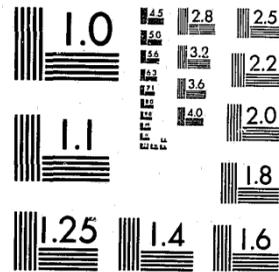


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Report

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National Center for State Courts

Northeastern Regional Office

CASE PROCESSING IN THE
YORK COUNTY COURT OF
COMMON PLEAS

May 1, 1979

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April 26, 1979

Hon. Robert I. Shadle
President Judge
York County Court of Common Pleas
Court House
York, Pennsylvania 17401

Dear Judge Shadle:

I am pleased to transmit to you our report entitled Case Processing in the York County Court of Common Pleas. It has been a very real pleasure for members of our staff to come to know judges and court employees in the County of York as we prepared the report. We hope that our recommendations will be of use to you as you go about the continuing improvement of the administration of justice in your county.

If we may provide any further assistance please call upon us.

Very truly yours,

Samuel Domenic Conti

SDC/jh
Enclosure

cc: Hon. Alexander F. Barbieri
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CASE PROCESSING IN THE
YORK COUNTY COURT OF COMMON PLEAS

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CASE PROCESSING IN THE
YORK COUNTY COURT OF COMMON PLEAS

DIGEST

The York County Court of Common Pleas is a five-judge trial court of general jurisdiction serving the eighth most populous county in the Commonwealth of Pennsylvania. While there has been only modest increase in recent years in the total number of cases filed with the court, appellate court decisions and legislative mandates protecting the rights of citizens have added to the complexity of matters before the court.

In 1973, a speedy trial rule was adopted for Pennsylvania courts, requiring that trials in criminal cases commence within 180 days after arrest. A 1975 study of disposition times showed York County's average time to be almost twice that provided in the speedy trial rule. In the study reported here, however, much better performance was indicated. From a representative sample of criminal cases filed with the York County clerk of courts in 1977 and 1978, it was found that the median elapsed time from filing of complaint to trial commencement or pretrial disposition was 140 days for 1977 cases and 135 days for 1978 cases. Figure A summarizes some of the findings of the criminal case sample.

This study also assessed the manner in which other types of cases are treated. There is often little formal court involvement in the resolution of civil cases. Most trespass cases (called torts in many other jurisdictions) are resolved by negotiated settlement within a year after initiation, although a large number take much longer. The arbitration

Figure A. ELAPSED TIME FOR 1977 AND 1978 YORK COUNTY CRIMINAL CASES^a

Description	Year	
	1977	1978
A. Days ^b from filing of complaint ^c to trial commencement or pre-trial disposition		
1. Mean	154.8	145.0
2. Median	140	135
3. Third Quartile ^d	183	170
B. Days from Common Pleas filing date to arraignment		
1. Mean	54.4	50.1
2. Median	52	53
3. Third Quartile ^d	58	63
C. Days from District Justice filing date ^c to Common Pleas filing date		
1. Mean	37.0	49.8
2. Median	20	21
3. Third Quartile ^d	35	35

- a. Source: National Center for State Courts representative sample of criminal cases for calendar years 1977 and 1978, based on date filed with and docketed by York County Clerk of Courts.
- b. This is the time period contemplated by Criminal Rule 1100.
- c. "Filing of complaint" and "District Justice filing date" are the same date.
- d. "Third quartile" represents the number of days within which 75 % of the cases were processed.

process, compulsory in Pennsylvania for trespass or assumpsit (contract) cases for which damages claimed do not exceed \$10,000, appears in York County to be a relatively quick, inexpensive and fair alternative to the traditional court process. In divorce cases, where parajudicial masters appointed from the local bar hear both contested and uncontested matters, elapsed time from petition to judgment for disposed cases sampled was an average of three or four months, although many cases remained open for a much longer period.

Sample results indicate that the court is consistently meeting statutory time limits for the adjudication and disposition of juvenile delinquency cases where the accused have been held in detention. Not so favorable, however, are elapsed times for adjudication and disposition where youths charged with delinquency have not been detained; this appears to be a consequence of difficulties for judges in finding time to hold hearings. Processing time for cases involving nonpayment of court-ordered support is unduly long, due in large part to insufficient staff in the domestic relations office. In the orphans' court division, sample case results suggest that statutory standards for the timely administration of wills are frequently unmet.

The study inspected a number of other issues related to case management. The local bar controls movement of the civil docket, with the court largely taking a laissez-faire posture. Subject to constraints imposed by the speedy trial rule and the official court calendar, the district attorney controls the criminal trial list. Assignment and scheduling of cases in the court has some attributes of a "master calendar" system, but

is closer to being an "individual calendar" system. The annual court calendar has been modified since 1977 to allow greater flexibility in scheduling by individual judges. Computer data processing, now applied in jury selection, termination of inactive civil cases, tracking support payments, and monitoring of court budgets, might best be extended to further case tracking, especially of criminal cases for the speedy trial rule. Finally, the courthouse facilities have an impact on case processing: there are problems involving availability of courtrooms and hearing rooms, and conditions are crowded for the district attorney's office and the domestic relations office.

Based on these findings, the National Center for State Courts offers recommendations for improvement. Following is a summary of the recommendations presented more fully in Chapter VI of the report:

A. General Considerations

- The "individual calendar" case assignment system should be continued
- Another judge should be appointed
- A wage survey should be conducted relating to clerical salaries

B. Criminal Cases

- Under court supervision, district attorney control of the criminal list should continue
- Efforts to reduce time for transmission of criminal cases from district justices should continue
- Prosecutorial screening of criminal cases should begin at preliminary hearings
- District justice scheduling of arraignments should be closely monitored
- Postverdict time standards are needed

C. Civil and Other Cases

- The court should move to control the civil docket
- Practice for call of the civil trial list should be modified
- There should be time standards for nondetention juvenile delinquency cases
- There should be time standards for support cases
- The court should order status reports if estate administration is delayed

D. Jury Management

- Improvements should include recording juror utilization

E. Processing and Storage of Case Information

- Broader use can be made of data processing capacity
- Filing systems should be improved
- Clerical procedures can be improved
- Training manuals should be developed for clerical personnel

F. Facilities Utilization

- Additional jury courtrooms are not needed
- Jury deliberation rooms should serve also as hearing rooms.
- Nonjury courtrooms that can serve as hearing rooms can be created by modifications of the third floor of the courthouse
- The domestic relations office should be moved out of the courthouse
- Directories should be provided for citizens
- Changes in the layout of the prothonotary's office should be considered
- If county government offices relocate from the courthouse, high priority should be given to a witness room and more space for the district attorney's office

Conclusion

Overall, conditions in the York County Court of Common Pleas are good. With the addition of another judge and the adoption of such management controls as control of the civil docket and case processing time standards, it can be expected that the court will continue to improve its essential service to the public.

CHAPTER I
THE SETTING

A. York County and the Court of Common Pleas

York County Government. With a population of somewhat more than 270,000 people, York is the eighth most populous county in the Commonwealth of Pennsylvania. Industrial manufacturing plants and agriculture form the basis of its economy. Chief administrative and policymaking governmental functions are performed by the elected, three-person board of county commissioners. Also elected is the county controller, who supervises fiscal affairs subject to the management and administration of the county commissioners.

Voters select the district attorney, who is the county's chief prosecuting officer. They also choose the sheriff, who is a county law enforcement officer and provides services to the courts. Other elected county officials include (1) the register of wills and clerk of the orphans court division of the Court of Common Pleas, who is concerned with the probate of wills and settlement of estates; (2) the prothonotary, who serves as clerk for civil matters to the Court of Common Pleas and processes applications for passports and petitions for naturalization; and (3) the clerk of courts, whose office provides clerical support to the court in criminal and juvenile matters and is the repository for various local government documents. Representing

needy criminal defendants before the Court of Common Pleas is the public defender, whose office is authorized by the Pennsylvania Constitution and by the county commissioners (who also set the salary for the position), and who is chosen by a committee of the county bar association.

York County Court of Common Pleas. Established by Article V, Section 5 of the Pennsylvania Constitution, the Court of Common Pleas for the Nineteenth Judicial District (York County) sits at York. It has general original jurisdiction of all criminal and civil cases, and conducts jury trials when necessary. The court also has exclusive jurisdiction of juvenile delinquency, dependency and neglect proceedings and its Orphans' Court Division has jurisdiction of probate matters.

The five judges of the Court of Common Pleas are initially elected to ten-year terms on a partisan ballot; each judge who desires to remain on the Common Pleas bench runs in a nonpartisan retention election for successive ten-year terms until retirement.¹ The judges appoint special masters to hear uncontested divorce cases, and arbitration panels are appointed to hear civil claims up to \$10,000 (up to \$5,000 before September 1, 1978). Along with the district attorney, the county commissioners, the county controller, and the sheriff, the Common Pleas president judge or his nominee serves on the county prison board, which exercises general oversight of the operation of the county corrections facility.

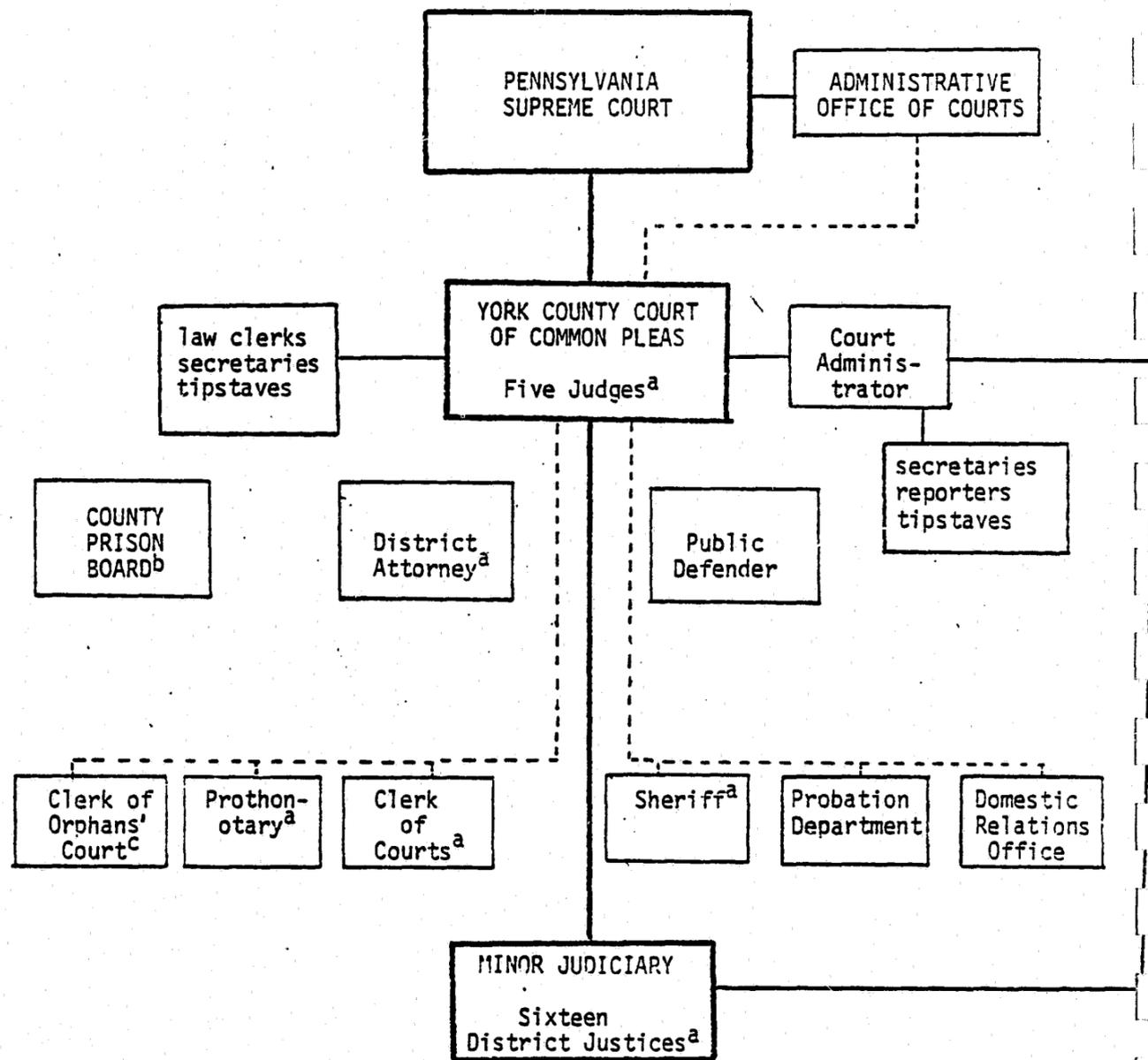
The position of court administrator is authorized by constitution and by court rule,² and actual appointment of the court administrator is made by the president judge (with county commissioners setting the salary for the position). The court administrator assigns civil cases to the judges, who then set their own schedules for pretrial conferences and subsequent proceedings. In addition, he monitors and processes arbitration cases, coordinates the work of the district justices, assists in the preparation of the court budget, and plans the annual court calendar.

The Constitution (Article V, Section 1) also authorizes Justice of the Peace Courts, and by statutory authorization³ the Pennsylvania Supreme Court has created sixteen magisterial districts in York County. The district justices, who are elected for six-year terms, must be members of the Pennsylvania Bar or must successfully complete a training course for their office. They have limited original criminal jurisdiction, conduct preliminary hearings in felony and misdemeanor cases, accept guilty pleas for some misdemeanors, and hear civil cases in which the claim is for \$2000 or less.⁴

Figure 1.1 below illustrates the relationship among the participants in the court process.

Common Pleas Workload Trends. Statistical data for the York County Court of Common Pleas show that overall case filings have not changed appreciably between 1974 and 1977. Figure 1.2 below shows statewide and county trial court caseload trends in recent years.

Figure 1.1 PARTICIPANTS IN THE YORK COUNTY JUDICIAL PROCESS



Legend: _____ Direct Accountability
 - - - - - Indirect Accountability

- Notes:
- a. Elected officials
 - b. The County Prison Board is comprised of the president judge of the Court of Common Pleas or his designee, the district attorney, the county commissioners, and the county controller.
 - c. The clerk of orphans' court is an elected official who also is register of wills.

Figure 1.2 OVERALL FILINGS* (1973-1977) IN COURT OF COMMON PLEAS FOR COMMONWEALTH OF PENNSYLVANIA AND FOR YORK COUNTY

	York County		Commonwealth of Pennsylvania	
	Number	% Change From Previous Year	Number	% Change From Previous Year
1973	5,750	--	243,315	--
1974	6,446	12.1	263,359	8.2
1975	6,663	3.4	290,757	10.4
1976	6,133	-8.0	292,186	.5
1977	6,507	6.1	288,878	-1.1

% Change = $\frac{\text{Current Year} - \text{Prior Year}}{\text{Prior Year}}$

* Includes criminal, civil, arbitration, divorce, juvenile, domestic relations, orphans' court audits, postconviction appeals, custody, mental health, adoptions and miscellaneous filings.

**Source: Administrative Office of Pennsylvania Courts, Annual Reports, 1973-1977.

The chart indicates that the York County experience is similar to the situation throughout the Commonwealth.

Population changes are among the factors that may affect the volume of work facing the York County Court of Common Pleas in the next twenty years. York County Planning Commission projections in 1973 envisioned that county population would rise from about 270,000 in 1970 to approximately 311,000 in 1980 (up 15% from 1970) and almost 400,000 by the year 2000 (48% higher than 1970).⁵ But birth rates appear to have been lower than anticipated, and while there has been "in-migration" due to industrial activity in the county,⁶ population growth as reported by York County Commissioners in May 1978 was less than had been anticipated by the Planning Commission.⁷ There may thus be a "leveling off" in population growth in the county, as has been predicted for nationwide population figures.⁸ Population may even decline, if York County follows the overall trend observable in Pennsylvania, where a net population loss has been experienced between 1970 and 1977.⁹

Based on the expectation that substantial further growth in the population served is unlikely, it appears that court caseload should remain relatively stable for the remainder of the century.

Though caseload volume may not be affected substantially by population in the near future, the nature of the caseload may be noticeably altered.¹⁰ A lower birth rate may mean fewer juveniles and young adults, with less delinquency and fewer violent crimes as a consequence. Police resources may be redirected to more intensive

enforcement of other criminal laws. Current attitudes toward marriage may mean a continued growth in divorce cases. Elimination of sovereign immunity and conflicts over utilization of land and other resources may spawn broad new categories of civil litigation. Heightened interest in exploring alternate means of dispute resolution may mean an increasingly significant role for such mechanisms as arbitration.

Even if there is not a substantial increase in the overall volume of Common Pleas cases, there is good reason to look closely at the manner in which cases are processed by the Court. Inflation and the effect of such influences as "Proposition 13" type movements to restrict public spending will almost certainly limit resources and mandate more efficient operation; at the same time, increased emphasis will be placed on rendering justice effectively. This milieu, rather than drastically rising case volume, provides the setting for inspection of the way cases are now processed in the York County Court of Common Pleas.

B. The National Center's Caseflow Study

Discussions relating to a study of judicial case processing began in 1977 among the Court of Common Pleas for the Nineteenth Judicial District of Pennsylvania, the Judicial Planning Committee of the Administrative Office of the Pennsylvania Courts, the Southcentral Regional Planning Council of the Pennsylvania Governor's Justice Commission (now called the Pennsylvania Commission on Crime and Delinquency), and the Northeastern Regional Office of the National Center for State Courts. Funding was approved in the summer of 1978 for a study of caseflow management in the York County Court of Common Pleas to begin in July 1978, and to be concluded by April 1979.

This is the final report for the project, following two earlier draft reports. The first draft report concentrated on the two principal categories of cases within the jurisdiction of the York County Court of Common Pleas: criminal cases, for which Criminal Rule 1100¹¹ requires that a trial be commenced within 180 days after the filing of a complaint, and civil cases at law in which the amount in controversy exceeds that required for compulsory arbitration. The second draft report included further, more detailed discussion of criminal and civil case processing, based on statistically representative sample data. It also addressed several areas not treated in the earlier draft report: processing of juvenile, domestic relations, arbitration, and orphans' court division cases; utilization of facilities and of data processing equipment; and recommendations for improved case processing in York County. This final report incorporates revisions to the second draft report.

Chapter I Footnotes

1. Pa. Const., Art. V, §13.
2. Const. Art. V, §10; Pennsylvania Rules of Court, Rules of Judicial Administration, Rule 503 (1978). This rule vests the State Supreme Court and the State Court Administrator with authority to appoint and remove court administrators at the county level. As the note to Rule 503 indicates, its terms are intended to establish the principle that the court administrator is not a local county functionary, but that he or she is to be considered part of the central court administration of the state.
3. 42 Pa. Stats. Ann. [hereinafter, P.S.] §1301 (Purdon 1970).
4. 42 P.S. §2303.
5. See York County Planning Commission, "1973 Population Report," p. 65. Projections presented there are extended through the year 2020 in an unpublished population chart, dated January 1974, made available to William Popp of the National Center by Planning Commission staff.
6. Interview, August 24, 1978, of Paul Hayes, Planning Commission, by William Popp, National Center for State Courts.
7. Board of County Commissioners, "The Government of York County," p. 57 (May, 1978).
8. See Conrad Taeuber, "Current Population Developments," in National Center for State Courts, State Courts: A Blueprint for the Future, pp. 268-270 (1978); Charles Westoff, "Marriage and Fertility in the Developed Countries," Scientific American (December 1978), 51-57.
9. Taeuber, supra, at 273.
10. A more detailed discussion of possible changes in Pennsylvania caseload is presented in National Center for State Courts, An Assessment of Delaware County's Court of Common Pleas Courtroom Needs to the Year 2000 (February 15, 1979).
11. Pennsylvania Rules of Court, Rules of Criminal Procedure (1978). Unless otherwise identified, any reference to "rules" in this report will be to these statewide rules, established by the Supreme Court of Pennsylvania.

CHAPTER II
CRIMINAL CASES AND THE SPEEDY TRIAL RULE

Summary. From a representative sample of criminal cases filed with the York County clerk of courts in 1977 and 1978, it was found that median time elapsed from filing of complaint to trial commencement or pretrial disposition was 140 days for 1977 cases and 135 days for 1978 cases. These times are well within the limits of the speedy trial rule, and they are much shorter than times found for 1975. In the sample, median times from filing of complaint to receipt of case by the Court of Common Pleas were 20 days for 1977 cases and 21 days for 1978 cases. From Common Pleas receipt to arraignment, median times in the sample were 52 days for 1977 cases and 53 days for 1978 cases. In sample cases where there was a conviction, sentence was usually imposed the day of the guilty finding; but when it was not, the median times from finding to sentence were 49 days for 1977 cases and 46 days for 1978 cases.

In response to an opinion of the Pennsylvania Supreme Court,¹ a speedy trial rule (Criminal Rule 1100) was adopted in 1973 to require trials to begin not later than 180 days after the filing of complaint. A study of average elapsed time from arrest to disposition for Common Pleas criminal cases in 1975 conducted for the Southcentral Regional Council of the Pennsylvania Commission on Crime and Delinquency found the York County Court of Common Pleas processing time far in excess of the 180-day rule, a much poorer showing than courts in any of the neighboring counties. As Figure 2.1 below indicates, York's average time for all criminal cases was 11.6 months (approximately 353 days), with dismissals averaging over two years from arrest to disposition.

Figure 2.1 AVERAGE ELAPSED TIME (BY MONTHS) FROM ARREST TO DISPOSITION IN THE COURTS OF COMMON PLEAS OF THE SOUTHCENTRAL REGION OF PENNSYLVANIA - 1975*

Criminal Case Category	Court Location						
	Adams/Perry	Cumberland	Dauphin	Franklin	Lancaster	Lebanon	York
All Criminal Court Cases	3.4	4.0	4.3	8.3	3.9	5.1	11.6
Non-conviction Dispositions	3.8	3.7	3.5	18.5	5.9	6.4	21.0
- Dismissals	4.2	3.7	4.0	20.7	6.3	8.8	24.2
- Bench Acquittals	1.6	4.0	4.1	3.7	3.7	2.7	8.3
- Jury Acquittals	3.5	4.0	4.1	2.4	4.1	3.1	5.2
Conviction Dispositions	3.2	4.1	4.7	4.1	3.5	4.6	5.1
- Guilty Pleas	2.7	3.9	4.2	3.4	3.0	4.4	4.3
- Bench Convictions	5.8	7.1	5.8	8.6	5.5	6.1	12.9
- Jury Convictions	6.0	7.7	8.8	10.3	8.6	8.0	9.5

*Source: Commonwealth of Pennsylvania, Governor's Commission on Crime and Delinquency, Southcentral Regional Council.

The lengthy time span cannot be explained by York's eighth highest caseload volume among Pennsylvania Courts of Common Pleas in 1975: with a slightly larger volume of new cases, Lancaster's average time was only one-third York's.²

This chapter analyzes criminal case processing in York County to determine whether delay continues to be as great as in 1975. Beginning with a brief discussion of the role of officials responsible for moving cases from complaint to commencement of trial, the chapter then presents the findings and an analysis of a representative sample of criminal cases docketed in 1977 and 1978. The more recent elapsed-time figures are assessed with respect to the findings of National Center project staff interviews and observations at the York County Courthouse.

The recent trend in the size of York County's criminal caseload must also be examined. As Figure 2.2 shows, statewide Common Pleas criminal filings and jury trials peaked in 1975 and then declined in the next two years. York County criminal filings and jury trials also fell off after a 1975 peak, but rose in 1977. Recent statistics (not shown in Figure 2.2) from the York district attorney's office show only 1,431 criminal filings for York in 1978 — a 14.4% decline from 1977 and 7.8% from 1973. It can reasonably be concluded (as suggested in a National Center study for the Court of Common Pleas in another Pennsylvania county³) that rising criminal case volume for York County has passed its most critical level and since subsided, at least for the immediate future. Nevertheless, the number of criminal filings alone does not reflect the now more complex nature of criminal cases resulting from recent stringent protections of the rights of an accused, which have caused an explosion in the number of pretrial and posttrial motions.

Figure 2.2 FIVE-YEAR COMPARISON (1973-1977) OF STATEWIDE AND YORK COUNTY COURT OF COMMON PLEAS CASE VOLUME CRIMINAL FILINGS AND JURY TRIALS

	----- Criminal Filings -----				----- Jury Trials -----			
	York County		Statewide		York County		Statewide	
	Number	% Change From Previous Year	Number	% Change From Previous Year	Number	% Change From Previous Year	Number	% Change From Previous Year
1973	1,552	--	56,995	--	140	--	2,738	--
1974	1,709	10.1	60,638	6.4	145	3.6	2,937	7.3
1975	1,861	8.9	70,895	16.9	168	15.9	3,490	18.8
1976	1,529	-17.9	68,227	-3.8	140	-16.7	3,272	-6.2
1977	1,671	5.8	63,045	-7.6	141	.7	3,127	-4.4

% Change = $\frac{\text{Current Year} - \text{Prior Year}}{\text{Prior Year}}$

*Source: Administrative Office of Pennsylvania Courts, Annual Reports 1973-1977.

A. Officials Responsible for Pretrial Case Processing

Each criminal case progresses through three levels before its presentation to a judge of the Court of Common Pleas: in the locale where an offense is alleged to have been committed, law enforcement officers file a complaint with a district justice, who arraigns the accused before filing the case with the clerk of courts if a prima facie case is proved at a preliminary hearing. After the clerk of courts has docketed the case, it is turned over to the district attorney, who has principal responsibility for assuring that the accused is brought to trial within 180 days after the complaint was filed with a district justice. Each of the district justices, as well as the clerk of courts and the district attorney, is an elected official responsive to the electorate as well as to the Court of Common Pleas.

District Justices. For misdemeanors and felonies to be heard by the Court of Common Pleas, preliminary arraignments and preliminary hearings are conducted by district justices. In York County (and statewide) misdemeanors and felonies constitute less than ten percent of the cases filed with the district justice courts; traffic citations comprise almost two-thirds of total filings.⁴

York County's sixteen district justices are elected by the voters of their respective magisterial districts⁵ to serve full-time at salaries set by statute.⁶ Only two justices are attorneys, and are not authorized to practice criminal law while holding office. Each justice appoints clerical support staff to serve on a part- or full-time basis; each may individually determine duties to be performed, office procedures, and filing systems.⁷

The county, however, bears the expenses of maintaining the district justice courts,⁸ and salary levels for clerical staff are set by the county commissioners. Proceedings before the district justices are governed by Pennsylvania Rules of Civil Procedure for Justices of the Peace and by Pennsylvania Rules of Criminal Procedure. Administratively, the justices are answerable to the president judge of the York County Court of Common Pleas, who delegates supervision to the court administrator. The court administrator oversees judicial and office procedures of the justices; controls distribution of supplies; assigns justices for night, weekend and temporary duty; and meets each month with the justices to deal with administrative problems.

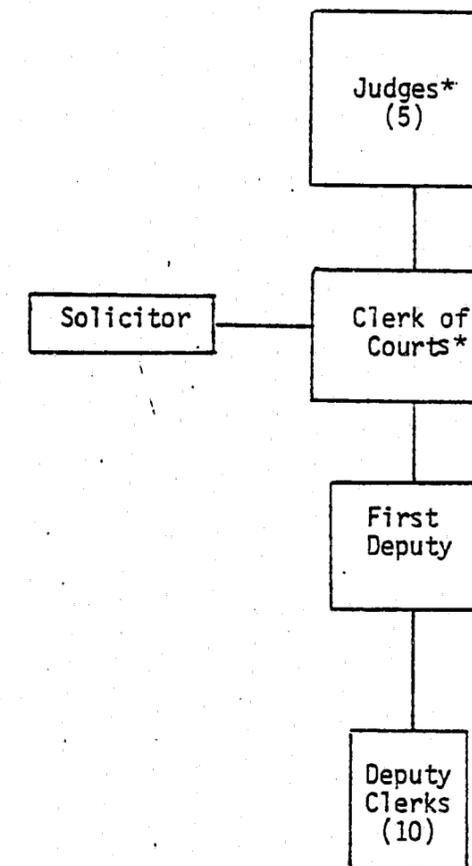
Clerk of Courts. In the clerk of courts' office are filed records for criminal, support, juvenile and summary conviction cases as well as some documents relating to townships and boroughs. The present clerk of courts was elected in 1976 to serve a four-year term. The first deputy, who is empowered to act in the absence of the clerk of courts, helps supervise the ten deputy clerks in the office (which include one CETA-paid person and one designated as bookkeeper). Deputy clerks are paid an hourly rate, while the positions of clerk of courts and first deputy are salaried. The clerk of courts is authorized by the county commissioners to retain an attorney to serve at county expense as solicitor.

The first deputy assigns tasks to the various deputy clerks according to experience. While all staff are "deputized" (i.e., they may serve as minute clerks in the courtroom), four clerks generally perform this function; another serves as bookkeeper; the remaining clerks perform case processing duties. Responsibilities shift somewhat when a turnover in personnel occurs: between June and August 1978, four deputy clerks and one bookkeeper left their jobs to seek higher pay elsewhere. Figure 2.3 presents current organization and functions in the office of the clerk of courts.

District Attorney. Responsibility for prosecution of felony and misdemeanor complaints on behalf of the Commonwealth in compliance with the speedy trial rule rests with the district attorney. In addition to cases initiated by law enforcement officers, this office screens criminal complaints brought by private citizens to determine whether prosecution is warranted. Juvenile delinquency cases and civil actions for nonsupport are also prosecuted.

Elected to serve a four-year term, York County's present district attorney took office at the beginning of 1978. In fall 1978, the county commissioners authorized payment of a chief administrative assistant to manage the internal operation of the office. To aid in prosecutorial responsibilities, there is a part-time first assistant district attorney, as well as full-time and part-time assistant district attorneys. Part-time assistants, who formerly scheduled their service

Figure 2.3 YORK COUNTY COURT OF COMMON PLEAS CLERK OF COURTS' OFFICE



Clerk of Courts:

Elected to office for 4-year term. Keeper of court records; hires and supervises staff.

First Deputy:

Supervises Deputy Clerks in Clerk of Courts' absence; processes all appeals, statistical reports; processes postconviction relief petitions.

Deputy Clerks:

- Four process cases:
 - one initiates case processing; processes civil appeals
 - one docket criminal and support cases
 - one processes summary conviction cases
 - one processes juvenile cases and bond forfeitures
- One serves as bookkeeper
- Four serve as courtroom clerks
- One performs miscellaneous case processing duties

* Elected position.

as time permitted in their private law practices, are now required to be working in the district attorney's office at least one full day each week. This requirement is intended to provide more extensive prosecutorial attendance at preliminary hearings before district justices, and to enhance the office's capacity to screen cases before arraignment.

The district attorney's responsibilities include provision of criminal law guidance to law enforcement officers. For this purpose, assistant district attorneys are assigned, on a weekly rotating basis, to be on call to assist police in individual cases. For more general guidance, the district attorney contemplates preparation of newsletters and seminars for the police.

There are two county detectives assigned to the district attorney's office to perform investigative work. Another staff member is assigned to operate a diversion program (accelerated rehabilitative disposition, or ARD) for first offenders in cases not involving violence and not considered suitable for disposition through the regular criminal process.⁹

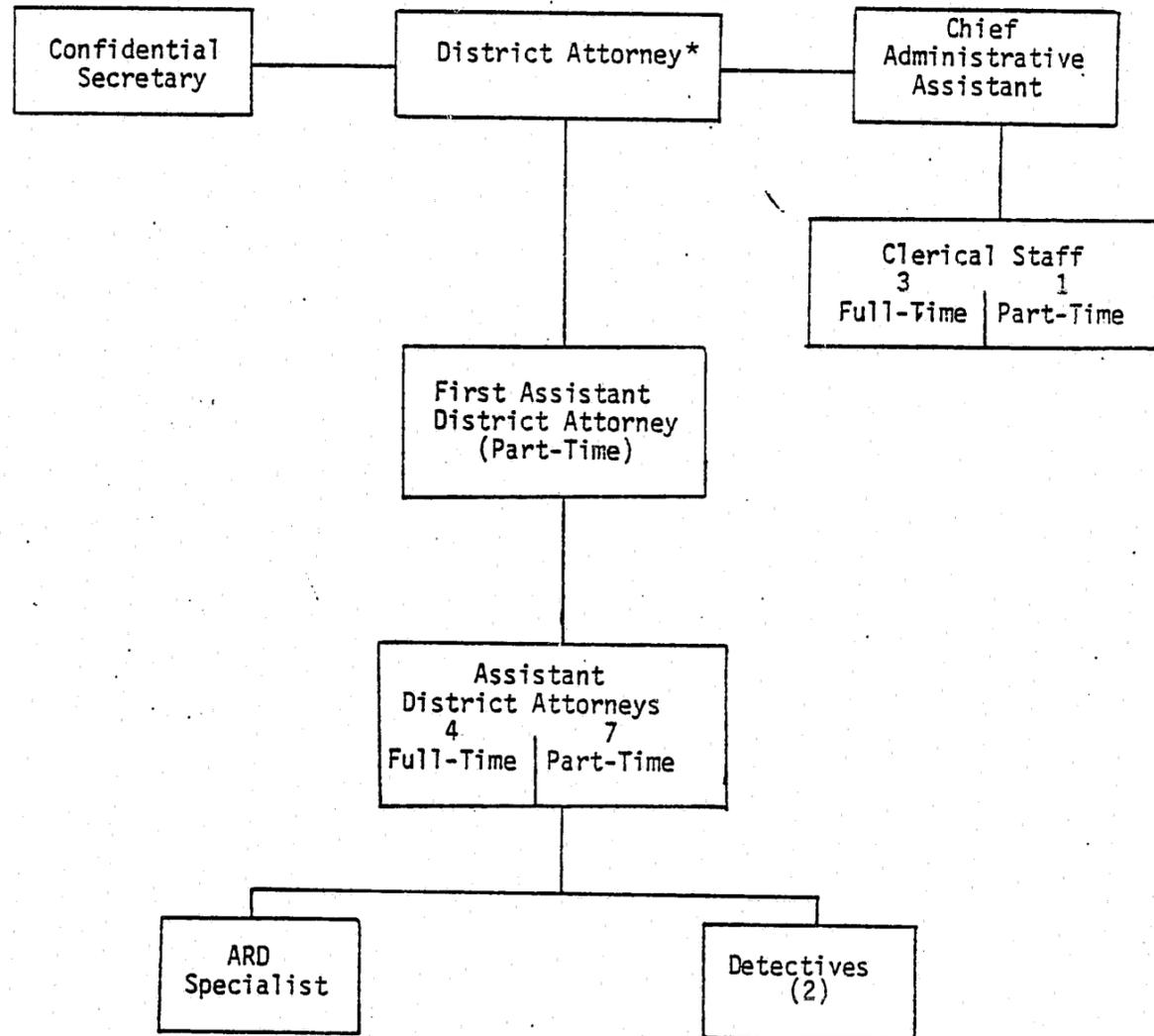
Under the direction of the district attorney and the chief administrative assistant, preparation of the criminal trial list is performed by the district attorney's confidential secretary. Funding assistance from the Southcentral Regional Council of the Pennsylvania Commission on Crime and Delinquency is being sought to obtain a minicomputer to

prepare the trial list, track cases for the speedy trial rule, store information on cases and defendants, and produce high-volume repetitive correspondence.

Another important function performed by a clerical staff member is management of prosecution witnesses. Before and during weeks set aside for criminal jury trials, the witness coordinator is to maintain communication with witnesses, keep them abreast of the status of cases, and inform them when and where to appear for court proceedings. The district attorney foresees that modern technology can assist with notification of witnesses.

Figure 2.4 illustrates the organization of the district attorney's office.

Figure 2.4 YORK COUNTY COURT OF COMMON PLEAS DISTRICT ATTORNEY'S OFFICE



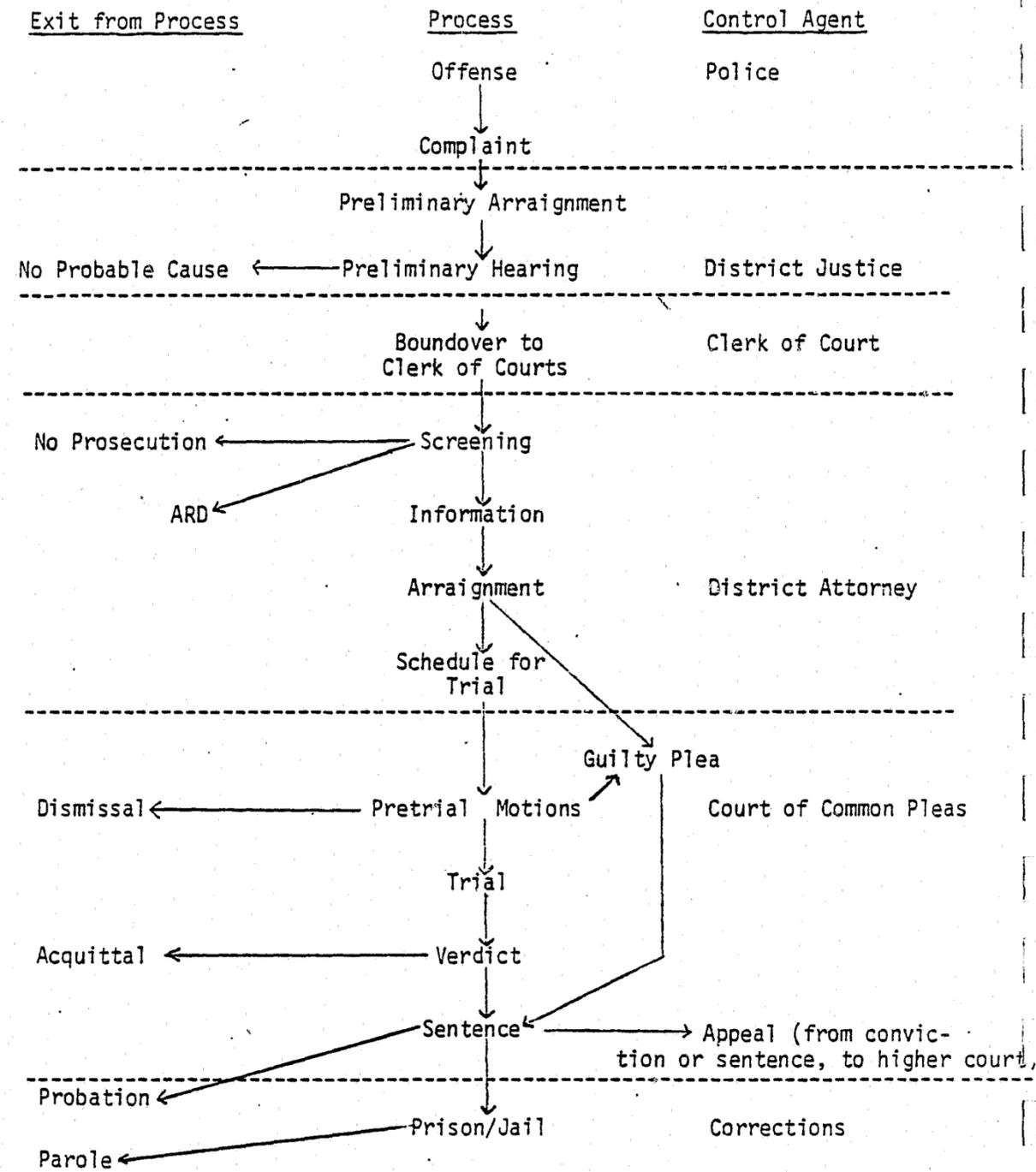
*Elected official.

B. Criminal Case Processing Generally

While criminal cases may take varying routes from initiation to disposition (including initiation by private complaint or remand of a minor case for summary disposition), the path followed by most felony and misdemeanor cases coming within Common Pleas jurisdiction is described below and summarized in Figure 2.5. A more detailed outline of the administrative processing of criminal cases, with emphasis on preparation of court documents, is presented in Appendix A.

