Reduction of Pretrial Delay -- Demonstration Project

A final report to the National Institute of Law Enforcement and Criminal Justice of the Law Enforcement Assistance Administration

Grant Number 73-NI-99-0015-G

Lewis R. Katz
Professor of Law
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CASE WESTERN RESERVE UNIVERSITY SCHOOL OF LAW

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Part I	Report of the Demonstration Project
Part II	Statistical Results in the Demonstration Cities
Part III	Report of the Evaluator

The fact that the National Institute of Law Enforcement and Criminal Justice furnished financial support to the activity described in this publication does not necessarily indicate the concurrence of the Institute in the statements or conclusions contained herein.

INTRODUCTION

The genesis of this project dates to 1970 when Case Western Reserve University School of Law was granted funds by the National Institute of Law Enforcement and Criminal Justice to conduct an inquiry into the causes of delay in the pretrial stages of felony cases. That project resulted in a report to the Institute (a summary report was circulated by the Institute) which evolved into a book. Contained within the report was more than a score of recommendations aimed at reducing delay and seeking to make the right to a speedy trial a reality both for persons charged with criminal offenses and for the community.

In 1973 funds were provided to the original grantee to follow up some of the recommendations contained in the original report. Demonstration cities were to be selected:

(1) to reduce the average length of time between arrest and indictment and

(2) to reduce the felony dockets of trial courts by 25% through early disposition.

When reviewing this project it is always necessary to remind oneself that the sole concern was the factor of inordinate delay in the processing of felonies and other serious criminal cases. We did not set forth on a two year project to reform the court-prosecution-defense components of the criminal justice system. We set forth to attack one problem; to offer reasonable responses to that problem; and, hopefully, to demonstrate that the system is capable of combatting that problem.

A review of the demonstrations indicates that we succeeded at least modestly in what we attempted. Our pleasure at this success is tempered, however, by the constant reminder of other inadequacies that we witnessed in each of the cities: the casual approach taken by people on both sides

of a prosecution and judges as well, to human problems and human futures; and the lack of commitment that is so often demonstrated by the attitude that "it is a job," and nothing more. We had no control over these factors but we would be derelict in our duty if we failed to point out that these attitudes represent an acid that is eating away at the heart and soul of the American criminal justice system. Until that acid is neutralized, programs like ours must be characterized as "bandaide justice."

We have digressed at the outset to point this out becuase it is the feeling of the project director that this is the problem which the Institute as a representative of the American people must begin to meet squarely if it is to have an impact on the criminal justice system. We have pointed this out for some selfish reasons as well. Throughout the life of this project in the face of demonstrable achievements, especially in New Haven, we would at times become obsessed with constant confrontation with the system's failings. During the visit of Institute monitors and outside consultants last year to New Haven the same malaise developed: all became engrossed in the total inadequacies of the system and lost sight of the positive achievements made by the introduction of project policies and procedures.

Thus, it is necessary to restate the basic premise of this project: all other things being equal, the speedy disposition of criminal cases is better than the delayed disposition of criminal cases which results in better service to the interests of the defendants, the American community, and most of the participants in the criminal justice system.

Selection of Demonstration Cities

The original plan called for the selection of two cities, with Cleveland

serving as the premier demonstrator. Conditions arose, however, which precluded operating in Cleveland, but eventually enabled us to set up three demonstration sites.

When the grant was awarded, the original grant monitor, Mr. Stanley Kalin, counseled that from his experience we should anticipate difficulties arising from the basic reluctance of justice personnel in the various cities to consider doing anything differently because it conceivably could represent a diminution of personal power. The remaining nine months of 1973 represented a period of frustration spent in large part trying to educate persons in various cities about the potential of this project. L.E.A.A. regional offices were solicited by the National Institute for nominations of cities where the project might be demonstrated. Each regional office nominated at least two cities and each nominee was contacted.

The application and the award was made with Cleveland, Ohio, the home of the grantee, as one of the demonstration cities in mind. Cleveland had been the base from which the statistical data in the original report was drawn. Thus, the activity of project personnel during the first quarters was geared to the development of a demonstration program in Cleveland.

With the advice of the former presiding judge of the Cuyahoga County Court of Common Pleas, the Honorable John V. Corrigan, who is also chief architect of the reforms that have taken place in Cleveland courts, a campaign was mapped out to inform the necessary criminal justice officials and to persuade them of the potential value of the program to this jurisdiction. The task must be viewed in the context of a history of semi-hostility between the various agencies which has not too infrequently

erupted into public warfare in the news media. A project that would require the cooperation and involvement of the two levels of courts, two separate prosecutors' offices with overlapping jurisdiction, a legal-aid-defender agency, as well as two separate court administration apparatuses and two clerks of court required that each be sold on the project.

The county prosecutor, as the traditional nay-sayer towards reform and innovation in the jurisdiction, was selected as the first target. A meeting was scheduled by Judge Corrigan between the project director and assistant director and the county prosecutor. After many hours and several meetings an agreement in principal was arranged. The one major drawback to the project in Cleveland appeared to be the introduction of the demonstration into the Cleveland Municipal Court which traditionally has had preliminary jurisdiction in felony cases. The country prosecutor's office has jurisdiction over all felony cases even in the municipal court stages and a grant under the Impact Cities program provided the city with funds [and a new contract with the legal-aid-public defender] to provide representation at the preliminary hearing at least to defendants charged with stranger-to-stranger crimes. The basic problem with Municipal Court was and remains the cursory attention paid to felony cases. First, the judges have always been more concerned with misdemeanor cases, where they have final jurisdiction. Second, the county prosecutor habitually goes to the grand jury whether or not the case is bound over. Finally, private attorneys delay felony cases interminably at this stage of the proceedings in order to collect partial fees [a purpose with which not all of the judges disapprove] even if it meant the client losing a preliminary hearing since the prosecutor would go to the grand jury without waiting for the preliminary hearing to be held. The project, thus, offered an opportunity

to the court and prosecutor to reevaluate its handling of felony cases at the earliest stages.

The county prosecutor, on the other hand, envisioned an opportunity to make the handling of this stage of the felony case even more meaningful. Under Ohio law the only statutory requirement is that the accused be brought before a judge or magistrate and be afforded a preliminary hearing. It is only tradition and convenience that has heretofore led to the filing of felony charges in the municipal courts. The proposal which we worked out with the prosecutor would have resulted in the police filing [at first just impact felonies, but later all felony cases]felony charges arising in the City of Cleveland in the Court of Common Pleas. The judge in the arraignment room would hold preliminary hearings in all felony cases. It was envisioned that this would facilitate the early disposition of many cases because at all times the case would be handled by the court of general jurisdiction. After some pressure from the prosecutor, the police department reported that it would be able to have the evidence ready for preliminary hearings within forty-eight hours.

The difficulty arose in getting the court's acceptance of the change. It was envisioned as an added burden upon the Court of Common Pleas. Although some of the members of the court could foresee the benefits that would accrue to the system through early disposition, there was complete reluctance on the part of the court to cooperate in the venture. The county prosecutor has the authority to direct the police to file charges in a particular court and the prosecutor was ready to do so. He had also obtained a promise of cooperation from the judge who was to sit in the arraignment room in the next immediate term, but pressure was brought upon that judge to withdraw that offer of cooperation. The court's total unwillingness to participate in the program was viewed as too great an

obstacle to overcome.

The project personnel then turned their attentions to the contingency plan, based upon a promise from the county prosecutor, which would have created the demonstration project in the Cleveland Municipal Court. That promise, recognizing the months of labor that would be involved in attempting to shift primary jurisdiction of felony cases to the court of general jurisdiction, was an explicit commitment that if the project was not instituted in the Court of Common Pleas then it would be set up in the Municipal Court where preliminary hearings have been traditionally held. Unfortunately, when the demonstration was rejected by the Court of Common Pleas, the county prosecutor lost all interest and was unwilling to pursue the plan or fulfill his promise.

We learned a great deal about how to approach a city from this experience and especially how not to approach a city. We found that it is imperative to approach a city initially through an agency that has worked with each of the elements in the criminal justice system rather than through one of the separate agencies that make up the system. Notwithstanding fervent efforts in the past decade to wield the separate agencies (Courts, Prosecutors, Public Defenders, Clerks of Courts and Police) into a criminal justice system, these agencies remain separate fiefdoms suspicious of each other and jealously guard what they consider to be the prerogatives of their respective satrapies. Consequently, in Cleveland, it was erroneous for us to initiate contacts through the prosecutor, even though at the time this approach appeared wisest to us because the prosecutor's office is the lynchpin of the program and additionally because of the local prosecutor's reputation for opposing innovation. In this case, though, the concept of reduction in delay struck a very responsive chord in the prosecutor.

But since the program was tailored to suit his objectives before it was presented to the other critical agencies and individuals, it was labeled as a prosecutor's project and, thus, unacceptable. Our contacts in the other cities were made through coordinating agencies or L.E.A.A. regional offices and the hostility found in Cleveland was avoided.

Once Cleveland was ruled out as a demonstration site, attention focused on the cities nominated by the L.E.A.A. regional offices. Contact was made with everyone but some, Miami and San Francisco for instance, were ruled out after initial contact because the court systems were too big for us to make a dent in the operations with the money we were awarded. It is important to note that these cities were not ruled out because it was felt that the program would not work there but only because the size of the demonstration contemplated would have no effect upon their criminal justice systems. Because time was becoming a critical factor, cities such as Denver which could not gear up quickly enough to decide whether they wanted to participate in the demonstration were not pursued. A couple of the cities nominated indicated a lack of interest and one, Portland, Oregon, responded that the program was not needed because delay is not a problem. Ultimately, Oakland, California, was ruled out because of size and Toledo, Ohio, was eliminated because of an inability to reach a meeting of minds on what was to be accomplished and what the participating agency and the grantee were each to contribute.

Three cities remained, New Haven, Norfolk and Salt Lake City, and the decision was made to expand the demonstration to three because of the unique characteristics that each had to offer.

The initial city selected as New Haven, Connecticut. Because Connecticut has a centralized criminal justice system, the cooperation of

the applicable New Haven agencies was not enough. We had to enter into agreements with the Circuit Court Prosecutor and Public Defender and their supervising agencies, the Connecticut offices of the State's Attorney and Public Defender, and the Connecticut Judicial Department to initiate the first demonstration project in that city commencing December 1, 1973.

New Haven provided an excellent site for the demonstration. The Circuit Court has final jurisdiction of all misdemeanor cases and felonies carrying a penalty up to five years,* as well as preliminary jurisdiction in all other felony cases. The court was beset by a heavy backlog of cases and a substantial period of delay at every stage of the preliminary proceedings. Four other factors stood out in that city which made it a choice prospect. A spirit of cooperation exists between the prosecutor's office and the office of public defender, which handles more than half the caseload of the court. Second, the principals were aware of the problems in their court and appeared genuinely concerned with correcting those problems rather than hiding them from public view. Third, the prosecutor had an existing policy of opening all files to defense attorneys. And, finally, because of the centralized state justice system, we were assured of full state cooperation and input.

The second city selected as a demonstration site, Norfolk, Virginia, presented an entirely different test for the project concept. Unlike New Haven, the Commonwealth Attorney's office in Norfolk is manned by a part-time staff of lawyers. In addition, there is no public defender in Norfolk. All indigent defendants are represented by private counsel appointed

* Although mid-way in the project by court decision that jurisdiction was cut to one year. It did not, however, seem to have an effect on the project.

by the court. Moreover, prior to the project it was the practice in Norfolk for the Commonwealth Attorney not to be present in the court of original jursdiction where all felony cases are commenced, except in an exceptional case where a request is made by the police department for prosecutorial assistance. A tradition developed of no prosecutor screening of felony cases prior to indictment. The Norfolk system was characterized by the total absence of an opportunity for the early disposition of felony cases unless prompted by the arresting officer or the complaining witness. Consequently, Norfolk presented an opportunity to develop an entirely new system for screening and early disposition.

Five of the part-time prosecutors were employed by the project for 25% of their time. These five included the Commonwealth Attorney and his four most senior assistants. The Norfolk operation was under the immediate supervision of the Commonwealth Attorney who was to direct the day-to-day activities of the members of the project's staff. The project began on January 1, 1974.

The Norfolk arrangement introduced a very realistic variable to the demonstration. Rather than having one project corrdinator from the prosecutor's office making all of the determinations as in New Haven, in Norfolk, five different prosecutors made these determinations.

The original concept upon which this grant was developed was based upon the creation of demonstration programs in two cities. The main thrust of the program from the start was twofold: (1) thorough prosecutor screening and (2) early disposition of felony cases. We found, in correspondence and visits with the cities recommended by the regional L.E.A.A. offices, that neither prosecutorial screening nor, consequently, early disposition was available in most cities. We became troubled by the fact

that the development of prosecutorial screening and the pre-preliminary hearing conference between prosecutor and defense attorney might not adequately test what percentage of cases other than the real "garbage" cases would be subject to early disposition. Consequently, we discussed this problem with personnel at the National Institute and were given the go-ahead to try to set up a control project in a city where there was a good existing system for prosecutorial screening. This go-ahead, naturally, was predicated upon our ability to do this within the original granted funds.

We found Salt Lake City to have an existing, sophisticated system of screening through the preliminary hearing whereby the "garbage" cases are dismissed or otherwise disposed of without later pursuing them in the formal felony process. We also found in Salt Lake City a tremendous spirit of enthusiasm and cooperation, and a desire to test the hypotheses of this project in their courts. As a result, the project conducted in Salt Lake City was to determine whether the real felony cases which get beyond the preliminary hearing are subject to early disposition by the holding of a prosecutor-defense attorney conference immediately after the preliminary hearing. We sought to compare the percentage of cases disposed of in the two cities that had not previously had prosecutorial screening with the percentage of cases disposed of in Salt Lake City where an established system of screening already existed. Thus we were able to test the hypotheses of the original report to the National Institute upon which the grant was based: that even where a system of prosecutorial screening exists, a substantial percentage of felony cases may be easily disposed of at the earliest stages rather than after a protracted period of delay.

CITY I - NEW HAVEN

From January 1, 1974 to May 31, 1975 speedy disposition procedures designed to conform to local needs were tested in the New Haven Circuit Court (6th Circuit).* Prior to the implementation of the project procedures the court was beset by a heavy backlog of cases and a substantial period of delay at every stage of the preliminary proceedings. Such was not the case at the conclusion of the demonstration.

When the New Haven demonstration commenced the circuit court had final jurisdiction over misdemeanor and felony cases carrying a penalty of up to five years, as well as preliminary jurisdiction in all other felony cases. However, midway through the test period the state supreme court issued a ruling trimming the final jurisdiction of the circuit court by allowing the court to sentence up to one year. The impact of the high court ruling was negligible inasmuch as the court is empowered to sentence up to a year on each of multiple counts.

The system in New Haven, Connecticut, prior to the beginning of our demonstration was probably equal to the worst existing in the United States. The authority to institute charges, both serious felony as well as misdemeanor, rested with the police. Although the circuit court prosecutor had ultimate authority in the charging process and a good working relationship with the police, the prosecutor's office was too overworked, overburdened, and disorganized to create any meaningful screening process. Thus police filed charges and virtually little if any prosecutorial review was done with those charges until weeks, and sometimes months, later. To be sure, there was a member of the prosecutor's staff present in the circuit court

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*Mid-way into the demonstration the Circuit Court was merged into the Court of Common Pleas. The merger had no effect upon the demonstration.

arraignment room (called the "pit") to nolle blatantly erroneous filings. However, in most cases, the general pattern and practice produced by this on the spot review was a simple presentation of the charges by the assistant prosecutor in order for the judge to set bail and determine whether the defendant needed appointed counsel. As a result of this non-review, defense attorneys, both private counsel and public defenders, developed the practice of automatically pleading not guilty and requesting a jury trial. Private attorneys tended to plead not guilty in order to give their clients time to raise at least part of their fees. When a retainer was paid, the defense attorney would consider the case seriously. Members of the public defender's office tended to plead not guilty and request jury trials simply to put the cases in a special category where after a number of months they could deal with Mr. Foti, the chief prosecutor. When the case was finally called forward after a lapse of several months, for the first time a member of the prosecutor's staff would seriously consider the validity of the charges as filed by the police and begin to weigh the strengths of his case. Frequently case review did not occur until six or more months had lapsed and only then when Mr. Foti would set aside several afternoons to meet with defense attorneys to see if the cases should be kept on the jury trial docket. When the demonstration began in New Haven, there were 1200 cases on the backlogged jury docket.

While subject to severe criticism, the existing procedure in New Haven was not atypical. It is not at all unusual for police to control the initial charging process in middle size cities throughout the United States. Moreover, it is not unknown for prosecuting attorneys to virtually ignore criminal cases for months after the charges are filed. Consequently, while initially noting appearances and pleading not guilty, defense attorneys often choose out of necessity not to make the hard decisions early in a

case -- whether the case ultimately will go to trial or result in a plea. The net result of these practices is to have stale cases in the dockets of both prosecutors and defense attorneys. Investigative work is not timely done, and the eventual dispensation of justice is questionable. It stands to reason that these decisions can best be made when the facts are fresh and the parties have the best recollection.

The infrastructure of the New Haven demonstration was set up by assigning a project coordinator to the circuit court prosecutor's office as well as to the public defender's office. Each of the coordinators was hired and salaried according to normal Connecticut civil service procedures and each was fully integrated into the routine of his office.

In a nutshell, the task of the project coordinators was to diligently screen each felony and class A misdemeanor filed in their respective offices. After making initial inquiries about a case the project coordinators would hold a conference and in an adversary atmosphere they would determine whether the case would eventually be pleaded out or whether the state's interest would best be served by not pursuing a particular prosecution. In the event a case was susceptible to a plea, the coordinators engaged in plea negotiations rather than waiting on a case and enabling it to grow stale. Frequently, the coordinators would be unable to reach an agreement at the initial conference and would reconsider a case a few days or a week later after learning more facts. Each of the coordinators operated under standards worked out by their respective offices. Prosecutor offers as well as defender agreements were subject to the strict review of their respective chiefs.

Since approximately 3/4 of the criminal cases in the New Haven Circuit Court involved defendants represented by the public defender's office,

the bulk of the project cases were routinely reviewed in the above manner. Reluctantly, the private bar accepted the conference screening process involving the other quarter of the caseload after the realization hit home that the chief circuit court prosecutor would not offer additional reductions beyond the project coordinator's case review and/or conference recommendation. The exact mechanics of the conference screening procedures for each project coordinator are listed below.

The Prosecution coordinator was obligated to:*

(1) review every serious misdemeanor and felony case filed in the court immediately after filing;

(2) make the initial determination of which cases should be dismissed based upon office and project guidelines subject to the approval of the chief prosecutor;

(3) meet with the project coordinator in the Public Defender's Office prior to the bindover hearing to confer on each case; or meet with private retained attorneys where the defendant is so represented prior to the bindover hearing to confer on each case;

(4) review the facts and law of each case with the defense attorneys for the purpose of determining whether that case is a proper subject for early disposition based upon a plea of guilty, a plea of guilty to a reduced charge, a dismissal, or referral to court diversion projects;

(5) inform the Circuit Court when an agreement has been reached for early disposition;

(6) represent the State in court on those cases where an agreement has been reached for early disposition, if a court appearance is required;

(7) assign the case to one of the other members of the prosecutor's staff after the review and conference if the case is not subject to early disposition.

