RECOMMENDATION FOR IMPROVED CASE PROCESSING IN THE STATE COURT OF COBB COUNTY, GEORGIA

THE AMERICAN UNIVERSITY
Criminal Courts Technical Assistance Project
Institute for Studies in Justice and Social Behavior
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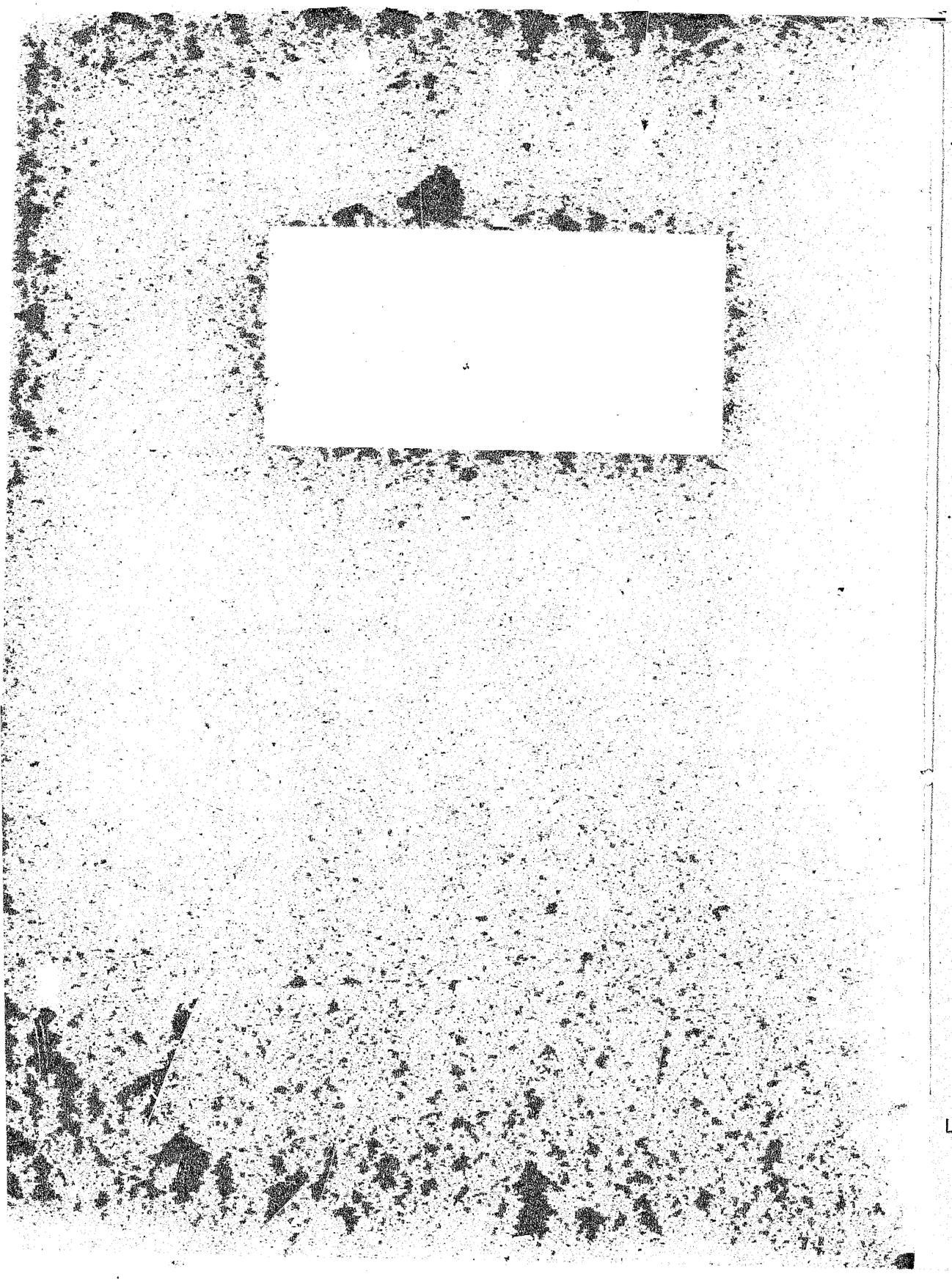
Washington, D.C.



