The Dynamics of Long Term Detainee Cases: A Study of Kings County

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Introduction

Prior to the inception and implementation of New York State Division of Criminal Justice Services' Special Detainee Program, trial delays of one year or more for detainees were prevalent in most serious felony cases in the New York City criminal justice system. The application by DCJS of specialized methods and considerable resources to this persistent problem has reduced the one year and older detainee population to minimal levels. A substantial reduction in the population of detainees awaiting trial six months or longer has also been registered.

To augment the operational program, DCJS has undertaken a comprehensive analysis of the "causes" of long term pre-trial detention in New York City. The results will be incorporated in a final report suggesting procedures for preventing a recurrence of long-term detention. The analysis presented here and one other, The Causes of Long Term Pre-trial Detention in Kings County: A Preliminary Descriptive Analysis, represent the first reports in this series.

This report will examine the dynamics of long term detainee cases. Among the component questions addressed are:

- What are the salient characteristics of long term detainee cases?
- What factors in the adjudicatory environment contribute to pre-trial felony delay?
- What roles do the various participants (defendants, prosecutors, attorneys, and judges) and agencies play in the movement (or lack of movement) of the cases through the system?

The report is predicated on two assumptions. First, that the adjudicatory system is best understood as a behavioral process. Thus, emphasis is placed on the interactions and goals of the multiplicity of participants involved in the decision making process. Second, and closely related to the first assumption, is that the responsibility for the movement of cases through the maze of the process is mutual to the parties. Under these assumptions the justice system (in particular, the adjudicatory process) is viewed as a set of "exchange relationships" among the parties, in essence a market-type framework in which the decisions of the various actors are accommodated (Cole, 1970, Blumberg 1967).[1]

During the month of September 1977 the DCJS staff selected fifty long-term cases for intensive qualitative study from the three original target counties (Kings, Manhattan and Bronx). Included were one year and older cases pending as of June 7, 1976 and disposed of prior to September 1, 1977. Pending cases were excluded in order to avoid any conflict of interest or intrusion into the ongoing process. This report is limited to the eighteen sample cases in Kings County, where the available data sources were relatively complete, consistent, and readily interpretable.

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(1) In order to provide a picture of the dynamics of this framework, a qualitative research design was implemented. The objectives of this research design were to highlight the decision-making rationale of the actors and identify any other critical factors related to pre-trial delay.

The first phase of the study involved obtaining and collating data from the District Attorney's records. Factors examined included the nature of the case, its weaknesses and strengths, plea negotiation history, and final outcome for each of the indictments against a defendant. The written records, however, revealed only the outlines of the cases and limited insight into the individual case dynamics. It was essential that information be collected directly from the judicial, prosecutorial and defense perspective. Interviews were scheduled with the assistant district attorneys, defense counsel, and judges to discuss specific long-term cases and general pre-trial delay. The study is based upon twenty-two interviews (four with judges, ten with prosecutors, and eight with defense attorneys were held). Defendants were not interviewed, given the staff's limited time and resources and the defendants relative inaccessibility. The role of the defendant in case delay was recreated from the information provided by the other participants.

Before presenting the results, a number of factors pertaining to the study's methodology should be noted. An open-ended unstructured interview was used. This type of research instrument provided the flexibility necessary to obtain data from a number of practitioners with different functions. Access to and the availability of all the relevant parties was not possible. Assistant district attorneys and Legal Aid defense attorneys were extremely hard to locate.(2) Poorly kept

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(2) Most of the cases had been closed at least one year prior to the start of the research and these agencies and services suffer from high turnover rates and high mobility.

records, even in Kings County, in some instances made it extremely difficult if not impossible to determine the relevant participants at critical decision points.[3] Also it should be noted that given the extended nature of these cases, there were numerous parties involved (i.e., several judges, prosecutors, and defense attorneys) which often precluded correlating a specific actor with a given critical decision. (On occasion a participant could not recall who was responsible for what). Only a few of the participants (mostly defense attorneys) refused to be interviewed. In a number of cases alternative interviewees were provided. This was at times helpful, but more often than not their comments were based on a cursory examination of the written record. (However, their general comments on pre-trial delay were insightful).

The fact that many of the cases had been closed for a considerable period of time often taxed the actors' recollection.[4] Some statements by the interviewees were self-serving and not completely candid. However, some control was exercised through triangulation (where the statements of one actor was compared to his opposite number for convergence or divergence, and both were compared to the written record). Choosing

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(3) Even when a name was associated with an event, sometimes the actor identified was simply performing in a perfunctory capacity and therefore, had little familiarity with the dynamics of the specific case (i.e., an assistant district attorney appearing only to accept a guilty plea).

(4) During the interviews, despite prompting from the written record, case specificity was often not achieved, where it was, however, in some instances there was an inability to articulate the real reason for a decision.

"cases for analysis" for their extreme and exceptional character is likely to yield results that are indeed extreme and exceptional, reflecting practices and events that are unique to those particular cases. Despite these caveats, however, a detailed picture of the general causes and dynamics of long term pre-trial felony delay in Kings County emerged.

Findings

The most salient characteristic of long-term detainee cases is that they are not susceptible to disposition. The interviews revealed four sets of factors that account for this insusceptibility:

1. The existence of disincentives in the long term case that inhibit obtaining a negotiated plea;
2. Disincentives in the justice system that severely curtail the use of the trial option;
3. Procedural problems that arise out of the discrete characteristics of certain types of cases; and
4. Structural problems which result from the interaction of multiple agencies.

Any single set of factors or combination of sets of factors may be operative in a specific case. Also, the mechanics of certain types of cases tend to compound the effects of these factors. Cases involving multiple-defendants and multiple-indictments fall within this category.

Factors one and two are highly interdependent. Much of what takes place in plea negotiations is directed toward demonstrating what would happen if the case went to trial (Eisenstein and Jacob, 1977), and the decision to dispose of a case through a negotiated plea is a matter of compromise because the involved parties consider it to be the best solution under the circumstances.

Consistently over the last few years, 90% - 95% of all convictions in the Supreme Court have been achieved through plea-negotiations (State Commission of Investigation, 1975). This is not unusal in a congested urban court system. Under existing conditions, plea-bargaining is no longer simply considered to be a viable option, but a necessity in order to maintain the operation of the system, a system characterized by those interviewed as a "waiting game" between the defense and the prosecutor.

The essential ingredient in any plea negotiation is the prosecutor's willingness to accept a plea and the defendant's willingness to offer his or her plea in lieu of an outcome at trial.

