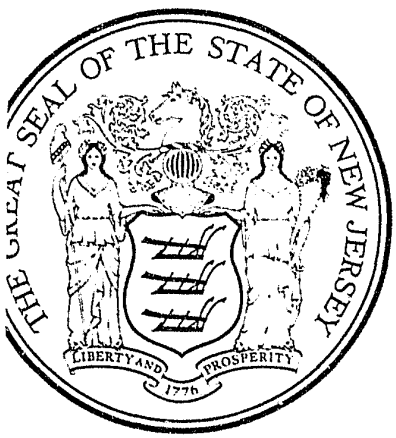
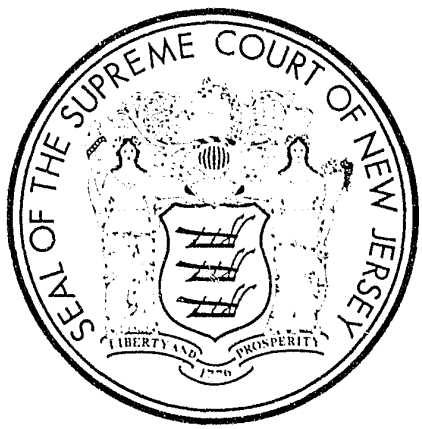
1986
JUDICIAL CONFERENCE OF NEW JERSEY

SUPREME COURT TASK FORCE
ON
SPEEDY TRIAL

1980 - 1986





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REPORTS OF THE

COMMITTEES OF THE

TASK FORCE ON SPEEDY TRIAL 1980 - 1986

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I. INTRODUCTION

In 1980, criminal cases in New Jersey faced a delay of a year or more before trial, several years in some counties. Defendants often languished in jail for far too long prior to disposition of the charges against them. The system for processing cases was fragmented, uncoordinated, and inefficient. There was little or no communication among the key participants. Witnesses were often inconvenienced by uncertain trial dates. Serious cases could not be reached, and in others the state's case deteriorated due to fading memories, relocation of witnesses, or lost evidence.

In response to these and other problems, the Supreme Court initiated a speedy trial program, announced time goals for disposition of criminal cases, and challenged the counties to create planning groups to find ways to meet these goals. This local planning process was given the flexibility to tailor local procedures to local conditions within the framework of the overall time goals and rules requiring in-court events to ensure that each case was proceeding on schedule.

Now, six years later, it is appropriate to review the progress made since 1980 and reflect on where we have been, where we are, and where we are heading.

The Task Force on Speedy Trial 1980-1986 was therefore charged with reporting to the Judicial Conference in three areas:

1. What innovative procedures have been developed over the last six years? How do they work? What have we learned from them?

2. What has been the impact of the speedy trial program on the quality of justice? What should be our goals in the future?

3. What are the major problems and delay points still affecting speedy trial?

These three sets of issues became the respective charges of three separate committees that have deliberated since November 1985. These committees are: the Committee on Speedy Trial 1980-1986, the Committee on Speedy Trial Goals and the Quality of Criminal Justice and the Committee on Delay Points and Problems Affecting Speedy Trial. The committee reports, which are included in the report of the task force, consist of narrative materials which support a series of standards.[1] The standards are policy statements representing the consensus positions of the respective committees. The "standards" format was adopted, given time constraints, in order to minimize the language debates that invariably occur during development of more formal rules. These standards are presented to the Judicial Conference to elicit comment and debate, and ultimately may be recommended for statewide rule adoption, local procedural implementation, or legislative action, as the case may be.

The task force determined that a summary and overview report should be prepared covering the material contained in the three committee

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1 While various standards are cited throughout this summary and overview, compilation of all of the standards from the three committee reports is included as an appendix.

reports since those reports overlap to some extent and some synthesis was thus needed. A summary does provide an opportunity for many to familiarize themselves with the task force findings without having to read the committee reports, although although a full reading of each report is essential to a complete understanding of the work of the task force.

Overall, the reports reflect a dynamic system. The speedy trial program has established communication among all components of the criminal justice system and, through this communication and coordination, a workable system is being developed. Much has occurred in the last six years, and it is appropriate to step back and consider the progress and its effects before we continue. Where strain appears, corrective measures should be considered so that quality does not suffer.

There has been substantial development and improvement of the criminal justice system and a reduction in delay since 1980. The committee reports reflect a perception by some that the benefits have been at the expense of individuals involved in the system. There is concern by some that people have been subjected to pressures associated with the disposition of cases, as opposed to appropriate attention being given to each case. The reports of the committees recognize that prime attention must be given to the "human factor" and the Judicial Conference will address this issue among others. The overriding theme of the reports is the realization that the most important resource in any such system is its people.

This overview identifies five general themes drawn from the committee reports. However, one issue that pervades the report is the

commitment to quality. The purpose[2] of speedy trial is to promote the fair and expeditious disposition of all criminal cases. It was not designed to promote guilty pleas or waivers of the right to trial where that would be inappropriate, and certainly not to coerce defendants to plead guilty under threat of a harsher sentence if they exercise their right to trial. The focus instead is to reduce the delay in case dispositions and reduce unnecessary "waiting time" between case events. The approach is to administer cases so that individual case needs are addressed and to allow for early identification of cases that may be disposed of without delay and unnecessary consumption of public resources.

The public and victims of crimes demand, and are entitled to, early resolution of criminal charges. A defendant has a right to expect that his or her case will be resolved expeditiously. Whatever the result, whether a conviction or acquittal, the early disposition of charges ultimately has benefit to defendants thus relieved of the uncertainties and pressures of pending charges. The various components of the criminal justice system also benefit when less serious cases are disposed of at an early stage allowing for focus and allocation of resources to cases of a more serious nature.

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2 Report of Committee on Delay Points and Problems Affecting Speedy Trial. Statement of the Purpose of the Speedy Trial Program, May 22, 1986, p. 1.

II. GENERAL THEMES AND PRINCIPLES

A. POLICIES INVOLVING PROCEDURAL OR ORGANIZATIONAL MATTERS SHOULD RESULT FROM THE FULL PARTICIPATION AND, IF POSSIBLE, CONSENSUS OF THE JUDGES, PROSECUTORS, DEFENSE COUNSEL AND OTHER INTERESTED AGENCIES INVOLVED.

The need for all key components to participate fully in management and policy decisions was one of the areas on which the thinking of all three committees converged uniformly. It is clear that no set of programs or procedures will work unless each of the three main components of the judicial process -- court, prosecution, and defense -- participate in the development of reasonable speedy trial goals, are committed to those goals, and cooperate in their use. An essential aspect of cooperation and coordination on the administrative level is a mutual respect for the interests and responsibilities of each participant. A recognition of the need to cultivate the cooperation of those involved is as important as the procedures and management programs actually developed.[3]

For the past six years New Jersey's criminal courts have been a veritable laboratory for demonstration of different approaches to case management. As a general proposition, the relative health of the criminal calendars in many counties seems highly dependent on whether the various components are able to cooperate and coordinate on administrative issues. The majority of counties seem to have been able to do so.

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3 Report of the Committee on Speedy Trial, 1980-1986, May 22, 1986, Standard 2.1, p. 26.

An important aspect of the approach to speedy trial taken in 1980, geared specifically to promoting participatory management, was the development of local speedy trial planning committees in each of the counties. In the years since 1980, this local process has evolved differently among the counties. Some meet frequently, some meet only quarterly, and some meet rarely. According to a committee study, the counties which meet more frequently have smaller backlogs and less delay than those which meet infrequently or not at all.

A regular monthly meeting of the key components of the county criminal justice system should be conducted so as to engender an atmosphere of communication and cooperation and to allow the participation of each in key policy decisions.[4]

Accompanying the right of each component to participate in policy decisions is their responsibility and duty to contribute to the improved quality of performance and to assist with the innovation and refinement necessary for continued progress. The judiciary, designated constitutionally as responsible for the overall administration of criminal justice, is neutral in the adversary process; it therefore must coordinate the planning and ultimately decide procedural issues.

The prosecutors have the responsibility to determine which charges are to be prosecuted, and whether to proceed by way of downgrade and remand to municipal courts. Many cases can be handled in such a manner more expeditiously, receiving an equally appropriate result as would have been obtained in the Superior Court, thus allowing scarce

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4 Id., Standard 3.3, p. 53.

resources to instead be allocated to the prosecution, defense, and adjudication of more serious matters. Thus, a proper consideration for the prosecutor in exercising the screening and charging decision is the effect that his or her screening policies will have on the operation of the judicial process and the ability of that process to handle more serious cases.[5]

The primary responsibility of defense counsel is to defend their clients. The various standards do, however, suggest a role consistent with the public interest so long as it is not otherwise inconsistent with their clients' interests.

B. DIVERSITY AMONG THE VARIOUS COUNTIES REQUIRES FLEXIBILITY TO ADAPT PROCEDURES TO LOCAL CONDITIONS WITHIN AN ESTABLISHED STATEWIDE FRAMEWORK. LOCAL PLANNING GROUPS MUST HAVE THE OPPORTUNITY TO INNOVATE AND INDIVIDUALLY STRIVE FOR EXCELLENCE.

In 1980, county speedy trial planning committees submitted plans to the Supreme Court for consideration and approval. Some plans proposed procedures requiring modification of court rules. Accordingly, on January 1, 1981, the Supreme Court ordered that any court rules inconsistent with procedures contained in approved plans were to be relaxed. As a result, rules such as those requiring probable cause hearings on request in non-jail cases, time limits for filing of motions, and filing of indictable complaints in municipal courts were relaxed in some counties. As recently as 1985, rules requiring in-court arraign-

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5 Report of Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 13.1, p. 52.

ments and pretrial conferences were relaxed as part of an experimental program in Union County.

This bold acknowledgment of the need to draw upon the creativity of local planning groups has led to innovations that are spreading statewide, as well as to the development of programs tailored to meet local conditions. Moreover, it recognizes that the need for a stable overall framework for case flow is not inconsistent with the need for flexibility, within that framework, to develop and refine procedures that are in harmony with local circumstances.

Local speedy trial planning committees have made good use of their ability to test new ideas, subject to Supreme Court approval where rules are involved. The success of the local planning process supports continuation and encouragement of a vigorous planning effort.[6]

C. THE JUDICIARY SHOULD PROVIDE A SIMPLE AND STABLE FRAMEWORK FOR CASE PROCESSING.

The twin themes of the speedy trial program in the last six years have been to stimulate the local planning process to develop workable, smooth and orderly procedures for disposition of criminal cases, and to develop a streamlined framework of judicial administration. Constitutional and statutory requirements of due process are the essence of our system of criminal justice and must be preserved. Uniformity, equality of treatment, and evenhanded administration -- essential both to due process and orderly case flow -- requires that the judiciary

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6 Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standard 3.4, p. 53.

establish a statewide framework for the movement of criminal cases from arrest to disposition.

At its most fundamental level, this framework must set forth each of the key stages applicable to all cases wherever they might be heard in the State. Within each key stage, the framework must set forth the minimum objectives to be met. The philosophy of early case management guided the task force in constructing the framework, which consists of case initiation, first appearance, pre-indictment screening, post-indictment arraignment, pretrial, trial and sentencing. Each of these elements will be discussed in turn.

The task force recommends as one of the basic principles of this framework, in conjunction with fundamental fairness, the continued refinement of early case management.[7]

The task force does not recommend that we tinker where the system does not need fixing. Therefore no substantive changes are contemplated involving key stages such as indictment[8] or trial.

The various standards do, however, suggest that the first appearance of a defendant in court, traditionally relegated to municipal courts to ensure that defendants are made aware of their rights, should be expanded to ensure also that various case management objectives are met as well. This activity, taking place soon after arrest, to achieve what one committee report calls "threshold case management objectives," should be viewed as a component of the overall framework for case processing.

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7 Id.,Standard 1.1, p. 15.

8 Report of the Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, The Grand Jury, p. 54.

The standards identified objectives that are integral parts of a criminal case, categorizing these objectives as threshold or secondary:

THRESHOLD CRIMINAL CASE MANAGEMENT OBJECTIVES:

1. NOTICE TO THE PROSECUTOR AND COURT OF INDICTABLE CHARGES;
2. RECEIPT OF POLICE AND INVESTIGATIVE REPORTS;
3. ENTRY OF APPEARANCE OF DEFENSE COUNSEL, WHETHER PRIVATE BAR OR PUBLIC DEFENDER;
4. EXCHANGE OF DISCOVERY BY BOTH PROSECUTOR AND DEFENSE;
5. SOME CONTACT WITH DEFENDANT SUFFICIENT TO INDICATE ACTIVE OR FUGITIVE STATUS;
6. PROSECUTOR SCREENING ACTION AND EARLY COMMUNICATION TO THE COURT AS TO WHICH CASES WILL NOT BE INDICTED;
7. IDENTIFICATION OF CASES AMENABLE TO EARLY DISPOSITION AND APPLICATION FOR DIVERSIONARY PROGRAM OR CONSIDERATION OF EARLY PLEA;
8. PROMULGATION OF A SCHEDULE FOR FUTURE EVENTS AND NOTICE TO DEFENDANT AND VICTIM OF FUTURE EVENTS.[9]

SECONDARY CRIMINAL CASE MANAGEMENT OBJECTIVES:

1. FILING AND SCHEDULING OF NECESSARY MOTIONS;
2. INTERVIEW BY DEFENSE COUNSEL WITH THE DEFENDANT AND WITNESSES;
3. INTERVIEW BY PROSECUTOR WITH STATE WITNESS(ES);
4. EARLY DISPOSITION OF APPROPRIATE CASES BY PLEA OFFER, IN WRITING IN ADVANCE IF POSSIBLE, AND IN-PERSON NEGOTIATION BETWEEN TRIAL PROSECUTOR AND DEFENSE COUNSEL AS TO PLEA AGREEMENT;
5. IDENTIFICATION OF A CASE'S LIKELIHOOD FOR TRIAL; AND
6. SCHEDULE FOR FIRM AND CERTAIN TRIAL DATES INCLUDING ISSUANCE OF TRIAL ASSIGNMENT NOTICE AT LEAST SIX WEEKS PRIOR TO TRIAL DATE WITH OPPORTUNITY FOR COUNSEL TO REQUEST, WITHIN 15 DAYS, ADJOURNMENT TO A MORE CONVENIENT DATE.[10]

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9 Id., Standard 4.1, p. 3; Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standard 1.1, p. 3. (This material is a synthesis of the two standards.)

10 Report of the Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 4.3, p. 4 and 5.

These objectives are obviously not an exhaustive listing of every event that must occur during the life of a case; but they are to be considered essential to the achievement of fundamental fairness and delay reduction. Each one must occur at some point in the process. Accordingly, what follows is an outline of an overall framework setting forth each key stage of a case with its related objectives. It should be noted that the objectives relating to a particular key stage may be accomplished at an earlier stage given local conditions; but in no event should they occur later.

1. Case Initiation

This stage is defined broadly to include the notice to the prosecutor and the Superior Court of the filing of an indictable complaint within 48 hours or less[11] and the timely preparation and receipt by the prosecutor of police and investigative reports within seven days following arrest.

2. First Appearance in Court

As noted earlier, the task force recommends a more expansive role for this stage in ensuring that certain threshold objectives are addressed, such as early entry of appearance of defense counsel (whether it be private bar or public defender) and exchange or inspection of routine discovery.[12] Central or regional first appearances, or less formal central intake interviews have clearly

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11 Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standard 1.2, p. 16.

12 Id., Standard 4.1, p. 3; Ibid.

demonstrated the capacity to conserve resources in this area at both the county and municipal levels.[13]

3. Pre-Indictment Screening

The primary objective in this stage has been the determination by the prosecutor of whether the charges will be referred to the grand jury, or instead be disposed of by downgrade and remand or by administrative dismissal.[14] Other elements of this stage that have been recommended by virtue of the experience with a number of local programs are early communication to the court as to which cases will not be indicted,[15] and identification of cases amenable to early disposition by pretrial intervention, suspended proceedings/conditional discharge, or plea to an accusation.[16] Pre-indictment disposition conferences have been developed in a number of counties to address those objectives, and are discussed more fully later in this overview.

4. Post-Indictment Arraignment

This stage served as the focus of the original approach to speedy trial in 1980. The theory at that time was to ensure that certain case management objectives occurred prior to the trial stage in order to avoid trial delay. The standards recommended here recognize that many of these objectives are now being addressed even earlier, i.e., at the first appearance. However, any items not addressed in the first appearance

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13 Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standard 1.3, p. 19.

14 Report of the Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 13.1, p. 52.

15 Id., Standard 4.1, p. 3. See also Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standard 1.1, p. 15.

16 Ibid.

stage should be attended to within two weeks of indictment.[17] If defense counsel has not yet had an opportunity to interview the defendant, it must occur at this stage.[18] Thereafter, this stage could include such elements as: some contact with the defendant sufficient to indicate that the case is not in fugitive status,[19] entry of plea to the indictment,[20] promulgation of a schedule for future events,[21] the filing and scheduling of necessary motions,[22] and interview by the prosecutor with the state's witnesses.[23] Whether this stage should include an in-court hearing or an alternative method is discussed later in this summary.

5. Pretrial

This stage includes the disposition of motions,[24] the opportunity for defendant to offer judgment for a probationary sentence,[25] pretrial conferences,[26] identification of a case's likelihood for trial,[27] and the scheduling of firm and certain trial dates.[28] Various procedures for achieving pretrial disposition are discussed later in this overview.

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17 Report of the Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 4.2, p. 3.
18 Id., Standard 4.3, p. 4.
19 Id., Standard 4.1, p. 3.
20 Id., Standard 4.1, p. 3.
21 Id., Standard 4.1, p. 3.
22 Id., Standard 4.1, p. 3.
23 Id., Standard 4.3, p. 4.
24 Ibid.
25 Id., Standard 6.1, p. 3.
26 Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standards 2.5, 2.6, 2.7, p. 39; Standard 2.8, p. 40.
27 Report of the Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 4.3, p. 4.
28 Ibid.

6. Trials

As noted earlier, the committee reports do not address issues relating to the actual trial of cases. The standards do, however, recommend that trial "setting" practices should not result in an unreasonable over-scheduling of trial lists.[29] The ability of a court to dispose of cases prior to the scheduling of trial is an essential factor in ensuring a firm and certain trial list.[30] Continuances should be granted only if unforeseen circumstances arise.[31]

7. Sentencing

This stage involves both the preparation of a pre-sentence report and the actual sentencing. The proposed standards suggest methods to ensure the early and efficient development of information used for sentencing,[32] and a simultaneous sentencing procedure by which such information is available at the time of plea.

D. SPECIFIC PROCEDURES FOR CASE FLOW SHOULD BE DESIGNED SO THAT THEY ARE SMOOTH, ORDERLY, AND CONSISTENT.

The preceding section dealt with how the various committee reports and standards address the framework of case processing, that is, what things need to be administered. This section addresses the "how to" standards, and it is here that the accomplishments of the local planning

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29 Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standard 2.9, p. 41.

30 Id., Standard 2.10, p. 42.

31 Report of the Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 4.5, p.6.

32 Id., Standard 9.1, p. 30; Standard 9.2, p. 31; Standards 9.3, 9.4, p. 32; Standard 9.5, p. 34; Standard 11.1, p. 42; Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standard 3.1, p. 46.

processes are most evident. The standards can generally be grouped into two categories. One group of standards addresses the method for developing and monitoring time goals for each step in the process. The second group of standards deals with the various programs and procedures that have been developed.

1. Standards Relating to Goals

The objectives described in the preceding section are critical events by which the progress of a case from beginning to end may be measured. Each event should occur within some reasonable time frame or goal. In establishing these goals, careful consultation with key participants in the criminal justice system is essential. Time goals should be established for all critical events and objectives in the life of a case.[33]

The standards call for forty-eight hour receipt of complaints,[34] seven-day receipt of police reports,[35] thirty-day case inactivation,[36] a thirty-day goal for the interval from disposition to sentencing,[37] and pre-indictment PTI application.[38] These and other interval goals should be developed in each county, covering such other key events as the prosecutor's screening decision, entry of appearance of counsel, diversionary program application, and exchange of discovery.[39]

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33 Report of the Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 5.1, p. 8.
34 Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standard 1.2, p. 16.
35 Report of the Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 12.2, p. 45.
36 Id., Standard 10.2, p. 40.
37 Id., Standard 9.1, p. 30.
38 Id., Standard 8.4, p. 29.
39 Id., Illustrated key event and goal statements, p. 9.

Cases failing to meet time goals should be listed on exception reports routinely generated by PROMIS/GAVEL.[40] These cases then should be identified and analyzed for the reasons causing the delay. Strategies should be developed for elimination of causes of delay.[41] Since a defendant's appearance is critical to reaching many of the goals, counties should develop procedures to verify defendant's address, assure the continuing accuracy of that address and defendant's receipt of notice of future court events each time they are in court.[42]

2. Standards Relating to Procedures

The preceding section identified specific objectives which require monitoring and administration in the course of a criminal case. The committee reports suggest that they may be accomplished in a number of ways, through formal or informal procedures.

a. One recommendation which appears to accomplish threshold management objectives is the creation of a Central Judicial Processing Court (CJP). CJP or similar procedures are now in effect in Hudson, Camden, Mercer, Passaic, Somerset, Union, and Essex Counties. CJP provides a central forum for first appearances under R. 3:4-2, prosecutorial screening, court intake, application for defense counsel and for entry into diversionary programs, and future case scheduling. Where substantial levels of downgrade and remand occur, regional or central remand courts can be effective in giving each case the detailed consideration and proper treatment it deserves.[43]

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40 Id., Standard 5.2, p. 10.
41 Id., Standard 5.3, p. 11.
42 Id., Standard 10.1, p. 38.
43 Report of the Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 13.3, p. 55.

b. Another recommendation involves the acceleration of review of pre-trial intervention applications (PTI). Although acceleration is desirable, the defendant should not be encouraged to apply for PTI before he or she has the opportunity to consult with counsel.[44] In 1985 there were 14,912 applications for PTI, roughly equal to about 40% of the number of persons indicted that year. The application process typically takes about four to six weeks between application and the recommendation of the program director/case manager, and an additional two to three weeks for the prosecutor's determination. However, the majority of PTI applications are not approved, with the data indicating that roughly two-thirds of the applications are rejected statewide. This suggests that the PTI process, particularly for the some 10,000 cases ultimately rejected and returned to calendars after several months, has resulted in longer delay than need be. Accordingly, one standard calls for each county to consider methods, such as prosecutorial pre-screening[45] of applications, to avoid interviews and other burdensome application procedures where they are not necessary.

c. Another recommendation involves development of procedures for pre-indictment disposition of cases. After threshold objectives have been achieved, that is, screening has occurred, appearance of defense counsel has been entered, and PTI participation has been determined, certain cases can and should be disposed of before indictment. The emergence of CJP and central intake programs has made available a procedure through which some of these cases can be identified and

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44 Id., Standard 8.4, p. 29.
45 Id., Standard 8.3, p. 28.

scheduled for a disposition conference prior to indictment, thus conserving scarce resources. A growing number of counties have successfully experimented with pre-indictment plea conferencing procedures.[46] Middlesex and Essex have had such procedures for several years. Passaic, Camden, Mercer, Somerset and Union have more recently instituted such a conference. Targeted cases often include less serious crimes and jail cases. Of course, early appearance of defense counsel is essential. In Union County the event occurs several weeks after CJP, and disposes of over one-half of matters presented by diversion or a plea to an accusation.

These pre-indictment conferences have been beneficial in many respects. They allow the prosecutor to advise the court of his screening decision. They promote exchange or inspection of routine discovery, resolution of PTI applications or conditional discharge motions, pleas to accusation, and they can allow provision of notice to the defendant as to future events.

d. Mandatory court appearances after indictment, particularly in-court arraignments and pre-trial conferences, also garnered the attention of the three task force committees. Most members of the task force understand that a central purpose of the requirement for an "in-court" arraignment on the indictment was to accomplish various threshold case management objectives such as appearance of counsel, application to PTI, exchange of discovery, and future case scheduling. These objectives have been achieved statewide.

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46 Report of the Committee on Speedy Trial 1980-1986, May, 22, 1986, Standard 1.6, p. 25.

However, the reports suggest that the purpose of in-court arraignment may be accomplished in alternative ways. If cases can be administered without a formal hearing, they should be. If a hearing must be held, it should be meaningful. In this respect the standards call for a significant shift in the focus of court procedure from one that is "court appearance" oriented to one that moves cases in the most efficient manner, with or without a hearing. CJP procedures now in place in 10 of the 14 largest counties in the State may achieve many case needs before indictment. Pre-indictment disposition conferences also achieve those case management needs. Union County is experimenting with an attorney certification in lieu of in-court arraignment, which is designed to continue case progress without the need for a formal court appearance. That project will seek to determine if alternatives can be developed to adequately address the need for a sufficient "contact" with defendant to ensure active case status and the defendant's personal attention to the charges. The committee report, therefore, calls for flexibility as to mandatory arraignments where the objective can be achieved through a more flexible procedure.[47] The committee suggests that the in-court event or certification must occur within two weeks of the filing of the indictment.

e. The pre-trial conference has primarily served, in the counties reporting it to be useful, to provide a procedure whereby cases amenable to early disposition may be so disposed. As such, those cases are resolved early thereby eliminating congestion of trial lists and making those lists more manageable. Further, since these pre-trial

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47 Id., Standard 2.3, p. 34.

conferences involve only the parties, victims and witnesses are spared the burden of having to appear or be "in readiness" for a trial date. Counsel are also relieved of having to prepare a case for trial.

Half of the counties report that the pre-trial conference is useful in achieving early dispositions, that is, disposition of at least 50% of cases scheduled for such conferences. These counties seem to firmly believe that the pre-trial conference is key to their calendar management. Other counties report that the conference does not result in a significant level of plea dispositions. Problems suggested are that counsel are too busy on cases scheduled for trial, conferences are conducted by an attorney not authorized to dispose of the case, the best plea offer is not on the table, the court does not urge the parties to seriously consider a negotiated agreement, or that motions, discovery, or PTI is still outstanding.

The disposition of cases by conviction before being scheduled for trial, where it occurs, occurs most often by virtue of pre-trial conferences, and usually in concert with some form of flexible but serious plea cut-off. The disposition of cases before being scheduled for trial is directly related to the ability to develop more certain trial lists. The committee reports conclude that pre-trial conferences are valuable. Where the conferences do not work, local officials should examine the reasons for that failure and address the problems.[48] Pre-trial conferences should not be scheduled until sufficient time has been allowed for meaningful case review and resolution of PTI applications. The conferences are most useful when scheduled near the

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48 Id., Standard 2.5, page 39.

trial date,[49] with a written plea offer containing the prosecutor's best offer, and with the court fostering an expectation that cases not requiring trial should be disposed of at the conference.[50] In order to avoid the churning of calendars with repeated conferences, it is recommended that multiple conferences should be avoided and cases scheduled for a trial date certain if plea negotiations are unsuccessful.[51]

f. Sixty-four percent of the dispositions of criminal indictments are obtained by guilty plea; only 6% of the dispositions are by trial. The remainder are disposed of by PTI, Section 27 (motion to suspend proceedings in drug cases), and other types of disposition. One committee considered, and endorses, a procedure in which cases clearly amenable to and deserving of a probationary sentence, and in which the defendant desires to dispose of the charges expeditiously and without trial, may be so resolved.

The committee concludes that in less serious criminal categories, particularly where a presumption against incarceration is available, or where a probationary sentence is clearly indicated, an offer of judgment procedure should be established. The benefit to all of some reasonable certainty as to sentence outcome suggests that some judicial assistance may be appropriate, so long as (1) the role is relatively passive and on the record with the participation of all parties and not involving plea bargaining, (2) the parties have already

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49 Id., Standard 2.4, p. 39.
50 Id., Standard 2.6, p. 39.
51 Report of Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 4.4, p. 5.

engaged in plea negotiations, (3) the court has sufficient information to know what sentence it would ordinarily render in such a case, (4) the defendant has offered judgment[52] or otherwise requested judicial assistance, and (5) the procedure is designed to dispose of cases well before trial.

g. In each county, information was requested as to the number of cases scheduled, on average, for each weekly trial call. These trial calls are usually conducted on Monday for the upcoming week. The number of cases called was divided by the number of judges in master calendar counties to get an estimate of how many cases were "set" for each judge. In most instances, the committee was able to ascertain this figure with a seemingly fair level of accuracy, although the figure was almost always based on an estimate.

In the counties where this information was ascertained, many counties set between five and eight cases per judge per week. Some counties set around ten cases per week, and some set 25 or more. In the counties with 15 or more cases set per judge, substantial numbers of cases were rescheduled or carried to the next week. In a few counties they are carried weekly until disposed. The committee got a sense of "churning" in these counties, that is, cases being set for weekly trial calls, not with a realistic anticipation of trial, but merely to see if dispositions can be achieved.

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52 Report of the Committee on Delay Points and Problems Affecting Speedy Trial, May 22, 1986, Standard 6.1, p. 17.

Of great interest was the observation that the counties with the lowest trial list "setting" of five to seven cases[53] per judge all reported successful use of pretrial conferences to effect early disposition. Similarly, all counties that set 15 or more cases per judge report that pretrial conferences are not effective or are not conducted. Thus, there is a fairly clear relationship between early dispositions, pretrial conferences, and firm trial calendars.[54]

h. In New Jersey, the twenty-one counties are fairly evenly split in choice of criminal calendar systems, i.e., individual or master. Each type of calendar has been implemented with broad variations, and even hybrids of the two systems are used. A number of counties have recently changed from one system to another with one county making its third change in as many years.

A review of the top seven multiple-judge counties with the best overall criminal calendar performance and achievement of speedy trial goals shows four using an individual calendar system and three using a master calendar system. A similar split can be found for the seven multiple-judge counties which have the greatest backlog and delay, with four using master calendars and three using individual calendars. Of the six-single judge counties, which thus have individual calendars by definition, four have above average calendar performance and two are below average. This cursory review may slightly favor individual calendars, but would suggest that the type of calendar has a relatively

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53 Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standard 2.9, p. 41.

54 Id., Standard 2.10, p. 42, Standards 2.4, 2.5, 2.6, 2.7, p. 39 and Standard 2.8, p. 40.

insignificant effect on overall calendar performance. The experience in New Jersey is apparently similar to the experience nationwide. At a recent National Conference on Delay Reduction, a study of 18 urban jurisdictions revealed that:

> In contrast to the civil, criminal case processing time does not seem to be significantly affected by the type of calendar system used by the court..... It appears that neither the individual calendaring system nor the master calendar system is markedly more effective than the others in minimizing delay... About all that can be said is that the type of calendaring system by itself is not a critical determinant of speed.[55]

The committee concludes that individual, master, or hybrid calendar systems can work in a given vicinage depending primarily on the management abilities of the judges and the relationship among the various components. Each jurisdiction should thus choose the appropriate system based on a careful review of human and organizational factors.[56]

i. The committee concludes that the reorganization of the Criminal Division of Superior Court has improved the quality and efficiency of the criminal courts by establishing clear lines of authority, promoting accountability for case processing support functions, and reducing duplication among the formerly separate support units.[57]

The key to success of any organization is a well-structured management plan that will provide clear and direct administrative

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55 National Center for State Courts, Implementing Delay Reduction and Delay Prevention Programs in Urban Trial Courts; A Report Prepared for the National Conference on Delay Reduction, p. 18 (August, 1985).

56 Report of the Committee on Speedy Trial 1980-1986, May 22, 1986, Standard 2.2, p. 29.

57 Id., Standard 3.2, p. 49.

responsibilities of that organization. Ongoing training for all key components should be encouraged.

E. RECOGNITION OF THE IMPORTANCE OF HUMAN VALUES IS PARAMOUNT IN THE CREATION OF A SYSTEM THAT STRIVES FOR EXCELLENCE IN PERFORMANCE

The fundamental purposes of the speedy trial program which began in 1980 were both to achieve delay reduction and to improve the quality of justice in each case. Empirical measures of backlog and delay,[58] as well as the results of a survey of perceptions of judges, prosecutors, and defense counsel,[59] confirm that the speedy trial program has substantially reduced delay in the disposition of criminal cases. And the reduction of the previous delay of a year or more to trial has been accomplished in the face of ever increasing case loads.

The dynamics of change invariably cause stress. A responsive system is one that allows problems to surface and then moves to make necessary adjustments. The task force has considered the overall goals for disposition of cases with a sense of realism, given the survey findings. It endorses the current goal of six months from arrest to disposition in non-jail cases, and ninety days for jail cases, as meaningful and achievable. Most importantly, there is a commitment to continue to achieve these goals in the context of the themes set forth in the task force committees' reports.

It should not be unexpected that these significant accomplishments in the past five years have placed the system, and those who work

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58 Report of Committee on Speedy Trial 1980-1986, May 22, 1986, Introduction, pp. 1-4.

59 Report of the Committee on Speedy Trial Goals and the Quality of Criminal Justice, May 22, 1986, p. 55.

within it, under substantial stress. While some degree of stress was unavoidable under the circumstance of change which has occurred during the past six years, careful attention to this factor must be given for the future well-being of the system and its participants.

The perceptions and concerns of those participants were surveyed by the task force to ensure faithfulness to one of the fundamental goals of the speedy trial program -- to improve the quality of justice in each case. That survey questionnaire covered several basic areas:

1. Justice - perceptions of the criminal justice system as they relate to observations regarding the outcome of individual cases, e.g., have defendants rights been compromised, are guilty persons being acquitted, are innocent persons being convicted ?
2. Efficiency - perceptions of the effect on the efficiency of the system, how it operates administratively and effect on the use of current resources.
3. Goal Emphasis - the amount and degree of pressure experienced by participants in the program and how it affects their ability to do their jobs.
4. General Assessment - a combination of two open-ended and two closed ended questions designed to elicit opinions of the respondents regarding operation of the program to date, as well as its operation in the future.

The questionnaire was distributed to all criminal judges, prosecutors and assistant prosecutors, public defenders, and members of the private criminal defense bar. The response rates were quite high.

Beyond the survey approach, the committee also reviewed data from the Administrative Office of the Courts.

5. Systems Rates - perceptions concerning the effect of speedy trial on overall method or manner of case disposition. These perceptions are reported by the committee along with information regarding any actual changes in these rates.

Survey Findings [60]

It is not surprising to find that the opinions gathered by the survey varied with the group being surveyed. Generally, the judges surveyed found fewer problems with the speedy trial program than did prosecutors, public defenders or private attorneys. The specific problems identified by prosecutors were very different from those perceived by defense lawyers.

The judges surveyed strongly believed that the quality of justice has not suffered as a result of the speedy trial program. Only thirty percent of them disagreed with that conclusion. Prosecutors were approximately evenly divided on the issue. Defense counsel who responded thought overwhelmingly that the quality of justice has been impaired.

Judges and prosecutors overwhelmingly reported that innocent defendants are not pleading guilty, and that the program has not resulted in the rights of defendants being compromised. A contrary opinion was voiced by a majority of public and private defense attorneys. Judges,

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60 Report of the Committee on Speedy Trial Goals and the Quality of Criminal Justice, May 22, 1986, pages 5 and 6.

public defenders and private attorneys surveyed were in almost unanimous agreement that guilty defendants are being convicted, while prosecutors were divided on that issue.

There were also divisions regarding survey items pertaining to program efficiency. Prosecutors, public defenders and private defense attorneys did not believe that the program had eliminated wasted time and unnecessary steps in the processing of cases. Judges on the other hand generally believed that the system has become more efficient as a result of the speedy trial program. They believe that the program has eliminated delay and unnecessary steps in the processing of cases and allows all parties to move cases quickly to trial if they so desire. While prosecutors were divided, most agreed with the judges that the program does not require too many court appearances; defense attorneys believe that it does. On the other hand, defense attorneys surveyed agreed with judges that more case screening could be employed. Judges, prosecutors and public defenders all agreed that increased resources would substantially reduce problems associated with case processing; the private bar was split on this issue.

A number of survey items were concerned with the program's emphasis on goals, pressure resulting from that emphasis, and how that pressure might affect the job performance of those responding. While prosecutors and defense attorneys surveyed did not believe that they have adequate time to prepare cases, judges were not in agreement with that contention. However, while defense attorneys expressed their view that judges do not grant needed extensions, prosecutors were in agreement with judges that such extensions are in fact granted. Of special note was the wide agreement among judges, prosecutors and the defense bar that judges

are under pressure to produce numbers and that the program is more concerned with numbers than with people.

With regard to general program effect on delay, the survey found that the overwhelming majority of respondents perceive that delays have been reduced. As noted above, however, there was disagreement regarding the effect of speedy trial on the quality of justice.

It is evident from the responses to these items that all segments of the criminal justice system are experiencing pressure as a result of the program. Generally, there was a strong consensus among all respondents that the speedy trial program is exerting great pressure to dispose of cases, is more concerned with numbers than people, and threatens the individuality of cases.

The task force concludes that the perceptions measured by the survey are helpful in establishing an appropriate perspective for the future of the speedy trial program. Those responses tell us that we must be concerned with human values in the administration of this program. We must be concerned with the effect of this program upon all individuals who come within the courts. That means concern and sensitivity for the rights of defendants, victims, and the public at large - including witnesses, jurors, attorneys who practice in the courts, as well as the judges and administrators.

CONCLUSIONS

It must be re-emphasized that the quest in New Jersey for a perfected speedy trial program without compromising the quality of justice requires a continuing effort. While it has not been totally achieved according to the task force report, it has certainly been enhanced and has produced innovative and progressive concepts, structure and process for the improvement of an already workable system. Continued refinement will better promote the public's interest in speedy trial without compromising the defendant's constitutional rights.

The task force has sought through the development of standards, to encourage dialogue at all levels of criminal justice administration. It has hopefully created an atmosphere that allows for the adaptation of proven case management principles and methods that are presently in place, to those that were conceptually conceived by the task force committees, in order to create a consistent statewide model or blueprint. Present programs can be molded and modified to serve the unique requirements of each county courthouse and the key participants who are obligated to promote the most efficient and effective methods of attaining fundamental fairness, coupled with the earliest disposition of cases that can be realistically achieved.

APPENDIX

I. STANDARDS PERTAINING TO GENERAL ADMINISTRATIVE ISSUES

STANDARD 2.1

THE DEVELOPMENT OF CRIMINAL CASE PROCESSING SYSTEMS, WITHIN THE FRAMEWORK OF COURT RULES, SHOULD RESULT FROM THE FULL PARTICIPATION AND, IF POSSIBLE, CONSENSUS, OF THE INTEGRAL COMPONENTS INVOLVED. AN ESSENTIAL ASPECT OF COOPERATION AND COORDINATION ON THE ADMINISTRATIVE LEVEL IS A MUTUAL RESPECT FOR THE INTERESTS AND RESPONSIBILITIES OF EACH PARTICIPANT. AS IMPORTANT AS THE PROCEDURES AND MANAGEMENT SYSTEMS DEVELOPED IS A RECOGNITION OF THE NEED TO CULTIVATE THE COOPERATION OF THOSE INVOLVED.

STANDARD 1.1

EARLY CASE MANAGEMENT WITH DOWNGRADE OR DIVERSION SOON AFTER ARREST IS NECESSARY IN ORDER TO CONSERVE LIMITED RESOURCES. IT REQUIRES THE ADMINISTRATIVE COOPERATION AND COMMITMENT OF ALL KEY COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM. OBJECTIVES ARE TO DOWNGRADE, DIVERT OR OTHERWISE DISPOSE OF APPROPRIATE LESS SERIOUS CASES, THUS EXPEDITING TRIAL OF THE REMAINING CASES. EARLY CASE MANAGEMENT INCLUDES:

A. IDENTIFICATION OF CASES AMENABLE TO EARLY DISPOSITION BY DOWNGRADE, DIVERSION OR OTHER EARLY DISPOSITION;

B. EARLY NOTICE TO THE PROSECUTOR AND COURT OF INDICTABLE CHARGES AND SOME "CONTACT" WITH DEFENDANT;

C. EARLY RECEIPT OF POLICE REPORTS AND EXPEDITIOUS PROSECUTORIAL SCREENING;

D. EARLY IDENTIFICATION OF DEFENSE COUNSEL AND EXCHANGE OF DISCOVERY;

E. EARLY APPLICATION FOR DIVERSIONARY PROGRAMS SUCH AS PTI OR CONDITIONAL DISCHARGE/SUSPENDED PROCEEDINGS.

STANDARD 3.3

REGULAR MONTHLY MEETINGS OF THE KEY COMPONENTS OF THE COUNTY CRIMINAL CASE PROCESSING SYSTEM, INCLUDING AT LEAST THE ASSIGNMENT JUDGE AND/OR THE CRIMINAL PRESIDING JUDGE, COUNTY PROSECUTOR, REGIONAL PUBLIC DEFENDER, PRIVATE BAR REPRESENTATIVE, TRIAL COURT ADMINISTRATOR, CRIMINAL CASE MANAGER, AND A COUNTY JAIL REPRESENTATIVE SHOULD BE CONDUCTED. SUCH COORDINATION ENGENDERS AN ATMOSPHERE OF COMMUNICATION AND COOPERATION, AND ALLOWS FOR INPUT AND COMMENT OF EACH INTO KEY POLICY DECISIONS.

STANDARD 3.4

LOCAL SPEEDY TRIAL PLANNING COMMITTEES HAVE MADE GOOD USE OF THEIR ABILITY, SUBJECT TO SUPREME COURT APPROVAL, TO ADOPT LOCAL PROCEDURES IN ORDER TO FACILITATE IMPLEMENTATION OF LOCAL CASE MANAGEMENT STRATEGIES. THE SUCCESS OF THE LOCAL PLANNING PROCESS ARGUES FOR CONTINUATION OF LOCAL DISCRETION, SUBJECT TO SUPREME COURT APPROVAL, WHERE COURT RULES ARE IMPLICATED.

STANDARD 3.2

REORGANIZATION OF THE CRIMINAL DIVISION OF SUPERIOR COURT HAS IMPROVED THE QUALITY AND EFFICIENCY OF THE CRIMINAL COURTS BY ESTABLISHING CLEAR LINES OF AUTHORITY, PROMOTING ACCOUNTABILITY FOR CASE PROCESSING SUPPORT FUNCTIONS AND REDUCING DUPLICATION AMONG THE FORMERLY SEPARATE SUPPORT UNITS.

STANDARD 2.2

INDIVIDUAL, MASTER OR HYBRID CALENDAR SYSTEMS CAN WORK IN A GIVEN VICINAGE DEPENDING MAINLY ON THE MANAGEMENT ABILITIES OF THE JUDGES AND THE RELATIONSHIPS AMONGST THE VARIOUS INSTITUTIONS INVOLVED. EACH JURISDICTION SHOULD CHOOSE THE APPROPRIATE SYSTEM BASED ON A CAREFUL REVIEW OF HUMAN AND ORGANIZATIONAL FACTORS.

II. STANDARDS PERTAINING TO TIME GOALS

STANDARD 5.1

TIME GOALS SHOULD BE ESTABLISHED FOR ALL CRITICAL EVENTS IN THE LIFE OF A CASE.

STANDARD 5.2

CASES FAILING TO MEET TIME GOALS SHOULD BE LISTED ON EXCEPTION REPORTS ROUTINELY GENERATED BY PROMIS/GAVEL.

STANDARD 5.3

CASES FAILING TO MEET TIME GOALS SHOULD BE IDENTIFIED AND ANALYZED FOR REASONS CAUSING DELAY. STRATEGIES SHOULD BE DEVELOPED FOR ELIMINATION OF CAUSES OF DELAY.

STANDARD 10.2

A STATEWIDE POLICY ON INACTIVATION OF CASES WHERE THE DEFENDANT IS A FUGITIVE SHOULD BE ESTABLISHED AT 30 DAYS. COUNTIES SHOULD ASSURE THEIR MONTHLY ACCOUNTING REFLECTS REACTIVATION WHEN THE BASIS FOR INACTIVATION IS CURED.

