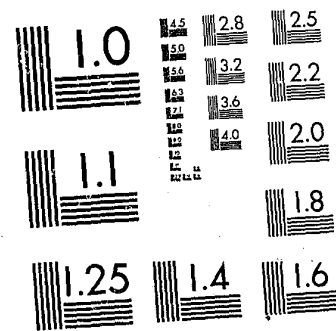


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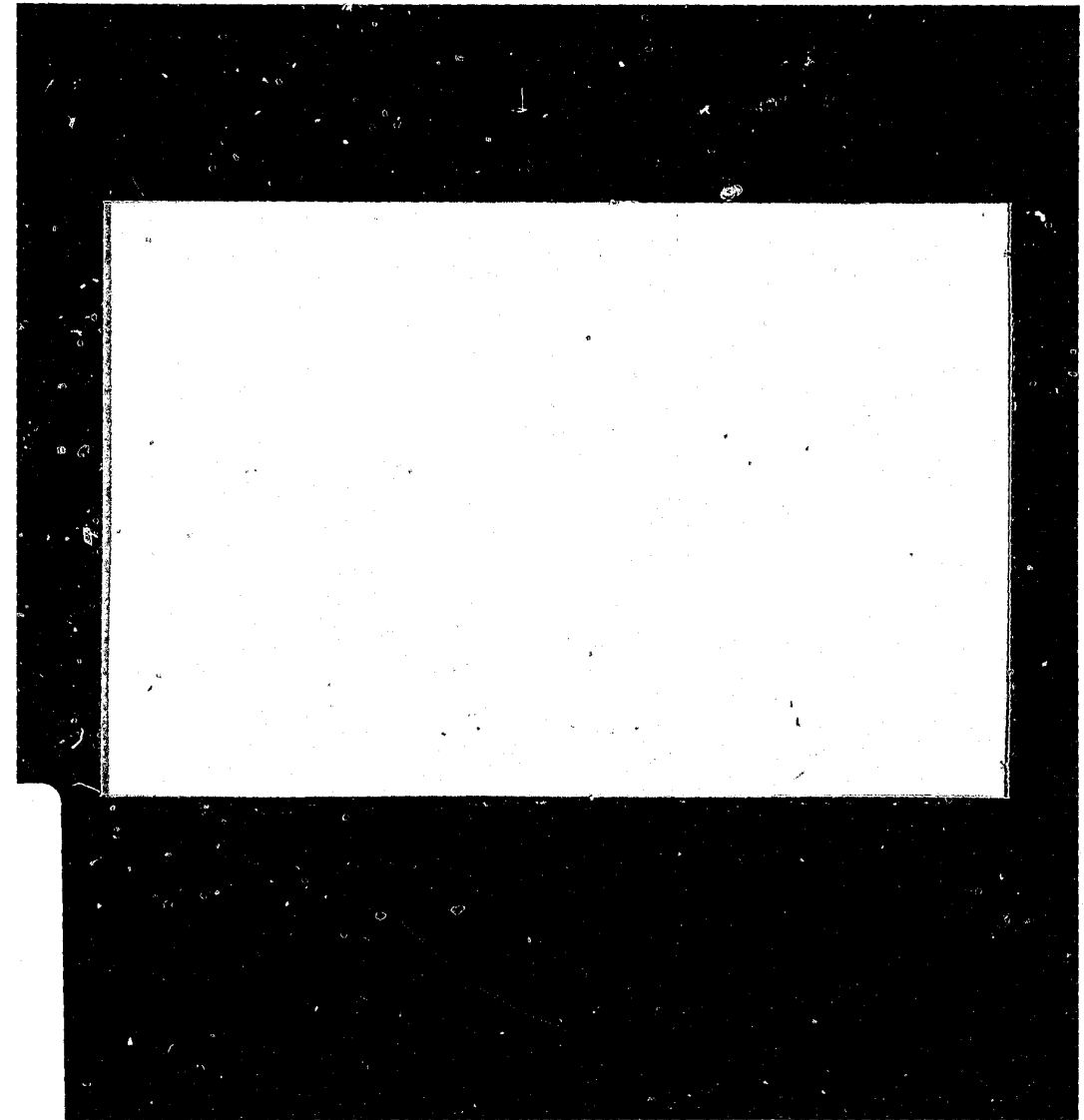
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VOLUME AND DELAY IN THE
ILLINOIS APPELLATE COURT
FIRST DISTRICT

A Staff Study

NERO-058

by

John A. Martin

and

Elizabeth A. Prescott

A Publication of
Appellate Justice Improvement Project
Northeastern Regional Office
NATIONAL CENTER FOR STATE COURTS
The Volume and Delay Staff Study Series
Series Editor: Michael J. Hudson,
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The National Center for State Courts is a nonprofit organization dedicated to the modernization of court operations and the improvement of justice at the state and local level throughout the country. It functions as an extension of the state court systems, working for them at their direction and providing for them an effective voice in matters of national importance.

In carrying out its purpose, the National Center acts as a focal point for state judicial reform, serves as a catalyst for setting and implementing standards of fair and expeditious judicial administration, and finds and disseminates answers to the problems of state judicial systems. In sum, the National Center provides the means for reinvesting in all states the profits gained from judicial advances in any state.

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The following is one in a series of eleven reports focusing on the problems of volume and delay in appellate courts. These reports are the product of an extensive data collection effort undertaken by the Appellate Justice Improvement Project in June-August, 1978, as part of its national examination of these problems.

Though each of these reports addresses the problems and procedures of a particular court, the authors wish to point out that there were in fact many factors common to all the courts examined, and several similar, if not identical problems. In view of these mutual concerns, and because the data from each of the courts were subject to the same mode of analysis, some of the factual explanations made and conclusions drawn in any one report may appear in others.

The authors wish to acknowledge the following persons, who provided assistance and contributed generously of their expertise during both the data collection effort and the writing of this report: Judge Robert Downing and Mr. Lee March, Administrator. We would also like to thank the members of the Advisory Board, who reviewed the draft reports and offered guidance and direction; Dr. Jerry Goldman, who contributed substantially to the design and focus of the report; Mr. Nick Demos, for his support and encouragement of the research effort; and Mr. Sam Conti, for his supervision and advice during the writing of this report. We wish to thank Drs. Barry Mahoney and Steven Weller, former directors of this project, whose work in Phase I determined in large part the scope of the project and this report. Our special thanks to Glora Colson, who typed the numerous drafts of this report cheerfully and diligently.

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STAFF STUDY: THE ILLINOIS APPELLATE COURT, FIRST DISTRICT

PREFACE

In this report the staff of the National Center for State Courts' Appellate Justice Project present information and offer some related conclusions concerning the operation of the Illinois Appellate Court, First District. While this report's primary concern is the Illinois appellate system, it should be viewed as but one product of a comprehensive research, evaluation, and technical assistance effort designed to help reduce delay in state appellate courts throughout the United States.

The National Center for State Courts, in response to the need for knowledge of and solutions to the problems of delay in state appellate courts, has initiated this nationwide appellate justice project. The project staff have undertaken a variety of tasks, all of which are designed to provide substantive information about the sources and severity of delay in state appellate courts, and to lead to specific recommendations or solutions to the delay problem. These tasks include an extensive review of the literature on problems of volume and delay in appellate courts and proposed solutions to those problems¹ and a bibliography of literature on the appellate process.²

¹This review has been published by the National Center in a monograph entitled Volume and Delay in State Appellate Courts: Problems and Responses.

²Bibliography: State Appellate Court Workload and Delay, by Thomas B. Marvell (National Center for State Courts, April 1979).

In addition, the project staff have established demonstration programs designed to test and rigorously evaluate solutions to the problems of volume and delay in four diverse appellate jurisdictions.³ Staff have also collected data from court records of the First District and ten other state appellate courts across the country.⁶

Finally, technical assistance has been initiated in several state appellate courts. Included in this general technical assistance effort are the preparation of state reports for the eleven jurisdictions that were the data collection sites.

No two jurisdictions are exactly alike in the makeup and operation of their appellate court systems. Appellate courts obviously serve different populations; they are faced with different case loads; they operate under different state constitutional and statutory provisions and rules of procedure. In spite of these and other differences, appellate courts are often challenged by similar problems and can benefit from an understanding of operations in other jurisdictions. Consequently, the materials presented in this report should be useful not only to the First District but to appellate courts in general.

³California First District Court of Appeal; Colorado Court of Appeals; Connecticut Supreme Court (two demonstrations); Rhode Island Supreme Court.

⁴Colorado Court of Appeals; Florida Supreme Court; Florida Court of Appeal, First District; Indiana Court of Appeals; Montana Supreme Court; Nebraska Supreme Court; New Jersey Superior Court, Appellate Division; Ohio Court of Appeals, Eighth District; Oregon Court of Appeals; and Virginia Supreme Court.

INTRODUCTION

During the past two decades judges, court administrators, attorneys, litigants, members of the general public, and academic observers have all noted a dramatic increase in volume and delay in state appellate courts. Observers have indicated that in many jurisdictions the problems of delay have reached a critical level: average case processing times in appellate courts in many jurisdictions, for example, are no longer spoken of in terms of days, but rather in terms of months and years. Commentators have differed in their assessments of the specific impact appellate delay has on litigants, judges, and court personnel, but nonetheless they generally agree that court delay, in some jurisdictions, is dangerously compromising if not jeopardizing the quality of justice available to citizens.

Even though the problems of delay are for the most part clearly perceived, their causes are still primarily a matter of speculation and conjecture. In addition, while state court systems have offered numerous solutions in an effort to alleviate delay problems, the solutions remain largely untested and their effects largely unknown.

The purpose of this report is to present and summarize empirical information obtained during the project and, when supported by the information, to state specific conclusions. This report with its information and conclusions may serve also as a reference document for future court improvement. Any such

improvement efforts may be by First District personnel alone or in conjunction with a technical assistance effort, tailored to the specific needs and wishes of the court by the staff of the Appellate Justice Project. In this report two types of information have been used as a basis for conclusions. The first type of information is descriptive information concerning court rules and procedures, acquired through site visits to the court. The second type of information is quantitative data which describe the court's caseload in terms both of case characteristics and time lapse information on case processing in the court. ("Case characteristics" include case subject matter, type and number of parties, attorneys, and type of judgment or order appealed from.) The quantitative data were derived from a systematic sample drawn from the court records of 519 cases from the years 1975 and 1976. The years 1975 and 1976 were selected to insure that most of the cases included in the sample would have been disposed of, and hence would include complete time lapse data, at the time of the data collection in 1978.

In the report we have relied heavily on statistical information drawn from the sample of cases from the court's records. For individuals new to statistical and social science terminology, examination of statistics-based information can be a confusing experience. Consequently, we have kept reference to statistical terms at a minimum. In those instances where statistics are necessary, they have been expressed in simplified

terms. For those more familiar and comfortable with the language of statistics, we have included more extensive statistics-based discussions in accompanying Appendices.

Section 1 begins with a brief summary of previous literature which has suggested how the problems of delay should be addressed. This is supplemented by a general analytic framework presented in Appendix A. In Section 2 a general overview of the First District's court rules, procedures and resources is provided. Section 3 presents descriptive data on case processing time in the court, and summarizes the sources of case processing time delay. The fourth section of the report presents general conclusions for the court's consideration.

SECTION 1

ASSESSING APPELLATE COURT DELAY

A Summary of the Literature

Previous studies have dealt extensively with the sources of delay in appellate courts and courts in general. These studies have suggested a myriad of responses available to courts challenged by expanding caseloads and unacceptable case processing times.

