

JUDICIAL COUNCIL OF CALIFORNIA



MASTER INDIVIDUAL CALENDAR STUDY

49827



## JUDICIAL COUNCIL OF CALIFORNIA

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### MASTER-INDIVIDUAL CALENDAR STUDY

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NCJRS

AUG 04 1978

ACQUISITIONS

The Hon. Donald R. Wright  
Chief Justice of California  
Chairman of the Judicial Council  
State Building  
San Francisco, CA 94102

Sir:

We are happy to submit our final report on the comparison of master and individual calendar systems. This study was made at the request of the Judicial Council of California and financed, in part, through a grant from the California Council on Criminal Justice.

The report includes:

1. A description of the various calendar systems most commonly employed by trial courts with a summary of the advantages and disadvantages as described by proponents.
2. Case studies of calendar systems in use in courts which have recently changed their system or experimented with alternate systems. These are the Superior Court, Los Angeles; Supreme Court, New York County; Court of Common Pleas, Cuyahoga County (Cleveland); Circuit Court, Wayne County (Detroit); Civil Court, New York City.
3. A survey of calendar practice in the superior, municipal, and federal district courts in California.
4. A summary of calendar practice in other states and the District of Columbia.
5. A statement of principles and techniques for effective calendaring and case processing management.
6. A proposed methodology for evaluating and

monitoring a calendar and case processing system.

The information in this report is the product of field visits to Los Angeles, Cleveland, Detroit, New York, and San Francisco to gather data, to observe the several calendar systems in operation, and to conduct opinion surveys of judges, court administrators, and lawyers. The field visits were supplemented by mail questionnaires as required.

Our basic findings are as follows:

1. The California superior and municipal courts almost universally utilize some form of the master calendar system.
2. California courts express general satisfaction with the calendar system in use.
3. Quantitative analysis under controlled conditions demonstrated that judges using a master calendar processed cases more efficiently than judges using the individual calendar.
4. Several metropolitan courts in other states have successfully used individual calendar techniques to reduce delay and backlog.
5. At least one large metropolitan court has implemented the judge team concept for calendaring, i.e., assigning cases for disposition to teams of judges, resulting in backlog reduction.
6. Calendar system performance is a function of all elements of the overall case processing system, including continuance policy, judicial involvement in settlement negotiations, and staff support.

Our basic recommendations are:

1. We find no reason to recommend statewide adoption of any of the calendar systems studied.
2. Because of the apparent advantages of the judge team approach to calendaring and its successful implementation in several courts, we recommend further experimentation with this concept at the municipal and superior court level.

3. Systematic procedures for evaluating and monitoring calendar system efficiency should be adopted on a statewide basis.

Through the study we have had the most helpful counsel of an advisory committee which is composed of:

Hon. James G. Kolts, Chairman  
Superior Court, Los Angeles

Hon. G. Brooks Ice  
Superior Court, San Mateo

Hon. Max V. Eliason  
Municipal Court, North Orange County

Hon. Harry W. Low  
Superior Court, San Francisco

Keith Sorensen  
District Attorney, San Mateo

Richard Buckley  
Public Defender, Los Angeles

J. Paul Peoples  
Court Administrator, Superior Court, San Mateo

James E. Arnold  
Court Administrator, Superior Court, Sacramento

Our staff included: Robert Page, Deputy Director and Planner, Deborah Baldwin, Mark Gainer, Geoffrey Rotwein and Ronald Walker, Researchers; Ruth Hawkins and Jane Began, Consultants; and Iris Kiley, Secretary.

The opinions, findings and conclusions expressed in this report are those of the author and not necessarily those of the State of California, the Law Enforcement Assistance Administration, or the California Council on Criminal Justice.

We acknowledge the help and cooperation of Mr. Ralph Kleps, Director of the Administrative Office of the Courts and his staff, especially Karl Uebel, attorney, and William Nanry, court management analyst; the Hon. Alfred J. McCourtney, Presiding Judge of the Los Angeles Superior Court; the Hon.



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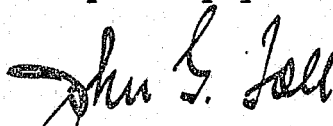
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Raymond Choate, Supervising Judge of the Criminal Division, Los Angeles Superior Court; William E. Cain, Criminal Courts Coordinator of the Los Angeles Superior Court and his staff; the Hon. Edward R. Dudley, Administrative Judge of the Civil Branch of the Supreme Court of New York County; the Hon. Thomas Parrino, Administrative Judge of the Court of Common Pleas, Cuyahoga County, Ohio; and the Hon. Joseph A. Sullivan, Presiding Judge of the Third Circuit Court of Wayne County, Michigan, all of whom gave generously of their time and experience.

Very truly yours,

  
JOHN G. FALL

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## I. INTRODUCTION

This project was charged to "study basic types of civil and criminal calendaring in use in the courts of California and, also in selected jurisdictions in other parts of the United States (in order) to determine which of the basic systems or combinations thereof result in the most efficient movement of cases through the judicial system while sustaining the quality of individual justice."<sup>1</sup>

We identified the calendar systems which should be included in the study as the master, individual, hybrid, and the conference and assignment (or team) systems. The master and the individual are the most commonly used, the latter two are novel and have received recent public attention.

Existing literature provides descriptions of the systems and statements of the claimed advantages and disadvantages of each. Because of semantical disparities in the literature in the field of court administration, we provide a glossary of terms as used in this study.

The courts studied were selected for the diversity in calendar systems employed, namely, the Criminal Division of the Superior Court for Los Angeles County, the Civil Branch of the Supreme Court for New York County, the Court of Common Pleas for Cuyahoga County (Cleveland), the Circuit Court in Wayne

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<sup>1</sup>California Council on Criminal Justice Project Application "Master and Individual Calendaring Systems Comparison".



County (Detroit), and the Civil Court of the City of New York.

We surveyed the superior and municipal courts in California to determine current calendar practices and the levels of satisfaction with the calendar systems employed. The various states were surveyed to provide as complete an outline of current practice as possible.

The federal courts are a source of considerable publicity on the individual calendar system. Our surveys included the four California federal district courts.

From the case studies, literature, and surveys, we form a statement of general principles and techniques for calendaring which are applicable both to a specific calendar system and to effective calendar management in general.

Finally, we present our conclusions and recommendations for further study. As a part of the recommendations, we outline a methodology for courts to use in evaluating a calendar system to determine whether a change in that system is warranted. This methodology is presented in the form of a case study in the Contra Costa Superior Court.

## II. CALENDAR SYSTEMS

### Definitions

Considerable differences in court management terminology exist among writers and regions, hampering our efforts to arrive at acceptable definitions of the various calendar systems. Therefore, we called upon the literature on court management, the California Penal Code and Code of Civil Procedure, and the California Rules of Court to generate a glossary of court terminology which is presented as Appendix I. Terms which have specific meaning in the California courts are so labeled. For all other terms, we sought definitions reflecting common usage.

We define calendaring simply as assigning and scheduling court appearances. A calendar system is the system used for assigning and scheduling. The most commonly used systems are the master and individual calendar systems.

We identify the significant aspects of a calendar system as follows:

1. Time when assignment to a judge occurs for pretrial and trial appearances, i.e., at filing, on day of appearance, etc.
2. Purpose of assignment to a judge, i.e., to handle all proceedings until disposition, to handle all pretrial phases, to handle a single pretrial phase, to reassign, etc.
3. Basis for assignment to a judge, i.e., random assignment, by type of case, judge availability, etc.
4. Provision for case reassignment.
5. Responsibility for scheduling court appearances, i.e., centralized scheduling, decentralized scheduling.

A calendar system is a part of the overall system

controlling the movement of cases within the court from filing to disposition. This overall system has been defined variously. Maureen Solomon defines "the continuum of activities through which cases move within a court" as a "caseflow management" system.<sup>2</sup> While accepting this concept, we are impressed with Eldridge Adams' remark that the term "flow", connoting "proceeding continuously and smoothly",<sup>3</sup> perhaps does not reflect the nature of the movement of cases through the judicial process. We suggest that the term "process", which we define as a systematic series of actions directed to some end, more aptly describes the dynamics of case movement within the judicial system. Thus, we adopt the expression case processing system to describe the overall system used to control movement within the court.

We identify essential elements of a well managed case processing system as follows:

1. A calendar system (e.g., master, individual, etc.).
2. Consistently applied policies governing the processing of cases, especially a policy on continuances and court participation in encouraging settlement prior to trial.
3. Clearly defined responsibilities for judicial, clerical, and administrative personnel of the court.
4. System performance and time standards for processing cases.

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<sup>2</sup> Solomon, Caseflow Management in the Trial Court, American Bar Association Commission on Standards of Judicial Administration Supporting Studies - 2 (1973), p. 4.

<sup>3</sup> Eldridge Adams - Remarks at the National Conference of Metropolitan Courts, Cleveland, Ohio, October 1973.

## 5. Monitoring and evaluation procedures.

The effectiveness of a calendar system is dependent on the other elements of a case processing system. Courts having no procedure for court participation in and encouragement of settlement or a lax policy on continuances probably will have subpar performance records whether the calendar system employed is master, individual, or some other. This dependence makes it difficult to evaluate a calendar system in isolation from the case processing system of which it is a part.

We describe the four calendar systems as follows:

### Individual or All Purpose Calendar System

A system in which each case is assigned upon filing to a judge who is responsible for all phases of the case through final disposition.

### Master, or Special Purpose Calendar System

A system of central assignment of cases during all phases of proceedings. As each successive phase of the case is ready for a hearing, conference or trial, the case is assigned to a judge to handle that phase.

### Hybrid Calendar System

A system which combines features of various calendar systems. In one such system, a case is assigned upon filing to a judge to handle all pretrial phases. When the case achieves trial ready status, it is placed in a trial assignment pool and assigned to any available judge.

### Team, or Conference and Assignment Calendar System

A system in which the court is divided into teams of judges. Cases are assigned, upon filing, to a team. One member of the team (conference judge) handles pretrial matters for all assigned cases. The remaining members (assignment judges) try cases. Judicial roles on the team are changed routinely.

We find that the essential distinction between systems is the purpose for which a case is assigned to a judge (handle all proceedings until disposition, handle all pretrial phases, handle single pretrial phase, etc.). Some of the other characteristics traditionally associated with the various systems are not necessarily inherent in those systems. As an example, the individual calendar system is sometimes associated with decentralized or nonexistent administrative control of calendars. Several courts, however, have demonstrated the successful use of the individual calendar system while maintaining centralized administration and control over the case processing system.

Similarly, the master calendar system traditionally is defined to include a master calendar department from which court appearances are assigned to departments for hearings. Nevertheless, several courts have eliminated the master calendar department, and court appearances are assigned directly by a court administrator who works under the direction of the presiding judge. Such a system still is a master calendar system.

## Advantages and Disadvantages of the Several Calendar Systems

Each calendar system has certain inherent advantages and disadvantages. Some are obvious. Others are not as clear. The claims of their advocates often are contradictory.

While many assertions of system superiority have been made, there is little empirical data to confirm or dispute them. Solomon presents an excellent statement of the claimed advantages and disadvantages of the master, individual, hybrid, and team systems.<sup>4</sup>

We present a summary of the most important claims made for each system, as derived from Solomon and other writers. In our case studies, we have tried to obtain data and a consensus of participants in the various systems on the validity of these claims.

### Individual Calendar System

#### Claimed Advantages

Judge becomes thoroughly familiar with a case.

Consistency in rulings on each case throughout.

Judge shopping is prevented.

Parties are brought to the issues earlier in the case.

Each judge is more conscious of backlog.

Dilatory tactics are reduced.

Related pretrial proceedings can be easily consolidated.

Each judge carries a fair share of the caseload.

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<sup>4</sup> Solomon, op. cit. pp. 21-26



### Claimed Disadvantages

- Problems compensating for "fast" and "slow" judges.
- Difficulty in scheduling pretrial phases of cases while conducting trial of one case.
- Individual calendars become clogged by protracted cases, illness of judge, etc.
- Disparity in court wide policies regarding procedure.
- Possibility of pretrial relations affecting the trial relationship between judge and attorney.

### Master Calendar System

#### Claimed Advantages

- Progress of a case not dependent on a particular judge.
- Prevents departments from accumulating large backlog of cases.
- Court wide uniformity on procedural questions.
- Minimization of trailing.
- Assignments of pretrial hearings and trial can be based on individual skills of judges.
- Trials are not interrupted by pretrial hearings of other cases.
- Easier to avoid scheduling conflicts with attorneys.

#### Claimed Disadvantages

- Duplication of effort by judges handling various phases of a case in familiarizing themselves with the case file.
- Lack of uniformity of rulings in each case.
- Increased number of court appearances required.
- System encourages judge shopping.

## Hybrid Calendar System

### Claimed Advantages

Only one judge required to be familiar with the case during pretrial.

Avoids risk of judicial prejudice that could result from the settlement or pretrial judge trying the case.

### Claimed Disadvantages

Coordination problems develop between pretrial and trial phases.

Disadvantages named for individual calendar system during pretrial and master calendar system for trial.

## Team or Conference and Assignment Calendar System

### Claimed Advantages

Scheduled reassignment of roles prevents judicial boredom.

Coordination between conference and trial departments regarding procedures and issues in specific cases.

Responsibility for caseload placed on small team promoting accountability without isolating individuals.

Individual skills of judges can be harmonized into a team.

### Claimed Disadvantages

Absence of a member of the team undermines overall function of the team.

Philosophy of system to maintain an open courtroom to induce settlement at the conference stage implies underutilization of trial judges.

Problems compensating for "fast" and "slow" teams.

### III. CASE STUDIES OF CALENDAR SYSTEMS

Case studies were made of the following trial courts, selected for diversity of calendar systems and recent modification or change:

1. Superior Court for Los Angeles County, Criminal Division, with an individual calendar system and a master calendar system adopted experimentally in 1973.
2. Supreme Court for New York County, Civil Branch, with an individual calendar system since 1971, following the use of a master calendar system.
3. Court of Common Pleas for Cuyahoga County (Cleveland) with an individual calendar system for both criminal and civil cases since 1972, following the use of a master calendar system.
4. Circuit Court for Wayne County (Detroit) with a hybrid system since 1967 for both civil and criminal cases, following the use of master and individual calendar systems.
5. Civil Court of the City of New York with a conference and assignment system since 1970, following the use of a master calendar system.

Coincidentally with the beginning of our study, the Superior Court for Los Angeles began an experiment in its criminal division in which some departments were designated to use a master calendar system while the remaining departments continued to use the individual calendar system. This provided a unique laboratory for study. Most of the factors mentioned by Adams, such as court size, attitudes of the prosecutor and public defender, etc., which make comparisons of calendar systems difficult, were more controlled.<sup>5</sup>

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<sup>5</sup> Adams, op. cit, p. 16.

We chose to emphasize individual calendar techniques because our survey of California courts showed that almost all multi-judge courts use some form of the master calendar system (see Appendix 3). We therefore sought evidence to support retention of the master calendar or change to another system. Both the New York County Supreme Court and the Cuyahoga County Court of Common Pleas use systems representative of individual calendar techniques.

Hybrid systems, i.e., systems which combine aspects of the master and individual calendar systems have become increasingly popular. The Circuit Court for Wayne County tried both the master and individual calendar within the past decade before adopting a hybrid system.

The conference and assignment system has received considerable attention because of the success of the Civil Court of the City of New York in reducing backlog dramatically since its adoption. The system is based on a judge team approach to calendaring which appears to have considerable merit.

The format of each case study is the same to allow ease in comparison. Because we assume that a calendar system cannot be considered independently of the other elements of the case processing system of which it is a part, our consideration is broad. A general description of the court is given outlining the jurisdiction, number of judges, etc. We point out those factors which have potential impact on the calendar system. As an example, a judge of the Civil

Branch of the New York County Supreme Court has a staff made up of a personal aide, a law clerk, and a courtroom clerk. In California, a superior court judge often has only a court clerk for assistance.

A brief history outlines the events and decisions leading to the adoption of the calendar system employed to give insights into the reasons a court changes its calendar system.

We outline the functioning of the case processing system including a description of the manner in which court appearances are scheduled and assigned or calendared for the various phases in the judicial process. Matters of court policy which bear on calendar performance, e.g., use of special departments, handling dormant matters, control of continuances, are reported.

Our evaluation of the calendar system is based upon a visit by a member of the staff who analyzed the statistics maintained and interviewed judges, court administrators, clerks, and attorneys.

#### Assumptions

In the analysis of calendar practice and case processing systems, we assume that just results are obtained. We assume further that a system is efficient which achieves the following:

1. The time from filing to disposition is minimized.
2. A high proportion of dispositions occur without trial.
3. Disposition per judge working day are maximized.
4. Court appearances per case are minimized.
5. Continuances, trailing, and reassignments are minimized.
6. Rules and procedures are uniformly applied.
7. Nonjudicial personnel time is minimized.
8. Attorney time is maximized.

INDIVIDUAL AND MASTER CALENDAR SYSTEMS EMPLOYED  
IN THE CRIMINAL DIVISION OF THE  
CENTRAL DISTRICT OF THE LOS ANGELES SUPERIOR COURT

INTRODUCTION

The Los Angeles Superior Court, Criminal Division, has jurisdiction over cases resulting from an information charging a felony, from grand jury indictments, and from certified pleas from the municipal court. The central district, which is the largest of the districts within the court, is assigned grand jury indictments for the entire county and defendants held to answer for a felony charge in the Central, Compton, and East Los Angeles Municipal Courts. In addition, the branches of the Los Angeles Superior Court occasionally transfer unusual cases to the central district.

The court serves an area of 4,060 square miles with a population of over seven million. The geographic jurisdiction of the central district is the metropolitan center of Los Angeles.

The criminal division of the central district has 27 judges and four court appointed commissioners who serve as judges upon stipulation of the parties.

California provides for the election of superior court judges to a six year term, but many first take office through the governor's appointment to a vacancy. There are financial incentives to retire by age 70.

Each judge is assigned one clerk and one bailiff. Court reporters are available from a pool. Five secretaries and one fulltime and one parttime law clerk serve the 31 criminal



courts.

The presiding judge of the Los Angeles Superior Court is elected by vote of all judges for a one-year term and usually re-elected for a second year. An executive committee is responsible for court policy and local rules and procedures.

The supervising judge of the central district criminal division serves for a one-year period and may be reappointed. The duties of the supervising judge include the assigning of judges within the criminal division, ruling on policy questions, processing of certain assigned criminal cases and writs, arraighning persons indicted by the grand jury, supervising the criminal departments in the central district and the branch districts, and transferring cases within and between divisions.

The criminal court coordinator is the principal staff assistant to the supervising judge. The coordinator is responsible for calendar control and general administration, issuance of judicial and staff payroll, facility maintenance, media releases, and related matters. He has a staff of four persons consisting of an assistant, a criminal arraignment assignment clerk, and two calendar clerks.

The criminal section of the office of the county clerk consists of two branches: office services and court services. The office services branch has 59 employees and maintains files, registers of actions, etc., for all cases. Court services with 41 employees, assigns a deputy county clerk to each department of the criminal division.

## BACKGROUND

Prior to 1971, the criminal division of the central district used a combination master and individual calendar system. Defendants appeared in a master calendar department and then were assigned to any of the other criminal departments by the supervising judge. The assigned department then handled all aspects of the case until disposition.

In January 1971, the court by local rule instituted the present system of directly assigning cases to a superior court department for arraignment upon completion of the preliminary examination in the municipal court. This system eliminated an appearance in the master calendar department and provided the defendant with a date certain for arraignment two weeks in advance.

Although this system has improved caseflow considerably, the court recently began a pilot project to evaluate the effectiveness of the master calendar system. The decision to conduct the experiment was based in large part on the impressive performance of the criminal division of the San Francisco Superior Court, using a similar system. According to statistics presented by the San Francisco Court at a Judicial Council sponsored Superior Court Calendar Management Conference in March, 1973, the court reduced its backlog of criminal cases from approximately 800 cases to a virtually current calendar in less than two years.

The criminal division of the San Francisco Superior Court consists of six judges and, in designing their experiment, the

Los Angeles Court designated six departments to use the master calendar system, beginning in April of 1973. In this system, all the arraignments which normally would be calendared in any of the six designated departments are assigned directly to the master calendar department. The master calendar department arraigns, takes pleas, and hears all pre-trial motions and conferences for cases so assigned. Trial ready cases are assigned from the master calendar department to one of the five satellite or backup courts for trial.

At the same time, but without the participants' knowledge, six other departments using the normal individual calendar system were designated as a control group for the purpose of matching efficiency and effectiveness. Records from arraignment through disposition were kept on cases assigned to these 12 departments. At the end of the six-month period, the roles of the master-satellite and control-individual calendar judges were reversed.

For the second half of the experiment, one satellite department was eliminated at the recommendation of the participant judges, leaving one master calendar judge and four satellite departments. A new master calendar judge was appointed from one of the former control departments.

The study initially covered only the first phase of the experiment. The staff was asked by the Judicial Council to analyze the results of the second phase which is included in Appendix 2.

In the following, we have contrasted the two calendar systems employed.

## Differences in the Master and Individual Calendar System

### INDIVIDUAL CALENDAR

#### Distribution of Business

All arraignments are distributed equally among all the judges assigned to hear criminal cases. (Arraignments resulting from grand jury indictments are held by the supervising judge.)

#### Phases in the Criminal Process

After arraignment, procedures for pretrial proceedings are established at the discretion of the assigned judge.

#### Assignment of Cases for Pretrial and Trial

The assigned department hears all matters through disposition.

#### Responsibility for Calendaring Cases

Each judge sets his own calendar.

#### Reassignment of Cases

Trials and motions are re-assigned by the criminal court coordinator in cases of illness, vacation, protracted cases, filing of an affidavit of prejudice, or an occasional request from departments with an overload.

### MASTER CALENDAR

All arraignments are assigned to the master calendar judge.

All pretrial motions must be heard prior to the readiness conference. A mandatory readiness conference is heard three weeks prior to trial.

The master calendar department handles all pretrial matters relevant to the case, including plea negotiations, motions, and readiness conference, unless the master calendar judge elects to assign some of these matters to a satellite department. When a case is ready for trial, it is assigned by the master calendar department to one of the satellite departments for trial and post-trial matters.

Master calendar judge sets all court appearances for both pretrial and trial.

Master calendar department reassigns cases on the filing of an affidavit of prejudice. Courts engaged in trial are not assigned any further matters until the completion of that trial. Occasionally cases are transferred in and out of the departments by the criminal court coordinator.

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## PERFORMANCE

The analysis is divided into two sections. First, we compared the performance of the experimental and control groups over the six month period from April to September (Tables 1-2). The statistics were taken from records maintained by the executive office of the court.

In the second section, we followed the progress of all defendants arraigned in June until February 1, in both the master and individual (control) departments (Tables 3-8). By February 1, 1974, fewer than eight percent of the defendants still had charges pending against them in either group. The data for the second section was gathered principally from the register of actions in the office of the county clerk.<sup>7</sup>

We did not verify the accuracy of the records kept by the executive office of the court. For the statistics based on the register of actions, we must postulate an error factor as high as ten percent in some instances due to inconsistent standards and performance on entry and necessary interpretation by the staff. A complete outline of our methodology is included as Appendix 4.

We assumed that the court was successful in selecting judges of comparable pace and abilities for each group. The second half of the experiment in which judges switched roles should reveal if significant differences between the judges

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<sup>7</sup> We used some statistics maintained by the office of criminal court coordinator, but in the event of conflicts, relied on the register of actions.

exist.

A question of comparability might be raised; that is, were the caseloads assigned to each group, in fact, similar. The Los Angeles court studied the distribution of "heavy" cases among the experiment departments. Heavy cases were defined as homicide, forcible rape, assault with intent to commit robbery, and lewd or lascivious acts on a child. Their hypothesis was that if cases involving these crimes were distributed relatively equally between the two groups, then it could be concluded that the caseloads assigned the two groups were as equal as possible. The court found that both groups received virtually an equal number of "heavy" cases (6 percent of the arraignments for both groups).

#### Six Month Summary

During the first two months of the experiment, the judges in both calendar departments spent a considerable amount of their work time on matters assigned to them prior to the commencement of the experiment. The time allocated to non-experiment matters decreased in the latter months. The disposition figures for the first two months, consequently, are lower than in subsequent months. While we have included statistics for all six months in the tables, greater importance is placed on the performance of the respective departments during the final four months of the test period.

From June to September, the monthly dispositions of defendants arraigned after the start of the experiment in the master calendar departments were, on the average, one-third higher than the individual calendar departments serving



as control (see Table 1). During this period, the master calendar departments achieved 459 dispositions, as compared to 346 for the control departments.

The number of dispositions per judge day worked shows the master calendar departments exceeding the individual calendar departments in each month from June to September. For the individual calendar departments, performance ranged between .78 and .87 dispositions per judge day worked with no upward trend indicated. The master calendar departments, on the other hand, showed a marked upward trend, rising from 1.02 in June to 1.33 in September. In September, the average number of dispositions per judge day worked for the master calendar departments exceeded the individual calendar departments by 57 percent.

The types of dispositions achieved by each group are, generally, similar although some differences do exist (see Table 2). In the master calendar group, cases disposed by jury trial were 2 percent of the total dispositions while, in the individual calendar group, jury trials represented 4 percent of the total. In terms of judge time required, this figure is significant since the average criminal jury trial in the Los Angeles Superior Court lasted 24.1 hours in 1971.<sup>8</sup> The additional seven jury trials held in the individual calendar departments represent a potential requirement of approximately 169 judge hours or over 30 judicial working days.

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<sup>8</sup> Arthur Young and Company, Study of Weighted Caseload System for Determining Judicial Manpower Requirements for California Superior and Municipal Courts (1971).

TABLE 1  
LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS  
SIX MONTH DISPOSITION PROFILE, APRIL TO SEPTEMBER, 1973<sup>1</sup>

MONTH	MASTER CALENDAR DEPARTMENTS (104,113,116,118,119, and 127)				INDIVIDUAL CALENDAR DEPARTMENTS CONTROL GROUP (101,111,112,120,129 and 132)			
	ARRAIGNMENTS	DISPOSITIONS	JUDGE DAYS WORKED	DISPOSITIONS PER JUDGE DAY WORKED	ARRAIGNMENTS	DISPOSITIONS	JUDGE DAYS WORKED	DISPOSITIONS PER JUDGE DAY WORKED
April	218	21	N.A.	N.A.	212	5	N.A.	N.A.
May	204	90	N.A.	N.A.	210	35	N.A.	N.A.
June <sup>2</sup>	158	111	109	1.02	168	84	108	.78
July	158	98	99	.99	184	105	121	.87
August	165	137	117	1.17	164	86	105	.82
September	146	113	85	1.33	145	71	85	.84
Total	1049	570	N.A.	N.A.	1083	386	N.A.	N.A.

N.A. - Not available.

<sup>1</sup>Only cases assigned after the commencement of the experiment are included.

<sup>2</sup>In subsequent tables, the number of defendants arraigned in June is adjusted to conform to figures from the Register of Actions, Office of the Los Angeles County Clerk.

Source: Executive Office, Los Angeles Superior Court.

TABLE 2

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS

DISPOSITION PROFILE FOR DEFENDANTS ARRAIGNED  
APRIL THROUGH SEPTEMBER, 1973<sup>1</sup>

TYPE OF DISPOSITION	MASTER CALENDAR DEPARTMENTS (104,113,116,118,119, and 127)		INDIVIDUAL CALENDAR DEPARTMENTS CONTROL GROUP (101,111,112,120,129, and 132)	
	NUMBER	PER CENT	NUMBER	PER CENT
Guilty plea	326	57.2	229	59.3
Submission on transcript	120	21.0	53	13.7
Diverted	18	3.2	33	8.5
Dismissed	70	12.3	42	10.9
Court trial	27	4.7	13	3.4
Jury trial	9	1.6	16	4.2
Total	570	100.0	386	100.0

<sup>1</sup>Only cases assigned after the commencement of the experiment are included.  
As of September 30, 479 defendants arraigned in the master calendar departments  
and 697 defendants arraigned in the individual calendar departments have charges  
still pending against them.

Source: Executive Office, Los Angeles Superior Court.

While any attempt to measure the "quality" of output between the two groups is fraught with peril, similarities in the type of dispositions suggest that the calendar system has little effect on whether disposition is by trial, plea, or otherwise (except for the differences in the number of jury trials as noted). Of particular interest is the percent of guilty pleas recorded in each group; 57 percent in the master calendar departments and 59 percent in the individual calendar departments. Their similarity argues against claims that either the master or the individual calendar system creates undue pressure on a defendant to plead guilty.

A criticism of the experiment design was that the disposition figures were skewed because the judges in both calendar departments periodically were assigned trial ready cases not originally assigned to them and had trial ready cases reassigned to other departments. The reassigning of cases would occur if the department to which the case was assigned could not commence trial within the statutory limits.

The office of criminal court coordinator tabulated the number of trial ready cases which had been transferred either in or out of the experiment groups during the six month period as follows:

	<u>Trial Ready Cases Trans- ferred In</u>	<u>Trial Ready Cases Transferred Out</u>
Master calendar departments	51	12
Individual calendar departments	40	82

The master calendar department accepted more trial ready cases and, more importantly, found it necessary to request assistance through the criminal court coordinator for only 12 cases. The individual calendar departments required assistance for 82 cases, over six times as many.

In sum, for the first six months of the experiment, the master calendar group achieved significantly higher disposition levels than the individual calendar group. Other efficiency levels favored the master calendar group also.

#### Defendants Arraigned in June

To analyze why these differences exist, we traced a group of cases through the criminal process, as described in the following section.

We selected those cases in which defendants were arraigned in the month of June. June was chosen because it is a typical calendar month without holidays or a high rate of judicial absences for vacation. Also, June was the first month in which the experimental groups devoted themselves almost exclusively to defendants arraigned during the experiment.

In June, 151 defendants were arraigned in the master calendar group while 158 were arraigned in the individual calendar group. The defendants in both groups were characterized by the most serious charge (see Table 3). The 14 charge categories are listed in descending order by the frequency of these charges in the Los Angeles Superior Court in 1973.<sup>9</sup>

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<sup>9</sup> Based on Bureau of Criminal Statistics data. We divided drugs into four categories of opiates, marijuana, dangerous drugs, and all other drug violations. We combined a number of BCS categories into "All Other" resulting in a higher number of defendants listed in this category.

TABLE 3

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS

DEFENDANTS ARRAIGNED IN JUNE 1973 BY CHARGE

CHARGE	MASTER CALENDAR DEPARTMENTS (104,113,116,118,119, and 127)		INDIVIDUAL CALENDAR DEPARTMENTS CONTROL GROUP (101,111,112,120,129, and 132)	
	NUMBER	PER CENT	NUMBER	PER CENT
Opiates	27	17.9	37	23.4
Marijuana	9	6.0	9	5.7
Dangerous drugs	5	3.3	6	3.8
All other drug violations	0	0.0	0	0.0
Burglary	21	13.9	20	12.6
Robbery	14	9.3	12	7.6
Theft, except auto	19	12.6	11	7.0
Assault	17	11.2	10	6.3
Forgery	6	4.0	8	5.1
Auto theft	6	4.0	8	5.1
Sex offenses other than rape	4	2.6	2	1.3
Homicide	7	4.6	9	5.7
Rape, forcible	0	0.0	3	1.9
All other	16	10.6	23	14.5
Total	151	100.0	158	100.0

Source: Register of Actions, Office of the Los Angeles County Clerk.

We found no significant difference in the distribution of heavy and light cases between master and individual calendar groups. The so-called "heavy" cases, isolated by the office of criminal coordinator here fall into the categories of homicide, forcible rape and sex offenses, other than rape. These cases make up 7 percent of the caseload in the master calendar departments and 9 percent in the individual calendar departments.

The number of multiple defendant cases assigned to the individual calendar departments is slightly higher than for the master calendar departments. A total of 21 multiple defendant cases involving 47 defendants were assigned to the individual calendar departments while 17 cases involving 39 defendants were assigned to the master calendar departments. We do not believe this difference would influence the results significantly.

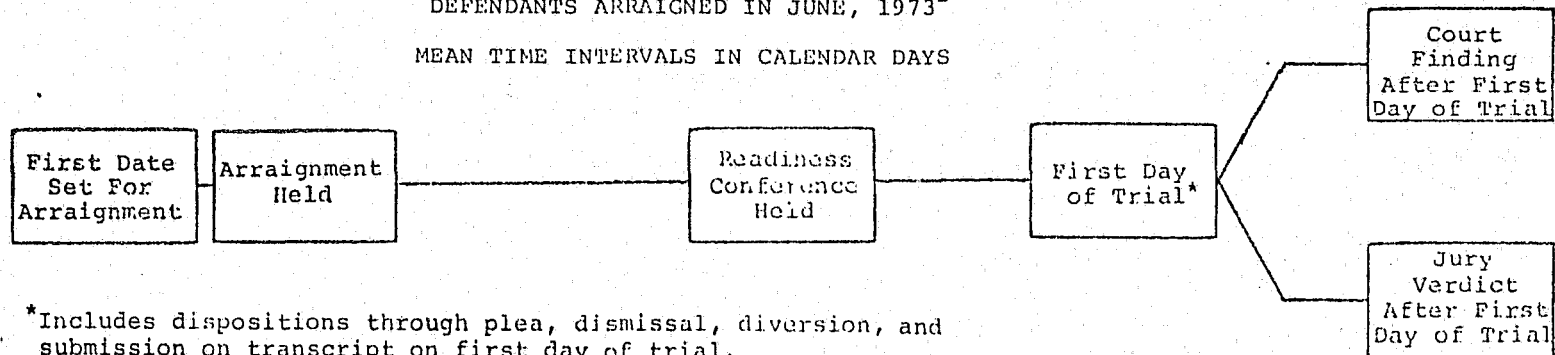
The distribution of defendants in each charge category generally conforms with the frequency of the charges filed in the Los Angeles Superior Court as a whole in 1973 (drug charges were divided into four categories and several categories were combined into "all other"). Thus, not only are the case-loads assigned to the respective departments comparable, they are representative of the normal workload assigned to the criminal division as a whole.

For the two systems, we compared the time required for cases to complete the phases in the judicial process. In Table 4, the mean time intervals in calendar

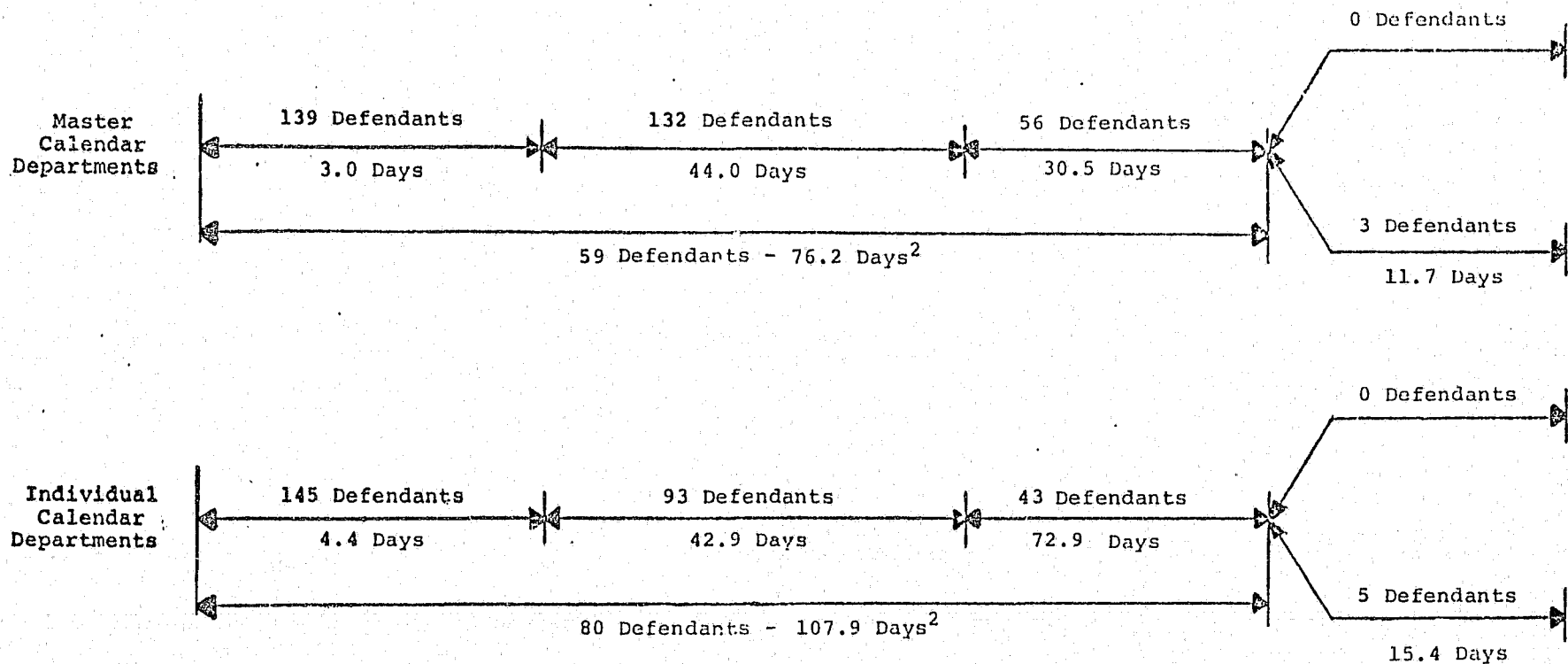
TABLE 4

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS  
 DEFENDANTS ARRAIGNED IN JUNE, 1973<sup>1</sup>

MEAN TIME INTERVALS IN CALENDAR DAYS



\*Includes dispositions through plea, dismissal, diversion, and submission on transcript on first day of trial.



<sup>1</sup>Excluding 12 defendants arraigned in the master calendar departments and 13 defendants arraigned in the individual calendar departments, against whom charges are still pending as of February 1, 1974.

<sup>2</sup>Including defendants for whom no readiness conference was held.

Source: Register of Actions, Office of the Los Angeles County Clerk.



days between the various court appearances are shown for the defendants arraigned in both groups.

For the 59 defendants in the master calendar departments who reached the first day of trial, the mean time was 76.2 days from the first date set for arraignment to the first day of trial. This figure includes defendants whose cases, through plea, dismissal, etc. were resolved on the first day of trial. For the 80 defendants in the individual calendar group, the mean time interval was 107.9 days, or 31.7 days longer.

The source of this delay in the individual calendar group is found in the time between readiness conference and first day of trial. The mean time intervals from arraignment through readiness conference are almost identical for those defendants completing these phases.<sup>10</sup> For those defendants completing readiness conference and whose cases reach the first day of trial, the differences are dramatic. The 56 defendants in the master calendar departments had a mean time of 30.5 days from readiness conference to first day of trial. The 43 defendants in the individual calendar departments had a mean time of 72.9 days, over twice as long.

There is substantial contrast between the groups in that almost half of the defendants reaching the first day of trial

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<sup>10</sup>The means for the intervals are not additive since the number of defendants completing each interval differs.

in the individual calendar departments did not have a separate readiness conference prior to trial, while in the master calendar group only 3 of 59 defendants reaching the first trial day failed to have a readiness conference. The significance of this fact is discussed below.

We compared the time in the criminal process at which cases are disposed of. In Table 5, the dispositions in both groups are plotted by day of disposition. On the 60th day, the master calendar departments had disposed of approximately 63 percent of the defendants arraigned; the individual calendar departments approximately 48 percent. On the 120th day, the master calendar departments had disposed of about 87 percent of the defendants; the individual calendar departments about 70 percent.

