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ACQUISITIONS

IMPROVING THE EFFICIENCY OF
CHARGING, SCREENING AND DIVERSION
FUNCTIONS IN THE CRIMINAL JUSTICE
SYSTEM THROUGH USE OF CLOSED CIRCUIT
TELEVISION AND COMPUTER TECHNOLOGY

EXECUTIVE SUMMARY
REPORT

by

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EXECUTIVE SUMMARY

A. THE ROLE OF THE PROSECUTOR IN CHARGING, LEGAL COUNSELING, SCREENING AND DIVERSION DECISIONS

During the last ten years a considerable amount of study has been directed towards seeking improvements in the Criminal Justice System. Through the Law Enforcement Assistance Administration (LEAA), various national commissions, and congressional legislation massive efforts have been made to effect an improvement in the major components of the Criminal Justice System; the police, the courts, and the correctional institutions. However, the increasing rate of crime coupled with the obvious continuing inadequacies of the current systems of apprehension, adjudication, processing, and correction suggest that great opportunities for improvement still exist.

Analysis of the Criminal Justice System suggests that the prosecutorial charging decision is a crucial element of the system and serves as a key mechanism in establishing the overall efficiency of the initial stages of the Criminal Justice System. It is at the charging interface, at which the police functions involving arrest on the basis of "probable cause" first comes into contact with the court function of determining whether a criminal event has taken place "beyond a reasonable doubt". In fact, the prosecutor serves as the means by which the State converts apprehension of potential criminals to a initial determination of guilt leading ultimately to correction and sentencing. Ultimately, the prosecutor, as the chief law enforcement officer, must make the decision as to whether or not an individual apprehended by the police is to be charged by the State for an offense and brought to trial, or screened out of the system, or diverted into some non-judicial process involving education and rehabilitation.

Nationwide, police officials, prosecutors, and court officers are increasingly recognizing that criminal trials are one of society's scarce resources, and that this resource cannot be squandered foolishly on defective cases which cannot be won. Effective and judicious screening in the stationhouse can prevent weak cases from usurping the publicly-paid for efforts of police officers, prosecutors, public defenders, judges, juries, witnesses and detention facilities, from initial judicial appearance through preliminary hearing, indictment and arraignment to trial, only to be tossed out at that later stage because of error or evidentiary lack existing since the time of arrest.

It has long been recognized that one of the great issues within the Criminal Justice process is the difficulty of realistic interpretation of the laws which define crime and criminal action. If every law on the books, ranging from simple crime involving jay-walking and operating on Sunday without a license, to major felonies were enforced, with equal vigor and without interpretation, a very considerable segment of the civilian population would be involved in some aspect of the Criminal Justice process all of the time. It is in reality, the chief prosecutor (the District Attorney) who must make that interpretation.

One method by which the Criminal Justice System could conserve resources is by the District Attorney and the Police Department cooperating to have Assistant District Attorneys provide legal counsel to police prior to the execution of searches and arrests on the legality of search and arrest warrants and investigative and arrest procedures, and on the police role in fulfilling the burden to prove guilt beyond a reasonable doubt. Another possible method is for the District Attorney to provide a screening and diversion function to review cases after arrest but prior to trial in order to cull out those cases and situations which can be more efficiently handled through other methods and procedures. Both of these methods provide mechanisms by which the formal decision to charge and prosecute by court trial can be made on a more efficient basis.

This study deals with the role of the prosecutor in making charging decisions and the associated decisions of screening and diversion and legal counseling. Emphasis has been placed on the use of advanced technology (closed circuit television communications and computer information systems) as a mechanism to bring the District Attorney closer to the point of the arrest in order to make the charging decision more efficient. The analysis is carried out in the context of the City of Philadelphia's Criminal Justice System. However, the concepts and techniques described in this report are readily transferrable to other jurisdictions.

B. THE CHARGING, SCREENING AND DIVERSION PROCESS; STATE OF THE ART

Relatively little focus has been given to the importance of the prosecutor in the Criminal Justice System in general, and the impact of the timing and effectiveness of the prosecutor's charging decision in particular. Joan Jacoby and her associates* have carried out an excellent preliminary analysis of the issues and have suggested a research program to quantify the alternatives.