Although the scope of prior efforts to identify the sources of delay has varied, the conclusions of these studies have, for the most part, isolated three causes:

- 1) Caseload; i.e., appellate courts simply do not have the personnel or resources to keep up with increasing case volumes;⁵
- 2) Inefficiency; i.e., judges and other appellate court personnel do not use their time effectively. Courts are poorly organized and inadequately administered. Even if appellate court resources were increased, litigants would still encounter

⁵ See, for example, Carrington, Meador, and Rosenberg, Justice on Appeal, (St. Paul, MN: West Publishing Co., 1976); "Alabama Appellate Court Congestion: Observations, and Suggestions from an Empirical Study," Alabama Law Review, Vol. 21 (1968) p. 150; Baker, Watkins, Lardy, "Appellate Court Reform," Mississippi Law Journal, Vol. 45 (1974) p. 121; Paul D. Carrington, "Crowded Dockets and the Courts of Appeal," Harvard Law Review, Vol. 52 (1969) p. 542; Cartwright, Friedman, and Wheeler, "The Business of State Supreme Courts," Stanford Law Review, Vol. 30 (1977) p. 121; "Judicial Statistics of State Courts of Last Resort," Journal of the American Judicature Society, Vol. 31 (1947) p. 116; and Albert Tate, Jr., "Containing the Law Explosion," Judicature, Vol. 56 (1973) p. 228.

substantial case processing time delays;⁶ and

- 3) A combination of both groups 1 and 2 above. There are too many cases, courts lack sufficient resources and are poorly organized and administered.⁷

As might be expected, solutions suggested by authorities to the problems of delay and volume are directly related to those authorities' perceptions of the sources of appellate court delay. For those who maintain that increased case volume is the primary source of delay, solutions emphasize devices designed to reduce the judicial workload. These solutions include increased numbers of judges and support personnel available to the court; establishment of separate appellate courts for criminal and civil cases; intermediate courts to

⁶Proponents of this position include: Harry Jones, (ed.), The Courts, the Public, and the Law Explosion, Englewood cliffs, N. J.: Prentice-Hall (1965); Ziesel, Kalven, and Buchholz, Delay in the Court, Boston, MA: Little Brown (1959); "Appellate Case Management and Decisional Processes," Virginia Law Review, Vol. 61 (1975) p. 225; R. E. English, "Crisis in Civil Appeals," Chicago Bar Record, Vol. 50 (1969) p. 231; Donald Hunter, "Riding the Circuit: Indiana Probes Delay," Judicature, Vol. 59 (1975-76) p. 18; Jacobson and Schroeder, "Arizona's Experiment with Appellate Reform," American Bar Association Journal, Vol. 63 (Sept. 1977) p. 1226; Robert Lefler, "Appellate Judicial Innovation," Oklahoma Law Review, Vol. 27, (1974), p. 321; Kenneth J. O'Connell, "Streamlining Appellate Procedures," Judicature, Vol. 56 (1973) p. 234; Sulelan and Spencer, "Constitutional Relief for an Overburdened Court," William and Mary Law Review, Vol. 8 (1967) p. 244; Editorial, "Ways to Relieve Appellate Court Congestion," Judicature, Vol. 56 (1973) p. 94; and K. C. Todd, "Appellate Delay in the Criminal Courts of Texas," Texas Bar Journal, Vol. 37 (1974) p. 454.

⁷Examples of this position are numerous. Comprehensive assessments include: Osthus and Shapiro, Congestion and Delay in State Appellate Courts (Chicago, IL: American Judicature Society, 1974); John Reed, The Applications of Operations Research to Court Delay, (New York: Praeger Publishing, 1973); the results of a symposium, "Judges on Appellate Reform," UCLA Law Review, Vol. 23 (Feb. 1976), pp. 419-500; and Richard Record, Jr., "Remedies for Backlog in the Appellate Court of Illinois," Illinois Bar Journal, Vol. 62 (1973), p. 82.

lessen the burden on courts of last resort; increased court control of the caseload by implementing selective review through certiorari; reduced opinion and brief lengths; and the issuance of memorandum opinions and oral decisions, i.e., decisions from the bench.

Proponents of the view that appellate court delay is the result of poor court organization and administration generally suggest that courts should concentrate on such efforts as employing central staff review procedures; developing computerized recordkeeping systems; developing screening systems and alternative dockets for separating error correcting cases from cases dealing with fundamental legal questions; and implementing systems of centralized court administration.

Although judges and other persons involved in appellate courts are aware of most of these suggested solutions, previous literature on appellate delay offers few guidelines to help them determine how severe the delay problem may be in a particular court, what the sources of its delay problem are, how solutions may work given the dynamics of the court, and how the solutions can be implemented and ultimately evaluated.

Before presenting a framework designed to respond to these problems it is necessary first to discuss briefly how "delay" is defined in this report.

Appellate Court Delay: A Definition and Perspective

To define delay and in turn to identify its causes, one must first define and measure case processing time. Case processing time is defined and measured in this study as the number of days that elapse between judgment in the initial forum, usually a trial court, and the date of the issuance of a final mandate by the appellate court. It should be noted that this is not the interval which the courts themselves tend to regard as the appellate case processing time; they customarily measure from the time of the filing of the appeal, which usually comes after the judgment or order below, to the time of the release of the opinion, which often precedes the issuance of a final mandate. However, this study uses a more comprehensive time frame because it represents the total time the litigants are involved in the appeal and thus is the basis by which they assess appellate delay. In addition, a comprehensive time frame emphasizes the importance of viewing the appeals process as a comprehensive system whose efficient operation is dependent on the actions of a variety of actors--lower court judges and clerks, who often control the preparation of records; attorneys; appellate court judges and their staff; and, where applicable, supreme court judges and their support personnel.

The determination of whether a given case processing time is acceptable or not (whether or not that amount of case

processing time constitutes "delay") is largely a perceptual matter. A year to complete an appeal may be acceptable to some actors in a particular jurisdiction but not to others, or may be acceptable in one state but not in another. More objective criteria for determining the acceptability of case processing time, however, are available and have been used in this study. These standards are the First District's rules governing time requirements for accomplishing the steps in an appeal and the standards advanced by the American Bar Association.⁸

Once a determination has been made that delay exists, the next step is to identify the causes of delay. In approaching this problem the project staff have recognized that case processing time is a function of a large number of interactions among the organizational aspects of a court, the cases filed in it, and the activities of the persons in that court. To organize the analysis of these various factors and their effects on case processing time, the staff have developed a general conceptual framework of the appeals process.⁹ This framework has been applied in producing the description of the Illinois appellate system which is presented in Sections 2 and 3.

⁸ American Bar Association Commission on Standards of Judicial Administration, Standards Relating to Appellate Courts, (Chicago, IL: American Bar Association, 1977); Illinois Supreme Court Rules.

⁹ A detailed description of this framework is presented in Appendix A.

SECTION 2

THE APPELLATE COURT SYSTEM: AN OVERVIEW OF THE ILLINOIS APPELLATE COURT, FIRST DISTRICT

This section of the study presents a brief overview of the structure, resources, caseload, and procedures of the Illinois Appellate Court, First District. This is done in order to provide a description both of the general appellate court environment and of how the First District has responded to the demands of that environment by adopting specific rules and procedures. This section also discusses the relation of case characteristics to case processing times.

The Illinois Appellate Court has jurisdiction over all appeals from final judgment of the circuit courts, except where such judgments are directly appealable to the Supreme Court (primarily constitutional questions and death penalty cases). Additionally, the Appellate Court reviews administrative agency actions. Its decisions are reviewable by petition for certiorari to the Illinois Supreme Court.

The Illinois Appellate Court is divided into five geographic districts, the First District encompassing Cook County and the City of Chicago. The First District is further divided into five divisions. These divisions operate fairly autonomously; the presiding judge of each division has wide discretion in a number of areas. The court as a whole is governed by an Executive Committee consisting of one representative from each division. The court has twenty members, four judges per division.

In the years from which this sample was taken, there were 1942 (1975) and 1731 (1976) appeals filed. The appeals-per-judge ratio in 1975 was 97:1, and in 1976 was 86:1, quite low in comparison with the other ten appellate courts examined in the Appellate Justice Improvement Project.

THE PRE-DECISION PHASE

Procedure

Notices of Appeal must be filed, by rule, within 30 days of the entry of judgment in the circuit court. The appellate court may extend the time to file the notice for an additional 30 days if good cause is shown. Notices of Appeal are forwarded to the clerk of the Appellate Court, but no action is taken to docket the case at that point.

The appellant's attorney notifies the trial court clerk of the portions of the record needed on appeal by filing a praecipe in that court. (The record here refers to the trial court, or "common law," record.) If necessary, the court reporter is instructed to prepare the transcript, referred to as the Report of Proceedings.

That transcript is due in the trial court within 49 days after the filing of the Notice of Appeal. However the trial court can extend that time by an aggregate of 42 days, which is the general practice. Any further extensions of time must be sought from the Appellate Court.

The Appellate Court docket the case upon the filing of the record in that court, by rule within 63 days of the filing of the Notice of Appeal. The record in this instance usually includes the transcript, but may consist only of the "short record" (the order appealed from) if the time allowed is expiring.

Once the record is filed, the briefing schedule is set. The appellant's brief must be filed within 35 days after the filing of the record. The appellee's brief is due 35 days thereafter. Within 14 days of this filing, the appellant may file a reply brief if he so chooses. In addition, the appellant must file an abstract of the record with the appellate court within that time.

Problems in the Processing of Appeals in the Pre-Decision Phase

An apparent cause of substantial delay in the First District is the lack of timely filing of transcripts. As noted above, the appellant's attorney and the trial court are respectively responsible for ordering the transcript and monitoring its preparation. Also, the trial court is allowed to approve motions for time extensions up to 42 days. Building in this much potential for delay at an early stage of the appellate process can have a substantial impact on the total case processing time. A second problem at this stage is revealed by the data collected: there is a substantial delay in the filing of briefs.