The Defendant

The long-term detainee population is composed of career criminals, (sixty percent predicate felons and only one percent had no prior felony arrests, DCJS, 1977) charged with very serious crimes (seventy-six percent charged with violent crimes and nineteen percent charged with drug crimes, DCJS, 1977) and facing potentially long prison terms. All of those interviewed agreed that given the serious nature of the crime charged and the defendant's "heavy" criminal record, the defendant had nothing to lose by

delaying the case as long as possible. A defendant facing a long prison term, whether he pleads guilty or goes to trial, therefore has less incentive to plead and more incentive to go to trial. The defendant hopes for the case to deteriorate over time (e.g., the complaining witness loses interest, key witnesses move away, people's memories of salient facts fade). Case deterioration enhances the defendant's probability of receiving an acquittal or dismissal. A number of examples from the long term sample illustrate this point.

In one two-year old rape case that ended in dismissal, an assistant district attorney noted:

> "Immediately prior to moving this case to trial is was determined that the complaining witness had become both reluctant and hesitant about testifying and informed [the] investigators that she would refuse to testify at the trial. It was also determined that one of the necessary police officers had retired from the force six months ago."

This was the outcome after approximately fifty court appearances. Similarly, a "strong" M.O.B. (Major Offense Bureau) case was weakened when it was discovered the police officer was no longer on the force, having been suspended twelve months after the arrest.

In a drug case, an assistant district attorney stated that:

> "In preparation of the case for trial it was detemined that the undercover police officer is no longer able to identify the defendant in court as the person who committed the crimes in the indictment."

The police officer had made the arrest two years earlier.

A robbery indictment was dismissed due to the fact that two witnesses were no longer cooperative sixteen months after the date of the indictment.

One rape case was dismissed because the complaining witness refused to testify. She had testified previously, three months earlier, in another rape case against the same defendant, where she had been told that she would not have to testify again, because it was felt a plea was expected and there would be no trial. The assistant district attorney involved indicated that if the second trial had taken place closer in time to the first, the complaining witness most likely would have testified resulting in a second conviction. The defendant successfully avoided any additional prison time.

A two year old robbery case resulted in a dismissal because, according to the assistant district attorney;

> "Mr. P. initially said he looked at the defendant's face for about one minute, later he said only a few seconds.
>
> At hearing, two years later, Mr. P. was unsure if perpertrator had hat, eyeglasses, or beard (he had none on original description)."

Besides the witness problems created by protracted delay, the availability of key evidence can also be adversely affected. The following information gleaned from the records of a murder case illustrates the point:

> "May of 1976 [thirteen months after arrest], Mr. B., the stenographer was given a typewritten transcript of a redacted statement of a defendant, Mr. T., at a homicide trial in Kings County Supreme Court.

> Mr. B. was told to check this transcript against his notes - unable to locate his notes, thirteen months later, he created a new set of notes. Mr. B testified under oath that the notes were the original set of notes of the defendant's confession. The following day, Mr. B. admitted to the A.D.A. that he had lost his original notes and had recreated a new set.
>
> Because of B's action, we were not able to offer into evidence the original written confession taken from the defendant on trial. The case was somewhat weakened by our inability to do that, and in view of the fact that we could not say with reasonable certainty we could convict the defendant - [we should] offer the defendant a plea to manslaughter 1° - top ten years - good disposition from our point of view."

Defendant "T" pled guilty to Manslaughter 1° and was sentenced to three years.

The preceeding examples attest to the occurence of case deterioration over time, and the impact of this reality is not lost on the "savvy" long-term detainee. As one Legal Aid Society attorney stated" "It is common knowledge in the jails that the longer a case drags on, the better off he [the defendant] is." The defendant's hope for case deterioration is often fueld by jail-house lawyers as well as by defense counsel. (For a more detailed discussion see page seventeen).

In addition to the possibility of dismissal, there exists the general belief among those interviewed that prosecutors will provide a better deal to a defendant who "waits them out". The following table presents a number of examples that illustrate this point:

	Crimes Classification	Minimum Sentence	Maximum Sentence
Case A			
8/74	Charge A II	15-25 yrs.	Life
9/74	Offer A II	8 1/2 yrs.	Life
9/75	Offer A II	6 yrs.	Life
8/76	Offer A III	5 1/2 yrs.	Life
9/76	Accept Offer A III	3 yrs.	Life
Case B			
3/75	Charge Murder 2° (A-I)	15-25 yrs.	Life
5/75	Offer Man. 1° (B)	12 1/2 yrs.	25 yrs.
8/75	Offer Man. 1° (B)	8 1/2 yrs.	25 yrs.
6/76	Accept Offer Man. 1° (B)	3 yrs.	10 yrs.
Case C			
11/74	Charge Murder 2 (A-I)	15-25 yrs.	Life
1/75	Offer Man. 1° (B)	-	15 yrs.
9/75	Offer Man. 2° (C)	-	10 yrs.
6/76	Accept Offer Man. 2° (C)	-	5 yrs.
Case D			
1/75	Charge Robbery 1° (B)	-	25 yrs.
10/75	Offer Robbery 1° (B)	-	20 yrs.
6/76	Offer Robbery 2° (C)	4 yrs.	8 yrs.
9/76	Accept Offer Robbery 2° (C)	3 yrs.	6 yrs.
Case E			
5/75	Charge Kidnapping 1° (A-I)	-	Life
4/76	Offer Kidnapping 2° (B)	-	25 yrs.
6/76	Offer Kidnapping 2° (B)	-	15 yrs.
9/76	Accept Offer Attempt Kidnapping 2° (C)	-	3 yrs.

The reductions in the severity of the plea offer reflect both the weakening of the case over time and prosecution's desire to accommodate the defendant in order to obtain a disposition. It should be noted, however, that in these cases despite pleading to reduced charges, the sentence offers were still "heavy" by conventional standards.

With an extended prison sentence looming, the defendant has more incentive to go to trial. In fact, the trial rate for a long term detainee is twice that of the felony population as a whole. However, this option entails considerable risks and high costs for the defendant, namely the high probability of conviction and the likelihood of receiving a longer sentence after trial. According to the earlier study (DCJS, 1977) of the long term detainees who pled guilty, only twenty-two percent received prison terms in excess of sixteen years, whereas eighty percent of those long term detainees convicted after trial received prison terms in excess of sixteen years, (prison terms refer to maximum sentences and are not controlled for the crime charged). Thus, the costs of going to trial are considerable. Several examples illustrate this point:

Defendant "R"	Offered A-II (6 - life) Convicted A-II (15 - life)
Defendant "C"	Offered Man 1° (8 1/3 - 25) Convicted Murder 2° (15 - life)
Defendant "D"	Offer Man 1° (10 - 20) Convicted Murder 2° (25 - life)

The three cases above seem to indicate that there is indeed an additional penalty imposed on those defendants who refuse to plea and are subsequently convicted at trial. However, it should be noted, that the

sentence after trial was not much more severe than the "heavy sentence" offered during the plea negotiations, and therefore, these cases do not account for the significant difference in the maximum sentence levels for those who plead guilty and those convicted after trial. If these defendants had pled guilty, the maximum sentences they would have received would have been more in line with the sentences meted out to the trial group.

