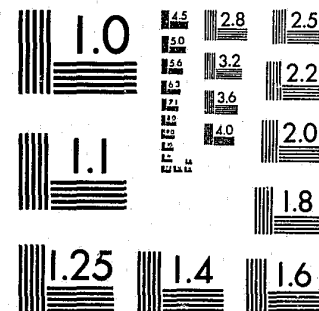


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Report



National Center for State Courts

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JUDICIAL PLANNING BIBLIOGRAPHY

March 19, 1979

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FOREWORD

This bibliography is another in a series of instructional papers prepared and distributed by the National Center's Court Planning Capabilities Project. Much of the work for this bibliography is the responsibility of Russell Wheeler, formerly of the Project.

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INTRODUCTION

This bibliography is a guide to literature about planning generally and about judicial planning in particular. Specifically, the objective is to help those with judicial planning responsibilities find the literature most likely to help answer specific questions they may have. The bibliography does this by referencing major items that will lead the reader to more specific and detailed literature in any particular area, and by listing especially helpful items in various specific subject areas.

Many readers may recognize the absence of one or another frequently referenced item, and indeed, the goal of the bibliography is not to cite every work that might be helpful to the judicial planner. The effort instead is to provide, under the various entries, a selected set of valuable references, which if pursued, will lead the reader to all the important literature in the area. Thus there is a reliance, especially in Section II (Planning Substance Literature), on the bibliographies and treatises on all manner of judicial administration subjects.

To create a guide to judicial planning literature, it is not necessary to define "planning" in any rigorous sense. It should be noted, however, that in this bibliography "judicial planning" refers to something more

specific than every experience with bringing about some change in a court or court system, or every thought or reflection about courts and their administration.

"Planning literature," as the term is used here, is literature with some promise to help those responsible for (1) organizing a process to identify or to illuminate objectives, and/or (2) achieving the objectives so identified.

The bibliography is divided into two broad categories: planning process literature, and planning substance literature, each of which is described below.

Planning Process Literature: The items listed in this section will help judicial planners know how various observers of management--generally and within the courts--see and understand the planning process, and how those with planning responsibilities--both in and out of the courts--have organized the planning process in their particular environments. Basically, this literature helps answer the question: How do I go about organizing a process to identify what should be done and how to get it done?

Of course, "planning" refers to a much broader array of activities than can (or should) be referenced in a bibliography such as this. Information on physical planning (e.g., urban planning) is only tangentially relevant, as is literature on planning in particular service-delivery areas, such as "health care planning," or

"educational planning". However, the planning and management experiences within corporations and within non-judicial government agencies can be quite helpful, although it may be impossible to transfer those insights, techniques, and theories directly to the courts.

Planning Substance Literature: Often, judicial planners are relied upon not merely to organize a planning process, but also to manage or coordinate projects to achieve one or more specific, programmatic goals. Unlike those with line responsibility, the judicial planner's agenda is likely to cover the whole gamut of judicial administration, and the planner will benefit from a working familiarity with the literature in all areas of judicial administration. This section of the bibliography contains an overview guide to some primary sources to which one might turn to become familiar with the basic issues and the literature in particular subject areas. In keeping with the selective nature of this bibliography, there may be omitted from this section one or more "standard" judicial administration or criminal justice sources.

A note on organization: The bibliography is arranged in annotated outline form, and includes citation information necessary for retrieval in a library, or for ordering from the source. Pieces by three or more authors are listed by the lead author only. Generally, hard-to-find fugitive sources--such as unpublished speeches--are not

referenced here unless they are so clearly important to merit it. (The sequential numbers in the left margin allow for internal cross-referencing.)

Section III of the bibliography contains some basic bibliographical aids. However, wherever possible, specialized bibliographies or literature reviews are included in the appropriate section of this bibliography. Major works in any particular area often have extensive bibliographical references as well.

Journals and organizations frequently referenced herein are identified by the initials below:

Journals

HBR--Harvard Business Review, which carries no articles on court administration per se, and few articles on public sector management, but which does carry a variety of articles on corporate planning.

JSJ--Justice System Journal, published by the Institute for Court Management, and currently in its fourth volume.

JUD--Judicature, formerly the Journal of the American Judicature Society, has in the last several years become an important vehicle for brief but substantive articles on all aspects of justice system management.

PAR--Public Administration Review, the journal of the American Society for Public Administration, carries few articles on justice system management, but is the major forum for literature on public management and administration.

Organizations

AJS--American Judicature Society, Suite 1606, 200 West Monroe Street, Chicago, Ill., 60606.

FJC--Federal Judicial Center, whose Information Services Office distributes Center publications. Although these publications are almost exclusively on federal court subjects, particular problems examined may have applicability to state courts. (1520 H Street, N.W., Washington, D.C., 20005)

ICM--Institute for Court Management, Suite 210, 1624 Market Street, Denver, CO., 80202.

NCJRS--National Criminal Justice Reference Service, the information clearinghouse for NILECJ (below). NCJRS is currently being operated on contract to Aspen Systems, Inc., and its mailing address is Box 6000, Rockvill, MD., 20850.

NCSC--National Center for State Courts. The National Center's Research and Information Service is probably the single most effective source of bibliographical information on state court matters. The Center's projects and research are reported in its quarterly, State Court Journal. (300 Newport Avenue, Williamsburg, Va., 23185)

NILECJ--National Institute for Law Enforcement and Criminal Justice, the research arm of the Law Enforcement Assistance Administration. It is a basic source, not only of funds for court research, but also for many of the final products, which are distributed through NCJRS. (633 Indiana Avenue, N.W., Washington, D.C., 20531)

I.
PLANNING PROCESS
LITERATURE

This section includes three parts:

- Section A, dealing with major literature on planning concepts and experiences in non-judicial arenas;
- Section B, describing literature on judicial planning concepts and experiences;
- Section C, including bibliographical references to literature dealing with the performance of specific planning tasks, as undertaken within and without the courts.

A. PLANNING CONCEPTS, APPROACHES, AND EXPERIENCES IN NON-JUDICIAL ENVIRONMENTS

The obvious proposition that "courts are not like General Motors" has led many court administrators to ignore literature about management in non-judicial settings. While few of the lessons and insights in that literature can be transferred directly to the courts, the literature does contain valuable, cross-disciplinary analysis on basic concepts of planning.

1. General Analyses of Planning

- (1) a. "Symposium on Changing Styles of Planning in Post-Industrial America," 31 PAR 253-403 (1971).
- (2) b. Leonard Sayles, MANAGERIAL BEHAVIOR (McGraw Hill, 1964)--a classic work stressing the futility of

elegant plans not based on accurate assessments of the real power centers in an organization, and the networks of organizational relationships not likely to be revealed on an organization chart.

- (3) c. Peter Drucker, MANAGEMENT: TASKS, RESPONSIBILITIES, PRACTICES (Harper & Row, 1974)--a major treatise by the "father" of management by objectives, analyzing all aspects of management. Chapters 9 and 10, respectively, treat short term and strategic planning, and Part II is devoted to managing the "public service" institution.

- (4) On this latter topic, also see Drucker, "Managing the Public Service Institution," THE PUBLIC INTEREST, No. 33 (Fall, 1973), p. 50.

There is a non-annotated bibliography in the back of Drucker's MANAGEMENT, supra.

- (5) d. George Steiner, TOP MANAGEMENT PLANNING (Macmillan, 1969).

- (6) e. Herbert Kaufman, THE LIMITS OF ORGANIZATIONAL CHANGE (University of Alabama Press, 1972).

- (7) f. James March (ed.), HANDBOOK OF ORGANIZATIONS (Rand-McNally, 1965).

2. Planning Techniques and Prescriptions

The works below fall generally, but not exclusively, within the broad category of instruction or prescription, more than they do analysis or rumination. The first three are anthologies treating a range of topics:

- (8) a. Harvard Business Review, ON MANAGEMENT (Harvard University Press, 1975)--a collection of articles from the HBR.
- (9) b. H. I. Ansoff (ed.), BUSINESS STRATEGY (Penguin, 1974).
- (10) c. Fred Brown (ed.), MANAGEMENT: CONCEPTS AND PRACTICES (Mt. Airy, Md.: Lommond Pub. Co., 1977)--with a focus on public sector management, and several treatments of planning.
- (11) d. John Argenti, CORPORATE PLANNING: A PRACTICAL GUIDE (Dow-Jones-Irwin, 1969).
- (12) e. E. Kirby Warren, LONG RANGE PLANNING: THE EXECUTIVE VIEWPOINT (Prentice-Hall, 1966).
- (13) f. Peter Lorange and Richard Vancil, "How to Design a Strategic Planning System," HBR, Sept. - Oct., 1976, P. 75--Building on an earlier HBR article cited therein, the authors present some guidelines for the construction of a corporate strategic planning capability, what they describe as "a structured (that is, designed) process that organizes and coordinates the managers who do the planning."
- (14) g. David Heeman and Robert Addleman, "Quantitative Techniques for Today's Decision Makers," HBR, May-June, 1976, p. 32--an overview of quantitative tools to complement intuitive decision-making and planning.

