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STATE COURT JOURNAL ARTICLE

"THE LENGTHS TO WHICH COURTS GO  
TO TRY A CASE (and possible remedies)"

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Editor's Note:

The National Center for State Courts has conducted a two-year study of trial time in nine general jurisdiction trial courts. This article outlines the main findings from this research. The full report entitled "On Trial: The Length of Civil and Criminal Trials" is being prepared and will soon be available.

Dale Sipes is a senior staff attorney with the National Center's Western Regional Office. She is the project director for the research project which has been conducted under a grant made to the National Center by the National Institute of Justice (Grant No. 85-1J-CX-0044). Points of view or opinions set forth in the article are those of the author, and do not necessarily represent the official position or policies of the National Institute of Justice.

## I. INTRODUCTION

Consider two trials in progress in different courts. The cases both involve injuries to persons and property caused by automobile collisions. The courts both have general jurisdiction, are comparable in size but are situated in different states. The trial in Court A is completed in 10 hours over a two-day span. The trial in Court B continues for 30 hours over six days. This is typical of all trials in these two courts: all types of criminal and civil jury trials are shorter in Court A compared to Court B. We are concerned here with the variation in the length of these trials.

This first-of-its-kind study offers fresh perspectives on the trial process, particularly why some courts are able to try similar cases in from one-half to one-third the time of other courts. The study's objectives were to: document overall length of civil and criminal trials in different courts, trials of different case types, and the principal segments of trials; analyze variations in trial time; and identify policies and procedures that might shorten trial time without sacrificing fairness. Data were analyzed from more than 1500 trials in nine trial courts of general jurisdiction in New Jersey, Colorado, and California. The statistical picture was complemented by extensive site interviews and questionnaire responses from judges and lawyers.

The study found that trial length varies greatly in courts both among and within states. Median civil trial lengths at the

courts we studied ranged from 10 to 30 hours, criminal trials from six-and-one-half hours to more than 23 hours. Part of this variation can be attributed to structural factors, particularly the nature of a court's trial caseload and its method of jury selection and examination. For example, a court trying a significant number of product liability and homicide cases has longer median trial lengths than one trying more motor vehicle torts and burglaries. Similarly, a court allowing attorney voir dire has a longer median trial length than one that permits only judge voir dire.

However, even accounting for these differences, the study found that similar trials were of widely varying duration. This finding strongly suggests that some courts are trying their cases much more expeditiously than others. Based on the data, site interviews, and questionnaire responses, one conclusion is inescapable: the degree of judicial management of the trial process is the single most important factor that distinguishes courts in which similar cases are tried more quickly than elsewhere. Accordingly, we conclude that the time has arrived for judicial management of all phases of trials, including the definition of areas of dispute in advance of trials, the conduct of examination of prospective jurors, the setting of reasonable time lengths for each trial segment, and the prohibition of trial evidence that is repetitive, unnecessary, or needlessly lengthy.

Assessing whether fairness suffers on the way to expedited trials is complicated by the fact that fairness in this context is in the eye of the beholder. Unlike the overall pace of

litigation,<sup>1</sup> there are no national norms of reasonable time for trial duration. We can advise, however, that the great majority of judges and attorneys perceive neither lack of fairness nor injustice in those courts where trials are conducted more rapidly than elsewhere.

## II. HOW LONG DO TRIALS TAKE?

This presentation of trial time explores the importance of trial length and describes the varying lengths of civil and criminal trials, trial time from court to court, and the comparative time consumed by different stages of the trial.

### A. The Importance of Trial Length

In his farewell address as 1986-87 president of the American Bar Association, Eugene Thomas observed:

We know that it should not be necessary for cases that 15 years ago could be tried in two days to require now two months--cases that when I was a lawyer beginning my practice 25 to 35 years ago could be tried by all the attorneys in the case for less than one single court reporter takes out of it today in deposition fees...

He also said that the length and expense of trials are among the reasons people are "terrified" of going to court and "stunned" by the length of time it takes to serve on a jury.

Unduly long trials obviously squander court resources for the thousands of other litigants awaiting their day in court. Perhaps more important, they penalize the approximately 90 percent of litigants who settle without trial. Numerous studies show that a firm and unavoidable trial date is the single most effective means of stimulating lawyers to prepare their cases, which in the vast majority of cases leads to pretrial settlements. To make a trial date believable, lawyers must believe that the court will have an available judge and courtroom on the assigned trial date. The

prompt resolution of trials increases this availability, translating into earlier settlements.

#### B. The Length of Trials Overall

When the data from all nine courts are taken together we can confirm two fairly predictable facts: (1) jury trials last considerably longer than nonjury trials; and (2) civil jury trials are slightly longer than criminal jury trials. (Table 1). When the trial is broken into its components, the plaintiff/prosecutor consumes considerably more time than does the defense in both civil and criminal trials, ranging from twice to three times longer. (It should be noted that opposing counsel cross-examination time was not separately tracked; it is included within the portion of the case in which it occurred.)

Civil trials in all nine courts varied in length according to the type of case. Whether tried to a jury or to a judge the shortest civil trials involve motor vehicle torts and the longest involve product liability. (Table 2.)

In all civil jury trials the two most time-consuming components are the presentation of the plaintiff's and defense's cases, in that order, regardless of the type of case. In all but the longest trials (those involving product liability), jury deliberations are the third lengthiest component in civil trials, followed by jury selection. (Table 2.)

The lengths of criminal jury trials generally arranged themselves in the standard order used to indicate relative seriousness of the crime involved: theft cases took the least time, followed by narcotics, burglary, aggravated assault, robbery, rape, and homicide. (Table 3.)

Presentation of the prosecution's case is the single most time-consuming component in every type of criminal jury trial, which parallels civil trials. However, in contrast to civil trials, duration of the defense's case in criminal trials slips to fourth place behind jury selection and jury deliberations, which in turn trade second and third places depending upon the type of case.

### C. The Length of Trials by Court

#### 1. Civil Jury Trial Time

Trials not only vary in length by subject matter, they vary in length from court to court. The court with the fastest civil trials (Jersey City) and the one with the slowest (Oakland), maintain their positions whether trial length is measured at the median, the 75th percentile, or the 95th percentile. (Table 4.) The remaining courts shift positions slightly depending upon the point of measurement, but it is fair to say that the trial speed of each court is generally consistent with relationship to the other courts.

The differences in trial time across all nine courts are intriguing, but equally interesting are differences between courts within the same state. (Figure 1). The California courts show the largest variation; over sixteen hours separate the medians for Oakland and Monterey. In Colorado the variation among medians is only 2-1/2 hours, and in New Jersey it is less than 1-1/2 hours.

#### 2. Criminal Jury Trial Time

In general, the New Jersey courts have shorter criminal jury trials than Colorado. California trials are longest.



(Table 5.) Two notable exceptions are that Monterey trials rank as fourth shortest and Jersey City trials rank seventh. Except for Denver, all courts maintain their position at the 75th percentile where, just as for civil trials, there is a marked increase in criminal trial lengths. This third-quartile increase is least noticeable in the Colorado courts, most noticeable in the courts with longer trials--Jersey City, Marin County, and Oakland. There is significant shifting of court rank for the longest criminal trials (95th percentile), and the total trial time increase from the shortest to longest trials in any court varies substantially. For example, in Colorado Springs, trial time increases 62% between the 75th and 95th percentile. In Marin County, the increase is almost 450% and in Paterson it is over 550% between these two points.

The distributions of criminal trial length across all nine courts are set forth in Figure 2. Just as for civil jury trials, California criminal trials vary most within state, with a range of almost 14 hours between the medians for Oakland and Monterey. New Jersey also has a substantial variation, almost 6 hours between medians for Jersey City and Elizabeth. Colorado criminal jury trials appear to be most homogeneous, with medians varying approximately 2-1/2 hours.

It is worth noting that capital cases do not account for the variation found across states, within states, or even within a court for shorter and longer trial comparisons. Eight capital trials were reported from our nine courts (four trials from Oakland, two from Elizabeth, and one each from Monterey and

Denver). The reported capital cases produce very different trials, in both overall length and the length of trial portions (such as voir dire). They tend to skew the "typical" case information and have been omitted from all calculations.<sup>3</sup>

The time for major segments in criminal jury trials varies somewhat from civil jury trial segments. In eight of the nine sites the prosecutor's case, as expected, is the longest, but in one site (Oakland), jury selection consumes a larger share of the total average trial time. In general, jury selection accounts for a larger share of a criminal trial as compared to a civil trial in the same court.

Just as for civil trials, the major criminal trial segments tend to line up according to overall trial time, i.e., the court with the longest median total time has the longest median segment times as well. There are some exceptions--in particular, Jersey City has a very short jury selection time. This exception is a good illustration of the time-saving of New Jersey's system of judge-conducted voir dire (discussed below).

### 3. Nonjury trials

Nonjury trial time is dramatically faster than jury trial time in every court. Trial times range from about three to ten hours for both civil and criminal nonjury trials. Within and across states, there is considerable shifting of rank by the nine courts for nonjury as compared to jury trials. Some courts with longer civil jury trials have relatively short nonjury trials.

The data suggest that the most important aspect of nonjury trials may not be how long they take but how many and what kinds

of civil and criminal cases are tried without a jury. Some courts hear many nonjury trials; others do not. Increasing the number of nonjury trials offers the opportunity for an overall increase in calendar productivity. Also, there may be explanations for the more expeditious nature of nonjury trials--such as their more informal context--that should be explored and cultivated for possible use in jury trials.