IN VIEW OF THE EMPIRICAL DATA, WHICH SHOWS THAT THE STATE CRIMINAL JUSTICE SYSTEM IS STILL SIGNIFICANTLY SHORT OF ACHIEVING SECOND YEAR GOALS, AND IN VIEW OF THE RESULTS OF THE QUALITY OF JUSTICE SURVEY REGARDING THE AMOUNT OF PRESSURE EXPERIENCED BY THE DIFFERENT BRANCHES OF THE CRIMINAL JUSTICE SYSTEM AS A RESULT OF SPEEDY TRIAL, IT IS RECOMMENDED THAT SECOND YEAR GOALS REMAIN IN EFFECT INDEFINITELY. IT IS RECOMMENDED THAT UNTIL THE THIRD YEAR GOALS BECOME OPERATIONAL ON A STATEWIDE BASIS, THE LOCAL PLANNING COMMITTEES SHOULD DETERMINE WHEN THEIR COUNTY IS ABLE TO MOVE ON TO THIS LEVEL.

STANDARD 12.1

IN LIEU OF ADDING STAFF AND COSTS ASSOCIATED THEREWITH AND TO IMPLEMENT THESE GOALS, COURT SUPPORT STAFF SHOULD BE ENCOURAGED TO WORK LONGER HOURS ON A UNIFORM BASIS STATEWIDE. COMPENSATION SHOULD BE PAID ON AN HOUR FOR HOUR BASIS FOR ADDITIONAL TIME REQUIRED BY THIS STANDARD.

III. STANDARDS PERTAINING TO CASE INITIATION

STANDARD 1.2

CRIMINAL COMPLAINTS SHOULD BE FORWARDED TO THE COUNTY PROSECUTOR AND CRIMINAL CASE MANAGER WITHIN 48 HOURS OR LESS AND ENTERED INTO THE PROMIS/GAVEL COMPUTER SYSTEM UPON RECEIPT.

STANDARD 12.2

A TIME GOAL OF SEVEN DAYS AFTER ARREST SHOULD BE ESTABLISHED FOR SUBMISSION OF POLICE REPORTS TO THE PROSECUTOR'S OFFICE. THE ATTORNEY GENERAL, AS THE CHIEF LAW ENFORCEMENT OFFICER IN THE STATE, SHOULD ISSUE A DIRECTIVE REQUIRING COMPLIANCE WITH THE SEVEN DAY GOAL.

IV. STANDARDS PERTAINING TO CENTRAL OR REGIONAL FIRST APPEARANCES

STANDARD 1.3

CENTRAL OR REGIONAL FIRST APPEARANCES UNDER R. 3:4-2 EFFECTIVELY PROVIDE AN OPPORTUNITY TO CONDUCT PROSECUTORIAL SCREENING, AND TO COORDINATE EARLY CASE MANAGEMENT OBJECTIVES AT THE SAME TIME. THIS PROCEDURE HAS CLEARLY DEMONSTRATED THE CAPACITY TO CONSERVE RESOURCES AT BOTH THE COUNTY AND MUNICIPAL LEVELS. HOWEVER, IMPROVEMENTS BENEFICIAL TO PART OF THE CRIMINAL JUSTICE SYSTEM MAY HAVE AN IMPACT ON OTHER PARTS OF THE SYSTEM AND PLANNING SHOULD INCLUDE PROVISIONS TO ADDRESS ISSUES SUCH AS IMPACT OF REMANDS ON MUNICIPAL COURT AND VICTIMS' RIGHTS.

STANDARD 1.4

EARLY DISPOSITION INITIATIVES, ESPECIALLY CENTRAL OR REGIONAL FIRST APPEARANCES WHICH FACILITATE PROSECUTORIAL SCREENING, EARLY DIVERSION OR EARLY PLEAS TO INDICTABLE OFFENSES SHOULD INCLUDE PROVISIONS TO ADDRESS THE CONCERNS OF VICTIMS AND WITNESSES.

STANDARD 1.5

WHEN CENTRAL OR REGIONAL FIRST APPEARANCES ARE NOT IN PLACE IN A GIVEN COUNTY, INFORMAL INTAKE INTERVIEWS CAN BE AN EFFECTIVE METHOD FOR ACHIEVING EARLY CASE MANAGEMENT. A COUNTY IMPLEMENTING THIS APPROACH SHOULD CONSIDER THE NEED TO COORDINATE INTAKE CLOSELY WITH THE PROSECUTOR'S SCREENING FUNCTION.

STANDARD 4.1

THRESHOLD CRIMINAL CASE MANAGEMENT OBJECTIVES ARE:

1. ENTRY OF APPEARANCE OF DEFENSE COUNSEL, WHETHER PRIVATE BAR OR PUBLIC DEFENDER, AND IDENTIFICATION OF TRIAL PROSECUTOR;

2. EXCHANGE OF DISCOVERY BY BOTH PROSECUTION AND DEFENSE;

3. SOME "CONTACT" WITH DEFENDANT SUFFICIENT TO INDICATE THAT CASE IS NOT IN FUGITIVE STATUS;

4. APPLICATION FOR DIVERSIONARY PROGRAMS, SUCH AS PTI OR CONDITIONAL DISCHARGE/SUSPENDED PROCEEDINGS;

5. PROMULGATION OF A SCHEDULE FOR FUTURE CASE EVENTS; AND

6. ENTRY OF PLEA TO THE INDICTMENT.

STANDARD 10.1

COUNTIES SHOULD FOLLOW PROCEDURES WHICH ASSURE THAT UPON RELEASE THERE IS VERIFICATION OF DEFENDANT'S ADDRESS. THEREAFTER, PROCEDURES MUST BE IMPLEMENTED TO ASSURE THE ACCURACY OF THE DEFENDANT'S ADDRESS AND THAT HE OR SHE IS AWARE OF HIS OR HER NEXT COURT DATE. DEFENDANTS SHOULD RECEIVE A NOTICE OF THEIR NEXT COURT APPEARANCE EACH TIME THEY ARE IN COURT.

V. STANDARDS PERTAINING TO PROSECUTORIAL SCREENING

STANDARD 13.1

THE DECISION TO PROSECUTE CRIMINAL CHARGES IN THE SUPERIOR COURT BY WAY OF INDICTMENT, REQUIRING A SUBSTANTIAL INVESTMENT OF THE RESOURCES OF THE VARIOUS AGENCIES INVOLVED, OR TO PROCEED BY WAY OF DOWNGRADE AND REMAND TO MUNICIPAL COURTS, IS APPROPRIATELY VESTED IN THE COUNTY PROSECUTOR. MANY CASES CAN BE HANDLED IN SUCH A MANNER MORE EXPEDITIOUSLY, RECEIVING THE SAME SENTENCING RESULT AS WOULD HAVE BEEN OBTAINED IN THE SUPERIOR COURT, THUS ALLOWING SCARCE RESOURCES TO BETTER ADDRESS THE PROSECUTION, DEFENSE, AND ADJUDICATION OF MORE SERIOUS MATTERS. THUS, A PROPER CONSIDERATION FOR THE PROSECUTOR IN EXERCISING THE SCREENING AND CHARGING DISCRETION IS THE EFFECT THAT HIS SCREENING POLICIES WILL HAVE ON THE OPERATION OF THE JUDICIAL PROCESS AND THE ABILITY OF THE PROCESS TO HANDLE MORE SERIOUS CASES.

STANDARD 13.2

THE LEGISLATURE SHOULD CONSIDER THE ENACTMENT OF STATUTES CREATING APPROPRIATE DISORDERLY PERSONS OFFENSES FOR POSSESSION OF SMALL QUANTITIES OF CERTAIN DRUGS AND MINOR WEAPONS VIOLATIONS TO PERMIT THE USE OF PROSECUTORIAL DISCRETION IN THE CHARGING AND SCREENING PROCESS.

STANDARD 13.3

REGIONAL REMAND COURTS OR OTHER CENTRALIZED MODELS SHOULD BE CONSIDERED TO RESOLVE CASES WHICH ARE DOWNGRADED. IF IT IS NOT FEASIBLE TO REFER ALL DOWNGRADED CASES TO CENTRAL COURT, AT LEAST THE MOST COMPLEX ONES COULD BE REFERRED SO THAT THEY MAY RECEIVE THE DETAILED ATTENTION THEY DESERVE.

VI. STANDARDS PERTAINING TO PRETRIAL INTERVENTION AND EARLY DISPOSITION CONFERENCES

STANDARD 8.1 EXCLUSION FROM PTI APPLICATION

PERSONS WHO HAVE PREVIOUSLY BEEN CONVICTED OF A FIRST OR SECOND DEGREE CRIME SHOULD AUTOMATICALLY BE DENIED ACCESS TO THE PTI PROGRAM.

STANDARD 8.2 JOINT APPLICATION FOR FIRST AND SECOND DEGREE CRIMES OR SALE OF NARCOTICS

PERSONS CHARGED WITH FIRST OR SECOND DEGREE CRIMES, OR SALE OR DISPENSING OF SCHEDULE I OR II DRUGS AS DEFINED IN L. 1970, C. 226 (N.J.S.A. 24:21-1 ET SEQ.) BY PERSONS NOT DRUG DEPENDENT, SHOULD NOT BE ALLOWED TO APPLY TO THE PTI PROGRAM UNLESS THEY FIRST RECEIVE THE PROSECUTOR'S CONSENT.

STANDARD 8.3 PRE-SCREENING OF PTI APPLICATIONS BY THE PROSECUTOR

THE CRIMINAL CASE MANAGER AND COUNTY PROSECUTOR SHOULD DEVELOP METHODS TO SCREEN CASES EARLY IN THE PTI APPLICATION PROCESS SO THAT INTERVIEWS AND OTHER BURDENSOME APPLICATION PROCEDURES ARE NOT NECESSARY WHERE THEY WILL HAVE NO EFFECT ON THE RESULT OF THE CASE. AN EXAMPLE OF SUCH A METHOD IS PRE-SCREENING OF APPLICATIONS BY THE PROSECUTOR.

STANDARD 8.4

WHILE DEFENDANTS SHOULD CONTINUE TO BE ABLE TO APPLY FOR PTI UP TO SEVEN DAYS AFTER ARRAIGNMENT ON THE INDICTMENT, THE PURPOSES OF PTI ARE BEST SERVED BY APPLICATIONS SOON AFTER ARREST. ACCORDINGLY, THE COUNTIES SHOULD DEVELOP PROCEDURES WHICH PROMOTE EARLY PTI APPLICATIONS. THE PROCEDURES SHOULD NOT ENCOURAGE DEFENDANTS TO APPLY BEFORE THEY HAVE HAD THE OPPORTUNITY TO CONSULT WITH DEFENSE COUNSEL.

STANDARD 8.5

TO ASSURE THAT GUIDELINE 5 OF THE GUIDELINES FOR THE OPERATION OF PRETRIAL INTERVENTION IN NEW JERSEY IS ADHERED TO, ASSISTANT PROSECUTORS TRYING A CASE PREVIOUSLY REJECTED FROM PTI SHOULD HAVE NO ACCESS TO DOCUMENTS RECEIVED FROM COURT SUPPORT UNITS AS PART OF A PTI APPLICATION.

STANDARD 1.6

CASES AMENABLE TO DIVERSION OR EARLY PLEA SHOULD BE IDENTIFIED AS SOON AS POSSIBLE AND SCHEDULED FOR EARLY CASE CONFERENCES. SUFFICIENT TIME SHOULD BE ALLOWED TO ENABLE DEFENDANTS TO SECURE THE SERVICES OF COUNSEL AND REVIEW DISCOVERY.

VIII. STANDARDS PERTAINING TO ARRAIGNMENTS

STANDARD 4.1

THRESHOLD CRIMINAL CASE MANAGEMENT OBJECTIVES ARE:

1. ENTRY OF APPEARANCE OF DEFENSE COUNSEL, WHETHER PRIVATE BAR OR PUBLIC DEFENDER, AND IDENTIFICATION OF TRIAL PROSECUTOR;

2. EXCHANGE OF DISCOVERY BY BOTH PROSECUTION AND DEFENSE;

3. SOME "CONTACT" WITH DEFENDANT SUFFICIENT TO INDICATE THAT CASE IS NOT IN FUGITIVE STATUS;

4. APPLICATION FOR DIVERSIONARY PROGRAMS, SUCH AS PTI OR CONDITIONAL DISCHARGE/SUSPENDED PROCEEDINGS;

5. PROMULGATION OF A SCHEDULE FOR FUTURE CASE EVENTS; AND

6. ENTRY OF PLEA TO THE INDICTMENT.

STANDARD 4.2

THRESHOLD CRIMINAL CASE MANAGEMENT OBJECTIVES SHOULD BE COMPLETED WITHIN TWO WEEKS OF INDICTMENT. WHILE A CENTRAL FIRST APPEARANCE BEFORE INDICTMENT OR AN IN-COURT ARRAIGNMENT IS ENCOURAGED, OTHER MEANS MAY BE EMPLOYED SUCH AS AN INFORMAL COURT INTAKE OR ATTORNEY CERTIFICATION. THE SUPREME COURT SHOULD CONSIDER RELAXATION OF R. 3:9-1 ON REQUEST OF THE ASSIGNMENT JUDGE WHERE ALTERNATIVE MEANS WILL BE EMPLOYED TO ASSURE EARLY DISCOVERY AND APPEARANCE OF COUNSEL. ANY OBJECTIVE NOT ACHIEVED WITHIN TWO WEEKS SHOULD TRIGGER AN ORDER FOR A MANDATORY IN-COURT ARRAIGNMENT.

STANDARD 2.3

IN-COURT ARRAIGNMENTS ARE PRIMARILY MEANT TO EFFECT EARLY CASE MANAGEMENT. WHERE THE OBJECTIVES OF THIS RULE HAVE ALREADY BEEN ACHIEVED BEFORE INDICTMENT, OR WITHIN TWO WEEKS OF INDICTMENT, THE IN-COURT EVENT MAY BE DISPENSED WITH. HOWEVER, THE COURT SHOULD FIRST SATISFY ITSELF THAT MANAGEMENT OBJECTIVES ARE EFFECTIVELY ACHIEVED AND SHOULD NOT HESITATE TO CALL FOR AN APPEARANCE SHOULD IT BE INDICATED THAT ONE IS NECESSARY.

IX. STANDARDS PERTAINING TO PRETRIAL CONFERENCES AND PLEA DISPOSITIONS

STANDARD 4.3

SECONDARY CRIMINAL CASE MANAGEMENT OBJECTIVES ARE:

1. FILING AND SCHEDULING OF NECESSARY MOTIONS;

2. INTERVIEW BY DEFENSE COUNSEL WITH THE DEFENDANT AND WITNESSES;

3. INTERVIEW BY PROSECUTORS WITH STATE WITNESS(S);

4. EARLY DISPOSITION OF APPROPRIATE CASES BY PLEA OFFER, IN WRITING IN ADVANCE IF POSSIBLE, AND IN-PERSON NEGOTIATION BETWEEN TRIAL PROSECUTOR AND DEFENSE COUNSEL AS TO PLEA AGREEMENT;

5. IDENTIFICATION OF A CASE'S LIKELIHOOD FOR TRIAL; AND

6. SCHEDULE FOR FIRM AND CERTAIN TRIAL DATES INCLUDING ISSUANCE OF A TRIAL ASSIGNMENT NOTICE AT LEAST SIX WEEKS PRIOR TO TRIAL DATE WITH OPPORTUNITY FOR COUNSEL TO REQUEST, WITHIN 15 DAYS, ADJOURNMENT TO A MORE CONVENIENT DATE.

STANDARD 4.4

SECONDARY CASE MANAGEMENT OBJECTIVES SHOULD BE COMPLETED PRIOR TO TWO WEEKS BEFORE THE SCHEDULED TRIAL DATE. EACH CASE SHOULD HAVE AT LEAST ONE IN-COURT APPEARANCE BETWEEN TRIAL COUNSEL, WITH THE DEFENDANT PRESENT PREFERABLY AFTER SECONDARY MANAGEMENT OBJECTIVES ARE ALL ACHIEVED. MULTIPLE CONFERENCES SHOULD BE AVOIDED, AND CASES SHOULD BE SCHEDULED FOR DATE CERTAIN TRIAL IF PLEA NEGOTIATIONS ARE UNSUCCESSFUL.

STANDARD 2.5

PRETRIAL CONFERENCES HAVE PROVEN TO BE VALUABLE IN EFFECTING EARLY DISPOSITIONS FOR APPROPRIATE CASES OFTEN WITH SOME FORM OF PLEA CUT-OFF. WHERE SUCH CONFERENCES HAVE NOT BEEN MEANINGFUL OR SIGNIFICANTLY USEFUL, THE LOCAL PLANNING PROCESS SHOULD EXAMINE THE REASONS, AND CONSIDER WHETHER AN EFFORT CAN BE MADE TO IDENTIFY CASES AMENABLE TO EARLY DISPOSITION AND DISPOSE OF SUCH CASES.

STANDARD 2.6

ORDINARILY, PRETRIAL CONFERENCES SHOULD NOT BE SCHEDULED UNTIL SUFFICIENT TIME HAS BEEN ALLOWED FOR MEANINGFUL CASE REVIEW, RESOLUTION OF ALL MOTIONS, AND DIVERSIONARY PROGRAM APPLICATIONS. FURTHER, SUCH CONFERENCES ARE MOST USEFUL WHEN CONDUCTED WITHIN A MONTH OF A REALISTIC TRIAL DATE. MULTIPLE CONFERENCES SHOULD BE AVOIDED, AND CASES SHOULD BE SCHEDULED FOR A CERTAIN TRIAL DATE.

STANDARD 2.7

A WRITTEN PLEA OFFER, PRIOR TO THE DATE OF PRETRIAL CONFERENCE, REPRESENTING THE STATE'S BEST PLEA OFFER, WILL RENDER PRETRIAL CONFERENCES MOST EFFECTIVE. THE COURT SHOULD TREAT THE CONFERENCE IN SUCH A MANNER SO AS TO COMMUNICATE TO THE PARTIES ITS EXPECTATION THAT CASES CLEARLY NOT REQUIRING TRIAL SHOULD BE DISPOSED BEFORE TRIAL DATE.

STANDARD 6.1

IN THIRD OR FOURTH DEGREE CRIMES, OR OFFENSES WITH A STATUTORY MAXIMUM OF FIVE YEARS OR LESS, DEFENDANTS MAY, WITHIN TWO WEEKS OF ARRAIGNMENT OR RECEIPT OF DISCOVERY, WHICHEVER IS LATER, MOVE BEFORE THE COURT UPON NOTICE TO THE PROSECUTOR AND OPPORTUNITY TO BE HEARD, OF DEFENDANT'S OFFER, WITHOUT PREJUDICE, TO ENTER A PLEA OF GUILT AND ALLOW JUDGMENT AND CONVICTION TO BE TAKEN AGAINST HIM IN RETURN FOR A NON-CUSTODIAL SENTENCE OR A CONDITION OF PROBATION SENTENCE WITH A CUSTODIAL MAXIMUM. WHERE SUCH OFFERS INVOLVE THE DISMISSAL OF OTHER CHARGES, OR IN CASES INVOLVING MULTIPLE DEFENDANTS, THE OFFER MAY NOT BE ACCEPTED BY THE COURT OVER THE OBJECTION OF THE PROSECUTOR. THE JUDGE SHALL NOT RULE ON THE OFFER WITHOUT HAVING THE DEFENDANT'S CRIMINAL RECORD AND A FACTUAL DESCRIPTION OF THE CRIME PRESENTED TO HIM AND ANY OTHER INFORMATION REQUIRED BY LAW.

STANDARD 2.8

WHILE IN-COURT CONFERENCES CURRENTLY EFFECT THE MAJORITY OF EARLY DISPOSITIONS, THAT IS CASES NEVER HAVING BEEN SCHEDULED FOR TRIAL, IT MAY BE THAT CONFERENCING ONLY SELECTED CASES, OR CONFERENCING BY THE PARTIES WITHOUT A MANDATORY IN-COURT EVENT, CAN BE USEFUL ALTERNATIVES TO THE CURRENT RULE. PRE-INDICTMENT PLEA CONFERENCES MAY ALSO REPLACE THE NEED FOR FORMAL POST-INDICTMENT CONFERENCES. THESE ALTERNATIVES SHOULD BE CLOSELY REVIEWED, ALTHOUGH AT LEAST ONE IN-COURT EVENT SHOULD BE CONDUCTED PRIOR TO SCHEDULING A CASE FOR TRIAL.

X. STANDARDS PERTAINING TO FIRM TRIAL LISTS

STANDARD 2.4

THE SCHEDULING OF CASES FOR TRIAL RESULTS IN A SIGNIFICANT EXPENDITURE OF JUDICIAL, PROSECUTORIAL, DEFENSE AND PUBLIC RESOURCES, PARTICULARLY IN THE AREA OF TRIAL PREPARATION AND WITNESS TIME. DISPOSITIONS OF CASES BY PLEA ON DATE OF TRIAL OR TRIAL CALL RESULT IN CONGESTED AND UNCERTAIN TRIAL LISTS, PLACING A BURDEN ON QUALITY PREPARATION OF CASES WHICH REQUIRE TRIAL. CASES WHICH ARE AMENABLE TO DISPOSITION BEFORE BEING SCHEDULED FOR TRIAL SHOULD BE SO DISPOSED.

STANDARD 4.5

CONTINUANCES OR ADJOURNMENTS OF THE TRIAL DATE AFTER THE 15 DAY PERIOD HAS EXPIRED SHOULD BE GRANTED ONLY IF UNFORSEEN CIRCUMSTANCES ARISE.

STANDARD 2.9

EACH COUNTY SHOULD EXAMINE THE NUMBER OF CASES SET FOR TRIAL EACH WEEK TO INSURE THAT TRIAL DATES ARE FIRM AND CERTAIN. SOME SLIGHT OVERSETTING MAY BE NECESSARY IN ORDER TO MAXIMIZE OVERALL RESOURCES, BUT AS A GOAL SHOULD NOT ORDINARILY EXCEED FIVE TO SEVEN CASES PER WEEK PER JUDGE. THE REPEATED CALL OF CASES FOR TRIAL, OR "CHURNING" SHOULD BE AVOIDED.

STANDARD 2.10

THE ABILITY OF A COURT TO DISPOSE OF CASES PRIOR TO TRIAL SCHEDULING IS AN ESSENTIAL FACTOR IN INSURING A FIRM AND CERTAIN TRIAL LIST.

STANDARD 14.1

R. 3:25-2 PROVIDES A MECHANISM FOR THE ESTABLISHMENT OF A TRIAL DATE ON MOTION FOLLOWING THE RETURN OF AN INDICTMENT OR ACCUSATION. HOWEVER, THE COURT RULES DO NOT PROVIDE FOR PRIORITY CONSIDERATION FOR DEFENDANTS IN JAIL UNTRIED THROUGH NO FAULT OF THEIR OWN. THE COURT RULES SHOULD PROVIDE A MORE SYSTEMATIC ADMINISTRATIVE MECHANISM FOR THE ESTABLISHMENT OF DATES CERTAIN FOR INDICTMENT OR FOR TRIAL IN CASES WHERE THE DEFENDANT IS INCARCERATED AND THE TIME ELAPSED HAS BEEN ONE AND A HALF TIMES THAT PROVIDED BY SPEEDY TRIAL GOALS ABSENT EXTRAORDINARY CIRCUMSTANCES. EXCEPTIONS TO THOSE CASES ENTITLED TO DATES CERTAIN AND LAWFUL EXCUSES FOR FAILURE TO COMPLY WITH THE DATES CERTAIN SHOULD BE PROVIDED IN THE RULE.

STANDARD 7.1

A PROCEDURE SHOULD BE ESTABLISHED WHICH WILL ISOLATE THOSE FEW CASES IN WHICH THE PRESENCE OF A CHEMIST IS NECESSARY FOR TESTIMONY. THIS PROCEDURE SHOULD IDENTIFY THOSE CASES PRIOR TO TRIAL. SUCH A PROCEDURE WILL REDUCE THE AMOUNT OF LABORATORY TIME LOST IN NEEDLESS TRIPS TO COURTS.

STANDARD 7.2

A PRIORITY SHOULD BE ESTABLISHED IN MUNICIPAL COURTS FOR CASES INVOLVING TESTIMONY BY A CHEMIST. SUCH A PROCEDURE WILL MINIMIZE THE AMOUNT OF LABORATORY TIME LOST IN EACH COURT APPEARANCE.

XI. STANDARDS PERTAINING TO SENTENCING

STANDARD 3.1

WHERE A COUNTY'S CRIMINAL CASE MANAGEMENT OFFICE CAN PRODUCE THE FUNCTIONAL EQUIVALENT OF A PRESENTENCE REPORT AT TIME OF PLEA, A SIMULTANEOUS SENTENCING PROCEDURE SHOULD BE CONSIDERED. THE USE OF AN OMNIBUS DATA COLLECTION FORM SUCH AS RECENTLY DEVELOPED BY THE CONFERENCE OF CRIMINAL PRESIDING JUDGES AND VERTICAL CASE SUPERVISION ARE RECOMMENDED IN DEVELOPING SUCH A PROGRAM. THE PROCEDURE SHOULD BE UTILIZED ONLY FOR THIRD AND FOURTH DEGREE VICTIMLESS CRIMES AND WELFARE FRAUD CASES. CONSENT OF BOTH THE PROSECUTOR AND DEFENSE COUNSEL SHOULD BE OBTAINED.

STANDARD 9.6

COUNTIES SHOULD BE ENCOURAGED TO CONSIDER USING THE SIMULTANEOUS SENTENCING PROCEDURE. THE PROCEDURE REQUIRES THAT AT THE TIME OF PLEA THE DEFENDANT'S FILE CONTAIN SUFFICIENT INFORMATION TO SATISFY THE FUNCTIONAL REQUIREMENTS OF A PRESENTENCE REPORT.

STANDARD 9.1

A TIME GOAL FOR THE INTERVAL FROM DISPOSITION TO SENTENCE SHOULD BE ESTABLISHED AT 30 CALENDAR DAYS. GOALS SHOULD BE MONITORED THROUGH AN EXCEPTION REPORT PRODUCED BY PROMIS/GAVEL.

STANDARD 9.2

THE CURRENT EFFORTS BEING MADE TO ASSURE THE COMPLETENESS OF THE CRIMINAL DISPOSITION REPORTING SYSTEM (CDR) USED TO GENERATE PRIOR RECORD SUMMARIES FOR CRIMINAL DEFENDANTS SHOULD CONTINUE AND SHOULD RECEIVE THE SUPPORT OF ALL NECESSARY AGENCIES.

STANDARD 9.3

THE STATE POLICE SHOULD BE REQUESTED TO IMPROVE THE FORMAT OF CRIMINAL DEFENDANT PRIOR CASE HISTORIES.

STANDARD 9.4

THE SUPREME COURT SHOULD APPROVE USE OF A CONSOLIDATED FORM TO ASSURE TIMELY COLLECTION OF INFORMATION NECESSARY TO REDUCE THE DELAY FROM DISPOSITION TO SENTENCING AFTER FULL CONSIDERATION OF ALL SERIOUS CONSTITUTIONAL AND OTHER OBJECTIONS.

STANDARD 9.5

IF THE SUPREME COURT ADOPTS A UNIFORM FORM WHICH REQUIRES A DEFENDANT'S STATEMENT AS TO GUILT OR INNOCENCE, DRUG OR ALCOHOL USE, MENTAL HEALTH OR PSYCHIATRIC TREATMENT TO COURT SUPPORT STAFF AS A RESULT OF AN INTAKE INTERVIEW, BAIL INTERVIEW, PTI OR OTHER DIVERSION APPLICATION, IT SHOULD PROVIDE THAT THE STATEMENTS NOT BE USED IN ANY SUBSEQUENT PROCEEDING WITHOUT THE DEFENDANT'S CONSENT. ALL OTHER BACKGROUND INFORMATION OBTAINED BY A DEFENDANT AT ONE PROCEEDING WOULD BE ALLOWED TO BE USED AT SUBSEQUENT PROCEEDINGS.

STANDARD 11.1

TIME GOALS FOR BOTH INTERVIEW SCHEDULING AND REPORT COMPLETION SHOULD BE ESTABLISHED FOR REFERRALS FOR EXAMINATION TO THE ADULT DIAGNOSTIC AND TREATMENT CENTER FOR SEX OFFENDERS PURSUANT TO N.J.S.A. 2C:47-1. THESE TIME GOALS SHOULD BE MONITORED BY THE DEPARTMENT OF CORRECTIONS.

XII. STANDARDS PERTAINING TO BACKLOG REDUCTION

STANDARD 3.5

BACKLOG REDUCTION IS CRITICAL TO THE DEVELOPMENT OF A SUCCESSFUL SPEEDY TRIAL PROGRAM. EXCESSIVE BACKLOGS REQUIRE A COORDINATED EFFORT BY THE LOCAL PLANNING COMMITTEE WHICH MAY REQUIRE ADDITIONAL TEMPORARY RESOURCES.

STANDARD 3.6

VARYING APPROACHES TO BACKLOG REDUCTION MAY BE NECESSARY TO ACCOMMODATE LOCAL MANAGEMENT NEEDS, HOWEVER ANY BACKLOG REDUCTION PLAN SHOULD INCLUDE FOUR BASIC ELEMENTS TO ASSURE SUCCESS.

1. IDENTIFICATION OF A TARGET GROUP OF CASES TO BE DISPOSED IN A PREDETERMINED PERIOD OF TIME TO MAXIMIZE THE USE OF ANY TEMPORARY ASSISTANCE PROVIDED BY REASSIGNMENT OF BUDGETARY RESOURCES OR GRANTS.

2. PROSECUTORIAL REVIEW OF THE TARGET GROUP OF CASES SHOULD OCCUR PRIOR TO LISTING MATTERS FOR CONFERENCE TO DETERMINE WHETHER CASES CAN OR SHOULD BE PROSECUTED.

3. BACKLOG CASES SHOULD BE LISTED FOR A STATUS CONFERENCE TO DETERMINE WHETHER THE CASE CAN BE DISPOSED OF BY PLEA, DIVERSION OR MOTION.

4. FIRM AND CERTAIN TRIAL DATES SHOULD BE ASSIGNED AT THE CONCLUSION OF STATUS CONFERENCES ON BACKLOG CASES.

STANDARD 3.7

BACKLOGS CAN USUALLY BE AVOIDED BY THE IMPLEMENTATION OF EARLY AND CONTINUOUS CASE MANAGEMENT TECHNIQUES THAT MAXIMIZE THE EFFICIENT USE OF RESOURCES. THE LOCAL PLANNING COMMITTEE SHOULD ACTIVELY MONITOR STATISTICAL REPORTS AND THE SPEEDY TRIAL EXCEPTION REPORTS TO IDENTIFY TRENDS THAT MAY LEAD TO CASE PROCESSING BACKLOGS SO THAT ADJUSTMENTS CAN BE MADE BEFORE THE BACKLOG REACHES A CRITICAL LEVEL.

1986 JUDICIAL CONFERENCE TASK FORCE ON SPEEDY TRIAL
REPORT OF THE
COMMITTEE ON SPEEDY TRIAL 1980-1986

Burrell Ives Humphreys, A.J.S.C.
Committee Chairman

1986 JUDICIAL CONFERENCE TASK FORCE ON SPEEDY TRIAL

COMMITTEE ON SPEEDY TRIAL 1980-1986

MEMBERSHIP

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MEMBERS:
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Hon. Alfred M. Wolin, P.J.S.C., Union County
Hon. Clifford J. Minor, P.J.M.C., Newark
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Nicholas Bissell, Prosecutor, Somerset County
Mathias Bolton, Criminal Case Manager, Passaic County
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Raymond R. Trombadore, Esq., President, N.J.S.B.A.
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F O R E W O R D

The Committee on Speedy Trial 1980 - 1986 is one of three committees of the Task Force on Speedy Trial. It is chaired by Assignment Judge Burrell Ives Humphreys of Hudson County, and its members represent a broad cross-section of the key components of the Criminal Justice System.

The charge given to the committee was to review the Speedy Trial program to date. Retrospectively, what was the approach? Where are we now? What have we learned? The committee was charged to review the various innovative strategies implemented over the last five years, suggest what seems to be working best, and render a report.

The work of the committee commenced in November 1985. AOC staff supplied the committee with extensive materials on various local procedures and programs. Committee members individually contacted all counties to gain further insight into the nature of the local system. The work was divided into four categories:

A. History of Speedy Trial 1980 - 1986
B. Pre-Indictment Innovations 1980 - 1986
C. Post-Indictment Innovations 1980 - 1986
D. Miscellaneous Innovations

Subcommittee reports have been reviewed by each subcommittee, the overall committee, and the Plenary Task Force. Comments have been received and reports were revised accordingly.

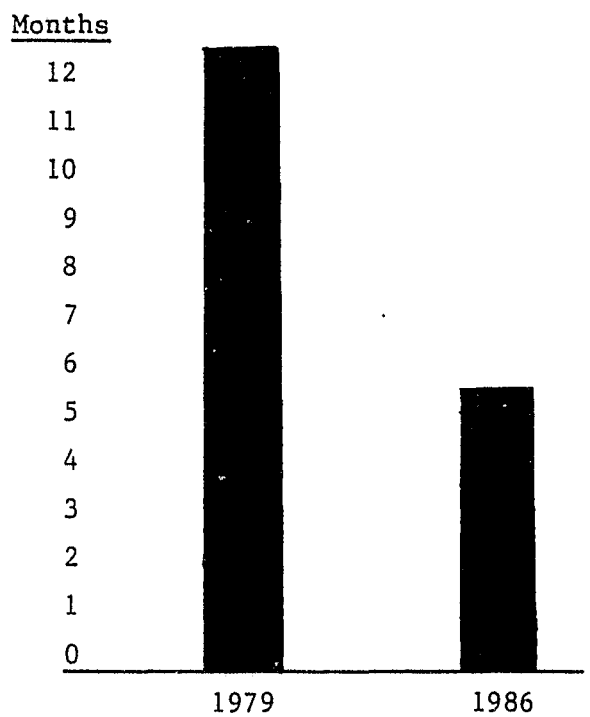
THE HISTORY OF SPEEDY TRIAL 1980-1986

I. INTRODUCTION

A. The Results and a Retrospective

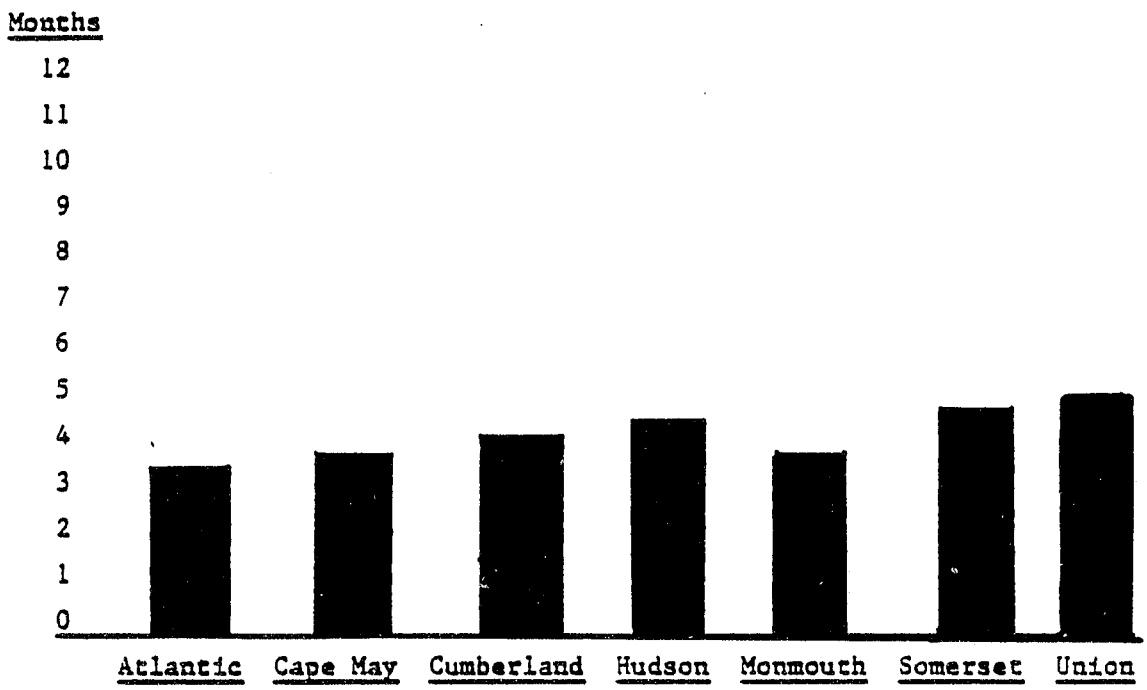
Prior to the inception of the statewide speedy trial program, the average (median) criminal case took 378 days between arrest and disposition by plea (421 days from arrest to start of a trial). The median for all convictions was cut by more than 50% to 163 days in 1986. In some counties the time is currently much less.

STATEWIDE MEDIAN TIME FROM ARREST TO DISPOSITION OF INDICTMENTS 1979-1986*



*Note: The 1979 median is based on an estimate derived from separate time interval studies of the periods from arrest to indictment and indictment to disposition. The 1986 data is based on a single overall median obtained from judgment orders on sentenced defendants that includes both guilty plea and trial cases.

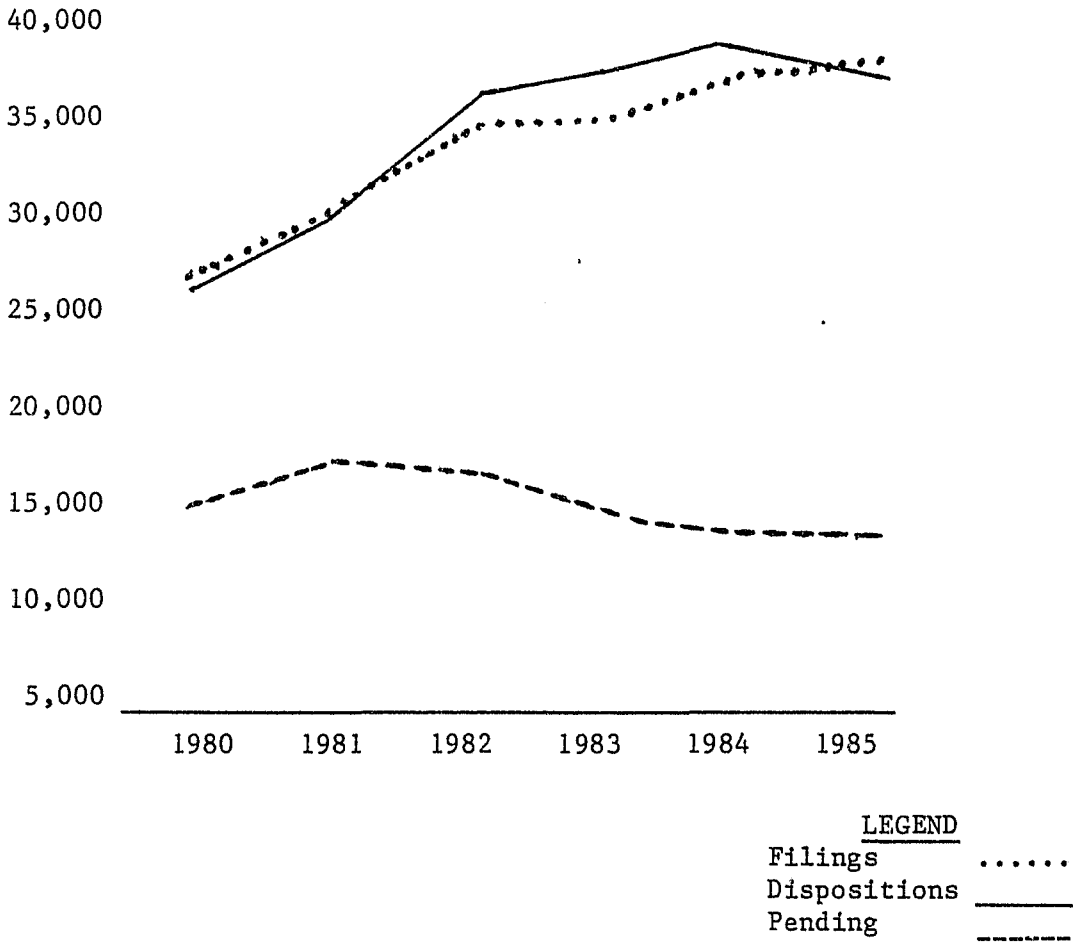
MEDIAN TIME FROM ARREST TO DISPOSITION OF INDICTMENTS FOR COUNTIES WITH SUPERIOR SPEEDY TRIAL PERFORMANCE in 1986[1]



1 As with the 1986 statewide median data on page 1, the county data is also for convictions on indictments by plea or trial.

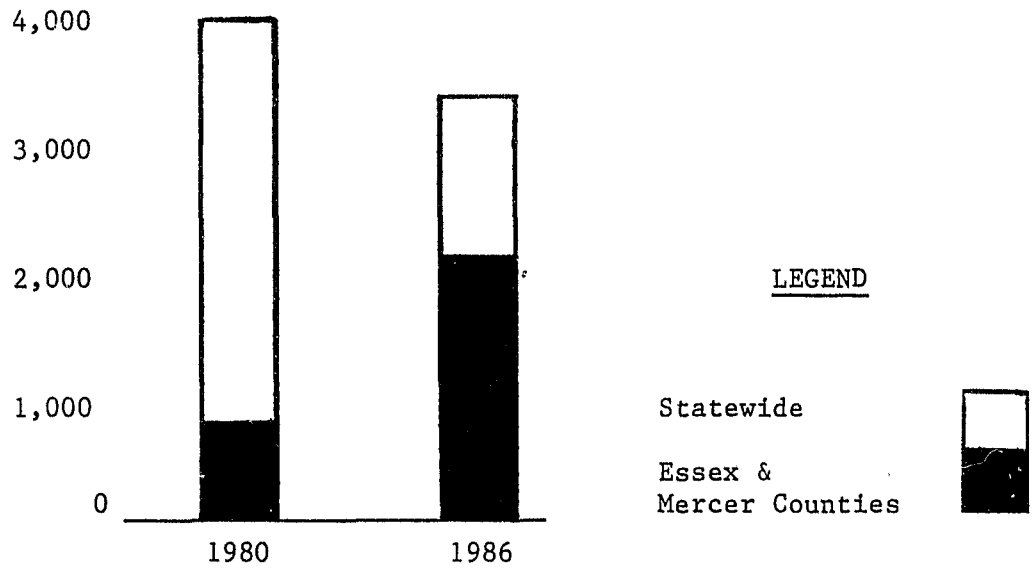
On January 31, 1980 there were 17,200 active cases (indicted defendants) awaiting trial in the New Jersey court system. Six years later, to the day, this inventory of cases had dropped by 17% to 14,216. This is notwithstanding a 32% increase in annual indictment filings from 28,546 in 1980 to 37,784 in 1985. The difference is explained by a large increase in dispositions, 29%, from 28,882 in 1980 to 37,326 in 1985.

OVERVIEW OF INDICTMENT CASE FLOW 1980 - 1986



In 1980 there were 4,015 defendants awaiting trial in excess of 12 months from date of indictment. By 1986, 13 counties had cut their backlog by over 40%, nine counties had cut their backlog by over 70%. Essex and Mercer Counties experienced a sizable increase in the backlog of one year old indictments and together they account for nearly 70% of the current total of 3,626 cases in this age group.