- (15) h. Henry Mintzberg, "Planning on the Left Side and Managing on the Right," HBR, July-August, 1976, p. 49--What appears at first to be a rather bizarre rumination on the comparative planning capabilities of each side of the brain is in fact a helpful reflection on the link between planning and managing.
3. Implementation--this is a separate section, not to distinguish implementation from planning, but to stress this most frequently ignored aspect of the planning process.
- (16) a. John M. Hobbs and Donald Heany, "Coupling Strategy to Operating Plans," HBR, May-June, 1977, p. 119--stresses, to corporate executives, the need to bridge the gap between those who prepare strategic plans and those responsible for implementing them.
- (17) b. Jeffery Pressman and Aaron Wildavsky, IMPLEMENTATION (University of California Press, 1973)--This analysis of implementation, built around a study of municipal service planning in Oakland, California, is considered a classic analysis of implementation from a broad conceptual standpoint, as well as an illustration of the specific barriers that must be overcome in achieving policy objectives.
- (18) c. Donald Yates and Richard Nelson (eds.), INNOVATION AND IMPLEMENTATION IN PUBLIC AGENCIES (D.C. Heath, 1976).

- (19) e. "Implementation Problems in Institutional Reform," 91 HARVARD LAW REVIEW 428 (1977)--This law school note, building on Chayes, "The Role of the Judge in Public Law Litigation," 89 Ibid. 1281 (1976), analyzes, not the reform of judicial institutions, but the implementation problems in carrying out decrees in judicial decisions involving prisons, schools, mental hospitals, and the like. As such, it is one step removed from the judicial planning process as the term is used in this bibliography, but it is a rich source of literature and analysis on the general problems of implementation.
- (20)

B. PLANNING CONCEPTS, APPROACHES, AND EXPERIENCES IN JUDICIAL ENVIRONMENTS

1. General Analyses

- (21) a. NCSC, PLANNING IN STATE COURTS, A SURVEY OF THE STATE OF THE ART (1976).
- (22) b. Ibid., "Establishing an Effective Court Planning Capability," a series of five papers distributed in 1977-78.
- (23) c. Ibid., PLANNING IN STATE COURTS, TRENDS AND DEVELOPMENTS, 1976-1978 (1978).
- (24) d. Russell Wheeler, "Planning in State Courts,"
- (24a) in Berkson, et al., (eds.), MANAGING THE STATE COURTS: TEXT AND READINGS (West, 1977).

- (25) e. Council of State Governments, THE FUTURE OF CRIMINAL JUSTICE PLANNING (1975)--This short booklet provides an excellent analysis of the conceptual difficulties and internal contradictions underlying this decade's fading preoccupation with planning among the "components" of the "criminal justice system."

- (26) f. Edward C. Gallas, "The Planning Function of the Court Administrator," 50 JUD 268 (1967)--This piece, while dated, remains a sensible analysis of the importance of planning as one of the trial court administrator's responsibilities.

- (27) g. Anthony Mason, IMPROVING PRODUCTIVITY IN THE COURTS: A PRIMER FOR CLERKS OF COURT (NILECJ, 1978)--basically a "how-to-do-it" manual for local court management, this primer is nevertheless written from the standpoint of industrial engineering and includes various references to short term planning as a part of management. It includes a brief bibliography on industrial engineering and related subjects.

2. Court Planning Experiences--Planners lay great stress on the need for systematic evaluation of projects. Ironically perhaps, few court planning experiences have been subjected to rigorous and systematic evaluation, or even case studies that use pre-established criteria to evaluate the strengths and weaknesses of any particular planning effort. The literature chronicling court planning

efforts has been written for the most part to describe and to praise rather than to evaluate and critique.

Below, the first four items contain general analyses or documentation of previous court planning experiences. They are followed by items on court planning experiences in specific states and municipalities, respectively.

- (28) a. Russell Wheeler and Donald Jackson, "Judicial Councils and Policy Planning: Continuous Study and Discontinuous Institutions," 2 JSJ 121 (1976)--a review of the rise and decline of state judicial councils as policy planning instruments.
- (29) b. NCSC, the two project monographs above (#21 and #23) and Paper Number 5 in the Project's series of papers (#22 above), viz., "Survey of the Status of Judicial Planning in State Courts," (February, 1978).
- (30) c. Jag Uppal and Richard Brun, JUDICIAL PLANNING IN THE STATES (Council of State Government, 1976)--This booklet, completed when the LEAA court planning initiative was in its inception, contains some analysis of judicial planning's background, and surveys planning units current at that time.
- (31) d. "Judges and Court Reform," 3 JSJ 98 (1977)--a symposium of three historical articles on federal judges Parker and Campbell, and New York State judge Botein.
- (32) e. ALABAMA--Howell T. Heflin, "The Judicial Article Implementation Act," 28 ALABAMA LAW REVIEW 215

- (33) (1977); but see also, "Alabama Cuts Jury Trials as Funds Run Out," 61 JUD 92 (1977).

- (34) f. CALIFORNIA--Ralph Kleps, "Contingency Planning for State Court Systems," 57 JUD 62 (1975) and "Crisis Planning for Court Reorganization," 60 JUD 268 (1977)--two articles dealing with the state's response to the State Supreme Court decision restricting the jurisdiction of non-lawyer judges.

- (36) g. COLORADO--Harry Lawson, "Commentary on the Process of Change," 1974 ARIZONA STATE LAW JOURNAL 627 (1974; also in #48, below).

- (37) h. IDAHO--Carl Bianchi, "Comprehensive Planning for State Court Systems," 57 JUD 67 (1975)--this article is valuable because it shows how planning literature from non-judicial areas can be helpful in designing a judicial planning process. A description of local planning in Idaho is in "Planning Forum" in the Project's Newsletter, contained in NESC, REPORT, Nov. 1976, Vol. III, Number 11.

- (38) i. KANSAS--Beverly Cook, "The Politics of Piece-meal Reform of Kansas Courts," 53 JUD 274 (1970).

- (39) j. NORTH DAKOTA--Vernon Pederson and Lawrence Spears, "Judicial Planning in North Dakota: Systematized Anticipation for Balanced Progress," 54 NORTH DAKOTA L. REV. 47 (1977).

- (40) k. TENNESSEE--Linda Sweet, "Anatomy of a 'Court Reform,'" 62 JUD 37 (1978).

(41) 1. WISCONSIN--Karen Knab and James Hough, "Improving Court Management by Administrative Rule," 62 JUD 291 (1979).

(42) m. LOS ANGELES--Abt Associates, COURT PLANNING AND RESEARCH: THE LOS ANGELES EXPERIENCE (NILECJ, 1976)--This is an analysis, not of a court planning effort in the pure sense, but of what the pamphlet itself describes as "an LEAA-funded "administrative services unit, engaged in project development and specific research, [rather than] a planning unit per se" (pp. 26-27).

(43) n. MIAMI BEACH--Ralph Lewis and Jerome Coris, "Prosecution-Court Interaction Under Stress: The Value of Contingency Planning," 3 JSJ 22 (1977)--describes and appraises the "court/prosecution/detention" planning for possible violence at the Republican and Democratic National Conventions in Miami Beach in 1972 and derives from it some general prescriptions for contingency planning.

(44) o. SANTA CLARA, CA.--Irving Richert, "Redefining the Judge's Role: The Santa Clara Courts Plan," 59 JUD 126 (1975)--a description, by court administrator, of how California Superior Court judges, through a planning process, redefined their role in, and relationship to, county probation services.

C. PLANNING TASKS

This section includes various kinds of literature on the execution of those tasks that constitute the pro-

cess of planning. The focus here is on how these tasks are (and have been) executed in judicial planning situations, although there is, as appropriate, reference to literature on the performance of various planning tasks in non-judicial situations.

1. Data with which to assess judicial system needs--

Judicial planners consistently face the need to accumulate baseline data to allow them to determine, with some minimal degree of precision, the actual state of affairs in any particular aspect of the system. They will need data to construct a picture of the real situation, working either with blank canvas or on the basis of impressions held by judicial policy makers.

An important work for judicial planners on dealing with court data is a forthcoming publication of the NCSC's
(45) National Court Statistics Project, STATE COURT CASELOAD STATISTICS: STATE OF THE ART (1979). Less sophisticated in analysis, but broader in coverage is the third paper in
(46) the Planning Project's series of papers (#22 above), "The Role of Data in Judicial Planning," (1977).

This bibliography cannot list all the works that a judicial planner would have to consult to achieve expertise in data gathering and quantitative analysis. However, a standard work on research design that can be profitably consulted to gain basic familiarity with empirical research is

- (47) Fred Kerlinger, FOUNDATIONS OF BEHAVIORAL RESEARCH (Holt, Rinehart, and Winston, 1964), which is directed primarily at educational research but has a much broader application. Of a much more general nature on court studies is
- (48) an ICM anthology, COURT STUDY PROCESS (1975), a collection of papers on how to undertake studies of court system needs and problems.

a. Examples of needs analyses--In truth, "needs analyses" of court systems are found in one form or another in almost every article written about courts; often, however, the analysis is very subtle or is primarily a reflection of what the writer happens to find discom-forting about the court system under analysis. Below are a few items that serve merely to show the range of approaches that might be taken to analyzing needs, prefatory to developing remedies. Obviously, few of these items were undertaken specifically as planning projects, but they are nevertheless analyses of needs.