### III. WHAT ACCOUNTS FOR VARIATIONS IN TRIAL LENGTH?

Differences in trial lengths are sometimes readily attributable to an obvious fact, such as the type of case being tried, while others are rather speculative, having more to do with the legal or social environment in which the court operates. We cannot account for all variation or rank the factors contributing to variation.<sup>2</sup> But the statistical data examined together with the information obtained from interviews, survey responses, and on-site observation furnish a useful picture of the nature of the variations and what may in part account for them.

#### A. Case Profile

##### 1. Types of Cases Tried

##### a. Civil Cases

What is the civil case type profile for each court and does case type contribute to variations in trial length? As noted above, the median civil trial length is shortest in cases involving motor vehicle torts; it becomes progressively longer in trials involving other torts, contract, other civil, professional malpractice, and product liability. While case type/trial length correlations are ambiguous for some case types, courts with a higher percentage of motor vehicle tort trials clearly have overall jury trial lengths that are shorter than other courts. Similarly, courts hearing more product liability and contract cases have longer overall jury trial lengths.

For example, Figure 3 illustrates the caseload differences between the three courts in California with those in New Jersey.

The data suggest that the caseload in part accounts for the shorter trial times found in that state. The longer trial times in Colorado and California are reflected in more "longer" case types found in caseloads there.

Examination of trial lengths for the same type of case in different courts reveals significant variation. For instance, the spectrum of average time in motor vehicle tort trials ranges from a low of 8-1/2 hours in Jersey City to a high in Oakland of 21-1/2 hours. A court's relative trial length ranking for each case type is generally consistent with that court's overall rank when all types of cases are combined. New Jersey courts therefore have the shortest trials on a composite basis; they also have the shortest trials within each case type. New Jersey is followed by Colorado and then California, except that Monterey more closely resembles the Colorado case type trial times which is consistent with Monterey's overall trial time.

b. Criminal Cases

For criminal cases the longest to shortest trials in all nine courts occur in cases involving homicide, rape, robbery, aggravated assault, burglary, narcotics, and theft. In view of this information it is not surprising that courts with more homicide, rape, and robbery trials have longer median times, and courts trying more burglary, narcotics, and theft cases have shorter median times.<sup>4</sup> For example, Figure 4 contrasts the criminal caseload mix of Oakland, California, with Elizabeth, New Jersey, the courts with the longest and shortest median criminal jury trial times. It illustrates that in Oakland 58% of its

trials involve the more serious felony charges, as compared to only 32% in Elizabeth. The data suggest that, not surprisingly, case type offers some of the explanation for variations in trial time.

## 2. Case Complexity

What accounts for the different trial lengths for the same case types in the nine courts? Does the complexity of a motor vehicle tort or robbery in Oakland justify a trial length that is twice as long as in Colorado or New Jersey? To compare trial complexity, we selected the following as readily measurable indicators: number of parties, exhibits, claims; number and type of attorneys; and number of and time for witnesses. Obviously there are many other potential indicators of complexity, but they involve research techniques or judgmental assessments beyond the resources available for this study. Of the indicators we examined, the number of witnesses examined and exhibits introduced vary significantly for both civil and criminal trials.

### a. Civil Jury Trials

Trial time range by civil case type between courts varies dramatically--for example, from 8-1/2 hours in Jersey City to over 20 hours in Oakland for motor vehicle tort trials. In California and Colorado, where civil trials are longer, more witnesses and more exhibits are used than in New Jersey trials. Oakland civil trials, the longest among the nine courts, involve more witnesses and exhibits than in any other court. This suggests a correlation between trial length and the number of witnesses and exhibits.

The correlation between trial length and witness/exhibit usage is neither guaranteed nor without exceptions, however. For example, in Marin County and Monterey, witness/exhibit usage is virtually identical, yet these courts have very different civil trial lengths.

Consequently, we also compared average length of witness testimony and discovered notable differences across the courts. The length of civil witness testimony mirrors trial time variation to a great extent and offers some evidence of correlation between not only the number of witnesses and exhibits but also witness time and overall trial time.

b. Criminal Jury Trials

Average variation by criminal case type between courts ranges from a difference of eight hours between courts for burglary trials to a difference in excess of 68 hours for robbery trials. Does the complexity of a robbery trial in Oakland justify a trial time more than three times longer than a robbery trial in Monterey, a court in the same state?

Just as for civil cases, California criminal trials are more complex, measured by the average number of witnesses and exhibits. A typical prosecution case in Oakland or Marin County involved at least one expert witness. The prosecution in other courts does not typically use experts, with the exception of Denver. The prosecution in California typically called three officials as witnesses (police, coroner, etc.). In Colorado and New Jersey, only two officials were called. Lay witnesses for both prosecution and defense were also slightly more numerous in California.

Also, more exhibits were entered in criminal trials in Oakland, Marin County, Denver, and Jersey City, which correlates with the longer trial times for these courts. Paterson, Elizabeth, and Monterey had fewer exhibits entered, which correlates with their shorter criminal trial times.

### 3. Summary of Case Profile Variation

Case types and complexity within case types seem to account for some of the variation in civil and criminal jury trial lengths. Courts with a higher percentage of "long trial" case types have longer median trial times. Within case types, it is not possible to determine from our data whether courts are having longer trials merely because the cases are more complex and somehow require more and longer evidence or because repetitive, unnecessary testimony and exhibits are customary and tolerated. It can, however, be stated that there is a strong correlation between overall trial time and (1) the number of witnesses, (2) the length of witness testimony, and (3) the number of exhibits.

#### B. Jury Selection

There are significant differences in the methods used to select a jury, both within and across states and these differences affect trial time. Three differences merit special attention: jury size, operational differences regarding jury selection, and voir dire method. Procedures and practices involving use of peremptory challenges, challenges for cause, and prospective juror panel size appear to less directly influence trial time.



## 1. Jury Size

First, the number of jurors in a civil case differs from state-to-state. In California, where trials are longer, there are twelve jurors in a civil case. In both Colorado and New Jersey there are six jurors. While state law may allow for a lesser number by stipulation, in no cases in our sample did this occur.

Juries in criminal trials consisted of twelve jurors in all nine courts, except that six-person juries heard 30% of the criminal trials in Golden, Colorado.

## 2. Operational Differences

The two main methods for selecting jurors are the "struck jury" and the "strike and replace" systems. Under the first a large number of jurors are questioned as a group. Challenges are exercised, and the first twelve (or six) remaining jurors serve; the remainder are dismissed. This system is used in Colorado. By contrast the strike and replace method calls for questioning only twelve prospective jurors at a time. As individuals are excused, they are replaced; questioning commences anew for the replacement. This system was found most commonly in the California courts. New Jersey appears to use a combination of the two. Individual juror replacements for cause or peremptory challenges are asked "if they have heard the other questions" and whether they have any specific responses to the questions they have heard that need discussion. They are not automatically asked all prior questions.

Generally, the strike and replace system is perceived to be more time consuming than the struck jury system. This perception

is confirmed by the time spent on jury selection among our nine courts. The courts with the shorter median times for jury selection, New Jersey and Colorado, tend to use the struck jury approach or a modified version of it.

### 3. Questioning Potential Jurors

Voir dire is the courtroom examination of prospective jurors for the purpose of ascertaining their fitness to serve on a jury. The New Jersey courts use judge-conducted voir dire. Under New Jersey law, attorneys may submit voir dire questions in writing for the judge to ask in addition to the judge's standard questions, or may request permission to ask questions themselves. Actual attorney participation varies within New Jersey.

Most attorneys in New Jersey find no fault with the length of jury selection but 32% of the civil and 27% of the criminal survey responses stated jury selection is too short. A significant number also asserted it is too long. Not surprisingly, these critical responses are grouped by the type of attorney responding. For instance, forty-seven of the 49 criminal lawyers reporting that voir dire in their court was too long were prosecutors. Of the 44 lawyers who thought voir dire was too short, 29 were defense attorneys.

Voir dire in Colorado is conducted by judges and lawyers, but questioning by attorneys may be closely monitored by the trial judge under a Colorado Supreme Court rule that states that a judge "may reasonably limit the time available to the parties or their counsel" in order to eliminate undue delay. A time limit of 30 to 45 minutes per side was mentioned routinely by judges in Colorado, particularly newer members of the bench.

While most Colorado lawyers interviewed indicated that they do not particularly like time limits, especially when they seem arbitrary or inflexible, they do not believe time limits prejudice case outcome. They feel that if time is limited, judges must be careful to conduct a suitable voir dire before the allotted attorney time commences.

In California, voir dire is also conducted by judges and lawyers. Most judges indicate that they discourage repetition of questions. Time limits on voir dire are not officially sanctioned, although neither are they forbidden. Both judges and lawyers described jury selection for civil cases as reasonably expeditious, but it is still cited as the most "abused" stage of a civil trial, a stage that is very appropriate for judicial intervention. But there is no consensus about what constitutes an acceptable level of intervention.

One-third of criminal lawyers stated in survey responses that the process takes too long (most are prosecutors in Oakland and Marin). Typical of prosecutor views, particularly in California, are the following remarks: jury selection is "laboriously slow, boring, and demeaning to jurors, including unnecessarily invading their privacy," the process is "insane", and jurors are "put on the psychiatric couch."