BACKLOG OF ONE YEAR OLD INDICTMENTS



LEADING BACKLOG REDUCTION COUNTIES
Number of Indictments Over One Year in Age

County	As of 1-31-80	As of 1-31-86	Change	Percent
Hudson	672	86	584	87%
Camden	550	83	467	85%
Middlesex	420	57	363	86%
Bergen	411	105	306	74%
Gloucester	303	182	121	40%
Warren	128	29	99	77%
Cape May	73	11	62	86%
Hunterdon	61	4	57	93%
Union	115	61	54	47%
Atlantic	87	43	44	51%
T O T A L	2,820	661	2,157	

B. A RETROSPECTIVE: THE APPROACH TO SPEEDY TRIAL PLANNING

The New Jersey speedy trial program officially commenced on January 1, 1981. On this date, a set of time goals for criminal cases approved by the State Supreme Court, became effective. These goals were meant to act as guidelines for case flow and were intended to create a set of expectations for routine cases only. It was anticipated that most cases would be disposed of within the goals. Complex cases would take longer and would be scheduled on a case by case basis according to individual need. What led to this development in 1981? How has planning proceeded since that time?

Twenty-five years ago, speedy trial was viewed primarily as a right of defendants. However, burgeoning criminal calendars in the decade of the 1970's and the resulting systemic delay caused many to modify the traditional view, and focus on the needs of the overall system. The joint New Jersey Supreme Court and State Bar Association Committee on the Expedition of Criminal Calendars said in their report of March 9, 1971:

> If at the time of sentence an excessively long period has elapsed from the commission of the crime, the two events seem remote and unconnected. The expeditious disposition of criminal cases is important as well insofar as public confidence is concerned. The axiom justice delayed is justice denied has significance of equal importance to the public as well as to defendants.

The committee recognized that from 1960 to 1970, cases added to the criminal calendar increased by 90% while dispositions increased only 50%, and concluded "procedural changes are needed to bring about a more efficient use of judicial time." Several dozen proposals for reducing the time from arrest to disposition were considered. Twelve were specifically recommended by the committee. They included reducing the number

of jury members in criminal cases to six members (while retaining the requirement of a unanimous verdict), the abolition of municipal courts and the transfer of their jurisdiction to a centrally located court, elimination of the probable cause hearing on indictable offenses, the creation of procedures permitting disposition of a criminal offense without the entry of a judgment of conviction for first offenders, and the use of computers and data processing mechanisms as an aid in recording, processing and retrieving information concerning criminal cases.

At the Judicial Conference on April 2, 1971, Ernest Glickman, a panelist representing the New Jersey State Bar Association, reflected concisely on the underlying problem:

> Perhaps the rights of defendants are more affected by custom, procedure and the administration of justice than by the substantive law. While justice should not be administered with one eye on the calendar and the other on the checkbook, it is often the fact that justice is rationed because of limited resources and the ineffective way in which they are used and justice may effectively be denied because of an inordinate delay between arrest and final disposition. It may well be that reforming the procedures of the administration of justice will be far more difficult to achieve and to implement than have been the substantive changes.

He also recognized that built-in obstacles to the kind of change needed included the distribution of power and consequent inability to agree among the police, prosecutor, defense and the court, as well as the traditional reluctance on the part of government agencies to adopt and use sophisticated management techniques.

In early 1976, Governor Brendan Byrne requested a cooperative effort between the Judiciary and Executive Branches to implement a speedy trial program. There were three specific priorities on the Governor's agenda:

1. trial within 90 days of indictment for defendants accused of violent crime;
2. trial within 90 days of arrest for all persons in jail waiting trial; and
3. trial within six months of indictment for all other persons.

Chief Justice Richard J. Hughes replied, in essence, that the judiciary was in agreement that speedy trial standards and goals with trial preferences for crimes of violence and suspects in jail should be implemented. However, the Governor's assistance in providing the necessary leadership in order to obtain additional resources from the Legislature was also requested and it was suggested that if those resources were provided, implementation could begin as early as the new court year in September 1976. In his reply, the Chief Justice specifically rejected a try or dismiss proposal as a part of any such plan in the interest of public safety. Economic conditions of the times, however, precluded obtaining the resources deemed necessary to a speedy trial program.

In 1979, delay reduction in criminal cases became a major priority of the Supreme Court under the new leadership of Chief Justice Robert N. Wilentz and an unprecedented statewide effort began to examine and treat the causes of delay in both the pre and post-indictment phase. Especially unprecedented was the approach which concentrated on procedure and technique rather than resources. A core planning committee was formed, chaired by Justice Morris Pashman, and consisting of members of the Administrative Office of the Courts, the Supreme Court Criminal Practice Committee, the Public Defenders' Office, State Bar representatives and a law school professor. It was this core committee which

directed the formation of a task force to concentrate on pre-indictment delay headed by Judge Geoffrey Gaulkin and a task force to concentrate on post-indictment delay headed by Judge Michael Patrick King. Special effort was taken to include membership from all elements of the criminal justice system: the Attorney General, county prosecutors, public defenders, judges and members of the private bar. The work of the task forces would be implemented and realized in two demonstration projects conducted in Passaic County and Union County, respectively. Additionally, an experimental project was conducted in Somerset County to study central filing and also in Gloucester County to explore the elimination of probable cause hearings. The intent of both the Union County and Passaic County projects was twofold:

1. to integrate an assertive case management program which established control by the court at the earliest possible phase of the case; and
2. maintain continuous control in such a manner as to be effective throughout the life of the case and in a manner that would be credible to victims, defendants and attorneys.

The pre-indictment task force sought as its goal the return of indictments within 45 days of arrest or summons. Procedurally, concentration was on the establishment of legal representation at the intake phase, the transfer of indictable matters to the county within 48 hours of arrest along with police reports and encouraging early and effective prosecutorial screening. In this light, the probable cause hearing was considered as a potentially useful tool for early screening and it was recommended that these hearings be conducted in a centralized fashion or in the

Superior Court whenever possible. The post-indictment task force naturally concentrated its efforts in an area already regulated by court rule and sought to improve or "fine tune" procedures already in place rather than develop new ones. It suggested that arraignment take place no later than seven days after indictment; and when the suspect was in custody, arraignment should take place immediately. In addition, it suggested that discovery be made available at the time of arraignment with reciprocal discovery within ten days. Further, it was suggested that all pretrial motions should be filed within 15 days of arraignment and an omnibus hearing to consider all motions be conducted within 45 days of arraignment. At arraignment, a date for a pretrial conference would be set to occur within 60 days. At this time, all remaining pretrial issues would be resolved and any final attempts at a plea negotiation would occur.

The 1980 Judicial Conference on Speedy Trial occurred in early June and provided an opportunity for a frank exchange of opinion concerning the approach adopted by the task force toward delay reduction, the new roles and functions that people in the system were now being called upon to perform and a discussion and report of the techniques and procedures employed in the four demonstration projects. It was generally accepted that early involvement and effective management were the indispensable elements of effective delay reduction. Further expansion of the projects, planning and implementation would have to proceed at a local level using local resources to solve local problems. Accordingly, announcement by the Supreme Court was imminent as to standards and goals which would serve as a guide for each local plan.

In early July, the Supreme Court approved a recommended format within which a local planning process could proceed. There were essentially two elements to this process which would be implemented and managed on a local level by a delay reduction team in each county. This team would consist of the assignment judge as chair, together with representatives of the judiciary, prosecution and defense bars, county freeholder, county sheriff, probation office, private bar, county clerk's office and local police. These local speedy trial planning committees were asked to develop plans which would identify and resolve delay and backlog problems in attempting to meet speedy trial goals. The goals were graduated over a three year period from 240 days to 135 days from arrest to disposition. Jail case goals were roughly half of the goals set for bail cases.

The Statewide Coordinating Committee (STCC) under the chair of Chief Justice Wilentz, is a standing committee which consists of representatives from the Attorney General's office, county prosecutors, public defenders' office, State Bar Association and Administrative Office of the Courts. This committee was formed in January 1981 to oversee the implementation of the local plans, obtain and analyze information from the counties and monitor the expenditure of resources. In the first part of the year there was heavy concentration on the specific case management techniques and their implementation. However, this emphasis gradually shifted to general problem solving and statistical analysis to monitor the success of the program.

It was recognized early in the speedy trial planning process that the emphasis placed on the cases entering the system after January 1981 might have overlooked the problem of the backlog of cases already in

the system. In those counties with an especially acute backlog, the benefits of delay reduction techniques would simply not be realized. Accordingly, in 1983 a $500,000 appropriation from the Legislature was requested with the assistance of the State Law Enforcement Planning Agency. These funds and subsequent grants were considered and awarded jointly with the Statewide Speedy Trial Coordinating Committee. The funds and subsequent federal and State grants were utilized to support backlog reduction, delay reduction, and innovative early case management procedures among the counties. Further, discussion of these projects will appear later in this report.

The goals originally set by the Supreme Court in the summer of 1980 were intended to reduce the time period from arrest to disposition to 135 days by the end of 1983. The focus was on new cases with a concomitant three year program to reduce the backlog in equal increments. While considerable progress was made in reducing both backlog and case processing time, the ultimate goals as set forth in 1980 could not be reached in 1983. Substantial progress was achieved in terms of a new awareness and sensitivity among lawyers and judges in the criminal justice system as to the nature of the delay problem, its causes and the absolute necessity for coordinated efforts and procedures to attack the problem. It was clear at the outset of the program that reform and progress would not take place upon the signing of an order from the Supreme Court. But, as Chief Justice Wilentz in his remarks to the 1980 Judicial Conference said:

> I am committed to judicial involvement in the management of criminal cases to the date of disposition. To a significant extent, this will be a new responsibility for New Jersey judges. It does not mean that the judges of the Supreme Court are suddenly going to make prosecutors or the public defenders do this or that. When it comes to the right way to accomplish

> speedy trials, the only thing we are doctrinaire about is that they won't be achieved without the cooperation of the public defender, the cooperation of the Attorney General and the Public Advocate and that you don't get cooperation unless you recognize their concerns and their interests. But having said that there is no question in my mind that the judicial involvement in the management of criminal cases must be much more significant than it has been in the past.

It is clear that what was contemplated was a long-term continuing commitment by judges and lawyers to a speedy trial in criminal cases. This paper has outlined briefly the evolution of that commitment from the previous decade through the first few years of the statewide program. While the effort can be characterized as having both successes and failures, it is equally clear that the initial commitment is and will remain very much an integral part of the judicial and legal community in New Jersey.

PRE-INDICTMENT INNOVATIONS (1980 - 1986)

I. INTRODUCTION

The purpose of this paper is to review and consider those innovative procedures established since 1980 under the speedy trial program for handling indictable complaints before indictment. Available time has not permitted in-depth evaluation, although a recent analysis has closely reviewed the major projects in this area and is consistent with the standards proposed in this report.[2] Furthermore, the Administrative Office of the Courts has supplied the committee with detailed descriptions of each county's calendaring and case flow procedures. Finally, direct discussions were undertaken with various local officials to obtain firsthand insight on the nature of their programs.

The last two years in particular have witnessed major developments in the time interval between arrest and indictment. In 1983 the Statewide Speedy Trial Coordinating Committee (STCC), chaired by Chief Justice Robert N. Wilentz, called for the development of programs to accomplish various specific early case management objectives. It reasoned that experienced personnel should attend to cases at the onset to expeditiously identify and dispose cases without the costly panoply of grand jury presentation, arraignment and conference, thus conserving scarce resources for serious crimes and contested charges. Combined State and federal funds were obtained by the STCC to support the develop-

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2 Paul Wice, Statewide Speedy Trial Reforms, Administrative Office of the Courts of New Jersey, 1985.

ent of early case management initiatives in many counties. To this end, over four million dollars have been awarded to date supporting programs of coordinated early case management.

In general, the major pre-indictment models are either a Central Judicial Processing (CJP) court or a less formal alternative intake procedure. The purpose of both of these models is to cause early case management, such as early defense representation, "contact" with the defendant, exchange or inspection of discovery, prosecutor's screening, application to diversionary programs, and consideration of early disposition. These programs will be reviewed in more detail later in this report.

The committee is unable to conclude that one model is "better" than the other. Moreover, there are variations in how complaints are processed within each model. We do conclude that early case management, with downgrade or diversion being the principle behind each model, is the key; and that there are a variety of useful ways to accomplish it.

We also note the obvious: No set of programs or procedures will work unless each of the three main components of the judicial process, court, prosecutor, and defense fully participate in, are committed to, and cooperate with a program of early case management. The spirit of cooperation that is vital to the success of early case management initiative is enunciated in Standard 2.1 and this committee adopts that standard by reference. In the pre-indictment area, the attitude and commitment of the prosecutor has been particularly important in providing the local leadership for early screening programs. Once early screening is accomplished, the prompt return of the indictment depends on the attitude of the prosecutor and not necessarily the resources dedicated by

the prosecutor's office. If a prosecutor makes compliance with prompt indictment a priority, it will be accomplished.

STANDARD 1.1

EARLY CASE MANAGEMENT WITH DOWNGRADE OR DIVERSION SOON AFTER ARREST IS NECESSARY IN ORDER TO CONSERVE LIMITED RESOURCES. IT REQUIRES THE ADMINISTRATIVE COOPERATION AND COMMITMENT OF ALL KEY COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM. OBJECTIVES ARE TO DOWNGRADE, DIVERT OR OTHERWISE DISPOSE OF APPROPRIATE LESS SERIOUS CASES, THUS EXPEDITING TRIAL OF THE REMAINING CASES. EARLY CASE MANAGEMENT INCLUDES:

A. IDENTIFICATION OF CASES AMENABLE TO EARLY DISPOSITION BY DOWNGRADE, DIVERSION OR OTHER EARLY DISPOSITION;

B. EARLY NOTICE TO THE PROSECUTOR AND COURT OF INDICTABLE CHARGES AND SOME "CONTACT" WITH DEFENDANT;

C. EARLY RECEIPT OF POLICE REPORTS AND EXPEDITIOUS PROSECUTORIAL SCREENING;

D. EARLY IDENTIFICATION OF DEFENSE COUNSEL AND EXCHANGE OF DISCOVERY;

E. EARLY APPLICATION FOR DIVERSIONARY PROGRAMS SUCH AS PTI OR CONDITIONAL DISCHARGE/SUSPENDED PROCEEDINGS.

II. COMMENCEMENT OF CRIMINAL COMPLAINTS

Prior to 1980, criminal complaints usually remained in municipal courts until completion of a first appearance or probable cause hearing, after which they were forwarded to the county prosecutor. Since this process often took a week or more, several weeks were lost before the prosecutor and Superior Court were made aware of the complaint. To alleviate this problem, each county was requested to provide for 48 hour receipt of complaints by the prosecutor in their speedy trial plans. In addition, the State Police revised the complaint forms to include a copy for the Superior Court. These modifications have been effectuated statewide and nearly every county currently reports the routine receipt of complaints within 48 hours of arrest or filing. Six counties report receipt within 24 hours for certain case types. One County, Bergen,

reports receipt in four to five days. In most counties, copies are sent to both the prosecutor and criminal case manager, however, in several counties they are forwarded to either the prosecutor or criminal case manager who then provides copies for the other.

Somerset County is the only county which employs a direct filing procedure. This will be discussed more fully under the heading of "Prosecutorial Screening" later in this report. Complaints are filed by the prosecutor directly with the county clerk, bypassing municipal courts. In jail cases complaints are forwarded in 24 hours and in bail cases within 72 hours.

STANDARD 1.2

CRIMINAL COMPLAINTS SHOULD BE FORWARDED TO THE COUNTY PROSECUTOR AND CRIMINAL CASE MANAGER WITHIN 48 HOURS OR LESS AND ENTERED INTO THE PROMIS/GAVEL COMPUTER SYSTEM UPON RECEIPT.

III. PROSECUTORIAL SCREENING

The traditional mode of prosecutorial screening has been to open a file upon receipt of a complaint, conduct an investigation including obtaining police, forensic, and other reports, and recommend cases either for grand jury presentation, downgrade and remand, or administrative dismissal upon completion of an investigation.

A. PRE-SCREENING

In many counties the prosecutor will offer advice to police, on request, as to what charges are appropriate in a given case. Several counties report aggressive pre-screening of cases. In Union County the prosecutor is on call 24 hours a day and "clears" most complaints beforehand, usually by telephone. Essex County has recently effected pre-screening on Newark cases, by placing a team of prosecutors in the Newark Municipal Court: this pre-screening takes place upon presentation of a

case by police, at which time this unit is able to downgrade or dismiss about 40% of potential cases. Somerset County, mentioned earlier, also pre-screens all cases in its direct filing programs.

B. CENTRAL JUDICIAL PROCESSING (CJP)

One of the most important and far reaching innovations under the aegis of speedy trial has been the CJP court. As originally developed by the Hudson County Prosecutor in 1980, this project involves a central municipal court, at the county courthouse, where first appearances under R. 3:4-2 are performed. This court provides a forum for prosecutorial screening as well as for other early case management activities such as bail setting, background information collection, indigency application, and application for diversionary programs. These hearings are conducted in Hudson County on the day of arrest or the following day, at which time complaints, police incident reports, and criminal histories are available. The CJP court allows for prosecutorial screening to proceed with the added dimension of being able to have the defendant present and represented by an attorney.

A major benefit of the CJP court is the ability to coordinate prosecutorial screening with early case management. The collection by court personnel of defendant intake information and the consideration generally of applications for public defenders, diversionary programs, and early plea involves the expenditure of significant resources. Only about one-half of indictable complaints filed in New Jersey are ultiately indicted. In Hudson County, CJP and other pre-indictment programs have made it possible to reduce the percentage of complaints that result in indictment to less than 30% percent. Substantial resources are conserved if case management commences soon after early screening by the

prosecutor. Central judicial processing provides this coordination and allows for focusing of most judicial and defense resources on those cases which survive screening.

The Hudson County CJP program was recently evaluated by the National Center for State Courts and credited with a number of benefits to the system, including speedy trial, backlog reduction, consistency, conservation of time for municipal courts, control of paperwork, efficient use of grand jury, efficient use of legal counsel, control of bail practices, overcrowding, and clear gains for each individual component of the system. The study concluded that, with perhaps some modifications to suit local needs, CJP could be replicated in most counties.[3]

Central Judicial Processing or similar procedures are now in effect in Camden, Essex, Hudson, Mercer, Passaic, Somerset, Union, and Essex Counties. Camden County has recently expanded its CJP to include a countywide program. Mercer County implemented CJP in 1985, currently reserved only to crimes of the third and fourth degree, except burglaries, for Trenton cases. Passaic County allows first appearances to be conducted in the various municipal courts, but conducts regional preliminary hearings for screening and intake in four regions of the county. In Essex County, CJP currently deals with Newark cases only. In both Mercer and Somerset Counties, central first appearances are conducted by Superior Court judges while the remaining counties use municipal court judges; the CJP courts generally hear cases in about one week from arrest, depending on the ability to obtain investigative materials beforehand.

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3 Samuel D. Conti, et als, Hudson County CJP Evaluation, National Center for State Courts, North Andover, Massachusetts, May 20, 1985.

STANDARD 1.3

CENTRAL OR REGIONAL FIRST APPEARANCES UNDER R. 3:4-2 EFFECTIVELY PROVIDE AN OPPORTUNITY TO CONDUCT PROSECUTORIAL SCREENING, AND TO COORDINATE EARLY CASE MANAGEMENT OBJECTIVES AT THE SAME TIME. THIS PROCEDURE HAS CLEARLY DEMONSTRATED THE CAPACITY TO CONSERVE RESOURCES AT BOTH THE THE COUNTY AND MUNICIPAL LEVELS. HOWEVER, IMPROVEMENTS BENEFICIAL TO PART OF THE CRIMINAL JUSTICE SYSTEM MAY HAVE AN IMPACT ON OTHER PARTS OF THE SYSTEM AND PLANNING SHOULD INCLUDE PROVISIONS TO ADDRESS ISSUES SUCH AS IMPACT OF REMANDS ON MUNICIPAL COURT AND VICTIMS'RIGHTS.

C. CONSIDERATION OF VICTIMS AND WITNESSES

Early dispositional programs have included a variety of practices and procedures to address the concerns of victims and other interested parties.

In the Camden County CJP program, the police give complaining witnesses a notice indicating the date and time that the case will be scheduled for CJP. This notice advises that a disposition may occur at that time. A second form was developed to place a hold on disposition at CJP if the police investigation is not completed. For instance, the form. is completed if the extent of the victim's injury or losses can not be determined prior to the CJP event. In Hudson County, cases involving violent crimes are not considered for downgrade unless the Prosecutor's Office is fully aware of the extent of the victim's injuries. The Criminal Case Manager's Office in Hudson County screens the vast majority of PTI applications at CJP. In every case involving a victim, diversion is not granted until after the victim has been given a notice of the application. This notice advises the victim that they may give a statement as to the injury or loss suffered.

The Hudson County Prosecutor's Office has applied for a grant under the federal Victim's of Crime Act to establish a Victim's Telephone Bank that will be staffed by senior citizens employed on a part-time basis. Victims will be contacted prior to CJP for their input. After

the CJP event, the victims will be advised on the next day by telephone as to any disposition that occurs at CJP. Victims will also be notified of the next scheduled event on cases referred to the prosecutor for grand jury presentation, cases scheduled for pre-indictment conferences and cases remanded to municipal court for trial as disorderly persons' offenses.

Passaic County's Regional Probable Cause Hearing also assures the involvement of victims since they are called upon to testify at the hearing. In Passaic County, the victim is notified to appear at a probable cause hearing (PCH) that is scheduled seven to 14 days after arrest. On the date of the PCH, the victim is interviewed by a prosecutor's investigator to determine whether any additional information about injury or loss is needed from the victim. If the assistant prosecutor intends to dispose of the case at the PCH, the victim is consulted prior to disposition. In the event that the case is referred for grand jury presentation, the address and telephone number of victims or civilian witnesses are secured to assure that they can be contacted for subsequent events.

Prompt resolution of criminal cases is the most important benefit of early dispositional initiatives for all concerned parties. The legislature has recently emphasized concern about the treatment of victims and witnesses with the passage of the Victim's Bill of Rights (P.L. 1985, C. 249) which provides that crime victims are entitled to be informed about the criminal justice system and be advised about the progress of their cases as well as the final disposition of cases.

STANDARD 1.4

EARLY DISPOSITION INITIATIVES, ESPECIALLY CENTRAL OR REGIONAL FIRST APPEARANCES WHICH FACILITATE PROSECUTORIAL SCREENING, EARLY DIVERSION OR EARLY PLEAS TO INDICTABLE OFFENSES SHOULD INCLUDE PROVISIONS TO ADDRESS THE CONCERNS OF VICTIMS AND WITNESSES.

In the CJP model the downgrading decisions substantially reduce the number of cases to be disposed of in the Superior Court. Speedy but effective justice can thereby be obtained with respect to those Superior Court cases. But what happens to the downgraded cases? If they are simply remanded back to an overloaded municipal court system, deleterious results may follow. This was the case in Hudson County after two years of the CJP program. A study showed that many downgraded cases in the Jersey City Municipal Court were being dismissed for lack of prosecution and not disposed of on the merits.

To solve this problem, a special remand part of the Jersey City Municipal Court was established in the county courthouse. This Court is presided over by a Jersey City Municipal Court Judge specially designated by the assignment judge to handle the trial and disposition of most remanded cases for Jersey City. The prosecutor continued to supply personnel to represent the State on these remanded matters rather than have them taken over by the municipal prosecutor. The results have been dramatic and effective. The special remand court handles as many as 2,800 cases per year. Cases are scheduled for trial and almost always disposed of within two weeks after arrest (one week in drug cases). A study conducted by the National Center for State Courts praised the special remand court. The study found that firm and appropriate sentences were being imposed on repeat and serious offenders. Thus, Hudson County's speedy justice for very serious cases has not in any way hindered its effective prosecution of less serious offenses and offenders.

IV. INTAKE

A second major pre-indictment innovation is the Intake program. This model was developed in Middlesex County and achieves various early case management features such as information collection, bail review, public defender application, and PTI/conditional discharge application; however, it does so in a more informal environment, i.e., no court proceeding. Defendants are instructed to appear at the criminal case manager's office for intake, and the prosecutor separately conducts screening. Experimentation with this model in Bergen County was unsuccessful. It is currently being implemented in Burlington County under a grant proposal. Monmouth County also has had experience with a partial intake project. Morris County requires defendants to appear at intake which takes place after the prosecutorial screening decision.

The intake model does not require judicial resources in the conduct of first appearances. In Middlesex County, defendants are instructed to appear within a short time after their first appearance in municipal court. In Burlington County, the intake will not occur until after cases are screened by the prosecutor. The coordination with screening is important in order to avoid expenditure of resources on cases which will not be indicted.

STANDARD 1.5

WHEN CENTRAL OR REGIONAL FIRST APPEARANCES ARE NOT IN PLACE IN GIVEN COUNTY, INFORMAL INTAKE INTERVIEWS CAN BE AN EFFECTIVE METHOD FOR ACHIEVING EARLY CASE MANAGEMENT. A COUNTY IMPLEMENTING THIS APPROACH SHOULD CONSIDER THE NEED TO COORDINATE INTAKE CLOSELY WITH THE PROSECUTOR'S SCREENING FUNCTION.

V. EARLY DIVERSION AND CASE CONFERENCES

Each year in New Jersey, approximately 20,000 offenders are sentenced. Half of the offenders receive non-custodial sentences.

Another 7,000 offenders are diverted through PTI or conditional discharge. The overwhelming majority of non-custodial sentences and diversions occur after indictment. The emergence of CJP and intake programs has offered a procedure whereby some, if not many, of these cases can be identified and disposed of soon after arrest and before indictment.

The Middlesex County program has successfully experimented with this concept. Pre-indictment cases are actively screened for potential diversion or are identified for potential plea at regular (weekly) case conferences. Essex County has developed a Pre-indictment Disposition Conference (PDC) court wherein the prosecutor lists selected cases for plea negotiations before indictment. Similar procedures have been developed in Camden, Mercer and Passaic Counties. In Somerset County the prosecutor has recently commenced a program whereby his office notifies the criminal case manager to schedule selected cases for a pre-indictment plea conference held regularly each Friday. Targeted cases include those amenable to diversion as well as third and fourth degree victimless crimes, including selected drug possession cases. Union County has just implemented a procedure which will conference all third and fourth degree crime within two to three weeks of the CJP appearance. Hudson County is preparing a PDC program that will be implemented soon.

It is important to note that a key to effecting early dispositions is the early appearance of the defendant and defense counsel, whether public defender or private bar. All programs engaging in early case management have implemented procedures to ensure defense representation and adequate discovery. Sufficient time should be allowed to

enable defendants, particularly those who are not indigent, to obtain the services and advice of counsel.

STANDARD 1.6

CASES AMENABLE TO DIVERSION OR EARLY PLEA SHOULD BE IDENTIFIED AS SOON AS POSSIBLE AND SCHEDULED FOR EARLY CASE CONFERENCES. SUFFICIENT TIME SHOULD BE ALLOWED TO ENABLE DEFENDANTS TO SECURE THE SERVICES OF COUNSEL AND REVIEW DISCOVERY.

POST-INDICTMENT INNOVATIONS (1980-1986)

I. INTRODUCTION

The breadth and scope of differences amongst the counties in terms of the personalities involved, their relationships between the agencies and the local speedy trial procedures was significant.

For the past six years the State criminal courts have been a veritable laboratory for demonstration of different approaches to case management. This report will review many of these, and discuss what commonalities among the various approaches seem to be contributing to their relative success or failure.

As a general proposition, the relative health of many counties' criminal calendars seems highly dependent on whether the various components are able to cooperate and coordinate on administrative issues. The majority of counties seem to have done so. Where this does not occur, delay and backlog, or, in a few instances, claims of loss in quality often occur due to overly rigid policies.

STANDARD 2.1

THE DEVELOPMENT OF CRIMINAL CASE PROCESSING SYSTEMS, WITHIN THE FRAMEWORK OF COURT RULES, SHOULD RESULT FROM THE FULL PARTICIPATION AND, IF POSSIBLE, CONSENSUS, OF THE INTEGRAL COMPONENTS INVOLVED. AN ESSENTIAL ASPECT OF COOPERATION AND COORDINATION ON THE ADMINISTRATIVE LEVEL IS A MUTUAL RESPECT FOR THE INTERESTS AND RESPONSIBILITIES OF EACH PARTICIPANT. AS IMPORTANT AS THE PROCEDURES AND MANAGEMENT SYSTEMS DEVELOPED IS A RECOGNITION OF THE NEED TO CULTIVATE THE COOPERATION OF THOSE INVOLVED.

While our task has been to focus on indicted cases, the nature of pre-indictment activity heavily affects the success of post-indictment procedures. During the last six years we have seen case management

increasingly operate at a time earlier than the date of trial call. Prosecutors more aggressively screen complaints to see which can be disposed of by administrative dismissal or downgrade. Central case intake, PTI (Pretrial Intervention), Conditional Discharge/Motion for Suspended Proceedings (MSP), and pleas to accusations are also increasingly being addressed soon after arrest. Surely this activity affects post-indictment case loads, resources, and systems, and therefore it would be misleading to review post-indictment methods without reflecting on the impact of what has happened earlier. Therefore, to some extent, we have commented upon some areas of the pre-indictment process.

The post-indictment area was approached from the point of view of five categories:

1. individual, master, or hybrid calendars;
2. vertical calendar assignments;
3. arraignments;
4. pretrial conferences and calendar calls; and
5. trial calls and trial list setting.

A. INDIVIDUAL,[4] MASTER, OR HYBRID CALENDARS

In New Jersey, the various counties are fairly evenly split in choice of calendar systems, individual or master. Each type of calendar has been implemented with broad variations, and even combinations of the

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4 A pure individual calendar exists when cases are assigned to an individual judge upon arrest and are managed from that point forward with date certain scheduling. This form of management was experimented in 1980, reportedly successfully, by Judge Sidney H. Reiss in Passaic County. However, the nature of the prosecutor's authority in the charging stage, and the prosecutor's preference for non-vertical handling of screening, grand jury, and trial units has resulted in the assignment of cases to individual calendars only after indictment in all counties.

two. A number of counties have recently changed from one system to another with one county making its third change in as many years.

1. In six counties there is only one judge handling criminal matters, so an individual calendar exists by definition.

2. In four counties the cases are assigned to individual calendars immediately upon indictment.

3. In three counties cases are assigned to individual calendars after arraignment.

4. In one county the judges individually calendar only their own trial list.

5. In one county, some judges operate individual calendars and others are part of a master calendar pool managed by the criminal presiding judge.

6. Finally, two counties recently joined the list of now six counties which operate under a master calendar.

Interestingly, a review of the top seven multi-judge counties in overall criminal calendar performance[5] and achievement of speedy trial goals shows four individual and three master calendar systems. A similar split can be found for the seven multi-judge counties which have the greatest backlog and delay, with four on master calendar and three on individual calendars. Of the six single judge counties, which have individual calendars by definition, four have above average calendar performance and two are below average. This cursory review may slightly favor individual calendars, but would suggest that the type of calendar has a relatively insignificant effect on overall calendar performance.

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5 See "Overview of Criminal Calendar Performance," October 1, 1985. Administrative Office of the Courts. Multi-judge Counties with above average Calendar Performance are Atlantic, Burlington, Camden, Hudson, Monmouth, Somerset, and Union.

The experience in New Jersey is apparently similar to that experienced nationwide. At a recent National Conference on Delay Reduction, a study of 18 urban jurisdictions revealed that:

> In contrast to the civil, criminal case processing time does not seem to be significantly affected by the type of calendar system used by the court...It appears that neither the individual calendaring system nor the master calendar system is markedly more effective than the others in minimizing delay...about all that can be said is that the type of calendaring system by itself is not a critical determinant of speed.[6]

STANDARD 2.2

INDIVIDUAL, MASTER OR HYBRID CALENDAR SYSTEMS CAN WORK IN A GIVEN VICINAGE DEPENDING MAINLY ON THE MANAGEMENT ABILITIES OF THE JUDGES AND THE RELATIONSHIPS AMONGST THE VARIOUS INSTITUTIONS INVOLVED. EACH JURISDICTION SHOULD CHOOSE THE APPROPRIATE SYSTEM BASED ON A CAREFUL REVIEW OF HUMAN AND ORGANIZATIONAL FACTORS.

B. VERTICAL TRIAL ASSIGNMENT

The 1980 Passaic County speedy trial project, as mentioned before, demonstrated the effectiveness of a vertical team comprised of the judge, two prosecutors, and two public defenders for early case management. The prosecutor and public defender need only appear before one judge, and therefore conflict of schedules is eliminated. The system reduces the tension which arises from having cases scheduled before multiple courts, often at the same time. Counsel may prepare cases for disposition or trial while their partner is before the judge on their cases. Consistency and certainty allow for more effective use of time.

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6 National Center for State Courts, Implementing Delay Reduction and Delay Prevention Programs in Urban Trial Courts: A Report Prepared for the National Conference on Delay Reduction, p.18 (August, 1985).

A negative aspect of this approach, and the most mentioned concern, is that the notion of a "team" is antithetical to the adversarial role of defense counsel. Also, the close working relationship by vertical assignment can lead to friction amongst the personalities involved. To some extent these concerns are being alleviated by periodic rotation from one judge to another.

In the six single judge counties, the so called team verticalization exists naturally. Of the eight multi-judge counties with individual calendars, seven employ vertical assignment for both assistant prosecutors and public defenders. Only Burlington County is somewhat different in that only assistant prosecutors are assigned to courts. None of the six master calendar counties use this method of assignment except Mercer County where only assistant prosecutors are assigned to courts.

The committee takes no position regarding the merits of vertical assignment.

(3) ARRAIGNMENTS

In 1980, the Supreme Court modified R. 3:9-1 to require an in-court arraignment with mandatory appearance of defense counsel, prosecutor, and the defendant. This rule change was a major recommendation of a Supreme Court Task Force on Post-Indictment Delay. The Task Force had reasoned that:

> It is the firm view of the task force that the arraignment should provide the court with the opportunity to make clear the requirements related to defendant's appearances and adherence of both parties to its scheduling orders. Moreover, in-court arraignment should finalize issues relating to representation...trigger the time limits for filing of motions and other pre-trial proceedings. At the arraignment discovery must be given. The

> task force is of the view that the arraignment should be a "significant event" in the criminal process by which the court obtains complete control of the scheduling of each case.[7]

In the years since 1980, the implementation of in-court arraignments has been extensive. The great majority of counties conduct these hearings within about ten days to two weeks of indictment. A few counties are able to schedule these events within a week of indictment.

At the arraignment, discovery is exchanged or available in every county except two, where it is not available generally for another week or so. In a few counties discovery is available upon indictment and one of them (Cape May) mails it to defense counsel right away. All counties with pre-indictment intake or CJP (central judicial processing accomplished through a centralized legal first appearance or preliminary hearing) programs make routine discovery available for inspection at the intake or CJP event, and many additional counties will provide discovery before indictment on request of counsel.

Additionally, at the arraignment, the great majority of counties report that applications for public defender services and pretrial intervention are initiated. Fugitive issues are addressed by issuance of bench warrants. Schedules for future court events, particularly the pretrial conference, and in a few counties, trial dates, are set forth in scheduling orders. Motion filing deadlines are also set.

The in-court arraignment seems to be viewed by many with some ambivalence. To some, the event <u>appears</u> to be perfunctory. Others point

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7 Report of the Supreme Court Task Force on Post-Indictment Delay, p.40 (June 6, 1980).

out that it is the initiation of case management which occurs at the arraignment, and therefore the in-court arraignment is important.

One unfulfilled intention behind in-court arraignments was that it would be attended by actual trial counsel. As such, they would be familiar with the case earlier, and therefore be in a position to effect early appropriate disposition. However, the inability of most prosecutors to have discovery available before the arraignment has not allowed for this development. Consequently, except for individual calendar judges who conduct their own arraignments with counsel assigned to their calendar, most counties conduct arraignments with a single prosecutor or public defender representing all cases. This situation diminishes the effectiveness of forward scheduling, making it fairly routine, since these schedules are generally set for the calendars of other judges and non-participating attorneys.

Another development, in the pre-indictment area, has further reduced the need for formal in-court arraignment. Ten of the 14 largest counties in the State have implemented or are just now implementing a CJP or intake program wherein most of the objectives of the in-court arraignment rule are met. These pre-indictment programs are designed to promote early entry of defense counsel, application for diversion through PTI or conditional discharge, inspection of discovery, and identification of cases otherwise amenable to early disposition. Therefore, if these objectives are realized before indictment, the need to call everyone together again for the arraignment on the indictment is of less significance and perhaps a meaningless gesture. A procedure without substance is antithetical to the notion of good case management.

The in-court arraignment rule has largely served its purpose, which is to initiate early case management in criminal cases. However, since 1980 the local legal culture of the State has changed, and case management techniques have received general acceptance. Should it be determined that the rule, in the current environment, imposes an unnecessarily rigid and perfunctory form of management, then the various counties should be able to determine for themselves whether such an event is still necessary. However, before such flexibility is authorized, each county must ensure that threshold case management objectives are nevertheless being met.

Two significant innovations on this rule have occurred. In Atlantic County and Cape May County, the in-court arraignment has been supplemented with an intake interview between the defendant and court support staff. These occur within one week of indictment. The Uniform Defendant Intake Report (UDIR) is completed at that time. Applications for public defender and PTI are made available. An arraignment/pretrial conference is scheduled for two weeks later.

In Union County, the Supreme Court has relaxed the in-court requirement in favor of an attorney certification that various management needs have been met. Union County will accomplish many of these needs at a centralized first appearance (CJP) program or informally by counsel. The attorney certification will include the following issues:

1. identification of designated trial counsel;
2. that defendant has received a copy of the indictment;
3. that trial counsel has personally interviewed the defendant and explained the contents and consequences of the indictment;
4. entry of plea;

5. that a CJP first appearance was held;

6. that discovery was exchanged;

7. whether defendant intends to apply or has applied for PTI or conditional discharge.

Any case not having a certification on file as to each of the seven objectives will be scheduled for an in-court arraignment.

If the Union County experiment proves to be successful, then the committee recommends that the court consider relaxing the appearance requirement of R. 3:9-1, but only where the court is satisfied that initial or threshold case management objectives have been met.

STANDARD 2.3

IN-COURT ARRAIGNMENTS ARE PRIMARILY MEANT TO EFFECT EARLY CASE MANAGEMENT. WHERE THE OBJECTIVES OF THIS RULE HAVE ALREADY BEEN ACHIEVED BEFORE INDICTMENT, OR WITHIN TWO WEEKS OF INDICTMENT, THE IN-COURT EVENT MAY BE DISPENSED WITH. HOWEVER, THE COURT SHOULD FIRST SATISFY ITSELF THAT MANAGEMENT OBJECTIVES ARE EFFECTIVELY ACHIEVED AND SHOULD NOT HESITATE TO CALL FOR AN APPEARANCE SHOULD IT BE INDICATED THAT ONE IS NECESSARY.

D. PRETRIAL CONFERENCES AND CALENDAR CALLS

The second major rule change of 1980 was to R. 3:13-1, requiring an in-court pretrial conference within 60 days of the arraignment. This rule was also a major recommendation of the 1980 Task Force on Post-Indictment Delay.

The pretrial conference has primarily served, in the counties which have reported these conferences to be useful, to provide a procedure whereby cases amenable to early disposition may be disposed. As such, these cases are removed from congested trial lists thereby rendering the lists more manageable. Further, since only the parties are involved in these conferences, the victims and witnesses are spared the burden of having to appear or be "in readiness" for a trial date. Counsel are relieved of having to prepare the case for trial. Finally,

since only less serious offenders are involved in early plea dispositions, probation supervision and its rehabilitative services in counseling and job assistance are applied earlier when the potential for change is greater. Similarly, dispositions with custodial sentences when they occur more quickly, vindicate victims' rights and promote the deterrence aspect of the law.

For cases not disposed, remaining management needs of the case, such as motions, resolution of PTI or other outstanding issues can be addressed. The conferences are not generally considered to be as useful in resolving pretrial management needs as they are for effecting early disposition through plea. In a number of counties, however, they constitute a meaningful basis for managing a case's needs. Bergen County experimented with omnibus hearings in 1981-1982 and the pretrial conference was used as the focal point to hear all pretrial motions. The procedure reportedly resulted in a high level of dispositions but was perceived by some as too burdensome. It was discontinued after a change in prosecutors.

Counties which conduct pretrial conferences, but feel it is not useful, point to a number of problems. Most often is heard the claim that counsel are too busy on cases scheduled for trial to devote enough attention to the conferences. In some counties, the conferences are conducted by attorneys other than the attorney who will try the case, or by an attorney without authority to fully negotiate a plea. Another familiar concern is that the "best" plea offer is not made until the time of trial, or that the judge hearing the conference does not attempt to urge the parties to seriously consider a negotiated agreement. Many times the conference is rendered premature by virtue of incomplete

investigations, a lack of reciprocal discovery, outstanding motions or pending diversionary PTI application.

Pretrial conferences are conducted in the great majority of counties within the 60 days allotted by the rule. Often the conferences are similar to calendar calls, in which case status, including the status of plea negotiations, is briefly discussed, and trial dates or other case needs are scheduled. Mercer County even calls its pretrial conference procedure a calendar call. In other counties the conferences take a bit longer, and are individual case events where a more thorough review and discussion is undertaken, and motions are heard. In several counties, the conference results in a detailed memorandum which addresses such areas as estimated trial length, stipulations, or other trial management issues. In two Counties, Monmouth and Passaic, neither pretrial conference nor calendar call is used, and cases are scheduled directly from arraignment to a trial date, but within the 60 day period, otherwise required by R. 3:13-1.

Respecting plea dispositions, 11 counties report that the pretrial conference is useful in achieving early dispositions, that is disposition of about 50% or more of cases scheduled for conference (although some dispositions often are not effected until a week after the conference or plea cut-off). Many of these counties seem to firmly believe that the pretrial conference is key to their calendar management. Both counties which schedule only trial calls report a majority of cases being disposed on the first weekly call.

The eight remaining counties report that the conference does not result in significant levels of plea dispositions, often for the reasons discussed earlier. In two counties a monthly calendar call,

subsequent to the pretrial conference, is the main source of plea dispositions.

Most often, pretrial conferences are scheduled at either four or eight weeks from arraignment. Several counties report scheduling them only two weeks from arraignment.

In 11 counties, procedures are in place or being planned to attempt to conference selected cases before indictment. Often these cases are identified on a central first appearance or intake program, or are otherwise identified by the prosecutor as eligible for early consideration.

Where conferences are found to be most useful, a number of reasons are expressed. Most often it arises from a spirit of administrative cooperation. Written plea offers have been claimed to be useful, particularly if forwarded in advance, and if they represent the "best" offer which will be made. Often, the ability of the judge to provide some degree of certainty as to sentence, either directly or by virtue of experience or perceived consistency, is said to be necessary.

No strong position can be supported as to the use of plea cut-offs. Analysis of such procedures is difficult. Insufficient clear information as to how firmly this procedure is actually employed contributes to this difficulty. Of the 13 counties who report a plea cut-off is in effect, nine of these counties have above average calendar performance. These plea cut-offs are generally in effect as of the pretrial conference, or shortly thereafter. Some committee members feel that some flexibility is useful while others are concerned that too many exceptions to a plea cut-off policy will weaken the rule. Depending upon the local environment and the method of implementation, the plea cut-off

is more than symbolic and may provide significant value as a dispositional initiative. It creates a thought pattern that leads to the perception that where appropriate, certain cases should be disposed of before being scheduled for trial. A defendant's reasons for plea bargaining may be self-serving; nevertheless, numerous salutary benefits accrue to the administration of criminal justice as reflected in Standard 1.4 infra. A number of county prosecutors feel strongly that a firm plea cut-off is essential to its success and should be relaxed only due to unforeseen or intervening circumstances.