The examination of these cases leads to the conclusion that the large discrepancies in sentencing reflect the influence of other factors (i.e., the nature of the crime charged, the defendant's prior criminal history, and the strength of the case). Further research in this area is warranted in order to get a firmer fix on the salient variables.

Despite the high risk of incurring additional jail time there remains the very real possibility that these defendants felt that they would be acquitted. D.C.J.S.'s earlier study indicates "that this was on the average, an unrealistic assumptions." (The conviction rate for the sample was 80%). The major reason for acquittals were witness related problems, (for a more detailed discussion see page twenty-five). This fact coincides with the views expressed by the interviewees that "delay was often used by the defense as a means of frustrating the State's witnesses".

In summary, the data pertaining to long-term detainees confirms that for most of the defendants substantial prison time awaits regardless of whether they plead guilty or are convicted after trial. Under these conditions, as one assistant district attorney puts it,

> "The fundamental tactic of the defendant is to delay given the harsh penalties awaiting him",

and according to an experienced trial lawyer,

"Most of these defendants just do not want to go to trail".

Not only do these defendants not want to go to trial, but by being career criminals familiar with the process, they can successfully avoid trial for long periods of time. For as one assistant district attorney states,

"If you have a defendant who knows the system he can easily delay the case for a year or more".

The Attorney-Defendant Relationship

The attorney-defendant relationship in the long term detainee case can be fairly well characterized as being tumultuous. The early study (DCJS, 1977) revealed that "change of defense attorney" appeared as a reason for adjournment on an average of more than one such instance per defendant for that sample. The examination of the District Attorney's records conducted for the smaller sample utilized in this study reveals an average of 2.3 attorneys per defendant.(5)

The number of defense attorneys per defendant ranged from one to four. Fully eighty percent of the long term detainees had two or more attorneys assigned during the disposition period of the case. Thirty-three percent had three or more defense counsel assigned over the disposition period.

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(5) This information was obtained, not from the assistant district attorneys' listed reasons for adjournment, but from the area of the case jacket designated for identification of the "Defense Counsel" with corresponding address and phone number. This information was maintained for the purpose of communicating with the current defense counsel. The names of the previous defense counsel were maintained, though they were often crossed out by a single line. Also the dates counsel were assigned were often obtainable from the case jacket.

Even though changes of defense attorney accounted for only three percent of all the adjournments (DCJS, 1977), their impact on the duration of the case is considerable. Numerous additional delays result from these changes. The newly appointed defense attorney must familiarize himself with the case and attempt to develop a rapport with the defendant. In addition, a flurry of motions and hearings usually follows shortly after the arrival of a new defense attorney.

A complete explanation of this major problem is not possible, but the research illuminated a number of possible contributing factors. One of the basic factors for the frequency of changes in defense counsel was the attitude of the defendant. Prosecutors, judges, and defense attorneys agreed on this point. As indicated earlier, almost all of these defendants were in no hurry to reach any sort of disposition given the jail time awaiting them. This fact almost automatically created conflicts with defense counsel. Some defense counsel realized that it was in the best interest of their clients to plead. The defense counsel perceived their role to be that of a "mediator" between their client and the prosecutor. A number of comments by participants allude to this role:

> "My role in this case was to negotiate a plea. A plea that was the best I could do under the circumstances." (Defense Attorney)

> "The defense attorney must convince the defendant of the realities. Often this entails convincing him to plead." (Defense Attorney)

> "My role in this case was to try to convince the defendant to plea." (Defense Attorney)

"Conflicts arise because the defense attorney must induce the defendant to take a plea." (Assistant District Attorney)

"The case reaches a point where the defense attorney must talk the defendant into taking a plea." (Assistant District Attorney)

Defense attorneys stated that there was little, if anything, they could do to bring a case to a close if they did not have a good working relationship with their client; for example, "If a defendant does not trust you, you (the defense attorney) can not do anything". The mere talk of pleas creates an atmosphere within which the defendant feels pressured and thus perceives his attorney as not being on his side. Also, what seems reasonable and best practice by counsel is often seen as a sellout by the defendant, especially a defendant who wants to "avoid paying the piper". Thus, according to those interviewed, conflict ensues.

"The defense attorney could not get along with the defendant. This may be due to the defense attorney's assessment to accept a plea (offer was 7 1/2 to 15). This position by the defense attorney often breeds hostility in the defendant and is not that unusual." (Defense Attorney)

"In Kings County, it is not that easy for a defense attorney to be relieved of a case, unless the defendant wants another attorney. Often defendants do not like their attorney, because he pushes the defendant to plea." (Assistant District Attorney)

Personality conflicts also led to a change of defense attorneys. A good number of long term detainees were characterized as haughty, arrogant and obstinate. For one reason or another, the defendants in a number of cases refused to cooperate with their attorneys. Working relationships were difficult, if not impossible, to achieve and not surprisingly, the end result was often the relief of the defense counsel.

"The defendant has a chip on his shoulder. This created difficulties with every one of his attorneys". (Defense Attorney)

"The defendant was so arrogant, I could not develop a good relationship with him. I had such problems, I could not do anything". (Defense Attorney)

An important element in the formation of a defendant's attitude is the amount of out of court contact with their attorneys. The fact that the realities of criminal practice in New York City precludes much of this contact creates an atmosphere in which the defendant feels that the personal and individual aspects of his case are ignored. Resentment and hostility usually results and again this impinges on effective attorney-client working relationships.

"The defense attorney is an extremely busy attorney with little time, although he is good. This situation usually instills resentment and hostility in the defendant". (Assistant District Attorney)

Also some defense attorneys do not try to convey to their clients any sense of interest and concern. This often contributes to a defendant's hostile and angry outlook.

"The defendant may not have trusted the defense attorney due to a lack of attention from his first attorney, who showed a lack of concern. This happens in a number of instances". (Assistant District Attorney)

As indicated earlier, most of the long term detainees have had previous experience in the Criminal Term of State Supreme Court. Many

of the defendants "knew the ropes of the system", and know if they did not cooperate the process would become snarled since time was on their side. A number of defense attorneys stated that the act of changing defense attorneys was a dilatory tactic used by their clients to buy time. Judges are extremely hesitant about denying such requests for three reasons: (1) a firm belief in a defendant's right to adequate and fair respresentation, (2) the fear that a denial may contribute to the commission of a reversible error, and (3) an effort to keep the defendant reasonably satisfied and, thus insure the defendant's cooperation throughout the remainder of the proceedings and plea negotiations.

