



CLEVELAND IMPACT CITIES PROGRAM  
ADJUDICATION OPERATING PROGRAM  
VISITING JUDGES  
FINAL EVALUATION REPORT

June 1975

**OFFICE OF THE MAYOR  
IMPACT CITIES  
ANTI-CRIME PROGRAM**

34837  
Final Report

RALPH J. PERK  
MAYOR

DONALD P. BOGOSIAN  
Acting DIRECTOR

CLEVELAND IMPACT CITIES PROGRAM

ADJUDICATION OPERATING PROGRAM

VISITING JUDGES  
FINAL EVALUATION REPORT

June 1975

NCJRS

JUN 17 1976

ACQUISITIONS

*This document is published as part of the  
Cleveland IMPACT Cities Program under grant  
number 74-NI-05-0004 awarded by the Law  
Enforcement Assistance Administration,  
U.S. Department of Justice.*

SECTION I  
INTRODUCTION

## SECTION I INTRODUCTION

### 1.1 PROGRAM BACKGROUND

This is the final report on one component of the Adjudication Operating Program, one of five anti-crime programs of the Cleveland IMPACT Cities Program. The IMPACT Program is an intensive planning and action effort designed to reduce the incidence of stranger-to-stranger crimes (homicides, rapes, aggravated assaults, and robberies) and burglary in Cleveland by five percent in two years and 20 percent in five years. Based on this top-level goal, the IMPACT Program derived four sublevel goals:

- Minimize the need to commit crime;
- Minimize the desire to commit crime;
- Minimize the opportunity to commit crime; and
- Maximize risk for offenders.

To achieve these four goals, five specific Operating Programs were devised, as depicted in the program structure, Figure 1-1. The Operating Programs, in turn, consisted of some 35 individual project components.

This report concerns one of the projects in the Adjudication Operating Program, one of two programs designed to maximize the risk to offenders and to minimize their opportunities to commit crimes. The central hypothesis of this Operating Program is that the nature of the adjudication process -- specifically, swift and sure court processing of offenders -- can increase the risk to potential offenders; deter potential offenders who become aware of the high probabilities of apprehension, prosecution, and conviction; and deter processed offenders from recidivating by impressing on them the certainty of swift and sure adjudication.