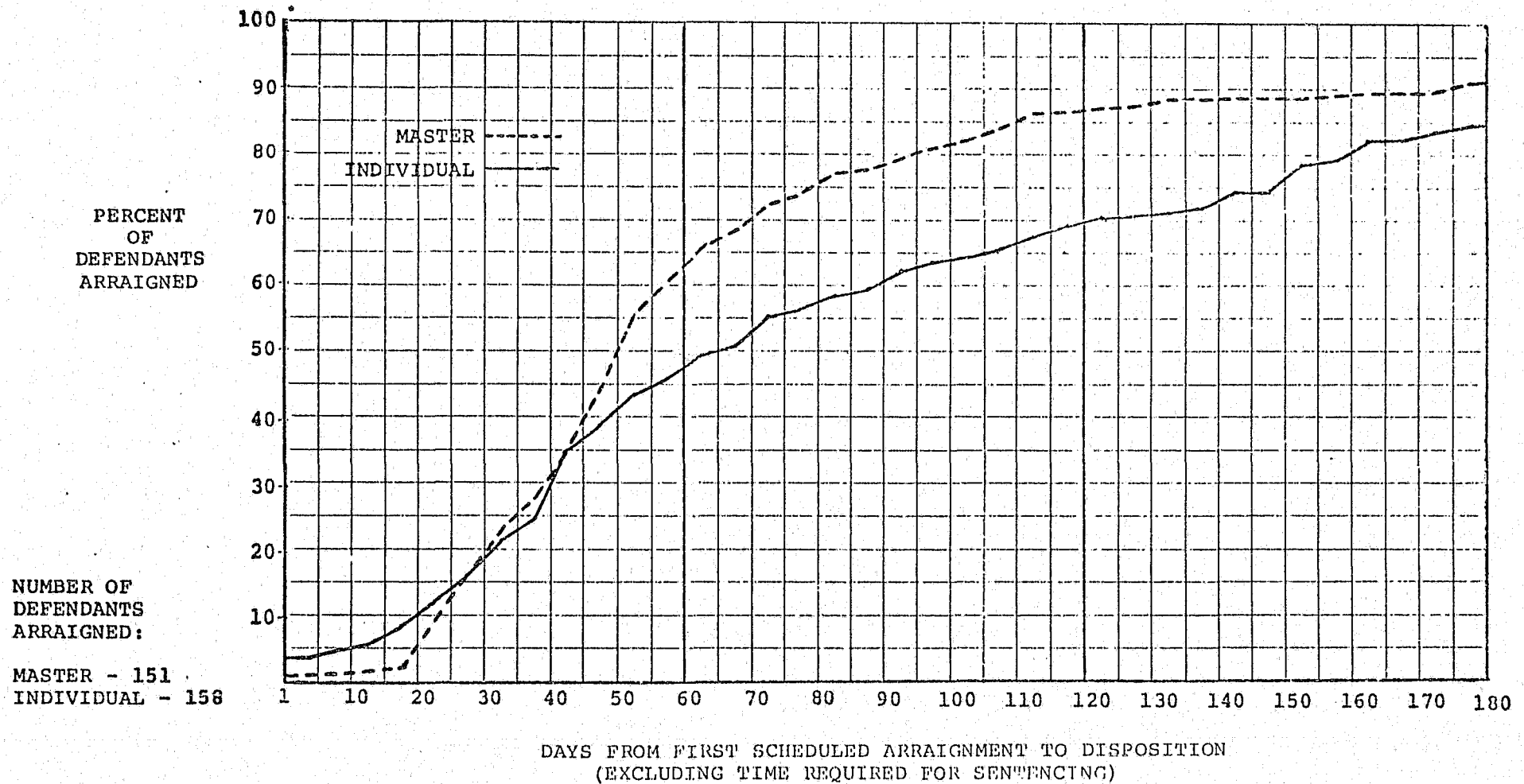
In effect, the master calendar departments had disposed of all but its problem cases by the 120th day. Of the remaining 14 defendants, 12 had charges still pending against them as of February 1, 1974, approximately 90 days later. Some of these defendants were custody problems as five had a bench warrant issued for them at some time during the criminal process. All of the remaining defendants were either on bond or on their own recognizance.

The dispositions in the individual calendar departments, on the other hand, describe a flatter curve after the 60th day. A significant percent of the caseload assigned to the individual calendar department, approximately 15 percent, were disposed of between the 120th and 180th days.

TABLE 5

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS  
DEFENDANTS ARRAIGNED IN JUNE, 1973

## DISPOSITION PROFILE



Source: Register of Actions, Office of the Los Angeles County Clerk.

An analysis of the cases pending in both groups, as of February 1, 1974, reveals no significant differences between the groups. The only measurable difference is that of the 12 defendants in the master calendar departments, six had private attorneys, while of the 13 defendants in the individual departments, only three had private attorneys.

It is interesting to note that during the first 40 days, the disposition levels are almost identical, as both groups disposed of about 30 percent of the defendants arraigned. In fact, dispositions were higher in the individual calendar departments during the first 25 days. This observation lends credence to the theory that, in individual calendar systems, some early dispositions will result because the parties know immediately who the trial judge will be. At least in this sample, however, these early dispositions do not compensate for the subsequent sharp climb in dispositions in the master calendar departments.

The phase in the criminal process at which disposition occurs emphasizes the contrast between each calendar system.

<u>Phase</u>	<u>Master</u>		<u>Individual</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Arraignment	3	2.2	6	4.1
Motion hearing or between scheduled appearance	7	5.0	22	15.2
Readiness conference	71	51.1	42	29.0
First day of trial	55	39.5	70	48.3
After first day of trial	<u>3</u>	<u>2.2</u>	<u>5</u>	<u>3.4</u>
Total	139	100.0	145	100.0

In the master calendar group, the readiness conference is the main source of dispositions with 51 percent of the total. For the individual calendar group, the first day of trial is the most important, with 48 percent of the total.

This information is illustrated in flow chart format (Tables 6A and 6B) and shows the tendency for the master calendar departments to consolidate proceedings into three basic court appearances: arraignment, readiness conference, and trial. Only five percent of the dispositions do not occur at one of these proceedings. (Dismissals occurring on motions presented at the readiness conference are tabulated as a disposition at readiness conference.)

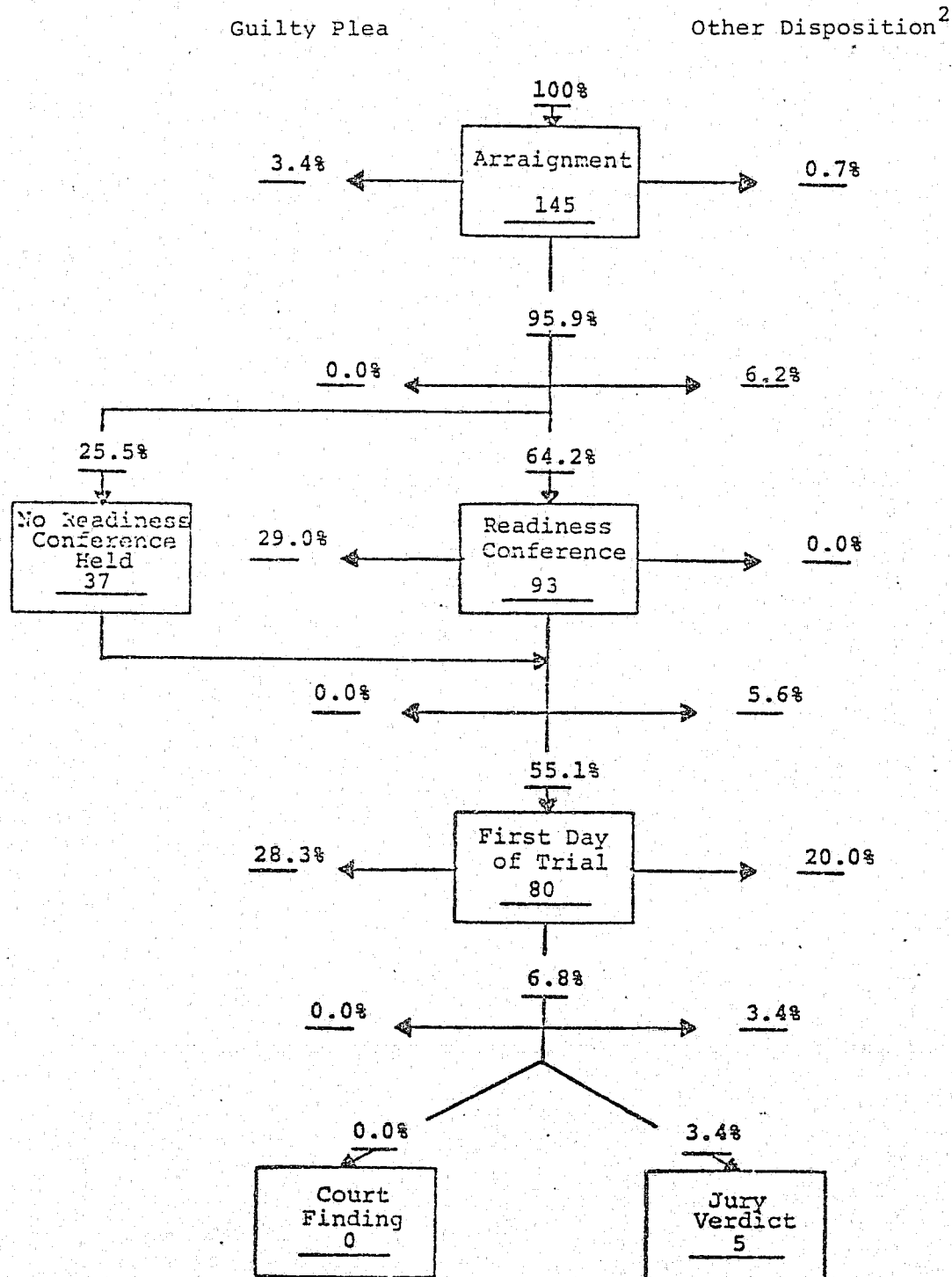
The individual calendar departments were less successful at consolidating appearances. Fifteen percent of the dispositions occurred between appearances scheduled for arraignment, readiness conference and trial.

For the six month period, we reviewed assistance provided and required by the experiment courts, and found that the master calendar courts received a significantly higher proportion of trial ready cases reassigned from the office of court coordinator than the individual departments. For June, we looked at all proceedings transferred either in or out of the experiment departments (see Table 7). The results were similar. The master calendar departments required only 6 hours of assistance in June, while the individual calendar departments required 48 days and seven hours.

TABLE 6A

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 INDIVIDUAL CALENDAR DEPARTMENTS  
 CONTROL GROUP (101, 111, 112, 120, 129 and 132)  
 DEFENDANTS ARRAIGNED IN JUNE, 1973<sup>1</sup>

## DISPOSITIONS



<sup>1</sup>Thirteen defendants arraigned in June have charges still pending against them as of February 1, 1974.

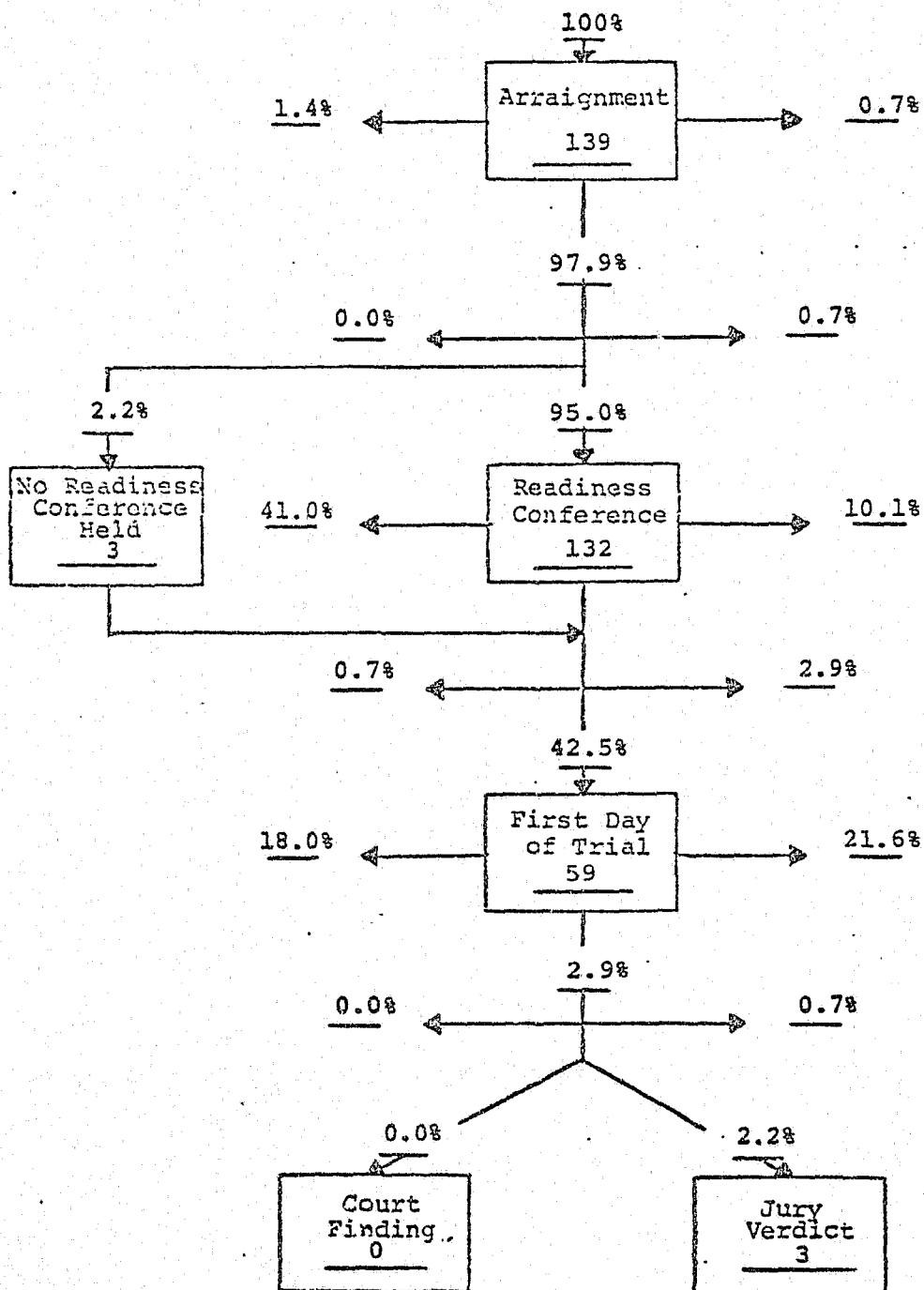
<sup>2</sup>Other disposition is defined as any disposition other than by a guilty plea (including dismissal, diversion and one day trial).

TABLE 6B

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 MASTER CALENDAR DEPARTMENTS  
 (104, 113, 116, 118, 119 and 127)  
 DEFENDANTS ARRAIGNED IN JUNE, 1973<sup>1</sup>

## DISPOSITIONS

Guilty Plea

Other Disposition<sup>2</sup>

<sup>1</sup>Twelve defendants arraigned in June have charges still pending against them as of February 1, 1974.

<sup>2</sup>Other disposition is defined as any disposition other than by a guilty plea (including dismissal, diversion and one day trial).

TABLE 7

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS

ASSISTANCE PROVIDED AND REQUIRED IN JUNE 1973<sup>1</sup>

MASTER CALENDAR DEPARTMENTS (104,113,116,118,119 & 127)						INDIVIDUAL CALENDAR DEPARTMENTS CONTROL GROUP (101,111,112,120,129 & 132)					
ASSISTANCE PROVIDED			ASSISTANCE REQUIRED			ASSISTANCE PROVIDED			ASSISTANCE REQUIRED		
DATE	TYPE OF PROCEEDING	APPROXIMATE TIME	DATE	TYPE OF PROCEEDING	APPROXIMATE TIME	DATE	TYPE OF PROCEEDING	APPROXIMATE TIME	DATE	TYPE OF PROCEEDING	APPROXIMATE TIME
6/1	Motion §1118	2 days	6/1	Plea	1 hour	6/1	Jury trial	3 days	6/1	Court trial	2 days
6/6	Submitted on transcript	2 hours	6/5	Plea	1 hour	6/1	Plea	1 hour	6/4	Jury trial	2 days
6/11	Motion §995	1 hour	6/14	Motion §1118	3 hours	6/4	Jury trial	3 days	6/5	Jury trial	5 days
6/13	Jury trial	4 days	6/20	Motion and plea	1 hour	6/18	Motion §11530.5	1 hour	6/5	Jury trial	4 days
6/13	Motion §1382	3 days			6 hours	6/22	Motion for dismissal	1 day	6/5	Motion for new trial	1 day
6/21	Jury trial	4 days				6/25	Jury trial	2 days	6/5	Jury trial	3 days
6/25	Jury trial	3 days				6/28	Motion for new trial	1 day	6/7	Jury trial	4 days
		16 days						10 days	6/8	Motion §1538.5	1 hour
		3 hours						2 hours	6/11	Jury trial	8 days
									6/11	Plea	1 hour
									6/12	Plea	1 hour
									6/18	Plea	1 hour
									6/18	Jury trial	4 days
									6/21	Jury trial	4 days
									6/21	Submitted on transcript	1 hour
									6/22	Court trial	3 days
									6/25	Motion §1538.5	1 hour
									6/26	Court trial	1 day
									6/27	Motion and plea	1 hour
									6/27	Jury trial	3 days
									6/28	Jury trial	4 days
											48 days
											7 hours

<sup>1</sup> Assistance provided is defined as judicial time in the master or individual (control group) departments on hearings in cases not originally assigned to these departments. Assistance required is defined as judicial time provided by other departments in the court for hearings in cases originally assigned to the master or individual (control group) departments.

Source: Office of the Criminal Court Coordinator, Los Angeles Superior Court.



One of the basic elements of a well managed case processing system is the use of system performance standards to measure efficiency. These standards are designed to provide the court with a quantifiable measure of the efficiency of its calendar system and related elements.

We selected six system performance indices as a basis for comparing the individual and master calendar groups. They are:

1. Time from filing to disposition.
2. Continuances per court appearance.
3. Days trailed per court appearance.
4. Guilty pleas per disposition.
5. Guilty pleas at readiness conferences.
6. Jury verdicts per disposition.

These indices are a function of both the calendar system employed and the overall case processing system in varying degrees. For almost all of the indices, the master calendar departments showed significantly superior performance (Table 8).

The average time from the date first set for arraignment through disposition for all defendants was shorter by 21.49 days in the master calendar departments (60.03 days to 81.52 days).

The continuance rate (including days trailed) for all court appearances in the master calendar departments was almost one half the rate in the individual calendar departments. The rate was even more dramatic for continuances of the trial date. We found that the trial date was continued or trailed in the master calendar department 39 times for the 59 defendants reaching first day of trial, an average of .70 continuances or days trailed per defendant. For the individual calendar departments, we found that the trial date was continued or trailed 178 times for the 80 defendants or 2.23 times on the average per defendant.

Comparing days trailed per defendant in each system, we

TABLE 8

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS  
 DEFENDANTS ARRAIGNED IN JUNE 1973

SYSTEM PERFORMANCE PROFILE  
 JUNE 1, 1973 - FEBRUARY 1, 1974

INDEX	MASTER CALENDAR DEPARTMENTS (104,113,116,118,119, and 127)	INDIVIDUAL CALENDAR DEPARTMENTS (101,111,112,120,129, and 132)
A. Time to disposition:  Time from first date set for arraignment through disposition (excluding time required for sentencing).  Mean number of days:  Median number of days:	60.03 (139 defendants)  53 (139 defendants)	81.52 (145 defendants)  65 (145 defendants)
B. Mean number of continuances per defendant:  <u>Continuances granted</u> <sup>1</sup> <u>Defendants arraigned</u>	$\frac{199}{151} = 1.32$	$\frac{391}{158} = 2.47$
C. Mean number of days trailed per defendant:  <u>Total days scheduled court appearances trailed</u> <sup>2</sup> <u>Defendants arraigned</u>	$\frac{36}{151} = .24$	$\frac{59}{158} = .37$
D. Guilty pleas per disposition:  <u>Guilty pleas</u> <u>Dispositions</u>	$\frac{85}{139} = .61$	$\frac{83}{145} = .57$
E. Guilty pleas per readiness conference held:  <u>Guilty pleas at readiness conference</u> <u>Readiness conferences held</u> <sup>3</sup>	$\frac{57}{120} = .48$	$\frac{42}{86} = .49$
F. Jury verdicts per disposition:  <u>Jury verdicts</u> <sup>4</sup> <u>Dispositions</u>	$\frac{3}{139} = .02$	$\frac{2}{145} = .01$

<sup>1</sup>Includes number of days scheduled court appearances were trailed. A continuance granted in a case involving two or more defendants is counted as one continuance per defendant affected.

<sup>2</sup>Court appearances include scheduled pretrial as well as trial appearances.

<sup>3</sup>A readiness conference held for two or more defendants is counted as one readiness conference.

<sup>4</sup>A jury verdict in the trial of two or more defendants is counted as one jury verdict.

Source: Register of Actions, Office of the Los Angeles County Clerk.

found the master calendar more able to meet its commitment to an appearance (.24 days trailed per defendant for the master calendar departments versus .37 for the individual departments).

The relationship between guilty pleas and dispositions is delicate. Clearly a substantial proportion of the cases must be disposed of by plea or the court will be backlogged. On the other hand, a system in which a defendant through undue pressure, innumerable delays, etc. is coerced to plead guilty is not just. We do not attempt to establish a norm here, but rather note that no substantial difference exists in the performance of each group.

The readiness conference is the court appearance at which the plea negotiations take place. The success of this court appearance in producing a plea bargain is the key to early dispositions and relief of congestion.

Both groups were equally successful in obtaining pleas (.48 for the master calendar departments and .49 for the individual calendar departments). The difference between the groups is that the individual calendar departments, as mentioned, only held readiness conferences for about one-half of the defendants prior to the first day of trial. It can be hypothesized, therefore, that, had the readiness conferences been held, the number of pleas would have increased proportionately and the number of defendants reaching the first day of trial decreased.

Finally, the number of jury verdicts per disposition is almost identical for both groups.

In sum, following the defendants arraigned in June in both groups through the judicial process confirms the superior performance of the master calendar departments noted in the six month summary.

## APPRAISAL BY JUDGES, ATTORNEYS, AND COURT ADMINISTRATORS

The statistics clearly favor the master calendar group during the first six month segment of the experiment. Whether or not the users of the system favor the master calendar is a separate issue.

We interviewed the eleven judge participants, nine attorneys chosen for their familiarity with the two systems (three district attorneys, three public defenders, and three private attorneys) and the court coordinator.<sup>11</sup> We used a questionnaire intended to evoke comparisons of efficiency and quality of output between the systems. (See Appendix 4 for an outline of the methodology and a copy of the questionnaire).

In the following compendium, several of the opinions are contradictory and are inconsistent with the statistical data. We made no attempt to reconcile these differences during the interviews.

First, we asked the interviewees to comment on the significant advantages and disadvantages of the two systems.

Individual Calendar

The judges stress that they feel more responsibility for caseloads in this system. Many judges and attorneys believe that calendar control by the judge assigned a case maximizes efficiency. Judges can schedule cases, as well as

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<sup>11</sup>The judge who did not switch from the control group into the master calendar group for the second half of the experiment was not interviewed.

dispose of cases, according to their own abilities and preferences. They can work on other matters while awaiting trial attorneys. Case transfer is minimized and all matters are handled in one courtroom. This enables the district attorney, the public defender's office and private law offices to keep track of their attorneys. Some attorneys claim they can try cases faster under an individual calendar.

Many of the disadvantages of the individual calendar are merely the converse of its advantages. Thus, calendaring is subject to the whims, idiosyncracies, and ability of the judge. Valuable bench time must be utilized for calendaring. Trials can be interrupted or delayed by short term and emergency matters. Attorneys must wait for trials while the judge handles other matters. Protracted trials cause calendar backlog.

#### Master Calendar

Proponents of the master calendar assert that this system encourages uniform case processing and increases case dispositions. Less trial interruptions occur since a trial judge does not handle matters other than trials. Some interviewees claim this reduces trailing also. Many report that the master calendar is more amenable to plea bargaining because there is concentrated contact between a judge, the district attorney, and the public defender. It is easy to cover vacancies left by absent judges and the incidence of dark courtrooms is reduced.

Attorneys find that more trial time is available for cases. Complex matters are assigned to more competent judges and cases which may settle are assigned to settlement oriented judges.

On the other hand, a number of disadvantages in the master calendar are cited. Judges cannot regulate their own calendars. Trial assignments come late in the morning resulting in waiting time for judges, attorneys, public defenders, and district attorneys. Attorneys often must wait for long periods to negotiate with the master calendar judge. The effectiveness of the court depends to an inordinant extent on one person, the master calendar judge.

We asked the interviewees to compare the two calendar systems in relation to a series of indices of efficiency, e.g., minimizing court appearances, maximizing the use of available judge time, etc. (see Table 9). In general, the respondents find the individual calendar system more efficient. The individual calendar is indicated as more efficient in 42 percent of the responses. No significant difference between the two systems is indicated in 27 percent of the responses; the master calendar system is considered more efficient in 27 percent; and no opinion is expressed in 4 percent of the responses.

The respondents view the individual calendar system as being significantly more efficient than the master calendar system in equitably distributing judicial workload among available manpower (76 percent of the respondents so indicate),

TABLE 9  
LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
MASTER AND INDIVIDUAL CALENDAR EXPERIMENT  
OPINIONS OF JUDGES, ATTORNEYS, AND COURT COORDINATOR  
ON EFFICIENCY OF EACH SYSTEM<sup>1</sup>

INDEX	MASTER SYSTEM MORE EFFICIENT		INDIVIDUAL SYSTEM MORE EFFICIENT		NO SIGNIFICANT DIFFERENCE		NO OPINION	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent
a. Minimizing court appearances	7	33.3	7	33.3	7	33.3	0	0
b. Scheduling pretrial phases of cases	2	9.5	10	47.6	8	38.1	1	4.8
c. Scheduling trials	9	42.9	8	38.1	4	19.0	0	0
d. Minimizing dilatory tactics	4	19.0	7	33.3	8	38.1	2	9.5
e. Disposing of related cases	6	28.6	3	14.2	11	52.4	1	4.8
f. Maximizing the use of available judge time	6	28.6	15	71.4	0	0	0	0
g. Maximizing the use of available attorney time	4	19.0	14	66.7	2	9.5	1	4.8
h. Reducing incidence of trailing	13	61.9	1	4.8	7	33.3	0	0
i. Disposing of special proceedings	3	14.2	9	42.9	5	23.8	4	19.1
j. Equitably distributing judicial workload among available manpower	5	23.8	16	76.2	0	0	0	0
k. Minimizing duplication of judge time and effort regarding a given case	2	9.5	13	61.9	6	28.6	0	0
l. Eliminating judge shopping	7	33.3	3	14.2	11	52.4	0	0
Total	68	27.0	106	42.1	69	27.4	9	3.5

<sup>1</sup>A total of 21 persons were interviewed, including the six original master calendar judges, five of the original control group judges, three deputy public defenders, three deputy district attorneys, three private attorneys, and the court coordinator.

maximizing the use of available attorney time (67 percent), and minimizing duplication of judge time and effort regarding a given case (62 percent).

The only index on which the respondents agree that the master calendar system is more efficient is in reducing trailing (62 percent). That the master calendar system was considered more efficient by a majority for only one of the indices is surprising. Several of the other indices, such as efficiency in scheduling pretrial and trial generally are considered advantages of master calendar systems.

For the remaining indices, the respondents indicate no marked preference or agree that no significant difference exists between the two calendar systems. They are, minimizing court appearances, scheduling pretrial phases of cases, scheduling trials, minimizing dilatory tactics, disposing of special proceedings, disposing of related cases, and eliminating judge shopping.

It is interesting to note that the respondents do not believe the individual calendar system eliminates judge shopping, a characteristic generally associated with this system. Only three interviewees attribute this quality to the individual calendar. This response, in part, must be due to the fairly frequent reassignment of trial ready cases by the office of criminal court coordinator observed in the previous section.

We asked the respondents to comment on which system they believe, in the long run, would result in the shortest



time period from arraignment to disposition. Approximately half of the interviewees are of the opinion that the master calendar would minimize this time, about one-quarter believe there would be no difference between systems, while close to one-fifth reply that the individual calendar would result in the shortest period.

A difference of opinion exists between the judges, on the one hand, and the attorneys, on the other. Almost three-quarters of the judges state the present master calendar leads to quicker case dispositions. Among the attorneys, only one private attorney agrees. About half of the attorneys note no difference between systems. The single attorney who grants that the master calendar may lead to an earlier trial adds that when there is insufficient time for preparation, the resultant trial may not lead to the fairest disposition for a defendant. Several other attorneys remark that the master calendar system places undue pressure on them to move cases.

In addition to the questions relating to efficiency, we asked a series of questions seeking the respondents opinions as to whether the type of calendar system employed qualitatively affects the manner in which cases are processed and the final adjudication.

We asked if the respondents believe that the different calendar systems influence a judge in making a decision in a case. Of the interviewees responding, approximately three-quarters believe that different calendar systems do not influence a judge. Of those believing there is influence

three consider that the individual calendar enables the judge to gain the most relevant knowledge about a case, whereas, only one attributes this trait to the master calendar.

Several respondents suggest that the volume of cases under a master calendar prevents the judge from giving the proper amount of time to each case. However, other interviewees point to an advantage under the master calendar in that the high case volume allows a master calendar judge to know the comparative gravity of a case. Also, certain attorneys point out that the pressure from this high volume of cases may "soften" the master calendar judge's attitude in some cases.

In contrast, some interviewees believe that the individual calendar allows a judge more knowledge of a case and results in continuity. To this extent, the individual calendar influences the final decision of a judge.

It has been asserted that under the individual calendar system, rules and procedures are not applied uniformly. The fact that many of the defendants in our sample for June had a readiness conference prior to trial and many did not, seems to confirm this assertion. The interviewees, however, generally do not believe that calendar systems influence the uniform application of rules and procedures. Only one-third agree with this theory.

Among those who do believe there is some influence, everyone agrees that the master calendar results in the more uniform application. The greater uniformity under the master calendar is attributed to various factors, including more cases handled by a single judge, more people (judges, attorneys) doing the same thing with greater frequency, and a tendency toward uniformity in any mass production endeavor.

A more difficult question, perhaps, is whether the different calendar systems influence the uniform application of substantive law. In response to this question, a significant majority (71 percent) believe that there is no influence, while about one-fourth believe the opposite.

The one judge who believes there is a dependent relationship between calendar systems and the application of substantive law asserts that the master calendar results in more uniformity because more phases of cases are handled by a single judge. Several attorneys are in agreement.

A consideration which spans both the question of efficiency and quality is the ability of a judge to encourage plea negotiations at the earliest possible time. Results indicate that two-thirds of those responding believe different calendar systems do influence the court's ability to encourage plea negotiations at the earliest possible time, while about a third (29 percent) do not agree.

Among those who believe that different calendar systems can influence the court's ability to obtain pleas, 86 percent think that the master calendar system results in the highest

and earliest number of pleas, while only 14 percent attribute this quality to the individual calendar. This opinion is borne out by the statistics, at least in terms of obtaining early pleas. The major reason given is that increased courtroom availability under the master calendar discourages dilatory tactics.

However, a judge admonishes that extensive plea bargaining under a master calendar could result in available trial courtrooms without cases ready for trial.

In conclusion, we asked the interviewees to indicate under which system they would prefer to work. Approximately two-thirds of those interviewed who responded, would prefer to work under the individual calendar. One third (29 percent) would prefer the master calendar. The distribution of their responses is as follows:

	<u>Preference</u>			<u>No Opinion</u>
	<u>No</u>	<u>Master</u>	<u>Individual</u>	
Judges originally assigned to the master calendar departments	6	2	3	1
Judges originally designated as control	5	2	3	0
Deputy public defenders	3	0	3	0
Deputy district attorney	3	1	2	0
Private attorney	3	1	2	0
Court administrator	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
	21	6	14	1

## STAFF ANALYSIS

1. The master calendar departments demonstrate superior performance by both analyses, six month statistics and the statistics on defendants arraigned in June traced through the criminal process.

2. The performance of the individual calendar departments was affected by factors not directly related to the calendar system, that is, the failure of some departments to hold readiness conferences for all cases and the high continuance rate. It can be argued that if the judges carried out court policy more rigidly, the performance of the two groups would approach equivalence. It also can be argued that variation in application of court policy is to be expected with an individual calendar system because each judge applies his own standards.

3. The executive office of the court, in its analysis of the master calendar system, raises the question of the requirement for nonjudicial personnel, since a clerk and an assistant were assigned to the master calendar department without a corresponding reduction in the normal personnel assigned.

4. The way in which a master calendar system would be implemented for the whole criminal division is not clear. A series of teams, consisting of a master calendar department and four satellite departments, will result in five or six teams (six if the commissioners were assigned to a team). Rules for the transfer of cases between teams, the role of the

criminal court coordinator, etc. would have to be established. Whether the performance of the system, when applied throughout the division, would continue to surpass the performance recorded by the individual calendar departments would have to be determined through experience.

5. Considerable pressure is presently placed on the master calendar judge while the backup or satellite judges complain of inactivity. Experimentation with smaller teams of three or four judges might prove productive.

6. A judge is inclined to fatigue after sustained duty as master calendar judge. A system of regular reassignment of the functions among the team will have to be developed.

Performance levels will have to be monitored to determine if such reassignment undermines the overall efficiency of the system.

7. The commitment of the judiciary and the bar is an important element in the eventual performance of a calendar system. Personal interviews indicate a preference for the individual calendar system, although the master calendar system is recognized as producing the shortest time from filing to disposition.

INDIVIDUAL CALENDAR SYSTEM IN THE  
CIVIL BRANCH OF THE  
NEW YORK COUNTY SUPREME COURT

INTRODUCTION

The New York County Superior Court is the highest court of original jurisdiction in the County of New York. The civil branch has jurisdiction in law and equity matters in which the amount in controversy is in excess of \$10,000.<sup>12</sup> The court does not hear probate cases or juvenile matters. The territorial jurisdiction of the court is the Borough of Manhattan with a population of 1,539,233 according to the 1970 census.

Thirty judges are assigned to the court. This number includes an administrative judge and six judges assigned to the court from the Civil Court of New York City. The judges are elected by judicial district with the Governor appointing judges to vacancies created between elections. The term is 14 years. The court has a mandatory retirement age of 70 years, but judges can be certified for additional two year periods of up to a maximum of 76 years with the approval of the Administrative Board of the Judicial Conference.<sup>13</sup>

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<sup>12</sup> New York Constitution, Article VI, §7 grants original jurisdiction. Art. VI, §15 confers jurisdiction over cases where the amount in controversy does not exceed \$10,000 to the Civil Court of the City of New York. See also N.Y.C.C.A. §§102, 201-208.

<sup>13</sup> N.Y. Const., Art. VI, §§6, 21, 25, 28.

Each judge in the supreme court has as his personal staff one personal aide, one law assistant, one clerk and one marshal or bailiff. The court maintains a pool of law stenographers in the general clerk's office for the judges' use. Court reporters are under the authority of the general clerk and are not members of the judges' personal staff.

The court has five law assistants acting as special referees in matrimonial matters.

The administrative judge is appointed by the presiding judge of the Appellate Division of the First Judicial Department. (The state is divided into four judicial departments which administer the courts in 11 judicial districts.) The administrative judge also is responsible for the supreme court in the Bronx, the other borough in the First Judicial District. In a recent reorganization, a separate administrative judge has been named for the criminal branch. The main responsibility of the administrative judge is the orderly administration and operation of his branch of the supreme court. Assignment of judges to parts<sup>14</sup> is made by the Appellate Division of the First Department.

The general clerk, who is also the executive officer, directs the administrative functions of the court. The general administrative staff for the district is located in his office. The support staff for the civil branch is divided into various offices, each headed by a chief clerk. Basically,

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<sup>14</sup>The term "parts" in New York is equivalent to the California designation "departments".



the function of these offices is to process cases either for the trial courts (49 employees) or for special term parts such as the motion part, the matrimonial part, etc. (47 employees).

The individual calendar system was adopted in early 1973 in all trial departments, and since then it has been impossible to compute delay from filing to disposition. The last figure reported using this measurement for personal injury cases was 27 months from the filing of the note of issue to trial as of December 31, 1972. The court has devised a system for measuring delay based on the percentage distribution of cases pending classified by age of cases in months (see p.66 ). As of June 1973, the court reported that 73 percent of the pending cases had been at-issue for less than 24 months.

#### BACKGROUND

On June 8, 1970, the Appellate Division of the First Judicial Department experimentally designated certain parts of the Civil Branch of the New York County Supreme Court as individual calendar parts.<sup>15</sup> According to Judge Edward R. Dudley, Administrative Judge of the Civil Branch, the system was adopted as a result of the court's concern with the growing backlog and the success of the individual assignment system

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<sup>15</sup> A similar experiment was initiated at the same time in the criminal branch, but abandoned, according to Judge Dudley, because some cases "were getting lost" in the system.

used in the federal district courts, particularly in the Southern District of New York.<sup>16</sup>

Prior to the experiment, the supreme court used a standard master calendar system supplemented by a "road block" or "block buster" calendar. The block buster calendar was a system in which several judges were each assigned to 60 complex or protracted cases for a month. Each judge was to dispose of as many of the 60 as possible. At first the system was successful. Judges assigned to the block buster parts on the average disposed of 75 percent of their monthly assignment of cases. After a few years, however, the situation reversed itself and at the time of the change to an individual calendar system, the judges were disposing of only 25 percent of the cases assigned.<sup>17</sup>

The individual calendar part system was implemented in stages. Initially, five of the 19 regular trial parts were designated individual calendar parts. These parts began to operate on the individual calendar system on January 1, 1971. On September 1, 1971, the Appellate Division increased the number of parts to nine, although only eight functioned due to the prolonged illness of a judge. On January 1, 1972, the ninth part was added. For the remainder of 1972, the court functioned with nine individual calendar parts. The Appellate Division ordered expansion of the system to 13 parts on January 1, 1973. On March 1, 1973, the remaining two general trial parts converted to the

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<sup>16</sup> From a personal interview with Judge Dudley on October 30, 1973.

<sup>17</sup> This analysis is based on a personal interview with Max Sirkus, Chief Calendar Clerk, in New York on October 31, 1974.

individual calendar assignment system.<sup>18</sup>

It should be noted that during this evolution, six judges from the Civil Court of the City of New York were assigned to hear supreme court civil cases. These assignments began on April 1, 1971, and have continued ever since. These departments do not use the individual calendar system. They use the conference and assignment system, which is fully described in a subsequent section (see pp. 127-136). Briefly, the system operates on the basis of three judge teams. One member of the team handles all pretrial matters and the backup judges try cases which do not settle.

As the use of the individual calendar system in the general trial parts expanded from January 1971 to March 1973, the court reorganized its specialized departments to better coordinate with the trial courts. The organization of these special departments is discussed in the outline of procedures which follows.

THE CASE PROCESSING SYSTEM: CIVIL BRANCH, NEW YORK COUNTY  
SUPREME COURT

Distribution of Business

Only civil cases are assigned to the individual calendar parts. Certain civil matters, such as matrimonial actions, tax certiorari proceedings, and motions and applications in certain matters, are assigned to special term parts.

Phases in the Civil Process (For Individual Calendar Parts)

Filing: When the first paper in an action or proceeding

<sup>18</sup>With the conversion to the individual calendar system, the number of general trial departments was reduced to 15.

is filed, the county clerk assigns an index number which appears on all subsequent papers.<sup>19</sup> Filing must be within ten days after service.

Notice of Issue: The filing of this document is notice that a party is placing the case on the calendar for a hearing or trial. The note of issue may include a demand for jury trial. It is used to categorize the case by law or equity, jury or nonjury, etc.

Statement of Readiness: Within one year of the note of issue, unless discovery is incomplete, a readiness statement must be filed in order to prevent the case from being stricken from the calendar (cases so stricken may be restored at the foot of the calendar within one year). The statement is contestable and states that all preliminary proceedings allowed by law have been completed or are waived, and that the case is ready for trial. The readiness statement must be filed prior to the pretrial conference unless the assigned judge orders otherwise.

Pretrial Proceedings and Trial: Cases assigned to a part are processed by rules and procedures established by the judge in that part. The basic rules for each part are published in the New York Law Journal.

Procedures for pretrial and trial are not consistent from part to part. Generally, however,

<sup>19</sup>N.Y. Court Rules 660.3 (McKinney, 1973).

one pretrial conference is held for every civil action.

#### Assignment of Cases for Pretrial and Trial

Upon filing of a complaint, cases are divided in the court clerk's office into three categories: personal injury, general (all other actions at law), and equity (except matrimonial). A clerk distributes the cases in the three categories equally among the 15 individual calendar parts for pretrial and trial. Cases are assigned from the three categories by number without regard to the substance of the case. Cases remain in the assigned calendar part even if the judge in that part is reassigned.

One major exception exists. All cases involving the City of New York are assigned to three designated parts. The court adopted this policy due to the high volume of cases involving New York City and the relatively few attorneys assigned by the city to manage these cases. Certain other actions, such as medical malpractice, condemnations, and uninsured motorist cases, are handled by special departments.

Once assigned to a part, the courtroom clerk, at the direction of the judge in the part, assembles cases for motions, conferences, and trials each week. Practices vary, but many judges schedule all motions and conferences for one day and calendar trials for the rest of the week.

#### Responsibility for Calendaring Cases

The judge in each part has overall responsibility for calendaring cases assigned to that part. Each judge deter-

mines his involvement in calendaring. The courtroom clerk in each part, as a minimum, carries out the mechanics of setting up the calendar and having it published in the legal newspaper. All calendar motions are heard by the judge in the assigned part.

#### Use of Special Departments

The supreme court makes extensive use of special term parts to supplement the 15 individual calendar parts. These parts hear special matters as follows:

Part I - Nonindividual calendar part motions (emergency motions, motions to transfer cases, applications to vacate, defaults) and all other proceedings not otherwise required to be returnable to an individual calendar part.

Part II - Ex parte matters and writs of habeas corpus. This part also hears matters relating to juvenile law, such as appointment of a guardian, settlement of infants' claims, etc.

Part III - Mental health matters and matters relating to the certification of alleged narcotic addicts.

Parts IV, VI, VII - Tax certiorari proceedings.

Part V - All matrimonial matters.

In addition, one part specializes in condemnation cases

and one in medical malpractice. The court designated these parts due to the complexity of these cases.

The six civil court judges are used in special trial parts known as unit disposition parts. These parts are not assigned cases directly upon filing. Their caseload comes from the calendars of the 15 individual calendar parts. The cases assigned are supposed to be the oldest pending personal injury cases, but are selected at the discretion of the judge to whom they originally were assigned.