A number of these defendants were characterized as jail house lawyers. They were aware of case deterioration and, according to those interviewed, attempted to run their case by themselves. They demanded that particular motions be filed, for example, or insisted on the presentation of implausible alibi evidence which may have antagonized the jury. They were insistent on obtaining unnecessary documents and requesting unnecessary hearings and procedures. As one seasoned defense attorney stated: "jail house lawyers jerk the case along". Another states:

> "These jail house lawyers want everything because they do not want to go to trial".

The fact that these tactics are dilatory in nature is recognized by the participants, but they are willing to go along with them in order to maintain a working relationship with the defendant. An experienced trial judge stated:

> "These defendants, who are jail house lawyers tend to want to run their own cases. Many of the items they insist on are frivolous and dilatory. However, even if I recognize a motion as being dilatory, I will often grant it, if I believe it will keep the process going by placating the defendant".

As one defense attorney states:

> "These defendents want all they feel they are entitled to and this takes considerable time. Defense attorneys go along with this to satisfy their clients. It is an effort to convince the client that the attorney is on his side".

Also when examining the use of frivolous motions and requests for change of defense attorneys, one cannot ignore the "symbolic" purpose they serve for the defendant. There are a number of psychological factors at work. Often the defendant feels powerless. A judge pointed out that one means a defendant has of coping with the situation is by changing his defense attorney:

> "Defendants want the ability to control and choose - to hire and fire their attorneys. This is important to them".

Previous studies have indicated that this is a major reason why defendants prefer privately retained attorneys, despite the fact there is no demonstrable difference in the nature of case outcomes.

If the defendants were not jail house lawyers themselves, they often fell under the influence of these self-anointed lawyers during their extended period of per-trial incarcerations (at least one year). A defense attorney states:

> "One defendant talks to another defendant - who convinces him what should be done. It is difficult not to provide all the information to him, no matter how irrelevant".

If the information is not forthcoming "the defendant often requests a change of defense attorney on the advice of the jail house lawyer who claims that the defendant's assigned attorney is not working for him", according to one judge. (6)

All of the defense attorneys interview stated they were determined not to let the defendant run his own case and thus conflicts arose with their clients with the result being a change of attorney. Also, as stated by one experienced trial attorney:

> "There are enough incompetent, inexperienced or intimidated defense counsel around who are manipulated by the experienced defendant to create plenty of problems for the courts. Some of these defendants can frighten the defense attorney. If that happens the case will take forever".

Defense Counsel

The contribution of defense attorneys to the delay of felony cases is considerable. One indication of the magnitude is an analysis of the reasons and requests for adjournments conducted in the earlier DCJS study. Fully thirty three percent of all adjournments were attributed to the defense (this does not include an additional 10% of the adjournment were attributed to the defendant not being present or produced). These findings when controlled by the type of case are very much in line with the findings of the Court Monitoring Project (Fund for Modern Courts, 1976).

(6) A number of defense attorneys and assistant district attorneys pointed to cases where the influence of jail house lawyers not only contributed to the delay of a case but also to more harsh treatment of the defendant. These instances concerned the withdrawal of guilty pleas which subsequently resulted in the conviction at trial for the defendant.

The interviews revealed that the reasons for this situation revolve around: 1) the tactical considerations of defense counsel; and 2) the circumstances and quality of defense services in New York City.

Even though all of the defense counsel indicated that they can proceed to trial fairly quickly, they also stated "it is not often in their clients' best interest". Many of the defense counsel agreed that: 1) delay has an adverse effect on the state's case (case deterioration); 2) that delay improves their clients' position when entering into plea negotiations; and 3) the older the case is, the better the deal from the prosecutor.

All the judges interviewed took the position that defense attorneys encourage their clients to hold out as long as possible. One judge stated:

> "Defense attorneys do not want a speedy disposition. They hope for case deterioration. Their clients are going away for a long time. What have they got to lose?"

And another reiterated this position:

> "Defense counsel favors delay. The lawyers tell the defendant not to plead because the case will not go to trial for a while."

Most of the prosecutors shared this outlook. As one assistant district attorney stated:

> "The defense attorney makes a significant contribution to delay by advising his client to withhold his plea to the last minute."

The defense attorneys defended their delaying tactics on two grounds. First, as indicated earlier, they perceive their role to be that of a mediator. Thus their function is to delay the case, as one defense attorney puts it:

> "Until the prosecution makes an offer that I can accept and that I can sell to my client."

Second, they engage in delay in order to get an offer commensurate with what they consider to be the true worth or "market value" of the case. An experienced trial attorney states:

> "That delay is often necessary due to overcharging. Overcharging leads to delays. Overcharging results from the prosecutor's belief that 95% of the defendants are guilty, if not of the specific crime, of some crime. Therefore, it takes time to find the true market value."

Also defense counsel defended themselves from the criticism of the judges and prosecutors by saying their perceptions are distorted. Judges and prosecutors are basically concerned with administrative efficiencies - "moving cases" - and not with the protection of their clients rights.

Judges and prosecutors also accused the defense counsel of requesting perfunctory, unnecessary and dilatory motions. One judge expressed considerable irritation with defense attorneys who,

> "Simply request u[illegible]essary and perfunctory motions. Often there is no issue, no question of fact that forms the basis of the request."

Defense attorneys rebutted this on two grounds: 1) a number of these motions may be perfunctory, but they are necessary for the maintenance of a working relationship with their client; and 2) in many instances they are necessary due to tardy, inadequate or limited disclosure from the prosecutors. Defense attorneys were very critical of the prosecutors disclosure procedures. They agreed that the Voluntary Disclosure Form was good in theory but bad in practice. They claim little care is given by the prosecutor in providing information to the defense counsel. One defense attorney went as far as stating that he automati-

cally subpoenas all records and information he needs since much of it is not forthcoming from the District Attorney's Office. Most defense attorneys indicated cases would move much more quickly if there was meaningful disclosure and case conferences.

An understanding of pre-trial felony delay must be also grounded on an awareness of the circumstances and quality of defense services in New York City. Our basic concern is with 18-B and Legal Aid attorneys who have been assigned to the long term cases. Representation by privately retained attorneys is negligible in long term cases (approximately fifteen percent).

The interviews reveal almost universal criticism of the 18-B panel system. 18-B attorneys represent approximately 70% - 75% of the long term defendants. The problems with 18-B lawyers are complex.

Many of the problems, however, stem from an inadequate and antiquated fee structure. The statutory rate of compensation for 18-B work is $15 per hour in court and $10 per hour out of court. There is an upper-limit per case of $1500 in capital cases, $500 in felonies and $300 for misdemeanors. These rates of payment have not changed since 1965.