The Public Defender coordinator was obligated to:

(1) review all charges filed in serious misdemeanor and felony cases involving indigent defendants;

*These procedures were contracted for in the other demonstration cities as well.

(2) meet with each client as soon as possible to determine the client's version of the facts;

(3) meet with the project coordinator in the prosecutor's office prior to the scheduled bindover hearing to determine whether each case is a proper subject for early disposition;

(4) review the facts and applicable law with the prosecutor to arrive at the result in each case based upon the mutual standards of the two offices;

(5) confer again with his client, when the project coordinators have determined that a case is a proper subject for early disposition, to explain the nature of the agreement reached by the project coordinators in order to permit the client to make the ultimate choice of accepting the early disposition or proceeding to trial;

(6) represent the client in court, if necessary, to formalize the agreement when the client consents to the arranged plea;

(7) assign the case to other members of the Public Defender's Office after the conference if agreement has not been reached.

Naturally savings of time and especially the reduction in time between arrest and disposition and large advances in early disposition represent the most important benchmarks. The demonstration in New Haven, however, resulted in numerous other advances for that court system. This demonstration represented the first attempt to systematize the prosecution and defense approach to their dockets.

For instance, prior to the demonstration, the little case screening that the prosecutor's office did took place when the prosecutor present in the arraignment room ("the pit") opened the file as the defendant was called. Not infrequently, that prosecutor would make a quick assessment of the case and dismiss the charges or quietly whisper an offer of a reduced charge in return for a quick plea of guilty. This type of screening did result in the quick resolution of a not insubstantial percentage of cases, but it is an unsatisfactory screening from the point

of view of both the community and the defendant. Important decisions affecting the safety of the community and the freedom of individuals should not be made in a matter of unreflected seconds.

The project effectively introduced into the New Haven criminal justice system prosecutorial screening for the first time. Every serious misdemeanor and felony case was reviewed in depth by the prosecutor/coordinator the day following an arrest or presentment in court. Moreover, the prosecutor's office pressured the police department to provide completed police reports and record searches in a timely fashion to permit review. In the past since there was minimal prosecutor attention given to a file for weeks and even months police reports were frequently incomplete and rarely found their way into the prosecutor's file.

We are convinced that the introduction of screening, itself, would have a marked effect upon the percentage of cases disposed of speedily, but we also feel that the specific procedures utilized in this project were responsible for the dramatic results. There was an appreciable decrease in the percentage of cases nolled during the demonstration and part of that effect can be attributed to the early involvement of the prosecutor component.* The coordination by the prosecutor at this stage of the proceedings, reviewing the initial charges and requesting additional police investigation, clearly contributed to the reduction in the percentage of nolles. It is our opinion that the reduction in the overall nolle rate, dropping from a third in the control year to just under a quarter, was because the early assessment of the case by the

*During the control year, 40% of the cases handled by the private bar and 31.9% of the cases handled by the Public Defender were nolled. During the demonstration the percentage of nolled cases handled by private attorneys dropped 13% to 26.7% while the percentage of cases handled by the Public Defender decreased nearly 10% to 22%.

prosecutor/coordinator was accurate and one that could be relied upon by the entire prosecutor's staff. Thus, defense attorneys, especially private counsel, learned that a case was not as likely as in the past to be dismissed simply because they engaged in a lengthy delaying process.

One final interesting observation about the nolles is noteworthy. During the control year more than 60% of the nolles were entered more than forty-five days after the arrest. The process was reversed after introduction of the project with the same percentage of nolles being entered within the forty-five days immediately after the arrest. This change in timing was not attributable only to the prosecutor/coordinator but also to the defense attorney, whether a defender/coordinator or a private attorney, played a role in that process. The prosecutor/coordinator reported to the grantee that frequently the file itself would not reveal enough information to merit a nolle upon initial review by the prosecutor/coorindator, but that the crucial information, which justified nolling the charges, often was supplied by the defender/coordinator or private attorney at the conference. Thus, there were two basic changes in the cases nolled in this jurisdiction. First, of course, was a reduction in the percentage of cases disposed of in this manner and, secondly, the rationale for this disposition was altered. Rather than cases nolled in desperation because of staleness, delaying tactics or the inability of the courts to handle the caseload, these cases were nolled early as a result of an evaluation of the quality of the cases. In addition to the nolles, there was an early referral to social agencies as a result of the conference.

Even in those cases in which there was no early disposition, the demonstration altered the existing practices in the prosecutor's office. For those cases not resolved as a result of a demonstration-conference, the prosecutor's file contained the prosecutor/coordinator's analysis

of the case including the offer made at the conference. The project enabled the prosecutor to stick with the offer rather than dispose of the cases at any cost as in the period before the demonstration. An analysis of the docket reveals that the office did adhere to a policy of not giving away cases simply because they were old. In only 16.8% of the cases not resolved under demonstration procedures did the resolution involve a disposition which was more lenient than that offered at the conference.* It was this adherence to the policy of not offering further reductions which can be credited as one of the major reasons for the success of the project. As a result, the prosecutor's office removed the premium that had existed previously in delaying cases. Moreover, the prosecutor's office found that it could utilize the analysis of the case prepared by the coordinator which, in itself, signified a substantial saving of time on the unresolved cases. This adherence to the offer and analysis made by the prosecutor/coordinator also eliminated the unseemly practice that exists in many urban jurisdictions of a prosecutor making a determination of interests right in a crowded courtroom and making an offer on the spot when a defendant is called before the judge.

While we could not statistically verify it because of the informal manner in which motions are made in the court, it was reported to us that there was a significant decrease in the pretrial motion practice. The screening conference frequently took up the legal issues which in the past frequently was the only reason that a case was not settled. These issues

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*The 16.8% is even inflated because it includes a substantial number of cases arising at the beginning of the demonstration where the prosecutor/coordinator's offer was unrealistically harsh considering the past history of the criminal justice system in New Haven (e.g., demanding a felony plea in a first offense auto theft case when the prctice in the jurisdiction had permitted pleas to misdemeanor charges.)

were resolved by the attorneys in the context of the plea negotiation obviating the need for courtroom arguments in many cases. It comes as no surprise that the motions practice in many cases exists solely to postpone resolution on the merits until the parties are able to effect a compromise.

In addition, the project saw the creation of a coordinated system of prosecution between the two levels of prosecutors' offices operating in the jurisdiction. The bifurcated system of prosecution in New Haven, like so many other American jurisdictions, generally resulted in an automatic bindover of all cases falling within the jurisdiction of the prosecutor who did not handle the preliminary hearing, but who had ultimate jurisdiction of the case. Thus, the Circuit Court prosecutor would not screen class A, B and C felonies, but merely usher them through the bindover to the Superior Court and the Office of the State's Attorney. During the course of the project, the prosecutor/coordinator and the Circuit Court Prosecutor, at the urging of the grantee, established the practice of meeting with an assistant to the State's Attorney to review all A, B and C felonies. The purpose of these meetings was to establish a coordinated prosecution policy to determine whether the state's interest lie in binding the case over or attempting to dispose of the case through reduction and a plea in the District Court.

Although the tangible results from the New Haven demonstration would seem to indicate that the greatest benefits accrued to the prosecution side, we believe that benefits accrued, as well to the defense and court. The Public Defender's office which handled 70% of the caseload during the demonstration and control periods was in a state of array equal to that of the prosecutor's office. They were simply unable to spend the time that

was required on each case because of the lack of organization and the anxiety caused by an intolerable caseload. The advent of the demonstration and the creation of the defender/coordinator position saw the establishment of some order within that agency. The involvement of the defender/coordinator early after the arrest with the indigent defendant insured that the defense, too, had an early beginning into the case and thus a more complete file if the case did continue beyond the first thirty days.

After meeting the defendant and preparing a defense file and having complete access to the prosecution file, the defender/coordinator was in a position to meet with his counterpart in the prosecutor's office and discuss the desirability of terminating the case. The vast majority of cases were resolved in this manner as a result of the agreements reached between the two coordinators. There was not a great disparity between the percentage of agreements reached by the two coordinators (82.8%) and the percentage of agreements reached by the prosecutor/coordinator and private attorneys (77.3%).

Criticism has been leveled at the Public Defender for entering into this type of program on the theory that a defendant's best interests are only served through protracted delay. That criticism was rendered by the National Institute's monitoring team during a visit in the summer of 1974. We have carefully considered that criticism and consider it to be unwarranted. The Circuit Court Public Defender is acutely aware of his responsibility and is quite outspoken in his opposition to government excesses. At the same time he is also cognizant that there is no government excess in the vast majority of cases handled by his office and that his clients' best interests are not necessarily served by delaying their cases. According to the Public Defender's office very frequently their clients

are seeking an early disposition in order to get a fresh start. Rather than hurting those interests the project, for the first time in New Haven, offered an opportunity to actually serve those interests instead of confronting the lawyer-less client with the unsatisfactory options of pleading guilty as charged or delaying the case. It was our observation that the defender/coordinator vigorously represented his clients' interests. Moreover, much of the value of delay was removed once the prosecutor's office was able to establish its policy that the offer made at the conference would be adhered to throughout the life of the case. One caveat to this endorsement of the Public Defender must be noted. Over three times as many Public Defender clients (10.9%) received jail sentences as a result of agreements derived at the conferences than did the clients of private attorneys (2.8%). But this was not a result new to the project years; in the control year 13.2% of the Defender's clients went to jail contrasted to 3.3% of the clients of private attorneys.

The project, likewise, had an impact upon private attorneys and their clients in New Haven. At first, reports were returned to the grantee that private counsel would not participate in the project. The Circuit Court Prosecutor and the prosecutor/coordinator both spoke at a local bar association meeting to apprise the attorneys of the program and to invite their cooperation. During the first months of the demonstration, little use was made of that invitation. Due to the consistency of the prosecutor, however, the private bar soon realized that the procedures were going to work because the chief prosecutor was not going to engage in plea bargaining outside the context of the conference, nor would he deviate from the recommendation placed in each file by the prosecutor/coordinator. As a result of sticking with the program, the private bar came around and by the end of the demonstration private attorneys were initiating the contact

frequently to set up the conference.

The demonstration's impact upon the court was great, yet from the beginning to end there was a reluctance on the part of all participants to advise the judges about the demonstration. During the course of the demonstration, the clerk's office reported a drop from five to three in the number of times the average case appeared on the court's docket. Whether judges were aware of this was something that the grantee could never establish. Likewise, the participants were terribly reluctant to ever alter or affect the court's docket. We were troubled that cases resolved at conferences were not promptly redocketed so that a defendant could appear in court after the agremeent and have the charges dismissed or enter a plea to an agreed-to charge. Instead, the case was not redocketed, but simply carried over until the scheduled court appearance. Responding to pressure from us, the two coordinators agreed to move up cases where the next scheduled court appearance was more than ten days in the future; we seriously doubt whether this was ever done.

The grantee and the participants in New Haven are convinced that the demonstration was a success. In the most tangible terms, the existing backlog of cases, numbering 1200 at the start of the demonstration, has been reduced to 200. The applicable state agencies approved of the project and agreed to expand it to the three other largest urban court districts in Connecticut. Unfortunately, the state only came up with money to retain the prosecutor/coordinator; the defender/coordinator was let go and his duties are to be picked up by the other members of the Public Defender staff. The absence of a defender/coordinator is not a good harbinger for the continued success of the demonstration procedures. In addition, the Prosecutor has been advised that the prosecutor/coordinator will be dispatched throughout the year to the other three locations to assist them

in setting up comparable projects. We expect that his absence from New Haven will have serious adverse effects upon the continued success of the procedures because the prosecutor and defender's offices are likely to fall behind in case processing. One of the key ingredients to the success we experienced in New Haven was the fact that both coordinators were always current and during the year and a half never fell behind. The demonstration has proven to New Haven and Connecticut officials that their criminal court dockets can be managed, that effective prosecutor screening can be a reality and, finally, that a majority of criminal cases are susceptible to a speedy disposition.

CITY II - NORFOLK

The second city selected as a project demonstration site was Norfolk, Virginia. Like New Haven, Norfolk presented immense challenges to the grantee. Prior to the implementation of project procedures the criminal justice system in Norfolk was so disorganized that court and prosecution personnel were at a loss to even describe their criminal process in a systematic fashion. The result of the demonstration in that city was to alleviate some of this mindless confusion.

The nucleus of the project was in the District Court, which has original jurisdiction in all felony cases and final jurisdiction in all misdemeanor cases. What existed in this court prior to our demonstration was the same type of criminal justice system that existed in the tidewater region of Virginia at the time of the founding of the country with very little change. In fact, the only real difference between the past and the present was that the system was now being called upon to service a population far in excess of that which existed in the eighteenth century.

The Commonwealth Attorney's office in Norfolk employs a part-time staff consisting of 10 prosecutors. Surprisingly, before our project was implemented, it had been the longstanding practice in Norfolk for the Commonwealth Attorney not to be present or represented in the District Court where all felony cases commenced, except in exceptional cases where a request was made by the police department for prosecutorial assistance. Such requests by the police were only made under very special circumstances involving cases of high community interest. Thus, prior to arraignment on an indictment following a bindover from the district court, it was the rare exception for prosecuting authority to have any input or impact upon criminal prosecutions. The authority to deal with

these cases rested entirely with the district court judge and the parties to the case complaint and arrest.

The other significant fact about Norfolk which led to our selection of that city was the absence of a public defender institution. Unlike New Haven where we knew that close to three out of four criminal cases were handled by the public defender, in Norfolk all indigent defendants are represented by private attorneys appointed by the court. Clearly, for a city the size of Norfolk (700,000) with a crime rate substantially higher than the national average, the absence of full time prosecutors coupled with the absence of an established public defender works severe hardships on the efficient administration of an even-handed criminal justice system. It was in this atmosphere that project procedures were introduced in Norfolk.

The agreement entered into between the grantee and the Commonwealth Attorney in Norfolk focused upon introducing the prosecutor function into the District Court. As previously mentioned, the grantee contracted with the Common Attorney and his four most senior assistants; under the terms of the agreement each of these five attorneys was to devote 25% of their time to the demonstration. The reason this was possible was because all ten attorneys in the Commonwealth Attorney's office are part-time public employees and are entitled to engage in private practice or other endeavors on the side. The Commonwealth Attorney insisted that we work with his most senior assistants rather than giving us the opportunity to interview and select from among the nine assistants. This was fairly consistent with the procedure adopted in New Haven where each of the two offices selected the coordinator so we went along on this

matter.*

Cases came into the project on the date of the preliminary appearance. Under project procedures each of the five project coordinators was responsible for all the felony cases originating in the District Court on their assigned day. The coordinators were supposed to review the facts, evidence, and law of every case filed on their court day. The coordinator was then to make an independent judgment based upon the standards approved by the grantee and the Commonwealth Attorney as to whether or not the case should be dismissed at the outset. If the case was to proceed, the project coordinator was then obligated to set up a conference with the defense attorney -- whether appointed or retained -- prior to the preliminary hearing. Like New Haven, at the Norfolk conference the prosecution and defense met to determine whether the case was the proper subject for early disposition. In the event no agreement was struck during conference negotiation, each project coordinator was to remain responsible for the case whether it was disposed of later in the system or proceeded to trial.

The key to the Norfolk demonstration was to place project personnel in the District Court, the court of original jurisdiction for all felonies committed in the tidewater city. We believed that by assigning responsibility for each prosecution to the project coordinators, members of the Commonwealth Attorney's staff, the interests of the community and the criminal justice system would be advanced. By so doing, we were displacing the system which had existed since colonial times whereby the police and prosecuting witnesses without advice of state counsel had the authority to make the initial assessment of criminal behavior and the further power of whether a felony case should be maintained as a felony case, dismissed,

*Personnel problems proved to be a continuous problem in the Norfolk Project.

or plead out as a misdemeanor. We believed that having a legally-trained prosecutor screen a case shortly after arrest (during the period between the preliminary appearance and scheduled hearing), make the charging decisions, and attempt to negotiate settlements with defense counsel would be an efficient means to clear a congested docket. In addition, we were convinced that having prosecutors conduct preliminary hearings on a regular basis for the first time in that court would reduce the percentage of felony cases dismissed for want of probable cause and substantially strengthen the community's ability to combat crime.

One of the reasons we selected Norfolk in the first place provides substantial explanation why the demonstration was, in our assessment, less successful than it should have been. When we were initially considering Norfolk as one of the communities nominated by the regional L.E.A.A. offices, we came upon a case where the defendant had been charged with first degree murder arising out of a killing that took place on the street. The case was bound over, the defendant indicted, and then the case seemed to stall. Finally, as we were told, the defendant was permitted to plead guilty to disorderly conduct. While the story which we were told may have been exaggerated, it was clear that an office that could laugh about a murder one charge being dealt out as a petty offense after the defendant spent several months in jail needed considerable assistance. The cavalier attitude which the story evidences was, we found, carried over to every endeavor of the Commonwealth Attorney's operation.

Utilizing time as the measure of success, the Norfolk demonstration appears, at first glance, to support the finding that like New Haven, and even under the different procedures dictated by the structure in Norfolk, the project cut the time necessary to process felony cases. During the

demonstration 26.9% of all felony cases were resolved within 30 days of arrest, and 46.4% were resolved within 45 days of arrest. As indicated, at first glance, this looks like a tremendous success, exceeding the predictions in the initial 1972 report and the subsequent grant application.

It is only when the demonstration figures are compared to the control data that the true picture of success becomes clear. The impact of the project on the Norfolk felony docket was to increase the speedy disposition in only five percent of the cases. For in 1973, the control year, 21.5% of the cases were resolved within 30 days of arrest (as compared to 26.9% during the demonstration) and 40.5% (as compared to 46.4%) were resolved within 45 days of arrest. What is truly astounding is that the percentages compiled during the control year represent cases dismissed or resolved on the basis of reductions from felony charges without the interference of a prosecuting attorney. The implications arising from such a system are astounding and the questions raised are innumerable. For instance, during the control year fully 20% of all felony cases filed in the District Court were dismissed (either for want of probable cause or because the prosecuting witnesses or the arresting officers chose not to pursue the cases). Criminal prosecutions in this country are not left to the offended parties, presumably because the entire community has a stake in preventing crime and punishing wrongdoers. When complainants and police officers chose not to prosecute persons arrested on felony charges, there really was no one present in the court to question this decision or to represent the community interest. It is clear that the appearance of impropriety is almost as important as impropriety itself; the type of dealing by parties that must have gone on in the Norfolk District Court prior to the project creates such an appearance. The introduction of prosecutors into this stage of the criminal proceeding

did have a substantial effect upon the percentage of cases being dismissed. Although more cases were resolved at this stage of the process, the percentage of dismissals decreased by one-third (to 14%). The dismissals during the demonstration were about evenly divided between charges dismissed for want of probable cause after a hearing and those dismissed as a result of a conscious decision by a prosecutor. The fact that six percent were dismissed for want of probable cause casts doubt about the seriousness with which the prosecutors on the project went about their duties in screening cases, but it does show a marked decrease from the previous year.

