backlog ratio because it does not incorporate disposition data. One advantage is that it permits us to include the California counties where we deleted the disposition data. Pending cases are divided by population so that its variation does not differ tremendously between large and small courts, as the number pending alone does.

Alternate Measures

As a check on the delay measures described above, and to a lesser extent the trial measures, we use alternate measures where available. These vary greatly between states in number and type. The alternate delay measures are listed in Table 2 for the four states where they are available, and these (as well as pending cases per capita) are compared to the backlog index. Later the alternate delay measures are used in separate analyses to test the fragility of results for regressions which use the backlog index. The multiple time series regression can incorporate different delay measures for the several states because the cross-state differences are controlled for by the court dummy variables.

In Table 2 we compare the delay measures to the backlog index using three methods. The first is the simple correlation (using state-wide data sets), which is always highly significant. However, this can be misleading because delay observations in a particular court unit over the years are not independent.

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Therefore, we regress the alternate measures on the backlog index, adding dummies for each court unit (again using state-wide data sets). These control for unit differences. But it runs the risk that relationships are spurious simply because both measures increased or declined generally over the period studied. Therefore, the third comparison procedure is to conduct the regression with both the court unit dummies and linear trend variables. There are separate trend variables for each court unit.

As can be seen in Table 2, the relationships between the backlog index and the various delay measures differ greatly. The number of pending cases per capita, a measure used in the regressions in tandem with the backlog index, is always related to the latter to a highly statistically significant extent, as indicated by the t-ratios (which, as a rule of thumb, are significant if above 2, and are significant to the .0001 level for any t-ratio above 3.8). All other measures are highly significantly related to backlog ratio, with the exception of two measures in Virginia in the regression with the trend variables. There is no obvious reason for this exception.

Only one state, Virginia, has alternate measures for trial variables. Here the number of juries impaneled and the number of jury days are very closely related to the jury trial rate (Table 3).

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Control Variables

The multiple time series design enables us to enter a large number of control variables and still regain a very large number of degrees of freedom. The court dummies, as discussed earlier, control for unknown factors to the extent that they affect individual courts differently from other courts. The year dummies control for factors that affect delay and plea rates in individual years more than other years across all the courts. The court and year dummies, however, do not control for factors unique to a particular court or to a particular state in a particular year.

This is mitigated by entering state-specific time trend variables, which control for trends in each state to the extent that they depart from general trends captured by year dummies. Each of the trend variables is coded zero for all observations except in the particular state, where it is a simple counter. Without these variables, a determinate sentencing law might appear to have, for example, a moderating impact on delay simply because the secular trend over the period studied is towards less delay than experienced in the other courts (the latter is captured by the year dummies).

We also enter several control variables, factors that may be associated with delay and plea or trial rates. Three are continuous variables. The number of judges on each court in each year is entered because more judges can be expected to reduce delay by handling more cases and more judges might reduce plea rates because it becomes feasible to hold more trials. In

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Connecticut and North Carolina there is no available measure of the number of judges in each court unit because judges are regularly transferred from one district to another; consequently the number of judges for each unit in these states is the number for the state as a whole (again, the fixed effects model means that the judge variable does not operate differently in these two states just because the numbers are higher).

The second variable is the number of criminal filings, entered because caseload increases can temporarily increase backlogs and because large caseloads might put pressure on the lawyers and judges to limit the time required for trials and, thus, to increase plea dispositions.

The third is the number of civil filings, because civil caseloads can drain resources from the criminal side. The civil data is for regular civil, mainly contract and tort cases, and excluding specialized subjects such as juvenile, domestic relations, and probate. An exception is that the New Mexico and Washington civil data include domestic relations cases (mainly divorce) because statistical reports do not separate out domestic relations cases during the early years of the analysis.

We do not include delay measures in the trial rate regression, or trial rate in the delay regression, due to simultaneity. That is, courts are likely to respond to increased delay by reducing trial rates, and increased trial rates are likely to increase delay.

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IV. RESULTS

Impact of Determinate Sentencing Laws on Delay

As indicated in the prior section, the delay analysis (as well as trial and guilty plea analyses) are conducted using four separate options: 1) the delay measure is expressed both as a rate (pending divided by dispositions) and in a per capita form, 2) regressions are run with and without lagged dependent variables, 3) the law is represented by a single aggregate law variable and as separate variables for each state law, and 4) the law is represented as step variables and as distributed lag variables.

This results in sixteen separate regressions for the delay analysis. In Tables 4 and 5 the determinate sentencing law is represented by a step dummy, and in Tables 6 and 7 the laws are expressed as distributed lags. Tables 4 and 6 use single law variables, and Tables 5 and 7 use separate law variables for each state. In all, there is little evidence that the laws affected delay when using the step dummy, although there is more evidence of a positive impact (that is, leading to more delay) than the opposite. When using a single aggregate step dummy (Table 4), the coefficient on the law variable is positive throughout, although only significant when the dependent variable is pending cases per capita and when there is no lagged dependent variable.

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Similarly there is no clear-cut pattern with separate determinate sentencing law step dummies for the six states that have data for the backlog ratio and pending cases. Judging from Part 1 of Table 5, perhaps the California determinate sentencing law might increased delay, but when the lagged dependent variable is entered this effect is greatly reduced. There is also some meager evidence that the New Mexico law caused more delay.

Using a distributed lag instead of a step dummy presents a very different picture. In Table 6, the aggregate law dummy variables are always positive and significant. The results with individual state dummies support give the same impression (Table 7). The California and North Carolina laws have the greatest impact, followed by the New Mexico law. The coefficient on the Connecticut law is also sizeable, and it is significant to the .10 level when pending cases are the dependent variable. There is no sign that the Virginia law affected delay. That is consistent with the findings from the interviews; the impression of most was the law had no discernable impact on delay.

The analysis with individual state law variables is further extended in Table 8 by substituting other delay measures that are available in three states, Connecticut, North Carolina, and Virginia (data for the alternate delay measure in Illinois used in Table 2 was not available before the state's determinate sentencing law went into effect). The alternate delay measures provide partial tests of the robustness of the results in Tables 5

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and 7 with respect to the backlog ratio. By and large the results there are substantiated.

As for Connecticut, the results with a step dummy in Table 8 suggest a slight possibility of a negative impact on delay, which is also the impression one gets from Table 5. With the distributed lag, the coefficients are positive but not significant, which also is consistent with Table 7.

North Carolina, with eight alternate delay measures, produces greatly varying results with the step dummy. This might be due in part to the fact that data for most alternative measures there have data for only a few years before the laws (in Table 8, the years in parentheses are the beginning year when the delay measure started). In Table 5 there is little sign of an impact when using the step dummy. Most measures produce similar results in Table 8; however, there are three significant negative coefficients in the basic (Part 1) regression, but they are not significant when the lagged dependent variable is entered. With the distributed lag, almost all the coefficients are positive, but unlike in Table 7 with a single exception they are not significant.

As for Virginia, the two alterative measures suggest that the state's law had little or no impact on delay. This is the same result as seen in Tables 5 and 7.

The control variables in Tables 4 and 6 are worth a mention (these variables are not shown in Tables 5 and 7 because their coefficients are very similar to those in the regressions in

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Tables 4 and 6). In all regressions civil filing growth is associated with more delay, apparently because larger civil caseloads stretch court resources. The coefficients on the judge variable are always negative, significant in the backlog ratio regressions but not when the number of pending cases is the dependent variable. That more judges reduce delay is no surprise.

The apparent impact of criminal filings varies greatly, but the coefficients are probably misleading in that they do not suggest that filings have a direct impact on delay. In the backlog ratio regressions, the coefficient is significant and negative. A likely explanation is that more filings are related to more dispositions, and dispositions are the denominator of the backlog ratio variable. This produces a spurious negative relationship. When the dependent variable is pending cases, the coefficient on the filing variable is always positive with very large t-ratios. Here, clearly, more filings mean more cases in the pipeline awaiting attention from the court. This does not mean that the court takes longer to decide the cases just because more cases are filed.

Impact of Determinate Sentencing Laws on Trials and Pleas

There is very little evidence that determinate sentencing laws affect overall trial rates (here combining jury and non-jury trials). Table 9 gives some slight indication that the laws, when represented by a step dummy, might increase trial rates. The coefficients are positive throughout, but they are significant

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only in Part 1, where the significance tests are probably biased due to autocorrelation. In Table 10 the individual state law dummies again are mostly positive in the basic regressions, but with the lagged dependent variable there is some suggestion that the California and Illinois laws reduced the number of trials. The same pattern is found in Tables 11 and 12 when the laws are represented by distributed lags.

The picture changes when the dependent variable is jury trials. In Table 13 the step dummy coefficient is negative, significant when the dependent variable is the number of trials, but not significant for trial rates. With the distributed lag, the aggregate coefficients are always negative and significant, with sizeable t-ratios (Table 15). With the step dummy, Virginia has the largest impact (Table 14), and it probably drives the results with the aggregate law variable (Table 13). With the distributed lag, however, the laws also reduce jury trial rates in California, North Carolina, and perhaps Illinois. On the other hand, there is substantial evidence that the laws increase trial rates in Washington.

The impact on Virginia jury trials was substantiated by the two alternate trial measure available in this study. The first measure is the number of jury days during the years (one jury day is a day in which a jury sits; there an be several juries sitting in one day). When this variable is substituted for the jury trial rate in Virginia the coefficients on the Virginia law variable on the step dummy are -.367 (t = 7.211) in the basic regression and

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-.183 (t = 3.984) with a lagged dependent variable. With a distributed lag, the coefficients are -.593 (t = 6.847) and -.351 (t = 4.567), respectively. The second measure is the number of juries impaneled during a year. The corresponding results are -.454 (t = 7.277) and -.282 (4.857) with the step dummy, and -.789 (t = 7.799) and -.484 (5.084) with the distributed lag variable. zzzz (These regressions are the same as those in Tables 14 and 16 except that for Virginia the number of juries impaneled is substituted for the jury trial rate, and for the other states the dependent variable remains the jury trial rate.)

The likely reasons for the strong impact in Virginia, as discussed earlier, have to do with the nearly unique use of jury sentencing in the state. Defendants avoided jury trials after the law because many jurors remember the situation under the earlier indeterminate sentence law when defendants served terms much shorter than stated in the sentence, and counsel were not allowed to tell jurors that under the determinate sentencing law defendants must serve almost the full sentence length. Also, a law passed soon after the determinate sentencing law allowed jurors to see defendant's record during the sentencing phase.

These might not be the complete reasons for the impact of the Virginia law on jury trials, however. The California and North Carolina laws also reduce jury trials, and whatever reasons lay behind these effects might also apply to Virginia.

The final regressions deal with guilty pleas, for which we have data from four states (Tables 17 to 20). Contrary to

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expectations, there is substantial evidence that plea rates declined after the laws. The coefficients are consistently negative. Using the aggregate law variable, both in its step and distributed lag forms, the impact is highly significant in the basic regression, but usually not significant when lagged dependent variables are entered. The overall impression from Tables 18 and 20 is that there is not much difference between the impacts in the four states. This result is the opposite of what one would expect given the decline in jury trials after the laws; that decline, apparently, does not result from a switch to more plea dispositions. The implication is that the total number of dispositions on the merits (as opposed to, for example, dismissals) declines after the determinate sentencing laws. This suggests that further research should be done to determine if the determinate sentencing laws are followed by more dismissals and other non-merit dispositions.

The final topic is the control variables in the trial and plea regressions. The lagged versions of civil filings and judgeships proved to be far more important than the current-year versions, so only the former are entered. Both the current and lagged criminal filing variables are important, at least in the basic regressions.

Civil filing volume generally has a negative impact on the three rate variables (trial rates, jury trial rates, and guilty plea rates). Most civil filing coefficients are also negative when the dependent variable is the number of trials, jury trials,

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or pleas, but seldom significant. Apparently more civil filings in a year forces judges to spend more time on civil proceedings in the next year as the civil cases progress, such that they more likely to put off criminal trials and less likely to pressure the prosecution and defense into complete plea negotiations. In a similar manner more judges lead to more trials, jury and total, but in the next year rather than in the year that the judgeships increase. The reason for the lag is probably that the additional judges push cases through the earlier stages more quickly, and it takes some time for the cases to become ready for trial. Judgeships apparently have little impact on plea volume; there are significance negative coefficients in the basic regression for plea rates, with both the step and distributed lag variables, but these become far from significant when lagged dependent variables are entered.

Criminal filings are negative and highly significant in the trial rate regressions, and positive and highly significant when the dependent variable is the number of trials (Tables 9, 11, 13, and 15). This is true for both total trials and jury trials. The reasons for the contrasting results are probably similar to those for the impact of criminal filings on criminal backlogs. More filings lead to more dispositions, and dispositions are the denominator of the trial rate variable. On the other hand, more dispositions imply more trials unless the trial rate changes dramatically. Criminal filings have an extremely strong impact on the number of guilty pleas (Tables 17 and 19) for a similar

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reason; the bulk of dispositions are pleas. Criminal filings have little impact on guilty plea rates, apparently because their impact on pleas and total dispositions are roughly the same, again because most dispositions are pleas.

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V. CONCLUSION

There is strong evidence that determinate sentencing laws increase court delay. It takes some time for the impact to occur. The impact is slight when the law is represented by a step dummy (zero before the law and one afterwards), but the impact is clear and substantial when using a distributed lag variable (this models a slow increase in the law's impact, leveling off after six years). There is evidence of such impacts in California, Connecticut, New Mexico, and North Carolina, but not in Illinois and Virginia.

The laws are generally followed by declines in jury trial rates, with a much stronger impact found with the distributed lag variable than with the step dummy. The largest immediate impact (that is, with the step dummy) occurred in Virginia. Large gradual impacts (that is, using the distributed lag variable) occurred in California and North Carolina, as well as Virginia. On the other hand, it appears that the law caused jury trials to increase in Washington.

This impact is limited to jury trials. When the dependent variable is all trials, non-jury as well as jury, there is little evidence that the laws increase or reduce trials. The decline in jury trials is not due to a corresponding increase in guilty pleas. The laws are actually associated with fewer guilty pleas, with a stronger impact seen when the distributed lag variable is used.

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REFERENCES

Alschuler, Albert W.

1978 Sentencing reform and prosecutorial power: a critique of recent proposals for "fixed" and "presumptive" sentences. University of Pennsylvania Law Review 126:550-583.

Berk, Richard A., Donnie M. Hoffman, Judith E. Maki, David Roma, and Herbert Wong

1979 Estimation procedures for pooled cross-sectional and time series data. Evaluation Quarterly 3:385-411.

Black, Dan A., and Daniel S. Nagin

1998 Do Right-To-Carry Laws Deter Violent Crime? Journal of Legal Studies 27:209-219

Bureau of Justice Assistance

1998 1996 National Survey of State Sentencing Structures. Washington, D.C.: U.S. Department of Justice.

Bureau of Justice Statistics

1984 The Prevalence of Guilty Pleas. Washington, D.C.: Bureau of Justice Statistics.

Campbell, Donald and James Stanley

1967 Experimental and Quasi-Experimental Designs for Research. Chicago: Rand McNally.

Casper, Jonathan D.

1984 Determinate sentencing and prison crowding in Illinois. Illinois Law Review 1984:231-252.

Casper, Jonathan D., David Brereton, and David Neal

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1982 The Implementation of the California Determinate Sentencing Law. Washington, D.C.: National Institute of Justice.

1983 The California determinate sentencing law. Criminal Law Bulletin 19:405-33.

Church, Thomas, et al.

1978 Pretrial Delay: A Review and Bibliography. Williamsburg, Va.: National Center for State Courts.

Clark, David

1981 Adjudication to Administration: A Statistical Analysis of Federal District Courts in the Twentieth Century. Southern California Law Review 5:65.

Clark, David, and John Merryman

1976 Measuring the Duration of Judicial and Administrative Proceedings. Michigan Law Review 75:89-95.

Clarke, Stevens H.

1983 North Carolina's Determinate Sentencing Legislation: An Evaluation of the First Year's Experience. Chapel Hill, N.C.: Institute of Government, University of North Carolina.

Cohen, Jacqueline and Michael Tonry

1983 Sentencing reforms and their impacts. in Alfred Blumstein, Jacqueline Cohen, Susan Martin, and Michael Tonry (eds.), Research on Sentencing: The Search for Reform, Vol. 2. Washington, D.C.: National Academy Press.

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Cook, Thomas D. and Donald T. Campbell

1979 Quasi-Experimentation: Design and Analysis Issues for Field Settings. Boston, MA: Houghton Mifflin Co.

DonVito, Pasqual A.