In New Jersey and Colorado there is clear-cut legal authority for the judge's role in controlling voir dire. By comparison, in Oakland and Marin County we were frequently told that a "wide open" voir dire is compelled by case law. Judges in Monterey did not share this view and their success in managing voir dire is

reflected in the data showing that voir dire in that court is 50 to 300% shorter than in the other California courts.

In the search for explanations underlying varying trial lengths, size of juries and attorney-conducted voir dire cannot be ignored. California's commitment to twelve-person civil juries plus generally unlimited attorney voir dire seem to influence the length of its trials. That commitment is challenged by the data on trial length from New Jersey and Colorado. The seriousness of these challenges is underscored by the fact that 67% of the New Jersey attorneys who responded to our survey were comfortable with the length and process of voir dire and the responding attorneys in Colorado expressed as much satisfaction with voir dire as did their California counterparts.

This is an appropriate area for further exploration but at this point we are persuaded that judicial involvement and limitations on attorney questioning expedite jury selection and do so with no more serious consequence than running counter to predictable attorney preferences.

### C. Variation by Judge

The composite picture that emerges from the interview and survey information is that trial length varies from judge to judge, with the level of judicial control playing an important part, followed by several other characteristics and practices of the trial judge.

#### 1. Civil Attorney Attitude

In response to the attitude survey question, "How much do trial lengths vary by judge?," civil attorneys indicated that time

varies "considerably" or "somewhat" in most courts. Table 6 shows that perceived variation by judge was strongest among attorneys in Oakland, Denver, Marin County, and Jersey City. Three of these four courts are the most urban, and have more judges on the bench; one is a small court. Trial time variation by judge was noted least in Monterey and Golden, the two smallest courts aside from Marin County.

The survey also asked civil lawyers to identify the most important judge characteristic that influences trial time. Lawyers in all three states mentioned a judge's personal qualities, particularly the "decisiveness" of a judge, more than any other trait.

## 2. Criminal Attorney Attitude

Prosecutors and defense attorneys had very different responses to the survey question, "How much do trial lengths vary by judge?" In California, prosecutors from Oakland and Marin County report considerable or some variation; prosecutors in Monterey report much less. (Table 6.) Criminal defense attorneys in Oakland reported extensive trial time variation by judge, while very little is reported by defense counsel in the other two, smaller California courts.

Prosecutors and defense attorneys throughout Colorado, reported considerable or some variation among judges, although somewhat less was reported in Golden, the smallest court. In New Jersey, both prosecutors and defense attorneys reported significant variation among judges, particularly defense attorneys in Paterson and Elizabeth.

Criminal lawyers also were asked, "What is the most important judge characteristic that influences the length of a trial?" In both California and Colorado, the extent to which a judge "controls" the trial, particularly the voir dire, was cited by a majority of criminal lawyers. Judicial control was an important factor in New Jersey as well, but a judge's personal characteristics were cited slightly more often.

#### D. Variation by Lawyer

Judges were asked "How much do trial lengths vary by attorney?" Table 7 shows that a great majority of California judges believe variation is considerable. Colorado judges are split between the belief that it is considerable and that it varies only somewhat. Only 15% of New Jersey judges believe there is a considerable variance; 65% believe time varies somewhat and the remaining 20% believe there is not much variation between attorneys. While the implications of these responses are not clear cut, it is notable that in the state with shorter trials, fewer judges believe trial time varies much by attorney. By comparison, judges in California, with its lengthier trials, overwhelmingly responded that the attorneys trying a case can cause trial time to vary considerably. Colorado judicial perceptions fell between the other two states, as does trial time.

In order to identify the reasons for a perceived variation by lawyer, another question on the survey asked, "What is the most important lawyer characteristic that influences the length of a trial?" The characteristic cited most often in all three states

was trial preparation. The ability, knowledge, and skill of a lawyer were also widely cited in all courts.

The "considerable" lawyer variation reported by California judges suggests that California judges are not managing the lawyers in the courtroom as much as judges in Colorado and New Jersey. In at least partial defense, many California judges do not feel authorized to manage lawyers in the courtroom to the same extent as do judges in the other states lacking, for example, the others' clear authorization of judge-only voir dire or time limits on attorney voir dire.

We also examined two other aspects of attorney participation but found no verifiable correlation to trial length: (1) the type of legal representation of defendants in each criminal trial-- public defender, assigned counsel, privately retained lawyer, or self-representation; (2) economic incentives to hasten or slow the pace of a trial.

New Jersey is a possible exception with respect to economic incentives in that there might be an incentive for attorneys there to begin a civil trial. All three New Jersey courts registered a very high settlement outcome during trial; for example 46% of motor vehicle torts in Paterson settled during trial. These rates were many times higher than any other court. We can only speculate why these cases are not settling before trial, but in interviews with judges and calendar clerks we were told that there may be an economic incentive for defense attorneys to begin the trial.

#### E. Other Variables

Before concluding the discussion on variation brief reference should be made to potentially fruitful areas of research that emerged during the course of this undertaking. These involve potential relationship between the length of trials and (1) characteristics of the community served by a court, (2) the local legal community, and (3) differences between states and localities in both substantive and procedural law. Investigations into these relationships were beyond the scope of this study but are recommended for attention in the future.



#### IV. HOW CAN TRIALS BE MANAGED?

##### A. Judicial Management

Our research suggests that all parts of a trial are susceptible to judicial management. Moreover, trial management is consistent with standards endorsed by both judges and attorneys:

From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events, is unacceptable and should be eliminated. To enable just and efficient resolution of cases, the court, not the lawyers or litigants, should control the pace of litigation. A strong judicial commitment is essential to reducing delay and, once achieved, maintaining a current docket. (American Bar Association, Standards Relating to Court Delay Reduction, Sec. 2.50 - Caseflow Management and Delay Reduction: General Principle (1985)).

We have attempted to gauge both judge and attorney attitudes about judicial management in our nine courts by asking them: (1) whether they think trials in their court are too long or too short; (2) how appropriate they believe it is for judges to control trial length; and (3) whether the present level of control in their court is appropriate, or if they would like more or less. We can report the following general responses by those responding to our survey:

- Both judges and lawyers are more likely to report that trial time is too long in those courts where median trial times are longest;
- Most judges and lawyers believe it is appropriate for judges to control trial length--some criminal defense attorneys disagree;
- Almost all judges believe the present level of control they are exercising to be at least "appropriate"; those

from the courts with longer median trials believe more control should be exercised;

- Most civil attorneys are satisfied with the level of judicial control in their courts, but satisfaction drops for courts with longer trial times;
- Prosecutors everywhere believe it is appropriate for judges to control trial length; a majority of them would like judges to be exercising more control over trials;
- A majority of criminal defense attorneys in eight of the nine courts believe it is not appropriate for judges to control trial length--attorneys from the court reporting the shortest median criminal trials see control as appropriate.

When lawyers and judges refer to judicial "management" or "control" of a trial, what do they mean? What, in particular, can a judge do to manage a trial? Three primary techniques emerged on the attitude survey: (1) preventing repetitive questioning during trial; (2) defining areas of dispute, either at a pretrial conference or immediately before trial; and (3) setting time limits during trial.

Across and within these three states judicial practices vary widely, supporting the notion that utilization of these techniques is primarily a matter of individual judge discretion. The techniques used, and when they are used, also vary, depending upon whether the trial is civil or criminal.

The fact that lawyers from courts with longer trial times seek shorter trials and more judicial management suggests a mandate from the trial participants who are best able to evaluate. It constitutes, in our judgment, endorsement of judicial control and increased judicial monitoring of trial time.

## B. Specific Techniques

The time required for several segments of a trial is fairly short. Both the opportunities to save time and the advantage of doing so may not seem worth the effort to some. But within the context of a three-day-trial, saving 15-30 minutes in each of several fairly short segments of a trial soon could save half a day of trial time and are worthy of attention as part of any trial management program. These smaller savings appear in the opening statement, motion for directed verdict, rebuttal, and jury charge segments. The following segments promise a more substantial time saving:

### 1. Pretrial Motions

There is variation in the amount of time a judge will devote to motions in limine or other trial-related matters just before trial. While we did not attempt to capture the amount of either pretrial or day-of-trial time devoted to these matters, the strong suggestion in interviews was that a judge's preference in this area affects trial time, but not necessarily the overall expenditure of judicial time. Trials may be shorter if motions are heard pretrial, but the amount of judge time required may be similar. However, resolution of these motions pretrial may lead to more non-trial dispositions. Even if not dispositive, motions heard during trial that could have been heard pretrial impose on juror time and interrupt trial momentum.

### 2. Jury Selection

Earlier in the report we reported the procedural differences and time variation that exist among the courts for this trial segment. We concluded that jury issues, particularly who conducts

voir dire, should not be overlooked in either explaining trial length variation or expediting trials. In New Jersey and Colorado, judicial involvement in and limitations on attorney questioning expedites jury selection without appearing to compromise trial fairness.

### 3. Presentation of Case

Controlling the trial through techniques such as defining areas of dispute, preventing repetitive testimony, and imposing time limits are presently being used by a significant number of judges, but by no means all of them. In view of the direct relationship between median trial length and the number of witnesses, length of testimony, and the number of exhibits, we suggest that these techniques are all viable and should be considered for application in every trial in order to reduce unnecessary and repetitive evidence.