* See "Issues in Pretrial Screening", by Jacoby & Bomberg, Bureau of Social Sciences Research, 1975, and Pre-Trial Screening in Perspective by Jacoby, LEAA, 1976

Several bibliographies* have been produced under the auspices of the LEAA, on issues of prosecutorial discretion and plea bargaining. Some policy work has been done by the American Bar Association and by the California District Attorney's Association on guidelines and model procedures for charging, screening and diversion.

Some effort has also been sponsored in the development of computerized techniques to assist the prosecutor in the management of case information (the PROMIS system). However with the exception of Ms. Jacoby's work and some case studies carried out in Ph.D. dissertation studies, little is known about the affects on the Criminal Justice System of expanding or upgrading the sophistication and timeliness of the charging, screening and diversion decisions. A bibliography relating to these issues is provided in the full study report.

C. OBJECTIVES AND GOALS OF THE PROJECT

The objective of this project was to demonstrate and evaluate the application and value of closed circuit television (CCTV) and supporting computerized technology as a basis for improving the efficiency and effectiveness of the prosecutor's charging, screening and diversion decisions and functions.

The goal of the project, set in the context of the City of Philadelphia's Police Department and District Attorney's Office, was to examine the application of technology as a basis for providing legal counseling and guidance to police officers at the arrest stage respecting the constitutionality of the procedures and process, the determination of charges, and the screening and/or diversion of cases based upon sufficiency of evidence, constitutionality and applicable law.

Under previously funded projects, the City of Philadelphia District Attorney's Office has already adopted techniques for providing legal counseling services, and screening and diversion services. The design goal of this project was to determine whether or not these services could be provided on a more timely and less costly basis through the use of a centralized closed circuit TV system and to evaluate the impact of these improvements on the Criminal Justice System. The present system of pre-arrest legal counseling by telephone, and post-arrest screening and diversion analysis based upon reports transmitted from the police department to the District Attorney's office was compared with a more advanced system involving the use of

* See Prosecutorial Discretion; the Decision to Charge by Teslick, LEAA, 1975, and Plea Bargaining, by Marcus & Wheeton, LEAA, 1976.

closed circuit TV and computer aids to provide legal counseling and screening and diversion decisions on-line, directly at the police detective divisions, at the time of arrest. Data was collected to evaluate the impact, on the Criminal Justice System, of moving the screening and diversion process up to, and in parallel with, the counseling decision on a more timely basis. Data was also collected to determine whether such action could improve the efficiency of the prosecutorial charging decision and reduce the flow of paperwork in cases which ultimately would be taken out of the system based on issues of constitutionality, lack of evidence, or incorrect charges, and to evaluate the overall impact of closed circuit television and supporting computerized technology on the process interface between the police department arrest actions and the prosecutor's charging decisions. In order to evaluate these issues, an advanced system using CCTV and computer aids was set up and demonstrated over a period of one year. A special demonstration test was run over a period of two weeks with detailed data collected during a one week period. During this one year period and the special demonstration test period, data was collected to provide a basis for comparison with the present system of informal legal counseling prior to arrest via telephone, and full screening and diversion analysis after arrest, based on paperwork flow.

As a direct result of the one year test, the special demonstration tests carried out in December of 1976, and an independent evaluation of the results of these tests, basic conclusions can be reached concerning the validity and viability of the use of CCTV and in support of the legal counseling, Screening and Diversion process, its transferability to other jurisdictions, and recommendations for further action. These results are outlined below.

D. COMPARATIVE ANALYSIS

The major issue analyzed in this project related to improved methods for providing legal counseling, screening and diversion services in support of the charging process by the District Attorney's office. There are three basic methods by which this process can be augmented:

1. Decentralized Support

One possible method is to provide legal counseling and screening and diversion support services at each detective division, by assigning a full time assistant district attorney to each site. The assistant district attorney assigned is available to police officers and detectives for advice and counsel. A variation of this approach, designated as the "circuit rider" system, assigns one assistant district attorney to serve two or more detective divisions. The ADA would be physically located at one detective division, and would be available by phone to the other division(s) assigned

to his "circuit". Under this concept a district attorney assigned could either provide counsel over the phone, or on call, physically drive to the other detective division requiring his services.

