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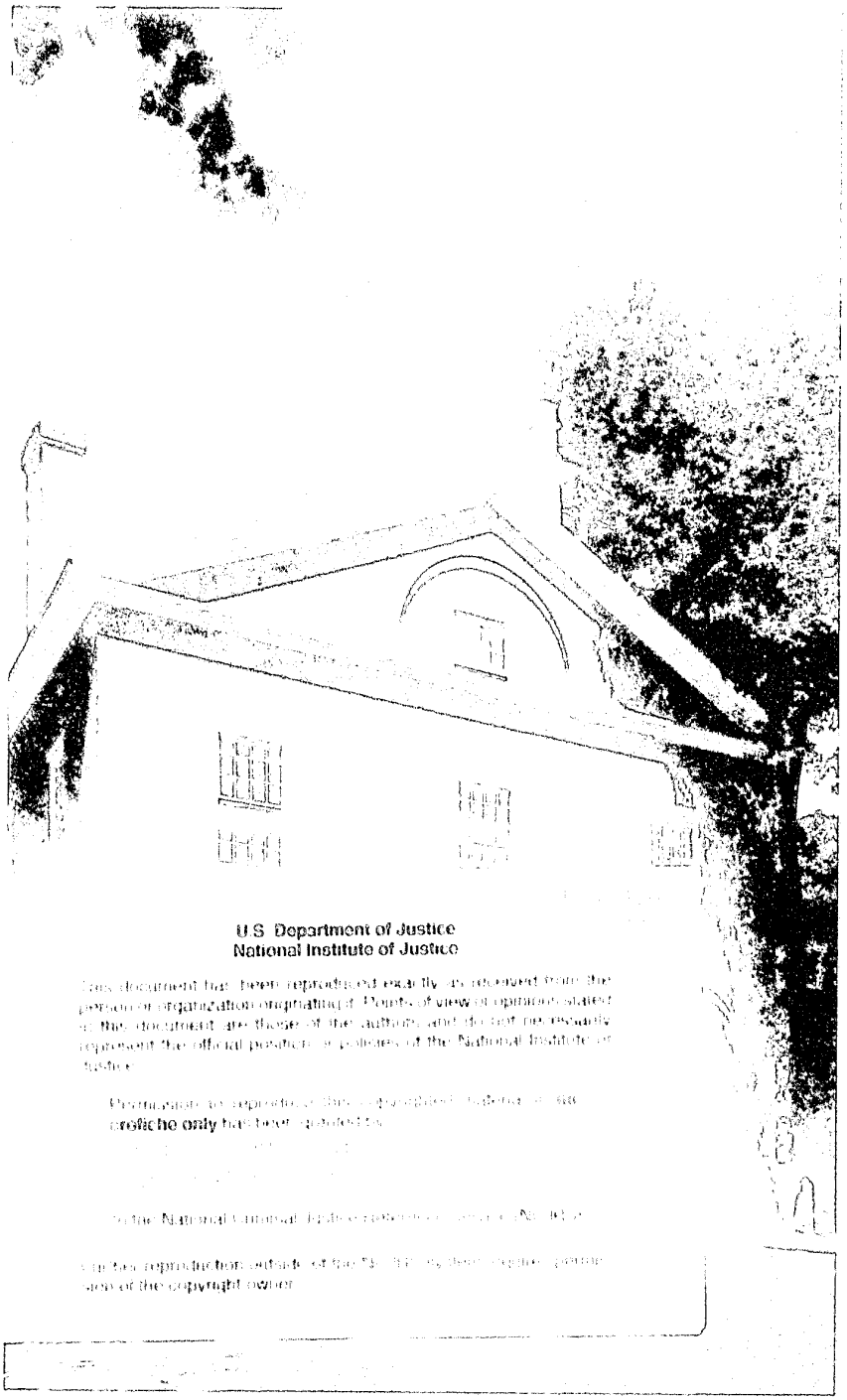

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FEATURES

DEPARTMENTS

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Managing the Criminal Appeals Process

Joy A. Chapper ○ *Roger A. Hanson*

Carmen Cicero, "Crime Boss"

Over the past decade, the volume of state criminal appeals has increased at a rate far exceeding that of crimes, arrests, and trials.[1] The brunt of this pressure has been borne by first-level appeals courts with a mandatory jurisdiction. A number of these courts have enhanced their ability to meet this increased volume without increasing their resources. These courts use a variety of procedures that differ both in the extent to which they modify the traditional appellate process and the degree of control they exert over the appellate process.[2]

The general pattern of appellate reform is, however, uneven. Many courts have considered making changes, often at length, but have not acted on any proposal. Other courts enter into experiments which never become institutionalized. It has become all too clear that reforms adopted in one court do not lead necessarily to the acceptance or even the introduction of those reforms in other locations.[3]