Case Initiation. A criminal case usually begins when a complaint signed by a law enforcement officer is filed with a district justice. Within six hours from arrest, the district justice must hold a preliminary arraignment,¹⁰ at which the accused is notified of the charges against him and of his rights. At preliminary arraignment, the district justice must also give the defendant a reasonable opportunity to post bail (if the offense is bailable before the justice) and schedule a preliminary hearing, unless the hearing is waived.¹¹ At the preliminary hearing, which must usually be held within ten days after preliminary arraignment,¹² an assistant district attorney may be present on behalf of the Commonwealth; if the district justice finds that a prima facie case against the defendant has been established, or if the preliminary hearing has been waived, the case is bound over to the Court of Common Pleas.¹³ A new practice, introduced in April 1979 through the cooperative efforts of the court and the district attorney, is to have district justices schedule formal Common Pleas arraignments, giving notice to defendants, the clerk of courts, and the district attorney.

Figure 2.5 KEY ELEMENTS IN CRIMINAL CASE PROCESSING



Docketing. For each case bound over to the court, case papers are to be filed within five days with the office of the clerk of courts.¹⁴ The court administrator has directed district justices to transmit all cases for filing with the clerk of courts within thirty days from filing of the complaint, even for cases in which an arrest warrant is outstanding. Personnel in the clerk's office then assign a docket number to each case and create a court file for it. Duplicates of case documents are then made for the district attorney's office, located adjacent to the clerk's office in the courthouse.

Prosecutorial Screening. On receipt of case papers from the clerk's office, clerical staff in the district attorney's office create a case file and the case is assigned to an assistant district attorney for screening. The screening attorney is to recommend to the district attorney whether prosecution should go forward or be terminated. Since York County has exercised its option to abolish indicting grand juries,¹⁵ prosecution proceeds by information prepared by the district attorney's office.

Scheduling. Scheduling of individual criminal cases is the responsibility of the district attorney's office, subject to two general constraints. The first, imposed by Criminal Rule 1100, requires that trial commence no later than 180 days after filing of the complaint, with extensions to be granted only if the district attorney can show "due diligence" by the Commonwealth in its handling of the case. The second constraint is the official court calendar, published annually

before the beginning of each calendar year. While the scheduling of several kinds of matters is left to the discretion of individual judges, the availability of judges (whether in chambers or on the bench) for proceedings in criminal cases is to a large extent governed by the court calendar.

Thus, while the district attorney has considerable latitude in scheduling, he must comply with the 180-day rule within the matrix of available judge time provided by the court calendar. To help assure compliance with time deadlines, the district attorney's office maintains a tickler file for all its cases, highlighting dates on which the age of each case reaches the 125th, 170th, and 180th days after a complaint was filed. In order for a case to proceed to timely conclusion, three types of proceedings must be scheduled: arraignment, pretrial motions and conferences, and trial itself.¹⁶

1. Arraignment. Under Criminal Rule 303, arraignment is to take place within ten days after the information has been filed for a case, unless otherwise provided by local rule. In York County, the information filing date is the date scheduled for arraignment; notice of arraignment is sent to each defendant ten days before its scheduled date.¹⁷ The district attorney and the court have cooperated to introduce a new arraignment procedure in April 1979. District justices are to schedule arraignments on the fourth Friday after preliminary hearings, and arraignments are then conducted by the district attorney.

Arraignments are normally scheduled every Monday, except during weeks in which civil or criminal jury trials are officially scheduled. Mondays and Fridays are generally set aside in the court calendar for "current business" for each judge to handle arraignments and any other matters except trials. The district attorney's arraignment lists apportion arraignments equally among four judges on such current business days, primarily on Mondays.

2. Pretrial Motions and Conferences. Times for pretrial motions are governed by court rules: a defendant's request for a bill of particulars is to be served on the district attorney within seven days after arraignment (Rule 304); motions for discovery, within fourteen days after arraignment (Rule 305); and pretrial motions for relief (including those for continuance, suppression of evidence, or pretrial conference), within thirty days (Rules 306 and 307). A pretrial conference may be ordered by the court at any time after the information is issued (Rule 311). The York County court calendar assigns judges, according to a schedule providing for rotation about every month, to rule on criminal pretrial applications. The court calendar further provides for trial-scheduling conferences to be held two weeks before the start of criminal jury trial sessions, so that judge, prosecutor and defense counsel can identify cases most likely to go to trial.

3. Trial. There were a total of twelve weeks set aside (in six two-week sessions every other month) for criminal jury trials each year in the York County court calendars for 1978 and 1979. Within this

context, the district attorney controls the assignment of cases for trial. The district attorney assigns each full-time assistant district attorney to prosecute the cases in a specific courtroom, and he allocates cases among the courtrooms. Preparation of the trial list is begun three weeks to a month prior to the start of the jury trial session, and it is revised in light of such things as plea negotiations and ARD diversions. The list is completed about ten days before trials are to begin.

Postjudgment Proceedings. If a criminal defendant is convicted after trial, defense motions for a new trial and an arrest of judgment are to be filed within ten days after the guilty finding, and argument on motions is to be "scheduled and heard promptly."¹⁸ Absent unusual circumstances, the court is to decide such motions within thirty days after argument.¹⁹ Following entry of the court's decision on these motions, an aggrieved party has thirty days to file an appeal.²⁰ If a new trial has been granted by either the trial court or an appellate court, the speedy trial rule requires commencement of the new trial within 120 days after trial court order or appellate court remand.²¹

Sentencing in York County is scheduled by the judge before whom the defendant entered a guilty plea or was found guilty after trial. It is in the court's discretion to order that a presentence investigation be prepared by a probation officer after the guilty finding. Sentences are imposed on Mondays and Fridays set aside in the official court calendar for "current business," with the district attorney's office responsible for preparing the list of cases set for sentencing on a given day.

C. Criminal Cases in 1977 and 1978

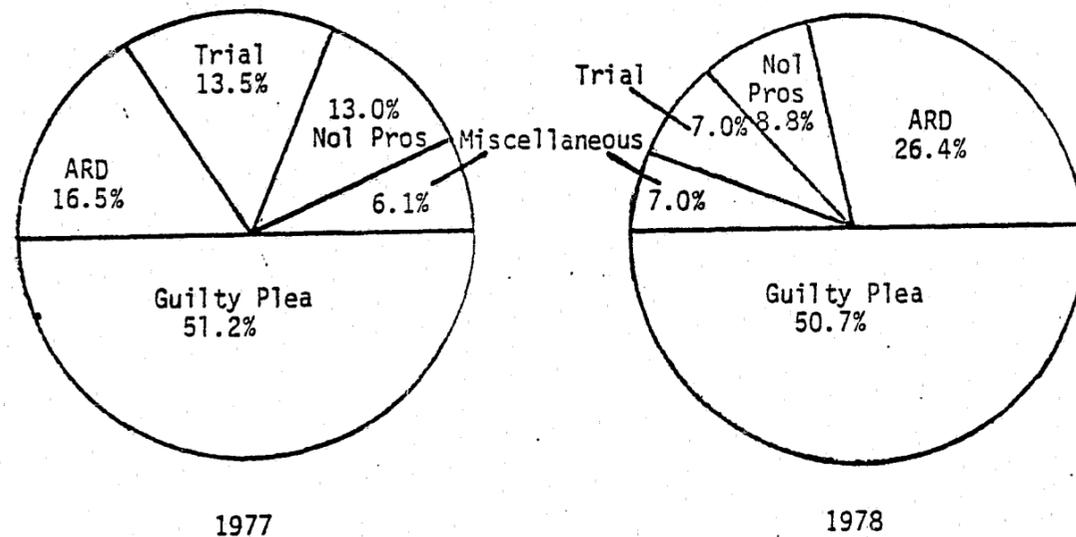
In order to assess the manner in which criminal cases are now processed in York County, National Center project staff interviewed judges, court officials, and attorneys. To determine the extent of York County compliance with the 180-day rule, and to identify steps where case processing is particularly expeditious or delayed, time lapse data were collected for a representative sample of cases in the past two years. For cases docketed by the clerk of courts in calendar year 1977, 340 "closed" cases (those that had proceeded to judgment and sentencing or other disposition and for which no appeal or process was outstanding) were inspected along with 30 "open" cases uncompleted as of the sample date). Similarly, 326 closed cases docketed in calendar year 1978 were scrutinized, along with 108 cases for 1978 that were still open. Appendix A presents a more detailed description of sampling methodology.

Data Findings.

1. Disposition Types. Figure 2.6 below illustrates the different ways in which York County criminal cases were disposed in 1977 and 1978. As is common nationally, more cases are disposed of by guilty plea than by all other modes combined. Guilty pleas, in fact, accounted for 85.0% of all convictions (whether by trial or plea) in the 1977 York County sample and 94.5% of the convictions in the 1978 sample.

A comparison of dispositions other than by plea may reflect policy differences between the district attorney whose term of office ended in 1977 and his successor, who took office at the beginning of 1978.

Figure 2.6 CRIMINAL CASE DISPOSITIONS BY TYPE: 1977 AND 1978 CASES



Note: Dispositions by nolle prosequi (above, "noI pros") do not include those granted under Criminal Rule 1100. Such Rule 1100 nolle prosequis are among "miscellaneous" dispositions. Miscellaneous dispositions include: Rule 1100 terminations, cases settled by restitution, cases remanded for district justice disposition, dismissals (including those by grant of defense demurrer or motion to suppress evidence), and those in which defendants were removed from ARD programs and were tried or entered guilty pleas.

although one must look behind Figure 2.6 to find the real differences. In interviews, it was learned that the previous district attorney emphasized resolution by trial more heavily than has the present district attorney. This seems at first to account for there being over 50% fewer dispositions after trial for 1978 cases than for 1977 cases. The actual number of trials did not vary so greatly, however, between 1977 and 1978. A number of cases docketed in 1977 were not disposed of until 1978; and almost one-fourth of the "1977" trial dispositions were actually reached after the new district attorney took office. As a result, about as many trials occurred in 1978 as in 1977.

Figure 2.6 also shows a significant difference in ARD dispositions — 1978 cases showed 60% more than 1977 cases. Because of the case overlap between 1977 and 1978, more than one-sixth of the ARD diversions for 1977 cases were actually initiated by the new district attorney, indicating that the current district attorney is much more inclined than his predecessor to seek diversion alternatives to prosecution.

The differences between dispositions by nolle prosequi (noI pros) must also be viewed in light of 1978 disposition of cases docketed in 1977. Over one-third of the nolle prosequis for 1977 cases were sought by the current district attorney. It turns out that more nolle prosequis were sought in 1978 than in 1977, which may indicate greater attention to prosecutorial screening of cases.

Among the dispositions included as "miscellaneous" in Figure 2.6 are those in which prosecution has been terminated under Criminal Rule

1100. These consist of dismissals on defense motion, denial of prosecutor applications to extend the time for trial commencement, and approval of prosecutor applications for nolle prosequi under Rule 1100 and what is now Rule 313. For 1977 cases, such terminations constituted slightly less than one-third of the miscellaneous dispositions and 2.0% of dispositions sampled overall. Rule 1100 terminations amounted to almost two-thirds of the 1978 miscellaneous dispositions, however, and 5.6% of all 1978 dispositions sampled. Not only did the prosecution have more applications for extension denied (in the sample, nine denials for 1978 and only three for 1977), but the current district attorney applied for nolle prosequis under Rule 1100 when his predecessor did not: of ten such nolle prosequis for cases docketed in the two years, all were on application by the present district attorney. In each year, the number of defense motions approved for Rule 1100 dismissal was the same.

2. Elapsed Time for Rule 1100. From the representative sample taken by National Center staff, it is clear that York County is now doing much better in terms of Rule 1100 than was suggested by the elapsed time statistics for 1975 mentioned above. As Figure 2.7 below shows, the mean time from filing of complaint to trial commencement or pretrial disposition (e.g., guilty plea) for 1977 cases was 154.8 days; for 1978 cases, the mean time was 145.0 days. Easily meeting the 180-day limit imposed by rule, these figures indicate that the "average" case takes less than half as long as was reported for 1975. (See Figure 2.1).

Figure 2.7 ELAPSED TIME FOR 1977 AND 1978 YORK COUNTY CRIMINAL CASES^a

Description	Year	
	1977	1978
A. Days ^b from filing of complaint ^c to trial commencement or pre-trial disposition		
1. Mean	154.8	145.0
2. Median	140	135
3. Third Quartile ^d	183	170
B. Days from Common Pleas filing date to arraignment		
1. Mean	54.4	50.1
2. Median	52	53
3. Third Quartile ^d	58	63
C. Days from District Justice filing date ^c to Common Pleas filing date		
1. Mean	37.0	49.8
2. Median	20	21
3. Third Quartile ^d	35	35

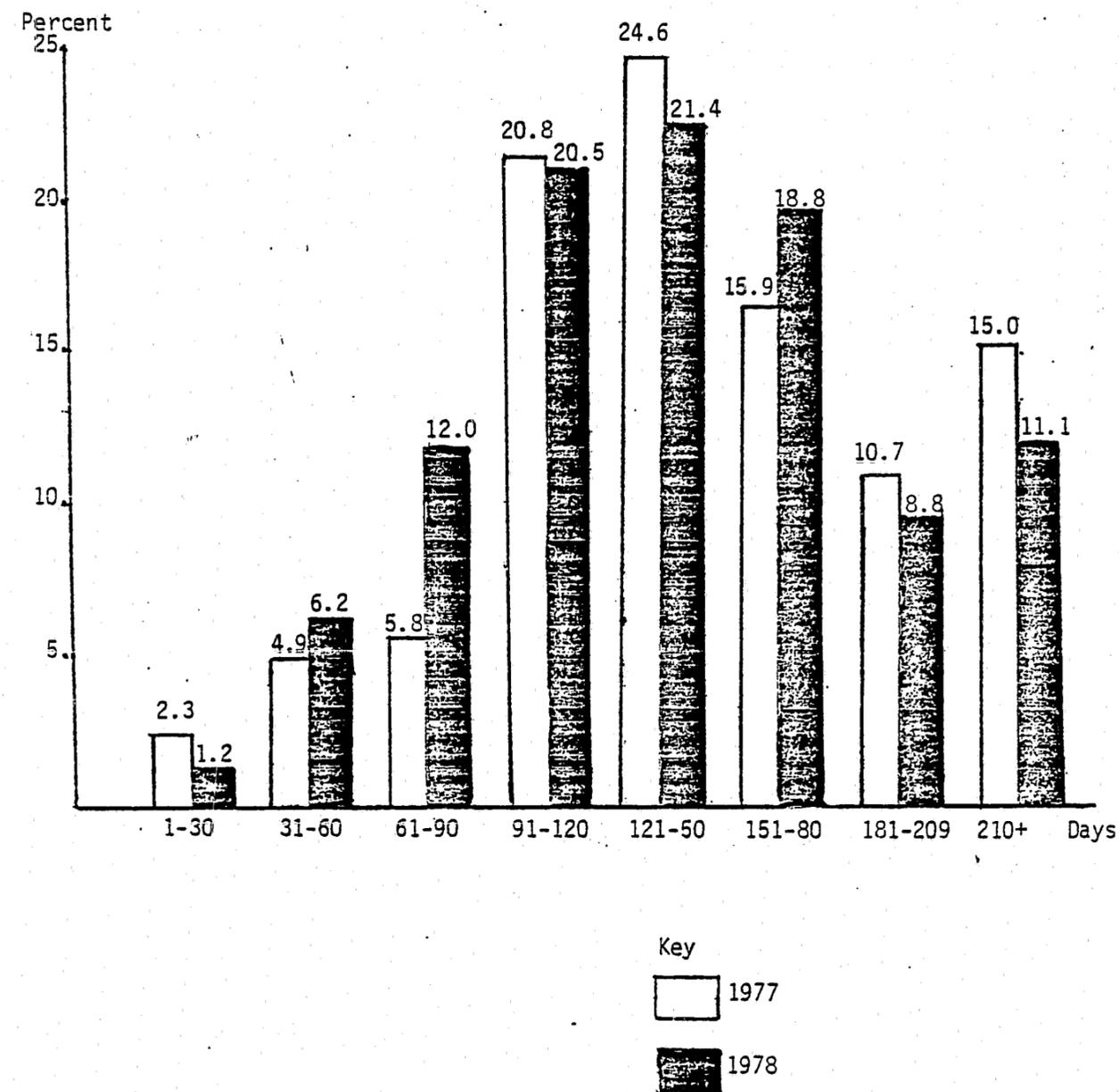
- a. Source: National Center for State Courts representative sample of criminal cases for calendar years 1977 and 1978, based on date filed with and docketed by York County Clerk of Courts.
- b. This is the time period contemplated by Criminal Rule 1100.
- c. "Filing of complaint" and "District Justice filing date" are the same date.
- d. "Third quartile" represents the number of days within which 75 % of the cases were processed.

Since "mean" figures sometimes give an inaccurate picture of what is the common experience with case processing times, this chapter and the two that follow set out the median and third quartile numbers in the samples assessed. The median, of course, represents a halfway point: half the cases in the sample took less time to process, while half take more time. A less commonly used yardstick is the third quartile number: three-fourths of the cases in the sample took this number of days or less to process.²²

From Figure 2.7, it can be seen that half of the 1977 cases took 140 days or less from complaint to trial or pretrial disposition, while three-fourths were processed in 183 days or less; for 1978 cases, with a median of 135 days and a 170-day third quartile, processing times were somewhat shorter. These numbers do not include cases still "open" as of the date the sample for this study was taken. Since most of the open cases are "process" cases, where the defendant has left the area so that court process cannot be served (see discussion below of open cases), the median and third quartile numbers show that a defendant who desires a prompt disposition is as likely as not to have his case proceed to trial or other disposition in less than five months, and three of four defendants can expect such processing to take no more than six months.

This observation is reinforced by Figure 2.8, a time lapse distribution chart that shows processing times most often longer than three months and under six. But Figure 2.8 also shows a fairly substantial number of cases (25.7% of the 1977 sample and 19.9% of the

Figure 2.8 TIME LAPSE DISTRIBUTION DATA, CRIMINAL CASE SAMPLE: COMPLAINT TO TRIAL COMMENCEMENT OR PRETRIAL DISPOSITION



1978 sample) taking more than the 180 days provided under Rule 1100 to proceed to trial or other disposition. Yet the elapsed time numbers reported above do not take into account circumstances (such as those when an accused has temporarily left the county, so that court process cannot be served) in which the prosecutor cannot be held accountable for delays. It is necessary to examine more closely the cases taking more than 180 days to determine how frequently there has been an absence of "due diligence by the Commonwealth" (the term employed in Criminal Rule 1100 as a basis for dismissal of prosecution).

A closer inspection shows that prosecution was dismissed under Criminal Rule 1100 for 8.0% of the 1977 cases where elapsed time exceeded 180 days, and for 17.5% of such cases docketed in 1978.²³ For some of these cases, there was a delay of 75 days or more from filing with the Court of Common Pleas to arraignment; but for almost 60% of the 1977 cases and for over 80% of the 1978 cases, an unusually long time elapsed between filing of the complaint with a district justice and filing with Common Pleas. For example, one case docketed in 1978 by the Clerk of Courts had been filed with a district justice in 1974, and a warrant had been outstanding for 1,377 days before the case was filed with Common Pleas.

In addition to cases dismissed explicitly under the speedy trial rule, there were a number of cases in the over-180-days category for which there was court approval of a prosecutor's nolle prosequi motion not explicitly based on Rule 1100: such cases constituted 23.0% of the

1977 cases in this category and 14.3% of the 1978 cases. As with cases dismissed under Rule 1100, delay in transmitting case files from district justices to the Court of Common Pleas and, to a lesser extent delay from Common Pleas filing to arraignment were frequently associated with these nolle prosequi cases. Such delay may either create difficulty putting together the Commonwealth's case, or cause the Commonwealth case to "go stale."

In both years, the results are similar. Whether or not Rule 1100 is made applicable, almost one-third of the cases in which trial commencement or pretrial disposition does not occur within 180 days result in entry of a dismissal or nolle prosequi order by the court. An inspection of Figure 2.6 above (Criminal Case Dispositions by Type: 1977 and 1978), which includes Rule 1100 dispositions in its "miscellaneous" category, shows that dispositions by dismissal or nolle prosequi thus constitute a much higher portion of the over-180-days cases than of the 1977 and 1978 cases in general.

Yet in other respects the longer cases are not dissimilar from the general population of cases. The largest single category of dispositions is by entry of guilty pleas -- slightly over half the cases in the 1977 and 1978 general case populations. For the longer cases, guilty pleas are also the most common disposition: one-third of those for 1977, and over forty percent of the 1978 long cases. And, as with the cases overall, diversions to ARD account for a significant portion of the over-180-days cases. For cases disposed by guilty-pleas, the most common explanation for elapsed time in excess of 180 days were (a)

unavailability of a defendant, resulting in court process not being served, and (b) defense motions, including continuance motions. For ARD cases, a common pattern observed in court clerical records is the passage of considerable time after arraignment before entry of a court order approving diversion to ARD. This may reflect time during which prosecution and defense counsel, after having agreed to the propriety of diversion, were arranging its details before seeking court approval.²⁴

Rule 1100(c) provides that a prosecutor may apply for an extension of time (which, as stated above, is to be granted only if "due diligence by the Commonwealth" is shown). For 1977 cases the district attorney applied for extensions in 54.0% of the cases for which elapsed time to trial commencement or pre-trial disposition exceeded 180 days. Of 61 such applications in the cases sampled (with almost one-third of the cases having two applications), only three were denied. In 66.7% of such cases for 1978, applications were made: only two of 50 were denied. In all cases sampled, including those for which there was trial commencement or pretrial disposition in 180 days or less and those still "open" at the date of the sample for this study, prosecutors had high success in showing "due diligence" in their extension applications. Only three of 83 applications for 1977 cases (3.6%) were denied, and only nine of 108 applications for 1978 cases (8.3%) were denied.

As mentioned, the present district attorney has initiated a "tickler file" to track elapsed time on his cases. This may account for significant differences between 1977 and 1978 cases regarding the timing of applications to extend. Rule 1100 says that applications for

extension are to be made "prior to the expiration of the period for commencement of trial," with periods during which (a) the defendant or his attorney were unavailable or (b) there was a continuance exceeding 30 days granted to the defense excluded in a determination of the period for commencement of trial. Excluding cases in which a defense motion for continuance was granted or in which process could not be served, the mean time from complaint to the first application for extension in a 1977 case sampled was 171.7 days, with 172 days being the median and with almost sixty percent of the first applications filed between 160 and 180 days. For such 1978 cases sampled by comparison, the mean was 142 days, and the median was 140 days; and three-fourths of the applications were made in 159 days or less.

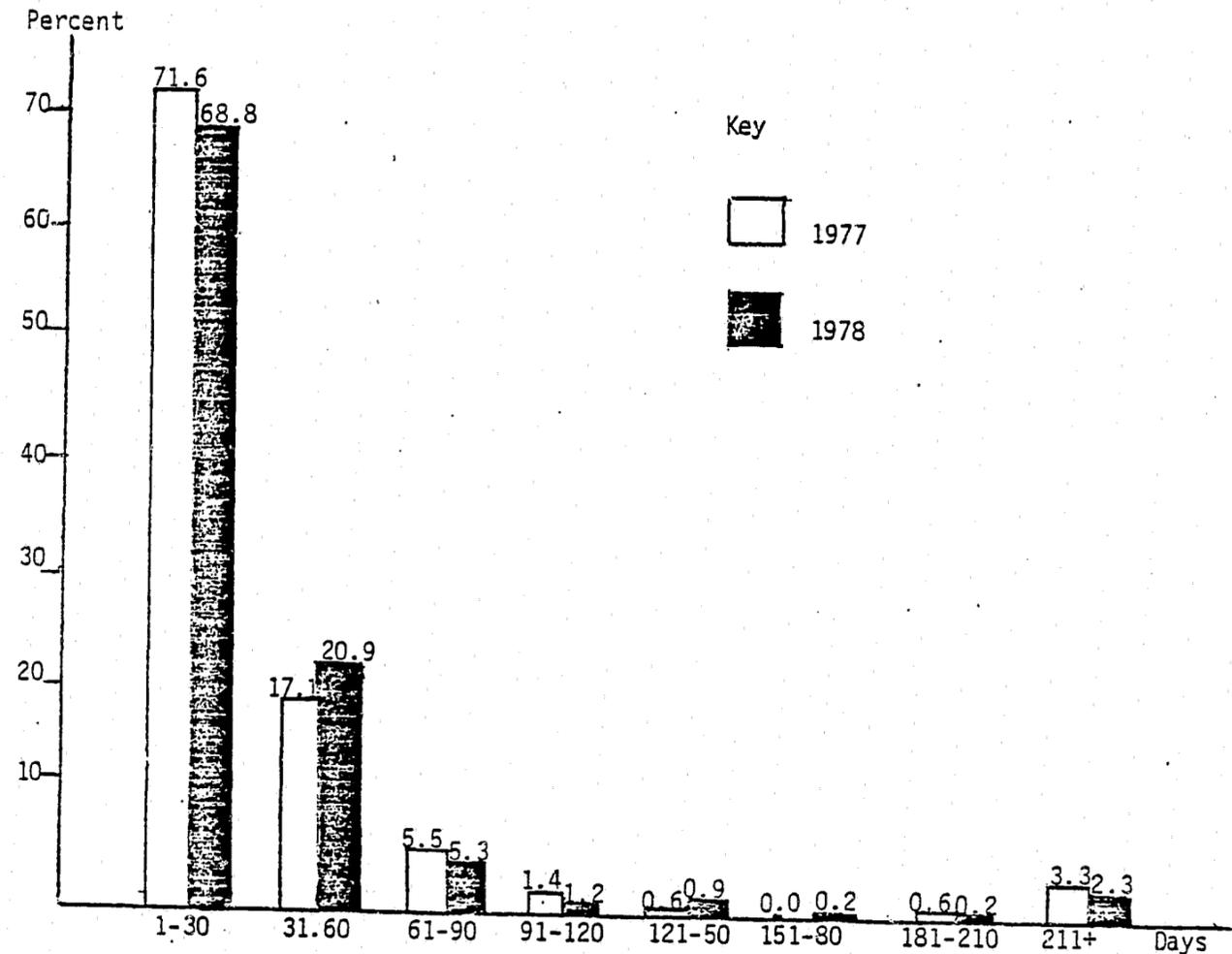
Another consideration affecting the time elapsed for Rule 1100 purposes is the court's granting of a continuance, whether of its own motion or on motion of defense counsel.²⁵ There were 20 court-initiated continuances in cases sampled for 1977 and 1978 combined: eleven of these cases extended beyond 180 days to trial commencement or pre-trial disposition. In the sample there were 40 defense motions for continuance, and all were granted. (Continuance motions were made by the defense in 36 cases, or only 4.5% of those sampled; in only three cases were there more than one defense request for continuance.) For 1977, continuances were granted in 12.6% of the cases not proceeding to trial or to pretrial disposition within 180 days; for 1978, they were granted in 9.5% of such cases.

3. Elapsed Time to Common Pleas Filing. Commencement of trial or achievement of a pretrial case disposition within the 180 days required by rule depends in part on the prompt dispatch of records where a prima facie case is found from the district justices to the Court of Common Pleas for filing with the clerk of courts. The court administrator, who has been delegated responsibility by the president judge for the administrative supervision of district justices, has set thirty days after the filing of a complaint as a reasonable time within which most cases should be transferred.

Part C of Figure 2.7 above compares sampled cases docketed in 1977 and 1978 in terms of days elapsed from district justice filing date to Common Pleas filing date. In neither year's cases was the mean elapsed time within the thirty-day standard set by the court administrator. In fact there appears at first glance to have been a substantial decline in timeliness for 1978 cases, since the 1978 mean time is one-third longer than the 1977 mean. But Figure 2.7 also shows that for each year half the cases were filed with the clerk of courts within three weeks after being filed with a district justice, while three-fourths took no more than five weeks. That the mean for each year is longer even than the third quartile suggests that some cases with a long time lapse between district justice and Common Pleas filing skewed the mean, particularly for cases docketed in 1978.

Figure 2.9 below, comparing the distribution of 1977 and 1978 cases for elapsed time to Common Pleas filing, shows that about seven of every ten cases took thirty days or less and that almost nine of ten took

Figure 2.9 TIME LAPSE DISTRIBUTION DATA, CRIMINAL CASE SAMPLE: DISTRICT JUSTICE FILE DATE TO COMMON PLEAS FILE DATE



sixty days or less. Yet there were a small percentage of cases taking 211 days or more: these affected the mean elapsed times far out of proportion to frequency. For cases docketed by the clerk of courts in 1977, there were complaints filed with district justices as long as 522 days earlier. Cases docketed in 1978 included those taking 595, 642 and 725 days; and the longest elapsed time in the sample involved a complaint filed in 1974 and not docketed at Common Pleas until 1978 — 1377 days later.

The time from district justice filing to Common Pleas filing can be affected by delay in scheduling preliminary hearings. The dates for such hearings are often adjusted to accommodate defense counsel. But the hearings are waived in a number of cases (31.6% of 1977 cases sampled and 23.3% of 1978 cases), with waivers most common in cases where the defendant ultimately enters a guilty plea or is diverted to an ARD program. But by far the greatest reason for delay between the district justice and the clerk of courts is the defendant's unavailability, so that warrants were outstanding or process could not be served. The court administrator has instructed district justices to forward case files to the clerk of courts in 30 days even if a defendant cannot be found, unless it appears that service can be made not long after the thirtieth day.

To assess whether the court administrator has been successful in his efforts to have district justices forward case records more promptly to the court, one must look at cases not from the perspective of the date of Common Pleas filing, but from the date of filing a complaint

with a district justice. Figure 2.10 presents elapsed times arranged according to months complaints were filed. From the perspective of this chart, it seems clear that the court administrator and the district justices are beginning to achieve positive results in seeking compliance with the thirty-day standard.²⁶ The mean elapsed time for 1978 complaints sampled is five days shorter than the 1977 mean. While the median elapsed time did not improve in 1978, it appears that in 1978 there were fewer case records stalled in district justice offices for exceptionally long periods before being forwarded to the clerk of courts. For nine months in 1978 (including the last five months of the year), mean elapsed times were under 30 days. And, while cases not docketed until 1979 (after the sample was taken for this study) may alter results, it is interesting to note that the longest elapsed times became progressively shorter each month after June 1978.

4. Elapsed Time to Arraignment. While the district attorney's office may be notified of cases by district justices so that assistant district attorneys can attend preliminary hearings, firm prosecutor control of most cases does not usually begin until case documents are received from the clerk of courts. It is then incumbent upon the district attorney's office to screen cases, prepare informations for those to be prosecuted, schedule cases for formal arraignment by the Court of Common Pleas on the court's current business days (see below, Chapter 5, Section A, Court Calendar), and notify defendants not less than ten days before their arraignment dates. Time to arraignment after receipt of case files is a matter largely within prosecutor control, and prompt

Figure 2.10 TIME LAPSE DATA, FROM DISTRICT JUSTICE FILING TO COMMON PLEAS FILING, BY MONTH OF COMPLAINT

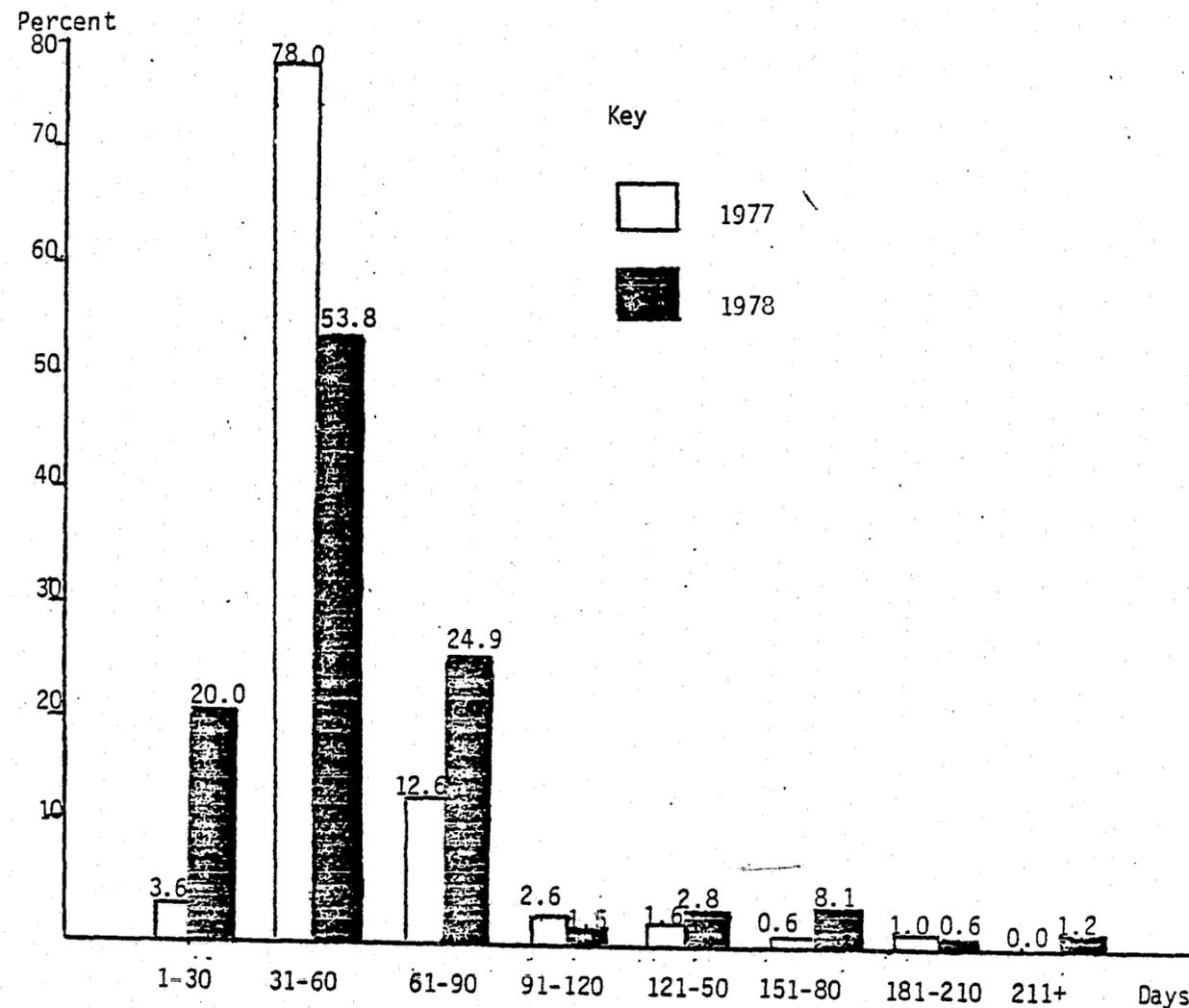
Month Complaint Filed	Days Elapsed, by Year Complaint Filed					
	1977			1978		
	Mean	Median	Long	Mean	Median	Long
January	35.7	20	434	27.9	22	108
February	31.0	21	271	31.1	19	226
March	31.9	17	393	28.2	21	71
April	18.4	16	61	21.9	17	70
May	27.8	14	215	26.7	21	71
June	49.1	25	272	31.5	24	162
July	30.4	17	203	30.9	25	126
August	35.1	24	144	25.5	22	83
September	21.9	15	59	21.3	17	71
October	39.3	32	136	25.3	21	59
November	33.9	36	71	21.3	15	46
December	29.4	28	82	20.3	19	33
Annual Totals	31.9	20	434	26.8	21	226

arraignment can enhance the district attorney's ability to comply with Rule 1100.

Part B of Figure 2.7 above compares cases docketed in 1977 and 1978 for time from Common Pleas filing to arraignment. While the mean time for 1978 cases is somewhat shorter than for 1977 cases, the 1978 median is not; in fact, the larger portion (three-fourths) of 1977 cases saw defendants arraigned in five days less than for 1978 cases. Figure 2.11 below, comparing the distribution of arraignment times for the two years, gives a statistical reason for the inconsistency between mean days on one hand and median and third quartile on the other. For 1977 cases, a higher percentage of defendants were arraigned in 60 days or less; almost twice as many 1978 cases took 61 days or more from Common Pleas filing to arraignment.

In some cases, the reason for delayed arraignment is clear -- a warrant was outstanding or process could not be served because a defendant could not be located. In other cases, it seems likely that arraignment was delayed because the prosecutor was having difficulty obtaining police reports, or because law enforcement and prosecution were experiencing problems in assembling evidence. But in the National Center's sample of cases, such reasons for delayed arraignment appeared in no more than one-fifth of the cases. The time from filing at Common Pleas to arraignment appears for most cases to have been a consequence of the internal practices, routines and circumstances of the district attorney's office.

Figure 2.11 TIME LAPSE DISTRIBUTION DATA,
CRIMINAL CASE SAMPLE:
COMMON PLEAS FILE DATE TO ARRAIGNMENT



5. Trials. Even though most criminal dispositions occur other than by trial, this traditionally is the central event in criminal procedure toward which most steps in the process lead. Most activities of prosecution and defense counsel can be seen as efforts to prepare for or (more often) avoid the "all or nothing" outcome of a trial. The interrelation of the possibility of trial with other modes of criminal disposition is demonstrated by the timing of guilty pleas for 1977 and 1978 cases in the sample for this study: over 70% of the guilty pleas for the two years were entered just before or during the court's criminal jury trial weeks.

While trials for cases sampled occasionally lasted for two, three or more days, the large majority took a day or less. For cases docketed in 1977, 87% went from trial commencement to verdict in a day or less; for 1978 cases, 81% of the trials reached a verdict in that short a time. For both years, jury trials outnumbered trials to the court; and while the number of jury trials for each year was about equal, the 1978 sample showed only one-tenth as many trials to the court as the 1977 sample.

6. Elapsed Time After Conviction. After an accused has been found guilty, whether by plea or trial, there are further events that bear inspection. The defendant may, of course, make postverdict motions. Or, with such efforts waived or concluded, the court will impose sentence. In aid of sentencing, the court in its discretion may order a presentence investigation or a psychiatric or diagnostic examination (see Criminal Rule 1403).

Under appellate rules, an appeal is to be taken by filing a notice of appeal with the clerk of courts within thirty days after sentencing.²⁷ Appeals were infrequent in the cases sampled for this study. For 1977 cases, notices of appeal were filed for only 3.8% of the convictions, and they accounted for only 2.2% of the 1978 convictions. The time elapsed from sentence to notice of appeal was 14.6 days for 1977 cases and 14.5 days for 1978 cases, with almost all notices being filed either immediately after sentencing or at the very end of the time period allowed for taking an appeal.

Matters to be raised on appeal from a trial conviction must first have been grounds contained in postverdict motions for a new trial and in arrest of judgment, and such motions are (under Criminal Rule 1123) to be filed within ten days after a finding of guilt. Appeal is taken from the trial court's final order, which includes sentence,²⁸ so that such postverdict motions must be decided before sentence can be imposed. There were postverdict motions in 56.3% of the trial convictions for 1977 cases sampled, and in 60.0% of trial convictions for 1978 cases. In only two of the cases sampled were the motions granted: in one, an application for nolle prosequi was granted, and in the other, a new trial resulted in another guilty verdict. For three of the 1977 cases sampled (where verdicts were entered in October 1977, December 1977, and March 1978), sentence had not yet been imposed on the sample date (one case had been open for about sixteen months). A 1978 case in which there was a motion for new trial had been open, awaiting a decision on the motion, for seven months at the time of the sample.

For cases in which there were postverdict motions, the mean time from verdict to sentence was 114.1 days. It is possible that such lengthy delays have occurred because a transcript of trial testimony was required for argument on the motions.