2. Centralized Informal Telephone Access Support

A second method is to provide legal counseling services on an informal basis from a centralized location. One or more assistant district attorneys would be assigned to the function, and the individual police districts and detective divisions would be able to call up, at their discretion, to obtain legal advice and counsel on a particular case of interest. In this situation, the assistant district attorney's involved are located at a central point and all requests for service is done via telephone.

3. Centralized Formal CCTV Access and Support

A third method involves the establishment of a formal legal counseling/screening and diversion function which is centrally located and is in direct communication on a continuing basis, via Closed Circuit Television, with each detective division. Each detective division operates on the basis of a charging manual and procedure which requires formal call-up of the Screening Diversion unit for guidance, counseling and a formal charging decision. The communication between the police detective divisions and the screening and diversion function is by both audio and visual means. The guidance as to arrest and charging recommendations, made by the District Attorney's office, are formally recorded by means of a computer terminal (SDIS), and are available for recall at the preliminary hearing location. The basic difference between this approach and the second method (centralized telephone calling) is 1) the availability of visual, as well as audio communications, and 2) the requirement for a formal recording of guidance and charging decisions provided by the District Attorney's office.

The City of Philadelphia has had experience with the first two methods. For over two years the District Attorney's office of the City of Philadelphia provided on-site assistant district attorneys at each police detective division, for advice and counsel. Serious deficiencies were noted in this approach in that the district attorneys assigned often had relatively little to do. In addition, the operational environment of a police detective division is neither professionally stimulating or comfortable for an attorney. As a result a significant morale problem arose. Finally, some attorneys who found the assignment interesting, became very involved with the detective division personnel; over a period of time they adjusted to the personal attitudes and views of the individual detectives and police officers they were dealing with. In effect, the closeness and proximity of the assigned district attorneys to the police detective divisions inhibited

the ability of the assistant district attorneys to make an independent and objective appraisal. For example, to the extent that a decision rendered was unfavorable to the personal views of the detectives involved, it was very difficult to make such a recommendation since the assistant district attorney had to continue to "live" with the detectives assigned.

The method of centralized telephone access is currently in use in the City of Philadelphia. The system provides for a detective or police officer within the City of Philadelphia Police Department to call the central counseling service by telephone, at their own discretion. Under this system the legal counsel and guidance given is not recorded, and the district attorney providing the advice and counsel has no way of knowing whether or not his guidance was accepted or rejected or whether or not the facts and issues of the case were fully presented. Because of this, the District Attorney's office also maintains a separate Screening and Diversion Unit which reviews all cases, after arrest and preliminary hearing. The purpose of the Screening and Diversion Unit is to independently evaluate the facts of each case in order to decide what the actual charge should be and whether or not the case should be screened out, diverted, or brought to trial.

E. THE ADVANCED LEGAL COUNSELING, & SCREENING & DIVERSION UNIT SYSTEM

The communications technology to be used by the screening and diversion unit, to support legal counseling and charging decisions in an on-line centralized mode (method 3) consists of two subsystems:

- ° Closed Circuit T.V. Linkage

A CCTV system, is used to bring police officers and detectives in direct contact with an Assistant District Attorney of the Screening and Diversion Unit before charge is placed against an accused. The communication is between the arresting officer and the detective on the one hand, and the Assistant District Attorney on the other. Others may be present within the police environment; for example, a supervising Lieutenant or Sergeant of the detective unit witnessing the alleged offense. The accused also could be close at hand. This CCTV linkage provides direct 24 hour face to face consultation with the Assistant District Attorney of the Screening and Diversion Unit.

- ° Computerized Information System

The other element of the supporting technology required under this concept is the ability to officially record the charging decisions made by the Screening and Diversion Unit prior to the

formal charge and to provide means for communicating and retrieving the information at other locations within the Criminal Justice System. Utilizing an existing computer within the City of Philadelphia (an IBM 370/145 assigned to support Court and District Attorney functions) an on-line interactive Screening and Diversion Unit Information System (SDIS) was designed, developed and implemented. The objective of the SDIS is to provide capabilities to allow the Assistant District Attorney within the Screening and Diversion Unit to enter a formal record of his charging decision, to record the reasons for that decision, and to provide further narrative information on the strategy of prosecution to be employed with special issues relating to the case.