- (49) ● Julia Lamber and Victor Streib, "Women Executives in the Indiana Criminal Justice System," 8 INDIANA LAW REVIEW 297 (1974)--describes, and includes the results of, a survey of the topic in the title, laying the basis for a proposal for plans to secure more aggressive hiring of women.

- (50) ● Steven Suitts, BLACKS AND WOMEN IN SOUTHERN FEDERAL COURTS (Southern Regional Council, 75 Marietta

Street, N.W., Atlanta, Ga., 30303, 1978)--presents results of quantitative survey of employment in southern federal courts.

- (51) ● Cleveland Court Management Project, ANALYSIS OF THE TRAINING NEEDS OF CUYAHOGA COUNTY, OHIO, COURT SUPPORT PERSONNEL (1975).

- (52) ● Leonard Hippchen, "Development of a Plan for Bilingual Interpreters in the Criminal Courts of New Jersey," 2 JSJ 258 (1977).

- (53) ● James N. Parkinson and Steven G. Buckles, "Cost Analysis of Court Systems, A Case Study," 2 STATE COURT JOURNAL No. 1, p. 13 (Winter, 1978).

- (54) ● NCSC, Project to Implement the Standards of Judicial Administration, STATE PROFILES--This National Center project has, inter alia, been comparing the current organizational structure of each state court system with the recommended Standards prepared by the American Bar Association's Commission on Standards of Judicial Administration. They are a good example of using a pre-determined standard against which to analyze a particular system's needs. Several "standards and goals" formulations are below: #99-105.

- (55) ● Sorrell Wildhorn, et al, INDICATORS OF JUSTICE: MEASURING THE PERFORMANCE OF PROSECUTION, DEFENSE, AND COURT AGENCIES INVOLVED IN FELONY PROCEEDINGS (Rand Corporation, 1976)--helpful in revealing a comparatively

sophisticated effort at measuring what is generally regarded as unmeasurable.

(56) See also Greenwood, Whildhorn, et al., PROSECUTION OF ADULT FELONY DEFENDANTS: A POLICY PERSPECTIVE (Lexington Books, 1976).

(57) • David Doane, "The Effect of Case Weights on Perceived Court Workload," 2 JSJ 270 (1977).

(58) • H. Graham McDonald and Clifford P. Kirsch, "Use of the Delphi Method as a Means of Assessing Judicial Manpower Needs," 3 JSJ 314 (1978).

(59) • Joe Doyle, "Comparing Court Productivity," 61 JUD 416 (1978).

(60) • Anthony Partridge and Gordon Bermant, THE QUALITY OF ADVOCACY IN THE FEDERAL COURTS (FJC, 1978)--a good example of a systematic analysis of a particular, alleged problem, provided to policy recommenders for them to use as they wished in developing a plan.

(61) • Board of the Federal Judicial Center, IMPROVING THE FEDERAL COURT LIBRARY SYSTEM (FJC, 1978)--This report is based on, and incorporates some of, a detailed needs analysis of federal court libraries, the raw data being so bulky that they have not been reproduced for publication.

(62) • Anthony Partridge and William Eldridge, THE SECOND CIRCUIT SENTENCING STUDY, A REPORT TO THE JUDGES OF THE SECOND CIRCUIT (FJC, 1974)--This is an example of using a simulated situation to determine the

existence of a condition (sentencing disparity) that is widely alleged but difficult to prove conclusively. (Out of print but excerpted in Sheldon Goldman and Austin Sarat, (eds.), AMERICAN COURT SYSTEMS (Freeman, 1978, p. 317).

(63) • Lloyd Weinreb, DENIAL OF JUSTICE: CRIMINAL PROCESS IN THE UNITED STATES (The Free Press, 1977)--Planning, in some measure, involves thinking beyond the conventional; the proposal herein for abandoning the adversarial model of American criminal justice for a managerial model is such an example.

b. Opinion Surveys

(64) • Albert Biderman, et al., "An Inventory of Surveys of the Public on Crime, Justice, and Related Topics," (NILECJ, 1972)--While so dated as to contain little of contemporary relevance to judicial planners, this bibliography does, at the least, give an idea of the range of possibilities in surveying the public to develop information about perceived needs.

(65) • Yankelovich, Skelly and White, Inc., "Highlights of a National Survey of the General Public, Judges, Lawyers, and Community Leaders," in NCSC, STATE COURTS: A BLUEPRINT FOR THE FUTURE (NCSC R0038, 1978)--This is the much heralded and cited survey of the public image of the courts that was the centerpiece of the National Center's "Second National Conference on the Judiciary." It can suggest the direction of state surveys and serve as a valuable source of comparative data for judicial planners. It is important to recognize, however, as the item cited

below indicates, that survey data can be subjected to more than one interpretation; see Barry Mahoney, Austin Sarat, and Steven Weller, "Courts and the Public: Some Further Reflections on Data from a National Survey," at page 83 of the volume cited above. (See also, for another look at survey methodology, viz. bar polls, #170 below).

• An ABF survey and analysis in the same general area, but on a different specific topic and from a different research approach is Barbara Curran and Lynn Spaulding THE LEGAL NEEDS OF THE PUBLIC (American Bar Foundation, 1978, Final Report).

• Daniel Segal, SURVEY OF THE LITERATURE ON DISCOVERY FROM 1970 TO THE PRESENT: EXPRESSED DISSATISFACTIONS AND PROPOSED REFORMS (FJC, 1978)--This survey represents, in a sense, a surrogate for a costly opinion survey of elites, and suggests the range of techniques available when planners do not have the time or funds for expensive public opinion surveys.

• Surveys on judicial elections--Below are several articles reporting surveys of citizens voting in judicial elections, suggesting one fairly simple example of a specific needs analysis: R. Neal McNight, Roger Schaefer, and Charles Johnson report on such a survey in Lubbock, Texas in "Choosing Judges: Do the Voters Know What They're Doing?" 62 JUD 95 (1978), and Cynthia Philip, Paul Nejelski, and Aric Press, WHERE DO JUDGES COME FROM? (Institute of

Judicial Administration, 1976) report a similar New York survey. (Surveys of jurors would be similarly revealing).

c. Forecasting, Case Weighting and Impact Statements--

One aspect of needs identification is the use of various techniques to forecast future developments, so as to be able to anticipate them and plan for them.

• Steven Wheelwright and Darral Clarke, "Corporate Forecasting: Promise and Reality," HBR, Nov.-Dec., 1976, p. 40, provides a review of forecasting in corporate environments. HBR, ON MANAGEMENT (#8 above), provides in chapter 28 a review of various forecasting techniques.

• Andre Delbeca, et al., GROUP TECHNIQUES FOR PROGRAM PLANNING: A GUIDE TO NOMINAL GROUP AND DELPHI PROCESSES (Scott Foresman, 1975)--reviews the pervasive Delphi technique of nurturing a consensus among experts about likely future trends. As noted below, Delphi can also be used for such things as goal setting, and, as noted above (#57 and #58) for needs analysis.

• Jerry Goldman, et al., "Caseload Forecasting Models for Federal District Courts," 5 JOURNAL OF LEGAL STUDIES 201 (1976)--This article describes the Federal Judicial Center's initial forecasting work and discusses various methodologies of forecasting caseloads. The appendix of #46 above, a Project paper, presents some simple, but relatively unreliable, techniques for caseload projections.

(74)

● NCSC, Western Regional Office, STATE OF WASHINGTON CASELOAD PROJECT: DISTRICT COURTS; and, NCSC, Western Regional Office, STATE OF WASHINGTON CASELOAD PROJECT: SUPERIOR COURTS (both June, 1977)--provide explanation of weighting caseloads and citations to efforts in other states. See also #57 and #58 above.

Judicial Impact Statements--There has been a mild fascination with the idea of predicting the additional judicial system resources required to handle judicial business created by proposed legislation. In fact, many court administrative offices have been making some kind of projections for some time. More recently, the National Academy of Sciences, under a grant from the National Science Foundation, has concluded a broad study of the idea of such statements, and the Department of Justice has signed a contract with MATTECH, Inc., (4630 Montgomery Ave., Bethesda, MD. 20014) to develop a methodology to create what are now being called "justice resource estimates." The literature below illustrates several efforts to predict the judicial impact of proposed legislation:

(75)

● Ralph Anderson and Associates, GUIDELINES FOR DETERMINING THE IMPACT OF LEGISLATION ON THE COURTS (submitted to the Judicial Council of California, 1974).

(76)

● Robert Davis and Paul Nejelski, "Justice Impact Statements: Determining How New Laws Will Affect the

Courts," 62 JUD 18 (1978)--a review of the state of the art and a description of how the Office for Improvements in the Administration of Justice developed a simple prediction of the additional judicial resources that would be needed were Congress to authorize judicial review of final administrative rulings by the Veterans' Administration of veterans benefit claims.

