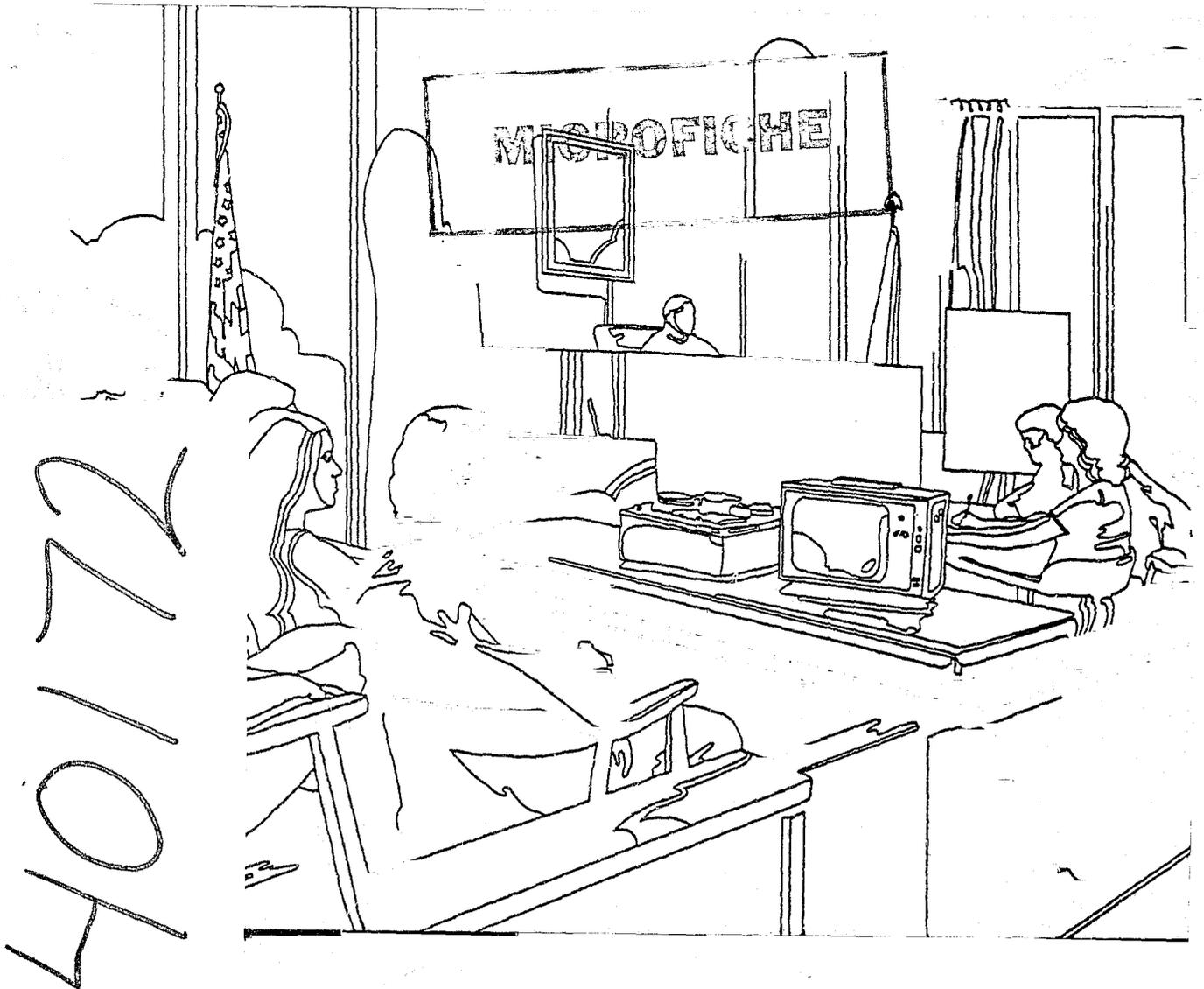


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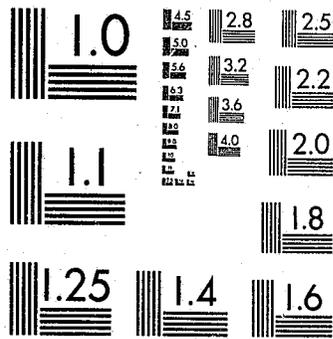
practical suggestions for Juror and Witness assistance



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**National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice
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INTRODUCTION

When the subject of Victim, Witness, and Juror assistance was first proposed as an area of concern by Richard N. Harris, Director of the Division of Justice and Crime Prevention, like many other members of the legal community, we did not feel that a problem existed within the Commonwealth of Virginia. Upon careful consideration of our own experiences in dealing with these citizen-participants in the justice system, we came to realize that while problems may not be uniformly manifest across the Commonwealth, there are difficulties present in almost everyone's experience.

All lawyers remember case situations in which victims, witnesses or jurors have been put to considerable inconvenience and delay without adequate explanation from any professional participant in the system. These delays and inconveniences are either considered as absolutely necessary by those of us who participate in the system daily or if severe are viewed by us as aberrations in an otherwise reasonably adequate system. What all of us often fail to realize is that these unexplained delays or aberrations of extreme inefficiency may be the individual citizen participant's first or only experience in the process of the administration of justice. This limited experience thus brands our entire system in their eyes and those over whom they have influence as inefficient and inconvenient.

When viewed in this framework, we saw that there might indeed be a problem in this area among the citizen participants in the court functions across the Commonwealth. This prompted the Division of Justice and Crime Prevention to send a letter in April, 1976, to all of the judges, clerks

of courts, and Commonwealth's Attorneys in the State. That letter stated the concerns expressed above regarding jurors, victims, and witnesses and solicited ideas from all of these parties concerning their recommendations for handling such difficulties. In addition, selected opinions from non-participants in the court functions were secured. These opinions seemed to contrast markedly with those received from the participatory members of the system of justice. Specifically, that in most cases the judges and prosecutors do not realize that there is as great a problem as is felt by the public in general. This is not to say that many lawyers and judges are oblivious to the problem. Response to Richard Harris' letter has shown us that there are a considerable number of judges, prosecutors and clerks who are mindful of these needs and have effectively developed solutions to them. The basic purpose of this article is to digest these solutions and present them along with other methods which have been developed across the United States to deal with the same concerns. These other methods capsulized here, represent a considerable amount of information collection by the authors and the staff of the Division of Justice and Crime Prevention. We believe that this digest is as complete as possible concerning methods presently utilized in providing aid and assistance to jurors, witnesses and victims during their participation in the criminal justice system.

This does not mean that these methods are totally dispositive of all problems which may arise. Accordingly the authors request that any ideas perceived by the reader in this area should be transmitted to the Court

Systems Office at the Division of Justice and Crime Prevention. Finally, thanks in the preparation of this paper must go to Richard N. Harris, Joe Marshall and Andrea Lange of the Division of Justice and Crime Prevention, to Chief Justice Lawrence W. I'Anson for his interest and suggestions in preparing this paper and to all of those participants in the criminal justice system who provided input to the preparation of this paper. Many of those who assisted are mentioned in the body of the article, but many whose names are not mentioned provided input and suggestions equally valuable. Special thanks are due to Mary G. Ballou for long hours spent in drafting and redrafting this paper, which required short deadlines and special efforts.

One final note prior to reviewing the digested materials which follow.

We realize that what we are talking about in each and every situation described herein is a confrontation with people who are placed in unnatural and uncomfortable situations. We have tried not to forget this in the preparation of this material, and we hope that the reader will not forget this when attempting to carry forward some of the ideas which follow. Throughout this paper, we speak of using and utilizing jurors, witnesses and victims to the ends of the criminal justice system. In effect this is what our system must do to achieve its ends, and we should accept this as a necessity of seeing justice done. Realizing that this is what we must do, those of us who regularly participate in our system of justice should strive to remember that jurors, victims and witnesses are people and people are never happy when they feel they are being used. Remembering this, we

are certain that with a little effort the ends of justice can be achieved
with citizens who have greater confidence in the process.

Stephen P. Ormond
Court Systems Intern

Stuart D. Spirn
Court Systems Counsel

September 1, 1976

SUMMARY OF CONTENTS

I. JURIES

A. ADMINISTRATIVE CONSIDERATIONS

1. Effective data collection. Data needed:
 - a. Jurors in use at any particular time.
 - b. Time intervals between stages of jurors' utilization.
 - c. Total jurors used over a period of time.
 - d. Reasons for discharging a jury if originally scheduled.
2. Courts should have written juror usage plan.
3. Restrictions on late elections of non-jury trial.

B. QUALIFICATION PROCESS

1. Study the possibility of reducing statutory juror exemptions.
2. Courts should use combined juror source lists, but be aware of their drawbacks:
 - a. May be costly.
 - b. Difficult to eliminate name duplication.
 - c. Best lists are not available.
3. Initial qualification questionnaire should be kept simple.
4. Maintain written policies for exemptions.
5. Court should be able to predict the future yield of qualified jurors by collecting data.
6. If jury "pool" is used, all jurors in the pool should be used before any are used a second time.
7. The court should regularly update the master jury list.

C. SUMMONS PROCEDURES

1. Court should consider sending combination qualification questionnaires and summons to potential jurors.
2. Information for jurors should be included in the summons.
3. Jurors should be given the dates they will serve as early as possible.
4. Requests for exemption or discharge should be handled administratively.
5. The summons should be mailed.

D. JUROR UTILIZATION

1. Jurors should be provided an information booklet.
2. The courts should issue I. D. badges for jurors.
3. Jurors should be given a certificate for their services.
4. Several rules of juror usage:
 - a. Regulate size of panels for voir dire.
 - b. Avoid calling the panel for voir dire early.
 - c. Provide for trials requiring many jurors on the initial panel.
 - d. Conduct voir dire for several trials on same day.
 - e. Rely on jury data collected for any reductions of master list size.
 - f. Alert jurors as early as possible to trial cancellations.
5. A judge should give orientation speech to jurors.
6. The court should use a comparative measure of jury efficiency to spot trends.
7. The court should explain causes of delays to the jurors.

8. The court should strive to improve the impression voir dire makes on a prospective juror.
9. Consider using a jury "exit" questionnaire.
10. Avoid stating juror's name and address in open court.

II. A. WITNESS COOPERATION - THE CANNAVALE STUDY (See p. iii)

1. Police related Improvements:
 - a. Police should verify names and addresses of witnesses.
 - b. Witnesses should be kept separate from the accused.
 - c. Keep witnesses informed.
 - d. Police should emphasize courtesy toward witnesses.
 - e. Property should be returned to witnesses whenever possible.
 - f. Police should establish witness treatment guidelines for the officers.
2. Improvements in the Prosecutor's Office:
 - a. He should encourage adequate fees for witnesses.
 - b. Prosecutor should establish a centralized witness notification procedure.
 - c. Prosecutor should not assume that any witness will not cooperate.
 - d. Keep track of the degree of witness noncooperation.
 - e. Be knowledgeable about the availability of social services for witnesses.
 - f. Conduct witness utilization training sessions for new assistant prosecutors and police officers.

B. POLICE SCHEDULE SUGGESTIONS

1. All criminal justice agencies should cooperate in setting police schedules.
2. Courts should keep abreast of schedule conflicts of police officers.
3. Police appearances should be made on regular duty time.
4. Police should assign responsibility for tracing of subpoenas.
5. Possible quick-notification procedure for police and courts to adopt.