Overall, the mean elapsed time from verdict to sentence was 23.9 days for 1977 cases and 22.0 days for 1978 cases. Yet these numbers are quite misleading. For over three-fifths of the convictions, sentence was imposed the day a finding of guilt was made. When sentence was not imposed the day of the guilty finding, the mean elapsed time to sentence was about two months (64.2 days for 1977 cases and 55.5 days for 1978 cases, with half the cases taking six-seven weeks or more -- a 1977 median of 49 days and a 1978 median of 46 days).

Sentence might be delayed not only for postverdict motions, but also for presentence investigations (PSI's) to be done by the probation department. PSI's were ordered for about one-fifth of the convictions in the sample (18.8% for 1977 cases and 22.1% for 1978 cases). For such cases, the mean elapsed time from guilty finding to sentence was 76.3 days for 1977 cases and 63.8 days for 1978 cases. But some of these were cases in which there had been court approval of counsel requests that sentencing be deferred without such cases, mean elapsed times were 70.5 days for 1977 cases and 49.9 days for 1978 cases.

There were counsel requests that sentence be deferred for about one case in eight where there was a conviction (12.7% of 1977 convictions and 14.4% of 1978 convictions). When both PSI's and deferrals were requested, mean elapsed time from guilty finding to sentence was 114.1 days for 1977 cases and 109.4 days for 1978 cases. These times were considerably shorter when there was only a request for sentence to be deferred: 63.4 days for 1977; 58.9 days for 1978.

Court availability also affects the time elapsed between guilty finding and sentence. While many sentences are scheduled for Friday current business days of the court, others must be scheduled when the judge before whom the guilty finding was made can find time in his individual schedule. For cases in which no reason for delay was found in court files, time elapsed from guilty finding to sentence was 55.9 days for 1977 cases and 38.6 days for 1978 cases.

D. Conclusions

As shown by Figure 2.1 above, a study of elapsed time from arrest to disposition for criminal cases coming before Courts of Common Pleas in the southcentral region of Pennsylvania showed York County's 1975 average time to be 11.6 months or about 353 days. This average time was far longer than that in neighboring counties, and it suggested that there might be serious problems of noncompliance with the 180-day speedy trial rule. But findings in this study, summarized in Figure 2.7 above, are that York County prosecution of criminal cases docketed in 1977 (154.8 days) and 1978 (145.0 days) was for the most part accomplished well within the limits of the 180-day rule. Cases for which the elapsed time to trial commencement or nontrial disposition exceeded 180 days were those where the court in most circumstances had found due diligence by the prosecution, or defense actions to acquiesce in delay or toll the running of the time limit.

Two principal time periods during case processing have an identifiable impact on time to trial commencement: processing time by district justices and district attorney time preparing for arraignment. While some cases may still languish in district justice offices before transmission to the clerk of courts, efforts of the court administrator and the district justices to expedite transmission appear to have been showing positive results by the end of 1978, as Figure 2.7 suggests. Time from filing with the clerk of courts to arraignment, however, is a source of delay in the process that has been controlled with only mixed results by the current and former district attorneys. Internal time limits set in 1979 by the district attorney will, if they succeed as a

control device, reduce time to arraignment by about twenty days from the times shown in Figure 2.7 above.

Policy differences between the present district attorney and his predecessor with regard to letting cases go to trial have not yet shown clear results because of cases overlapping between 1977 and 1978. Higher 1978 percentages of ARD diversions and of convictions by guilty plea, however, show a greater emphasis on dispositions short of trial. Applications for extension of time for commencement of trial came significantly earlier in 1978 cases than in 1977 cases indicating more than token application of the present district attorney's tickler system.

The results of this study's sampling of criminal cases can be compared with those for a national study of pretrial delay that included inspection of 1976 criminal dispositions in the Courts of Common Pleas for Philadelphia and Pittsburgh. In that study, times from arrest to either verdict, dismissal, guilty plea, or diversion for nineteen metropolitan trial courts of general jurisdiction were compared, for median days, third quartile in days, and percent of cases over 180 days.²⁹ Figure 2.12 below recapitulates some of the sample findings discussed in this chapter for purposes of comparison with those in the national study for Pittsburgh, Philadelphia and four other jurisdictions whose results represent the shortest and longest times among the courts in the national study.

As Figure 2.12 indicates, York County's performance for criminal disposition times is midway between the numbers for Pittsburgh and

Figure 2.12. CRIMINAL DISPOSITION TIMES: YORK AND SELECTED METROPOLITAN COURTS*

Court Location	Median in days	Third Quartile in days	Percent Cases Over 180 Days
Wayne County, Michigan	64	109	10%
Portland, Oregon	67	106	3%
St. Paul, Minnesota	74	95	5%
Pittsburgh, Pennsylvania	103	137	9%
York County, Pennsylvania			
1977	140	183	26%
1978	135	170	20%
Philadelphia, Pennsylvania	168	216	38%
Bronx County, New York	343	504	75%

*The disposition time here is the time from arrest (for York County, trial commencement) to either verdict, dismissal, guilty plea, or formal determination of entry into a diversion program. Because most York trials were found to last a day or less, the somewhat different basis for York figures has little or no consequence for comparative purposes.

Disposition times are for cases disposed in 1976, except that York County times are for cases docketed in 1977 and 1978.

Sources: York County times are from a representative sample conducted for this study (see Figures 2.7 and 2.8). Times for other jurisdictions are from Church, *et al.*, *Justice Delayed. The Pace of Litigation in Urban Trial Courts*, Table 26, p. 18 (National Center for State Courts in cooperation with National Conference of Metropolitan Courts, 1978).

Philadelphia, both of which are subject to the 180-day speedy trial rule applicable to York county. That timeliness of case processing is not necessarily affected by case volume is suggested by the fact that, although Pittsburgh and Philadelphia both have much higher volume than York, only one court is slower. Pittsburgh, in fact, has twice as many felony filings per judge as Philadelphia.³⁰ York County has more such filings per judge than Philadelphia, but far fewer than Pittsburgh.

Chapter II Footnotes

1. Commonwealth v. Hamilton, 449 Pa. 297, 297 A.2d 127 (1972).
2. See Administrative Office of Pennsylvania Courts, 1975 Report, pp. 57-58, for population figures of each of the Pennsylvania counties and caseload figures for their Courts of Common Pleas.
3. See National Center for State Courts, An Assessment of Delaware County's Court of Common Pleas Courtroom Needs to the Year 2000 (February 15, 1979).
4. See Administrative Office of Pennsylvania Courts, 1977 Report, pp. 67 and 70-76.
5. 42 P.S. §§1303(a), 1403(a).
6. Pa. Const., art. 5, §17a; 42 P.S. §§1103, 1305a, 1405a.
7. 42 P.S. §1068.
8. 42 P.S. §1406.
9. Court procedure relating to motion diversion to ARD is governed by Criminal Rules 175-185.
10. This requirement was imposed by the Pennsylvania Supreme Court in its opinion for Commonwealth v. Davenport, 471 Pa. 278, 370 A.2d 301 (1977).
11. Criminal Rule 140.
12. Ibid.
13. Criminal Rule 141.
14. See Criminal Rule 146.
15. Cf. Criminal Rule 225.
16. Of course, not every case proceeds to trial; in fact, as sample statistics shown here indicate, most cases are disposed other than by trial. Guilty pleas (see Criminal Rule 319) constitute the largest category of dispositions, while diversions to ARD (Rules 175-185) and motions for nolle prosequi (Rule 313) also account for substantial numbers.
17. Under terms of Criminal Rule 315, a defendant's motion for dismissal is to be granted upon a showing that the information has not been filed "within a reasonable time."

18. Criminal Rule 1123.

19. Criminal Rule 1122.

20. Criminal Rule 325.

21. Criminal Rule 1100(d).

22. For a recent example of another study using the third quartile for statistical measurement, see Church, et al., Justice Delayed. The Pace of Litigation in Urban Trial Courts (National Center for State Courts Publication Number R0041, 1978) [hereinafter, Justice Delayed].

23. These dismissals included cases in which defense counsel moved for dismissal under Rule 1100, cases in which a prosecutor's application for extension of time under Rule 1100 was denied, and prosecution motions for a nolle prosequi under Rules 1100 and 314 (Rule 314 has been renumbered Rule 313, effective for cases in which an indictment or information was filed on or after January 1, 1978).

24. A defendant's participation in an ARD program constitutes waiver of his right to speedy trial. See Criminal Rule 178(3). Consequently, the 180-day time limit prescribed by Rule 1100 is automatically tolled during participation in such a program. See Pennsylvania Rules of Court (1978 Pamphlet), Comment to Criminal Rule 1100 (Bisel West 1978).

25. Criminal Rule 1100 (d) (2) excludes from the period for commencement of trial any delay occasioned by a continuance in excess of 30 days at defense request.

26. It should be recognized that arrangement of elapsed times in this fashion tends intrinsically to make numbers for the later months appear shorter than they might be when cases filed with Common Pleas after the sample date are added.

27. See Pennsylvania Rules of Court, Rules of Appellate Procedure, Rules 902 and 903 (1978).

28. See 17 P.S. §§211.102(6), 211.202(1) and 211.302.

29. Justice Delayed, p. 18.

30. Id., p. 28.

CHAPTER III

CIVIL CASES: TRESPASS, ARBITRATION, AND DIVORCE

Summary. Little formal court assistance is used by counsel to resolve disputes; the court is primarily a forum for resolution of matters at times determined by counsel. Most trespass cases are disposed of within a twelve-month period, yet many far exceed this time to disposition. The arbitration process is proving to be a relatively quick, inexpensive and fair alternative to the traditional court process. Masters in divorce matters appear to be filing reports in a timely manner.

In addition to its determination of cases involving allegations of criminal wrongdoing, the Court of Common Pleas provides the setting for resolution of civil cases -- primarily disputes among private parties for money damages or other relief. Except for cases involving adoptions and estates, civil matters are filed and clerically processed in the prothonotary's office. They include actions at law (most frequently assumpsit, trespass and divorce) and in equity (including partition of real property and such special relief as injunctions or accounting). Where damages claimed are \$10,000 or less, actions at law are to be resolved by arbitration rather than through the trial court process.¹

Overall data for civil cases in recent years for the York County Court of Common Pleas and for Courts of Common Pleas throughout Pennsylvania, presented in Figures 3.1 and 3.2, show an upward trend. The number of civil cases praeciped for trial (i.e., cases for which a formal request for trial was entered) and the number of civil jury

Figure 3.1 FIVE-YEAR COMPARISON (1973-1977) OF STATEWIDE AND YORK COUNTY COURT OF COMMON PLEAS
CASE VOLUME
CIVIL CASES PRAECIPED FOR TRIAL AND JURY TRIALS*

	----- Civil Cases Praecipied for Trial -----				----- Jury Trials -----			
	York County		Statewide		York County		Statewide	
	Number	% Change From Previous Year	Number	% Change From Previous Year	Number	% Change From Previous Year	Number	% Change From Previous Year
1973	244	--	19,293	--	12	--	1,905	--
1974	294	20.5	19,597	1.6	13	8.3	1,857	-2.5
1975	232	-21.1	19,959	1.8	10	-23.1	1,821	-1.9
1976	301	30.0	21,127	5.9	36	260.0	1,952	7.2
1977	319	6.0	21,307	0.9	30	-16.7	1,839	-5.8

$$\% \text{ Change} = \frac{\text{Current Year} - \text{Prior Year}}{\text{Prior Year}}$$

* Source: Administrative Office of Pennsylvania Courts, Annual Reports 1973-1977. Included here are cases in assumpsit, trespass, equity and miscellaneous cases; not included are arbitration or divorce cases.

Figure 3.2 FIVE-YEAR COMPARISON (1973-1977) OF STATEWIDE AND YORK COUNTY COURT OF COMMON PLEAS VOLUME DIVORCE AND ARBITRATION CASES*

----- Divorce Cases Added -----					----- Arbitration Cases Added -----			
York County			Statewide		York County		Statewide	
Number	% Change From Previous Year	Number	% Change From Previous Year	Number	% Change From Previous Year	Number	% Change From Previous Year	
1973	953	--	33,957	--	227	--	27,782	--
1974	1,174	23.2	35,465	4.4	274	20.7	27,812	0.01
1975	1,363	16.1	38,313	8.0	358	30.7	28,902	3.9
1976	1,214	-10.9	39,339	2.7	282	-21.2	29,544	2.2
1977	1,285	5.8	39,953	1.5	304	7.8	27,988	-5.3

$$\% \text{ Change} = \frac{\text{Current Year} - \text{Prior Year}}{\text{Prior Year}}$$

* Source: Administrative Office of Pennsylvania Courts, Annual Reports 1973-1977.

trials are small compared to the total number of cases initiated. The numbers in both charts show case volume appreciably higher in 1977 than in 1973.

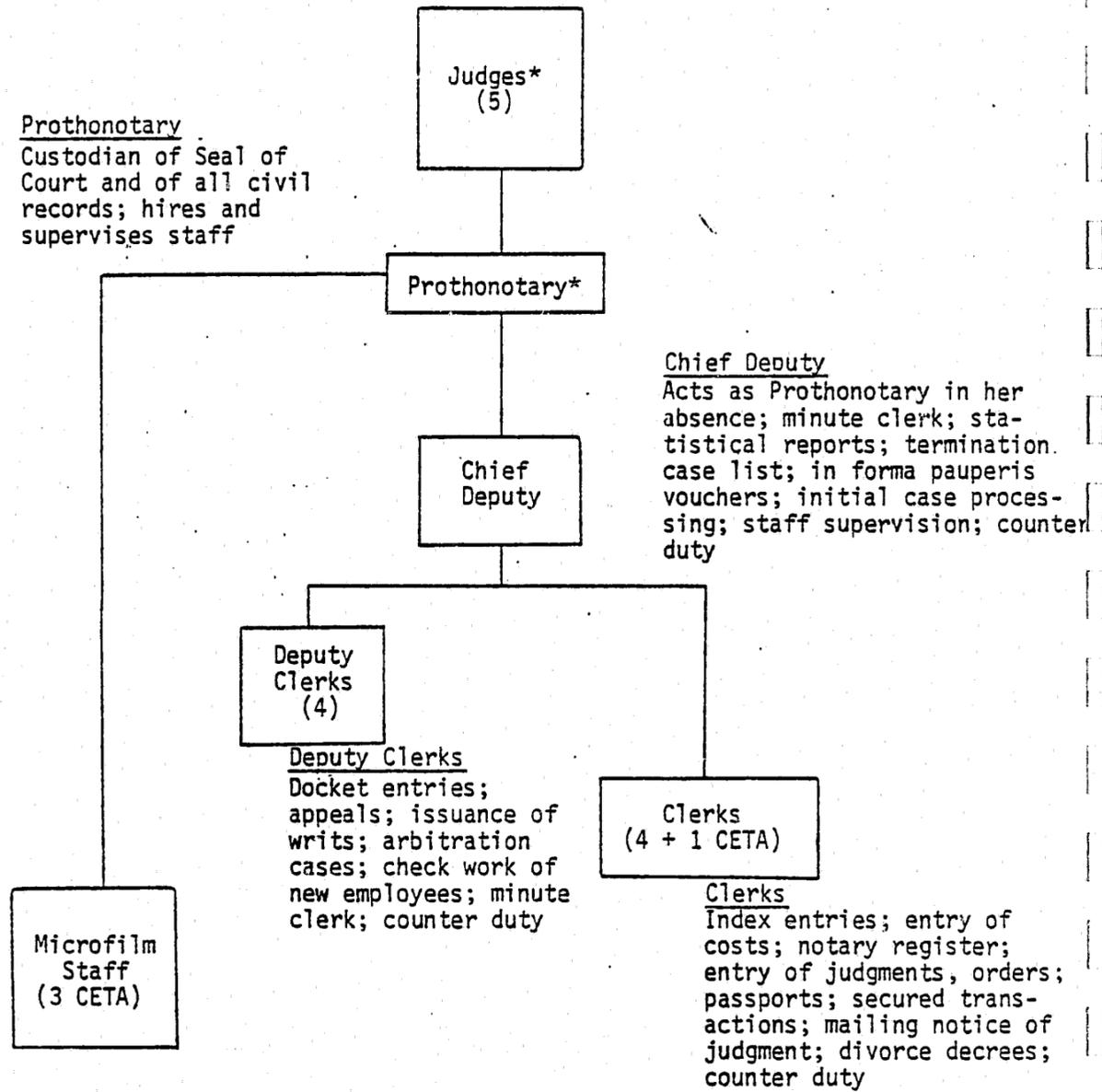
This chapter assesses case processing time for typical civil cases, first, with a discussion of the prothonotary's office, then a treatment of civil case processing generally. Last, findings and analysis of sample time lapse data are presented for three types of matters: trespass cases, trespass cases referred to arbitration, and divorce actions. These three categories of cases were judged by project staff to be reasonably representative of the types of civil matters processed through the prothonotary's office.

A. Civil Cases Generally

1. Office of Prothonotary. The prothonotary's office is the repository for records of civil matters within the jurisdiction of the Court of Common Pleas. Figure 3.3 is an organization and function chart for the prothonotary's office. The office of prothonotary is an elective position with a four-year term. The present prothonotary served as a clerk in the office for some twenty years prior to her election to the post in 1976. She is assisted by a chief deputy clerk and nine additional support staff, including four deputy clerks and five clerks. The deputy designation refers to the capacity to serve in the courtroom and not to a classification for wages. Of these nine employees, eight are paid by the county and one is a CETA employee; all are paid an hourly rate. Only the prothonotary and the chief deputy are salaried. Adjoining the prothonotary's office is a room for the microfilming service, staffed by three CETA-paid personnel. The prothonotary is authorized by the county commissioners to retain an attorney to serve at county expense as her solicitor.

Each staff person is responsible for a group of tasks, apportioned according to experience; in addition, each serves two hours of counter duty daily. The chief deputy clerk, at the direction of the prothonotary, reallocates tasks as turnover in personnel occurs. Between April and June 1978, three persons with experience ranging from one to three years quit to take other jobs. Insufficient salary was cited as the reason for leaving.

Figure 3.3 YORK COUNTY COURT OF COMMON PLEAS PROTHONOTARY'S OFFICE



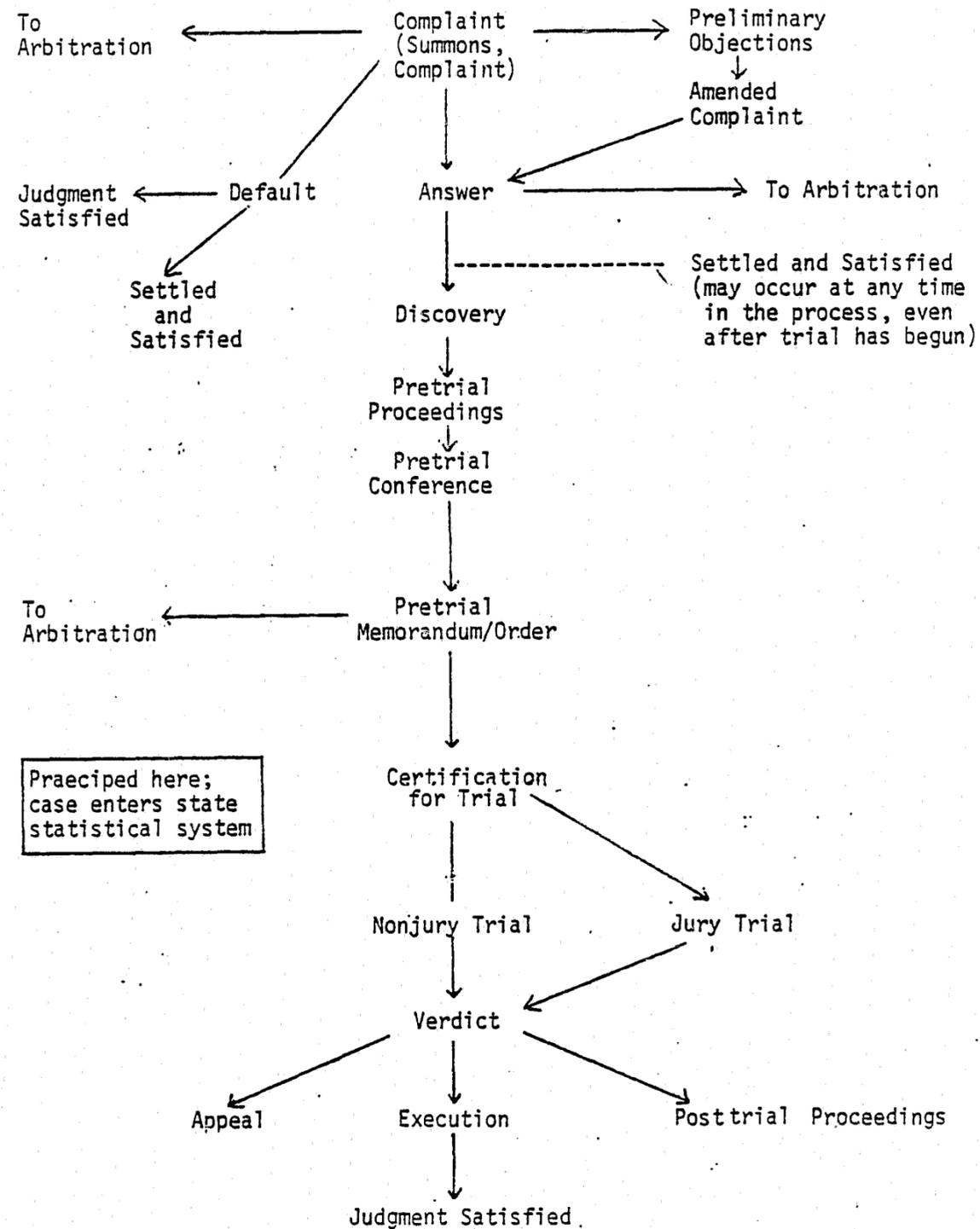
* Elected position

2. Civil Case Processing. While there are many types of civil cases within the jurisdiction of the Court of Common Pleas, the most frequently encountered are trespass (tort) or assumpsit (contract) cases, initiated by filing a summons or complaint in the prothonotary's office. (In the civil area a "typical" case defies description, but the processing of a trespass case that goes to trial might pass through the steps shown in Figure 3.4 below). Few cases proceed to trial: this relieves demands on judge time and courtrooms. Cases which proceed through other methods of disposition (e.g., confession of judgment, default judgment, settlement, discontinuance, arbitration award), while requiring little in-court time, call for a significant amount of paperwork for staff of the prothonotary's office.²

3. Scheduling Watchbooks. Civil cases are assigned for hearing or trial by the court administrator under the direction of the president judge upon written request of counsel in one of several "watchbooks" for specified purposes: (a) pretrial proceedings; (b) pretrial conferences; (c) trials; (d) posttrial argument and (e) divorces. Entries to each watchbook include: names of counsel, caption, case number, type of action, and date listed in the book. Counsel are responsible for giving written notice when they have listed any case in a watchbook.

a. The Pretrial Proceedings Watchbook contains, for example, requests for hearings pertaining to Local Rule 30 (b),³ one-judge dispositions such as preliminary objections, motions for summary judgment, and petitions to strike or open judgment. A brief in support

Figure 3.4 KEY ELEMENTS IN TRESPASS CASE PROCESSING



filed within ten days of filing the document (opposing briefs to be filed within ten days from service; reply briefs within five days from service) has been (since September 1978) a prerequisite to scheduling the matter for hearing. The court administrator reviews case entries in the watchbook every two weeks, assigns the cases to a judge, rotating the assignments, and notifies the attorney of the assignments by letter. The case file is then routed through the court administrator to the judge for consideration.

b. The Pretrial Conference Watchbook (Local Rule 261) contains a list of those cases which are at issue (opposing pleadings have been filed) and in which the requesting party is ready to proceed to trial. Every two weeks, the court administrator gathers the requests, assigns the cases to available judges, and prepares a list of cases to be scheduled for pretrial conferences. Each judge then is responsible for setting conference dates and notifying counsel. A pretrial conference is a prerequisite for certification as to readiness for trial, which in turn is necessary before the case can be listed for trial. Local Rule 261 (e), adopted September 1978, specifies that a judge is not disqualified from sitting as the trial judge because he did not preside at the pretrial conference.

c. The Trial Watchbook (Local Rule 263) contains requests for jury trials only (court trials and actions in equity are normally scheduled and tried by the judge who certifies as to readiness; see

Local Rule 262). This list closes one month prior to the date of the next civil session. After the closing date, the court administrator prepares a list of the cases, taken in order from the watchbook, for which a certificate of readiness has been filed. Publication of the list is made in accordance with Local Rule 265 at least two weeks prior to the session. The first call occurs two weeks prior to the civil session; subsequent calls are held one week before the session and on its first Monday. It is the policy to grant no continuances after the second call; acceptable grounds for continuance include, e.g., agreement of counsel, respondents not located, or witnesses unavailable. Occasionally a refused continuance is contested. If counsel are not present at the call, the case is dropped from the trial list and must be relisted by counsel for a subsequent session. No official record of the number of continuance requests and of the times the case has been listed is maintained, but the court and the court administrator can and do insist that a trial take place if they feel that counsel has been delaying without due cause.

Once a final list of matters for trial has been prepared, the court administrator assigns cases to individual judges. Assignments are made primarily upon a workload basis. The policy has been to assign cases to the judge who certified the matter for trial; however, some flexibility is exercised as the court administrator assigns according to availability and specialty. Courtroom availability is another consideration. The attorney is informed on the first morning of the

session of the judge to whom the case has been assigned, and in what order the cases will be heard. An attorney has no control over the selection of the judge who will try the case. Although the court administrator does not control the daily schedule of the judges, each judge notifies the court administrator of his pending workload every Thursday for the following week to permit assignment of court reporters to the sessions.

d. The Posttrial/Argument Watchbook (Local Rule 30 [a]) contains requests for matters to be heard by the court en banc, such as for motions for new trial, judgment n.o.v., removal of nonsuit, exceptions to findings of fact or conclusions of law, appeals from local administrative agencies, and for any other motion or proceeding required by statute or rule to be heard en banc. These matters are heard at the regularly scheduled argument court sessions published in the court calendar. One month prior to the start of argument court, the list closes and the court administrator prepares a list of cases for the call.

In September 1978, the prothonotary began to give notice of the filing of posttrial motions to court reporters who recorded the trial and to give case information to the court administrator (Local Rule 201). Cases that require a transcript of the record may be listed for argument only on application by counsel to the presiding judge (Local Rule 32 [a]); the court administrator may remove from the list those cases not in compliance (barring a special order from the presiding judge). Most cases do not require a transcript. By Local Rule 32 (b),

publication of the argument list is required at least two weeks prior to the scheduled session. Local Rule 32 also relates to the timely submission of briefs by counsel. Failure of any party to appear constitutes an agreement to have the issue determined on briefs without oral argument.

e. The Divorce Watchbook (Local Rule 112) lists requests for hearings on such matters as petitions for alimony and counsel fees, which may be entered in the watchbook after the return day specified by rule. Local Rule 201 requires the prothonotary to furnish to the assigned judge (one judge now attends to all divorce matters) a list of all cases from the watchbook at least twenty days prior to the dates fixed in the court calendar.

Watchbook Control. The five watchbooks are the creatures of the county bar: processing of civil cases through the "watchbook phase" is controlled by the attorneys, not the court.

4. Termination of Inactive Civil Cases. In accordance with Pennsylvania Rules of Judicial Administration, Rule 1901 (effective January 1974), all civil cases in which no judgment or final order has been entered and in which no action has occurred for at least two years are listed by the prothonotary on or before the fourth Friday of June of each calendar year. The court administrator schedules these cases for general call on the second Monday of September of each calendar year. Notice by mail sixty days prior to the call and notice by publication (thirty days prior) for those cases in which the notice was

undeliverable must be given by the court administrator. Written objections must be filed at least one week before the call. In 1976 and 1977, a total of 8,225 cases were terminated in the wake of Local Rule 174 (now replaced by Local Rule 255, effective September 1978) requiring purging of inactive cases; 318 cases were on the most recent list, called in September 1978.

B. Trespass Cases

The most common class of contested civil lawsuits in the Court of Common Pleas in York County is the trespass (primarily motor vehicle tort) category. As depicted in Figure 3.4, a trespass case is initiated by a summons or complaint. The court leaves enforcement of the timeliness of filings entirely to counsel for the parties. In some cases preliminary objections are filed, causing a considerable lapse of time to the end of pleadings. It appears from pleadings that the most common route is to proceed either to arbitration for cases within the \$10,000 limit, or directly to a "settled and satisfied" disposition. Some cases do involve pretrial motions, and a pretrial conference may ensue. A "settled and satisfied" disposition or court order for a reference to arbitration may result. Few cases go on to either a court or jury trial (see Figure 3.6.) By far the largest category of dispositions is the "settled and satisfied," which may occur at any point in the process.

Data Sample. A preliminary examination of the court records indicated that selection of cases initiated during the years 1976 and 1977 would provide some assurance of more disposed than open trespass cases, thus enabling some conclusions to be made regarding the process to disposition.⁴

While commencement of action statistics, counted upon the filing of a complaint or summons, are maintained for the monthly report of civil actions, statistics included in the statewide annual report are "filings" -- i.e., cases that have been certified for trial. From a

processing point of view, however, the number of actions commenced is more representative of the total inventory of cases filed in the prothonotary's office, since a relatively small proportion of cases reach the certification stage. There were in 1976 and 1977 just over 400 commencements of trespass cases each year.⁵ Approximately one-third of those cases form the sample discussed in this section, 134 cases from 1976 and 146 cases from 1977, or 280 cases in all. A breakdown of the sample into complete, open and arbitration cases appears as Figure 3.5.

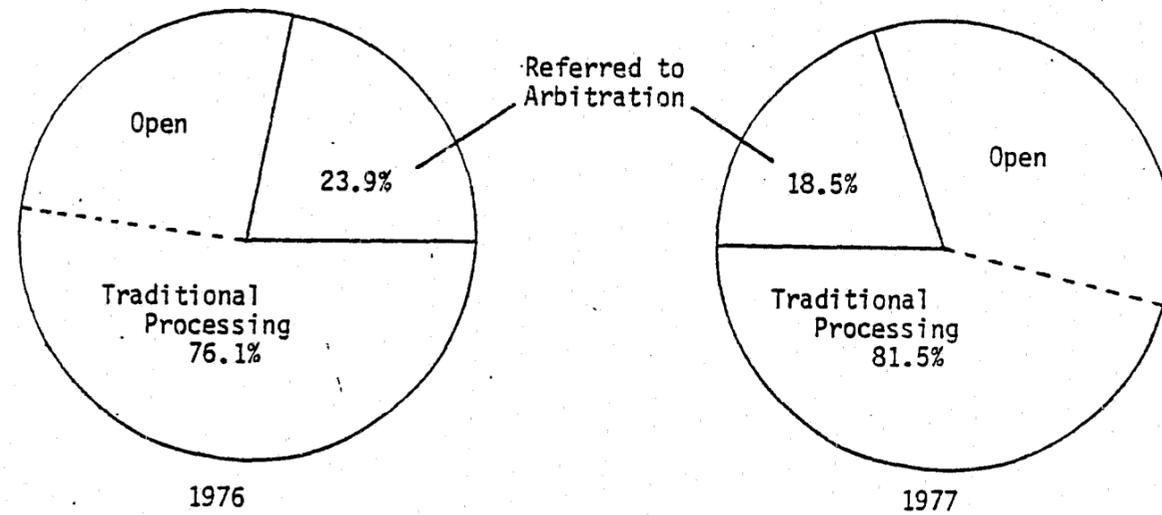
The cases are assessed here by year and according to whether they had proceeded to disposition at the time of the sample. Trespass cases referred to arbitration are discussed below in section C of this chapter. The mean, median and third quartile measures and the range of disposition rates were used as analysis instruments for all categories.

For disposed cases, analysis focuses upon the total elapsed time to disposition and the type of disposition. Although time lapse data were collected for key stages in the process -- e.g., from commencement through pleadings, pleadings through discovery, and discovery to pretrial conference or memoranda -- a numerical analysis was not conducted because little information was available in the docket; often the commenced date and the "settled and satisfied" date were the only two found of those sought. This led to a later conclusion: counsel apparently use little formal court assistance to resolve disputes. General trends, however, in the progress of cases are discussed.

Findings.

Disposed Cases. Case dispositions within the traditional court processes (as distinguished from arbitration) form just under 50% of the

Figure 3.5 YORK COUNTY CIVIL TRESPASS CASE SAMPLE



total trespass sample, or 136 cases; of those cases in the sample on the "court track" (sum of completed and open categories in Figure 3.5), about three-fifths (61.5%) are completed. It was anticipated that there would be more open cases in 1977 than in 1976, since a significant portion of cases (25% in 1976) take at least one year, or longer, to reach disposition. An examination of the distribution range, depicted in Figure 3.6, shows that the bulk of cases (slightly more than 40%) are disposed within four to twelve months.

As Figure 3.8 shows, the mean, median and third quartile days to final disposition are all lower in 1977 than in 1976. The mean is less by about 25%, the median by over 15% and the third quartile by just over 15% as well. The distribution chart (Figure 3.6) indicates that changes in the disposition times at both ends of the range, that is, more shorter cases and fewer lengthy cases in 1977, account for this decrease in disposition time.

As Figure 3.7 indicates, by far the largest category of disposition types is the settled and satisfied (more than 75% of the disposed sample), followed by default judgments (just under 12%). Included with the default category in Figure 3.7 are cases in which nolle prosequi, dismissal and discontinuance judgments have been entered. They have been combined into one category because all are initiated by praecipe of counsel and do not involve judicial resources. Of the settled and satisfied category, resolution in better than 70% of the cases in both years occurs at some point after pleadings, before the start of the pretrial stage. Less than 10% of the cases fall out at the discovery

Figure 3.6 TIME LAPSE DISTRIBUTION DATA - CIVIL TRESPASS CASE SAMPLE COMMENCEMENT OF ACTION TO DISPOSITION

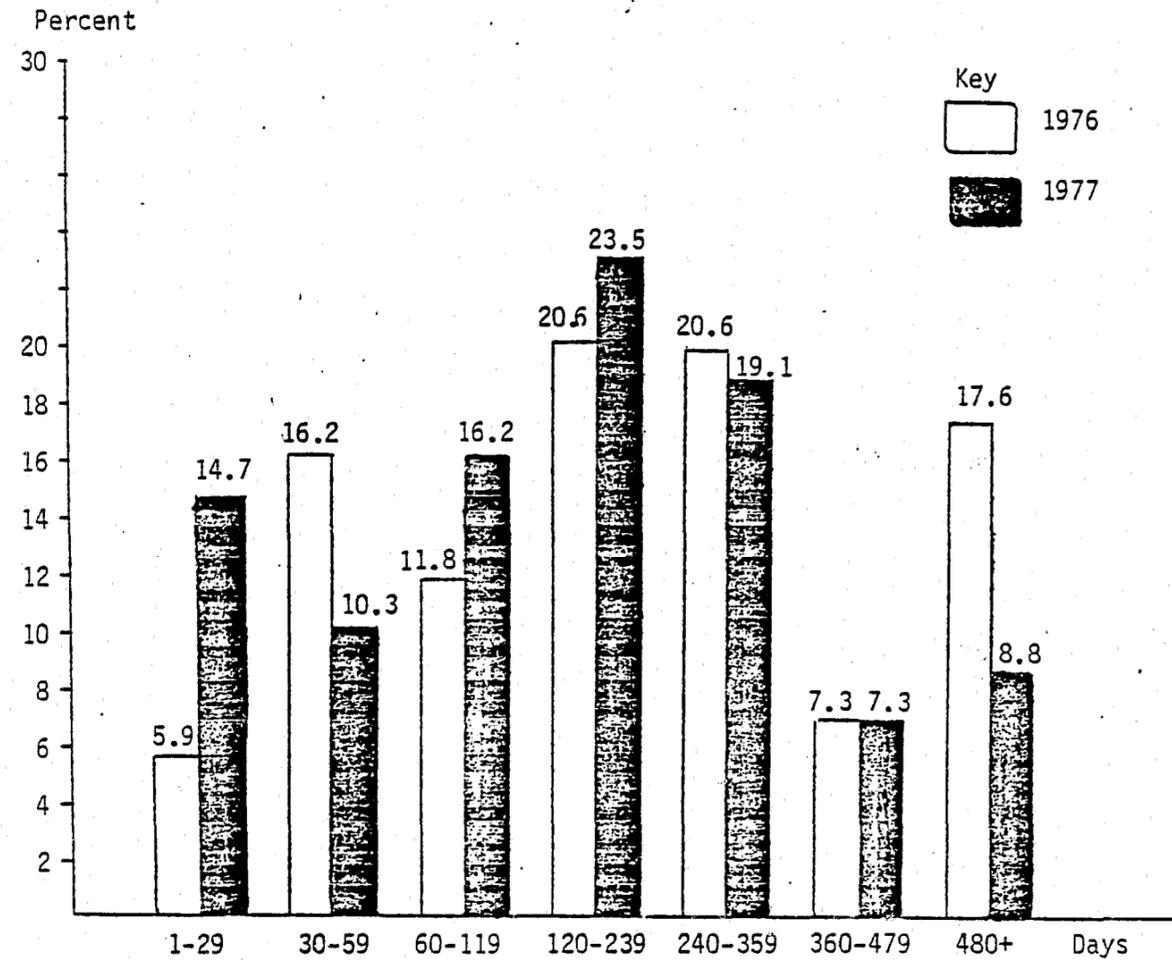


Figure 3.7 CASE DISPOSITION BY TYPE - CIVIL TRESPASS CASE SAMPLE

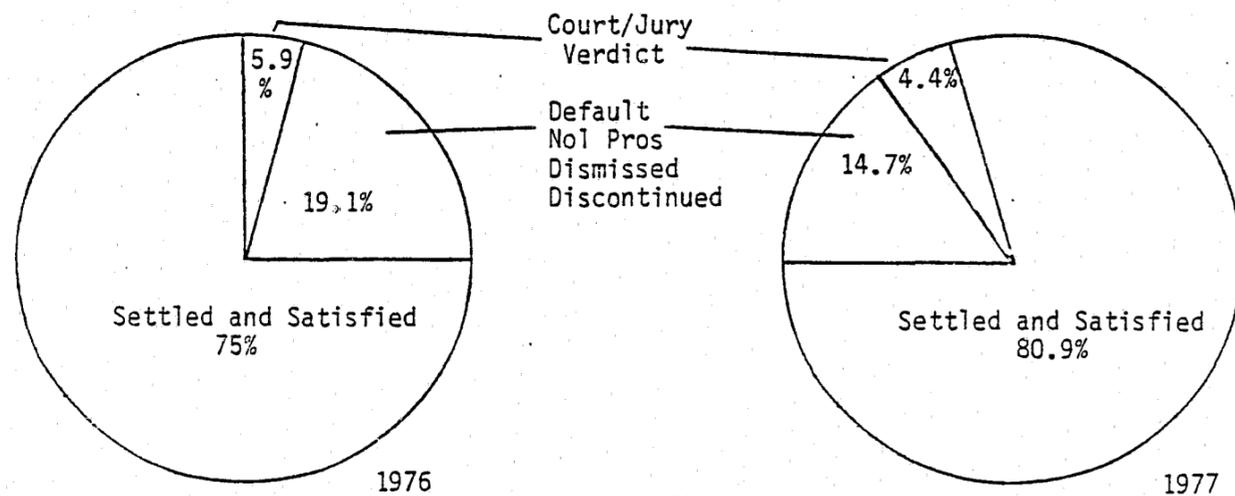


Figure 3.8 ELAPSED TIME FOR 1976 AND 1977 YORK COUNTY CIVIL TRESPASS CASES^a

Description	Year	
	1976	1977
Days from commencement of action ^b to disposition		
1. Mean	266.4	198.6
2. Median	193	159.5
3. Third Quartile ^c	359	302

- a. Source: National Center for State Courts representative sample of civil trespass cases for calendar years 1976 and 1977, based on date filed with and docketed by York County Prothonotary.
- b. I.e., date summons or complaint filed with Prothonotary.
- c. "Third quartile" represents the number of days within which 75% of the cases were processed.

stage, and settlement occurs in 15% or more of the cases at the pretrial conference or certification stage.