### 4. Closing Statements

Closing statements are offered in virtually all civil and criminal jury trials. In both civil and criminal cases, closing statements by the plaintiff/prosecutor or defense lawyer each tend to take 30 to 45 minutes in Colorado and New Jersey. In California they take more time, up to an average of 1-1/2 hours. The fact that closing statements in Monterey, although the shortest among the California sites, are longer than in New Jersey or Colorado suggests that more elaborate closing statements are a custom in California.

The interstate difference probably is attributable to the fact that imposition of reasonable time limits on closing argument are

not unusual in Colorado and New Jersey. Time limits require attorneys to focus their comments. In California there appears to be an opportunity to explore time-saving in this segment.

#### 5. Selecting Jury Instructions

The time expended selecting jury instructions varies greatly among the courts and furnishes evidence that the time used for this portion of a trial can be streamlined. The average time for selecting civil jury instructions ranges from 12 minutes in Jersey City to almost three hours in Oakland. The major time difference seems to stem from the requirement in both Colorado and New Jersey that proposed jury instructions be submitted to the court prior to the start of trial. However, enforcement of this rule is within the discretion of each judge; in Colorado the rule is reported to be widely unenforced.

The time impact of the New Jersey practice is substantial. Both civil and criminal lawyers and some judges indicate that there is not usually much discussion of instructions. In fact there is no discussion in 40% of the civil and 60% of the criminal jury trials. The standard instructions are customarily offered and given. This appears to be very different from the situation in either Colorado or California.

### C. General Techniques

#### 1. Pretrial Atmosphere

For more than a decade, empirical research in both federal and state courts has provided information about case processing times across a broad spectrum of courts, has led to revision of conventional wisdom about the causes of delay, and has suggested

remedies that have stimulated a number of efforts to address problems of court delay.

While this study does not focus on the pretrial expeditiousness of these nine courts, this important area should not be overlooked. Many trial attorneys suggested that lack of management of the case in the pretrial period is by far the most important factor in prolonging trials or trial segments.

These comments led us to explore the pretrial litigation management existing in the three states participating in this research. The initial question was whether each state's dedication to improved case processing could be assessed.

In general, the New Jersey judiciary has a reputation for expediting case processing. The New Jersey Administrative Office of the Courts is very involved in promoting efficiency. Almost without exception, judges, administrators, and lawyers interviewed in New Jersey at some point made mention of the judiciary's goals of annual "calendar clearance" and referred to a strong statewide interest in favorable statistics as a reflection of judicial efficiency. By comparison, while judicial administrators and judges in Colorado and California are no doubt very interested in court efficiency, this interest has not, until recently, taken the form of local or statewide programs to reduce court delay. We cannot statistically compare the pretrial and caseflow practices of a court and state with trial time. We can, however, state that the "climate" in New Jersey is one that encourages case disposition, which inclines us to conclude that it contributes to shorter trial times.

We asked ourselves, "Which trial management techniques (other than judge-controlled voir dire) are New Jersey judges using that California and Colorado judges are not using that can explain New Jersey's shorter trial times?" Aside from judge-conducted voir dire there are no readily discernible techniques that distinguish New Jersey's approach to trials. The principal distinguishing factor seems to be the general emphasis on delay reduction at both the state and local levels and the attitude toward expeditious handling of disputes that this emphasis seems to create -- which extends into the trial itself even if special management techniques are not employed by the trial judge.

We cannot document this belief statistically but we have reached two conclusions: (1) there is a strong indication apparent from both the data and our interviews that attention to total case processing time and case management by judges reduces trial as well as pretrial time, and (2) the possibility of this relationship is important enough to warrant further testing and study of the hypotheses.

## 2. Trial Continuity and Length of Trial Day

Jury trials exhibit a higher degree of continuity than do nonjury trials. In most courts jury trials are given priority over other matters. Once they start, they continue until they are completed. We see the highest degree of continuity in civil and criminal jury trials in Colorado. Oakland and Marin County have the lowest.

Interview and questionnaire responses indicate that trial interruptions, either through nonsequential or short trial days,

tend to lengthen the total time needed to complete a trial. We tested this belief statistically, asking whether there is a relationship between ability to sustain trial momentum and overall trial length.

Protecting the day-to-day momentum of a trial in progress is widely believed to enhance prospects for a more expeditious trial. Our data corroborate this belief. This points to a connection between trial continuity and trial length. Colorado and New Jersey trials were more continuous day-to-day than California trials; we also know they are shorter. This led to consideration of whether the system of trial assignment bears on trial continuity and after examination we concluded that it is possible to protect continuity under either a master or individual system.

Shorter trial days also were examined to determine whether they may fragment trial continuity or reduce momentum. Our data indicate that consecutive and longer trial days lead to the ability to conduct trials in fewer total hours.

### 3. Measuring Trial Time

A decade ago courts did not know how long it took their cases to proceed from initiation of a proceeding to final disposition; most did not even perceive the need for this information. Today, most courts do not know the length of their trials.

The data collected during the course of this study confirm that neither judges nor lawyers presently know what is typical for their court. Judges and lawyers were asked to estimate the length



of their court's trials in the attitude survey. Lawyers estimated trial length at two or three times the actual length in most courts. Judges' estimates were closer to the mark, particularly for civil cases.

Speculation about why lawyers or judges were good or bad estimators is beyond the scope of this report. The implications of bad estimates, however, are worth pondering in the future. In particular, we must ask whether a judge or lawyer's expectation that a trial will be much longer than reality contributes to trial length that is longer than need be.

There is a wealth of information that becomes available when trial time is measured. We suggest that every court could profit from regularly collecting trial time information, by case type, and noting at least the most pertinent case characteristics, for instance, the number of witnesses and exhibits.

This should not be a burdensome task. Among the many lessons of this research is that trial time data are relatively easy to collect. The courtroom clerks who completed our data forms at most of our study sites, advised that they have sufficient time during the course of a trial both to track time and event data as well as to capture case characteristic information. (The forms used for tracking trial time for this project appear at the end of the article.)

This information is useful for both immediate and long-term purposes. In the short run it will tell a court what is "typical." The development of detailed information about typical trials can lead to the development of a courtwide expectation that

in a particular type of case with a particular set of issues, trial can be expected to conclude in a particular amount of time. This information can be used to establish weighted schemes to schedule trial dates. Rather than scheduling the same number of cases for trial every day, courts can develop case weights--a product liability case would have a higher weight than a motor vehicle tort, and a homicide a higher weight than a theft--and schedule a certain number of total case weighting points for trial each day. This weighting scheme could also include an indication of the likelihood that the case would not be disposed before trial. This information could directly impact a court's ability to maintain firm trial dates, recognized as a cornerstone of any delay reduction program.

## V. CONCLUSION

The time has arrived for judicial management of all phases of trials. Judicial control is the single factor that distinguishes courts in which similar cases are tried more expeditiously than elsewhere. Attorneys desire, and may in the foreseeable future demand, more judicial control of the trial process. The following statement is in our judgment a fair reflection of current citizen expectation:

Nobody wants summary justice. That, however, need not be the alternative. The alternative should be reasonable dispatch, without dilatory tactics and self-indulgence by lawyers, and with judges who are able--and want to--keep things moving. Why is that too much to ask for? It ought to be taken for granted.<sup>5</sup>

The results of this study offer only a snapshot, but it is a vivid snapshot. It is a picture of trial types and lengths that vary dramatically within a state and between states; lengthy trials that cannot be fully explained away in light of much more expeditious trials elsewhere; trial attorneys' desire for or approval of management of trials by judges; and the promising potential of increased judicial involvement in the trial process.

Our endorsement of trial management by judges rests first upon the demonstrated effectiveness of judicial management in expediting case processing at both the pretrial and trial stages and the fact that all steps in the trial process are amenable to some judicial control. The conclusion is further supported by the favorable effect upon time consumed in trial when courts protect

trial continuity, define areas of dispute in advance of the trial, conduct examination of prospective jurors, set reasonable time limits, and prohibit evidence that is repetitive, cumulative, unnecessary, or needlessly lengthy. And greater judicial control does not appear in fact or perception to impair the fairness of trials.

Even if judicial policy makers do not embrace judicial trial management we endorse expanded knowledge regarding trials. It is not difficult to measure the length and other characteristics of trials. It should not be difficult to measure the impact of increased judicial involvement or other attempts to expedite unduly long trials. With such information everyone concerned with improved justice can better assess improvement of the trial process and begin to answer the questions that remain unanswered.

#### NOTES

A great many people have contributed to this research, in a variety of ways. In particular, I would like to thank Mary Elsner Oram for her contribution as both a statistician and author. I would also like to thank Marlene Thornton, Danny Valluzzi, Dick Van Duizend, Barry Mahoney, Alex Aikman, Geoff Gallas, Tom Henderson, and Larry Sipes, each of whom has been involved in some aspects of the research and preparation of the forthcoming final report.