One reason for this pattern is the persistence of questions about the effect of

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Joy A. Chapper is executive director of Justice Resources in Washington, D.C. Roger A. Hanson is a visiting scholar at the National Center for State Courts.

modified procedures on the quality of the appellate process. While methods exist to reduce appeal time, there is concern about the means by which these reductions are achieved. For example, how does a modified procedure affect an attorney's ability to present his or her arguments? Does a streamlined procedure increase the likelihood that decisions are reached without adequate information? Do modified procedures predetermine case outcomes? Prior research has paid insufficient attention to these kinds of questions.[4]

A second reason is uncertainty regarding the transferability of various reforms. Are the factors that led to the successful introduction of reforms in one court present in other jurisdictions? What needs to be taken into account to enhance a procedure's suitability and feasibility for other locations?

The experiences of three courts in which reform procedures have become settled policies provide an opportunity to learn how basic approaches to managing the criminal appeals process can be developed while still taking into account special factors within a jurisdiction. These courts are the Illinois Appellate Court, Fourth District in Springfield; the California Court of Appeal, Third District in Sacramento; and the Rhode Island Supreme Court. This article outlines the results and implications of research conducted during the last two years in these three jurisdictions.

Appeals procedures in the three courts

The three courts cover the range of alternative ways of handling criminal appeals. Springfield employs case management and affirmatively monitors compliance with its scheduling orders. Sacramento has a no-argument calendar that relies on an experienced attorney staff to screen cases. Rhode Island uses a fast track procedure to identify appeals that can be resolved through abbreviated procedures. A description of the three basic approaches and the versions used in each of the courts is discussed below.

CASE MANAGEMENT

Management procedures are directed at reducing case-processing time by setting achievable time frames for the appeal. This is typically accomplished by a scheduling order, which sets the dates on which events are to occur. A court may choose time frames for the entire period from notice of appeal to disposition or only between certain stages of the appeal (e.g., notice of appeal through briefing).

Case management procedures were adopted in 1977 for both criminal and civil appeals by the five-judge appellate court in Springfield. Shortly after an appeal is filed, the appellant files a docketing statement. Based on the information in the statement, the court enters a scheduling order indicating the due dates for the record, the parties' briefs, and the expected date for oral argument. In criminal appeals, the time permitted for record preparation and briefing is provided by court rules. Cases are scheduled for argument 45 to 60 days after the close of briefing. Time deadlines are strictly enforced. The court's affirmative case management operates in a context in which oral argument is available upon request of counsel (usually made in the brief). Decisions on the merits are either by published opinions or unpublished orders; the decision to publish is made independently of whether the appeal was argued.

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SUBMISSION WITHOUT ORAL ARGUMENT

Approximately 35 state appeals courts submit at least some of their appeals without oral argument. The effect of "no-argument" calendars is to reduce the time judges must spend on nonargued appeals. Case-processing time may also be reduced by advancing the submission of no-argument cases. However, the time consumed before briefing is completed is not affected. Although there is great variation in the specific procedures used, a common practice involves screening to identify these cases, after which they are prepared by central staff attorneys rather than the judges' law clerks.

In the seven-judge Sacramento court, one of the six regional districts of the state's intermediate appellate court, the current "routine disposition appeal" procedure dates from the early 1970s. Each appeal is reviewed after briefing. The initial screening is done by the principal staff attorney who assigns appeals he believes will not require oral argument to staff attorneys for research. These appeals are presented to a three-judge panel. If, after discussion, the panel concludes that oral argument is not necessary, counsel are asked to waive argument. Appeals in which arguments are waived are submitted for decision to the panel which requested the waiver. All other appeals are scheduled for oral argument. Decisions on the merits are by either published or unpublished opinions, a determination made independently of the decision to waive oral argument.

FAST-TRACK PROCEDURES

Unlike case management procedures and the no-argument calendar, fast—track procedures focus on appeals that do not require full briefing. By differentiating appeals early, cases suitable for acceleration can be placed on a separate track calling for modified preparation and abbreviated time frames. This permits a court to direct its resources to cases in which full appellate treatment is necessary; for the other cases, shortened time frames can sharply reduce both case-processing time and the time court and counsel must spend on an appeal.

The five-member Rhode Island Supreme Court adopted its show-cause calendar for criminal appeals in 1981. The distinctive feature of this court practice is a prebriefing procedure triggered by the filing of the lower court record. The appellant subsequently files a statement (up to five pages) summarizing the issues; filing by appellee is optional. A justice then holds a conference in each appeal, the outcome of which is an order direct-

ing its subsequent handling. Cases which the justice concludes do not warrant full briefing are set for hearing on a show cause calendar and are argued before the full court. Each side may file a supplemental statement of up to ten pages. Disposition on the show-cause calendar requires the unanimous decision of the court and generally results in a one-page order. The remaining appeals proceed to briefing and argument to the entire bench. Decisions in the briefed appeals are by published opinions.