No consistency in the number of days to default judgment is evident: the time lapse varies from 24 days to 359 days (and one, at 840 days!). About half of these cases contained a settled and/or satisfied entry beyond the default date.

Of the 68 cases disposed of in 1976, only ten were certified for trial: six of these were subsequently settled, three resulted in a court verdict, one in a jury verdict. In 1977, only five of the 68 cases were certified for trial, resulting in two settled, one court trial and two jury verdicts. Court and jury verdicts amount to only 5% of the disposed sample, or seven out of 136 cases.

Open Cases. Open cases make up about 30% of the total sample. Of those 34 cases initiated in 1976 that are still pending, it appears that 23 of them (67.5%) are eligible to be purged. (By Pennsylvania Rules of Court, Rules of Judicial Administration, Rule 1901, cases in which there has been no action for two years may, after notice, be purged.) The average case of these was initiated about 2.5 years ago. In 1977, the median case of the 51 open cases had been initiated just over 1.5 years before.

Of the 1976 cases only five out of 34 (14.7%) cases indicate any action within the past nine months; in 1977, sixteen out of 54 (29.6%) cases show action within the same period. It seems, then, that only in about one-quarter of the cases in the open category has there been much case activity. Of the 85 open cases, in 35 cases (41%) the commencement of the action date is the only entry on the docket page; one suspects little further action to take place in these cases.

These pending cases in the sample appear to be following the same trends as those in the completed category: little court involvement appears to be necessary. The number of cases in the sample eligible to be purged leads to some speculation that many of them might have been weeded out some time ago had counsel been reminded of them. While the number of cases in the inventory does not burden judicial resources, it does have an impact on the availability of space for records within the prothonary's office.

The three measures used -- mean, median, third quartile -- all indicate a slight lessening in the amount of time from commencement of the action through disposition. The distribution chart shows, however, that this improvement is due primarily to the cases at the extremes: in 1977, there were some significantly short disposition times⁶ (10 under one month in 1977, versus 4 in 1976); and there were only 11 cases beyond 360 days in 1977 compared with 17 considerably lengthier cases in 1976. In both years, the bulk of the cases are disposed within four to twelve months. It is likely that when those cases now in the open category are finally disposed, there will be little difference between the disposition times in 1976 and 1977. The gap will close, because already the median open 1977 case is 1.5 years old, longer than the period in which the bulk of the cases are completed.

An examination of the times at the various processing stages was made of those cases taking longest for disposition (those requiring more than 16 months) to determine at what point cases become bogged down. Of the dates sought⁷ only three were found with any regularity -- the date

of the summons or complaint, the date of the last pleading, and the date of disposition (usually, a "settled and satisfied" entry by the attorney).

In only isolated instances were preliminary objections indicated as a possible explanation for the lag between initiation of the action and the end of pleadings. Of the total 136 completed cases, only eleven indicated preliminary objections, and the time to the last pleading varies from 26 days to 362 days. It is clear that in few cases do counsel enforce Rule 1026 of the Pennsylvania Rules of Civil Procedure, requiring any necessary responsive pleadings to be filed twenty days from the previous pleading. The docket reveals little information about the length of time between the last pleading and the end of discovery. From this one can conclude that the most important activity in the majority of civil cases in York County is negotiation between counsel for the parties, an ongoing activity that does not show up on the docket page. These periods, 1) between commencement and end of pleadings, and 2) end of pleadings through discovery, appear at first to be bottlenecks in the process. The time appears to be well spent, however; as indicated above, most cases are settled before they reach the pretrial stage.

Once a pretrial memorandum was issued and the case was certified for trial, disposition either followed reasonably quickly or delay was explainable by the imminence of settlement. Where the docket indicates continuation of the trial list, settlement follows closely. In most cases it appears that the certification for trial is an effective mechanism for bringing about settlement.

Conclusion. The litigation process, while completely in the control of the attorneys, is apparently working well. What may appear at first to be delays are periods of time that are resulting in settlements, which require less time to be spent by the court. Other concerns, however, such as whether litigants' needs are being met, and the effect on the prothonotary's office of maintaining records in which there is no progress need to be examined.

There are basically two schools of thought as to the function of the trial court in the civil process: whether it is 1) to expedite disposition, and perhaps respond more quickly to the needs of the litigants for a speedy resolution; or 2) to provide a timely trial upon request by counsel in cases in which settlement cannot be negotiated. The York County Court of Common Pleas, like all of Pennsylvania, takes the second, laissez-faire approach, as evidenced by its method of counting cases: a case becomes a "filing" only when it is praeciped for trial, rather than when the summons or complaint is first filed with the prothonotary. Control of the pretrial process is in the complete control of the local bar; in this respect York County is like many trial courts nationwide.

An alternative to the present approach is the case management approach, which involves active attention by the court to the progress of each case from commencement of the action through disposition. Establishment of case processing time standards and active monitoring of performance against these standards are first steps in developing the case management process. Under this approach the court takes control,

CONTINUED

1 OF 3

taking the initiative to require counsel to complete their work in a timely fashion, enforcing compliance with rules and standards to which the court is committed. Equally important to the goal of speedy resolution of disputes, of course, are the goals of fairness to litigants and equal access to the court. Attainment of these three goals is a realistic result of an effective case management approach.⁸

An affirmative role in managing the processing of civil cases by the court is advocated by the American Bar Association in its standards for trial courts. It recommends the establishment of a time standard for civil cases: six months from commencement of the action to trial.⁹ The standard is not intended to effect the dismissal of cases not attaining the standard, but rather to be a means to identify those cases likely to involve significant court resources. Early flagging of protracted cases enables the court to plan allocation of its resources.

In a Supporting Study to the ABA Standards, Caseflow Management in the Trial Court, author Maureen Solomon provides other examples of civil processing standards:

1. A goal of 12 months from joinder of issue to disposition in personal injury cases; 6 months in contract cases; 3 months in claims of limited amount, for example, those under \$1,000.
2. A 20-day limit for filing the answer to a complaint.
3. A status conference between the attorneys and the judge 30 days after joinder of issue.
4. A requirement that discovery be completed by the pretrial conference date, or no later than 30 days prior to trial.¹⁰

The term "status conference" is described in this manner by the ABA

Support Study:

The purpose of this conference is to delineate the issues in the case and to establish a processing timetable to govern the progress of the case until final disposition. The kind of items which might be included in this timetable are: the duration, sequence and extent of discovery; the need for a pretrial or settlement conference; and the estimated date and length of trial. Status conferences in all cases might consume too much judicial time in large courts but some kind of device should be employed to screen cases and obtain counsel and court's agreement to a processing timetable unless standards for case progress have been set for each step of the litigation.

(Caseflow Management in the Trial Court at 38.)

The idea of court responsibility for the pace and progress of pretrial stages of civil litigation has been slow to take hold. While court monitoring of cases in the pretrial stage has been to some degree effective in the federal courts, its effectiveness in state courts remains largely untested, since few practice it. Yet processing times among state courts vary widely. The National Center's National Metropolitan Court Delay Project has shown that factors traditionally cited as producing delay, such as court size, judicial resources and workload, settlement and trial activity, taken individually, have less effect on the progress of a case than the "local legal culture" -- i.e., the "established expectations, practices, the informal rules of behavior of judges and attorneys."¹¹ Case management is one factor of two (the second is calendaring systems) that may, however, affect the pace of civil litigation.

Pennsylvania Rules of Civil Procedure and the York County Local Rules establish few time limitations other than times for responsive pleadings, amended pleadings and for filing of a complaint in actions initiated by summons. (See Pennsylvania Rules 1026, 1028, 1037). The court plays no role in enforcement of these rules -- action by the court or prothonotary must be precipitated by a request by counsel.

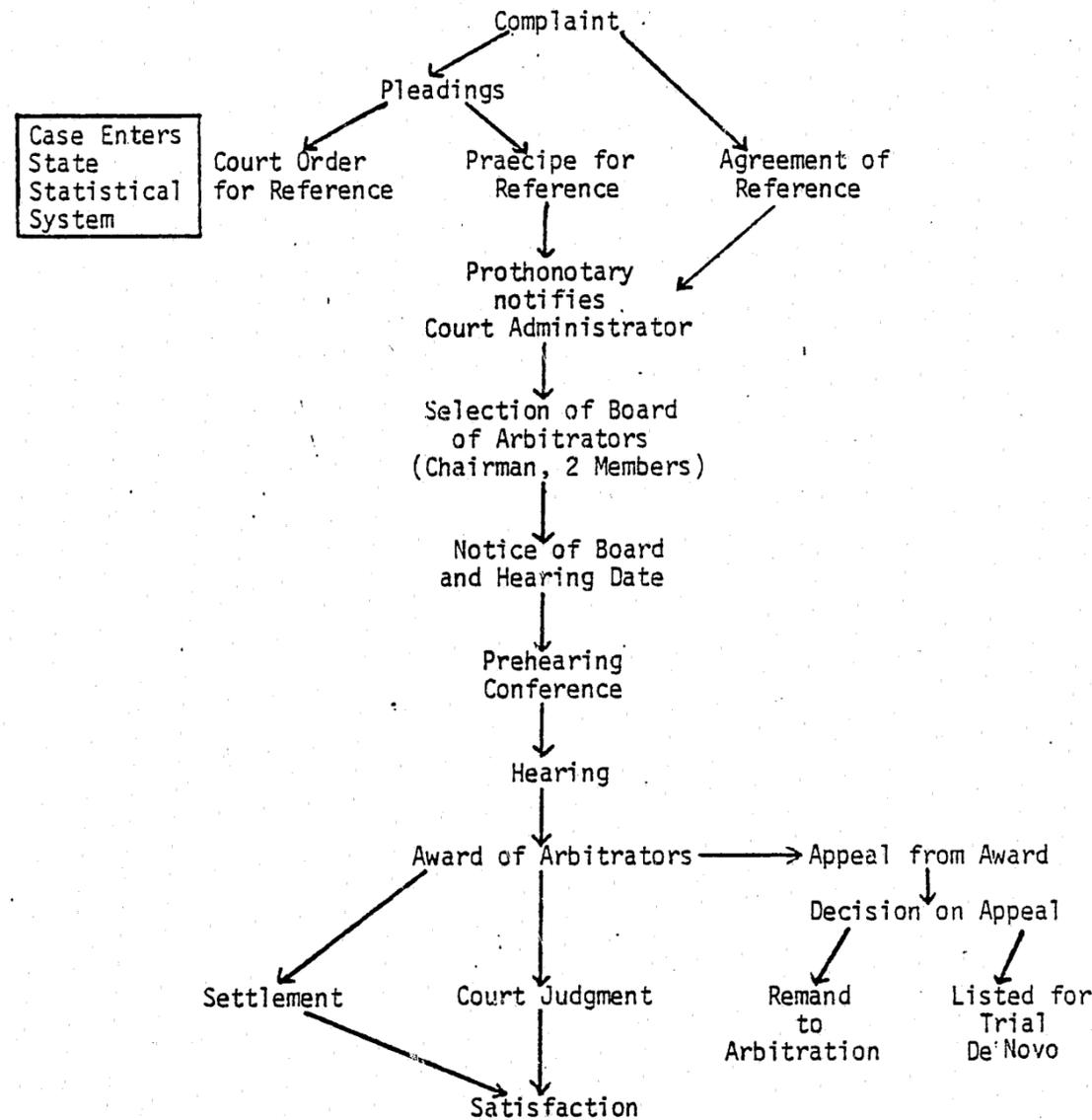
In sum, it appears that, in the processing of civil trespass cases, the court is primarily a forum for the resolution of disputes through counsel-controlled negotiations. The court takes no initiative in either enforcing the timeliness of pleadings or in monitoring the status of case progress. While 80% of the total sample of completed cases were disposed in less than one year, a period that has been proposed in other jurisdictions as a processing standard, another 20% far exceed this time to disposition. It is unlikely that this additional time serves the needs of the litigants to have matters speedily resolved. The findings of the National Center's metropolitan delay project suggest that case processing time will not be significantly reduced so long as control of pretrial proceedings remains with the attorneys.¹²

C. Arbitration Cases

Case Flow. Civil cases in which the amount in controversy is \$10,000 or less (up from \$5,000, as of September 1978) not involving real estate, must first be submitted to the arbitration process.¹³ When counsel for the parties determine that the amount claimed falls within the \$10,000 limit, the process is initiated by filing with the prothonotary a praecipe for reference or an agreement of reference or by the court's order for reference (see Figure 3.9). Upon notification from the prothonotary, the court administrator selects the Board of Arbitrators, consisting of a chairman and two members from within the York County Bar. The court administrator assigns to each board as many cases as may be heard in one day (based upon counsel's estimates of time, normally, six cases) and notifies parties and board members of the date scheduled for hearing and the makeup of the board. By Local Rule 22, hearings are normally scheduled for the multipurpose room in the courthouse thirty to sixty days in advance. Counsel are required to hold a prearbitration conference one week prior to the hearing. The chairman is responsible for reviewing the case on the day prior to hearing and for seeing that the report and award are submitted to the prothonotary ten days from the hearing date unless the court has granted an extension. Compensation (from county funds) becomes due only when all reports and awards from all cases heard in the one day have been submitted to the prothonotary, who issues the order for payment.

Appeals from the award of arbitrators must be filed within twenty days from notice of the filing of the report with the prothonotary. Few

Figure 3.9 ARBITRATION CASE PROCESS



appeals are taken, however, and this remains the case to date, though the amount in controversy has risen. Cases on appeal are scheduled by the court administrator for a pretrial conference. Possible outcomes include settlement, listing for trial, or infrequently, a remand to arbitration for settlement.

The award, though no appeal may have been filed, is not the official disposition of the case, unless the docket so indicates (the common wording is "judgment in favor of plaintiff/defendant on award of arbitrators").

Primary responsibility for cases submitted to arbitration, then, rests with the court administrator, who selects the board, notifies parties, and schedules all arbitration matters. The prothonotary's office responsibilities include filing, docketing, and issuing orders for payment of arbitrators' fees.

Data Sample. The sample of cases referred to arbitration was gathered as part of the total civil trespass sample. As shown in Figure 3.5, approximately one-fifth of the total civil trespass sample of cases (59 cases) was referred for arbitration. The amount of controversy in these cases did not exceed \$5,000, the \$10,000 limit having become effective in September 1978, after the data capture stage of this project was completed.

In this section are examined time lapse statistics for arbitration cases in each of the following subcategories: commencement of the action to reference to arbitrators; reference to the award; and, award to court judgment. Also included is a comparison of the total disposition time for arbitration cases with that for the trespass cases in the sample.

Findings.

Time From Commencement of Action to Reference. While the mean and median for 1977 cases are shorter in days than those for 1976, the third quartile figure shows that it took 13 days longer in 1977 for 75% of the cases to be referred (see Figure 3.10). The difference of 29.3 days between the mean and median in 1976 can be explained by the presence of some particularly lengthy cases, one exceeding 650 days. The third quartile figure of 166 in 1977 cannot be considered significant, since the progression leading to it is 121, 121, 162, 166, a large jump. It may be more accurate to say, then, that the length of time from commencement to reference has remained stable over the two-year period, exhibiting little, if any, change.

Elapsed times were computed from the date the summons or complaint was filed to the date of reference to arbitration in all cases. Because these figures suggested that three to five months often elapse before reference is made, an effort to ascertain the cause was undertaken, using for computation the date of the event closest to reference, most commonly the filing of a pleading, occasionally a discovery filing. As expected, no pattern emerged in the time of filing, since reference is most often by praecipe of counsel at a time when attempts at negotiation have failed or when the negotiated ad damnum falls within the arbitration limit. A range from several days up to three months encompasses most cases; especially short times to reference occurred as the result of a pretrial order; default judgments also served to

Figure 3.10 ELAPSED TIME FOR 1976 AND 1977,
YORK COUNTY ARBITRATION CASES^a

Description	Year	
	1976	1977
A. Days from commencement of action to reference		
1. Mean	130.2	118.8
2. Median	101.5	96
3. Third Quartile ^b	153	166
B. Days from reference to arbitrators to award		
1. Mean	73.8	53.8
2. Median	57	48
3. Third Quartile ^b	69	63
C. Total days from commencement of action to award of arbitrators		
1. Mean	209.6	161.8
2. Median	168	132.5
3. Third Quartile ^b	254	183

- a. Source: National Center for State Courts representative sample of civil trespass cases for calendar years 1976 and 1977, based on date filed with and docketed by York County Prothonotary.
- b. "Third quartile" represents the number of days within which 75% of the cases were processed.

encourage the parties to refer the case to arbitration. Yet there were also cases (about 12% of the sample) in which the time to reference exceeded six months. It may be that this time was used to negotiate the ad damnum, arriving at last at an amount within the compulsory arbitration limit.

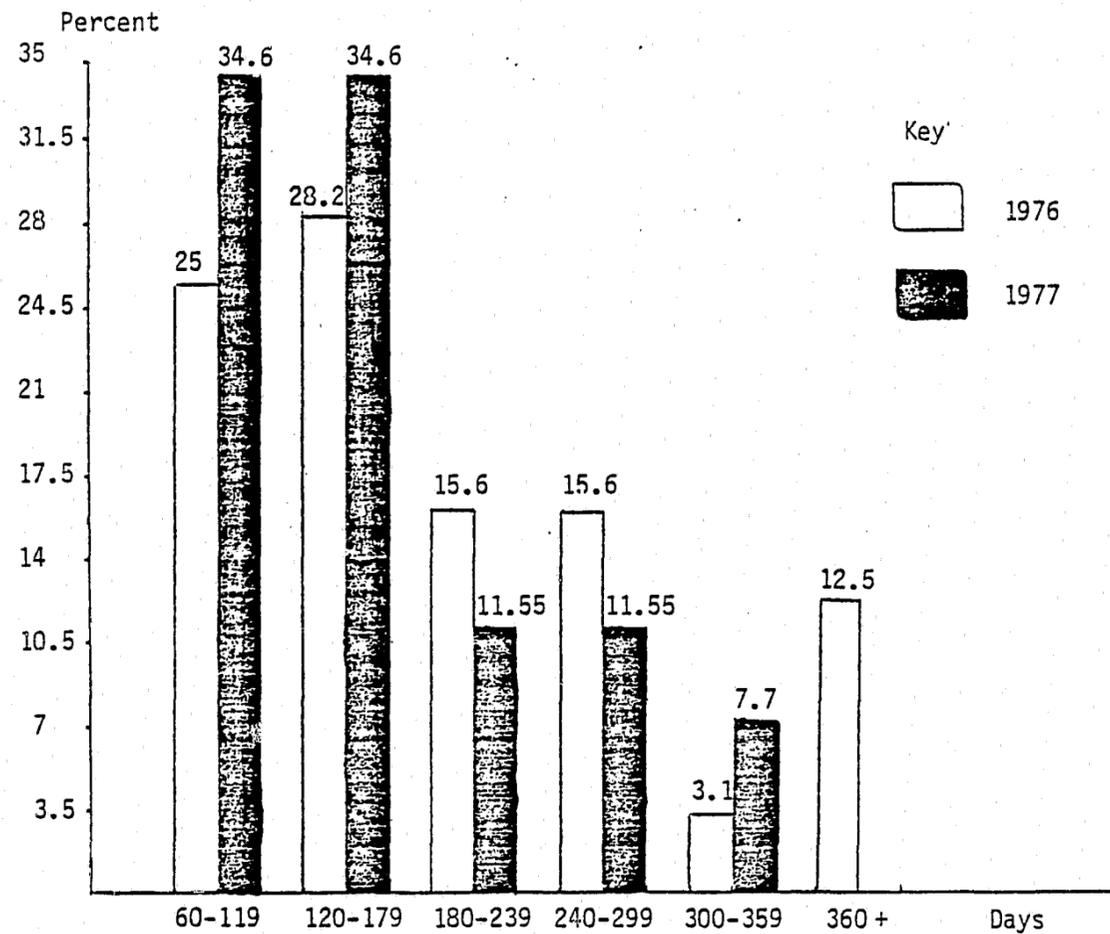
Time From Reference to Award. More differences appear for the period from reference to an arbitration award. The median shows about a 16% decrease, while the mean is less by more than 25%. There were, however, considerably more lengthy cases in 1976, affecting the median and mean rates (six in excess of 80 days in 1976, only two were 80 days or more in 1977). The third quartile figure is down only slightly from 1976 to 1977, from 69 to 63 days. The minimum amount of time in both years is similar: 36 and 37 days, respectively.

Although there is a local rule requiring that the award of the arbitrators be filed within ten days from the hearing date, the degree of enforcement of this deadline is unascertainable from the data collection effort, because the hearing date does not become part of the docket record. According to the court administrator, tying payment to receipt of the arbitrator's report has been sufficient incentive to meet deadlines. The bulk of the cases (75% in 1976, 68% in 1977) result in an award 40 - 69 days from reference. All statistical measures show steady improvement by the arbitrators in processing cases more quickly. It appears that advance scheduling, rather than the board's actions, accounts for the lapse of time.

Time From Award to Disposition/Appeals From Award. Court judgment was entered in the docket in 59.3% of the case sample. In only three cases was an appeal from the award filed: of those, one ended in a court judgment, one is pending, one notes the appeal was decided, but no final disposition has been entered. The infrequency of appeals is an indication that the arbitration process is working well: disputants are apparently satisfied that the arbitration process is responsive to their needs. The fact that a court judgment (the official disposition of the case) is not often entered may be a positive indicator of the acceptance of the arbitrator's award as a "final" disposition. The court judgment, not often sought, but entered upon payment of the prothonotary's fee, may not be needed to enforce execution on the award.

Total Disposition Time. The apparent decrease (by more than 20%) in the mean, median and third quartile measures becomes less impressive upon further analysis. As was pointed out in the category findings, little real improvement for the majority of cases occurred: rather, there was a decrease in the number of lengthier cases. This is apparently the case for the total elapsed time to award as well. Figure 3.11 shows the range of disposition times. In 1976, there were fourteen cases in excess of 200 days in length, five of them lengthier than the seven cases in 1977 exceeding 200 days. Analysis of those cases requiring longer than the third quartile case discloses that the stage between commencement of the action and reference is where the cases become bogged down: in both years the mean number of days in this stage exceeded 220. Any decrease in the days, then, seems to be related not

Figure 3.11 TIME LAPSE DISTRIBUTION DATA - ARBITRATION TRESPASS SAMPLE
COMMENCEMENT OF ACTION TO AWARD OF ARBITRATORS



to the majority of cases over the key stages of the process, but to reducing the number and length of those cases requiring unusually long amounts of time. This appears to have happened without any specific steps having been taken to eliminate the more dilatory cases, yet it suggests that this type of management -- by exception of disposition times -- can be useful and effective.

Arbitration v. Traditional Processing. As shown in Figure 3.12, by all three measures (the mean, median and third quartile), the arbitration process compares favorably with the disposition rates of trespass cases by the traditional process. (For purposes of this analysis the commencement to award figures were taken, rather than those from commencement to court judgment, since in so many cases a formal court disposition has not been entered). Over the two-year sample period, the average case (mean) appears to be consistently faster by about 20%; the median number of days is about 15% shorter than by the traditional process. The largest difference shows up on the third quartile, where 75% of the cases take over 30% less time by the arbitration process as compared with the traditional process.

Only one 1977 case of the total sample remains open: as of the sample date, 49 days had elapsed from reference to the arbitrators (just beyond the median level of the 1977 sample). It is clear from the sample, then, that the arbitration process always takes two years or less, while the traditional process often takes longer.

The arbitration process appears to be providing a speedy and acceptable alternative to dispute resolution through the trial mechanism. A direct comparison, however, is difficult: cases submitted

Figure 3.12 ELAPSED TIME COMPARISON
 ARBITRATION AND TRADITIONAL PROCESS
 CIVIL TRESPASS CASE SAMPLE, 1976-1977

Description	Year			
	1976		1977	
Days from commencement of action to disposition or award of arbitrators	Court	Arbitration	Court	Arbitration
1. Mean	266.4	209.6	198.6	161.8
2. Median	193	168	159.5	132.5
3. Third Quartile	359	254	302	183

for arbitration involve less money and therefore tend not to be so complex; these cases might have been resolved as quickly by traditional means, perhaps without the court's involvement.

The arbitration process seems to have made progress in limiting the length and number of protracted cases. Whether this has happened by chance or by a concerted effort to monitor cases to identify those likely to be complex is not clear. It will be interesting to follow the progress of cases with the \$10,000 limit to determine the effect upon the time required to process the cases through the arbitration procedure. It may be that if the number of cases rises, scheduling them for hearings with the board may be a potential bottleneck, dependent upon availability of facilities and boards of arbitrators. To date this has not yet been a problem, according to the court administrator.

Little information on disposition times for arbitration cases in other jurisdictions has been gathered. It has been estimated, however, based on studies known to the authors of Outside the Courts, that certain forms of arbitration require less than one-fifth the hearing time and one-fifth to one-half the preparation of a comparable judicial proceeding.¹⁴ Information on the operation of the arbitration process itself is available, however, and illustrates the wide variation of opinion as to the most effective procedures.

Pennsylvania's arbitration system, initiated over 140 years ago, is considered the prototype of court-annexed arbitration.¹⁵ Its compulsory arbitration program in the common pleas courts was mandated by legislation in 1952. Philadelphia's arbitration system differs from

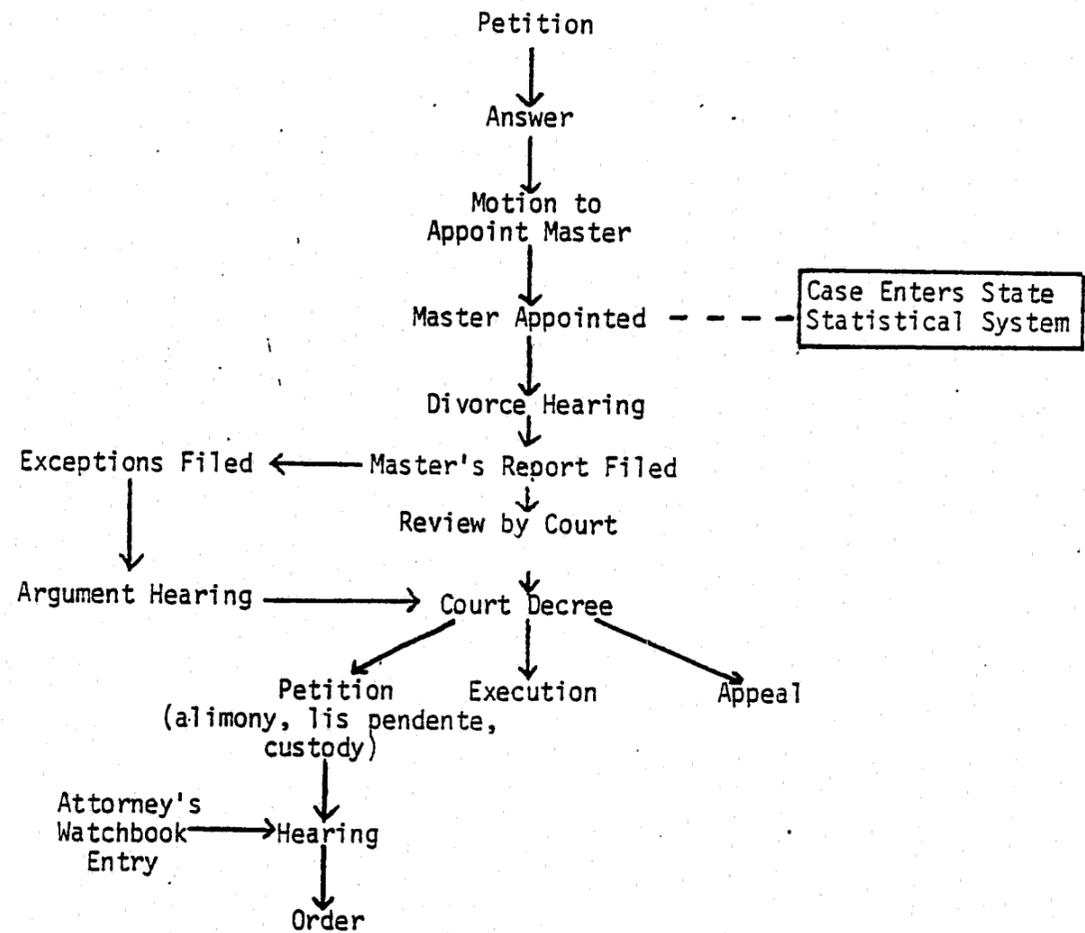
that in York County in that, upon filing of a case for less than \$10,000, the case is automatically placed on an arbitration list, and assignment to a board is accomplished forty days from the certificate of readiness. There is no time standard in Philadelphia, however, for this certificate. No set time standard exists in York. The experience in Philadelphia has been that the change to the \$10,000 limit resulted in no comparable increase in appeals.¹⁶

Other time standards are in effect in Monroe County, New York (Rochester): a case is assigned to arbitrators twenty days after it is placed on the list of cases; the chairman sets a hearing for a date fifteen to thirty days thereafter. The award is to be filed within twenty days; another twenty days are allowed for the appeal period. In Bronx County, New York, a mandatory arbitration settlement conference has been effective in expediting disposition of cases amenable to settlement. In contrast, the Ohio system (Cuyahoga County, Cleveland) allows a six-month delay between filing of the case and assignment to arbitration; there has been no conclusive evidence, however, that the six-month period is any more effective than a shorter delay might be.¹⁷

D. Divorce Cases

Divorce Caseflow. A divorce action is initiated by filing a petition with grounds for divorce (most commonly, indignities) with the prothonotary (see Figure 3.13). Response to the divorce petition by the defendant should be filed within twenty days, but the master's appointment is not dependent upon the filing of a response. In York County, masters are assigned to hear all divorce matters, a practice in place for well over a quarter of a century. The plaintiff's attorney files with the prothonotary a motion to appoint a master when the case is to proceed. The original petition and motion are reviewed by the judge responsible for divorce matters, who selects the master from a list of attorneys practicing in York County and approved for service as masters by the court administrator. The plaintiff's attorney prepares and mails notice to opposing counsel of the hearing date and master selected by the judge. Hearings are always set for the central jury room or as otherwise set out in Local Rule 113. Masters are guided by forms prepared by the judge now responsible for divorce matters. These forms cover unquestioned facts, names of parties, grounds for divorce, master's discussion of testimony on grounds. The master's report, due within 14 days after the hearing date, is filed in the prothonotary's office, where it remains for the ten-day period during which exceptions may be filed. Cases in which exceptions are filed are scheduled before the court as an argument matter. At the end of ten days, the divorce matters judge and a law student assistant review the master's report in terms of the testimony and for procedural steps. If all is in order,

Figure 3.13 DIVORCE CASE PROCESS



the court enters its decree in the docket. Notice of the decree is given to parties and to the Bureau of Vital Statistics by the prothonotary. Rarely does the court review result in a refusal to accept the master's report.

Data Sample. One hundred cases (58 from 1977 and 42 from 1978) from an annual caseload of approximately 1300 cases form the limited sample of divorce cases discussed in this section. The data were collected and analyzed to reveal elapsed time in processing a divorce case, from beginning (filing petition) to end (entry of judgment), and in three phases of that period: (1) petition to motion to appoint master; (2) motion for master to master's report; and (3) master's report to judgment. Data were also collected on the number of open cases pending at the time the sampling was done. The mean, median and third quartile figures, as well as the range of disposition times, were calculated for the analysis.

Findings

Total time to Disposition. Overall, the data suggested a noteworthy decrease in 1978 in the total length of time required to complete a divorce action as compared with 1977 (see Figures 3.14, 3.15, 3.16). On an average, divorce actions were completed (petition to judgment) about 10% more quickly in 1978 than 1977. Other statistical measures suggested improvement as well. The median length of time to complete a divorce case went down by close to 15%, and the first 75% of the cases were processed 15% faster in 1978 than in 1977.

More specifically, the 1977 mean disposition time (from filing the petition to entry of judgment) of 122 days became 110 days in 1978. In

both years the fastest total disposition time was very close, 63 days in 1977 and 64 days in 1978. On the other hand, there was a substantial difference in the longest disposition time, 256 days in 1977 compared with 369 days in 1978.

The significant difference between the mean and median figures for 1977 can be explained by the number requiring more than 180 days to disposition. This tempers the decrease somewhat.

Time From Petition to Motion for Master. The case mentioned above requiring 369 days to disposition became bogged down in a 327-day time lapse between the filing of the petition and the motion for a master to be appointed. In 1977 the longest period from petition to motion for master was 155 days. Despite the skewing effect of the length of one 1978 case, there was a general shortening of time in this phase of the case process in 1978 over 1977. The average (mean) time in this limited sample reflects a decrease of 25% and the median, a decrease of 7%. The third quartile figure is less by 25% in 1978.

Time From Motion for Master to Master's Report. The 1978 figures show a much shorter time between the time the motion for a master was made and the time the master's report was filed. The mean is 21% lower in 1978, with a 33-day elapsed period compared with 44 days in 1977. The 1978 median was 28 days, 21% less than the median of 36 days in 1977. There were considerably more lengthy cases in 1977 (7 exceeding 50 days, 2 in 1978). Seventy-five percent of the cases were processed in 48 days or less in 1978, compared with 45 days in 1977. (One very lengthy case stretched out the 1978 figure.)

Figure 3.14. TIME LAPSE DISTRIBUTION DATA - DIVORCE CASE SAMPLE PETITION FOR DIVORCE TO COURT DECREE

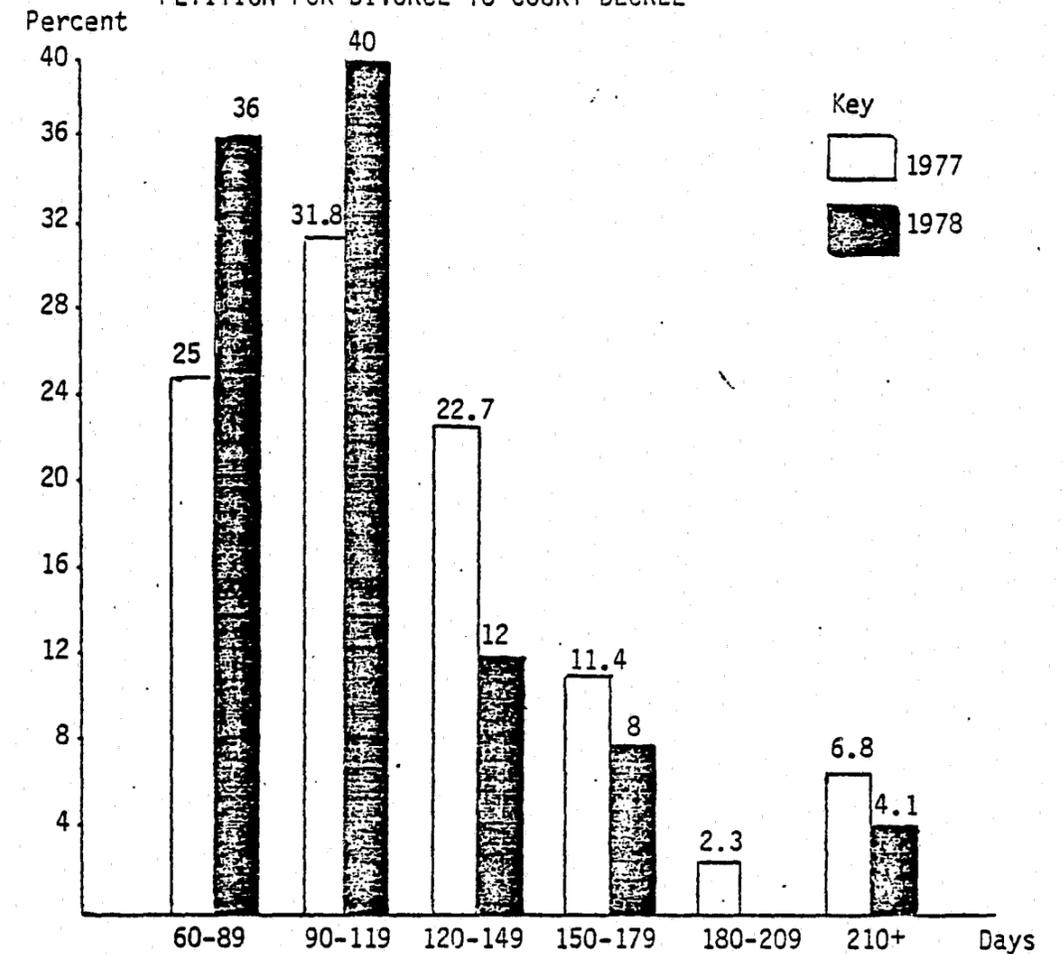


Figure 3.15 DIVORCE CASE SAMPLE SUMMARY

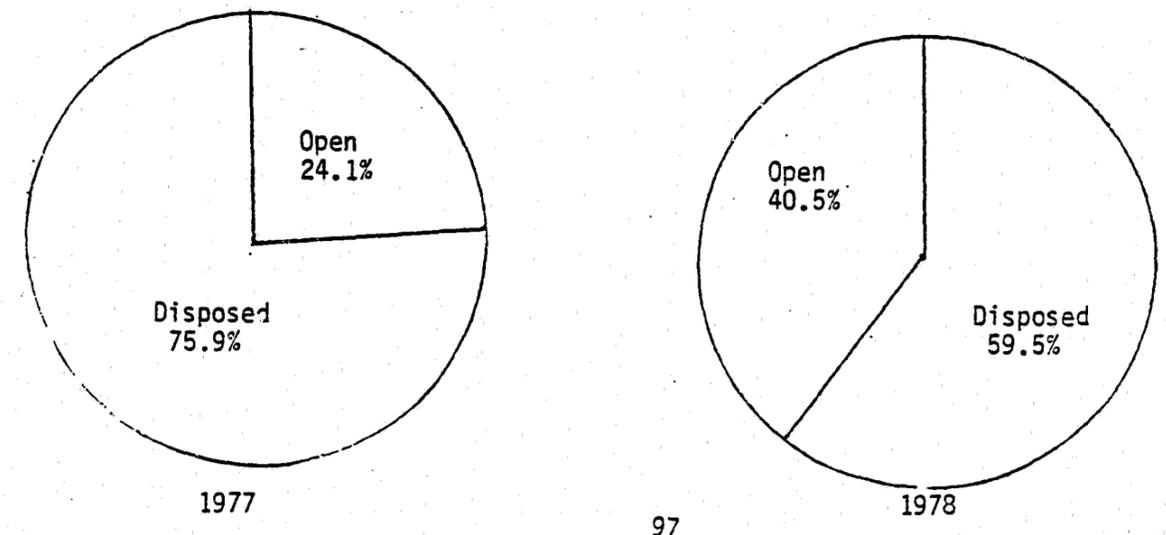


Figure 3.16 ELAPSED TIME FOR 1977 and 1978
YORK COUNTY DIVORCE CASES

Description	Year	
	1977	1978
A. Days from petition to motion for master		
1. Mean	57.6	53.5
2. Median	47.5	35
3. Third Quartile	64	48
B. Days from motion to master's report		
1. Mean	44.2	32.8
2. Median	35.5	28
3. Third Quartile	45	33
C. Days from report to court judgment		
1. Mean	24.6	25.6
2. Median	21	22
3. Third Quartile	27	27
D. Total Days from petition to judgment		
1. Mean	121.95	109.9
2. Median	109	93
3. Third Quartile	136	115

Time From Master's Report Filed to Judgment. A minimal decrease in the time in this category in 1978 from 1977 is suggested by the data. Both the average and the median showed a decline of approximately one day. In both years, 75% of the cases completed this phase in 27 days or less.