1972 An Experiment on the Use of Court Statistics. Judicature 56:56-70.

Griswold, David B. and Michael D. Wiatrowski

1983 The emergence of determinate sentencing, Federal Probation 47(June):28-35.

Hsiao, Cheng

1986 Analysis of Panel Data. Cambridge, Ma.: Cambridge University Press.

Lempert, Richard

1966 Strategies of research design in the legal impact study, the control of plausible rival hypotheses. Law and Society Review 1:111-132.

Lott, John R., and David B. Mustard

1997 Crime, deterrence, and right-to-carry concealed handguns. Journal of Legal Studies 26:1-68.

Marvell, Thomas B.

1995 Sentencing guidelines and prison population growth. The Journal of Criminal Law and Criminology 85:101-115.

Marvell, Thomas B., Mary Lee Luskin, and Carlisle E. Moody

1988 Econometric Analysis of State Court Criminal Case Delay and Trial Rates. Washington, D.C.: National Institute of Justice.

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Marvell, Thomas B., and Mary Lee Luskin

1991 The impact of speedy trial laws in Connecticut and North Carolina. Justice System Journal 14:343-357.

Marvell, Thomas B., and Carlisle E. Moody

1991 Ultimate Impact of Sentencing Reforms and Speedy Trial Laws. Washington, D.C.: National Institute of Justice.

1996a Determinate sentencing and abolishing parole: the long-term impacts on prisons and crime. Criminology 34:107-128.

1996b Specification problems, police levels, and crime rates. Criminology 34:609-646.

McCoy, Candance

1984 Determinate sentencing, plea bargaining, and hydraulic discretion in California. Justice System Journal 9:256-275.

Miethe, Terance D.

1987 Charging and plea bargaining practices under determinate sentencing: An investigation of hydraulic displacement of discretion. The Journal of Criminal Law and Criminology 78:155-176.

Mundlak, Yair

1978 On the pooling of time series and cross section data. Econometrica 46:69-86.

Phillips Peter C.B. and Hyungsik R. Moon

1999 Linear Regression Limit Theory for Non-Stationary Panel Data. Econometrica 67:1057-1113.

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Pindyck, Robert S. and Daniel L. Rubinfeld

1991 Econometric Models and Economic Forecasts. New York: McGraw-Hill.

Reitz, Kevin R. and Curtis R. Retiz

1993 The American Bar Association's new sentencing standards. Federal Sentencing Reporter 6:169-173.

Solari, Richard

1992 National Judicial Reporting Program, 1988. Washington, D.C.: U.S. Department of Justice.

Tonry, Michael

1987 Sentencing Reform Impacts. Washington, D.C.: U.S. Department of Justice.

1988 Structuring sentencing. pp. 267-337, in Michael Tonry and Norval Morris (eds), Crime and Justice: A Review of Research, Volume 11. Chicago: University of Chicago Press.

1992 Mandatory penalties. pp. 243-374 in Michael Tonry (ed), Crime and Justice: A Review of Research. Volume 15. Chicago: University of Chicago Press.

von Hirsch, Andrew and Kathleen Hanrahan

1981 Determinate penalty systems in America: An overview. Crime and Delinquency 27:289-316.

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Table 1

Characteristics of States Studied

	Effective Date of D.S. Law	Felony Court	Number of Court Units	Data Start	Data End
California(1)	7-1-77	Superior	58	1975	1998
Connecticut(1)	7-1-81	Superior	11	1979	1998
Illinois(2)	2-1-78	Circuit	20	1971	1995
New Mexico(3)	7-1-79	District	13	1974	1996
North Carolina(1)	7-1-81	Superior	30	1976	1996
Virginia(4)	1-1-95	Circuit	31	1978	1999
Washington	7-1-84	Superior	29	1982	1999

Notes -
(1) Data at time the of the law are for fiscal year starting July 1. North Carolina data are annual before 1979.
(2) Illinois data start in 1976 for pending case data, and end in 1989 for trial data. Chicago is excluded.
(3) New Mexico shifted from calendar year in 1981, and there are no calendar or fiscal year 1980 data. Also, 1995 data are not available.
(4) Virginia pending case data start in 1984.

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Table 2

Relationships Between the Backlog Ratio and Other Delay Measures

	Correlation coefficient	Regressions basic coef.	basic t	w/trends coef.	w/trends t
Connecticut					
pending cases per capita	.36	.43	7.62	.47	7.81
median age active pending cases	.48	.28	5.99	.12	2.54
backlog index with active cases	.93	.78	38.98	.77	35.54
defendants in pre-trial detention					
- for over 6 months	.49	.53	6.62	.34	3.94
- for over 12 months	.46	.69	5.23	.47	3.27
Illinois					
pending cases per capita	.60	.85	28.94	.44	13.37
% of cases pending 1+ year (79-92)	.59	.24	6.43	.15	3.83
North Carolina					
pending cases per capita	.68	.63	29.52	.83	37.03
% of cases pending over 4 mo. (78)	.59	.42	10.91	.32	7.63
% of cases pending over 6 mo.	.55	.27	9.67	.21	7.20
% of cases disposed over 4 mo. (78)	.64	.48	11.52	.37	6.49
% of cases disposed over 6 mo. (77)	.65	.36	12.60	.30	8.12
mean age of pending cases (78)	.57	.47	10.07	.37	7.44
median age of pending cases (79)	.61	.47	11.81	.31	6.65
mean age of disposed cases (78)	.66	.64	11.95	.47	6.72
median age of disposed cases (79)	.63	.62	11.54	.41	5.64
Virginia					
pending cases per capita	.76	.46	19.98	.89	16.88
% of cases disposed over 5 mo.	.49	.15	4.95	.05	1.14
% of cases disposed over 9 mo.	.40	.15	5.00	.04	.96

Note - The alternate delay measures are available for the same years as the backlog index, except that some series start later (as indicated in parentheses). All correlations are significant to the .001 level. In the regressions the backlog ratio is the dependent variable, and the coefficient is for the alternate delay measure entered as an independent variable. The regressions also contain court unit dummies, and the regressions with trends have separate trend variables for each unit. The variables are logged. In Virginia delay increased in most circuits during the period of the study.

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Table 3

Relationships Between Jury Trial Rates and Alternate Jury Trial Measures

	Correlation coefficient	Regressions			
		basic		w/trends	
		coef.	t	coef.	t
Virginia					
number of juries empaneled (84)	.88	1.38	25.16	1.32	20.11
number of jury days	.85	1.06	23.92	1.08	22.33

Note - The jury trial rate is compared to the alternate variables in the same manner as alternate delay measures are compared to the backlog index in the prior table. The number of juries empaneled and number of jury days are divided by dispositions.

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Table 4

The Impact of Determinate Sentencing Laws on Delay
Using an Aggregate Law Variable

1) Without Lagged Dependent Variable

	Backlog Ratio		Pending Cases	
	coef.	t	coef.	t
D.S. Laws	0.045	0.721	0.102	2.370
Ci. Filing	0.154	2.978	0.112	3.195
Cr. Filing	-0.118	-2.917	0.536	18.943
Judges	-1.083	-3.573	-0.335	-1.570
Observations	2863		3035	
Degrees of Fr.	2689		2855	
Adj. R-Sqr.	.76		.90	
Durbin-Watson	1.29		1.16	

2) With Lagged Dependent Variable

	Backlog Ratio		Pending Cases	
	coef.	t	coef.	t
D.S. Laws	0.049	0.781	0.058	1.428
Ci. Filing	0.135	2.759	0.088	2.752
Cr. Filing	-0.089	-2.324	0.386	14.667
Judges	-0.667	-2.240	-0.330	-1.661
Lagged DV	0.395	21.704	0.440	26.587
Observations	2679		2874	
Degrees of Fr.	2505		2693	
Adj. R-Sqr.	.80		.93	

Notes - The analysis also includes fixed effects (dummy variables for each court unit and each year) and state trends. The backlog ratio is the number of pending cases divided by dispositions. The pending case dependent variable, as well as filings and judges, are divided by the population of the court district. The variables are logged.

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Table 5

The Impact of Determinate Sentencing Laws on Delay
Using an Individual State Law Variables

1) Without Lagged Dependent Variable

	Backlog Ratio		Pending Cases	
	coef.	t	coef.	t
California	0.381	3.296	0.355	4.985
Connecticut	-0.222	-1.624	-0.088	-0.897
Illinois	-0.229	-1.656	-0.075	-0.821
New Mexico	0.206	1.396	0.237	2.258
N. Carolina	0.020	0.217	0.051	0.771
Virginia	0.053	0.416	0.050	0.549
F-Value	5.87 (.0001)		7.19 (.0001)	

2) With Lagged Dependent Variable

	Backlog Ratio		Pending Cases	
	coef.	t	coef.	t
California	0.098	0.569	0.141	1.860
Connecticut	-0.198	-1.424	-0.097	-1.006
Illinois	-0.311	-1.595	-0.142	-1.456
New Mexico	0.128	0.788	0.130	1.364
N. Carolina	0.094	1.091	0.072	1.220
Virginia	0.109	0.900	0.090	1.067
F-Value	2.56 (.02)		2.59 (.02)	

Notes - These regressions are the same as those in the previous table except that there is a separate law variable for each state. Jury trial data are not available for Connecticut and New Mexico. The F-Value indicates whether the five law variables as a group are significant. The number in parentheses is the significance level of the F.

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Table 6

The Impact of Determinate Sentencing Laws on Delay
Using a Distributed Lag Aggregate Law Variable

1) Without Lagged Dependent Variable

	Backlog Ratio		Pending Cases	
	coef.	t	coef.	t
D.S. Laws	0.321	3.300	0.291	4.451
Ci. Filing	0.157	3.072	0.107	3.088
Cr. Filing	-0.115	-2.845	0.539	19.096
Judges	-1.058	-3.527	-0.337	-1.596
Observations	2863		3035	
Degrees of Fr.	2689		2855	
Adj. R-Sqr.	.76		.90	
Durbin-Watson	1.30		1.17	

2) With Lagged Dependent Variable

	Backlog Ratio		Pending Cases	
	coef.	t	coef.	t
D.S. Laws	0.231	2.288	0.180	2.857
Ci. Filing	0.138	2.847	0.087	2.731
Cr. Filing	-0.087	-2.274	0.389	14.790
Judges	-0.708	-2.394	-0.336	-1.709
Lagged DV	0.392	21.538	0.438	26.396
Observations	2679		2874	
Degrees of Fr.	2505		2693	
Adj. R-Sqr.	.81		.93	

Notes - The determinate sentencing law variable is a distributed lag, the sum of the current year variable and five lags, divided by six. The analysis also includes fixed effects (dummy variables for each court unit and each year) and state trends. The backlog ratio is the number of pending cases divided by dispositions. The pending case dependent variable, as well as filings and judges, are divided by the population of the court district. The variables are logged.

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Table 7

The Impact of Determinate Sentencing Laws on Delay Using Individual State Distributed Lag Law Variables

1) Without Lagged Dependent Variable

	Backlog Ratio		Pending Cases	
	coef.	t	coef.	t
California	0.610	4.770	0.460	5.400
Connecticut	0.280	1.441	0.237	1.703
Illinois	-0.280	-1.765	-0.184	-1.665
New Mexico	0.462	2.050	0.545	3.390
N. Carolina	0.485	3.138	0.432	4.016
Virginia	-0.088	-0.328	0.011	0.060
F-Value	8.67 (.0001)		10.89 (.0001)	

2) With Lagged Dependent Variable

	Backlog Ratio		Pending Cases	
	coef.	t	coef.	t
California	0.282	2.032	0.202	2.447
Connecticut	0.271	1.490	0.207	1.660
Illinois	-0.158	-0.963	-0.126	-1.205
New Mexico	0.318	1.341	0.229	1.581
N. Carolina	0.412	2.805	0.355	3.593
Virginia	0.065	0.255	0.100	0.567
F-Value	3.10 (.005)		4.25 (.0003)	

Notes - These regressions are the same as those in the previous table except that there is a separate law variable for each state. Backlog data are not available for Washington. The F-Value indicates whether the five law variables as a group are significant. The number in parentheses is the significance level of the F.

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Table 8

Results with Alternative Delay Measures for Individual States

	Step Dummy				Distributed Lag			
	Basic		With Lag DV		Basic		With Lag DV	
	Coef.	t	Coef.	t	Coef.	t	Coef.	t
Conn. 1	-0.117	-0.845	-0.085	-0.600	0.100	0.510	0.141	0.759
Conn. 2	-0.435	-3.148	-0.354	-2.519	0.093	0.475	0.193	1.053
Conn. 3	-0.036	-0.270	-0.116	-0.870	0.125	0.648	0.123	0.691
Conn. 4	-0.023	-0.172	-0.025	-0.189	0.145	0.755	0.116	0.656
N. C. 1	-0.289	-3.045	-0.040	-0.460	0.103	0.648	0.163	1.052
N. C. 2	-0.406	-4.156	-0.139	-1.546	0.047	0.305	0.217	1.474
N. C. 3	0.062	0.670	0.145	1.711	0.305	1.941	0.217	1.444
N. C. 4	-0.068	-0.726	0.093	1.087	0.350	2.244	0.254	1.748
N. C. 5	-0.189	-2.033	0.001	0.014	-0.007	-0.049	0.040	0.269
N. C. 6	-0.117	-1.226	0.041	0.438	0.014	0.085	0.090	0.557
N. C. 7	-0.076	-0.835	0.059	0.710	0.162	1.044	0.150	1.008
N. C. 8	0.028	0.306	0.119	1.298	0.183	1.120	0.165	1.051
Va. 1	-0.063	-0.717	-0.034	-0.424	-0.370	-1.764	-0.110	-0.581
Va. 2	0.053	0.416	0.109	0.900	-0.088	-0.328	0.065	0.255

Note - These are the coefficients on the particular state's determinate sentencing law when the alternate delay measure is substituted for the backlog index (for that state only). With the exception of that substitution, the regressions are the same as in the previous tables for the backlog index regressions, without a lagged dependent variable and with separate state determinate sentencing law dummies. The alternate measures are as follows:

Connecticut
1. Median age active pending cases
2. Backlog index with active cases
3. Defendants in pre-trial detention for over 6 months
4. Defendants in pre-trial detention for over 12 months

North Carolina
1. percent of cases pending over 4 months (78)
2. percent of cases pending over 6 months
3. percent of cases disposed over 4 months (78)
4. percent of cases disposed over 6 months (77)
5. mean age of pending cases (78)
6. median age of pending cases (79)
7. mean age of disposed cases (78)
8. median age of disposed cases (79)

Virginia
1. percent of cases disposed over 5 months
2. percent of cases disposed over 9 months

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Table 9

The Impact of Determinate Sentencing Laws on Total Trials Using an Aggregate Law Variable

1) Without Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
D.S. Laws	0.086	2.713	0.057	2.268
Ci. Filing*	-0.092	-2.739	-0.054	-2.154
Cr. Filing	-0.322	-9.038	0.194	7.174
Cr. Filing*	-0.129	-3.573	0.085	3.028
Judges*	0.933	4.200	0.253	3.444
Observations	3434		3576	
Degrees of Fr.	3225		3362	
Adj. R-Sqr.	.85		.92	
Durbin-Watson	1.16		1.13	

2) With Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
D.S. Laws	0.035	1.183	0.024	1.021
Ci. Filing*	-0.067	-2.195	-0.036	-1.586
Cr. Filing	-0.299	-9.252	0.200	8.219
Cr. Filing*	0.030	0.923	-0.031	-1.216
Judges*	0.754	3.664	0.187	2.794
Lag D.V.*	0.458	29.017	0.457	29.435
Observations	3320		3549	
Degrees of Fr.	3110		3244	
Adj. R-Sqr.	.87		.94	

Notes - * indicates variables lagged one year. The analysis also includes fixed effects (dummy variables for each court unit and each year) and state trends. The trial rate is the number of trials divided by dispositions. The number of trials, as well as filings and judges, are divided by the population of the court district. The variables are logged.

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Table 10

The Impact of Determinate Sentencing Laws on Total Trials
With Individual State Law Variables

1) Without Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
California	0.037	0.410	-0.026	-0.374
Connecticut	0.097	0.937	0.185	2.248
Illinois	0.073	0.638	0.036	0.406
N. Carolina	0.172	2.668	0.114	2.278
Virginia	0.038	0.639	-0.010	-0.213
Washington	0.089	1.257	0.084	1.500
F-Value	1.76 (.10)		2.17 (.04)	

2) With Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
California	-0.424	-1.899	-0.448	-2.605
Connecticut	0.095	1.043	0.167	2.301
Illinois	-0.386	-1.666	-0.379	-2.125
N. Carolina	0.066	1.139	0.020	0.460
Virginia	0.019	0.360	-0.005	-0.136
Washington	-0.002	-0.036	0.022	0.403
F-Value	.28 (.26)		2.30 (.03)	

Notes - These regressions are the same as those in the previous table except that there is a separate law variable for each state. Trial data are not available for New Mexico. The F-Value indicates whether the six law variables as a group are significant. The number in parentheses is the significance level of the F.