(77)

● James Eaglin and Anthony Partridge, AN EVALUATION OF THE PROBABLE IMPACT OF SELECTED PROPOSALS FOR IMPOSING MANDATORY MINIMUM SENTENCES IN THE FEDERAL COURTS (FJC, 1977)--an example of a project to compare actual sentences with those that would be imposed if certain legislation were to become law.

d. Modeling and Other Quantitative Techniques--

Below is some representative literature on the use of mathematical models, operations research, econometrics, etc., to analyze system performance and consider the effect of innovations and change. (See also #14 above)

Two works to provide both explanation and examples are:

(78)

● Stuart Nagel and Marian Neef, THE LEGAL PROCESS: MODELING THE SYSTEM (Sage Library of Social Research, No. 45, 1977), and, somewhat more advanced, by the same authors, LEGAL POLICY ANALYSIS (Lexington, 1977).

(79)

A warning of the potential for hidden values and biases to find their way into use of these supposedly neutral

(80) tools is in John Paul Ryan, "Management Science in the Real World of Courts," 62 JUD 144 (1978), analyzing a California state trial court's experience with docket control. Some other works are:

(81) • Stuart Nagel, Marian Neef and Nancy Munshaw, "Bringing Management Science to the Courts to Reduce Delay," 62 JUD 128 (1978).

(82) • Lucius Riccio, "A Model for Court Resource Planning," 1 JSJ, No. 2, p. 49 (March, 1975).

(83) • Robert Reich, "Operations Research and Criminal Justice," 22 JOURNAL OF PUBLIC LAW 357 (1972).

(84) • John Reed, THE APPLICATION OF OPERATIONS RESEARCH TO COURT DELAY (Praeger, 1973).

(85) • J. Chaiken, et al., CRIMINAL JUSTICE MODELS: AN OVERVIEW (Rand, 1975).

(86) • William Rhodes, "The Economics of Criminal Courts: A Theoretical and Empirical Investigation," 5 JOURNAL OF LEGAL STUDIES 311 (1976).

e. Comparative Data Sources

The items below provide judicial planners with some reference to data concerning various national conditions, against which they can compare specific conditions uncovered by needs analyses of their state systems.

(87) • NATIONAL SURVEY OF COURT ORGANIZATIONS (NILECJ, 1973), with SUPPLEMENTS (1975, 1977)--The basic document

and the supplements provide descriptive information on the organization of each state court system. The basic document (but not the supplements) also includes a good deal of dated tabular data on various elements of state court organization--e.g., number of courts, judges, etc.

(88) • Larry Berkson, "Unified Court Systems, A Ranking of the States," 3 JSJ 264 (1978)--This article, one outgrowth of an LEAA-funded study cited below (#148) is the latest in a series of efforts to assign weights to characteristics indicative of unification (to allow a ranking of the various states in terms of their degree of unification).

(89) • Karen Knab (ed.) COURTS OF LIMITED JURISDICTION: A NATIONAL SURVEY (AJS, 1977).

(90) • Rachel Doan and Robert Shapiro, STATE COURT ADMINISTRATORS: QUALIFICATIONS AND REQUIREMENTS (AJS, 1976).

(91) • Martin Osthus, INTERMEDIATE APPELLATE COURTS (AJS, 1976).

(92) • Council of State Governments, THE BOOK OF THE STATES (bi-annual)--This volume contains analysis of current state governmental functions, as well as basic comparative information on structural provisions of the state governments.

(93) • SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS (NILECJ, annual)--These annual volumes are a starting point for developing comparative data about a wide range of justice (primarily criminal justice) agencies, personnel,

expenses, etc., in the various states--such as jail populations, reported offenses. The SOURCEBOOK is a collection of previously collected data, which vary in their accuracy and relevance; the 1977 SOURCEBOOK, for example, reprinted the by-then quite dated information collected by the 1975-76 Uppal/Brun study (supra, #30) to show the existence of judicial planning bodies. The SOURCEBOOK gives caseload data only for the federal courts; the NCSC Court Statistics Project (see below) will fill this particular void in comparative justice data.

- (94) • NCSC, State Court Statistics Project, STATE COURT CASELOAD STATISTICS: ANNUAL REPORT, 1975 (forthcoming, 1979)--This report--and additional reports in the series--will provide planners with national caseload data that are comparable across state lines.

- (95) • EXPENDITURE AND EMPLOYMENT DATA FOR THE CRIMINAL JUSTICE SYSTEM (annual)--This is a joint publication of LEAA and the Commerce Department's Census Bureau. Its data are derived from Census Bureau surveys and provide helpful baseline data for comparing, among the states, budgeting sources and distribution of funds and personnel. Within the series are more discrete publications series, such as those on longitudinal changes in justice system expenditures.

- (96) • Carl Baar, SEPARATE BUT SUBSERVIENT: COURT BUDGETING IN THE AMERICAN STATES (Lexington Books or

NCSC, 1978)--This volume includes information on the comparative state versus local funding patterns for state courts. Of course, these figures change, and Baar has provided an update through 1974 in Larry Berkson, et al., #24a above; further updated information is cited by Berkson in his work on court unification, cited below, #148. By using the EXPENDITURE AND EMPLOYMENT DATA resource, #95 above, planners can update this information themselves, if needed for comparative purposes.

- (97) • Comparative salary data--Periodic surveys of judicial system personnel salaries in the states are reported in the NCSC's STATE COURT JOURNAL.

- (98) • Earl Johnson and Ann Barthelmes Drew, "This Nation has Money for Everything--Except Its Courts," 17 JUDGES JOURNAL No. 3, p. 17 (Summer, 1978)--While of only tangential relevance to judicial planners' immediate needs, this is a helpful article on comparative court system spending and personnel in the United States and other developed nations.

f. Standards and Goals

In assessing a particular court system's needs, it is sometimes helpful to use nationally promulgated standards, at least as a point of initial reference and comparison. Some of the more prominent national standards efforts of recent years are listed below:

(99) • American Bar Association, Commission on Standards of Judicial Administration, STANDARDS RELATING TO COURT ORGANIZATION (1974), to TRIAL COURTS (1976), to APPELLATE COURTS (1977). See above, #54.

(100) • ABA, Joint Committee on Professional Discipline, STANDARDS RELATING TO JUDICIAL DISCIPLINE AND DISABILITY RETIREMENT (1978).

(101) The above standards have been embodied in a ABA Model Judicial Article, promulgated in 1978, which is re-printed in 3 STATE COURT JOURNAL No. 1, p. 10ff. (Winter 1979).

(102) • ABA Committee on Traffic Court Program, STANDARDS FOR TRAFFIC JUSTICE (Rev. Draft, 1974).

(103) • ABA, Institute of Judicial Administration, Juvenile Justice Standards Project, STANDARDS FOR JUVENILE JUSTICE: A SUMMARY AND ANALYSIS (a report, in 1977, by Barbara Flicker, on the tentative drafts produced by this project. The ABA approved these standards, with changes, in February 1979).

(104) • ABA, Project on Standards for Criminal Justice, see THE ADMINISTRATION OF CRIMINAL JUSTICE (1974) the main volume of this multi-volume project.

(105) • National Advisory Commission on Criminal Justice Standards and Goals, REPORT ON COURTS (GPO, 1973).

b. Commentary--Standards, such as those above, will always be reported with commentary, explaining why the drafters elected to prescribe the forms and procedures

there embodied. This is helpful literature. Planners should also take note, however, of literature which analyzes and critiques these standards. For example:

(106) • On the ABA Court Organization standards (#99 above) see David Saari, "Modern Court Management: Trends in Court Organization Concepts--1976," (1976), a critique directed specifically at the standards, and Geoff Gallas, (107) "The Conventional Wisdom of State Court Administration: A Critical Assessment and an Alternative Approach," both in 2 JSJ 19 and 35 (1976); Gallas treats the unified court concept more generally. Whether the ABA standards are as rigid as one might believe from reading Saari is open to some question.

(108) • On the NAC Court Standards (#105 above) see David Neubauer and George Cole, "Court Reform: A Political Analysis," in Russell Wheeler and Howard Whitcomb, JUDICIAL ADMINISTRATION, TEXT AND READINGS (Prentice-Hall, 1977) or, in a different form, in 24 EMORY LAW JOURNAL 1009 (1975).

(109) • James G. France, "Judicial Administration: The Williamsburg Consensus--Some Errors and Omissions," (110) 14 WILLIAM AND MARY LAW REVIEW 35 (1972), and, "The Williamsburg Consensus Revisited," 16 WILLIAM AND MARY LAW REVIEW 237 (1974), critique the prescriptions and goals adopted by the 1971 National Conference on the Judiciary, presented in JUSTICE IN THE STATES (William Swindler, ed.) (West, 1971).

- (111) Raymond Nimmer, infra #136, evaluates the ABA Justice Standard for omnibus hearings, in #104 above.