ULTIMATE  
GOAL

SUB-LEVEL  
PROGRAM  
GOALS

OPERATING  
PROGRAMS

1-2

PROJECTS  
AND/OR  
ACTIVITIES

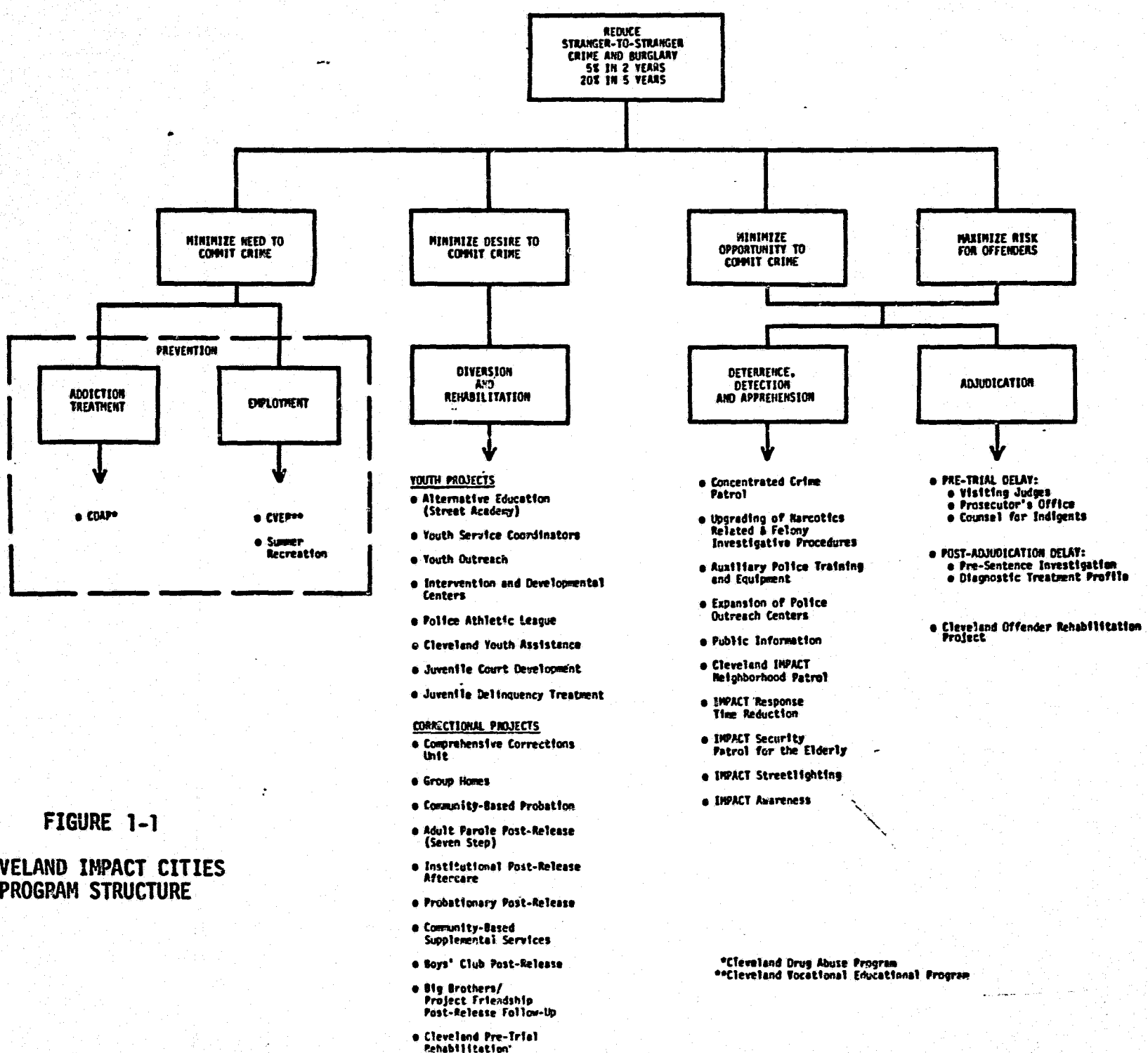


FIGURE 1-1

CLEVELAND IMPACT CITIES  
PROGRAM STRUCTURE

To improve the adjudication process consistent with this hypothesis, the Pre-Trial and Post-Adjudication Delay Reduction Project was created as part of the Adjudication Operating Program. The objectives of the project are twofold:

1. To reduce the time a defendant spends awaiting trial, consistent with (a) the speedy trial provisions of the Sixth Amendment and the Ohio Rules of Criminal Procedure, Crim. R. 4, 5, and 7, and (b) the due process provisions of the Fifth and Fourteenth Amendments and the Supreme Court's ruling in Argersinger v. Hamlin, 407 U.S. 25 (1972); and
2. To reduce the time a convicted defendant spends awaiting sentencing, consistent with the provisions of the Fifth, Sixth, and Fourteenth Amendments, and Crim. R. 4, 5, 32, 32.2, 34, and 46.

To achieve these objectives the project was divided into two activities -- Pre-Trial Delay Reduction (Activity 1) and Post-Adjudication Delay Reduction (Activity 2). As shown in Figure 1-2, Activity 1 consisted of three component projects and Activity 2 of two component projects.

Activity 1, Pre-Trial Delay Reduction, sought to speed the processing of felony defendants through the criminal courts. Component 1, Visiting Judges, provided funds in the Common Pleas Court (General Division) and the County Sheriff's Department for six visiting judges and associated support personnel for trying criminal cases. Component 2, County Prosecutor's Office, provided funds to the Prosecutor's Office for nine Assistant County Prosecutors and associated support personnel to try the cases before the visiting judges. Component 3, Counsel for Indigents, provided funds to the Legal Aid Society of Cleveland for eight attorneys and associated support personnel and facilities to represent those defendants who are indigent in Cleveland Municipal and Cuyahoga County Common Pleas Court. Activity 2, Post-Adjudication Delay Reduction, sought to accelerate the processing of convicted defendants in the Common Pleas Court. Component 1, Pre-Sentence Investigation, provided funds to the County Probation Department for five full-time and four part-time Probation Officers and associated

support personnel to prepare pre-sentence investigation reports on convicted IMPACT defendants for the Common Pleas Court. Component 2, Diagnostic Treatment Profiles, provided funds to the Psychiatric Clinic serving the Common Pleas and Municipal Courts for additional personnel to develop defendant need-assessment profiles and to supplement the pre-sentence case history investigation of the County Probation Department. The goals, objectives, and methods of each of the five components of the Delay Reduction Project are summarized in Table 1-1.