The other measurement which shows progress in time, that is the average time to process all felony cases, enables us to better analyze what took place in Norfolk. Comparing the mean time during the demonstration, 64.6 days, to the mean time during the control year, 68.9 days, indicates a drop of just four days in the time taken to process the average case. We did a month-by-month analysis to determine whether these mediocre results were constant throughout the project; they were not. As reported in quarterly reports we were constantly faced with personnel problems in Norfolk. At the outset of the demonstration we were particularly troubled that case forms returned by some of the prosecutor/coordinators indicated that they were not doing their job. After fair warning, we were compelled to terminate two individuals and replace them with two more Assistant Commonwealth Attorneys, again chosen by Norfolk. Our time figures clearly reflect these changes in personnel and what progress could have been achieved.

The initial introduction of the demonstration into Norfolk actually had the opposite effect of what was intended. The cases processed during

the first month of the demonstration indicate that instead of disposing of cases speedily, the mean time rose to 129 days almost doubling the mean from the control year. What this signified was that the introduction of prosecutors into the District Court started out by slowing the process down. This outlandish doubling of the mean time did decrease over the next several months, possibly as a result of constant hammering by the grantee, but it never reached acceptable time limits as long as the original personnel were retained. Once we replaced two of the prosecutor/coordinators the process ran more efficiently and the changes in case processing time reflect the difference.

Two new coordinators were added on July 1, 1975 and the mean time for each of the next months was well below 60 (59.98 in July; 58.35 in August; 54.26 in September; and 55.73 in October) indicating a drop of 18 days (more than 25%) in the average for processing felony cases in the jurisdiction. The result during the holiday season is exasperating and indicative of what happens to productivity across the United States during the month of December when little occupies the mind but family and holiday. Defendants arrested during the month of November, whose cases were processed during the month of December, took an average of 73 days from arrest to disposition; the mean time fell to 59.94 days the next month for persons arrested in December whose cases were processed in January. What these monthly figures indicate is that the project had a great deal to offer to the City of Norfolk. Proper staffing, which we never fully achieved, and adequate leadership and supervision within the office, which was always lacking, could have insured that the 25% reduction in the mean time for processing felony cases was obtained throughout the life of the demonstration. It was only after we did the

monthly analyses that we began to understand the claims made by the Commonwealth Attorney of the great strides made by his office as a result of the demonstration. Moreover, it was not until we completed this analysis that we could fathom why the Commonwealth Attorney chose to continue the demonstration after grant funds ran out without any additional funding.

As if the poor performance of the two dismissed individuals was not damning enough from our perspective, it was reported to us later from the Commonwealth Attorney's office legal administrative manager, that the two ex-coordinators were responsible for the disappearance of and/or failure to report information on some 300/400 resolved cases that ran through that office during the period of their employment. Again, we would hesitate to include this information in our final report if we did not feel that the facts substantiated our assertion. In this instance, it is evident from perusing the monthly caseload totals that case reports were way down during the months the two discharged coodinators were employed. Also, our case files show substantial gaps in the first 1000 numbers which do not exist in the last 1500 numbers. Suffice it to say we question the professional pride and integrity of these ex-coordinators and their performance lends an unapalatble qualitative flavor to otherwise hard core statistical figures.

A final example of what was ultimately accomplished and what could have been accomplished through the project, is provided by one other time analysis. In the month of February, 1975, we offered to terminate requiring case forms from the Norfolk prosecutor/coordinators on March 31, 1975, if during the month of March two young prosecutors were put in complete control of the project. This was agreed to and the results indicate

their interest and drive. The two prosecutors supervised the handling of every case by the more experienced prosecutors under the project; they screened, required offers in all cases, reviewed the coordinators' assessments and ultimately had the final say on all offers. During this period the percentage of cases resolved in the District Court under project procedures rose to 52%, compared to 41.2% during the entire demonstration. More important, rhe results achieved during March, 1975 represents a doubling of the cases resolved in the District Court during the control year. Although Norfolk personnel were late to learn of and strive for the beneficial effects of the project from a time prospective, other project benefits were apparent to the office from the outset. The combined procedures of having prosecutors appear in the district court necessitated the development of many new intra-office administrative systems designed to expedite the conveyance of case information to the individual prosecutors. These new systems in Norfolk have helped to speed up and improve the quality of police reports, drug reports, witness reports, as well as implementing tighter control over case files. The result has been a much tighter, more efficient office. These procedures themselves represent a step towards reducing pretrial delay because the prosecution has better control over its own caseload and responsibilities.

Placing prosecutors in the District Court has also resulted in the much needed impact of bringing a legal process to people. Now, when a case is disposed of during the preliminary proceedings, the victim and the complaining witness have access to the state's legal representative who can more effectively delineate the law and the purposes underlying a non-plea disposition. If the case is dismissed these parties are more likely to walk away feeling as if they have had their day in court even

though they do not agree with the particular result. Prior to the project the witnesses and the victims dealt only with the police in the district court and the law was miscommunicated or uncommunicated often times resulting in dissatisfaction for all.

Besides the people problems that existed in Norfolk, several procedural and organizational problems hindered the full integration of project procedures into that city's criminal justice system. For example, one of the key factors contributing to the project's success in New Haven was the existence of a public defender agency. This agency represented the majority of defendants in New Haven which enabled the state's attorney to quickly contact and confer with defense counsel early in a prosecution. As previously mentioned, Norfolk has no public defender agency. Rather, it employs a court appointed-private counsel system for indigent defendants. Thus, the Commonwealth Attorney could not "one stop shop" so to speak. We were well aware of this characteristic when we selected Norfolk as a demonstration city. However, we wanted to vary the experimental conditions for project procedures as much as possible and Norfolk offered us that opportunity.

During the first month of the project we realized that although the court would appoint an attorney for an indigent defendant at the preliminary appearance, the identity of the defense attorney was very slow in reaching the Commonwealth Attorney. Apparently the court was slow in apprising the clerk of the attorney's name and the clerk was in turn slow in passing the information on to the Commonwealth Attorney. The ramifications to the project of this inexpeditious process are obvious. Without the identity of defense counsel the initial contact for negotiation was delayed and the conference was postponed to the point later in the

prosecution or it was not held at all. For example, conference negotiation with indigents on other than no offer cases were held in only 226 cases (48%) out of a total of approximately 473 indigent cases. Another 247 cases are listed as "no offer" cases but what the no offer term actually implies for many in this group is that "no offer could be made" before the case progressed to the preliminary hearing. Thereafter, the case generally resulted in a bindover rendering the conference project procedure almost nugatory. Defendants with retained counsel did not pose this identity problem and the figures reflect the difference. Out of 1,084 private counsel cases only 606 (56%) were "negotiable" cases. While the differential is not monumental it was greater at the outset of the project with an increase in indigent case contacts toward the end. By investing a couple hundred dollars in advance docket sheets we were able to expedite the attorney disclosure process. These sheets were transmitted directly from the court to the commonwealth attorney's office and had the desired impact for the period of time that they were employed.

In the same vein, what was most bothersome about the screening conference procedure in Norfolk was the frequent "lazy day" a prosecutor/coordinator would have which resulted in little attempt at conferring with defendants or his counsel. To be sure, the state has an interest in every criminal case and the prerogative to withhold an offer and proceed to trial is perfectly legitimate. However, the hefty number of no offer cases in Norfolk reflect complacency, not responsible representation of the state's interest. That office reported to us figures which would represent that they held conferences in 70.8% of all the criminal filings (1102 divided by 1557). However, if we eliminate from the percentage the "no offer" conference cases, true "conferences" were held in only 46% of

the filings. When one considers that agreements toward an early disposition were struck in approximately 76% of the cases where true conferences were held (546/715) the prospect of what could have been accomplished in Norfolk dwarfs that which really was accomplished.

To be fair, there was a quasi-jurisdictional impediment existing in the Norfolk court system which could have been significantly responsible for the higher number of no offer cases. Whenever a case was disposed of on the basis of a misdemeanor offer pleading the case out of the system was simple. The District Court retained jurisdiction and the plea could be entered without going to another court. Such was not the case when an agreement was struck with a defendant to plead guilty to a felony. The District Court had no jurisdiction to accept felony pleas so the defendant came within the Circuit Court's jurisdiction. This meant that before pleading the defendant had to waive the preliminary hearing, be indicted, and then appear to plead to the indictment. As if this was not enough procedural confusion, if the defendant was indigent, District Court counsel was removed from the case and new counsel was appointed to represent the defendant in the Circuit Court. Consequently, if that attorney wished to balk at the already accepted offer he could do so and the case wound up right back where it started.

We experimented with way to smooth the transition between the District Court and the Circuit Court in an effort to expedite felony pleas. We proposed plans to waive indictments and let the defendant be walked over to the circuit court and plead. However, many of the obstacles we encountered while trying to smooth the transition quickly brought us to the conclusion that 'you can't fight city hall" -- i.e., the judges. The judges wanted to process to stay exactly the way as it had been prior

to the project. Because they opposed any additions to their docket without advance notice, they opposed waivers that resulted in walkovers. We proposed a method to transfer these cases to the docket within the month, but our effort was never implemented.

Another one of the keys to understanding the Norfolk criminal justice system is the level of adherence or non-adherence to constitutional guarantees. While in New Haven and Salt Lake City close to 70% of the defendants are indigent and thus represented by Public Defenders, the indigency percentage plummets to 30% in Norfolk where there is no public defender. One can speculate that the Tidewater region contains fewer indigent persons than the other cities, but no demographic information has been uncovered to justify such a conclusion. On the other hand, it is a fair assumption that where there is no public defender agency and where each individual appointment costs public money, judges may be more reluctant to appoint counsel in marginal cases. But a drop of 40% clearly does not eliminate just the marginal cases. In addition to conserving public funds, there is a great interest in protecting private lawyers' fees. One of the assistant Commonwealth Attorneys explained the differences in the jurisdictions on the basis that in Norfolk there is a "rule of thumb" standard: if a defendant can afford bail, then he is not indigent for purposes of appointing counsel. This same assistant related a story where a defendant requested a reduction in bail from $2,500 to $500; the judge granted the requested reduction, but when he learned that the defendant's attorney was appointed, the judge raised the bail again to the original amount. Thus, it is apparently known among persons arrested and charged that there is a good chance that if a defendant has a small amount of money, he will have to choose between his Sixth and Eighth Amendment rights to counsel and bail.

The bail/jail percentages also tend to bear this out. In New Haven less than 5% of the defendants were in jail while awaiting disposition of their cases and less than 10% were in jail in Salt Lake City; in Norfolk that percentage increased astronomically to 47% of the cases handled during the demonstration period.

CITY III - SALT LAKE CITY

The selection of a third demonstration site, Salt Lake City, was not part of the original project design. After the first two cities were selected and it was determined that there would be a modest amount of money remaining for demonstration purposes, we felt that the picture as portrayed by Salt Lake authorities would benefit the project immeasurably. For it seemed that the system existing in the Utah capital already incorporated much of our plan -- prosecutor screening and a conscious effort on the part of the prosecutors and defense attorneys to clear cases prior to bindover. Thus, we entered into an agreement which would test our conference procedures in cases already deemed worthy of bindover by a magistrate. In essence we were not seeking speedy dispositions but speedier dispositions and examining whether those cases which were already into the "prolonged" case track could be retracked. This demonstration was also seen as a testing ground to determine whether other than trash cases -- which possibly should never have been filed as serious offenses in the first place -- would be susceptible to handling through our procedures. The thrust then was to establish the conference procedure after the preliminary hearing in all felony and Class A misdemeanor cases.

A "new case screening department" was the procedural forerunner to the demonstration project. Two prosecutors were detailed on a revolving basis to cover the screening functions of the office. Any officer desiring to file a criminal complaint was required to present his report and file to the screeners. The screeners jointly review the facts of the case and determine what, if any, offense has been committed, whether all the requisite physical evidence and witnesses' testimonies have been obtained in order to obtain a conviction on the charge, or whether the issuance of an information should wait pending further investigation. The statistical

value of this screening program is evident. Less cases proceed to preliminary hearing and through the system.

Once a case has been screened, a complaint and warrant is typed and signed by the prosecutor who screened the case. The officer then presents the complaint to a city court judge who swears the officer on oath, sets the bail and issues the complaint and warrant. If the defendant is already in custody he will be arraigned on the next morning's arraignment calendar.

All of the complaints with interview sheets attached that were issued by the screeners are reviewed daily by the chief criminal deputy. He checks each complaint for consistency of charging and assigns a prosecutor. Files and index cards are then prepared on each case and distributed to the assigned prosecutors. It is at this point that the grantee's demonstration form was initiated and inserted in a file. Although a prosecutor is free to "wheel and deal" in a preliminary manner at this point in time, official project "conference negotiation" was not done until after the preliminary hearing.

It was at the bindover that the major thrust of the demonstration came into play. The file was reevaluated by the case prosecutor and chief deputy, and immediately after the preliminary or within two days thereafter negotiations began. It was up to the demonstration manager (a clerk in the County Attorney's Office) to make sure this schedule was met. Although formal letters to defense counsel were not being sent in all cases bound over during the infant stages of the project, during the latter stages, formal offer letters were sent in nearly all cases.

The letters set forth the offer or "no offer" of the prosecution and were used as a starting point in negotiating. At that point a series

of offers and no offers (negotiation) began in a very informal atmosphere. Generally, no formal meeting was arranged and much or most conversation took place by phone or by letter. It was disconcerting that the defender's office never established a formal response pattern or system.

The salient difference between Salt Lake and New Haven, where both have public defender agencies representing 70% of the defendants, was the absence of cooperation between the prosecuting and defending agencies in the Utah city. The cases we were dealing with in Salt Lake City were no longer in their inchoate stages and an adversary attitude had developed between the attorneys in the two agencies. The County Attorney's office which handles the prosecuting function at all levels, was reluctant to engage in full and open discovery but even as they loosened up on that point, the defenders complained louder about the absence of discovery. We were never able to break down the hostility existing between the two agencies and while it is intangible and not subject to measurement, we believe that it was detrimental to the fulfillment of the project's goals. It is possible, of course, that a certain amount of hostility may be desirable in promoting the adversary process. During the course of the demonstration, however, the chief Public Defender wrote about the changes that had taken place in the outlook of his staff members:

> "In my judgment, the overall impact of the Project upon my office has been a favorable one. At the project's inception, some staff attorneys were concerned about the impact of the Project and expressed reservations regarding the benefits of such a project to the defense. There was also a tendency to delay contacting the County Attorney's Office regarding any pretrial disposition due to our past conditioning of waiting until shortly before trial to do so. It is increasingly apparent that many of our fears were unfounded and our past practice of procrastination is

> giving way to an attitude of early resolution of cases. The project has required our attorneys to evaluate the case at an earlier date, and, consequently, has benefited many clients who are in jail awaiting trial. Our attorneys also have been better prepared for trial in the event negotiations were unfruitful due to early disclosure and preparation."

What developed in Salt Lake City was a productive usage of the time between bindover and the pretrial conference. In both offices the attorneys charged with the responsibility for a case were in contact with each other shortly after the bindover. While not pressuring his assistants to resolve cases, the Public Defender did develop a form which required the assistant to indicate whether negotiations were productive and, more significantly, why or why not. Once the project was well underway, contact between prosecutors and defense attorneys was taking place in about 95% of the cases, even if that contact was a statement from the prosecutor that "no offer" could be made in the case at that time. The reason for the difference between this and Norfolk where conferences were held in less than 50% of the cases was the leadership in the two cities and the knowledge that the County Attorney and the Public Defender required a statement in the case files from each of their subordinates detailing what took place at the conference and why. While the mechanics of the project were fulfilled by the attorneys in each office, it was clear that some of the participants in each office were less than wholeheartedly in favor of the project's purposes while those who more fully pursued the project procedures showed a substantially greater percentage of earlier dispositions in their cases.

One other intangible which surfaced in Salt Lake City was the effect a judge could have upon the speedy disposition of cases. Specifically, the temperament and personality of the judge sitting in the arraignment

or plea rooms may be the most important factors in determining whether a case will be the subject of a speedy disposition. There is very little judge-shopping in Salt Lake City, as contrasted to Norfolk where the Commonwealth Attorney can dictate which judge will handle any aspect of a case, and when a judge who had a reputation for being "unreasonably hard" in sentencing was assigned to the arraignment room less than half of the cases in which an agreement had been reached were pleaded out within a thirty day period.

Both offices involved in the program indicated that the demonstration had three major effects upon their operations: (1) earlier and more intense case preparation, (2) earlier release of persons held in jail awaiting disposition of their cases, and (3) a clearing of the calendar. Clearing the calendar was not viewed by the Public Defender as a necessarily positive effect. He contended that as the prosecutor became more capable of controlling his caseload, settlement offers would become less lenient because the prosecutors would be able to take more cases to trial nor would they fear trial demands by defendants.

Our demonstration in Salt Lake City went hand in hand with the development of a new case screening department devised by the County Attorney which operated in the court of original jurisdiction. We had nothing to do with that operation but it was evidence of the jurisdiction's interest in continuing its previous record of turning the earliest stages of prosecution into an effective screening process. The advent of the new screening department saw a slowdown in the amount of time it took from arrest to bindover, but fewer cases were crossing that line so the disposition rate at the earliest stages more than justified the modest increase in time that accompanied it. Unlike the other cities, then, we had not part in the development of the screening process. The cases

that were coming under our demonstration had passed major hurdles and had been deemed sufficiently important to pass into the serious case process.

The effect of theintroduction of project procedures into the Salt Lake City criminal justice system was to increase the disposition rate by more than 70% in the two week period immediately following the preliminary hearing. During the demonstration period 16.4% of the cases were resolved during this period up from 9.8% during the control period. There was just a slight increase during the following fortnight so that 24.9% of the demonstration cases were resolved within 30 days of the preliminary hearing compared to 18.7% during the control period. The (5%)difference remained fairly stable thereafter, so that within 45 days of the hearing 37% of the demonstration cases were resolved compared to 30.5% of the control cases. These differences, while not nearly as substantial as the results in the other cities, are considerable when one notes that the cases dealt with have survived a sophisticated screening process.

The mean time was also subject to some minimal change. In the control group the mean time from preliminary hearing to disposition for all cases was 73.7 days; it was reduced by five days during the demonstration to 68.6 days.

Choosing a period to use for the accumulation of control data in Salt Lake City proved to be a difficult and complex problem. The state, six months before the commencement of the demonstration, had adopted a new criminal code which made radical changes in the law. It was reported to us that during the transition period only the clean, easy cases were filed under the new code. Thus, we were faced with the need to select

a period to use as the "control" that never really duplicated the conditions experienced under the project. In spite of this dilemma, we chose the six month period under the new code in the full realization that this would present a difficult standard to duplicate in the demonstration because the figures for the "control" period were artificially satisfactory. Even with this limitation, the project appears to have contributed to the speedy disposition of cases in the Salt Lake City system. An indication that the control group was particularly clean was the difference in the incidence of trials -- as opposed to pleas or dismissals -- in the control group when contrasted to the demonstration cases. While slightly under one in twenty cases went to trial out of the control group (4.6%), that figure doubled in just over one in ten (10.3%) cases in the demonstration.