Through the use of visual communications via the CCTV system, and digital communications via the data processing network (SDIS) a capability is provided to allow the District Attorney's Screening and Diversion Unit to directly communicate with the police and detective operations and to provide the framework of establishing the formal charge to be made. Under this scheme, as outlined in Figure I, the Screening and Diversion Unit is engaged in a pre-audit to establish the decision to charge in terms of all misdemeanor and felony offenses, to reduce the case to a summary offense, or to divert or screen out the arrested individual. In essence, under this proposed program the information flow would be as shown in Figure 2. Assuming that the level of screening and diversion as observed in the present time continues to take place, a significant amount of paperwork and processing could be reduced.

In summary, a specific technological structure (CCTV and computer aids) can be used to support the ability to allow the Screening and Diversion Unit to engage in pre-audit analysis of arrest situations for purposes of legal counseling to police officers, and to support a direct charging decision process at the point of arrest. This is provided through a series of communication linkages and the application of both CCTV and computerized technology as outlined above. The initial tests of the concept within the City of Philadelphia Criminal Justice System were carried out in December, 1976 involving the District Attorney's Screening and Diversion Unit and the Police Department's Northern Detective Division and the 35th Police District.

F. SUMMARY EVALUATION OF ALTERNATIVE CONCEPTS

The purpose of this study was to make an independent, objective comparison of the costs and performance of the three concepts outlined above in general, and to provide a direct comparative evaluation of the differences and similarities between the present system (of informal telephone access for legal guidance and

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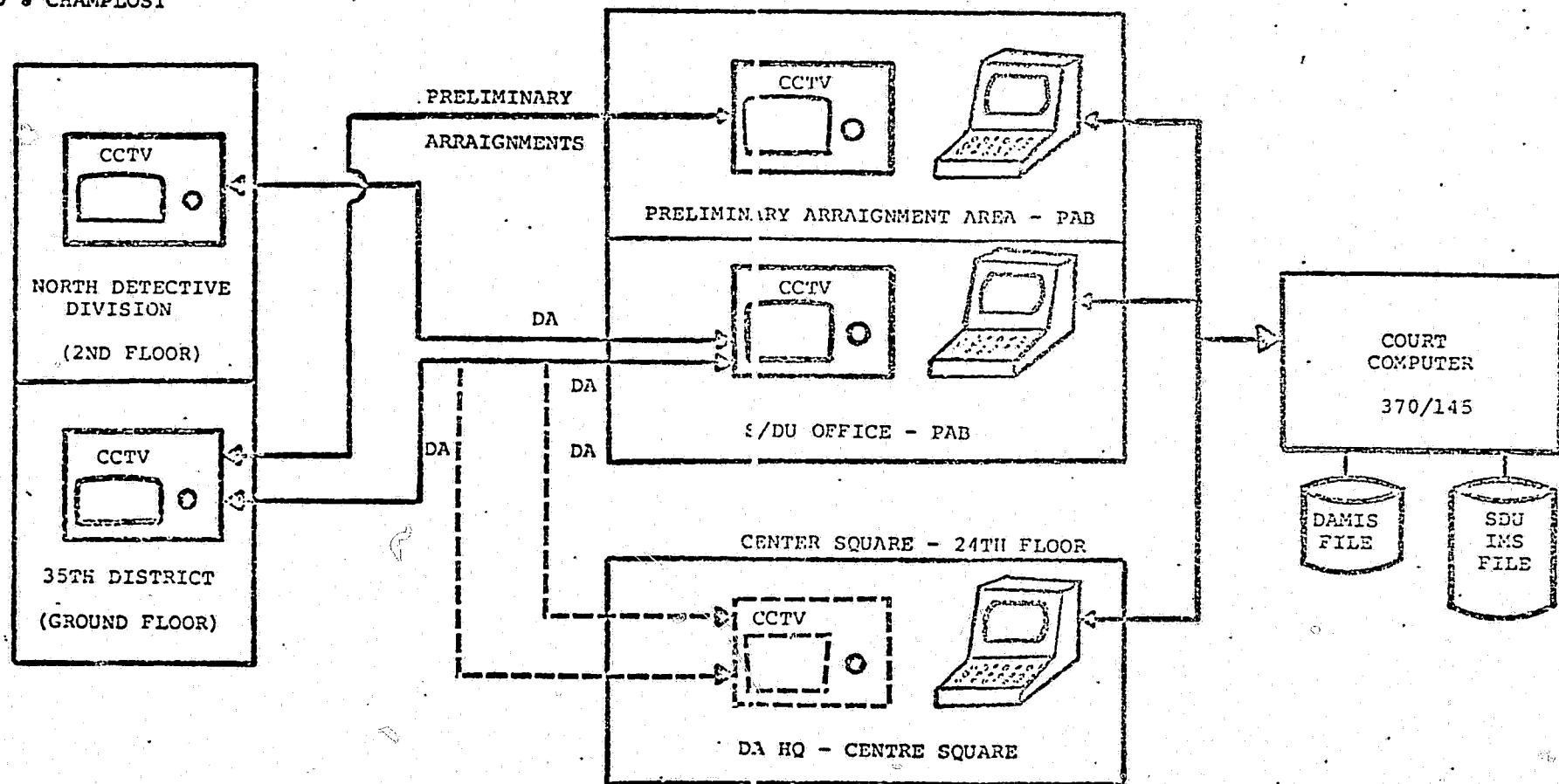