C. CITIZEN WITNESS SUGGESTIONS

1. Court should control use of witnesses by counsel.
 - a. Restrict the time within which a negotiated guilty plea may be made.
 - b. Court should establish strict continuance policy.
2. Court should notify witnesses when a case is continued.
3. Counsel should only subpoena necessary witnesses.
4. If possible, the court should set companion juvenile and adult cases on the same day.
5. Parties should permit evidentiary property to be returned to witnesses.
6. Commonwealth's Attorney should keep witnesses informed as to the progress of a case.
7. Court should prepare and distribute a witness information booklet.

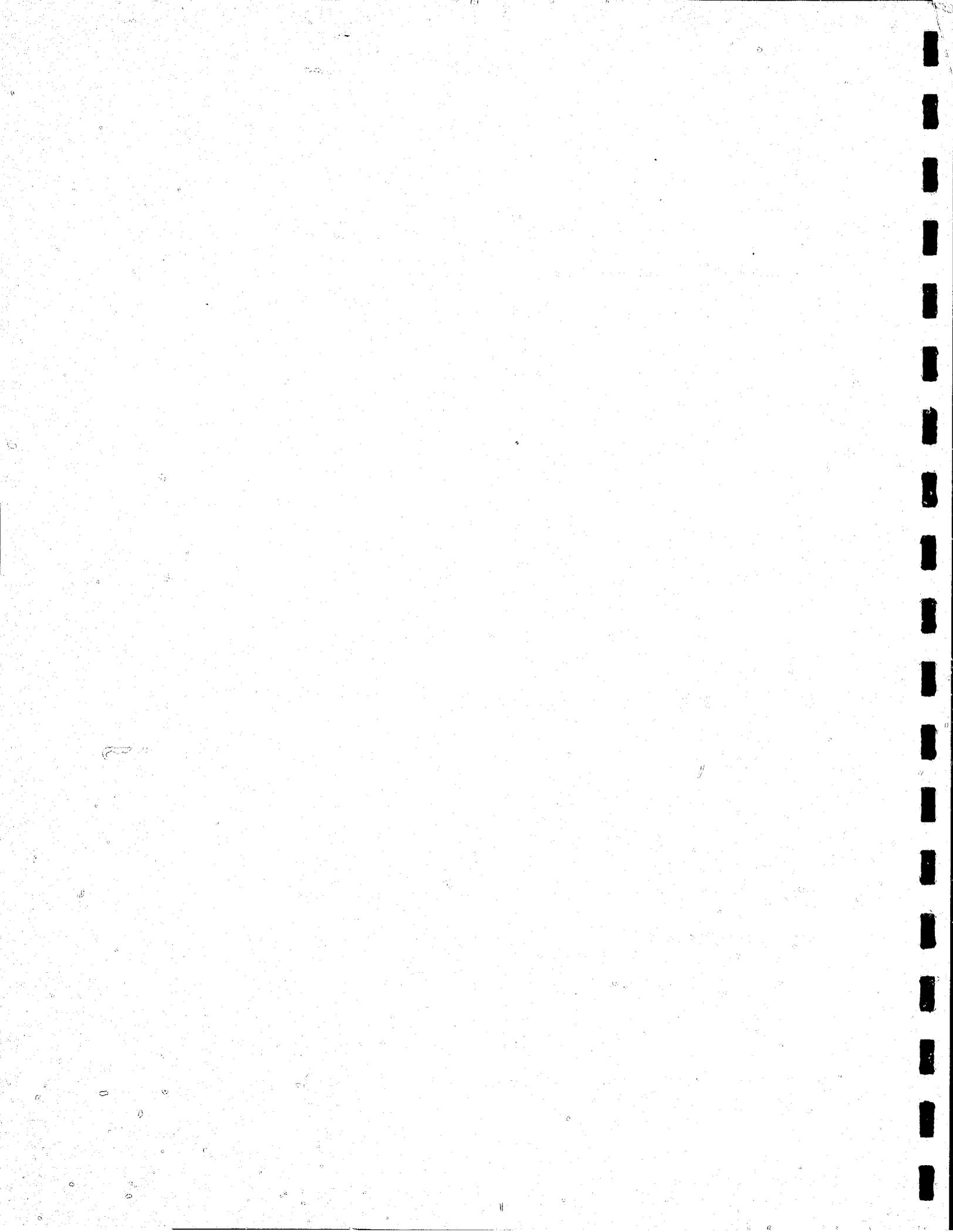
D. NEWPORT NEWS PROJECT

E. VOLUNTEER SERVICES

1. Provide transportation for witnesses.
2. Court or prosecutor should set up a high school work-study program in the courthouse.
3. Availability of technical assistance.
4. Hold public information meetings.

F. EDUCATION OF THE PUBLIC

III. CRIMINAL HISTORY INFORMATION: Description of the Virginia Criminal Information Network (V-CIN)



NOTE: TECHNICAL ASSISTANCE:

If a particular court, prosecutor, or court clerk needs specific help in setting up any of the programs mentioned in the paper, he or she should contact the Professional Development Coordinator of the Division of Justice and Crime Prevention for information regarding the availability of technical assistance. If technical assistance is not available within the Division, or from state resources, the Division will arrange contact with appropriate sources.

Help in specific areas can also be obtained from the following sources:

1. For assistance in establishing victim and witness programs contact:

National District Attorneys Association
Commission on Victim Witness Assistance
1900 L Street, N. W.
Washington, D. C. 20036
(202) 331-1891

2. For assistance in developing volunteer services contact:

Virginia State Office on Volunteerism
Fourth Street Office Building--Third Floor
400 East Grace Street
Richmond, Virginia 23219
(804) 786-1431

NOTE: AVAILABILITY OF SOURCES

Of the sources mentioned in the text of this paper, the following may be of direct help for the courts, prosecutors, and clerks in dealing with jurors and witnesses:

1. BIRD ENGINEERING - RESEARCH ASSOCIATES, INC. *A Guide to Jury System Management*, U. S. DEPARTMENT OF JUSTICE, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE, 1975.

This document is meant to complement *A Guide to Juror Usage*, below. It provides a comprehensive look at efficient jury selection, qualification, and system-monitoring procedures. It is a good guide for inexpensive and rational improvements in the handling of jury costs, paperwork, and planning; a "must" for any court seeking to improve its procedures. *Jury System Management* is available from Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402, Price \$1.50, Stock No. 027-600-00389-3.

2. NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE. *A Guide to Juror Usage*. U. S. DEPARTMENT OF JUSTICE, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, 1974.

The *Guide* presents seven "rules" of juror usage once the juror has reached the courthouse. It shows how to reduce the size of jury pools needed (assuming pools are used at all) by the judicious collection of the necessary data and considers separately the problems of smaller courts. The *Guide* approaches jury

usage from two basic points of view: 1) How to reduce court costs and 2) How to improve juror attitudes, with the emphasis on cost cutting. This document, along with *Jury System Management* is an absolute must for any court considering changes.

A Guide to Juror Usage is available from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402, Stock No. 4000-00328 for \$1.40 per copy.

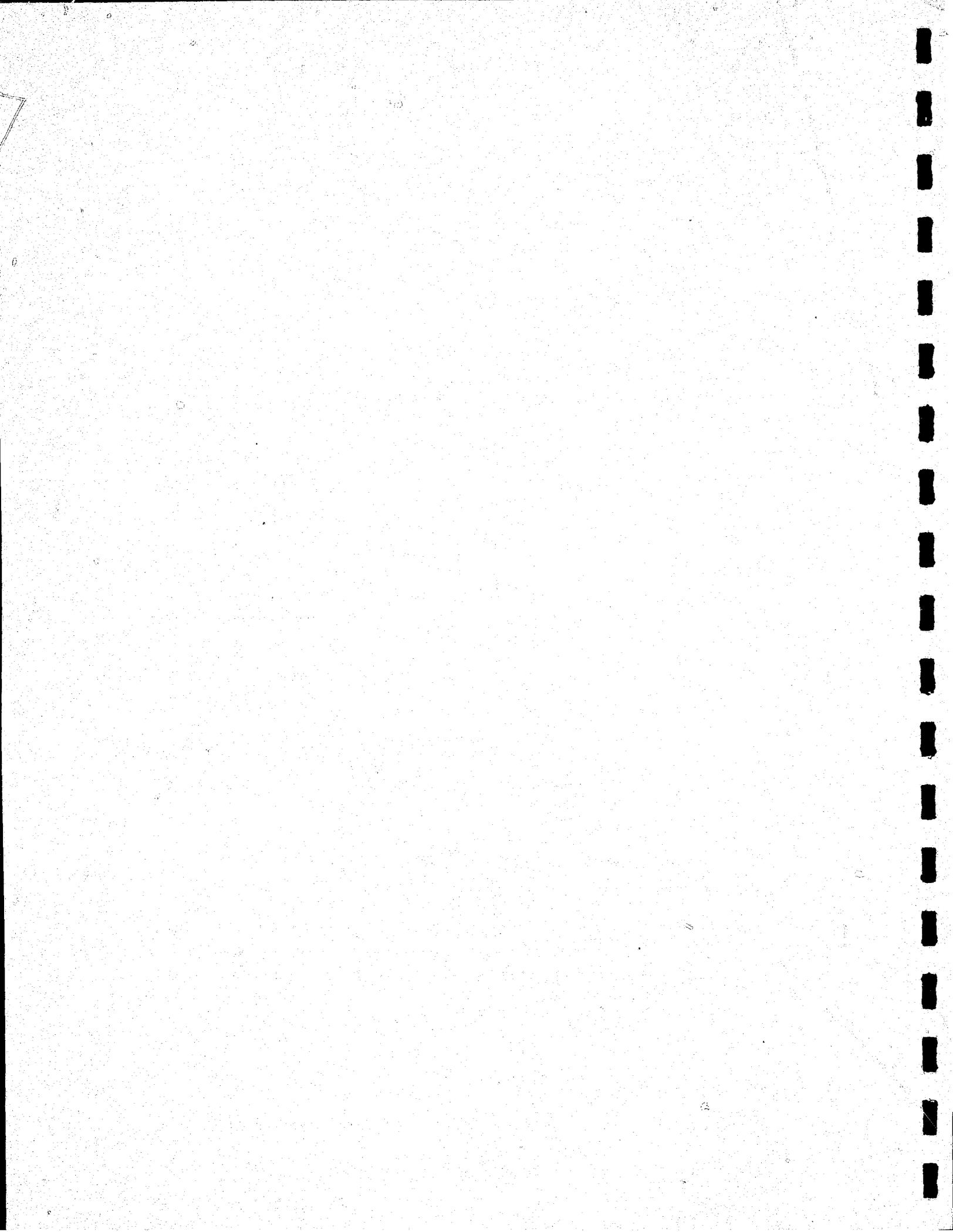
3. CANNAVALE, FRANK J., AND WILLIAM D. FALCON, EDITOR.

Witness Cooperation with a Handbook of Witness Management.

INSTITUTE FOR LAW AND SOCIAL RESEARCH. LEXINGTON, MASSACHUSETTS:
LEXINGTON BOOKS, 1976.

This book explores the reasons for witness noncooperation in Washington, D. C. and finds that most causes of witness noncooperation are system-related rather than reflections of deep-seated witness attitudes. It contains a useful handbook with suggestions for witness management based on the statistical study of Washington, D. C. witness noncooperation, and sets out the text of a proposed pamphlet to be issued every witness by prosecutors. A useful book in general.