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Table 11

The Impact of Determinate Sentencing Laws on Total Trials Using an Aggregate Distributed Lag Law Variable

1) Without Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
D.S. Laws	0.068	1.588	0.050	1.477
Ci. Filing1	-0.093	-2.750	-0.055	-2.171
Cr. Filing	-0.323	-9.062	0.193	7.129
Cr. Filing1	-0.123	-3.394	0.089	3.175
Judges1	0.892	4.025	0.250	3.392
Observations	3434		3576	
Degrees of Fr.	3225		3362	
Adj. R-Sqr.	.83		.92	
Durbin-Watson	1.15		1.13	

2) With Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
D.S. Laws	0.010	0.264	0.013	0.441
Ci. Filing1	-0.068	-2.224	-0.037	-1.605
Cr. Filing	-0.299	-9.241	0.200	8.206
Cr. Filing1	0.033	0.994	-0.029	-1.164
Judges1	0.732	3.565	0.185	2.767
Lagged DV	0.459	29.077	0.457	29.477
Observations	3320		3459	
Degrees of Fr.	3110		3244	
Adj. R-Sqr.	.87		.94	

Notes - * indicates variables lagged one year. The determinate sentencing law variable is a distributed lag, the sum of the current year variable and five lags, divided by six. The analysis also includes fixed effects (dummy variables for each court unit and each year) and state trends. The trial rate is the number of trials divided by dispositions. The number of trials, as well as filings and judges, are divided by the population of the court district. The variables are logged.

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Table 12

The Impact of Determinate Sentencing Laws on Total Trials
With Individual State Distributed Lag Law Variables

1) Without Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
California	-0.029	-0.356	-0.026	-0.407
Connecticut	0.359	2.708	0.194	1.855
Illinois	-0.308	-1.949	-0.047	-0.379
N. Carolina	0.105	1.028	0.032	0.416
Virginia	0.017	0.143	0.031	0.318
Washington	0.235	2.055	0.167	1.858
F-Value	2.53 (.02)		1.36 (.23)	

2) With Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
California	-0.075	-0.913	-0.034	-0.534
Connecticut	0.180	1.529	0.082	0.881
Illinois	-0.293	-2.033	-0.118	-1.035
N. Carolina	-0.005	-0.055	-0.043	-0.606
Virginia	0.020	0.181	0.051	0.587
Washington	0.101	1.001	0.053	0.670
F-Value	1.30 (.25)		.59 (.74)	

Notes - These regressions are the same as those in the previous table except that there is a separate law variable for each state. Trial data are not available for New Mexico. The F-Value indicates whether the six law variables as a group are significant. The number in parentheses is the significance level of the F.

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Table 13

The Impact of Determinate Sentencing Laws on Jury Trials Using an Aggregate Law Variable

1) Without Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
D.S. Laws	-0.042	-1.316	-0.085	-3.305
Ci. Filing1	-0.081	-2.546	-0.040	-1.651
Cr. Filing	-0.367	-9.901	0.146	5.192
Cr. Filing1	-0.054	-1.440	0.112	3.818
Judges1	0.645	2.986	0.176	2.448
Observations	3296		3438	
Degrees of Fr.	3099		3236	
Adj. R-Sqr.	.65		.72	
Durbin-Watson	1.19		1.20	

2) With Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
D.S. Laws	-0.055	-1.814	-0.074	-2.987
Ci. Filing1	-0.059	-2.036	-0.033	-1.468
Cr. Filing	-0.356	-10.449	0.154	5.942
Cr. Filing1	0.095	2.706	0.004	0.174
Judges1	0.537	2.653	0.142	2.128
Lagged DV	0.426	26.343	0.423	26.280
Observations	3183		3322	
Degrees of Fr.	2985		3119	
Adj. R-Sqr.	.74		.77	

Notes - * indicates variables lagged one year. The analysis also includes fixed effects (dummy variables for each court unit and each year) and state trends. The trial rate is the number of jury trials divided by dispositions. The number of trials, as well as filings and judges, are divided by the population of the court district. The variables are logged.

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Table 14

The Impact of Determinate Sentencing Laws on Jury Trials With Individual State Law Variables

1) Without Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
California	-0.004	-0.047	-0.076	-1.098
Illinois	0.099	0.899	0.063	0.734
N. Carolina	0.098	1.589	0.045	0.928
Virginia	-0.348	-5.980	-0.356	-7.692
Washington	0.243	3.511	0.163	2.958
F-Value	9.50	(.0001)	14.32	(.0001)

2) With Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
California	-0.426	-1.953	-0.488	-2.838
Illinois	-0.300	-1.326	-0.327	-1.835
N. Carolina	0.026	0.458	-0.020	-0.445
Virginia	-0.217	-4.158	-0.218	-5.163
Washington	0.114	1.661	0.103	1.856
F-Value	5.12	(.0001)	8.41	(.0001)

Notes - These regressions are the same as those in the previous table except that there is a separate law variable for each state. Jury trial data are not available for Connecticut and New Mexico. The F-Value indicates whether the five law variables as a group are significant. The number in parentheses is the significance level of the F.

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Table 15

The Impact of Determinate Sentencing Laws on Jury Trials Using an Aggregate Distributed Lag Law Variable

1) Without Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
D.S. Laws	-0.191	-4.466	-0.203	-5.958
Ci. Filing1	-0.085	-2.695	-0.042	-1.749
Cr. Filing	-0.366	-9.912	0.147	5.230
Cr. Filing1	-0.061	-1.638	0.102	3.497
Judges1	0.583	2.723	0.172	2.404
Observations	3296		3438	
Degrees of Fr.	3099		3236	
Adj. R-Sqr.	.68		.72	
Durbin-Watson	1.20		1.20	

2) With Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
D.S. Laws	-0.142	-3.584	-0.136	-4.218
Ci. Filing1	-0.063	-2.170	-0.035	-1.558
Cr. Filing	-0.355	-10.444	0.155	5.969
Cr. Filing1	0.086	2.477	-0.001	-0.050
Judges1	0.523	2.600	0.144	2.156
Lagged DV	0.422	26.123	0.418	25.901
Observations	3183		3322	
Degrees of Fr.	2985		3119	
Adj. R-Sqr.	.74		.77	

Notes - * indicates variables lagged one year. The determinate sentencing law variable is a distributed lag, the sum of the current year variable and five lags, divided by six. The analysis also includes fixed effects (dummy variables for each court unit and each year) and state trends. The trial rate is the number of jury trials divided by dispositions. The number of trials, as well as filings and judges, are divided by the population of the court district. The variables are logged.

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Table 16

The Impact of Determinate Sentencing Laws on Jury Trials
With Individual State Distributed Lag Law Variables

1) Without Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
California	-0.276	-3.440	-0.259	-4.118
Illinois	-0.292	-1.907	-0.043	-0.355
N. Carolina	-0.107	-1.088	-0.167	-2.174
Virginia	-0.579	-4.813	-0.531	-5.576
Washington	0.410	3.730	0.262	3.000
F-Value	11.58	(.0001)	15.48	(.0001)

2) With Lagged Dependent Variable

	Trial Rate		Number of Trials	
	coef.	t	coef.	t
California	-0.250	-3.070	-0.200	-3.091
Illinois	-0.248	-1.749	-0.075	-0.656
N. Carolina	-0.136	-1.508	-0.173	-2.414
Virginia	-0.306	-2.800	-0.269	-3.060
Washington	0.201	2.028	0.122	1.526
F-Value	5.81	(.0001)	6.63	(.0001)

Notes - These regressions are the same as those in the previous table except that there is a separate law variable for each state. Jury trial data are not available for Connecticut and New Mexico. The F-Value indicates whether the five law variables as a group are significant. The number in parentheses is the significance level of the F.

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Table 17

The Impact of Determinate Sentencing Laws on Guilty Pleas Using an Aggregate Law Variable

1) Without Lagged Dependent Variable

	Plea Rate		Number of Pleas	
	coef.	t	coef.	t
D.S. Laws	-0.110	-4.470	-0.105	-3.701
Ci. Filing1	-0.025	-1.243	0.014	0.626
Cr. Filing	0.000	0.031	0.663	25.812
Cr. Filing1	-0.028	-1.205	0.185	6.927
Judges1	-0.428	-3.066	-0.048	-0.298
Observations	2895		2962	
Degrees of Fr.	2728		2735	
Adj. R-Sqr.	.73		.87	
Durbin-Watson	.81		.94	

2) With Lagged Dependent Variable

	Plea Rate		Number of Pleas	
	coef.	t	coef.	t
D.S. Laws	-0.035	-1.736	-0.039	-1.560
Ci. Filing1	0.005	0.329	0.003	0.159
Cr. Filing	0.008	0.460	0.648	30.122
Cr. Filing1	-0.037	-1.939	-0.235	-9.233
Judges1	-0.068	-0.622	0.016	0.123
Lagged DV	0.623	42.253	0.550	35.062
Observations	2861		2871	
Degrees of Fr.	2693		2703	
Adj. R-Sqr.	.84		.91	

Notes - * indicates variables lagged one year. The analysis also includes fixed effects (dummy variables for each court unit and each year) and state trends. The guilty plea rate is the number of guilty pleas divided by dispositions. The number of guilty pleas, as well as filings and judges, are divided by the population of the court district. The variables are logged.

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Table 18

The Impact of Determinate Sentencing Laws on Guilty Pleas With Individual State Law Variables

1) Without Lagged Dependent Variable

	Plea Rate		Number of Pleas	
	coef.	t	coef.	t
California	-0.146	-2.603	-0.146	-2.230
Illinois	-0.218	-3.359	-0.048	-0.647
N. Carolina	-0.071	-1.841	-0.071	-1.587
Virginia	-0.127	-3.373	-0.125	-2.846
F-Value	6.24	(.0001)	4.39	(.002)

2) With Lagged Dependent Variable

	Plea Rate		Number of Pleas	
	coef.	t	coef.	t
California	-0.160	-1.349	-0.100	-0.678
Illinois	-0.246	-2.031	-0.102	-0.680
N. Carolina	-0.057	-1.841	-0.064	-1.683
Virginia	-0.020	-0.693	-0.016	-0.451
F-Value	2.53	(.04)	.81	(.52)

Notes - These regressions are the same as those in the previous table except that there is a separate law variable for each state. Guilty plea data are not available for Connecticut, New Mexico, and Washington. The F-Value indicates whether the four law variables as a group are significant. The number in parentheses is the significance level of the F.

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Table 19

The Impact of Determinate Sentencing Laws on Guilty Pleas Using an Aggregate Distributed Lag Law Variable

1) Without Lagged Dependent Variable

	Plea Rate		Number of Pleas	
	coef.	t	coef.	t
D.S. Laws	-0.225	-6.884	-0.180	-4.737
Ci. Filing1	-0.022	-1.100	0.017	0.759
Cr. Filing	0.006	0.262	0.667	25.992
Cr. Filing1	-0.041	-1.772	0.174	6.524
Judges1	-0.446	-3.238	-0.045	-0.285
Observations	2985		2902	
Degrees of Fr.	2728		2735	
Adj. R-Sqr.	.73		.87	
Durbin-Watson	.81		.95	

2) With Lagged Dependent Variable

	Plea Rate		Number of Pleas	
	coef.	t	coef.	t
D.S. Laws	-0.073	-2.688	-0.051	-1.509
Ci. Filing1	0.005	0.349	0.003	0.207
Cr. Filing	0.011	0.582	0.649	30.124
Cr. Filing1	-0.042	-2.186	-0.238	-9.367
Judges1	-0.072	-0.661	0.027	0.202
Lagged DV	0.620	41.808	0.549	34.878
Observations	2861		2871	
Degrees of Fr.	2693		2703	
Adj. R-Sqr.	.85		.91	

Notes - * indicates variables lagged one year. The determinate sentencing law variable is a distributed lag, the sum of the current year variable and five lags, divided by six. The analysis also includes fixed effects (dummy variables for each court unit and each year) and state trends. The guilty plea rate is the number of guilty pleas divided by dispositions. The number of guilty pleas, as well as filings and judges, are divided by the population of the court district. The variables are logged.

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Table 20

The Impact of Determinate Sentencing Laws on Guilty Pleas
With Individual State Distributed Lag Law Variables

1) Without Lagged Dependent Variable

	Plea Rate		Number of Pleas	
	coef.	t	coef.	t
California	-0.241	-4.696	-0.273	-4.560
Illinois	-0.306	-4.789	-0.063	-0.851
N. Carolina	-0.271	-4.349	-0.235	-3.237
Virginia	-0.126	-1.458	-0.036	-0.364
F-Value	12.66	(.0001)	8.26	(.0001)

2) With Lagged Dependent Variable

	Plea Rate		Number of Pleas	
	coef.	t	coef.	t
California	-0.099	-2.198	-0.089	-1.595
Illinois	-0.125	-2.320	-0.049	-0.736
N. Carolina	-0.121	-2.444	-0.115	-1.867
Virginia	0.013	0.191	0.048	0.578
F-Value	2.49	(.04)	1.16	(.32)

Notes - These regressions are the same as those in the previous table except that there is a separate law variable for each state. Guilty plea data are not available for Connecticut, New Mexico, and Washington. The F-Value indicates whether the four law variables as a group are significant. The number in parentheses is the significance level of the F.

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STATE DESCRIPTIONS

The following are descriptions of courts, criminal procedures, case statistics, and procedures for gathering statistics in the seven states studied. The emphasis is on the period around the time that determinate sentencing laws were enacted. The major sources of information are the state court annual reports (which are cited with the year, an "R", and the page), statutes, interviews with court administrative personnel conducted in each state, and secondary literature when available.

CALIFORNIA

OUTLINE OF COURT STRUCTURE AND PROCEDURES

The Superior Courts, as general jurisdiction courts, have exclusive jurisdiction over felonies. There is a Superior Court for each county. The Municipal and Justice Courts are the limited jurisdiction courts for judicial districts with over and under 40,000 population, respectively. The two have the same jurisdiction, which includes misdemeanor cases and civil cases involving up to a monetary limit.

Police and then prosecutor screening is common (Boland and Sones, 111, 125); so a large portion of the arrests do not become court filings or are screened out in the early stages.

Criminal cases are filed initially in the Municipal Court, and all offenses triable in the Superior Court - i.e., felonies - must be brought there by indictment or information (PenC. Sec. 737). As a practical matter indictments are seldom used. A preliminary examination is required in the Municipal Court before bind over, unless waived (PenC. Sec. 738). Typically, there are extensive plea negotiations in the Municipal Court prior to the preliminary hearing stage, and plea agreements are reached in many, of not most, felonies (see Boland and Sones pp.112, 125). If the plea is to a misdemeanor, it can be taken in the Municipal Court; if to a felony, only the Superior court can accept the plea and the case is certified to the Superior Court for taking the plea and sentencing. Beginning January 1, 1983, Municipal court judges, designated as Superior Court judges by the Chief Justice, have been taking pleas and sentencing in felony cases if the parties consent (see below). Approximately half of the felony filings in the Municipal court are disposed of there by dismissal or conviction of a misdemeanor.

Section 1192.5, enacted in 1970, mandates judicial involvement in the plea bargaining process (Ackley p. 40). The pleas specify a punishment, and the defendant cannot be given a greater punishment if the judge accepts the plea.

Plea bargaining takes place in both the Municipal and Superior Courts. Final acceptance of bargains reached in the Municipal

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court rests with the Superior Court (see Ackley p. 44), but pleas are often entered in the Municipal Court. The Municipal court may "accept" the plea, and the preliminary hearing is not held. The municipal judge typically does not closely review the merits of the plea, especially since the probation report usually does not arrive until the case is in the Superior court. If the Superior Court does not accept the plea arrived at below, the case must be sent back to the Municipal Court for a preliminary hearing (Ackley p. 46).

In Santa Clara, Superior Court judges review municipal court cases before reaching preliminary hearing and try to arrange a settlement making the preliminary hearing unnecessary. Here the Superior court judges take pleas and sentence in the Municipal Court.