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#### Procedures for Handling Protracted Trials

Cases in which no settlement is considered possible and in which the expected trial is estimated to last at least a month can be sent to the administrative judge by petition of the attorneys with concurrence by the judge in the individual calendar part. The administrative judge, upon approving the request for transfer, sends the case to one of three general protracted trial parts. Each protracted trial part maintains a caseload of seven cases.

#### Reassignment of Cases

Judges assigned to individual calendar parts select the cases which will be reassigned from their dockets to the unit disposition parts. To transfer a case to the protracted trial parts, judges must consent and sometimes convince the attorneys to make application.

#### Handling Dormant Matters

There is no provision for a calendar audit. Unless the

judge can dismiss the matter or direct entry of a judgement, pending matters will continue in the assigned part.

#### Judicial Assignments

Assignments of judges to the civil branch are made by the Appellate Division of the First Department. The assignments are generally for one year and then judges are reassigned to the criminal branch. In addition to their responsibilities for an individual calendar part, judges are required to serve varying periods of time in Special Term Parts I, II, and III. Each individual calendar part judge receives at least two different special term assignments per calendar year. Year long assignments are made to the matrimonial and tax special term parts. Vacations and special assignments result in all individual calendar parts closing during July and August.

#### Review of Calendar Status

The court publishes monthly statistical statements on the progress of the court which are summarized into six month and annual reports. The court also maintains extensive records of the activity in each part.

#### Distribution of Cases at Time of Conversion to the System

All cases on the trial calendar were assigned equally to the 15 individual calendar parts.

#### PERFORMANCE

During its brief history, the individual calendar system has resulted in significant progress in reducing delay and increasing the rate of dispositions per judge. The following



table gives summary statistics for the court for the years 1968 through 1973.

Supreme Court, County of New York  
Civil Branch  
Calendar Status, Law and Equity Cases  
January 1, 1968-December 31, 1973

<u>Year</u>	<u>Filings</u>	<u>Dispositions</u>	<u>Pending as of Dec. 31</u>	<u>Change in Calendar Status</u>
1968	8,579	7,645	11,097	+934
1969	9,331	8,828	13,240	+503
1970	9,983	9,169	14,054 <sup>1</sup>	+814
1971 <sup>2,3</sup>	11,448	11,936	13,566	-488
1972	11,745	11,419	14,031 <sup>1</sup>	+465
1973	11,832	14,889	11,019 <sup>1</sup>	-3,056

<sup>1</sup>Adjusted Figure.

<sup>2</sup>Jan. 1, 1971, first use of individual calendar parts.

<sup>3</sup>April 1, 1971, six civil court judges assigned to Supreme Court.

Source: Annual Summary, Chief Clerk, Civil Branch, Supreme Court of New York County.

In 1973, the first year that all trial courts used the individual calendar system, dispositions rose by 3,470, an increase of 30 percent. Since the first use of the individual calendar system in 1971, the court has reduced the number of pending cases from 14,054 as of December 31, 1970, to 11,019 at the end of 1973. This performance represents a reduction of 22 percent in the backlog during the three year period, even with the sharp rise in filings from 1970 to 1973, from 9,983 to 11,832, an increase of 18 percent.

The supreme court has conducted some comparative studies of dispositions per judge under the individual calendar system and the previous general assignment system. The court found that in 1970, the last completely nonindividual calendar year, the mean number of dispositions per judge-referee per year was 287 based on 9,169 dispositions and an average of 31.9 special and trial term parts operating during the year. For 1973, the average dispositions per judge-referee rose to 493 based on an average of 30.2 special and trial term parts. Thus, the mean annual disposition rate increased by 72 percent from 1970 to 1973.<sup>20</sup>

To confirm this analysis, we studied the court's performance during a sample month for the past three years (see Table 10). We chose the month of June because it was the most recent month for which statistics were available.

We excluded uncontested matters since they account for a considerable proportion of the court's business but are insignificant in terms of court time per disposition. We also considered only parts in which judges sat for at least 15 days during the month. By eliminating the parts in which the judges sat less, we restricted our comparisons to parts in full operation.

Considering the table, statistics for June are quite favorable for the individual calendar parts. These parts produced the highest disposition rates for June in two

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<sup>20</sup> Paraphrased from Chief Clerk of the Civil Branch, Annual Report (1973), at 21-22.

TABLE 10

SUPREME COURT, COUNTY OF NEW YORK  
TRIAL TERMS (EXCLUDING SPECIAL PARTS)  
LAW AND EQUITY CASES

DISPOSITIONS AND ADDITIONS  
JUNE 1971-1973

YEAR	TYPE OF TRIAL PART	NUMBER OF PARTS <sup>1</sup>	NUMBER OF JUDICIAL DAYS WORKED	DISPOSITIONS			DISPOSITIONS PER JUDICIAL DAY	PERSONAL INJURY JURY CASES DISPOSED		NUMBER OF JURY CASES LASTING MORE THAN ONE DAY
				LAW	EQUITY EXCLUDING UNCONTESTED MATTERS <sup>2</sup>	TOTAL		NUMBER	PERCENT OF TOTAL DISPOSITIONS	
1971	General Trial (Master)	5	93	79	42	121	1.30	29	23.9	5
	Roadblock	4	70	57	6	63	.90	32	50.8	8
	Individual Calendar	4	76	129	3	132	1.74	69	52.3	6
	Civil Court	6	114	112	0	112	.98	112	100.0	0
	Total	19	353	377	51	428	1.21	242	56.5	19
1972	General Trial (Master)	7	110	73	22	95	.86	78	82.1	15
	Individual Calendar	9	142	201	31	232	1.63	112	48.3	9
	Civil Court	6	100	176	0	176	1.76	N.A.	N.A.	N.A.
	Total	22	352	450	53	503	1.43	N.A.	N.A.	N.A.
1973	Individual Calendar	12	202	776	45	821	4.06	460	56.0	18
	Protracted Trial	2	32	10	5	15	.47	0	0	4
	Civil Court	2	31	13	0	13	.42	12	92.0	5
	Total	16	265	799	50	849	3.20	472	55.6	27

N.A.- Not available.

<sup>1</sup>Only judges who sat for at least 15 days per month were considered. Several master calendar judges sat for only a few days while I C judges tended to sit the maximum number of court days available per month.

<sup>2</sup>Uncontested matters i.e. matrimonial and other uncontested equity matters removed as these matters generally do not require more than five or ten minutes per disposition.

Source: Monthly reports of Chief Clerk, Civil Branch, Supreme Court of New York County.

years, 1971 and 1973. Only in 1972 did judges using the conference assignment system achieve a higher rate, and then by the slight margin of 1.76 dispositions per judge day worked to 1.63 for the individual calendar parts.

The disposition rate for the individual calendar parts reflected an upward trend. The mean dispositions per judicial day in the individual calendar parts went from 1.73 to 1.63 to 4.06 during the three year period. The trial parts operating under a master calendar system went from 1.30 mean dispositions per judicial day in 1971 to .86 in 1972, the last year the master calendar system was in operation in any trial parts. The civil court parts varied from .98 in 1971, to 1.76 in 1972, to .42 in 1973.

Because of their different functions, the protracted trial parts and the civil court parts have lower disposition rates than the individual calendar parts. Nevertheless, the use of these protracted trial or complex case parts is an integral part of the individual calendar. To accurately measure the efficiency of the systems, these parts should be included in the statistical analysis. For June, the mean dispositions per part per day for the court as a whole were 1.21 for 19 parts in 1971, 1.43 for 22 parts in 1972, and 3.20 for 16 parts in 1973. Thus, as the reliance on the individual calendar parts as the basic trial part increased, the mean disposition rate for all the trial departments employed by the court increased.

To determine if the composition of the caseload had

altered during these three years, we looked at the number of personal injury cases disposed of and the number of jury cases lasting more than one day. Personal injury cases, in general, and jury trial cases, in particular, are among the most time consuming cases for the court. These figures were not available for all parts in 1972, but for 1971 and 1973, it is clear that no significant differences existed in the caseloads based on these indices. Personal injury cases accounted for 56 percent of the total dispositions in June in 1973, the same as in 1971. The number of jury cases lasting more than one day was 19 in 1971 compared to 27 in 1973.

To accomodate the individual calendar system, the supreme court has devised a new measure for expressing delay. Traditionally, this had been expressed as the time between filing a note of issue and trial. Since each judge in an individual calendar part may call cases in such order as he wishes, it is impossible to compute delay using this method. The court's new method is based on the percentage distribution of cases pending, classified by age of cases in months. The following are the figures, as of June 30, 1973, for the personal injury cases.

PERSONAL INJURY JURY CASES PENDING  
(5,328)

Percentage Frequency Distribution  
June 30, 1973

<u>Age in Months</u>	<u>Percentage of Total</u>
0-11	40.82
12-23	32.10
24-35	16.69
36-47	4.34
48-59	3.19
60 and over	2.83

Source: Monthly reports of Chief Clerk, Civil Branch, Supreme Court of New York County.

It is difficult to conclude from these figures whether the attorneys' claims that older more complex cases are neglected; 73 percent of the pending cases are less than two years old, while 27 percent are more than two years old. By monitoring these statistics closely during the next year, however, the court can determine if a portion of the case-load is being disposed of very rapidly, while others stay in the backlog.

EVALUATION: APPRAISAL BY JUDGES, ATTORNEYS, AND COURT PERSONNEL

We conducted personal interviews and studied reports from three sources: the court itself, the Association of the Bar of the City of New York, and the Economic Development Council of New York, an independent, nonprofit organization of businessmen established in 1965 "to help bring the

capabilities of the business community to bear on vital urban problems." 21

These three groups generally agree that while the individual calendar system has problems, it represents a significant improvement over the system previously employed.

Of the three groups, the court is the most enthusiastic. Administrative Judge Dudley expressed the belief that not only is the system successful in the Civil Branch of the Supreme Court of New York County, but also that any court employing the individual calendar system will increase its disposition rate by between 25 and 40 percent. The statistics for 1973 support Judge Dudley's claim for his own court, at least.

Both the General Clerk, Thomas Galligan, and the Chief Clerk of the Civil Branch, Max Sirkus, agree with this basic analysis if not with the estimate of how much the system will improve disposition rates. While the trial judges were not extensively interviewed, we were informed that they generally prefer the system since each judge can set up his calendar according to his particular work habits.

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<sup>21</sup>Economic Development Council of New York, Inc., Seventh Annual Meeting Report (1973).

**CONTINUED**

**1 OF 3**



While the court is satisfied with the system, various modifications have been made. The three protracted trial parts, for instance, originally were assigned a caseload of only two cases. The court found that two cases were not enough since many of the cases were settling or were not trial ready. In addition, the Economic Development Council found that the average trial time in the protracted trial parts was only 2 3/4 to 3 1/2 hours for the first four months of 1973.<sup>22</sup> To increase the efficiency of these parts, the court recently has increased its caseload from two to seven cases per part.

During the first stages of the individual calendar system, judges were reassigned to criminal parts on special assignment every three months, as had been the policy under the master calendar system. Considerable administrative and efficiency problems resulted. According to Administrative Judge Dudley, these problems have been overcome by maintaining judges in the individual calendar parts for a term of at least one year.

Judge Dudley also noted another problem, the impact of which has yet to be truly felt, i.e., the considerable disparity in disposition rates per judge. The 1973 statistics show that the number of dispositions per judge-referee for the year ranged from a high of 999 to a low of 245 for the fifteen individual calendar parts.<sup>23</sup> The

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<sup>22</sup>Economic Development Council, Supreme Court Task Force, Report on the Civil Branch, New York County (1973), at 57.

<sup>23</sup>Monthly Reports of Chief Clerk, Civil Branch, Supreme Court of New York County (December, 1973).

average was 493. (We have not accounted for prolonged illness, temporary reassignments, etc. in listing these figures.) Since the system is new, this disparity has not caused serious administrative problems as yet. The implications are clear, however. Varying disposition rates may develop for cases filed at the same time, and backlog problems may develop in some parts and not in others.

Motion practice generally is cited by the court as the greatest problem area with the new system. As originally conceived, judges in individual calendar parts would preside over all motions pertaining to their cases. In practice, this system has not worked. Attorneys claiming "emergency" motions have had difficulty in calendaring their motions in the assigned parts. Thus, special term parts designed to handle specialized motions increasingly have become motion parts similar to a law and motion judge employed under some master calendar systems.

The Association of the Bar of the City of New York made a survey of the attitudes of the practicing attorneys toward the individual calendar system in December 1971, while the system was still in an experimental stage.<sup>24</sup> The responses were largely favorable.

Over 72 percent of the respondents indicated that, given a choice, they would prefer working under the individual calendar system rather than under the previous master calendar system.

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<sup>24</sup> New York Bar Association Committee on State Courts of Superior Jurisdiction, "The Individual Calendar Part System Employed in the First Judicial Department," 27 Record of N.Y.C.B.A. 608 (1972).

Forty-nine percent of the respondents believed that cases move faster in the individual calendar system, while only 22 percent believed they move slower. The remainder had no opinion or found no significant change.

A significant proportion of the responding attorneys (44 percent) indicated that the number of motions made had decreased. Only one attorney believed that there had been an increase in motions. Another 43 percent remarked that no change in submission of motions was discernible. The remainder expressed no opinion.

The comments of the respondents focused on two major themes. First, the attorneys indicated that stricter control of scheduling and calendaring must be achieved. The tendency of judges to defer hard cases in favor of easier ones was cited as an area requiring greater control by rule or administrative directive. Secondly, the lawyers emphasized that the commitment and skill of a judge makes considerable difference in the effectiveness of the individual calendar system. The judges chosen to sit in individual calendar parts during the experimental stages were among the most respected in the court.

These latter comments notwithstanding, the Committee on State Courts of Superior Jurisdiction reported to the Association of the Bar on June 1, 1972, that "on balance, it is concluded by this committee that the civil I.C. Part System has been a success, and we recommend that it be employed in the remaining civil Supreme Court parts in the

Supreme Court, New York City." <sup>25</sup>

By 1973, however, the enthusiasm of the Bar was tempered.<sup>26</sup> At a meeting of the same Committee on State Courts of Superior Jurisdiction, the author of the 1972 report, Marvin Ausubel, a New York trial attorney, noted that many lawyers were unhappy with the individual calendar system. Mr. Ausubel pointed out that firm trial dates were not being set, and pretrial conferences were being used excessively. Motion practice was mentioned as another problem. The individual calendar system originally was hailed as an improvement since the judges at least heard motions, as compared to the previous system in which motions were assigned to a pool of law assistants. The mentioned scheduling problems were undermining this advantage. Even the scheduling of non-emergency motions had become a problem as judges often were unavailable due to trials.

According to Mr. Ausubel, the problem of the trial parts deferring hard cases and hearing only easily disposable cases, first mentioned in the 1972 report, is becoming aggravated. There was the belief expressed by some attorneys that the quality of attention by the judiciary to individual cases had suffered in its attempts to increase the number of dispositions.

Many practicing attorneys believed that cases should

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<sup>25</sup>Id., at 19.

<sup>26</sup>Comments are paraphrased from minutes of a meeting of the Committee on Superior Court Jurisdiction, Association of the Bar of the City of New York, held in the spring of 1973, and a personal interview with Marvin Ausubel held on October 23, 1973.

be analyzed for their difficulty prior to assignment to judges, and the assignment to a part made with the difficulty of the case in mind.

In spite of the criticism, however, the members of the committee continued to favor, by a considerable margin, the individual calendar system as opposed to the previous master calendar system.

The third group which has undertaken analysis of the individual calendar system is the Economic Development Council of New York (EDC). This council, through its Supreme Court Task Force, conducted an exhaustive study of the procedures involved in the individual calendar system. The findings and recommendations of the task force were published on July 31, 1973.<sup>27</sup>

According to Richard F. Coyne, Chairman of the EDC Supreme Court Task Force, the study group concluded that the individual calendar system was the best system primarily because it placed accountability and responsibility on individual judges. With the master calendar system, according to Mr. Coyne, only the presiding judge and the court administrators had responsibility for moving cases.

Accepting the concept of the individual calendar system, the task force made a series of recommendations for its improvement. First, they disagreed with the concept of trial court specialization. They recommended the abolition of the unit disposition parts and the protracted trial parts

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<sup>27</sup>Economic Development Council, Supreme Court Task Force, Report on the Civil Branch, New York County (1973)

in favor of expanding the number of general individual calendar trial departments.

In commenting on the unit disposition parts, the committee noted these parts are sent any personal injury case that a judge elects. This practice undermines the principle of judicial accountability and responsibility.

Their criticism of the protracted trial units, on the other hand, is based on empirical data which shows that a high proportion of the cases assigned to these departments actually settled before trial, thus reducing the usefulness of these departments. The task force also disagreed with the court's policy of establishing three parts to hear New York City negligence cases exclusively. This specialization, in their opinion, undermines the flexibility of the individual calendar system.

The task force recommended that the court formally designate certain special term parts for emergency motions. They also believe that formal provision for reassigning cases, either because of illness, special assignment, or growing backlogs, is essential to the success of the system.

The adoption of uniform rules governing hours, hearing of motions, setting conferences, and other matters also was recommended by the task force as a means to standardize the processing of cases.

## STAFF ANALYSIS

1. The Civil Branch of the New York County Supreme Court differs from metropolitan California superior courts in several respects. The jurisdiction is for matters in excess of \$10,000. Probate and juvenile matters are not assigned to the court. The personal staff for each judge is larger, consisting of a clerk, a law assistant, and a personal aide. The court is closed during the summer and judges are assigned to hear criminal matters during this time. All of these factors affect the performance of the calendaring system.

2. The statistics for the individual calendar system in New York County are encouraging. The year 1973 was an impressive year for the court. The individual calendar system has been in use in all general trial parts for only one year, however. We believe the system will have to be in operation in all parts for at least one more year before definite conclusions can be made. In particular, the court will have to determine if the initial enthusiasm for the system among the judges wears off and is reflected in a peaking of the disposition rates followed by a decline. Also, the practicing attorneys have alleged that the judges hear the easier cases first, leaving the more time consuming cases pending. If this practice is followed, the high disposition rates are apt to drop as the complex cases become more dominant.

3. As the court has expanded its use of the individual calendar system, there has been an increasing tendency to create specialization within the court. Special term parts, backup parts, malpractice and condemnation parts, trial parts to handle all matters involving the City of New York, all have been designated. In creating this specialization, the stated goal in adopting the individual calendar system to assign each judge an equal share of the overall caseload has been subverted.

4. Pretrial motions have caused considerable problems resulting in the increased use of a special term part for motions. This practice, while perhaps necessary, is not in keeping with the goal to have each judge handle a case from filing to disposition.

5. The level of satisfaction with the system expressed by persons interviewed is high. Criticisms of the system appear to be increasing, however.



INDIVIDUAL CALENDAR SYSTEM IN THE  
CUYAHOGA COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

INTRODUCTION

There is a court of common pleas in each county in Ohio. It is the highest state court of original jurisdiction. The jurisdictional territory of the court in Cuyahoga County includes metropolitan Cleveland. The court has civil jurisdiction in matters in which the amount in controversy exceeds \$10,000. Municipal courts have jurisdiction in civil matters in which the amount in controversy is \$10,000 or less.<sup>28</sup> Jurisdiction over criminal matters extends to all felonies within the country.<sup>29</sup>

The court is divided into four divisions. The general division which hears civil and criminal cases has 26 judges. The probate division has two judges; domestic relations, two judges; and the juvenile division has four judges.

The judges of the four divisions of the court of common pleas select one of their number to act as presiding judge. The term of the presiding judge is not for a fixed period.

The presiding judge is the spokesperson for the court. Other duties include temporarily assigning a judge from one division of the court to serve another division and presides over meetings of the judges in all the

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<sup>28</sup>Ohio Revised Code §§2305.01, 1901.17, 1901.18

<sup>29</sup>O.R.C. §§2931.03

divisions to discuss and resolve courtwide administrative problems.

Each division, by majority vote of all the judges of that division, selects one of their number to act as administrative judge. The administrative judge is selected for an annual term and may be re-elected. The administrative judge is the presiding officer of his division and has full responsibility for and control over the administration and calendar of the division in which he serves. He is responsible for assigning cases to judges within the division and transferring cases to other judges. He serves as a backup judge in preliminary matters when the assigned judge is unavailable.

The court administrator is in charge of the nonjudicial personnel of the court, consisting of approximately 272 people. He has overall administrative responsibility for the operation of the court. His office is responsible for drawing the budget and maintaining monthly and annual statistics on cases disposed of in the division. They are reported to the Chief Justice of the Supreme Court of Ohio.

The deputy court administrator is supervisor of the central scheduling office which is responsible for calendar management in cooperation with judges and bailiffs. A clerk of the court is elected and is the official keeper of records.

According to the deputy court administrator, the mean time from case filing to trial was approximately 24 months in

civil cases as of December, 1973. The mean time from arraignment to trial in criminal matters was approximately six months as of December, 1973.

#### BACKGROUND

The individual calendar system was adopted in common pleas courts throughout the state on January 1, 1972, by Ohio Supreme Court rule, pursuant to the superintendent powers granted by the Ohio Constitution. Prior to this time, the Cuyahoga Court of Common Pleas operated on a master calendar system.

The reason for adopting the individual calendar system was that caseloads in all the courts had been increasing so rapidly that it was becoming difficult to provide criminal defendants with the speedy trial guaranteed them by the Constitution. In order to bring criminal cases to trial promptly, more judges were being assigned from civil duties to the criminal branches of the larger metropolitan courts. This increased the civil case backlog in many courts. There was a delay of two to four years for civil cases to get to trial.

The Cuyahoga court established as goals for the individual calendar system that criminal cases be tried within six months of arraignment and that civil cases be tried within a year of case filing. The individual system

was also expected to pinpoint responsibility for case movement on the individual judges, a neglected point under the previous master calendar.

Since its adoption, the court has expressed considerable satisfaction with the individual calendar and has made no major modifications in it.

#### THE CASE PROCESSING SYSTEM: CUYAHOGA COUNTY COURT OF COMMON PLEAS

The following is an outline of the case processing system utilized in Cuyahoga County.

##### Distribution of Business

Cases filed in the court are assigned to one of the four divisions: probate, domestic relations, juvenile or general (civil and criminal). Judges in the general division usually hear civil cases one month and criminal cases the next. Recently, some judges normally on the civil cycle have been assigned criminal cases because the new criminal code, effective on January 1, 1974, requires that all criminal cases be tried within 270 days from date of arrest.<sup>30</sup> In addition, six visiting judges from smaller and less busy common pleas courts currently are assigned to the court by the Ohio Supreme Court to back up the judges in the general division.

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<sup>30</sup> O.R.C. (1973 Special Supp.) §2945.71(c)(2). For purposes of computing time under this section, each day during which the accused is held in jail in lieu of bail on the pending charge shall be counted as three days. O.R.C. (1973) Special Supp. §2945.71(d).

## Phases in the Civil and Criminal Process (for the General Division)

### Civil

Filing: Upon the filing of a complaint, a case is assigned to a judge by the drawing of an assignment slip in the office of the clerk of the court. A party has one year to file an answer to a complaint. Once filed, the case is considered pending. There is no at-issue memorandum or certificate of readiness.

Discovery: Rules do not specify time limits for discovery. The court may designate discovery rules according to individual cases.

Pretrial conference: A pretrial conference is set by the central scheduling office (CSO). With the current status of the calendar, this conference occurs approximately six months after the answer is filed. At the pretrial conference, the issues in the case and discovery status are reviewed and incorporated into the pretrial conference order.

A second pretrial conference is scheduled within 60 days of the first conference. At this conference, settlement is emphasized.

Trial: Cases are scheduled for trial within 90 days of the second conference.

### Criminal

First appearance: Defendants are arraigned in municipal court within three days of arrest.

Preliminary hearing: A preliminary hearing in municipal court is held either on the same day as the first appear-

ance or within three to four weeks. Defendants held to answer for a felony are bound over to the grand jury and must be indicted within 60 days. If the defendant waives the preliminary hearing and the grand jury, he may be arraigned directly in the court of common pleas by prosecutor information.

Arraignment: Defendants are arraigned in the court of common pleas 10 to 14 days after the indictment or information is filed. If the defendant pleads not guilty, a courtroom clerk assigns the case, by lot, to one of the judges on criminal duty.

Pretrial: The central scheduling office schedules a pretrial conference 10 to 14 days after arraignment.

Trial: Cases are scheduled for trial 10 to 14 days following pretrial.

Assignment of Cases: Pretrial and Trial

Civil: Civil cases are assigned upon filing by lot to a judge hearing civil cases at that time. The assigned judge becomes responsible for handling all phases until its disposition.

Motions are filed with the clerk of the court and scheduled by the CSO to the assigned judge. Pretrial is set by the judge in coordination with the CSO scheduler.

On the trial date, if the assigned judge is not free or cannot handle the case due to its probable length, the bailiff checks the availability of a visiting judge. If no visiting judge is available, the case is trailed or continued. If a case is not

ready for trial on the trial date, the assigned judge may invoke disciplinary measures including case dismissal.

Criminal: Arraignments are all held in one department by a judge designated as arraignment judge for a four week period. He handles bail settings, extraditions, writs and some motions.

Upon completion of arraignment, the arraignment judge or his designee assigns the case, by lot, to one of the judges on criminal duty. Pretrial, motion hearings and reassignments are handled as in civil cases.

#### Responsibility for Setting Court Appearances

Each judge is responsible for his calendar. However, a basic calendar is set up by the CSO scheduler, which the judge modifies if necessary. Motions for continuances are heard by the assigned judge.

#### Use of Special Departments

As noted, probate, domestic relations, and juvenile matters are heard in separate divisions. Criminal arraignments are assigned to one department.

The administrative judge hears pretrial matters in the following types of cases: workman's compensation (under state fund), foreclosures, dependency, and other cases requiring special handling. Any trials in these matters are assigned to one of the trial departments.

#### Protracted Trials

If, at pretrial, a judge determines that a case will require two weeks or longer for trial, the judge can have the CSO reassign the case to a visiting judge.

### Reassignment of Cases

Cases are reassigned to a visiting judge if the assigned judge, because of illness, vacation, or a backed-up calendar, is unable to handle his calendar.

### Handling Dormant Matters

The court requires periodic status reports from counsel in all civil cases. When such a report is not filed or when it is revealed that there has been no activity in the case for more than six months, the case can be dismissed.

The criminal code dictates the acceptable time limits for criminal matters. Failure to meet these standards results in the dismissal of the charges.

### Review of Calendar Status

Each judge is required to submit a monthly report on dispositions and backlog to the superior court. The court utilizes a computer to compile this information and to create master records. The computer also is used to maintain an accurate record of pending cases for every attorney in the country. The court adopted a local rule which provides that an attorney may not assume defense of another defendant on the criminal docket when that attorney already has ten or more cases pending for more than six months. The constitutionality of this rule has been questioned by attorneys, but so long as it is sanctioned by the Ohio Supreme Court, the Cuyahoga Court of Common Pleas intends to use it.



### Distribution of Cases at Time of Conversion to the System

All cases pending at the time of conversion from the master calendar system were divided equally by computer and distributed among the judges of the general division of the court.

### PERFORMANCE

Since the adoption of the individual calendar system on January 1, 1972, the court has increased the annual number of dispositions of civil and criminal cases (see Table 11). The total rose from 15,956 in 1971, to 16,558 in 1972, to 20,385 in 1973, an increase during the three year period of 4,429 dispositions or 27.8 percent. The year 1973 was particularly successful. Dispositions of both criminal and civil matters reached record highs enabling the court to pass the 20,000 disposition level for the first time in its history.

Most importantly, these gains were made while the number of judges assigned to the court remained constant, even decreasing from 1970-71. The annual dispositions per assigned judge has risen each year the individual calendar system has been in use, from 570 per judge in 1971 to 636 per judge in 1972 to 784 per judge in 1973. It should be noted, however, that these figures are based on the number of assigned judges only. By including the six visiting judges who currently are hearing court of common pleas cases, the annual dispositions per judge drops to 637 in 1973, still an impressive figure.

TABLE 11  
COURT OF COMMON PLEAS OF CUYAHOGA COUNTY  
CRIMINAL AND CIVIL CASES  
(EXCLUDING DIVORCE, PROBATE AND JUVENILE)  
FILINGS AND DISPOSITIONS  
1967-1973

YEAR	NUMBER OF JUDGES ASSIGNED <sup>1</sup>	CRIMINAL			CIVIL			TOTAL			ANNUAL DISPOSITIONS PER JUDGE	TOTAL CASES PENDING AS OF DECEMBER 31
		FILINGS	DISPO- SITIONS	CHANGE	FILINGS	DISPO- SITIONS	CHANGE	FILINGS	DISPO- SITIONS	CHANGE		
1967	26	2,783	2,455	+328	8,148	7,815	+333	10,931	10,270	+661	395	16,166
1968	27	2,642	2,596	+ 46	8,449	7,150	+1,299	11,091	9,746	+1,345	360	17,511
1969	26	2,900	2,844	+ 56	8,450	7,536	+914	11,350	10,380	+970	399	18,481
1970	28	3,533	3,382	+151	10,869	10,126	+743	14,402	13,508	+894	482	20,438
1971	28	3,594	3,837	-243	11,659	12,119	-460	15,253	15,956	-703	570	(19,375) <sup>2</sup>
1972	26	5,183 <sup>1</sup>	2,960	+2223	11,436	13,598	-2,162	16,619	16,558	+61	637	19,735
1973	26	5,670 <sup>1</sup>	6,318	-648	11,990	14,067	-2,077	17,660	20,385	-2,725	784	19,796
												16,704
												(16,071) <sup>2</sup>

<sup>1</sup>Does not include visiting judges.

<sup>2</sup>Figures for 1972 and 1973 include all arraignments, while previous years include only indictments.

<sup>3</sup>Change in civil and criminal calendar status applied to cases pending as of December 31 of the previous year do not always equal total cases pending according to Supreme Court statistics. When such differences appear, the figure in parenthesis is the derived statistic.

Source: Office of the Administrative Director, the Supreme Court of Ohio.

The major gains were in the disposition of criminal cases. Criminal dispositions rose to 6,318 in 1973, as compared to 2,960 in 1972, an increase of 3,358 or 113.4 percent. Civil dispositions increased slightly by 3.4 percent. The court reduced the backlog of criminal and civil cases by 2,725 cases, lowering the total number of pending cases to 16,704, a level not achieved since 1967.

The average time cases remain in the backlog has decreased for criminal cases while remaining stable for personal injury cases. Of the 991 criminal cases pending as of December 31, 1973, 40 or four percent had been pending more than six months.<sup>31</sup> In 1972, almost 14 percent of the criminal cases had been pending more than six months. For civil personal injury cases, 2,547 or 16 percent of the 15,713 cases pending as of December 31, 1973 had been pending more than 24 months. This represents only a slight reduction from the 17 percent pending more than 24 months at the end of 1972.

EVALUATION: APPRAISAL BY JUDGES, ATTORNEYS,  
AND COURT PERSONNEL

A member of the staff visited the Court of Common Pleas for Cuyahoga County. He analyzed the operations of the court and conducted personal interviews with judges, court administrators, prosecuting attorneys, a public defender, and private members of the bar. A total of 15 interviews were

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<sup>31</sup>Information presented in this paragraph is from the Annual Statistics Report to the Ohio Superior Court by the General Division, Court of Common Pleas, Cuyahoga County, Ohio.

conducted.

The great majority of those interviewed favor the individual calendar. They consider the system an improvement over the previous calendar system in terms of productivity, fairness to litigants, and the monitoring of judicial performance.

Each of the 15 interviewees was asked specific questions comparing the individual calendar with the previous master calendar. Where appropriate, staff comments are included.

The following is a summary of the responses of the interviewees to the questions posed.

#### Advantages of the Individual System

The most commonly mentioned advantage of the individual calendar is that it pinpoints responsibility. Both judges and attorneys agree that a judge has increased incentive to dispose of cases and keep a current calendar. The performance of a judge who has not been diligent and whose calendar, therefore, increases, is known to colleagues, the bar, and the public.

Another advantage cited is that attorneys are prevented from "jockeying" or shopping for judges. In theory, when a case is assigned to a single judge, the lawyer knows this particular judge will try the case unless a settlement can be reached. Thus, the attorney must analyze the case early. Delaying tactics usually are fruitless; the original judge assigned will handle the entire case and unnecessary delays serve only to create anger. Certain attorneys, however, especially the public defender, note that delaying a case long enough will result in a spin off to a visiting judge,

which increases the chance of drawing a lenient judge. Thus, a certain amount of judge-shopping is still possible.

Various judges comment that the individual calendar allows judges freedom of calendar arrangement, permits judges to move cases according to their capabilities, and reduces bureaucratic complications with assignment clerks.

Finally, almost all interviewees agree that cases move faster. This not only reduces calendar backlog and insures a speedy trial, but according to the deputy court administrator, reduces criminal recidivism of defendants out on bond as well.

#### Disadvantages of the Individual Calendar

Several disadvantages of the individual calendar are mentioned by the interviewees. First, since much judge time is spent conducting pretrial, reviewing briefs, and preparing opinions, there may not be full use of courtrooms. Newly appointed or elected judges may be required to assume the congested and neglected docket of a departed judge.

A competent, conscientious judge who works at a slow pace will appear dilatory. Thus, there is a temptation to be superficial. Some attorneys comment that certain judges are primarily interested in case movement and only secondarily concerned with the quality of justice. Similarly, attorneys note that the judicial concern with speedy case disposition increases attorney scheduling conflicts with other courts and results in attorneys feeling pressured.

Several attorneys point out that the individual calendar allows the judge to command a great deal of power. If the

assigned judge is tyrannical, little can be done to change matters. The judge has the option to retard or accelerate case progress. Since the judge has the final approval of case scheduling, easy cases can be scheduled in a block to upgrade the judge's disposition rate or to allow the judge time off while he appears to be working a full day.

Another criticism leveled at the individual calendar is that it often does not permit reassignment and adjustment of caseloads when a judge gets behind because of the trial of a long and complex case. In the Cuyahoga Court of Common Pleas, this problem is partially alleviated by spinoffs of crowded dockets or potentially complex cases to visiting judges. However, attorneys claim that the judges use the spinoff to avoid old or complex cases--the very matters which one may want a competent local judge to hear.

#### Number of Appearances Required

About 40 percent of those interviewed believe the number of court appearances required to dispose of cases has decreased under the individual calendar, while another 40 percent state there has been no change. Only one interviewee, a judge, thinks the number of appearances required have increased, mainly because judges allow attorneys to appear for settlement purposes at any time, even after pretrial.

Of those believing appearances decreased under the individual calendar, one states that matters are resolved more rapidly when the parties know that the same judge will hear the entire case. Several note that the judges have discouraged repeated appearances; issues are resolved quickly

or the case goes to trial.

#### Number of Continuances

A majority of the respondents, 60 percent, are of the opinion that continuances have decreased under the individual calendar, while 40 percent state there is no change. Three of the judges and one attorney, in stating that continuances have decreased, note a decrease in attorney trial date conflicts because the attorneys know the trial dates well in advance.

Both judges and attorneys agree that judges have tightened up on their continuance policy because the judges are conscious of being monitored through the mandatory monthly supreme court reports.

#### Number of Motions

Approximately half of the interviewees think the motions submitted in the average case have decreased, while one fifth believe there is no change and one fifth perceive an increase. Two of those interviewed did not respond to the question.

Presiding Judge Thomas J. Parrino notes that lawyers are inclined to present fewer motions and make those presented more concise under the individual calendar. He recalls that under the master calendar, an attorney would sometimes repeat the same motions every time a new judge was assigned motion duty.

On the other hand, one criminal defense attorney is of the opinion that the number of motions has increased under the individual calendar because under the master calendar, defense counsel withheld motions until a judge who was lenient

on plea bargaining was assigned motion duty.

Two judges and one attorney comment that any change in motion practice has little to do with the calendar system. Instead, they view the new civil procedure rules, based on the liberal Federal Rules of Civil Procedure, as responsible for changes.

#### Judge Time Required Per Case

Five out of the seven judges interviewed state that the judge time required for the average case has decreased under the individual calendar. Approximately a third of the interviewees perceive no change or have no opinion, while only two state that the judge time required has increased.

Two reasons for a decrease in judge time are offered. Judges are familiar with cases since they have had a case on their docket from filing or arraignment and, therefore, can dispose of cases faster. Older and more difficult cases can be reassigned to visiting judges after pretrial.

One judge comments that more judge time is necessary under the individual calendar because a judge not only must try cases, but must act as assignment clerk and handle emergency orders, such as injunctions, as well.

The deputy calendar clerk believes judges spend more time working on settlement at pretrial under the individual calendar because they know a case remains on their docket until it is disposed of.

#### Effect on Judge-Attorney Relationships

Almost three quarters of those interviewed believe



judge-attorney relationships have been affected by the individual calendar. Many of the judges feel pressured to dispose of cases under the individual calendar because of the required monthly disposition report. They are sensitive to being monitored and believe judge-attorney relationships are strained since they are conscious of production.

The public defender complains that trying cases has changed from "a warm personal business between court personnel, judges, and attorneys into a hard-nosed grind". He is not sure whether this is a result of the individual calendar or a result of court congestion common to any metropolitan court. However, a deputy public defender contends that the previous system was run by a clique of insiders and that those not in the clique received unequal treatment. Thus, he favors the individual calendar; for, although it may create an impersonal system, everyone is treated equally. Two attorneys mention that the spinoff system to visiting judges reduces some of the judge-attorney strain caused by caseload pressure.

#### Movement of Cases in System

Almost all interviewees believe cases move faster under the individual calendar system.

Presiding Judge Parrino writes:

Before the individual calendar, there were many cases on the civil docket over three and four years old. Many criminal cases, particularly those where continuances had been requested by the defendant, were pending for a year or more. The practice of law and the trial of lawsuits was once a leisurely thing. All this has now changed. The complaint is there is now too much speed. While I now disagree with this, only time will tell if this complaint is justified.<sup>32</sup>

<sup>32</sup>Excerpt from a speech delivered by Judge Thomas J. Parrino to the National Conference of Metropolitan Courts, October 13, 1973.

Another judge comments that case movement has increased because judges are responsible for their own calendars. He suggests that peer pressure also expedites case movement. When evaluations are made, no judge wants to be last. However, in this judge's opinion, there are no effective sanctions which can be invoked against dilatory judges. For example, he thinks the news media and the bar association should have criticized the bench when the judges fell behind and visiting judges had to be requested.

One judge estimates that he can dispose of 50 percent more cases under the individual calendar. Under the previous master calendar, this judge claims that schedulers took cases away from him because he went too fast. Now, he can proceed as fast as he wishes.

#### Qualitative Effects of the System on Cases

According to two-thirds of the interviewees, the individual calendar qualitatively effects case handling. Judges are about evenly divided on this question, whereas five out of six attorneys believe the individual calendar does have a qualitative effect on cases.

Both judges and attorneys maintain that less judge-shopping occurs under the present system. A private attorney notes that pretrials are more productive. Fewer frivolous motions are filed. The motions that are filed are given more careful consideration by judges.

One judge asserts that trials are no different under the individual calendar or the master calendar, but that under the individual calendar, judges want to clear their

dockets. Thus, cases are dismissed if filings are late or if the case is not ready at trial date.

Several interviewees acknowledge an improvement in the quality of case handling which they attribute to the knowledge that the judge attains by "living with a case since its inception."

On the other hand, a few judges complain that the pressure to dispose of cases results in the sacrifice of justice. They note that there is a tendency for judges to compete for high disposition rates and that certain judges force settlements on the litigants to improve the disposition rate. One judge laments the occurrence of time consuming emergency matters which interrupt trials. These interruptions force the judge to compensate for loss of time by not giving proper consideration to the trial.

Several attorneys and one judge criticize the court policy of turning over difficult, often older, cases to the visiting judges. These interviewees find the visiting judges maintain different standards of justice than the regular judges. The prosecuting attorneys claim that the visitors are more likely to be lenient in criminal matters. Consequently, defense attorneys attempt to make cases appear complex so that the regular judge will spinoff the case to a visiting judge.

#### Suggested Modification in the System

Many modifications are offered to improve the current system. Several judges suggest categorizing and weighting cases on the basis of their difficulty to insure equitable

caseload distribution. Other judges recommend allowing judges to specialize. According to one judge, it was possible under the master calendar for attorneys to have their complicated cases tried by the more competent judges. He thinks it desirable to offer this opportunity under the individual calendar.

Both the prosecuting attorney and the public defender maintain that spinoff should be eliminated since judge shopping results. The public defender asserts that a defendant has a right to be tried by a judge elected by the people of Cuyahoga County.

One law professor recommends the creation of a central calendaring office with full scheduling authority, answerable only to the presiding judge. He believes that such a system while not foolproof, is more likely to insure that judges hear a full complement of cases in a week and do not play games by relegating cases they choose not to decide to the bottom of the bin. It is also more likely to insure that cases are not scheduled in a way that permits the judge to approve three deals and still have a day or two off to do what he pleases.

#### System Preferred by Interviewees

Approximately 73 percent of those interviewed prefer the individual calendar and 27 percent prefer the prior master calendar. One judge, along with the public defender and two private attorneys, prefer the master calendar.