# FOOTNOTES

- 1 American Bar Association, Standards Relating to Court Delay Reduction (1984); Conference of State Court Administrators, National Time Standards for Case Processing (1983).
- 2 Early in the analysis we began to conduct an analysis of covariance in order to rank identified factors that vary. We quickly learned that this statistical tool would be inappropriate for a data base of this size.
- 3 Information about capital cases can be found in the full report of this study.
- 4 Marin County does not fit this pattern, with a median rank of second longest for criminal jury trials. We believe this is in part attributable to the unique presence of San Quentin prison within its jurisdiction.
- 5 Newman, Edwin, "The law's delay," San Francisco Chronicle, (June 3, 1987).

TABLE 1

WHAT IS THE LENGTH OF COMPLETED<sup>a</sup>  
TRIALS FOR ALL COURTS COMBINED?

	<u>Jury</u>		<u>Nonjury</u>	
	<u>Civ.</u>	<u>Crim.</u>	<u>Civ.</u>	<u>Crim.</u>
Total <sup>b</sup>	13:30	11:07	4:54	3:29
Jury selection	1:30	3:06	--	--
Plaintiff's/prosecutor's portion <sup>c</sup>	6:55	4:22	3:06	2:00
Defense portion <sup>d</sup>	2:57	1:46	1:20	:45
Jury deliberation	1:55	2:45	--	--
Number of cases included	393	444	244	46

---

-- = not applicable

- <sup>a</sup> Median hrs:mins calculated from all cases tried to jury verdict (for jury trials) or to judge decision (for nonjury cases).
- <sup>b</sup> Total trial length includes the total length of time, in hours and minutes, that the trial consumed, not including day-of-trial motions heard before the start of trial or, for jury trials, jury deliberation time.
- <sup>c</sup> Length of the plaintiff's/prosecutor's portion includes the time consumed by the plaintiff's/prosecutor's opening statement, case-in-chief, rebuttal, and closing argument(s).
- <sup>d</sup> Length of the defense's portion includes the defense's opening statement, case-in-chief, and closing argument.

TABLE 2

WHAT IS THE LENGTH OF CIVIL JURY TRIALS  
 --BY CASE TYPE--FOR ALL COURTS?<sup>a</sup>

	<u>Motor Vehicle Tort</u>	<u>Other Tort<sup>e</sup></u>	<u>Contract</u>	<u>Other Civil<sup>f</sup></u>	<u>Professional Malpractice</u>	<u>Product Liability</u>
Total <sup>b</sup>	10:54	12:16	14:02	15:20	17:20	26:23
Jury selection	1:10	1:31	1:26	1:59	1:32	2:25
Plaintiff's portion <sup>c</sup>	5:36	5:45	7:02	8:18	8:20	16:04
Defense portion <sup>d</sup>	2:13	2:10	3:52	3:42	5:26	5:38
Jury deliberation	1:26	1:50	2:54	1:58	2:28	2:05
Number of cases	122	103	54	40	58	15

---

a Median hrs:mins for all cases tried to jury verdict.

b Total trial length includes the total length of time, in hours and minutes, that the trial consumed, not including day-of-trial motions heard before the start of voir dire, or jury deliberation time.

c Length of the plaintiff's portion includes the time consumed by the opening statement, case-in-chief, rebuttal, and closing argument.

d Length of the defense portion includes the opening statement, case-in-chief, and closing argument.

e "Other tort" includes non-motor vehicle wrongful death, negligence, personal injury, property damage, and so-called "slip and fall" cases.

f "Other civil" includes real property rights, civil fraud, and other miscellaneous cases.

TABLE 3

WHAT IS THE LENGTH OF CRIMINAL JURY TRIALS  
--BY CASE TYPE--FOR ALL COURTS?<sup>a</sup>

	<u>Theft</u>	<u>Narcotics</u>	<u>Burglary</u>	<u>Agg. Assault</u>	<u>Robbery</u>	<u>Rape</u>	<u>Homicide</u>
Total <sup>b</sup>	6:57	7:38	9:45	10:00	10:17	14:20	33:14
Jury selection	2:32	2:00	2:43	2:11	3:00	4:15	8:14
Prosecutor's case <sup>c</sup>	2:51	2:49	4:07	4:06	3:41	6:14	13:43
Defense case <sup>d</sup>	:58	1:30	1:07	1:47	1:40	2:08	4:38
Jury deliber- ation	1:40	2:12	2:19	2:38	1:50	3:40	5:30
Number of cases	29	83	51	37	63	26	59

---

<sup>a</sup> Meidan hrs:mins for all cases tried to jury verdict.

<sup>b</sup> Total trial length includes the total length of time, in hours and minutes, that the trial consumed, not including day-of-trial motions heard before the start of voir dire, or jury deliberation time.

<sup>c</sup> Length of the prosecutor's portion includes the time consumed by the prosecutor's opening statement, case-in-chief, rebuttal, and closing argument.

<sup>d</sup> Length of the defense's portion includes the time consumed by the defense's opening statement, case-in-chief, and closing argument.



TABLE 4

WHAT IS THE LENGTH OF CIVIL JURY  
TRIALS FOR EACH COURT<sup>a</sup>

<u>Court<sup>b</sup></u>	<u>Median</u>	<u>75th Percentile<sup>c</sup></u>	<u>95th Percentile<sup>d</sup></u>
Jersey City, NJ	9:48	13:56	22:14
Paterson, NJ	10:02	16:55	27:35
Elizabeth, NJ	11:06	16:03	32:54
Colorado Springs, CO	14:08	19:37	28:39
Golden, CO	14:11	18:23	42:25 <sup>e</sup>
Monterey, CA	14:26	24:37	47:13
Marin Co., CA	17:33	33:30	64:54 <sup>e</sup>
Denver, CO	17:36	26:56	57:48
Oakland, CA	30:48	47:04	160:35

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<sup>a</sup> Hrs:mins, not including jury deliberation.

<sup>b</sup> Courts are listed from shortest to longest median civil jury trial time.

<sup>c</sup> Represents the disposition time for the case that took more time than three-fourths of the cases in the sample, less time than the remaining one-fourth.

<sup>d</sup> Represents the disposition time for the case that took more time than 95% of the cases in the sample; only 5% of the cases are slower.

<sup>e</sup> Too few cases to calculate the 95th percentile. This calculation is the time for the longest trial.

FIGURE 1  
TOTAL TIME FOR COMPLETED  
CIVIL JURY TRIALS IN HOURS  
(NOT INCLUDING JURY DELIBERATION)  
(MEDIAN)