This book is available for references in the Division of Justice and Crime Prevention Library, 8501 Mayland Drive, Richmond, Virginia 23229. Telephone (804) 786-7421, ext. 225.



I. JURIES:

There have been many suggestions concerning improvement of juror utilization. Most of them take as their starting point the desire to reduce juror related expenditures or to improve randomization of the selection process, but many have related beneficial side effects for improving juror attitude and reducing wasted time. The suggestions which follow are broken into the general areas of A. Administrative Considerations, B. Juror Qualification Process, C. Summons Procedures and, D. Utilization Techniques.

A. ADMINISTRATIVE CONSIDERATIONS:

1. As a first step in determining if its juror utilization is efficient, each court should collect data concerning its present use of juries. For example, a court which regularly calls in a large group of potential jurors for use throughout the day (often termed a jury "pool" for ease of reference) should determine the number of jurors in use at any particular time of the day. A court which makes infrequent use of juries could determine if it has periods of heavy usage during the term. Once this data is available, the court can then decide if the size of the jury pool can be reduced, or if scheduling can be improved to use jurors more efficiently during the term. The data which should be collected may vary according to the needs of the court; however, any changes in juror utilization which are made by a court will be more effective if data is available to pinpoint existing problems.

A Guide to Juror Usage, published by the National Institute of Law Enforcement and Criminal Justice, (1974), contains a useful

series of forms which include examples of the type of juror data which can be recorded over a period of time. (Copies of the forms are attached as Appendix A to this report). The following data elements are suggested by *A Guide to Jury Usage* and should be helpful for courts having a large demand for jurors:

a. The number of jurors in actual use at any particular time of day, or during any particular time of the term, so that accurate predictions can be made as to the future need for jurors during periods of heavy demand.

b. The time intervals between the various stages of juror utilization on trial day in order to pinpoint practices which waste time. For example, if the time interval between the conclusion of juror processing by the clerk and the reporting time for a juror panel to appear in court is regularly excessive, the court may wish to permit the jurors to report to the clerk at a later time.

c. The total number of jurors used over a given period of time should be recorded so that the court can make use of the comparative Juror Days Per Trial measurement. Juror Days Per Trial is the number of jury days served divided by the number of jury trials completed during the same period. Use of this standard measurement should enable the court to spot trends, either of improvement or of growing inefficiency as the index increases or decreases. In a court which has few jury trials, this measurement is not as useful for spotting such trends. A more complete discussion of this measure follows in Section D6.

d. The reasons for not using a panel should also be made a part of data records if a jury trial was originally scheduled and later cancelled. This material would aid in determining reasons for repeated wasting of juror time.

2. In addition, it is of vital importance that there be a concise plan for juror utilization. Preferably written, such a plan should set forth the goals of information gathering, procedures for monitoring juror time, and the means of record keeping. It should clearly indicate the person responsible for each task.¹

The advantages of a written plan are that it can resolve doubtful situations consistently (and with a minimum of delay) as well as reduce the potential for confusion upon a change in court personnel. The judge need not be bothered over routine jury procedures if the court has established and documented its policies and procedures and clearly assigned responsibility for action.

3. If the jurors in a particular court are often inconvenienced by a late request for non-jury trial, the court may wish to adopt local rules requiring that the defendant in de-novo appeals of misdemeanor trials elect a non-jury trial at least five days in advance of the date set for trial.²

Such a rule might also be useful in felony cases. The court will obviously keep in mind the necessity of protecting the defendants absolute right to a jury trial. In addition, the court may wish to adopt local rules stating that a defendant may not withdraw his request for a jury trial later than a fixed and reasonable number of days before trial. Judge David F. Berry of the Sixteenth

Judicial Circuit has adopted a similar rule requiring the defendant to withdraw a request for a jury trial at least ten days before trial, and Judge Jere M. H. Willis of the Fifteenth Judicial Circuit, requires the defendant to go through with a jury trial once elected. Such rules can serve to minimize the possibility of delay for the jury, the judge, witnesses, and counsel by encouraging counsel to explore their cases before the day set for trial.³

B. QUALIFICATION PROCESS:

1. Section 8-208.6 of the Virginia Code provides jury service exemptions for thirty different categories of persons, among which are exemptions for ministers of the gospel, professors at institutions of higher learning, pharmacists, and so on. The "exemptions" are actually exclusions through the operation of §8-208.10 which directs the jury commissioners to compile a jury service master list containing the names of those jurors not exempt under §8-208.6. If this is to be done consistently, the time and effort needed to qualify jurors may outweigh the policies in favor of granting automatic exemptions to those thirty categories of persons. The true purpose of exemption provisions should be to give hardship cases an opportunity to defer service, or to avoid it altogether - a purpose which is already accomplished by §8-208.17, giving the trial judge general excuse power. Additionally, the present system of juror qualification fosters an attitude of cynicism on the part of the jurors who may wonder why an undertaker's time is automatically considered more valuable than theirs'. Therefore, it may be useful to examine the advantages and

disadvantages of the present system.⁴

2. One factor in improving juror attitudes is the extent to which the burdens of jury service are evenly spread among all qualified citizens.⁵ The best way to accomplish this is to insure that the master jury lists are selected at random, and are sufficiently broad to cover all major elements of the adult population. To reduce the possibility that a certain group of persons will be called again and again for jury services, the jury commissioners should use (if the court's resources permit) several different source lists, combining them to provide a single comprehensive juror source from which the master list can be derived. For example, the drivers license list for an area might be combined with the voter registration list. Each list can remedy, to a certain extent, the shortcomings of the other list. In this manner, the duty of jury service will become as nearly universal as possible.

Courts using combined source lists need to be aware, however, of the problems which can arise when such lists are improperly compiled:

- a. It may be costly and inefficient to combine various lists which are not in compatible formats, or are revised at various times.
- b. It may be difficult to eliminate duplicated names, thus resulting in a degradation of randomness.
- c. The most complete lists simply may not be available in every instance.

3. If an initial questionnaire can be used to screen from the master list those who should obviously be excluded or are unfit, it should be kept fairly simple so that the return rate will remain high, and so that the returned questionnaires will be easy to screen.⁶ Something like a simple yes/no checklist for the exemptions provided for in the Code of Virginia along with a space for hardship exemption requests will provide the basic information the jury commissioners need in order to compile a proper master list. The design of the questionnaire should be such that a quick glance can enable personnel to determine the qualifications of any particular juror.

4. It has been recommended that a court should "maintain a written plan setting forth exclusion policies, prescribing the procedure to be followed in their use, and designating persons with authority to act" at each stage of the plan.⁷ Such a plan can reduce delay and confusion in the qualification process, making the jury commissioner's job easier and less time consuming. It should also reduce routine time demands on the judge if exclusion and exemption policies are clearly defined and authority is delegated to the commission or clerk to apply those policies. As an added benefit, those jurors who request hardship exemptions are more likely to perceive the fairness of the system if the policies applied in granting or denying their requests are written down and available for reference.

5. In order to determine the future yield of qualified jurors from whatever source lists are used, the jury commissioners should

keep complete records of the number of potential jurors to whom they send the qualification questionnaires.⁸ If this is done, the court can avoid qualifying too many jurors in the future by determining the average number of qualified jurors from past mailings of initial questionnaires. If a court needs, say, 500 jurors for an average year, and an average of 750 jurors have qualified for the past several years, that court can reduce the number of qualification questionnaires it sends out without endangering the availability of jurors. Applying this procedure can save time and money for the court and jury commissioners, as well as save time for the excess jurors who need not go through the qualification process.

6. If a jurisdiction has a need to call in a large group of jurors on a single day from which the individual trial juries are drawn, the court should insure that panel members are not returned to that group (or "pool" as it is often termed) after voir dire until all present have been given a chance to serve at voir dire. This is consistent with §8-208.7 of the Code of Virginia which provides that it can be reversible error for those who have served for a term to serve again within one year, in the same court, until all qualified jurors have been drawn. Such a policy can give every "pool" member an opportunity to serve, at least, up to voir dire before any other member of the pool serves twice. A New York survey shows that juror attitudes improve if they have had at least one chance to serve at voir dire after a day's waiting in a jury pool.⁹ Those courts which call in jury panels directly from the master list are required to call

every juror once before any juror is called for the second time. See §8-207.14 of the Code of Virginia.

7. In order to reduce the number of names on the master list of qualified jurors that are no longer available for jury service, the court should insure that the list is updated regularly. Virginia permits such updating at the discretion of the judge. Va. Code §8-208.11 (1950), *as amended*.

The accuracy of the master list must be maintained, especially in those jurisdictions with a large demand for jurors, so that the court can know how many are actually available.¹⁰ It is probably sufficient for the new jury commissioners to update the list at the beginning of their year of service.

C. SUMMONS:

The summons is used to call to court those jurors who have already qualified for jury service. Procedures vary in Virginia as to the handling of the jury service summons, however, some suggestions have been made for improvement in this area which have general applicability:

1. *A Guide to Jury System Management*, published by the National Institute of Law Enforcement and Criminal Justice (1976), p. 2-14, indicates that the court can send combination qualification questionnaires and summons to the potential jurors in order to reduce paper work for the clerk and sheriff (if the summons is ordinarily hand-delivered).

If accurate records of past qualification questionnaires are kept,

it should be possible for the court to forecast, on a percentage basis, the average number of jurors who will qualify *and* respond to the summons. This procedure can save administrative costs. In smaller courts, it may be simpler just to notify the jurors as the need arises. Courts with a greater demand for jurors may wish to use this procedure by summoning all the jurors for a particular term to appear at the beginning of the term for orientation session. At that time they can be told when to next appear, or when to next contact the court.

2. The summons should include comprehensive information that may be of use to the jurors. Such information as a telephone number for further information, courthouse eating facilities, communication, and parking facilities, courthouse layout, etc., would be of obvious use. Caroline Simon, in *The Juror in New York City: Attitudes and Experiences*, 61 A.B.A. J. 207, (1975), shows that jurors can develop negative attitudes when they are provided with little or no orientation information. If the present summons used by a court has any blank spaces, the information can be economically printed in those spaces; or, if the court prefers, a separate sheet of useful information can be attached to the summons.

3. Judge David Berry of the Sixteenth Judicial Circuit has suggested that jurors should be notified, if at all possible, of the dates they will be required to serve at least two weeks before those dates. This gives the jurors a chance to make all necessary adjustments in their personal and business schedules.

4. Under §8-208.17 of the Code of Virginia, (1950), *as amended*, the court has authority to discharge any juror from service. When it is possible, all such requests for exemption or discharge should be handled through the mail to reduce time-consuming telephone inquiries. If the judge has delegated authority in this area through the issuance of court rules or the adoption of a written juror management plan, the extent of the authority delegated should be made clear in order to insure fair and consistent treatment of all jurors.

5. In order to save money and time, the summons should be delivered by regular mail. Hand delivery is impractical and expensive; and, according to *A Guide to Jury System Management, supra* at 2-14, can result in a lower rate of juror response. Section 8-208.16 of the Code of Virginia, (1950), *as amended*, permits delivery of notice to jurors by mail. Therefore, in view of the possible savings, every court should consider the possibility of adopting this method of delivery.