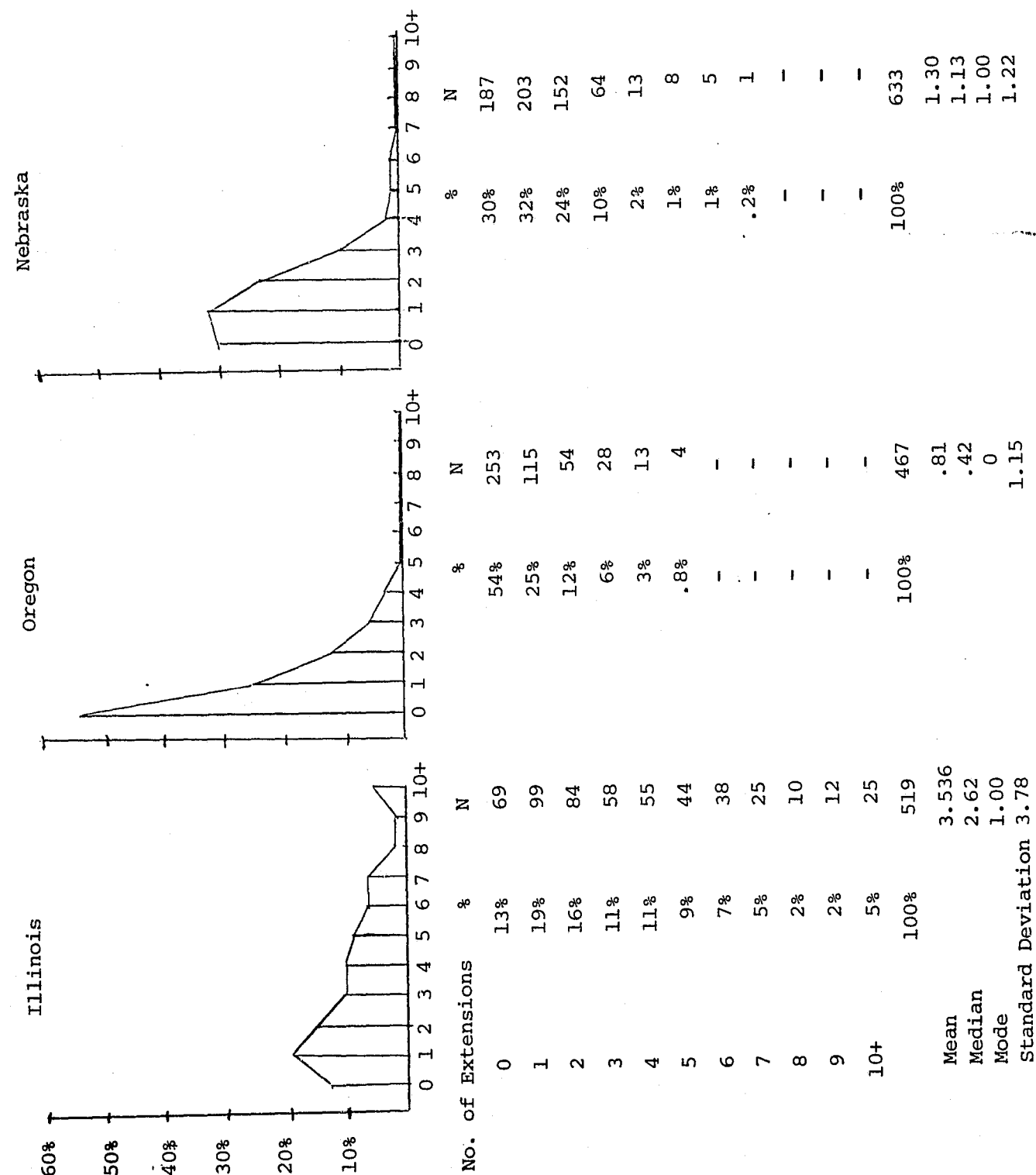
Motions

Disposition of motions reviewed by the First District is at the discretion of the presiding judge of the division to which the case is assigned. Thus, given the relative autonomy of the divisions, implementation of a court-wide policy on time extension motions would be quite difficult.

The data reveal the effects of the split of authority over motion disposition, first between the trial and appellate court, then among the five presiding judges. On the average, 3.53 time extensions were requested per appeal. Those extensions were granted 98.5% of the time. The Illinois extension request rate is substantially higher than the request rates in the ten other courts examined in the Appellate Justice study. Rates for these other courts ranged from a low of .81 requests per case in the Oregon Court of Appeals to a high of 2.50 in the Colorado Court of Appeals. The rates in the remaining courts averaged between 1 and 2 requests per case. Table 2-1 compares the distribution of time extension requests for the First District, the Oregon Court of Appeals, and the Nebraska Supreme Court.

The Oregon court was selected for inclusion in the table because it was both the fastest court in terms of total case processing time and the court with the lowest extension request rate. The Nebraska court represents the average court in

TABLE 2-1
NUMBER OF TIME EXTENSION REQUESTS



terms of both. The distributions presented in Table 2-1 clearly illustrate a strong tendency for multiple requests for extensions per case in Illinois as compared to Oregon and Nebraska. For example, 68% of all the cases in the Illinois sample included more than one time extension request. Only 21% of the Oregon cases and 38% of the Nebraska cases had more than one. Moreover, 52% of the Illinois cases had more than two time extension requests compared to only 9% in Oregon and 14% in Nebraska.

It is difficult to determine the specific reasons why the distribution pattern for the First District differs so noticeably from the patterns in other courts. One could speculate that the high request rate in Illinois reflects both formal and informal policies which stipulate that trial court judges have the authority to grant extensions for filing transcripts, thus limiting the direct control of the First District over its caseload during the predecision phase, and that the First District will routinely grant time extensions for filing briefs. The source of both of these policies might be a perception on the part of the court that it could not hear cases promptly after all materials had been filed anyway, so extensions are routinely granted. These hypotheses are explored in greater detail in Sections 3 and 4.

Staff Attorneys

The First District was one of four courts that participated in an earlier National Center project on the use of central staff. Use of staff attorneys has continued to the present. At the current time, they are primarily responsible for the preparation of draft "Rule 23" dispositions (i.e., disposition by order, where an opinion would have no precedential value). Incoming cases are screened by the head of the central staff unit. He selects appeals for processing, in some cases with, in some without the concurrence of the division.

THE DECISION PHASE

Panel Structure

As previously mentioned, the court is divided into five divisions, each composed of four judges. Each division is headed by a presiding judge. Cases are heard and disposed of by three-judge panels which rotate on a case-by-case basis.

Inevitably, when a court sits in divisions or panels there will be conflicts concerning the resolution of particular issues. Divisional conflicts have occurred in the First District, and there is at present no mechanism to resolve such conflicts. The Illinois Supreme Court is not required to resolve conflicts within a district, only conflicts between districts, and has apparently denied certiorari in some cases which raised intra-divisional conflict as grounds for appeal.

Case Assignment

Upon docketing, cases are randomly assigned by computer in the clerk's office to a division. The presiding judge of that division then systematically assigns them to particular judges and selects the two other judges who will sit with the assigned judge to decide the appeal.

The assigned judge has primary responsibility for preparing the case prior to oral argument. Some of the judges ask their law clerks to prepare pre-argument memoranda, for circulation to the other judges. The assigned judge normally reads the entire record, and the other two judges rely on the abstract. All of the judges read the briefs prior to oral argument.

Oral Argument

Each of the divisions is assigned the courtroom one day per week to hear arguments and handle emergency matters. Four or five arguments are scheduled each day. Attorneys are allowed 30 minutes; whether or not the full time allowed is used apparently varies from attorney to attorney. Attorneys may waive oral argument, but in practice seldom do so.

Decisions and Opinions

After argument, a panel conference is convened and a vote taken. If the assigned judge is in the majority, he will write the majority opinion. If not, the other two judges will reassign the case between themselves. All opinions of the Appellate

Court are published. The average opinion length in the court is over six pages, quite long in comparison with the other courts examined (see Table 2-2). Some 47% of all opinions are six or more pages in length.

Post-Decision Process

Supreme Court Rule 315 provides that, if no petition for rehearing is filed in the Appellate Court, an attorney has 56 days from the entry of judgment in that court to file a petition for leave to appeal in the Supreme Court. If he has filed a petition for rehearing, he has 35 days from the denial of that petition, or entry of judgment resulting therefrom, to appeal to the Supreme Court. Mandates are, in general practice, not issued until the expiration of this time.

Characteristics of the First District's Caseload

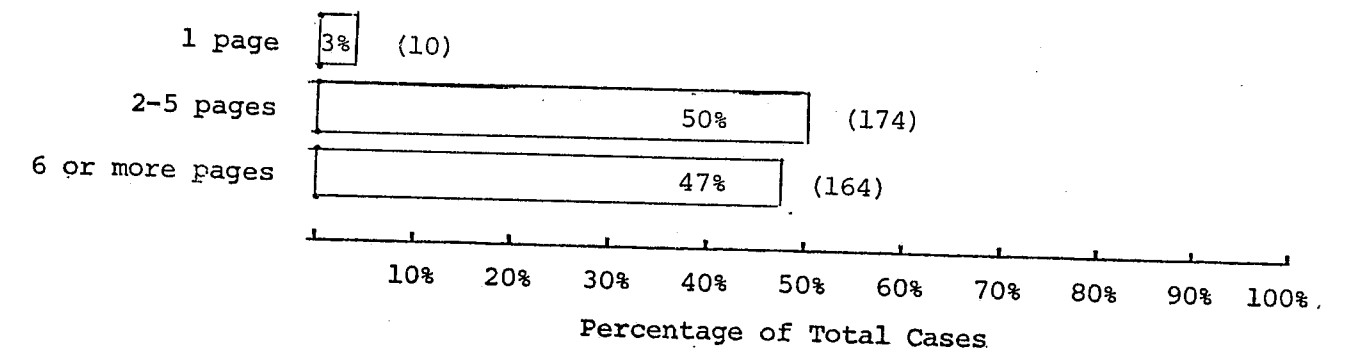
During the first phase of the Appellate Justice Improvement Project, the relationships between case characteristics and case processing time were examined in depth.¹⁰ The results of this analysis revealed that, for the most part, there were no significant relationships between case characteristics and case processing time--cases did not systematically vary in case processing time on the basis of particular categories which describe case characteristics. Specifically, we found no significant variation between case processing time in the

¹⁰See, Steven Weller, John Martin, and Elizabeth A. Prescott, Volume and Delay in Appellate Courts: Some Preliminary Findings from a National Study, National Center for State Courts, May, 1979 (unpublished).

different categories which described the type of appellants and appellees involved in the case, the type of attorneys, the subject matter, the issues raised as grounds for appeal, or the source of the appeal. These findings led us to the general conclusion that differences in case processing time are attributable more to differences in the general court environment, procedures, and how the procedures are followed,

TABLE 2-2
PAGE LENGTH OF MAJORITY OPINION

Majority Opinion Length:



Average opinion length 6.2 pages.

Total 100% 348

Source: 348 cases out of 519 cases in which page length of majority opinion data were available.

rather than to identifiable differences in the nature of the cases themselves.

The bulk of the court's caseload--as indicated in Table 2-3 --is appeals from trial court judgments. Approximately one-fifth of these were jury trials.

Civil appeals constituted 49% of the total caseload, commercial, property, and injury cases being most common. The remaining 51% of the caseload were criminal appeals, principally robbery, burglary, assault and theft cases. Murder and manslaughter cases, representing 25% of the total criminal caseload, appeared much more frequently in this appellate court than in other courts examined in the study.¹¹

Private attorneys represented over one-half of all the litigants in the First District. The public defender's office represented 35% of all the appellants, and the attorney general's office represented 47% of all appellees, making those offices significant forces in the Illinois appellate system.¹²

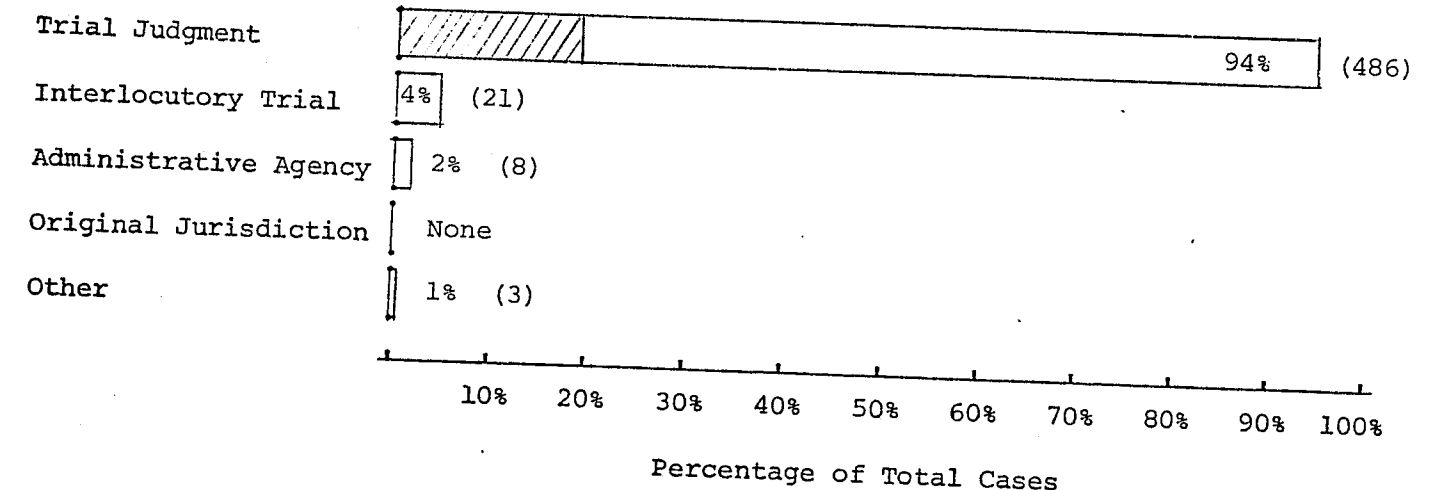
Table 2-4, which presents information on the frequency of cases which involve procedural complications, reveals that very few cross-appeals, intervenors or amicus curiae briefs appeared on the court's docket.