FIGURE 1

COMMUNICATIONS LINKAGES

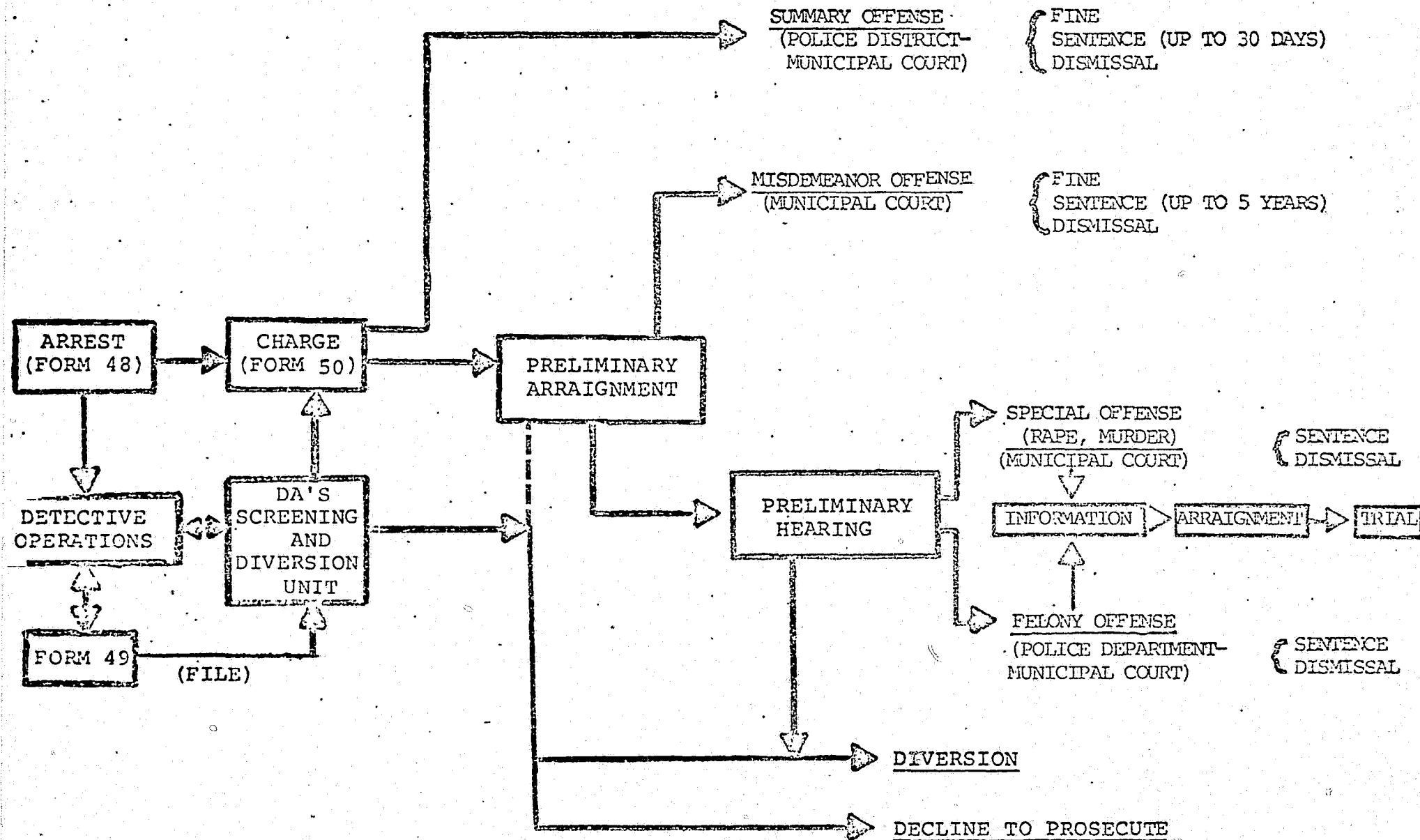


FIGURE 2

ADVANCED CCTV SUPPORTED PROCESS

formal screening and diversion review after the preliminary hearing and arrest) vs. the system of formal direct closed circuit television access and screening and diversion decisions made on-line at the time of arrest, and documented through the use of the SDIS computer system.

The results of the demonstration tests as well as historical data collected relative to the decentralized method are presented in Figure 3. The comparative analysis clearly indicates that the formal process of legal counseling and guidance, and screening and diversion decisions on-line utilizing the closed circuit television system and computer aids is the least expensive and most efficient method in that 1) it uses the least number of district attorneys, and 2) involves the earliest screening and diversion out, of those cases which would not normally be brought to trial; thus offering the potential for elimination of paperwork and manpower. While there is essentially little or no difference as to the ultimate resolution of the flow of cases under either of the centralized systems, the CCTV/SDIS approach provides the benefit that the decisions are made significantly earlier in the criminal justice process, thus offering savings which are not achievable under the system of informal telephone access, and formal screening and diversion review after preliminary hearings.

A careful and realistic weighing of the alternatives favors the use of CCTV. The use of centralized video-audio communication has the following advantages:

1. Video-audio communication allows face-to-face communication between police officers and assistant district attorneys (ADA's).

Such communication is essential to maintain a harmonious and cooperative working relationship between the two groups. It also allows assistants to identify officers they may know by face, but not by name, in order to assess their credibility.