Various district attorneys have discouraged or banned plea bargaining, e.g. Fresno in 1974 or 1975 (75R12). Proposition 8, approved June 8, 1982, provides that plea bargaining is prohibited in serious felony cases, as well as in driving-under-the-influence cases, unless there is insufficient evidence to prove the people's case, testimony of a material witness cannot be obtained, or the reduction would not result in a substantial change in sentence. The measure lists 25 felonies that are serious felonies (PenC. Sec. 1192.7). The law also permits "enhancements" for prior convictions - five years for each "prior." This, it has been alleged, gives the prosecutor more power in plea bargaining, because he or she can agree to drop one or more "priors" in return for a guilty plea (Brown p. 14). Proposition 8 applies only to cases in Superior Court, thus prompting more pleas before the preliminary hearing (Brown p. 14).

When scheduling cases for trial, priority is given to prisoners in custody (PenC. Sec. 1048).

JUDGES

In 1986 there were 687 Superior Court judgeships, varying between one judge in 17 small counties and 224 in Los Angles. The judges are elected for eight year terms.

The chief justice is authorized to assign judges from court to court (Const, Art VI, Sec. 6), and such assignments, as well as use of retired judges, are common (see Rule 245.5, effective January 1, 1983). Several of the larger courts make extensive use of referees and commissioners, and there is limited use of lawyers as temporary judges.

DELAY REDUCTION EFFORTS AND OTHER CHANGES AFFECTING DELAY

Speedy Trial Law.

The California speedy trial law was enacted in 1959 (PenC Sec 1382). Legislation in 1982 extended the time that the defendant must be brought to trial anew from 10 to 60 days when the defendant fails to appear for trial. The action is dismissed if the case is not tried within 60 days of the indictment or information. There is an exception if the case is sent for trial beyond the 60 days with the defendants express or implied consent.

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Dismissal of a case is a bar to further prosecution (PenC. Sec 1387; George, p. 120).

The time limit can be extended beyond 60 days if good the defendant agrees or if good cause is shown by the prosecutor. According to officials in the Administrative Office of the Courts (AOC) trial courts often give preference to cases approaching the 60 day limit. But the defendants frequently waive the requirement. The good cause exception is rather strictly applied (George, p. 123ff.). Court congestion, for example, is not considered good cause. In 1980, the Supreme Court in Owens v. Superior Court, 28 Cal.3rd 238, 248-52 (1980) said that delays caused by the defendant are not to be deducted from the 60 day computation period (George, p. 122).

Other Delay Reduction Efforts

Effective January 1, 1995 the Judicial Council adopted trial court management rules for both criminal and civil cases. For criminal cases, Rules 227.1 to 227.10:

1) permits courts with three or more judges to establish a criminal division and to designate a supervision judge for the division,

2) specify the duties of the supervising judge of the criminal division,

3) specify time limits for criminal proceedings; trials must be set within 60 days after the information is filed,

4) require setting dates for trial, readiness conferences, and pretrial motion hearings at the time of arraignment,

5) require that pretrial motions be filed at least 10 days before the pre-trial motion hearing,

6) require that the readiness conference be held within 14 days before the trial date,

7) permit continuances only if the party gives an affirmative proof that "the ends of justice" require them,

8) require regular meetings between judges and others about the criminal court system,

9) direct magistrates to set sentencing date in Superior Court when a guilty plea is entered in the Municipal court,

10) direct that courts (with over three judges) adopt procedures for facilitate disposition of cases before preliminary hearings; these procedures may include using superior court judges as magistrates to conduct readiness conferences before the preliminary hearings.

Also, Rule 10 of the Standards of Judicial Administration recommend that courts use the master calendar system and that they dispose of pretrial motions before the readiness conference. (Court with three or more judges must use the master calendar for civil cases. Rule 224.)

Continuance Policy. Effective January 1, 1986, PenC. Sec.1050 was substantially amended to tighten continuance policy. The rule required that notice of a continuance be filed with all parties, and the DA and defense attorney must notify the witnesses. The change also specified that stipulation of the parties does not

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constitute the "good cause" required for granting a continuance (see George, pp. 112.3 ff).

Also Sec. 1050.5 permits the court to fine attorneys for not complying with Sec. 1050 or to file a disciplinary report.

There may have been changes between master and individual calendar. A 1970 survey (Fall p. 193) of the 26 courts with at least three judges found that the master calendar was nearly always used for civil cases, and usually for criminal cases. When not used for criminal cases it was usually a hybrid master calendar (using individual calendar until trial date set, then master calendar thereafter). Only the Los Angles court used an individual calendar system for criminal cases, and that was an experiment apparently not continued. Three courts had hybrid: San Luis Obispo, Contra Costa, Orange, and Sacramento (Fall p. 197).

In what was called the "El Cajon" experiment, the Chief Justice authorized judges of the El Cajon Municipal court to sit as judges of the San Diego Superior Court starting in September 1977. The experiment was extended to the South Bay and San Diego Municipal Courts in April 1978 and to North County Municipal Court in 1979. These are the four Municipal Courts feeding the San Diego Superior Court; in 1983 they had 8, 7, 22, and 10 judges respectively. Therefore, for practical purposes the experiment started in April 1978. As described by a judicial council report the Superior Court authority was used mainly to accept pleas in felony cases and sentence. The judges presided over a very few felony trials. The experiment was favorably reviewed. The Municipal court judges disposed of 2,053 Superior court criminal cases in 1981, or 44 percent of the Superior court caseload. It is estimated that the Municipal Court judges provided about three to four judge equivalents to the Superior court. The number of cases calendared for trial went down sharply, but not until 1981.

An evaluation by Green and Cass found that the experiment probably did not result in reducing case-processing time for the cases subject to the experiment, but plea taking and sentencing by the municipal court judges freed Superior court judges to do other work. Effective January 1, 1983, the procedure was permitted in all courts (Court Rule 245.5). There is no information, however,concerning how many other courts have used the procedure.

Early Screening. The 1985 trial court management rules (above) encourage judges to screen cases before the preliminary hearing, including screening by Superior Court judges. This program is used Santa Clara, where Superior Court judges have commenced reviewing cases before the preliminary examination in Municipal Court to try to affect settlements and to save the time and expense of a preliminary hearing. If a plea is agreed upon, the Superior Court judge takes the plea and sentence with little delay. (This delay reduction effort is not appropriate for evaluation here because it takes place in the Municipal court.)

Time Standards. The Trial Court Delay Reduction Act of 1986 requires that, by July 1987, the Judicial Council adopt standards

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of timely disposition for both civil and criminal cases (GovC Sec. 68603).

The determinate sentencing law was effective for crimes committed after June 30, 1977. The law changed sentencing from extreme indeterminacy to set sentences (but with time off for good behavior) with enhancements, such as for use of firearms and for prior convictions. The statute took effect gradually in FY 1978 as more defendants processed had committed crimes after the effective date of the law. In practice in FY 1978 about half the convictions fell under the law (78R4). The law was amended, applying to crimes committed after January 1, 1979, to increase the sentences for many types of crime (80R6).

The Judicial Counsel is required to report each year on the impact of the sentencing law, and it has claimed that the sentencing law is related to a decline in the trial rate to an increase in guilty pleas; and this in turn is credited with reducing delay in criminal cases (85R55). Since the law, trial dispositions have declined from 17 to 8 percent of total dispositions. The annual report states that, although the law may increase time to disposition somewhat because sentencing procedures take longer, the increase in guilty pleas has had the overall effect of reducing time (85R55). The overall conviction rate - guilty pleas plus trial convictions - has increased, but the percent convicted at trial has not changed much (85R55). The percentage of convictions resulting in imprisonment has increased substantially, but the average sentence length for various crimes has remained rather steady (85R57).

Before the determinate sentencing law, there was a low minimum and very high maximum prison term; and plea bargaining was largely aimed at determining whether or not the defendant would be committed to prison (Utz p. xiii). The determinate sentencing law broadens the scope of plea negotiations by permitting more specific agreements affecting the length of sentence.

DATA GATHERING

Data are obtained from three monthly reports sent in by each county. 1) The Calendar report gives information about pending cases and about some aspects of delay. 2) The Summary Report gives the number of filings, trials, and dispositions. 3) The Report of Assistance gives information about extra judges, commissioners, and referees serving. The Calendar report has not changed from 1968 through at least 1986. FY 1976 is the first year for data on guilty pleas, trial outcome, and for all practical purposes the number of trials. As of the mid-1980s most courts still compiled the data manually, and only a dozen or so have computers.

The data published in the annual report are the only data that can be practically gathered. The old monthly summary reports are on microfiche, and the calendar reports are in storage; the data not published has not been compiled into annual data.

The AOC does not independently check the data obtained, except through consistency checks. Every six months a computer program

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compares dispositions to filings and lists courts were the ratio is far out of line (by a set number of standard deviations), and the AOC asks courts where this occurs to check their numbers. Each month the computer looks at the two year monthly average, and if the figure is way out of line, the AOC will ask the court to check. Also, each year the AOC publishes a report showing five year trends for each county. The judges are asked to check the data for their courts, and they sometimes notice mistakes.

The AOC also compares Municipal and Justice statistics to Superior court figures. The number of cases bound over plus guilty plea (to felony) in the Municipal and Justice Courts should equal the number of filings in the Superior Court (except for the small number of grand jury cases). The Annual Reports give this disposition data for Municipal Courts.

The AOC does not require that pending plus filing less disposition equal end pending.

Statistics on convictions are checked against data independently obtained by the Judicial Council on sentencing practices, and they match very closely.

If a court requests help filling out data reports, the AOC will arrange to have a clerk from a nearby county visit and explain case counting procedures. This happens two or three times a year.

Problems with Data.

The most important problem with the criminal data is that a few courts did not report guilty pleas entered in the Municipal Court and certified to the Superior court (see below). When these cases are not included, the courts greatly under count the number of dispositions and guilty pleas, and some courts, filings. Alamada, Fresno, Humbolt, Nevada, San Joaquin, and San Luis Obispo counties are deleted from the analysis for this reason. Also, Humbolt County reported only 6 months data in 1986.

The major problems have been in the Municipal court. Often the number of filings is much higher than dispositions because cases placed on inactive status are not counted as dispositions,but cases reinstated are counted as filings.

DATA ELEMENTS

Criminal filings are the number of defendants against whom an indictment, information, or certification was filed (Regulations on Superior Court Reports, p. 10). Separate counts in an accusatory pleading are not counted separately. Filings include transfers from other courts; these are apparently changes of venue, of which there are extremely few (e.g., 26 in 1984).

According to the AOC staff, prosecution practices determine whether there is one or two cases when a defendant is charged with committing two separate, but similar crimes. In other areas too, prosecutors affect filing volume. They may screen cases before filing for sufficient evidence, they may decided to charge cases as misdemeanors rather than felonies, and they may accept pleas to

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misdemeanors in cases originally filed in the Municipal courts as felonies (see especially Utz).

In the early 1970's the number of filings was greatly affected by prosecutorial practices. When new legislation permitted Municipal courts to hear felony filings reduced to misdemeanors, felony filings were reduced greatly (see 85R123).

Filing data includes felony cases were a guilty plea was entered in the Municipal Court and then transferred to the Superior Court for sentencing. In Alameda, Fresno, and Humbolt Counties the filing figures for some years did not include these cases.

Criminal disposition includes all cases, and inactive cases are not counted as dispositions until dismissed or decided. According to the AOC, there are few cases on prosecution diversion and there is no provision for suspended sentencing.

Disposition data are broken down into several categories The dispositions after trial are discussed below. The Regulation on Superior Court Reports state that the categories of disposition before trial are: dismissed (defendants against whom criminal proceedings were dismissed), transferred to another court (defendants transferred for trial in another court), and convicted after plea of guilty (guilty pleas before trial starts). The statistics on dispositions combine the first two in the "other" category. Disposition before trial are before the start of jury selection (or for non-jury cases, before opening statement or introduction of evidence). In a few counties the guilty plea (and disposition) figures do not include cases where guilty pleas were taken in the Municipal Court.

The only published pending data are the number of criminal cases set for trial as of the end of the fiscal year. The AOC also collects data on the total number pending and the number set for trial in the next 30 days, but these data are not published and, therefore, not available. The total filings, and thus the total pending, data include many cases in which a plea has been tentatively agreed upon in the Municipal Courts. These cases are excluded from the number of cases set for trial. Cases set for trial are those in which the defendant pleads not guilty at the arraignment. Inactive cases are removed from the number of cases calendared for trial, according to AOC staff, but the Regulations on Superior Court Reports are silent on this matter. The pending and disposition figures do not match: pending is in terms of cases calendared for trial and dispositions are in terms of all cases. Therefore, the backlog ratio differs from that for other states.

There are data for both jury and non-jury trials. A jury trial starts when jury selection starts, and a court trial starts when testimony or an opening statement is begun. Statistics are given for contested and uncontested trials. Contested trials are those where both parties have introduced evidence, and uncontested trials are those in which only one side presents evidence. The reason for collecting separate statistics, according to the AOC staff, is that it was believed that "uncontested" trials took less time. But the "uncontested" trials are probably real, contested

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trials. They include trials where the witness is cross examined, and the acquittal rate is about the same for the two types of trials. Also, staff at the Santa Clara court said that it was very hard to distinguish between contested and noncontested trials. In practice, the statistics for uncontested trials are very erratic for many counties; so that data are not used. Prior to FY 1976, the "uncontested trial" category was cases disposed on the record of the preliminary hearing, and "contested trials" included cases in which only one party introduced evidence. Starting in 1976, the present system was put in place, and the cases disposed of on the record of the preliminary hearing presumably became guilty pleas.

A second measure of the number of trials is the number of criminal juries sworn, given for Superior courts with 6 or more judges. This is not the same as the number of jury trials, but can be used to check the figures.

Guilty plea statistics are available beginning in 1976. Guilty pleas recorded after a trial starts are counted as trials, not guilty pleas. A major problem with the statistics is that a few courts did not record cases in which a plea was entered and accepted in the Municipal court, and certified to the Superior Court. According to the AOC Alameda and Fresno Counties did not record such cases as filings (and thus as guilty pleas) until recent years. Also, statistical trends suggest that Humbolt county has not counted such cases since the early 1980s.

The statistical reports, and the annual reports of past years, have a category of disposition after a trial "on the transcript of the preliminary hearing." This procedure was abolished, according to the AOC.

Date are available since 1976 for the number and percent of criminal juries sworn in more than 60 days from indictment or information (but only for Superior Courts with six or more judges). For 1985, a footnote explains the that the San Bernadino statistics are inconsistent (more juries sworn in over 60 days than total juries sworn in).

The Annual Report gives information on the number of authorized judgeships at the end of the year, the judicial assistance, and the number of commissioners and referees. The exact number of judgeships in each county each year can be obtained from the footnotes to tables, which should be used to adjust the figures in the tables.

The use of extra judges (retired and temporarily transferred judges) is indicated in the judicial assistance figures. The Chief Justice has authority to transfer judges between districts temporarily and to assign retired judges. The assignments are done by the Judicial Assignments Unit of the AOC, and they can be done to fill in for a vacancy or indisposed judge or to help the receiving court deal with its caseload. Tables gives the number of days of assistance received and given by each court, as well as the net number of days (number received less the number given) given to each court. Tables also give the source of the assignments, which is primarily retired judges. They also gives

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the assistance given as a percentage of net days (the net days are the number of days times the number of judge positions which are not vacant; net days are not given in the annual report and cannot be calculated from it). The definition of the number of days of assistance was changed in January 1, 1983. Earlier, if a judge worked three hours or less, a half day was recorded, and more than three hours was a full day. From 1983 the calculation is as follows: over 6 hours is counted as a full day; over 4 up to 6 as three fourths of a day; over 2 up to 4 as a half day; 2 and under as a fourth of a day.

The amount of judicial assistance is given in the number of days. To determine the number of judge equivalents, a 245 day year is assumed, since this seems to be the number of "days the court is open" for purpose of calculations.

Additional judicial resources are commissioners. The annual reports give the days of assistance given by commissioners, referees, and lawyers acting as temporary judges. The annual reports count commissioners and referees as judge equivalents because in almost all cases they preform functions that would otherwise require a judge. For example, they can try cases as temporary judges (but only if the parties agree). A 1982 study of the commissioners' and referees' duties found that they operate approximately 70 to 80 percent of the time in the capacity of temporary judges, and they sit mainly in the area of family and juvenile law, but in some courts they regularly sit as temporary judges in civil and criminal cases.

The amount of such service is given in two sources. 1) The first is the "report of assistance" form submitted monthly by the courts, and the number of days assistance is given in the annual reports, where data are not given for courts that make little use of commissioner and referees. The number of judge equivalents can be obtained by dividing the days assistance by 245. 2) The actual number of commissioners and referees (but not the numbers of lawyers used as temporary judges) is available by subtracting the total judicial positions from the number of judgeships in Table (before adjusting for when judgeships were created). This is the figure for the end of the FY, however, and the number of positions during the year would have to be the average of that for the end of the year and the end of the prior year.