2. Objective-Setting--Below is literature describing the variety of techniques by which organizations arrive at planning objectives. Listing these several bibliographical items should not be taken to reflect unawareness that goals and objectives are often the product of top judicial leaders' preferences, or are produced through various, relatively unstructured committee meetings and the like.

a. Management by Objectives

- (112) Steven Hays, "Should Courts Try Management by Objectives?" 62 JUD 85 (1978)--As well as an analysis of the topic indicated, this article cites most of the important literature on MBO, including the "Symposium on Management by Objectives in the Public Sector," 36 PAR 1-45 (1976).

b. Planning-Programming-Budgeting Systems (PPBS)

- (114) ● Harry Havens, "MBO and Program Evaluation, or Whatever Happened to PPBS?" 36 PAR 40 (1976).
- (115) ● F. J. Lyden and E. G. Miller, eds., PLANNING PROGRAMMING BUDGETING: A SYSTEMS APPROACH TO MANAGEMENT (Markham Publishing Co., 1971).
- (116) ● Roderick Macleod, "Program Budgeting Works in Non-Profit Institution," 49 HBR, Sept.-Oct., 1971, p. 46.

c. Zero-Based Budgeting

- (117) ● Peter Pyhrr, "The Zero-Base Approach to Government Budgeting," 38 PAR 1 (1977)--a brief article by the creator of the ZBB idea, introducing a symposium on the topic.

- (118) ● James Suver and Ray Brown, "Where Does Zero-Base Budgeting Work?" HBR, Nov.-Dec., 1977, p.76--a review of organizational characteristics that help determine the effectiveness of ZBB.

- (119) ● "ZBB Revisited," THE BUREAUCRAT, Spring, 1978--a series of short articles analyzing ZBB's implementation in the first year of the Carter administration. (This journal is published by the National Capital Area Chapter of the American Society for Public Administration; subscription address is 2625 S. Inge St., Arlington, Va., 22202).

3. Plan Development and Promulgation--Beyond the material referenced on planning generally and cited above, see Paper No. 2 in the Project's series of papers (#22 above), viz., "Producing a Judicial Plan."

- (120) ● Ralph E. Thayer, "The Local Government Annual Report as a Policy Planning Opportunity," 38 PAR 373 (1978)--This article's target is not judicial planners, but urban planners with the same problems, and suggests, with citation to additional literature, the use of annual
- (121)

reports as a planning tool to communicate to "an increasingly sophisticated public."

(122) 4. Evaluation--There is a very hefty literature on evaluation, even several periodicals devoted solely to it. For example, EVALUATION QUARTERLY, A JOURNAL OF APPLIED SOCIAL RESEARCH, (published by Sage Publications, 275 South Beverly Drive, Beverly Hills, CA., 90216) was first issued in February 1977, and carries a surprisingly high number of articles on the evaluation of justice system projects.

a. Analyses and Techniques of Evaluation

(123) • Donald Jackson, "Program Evaluation in Judicial Administration," in Berkson, et al., #24a above--a sound and well-referenced overview of evaluation generally and analysis of why it is likely to be resisted in court settings.

(124) • John Gardiner, "Problems in the Use of Evaluation in Law Enforcement and Criminal Justice," in Kenneth Dolbeare (ed.), PUBLIC POLICY EVALUATION RESEARCH 1975) at 177.

(125) • L. Rutman (ed.), EVALUATION RESEARCH METHODS: A BASIC GUIDE (Sage Publications, 1977)--This is a prescriptive book on how to undertake an evaluation, and includes discussion of basic quantitative data analysis necessary for the task. There is some attention to the criminal caseflow process.

(126) • Harry Hatry, et al., PRACTICAL PROGRAM EVALUATION FOR STATE AND LOCAL GOVERNMENT OFFICIALS (The Urban Institute, 1973).

(127) • Peter Rossi and Sonia Wright, "Evaluation Research: An Assessment of Theory, Practice, and Politics," 1 EVALUATION QUARTERLY 8 (1977).

(128) • U.S. General Accounting Office, FEDERAL PROGRAM EVALUATION: STATUS AND ISSUES (GPO, 1978), and a sequel, now in the "draft exposure stage," entitled "Assessing Social Program Impact Evaluation: A Checklist Approach," (1978).

(129) • Experimental Research--The two items below analyze the design of this potentially most powerful but most difficult evaluation methodology: Donald T. Campbell and J. C. Stanley, EXPERIMENTAL AND QUASI-EXPERIMENTAL DESIGNS FOR RESEARCH (1966) and T. D. Cook and Campbell, "The Design and Conduct of Quasi-Experiments and True Experiments in Field Settings," in M.C.D. Dunnette (ed.), HANDBOOK OF INDUSTRIAL AND ORGANIZATIONAL PSYCHOLOGY (1976), both published by Rand McNally. A report next year of the Federal Judicial Center's Advisory Committee on Experimentation in the Law will assess the technical, moral, and legal issues involved in justice system experimentation.

b. Examples of Evaluations of Court Projects
CALENDARING

(131) • John Jennings, FINAL EVALUATION OF THE MANHATTAN CRIMINAL COURT'S MASTER CALENDAR PROJECT (New York Rand Institute, 1973).

(132) • "The All-Purpose Parts in the Queens Criminal Court: An Experiment in Trial Docket Administration," 80 YALE LAW JOURNAL 1637 (1971).

(133) • Ralph Miller, et al., "Local Procedure and Judicial Efficiency: A Comparative Empirical Study of Texas Metropolitan District Courts," 44 TEXAS LAW REVIEW 677 (1971).

PRE-HEARING CONFERENCES

(134) • Jerry Goldman, AN EVALUATION OF THE CIVIL APPEALS MANAGEMENT PLAN: AN EXPERIMENT IN JUDICIAL ADMINISTRATION (FJC, 1977)--one of the few reports of an actual, controlled experiment in a court setting, including a specific discussion of the mechanics of carrying it out.

(135) • Maurice Rosenberg, THE PRETRIAL CONFERENCE AND EFFECTIVE JUSTICE (Columbia University Press, 1964)--a report of an early experiment in New Jersey.

(136) • Raymond Nimmer, PROSECUTOR DISCLOSURE AND JUDICIAL REFORM: THE OMNIBUS HEARING IN TWO COURTS (American Bar Foundation, 1975)--this is the second and final report of an evaluation of the effect of the criminal omnibus preliminary hearing (See #111, above) in federal district courts in San Antonio and San Diego.

RESTRICTIONS ON PLEA-BARGAINING

(137) • Michael L. Rubenstein and Teresa J. Wright, "Plea Bargaining: Can Alaska Live Without It?" 62 JUD.

266 (1979)--an analysis, by personnel of the Alaska Judicial Council, of the state attorney general's ban on plea and sentence negotiations.

(138) • Thomas Church, "Plea-Bargains, Confessions, and the Courts: An Analysis of a Quasi-Experiment," 10 LAW & SOC. REVIEW 377 (1976).

(139) • Raymond Nimmer and Patricia Krauthaus, "Plea Bargaining Reform in Two Cities," 3 JSJ 6 (1977).

DIVERSION

(140) • G. Ronald Gilbert, "Alternative Routes, A Diversion Project in the Juvenile Justice System," 1 EVALUATION QUARTERLY 301 (May, 1977)--this article includes analysis of the factors in project evaluation management that will help policy makers understand what is being done.

(141) • T. K. Peterson, "Dade County Pre-trial Intervention Project: Formalization of the Diversion Function and Its Impact on the Criminal Justice System," 28 U. MIAMI LAW REVIEW 86 (1973)--includes an effort at cost-benefit analysis of a pre-trial diversion project in Florida.

(142) • Michael Kelly, "Social Science Evaluation and Criminal Justice Policy-Making: The Case of Pre-trial Release," in Kenneth Dolbeare, ed. PUBLIC POLICY EVALUATION (Sage, 1975, vol. II in Sage Yearbook in Politics and Public Policy), p. 253.

OTHER

- (143) • Samuel Conti, William Popp, & David Steelman, "The Lessons of PJIS (Philadelphia Justice Information System)" 2 STATE COURT JOURNAL No. 3 at page 8 (1978).
- (144) • Paul Nejelski, "Unified Appeal in State Criminal Cases," 7 RUTGERS-CAMDEN L. REV. 484 (1976).
- (145) • Paul Nejelski, "Computer-Simulation: An Aid to Court Study," 55 JUD 17 (1971)--a brief description of a computer simulation of the effects of a federal statute allowing direct appeal to appellate courts in certain deportation cases.
- (146) • Kenneth Coe, "Juror Utilization in Three Selected Oklahoma District Courts," 29 OKLAHOMA LAW REVIEW 65 (1976)--describes a project undertaken by personnel in the Oklahoma state court administrator's office.

II. -

PLANNING SUBSTANCE
LITERATURE

This section of the bibliography reflects the fact that judicial planners are often responsible for implementing projects identified by the planning process. They must have, in other words, a generalist's familiarity with all aspects of court management. The selections below are mainly specialized bibliographies, treatises and reports, and projects in progress in the particular fields.

Planners who need to gain a working knowledge of the particular subject area may do so by the references cited in this bibliography and other guides to the literature, and, in turn, by consulting the specific items cited in those sources.