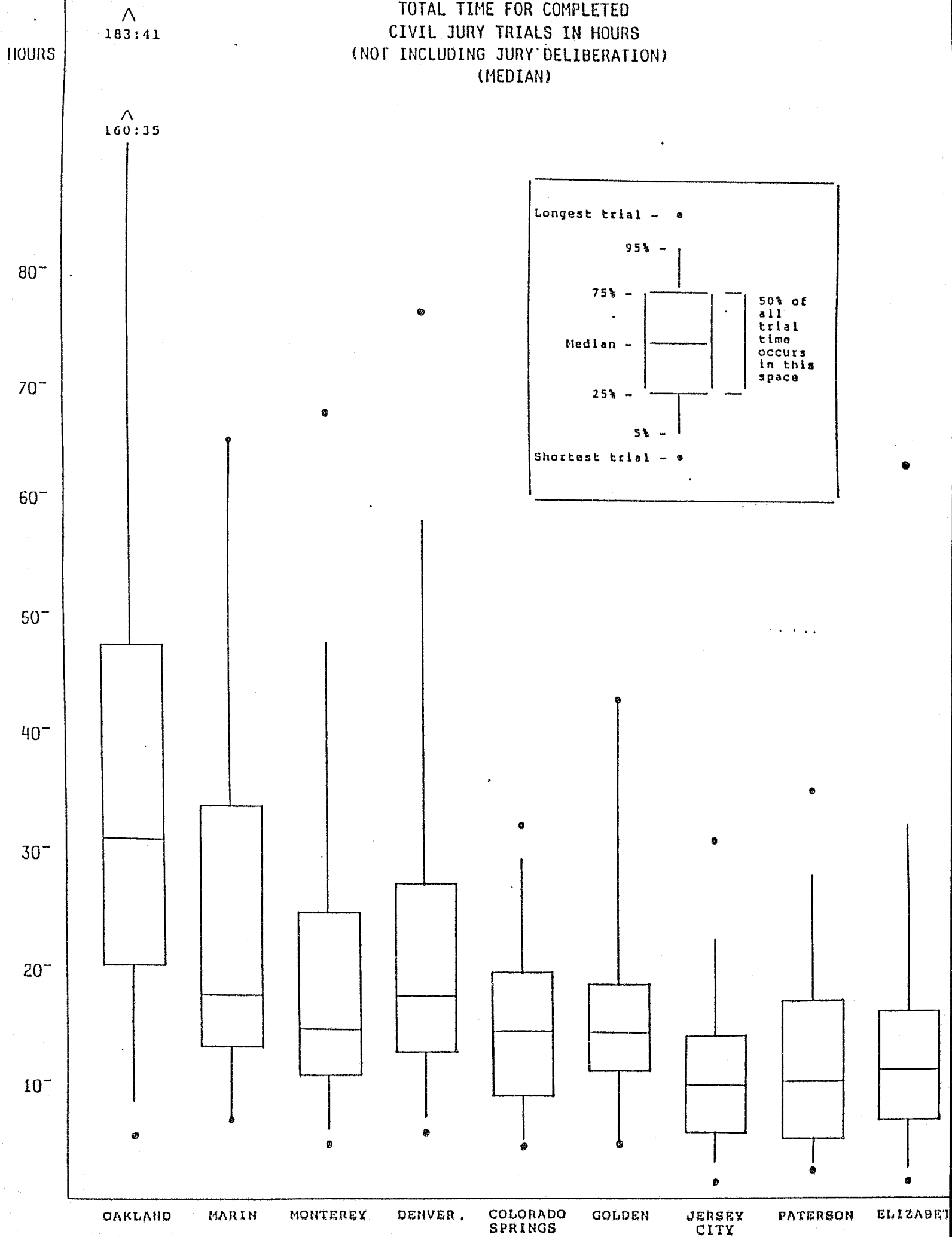


TABLE 5

WHAT IS THE LENGTH OF CRIMINAL JURY  
TRIALS FOR EACH COURT?<sup>a</sup>

<u>Court</u> <sup>b</sup>	<u>Median</u>	<u>75th Percentile</u> <sup>c</sup>	<u>95th Percentile</u> <sup>d</sup>
Elizabeth, NJ	6:20	9:56	20:52
Paterson, NJ	7:24	10:35	71:24
Golden, CO	8:10	12:19	49:40 <sup>e</sup>
Monterey, CA	9:27	13:43	45:30
Denver, CO	10:50	18:12	38:54
Colorado Springs, CO	10:54	13:56	22:54
Jersey City, NJ	12:09	27:07	58:05
Marin Co., CA	17:44	34:34	186:54
Oakland, CA	23:16	35:42	58:22

---

<sup>a</sup> Hrs:mins not including jury deliberation.

<sup>b</sup> Courts are listed from shortest to longest median criminal jury trial time.

<sup>c</sup> Represents the disposition time for the case that took more time than three-fourths of the cases in the sample, less time than the remaining one-fourth.

<sup>d</sup> Represents the disposition time for the case that took more time than 95% of the cases in the sample; only 5% of the cases are slower.

<sup>e</sup> Too few cases to calculate the 95th percentile. This calculation is the time for the longest trial.

URS

100

50

80

70

60

50

40

30

20

10

160:46  
154:01  
^

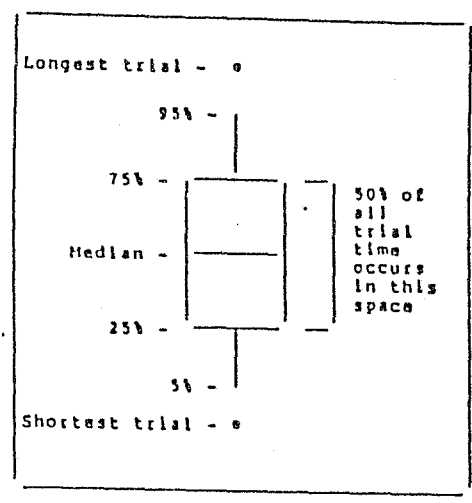
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183:33  
^  
180:17  
186:17  
↑

319:19  
126:30  
^

FIGURE 2  
TOTAL TIME FOR COMPLETED  
CRIMINAL JURY TRIALS IN HOURS  
(NOT INCLUDING JURY DELIBERATION)  
(MEDIAN)

Revise

el



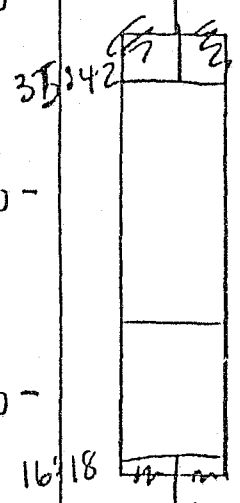
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20:52



13:50

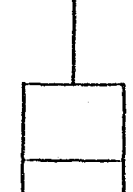
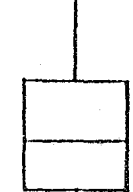
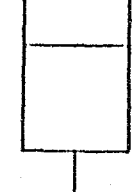
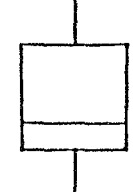
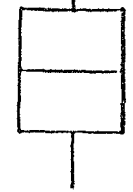
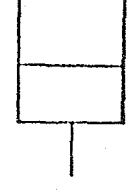
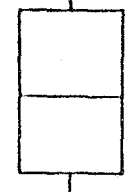


FIGURE 3  
CIVIL JURY TRIAL CASELOAD COMPARIS(ON)  
(CALIFORNIA AND NEW JERSEY)

*kris-original  
charts for these  
reductions are  
attached too.*

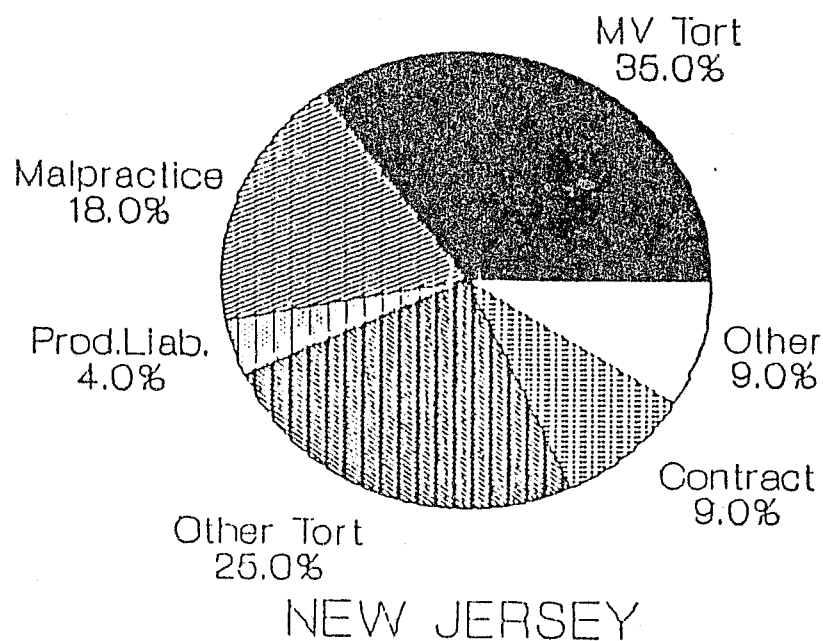
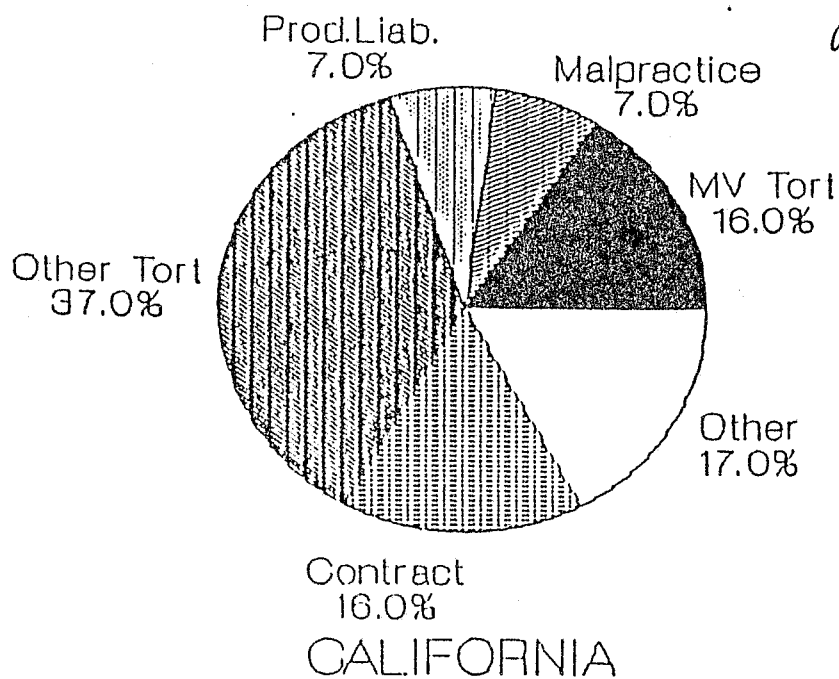
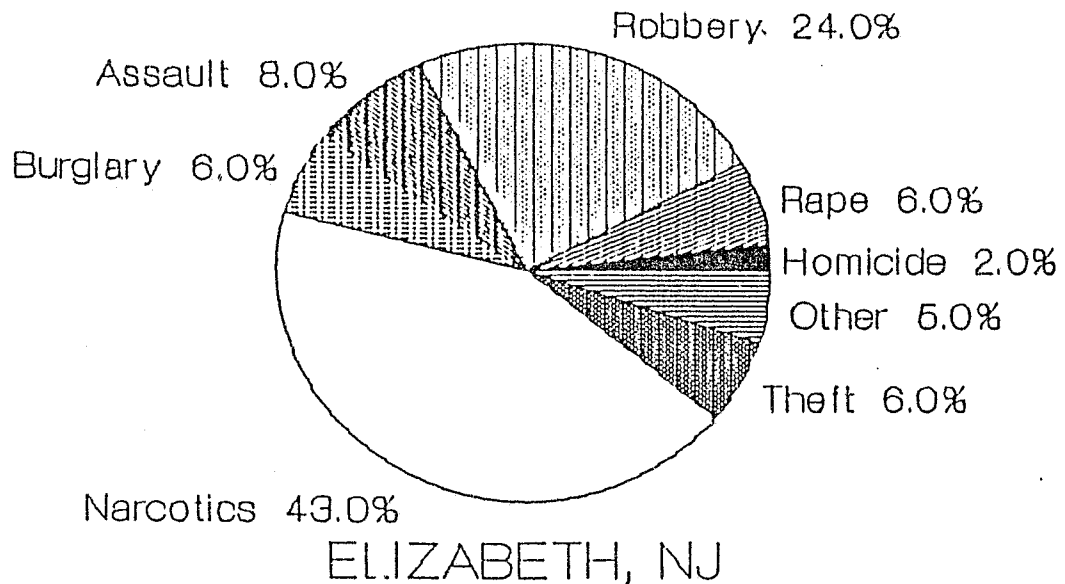
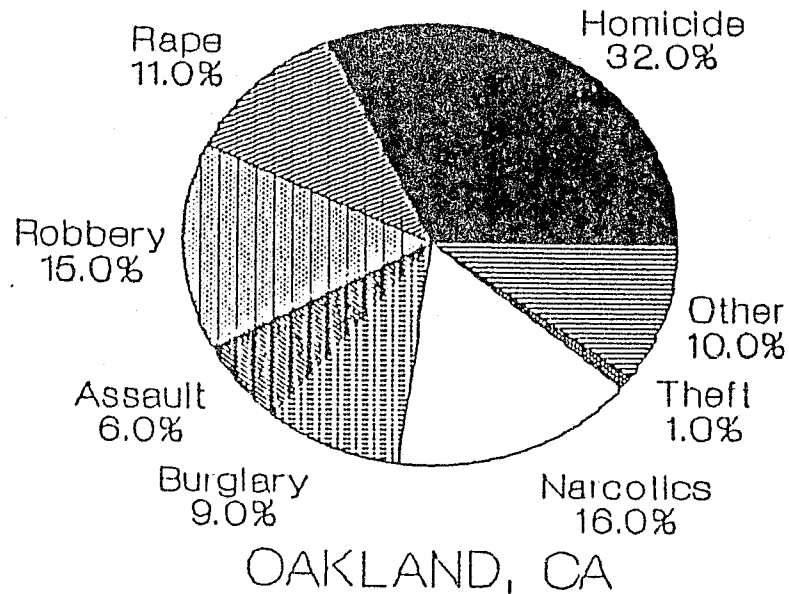