Beginning with 1981 the annual reports published the number of "judicial position equivalents," which is the number of persons actually available and present in the courts. It is determined by adjusting the authorized number of judges to reflect vacancies, assistance from other courts, from full-time and part-time commissioners and referees, and from temporary judges sitting by stipulation of the parties. This can be used to test the accuracy of measures used by 1) comparing the number, less the number of referees and commissioners, to the number of judgeships, and 2) by comparing the number to the number of total judicial positions used here.

In all, there are two major measures of judge resources: 1) the total number of judgeships, adjusted for when the judgeships

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were created, adjusted by adding net days of judicial assistance (divided by 245), and 2) the total judicial positions, adjusted for when judgeships were created, adding the amount of assistance (number of days divided by 245) given by commissioners, referees, and lawyers as temporary judges.

Data concerning the outcome of trials was first collected in FY 1976. Conviction data are broken down into "contested" and "uncontested" trials, which as discussed above is probably not meaningful distinction. The analysis can be run with both as independent variables. The data are also broken down into jury and non-jury data.

In general, the civil case data is similar to that for criminal cases. Civil filings are presented separately for many categories. The major civil cases can be determined by the case weighting system: personal injury and property damage (81), eminent domain (120), and other civil complaints (117). Total disposition figures are given for all these types of cases.

The data for pending is the number awaiting trial. It includes all civil cases, not just the categories here. Cases awaiting trial are cases in which the attorneys have filed at-issue memos, stating that the case is ready for the setting of a trial date; they are considered to be on the "civil active list". This is not a very useful measure of backlog. Attorneys file at-issue memos in many cases that are not ready for trial for which an early trial is neither desired nor anticipated. Also, the at-issue memo has different meanings from court to court in terms of trial readiness; so attorneys time their filings based on their knowledge of the time frame the court follows in processing the filing. Before 1968, cases were not considered awaiting trial until the court gave a certificate of readiness stating that cases with at issue memos can be placed on the trial list. San Francisco did not change to counting active pending at the time of the at-issue memo until 1980, and practices at other courts may also vary. The number on the active list went dropped greatly after 1980, perhaps because the arbitration program in larger courts (see below) took cases off of the active pending list into a list of cases awaiting arbitration.

Data are available for the number of contested and uncontested civil trials. Here contested trials are probably the better measure of trials, and that is the measure used by at least one judicial council study (See the 1983 Judicial Council report, p. 7). This information is not broken down into jury and judge trial.

Data are available since 1976 for the number of dispositions by jury trial (broken down into personal injury/property damage and all other proceedings).

As for delay measures in civil cases, the annual report has figures for the median time from at-issue to trial in civil jury cases for the 21 courts with six or more judges. (This information is collected for other counties, but not published and therefore not readily available for earlier years; also, it is less reliable for smaller courts since it is based on fewer

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cases.) The measure, however, is based only on cases tried in June of each year, and it suffers from small sample sizes. Occasionally, the court tried no civil cases in June, resulting in missing data.

A second measure of delay is civil cases is the portion of cases pending trial in which at-issue memoranda were filed over a year ago. It is available for Superior Courts with 6 or more judges. This measure was greatly affected by the fact that an arbitration program was begun in the large courts in July 1, 1979, and cases were taken off the list of cases pending trial pending the arbitration proceedings.

The times from at-issue to trial can be affected by the calendaring practices of the court. The Santa Clara court took cases off the at-issue list if the judge does not grant a continuance to the attorney and the attorney is not ready. It is then placed back on the list when the attorney requests. Other courts that less freely take case off the at-issue list would show longer times for cases on the at-issue list. Also, the court may determine what cases get on the trial pending list. According to Santa Clara officials, the Los Angles court does not put cases on the trial list when attorneys file at-issue statements, but rather asks for a certificate of readiness when the court wants to add cases to the list. Finally, as the 1983 report states (page 7) the median time to trial "historically lags behind other measurements in reflecting existing calendar conditions." The Calendar Report form collects data on the time between complaint and trial and at issue memo to trial in cases tried (separated out for jury and non jury). But this information is not published, except for the median figure discussed above. In sum, there does not appear to be a usable measure of delay for civil cases.

There have been many delay-reduction efforts for civil cases. For example, amendments to the trial court management rules, effective January 1, 1985, added many provisions strengthening trial court management. Effective July 1, 1979, courts with 10 or more judges must establish arbitration programs for cases involving $15,000 or less, and $25,000 or less in four counties starting in 1982. The arbitration occurs within 90 days of filing the at-issue memo. A study by the Judicial Council found that the arbitration program reduced delay in that cases pending arbitration are not on the list of cases pending trial, and therefore non-arbitration cases reach trial earlier. Also, some cases going to arbitration are settled and do not return to the trial list. The median time to trial, however, did not decrease by the time of the Judicial Council 1983 report, which was attributed to the fact that this delay measure "historically lags" behind other measures. The study also found a drop in the proportion of dispositions by trial, but concluded that this may be due to a long term trends towards fewer trial dispositions. The economical litigation project, which started in January 1, 1978 and ended July 1, 1983, provided for simpler procedures in cases involving $25,000 or less. Pleading were made simpler, discovery was restricted, and trial procedures were simplified.

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The Judicial Council concluded that the project did not work (and did not reduce delay), with the exception of the discovery restrictions and permitting written testimony by experts. The Trial Court Delay Reduction Act of 1986 contains, among other provisions, a requirement that the Judicial Council adapt standards of timely disposition (GovC. 68603), collect statistics concerning these standards (GovC. 68604), and establish "exemplary delay reduction programs" (GovC. 68606-68614).

CALIFORNIA REFERENCES

H. Ackley, "Plain Talk About Plea Bargaining," 10 Pepperdine L. Rev. 39 (1982).

B. Boland and R. Sones, The Prosecution of Felony Arrests, 1981 (Bureau of Justice Statistics, 1981).

D. Brereton and J. Casper, "Does it Pay to Plea Guilty? Differential Sentencing and the Function of Criminal Courts," 16 Law & Soc. Rev. 45 (1982).

T. Brown, "And the Pleas Go on . . ." 3 Calif. Lawyer 14 (Aug. 1983).

J. Browning, "Trial Courts: Some Comments from a Prosector," 49 S. Bar. J. 447 (1974).

F. Cholko, An Evaluation of the Law Clerk Program of the Los Angeles Superior Court (Washington: American University Law Institute, 1981).

J. Fall, Master-Individual Calendar Study (Judicial Council of California, 1974).

R. M. George, 1986 California Criminal Trial Judges' Benchbook (St. Paul: West Publishing Co. 1986).

A. Goebel, "Court Decongestants," 4 L.A. Lawyer 30 (Sept. 1981).

K. Graham and L. Letwin, "Preliminary Hearings in Los Angles: Some Field Findings and Legal-Policy Observations," 18 U.C.L.A. L. Rev. 646 (1971).

S. Green and C. Cass, "A Step Toward Court Reorganization: A California Experiment," 4 State Ct. J. 3 (Fall 1980).

C. McCoy, "Determinant Sentencing, Plea Bargaining Bans, and Hydraulic Discretion in California," 9 Justice System J. 256 (1984).

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L. Mather, Plea Bargaining or Trial? (Lexington MA: Lexington Books, 1979).

J. Meeker and H. Pontell, "Court Caseloads, Plea Bargains, and Criminal Sanctions: The Effect of Section 17 P.C. in California," 23 Criminology 119 (1985).

D. Minter, "Trial Court Consolidation," 21 U.C.L.A. L. Rev. 1081 (1974)

National Institute of Justice, Implementation of the California Determinate Sentencing Law.

Note, "Pre-indictment Delay: Right to Speedy Trial," 3 West. St. U. L. Rev. 139 (1975).

R. Parnas, "Plea Bargaining in Three California Counties," 44 Federal Probation 12 (June 1980).

Report to the Joint Committee for Revision of the Penal Code (1980)

A. Schapard, "Another Look: Trial Court Unification in California in the Post-Proposition 13 Era," 13 S.W.U. L. Rev. 1295 (1979)

L. Sipes, et al., Managing to Reduce Delay (National Center for State Courts, 1980).

J. Springer, "Burglary and Robbery Plea Bargaining in California: An Organizational Perspective," 8 Justice System J. 157 (1983).

P. Utz, Settling the Facts; Discretion and Negotiation in Criminal Court (Lexington, MA: Lexington Books).

B. Witkin, California Criminal Procedure.

CONNECTICUT

OUTLINE OF COURT STRUCTURE AND PROCEDURES

Connecticut established a unified court system on July 1, 1978. All courts, except probate courts, were consolidated into the Superior Court. The court is divided into four divisions: criminal, civil, housing, and family.

Major felony cases are tried primarily in Judicial District Locations, and misdemeanors and some felony cases are tried in the Geographical Area Locations. Both locations are subdivisions of the Superior Court, and preform functions similar to those of general and limited jurisdiction courts, respectively. The

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Geographical Area locations conduct felony preliminary. From court year 1979 to 1981 all Class A to Class C felony cases (punishable by sentences of more than five years) were tried in the Judicial Districts, while Class D felonies and other crimes were tried in the Geographical Areas. Starting in 1982, some Class B and C felonies were filed in the Geographical Areas in some parts of the state, greatly reducing the criminal caseloads in the Judicial Districts involved. All Class A felonies, punishable by sentences of over 20 years, remain in the Judicial Districts.

Civil cases above the small claims limit are filed in the Civil Division of the Superior Court. About ten percent of the civil cases are filed in Geographical Areas. In addition, the large districts have housing courts.

The state is divided into 12 districts for felony cases; the twelfth district, Stamford-Norwalk, was permitted to hear felony cases starting in 1982. Previously felony cases were heard in Bridgeport (later called the Fairfield location), and in the analysis the Stanford-Norwalk and Bridgeport data are merged. Criminal filing, disposition, and disposition data for Danbury are deleted after 1994 because of an erratic increases due to inactive cases. Data for Danbury and Ansonia-Milford are delated before 1981 since these districts began hearing criminal cases only in 1979. For civil cases only three districts were split since 1979: Bristol and New Britain from Hartford; Meriden from New Haven; and Norwich from New London. These were combined in the analysis.

JUDGES

In 1999 there were 170 judges in the Superior Court (excluding appellate judges, who are technically members of the Superior Court). They are assigned to the different locations for six month rotations. The state court administrator assigns the judges to the districts and to the divisions within the courts.

The Superior Court uses retired judges as trial referees, who can trial civil non-jury cases and (beginning in 1982) can try civil jury cases with the consent of the parties. Beginning in early 1984 the Superior Court also has been using attorneys as trial referees, as discussed below. In 1983 the state initiated a program to have attorney magistrates hear motor vehicle infractions and violations. This freed up some judge time for civil and criminal cases.

DELAY REDUCTION EFFORTS AND OTHER CHANGES AFFECTING DELAY

Speedy Trial Law.

The Connecticut speedy trial law, effective July 1, 1983, was established by statute, and revised by a law effective July 1, 1985. The legislation directed the Superior Court to make rules. Earlier, the only speedy trial law required that imprisoned defendants, against whom there are charged for another crime, be tried for that other crime within 120 days (Gen.Stat. Sec. 54-82c)

For defendants charged between July 1, 1983 and June 30, 1985, trials must begin within 18 months of the date of information, or

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data of arrest, whichever is later. Gen.Stat. Sec. 54-821 C. Rules 956B. The time limit is 12 months for defendants in pretrial custody. The time periods were reduced to 12 and 8 months respectively for defendants charged after June 30, 1985. C. Rules 956B; Gen.Stat. Sec 54-82m.

Excludable periods, listed in Rule 956B, include: 1) delay resulting from other proceedings, including mental health proceedings, trials on other charges, and appeals; 2) delay resulting from unavailability of the defendant or essential prosecutor witnesses; 3) delay due to defendants inability to stand trial; 4) delay when the case is joined with another defendant whose time has not run; 5) time between entering a pleas of guilty and withdrawal of the plea; 6) delay due to continuances granted at the request of the defendant; 7) delay due to continuances requested by the prosecution if because of unavailability of material evidence, or if because the prosecution needs additional time to prepare the case and "additional time is justified because of the exceptional circumstances of the case."

The defendant may waive speedy trial rights in writing or in open court (Rule 956F), and waives them if a motion is not filed before the start of trial. There is a 30 day period between filing of a motion for dismissal and the actual dismissal (apparently if the motion is not filed 30 days before the end of the time period, the time period is in effect extended). C. Rule 956D. The dismissal is with prejudice (C. Rule 956D).

Other Delay Reduction Efforts.

The state initiated a major delay reduction effort in the Fall of 1981 (82R15;84R13). The major feature of this effort was to route many of the Class B and C felony cases to the Geographic Areas, as described in Section 1 above. Also additional judges were assigned to the criminal division.

In the late 1970's the courts established time standards for Judicial District locations: one year for the urban courts (Bridgeport, Hartford, New Haven, and Waterbury), and six months for the remaining districts. (86R37;84R15) According to court administration staff, these standards have not been changed. They are used routinely to monitor the progress of courts; a report is issued each month showing the number of cases pending for periods longer then the time limit allows. Because the time limits went into effect before the time covered by the present research, they cannot be evaluated here.

As for civil cases, the state started an attorney trial referee program in February 1984, such that attorneys tried civil nonjury cases (there was no limit on the amount in controversy). Previously only retired judges were referees. (84R17;86R46)

In the mid-1980's the Superior Court also initiated a case management program, which consisted of many elements used in varying districts. Examples are a fast-track program for cases involving lesser amounts, summary jury trials, and use of caseflow coordinators.

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DATA

Criminal caseload statistics are gathered locally and sent to the state court administrative office in monthly reports. The state court administrator does not audit the data. The courts are required to count pending cases each month. The major problem with the data is the change in definition of active pending cases, discussed below. There have been no other changes.

The unit of count for criminal cases is the case; several defendants combined under one docket number are counted as one case. AOC staff said there was no problem of inconsistent counting between districts. The cases are counted when bound over from the Geographic Area location.

Cases are counted as disposed when sentenced.

The court statistics include the number pending and the number of active cases pending. Approximately 65 to 70 percent of the pending cases are active. According to the data forms, the inactive cases are: 1. bond forfeiture, fugitive, 2. transferred to other Judicial District, and 3. other (including appeals). Also, active cases do not include diversionary cases, which are 1. committed (54-56d, 21a-284, 19a-386) and 2. other (accelerated rehabilitation). According to AOC staff there are very few diversionary cases in the Judicial District courts (but many in the Geographical Area courts).

Statistics are presented for three types of active pending cases: those awaiting plea, those awaiting trial, and those awaiting sentencing. The vast majority are awaiting trial. In 1984 the statistics for total pending cases no longer included those awaiting sentencing (which account for 15 to 20 percent of the cases), but statistics for case awaiting trial are available, permitting consistent trend statistics for two types of active pending: including and not including cases awaiting sentencing.

Statistics are available for the number of criminal cases disposed with trial. A non-jury trial occurs if a witness is sworn; a jury trial occurs when a jury is impaneled. Guilty plea statistics are not available.

There are several time lapse measures for criminal cases. The mean number of months that active cases have been pending is available. But, as discussed above, the definition of active pending case changed in 1984, excluding cases awaiting sentencing. Thus 15 to 20 percent of the cases, generally the longest pending, are not included in the measure. The impact on the median figure is uncertain, but it is certainly less than if it had been the mean.

Statistics are given for the number of active cases that have been pending 1) under 6 months, 2) 6 to 12 months, and 3) over 12 months. The initial point for counting time is the arraignment (in the Geographic Area Locations). This series ended in 1988.

Data are available for the number pending at the beginning and end of the year according to these three time spans. These figures were affected by the change in definition in pending cases in 1984, but relatively few of the cases awaiting sentencing are in the under 6 month category. The under 6 month category for

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1984 and later years is adjusted by adding the number deleted in 1984 when the change was made (this is the number pending less than 6 months at the end of 1983 less the number pending at the beginning of 1984).

Statistics, comparable to those for age periods of active cases, are available for confined defendants. Unlike data for total pending, this series does not end and continues to 1998. However, because the beginning pending figures are not published, no adjustment could be made for the change in definition of active pending cases in 1984.

Because judges rotate, the only available judge data is the state-wide number. It is the number of actual judgeships, based on the effective data of statutes creating the judgeships.

As for civil cases, data are published for "civil cases" beginning pending, filed, disposed, pending, and disposed by trial.

ILLINOIS

OUTLINE OF COURT STRUCTURE AND PROCEDURE

Courts and Jurisdiction.