The entire Delay Reduction Project was funded from an LEAA Discretionary Grant. As noted above, the project operated in the Court of Common Pleas in Cuyahoga County, serving a target population of felony defendants in criminal cases. Although the target population was intended to be offenders arrested for IMPACT crimes committed in Cleveland, it was not possible to limit the target population in this manner. First of all, the Court of Common Pleas is a countywide court of general jurisdiction; hence, defendants processed by the court need not (1) reside in Cleveland, (2) have allegedly committed a crime in Cleveland, (3) have been arrested in Cleveland, (4) have been arrested by the Cleveland Police Department, or (5) have had initial contact with the Cleveland Municipal Court. Nonetheless, a majority of common pleas defendants were arrested in Cleveland by the Cleveland Police Department. Secondly, although IMPACT crimes constitute a large fraction of the Common Pleas caseload, it was not possible to limit the services of the project's pre-trial components (the visiting judges and associated prosecutorial and defender personnel) to IMPACT defendants. Hence, the effect of the Delay Reduction Project was felt "across the board" for all felony cases. Thus, the pre-trial portion of the project affected the entire Common Pleas Court criminal case backlog and delay.



TABLE 1-1 (Continued)

DISCRETIONARY GRANT APPLICATION	PROGRAM COMPONENT	GOAL/OBJECTIVE	METHOD OF ACCOMPLISHMENT
"Post-Adjudication Delay" (Activity 2)		Reduce time between conviction and sentencing, place convicted offenders into proper corrective programs	Probation Officers, Psychiatric/ Psychological testing and evaluation
	Component 1, Pre-Sentence Investigations	Eliminate delay in preparing Pre-Sentence Investigations on convicted Visiting Judge case defendants	<ul style="list-style-type: none"> <li>• Hire five County Probation Officers and support personnel</li> <li>• Utilize "short-form" pre-sentence investigation reports</li> <li>• Complete pre-sentence reports on Visiting Judge cases prior to pleadings</li> <li>• Complete 17 pre-sentence investigations per Officer per month</li> <li>• Utilize existing Officers to complete an additional 85 to 150 pre-sentence investigations per month</li> </ul>
	Component 2, Diagnostic Treatment Profiles	Recommend placement of offenders into correctional and/or treatment programs, assist the Probation Officers in preparing Pre-Sentence Investigations on convicted Visiting Judge case defendants, prepare professional assessments of needs/treatment modalities on 50 defendants per month	<ul style="list-style-type: none"> <li>• Hire psychological and psychiatric professionals</li> <li>• Interview and test defendants</li> <li>• Prepare diagnostic profiles</li> <li>• Recommend treatment modalities</li> </ul>



\$308,403. The grant funds, supplemented by local funds, provided for the salaries and fringe benefits of the personnel listed above, jury fees for the additional juries required by the project, office supplies, telephone expenses, and rental of additional courtroom space. As a result of the project's success in reducing both backlogs and delays, it is being institutionalized as an on-going part of the County court system at the conclusion of the Phase II grant period.