FIGURE 4  
CRIMINAL JURY TRIAL CASELOAD COMPARISON\*  
(OAKLAND, CALIFORNIA AND ELIZABETH, NEW JERSEY)



\* Includes the capital homicide cases -- six of the 33 homicide cases for Oakland, and two of the two homicide cases for Elizabeth are capital

TABLE 6

## "HOW MUCH DO TRIAL LENGTHS VARY BY JUDGE?"

Court	CIVIL ATTORNEYS			CRIMINAL ATTORNEYS		
	<u>Considerably</u>	<u>Somewhat</u>	<u>Not Much/ Not at all</u>	<u>Considerably</u> <u>Def./Pros.</u>	<u>Somewhat</u> <u>Def./Pros.</u>	<u>Not Much/ Not at all</u> <u>Def./Pros.</u>
CALIFORNIA						
	a					
Oakland	69%	31%	--	40%/65%	50%/27%	10%/ 8%
Marin Co.	46%	46%	9%	8%/--	33%/88%	59%/11%
Monterey	33%	13%	53%	33%/14%	8%/43%	58%/43%
COLORADO						
Denver	54%	31%	16%	69%/70%	31%/20%	--/10%
Colorado Springs	21%	43%	36%	40%/64%	60%/27%	--/ 9%
Golden	20%	33%	47%	29%/42%	43%/50%	29%/ 8%
NEW JERSEY						
Jersey City	47%	41%	12%	44%/75%	56%/25%	--/--
Paterson	13%	67%	20%	100%/56%	--/33%	--/11%
Elizabeth	14%	64%	21%	100%/62%	--/19%	--/19%

a

All attorney percentages represent the percentage of attorneys from each site who offered this response.

TABLE 7

"HOW MUCH DO TRIAL LENGTHS VARY BY ATTORNEY?"

	<u>Considerably</u>	<u>Somewhat</u>	<u>Not Much/ Not At All</u>
CALIFORNIA			
Oakland	83%	17%	--
Marin Co.	80%	20%	--
Monterey	67%	33%	--
COLORADO			
Denver	50%	38%	12%
Colorado Springs	33%	50%	17%
Golden	33%	33%	33%
NEW JERSEY			
Jersey City	--	80%	20%
Paterson	17%	83%	--
Elizabeth	22%	44%	33%



DATA COLLECTION FORMS

☒ CIVIL  
☐ CRIMINAL

## TIME INTERVAL CONTINUATION SHEET

CASE NUMBER

[illegible]

[illegible]

NATIONAL CENTER FOR STATE  
COURTS

CIVIL C

## ANALYZING TRIAL TIME PROJECT

## 1. CASE IDENTIFICATION

PLAINTIFF

ys

DEFENDANT

TYPE OF TRIAL: ☐ 1. JURY ☐ 2. NON JURY

## 2. TIME INTERVALS

a. Call of the case:

b. Jury Selection:

c. Opening statement for plaintiff(s):

d. Opening statement for defendant(s):

e. Plaintiff's case:

f. Motion for directed verdict of dismissal

q. Defendant's case:

#### h. Rebuttal:

i. Motion for directed verdict or dismissal

j. Closing argument for plaintiff(s):

k. Closing argument for defendant(s):

1. Submission of case to judge:

m. Joint consideration by lawyers and judge of jury instructions:

n. Charging of the jury:

o. Jury deliberation:

p. Trial was terminated by: (CHECK ONLY)

☐ JURY VERDICT      ☐ JUDGE DECISION      ☐ MISTR  
☐ HUNG JURY      ☐ SETTLEMENT      ☐ DISMI  
☐ OTHER      ☐      ☐ DIRECT

ENTER FOR STATE COURTS		CIVIL CASE DATA		SITE	
CASE IDENTIFICATION PLAINTIFF		CASE NUMBER		PERSON COMPLETING FORM	
VS DEFENDANT		CASE IDENTIFICATION		JUDGE	
JURY: <input type="checkbox"/> 1. JURY <input type="checkbox"/> 2. NON JURY		ESTIMATED TRIAL LENGTH:			
INTERVALS		DATE START	TIME START	TIME END	✓
Call of the case:					a. <input type="checkbox"/>
Jury Selection:					b. <input type="checkbox"/>
					b. <input type="checkbox"/>
					b. <input type="checkbox"/>
Opening statement for plaintiff(s):					c. <input type="checkbox"/>
Opening statement for defendant(s):					d. <input type="checkbox"/>
Plaintiff's case:					e. <input type="checkbox"/>
					e. <input type="checkbox"/>
					e. <input type="checkbox"/>
					e. <input type="checkbox"/>
Motion for directed verdict of dismissal:					f. <input type="checkbox"/>
Defendant's case:					g. <input type="checkbox"/>
					g. <input type="checkbox"/>
					g. <input type="checkbox"/>
					g. <input type="checkbox"/>
Rebuttal:					h. <input type="checkbox"/>
					h. <input type="checkbox"/>
Motion for directed verdict or dismissal:					i. <input type="checkbox"/>
Closing argument for plaintiff(s):					j. <input type="checkbox"/>
					j. <input type="checkbox"/>
Closing argument for defendant(s):					k. <input type="checkbox"/>
					k. <input type="checkbox"/>
Submission of case to judge:					l. <input type="checkbox"/>
Joint consideration by lawyers and judge of jury instructions:					m. <input type="checkbox"/>
					m. <input type="checkbox"/>
Charging of the jury:					n. <input type="checkbox"/>
					n. <input type="checkbox"/>
Jury deliberation:					o. <input type="checkbox"/>
					o. <input type="checkbox"/>
					o. <input type="checkbox"/>
					o. <input type="checkbox"/>
Trial was terminated by: (CHECK ONLY ONE)					p. <input type="checkbox"/>
<input type="checkbox"/> JUDGE DECISION <input type="checkbox"/> MISTRIAL <input type="checkbox"/> SETTLEMENT <input type="checkbox"/> DISMISSAL OR DIRECTED VERDICT					

## 3. Case characteristics:

ALL CASES	a. Case type: (CHECK ALL THAT APPLY)		
	<input type="checkbox"/> 1. Motor vehicle tort	<input type="checkbox"/> 4. Contract	
	<input type="checkbox"/> 2. Product liability tort	<input type="checkbox"/> 5. Appeal, tri	
	<input type="checkbox"/> 3. Professional Malpractice	<input type="checkbox"/> 9. Other:	
	b. Dollar-amount demand:		\$
	c. Other relief:		
ALL CASES	d. Number of parties:		PLAINTIFF D
	e. Number of lawyers for:		PLAINTIFF D
	f. Number of claims:		CLAIMS CRO
	g. Number in jury panel:		
JURY TRIALS ONLY	h. Who conducted voir dire?		JUDGE ONLY AT 1. 2.
	i. Number of challenges for cause accepted for:		PLAINTIFF(S)
	j. Number of peremptory challenges: AVAILABLE USED		PLAINTIFF(S)
	k. Jury size:		REGULARS
	l. Number of witnesses called: LAY EXPERT		PLAINTIFF(S)
ALL CASES	m. Number of exhibits entered:		PLAINTIFF(S)
	n. Were any of the following used?		YES
	Depositions read into the record		
	Testimony by stipulation		
	Vide otaped testimony		
Interpreters			
Jury site visit			

				a.
<input type="checkbox"/> 4. Contract <input type="checkbox"/> 5. Appeal, trial de novo <input type="checkbox"/> 9. Other: _____				
	\$			b.
				c.
	PLAINTIFF	DEFENDANT	3RD PARTY	d.
	PLAINTIFF	DEFENDANT	3RD PARTY	e.
	CLAIMS	CROSS CLAIMS	COUNTER CLAIMS	f.
				g.
	JUDGE ONLY 1.	ATTORNEYS ONLY 2.	JUDGE AND ATTORNEYS 3.	h.
Accepted for:	PLAINTIFF(S)		DEFENDANT(S)	i.
AVAILABLE USED	PLAINTIFF(S)		DEFENDANT(S)	j.
	REGULARS		ALTERNATES	k.
LAY EXPERT	PLAINTIFF(S)		DEFENDANT(S)	l.
	PLAINTIFF(S)		DEFENDANT(S)	m.
d	YES		NO	n.