The Illinois Circuit Court is a single unified trial court. The 102 counties are divided into 22 circuits, including one for Cook County. All downstate circuits, except the 18th, have two or more counties. The county composition of the circuits changed only once since 1970; the 21st Circuit was split off of the 12 in 1984.

The Circuit Court receives both felony and misdemeanor cases, and separate statistics are gathered for each. Appeals from all cases go to the appellate courts. There are no appeals do novo.

Circuit Courts have two types of judges, circuit and associate judges. Circuit judges are elected (either county or circuit wide elections). Associate judges are appointed to four year terms by the circuit judges, and they can hear any type of case, but in some courts are limited to minor cases.

Counties with population of 35,000 or over must establish public defender programs. Smaller counties can choose either public defender or assigned counsel, and most chose the latter.

Felony Case Procedures.

Felony cases are commenced with indictment or information, and minor cases with complaint. Felony prosecutions were commenced only by indictment after grand jury (unless waived) until October 1, 1975. A preliminary examination for the purposes of determining probable cause, was given (or waived) before the information (Comments to Stat. Ch. 38 Sec. 111-2; Kavanaugh & Jesser, p. 283). For crimes occurring on or after October 1, 1975, information was permitted if preliminary hearing was held or waived (Ch. 38, Sec. 111-2). The information is filed after the finding of probable cause at a preliminary hearing (Kavanaugh &

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Jesser). The 1975 change was made at about the same time that the speedy trial law was tightened (see below), and the two changes are probably related because the new speedy trial requirements would not be feasible given the delay caused by the grand jury proceedings (Kavanaugh & Jesser).

In most courts, criminal cases are processed initially in the preliminary hearing division of the court (Moran, p. 50). At first appearance, defendants are informed of the charges against them and are advised of their rights; also, pretrial release status is determined. If a felony is charged, the case proceeds to preliminary examination (unless probable cause was found by means of a grand jury indictment). The defendant may waive preliminary examination. At arraignment (or second appearance) defendants enter pleas and may waive jury trial, and counsel is appointed. When guilty pleas are entered, sentencing can proceed immediately. Otherwise the case proceeds to preliminary hearing (unless waived, which often occurs). Informations are filed in the preliminary hearing court, and the majority of criminal cases are terminated there when the defendant pleads guilty (Moran, p. 51).

If the defendant pleads not guilty at the early stages of case processing, the court typically holds one or more status or pretrial conferences. Judges cannot initiate plea bargaining, but may discuss a tentative agreement and may concur (or conditionally concur) in a proposed disposition (Rule 402(d)).

After guilty plea or trial conviction, a presentence report is prepared and a sentencing hearing his held. When judges desire more information than is contained in the presentence report, they may commit defendants to the Department of Corrections for up to 60 days after conviction for pre-sentence evaluation. Apparently, this is not done often.

JUDGES AND ATTORNEYS

In 1984 Illinois had 384 Circuit judges and 321 Associate judges, with 202 and 173 respectively outside of Cook County. The ratio of Circuit to Associate judges varies greatly from circuit to circuit; associate judges vary from 18 to 61 percent of the judges.

The statistics for the number of judges given in the annual reports is considerably below the number of authorized judgeships. The judge statistics are for December 31 of each year since 1978, for May 1 in 1974 to 1977, April 1 in 1973, and June 30 in 1971 to 1973. Before 1973 the Circuit Court judges were called circuit judges, associate judges, and magistrates. The circuit and associate judges become "Circuit Judges" and the magistrates became associate judges. The figures for judges before 1973 include all three categories of judges, but the breakdown between circuit and associate judges is not comparable to that for later years.

Circuit judges are elected to 6 year terms by the electorate, and the associate judges are elected to 4 year terms by the circuit judges in the circuit. The associate judgeships are

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created by the Supreme Court. There is one associate judgeship per 35,000 population, and additional associate judgeships are created by the Supreme Court upon a showing of need by the Circuit chief judge.

The duties of associate judges vary greatly from circuit to circuit; overall they are generally assigned to lesser cases, both civil and criminal. Matters that can be assigned to associate judges are determined by court rule (Con. Art IV sec. 8; Rule 295). Supreme Court Rule 295 states that the Circuit chief judges assigns associate judges; hence, the chief judges determine the type of case associate judges hear. Originally, chief judges were not allowed to assign associate judges to felony trials, but Rule 295 was amended, effective May 28, 1975, to permit the Supreme Court, after a showing of need by the chief judge, to authorize individual associate judges to hear felony cases. The Supreme Court has limited these authorizations to six months and has increased the number of assignments over the years. In 1984 the AOC granted 156 requests from downstate chief judges for permission to assign associate judges to felony cases. In recent years, there have been assignments in all Circuits except the 6th Circuit. The 19th and 20th Circuits have had the most assignments. The fact that associate judges are permitted to hear felony cases, however, does not mean that the chief judge actually assigns them many such cases. They could be a reserve judges, seldom if ever needed; or their felony duties could be limited to felony preliminary. On the other hand, some associate judges regularly trial felony cases. A review of the assignment requests submitted by the chief judges in 1984 and 1985 reveled that the reasons given for assignment requests were usually that the associate judges are needed to fill in for circuit judges when the latter are unavailable or are assigned to another county. Quite a few requests, however, specifically state that the associate judges will be assigned to try felony cases. The AOC does not maintain information about the actual use of associated judges in felony cases.

The Supreme Court has authority to transfer judges from one court to another and to recall retired judges. It regularly exercises this authority. Each year four to seven circuit judges (and also a few retired circuit judges) are assigned to the Appellate Court. In fact, a few Circuit judges are so assigned year after year and, thus, are actually appellate court judges. Also, the Supreme Court regularly assigns downstate judges to Cook County. In 1984 there were 324 such assignments, typically for one or two weeks. This amounted to an additional 434 judge work weeks, or about 9.4 additional judges, using the 46 week work year standard that the AOC uses. The total number of judge weeks assigned to Cook County is given in the annual reports.

In 1976 the AOC established a formula for assigning judges to Cook County, which first calculates the "excess" judge manpower in each district and the extra judges needed in Cook County, and than requires assignments from the downstate counties roughly in proportion to the amount of excess manpower. The excess manpower

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is the caseload per judge (number pending and filed divided by number of judges) times the average per judge case output in the state (with small adjustments for geographic area and size of backlog). The resulting estimates for 1976 and 1986 show that the assignments varied from 3 to 52 judge weeks, with the upper limit constituting about 7 percent of the judicial manpower of a down state county. The size of the down state circuits' contributions were roughly the same for 1976 and 1986. It would be possible to use the formula to calculate roughly proportional contribution (and to estimate the actual contribution by using the total judge weeks of assignments, information in the annual reports) for each court in each year for other years, but this is not necessary because the adjustments are quite small and do not vary much from year to year.

There are also a few assignments between down state circuits (41 in 1984, for example). According to AOC staff these are nearly all short assignments, for such purposes as filling in for recused judges. They do not significantly affect judicial manpower.

The use of retired judges is almost totally limited to Cook County. For example in 1984 thirteen judges were assigned, for periods varying from two weeks to a full year, and all but one two-week assignment were to Cook County.

DELAY REDUCTION EFFORTS AND COURT CHANGES AFFECTING DELAY

Speedy trial law.

Defendants in custody must be tried within 120 days from when taken into custody (Ch. 38, Sec. 103-5(a)). Defendants not in custody must be tried within 160 days from when they demand trial (Sec. 103-5(b)). Before March 1, 1977 a new period began when delay was caused by: 1) the defendant, 2) an examination for competency, 3) a competency hearing, 4) the defendant's physical incapacity for trial, or 5) an interlocutory appeal (Note; Rudstein). Since March 1977 delay caused by these events only tolls the time period (Sec. 103-5(f)). Delay caused by court congestion is charged against the state (People v. Macklin, 7 Ill.App.3rd 713, 288 N.E.2d 503 (1972)). Speedy trial dismissals are with prejudice (notes to Sec. 103-5).

Since 1979, judges have been required to report semi-annually to the AOC the number of dispositions under the speedy trial law, but that information has not been compiled.

A law applicable to crimes committed after January 1, 1984, requires that there must be either a preliminary examination or indictment within 30 days of arrest for defendants charged with a felony if in custody, and within 60 days if not in custody, except when the delay was caused by the defendant (Sec. 109-3.1). Dismissals under this law, however, do not bar refiling the charges (Sec. 114-1(a)(11)).

Effective for cases in which the indictment or information occurred after January 1, 1980, trial judges are authorized to dismiss cases over one year old if the state has not exercised due diligence in bringing to trial (Sec. 114-4(e)). The judge must

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hold a hearing to determine if the state exercised due diligence and, if lack of due diligence is found, give the state one more trial date between 14 and 30 days from the data of hearing. If state is not ready on this court date, the judge may dismiss the case.

Section 114-4 requires that motions for continuance made more than 30 days after arraignment "may be granted" in several specific circumstances, such as where the attorney is ill. But Section 114-4(d) states that the upon the courts own motion, or motion of the parties, a judge may grant a continuance for grounds not specified in the statute if the judge "finds that the interests of justice so require. Section 114-4 stated that the judge may require that the motion be in writing. Effective December 15, 1982, motions must be in writing and supported by affidavit (Sec. 114-4(a)). (Several commentators, e.g., Bonaguro, had claimed that liberal granting of continuances by trial judges was a cause of delay.)

In an experimental project, funded by the LEAA, the 3rd and 19th circuits received court administrators, starting September 1, 1975 and November 1, 1975, respectively. Soon after, the AOC recommended that all circuits receive court administrators by upgrading the position of "administrative secretary to the Chief Circuit Judge" to that of Circuit Court Administrator.

Starting June 30, 1979, every six months the circuit chief judges are required to report on the number of cases pending 180 days or more and to explain what measures are taken to reduce the number of pending cases. The same was done for civil law jury cases over $15,000 pending two years or more. Also, court clerks are required to report the "composite age" of pending case, separately for all major categories of cases.

As discussed earlier, a requirement of grand jury indictment was removed effective October 1, 1975, and this may have speeded the early processing of criminal cases.

DATA GATHERING

Procedures for Gathering

Each court sends the AOC statistical reports, including the following:

Report 1 - Trend of Cases and Post-termination Proceedings (monthly).

Report 2 - Disposition of Law Jury Cases Terminate by Verdict (monthly).

Report 3 - Semi-Annual Report of Age of Pending Law Cases.

Report 4 - Disposition of Defendants Charged with Felonies or Misdemeanors Punishable by Imprisonment in Penitentiary and Penalty Imposed (monthly).

Chief Judges's Report on the Age of Pending Cases (every six months; since June, 30, 1979).

Except the last, these reports have been compiled since at least 1970. They have been revised slightly over the years, especially to take into account statutory changes in criminal

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cases. The changes, however, are not relevant to this study. The AOC compiled the reports manually until 1987.

The AOC issues a manual, periodically revised, that details the procedures for record keeping and data gathering. In the 1960s the Supreme Court established the "Supreme Court Committee on Record Keeping in the Circuit Courts." In 1966 the Committee issued draft instructions for maintaining case records, financial records, and statistical records. The statistical reports were tied into the record keeping systems. The report was approved by the Supreme Court in 1968. New manuals were issued in 1972 and 1983. The 1983 manual has two parts, the Criminal Procedures Manual and the Coding Manual. The Coding Manual (for automated data systems) was prepared by SEARCH with LEAA funds; the criminal part was completed in 1980 and the civil part in 1981.

Circuit Courts, it appears, keep two or three separate files, for pending cases and dispositions, and in some courts for inactive pending. All files are kept in sequential case number order (the case number is given when filed). Copies of the disposition reports (Form 5) go to the state's attorney and to the Department of Law Enforcement.

The circuits send in monthly reports to Springfield from downstate and to Chicago from Cook. These reports "are analyzed for correctness and tabulated," in the respective offices.

By 1981 more than 20 counties established automated data processing systems using LEAA funds. The systems differed, and in 1978 the Supreme Court adopted Judicial Management Information System Standards that require, among other things, new systems or modifications must be approved by the AOC. A major aim was to foster uniformity.

The courts are required to conduct audits of pending cases twice a year and to submit the reports to the chief judge of the circuit (the audit requirements are described below). From 1979 to 1985 a staff member of the AOC frequently visited courts to render technical assistance with the statistics and to conduct spot checks to see that the data were gathered correctly, including whether the audits were preformed correctly. However, this function ended when the staff who preformed it left the AOC.

The AOC traditionally has not conducted training sessions on data gathering. In 1986, however, there was a seminar concerning reports to be filed with the state police. In a questionnaire poll of the clerks, they recommended statistics more often than any other topic for future training programs. According to an AOC staff member, the major reason for this request is that newer staff need instructions concerning the data. The clerks office staff call the AOC staff about ten to fifteen times a month with questions about the statistics.

The AOC staff believe that the clerks' office staff are often overworked and give statistical work low priority. They believe, however, that the felony statistics are among the most accurate received. The least accurate tend to be in high volume areas, such as probate and misdemeanor. The filings statistics are considered the most accurate because the record keeping involved

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is simple. The disposition statistics are less accurate, because it is harder for the clerks to keep track of terminations day by day (although errors here should be found in the audits).

The AOC staff said there were no circuits in which the data appeared particularly bad. Cook county filing data are not comparable to that for the rest of the state (see below). Also Page County at one time tried to require the states attorneys to have separate filings for each defendant.

DATA ELEMENTS

Felony filings downstate, according to foot notes in the annual reports include "felony complaints, preliminary hearings, indictments and informations." The cases, therefore, are counted at the initial filings, before findings of probable cause. Felonies for Cook County do not include preliminary hearings; cases are not counted until a finding of probable cause, and they are not strictly comparable to down state totals. Filings are roughly 80 percent informations and 20 percent indictments; the proportion used to be the other way around, with indictments more common before a statutory change (see above).

The filings statistics are by the case, rather than by defendant. As mentioned earlier, the Page County court attempted to require the state attorneys to include only a single defendant in each instrument. The filings counted are the number of filing documents submitted by the state attorneys. Therefore, state attorneys determine what a filing is for the case - whether to join different defendants and whether to file separate cases for separate crimes or counts. The joinder of defendants and crimes is governed by statute. When there is more than one offense involved in a criminal conduct, they must be joined in a single prosecution (Ch. 38 Sec.3-3). The prosecutor may join several offenses in the same charge (Ch 38. sec 111-4). These provisions allow considerable discretion to join different defendants, and practices probably vary among state attorneys.

A statutory change, effective January 1, 1973, changed the definition of felony filings (Ch. 38 Sec 1005-1-9). Previously, there was a separate crime category of "misdemeanors punishable by imprisonment", and in 1973 this was merged into the felony category. Felony filing figures before 1973, therefore, should include these misdemeanors.

Record keeping instructions, in effect since 1972, state that felony cases are to be given a case number starting with "CF" (and misdemeanors, "CM"). Statistics are maintained separately for reinstated and transferred cases, and they are not included in the basic filings figures. Reinstatements are 1) cases returned from the appellate court, 2) new trial orders, 3) post-conviction proceedings, or 4) resumption of prosecution following termination because of the defendant's incompetence or because of an order in arrest of judgment.

Cases transferred are cases where the charge was reduced to a misdemeanor; that is, they are transferred to the misdemeanor category. Transferred cases do not include changes in venue,

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which are counted as regular filings. A transferred case is considered "terminated" as a felony case, but it is not counted as a disposition. It is then counted as misdemeanor cases transferred in. There were 3,285 criminal transfers in 1984 (excluding Cook County) or 14% of the total filings. There were equal numbers of felony cases transferred out as misdemeanor cases transferred in. Felony filings, therefore, include only cases that were not transferred.

There are two sets of criminal disposition statistics, gross statistics counted by case and detailed statistics counted by defendant. Both count dispositions at sentencing for convicted defendants.

The gross disposition statistics count the total number of terminations, which occur when all "orders amounting to termination" are entered to all charges and all defendants. File folders remain in the pending file until case is terminated for all defendants. When there is a conviction, dispositions take place after sentencing. Cases are recorded as dispositions when there is an order for probation (Ch. 56.5, par. 705), or upon entry of an order for supervision (Ch. 91.5, par . 120.9). The latter is prosecution diversion, and apparently not used in felony cases. A termination is not recorded when the cases is later dismissed (Manual B-17). If these cases are later reactivated, they are counted as reinstated cases.

Data, calculated by defendant, are obtained for detailed types of dispositions, although publication of these data has not been consistent over the years. These categories include acquitted by the court, acquitted by the jury, guilty plea, convicted by the court, and convicted by the jury (the latter three are broken down into each class of crime).

Pending statistics have been published since 1977. The data were collected earlier, but not published and not otherwise available.