D. JUROR UTILIZATION:

In terms of improving juror attitudes, this area is the most important. What the jurors actually experience during their service will leave the most lasting impression, for better or for worse. A survey conducted by a Virginia Circuit Court judge indicates that jurors consider jury service a privilege and a duty, and thus serve willingly. The problems arise when jurors are given insufficient information or are forced to waste time due to court delay. To improve any potential problems in this area, the following suggestions

have been made:

1. Judge D. M. Smith of the Seventh Judicial Circuit has suggested that jurors be provided an information booklet with basic historical matters, explanations of juror duties, and other matters which can help them understand their service.¹¹

In this booklet, the conduct of jurors, expected procedures in court, and permitted procedures in the jury room should also be treated. The Judicial Council of Virginia has already developed an appropriate pamphlet for statewide distribution. It is available to court clerks upon request and may be obtained from:

Office of the Executive Secretary
Supreme Court of Virginia
P. O. Box 1315
Richmond, Virginia 23210

2. Judge Robert J. Rogers of the Twenty-Third Judicial Circuit suggests that a court issue identification badges for each juror in order to discourage improper communications and to put jurors on a first-name basis in the jury room. This badge, if properly designed, would also be a source of pride for the jurors. It would have to be collected at the conclusion of the juror's service in order to prevent a proliferation of such badges.

3. Judge Joshua L. Robinson of the Twenty-Sixth Judicial Circuit has suggested that in order to express the appreciation of the court and of citizens in general each juror who serves should be given a suitable certificate for his service. Jurors are rarely compensated fully in monetary terms, and perhaps the recognition that such a certificate represents would be appreciated by them.¹²

4. In order to improve the overall utilization of jurors in the courts *A Guide to Juror Usage, supra*, at 3-7, establishes several basic rules that should, if applicable, be followed by each court.

a. First, the size of the group of jurors the judge examines for service should be keyed to the number actually needed as the experience of the court dictates. By carefully regulating the size of these groups, the court may be able to ultimately reduce the number of jurors that must be qualified to serve, saving time and money for the court.¹³ Any change of this sort should be based on the data collected pursuant to the court's utilization plan described in paragraph B4 above. Otherwise, changes in juror group size might not accurately reflect the courts' needs, and delay will result from the shortage.

b. Courts should avoid calling panels for voir dire until most of the preliminary matters are out of the way. Often an early "call-up" can place unnecessary and artificial demands on the jury pool (if one is in use), causing waste, both of the jury clerk's time and the jurors' time. Records should be kept of the time delay between a call-up request from the court and the time voir dire begins. If the time proves to be regularly longer than fifteen minutes then perhaps some action can be taken to avoid call-up until the jurors are actually needed.¹⁴

c. Care should be taken to insure that enough jurors will be present when a large number of jurors are likely to be disqualified due to the nature of the trial. By keeping careful data, the court can

identify those types of trials which require larger numbers of jurors, and can insure that the proper number are summoned to court on the trial date. A shortage of jurors should be avoided because of the delay that results when extra jurors are unavailable.

d. Judge William W. Sweeney of the Twenty-Fourth Judicial Circuit suggests that courts with a small demand for jurors may wish to consider conducting the voir dire for several trials on the same day, thus releasing the balance of the panel for the rest of the period covered by the early voir dire.

e. Any reduction in the number of jurors called to serve during a term should be based on data collected from previous terms so that no delays will result from a shortage of jurors.

f. Care should be taken to insure that jurors who have been called to serve on a particular day are informed of trial cancellations or delays which affect them. For example, a court can prepare a recorded telephone message for jurors to call each evening for information concerning the next day's trials. Thus, if the clerk knows that a scheduled trial has been cancelled, the jurors can be notified. Expenditures for jurors will be reduced since no juror is compensated if he or she hasn't actually served.

This system has been adopted with apparent success by Joseph Gwaltney, Clerk of Court, Seventeenth Judicial Circuit. On the first jury day of a term of court, the jurors are oriented to their duties and are then divided into several groups, designated by letters. The jurors are instructed to call the clerk's office each evening after five at which time each group is instructed to report or not to report

the next day, as the case may be. At an initial expense of \$275, the answering device is paying for itself in reducing the number of paid juror days. On the last day of the term, a short message of appreciation is appended to the tape. According to Mr. Gwaltney, the jurors have appreciated the extra convenience of this system.

5. Along with the jury service booklet, the jurors summoned for each term should be given a short orientation speech by a judge if the resources of the court permit.¹⁵ For example, the practice in the Seventeenth Judicial Circuit is to bring all the jurors into court the first day of the term when a judge gives the orientation lecture. The reaction of jurors to this procedure has been favorable. There is a possibility that courts in Virginia will soon have access to a videotape orientation lecture prepared by the Office of the Executive Secretary of the Virginia Supreme Court, in which case those courts which have access to a videotape player will have additional orientation materials at hand.

6. The court should periodically determine the number of Juror Days Per Trial (JDPT) for use as a comparative measure of jury/time efficiency--JDTP consists of the number of jury days served (available from juror pay records) divided by the number of trials completed during that period. Use of the standard measure should enable the court to spot trends, either of improvement or of growing inefficiency as the index decreases or increases. To be most accurate, the characteristics of the individual court, and the court system must remain approximately the same. Within broad parameters, however, the measure

can be a useful method of comparing one court's performance with other courts'. Other comparative efficiency measurements a court may wish to compile are:

a. Juror Usage Index (JUI), consisting of the number of juror days served divided by the number of trial days.

b. People Brought In (PBI), consisting of the number of juror days served, less juror or continuing voir dres or trials, divided by the number of trials; and

c. Percent of Time Not Used, consisting of juror time spent in the courthouse, times one hundred. JDPT, however, appears to be the least complicated of the four and is as useful for measurement as any other formula. For an example of a calculation of JDPT see p. VI, Appendix A.

7. If typical causes for delay are not explained to jurors before trial; then, the trial court should make a point of explaining the reasons for delay when it occurs; i.e., if a sitting panel is dismissed due to a last minute guilty plea the judge should express appreciation and explain what has occurred. In this way a court can help the public understand the functioning of our system in the context of a particular case.

8. In order to improve juror attitudes during voir dire *A Guide to Jury System Management* suggests these practices:

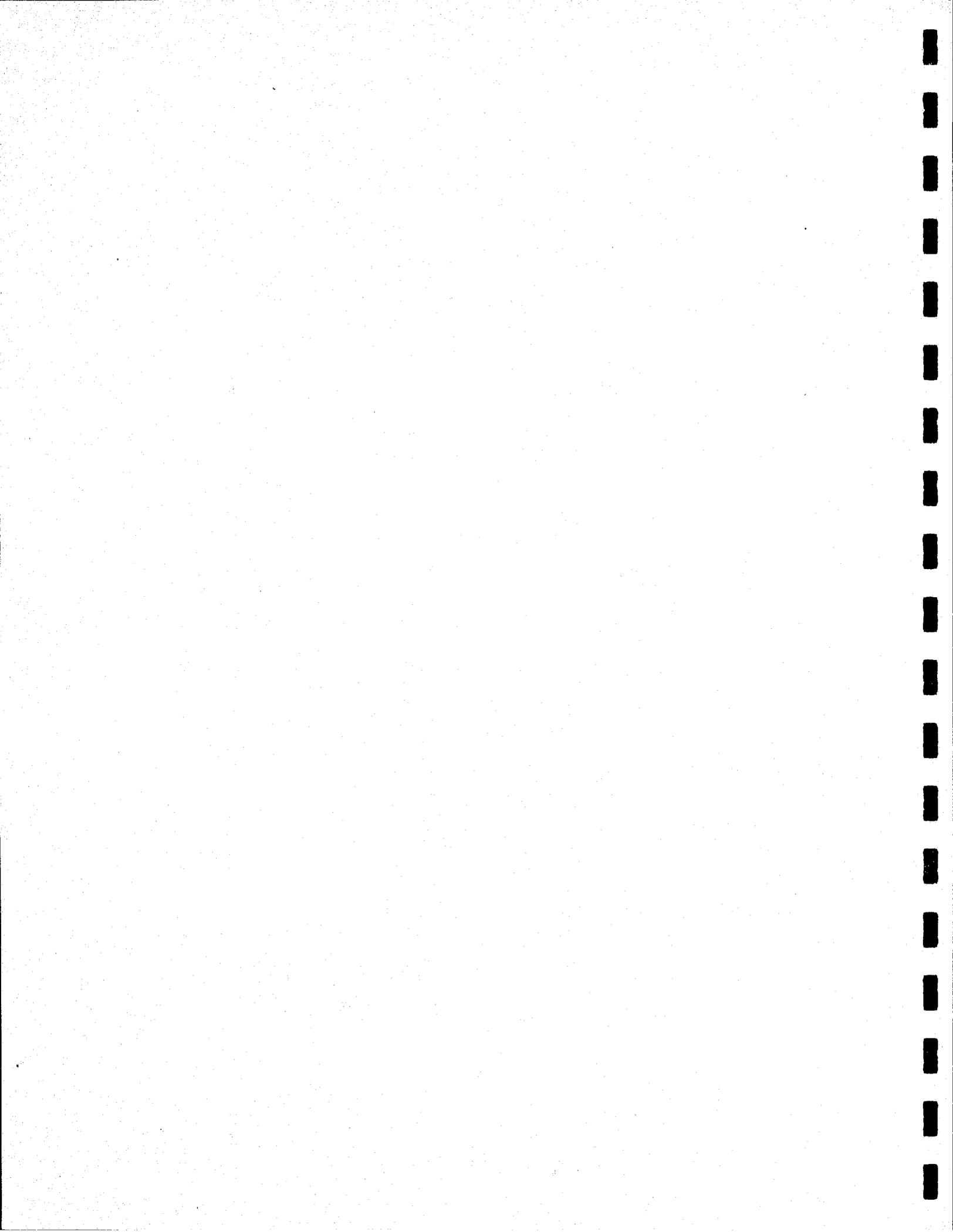
a. The movement of jurors should be kept to a minimum in order to reduce confusion, and to allow jurors to devote their full attention to the necessary pre-trial procedures.

b. Jurors dislike being struck from a panel. It makes them appear "unacceptable" for reasons they do not understand. One way to soften the blow is to have the whole panel examined and the acceptable ones asked to stay. This seemingly insignificant gesture can improve juror attitudes. Every effort should be made to adopt techniques designed to avoid offending jurors who are struck from a panel.

9. In order to gain the benefit of jurors' suggestions, a court should make use of a juror "exit" questionnaire. Such a questionnaire can provide useful quantitative data, as well as call attention to qualitative impressions which may be useful in improving facilities.¹⁶ Several judges in Virginia are making use of similar questionnaires in order to better understand juror reaction to juror duty, although no sophisticated studies of juror attitudes in Virginia have yet been undertaken. The court should consider setting up a suggestion box in the jury lounge along with suggestion forms as another method of testing the qualitative attitudes of jurors. Jurors can let off steam by making written complaints, and the court and clerk may benefit from some of the suggestions. A similar suggestion is made in Simon, *The Juror in New York City: Attitudes and Expressions*, appearing in the American Bar Association Journal as referenced above.

10. The court should avoid stating the juror's name and address in open court in criminal cases. Study has shown that such a statement makes them uneasy.¹⁷ Jurors are statistically less likely to improve their attitudes toward the administration of justice after

servicing on a criminal case than they are after servicing on a civil case, according to the Simon study, *supra*. One of the factors in that difference is having their names and addresses revealed to the defendant. *A Guide to Juror Usage, supra*, reports a similar complaint on the part of jurors who serve in criminal cases.