Another indication of the effect of the demonstration on the Salt Lake City criminal justice system is the scheduling of trial dates. A first place trial setting, indicating that the case can go to trial on that date certain, is now usually set within three weeks of arraignment -- and a defendant who so requests can be accommodated within two weeks, as compared to six weeks after the arraignment when the demonstration began.

Perhaps the most instructive indication of the value was how realistic the offers made by the County Attorney's office were. There were agreements in slightly more than 40% of the cases but more significant is the fact that the offers made were the same as the outcome in 69% of all cases. Transmitted another way, out of every nine cases in which an offer was made (as opposed to the cases where the County Attorney notified the defense attorney that no offer could be made at the time) seven were resolved whether through agreement or later plea or trial in accordance with that offer. Thus, the prosecutors were putting the time in after

the preliminary hearing, and making realistic assessments of their cases in a manner which assured that the office could follow through.

CONCLUSION

We believe that two conclusions flow naturally from the demonstrations: (1) project procedures which were demonstrated in the three cities can aid the speedy dispositions of felony and serious misdemeanor cases; (2) the value of any innovation is dependent upon the attitudes of the personnel involved in the applicable agencies which is completely tied to the quality of leadership within the agency.

In all three cities demonstration procedures were responsible for the speedier dispositions of criminal cases. In two of the cities, the project intervention resulted in a marked change in the handling of criminal cases (both from prosecution and defense perspectives) and the attention given within the system to persons accused of crimes and their victims.

There is no established way to determine the effect of the project on the quality of justice. We assume, however, that review of a case by prosecutors where there previously had been none represents an improvement from the community's perspective; we also believe that defense intervention on behalf of a defendant within days, rather than weeks, of an arrest, likewise, represents an improvement in defense services. It well may be that the earlier intervention represents a diminution of a defendant's ability to beat the system on grounds other than the lack of merit in the state's case, but we do not believe that the continued adherence to due process goals requires a continuation of such advantage.

Notwithstanding a measure of success in all three cities, the degree of success was constrained by personnel and attitudinal problems. The impact of the great success which we experienced in New Haven was limited by the unwillingness of the affected agencies to advise the courts what

they were doing. In so acting, the prosecutor and defender, and their supervising state counterparts, limited the impact of the project to their own agencies. Their hesitation at involving other affected agencies prevented the improvements from being felt throughout the criminal justice system. Similarly, the cavalier attitude of some of the Assistant Commonwealth Attorneys in Norfolk hampered the success of the project in that city. Strangely, in Norfolk there was an attempt to involve the court when the Commonwealth Attorney sought to speed-up the appointment of counsel and coordinate the appointment of counsel between the courts of original and final jurisdiction, but these attempts were rejected in favor of retaining the dual appointment system (which enables each court to appoint private attorneys who are compensated for the same case). Finally, in Salt Lake City the effectiveness of the project was hampered by the tradition of secrecy which took many months to partially overcome and the suspicion with which the attorneys in the Public Defender operation view their counterparts in the County Attorney's Office. Although this suspicion and the unwillingness of those same attorneys to relinquish delay as the principal defense tool retarded the effectiveness of the demonstration in Salt Lake City, it is, at least, premised upon philosophical grounds. We stress these serious limitations in order to emphasize that in spite of such limitations the demonstrations were successful.

We believe that the early disposition procedures are replicable in most jurisdictions. They have been tested in three very different jurisdictions representing most of the existing variables (e.g. public defender system, private counsel system, bifurcated prosecution, unified prosecution system, history of no prior screening, sophisticated screening system) and in each the procedures were adapted to local institutions and needs. In each city the demonstration had a measure of success. It is our belief

that the procedures work best where there is a public defender but the city where the project may have had the most qualitative effect was Norfolk where there is no public defender. In sum, we believe that the project surpassed the expectations set forth in the grant proposal and would be beneficial to other cities throughout the country which are experiencing a delay problem.

NEW HAVEN

Q - Number of valid cases in data bases

Experimental	Control
2250	525
100.0%	100.0%

Q - Number of cases by race

	Experimental		Control
1) White	702	31.2	Unavailable
2) Black	1377	61.2	"
3) Other	170	7.6	"
	2249	100.0%	

Q - Number of cases by sex

	Experimental		Control
1) Male	1955	86.8	Unavailable
2) Female	298	13.2	"
	2253	100.0%	

Q - Number of cases by original charge

	Experimental		Control	
1) Fa	3	.1	0	0
2) Fb	142	6.3	42	8.0
3) Fc	215	9.5	25	4.8
4) Fd	1081	47.7	265	51.0
5) Ma	825	36.3	188	36.1
	2266	100.0%	520	100.0%

Experimental Data Analysis Pursuant to the Implementation of Project Procedures
(No Comparable Data for Control Group)

Q - Project conferences

1) Conference held	2088	92.1
2) No conference	178	7.9
	2266	100.0%

Q - Breakdown of disposition offers given defendants at initial conference, offers agreed to, and actual pleas entered on the basis of conference/screening

	Initial Offer	%	Agreements	Actual Resolutions Following
Fa	--	--	--	--
Fb	--	--	--	--
Fc	3	.1	2	2
Fd	159	7.0	58	41
Ma	346	15.3	271	245
Mb, c, d	745	32.9	657	619
Youth offender	92	4.1	90	93
Nolle	409	18.0	409	419
Pretrial services	131	5.8	127	131
Fa-Jail	1	--	1	--
Fb-Jail	--	--	--	--
Fc-Jail	1	--	--	--
Fd-Jail	26	1.1	1	25
Ma-Jail	35	1.5	31	64
Mb, c, d-Jail	35	1.5	30	62
No offer	283	12.5	N/A	N/A
	2266	100.0%	1687	1701

Q - The effect of project procedures on the experimental data base by type of charges

	Total		Project Resolved		Project Unresolved	
Fa	3	.1	1	33.3	2	66.7
Fb	142	6.3	59	41.5	83	58.5
Fc	215	9.5	131	60.9	84	39.1
Fd	1081	47.8	812	75.1	269	24.9
Ma	796	35.2	677	85.1	119	14.9
Mb, c, d	26	1.1	18	69.2	8	30.8
	2263	100.0%	1698	75.0%	565	25.0%

Felony disposition rate - 1003/1441 = 70%
Misdemeanor disposition rate - 695/822 = 85%

Follow-up of Experimental Group Cases Which Remained Unresolved After Being Processed Through Project Conference/Screening Procedure

Q - Aftermath of unresolved cases

	Number	%
1) Later pleas of guilty	241	63.1
2) Nolles or dismissals	112	29.4
3) Trials - Guilty	25	6.5
4) Trials - Not Guilty	4	1.0
	382	100.0%

Q - Types of trials

	Number	Guilty
1) Judge	16	14
2) Jury	13	11
	29	25

Q - Analysis of guilty pleas

Defendant plead to charge and/or jail time:	Number	%
1) Greater than original offer	13	18.5
2) Same as original offer	92	38.2
3) Less than original offer	64	26.5
4) No original offer	72	29.8
	241	100.0 %

Q - Charges in the unresolved cases

	Number	%
Fa	3	.8
Fb	20	5.2
Fc	33	8.6
Fd	216	56.5
Ma	104	27.2
Mb,c,d	6	1.6
	382	100.0 %

Q - Offers tendered at early conference on these unresolved cases

	Number	%
Fd	65	17.0
Ma	52	13.6
Mb,c,d	77	20.2
Fc-j	1	.3
Fd-j	7	1.8
Ma-j	3	.8
Mb,c,d-j	2	.5
No offer	175	45.8
	382	100.0%

Public Defender/Private Counsel

Q - A comparison of cases by type of counsel in the experimental and control group

	Experimental		Control	
1) Counsel appointed	1587	72.8	371	70.8
2) Private counsel	594	27.2	153	29.2
	2181	100.0%	524	100.0%

Q - Project conference procedures implemented during experimental year as related to type of counsel

Conference Held		Yes		No		Total	
Counsel Apptd.	Yes	1582	99.7	5	.3	1587	72.8
	No	444	74.7	150	25.3	594	27.2
	Total	2026	92.9%	155	7.1%	2181	100.0%

Q - Success rate of project procedures with regard to type of counsel employed

		Early Resolutions		Unresolved Under Project		Total	
Counsel Apptd.	Yes	1251	78.8	336	21.2	1587	72.8
	No	392	66.0	202	34.0	594	27.2
	Total	1643	75.3%	538	24.7%	2181	100.0%

EXPERIMENTAL DATA

A) Offer to dispose of criminal charge (figure above)
B) Actual substance of early disposition (figure below) under project procedures

		Fa	Fb	Fc	Fd	Ma	Mb,c,d	Youth Off.	Nolle	P.T. Serv.	Fa-j*	Fb-j	Fc-j	Fd-j	Ma-j	Mb,c, d-j	No Offer	Row Total
Counsel Appointed																		
Yes	A	--	--	2	128	245	536	78	261	110	1	--	1	24	34	30	137	1587
		--	--	.1	8.1	15.4	33.8	4.9	16.4	6.9	.1	--	.1	1.5	2.1	1.9	8.6	72.8
	B	--	--	2	34	171	450	79	270	110	--	--	--	21	60	55	N/A	1252
		--	--	.2	2.7	13.7	35.9	6.3	21.6	8.8	--	--	--	1.7	4.8	4.4	N/A	76.2
No	A	--	--	1	25	93	185	12	122	19	0	--	0	2	1	2	132	594
		--	--	.2	4.2	15.7	31.1	2.0	20.5	3.2	--	--	--	.3	.2	.3	22.2	27.2
	B	--	--	--	6	69	152	12	123	19	--	--	--	3	4	4	N/A	392
		--	--	--	1.5	17.6	38.8	3.1	31.4	4.8	--	--	--	.8	1.0	1.0	N/A	23.8

*j indicates incarceration

Time Breakdown For Early Dispositions Pursuant to Project Procedures on the Basis of Whether Counsel was Appointed or not

Counsel Appointed	0-15	16-30	31-45	46-90	91-180	over 180	Row Total
Fa	--	--	--	--	--	--	0
Fb	--	--	--	--	--	--	0
Fc	1	--	--	--	1	--	2
Fd	7	4	7	13	3	0	34
Ma	45	54	30	25	17	0	171
Mb,c,d	128	161	63	85	10	2	449
Youth Offend.	7	21	20	27	4	0	79
Nolle	60	99	52	42	14	1	268
Pretrial Serv.	62	28	9	7	1	3	110
Fd-j*	4	3	5	4	4	0	20
Ma-j	24	19	4	7	6	0	60
Mb,c,d-j	22	15	3	12	2	0	54
TOTALS	360	404	193	222	62	6	1247
	28.9	32.4	15.5	17.8	5.0	.5	100.0%
Private Counsel							
Fd	2	2	0	1	0	1	6
Ma	31	8	12	11	6	0	68
Mb,c,d	63	46	25	10	5	1	150
Youth Offend.	0	4	2	5	1	0	12
Nolle	42	35	24	17	4	1	123
Pretrial Serv.	8	5	4	2	0	0	19
Fd-j*	0	0	1	1	1	0	3
Ma-j	0	1	0	2	1	0	4
Mb,c,d-j	3	0	1	0	0	0	4
TOTALS	149	101	69	49	18	3	389
	38.3	26.0	17.7	12.6	4.6	.8	100.0%

*j indicates incarceration

Q - Time from arrest to case disposition for control group defendants by type of counsel

Counsel Appointed	0-15	16-30	31-45	46-90	91-180	over 180	Totals
Yes	20	40	63	123	95	30	371
	5.4	10.8	17.0	33.2	25.6	8.1	70.8%
No	11	24	20	36	39	23	153
	1.2	15.7	13.1	23.5	25.5	15.0	29.2%
TOTALS	31	64	83	159	134	53	524
	5.9	12.2	15.8	36.3	25.6	10.1	100.0%

Q - Indigency analysis by type of (late) resolution for experimental cases not resolved under project conference/screening procedures

Counsel Appointed	Trial Guilty	Trial Not Guilty	Plea Guilty	Nolle or Dismissal	
Yes	25	4	110	53	192
	12.8	2.0	56.1	27.0	60.0
No	0	0	114	18	132
	--	--	86.4	13.6	40.0
TOTALS	25	4	224	71	324
	7.6	1.2	68.3	21.6	100.0%

23 missing observations

Q - Analysis of guilty pleas on the basis of the status of the defendant

Defendant plead to charge and/or jail time:

	Indigent		Pvt. Counsel	
1) Greater than original offer	9	8.2	4	3.4
2) Same as original offer	39	35.5	44	37.9
3) Less than original offer	43	39.1	16	13.8
4) No original offer	19	17.3	52	44.8
Total	110		116	

17 missing observations

Q - Indigency status of control group defendants as reflected in the manner of case disposition

Counsel Appointed	Plea Guilty	Trial Guilty	Trial Not Guilty	Nolle	Total
Yes	252	1	0	120	373
No	91	1	0	63	155

Q - Indigency status of control group defendants as reflected in the substantive disposition of the case

Counsel Appointed	Yes	No	Total
Felonies	26	6	32
Misdemeanor	204	76	280
Nolles	121	61	182
Youthful Offender	21	12	33
	392	155	527

Q - Indigency status of control group defendants as reflected in jail time served

Counsel Appointed	Yes		No		Total	
Jail Time						
Yes	49	13.2	321	86.8	370	70.7
No	5	3.3	148	96.7	153	29.3
	54	10.3	469	89.7	523	100.0%

Jail/Bail

Q - Project conferences in experimental group on the basis of jail/bail status

Conference Held	Yes		No		Total	
Jail	59	98.3	1	1.7	60	3.3
Bail	1574	90.8	160	9.2	1734	96.7
TOTAL	1633	91.0	161	9.0	1794	100.0%

Q - An analysis of the bail/jail status of indigent defendants in the experimental group

Counsel Appointed	Yes		No		Total	
Jail	56	4.7	4	.7	60	3.5
Bail	1125	95.3	535	99.3	1660	96.5
TOTAL	1181	68.7	539	31.3	1720	100.0%

DEFENDANT'S BAIL/JAIL STATUS

A) Offer to dispose of criminal charge (top figure)
B) Actual substance of early disposition (bottom figure)

		Fc	Fd	Ma	Mb,c,d	Youth Off.	Nolle	P.T. Serv.	Fc-j*	Fd-j	Ma-j	Mb,c,d-j	No Offer	Totals
Jail	A	0	11	14	15	0	6	1	0	1	3	2	7	60
		0	18.3	23.3	25.0	0	10.0	1.7	0	1.7	5.0	3.3	11.7	3.3
	B	0	2	11	12	0	7	1	--	3	4	5	N/A	45
		0	4.4	24.4	26.7	0	15.6	2.2	--	6.7	8.9	11.1	--	3.3
Bail	A	3	106	239	592	81	349	117	1	12	17	23	194	1734
		.2	6.1	13.8	34.1	4.7	20.1	6.7	.1	.7	1.0	1.3	11.2	96.7
	B	2	28	167	499	81	354	117	--	14	34	38	N/A	1334
		.1	2.1	12.5	37.4	6.1	26.5	8.8	--	1.0	2.5	2.8	--	96.7

Bail/jail breakdown by offer and disposition for resolved experimental group
Data base 1795

*j indicates incarceration

Q - Comparison of dispositions: Experimental and Control Groups

	Experimental		Control	
Pleas of guilty	1523	73.1	343	65.1
Trials court	16	.8	1	.2
Trials jury	13	.6	1	.2
Nolles and dismissals	531	25.5	182	34.5
	2083	100.0%	527	100.0%
Pending	183			
	2266			

Q - Jail time imposition - comparison between experimental and control groups

	Experimental		Control	
Defendants given jail time	194/2083	9.3%	54/524	10.3%

Q - Adjusted comparison of the substantive dispositions for defendants in the experimental and control groups

	Experimental		Control	
Felonies	200	9.6	32	6.1
Misdemeanors	1252	60.0	280	53.1
Youthful Offenders	93	4.4	33	6.2
Nolles and dismissals	531	26.0	182	34.5
	2076	100.0%	527	100.0%

Time: Arrest to Disposition
New Haven Experimental Data - All Cases

	0-15	16-30	31-45	46-90	91-180	181-700	Row Total
Resolved under project procedures	527	516	275	281	85	9	1693
	31.1	30.5	16.2	16.6	5.0	.5	.82
	.99	.98	.95	.79	.38	.9	
Unresolved under project procedures	6	9	13	76	141	96	382
	1.8	2.6	3.8	22.3	41.3	28.2	.18
	.01	.02	.05	.21	.62	.91	
Column Total	533	525	288	357	226	105	2075
	.26	.25	.14	.17	.11	.05	100%

Average Time

	Mean	St. Dev.
Resolved	33.099	34.002
Unresolved	141.645	80.239
Combined	51.30	41.5?

TIME FROM ARREST TO RESOLUTION IN NEW HAVEN, CONNECTICUT
(in days)

Time to Resolution	Number of Cases	%	Cumulative %	Number of Cases	%	Cumulative %
0-14	486	23.9	23.9	27	5.2	5.2
15-29	540	26.5	50.4	62	11.9	17.1
30-44	309	15.2	65.6	85	16.4	33.5
45-59	162	8.0	73.6	70	13.5	47.0
60-74	124	6.1	79.7	54	10.4	57.4
75-89	76	3.7	83.4	38	7.3	64.7
90-104	66	3.2	86.7	33	6.4	71.1
105-119	55	2.7	89.4	28	5.4	76.5
120-134	34	1.7	91.1	29	5.6	82.1
135-149	30	1.5	92.5	25	4.8	86.9
150-164	25	1.2	93.8	8	1.5	88.4
165-179	19	.9	94.7	11	2.1	90.6
180-194	18	.9	95.6	6	1.2	91.7
195-209	18	.9	96.5	7	1.3	93.1
210-224	16	.8	97.2	4	.8	93.8
225-239	8	.4	97.6	4	.8	94.6
240-254	5	.2	97.9	5	1.0	95.6
255-269	6	.3	98.2	6	1.2	96.7
270-284	9	.4	98.6	3	.6	97.3
285-299	5	.2	98.9	2	.4	97.7
300-314	9	.4	99.3	--	0	97.7
315-329	4	.2	99.5	2	.4	98.1
330-344	1	.04	97.6	3	.6	98.7
345-359	3	.1	99.7	--		
360-374	4	.2	99.9	2	.4	99.0
375-389	--			1	.2	99.2
390-404	--			2	.4	99.6
405-419	1	.04	100.0	--		
420-434	1	.04	100.0	2	.4	100.0
	2034	100.0%	100.0%	519	100.0%	100.0%

	Experimental (1974)	Control (1973)
Mean	51.3	91.3
Standard Dev.	41.3	86.6
Sample Size	2043	520

This table was provided by the Operations Research Department.