In summary, data in the sample show decreased processing time in 1978, as compared with 1977.

Open Cases. An examination of the 31 divorce cases pending in the sample shows that the average case in both years was at least 250 days old, far longer than most disposed cases in the sample. The last entry in each of the open cases was examined in order to determine the reason for delay. Results are as follows. In nearly three-quarters (74%) of these cases, service and pleadings are the last events shown. Although reasons are unclear, it is likely that no further action in the case is contemplated; counsel may simply await purging of the case under Rule 1901. Less understandable are the cases that ended with master's appointment, 2 (6.4); the revocation of the master's appointment, 3 (9.7%); and the master's report, 3 (9.7%). One might assume the divorce action was abandoned, but that counsel wished the case to remain on the books.

Although broad conclusions from this limited sample are impossible, there appears to be a general trend to shortening the time to disposition of divorce cases. Even in the time period controlled by the bar -- from petition filing to the motion for appointment of a master -- progress in decreasing the time has been made. It may be that attorneys

are simply waiting longer to file, hoping for reconciliation or improved settlement terms out of court.

In the stages within court control, too, changes are positive. The time between motion for the master and filing of the report is consistently shorter in the sample, by approximately 20% in the median and mean figures, and by about 15% for the first 75% of the cases. In the 1978 sample, all three measures hover closely to the one-month mark, which appears a very reasonable time for appointing the master, scheduling a hearing, and meeting a 14-day requirement from the date of hearing to filing the master's report.¹⁸

The period from filing the report to the court decree granting or denying the divorce exhibited stability over the two-year sample period, with the mean, median, and third quartile figures at slightly under one month. It is during this period that review of the master's reports takes place by the judge, assisted by law students. It is a positive indicator that, while the number of divorce filings continues to rise, the review period has not lengthened. It may be, however, that were additional assistance available to screen the reports, some shortening in the time might occur.

Public policy concerns. While the moving force behind the institution of no-fault divorce was not to shorten the time required to reach disposition, it seems to have had this effect.¹⁹ With an increase in public access and a decrease in the cost of divorce has come public concern that the process may be too quick and easy. Rather than establishing maximum times for processing divorce cases, action has been

rather to institute mandatory waiting or "cooling-off" periods, as in Washington State, where a minimum of 90 days must elapse between filing the petition and the order (a final decree).²⁰ (In York County, 29% of the two-year sample had total processing times of less than 90 days.) In other states a decree nisi is entered, as in Massachusetts; in California there is a 6-month interlocutory period before the dissolution decree becomes final.²¹ The use of court-annexed conciliation services, while costs are high, appear to be resulting in a higher rate of withdrawal of the petition for divorce.²²

Chapter III Footnotes

1. Local Rule 20(a). See note 3, below.
2. See Appendix B for a more detailed description of the civil case process, emphasizing activities undertaken by clerical staff and others in the prothonotary's office.
3. References to "Local Rules" in this report are to the Rules of Civil Procedure, Court of Common Pleas, 19th Judicial District.
4. See Appendix C for the sample methodology.
5. This term "commencement" is used here, distinguished from a "filing" that, in Pennsylvania statistics, refers to a case that has been praeciped for trial.
6. The several one-day disposition times apparently involved only approval of the settlement by the court.
7. Dates sought on the data capture form for trespass cases included: commencement of action, last pleading, last discovery, pretrial memo/order, certification for trial, trial, and judgment.
8. For a discussion see Solomon, M., Caseflow Management in the Trial Court (American Bar Association 1973), at 45.
9. American Bar Association, Standards Relating to Trial Courts, Standard 2.52, (1976).
10. Supra note 8, at 37-38.
11. Justice Delayed, at 54.
12. Ibid., at 66.
13. Local Rules 20-28 govern the arbitration process.
14. National Center for State Courts, Outside the Courts: A Survey of Diversion Alternatives in Civil Cases (Denver, January 1977) [hereinafter, Outside the Courts], at 40.
15. Id., at 41.
16. California Judicial Council, A Study of the Role of Arbitration in the Judicial Process (1972), at 44.

17. Outside the Courts, at 43.

18. Local Rule 124.

19. Outside the Courts, at 36.

20. For further discussion, see National Center for State Courts, The Impact of Domestic Relations Cases on the New Hampshire Superior Court: Analysis and Recommendations (1974) and Evaluation of New Hampshire's Marital Master's Program (1976), in particular pps. 22-28 regarding caseflow management.

21. Outside the Courts, at 36.

22. Id., at 38.

CHAPTER IV
OTHER CASES BEFORE THE COURT

Summary. The court is consistently meeting statutory time limits for adjudication and disposition of juvenile delinquency cases in which the accused were held in detention. Yet lapsed times for nondetention juvenile delinquency cases are much longer, because of limited judge time. Processing is slow for support cases going to court hearings, due in large part to insufficient staff in the domestic relations office. Statutory provisions calling for the completion by executors of estate administration in nine months are often not met.

While a considerable amount of time and attention is paid by York County judges, lawyers and court officials to matters discussed in the two preceding chapters, those kinds of cases do not in any way exhaust the variety of proceedings dealt with by the court as a trial court of general jurisdiction. This chapter presents analysis of findings from case samples of three further kinds of cases heard by the court.

In recognition of their importance to the community, cases involving juveniles are given high priority in the court. While a large percentage of cases involving youngsters charged with juvenile delinquency are referred to social service agencies or handled informally by the court's probation officers, the court must decide those not considered suitable for informal treatment. The first section of this chapter discusses delinquency cases heard by the court, comparing processing times for detention and nondetention matters.

Fomerly part of probation services, the domestic relations office is now a separate unit for collection and disbursement of court-ordered support payments. When complaints for nonpayment of support cannot be resolved in a domestic relations office conference, court involvement is required. Section B assesses the processing of support cases that require court hearings.

The orphans' court division of the court is repnsible for probate matters. As part of an assessment of the division's place in the overall activities of the court, project staff selected a sample of cases involving the administration of wills. The last section of this chapter presents analysis of findings from that sample.

A. Juvenile Delinquency Cases

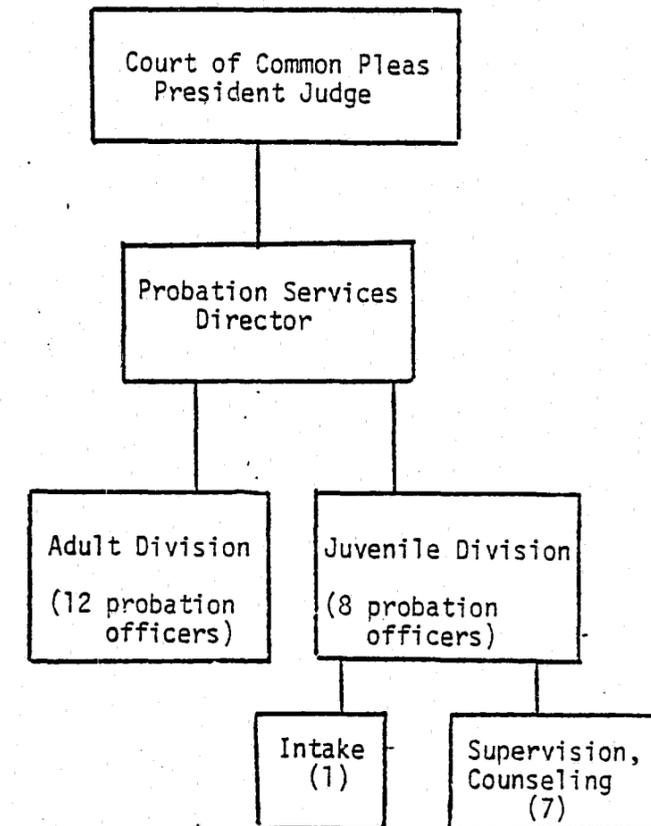
Probation Office. As shown in Figure 4.1, the probation department provides services to both adult and juvenile offenders. The adult division's probation officers are primarily involved with the preparation of presentence investigations and other reports, and with casework supervision. The division also provides assistance in the operation of the Driving While Intoxicated Program and the Accelerated Rehabilitation Disposition (ARD) Program.

The juvenile division has similar responsibilities in terms of casework supervision and in the preparation of social history reports. One person is assigned exclusively to intake screening, a process that determines whether the case should be handled informally or through the formal adjudication process.

Formal and Informal Dispositions. A juvenile delinquency case is initiated by a petition, usually from the police (occasionally by parents, for status offenses), who have determined in a screening process that referral to probation is necessary. The type of action to be taken is determined by the probation department's intake screener, who reviews the case and either dismisses it or assigns it to either a formal or an informal disposition process.

Informal disposition usually involves referral to a social service agency, supervision by a probation officer, or a combination. Most of the charges (about 80%) are processed informally, the average case taking about seven or eight months from petition through the end of supervision.¹

Figure 4.1 YORK COUNTY PROBATION SERVICES DEPARTMENT



The remaining 20% of cases are formally disposed. Strict time standards for juveniles in detention must be followed. Juveniles must first appear for hearing before a detention officer within 72 hours of detention². The adjudication hearing, a confidential hearing before one of the two Common Pleas judges who hear juvenile matters, must be held within twenty days from the date of detention. The disposition hearing must follow within twenty days.

No time requirements exist for nondetention cases. Time for adjudication and disposition hearings for these cases must be set aside from openings in the personal calendars of the two judges, often resulting in a delay in scheduling. One judge has recently set aside one afternoon each week for juvenile hearings, a practice which has already shown positive effects in reducing delay in scheduling. The adjudication and disposition hearings are usually combined, except in 10-15 percent of the cases, where there is an adjudication of not guilty. The probation officer schedules the hearings in order of urgency and according to judge availability. A social history is to be completed for each case by the assigned probation officer prior to the disposition hearing. A period of 30 days is considered adequate by the chief probation officer to allow for the report's completion prior to the hearing.

Data Sample for Formal Disposition Cases. One hundred cases (50 initiated in 1977, 50 in 1978) form a representative sample of juvenile delinquency cases discussed in this section. Of the total sample, 35% of these cases involve juveniles placed in detention, with the remaining 65% involving nondetained juveniles.

Detention cases were examined according to the two stages for which time standards have been imposed: days between the date of detention and the adjudication hearing (20-day standard) and days between the adjudication and disposition hearings (20-day standard). Total processing time to the first disposition hearing was also measured.

For nondetention cases, the date of the probation department's intake interview was used as the initiation date, since this is the first time the case comes within the control of the court. Days from this interview to the adjudication hearing, and from the adjudication hearing to the disposition hearing, were calculated as well as total processing time.

For all cases in the sample, the mean, median, and third quartile figures and range distribution data form the basis for discussion.

Findings

Detention Cases.

Time From Detention to Adjudication. A slight shortening trend is shown in all measures in 1978. The bulk of 1977 and 1978 cases were processed from detention to adjudication hearing well within the times required by statute, as the "third quartile" numbers show. Indeed, all the numbers show an improvement in the time elapsed to adjudication.

Time From Adjudication to Disposition. Of the 35 disposed detention cases in the sample, in 68.6% of the cases the disposition hearing was held on the same day as the adjudication hearing. In 1978 the mean is less by close to half, and the third quartile figure, less

Figure 4.2 JUVENILE DELINQUENCY CASE PROCESS

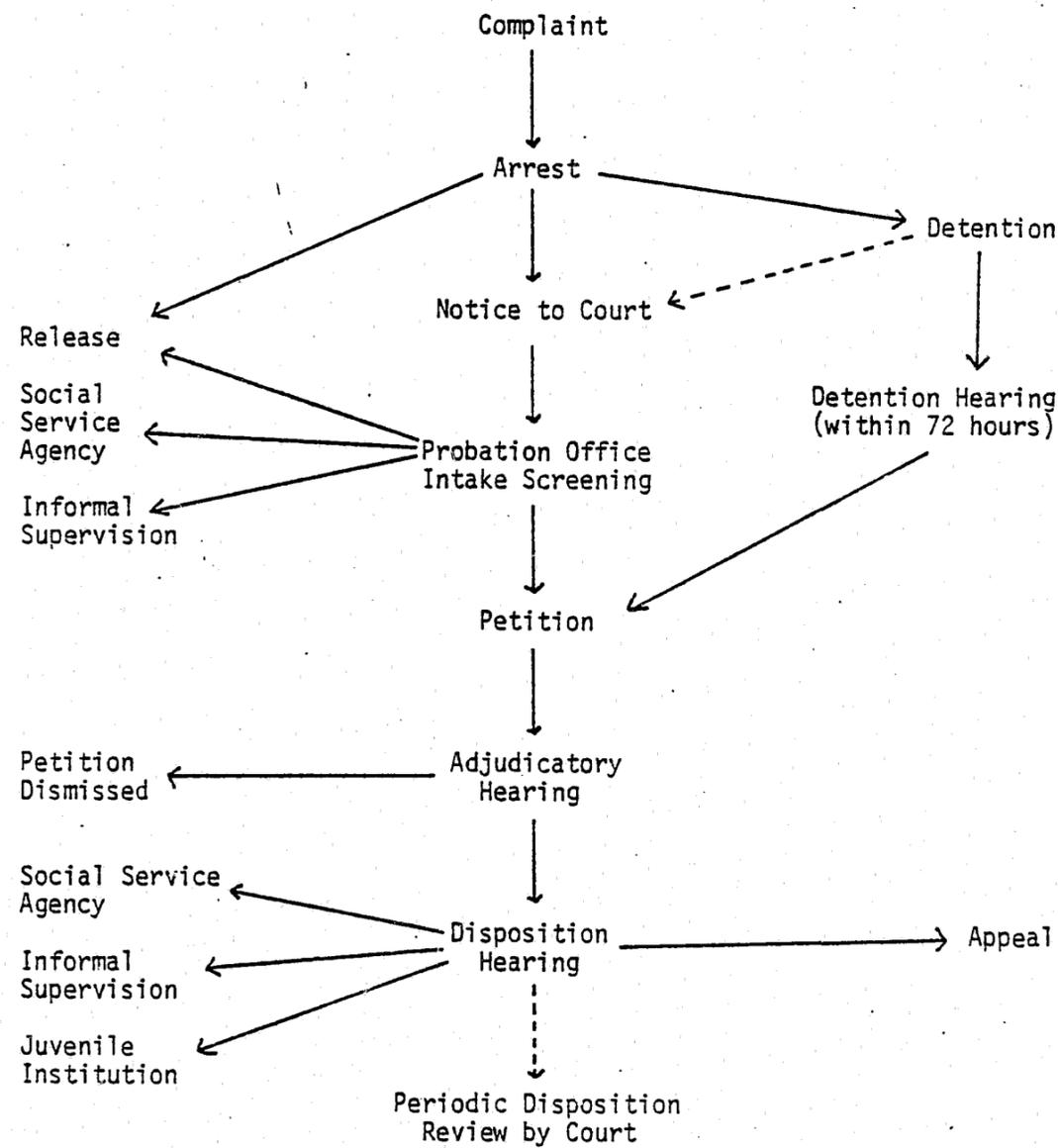


Figure 4.3 TIME LAPSE DISTRIBUTION DATA - JUVENILE DELINQUENCY DETENTION CASE SAMPLE 1977-1978
DATE OF DETENTION TO DISPOSITION

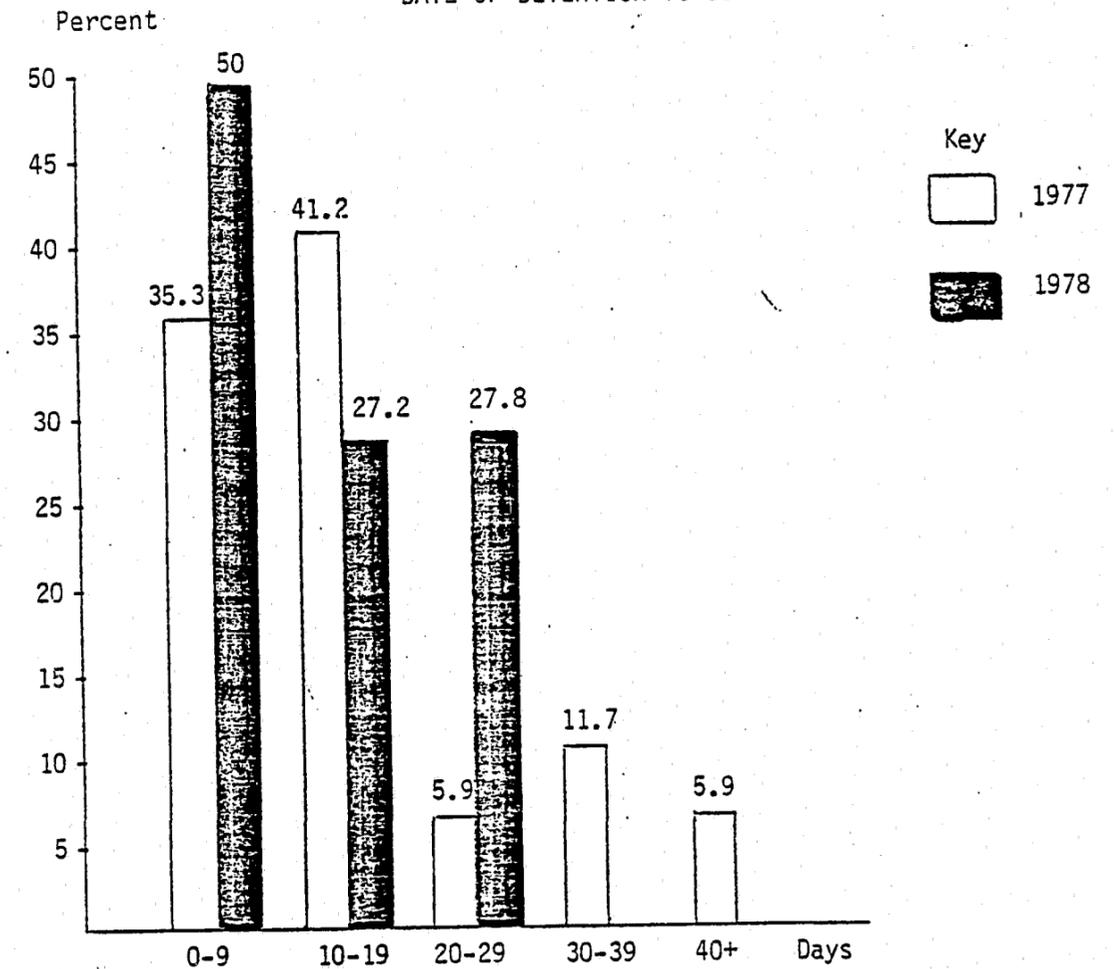
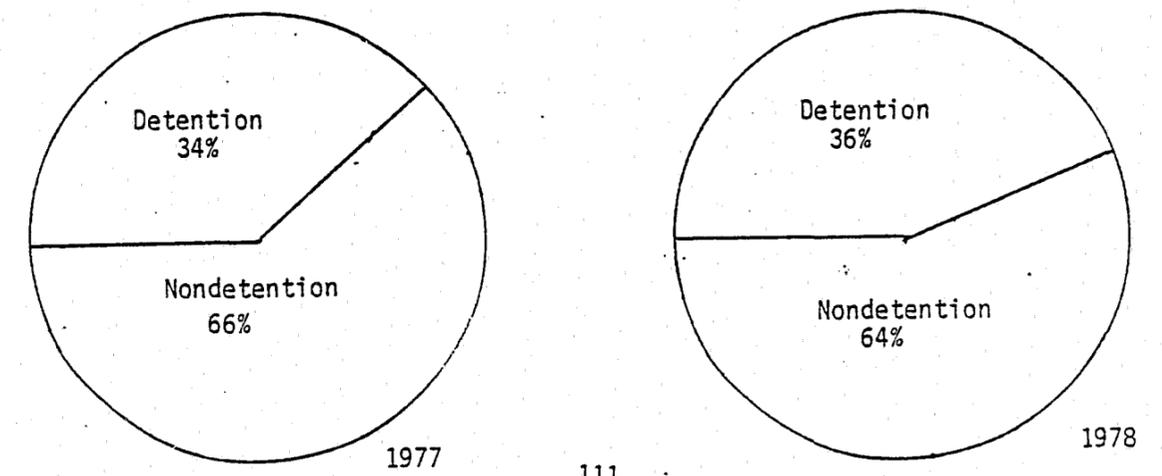


Figure 4.4 JUVENILE DELINQUENCY CASE SAMPLE SURVEY



by one-quarter, than 1977 figures. Three cases of the total 35 failed to attain the 20-day standard.

Total Processing Time to Disposition. The reductions in time in the above two categories are reflected of course in the total processing time. As shown in Figure 4.5, the distribution ranges show that in both years 75% of the cases were disposed in less than 20 days. Several cases in 1977, however, were disposed in time beyond 30 days. Only one sampled 1977 case extended beyond 40 days (40 days being the total of the two 20-day standard periods).

Nondetention Cases

Time From Probation Intake to Adjudication. Cases initiated in 1978 were processed through this stage somewhat more quickly (by about 7-10%) than in 1977, as illustrated by the drop in the mean and median. The third quartile figure in 1978 of 114 days (compared with 105 in 1977) is not representative, since the last case before the third quartile figure was processed within 100 days. The longest case in 1978 was considerably shorter (290 days versus 466 days), which accounts for some of the reduced figures in 1978.

Time From Adjudication to Disposition. Of the 60 cases in this category, 56.7% had the adjudication and disposition hearings on the same day. While the average case in each year reached the disposition hearing in about the same amount of time, the sample indicates an increase in 1978 over 1977 in the amount of time required for 75% of the cases to be processed (53 in 1977 versus 63 in 1978).

Figure 4.5 ELAPSED TIME FOR 1977 and 1978
YORK COUNTY JUVENILE DETENTION CASES^a

Description	Year	
	1977	1978
A. Days detention to adjudication		
1. Mean	11.1	8.7
2. Median	10	8.5
3. Third Quartile ^b	14	10
B. Days adjudication to disposition		
1. Mean	7.2	3.7
2. Median	-0-	-0-
3. Third Quartile ^b	12	9
C. Total days detention to disposition		
1. Mean	17.9	12.9
2. Median	14	9.5
3. Third Quartile ^b	19	20

- a. Source: National Center for State Courts representative sample of juvenile delinquency cases for calendar years 1977 and 1978 based on date of detention docketed by York County Clerk of Courts.
- b. "Third quartile" represents the number of days within which 75% of the cases were processed.

Figure 4.6 ELAPSED TIME FOR 1977 AND 1978
YORK COUNTY JUVENILE NONDETENTION
CASES^a

Description	Year	
	1977	1978
A. Days from probation intake to adjudication		
1. Mean	95.2	88.5
2. Median	86	77
3. Third Quartile ^b	105	114
B. Days from adjudication to disposition		
1. Mean	28.2	28.5
2. Median	- 0 -	- 0 -
3. Third Quartile ^b	53	63
C. Total days from probation intake to disposition		
1. Mean	122.2	118.6
2. Median	110.5	110
3. Third Quartile ^b	135	169

a. Source: National Center for State Courts representative sample of juvenile delinquency cases for calendar years 1977 and 1978 based on date of probation intake interview docketed by York County Clerk of Courts.

b. "Third quartile" represents the number of days within which 75% of the cases were processed.

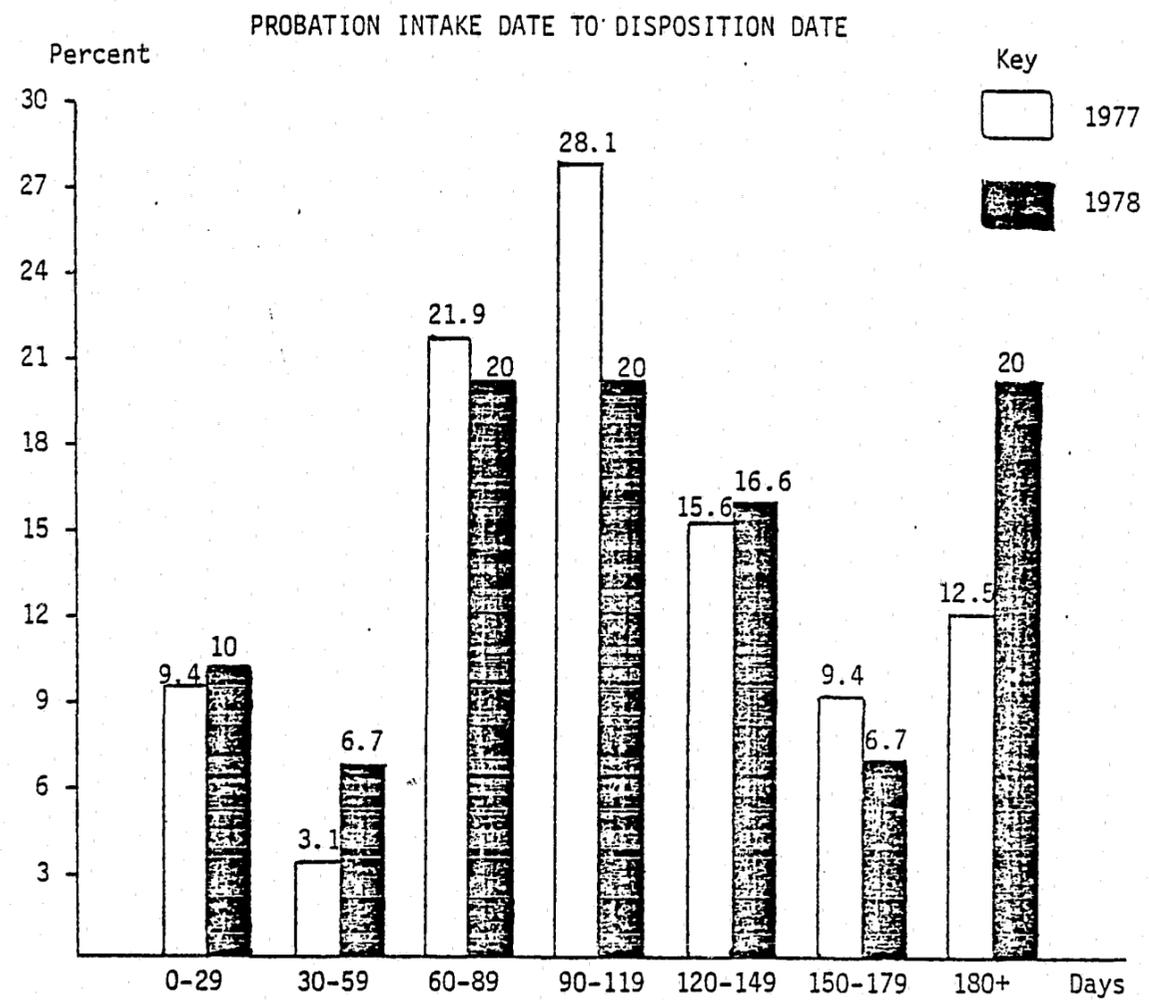
Total Processing Time to Disposition. Reference to Figure 4.7 confirms that the positive change in the mean and median figures for 1978 occurs because of the cases in the under two-month range. The high third quartile figure in 1978 is not as bad as it first appears, since the number immediately preceding it is 135 days, the same as the third quartile figure for 1977. Taken together, it appears that there was little change in the speed of processing nondetention cases -- rather, disposition times remained stable.

Detention Cases. The handling of juvenile detention cases by the court is commendable: 68.6% of the 35 cases in the sample cut the detention to adjudication twenty-day standard by one-half, to ten days. In terms of the second twenty-day standard between hearings, 74.2% of the cases took only half as long.

Nondetention Cases. It becomes evident from our analysis that efforts are primarily directed to the processing of detention cases, for nondetention cases did not appear to be handled any differently in the second year of the sample to expedite processing. Because there are no time standards, there is apparently no effort to monitor the lapse of time between stages.

Figure 4.7 shows that most of the cases in the sample are disposed within two and four months. Most of this time is taken up between probation intake and adjudication, the average case over the two-year sample taking about 80 days to reach the adjudication stage. The primary activities occurring during this time are the preparation of the

Figure 4.7 TIME LAPSE DISTRIBUTION DATA - JUVENILE DELINQUENCY NONDETENTION CASE SAMPLE 1977 - 1978



social history report by the probation department and the scheduling of the adjudication hearing. The scheduled adjudication hearing date now controls the time by which the social history is to be completed; by probation department estimates, however, 30 days is a reasonable time for completion of the report, were it possible to schedule hearings sooner. It appears that the bottleneck occurs because of the unavailability of time for the two judges conducting hearings. For the years in the sample, hearings were scheduled for open dates in the individual calendars of the judges. Since January 1979, however, one afternoon has been set aside by the president judge to hold hearings; and this change is perceived already to be showing positive effects on disposition times of nondetention cases. Monitoring of cases under the present schedule should indicate whether additional hearing times would be appropriate. More than 25% of the cases require longer than two months between the adjudication and disposition hearings. This appears to be a result of difficulty in scheduling.

Time lapse figures for adjudicated juvenile matters by county in Pennsylvania first became available in 1977, in "Pennsylvania Juvenile Court Dispositions 1977" (Juvenile Court Judges' Commission, Pennsylvania Department of Justice). Because the statistical category of adjudicated cases includes not only juvenile delinquency, but status offenses and dependent children, the statistics are not comparable with the sample presented earlier. The date of referral differs as well. No differentiation is made between detention and nondetention cases. In

Figure 4.8 below are listed county time lapse figures with an adjudicated case load similar to York's.

It is apparent from these figures, as well as from the statewide medians of 54 days (referral to disposition) 44 days (referral to adjudication) and one day (adjudication to disposition) that York County is far behind other counties. In fact, only two Pennsylvania Counties (Columbia, Monroe) exceed York's time to disposition, and only four (Allegheny, Columbia, Elk and Lehigh) exceed the time to adjudication. From information collected in the sample for this study, it would appear that the lengthy times presented in the state report are caused by York's delay in processing nondetention, rather than detention, cases. Time lapse statistics in other jurisdictions are not immediately available. There are, however, standards which have been proposed for juvenile matters, most recently, the American Bar Association's Standards for the Juvenile Court. Figure 4.9 below compares the ABA proposed time standards with those in effect in York County.

The ABA Juvenile Standards have been long in development and debate, and the time standard from the date of detention to the date of the adjudication hearing has been revised to 30 days, downward from the 45-day standard proposed earlier in the ABA's trial court standards.³

The findings in the sample indicate that, for detention cases, York County is well within the 15-day standard in both stages, between detention and adjudication, and adjudication and disposition. Nondetention figures in York do not compare well at all, with the total time to disposition in many cases twice the 60-day standard.

Figure 4.8. MEDIAN TIME LAPSE IN DAYS FOR ADJUDICATORY CASES 1977* IN SELECTED PENNSYLVANIA COUNTIES

County	Total	Referral to Disposition	Referral to Adjudication	Adjudication to Disposition	% Detained
Adams	130	36	32	1	13.8
Beaver	130	89	40	1	29.2
Fayette	122	21	21	1	9.7
Greene	135	29	29	1	18.3
Lycoming	121	24	14	1	16.1
York	121	96	57	1	9.1

* Source: Juvenile Court Judges' Commission, "Pennsylvania Juvenile Court Dispositions 1977," Table 19.

Figure 4.9. COMPARISON OF JUVENILE TIME STANDARDS*

Standard	ABA	Pennsylvania
<u>Detention Cases</u>		
Detention hearing	Within 24 hours*	Within 72 hours
Detention to Adjudication	15 days from date of detention or complaint, whichever occurs first	20 days from date of detention
Adjudication to Disposition	15 days from date of conviction	20 days from date of conviction
<u>Nondetention Cases</u>		
Initiation to Adjudication	30 days	No standard
Adjudication to Disposition	30 days	No standard

* Detention hearing to be held at end of each 7-day period.

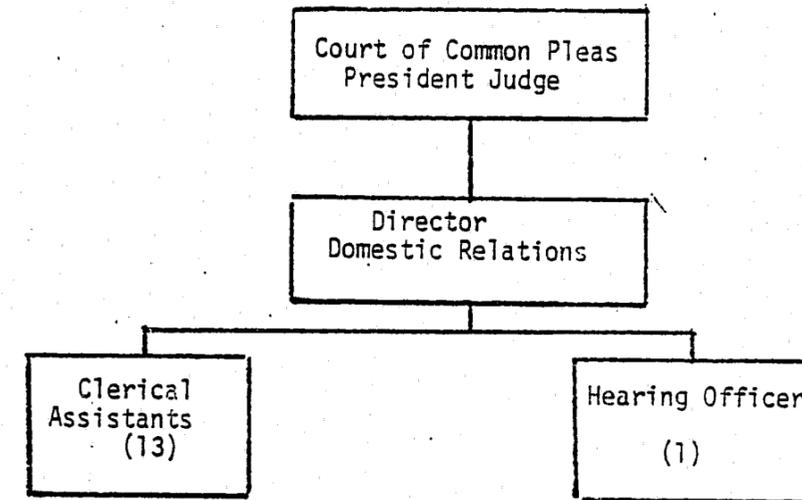
* Source for ABA Standards: American Bar Association, Standards for the Juvenile Court, Interim Draft, Pt. VII, Standards 6.5, 7.6, 7.9, 7.10.

It is apparently a common practice statewide in Pennsylvania to hold the adjudication and disposition hearings on the same day. Standards proposed by the National Advisory Commission on Standards and Goals, at Standards 14.4 and 14.5, recommend separate hearings. The purpose of the adjudicatory hearing, according to the Commission, should be limited to whether the state can produce sufficient evidence to justify a finding of delinquency. The practice in Pennsylvania need not be in contrast to these standards, as long as the two decisions of the hearings are separated. Indeed, separation of times for the two hearings may be inconvenient for scheduling and unsuitable for the youngster.

B. Domestic Relations Support Cases

Domestic Relations Office. This office is charged primarily with the responsibility for the establishment and enforcement of support orders. Collection and distribution of the support payments (amounting to about \$6 million [one of the highest amounts by county in the state] in 1978 from 6,000 cases) is a time-consuming aspect of its work, involving a significant amount of paperwork submitted to the U.S. Department of Health, Education and Welfare. The work is rewarded, however, in the form of federal aid under Title IV-D of the Social Security Act (P.L. 93-647), which can support 75% of the overhead (including data processing, office furniture, equipment, etc.) and 75% of staff salaries. Fifteen percent of the amount collected in welfare cases (which amount to one-third of the case load) accrues to the county. The value and use of this federal assistance has only been recently realized, upon the appointment in January 1979 of the new domestic relations director. Faced with an underpaid and overburdened staff who work in severely cramped conditions, the director has proposed some relief. She is hopeful that an increase in the level of staff from fourteen to twenty, accompanied by salary increases and a new facility, will be approved to relieve the present burden. The very positive benefit of these changes, apart from anticipated efficiency in operations, is that federal monies can completely absorb the increased cost, resulting in no additional cost to the county. No cutbacks in this federal assistance program are foreseen. (Figure 4.10 shows the organization of the domestic relations office.)

Figure 4.10 YORK COUNTY DOMESTIC RELATIONS OFFICE



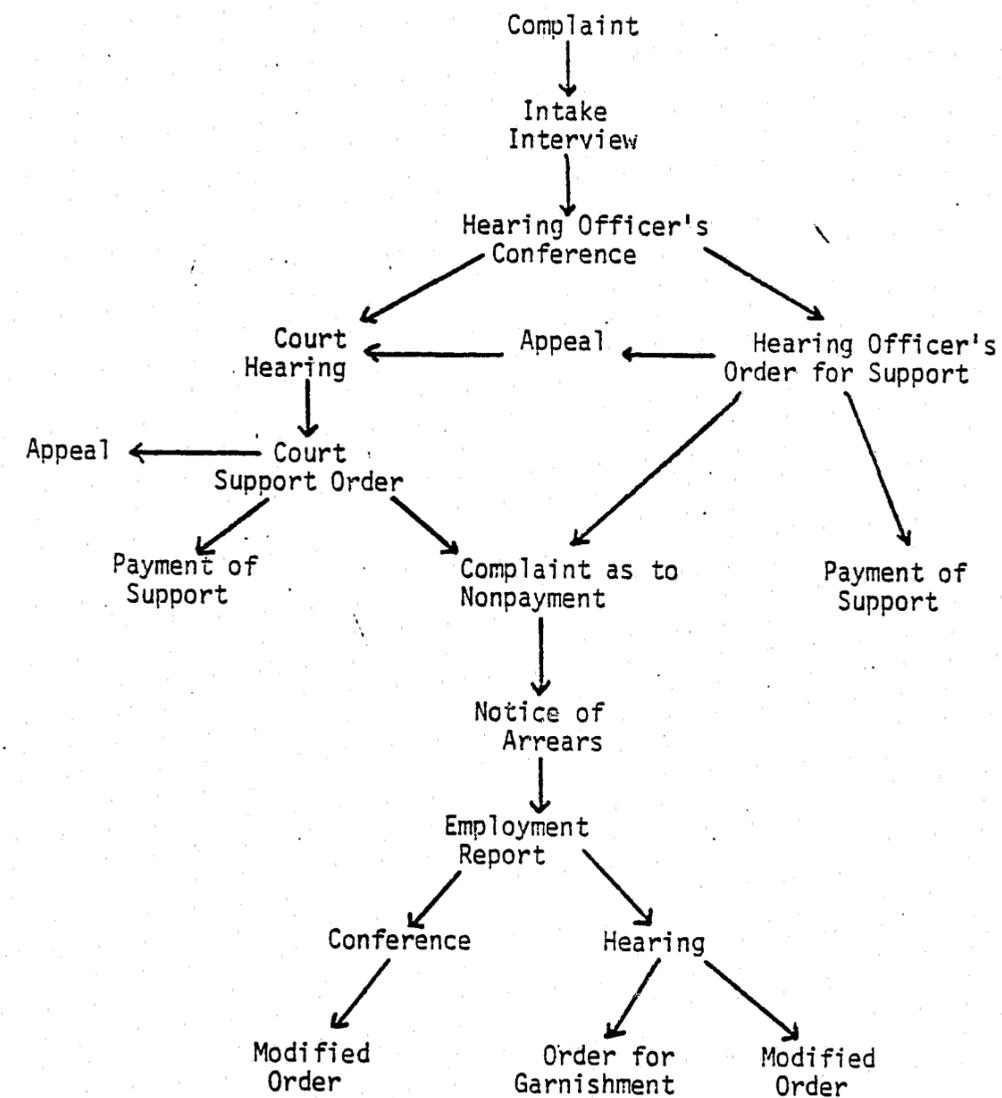
Processing Support Cases. As shown in Figure 4.11, complaints regarding support are received in person by an intake officer at the domestic relations division office. An intake interview is generally conducted on the spot to determine whether the situation can be informally disposed or whether a more formal petition needs to be drawn up, based on the information gathered during this interview. A conference date is generally scheduled at the conclusion of the interview, and notice to all parties is given.

At the conference the support officer discusses finances and income and attempts to resolve disagreements between the parties. If agreement is reached, an order describing the terms of support is drawn up by the officer, and stamped with a judge's signature.

The case can result in a formal court order in a number of situations: (1) no agreement on income can be reached; requiring that testimony be given in court, (2) one or both parties fails to appear for the conference, (3) counsel request a court hearing, or (4) the officer's order is formally appealed (apparently, an infrequent occurrence).

Action for failure to pay support subsequent to the court order cannot be undertaken by the domestic relations office unless a complaint is filed in person at the office. Letters informing the parties of the amount in arrears are sent first; if financial circumstances have changed, an employment report is completed by the officer and a conference or hearing is scheduled as necessary. Refusal to pay may result in a court order for garnishment of wages or in a new payment schedule.