An administrator and a judge state that any calendar system can work. The crucial variables are the personnel,

the court policies, tight monitoring of cases, and a centralized information system.

#### Efficiency Rating of the Individual Calendar

Rating the individual system on a scale of one to ten produced the following: judges, 7.3; prosecuting attorneys, 8.5; the public defender, 6.0; private attorneys, 7.5; and court administrators, 9.0.

#### STAFF ANALYSIS

1. The Cuyahoga County Court of Common Pleas is distinct from most California state courts in that judges assigned to a division such as probate, domestic relations, or juvenile, hear only matters filed in that division.
2. Unlike the New York County Supreme Court, the Cuyahoga County Court of Common Pleas has maintained centralized control over its individual calendar system. The central scheduling office carries out the mechanics of setting court appearances for each judge.
3. Acceptance of the individual calendar system by judges, attorneys, and court administrators in the Cuyahoga Court is high. The persons interviewed compare the present individual calendar system favorably with the previous master system for the indices selected to measure system performance, e.g. minimizing number of continuances, etc.
4. Most criticism of the system is general in nature. Attorneys feel more pressured and find judges oriented toward dispositions. From a management point of view, these are not

criticisms, but positive results of the increased individual responsibility placed on judges.

5. The use of spinoff judges introduces an element of uncertainty that the individual calendar system supposedly eliminates; namely, who will try the case. From a management point of view, however, some type of spinoff appears necessary to maintain day certain trial dates.

6. The performance for the Court of Common Pleas of Cuyahoga County is extremely impressive. The court has increased the total disposition rate and decreased pending cases significantly since adopting the individual calendar at the start of 1972. The annual dispositions per judge are considerably higher than the levels achieved under the individual calendar system in the Civil Branch of the New York Supreme Court.

The system has been in use only two years; however. We emphasize our belief that long range trends cannot be forecast based on such a short time period.

HYBRID CALENDAR SYSTEM IN THE CIRCUIT COURT FOR  
WAYNE COUNTY, MICHIGAN

INTRODUCTION

The Circuit Court for the Third Circuit has a jurisdictional territory of Wayne County, which includes the City of Detroit. Wayne County has an estimated population of three million, of which 1.5 million reside in the City of Detroit.

The Circuit Court is a court of original jurisdiction in cases of equity and law, and has criminal jurisdiction over felonies. Within the City of Detroit, the Circuit Court has exclusive jurisdiction in civil actions when the amount in controversy is greater than \$10,000 and concurrent jurisdiction with the court of common pleas in civil matters when the amount claimed is greater than \$5,000 and less than \$10,000.<sup>33</sup>

Within the circuit but outside the City of Detroit, the circuit court has exclusive jurisdiction over civil actions when the amount in controversy is more than \$10,000.<sup>34</sup>

Preliminary examinations in criminal cases are held in the district court outside Detroit and the recorder's court in the City of Detroit.<sup>35</sup>

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<sup>33</sup>Michigan Compiled Laws Annotated (M.C.L.A.) 728.1;  
Michigan Statutes Annotated (M.S.A.) 27.3651.

<sup>34</sup>M.C.L.A. 600.8301; M.S.A. 27A.8301.

<sup>35</sup>M.C.L.A. 600.8311; M.S.A. 27A.8311; M.C.L.A. 601-631;  
M.S.A. 27A.601-631.

Certain matters must be commenced in circuit court, e.g., equity cases, tax cases, real estate title issues, condemnation actions started by some agencies, divorce and paternity suits. The circuit court serves as an appellate court and reviews rulings of a number of administrative agencies within the county.<sup>36</sup>

There are 28 judges elected to six year staggered terms.<sup>37</sup> In addition, visiting judges are appointed by the Michigan Supreme Court Administrator on request of the presiding judge of the circuit court for a 30 day renewable period. Currently, two visiting judges are sitting.

Each judge is assigned a deputy county courtroom clerk, a secretary, a court reporter, a deputy sheriff who acts as a bailiff, and has access to the pool of seven law clerks. There are approximately 500 people who are considered court employees.

Five referees, considered nonjudicial officers are assigned to represent children in child custody, delinquency, and property settlement matters.<sup>38</sup> These referees function as negotiators and have no binding judicial authority.

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<sup>36</sup>Institute for Court Management, Analysis of the Civil Calendaring Procedures of the Third Judicial Circuit Court, Wayne County, Michigan (Detroit) (1970), at 4.

<sup>37</sup>Constitution of the State of Michigan, Article Vi, section 12.

<sup>38</sup>Wayne County Circuit Court Rules, Rule 10 et. seq.



The court is headed by a presiding judge who is elected annually by the other judges.<sup>39</sup> There is no limit to the number of terms he may serve. (The current presiding judge has served for six years). His responsibilities include acting as spokesperson for the court, determining court policy, assigning cases for trial (through an assignment clerk), granting adjournments of trials, and presiding over meetings of the bench.<sup>40</sup>

There is a miscellaneous presiding judge who serves a term of two weeks. He handles ex parte orders, emergency matters, orders to show cause, arraignments and pleas.

The court administrator is appointed upon nomination of the bench, for a six year term. As the holder of the chief administrative office of the court, his duties include: responsibility for preparation, presentation and implementation of the budget; responsibility for court personnel including the assignment clerks, and for personnel problems including labor negotiations; overall responsibility for the efficient management of the calendar; and miscellaneous planning functions. The court administrator's staff consists of eight people, including a trial assignment clerk.

The county clerk is an elected official. His main duty is the maintenance of records. He has a staff of approximately 107 persons, only half of whom work in court related areas.

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<sup>39</sup>Ibid, Rule 4.1.

<sup>40</sup>Ibid, Rule 4.2.

The remainder maintain other types of record and licensing functions, e.g., birth and death records, marriage and divorce records, etc.

As of December 31, 1973, 24,132 civil cases, excluding divorce, were pending.<sup>41</sup> Seventy-seven percent of these were less than two years old. This figure includes cases in which no answer had been filed, the case had not been set for trial or the discovery period had not run, as well as cases which were awaiting trial. As of December 31, 1973, 838 criminal cases were pending.

#### BACKGROUND

The present calendar system is a "hybrid" with elements of both master and individual calendar systems. It was adopted in July of 1967. Prior to the adoption of the hybrid system, the court operated under a master calendar system for many years until 1964. In January of 1964, all courts in Michigan were required by rule of the Supreme Court to adopt the individual calendar system. Their experience under the individual calendar system, however, was a steady decline in productivity. The cases disposed of per judge per day including all criminal, civil, and divorce cases steadily decreased from 5.30 in 1963 to 4.10 in 1966, while the total dispositions per year per judge declined from 1,302 in 1963 to 958 in 1966.<sup>42</sup>

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<sup>41</sup>Statistics in this section are derived from the Wayne County Circuit Court annual statistics.

<sup>42</sup>Paraphrased from correspondence of July 30, 1973, between Presiding Judge Joseph A. Sullivan and Master-Individual Calendar Study, and a personal interview with Judge Sullivan in Detroit on January 7, 1974.

While undoubtedly the statistical indices were the primary factor in the circuit court's decision to change their calendar system, the court had noted other problems as well. According to Presiding Judge Joseph A. Sullivan, considerable disparity in the case backlogs of individual judges had developed. Policies with respect to adjournments, notice prior to trial, etc., differed throughout the court as judges regarded the operation of their calendars as their own private domain.

The court also discovered that an announced objective in adopting the individual calendar, to spotlight the less productive judges, was being defeated. Those judges expected to show up poorly under this system, adapted to it by concentrating on disposing of the shorter cases. The more difficult cases on their docket tended to languish. From the standpoint of number of dispositions, they fared as well as any. According to Judge Sullivan, publicity from the news media proved ineffective in highlighting productive judges because the newspaper favorites were often at the bottom of productivity lists. Furthermore, under the individual system, diligent judges were given the residual caseload of slower judges. This practice tended to blunt incentive.

Finally, an attorney under the individual calendar could know which judge would try his case before the judge actually did. This resulted in a judge unwittingly subjecting himself to lobbying prior to the time when he became aware of the case.

Nevertheless, there were attractive aspects to the individual calendar system, especially to the judges who were able to become familiar with cases during their progress towards disposition, in contrast to the earlier master calendar system which many judges found mechanical and production-line oriented.

In an effort to combine the most positive aspects of each system, the hybrid system was created. On the civil side, a case is assigned randomly to one judge for all preliminary matters, e.g., motions and pretrial (as in the individual calendar). On the day of trial, the case is assigned to any of the civil judges designated as a day certain judge. The overflow of cases are assigned to judges known as spinoff judges. The system works essentially the same for criminal matters, except that pretrial matters are handled in special departments.

#### THE CASE PROCESSING SYSTEM: WAYNE COUNTY CIRCUIT COURT

The following is an outline of the hybrid system.

##### Distribution of Business

The presiding judge determines the number of judges who are to sit in the civil and criminal divisions, and assigns the judges. Assignments to the criminal division are for no longer than three months. Five judges presently hear criminal cases, except for arraignment. The remainder of the

judges, now 25 (including two visiting judges), handle civil matters.

### Phases in the Civil and Criminal Process

#### Civil

Filing: Upon filing of complaint, a number is assigned to the case. This number determines priority for pre-trial and trial. Proof of service on the defendant or an answer must be filed within six months or the case is dismissed. After service on the defendant, he must answer within 20 days or a judgment may be taken against him.

At-Issue Praecipe: An at-issue praecipe must be filed with the answer to a complaint.

Discovery: Once the case is at issue, the attorneys are allowed six months for discovery. However, an attorney may enter the case on a special docket with a 15 month discovery period.

Settlement Conference: A settlement conference may be had before the judge upon the request of a party or order of the court. It is almost never used, and those settlement negotiations involving judge assistance generally are held at the pretrial conference or the day set for trial.

Pretrial Conference: A mandatory pretrial conference is held approximately 18-20 months after the case filing, based on current status of calendar. Parties are notified 60 days in advance. There may be no further discovery after the conference.

Trial: Cases are scheduled by the assignment clerk for trial approximately 90-120 days after pretrial, as the volume of cases permits. The parties are noticed two months in advance.

### Criminal

Arraignment on Warrant: Defendants must be arraigned in the Wayne County District Court or the Detroit Recorder's Court within 24 hours of arrest.

Preliminary Examination: A probable cause hearing is held in the Wayne County District Court or the Detroit Recorder's Court with 12 days of arrest.

Arraignment on Information: Defendants held to answer to a felony by the district or recorder's court are arraigned on information in the circuit court two weeks after preliminary examination. Defendants indicted by the grand jury are also arraigned in the circuit court.

Pretrial Conference: An informal pretrial conference is held in the prosecuting attorney's office two weeks after arraignment, without the presence of a judge.

This is essentially a plea bargaining session.

Trial: The case is set for trial two weeks after pre-trial.

### Assignment of Cases: Pretrial and Trial

Civil: Cases are assigned at filing, by lot, to one of the judges of the court in such manner as to equally distribute cases involving automobile negligence, domestic relations, condemnation, and other civil matters.

The judge to whom a case is assigned handles all preliminary matters until after the pretrial conference, when the case is put on the trial calendar. However, if a judge is unable to handle a preliminary matter, it is referred to an alternate judge.

All pretrial general motions are calendared for Friday afternoon. Pretrial conferences are set by the assignment clerk with 60 days notice, for a Friday afternoon. After the pretrial conference, a case is transferred to the master calendar for assignment for trial.

For trial assignments, the judges hearing civil cases are divided equally into two groups designated "day certain" and "spinoﬀ" judges, alternating weekly. On the day scheduled for trial, the assignment clerk assigns, by lot, three cases to each day certain judge. The cases that the assigned judge cannot settle are tried by him, transferred to a spinoﬀ judge, or held by the assignment clerk until a judge becomes available, in which case the parties are on call.

Approximately 15 divorce cases are called for trial each day to fill out calendars as necessary. Cases are set for trial Monday through Thursday.

Criminal: Arraignments are assigned to the miscellaneous presiding judge.

Since pretrial conferences are held in the office of the prosecuting attorney, no assignment to a trial judge is made until the completion of the pretrial conference.

Pretrial motions are heard by the presiding judge unless a criminal division judge has been assigned the case.

Within a few days following the pretrial conference, trial assignment is made. Judges are designated "day certain" and "spinoff" as with civil cases. Three cases are assigned to each day certain judge and the excess either assigned to a spinoff judge or placed on call.

A judge continues with criminal cases, through post-trial motions, even after he has begun to hear civil matters.

#### Responsibility for Setting Court Appearances

Responsibility for calendaring cases is centralized. The presiding judge has overall responsibility and delegates responsibility to the court administrator. The actual assignment is done by the five assignment clerks who set and assign appearances in civil and criminal cases. The courtroom clerks coordinate with the assignment clerks in setting up a calendar for each judge. Motions for continuances in criminal and civil matters are heard by the presiding judge.

#### Use of Special Departments

Special departments are not used, except that arraignments, pleas, ex parte orders, emergency matters, and orders to show cause are heard by the miscellaneous presiding judge.

#### Handling Complex Cases

In complex civil cases, an attorney may petition the court to have the originally assigned judge remain as the trial judge.



### Handling Dormant Matters

The court has a "no progress" rule. In any case where discovery is not completed within seven months (unless a 15 month discovery period was requested by the attorney at the time of filing or when the pleadings are amended), the case is dismissed. A case may be reinstated by order of the court only upon the payment of a \$25 fee.

### Review of Calendar Status

The court administrator, as well as the assignment clerks, prepare a management and statistical profile. A monthly list is sent to each judge showing the types of cases assigned to him and the number disposed by jury or nonjury trial or by dismissal. Monthly meetings of judges are held by the presiding judge at which general court and calendar matters are discussed.

### Distribution of Cases at Time of Conversion to Current System

When the hybrid calendar was initiated in 1967, judges kept the old cases already on their docket through pretrial. After pretrial, the cases were sent to the assignment clerks for calendaring under the new assignment method.

### PERFORMANCE

Since the adoption of the hybrid system in 1967, the court has increased the total number of dispositions per year of civil and criminal matters in each year except one (see Table 12).<sup>43</sup> The court disposed of 11,623 civil and

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<sup>43</sup> Since divorce cases are often uncontested, divorce statistics are excluded from our statistical analysis.

TABLE 12  
WAYNE COUNTY CIRCUIT COURT  
CRIMINAL AND CIVIL CASES (EXCLUDING DIVORCE)  
FILINGS AND DISPOSITIONS  
1963 - 1972

YEAR	CRIMINAL			CIVIL <sup>1</sup>			TOTAL			TOTAL JUDICIAL WORK DAYS	DISPOSITIONS PER JUDICIAL DAY (EXCLUDING DIVORCE)	TOTAL CASES PENDING AS OF DEC. 31	TOTAL PENDING CASES TWO OR MORE YEARS OLD
	FILINGS	DISPO-SITIONS	CHANGE	FILINGS	DISPO-SITIONS	CHANGE	FILINGS	DISPO-SITIONS	OVERALL CHANGE IN CALENDAR STATUS				
1963	980	1,039	-59	11,771	13,537	-1,766	12,751	14,576	-1,825	4,313	3.15	18,057	4,329
1964	1,004	1,023	-19	11,034	12,298	-1,264	12,038	13,321	-1,283	4,756.5	2.80	16,774	4,648
1965	1,113	973	+140	10,557	11,206	- 649	11,670	12,179	- 509	4,665	2.61	16,265	3,370
1966	1,375	1,069	+306	10,693	10,554	+ 139	12,068	11,623	+ 445	5,601	2.08	16,710	4,775
1967	1,570	1,717	-47	11,865	11,881	- 15	13,536	13,598	- 62	6,002	2.27	16,640	4,110
1968	1,920	1,989	-63	12,418	10,854	+1,564	14,344	12,843	+1,501	5,885	2.18	10,149	4,713
1969	1,926	2,145	-157	12,741	11,921	- 820	14,729	14,066	+ 663	6,148	2.29	18,812	4,480
1970	2,866	2,928	-62	13,504	12,807	+ 697	16,370	15,735	+ 635	6,621	2.38	19,447	4,312
1971	2,945	3,021	-76	14,702	14,291	+ 411	17,647	17,312	+ 335	7,382	2.35	19,781	3,987
1972	2,542	2,497	+45	16,790	15,961	+ 829	19,332	18,458	+ 874	7,691	2.40	20,655	2,933
1973	2,691	2,580	+111	21,103	16,899	+4,204	23,794	19,479	+4,315	6,696	2.91	24,970	2,897

<sup>1</sup> Civil consists of auto negligence and other general civil. Divorce is excluded as a high proportion of these cases are uncontested. The time spent by judges disposing of divorce cases is included by the court in determining mean dispositions per judge day. Thus, the mean dispositions shown are somewhat lower than they should be but more accurately reflect judicial productivity from 1963-1973.

Source: Wayne County Circuit Court Annual Statistics.

criminal cases in 1966, the last year of the individual calendar. By 1973, criminal dispositions had risen to 19,479. During this period the court has become more backlogged, however, as the number of filings has increased dramatically. The number of judge days worked and the number of dispositions per judge day have increased but not as sharply as filings.

Comparing statistics from 1966 to similar information from 1973, the number of dispositions increased by 68 percent, but the number of filings increased by 97 percent. The number of judge days worked increased from 5,601 to 6,696, an increase of 1,095 or 20 percent. The dispositions per judge day increased from 2.08 to 2.91, an increase of 40 percent.

Since civil cases dominate in the filings, the overall court performance is reflective of the change in the civil calendar. Comparing 1966 to 1973, dispositions increased by 60 percent, but filings increased by 97 percent. The ratio between civil dispositions and filings was particularly unfavorable in 1973 when dispositions increased by only 938, while filings increased by 4,204.

For criminal cases, the court has fared slightly better, although in 1972 and 1973 filings outnumbered dispositions after five consecutive years of reductions in the backlog. Fortunately, case filings dropped in 1972 and 1973 so that the criminal backlog did not grow significantly (by 156 cases). Comparing 1966 and 1973, filings increased by

1,316 cases or 96 percent while dispositions increased from 1,069 to 2,580, an increase of 1,511 cases or 141 percent.

The dispositions per judicial day excluding divorce have increased gradually since the adoption of the hybrid system in 1967. In 1973 the dispositions per judicial day rose considerably from 2.40 in 1972 to 2.91 in 1973, an increase of 21 percent. During most of the years that the hybrid system has been employed, however, the dispositions per judicial day have been lower than the highest levels recorded for either the individual calendar system (2.30 dispositions per judicial day in 1964) or the master calendar system (3.15 dispositions per judicial day in 1963).

The court has been quite successful in reducing the number of cases pending which are two or more years old. From 1966 to 1973, the number decreased from 4,775 to 2,897, a drop of 39 percent. The percentage of cases in the backlog which have been pending for two or more years dropped from 29 in 1966 to 12 in 1973.

#### EVALUATION: APPRAISAL BY JUDGES, ATTORNEYS AND COURT PERSONNEL

A member of the staff visited Wayne County Circuit Court. He conducted personal interviews with judges, court administrators, a prosecuting attorney, an attorney from the defender's office, and private members of the bar, using the format outlined in the case study of Cuyahoga County.

Twelve interviews were held.

Generally, most of those interviewed react positively toward the hybrid system. They believe the hybrid calendar is efficient in use of judicial and attorney manpower and fair in assignment of cases. Although some enjoyed working under the individual system, they generally agree that it was unfeasible in a court of 28 judges.

Interestingly, there is no significant difference in the opinions expressed by judges and attorneys. However, attorneys do express more concern for scheduling problems.

As an indication of its level of satisfaction, the court has made only one major change in the hybrid system since its inception; the institution of the day certain and spinoff judge concept in 1969. Prior to this time, trial ready cases were assigned to all civil judges.

Each of the twelve persons interviewed was asked to assess the efficiency of the hybrid system compared to the earlier individual calendar system. Since the master calendar system was abandoned over ten years ago, the interviewees were not asked to compare the hybrid system to that system. Where applicable, the staff comments are added to the commentary of the interviewees.

The following is a summary of the responses of the interviewees to the questions posed.

#### Advantages of the Hybrid System

According to both judges and attorneys, the principal advantage of the hybrid system is that cases move faster. They maintain that judicial manpower is maximally utilized

and case assignment is run efficiently.

The judges note the flexibility of the system allowing adaptation to various situations. If a judge has a complicated case, he can spin off his other cases. On the other hand, when the judge finishes his three cases per day, he may utilize his time for opinion writing or call the assignment clerk for short cause "filler" cases.

Attorneys and judges also favor the system's uniformity. Notice of assignment for a day certain is given two months in advance in civil matters. Although the lawyer is not guaranteed that the trial will be that very day, he does have a good approximation of the trial date. The continuance policy is strict but consistent. Movement of cases is steady, not subject to the whims and idiosyncracies of a particular judge. Maneuvering to get before a particular judge with a favorable reputation for certain types of cases is fruitless since one never knows before the time of trial precisely which judge will try the case. Docket size for each judge is equal and, unlike the individual calendar, fast-paced judges are not assigned the cases of the slower members of the bench.

#### Disadvantages of the Hybrid System

One of the claimed disadvantages of this hybrid system is that uncertainty as to the trial judge reduces settlement probability.

A complaint voiced by one judge is that the individual calendar system at least rewarded judicial diligence at the

pretrial since the same judge handled the trial. Under the hybrid system, the chances are that a pretrial judge who does quality work will not be assigned the case for trial anyway.

In a similar vein, interviewees note that a judge to whom a case is assigned for trial has no familiarity with the file since he probably did not handle the pretrial phrases. This increases the risk of error and diminishes the quality of the work product, especially with complicated matters such as products liability cases.

According to some interviewees, the spinoff is disorganized and its usage growing beyond desirable proportions. Thus, a day certain trial date is not maintained. Instead, a case may trail for as long as a week with the detrimental and expensive result of forcing attorneys, parties, witnesses, etc., to remain on call.

Finally, in the opinion of certain interviewees, the strict continuance policy pressures attorneys into trials before they have had adequate preparation time.

#### Number of Appearances Required

Most of those interviewed (75 percent) believe the number of court appearances required for an average case has not changed as compared to the individual calendar. Only one interviewee believes the hybrid system increased the number of court appearances, while two state that the number of court appearances required has decreased.

Some judges note a reduction in the number of in-chamber court appearances made by attorneys solely to adjust scheduling conflicts. Under the previous system, all judges were competing for a relatively small group of trial attorneys, without the benefit of centralized scheduling. Thus, a single attorney was often first, second, or third on various dockets. The result was scheduling conflicts requiring court appearances.

#### Number of Continuances

Over half of the interviewees state that the number of continuances per case under the hybrid system has decreased. None of the interviewees believe continuances have increased. However, several judges point out that continuances are granted through the presiding judge's department; consequently, they are not aware of changes in continuance policies.

Those who think the number of continuances have decreased attribute this mainly to two modifications. First, under the hybrid system, continuances can only be granted by the presiding judge, leading to uniformity of policy and control. Second, the present presiding judge maintains a strict continuance policy. Continuances are granted only when attorneys come into court in advance and show good cause for a continuance.

Judges state that the strict continuance policy is not a hardship on attorneys as centralized calendaring reduces



scheduling conflicts within the circuit court. There are still trial date conflicts with attorneys who have trials in federal or other state courts.

#### Number of Motions

Almost all the interviewees (92 percent) believe that there is no change in the number of appearance required for motions under the hybrid system. Judges under both the hybrid and individual calendar systems handle all pretrial motions in cases assigned to them. Thus, the motion assignment system remained unchanged after the adoption of the hybrid system. Interviewees do agree that having a single judge familiar with the case handle all motions conserves judge and attorney time.

#### Judge Time Required Per Case

The interviewees split on whether the judge time required per case has increased, decreased or remained the same. The responses of judges and attorneys are evenly distributed.

The President of the Detroit Bar Association, Ivan E. Barris, thinks that in simple cases such as minor personal injury cases, any change in judge time required under the present system is insignificant because issues can be grasped quickly. However, in complex cases, judge time increases under the hybrid system because both the pretrial judge and the trial judge must master complicated issues.

One judge states that although under the hybrid system there is a necessity for two judges to familiarize themselves with a case, there is probably no greater time invest-

ment. This is because under the individual system so many unrelated matters intervene from the time of pretrial until the time a case was finally set for trial that undoubtedly a judge suffered a memory block. Consequently, the judge had to renew his knowledge of a case even if he handled both pretrial and trial phases. Furthermore, because most cases are of a simple recurring type, the time necessary for the new trial judge to familiarize himself under the hybrid system is inconsequential.

Certain judges interviewed state that the individual docket wasted time getting attorneys into court. Calendar clerks sometimes found it necessary to go 12 to 15 cases down on a judge's docket searching for an available attorney. Unprepared attorneys insisted on more time since they reasonably anticipated a two to three day delay due to their docket position.

These judges believe that the hybrid system partially eliminates this problem, theoretically by setting a day certain two months before trial. A strict continuance policy eliminates judge time spent coaxing attorneys into a trial. Once the trial is underway, these judges believe the same amount of time as before is required.

#### Effect on Judge-Attorney Relationships

Opinion is evenly divided as to whether or not the present system has affected judge-attorney relationships. Among the interviewees who believe this relationship has

been affected, there is variability of opinion over what these effects are. Some think the relationship has improved. They state that little tension exists between judges and attorneys over scheduling because assignment clerks and the presiding judge handle these problems.

Interviewees comment on the lack of opportunity for attorneys to select trial judges which apparently was possible, in certain instances, under the individual calendar. Similarly, judge lobbying during the wait for trial is reduced. Under the individual system, attorneys sometimes knew for as long as two years, in civil cases, who would try their case; while under the hybrid system there is only a two month notice. Moreover, because the judge drawn may reassign the case to an alternate, certainty becomes impossible.

It is mentioned that judge-attorney friction is more prevalent now because attorneys are unprepared. This is attributed by some to attorney slovenliness and by others to mounting pressure on attorneys because of the strict continuance policy and heavy caseloads.

#### Movement of Cases in System

It is unanimously agreed by the interviewees that cases move faster under the hybrid system. This is attributed, among other things, to more economical use of judicial man hours under the hybrid system. The three cases per day assigned to a judge put pressure on him to assist in settlements, even though he can utilize spinoff.

Adjournments are controlled by the presiding judge and he maintains a tough policy. For example, continuances are not granted just because a criminal defense attorney has not been paid. Movement of cases is more even; there is not the disparity in lag time related to any particular judge. Slower judges utilize spinoff more frequently, perhaps thereby retarding case processing in the system as a whole, but not affecting the particular cases assigned this judge. Interestingly, one attorney detects that case movement has slowed in the last six months, although he is not sure why this is occurring. This observation is supported by the 1973 statistics.

#### Qualitative Effects of the System on Cases

Over half of those interviewed believe that the system does not qualitatively affect the manner in which cases are handled. A minority (42 percent) think that the hybrid calendar does affect case handling.

Although quality was supposed to improve under the individual calendar system through increased judge knowledge of a case, there is conflicting opinion over whether the improvement is significant. Furthermore, it is still possible by petition, in complicated cases, for one judge to keep a case from beginning to end under the hybrid system.

The use of spinoff is alleged to qualitatively affect

the handling of cases since many cases are spunoff to another judge. Attorneys state that when a cases is assigned to a judge with an unfavorable reputation for certain types of cases, the attorney does not have to acquiesce to an unconscionable settlement since there is a good possibility of spinoff. However, there are two sides to the coin. Some interviewees profess that not knowing the judge in advance has detrimental effects because it lessens the likelihood of settlement taking place prior to trial day.

#### Suggested Modifications in the System

There are many suggestions for modifications of the current system. Interviewees suggest categorizing and weighting cases on the basis of difficulty so that caseload and spinoff can be organized more efficiently and equitably. The more complicated cases would be channeled to more experienced judges.

Computerization is suggested as a method both of distributing caseload and coordinating attorneys within the various Michigan courts to avoid scheduling conflicts. Two interviewees propose allowing judges to specialize according to their case preferences. One judge thinks pretrial should be eliminated entirely and the parties should go directly to trial. His contention is that the same cases and issues are constantly emerging, e.g., automobile negligence, simple divorce matters, etc., for which there are no new angles; thus, pretrial serves only to waste time. One judge notes that

the original master calendar did not require attorneys and parties to wait while the allocation of their case to a day certain or spinoff judge was negotiated.

#### System Preferred by Interviewees

Among the interviewees, about two-thirds prefer to work under the present and one-third prefer to work under the individual system. One judge prefers the old master calendar. The consensus among the judges is that the individual calendar is preferable ideally, but that it is extremely difficult to use it efficiently in a large metropolitan area.

#### Efficiency Rating of the Hybrid System

When asked to rate the efficiency of the hybrid calendar system on a scale from one to ten, the mean response of the interviewees was 7.65.

#### Description of a More Efficient System

Two judges contend that the old master calendar system is a more efficient system. A third judge suggests the individual calendar system with increased judicial manpower.

#### STAFF ANALYSIS

1. Unlike most California courts, the Wayne County Circuit Court does not emphasize court administered pretrial conferences for the purpose of settlement. Settlement conferences are optional in civil cases and used rarely. Pre-trial conferences in criminal cases are held in the office of the prosecuting attorney without the presence of a judge. As

we have noted, this policy is not inherent to the calendar system per se but is an integral part of the case processing system. The experiment in the Los Angeles County Superior Court shows how different policies on the use of pretrial conferences can affect the performance of a calendar system.

2. The productivity of judges in terms of dispositions per judicial day (excluding divorce cases) has increased slightly since the adoption of the hybrid system in 1967. The disposition rates are still lower than the highest levels achieved under the master calendar system.

3. Total filings and dispositions are influenced by factors which a court cannot control. If the number of judges in a court does not increase proportionately to the increase in filings, a court will become more backlogged even though the productivity of individual judges is increasing. Just such a phenomena has occurred in Wayne County.

4. Since the adoption of the hybrid system, the court has been successful in reducing delay from filing to disposition, as the average age of cases at disposition has decreased. This would appear to indicate that strict enforcement of the policy of calendaring cases by the date of filing has reduced the average age of pending cases. The cost may be a higher annual disposition rate. While the individual calendar system was employed, cases could be calendared out of order. The disposition rate for the court generally was higher but the number of pending cases more than two years old was higher as well.

5. As with the New York County Supreme Court and the Cuyahoga County Court of Common Pleas, the Wayne County Circuit Court has departments solely to hear cases which cannot be heard by the assigned trial judge. The spinoff system in Wayne County is quite elaborate and seemingly cumbersome, resulting in considerable uncertainty as to the eventual trial judge and excessive movement between courtrooms.

6. As was true with the individual calendar system the New York County Supreme Court and the Cuyahoga County Court of Common Pleas, the acceptance of the hybrid system is quite high. There is less enthusiasm for the system than for the individual calendar system in Cuyahoga County. We suggest that this may be because the hybrid is older.

7. Centralized control of continuances in the office of the presiding judge and his strict policy on continuances is a major improvement.



CONFERENCE AND ASSIGNMENT CALENDAR SYSTEM  
IN THE CIVIL COURT OF NEW YORK CITY

INTRODUCTION

The Civil Court of New York City is a court of original jurisdiction<sup>44</sup> in civil and equity matters in which the amount in controversy does not exceed \$10,000.<sup>45</sup> The jurisdictional territory of the court is the City of New York, which consists of five separate boroughs, each being co-extensive with a county: Queens (Queens County), Manhattan (New York County), Staten Island (Richmond County), Bronx (Bronx County), and Brooklyn (Kings County). There is a court division in each borough. The general structure and operation of these five court divisions is similar, but some differences do exist.

As of October 1, 1973, eighty judges were sitting on the civil court. An additional twenty civil court judges temporarily were assigned to branches of the supreme court in New York City. Seventeen vacancies existed. The state legislature determines the number of judgeships for the court.<sup>46</sup> Judges are elected to the court for a term of ten years.<sup>47</sup> Retirement is mandatory at the age of 70 years.

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<sup>44</sup>New York Constitution, Article VI, §1a.

<sup>45</sup>New York City Civil Court Act, §§110,202-210, 1508, 1801; C.P.L.R. §5221; and Article 7(A) of Real Property Actions and Proceedings Law.

<sup>46</sup>Ibid, Article VI.

<sup>47</sup>Ibid, Article VI, §15.

There is an administrative judge appointed by the Justices of the Appellate Divisions of the First and Second Judicial Departments, for a term at their discretion. The administrative judge is responsible for the administration and operation of the court, subject to the supervisory direction by the appellate division.

#### BACKGROUND

In 1962, as part of a program to reorganize the New York State courts and establish a unified court system, two lower New York City courts, the City and Municipal Courts, were consolidated to form the Civil Court of New York City. As a result, the civil court succeeded to the heavy caseload that had accumulated in the two predecessor courts (102,418 cases pending as of September 1, 1962). According to present Administrative Judge Edward Thompson, this backlog was largely tort jury cases (85 percent). Over half of these cases had been in the system for six or more years.

From 1962 to 1970, the court attempted to deal with its backlog problem by experimenting with a number of different calendar systems. None of the experiments produced a satisfactory reduction of the backlog. The system used prior to the present (conference and assignment) was the master calendar. Under this system all pretrial and trial calendars were called daily in one part and then assigned to another part for hearing or trial.

Several distinct problems had caused the calendar difficulty according to Judge Thompson's analysis.<sup>48</sup> Due to the uncertainty of scheduled court appearances, much attorney time and preparation was wasted. Moreover, clients and witnesses were forced to waste time while awaiting delayed proceedings and returning for postponed appearances. This tended to generate an assumption of fictitious hearings and trial dates, creating further difficulties for the court in keeping reasonable schedules.

A substantial portion of judge time was devoted to a variety of nonjudicial clerical chores, such as urging attorneys to commence trial and locating those actually prepared for trial. The hearing of continuance requests consumed an ordinate amount of judicial time. The court found that the concentration of tort cases in a few law offices resulted in frequent adjournments because of counsel being engaged with other cases.

On February 9, 1970, the conference and assignment calendar system was instituted by Judge Thompson on a pilot basis for two judge teams. By June of 1970, the system had been extended throughout the court.

Basically, judges are divided into teams of three. One judge sits as a conference or calendar judge, while the other two judges sit as assignment or trial judges to try cases which do not settle at the conference stage.

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<sup>48</sup> Civil Court of the City of New York, 1971 - The Year It Happened (1971).

The system attempts to combine some of the "assembly line" methods of the master calendar system and the accountability of the individual calendar system. The basic objectives of the system, according to Judge Thompson, are to promote healthy competition between the teams of judges; to allow individual judges to contribute to the best of their ability; to enforce a strict continuance policy; to insure the presence of counsel at all court appearances; to maintain date certain appearances; and to better utilize the efforts of nonjudicial personnel.

#### THE CASE PROCESSING SYSTEM: CIVIL COURT OF THE CITY OF NEW YORK

The following is an outline of the basic elements of the system. Since each conference and assignment team retains control over the calendaring of cases assigned to it, variation in specific procedures exists.

##### Distribution of Business

General civil cases are assigned to a conference and assignment team. Each court division maintains special parts for landlord-tenant matters, small claims, short cause, personal appearances, and preliminary motions.

##### Phases in the Civil Process

Filing: Once the complaint is filed, a party has 20 days to file an answer.

Note of Issue: At least 40 days after service of a summons, and after all discovery is completed, a party may place a case on the trial calendar by filing a note of

issue. A case is assigned to a team upon the filing of a note of issue.

Conference: Approximately two months after the filing of a note of issue, a case is called for conference.

Trial: Trial is scheduled to be held within 60 days from the beginning of the conference.

Assignment of Cases: Pretrial and Trial

General trial cases are divided into two categories: actions involving insurance carriers, the city, and city agencies; and other actions (commercial, other torts, etc.). Cases from the former group are assigned to specific teams according to the defendant involved, i.e., all cases involving one carrier are assigned to one team or, in the case of large carriers and the city, to one of several specified teams. Cases in the latter group comprise a miscellaneous category and are distributed among teams to balance their caseloads.

Once assigned to a team, a case remains with that team until disposition. Any motions arising prior to the assignment of a case to a team are assigned for hearing in the special part for litigated motions. After assignment, pretrial motions are heard by the conference judge, unless he elects to transfer the hearing to the litigated motions part.

Each team is assigned approximately 450 to 750 cases per four week month. The conference judge holds conferences for approximately 28 to 50 cases per day for a four

day week. On the fifth day he schedules cases requiring further conference.

The conference judge of each team is responsible for assigning those cases not settling at the conference to one of the two backup judges for trial. The assignment is made at the completion of the conference.

Backup judges have a daily trial calendar of approximately 30 cases.<sup>49</sup>

#### Responsibility for Setting Court Appearances

Once a case is assigned to a team, the conference judge is responsible for calendaring court appearances, including the trial date. The calendar clerk for each special part schedules hearings assigned to that part.

#### Use of Special Departments

Special departments are maintained for each of the following matters: litigated motions, short cause matters, ex parte applications, personal appearances, small claims, and landlord-tenant disputes. All of the judges are responsible for serving in the special term parts for about two months annually.

#### Handling Complex Cases

No procedures are maintained by the court for handling complex cases. Generally, trials are short. Should a

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<sup>49</sup>Interview with Hon. Bentley Kassal, on November 2, 1973.

judge become involved in a complex case requiring excessive conference or trial time, the remaining two members of the team handle the existing assigned matters.

#### Reassignment of Cases

Cases generally are not reassigned between teams. If a team becomes backlogged with general trial cases, the calendar clerk will not assign as many cases from the miscellaneous category. Necessary reassignments due to illness, vacations, etc. are handled internally by each team. When the judges rotate positions within the team, i.e., from conference judge to trial judge and vice versa, each judge assumes the caseload of his new position. When an entire judge team is reassigned, such as to the supreme court, its caseload is distributed among other teams.

#### Handling Dormant Matters

The court imposes a requirement that a matter not be held for more than 60 days after first appearing on the calendar of the conference part unless it is legally stayed or a party dies. If this time period is exceeded, the matter is referred to the administrative judge. He then can order immediate trial, adjournment, or take any other action he deems appropriate.

#### Judicial Assignments

Assignments to a judge team are permanent unless personality conflicts develop, or team reorganization is required due to retirement, elevation to a higher court, etc.

Every four to six weeks the three judges change roles. Therefore, each judge serves as conference judge approximately once every three months.

During July and August and the last two weeks of December, trials of actions at law are suspended since judges are on vacation or hear criminal matters from the Criminal Court of the City of New York.

#### Review of Calendar Status

The office of the general clerk compiles a monthly report on the operation and performance of the calendar system. This report is forwarded to the clerk of each county and transmitted to the chief clerk's office and to the administrative judge.

#### PERFORMANCE

Since the adoption of the conference and assignment system in the first half of 1970, the court has undergone a metamorphosis. At the end of December, 1969, prior to the adoption of this system, 136,925 cases (tort and commercial, jury and nonjury) were pending on the court's calendar. As of the end of December, 1973, 401,159 cases had been added and 526,031 disposed of. The backlog was reduced to 13,564 cases as of January 1, 1974, a reduction of 90 percent since January 1, 1970.



TABLE 13  
CIVIL COURT OF THE CITY OF NEW YORK  
TORT AND COMMERCIAL ACTIONS  
CALENDAR STATUS  
JANUARY 1, 1969 - JANUARY 1, 1974

<u>YEAR</u>	<u>PENDING AS OF JAN. 1<sup>1</sup></u>	<u>CASES NOTICED FOR TRIAL</u>	<u>DISPOSITIONS</u>	<u>CHANGE IN CALENDAR STATUS</u>
1970 <sup>2</sup>	116,204	97,938	145,809	-47,871
1971	89,066	109,058	170,357	-61,299
1972	28,368	105,000	116,197	-11,197
1973	16,953	89,163	93,668	- 4,505
1974	13,564	N.A.	N.A.	N.A.

N.A. - Not available

<sup>1</sup>Adjusted figures.

<sup>2</sup>February 9, 1970, first use of conference and assignment system.

Source: Administrative Office of the Court, New York City Civil Court.

During this same period, time from filing of the note of issue to trial decreased from an average of 34 months in 1969 to 2 months as of December 31, 1971, a reduction of 94 percent. Since much of the two month delay is due to time required for clerical functions, the court considers itself current.

#### STAFF ANALYSIS

1. The Civil Court of the City of New York is a high volume limited jurisdiction court. The conference and assignment system as used in this court is appropriate in California

for metropolitan municipal courts.

2. The change in the calendar status of the court has been dramatic. What other factors, besides the adoption of the conference and assignment system, contributed to this improvement are not clear. Interviewees suggest that the forceful personality of Administrative Judge Edward Thompson has been as instrumental as the calendar system he devised.

3. The judge team approach has many apparent positive features. Judges are aware of individual responsibilities for moving cases and do not feel personally isolated. According to the users of the system, the scheduled rotation of assignments every month within the team reduces judicial boredom and tends to distribute the high pressure work (conferencing) and the lower pressure work (trying cases) equitably.

4. The uniqueness of the conference and assignment system is the team approach. The calendar techniques used actually are a type of hybrid by our definition.