NEW HAVEN EXPERIMENTAL DATA

Time Breakdown: Arrest to Resolution

Dispositions	0-15	16-30	31-45	46-90	91-180	181-500		Mean	St. Dev.	N
Pleas under project procedure	418 32.8 .79	373 29.3 .71	195 15.3 .68	218 17.1 .62	64 5.0 .30	7 .5 .07	1275 .64	32.77	33.429	1275
Nolles under project procedure	109 26.1 .21	143 34.3 .27	79 18.9 .28	63 15.1 .18	21 5.0 .10	2 .5 .02	417 .21	34.07	35.75	417
Trials - Guilty							0		--	
Trials - Not Guilty Hung Jury				1 100 .00			1		--	
Pleas on unresolved cases	2 .9 --	2 .9 .01	10 4.3 .03	50 21.5 .14	99 42.5 .46	70 30 .71	233 .12		--	
Nolles on unresolved cases	2 2.7 --	5 6.7 .01	2 2.7 .01	17 22.7 .05	30 40 .14	19 25.3 .19	75 .04		--	
Column Totals	531 .27	523 .26	286 .14	349 .17	214 .11	98 .05	2001 100.0%			

NORFOLK

Q - Number of valid cases in data base:

Experimental	Control
1580	920

Q - Number of cases by race

	Experimental		Control	
1) White	689	44.5	392	44.9
2) Black	855	55.2	477	54.6
3) Other	5	.3	5	.6
	1549	100.0%	874	100.0%

Q - Number of cases by sex

	Experimental		Control	
1) Male	1354	87.0	796	86.9
2) Female	203	13.0	120	13.1
	1557	100.0%	916	100.0%

Q - Number of cases by charge

	Experimental		Control	
Violent ≠	85	5.4	34	4.0
Violent	462	29.3	186	21.9
Non violent ≠	141	8.9	97	11.4
Non violent	528	33.5	363	42.7
Drug ≠	103	6.5	29	3.4
Drug	259	16.4	141	16.6
	1578	100.0%	850	100.0 %

Q - Number of cases by type of counsel

	Experimental		Control	
Appointed	473	29.9	331	36.2
Retained	1084	68.6	553	60.5
None	23	1.5	29	3.3
	1580	100.0%	913	100.0 %

Q - Number of conferences held under project procedures in experimental group

1) Conference held	1107	70.1
2) No conference	473	29.9
	1580	100.0%

Q - Offers toward an early disposition tendered by the prosecution to the experimental group defendants

	# Offers		Agreements
1) Felony-jail	184	11.6	29
2) Felony	100	6.3	45
3) Misdemeanor-jail	60	3.8	44
4) Misdemeanor	372	23.5	336
5) No offer	742	47.0	N/A
6) Dismissals	122	7.7	122
	1580	100.0 %	576
Later conference resolutions by dismissal			104
			680

Project disposition rate 680/1580 = 43%

Q - Time from arrest to final disposition for all cases in the experimental group resolved by project procedures

0-15	91	14.3
16-30	218	34.3
31-45	192	30.2
46-90	117	18.4
91-180	17	2.7
over 180	1	.2
	636	100.0 %

Q - Time from arrest to final disposition for all cases in the experimental group resolved by project procedures on the basis of drug/non drug cases

	0-15	16-30	31-45	46-90	91-180	over 180	Total
Non drug charge	86	202	80	49	5	1	423
	20.3	47.8	18.9	11.6	1.2	.2	66.6
Drug charge	5	16	111	68	12	0	212
	2.4	7.5	52.4	32.1	5.7	--	33.4
Total	91	218	191	117	17	1	635
	14.3	34.3	30.1	18.4	2.7	.2	100.0%

Q - Time from arrest to disposition for all cases in experimental group on the basis of the manner of distribution

	0-15	16-30	31-45	46-90	91-180	over 180	Total
Guilty plea	37	153	117	85	15	1	408
	9.1	37.5	28.7	20.8	3.7	.2	64.2
Dismissed	54	65	75	32	2	0	228
	23.7	28.5	32.9	14.0	.9	--	35.8
	91	218	192	117	17	1	636
	14.3	34.3	30.2	18.4	2.7	.2	100.0%

Q - Project conference procedures by indigency

Conference held	Yes	No	Total
*Indigent	339	134	473
	71.7	28.3	30.4
*Non-indigent	763	321	1084
	70.4	29.6	69.6
Total	1102	455	1557
	70.8	29.2	100.0%

Q - The interrelationship of the appointment of counsel and defendants bail/jail status in experimental group

	Bail	Jail	Total
*Indigent	39	412	451
	8.6	91.4	30.2
*Non-indigent	752	292	1044
	72.0	28.0	69.8
Total	791	704	1495
	52.9	47.1	100.0%

*Court determination

Q - Defendants bail/jail status in the experimental group with regard to the type of agreements struck at conference

	Felony jail	Felony	Misdem. jail	Misd.	Dismiss	Total
Bail	6	23	13	226	74	342
	1.8	6.7	3.8	66.1	21.6	65.0
Jail	8	18	29	100	29	184
	4.3	9.7	15.8	54.3	15.8	35.0
	14	41	42	326	103	15
	2.7	7.9	8.0	62.0	19.6	100.0%

Q - Defendant's bail/jail status in the experimental group with regard to time from arrest to disposition of resolved cases

	0-15	16-30	31-45	46-90	91-180	over 180	Total
Bail	44	117	132	88	11	1	393
	11.2	29.8	33.6	22.4	2.8	.3	64.2
Jail	42	89	55	27	6	0	219
	19.2	40.6	25.1	12.3	2.7	--	35.8
	86	206	187	115	17	1	612
	14.1	33.7	30.6	18.8	2.8	.2	100.0%

Q - Comparison of dispositions for experimental and control groups

	Experimental	Control
Pleas of guilty	910	214
Trials court	245	594
Trials jury	20	17
Nolles and dismissals	226	97
	1401	922
Pending	150	
	1551	

Q - Incarceration imposed - A comparison between the experimental and control group

Defendants given jail or prison sentences

Experimental		Control	
409/1401	30.0%	355/922	38.5%

NORFOLK, VIRGINIA OVERALL EFFECT ON PROCESSING TIMES

Days to Disposition	Number	%	Cumulative %	Number	%	Cumulative %
0-14	95	6.6	6.6	40	4.7	4.7
15-29	271	18.8	25.4	144	16.9	21.5
30-44	291	20.2	45.6	162	19.0	40.5
45-59	161	11.2	56.8	100	11.7	52.2
60-74	161	11.2	56.8	164	12.2	64.4
75-89	146	10.1	78.1	75	8.8	73.2
90-104	78	5.4	83.5	70	8.2	81.4
105-119	66	4.5	88.1	53	6.2	87.6
120-134	55	2.8	91.9	26	3.0	90.6
135-149	30	2.1	94.0	25	2.9	93.6
150-164	19	1.3	95.3	15	1.8	95.3
165-179	14	1.0	96.3	8	.9	96.3
180-194	18	1.3	97.6	5	.6	96.8
195-209	10	.7	98.3	5	.5	97.4
210-224	3	.2	98.5	3	.4	97.8
225-239	8	.6	99.0	5	.5	98.4
240-254	3	.2	99.2	2	.2	98.6
255-269	2	.1	99.3	2	.2	98.8
270-284	4	.3	99.7	3	.4	99.2
285-299	1	.0	99.7	2	.2	99.4
300-314	0	0.0	99.7	--	--	--
315-329	1	6.0	99.8	3	.4	99.8
330-344	2	.1	99.9			
345-359	0	.0	99.9			
360-374	0	.0	99.9	2	.2	100.0
375-389	1	.0	100.0	0	.0	0
390-404	0	.0	100.0	0	.0	0
405-419	0	.0	100.0	0	.0	0
	254	100.0%	100.0%	1440	100.0%	100.0%

	Experimental	Control
Mean	64.67	68.9
Standard Dev.	38.76	52.3
Number	1444.0	850.0

This table was provided by the Operations Research Department.

SALT LAKE CITY

Q - Number of valid cases in data base

Experimental	Control
1100	325

Q - Number of cases by race

	Experimental		Control	
1) White	978	85.0	274	80.1
2) Black	102	8.9	31	9.1
3) Indian	7	.6	5	1.5
4) Other	64	5.6	32	9.4
	1151	100.0 %	342	100.0 %

Q - Number of cases by sex

	Experimental		Control	
1) Male	1051	90.0	314	91.5
2) Female	117	10.0	29	8.5
	1168	100.0 %	343	100.0 %

Q - Number of cases by charges

	Experimental		Control	
F1	118	10.1	28	8.1
F2	316	26.9	92	26.5
F3	342	29.2	122	35.2
F4	3	.3	0	0.0
Ma	110	9.4	52	15.0
Drug	284	24.2	53	15.2
	1173	100.0 %	347	100.0%

Q - Comparison of types of counsel employed in the experimental and control groups

	Experimental		Control	
Appointed	794	68.3	191	55.4
Other	369	31.7	154	44.6
	1163	100.0%	345	100.0%

Experimental Data Analysis

Q - Conference information

1) Conference held	1084	92.3
2) No conference	91	7.7
	1175	100.0 %

Q - Offers tendered at conferences

	Offers		Agreements
F1	9	.7	1
F2	47	4.1	17
F3	130	11.1	61
F4	4	.3	2
Ma	178	15.2	127
Dist. Cont. Subs.	67	6.2	23
Less than Ma	56	5.2	25
Nolle	4	.3	4
Plea as charged	226	19.4	44
No offer	202	17.4	--
Delayed disposition	30	2.0	22
Custom dispositions	211	18.1	126
	1164	100.0%	452

Q - Actual resolutions in experimental group

P.G. Felony	289	25.6
P.G. Misdemeanor	304	26.7
P.G. Dist. Cont. Subs.	75	6.6
Nolle	177	15.7
Jury T - Guilty	86	7.5
Jury T - N/G	33	2.9
Jury T - Hung	2	.2
Court T - Guilty	14	1.2
Court T - N/G	5	.4
Dismissals	141	12.4
Revoke Probation	10	.8
	1136	100.0%

Q - Counsel appointed (by conferences held) for defendants in experimental group

Conference	Yes	No	Total
Appointed	745	49	794
	93.8	6.2	68.3
Private	328	41	369
	88.9	11.1	31.7
Total	1073	90	1163
	92.3	7.7	100.0%

Q - Agreements reached (by counsel) at experimental group conferences

	Agreement	No Agreement	Total
Appointed	322	420	742
	43.4	56.5	68.5
Private	132	208	340
	38.7	61.0	
Total	454	628	1082
	41.9	58.0	100.0 %

Q - An analysis of the bail/jail status of an experimental group defendant as affecting settlement conferences

Conference	Yes	No	Total
Jail	87	10	97
	89.7	10.3	8.3
Bail	992	79	1071
	92.6	7.4	91.7
Total	1079	89	1168
	92.4	7.6	100.0 %

Q - Bail status as affecting agreements struck at conference procedure

Agreement	Yes	No	Total
Jail	27	65	92
	29.3	70.7	8.4
Bail	430	566	997
	43.1	56.8	91.6
Total	457	631	1089
	42.0	57.9	100.0 %

Q - Substantive dispositions in time distribution - arrest to plea

	0-15	16-30	31-45	46-90	91-180	over 180	Total
Plea guilty	10	43	69	238	229	69	658 59.8
Nolles	1	2	12	44	71	29	159 14.4
Dismiss	0	1	7	37	62	38	145 13.2
Went to trial	0	0	2	51	58	28	139 12.6
Column Total	11 1.0	46 4.2	90 8.2	370 33.6	420 38.1	164 14.9	1101 100.0%

Number of missing observations - 75

OVERALL EFFECTS IN SALT LAKE CITY

*Times:

	Experimental: Arrest to Plea			Control: Preliminary Appearance to Disposition (Plea)		
	Number	%	Cumulative %	Number	%	Cumulative %
0-14	9	.8	.8	7	2.2	2.2
15-29	44	4.0	4.8	19	5.9	8.0
30-44	89	8.1	13.0	23	7.1	15.1
45-59	119	10.9	23.8	40	12.3	27.5
60-74	134	12.2	36.0	55	17.0	44.4
75-89	116	10.6	46.6	42	13.0	57.4
90-104	123	11.2	57.8	32	9.9	67.3
105-119	100	9.1	67.0	25	7.7	75.0
120-134	58	5.3	72.3	14	4.3	79.3
135-149	54	4.9	77.2	11	3.4	82.7
150-164	52	4.7	81.9	7	2.2	84.9
165-179	38	3.5	85.4	10	3.1	88.0
180-194	37	3.4	88.8	12	3.7	91.7
195	21	1.9	90.7	4	1.2	92.9
210	18	1.6	92.3	3	.9	93.8
225	12	1.1	93.4	4	1.2	95.1
240	9	.8	94.3	--	--	95.1
255	12	1.1	95.3	2	.6	95.7
270	11	1.0	96.4	2	.6	96.3
285	4	.4	96.7	1	.3	96.6
300	10	.9	97.6	1	.3	96.9
315	6	.5	98.2	3	.9	97.8
330	5	.5	98.6	2	.6	98.6
345	4	.4	99.0	--	--	98.6
360	4	.4	99.4	1	.3	98.8
375	4	.4	99.7	2	.6	99.4
390	1	.0	99.8	2	.6	100.0
405	2	.2	100.0			
	1096	100.0%	100.0%	324	100.0%	100.0%

	Experimental	Control
Mean	113	100.3
Standard Dev.	77	72.1
Sample Size	1101	324

*Note: This chart covers entire life of case. The project was not involved in Salt Lake City until after bindover.

This table was provided by the Operations Research Department.

AN ANALYSIS OF A METHOD FOR REDUCING PRETRIAL DELAY IN COURT SYSTEMS

by

Burton V. Dean
John N. Barrer

Technical Memorandum No. 388

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AN ANALYSIS OF A METHOD FOR REDUCING PRETRIAL DELAY IN COURT SYSTEMS

Burton V. Dean
and
John N. Barrer

Department of Operations Research
Case Western Reserve University

ABSTRACT

An analysis is performed to measure the effect on court processing times produced by a project implemented by Lewis Katz of the Case Western Reserve University's School of Law. The project formalized the procedure known as plea bargaining through the cooperation of prosecuting and defense attorneys in each of three test cities - New Haven, Connecticut; Norfolk, Virginia; and Salt Lake City, Utah. The analysis reveals that the project reduced the average processing time in New Haven by 45%, but had no significant effect on the processing times in the other two cities. Differences in procedures between New Haven and the other two cities that may account for this difference in effect of plea bargaining are discussed.

TABLE OF CONTENTS

I. Introduction

In 1972, Mr. Lewis Katz published a book on a study conducted for the U.S. Department of Justice (The Law Enforcement Assistance Administration) on the subject of pre-trial delay.[1] The subject of that study was the cause of delay in brining defendants to trial in criminal cases. In this study he outlined procedural changes which might reduce this delay.[2] He was later given a grant by the same agency (Number 73-N1-99-0015) to implement some of his proposals. Specifically, he wanted to develop a method for formalizing plea bargaining to reduce the number of cases on the docket.

The Operations Research Department at Case Western Reserve University was asked to participate in that project to evaluate the effect of those changes which Mr. Katz wanted to make. The reader is referred to Mr. Katz's Justice is the Crime for a detailed description of the problem of pre-trial delay. We will describe the problem briefly as motivation for this analysis.

A court system with a limited number of judges, prosecutors and court facilities must process all defendants that are arrested. The justice system attempts to achieve many goals in administering the court system among which are providing a "speedy trial" and protecting the rights of the defendant. These two goals, in particular, often lead to conflicting alternatives. As Katz discusses in his book, it is the latter of those two goals which has

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[1] Katz, L. R., L. B. Litwin, and R. H. Bamberger; Justice is the Crime, the Press of Case Western Reserve University, Cleveland and London, 1972.

[2] ibid, pg. 217-222.

lead to a court system which allows (and sometimes requires) delays in bringing cases to trial.

From the defendant's point of view it may work to his advantage in some situations to delay his case coming to trial. Often he can reduce his probability of being convicted by delaying his case, since witnesses may move to another state, prosecutors may drop charges and evidence may be lost. Utilizing the procedures of the court system designed to protect his rights, the defendant may legally delay his case.

On the other hand, a defendant who is in jail based on circumstantial evidence on an unbailable offense is being punished for a crime for which he has not been tried. It has happened that defendants have spent nearly a year in jail awaiting trial and found not guilty when finally tried.[3] In that situation the procedures designed to protect his rights could have just the opposite effect.

From the justice system's point of view (and hence society's) there are several primary concerns. The Constitution requires the justice system to provide a "speedy trial".[4] This seeks to protect the defendant by requiring the court system to act efficiently and to protect society by bringing criminals to justice quickly.

Mr. Katz discusses the effects on society's respect for a justice system which allows criminals to remain free on bail for long periods of time while awaiting trial.[5] The problem can be summarized as follows:

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[3]Katz, et. al., pg. 7-11.

[4]United States Constitution, Amendment VI.

[5]Katz, et. al., pg. 51.

> "During the period pending a disposition, the defendant is either free on the street and a symbol to others of the inability of the criminal justice system to protect the community from crime, or he is detained in jail and becomes a person who is punished without having been convicted of a crime."[6]

This study, as proposed by Mr. Katz seeks to demonstrate that much of the unwarranted delay may be eliminated as a result of procedural changes in the present system. In the existing system a case may be scheduled for trial for several weeks in the future (on the docket). Then, a few hours before the trial is to begin, the prosecutor and defense attorneys may agree that the trial is not necessary and reach a settlement (plea bargain). If this same agreement could have been reached earlier, two benefits would have resulted. First, the particular case could have been concluded that much earlier, to the possible benefit of the defendant and society. In addition, the case or cases which were scheduled after the settled case could have been scheduled earlier with the same ensuing benefits.

Mr. Katz's suggestion was to formalize this pre-trial meeting and have the prosecution and defense attorneys meet as soon as is feasible after the defendant is arrested. For the purpose of this study, this meeting is called a conference. The study hypothesis is that by instituting this procedural change,

1) the average time from arrest taken to determine the validity of a case can be reduced to two weeks and,

2) the size of the docket of cases awaiting trial can be reduced by 25 percent.

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[6] Katz, et. al., pg. 2.

II. The Purpose of the Operations Research Study

The purpose of this analysis is to provide an independent evaluation of the effect of Mr. Katz's experimental procedures by analyzing the changes in processing times. This report should be viewed as a supplement to Mr. Katz's report.

As is the case in most research studies, preliminary plans were made to perform certain types of analyses which later proved to be inappropriate for the particular study. This study was no exception in the general rule.

The original proposal called for the Operations Research Department to develop a simulation program to analyze possible alternatives for improving the system. It was decided early in the project not to evaluate alternative procedural changes, but to actively participate in implementing Mr. Katz's proposal to hold a conference between prosecutor and defense as soon as feasible after the preliminary appearance, and to evaluate the effects of such a conference. Thus, there was no need for the use of simulation to evaluate alternative methods for reducing pre-trial delay, and expenditures in developing a simulation program would not have been warranted. The problem that the Operations Research Department accepted was to independently evaluate the ability of the project in achieving its goals of reducing processing time and reducing the percentage of cases on the docket. The department's role was to act as an independent evaluator of the consequences of the project, while supplying

technical support for accomplishing the data collection and processing tasks. Efficient and effective data handling tasks were conducted so as to achieve the goals of the project. The outline of the study is given in the following figure. (Page 6).