A. COURT ORGANIZATION

1. Various aspects of court organization

- (147) • Susan Carbon and Larry Berkson, LITERATURE ON COURT UNIFICATION: AN ANNOTATED BIBLIOGRAPHY (NILECJ, forthcoming)--This is a bibliography of about 275 entries, covering all aspects (including arguments pro and con) on court unification, and is an auxilliary product of the research reported immediately below (#148).
- (148) • Larry Berkson and Susan Carbon, COURT UNIFICATION: HISTORY, POLITICS, AND IMPLEMENTATION (NILECJ, 1978)--This volume, while discussing the history of court unification and arguments pro and con, is mainly concerned with how to get unification measures adopted. Its literature citations, however, along with those in the bibliography above, can provide an effective introduction to most aspects of state court organization.
- (149) • Daniel Skoler, ORGANIZING THE NON-SYSTEM (Lexington, 1978)--This book has a chapter on the judiciary, but is primarily valuable for its integrated view of all types of "criminal justice" unification.
- (150) • John Ruhnka, Steven Weller, and John Martin, SMALL CLAIMS COURTS: A NATIONAL EXAMINATION (NCSC, 1978)--

a thorough review of the background and literature on small claims courts, as well as an analysis of their operation.

- (151) ● "Misdemeanor Court Symposium," 60 JUD 414 (1976). Also, the American Judicature Society and the Institute for Court Management are currently conducting a national research project on misdemeanor courts.

- (152) ● Paul Carrington, Daniel Meador, and Maurice Rosenberg, JUSTICE ON APPEAL (West, 1976)--As with the other works listed above, this provides a helpful review and overview of the research, developments, and literature in the field of appellate courts, state and federal.

The NCSC Appellate Justice Project, based in Denver is reviewing a variety of state appellate court innovations and practices and should be consulted for information.

- (153) ● E. Keith Stott, Jr. & Theodore J. Fetter, Rural Justice (NCSC, 1977)--this analysis presents conclusions of a series of Rural Court Workshops conducted by the National Center. See also R.B. Hoffman et al., THE PRICE OF LOCAL JUSTICE, *infra.* # 194.

2. Alternatives to Litigation--Below are several references on this topic of intense current interest.

- (154) ● Earl Johnson, Jr. et al., OUTSIDE THE COURTS (NCSC, 1976)--provides a broad overview of various types of alternatives to traditional court processing.

- (155) ● Daniel McGillis and Joan Mullen, NEIGHBORHOOD JUSTICE CENTERS: AN ANALYSIS OF POTENTIAL MODELS (NILECJ, 1977)--a review of the literature and the thinking about neighborhood justice centers.

- (156) ● David Aaronson et al., THE NEW JUSTICE: ALTERNATIVES TO CONVENTIONAL ADJUDICATION (NILECJ, 1977) and ALTERNATIVES TO CONVENTIONAL CRIMINAL ADJUDICATION: GUIDE-BOOK FOR PLANNERS AND PRACTITIONERS (NILECJ, 1977).

- (157) ● John Cratsley, "Community Courts: Offering Alternative Dispute Resolution within the Judicial System," 3 VERMONT LAW REVIEW 3 (1978)--an article by a Massachusetts state judge reviewing the current preoccupation with this topic and suggesting a model for a court-related mechanism.

B. COURT PERSONNEL

1. Judicial Personnel Systems

a. Personnel Management

- (158) ● Harry Lawson et al., PERSONNEL ADMINISTRATION IN THE COURTS (American University Crim. Ct. Tech. Assis. Project, 1978).

- (159) ● Geoffrey Hazard, "Administration of Supporting Services in the Trial Court," 1 JSJ 83 (1975)--An outgrowth of the author's work as reporter for the American Bar Association Commission on Standards of Judicial Administration (H99V)

● Cleveland Court Management Project--This LEAA-funded, and since lapsed project, produced three excellent

reports on court personnel systems in the Cleveland courts including #51 above, and FINAL REPORT ON A PERSONNEL SYSTEM FOR THE CUYOHOGA COUNTY JUVENILE COURT (1973) and REPORT SUMMARY, PERSONNEL SYSTEM FOR THE CLEVELAND MUNICIPAL COURT (1971).

See also items #49 and #50, above.

(161)

• Thomas F. McCoy, "Reforming Judicial Administration: Establishing a Career and Merit System within a Unified Court Structure," 26 NEW YORK BAR ASSOCIATION BULLETIN No. 4 (Spring, 1969)--tracing the history of the development of New York State Court personnel systems. New York is currently developing a state court personnel system encompassing virtually all court employees (except those in justice courts), most of whom had previously been locally paid and supervised. The transition is occurring under the aegis of the state's Office of Court Administration, 270 Broadway, New York, N.Y., 10007.

(162)

• Geoff Gallas and Michael Lampasi, "A Code of Ethics for Judicial Administrators," 61 JUD 311 (1978).

(163)

• Robert Tobin, TRIAL COURT MANAGEMENT SERIES: PERSONNEL MANAGEMENT IN TRIAL COURTS, NILECJ (limited copies) GPO publication scheduled in 1979.

b. Court Unionization

(164)

• George Cole, "Unionization of Court Employees: A Growing Movement," 61 JUD 262 (1978).

(165)

• "Symposium on Court Unionization," a forthcoming JSJ issue, edited by George Cole, who is completing a major National Science Foundation funded research project on this subject.

(166)

2. Judicial Selection and Discipline--There is really very little left to say about these topics, and it is unlikely that planners would be in a position to influence the course of their development in any event. A recent analysis and literature review of the Merit Selection System is in Henry Glick, "The Promise and Performance of the Missouri Plan: Judicial Selection in the Fifty States," 32 MIAMI LAW REVIEW 509 (1978).

(167)

On judicial discipline, there is no truly current and comprehensive analysis. Thus, see William Braithwaite, WHO JUDGES THE JUDGES? (American Bar Foundation, 1971) and Swain, "The Procedures of Judicial Discipline," 59 MARQUETTE LAW REVIEW 196 (1976).

(169)

Also, See Irene A. Tesitor, JUDICIAL CONDUCT ORGANIZATIONS (AJS, 1978)--a product of the Society's Center for Judicial Conduct Organizations, and providing comparative data on the commissions in the various states. See the ABA proposed standard, #100 above.

(170)

• Steven Flanders, "Evaluating Judges: How Should the Bar Do It?" 61 JUD 304 (1978)--This brief article analyzes, and cites the literature on, this increasingly popular phenomenon, and describes the methodological flaws in most bar polls.

3. Court System Salaries--see item #97 above.

(171) 4. Judicial Education--Report of the Judicial Education Study Group (Amer. Univ. Crim. Cts. Tech. Assistance Project, 1978).

5. Assistants for Judges

(172) • Jeffrey Parness, THE EXPANDING ROLE OF THE PARAJUDGE IN THE UNITED STATES (AJS, 1973)--although obviously dated, this can provide helpful background on the growing use of magistrates and other "para-judges."

(173) • "Judicial Clerkships: A Symposium on the Institution," 26 VANDERBILT LAW REVIEW 1123 (1973).

(174) • Daniel Meador, APPELLATE COURTS: STAFF AND PROCESS IN THE CRISIS OF VOLUME (West, NCSC: 1974)--This book reports the results of a study of the use of staff law clerks in four state court systems. Its conclusions about their benign effects (see also Steven Flanders and Jerry Goldman, "Screening Practices and the Use of Para-Judicial Personnel in the Court of Appeals," 1 JSJ, No. 2, 1 (1975), may not represent the current thinking about staff law clerks in the possibly changed circumstances of the late 1970s.

(176) • CENTRAL LEGAL STAFFS IN THE UNITED STATES COURTS OF APPEALS (FJC, 1978)--This is a collection of descriptions of federal central staff's authority and functions, authored by the respective chief staff attorneys in each of the federal circuits.

(177)

• Geoffrey Peters, Fred Gregarus, and Joel Zimmerman, "Legal Research for Nebraska's Rural Attorneys," 61 JUD 230 (1977)--describes a project to use the legal research capabilities of one of a rural state's law schools to provide research services to supplement inadequate law libraries.

C. COURT MANAGEMENT

1. Jury Management

In general, consult for literature and information, the NCSC National Scope Project on Juror Utilization and Management Evaluation. A recent bibliography is Anthony A. Cain, JURY REFORM: A SELECTED BIBLIOGRAPHY (NCJRS, 1978). Below are a few of the more prominent works in this heavily studied area:

(178)

a. Juror Utilization

(179)

• Bird Engineering Research Associates, Inc., "A GUIDE TO JURY SYSTEM MANAGEMENT (NILECJ, 1973); GUIDE TO JUROR USAGE (NILECJ, 1974)"--although several years in print, in an area that has seen rapid literature development, these are still valuable works, with an emphasis on techniques of jury management.

(180)

• William Pabst, et al., "The Myth of the Unwilling Juror," 60 JUD 164 (1976)--describes the use of one of the questionnaire instruments in the Guide (above), providing in the process a helpful example of a needs analysis. (But, as to substance, see the difference of opinion in John Richert, "A New Verdict on Juror Willingness," 60 JUD 496 (1977)).

(181)

(182) • William Stoeber, "The Expendable Resource: Studies to Improve Juror Utilization," 1 JSJ No. 1, p. 39 (1974). See also #146, above.

(183) • Frederick Merrill and Lynn Schrage, "Efficient Use of Jurors: A Field Study and Simulation Model of a Court System," 1969 WASHINGTON UNIVERSITY LAW QUARTERLY 151.