Supporting the Visiting Judges component are the associated prosecutorial and defender components. These are both designed to provide adequate personnel to ensure that cases assigned to the six visiting judges could be handled expeditiously on the part of both prosecution and defense. Nine additional prosecutors were added to the staff of the Cuyahoga County Prosecutor. These prosecutors became part of a pool from which the Prosecutor chose personnel to try cases in the Common Pleas Court. In this way, the Prosecutor could choose either a newly-hired attorney or one more experienced in criminal prosecution to prosecute each visiting judge case. Adding nine Assistant Prosecutors to the attorney pool permitted the Prosecutor's Office to cover all six visiting judges' courtrooms and also to keep other cases in preparation for trial before those judges. In addition, a clerk-coordinator was added to the Prosecutor's staff to keep the case flow uninterrupted. Phase I of the Prosecutor's Office component paralleled Phase I of the Visiting Judges component, and was funded by an LEAA grant in the amount of \$116,240. Phase II covered the seven months from June through December 1974, after which the project was continued with local funds, to continue to support the Visiting Judges component.

investigation form, and completing the pre-sentence reports prior to pleadings (later changed to a goal of "within five days of their assignment"). This component was supported by a \$58,314 LEAA grant, which provided funds for hiring five additional Probation Officers and a clerk-typist. The Department itself contributed a portion of the time of four other Probation Officers and the Chief Probation Officer. The new "short-form" was developed early in the project and revised twice to refine it for maximum workability. At the conclusion of the grant period in August 1974 the project was continued with local funding, to support the ongoing Visiting Judges component.

The final project component was the Diagnostic Treatment Profiles. Its objective was to assist the Probation Department in making sentencing recommendations which would place offenders into appropriate correctional and/or treatment programs, by making professional assessments of the needs and treatment modalities of convicted IMPACT offenders. This would be done by means of interviews with and testing of the referred offenders and preparation of diagnostic profiles and recommended treatment modalities. The LEAA grant of \$39,020 was to provide for the hiring of a psychologist, a test administrator, and a clerk-typist, plus partially supporting a psychological assistant and providing office supplies. However, staffing problems and a small number of referrals resulted in a decision not to continue this component beyond its first 12 months.\*

The remainder of this section describes in more detail the Visiting Judges component, specifically the objectives and operations of Phase II, the final performance period, April 1974 through March 1975. Section II reviews the performance of this project component and Section III draws conclusions and makes recommendations.

---

\*Because of these developments, the project grant award was reduced to \$9,020. The remaining \$30,000 was reprogrammed to support another IMPACT project.

223 or 27 percent. In contrast, while the Visiting Judges component terminated 223 cases by trial, the regular sitting judges on the Court only terminated an additional 378 criminal cases by trial. During the Phase I period, 10 percent of the Court's case terminations resulted from trials.\* These data reflect some of the complexities of the cases with which the visiting judges were dealing. Many of the cases in the Common Pleas criminal case backlog at the time the component was implemented were difficult IMPACT cases, cases which have been traditionally difficult to clear from the dockets.

In addition, nine months of performance data, reflecting the component's 1973 operations, indicated that the average felony time delay from arraignment to conviction was 47 days.\* The entire Court's figures for comparable cases, i.e., IMPACT cases resulting in convictions, showed an average delay in 1972 of 135 calendar days for 985 cases and an average delay in 1973 of 112 cases.\*\* These results indicated that while the individual contributions of the visiting judges were not susceptible to direct measurement in 1973, the

(Footnote continued from page 1-12.)  
personal docket data for the Common Pleas judges on display screens and hard-copy reports; and "flags" highlighting criminal cases requiring immediate attention, particularly in relation to Ohio's 1974 90/270-day statute. Source: IBM, JUDICIAL INFORMATION SYSTEM COURT OF COMMON PLEAS, pp. 1-3, Application Brief, New York: IBM Data Processing Division (February 1975); Annot: The new Ohio Criminal Code, which took effect on January 1, 1974, requires that prosecution of a criminal offense be commenced within 90 days of arrest in cases where the defendant is detained in jail and within 270 days of arrest if the defendant is released on bail. Cases which are not brought to trial in accordance with these statutory limitations are, upon motion of the defense, dismissed. This dismissal has the effect of a nolle prosequi (definition, infra, p. 2-6). See ORC 2945.71 and 2945.72.

\*Cleveland IMPACT Cities Program, VISITING JUDGES PROJECT, CONSOLIDATED NINE-MONTH EVALUATION REPORT, pp. 9-10, Cleveland: Office of the Mayor (November 1974).

\*\*Cleveland IMPACT Cities Program, ADJUDICATION OPERATING PROGRAM EVALUATION REPORT, pp. 2-20 ff. and Table 2-3, Cleveland: Office of the Mayor (March 1974).