#### IV. PRINCIPLES AND TECHNIQUES FOR EFFECTIVE CALENDARING AND CASE PROCESSING MANAGEMENT

The case studies presented in previous sections illustrate methods employed by several courts for calendaring court appearances and establishing procedures to control case movement. The survey of California federal, superior, and municipal courts and of other state courts, presented in Appendix 3, offer further information.

We have emphasized that quantitative comparisons of calendar systems are difficult due to distinctive elements in each case processing system. We have presented only general comparisons of efficiency and left the conclusions to be drawn largely to the reader.

While we do not believe our study enables us to draw definite conclusions, the surveys and studies strongly suggest that a number of principles and techniques can be identified as basic to effective calendaring. Some are common to all calendar systems. Others are specific to particular systems.

The following list is not intended to be exhaustive, and is limited to matters which have an empirical basis in either our case studies or surveys. Since our concern is primarily with the individual and master calendars, we focus on these systems.

## GENERAL PRINCIPLES AND TECHNIQUES FOR ALL CALENDAR SYSTEMS

1. Calendar systems cannot overcome the human equation. Some judges are more competent than others. Some judges work faster than others. Any calendar system that does not accomodate to the varying skills of the participant judges will not reach maximum efficiency.
2. The presiding judge or his designee should hear all continuance motions in order to maintain a consistent and firm policy on continuances.
3. A calendar office should be maintained in metropolitan courts to at least coordinate calendaring.
4. A conference should be required prior to trial for civil and criminal cases. A policy of judicial involvement in encouraging settlements at this conference should be established.
5. The calendar office for the court should maintain a reserve of trial ready short cause matters such as family law as fillers for departments when free court time arises.
6. Formulas should be defined for determining the number of cases to set each day. These formulas should be based on empirical information, such as number of trials and settlements resulting from cases calendared.<sup>50</sup>
7. Courts should restrict the number of cases or defendants

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<sup>50</sup>One such formula has been developed by the Sacramento Superior Court Calendar Management Team. See A.O.C. Newsletter, Administrative Office of the Courts, Judicial Council of California, July-August 1973, p.4.

any attorney may have on either the civil or criminal active calendars.

8. Judicial boredom should be avoided by routine reassignment of judicial functions, structuring of case assignments, or other means.
9. Judge team concepts should be employed in larger courts.
10. Courts should establish and enforce standards for timely advance of cases through the judicial process. Sanctions should be established, such as fines and placing a case at the end of the active list.
11. Calendaring procedures should be as simple as possible. Court appearances purely for setting dates for subsequent appearances should be avoided or, when deemed necessary, handled by nonjudicial personnel.
12. System performance standards should focus, not just on the overall production of the system, such as dispositions, but also measure the effectiveness of the various elements of the system, such as readiness conferences, control of continuances, etc.
13. Control of calendaring must rest with the court. At the same time, this control implies an obligation for the court to provide day-certain court appearances to litigants.
14. Calendar systems should be structured to the extent possible to allow continuity of representation throughout the criminal process.

## PRINCIPLES FOR SPECIFIC CALENDAR SYSTEMS

Individual Calendar System

1. A day or days during the week should be designated for motions and conferences in all departments.
2. The court should establish rules governing the order for calendaring cases to control the age of cases in the backlog.
3. Procedures for handling emergency and short matters should be established, such as designation of a special department.
4. Procedures for equalizing backlog among departments should be established either through reassigning cases or diverting future assignments.
5. Rules regarding the transfer of cases between departments should be established by the court. Control over transfers should be centralized.
6. A system of backup judges who are not regularly assigned cases should be established to handle cases which cannot be heard on the scheduled date in the assigned courtroom.
7. Caseloads for each trial department should be structured to provide each trial judge with a cross section of general trial matters.
8. Special departments should be established for handling matters which demand specific legal expertise.
9. Rules should establish for all departments the mandatory phases in the judicial process, such as settlement and readiness conferences and standards for the time between these phases.

10. The administrative office of the court should at least coordinate calendaring among the departments and be directly responsible for transferring cases.
11. A system for measuring delay should be established. Such a system would reflect the percentage of cases which have been in the backlog for given lengths of time.

#### Master Calendar System

1. Assigning cases to available trial departments the day prior to trial minimizes time wasted in the master calendar department on the day of trial.
2. Complex cases should be assigned to one judge for pretrial and trial.
3. Appearances in the master calendar department purely for reassignment to another department should be avoided.
4. The trial judge should be designated as early in the judicial process as possible to reduce judge shopping.
5. Basic to the success of the master calendar system are the skills of the master calendar judges as mediator, scheduler and coordinator.
6. The position of master calendar judge is inherently demanding in terms of time and energy. Assignments to the master calendar department should not be for excessive time periods. Each court must adopt a time standard as indicated through experimentation; however, a maximum of six months appears advisable.

7. System efficiency is dependent on maintaining a steady flow of matters to the trial departments. A reserve calendar of fillers for settled cases should be maintained in the master calendar department. The court must provide to the master calendar department the administrative and clerical support necessary to calendar these matters into the trial courts.
8. Courts must determine the maximum number of trial courts that can work efficiently with a master calendar department. For departments dealing with criminal felony cases, three trial courts per master calendar department appears optimum.



## V. EVALUATION OF CASE PROCESSING SYSTEMS: A PROPOSAL

We have outlined the principles and techniques that we believe are associated with effective calendaring. This section is addressed to how a court can evaluate its current calendar system to determine whether it is operating efficiently and, if inefficiencies are noted, whether they are a result of the calendar system employed or other elements of the case processing system.

We believe that too often courts attempt to evaluate their calendar systems in isolation of the other elements of the case processing system upon which the performance of that calendar system is directly dependent. An evaluation must consider all elements of the case processing system, as modifications in these elements may have more impact on system efficiency than a change in calendaring techniques. For example, lenient policy on continuances may well undermine a court's efficiency regardless of the calendar system employed.

In the following, we describe a methodology for courts to use in evaluating their calendar systems. The method outlined is considered to be in its preliminary stages. We are convinced that an integrated monitoring and evaluation process such as the one outlined offers a court the broad base of information necessary to identify areas in which change may be necessary.

To illustrate the process, we present a model as applied to the Superior Court of Contra Costa County. This court was

selected because it is investigating the possibilities of changing from an essentially master calendar system to an individual calendar system. Our concern, however, is primarily with the evaluation method, of secondary importance is the actual data presented.

#### METHODOLOGY FOR EVALUATION

##### 1. Statement of Objectives for a Case Processing System

In order to measure the effectiveness of a case processing system, a court must first adopt indices through which system performance can be measured. Standards then must be established for them.

The indices should include measures of performance which are commonly accepted by courts, and which reflect on the critical elements of the system employed. Examples of commonly accepted indices include the average time from filing to disposition and the percent of cases disposed of at the settlement or pretrial conferences.

The standards assigned to the indices should reflect a desired level of performance for the court. Standards can be derived from statutes, rules of court, past performance of the court, recommendations of calendar management workshops, and from input by local court officials.

We focused on six indices in applying the model to the Contra Costa court. The list is not intended to be exclusive, but we selected indices which, in our opinion, are significant resources of performances. They are:

1. Average time from filing to start of trial.
2. Average number of continuances per court appearance.
3. Average number of trialed days per court appearance.
4. Number of jury verdicts per disposition.
5. Percent of dispositions achieved at the settlement or pretrial conference.
6. Average number of criminal (civil) dispositions per month by the court.

We interviewed the ten judges assigned to the main branch of the Contra Costa court and asked them to rate the importance of and suggest standards for these performance indices. Not all judges elected to respond to each question and the information obtained does not necessarily reflect a consensus. However, there is concurrence among respondents that all the suggested indices are relevant and important. In Table 14, the standards evolved from the opinions of the responding judges are shown.

## 2. Evaluation of Present Case Processing System

By comparing the actual performance of the court with the standards for the indices adopted, the overall efficiency of the system can be measured and sources of inefficiency identified.

To make this comparison, we collected information from the register of actions on civil and criminal cases processed through the Contra Costa County Court. In practice, this comparison should be made monthly or quarterly at a minimum.

TABLE 14  
CONTRA COSTA COUNTY SUPERIOR COURT  
SYSTEM PERFORMANCE STANDARDS

SYSTEM PERFORMANCE INDEX <sup>1</sup>	CONSENSUS ON THE IMPORTANCE OF THE INDEX	PERSONAL INJURY, DEATH AND PROPERTY DAMAGE CASES		CRIMINAL CASES	
		STANDARD <sup>2</sup>	PERFORMANCE <sup>3</sup>	STANDARD <sup>2</sup>	PERFORMANCE
1. Average time from filing (at-issue memo or arraignment) to start of trial.	Very important	12 months (10 re-sponses)	20.6 months	68 days (10 re-sponses)	93.9 days
2. Average number of continuances (excluding days trailed) of scheduled court appearances per case.	Very important	1 (7 re-sponses)	.42	0 (7 re-sponses)	1.67
3. Average number of days scheduled court appearances trailed for cases trailed	Important	3 (5 re-sponses)	1	2 (5 re-sponses)	2
4. Number of jury verdicts per personal injury case (per defendant) disposed.	Important	.19 (4 re-sponses)	.08	.24 (6 re-sponses)	.08
5. Dismissals of personal injury cases at the settlement conference per settlement conference held (guilty pleas at pretrial conference per pretrial conference held).	Very important	.56 (7 re-sponses)	.29	.75 (9 re-sponses)	.48
6. Average number of dispositions per month.	Important	28 (1 re-sponse)	82 <sup>4</sup>	82 (2 re-sponses)	82 <sup>4</sup>

<sup>1</sup>Other performance standards suggested by the judges include mean time from complaint to trial and from indictment or information to trial, dispositions per judge, dispositions of weighted cases, average length of trial, and change in the backlog.

<sup>2</sup>Average standard from the responses.

<sup>3</sup>For defendants arraigned in June, 1973 and personal injury, death, and property damage cases in January, 1972.

<sup>4</sup>Average monthly dispositions for fiscal year 1972-3.

To obtain a sample, for criminal cases we followed defendants arraigned in June of 1973 until February 1, 1974. For civil cases, we selected personal injury, death, and property damage cases as representative of civil cases since these cases account for a substantial portion of civil filings. We followed those cases in which an at-issue memorandum was filed in January of 1972 through March 1, 1974.

The comparison between the actual performance of the court and the objective should enable the court to identify areas in which improvement should be made. In the following, we shall consider briefly the implication of the evaluation in Contra Costa County. Looking at Table 14, we see that significant reduction can be made in the average time from filing to start of trial. The judges believe that this time should be 12 months for civil cases, while the actual performance of the court for the sample group of civil cases was 20.6 months. The standard suggested for criminal cases was 68 days while the actual performance measured was 93.9 days.

Continuances and days trailed in civil cases fell within the standards suggested by the judges. For criminal cases, there was general agreement that continuances should not be allowed while, in practice, an average of 1.67 continuances per case occurred. The standard and performance were identical for days trailed.

The standard for the number of jury verdicts per dispo-

sition of civil and criminal cases was surprising. Not all the judges had opinions on this index, but those responding indicated that between 20-25 percent of all dispositions should come from jury verdicts. The actual performance was eight percent for both personal injury and criminal cases.

The success of the settlement and pretrial conferences in disposing of cases is considered by the judges to be a very important index of system efficiency. Considerable improvement in performance is indicated as significant differences exist between the recommended standard and actual court performance. The judges believe that over half (56 percent) of the civil cases for which a settlement or pretrial conference is held should be disposed of as a result of this conference. For the cases surveyed, only 29 percent were disposed of in this manner. For criminal cases, the judges believe the rate of success in plea negotiations at the conferences should be even higher, and that three fourths of the cases should be disposed of by guilty plea at the conference. For the sample criminal cases having a pretrial conference, 48 percent were disposed of by guilty plea at this appearance.

Only a few judges expressed an opinion as to the number of dispositions of civil and criminal cases the court should achieve each month. Thus, the comparison between the suggested

standard and the actual performance of the court has little meaning.

In the following tables, other important system performance indices are shown with performance data from the same sample as above. We did not query the judges regarding standards for all the information contained in these tables, but such standards can be established.

The data differs from many standard statistical court reports in that the focus is on dynamics of the system employed, not on the output of the system. The value of these tables for evaluation increases when standards or data from previous time periods exist for comparative purposes. A brief analysis, however, does give some indication of the evaluative information obtainable. For example, Table 15 shows that a high proportion of criminal cases are disposed of between the basic court appearances required for arraignment, pretrial, and trial. To maximize efficiency, court appearances should be minimized and hearings consolidated as much as possible.

Table 16 shows that a high proportion of juries were sworn per criminal defendant. Of arraignments in June, 1973, 12.8 percent reached the first day of jury trial. The average for all California superior courts in 1972-73 was 9 percent. This difference implies that increased pretrial screening of cases for potential disposition without trial should be explored.

Once the statistical information on system performance is

TABLE 15

CONTRA COSTA COUNTY SUPERIOR COURT  
CRIMINAL CASESDISPOSITIONS OF DEFENDANTS ARRAIGNED IN JUNE, 1973<sup>1</sup>

PHASE	TOTAL DISPOSITIONS	
	NUMBER	PER CENT
Arraignment	7	8.1
Pretrial conference	39	45.4
Between scheduled appearances (change of plea, dismissal of charges)	18	20.9
First day of trial	9	10.5
Verdict or finding after first day of trial	13	15.1
Total	86	100

<sup>1</sup>Three defendants arraigned in June have charges against them still pending as of February 1, 1974.

Source: Register of Actions, Office of the Contra Costa County Clerk.



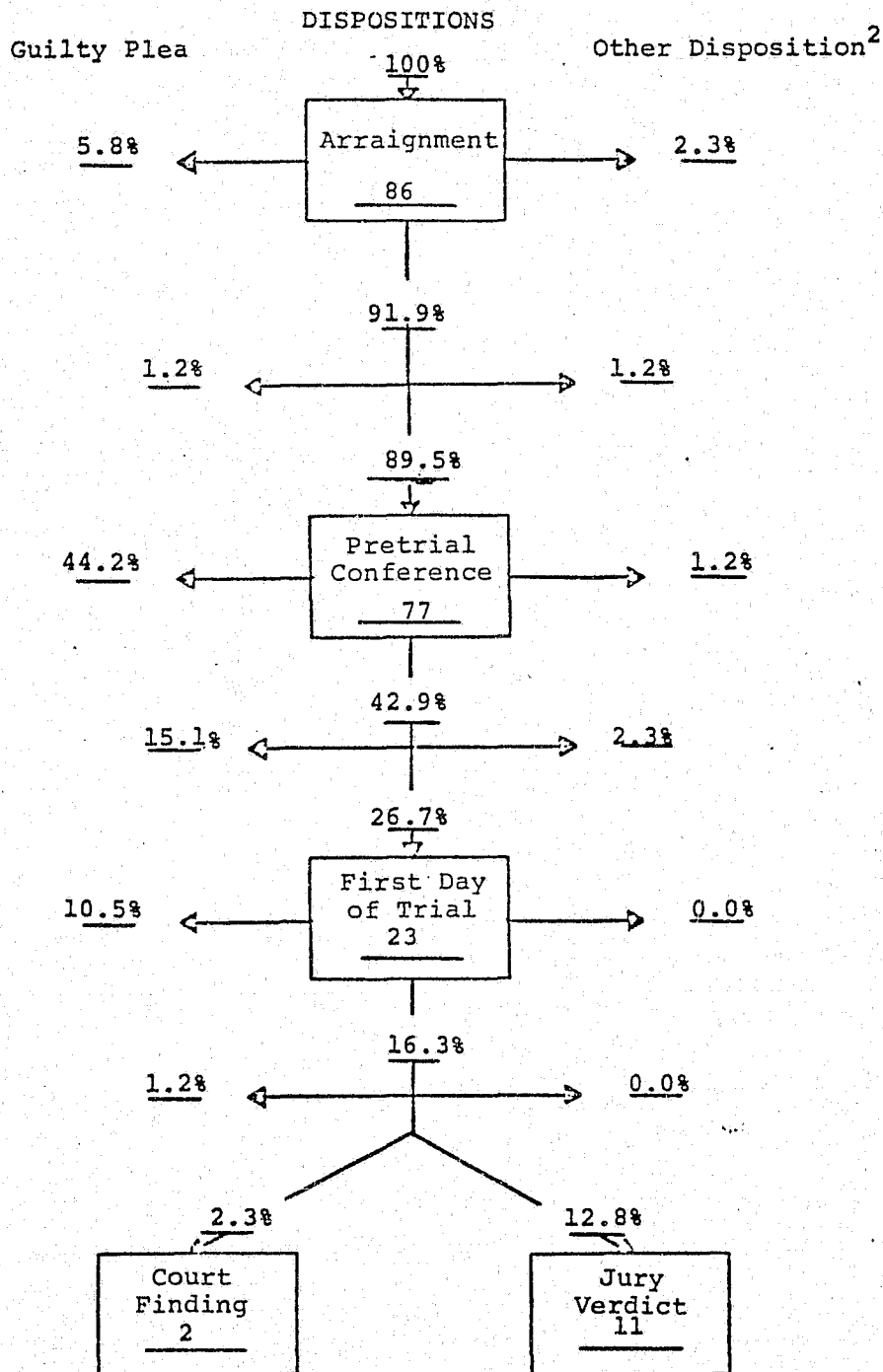
TABLE 16  
CONTRA COSTA COUNTY SUPERIOR COURT  
CRIMINAL CASES  
DISPOSITION PROFILE FOR DEFENDANTS  
ARRAIGNED IN JUNE, 1973 <sup>1</sup>

TYPE OF DISPOSITION	TOTAL DISPOSITIONS	
	NUMBER	PER CENT
Guilty plea	67	77.9
Nolo contendere	1	1.2
Dismissed	5	5.8
Court trial	2	2.3
Jury trial	11	12.8
Total	86	100.0

<sup>1</sup>Three defendants arraigned in June still have charges pending against them as of February 1, 1974.

Source: Register of Actions, Office of the Contra Costa County Clerk.

TABLE 17  
CONTRA COSTA COUNTY SUPERIOR COURT  
CRIMINAL CASES  
DEFENDANTS ARRAIGNED IN JUNE, 1973<sup>1</sup>



<sup>1</sup>Three defendants arraigned in June have charges still pending against them as of February 1, 1973.

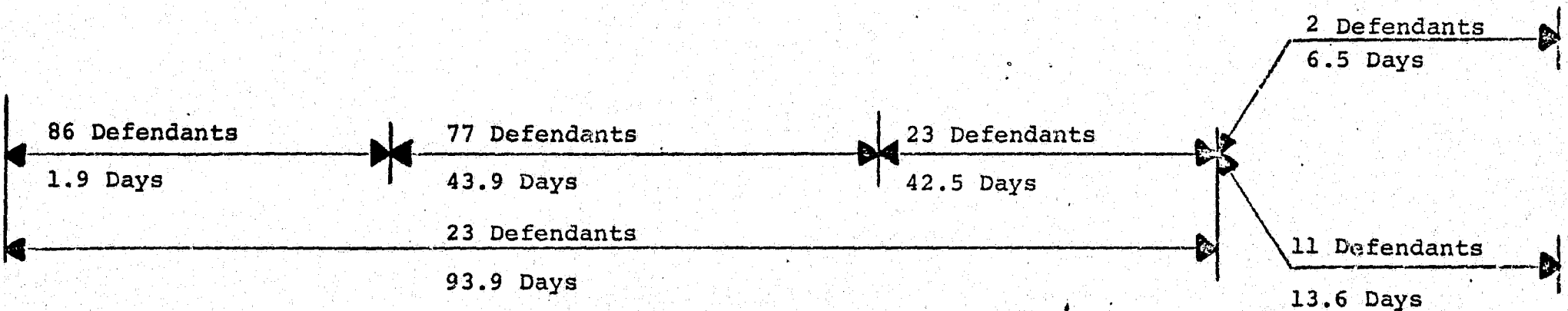
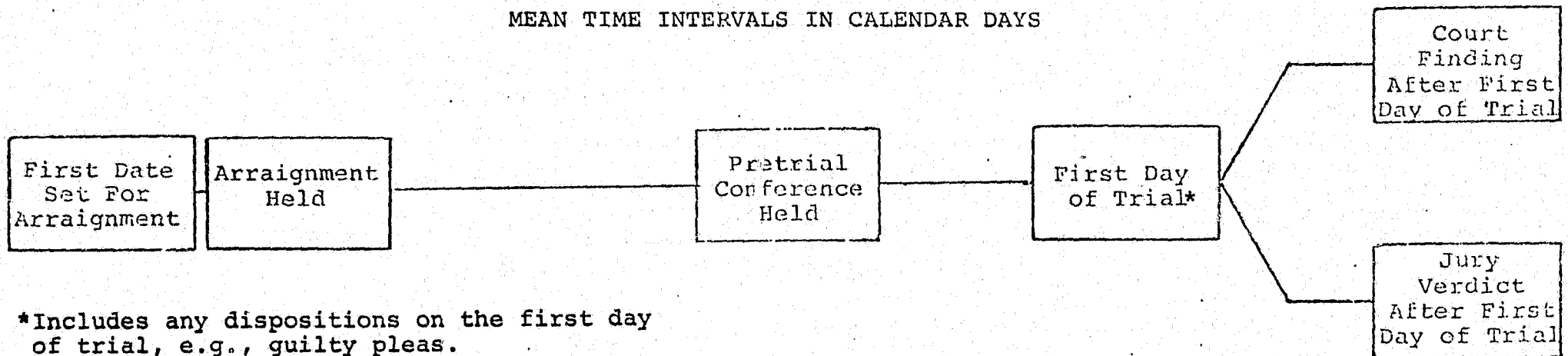
<sup>2</sup>Other disposition is defined as any disposition other than by a guilty plea (e.g., dismissal, diversion and one day trial).

Source: Register of Actions, Office of the Contra Costa County Clerk.

TABLE 18

CONTRA COSTA COUNTY SUPERIOR COURT  
CRIMINAL CASES  
DEFENDANTS ARRAIGNED IN JUNE, 1973<sup>1</sup>

MEAN TIME INTERVALS IN CALENDAR DAYS

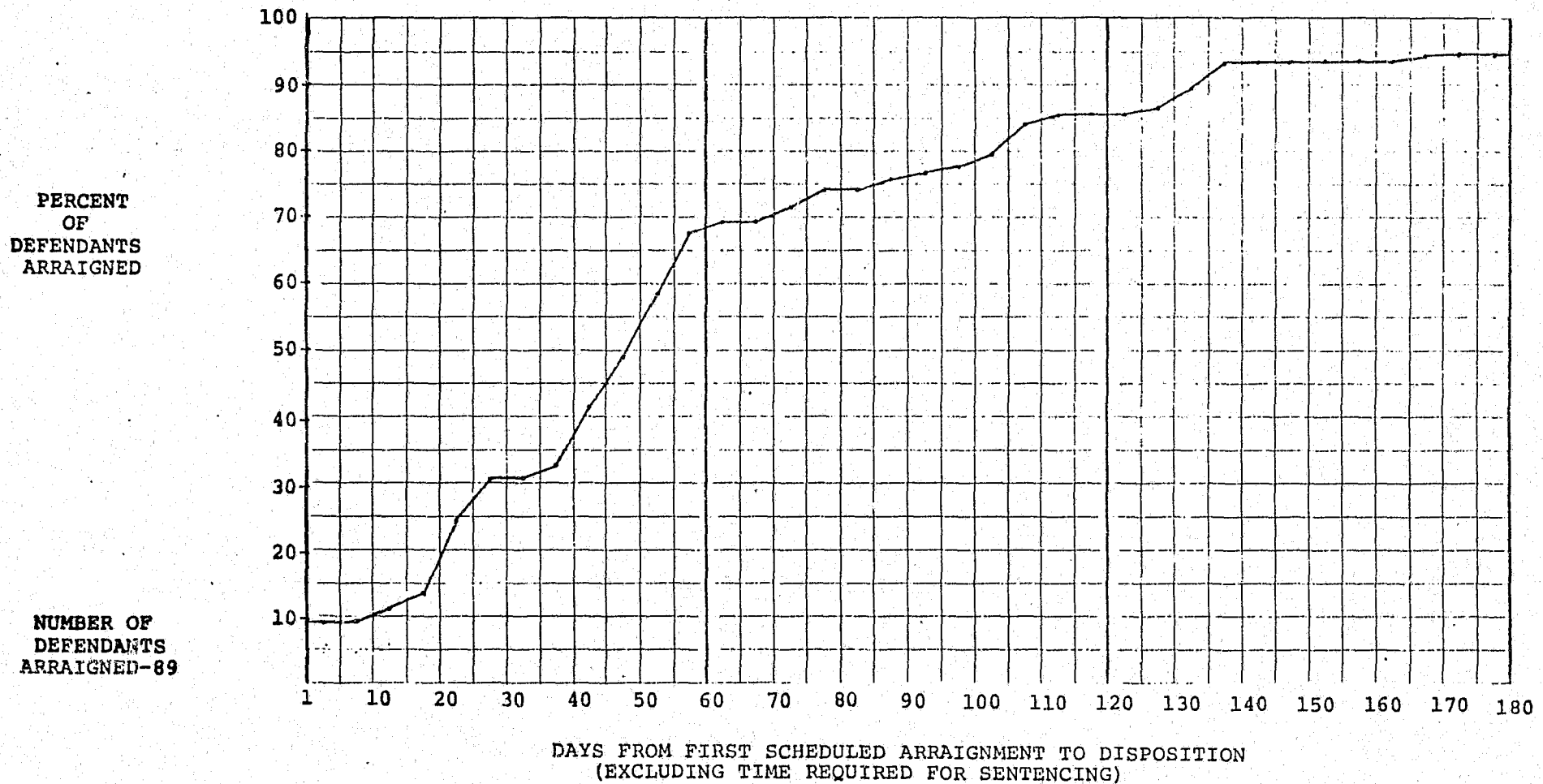


<sup>1</sup>Excluding three defendants arraigned in June, against whom charges are pending as of February 1, 1974.

Source: Register of Actions, Office of the Contra Costa County Clerk.

TABLE 19  
CONTRA COSTA SUPERIOR COURT  
CRIMINAL CASES  
DEFENDANTS ARRAIGNED IN JUNE, 1973

DISPOSITION PROFILE

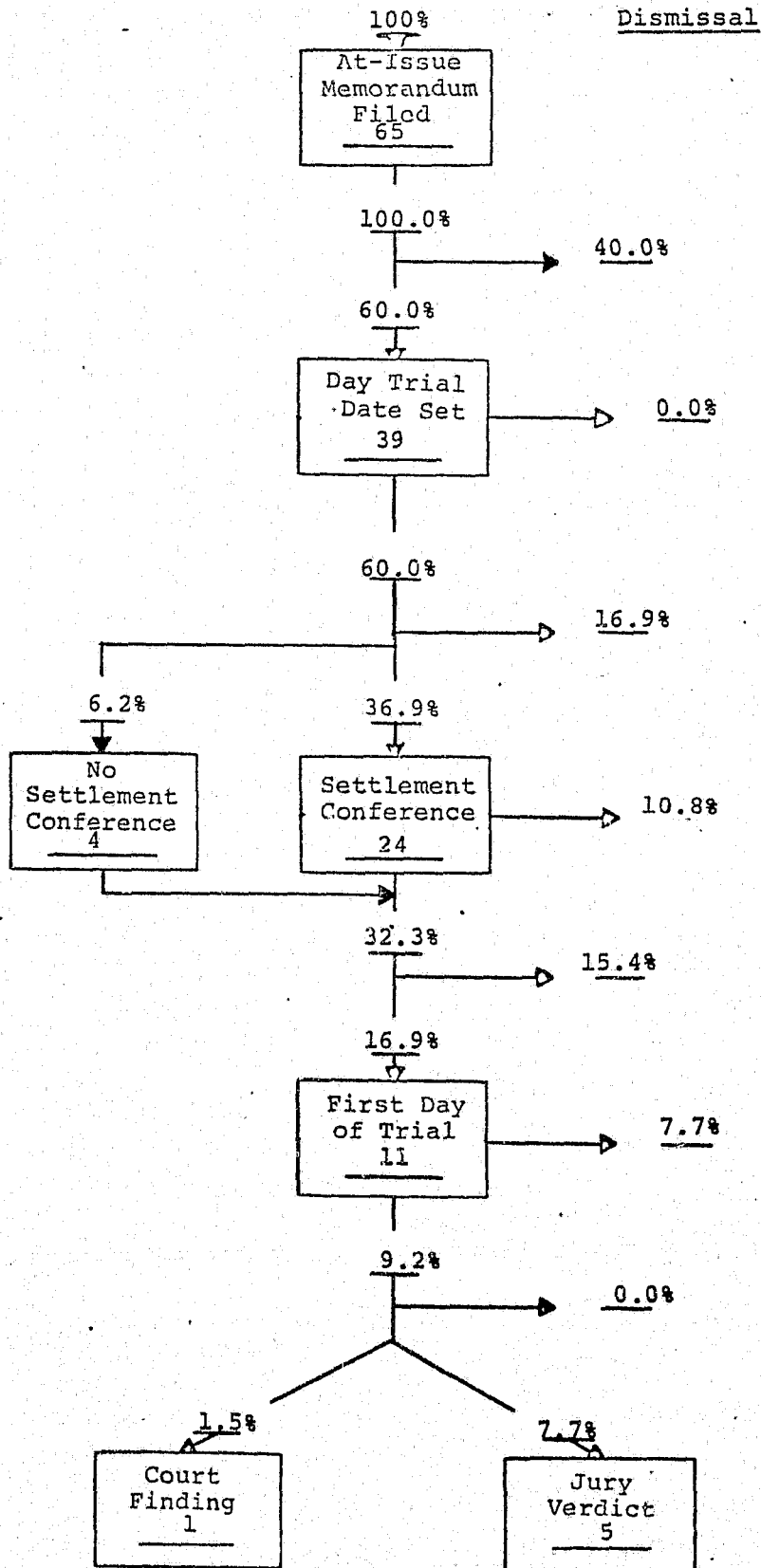


Source: Register of Actions, Office of the Contra Costa County Clerk.

TABLE 20

CONTRA COSTA COUNTY SUPERIOR COURT  
 CASES INVOLVING PERSONAL INJURY, DEATH, AND PROPERTY DAMAGE  
 AT-ISSUE MEMORANDUM FILED IN JANUARY, 1972<sup>1</sup>

## DISTRIBUTION OF DISPOSITIONS



<sup>1</sup>Six cases are still pending as of March 1, 1974.

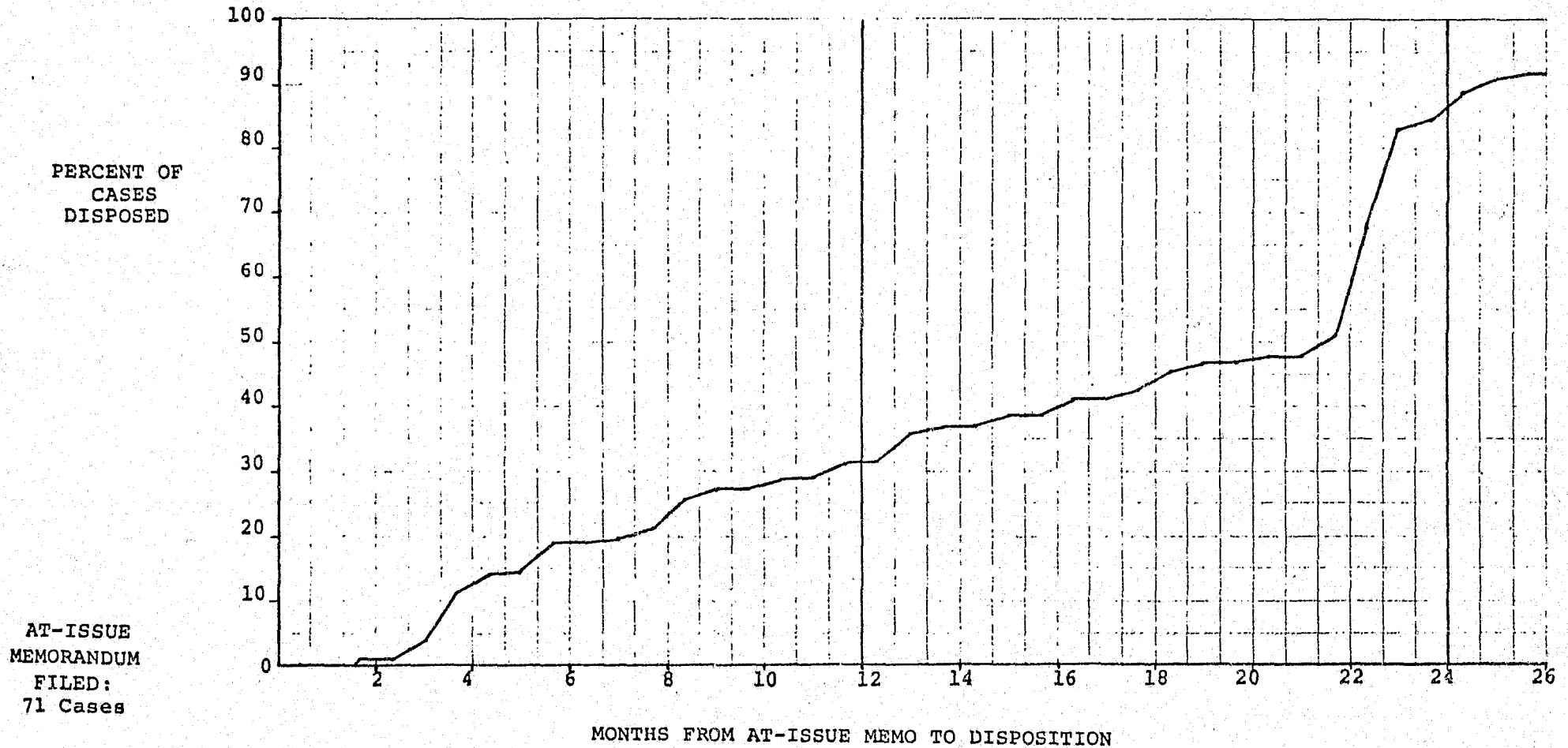
**CONTINUED**

**2 OF 3**

TABLE 21

CONTRA COSTA COUNTY SUPERIOR COURT  
CASES INVOLVING PERSONAL INJURY, DEATH, AND PROPERTY DAMAGE  
AT-ISSUE MEMORANDUM FILED IN JANUARY, 1972

DISPOSITION PROFILE

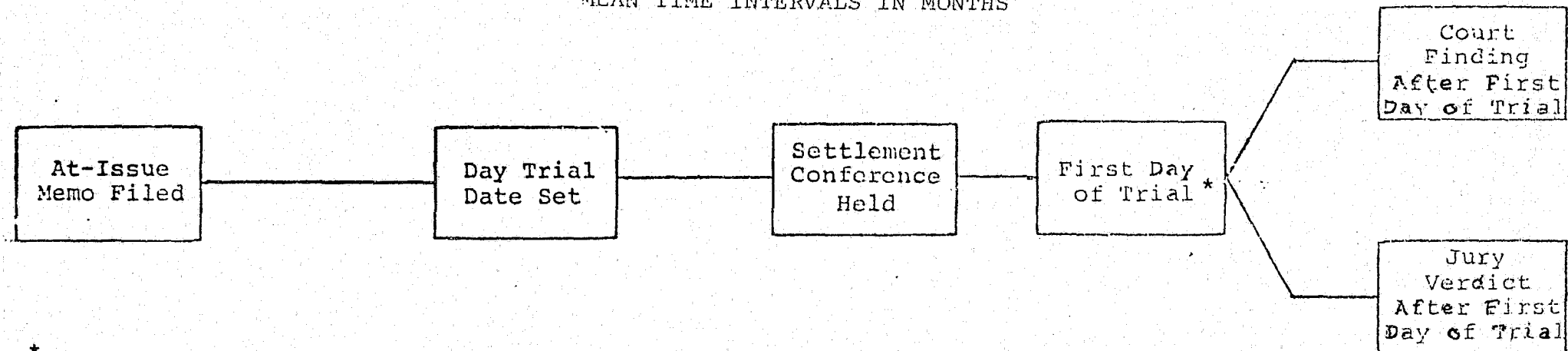


Source: Register of Actions, Office of the Contra Costa County Clerk.

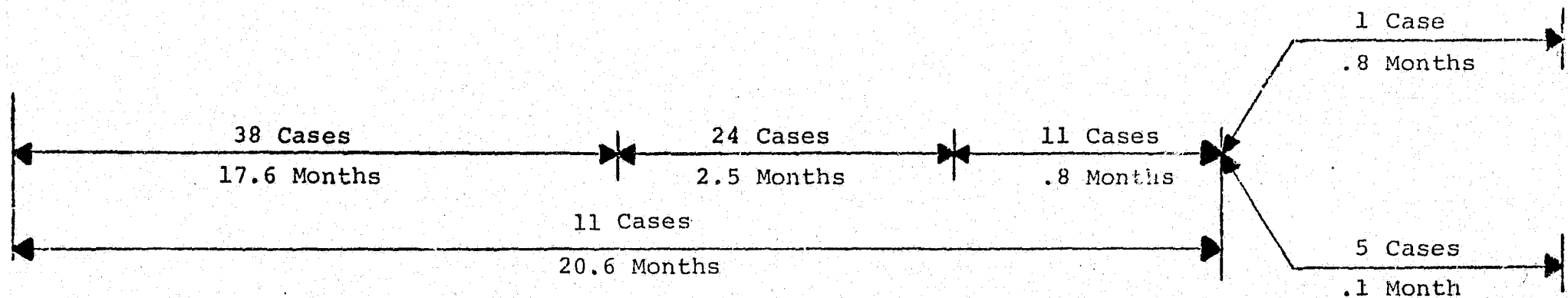
TABLE 22

CONTRA COSTA COUNTY SUPERIOR COURT  
 CASES INVOLVING PERSONAL INJURY, DEATH, AND PROPERTY DAMAGE  
 AT-ISSUE MEMORANDUM FILED IN JANUARY, 1972<sup>1</sup>

MEAN TIME INTERVALS IN MONTHS<sup>2</sup>



\*Includes any disposition on the first day of trial.



<sup>1</sup>Excluding six cases which are still pending as of March 1, 1974.

<sup>2</sup>One month is 30.4 days.



obtained, the court must analyze the problem areas identified and adopt policies to alleviate these problems. For the Contra Costa example, the statistics suggest that the court might reevaluate policies for consolidating court appearances, the involvement of the judiciary in encouraging settlements at pretrial and settlement conferences, and screening cases prior to trial. If, after review and modification of these policies and analysis of subsequent performance, the performance of the court still does not conform to the standards adopted, then consideration of a major change in the case processing system, such as the adoption of an alternative calendar system or the individual calendar system, in the case of Contra Costa County, could be considered.

The crucial factor here is, that prior to the consideration of alternative calendaring systems, the possibilities of increasing efficiency through incremental change in elements in the case processing system have been exhausted. If these incremental changes do not result in increased efficiency, then major changes such as switching calendar systems, increasing the number of judges, etc. will have to be considered.

### 3. Consideration of Available Alternatives

On the basis of the above evaluation, if consideration of another calendar system is warranted, the court should study the other calendar procedures and systems used by other courts and their relative successes.

### 4. Selection of Alternative Procedures with Implementation Plan

Based on the consideration of available alternatives,

modifications in the case processing system can be made.

For any major change adopted, an implementation program must be established. Initial experimentation on a pilot basis, for example, is a means to minimize problems of transition.

#### 5. Periodic Reevaluation

A similar evaluation should be scheduled on a regular basis, at least semi-annually. Ideally, tables similar to the ones presented here should be prepared and evaluated monthly.

## VI. RECOMMENDATIONS

1. Our surveys show that the California superior and municipal courts almost universally utilize some form of the master calendar system. The courts express general satisfaction with this system. We find no reason to recommend statewide adoption of any of the alternative calendar systems studied.
2. Because of the apparent advantages of the judge team approach and its successful implementation in the Civil Court of the City of New York, we recommend further experimentation with this concept at the municipal and superior court level.
3. The Judicial Council should recommend procedures for courts to use in evaluating the efficiency of their case processing systems. This should include:
  - a. System performance indices.
  - b. Acceptable performance levels for these indices.
  - c. Methodology for comparing standards and performance.
  - d. Frequency of scheduled evaluation.
4. Judicial Council reporting forms should include system performance indices.

## VII. APPENDICES

1. Glossary of Terms
2. Analysis of the Second Half of the Calendar Experiment in the Criminal Division of the Central District of the Los Angeles Superior Court.
3. Survey of Calendar Practice
  - California Superior Courts
  - California Municipal Courts
  - California Federal District Courts
  - California Practice in Other States
4. Methodology for Data Collection and Personal Interviews; Study of the Master and Individual Calendar Experiment in the Los Angeles Superior Court Criminal Division.
5. Selected Bibliography
6. List of Personal Interviews

APPENDIX 1  
GLOSSARY OF TERMS

ACTION: Ordinary judicial proceeding in which one party prosecutes another for the declaration, enforcement, or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense. (California Code of Civil Procedure, §22)

ARRAIGNMENT: Hearing by the court in which the defendant is informed of the charges against him, is appointed counsel if necessary, and is permitted to plead to the charges. Pretrial motions may be made. (P.C. §976)

ASSIGNMENT: Designating a department or a judge to preside over one or all phases of a case.