For the main part, the committee finds that the dispositions of cases before being scheduled for trial, where it occurs, occurs most often by virtue of pretrial conferences, and usually in concert with some form of plea cut-off. Self-initiated plea dispositions do occur outside of the context of formal pretrial conferences, but occur less often. Both the court and the prosecutor share a responsibility as to the administration of a plea cut-off. The prosecutor has general authority in making the charging decision; sentencing is the responsibility of the court. Therefore, there must be a continuing dialogue to ensure that the cut-off is administered fairly and effectively.

In Union County, counsel will be given the opportunity to discuss plea negotiations, and resolve other case management needs without the requirement of a formal in-court conference but with a firm plea cut-off. This approach should be followed closely. As the next section of this report will demonstrate, the disposition of cases before being scheduled for trial is directly related to the ability to develop more certain trial lists. In the Union County experiment, selected cases will be conferenced before indictment, and thereafter the parties will be

required only to certify that meaningful negotiations have occurred. The experience will afford an important insight into one alternative for the current requirement for in-court pretrial conferences.

STANDARD 2.4

THE SCHEDULING OF CASES FOR TRIAL RESULTS IN A SIGNIFICANT EXPENDITURE OF JUDICIAL, PROSECUTORIAL, DEFENSE AND PUBLIC RESOURCES, PARTICULARLY IN THE AREA OF TRIAL PREPARATION AND WITNESS TIME. DISPOSITION OF CASES BY PLEA ON DATE OF TRIAL OR TRIAL CALL RESULT IN CONGESTED AND UNCERTAIN TRIAL LISTS, PLACING A BURDEN ON QUALITY PREPARATION OF CASES WHICH REQUIRE TRIAL. CASES WHICH ARE AMENABLE TO DISPOSITION BEFORE BEING SCHEDULED FOR TRIAL SHOULD BE SO DISPOSED.

STANDARD 2.5

PRETRIAL CONFERENCES HAVE PROVEN TO BE VALUABLE IN EFFECTING EARLY DISPOSITIONS FOR APPROPRIATE CASES OFTEN WITH SOME FORM OF PLEA CUT-OFF. WHERE SUCH CONFERENCES HAVE NOT BEEN MEANINGFUL OR SIGNIFICANTLY USEFUL, THE LOCAL PLANNING PROCESS SHOULD EXAMINE THE REASONS, AND CONSIDER WHETHER AN EFFORT CAN BE MADE TO IDENTIFY CASES AMENABLE TO EARLY DISPOSITION AND DISPOSE OF SUCH CASES.

STANDARD 2.6

ORDINARILY, PRETRIAL CONFERENCES SHOULD NOT BE SCHEDULED UNTIL SUFFICIENT TIME HAS BEEN ALLOWED FOR MEANINGFUL CASE REVIEW, RESOLUTION OF ALL MOTIONS, AND DIVERSIONARY PROGRAM APPLICATIONS. FURTHER, SUCH CONFERENCES ARE MOST USEFUL WHEN CONDUCTED WITHIN A MONTH OF A REALISTIC TRIAL DATE. MULTIPLE CONFERENCES SHOULD BE AVOIDED, AND CASES SHOULD BE SCHEDULED FOR A CERTAIN TRIAL DATE.

STANDARD 2.7

A WRITTEN PLEA OFFER, PRIOR TO THE DATE OF PRETRIAL CONFERENCE, REPRESENTING THE STATE'S BEST PLEA OFFER, WILL RENDER PRETRIAL CONFERENCES MOST EFFECTIVE. THE COURT SHOULD TREAT THE CONFERENCE IN SUCH A MANNER SO AS TO COMMUNICATE TO THE PARTIES ITS EXPECTATION THAT CASES CLEARLY NOT REQUIRING TRIAL SHOULD BE DISPOSED BEFORE TRIAL DATE.

STANDARD 2.8

WHILE IN-COURT CONFERENCES CURRENTLY EFFECT THE MAJORITY OF EARLY DISPOSITIONS, THAT IS CASES NEVER HAVING BEEN SCHEDULED FOR TRIAL, IT MAY BE THAT CONFERENCING ONLY SELECTED CASES, OR CONFERENCING BY THE PARTIES WITHOUT A MANDATORY IN-COURT EVENT, CAN BE USEFUL ALTERNATIVES TO THE CURRENT RULE. PRE-INDICTMENT PLEA CONFERENCES MAY ALSO REPLACE THE NEED FOR FORMAL POST-INDICTMENT CONFERENCES. THESE ALTERNATIVES SHOULD BE CLOSELY REVIEWED, ALTHOUGH AT LEAST ONE IN-COURT EVENT SHOULD BE CONDUCTED PRIOR TO SCHEDULING A CASE FOR TRIAL.

Finally, a review of conferencing is not complete without addressing plea bargaining, and particularly the judges' role therein. However, this issue is already addressed in the Offer of Judgment section of this report. Some committee members feel that rules should be revised which will make them conform more closely with the realities of contemporary practice. Other members have reservations about the court becoming too involved in plea bargaining.

E. TRIAL CALLS AND TRIAL LIST SETTING

Perhaps nowhere else do the shortcomings in a county's calendar management from arrest to disposition become more apparent than in the weekly trial call. Unfortunately, the committee has not been able to conduct a close scrutiny of the dynamics of weekly trial calls throughout the State, yet we have obtained some interesting data and offer some preliminary observations. The subject clearly merits continuing and closer attention.

In each county, information was requested as to the number of cases scheduled, on average, for each weekly trial call. These calls are usually conducted on Monday for the upcoming week. The number called was divided by the number of judges in master calendar counties to get an estimate of how many cases were "set" for each judge. In most instances, the committee was able to ascertain this figure with a seemingly fair level of accuracy, although the figure was almost always based on an estimate.

STANDARD 2.9

EACH COUNTY SHOULD EXAMINE THE NUMBER OF CASES SET FOR TRIAL EACH WEEK TO INSURE THAT TRIAL DATES ARE FIRM AND CERTAIN. SOME SLIGHT OVERSETTING MAY BE NECESSARY IN ORDER TO MAXIMIZE OVERALL RESOURCES, BUT AS A GOAL SHOULD NOT ORDINARILY EXCEED FIVE TO SEVEN CASES PER WEEK PER JUDGE. THE REPEATED CALL OF CASES FOR TRIAL, OR "CHURNING" SHOULD BE AVOIDED.

STANDARD 2.10

THE ABILITY OF A COURT TO DISPOSE OF CASES PRIOR TO TRIAL SCHEDULING IS AN ESSENTIAL FACTOR IN INSURING A FIRM AND CERTAIN TRIAL LIST.

MISCELLANEOUS PROGRAMS

I. INTRODUCTION

A number of innovative programs which may serve to expedite the movement of criminal cases were examined.

Specifically this section will focus on:

A. Simultaneous Sentencing;

B. Management Structure as it Relates to Speedy Trial;

C. Participatory Calendar Management - the Local Planning Process;

D. Union County Drug Court;

E. Team Courts; and

F. Major Backlog Efforts.

If these programs and other innovative programs are to be implemented on a statewide basis, a sensitivity to the unique political and legal factors which influence each county's criminal justice system must be preserved.[8]

II. SIMULTANEOUS SENTENCING

A 1983 statistical report from the Administrative Office of the Courts revealed that the average time from disposition by plea or verdict to sentencing in the Criminal Division of the Superior Court was 47 days. The Statewide Speedy Trial Coordinating Committee (STCC) created a Sentencing Interval Subcommittee to examine the causes of delay and to recommend what steps should be taken to eliminate or reduce that delay.[9]

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8 Statewide Speedy Trial Reform, Report prepared by Paul B. Wice, Drew University (1985), p. 117.

9 Simultaneous Sentencing - An Interim Report, Report prepared by Paul D. Wice, Drew University, (8/24/84), p. 1.

The Sentencing Interval Subcommittee considered the issues relating to delay in the interval from plea or conviction to sentence. This interval primarily involves the investigation and preparation of presentence reports. These reports are a comprehensive profile of the offender and the offense, and are based on data which often has already been collected in another form for earlier proceedings.[10]

As a result of the subcommittee's investigation, a recommendation was made that a "Simultaneous Sentencing" program be developed.

A. DESCRIPTION OF PROGRAM

In order for the simultaneous sentencing program to be feasible in any particular county, two key ingredients should be present. First, the county should be using the Uniform Defendant Intake and Reporting System (U.D.I.R.) an omnibus data collection and report system adopted by the Conference of Criminal Presiding Judges in 1985 or an acceptable variation thereof. Second, as the description of the program to follow will show, it is geared towards those counties that have implemented a vertical monitoring case supervisor system.[11]

In a vertical monitoring system, the case supervisor assumes complete responsibility over a case from the filing of an indictable complaint through disposition and sentence. That responsibility includes the obligation at an early stage to collect background information relevant to the bail determination as well as information to be utilized

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10 Statewide Speedy Trial Coordinating Committee, Sentencing Interval Subcommittee Preliminary Report, p. 1.

11 Report of the Sentencing Interval Subcommittee prepared by Judge George J. Nicola, (6/14/84), p. 1-2.

in screening individuals for PTI, §27, Pre-Indictment Conference Programs, etc.[12]

As part of a simultaneous sentence program, each case supervisor must identify which cases under his control may be a candidate for simultaneous sentencing. When a case is identified as qualifiable (later outlined), it should receive a special designation on a judge's pretrial conference calendar.[13]

As the pretrial conference (PTC) date approaches, the case supervisor should ensure that the omnibus data collection form has been completed so that all of the information necessary for a sentence will be included. Ideally, the judge will then review these forms prior to the PTC.[14]

If the defendant pleads guilty at the PTC, the judge should then notify the prosecutor and the defense counsel of the availability of the simultaneous sentencing alternative. If both consent, sentence may be imposed immediately.

B. CRITERIA FOR ELIGIBILITY

The Sentencing Interval Subcommittee recommended that during the initial implementation of a simultaneous sentencing program, the category of eligible cases be limited to third and fourth degree victimless crimes as well as crimes wherein the victim is a governmental entity such as welfare fraud cases.[15]

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12 Ibid., p. 5.

13 Sentencing - An Interim Report, op. supra cit., p. 5.

14 Ibid., p. 5.

15 Report of the Sentencing Interval Subcommittee, op. supra cit., p. 5.

As the program is refined, additional classes of crimes may be added including crimes with victims provided that the victim notice requirements of N.J.S.A. 2C:44-6 are observed.[16]

C. SUMMARY AND ANALYSIS

A simultaneous sentencing program is feasible in any county where the UDIR or a similar omnibus data collection form is used and the criminal case management office has verticalized its case supervisors. With diligent monitoring of case status by case supervisors, the data necessary to sentence a defendant can be made available at the PTC.

Although it is somewhat of a misnomer to call this program a "speedy trial technique," due to the fact that the time for statistical purposes is measured from arrest to disposition (e.g., plea or verdict), not sentence, the elimination of the need for an additional court appearance by the defendant, the prosecutor and other key participants naturally makes available some additional time to devote to other matters. Also, acceleration of the criminal process at any stage should have a beneficial effect on the system and public safety. The subcommittee recommends its consideration by other vicinages.

STANDARD 3.1

WHERE A COUNTY'S CRIMINAL CASE MANAGEMENT OFFICE CAN PRODUCE THE FUNCTIONAL EQUIVALENT OF A PRESENTENCE REPORT AT TIME OF PLEA, A SIMULTANEOUS SENTENCING PROCEDURE SHOULD BE CONSIDERED. THE USE OF AN OMNIBUS DATA COLLECTION FORM SUCH AS RECENTLY DEVELOPED BY THE CONFERENCE OF CRIMINAL PRESIDING JUDGES AND VERTICAL CASE SUPERVISION ARE RECOMMENDED IN DEVELOPING SUCH A PROGRAM. THE PROCEDURE SHOULD BE UTILIZED ONLY FOR THIRD AND FOURTH DEGREE VICTIMLESS CRIMES AND WELFARE FRAUD CASES. CONSENT OF BOTH THE PROSECUTOR AND DEFENSE COUNSEL SHOULD BE OBTAINED.

16 Sentencing Interval Subcommittee Preliminary Report, op. cit., p. 2.

III. MANAGEMENT STRUCTURE AS IT RELATES TO SPEEDY TRIAL

Under the direction of Chief Justice Robert N. Wilentz, the management structure of the New Jersey court system has undergone substantial change. The purpose of the revisions are to:

1. Establish clear, direct lines of authority;

2. Promote accountability by establishing unambiguous descriptions of duties, responsibilities and relationships;

3. Foster a recognition that the trial court system is unified, and is composed of many parts, each of which is vital and unique, and all of which must operate in synchronization; and

4. Promote greater participation in management by judges and court support personnel.[17]

A. MANAGEMENT STRUCTURE IN THE CRIMINAL DIVISION

As a result of Management Structure Committee recommendations, the criminal division is now supervised by a presiding judge who is responsible under the assignment judge for the administration of criminal cases. The presiding judge has direct operational control over all judicial and court support activity within the division and is assisted by a professional administrator, the case manager, who is responsible for coordinating the operations of the numerous court support units within the division.[18]

The committee recommended the retention of probation services as a single agency but recognized separate functional units such as the

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17 Cover letter by Hon. Samuel D. Lenox, Jr., A.J.S.C. to the Final Report of the Management Structure Committee, (6/6/83).

18 Final Report of the Management Structure Committee, pgs. 5, 24, 25.

pre-adjudicative services unit and recommended that it be supervised directly by the presiding judge.[19]

IV. PARTICIPATORY MANAGEMENT

The Management Structure Committee strongly endorsed the concept of increased participation by all levels in the management of the trial courts. It recognized this concept as a means to tap a valuable resource and as a forum to identify issues and develop solutions.[20]

A. EFFECTS OF RESTRUCTURING AND THE PARTICIPATING MANAGEMENT CONCEPT

In 1984, Professor Paul B. Wice of Drew University studied the impact of management restructuring in Middlesex County and other vicinages where the recommendations of the Management Structure Committee and the AOC's "Criminal Court Management Structure Proposal" were fully implemented. He concluded that the restructuring had a recognizable impact on the criminal justice system. Specifically,

1. The case supervisors (in a vertical case management system) were able to competently expedite the processing of criminal complaints. Within 24 hours of arrest in some vicinages, cases were being screened for bail, ESP, and PTI. In others, this is being accomplished within 48 to 72 hours.

2. As a result of restructuring, a single data collection form was being utilized. Duplication of paperwork by previously separate units (Bail, PTI, PSI) was eliminated.

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19 Ibid., p. 31.
20 Ibid., p. 31.

3. The new case management system created a sense of accountability. An individual case supervisor (or team in some counties) was responsible for a case from arrest to disposition.[21]

STANDARD 3.2

REORGANIZATION OF THE CRIMINAL DIVISION OF SUPERIOR COURT HAS IMPROVED THE QUALITY AND EFFICIENCY OF THE CRIMINAL COURTS BY ESTABLISHING CLEAR LINES OF AUTHORITY, PROMOTING ACCOUNTABILITY FOR CASE PROCESSING SUPPORT FUNCTIONS AND REDUCING DUPLICATION AMONG THE FORMERLY SEPARATE SUPPORT UNITS.

B. PARTICIPATORY CALENDAR MANAGAEMENT - THE LOCAL PLANNING PROCESS

It is apparent from the many success stories throughout the State that the statewide speedy trial program has, over the last five years, resulted in backlog reduction and more expeditious resolution of criminal cases. We should not, however, lose sight of the fact that the system is to a certain extent personality dependent. The so called "local legal culture" can be a critical factor affecting the nature and degree of success experienced by a court system as it attempts to wrestle with the problem of delay. It is the judges, prosecutors, public defenders, private defense counsel, case managers and other judicial support personnel as well as the probation department and local government officials who create an environment which is or is not conducive to reducing court delay.[22]

It has been the task of the Committee on Speedy Trial 1980-1986 to review numerous programs and procedures and to comment on what seems

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21 An Experiment in Responsible Case Management: How Middlesex County Was Able to Cement the Cracks In Its Justice System, Paul B. Wice (October 1984), pgs. 19-21.

22 Statewide Speedy Trial Reform, op. supra cit., p.27.

to be working best. While the findings do describe promising innovations, it has become clear that, in the final analysis, it is largely people and their ability to work together for the public interest in the context of their constitutional prerogatives which account for progress in criminal justice administration.

This paper reviews the local speedy trial planning process. It does so in the context of local committees, established in September 1980 to develop speedy trial plans and monitor progress in reaching goals. The committee finds a strong correlation between the frequency of these meetings and relative calendar performance in terms of speedy trial delay and backlog goals. We believe that regular meetings, where conducted, are a sign of healthy and cooperative working relationships. We suggest that participatory calendar management is strengthened by maintenance of a regular forum in which the various components are able to exchange views and have input into policy decisions.

The initial phase of the speedy trial program focused on applying strict time goals to newly instituted cases, while working toward a gradual, multi-year reduction of the case backlog. It was also decided that the program would rely not on additional funding, but on existing resources and greater efficiency to accomplish these goals. In order to do this it was essential to have increased communication and coordination among the key components with a commitment to the goals of the speedy trial program. This required the establishment of a forum representing the different components of the criminal justice system that would have the ability to develop and implement programs, policies and procedures capable of resolving problems and achieving speedy trial goals. While coordination and leadership would be provided statewide, it

was imperative that the local participants become actively involved in the process.

Although both the voluminous case backlog and the delay in processing cases were indeed statewide problems, each county was also plagued by difficulties that were unique to itself. In order to find a viable solution, local planning was critical. Ultimately, the local speedy trial planning process was adopted to provide an effective mechanism for combating problems at both the State and county levels. Where important changes had to occur on a statewide basis, the key to the program involved local participants identifying and attacking the source of the delay problems at the local level.

A committee was formed in each county comprised of members representing all sectors of the criminal justice system. Each committee conducted a review of the criminal case processing system, identifying delay points and recommending procedures to improve the system. The committees were responsible for preparing local speedy trial plans that were to be filed with the Supreme Court. These plans were to address issues such as reducing backlog, tracking cases, monitoring cases by age, processing complaint paperwork expeditiously, formulating new duties of criminal assignment clerks, and establishing procedures for conducting in-court arraignments and pretrial conferences.

The local planning process for speedy trial was a primary basis for the program's progress and success. The concept of participatory management created a sense of pride and teamwork among the participants that allowed systemic changes naturally and without unnecessary resistance.

In the years since the initiation of the speedy trial program, the local committees have evolved independently, taking on different responsibilities. Some meet on a regular basis to address local county problems, while others meet sporadically with no clearly defined purpose. In July 1984, Chief Justice Wilentz, by way of memorandum, expressed the need for the local planning committees to meet on a regular basis in order to discuss the speedy trial program in their respective counties and to participate actively in problem solving and decision making at that level. It was imperative that creativity and input from the local participants continue if the speedy trial program was to achieve its goals.

The Committee on Speedy Trial 1980-1986 has reviewed a substantial amount of material in order to ascertain the factors responsible for each county's performance in the speedy trial program. One phase of this research was devoted to determining the effectiveness of the local speedy trial committees. The findings on this issue were separated into three categories. The first category consisted of those counties that conducted committee meetings on a regular basis, either weekly or monthly. The second group included the committees that met less frequently (such as a quarterly basis). The third section was composed of committees that meet on a irregular basis, generally less than quarterly.

According to the data, nine counties conduct meetings on a monthly or weekly basis. Six of these counties are above the statewide average with regard to calendar performance. Of the eight counties that conduct quarterly meetings, three are above average in calendar performance, four are average and one is below average. Finally, with respect to the

counties that meet irregularly, or rarely, one is average in calendar performance and the remaining three are below average.

These findings indicate that there is a correlation between calendar performance and the local planning process. While other factors are being studied by the committee, it is appropriate to note that counties with a vigorous local planning process are leaders in calendar performance.

The above findings support the original premise of the speedy trial program: input and problem solving must occur at the local level if the program is to be successful. Each court has problems unique to its area and in order to solve those problems participation, coordination and communication must exist on the local level.

When the speedy trial program commenced in 1981, each county submitted a local delay reduction plan in 1980. The initial plans and subsequent local amendments approved by the Supreme Court included exceptions to the statewide rules of criminal procedure that enabled the local planning committees to adapt the rules to the needs of the local criminal justice system. Many of the innovations described in the pre and post-indictment position papers of the Committee on Speedy Trial 1980 - 1986 emanated from the unleashing of creativity fostered by the local planning process.

STANDARD 3.3

REGULAR MONTHLY MEETINGS OF THE KEY COMPONENTS OF THE COUNTY CRIMINAL CASE PROCESSING SYSTEM, INCLUDING AT LEAST THE ASSIGNMENT JUDGE AND/OR THE CRIMINAL PRESIDING JUDGE, COUNTY PROSECUTOR, REGIONAL PUBLIC DEFENDER, PRIVATE BAR REPRESENTATIVE, TRIAL COURT ADMINISTRATOR, CRIMINAL CASE MANAGER, AND A COUNTY JAIL REPRESENTATIVE SHOULD BE CONDUCTED. SUCH COORDINATION ENGENDERS AN ATMOSPHERE OF COMMUNICATION AND COOPERATION, AND ALLOWS FOR INPUT AND COMMENT OF EACH INTO KEY POLICY DECISIONS.

STANDARD 3.4

LOCAL SPEEDY TRIAL PLANNING COMMITTEES HAVE MADE GOOD USE OF THEIR ABILITY, SUBJECT TO SUPREME COURT APPROVAL, TO ADOPT LOCAL PROCEDURES IN ORDER TO FACILITATE IMPLEMENTATION OF LOCAL CASE MANAGEMENT STRATEGIES. THE SUCCESS OF THE LOCAL PLANNING PROCESS ARGUES FOR CONTINUATION OF LOCAL DISCRETION, SUBJECT TO SUPREME COURT APPROVAL WHERE COURT RULES ARE IMPLICATED.

V. PROPOSED DRUG COURT - UNION COUNTY DRUG TEAM

A. SPECIALIZED DRUG COURT

In September 1984, Union County Prosecutor John H. Stamler proposed that a specialized drug court be established to address drug cases which then comprised almost 50% of the Union County's indictable caseload.

The court would consist of a specially trained judge who had the background to understand the complexities of drug abuse and drug enforcement techniques. In addition, Prosecutor Stamler was willing to commit two experienced assistant prosecutors and support personnel to facilitate the expeditious trial of drug cases and intensive plea bargaining. Those assistant prosecutors would be vested with complete authority to determine case dispositions in both a pre-indictment and post-indictment status.

The advantages envisioned by Prosecutor Stamler of this specialized drug court were twofold:

1. Due to the specialized training of the judge and assistant prosecutors and due to the assistant prosecutors' responsibility for all drug cases from arrest to disposition, he foresaw speedy prosecution, conviction, and punishment for drug offenders.

2. A second advantage of the specialized drug court would be the elimination of disparate sentences which is one of the most common criticisms of our court system by the public.

The drug court has not been implemented in Union County; however, a specialized drug unit has been formed in the criminal case management office. This drug team consists of a team leader, four case supervisors, two clerical support personnel and a Treatment Alternatives to Street Crime (TASC) representative. At an early stage defendants are interiewed, the first three pages of the UDIR are completed, and applications for §27 and PTI are taken. The §27 and PTI applications are expedited and eligible defendants are brought before one judge. Those defendants not eligible for §27 appear before the presiding judge at the pretrial conference. The drug team appears at the pretrial conference and will expedite the presentence report if a plea is entered.

To date, no special assignment of a judge nor an assistant prosecutor has been made although it is still under consideration.

VI. TEAM COURTS

The team court concept was implemented in the Essex County's Criminal Division in 1982 to improve coordination among the individual calendar courts and reduce the administrative burden on the criminal presiding judge. In 1982 the Essex County criminal bench included 16 judges. There are now 21 judges with 13 judges handling individual calendars and the remaining judges hearing cases from a master calendar that is managed by the criminal presiding judge.

The presiding judge is assisted in the management of the individual calendar courts by "team captain" Judges who, in addition to managing their own calendars, also coordinate with the three judges on their team to assure that cases are moved from one judge to another when cases cannot proceed because a judge is occupied with a lengthy trial or otherwise overloaded, and another team member is available. The team

courts are supported by court support teams in the criminal case manager's office that are designed to work closely with the judge teams in providing all investigative functions for the team.

The team court concept was initiated in Essex County ttempt to create manageable calendar units in the largest county in the State. No other county in New Jersey has more than seven judges in the criminal division. This concept was implemented in the Detroit Recorder's Court which is one of the most efficiently managed urban criminal courts in the nation. The Recorder's Court has a compliment of 29 judges who are broken down into six teams. Each team occupies one floor in the courthouse which enables the team judges to maintain frequent communication and continuous coordination without losing time for handling cases.

VII. BACKLOG REDUCTION

Criminal case backlogs create a strain on judicial, prosecutorial and public defender resources that frustrate calendar management efforts. Backlogs make it difficult to assure that events will be completed as scheduled which causes waste in preparation time and inconveniences other parties to the case. Therefore, the elimination of a backlog is critical to the success of a delay reduction program.

Backlogs of older criminal cases have been reduced or elimiated in several counties since the onset of the speedy trial program. These cases were the subject of a number of special local programs that addressed the older cases with a variety of approaches. In some instances, the magnitude of the backlog necessitated a temporary infusion of resources. A key aspect in each local project was the cooperation of the various components of the local criminal justice system which

indicates that an active local planning process is a critical element of a successful backlog reduction effort.

The methods employed by counties in backlog programs tend to have four common aspects:

A. identification of a target group of older cases to be disposed in a predetermined period of time; B. prosecutorial review of the backlog to determine which cases can be prosecuted;

C. backlog cases are usually listed for a conference to determine if the defendant is available and whether the case can be disposed by plea, diversion or motion; and

D. a firm trial date is set on the remaining cases.

In 1981, the priority of employing delay reduction efforts on new cases in the speedy trial program required a creative approach to handling pre-1981 cases. Bergen County responded to the challenge by reviewing the older cases and scheduling 257 case conferences before one judge in a two week period in July which rendered 147 dispositions by plea, diversion or dismissal. The remaining cases were scheduled for firm trial dates in the fall of 1981. One judge was added to the criminal bench in September so that additional trials could be distributed among eight judges.

In 1982, Passaic County instituted a plea moratorium program that involved written plea offers by the prosecutor's office on 567 cases that were scheduled for conferences before the eight criminal court judges during a three day period in November. The dispositions resulting from the conferences totaled 252 cases or 44%. Cases not disposed during the moratorium were given firm trial dates. The moratorium program was

repeated five times during 1983 and 1984; however, concern was expressed over the procedure creating a temporary backlog because defense counsel would be tempted to ignore initial plea offers and wait for the next moratorium for a better offer.

The implementation of a pre-indictment disposition conference (PDC) to extend written plea offers on new cases made it possible to abolish the moratorium procedure in 1985. The PDC permits local speedy trial programs to preserve resources through early case management and avoid creating even temporary backlogs. The grant funded PDC program was reported to have been a major factor in reducing the number of pre-indictment over goal cases in Passaic County by 44% within one year after implementation.

The most successful local backlog reduction effort since the beginning of the speedy trial program occurred in Hudson County during 1982 and 1983. The Prosecutor's Office reviewed 4,000 cases including 2,000 pre-indictment cases, to determine whether they should or could be prosecuted. A team of three judges from other counties was assigned to Hudson County to handle the influx conferences, trials and sentencings during the latter part of 1982 and early 1983. The active pending caseload of post-indictment cases which exceeded 1,800 cases in 1980 was reduced to below 500 cases by January 1984. While pre-indictment caseload figures are not available for 1980, the inventory has been maintained between 500 and 550 cases for the past two years with the lowest backlog (over goal) ratio in the State. Hudson County's CJP, remand court and other early case management initiatives serve to assure that the pending inventory of both pre- and post-indictment cases do not rise significantly.

Middlesex County has steadily reduced a post-indictment backlog since 1983. Initially, the backlog reduction effort concentrated on single defendant cases that could be moved without complication. Cases were identified by the PROMIS/GAVEL system and listed for conference before the criminal presiding judge who disposed of the majority of the cases. The trial cases were sent to other judges. The same process was later employed for multi-defendant cases. In August 1983, the inventory of active post-indictment cases was 1,458. On January 1, 1986 the inventory was 811.

Middlesex County has received three speedy trial grants to implement and enhance early case management techniques designed to assure that a new backlog will not develop. The Criminal Division has also been a leader in the implementation of vertical case management by case supervisors who are assigned to cases from filing to disposition.

Camden County received funding for a backlog reduction grant in 1983 that funded two prosecutors and two public defenders. The number of criminal court judges was increased from six to seven. Backlog cases were handled by all seven judges. In 1984 a speedy trial grant funded implementation of a CJP program in Camden City. In 1985 a second grant was awarded to enable the CJP to be expanded to a countywide program.

The 1983 backlog grant in Camden County reduced the average pending caseload per court from 140 to approximately 120. The Camden County CJP program has further reduced the average pending caseload per court to approximately 90. Local speedy trial committee members are confident that expansion of the CJP will further reduce the pending caseload.

In 1983, Essex County received funding for an additional grand jury and a PDC program to dispose of cases amenable to plea or diversion without expending resources on grand jury presentation. Although limited to third and fourth degree offenses, the PDC program in Essex County has disposed of as many as 130 pre-indictment cases per month.

Speedy trial grant monies have also funded trial teams of assistant prosecutors, public defenders and support staff with judges reassigned from other counties to dispose of backlogged indictments in Essex County. Despite the infusion of resources, the post-indictment backlog of cases over one year from the date of filing has risen steadily in Essex County from 1,124 on January 31, 1982 to 1,983 on January 31, 1986.

The factors related to the increasing backlog in Essex are an influx of new indictments resulting from pre-indictment backlog reduction efforts, the increased apprehension of fugitive defendants by the prosecutor's office, and large scale screening practices are not yet in place.

STANDARD 3.5

BACKLOG REDUCTION IS CRITICAL TO THE DEVELOPMENT OF A SUCCESSFUL SPEEDY TRIAL PROGRAM. EXCESSIVE BACKLOGS REQUIRE A COORDINATED EFFORT BY THE LOCAL PLANNING COMMITTEE WHICH MAY REQUIRE ADDITIONAL TEMPORARY RESOURCES.

STANDARD 3.6

VARYING APPROACHES TO BACKLOG REDUCTION MAY BE NECESSARY TO ACCOMMODATE LOCAL MANAGEMENT NEEDS, HOWEVER ANY BACKLOG REDUCTION PLAN SHOULD INCLUDE FOUR BASIC ELEMENTS TO ASSURE SUCCESS.

1) IDENTIFICATION OF A TARGET GROUP OF CASES TO BE DISPOSED IN A PREDETERMINED PERIOD OF TIME TO MAXIMIZE THE USE OF ANY TEMPORARY ASSISTANCE PROVIDED BY REASSIGNMENT OF BUDGETARY RESOURCES OR GRANTS.

2) PROSECUTORIAL REVIEW OF THE TARGET GROUP OF CASES SHOULD OCCUR PRIOR TO LISTING MATTERS FOR CONFERENCE TO DETERMINE WHETHER CASES CAN OR SHOULD BE PROSECUTED.

3) BACKLOG CASES SHOULD BE LISTED FOR A STATUS CONFERENCE TO DETERMINE WHETHER THE CASE CAN BE DISPOSED OF BY PLEA, DIVERSION OR MOTION.

4) FIRM AND CERTAIN TRIAL DATES SHOULD BE ASSIGNED AT THE CONCLUSION OF STATUS CONFERENCES ON BACKLOG CASES.

STANDARD 3.7

BACKLOGS CAN USUALLY BE AVOIDED BY THE IMPLEMENTATION OF EARLY AND CONTINUOUS CASE MANAGEMENT TECHNIQUES THAT MAXIMIZE THE EFFICIENT USE OF RESOURCES. THE LOCAL PLANNING COMMITTEE SHOULD ACTIVELY MONITOR STATISTICAL REPORTS AND THE SPEEDY TRIAL EXCEPTION REPORTS TO IDENTIFY TRENDS THAT MAY LEAD TO CASE PROCESSING BACKLOGS SO THAT ADJUSTMENTS CAN BE MADE BEFORE THE BACKLOG REACHES A CRITICAL LEVEL.

OVERVIEW OF CRIMINAL CALENDAR PERFORMANCE - MAY 1, 1986

OVERALL ACHIEVEMENT - RELATIVE ACHIEVEMENT

Relative Position provides an overall evaluation of calendar performance by scoring achievement in each of the eight categories included in the Overview. The maximum attainable score is 30.*

County	Score	Rank
ATLANTIC	21	6
BERGEN	9	19
BURLINGTON	18	11
CAMDEN	22	3
CAPE MAY	27	1
CUMBERLAND	13	13
ESSEX	3	21
GLOUCESTER	10	16
HUDSON	22	3
HUNTERDON	22	3
MERCER	8	20
MIDDLESEX	12	15
MONMOUTH	21	6
MORRIS	10	16
OCEAN	19	10
PASSAIC	20	9
SALEM	13	13
SOMERSET	23	2
SUSSEX	10	16
UNION	21	6
WARREN	14	12
STATEWIDE SCORE	12	
AVERAGE COUNTY SCORE	16	

*Refer to individual sections of the Overview for scoring procedures in each subsection.

OVERVIEW OF CRIMINAL CALENDAR PERFORMANCE - MAY 1, 1986

CURRENT ACHIEVEMENT OF SPEEDY TRIAL GOALS

Current Achievement provides information on the extent to which recent filings have been disposed within speedy trial goals. Successful achievement of goals in this area is defined as 20% or less cases not disposed within the goals for pre and post-indictment. The unit of measure for both is persons. Source data cannot differentiate between jail and bail cases; therefore, only bail goals are measured.

County	Pre-Indictment (Filed Dec., Jan., Feb.)	Post-Indictment (Filed Oct., Nov., Dec.)
ATLANTIC	5%	18%
BERGEN	51%	28%
BURLINGTON	31%	30%
CAMDEN	19%	13%
CAPE MAY	7%	11%
CUMBERLAND	52%	26%
ESSEX	85%	40%
GLOUCESTER	18%	40%
HUDSON	1%	24%
HUNTERDON	15%	22%
MERCER	70%	23%
MIDDLESEX	54%	17%
MONMOUTH	11%	16%
MORRIS	61%	24%
OCEAN	21%	29%
PASSAIC	17%	30%
SALEM	60%	7%
SOMERSET*	23%	2%
SUSSEX	77%	40%
UNION	14%	13%
WARREN	30%	45%
STATEWIDE	34%	24%
As of 1-1-86	41%	25%

This section of the Overview of Criminal Calendar Performance is assigned the following values in computing of the "Overall Achievement - Relative Position" score:

Pre-Indictment	Post-Indictment
0 - 10 % = 4	0 - 10 % = 4
11 % - 20 % = 3	11 % - 20 % = 3
21 % - 30 % = 2	21 % - 30 % = 2
31 % - 40 % = 1	31 % - 40 % = 1
Over 40 % = 0	Over 40 % = 0

*Somerset County's pre-complaint screening program reduces filings by over 30% which affects the comparability of Somerset's performance in the pre-indictment current achievement measure.

OVERVIEW OF CRIMINAL CALENDAR PERFORMANCE - MAY 1, 1986

Backlog as Related to County Size

Backlog as Related to County Size is the number of active cases over current speedy trial goals divided by average annual filings to determine the size of the backlog measured against a stable denominator. Pre and post-indictment figures are in terms of persons.

County	Pre-Indictment			Post-Indictment		
	Over Goal	/ Filing	%	Over Goal	/ Filing	%
ATLANTIC*	189	/ 5245	4%	291	/ 2141	14%
BERGEN	537	/ 4863	11%	312	/ 2261	14%
BURLINGTON	157	/ 3200	5%	70	/ 1000	7%
CAMDEN	185	/ 5279	4%	159	/ 3535	4%
CAPE MAY	13	/ 1571	1%	28	/ 778	4%
CUMBERLAND	286	/ 1907	15%	330	/ 937	35%
ESSEX	3900	/ 10340	38%	2859	/ 6354	45%
GLOUCESTER	67	/ 1840	4%	484	/ 1212	40%
HUDSON	16	/ 8649	0%	237	/ 2256	11%
HUNTERDON	21	/ 547	4%	13	/ 376	3%
MERCER	908	/ 2836	32%	636	/ 2028	31%
MIDDLESEX	689	/ 4476	15%	329	/ 2565	13%
MONMOUTH	86	/ 5363	2%	55	/ 2260	2%
MORRIS	365	/ 1801	21%	144	/ 1021	14%
OCEAN	98	/ 2367	4%	143	/ 1147	12%
PASSAIC	92	/ 4448	2%	100	/ 2987	3%
SALEM	363	/ 1314	28%	9	/ 738	1%
SOMERSET	37	/ 644	5%	2	/ 518	0%
SUSSEX	55	/ 309	18%	61	/ 372	16%
UNION	111	/ 3416	3%	104	/ 2054	5%
WARREN	38	/ 792	5%	54	/ 556	10%
STATEWIDE	8,211	/71,256	12%	6,422	/35,841	18%
As of 1-1-86	9,474	/71,256	13%	7,086	/35,841	20%

This section of the Overview of Criminal Calendar Performance is assigned the following values in computing of the "Overall Achievement - Relative Position" score:

Pre-Indictment		Post-Indictment	
Goals	Scoring	Goals	Scoring
Jail Cases - 30 days	0 - 4 % = 4	Jail Cases - 60 days	0 - 4 % = 4
Bail Cases - 60 days	5 % - 9 % = 3	Bail Cases - 120 days	5 % - 9 % = 3
	10 % - 14 % = 2		10 % - 14 % = 2
	15 % - 19 % = 1		15 % - 19 % = 1
	Over 19 % = 0		Over 19 % = 0

*Atlantic County's over goal and filing figures include a portion of cases prosecuted by the Attorney General's Division of Criminal Justice.

OVERVIEW OF CRIMINAL CALENDAR PERFORMANCE - MAY 1, 1986

PRE-INDICTMENT CALENDAR CLEARANCE

(July 1, 1985 to May 1, 1986)

Calendar Clearance presents the court year to date clearance percentage, computed from the number of added and disposed defendants (persons). Active Pending figures include jail and non-fugitive bail cases.

County	Percent Cleared	Added	/ Disposed	Active Pending
ATLANTIC	99%	4,824	4,772	342
BERGEN	104%	4,091	4,263	1,368
BURLINGTON	96%	2,745	2,631	552
CAMDEN	102%	4,885	4,969	608
CAPE MAY	100%	741	740	55
CUMBERLAND	96%	1,791	1,713	479
ESSEX	74%	10,959	8,084	5,234
GLOUCESTER	93%	1,638	1,528	356
HUDSON	96%	8,713	8,385	660
HUNTERDON	93%	453	421	84
MERCER	113%	2,605	2,940	1,240
MIDDLESEX	91%	4,294	3,917	1,294
MONMOUTH	89%	5,483	4,868	434
MORRIS	79%	1,835	1,458	662
OCEAN	127%	2,193	2,776	202
PASSAIC	79%	4,129	3,274	507
SALEM	77%	1,187	910	450
SOMERSET	104%	768	799	133
SUSSEX	197%	252	497	99
UNION	88%	2,958	2,605	522
WARREN	93%	679	633	126
STATEWIDE	93%	67,223	62,183	15,423
As of 1-1-86	86%	41,334	35,714	16,838

This section of the Overview of Criminal Calendar Performance is assigned the following values in computing of the "Overall Achievement - Relative Position" score:

Over - 110 % = 3
100 % - 109 % = 2
90 % - 99 % = 1
0 % - 90 % = 0

OVERVIEW OF CRIMINAL CALENDAR PERFORMANCE - MAY 1, 1986

POST-INDICTMENT CALENDAR CLEARANCE

(July 1, 1985 to May 1, 1986)

Calendar Clearance presents the court year to date clearance percentage, computed from the number of added and disposed defendants (persons). Active Pending figures include jail and non-fugitive bail cases.

County	Percent Cleared	Added / Disposed		Active Pending
ATLANTIC	80%	2649	2126	789
BERGEN	109%	1947	2120	808
BURLINGTON	112%	727	813	249
CAMDEN	97%	2814	2730	862
CAPE MAY	100%	583	582	89
CUMBERLAND	80%	1054	845	551
ESSEX	88%	5766	5047	4496
GLOUCESTER	85%	912	779	723
HUDSON	106%	1942	2053	654
HUNTERDON	117%	201	235	67
MERCER	96%	1698	1634	1066
MIDDLESEX	100%	2045	2038	836
MONMOUTH	92%	2141	1965	609
MORRIS	86%	879	756	405
OCEAN	92%	1008	926	464
PASSAIC	104%	1571	1631	702
SALEM	81%	678	548	147
SOMERSET	96%	602	575	100
SUSSEX	82%	282	230	145
UNION	103%	1912	1966	614
WARREN	118%	365	430	191
STATEWIDE	95%	31,776	30,029	14,567
As of 1-1-86	95%	17,862	16,924	14,219

This section of the Overview of Criminal Calendar Performance is assigned the following values in computing of the "Overall Achievement - Relative Position" score:

0 % - 110 % = 3
100 % - 109 % = 2
90 % - 99 % = 1
Over - 90 % = 0

OVERVIEW OF CRIMINAL CALENDAR PERFORMANCE - MAY 1, 1986

MEDIAN TIME FROM ARREST TO DISPOSITION

(Jan., Feb., March 1986)

Median Time, for pleas and trials, is the median number of days from arrest to disposition by plea or verdict for those cases which were sentenced during the period listed above. A median is the middle point in a series of numbers when they are arranged in order of value (in this case age).

County	Median Age of Plea Cases	Median Age of Trial Cases
ATLANTIC	101 days	157 days
BERGEN	265 days	416 days
BURLINGTON	167 days	235 days
CAMDEN	152 days	232 days
CAPE MAY	97 days	106 days
CUMBERLAND	116 days	129 days
ESSEX	239 days	383 days
GLOUCESTER	245 days	492 days
HUDSON	127 days	172 days
HUNTERDON	153 days	199 days
MERCER	207 days	552 days
MIDDLESEX	185 days	270 days
MONMOUTH	138 days	162 days
MORRIS	204 days	122 days
OCEAN	143 days	206 days
PASSAIC	169 days	196 days
SALEM	169 days	210 days
SOMERSET	127 days	172 days
SUSSEX	177 days	253 days
UNION	141 days	175 days
WARREN	142 days	200 days
STATEWIDE	152 days	277 days
As of 1-1-86	155 days	264 days

This section of the Overview of Criminal Calendar Performance is assigned the following values in computing of the "Overall Achievement - Relative Position" score:

0 - 136 days = 4
136 - 180 days = 3
181 - 239 days = 2
240 - 299 days = 1
Over 299 days = 0

1986 JUDICIAL CONFERENCE TASK FORCE ON SPEEDY TRIAL

REPORT OF THE

COMMITTEE ON SPEEDY TRIAL GOALS

AND THE QUALITY OF CRIMINAL JUSTICE

Donald R. Belsole
First Assistant Attorney General
Committee Chairman

1986 JUDICIAL CONFERENCE TASK FORCE ON SPEEDY TRIAL

COMMITTEE ON SPEEDY TRIAL GOALS

AND THE

QUALITY OF CRIMINAL JUSTICE

MEMBERSHIP

CHAIRMAN: Donald R. Belsole, First Assistant Attorney General

MEMBERS: Hon. Robert Muir, Jr., J.A.D., t/a

Hon. Wilfred P. Diana, A.J.S.C.,
Somerset, Hunterdon and Warren Counties

Hon. Joseph Falcone, J.S.C., Essex County,
Passaic County Prosecutor and President of the
Statewide Prosecutor's Association at Time of
Appointment

Raymond M. Brown, Jr., Esq.

James Castagnoli, Criminal Case Manager
Gloucester, Cumberland and Salem Counties

Bradley J. Ferencz, Deputy Public Defender,
Middlesex County

Marcia Richman, Assistant Public Defender

Alan Rockoff, Middlesex County Prosecutor

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Division of Criminal Justice

Carol Henderson, Deputy Attorney General,
Division of Criminal Justice

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EXECUTIVE SUMMARY

There is little question that the Speedy Trial Program has reduced delay in disposition of criminal cases. This is precisely what it was intended to do.