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September 1974

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Law Enforcement Assistance Administration Contract Number: J-LEAA-043-72

This report was prepared in conjunction with The American University Law School Criminal Courts Technical Assistance Project, under a contract with the Law Enforcement Assistance Administration of the U.S. Department of Justice.

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NOTICE TO THE READER

There is a September 30, 1974 contract deadline for completion of all technical assistance assignments conducted under the auspices of The American University Criminal Courts Technical Assistance Project. Consequently, assignment reports received after August 20, 1974, cannot be edited by the project staff prior to their transmittal to the client agencies, as is our usual procedure. The present report is one of those for which our time schedule did not permit editing. We apologize for any inconvenience this may cause.

Joseph A. Trotter, Jr.
Director
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I. INTRODUCTION

A. STATEMENT OF PROBLEM

The State Court of Cobb County has in recent years, and more particularly in recent months, been hit by the litigation explosion which has occurred in most other jurisdictions. Faced with a massive increase in the workload, the two-judge court -- only recently expanded to include a third judge, and limited to two courtrooms -- has experienced difficulties in the calendaring of cases, particularly criminal, and in maintaining proper record control. The problem was highlighted recently by an order entered by the Superior Court of Cobb County directing the court administrator for the Superior Court to assume certain supervisory responsibilities over the State Court, including review and approval of budgets, assignment of physical facilities, and "changes or modifications to systems of procedures".

B. PURPOSE OF CONSULTANCY

The Criminal Courts Technical Assistance Project issued letters in the month of July confirming instructions for Judge James Chenault of Kentucky and Bert M. Montague, State Court Administrator of North Carolina, to provide consultant services to Judge J. Watson White, Senior Judge of the State Court of Cobb County. The purpose of this consultancy was to bring in outside persons who had had judicial and administrative experience with court reorganization, prosecution management, and court administration to review the operation of the State Court of Cobb County with the objective of suggesting methods by which that Court could improve its records management and case processing.

C. METHODOLOGY

During the course of its three-day on-site visit, the consulting team utilized the following procedures:

1. Numerous interviews with Judge J. Watson White, Senior Judge of the State Court of Cobb County.
2. Interviews with State Court Judge Robinson and recently-selected Judge Hines.
3. Actual observation of record-processing in the clerk's office and observation of court proceedings.
4. Lengthy discussions with the clerk of the State Court and the deputy clerk in charge of the civil division of that Court.
5. Interview with the solicitor (prosecutor) of the Court.
6. Discussions with the Court Administrator for the Superior Court of Cobb County.
7. Brief conferences with probation staff, pre-trial release staff and other support personnel.
8. Through these discussions and interviews, the consultant team developed an impression of the jurisdiction of the Court, the caseload and currency of the dockets, the duties of court support personnel, responsibility for record-keeping, for calendaring procedures, and for handling of the records.
9. Upon completion of the interviews and studies, the consultants reached a consensus on analysis of the problem and the recommendations to be made.
10. Next, the consultants reviewed their tentative conclusions with

the Senior Judge of the State Court of Cobb County.

11. In a concluding meeting on-site and subsequent telephone conference, the consultants developed a final list of recommendations.

II. ANALYSIS OF EXISTING SITUATION

A. PREMISE

After spending three days in and around Cobb County and Atlanta, the consultant team reached the conclusion that the State Court of Cobb County was just about the most efficient institution in the area. Except for the proposed management take-over by the Superior Court, we observed no insurmountable problems. The personnel appear to be very well qualified, industrious, and dedicated to their jobs. This is borne out by the fact that, despite the drastic increase in caseloads and the operation with only two judges until recent months, the Court has maintained a current docket. Civil "dispossessory" cases are reportedly heard within two weeks. Regular non-jury civil cases may be heard within two months after issues are joined. Civil jury trials can be heard within four months or less. Because of the availability of speedy trials, it is reported that counsel are filing more and more civil cases in the State Court. Misdemeanors are generally heard within three to six weeks of the date warrant is issued. According to the solicitor, ninety-five percent of the cases can be tried within sixty days.