III. System Description

A. Introduction

A system description is presented as an outline of the process, which contains sufficient detail to justify the method of analysis used. This description will not cover all of the elements that affect the progression of cases through the court system.

B. Original Stages of the System

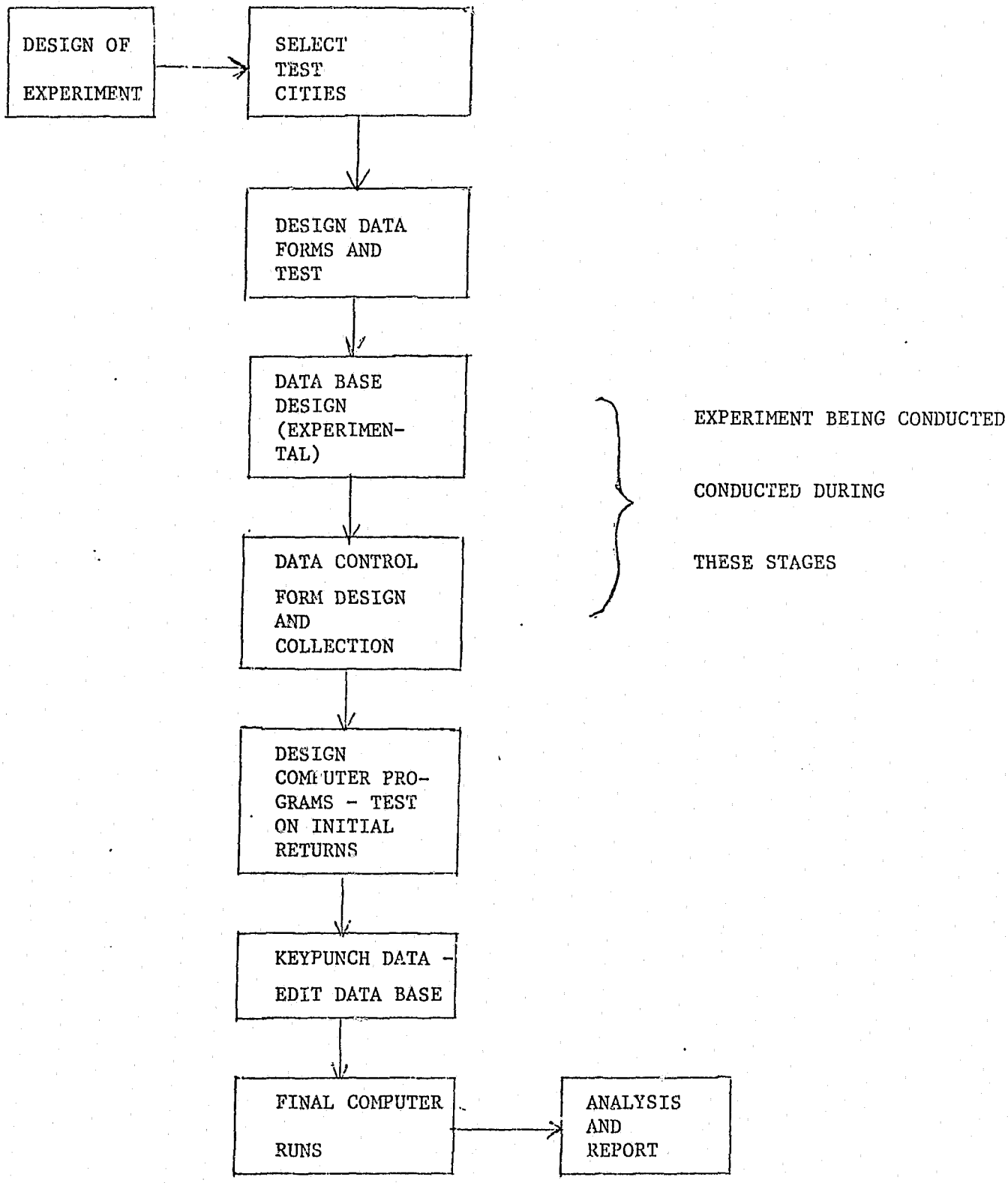
The stages of the existing system are as follows:

(1) Arrest - The defendant is brought to a police station (or served a warrant to appear).

(2) Preliminary Appearance - The charge against the defendant is indicated to him in an appearance in court. Certain events occur at this appearance which can affect the time it will take to dispose of the case. The defendant decides whether to accept an appointed attorney or to secure a private counsel. He may be required to post bail in order to be released from custody. The case may be continued to give the defendant time to find an attorney.

(3) Preliminary Hearing - It is generally at this stage that the case is evaluated to determine if there is sufficient evidence to bring the case to trial. Depending on the particular city, this evaluation may vary in thoroughness from hand-waving to almost a formal trial. The case may be dismissed at this stage. The defendant may waive this stage of the process.

OUTLINE OF STUDY



(4) Arraignment upon Indictment (information) - Once it has been decided that the case will go to trial, the defendant is formally charged with specific crimes and informed of his rights under the law.

(5) Trial - The trial may involve a jury or may only involve a judge. It is a formal evaluation of the evidence in the case and usually results in the disposition of the case.

(6) Disposition - This is the action which frees the particular court from further obligation to the case. A case may be disposed of by 1) having it dismissed as "untriable" for a variety of reasons, 2) having the defendant plead guilty to certain crimes and receiving a sentence from the court, or 3) in the case of a trial, the court either dismisses the case or finds the defendant guilty or innocent.

C. Additional Stages Introduced by the Study

In addition to the above stages, two new terms were introduced as a result of the procedures used in the study.

(1) Conference - In many situations in the original system the defense attorney and prosecutor reached an agreement without going to trial. Under the process proposed by Mr. Katz, a step was introduced to formalize this plea-bargaining meeting and to conduct it as soon as possible after the defendant was arrested. This meeting of the prosecutor and defense attorneys will be referred to as a conference.

(2) Resolution - In using this term, there is an attempt to identify those cases which are disposed of as a result of the conference. Therefore, in this report, resolved cases refer only to cases which were disposed of as a result of the agreement reached at the conference.

D. Experimental Cities Selected[7]

Three cities were selected as test sites to implement and test the effectiveness of the new procedures. They were New

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[7]For a thorough discussion of the method of selecting the test cities, see Mr. Katz's report on this study.

Haven, Connecticut (NH); Norfolk, Virginia (NFK); and Salt Lake City, Utah (SLC). These cities were selected from those which agreed to allow the project to conduct its experiment. It was originially desired to conduct the experiment in Cleveland, Ohio; however this was not possible. For a more detailed discussion of the reasons for selecting these particular cities, the reader is referred to the School of Law's final report on this grant.

(1) Timing of the Conference

Mr. Katz desired to have the conference held as soon as possible after the defendant was arrested. This period of time is referred to as the preliminary appearance stage.[8] In the accompanying flow chart we show the conference occuring during the preliminary appearance stage (Figure 1).

In Salt Lake City, the conference is introduced at a later stage in the process (Figure 2). The reason it was introduced after the preliminary hearing stage was that the study team determined that the screening of cases done by the prosecutor's office in SLC was an effective measure, so the conference should not interfere with the existing process. This has obvious implications for the potential effect the conference procedure can have in reducing total processing time in that city. By the time of the conference, the case will have advanced through

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[8]The preliminary appearance stage begins on a certain date and like other stages such as the preliminary hearing and trial, may last several days or weeks. In contrast, the arrest "stage" actually occurs on the date of arrest and does not extend beyond that date.

NORFOLK, VIRGINIA/NEW HAVEN, CONNECTICUT

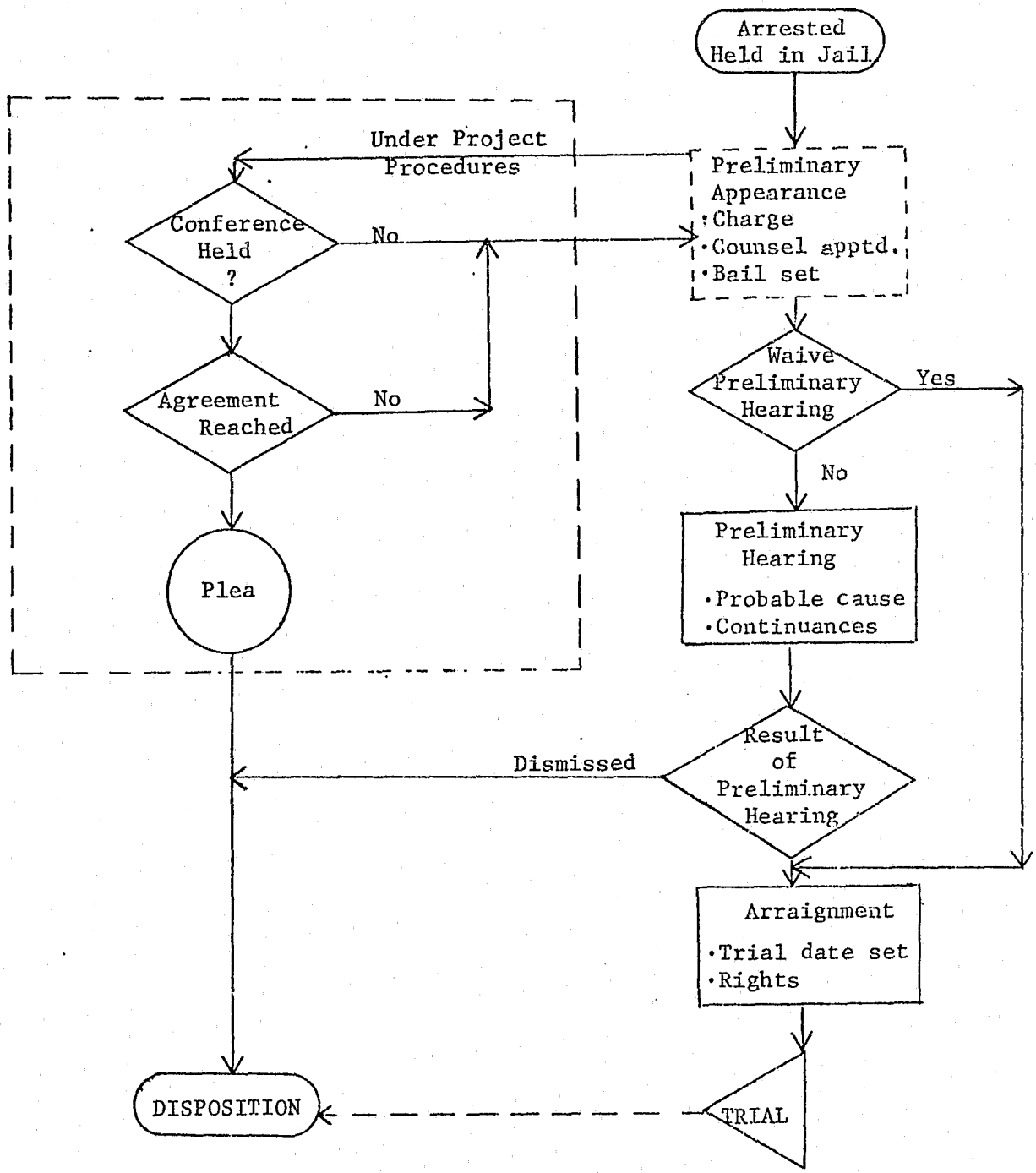

Figure 1.

SALT LAKE CITY, UTAH

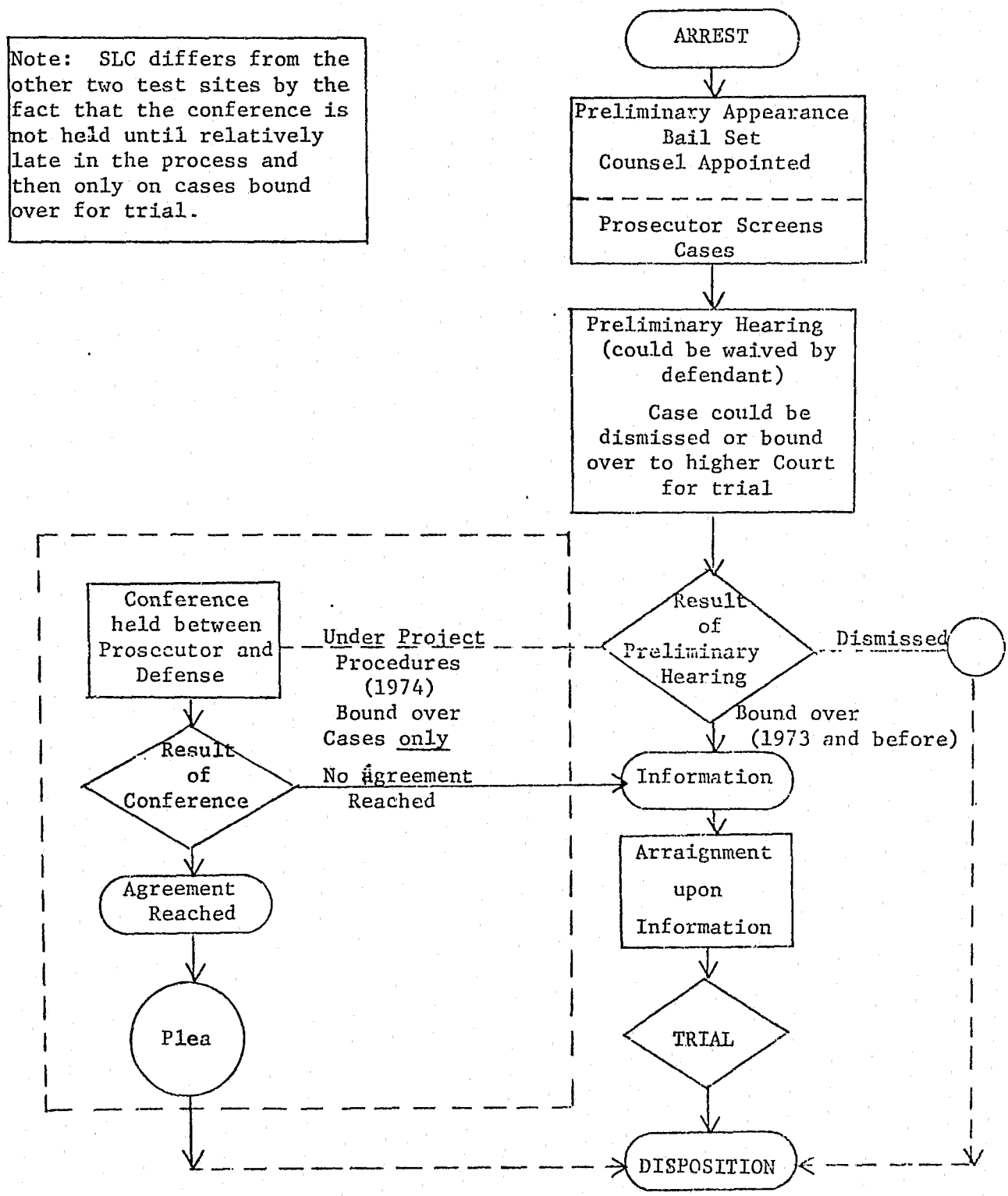

FIGURE 2.

the preliminary stages which allow the possibility of delays occuring. Accordingly, the potential for reduction in delay time is less in this city than in the others. Thus, for SLC, we will analyze the period of time between preliminary hearing and disposition in addition to overall time.

(2) Procedures used by attorneys

In New Haven, the assistant prosecutor and the public defender are both supported by the LEAA project funds. Both attorneys are located in the same building and as a result can communicate with each other very easily. All of the cases handled through the project procedures were processed by these two attorneys. A conference was held for 75 percent of the cases in this city.

In contrast to New Haven, the other two cities have multiple prosecutors and defense attorneys. In Norfolk, there are five prosecutors. All of the defense attorneys are in private practice and are paid fees by the state for services rendered to indigent defendants. Only the prosecturos' salaries are subsidized by LEAA project funds. In both Salk Lake City and Norfolk, the prosecutor sends a written offer to the defense after he (the prosecutor) has reviewed the case. The defense can accept, reject, or re-negotiate. It is up to the defense attorney to follow through on any bargaining.

IV. Data Collection and Processing

A. Introduction

The goal of the project was to apply a single modification to the court system and observe its effect on the processing time. As with any complex system it is not possible to change one element of the system without affecting the activities and performance of other elements. Mr. Katz's study, Justice is the Crime, was concerned with some of these interactions which affect the time required to process a case. Using that study as a basis, data was collected on the time it required a case to be processed at each stage, as well as the individual and system variables believed to be the major determinants of the time. By selecting the relevant variables and measuring them properly, it would then be possible to determine the effect of the conference procedure alone.

Two sets of data were collected for each city. One set concerned cases which were initiated in 1974 while the conference procedure was in effect, which we will refer to as Experimental Data. The other set was collected in each city by examining the courts' historical records in 1973, before the conference procedure was introduced, which we will refer to as Control Data.

B. The Design of the Data Collection Forms

The forms for use in the experimental data collection were prepared first. These forms were used for two purposes and required careful consideration in their development. First it was

necessary to determine what data was required and allow sufficient space on the form itself. Second, the form was to be used by the project attorneys to monitor the progress of cases as they were processed. Thus, the order in which the data appeared on the form needed to be the same as the order of the stages of the process. Also, multiple copies were required so that the data could be transferred easily. The forms which resulted from this development were used in the study (Appendix III) and fulfilled all of the requirements of data collection and processing.

Separate forms were developed to collect the control data. The order in which the control data were collected was dependent on the way they were filed in each city, not on the stages of the court system. The form was also used to remind the person retrieving the information, where it was located.

C. The Experimental Data

When a new defendant came under the project procedures, a form was initiated by the project attorney in charge of the case. After the conference stage, one section of the multipart form was returned to the University to allow the preparation of preliminary and interim reports. When the case was finally disposed of (if not resolved by the conference), the remainder of the information was returned to the University. When the data collection effort was terminated on June 15, 1975, all pending cases were classified as such and treated separately.

A complete list of all data collected is presented in Appendix I. The following subset was used in the analysis.

1) Demographic variables of individuals arrested - Sex, Age, and Race.

2) Court variables - Charge, bail status, type of counsel, court in which the case was terminated, and final disposition.

3) Project variables - Was conference held, outcome of conference, resolution by conference.

4) Time variables - Dates of arrest, preliminary appearance, conference, preliminary hearing, trial, and disposition.

D. The Control Data

This set of data was collected by the project attornies in each city. An initial attempt was made to have it collected in one city by a law student employed by the University, which proved unsuccessful.

Many unanticipated problems arose in collecting this data. For example, in order to obtain the data which was collected in New Haven, it was necessary to search 4 different files.

However, for comparison purposes the most important data items are:

1) Type of charge
2) Date of arrest
3) Date of disposition
4) Type of disposition
5) Manner of disposition

We were able to obtain this set of control data for most of the cases in all cities. In Salt Lake City and Norfolk it was possible to obtain the demographic variables.

Although there were differences in the size of the samples collected in each city, sufficient data for each city was collected.

In New Haven every fourth case was selected from the file of daily arrest records giving a 25% sample of 1973 felony cases. In Norfolk, data for all 1973 cases was obtained. In Salt Lake City there was a change in the court's crime classification system in the middle of 1973. Therefore, it was decided to use only the data from July 1973 through December 1973 as control data, resulting in approximately a 50% sample in this case.