The court clerks are required to do semi-annual inventory checks of pending cases as of June 30 and December 31. The pending figures are adjusted according to these counts. The adjustments, however, might not be made until the next monthly report. Consequently, the AOC used the pending figures given in the January report for the year end pending figures in the annual report.

Before June 1, 1979, the data forms stated that the clerks were "encouraged" to make inventory counts, explaining any resulting discrepancies in a footnote to the statistical report. A table in the 1977 report (page 129) lists the counties making physical inventories of various types of cases. Ten counties are listed for felony cases and 13 for misdemeanor.

The inventory counts do not often result in major changes in the pending figures, according to AOC staff.

Inactive cases are excluded from pending cases. Local court rules may provide for a "warrant calendar" or other similar calendar, to which a case is transferred if there is a failure to appear within the "recommended time". This transfers the case to

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inactive status (Manual B-12). According to the AOC staff, these cases are counted as terminated when placed in inactive status and than reinstated if the defendant is later brought before the court. The practice of setting up inactive categories started with one court, the 11th Circuit, in the 1970's, and the AOC encouraged courts to do it in the late 1970's, and in the 1980's the great majority of courts do it. The annual reports, however, note that not all courts follow the procedures of putting inactive cases in a pending calendar (the 1984 Report, page 148). In 1984 all counties, except three in the 14th District, transferred some cases to the inactive calendar. The annual report first reports cases transferred to the warrant calendar in 1980. About half the counties had established a warrant calendar. For only 7 circuits did all counties (or almost all, with the exceptions being small counties) used a warrant calendar; they are Circuits 1, 8, 11, 12, 16, 17, and 18.

The chief judges must send to the Supreme Court a report, every six months, on the number of cases pending over 180 days and the number of speedy trial dismissals. Also, the courts compile the number of cases filed in that calendar year, the previous year, and in each year back about 6 years.

Trials and Guilty Pleas.

Trial and guilty plea statistics are by defendant, and the data are broken down into type of crime. The trial data are separated into court and jury trial convictions and acquittals; however, in order to get the conviction data, it is necessary to add convictions for all six classes of crimes. A single trial involving several defendants is counted as a trial for each defendant. Data for acquittals are not published after 1989.

Trials are counted at the time of disposition. If a plea is entered after the trial starts, it is counted as a plea disposition.

Time Lapse Measures.

The courts have published information on age of pending cases since 1979 (it was compiled earlier, but not published), and it was published through 1992. These were collected at the request of the Supreme Court. The data available, published in the annual report, are the percent pending over one year. Since the determinant sentencing law went into effect in 1978, this variable cannot be used.

Civil Cases.

Civil actions are commenced by filing a complaint (Ch 110, Sec. 2-201). Filing data are available for a dozen categories of civil cases. Regular civil consist of "law" cases, which are broken down into four categories, over and under $50,000 ($15,000 in earlier years), and jury and nonjury. The $15,000 division was used because it was the limit for magistrates, and some Circuit Courts continued to maintain that division internally, and associate judges heard cases under that amount (e.g. Springfield

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County). Other cases in the civil case category include chancery, miscellaneous remedies, eminent domain, and municipal corporations. Divorce statistics are stated separately. The counting of tax cases may not be accurate because some counties used to count separate objections to taxes as separate cases. Therefore, tax cases should be left out of the measure of civil cases.

There are also disposition and pending statistics for each type of case, as well as the percent of cases pending more than 12 months (published since 1980). The jury trial statistics are limited to the number of law cases terminated by verdict.

There are also statistics on the time frames for law cases disposed of by verdict (under 1 year, 1 to 1.5 years, 1.5 to 2 years, and so on). And there are data for the average time lapse for law jury cases disposed of by verdict.

ILLINOIS BIBLIOGRAPHY

Administrative Office of the Courts, Record Keeping in the Circuit Courts of Illinois (1982).

Administrative Office of the Courts, Circuit Court Coding Manual (1983).

Albert, E., and Wimmer, R., "Guilty Pleas in Illinois," 24 DePaul L. Rev. 42 (1974).

Banfield, L., and Anderson, D.C., "Continuances in the Cook County Criminal Courts," 35 U.Chicago L.Rev. 259 (1968).

Boland, B. The Prosecution of Felony Arrests, 1981 (Bureau of Justice Statistics, 1986).

Bonaguro, L.A., "Continuances - The Trial Judge's Authority and Responsibility," 67 Ill.Bar J. 106 (1978).

Comment, "Guilty Pleas in Illinois - the Enigma of Substantial Compliance," 24 DePaul L. Rev. 42 (1974).

Duff, B.B., and Harrison, A.E., "The Grand Jury in Illinois:To Slaughter a Sacred Cow," 1973 U.Ill.L.F. 635 (1973).

Gillespie, R.W., A Supply and Demand Analysis of the Judicial Services Provided by the Trial Courts of Illinois (1973).

Illinois Court Watching Project, Citizens Size Up Their Courts (1976).

Illinois Judicial Conference, Report of the Illinois Judicial Conference (1970-83).

Illinois Supreme Court Committee on Criminal Justice Programs, The 1978 Judicial Plan for the Court System of Illinois (1977).

Judicial Administration (newsletter published by the Illinois State Bar Association).

Kavanaugh, J.R., and Jesser, S.H., "The Grand Jury Bypass," 57 Chicago Bar Record 282 (1976).

Moran, M.J., "Illinois Preliminary Hearing Courts Lack Uniformity," 66 Chicago Bar Record 48 (1985).

National Clearinghouse for Criminal Justice Planning and Architecture, Champaign County Court System Resource Analysis (1975).

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Note, "120-Day Rule Due for a Change," 1976 U.Ill.L.F. 256 (1976).
Note, "Seeking a Rational Determination of Probable Cause, "24 De Paul L. Rev. 559 (1975).
Raymond, E.G., Illinois State Court Organizational Profile (National Center for State Courts, rev. ed. 1980).
Robison, J.C. "The Right to a Preliminary Hearing Under the 1970 Constitution," 64 Ill. Bar J. 160 (1975).
Rudstein, D.S., "Speedy Trial in Illinois: The Statutory Right," 25 De Paul L.Rev. 317 (1976).
Schiller, S.A., "Justice Delayed: An Environmental Problem,"61 Chicago Bar Record 140 (1979).
Steigmann, R.J., "The Preliminary Hearing in Illinois," 66 Ill.Bar.J. 700 (1978).
Underwood, "The Illinois Judicial System," 47 Notre Dame L. Rev. 247 (1971).
Williams, J.W., "Court Delays and the High Cost of Civil Litigation: Causes, Alternatives, Solutions," 71 Ill. Bar J. 84 (1982).

NORTH CAROLINA

OUTLINE OF COURT STRUCTURE AND PROCEDURES

The Superior Court is the general jurisdiction court, and it hears criminal cases not specifically within the jurisdiction of the District Court, the limited jurisdiction court, with limited exceptions, mainly misdemeanors that are lesser included offenses and guilty pleas to misdemeanors after a felony charge (G.S. 7A-271). The District Court has jurisdiction over non-felonies, and it conducts preliminary examinations in felony cases (G.S. 7A-272). The Superior Court hears misdemeanor appeals de novo, which make up nearly half of the Superior Court criminal filings. The District Court has jurisdiction over civil cases involving limited sums.

In 1976 there were 30 districts, and in the next two decades half were split in two: 3rd, 4th, 6th, 7th, 8th, 9th, 11th, 15th, 16th, 17th, 19th, 20th, 25th, 27th and 30th split. Of these four split near to the time of the determinate sentencing law: The 15th in 1977, the 17th in 1982, the 19th in 1979, and the 27th in 1978.

District level data are not available after 1996. The only data issued by the Administrative Office is county-level.

Felony cases are, with few exceptions, initiated by the police in the District Court. The procedures for screening cases for possible dismissal differ greatly among districts, but few prosecutor offices cases before being filed in the District Court. Some district attorneys (DAs) screen before the probably cause

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hearing, some afterwards, and some not until the case is bound over.

The police take the defendant before a magistrate for an initial appearance, at which pretrial release is determined. Next, the defendant goes to a first appearance before a district judge, which must be within 96 hours after arrest. Here counsel is appointed for indigent defendants. A probable cause hearing must be scheduled within three weeks, and it is seldom waived. At the hearing, the district attorney presents evidence, including testimony from witnesses. If probable cause is found for a felony charge, the district judge binds the case over to the Superior Court for grand jury proceedings and, generally, indictment. If probably cause is found for a misdemeanor only, the case proceedings in the District Court (although the prosecutor can still take the case to the grand jury).

After the defendant is bound over, the DA can either proceed upon a bill of information or submit a bill in indictment sending the case to the grand jury. In larger counties the grand jury sits once a month, but in small counties only once every six months (although the case can be taken to a grand jury in an adjacent county). Except in capital cases, indictment may be waived, but rarely is. Nearly all submissions result in indictments (Clarke, et al., 111). Cases generally proceed to the Superior Court within a month of filing (Clarke, et al., 111). A few DAs bypass the probable cause hearing. They either file initially as an indictment, or they dismiss the case after filed (by the police) in the District Court and refile it in the Superior Court.

The DA's prepare the calendars, and judges usually exercise little control over the flow of felony cases. The DA is required to file with the court at least a week before the trial date a list of cases he intends to call for trial during the session. The DA controls the criminal calendar and decides when to set cases for trial (see. Shirley v. North Carolina, 528 F.2d 819 (4th Cir. 1975); North Carolina Conference of District Attorneys).

All criminal trials in the Superior Court are jury trials.

Plea bargaining can take place at any time, including when the case is in the District Court. In some districts the DA's and defendants bargain cases down to a misdemeanor, such that the case does not reach the Superior Court. A study of 12 courts in 1979 found that 21 percent of the original felony filings plead to misdemeanor at the District Court; also, the prosecutor dismissed 20 percent of the cases and the judges dismissed 6 percent (Clarke, et all. p. 111-117). Only 52 percent proceeded to the grand jury. These figures were roughly similar for the different courts.

After indictment, dismissals are less common than in the District Court. Most defendants plead guilty, but often to a misdemeanor.

Since July 1975 judges have been allowed to participate in plea discussions (Sec. 15A-1021(a). The prosecution and defense can reach a binding agreement on charges, but not on the sentence.

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A plea agreement reached by the defendant and prosecutor, including the recommended sentence, can be submitted to the judge for advance approval (15A-1023(b)). If the plea agreement includes agreement on sentence, the sentences must be disclosed to the judge, and if the judges does not agree with the sentence agreement, the defendant may withdraw the plea (G.S. 15A-1023). As a practical matter, a majority of the pleas are such "formal pleas" - i.e., they are accompanied by such formal agreements, accompanied by a written statement of terms. Clarke et al. found that 56 percent of the pleas were formal pleas, and that most of these (37 percent of all pleas) had specific sentence recommendations.

An empirical study, based on questionnaire to DAs, found that in the mid-1970's DA practices varied greatly on such matters as the extent of plea bargaining and the type of bargaining - e.g., whether to reduce charges or recommend a specific sentence (Bond). It has been alleged that defendants who plea guilty usually receive lighter sentences (Clarke et al. 40-41; Lefstein, p. 449; Bond, p. 830).

JUDGES AND ATTORNEYS

The Superior Court judges are elected to eight year terms in state wide ballots. In addition there are 8 "special judges," who are appointed by the governor and who have all the authority of regular judges (G.S. 7A-45). The judges are assigned by the supreme court, based on calendars prepared by the Administrative Office of the Courts (AOC) and published each year. A judge is assigned to a court for a period of a week to six months. Judges typically sit in their home districts about half the time, and they nearly always sit within one of the state's four court divisions.

The calendar states which judge is to sit in which county each week (and whether it is a criminal, civil, or mixed court session). The supreme court orders that assign judges are called "commissions." Special judges are not in the yearly assignment calendar, and they are used to fill in where needed. The calendar is regularly adjusted. Some adjustments are formal; the weekly assignments are changed in written orders. Others are last minute changes, for example when a judge completes business in a court before the end of the week and than hears cases.

Since the judges are assigned partly on the basis of caseload and backlog, there may well be a reciprocal association between the number of judges and delay. A positive association could be caused by the assignment of more judges when delay develops. Also, a negative association could be created when a D.A. reduces the backlog by stepping up the number of cases calendared, and asks for more judges to handle the extra caseload.

There are two mechanisms for using retired judges. Emergency judges are retired judges under the age of retirement, and they had to have a commission from the governor (G.S. 7A-52 and 53). In 1981 the legislature authorized the use of retired judges who are over the age of retirement. The "temporary recall" is done by

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the chief justice (G.S. 7A-57). According to AOC staff, retired judges are used primarily in the summer to fill in for vacationing judges.

The number of assistant district attorneys authorized is available at G.S. 7A-41. All assistant DAs are paid by the state and all are full time. Because vacancies are infrequent, the actual number is close to the authorized number. The Conference of District Attorneys claims that the DA offices are badly understaffed. Defense of indigent is funded by the state. Most counties have assigned counsel systems.

DELAY REDUCTION EFFORTS AND OTHER CHANGES AFFECTING DELAY

Speedy Trial Law.

The North Carolina Speedy trial act was enacted in 1977, effective for cases initiated on or after October 1, 1978 (G.S. 15A-701). The previous law stated that the judge may order a trial within 30 days, upon petition of a defendant who has waited more than 60 days for trial. The 1977 act sets a 120 day limit for trial in felony cases. The starting event is the latest of: arrest, service of process, indictment, or waiver of indictment. A similar 120 day limit was established for misdemeanor appeals, with the time starting at the next regularly scheduled criminal session of the Superior Court. The original legislation called for a reduction to 90 days in 1980, but the 120 day limit was first temporarily extended and then made permanent.

According to the AOC staff, the speedy trial law has little teeth because the time limit can be easily extended, and because the dismissal may not be with prejudice. The AOC statistics show that very few cases are dismissed because of the speedy trial laws. But the AOC staff believe the laws do reduce delay through persuasion. Its enactment was accompanied by a general delay reduction climate. DA's may use the law as an excuse to refuse requests for continuances. The speedy trial law may stimulate prosecutors to make sure enough judges are assigned to their counties. Also, the AOC staff believed the laws may have had an anticipatory impact.

The defendant waives speedy trial rights by not requesting dismissal. The trial judge has discretion to dismiss with or without prejudice (G.S. 15A-703). If the case is reinstated, the time limit for the new filing starts at the time of the new filing, whereas in all other situations where charges are dismissed and reinstated - except where there is a finding of no probably cause - the time under a new filing starts with the initial arrest or other beginning event (G.S. 15A-701(a)(3)).

The 120 limit is tolled for 1) other proceedings concerning the defendant, such as mental examinations and hearings on pretrial motions, 2) prosecutorial deferral, 3) absence of the defendant or essential witness, 4) incapacity of the defendant, 5) when the charge is dismissed by the prosecution under G.S. 15A-931, 6) when the defendant has been joined for trial with another, whose time has not run, 7) a continuance for which the judge finds (in writing) that the ends of justice served by granting the

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continuance outweigh the interests of the defendant and the public in a speedy trial, 8) when the court holds court sessions so infrequently that the limit cannot be met (an amendment effective October 1, 1983, stated that the county is conclusively presumed to fall in this category if the court holds less than 8 criminal or mixed sessions a year), or the court otherwise determines that there are not sufficient sessions), 9) when the defendant is imprisoned elsewhere, 10) when the defendant is in military service (and the prosecution and defendant agree to the delay), 11) time between when the DA dismisses case because the defendant was absent an when the proceedings are reinstated, 12) when charges are dismissed and then reinstated, the time between when the two events, 13) time between services of process and when DA receives notice of the service (only when the defendant has failed to appear), 14) time between when the defendant failed to appear and when the DA received notice of it, and 15) time between when the defendant returns from hospital treatment and the DA receives notice of the return. The first ten exclusions were in the original statute. Exclusions 12 to 15 were added in June, 1981.

G.S. 15A-702, part of the original speedy trial law, states that defendants in counties falling under exclusion 8 above may request a prompt trial before a Superior Court judge elsewhere in the district or by a District Court judge in the district.

The speedy trial law can be considered to have begun about January 1, 1979, because its beginning date, October 1, 1978, applied to indictments, etc., on that date such that the (direct) effect of the law on court statistics would not appear until a few months later. The speedy trial law can be coded to apply only to counties with frequent criminal sessions. Although not effective until 1983, the designation of over 7 criminal or mixed sessions a year probably applies to earlier years. The AOC collects data on the number of speedy trial law dismissals. In 1987 there were 25 speedy trial dismissals, or 0.1 percent of all dispositions. (According to AOC staff, until about 1984 the speedy trial dismissal figures included a relatively large number of mistakes, such that the figures were about double the real figure. There are so few such dismissals, that a few mistaken entries have a large proportionate impact on the figures.)