¹¹See Appendix B for a detailed breakdown of the subject matter of cases in the sample.


¹²See Appendix C for a detailed breakdown of the types of attorneys in the Illinois court.

TABLE 2-3
SOURCE OF APPEALS

Appeal Source:



Total 100%, 518 cases

 Percent Jury Trials

Source: 518 cases out of 519 cases in which source of appeals data were available.

TABLE 2-4
CASE IRREGULARITIES

<u>Irregularity Type:</u>	<u>Percent</u>	<u>N</u>	<u>Total N</u>
Cross Appeal	4 %	23	511
Intervenors	2 %	8	510
Amicus Curiae	1 %	1	510
Consolidated Cases	15 %	76	519

In addition, Table 2-4 shows that 15% of the cases in the court were consolidated. This 15% consolidation figure seems especially high in view of the First District's relatively low number of case filings.

As noted above, prior analysis by the project staff has indicated that differences in case characteristics do not appear to relate directly and systematically to differences in case processing time. Therefore, the next two sections of this report emphasize the effects of structural features, procedures adopted by the First District, and other aspects of the appellate environment, rather than case characteristics, on case processing time.

SECTION 3

CASE PROCESSING TIME IN THE ILLINOIS APPELLATE COURT, FIRST DISTRICT

This portion of the report presents information concerning the length of time it took to process cases filed in the First District in the years 1975 and 1976, and compares this actual processing time with the court's own rules and the standards announced by the American Bar Association.

Table 3-1 and Figure 3-1 present a summary of the number of days required to process cases through the entire appellate system from lower court judgement to mandate in the First District. The data reveal that an average total of 649 days were required to process cases.¹³ In addition, the figures presented in Table 3-1 reveal that oral argument cases averaged a processing time of 721 days--somewhat longer than the 585 days that non-oral-argument cases averaged.

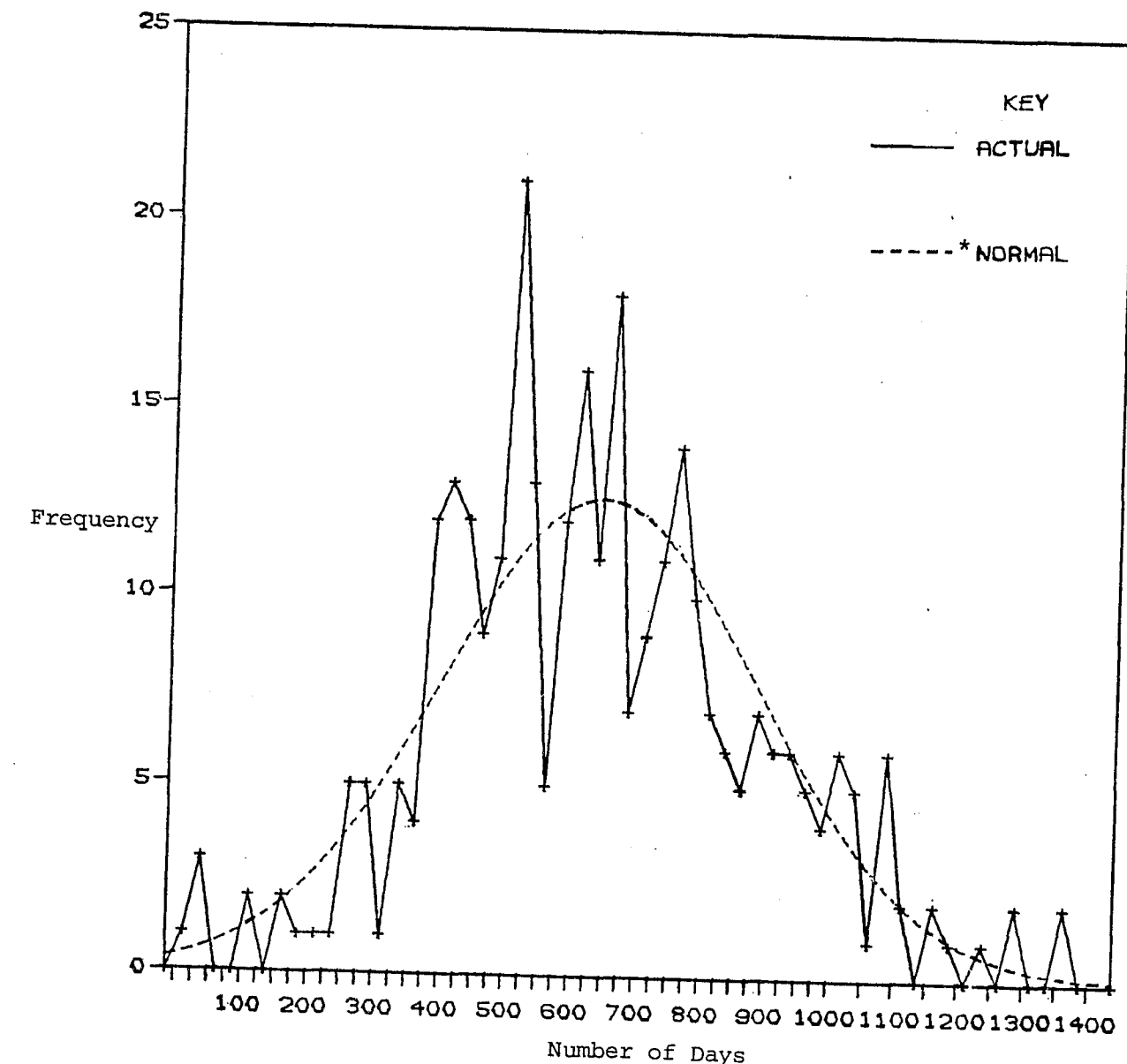
TABLE 3-1

TOTAL AVERAGE CASE PROCESSING TIME

Total Processing Time:	Mean	Median	Standard Deviation	N
All Cases	649 days	629 days	252	311
Oral Argument Cases	721 days	693 days	244	144
Non-Oral Argument Cases	585 days	560 days	259	166

¹³Complete statistical descriptions of the total time interval and all other intervals, are located in Appendix D.

Figure 3-1 Total Time:
Lower Court Judgment to Appellate Court Mandate



Descriptive Statistics

Valid Cases: 311

*The curve represented by a dotted line illustrates how a normal distribution of the data, given the mean and the standard deviation, would appear, and thus provides a model against which to compare the actual distribution. For a more detailed discussion, see Appendix D.

The total case processing time measure is useful because it can be viewed as a composite indicator of the appellate system's performance. The total case processing time average of 649 days in the First District is greater than the total case processing time averages of any of the ten other courts examined in this study. The comparatively large total time average cannot be attributed to case volume. The filings per judge in the First District during the data collection years were lower than those of most of the courts examined. These findings suggest that the system has some case processing problems and that case processing time can be improved.

There is also considerable total case processing time variability in this court system as evidenced by the 252 day standard deviation accompanying the 649 day average. For example, only 10% of the cases included in the sample were processed in under one year, while 25% were completed within 468 days after lower court judgment. Cases falling within the second quartile exhibited total processing times of between 470 and 615 days, while cases comprising the third quartile exhibited processing times ranging from 621 to 799 days. Cases at the upper extreme, the fourth quartile, took anywhere from 800 to 1452 total case processing days. In fact, over 10% of the cases exhibited elapsed times between lower court judgments and appellate court mandates of more than two and one-half years. Although the specific reasons for this substantial variation among cases

are undoubtedly numerous and difficult to identify, the data suggest that the Illinois Appellate Court's uniform time limits for preparing and filing case materials and deciding cases are subject to considerable interpretation on the part of attorneys, court personnel, and trial and appellate court judges.

Table 3-2 compares average case processing time for the different steps in the appeals process with the time requirements specified in the court rules and the standards established by the American Bar Association. The data reveal that the problems associated with the preparation and transmittal of documents to the First District have resulted in substantial disparity between actual processing times and these standards. In addition, problems with scheduling and hearing oral arguments and deciding non-oral argument cases have apparently led to substantial delays. Specifically, 79% of all cases processed exceeded the maximum time prescribed by the court rules of 177 days from lower court judgment to the filing of the last brief and/or the lower court record and transcript. Approximately 90% of the Illinois cases exceeded the ABA standard. In 87% of the cases, filing the appellant's brief took longer than the 128 days prescribed by the court rules. In 82% of the cases, filing the appellee's brief took longer than the 35 days specified by the court rules. In addition, well over 90% of all the briefs filed in Illinois exceeded the time limits suggest by the ABA.

TABLE 3-2
COMPARISON OF STEPS IN CASE PROCESSING TIME WITH
COURT RULES AND ABA STANDARDS, IN DAYS

	Mean	Median	Court Rule	% Cases above Court Rule	ABA Standards	% Above ABA Standards	N
<u>ALL CASES</u>							
Step 1: Trial Judgment to Materials Received	348	302	177	79 %	100 civil/ 80 criminal	88 % 91 %	360
Step 1A: Record Received to Appellant Brief	150	124	35	88 %	30 civil/ 20 criminal	93 % 96 %	359
Step 1B: Appellant Brief to Appellee Brief	100	81	35	82 %	30 civil/ 20 criminal	93 % 98 %	322
Step 1C: Lower Court Judgment to Transcript		Too few cases			Not Given	-	
Step 1D: Lower Court Judgment to Appellant Brief	313	264	128	87 %	Not Given	-	292
<u>ORAL ARGUMENT CASES</u>							
Step 2: Materials Received to Argument	159	145	Not Specified	-	Not Given	-	204
Step 3: Oral Argument to Decision	97	59	Not Specified	-	30 average/ 60 maximum	81 % 49 %	197
<u>NON-ORAL ARGUMENT CASES</u>							
Steps 2 & 3: Materials Received to Decision	197	163	Not Specified	-	30 average/ 60 maximum	95 % 91 %	276
<u>ALL CASES</u>							
Step 4: Decision to Mandate	113	83	Not Specified	-	Not Given	-	422

Major identifiable problems at the predecision stage of the Illinois appellate process include excessive transcript, record, and brief preparation time. Although complete transcript data were not available, judges in the court have indicated that timely transcript preparation was a major source of concern. Delay in preparing the transcripts and the lower court records undoubtedly accounted for some of the time between judgment and the filing of the appellant's brief. Clearly, attorneys would have difficulty trying to prepare briefs without having full information available concerning proceedings in the lower court. Excessive brief preparation time is probably not a result of attorneys preparing exceptionally long or complex briefs. On the contrary, as shown in Table 3-3, briefs filed with the First District are short and rarely exceed the page limits specified in the court rules. Figures 3-2 and 3-3 show considerable inconsistency in brief filing time. The reasons for this inconsistency are undoubtedly numerous. Nevertheless, the inconsistency clearly reflects a reluctance on the part of the court strictly to enforce the time limits specified in its own rules.