Figure 4.11 DOMESTIC RELATIONS SUPPORT CASE PROCESSING



Data Sample. The sample of domestic relations support cases was limited to a selection of one hundred cases initiated in York County that were disposed by court hearing; it is not, therefore, representative of the total caseload of this office, of which the majority are cases that are settled at domestic relations hearing officer conferences. (Approximately 10 percent of support cases go to court.) Fifty cases were chosen from each of the 1977 and 1978 dockets by randomly isolating four cases for each month and selecting two additional cases. A more detailed description of the sampling technique appears in the appendix.

The data were collected and analyzed for two types of information -- reasons for court hearings and time lapse statistics. The time lapse data were measured for range, mean, median and third quartile in the categories of total disposition rate, initiation to officer hearing and officer hearing to court order. (See Figure 4.12 for a detailed numerical analysis.)

Findings.

In the majority of cases, one of two reasons for court hearings on these matters was apparent: either there was disagreement as to the actual amount of wages earned or level of support needed, or one of the parties failed to appear at the conference. In still other cases, counsel requested that a hearing be held, probably to enable presentation of testimony or other evidence. In only one case was there an appeal from the hearing officer's order.

Figure 4.12 ELAPSED TIME FOR 1977 AND 1978
YORK COUNTY DOMESTIC RELATIONS SUPPORT CASES

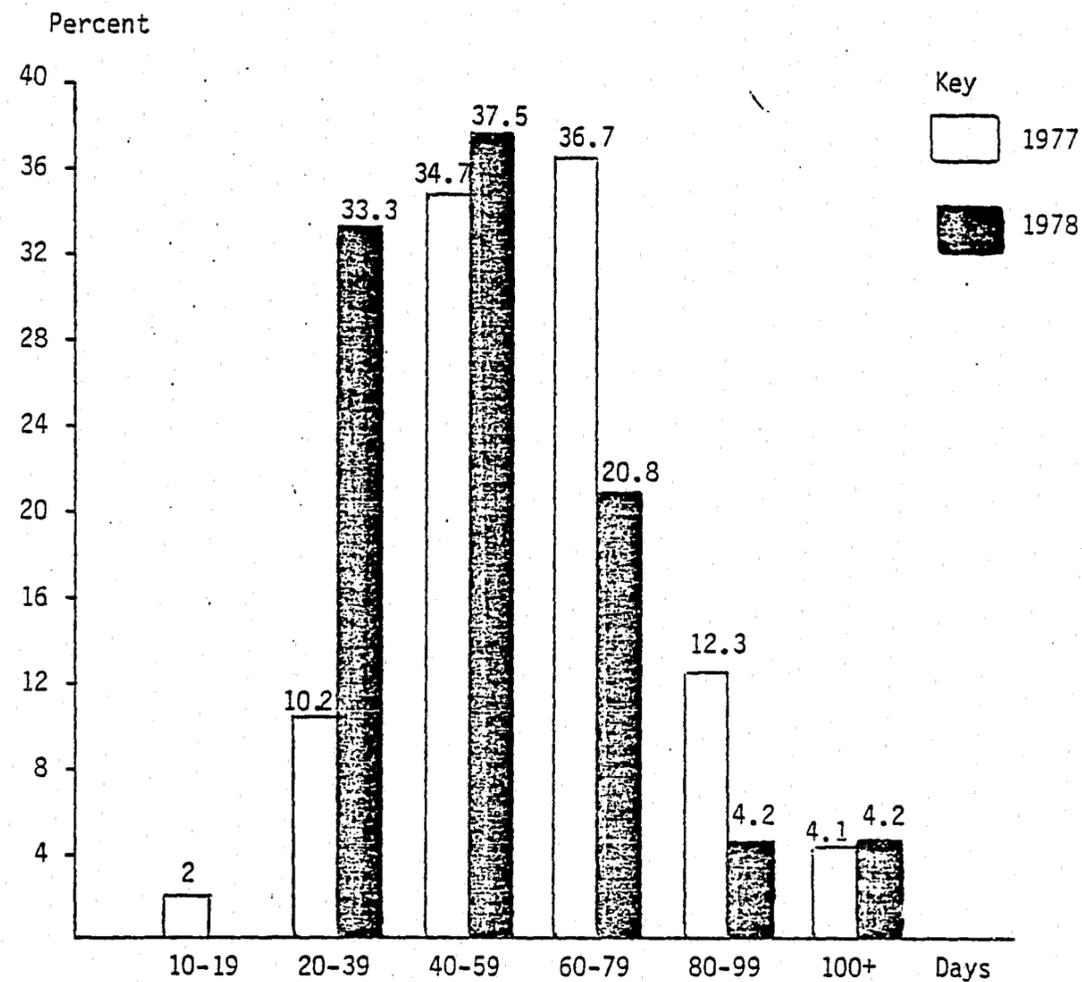
Description	Year	
	1977	1978
A. Days from initiation ^b to Hearing Officer Conference		
1. Mean	29.3	26.6
2. Median	30.5	22
3. Third Quartile ^c	36	29
B. Days from conference to court order		
1. Mean	30.1	27.9
2. Median	28	19
3. Third Quartile ^c	38	29
C. Total days from initiation to court order		
1. Mean	71.5	56.3
2. Median	62.5	47
3. Third Quartile ^c	72	61

- a. Source: National Center for State Courts limited sample of domestic relations support cases for calendar years 1977 and 1978 based on date of intake interview by the Domestic Relations Office.
- b. "Initiation" date and intake interview date are the same.
- c. "Third Quartile" represents the number of days within which 75% of the cases were processed.

The average (and the median as well) case requires approximately one month to complete each subcategory: 1) initiation to officer hearing, and 2) officer hearing to court order. A significant number of cases take much longer. The average (mean) time lapse in the two subcategories was only slightly less in 1977 than in 1978, and due primarily to the absence of extremely lengthy cases present in the 1977 sample. There does, however, seem to be a general trend to shortening the total processing time for the bulk of the cases in the sample, as illustrated by the distribution data in Figure 4.13. Most cases (just over 70% in 1978) result in a court order within two months of the complaint filing. This is consistent with the estimate of the former domestic relations director -- that it takes four to eight weeks for a domestic relations case to get to court.⁴ A closer look at each of these stages is necessary to determine whether these times are reasonable for the activity that occurs within them.

In the first stage, the conference date is usually scheduled at the conclusion of the intake interview, normally for a date at least two weeks thereafter to allow for notification to the other party and for retention of counsel. Because there is only one hearing officer, it is likely that the scheduling of conferences cannot be speeded up without engaging assistance for that officer. Counsel for the parties also lengthen the scheduling time for the conference because of their scheduling conflicts; this is normally indicated by a letter in the file.

Figure 4.13 TIME LAPSE DISTRIBUTION DATA - DOMESTIC RELATIONS SUPPORT
CASE SAMPLE 1977 - 1978
INTAKE INTERVIEW DATE TO COURT ORDER



During the second stage, between the conference and the court order, another month elapses. Because it is unlikely that substantial attorney preparation time is necessary to procure witnesses or produce documents to elucidate wages, it is likely that this time lapse is due primarily to difficulty in scheduling the hearings before the court. At the present time, the hearings are squeezed into a judge's normal hearing schedule as time becomes available.

Conclusion

It is clear that the petition for support was filed initially to fulfill a need. In many cases, the need is great -- a two-month or more waiting period is likely to cause considerable hardship on the complainant's family. Concern for the needs of the petitioner dictates that cases be moved as quickly as possible. In light of these concerns, a two-month delay should be reduced.

C. Testate Administration

Orphans' Court Division. The clerk of the orphans' court division also serves as the register of wills, whose primary activity in the latter function is supervision of the administration of the estates of deceased persons and of the administration of the property of mentally incompetent persons and minors. Adoption, marriage licenses, and birth records also fall within the division's jurisdiction. An organization chart of the division follows.

Processing Wills. Administration of testate estates is initiated by filing with the register of wills (clerk of the orphans' court) a decedent's last will & testament and the executor's petition for letters testamentary (see Figure 4.15). While a will need not be probated promptly (it must be within 21 years from death), there is a general expectation that the administration of an estate be completed within nine months from the date of death once the petition for letters testamentary has been filed.⁵ Within 30 days from the grant of letters testamentary by the register of wills, the fiduciary is to file the inventory. This time requirement is not, however, enforced by the court nor is it strictly followed. The Pennsylvania Inheritance Tax Office is the party most interested on a continuing basis with prompt estate administration (beneficiaries, of course, are -- but their interests are not articulated by a single continuing source of concern: most of us are involved with an estate only once or twice in our lives). The court's role is primarily administrative in practice, with the clerk's office

Figure 4.14 CLERK OF THE ORPHANS' COURT (REGISTER OF WILLS)

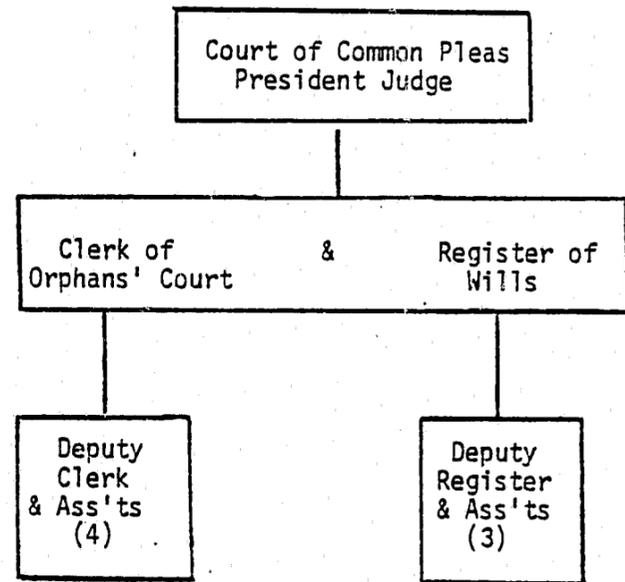
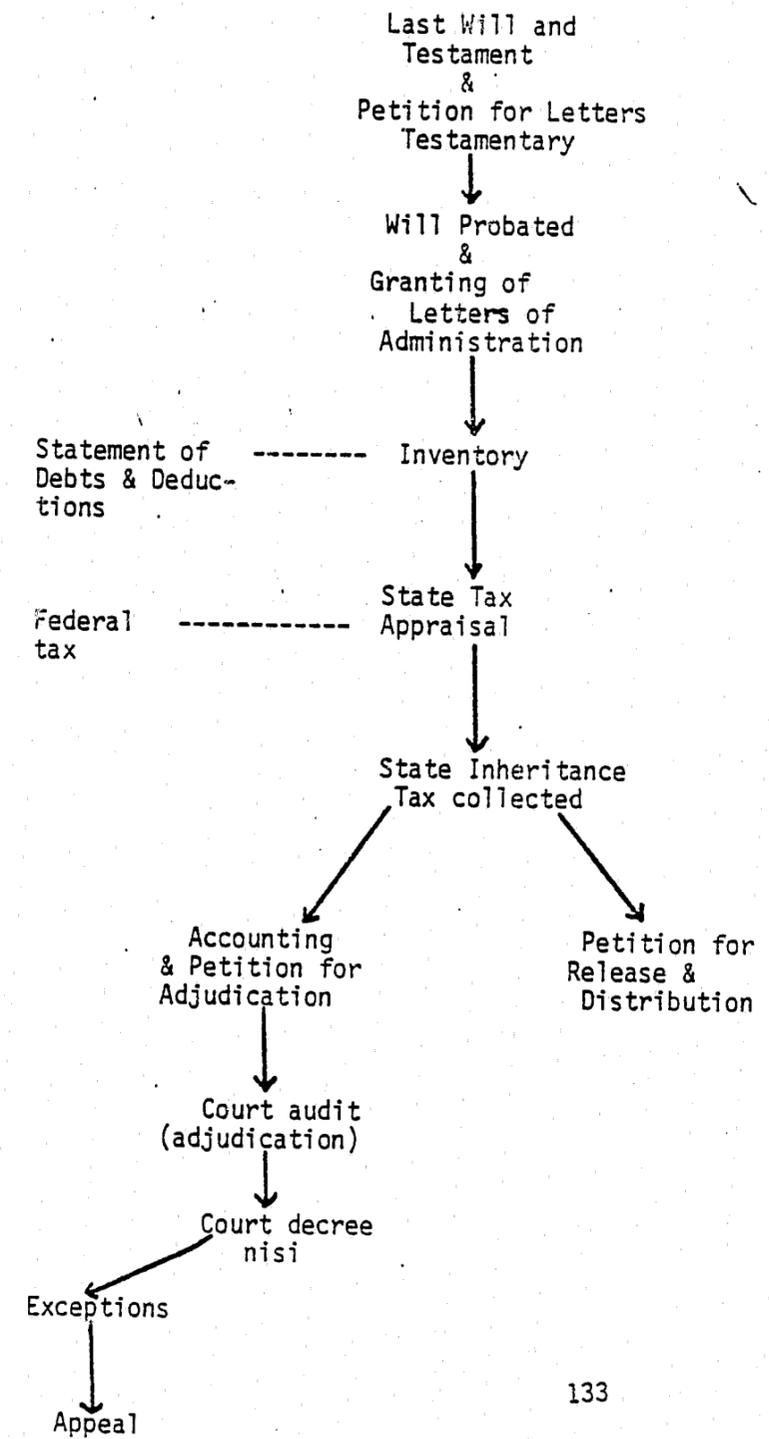


Figure 4.15 ADMINISTRATION OF TESTATE ESTATES CASE PROCESS



the filing place and collections agency for the state. The Inheritance Tax Office appraises the estate; the taxable estate is the appraisal amount minus debts and deductions (expenses of administration) and any charitable bequests. The register of wills bills the estate and collects the tax payments. The next step is either a formal accounting or a petition for release and distribution (or for accounting and release). The accounting may be filed no earlier than four months from the notice of the granting of letters testamentary.⁶ Rarely are accountings filed close to the minimum time, however. The court sets the final closing dates for accounting before each upcoming court audit of estates, specified in the court calendar. A petition for adjudication accompanies the accounting; the first deputy register of wills conducts a preliminary review of the accounting prior to the audit. Adjudication is scheduled for a date one month after the last accounting filing date. The court enters a decree nisi; exceptions are to be filed within 10 days from the date of audit.

Data Sample. One hundred cases, fifty from 1976 and fifty from 1977, initiated by the filing of the petition for letters of administration, were selected at random from the docket. The years 1976 and 1977 were selected in order to obtain a sample consisting primarily of closed cases. The data were analyzed for the following time periods: probate of will to inventory, inventory to accounting, accounting to adjudication, and from the probate of the will to adjudication. The mean, median, and third quartile were computed for analysis.

Slightly more than 50% of the cases in the sample went through the main stages of the process (inventory, accounting, adjudication); commentary is limited primarily to discussion of these cases, because

these involve the greatest use of judicial resources. Other cases were resolved without the need for formal accounting or adjudication; apparently, the beneficiaries were satisfied that the executor had discharged his fiduciary responsibilities.

Findings

Probate of Will to Inventory. While the mean and the median (as shown in Figure 4.16) in each year's sample suggest a considerable shortening in time, it took slightly longer in 1977 for 75% of the cases to be processed. Only four cases of the total sample met the 30-day standard to the filing of the inventory. In fact, in only 23% of the total sample was the inventory filed within three months (a standard suggested in the Uniform Probate Code,⁷ discussed later in this section).

Inventory to Accounting. A slight downward trend is shown in all measures for 1977. It is clear from the sample that the four-month minimum time for filing the accounting is largely ignored: in the 1976 sample, the inventory was filed, on the average, between eight and ten months, and in the 1977 sample in approximately seven or eight months.

Accounting to Adjudication. All measures in this time category indicate stability over the two-year period. About 6 weeks appears to be the normal processing time, which falls within the expected range, explained as below.

Total Time to Conclusion. The bulk of the 1977 cases were adjudicated within the 6-8 month and 10-12 month periods, while the adjudications in the 1976 cases were rather equally spread out among the ranges between four and twelve months, followed by a large surge at the upper end of the ranges, exceeding fourteen months.

Figure 4.16 ELAPSED TIME FOR 1976 and 1977 YORK COUNTY
ADMINISTRATION OF TESTATE CASES^a

Description	Year	
	1976	1977
A. Days from probate of will to inventory		
1. Mean	190.2	170.9
2. Median	176	149.5
3. Third Quartile ^b	244	257
B. Days from inventory to accounting		
1. Mean	79	64.7
2. Median	56	52
3. Third Quartile ^b	124	89
C. Days from accounting to adjudication		
1. Mean	40.2	50.3
2. Median	41	41
3. Third Quartile ^b	44	47
D. Total days from probate of will to conclusion ^c		
1. Mean	329.6	287.9
2. Median	297	261
3. Third Quartile ^b	462	345

- a. Source: National Center for State Courts limited sample of administration of estate cases for calendar years 1976 and 1977, based on date filed with the clerk of the orphans' court for York County.
- b. "Third Quartile" represents the number of days within which 75% of the cases were processed.
- c. Date of adjudication or release

While the mean and median measures in Figure 4.16 indicate that the nine-month (about 275 days) requirement is not exceeded to a large degree, the distribution range in Figure 4.17 shows, that on a case-by-case analysis, this is not true. Only 56 of 87 cases (64%) adhere to a nine-month period from probate of the will to conclusion.

The period over which the court has the most control -- accounting to adjudication -- shows the most stability over the two-year sample period. Because adjudication cannot occur sooner than 30 days from filing of the accounting, a period of 40 to 50 days appears reasonable.

It is worthwhile to examine what the desired effects of enforcement of these time standards (30-day, 9-month) would be before coming to any judgments about changes in enforcement practices. Certainly time standards are useful in identifying fiduciaries who are dilatory; however, concern needs to be directed to whether or not beneficiaries' interests are best served by the process. In some cases delay may be beneficial, to help maximize value of an estate. Delays, however, may also result in a reduction of the value of the estate, depleted by attorney's fees over time. No evidence was found to indicate this to be the case in York County, however, since in practice the attorney's fees are apparently a fixed percentage of the estate, particularly when the trustee is a bank.

Studies in different states show that these cases generally take an extremely long time, with an average case requiring 16 months.⁸ In a Cuyahoga County, Ohio study, examining 1974-1975 cases, only 31.9% of

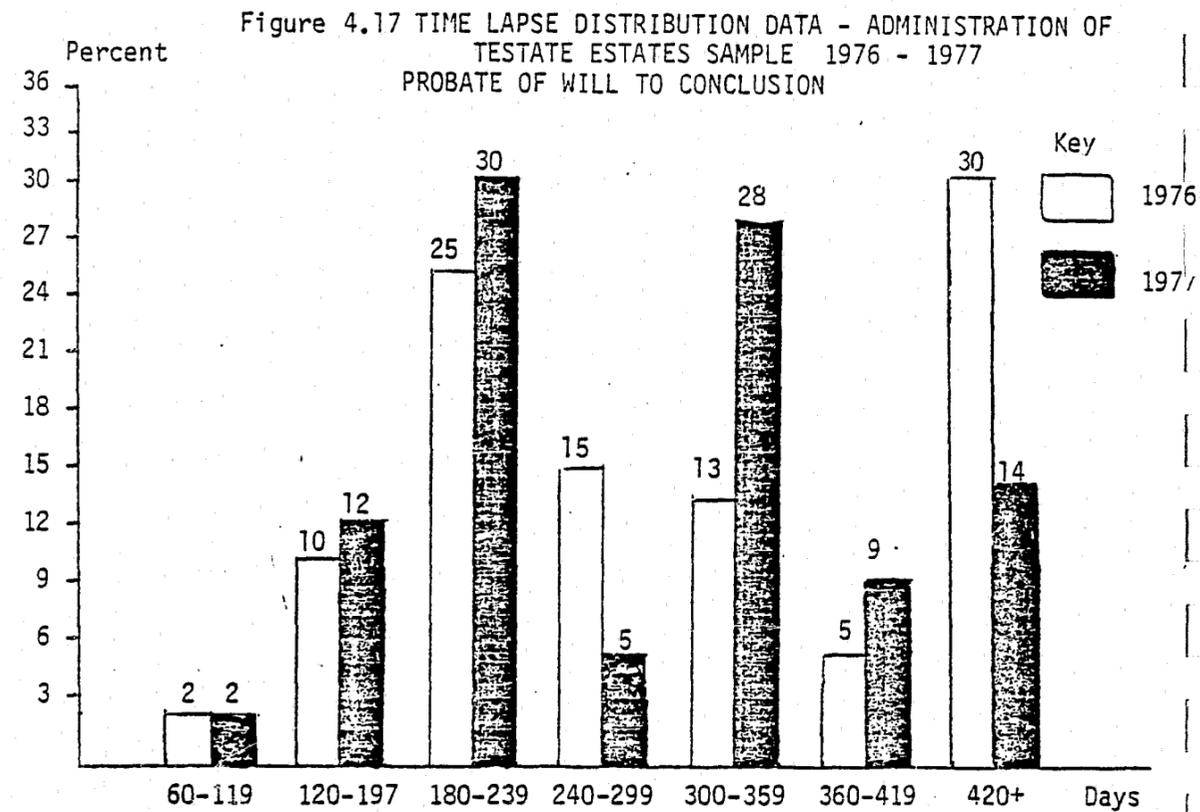
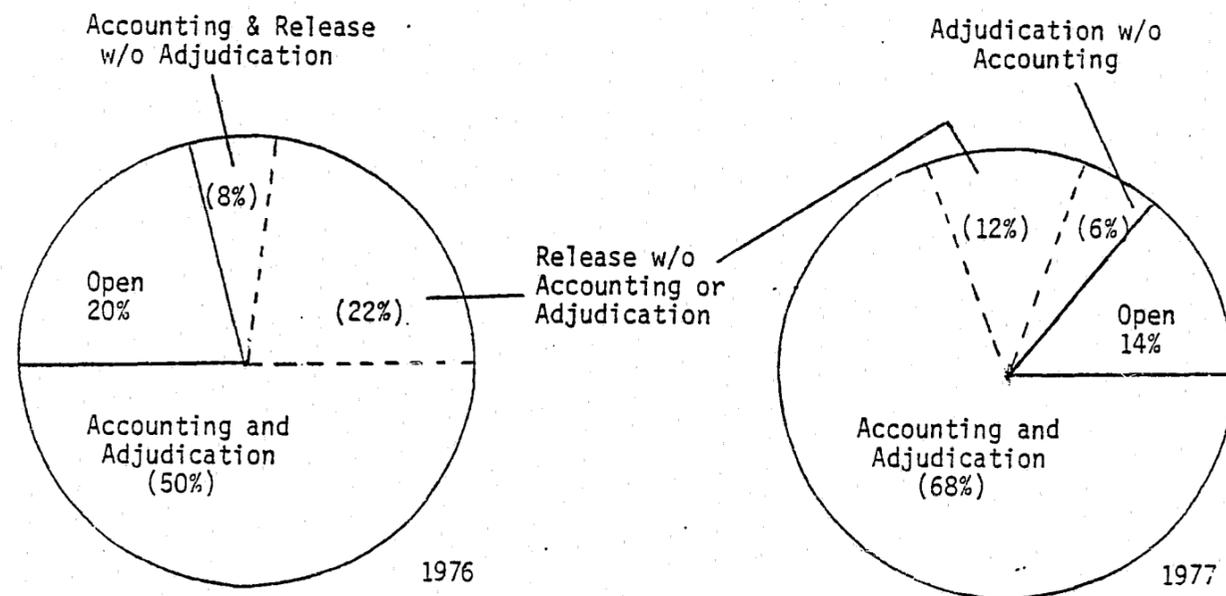


Figure 4.18 ADMINISTRATION OF TESTATE ESTATES SAMPLE SUMMARY



estates closed in less than nine months; 44% required 9-15 months, and 24.1% required beyond 15 months.

The Uniform Probate Code (§3-706) sets a 3-month limit from appointment of the fiduciary to filing of the inventory, a period three times longer than for the same stage in Pennsylvania. Were the Uniform Probate Code standard to be applied to York, only 20% of the cases in the two-year sample would have attained it. By contrast, the minimum time from granting of letters to the accounting in Pennsylvania is four months, as compared with a minimum of six months recommended in the Uniform Probate Code (§3-1003).

Chapter IV Footnotes

1. Interview with William Long, Director, York County Probation Services.
2. 11 P.S. §312 (b, c). Standards relating to juveniles are found in the Juvenile Act, commencing 11 P.S. §50.
3. ABA, Standards Relating to Trial Courts, Standard 2.52(b).
4. Marhefka, Reedy & Cutter, "A Survey Report of Court Administration in York County" (Administrative Office of the Pennsylvania Courts, 1976), at 4.
5. This expectation is applied in practice as a nine-month time standard from petition for letters testamentary to full completion of estate administration. See 20 P.S. §§3133, 3152 and 3531.
6. Under statute (20 P.S. §3501.1) and court rule (20 P.S., Ch. 7, subch. G: Orphans' Court Rules, Rule 6.4), a first accounting may be filed four months after grant of letters of administration. Under § 3501.1, an accounting may be called for after six months.
7. National Conference of Commissioners on Uniform State Laws, Uniform Probate Code (West Publishing Company, 1974).
8. Outside the Courts, at 26.

CHAPTER V

MATTERS RELATED TO CASE MANAGEMENT

Summary. The official York County court calendar, published in November before the year to follow, has been modified since 1977 to allow greater flexibility in scheduling by individual judges and to increase the utility of time set aside for jury trials. Computer data processing, already applied to jury selection, termination of inactive civil cases, domestic relations support payments, and monitoring of court budgets, might also be applied to tracking criminal and civil cases. While not immediately evident as a factor affecting case processing, court facilities present clear problems involving availability of courtrooms and hearing rooms. In addition, crowded conditions in the district attorney's office and the domestic relations office affect the quality of their operations.

In addition to what has been discussed in the preceding chapters, there are other areas that have a bearing on management of cases. This chapter treats five of those areas.

While the day-to-day scheduling of individual cases is shared among the judges, the district attorney, the court administrator and others, the overall context in which such scheduling takes place is provided by the official court calendar. Published before the beginning of each year, the court calendar sets forth the days during the coming annual period when major court events -- such as criminal and civil jury trials -- are to take place. The first section of this chapter discusses the court calendar.

Other than judges, attorneys and parties, important participants in cases are jurors and witnesses. Section B of this chapter discusses the

manner in which arrangements are made to provide jurors for criminal and civil trials, and the next section addresses the handling of citizens and law enforcement officers who are witnesses.

For the management and processing of the various kinds of cases coming before the court each year, a large amount of information is necessary. Section D below assesses information processing and storage needs of the court system, with attention to the county's data processing operation. Finally, facilities are considered, with an eye toward ways in which the courthouse setting itself affects case processing.

A. Court Calendar

On the first day of November each year, the York County Court of Common Pleas publishes its court calendar for the annual period to begin the following January. In a pamphlet of about twenty pages compiled by the court administrator, the schedules for the trial division and the orphans' court division of the court are fixed for the entire year to come. The official terms¹ of the trial division consist of four three-month periods, with each term commencing the day after its predecessor concludes. Figure 5.1 compares some features of the court calendars for 1977, 1978 and 1979.

In 1976, twelve weeks -- the last week of each month -- were set aside for criminal jury trials. This was an increase in trial weeks to aid in meeting the requirements of Criminal Rule 1100.² It was found, however, that problems were still arising in scheduling for trial to meet the 180-day rule. It appears that two possible reasons were seen for these problems. It might be that more criminal trial weeks were needed to accommodate higher volume or that problems might result from occasional long trials, which would delay other scheduled cases until the following month.

The 1977 court calendar represents an effort to test each of these possible reasons: more weeks (sixteen) were set aside for criminal jury trials, with five months each having two consecutive weeks for trials. It may have been hypothesized that two weeks of trials would be less vulnerable than one-week sessions to schedule disruptions caused by

Figure 5.1. COMPARISON OF 1977, 1978 AND 1979 YORK COUNTY COURT CALENDARS

	Court Calendar Year		
	1977	1978	1979
a. Weeks set aside for criminal jury trials*	16	12	12
b. Weeks set aside for civil jury trials	6	6	6
c. Work days available for calendaring	245	248	247
d. Work days when <u>all</u> judges scheduled by calendar	174	158	152
e. Work days when only <u>some</u> of judges scheduled by calendar**	66	37	39
f. Work days when <u>no</u> judges scheduled by calendar**	5	53	56

* For 1977 the court calendar set aside one week per month for criminal jury trials in seven months, with two weeks per month in five other months, and with no criminal jury trials in July.
For 1978 and 1979 the court calendar set aside two successive weeks for criminal jury trials every other month.

** These are days when judges individually must schedule such matters as juvenile or support hearings and nonjury civil trials.

longer trials, since a new trial might be begun at the end of the first week and resumed in the following week.

This, in any event, was the conclusion reached at the close of 1977. It was found that sixteen weeks of trial were too many; that there were too few jury trials required. (At the same time, the number of criminal filings and jury trials had declined substantially from the peak volume of 1975 — see Figure 2.2 above.) As a result, the 1978 calendar showed only twelve weeks set for criminal jury trials, arranged in clusters of two successive weeks every other month. Participants in the process have found this to be a workable arrangement, and the 1979 calendar is arranged in the same fashion.

In the 1977 calendar, criminal jury trial sessions followed one another every three or four weeks, with some gaps of only two weeks and a seven-week hiatus between July and September sessions. The 1978 and 1979 trial sessions are from five to seven weeks apart, with an eight-week hiatus in the summer between July and September. The summer disruption of trial scheduling occurs because trial sessions are not scheduled when the Pennsylvania Supreme Court or Superior Court are in session in Harrisburg; the summer break also is time for Common Pleas judges' vacations.

In 1978, the district attorney viewed the summer break in the trial schedule as causing difficulties for prosecution compliance with the 180-day rule. This is reflected in the sample of 1978 criminal cases

inspected for this study: half the prosecution applications for extension filed for the first time in a 1978 case were filed in July and September -- to "work around" the August break. For some of these applications, however, the court was apparently unconvinced that the summer break was the cause for inability to commence trial within 180 days, since almost eighty percent of the court denials of extension applications for 1978 cases came for July and September applications.³ In 1977, when the summer seven-week break was even more out of step with the three or four weeks otherwise between trials, applications for extension were not more frequent in summer than other times of the year.

The times in the court calendar set for criminal jury trials clearly affect prosecution efforts to meet the 180-day rule, even though the court may sometimes not be convinced that the calendar alone is the primary cause for inability to commence trial within 180 days. Another reflection of the court calendar's impact on criminal case processing is the effect that imminence of trial has on guilty pleas. As mentioned above in Chapter II, 72.4% of all guilty pleas in the sample for this study were entered during or just before weeks set aside in the court calendar for criminal jury trials.

Since at least 1976, the number of weeks scheduled for civil jury trials has been reduced in order to provide more time for criminal jury trials. In each court calendar from 1976 to 1979, six weeks are scheduled -- a week every other month -- for civil jury trials. In

each court calendar from 1976 to 1979, six weeks are scheduled -- a week every other month -- for civil jury trials. In 1976, this meant that every other month had two weeks of jury trials, with the others having one week. In 1977, however, civil juries were scheduled the week before criminal juries. In consequence there was one month with three weeks of jury trials, and there were eight months with two weeks in 1978 and 1979. The court has retreated from such heavy concentration of trials by alternating criminal and civil jury months.

As is the case with criminal cases, the court calendar's arrangement of civil trial proceedings is intended to spur negotiations among litigants. Pretrial conferences are scheduled individually by judges after attorneys have made entries in the prothonotary's pretrial conference watchbook and cases have been assigned to judges by the court administrator under the direction of the president judge (Local Rule 261). Cases that have been certified for trial and entered on the trial list for a forthcoming jury session are called by the court three times: on two successive Mondays before the beginning of each civil jury trial week, and a third time on Monday morning of each jury week.

The procedure for call of the civil trial list has been partially described in an earlier chapter (see above, part 3C of section A in Chapter III). Call of the list is allocated in the official court calendar among all the judges in rotation during the year: one judge is assigned to call the list each Monday before one week of jury trials, and another must call the list for the next week of trials two months later. Once a case has been certified for trial by a judge and entered by counsel in the trial watchbook, the court administrator puts the case on the trial list.

Counsel are to be physically present in the courtroom at each trial list call; and when the judge calls each case, opposing counsel are to state whether they are ready for trial or wish a continuance, or that the case has been settled. If counsel disagree about continuance, the court decides the matter. If counsel express readiness for trial at the second call of the list, the court will not grant a subsequent request for continuance. This gives the court administrator some certainty about cases ready for trial, although counsel may announce a settlement when the third call of the list is made on the opening day of the jury week.

The three calls of the trial list are seen as an inducement for counsel, by appearing in court together on a case, to reassess the possibility of settlement. This is indicated, in the perception of court officials, by changes in counsel statements at different calls of the list -- after expressing readiness for trial at the first call, counsel may subsequently announce that a case has been settled. But court records are not kept to test whether the attorneys' physical presence at the call of the list is the cause for settlement.

If counsel for a case appear for none of the calls of the list, the case is continued as a matter of course, even though readiness for trial had earlier been certified and the case had been entered in the trial watchbook. Similarly, if both sides to a case agree to a continuance, the court will grant it as a matter of course. The court does not maintain a record of continuances requested and granted during calls of the list.

An observation made by some of the judges interviewed for this study is that there is sometimes considerable "down time" during jury trial sessions. That is, judges are left with what may be unproductive time because trial schedules have collapsed as a result of negotiated pleas, settlements, or unavailable witnesses. This seems to reflect what is at least an implicit policy decision not to "overschedule" cases for trial, with the result that judges are sometimes idle so that parties and witnesses will not be unduly inconvenienced. In any case many of the judges use this time to catch up on such work as writing opinions (all judges complained that time is insufficient for this task), although the unpredictability of "down time" during trial week makes precise planning of time difficult.

An inspection of Figure 5.1 shows a definite trend from 1977 to 1979 in the extent to which the court calendar is used to exercise prior allocation over the work activities of judges. In each year, the court calendar provides the days when specific court events will take place, and it generally identifies the judges to preside over such events. For a substantial portion of the total work days available, the court calendar sets forth events to which all judges are assigned for all or part of each day (for example, criminal and civil jury trials, argument court, current business court, and summary conviction appeals). But from 1977 to 1979, the number of such "committed" days has been reduced. In contrast, the number of work days for which one or more of the five judges is not scheduled in advance by the court calendar has increased substantially.

During the days when their time constraints have not been set by the court calendar, the judges must individually schedule a variety of activities. In addition to nonjury trials, these activities include juvenile hearings, support hearings, and such special civil hearings as preliminary injunctions, replevin actions, and proceedings under the Pennsylvania "Protection from Abuse Act." For juvenile cases, the two judges who hear such matters work directly with the probation office in scheduling; the judge who hears support matters schedules them with the domestic relations office. While the court administrator assigns civil cases (including special hearings), among the judges, each judge fixes hearing times according to his own schedule. Since there are statutory time limits that require prompt hearings on juvenile detention cases and the special civil matters mentioned here, accommodations must be made to give these proceedings priority.

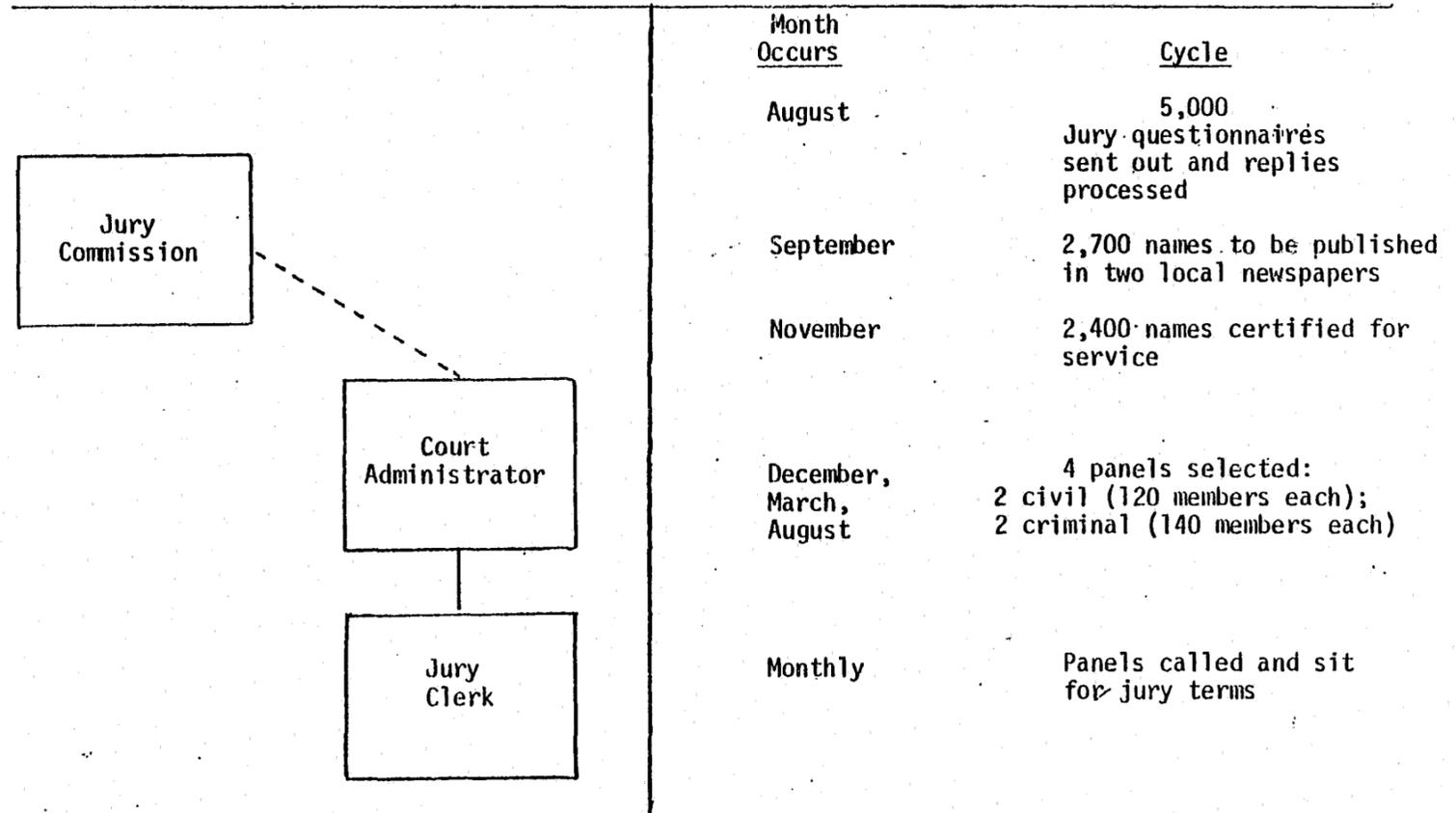
The trend in the court calendars since 1977 has been to trade away some predictability in order to obtain greater flexibility in scheduling emergent matters. As now structured, however, the system may be approaching the limits of flexibility. A universal refrain among the judges was that they do not have time to do the work before them, and that the next open day in their respective calendars is always a date no less than one or two months hence. Each complains of being faced with continual problems of rescheduling, since unpredictable but priority matters such as juvenile detention hearings or special civil matters must often displace other events.

B. Jury Management

Responsibility for the selection and use of jurors is held jointly by the jury commission and the court administrator. Comprised of the five judges of the Court of Common Pleas and two private citizens from opposing political parties, the jury commission certifies the jury list and oversees the computer selection of panels. Both duties are largely ceremonial. The court administrator directs the detailed year-round clerical work. Name and address labels are provided by the county's data processing agency, and clerical personnel in the court administrator's office manually stuff envelopes with jury questionnaires and process some 5,000 citizen replies. The court administrator is also the immediate supervisor of the jury clerk, a part-time employee who mails a jury handbook and reporting instructions to the selected panel members for each term. The organizational structure and jury selection schedule are shown in Figure 5.2.