2. Video-audio communication allows face-to-face communication between police officers, and witnesses at the remote location and assistant district attorneys.

This facilitates the assistant's understanding of testimony and his determination of credibility.

3. Video communication lets the ADA's view physical evidence.
4. Video-audio communication allows an ADA to observe line-ups and the taking of statements to ensure adherence to constitutional protections.

FIGURE 3

**COMPARATIVE EVALUATION OF
ALTERNATIVE SYSTEMS**

		DECENTRALIZED	CENTRALIZED		
COMPARATIVE CRITERIA		FULL TIME COUNSELING; AND SCREENING SERVICES PROVIDED AT EACH SITE BY ASSIGNED ADA	INFORMAL COUNSELING BY TELEPHONE FORMAL SCREENING AND DIVERSION AFTER HEARING	FORMAL COUNSELING, SCREENING AND DIVERSION BY CCTV AT TIME OF ARREST- DOCUMENTED VIA SDIS	COMPARATIVE EVALUATION AND COMMENT
NUMBER OF ADA'S REQUIRED TO SERVE CITY NEEDS		20	1	4	CCTV SYSTEM REQUIRED LEAST NUMBER OF PEOPLE
PERCENTAGE OF TOTAL ARRESTS REDUCED TO SUMMARY OFFENSES, SCREENED OUT OR DIVERTED BEFORE TRIAL		0	1%	10%	QUALITY OF CASES ACTUALLY HANDLED, SIGNIFICANTLY IMPROVED WITH CCTV SYSTEM
MAJOR POINT OF SCREENOUT OR DIVERSION	AT ARREST	0	0	30%	SIGNIFICANT PORTION OF UNPROSECUTABLE CASES SCREEN OUT AT ARREST
	AT PRELIMINARY HEARING	0	0	30%	SIGNIFICANT PORTION OF DIVERTABLE CASES HANDLED AT PRELIMINARY HEARING
	AT PRE-TRIAL	100%	100%	40%	TRIAL AND CASE WORKLOAD IS SIGNIFICANTLY REDUCED
PERSONNEL & PAPERWORK SAVINGS		NONE	NONE	SIGNIFICANT	ESTIMATED \$1-2 MILLION ANNUAL SAVINGS POSSIBLE
MORALE & RECRUITMENT PROBLEMS		SIGNIFICANT	NONE	NONE	DA'S MOST POSITIVE ABOUT USE OF CCTV

5. Centralized legal counseling solves the personnel problem of recruiting ADA's to work in and travel through dangerous neighborhoods at all times of the day and night, and to work in unfamiliar or less than adequate professional surroundings.