Data presented in Table 3-2 and Figure 3-4 reveal that, on the average, 159 days elapsed between the date when all materials necessary to hear a case--briefs, transcripts, and records--were filed with the court, and the date of oral argument. Step 2 is a waiting period: cases are ready to be

TABLE 3-3

BRIEF PAGE LENGTHS AND COMPARISON WITH COURT PAGE LIMITATIONS

Appellant's Brief			Appellee's Brief			Appellant's Reply		
Page Length	%	Number	Page Length	%	Number	Page Length	%	Number
1-10	19 %	66	1-10	18 %	55	1-10	58 %	109
11-20	43 %	150	11-20	39 %	119	11-20	34 %	64
21-30	22 %	75	21-30	22 %	69	21-30	5 %	9
31 & over	16 %	57	31 & over	21 %	64	31 & over	3 %	5
TOTALS	100 %	348	TOTALS	100 %	307	TOTALS	100 %	187
Missing Cases		171	Missing Cases		212	Missing Cases		332

Average Number of Pages
Court Limit on Page Length
% of Briefs over Court Limit

20.7
75P/100T*
0 %**

4 cases over 75 pages.
None over 100 pages.

Average Number of Pages
Court Limit, Page Length
% Briefs over Court Limit

22.4
75P/100T
0 %

5 cases over 75 pages.
None over 100 pages.

Average Number of Pages
Court Limit, Page Length
% Briefs over Court Limit

10.7
20P/27T
3 %

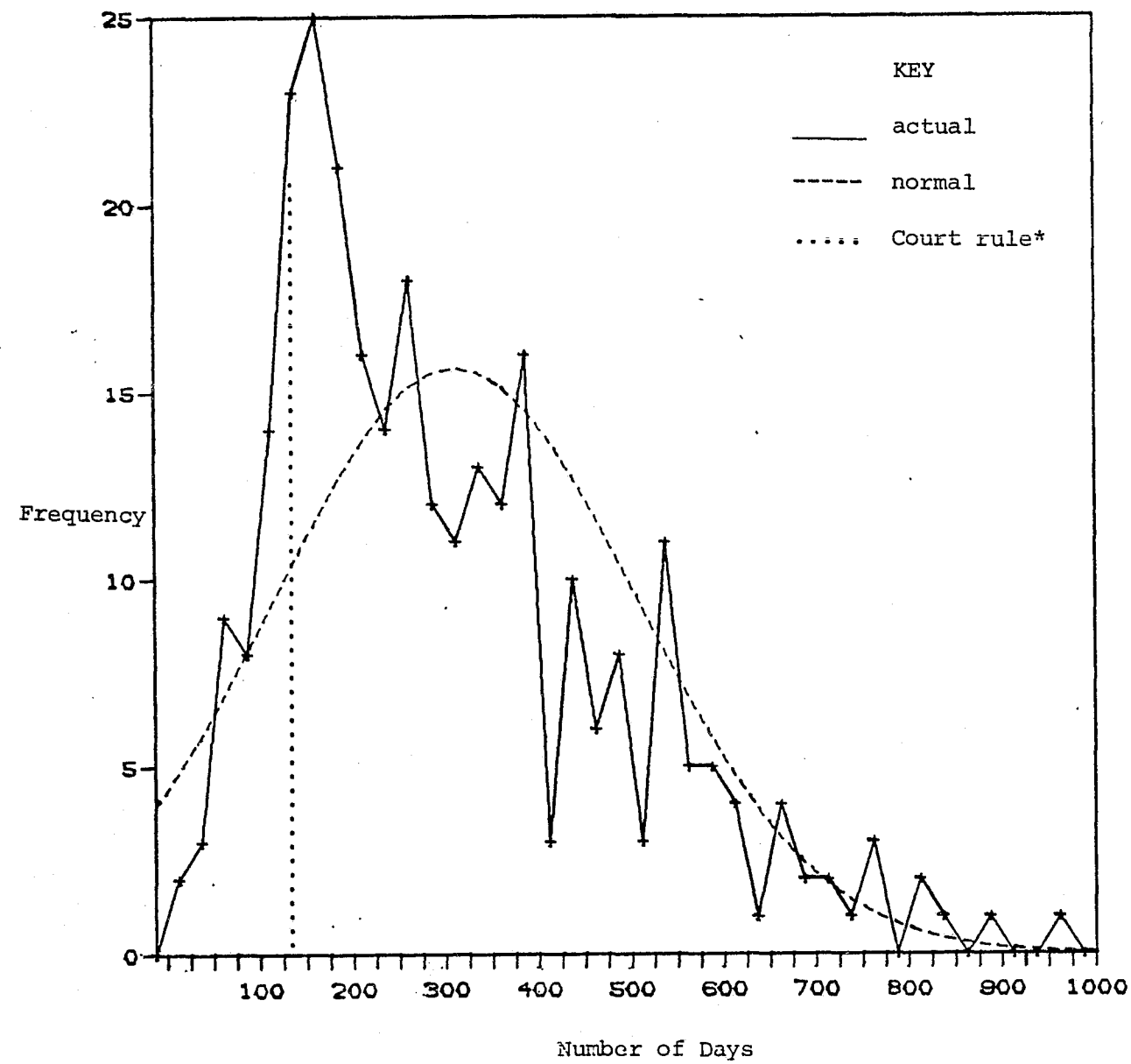
13 cases over 20 pages.
5 cases over 27 pages.

* P = Printed, T = Typed.

** 100 pages used to determine % of briefs over court limit.

Source: 348 cases out of 519 cases in which brief page lengths and comparison with court page limitations data were available.

Figure 3-2 (STEP 1D)
Lower Court Judgment to Filing of Appellant's Brief



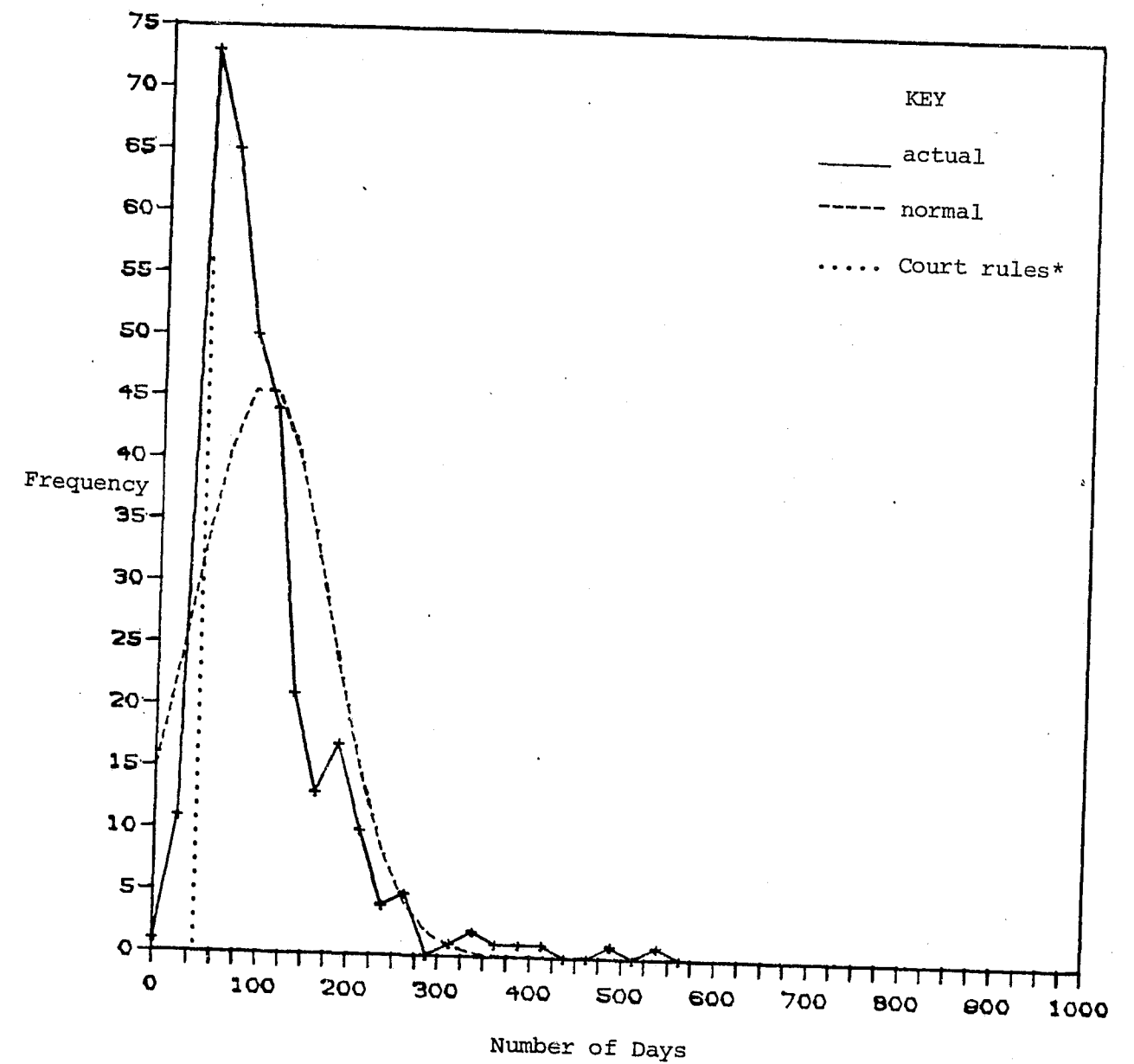
Descriptive Statistics

Valid Cases: 292

Mean 312.66 Median 264.50 Standard Deviation 195.44

*Court rules specify a time limit of 128 days.