The three approaches vary in terms of how they treat essential components of the appeals process, their points of intervention, the role assigned to staff, and their objectives. It is important to recognize, however, that all three involve some type of case differentiation. Springfield's criminal case management system sets uniform time deadlines but incorporates a no-argument option for cases in which counsel do not request argument. Sacramento screens after the briefs are filed and then places some cases on a no-argument calendar and others on a regular calendar. Rhode Island screens early and subsequently places some cases on a show cause calendar and others on a regular calendar.

Yet, despite their differences, each of the three courts has accomplished its delay reduction goals.[5] In addition, a clear majority of the participants surveyed in each jurisdiction believed that the same quality of justice is provided in all cases.[6] These three experiences reinforce the lesson that appellate courts have the opportunity to choose among alternative approaches to find the one approach or combination of approaches that best accommodates local circumstances while incorporating different values and priorities.

Table 1

Composition of Criminal Appeals[1]
(Percent of cases)

Case Characteristics	Jurisdiction: Rhode Island (n=127)	Sacramento (n=501)	Springfield (n=275)
Basis of Appeal			
Jury trials	74	51	58
Court trials	0	4	12
Pleas	0	40	8
Post convictions	19	2	13
Other	6	3	8
Offenses			
Homicide	16	10	9
Other crimes against persons	45	50	26
Property	15	22	29
Driving	3	1	10
Drugs	2	10	6
Probation revocation	11	2	8
Other	9	6	11
Issues			
Evidence	59	32	71
Instructions	20	14	23
Sentence	9	42	53
Procedure	17	12	25
Statutory construction	4	2	4
Constitutional	26	21	34
Defective Plea	0	3	15
Other	7	3	15
Anders brief	0	11	3
Sentence			
Fine, probation, incarceration (less than 2 years)	21	18	26
Incarceration (2-10 yrs.)	27	54	43
Incarceration (more than 10 yrs.)	30	24	22
Other	4	3	3
Not applicable (pretrial/interlocutory)	0	2	7
Missing	16	0	0

1 The data reflect closed cases in which the court made a decision on the merits. For Sacramento and Springfield, we looked at 1983 filings; 1983 and 1984 filings are used for Rhode Island because of its smaller caseload.

The context into which new procedures were introduced

In most discussions of court reform, the emphasis has been on the "what"—the procedures themselves and the results. Too little attention has been paid to the context in which new procedures are introduced. But context is important because it shapes the way individuals view the world, and what they believe is important.

The main function of the appellate process is the review of lower court proceedings. This function, performed virtually out of the public's view, is far removed from the trial court processing of evidence. Appellate courts deal primarily with issues requiring careful research and analysis. Communication is largely through the written word, with limited personal contact between and among the participants.

FIRST-LEVEL APPEALS

Courts hearing first-level, mandatory criminal appeals are the workhorses of the state appellate court system, handling the vast majority of the growing volume of criminal appeals. The three courts examined are first-level appeals courts: the Springfield and Sacramento courts are intermediate appeals courts, while the Rhode Island Supreme Court provides the state's only appellate review.

The composition of the courts' caseloads—the business before them—varies considerably as a result of the organization of the court system and underlying state law. For example, Illinois has