Table 1 presents the variables for which data is available in each city. The symbol "/" indicates that this data is missing for over 50% of the cases in that city. For all data items there were a few cases for which the data was missing, so the symbol "x" indicates that the data is present for over 99% of the cases.

E. Data Processing

Originally, the data processing problem was seen as one of overcoming the large volume of data and the updating of records that was required by the interim processing of data. COBOL was selected as the processing language and the data base designed accordingly. When it became clear that COBOL could not produce the data in the required format without extensive programming, a change was made to the computer package known as Statistical Package for the Social Sciences (SPSS). This greatly simplified the processing in spite of difficulties which arose as a result of having a data base designed for COBOL.

SPSS is well suited to processing this type of data in that it allows the production of simple descriptions of the data such as frequency distributions, means and variances in addition to more complicated statistics. It produces data in readable format and requires very little programming effort.

TABLE 1 VARIABLES IDENTIFIED IN DATA BASE

	New Haven		Salt Lake City		Norfolk	
	Exp.	Cont.	Exp.	Cont.	Exp.	Cont.
Age	X	0	X	X	X	X
Sex	X	0	X	X	X	X
Race	X	0	X	X	X	X
Charge	X	X	X	X	X	X
Prior Record	X	0	X	X	X	X
Arrest/Summons/Warrant	0	0	0	0	X	0
Arrest Date	X	X	X	0	X	X
Date of Preliminary Appearance	X	0	0	X	X	0
Bail or Jail (Custody)	X	0	X	X	X	X
Counsel Appointed	X	X	X	X	X	X
Prosecutor	0	0	X	0	X	0
Continuance Date	/	X	0	0	X	0
Case Screened	NA	NA	0	NA	X	NA
Date of Screening	NA	NA	0	NA	X	NA
Conference Held	X	NA	X	NA	X	NA
Offer Made by Prosecutor	X	NA	X	NA	X	NA
Agreement Reached	X	NA	X	NA	X	NA
Agreement Same as Offer?	X	NA	X	NA	X	NA
Date of Resolution by Conference	X	NA	X	NA	X	NA
Preliminary Hearing Held?	/	/	X	X	X	X
Date of Preliminary Hearing	/	/	X	X	X	X
Result of Preliminary Hearing	/	/	0	X	X	0
Extra Trial Resolution?	NA	NA	0	0	X	0
Date of Resolution	NA	NA	X	X	X	X
Result of Resolution	NA	NA	X	X	X	X
Trial Date	X	/	0	0	X	X
Court of Trial	X	X	0	X	X	X
Verdict	X	X	0	X	X	X
Sentence	X	X	X	/	X	X
Final Disposition	X	X	X	X	X	X

X - Available for most cases

/ - Missing or not applicable for a significant number of cases

0 - Missing for a-1 cases

NA - Does not apply to this city

V. Data Analysis

A. Introduction

The primary purpose of this analysis is to determine whether the procedures implemented by the project were effective in reducing the time required for case processing in each of the three participating court systems. Accordingly, the study evaluates the efficiency of the conference procedures, as opposed to other measures of the success of the project such as equitability or quality. Mr. Katz discusses several other measures of success in his report. By other methods of measuring success the project also appears to have been successful.

The initial approach used in this evaluation was to compare the differences in the average time it takes a case to be processed without the conference (control) and with the conference (experimental), as is demonstrated in the following. The mean (or average) is not a good indicator of the time it takes a 'typical' case to be processed. The data indicate that there is a uniform distribution of processing times, having a large degree of variability which implies that there isn't a typical length of time for processing.

As an operational definition of what constitutes a desirable or "good" processing time, this study uses 30 days. In the original proposal it was stated that 15 days was the maximum amount of time it should take to reach a decision on a case. However, as a subsequent decision, the proposal's goal became that of

reducing the average processing time to 30 days. This is because 30 days is generally accepted as satisfying the requirements for a "speedy" charging process. Also the Speedy Trial Act of 1974 set 30 days as the 1980 goal for Federal courts. We will compare the proportions of cases resolved within 30 days with and without the conference procedure in each city to determine if there is an effective difference.

This study investigated the effects of the new procedures on each of these cities. In general, to study a certain population when it is impossible to examine each individual element of a population, a random sample of the population is selected and studied.

Inferences are then made concerning the nature of the population from which the sample was selected. If a different random sample were selected and studied, we would not expect the inferences drawn from that sample to be too different from the first, in the event that there were no biases in the sampling procedure. For this study it is necessary to determine 1) the underlying population to be investigated and 2) the nature of the sample that was selected.

It would be desirable to have our "control" data be representative of all cases in each particular city in which no conference is held. Also, it would be desirable to have "experimental" data be representative of all cases in which a conference was held. Finally, it would be desirable to say the selection of cities is representative of the range of cities so that these results could be expected to apply elsewhere in the U.S.

The original proposal called for implementing the procedures in Cleveland, Ohio. In the course of selecting cities it was found that some cities were not willing to participate, so that the problem became one of finding cooperative cities that would be willing to participate, rather than selecting a random sample of cities to represent a given population. The statement of what type of population might be represented by the selected cities was not made explicit at the time of selection. As far as can be determined in retrospect, the selected cities cannot be considered as a random sample of all U.S. cities or any particular type of cities. Therefore, we cannot generalize these results to all U.S. cities (or any subset of cities).

The selection of cases within each city does not represent a random sample of all cases for that city over time. If it is assumed that the years 1973 and 1974 are representative of the criminal justice system characteristics for the following years, say until 1978, then it could be expected that any differences in processing times produced by the project would probably be repeated in the ensuing years. This may not be a poor assumption: therefore, we can probably expect that these results would be repeated if the experiment were to continue. We emphasize that this is an assumption, since we have no data on the changes in these court systems over time.

In summary, we can say the following: 1) We know with certainty what the processing times were in 1973 (without the conference procedure) and in 1974 (with the conference procedure) in each of the three cities and can describe these effects using the data we have collected. 2) If we assume 1973 and 1974 were

representative of future years, we can predict some of the effects of continuing the project in each of the test cities. 3) We have no method of estimating the effects of the conference procedure in any other cities.

B. Characteristics of the Test Cities

In this section we present statistics summarizing the nature of the data samples in each city.

In Table 2 we present a breakdown of the seriousness of the charges against defendants in each city. A two letter code is used to describe each class of charges. The first letter is an F or M, indicating Felony or Misdemeanor. The second indicates seriousness A-D (1-4). In Norfolk, a different classification scheme is used involving three classes of crimes (Violent, Non-violent, and drug related.) A '+' following the class indicates that there were other crimes charged against these defendants. It can be seen that there was little change in the relative proportions of classes of crimes in the two sets of data.

It may be noticed that the totals indicating the number of observations are slightly different in several groups. This is due to the fact that some of the data items were not obtained for all of the cases. We have examined these instances and can find no evidence that this introduces any serious bias in the data. This is of greater concern when comparing sub-populations of the same data.

In Table 3, we present the data on characteristics of the defendants. It can be seen that the proportions of the various

TABLE 2: DISTRIBUTION OF INITIAL CHARGES AGAINST DEFENDANTS

	Control		Experimental	
	Number	%	Number	%
New Haven				
FA	0	0.0	3	.1
FB	42	8.0	142	6.3
FC	25	4.8	215	9.5
FD	265	51.0	1081	47.8
MA	188	36.1	822	36.3
	520	100.0	2263	100.0
Salt Lake City				
F1	28	8.1	118	10.1
F2	92	26.5	316	26.9
F3	122	35.2	342	29.2
F4	0	0.0	3	.3
MA	52	15.0	110	9.4
Drug	53	15.2	284	24.2
	347	100.0	1173	100.0
Norfolk				
Violent +	34	4.0	85	5.4
Violent	186	21.9	462	29.3
Nonviolent +	97	11.4	141	8.9
Nonviolent	363	42.7	528	33.5
Drug +	29	3.4	103	6.5
Drug	141	16.6	259	16.4
	850	100.0	1578	100.0

sub-populations remained approximately the same between the two years.

TABLE 3 CHARACTERISTICS OF DEFENDANTS

		Control		Experimental	
		Number	%	Number	%
New Haven					
Sex	Male	370	87.7	1955	86.8
	Famele	52	12.3	298	13.2
		422	100.0	2253	100.0
Race	White	111	26.4	702	31.2
	Black	276	65.7	1377	61.2
	Other	33	7.9	170	7.6
		420	100.0	2249	100.0
Salt Lake City					
Sex	Male	314	91.5	1051	90.0
	Female	29	8.5	117	10.0
		343	100.0	1168	100.0
Race	White	274	80.1	978	85.0
	Black	31	9.1	102	8.9
	Indian	5	1.5	7	.6
	Other	32	9.4	64	5.6
		342	100.0	1151	100.0
Norfolk					
Sex	Male	796	86.9	1354	87.0
	Female	120	13.1	203	13.0
		916	100.0	1557	100.0
Race	White	392	44.9	689	44.5
	Black	477	54.6	855	55.2
	Other	5	.6	5	.3
		874	100.0	1549	100.0

In Table 4 we present the distribution of type of counsel. In New Haven, the proportions are almost identical in the control and experimental data. (Although we are not going to

analyze the quality of justice produced by the new procedures, we mention in passing that this similarity does have implications for that analysis).

TABLE 4 TYPE OF COUNSEL

	Control		Experimental	
	Number	%	Number	%
New Haven				
Appointed	371	70.8	1487	72.8
Private	153	29.2	594	27.2
	524	100.0	2181	100.0
Norfolk				
Appointed	Unavailable		473	30.4
Private			1084	69.6
			1557	100.0
Salt Lake City				
Appointed	191	55.4	794	68.3
Private	154	44.6	369	31.7
	345	100.0	1163	100.0

Since we are using large sample sizes in all cases, we can assume that these percentages are close to the actual population figures for the cities. In such circumstances, statistical test may indicate that two samples were drawn from different populations. It is then up to the researcher to decide if that difference is "operationally" significant. That is, does a difference of one or two percentage points constitute a meaningful difference. This will be of concern also when we examine differences in the

mean time for processing. We will have to determine if a two or three day difference measured by the statistics indicates any meaningful difference.

In comparing the distributions of these variables for the control and experimental data, it can be observed that the percentages are almost identical. From this observation, we can support two assumptions. First, since the New Haven and Salt Lake City control data are samples (25% and 50%, respectively) of the year's cases, this similarity indicates that we have probably been successful in selecting a random sample. Second, the fact that the two sets of data are similar indicates that there was little change in the criminal population between years, so there is some evidence for assuming our results would apply to future years.

C. The Overall Effect of the Project on Processing Times

To avoid ambiguity in this section, we define the term "processing time" to mean the elapsed time in days from the date of arrest to the date of disposition. Also, for convenience, when describing a particular event such as the date counsel was appointed, we will refer to "the time until" the event in question. This will always mean the elapsed time in days from the date of arrest to the date of the event. Any other time periods will be defined explicitly (e.g., the time between the preliminary hearing and sentencing).

We present a breakdown of the percentage of cases resolved by the conference in Table 5. Notice that New Haven has a 30% higher proportion (75%) of resolved (by conference) cases than the other two cities, which have approximately the same rate (45%).

The possible reasons for this are examined in the Law School's portion of this report. There is no way to determine the possible causes of this result from the data.

TABLE 5 PERCENTAGE OF CASES RESOLVED BY CONFERENCE IN EACH TEST CITY

	Resolved	Unresolved	Total
New Haven	1700 75%	566 25%	2266
Norfolk	680 45%	900 55%	1580
Salt Lake City	459 42%	633 58%	1092

1) New Haven, Connecticut

In New Haven, the conference was scheduled as soon as possible after the preliminary appearance. Therefore, the period of time that was susceptible to reduction was that between the preliminary appearance and disposition. The conference procedure could not be expected to reduce the time from arrest to preliminary appearance. Therefore, there are two ways of examining the effects. One is to examine the effect on the total processing time (arrest to disposition) and the other is to examine only that period of time which is susceptible to reduction. We shall examine the overall effect in this section and defer the discussion of other effects until the next section.

Table 6 gives the mean times from arrest to disposition of the control data and the experimental data. The two populations from which these samples are assumed to have been drawn (i.e., cases with and without a conference) are not normally distributed (as shown in Table 5), so a t-test is not an applicable test of the significance of this difference. However, since the sample sizes are large (>500), the statistic $Z = \frac{\overline{X}_1 - \overline{X}_2}{\sqrt{\frac{S_1^2}{N_1} + \frac{S_2^2}{N_2}}}$ is approximately normal ($u=0, \sigma^2=1$). From Table 6, Z is computed to be 10.24 which is significant at .001 level.

From an operational standpoint, we would like to examine the proportions of cases resolved within 30 days. Figure 3 is a graph of the cumulative percentage of cases resolved for a given time period. This illustrates that under the conference procedure more cases were resolved earlier than before and that there was a higher percentage of cases resolved within any given length of time. Notice, for example, that 50% of the cases in the experimental year were resolved within 30 days, whereas 17% of the control year's cases were resolved in that length of time. At the other end of the scale, notice that only 10% of the experimental year's cases lasted over 120 days, while 21% of the control year's cases lasted longer than that.

As a test of significance of the difference between the proportion of cases resolved within 30 days, we use the statistic[9]

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[9]Freund, J., Mathematical Statistics.

$$Z = \frac{\frac{X_1}{n_1} - \frac{X_2}{n_2}}{\sqrt{p(1-p)\left(\frac{1}{n}+\frac{1}{n_2}\right)}} \sim N(0,1), \quad p = \frac{X_1 + X_2}{n_1 + n_2}$$

where X_1 = number of cases resolved within 30 days in control group

n_1 = number of cases in control group

X_2 = number of cases resolved within 30 days in experimental group

n_2 = number of cases in experimental group

If this value for Z falls outside the interval (-3.27, 3.27) we conclude that there is a difference between the acutal proportions, p_1 and p_2 (at the .001 level of significance). In our case:

X_1 = 89

n_1 = 519 $\quad p = .44 \quad Z = -13.64$

X_2 = 1026

n_2 = 2034

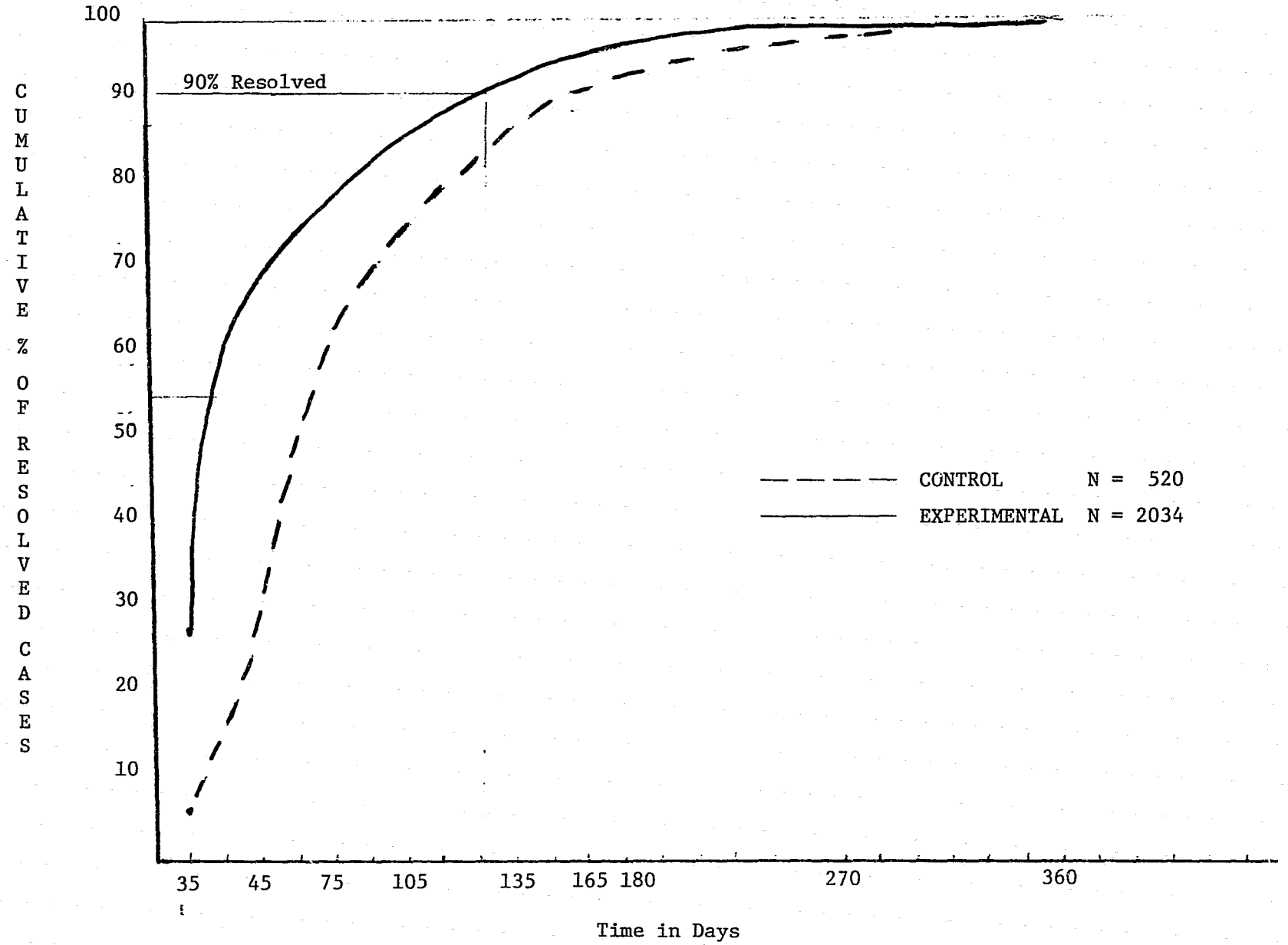
The conclusion that can be drawn from this result is that the probability that there was no difference in the proportion of cases resolved within 30 days (given that we observed a difference of .17 - .50 = .33) between the control year cases and the experimental year cases is less than .001. Therefore, we are safe in assuming that the percentage of cases resolved within 30 days increased during the experimental year.