One of the results of the fee structure is that it creates incentives for 18-B attorneys to take on many more cases than they can handle. When this is coupled with the increase in the 18-B caseload (in 1976 there were 25,000 18-B appointments and about 1000 attorneys on the panels) problems arise. 18-B attorneys must try to balance a caseload which is inherently unbalanceable, the end result being a series of court adjournments due to the defense attorney not appearing. Adjournments

also tend to be longer. Attorneys also maintain a private caseload, which may take precedence. The result, according to one defense attorney, is "an unmanageable series of scheduling conflicts". This problem is further compounded by the fact that many 18-B attorneys are single practitioners.

One assistant district attorney summed up the situation this way:

> "Delay in many instances is due to the court's inability to get the lawyer there. There is a small group of good 18-B attorneys who are assigned too many cases, especially homicide cases. This creates a good number of the scheduling conflicts."

Another result of the fee structure is that it creates disincentives for going to trial. Trials, especially long trials, are anathama to the 18-B attorney. A defense attorney states:

> "That some 18-B attorneys jerk a case around prior to trial. They want to milk it for all it's worth. They seek many adjournments in order to up their claims."

18-B attorneys are simply not compensated for going to trial. Also, by often being single practitioners, trials take away valuable time from other outstanding business and limits seeking new business. Thus, as a series of judges and attorneys stated, "some 18-B attorneys bail out prior to trial". One judge put it this way:

> "There exists a real problem of pay for 18-B attorneys. If you force an 18-B case to trial, the judge is considered to be a real bastard."

Legal Aid representation of long term defendants is not very high (approximately twenty percent). The is due to several factors: 1) Legal Aid attorneys do not represent homicide cases; 2) Legal Aid has a policy of not providing a change of attorneys for a defendant (if a defendant

wishes to be relieved of his Legal Aid attorney his or her counsel will be replaced by an 18-B attorney); and 3) Legal Aid attempts to move cases faster. The primary means of achieving this is through the acceptance of a reasonable plea offer.

With an emphasis on moving cases, Legal Aid has a number of operative disincentives for going to trial. Among them are: 1) the large amount of resources that would have to be devoted to going to trial; 2) its very high case load; and 3) the lack of trial experience of its attorneys due to high turnover and an emphasis on plea bargaining.

Judges and prosecutors accused Legal Aid attorneys of contributing to the delay of cases on two grounds: 1) a continuing plethora of requests for perfunctory and unnecessary motions; and 2) by advising their clients not to plead until a better deal comes through.(7)

Prosecutors

Prosecutors want earlier trials and dispositions, they believe that delay represents a substantial barrier to effective prosecution. An assistant district attorney succinctly puts it this way; "The district attorney has nothing to gain from delay". The interviews revealed that this, however, is not always the case. The use of delay can be advantageous, sometimes for the defendant, sometimes for the prosecutor (NILECJ 1977). As one judge states:

> "Delay is not always due to the defense attorneys. There are also problems created by the prosecutor."

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(7) The last reason seems to conflict with what was stated earlier about Legal Aid attorneys being dropped by defendants who did not want to plead. However, upon closer examination, the contradiction dissolves somewhat. It basically revolves around a mix of timing and psychological factors. One, what was a reasonable plea to Legal Aid was not a reasonable plea to the defendant. Two, these defendants wanted to defer the plea to the last minute possible. This creates conflict with Legal Aid's attempt to dispose of a case quickly. And three, the participation of Legal Aid in early plea negotiations irritated the defendant

Assistant district attorneys labor under many of the same conditions that beset Legal Aid attorneys. The caseload is onerous, there is pressure to dispose of cases quickly through pleas, and there is a lack of competent support staff. Under these conditions, according to one judge:

> "The district attorney has an incentive to let the difficult case slide".

This situation was best summarized by one assistant district attorney:

> "These were a difficult series of cases and no one wanted to try the cases, thus they were pushed back due to their difficulty. This is not unusual since these cases required a great deal of time and energy, including a great deal of field work. Given the district attorney's case load and limited time and resources, cases such as this, which require extensive preparation are often subject to delay".

Another assistant district attorney states that "cases with problems get pushed back". If anything characterizes the long term detainees case it is the existence of problems. The simple fact that almost all of these defendants for a long period of time were not willing to accept a plea, created problems for the district attorneys' office.

A major contribution to the delay of cases by proseuctors are witness related problems. One assistant district attorney states that ninety-five percent of our problems are with witnesses". Witnesses do not appear because they are fearful or just not interested in the case any longer. They are extremely difficult to locate and keep track of. All the participants interviewed agreed that it was very difficult just to get the witnesses to the courthouse. According to one assistant district attorney:

> "In this case problems involving the witnesses were, (1) they knew the defendant. He was known as a "bad man" and it is difficult to overcome the fear and, (2) It is not appealing to try a case with complaining witnesses who are not credible".

District attorneys claim that with more credible and eager complaining witnesses, the district attorney could push cases more rapidly.

Judges and defense attorneys, while sympathetic to the witness problems of the district attorneys office, accuse them of "jerking the case along because he is not ready for trial due to witnesses who do not want to testify". A number of defense attorneys accused the district attorney of:

> "Relying on delay and pretrial detention, rather than the merits of a case as the basis of negotiating a plea".

An experienced trial lawyers states that:

> "All the district attorney is interested in is winning. If he has to jerk a case along in order to get a conviction, he will. If he knew the guy needed a trial he would get it".

A judge states, "the district attorney wants to prosecute just the good cases".

The prosecutors rebutted this criticism in very much the same manner as defense lawyers. Time is needed to prepare the case and time is also needed to secure the cooperation of the witnesses. A former prosecutor, now a defense attorney, states that, "it may not be fair to make them move any faster in difficult cases".

However, all the judges and most defense attorneys claimed that delay is not used by the district attorney to prepare the case in general.

This is true in a good number of cases, but the same criticism can and is leveled at the defense atttorneys. One judge claims that:

> "The district attorney is not prepared to go to trial in many cases due to witness problems. They can't win, so they drag the case out. They do not want to dismiss the case, they want the court to dismiss the case so they can blame the court".

The judge further adds:

> "There is no reason why the district attorney cannot prepare most cases. They are on the calendar well in advance of trial".

Generally, all the participants agreed that the prosecutor could use more support staff. There is a shortage of trained detective investigators. Under present staffing and case load conditions, it was felt, that full investigations and case preparations are not possible.

Defense attorneys were critical of the district attorney's office on a number of other counts. First, they were highly critical of the lack of disclosure by the district attorney's office. Incomplete and misleading information is provided to them, they claim, this results in the filing of additional motions which consume time. A number of defense attorneys accused the district attorney of hiding information. Defense counsel claims that if there was a more liberal disclosure policy, the length of motion practice would be shortened considerably. The current disclosure policy is considered unrealistic.