Figure 3-3 (STEP 1B)
Appellant's Brief to Appellee's Brief



Descriptive Statistics

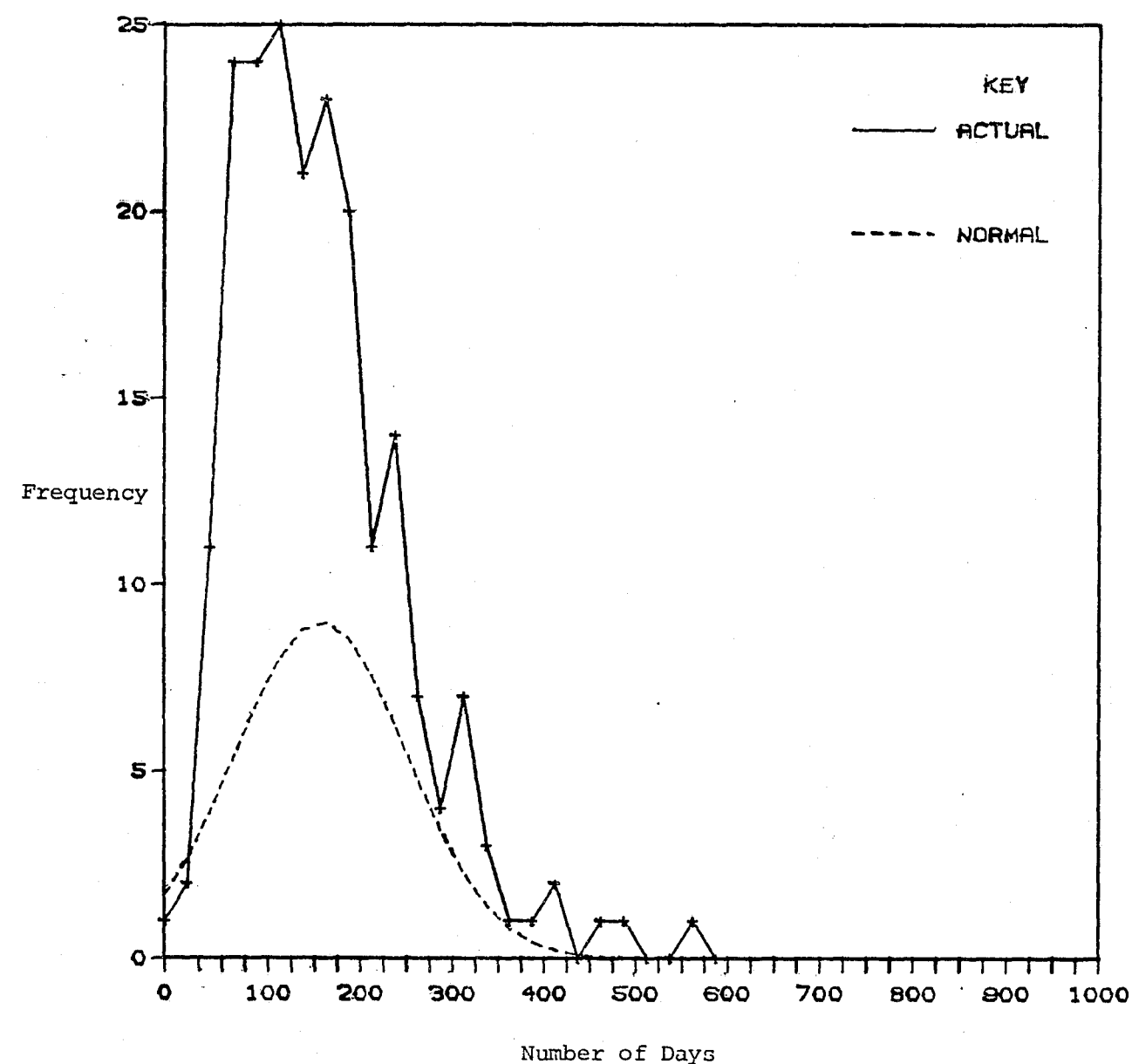
Valid Cases: 322

Mean 99.72 Median 81.00 Standard Deviation 74.53

*Court rules specify a time limit of 35 days.

Figure 3-4 (STEP 2)

Materials to Oral Argument



Descriptive Statistics

Valid Cases: 204

Mean 158.63

Median 145

Standard Deviation 92.25

heard. Compared to other courts included in this study, the average waiting time in the First District is relatively long. During the years from which the sample of cases used in this study were taken, it had a substantial backlog of "ready cases." The number of ready cases--those in which all materials necessary for oral argument had been filed--significantly exceeded the number of cases the court was able to hear, given the number of sitting judges and their work habits. For example, in 1976 there were 1731 new cases filed with the First District (87 per judge) but only 828 opinions written (41 per judge). Even assuming substantial "fall out" through dismissals, this ratio of filings to opinions would almost certainly result in a case backlog, which would increase with each passing year. The negative effects of the opinions to filings ratio would be reflected in the large backlog of "ready cases" and the correspondingly large waiting time average. Consequently, one can conclude that the large case backlog in this appellate system is a serious problem and a significant source of case processing delay.

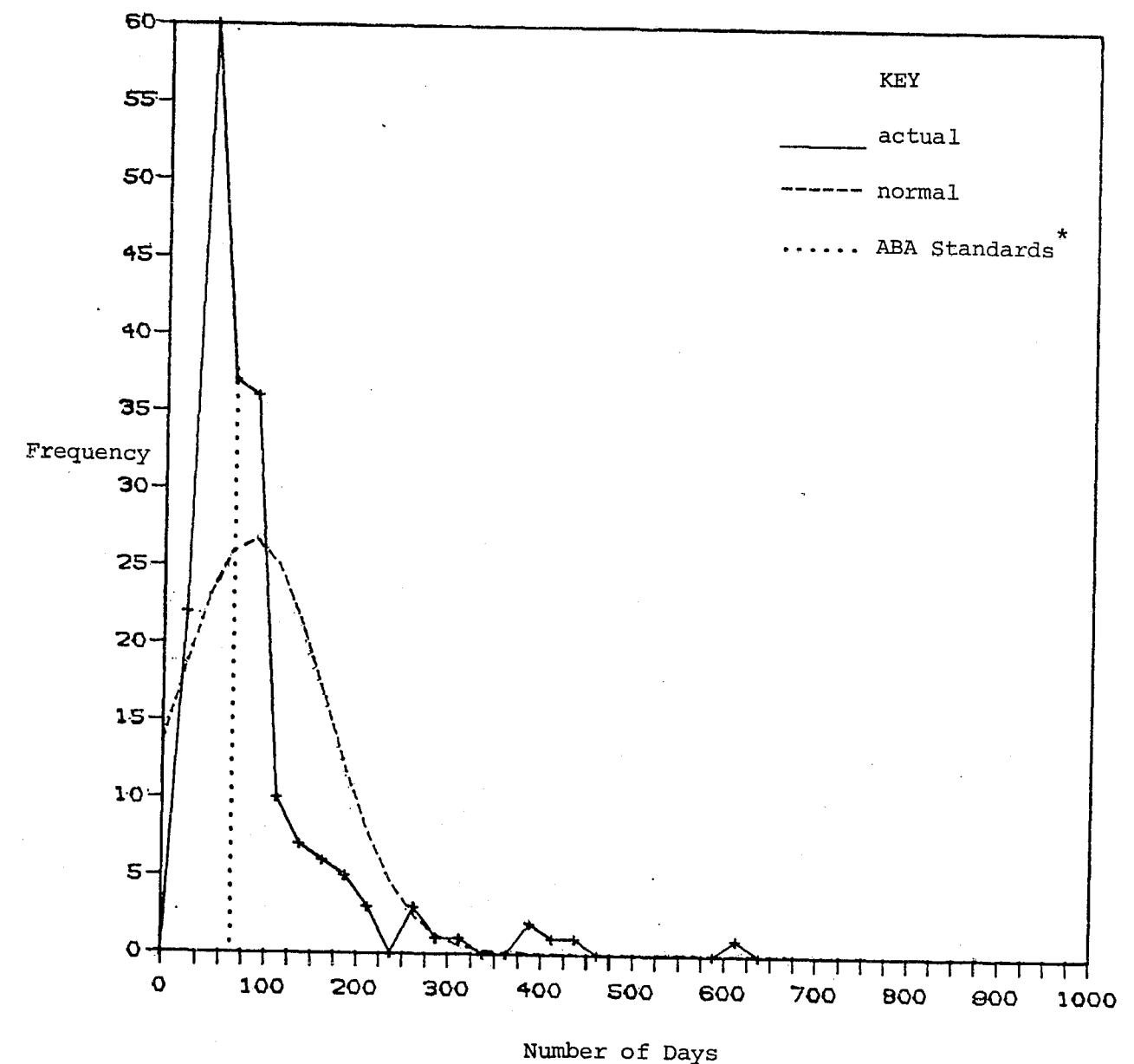
In addition, the relatively long wait between materials filing and oral argument probably has serious secondary effects. For example, the court's backlog of ready cases may indirectly account for a sizable portion of the excessive materials preparation time noted previously. Attorneys, court

reporters, and trial court clerks might be reluctant to prepare and file promptly necessary materials due to their perception that the case would not be heard immediately because of the First District's scheduling procedures. Non-compliance with filing requirements would in turn make scheduling even more difficult for the First District clerk. The net result of this vicious circle would be the generally excessive waiting period indicated by the data.

The First District has no guidelines specifying how fast cases should be decided after oral arguments have been heard. The ABA standards, however, do provide some guidance. Data presented in Table 3-2 and Figure 3-5 for the decision phase (Step 3) reveal that only 19% of all oral argument cases had decisions announced in a period of thirty days or less after oral argument, while only 51% were completed within the sixty day maximum time period established in the ABA standards, and only 72% of the cases were decided within 90 days after oral argument; 83% were decided within 120 days, or double the ABA maximum standard.

The percentage of cases falling within the sixty day ABA standard is substantially lower than for other courts in this study. This indicates that there are some potentially serious problems stemming from the decision stage of the process. The absolute number of cases heard is low, given the relatively large case backlog. In addition, as discussed

Figure 3-5 (STEP 3)
Oral Argument to Decision Announced



Descriptive Statistics

Valid Cases: 197

Mean 96.79

Median 59.33

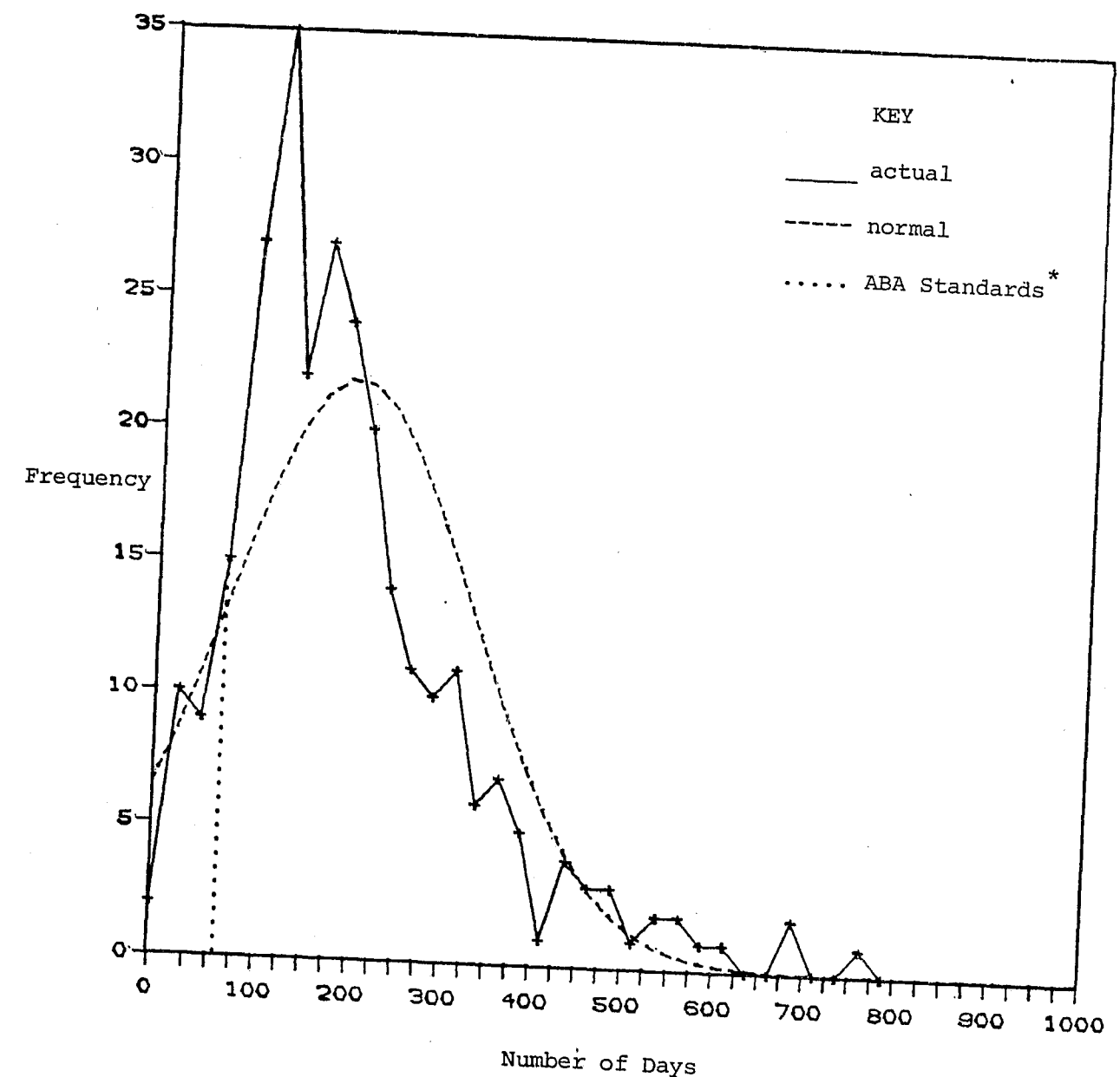
Standard Deviation 201.59

*ABA Standards specify a maximum of 60 days.

above, waiting time is probably a function of case volume and decision-making efficiency. Consequently, while the actual times required to decide cases after oral arguments appear to be generally short compared to other steps in the process, the decision stage of the process may still be a major source of delay. Cases ready for oral argument are not being heard promptly; rather, they are backlogged on the oral argument scheduling calendar.