Having been very much impressed by the efficiency and dispatch with which the Court conducts its business, the consultant team makes no major criticism and, therefore, has no major recommendations to make. However,

in the course of its study, the consultant team noted a number of minor areas in which some improvement might be realized and will direct its recommendations to those areas.

B. COURT ORGANIZATION AND BACKGROUND

The State of Georgia has a variety of courts, largely locally organized, operated and funded. In Cobb County, there are: the Superior Court consisting of three judges; the State Court consisting of three judges; six City Court judges; and over fifty justices of the peace. The State Court in Cobb County is dependent upon the county governing board for its financial support.

Like many other judges, the State Court judges in Cobb County hold elective positions. They must run for office every four years, and in fact, at the time of this consultant visit, two of the three judges were engaged in a political race. Although Judge White is the senior judge and is by practice given certain prerogatives with respect to administrative operation of the Court, there is no chief judge nor one with designated authority to manage the business of the Court.

With criminal jurisdiction extending to jury trials in misdemeanor cases and civil jurisdiction up to $15,000 in personal injury cases, the State Court has experienced an approximate one hundred percent increase in its workload in the last five years. Its caseload for 1973 consisted of more than 10,000 criminal cases and 8,474 civil cases. During this period of expansion, there has been only one judge added to the Court and no additional working space has been provided.

C. PROBLEMS NOTED

In the clerk's office, particularly in the criminal section, modernization in

the record-keeping procedures has not been accomplished. For example, separate "bench" and "bar" books are kept on criminal cases. This constitutes duplicate docket books.

The judges are required to perform many routine functions, such as signing warrants and conducting bail hearings, which could quite appropriately be performed by other personnel.

The responsibility for prosecution in the State Court is placed upon the State Court Solicitor, who is in no way connected with the Superior Court District Attorney.

Under the Georgia practice, the arrest warrant does not serve as the accusation. Therefore, duplication exists in the preparation of one paper writing, called a warrant, which is used for purposes of making an arrest; and another paper writing, an accusation, prepared by the solicitor's office and used as the charge document.

The machinery for assuring security for case files seems to be inadequate. For example, with respect to criminal cases, prior to trial the records might be in the clerk's office, in the solicitor's office, in one of the judges' offices, or anywhere between or among these three areas; and, apparently, this produces a problem with respect to responsibility for going ahead with a case and, to a lesser extent, a problem with respect to the possibility of lost records.

There is no program for microfilming records or for records retention and disposition.

The present calendaring and scheduling practices produce conflicts. For example, there are only two courtrooms, and therefore not more than two judges could be occupied at the same time in conducting jury or other

in-court proceedings. However, generally each of the three judges is scheduled for the same type of proceedings -- e.g., civil jury, at the same time. This produces an excessive demand for the courtrooms at certain times and, because of the fact that all of the judges will be scheduled for non-courtroom work at other times, results in the courtrooms going unused for perhaps fifty percent of the time. The major problem of congestion appears to be in connection with the traffic court calendar and the massive caseload involved in that.

The existence of an excessive number of justices of the peace has apparently produced a situation in which a number are ill-qualified and untrained; and, therefore, a substantial number of warrants issued by them are insufficient.

The State Court of Cobb County shares a universal problem with courts of limited jurisdiction and that is the tendency of counsel to seek postponement and of court officials to grant it to the extent that cases are rarely heard at the time originally scheduled.

There is apparently a feeling that the PROMIS system soon to be installed in the Superior Court should also be implemented in the State Court.