But what has the impact of the program been on the quality of justice? Have the various case management methods made the system more efficient? Has the system itself suffered under the strain? Where do we go from here?

This committee was charged with the responsibility of addressing such questions. Included in the mandate were the closely related issues of whether the current time goals for disposition of cases should be reconsidered, and whether the system would require more resources. Other issues such as the need for mandatory appearances or conferences, have been dealt with in detail by other committees, and are commented upon herein insofar as they bear on the work of this committee.

The involvement of all members of the criminal justice system was essential to preparing an accurate assessment of the effect of Speedy Trial on the quality of justice. To this end the committee solicited the opinions of the judiciary, prosecutors, public defenders, and private defense attorneys concerning the effect of Speedy Trial procedures on their work and sort out their recommendations for the future.

The results of the survey are included in an accompanying report. While they indicate that most judges and prosecutors strongly believe that justice is ultimately being done, there is an equally strong belief, joined by defense counsel, that the vigorous pursuit of Speedy Trial goals has caused a serious strain on all participants. While some stress is inevitable in any process of change, the committee believes that the current situtation is conducive to the suggestions for some modifications as proposed by the various task force committees. In this respect the work of the task force is timely and much needed.

Speedy Trial Goals

The time goals for criminal cases adopted by the New Jersey Supreme Court, effective January 1, 1981, are as follows:

		Arrest to Indictment		Indictment to Dispositon		Total	
		Jailed/Bailed		Jailed/Bailed		Jailed/Bailed	
First Year Goals	In days:	40	80	80	160	120	240
Second Year Goals	In days:	30	60	60	120	90	180
Third Year Goals	In days:	30	45	60	90	90	135

These goals were intended to apply to all but "exceptional" cases, and it has generally been felt that about 80% of criminal cases fell into the category of cases covered by the goal. During 1982, in recognition that second year goals had not been achieved in many counties, the Statewide Speedy Trial Coordinating Committee recommended that third year goals be temporarily delayed.

Therefore, the operative goals for the state at this time are the so called second year goals.

The future of Speedy Trial and the realization of third year goals without a negative impact on the quality issues depends equally upon the commitment, cooperation and communication among all components of the system. As progress in some of the leading counties in Speedy Trial performance indicates, further reductions can be made in the Speedy Trial Program without any loss of quality. However this can only occur if all participants in the criminal justice system commit themselves to the program and work together. There must exist a cooperative atmosphere among all components of the program - from the AOC to the local police departments. This spirit of cooperation is essential to the continued success of Speedy Trial. Indeed, all the data from the counties indicate that when the participants cooperate and work together, the program is much more successful in meeting its goals.

An examination of the data available on criminal trial performance as of January 1, 1986, indicates that 41% of recently filed complaints were not indicted or otherwise disposed of within the 60 day time goal. Further, 25% of indictments did not achieve post-indictment goals. When these figures are examined according to county, the analysis reveals that on the pre-indictment level only seven counties, Atlantic, Cape May, Hudson, Monmouth, Ocean, Union

and Warren, are within 25% of second year goals and thus substantially achieved second year goals. However, seven counties, Bergen, Essex, Mercer, Middlesex, Morris, Salem and Sussex, were more than 50% over goal in the pre-indictment stage.

The post-indictment figures, while indicating overall a susbtantial compliance with second year goals, also reveal that a number of counties are experiencing difficulty in achieving second year goals. Eleven counties are within 25% of second year goals, while ten counties exceeded second year goals by more than 30%.

In view of the empirical data, which shows that the State criminal justice system is still significantly short of achieving second year goals, and in view of the results of the quality of justice survey regarding the amount of pressure experienced by the different branches of the criminal justice system as a result of Speedy Trial, it is recommended that second year goals remain in effect indefinitely. The commitee is aware that a number of counties have been able to achieve and surpass second year goals and we applaud these efforts. However, it is readily apparent that for the majority of counties, it would be futile to impose the third year goal of 135 days from arrest to disposition when they have, to date, been unable to reach the second year goal of 180 days.

It is obvious that the system and its resources are experiencing enough of a strain at the level of second year goals that a progression to third year goals is not realistic at this time. This is not to say, however, that those counties which have been able to achieve second year goals should now abandon their commendable efforts and remain stagnant at the 180 day goal. On the contrary, these counties should be encouraged to proceed to the third year level, guided by the thought that the realization of these goals is advantageous to all participants in the criminal justice system and that eventually all counties will be striving towards this identical goal. <u>It is recommended that until the third year goals become operational on a statewide basis, the local planning committees should determine when their county is able to move on to this level</u>.

The recommendation to remain at second year goals recognizes the perception that more attention need be paid to qualitative aspects of caseflow. It represents the committee's commitment to recommend modifications which will tend to convert these perceptions into reality by encouraging a melding to the local planning process. It must also be emphasized that New Jersey's current second year goal of 180 days is consistent with a nationally accepted standard set by the Conference of State Court Administrators (COSCA) although the American Bar Association standard is 120 days from arrest to disposition for routine (90%) felony cases, and one month for routine misdemeanors.

Of the 16 states that have established case processing standards, ten have adopted 180 days as their arrest to disposition goal, one has adopted a goal of one year, three have accepted a goal of 120 days and one state* operates with a goal of 90 days. It should also be noted that New Jersey is one of a minority of states which requires indictment for all crimes, and this should be considered in evaluating the feasibility of various goals.

Cooperation and Local Involvement

As noted previously, the key to the smooth operation of Speedy Trial and the realization of goals is the commitment and cooperation of all the participants. This spirit of cooperation was also recognized by the other committees of this task force to be vital to the success of early case management. Standard 2.1[1] recommended by the Post-Indictment Innovations Subcommittee, specifically focuses on the need for cooperation between all components of the system, and this committee adopts that standard by

[1] STANDARD 2.1 THE DEVELOPMENT OF CRIMINAL CASE PROCESSING SYSTEMS, WITHIN THE FRAMEWORK OF COURT RULES, SHOULD RESULT FROM THE FULL PARTICIPATION AND, IF POSSIBLE, CONSENSUS, OF THE INTEGRAL COMPONENTS INVOLVED. AN ESSENTIAL ASPECT OF COOPERATION AND COORDINATION ON THE ADMINISTRATIVE LEVEL IS A MUTUAL RESPECT FOR THE INTERESTS AND RESPONSIBILITIES OF EACH PARTICIPANT. AS IMPORTANT AS THE PROCEDURES AND MANAGEMENT SYSTEMS DEVELOPED IS A RECOGNITION OF THE NEED TO CULTIVATE THE COOPERATION OF THOSE INVOLVED.

*Vermont

reference. It is essential that the integral components of the system, i.e., the judiciary, prosecutors and defense bar, work together, otherwise the program will not work in the post-indictment stage. In the pre-indictment area, it is important that local police departments, municipal courts; support staff and state police laboratories all understand that timely completion of their jobs will greatly assist the goals of Speedy Trial.

For example, in Monmouth County a forum was initiated between the prosecutor's office and the municipal court clerks for the purpose of discussing ways of expediting the paperwork necessary to process criminal complaints. The forum resulted in the development of a new intake system between the prosecutor's office and the local courts which allowed for a free flow of information and facilitated problem solving on a daily basis. The success of this program resulted in the expansion of this forum to the secretaries within each police department who were responsible for forwarding the paperwork to the prosecutor's office. This effort was also successful due to the cooperation of all involved.

This dialogue process is vital to the continued success of Speedy Trial and should be developed on the local level among the major participants of the criminal justice system. The results of this committee's quality of justice survey indicate that many prosecutors, public defenders and private defense attorneys do not believe that Speedy Trial has

enhanced communication among the components of the system. This is one area at which Speedy Trial must now focus its efforts. To promote communication at the local level between the integral components of the system, the county planning groups should initiate forums where all the participants may voice their concerns or problems with the program as it now exists.

It must be remembered that the ultimate goal of Speedy Trial - the timely disposition of criminal charges - is to everyone's advantage. In the attempt to reach this goal, however, the rights of the defendant and the interests of justice must not be sacrificed. Unfortunately, the survey reveals that most of the defense bar believe such sacrifices have been made. Their complaints of pressure and of impairment of defendant's rights cannot be ignored if the program is to proceed any further. The involvement of these individuals with the other components of the system in a forum conducted on local and statewide levels may generate ideas on how to alleviate the problems existing in the program, and how to develop suggestions for moving on to third year goals without any loss in the quality of justice.

Pre-Indictment Goals

The other two committees of this task force dealt to a degree with the concern over pre-indictment delays due to the late receipt of laboratory and police reports. The

first committee, chaired by the Honorable Burrell Ives Humphreys, A.J.S.C., recommended the adoption of Standard 1.1c which noted that early receipt of police reports is essential for efficient case management at the pre-indictment stage of a case. The third committee, chaired by the Honorable Edwin H. Stern, J.A.D., recommended as part of their pre-indictment goals that police reports be received one week from the date of the filing of the complaint, and that committee further recommended that laboratory reports be received no more than two weeks from the date of the submission of the request for testing. (See Standard 5.1.) This committee shares the concerns of the other committees regarding delays in the receipt of reports and agrees that endeavors to reduce the amount of time involved in receiving police and laboratory reports are necessary and should be undertaken.

Mandatory Court Appearances

Similarly, with respect to the question of mandatory court appearances, this committee, like the other committees of the task force, did not believe that such appearances should be eliminated. All three committees share the opinion that pretrial conferences and in-court arraignments can be a useful means to effectuate early case management. As Judge Humphreys' committee has astutely reported, if these procedures are properly utilized, matters such as exchanges of discovery and the assignment of counsel to a defendant

are easily and efficiently carried out. However, it has been suggested that in those counties providing efficient early case management without the necessity of formal in-court appearances, applications can be made for the relaxation of the mandatory in-court appearances by R. 3:9-1 and R. 3:13-1(a).

Two counties have already developed innovative alternatives to the mandatory court appearance rules. Atlantic County has implemented an intake interview process to supplement the formal in-court arraignment. Union County is similarly experimenting with an early individualized case management plan in which selected cases will be conferenced before indictment and, thereafter, the parties will be required only to certify that meaningful negotiations have occurred. It is hoped that such innovative procedures, along with the encouraging development of central judicial processing courts in many counties, will alleviate the need for multiple in-court appearances while promoting and preserving the efficiency of early case management.

Resources

The issue of resources was one that the committee felt deserved further study. The results of the quality of justice survey demonstrated that most participants in the criminal justice system believed that additional resources are needed. However, the time contraints facing this committee made it impossible to do any detailed analysis of

the issue of resource deficiencies and needs. This committee strongly recommends that a study of resource needs and utilization be conducted. In addition, this study could examine available data to determine whether there is any relationship between the amount of resources in a given county and that county's ability to meet its Speedy Trial goals. Efforts should also be made to identify those areas in particular need of specific resources. As the Committee on Speedy Trial 1980-1986 noted, backlog reductions generally require some additional resources to conference or try backlog cases. The Statewide Speedy Trial Coordinating Committee has further recognized this, and has provided funding resources for backlog reductions in affected counties. Resources are also generally needed to assist in implementing innovative procedures, such as the Central Judicial Processing (CJP) programs which are becoming more popular in the pre-indictment area. Finally, the trial of large or complicated cases consume major portions of available resources, and can paralyze small or moderate sized counties.

While Speedy Trial has resulted in reduced delay and backlogs, the relationship between resources and quality must not be overlooked. A plea may take little time, however, the delivery of services to victims and accommodation of witnesses and the general public and the provision of an administrative environment where the full

panoply of due process events is readily available to defendants who wish to fully exercise their rights, may, and likely will, require some additional resources to create a more efficient and effective system.

INTRODUCTION

One of the areas this Committee was asked to address and evaluate was the impact of Speedy Trial on the quality of criminal justice administration. The Committee was aware that undertaking an evaluation of something as amorphous as the quality of justice would not be an easy task. It was necessary to define in some sense what justice entails and the interests that are important to a quality criminal justice system. The Committee did not believe that justice could be evaluated by merely studying the conviction/acquittal rate in each county since the advent of Speedy Trial. Such information is of course useful but it must be weighed in conjunction with other equally important considerations.

Some of the interests which the Committee believed ought to be considered in such an evaluation included: whether the rights of the accused were being compromised or were not being adequately represented because of time constraints; whether the interests of the victims and witnesses were adequately served and protected; whether the program was resulting in innocent defendants being convicted or guilty defendants being acquitted; and whether the pressure exerted on the participants involved in Speedy Trial, i.e., the judiciary, public defenders, private bar and prosecutors, has impaired their ability to adequately perform their jobs.

With these considerations in mind, the Committee decided to solicit the opinions of those individuals most involved in Speedy Trial through the use of a survey questionnaire.

A similar survey was conducted in 1983 by Judge Kramer's committee on quality control and the survey elicited 61 responses. While the number of responses to the Kramer survey may seem small, the comments contained in those responses served as a foundation for constructing some of the questions and statements used in the present questionnaire. A survey instrument was designed and subsequently approved by the Committee. It was distributed to the assignment judges, county prosecutors and regional public defenders with instructions to distribute them to members of their office or vicinage. Questionnaires were also sent to a sample of 826 private attorneys selected from combined membership rosters of the Criminal Law Section of the State Bar Association, the Criminal Defense Association, and the list of certified criminal trial attorneys.[1]

The rate of response to the survey was quite encouraging. Overall the Committee received 728 responses; considering each of the four groups surveyed, responses were received from 59.6% of the prosecutors (308), 68.3% of the public defenders (149), 21.8% of the private bar (180) and

[1]The lists were combined in an effort to avoid duplicitous mailings since it was recognized that many of the same individuals would appear on multiple mailing lists.

70.0% of the judges (91).[2] The responses to each question were tabulated for each of those four groups. These tabulations, along with a copy of the questionnaire, are attached as an appendix to this report. The survey also included two open-ended questions regarding the affect of Speedy Trial on the quality of justice and future recommendations for Speedy Trial. These questions elicited responses from a substantial number of those surveyed, with 212 individuals providing written comments to the quality of justice question, and 315 responding to the future recommendation question. A summary of these responses was prepared and is included in this report.

In order to facilitate communication of the large volume of information generated by this survey, individual survey items have been grouped into more general substantive areas for purposes of this report. The areas reported include:

1) Justice - perceptions of the criminal justice system as they relate to observations regarding the outcome of criminal cases.

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[2]Response rates for the prosecutor and public defender groups are based on the total number of persons occupying these positions in each vicinage. The true response rate is actually higher than reported herein. While each county prosecutor and public defender received questionnaires for their entire staff, they were in some counties distributed only to those individuals having some experience with criminal trials and Speedy Trial. Similarly, the assignment judges of each county were instructed to only give the survey to the trial judges with criminal experience and familiarity with Speedy Trial.

2) Program Efficiency - perceptions on how the system operates administratively and the use of current resources.

3) Program Goal Emphasis - the amount and degree of pressure experienced by participants in the program and how it effects their ability to perform their job.

4) System Rates - perceptions concerning the impact of Speedy Trial on overall methods or manners of case disposition. These perceptions are reported along with information regarding any actual changes in these rates.

5) General Program Assessment - a combination of two open ended and two closed ended questions designed to elicit overall or summative opinions of the respondents regarding operation of the program to date, as well as its operation in the future.

Within each area, results are reported individually for judges, prosecutors, public defenders, and private attorneys. Each of these sections is preceded by a set of general observations regarding the responses of each of the four groups. The items so noted reflect only those for which a consensus of opinion was reported by an absolute majority of all persons responding. Where applicable, summary sections are included in the report to provide selected comparisons of the responses received from the four professional groups.

Summary Findings

The judges and prosecutors surveyed strongly believe that the quality of justice has not suffered as a result of the Speedy Trial Program. However, the public defenders and private attorneys who responded disagreed with judges and prosecutors regarding specific quality of justice survey items. Judges and prosecutors overwhelmingly report that innocent defendants are not pleading guilty, and that the program has not resulted in the rights of defendants being compromised. A contrary opinion is voiced by a majority of public and private defense attorneys who believe that the program has compromised defendants' rights. Judges, public defenders and private attorneys are in almost unanimous agreement that guilty defendants are being convicted, while prosecutors are divided on that issue.

Responses to survey items pertaining to program efficiency indicate that judges generally believe the system has become more efficient as a result of the Speedy Trial Program. They believe that the program has eliminated delay and unnecessary steps in the processing of cases, and allows all parties to move cases quickly to trial if they so desire. The opinions of the other three groups were generally in disagreement with the judges regarding the elimination of wasted time and unnecessary delay. Most prosecutors, however, agreed with judges that the program does not require too many court appearances, while defense attorneys believe that it does. Defense attorneys, on the

other hand, agree with judges that more case screening could be employed. Judges, prosecutors, and public defenders all agree that increased resources would substantially reduce problems associated with case processing.

A number of survey items were concerned with the program's emphasis on goals, any pressure resulting from that emphasis and how such might effect the job performance of those responding. It is evident from the responses to these items that those in all segments of the criminal justice system are experiencing pressure as a result of the program. Generally, there is a strong consensus among all respondents that the Speedy Trial Program is exerting great pressure to dispose of cases, is more concerned with numbers than people, and threatens the individuality of cases. While prosecutors and defense attorneys do not believe that they have adequate time to prepare cases, judges are not in agreement with that contention. However, while defense attorneys feel that judges do not grant needed extensions, prosecutors are in agreement with judges that such extensions are in fact granted.

JUSTICE

The survey instrument contains nine items designed to yield information pertaining to perceptions of the impact of the Speedy Trial Program on justice as it relates to observations regarding the outcome of criminal cases. These items include:

- The Speedy Trial Program results in innocent defendants pleading guilty.
- The rights of defendants have been compromised by this program.
- The repeat defendant benefits from the Speedy Trial Program.
- The Speedy Trial Program results in guilty defendants not being convicted.
- First time defendants suffer as a result of the Speedy Trial Program.
- Have defendants suffered or benefited as a result of the Speedy Trial Program?
- Has the public at large suffered or benefited as a result of the Speedy Trial Program?
- Have victims of crime suffered or benefited as a result of the Speedy Trial Program?
- Have witnesses suffered or benefited as a result of Speedy Trial?

Judges

- In general, judges are of the opinion that:
  - guilty defendants are convicted;
  - defendants, the general public, victims and witnesses have benefited as a result of the Speedy Trial Program; and
- judges do not feel that:
  - innocent defendants are pleading guilty;
  - the rights of defendants are being compromised; and
  - first time defendants suffer as a result of the program.

TABLE 1. REPONSES TO JUSTICE RELATED SURVEY ITEMS
JUDGES (PERCENT)

JUSTICE	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
INNOCENT DEFENDANTS PLEAD GUILTY.	62.6	25.3	87.9 %	6.6 %	5.5 %	5.5	0.0
DEFENDANTS RIGHTS HAVE BEEN COMPROMISED.	56.7	22.2	78.9 %	5.6 %	15.5 %	13.3	2.2
REPEAT DEFENDANTS BENEFIT.	15.7	14.6	30.3 %	41.6 %	28.1 %	19.1	9.0
GUILTY ARE NOT BEING CONVICTED.	40.7	39.6	80.3 %	12.1 %	7.7 %	6.6	1.1
FIRST TIME DEFENDANTS SUFFER.	46.2	26.4	72.6 %	22.0 %	5.5 %	5.5	0.0

	Suffer Greatly	Suffer Somewhat	TOTAL SUFFER	NO OPINION	TOTAL BENEFIT	Benefit Somewhat	Benefit Greatly
DEFENDANTS	0.0	8.7	8.7 %	22.3 %	69.0 %	56.0	13.0
PUBLIC	2.2	7.9	10.1 %	20.2 %	69.6 %	39.3	30.3
VICTIMS	1.1	9.2	10.3 %	24.2 %	65.5 %	41.4	24.1
WITNESSES	0.0	5.7	5.7 %	24.1 %	70.1 %	48.3	21.8

- Of the 91 judges responding to the survey, 87.9% are confident that innocent defendants do not plead guilty as a result of the Speedy Trial Program. (Table 1).

- In addition, 78.9% do not believe that the Speedy Trial Program has compromised the rights of defendants. (Table 1).

- The judges responding to the survey are clearly divided on the issue of whether or not repeat defendants benefit from the Speedy Trial Program. Although 41.6% of the judges expressed no opinion, 30.3% do not believe that the repeat defendant benefits, and an almost equal number (28.1%) do believe that repeat defendants benefit as a result of Speedy Trial. (Table 1).

- Judges firmly agree (80.3%) that guilty defendants are being convicted. (Table 1).

- In addition, judges (72.6%) are not of the opinion that first time defendants suffer as a result of the Speedy Trial Program. (Table 1).

- In response to the survey items pertaining to how defendants, the general public, victims and witnesses have been affected by the Speedy Trial Program, the general consensus of the judges responding was that all have benefited as a result of Speedy Trial. (Table 1).

- More specifically, 69.0% of the judges believe that defendants have benefited, 69.6% believe the general public has benefited, 65.5% believe the crime victim has benefited, and 70.1% believe that witnesses have been positively impacted by the Speedy Trial Program. (Table 1).

Prosecutors

- In general, prosecuting attorneys agree that:
  - defendants as a group have benefited as a result of the Speedy Trial Program; and
- prosecuting attorneys do not believe that:
  - innocent defendants are pleading guilty;
  - defendants rights are compromised; and
  - first time defendants suffer as a result of the program.

TABLE 2. REPONSES TO JUSTICE RELATED SURVEY ITEMS PROSECUTORS (PERCENT)

JUSTICE	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
INNOCENT DEFENDANTS PLEAD GUILTY.	79.2	7.8	87.0 %	9.4 %	3.6 %	2.3	1.3
DEFENDANTS RIGHTS HAVE BEEN COMPROMISED.	72.3	15.6	87.9 %	5.5 %	6.5 %	5.2	1.3
REPEAT DEFENDANTS BENEFIT.	6.2	23.6	29.8 %	33.1 %	37.1 %	24.6	12.5
GUILTY ARE NOT BEING CONVICTED.	11.2	24.0	35.2 %	24.0 %	40.8 %	34.2	6.6
FIRST TIME DEFENDANTS SUFFER.	40.7	35.8	76.5 %	17.9 %	5.5 %	3.9	1.6
	Suffer Greatly	Suffer Somewhat	TOTAL SUFFER	NO OPINION	TOTAL BENEFIT	Benefit Somewhat	Benefit Greatly
DEFENDANTS	0.0	8.7	8.7 %	22.3 %	69.0 %	56.0	13.0
PUBLIC	9.4	22.7	32.1 %	34.8 %	33.1 %	25.1	8.0
VICTIMS	12.0	24.9	36.9 %	23.3 %	39.9 %	31.6	8.3
WITNESSES	10.2	22.6	32.8 %	25.9 %	41.2 %	32.6	8.6

- More specifically, 87.0% of the prosecutors responding to the survey do not believe that innocent defendants plead guilty, with almost 4 of every 5 (79.2%) expressing strong disagreement. (Table 2).

- In addition, prosecutors overwhelmingly disagree (87.9%) that the rights of defendants are being compromised as a result of the Speedy Trial Program. (Table 2).

- The prosecutors hold opposing views regarding whether or not the Speedy Trial Program benefits the repeat defendant. While the plurality of prosecutors (37.1%) agree that the repeat defendant does benefit from the program, almost as many (33.1%) express no opinion, and 29.8% disagree. (Table 2).

- Similarly, while 40.8% of the prosecutors responding to the survey believe that guilty defendants are not being convicted as a result of the Speedy Trial program, almost one of four (24.0%) have formulated no opinion and more than one-third 35.2% believe that the guilty are being convicted. (Table 2).

- More than 3 of every 4 prosecutors (76.5%) do not believe that first time defendants suffer as a result of the Speedy Trial Program. (Table 2).

- Although prosecutors agree (69.0%) that defendants have benefited from the Speedy Trial Program, they have formulated no clear opinion regarding how the public, crime victims or witnesses have fared as a result of the program. (Table 2).

Public Defenders

- In general, public defenders agree that:
  - defendants' rights are being compromised;
  - guilty defendants are being convicted;
  - first time defendants suffer;
  - defendants as a group have suffered as a result of the Speedy Trial Program; and
- public defenders do not believe that:
  - repeat defendants benefit from the program.

TABLE 3. REPONSES TO JUSTICE RELATED SURVEY ITEMS
PUBLIC DEFENDER (PERCENT)

JUSTICE	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
INNOCENT DEFENDANTS PLEAD GUILTY.	15.4	19.5	34.9 %	18.8 %	46.3 %	32.9	13.4
DEFENDANTS RIGHTS HAVE BEEN COMPROMISED.	10.1	10.1	20.2 %	12.1 %	67.8 %	29.5	38.3
REPEAT DEFENDANTS BENEFIT.	24.0	28.8	52.8 %	27.4 %	19.8 %	11.6	8.2
GUILTY ARE NOT BEING CONVICTED.	48.0	23.6	71.6 %	18.9 %	9.5 %	5.4	4.1
FIRST TIME DEFENDANTS SUFFER.	7.4	23.6	31.0 %	18.2 %	50.7 %	31.8	18.9

	Suffer Greatly	Suffer Somewhat	TOTAL SUFFER	NO OPINION	TOTAL BENEFIT	Benefit Somewhat	Benefit Greatly
DEFENDANTS	29.5	38.9	68.4 %	16.8 %	14.8 %	14.8	0.0
PUBLIC	5.4	14.3	19.7 %	60.5 %	19.8 %	18.4	1.4
VICTIMS	4.7	13.5	18.2 %	58.8 %	22.9 %	20.9	2.0
WITNESSES	4.7	21.6	26.3 %	52.0 %	21.6 %	19.6	2.0

- Of the total 149 public defenders responding to the survey, 46.3% agree that innocent defendants are pleading guilty. However, 34.9% disagree and almost one of five (18.8%) expressed no opinion. (Table 3).

- In addition, more than two of every three public defenders (67.8%) agree that the rights of defendants are compromised by the Speedy Trial Program. (Table 3).

- More than half (52.8%) of the public defenders responding disagree with the statement that repeat defendants benefit as a result of Speedy Trial. (Table 3).

- Public defenders concur that guilty defendants are convicted. Of the total, 71.6% believe that the guilty are convicted, and almost half (48.0%) strongly agree. (Table 3).

- In general, public defenders are of the opinion that the first time defendant suffers as a result of Speedy Trial (50.7%), although 31.0% disagree. (Table 3).

- While 68.4% of the public defenders responding to the survey believe that defendants have been adversely affected by the Speedy Trial Program, more than half have no opinion as to how the public (60.5%), crime victims (58.8%) or witnesses (52.0%) have similarly been affected. (Table 3).

Private Attorneys

- In general, private defense attorneys are of the opinion that:
  - the rights of defendants are being compromised;
  - guilty defendants are being convicted;
  - first time defendants do suffer; and
  - defendants, in general, have suffered as a result of the Speedy Trial Program.

TABLE 4. RESPONSES TO JUSTICE RELATED SURVEY ITEMS PRIVATE DEFENSE ATTORNEYS (PERCENT)

JUSTICE	DISAGREE STRONGLY	DISAGREE SOMEWHAT	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	AGREE SOMEWHAT	AGREE STRONGLY
INNOCENT DEFENDANTS PLEAD QUILTY.	28.7 %	15.7 %	44.4 %	25.3 %	30.4 %	22.5 %	7.9 %
DEFENDANTS RIGHTS HAVE BEEN COMPROMISED.	7.3 %	14.5 %	21.8 %	7.8 %	70.4 %	40.8 %	29.6 %
REPEAT DEFENDANTS BENEFIT.	17.9 %	24.6 %	42.5 %	48.6 %	8.9 %	7.8 %	1.1 %
GUILTY ARE NOT BEING CONVCITED.	41.3 %	27.4 %	68.7 %	24.6 %	6.7 %	5.6 %	1.1 %
FIRST TIME DEFENDANTS SUFFER.	6.2 %	21.3 %	27.5 %	21.9 %	50.5 %	29.2 %	21.3 %

	SUFFER GREATLY	SUFFER SOMEWHAT	TOTAL SUFFER	NO OPINION	BENEFIT TOTAL	BENEFIT SOMEWHAT	BENEFIT GREATLY
DEFENDANTS	18.6 %	55.4 %	74.0 %	13.6 %	12.4 %	10.7 %	1.7 %
PUBLIC	6.2 %	6.2 %	12.4 %	54.8 %	32.7 %	29.9 %	2.8 %
VICTIMS	4.0 %	7.3 %	11.3 %	50.3 %	38.3 %	33.3 %	5.0 %
WITNESSES	3.4 %	11.4 %	14.8 %	47.7 %	37.5 %	30.7 %	6.8 %

- While 44.4% of the defense attorneys responding to the survey do not believe that the innocent are pleading guilty, one-fourth (25.3%) express no opinion and almost one-third (30.4%) do in fact believe that the innocent defendant pleads guilty. (Table 4).

- In addition, 70.4% agree that the Speedy Trial Program has resulted in the rights of defendants being compromised. (Table 4).

- While almost half (48.6%) of the private defense attorneys responding to the survey have no opinion as to whether or not the repeat defendant benefits from the Speedy Trial Program; only 8.9% believe that they do benefit. (Table 4).

- Members of the private bar agree (68.7%) that guilty defendants are being convicted, although almost one of four (24.6%) have no opinion. (Table 4).

- Half of the private bar respondents (50.5%) believe that first time defendants do suffer as a result of the Speedy Trial Program. However, more than one of every four (27.5%) do not believe the first time defendant suffers, and one in five (21.9%) have no opinion. (Table 4).

- While members of the private bar (74.0%) believe that defendants have suffered since the implementation of the Speedy Trial Program, they generally have no opinion as to how the public (54.8%), victim (50.3%) or witness (47.7%) have been affected. (Table 4).

- However, the majority of private attorneys who have formulated an opinion agree that the public (32.7%), victims (38.3%) and witnesses (37.5%) have benefited as a result of the Speedy Trial Program. (Table 4).

Summary

The initial analysis of survey data relating to the perceptions of the impact of the Speedy Trial Program on the quality of justice suggests that responses to specific justice related items appear aligned, as would be expected, with perspectives consistent with the respondents function within the criminal justice system.

Prosecutors (87.0%) and judges (87.9%) overwhelmingly report that innocent defendants are not pleading guilty as a result of Speedy Trial. There is, however, no agreement that such is the case by the public defenders and private defense attorneys responding to the survey. Public defenders (46.3%) are more likely to agree that innocent defendants are pleading guilty, than are members of the private bar (30.4%). Defense attorneys, including both public defenders (19.8%) and private attorneys (25.3%) are more than twice as likely to have no opinion regarding the innocent pleading guilty than either prosecutors (9.4%) or judges (6.6%).

Diverging opinions among the four occupational groupings were not uncommon regarding several other items in this area. Neither prosecutors (87.9%) nor judges (78.9%) believe that the Speedy Trial Program has compromised the rights of defendants. However, public defenders (67.8%) and private defense attorneys (70.4%) are of the opinion that this has in fact occurred. Further observation indicates that public defenders (38.3%) are somewhat more inclined to strongly agree that the rights of defendants are compromised by Speedy Trial than are private attorneys (29.6%).

Concerning a related item, very few public defenders (9.5%), judges (7.7%) and private attorneys (6.7%) are of the opinion that the guilty are not being convicted. By contrast, two out of every five (40.8%) prosecutors believe that the program has had such a result.

While a substantial proportion of prosecutors (76.5%) and judges (72.6%) do not feel that first time defendants suffer, about half of the private defense attorneys (50.5%) and public defenders (50.7%) do in fact believe that first time defendants suffer as a result of the Speedy Trial Program.

As to how defendants, the public, victims and witnesses have fared as a result of Speedy Trial, judges believe that all have benefited substantially as a result of the Speedy Trial Program. While prosecutors (69.0%) believe that defendants have benefited from the program, public defenders (68.4%) and private attorneys (74.0%) are of the opinion that Speedy Trial has had a negative impact on defendants. Overall, there was little agreement among prosecutors, public defenders or private defense attorneys as to how the public, crime victims or witnesses have been affected as a result of Speedy Trial.

PROGRAM EFFICIENCY

There are nine items contained in the survey which are designed to assess the efficiency of the Speedy Trial Program and resources. The following items relate specifically to how the system operates administratively and utilizes available resources.

- Needless time and money are still being spent on cases that could be screened out.
- Speedy Trial has found ways to eliminate wasted time and unnecessary delay in the system.
- Speedy Trial has enabled defense attorneys to move cases quickly to trial if they so desire.
- If more resources were added, many of the problems would be substantially reduced.
- The program has made it possible for defendants to obtain a trial more quickly.
- Speedy Trial has enabled prosecutors to move cases quickly to trial if they so desire.
- The local planning process has enhanced communication among the various components of the criminal justice system.
- Speedy Trial has eliminated unnecessary steps in the criminal process.
- Too many court appearances are required.

Judges

- Judges are of the opinion that the affects of the Speedy Trial Program are:
  - the elimination of wasted time and unnecessary delay in the system;
  - defense attorneys and prosecutors are able to move cases quickly to trial if they so desire;
  - a need for additional resources to reduce problems.
  - the ability of defendants to obtain trials more quickly;
  - enhanced communication among the components of the criminal justice system;
  - the elimination of unnecessary steps in the criminal justice process; and
- judges do not agree:
  - that too many court appearances are required.

TABLE 5. RESPONSES TO SURVEY ITEMS RELATING TO PROGRAM EFFICIENCY JUDGES (PERCENT)

PROGRAM EFFICIENCY	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
TIME AND MONEY STILL SPEND ON CASES THAT COULD BE SCREENED OUT.	6.6	24.2	30.8 %	22.0 %	47.3 %	37.4	9.9
ELIMINATES WASTED TIME AND UNNECESSARY DELAY.	3.4	10.1	13.5 %	13.5 %	73.0 %	44.9	28.1
DEFENSE CAN MOVE CASES QUICKLY TO TRIAL.	1.1	6.7	7.8 %	10.1 %	82.1 %	50.6	31.5
MORE RESOURCES WOULD REDUCE PROBLEMS.	3.4	11.2	14.6 %	24.7 %	60.7 %	43.8	16.9
DEFENDANTS CAN OBTAIN TRIALS MORE QUICKLY.	0.0	1.1	1.1 %	5.6 %	93.3 %	51.7	41.6
PROSECUTORS CAN MOVE CASES QUICKLY TO TRIAL	1.1	5.6	6.7 %	7.9 %	85.4 %	58.4	27.0
PLANNING HAS INCREASED COMMUNICATION.	2.2	5.5	7.7 %	24.2 %	68.2 %	40.7	27.5
ELIMINATED UNNECESSARY STEPS IN PROCESS.	2.2	15.4	17.6 %	16.5 %	66.0 %	49.5	16.5
TOO MANY COURT APPEARANCES REQUIRED.	23.1	33.0	56.1 %	15.4 %	28.6 %	25.3	3.3

- More specifically, almost three-fourths (73.0%) of the 91 judges responding to the survey believe that the Speedy Trial Program has found ways to eliminate wasted time and unnecessary delay in the system. (Table 5).

- Also, judges overwhelmingly concur that, as a result of Speedy Trial, both prosecutors (85.4%) and defense attorneys (82.1%) are able to move cases to trial quickly if they so desire. (Table 5).

- Furthermore, more than 9 of every 10 judges (93.3%) responding, feel that the Speedy Trial Program has made it possible for defendants to obtain trials more quickly. (Table 5).

- Almost two-thirds (60.7%) of the judges indicate that if additional resources were available, many of the problems would be substantially reduced. However, almost one-fourth (24.7%) have no opinion as to whether added resources would, in fact, reduce problems. (Table 5).

- Similarly, more than two of every three (68.2%) judicial respondents concur that the local planning process has enhanced communication among the various components of the criminal justice system. Again, almost one-fourth (24.2%) report no opinion. (Table 5).

- Judges clearly believe (66.0%) that the Speedy Trial Program has eliminated unnecessary steps in the criminal justice process. (Table 5).

- In addition, they do not believe (56.1%) that the program requires too many court appearances. (Table 5).

- There was no consensus among judges as to whether needless time and money are still being spent on cases that could otherwise be screened out. (Table 5).

Prosecutors

- In general, prosecutors believe that:
  - defense attorneys can move cases more quickly to trial if they so desire;
  - problems would be substantially reduced if more resources were added;
  - it is possible for defendants to obtain trials more quickly; and
- prosecutors do not feel that:
  - unnecessary steps in the criminal justice system have been eliminated; and
  - too many court appearances are required as a result of the Speedy Trial Program.

TABLE 6. RESPONSES TO SURVEY ITEMS RELATING TO PROGRAM EFFICIENCY PROSECUTORS (PERCENT)

PROGRAM EFFICIENCY	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
TIME AND MONEY STILL SPEND ON CASES THAT COULD BE SCREENED OUT.	15.2	29.7	44.9 %	22.1 %	33.0 %	25.4	7.6
ELIMINATES WASTED TIME AND UNNECESSARY DELAY.	18.8	28.0	46.8 %	14.5 %	38.8 %	32.6	6.2
DEFENSE CAN MOVE CASES QUICKLY TO TRIAL.	10.8	13.4	24.2 %	21.6 %	54.1 %	39.3	14.8
MORE RESOURCES WOULD REDUCE PROBLEMS.	8.2	15.7	23.9 %	19.3 %	56.7 %	29.8	26.9
DEFENDANTS CAN OBTAIN TRIALS MORE QUICKLY.	6.8	15.0	21.8 %	14.0 %	64.1 %	48.5	15.6
PROSECUTORS CAN MOVE CASES QUICKLY TO TRIAL	20.5	28.6	49.1 %	13.6 %	37.4 %	31.2	6.2
PLANNING HAS INCREASED COMMUNICATION.	13.2	18.8	32.0 %	38.9 %	29.1 %	25.1	4.0
ELIMINATED UNNECESSARY STEPS IN PROCESS.	20.6	31.0	51.6 %	23.9 %	24.5 %	21.9	2.6
TOO MANY COURT APPEARANCES REQUIRED.	14.8	35.4	50.2 %	22.6 %	27.3 %	20.7	6.6

- Of the total 308 prosecutors responding to the survey, 54.1% agree that the Speedy Trial Program has enabled defense attorneys to move cases quickly to trial if they so desire. (Table 6).

- In addition, most prosecutors agree (56.7%) that additional resources would substantially reduce the problems associated with the Speedy Trial Program. (Table 6).

- Almost two-thirds (64.1%) of the prosecutors responding believe that Speedy Trial has made it possible for defendants to obtain trials more quickly. (Table 6).

- In addition, slightly more than half (51.6%) of the prosecutors do not feel that Speedy Trial has eliminated unnecessary steps in the criminal process. (Table 6).

- Of those prosecutors responding, more than half (50.2%) do not believe that too many court appearances are required as a result of the Speedy Trial Program. (Table 6).

- With respect to the other items regarding program efficiency, no clear consensus emerges from the prosecutors' responses. As a group, their views are substantially divided concerning the program's efforts to eliminate unnecessary delay, adequately screen cases, and enhance communication among system components. (Table 6).

Public Defenders

- Public defenders are of the opinion that as a result of the Speedy Trial Program:
  - needless time and money are still being spent on cases which could be screened out;
  - increased resources would reduce problems;
  - prosecutors are able to move cases quickly to trial;
  - there are still unnecessary steps in the criminal justice process;
  - too many court appearances are required; and
- public defenders do not feel that:
  - wasted time and unnecessary delay have been eliminated;
  - defense attorneys can move cases to trial quickly; and
  - that it is possible for defendants to obtain trials more quickly.

TABLE 7. RESPONSES TO SURVEY ITEMS RELATING TO PROGRAM EFFICIENCY PUBLIC DEFENDERS (PERCENT)

PROGRAM EFFICIENCY	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
TIME AND MONEY STILL SPEND ON CASES THAT COULD BE SCREENED OUT.	4.7	6.7	11.4 %	7.4 %	81.2 %	35.6	45.6
ELIMINATES WASTED TIME AND UNNECESSARY DELAY.	32.9	27.5	60.4 %	12.8 %	26.8 %	22.8	4.0
DEFENSE CAN MOVE CASES QUICKLY TO TRIAL.	28.2	30.9	59.1 %	8.7 %	32.3 %	28.9	3.4
MORE RESOURCES WOULD REDUCE PROBLEMS.	13.4	12.1	25.5 %	22.1 %	52.3 %	34.9	17.4
DEFENDANTS CAN OBTAIN TRIALS MORE QUICKLY.	23.5	27.5	51.0 %	6.7 %	42.3 %	37.6	4.7
PROSECUTORS CAN MOVE CASES QUICKLY TO TRIAL	8.1	10.7	18.8 %	12.8 %	68.5 %	39.6	28.9
PLANNING HAS INCREASED COMMUNICATION.	19.6	18.9	38.5 %	35.8 %	25.6 %	20.9	4.7
ELIMINATED UNNECESSARY STEPS IN PROCESS.	31.1	31.8	62.9 %	16.2 %	20.9 %	15.5	5.4
TOO MANY COURT APPEARANCES REQUIRED.	5.4	23.6	29.0 %	8.8 %	62.2 %	26.4	35.8

- More specifically, public defenders overwhelmingly agree (81.2%) that needless time and money are still being spent on cases which could be screened out. Of the total 149 public defenders, 45.6% strongly held this view. (Table 7).

- More than three of every five (60.4%) public defenders responding deny that Speedy Trial has found ways to eliminate wasted time and unnecessary delay in the system. (Table 7).

- A similar number (59.1%) do not feel that the Speedy Trial Program has enabled defense attorneys to move cases to trial quickly if they so desire. (Table 7).

- Public defenders were almost evenly split over the issue of whether or not the Speedy Trial Program has made it possible for defendants to obtain trials more quickly. While over half (51.0%) do not agree that defendants can more easily obtain trials, a substantial number (42.3%) believe that they can. (Table 7).

- Although the majority (52.3%) of the public defenders indicate that additional resources would substantially reduce many of the problems, one-fourth (25.5%) did not agree and more than one-fifth (22.1%) had no opinion. (Table 7).

- In contrast, more than two-thirds (68.5%) of the public defenders believe that Speedy Trial has resulted in prosecutors being able to move cases quickly to trial if they so desire. (Table 7).

- Public defenders have not reached a clear consensus as to whether or not the local planning process has enhanced communication among the various components of the criminal justice system. (Table 7).

- However, a majority of public defenders (62.9%) do not believe that the Speedy Trial Program has eliminated unnecessary steps in the criminal process. (Table 7).

- Similarly, there is also substantial agreement (62.2%) among the public defenders that too many court appearances are required. (Table 7).

Private Defense Attorneys

- Private defense attorneys are in general agreement that:
  - needless time and money are still being spent on cases that could be screened out;
  - defendants are able to obtain trials more quickly;
  - prosecutors can move cases quickly to trial;
  - too many court appearances are required as a result of the Speedy Trial Program; and
- private defense attorneys do not agree that:
  - unnecessary steps in the criminal process have been eliminated; and
  - Speedy Trial has found ways to eliminate wasted time and unnecessary delay in the system.