6. Centralized legal counseling puts several ADA's in close physical proximity during each shift.

This provides for assistants consulting over difficult problems and for the enormous training benefit of making up shift teams of combinations of experienced and inexperienced assistants. The project would be able to train prosecutors in constitutional problems in a way which is not possible using the individual assignment approach.

7. Video-audio communication may be recorded on tape for later playback, for purpose of documentation.

In comparison with video-audio communication, telephone service does not allow identification and assessment of credibility of officers, defendants and witnesses. It compromises the assistant's understanding of testimony, and does not allow him to read documents or view physical evidence, line-ups, and interrogations.

An analysis of the demonstration tests clearly indicate that the concept of moving the charging decision role up prior to arraignment, and providing the capability of allowing the Screening and Diversion Unit of the District Attorney's Office to directly communicate with detectives and uniformed officers via CCTV the time of arrest, is technically feasible. The tests showed that the concept operationally improves the efficiency of the front end of the Criminal Justice System.

A summary of expected benefits to be derived from extending the Screening and Diversion Unit through the use of CCTV and the computerized SDIS is shown in Figure 4. An analysis of the data indicates that there will be a significant reduction in the operating costs and work flow in both the District Attorney's Office and the police detective divisions. In addition the system appears to offer significant opportunities for improving successful case prosecution by the District Attorney's office.

The full quantitative and qualitative evaluation indicates that benefits to be derived through the implementation of the system more than offset the costs of implementation of the appropriate closed circuit television and computer based programs.

FIGURE 4
EXPECTED BENEFITS* FROM
EXTENDING CCTV SYSTEM
TO ALL POLICE DETECTIVE DIVISIONS

- A. Benefits to District Attorney's Office
- Reduction in Pre-trial Division workload by 10%
 - Increase in successful case prosecution by 25%
- B. Benefits to Police Detective Divisions
- Reduction in paper work processing workload of 5%
 - Reduction in time required for detective/officer appearances at felony cases of 20%
 - Reduction in number of false arrest charges

*. Estimated Based on Demonstration Tests & Analysis

G. TECHNOLOGICAL TRANSFERABILITY

An in depth analysis of the technological transferability of the CCTV concept to other jurisdictions was made. In general, the analysis suggests that the CCTV system has a high degree of technological transferability using microwave or a buried cable communications approach. In general the analysis, made in several major metropolitan areas suggests that the benefits and cost reductions which can be achieved as a result of the implementation of such a concept would more than offset the cost associated with the implementation of the supporting systems. This is particularly true in cases in which multiple uses can be found for the CCTV network.

H. ORGANIZATION OF THE FULL REPORT

The full report has been organized to provide an overview of the Criminal Justice System in order to establish a setting for the charging decision process. The present role of legal counseling, and of the Screening and Diversion Unit of the Office of the District Attorney of the City of Philadelphia in the Criminal Justice System is discussed (in Chapter II). Chapter III describes the proposed program for improving the Criminal Justice System through the use of a closed circuit television system (already installed within the City of Philadelphia), and a computerized management information system, to provide a direct linkage between the District Attorney's legal counseling and Screening and Diversion functions and the Police Detective Divisions in order to improve the efficiency of the charging process. This Chapter describes the current closed circuit television system and its potential use in support of the Screening and Diversion Unit operations. The results of a demonstration test of the Screening and Diversion Unit operation supported by closed circuit television in the City of Philadelphia is described in Chapter IV. This demonstration test was designed to evaluate the potential use of closed circuit television in support of the legal counseling screening and diversion, and charging decisions. Finally, Chapter V summarizes the results of the demonstration and provides conclusions and recommendations based on a comparative analysis as to its value within the City of Philadelphia, and to other jurisdictions. Appendices to the report provide references and bibliography, and specialized data concerning technological transferability and servicing issues.