II. WITNESSES:

A. WITNESS COOPERATION--THE CANNAVALE STUDY:

The best examination of witness-related problems to date is a study completed by Frank Cannavale on the causes of witness non-cooperation in Washington, D. C. It was published in 1976 by Lexington Books under the title *Witness Cooperation*. This study focuses on the reasons cases are dropped by the prosecutors before trial due to perceived witness noncooperation. There are two major problems, according to Cannavale, which tend to cause witnesses of crimes to refuse to cooperate. First, the witnesses are not sufficiently protected; and, second, the system suffers from a lack of communication between the justice system and the witnesses. Cannavale finds that after indictment, it is rare for witnesses to actively not cooperate. In an effort to provide solutions to these problems, Cannavale includes, as the supplement to *Witness Cooperation*, a *Witness Management Handbook* which is designed for police and prosecutors' use in a cooperative effort to improve the utilization of witnesses. The suggestions made in the *Witness Management Handbook* are briefly stated below:

1. Police Related Improvements:

a. Witness' addresses given at the scene of a crime should immediately be verified by the officer, if possible by asking to see drivers' licenses or other identification. The witnesses are often inadvertently encouraged to not cooperate if a positive effort to identify them is not made by the police. Andre' Evans, Commonwealth's Attorney for Virginia Beach, suggests also that the *work* address and

telephone of witnesses be obtained at the scene since the home addresses of witnesses may change frequently in certain areas. The collection of complete and verified personal information from a prospective witness can help insure full cooperation later on when their availability may be crucial to the final outcome of a case.

b. At the scene of the crime, as well as at every stage of the proceedings, where possible, potential witnesses should be kept separate from the accused. In this manner witnesses would not be forced to state their names and addresses in front of possibly dangerous criminals, or those perceived as presenting a danger to them. The fear of retaliation was found to be a significant cause of witness noncooperation in Cannavale's study. It follows that equally significant improvement in witness attitudes could be realized by a concentrated effort by police and courts to separate witnesses from defendants.

c. At the scene of the crime or as early as possible, the police should tell witnesses that they *are* witnesses so that they will have no confusion about their status. In addition, witnesses should be given convenient information on a wallet sized card--the telephone number of the prosecutor, address of the courthouse and directions to it, parking, etc. Every possible assistance should be rendered the witness in order to make the performance of his or her duty easier. If this information is not provided by the police Andre' Evans suggests printing useful information on the back of the witness subpoena if the space is not otherwise used. Besides the

information suggested above, the subpoena could include more specific points concerning the conduct of a trial; the role of the witness, proper dress, etc. The police, however, should still provide potential witnesses basic information in order to encourage cooperation.

d. Courtesy toward witnesses should be emphasized. The Cannavale study discovered that witnesses often felt they were rudely treated by police. This lack of courtesy was one cause of their noncooperation.

e. A procedure for returning property in appropriate cases to witnesses before trial should be initiated, if possible, so that possible hardship to the witnesses can be avoided. See paragraph C5 on page 29.

f. Police should have written guidelines regarding the regular treatment of witnesses, and standard information forms should be adopted in order to improve efficiency and regularity in the processing of witnesses.

2. Improvements in the Prosecutor's Office:

a. The prosecutor can encourage adequate fees for witnesses, and can insure that witnesses are aware of their availability. See generally, Va. Code §§14.1-189, 19.2-278 and 19.2-368 *et. seq.*, (1950), as amended.

b. A centralized witness notification procedure should be established, perhaps through the use of a telephone answering unit, with which witnesses can be notified of changes in schedule or dropped cases.¹⁸ This procedure can save valuable witness time by alerting

them to most changes the night before. In order to prevent witnesses from waiting long hours at the courthouse on the day of an appearance perhaps reliable witnesses who live a short distance from the courthouse can be put "on-call" so that they need not appear that day until called. The call can be made a short time before the anticipated *actual* court procedure starting time.

c. Witnesses should only be written off by the prosecutor as uncooperative if there is a clear indication of an intention not to cooperate. Willard Robinson, Commonwealth's Attorney for Newport News, has implemented such a policy and has reported substantial success in reducing witness noncooperation in that area.

d. Statistics of the degree of witness noncooperation should be maintained, if possible, so that its causes can be discovered and remedied. As was previously pointed out in the section on juror utilization, changes in procedures in order to improve the functioning of the justice system are likely to be hit or miss unless the causes of the problem can be identified. Similarly, the prosecutor should make it a point to obtain the impressions of witnesses who do cooperate so that developing problems can be stopped.

e. The extent of witness social services should be examined in order to alert witnesses to their availability. Specifically, as suggested by the National District Attorneys Association, the prosecutor may wish to issue a card to victims and witnesses so that any social agencies the person may have to deal with as a result of the crime can be alerted to the special status of the victim. Perhaps an arrangement

can be made with the local public transportation company for free transportation of witnesses to the court. Babysitting services could be provided for mothers who are required to appear in court. Prosecutorial personnel should have some familiarity with the types of State and Federal aid that may be available for certain classes of witnesses and victims so that useful answers can be given to questions concerning possible aid. Additional suggestions in the area are available from:

National District Attorneys Association
Commission on Victim Witness Assistance
1900 L Street, N. W.
Washington, D. C. 20036

f. A training session could be developed by the local Commonwealth's Attorney for new assistants and police officers. Mock interviews and other technical aspects of witness management could be covered as well as the development of consistent witness utilization practices to be put into a witness utilization plan.

B. POLICE SCHEDULE SUGGESTIONS:

The scheduling of police officers for appearances in court can give rise to several problems. If the officer is not scheduled for appearances on regular duty time, the locality ends up paying overtime for the court appearances. If the officer is scheduled to appear in several courts at the same time, the courts will be unable to proceed until he is available. If the officer's subpoena or notice is not carefully kept track of while moving through the police department, it may become lost or set aside until it is too late. If the court and the police don't cooperate in scheduling, the lack of communications can cause cases to be dropped. To some extent scheduling problems are unavoidable

due to the various witnesses that must be accommodated. However, the police, prosecutor and courts may be able to make improvements in the following areas:

1. The importance of cooperation between the courts, prosecutors, and police cannot be overemphasized. The ability to "juggle" police appearances, as Willard Robinson, Commonwealth's Attorney for Newport News, points out, requires the closest cooperation among the three. As a first step, the court may wish to establish formal priorities in scheduling in order to prevent misunderstanding.¹⁹ Police witnesses should be paid for their time, and it should be emphasized that it is important that police make court appearances. The police should probably follow the defendant and the civilian witnesses in priority for the hearing of cases. If the priorities set by the court are already spelled out and equitably applied, there should be little confusion.

2. The courts and law enforcement departments should establish some procedure by which they can be notified of the schedule conflicts of law enforcement officers.²⁰

The Newport News procedure established by Willard Robinson involves the daily listing of law enforcement personnel who are scheduled to appear in court, along with their scheduled time, on a single log sheet. This sheet is then copied and distributed to all the judges, so that they are made aware of schedule conflicts. In specific situations, the court can then "borrow" the officer, if possible, or make better estimates as to the time the officer will be available. A copy of the form is attached in Appendix B.

3. A study of the Portland, Oregon Police Court appearance scheduling system suggests that all regular police appearances be made on regular duty time in order to reduce:

a. the amount of high-cost police overtime required for appearances on days off, and

b. the degree of imposition on police officers who may resent having to make appearances on days off.²¹

In order to carry out this policy a procedure should be established by which the clerk of court is regularly apprised of the officer's work schedules. In this manner the clerk, when scheduling priorities will permit, can make appropriate schedule adjustments.

4. The police department should assign clear responsibility for the tracing of subpoenas. At any particular time the status of a particular subpoena should be known so that positive control can be maintained over officers who are scheduled to appear in court. The Commonwealth's Attorney's office may wish to follow through with telephone calls to the particular officer the day before a scheduled appearance, in order to reduce the incidence of police nonappearance.²²

5. Police departments and courts may wish to experiment with a court appearance system that permits officers to continue normal duties on the day of the scheduled appearance until notified that their presence is required in court.²³ A telephone call can be made by the clerk to the police command at the appropriate time, and the officer can then be notified by radio communication. In conjunction with this procedure, the officer can be assigned to a patrol "beat" in the vicinity of the courthouse so that the delay between the time when the officer

is alerted and the time he arrives at the courthouse is negligible. Use of this system can enable the police department to increase its patrol effort without increasing the number of officers or increasing the amount of overtime pay.

C. CITIZEN WITNESS SUGGESTIONS:

1. Every court should make an effort to control the use of witnesses by both defense and prosecution.²⁴ Judge David G. Simpson of the Twenty-Sixth Judicial District indicates that many of the problems in dealing with witnesses arise as a result of the thoughtlessness of the lawyers. This lack of consideration is also seen as a problem by Judge William W. Sweeney of the Twenty-Fourth Judicial Circuit. If no positive control is exercised by the court, the witnesses are left without an advocate in the criminal justice system, certainly an unfair situation for these participants. A minimum of control by the court can improve the lot of witnesses by establishing an atmosphere of consideration in which the attorneys are encouraged to pay attention to their welfare. The suggestions that follow are predicated on usefulness of such control:

a. The court should refuse to accept negotiated pleas of guilty, except to the original charges, on the day of trial.²⁵ Many times it is impossible for all the witnesses to be contacted, and they end up making an unnecessary trip to the courthouse if such last-minute pleas are accepted. As Andre' Evans, Commonwealth's Attorney for Virginia Beach, points out, however, last-day plea negotiations are especially effective when the defendant can see that all witnesses and victims have

arrived to prosecute his case. If this is considered too valuable an advantage to be dropped, then the court should insure that all subpoenaed witnesses are notified of the plea and told not to come to court that day.

b. The court should establish a strict continuance policy in order to reduce the number of times witnesses must appear for trial.²⁶ However, it must be recognized that often a continuance is a method of insuring that the defendant is given a fair trial. Therefore, the need for the granting of a continuance will often override the convenience of a particular witness, and it would be an infringement on that discretion to attempt to set a general policy regarding the granting of motions to continue. A weighing of the interest of the defendant in a fair trial as opposed to the interest of society in a prompt trial will ultimately accomplish a fair result in most cases.²⁷

2. Responses to a letter on the subject of witnesses from the Director of the Division of Justice and Crime Prevention to Virginia's Judges, Court Clerks and Commonwealth's Attorneys indicate that a major problem facing the system regarding witness management is the failure to notify witnesses when a case has been continued. In order to improve the notification of witnesses in this situation, the following management techniques may be found useful:

a. The clerk can keep a list of all witnesses who have been subpoenaed for a particular case. Upon being informed of a continuance, he or she can then telephone the witnesses and inform them of the continuance.

b. A person in the Commonwealth's Attorney's office can be detailed to keep track of prosecution witnesses in order to inform them of changes in schedule. This procedure has worked well in the Newport News office.

c. Witnesses can be told to "check in" on particular days before a scheduled appearance in order to be informed of delays or changes in schedule. See *Item D* below, concerning the Newport News Project.

d. A telephone-alert system can be instituted for calling available witnesses. Reliable witnesses, who are available within a short period from the time of the call, can be contacted by telephone on the morning of the day they are actually needed and instructed to report to the courthouse. Judge William A. Sweeney of the Twenty-Fourth Judicial Circuit indicates that this procedure can be especially helpful for witnesses who have important job conflicts.

e. Similar to the system instituted for jurors in the Seventeenth Judicial Circuit the witnesses subpoenaed can be given a number to call the night before they are scheduled to appear. A telephone message-unit alerts them to changes made up to that point in the next day's proceedings.²⁸

f. For any general solution to this problem to be successful, the court must, as noted above, assume positive control over the proper utilization of witnesses. See paragraph C1, page 25 above.