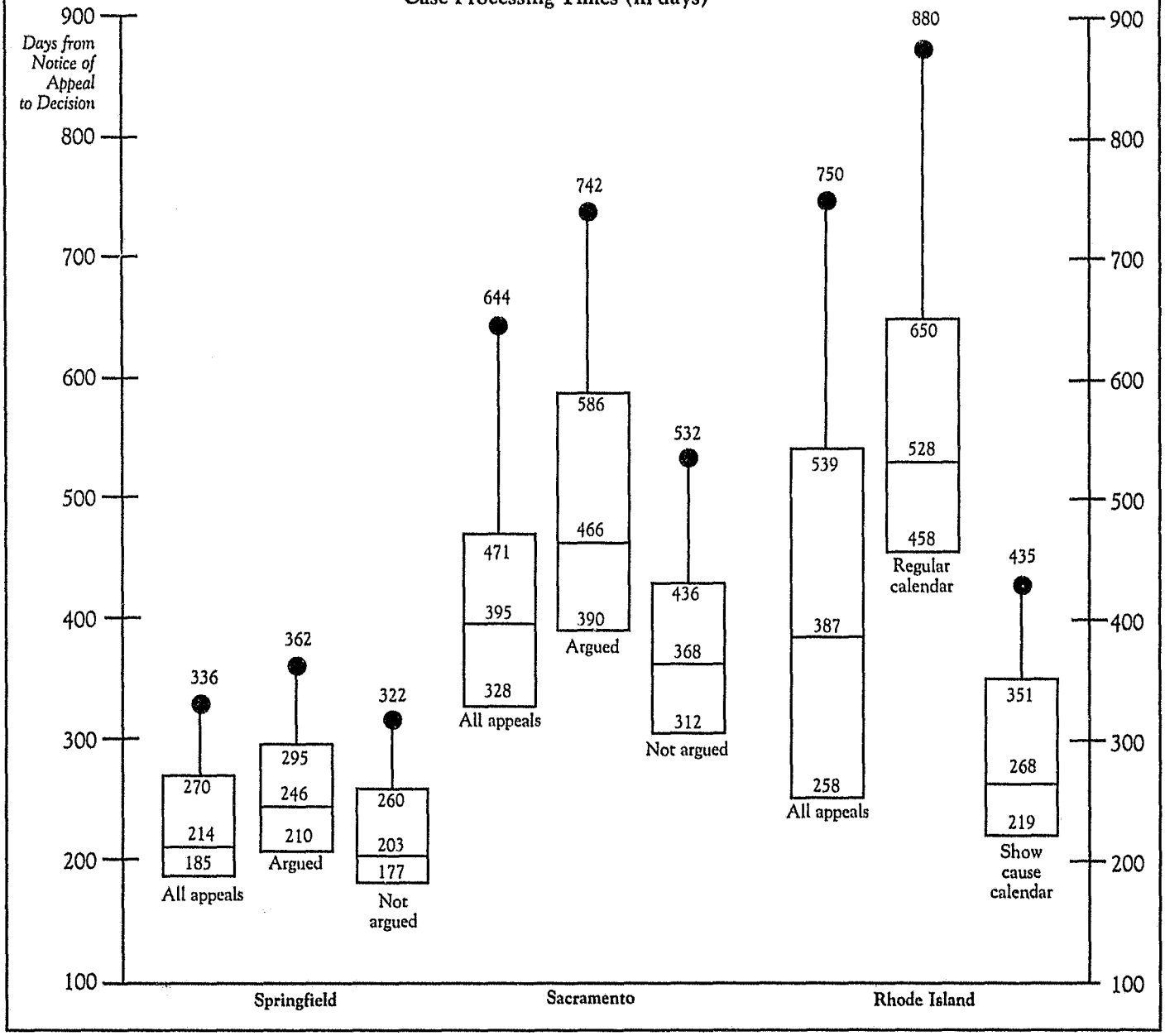
a unified trial court with a right of appeal to the appellate court. As seen in Table 1, Springfield thus has a more diverse caseload (and less serious in terms of offense and sentence severity) than Rhode Island and Sacramento, where less serious criminal cases are handled in limited jurisdiction trial courts with appeal, *de novo* or on the record, to the general jurisdiction trial court. Determinate sentencing schemes in California and Illinois (and mandatory incarceration provisions in the Illinois law) generate a large volume of appeals raising sentencing issues, a situation that does not occur with indeterminate sentencing in Rhode Island. Similarly, California law permits direct appeals in guilty-plea cases, resulting in a large volume of such appeals and an increased number of challenges to trial courts' denials of suppression motions.

ROUTINE CASELOADS

Despite these differences, the three courts share an essential characteristic of first-level appeals courts; a high volume of relatively straightforward cases and a much smaller volume of more complicated ones. As a result, there is a striking similarity across courts in how judges and lawyers view their respective criminal caseloads. Judges, prosecutors, and defense counsel in each of the three courts see the majority of the caseload as "routine" rather than "complex," a distinction based largely on the novelty of the issues raised (the average estimates ranged from 54 percent in Rhode Island

Figure 1

Case Processing Times (in days)



to 59 percent in Sacramento). Furthermore, the participants believe that cases can be differentiated for practical purposes, and they agree that routine cases can be handled appropriately under modified procedures.

The common environment of a caseload dominated by routine appeals shapes the way the different procedures operate. Although the courts chose particular approaches to handling criminal appeals, the different procedures handle roughly the same kinds of cases. In each court, well over half of all criminal appeals are handled through modified procedures. In both Sacramento and Springfield, roughly 70 percent are submitted without oral argument. In Rhode Island, about 60 percent are handled on the show cause calendar.

In fact, a similar percentage of virtually all categories of cases are handled under each jurisdiction's modified procedure. For example, the percentage of appeals arising from jury trial convictions resolved through modified procedures in Rhode Island, Sacramento, and Springfield is 56, 68, and 64 percent respectively, although this type of conviction varies considerably across the courts. Differences in the percentage of a given type of case handled under a modified procedure, where they occur, appear to be the result of the procedure itself or of the court's jurisdiction.

The general pattern is that different procedures are being applied to what appear to be substantially the same types of cases and at roughly the same rate. This is the result of a consensus with regard to the nature of the criminal caseload.[7]

A caseload characterized by a substantial number of routine appeals is probably typical of all first-level appeals courts. In the three research courts, more than half of the criminal calendar was perceived as routine, and a similar percentage of cases were in fact handled through modified procedures. Other courts may differ in their assessment of the precise number and the exact types of appeals appropriate for specialized handling and the degree of differentiation that they wish to undertake. It seems likely, however, that there is in every court a sizable number of routine cases and a set of acceptable procedures for handling them.