(184) • Juror utilization statistics for the federal courts are provided regularly by the Administrative Office of the U.S. Courts.

b. Juror Selection

(185) • Thomas Munsterman et al., MULTIPLE LISTS FOR JUROR SELECTION, A CASE STUDY FOR SAN DIEGO SUPERIOR COURT (NILECJ, 1978)--originally produced under the auspices of the American University Criminal Courts Technical Assistance Project, this contains a description of a case study in one court, and generalizations drawn from it.

c. Jury Size

Ever since the Supreme Court has sanctioned trial juries of less than 12, there has been continued debate about their savings--and about the Court's assumption that 6 and 12 member juries behave no differently. For analysis and reference to the literature, see:

(186) • Michael Saks, JURY VERDICTS: THE ROLE OF GROUP SIZE AND SOCIAL DECISION RULE (Lexington Books, 1977).

2. Court Budgeting and Finance

(187) "The Financial Aspects of Judicial Planning," (the fourth paper in the Project's 1977 series of papers, #22 above) provides advice specifically on the techniques of establishing a court budgeting system by means of a plan. Most of the literature on courts and budgeting tends, however, to be either analytical--explaining why court budgeting systems have the structure and behavior they do--or hortatorical, arguing pro or con for a particular approach.

(95 above) • Carl Baar, SEPARATE BUT SUBSERVIENT: COURT BUDGETING IN THE AMERICAN STATES (Lexington, 1975)--This is the major work in the field and will provide judicial planners with a solid overview of the state court budgeting situation, data on funding patterns current in 1975, and references to non-judicial literature about state budgeting agencies.

(188) • Ellen Baar & Carl Baar, "Judges as Middlemen?" 2 JSJ 210 (1977)--analyzes the causes and consequences of judges' delegating to court administrators the responsibility for appropriations contact with legislators.

(189) • Geoffrey Hazard, Jr. et al., "Court Finance and Unitary Budgeting," 81 YALE LAW JOURNAL 1286 (1972)--a cogent analysis of state court budgeting, analyzing the benefits the authors see in state court financing, and warning of problems to be avoided. (This article is an outgrowth of the work of the ABA Commission on Standards of Judicial Administration, for which Hazard served as reporter; see #99 above)

(190)

● Edward E. Pringle, Jr., "Fiscal Problems of a State Court System," in Berkson, et al., #24a above--
A former state chief justice's description of, and argument in favor of, the state court budgeting system as it operates in Colorado.

(191)

● Philip Spector, "Financing the Courts Through Fees: Incentives and Equity in Civil Litigation," 58 JUD 330 (1975)--explores this rarely-analyzed subject.

(192)

● Richard B. Hoffman, "New York State Court Financing: Developing the Centralized Process," 3 STATE COURT JOURNAL No. 1 (Winter 1979) 1--traces the evolution of a unified budgeting and financing system and proposes future directions. The article summarizes the findings of the three National Center studies discussed in the next entry.

(193)

● Further analysis of the role of fees and costs, with particular reference to New York, is found in HOW MUCH SHALL WE CHARGE FOR JUSTICE? (NCSC, 1978). Two other

(194)

studies prepared after New York enacted unified budgeting and financing legislation in 1976 are THE PRICE OF LOCAL JUSTICE (NCSC, 1978), which reviews the costs of operating town and village courts staffed largely by lay justices,

(195)

and the NEW YORK STATE COURT BUDGET REVIEW MANUAL (NCSC, 1978) which suggests means for analyzing and justifying judicial budgets.

(196)

● Robert Tobin, TRIAL COURT MANAGEMENT SERIES: FINANCIAL MANAGEMENT IN TRIAL COURTS (limited copies), GPO publication scheduled for later in 1979.

See also #53 above.

3. Records Management

There is relatively little literature in this topic specific to courts, although records maintenance is a basic function of public administration. Three articles below by court administrators provide some helpful, practical advice. In addition, see the literature below about technology in the courts.

(197)

● Robert Harrall, "Court Records Management: The 'Mitten' Revisited," 2 JSJ 77 (1976).

(198)

● William Whittaker, "Ceremony versus Substance: Clerical Processes in the Courts," 56 JUD 374 (1973).

(199)

● Ernest Short, TRIAL COURT MANAGEMENT SERIES: RECORDS MANAGEMENT IN TRIAL COURTS, NILECJ (limited copies), GPO publication scheduled for later in 1979.

4. Caseflow Management

The last several years have produced a great deal of very sophisticated, analytical literature on the behavior of courts--in particular, trial courts with criminal jurisdiction. This material could produce several book length bibliographies in itself.

Planners can become familiar with the basic outline of this literature through the several bibliographies below, and by reference to major books and research reports cited below. See also much of the literature cited above on needs analysis and on evaluation--#131-142.

a. Bibliographies

(200) • Thomas Church et al., PRETRIAL DELAY--A REVIEW AND BIBLIOGRAPHY (NCSC, 1978)--This published version of an earlier, not for attribution, bibliography contains extensive citations both to definitional-conceptual pieces, but also to practical literature dealing with pretrial delay.

(201) • Joseph C. Markowitz, PLEA BARGAINING: AN ANNOTATED BIBLIOGRAPHY (AJS, 1978).

(202) • Burke O'Hara Fort et al., SPEEDY TRIAL--A SELECTED BIBLIOGRAPHY AND COMPARATIVE ANALYSIS OF STATE SPEEDY TRIAL PROVISIONS (NILECJ, 1978)--This bibliography contains legal citations and citations to analytical literature on state and federal speedy trial provisions.

b. Books, reports, etc.--Listed here are only a few major works. Reference to them and to the bibliographies will bring the planner familiarity with the literature.

(203) • Thomas Church et al., JUSTICE DELAYED: THE PACE OF LITIGATION IN URBAN TRIAL COURTS (NCSC, 1978)--an intensive empirical examination of several state courts, with conclusions and prescriptions on the court characteristics

that are associated with delay. Note the similarity in findings with this report and a parallel report of the FJC: Steven Flanders, CASE MANAGEMENT AND COURT MANAGEMENT IN UNITED STATES DISTRICT COURTS (1977).

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(205)

• William Rhodes, PLEA BARGAINING: WHO GAINS? WHO LOSES? (Institute for Law and Social Research, 1978).

(206)

• James Eisenstein and Herbert Jacob, FELONY JUSTICE: AN ORGANIZATIONAL ANALYSIS OF CRIMINAL COURTS (Little Brown and Co., 1977)--an empirical analysis of felony dispositions in Baltimore, Chicago and Detroit.

(207)

• Malcolm Feeley, THE PROCESS IS THE PUNISHMENT (Russell Sage, forthcoming 1979)--a detailed and comprehensive analysis of misdemeanor case processing, based on empirical analysis of several Connecticut misdemeanor courts.

(208)

• Paul Connolly, et al., JUDICIAL CONTROLS AND THE CIVIL LITIGATIVE PROCESS: DISCOVERY (1978)--Although limited to federal litigation, this report provides a good example of the use of data to refine a widespread assumption about the "need for reform," and contains a set of specific guidelines for trial judges to use in setting a schedule for discovery. It has been distributed to state courts, in part because of the wide degree to which state courts have adopted federal procedural rules.

(209)

• A. Leo Levin and Edward Wooley, DISPATCH AND DELAY (Philadelphia: Institute for Legal Research, 1961)--Although almost twenty years old, this provides an excellent

example of a field study of case processing in a state jurisdiction.

- (210) • Hans Zeisel, et al., DELAY IN THE COURT, 2d. ed. (Greenwood Press, 1978)--a republication with a new preface of this study first issued in 1959.

- (211) • Sidney Brownstein, et al., GUIDE TO COURT SCHEDULING--A FRAMEWORK FOR CIVIL AND CRIMINAL COURTS (Institute for Law and Social Research, 1976).

c. Benchbook Preparation--These are a common result of many planning efforts, and while the products are numerous, there is little literature on preparing them.

An effort within the Los Angeles Superior Court to develop a benchbook is described, with specific advice drawn from the project, by a former Presiding Judge of that court in Robert A. Wenke, "Benchbooks and Manuals of Procedure:"

- (212) A Practical Guide for Bench and Bar," 54 Nebraska Law Review 521 (1974). A two-page description of a manual for

- (213) lawyers, developed in the same court, is in Wenke, "Everything a Lawyer Needs to Know about the Conduct of a Trial," 60 JUD 356 (1977).

d. Ongoing Projects--Among the plethora of court and case management studies going on at any particular time, judicial planners might take special note of the two below, with an eye toward following reports and results:

- (214) • A project on the cost of civil litigation (state and federal), recently begun under contract awarded

by the Department of Justice's Office for Improvements in the Administration of Justice, to a group based at the University of Wisconsin.

- (215) • Evaluation of delay reduction programs in four state courts--a two-year project recently begun by the American Judicature Society under a grant from NILECJ, described in the September, 1978 JUDICATURE.

5. Rules and Rule-Making

There is evidence that the rule-making process--its uses and varieties--may be one of judicial administration's "growth topics" in the next decade. The American Judicature Society, for example, has in progress a national project on the rule-making process, two publications of which are noted below.

- (216) • Chris A. Korbakes, JUDICIAL RULEMAKING IN THE STATE COURTS (AJS, 1978)--a state-by-state survey of the locus of state rulemaking authority and of the various items subject to it among the states.