TABLE 8. RESPONSES TO SURVEY ITEMS RELATING TO PROGRAM EFFICIENCY PRIVATE DEFENSE ATTORNEYS (PERCENT)

PROGRAM EFFICIENCY	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
TIME AND MONEY STILL SPEND ON CASES THAT COULD BE SCREENED OUT.	5.1	13.5	18.6 %	15.7 %	65.7 %	33.7	32.0
ELIMINATES WASTED TIME AND UNNECESSARY DELAY.	23.5	26.8	50.3 %	14.5 %	35.2 %	31.3	3.9
DEFENSE CAN MOVE CASES QUICKLY TO TRIAL.	17.9	28.5	46.4 %	10.1 %	43.6 %	38.0	5.6
MORE RESOURCES WOULD REDUCE PROBLEMS.	13.3	21.7	35.0 %	26.1 %	38.9 %	26.7	12.2
DEFENDANTS CAN OBTAIN TRIALS MORE QUICKLY.	12.8	17.8	30.6 %	8.9 %	60.5 %	52.2	8.3
PROSECUTORS CAN MOVE CASES QUICKLY TO TRIAL	5.0	8.4	13.4 %	14.0 %	72.6 %	41.9	30.7
PLANNING HAS INCREASED COMMUNICATION.	19.0	18.4	37.4 %	40.2 %	22.4 %	21.8	0.6
ELIMINATED UNNECESSARY STEPS IN PROCESS.	31.5	39.3	70.8 %	9.6 %	19.6 %	17.4	2.2
TOO MANY COURT APPEARANCES REQUIRED.	5.0	16.8	21.8 %	8.9 %	69.3 %	31.3	38.0

- Of the total 180 private attorneys responding to the survey, 65.7% believe that needless time and money are still being spent on cases which could otherwise be screened out. (Table 8).

- Most members of the private bar (50.3%) do not believe that the Speedy Trial Program has found ways to eliminate wasted time and unnecessary delay in the system. (Table 8).

- In addition, private defense attorneys concur (60.5%) that the program has made it possible for defendants to obtain trials more quickly. (Table 8).

- Similarly, almost three-fourths (72.6%) of the private defense attorneys responding believe that speedy trial has also enabled prosecuting attorneys to move cases to trial quickly if they so desire. (Table 8).

- Private attorneys (70.8%) do not believe that the Speedy Trial Program has eliminated unnecessary steps in the criminal justice process. (Table 8).

- Moreover, they are of the opinion (69.3%) that too many court appearances are required as a result of the program. (Table 8).

- Although members of the private bar are of the opinion defendants can obtain trials more quickly (60.5%), and that prosecutors are able to move cases to trial quickly (72.6%), they indicate no clear opinion as to the defense attorney's ability to do so. They are almost evenly divided, with 43.6% believing that the defense attorney also has the ability to move cases quickly to trial and slightly more (46.4%) believing that they do not. (Table 8).

- Private defense attorneys are similarly divided on the issue of whether additional resources would substantially reduce many of the problems. While about two of every five (38.9%) believe additional resources would reduce problems, an almost equal number (35.0%) do not agree. (Table 8).

- More private defense attorneys (40.2%) held no opinion as to whether the local planning process has enhanced communication among the various components of the criminal justice system, than either agreed or disagreed. (Table 8).

Summary

In general, the responses to the survey items pertaining to efficiency indicate that judges generally believe that system efficiency has been improved by the Speedy Trial Program. Although there is some tendency among the other three groups to respond to specific items in a fashion consistent with their position, no clear alignment by occupational group is universally evident in the responses to this group of survey items.

Both public defenders (81.2%) and private defense attorneys (65.7%) concur that needless time and money are still being spent on cases that could otherwise be screened out. The responses of judges and prosecutors on the other hand, demonstrate no such consensus with regard to this issue. Judges are, however, more likely than prosecutors to agree with the position taken by defense attorneys.

Of the four groups surveyed, only judges (73.0%) as a group indicated that Speedy Trial had found ways to eliminate wasted time and unnecessary delay in the system. Both public defenders (60.4%) and private defense counsel (50.3%) clearly disagreed with the judges, while prosecutors (46.8%) also tended to support the opinion of the defense that wasted time and unnecessary delays were not eliminated. It should be noted, however, that about one-third of prosecutors (38.8%) and private attorneys (35.2%) did concur with judges on this issue.

While judges overwhelmingly believe that both defense attorneys (82.1%) and prosecutors (85.4%) can move cases to trial quickly if they so desire, and that defendants (93.3%) can obtain trials more quickly as a result of the Speedy Trial Program, the remaining three groups responding appear to be influenced by their positions in the criminal justice system. As might be expected, only 32.3% of the public defenders agreed with the judges that the defense was able to move cases quickly to trial if they so desired. Over two-thirds of the private bar (72.6%) and the public defenders (68.5%) did, however, believe that prosecutors could move cases quickly if they so desired. Conversely, prosecutors are of the view that both the defense (54.1%) and defendants (64.1%) can obtain trials more quickly while only 37.4% believe that they can do so as a result of the program.

Among the four groups, judges (68.2%) alone believed that the local planning process enhanced communication among the various components of the criminal justice system. No consensus of opinion is forthcoming from the remaining groups. In fact substantial numbers of prosecutors (38.9%) and private attorneys (40.2%) express no opinion concerning this item.

Once again, judges (66.0%) are the only group in which a majority believe that Speedy Trial has eliminated unnecessary steps in the criminal justice process. A majority of prosecutors (51.6%), public defenders (62.9%) and private defense attorneys (70.8%) agree that unnecessary steps have not been eliminated

from the criminal justice process as a result of the Speedy Trial Program.

While public defenders (62.2%) and private defense attorneys (69.3%) agree that too many court appearances are required, a majority of prosecutors (50.2%) and judges (56.1%) are in agreement that this is not the case. Finally, a majority of prosecutors (56.7%), public defenders (52.3%) and judges (60.7%) feel that if more resources were added, many of the problems would be substantially reduced.

PROGRAM GOAL EMPHASIS

In addition to items pertaining to issues of justice and efficiency, the survey instrument also includes 13 items relating to perceptions of job performance pressure experienced by participants in the Speedy Trial Program, and how the program in general, or the pressure specifically, affects their ability to perform their job. These items include:

- As a result of Speedy Trial, is your job easier or harder than it would be otherwise?
- Is additional effort required by Speedy Trial, and if so, who is most affected?
- The program is more concerned with numbers than people.
- The program discourages trying cases which should go to trial.
- The individuality of cases has been lost.
- Judges are under strong pressure to produce a satisfactory number of dispositions.
- Judges do not grant needed extensions.
- There is not adequate time to prepare cases.
- Have defense attorneys suffered or benefited as a result of the Speedy Trial Program?
- Have judges suffered or benefited as a result of the Speedy Trial Program?
- Have the police suffered or benefited as a result of the Speedy Trial Program?
- Have prosecutors suffered or benefited as a result of the Speedy Trial Program.
- Have public defenders suffered or benefited as a result of the Speedy Trial Program?

Judges

- Judges generally believe that:
  - their job is about the same as it would be otherwise;
  - additional effort is equally shared by all components of the system;
  - the program is more concerned with numbers than people;
  - judges are under strong pressure to produce a satisfactory number of dispositions;
  - necessary extensions are granted;
  - there is adequate time to prepare cases; and
  - prosecutors have benefited as a result of the Speedy Trial Program.

TABLE 9. RESPONSES TO SURVEY ITEMS RELATED TO PROGRAM GOALS
JUDGES (PERCENT)

PROGRAM GOALS	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
MORE CONCERNED WITH NUMBERS THAN PEOPLE.	9.9	23.1	33.0 %	5.5 %	61.6 %	35.2	26.4
DISCOURAGES TRYING CASES.	32.2	16.7	48.9 %	22.2 %	28.9 %	20.0	8.9
INDIVIDUALITY OF CASES HAS BEEN LOST.	26.4	20.9	47.3 %	11.0 %	41.8 %	34.1	7.7
JUDGES UNDER PRESSURE TO PRODUCE NUMBERS.	5.5	6.6	12.1 %	6.6 %	81.4 %	45.1	36.3
JUDGES DO NOT GRANT NEEDED EXTENSIONS.	38.2	42.7	80.9 %	4.5 %	14.6 %	13.5	1.1
NOT ADEQUATE TIME TO PREPARE CASES.	27.5	28.6	56.1 %	13.2 %	30.8 %	25.3	5.5

	Suffer Greatly	Suffer Somewhat	TOTAL SUFFER	NO OPINION	TOTAL BENEFIT	Benefit Somewhat	Benefit Greatly
PRIVATE ATTORNEYS	1.1	32.2	33.3 %	21.8 %	44.8 %	35.6	9.2
JUDGES	2.3	26.4	28.7 %	42.5 %	28.7 %	24.1	4.6
POLICE	0.0	23.3	23.3 %	31.4 %	45.3 %	36.0	9.3
PROSECUTORS	2.3	28.4	30.7 %	17.0 %	52.3 %	43.2	9.1
PUBLIC DEFENDERS	6.7	39.3	46.0 %	16.9 %	37.1 %	31.5	5.6

- Three of every five (61.6%) judges indicate agreement with the statement that the Speedy Trial Program is more concerned with numbers than people. (Table 9).

- Similarly, more than four of every five (81.4%) judges responding felt that they were under strong pressure to produce a satisfactory number of dispositions. (Table 9).

- Of the 91 judges responding, four fifths (80.9%) feel that they grant extensions when necessary. (Table 9).

- A majority of judges also feel (56.1%) that there is adequate time to prepare cases. (Table 9).

- While almost half (48.9%) of the judges responding to the survey do not believe that the Speedy Trial Program discourages trying cases which should go to trial, more than one fourth (28.9%) believe that it does. (Table 9).

- Judges are sharply divided on the issue of the individuality of cases being lost. While 47.3% do not believe that the individuality of cases has been lost, almost as many (41.8%) do believe this to be the case. (Table 9).

- In addition, a majority of judges (52.3%) believe that prosecuting attorneys have benefited as a result of the Speedy Trial Program. (Table 9).

- The views of judges are also split regarding private defense attorneys, 44.8% believe they have benefited, while one third (33.3%) believe they have suffered. (Table 9).

- The reverse is true concerning judges views of how public defenders have fared, 46.0% believe that public defenders have suffered while 31.7% believe they have benefited as a result of the Speedy Trial Program. (Table 9).

- Judges are evenly divided on how they have fared as a result of the Speedy Trial Program. While 28.7% felt they have suffered, the same percentage (28.7%) felt they had benefited and 42.5% offered no opinion. (Table 9).

Prosecutors

- In general, prosecutors are of the opinion that:
  - they bear the additional effort required;
  - the program is more concerned with numbers than people;
  - the individuality of cases has been lost;
  - judges are under strong pressure to produce a satisfactory number of dispositions;
  - judges do grant needed extensions;
  - police officers and prosecutors have suffered as a result of the Speedy Trial Program; and
- prosecutors do not feel that:
  - there is adequate time to prepare cases.

TABLE 10. RESPONSES TO SURVEY ITEMS RELATED TO PROGRAM GOALS PROSECUTORS (PERCENT)

PROGRAM GOALS	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
MORE CONCERNED WITH NUMBERS THAN PEOPLE.	2.9	6.9	9.8 %	7.5 %	82.6 %	26.1	56.5
DISCOURAGES TRYING CASES.	13.6	24.3	37.9 %	18.6 %	43.5 %	34.2	9.3
INDIVIDUALITY OF CASES HAS BEEN LOST.	5.9	17.0	22.9 %	20.0 %	57.0 %	40.0	17.0
JUDGES UNDER PRESSURE TO PRODUCE NUMBERS.	3.3	2.6	5.9 %	10.1 %	84.0 %	20.2	63.8
JUDGES DO NOT GRANT NEEDED EXTENSIONS.	24.0	31.9	55.9 %	13.2 %	30.9 %	27.0	3.9
NOT ADEQUATE TIME TO PREPARE CASES.	10.5	24.6	35.1 %	9.5 %	55.4 %	40.0	15.4

	Suffer Greatly	Suffer Somewhat	TOTAL SUFFER	NO OPINION	TOTAL BENEFIT	Benefit Somewhat	Benefit Greatly
PRIVATE ATTORNEYS	1.0	28.1	29.1 %	24.1 %	46.9 %	35.5	11.4
JUDGES	7.6	39.9	47.5 %	33.9 %	18.6 %	14.6	4.0
POLICE	10.0	44.5	54.5 %	25.9 %	19.6 %	16.3	3.3
PROSECUTORS	18.2	49.7	67.9 %	11.6 %	20.5 %	17.2	3.3
PUBLIC DEFENDERS	2.7	25.9	28.6 %	22.3 %	49.1 %	35.5	13.6

- More specifically, 71.0% of the prosecutors responding believe that the additional effort required by the Speedy Trial Program is most heavily borne by them. (Table 10).

- Only 5.4% of the prosecutors report that their job has become easier. (Table 10).

- While 50.5% feel that their job is about the same as it would be otherwise, an almost equal number (44.1%) believe that their job is more difficult as a result of Speedy Trial. (Table 10).

- In addition, prosecutors (82.6%) overwhelmingly agree that the Speedy Trial Program is more concerned with numbers than people. (Table 10).

- More than half (57.0%) of the prosecutors responding to the survey agree that the individuality of cases has been lost as a result of the Speedy Trial Program. (Table 10).

- Of those prosecutors responding, 84.0% agree that judges are under strong pressure to produce a satisfactory number of dispositions. In fact, almost two-thirds (63.8%) of the total prosecutorial sample, strongly agree. (Table 10).

- While a definite majority of prosecutors (55.9%) are of the opinion that judges do grant needed extensions, a substantial number (30.9%) believe that they do not. (Table 10).

- Similarly, of those prosecutors responding, 55.4% agree that as a result of Speedy Trial they do not have adequate time to prepare cases. More than one-third of the prosecutors, (35.1%), however, do believe that there is sufficient time to prepare cases. (Table 10).

- Two-thirds (67.9%) of the prosecutors believe that they have suffered as a result of the Speedy Trial Program. Similarly, a majority (54.5%) also believe that the police have been affected in the same way. (Table 10).

- While almost half (47.5%) of the prosecutors believe that judges have suffered as a result of the program, they are far less inclined to believe that private attorneys (29.1%) or public defenders (28.6%) have so fared. (Table 10).

Public Defenders

- In general, public defenders are of the opinion that the Speedy Trial Program:
  - results in their job being harder than it would be otherwise;
  - requires additional effort which is most heavily borne by defense attorneys;
  - is more concerned with numbers than people;
  - discourages trying cases which should go to trial;
  - results in the individuality of cases being lost;
  - places judges under strong pressure to produce a satisfactory number of dispositions;
  - causes private defense attorneys, judges and public defenders to suffer; and
- public defenders do not feel that:
  - judges grant needed extensions; and
  - there is adequate time to prepare cases.

TABLE 11. RESPONSES TO SURVEY ITEMS RELATED TO PROGRAM GOALS
PUBLIC DEFENDERS (PERCENT)

PROGRAM GOALS	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
MORE CONCERNED WITH NUMBERS THAN PEOPLE.	1.3	2.0	3.3 %	2.7 %	94.0 %	12.1	81.9
DISCOURAGES TRYING CASES.	8.1	16.8	24.9 %	18.8 %	56.3 %	36.2	20.1
INDIVIDUALITY OF CASES HAS BEEN LOST.	2.0	10.7	12.7 %	16.8 %	70.4 %	26.8	43.6
JUDGES UNDER PRESSURE TO PRODUCE NUMBERS.	1.3	0.0	1.3 %	4.0 %	94.6 %	14.1	80.5
JUDGES DO NOT GRANT NEEDED EXTENSIONS.	8.7	19.5	28.2 %	12.1 %	59.7 %	36.2	23.5
NOT ADEQUATE TIME TO PREPARE CASES.	2.0	15.5	17.5 %	7.4 %	75.0 %	38.5	36.5

	Suffer Greatly	Suffer Somewhat	TOTAL SUFFER	NO OPINION	TOTAL BENEFIT	Benefit Somewhat	Benefit Greatly
PRIVATE ATTORNEYS	10.1	51.4	61.5 %	25.4 %	13.0 %	9.4	3.6
JUDGES	7.4	44.6	52.0 %	32.4 %	15.5 %	10.8	4.7
POLICE	4.1	11.6	15.7 %	63.7 %	20.6 %	15.8	4.8
PROSECUTORS	5.4	28.4	33.8 %	25.0 %	41.2 %	30.4	10.8
PUBLIC DEFENDERS	32.9	44.5	77.4 %	15.8 %	6.9 %	5.5	1.4

- Of the total public defenders responding, three-fifths (59.9%) believe that their job is harder than it would be otherwise. (Table 11).

- In addition, half (50.0%) of those responding believe that the additional effort required by Speedy Trial is most heavily borne by defense attorneys. (Table 11).

- Public defenders almost unanimously (94.0%) agree that the Speedy Trial Program is more concerned with numbers than people. (Table 11).

- A similar proportion of public defenders (94.6%) are of the opinion that judges are under strong pressure to produce a satisfactory number of dispositions. (Table 11).

- In addition, a majority of the public defenders (56.3%) have indicated that the Speedy Trial Program discourages trying cases which should go to trial. (Table 11).

- Public defenders (70.4%) agree that the individuality of cases has been lost as a result of the Speedy Trial Program. (Table 11).

- There is also consensus among the public defenders (59.7%) that judges do not grant needed extensions. (Table 11).

- Three of every four (75.0%) public defenders responding do not feel that they have adequate time to prepare cases. (Table 11).

- According to the public defenders; private defense attorneys (61.5%), judges (52.2%) and public defenders (77.4%) have all suffered as a result of the Speedy Trial Program. (Table 11).

- By comparison, only one-third (33.8%) of the public defenders believe that prosecutors have suffered as a result of the program. (Table 11).

- Almost two thirds (63.7%) of the public defenders responding to the survey had no opinion as to how the police have fared as a result of the Speedy Trial Program. (Table 11).

Private Defense Attorneys

- In general, private defense attorneys are of the opinion that:
  - their job is harder than it would be otherwise;
  - the additional effort required by Speedy Trial is most heavily borne by defense attorneys;
  - the program is more concerned with numbers than people;
  - the individuality of cases has been lost;
  - judges are under strong pressure to produce a satisfactory number of dispositions;
  - private defense attorneys, judges and public defenders have suffered;
  - prosecuting attorneys have benefited as a result of the Speedy Trial Program; and
- private attorneys do not believe that:
  - judges grant needed extensions; and
  - there is adequate time to prepare cases.

TABLE 12. RESPONSES TO SURVEY ITEMS RELATED TO PROGRAM GOALS
PRIVATE DEFENSE ATTORNEYS (PERCENT)

PROGRAM GOALS	Disagree Strongly	Disagree Somewhat	TOTAL DISAGREE	NO OPINION	TOTAL AGREE	Agree Somewhat	Agree Strongly
MORE CONCERNED WITH NUMBERS THAN PEOPLE.	5.6	2.2	7.8 %	3.3 %	88.9 %	20.0	68.9
DISCOURAGES TRYING CASES.	14.1	28.2	42.3 %	13.6 %	44.1 %	27.7	16.4
INDIVIDUALITY OF CASES HAS BEEN LOST.	3.4	8.4	11.8 %	14.5 %	73.8 %	38.0	35.8
JUDGES UNDER PRESSURE TO PRODUCE NUMBERS.	2.8	1.7	4.5 %	3.4 %	92.2 %	20.1	72.1
JUDGES DO NOT GRANT NEEDED EXTENSIONS.	7.8	22.2	30.0 %	10.0 %	60.0 %	41.1	18.9
NOT ADEQUATE TIME TO PREPARE CASES.	6.1	15.6	21.7 %	5.6 %	72.7 %	43.3	29.4

	Suffer Greatly	Suffer Somewhat	TOTAL SUFFER	NO OPINION	TOTAL BENEFIT	Benefit Somewhat	Benefit Greatly
PRIVATE ATTORNEYS	33.1	50.0	83.1 %	11.2 %	5.7 %	5.1	0.6
JUDGES	12.1	39.7	51.8 %	34.3 %	13.8 %	11.5	2.3
POLICE	3.4	13.6	17.0 %	47.5 %	35.5 %	28.2	7.3
PROSECUTORS	3.4	23.6	27.0 %	20.8 %	52.3 %	38.8	13.5
PUBLIC DEFENDERS	34.1	35.8	69.9 %	21.4 %	8.6 %	6.9	1.7

- Private defense attorneys (88.9%), as a whole, believe that the Speedy Trial Program is more concerned with numbers than people. Of the total sample, over two thirds (68.9%) strongly felt this to be the case. (Table 12).

- Of those 180 private attorneys responding to the survey, almost three of every four (73.8%) believe that the individuality of cases has been lost. (Table 12).

- Private defense attorneys (92.2%) overwhelmingly agree that judges are under strong pressure to produce a satisfactory number of dispositions. (Table 12).

- Additionally, twice as many members of the private bar (60.0%) believe that judges do not grant needed extensions as those who agree that they do (30.0%). (Table 12).

- Furthermore, almost three of every four (72.7%) private defense attorneys feel they do not have adequate time to prepare cases. (Table 12).

- Private defense attorneys are of the opinion that they, judges, and public defenders suffer, while prosecuting attorneys benefit as a result of the Speedy Trial Program. (Table 12).

Summary

In general, little variation was observed in the responses of the four groups to survey items pertaining to the amount of pressure experienced by participants in the program, and its affect on their ability to perform their jobs. However, while prosecutors, public defenders and private attorneys were likely to agree with each other that pressure is created in specific areas, judges frequently dissented with respect to those areas.

A clear majority of respondents, regardless of position, agree that the Speedy Trial Program is more concerned with numbers than people. Only among judges did any appreciable segment (33.0%) disagree with that proposition. Similarly, all groups concur that judges are under stong pressure to produce a satisfactory number of dispositions.

Public defenders (56.3%) are the only group in which a majority of the respondents believe that the Speedy Trial Program discourages trying cases which should go to trial. While about two-fifths of the prosecutors (43.5%) and private attorneys (44.1%) also agree, only one quarter of the judges (28.9%) share that opinion.

Prosecutors (57.0%), public defenders (70.4%) and members of the private bar (73.8%) agree that the individuality of cases has been lost. While not a majority, 47.3% of the judges are in agreement with prosecutors, public defenders and private defense attorneys.

Both public defenders (59.7%) and private defense attorneys (60.0%) agree that judges do not grant needed extensions. Judges (80.9%) and a majority of prosecutors (55.9%), however, are of the opinion that extensions are granted when necessary.

Defense attorneys (75.0% of the public defenders and 72.7% of the private attorneys) and prosecuting attorneys (55.4%) agree that there is not adequate time to prepare cases as a result of the Speedy Trial Program. While a majority of the judges (56.1%) believe that there is, in fact, sufficient time to prepare cases, 30.8% are inclined to agree with defense and prosecuting attorneys.

Responses to the survey items pretaining to how various positions within the criminal justice system have been affected as a result of the Speedy Trial Program, are clearly influenced by the respondents' own position within the system. Prosecutors are of the opinion that they (67.9%) and the police (54.9%) have suffered as a result of the Speedy Trial Program. Private attorneys, on the other hand, thought everyone had suffered as a result of the program except the police and prosecutors. Public defenders indicate that they (77.4%), private attorneys (61.5%) and judges (52.2%) have suffered as a result of the program. Responses from the judges do not demonstrate as clear a consensus concerning who has suffered or benefited as a result of the Speedy Trial Program. Judges do tend to believe, however, that prosecutors have benefited and public defenders have suffered as a result of Speedy Trial.

It is somewhat surprising that while half of the public defenders (52.2%), private defense attorneys (51.8%) and prosecutors (47.5%) believe that judges have suffered as a result of the Speedy Trial Program, only 28.7% of the judges themselves believe that to be so. A like number of judges (28.7%) believe that they have benefited from the program, and a relatively large segment (42.5%) report no opinion.

SYSTEM RATES

The survey instrument contains eight items designed to assess the respondent's perception of how the Speedy Trial Program has affected case dispositions. Respondents were requested to compare the current rate of certain dispositions with the rates as they perceived them prior to the implementation of the Speedy Trial Program. Those dispositions specified in the questionnaire include;

- Trials
- Convictions and Acquittals
- Negotiated Pleas
- Dismissals
- Pre-Trial Intervention and Conditional Discharges
- Remands to Municipal Court

Respondents were provided the option of indicating whether there have been more, the same, or less of those dispositions. In addition, a fourth option, "don't know," was included as an alternative choice. Overall, there is little, if any, consensus among the responses obtained from each of the four groups to the eight dispositional items included in this section of the survey. The "don't know" response constitutes a substantial proportion of all responses for a number of items, frequently representing between one-quarter and one-third of all replies. This section also includes data supplied by the Administrative Office of the Courts reporting the actual rates of each disposition type for the period 1980-1985.

Trials

TABLE 13. SYSTEM RATES
TRIALS (PERCENT)

TRIALS	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
MORE	9.5	11.8	25.5	25.0
SAME	50.0	44.6	40.0	34.3
LESS	21.4	20.8	19.3	27.3
DON'T KNOW	19.0	22.8	15.2	13.4

Among those reporting an opinion, a substantial number indicated that the trial rate has remained the same under the Speedy Trial Program. While about one-quarter of the public (25.5%) and private (25.0%) defense attorneys believe there are more trials under the program, this view is shared by only 1 in 10 responding prosecutors (11.8%) and judges (9.5%). (Table 13).

Data supplied by the Administrative Office of the Courts (Chart B)* indicate that while moderate declines were evident in 1980-1982, there has been little change in the number or proportion of dispositions obtained through trial over the past four years.

*Chart B appears on page 53.

Convictions and Acquittals

TABLE 14. SYSTEM RATES
CONVICTIONS (PERCENT)

CONVICTIONS	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
MORE	13.1	11.8	23.1	29.7
SAME	50.0	40.1	54.5	48.6
LESS	9.5	20.2	5.6	2.3
DON'T KNOW	27.4	27.9	16.8	19.4

TABLE 15 SYSTEM RATES
ACQUITTALS (PERCENT)

ACQUITTALS	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
MORE	8.1	20.9	7.6	3.5
SAME	64.0	41.1	53.8	49.1
LESS	1.2	8.4	19.3	20.2
DON'T KNOW	26.7	29.6	19.3	27.2

A majority of all judges and public defenders believe that the frequency of dispositions by acquittal (64.0% and 53.8% respectively) and convictions (50.0% and 54.5% respectively) has remained about the same when compared with the years

before Speedy Trial. Similarly, a clear majority of prosecutors and private attorneys reporting some opinion also believe that the frequency of these dispositions has remained the same. (Tables 14 and 15).

As with total trials, Administrative Office of the Courts data (Chart A)* regarding the outcome of those trials indicate no significant impact on the rate of either convictions or acquittals. While a moderate shift toward an increasing proportion of convictions is evident for 1985, the most obvious characteristic in the preceding years is the consistent distribution of these trial dispositions.

Negotiated Pleas

TABLE 16. SYSTEM RATES
NEGOTIATED PLEAS (PERCENT)

NEGOTIATED PLEAS	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
MORE	49.4	44.3	40.0	46.5
SAME	28.2	31.8	35.7	32.6
LESS	1.2	2.4	12.9	11.6
DON'T KNOW	21.2	21.5	11.4	9.3

*Chart A appears on page 52.

While a majority of those reporting some opinion among the judges (49.4%), prosecutors (44.3%), and private bar (46.5%) believe that dispositions through negotiated pleas have increased, substantial numbers among those groups believe that the rate has remained constant. Among those public defenders who expressed some opinion there is a relatively even split between those believing the rate of pleas has risen, and those believing the rate has stayed the same. (Table 16).

As with the previous items, data compiled by the Administrative Office of the Courts (Chart B) indicate that with the exception of 1980-1981, the rate of disposition through guilty plea has remained remarkably consistent through 1984. Certainly, the increase in the rate of dispositions by guilty plea in 1985 is quite apparent; however, only time will tell if this is signalling a new upward trend or represents statistical fluctuation. A comparison of these findings with the survey results indicates that the perceptions of a substantial number of respondents in all four occupational categories regarding dispositions by plea are not supported.

Dismissals

TABLE 17. SYSTEM RATES
DISMISSALS (PERCENT)

DISMISSALS	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
MORE	29.6	38.3	22.4	19.9
SAME	30.9	30.9	47.6	41.5
LESS	6.2	5.0	9.1	13.5
DON'T KNOW	33.3	25.9	21.0	25.1

Compared with other items in this area, a considerable portion or respondents in each category chose the "don't know" response. One-third (33.3%) of the judges, one-fourth (25.9%) of the prosecutors and private attorneys (25.1%), and one-fifth (21.0%) of the public defenders so responded. Almost no one thought there were fewer dismissals. Of those judges and private attorneys expressing some opinion, a majority felt that the rate of dismissals was unchanged, while the prosecutors and judges who expressed some opinion were evenly divided as to whether the rate has increased or remained the same. (Table 17).

Although we cannot be precise as to the proportion of dispositions resulting in dismissal for 1980 and 1981 (Chart B), an overall decreasing trend is evident over the past six years. Once again, this is not consistent with the perceptions of relatively large segments of the responding population.

Pre-Trial Intervention and Conditional Discharge

TABLE 18. SYSTEM RATES
PRE-TRIAL INTERVENTION (PERCENT)

PRE-TRIAL INTERVENTION	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
MORE	45.2	31.4	20.4	21.2
SAME	28.6	34.5	35.9	52.9
LESS	0.0	1.4	26.8	10.6
DON'T KNOW	26.2	32.8	16.9	15.3

TABLE 19. SYSTEM RATES
CONDITIONAL DISCHARGE (PERCENT)

CONDITIONAL DISCHARGE	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
MORE	32.9	21.2	17.4	19.0
SAME	37.6	46.2	50.7	58.0
LESS	2.4	0.3	13.2	3.4
DON'T KNOW	27.1	32.3	18.8	19.5

As with dismissals, almost one-third of the prosecutors and more than one-fourth of the judges responded "don't know" to these two items. A majority of all private attorneys believe that the rate of conditional discharge (58.0%) and pre-trial intervention (52.9%) has remained the same, as do more than half (50.7%) of the public defenders with regard to conditional discharge. Almost half of the judges (45.2%), and one-third of the prosecutors (31.4%), believe that pre-trial intervention dispositions have increased during the years of the Speedy Trial Program. (Tables 18 and 19).

An examination of data (Chart B) discloses a substantial increase in the proportion of dispositions resulting in conditional discharge from 1980 to 1985.[3] This relative increase in the use of conditional discharge as a manner of disposition has clearly not been accurately perceived throughout the criminal justice community. Data from the last three years (Chart B) indicate that the rate of pre-trial intervention has been constant. As above, the perceptions of substantial numbers of prosecutors, public defenders and judges are inconsistent with this observation.

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[3] It is noted, however, that in 1980 and 1981 conditional discharge constituted a negligible proportion of all dispositions, and their dramatic increase notwithstanding, in 1985 account for just 5% of all dispositions.

Remand to Municipal Court

TABLE 20. SYSTEM RATES
REMANDS TO MUNICIPAL COURT (PERCENT)

REMANDS TO MUNICIPAL COURT	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
MORE	30.4	37.8	31.4	32.9
SAME	27.8	30.2	24.3	34.1
LESS	3.8	2.1	9.3	5.2
DON'T KNOW	38.0	29.9	35.0	27.7

As is apparent in the above table, very few respondents in any group believe that the number of remands has decreased. Also evident is the high proportion of "don't know" responses to this item, and the total absence of consensus among all groups as to whether the rate of downgrades has increased or remained the same. (Table 20).

CHART A.

SYSTEM RATES
COMPLETED TRIALS

YEAR	TOTAL TRIALS	CONVICTIONS	ACQUITTALS
1980*	2491	1542 (61.9%)	949 (38.1%)
1981*	2588	1633 (63.1%)	955 (36.9%)
1982**	1191	744 (62.5%)	447 (37.5%)
1983	2532	1644 (64.9%)	888 (35.1%)
1984	2489	1604 (64.4%)	885 (35.6%)
1985	2386	1590 (66.6%)	796 (33.4%)

* DATA FOR 1980 AND 1981 COURT YEARS WERE TAKEN FROM OLD STATISTICAL REPORTS.

** DATA FOR 1982 REPRESENTS THE TIME SPAN AUGUST THROUGH DECEMBER, 1982.

PART B.

POST-INDICTMENT DISPOSITION SUMMARY

YEAR	TOTAL DISPOSITIONS	GUILTY PLEA	DISMISSAL	CONDITIONAL DISCHARGE	PRE-TRIAL INTERVENTION	TRIAL
1980*	28,882	16077 (55.6)	10,197 (35.3)	117 (0.4)	***	2491 (8.6)
1981*	34,158	20928 (61.2)	10,418 (30.4)	224 (0.6)	***	2588 (7.5)
1982**	17524	10756 (61.4%)	3781 (21.6%)	507 (2.9%)	1289 (7.4%)	1191 (6.8%)
1983	36732	22347 (60.8%)	7115 (19.4%)	1256 (3.4%)	3482 (9.5%)	2532 (6.9%)
1984	38018	23024 (60.6%)	7685 (20.2%)	1569 (4.1%)	3251 (8.6%)	2489 (6.5%)
1985	37711	24139 (64.0%)	5924 (15.7%)	1831 (4.9%)	3431 (9.1%)	2386 (6.3%)

* DATA FOR 1980 AND 1981 COURT YEARS WERE TAKEN FROM OLD STATISTICAL REPORTS.
** DATA FOR 1982 REPRESENTS THE TIME SPAN AUGUST THROUGH DECEMBER, 1982.
*** PRE-TRIAL INTERVENTION WAS INCLUDED IN THE DISMISSAL FIGURE.

GENERAL PROGRAM ASSESSMENT

The survey instrument also contains four items designed to yield data regarding the respondent's overall perception of the Speedy Trial Program. Specifically, these items are aimed at determining the respondent's general assessment of the current program in terms of both its affect on quality and delay reduction, and to elicit information pertaining to the future of the program. To obtain this information the survey includes both a closed and open-ended item in each of the two broad areas.

It is recommended that these items be evaluated in much greater detail to determine the relationship of these items to others included in the survey. The following, however, are general observations drawn from the forced choice items regarding quality of justice and the future of the program and more detailed analysis of the open-ended items.

TABLE 21.

QUALITY OF JUSTICE (PERCENT)

QUALITY	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
REDUCED DELAYS; IMPROVED QUALITY.	22.5	11.2	3.5	5.2
REDUCED DELAYS; NO IMPACT ON QUALITY.	39.3	23.1	11.2	15.5
REDUCED DELAYS; IMPAIRED QUALITY.	28.1	39.6	49.7	54.6
NO EFFECT ON DELAYS; IMPAIRED QUALITY.	2.2	12.5	20.3	13.8
NO EFFECT ON DELAYS OR QUALITY.	7.9	13.5	15.4	10.9

- Concerning assessment of the quality of justice in this item, a clear majority (61.8%) of judges feel that delays have been reduced with no impairment in the quality of justice. This view is held by about one-third of the prosecutors (34.3%) and only 14.7% of the public defenders and 20.7% of the private attorneys. (Table 21).

- The proportion of respondents who believe that the program has reduced delays, but also impaired the quality of justice, varies considerably by position. Such an assessment is reported by one quarter of the judges (28.1%), 39.6% of the prosecutors, 49.7% of the public defenders and 54.6% of the private attorneys. (Table 21).

TABLE 22.

FUTURE OF SPEEDY TRIAL PROGRAM
(PERCENT)

FUTURE	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
FURTHER REDUCTIONS CAN BE MADE, BUT WILL IMPAIR JUSTICE.	29.5	29.7	24.1	37.7
FURTHER REDUCTIONS CAN BE MADE, WILL NOT IMPAIR JUSTICE.	45.5	30.8	21.1	19.8
NO FURTHER REDUCTIONS CAN BE MADE.	25.0	39.5	54.9	41.9

- With regard to the Speedy Trial Program in the future there is little consensus within the groups surveyed. (Table 22).

- While a majority (54.9%) of the public defenders feel that no further reductions can be made in the time needed to process cases, no majority position is expressed by any other group. (Table 22).

- Among judges, 45.5% feel that further time reductions can be made without impairing the quality of justice. This view is shared by 30.8% of the prosecutors and about one-half of all defense attorneys. (Table 22).

As mentioned, included in this portion of the questionnaire are open-ended items regarding the quality of justice and recommendations for the future operation of the program. As can be seen from the two following tables (Tables 23 and 24), about one-third of those surveyed responded to the open-ended quality of justice question and slightly fewer than half offered recommendations.

TABLE 23.

QUALITY OF JUSTICE
PERCENT RESPONDING TO OPEN-ENDED QUESTIONS
(PERCENT)

QUALITY OF JUSTICE	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
RESPONDED	5.5	30.2	38.9	31.1
DID NOT RESPOND	94.5	69.8	61.1	68.9

TABLE 24.

RECOMMENDATIONS
PERCENT RESPONDING TO OPEN-ENDED QUESTIONS
(PERCENT)

RECOMMENDATIONS	JUDGES	PROSECUTORS	PUBLIC DEFENDERS	PRIVATE ATTORNEYS
RESPONDED	33.0	41.2	49.7	46.9
DID NOT RESPOND	67.0	58.8	50.3	53.1

Nonetheless, the worth of these responses should not be overlooked. One of the major limitations to sole reliance on closed-ended questions is the failure to provide for those respondents wishing to explore relevant areas not anticipated during construction of the survey instrument. Indeed, the primary utility of open-ended questions is to identify topical responses which cannot be reasonably accounted for by multiple choice questions. In addition, open-ended responses typically permit further elaborations of the results to closed-ended questionnaire items.

The value of open-ended responses, then, cannot entirely be understood in terms of their absolute frequency, as they often furnish a broader representation of the thoughts and concerns of those who choose to respond in that fashion. Thus, it should be kept in mind that these responses cannot be interpreted in such a way as to represent any identifiable proportion of the general population of criminal justice professions surveyed. They can do no more, or less, than supplement our understanding of the thoughts and concerns of those taking the time to respond to the Committee's survey instrument.

Some additional information is helpful to place any presentation of the open-ended response data in the proper context. Analysis indicates that some relationship exists between how subjects responded to the closed-ended item regarding the program's operation to date and whether or not they responded to the open-ended quality of justice item. Specifically, those who believed that justice had been

impaired were more likely to make open-ended comments than those who believed that the quality of justice had not been impaired. This relationship was strong for public defenders but somewhat diminished for prosecutors, defense attorneys and judges. A similar moderate relationship also existed between how subjects responded to the closed-ended question on future justice impairment and their decision to make open-ended recommendations.

Quality of Justice Comments

The most frequent comment by both the public defenders and prosecutors responding to this question was that judges developed a preoccupation with increasing the volume of dispositions under the Speedy Trial Program. In many cases where these comments were made, respondents added that this preoccupation impacted proceedings at all points in such a way as to effect final case disposition. Other prosecutors, public defenders and defense attorneys also commented that judges have applied more pressure to plea negotiate as a way to avoid delays.

Among prosecutor respondents, the most common criticisms were that criminal investigations must be shortened due to time goal demands and that defense-initiated delays threaten the quality of justice. On the positive side, some prosecutors reported that Speedy Trial resulted in higher victim satisfaction, better inter-agency rapport, improved quality of pretrial programs and the generation of "purer" trial lists.

A number of public defenders who commented said that the program had damaged rapport between criminal justice professionals, had turned case managers against defense attorneys, had created undue hardships for defendants and had resulted in unusual judicial leniency toward non-compliance to programs goals by the prosecutor.

This last theme was echoed by defense attorneys in more detail. The most frequent response by defense attorneys to the quality of justice question was that prosecutors gained an added time advantage before indictment. It is perceived that prosecutors are able to prepare cases at an earlier stage than can the defense. In addition, some defense attorney respondents asserted that prosecutors are free to ignore Speedy Trial rules and that their pre-indictment delays do not affect the Speedy Trial "clock." Defense attorneys also concur with their public defender counterparts that professional rapport has suffered since the introduction of the program.

Few judges responded to the open-ended quality of justice question. By and large, their prevailing impression was that the program had not impaired the quality of justice.

Recommendation Comments

Responses to the open-ended question on recommendations evidenced some overlap between the four occupational groups but also helped to identify responses which underscore the unique concerns of each group. One recommendation frequently offered by all groups was an increase in appropriate resources.

The resources were often seen as being needed most by the occupational group of which the respondent was a member. However, the subject of increased resources for the Superior Courts cuts across professions.

A recommendation figuring prominently within the defense attorney, public defender and judge groups was the need to refine the quality of pre-trial screening. Defense attorneys also added that the total number of pre-trial conferences is, at present, too unwieldy and becomes a hindrance to the Speedy Trial concept.

Some prosecutors and defense attorney respondents concurred that the standardization of time goals across all case types, regardless of offense or complexity level, was unrealistic. These respondents argued that time goals should have gradations according to some rationale taking into account offense seriousness and other variables which might have a bearing on the time needed to process a case.

Prosecutor, public defender and defense attorney respondents suggested that judges use stricter sanctions for non-compliance to current time goals. These comments were most often directed at the respondents' courtroom adversaries. For instance, prosecutors responding on this issue generally believed that delays were orchestrated by public defenders and defense attorneys to disrupt justice. Prosecutors responding in this way believed defense attorneys were not cooperating with the precepts of the Speedy Trial Program.

Other prosecutor recommendations for improvement were headed by suggestions to ease pressure on judges to generate "numbers" of dispositions, initiate PTI and conditional discharge cases by accusations, and increase prison space. A prosecutorial concern was that delays in the completion of CDS case laboratory reports were prime contributors to trial delay.

A frequent comment by the public defenders was the suggestion that the program is currently satisfactory, but further "tinkering" will not improve matters. As with prosecutors, public defenders also perceived that judges had been pressured to produce high volumes of dispositions as a byproduct of the Speedy Trial Program. Some public defender respondents felt the repeal of strict sentencing standards would benefit the Speedy Trial Program. Most of the remainder of public defender recommendations focused on upgrading relevant personnel (e.g., increased judicial training, hiring of experienced municipal employees) and on reducing the appearances required of defendants (e.g., mailing of not guilty pleas, waivers of pretrial conferences).

Besides judicial recommendations regarding improved pretrial screening and an acceleration of various forms of resources (e.g., additional judges, additional public defenders), judges responding tended to desire greater control in expediting criminal cases. Among the methods presented to achieve this were increased authority in plea negotiations and compelled compliance to Speedy Trial time goals by the prosecution and defense.

The major difference between defense attorney recommendations and those of other professions was emphasis on standardization of procedures. The two primary forms of standardization recommended were (1) the standardization of Speedy Trial structure throughout all counties and (2) the standardization of plea bargaining guidelines. Regarding the first of these recommendations, respondents contended that the present non-uniformity between county programs created confusion for defense attorneys when their practice took them to a variety of counties. Defense attorney responses also recommended that the program search for ways to limit defense appearances (e.g., arraignment by mail, written no guilty pleas).

APPENDIX

COMMITTEE ON SPEEDY TRIAL GOALS AND THE QUALITY OF CRIMINAL JUSTICE

Position (Check one.)

- ☐ Prosecutor
- ☐ Public Defender
- ☐ Judge
- ☐ Defense Attorney (Private)

No. Years in Criminal Justice System _____

Vicinage (Check one.)

- ☐ 1. Atlantic - Cape May Counties
- ☐ 2. Bergen County
- ☐ 3. Burlington County
- ☐ 4. Camden County
- ☐ 5. Essex County
- ☐ 6. Hudson County
- ☐ 7. Mercer County
- ☐ 8. Middlesex County
- ☐ 9. Monmouth County
- ☐ 10. Morris - Sussex Counties
- ☐ 11. Passaic County
- ☐ 12. Union County
- ☐ 13. Somerset - Hunterdon - Warren Counties
- ☐ 14. Ocean County
- ☐ 15. Gloucester - Cumberland - Salem Counties

Please check the response which best represents your feelings.

As a result of Speedy Trial. . .

- ☐ my job is harder than it would be otherwise.
- ☐ my job is about the same as it would be otherwise.
- ☐ my job is easier than it would be otherwise.

The additional effort required by Speedy Trial is...