III. RECOMMENDATIONS

Until such time as the Supreme Court of Georgia decides the case which has been brought to test the authority of the Superior Court of Cobb County to direct the management of the State Court, we do not believe that any management changes should be instituted or implemented. Assuming that the Supreme Court does not sustain the authority of the Superior Court, thereby

permitting the State Court to manage its own affairs, the consultant team makes the following recommendations:

A. Although the method of selecting judges was beyond the scope of the consultant agreement, we could not help but notice that placement of judges in the midst of the political arena inhibits optimum performance.

B. The judges are devoting a substantial amount of time to performing relatively simple judicial and administrative duties that might be just as well performed by persons having less than the qualifications of a judge. For example, all warrants issued by the State Court are signed by the judges. Not only does this process waste the time of the judges, it has the further drawback of not increasing the quality of criminal process. This is because the taking of the affidavit and completion of the warrant is usually done by personnel in the clerk's office and the judge simply satisfies the legal requirement of the judicial signature. This responsibility should not have been placed upon the judges and ought to be removed. Fortunately, the Legislature has already made provision for the employment of magistrates by the State Court; and, as soon as this authorization is implemented, the judges can be relieved from the warrant-issuing responsibility. The consultants recommend that serious consideration be given to placing other minor but time-consuming responsibilities, such as bail and commitment hearings, upon the magistrates. Also, they would be qualified to and ought to be authorized to hear minor civil matters, such as "dispossessory" cases.

There are two additional problems closely related to the provision of magistrates for the State Court. The first of these relates to the "insufficient"

warrants. According to the State Court Solicitor, a great many warrants coming into his office, having been issued by justices of the peace, are insufficient to charge a person with crime. In response to these insufficient warrants, the solicitor has written communication with three or four different people or agencies advising them of the insufficiency. It would seem that less time and resources would be required to attempt to teach these people to write a "sufficient" warrant. With the advent of the magistrates, it would seem imperative that a training program be started so that both the new magistrates and the justices of the peace involved in warrant-issuing can be adequately trained to the end that they can issue proper warrants. The second collateral problem relates to the preparation of warrants and accusations in each criminal case. Perhaps this is required by law. The consultants did not research the problem, but if the law does so require, it would seem to be a unique local variation that could and should be changed. The warrant apparently serves only one purpose, and that is authorization for the arrest of the accused. However, it contains the same lengthy identification and presumably the same facts relating to the charge as does the accusation which is subsequently prepared by the solicitor. There is no sound reason why one legal process could not serve both purposes and thereby eliminate a substantial amount of duplicative and unnecessary work.

C. With respect to record-keeping and record security, we make the following recommendations:

(1) The maintenance of separate "bench" and "bar" books ought to be discontinued. Apparently this practice is a holdover from the

days when the court or judge kept his own minute or docket book and another set of books carrying the same information was kept by the clerk for use of the bar. Both books, each containing similar information, are now kept by the clerk and in the clerk's office. These two ought to be combined into one docket book.

(2) In view of the mushrooming caseload, it is obvious that storage space will soon become a problem. There is no present program for microfilming or other record security and retention. Also, there does not appear to be any program as to time of retention and disposition of the original case records. A plan should be instituted in the near future designed to produce an adequate microfilming program. Further, a detailed schedule should be established showing the number of years which each type of paper or document in the State Court system should have to be retained on file in the clerk's office and when each such paper or document might be destroyed. Until such time as this program can be designed and implemented, the consultant team recommends that the judges of the Court, by administrative order, direct the clerk to begin taking the oldest closed cases out of the active files in the clerk's office and wrapping and boxing them for storage in some area of the courthouse where demand for space is not as acute. This process might begin by the transfer of the closed cases from, for example, the first two years of operation of the State Court. By study and experimentation, the clerical personnel could soon determine the frequency of need for these old cases and might arrange for this type of storage for civil case files up through 1968 or 1969. Then the

records for the oldest year could be transferred on an annual basis until such time as an adequate microfilm and records destruction program is implemented.

(3) The clerk's office ought to be recognized as the official depository and the usual place where criminal case files can be found. Apparently security and accountability with respect to these papers has become lax. The judges ought to leave criminal case files in the clerk's office. There would appear to be no good reason why the records cannot be retained in the clerk's office and under his control from the time they are returned by the sheriff until the day the clerk carries the records to the courtroom for the trial, except for the time needed by the solicitor's office for investigation.