TABLE 6 TIME FROM ARREST TO RESOLUTION IN NEW HAVEN, CONNECTICUT (in days)

	Control (1973)	Experimental (1974)
Mean	91.3	51.3
Standard Dev.	86.6	41.3
Sample Size	520	2043

Time to Resolution	Number of Cases	%	Cumulative %	Number of Cases	%	Cumulative %
0-14	27	5.2	5.2	486	23.9	23.9
15-29	62	11.9	17.1	540	26.5	50.4
30-44	85	16.4	33.5	309	15.2	65.6
45-59	70	13.5	47.0	162	8.0	73.6
60-74	54	10.4	57.4	124	6.1	79.7
75-89	38	7.3	64.7	76	3.7	13.4
90-104	33	6.4	71.1	66	3.2	86.7
105-119	28	5.4	76.5	55	2.7	89.4
120-134	29	5.6	82.1	34	1.7	91.1
135-149	25	4.8	86.9	30	1.5	92.5
150-164	8	1.5	88.4	25	1.2	93.8
165-179	11	2.1	90.5	19	.9	94.7
180-194	6	1.2	91.7	18	.9	95.6
195-209	7	1.3	93.1	18	.9	96.5
210-224	4	.8	93.8	16	.8	97.2
225-239	4	.8	94.6	8	.4	97.6
240-254	5	1.0	95.6	5	.2	97.9
255-269	6	1.2	96.8	6	.3	98.2
270-284	3	.6	97.4	9	.4	98.6
285-299	2	.4	97.8	5	.2	98.9
300-314	--	0	97.8	9	.4	99.3
315-329	2	.4	98.1	4	.2	99.5
330-344	3	.6	98.7	1	.04	97.6
345-359	--			3	.1	99.7
360-374	2	.4	99.0	4	.2	99.9
375-389	1	.2	99.2	--		
390-404	2	.4	99.6	--		
405-419	--			1	.04	100.0
420-434	2	.4	100.0	1	.04	100.0
Total	519	100	100	2034	100	100

FIGURE 3 CUMULATIVE PERCENTAGE OF RESOLVED CASES AS A FUNCTION OF TIME TO RESOLUTION - NEW HAVEN, CONNECTICUT



2) Salt Lake City, Utah

Table 7 presents the data concerning the effect of the project on the overall processing time.

As can be seen, there is no evidence to suggest that the conference procedure reduced the processing times. In fact, the evidence suggests that the time increased.

This data must be examined cautiously because it is misleading. It was not possible to obtain the exact date of arrest for the control group cases. It was assumed that the date of preliminary appearance would be within a few (less than 3) days of the arrest date and that this would suffice. This assumption may be unjustified. However, even if an additional 5 days were arbitrarily added to the control group times, it would not effect the conclusion that there was no reduction in the mean processing times during the experimental year.

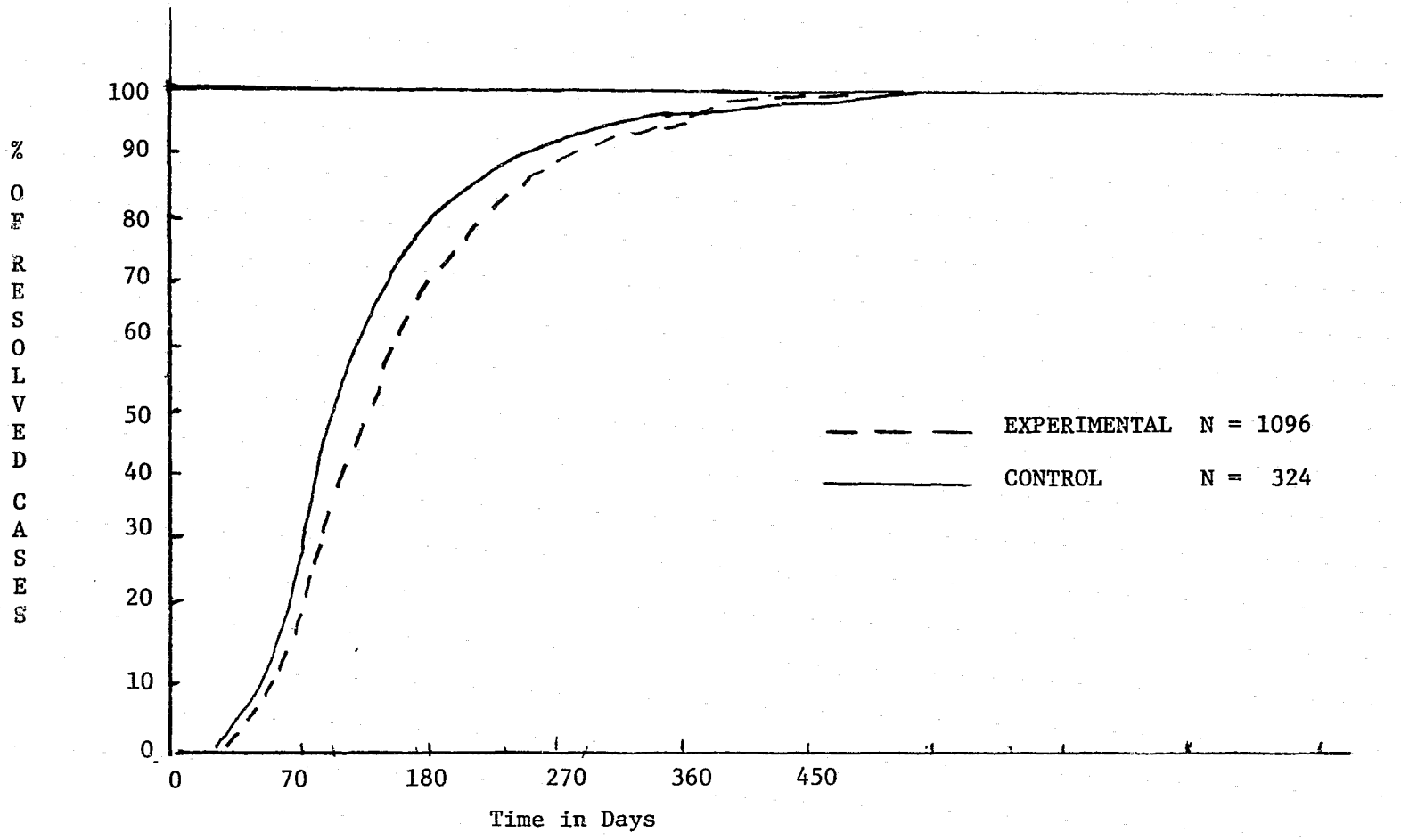
In Figure 4 the cumulative percentage of resolved cases is graphed as in Figure 3. It can be seen that there is very little difference in the distribution of processing times between the two years. We will discuss further ramifications of this finding in the next section.

TABLE 7 OVERALL EFFECTS IN SALT LAKE CITY

Times:
Control: Preliminary Appearance to Disposition (Plea)
Experimental: Arrest to Plea

	Control			Experimental		
	Number	%	Cumulative %	Number	%	Cumulative %
0-14	7	2.2	2.2	9	.8	.8
15-29	19	5.9	8.0	44	4.0	4.8
30-44	23	7.1	15.1	89	8.1	13.0
45-59	40	12.3	27.5	119	10.9	23.8
60-74	55	17.0	44.4	134	12.2	36.0
75-89	42	13.0	57.4	116	10.6	46.6
90-104	32	9.9	67.3	123	11.2	57.8
105-119	25	7.7	75.0	100	9.1	67.0
120-134	14	4.3	79.3	58	5.3	72.3
135-149	11	3.4	82.7	54	4.9	77.2
150-164	7	2.2	84.9	52	4.7	81.9
165-179	10	3.1	88.0	38	3.5	85.4
180-194	12	3.7	91.7	37	3.4	88.8
195-209	4	1.2	92.9	21	1.9	90.7
210-224	3	.9	93.8	18	1.6	92.3
225-239	4	1.2	95.1	12	1.1	13.4
240-254	--	--	95.1	9	.8	94.3
255-269	2	.6	95.7	12	1.1	95.3
270-284	2	.6	96.3	11	1.0	96.4
285-299	1	.3	96.6	4	.4	96.7
300-314	1	.3	96.9	10	.9	97.6
315-329	3	.9	97.8	6	.5	98.2
330-344	2	.6	98.6	5	.5	98.6
345-359	--	--	98.5	4	.4	99.0
360-374	1	.3	98.8	4	.4	99.4
375-389	2	.6	99.4	4	.4	99.7
390-404	2	.6	100	1	.0	99.8
405-419	--	--	--	2	.2	100
	324	100	100	1096	100	100
Mean	100			113		
Standard Dev.	72			77		
Sample Size	324			1101.		

FIGURE 4 CUMULATIVE PERCENTAGE OF RESOLVED CASES AS A FUNCTION OF TIME
SALT LAKE CITY, UTAH



3) Norfolk, Virginia

In Norfolk the conference procedure was supposed to have taken place as soon as possible after the preliminary appearance. Therefore, the time period which was susceptible to reduction was from preliminary appearance to disposition. Here also, we will examine the overall effect on processing time.

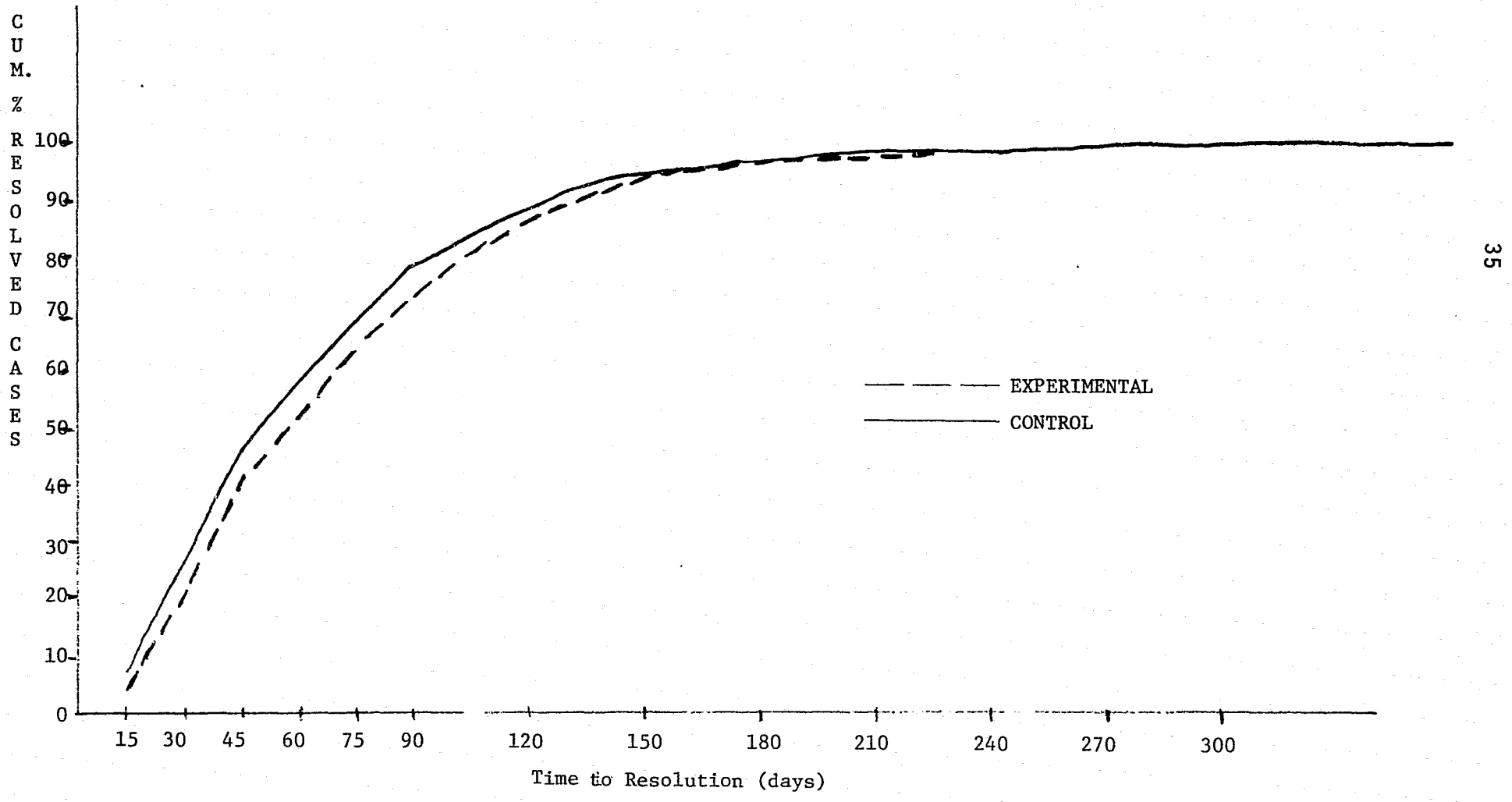
Table 8 presents the means and distributions of processing times for the control year and the experimental year. It can be seen that there is very little difference between the two sets of data. The means differ only by four days. In the control data, 21.5% of the cases were resolved within 30 days, while 25.4% were resolved in the experimental data. The cumulative percentage of resolved cases as a function of time is shown in Figure 5. This graphically illustrates that the percentage of cases resolved within any given length of time is approximately the same for both the control and experimental data. (Using the statistic z used in the analysis of New Haven we find Z = .472 which is not significant at .05 level).

TABLE 8 NORFOLK, VIRGINIA OVERALL EFFECT ON PROCESSING TIMES

Days to Disposition	Control			Experimental		
	Number	%	Cumulative %	Number	%	Cumulative %
0-14	40	4.7	4.7	95	6.6	6.6
15-29	144	16.9	21.5	271	18.8	25.4
30-44	162	19.0	40.5	291	20.2	45.6
45-59	100	11.7	52.2	161	11.2	56.8
60-74	164	12.2	64.4	161	11.2	56.8
75-89	75	8.8	73.2	146	10.1	78.1
90-104	70	8.2	81.4	78	5.4	83.5
105-119	53	6.2	87.6	66	4.5	88.1
120-134	26	3.0	90.6	55	2.8	91.9
135-149	25	2.9	93.6	30	2.1	94.0
150-164	15	1.8	95.3	19	1.3	95.3
165-179	8	.9	96.3	14	1.0	96.3
180-194	5	.6	96.8	18	1.3	97.6
195-209	5	.5	97.4	10	.7	98.3
210-224	3	.4	97.8	3	.2	98.5
225-239	5	.5	98.4	8	.6	99.0
240-254	2	.2	98.6	3	.2	99.2
255-269	2	.2	98.8	2	.1	99.0
270-284	3	.4	99.2	4	.3	99.7
285-299	2	.2	99.4	1	.0	99.7
300-314	--	--	--	0	0.0	99.7
315-329	3	.4	99.8	1	6.0	99.8
330-344				2	.1	99.9
345-359				0	.0	99.9
360-374	2	.2	100.0	0	.0	79.4
375-389	0	.0	0	1	.0	100
390-404	0	.0	0	0	.0	100
405-419	0	.0	0	0	.0	100
	854	100	100	1440	100.0	100.0

Mean	68.9	64.67
Standard Dev.	52.3	38.76
Number	854.0	1440.0

FIGURE 5 CUMULATIVE PERCENTAGE OF RESOLVED CASES AS A FUNCTION OF TIME
NORFOLK, VIRGINIA



D) Effects on Selected Subunits of Time

1) Salt Lake City

In the previous section we showed that during the experimental year there was an increase in the overall processing time. Since the conference did not take place until after the preliminary hearing, it could not effect the time before the preliminary hearing. If, for some reason, the mean time until the preliminary hearing increased from the control year to the experimental year, it may be that there was a decrease in the time from preliminary hearing to disposition.

Table 9 gives a summary of these critical times. It is clear that the time from arrest to preliminary hearing increased and that this is why the overall time increased. The period of time between the preliminary hearing and disposition actually decreased during the experimental year although this decrease is very slight. Therefore, we can conclude that there is evidence to suggest that the conference procedure may have reduced the processing time from what it would have been had these procedures not been in effect. However, the effect of the increase in processing time caused by the other factors far outweighed any effects of the project.

We do not know why the mean time from arrest to preliminary hearing increased nor why the time from preliminary hearing to disposition decreased. In the latter case we know of at least one change in the system (the conference) which

TABLE 9 SUB-UNITS OF PROCESSING TIME IN SALT LAKE CITY

		Control	Experimental
Time:	Preliminary Appearance (or arrest) to preliminary hearing		
	Mean (days)	28.2	48
	Standard Deviation	25.4	--
	Sample Size	341	980
Difference:	(Control-Experimental)	-20	
Preliminary Hearing to Disposition			
	Mean (Days)	73.7	68.5
	Standard Deviation	67.4	65.7
	Sample Size	322	982
Difference:	(Control-Experimental)	+5	

may be assumed to account for the change in time. Without further investigation we are unable to explain the overall effect of processing times in Salt Lake City.

2) New Haven & Norfolk

Since the conference had the potential to reduce the time from preliminary appearance to disposition and the date of arrest is usually within 2 or 3 days of the preliminary appearabce date, we will not do a separate analysis.

E. Cases for Which a Conference was Held

Table 10 shows the percentage of cases in each city for which a conference was held.

TABLE 10 PERCENTAGE OF CASES IN WHICH A CONFERENCE WAS HELD

	Conference Held		No Conference		Total
	Number	%	Number	%	
New Haven	2088	92.1	178	7.9	2266
Norfolk	1107	70.0	473	29.1	1580
Salt Lake City	1084	92.3	91	7.7	1185

It can be seen that although a conference was supposed to have taken place in all cases, for some reason it was not held in a certain percentage of cases. In our analysis we assume that because the conference was capable of being applied to all cases, the procedure was, in fact, applied to the entire population (just as penicillin is not effective on all people, but its total effect on the population has been significant).

Although the percentage of cases in which a conference was held in almost identical in New Haven and Salt Lake City, the effect on processing times was seen to be quite different. Therefore, we cannot attribute these differences in the effect of the project to a less intense application of the conference (as might be the case if New Haven and Norfolk were compared).

We have data which show that even though an agreement was not reached through the conference procedure, the processing times for unresolved cases with a conference was significantly (.001 level in New Haven) shorter than those cases without a conference. What we cannot determine is whether this is because the conference had an effect of reducing processing time or that cases which 'normally' take less time are more susceptible to having a conference.

F. Effect of the Project on the Size of the Docket

The original proposal mentioned that one of the goals of the project was to reduce the size of the docket (i.e., the number of cases awaiting disposition). The data were not collected in such a way that this can be determined. Mr. Katz has inquired of the project lawyers in the cities as to their subjective evaluation of this effect. A discussion is included in that portion of this report.

VI. CONCLUSIONS

Our analysis attempts to measure the effect of the project on the efficiency with which cases are processed in three cities. Our measure of efficiency is the time from the date of arrest (or preliminary appearance) to disposition (or date of final plea or sentencing in Salt Lake City).

In New Haven we found a significant impact on the processing times in the experimental year's cases. The mean procesing time was reduced to 51 days from 91 days and the proportion of

cases resolved within 30 days was increased from 17% to 50%.

In the other two cities, there is no evidence to suggest that the project had any effect on the processing times. A slight increase in processing time was observed in Salt Lake City, but this was demonstrated to be due to an increase in the elapsed time between arrest and preliminary hearing which cannot be attributed to the project.

Thus it is clear that the procedures proposed by Mr. Katz will not have a significant impact on all cities in which they are implemented. However, there is at least one city and perhaps others which would benefit by implementing these procedures. The important question of why they worked in New Haven and not in Salt Lake City and Norfolk must go unanswered in this report because of lack of data.

In this report Mr. Katz discusses his opinions as to why the New Haven project was so successful and the others not very successful. In view of the difficulty encountered in obtaining this data, the opinions of a professional may be the only feasible way of obtaining this type of evaluation. Briefly, Mr. Katz suggests that the procedures implemented by this project were greatly affected by the personalities of the individuals involved and the difficulties encountered by each court system when trying to change its ways.