3. Prosecutors and defense counsel should only subpoena those witnesses who are necessary under law or under practical necessity.²⁹

If a pretrial hearing is held by the court in order to stipulate matters for trial, then the subpoenas should be issued only after the hearing is finished. As Judge David G. Simpson of the Twenty-Sixth Judicial District points out, the subpoena should still be issued early enough for the witness to plan for the appearance. Thus he requires counsel to request a subpoena at least seven days prior to the scheduled trial.

If it becomes clear during the pretrial period that a witness will not be needed, then the prosecutor and defense counsel should make every attempt to notify the witnesses, including the police witnesses. Witness appearances should be scheduled at the most convenient times, consistent with the priorities in scheduling established by the judge.³⁰ Judge William Sweeney of the Twenty-Fourth Judicial Circuit suggests that the prosecuting attorney schedule the victim to testify first in a trial so that he or she need spend as little time in court as possible.

4. Chief Judge Nelson T. Durden of the Eighth Judicial District, Juvenile Domestic and Relations Court suggests that companion adult and juvenile cases be set for the same day, if possible, so that the witnesses in each case need only to appear on one day. The ability to coordinate scheduling in this manner requires the highest degree of communication among the various judges, as well as a clerk who can manage the competing scheduling considerations with consummate skill.

5. Andre' Evans, Commonwealth's Attorney for Virginia Beach, suggests that evidentiary property be returned to the victims wherever possible. If any pretrial discussions are held, perhaps the nature and existence of certain evidence can be stipulated to so that it can be returned to the innocent party. See paragraph 1Ae, page 20 above.

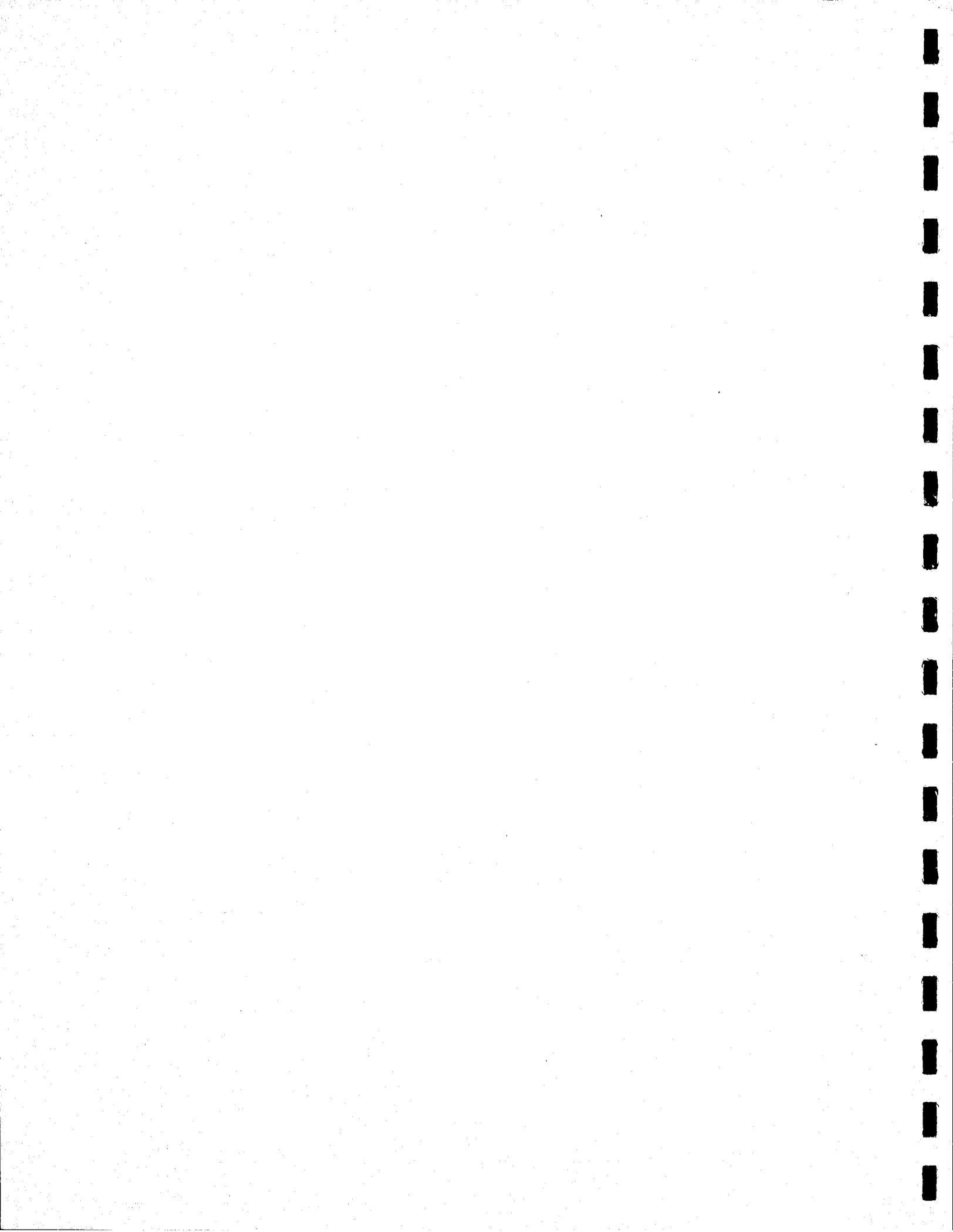
6. The National District Attorneys Association Commission on Victim Witness Assistance feels that the prosecutor has a duty to keep victims and witnesses informed. To that end they have developed a series of form letters that can be adapted to a particular jurisdiction which have the capability of keeping the innocent participants fully informed as to the progress of a case. They include a "Notice of Guilty Plea as Charged", "Notice of Finding of Not Guilty", "Report of Grand Jury Action", etc. The use of such letters can indicate to the public that the system does respond to them as individuals. For further information on this suggestion contact:

National District Attorneys Association
Commission on Victim Witness Assistance
1900 L Street, N. W.
Washington, D. C. 20036

7. Judge Joshua Robinson of the Twenty-Sixth Circuit has suggested that, as in the case of jurors, the witnesses should be provided with an information booklet giving a brief description of the local courts, an explanation of their duties, and relevant telephone numbers they may need to call for additional information. An example of such a booklet is included as Appendix B in the back of *Witness Cooperation, supra*. It includes sections on "Your Rights as a Witness", "The Criminal Justice Process", and "What if the Defendant is not Convicted?"

In addition, "...each witness should be given a wallet-sized card giving a telephone number to call for information and data regarding his case. The card should contain the name of the defendant on the case, the court registry or docket number, and other information that will be helpful in responding to witness inquiries".³¹

Andre' Evans points out that a separate pamphlet enclosed in the subpoena may be cumbersome. However, he suggests that much of the same sort of information can be printed on the back of the subpoena without great expense.



D. NEWPORT NEWS PROJECT:

1. With monetary assistance from Virginia's Council on Criminal Justice, Willard Robinson, Commonwealth's Attorney for Newport News, has developed a "court officers" program designed to insure that civilian and police witnesses are fully informed and utilized. His office has implemented certain management techniques which are unique in Virginia, and if properly utilized, can be successful in reducing witness noncooperation. Robinson's experience is that the following techniques will substantially increase witness cooperation:

a. The subpoena is issued with a stamped message reading, "Please Contact Witness Coordinator at (Telephone No.)." The "Witness Coordinator" can be a secretary or administrative assistant who will answer questions and give the witness some information regarding what to expect in court. In addition, the witness can be alerted to which assistant Commonwealth's Attorney will be handling his case, and the Commonwealth's Attorney's Office can verify which witnesses have received a subpoena.

b. If possible, the Commonwealth's Attorney's Office should designate somebody to spend a substantial amount of time locating witnesses in order to notify them of continuances or other schedule changes. Some witnesses may be in danger of losing their jobs due to a court appearance, so it is imperative that the witness make as few appearances as possible.

c. At a minimum the Commonwealth's Attorney's Office should see that any improvements become a part of standard office procedures so that a change in personnel will not result in undue confusion.

d. The program has also greatly reduced the incidence of police nonappearance by requiring each subpoenaed officer to put his name on the court appearance schedule and appear in court. Non-appearance can result in disciplinary action if it is without excuse. A high degree of cooperation is maintained between the police and prosecutor in order to implement these procedures.

2. Results: The witness subpoena stamp has resulted in 90 percent response from those subpoenaed to the Circuit Court, which is considered a substantial improvement over the past. In addition, Robinson's office has been able to notify witnesses, who would have come to the court uninformed about continuances.

3. Future Improvements: Robinson has planned the following improvements of the Newport News Project in the future:

a. Provide free parking for those attending court as witnesses.

b. Provide coffee for witnesses who are forced to wait at the courthouse.

c. Print detailed information on the back of the subpoena regarding the rights and duties of witnesses, directions to the courthouse, instructions for contacting an Assistant Commonwealth's Attorney, etc.

E. VOLUNTEER SERVICES:

To a large extent, many of the problems associated with witness and juror usage may be unavoidable in view of the overriding need of the system to provide quality justice for the accused and the Commonwealth. If that is true; then, the public must be educated in

the ways and requirements of criminal justice in order to improve their perception of its quality. The public can be put to use in aid of the system at no extra cost (or very little) to the State, while providing services for the Court. In *16 Ideas to Help District Attorneys Help the Victims and Witnesses of Crimes* published by the National District Attorneys Association's Commission on Victim Witness Assistance, the following ideas are presented for engaging the public in aid of criminal justice:

1. Arrange for Driver Education classes to provide transportation for witnesses who may need a ride to the courthouse. All that training mileage could be put to use in areas where public transportation is limited, in addition to giving the driver something useful to do. Certain types of witnesses may have a need for such transportation service.

2. Arrange with the local school system for local high schools to set up work-study programs at the courthouse for high school credit. The students could serve as pages, escorts, messengers, interviewers for the District Attorney, Court Clerks, or Jury Clerk. Such a program would be a valuable lesson in civics as well as acquaint students with the problems inherent in providing "assembly line justice". Furthermore, the system would benefit by having someone to perform miscellaneous chores available at all times during the day.

3. Provide part-time volunteer work for senior citizens by contacting American Association of Retired People and scheduling them to "man telephones, conduct surveys, act as referral agents and

the like."

4. Set up a general volunteer program to provide persons to perform the above functions. Specific technical assistance in instituting citizen volunteer programs in this area can be obtained from:

Virginia State Office on Volunteerism
 Fourth Street Office Building--Third Floor
 400 East Grace Street
 Richmond, Virginia 23219
 (804) 786-1431

5. Schedule and hold public information meetings so that specific and general complaints can be aired by the public. This can help the Court and the Commonwealth's Attorney acknowledge those problems that truly bother the public and at the same time let citizens blow off steam and learn something of the functioning of our system.