- ☐ equally shared by all components of the system.
- ☐ most heavily borne by the courts.
- ☐ most heavily borne by defense attorneys.
- ☐ most heavily borne by prosecuting attorneys.
- ☐ There has been no additional effort by anyone as a result of Speedy Trial.

As compared with the years before Speedy Trial, how do you think the following have been affected?

	more than before Speedy Trial	about the same	fewer than before Speedy Trial	don't know
Acquittals	☐	☐	☐	☐
Conditional Discharges	☐	☐	☐	☐
Convictions	☐	☐	☐	☐
Dismissals	☐	☐	☐	☐
Negotiated Pleas	☐	☐	☐	☐
Pre-Trial Intervention	☐	☐	☐	☐
Remands to Municipal Court	☐	☐	☐	☐
Trials	☐	☐	☐	☐

Concerning the workings of Speedy Trial in your vicinage, how do you feel about the following statements?

	strongly disagree	disagree somewhat	no opinion	agree somewhat	strongly agree
1. The quality of justice is improved by moving cases quickly.	☐	☐	☐	☐	☐
2. The program is more concerned with numbers than people.	☐	☐	☐	☐	☐
3. Needless time and money are still being spent on cases that could be screened out.	☐	☐	☐	☐	☐
4. The program discourages trying cases which should go to trial.	☐	☐	☐	☐	☐
5. Speedy Trial has found ways to eliminate wasted time and unnecessary delay in the system.	☐	☐	☐	☐	☐
6. The individuality of cases has been lost.	☐	☐	☐	☐	☐
7. Speedy Trial has enabled defense attorneys to move cases quickly to trial if they so desire.	☐	☐	☐	☐	☐
8. Judges are under strong pressure to produce a satisfactory number of dispositions.	☐	☐	☐	☐	☐
9. The public is entitled to have criminal cases disposed of quickly.	☐	☐	☐	☐	☐
10. The Speedy Trial Program results in innocent defendants pleading guilty.	☐	☐	☐	☐	☐
11. The rights of defendants have been compromised by this program.	☐	☐	☐	☐	☐
12. If more resources were added many of the problems with Speedy Trial would be substantially reduced.	☐	☐	☐	☐	☐
13. The expeditious resolution of criminal charges has enhanced the deterrent effect of the criminal law.	☐	☐	☐	☐	☐
14. The program has made it possible for defendants to obtain a trial more quickly.	☐	☐	☐	☐	☐
15. Judges do not grant needed extensions.	☐	☐	☐	☐	☐
16. It is the appearance of injustice which occurs more often than real impairment of quality.	☐	☐	☐	☐	☐
17. Speedy Trial has enabled prosecutors to move cases quickly to trial if they so desire.	☐	☐	☐	☐	☐

	strongly disagree	disagree somewhat	no opinion	agree somewhat	strongly agree
18. The local planning process has enhanced communication among the various components of the criminal justice system.	☐	☐	☐	☐	☐
19. The repeat defendant benefits from the Speedy Trial program.	☐	☐	☐	☐	☐
20. The Speedy Trial Program results in guilty defendants not being convicted.	☐	☐	☐	☐	☐
21. There is not adequate time to prepare cases.	☐	☐	☐	☐	☐
22. Speedy Trial has eliminated unnecessary steps in the criminal process.	☐	☐	☐	☐	☐
23. First time defendants suffer as a result of the Speedy Trial Program.	☐	☐	☐	☐	☐
24. Too many court appearances are required.	☐	☐	☐	☐	☐

Given their different roles relative to the criminal justice system, how do you think each of the following has fared as a result of Speedy Trial?

	suffered greatly	suffered somewhat	no change	benefitted somewhat	benefitted greatly
Defendants	☐	☐	☐	☐	☐
Defense Attorneys (Private)	☐	☐	☐	☐	☐
Judges	☐	☐	☐	☐	☐
Police	☐	☐	☐	☐	☐
Prosecutors	☐	☐	☐	☐	☐
Public at Large	☐	☐	☐	☐	☐
Public Defenders	☐	☐	☐	☐	☐
Victims	☐	☐	☐	☐	☐
Witnesses	☐	☐	☐	☐	☐

Overall, the Speedy Trial Program to date has. . .(check one)

- ☐ reduced delays in case disposition with an improvement in the quality of justice.
- ☐ reduced delays in case disposition with no impact on the quality of justice.
- ☐ reduced delays in case disposition but has impaired the quality of justice.
- ☐ had no affect on delays in case disposition but has impaired the quality of justice.
- ☐ had no affect on either delays in case disposition or the quality of justice.

Any additional comments on how Speedy Trial has affected the quality of justice?

Concerning the Speedy Trial Program in the future. . .(check one)

- ☐ further reductions in case disposition delays can be made, but to go further will impair the quality of justice.
- ☐ further reductions in case disposition delays can be achieved without impairing the quality of justice.
- ☐ no further reductions in the time needed to process cases can be made.

What recommendations would you make concerning the Speedy Trial Program during the next two years?

1986 JUDICIAL CONFERENCE TASK FORCE ON SPEEDY TRIAL

REPORT OF THE

COMMITTEE ON DELAY POINTS AND PROBLEMS

AFFECTING SPEEDY TRIAL

Edwin H. Stern, J.A.D., t/a
Committee Chairman

1986 JUDICIAL CONFERENCE TASK FORCE ON SPEEDY TRIAL

COMMITTEE ON DELAY POINTS AND PROBLEMS AFFECTING SPEEDY TRIAL

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STATEMENT ON THE PURPOSE OF THE SPEEDY TRIAL PROGRAM

Prior to implementation of the speedy trial program the average case took over one year to adjudicate. The program, since 1980, has successfully reduced that time to less than six months. The purpose of the program was, and still is, to promote the fair and expeditious handling of all criminal cases. It was not designed to promote guilty pleas or waivers of the right to trial where that is inappropriate, and certainly not to coerce defendants to plead guilty under threat of a harsher sentence if they exercise their right to trial. The focus instead is to reduce the delay in case disposition, to reduce the "waiting time" between case events. The approach is to manage cases so that individual case needs are addressed and to allow for the early identification of cases which may be disposed of without delay and unnecessary consumption of system resources, but always with a priority on preserving defendants rights.

The public and victims of crime demand, and are entitled to, early resolution of criminal charges. A defendant has a right to expect that his case will be resolved within a few months -- not years as it was prior to the program. When the result is a conviction, the early disposition of charges ultimately has benefit to offenders who are thereby relieved of the uncertainties and pressures of pending charges, and who may then receive available rehabilitative services or who wish to get their sentences behind them. The various components of the criminal justice system also benefit when less serious cases are disposed of at an early stage allowing for focus and allocation of resources on the cases of a more serious nature.

The standards set forth herein are not designed to increase the number of dispositions for statistical purposes but are intended to reduce, where possible, unwarranted pressures on counsel to permit attorneys to properly represent their clients and to facilitate the trial of criminal cases that need to be tried. These standards seek to reduce unnecessary court appearances that the defendant and defense counsel must make and to implement management procedures that will provide firm trial dates. A defendant who exercises his or her right to trial by jury should not receive a harsher sentence because of the exercise of that right. While plea bargaining is an effective tool to dispose of criminal cases where the State and the defense can agree on an appropriate plea agreement, a judge must never impose a harsher sentence simply because the defendant exercised his or her right to trial by jury.

Further, the standards are designed with the understanding that each case should be processed as merited on an individual basis and that we recognize some cases take longer than others and may deviate from the goals stated in our report.

APPROPRIATE EARLY AND CONTINUING CASE MANAGEMENT IN CRIMINAL CASES

I. The experience in New Jersey and nationwide has been that appropriate early and continuous management of criminal cases is vital to achieving speedy trial goals. However, management techniques can be misapplied, resulting in delay and waste of scarce resources, and ultimately jeopardizing the quality of the administration of justice. The focus of case management should be to bring a case to a position where it can be disposed of properly. If management needs can be accomplished without a formal hearing, they should be. If a hearing must be held, it should be meaningful, that is, it should accomplish specific management objectives.

STANDARD 4.1

THRESHOLD CRIMINAL CASE MANAGEMENT OBJECTIVES ARE:

1. ENTRY OF APPEARANCE OF DEFENSE COUNSEL, WHETHER PRIVATE BAR OR PUBLIC DEFENDER, AND IDENTIFICATION OF TRIAL PROSECUTOR;
2. EXCHANGE OF DISCOVERY BY BOTH PROSECUTION AND DEFENSE;
3. SOME "CONTACT" WITH DEFENDANT SUFFICIENT TO INDICATE THAT CASE IS NOT IN FUGITIVE STATUS;
4. APPLICATION FOR DIVERSIONARY PROGRAMS, SUCH AS PTI OR CONDITIONAL DISCHARGE/SUSPENDED PROCEEDINGS;
5. PROMULGATION OF A SCHEDULE FOR FUTURE CASE EVENTS; AND
6. ENTRY OF PLEA TO THE INDICTMENT.

STANDARD 4.2

THRESHOLD CRIMINAL CASE MANAGEMENT OBJECTIVES SHOULD BE COMPLETED WITHIN TWO WEEKS OF INDICTMENT. WHILE A CENTRAL FIRST APPEARANCE BEFORE INDICTMENT OR AN IN-COURT ARRAIGNMENT IS ENCOURAGED, OTHER MEANS MAY BE EMPLOYED SUCH AS AN INFORMAL COURT INTAKE OR ATTORNEY CERTIFICATION. THE SUPREME COURT SHOULD CONSIDER RELAXATION OF R. 3:9-1 ON REQUEST OF THE ASSIGNMENT JUDGE WHERE ALTERNATIVE MEANS WILL BE EMPLOYED TO ASSURE EARLY DISCOVERY AND APPEARANCE OF COUNSEL. ANY OBJECTIVE NOT ACHIEVED WITHIN TWO WEEKS SHOULD TRIGGER AN ORDER FOR A MANDATORY IN-COURT ARRAIGNMENT.

The threshold objectives are designed to identify the key participants who will be authorized and responsible for case disposition; exchange discovery in order to provide a basis for identifying further case needs and activities; identify potential fugitive problems early on in the process; resolve diversionary issues so that subsequent events are not delayed by pending PTI or Section 27 applications, and advise the parties of what the further expectations are regarding conferences and ultimate trial. These objectives are considered to be threshold and minimally necessary before secondary case management objectives can be pursued.

In many counties, pre-indictment intake and central or regional appearance programs will be able to accomplish many, if not all, of the above objectives. The optimum time to earnestly engage in early case management is probably right after the prosecutor's screening decision is made. Efforts prior to prosecutorial screening can be inefficient where cases are downgraded or administratively dismissed. However, the period between such screening and the entry of a plea to indictment can be profitably used to address threshold objectives. Central first appearances on complaints (CJP), wherein the prosecutor engages in screening, seem particularly useful to accomplish early case management. In any event, such management must be completed no later than two weeks after indictment, or the case should be called for a hearing.

STANDARD 4.3

SECONDARY CRIMINAL CASE MANAGEMENT OBJECTIVES ARE:

1. FILING AND SCHEDULING OF NECESSARY MOTIONS;
2. INTERVIEW BY DEFENSE COUNSEL WITH THE DEFENDANT AND WITNESSES;

3. INTERVIEW BY PROSECUTORS WITH STATE WITNESS(S);
4. EARLY DISPOSITION OF APPROPRIATE CASES BY PLEA OFFER, IN WRITING IN ADVANCE IF POSSIBLE, AND IN-PERSON NEGOTIATION BETWEEN TRIAL PROSECUTOR AND DEFENSE COUNSEL AS TO PLEA AGREEMENT;
5. IDENTIFICATION OF A CASE'S LIKELIHOOD FOR TRIAL; AND
6. SCHEDULE FOR FIRM AND CERTAIN TRIAL DATES INCLUDING ISSUANCE OF A TRIAL ASSIGNMENT NOTICE AT LEAST SIX WEEKS PRIOR TO TRIAL DATE WITH OPPORTUNITY FOR COUNSEL TO REQUEST, WITHIN 15 DAYS, ADJOURNMENT TO A MORE CONVENIENT DATE.

STANDARD 4.4

SECONDARY CASE MANAGEMENT OBJECTIVES SHOULD BE COMPLETED PRIOR TO TWO WEEKS BEFORE THE SCHEDULED TRIAL DATE. EACH CASE SHOULD HAVE AT LEAST ONE IN-COURT APPEARANCE BETWEEN TRIAL COUNSEL, WITH THE DEFENDANT PRESENT PREFERABLY AFTER SECONDARY MANAGEMENT OBJECTIVES ARE ALL ACHIEVED. MULTIPLE CONFERENCES SHOULD BE AVOIDED, AND CASES SHOULD BE SCHEDULED FOR DATE CERTAIN TRIAL IF PLEA NEGOTIATIONS ARE UNSUCCESSFUL.

The purposes of such a conference would be twofold. The first would be to discuss the results of negotiations between the parties relating to pleas and other matters that will promote a fair and expeditious disposition or the trial. The second purpose would be the other management objectives listed above. The attorneys attending the conference must be prepared to also discuss the management of the case so that if a plea is not entered, both sides are given a fair opportunity to prepare for trial.

Firm trial dates are the sine qua non of speedy case movement. Hence, a rational approach to setting firm trial dates and reduction of unmeaningful in-court case conferences is needed. Trial dates should be set by the court, with input from both sides, and then firmly adhered to.

The date must be a realistic date; it has to be set for a time when the court will be able to try the case. Some overscheduling will be necessary, but too much will trigger posturing, not serious case preparation.

Conference calls, informal management events, and attorney certifications may be employed to accomplish most threshold and secondary management objectives. However, it seems unwise to eliminate all mandated appearances, and it would seem that at least one in-court appearance in advance of trial should be retained as a minimum management tool.

STANDARD 4.5

CONTINUANCES OR ADJOURNMENTS OF THE TRIAL DATE AFTER THE 15 DAY PERIOD HAS EXPIRED SHOULD BE GRANTED ONLY IF UNFORESEEN CIRCUMSTANCES ARISE.

If the trial date must be rescheduled, the judge may either set a new date to meet the needs of the parties or if underlying problems exist that interfere with the orderly progress of the case, the judge may schedule a management conference or otherwise order any necessary and appropriate activities under the circumstances, including a new trial date. A clear adjournment policy must be articulated, and it must apply equally to both sides. This is necessary so that everyone knows in advance which cases will or will not be adjourned. The articulation and equal application of continuance policies are at least as important as how strictly they are applied. When everyone knows what cases are going to trial, those cases will be prepared for trial.

EVALUATION OF REASONS CONTRIBUTING TO DELAY IN CASE PROCESSING

I. INTRODUCTION

Before one can meaningfully begin to develop strategies to address delay points and problems affecting speedy trial, it is first necessary to develop and implement a case management approach which will allow for identification of the factors causing delay. The failure to do so may result in implementation of a variety of wide-ranging suggestions which may have substantial impact upon the criminal justice system without any assurance that such changes meaningfully address the causes of delay.

It is here asserted that there is no single, statewide cause for trial delay. New Jersey is a diverse State with different personalities and cultures affecting operations of the criminal courts in each county. Problems that cause delay in one county may be non-existent in another. It must also be recognized that cases progress in clearly identifiable stages and that delays may occur in any or all of those stages. The search for grand solutions to eliminate delay may be a futile quest. The more successful strategy may need to employ many small timesaving changes which, in the aggregate, bring about a substantial overall result.

The process of identifying causes for delay and suggesting policies to deal with that delay is neither glamorous nor is it innovative. It does not presuppose that there can be any quick fix or broad sweeping changes which will dramatically reduce delay. It asserts that the first essential element of any delay reduction program must be the aggressive day-in and day-out management of cases at every step of

their proceedings. Only through such case management and the information which it yields can we identify the real from the supposed reasons for delay. Great strides in delay reductions have been made in New Jersey over the past six years. With the implementation of PROMIS/GAVEL and greater sophistication in case management on the part of criminal division staff, greater precision is now possible in both the identification of causes of delay and the development of strategies to eliminate such.

Although the causes of delay may be complex and diverse, and may vary from county to county, nevertheless, a uniform process for identifying and ultimately addressing those causes is both possible and desirable. The process must involve the following critical elements.

STANDARD 5.1 TIME GOALS SHOULD BE ESTABLISHED FOR ALL CRITICAL EVENTS IN THE LIFE OF A CASE.

Every case has certain critical events by which its progress from beginning to disposition may be measured. To break a case into its component parts, it is necessary first to identify those critical events in the life of the case. Then, each event should occur within some reasonable time frame or goal.

While the identification of crimical events and respective goals may need to vary amongst the counties, given local conditions, the following is illustrative of key event and goal statements.

A. ARREST TO INDICTMENT (Goal-6 weeks from date of Complaint)

Critical Event	Goal
1. Receipt of Complaint by Prosecutor	48 hours from filing
2. Receipt of Police Reports	1 week from date of Complaint
3. Receipt of Lab Reports	2 weeks from date of Request
4. Prosecutor Screening Decision (Remand, Dismissal or refer to Grand Jury)	3 weeks from date of Complaint

B. INDICTMENT TO DISPOSITION (Goal-12 weeks from date of Indictment)

Critical Event	Goal
1. Entry of Appearance of Defense Counsel	1 week from first appearance on Complaint (or) no later than 2 weeks after Indictment
2. PTI and Section 27 Application	2 weeks after Indictment
3. Program Resolution of PTI Application	2 weeks from date of Application
4. Prosecutor Resolution of PTI Referral	2 weeks from date of Program Referral
5. Exchange of Discovery	Automatic exchange of routine discovery (or 2 weeks from Indictment)
6. Schedule of Future Events	2 weeks from Indictment
7. Pretrial Conference	10 weeks from Indictment
8. Trial	12 weeks from Indictment
9. Sentencing	4 weeks from Disposition

The process of dividing a case into its component parts must be accomplished with respect to the procedures employed in each individual county. Once the critical events in the life of the case are identified, the process may proceed to the next step.

In order to reduce delay, it is necessary not only to establish a goal for overall case processing, but also to set time goals

for the completion of each critical event of the case. Only by doing so can the progress of a case be measured as it proceeds. In establishing these goals it is essential that such be done in careful consultation with all critical actors in the criminal justice system. The goals must be realistic and achievable, since meeting the goals may depend in great part upon operations of offices outside of the court system.

STANDARD 5.2 CASES FAILING TO MEET TIME GOALS SHOULD BE LISTED ON EXCEPTION REPORTS ROUTINELY GENERATED BY PROMIS/GAVEL

If cases are to be effectively managed, they must be monitored at each stage of the proceedings. As cases fail to meet a specific time goal for the occurrence of a critical event, it is necessary that such be identified at the earliest possible moment. By doing so, the stage of the process during which the delay occurs may be quickly identified and distinguished from other phases in the life of the case where no problems exist. Thus, for example, if a given county finds that time goals are being met for all phases of case processing except for the interval from indictment to arraignment, attention may then be focused on that specific area. Implementation of this approach will allow each county to address its own unique problems which may occur in different stages of the life of a case. Although preparation of such exception reports would have seemed unduly burdensome in the past, the PROMIS/GAVEL system now makes such quite feasible. To fail to use PROMIS/GAVEL for production of exception reports on cases failing to meet specific time goals would be to lose a valuable management tool.

STANDARD 5.3 CASES FAILING TO MEET TIME GOALS SHOULD BE IDENTIFIED AND ANALYZED FOR REASONS CAUSING DELAY. STRATEGIES SHOULD BE DEVELOPED FOR ELIMINATION OF CAUSES OF DELAY.

Once an exception report has been generated identifying those cases failing to meet specific time goals, the reasons for the identified delay are still unknown. It is then necessary to individually examine each delayed case to identify the reasons for its failure to meet a specific time goal. This process is not interested in aberrational causes for delay. In identifying reasons for failure to meet time goals, it is necessary to look for problems which recur with frequency. These problems will often vary from county to county. The process of identifying and analyzing the recurring reasons for failure to meet time goals may be completed by case management teams under the direction of the criminal division case manager.

The information prepared for the case manager identifying and analyzing recurring reasons for delay may then be shared with agencies and institutions affected by the operations of the criminal courts. In this way, development of strategies at a local level may be accomplished to address delay problems. Where those problems are not caused at the local level, the process allows for appropriate documentation to be submitted to responsible agencies at the State level for their attention.

OFFER OF JUDGMENT IN CRIMINAL CASES

I. INTRODUCTION

Sixty-four percent of the dispositions of criminal indictments are obtained by guilty plea, only 6% are by trial.[1] Guilty pleas are most prevalent by far in the less serious third and fourth degree crime categories, where they outnumber trial convictions by 20 to 1. For first and second degree crimes, the overwhelming majority of which receive custodial sentences, there are only about five pleas to each trial conviction. The data suggests that plea bargaining is much more useful in disposing of less serious cases than more serious, violent crimes. While plea bargaining has been recognized as legitimate and even respectable by both the New Jersey and United States Supreme Courts,[2] the literature would indicate that its ultimate desirability is still an open question in the minds of many.[3]

It is in light of this somewhat colorable acceptance of plea bargaining that the committee considered the role of the judiciary in plea bargaining. In the last decade a number of proposals have surfaced nationally which attempt to improve the quality of the process of plea

[1] Of the remainder, 13% are by PTI or conditional discharge, and 16% are outright dismissals.

[2] See State v. Taylor, 8 N.J. 353 (1979); also Bordenkircher v. Hayes, 434 U.S. 357 (1978).

[3] See e.g., National Advisory Commission on Criminal Justice Standards and Goals, Report on Courts, pp. 46-55, 57-65 (1973); Alschuler, Implementing the Criminal Defendant's Right to Trial: Alternatives to the Plea Bargaining System, 50 Chi. L. Rev. 931 (1983); Rubinstein and White, Alaska's Ban on Plea Bargaining, pp.1-18 (Alaska Judicial Council 1978); State v. Buckalew, 561 P.2d 289 (Alaska Sup. Ct. 1977); People v. Byrd, 162 N.W.2d 777 (Mich. App. 1968; concurring opinion by Judge Levin); Kipnis, Criminal Justice and the Negotiated Plea, 86 Ethics 93-106 (1976).

negotiating. This usually involves a bench trial, of sorts, in order to make the process more open and accountable and to provide a measure of judicial mediation or arbitration to the process.[4] Others, however, view judicial intrusion into the plea process as demeaning to the judicial process and potentially chilling to constitutional rights to fair trial.[5]

In New Jersey, R. 3:9-3(c) only authorizes an informal but passive role by the judge in a conference called to review a tentative agreement already struck by the prosecutor and defense counsel. Ostensibly, without an agreement already in place, no such conference is authorized. Interpretations of this rule, in practice, are said to vary enormously.

The committee discussed the issue at some length and has concluded that the matter is a most complex one. Consideration of so profound an issue should occur: in a specific committee or forum without distraction of numerous other issues; after careful review of the literature and case law; without the time constraints which the current task force faces; and, perhaps, after demonstration of various alternative modes of judicial participation. The committee recommends such an approach.

[4] See Note, Restructuring the Plea Bargain, 82 Yale L.J. 286 (1972); Note, Plea Bargaining and the Transformation of the Criminal Process, 90 Harv. L. Rev. 564 (1977); Pugh & Radamaker, Plea for Greater Judicial Control Over Sentencing and Abolition of the Present Plea Bargaining System, 42 Louisiana L. Rev. 79 (1981); Alschuler, The Trial Judge's Role in Plea Bargaining (Part 1), (1924-34) 76 Colum. L. Rev. 1059, (1976); Hyman, Bargaining and Criminal Justice, 33 Rutgers L. Rev. 3, (1980); M. Heumann, Plea Bargaining the Experiences of Prosecutors, Judges, and Defense Attorneys, p. 167 (1977).

[5] See, e.g., Limiting Plea Bargaining and Prosecutorial Discretion, 15 Cumberland L. Rev. 1 (1984); A Bad Bargain, Trial at p. 16; State v. Poli, 112 N.J. Super. 374 (App. Div. 1970); State v. Korzenowski, 123 N.J. Super. 454 (App. Div. 1973); Arnold, 31 N.J. Practice, §405, Negotiating a Plea Bargain - Judge's Role; Federal Rules of Criminal Procedure, R. 11(e); United States ex rel. Elksnis v. Gillian, 256 F. Supp. 244 (S.D.N.Y. 1966); United States v. Werker, 535 F.2d 198 (2d Cir.), cert. den.,429 U.S. 926; 97 S. Ct. 330; 50 L.Ed.2d 296 (1976); United States v. Adams, 634 F.2d 830 (5th Cir. 1981).

II. OFFER OF JUDGMENT

The committee has also considered the need for a procedure, in light of the predominance of disposition by plea for less serious crimes, whereby cases clearly amenable to and deserving of a probationary sentence, and where the defendant desires to dispose of the charges against him expeditiously and without trial, may be resolved. No one benefits from unnecessary trials, such as may occur where the plea offer calls for imprisonment but the judge feels constrained by current rules from acknowledging that a probationary disposition would be ordered.

It is fairly clear that an appropriate distinction may be made between less serious crimes and the violent crimes of the first or second degree. The Code of Criminal Justice makes such distinction for purposes of presumptions for or against imprisonment, N.J.S.A. 2C:44-1(d)(e). Furthermore, defendants charged with first or second degree crimes "should ordinarily not be considered for enrollment in a PTI Program."[6]

It also seems appropriate to distinguish probationary cases from those facing a sentence of imprisonment for purposes of the procedure proposed in this paper. While judges should always endeavor to avoid the appearance of coercion in conducting case conferences, the risk and consequences of such coercion are much greater where a substantial loss of liberty is likely. This proposition is supported in an administrative directive issued in 1971[7] which provided:

[6] Guidelines for Operation of Pretrial Intervention in New Jersey, Guideline 3(i), September 8, 1976, Superseded by order dated January 10, 1979, amend. eff. December 1, 1982.

[7] Administrative Directive 3A-71, McConnell, October 14, 1971.

> At the Assignment Judges meeting in Cherry Hill, the question came up as to the propriety of screening criminal cases to determine which ones it was likely the defendant would receive only a probation sentence if convicted and then advising the defendant of that fact and requesting that he consider waiving a jury trial. The Chief Justice has taken this matter up with the Supreme Court which sees no objections to such a program provided there is no implication that if he does not waive a jury trial he will receive a jail sentence if convicted. It was reported at the conference that this program is working successfully in Bergen County, and the Court suggests it might be worth trying it out also in Essex County.

In the past, judges were less inclined to screen cases since the court had little information available upon which to base a judgment. However, as a result of major changes in the last two years in the management structure of the courts, case supervisors (probation officers) in most counties now have vertical responsibility for cases from start to finish and gather the functional equivalent of at least a short form presentence report at the outset. This practice would enable judges to identify cases amenable to probationary handling.

A similar approach is followed in England. In R. v. Turner, /1970/ 2 All E.R. 281 (Court of Appeal, Criminal Division) Lord Parker, C.J., set forth the English rule as follows:

> The judge should, subject to the one exception referred to hereafter, never indicate the sentence which he is minded to impose. A statement that, on a plea of guilty, he would impose one sentence but that, on a conviction following a plea of not guilty, he would impose a severer sentence is one which should never be made. This could be taken to be undue pressure on the accused, thus depriving him of that complete freedom of choice which is essential. Such cases, however, are in the experience of the court, happily rare. What on occasion does appear to happen, however, is that a judge will tell counsel that. . . he will for instance, make a probation order, something which may be helpful to counsel in advising the accused. Even so, the accused may well get the impression that the judge is intimating that, in that event /trial/, a severer

> sentence, maybe a custodial sentence, would result, so that again he may feel undue pressure. This accordingly must not be done. The only exception to this rule is that it should be permissible for a judge to say, if it be the case, that, whatever happens, whether the accused pleads guilty or not guilty, the sentence will or will not take a particular form, e. g., probation order or fine, or a custodial sentence. /at 285/ (Emphasis added.)

Thus it would appear that, respecting less serious crimes and particularly those which likely face only a probationary sentence, there may be an appropriate role for the judiciary in supplying a needed degree of certainty to the plea process. The need for judicial involvement, at least as to probationary or less serious cases, varies from county to county. In some counties the prosecutor, as a matter of policy, does not agree to non-custodial sentences in plea bargaining, either post-indictment or at anytime, even where there is a statutory presumption against imprisonment.

The committee has, therefore, concluded that in less serious criminal categories, particularly where a presumption against incarceration is available, or where a probationary sentence is clearly indicated, the benefit to all of some reasonable certainty as to sentence outcome suggests that some judicial assistance is appropriate and necessary, so long as: (1) the role is relatively passive, (2) the parties have already engaged in plea negotiations, (3) the court has sufficient information to know what sentence it would ordinarily render in such a case, (4) the defendant has offered judgment or otherwise requested judicial assistance, and (5) the procedure is designed to dispose of cases well before trial.

STANDARD 6.1 IN THIRD OR FOURTH DEGREE CRIMES OR OFFENSES WITH A STATUTORY MAXIMUM OF FIVE YEARS OR LESS, DEFENDANTS MAY, WITHIN TWO WEEKS OF ARRAIGNMENT OR RECEIPT OF DISCOVERY, WHICHEVER IS LATER, MOVE BEFORE THE COURT UPON NOTICE TO THE PROSECUTOR AND OPPORTUNITY TO BE HEARD, OF DEFENDANT'S OFFER, WITHOUT PREJUDICE, TO ENTER A PLEA OF GUILT AND ALLOW JUDGMENT AND CONVICTION TO BE TAKEN AGAINST HIM IN RETURN FOR A NON-CUSTODIAL SENTENCE OR A CONDITION OF PROBATION SENTENCE WITH A CUSTODIAL MAXIMUM. WHERE SUCH OFFERS INVOLVE THE DISMISSAL OF OTHER CHARGES, OR IN CASES INVOLVING MULTIPLE DEFENDANTS, THE OFFER MAY NOT BE ACCEPTED BY THE COURT OVER THE OBJECTION OF THE PROSECUTOR. THE JUDGE SHALL NOT RULE ON THE OFFER WITHOUT HAVING THE DEFENDANT'S CRIMINAL RECORD AND A FACTUAL DESCRIPTION OF THE CRIME PRESENTED TO HIM AND ANY OTHER INFORMATION REQUIRED BY LAW.

The committee was not unanimous respecting support for an offer of judgment procedure. Some members felt that, particularly respecting custodial condition of probation sentences, the procedure would encourage active judicial participation in plea bargaining. Others felt that the rule would not affect many cases, although it was noted that nearly 70% of current dispositions were for probationary sentences and, further, the procedure would tend to legitimize much of what already occurs. Finally, there was concern about the impact on plea bargaining as it currently stands and that the procedure should be tested first.

The availability of this procedure only for a short while after entry of appearance of counsel and receipt of discovery, makes it also particularly relevant to speedy trial. It will be effective if the local system is able to resolve issues relative to any PTI application and conditional discharge in an expeditious manner. The committee notes the growing number of counties with central first appearance and intake programs soon after arrest, and these programs will certainly facilitate the offer of judgment procedure.

The standard does not require that the offer of judgement be formal, although some record of it will be necessary. It may be made orally. It is considered desirable that the procedure not require more

layers of paperwork resulting, for instance, in a cumbersome procedure like PTI. Notwithstanding, defendants do have the opportunity to present reasons why this offer should be accepted, and even to submit a plan or proposal as to conditions of probation which will lead to an avoidance of future criminal activity. Such proposals are used effectively in the Intensive Supervision Program, and may have potential as well in the offer of judgment procedure.

The offer is for a specific probationary sentence. While the committee was not unanimous, the majority favored this terminology since it allows for custodial terms of up to 364 days as a condition of probation. Inclusion of this class of cases, it was felt, would make the procedure more useful.

Finally, and certainly not least, is recognition that this procedure will likely result in earlier commencement of probationary sentences for participating defendants. Generally, these defendants are on bail and are relatively unsupervised. This program will result in the earlier application of probation in these cases, and such is clearly in the public interest.

In summary, the majority views the proposal as a "procedure to be conducted on the record" not involving plea bargaining but permitting a judge in the absence of a negotiated plea to consider sentence as he or she would otherwise do had there been a trial or other disposition resulting in conviction.

ADMISSION OF LABORATORY REPORTS BY CERTIFICATION

I. INTRODUCTION

At present, the timely availability of laboratory reports is not a significant problem. The reports are currently available 14 working days after request and with the additional staff provided by a delay reduction grant, the reports will be available in ten working days. In the recent past, however, the delay has been as long as 26 working days for a laboratory report which may cause some delay. Moreover, experience has shown that there will never be as many staff members of the State laboratory as are needed to provide the best possible quality and speed of reports. As a result, it seems appropriate to make certain procedural changes to allow the more efficient use of whatever personnel is available to the laboratory to minimize the possibility of delay in production of reports.

STANDARD 7.1 A PROCEDURE SHOULD BE ESTABLISHED WHICH WILL ISOLATE THOSE FEW CASES IN WHICH THE PRESENCE OF A CHEMIST IS NECESSARY FOR TESTIMONY. THIS PROCEDURE SHOULD IDENTIFY THOSE CASES PRIOR TO TRIAL. SUCH A PROCEDURE WILL REDUCE THE AMOUNT OF LABORATORY TIME LOST IN NEEDLESS TRIPS TO COURTS.

One significant drain on personnel results from chemists being subpoenaed to appear in cases where they are never used as witnesses because the results of the analysis have been stipulated or the defendant has pleaded guilty. What is proposed is that procedures be established to reduce the number of such cases. The procedure would involve service of the report of the laboratory analysis on defense counsel or where counsel is not required (as in certain municipal court matters) on the defendant himself. After appropriate opportunity to consider the report in the context of the charge and other evidence, but

significantly prior to trial, the defense would then indicate whether it would object to the admission of the report into evidence. Where there was no objection filed, the report would be admissible and the prosecution would have the option of not requiring the chemist to be present. This recommendation can be achieved merely by changes in court procedures. The change does not affect the substantial rights of any party since the chemist would appear if either party required it. However, by focusing on this issue pretrial and requiring an affirmative request for the presence of the chemist, it can be assumed that the number of cases where the chemist's time is wasted by needless court appearances would be reduced greatly.

It should be noted that the rule change relates not only to indictable matters, but also to those tried in municipal courts. There is an important reason for the breadth of this recommendation. The only relation of the recommendation to delay reduction is that this procedure would reduce the waste of a chemist's time. Without the time wasted, a chemist would be back in the laboratory producing reports in a timely manner. It is irrelevant whether laboratory time is lost through needless appearances on indictable or non-indictable matters. To limit the procedural change to the criminal rules would be self-deceptive. Such a limitation would not only leave half of the problem unsolved, but would address only the half of the problem which is more accessible to other solutions through close liaison between the county prosecutors and the laboratory. As a result, if this proposal is adopted, it should be adopted for both superior and municipal courts.

STANDARD 7.2 A PRIORITY SHOULD BE ESTABLISHED IN MUNICIPAL COURTS FOR CASES INVOLVING TESTIMONY BY A CHEMIST. SUCH A PROCEDURE WILL MINIMIZE THE AMOUNT OF LABORATORY TIME LOST IN EACH COURT APPEARANCE.

The second recommendation deals with the delay encountered by laboratory personnel who often must wait long periods in municipal court before the particular case on which they are subpoenaed is reached. Again, the result of this problem is the expenditure of time which could be more profitably used in the laboratory. The problem is almost exclusively one of municipal courts since effective administrative liaison with prosecutor offices has solved the problem in regard to indictable cases. Therefore, the second recommendation proposes a directive establishing a priority for cases in which a chemist has been subpoenaed. Again, while the changes are in municipal court procedures, the effect is to free laboratory staff to complete reports for superior court cases in a timely manner.

There are other problems related to this shortage of staff time necessary to perform timely laboratory analysis. Such problems include administrative limitations on filling vacant positions and Civil Service restrictions which limit the ability to hire, promote and fire in rational ways. While these problems are significant, they are beyond the competence of this committee to solve. These problems must be referred for appropriate administrative and legislative action.

A last problem that must be addressed is that in those cases where a chemist who has performed the test is unavailable for testimony, testimony by his superior should be deemed sufficient. It is unclear whether such replacement is now possible under the Rules of Evidence. If the evidence rules were changed, however, any change should apply to all

matters, civil and criminal, as there can exist no justification for a lower standard of hearsay for criminal cases. Thus, the issue on whether and how the Rules of Evidence should be changed should be referred to the Supreme Court Committee on Evidence.

R. 3:13-5 Report of Laboratory Analysis

In any case in which the prosecution receives a report of laboratory analysis and a certification of the result of that analysis, it shall serve a copy of that report and certification together with a resume of the experience and qualifications of the persons performing the analysis with a notice referring to this rule on the defense in the case to which the analysis is relevant. Service shall be made at the time that discovery is provided pursuant to R. 3:13-3. Within 30 days after the receipt of this material, completion of discovery and arraignment of the defendant on the indictment, which ever is later, the defense shall indicate by notice to the court and prosecution if it will object to the admission into evidence of the report and certification. If the defense does not so indicate, the report shall be admitted into evidence.

R. 7:4-2(g)

. . . (new sentence) Procedure for service of Reports of Laboratory Analysis and objection to the admission into evidence thereof, in all cases, shall be as provided by R. 3:13-5 except that the time limit for objection shall be 14 rather than 30 days.

PRETRIAL INTERVENTION

The Committee on Delay Points and Problems Affecting Speedy Trial has identified pretrial intervention (PTI) as a major cause of delay. The committee has received data from various sources, including the PTI registry, the Administrative Office of the Courts (AOC) monthly report, and the PROMIS/GAVEL computer system. Due to differences in the scope and nature of these sources, the committee has not received data sufficient for in-depth analysis. However, in the aggregate, the data has been useful in a number of respects. Clearly, PTI has a substantial effect on criminal case flow. In 1985, according to AOC monthly reports from the counties, there were 14,912 PTI applications, roughly equal to 40% of the annual number of persons indicted. However, the majority of PTI applications are not accepted, with the data indicating that roughly two-thirds of applications are rejected statewide.

The data sources agree that the largest percentage of applications, about 25% of all applications, is from defendants charged with controlled dangerous substances (CDS) offenses. Weapons offenses (13%), burglary (12%), fraud (10%), and larceny (12%) are the remaining categories of significance. Combined, they account for nearly 75% of all applications.

These categories also account for over 75% of acceptances into the program. Nearly half of weapons applications are accepted, and thus this category accounts for about 25% of all acceptances. Burglary, fraud, CDS and larceny are all in the 10 to 15% range as a portion of all acceptances.

The data is unclear as to what portion of serious crimes, crimes of the first or second degree or sale of narcotic drugs, apply to PTI. This is due to lack of information as to degree of crime amongst the data sources. However, the 1983 PTI registry contained 256 PTI applications in the robbery category and these can only include either a first or second degree crime. Sentencing data from the AOC indicates about 1,300 convictions a year for robbery. Thus, it would appear that the portion of robbery cases applying for PTI is substantial, but not as great as found in less serious crime categories.

The committee also reviewed the amount of time consumed by the PTI application and review process. Data as to this was obtained from five counties with substantial PROMIS/GAVEL computer experience. While the counties varied, it would appear that cases typically take about four to six weeks during the time interval between application and recommendation by the program director/case manager, and an additional two to three weeks for the prosecutor to make a final determination. The committee has determined, therefore, that the PTI process consumes ordinarily at least two months of time, and that the great majority of this time is spent in the court segment of the evaluation process.

The committee is concerned that the PTI process, particularly the some 10,000 cases ultimately rejected and returned after several months to the normal case process, has resulted in longer delay than need be.

It appears that the procedure for review of applications for PTI used in some counties may contribute to delay in case processing. The most burdensome and time-consuming parts of the application process

are the interview of the applicant and the confirmation of data given by him or her in the application and interview. The difficulty is that in some counties the whole procedure, including the time-consuming elements, is used even where it appears immediately that the application will not be accepted. What is necessary is that a procedure be adopted to identify applications early in the process where certain factors, such as the nature of the charge, record of the defendant, or the like, are so overwhelming that regardless of the result of additional investigation the application will not be accepted. These applications can then be disposed of without an interview and other time-consuming procedures.

The committee has learned of a procedure currently used in Camden County wherein the court's case supervisors take the PTI application upon defendant's request and immediately forward the application to the prosecutor for initial screening. If the prosecutor, after reviewing the application and the contents of his file, decides against the application, he notifies the PTI director that he has rejected the application, at which time the defendant is notified of the prosecutor's decision. The rejections in Camden County ordinarily occur within a week, and cases are thereby quickly returned to the calendar. In cases where the prosecutor wants to know more about the offense or offender before deciding, the application is returned to the case manager for full interview and evaluation according to the normal PTI process. The case is ultimately returned to the prosecutor for final determination. The Camden County data revealed that nearly 70% of rejections occurred within one week in their program.

This procedure appears to work well in Camden County and it should be tried in other counties. The prerequisite for success of this approach would appear to be the availability of sufficient information on which the prosecutor can base his decision, willingness of the prosecutor to undertake the extra work required by this procedure, and a close working relationship so that cases are not lost in the process of being referred to the prosecutor and back to the PTI program.

Other similar changes in the PTI application procedure should also be tried. Contact was made with program staff in several counties and suggestions included having the program staff select cases for prosecutor screening (as opposed to prosecutor pre-screening in all cases.) The other process called for the PTI program to reject certain cases at that stage itself, although the committee expressed serious concern with the propriety of pre-screening by the program director and did not endorse the procedure.

All three of these processes, the one in Camden County and the two others suggested, are examples of strategies to identify cases where the burdensome parts of the PTI process are irrelevant to the decision. Such applications can then be considered without what are for them useless procedures. The committee supports this approach.

STANDARD 8.1 EXCLUSION FROM PTI APPLICATION

PERSONS WHO HAVE PREVIOUSLY BEEN CONVICTED OF A FIRST OR SECOND DEGREE CRIME SHOULD AUTOMATICALLY BE DENIED ACCESS TO THE PTI PROGRAM.

STANDARD 8.2 JOINT APPLICATION FOR FIRST AND SECOND DEGREE CRIMES OR SALE OF NARCOTICS.

PERSONS CHARGED WITH FIRST OR SECOND DEGREE CRIMES OR SALE OR DISPENSING OF SCHEDULE I OR II NARCOTIC DRUGS AS DEFINED IN L. 1970, C. 226 (N.J.S.A. 24:21-1 ET SEQ.) BY PERSONS NOT DRUG DEPENDENT, SHOULD NOT BE ALLOWED TO APPLY TO THE PTI PROGRAM UNLESS THEY FIRST RECEIVE THE PROSECUTOR'S CONSENT.

STANDARD 8.3 PRE-SCREENING OF PTI APPLICATIONS BY THE PROSECUTOR

THE CRIMINAL CASE MANAGER AND COUNTY PROSECUTOR SHOULD DEVELOP METHODS TO SCREEN CASES EARLY IN THE PTI APPLICATION PROCESS SO THAT INTERVIEWS AND OTHER BURDENSOME APPLICATION PROCEDURES ARE NOT NECESSARY WHERE THEY WILL HAVE NO EFFECT ON THE RESULT OF THE CASE. AN EXAMPLE OF SUCH A METHOD IS PRE-SCREENING OF APPLICATIONS BY THE PROSECUTOR.

A major purpose of the pretrial intervention program is to provide offenders with the opportunity to avoid ordinary prosecution by receiving early rehabilitative services or supervision. The premise is that if these offenders can be quickly diverted from the traditional criminal justice process and get help for the problems that caused them to commit the offense, they can be rehabilitated and/or deterred from future criminal behavior. (See N.J.S.A. 2C:43-12(a)1, 5. See also Guideline 1 of the Guidelines for Operation of Pretrial Intervention in New Jersey.) The public interest is best served by early identification and acceptance of defendants deemed amenable to the program. Therefore, a standard is proposed which would seek to expedite the filing of applications for PTI. This should not interfere with a defendant's full opportunity to receive advice of counsel prior to applying for PTI.