2. Further reduce the criminal case backlog with special emphasis on cases over six months old; and by the end of 1974, reduce the case backlog to 950 cases and dispose of all cases over six months old;
3. Reduce the average calendar day delay between indictment and trial to nearly 240 days; reduce the average calendar day delay between arrest and commencement of prosecution\* to less than 270 days for bailed defendants and 90 days for jailed defendants;
4. Ensure that 50 percent of the cases heard by the Visiting Judges component are IMPACT cases; and
5. Terminate 95 percent of all cases heard during the Phase II period.\*\*

The presentation and analysis of performance results pursuant to these objectives is the subject of the next section.

\*A precise definition has yet to be rendered by an Ohio appellate court regarding the meaning of "commencement of prosecution." Alternative constructions of this language are possible including (1) that prosecution commences at the time of the filing of a complaint by the arresting agency or the Municipal Court's police prosecutor, or (2) the commencement of trial by a court of proper jurisdiction. For purposes of this evaluation, commencement of prosecution refers to the commencement of trial in the Court of Common Pleas on one or more IMPACT and/or felony charges. C.f., EVALUATION REPORT (March 1974), op. cit., p. 8.

\*\*See the Discretionary Grant Application for Phase II of Activity No. 4 of the Adjudication Operating Program (74-DF-05-0014), Section 5b. It should be noted that although Phase II operations were originally scheduled for nine months, April-December 1974, the component later in the year successfully applied for a Grant Adjustment Notice which extended the project through the first quarter of 1975.

SECTION II  
MANAGEMENT AND PERFORMANCE STATUS

2.1 MANAGEMENT ANALYSIS

The implementation of Phase II was an extension of Phase I operations. As originally planned, the Visiting Judge component was to support six visiting judges and the related court personnel to meet the established objectives. The component was allocated special courtrooms in which to operate at two separate locations, in the Lakeside Courthouse and in the Mott Building.\*

The effective operation of the IMPACT courtrooms depended upon four groups of people: the judicial personnel in the Visiting Judges component; the members of other activity components; officials within the court system; and members of the bar and the general public. The component personnel consisted of people who participated directly in the courtrooms as well as others who rendered indirect support. These personnel are described above in Section I.

For purposes of this evaluation, two particular areas of management and administrative functions are important to bear in mind: the process by which IMPACT "stranger-to-stranger" crime cases were selected for trial in visiting judge courtrooms, and the development of relevant data to support the performance evaluation.

\*Initially, Phase I operations began in the Lakeside Courthouse only. Operations subsequently were expanded to include the Mott Building on June 22, 1973, when Cuyahoga County opened seven new courtrooms.

For evaluation of Phase II operations, the IMPACT Staff developed a monthly Performance Status Report (PSR)\* which was designed to permit capture and tabulation of all relevant statistics with respect to the measurement and analysis of the component's objectives. As the performance analysis will show, direct evaluation information was developed on four of the five objectives set forth in Section I. That is to say, either PSR data were used or alternative sources were substituted for all measurements with the exception of the felony time delay data requirements in the third objective formulated pursuant to the 90/270-day rule. These requirements were impossible to meet in a direct manner. Some explanation might be helpful to illuminate the nature and scope of the difficulty.

The third objective specified that the component proposed to reduce the average calendar day delays in IMPACT case processing in three ways: (1) to "nearly 240" days between indictment and trial; (2) to "less than 270 days" between arrest and commencement of prosecution for bailed defendants, and (3) to 90 days between arrest and commencement of prosecution for jailed defendants. Although the PSR data elements made provision for capture of these data, manual collection and compilation of these data on a monthly basis were beyond the available clerical resources of either the component staff or the staff of the Central Scheduling Office of the Court of Common Pleas. The fact that these time delay data were not collected should not be interpreted as a deficiency on the part of either the component or Common Pleas management staffs. Genuine efforts were made to develop the data, including a thorough

---

\*A copy of the Phase II PSR is reproduced in the Appendix.

listing of all 1974 and first quarter-1975 IMPACT cases heard in Common Pleas Court. Because the visiting judges between April 1974 and March 1975 represented 33 percent of the available judicial manpower\* to try felony cases in the Court of Common Pleas, the IMPACT Planning and Evaluation Staff concluded that a sample of IMPACT cases from the JIS listing would offer some quantitative insight into (1) the extent to which the Court as a whole was responding to the 90/270-day statutory requirements, and (2) the extent to which the visiting judges, as a group, may have contributed to an overall reduction in felony delay times. The results of the sample are discussed below under the performance analysis of the third objective. The remainder of this section presents a profile of the Phase II cases and addresses each of the five objectives.