☐ CIVIL  
☒ CRIMINAL

TIME INTERVAL CONTINUATION SHEET

CASE NUMBER

LETTER	ITEM NAME	DATE START	TIME START

DATE START TIME START TIME END

ITEM LETTER

NATIONAL CENTER FOR STATE COURTS  
ANALYZING TRIAL TIME PROJECT

1. CASE IDENTIFICATION  
PLAINTIFF

VS  
DEFENDANT

TYPE OF TRIAL ☐ 1. JURY ☐ 2. NON-JURY

2. TIME INTERVALS

JURY TRIALS ONLY

- a. Call of the case:
- b. Jury selection:

ALL CASES

- c. Opening statement for prosecution
- d. Opening statement for defense
- e. Prosecutor's case:

- f. Motion for directed verdict
- g. Defendant's case:

h. Rebuttal:

- i. Motion for directed verdict
- j. Closing argument for prosecution

k. Closing argument for defendant

NON-JURY

l. Submission of case to judge:

JURY TRIALS ONLY

m. Joint consideration by lawyer of jury instructions:

n. Charging of the jury:

o. Jury deliberation:

p. Trial was terminated by: (check one)

- ☐ JURY VERDICT ☐ JUDGE DECISION
- ☐ HUNG JURY ☐ GUILTY PLEA
- ☐ OTHER



NATIONAL CENTER FOR STATE COURTS ANALYZING TRIAL TIME PROJECT		CRIMINAL CASE DATA		SITE	
1. CASE IDENTIFICATION PLAINTIFF  VS DEFENDANT		CASE NUMBER		PERSON COMPLETING FORM	
		CASE IDENTIFICATION		JUDGE	
TYPE OF TRIAL <input type="checkbox"/> 1. JURY <input type="checkbox"/> 2. NON JURY		ESTIMATED TRIAL LENGTH:			
2. TIME INTERVALS		DATE START	TIME START	TIME END	<input type="checkbox"/>
JURY TRIALS ONLY	a. Call of the case:				a. <input type="checkbox"/>
	b. Jury selection:				b. <input type="checkbox"/>
					b. <input type="checkbox"/>
					b. <input type="checkbox"/>
					b. <input type="checkbox"/>
ALL CASES	c. Opening statement for prosecutor:				c. <input type="checkbox"/>
	d. Opening statement for defendant:				d. <input type="checkbox"/>
	e. Prosecutor's case:				e. <input type="checkbox"/>
					e. <input type="checkbox"/>
					e. <input type="checkbox"/>
					e. <input type="checkbox"/>
	f. Motion for directed verdict or dismissal:				f. <input type="checkbox"/>
	g. Defendant's case:				g. <input type="checkbox"/>
					g. <input type="checkbox"/>
					g. <input type="checkbox"/>
				g. <input type="checkbox"/>	
h. Rebuttal:				h. <input type="checkbox"/>	
i. Motion for directed verdict or dismissal:				i. <input type="checkbox"/>	
j. Closing argument for prosecutor:				j. <input type="checkbox"/>	
				j. <input type="checkbox"/>	
k. Closing argument for defendant:				k. <input type="checkbox"/>	
				k. <input type="checkbox"/>	
NON JURY	l. Submission of case to judge:				l. <input type="checkbox"/>
	m. Joint consideration by lawyers and judge of jury instructions:				m. <input type="checkbox"/>
					m. <input type="checkbox"/>
	n. Charging of the jury:				n. <input type="checkbox"/>
					n. <input type="checkbox"/>
JURY TRIALS ONLY	o. Jury deliberation:				o. <input type="checkbox"/>
					o. <input type="checkbox"/>
					o. <input type="checkbox"/>
p. Trial was terminated by: (CHECK ONLY ONE)		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/> JURY VERDICT <input type="checkbox"/> JUDGE DECISION <input type="checkbox"/> MISTRIAL <input type="checkbox"/> HUNG JURY <input type="checkbox"/> GUILTY PLEA <input type="checkbox"/> DISMISSAL OR <input type="checkbox"/> OTHER <input type="checkbox"/> DIRECTED VERDICT				p. <input type="checkbox"/>	

✓ CHECK IF ITEM IS CONTINUED

## 3. Case characteristics:

ALL CASES

## a. Case type:

- ☐ 1. Homicide  
☐ 2. Rape  
☐ 3. Robbery

- ☐ 4. Aggravated assault  
☐ 5. Burglary  
☐ 6. Narcotics  
☐ 9. Other: \_\_\_\_\_

## b. Number of defendants: \_\_\_\_\_

## c. Number of lawyers at trial for: \_\_\_\_\_

PROSECUTION

DEFENSE

## d. Type of defense attorney:

- ☐ 1. Public Defender  
☐ 2. Retained counsel

- ☐ 3. Assigned Counsel  
☐ 4. Mixed  
☐ 5. Not represented

JURY TRIALS ONLY

## e. Number of jurors in panel: \_\_\_\_\_

## f. Who conducted voir dire?

JUDGE ONLY

ATTORNEYS ONLY

1. \_\_\_\_\_

2. \_\_\_\_\_

## g. Number of challenges for cause accepted for: \_\_\_\_\_

PROSECUTOR

DEFENSE

## h. Number of peremptory challenges used by: \_\_\_\_\_

AVAILABLE  
USED

PROSECUTOR

DEFENSE

## i. Jury size: \_\_\_\_\_

REGULARS

ALTERNATES

## j. Number of witnesses called by: \_\_\_\_\_

EXPERT  
OFFICIALS  
LAY

PROSECUTOR

DEFENSE

## k. Number of exhibits entered for: \_\_\_\_\_

PROSECUTOR

DEFENSE

## l. Were any of the following used?

YES

Depositions read into the record

Grand jury evidence read into the record

Testimony by stipulation

Videotaped testimony

Interpreters

Jury site visit

ALL CASES

CASE NUMBER	
<div>4. Aggravated assault</div> <div>5. Burglary</div> <div>6. Narcotics</div> <div>9. Other: _____</div>	
<div>PROSECUTION</div> <div>DEFENDANT (S)</div>	
<div>3. Assigned Counsel</div> <div>4. Mixed</div> <div>5. Not represented</div>	
<div>JUDGE ONLY</div> <div>ATTORNEYS ONLY</div> <div>JUDGE AND ATTORNEYS</div>	
<div>1.</div> <div>2.</div> <div>3.</div>	
<div>PROSECUTOR</div> <div>DEFENDANT (S)</div>	
<div>PROSECUTOR</div> <div>DEFENDANT (S)</div>	
<div>REGULARS</div> <div>ALTERNATES</div>	
<div>PROSECUTOR</div> <div>DEFENDANT (S)</div>	
<div>PROSECUTOR</div> <div>DEFENDANT (S)</div>	
<div>YES</div> <div>NO</div>	
<div>record</div> <div></div> <div></div> <div></div> <div></div> <div></div>	

CRIMINAL CASE DATA - CONTI

4. Case outcome:

a. What was the outcome

Guilty judge

Guilty Plea

Acquitted/dire

Hung jury

Mistrial

All charges di

Other:

b. Most serious offense

Homicide

Rape

Robbery

Aggravated as

Burglary

Narcotics

Other:

Not applicable

c. Date sentenced:

d. Was any defendant in  
prior to disposition

## 4. Case outcome:

a. What was the outcome of the case? ( X ONE FOR EACH DEFENDANT)

	DEF 1.	DEF 2.	DEF 3.
Guilty judgment any charge	1	1	1
Guilty Plea	2	2	2
Aquitted/directed verdict, all charges	3	3	3
Hung jury	4	4	4
Mistrial	5	5	5
All charges dismissed	6	6	6
Other: _____	9	9	9

b. Most serious offense convicted of:

	DEF 1.	DEF 2.	DEF 3.
Homicide	1	1	1
Rape	2	2	2
Robbery	3	3	3
Aggravated assault	4	4	4
Burglary	5	5	5
Narcotics	6	6	6
Other: _____	8	8	8
Not applicable	9	9	9

c. Date sentenced:

d. Was any defendant in custody immediately prior to disposition?

YES	NO	YES	NO	YES	NO