What do the participants get out of it?

IMPACT ON CASE-PROCESSING TIME

In all three courts, the elapsed time from notice of appeal to final disposition was reduced, although the approaces to delay reduction varied. The box-and-whisker charts in **Figure 1** illustrate some of the approaches' effects on the length of time in cases in which the courts made decisions on the merits. The boxes represent the range of cases falling between the 25th and the 75th percentiles. The line inside the box represents the 50th percentile (or median). The whisker represents the case at the 90th percentile.

In Springfield, case management procedures resulted, as intended, in uniform times for case processing across the entire calendar, as demonstrated by the short boxes. Disparity was minimized, as shown by the relatively small difference between the fastest and the slowest cases. In addition, because the time frames in the scheduling order tracked the times provided by court rules and the court enforced those deadlines, differences in times between argued cases and those decided without argument were modest. This is seen by the similarly shaped boxes for the two sets of cases. Finally, case management achieved the objective of preventing cases from taking an excessive amount of time. The very short whiskers indicate that the slowest cases do not take much longer than most of the other cases.

In Sacramento, differentiated handling through a no-argument calendar moved the nonargued cases more efficiently, allowing the court to devote more time to cases that were argued. As a result, argued cases have a much greater median time, a longer box, and a longer whisker than the nonargued cases. However, even though the court monitored the preparation of cases on an individual basis, there was a fairly substantial range of times in both the argued and nonargued calendars: both boxes and whiskers are long.

A key objective in Rhode Island was to reduce overall appeal times by accelerating the disposition of appeals directed to the show cause calendar. The graph for Rhode Island illustrates the effects of the sharp procedural differentiation. There was considerable difference between the median times for the regular calendar and the show cause calendar. The procedure was also effective in achieving uniform disposition times for the show cause cases—this is seen by the much smaller box and the shorter whisker for the show cause cases compared to the regular calendar.

The three courts illustrate three different ways to reduce appeal time. Case data show that alternative procedures not only reduced appeal time for those cases assigned to them but reduced overall appeal time as well. Because the procedures affected different parts of the appellate process and operated in different ways, their effects vary considerably from court to court. Each court adopted a procedure which addressed the problems it found most troublesome.

IMPACT ON QUALITY

Management approaches are not forced on a jurisdiction; they are put in place because they meet the aspirations of active, reform-oriented judges and attorneys. New procedures become institutionalized because they meet the participants' working criteria of how cases are best handled. In each jurisdiction, a large majority of participants are satisfied that all cases, including those handled under the modified procedures, receive the same quality of justice (65 percent in Rhode Island, 84 percent in Sacramento, and 71 percent in Springfield). What accounts for these levels of satisfaction? To answer this question, the views of the judges and attorneys were surveyed.

The interviews confirmed that satisfaction with the quality of justice is not strongly related to system performance. Although all three approaches reduced appeal time, delay reduction was not the only or even the ultimate effect credited by the participants. In fact, individuals' views concerning an approach's impact on case processing time, efficiency, and productivity bore almost no relationship to their assessment of its impact on the quality of justice.

These observations are drawn from the data in **Table 2.** This table presents correlations between the participants' views on what was accomplished by the approach used in their court and their views on the quality of justice. Participants were asked first to indicate how the

Table 2 [1]

Correlates of the Participants' SatisfactionThat All Cases Receive the Same Quality of Justice[2]
(Gamma Coefficients)

	Rhode Island N = 18	Sacramento N = 63	Springfield N = 45
Case-Processing Time[3]			
1. Reduces case-processing time for all cases	-.11	.39	.40
2. Reduces case-processing time for show cause cases/cases submitted without oral argument	.16	.29	.21
3. Reduces case-processing time for regular calendar/argued cases	-.11	.42	.23
Efficiency[4]			
4. Reduces time judges are required to devote to individual cases	-.36	.05.	.16
5. Reduces time attorneys are required to devote to individual cases	.44	.20	.01
Productivity[4]			
6. Allows attorney to handle more cases in the same amount of time	.03	.35	.08
7. Allows the court to handle more cases in the same amount of time	.51	.10	.29
Non-Systemic Criteria[4]			
8. Allows the court to spend time on complex cases	.79	.46	.64
9. Creates the appearance of second class justice	-.91	-.84	-.30
10. Makes it more difficult to uncover reversible errors	-.70	-.78	-.21
11. Causes the court's decisions to be decided without sufficient information	-.86	-.70	-.36
12. Makes the outcome a foregone conclusion	-.70	-.61	-.64

1 Gamma coefficients measure the association between pairs of attitudes. The higher the coefficient, the stronger the association between the attitudes. Our benchmark criteria are that coefficients between 0 and ± .3 are weak, those between ± .31 and ± .6 are moderate, and those above ± .6 are strong. A positive coefficient means that if an individual agrees with one proposition, he or she agrees with the other one. A negative coefficient means that if an individual agrees with one proposition, he or she disagrees with the other one.