Jury Cycle. Following a pattern established by many medium-sized counties throughout the nation, the York County jury practices are built around the civil and criminal jury terms of court. A panel of 140 jurors is called for each criminal term, 120 jurors for each civil term. Using the current year's practice of six criminal and six civil terms, the total juror requirement comes to 1,560; to allow for contingencies a list of 2,400 prospective jurors is certified in November by the jury commission. In order to provide for 2,400 jurors, the county data

Figure 5.2. JURY ADMINISTRATIVE ORGANIZATION AND YEARLY PROCESSING CYCLE



Legend Direct Accountability
 - - - - - Indirect Accountability

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processing department in August sends questionnaires to 5,000 citizens from whom the necessary jurors are assembled.

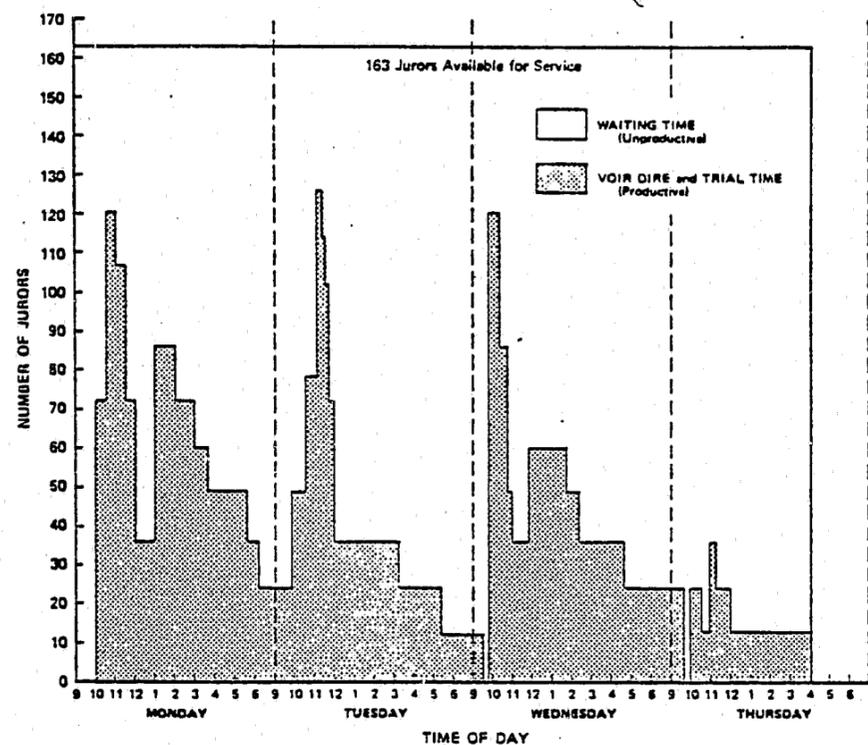
Each criminal term was two weeks in duration in 1978; the civil term, one week in duration. (As mentioned in the preceding section, the same is true for 1979.) Generally, all of the panelists sit for the entire term, with some being excused for personal and medical reasons and all being excused on a rare day when a trial is not expected.

Each juror receives \$9 a day (increased recently to \$18 a day) plus a mileage allowance, amounting to a gross cost to the county of approximately a quarter of a million dollars per year. (The net cost to the county is reduced by reimbursements from the Commonwealth.) A more detailed description of jury practices is contained in Appendix C.

Recordkeeping. The prothonotary and clerk of courts maintain records of juror attendance, which are used by the county controller's office to compute juror compensation. Computer printouts list the names of citizens summoned, those who are selected for service and those who become jury panelists. No records are kept of time spent sitting on a jury or in voir dire proceedings. Nor is there a log maintained of courtroom usage. At the termination of jury service, jurors are not asked to fill out a jury questionnaire.

Figure 5.3, taken from A Guide to Juror Usage, compares juror time spent productively (voir dire and trial time) and otherwise during a typical week of service.⁴ Since this pattern is found in many courts,

Figure 5.3. JURY USAGE IN NINE-JUDGE COURT



Source: National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, A Guide to Juror Usage, 1974, Figure 2-2, pp. 2-5.

it may represent to some degree jury service in York County. The conclusion one draws is that jury service in many courts involves a considerable amount of nonproductive time for jurors.

C. Witness Management

Criminal Cases. Civilian witnesses for the Commonwealth are subpoenaed by the district attorney. Each subpoena, served by a deputy sheriff, commands the person to appear on the second floor of the courthouse on a certain date and time and indicates the case number and defendant's name. An innovation by the district attorney's office in 1979 has been to advise witnesses to telephone the district attorney's office shortly before their scheduled appearance. A member of the district attorney's staff serves as witness coordinator during jury weeks and receives witness calls, keeping them informed of the progress of cases. If it is evident that a case will not be heard as scheduled or if the defendant pleads guilty, the witness is to give a telephone number where he can be reached by the coordinator. Wherever possible, approximately one hour's notice is given to the witness to allow adequate time for travel to the courthouse.

At the courthouse, temporary signs are usually placed to show where witnesses are to congregate. The district attorney's witness coordinator greets the individuals in the hallway and directs them to appropriate courtrooms. While civilian witnesses complain from time to time when cases are continued and about conditions in the hallway waiting area, the district attorney's office stated that witnesses usually cooperate by appearing to testify.

State police and police for the City of York each have a liaison person who reports the progress on cases in order to pinpoint as closely

as possible the time at which a police witness will appear. The state police liaison maintains close contact with the scheduling clerk in the district attorney's office; the City police coordinator remains at the courthouse and telephones to alert police officers to appear. Both the state and city police appear to be satisfied with the way this system works. State police prefer to retain their own liaison than to have the court provide this service.

Civil Cases. Counsel are responsible for the appearance of their witnesses. Many attorneys coordinate appearances by maintaining contact with counsel of the immediately preceding case and informing their witnesses to appear at the appropriate time. Some attorneys also contact the court administrator. But this method is flawed, for attorneys do not always inform the court of the resolution of cases. The court administrator's working practice is to keep witnesses for one "back-up" case per courtroom available in the courthouse, in the event that the proceedings in a particular courtroom terminate unexpectedly.

Conclusions. While evidence is inconclusive, some persons have observed to National Center staff that witnesses do complain about waiting, about having no specified waiting place, and about cases that are continued from one day to another. Since witness cooperation is essential, it is important that they be treated fairly and courteously and their service be expedited whenever possible.⁵

D. Processing and Storage of Case Information

For the thousands of cases handled by the court each year, a large amount of documents with detailed information are produced. These documents must be organized and stored so that the information they contain can be retrieved when needed for case processing and court action. This section discusses the manner in which the management of such information might be aided by the application of computer technology or alternate filing methods.

County Data Processing Capacity. Established in 1958, the county data processing department has experienced a period of substantial growth in the volume and the range of its work. It now operates and maintains a broad range of computer systems, covering among other areas payroll, accounting and police warrants.

The department's work is processed on an International Business Machines (IBM) System 3 Computer, Model 15 D, located in the basement of the courthouse. The configuration includes an I-92 thousand character central processing unit, four disc units, a printer and five video display terminal units. One of the display units plays an important role at the county's emergency operations center, where it is put to use to inquire about the status of outstanding warrants. Apart from this application, the majority of the other work is performed by batch means (that is, storing data in groups or "batches" for processing at set intervals, usually weekly or monthly). For a typical application, such as payroll, a department staff member types information that is stored on a "floppy disk" (similar to a standard long-play phonograph record).

At some later time, the information is transferred to a larger disk compatible with the computer system. Drawing the information from the larger disk, the computer makes the necessary computations, updates files and then prints reports, registers and so forth.

The department produces work for the courts in four areas.

1. Jury: In the past, the computer produced labels that were used to mail out some 5,000 jury questionnaires; this year's plans call for the use of a data mailer, a package containing both envelope and questionnaire. A master list is prepared, including all of the prospective jurors. A number of derivative lists are then produced, including those showing the names of eligible jurors (about half of the prospective ones) and another listing names and reasons of people excused from service. Using random methods, the computer selects from the lists of eligible persons the jurors for each jury trial term.

2. Civil cases: Once a year, the data processing department lists for the prothonotary all of the civil cases that have been inactive for two years. Under Rule 1901 of the Pennsylvania Rules of Judicial Administration and Local Rule 256, such cases are potentially subject to automatic termination by the court. The department prepares and sends to each attorney concerned a list of cases so designated; included in the letter are dates and times for reply in order to avoid dismissal. Other reports are used for statistical and financial accounting.

3. Domestic Relations: The data processing department plays its most significant role in court operations for the domestic relations office, which receives support payments ordered by the court for spouses

and children. Weekly, data processing produces receipts for the following week's scheduled payments. Each day cash receipts are computer balanced. On a weekly basis, county checks are then produced (with most being mailed directly to support recipients, since no further administrative action by the domestic relations office is required). Client payment records are updated each week, and the new records are replicated on microfiche. With visual display units (microfiche "readers") on several desks in the domestic relations office, there is convenient staff access to the contents of microfiche payment records. Recently, the data processing department has begun producing a listing of overdue accounts, and by doing so has expanded its work to aid the enforcement of court support orders.

4. Budget: Each month, the court administrator reviews a copy of the statements of accounts, which compares actual expenditures to budgeted figures for court matters.

Court System Data Processing Needs. For criminal cases before the court, the district attorney can lay claim to having the highest need for use of computer capacity, since the York County prosecutor is responsible to schedule cases for trial. This is an exacting, time-consuming job, requiring the constant attention of staff, because of the need to meet the time requirements of the speedy-trial rule. In conjunction with the scheduling work, the district attorney mails a wide range of documents to litigants, including subpoenas, notices of arraignments, notices of continuances; the capabilities of the computer and word processing equipment are particularly well suited to produce

these types of documents in volume levels required by the office.

Another potential district attorney office computer application goes to the preparation and maintenance of "rap sheets," records of criminal activity. These records are now segregated as sensitive information. In considering automation options, the district attorney would be reluctant to have the records maintained elsewhere for fear of a security breach. Other factors speaking for automation are: (1) a continuing problem of misplaced files and (2) the large and increasing storage space requirements to house the hardcopy records.

Recordkeeping for criminal cases is the responsibility of the clerk of courts. Two of his most important duties are the preparation and maintenance of case folders and dockets. In other jurisdictions, the computer has been used profitably in the production of dockets and could be used to perform the same duties in York. In other jurisdictions division of case processing responsibilities between the clerk of courts and the district attorney has presented a barrier to effective computer use; this organizational problem is discussed in greater detail later in this section.

While not involved in formal criminal case recordkeeping for the court, the public defender's office has an obvious need for accurate case information. An essential need of this office is knowledge of case status. Computer-generated status reports, perhaps listing the data in a number of ways (e.g., by case, defendant and individual public defender), might be valuable tools for case management. Other desirable management reports might include those aiding assessment of trial

success rates and productivity of individual public defenders.

Civil case processing might also benefit from the use of automated case tracking capability. A basic system could include reports pinpointing the status of cases in progress, a report listing cases by attorney, and perhaps a case schedule. The need is less pressing here, though, absent other changes in the way civil cases are treated by the court system. This is so for two reasons: (1) the process is an informal one with the local bar controlling the entry stages of a case; and (2) case processing does not have to meet stringent time requirements.

The jury and domestic relations applications discussed above can be further refined. A significant part of case volume in the county is handled at the district justice level; computer terminals could be considered for the transmittal of cases and maintenance of productivity statistics.

An organizational fact of life in York County is that administrative control lies with different and often autonomous units. The division of case-processing responsibility between the elected clerk of courts and the elected district attorney is an indication of the arrangements that permeate the court. The elected prothonotary, the jury commission, the York County bar and the court administrator share responsibility for jury selection. The computer designer faces the problem of bridging such divisions in administrative responsibility with technology. In courts the size of the York County Court of Common Pleas, the problem is less pronounced because of the close working

relationships among staff. Difficulties grow with the size of the courts. The Philadelphia Court of Common Pleas, for example, was long considered a leader in court computer development; one of the key reasons for the failure of this court's recent criminal justice information system effort was the difficulty of maintaining a close working relationship among the police, the district attorney and the courts.⁶

There are two ways to deal with the problem. One is to develop systems encompassing multiple department use; start with small applications; find out the complications; make adjustments before moving to more comprehensive undertakings. The other is to keep the applications small and within the confines of one department. In this regard, it is worth noting the experience of the National Center's Court Improvement Through Applied Technology (CITAT) project. Its recommendations to the courts focus on the use of the filing, microfilm, and word processing and simplified computer systems. Most of the changes can be understood and put in place by existing court staff. Another important factor is that the system generally falls under the control of one department, thereby bypassing the whole issue of resolving policy and practice differences among units. This modernization strategy has been labelled by some as the use of "intermediate technology." Briefly stated, this approach trades off some technological power for simplicity, which is easier to understand and to make work. Whatever the name, the strategy has been more successful than larger-scale undertakings.

Filing Equipment. Throughout the court, the most common type of filing cabinet in use is the pull drawer variety, usually four to five

feet high with four drawers. Called vertical drawer filing in the industry, the units typically hold manila folders containing case or related information. In most offices, the majority of these units are devoted to holding one type of case files. In the domestic relations office, however, these units hold records from three different filing systems -- active, inactive, and a combination -- contributing to the high incidence of lost files in that office. By modernizing equipment and practices, it is possible to conserve storage space and increase employee productivity.

Conclusion. Criminal case activities have the strongest claim on the use of the computer. Both the district attorney and the public defender need a case tracking capability; the district attorney, of course, has sought additional computer strength to aid case scheduling. Related to these activities is the clerk of courts' responsibility for maintaining criminal records. An automated civil case tracking system would assist the courts, but the need there is less pressing. Refinement of the jury and domestic computer applications could continue. Organization, not the quality of technical skills, will have the greater influence on development.

As suggested earlier, experience with computers in other courts has not been good.⁷ Informal observations in many of the states reveal that about one-half of the systems are not living up to expectations. Problems run from technical ones, to inadequate funding, to thorny organizational issues, like the one discussed earlier. This experience speaks for caution and conservatism in the developing of new applications.

E. Courthouse Facilities

Findings. The courthouse is located in the downtown area of York, which is both the geographic and commercial center of the county. The building is a landmark, being of distinctive design. Its features include a classical entranceway, composed of two-story-high concrete columns and a pediment; contrasting red brick facing covering the outside of the building and three cupolas or domes setting off the building's roof line.

On entering the main door of the courthouse, the visitor is directed to a booth about fifty feet to the left for information on the location of court and other offices. At the booth, general information about the court is given to the visitor. Proceeding toward the center of the building from the main entrance, one encounters a number of county offices, including the county treasurer, and the hunting and fishing licenses bureau. At the center of the building, directly under the courthouse dome, is a large open area leading to an elevator and stairs to the second floor of the building. This open space is replicated on the second and third floors of the courthouse. Signs are evident on all floors pointing to offices and courtrooms, but directories listing all functions on the floor are not in use.

Court activities are centered on the second and third floors of the courthouse. Three of the building's four courtrooms are located on the second floor; adjacent to courtrooms are jury sequestration rooms and

judges' chambers. Although not large in size, the chambers are well-appointed. Other court-related offices located on this floor are the clerk of courts and the district attorney. Facilities on the third floor include the small fourth courtroom, a drab arbitration hearing room; the law library; a spacious attorneys' lounge; and the offices of the public defender, court administrator, domestic relations and probation. A retired judge uses the librarian's office. The prothonotary's office is the lone court function located on the first floor, and the clerk of the orphan's court/register of wills is housed in the basement. The most striking room in the courthouse is courtroom number one on the second floor. Spacious and elegantly furnished, with a high ceiling, this courtroom has counterparts throughout the nation in courthouses built in the late nineteenth and early twentieth centuries, and which can be seldom replicated in newer buildings.

Interspersed throughout the courthouse are county administrative offices. The coroner is located on the third floor. In addition to housing the county treasurer and the fishing and hunting license bureau, the first floor accommodates the county commissioners, the sheriff and the recorder of deeds. Located in the basement are the map office, voter's registration, the county agricultural agent and county data processing. In all, about 40% of courthouse space is devoted to other than court activities.

Overcrowding is most severe in the district attorney's office and domestic relations office. As space in the district attorney's office

is in short supply, no room can be set aside for interviewing witnesses; of necessity, most of the interviews take place in the district attorney's office. Other problems of this office include the housing of three part-time district attorneys in one office, cramped administrative quarters and a lack of adequate file storage areas. The most critical problem facing the domestic relations office is a shortage of suitable space to conduct interviews.

Conclusions. Because facilities and other space considerations do not fall into the mainstream of a case management project, only high points were discussed here. Notwithstanding the brevity of the review, it is obvious that the courthouse is laid out and equipped in a traditional fashion seen in many other jurisdictions. Activities in these structures have revolved around the courtrooms, in the expectation that the majority of judge time would be devoted to dealing with trials and related matters. Due to the volume of litigation in recent years, however, courts are now beginning to move away from their traditional approach. Marital matters are commonly dealt with by court-appointed masters; many courts have experimented with the use of pretrial settlement conferences. Many foresee courthouses of the future offering a choice of forums to litigants: full trial, arbitration, mediation or fact finding. Indeed, Pennsylvania, along with California, New York, and Ohio are leaders of the movement establishing arbitration as a means of settling civil disputes. With the new litigation patterns and resolution mechanisms have come new needs. Hearing rooms need

only be a fraction of the size of traditional courtrooms; the traditional one-to-one relationship of judges to courtrooms may become the exception rather than the rule as judges devote more of their time to informal proceedings; above all, the trends bespeak a need for flexible spaces, ones which can accommodate, for example, a jury trial on one occasion, two arbitration hearings on another, and an informal hearing and master's proceeding at another time.

Chapter V Footnotes

1. In practice, the weeks set aside for criminal and civil jury trials are referred to as trial "terms." This usage bears no necessary relation to the infrequently-mentioned "official" terms.
2. See Marhefka, Reedy and Cutler, "A Survey Report of Court Administration in York County," at 19 (Administrative Office of Pennsylvania Courts, April 1976).
3. A general conclusion about the district attorney's problems with the 180-day rule in 1978 was that cases were not being scheduled promptly for arraignment. For cases filed with the clerk of courts in 1978, the mean time from filing with the clerk to arraignment was 50.1 days, as opposed to 54.4 days in 1977 (see Chapter III). But 1978 sample cases were prepared for arraignment by the district attorney's office slower in the months from May to August than those for either the first four months or the last four months of the year. Cases filed between January and April took a mean 38.6 days to arraignment; from May to August, 60.4 days; and from September to December, 53.5 days. This slowdown in times to arraignment may indeed, more than the summer trial hiatus, account for the rise in extension applications.
4. National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, A Guide to Juror Usage, (1974).
5. Failure to testify often results because of poor treatment by the court or other members of the criminal justice community. This conclusion was reached in a witness cooperation study conducted by the Institute for Law and Social Research, as reported in Improving Witness Cooperation (U.S. Department of Justice, August 1976).
6. Conti, Popp and Steelman, "The Lessons of PJIS" (Philadelphia Justice Information System), State Court Journal, (Summer 1978).
7. For a detailed report on the courts and computers, see Burton Kreindel, et. al., National Evaluation Program, Phase I Report: Court Information Systems (Mitre Corporation, August 1976). Two magazine length articles that deal with the same subject matter are Popp and Kuykendall, "Computers in the Courts," State Court Journal (Summer 1977), and "The Lessons of PJIS," supra.

CHAPTER VI
RECOMMENDATIONS FOR IMPROVEMENT

From the findings and analysis presented in the above chapters, a number of observations follow. This chapter offers suggestions for ways in which the court can continue to improve the effectiveness of its service to the public.

In the pages that follow, 26 recommendations are made. They are arranged in the following fashion:

- A. General Considerations
- B. Criminal Cases
- C. Civil and Other Cases
- D. Jury Management
- E. Processing and Storage of Case Information
- F. Facilities Utilization

In general, conditions in the York County Court of Common Pleas are good. By the adoption of such measures as those recommended here, most notably by the addition of a judge and by introduction of further case control techniques, they can be even better.

A. General Considerations

Recommendation 1: The York County practice of scheduling by individual judges -- essentially what has been called an "individual calendar system" -- should be retained, with the court administrator able to coordinate schedules and facilitate adjustments.

Local Rule 261(e) permits the court administrator to assign a civil case for trial before a judge who did not conduct the pretrial conference for that case. Civil petitions and motions not requiring a hearing are ruled on by a different judge each month. For a criminal case, the judge presiding at arraignment, ARD hearing, or pretrial scheduling conference need not be the one to whom the matter is assigned for trial. These are examples of York County case assignment practices that partake of what is commonly referred to as a "master assignment" or "master calendar" system, wherein each event in a case is assigned as a judge becomes available, without regard to which judge may have heard any of the previous events in the case.¹

But the predominant character of case assignment and scheduling of events in York County would be most accurately described as an "individual assignment" or "individual calendar" system, in which each case is assigned to one judge, who hears all the events in the life of that case.² This is clearly so with civil cases, in which each individual judge schedules events in a case after assignment under Local Rule 261(b) by the court administrator. All non-jury trials and hearings in juvenile, custody, support, divorce, equity, and petitions for special hearings are treated as individual assignment matters. A large portion of the proceedings in the court are scheduled according to the individual calendars of the judges.

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The relative merits of "individual" versus "master" systems have long been debated.³ The individual approach is said to promote judicial familiarity with cases and to create a sense of responsibility for keeping them "moving" toward resolution; the master approach, on the other hand, is believed to increase efficiency, promote general expertise among judges through division of labor, and allow flexibility in the allocation of judge time.⁴ The findings of a national study of pretrial delay in metropolitan trial courts were that courts with individual calendar systems have substantially better performance in disposing civil cases promptly, and that they also tend to have higher judge productivity (defined as dispositions or adjudications per judge) for both civil and criminal cases.⁵

York county judges appear to be hard working and accepting of the accountability created by the "individual calendar" aspects of the court's case assignment practices. In view of national findings and the recommendations made below regarding time standards for different kinds of cases, retention of the individual approach to case assignment seems desirable.

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Recommendation 2: One additional judge should be appointed for the York County court of Common Pleas, bringing the total of authorized judgeships to six.

Although trends in the total cases filed with the York County of Common Pleas cannot be used to justify a sixth judge, other considerations strongly support an additional appointment. The complexity of criminal cases has increased substantially in consequence of U.S. Supreme Court opinions. A number of special proceedings calling for prompt court hearings (e.g., juvenile detention cases and protection from abuse cases) have

seriously tested the available time of judges and the flexibility of the court calendar. And while the recommendations made here include suggestions for more streamlined use of resources, recommendations for time standards can only be carried out through more intense application of judge time. Finally, addition of a judge will enable the court to give more attention generally to administration.

With one more judge, a nonjury courtroom is called for: this room can be used as a hearing room for masters and arbitrators when not used by the court. During criminal and civil jury trial sessions, all six judges need not sit: the president judge, for example, can hold himself in reserve, giving him time for administrative duties while making him available for emergent matters arising during jury weeks.⁶

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Recommendation 3: A survey of wages paid to clerical personnel in the York county private sector and in comparable court jurisdictions elsewhere in Pennsylvania should be conducted to serve as a basis for reconsideration of the adequacy of salary levels for court clerical personnel.

Within a recent three-month period, three experienced persons left their jobs in the prothonotary's office for higher-paid jobs elsewhere, sharply reducing the efficiency of the prothonotary's office. Four persons with the clerk of courts' office have similarly terminated employment even more recently. The newly-appointed head of the domestic relations office has expressed concern about salary levels for staff. The development of a higher wage schedule, and one that offers some incentive for promotion on merit, is necessary to maintain the high standards of performance set in the three offices. Information on wage scales can be gathered at no cost to the county under technical assistance from the National Center for State Courts.

B. Criminal Cases

Recommendation 4: Although national standards recommend direct control of the criminal trial list by the court, the present York County practice of prosecutorial control within the constraints of the court calendar and court supervision through the speedy trial rule should continue. The court should, however, continue to monitor the performance of the district attorney to assure that the responsibility of the court and the ends of the justice system are being met.

The findings of this study indicate that the York County district attorney working with court officials and operating within the constraints of the official court calendar and Rule 110C, have accomplished what appears to be a considerable improvement since 1975 in timely disposition of criminal cases. Although prosecutor control of case assignment to judges can create the appearance of "judge shopping," to which defense counsel may well object, no such instance has been found in this study. And while matters may change, a cooperative spirit now exists among the incumbent district attorney, judges, the public defender, private defense counsel, and the court administrator.

Court control of scheduling, however, is encouraged both in national standards and Pennsylvania Supreme Court guidelines. The American Bar Association asserts:

Caseflow Management: General Principle.
The court should supervise and control the movement of all cases on its docket from the time of filing through final disposition. Its management procedures should be applied impartially to all litigants, afford adequate attention to the merits of all cases.¹

Similarly the Pennsylvania Supreme Court has recommended that the duties of a Common Pleas court administrator should include:

Preparation and administration of trial calendars for all civil and criminal cases, including daily trial lists.²

Given the overall performance and continued active superintendence by the court, the current practice should, notwithstanding these guides, be continued.

Recommendation 5: The court administrator should continue efforts with district justices to expedite transmission of case records to the clerk of courts. The court administrator should closely monitor transmission times by inspecting criminal dockets and should make a monthly report to the president judge. District justices should regularly review their own files to assure that no cases have been overlooked that should be forwarded to the clerk of courts.

The practice for transmitting case records is suitable at present. Future growth in volume may argue for employment of more advanced technological aids, such as the use of computer terminals discussed above in Chapter V.

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Recommendation 6: District attorney screening of criminal cases should begin at the preliminary hearing stage. To aid prosecutorial screening, standardized procedures should be established for district justices to notify the district attorney of preliminary hearing dates.

The district attorney has recently introduced a requirement that part-time assistants give at least one entire day of their time to prosecutorial functions. This requirement not only facilitates internal office management, but it also makes assistants available to attend preliminary hearings (thereby allowing earlier screening opportunities). Introduction of a standardized system for notification of preliminary hearings will further assist screening and planning for prosecutor attendance at such hearings.

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Recommendation 7: The district attorney and the court administrator should closely monitor the effectiveness of the new practice of having formal arraignments scheduled at preliminary hearings by district justices.

In April 1979 the York County Court of Common Pleas and district attorney's office have adopted a method of providing for more prompt formal arraignment that has already been instituted in the Courts of Common Pleas for Erie and Westmoreland Counties. The new method, whereby district justices schedule Common Pleas arraignment to be conducted by the district attorney, offers promise of reducing time to arraignment substantially. Especially at the beginning of the new practice, close monitoring and supervision is called for, to assure prompt resolution of problems and establishment of effective routines.

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Recommendation 8: The court should adopt the following post-verdict time standards for criminal cases:

a. For any criminal case in which there have not been postverdict motions or court approval of a request for deferred sentence, the imposition of sentence should be accomplished within thirty days after verdict.

b. In any case where postverdict motions require a transcript of trial testimony, transcripts should be delivered within thirty days after filing of motions absent court-approved extensions.

c. Time standards should be set for completion by probation officers of presentence investigation reports for criminal cases. Absent extenuating circumstances, such reports should be completed within thirty days after verdict.

While the court, the district attorney and the court administrator have worked well to meet the terms of Criminal Rule 1100 for time to trial commencement, less attention has been paid to controlling time elapsed after verdict. At present, the court has no system for monitoring the status of cases after the completion of argument on postverdict motions. Similarly, there is no method for assuring in all circumstances

that court orders for presentence investigations are received by probation officers. Applications of such time standards as those suggested above serve to apply the spirit of Rule 1100 by bringing criminal matters to a prompt conclusion in the absence of extenuating considerations.

C. Civil and Other Cases

Recommendation 9: The court should undertake a phased transition toward the exercise of greater control over the progress of civil cases. A recommended cumulative sequence of steps for transition is the following:

a. Improve recordkeeping as the basis for maintenance of case management statistics for time elapsed from commencement of each action;

b. Monitor progress of civil cases from initiation to disposition.

c. Introduce a more aggressive enforcement of Rule 1901 for termination of inactive cases;

d. Adopt a strict written continuance policy, with the court administrator keeping records of continuance requests and action on them;

e. Check the progress of each case by holding status conferences every six months;

f. End control of scheduling through watchbooks by the private bar, substituting scheduling by the court administrator according to reasonable time standards for progress of cases from initiation through pleadings, referral to arbitration, discovery, and pretrial conference to trial.

Overall responsibility for the exercise of such control by the court should be delegated to the court administrator.

Current York County practice with regard to civil cases is to adopt a passive court posture, with the local bar controlling movement of cases. This approach is hardly uncommon among trial courts across the nation. It is viewed with favor by judges and members of the bar, and some interviewed for this study expressed the opinion that it allows court resources to be reserved for comparatively more pressing matters without detriment to the interests of clients.

But attorneys in control of the movement of civil cases are, by necessity, more concerned with their own cases than with the fair and prompt determination of all cases before the court system. Their own workloads and office management practices often control the pace of their activities. Leisurely progress to conclusion that may sometimes serve the interests of civil defendants who are more regular participants in the court process does not necessarily suit the needs of plaintiffs whose participation as litigants may be a once-in-a-lifetime event. A national survey of public attitudes about the courts found that views among community leaders and the general public about what the courts can and should do are often profoundly different from the perspective of judges and lawyers.⁹ Such a finding should give the court cause to reconsider the proposition that attorney control of the civil docket is a fully satisfactory arrangement.

The phased transition suggested here should give ample opportunity for York County's judges and lawyers to assess the merits of court control of the civil docket and to make adjustments in expectations about how fast cases should move from initiation to conclusion. The overriding conclusion reached in the national study of pretrial delay by the National Center for State Courts was that the speed of disposition of civil and criminal litigation is not a function of backlog, court size, trial rate, or caseload. Rather, it is "determined in large part by established expectations, practices, and informal rules of behavior of judges and attorneys," a cluster of related factors called the "local legal culture" by the authors of the study report.¹⁰

* * * * *

Recommendation 10: The practice of requiring physical presence of counsel at calls of the civil trial list should be modified. The following approach to modification is suggested:

- a. While present practice is continued:
 - (1) Institute a method for recording continuances and reasons;
 - (2) Survey bar members to determine how frequently absence at call of the list, leading to automatic continuance, is based solely on problems or conflicts created by the requirement of physical presence.
 - (3) Institute a policy of granting continuances only for cause.
- b. Retaining the continuance policy, initiate the following:
 - (1) After publication of the trial list, require counsel to enter appearances by mail after they have consulted with opposing counsel, with such appearances to be received not later than the Monday morning now scheduled for the first call of the list.
 - (2) Require physical presence at the second call only for counsel requesting a continuance, with other counsel to give notice by mail whether they have settled or still desire trial.
 - (3) Require counsel settling after the first Monday of trial week and within 24 hours before scheduled trial commencement to bear the cost of juror compensation.

While physical presence at each of three calls of the civil trial list in York County is considered a positive inducement to settlement of cases, it may be worthwhile to review the practice. Are positive results coming about that would not be achieved but for the court's policy? Are any such results sufficient to justify the required judge time, attorney time, and cost to litigants (who presumably are billed for the time required for presence in court)?

The above recommendation is a suggested alternative approach. Suggestion of a stricter continuance policy brings to mind an observation by the American Bar Association's Commission on Standards of Judicial Administration:

Excessive leniency in regard to continuances and extensions is a major contributor to court delay, causing schedule breakdowns even in courts with adequate numbers of judges and staff. Such leniency sets off a cycle in which lawyers expect continuances to be granted, and therefore are not fully prepared for their hearings and trials; because they are unprepared, further continuances become necessary. The results are uncertain scheduling and wasted time for court and counsel as well as undue delay in the disposition of cases.¹¹

From the findings in its national study of pretrial delay, a project team from the National Center for State Courts and National Conference of Metropolitan Courts concluded that continuance practices are an important element of case management, and that sensible application of strict continuance policies help reduce delay by creating the expectation among the practicing bar that the court will not countenance unnecessary delay.¹²

The suggested practice of penalizing attorneys for last-minute settlements "on the courthouse steps" has been used with favorable results in jurisdictions including California and North Dakota.¹³

* * * * *

Recommendation 11: Time standards should be set for juvenile delinquency cases in which the accused has not been held in detention and for which formal court action is required. Such time standards should commence with the date on which the office of probation services is notified of a case and should include time to adjudicatory hearing and time to disposition hearing. Adjudication hearings should be held within thirty days after referral, and disposition hearings should occur within thirty days after adjudication.

Additional judge time should be made available, if necessary, to accomplish compliance with these standards, which should be monitored by the court administrator.

The standard proposed here is that suggested by the American Bar Association (see Chapter IV above). While the court should experience no great difficulty with the standard for time to disposition, the standard for time to adjudication is considerably shorter than the times reported above for 1977 and 1978. The court may wish to move in phased steps over one or two years to this standard: first 60 days, then 45 days.

Implicit in the time standard to adjudication is a time standard for completion of social histories by juvenile probation officers, since these reports are to be completed in time for court hearings.

It should be noted that the court is doing well with regard to meeting statutory time limits for detention cases. The reader will see from Chapter IV that American Bar Association time standards for such cases are shorter than Commonwealth standards. The court might consider application on a pilot basis of the more strict standards, to test their feasibility for Pennsylvania.

* * * * *

Recommendation 12: Time standards should be established and enforced for prompt conferences with domestic relations hearing officers and any court hearings. Hearing officer conferences should be held within ten days after support complaints are filed, and in cases requiring a court hearing, that hearing should be held within twenty days after the conference.

There should be more domestic relations intake officers and hearing officers if necessary to meet these time standards. The court administrator and the chief domestic relations officer should ascertain the number of intake officers and hearing officers needed.

A comparison of the time standards recommended here with the findings presented above in Chapter IV makes it clear that the proposed

standard is considerably shorter than the amount of time now commonly elapsing between support complaints and the holding of conferences by the domestic relations hearing officer. Achievement of the standard with only one hearing officer may be impossible, and in any event location of the delinquent spouse often makes prompt conferences difficult. Yet support payments are often essential for the care and feeding of the complainant's children. There is consequently a strong reason for prompt action to assure that support obligations are met. Since the domestic relations office receives heavy federal support under Title IV-D, the county will not experience great strain on local public funds if additional intake officers and hearing officers are engaged.

* * * * *

Recommendation 13: Executors should be called upon to give a status report to the register of wills if they have not filed an estate inventory within two months or filed an accounting within six months after the granting of letters testamentary.

There are many reasons why completion by a fiduciary of an estate inventory or an accounting might be delayed (e.g., the complexity of the estate, resolution of tax matters, or efforts to maximize return on securities). Acting to assure protection of the equitable interests of beneficiaries, the court seeks, however, to have executors complete administration of estates without undue delay.

The above recommendation might be implemented by means of a standard form letter. The form letter, notifying the fiduciary about elapsed time,

could have space for a response to the court. Responses would alert the court to possible problems, and they might prompt speedier conclusion of the administration of some estates.

D. Jury Management

Recommendation 14: Jury management should be strengthened. Proposed measures follow:

a. Keep more complete records of juror time. The information should include the time each juror sits for voir dire proceedings and jury trials; idle time should also be recorded. It is preferable that records be kept by hours, but half-day intervals are acceptable.

b. Using the new information as a basis for making decisions, assign a proportion of those selected for service to standby duty. In this status, jurors would be free to conduct their affairs as they please as long as they could (1) be contacted by phone and (2) be in the courthouse within one-half hour from the time the need arises.

c. Put into use a juror questionnaire to be filled out by those completing service. These instruments should be used to capture perceptions of all aspects of jury service.

The court administrator should be assigned the management of these functions.

Jury service is often a citizen's closest, most prolonged contact with the courts. It is during this period when perceptions of the courts are formed or reinforced. Sitting on a jury panel can be the fulfillment of a public obligation, a rewarding personal experience, or both. On the other hand, serving for two weeks without ever being called for trial is frustrating for most. It is especially frustrating for those with pressing matters which require their attention.

To the county commissioners, paying for juries involves a significant expense. Direct costs includes the \$9 per day for each juror plus travel expense; other costs include the provisions for administration and facilities.

The proposed measures outlined above, when executed, will place in the hands of the courts additional administrative tools to deal with three

concerns: empanelling fair and impartial juries, sensitivity to legitimate citizen needs; and government economy. Expanded recordkeeping will shed light on the busy and quiet periods of jury service, providing the information necessary to institute the standby status program; this program should please prospective jurors by making better use of their time and should also reduce county costs because for time spent out of the courthouse fees would not be paid. Added information can also be used to decide on further economies, such as reduced questionnaire mailings and jury calls. By informing the court of juror perceptions of service and the trial process, jury exit questionnaires will be a valuable resource in making policy decisions. Not only will the data reveal such obvious things as dissatisfaction with prolonged idle time, but also will point to issues, like the clarity of judges' charges to jurors, and appreciation of court reporting and court clerk functions. Other jurisdictions have put instruments of this type to further use by soliciting views of users as to the effectiveness of small claims, traffic, arbitrations, and other court programs.

As to costs, the major outlay for equipment will be about \$1,000 for the acquisition of automatic phone answering service. This measure will require about one-third of the time of one clerical employee and draw to a small degree on the time of the court administrator.

To put these proposals in prospective, they should be viewed as part of a continuing program to improve jury service. They have been preceded by the successful automation of the production of jury questionnaires and the selection of jurors. Once the recommended measures are in place,

improvement efforts should not abate. The new practices must be monitored and adjustments made where necessary. With jury improvements being made nationwide, innovations will come to light; some of them may be appropriate for use in York County.

Funded by Law Enforcement Assistance Administration, there is a national jury project that has been in existence for over 3 years. Its sole purpose is to strengthen jury management. The project has published a wide variety of materials, including two lucid, concise manuals, A Guide to Juror Usage and A Guide to Jury System Management. Technical assistance is extended to those courts requesting it. Skilled in the disciplines of management and industrial engineering skills necessary to modernize jury practices, project staff have also been exposed to a variety of court situations. Hence, they can often identify practical barriers to effective use and are capable of tailoring a solution to a particular court. For convenience sake, the project address is listed below:

Center for Jury Studies
6723 Whittier Avenue, Suite 103
McLean, Virginia 22101
(703) 893-4111

E. Processing and Storage of Case Information

Recommendation 15: Computer improvements should proceed according to the following schedule:

- a. Development of a batch-oriented criminal case tracking system for operation on the county computer.
- b. Maintenance and refinement of three operating court systems: jury, domestic relations and civil 2-years old inventory.
- c. Development of automated criminal dockets, using both computer and microfiche technologies.
- d. Development of automated civil case tracking system and docketing system.

The criminal case tracking system should be guided by a committee composed of the present judge, the district attorney, the public defender, the court administrator and the director of county data processing. The court administrator should lead the remaining development efforts.

The criminal tracking system should be a simple, straightforward one, characterized by the capture of limited amounts of case and defendant information, a simple file structure, and the production of five to ten reports. Such a system will provide up-to-date case status to the court, the district attorney, public defender and other interested parties. Responsibility for technical development should reside with the Director of County Data Processing, while the district attorney should direct the preparation of entry information to a form suitable for keypunching.

The current division of criminal case management responsibilities dictates that the district attorney be at the center of computer development. The initial development and further extension of the computer system will tend to perpetuate the present organizational setup. This is so because the use of the computer forces its users into the standardized

practices, which often are more difficult to adjust because they require changes to the computer system. However, because the development effort is not overly ambitious, existing organizational lines need not be greatly strengthened.