## 2.2 PERFORMANCE ANALYSIS

Throughout the 12 months of Phase II, there were an average of 70.4 case terminations per month. This computation is based on a total of 845 case dispositions. Five hundred and twenty-eight of these case terminations were IMPACT cases; the Table presents a comparative breakdown of Phase I and Phase II IMPACT cases by crime type. The tabulation shows that there was a 29 percent increase in the number of IMPACT stranger-to-stranger case dispositions during Phase II.

\*A total of 26 judges are in the General Division of the Court of Common Pleas which handles both criminal and civil litigation. Twelve of these judges are assigned to criminal dockets each month by the presiding administrative judge. (Sources: EVALUATION REPORT (March 1974), op. cit., p. 2-14; and IBM Administrative Brief, op. cit., p. 1.) The PSR data tabulation shows that an average of six visiting judges served an average of 72 judge days per month during Phase II.



months at the projected levels. However, it should be noted that federal subvention only supported the component during the months of January and February 1975. During March 1975, the component was supported entirely from in-kind match. Moreover, the project had expended \$261,394 or 85 percent of the total grant award funds by December 31, 1974. The above grant administration and fiscal matters should be considered in interpreting the results presented below.

Objective 1: Terminate 750 cases and conduct 500 trials

As already noted, the Phase II effort of this component resulted in 845 case dispositions and 278 trials. While the former objective was exceeded by 13 percent, the latter fell short of its original mark with 56 percent of the expected performance. This latter result deserves some explanation. It should be borne in mind that the 500 trial objective was an estimate which could not fully control for such factors as the degree of complexity of specific IMPACT trials, the degree to which cases were disposed by other means, such as plea bargaining, and the length of individual felony trials. Because the visiting judges tried some of the most difficult cases pending in the backlog, the fact that they only met 56 percent of this objective should not necessarily be surprising or disappointing.

Objective 2: Reduce the backlog to 950 felony cases and the six-month backlog to zero

The first part of this objective was to reduce the case backlog to 950 by the end of 1974. By December 31, 1974, the felony case backlog of the Common Pleas Court was 1,413 cases, a net increase of 463 cases or nearly a 50 percent increase in the number of pending cases. This result could not have been predicted on the basis of the Phase I results. It reflects a very substantial increase in the number of felony case filings during 1974 as opposed to 1973. In 1973, there were 5,670 felony filings in Common Pleas and in 1974 6,692 felony filings, a net increase of 1,022 cases or nearly 20 percent. Relatively speaking, while the percentage increase of the case backlog is higher than the percentage increase of the number of felony filings, negative inferences about visiting judge performance cannot be drawn fairly from the foregoing data. The facts clearly show that the component was confronting an increasing felony caseload at a time when judicial manpower, both with respect to Phases I and II, remained constant. The facts also clearly show that throughout 1974 the Common Pleas Court was in the throes of responding to the 90/270-day rule. The need to bring special calendaring attention to the cases pending longest may have been sufficiently disruptive throughout the year to compound an already increasing backlog problem. What the facts do

in the new Ohio Criminal Code but also as set forth in the second-year grant application of the component.

Objective 4: Ensure that 50 percent of the cases heard by the visiting judges are IMPACT cases

Of the total number of 845 case dispositions, 62 percent, or 528 of all cases heard by the visiting judges, were IMPACT cases. As noted earlier, the Table presents a breakdown of these cases by crime type and further shows a 29 improvement over Phase I. This was one of the most successful accomplishments of the component during Phase II.