Second, inexperienced assistant attorneys were identified as a source of case delay. "Inexperienced A.D.A.'s are not familiar with

many of the cases" according to one attorney. "Also, their case preparation is inadequate and this creates delays". "Experienced assistants are kicked upstairs into supervisory positions". The inexperienced trial attorneys also tends to "play things closer to the vest" by refusing to disclose much information to the defense attorneys. This, according to the attorneys interviewed, necessitates additional motions and thus contributes to the duration of the case.

Also identified as a source of delay was the problem of overcharging. The assistant district attorneys claimed that instances of overcharging are rare and that "they are necessary to get a plea that reasonably corresponds to the crime committed". Thus, room for plea negotiation is built into the charging procedure. Defense attorneys state that considerable time is spent trying to establish the true worth of a case.

In summing up, a defense attorney stated:

> "The prosecutor should offer a plea or go to trial. If a case is ready, it is ready."

The district attorney's office also experiences a number of disincentives for going to trial. As with Legal Aid, some disincentives are grounded in the administrative demands of the system. The basic demand being that the district attorneys "move cases". Thus, the very high case loads and the fact that trials demand a large amount of resources reduces the desirability of trials from the district attorney's perspective.

Also, the risks of trial are great for the prosecutor. "Trial sufficiency" requires that: 1) the witnesses are available and credible; and 2) evidence is available and credible. These facts must also relate to the crime charged in the indictment and are of little value if they simply establish in the prosecutor's mind that the defendant is guilty of some crime even if not the one specified. The strength of the case is the most significant factor for the prosecutor; the jury may not bring back a verdict of guilty. The risk of an acquittal looms up large for the prosecutor. Additionally, there exists for the prosecutor the fear of a lesser conviction after trial.

The risks of going to trial are increased by the lack of litigation experience of the assistant district attorneys who are often trained by experience in the art of negotiation.

The Judge

The contribution of the judge to pre-trial felony delay is significant. The judge determines which practices will be tolerated and which will be penalized.

One valuable indication of the role of judges in the long term case is the nature and number of adjournments granted. One analysis of adjournments in the New York City Supreme Court reported that judges exhibited unnecessary leniency in granting adjournments, out of 744 requests for adjournments over a month's time, not one was denied.

On a statewide basis, the Fund for Modern Courts found that "the judiciary refused requests for adjournments in less than one percent of all the cases, and in many courts, no adjournment requests were refused". (Court Monitoring Project, 1976)

The willingness of judges to grant routine continuances was identified by all those interviewed, including the judges, as a significant problem. The following comments illustrate this point:

> "Many judges are not very vigorous. They tolerate a good number of adjournments". (Defense Attorney)

> "Judges grant too many continuances, because most judges do not take an active role in getting the case ready for trial." (Assistant District Attorney)

> "The judge must be the boss, he must be in control. There are many judges who are not [in control] and thus there are too many adjournments." (Judge)

The courtroom workgroup atmosphere contributes a great deal toward the attitude of tolerance on the part of the judges. First, all the parties see the guilty plea as the primary means of disposing of cases. The judges, like the Legal Aid attorneys and assistant district attorneys, are operating under the "administrative efficiency" rationale which demands that cases move. Most judges are not going to pressure the attorneys to determine whether a given case can be settled now or tried, if there is some chance that the case may be settled at a later time. As one judge puts it:

> "We need judges who are willing to go to trial. However, a good number of them do not hit hard and are willing to wait for a plea."

Second, the workgroup atmosphere makes it very difficult for the judges to ride herd on the defense attorneys. One judge states:

> "Judges are human. A lot of the judges like to remain friends with the defense bar. Thus, they are lax with granting adjournments, many of which are not necessary."

Another judge states:

> "The judges must work with the lawyers. They are sensitive to problems and difficulties (i.e., payment of fees) facing the defense bar."

With many courtrooms being run for the convenience of attorneys, one assistant district attorney states:

> "That the courts suffer from the inability to get the lawyers there."

A fair number of those interviewed, including all the defense attorneys, indicated that the quality of the judges was an important contributing factor to delay. Because many of them are unsure of themselves and fear the commission of a reversible error, many unnecessary motions are tolerated. Also, defense attorneys state that these judges take a great deal of time arriving at even routine decisions. One assistant district attorney attributed a good portion of delay in one case to the fact that due to a shortage of judges at the time, some Staten Island judges were sitting in Kings County. Their inexperience in handling the type of cases presented in Kings county, set the calendar back for many months. One judge comments that:

> "You need firm judges who are going to push the cases along. There are many individual judges who are not firm, however, and this promotes delay by the parties."

All judges agreed that considerable improvements could be made in the way many judges operate their courtrooms. But given the huge caseload, the scheduling conflicts and the demands of the other relevant parties, one judge sums up the situation in the following manner:

> "The system does not encourage the judge to be a good manager."

Multiple-Defendant and Multiple-Indictment Cases

Many of the problems identified in the previous pages are compounded in certain types of cases. All those interviewed identified the multiple-defendant case as "always taking considerable longer". One effect of the multiple-defendant case, according to one judge, is:

> "That one defendant works with the other. The clients develop a joint delaying strategy. Often the attorney has no control of the client."

This was echoed by all the judges and many prosecutors. However, the most significant problem generated by the multiple-defendant case, according to all the interviewees, was getting all the relevant parties in a courtroom at any one time. As one judge states:

> "Often it is next to impossible to get all the parties together. One day, one attorney will show, the others will not. If the attorney shows up, often the defendant will not be produced. These types of cases will always take the longest."

A couple of examples from the sample will serve as useful illustrations of this problem.