For non-oral argument cases, the available data did not permit dividing decision-making time into two separate steps. Decision time in such cases therefore measures elapsed time between the date when all materials necessary to hear a case were filed with the Court, and the date when the Court announced a decision. Table 3-2 and Figure 3-6 present data concerning decision time for non-oral argument cases decided by the First District. The data reveal that, although non-oral argument cases were generally processed more quickly than oral argument cases at the decision phase, specific times involved varied considerably from case to case. Only 4% of these non-oral argument cases involved decision processing times of less than the thirty day average recommended by the ABA, and only 8% of the cases fall below the sixty day ABA maximum standard. Moreover, only 32% of the non-oral argument cases were processed in under 120 days, or double the ABA maximum, and 72% were decided in under 240 days, four times the recommended 60 day maximum. In fact,

Figure 3-6 Decision Time Non-Oral Argument Cases (STEPS 2 & 3)
Materials to Date Decision Announced



Descriptive Statistics

Valid Cases: 276

Mean 193.63

Median 163.50

Standard Deviation 132.42

*ABA Standards specify a maximum of 60 days.

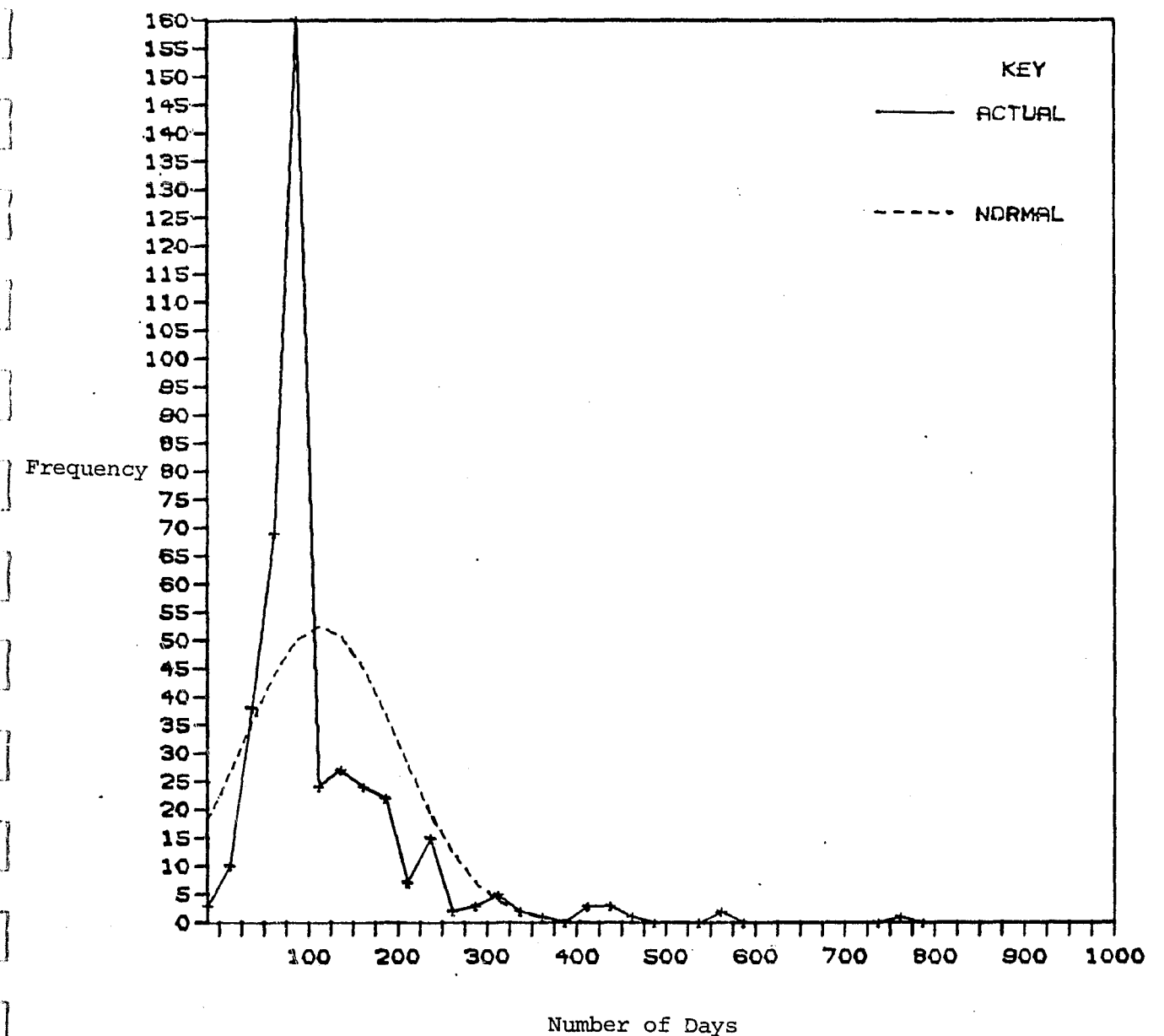
just over 10% of all the non-oral argument cases decided by the First District exhibited elapsed times between materials filing and appellate court decision of more than one year.

The wide variations among cases and the high average of 197 days may reflect problematic aspects of the court's scheduling procedure. Non-oral argument cases are assigned the next available spot on its calendar and are then considered in sequence. Consequently, like oral argument cases, non-oral argument cases often wait in a scheduling queue for substantial lengths of time.

Finally, Table 3-2 and Figure 3-7 reveal that the time between announcing decisions in the First District and issuing mandates (Step 4) is generally long, averaging 113 days. In addition, the 87 day standard deviation accompanying the 113 day average indicates that post-decision time varies substantially between cases. In other courts examined in this study, the vast majority of cases exhibited post-decision times of less than 60 days, the small percentage of cases which exceeded 60 days were almost exclusively those in which petitions for certiorari or rehearing were filed. Neither of these trends, however, were apparent in the First District. Only 13% of its cases exhibited post-decision times of 60 days or less, and 71% were completed in less than 120 days. Eighty-six percent were completed in less than 181 days and 93% in less than 241 days. At the upper extreme, the 7% of

Figure 3-7 (STEP 4)

Appellate Court Decision to Mandate



Descriptive Statistics

Valid Cases: 422

Mean 112.71

Median 82.68

Standard Deviation 87.09

the total caseload which took 241 days or more exhibited post-decision times of between 241 and 764 days. The wide variation between cases is not fully attributable to a petition-filed/no-petition-filed distinction. There was only a slight tendency for petitioned cases to take longer than non-petitioned cases. Undoubtedly, the 56-day time limit allowed by Supreme Court Rule 315 (discussed, supra) is largely responsible for this delay.

Components of Total Case Processing Time:
Steps in the Appellate Process

To this point, the analysis has focused on describing the number of days which elapse in each step of the appellate process and comparing the actual number of days in each step with established standards. Total case processing time is a summation of time elapsed in each part of the process. In this portion of the analysis, the focus is shifted to describing total case processing time by examining the proportion of the total case processing time which is attributable to each step of the appellate process. In addition, total case processing time is described by examining the extent to which cases differ from each other in total number of processing days.

An examination of the relative contribution of each step to the case processing time total should help determine where cases are being delayed. Once the points of delay are determined, the sources of delay can be isolated and identified.

An understanding of the importance of each step in the appellate process as a potential point of delay requires an understanding of the related concepts of proportion and variance. The proportion is the fraction of total time attributable to each step in the appeals process, expressed as a percentage, when the summation of all steps equals 100% of total time.¹⁴ As noted previously, variance is a measure of the spread or variability of scores. In this study, the scores are the number of days in a particular time interval. Thus variance describes the extent to which processing days for cases within a particular time interval differ from one another. There are a number of statistics, often called measures of dispersion, available for summarizing this variability. The two measures used in this study are the variance and the standard deviation. Both measures tell us how closely the number of processing days for cases cluster around the average number of days for all cases. Variance will be small when there is a great deal of

¹⁴For example, hypothetical Case A took a total of 300 days to process from lower court judgment to mandate. One hundred percent of total time would thus be 300 days. Of this 300 day total, 150 days were attributable to time between the date of lower court judgment and the filing of materials with the supreme court (Step 1). Eighty days were attributable to time waiting in the oral argument queue (Step 2), 50 days elapsed between the date of the oral argument and the announcing of the decision (Step 3), while 20 days elapsed between the date the decision was announced and a mandate issued. Converting the processing time for each step into a percentage of total time would thus reveal that for hypothetical Case A, Step 1 equals 50% (Step 1 = $150 \div 300$), Step 2 26.66% ($80 \div 300$), Step 3 16.66% ($50 \div 300$), and finally Step 4 6.66% ($20 \div 300$), of the total case processing time. The 100% total time is thus a simple summation of each part, 50% + 26.66% + 16.66% + 6.66% = 99.98% or rounded to a whole number 100%.

homogeneity in case processing time--when most cases cluster closely around each other. The standard deviation is simply the square root of the variance, and is much easier to interpret than the variance, primarily because it is based on the same units (days) as the original variable. For example, total case processing time averaged 649 days in the First District. The variance for this total time interval equaled 63581 units. A total variance of 63581 units or a standard deviation of 252 days when viewed in conjunction with the average of 649 days, indicates that cases in the First District were relatively heterogeneous. In other words, total case processing time varied rather dramatically among cases. Consequently, an identification of the contribution of the variability of each step in the appellate process to the total time variability is important. It is useful to identify the points at which case processing times differed and determine the sources and impact of these differences.

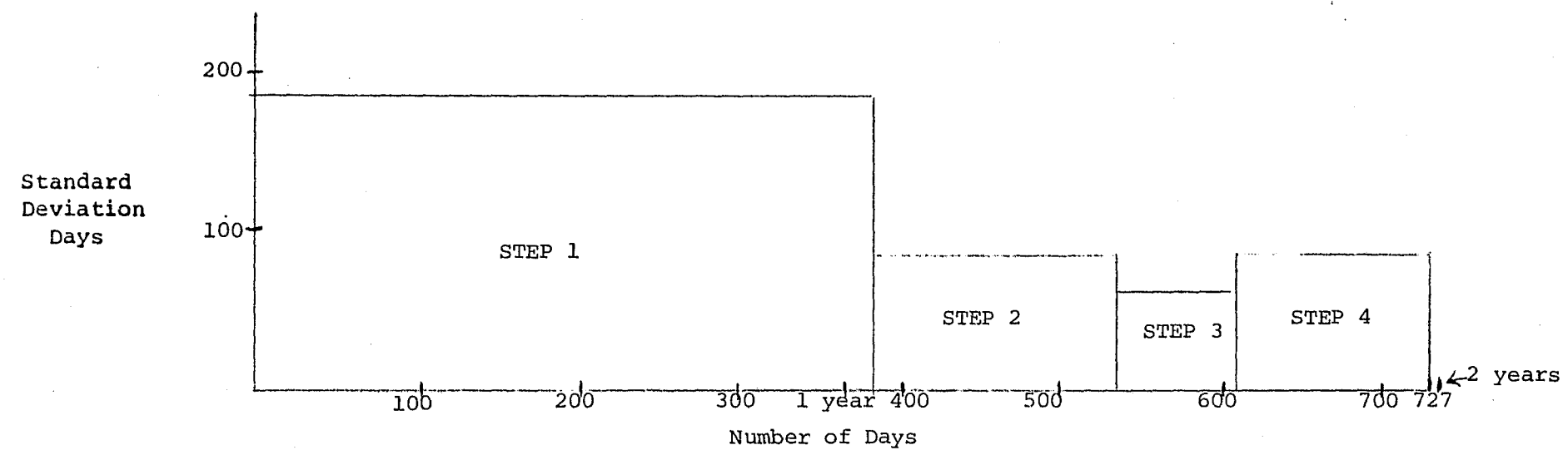
Summary measures of data are not evaluative: they do not connote good or bad judgments about the phenomena under examination. The goal of analysis is to account for variance. Insofar as variance cannot be explained, then the theories that purport to account for that variance are inadequate.