In a related development, the district attorney has under advisement a proposal for the use of a commercial word processor to accomplish three things: 1) track cases; 2) produce notices and other documents; 3) store "rap sheet" information. The development of an alternative criminal tracking system, recommended above, would obviate the need for the first capability, and in our best professional judgment, the unit under consideration is not suited to capture and maintain "rap sheet" information; this is so because the preparation and maintenance of criminal histories makes only slight use of a word processor's strengths: editing text and production of formlike documents. The latter strong point qualifies the unit well for the production of subpoenas and notices. If the district attorney's office decides to acquire a word processor, it is recommended that consideration be given to not only IBM equipment, the corporation making the current proposal, but also to that of Lanier, Micom and Wang. Generally speaking, IBM provides excellent service for its equipment but sells it at a significant premium over its competitors.

As the current operating systems -- jury, domestic relations and civil case two-year old inventory -- are working well, they should be maintained and methods for enhancement considered where appropriate.

Accorded the number two ranking in the improvements schedule, the development of an automated criminal docket should be undertaken only after

the manual criminal records system has been improved and the criminal tracking work is completed and the system is working successfully. A number of jurisdictions have developed systems much like the one in domestic relations where information is computer processed and then replicated in microfiche. One in particular, in place in the New Jersey Superior Court Appellate Division clerk's office in Trenton, works quite well. As with the use of microfiche in domestic relations, readers are placed at strategic office locations for access to the court records. The use of the two technologies, computer and microfiche, avoids extensive use of computers, saves paper costs and provides quick access to records. All in all, it is probably the least costly method of automating this work.

The number three ranking as assigned is the development of civil case tracking and docketing system. Although this system should incorporate elements to deal with distinctive features of the civil process, it should be by and large modeled after the criminal work, preceding it. Work could begin midway through the development of the criminal docketing effort but certainly not before the completion of the criminal tracking system.

The court administrator should be at the forefront of the development effort, heading the criminal docketing and civil work. By assigning the court administrator this function, the court insures continuity from project to project and also expands the responsibility of the office. Because the district attorneys' office will be so deeply involved in the criminal tracking work, it is not appropriate that the court adminis-

tor head this effort; instead it is recommended that it be guided by a committee composed of the president judge, the district attorney, the public defender, the court administrator and the director of data processing.

* * * * *

Recommendation 16: The court should undertake a broad initiative to upgrade its filing systems. A three-member committee composed of a county commissioner, the court administrator, and the concerned department head should set policy and make the key decisions; the court administrator should manage the initiative.

The filing equipment issue is straightforward. The long and short of it is that open shelf systems are far and away the best buy on the market.¹⁴ In relation to pull drawer drawn files and electrical retrieval units, open shelving is cheaper, holds more records and is easier and quicker to access. Considerable thought, however, should be given to the type of system, as a wide variety of equipment is available in the commercial market. The decision should be made in light of the proposed use of the system, the type of access, the frequency of use, and the staff using the equipment. Helpful guides as to equipment and practices are the National Center's Business Equipment and the Courts; Guide for Court Managers, Denver, 1977 (Publication No. R0030g), and its companion, a more detailed volume, Business Equipment and the Courts; Reference Manual, Denver, 1977 (Publication No. R0030r), both of which are available through the below listed project office:

Court Improvement Through Applied Technology
National Center for State Courts
Suite 802, 250 West 14th Avenue
Denver, Colorado 80204
(303) 534-6424

It is important that the court administrator be at the center of this activity and provide the common thread as the initiative moves from department to department. By centralizing administrative responsibility for the effort, the county and courts should be able to save money through bulk purchases of equipment and to achieve some consistency in design.

* * * * *

Recommendation 17: Improvement of criminal case clerical procedures should be made by the adoption of such steps as the following:

- a. If automated criminal docketing is not introduced, replace docket books with three-ring binders using 8 1/2 x 11 preprinted docket sheets.
- b. Enforce the mandatory use of signout cards when removing file folders from office.
- c. Use preprinted face sheets to record case activity in file folder.
- d. Rotate clerks' duties and responsibilities.
- e. Separate active and disposed case files.

Recommendation 15 above addresses automated criminal docketing. The bound docket books now used are cumbersome, hard to read, and expensive. The cost of the bound docket books is quite high. Use of a three-ring binder costing approximately \$15 can increase speed of access to and entry of information.

Local Rule 508(b) limits the people authorized to remove criminal case records from the clerk of courts' office, and 508(c) requires that a written receipt be given to the clerk by anyone who has a case file. But case files are often removed from the office, with no record kept of locations or the identity of the individuals who removed them. Files should be given, but only in keeping with the rule. Mandatory completion of sign-out cards will

save time in locating files when needed.

Under current practice, details of case progress are entered manually on the outside of case files and again in docket books. The face sheet may be substituted for writing case information on the outside of the file folder, eliminating repetition. The docket entries and face sheet could be typed simultaneously. This would enable quick review of the case's progress.

Staff in the clerk of courts' office are now assigned individual areas of responsibility and may have little familiarity with one another's functions. Performing the same duties can get monotonous. To improve management flexibility, improve morale and job satisfaction, each clerk should be trained to perform all the duties of the clerk of court's office; once trained, a deputy clerk should be given the opportunity to change jobs within the office periodically.

The present method of filing active and disposed cases in the same filing cabinet slows down retrieval of active case files. Only case files being appealed are now segregated in the files. Part e of the above recommendation can be implemented by placing the active case files in a file cabinet closest to a deputy clerk's duty station for rapid access.

* * * * *

Recommendation 18: Improvement of civil case clerical procedures should be made by the adoption of such steps as the following:

- a. documents placed in each case file should be 1) two-hole punched and attached to the folder with a pliable steel fastener and 2) consecutively numbered in order of receipt, with most recent on top.

b. A case history sheet (duplicate copy of the docket page) should be maintained and attached to the inside cover of the case file with a steel fastener.

c. A tickler index card system should be maintained for each active civil case so that the age of cases pending before the court can be immediately determined.

d. Counter duty should be assigned only to experienced personnel.

e. The duties and procedures of clerks in the prothonotary's office as required by statute or rule should be delineated with a view toward eliminating unnecessary tasks to relieve workload pressures while keeping staff size stable.

f. As space for record storage continues to dwindle, some attention should be focused on whether microfilming of current records should be undertaken.

Documents for civil cases in the prothonotary's office are now kept in no particular order in case files. Neat placement within the folder insures against lost or misplaced papers, and enables quick review of the progress of the case. The case folder now in use comes with the holes prepunched; the purchase of a three-hole punch and inexpensive "ACCO" style fasteners are all that is necessary.

Creation of a case history sheet that duplicates the docket sheet enables quick access to information by both clerks and judges as to the status of the case. The case file is often more accessible than docket books, which are in constant use by the public. Carbon can be inserted when docket entries are made.

Creation of a tickler index card system is an invaluable aid for graphic representation of the workload of the court and of the speed with which cases progress. It can thus serve the court's case monitoring as recommended in part b of Recommendation 9 above. To

to serve part c of that recommendation, it can also be used on a regular basis to aid more aggressive application of Rule 1901 for termination of inactive cases. An index card need contain only the docket number, caption, and date from which computation is to be made (attorney name might be useful if notification is necessary). Cost and extra labor are negligible.

At present less experienced clerical staff of the prothonotary's office carry a large share of counter duty to answer questions. Inquiries at the counter are often complex; misinformation to attorneys or the public creates an unfavorable impression. This task should be rotated among several clerks who deal particularly well with the public and are well-informed.

Personnel in the prothonotary's office work hard; yet there is still a backlog of paper processing. The elimination of some tasks would relieve the burden, improve morale, and enable more work to be done without an increase in staff. More specifically, the following should be addressed: what separate dockets and indices must be maintained and what entries must be made (e.g., is there a purpose for typing mental health petition in its entirety onto docket?).

The prothonotary's office currently has microfilming done for some of its cases. The present microfilm project films only inactive records. Technical assistance to determine whether filming of current records would be cost effective can be undertaken by the National Center's CITAT (Court Improvement Through Applied Technology) project staff at no cost to the county. (See above commentary to Recommendation 16, for the CITAT address.)

* * * * *

Recommendation 19: A training manual providing step-by-step procedures for processing all types of cases should be developed and be made available to each clerk.

No formal orientation program now exists for staff of the prothonotary, clerk of courts, or clerk of orphans court and register of wills. More experienced staff help new staff as needed. However, staff have insufficient time available to be trained adequately. While simple, discrete tasks are assigned new personnel, they are unable to see how those tasks fit into the overall process. Although a manual cannot totally replace the assistance of experienced personnel, it can be used to: promote an overall understanding of tasks, shorten the training period, enable rotation of tasks among staff, serve as a reference to processes infrequently encountered, and to make as a reference to processes infrequently encountered and to make procedures (e.g., docket entries) more uniform.

F. Facilities Utilization

Recommendation 20: At this time, the court should not expand the number of jury trial courtrooms, beyond the four currently in use.

Figure 1.2 shows York County Court of Common Pleas filings going from 6,446 in 1974 to 6,663 in 1975, to 6,133 in 1976, to 6,507 in 1977, an increase of less than 1% over four years. No one as yet has been able to pinpoint the relationship between population and caseload; most observers agree, however, that population is one of the significant driving forces propelling caseload upward or downward. Population trends are consistent with the recent movement of the caseload; Pennsylvania's population is declining and it appears that York County's population is leveling off. In light of population and recent caseload figures, it is reasonable to assume that caseload will stay at its present level for the foreseeable future.

Caseload is leveling off; the combined civil and criminal court terms are running about 18 weeks a year, placing present courtrooms in heavy use about one-third of the calendar year; and national trends point to a gradual swing away from the courtroom trial to more informal means of adjudication. In light of these factors, additional rooms for the conduct of jury trials are not justified. Instead, the court should have multipurpose rooms available, as recommended below.

* * * * *

Recommendation 21: The three present jury deliberation rooms should be converted to multipurpose rooms that can accommodate both jury deliberations and arbitration and master's hearings. The design should be executed by a professional architect to insure functionality and a dignified judicial setting.

The York County Bar Association, in its October 25, 1978, report to the county commissioners, urged that court facilities should include three formal arbitration rooms and four master's hearings rooms. While agreeing with the bar about the need for additional hearing rooms, it is our recommendation a more conservative course of action be taken: convert the jury sequestration rooms; convert the third floor arbitration hearing room and part of the domestic relations office into non-jury courtrooms that can also serve as hearing rooms (see Figure 6.1 below); and, after observing the new rooms in operation, assess the need for additional rooms.

* * * * *

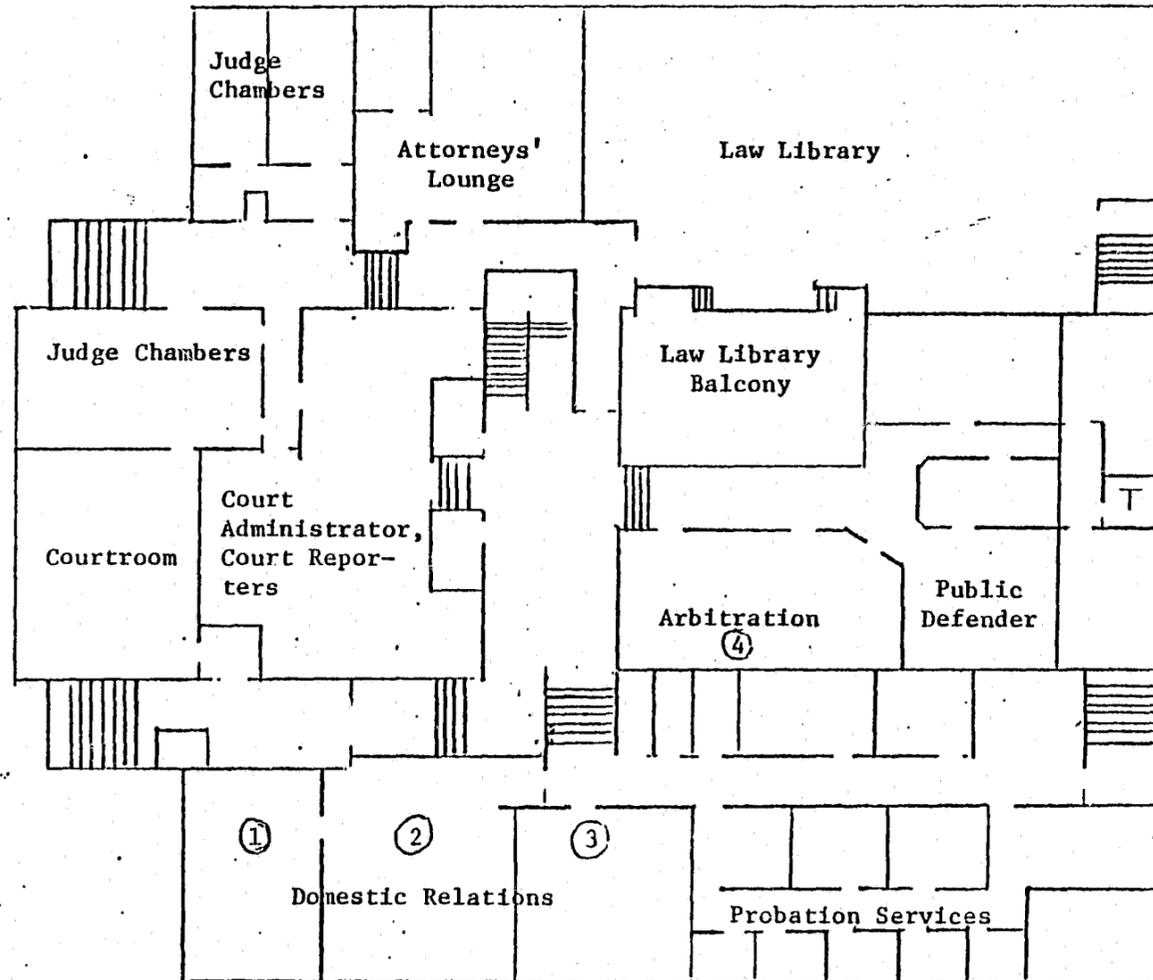
Recommendation 22: The arbitration hearing room on the third floor of the courthouse should be refurbished so that it can serve as a nonjury courtroom that is also available for arbitration and master's hearings.

The addition of a sixth judge makes it prudent to add at least one additional courtroom. The third-floor room now used for arbitration is no smaller than the jury courtroom now on the third floor (see Figure 6.1). While it is recommended here as a nonjury courtroom, it ought to be laid out so that space is available for a jury to sit if needed (in chairs brought in for jurors).

Without windows, without a single painting on any wall, and with a coat of dull green paint, the room is now a sterile chamber and must appear almost hostile to many of its occupants. While present times call for tight budgets, it is simply not appropriate for this room to remain in use for adjudication of any matter in its present state. Current conditions should be corrected as soon as possible.

* * * * *

Figure 6.1. PROPOSED CHANGES TO COURTHOUSE THIRD FLOOR



Key to Proposed Changes

- ① Judge Chambers
- ② Nonjury Courtroom/
Hearing Room
- ③ Jury Deliberation/
Hearing Room
- ④ Nonjury Courtroom/
Hearing Room

Recommendation 23: The domestic relations office should be relocated to a commercial office building. In its place should be a non-jury courtroom (designed to accommodate a jury if needed and available as a hearing room when not in use by the court), a jury deliberation room, and chambers for a sixth judge if one is appointed.

From a financial standpoint, if any unit is to be moved from the courthouse to a commercial building, it should be domestic relations. This is so because the federal government through its Title IV-D program will pay for a substantial portion, if not all, of the rent. The space in the courthouse is shown in Figure 6.1, which also illustrates the manner in which this recommendation would be implemented. Transformation of part of this space to a courtroom will mean a courtroom for each judge; the room can be converted if necessary to a jury courtroom, or it can be used for arbitration or master's hearings. The new jury deliberation room can serve the now-existing third-floor courtroom, which now has no deliberation room. It can also be used as a hearing room when not needed for jurors.

* * * * *

Recommendation 24: A log should be maintained of courtroom and hearing room use.

Few in the court community are reticent about expressing their views about the adequacy of courtrooms and hearing rooms. Currently, these positions are based on personal experience; no figures are available. For a modest investment in time to record usage, the court will have at its disposal in the future a much more comprehensive, possibly more accurate, source of information on which to base facilities decisions. The court administrator should be charged with the responsibility for executing this duty.

* * * * *

Recommendation 25: A directory should be installed in the center hall of the main floor, covering all court activities in the building. Alternatives include placing the directory at the entrance or placing floor directories on the main, second and third floors.

Once the visitor passes the information booth on the main floor, signs are of uneven quality. For a modest investment, the court can make itself more accessible to the public.

* * * * *

Recommendation 26: Consideration should be given to changing the floor plan of the prothonotary's office. Two alternatives are offered. In the first one, the counter would be extended into the public area, making more space available for staff; the other alternative would be more dramatic - located near the door of the microfilm room, the counter would run perpendicular to its present location; the prothonotary's office would be moved toward the center of the courthouse; and public areas would be centered near what is now the prothonotary's office.

About half of the prothonotary's office space is devoted to a public area, where the bar and the public can access court dockets. While the arrangement appears to work well from the standpoint of public access, staff is cramped and record storage requirements will, with the passage of time, consume more and more office space. By reexamining the floorplan, the prothonotary's office may be able to increase useable office space without reducing the quality of its service to the public. Figure 6.2 shows the existing office layout; the dotted line indicates the location of the counter under the first of the alternatives for changing the floorplan. Figure 6.3 shows alternative two. A significant factor in any reorganization will be the methods of docketing and filing; recommendations 15 and 16 go to changes in these areas. These matters should be decided before a judgment is made as to a change in floorplan.

Figure 6.2. PROTHONOTARY'S OFFICE: FLOOR PLAN FOR EXISTING USE AND ALTERNATIVE ONE

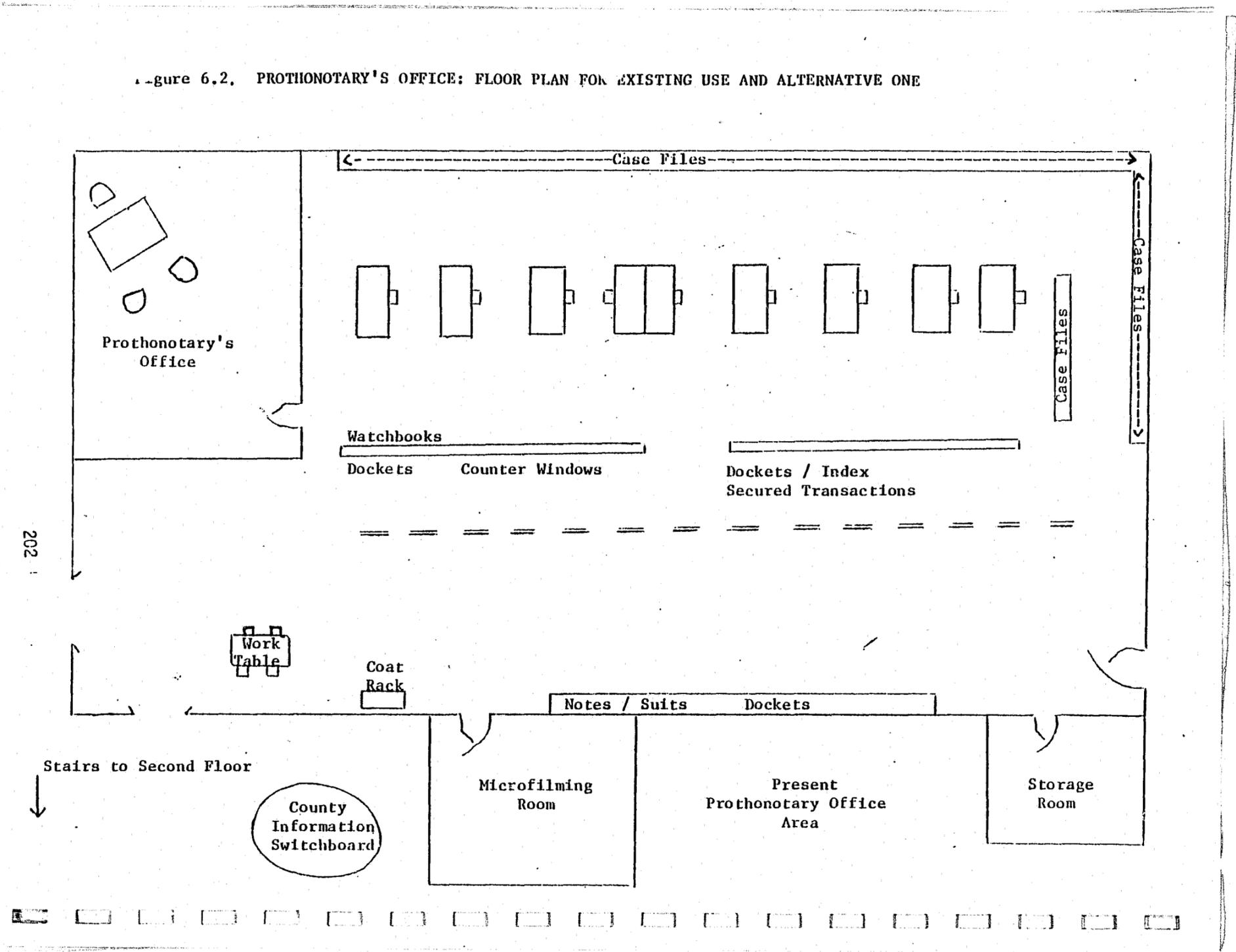
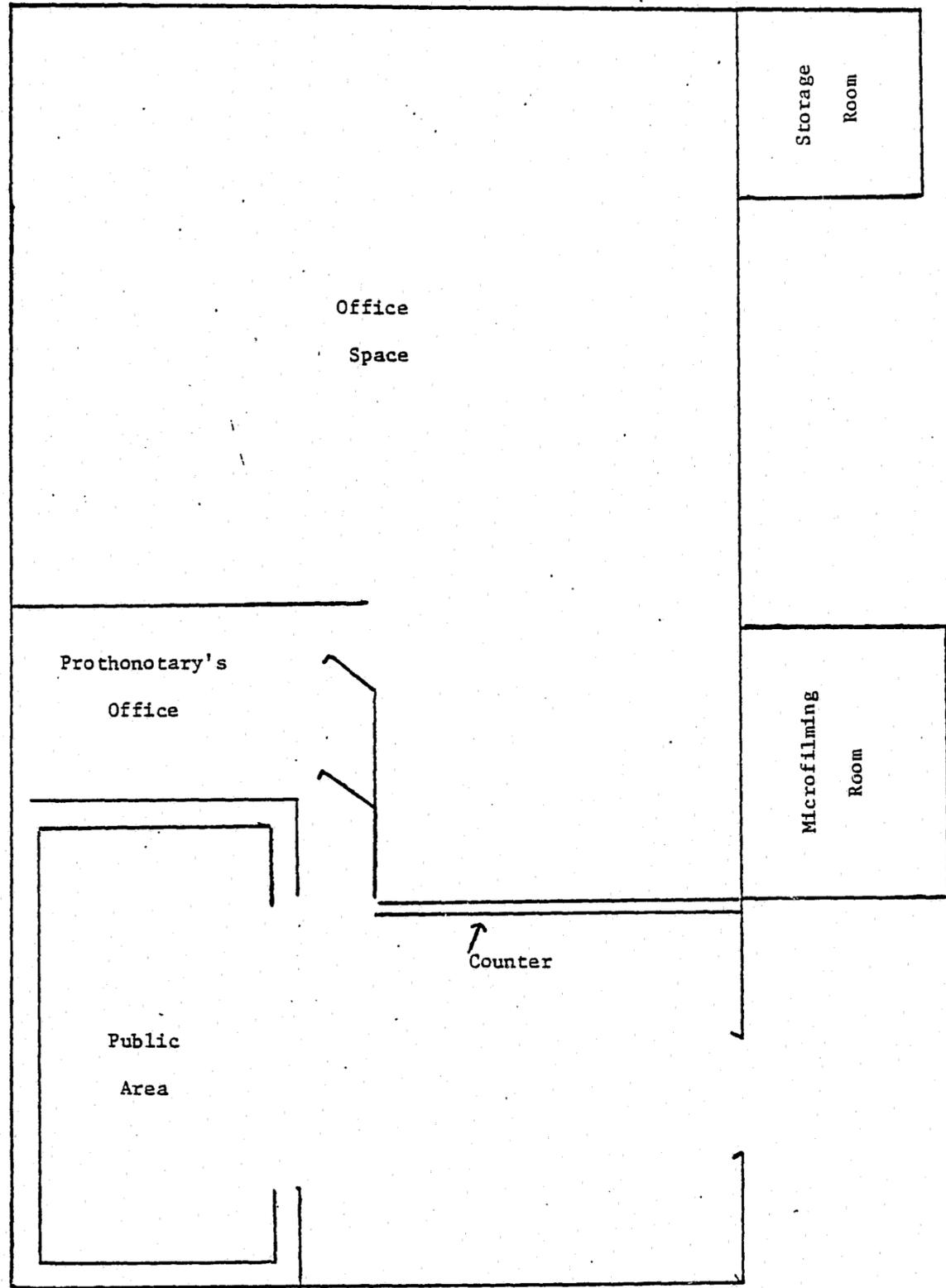


Figure 6.3. PROTHONOTARY'S OFFICE: FLOOR PLAN FOR ALTERNATIVE TWO



Recommendation 27: If further space in the courthouse becomes available due to relocation of county government offices, high priority should be given to:

- a. a room where prosecution witnesses can wait and be interviewed; and later
- b. allowing more space for the district attorney's office.

The space now occupied by the district attorney's staff is busy and cramped when there are no jury trials in session. When jury trials are in session, matters become even worse, because witnesses are being questioned or assembled for cases going to trial. Provision of a room where witnesses can wait and be interviewed will reduce congestion considerably.

Efforts to provide the district attorney's office with more space become somewhat less critical if a witness room is introduced. But if the district attorney is to provide broader and earlier screening of criminal cases, he may have to add assistant district attorneys to his staff. With larger staff, the present space occupied by prosecutors will be too small to allow effective operations. But if the district attorney's office is relocated within the courthouse, attention should be given to the desirability of relocating the clerk of courts as well. The close proximity of the two offices now is a convenience that should not be overlooked.

Chapter VI Footnotes

1. See Institute for Law and Social Research (INSLAW), Guide to Court Scheduling. I. A Framework for Criminal and Civil Courts (hereinafter, INSLAW, Scheduling Guide), p. 42 (1976).
2. Ibid.
3. The different arguments for the two approaches are treated in Maureen Solomon, Caseflow Management in the Trial Court (American Bar Association, 1973).
4. Justice Delayed, p. 36.
5. Id., at 72.
6. See INSLAW, Scheduling Guide, at 10.
7. American Bar Association, Commission on Standards of Judicial Administration, Standards Relating to Trial Courts, Standard 2.50 (1976).
8. Supreme Court of Pennsylvania, Order, In re: Duties and Responsibilities of a District Court Administrator, in Administrative Office of Pennsylvania Courts, "A Survey of Trial Court Administration in Pennsylvania" (May 1978).
9. Yankelovich, Skelly and White, "The Public Image of the Courts," in National Center for State Courts, State Courts: A Blueprint for the Future (1978).
10. Justice Delayed, p. 54.
11. American Bar Association, supra note 7, commentary to Standard 2.56.
12. Justice Delayed, p. 69.
14. See National Center for State Courts, Business Equipment and the Courts: Guide for Court Managers, pp. 2 and 25-27 (1977).

APPENDICES

APPENDIX A. CRIMINAL CASE PROCESSING

CASE INITIATED

- | | |
|--|--|
| 1. Original complaint filed at District Magistrate Court | Prepare docket transcript and forward S3 to clerk of courts. |
| 2. Preliminary arraignment | Give defendant a copy of complaint and have him sign waiver endorsement on complaint if preliminary hearing is waived. |
| 3. Preliminary hearing | Schedule hearing; notify defendant and district attorney. |
| 4. Preliminary hearing held or waived | Complaint docket transcript #1 and 2 bail bond, if posted; other correspondence and case papers forwarded to clerk of court. |

BOUND OVER

- | | |
|---|--|
| 1. Case filed at Court of Common Pleas | Docket transcript (#3) received in mail from District judges.
a. Date stamp;
b. Clerk places in alphabetic order in folder. |
| 2. Complaint, Docket Transcript #1 and 2 received; case number assigned | Check docket transcript #3 file for match Prepare case folder for documents; index entry is made; entries made to docket; calculate 180 days for trial; enter date on folder in red. Place all papers in file folder; make entry to general index. |
| 3. Notice of Case to District Attorney | Copies of case documents transmitted for creation of DA case file. |

INFORMATION

- | | |
|------------------------------------|---|
| 1. Information prepared | District attorney prepares Information. Assistant district attorney screens case. |
| 2. Tickler file started | Index card prepared and placed in file; date trial must commence in accordance with 180-day Rule 1100. Calculate and write on file folder 125th day and 170th day from original complaint filed date. |
| 3. Schedule Arraignment | Assign an equal number of arraignments to the four judges. |
| 4. Notice to defendant or attorney | Send notice to defendant or attorney ten days prior to arraignment. |

5. Place case in file

ARRAIGNMENT

1. Attorney files appearance
2. Certificate of Bail and Discharge
3. Docket entry
4. File copies to district attorney

PRE-TRIAL

1. Trial list
2. Notification to parties
3. Habeas Corpus

TRIAL

1. Record "in court" activity
2. Case file
3. Docket entries

Arraignment held on current business days days except in month trial sessions scheduled.

Full case folders the day before arraignment.

Place in case file.

Prepare "Certificate of Bail and Discharge" and have defendant sign form; to defendant; copy to file. Send discharge portion to jail or place of detention.

Date of arraignment and plea; amount and type of bail; note attorney appearance and date filed.

District attorney's office schedules cases for trial.

Cases are scheduled every other month for 2-week sessions.

- a. Type trial list 1 month prior to trial session.
- b. Distribute trial list to judges, newspaper, public defender, court administrator, etc.
- c. Subpoena witnesses for prosecution; use Docket Transcript for names and addresses.

Prepare notice and send to parties in case; notices are sent 1 month prior to trial.

Prepare Habeas 2 weeks prior to trial; forward to sheriff.

Make notations on "yellow sheet" legal pad and trial sheet, i.e., witness & juror name, case name and number, etc.

Record outcome of trial on case file jacket, i.e., verdict and date.

As case is disposed, record disposition, date, verdict in docket.

SENTENCE

1. Entries to file folder
2. Taxing fine and costs
3. Commitment form
4. Docket entries
Tax sheriff "bill of cost"
5. Place in case file

Use stenographer notes and yellow sheet to enter information on file folder.

Prepare bill of cost and cost card; file cost card in alphabetic order by defendant name in fines and costs office.

Prepare commitment form and forward to institution.

Record sentence in docket book.

Compute cost paid to sheriff for witness fees.

Cases are placed in numerical sequence.

APPENDIX B. CIVIL CASE PROCESSING

COMPLAINT

1. Case initiated
A suit is commenced by the filing of a complaint or a summons (the date of the issuance of the summons tolls the statute of limitations) and the proper filing fee with the prothonotary.
2. Prothonotary Receipt
Case number assigned
A prenumbered receipt is completed which indicates case name, type of action, amount paid; it is time-clock stamped; case number is assigned; copy given to individual.
3. Initial Case Processing
A case folder is prepared for documents; index entry is made; docket page assigned and entries made.
4. Case placed in file
Case folders are filed in docket number order by year.
5. Docket entry - Sheriff's Docketed

ANSWER

1. Answer/Counterclaim Filed; Docketed
Responsive pleadings must be filed within 20 days from service of complaint.
2. Default for failure to plead
At request of counsel, prothonotary may enter default in docket; in assumpsit or trespass, if amount of claim less than \$10,000, Board of Arbitrators to assess damages; if more than \$10,000, amount may be determined by trial by jury. Entry is made to judgment index and docket; amount of damages entered upon determination.

DISCOVERY

Interrogatories; Notice of taking depositions, etc.

Docketed; filed.

PRETRIAL PROCEEDINGS

1. Preliminary objections; motions under Local Rule 30; appeals from orders or decrees
Counsel lists case in Pretrial Proceedings Watchbook; court administrator schedules; proceeding docketed.

2. Pretrial memorandum filed; listed in Pretrial Conference Watchbook
3. Pretrial conference held; Pretrial Order issued; Certification as to Readiness by Judge

Court administrator assigns to judge who notifies counsel of time of pretrial conference in chambers.

If case ready, and nonjury trial is desired, judge will set date for trial in pretrial order; certificate filed and docket entries made.

SETTING FOR JURY TRIAL

1. Case listed in Trial Watchbook
2. Call of List
3. First day of civil trial week

List closes one month prior to civil session; court administrator compiles list in order of listing in Watchbook.

List called three weeks, then two weeks prior to civil court session; no continuances granted after second call; list called again one week prior to session.

Court administrator adjusts schedules and notifies counsel of assigned judge and courtroom.

TRIAL (JURY, NONJURY)

1. Trial
or
Settlement
2. Judge Verdict (Jury Verdict)

Clerk brings case file to court. Clerk maintains minute book. Stenographer records proceedings.

Docket entry made; case removed from list; entry to Judgment Index.

Clerk announces verdict and enters in docket.

JUDGMENT

Entries made to docket and judgment index. After appeal period notice of judgment is prepared by counsel and mailed by prothonotary to losing party.

APPEAL

Notice of Appeal Filed

Docketed; entries are certified; bound, signed by all judges and routed to appellate court.

POSTTRIAL PROCEEDINGS

Motion for new trial, judgment n.o.v., motion to remove non-suit, etc.

Counsel lists case in Posttrial Argument Watchbook; scheduled by court administrator for regularly scheduled argument court.

EXECUTION

Praeipie for Execution filed

Writ of Execution prepared and issued; return noted in docket.

SATISFACTION OF JUDGMENT

At counter: attorney enters signature and "satisfied" in book, leaving in docket book white card to flag clerk's attention; clerk enters in Judgment Book Index (stamp) and docket.

APPENDIX C. DATA COLLECTION METHODOLOGY

Criminal. A total of 800 criminal cases over a two-year period form the sample for this study: 350 cases from those filed between January 1, 1977 and December 31, 1977; and 450 cases filed between January 1, 1978 and December 31, 1978.

The desirable sample size was one that would exhibit a 95% confidence level. Where the percent in population is assumed to be at least 50%, a sample size of 322 of a population not exceeding 2,000 is considered adequate with $\pm 5\%$ accuracy.^a Because the criminal caseload in each year was less than 2,000 (1,552 cases in 1977 and 1,431 cases in 1978), a sample size of 325 disposed cases per year was selected, with an additional 100 open cases from 1978), for a total of 750 cases. During actual data collection, information relating to an additional 50 cases (including 30 open cases for 1977) was gathered.

Project staff applied a rational system for random selection of the sample data, one that would include cases initiated throughout the court year in order to even out seasonal variations. Every fourth case was selected for half the total cases filed in 1977, then every fifth case from the midpoint to the last case filed in 1977. Case selection for the 1978 sample was similar; but due to the additional sample number of open cases required (100) the interval used was every third case to the midpoint, then every fourth case to the last filing in 1978. Case files were the source from which information was gathered.

^aSource: Arkin & Cotton, Tables for Statisticians, cited in Collecting and Analyzing Court Statistics: A Handbook Prepared for the New Hampshire Judicial Council (National Center for State Courts and American University, March, 1977).

Civil. The number of trespass (general and motor vehicle) cases initiated during the years 1976 and 1977 was determined from an examination of the commencements of action category on the monthly statistical reports: in 1976, there were about 407 cases commenced; in 1977, 443 cases. Project staff determined that a sample of one-third (33 1/3%) of these cases would be representative. The sample consisted of 134 cases in 1976 and 146 in 1977. The same sample was used to pick up information on cases referred to arbitration. Every third trespass case as it was reached in the docket book was selected. The docket was the sole source of information gathered for the data analysis.

Divorce. Monthly statistical reports yielded an estimate of the total number of divorce actions commenced in each year: 1,413 in 1977 and 1,583 in 1978. A limited sample size of 100 cases over the two-year period was selected. In order to achieve a spread throughout the two years, data on every 26th divorce case as it was reached in the docket was collected.

Juvenile. A sample size of 50 juvenile delinquency cases commenced during each of the years 1977 and 1978 and proceeding to formal court disposition was selected. In light of the caseload of formal juvenile delinquency caseload determinations, (approximately 100 cases each year) the 100 cases may be considered a representative sample. In order to achieve a spread of cases throughout each year, four juvenile delinquency cases commenced during each month in 1977 and 1978 were selected from the docket book, with another two per year selected at random. Case files served as the source for data collection, with no information collected that would threaten the confidentiality of each individual case.

Domestic Relations Support. Information on 50 support cases initiated in York County in each of the years 1977 and 1978 and proceeding to court hearing was to be gathered for a limited sample. Individual cases were first selected from the docket book in the clerk of courts' office, gathering four cases from each month, plus two others randomly chosen, for each year. Because the clerk's docket number and the case number assigned by the domestic relations office differs, it was necessary to determine the domestic relations file number by using the cumulative name index. Information was retrieved from the case files in the domestic relations office.

Orphans Court. A limited sample of 100 testate cases, 50 each from 1976 and 1977, commenced by a petition for letters of administration (probate of will) was collected. Individual cases were selected by choosing at random four cases commenced during each month, with two other cases selected at random points in each of the two years. The docket was the sole source of data.

Appendix D. DETAILED DESCRIPTION OF JURY CYCLE

START OF YEARLY
JURY CYCLE

August

The jury process begins in the late summer of each year when the court administrator establishes the number of citizens to receive questionnaires, currently set at about 5,000. The county computer selects specific jurors from the voter registration lists and produces a mailing label for each. Court administrator personnel then prepare the mailing and forward it by first-class mail. Two clerical employees in the court administrator's office handle the in-coming mail, sorting the exemptions from the likely jurors. Doctors and lawyers are automatically allowed exemptions; citizens with jury service in the past three years and felons are also excused. Written requests for exemption by others are directed toward the county sheriff who brings them to the court administrator for resolution.

CERTIFYING THE
JURY LIST

November

By early November the court administrator's office has settled on 2,400 names. At this point in time the jury commission comprised of the five Court of Common Pleas judges and two other jury commissioners, one from each political party, formally certify the jury list. At this time the jury clerk is directed to take charge of the summoning process.

SELECTION OF PANELS

December, March, August

In early December, the selection process for the first four of the twelve panels is begun by one of the jury commissioners by pressing a button on the computer which starts the computer processing and selection of the panels. Of the four, two are criminal panels, and two civil, with the criminal panels containing 140 names and the civil 120 names. After receiving the print-outs, the jury clerk mails each prospective juror a summons indicating the start of the assigned term and a juror handbook.

This process is repeated in March and again

JURORS IN COURT

Twelve terms held
throughout the year

in early August to select and inform the other eight panels.

When the jurors arrive for the first day of the term the court administrator conducts an orientation session (no audio visual aids are used). Generally, the full panel of jurors sits each day of the term. Occasionally a juror is excused because of personal or medical reasons. At infrequent intervals the entire panel is excused for the day; this tends to occur near the end of the terms. Each juror is paid \$9 a day for each full or any part of the day he comes to court plus \$.07 a mile for transportation.

No log is maintained of jurors time spent during voir dire proceedings or actual trials, nor is any record kept on an hourly basis of the whereabouts of the jurors. At the end of the term the jurors do not fill out an exit questionnaire.

The clerk of courts and the prothonotary at the end of each term authorize the payment of the respective jurors. Each office maintains its own unique list to accomplish this purpose.

END