AT-ISSUE MEMORANDUM: Memorandum required to be filed prior to placement on the civil active list. The California Rules of Court require that the memorandum specify:

1. That the case is at issue as to essential parties;
2. Whether there are any statutory grounds for preference in scheduling;
3. Whether a pretrial conference is requested;
4. Whether a jury is demanded;
5. Estimated duration of the trial; and
6. Names, addresses and telephone numbers of the attorneys for the parties or of those appearing in person.

(California Rules of Court, Rules 206-207)<sup>61</sup>

BACKLOG: Total inventory of cases at issue (in civil cases) or defendants arraigned (in criminal cases) and awaiting trial. (A case is no longer considered in the backlog once trial has begun.)

CALENDAR AUDIT: Review of status of all cases on active lists. The audit might result in the removal of cases from the calendar and identification of cases which have been delayed excessively.

CALENDAR SYSTEM: System used for assigning and scheduling court appearances.

CALENDARING: Assigning and scheduling of court appearances.

<sup>61</sup>

Subsequently, a citation to the California Rules of Court will be cited as "Rule".

CASE: Any action or special proceeding.

CASE PROCESSING SYSTEM: System employed by a court to move cases from filing to disposition.

A well managed case processing system would include the following elements:

1. A calendar system (e.g., master, individual, etc.).
2. Consistently applied policies governing the processing of cases, especially a policy on continuances and court participation in encouraging settlement prior to trial.
3. Clearly defined responsibilities for judicial, clerical, and administrative personnel of the court.
4. System performance and time standards for processing cases.
5. Monitoring and evaluating procedures.

CASE PROCESSING SYSTEM EFFICIENCY: Management of the processing of cases to make the most effective use of physical facilities, judge, party, juror, counsel, witness, and administrator time.

Specific means of achieving case processing system efficiency as recommended by the California Judicial Council include the following:

1. Calendar management system including these features:
  - a. Accurate scheduling so that cases go to trial no later than two days after scheduled date,
  - b. Sufficient setting so that departments will not stand idle, and
  - c. A consistent and uniform policy against continuance of trial dates, except for good cause;
2. Avoidance of wasting judicial time by the greatest possible employment of trial departments rather than the proliferation of specialized departments and by the elimination of lost judicial time between termination and commencement of trials;
3. Selection of an effective presiding judge on the basis of administrative qualifications and interest;
4. Avoiding judicial time being spent on nonjudicial functions;

5. Adoption of a manual of internal operating policies necessary for efficient operation and management of the court.

(Standards of Judicial Administration Recommended by the Judicial Council, §9, 11).<sup>62</sup>

CASE RELATED JUDICIAL TIME: Judge time (including judges, judges pro tem, commissioners, or referees) spent on activities related to case disposition (e.g., bench and chamber activities, time spent on case preparation and review, etc.).

CERTIFICATE OF READINESS: Document indicating trial readiness. The California Rules of Court require that in courts using a certificate of readiness, it shall indicate:

1. Readiness and desire of the parties signing the certificate to have the case set for pretrial conference, trial setting conference, or trial;
2. Status of discovery proceedings at the time of the signing;
3. Extent of discovery proceedings remaining to be done; and
4. Intent of the parties to complete discovery proceedings 30 days prior to trial.

Such a certificate is filed at or after the filing of an at-issue memorandum. Cases should be brought to trial within six months of the filing of the certificate of readiness.  
(Rule 221)

CIVIL ACTIVE LIST: Listing prepared periodically of all civil cases at issue, but not yet set for trial, arranged in the order in which the at-issue memoranda were filed. (Rules 207 and 508)

CONTINUANCE OR ADJOURNMENT: Postponement of a scheduled appearance to a future date.

COURT CONGESTION: An accumulation of cases impeding the timely movement of those cases through the judicial process.

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<sup>62</sup>Adopted by the Judicial Council of the State of California, cited subsequently as "Standards".

DELAY: Unreasonably long time periods between phases in the processing of cases through the judicial system.

DEPARTMENT OR PART: Courtroom to which a judge is assigned.

DISPOSITION: Determination of a case, whether by dismissal, plea, settlement, verdict, or finding.

DIVERSION: Referral of a defendant for education, rehabilitation, or treatment during which the criminal proceedings are suspended. (e.g., P.C. §647 (ff) and §1000.2)

DOCKET: List of cases awaiting hearing, conference or trial.

EVIDENTIARY MOTION HEARING (CRIMINAL): Hearings to determine the admissibility of evidence to be presented at trial. (e.g., P.C. §995 and §1538.5)

EXCESSIVE BACKLOG: Greater number of cases accumulated in the backlog than can be disposed of within reasonable time standards.

HYBRID CALENDAR SYSTEM: A system which combines features of various calendar systems. In one such system, a case is assigned upon filing to a judge for all pretrial phases. When the case achieves trial ready status, it is placed in a trial assignment pool and assigned to the next available judge.

INDICTMENT: Formal accusation presented by a grand jury which charges a person with a felony. (P.C. §737 and §889)

INDIVIDUAL OR ALL PURPOSE CALENDAR SYSTEM: A system in which each case is assigned upon filing to a judge who is responsible for all phases of the case through final disposition.

INFORMATION: Formal accusations presented by a district attorney which charges a person with a felony after a finding that a felony has been committed and that there is probable cause to believe that it was committed by the person charged. (P.C. §738-739)

JUDICIAL SPECIALIZATION: Assignment of judges to preside over cases in specific areas of legal practice (e.g., juvenile) or specific phases of the judicial process (e.g., law and motion).

LAW AND MOTION: Hearing for pretrial matters requiring a court ruling such as demurrers, motions for summary



judgment, motions related to discovery, etc.

MASTER, CENTRAL, OR SPECIAL PURPOSE CALENDAR SYSTEM: A system of central assignment of cases during all phases of proceedings. As each successive phase of the case is ready for a hearing, conference, or trial, the case is assigned to a judge.

MISCELLANEOUS OR CALENDAR MOTIONS: Motions pertaining to the calendaring of court appearances in a case such as motions to continue, advance, or reset.

PHASE: Particular stage or point in the judicial process requiring judicial or administrative action.

The following are possible phases in civil and criminal actions in the California Superior Courts:

#### Civil

Filing of complaint or petition  
Filing notice case is at issue (ready for trial)  
Motions  
Conferences: pretrial, settlement, trial setting  
Trial  
Post trial: motions, appeals

#### Criminal

Filing of accusatory pleadings: information,  
indictment, complaint  
Arraignment  
Plea  
Motions  
Conferences: trial setting, readiness, pretrial  
Trial  
Post trial: motions, probation report, sentencing,  
appeals

PRELIMINARY EXAMINATION: Hearing conducted in a lower court to determine whether a public offense has been committed and whether sufficient cause exists to believe the defendant guilty. (P.C. §872)

PRETRIAL CONFERENCE: A conference before a judge, attended by the parties, held prior to trial to simplify the issues, amend pleadings, and set time limits on discovery. Settlement may be discussed. (Rules 208-219)

PRETRIAL CONFERENCE ORDER: An order by the judge reciting stipulations and admissions, amendments allowed to pleadings, and any other action taken at the pre-trial conference. This order controls the subsequent

course of action of the case.

PROCEDURES: Mode or method of moving actions and special proceedings through the phases in the judicial process. Procedures are defined by statute, policy, or court rule.

PROCEEDING: Any hearing or court appearance related to the adjudication of a case.

READINESS OR PRETRIAL CONFERENCE: Conference at which the prosecutor and defense attorney discuss the possibility of disposing of the case without a trial. The conference may or may not be held in the presence of a judge.

REGISTER OF ACTIONS: Listing in some form (e.g., ledger, cards, or microfilm) of all actions taken and all documents filed in a particular case. In California, this information is maintained by the Office of County Clerk.

SETTING: Scheduling court appearances without necessarily assigning to a judge or department.

SETTLEMENT CONFERENCE: Conference at which judge and parties attempt to settle a civil action. (Rule 207.5)

SHORT CAUSE CASE: Case with an estimated trial time of one day or less, as estimated by the parties.

SPECIAL PROCEEDING: Any judicial proceeding not described as an action, such as writs of mandamus, quo warranto, and prohibition, uncontested probate proceedings, sanity hearings, adoption proceedings, etc. (C.C.P. §23)

SUBMISSION ON TRANSCRIPT: Proceeding in which the transcript of the preliminary hearing, sometimes supplemented by additional evidence, is submitted to a judge for review and decision in lieu of trial.

TEAM, OR CONFERENCE AND ASSIGNMENT CALENDAR SYSTEM: A system in which the court is divided into teams of judges. Cases are assigned to a team. One member of the team (conference judge) handles pretrial matters for all assigned cases. The remaining members (assignment judges) try cases. Judicial roles on the team are changed routinely.

TIMELY DISPOSITION: Disposition of cases within reasonable time standards.

Reasonable maximum time standards for criminal cases are:

From filing of information to superior court arraignment:

If in custody, four days. (Standards §10)

If out of custody, ten days. (Standards §10)

From arraignment to initial plea:

Seven days. (Standards §10)

From filing of information or indictment to trial:

60 days. (California Penal Code §1382)

From arraignment to trial.

38 days. (President's Commission on Law Enforcement and the Administration of Justice)

Reasonable maximum time standards for civil cases are:

From certificate of readiness to trial:

Six months. (Rule 221)

Pretrial conference to trial:

12 weeks. (Rule 219(a))

Settlement conference to trial:

About 20 days. (Standards §9)

TRAILING: The placing of a case scheduled for a court appearance on a call basis due to the unavailability of a judge.

TRIAL LIST: Cases on the civil active list which have been set for trial.

TRIAL SETTING CONFERENCE: Conference held in lieu of a pre-trial conference. The court determines whether a case is ready and, if so, sets a trial date. At this conference, procedural details only are determined and no restatement of the issues are made. (Rules 220-220.4)

WEIGHTED DISPOSITION TIME: Mean case related judicial time required to dispose of a type of case.

## APPENDIX 2

ANALYSIS OF THE SECOND HALF OF THE CALENDAR EXPERIMENT  
IN THE CRIMINAL DIVISION OF THE CENTRAL DISTRICT OF  
THE LOS ANGELES SUPERIOR COURT.

## INTRODUCTION

The study as originally scheduled would have been completed on May 31, 1974. This permitted the staff to analyze the Los Angeles Superior Court calendar experiment over the period from April to September. Starting in November 1974, the court continued the experiment with the judges in the control group switching to the master calendar system, and the earlier master calendar judges becoming the control group using the individual calendar system. In order to permit the staff to produce an equivalent six month analysis, the study schedule was extended through July. The following is the result.

## BACKGROUND

There was substantial variation in performance between the first part of the experiment (described in Chapter III) and the second part which we describe here. There are several factors which had impact on the performance figures in the second part of the experiment:

1. District Attorney's policy, adopted in January, eliminating sentence bargaining.
2. District Attorney's policy, adopted in January, restricting submissions on transcript.

3. Creation in March of a panel of four judges to conduct court trials when stipulated. This panel included two judges assigned to the individual calendar control group.

4. A judge from the master calendar department was transferred to a branch court during the experiment and his department was manned for some time on a temporary basis.

5. Discovery of significant differences in the disposition histories of the judges assigned to the two calendar groups.

6. Changes in accounting methods of experiment statistics.

The extent of the impact cannot be measured, but it interferes with any comparison between the first and second halves of the experiment, and contaminates our statistical analysis of comparative performance of the master and individual systems during the second half of the experiment. The participating judges interviewed concur that these factors had considerable influence on the performance of the two groups.

#### PERFORMANCE

Our analysis is divided into two sections, as before. First, we compare the performance of the experimental and control groups over the six month period from December, 1973 to May, 1974 (Tables 23-24), and second, we follow for 180

days the progress of all defendants arraigned between January 16 and February 15, 1974 in both the master and the individual (control) departments (Tables 26-31).

#### Six Month Profile

Total dispositions of criminal cases were slightly higher in the master calendar departments than in the individual calendar departments (767 to 749 dispositions) during the six month period. Measured in terms of judge days worked, however, we find that the performance records slightly favor the individual calendar departments (1.38 to 1.28 dispositions per judge day worked). (Table 23)

A comparison of disposition rates between the two halves of the experiment cannot be drawn because of a change in accounting methods. The statistics on dispositions available for the first half include only cases assigned after the start of the experiment, while the statistics for the second half include dispositions of cases which had been assigned earlier.

The monthly disposition figures reveal the impact of the implementation of the district attorney's policy against sentence negotiation. In January, the disposition levels for both groups were quite high, followed by several months of lower disposition levels. In the final months of the experiment, the two groups again achieved high disposition rates.

Judge Peter S. Smith, who served as master calendar judge during the second half of the experiment, suggests

TABLE 23  
LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS  
SIX MONTH DISPOSITION PROFILE, DECEMBER 1973 THROUGH MAY, 1974<sup>1</sup>

MONTH	MASTER CALENDAR DEPARTMENTS (101,111,112,123 and 129)				INDIVIDUAL CALENDAR DEPARTMENTS CONTROL GROUP (104,113,116,119 and 127)			
	ARRAIGNMENTS	DISPOSITIONS	JUDGE DAYS WORKED	DISPOSITIONS PER JUDGE DAY WORKED	ARRAIGNMENTS	DISPOSITIONS	JUDGE DAYS WORKED	DISPOSITIONS PER JUDGE DAY WORKED
December	108	123	89	1.38	108	114	93	1.22
January	114	149	109	1.37	104	151	106	1.44
February	113	104	90	1.16	110	101	86	1.19
March	114	95	103	.93	128	111 <sup>1</sup>	84 <sup>1</sup>	1.32
April	124	139	108	1.29	117	150 <sup>1</sup>	101 <sup>1</sup>	1.48
May	107	157	91	1.73	91	122 <sup>1</sup>	81 <sup>1</sup>	1.51
Total	680	767	590	1.28	658	749	531	1.38

<sup>1</sup>Two of the control courts (104 and 119) were designated as waiver panel courts, i.e., available for court trials to any defendant willing to waive jury trial, beginning March 5, 1974. The statistics presented exclude the dispositions of waiver panel cases. The amount of time required to dispose of these cases as estimated by the office of criminal court coordinator is excluded also.

Source: Executive Office, Los Angeles Superior Court.

that the high disposition levels achieved in January occurred because defendants sought to have their cases disposed of before the application of the no-sentence negotiation policy. According to Judge Smith, disposition rates dropped in February and March because of the unfamiliarity of the bench and bar with the new policy and the desire of the defense bar to delay cases until the new policy could be fully assessed. The disposition rates rose in April and May as the bench and bar adapted to policy changes, and also, in the case of the master calendar departments, as the judges adapted to a new system.

Judge Smith also notes that until April he had maintained a lenient policy on continuances. He discovered that cases were beginning to back up so he adopted a more strict policy during the final two months. This policy, in his opinion, was instrumental in the higher disposition rates achieved by the master calendar departments in April and May.

The master calendar departments appear to have suffered slightly more from the impact of the no-sentence negotiation policy. Dispositions per judge day worked for the month of February and March averaged 1.03 as compared to 1.43 for the remaining months. In the control departments, the figures were 1.11 dispositions per judge day worked for the months of February and March, and 1.41 for the remaining four months.



The month of March disposition records skew the comparison between the two groups, because a judge in the master calendar group sat on a case, not a part of the assigned group caseload, which lasted seven weeks. This judge recorded only one disposition in March. Excluding March, disposition rates are 1.38 for master calendar, 1.37 for individual for the six month period.

We looked at dispositions by type of case for the six month period and found a fairly close correlation between the distribution for the two groups (Table 24). The percent of guilty pleas per disposition is almost identical for both groups. Both these figures are increased over the first half of the experiment, but the difference is in part due to changes in record keeping by the court. Dispositions by diversion instead of being categorized separately are distributed among the other disposition categories, primarily dismissals.

Dispositions upon submissions on transcript were 5 percent for master group and 8 percent for individual. This reflects the change in the district attorney's policy to restrict such submissions. In the first half of the experiment the rates were 21 percent for the master and 14 percent for the individual groups.

The percentage of dispositions by trial was almost identical for the two groups (18 percent for the master calendar group and 19 percent for the individual calendar group). These

TABLE 24

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS

DISPOSITION PROFILE FOR DEFENDANTS ARRAIGNED  
DECEMBER 1973 THROUGH MAY 1974<sup>1</sup>

TYPE OF DISPOSITION	MASTER CALENDAR DEPARTMENTS (101,111,112,123 and 129)		INDIVIDUAL CALENDAR DEPARTMENTS CONTROL GROUP (104,113,116,119 and 127)	
	NUMBER	PER CENT	NUMBER	PER CENT
Guilty plea	469	61.2	461	61.6
Submission on transcript	37	4.8	59	7.9
Dismissed	119	15.5	86	11.5
Court trial	69	9.0	82	10.9
Jury trial	73	9.5	61	8.1
Total	767	100.0	749 <sup>2</sup>	100.0

<sup>1</sup>For all dispositions during this period, including defendants arraigned prior to the month of December and whose cases were resolved during the six month period.

<sup>2</sup>Dispositions of waiver panel cases in departments 104 and 119 are excluded.

Source: Executive Office, Los Angeles Superior Court.

figures are up sharply from the first half of the experiment when the figures were six percent for the master calendar departments and seven percent for the individual calendar departments. This rise is, in part, due to the district attorney's policies of no sentence bargaining and minimizing the use of submission on transcript.

In summation, the distribution of dispositions by type for the two groups is similar for the second half of the experiment. Considerable differences in the distributions, however, do exist between the first and second half of the experiment. These differences are mainly attributable to policy change. The effect of these changes on the individual and master calendar groups is similar in terms of types of dispositions achieved.

In our analysis of the first half of the experiment, we did not question the assertion that each group of judges was of equivalent orientation and pace. The results of our analysis of the second half of the experiment suggested that this was not the case. For verification we gathered data on disposition rate from 1972 for the judges assigned to the experiment (two judges had not then been assigned to the criminal division and three judges were assigned to the division during the year). The results are shown in Table 25.

Comparison of disposition rates between 1972 and the time of the experiment for both groups shows the effect of the

TABLE 25

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS

DISPOSITIONS BY JUDGE, 1972

Master Calendar Judges (Second Half of the Experiment)	Judicial Days Worked	Dispositions	Dispositions Per Judicial Day Worked
Judge 1	211.5	285	1.35
Judge 2	165.5	247	1.49
Judge 3	218.5	317	1.45
Judge 4	225.5	376	1.67
Judge 5	ASSIGNED TO THE CRIMINAL DIVISION JAN. 1, 1973		
Total	821.0	1,225	1.49

Individual Calendar Judges (Second Half of the Experiment)	Judicial Days Worked	Dispositions	Dispositions Per Judicial Day Worked
Judge 1	220.5	523	2.37
Judge 2	227.5	343	1.51
Judge 3	176.5	313	1.77
Judge 4	67.0	116	1.73
Judge 5	ASSIGNED TO THE CRIMINAL DIVISION JULY 16, 1973		
Total	691.5	1,295	1.87

Source: Executive Office, Los Angeles Superior Court.

district attorney's filing policy in that since 1972 there are fewer filings of "poor" cases, a projected reduction in filing from 1972 to 1974 of 12 percent, and presumably an increase in more difficult cases. Because of this, both groups of judges demonstrated a reduction in disposition rate from 1972 to the time of the experiment.

There is significant difference in "disposition orientation" between the two groups of judges. In 1972 the judges assigned to the master calendar departments for the second half of the experiment disposed of 1.49 cases per day worked, while the judges assigned to the individual calendar control group disposed of 1.87, or 26 percent more.

Comparative performance reveals that each group of judges performed more efficiently relative to the 1972 disposition rates when assigned to the master calendar departments. The higher disposition group increased its lead in disposition rates using the master calendar to 35 percent during the four months tabulated in the first half of the experiment. When the groups switched roles, the lower dispositions group using the master calendar system was able to decrease the disposition rate differential to only 8 percent.

<u>Departments</u>	<u>Dispositions per Judge Day Worked</u>		
	1972	First half of experiment (4 months)	Second half of experiment (6 months)
Lower disposition rate departments (101, 111, 122, 123 and 129)	1.49	.83 (individual)	1.28 (master)
High disposition rate departments (104, 113, 115, 119 and 127)	1.87	1.12 (master)	1.38 (individual)
Percent difference (lower to higher)	-24%	-35%	-8%

These figures suggest that both groups achieve higher disposition rates using the master calendar system.

#### Defendants Arraigned Between January 16 and February 15, 1974

To show the internal dynamics of the system a sample of cases from both groups was traced through the judicial process from arraignment for 180 days. Arraignment dates from January 16 to February 15, 1974 were selected to allow participating judges to become accustomed to the master calendar system. There were 156 defendants arraigned in the master calendar departments and 153 in the individual (control) departments. Approximately 86 percent of the cases in each group had been disposed of in 180 days.

Comparing the distribution by "weight" of case to each group (Table 26) there is a relatively high correlation. The

TABLE 26

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS

DEFENDANTS ARRAIGNED, JANUARY 16 - FEBRUARY 15, 1974, BY CHARGE

CHARGE	MASTER CALENDAR DEPARTMENTS (101,111,112,123 and 129)		INDIVIDUAL CALENDAR DEPARTMENTS CONTROL GROUP (104,113,115,119 and 127)	
	NUMBER	PER CENT	NUMBER	PER CENT
Opiates	19	12.1	20	13.1
Marijuana	10	6.4	13	8.5
Dangerous drugs	7	4.5	3	2.0
All other drug violations	0	0.0	1	0.7
Burglary	22	14.1	34	22.2
Robbery	11	7.1	12	7.8
Theft, except auto	13	8.3	4	2.6
Assault	21	13.5	7	4.6
Forgery	10	6.4	8	5.2
Auto theft	7	4.5	9	5.9
Sex offenses other than rape	4	2.6	12	7.8
Homicide	7	4.5	10	6.5
Rape, forcible	5	3.2	1	0.7
All other	20	12.8	19	12.4
Total	156	100.0	153	100.0

Source: Register of Actions, Office of the Los Angeles County Clerk.

coefficient of correlation,  $r$ , for this sample (to be called the 1974 sample) is .69.<sup>63</sup> The coefficient for the caseloads distributed to the June, 1973 sample (to be called the 1973 sample) is .70.

Multiple defendant cases in the 1974 sample were approximately the same for each group. The individual group had 18 cases with 42 defendants, the master group 15 cases with 43 defendants. Thus, we can conclude that the caseloads assigned to each group are comparable and similar in both the 1973 and 1974 samples.

The comparison of the average time required for cases in the sample to travel from phase to phase shows the following:

The time for those defendants, who did so, to reach the first day of trial was 77.8 days for the individual group (78 defendants) and 84.4 for the master group (81 defendants). (Table 27). The 1973 sample, in the first half of the experiment, shows 107.9 days for the individual and 76.2 for the master departments.

The average time intervals between the three basic court appearances indicate superior performance by the individual calendar departments, a reversal of the finding from the 1973 sample.

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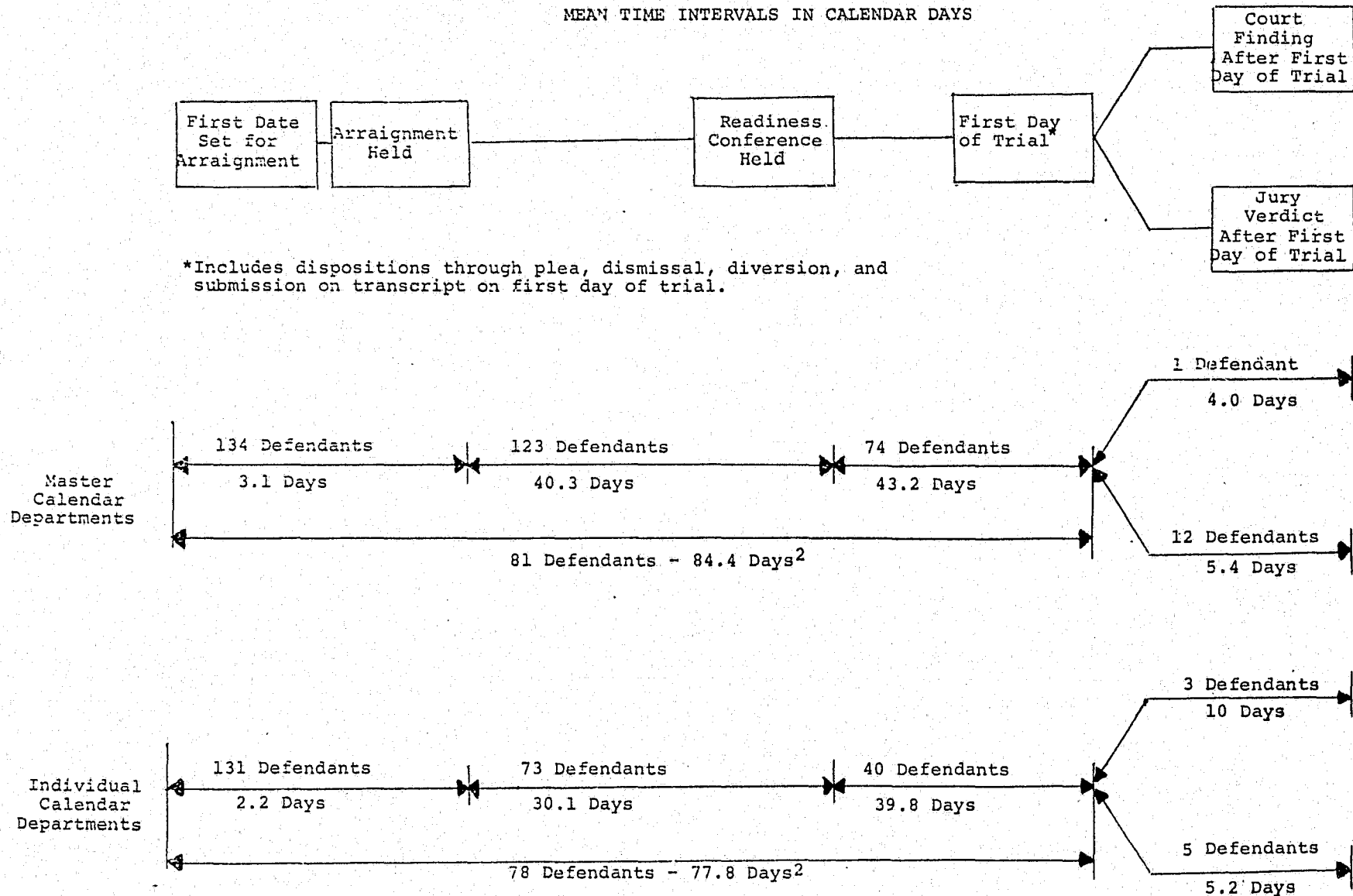
<sup>63</sup>The correlation coefficient,  $r$ , is a basic measure of the strength of relationship between two interval scale groups. The strength of a relationship is measured by how closely the coefficient approaches 1.



TABLE 27

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS  
 DEFENDANTS ARRAIGNED, JANUARY 16 - FEBRUARY 15, 1974<sup>1</sup>

## MEAN TIME INTERVALS IN CALENDAR DAYS



<sup>1</sup>Excluding 22 defendants arraigned in the master calendar departments and 22 defendants arraigned in the individual calendar departments, against whom charges are still pending as of July 3, 1974.

<sup>2</sup>Including defendants for whom no readiness conference was held.

Mean time intervals in calendar days

	1974 Sample		1973 Sample	
	Master Departments	Individual Departments	Master Departments	Individual Departments
First date set to completion of arraignment	3.1	2.2	3.0	4.4
Arraignment to completion of readiness con- ference	40.3	30.1	44.0	42.9
Readiness con- ference to com- pletion of first day of trial	43.2	39.8	30.5	72.9

The difference between the 1973 and the 1974 sample time intervals shows a marked increase in level of performance of the individual calendar group and less dramatic decrease in the level of performance of the master calendar group.

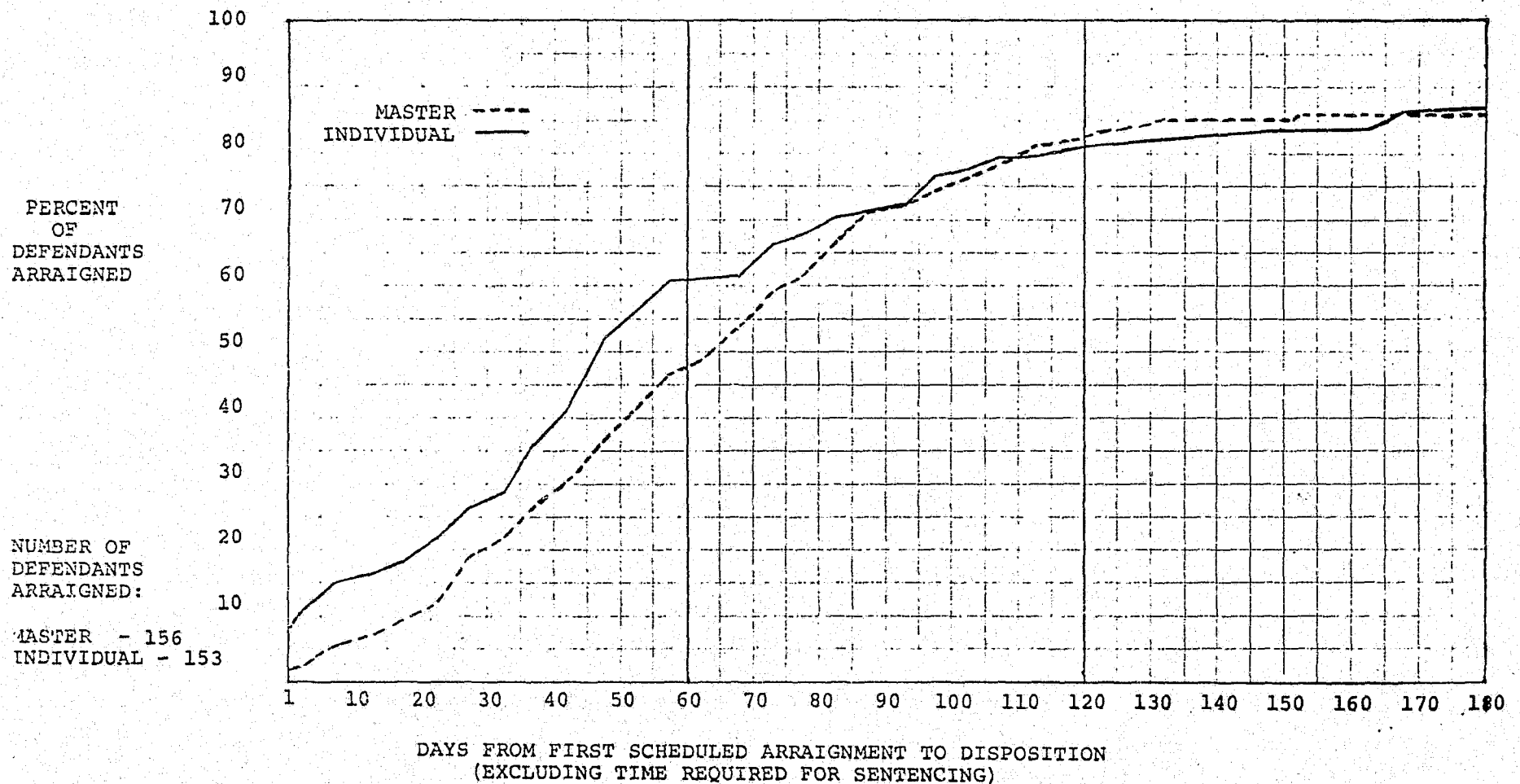
The comparison of the time from arraignment to disposition is shown in Table 28. Until the 90th day when both groups had disposed of 72 percent of the defendants arraigned, the individual calendar group outperformed the master calendar group. From the 90th day through the 180th day, the performance of both groups is similar, with each group disposing of 86 percent of the assigned defendants.

The individual calendar departments again proved successful at disposing of a significant percentage of cases at arraignment or shortly thereafter. The control group disposed of 10

TABLE 28

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS  
 DEFENDANTS ARRAIGNED, JANUARY 16 - FEBRUARY 15, 1974

DISPOSITION PROFILE



Source: Register of Actions, Office of the Los Angeles County Clerk.

percent of its assigned defendants at arraignment, while the master calendar group disposed of only three percent. Through the first 20 days, the percent of dispositions in the individual calendar departments is approximately twice the rate for the master calendar department. A similar trend was noted in the 1973 sample.

Percent of Defendants Disposed Of

<u>Days in the system from arraignment</u>	<u>1974</u>		<u>1973</u>	
	<u>Master</u>	<u>Control</u>	<u>Master</u>	<u>Control</u>
60	47	62	63	48
120	83	82	87	70
180	85	86	91	85

The master calendar departments in the second half did not achieve the high rate of early dispositions noted for the 1973 sample. The percentage of defendants disposed of by the completion of 60 days in each group is almost exactly reversed between the 1973 and the 1974 sample.

The phase in the criminal process at which dispositions were achieved emphasizes the importance of the arraignment in the individual calendar courts. (Twelve percent of the total dispositions achieved at arraignment versus 3 percent for the master calendar department).

<u>Phase</u>	<u>Master</u>		<u>Individual</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Arraignment	4	3.0	16	12.2
Motion hearing or between scheduled appearances	1	.7	5	3.8
Readiness conference	48	35.8	32	24.4
First day of trial	65	48.5	70	53.5
After first day of trial	<u>16</u>	<u>12.0</u>	<u>8</u>	<u>6.1</u>
Total	134	100.0	131	100.0

The readiness conference declined in importance in terms of achieving dispositions for the master calendar courts. For the 1973 sample, this appearance resulted in 51 percent of the total dispositions in the master calendar departments. The individual calendar group also showed a lower percentage of dispositions at the readiness conference than in June (24 percent to 29 percent).

The largest number of dispositions for both groups occurred on the first day of trial, with the individual calendar group achieving over half of its dispositions at this time. Both groups showed a marked increase over the 1973 sample in the number of cases which were disposed of through a verdict or finding after the first day of trial.

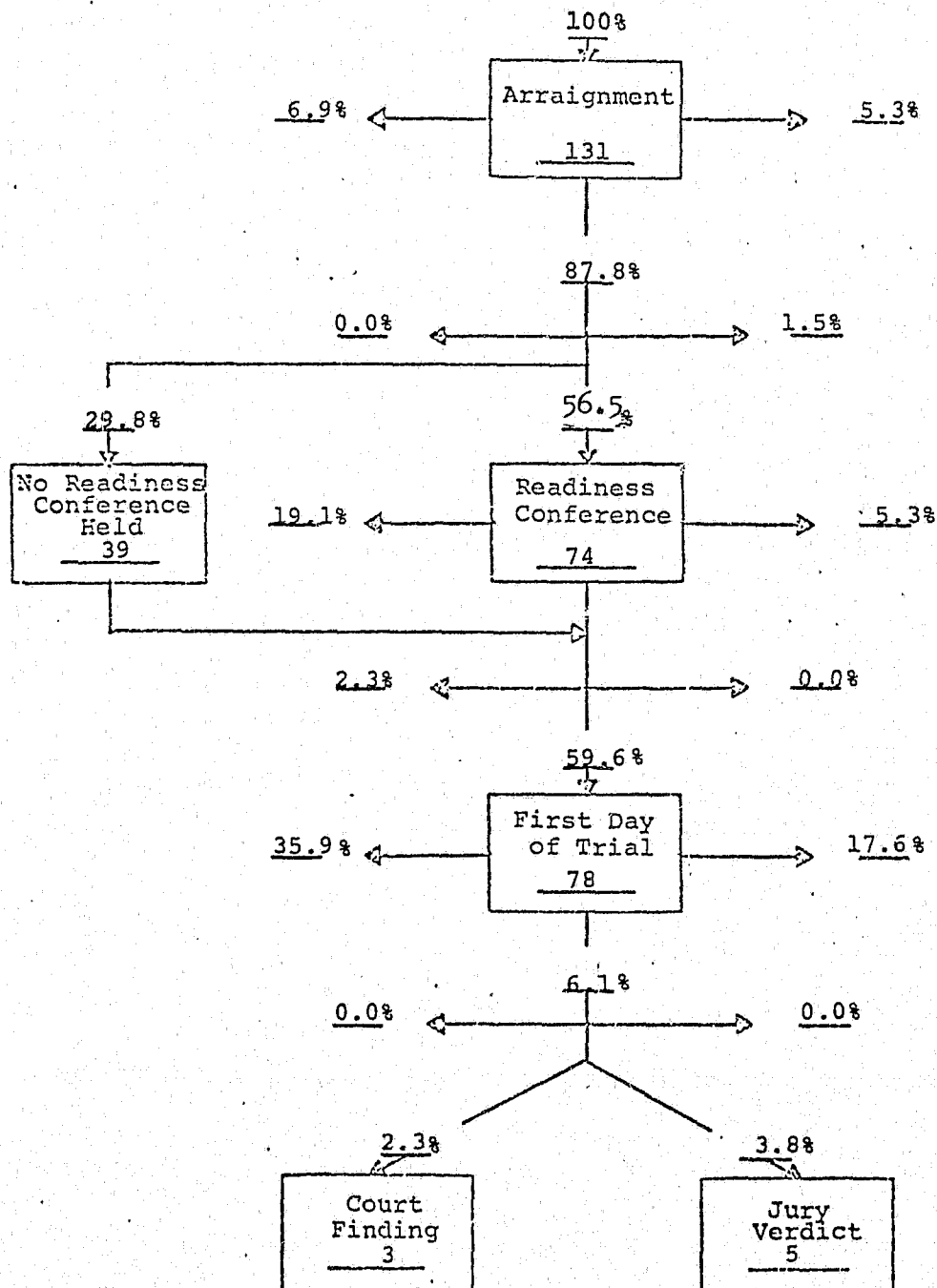
The disposition data is illustrated in flow chart format in Tables 29a and 29b. These charts reveal the tendency on

TABLE 29a

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 INDIVIDUAL CALENDAR DEPARTMENTS  
 CONTROL GROUP (104,113,115,119 and 127)  
 DEFENDANTS ARRAIGNED, JANUARY 16 - FEBRUARY 15, 1974<sup>1</sup>

## DISPOSITIONS

Guilty Plea

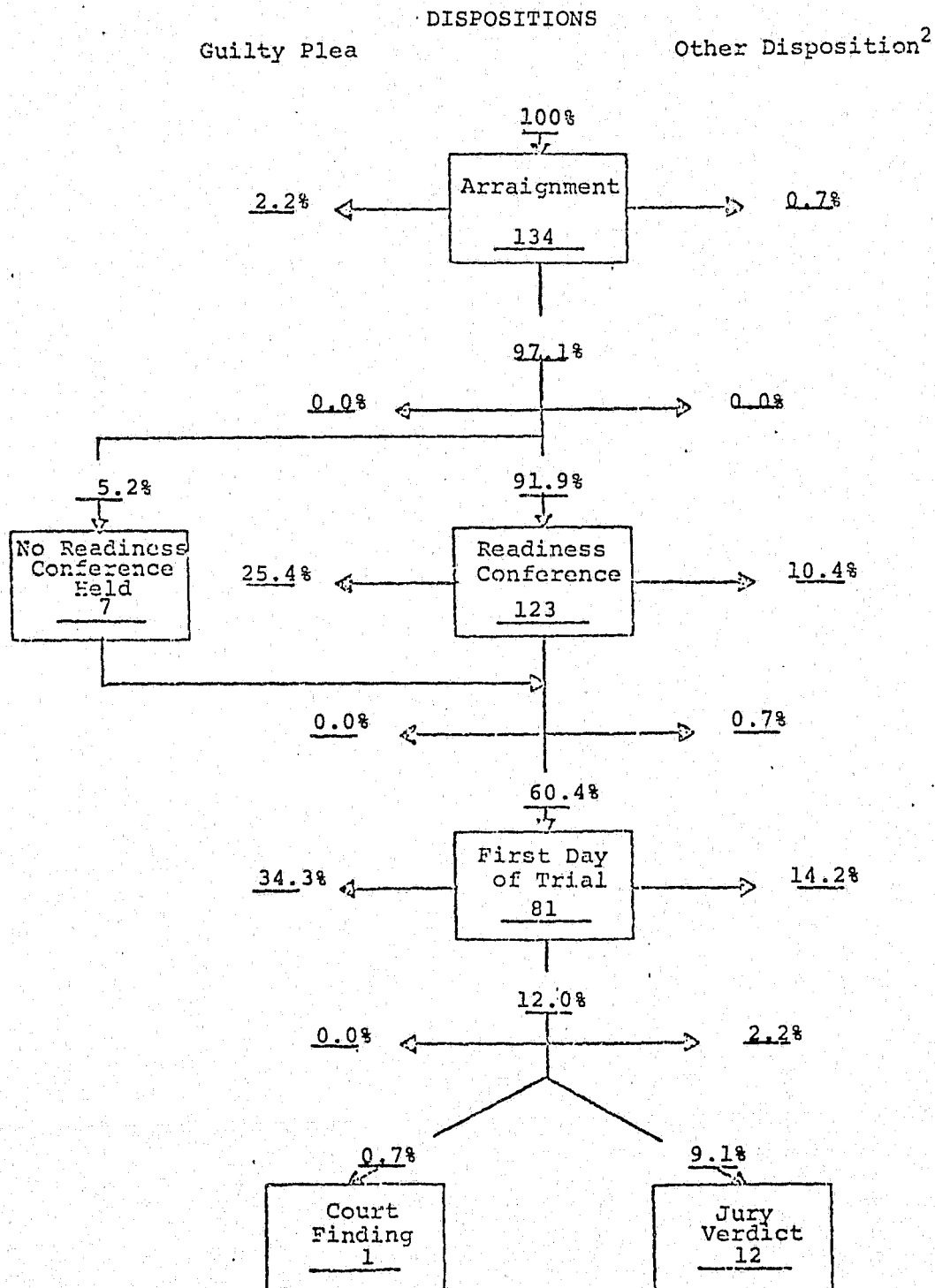
Other Disposition<sup>2</sup>

<sup>1</sup>Twenty-two defendants arraigned in June have charges still pending against them as of July 3, 1974.