Objective 5: Terminate 95 percent of all cases heard during the Phase II period

This objective is difficult to evaluate at this time because data are still being compiled on the precise number of cases heard which eventually became terminations. Suffice it to say that 845 case terminations resulted during Phase II. The difference between the number of terminations and the number of cases heard is not available at this time. The difficulty in pinning this number down is explained principally by the delays involved in the completion of a probation pre-sentence investigation and eventual imposition of sentence. Many of the visiting judges who participated in the component served in Cleveland in two-week increments. In those cases resulting in convictions, the judges, in accordance with the post-adjudication delay activity components, would order pre-sentence investigations. Before the investigation reports could be returned to the judges for study and disposition, the judges often completed their two-week stays in Cleveland. The result was that substantial numbers of sentences had to be deferred until the judge returned for another session or until a special date could be set for sentencing.\* These built-in delay factors rendered it difficult for the Common Pleas and component clerical staffs to develop precise and reliable data on the number of cases heard and terminated. However, the variance between 845 case terminations and the unknown number of cases heard should be negligible.

These results then complete the discussion of the components performance under the five major objectives. With the exception of the increasing backlog problem, the component's performance approached or well exceeded the original objective expectations for Phase II.

\*It should be noted that, in those instances where delays occurred between completion of pre-sentence investigations and the imposition of sentence, IMPACT defendants, convicted of IMPACT offenses or other felonies, received credit for time served in local jail facilities.

SECTION III  
CONCLUSIONS AND RECOMMENDATIONS

The Visiting Judges component of the Pre-Trial Delay Reduction Project of the Adjudication Operating Program on balance was a success. The component met the majority of its objectives and clearly demonstrated the effectiveness of introducing judicial manpower from other Ohio counties to assist in the processing of the heavy Cleveland/Cuyahoga County criminal caseloads. Moreover, the component demonstrated that it is possible to orchestrate all of the institutions and functions necessary to assure rapid but fair processing of crime-specific defendants accused of serious felonies. These findings are enthusiastically supported by the judges and administrative personnel of the Court of Common Pleas. The management and operational experience which has been gained from this experimental project is in the process of being institutionalized. At the present time, the visiting judges concept continues to receive the support and financing of Cuyahoga County. As one of IMPACT's 35 projects, the Visiting Judges component was among the most effectively and popularly supported. Indeed, steps are underway now by court administrators to budget permanent means to continue the operations initiated and sustained by federal funding during 1973, 1974, and the first quarter of 1975.

All of this is not to say that the component was an unqualified success. This evaluation has identified certain shortcomings, particularly with regard to the 1974 increase in the case backlog. However, the management and administrative techniques which were developed during the planning and implementation of this component have not been lost on the Court as a whole.

APPENDIX

VISITING JUDGES ONLY-- 1/1

Month/Year:

or

CRIME TYPE

ENTIRE COURT, INCLUDING VISITING JUDGES -- 11

## Homicide

Forcible  
Rape

## Robbery

## Assault

Burglary  
B&E

Larceny

Auto  
Theft

## Weapons

Narcotics - Other

1--CASES PENDING

1a Cases pending end  
of last month

1b No. of SIX-MONTH  
cases included  
in 1a

2--Cases arraigned this month

3--Cases tried this month

#### 4--CASE DISPOSITIONS

4a Cases disposed  
by Court Trial

4b Cases disposed  
by Jury Trial

4c Cases disposed  
by Panel

4d Other case dis-  
positions

4e Cases disposed  
T O T A L

	(4a+4b+4c+4d)
4f	Disposed cases referred to Prob. for P-S Report

## 5--CASE DETERMINATIONS

5a Guilty

5b Admitted

5c Dispersed

5d Noted

5e Other

\_\_\_\_ (Describe)

6a. Cases pending end  
of this month

62. No. of SIX-MONTH  
cases included  
in 6a

7--APPROPRIATE TO COMMENCE-  
MENT OF PROSECUTION

## 72 For Aged Life.

Figure 1: Schematic representation of the experimental design. The figure shows a sequence of events: a subject is shown in a car, then a car is shown in a road, then a car is shown in a road with a dashed line indicating a lane, and finally a car is shown in a road with a dashed line indicating a lane and a solid line indicating a lane. The sequence is labeled with 'a', 'b', 'c', and 'd'.

**END**