D.

1. Although this goes to a matter of policy instead of administrative practice, we feel that the judges may be compounding their own problem by either granting or permitting the granting of an excessive number of continuances and postponements which create delay in the hearing of cases and subsequent overcrowded calendars. For example, the criminal calendar for one session of court showed that every case calendared for that day had been previously calendared for another session of court. Criminal defendants and their counsel everywhere like to postpone the day of judgment, but it appears that more than a necessary number have been granted in the State Court.

2. With respect to the scheduling of court, assignment of judges, and calendaring of cases, there is much room for improvement. While the preparation of a suggested court schedule and calendar are beyond the scope

of the consultant agreement, we do have two or three observations to make for use by the judges. Already alluded to is the fact that the judges tend to schedule all three of themselves to the same type of work at the same time. Far more efficient utilization could be realized, for example, by scheduling two of them for criminal jury trials and one for pre-trial hearings or other matters not requiring a courtroom. In general, it would seem to be a better practice for the judges and for the solicitor to make changes in the schedule so as to have criminal and civil work going on simultaneously. In this way, the solicitor's office would not be tied up trying to cover two or three courts and/or judges at the same time, and he could have his work spread in a more equitable fashion. By the same token, less concentrated demand, for example, would be placed upon the practicing bar which specializes in civil cases. By trial and error, the judges can find a way to more fully utilize the limited courtroom space available to them.

E. One of the most troublesome aspects of operation of the State Ccurt appears to be the traffic court. The court utilizes a uniform traffic citation and permits waiver of a substantial number of traffic offenses. Unless practice demonstrates a substantial variation between the effect of corrective measures taken by the judge when a traffic offender is brought before the court and those taken in cases of waiver, the court should consider increasing the categories of cases in which waiver of appearance is permitted by, for example, increasing from 15 to 20 miles per hour the amount over the speed limit for which waiver of appearance will be permitted.

F. The consultant team makes one negative recommendation. Apparently the Superior Court is on the verge of installing the PROMIS system for administering its criminal justice responsibility. Although this system has proved its value and certainly deserves trial at the general jurisdiction level, we seriously question its utility in a limited jurisdiction court setting. To install the PROMIS system in the State Court would, in our opinion, require several times as much time and resources given to record-keeping and processing as is now devoted to the trial and disposition of the cases themselves. When a system reaches the point at which it spends a larger amount of time processing paper than it does people, its operation should be very carefully reviewed. Consequently, we recommend extreme caution on the part of the State Court if it considers looking more closely at the PROMIS system.

G. Finally, the consultant team makes three suggestions of a longer range nature, which would require legislative study. First, there ought to be a very careful review of the advisability of utilizing separate prosecutors for the Superior and the State Court. Having separate offices for these two functions produces duplication at the management and administrative level. It would seem to be the better practice to vest responsibility for prosecuting violators of the criminal law in one office, and staff that office with a sufficient number of personnel to represent the State in all divisions of the trial court. Closely related to this matter is the question of responsibility for preparing the calendar. The State Court Solicitor prepares the calendar in bad check and traffic cases, while the general misdemeanor calendar is prepared by the clerk's office. Consideration ought to be given to the possibility of having the

calendar prepared by the same agent in all cases, and thought should be given to vesting this authority in the Court. Second, if the caseload continues to grow as it has in the past, the time will soon come when the Court will need another judge. This situation requires very close watching to evaluate trends in population and litigation. The third long-range suggestion made by the consultants relates to the desirability of vesting management responsibility in a specific person. Although participatory management presently existing in the State Court has worked satisfactorily, conflicts could easily develop with judges of less compatibility. Recommendations ought to be prepared looking forward to the enactment of legislation which will vest administrative management of the State Court of Cobb County in a designated person or official -- e. g., the Chief Judge of the State Court of Cobb County.

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