<sup>2</sup>Other disposition is defined as any disposition other than by a guilty plea (including dismissal, diversion and one day trial).

TABLE 29b

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 MASTER CALENDAR DEPARTMENTS  
 (101,111,112,123 and 129)  
 DEFENDANTS ARRAIGNED, JANUARY 16 - FEBRUARY 15, 1974<sup>1</sup>



<sup>1</sup>Twenty-two defendants arraigned in June have charges still pending against them as of July 3, 1974.

<sup>2</sup>Other disposition is defined as any disposition other than by a guilty plea (including dismissal, diversion and one day trial).

the part of the individual calendar departments not to hold readiness conferences. For the individual calendar group, 30 percent of the defendants bypassed the readiness conference compared to five percent for the master calendar group. As we have noted, a lower percentage of dispositions was achieved at the readiness conference in the 1974 sample. Seventy five of the 123 defendants appearing for a readiness conference still had charges pending against them at the conclusion of this hearing.

The master calendar departments provided the criminal division as a whole considerably more assistance than they themselves required (Table 30). The master calendar departments provided 42+ days of assistance to the court, while requiring 16+ days. In effect, over one judge month of working time was spent by the master calendar department judges providing assistance to the court. On the other hand, the individual calendar departments had a negative balance, providing 8+ days and requiring 13+ days. We found a similar trend for the 1973 sample.

The performance levels for the two groups evaluated by six basic system performance indices, affirms the superior performance of the individual calendar group (Table 31).

The mean time from the date first set for arraignment through disposition for all defendants was shorter in the individual calendar departments by 17.85 days (51.05 to 68.90).



TABLE 30

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS

ASSISTANCE PROVIDED AND REQUIRED, JANUARY 16 - FEBRUARY 15, 1974

MASTER CALENDAR DEPARTMENTS (101,111,112,123 and 129)						INDIVIDUAL CALENDAR DEPARTMENTS CONTROL GROUP (104,113,116,119 and 127)					
ASSISTANCE PROVIDED			ASSISTANCE REQUIRED			ASSISTANCE PROVIDED			ASSISTANCE REQUIRED		
DATE	TYPE OF PROCEEDING	APPROXIMATE TIME	DATE	TYPE OF PROCEEDING	APPROXIMATE TIME	DATE	TYPE OF PROCEEDING	APPROXIMATE TIME	DATE	TYPE OF PROCEEDING	APPROXIMATE TIME
1/18	Jury trial	3 days	1/17	Motion	1 hour	1/16	Jury trial	3 days	1/15	Jury trial	2 days
1/23	Court trial	2 days	1/24	Jury trial	11 days	1/17	Jury trial	2 days	1/25	Jury trial	3 days
1/24	Court trial	1 day	2/11	Jury trial	4 days	1/23	Jury trial	1 day	2/4	Jury trial	6 days
1/25	Jury trial	3 days	2/11	Plea	1 hour	1/25	Plea	1 hour	2/7	Motion for	1 hour
1/25	Jury trial	15 days	2/13	Court trial	1 day	1/30	Plea	1 hour		dismissal	
1/25	Jury trial	4 days			16 days	2/1	Plea	1 hour	2/7	Motion for	1 hour
1/29	Jury trial	11 days			2 hours	2/5	Court trial	1 day		dismissal	
2/4	Motion 1538.5	3 hours				2/7	Motion 1538.5	1 hour	2/13	Jury trial	2 days
2/15	Jury trial	1 day				2/7	Motion for	1 hour			13 days
		42 days					dismissal	1 hour			2 hours
		3 hours				2/15	Jury trial	1 day			
								8 days			
								5 hours			

<sup>1</sup> Assistance provided is defined as judicial time in the master or individual (control group) departments on hearings in cases not originally assigned to these departments. Assistance required is defined as judicial time provided by other departments in the court for hearings in cases originally assigned to the master or individual (control group) departments.

Source: Office of the Criminal Court Coordinator, Los Angeles Superior Court.

TABLE 31

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
 MASTER AND INDIVIDUAL (CONTROL GROUP) CALENDAR DEPARTMENTS  
 DEFENDANTS ARRAIGNED, JANUARY 16 - FEBRUARY 15, 1974

SYSTEM PERFORMANCE PROFILE  
 JANUARY 16 - JULY 3, 1974

INDEX	MASTER CALENDAR DEPARTMENTS (101,111,112,123 and 129)	INDIVIDUAL CALENDAR DEPARTMENTS (104,113,115,119 and 127)
A. Time to disposition:  Time from first date set for arraignment through disposition (excluding time required for sentencing).  Mean number of days:  Median number of days:	      68.90 (134 defendants)  63 (134 defendants)	      51.05 (131 defendants)  46 (131 defendants)
B. Mean number of continuances per defendant:  <u>Continuances granted<sup>1</sup></u> <u>Defendants arraigned</u>	   $\frac{367}{156} = 2.35$	   $\frac{324}{153} = 2.12$
C. Mean number of days traileed per defendant:  <u>Total days scheduled court appearances traileed<sup>2</sup></u> <u>Defendants arraigned</u>	   $\frac{92}{156} = .59$	   $\frac{135}{153} = .88$
D. Guilty pleas per disposition:  <u>Guilty pleas</u> <u>Dispositions</u>	   $\frac{83}{134} = .62$	   $\frac{84}{131} = .64$
E. Guilty pleas per readiness conference held:  <u>Guilty pleas at readiness conference</u> <u>Readiness conferences held<sup>3</sup></u>	   $\frac{34}{109} = .31$	   $\frac{25}{61} = .41$
F. Jury verdicts per disposition:  <u>Jury verdicts<sup>4</sup></u> <u>Dispositions</u>	   $\frac{7}{134} = .05$	   $\frac{5}{131} = .04$

<sup>1</sup>Includes number of days scheduled court appearances were traileed. A continuance granted in a case involving two or more defendants is counted as one continuance per defendant affected.

<sup>2</sup>Court appearances include scheduled pretrial as well as trial appearances.

<sup>3</sup>A readiness conference held for two or more defendants is counted as one readiness conference.

<sup>4</sup>A jury verdict in the trial of two or more defendants is counted as one jury verdict.

Source: Register of Actions, Office of the Los Angeles County Clerk.

The figure for the individual calendar departments represents an improvement over the 1973 sample while the master calendar group did more poorly (51.05 days for the individual calendar departments to 81.52, in 1973 sample; 68.90 days for the master calendar departments to 60.03).

The individual calendar departments were better able to minimize continuances (including days trailed) than the master calendar departments although the rates did not differ sharply (2.12 for the individual calendar departments versus 2.35 for the master calendar departments). The rate for the master calendar departments represents a 78 percent increase over the 1973 sample. As noted, the master calendar judge states that he maintained a lenient policy on continuances for a considerable part of last half of the experiment.

One index in which the master calendar departments showed superiority over the individual calendar departments was the mean number of days trailed per defendant arraigned (.59 days for the master calendar compared to .88 for the individual departments). Both of these figures represent considerable slippage from the 1973 sample statistics with .24 days and .37 days respectively.

The rate of guilty pleas per disposition was similar for both groups (.62 for the master calendar departments and .64 for the individual calendar departments). Significant differences in this index could imply that defendants through undue pressure,

innumerable delays, etc., are coerced to plead guilty under one system.

The readiness conference usually is the court appearance at which plea negotiations take place. In the 1973 sample, both calendar groups disposed of almost one half of the defendants at the readiness conference when it was held. For the 1974 sample, these figures dropped sharply (.31 guilty pleas per readiness conference held for the master calendar departments compared to .41 for the individual calendar departments). The no-sentence negotiation policy probably influenced these figures significantly. This decrease in effectiveness of the readiness conference for dispositions was a major source of the poorer performance recorded by the master calendar group.

Finally, the number of jury verdicts per disposition is almost identical (.05 for the master calendar departments and .04 for the individual calendar departments). The figure for both groups is up considerably from the 1973 sample when the figures were .02 and .01 respectively.

In sum, the data for the sample month indicates that the individual calendar departments processed their caseloads more efficiently than the master calendar departments. The performance of the individual calendar departments was a significant improvement over the performance of the individual in the 1973 sample. The performance of the master calendar departments generally represented a decline in efficiency from the 1973 sample. The decline in efficiency was not as great as the increased efficiency demonstrated by the individual group.

## STAFF ANALYSIS

1. We believe that the difference in relative performance of the master calendar from the first to the second half of the performance is due to the pace of teams involved. We found a composite "pace" for each team of judges, one faster than the other. In the first half of the experiment the faster paced team, using the master calendar, substantially outperformed the other. In the second half of the experiment the slower paced team, using the master calendar, greatly reduced the differential.

2. We believe that the difference in performance of the master calendar departments from the first to the second half of the experiment is a function of the easing of a strict policy on continuance and less successful judicial involvement in plea bargaining at the readiness conference.

3. Disposition rates of each team compared to previous rates imply that composite performance of judges using a master calendar will be superior to composite performance of the same judges under an individual calendar.

4. The lower disposition rates achieved by the master calendar departments for the 1974 sample as compared to the 1973 sample and yet the seemingly constant availability of those judges to accept cases from the office of the criminal court coordinator imply that the judges were being under-utilized.

This under-utilization could be the result of policies of the master calendar judge or less than optimum balance within the master calendar departments.

5. We believe that the higher rate of early disposition in the individual calendar departments is a function of early identification of the trial judge.

6. We reiterate a comment made in the analysis of the first half of the experiment. The implementation of a master calendar system on a team basis courtwide will require a number of considerations, including the optimum number of master calendar departments, the rules for transfer of cases between teams, the role of the criminal court coordinator. We recommend the establishment of six teams of judges consisting of a master calendar department and three satellite departments. The remaining judges would serve as backup and be assigned jury waiver cases, prolonged trials, and provide assistance to the master calendar departments as required. The office of criminal court coordinator would assign cases to the master calendar departments and the backup judges. The master calendar departments should be physically proximate to the satellite courts. Judges should be rotated between the master calendar department and the satellite departments on a regularly scheduled basis.

## APPENDIX 2

## SURVEY OF CALENDAR PRACTICE

As a complement to the case studies, we conducted mail surveys of calendar practice. The 26 California Superior Courts with three or more judges, the 18 California Municipal Courts with five or more judges, and the four California Federal District Courts were surveyed. There was a 100 percent response. We also surveyed each state and the District of Columbia.

In the questionnaire to the California courts, we gave definitions of the two basic calendar systems, individual and master. In the questionnaire to the other states, we also included definitions of the hybrid system used in the Third Circuit Court of Wayne County and the conference and assignment system used in the Civil Court of the City of New York.

It should be noted that mail surveys have an inherent disadvantage, i.e., the information obtained is directly related to the willingness of the respondent to reply. Some respondents supplied considerable information in addition to the basic information sought. The following summaries tend to focus more on these courts.

## CALIFORNIA SUPERIOR COURTS

The survey of the superior courts was designed to determine which calendar system is most commonly used, the general level of satisfaction with that system, and whether changes are being considered.

We asked a series of questions relating to the assignment of hearings to judges to verify the characterization of the calendar system by the court and to help identify differences in local practice among courts using the same basic calendar system.

Finally, we probed the use of special departments since a basic consideration in the structuring of a calendar system is whether to use special departments or to assign a cross section of all matters to each judge.

The responses of the superior courts can be summarized as follows:

1. Almost all courts use a master calendar system for civil matters. A high percentage use the master calendar system for criminal matters. Those courts not using a master calendar system for criminal matters tend to favor some form of a hybrid system.
2. The post-World War II trend in California superior courts has been toward the adoption of the master calendar system.
3. Only a small percentage of the courts are contemplating changes in their system for calendaring cases, indicating a favorable attitude toward the master calendar system generally used.
4. Approximately one-half of the courts surveyed state that there are no major problems with their calendar system. Courts citing problems generally agree that difficulty in maintaining day certain trial dates is the major obstacle to efficient calendar management.



5. Pretrial appearances for both civil and criminal cases generally are assigned to special departments or specific judges hearing these matters part-time. Courts generally do not assign pretrial appearances to the judge assigned to try that case.
6. Courts generally avoid assigning pretrial matters to judges purely on the basis of availability.
7. Courts generally assign specialized matters such as probate, family law, etc. to a special department or, in the case of smaller courts, to one specific judge who specializes in these matters part-time.
8. Departments that specialize in jury, nonjury, or short cause matters exclusively generally are not used.
9. Practice slightly favors the concept of assigning complex cases to one judge from filing to disposition. Approximately 50 percent of the surveyed courts make this type of assignment; generally in larger courts and in civil rather than in criminal matters.
10. Courts maintaining branch courts do not report any major problems with calendaring in the branches whether the branch court calendars its own cases or the cases are calendared in the main branch.

The following section contains a summary by question of the responses of the superior courts to the mail survey.

#### Type of Calendar System Employed

In your court, which calendar system do you generally utilize for the following actions?

##### Civil

The California Rules of Court require the use of a master calendar in all counties with three or more judges for the assignment of civil cases for trial (Rule 223).

The assignment of pretrial matters such as trial setting, pretrial and settlement conferences is left to the discretion of the presiding judge (Rules 207.5, 209 and 220). Thus, while not precluding the adoption of a hybrid or even an individual calendar system since pretrial matters and trials could be assigned to one judge, the rules do imply the use of some form of a central assignment system.

All but one of the superior courts indicate they use a master calendar system. The one court characterizing its system as other than master calendar is the three judge court of San Luis Obispo. There the business of the court is divided among the three judges in a hybrid system.

#### Criminal

The rules require the use of a master calendar department in the criminal division of the Los Angeles and San Francisco Superior Courts (Rule 248(b)) for hearing pretrial matters and assigning a trial department. In smaller, three to eight judge courts, criminal cases are to be assigned to the criminal department or the department of the presiding judge and on the date set for trial, transferred to any available judge as with civil cases. For courts with more than eight judges, except Los Angeles and San Francisco, there is no requirement for a separate master calendar for criminal matters, although there are one or more judges designated to conduct criminal proceedings (Rule 247).

Thus, the rules for criminal matters tend to favor a system similar to our definition of a hybrid system, i.e., criminal pretrial matters are assigned to one judge while trials are assigned to any available judge. It should be noted, however, that the rules allow considerable discretion to the presiding judge to order the business of the court. Under Rule 244.5(b), the presiding judge can reassign any cases assigned to any department to any other department as convenience or necessity requires.

Responses to the survey show that 85 percent of the courts surveyed use some form of the master calendar system.

Only the criminal division of Los Angeles uses the individual calendar system, i.e., cases are assigned directly to a department for arraignment and all subsequent proceedings. As we have seen, that court is experimenting with a master calendar type system known as the "satellite" system.

Three courts, San Luis Obispo, Contra Costa, and Sacramento, having three, twelve, and fifteen judicial positions respectively, classify their systems as a hybrid. All pre-trial phases of a particular case are handled by one judge, as in the individual system, and assignment for trial is to any available judge, as in the master system.

Orange County characterizes itself as a master calendar court. By our definitions, however, their "unified master trial calendar" for both civil and criminal matters is a form of hybrid. Master calendar departments are maintained for both civil

and criminal pretrial matters. Trial ready cases are entered into a common case pool for assignment to any available judge. Criminal cases have priority.

#### Adoption of Present Calendar System

When did you adopt your present system for calendaring cases, what system did you use before, and why did you change?

One measure of a court's satisfaction with a calendar system is the length of time that system has been used, although a change in a calendar system may be dictated by other factors such as increase in the size of the court. Also, the reasons for changing systems provide an interesting critique of the various calendaring techniques.

The responding courts indicate that the calendar systems employed today generally were adopted within the past 20 years. The trend during this period has been for the courts to move from a variety of systems to a basically master calendar system.

A number of reasons were cited by the courts for changing to a master calendar system. A sampling follows:

1. Avoid judge shopping (Solano).
2. Equalize efficiency and workload (Tulare).
3. Increase flexibility and fill gaps created by short notice settlements, continuances, etc. (Sonoma).
4. Better utilization of resources (Marin).
5. Obtain better control of case assignments and concentrate settlements and changes of plea in master calendar departments (Ventura).

6. Balance workload among judges (Santa Barbara).
7. Achieve calendar control (San Joaquin).
8. Increased volume of criminal cases (Fresno).
9. Growth of the court and more efficient operation (San Mateo).
10. Better and more efficient calendar management (Sacramento).
11. Improve efficiency (Alameda).
12. Study revealed that the master calendar could more expeditiously dispose of cases (San Francisco).
13. Previous system (individual) resulted in serious backlog in some departments and in administrative headaches caused by necessary reassignment of cases to other departments. Illness, vacations, extended trials, 170.6 affidavits, etc. required numerous continuances and transfers (Orange County).

#### Problems with Present System of Calendaring

Would you please identify any problems with your present system of calendaring, such as attorney conflicts?

Approximately half of the courts indicate that no major problems exist. These responses would seem to indicate a general satisfaction with the overall performance of the master calendar system. A comment by the San Mateo Superior Court is indicative here:

We unanimously approve of a fully centralized calendaring system and feel that it unquestionably is the most efficient method for an unlimited jurisdiction court of comparable size.

(Response to Mail Survey)

Those courts that do identify problems are primarily concerned with scheduling court dates and appearances, means for expediting case processing, and delays caused by dilatory tactics practiced by attorneys. Other problems

mentioned are conflict in court dates between different courts, difficulty in determining number of cases to set, and balancing the calendar between civil and criminal cases.

Looking at a sample of the responses, Alameda identifies problems such as getting low priority cases to trial, a lack of sufficient case evaluation at the setting date resulting in the unrealistic setting of trial dates, and inadequate control of continuances by the court.

In Riverside a fairly strict no continuance policy in both civil and criminal cases has eliminated most problems as attorneys "know they will have to go to trial." San Bernardino describes a problem of criminal cases being set by noncourt personnel, i.e., the county clerk, the district attorney, the public defender, and the probation department.

In Santa Clara the civil calendar is currently up to date and has been since April 1, 1965. For criminal cases, the court states that problems exist because deputies in the district attorney and public defender offices are assigned more cases than they can realistically handle. Finally, San Francisco remarks that calendar conflicts for attorneys have developed in civil litigation due to the concentration of personal injury work in a small number of firms.

#### Present Status of Calendaring Systems

Is your court contemplating changes in its system for calendaring cases?

Of the 26 courts surveyed, only seven are contemplating change.

The courts anticipating change identify specific procedural and administrative problem areas. Few courts are considering major change such as a switch to an individual calendar system. The experiment in the Criminal Division of the Los Angeles Superior Court has been outlined. Another court, Monterey, notes that it is presently considering the individual calendar system even though its calendar consistently has been current.

Tulare County mentions that the position of court coordinator will be created to work with the calendar clerk. The courts of Santa Barbara and Marin acknowledge difficulty with setting and meeting firm trial dates. Santa Barbara states that some progress has been made, but...

We have still not yet been able to figure out how to set absolutely firm dates for all cases without having the disadvantageous result of unscheduled dark days when a trial is completed in a shorter time than was estimated.

Changes are contemplated by the court although their nature is not specified.

In Marin, the court is developing a setting formula for civil and criminal cases. The court is implementing a mandatory settlement conference for civil cases and adopting rules requiring that a comprehensive pretrial statement be filed in domestic relations cases.

Fresno County states that the department of the presiding judge will be changed to a general trial department.

Law and motion and uncontested trials will be assigned to all judges, and probate matters will be assigned to one judge.

San Bernardino expresses an interest in facilitating an efficient overall system of review of calendaring methods, improving manual operations of the system and adopting electronic processing.

Assignment of Pretrial Matters for Hearing

How are the civil and criminal pretrial procedures generally assigned for hearing in your court?

The significant differences in calendar systems rest, in part, on the assignment of pretrial hearings and conferences. Courts are given considerable discretion here. Trial setting, pretrial, and settlement conferences can be held at a time and place designated by the presiding judge (Rules 207.5, 209, and 220). On the other hand, Rule 247 requires the establishment of a law and motion department in courts with more than eight judges.

For criminal matters, arraignments in courts with three to eight judges will be in the department of the presiding judge or a department designated by him (Rule 246(b)). Other pretrial matters are assigned at the discretion of the presiding judge. No mention of pretrial criminal matters for the courts with more than eight judges is made except that in Los Angeles and San Francisco, proceedings prior to trial are to be heard in the master calendar department subject to transfer as the calendar warrants.



### Civil

The responses indicate a tendency to rely on either the office of the presiding judge or a special department for hearing pretrial phases of civil proceedings. Conversely, no court indicates that any pretrial matters are assigned to the judge assigned to try the case. Under an individual calendar system, of course, this would represent the prevalent method of assignment.

We do not find significant differences in the assignment of hearings due to court size. The seven courts with three to four judges indicate that pretrial matters are assigned to either the presiding judge or to a specific department for approximately two-thirds of the possible appearances, i.e., settlement conferences, pretrial conferences, etc., while the six courts with over 24 judges indicate the same for about 80 percent of these appearances.

### Civil Law and Motion

Responses show the use of a special department for law and motion matters in all courts with more than eight judges, as required by Rule 247, in that they assign these matters to the presiding judge, a special department, or one judge who additionally acts as a trial judge.

Some courts name several departments for law and motion matters using them as fillers. The court of Sacramento sends its law and motion matters to one of four general trial departments, while in Santa Clara County, law and

motion is assigned to one of seven departments.

#### Calendar Motions

Calendar motions, such as motions to continue, advance, or reset, are heard primarily in the department of the presiding judge (77 percent of the courts).

#### Trial Setting Conferences

In almost half of the responding courts, trial setting conferences are held in the department of the presiding judge. The remaining courts assign these conferences in a variety of ways.

#### Settlement Conferences

Settlement conferences are assigned in various ways. The courts do not favor assigning these hearings to the trial judge or to commissioners.

Contra Costa County assigns settlement conferences only to judges who volunteer to handle them. Santa Clara County states that each of the judges in the five civil jury departments holds eight mandatory settlement conferences one day each week. San Luis Obispo County assigns this proceeding to any judge other than the judge assigned to try the case.

#### Criminal

The courts indicate a strong reliance on specialized departments for handling criminal pretrial matters. Over 80 percent state that pretrial matters are assigned to a fulltime specialized department (criminal master calendar or a special department). Only a few courts assign these

matters to any available judge or to the judge assigned to try the case.

A number of courts note that pretrial criminal matters initially are called in a criminal master calendar department (e.g., San Diego for all proceedings except arraignment and pretrial conference) or in the department of the presiding judge (e.g., Kern for law and motion, miscellaneous motions, and pretrial conference), but the actual hearing may be assigned to another judge.

As mentioned previously, the courts of San Luis Obispo, Contra Costa, Sacramento, and Orange assign all pretrial criminal matters to one or two judges and then use the full court for assignment of criminal trials.

#### Arraignment

The Rules of Court allow smaller courts, through the office of the presiding judge, considerable discretion in assigning arraignments. In Los Angeles and San Francisco, as we have seen, arraignments are to be heard in the master calendar department of the criminal division.

In almost half of the responding courts, arraignments are assigned to the criminal master calendar department, while about one third assign arraignments to a special department. Los Angeles assigns arraignments to individual judges except in its experimental program with a master calendar. In San

Francisco, a master calendar department hears arraignments.

### Initial Plea

Since the hearing on plea generally is combined with arraignment, the responses are distributed almost exactly as for arraignments.

### Motions

The general practice of the courts is to assign motion hearings to specialized departments (criminal master calendar department, a special department or a specific judge who additionally is a trial judge). Only the court of Monterey assigns motion matters to any available judge. Santa Barbara assigns motions to the judge appointed to try the case, a method consistent with the individual calendar system, although all other pretrial matters are handled by the presiding judge. In Marin County, motions requiring more than 20 minutes are treated as short cause matters and assigned to the master calendar.

### Pretrial or Readiness Conference

Courts again generally rely on specialized departments to hear pretrial or readiness conferences.

### Assignment of Specific Legal Matters for Hearing

How are the following matters generally assigned for hearing in your court?

#### Family Law

A majority of the courts use either a specific department (approximately one half) or a specific judge who additionally is a trial judge (approximately one third) for

family law matters. Of the courts falling into the latter category, (approximately two thirds) are smaller courts consisting of three or four judges. These smaller courts do not maintain fulltime special departments, but apparently tend to specify one judge for family law rather than distributing these matters to all judges.

#### Probate

By Rule 247, there is a probate department for courts with more than eight judges. Responses indicate that probate matters do not always require the fulltime attention of a judge. In these courts, the judge assigned also hears cases from the general calendar.

#### Mental Health

By Rule 247, in courts with more than eight judges there is a special department to hear mental health matters. The designated judge is assigned other duties as well.

#### Juvenile

The Juvenile Court Law requires the designation of a department for juvenile matters in courts with two or more judges.<sup>63</sup> All courts comply. A number of courts note that referees and commissioners also handle juvenile matters.

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<sup>63</sup>Welfare and Institutions Code, §551.

### Specialization of Civil Trial Departments

Does your court maintain civil trial departments which specialize almost exclusively in jury trials, nonjury trials (long cause), or nonjury trials (short cause)?

The Rules of Court require that courts with more than eight judges designate one or more departments to hear civil jury and nonjury cases (Rule 247). This rule does not require that these designated departments hear these types of matters (and additionally short cause) almost exclusively.

A majority of the responses were negative as to each of the trial categories. Only three courts use civil trial departments specializing almost exclusively in jury and nonjury long cause trials. They are Alameda, Santa Clara, and Los Angeles. These three courts, plus Santa Barbara and Contra Costa, maintain special departments for short cause matters.

The responses suggest that a minimum court size of approximately 24 judges is necessary before specialized trial departments become feasible. Indeed, the court of San Bernardino, a court of 14 judges, reports that an experiment to assign three departments for only civil jury trials was thwarted by the large volume of criminal cases.

### Specialization of Trial Departments

Does your court believe that specialized departments should be eliminated in favor of more general trial departments?

Some of the previous questions probed specific current practices. This question was addressed to general philosophy.

There is an overall preference to maintain general trial departments over special trial departments. Sixteen of the 26 courts questioned (or 62 percent) so noted. This is in accordance with the Judicial Council's Standards of Judicial Administration §11, adopted in 1972.

The courts with three to four judges, noting the limitations of size, generally favor general trial departments. The courts with five to 15 judges generally express the same preference. In the larger courts, however, specialized departments are favored in four of the six courts with 24 judges or more (Alameda, Los Angeles, San Francisco, and San Joaquin).

Flexibility is the reason cited most frequently in support of general trial departments. Another reason, from the court of Sonoma, is that specialization may tend to create judge "tunnel vision", while Solano County mentions that boredom may occur from specialization over extended periods. Orange County believes that prompt disposition is enhanced by using general trial departments.

In support of the minority preference for specialized trial departments, it is stated that certain specified proceedings can be more effectively handled (San Mateo); specialization develops judicial expertise (San Diego); and assignment of certain matters to general trial departments would consume too much time (San Francisco). The court of

Ventura, reflecting the current practice in most courts, calls for special departments for nontrial matters and general departments for trials:

Nontrial assignments should be logically grouped in as few departments as possible to maximize the number of trial departments; trial department specialization severely damages flexibility and maximum utilization of judicial resources, particularly in a small to medium-sized court.

#### Assignment of Complex Cases

Does your court ever assign complex criminal or civil cases to one judge from filing to disposition, and if so, how often?

Almost two thirds of the courts report that complex civil cases occasionally are assigned to a judge from filing to disposition. For criminal cases, less than half of the courts follow this practice for complex matters. The larger the court, the greater the tendency to follow this practice.

The courts which assign cases to individual judges generally describe these cases as complex, sensational, or of large monetary value. The frequency of assignment varies.

#### Calendar Activities of Branch Courts

Does your court have branch courts, and if so, how many are maintained, how many judges preside therein, and do they calendar their own cases?

The prevalence of branch courts varies directly with the size of the superior court. None of the seven superior



courts with three to four judges, six of the 13 courts with five to 15 judges, and five of the six larger courts having 24 or more judges report having branch courts. Of the courts with branches, nine maintain one branch, one maintains two branches, and the largest court, Los Angeles, maintains nine branches.

With respect to the extent to which the branch courts calendar their own cases, an approximately equal number do (six courts) as do not (five courts). Apparently no major problems regarding calendaring exist with either group.

## CALIFORNIA MUNICIPAL COURTS

In municipal courts, the volume and nature of cases and the time required to dispose of cases, is substantially different from the superior courts and requires different calendar practices. In this project, we have not focused on the municipal courts because of these differences.

We did conduct a survey in California of those municipal courts with five or more judges to obtain some general information on calendar practice in those courts. As with the superior court survey, our interest was in determining what systems are in general use, the general level of satisfaction, and what problems are noted.

We also sought criteria for evaluation of calendar effectiveness.

Our findings can be summarized as follows:

1. Almost all the municipal courts surveyed use a master calendar system for both civil and criminal matters.
2. The courts express general satisfaction with the operation of their court calendars. A number of courts, however, identify problems with the prosecutor's and public defender's offices, such as effective case screening and scheduling.

3. Most courts are not contemplating changes in their calendar system. Only one court indicates that an individual calendar system is under consideration.
4. Courts tend to designate departments to hear specific proceedings (e.g., arraignment, preliminary examinations, etc.) rather than assign these matters randomly.
5. Courts generally believe that the number of cases awaiting disposition is the most important index of calendar status. Time between filing and disposition and the number of jury trials are considered important also. The number of cases disposed of per judge, a basic index with the individual calendar system, is considered least important of the suggested indices.

#### Type of Calendar System Employed

Which calendar system does your court generally use (master, individual, or other)?

##### Civil

California Rules of Court, Rule 511, provides that the judges of any municipal court may, by a majority vote, adopt a rule requiring the use of a master calendar in civil matters. All the courts surveyed have elected to use a master calendar for civil matters in their main branch.

##### Criminal

Of the 18 municipal courts reporting, 17 use a master calendar system for criminal matters. Oakland, the single exception, classifies itself as an individual calendar court, but uses the individual calendar system for nonjury matters

only. Jury cases are assigned through a master calendar system. Sacramento also notes that nonjury trial cases are assigned to individual judges.

#### Adoption of Present Calendar System

When did you adopt your present system for calendaring cases?  
What system did you use before and why did you change?

In California, municipal courts, like superior courts, have demonstrated a trend toward adoption of the master calendar system during the past two decades.

Many courts, prior to adopting the master calendar, used some form of an individual calendar while other courts used a variety of ad hoc systems.

A number of reasons are cited by the courts for changing to a master calendar system. A sampling follows, ordered by frequency of response:

1. Efficiency (San Leandro, Hayward, Fresno, North County).
2. To realize the benefits of consolidation (Ventura, Compton).
3. Eliminate the court chaos (Bakersfield).
4. Phenomenal growth of caseload (San Jose-Milpitas).
5. Level the workload (North County).
6. Calendar imbalance - some days light, others too heavy (San Bernardino).
7. Increased workload dictated change to a more flexible system (San Francisco).

Problems with Present System of Calendaring

Would you please identify any problems with your present calendaring system.

Of the courts surveyed, approximately half indicate that no major problems exist.

The problems noted with civil calendars are basic to calendar management in all calendar systems, i.e., balance between civil and criminal calendars, continuances, and lack of supportive staff.

There are similar problems with criminal calendars, with emphasis on problems with the offices of the district attorney and public defender. The San Jose-Milpitas Municipal Court responds that, "Delays (are) caused by (the) inability of both district attorneys and public defenders to maintain timely, sustained support of calendars ...." Other courts mention insufficient case screening by district attorneys, the "lack of pragmatism" among district attorneys and public defenders, their lack of coordination with each other, their inefficiency arising from excessive caseloads in both offices and, finally, the inexperience of deputy district attorneys and public defenders. Inadequate attorney preparation in general also is considered a problem area. Some courts maintain that an insufficient number of courts and an excessive number of requests for jury trials causes bottlenecks. Finally, the shortage of supporting staff, including probation officers, causes difficulties.

Is your court contemplating changes in its system for calendaring cases?

Seven of the 18 courts surveyed contemplate change in their calendar systems. Among the seven courts considering change, only one, Fresno, is considering adopting an individual calendar. The other six courts are anticipating specific administrative modifications.

North Orange County will close its branch court in Anaheim in early 1974 to remedy inefficient use of judicial manpower. Ventura plans to eliminate pretrial conferences in criminal jury cases and substitute a daily, rather than weekly, master calendar. In addition, the court is creating separate jury and nonjury civil departments.

Among the larger courts, San Francisco is maintaining its current calendar system, but will soon employ computers to assist in calendaring.

Use of Special Departments

Does your court have specialized departments?

Rule 533(a)(3) provides that the presiding judge may designate one or more departments to conduct proceedings in any matters. Most courts assign matters like traffic hearings, arraignments, and preliminary examinations to specific departments rather than giving each judge a cross section

of the total caseload of the court. The high volume of cases filed in municipal courts is usually given as the reason for specialization. Special departments are least often maintained for civil pretrial proceedings and small claims.

Responses indicate that larger courts tend to have specialized departments more often than do smaller courts.

Does your court periodically review the status of its calendar? What indices does it use?

All of the courts periodically review the status of their calendars, usually by the presiding judge. In addition, slightly over a third have a court clerk or assignment officer conduct a review. In almost a quarter of the courts, judges in charge of major calendars, i.e., civil, criminal, traffic, etc., review their respective calendars. In a quarter of the courts, a committee of judges is responsible for reviewing.

The courts were asked to rate the importance of certain criteria for the review of the efficiency of calendar systems. A rating of ten indicated this criterion is considered very important. A rating of zero indicated that the court does

not believe that it has any importance. The responses were averaged. The results follow:

1. Number of cases awaiting disposition	6.81
2. Time between filing and disposition	6.31
3. Number of jury trials	6.11
4. Number of continuances	5.71
5. Number of court appearances required per case	2.61
6. Incidence of attorneys' conflicts with court appearances	1.71
7. Cases disposed of per judge	1.31

Interestingly, the number of cases disposed of per judge, which is a basic evaluation index associated with the individual calendar system, is considered least important by the respondents.



## CALIFORNIA FEDERAL DISTRICT COURTS

## INTRODUCTION

"In recent years, the individual calendar system has been widely advocated in articles, at judicial seminars, and at conferences. Impetus toward adoption of the individual calendar seems to have begun in the federal court system."<sup>64</sup> Therefore, any discussion of the merits of the individual calendar system would be incomplete without some mention of calendar practices in the federal trial courts. This is especially true in a state such as California where the federal district courts are essentially the only multiple judge courts using the individual system.

## BACKGROUND

A study conducted in 1959 revealed that the individual system was then predominant in the federal district courts. However, the master system was in use in at least seven of the largest metropolitan districts (having five or more judges) and the merits and weaknesses of the two systems were being debated.<sup>65</sup> By 1968, the individual system had gained two powerful proponents, Chief Justice Earl Warren and Justice Tom Clark. The backlog in courts using the master calendar, notably the District of Columbia, the Southern District of New York, and the Eastern District of Pennsylvania, had become unmanageable.<sup>66</sup>

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<sup>64</sup> Solomon, at 21

<sup>65</sup> Cotter, Field Study of the Operations of the United States Courts (1959), at 22-26.

<sup>66</sup> Based on interviews with the Hon. Hubert Will, Northern District of Illinois, and with Chief Clerk Allen Pettifrew and Deputy Clerk Walter Moniz, Northern District of California.

Chief Justice Burger and the newly-established Federal Judicial Center joined in support of the individual system and, by 1973, all but one of the metropolitan district courts reported that the individual system was in use.<sup>67</sup> By 1971, all of the federal district courts in California had formally adopted the individual system for both civil and criminal cases.<sup>68</sup>

#### THE INDIVIDUAL CALENDAR SYSTEM IN CALIFORNIA FEDERAL DISTRICT COURTS

The use of the individual calendar system varies slightly from court to court. Here, we outline the rules for the Federal District Court for the Northern District of California, a court with 11 judges. We believe that these procedures are generally representative of practice in the California federal district courts.

##### Distribution of Business

All departments within the district are general trial departments hearing both civil and criminal matters. The chief judge, the general duty judge, and the criminal calendar judge are each responsible for specified motions and hearings. Responsibility for the latter two functions is rotated quarterly. There are commissioners, magistrates, masters, receivers, and referees. The magistrate's court has several functions comparable to those of the municipal courts in the state court system. Judicial assignments are made by an assignment committee composed of the chief judge and two other judges appointed for six months.

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<sup>67</sup>Cannon, Article on the Individual System in Federal District Courts (Draft: 1973).

<sup>68</sup>Based on a mail survey of the California District Courts.

## Phases in the Civil and Criminal Process

### Civil

Filing: An action is commenced upon filing of the complaint. The filing of answer and other responsive pleadings are due within 20 days (30 days in admiralty) following service of summons and complaint.

Certificate of readiness: Upon completion of discovery and motions, a certificate of readiness is filed. The case is then transferred to the judge's pretrial list 10 days thereafter.

In certain complex cases, transfer to the pretrial list may occur without filing a certificate. Short cause matters may be assigned directly for trial.

Informal pretrial conference: Within ten days of the filing of the certificate of readiness, the parties must meet and prepare either a joint pretrial statement or separate statements.

Court pretrial conference: Within thirty days of filing the certificate of readiness, the clerk sets a formal pretrial conference with a judge. At this conference, a pretrial order is prepared, a date is set for trial, and the case is transferred to the judge's trial list.

Trial: At present, the interval between pretrial conference and trial is approximately six to seven months.

## Criminal

Arraignment: As soon as possible after arrest, the defendant is arraigned before a magistrate. The magistrate will proceed to try minor and petty offenses. Upon entering a plea, the case is assigned randomly to a judge.

Preliminary examination: In absence of an indictment or information, a probable cause hearing is held 10 days after the first appearance if the defendant is in custody or 20 days if he is not.

Pretrial conference: At any time after the filing of the indictment or information, a conference may be held upon notice of either party or the court. Such conference may be informal (between counsel) or formal (between parties, counsel and the court).

Trial: Cases are set for a Monday date and have priority on the trial list over civil cases for that week. Following a plea of not guilty, trial shall commence within 90 days if defendant is in custody, or 120 days if he is not.

## Assignment of Cases: Pretrial and Trial

Civil: Upon filing, a case is assigned randomly by the district court clerk to a judge. Subject to possible reassignment, the case remains with the judge through final disposition.

Motions generally are heard by the assigned judge.

Emergency motions, where the assigned judge is unavailable, and prefiling motions are heard by the general duty judge or the chief judge.

Criminal: Minor offenses (including petty offenses) are assigned for all proceedings through disposition to a magistrate.

For indictable offenses (e.g., where punishment exceeds on year), the criminal calendar judge and the magistrates hear all proceedings through plea, including judgment on plea of guilty. Cases in which the defendant pleads not guilty or nolo contendere are assigned by the criminal calendar judge randomly to a judge for all subsequent proceedings.

#### Responsibility for Setting Court Appearances

In civil cases, the judge assigned is responsible for setting all appearances. In criminal cases, the judge or magistrate handling a particular phase is responsible for setting required court appearances.

#### Reassignment of Cases

Reassignment of cases due to judicial absence or disqualification occurs at the instance of the assignment committee.

#### Review of Calendar Status

On a quarterly basis, the court clerk prepares a summary of filings and dispositions for each judge and the chief judge. The assignment committee reviews the assignment register quarterly and reassigns cases as necessary to equalize the caseload among the judges.

## PERFORMANCE

Fiscal year 1972 was the first year that each of the four California federal district courts used an individual system. The Eastern District used a master calendar system until 1971, the Northern until 1968, and the Southern, a master calendar was used for criminal cases until 1971, while the Central District has always used the individual calendar.<sup>69</sup>

A reasonable comparison of performance is between fiscal years 1966, 1969, and 1972. In 1966, a majority of the cases were calendared using the master calendar system. We find that the annual dispositions per judge rose by 28 per judge or seven percent in FY 1972 as compared to FY 1966.