F. EDUCATION OF THE PUBLIC

Education was cited by many judges in Virginia as an important means of improving the public's understanding of the criminal justice system. Such public education could be effected in several ways. Judges Douglas Smith and Henry Garnett of the Seventh Judicial Circuit, both spoke of the value of appearing before civic clubs and other groups to discuss the criminal justice system and the workings of the judicial process. Oliver Rudy, Commonwealth's Attorney for Chesterfield County, also indicated the importance of judges and prosecutors making themselves available to such groups. Judge Joshua Robinson of the Twenty Sixth Judicial Circuit and Judge James Lumpkin of the Thirteenth Judicial Circuit, both saw the Virginia State Bar as an appropriate

agency to conduct public education efforts. In addition, Judge Robinson indicated a need for some form of handbook for witnesses, explaining what is expected of them. The office of the Portsmouth Commonwealth's Attorney has just initiated a victim/witness program designed to provide information and assistance to citizen participants in criminal proceedings and to the public at large. This effort is being managed by a victim/witness coordinator who will be assisted by volunteers from the community. The Virginia Beach Commonwealth's Attorney is preparing a pamphlet for witnesses, to be distributed throughout the community. The Roanoke Commonwealth's Attorney has, for two years, conducted a course on the criminal justice system under the sponsorship of the Junior League.

At a more basic level, the State Bar conducts annual teacher training institutes in the law-related education field to better equip public school teachers for educating students about our legal system and their rights and responsibilities. The Bar also has prepared and is updating a handbook for journalists to provide ready accurate information about the judicial system so that they may better cover court-related news stories.

These are but a few of the methods for disseminating both to participants in criminal proceedings and to the general public, accurate information about the criminal justice system. Active educational efforts, through schools, personal appearances by professionals in criminal justice, and through the print and broadcast media, are important to counter the distortions sometimes conveyed

by the popular media and to give citizens a realistic view of the role and workings of the criminal justice system.

III. CRIMINAL HISTORY INFORMATION:

Commonwealth's Attorneys are alerted to the availability of criminal history information on particular witnesses and/or defendants from the Virginia Criminal Information Network (V-CIN). This information can be automatically requested from the Commonwealth's computers in the Department of State Police by contacting a local law enforcement agency which has a V-CIN terminal and asking for a check of "Computerized Criminal History" records. The local agency will then contact the computer in the Department of State Police and obtain the information if it is in their files.

V-CIN is managed and operated by the State Police and presently serves more than eighty police departments and eighteen sheriff's offices throughout the state. It is the seat of law enforcement telecommunications in the Commonwealth and routes messages from local law enforcement agencies to the National Crime Information Center (NCIC) the National Law Enforcement Telecommunications System (NLETS) and the Division of Motor Vehicles (DMV). The V-CIN/Wanted Files system provides information on wanted vehicles, wanted articles, stolen vehicles, repossessed vehicles, lost property, and recovered property. Computerized criminal histories were added in January, 1975.

The collection, storage, and dissemination of criminal history record information is governed by federal regulations and by newly enacted provisions of the Code of Virginia. Sections 559-11.2 through 9-111.13.

It is planned that Commonwealth's Attorneys in the Tidewater area

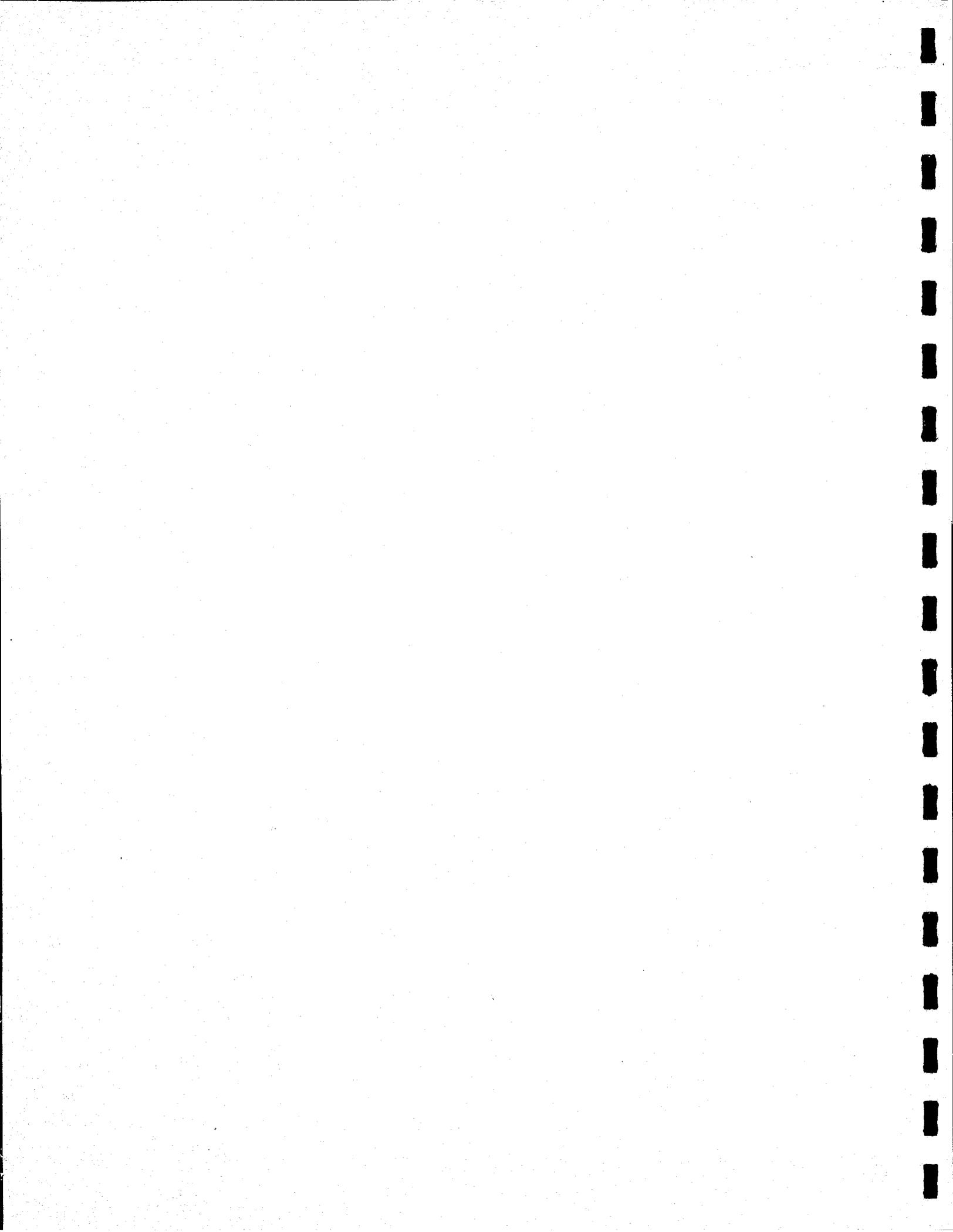
will have access, through the TENPIN computer system, to the Virginia Criminal Justice Information System in the near future.

FOOTNOTES

1. See *National Institute of Law Enforcement and Criminal Justice, A Guide to Juror Usage*, 1974. *Bird Engineering - Research Associates, Inc. A Guide to Jury System Management*, p. A-1, 1975, sets forth an example of the type of provisions a court may wish to include in such a written plan. Of course, any plan must comply with relevant sections of the Virginia Code notwithstanding suggested provisions.
2. See, e.g. *National Advisory Commission on Criminal Justice Standards and Goals, Courts*, Standard 4.3, (1973).
3. *Redden and Fowler, Judicial Administration of Criminal Justice in Virginia, a Comparative Analysis*, Division of Justice and Crime Prevention, Commonwealth of Virginia, p. 42, 1974.
4. See, e.g. *American Bar Association Commission on Standards of Judicial Administration, Standards Relating to Trial Courts*, Standard 2.11, (Tent. Draft 1975).
5. *A Guide to Jury System Management*, p. 2-5, et seq.
6. *Id.* p. 2-11; and see *ABA, Standards Relating to Trial Courts*, Standard 2.60.
7. *Id.* p. 2-13.
8. *Id.*
9. See *Simon, The Juror in N. Y. City: Attitudes and Experiences*, 61 ABA J. 207, 1975.
10. *A Guide to Jury System Management*, p. 2-13.
11. See, *Courts*, Standard 10.3 (3)(d).
12. *Criminal Courts Technical Assistance Project, A Suggested Jury Management Improvement Program for Lycoming County Court of Common Pleas, Williamsport, Pennsylvania*, American University, p. 11, 1973.
13. See also *ABA, Standards Relating to Trial Courts*, Standard 2.64 (2).
14. *Id.* Standard 2.64 (3).
15. *Id.* Standard 2.64 (5).
16. *A Guide to Jury System Management*, p. 3-12. An example of such a questionnaire is included on p. 3-21 of the *Guide*.
17. *Simon, The Juror in New York City: Attitudes and Experiences*, 61 ABA J. 207, 1975.
18. *Courts*, Standard 10.6.
19. *Id.* Standard 4.11.

20. *Id.* Standard 10.6
21. See *Haynes, Recommendations for Reducing Court-Related Expenditures on Police Overtime in Multnomah County, Oregon*, p. 26, 1974.
22. *Id.* p. 26.
23. See *National Advisory Commission on Criminal Justice Standards and Goals, Police*, Standard 4.2; and *Courts*, Standard 10.6; and *Freedman, Saving Police Manpower Through Court Appearance Control*, 1 *Journal of Police Science and Administration*, pp 131-137.
24. See e.g. *Courts*, Standards 4.8 and 10.6.
25. *Id.* Standard 3.4
26. *Id.* Standard 4.12.
27. *Judicial Administration of Criminal Justice in Virginia*, p. 59.
28. *Judicial Administration of Criminal Justice in Virginia*, p. 152; Standard 10.6, 1973.
29. *Courts*, Standard 10.6
30. *Judicial Administration of Criminal Justice in Virginia*, p. 152; and *Courts*, Standard 10.6, 1973.
31. *Courts*, Standard 10.3.

APPENDIX A



JURY PANEL UTILIZATION DATA FORM

Case Number 73-2172

Civil Criminal

Judge JONES

EVENTS:

- Panel requested
- Panel arrived in courtroom
- Voir dire started
- Voir dire ended
- Trial started
- Trial ended
- Panel returned unused
- Other _____

	Date	Time	Interval (minutes)
	2/13/74	9:00 am	
	"	9:10 am	10
	"	9:30 am	20
	"	10:45 am	15
	"	10:50 am	5
	2/14/74	1:30 pm	
		am	
		pm	

PANEL USE:

(6) 40 = 14 + 7 + 12 + 7

Total size of panel furnished
Size of jury and alternates
Challenges for cause allowed
Peremptory challenges exercised
Jurors not sworn or challenged

CASE DISPOSITION DATA:

Criminal ACQUITTED Civil _____

Prepared by J. DOE Return to CLERK OF COURT RM 310

See comments on reverse side.

This basic data form provides the information needed to determine if jurors tend to spend time in idle waiting at various stages (See Forms II and III).

JURY POOL RESPONSE TIME ANALYSIS FORM

Form No. (Optional)	Entry Number	Interval (minutes) "Panel Requested" to "Panel Arrived in Courtroom"
127	1	10
128	2	7
129	3	(15)
130	4	13
131	5	(6)
132	6	12
	7	
	8	
	9	
	10	
	11	
	12	
	13	
	14	
	15	
	16	
	17	
	18	
	19	
	20	

Number of
Entries 6

Total 63

INSTRUCTIONS

This form provides a simple tally and computation sheet for measuring the responsiveness of the jury pool system in delivering panels to courtrooms after they are requested.

The results of the analysis tells the judges how far in advance of actual need they should make their requests for panels.