The committee also considered issues relating to confidentiality of PTI information, particularly given omnibus data collection forms now in use. We are aware that another paper will address basic concerns relating to intake forms. However, the committee resolved that information obtained from defendants for various pretrial purposes should not be used to a defendant's disadvantage. Moreover, the prosecutors who consider such information, particularly in large offices, should ordinarily not be involved with trial duties.

STANDARD 8.4 WHILE DEFENDANTS SHOULD CONTINUE TO BE ABLE TO APPLY FOR PTI UP TO SEVEN DAYS AFTER ARRAIGNMENT ON THE INDICTMENT, THE PURPOSES OF PTI ARE BEST SERVED BY APPLICATIONS SOON AFTER ARREST. ACCORDINGLY, THE COUNTIES SHOULD DEVELOP PROCEDURES WHICH PROMOTE EARLY PTI APPLICATIONS. THE PROCEDURES SHOULD NOT ENCOURAGE DEFENDANTS TO APPLY BEFORE THEY HAVE HAD THE OPPORTUNITY TO CONSULT WITH DEFENSE COUNSEL.

STANDARD 8.5 TO ASSURE THAT GUIDELINE 5 OF THE GUIDELINES FOR THE OPERATION OF PRETRIAL INTERVENTION IN NEW JERSEY IS ADHERED TO, ASSISTANT PROSECUTORS TRYING A CASE PREVIOUSLY REJECTED FROM PTI SHOULD HAVE NO ACCESS TO DOCUMENTS RECEIVED FROM COURT SUPPORT UNITS AS PART OF A PTI APPLICATION.

DELAY IN SENTENCING OFFENDERS

I. INTRODUCTION

After a plea of guilt has been entered, or a conviction via trial obtained, the public and the offender expect sentence will be passed in an expeditious manner. All too often it is months before sentence is actually rendered. Since 1981, the statewide average time from disposition to sentence was 43 calendar days. This average time to sentence has remained relatively stable. During the first six months of 1985, the average was 46 days. Thus, statewide it now takes six and one-half weeks, on average, from the time an offender pleads guilty or is convicted via trial to the time he or she is sentenced. In some counties the delay has worsened. In six counties this time interval is greater than seven calendar (ten work) weeks. This occurs despite the fact that much, if not all, the relevant information needed for sentence has been collected for a number of previous court events.

STANDARD 9.1 A TIME GOAL FOR THE INTERVAL FROM DISPOSITION TO SENTENCE SHOULD BE ESTABLISHED AT 30 CALENDAR DAYS. GOALS SHOULD BE MONITORED THROUGH AN EXCEPTION REPORT PRODUCED BY PROMIS/GAVEL.

While it is recognized that a 30 calendar day goal is ambitious, it is felt that it is a realistic goal if the steps outlined in this paper are adopted.

In order to assure that the goals set forth herein are being monitored, it is recommended that PROMIS/GAVEL produce exception reports for cases not meeting goals. These cases should then be examined by the criminal case manager's office to ascertain the reasons for delay. The reasons should then be the subject of discussion at meetings of the local speedy trial planning committee.

STANDARD 9.2 THE CURRENT EFFORTS BEING MADE TO ASSURE THE COMPLETENESS OF THE CRIMINAL DISPOSITION REPORTING SYSTEM (CDR) USED TO GENERATE PRIOR RECORD SUMMARIES FOR CRIMINAL DEFENDANTS SHOULD CONTINUE AND SHOULD RECEIVE THE SUPPORT OF ALL NECESSARY AGENCIES.

In its fourth annual report the Criminal Disposition Commission detailed serious problems with criminal histories being generated by the CDR system. The Commission found that substantial resources were being spent at the local level to obtain information missing on rap sheets generated by the state police. While the Commission found the state police management to be sound, a major problem was that the information necessary to report on charges and dispositions was not being sent to the state police by local county personnel, or did not include necessary fingerprint identification. The Commission recommended that certain improvements be made to the CDR system to make it a more complete criminal history data base. One major improvement it suggested would be to utilize PROMIS/GAVEL or other automated techniques to report information to the state police system. The state police and Attorney General's office are currently determining the feasibility of using PROMIS or other automated techniques to feed the system.

The time that is required to obtain and verify criminal history information due to missing information causes a major delay in sentencing offenders. The committee believes efforts to improve the quality of the CDR system will necessarily lead to better quality criminal histories with less information missing. The committee therefore endorses efforts being made to assure the completeness of the CDR system.

STANDARD 9.3 THE STATE POLICE SHOULD BE REQUESTED TO IMPROVE THE FORMAT OF CRIMINAL DEFENDANT PRIOR CASE HISTORIES

Another drain on personnel and cause for delay occurs when case supervisors are required to decipher "rap sheets" sent to them by the state police and put them into a format easily readable by judges, lawyers and others involved in the criminal justice system. The committee believes that if the criminal histories generated by the state police were formatted differently they could be used "as is." This would eliminate the necessity for translation by case supervisors. The state police believe that reformatting should follow the improvements recommended in Standard 9.2.

STANDARD 9.4 THE SUPREME COURT SHOULD APPROVE USE OF A CONSOLIDATED FORM TO ASSURE TIMELY COLLECTION OF INFORMATION NECESSARY TO REDUCE THE DELAY FROM DISPOSITION TO SENTENCING AFTER FULL CONSIDERATION OF ALL SERIOUS CONSTITUTIONAL AND OTHER OBJECTIONS.

A system of collecting information has been developed by the criminal presiding judges and case managers working with staff from the Administrative Office of the Courts. The system assures that information collected only once can be used for a number of court events. The proposed system breaks down the total of the courts' information needs for intake, bail, PTI, conditional discharge, and sentencing into a series of independent forms.

The heart of the system is a Uniform Defendant Intake Report (UDIR) which captures the main objective information needed about a defendant. The UDIR is the "foundation" report for each of the key decision points (bail, PTI, PSI, etc.) of a case. Then, additional information, narrative, or recommendations which are indigenous to the particular event at hand are added to the UDIR to form the full report for that event. Under this system, information is collected only once,

handled only once, but may serve the needs of various decision points in the case process.

The proposed Uniform Defendant Reporting System includes nine separate forms, generally each only one page in length (except the two or three page UDIR.) The forms package includes:

A. Uniform Defendant Intake Report (UDIR);
B. Uniform Defendant Intake Report/Supplemental Defendant Report;
C. Case History Update Record;
D. Bail Report;
E. Offense Information Report;
F. Prior Court History Report;
G. PTI/Diversion Report;
H. Presentence Report; and
I. Case Supervisor Analysis Report.

The adoption of a system for use statewide would go a long way towards reaching the 30 day goal. A uniform reporting system will streamline information gathering and assure that by the time disposition occurs the overwhelming majority of information necessary to provide a comprehensive presentence report will already be present in the file.

The committee discussed at length the proposed system of collecting information by the presiding judges of the Criminal Division. The committee neither supports nor opposes this system in view of objections raised relating to collection of information from a defendant in connection with the setting of bail. The Health Section (Section III) of the Uniform Defendant Intake Report, to be completed in connection with bail, diversion or presentence report, requires the defendant to provide information concerning his present and past physical and mental health and prior physical, mental and drug or alcohol treatment. The issue was raised that requiring this information from a defendant not yet represented by counsel for purposes of bail may constitute a violation of a defendant's Fifth Amendment rights. Some

members pointed out that "bail units" have collected such information from defendants for years, and that originally an important purpose of these units was to alleviate jail crowding. Thus, by providing the judge with information which would render a more complete judgment as to amenability to bail, the information was collected in the defendant's interest. Therefore, the same committee members argued that the application of a privilege to such information would be sufficient to counterbalance concerns about making the information available to the State. Such a privilege currently exists with PTI.

STANDARD 9.5 IF THE SUPREME COURT ADOPTS A UNIFORM FORM WHICH REQUIRES A DEFENDANT'S STATEMENT AS TO GUILT OR INNOCENCE, DRUG OR ALCOHOL USE, MENTAL HEALTH OR PSYCHIATRIC TREATMENT TO COURT SUPPORT STAFF AS A RESULT OF AN INTAKE INTERVIEW, BAIL INTERVIEW, PTI OR OTHER DIVERSION APPLICATION, IT SHOULD PROVIDE THAT THE STATEMENTS NOT BE USED IN ANY SUBSEQUENT PROCEEDING WITHOUT THE DEFENDANT'S CONSENT. ALL OTHER BACKGROUND INFORMATION OBTAINED BY A DEFENDANT AT ONE PROCEEDING WOULD BE ALLOWED TO BE USED AT SUBSEQUENT PROCEEDINGS.

A purpose of the pretrial collection of defendant information is to assist the court in identification of cases amenable to diversion and to assure that information necessary to the court for multiple events in the life of a case is collected early and only once. Therefore, the cooperation of the defendant is needed in obtaining this information and in utilizing it at various points in the case process. The purpose is to serve the court's need at specific decision points such as bail, PTI, or sentencing, and not to assist the State in investigation or preparation of its case. It should not be used at trial, or otherwise, to the defendant's disadvantage. Otherwise, defendants would not be inclined to forego their rights against

self-incrimination except as minimally necessary to achieve bail release or diversion, and not until such time as the information is required. Many courts currently have an intake unit, often in conjunction with centralized first appearances on complaint. It is to the benefit of both court support staff and defendants to have information collected at that time, minimizing the need for subsequent interviews. Generally, information collected at one point should be available for use at subsequent hearings (e.g., sentencing). However, if a defendant or his attorney objects to the use of specific information collected at an earlier stage, that information should be deleted to assure it is not used to his or her disadvantage.

As stated above, the use of this reporting system is to achieve certain management efficiencies and to save considerable time. The intent is not to do so at a defendant's expense. The use of these forms will allow for simultaneous, i.e., at time plea is entered, or otherwise expedited sentencing as most, if not all, of the information will already have been collected and verified.

STANDARD 9.6 COUNTIES SHOULD BE ENCOURAGED TO CONSIDER USING THE SIMULTANEOUS SENTENCING PROCEDURE. THE PROCEDURE REQUIRES THAT AT THE TIME OF PLEA THE DEFENDANT'S FILE CONTAIN SUFFICIENT INFORMATION TO SATISFY THE FUNCTIONAL REQUIREMENTS OF A PRESENTENCE REPORT.

The Supreme Court has previously given permission to a number of counties to utilize the simultaneous sentencing procedure. The procedure is that on certain victimless crimes sufficient information is collected early on so that by the time an offender pleads guilty the case supervisor has the functional equivalent of a presentence report already in his file. At the time of plea the judge looks at the information in the file and informs the offender of the availability of the

program. The defendant is then given time to consult with his attorney. If they decide to proceed, they go back to the judge who reviews the information in the file and sentences the offender on the same date as the plea is taken. The demonstration county for this procedure, Middlesex County, has reported no problems with its use and has requested permission for expansion.

FAILURE TO APPEAR FOR COURT APPEARANCES

I. INTRODUCTION

A major problem that should be addressed by the task force is the problem of offenders failing to appear for court proceedings. In many cases nothing can be done because it is the offender who decides whether to appear for court appearances. In some counties this is a more serious problem than others, i.e., counties bordering other states. This problem may also be compounded by the overcrowding situations in the jails. However, absconding defendants is only one part of a larger problem. Another aspect of this problem is with misidentification or miscommunication with offenders. A telephone survey done by the Administrative Office of the Courts (AOC) has identified some examples of this. The following are examples:

1. Complaint states offender name but has no address.
2. Complaint has no name and no address (John Doe).
3. Complaint has name but address is wrong.
4. Defendant subsequent to complaint is arrested and put in jail.
5. Lack of understanding as to when offender is next due in court.

During December 1985 there were 9,830 post-indictment cases classified as "fugitives" in the Administrative Office of the Courts' Monthly Statistical Summary. There were another 6,941 cases classified as inactive. Most, if not all, of these cases are fugitives which counties have placed on their inactive list. For example, both Middlesex and Mercer Counties list no fugitives but combined they have 2,713 cases listed as inactive. This is because cases are transferred to inactive when a bench warrant is issued. If the fugitive figure (9,830) is combined

with the inactive figure (6,941) these combined figures represent 54% of the pending case load. The counties range from a low of 22% (Ocean County) to 77% (Camden County).

The data supports the premise that this problem is a large one which should be addressed. It should be addressed on two fronts. First, a policy should be developed to assure that cases are being inactivated uniformly to assure accurate data on fugitives. Second, efforts should be made to reduce the number of cases where offenders fail to appear for court appearances when early case management techniques could have reduced the problem.

STANDARD 10.1 COUNTIES SHOULD FOLLOW PROCEDURES WHICH ASSURE THAT UPON RELEASE, THERE IS, VERIFICATION OF DEFENDANT'S ADDRESS. THEREAFTER, PROCEDURES MUST BE IMPLEMENTED TO ASSURE THE ACCURACY OF THE DEFENDANT'S ADDRESS AND THAT HE OR SHE IS AWARE OF HIS OR HER NEXT COURT DATE. DEFENDANTS SHOULD RECEIVE A NOTICE OF THEIR NEXT COURT APPEARANCE EACH TIME THEY ARE IN COURT.

A telephone survey taken by the AOC found that a major problem with offenders failing to appear was caused by the complaint having an incorrect address, no address or the offender being unaware of his next court date. What transpires is that an offender is then scheduled for a court appearance and a notice is mailed. The notice goes to a wrong address, a bench warrant is issued and the offender is listed as a fugitive. The standard calls for counties to follow procedures to verify addresses and keep track of offenders.

There are a number of procedures being utilized in the counties to address this problem. Counties should consider utilization of one of these procedures or develop their own procedure.

A. BAIL TRACKING

A system utilized in Somerset County involves tracking offenders released on bail. (Note: Similar systems are being used in Hunterdon and Middlesex Counties and currently being implemented in Camden County.) When an offender is admitted to bail, one condition of bail is that he sign a "bail tracking agreement." The bail tracking agreement advises the defendant of his responsiblity to keep in communication with the bail unit. Every offender placed on bail tracking is given a day and time whereby he must report by telephone to the criminal case manager's office. (Note: There are roughly 400 offenders on bail tracking in Somerset County.) At this time the offender is asked if he has changed his address, if he is planning any changes of address or planning vacations, etc. He is also advised of his next scheduled court appearance. After the telephone report the offender's file is updated. If the offender does not report in for two weeks a warrant is issued. This system has been effective in reducing the number of warrants issued where the wrong address is the cause or the cause is lack of knowledge of when the offender is due in court next.

B. EARLY INTAKE

Another system being utilized involves early defendant intake. Offenders are told to appear for intake either at central first appearances (CJP), probable cause hearings or after prosecutor screening. At the point of intake the offender's address is verified either by having him produce his drivers license, "green" card and/or other identification. In Passaic County, at intake, they also request a contact person.

The defendant is also told that if there is any change of address he must contact the criminal case manager's office. At every subsequent event the defendant's address is again verified.

Both of these systems have gone along way in assuring, in the counties where they are utilized, that warrants are only issued in cases where they truly need to be issued.

STANDARD 10.2 A STATEWIDE POLICY ON INACTIVATION OF CASES WHERE THE DEFENDANT IS A FUGITIVE SHOULD BE ESTABLISHED AT 30 DAYS. COUNTIES SHOULD ASSURE THEIR MONTHLY ACCOUNTING REFLECTS THIS STANDARD AND REFLECTS REACTIVATION WHEN THE BASIS FOR INACTIVATION IS CURED.

In Statewide Speedy Trial Coordinating Committee Decision Memorandum Number 5, a standard policy on inactivation of cases where a bench warrant had been issued was enunciated. The standard said that cases "... should be inactivated after 60 days upon demonstration of a reasonable attempt to secure the defendant." The 60 day policy was adopted to assure that counties made some attempt to find defendants after warrants were issued. In many cases, as indicated above, the defendant may not have appeared because the address the correspondence was sent to was incorrect. In these cases, inactivation should not occur until after some effort is made to locate the defendant.

The committee has considered the 60 day standard established by the decision memorandum and believes a change should be implemented which would establish inactivation at 30 days. There was general consensus that a 60 day period was too long and that 30 days was more in line with current policies in other states.

The 30 day standard should be utilized by all counties to assure uniform reporting on fugitives and inactive cases. Consideration should be given as to whether reporting on inactivation should be broken

down into two areas: fugitive and non-figitive. The status of each inactive case should be monitored so that the matter is calendared when the reason for inactivation is cured.

DELAYS IN SEX OFFENDER DIAGNOSTIC REPORTS

STANDARD 11.1 TIME GOALS FOR BOTH INTERVIEW SCHEDULING AND REPORT COMPLETION SHOULD BE ESTABLISHED FOR REFERRALS FOR EXAMINATION TO THE ADULT DIAGNOSTIC AND TREATMENT CENTER FOR SEX OFFENDERS PURSUANT TO N.J.S.A. 2C:47-1. THESE TIME GOALS SHOULD BE MONITORED BY THE DEPARTMENT OF CORRECTIONS.

A major delay in sentencing offenders convicted of sex crimes is caused by the inability of the Adult Diagnostic and Treatment Center to evaluate offenders referred to them under N.J.S.A. 2C:47-1 in a timely fashion. Under N.J.S.A. 2C:47-1, offenders convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact or attempt to commit any such crimes are referred to the center to determine whether their behavior was characterized by a pattern of repetitive and compulsive behavior. It currently takes the center eight weeks from the date a request is made to schedule a date for an evaluation interview. Additionally, it takes one to two weeks from the date of interview for the center to issue a final report on an offender's tendencies. Thus, sentencing of sex offenders is delayed an additional two and one-half months, on average, from the date the presentence report is finished. This delay is much greater than it should be and appropriate steps should be taken to reduce this delay.

MISCELLANEOUS OTHER DELAY POINTS

I. INTRODUCTION

The following represents a list of miscellaneous standards which should be adopted in order to assist generally in speedy trial goals. The enactment of these standards would serve to provide some consistency to a State system which is currently functioning according to local custom.

STANDARD 12.1 IN LIEU OF ADDING STAFF AND COSTS ASSOCIATED THEREWITH AND TO IMPLEMENT THESE GOALS, COURT SUPPORT STAFF SHOULD BE ENCOURAGED TO WORK LONGER HOURS ON A UNIFORM BASIS STATEWIDE. COMPENSATION SHOULD BE PAID ON AN HOUR FOR HOUR BASIS FOR ADDITIONAL TIME REQUIRED BY THIS STANDARD.

At present the hours of work for court support staff vary greatly from county to county. For example, the hours of work for probation staff throughout the State varies from 30 to 37½ hours per week. To make matters even more confusing, some counties have court support staff working different hours. In Camden County for instance, the probation department was working 33 hours and the court clerk's office was open 35 hours. This situation was rectified in 1983, however, similar situations may still exist in other counties. Where such situations are found to exist, they should be rectified through the collective bargaining process. The standard recommends that in lieu of hiring additional staff, court support staff should be encouraged to work longer hours and that compensation be paid to employees working longer hours, on an hour for hour basis, for additional time required.

A person currently earning $10 per hour for a 30 hour workweek would now earn an additional $10 for each hour worked if that number of hours was required.

In the past there have been two arguments against a longer workweek:

1. Local governments will not be able to absorb the expense of such a move. However, a closer look at this situation reveals that it is actually more expensive to continue doing business as it is presently being done.

When case loads rise, the traditional solution would be to increase the size of the staff. This is a wasteful approach inasmuch as the county must now provide more space to accommodate new personnel. Also, additional equipment, i.e., desk, chair and incidentals, must be purchased. Other costs associated with additional employees are training, supervision and an increase in the fringe benefit package (an additional health and welfare plan must be provided). Other less obvious costs are created by the "ripple effect," additional employees create more paperwork. This results in additional work logs, more paychecks to be processed, etc.

After all of the above has taken place, we have still failed to address problems of employee dissatisfaction which leads to our high turnover rate. This turnover rate results in most of our staff resources being wasted on training and retraining, recruiting and dealing with dissatisfied, reluctant employees.

2. The employees themselves want to work more hours. In a brief survey of employees in Camden County, there was strong support

for a 40 hour workweek. While small groups or individuals may resist a longer workweek, most employees will see this as a way of achieving parity with their counterparts in the private sector.

The increased hours can be implemented either gradually or all at once through the collective bargaining process; it would not be beneficial to try to increase hours outside of negotiations. It is assumed that productivity would increase proportionally through effective supervision.

STANDARD 12.2 A TIME GOAL OF SEVEN DAYS AFTER ARREST SHOULD BE ESTABLISHED FOR SUBMISSION OF POLICE REPORTS TO THE PROSECUTOR'S OFFICE. THE ATTORNEY GENERAL, AS THE CHIEF LAW ENFORCEMENT OFFICER IN THE STATE, SHOULD ISSUE A DIRECTIVE REQUIRING COMPLIANCE WITH THE SEVEN DAY GOAL.

Police should be required to submit their reports to the prosecutor as soon as possible after arrest. The committee, in its standard, recommends a seven day time goal. The committee recognizes that the goal will not be achieved in all cases but it should be strived for as it is critical to reaching all other goals. Counties which currently are receiving police reports in less than seven days are encouraged to continue this commendable work. This may be greeted with initial protests by the police because of perceived problems such as typing problems and the press of duties. However, it would soon become apparent that reports are more easily and more thoroughly completed when done shortly after the incident occurs. The recollections of all parties interviewed are more accurate as time has not clouded the memory of the interviewee.

If we are to reduce delay in the criminal justice system through innovative programs such as early case screening, we must speed local case processing, i.e., filing of police reports and complaints.

These reports are necessary for the prosecutor to make screening decisions. No intelligent decision can be made without them.

At present some speedy trial plans have established standards for completion of such reports, however, many municipalities have failed to comply for various reasons:

1. Staffing is inadequate to meet these deadlines.
2. Processing procedures currently in existence are not able to keep pace with the demands imposed by our deadlines.

Having established a time goal for submission of routine police reports, it is necessary to provide the mechanism for assuring compliance. The Attorney General, as the chief law enforcement officer in the State, can aid in this regard by issuing a directive instructing all police departments to abide by this goal.

Counties may also wish to consider whether issuance of a court order by the assignment judge upon motion of the county prosecutor may also aid the effort to assure timely submission of police reports. This method was tried with some measure of success in Union County.

The implementation of this policy should not create undue burdens on most police departments. A 1984 study conducted by Prosecutor John Stamler and Police Chief Clifford Mauer for the Statewide Speedy Trial Coordinating Committee of all police departments found that ". . . chronic delay in forwarding police reports on indictable offenses exists in only 55 municipalities."

RELATIONSHIP BETWEEN SUPERIOR COURT, MUNICIPAL COURT AND PROSECUTORS' OFFICES

The independence of criminal justice agencies is clearly evident in the relationship between the Superior Court, municipal court and the county prosecutor's office. Each entity is separately funded and separately staffed, yet, they work together to carry out a single mission of providing criminal justice services to the community. The vast majority of indictable criminal cases originate in municipal court. Complaints are filed, charges specified, bail set, first appearances are conducted and the matter is forwarded simultaneously to the county prosecutor and the Superior Court. The county prosecutor then takes the initiative to screen the case, refer the matter for grand jury hearing if an indictment is warranted, divert the case by reference back to municipal court, or dismiss. If, and only if, an indictment is filed will the Superior Court activate the machinery for scheduling initial plea, pretrial conferences, retraction or trial for a criminal defendant. Thus, the essential features are that the Superior Court reacts to the initiative taken by the county prosecutor in filing an indictment. The work load of the criminal part of the Superior Court is governed primarily by the number of defendants whom the prosecutor chooses to place in the indictable stream of processing. "He or she has become the official who is responsible for resolving the discrepancy between ever increasing case loads and insufficient court capacity."[1]

[1] Plea Bargaining, Critical Issues and Common Practices, National Institute of Justice. U.S. Department of Justice, p. 9, July, 1985.

The county prosecutor also has great effect upon the work load of the municipal court. The prosecutor may choose to refer matters to municipal court for trial even though they could be processed as indictable offenses. If many matters which require time-consuming trials are referred to municipal courts, then municipal courts, which are geared to brief trials and quick processing of cases, will be required to allocate more resources to cases which could potentially have been resolved in Superior Court. Prosecutors' policies also impact in municipal court to the extent that they deal with issues such as:

1. charging policies for municipal police departments;
2. liaison between the municipal courts and police departments regarding processing complaints, setting bails, securing search warrants and arrest warrants during non-business hours; and
3. coordination of the filing and remand of potentially indictable cases.

It is widely recognized that in discharging his screening duties, the prosecutor uses his professional skills to apply the general guidance of the Legislature as to what conduct is criminal to the specific facts of the cases which are referred to the prosecutor. The U.S. Supreme Court spoke favorably of such a process in Bordenkircher v. Hayes, 434 U.S. 357 (1977), as follows:

> In our system, as long as the prosecutor has probable cause to believe that the accused committed an offense defined by statute, the decision whether or not to prosecute, and what charge to file or bring before a grand jury, generally rests entirely in his discretion.

As a result of the screening process, thousands of criminal complaints are culled out before they reach grand jury. Common reasons for screening out a case are:

1. the conduct alleged may not constitute a crime;
2. the charges are not provable before the jury; or
3. even though a crime could be proven, the case does not warrant an indictment.

The prosecutor's screening practices dictate not only who should be brought to answer indictable criminal charges but also how the resources of the criminal part of Superior Court will be expended. Once an indictment is filed, the court is held accountable to dispose of it justly and promptly.

In New Jersey, the county prosecutor will typically screen out about 50% of the defendants who are referred for prosecution. Each prosecutor has a discretion which would allow him or her to screen out 60% to 70% of the defendants against whom criminal complaints have been signed. The exact practice in a county will vary depending upon the underlying facts of the cases being considered and the policies of the prosecutor responsible for screening the case.

On the other hand, once an indictment has been filed, the court does not enjoy much discretion. It must schedule the case for initial plea, pretrial conferences, motions, plea retractions and trials. Every defendant indicted thus represents a choice by the prosecutor to consume some of the resources of the criminal trial court. Experience shows that one trial judge working for a calendar year can process to disposition only several hundred defendants. Although good management and judicial efficiency may result in somewhat higher productivity, the basic reality is that a single trial judge can process a limited number of defendants during the course of the year. Since the number of Superior Court judges has remained relatively stable, an increase in the number of defendants indicted can be expected to either increase the backlog of defendants awaiting trial or to cause the diversion of other trial judges from civil and family courts to criminal courts. Diversion of judges will cause increased delay in civil and

family courts. Expansion of backlog translates into increased delay in resolving criminal cases. Since it is widely believed that the criminal justice system can be most effective in deterring crime by providing swift and certain punishment, delay in the criminal courts can be seen not only as undesirable in itself but a significant factor in increasing the risk of injury to citizens by criminal activity. Thus, a proper consideration for the prosecutor in exercising his screening and charging discretion is the effect that his screening policies will have on the operation of the judicial process. Common sense dictates that within the constraints of propriety, the prosecutor should attempt to proportion the number of defendants being indicted to the capacity of the criminal courts to process the defendants.

When prosecutors exercise their discretion to refer matters to municipal court for trial for disorderly persons offenses, the savings are considerable: no jury trial or detailed workup by the county prosecutor is required, witnesses need not appear before grand juries, and, in many instances, no publicly funded defense counsel need be assigned. The verdict is prompt and the sentences imposed seem appropriate. The majority of downgraded cases, whether resolved by plea or trial, involve non-confinement sentences. However, where appropriate, a sentence of up to six months confinement and five years probation can be imposed on a disorderly persons offender.

The quality of justice is, in fact, improved in counties where the prosecutor engages in rigorous screening. Of all defendants sentenced in Superior Court in 1985, 49% received non-confinement sentences, another 14% received sentences of less than six months confinement. In terms of sentences imposed in Superior Court, it appears

that many of these cases could have been processed more expeditiously in municipal court and yet the same sentencing result could have been achieved. In counties where screening is emphasized, the number of defendants indicted is correspondingly lower and judicial resources are available for the resolution of the more serious matters. This is a favorable environment for implementing speedy trials since criminal justice resources become focused on the more serious matters. The lower volume and the perception that time is not being wasted on minor matters give attorneys and staff the feeling that speedy trial goals are attainable. If people believe the task can be accomplished, they are more likely to attempt to carry out the task, thus, effective screening promotes speedy trial, both by reducing the volume of cases to be processed through indictment and encouraging workers in the system to believe that cases can be processed both fairly and promptly.

Prosecutors are not usurping legislative authority by referring indictable cases back to municipal courts. Many matters can be prosecuted as either disorderly persons offenses or indictable offenses. For example, a person who steals a $250 watch at a department store could be charged with the disorderly persons offense of shoplifting, N.J.S.A. 2C:20-11, or the indictable crime of theft in the 4th degree, N.J.S.A. 2C:20-3(a). Other methods of downgrading include:

1. lowering dollar thresholds, i.e., in malicious damage cases the dollar value of the damage can be alleged as $500 or less rendering the charge a disorderly persons offense even though the real loss exceeds $500; cf., N.J.S.A. 2C:17-3; and
2. charging related but distinct offenses, i.e., persons in possession of a small quantity of methamphetamine, an indictable offense, N.J.S.A. 24:21-20a(1), may be charged with being under the influence of drugs, a disorderly persons offense under N.J.S.A. 24:21-20b.

The selection of the appropriate charge is left to the discretion of the police and the prosecutor. In order to enhance the prosecutor's ability to carry out such a decision, in many jurisdictions, other than New Jersey, criminal charges may not be filed without the express permission of the prosecutor. In New Jersey, any police officer or even private citizen may file criminal charges. The Legislature obviously assumes that the Executive Branch of government, through its prosecution arm, will select from among the charges filed those cases which truly warrant the expenditure of criminal justice resources.

Rule 3:25-1 provides that the assignment judge may order dismissal of an indictment, accusation or complaint upon motion of the prosecuting attorney. This requirement of assignment judge review has proved to be burdensome and a waste of resources. Therefore, the committee recommends this requirement be abolished.

STANDARD 13.1 THE DECISION TO PROSECUTE CRIMINAL CHARGES IN THE SUPERIOR COURT BY WAY OF INDICTMENT, REQUIRING A SUBSTANTIAL INVESTMENT OF THE RESOURCES OF THE VARIOUS AGENCIES INVOLVED, OR TO PROCEED BY WAY OF DOWNGRADE AND REMAND TO MUNICIPAL COURTS, IS APPROPRIATELY VESTED IN THE COUNTY PROSECUTOR. MANY CASES CAN BE HANDLED IN SUCH A MANNER MORE EXPEDITIOUSLY, RECEIVING THE SAME SENTENCING RESULT AS WOULD HAVE BEEN OBTAINED IN THE SUPERIOR COURT, THUS ALLOWING SCARCE RESOURCES TO BETTER ADDRESS THE PROSECUTOR, DEFENSE, AND ADJUDICATION OF MORE SERIOUS MATTERS. THUS, A PROPER CONSIDERATION FOR THE PROSECUTOR IN EXERCISING THE SCREENING AND CHARGING DISCRETION IS THE EFFECT THAT HIS SCREENING POLICIES WILL HAVE ON THE OPERATION OF THE JUDICIAL PROCESS AND THE ABILITY OF THE PROCESS TO HANDLE MORE SERIOUS CASES.

Screening would be enhanced by the adoption of statutes creating appropriate disorderly persons offenses for possession of small quantities of drugs and minor weapons violations. At present, if a defendant is merely found in the illegal possession of a few valium

pills, the prosecutor has the choice of indicting the defendant or referring him to municipal court on an inapposite charge of being under the influence of drugs. If the defendant does not plead guilty, the prosecutor is faced with three choices:

1. proceed to trial in which event the defendant must be acquitted since the evidence supports possession of drugs, not their use;
2. take the case back to Superior Court for indictment; or
3. dismiss the case outright.

Similarly, a minor gun or weapons charge must be referred to municipal court on disorderly persons charges such as creating a dangerous condition which is an inapposite charge so that without the defendant's cooperation, the case cannot be resolved in municipal court. If the ends of justice would be served by resolving the case in municipal court, the prosecutor should have the legal mechanism for such a resolution.

STANDARD 13.2 THE LEGISLATURE SHOULD CONSIDER THE ENACTMENT OF STATUTES CREATING APPROPRIATE DISORDERLY PERSONS OFFENSES FOR POSSESSION OF SMALL QUANTITIES OF CERTAIN DRUGS AND MINOR WEAPONS VIOLATIONS TO PERMIT THE USE OF PROSECUTORIAL DISCRETION IN THE CHARGING AND SCREENING PROCESS.

The screening decision itself is properly a function of the Executive Branch of government and is entrusted to the sole discretion of the prosecutor. The judiciary, however, is responsible for monitoring the time parameters within which the screening decision is made and a grand jury hearing is scheduled since in most cases a criminal complaint has been filed and the court has placed some restrictions upon the liberty of a defendant either by the imposition of bail or by pretrial confinement. The goal of indicting within 45 days when a defendant is in jail and within 60 days for defendants on bail is attainable and should be met in most cases. The court should note performance in this area and question the prosecutor as to the reasons for failure to meet this goal in presenting cases before the grand jury.

In addition to monitoring the time lapses involved in the use of the grand jury, the court should promote dialogue on the continued use of the grand jury for processing routine criminal cases. The grand jury system causes delay in bringing a case to trial since most cases are delayed for two to three months pending grand jury consideration in most counties. Only ten to fifteen states continue to use the grand jury as we do in New Jersey. Given this two to three month time period to indictment the question arises as to whether the grand jury system is in the public's interest and the best system for charging and informing the defendant of the nature of the charges. Over the years there have been many proposals to change the grand jury system in criminal matters. Most have involved removing the grand jury indictment as a prerequisite for trial in all or some cases. Under one such approach the prosecutor would have the option of proceeding by information rather than grand jury indictment; the grand jury would be left only with its investigative functions where the prosecutor elected to use an information. Under another approach the grand jury system could be replaced by a system requiring a probable cause hearing which might involve adversarial proceedings, at least in some cases. These are but two of a number of approaches that have or could be suggested. Because of the difficulty of this issue, and because any change in the grand jury system would require a constitutional amendment, the Committee chooses not to write a standard on this issue. The Committee does recommend that a special study, similar to the ones conducted by the New Jersey State Bar Association and the Supreme Court Committee on Criminal Practice, be undertaken.

The quality of dispositions could also be improved by the creation of "downgrade courts." At present, when a county prosecutor downgrades a case to a disorderly persons offense, the matter is referred back to municipal court for trial. The case is prosecuted by a municipal prosecutor who is not affiliated with the county prosecutor's office and normally has little contact with that office. The case is defended by a retained counsel if the defendant has both the desire for an attorney and the ability to pay counsel fees. If the defendant is indigent, some townships provide public defender services by attorneys who are paid by the township. Many municipal courts lack a staff public defender and simply assign members of the bar to represent defendants pro bono. The lack of close contact with the county prosecutor's office and the uneven quality of defense counsel create the possibility that valid prosecution will not be adequately pursued or that innocent defendants may be convicted by virtue of too loose a system of providing defense counsel. Moreover, the necessity of trials in a number of downgraded cases can pose serious calendar control problems for municipal courts.

STANDARD 13.3 REGIONAL REMAND COURTS OR OTHER CENTRALIZED MODELS SHOULD BE CONSIDERED TO RESOLVE CASES WHICH ARE DOWNGRADED. IF IT IS NOT FEASIBLE TO REFER ALL DOWNGRADED CASES TO CENTRAL COURT, AT LEAST THE MOST COMPLEX ONES COULD BE REFERRED SO THAT THEY MAY RECEIVE THE DETAILED ATTENTION THEY DESERVE.

DELAYS IN INDICTMENT AND TRIAL OF DEFENDANTS IN PRETRIAL INCARCERATION; RIGHT TO DATES CERTAIN

Among the goals of the speedy trial program was to provide the rapid disposition of cases involving persons detained pending trial because of their inability to meet the conditions of the bail set. This class of defendants has always been identified as deserving a special priority because of the special nature of the situation - every day of delay is another day in jail for a person who may be found not guilty when the case comes to trial. While the speedy trial program has reduced the average time to trial for incarcerated defendants, there is a concern that, nevertheless, there may be a group of cases which have not been affected by the program. There are perceptions that in some counties at some times the pressure to dispose of many easy cases has led to insufficient priority being given to the expeditious processing of some difficult cases, including some cases requiring trials where a defendant is awaiting trial in jail. While this problem does not involve a large percentage of the criminal cases, and while the problem is not present in all places at all times the significance of the problem has led the committee to recommend a mechanism to solve it.

STANDARD 14.1 R. 3:25-2 PROVIDES A MECHANISM FOR THE ESTABLISHMENT OF A TRIAL DATE ON MOTION FOLLOWING THE RETURN OF AN INDICTMENT OR ACCUSATION. HOWEVER, THE COURT RULES DO NOT PROVIDE FOR PRIORITY CONSIDERATION FOR DEFENDANTS IN JAIL UNTRIED THROUGH NO FAULT OF THEIR OWN. THE COURT RULES SHOULD PROVIDE A MORE SYSTEMATIC ADMINISTRATIVE MECHANISM FOR THE ESTABLISHMENT OF DATES CERTAIN FOR INDICTMENT OR FOR TRIAL IN CASES WHERE THE DEFENDANT IS INCARCERATED AND THE TIME ELAPSED HAS BEEN ONE AND A HALF TIMES THAT PROVIDED BY SPEEDY TRIAL GOALS ABSENT EXTRAORDINARY CIRCUMSTANCES. EXCEPTIONS TO THOSE CASES ENTITLED TO DATES CERTAIN AND LAWFUL EXCUSES FOR FAILURE TO COMPLY WITH THE DATES CERTAIN SHOULD BE PROVIDED IN THE RULE.

It is envisioned that when a case reaches one and a half times the goal time, either pre-indictment or post-indictment, a motion could be made to establish a date certain. While most often it is expected that the defendant will make this motion, it should be provided that the prosecutor or even the judge could make it if he thought it appropriate. After such a motion, the judge would establish a date by which the defendant was to be indicted or tried, whichever was appropriate. This additionally relatively brief time period would be provided to allow the indictment or commencement of trial without impossible burden given the priority now due to this case. It is assumed that in the overwhelming majority of cases, the case will be presented to the grand jury or the trial will begin within the additional period set in the court order. Where the time limit is not met without lawful excuse, the normal relief would be the release of the defendant from pretrial incarceration.

The rule providing for this date certain mechanism, of course, must provide for some exceptions. For example, death penalty cases could not be disposed of within the normal time limits. In addition, a defendant should not be in a position to complain about delay in his trial if that delay is occasioned by motions he has made. Parameters for these exceptions must be developed and set out in the rule. Similarly, a definition of what is a lawful excuse for failure to meet the time limit must be developed. It is clear that emergencies such as last minute illness of a witness would be included in such a definition. However, the theory is that these cases must have a priority, so the press of other court or grand jury business could not be a lawful excuse. The exact definition, between these two extremes, should be developed in rule form.

It is clear that cases involving pretrial detention deserve priority. The committee felt that it was appropriate to establish a mechanism to enforce that priority by means of establishment of a mechanism to set dates certain in these cases. While the number of cases that will be affected by this rule may not be large, their significance clearly justifies this mechanism. The committee was confident that the drafting problems in producing such a court rule were not great and could be overcome and that the rule thus produced would be able to balance the weight of the priority for jail cases as well as that of other appropriate concerns of the criminal justice system.

DISSENT FROM STANDARDS RELATING TO PRETRIAL INTERVENTION

The Committee on Delay Points and Problems affecting Speedy Trial has chosen to address problems and prepare standards on the subject of pretrial intervention programs. This action is ill advised since the committee had neither the information nor the time necessary to understand either pretrial intervention or the effects of the proposed standards.

The premise that pretrial intervention is a major cause of delay is neither borne out by research nor practice. The committee's cosmic conclusion was based on time lapse data from three counties; Camden, Gloucester, Morris and incomplete information from a fourth, Atlantic. While this fragmentary information seems to suggest some delay, it provides no basis to determine the nature or extent of the delay. Deciding who will be allowed pretrial intervention involves discretion, and any discretionary decision is likely to take some time. However, pretrial intervention programs are very successful on a number of basis, and so these decisions must be made with appropriate deliberation.

A responsible approach would be to conduct a study of the differences in procedures for pretrial intervention in the various counties and causes of delay in each county. On the basis of that study, it might be possible to set time goals and perhaps devise improvements in the pretrial intervention procedure, if necessary. However, given the desire to reach conclusions within the time constraints, the committee was forced to ignore the lack of factual basis for its conclusions.

In the first paragraph the committee report states that two-thirds of pretrial intervention applications are rejected. That is not so. The 1985 data from which the number of pretrial intervention applications stated in the paragraph is taken, shows that exactly 60 percent of the applications were rejected. The committee did not use that percentage because it did not trust the number. The rejection rates from the previous two years from other data sources were 74 and 75 percent. There is no reason to explain a shift to 60 percent. It is more likely that one study or the other is wrong for some reason that cannot be explained without more examination, and there was no time for this examination. This example is only an illustration of problems with the factual basis from which the committee worked. In itself, the percentage of rejections is not particularly relevant. Without more data on which to make a cost-benefit analysis, one cannot

surmise that even a 5 percent acceptance rate would mean necessarily that the pretrial intervention programs were receiving inappropriate applications. However, the committee not only ignores the weaknesses in the underlying data, but goes on to draw conclusions that even solid data of this sort could not justify.

The committee suggests that too many persons charged with robbery are applying to the program. However, the 1983 data cited by the committee shows that only 256 persons charged with robbery applied to the program. This constituted only 1.9 percent of all pretrial intervention applications. It is unlikely that these 256 applications divided among 21 counties had any significant effect on delays in processing. Moreover, the committee omits the 1984 statistics. Those show that in 1984, only 151 persons charged with robbery applied for pretrial intervention. That was only 1.4 percent of all pretrial intervention applications. Thus, more current data which the committee leaves out shows even less of a problem.

The committee indicates that this data shows that a substantial portion of robbery cases apply to pretrial intervention. Again, this assertion is completely unjustified by the facts. When the 151 or 256 applications (depending on the year) are compared with the number of persons charged with robbery, it appears that the percentage applying for pretrial intervention is under 10 percent. Moreover, there is no reason to think that these particular applications are inappropriate.

Notwithstanding an understandable reluctance to accept persons charged with robbery, 7 percent of these applications were accepted in 1984. One may conclude that the particular robbery cases where applications were made were very unusual cases and the applications were justifiable. Only further study can settle this issue. In addition, it should be remembered that when a large case is accepted into pretrial intervention, there is more of a benefit to the criminal justice system in terms of time saved than when a simple welfare fraud is diverted from the regular criminal justice process. The kind of case where there is a charge of robbery but pretrial intervention is possible may be so unusual that it would otherwise involve a trial or protracted plea negotiation. A small number of diversions of this kind of case may provide a large benefit to the system.

The committee's discussion of the facts concerning robbery applications was intended to support its recommendations of categorical exclusions from pretrial intervention are embodied in 8.1 and 8.2. Thus, it can be seen that there is absolutely no basis for these standards in what the committee intends to be a study of the relationship of pretrial intervention to delays in the criminal justice process. Standards such as these divert attention from a real analysis of pretrial application procedures. Based on a thorough analysis done over the next

year, it would be possible to improve the pretrial intervention process by increasing efficiency in its administration. If pretrial intervention, in fact, is a delay point, then the problems of pretrial intervention should be studied in a responsible and workmanlike manner. Removing 150 or 250 cases from pretrial intervention consideration will not prevent delay. A system of time goals and careful study of procedures may do so. All the committee has done is chosen an easy target. Very few persons will be affected by the proposed standards. Those few will be affected arbitrarily.

Submitted by,

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