CASE 1 (involving three co-defendants)

Date	Reason for Adjournment
4/22/75	Counsel for defendant A not present
5/6/75	Counsel for defendant B not present
5/28/75	Counsel for defendant A relieved
6/6/75	Counsel for defendant A relieved
7/14/75	Counsel for defendant A not present
7/14/75	Counsel for defendant C not present
10/30/75	Counsel for defendant B not present
11/18/75	Defendant B not produced
1/26/76	Defendant A not produced
2/10/76	Counsel for defendant C engaged
3/16/76	Counsel for defendant C relieved
3/16/76	Defendant B not produced
5/17/76	Defendant C not produced
5/17/76	Counsel for defendant B not present
5/17/76	Counsel for defendant A not present
5/18/76	Defendant C not produced
5/18/76	Counsel for defendant B engaged
5/25/76	Defendant A not produced
5/27/76	Counsel for defendant A relieved

CASE 1 (continued)

Date	Reason for Adjournment
6/14/76	Counsel for defendant A not present
7/6/76	Counsel for defendant A not present
7/6/76	Counsel for defendant B not present
7/6/76	Counsel for defendant C not present

CASE 2 (Involving three co-defendants)

Date	Reason for Adjournment
6/9/75	Counsel for defendant A not present
6/11/75	Counsel for defendant A not present
6/18/75	Counsel for defendant C not present
6/18/75	Defendant A not produced
7/10/75	Counsel for defendant A engaged
8/13/75	Defendant A not produced
9/30/75	Defendant A not produced
10/17/75	Counsel for defendant C not present
11/18/75	Counsel for defendant A engaged
12/3/75	Defendant B not produced
12/3/75	Defendant C not produced
12/3/75	Defendant A not produced
12/10/75	Counsel for defendant A not present
12/10/75	Counsel for defendant C not present
1/13/76	Counsel for defendant C not present
4/30/76	Defendant B not produced
5/5/76	Defendant B not produced
5/12/76	Defendant B not produced
9/13/76	Counsel for defendant C relieved
10/12/76	Counsel for defendant A engaged

Besides the problems created by the participants not showing up as scheduled, the multiple-defendant case also generates a tremendous volume of motion practice that consumes considerable periods of time. Plea negotiations become extremely complex due to the interrelationship of the co-defendants, (i.e., the prospect of reduced sentences and charges in exchange for incriminating testimony or statements).

Upon mentioning the problem of multiple-defendant cases to one assistant district attorney, he responded in the following way:

> "In a multiple-defendant case you are not going to have a trial in six months. You are very lucky to have a trial in twelve months."

Significant problems exist in a multiple defendant case when one or more of the co-defendant is on bail. An assistant district attorney states:

> "Multiple defendant case are always fraught with problems. It is hard to move a case when one defendant is on bail. He was in no hurry to go to trial".

There will often be unavoidable scheduling conflicts that prevent an attorney from appearing. Prosecutors, defendants, key witnesses, judges and defense attorneys will get ill at times and do take vacations. But the two examples cited above lead one to the conclusion that these factors in no way account for the extraordinary number of adjournments attributed to the nonappearance of the principal actors in these cases. It should be noted that the prosecution also suffers from these problems. This fact is hidden in the court records by one assistant district attorney simply filling in for another and then requesting a continuance. The court record in these instances simply uses the attribution "Adjournment by People" as it would for any adjournment request from the prosecution.

Cases involving mutiple indictments against a single defendant also compound many of the problems previously indentified. All of those interviewed stated that multiple indictment cases are prone to numerous delays.

Often scheduling conflicts exist among the various cases pending against the defendant. In the multiple indictment case it is not unusual

for the defendant to be on trial in another part. A number of prosecutors and defense attorneys stated that this situation was caused in part by "the failure of the judges to communicate with each other".

Multiple indictments present significant tactical and logistical problems for the prosecutor in particular. From the prosecutor's perspective it is unrealistic to proceed against the defendant until all the indictments have come in. In some cases this can take considerable amounts of time. One assistant district attorney stated:

> "That in this case it took us (the district attorneys' office) five months to get all the indictments together. It was difficult to get complete investigations of all the cases. We then had to decide which to prosecute and in what order, in order to put this guy away for a long time".

Multiple indictments complicate the plea negotation process. The strengths and weaknesses of all the cases must be weighed and then a determination of what can or cannot be used as leverage to elict a "good" plea is made.

Whether or not a particular indictment is prosecuted is often based on the outcome in a previously prosecuted indictment. One assistant district attorney provided the following example:

> "We wanted the defendant really bad. We could not try Case A before Case B. In Case B the charge was Robbery 1°. Luckily we got a conviction on Robbery 1°. If we had not gotten the conviction, we would have had problems. The outstanding indictment lingered and it was dismissed at the time the district attorney was sure there were no appealable errors in the convictions".

Article 730 Cases

Cases which involve the determination of a defendant's competency to stand trial or sanity at the time of the criminal incident were identified by those interviewed as "being always a problem". These cases which entail the use of Article 730 examinations are a good example of the interaction of the procedural and structural factors that lead to extraordinary delays.

A number of examples best illustrate this point.

CASE A

Date	Reason for Adjournment
7/14/70	Motion to confirm Art. 730 report
10/19/70	to KCH (Kings County Hospital) for observation
11/23/70	Art. 730 report pending
12/7/70	Art. 730 report pending
2/1/71	Defendant in KCH
6/30/71	Defendant found incompetent
3/14/73	2 year order of confinement
3/25/75	Art. 730 proceeding
5/21/75	Art. 730 proceeding
6/3/75	Art. 730 proceeding
6/20/75	Art. 730 proceeding
6/26/75	Art. 730 proceeding
1/19/76	Art. 730 proceeding
1/26/76	Art. 730 proceeding
2/24/76	730 hearing
3/2/76	New 730 examination ordered
3/9/76	730 hearing
7/23/76	sentenced on another indictment
9/17/76	Defendant not produced from Mattawan Hosp.
9/20/76	Bench warrant issued, lodged at Mattawan Hosp.
9/28/76	Bench warrant issued. lodges at Mattawan Hosp.
10/26/76	Bench warrant issued, lodged at Mattawan Hosp.

CASE B

Date	Reason for Adjournment
4/18/75	Psychiatric examination ordered
5/21/75	Defendant found fit on 730 examination
7/30/75	730 exam. report confirmed
9/4/75	730 exam. ordered
2/10/76	Defense attorney wants defendant examined, defendant refuses to be examined

CASE B continued

Date	Reason for Adjournment
3/4/76	Defendant now wants to be examined
4/6/76	730 exam. ordered
6/28/76	Defendant not produced, defendant not examined, 730 exam. reordered
7/26/76	No 730 exam. results
8/4/76	730 exam. results - defendant found fit
10/18/76	Defense attorney wants new 730 exam.
10/22/76	Defense attorney wants new 730 exam.
11/1/76	Psychiatric report presented

CASE C

Date	Reason for Adjournment
3/4/76	730 exam. ordered
3/22/76	730 report not ready
4/19/76	Defendant found fit
5/25/76	Defendant to be examined by private psychiatrist
6/8/76	Defense motion to confirm 730 report
6/16/76	Report confirmed, defendant found fit

As can be seen from the examples cited, some delay is inevitable since some period of confinement is necessary for psychiatric observation.

The 730 procedures consume a great deal of time. The procedures require time for motions, lengthy 730 hearings, and concommitant motions and hearings to controvert the findings of the 730 examinations. Also, additional motions and hearings follow from 730 examinations, especially Huntley hearings. As one judge states:

> "730 cases require many motions and hearings. These are often followed by a new examination. Delay is inherent in these cases".