California Federal District Courts  
Filings and Dispositions of Civil and Criminal Cases  
1966, 1969 and 1972

<u>Fiscal Year</u>	<u>Number of Authorized Judgeships</u>	<u>Filings</u>	<u>Dispositions</u>	<u>Annual Dispositions Per Judge</u>
1966	22	8,979	8,230	374
1969	27	12,032	10,910	404
1972	35	13,279	14,101	402

Source: Administrative Office of the United States Courts,  
Management Statistics for United States Courts (1972).

On the other hand, we find that the annual dispositions per judge showed a slight decrease between FY 1969 and FY 1972. In FY 1969, the individual calendar was used to calendar approximately two-thirds of the dispositions for the year.

<sup>69</sup>Based on a mail survey of the district courts.

STAFF ANALYSIS

1. The individual calendar system has gained great popularity in federal courts. The performance of the four California district courts since its adoption is mixed, however. The annual dispositions per judge dropped from FY 1969 to FY 1972 and the dispositions per judge for civil and criminal cases are well below the levels recorded for any of the courts we have studied.

2. We question the applicability of the experience of federal courts with the individual calendar system to the California superior courts. The two court systems differ in many aspects. Cases filed in federal district courts generally are more lengthy and complex than cases filed in superior courts. Federal district courts are, on the average, considerably smaller than the superior courts. Administration is decentralized in the federal courts, centering on each department. Court wide administrators are not used. In the larger California metropolitan superior courts, administration is centralized. In fact, court administrators are employed in 16 out of 19 metropolitan courts. Finally, the nonjudicial staff assigned to each department in the federal courts includes more personnel capable of handling calendaring functions (deputy clerk, law clerk, and a secretary) than the average superior court.

All of these factors are not inconsistent with some form of an individual calendar system in federal courts. Because of the mentioned differences, however, there is no strong analogy to the superior courts.

## CALENDAR PRACTICE IN OTHER STATES

A questionnaire survey was made of all states, except California and the District of Columbia.<sup>70</sup> Because court administration and calendar management vary widely, questions of a general nature were asked. The information sought was:

1. Whether any calendar system predominates in the state courts;
2. Whether the use of a calendar system is determined by state or local rule;
3. How long the predominant system has been in use;
4. Whether any specific problems have emerged; and
5. Whether any courts have had experience with recent changes in calendaring systems.

There were 45 responses.

Our definitions of the several calendar systems, which were included in the questionnaire, often did not correspond to local terminology and, because of this, some interpretation was necessary.

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<sup>70</sup> Questionnaires were sent to the state administrative office of the courts or to the state supreme court. If, after successive requests, neither responded, a questionnaire was sent to the largest metropolitan court in the state.

No response was received from Alaska, New York, North Carolina, South Dakota and Virginia.

Definitions of four systems were included: master, individual, a hybrid such as the one used in Wayne County, Michigan, and the conference and assignment system such as the one used in the Civil Court of the City of New York. The definitions are those used in this study.



The answers are reported in the following table and are summarized as follows: The individual calendar system is used in more of the responding states than the master calendar system. In many states, however, a master calendar system is used in at least one metropolitan area while the individual calendar system predominates in the nonmetropolitan areas. Several states report the use of the individual calendar system because the majority of courts are one or two judge courts.

#### Predominant Type of Calendaring System

Respondents were asked whether a particular calendaring system is used in general and limited jurisdiction courts and, if so, what system. Not all respondents answered fully. The following is a tabulation of the responses:

##### General jurisdiction courts

Master system used in all courts	9
Individual system used in all courts	15
Master system used in one or more metropolitan courts, individual in others	11
Hybrid system used in one or more metropolitan courts, individual in others	4
All single judge courts	1
No system in general use	5
	<hr/> 45

##### Limited jurisdiction courts

Master system used in all courts	7
Individual system used in all courts	15
Master system used in one or more metropolitan courts, individual in others	9

All single judge courts	3
No system in general use	4
No limited jurisdiction courts	3
No response	<u>4</u>
	45

The regional distribution for the general jurisdiction courts is as follows: eastern states predominant among states favoring the master calendar system (Connecticut, Delaware, District of Columbia, Massachusetts, New Hampshire, New Jersey, Oregon, Pennsylvania, Rhode Island). The individual calendar system is favored by midwestern and southern states (Arkansas, Colorado, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Missouri, North Dakota, Ohio, Tennessee, West Virginia, Wisconsin, Wyoming).

A number of states report that the master calendar system is used in one or more metropolitan areas while the individual calendar system predominates in the smaller courts in the state (Arizona, Hawaii, Kansas, Maryland, Minnesota, Nevada, New Mexico, Oklahoma, Texas, Utah, Washington). In four states, a hybrid system is used in one or more metropolitan areas while the individual calendar is used by the majority of the remaining courts in the state (Florida, Iowa, Michigan, Nebraska). In Vermont, all courts are single judge courts. In Alabama, Maine, Mississippi and Montana, there is no particular system in general use.

The pattern is similar for the limited jurisdiction courts.<sup>71</sup>

#### Method of Adoption

Respondents were asked whether calendaring practices were established by local rule, state rule of court, statute, or some other means. The summary of responses follows:

Local rule	27
State rule of court	7
Statute	1
Other	7
No response	<u>3</u>
	45

Where local rules determine the system adopted, the individual calendar system is most common (10 out of 27 responses). Where the system is prescribed by state statute or rule, the master calendar predominates (5 out of 8 responses).

#### How Long the Present System Has Been in Use

Only 30 respondents answered this question and some answers were unclear. Of the 14 states which had adopted a new

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<sup>71</sup> Master calendar used in all courts: Connecticut, Delaware, Massachusetts, Ohio, Oregon, Pennsylvania, Rhode Island.

Individual calendar used in all courts: Alabama, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, North Dakota, Tennessee, West Virginia, Wisconsin.

Master calendar used in at least one metropolitan superior court; individual calendar predominates in remaining courts; Hawaii, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, Utah.

All single judge courts: Arizona, New Hampshire, Texas.

No limited jurisdiction courts: District of Columbia, Illinois, Oklahoma.

No system in general use: Maine, Mississippi, Montana, Washington.

system since 1960, 11 had adopted an individual system.

#### Satisfaction with Present System

The respondents generally express satisfaction with the calendar systems employed whether they are master, individual or some combination.

Six states report that it is not the system utilized, but the attitudes of the personnel involved that determines system performance.

#### Specific Problems Noted

The respondents were asked to describe problems with the calendar system used. The following are the most frequent responses:

##### Under a master system:

- Judges have unequal workloads.
- Judges are unfamiliar with the case at trial.
- Assignment of all phases to an individual judge is required in some cases.
- Maximum use of master calendar judge is difficult to achieve.
- Inefficient judges "hide behind" system.
- Responsibility for disposition is not clearly fixed.
- Lawyer time is wasted.
- Case progress is difficult to monitor.
- Impression of "supermarket justice" is created.
- "Getting cases assigned" causes difficulties.
- There is duplication of effort.
- There is no continuity in pretrial phases.

##### Under an individual system:

- Judges have unequal backlogs.
- Equalization of backlogs causes unequal workloads.
- Judge time is lost.
- Procedures are not uniform.
- Responsibility for emergency matters is hard to fix.
- Judges are unavailable and departments are not "covered".

There is an "uneven spread of in-court time".  
"Overzealous judicial independence" results.  
Attorney conflicts arise.  
There is little courtwide control over pending cases.  
Equalization of workloads causes "ridiculous paper-work transactions".  
Efficient judges are underutilized.  
Judges whose dockets are current are reluctant to help those having large backlogs.  
"Docketing problems" occur.  
Reassignment of judges between sessions interferes with system.

These comments coincide closely with the comments of judges, attorneys, and court administrators in the several courts in which we conducted case studies. In short, both major systems have inherent problems upon which there is general agreement.

Many respondents describe general case processing problems common to all systems as the major impediment to achieving efficient calendaring. These include: control of continuances, upholding day certain trial settings and attorney conflicts with other courts.

#### Experimentation With Other Systems

Some of the respondents describe recent experimentation with calendar systems, usually occurring in the larger metropolitan courts.

In Alabama, the 13th Judicial District Court of Mobile has begun an experiment with the individual calendar although the master calendar in previous use was considered successful. The Sixth Judicial District in Florida, which includes Clearwater and St. Petersburg, has adopted a "hybrid system" similar to the system used in the Wayne County Circuit Court.

The District Courts of Lincoln and Omaha have developed a form of the hybrid system, also.

The Wichita District Court has adopted the master calendar. The Hennepin County District Court, which includes Minneapolis, has adopted a "block" system which is basically an individual calendar system.

The Court of Common Pleas in Philadelphia reports that several experiments with the individual calendar have been conducted for both civil and criminal matters. Each one has been considered a failure. When an experiment with the master calendar system in the Denver District Court in 1969 proved unsuccessful, the court reverted back to an individual calendar system.

Clearly, this list is not complete. For example, in New York, a state which did not respond to the survey, we have seen that several courts in the City of New York alone have undergone major changes in their calendar systems.

In Table 32, the responses of the various courts are summarized.

Table 32

SURVEY OF OTHER STATES<sup>1</sup>

STATE	PREDOMINANT CALENDAR SYSTEM	METHOD OF ADOPTION	HOW LONG PREDOMINANT SYSTEM IN USE	DEGREE OF SATISFACTION	SPECIFIC PROBLEMS NOTED	EXPERIMENTATION WITH ALTERNATIVE SYSTEMS
Alabama	Various systems in use in general jurisdiction courts; <u>individual</u> system in use in limited jurisdiction courts.	Local rule	Varies from court to court	"As satisfactory as those administering the system have determined it should be."	Both systems: (1) Lost judge time (2) Unequal workloads	The 13th Judicial Circuit (Mobile) has begun an experiment with the <u>individual</u> system, although the <u>master</u> system used previously was successful.
Arizona	<u>Individual</u> system used in general jurisdiction courts, except for Pima County (Tucson) which uses a <u>master</u> system.	State rule of court	Adopted February 1967.	<u>Individual system:</u> "Seems to work." "The fact that the system changed caused a reduction in the calendar."  <u>Master system:</u> "Successful." ----- "The system to be used is the one that can be accepted and used regardless as to what type it is. It is the people who operate the system that is most important ..."	<u>Individual system:</u> (1) Unequal backlogs. (2) Periodic equalization shifts workload to "hard-working" judges. (3) Hard to pinpoint responsibility for "special" situations such as emergency matters. (4) Judges often not available and their courts are not "covered".	Maricopa County (Phoenix) utilized a <u>master</u> system until 1963, then a "half and half" system until 1967. Pima County (Tucson) still uses <u>master</u> system.
Arkansas	<u>Individual</u> system used in all courts.	Local rule	Since 1874	"Very effective" -- "Places responsibility where it belongs."	None reported	No
Colorado	<u>Individual</u> system used in all courts.	Local rule	Since 1970	"Fairly satisfactory."	(1) "Uneven spread of in-court time." (2) Requires triple setting for trial, which causes back-ups at times.	A back-up system reassigns cases to idle judges. <u>Master</u> calendar experiment in Denver District Court (1969) a "disaster".
Connecticut	<u>Master</u> system used in all courts.	State rule of court	In use "throughout history of court system."	"Satisfactory when Judges and Bar exercise discipline and adhere to court rules."	(1) Unequal workloads (2) Judicial reluctance to commence long trials toward end of each session. (3) May cause increased continuances. (4) Responsibility for disposition not well fixed. (5) Deviations in interpretation of rules.	Statewide computerization of assignment lists in Common Pleas and Superior Courts requires uniform application of rules. Rotation of judges precludes use of individual calendar.

<sup>1</sup>Alaska, New York, North Carolina, South Dakota and Virginia did not respond to questionnaires.  
California was not included in the survey.

**CONTINUED**

**3 OF 3**



STATE	PREDOMINANT CALENDAR SYSTEM	METHOD OF ADOPTION	HOW LONG PREDOMINANT SYSTEM IN USE	DEGREE OF SATISFACTION	SPECIFIC PROBLEMS NOTED	EXPERIMENTATION WITH ALTERNATIVE SYSTEMS
Delaware	Master system used in general-jurisdiction courts for criminal cases and in limited jurisdiction courts for all cases. Civil cases in general jurisdiction courts are assigned using an <u>individual</u> system.	"Court decision"	No response	"Fine"	Master system: Uncertainty as to number of cases which will go forward on a given day; overscheduling required.	No
District of Columbia	Master system used for all cases except felonies, which are assigned using an individual system.	Local rule	Since February 1971	"Very satisfactory."	Master system: Maximum use of the calendar control judge in each division.	Assignment to one judge for all subsequent phases is available, for good cause shown, at any phase of litigation.
Florida	Individual systems used in all courts.	Local rule	"This is the age old tradition."	"Highly satisfactory."	Rotation of judges interferes with system.	The Sixth (Clearwater-St. Petersburg) and 11th (Miami) Judicial Circuits use experimental hybrid systems.
Georgia	Individual system used in Fulton County (Atlanta) Superior Court, which is the largest general jurisdiction court.	Local rule	Adopted May 1972	No response	Individual system: (1) Acceptance of the change (2) Lack of uniformity (3) Attorney conflicts (4) Lack of necessary data for calendaring.	Fulton County (Atlanta) Superior Court operated under a <u>master</u> system until 1972, when the present system was adopted.
Hawaii	Master system used in Honolulu. Individual system used in other courts.	State rule of court	Honolulu adopted master system in 1966.	"Good" -- "Satisfactory to some degree."	Master system: (1) Strict judicial discipline required. (2) Scheduling "for the week of" rather than a date certain is unfair to parties.	Courts having only one or two judges use <u>individual</u> system.
Idaho	Individual system used in all courts.	Local rule	Adopted 1971	"Very satisfactory."	(1) Lost judge time (2) Lost jury time (3) Double setting required	No
Illinois	Individual system used in most divisions of most courts.	Local rule	Adopted 1964	"Satisfactory."	None reported.	Master calendar used in some divisions, notably the Law Jury Division of Cook County Circuit Court.

STATE	PREDOMINANT CALENDAR SYSTEM	METHOD OF ADOPTION	HOW LONG PREDOMINANT SYSTEM IN USE	DEGREE OF SATISFACTION	SPECIFIC PROBLEMS NOTED	EXPERIMENTATION WITH ALTERNATIVE SYSTEMS
Indiana	Individual "from pre-trial conference to trial" used in general jurisdiction courts; individual system used in limited jurisdiction courts.	Local rule, but "must conform to liberal change of venue rule which prevails in this state."	Adopted "about 1951"	"Moderately successful"	Judge-shopping and forum-shopping to avoid courts having strict continuance policies.	No
Iowa	Hybrid system which involves assignment of all pretrial phases to an individual judge and assignment of trial-ready cases from a master list used in district court of Polk County (Des Moines). Most other courts are single-judge courts.	Local rule	No response	Each system "works fairly well".	"In Polk County (Des Moines), lawyers tend to avoid certain judges for trial and some judges do more than others... Judges whom lawyers avoid advocate individual calendar, but chief judge prefers status quo."	No response
Kansas	Individual system used in most courts.	Local rule; however, the supreme court has promulgated rules for civil cases in single-county multi-judge district courts.	"Established many years ago." Sedgwick County (Wichita) adopted the master system in 1967.	"Both systems work if the judges are willing to."	Individual system: Reluctance of judges whose dockets are current to assist those who have backlogs.  Master system: (1) Impression of "supermarket justice". (2) Unfamiliarity of judges with cases at trial. (3) Necessity of permanent assignment for certain cases or classes of cases.	Sedgwick County (Wichita) District Court has adopted the master system. Other courts experimenting with alternative systems include: Shawnee District Court (Topeka) Wyandotte County Court (Kansas City) and Eighth Judicial District, Geary County District Court (Junction City).
Kentucky	Individual system used in some multi-judge courts and some single-judge multi-county courts where the judge is assigned to the county courts by monthly rotation.	Local rules of practice: "Each judge... is an independent constitutional officer... Kentucky lack(s) an integrated court system..."	No response	No response	No response	No
Louisiana	Individual system used in all courts.	Local rule	Used "from time immemorial."	"Works well for diligent, imaginative judges; ... works poorly for judges which don't do anything which may inconvenience lawyers."	Unequal backlogs	No

STATE	PREDOMINANT CALENDAR SYSTEM	METHOD OF ADOPTION	HOW LONG PREDOMINANT SYSTEM IN USE	DEGREE OF SATISFACTION	SPECIFIC PROBLEMS NOTED	EXPERIMENTATION WITH ALTERNATIVE SYSTEMS
Maine	No particular system in general use.	Local rule	No response	No response	"Many."	No
Maryland	Master system used in all multi-judge courts.	Local rule, custom or practice	Adopted as single-judge courts expanded.	"Generally satisfactory."	(1) "Difficulty in getting cases assigned." (2) "Duplication of effort." (3) Unequal workloads.	No
Massachusetts	Master system used in all courts.	Statute	Adopted "when the courts were established."	"Very adequate if enough sessions are available."	Lack of sufficient sessions.	Rotation of judges prevents innovation and experimentation.
Michigan	Individual system used for civil cases in most courts. In Wayne County (Detroit) Circuit Court, a hybrid system is used incorporating individual assignment for all pre-trial phases and assignment from a master list for trial-ready cases. Wayne County Common Pleas Court uses a master system.	State rule of court, with local exceptions subject to supreme court approval	Individual system adopted by state-wide rule in mid-1960's; Wayne County Circuit Court adopted its own variant shortly thereafter. Master system in use in Wayne County Common Pleas Court since 1929.	"Depends on the working habits of the judges."	Individual system: Efficient judges underutilized. Master system: Inefficient judges "hide behind" system performance.	Ad hoc measures have been adopted in various courts. Wayne County (Detroit) devised the system now used by request of the judges after six months' experience with the individual system.
Minnesota	Master system used in most multi-judge courts. Hennepin County (Minneapolis) District Court uses a "modified block" (modified master) system.	Local rule	Adopted 1967	"Very satisfactory."	None reported	Modifications of Hennepin County (Minneapolis) District Court's "block" system incorporated increased central control, a stricter policy on continuances and more accurate caseload assessment.
Mississippi	"No unified system."	Judicial preference	No response	No response	No response	No response
Missouri	Individual system in general use.	Local rule	Adopted "at least ten years ago".	"Satisfactory". "Trial courts favor the benefits afforded by individual calendars, but recognize docketing problems."	Individual system: Docketing problems Master system: Lack of "continuity"; one judge should handle all pre-trial matters.	"In the City of Saint Louis the magistrates use the master calendar." "Discussion presently underway for a modified system." Jackson County (Independence and Kansas City) uses "a basic individual system with some divisions under a master calendar."

STATE	PREDOMINANT CALENDAR SYSTEM	METHOD OF ADOPTION	HOW LONG PREDOMINANT SYSTEM IN USE	DEGREE OF SATISFACTION	SPECIFIC PROBLEMS NOTED	EXPERIMENTATION WITH ALTERNATIVE SYSTEMS
Montana	No particular system in general use.	Local rule	No response	"Excellent."	None reported	No response
Nebraska	Individual system used in most courts. Four courts have adopted a master system or some variant of it.	Local rule	In use "for many years."	No response	"In about 90 percent of the courts, there is only one judge assigned...so the choice of calendar-ing is limited."	District Courts in Lincoln and Omaha use "a combination of individual and master." Municipal Courts in Lincoln and Omaha use a master system.
Nevada	Both master and individual systems in use, but no statewide information available.	Local and state rules of court.	No response	No response	No response	No response
New Hampshire	Master system used in the general jurisdiction courts.	Statute and state rules of court.	"Believed to exist from the inception of the court system."	Satisfactory	No response	No
New Jersey	Master system used in most divisions of multi-judge courts. Individual system used in Chancery (equity) Division.	State rule of court	Since 1948.	"Very satisfactory".	(1) "Having judge report promptly when he completes a case." (2) Unfamiliarity of judges with cases at trial.	No
New Mexico	Master system used in the Second Judicial District and in Municipal and Magistrate Courts (all in Albuquerque). Individual system used in most other courts.	Local rule	Master system adopted in various divisions 1972-1974.	Master system is "working fine".	Master system: (1) Increased continuances. (2) Failure to notify court of settlements. (3) Difficulty of monitoring case progress.	No
North Dakota	Individual system in use in all courts.	No response	Adopted "at statehood --1889."	"Generally satisfactory."	None reported	No
Ohio	Individual system used in all multi-judge general jurisdiction courts; master system used in limited jurisdiction courts.	State rule of court for general jurisdiction courts. Local rule for limited jurisdiction courts.	Individual system imposed by the state supreme court by Superintendence Rule 4, effective January 1972. Some courts used the individual system prior to the rule.	"Individual assignment has proven to be quite effective." "Fixes responsibility"; "easier to identify problem areas."	Individual system: Unequal backlogs	No

STATE	PREDOMINANT CALENDAR SYSTEM	METHOD OF ADOPTION	HOW LONG PREDOMINANT SYSTEM IN USE	DEGREE OF SATISFACTION	SPECIFIC PROBLEMS NOTED	EXPERIMENTATION WITH ALTERNATIVE SYSTEMS
Oklahoma	Individual system used for civil cases and master system used for criminal cases.	Local rule	Adopted "when multi-judge courts appeared...early in this century."	"Acceptable."	Individual system: individual monitoring required.	"One court is presently in a transition stage to individual assignments in criminal cases."
Oregon	Master system used in all courts.	Local rule	Adopted "ages ago."	"Good."	"None...when properly administered."	"Our courts are reluctant to change to individual because master is working O.K."
Pennsylvania	Master system used in most metropolitan courts. The only limited jurisdiction court (Philadelphia Municipal Court) uses a master system.	Local rule	No response	"The master system has proved most productive."	Pretrial work requires individual calendaring of equity cases.	Pittsburgh and Philadelphia have experimented with the individual system but prefer the master system except for equity cases, which are assigned to individual judges in Pittsburgh.
Rhode Island	Master system used in all courts.	State rules of court.	Adopted 1905 -- "Although considerably modified through the years"	"Quite well."	Under former system, cases went off calendar if not reached on day set for trial, causing scheduling problems. The new "master-continuous" system has eliminated this problem.	No.
South Carolina	Unknown.	Local rule.	A major judicial reform is presently underway. An administrative office of the courts has recently been established.	No response.	No response.	No response.
Tennessee	Individual system used in all courts.	Local rule.	Adopted "when the state was born."	"Every judge believes his system is quite satisfactory."	No response	No.
Texas	Individual system used in Dallas and Fort Worth District Courts; master system used in Houston and San Antonio District Courts. These are the only multi-judge limited-jurisdiction courts in Texas.	Local rule.	No response.	No response.	No response.	No response.

STATE	PREDOMINANT CALENDAR SYSTEM	METHOD OF ADOPTION	HOW LONG PREDOMINANT SYSTEM IN USE	DEGREE OF SATISFACTION	SPECIFIC PROBLEMS NOTED	EXPERIMENTATION WITH ALTERNATIVE SYSTEMS
Utah	<u>Individual</u> system used in most courts; <u>master</u> system used in both general and limited jurisdiction courts in Salt Lake City.	Local rule.	No response.	"Individual calendar is satisfactory. Master calendar is being considered."	Individual system: "Slows down system." Master system: (1) Judge unfamiliar with case at time of trial. (2) Judge unable to rule on pretrial motions until trial.	No.
Vermont	All courts are single-judge courts.	No response.	No response.	No response.	No response.	No response.
Washington	<u>Individual</u> system used in most general jurisdiction courts. King County Superior Court (Seattle) uses a <u>master</u> system.	Local rule.	"Most systems have been reviewed in the past few years and updated."	"We need much improvement to be able to process criminal cases within our new 60 day rule."	Individual system: Access to judges. Master system: Wasted lawyer time.	No.
West Virginia	Alternating <u>individual</u> assignment used in both two-judge courts.	No response.	No response	No response.	No response.	No response.
Wisconsin	<u>Individual</u> system used in all courts.	Statute and local rule.	Adopted "at least five years ago."	"Works well" in smaller courts. "In the largest court, Milwaukee, the individual calendar system suffers."	(1) "Overscheduling, requiring transfer... and ridiculous paperwork transactions." (2) "Lack of control of 'pending case' category." (3) "Non-uniformity in procedures." (4) "Over-zealous judicial independence." (5) Unequal backlogs.	"We have not really tried the <u>master</u> calendar system." An effort was made "recently" to experiment with a <u>conference and assignment</u> system in Milwaukee, "but not given a sufficient trial."
Wyoming	<u>Individual</u> system used in general jurisdiction courts. In Natrona County (Casper) attorneys for all parties agree on trial date, subject to judicial approval; in other courts judges do their own scheduling.	Local rule.	Adopted "approximately eight years ago."	"Just fine."	"Judges in Natrona County are booked for about 4-6 months ahead at all times."	No response.

## APPENDIX 4

## METHODOLOGY FOR DATA COLLECTION AND PERSONAL INTERVIEWS

STUDY OF THE MASTER AND INDIVIDUAL CALENDAR EXPERIMENT  
IN THE LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION

Our study of the Master and Individual Calendar Experiment conducted by the Criminal Division of the Los Angeles Superior Court consists of two approaches, a comparative statistical analysis and a survey of opinions of those using each system. We recorded the progress of all defendants arraigned in June 1973 in both the six master calendar departments and the six individual calendar (control) departments. Progress was followed until February 1, 1974. We interviewed the judges participating in the experiment, attorneys, and court administrators. The following is a summary of the methodology used to gather this information.

Statistical Analysis

The data on cases disposed of by the two groups is taken from the register of actions of the Los Angeles County Clerk and also from records of the Office of the Criminal Court Coordinator. A copy of the form used for recording data is included (see p.245). The following is an outline of our approach.

1. Sample group: The Office of the Criminal Court Coordinator of the Los Angeles Superior Court maintains records of all defendants arraigned, organized by date of arraignment and arrainging department. Defendants arraigned in the experiment departments in June 1973 were identified.

This information was confirmed in the register of actions. Several arraignments noted in the coordinator's office were eliminated since some scheduled arraignments did not occur due to various reasons such as last minute transfers, fugitive defendants, etc.

2. Multiple defendant cases: In multiple defendant cases, each defendant's history was recorded separately.
3. Multiple charges: In cases involving multiple charges, we recorded the most serious charge.
4. Consolidated cases for a single defendant: In consolidated cases for a single defendant, one case history was recorded since one disposition is the result of such cases.
5. Custodial status: We indicated the custodial status that prevailed during the longest period of time during which charges were pending. We also note changes in custodial status.
6. Attorney status: We indicated the status of attorney representation that prevailed during the longest period of time during which charges were pending. We also noted changes in attorney status.
7. Continuances: Continuances granted in a case involving two or more defendants were counted as one continuance per defendant affected. Con-



tinuances include both the number of times court appearances were continued and also the number of days court appearances were trailed. The necessary rescheduling of a court appearance due to continuances of prior proceedings was not counted as a continuance.

8. Motions: We noted motions only if a separate appearance was required. Motions presented at scheduled court appearances (arraignment, readiness conference, etc.) were not recorded.
9. Total defendant days in system: Time in the judicial process was measured as the number of calendar days (including holidays and weekends) required to dispose of the charges against a defendant. The first day set for arraignment was counted as day one even if the arraignment was continued or trailed to a later day.

The time is tolled only if a bench warrant was issued for the apprehension of a defendant. The time between issuance of the bench warrant and resumption of the criminal process was subtracted from the total days in the system.

The days in the system terminate on and include the day when charges were resolved by guilty plea, acquittal, conviction, dismissal, etc., or the defendant was removed from the judicial process through a diversion program.

We excluded the time required for preparation of the probation report and sentencing.

10. Time intervals between appearances: Time between court appearances was calculated by taking the day following the completion of a phase, e.g., arraignment, through the day on which the next phase, e.g., readiness conference, was completed.
11. Dispositions: Dispositions were characterized by type, e.g., guilty, not guilty, etc., and by manner, e.g., through plea, court trial, jury trial, etc. Diversions were included as dispositions.

#### Personal Opinions

As a complement to the statistics, we interviewed the 11 judges who participated in the experiment (the judge who participated in the control group in the first six months, but did not switch to the master calendar was not interviewed), three public defenders, three district attorneys, three private attorneys, and the criminal court coordinator. The attorneys were selected on the basis of their familiarity with both systems.

All the interviews were conducted by one interviewer. The judges assigned to the master calendar departments from the individual (control group) calendar were interviewed approximately two months after they began to use the master calendar.

A copy of the questionnaire is attached (see pp. 246-249).

# STATISTICAL REPORT FORM CRIMINAL

## 1. CHARGES

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Opiates                   | 8. <input type="checkbox"/> Assault             |
| 2. <input type="checkbox"/> Marijuana                 | 9. <input type="checkbox"/> Forgery             |
| 3. <input type="checkbox"/> Dangerous drugs           | 10. <input type="checkbox"/> Auto theft         |
| 4. <input type="checkbox"/> All other drug violations | 11. <input type="checkbox"/> Other sex offenses |
| 5. <input type="checkbox"/> Burglary                  | 12. <input type="checkbox"/> Homicide           |
| 6. <input type="checkbox"/> Robbery                   | 13. <input type="checkbox"/> Rape, forcible     |
| 7. <input type="checkbox"/> Theft, except auto        | 14. <input type="checkbox"/> All other          |

## 2. CUSTODIAL STATUS

1. ☐ Bail  
2. ☐ Custody  
3. ☐ Own recognizance

## ATTORNEY STATUS

1. ☐ Public Defender  
2. ☐ Private Attorney  
3. ☐ Other

## 3. DATES (Circle date of guilty plea, verdict, charges dismissed or other disposition)

	<u>Set</u>	<u>Trailed</u>	<u>Continued</u>	<u>Cumulative Days</u>
<u>Proceeding</u>				
1. Arraignment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Motions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 995	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 1538.5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Readiness conference	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Trial date set	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Trial finish	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Total days:				<input type="checkbox"/>
Total Number of Continuances:				<input type="checkbox"/>
Total Days Trailed:				<input type="checkbox"/>

## 4. TRIAL

1. ☐ Jury trial  
2. ☐ Court trial

## 5. DISPOSITION

1. ☐ Guilty  
2. ☐ Not guilty  
3. ☐ Not guilty by reason of insanity  
4. ☐ Nolo Contendere  
5. ☐ Other \_\_\_\_\_

LOS ANGELES SUPERIOR COURT CRIMINAL DIVISION  
MASTER AND INDIVIDUAL CALENDAR SYSTEM EVALUATION

1. In which calendar system are you able to devote the most effective time to presiding over cases?    ☐ Master    ☐ Individual

Why? \_\_\_\_\_

2. Do you believe that the differences between the individual and master calendar systems have affected the "quality of justice" rendered?

☐ Yes    ☐ No    Explain: \_\_\_\_\_

- 3a. Do you believe that the different calendar systems significantly affect your role as a judge (attorney)?    ☐ Yes    ☐ No

Explain: \_\_\_\_\_

- b. If yes, in what way? \_\_\_\_\_

- 4a. What do you think are the most significant advantages of the calendar systems you used?

Individual: \_\_\_\_\_

Master: \_\_\_\_\_

- b. What do you think are the disadvantages of each system?

Individual: \_\_\_\_\_

Master: \_\_\_\_\_

- 5a. What in your opinion are the greatest "procedural bottlenecks" in each system?

Individual: \_\_\_\_\_

Master: \_\_\_\_\_

- b. What modifications would you recommend to overcome these "bottlenecks"?

Individual: \_\_\_\_\_

Master: \_\_\_\_\_

6. Do you believe the failure of plea negotiations affects the relationship between counsel and the trial judge?    ☐ Yes    ☐ No

Explain: \_\_\_\_\_

7. Which system do you believe in the long-run would result in the shortest time period from arraignment (filing) to disposition?

☐ Individual  
☐ Master  
☐ No difference  
☐ No opinion

Comment: \_\_\_\_\_

8a. Do you believe that the different calendar systems influence the uniform application of substantive law? ☐ Yes ☐ No

b. If yes, which system results in more uniform application of the law?

☐ Individual  
☐ Master

c. Why? \_\_\_\_\_

9a. Do you believe that the different calendar systems influence the uniform application of rules and procedures? ☐ Yes ☐ No

b. If yes, which system results in more uniform application of rules and procedures?

☐ Individual  
☐ Master

c. Why? \_\_\_\_\_

10a. Do you believe that the different calendar systems influence the court's ability to induce pleas (settlements) at the earliest possible time?

☐ Yes ☐ No

b. If yes, which system results in the highest and earliest number of pleas?

☐ Individual  
☐ Master

c. Why? \_\_\_\_\_

11a. Do you believe that the different calendar systems influence a judge in making a decision in a case? ☐ Yes ☐ No

b. If yes, which system enables him to gain the most relevant knowledge about a case?

☐ Individual ☐ Master

c. Why? \_\_\_\_\_

12a. Do you believe that judges should work with the same prosecutor and public defender for a period of time? ☐ Yes ☐ No

b. Why? \_\_\_\_\_

Below are listed a series of indices relating to the efficiency of a calendar system. Based on your personal experience, would you give us an opinion as to which calendar system employed by the court is most efficient relative to these indices.

	<u>INDIVIDUAL</u>	<u>MASTER</u>	<u>NO SIGNIFICANT DIFFERENCE</u>	<u>NO OPINION</u>
13. Minimizing court appearances.	_____	_____	_____	_____
Comment: _____				
14. Scheduling pretrial phases of cases.	_____	_____	_____	_____
Comment: _____				
15. Scheduling trials.	_____	_____	_____	_____
Comment: _____				
16. Minimizing dilatory tactics.	_____	_____	_____	_____
Comment: _____				
17. Disposing of related cases.	_____	_____	_____	_____
Comment: _____				
18. Maximizing the use of available judge time.	_____	_____	_____	_____
Comment: _____				
19. Maximizing the use of available trial attorney time.	_____	_____	_____	_____
Comment: _____				
20. Reducing incidence of trailing.	_____	_____	_____	_____
Comment: _____				
21. Disposing of special proceedings, e.g., writs, uncontested probate, etc.	_____	_____	_____	_____
Comment: _____				
22. Equitably distributing judicial workload among available manpower.	_____	_____	_____	_____
23. Minimizing duplication of judge time and effort regarding a given case.	_____	_____	_____	_____
Comment: _____				
24. Eliminating judge-shopping.	_____	_____	_____	_____
Comment: _____				

25. How would you rate the overall efficiency of each system on a scale from 1 to 10 (10: highest)?

\_\_\_\_ Individual  
 \_\_\_\_ Master

26. In which system would you prefer to work?

\_\_\_\_ Individual  
 \_\_\_\_ Master  
 \_\_\_\_ Other: \_\_\_\_\_  
 \_\_\_\_ No preference

27. Do you think that another system could be devised which would be more efficient than the individual or master calendar systems?  
 \_\_\_\_ Yes \_\_\_\_ No

b. If yes, can you describe it? \_\_\_\_\_

ATTORNEYS:

1. In practice, to what extent are you able to maintain continuity of representation with individual clients (excluding arraignments)?

Individual: \_\_\_\_\_

Master: \_\_\_\_\_

2. Do you prefer to have one judge handle your case from start to finish, or do you prefer to have a different judge hear motions, handle settlement conferences, try the case, etc.?

\_\_\_\_ One judge \_\_\_\_ Different judge

Why? \_\_\_\_\_

- 3a. Does the type of calendar system significantly affect the costs and expenses of presenting a case (witnesses required, attorney preparation time, etc.)? \_\_\_\_ Yes \_\_\_\_ No

- b. If yes, which system best minimizes these expenses?

\_\_\_\_ Individual \_\_\_\_ Master

- c. Comment (How?): \_\_\_\_\_

APPENDIX 5  
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<sup>1</sup>This bibliography is not intended to be exhaustive. It includes only sources cited or relied on extensively in this study.



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## APPENDIX 6

## LIST OF PERSONAL INTERVIEWS

CaliforniaAlameda County Superior Court

Russell D. Cramer  
Criminal Court Co-ordinator

Contra Costa County Superior CourtJudges

Hon. Richard E. Arnason  
Hon. Richard P. Calhoun  
Hon. William R. Channell  
Hon. Robert J. Cooney  
Hon. Jackson C. Davis  
Hon. Coleman F. Fannin

Hon. Norman A. Gregg  
Hon. Samuel W. Hall  
Hon. Thomas F. McBride  
Hon. Martin E. Rothenberg  
Hon. Max Wilcox, Jr.

Administrative Personnel

Wilfred O'Neill  
Court Administrator

Los Angeles County Superior CourtJudges

Hon. Harold J. Ackerman  
Hon. Newell Barrett  
Hon. Earl C. Broady  
Hon. E. Talbot Callister  
Hon. Raymond Choate  
Hon. Joseph J. DiGuseppe  
Hon. William Drake

Hon. Daniel L. Fletcher  
Hon. Richard A. Gadbois, Jr.  
Hon. Leslie W. Light  
Hon. Alfred J. McCourtney  
Hon. Kathleen Parker  
Hon. Peter S. Smith

Administrative Personnel

William E. Cain  
Criminal Courts Co-ordinator

Frank Zolin  
Executive Officer

Joe Kavanaugh  
Civil Courts Co-ordinator

Attorneys

Irwin N. Bloom  
Deputy District Attorney

Michael H. Demby  
Deputy Public Defender

Theodore Fasteau  
Deputy Public Defender

Robert Fletcher

Paul Geragos

Alex Kahanowicz  
Deputy District Attorney

Bernard Rosen  
Deputy Public Defender

Leonard Shaffer  
Deputy District Attorney

Richard Walton

Oakland-Piedmont Municipal Court

George Dickey  
Chief Clerk

San Francisco County Superior CourtJudges

Hon. Walter F. Calcagno  
Hon. Joseph Karesh

Hon. R. W. Merrill

Administrative Personnel

Bernard Ward  
Executive Officer

Attorneys

Robert Nicco  
Public Defender

John J. O'Brien  
Assistant District Attorney

San Francisco Municipal CourtJudge

Hon. Albert C. Wollenberg, Jr.

Administrative Personnel

Byron W. Kane  
Executive Administrator

Kong Yee  
Deputy Chief Clerk-Criminal

San Jose-Milpitas Municipal CourtJudges

Hon. William J. Harris  
 Hon. Gerard J. Kettmann

Hon. Arvin O. Robb

Administrative Personnel

Mary Russo  
 Chief Deputy Clerk

Joseph Speciale  
 Chief Clerk

San Mateo County Superior CourtJudge

Hon. Robert D. Miller

Administrative Personnel

Stephen Bouch  
 Assistant Court Administrator

Attorney

Robert Bishop  
 Assistant District Attorney

Other CourtsCuyahoga County Court of Common Pleas (Cleveland, Ohio)Judges

Hon. John V. Corrigan  
 (Appeals Judge)

Hon. G. Roy McMahon  
 Hon. George McMonagle  
 Hon. Thomas Parrino  
 Hon. August Pryatel

Hon. Adrian Fink Jr.  
 Hon. John McMahon

Administrative Personnel

Howard Reid  
 Deputy Court Administrator

Attorneys

John T. Corrigan  
Prosecuting Attorney

Joseph Donahue  
Deputy Prosecuting Attorney

Gerald Gold

Roger Hurley  
Public Defender

Craig Spangenberg

New York City Civil Court (New York, New York)Judge

Hon. Bentley Kassal

New York City Criminal Court (New York, New York)Judge

Hon. Irving Lang

Administrative Personnel

Bernard Newman  
Deputy Executive Officer

Roderick Lankler  
District Attorney

New York County Supreme Court (New York, New York)Judge

Hon. Edward R. Dudley

Administrative Personnel

Thomas Galligan  
General Clerk

Max Sirkus  
Chief Clerk

Attorneys

Marvin Ausebel

Ursula Bentele

Philadelphia Court of Common Pleas (Philadelphia, Pennsylvania)Judges

Hon. Stanley Greenberg

Hon. Thomas Shiomos

Wayne County Circuit Court (Detroit, Michigan)Judges

Hon. Victor Baum

Hon. Horace W. Gilmore



Hon. Theodore R. Bohn  
 Hon. George E. Bowles  
 Hon. Neal Fitzgerald

Hon. Joseph A. Moynihan, Jr.  
 Hon. Joseph G. Rashid  
 Hon. Joseph A. Sullivan

#### Administrative Personnel

Jack Breckenridge  
 Chief Deputy Clerk

L. M. Jacobs IV  
 Administrator

#### Attorneys

Ivan E. Barris  
 William P. Cooney

Murray Slomovitz  
 Deputy Prosecuting Attorney

Max Silverman  
 Deputy Defender

#### Federal District Courts

##### Judge

Hon. Hubert Will  
 Northern District of Illinois

##### Clerks

Stuart Cunningham  
 Northern District of  
 Illinois

Walter Moniz  
 Northern District of  
 California

Edward A. Koplowitz  
 Northern District of  
 California

Alan Pettigrew  
 Northern District of  
 California

#### Other Interviewees

Richard F. Coyne  
 Chairman  
 Economic Development Council  
 Supreme Court Task Force  
 New York, New York

Steve Madsen  
 Director  
 Cleveland Bar Association  
 Court Management Project  
 Cleveland, Ohio

Lewis R. Katz  
 Professor  
 Case Western Reserve Law School  
 Cleveland, Ohio

Paul Nejelski  
 Director  
 Institute of Judicial  
 Administration  
 New York, New York

**END**