2 Participants were asked to respond to the following question: "Based on your experience, how satisfied are you that cases (handled under the show-cause procedures/submitted without argument) received the same quality of justice as cases on the regular calendar that are argued?"

3 Participants were asked to respond to the following question.
For Rhode Island and Sacramento: "Procedures in most appellate courts involve some differentiation among criminal cases. In your court, for example, some cases are (directed to summary disposition procedures/decided without oral argument). One possible impact of this procedure is on case processing time—the time from notice of appeal to decision. Please indicate the extent you agree or disagree that the procedure in your court affects case processing time in each of the following ways."
For the Appellate Court of Illinois: "Illinois is one of the few appellate courts to enter a scheduling order in every appeal. One possible impact of this procedure is on case processing time—the time from notice of appeal to decision. Please indicate the extent you agree or disagree that the procedure in your court affects case processing time in each of the following ways."

4 Participants were asked to respond to the following question: "Obviously, case processing time is not the only aspect of the appellate process affected by a given procedure. Please indicate the extent to which you agree or disagree that the procedure in your Court produces the following effects."

approach affected system performance (i.e., case processing time [items 1, 2, and 3], efficiency [items 4 and 5], and productivity [items 6 and 7]) and factors we chose to call nonsystem criteria (items 8 through 12). As can be seen, the nonsystem factors are much greater than those associated with case processing time, efficiency, and productivity.[8]

Basically, the evidence tells us that if the participants see a modified procedure as allowing more time for complex cases (item 8) and not creating an affirmance track (items 9 through 12), they are satisfied that cases treated under the procedure receive the same quality of justice as those on the regular calendar. Moreover, these jurisdiction-wide patterns hold true for different court positions: judges, court staff, government attorneys, public defenders, retained counsel, and appointed counsel share these working criteria.[9]

Hence, what is most important to the judges and lawyers in every court is that the modified procedures enable them to devote more time to the complex appeals while not jeopardizing the adequacy of review for the routine cases. Because judges and attorneys believe that working distinctions can be made between routine and complex cases, they want procedures to allow them to devote the time that is appropriate for both types of cases.

The lack of sharp differences in opinion about the quality of justice among people holding various court positions is true for one other vital issue: the aspects of the criminal appeals process that the participants believe are required in every case. If some participants strongly believe that full-blown procedures are necessary in every case, and others strongly believe that modified procedures are appropriate, this disagreement inhibits experimental tests of proposed changes. The conventional wisdom is that views diverge because of the conflicting goals of different positions. As a result, when a proposal is raised for consideration, the discussion may terminate because it is assumed that one or more sets of participants will find it unacceptable.

Contrary to this perspective, the interview data reveal very few statistically significant differences on what judges, government attorneys, public defenders, retained counsel, and appointed counsel deem to be required.[10] Participants in the three jurisdictions

were asked whether they agreed or disagreed that full, written briefs, oral arguments, panel conferences, written decisions, and publishable opinions were required in every case. The only major area of disagreement finds that government attorneys and defense counsel agree more strongly than do judges that written decisions are essential. An explanation of the court's decision is considered the least dispensable aspect of the process as far as attorneys are concerned. However, the widespread consensus on the other aspects suggests that the traditional process is subject to greater modification than conventional wisdom suggests. Thus, the implication of this and other findings is that the process is open to change, especially if new alternatives provide the court and counsel with more time for complex cases and the assurance that the alternative avoids even the appearance of creating an affirmance track.

Conclusion

Despite variations in caseload composition, first-level appeals courts with a mandatory criminal jurisdiction have caseloads that are substantially routine. Although these courts use different procedures, they differentiate cases in much the same way: different procedures handle basically the same kinds of cases.

The successful experiences in these courts confirm the proposition that appellate delay is not inevitable. Appellate courts have the opportunity to choose among alternative approaches and to find the one approach (or combination of approaches) that best addresses their particular problems.

The experiences of these three courts provide lessons for those seeking to implement delay reduction programs. The evidence indicates that the immediate objectives of delay reduction are not responsive to the incentives associated with institutionalized programs. Increased productivity, greater efficiency, and reduced case processing time are not the ultimate criteria that individual judges and attorneys rely on in assessing the merits of alternative approaches to managing the appellate process.

The reality of the appellate court context is this: a growing caseload with a wide diversity of cases with different requirements and demands. This context gives rise to a particular combination of intellectual desires, managerial expectations, and standards of quality that emphasize the importance of permitting the participants to allocate their time among these cases in a way that allows them to devote the time they believe appropriate to each.