To use:

- (1) Enter interval data from the "Jury Panel Utilization Data Forms".
- (2) Add the intervals.
- (3) Divide by number of entries.
- (4) Circle the *longest* and *shortest* intervals to obtain the range.

$$\frac{\text{total } \underline{63}}{\text{number of entries } \underline{6}} = \text{average response time } \underline{10.5}$$

If a court uses a large "pool" of jurors during the week from which the voir dire panels are drawn, this form can help determine if delay is common in furnishing the panel.

IDLE PANEL IN COURTROOM ANALYSIS FORM

Form No. (Optional)	Entry Number	Interval (minutes) "Panel Arrived" to "Voir Dire Started"
127	1	20
128	2	4
129	3	9
130	4	3
131	5	47
132	6	10
	7	
	8	
	9	
	10	
	11	
	12	
	13	
	14	
	15	
	16	
	17	
	18	
	19	
	20	

INSTRUCTIONS

This form provides a single method for reducing data showing how long jurors wait in the courtroom for voir dire to begin.

Its results show whether judges are making good and efficient use of jurors drawn from the pool or, conversely, are placing "artificial" demands on the pool by calling panels too early.

To use:

- (1) Enter interval data from the "Jury Panel Utilization Data Forms".
- (2) Add the intervals.
- (3) Divide by number of entries.
- (4) Circle the *longest* and *shortest* intervals to obtain the range.

$$\frac{\text{total } 84}{\text{number of entries } 6} = \text{average idle time } 14$$

NOTE: ENTRY 5 WAS TRIED IN REMOTE COURT. JURIES ARRIVED BEFORE PARTIES TO ACTION.

Number of Entries 6 Total - 84

PANEL REQUEST FORM

Date MARCH 7, 1974

JUDGES	CIVIL						CRIMINAL							
	Panel Requested Prior Day	Panel Used	Panel Not Used Because of				Reason Continued	Panel Requested Prior Day	Panel Used	Panel Not Used Because of				Reason Continued
			Settlement	Case Dismissed	Jury Trial Waived	Continued				Plea	Case Dismissed	Jury Trial Waived	Continued	
A							1	1						
B	1	1												
C	2	1	1											
D														
E	1				1	WITNESS UNAVAILABLE								
F							1	1						
TOTALS	4	2	1		1		2	1	1					

This form can aid the court in identifying causes of consistent delay over a period of time. The object should be to produce the highest possible percentage of panels used over those requested.

A SAMPLE CALCULATION OF THE JUROR DAYS PER TRIAL (JDPT) EFFICIENCY MEASUREMENT

$$\text{JDPT} = \frac{\text{Number of juror days served (Available from juror pay records)}}{\text{Number of trials}}$$

$$\text{JDPT} = \frac{200 \text{ Juror days served during term}}{10 \text{ jury trials held during the term}}$$

$$\text{JDPT} = 20$$

NOTES:

1. The JDPT measurement is only useful as a relative index of jury/time efficiency. Several terms of JDPT should be calculated in order to spot trends of improvement or non-improvement.

2. The length of trials should remain about the same from term to term for the measurement to be useful as a comparative index of jury/time efficiency. Several long trials in a term will cause the index to increase even though the court has been just as efficient in its use of jurors.

3. Court system characteristics generally must remain about the same for this index to be useful.

APPENDIX B

BIBLIOGRAPHY OF JURY AND WITNESS RELATED LITERATURE

AIKMAN, ALEXANDER B., AND COOPER, MILTON W. CONSOLIDATION OF JURY MANAGEMENT SERVICES. CALIFORNIA COURT SERVICES CONSOLIDATION PROJECT, NATIONAL CENTER FOR STATE COURTS. SAN FRANCISCO, CAL., 1975.

A specific study suggesting certain changes in jury management based upon data from the Superior Court. Suggestions include a telephone alert for certain jury panels and a reduction in panel size for the "usual criminal case."

AMERICAN BAR ASSOCIATION PROJECT OF MINIMUM STANDARDS FOR CRIMINAL JUSTICE. STANDARDS RELATING TO TRIAL BY JURY. INSTITUTE OF JUDICIAL ADMINISTRATION. N. Y., N. Y., 1968.

Sets forth the standards adopted by the ABA in 1968 and thereafter urged upon the states. Short commentaries follow each section of jury standards and give the legal bases or argument for their adoption. Somewhat outdated and should be read with care.

BIRD ENGINEERING - RESEARCH ASSOCIATES, INC. A GUIDE TO JURY SYSTEM MANAGEMENT. U. S. DEPARTMENT OF JUSTICE, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE, 1975

This document is meant to complement A Guide to Juror Usage. It provides a comprehensive look at efficient jury selection, qualification, and system-monitoring procedures. Very good for inexpensive and rational improvements in the handling of jury costs, paperwork, and planning. A "must" for any court seeking to improve its procedures.

CANNAVALE, FRANK J., AND WILLIAM D. FALCON, EDITOR. WITNESS COOPERATION WITH A HANDBOOK OF WITNESS MANAGEMENT. INSTITUTE FOR LAW AND SOCIAL RESEARCH. LEXINGTON, MASS.: LEXINGTON BOOKS, 1976.

This book explores the reasons for witness noncooperation in Washington, D. C. and finds that most causes of witness noncooperation are system-related rather than reflections of deep-seated witness attitudes. Contains a useful handbook with suggestions for witness management based on the statistical study of Washington, D. C. witness noncooperation, and sets out the text of a proposed pamphlet to be issued every witness by prosecutors. A useful book in general.

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT. A COMPENDIUM OF NOTABLE COURT-RELATED PROJECTS. THE AMERICAN UNIVERSITY, WASHINGTON, D. C., 1976.

A comprehensive listing, by subject headings, of recent and in-progress court projects. Most are being funded, at least in part by the LEAA, though some are apparently independent projects. This publication provides a useful overview of the types of activities being undertaken along with contact addresses for further reference.

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT. JUROR UTILIZATION IN THE FULTON COUNTY (GA.) SUPERIOR COURT. THE AMERICAN UNIVERSITY. WASHINGTON, D. C., 1973.

A very detailed report on jury practice in the Superior Court. Contains few useful generalizations for other courts, except to the extent their experiences parallel those of the Superior Court.

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT. RECOMMENDATIONS FOR IMPROVING THE JURY SELECTION PROCESS IN RHODE ISLAND. THE AMERICAN UNIVERSITY, WASHINGTON, D. C., 1974

A short report on the deficiencies of the Rhode island's selection process along with recommendations for remedial action. Contains suggestions for amendment of some statutory exemptions and usage of computer jury selection techniques among others.

CRIMINAL COURT TECHNICAL ASSISTANCE PROJECT. A SUGGESTED JURY MANAGEMENT IMPROVEMENT PROGRAM FOR LYCOMING COUNTY COURT OF COMMON PLEAS, WILLIAMSPORT, PENNSYLVANIA. THE AMERICAN UNIVERSITY, WASHINGTON, D. C., 1973.

In the context of a particular court, this study presents for adoption several practical ideas regarding jury management. Improvements urged are: 1) use of a jury badge, 2) development of Jury Handbook 3) development of a jury questionnaire, and 4) improvement of the jury selection process. A concise report with appendices of suggested documents attached.

HAYNES, PETER. RECOMMENDATIONS FOR REDUCING COURT-RELATED EXPENDITURES ON POLICE OVERTIME IN MULTNOMAH COUNTY, OREGON. -CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT, THE AMERICAN UNIVERSITY, WASHINGTON, D. C., 1974.

A useful examination of the changes that can be made in police appearance scheduling in order to reduce expenditures for police overtime. Good suggestions generally for the use of police witnesses

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, PRE-TRIAL SCREENING PROJECT

Presents a rational and systematic study of the various types of screening policies which may be used in any particular prosecutor's office. Advocates the policy which will make best use of the resources of a particular office and show how to implement the policy decided upon, with a view toward charging consistency.

NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS.

COURTS. TASK FORCE ON COURTS, 1973.

The source-book for ideal standards of a state court system. Provides standards and comprehensive commentaries on District Attorney compensation, plea negotiations, time limitations for various stages of court procedures, etc.

NATIONAL CENTER FOR STATE COURTS. RECOMMENDATIONS FOR IMPROVING THE USE OF RESTITUTION AS A DISPOSITIONAL ALTERNATIVE, AS ADMINISTERED BY THE CONNECTICUT ADULT PROBATE DIVISION. THE AMERICAN UNIVERSITY, CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT, WASHINGTON, D. C., 1975.

Presents a program for adoption in Connecticut for the improvement and expansion of restitution as a dispositional alternative. Gives the determinants of success in such a program and, in general, supports expanded use of restitution.

NATIONAL COLLEGE OF DISTRICT ATTORNEYS. GUIDEBOOK OF PROJECTS FOR PROSECUTION AND DEFENSE PLANNING. NATIONAL ASSOCIATION OF ATTORNEYS GENERAL, NATIONAL LEGAL AID AND DEFENDER ASSOCIATION. FEDERAL

DEFENDERS OF SAN DIEGO, INC.

Contains summaries of relevant projects being undertaken across the nation in the areas of prosecution and defense planning. Includes addresses and telephone numbers of persons to contact with regard to any particular project.

SAME. VICTIM ASSISTANCE.

Provides the same type of information as above concerning published projects relating to victim assistance.

NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE. WITNESS ASSISTANCE PROJECTS,

U. S. DEPARTMENT OF JUSTICE, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, WASHINGTON, D. C., 1975.

A useful listing of projects relating to witness assistance. This publication abstracts information from all such published projects or project results and gives address and acquisition information for interested readers.

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE. A GUIDE TO

JUROR USAGE. U. S. DEPARTMENT OF JUSTICE, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, 1974.

Presents seven "rules" of juror usage once they have reached the courthouse. Shows how to reduce the size of jury pools needed (assuming pools are used at all) by the judicious collection of the necessary data. Considers separately the problems of smaller courts. Approaches jury usage from two basic points of view: 1) How to reduce court costs and 2) How to improve juror attitudes, with the emphasis on cost cutting.

This document, along with Jury System Management is an absolute must for any court considering changes.

NIMMER, RAYMOND T. THE OMNIBUS HEARING: AN EXPERIMENT IN RELIEVING INEFFICIENCY, UNFAIRNESS AND JUDICIAL DELAY. AMERICAN BAR FOUNDATION, CHICAGO, 1971.

An extensive study of the results of adapting the Omnibus hearing procedure in the San Diego Federal District Court. Mr. Nimmer concludes that on the whole the Omnibus hearing is likely to increase court time spent on a case as well as encourage delay on the part of defense counsel. Well reasoned and supported.

REDDEN, KENNETH R., AND FOWLER, DULCEY. JUDICIAL ADMINISTRATION OF CRIMINAL JUSTICE IN VIRGINIA, A COMPARATIVE ANALYSIS. COMMONWEALTH OF VIRGINIA, DIVISION OF JUSTICE AND CRIME PREVENTION, CHARLOTTESVILLE, VA., 1974.

A report on how Virginia practice in the area of criminal law compares to the standards adopted by the National Advisory Commission in 1973 and the standards of the American Bar Association published under the title The Administration of Criminal Justice. It makes recommendations for Virginia where appropriate.

SOLOMAN, MAUREEN. CASEFLOW MANAGEMENT IN THE TRIAL COURT. AMERICAN BAR ASSOCIATION COMMISSION ON STANDARDS OF JUDICIAL ADMINISTRATION, 1973.

This excellent study presents several basic requirements that state courts should follow in order to improve caseflow management in the trial courts. Discusses the relative merits of several systems of caseflow management.

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