Some assistant district attorneys claim that many 730 examinations are unnecessary. One assistant district attorney indicated that:

"Defense attorneys will use 730 exams to delay the case and to cover himself unless you have a judge on top of the situation".

Interagency Coordination

Delays that are the result of structural problems among the interacting agencies are evident in the examples presented previously. Those interviewed cited three outstanding problems. First, psychiatric examinations are not conducted expeditiously due to a lack of trained personnel. Second, psychiatric institutions are not forthcoming with relevant information pertaining to the defendant's past period of institutionalization. And, third, once a defendant has been sent to an institution, even on a temporary basis, it is next to impossible to get the defendant returned speedily for the disposition of any open indictments.

A number of other structural problems beset almost all long term detainee cases. The particular problem that loomed up large to the interviewees was the lack of coordination between the courts and the departments of correction (D.O.C. and D.O.C.S). This lack of coordination was identified as a constant source of delay.

Some idea of the magnitude of the problem was presented in the earlier DCJS study. Fully ten percent of the adjournments in the long term cases examined were due to the defendant not being produced by the Department of Correction. The costs to the court are considerable. One judge states:

"There have always been problems with the Department of Correction. Corrections often fails to produce defendants".

Although all the judges concurred with that statement, most of those interviewed stated that they "could not blame the administration of the Department". The Department is understaffed and "can't force the defendant out of his cell without a court order" according to one judge.

An examination of the court records revealed a number of instances where the Department of Correction had transferred the defendant upstate following sentencing in one of his cases, despite the fact that the defendant had one or more active cases on the court calendar. This neccesitated retrieving the defendant from D.O.C.S. which often took a considerable period of time.

Conclusion

The examination of long-term detainee cases in Kings County reveals the following factors as significant contributors to pre-trial felony delay:

* stalling by defendants with the expectation that punishment will be less severe or eliminated entirely if they delay long enough;
* stalling by defense attorneys in order to balance their caseloads, maximize payments (or minimize costs), and from their perspective serve the interests of their client;
* overworked prosecutors (resulting in difficult cases being pushed back) and occasional prosecutorial overcharging and stalling;
* inadequate District Attorney support staff;
* judges who continually grant routine continuances;
* overworked and inexperienced Defense Attorneys;
* poor calendaring control and notice procedures;
* witness related problems, such as a lack of witness co-operation and;
* lack of interagency coordination.

An earlier DCJS study reports that the median time from indictment to disposition for all 1977 felony cases in New York City was approximately six months. If the case went to trial, the disposition time was approximately nine months. These figures are comparable to many (though certainly not all) major urban areas (Eisenstein and Jacob, 1977, report

that disposition time in Chicago and Baltimore was nine months and seven and one-half months respectively). A median figure for New York City of six months to disposition seems to suggest that many of the administrative, procedural and policy problems that plague the long term detainee cases studied in this report are also operative in many other felony cases.

The consequences of delay in general and long term detention in particular are numerous and pernicious. First and foremost it undermines the American judicial system's goal to promote justice. Swift and certain justice becomes a cruel joke in many felony cases when trial never takes place due to delays. There are incalcuable costs for some defendants and their families and particularly their victims and their families in agonizing delays while awaiting the administration of justice.

Also with the passage of long periods of time, the "failing" of witnesses' memories about events and identification and the increased possibilities of mislaying crucial evidence contributes to a deterioration of the State's case. In addition, each additional day a defendant is incarcerated awaiting trial, the incurred costs of detention facilities and maintenance, transportation, and court appearances continues to mount.

A solution to the problem of pre-trial delay in New York City requires a shift in focus by those responsible for the performance of the criminal justice system. In the past, too much emphasis has been placed on creating conditions under which cases would eventually settle (plea bargaining), with little attention to the important problem of when cases will settle. Unless the importance of this problem is recognized, and a comprehensive effort is undertaken to address it, unnecessary delays will continue to plague the system.

BIBLIOGRAPHY

1. Alschuler, Albert; "The Prosecutor's Role in Plea Bargaining", University of Chicago Law Review 50 (1968-1969)

2. Alschuler, Albert; "The Defense Attorney's Role in Plea Bargaining", Yale Law Journal 84 (1975)

3. Berkson, C., Steven W. Hays, Susan J. Carbon; Managing the State Courts, (St. Paul, Minn, West, 1977)

4. Blumberg, Abraham; Criminal Justice (Chicago; Quadrangle, 1976)

5. Cole, George P.; "The Decision to Prosecute" Law and Society Review, 7 (1973)

6. Cole, George F.; Politics and the Administration of Justice (Beverly Hills, Cal., Sage, 1973)

7. Downie, L.; Justice Denied - The Case for the Reform of the Courts (New York, Praeger, 1971)

8. Eisenstein, James and Herber Jacob; Felony Justice - An Organizational Analysis of Criminal Courts,(Boston, Little, Brown, 1977)

9. Fund for Modern Courts; Court Monitoring Project - Final Report (New York, 1976)

10. Hermann, Roger, Eric Single, John Boston; Counsel for the Poor - Criminal Defense in Urban America (Lexington, Mass, Lexington Books, 1977)

11. Joint Committee on N.Y. Drug Law Evaluation; The Nations Toughest Drug Law: Evaluating the New York Experience, The Association of the Bar of The City of New York and Drug Abuse Council Inc, 1977)

12. Katz, Lewis; Justice in the Crime: Pre-Trial Delay in Felony Cases (Cleveland, Case Western, 1972)

13. Mohr, Lawrence; "Organizations, Decisions and Courts", Law and Society Review 10 1976

14. National Institute of Law and Criminal Justice; Plea Bargaining in the U.S.: Phase I Report, (Georgetown University Law Center Institute, 1977)

15. National Institute of Law and Criminal Justice; Reducing Court Delay, (University of Maryland, 1972)

16. National Advisory Commission on Criminal Justice Standards and Goals; Courts, (1973)

17. Newman, Donald; Conviction: The Determination of Guilt or Innocence Without Trial, (Boston, Little Brown, 1966)

18. New York State Commission of Investigation; The New York City Criminal Justice System: An Overview, (1974)

19. New York State Division of Criminal Justice Services; The Causes of Pretrial Detention in Kings County: A Preliminary Descriptive Analysis, (1977)

20. President's Commission on Crime and the Administration of Justice; Task Force Report on the Courts, (1967)

21. Sarat, Austin; "Understanding Trial Courts: A Critique of Social Science Approaches", Judicature 61, (1978)

22. Vera Institute of Justice; Felony Arrests: Their Prosecution and Disposition in New York City's Courts, (New York, 1977)

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