- (217) • Charles W. Graw, JUDICIAL RULEMAKING: ADMINISTRATION, ACCESS AND ACCOUNTABILITY (AJS, 1978)--helpful in describing the background, legal and otherwise, of the rulemaking power, and current issues faced by those who would change their rulemaking processes.

- (218) • Jack B. Weinstein, REFORM OF RULE-MAKING PROCEDURES (Ohio St. Univ. Press, 1977)--Although this

book has a federal focus, it treats state rule-making as well, and above all provides an analytical framework for considering the rule-making process.

- (219) ● Karen Knab and James Hough, "Improving Court Management by Administrative Rule," 62 JUD 291 (1979)-- provides a description of Wisconsin's recent rule-revision process.

- (220) ● Steven Flanders, "In Praise of Local Rules," 62 JUD 28 (1978)--Although focusing exclusively on federal courts, this article is helpful in assessing the purposes that can be served by local rules in any particular jurisdiction.

D. SENTENCING

- (221) 1. John Ferry and Marjorie Kravitz, ISSUES IN SENTENCING, A SELECTED BIBLIOGRAPHY (NILECJ, 1978)--one in NILECJ's new "Selected Bibliography" series, this item contains a list of articles and books under five separate headings (e.g., "Determinate Sentencing," etc.), as well as the addresses of various (and sometimes obscure) sources where they can be found.

- (222) 2. Leslie Wilkins, et al., SENTENCING GUIDELINES: STRUCTURING JUDICIAL DISCRETION (NILECJ, 1978)--a prominent example of the current effort to develop sentencing guidelines in two state courts.

E. COURTS AND TECHNOLOGY

1. General References

- (223) ● For general information, consult NCSC's in-progress project on Court Improvement Through Applied Technology, based in the Center's Denver Project Office.

At least three periodicals deal with computer and other technological applications in the legal-judicial world:

- (224) ● RUTGERS JOURNAL OF COMPUTERS, TECHNOLOGY, AND THE LAW (newly named as of the forthcoming volume and published by Rutgers Law School). Volume 6, Number 2 (1978) included articles on "Selected Issues on Computers and the Courts," and carried as well the JOURNAL's twelfth, "Selected Bibliography on Computers and the Law."

- (225) ● JURIMETRICS, published by the American Bar Association Section of Technology and the Law.

- (226) ● NEWS of the National Center for Automatic Information Retrieval (330 Madison Ave., NY 10007), which despite its generalist name, focuses on the use of automatic information retrieval in the legal and accounting professions. According to the November 1978 NEWS, NCAIR is planning a massive bibliography on the subjects under its purview.

2. Automatic data processing and retrieval systems

- (227) ● Larry Polansky, COMPUTER USE IN THE COURTS: PLANNING, PROCUREMENT, AND IMPLEMENTATION CONSIDERATIONS

(Amer. U. Criminal Courts Technical Assistance Project, Courts Technical Assistance Monograph #3, 1978)--a complete yet concise introduction to the use of automatic data processing in the courts, and designed, as the title suggests, for, among others, judicial planners. See also #143 above.

- (228) ● J. Michael Greenwood, et al., DATA PROCESSING AND THE COURTS--GUIDE FOR COURT MANAGEMENT and DATA PROCESSING AND THE COURTS--REFERENCE MANUAL--COURTS EQUIPMENT ANALYSIS PROJECT (NCSC, 1977).

- (229) ● Gary Albrecht, "The Effects of Computerized Information Systems on Juvenile Courts," 2 JSJ 107 (1976)-- This article, which includes a case study of the (successful) implementation of computerized information systems in a "large Southern city," is valuable to the planner for illustrating computerized information systems' potential to affect an organization's management structure.

- (230) ● The technical manuals produced by the Search Group, Inc., provide both suggested forms and formats for use in judicial information systems, and also discuss thorny aspects of introducing these systems. The most recent are SJIS (STATE JUDICIAL INFORMATION SYSTEM) FINAL REPORT (Vol. I: SJIS Documentation; Vol. II: Topics in Judicial Data Utilization) (Sacramento, 1978).

3. Other Technological Applications

a. Business Equipment

- (231) ● J. Michael Greenwood, et al., BUSINESS EQUIPMENT AND THE COURTS: GUIDE FOR COURT MANAGERS (NCSC, 1977).

- (232) ● J. Michael Greenwood and Larry Farmer, EVALUATION OF THE IMPACT OF WORD PROCESSING AND ELECTRONIC MAIL ON THE U.S. THIRD CIRCUIT COURT OF APPEALS (FJC, 1978).

b. Transcription

- (233) ● J. Michael Greenwood and Jerry R. Tollar, USER'S GUIDE TO COMPUTER-AIDED TRANSCRIPTION (NILECJ, NCSC, 1978).

- (234) c. Videotape--A good deal of bibliographical information on videotape applications is in John Loftus, "Role of Videotape in the Criminal Court," 10 SUFFOLK UNIVERSITY LAW REVIEW 1107 (1976).

- (235) ● J. Michael Greenwood, et al., AUDIO/VIDEO TECHNOLOGY AND THE COURTS--GUIDE FOR COURT MANAGERS (NCSC, 1977).

- (236) ● FJC, GUIDELINES FOR PRE-RECORDING TESTIMONY ON VIDEOTAPE PRIOR TO TRIAL (1976, 2d ed.).

- (237) ● Symposium on Videotape Use, 61 JUD 250 (1978).

- (238) ● Symposium on "Communications Technology and the Delivery of Legal and Government Services," 55 UNIVERSITY OF DETROIT JOURNAL OF URBAN LAW 655 (1978)--three articles and a commentary.

d. Automated Legal Research

- (239) ● Search Group, Inc., AUTOMATED LEGAL RESEARCH: A STUDY OF CRIMINAL JUSTICE AGENCIES (1978).

(240) ● Alan Sager, AN EVALUATION OF COMPUTER ASSISTED LEGAL RESEARCH SYSTEMS FOR FEDERAL COURT APPLICATIONS (FJC, 1977).

(241) ● Alan Sager, AN EVALUATION OF THE APPLICATION OF A COMPUTERIZED CITATION-CHECKING SYSTEM IN THE FEDERAL COURTS (FJC, 1977).

F. COURTHOUSE ARCHITECTURE

(242) ● THE AMERICAN COURTHOUSE, PLANNING AND DESIGN FOR THE JUDICIAL PROCESS (Institute of Continuing Legal Education, University of Michigan Law School, with American Institute of Architects, 1973).

(243) ● Transcript of Proceedings: EMERGING TRENDS IN COURTHOUSE PLANNING, DESIGN, ADMINISTRATION AND FUNDING (Sponsored by ICLE, as above, and the ABA, AIA and NCSC, 1975).

(244) ● James McMahon, et al., COURT SECURITY: A MANUAL OF GUIDELINES AND PROCEDURES (National Sheriffs Association, Washington, D.C., 1978).

(245) ● Lawrence Siegel, THE IMAGE OF JUSTICE (Amer. Univ. Criminal Courts Technical Assistance Project, 1978)-- a monograph on judicial facilities planning.

III.

FURTHER BIBLIOGRAPHICAL SOURCES

Some bibliographies are referenced above in particular

subject areas. In addition are the following works, which claim to provide bibliographical references for all aspects of judicial administration:

(246) ● Russell Wheeler and Howard Whitcomb, Chapter VI, "The Literature of Judicial Administration: A Bibliographical Essay," in JUDICIAL ADMINISTRATION: TEXT AND READINGS (Prentice-Hall, 1977)--an annotated bibliography covering all areas of judicial administration. This work is more current than, but not as complete as, another bibliography by the same authors, and same title, in 1974 ARIZONA STATE LAW JOURNAL 689 (1974).

(248) ● Fannie Klein (ed.), THE ADMINISTRATION OF JUSTICE IN THE COURTS, 2 vols., (Oceana Publications, 1975)--provides summary descriptions of literature in a broad range of judicial administration and judicial process subjects, including one volume devoted specifically to criminal justice.

(249) ● NCSC, AN ANNOTATED BIBLIOGRAPHY 1971-1977 (1978) lists the numerous publications issued by this organization, principally dealing with all aspects of state court operations.

(250) ● Mary Lu Wood and Roberta Kast, COURT STUDIES: AN ANNOTATED BIBLIOGRAPHY (AJS, 1976)--a list of court studies by public and private organizations, arranged by state, and cross-referenced in the index by subject.

(251)

● John Ferry (ed.), PUBLICATIONS OF THE NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE: A COMPREHENSIVE BIBLIOGRAPHY (NCJRS, 1978)--Although NILECJ has sponsored research in many areas other than courts, this bibliography will be of some assistance in identifying court related research.

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● Dorothy Nelson, JUDICIAL ADMINISTRATION AND THE ADMINISTRATION OF JUSTICE (West, 1974)--While not a bibliography, this law school casebook provides extensive citation to the legal literature in judicial administration.

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● For very specific analyses of substantive problems in courts, the reports of the American University Courts Technical Assistance Project provide material on a broad variety of judicial administration topics. Lists of reports may be obtained from, and requests for individual reports should be directed to, American University Courts Technical Assistance Project, 4900 Massachusetts Avenue, N.W., Washington, D.C., 20016.

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