One of the reasons that courts have been unwilling to consider or adopt new procedures has been the belief that the changes would be opposed by the bar. Evidence from this research, however, indicates that judges, government attorneys, and defense counsel do not hold significantly different views toward the requirements of the appellate process. Moreover, the participants share common criteria in assessing the impact on the quality of justice of the basic approach to handling criminal appeals. This suggests that when appellate courts consider making adjustments in their procedures, they should not assume, without at least some exploratory evidence, that changes are automatically unacceptable.

Judges are in positions to initiate discussions concerning reforms and to communicate their ideas to the attorneys. They have the responsibility for drawing attention to problems of volume and delay and for initiating the search for possible solutions. Judges, however, must be sensitive to everyone's qualitative concerns about the impact of delay reduction procedures. They should be able to demonstrate that new procedures will not establish affirmance tracks and will permit participants to allocate their time as warranted.

Looking ahead

The implications of the court research, of course, should be strengthened by further inquiry. By building on this first effort to quantitatively measure participants' attitudes, both the theory and management of the state criminal appeals process can be more firmly grounded in reality. The next wave of systematic research flows in the following directions:

- *Generalization of the current research findings.* Greater confidence in the current results and their implications can be achieved by verifying this study's working hypotheses in other courts using different versions of case management, decision without oral argument, and fast tracking.
- *Refined measurement of incentives.* Whereas the current research conceptualizes a typology of incentives that underlay the institutionalization of planned change, the supporting evidence is tentative. Yet, because incentives are widely acknowledged to be the *sine qua non* of successful reforms, future researchers should concentrate on refining the measurement of incentives.[11]
- *Organizational theory.* The current research uses the theory of public organizations developed by Lipsky to understand the attitudes of participants.[12] It is reasonable to extend Lipsky's theory in order to also understand how the organizational structure of appellate courts affects their work processes and decisions.
- *Performance assessment.* Although the participants in the three research sites are satisfied that the approach in their court provides the same quality of justice to all cases, this measure needs to be complemented by a broader range of performance indicators. Past and ongoing research has analyzed performance standards for trial courts; such work is equally needed at the appellate level.[13]
- *Outcomes.* The issue of reversals in criminal appeals deserves examination in light of the participants' aversion to affirmance tracks. We have only limited information on the wide range of possible outcomes when a case is reversed, and virtually no information is available on the nature of the error or its surrounding circumstances. Systematic research is needed to expand our knowledge of this crucial indicator of what appellate courts do and to suggest how some errors may be avoided through improved trial court practices.

Future research has the promising potential of not only increasing our theoretical and applied knowledge of appellate courts but contributing to our understanding of courts in general. We all need to know which generalizations hold true for both trial and appellate courts and which ones apply to only one level. A unified and useful theory of courts, however, can be achieved only by pursuing the frontiers of research.

Notes

1. Thomas B. Marvell and Sue A. Lindgren. *The Growth of Appeals*. (Washington, D.C., Bureau of Justice Statistics, 1985.)

2. Stephen L. Wasby. "Appellate Delay: An Examination of Possible Remedies." 6 *Justice System Journal* 325, 1981.

3. Stephen L. Wasby. "The Study of Appellate Court Administration: The State of the Enterprise." 12 *Justice System Journal* 119, 1987.

4. Researchers have begun to focus attention on first-level criminal appeals courts and the use of modified procedures to deal with problems of volume and delay. See, for example, Lawrence Baum, "Policy Goals in Judicial Gatekeeping: A Proximity Model of Discretionary Jurisdiction," 21 *American Journal of Political Science* 13, 1977; Edward Beiser, "The Rhode Island Supreme Court: A Well-Integrated Political System," 8 *Law and Society Review* 167, 1974; Thomas Y. Davies, "Gresham's Law Revisited: Expedited Processing Techniques and the Allocation of Appellate Resources," 6 *Justice System Journal* 372, 1981; Thomas Y. Davies, "Affirmed: A Study of Criminal Appeals and Decision-Making Norms in a California Court of Appeal," 1982 *American Bar Foundation Research Journal* 543, 1982; Gideon Kanner and Gerald F. Uelman, "Random Assignment, Random Justice," 6 *Los Angeles Lawyer*, 1984; David W. Neubauer, "Judicial Role and Case Management," 4 *Justice System Journal* 223, 1978; Lynae K.E. Olson and Joy A. Chapper, "Screening and Tracking Criminal Appeals: The Rhode Island Experience," 8 *Justice System Journal* 20, 1983; E. Thompson, "The Balkanization of California Law: A Sociological Study of an Intermediate Court of Appeal", unpublished doctoral dissertation, University of Southern California, 1980; John Wold and Gregory Calderia, "Perceptions of 'Routine' Decision-Making in Five California Courts of Appeal," 13 *Polity* 334, 1980; and John Wold, "Going Through the Motions: The Monotony of Appellate Court Decision-Making," 62 *Judicature* 58, 1978. Individuals with state appellate bench experience have recognized this literature and commented on its utility and implications (Robert S. Thompson, "Legitimate and Illegitimate Decisional Inconsistency: A Comment on Brilymayer's Wobble, or Death of Error," 59 *Southern California Review* 423, 1986; and Robert Thompson, "Visibility and Status for Appellate Staff Attorneys: A Proposal," paper presented at the Annual Conference of Appellate Staff Attorneys, Charleston, S.C., 1987). Hence, it will be interesting to see the extent to which basic research and practitioners' concerns influence one another in the future.