Other Delay Reduction Efforts.

Other than the speedy trial law, the courts have not conducted delay reduction efforts in criminal cases. The District Attorney's Association, started in early 1984, is trying to help DA's expedite procedures. The association, which has one professional staff member, holds meetings twice a year on delay matters, has a committee on delay reduction (which is only moderately active), sends the DAs quarterly statistical reports on delay, and conducts technical assistance to DAs with major delay problems.

There was a major delay reduction push for civil cases in the early 1980's. Part of this push was Court Rule 2, revised in about 1980 to give senior resident Superior Court judges (i.e.

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chief judges) extensive authority over civil case calendaring procedures. Previously civil case calendaring was done by the a committee chaired by the court clerk, and in practice a case was calendared only of the attorney wished.

DATA GATHERING

Procedures for Gathering.

The present data system, started with statistics for the year 1976, is based on individual case reports sent in by the courts. Previously, the courts sent in quarterly statistical reports. The system has been revised twice since, in 1980 and 1984. Among other changes, the first added procedures to make sure disposed cases were promptly reported, and the second provided for more elaborate statistical categories and issued a revised manual. The new manual is effective July 1, 1984, and thus applies to the 1985 data. But the AOC made a concerted effort to keep time series data consistent for major categories. This includes data for filings, pending, age of pending, and age of disposition.

In the mid-1980s half the local courts had manual systems and half have automated systems. For the manual systems, the AOC receives a copy of the docket card when the case enters the Superior Court, and then a copy when the case is disposed. For automated courts, the data are entered at the court and sent directly to the AOC.

The data were gathered on a calendar year basis through 1978, and fiscal year ending June 30 there after.

A major problem with individual case reporting is that the courts may fail to submit copies of docket sheets, especially when the case is disposed. The AOC takes several steps to deal with this problem. At courts with manual systems, at the end of the year the AOC makes a concerted effort to collect the case sheets. Every six months the AOC sends a list of cases pending and asks the courts to check it (Manual p. 108). Occasionally, the AOC staff conducts spot checks of pending cases. Finally, if the numbers look out of line, the AOC staff asks the court clerks to double check their information. The AOC staff claim that clerks seldom fail to send dispositions in, but before 1980 there was a problem in this regard because the AOC may not have monitored the local courts.

AOC staff involved with the earlier data gathering, however, claimed that the courts conducted physical inventories of pending case and, thus, the data were very accurate. When the new system was initiated in 1976 the AOC took physical inventory of pending cases and found that numbers reported for earlier years were often inaccurate. The 1976 annual reports states that the data were "verified." Since then, with few exceptions, the AOC has not conducted physical inventories.

The AOC for some time has had a program to help courts improve their record keeping and filing systems. This involves frequent on site analysis of court records, but does not involve statistical audits.

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When systems changed from manual to computer, the AOC did audits to check each case and make sure information is entered on the computer correctly.

The AOC has published a data collection manual, which was revised in 1984.

As noted above, there is differing opinion concerning whether the pre 1980 data are a problem, and because they were not there during that period, the present AOC statistical system staff cannot provide definite information about how accurate the data are. There was less effort to ensure that information concerning all dispositions was sent to the AOC. The 1984 revision also improved the data, and before then, according to a staff member, the data are reliable in the aggregate.

Mecklenburg County (Charlotte) has been a major problem. The clerk has not handled the data well, and the court, which was the first to automate, has a different computer than the AOC.

A former staff member of a DA office in District 15B stated that Annual Report data for the court were very inaccurate, but he thought this may have been the worse district.

Also, the AOC staff believed that smaller counties have more quality problems, simply because one or a few mistakes can make a disproportionate impact on the total numbers.

DATA ELEMENTS

Criminal Filings.

The definition of a Superior Court felony filing is a case that originates by indictment, information, presentment, finding of probable cause at the District Court, or a waiver of probable cause. Filings are counted by the case. The definition of a case is in practice determined by the DAs and District Court magistrates, and their practices differ concerning whether a to join counts or defendants in a single case. A multiple count indictment is counted as one cases. Cases with serial acts, such as bad checks or multiple burglaries, may be filed as one or several cases. The AOC also gathers data on number of defendants, and defendant based figures are about 30 percent lower.

Criminal Dispositions.

Dispositions are counted at the time of verdict, guilty plea, or dismissal (at not at the time of sentencing). The statistics show two types of dismissals, those with and without leave. The former can be refiled, and are typically used when the defendant is not available. The extent to which DA's clean the docket of such deadwood cases is uncertain, and probably differs from court to court. Dismissals with leave make up only about 3 percent of the felony dispositions, and the proportion varies greatly from court to court. Clarke et al. (p. 111-117) found that the average time to disposition for dismissals by leave was 156 days, as opposed to about a 100 days for other dispositions. The number of dismissals with leave in the Superior Court were equalled by the

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number in the District Courts (averaging 114 days from filing), indicating that most no shows occur at the probable cause hearing.

Dismissals without leave are often part of a plea bargaining agreement. Deferred prosecution cases are not counted as dispositions until the case is dismissed without leave, but there are vary few such cases (18 in 86R113). Deferred sentencing, called "prayer for judgment continued", or PJC, was found to be very uncommon in 1979 (Clarke et al., p. 111); and they are counted as dispositions when the plea is taken.

The number of dispositions is based on the number of disposition sheets sent in by the courts. Some arrive late, such that the end pending each year is larger than the beginning pending for the next year as reflected in the next annual report for nearly all years. Therefore, the most accurate number of dispositions is obtained by adjusting the figures for the difference between end pending and beginning pending the next year.

Criminal Pending.

The statistics do not distinguish between active and inactive pending. Inactive cases are placed in a category similar to an inactive docket: Cases with missing defendants are dismissed with leave at the request of the DA, and the case is reinstated when the defendant returns. These dismissals with leave comprise only a small portion of the caseload, and their time to disposition are not much larger than other cases (see section 1.2 above).

Because pending case figures are adjusted, the beginning pending for the next year is a better measure of pending than pending at year end. It is used in this study.

The beginning pending figures for 1979 cannot be compared to the end pending for 1978, because of the change to fiscal year (FY) statistics in 1979. The numbers differ for individual districts, but are similar for the state as a whole.

Criminal Trials.

The annual reports contain statistics for the number of cases disposed by jury trial. There are no non-jury criminal trials in the state. When there is a plea after the trial starts, the case is counted as a trial disposition.

The annual reports contain data for dispositions by guilty plea. Since 1985, this is broken down into guilty pleas as charged and guilty pleas to a lesser offense (which is defined as a plea to an offense not charged; so this category does not include pleas to lesser offenses charged), and the number of negotiated pleas is given. The "negotiated pleas" figures come from a box to check in the data form, and it is checked in nearly all cases.

Time Lapse Measures.

The annual reports provides three types of time lapse measures for both cases pending and disposed, for a total of six measures. The three are:

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1) Mean time (available since 1978).
2) Median time (available since 1979).
3) Age of cases (available since 1976 for pending case and 1977 for dispositions).

The time intervals vary from year to year. The number pending or disposed up to 4 months is available since 1979; the number disposed up to 6 months is available since 1977, and the number pending up to 6 months is available since 1976 (the AOC conducted a case inventory in 1976). The various measures are quite closely correlated.

Judge Data.

It is not feasible to determine the number of judges in each district because the assignments are too fluid. The state is divided into four divisions, within which the judges rotate. They are seldom assigned outside the division. In addition to regular judges, the state has eight special judges, appointed by the governor, who are assigned throughout the state, and can makeup for shortfalls in individual districts or divisions.

Civil Data .

Since the Superior Court does not have jurisdiction over domestic relations cases, the category of total civil cases are regular civil cases. Statistics are available for filed, disposed, end pending cases (like criminal cases, the pending figures are corrected in the following year). The disposition figures included trial dispositions, broken down into jury and nonjury trial dispositions. The definition of nonjury trials changed in 1984 and, therefore, present figures are not comparable to earlier figures.

Delay measures for civil cases are similar to those for criminal cases. The analysis hear includes the median and average time for disposed and pending cases, but does not include the figures for age-of-case data.

NORTH CAROLINA REFERENCES

Administrative Office of the Courts, Information Services Division, Statistical Reporting Manual (1984).

Bond, James E., "Plea Bargaining in North Carolina," 54 N.C. L.Rev. 823 (1976).

Clarke, Stevens H., Felony Sentencing in North Carolina, 1976-1986: Effects of Presumptive Sentencing Legislation (Institute of Government, 1987).

Clarke, Stevens H., Susan T. Kurtz, Elizabeth W. Rubinsky, and Donna J. Schleicher, Felony Prosecution and Sentencing in North Carolina (Institute of Government, 1982).

Cole, Charles D. Calendar Management and Judge Rotation in North Carolina: Final Report (National Center for State Courts, 1978).

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Lefstein, Norman, "Plea Bargaining and the Trial Judge, The New ABA Standards, and the Need to Control Judicial Discretion," 59 N.C. L.Rev. 477 (1981).
North Carolina Conference of District Attorneys Calendaring Criminal Cases in North Carolina's Superior Courts (1984).
Note "Predicting and Reducing Court-Case Time Through Simple Logic," 60 N.C. L.Rev. 103 (1981).
Note "North Carolina Fair Sentencing Act," 60 N.C. L.Rev. 631 (1981).
Note, "Survey of Developments in North Carolina Laws, 1979," 58 N.C. L.Rev 1404 (1980).
Note, "Survey of Developments in North Carolina Laws, 1980," 59 N.C. L.Rev. 1140 (1981).
Note, "Survey of Developments in North Carolina Laws, 1981," 60 N.C. L.Rev 1302 (1982).
Note, "Survey of Developments in North Carolina Laws, 1982," 61 N.C. L.Rev. 823 (1983).
Price, Ronald M., "The North Carolina Speedy Trial Act," 17 Wake Forest L. Rev. 173 (1981).

NEW MEXICO

OUTLINE OF COURT STRUCTURE AND PROCEDURES

The District Court is the general jurisdiction court. The states 33 counties are organized into 13 districts, and the Second District, Bernalillo County, is by far the largest. The limited jurisdiction court in Bernalillo county is the Metropolitan Court, and the Magistrate Court elsewhere. Their jurisdiction includes misdemeanors and minor civil cases.

DATA

Data begin in 1974, but there are no 1980 data because the state switched from a calendar year to a fiscal year. Also, data for 1995 could not be obtained. Criminal data are for the number of defendants charged with felonies. The data include reopenned cases (25-30% of the cases) and a few misdemeanors (less than 3% of the total), mainly appeals.

Data for pending cases at the beginning of the year and end of the year are published for 1974-1996, and then again in 1999 (but the 1999 data are not entered due to the gap between 96 and 99). Pending data before 1978 are uncertain. Through 77 the end pending is always the same as the beginning pending the next year. Then in 1978 the beginning pending is different from 77 end pending. That is, it appears that until 1978 the courts calculated end pending by using end pending in prior year, adding filings, and subtracting dispositions. Then there was an actual count in 78, when a new computer system was installed. (The problem can be seen from the 3rd district, where there is a typo in the criminal pending at the end of 76, 166 instead of 66. The beginning pending is set at 166 for 77, and the end pending is

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157. Then the beginning pending is 71 for 78. The data for 76 and 77 were corrected in this data set).

The pending data were adjusted by making the beginning pending the end pending for the prior year (the published end pending data are use for 1979, 1994, and 1996 because beginning pending for the following years is not available). Thus the 1977 end pending is the result of the apparent recount in 1978. pending data before 1977 are deleted where major changes were made in the apparent recounts (that is, the adjustment is more than 25% of the new pending figure, except that a figure of 40% is used when the backlog index changed little over the period). Moreover, all pending data in districts 4 and 12 were dropped because pending data are very inconsistent (with several adjustments of over 25% over the period of the study).

When comparing pending from different years (pending in prior year, plus filings, less dispositions) the figures are way off for about half the districts in 1978. It is off slightly for 86 and 87 for several districts. Also District 2 (albuquerque) quite often is off a little bit, which indicates a continual adjusting of pending.

The civil data include domestic relation cases. Also, the civil data include refilings, like the criminal data. Year-end pending data, like criminal pending, are the beginning pending from the next year except where the next year's data are not available.

VIRGINIA

OUTLINE OF COURT STRUCTURE AND PROCEDURES

The circuit court is the court of general jurisdiction. It is divided into 31 circuits. It has jurisdiction over felony cases and misdemeanor cases that originated from a grand jury indictment. The limited jurisdiction court, the district court, which holds preliminary hearings in felony cases and hears misdemeanor cases. The trial court structure and circuit boundaries have not changed since the 1970s.

Felony cases usually have grand jury indictments. If there is a trial, either the defendant or the prosecutor can demand that it be a jury trial.

JUDGES

Judges are appointed for specific circuits, and remain there. The courts also use retired judges to help with the caseloads. In 1999 use of these judges totalled 2,649 days, or 10.6 full-time equivalents, or 7.2% of the number of regular judges. No circuits received services equivalent to a full time judge, and the increase in judicial manpower did not exceed one fifth of the norman judicial resources.

DATA

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The criminal case unit is the count (rather than the defendant or case). A count is specific crime alleged by the prosecutor, and there are often two or more counts against a defendant. This might be two separate crimes committed in a short period of crime, such as successive burglaries. It also might be two crime charges for a single incident, such as rape and burglary committed at the same time. The number of counts in a case varies with prosecutor practice. Data on the number of defendants is also available since 1984, for filings only, and overall in the state there were 155% more counts than defendants in 1999. This figure has grown, and in 1986 there were 117% more counts than defendants.

Pending data begin in 1984, when actual counts of pending cases were made. In succeeding years, the pending number was estimated by adding filings and subtracting dispositions. In 1998 pendings were recounted for all circuits. Recounts were made in intervening years in several circuits. The recounts often differed greatly from calculations based on past pending data. For 15 of the 31 circuits the difference was more than 25% the circuit pending data are counted as missing data.

Data are available since 1978 for the number of cases disposed of in specific time frames, such as 0 to 2 months, 2 to 4 months. The time frames changed in 1984, but consistent series are available for 0-5 and 0-9 months.

WASHINGTON

OUTLINE OF COURT STRUCTURE AND PROCEDURES

The court of general jurisdiction is the Superior Court, which has 31 court districts. There are 39 counties in the state, and all but six districts contain only one county. Since the early 1980s two districts were split, and they are joined in this analysis, such that there is a total of 29 courts for the analysis. The major limited jurisdiction court is the District Court, which hears misdemeanors and civil cases involving small amounts. There were 170 judges in 1999. By far the largest district is King County, with 49 judges.

DELAY REDUCTION EFFORTS AND OTHER CHANGES AFFECTING DELAY

A Case Management Work Group was founded in 1987 to reduce delay in King, Pierce, and Snohomish Counties. The major effort was in King county. It created a criminal department with fifteen judges (two new judges in 1989) two new judges assigned to criminal cases. It tried to reduce delay by increasing the number of trials held. This did not reduce the backlog. Then in 1990 there was a crash program to get rid of backlog. The attorneys meet for possible settlements. Twenty two judges from other counties volunteered time, and fourteen retired judges and three attorneys served as judges pro tem. The prosecutors office got volunteers among former members of office. More jurors were summoned. Counsels chambers and judges conference rooms were used for trials. By end of August 1990 the backlog was over.

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DATA

In criminal cases the unit of count is the defendant. Approximately five percent of the cases are misdemeanors, mainly appeals from the District court.

For a there to be a non-jury trial there must have been a witness sworn in. For there to be a jury trial the jury must have been impaneled, voir dire conducted, and the jury sworn in. There need not be a trial verdict, for example when the defendants pleads guilty during the trial. After 1992 the definition of jury trial was changed to require that some evidence be presented. For some reason, King County trial rates went way down, by half, between 1984 and 1988. Nonjury trial especially went down.

The number of judges is the number of full-time judges at the end of the year. It does not include use of retired judges, attorneys temporarily assigned as judges, or judges temporarily assigned from another court.

There are no pending data or any other measure of delay.

The statistical system changed somewhat in 1983 and 1992, mainly by increasing the number of data elements collected. The data are not audited by the AOC. Effective for cases filed after January 1, 1981 de novo appeals from the District court were abolished and a trial on the record substituted. This causes a substantial reduction in both criminal and civil filings in 1981, and a modest reduction in the number of trial held. The impact varied greatly from county to county. Therefore, we have deleted data prior to 1982 from the analysis.

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