5. Joy A. Chapper and Roger A. Hanson, "How to Handle Criminal Appeals," 27 *Judges' Journal* 7, 1988.

6. Joy A. Chapper and Roger A. Hanson, "Administering Justice in Criminal Appeals: A View from the Well," paper presented at the 1987 Law and Society Association Meeting, Washington, D.C., 1987.

7. The similar rates of cases handled under modified appellate procedures among the three jurisdictions despite observable differences in court organization, jurisdiction, state sentencing laws, and basic management approaches parallel key trial court activities. A basic finding from Eisenstein's *et al.*'s study of nine trial court communities is that the rate of guilty pleas is nearly the same despite differences in demographic patterns, crime rates, and court procedures. Moreover, the going rates for sentences, according to Eisenstein *et al.*, emerge from a broad consensus among the participants (James Eisenstein *et al.*, *The Contours of Justice: Communities and Their Courts*, Boston: Little, Brown and Company, 1988).

8. As an illustration of the lack of a predictable relationship between systematic factors and quality, the data indicate that if two participants perceive that the approach in their court reduces overall case-processing time, one is likely to be satisfied that the same quality of justice is rendered to all cases, while the other is likely to be dissatisfied.

9. See Hanson and Chapper, cited above. These findings are consistent with a general theory of public organizations developed by Michael Lipsky in *Street Level Bureaucracy*, New York: Russell Sage Foundation, 1980. According to this theory, participants in public organizations, such as courts, prisons, jails, welfare agencies, and so forth, view quality in terms of their individual caseloads and clients. Most find it difficult to rise above their immediate responsibilities and relate their work to measures of performance such as efficiency and productivity, which require a system-level understanding. On the other hand, the theory predicts that court participants relate to issues such as whether the outcome of a case is a foregone conclusion or whether it is more difficult to uncover reversible error when a case is expedited. That is, judges and attorneys know from their own experience whether a modified procedure is an affirmative track.

10. Joy A. Chapper and Roger A. Hanson, "How to Organize the Criminal Appeals Process. The Views of Judges, Government Attorneys, and Defense Counsel," *Judicature*, 1988, forthcoming.

11. Future studies can be guided fruitfully by other NIJ-sponsored research, such as that conducted by Thomas Church and Milton Heumann (1987) on incentives in trial court delay reduction. (Thomas W. Church and Milton Heumann, "Voluntary Incentives and Policy Reform: Notes Toward a Theory," paper presented at the Annual Meeting of the Association of Management and Public Policy, 1987, Austin, Tex.

12. Michael Lipsky, *Street Level Bureaucracy*, New York: Russell Sage Foundation, 1980.

13. Research on trial court performance standards is under way at the National Center for State Courts with the support of the Bureau of Justice Assistance. Parallel work is needed to determine the extent of the relationship between procedural innovations adopted by many appellate courts several years ago (such as increased staff involvement) and efficiency, productivity, and quality of decisions, as measured by objective indicators of output. The relationship between outcome measures and how courts are organized into regions, divisions, or panels also needs to be examined.

Projects in Progress *continued*

Court Statistics and Information Management Project, National, Headquarters

Intermediate Appellate Court Automation, Court of Appeals, Seventh District, Youngstown, Ohio, Northeastern Regional Office

Involuntary Civil Commitment Project, Phase 3, National, Headquarters

Juvenile Justice Training Program, National, Headquarters (Institute for Court Management)

Large Trial Court Capacity Increase Program: Case Management Resource Project, National, Headquarters

Large Court Capacity Increase Program: Differentiated Case Management Study (II), Washington Project Office

Large Court Capacity Increase Program: Jury Management Microcomputer System Development, Washington Project Office

Large Court Capacity Increase Program: Trial Court Performance Standards Project, National, Headquarters

National Association of State Judicial Educators/NCSC Judicial Education Newsletter, National, Headquarters

Ohio Automated Systems Maintenance and System Enhancement, Northeastern Regional Office

Restitution Education, Specialized Training and Technical Assistance, National, Headquarters (Washington Project Office, Institute for Court Management)

The Effects of a Transfer of Diversity Jurisdiction in State Courts, National, Headquarters scj