Table 3-4 applies the principles of proportion and variability to time-lapse data for oral argument cases in the First District. The diagram in Table 3-4 charts the average number of days for each step in the appellate process along the horizontal X axis, while the vertical Y axis, which charts standard deviations, presents the variability of cases at each step. The mean number of days, the standard deviation, the percentage of total time, and percentage of total variance for each step in the process, are presented below the diagram.

Information presented in Table 3-4 indicates that Step 1, Step 2, and Step 4 are areas of concern in the First District. Specifically, for oral argument cases, the interval between trial court judgment and receipt of all necessary documents in the appellate court (Step 1) averaged 383 days--53% of the total case processing time. The waiting period between receipt of materials and oral argument (Step 2) averaged 149 days or 20% of the total time. The interval between oral argument and decision (Step 3) accounted for 10% of the total. Step 4, the period from decision to mandate, averaged 122 days, or about 17% of the total time.

The standard deviations and percentage of total variance figures for each step indicate considerable variability between cases during Steps 1 and 2 of the appellate process. Viewed as a composite indicator, the information presented in Table 3-4 suggests that the First District is not exercising sufficient control over its caseload during the pre-decision phases of

TABLE 3-4
COMPONENTS OF TOTAL CASE PROCESSING TIME
ORAL ARGUMENT CASES



<u>Actual Time:</u>	<u>Mean</u>	<u>S..D.</u>	<u>% Total Time</u>	<u>% Total Variance</u>	<u>N</u>
STEP 1: Trial Judgment to Material Received	383 days	184	53 %	61 %	137
STEP 2: Materials to Oral Argument	149 days	81	20 %	15 %	137
STEP 3: Oral Argument to Decision	73 days	61	10 %	10 %	137
STEP 4: Decision to Mandate	122 days	81	17 %	14 %	137
TOTAL TIME	727 days	219	100 %	100 %	137

the appellate process. Material preparation and filing times generally do not reflect an adherence to court rules on the part of attorneys and trial court personnel. On the contrary the substantial variability probably indicates that the standards which determine when materials will be prepared and filed are primarily those of attorneys and lower court personnel, not the rules of the court. In other words, attorneys and lower court personnel prepare and file materials primarily on the basis of their own individual schedules.

The wide variability between cases during the "waiting" stage of the process--from the date that all necessary materials have been filed to the date of oral argument--indicates that considerable uncertainty attends the scheduling of cases to be heard after materials have been filed. A detailed breakdown of data concerning how long "ready" cases wait to be heard illustrates the degree of uncertainty in the First District. Twenty percent of the oral argument cases considered by the court waited between six and 80 days to be heard after all materials had been filed. The next 20% waited anywhere from 81 to 118 days, while the third 20% group waited between 119 and 163 days. Cases in the fourth 20% waited between 164 to 231 days to be heard after materials had been filed, while cases at the upper extreme, the top 20% waited between 232 and 570 days. As stated before, just over 10% of all the oral-argument cases eventually heard by the First District waited

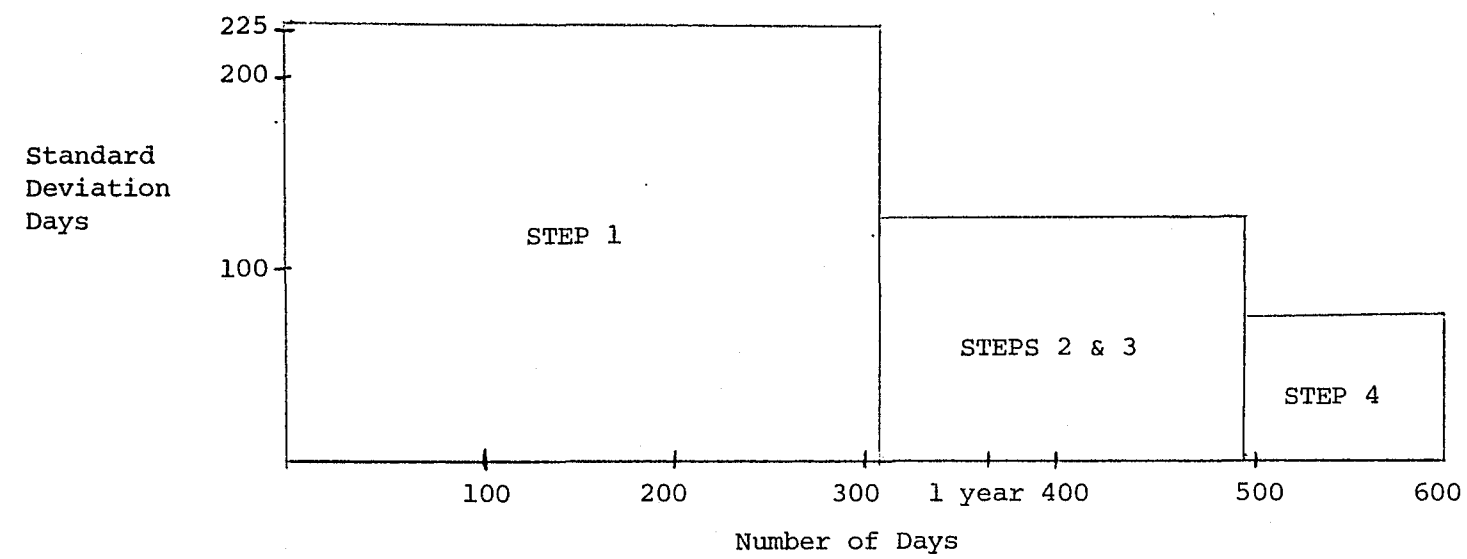
more than 273 days for consideration after all materials had been filed. Clearly, the waiting stage of the appellate process is a serious problem here.

Finally, Table 3-4 indicates that there is some variation between cases during the decision phase of the appellate process. In other words, some cases are being decided and decisions announced in a relatively short period of time after oral argument, while in others decision time is fairly long. The presence of this variability does not necessarily mean that the court is experiencing major problems at the decision stage of the appellate process. On the contrary, the variability may indicate that judges are spending more time on complex cases and less time on cases which are easier to decide.

Table 3-5 indicates that the pattern of case variability for non-oral-argument cases is similar to the pattern for oral argument cases. Specifically, on the average, 51% of total case processing time in non-oral-argument cases is attributable to Step 1, the predecision phase of the appellate process. Steps 2 and 3, the waiting and decision stages, account for 32% of the total time. Step 4, the post-decision phase, represents 17% of the total processing time. Perhaps more important, the standard deviations and percentages of total variance for each step indicate that the bulk of total case variability (62%) is attributable to variability during

TABLE 3-5

COMPONENTS OF TOTAL CASE PROCESSING TIME
NON-ORAL ARGUMENT CASES



<u>Actual Time</u>	<u>Mean</u>	<u>S.D.</u>	<u>% Total Time</u>	<u>% Total Time Variance</u>	<u>N</u>
STEP 1: Trial Judgment to Materials Received	307 days	226	51 %	66 %	155
STEP 2 & 3: Materials to Decision	189 days	126	32 %	25 %	155
STEP 4: Decision to Mandate	104 days	75	17 %	9 %	155
TOTAL TIME	600 days	251	100 %	100 %	155

the materials preparation phase of the process. Case variability during the waiting and decision stages (Steps 2 and 3) account for 25% of the total variance, while the post-decision stage (Step 4) accounts for only 9% of the total.

Viewed as a composite indicator, the information presented in Table 3-5 indicates that the speed at which non-oral-argument cases are processed in the First District varies substantially, and that the major sources of this substantial variability occur during the materials preparation and filing stage of the appellate process.

Breaking down total case processing time by steps indicates that, in both oral and non-oral-argument cases, excessive time is frequently being consumed in the materials preparation and filing stage of the appellate process. In addition, the data analysis indicates that scheduling oral argument cases is a problem. Cases in which briefs, transcripts and other materials have been filed are generally not being heard until after a substantial waiting period has elapsed. Consequently, the final sections of this report focus on the potential sources of delay at the apparently crucial pre-decision phases of the appellate process.¹⁶

¹⁶Appendix E presents a brief analysis of the relationships between case features and processing time. For the most part the information presented in Appendix E indicates that differences in case processing time do not systematically relate to differences in case features.

SUMMARY

Information presented previously revealed that the pre-decision phases of the appellate process present problems for the First District. Cases often exceed the maximum time limits set in the court rules for filing briefs, records and transcripts. Attorneys and trial court clerks appear to be primary sources of delay at this stage. Apparently, attorneys often fail to prepare and promptly file the documents. Trial court clerks fail to monitor the flow of case materials to insure that the time limits fixed by the appellate rules are met. Trial judges may be contributing to the problem by not consistently following any established policies governing the granting of extensions for filing notices of appeal, records, and transcripts. In addition, it appears that trial judges are not uniformly monitoring the performance of attorneys, court clerks, and reporters during the initial stages of the appellate process.

The data analysis revealed that litigants (especially those whose cases involved oral argument) must often wait a substantial length of time for their cases to be heard by the appellate court. The sources of this delay may be the court's case scheduling and assignment procedures, and the judges' work habits; these procedures and habits may also contribute to a general climate of uncertainty concerning when cases will be taken under submission.

Time-lapse data for the decision stage of the appellate process generally indicated that the First District was operating

efficiently at that point. Cases were being decided, opinions assigned and written, and decisions announced, in a relatively short period of time. However, the court may not have been hearing enough cases each month, thereby accumulating backlog and thus inadvertently and indirectly encouraging delays at the materials preparation and waiting stages of the process.

The final section of this report presents specific conclusions concerning how the First District may begin to eliminate the identified sources of delay.

SECTION 4

CONCLUSIONS

- Case backlog was a serious problem in the Illinois Appellate Court, First District, during the period from which case record data for this study were collected (cases filed in 1975-76).

The First District could not effectively meet the demands imposed by a relatively modest case volume. The direct effect of the large backlog on case processing time was substantial. "Ready" cases, those in which all materials had been filed, often waited more than five months before being considered. In addition, the substantial case backlog probably had other indirect but serious effects on the appellate process. The large case backlog and correspondingly long waiting period probably contributed to the often excessive materials preparation time by eliminating incentives for attorneys and lower court personnel to prepare and promptly file necessary appeals documents.

Finally, the combination of a substantial case backlog and generally long wait between document filings and appellate court consideration makes it difficult for the First District to implement badly needed reforms designed to stem abuse occurring during the pre-decision phases of the appellate process. It is doubtful that it could realistically push for the implementation of reforms designed

to speed up the materials preparation and filing phases of the appellate process, without first or simultaneously implementing reforms designed to dramatically lessen the case backlog and substantially reduce the length of time cases wait for consideration after all materials have been filed.

Consequently, the First District is urged to give serious consideration to developing and implementing techniques and procedures for disposing of more cases. These techniques could include:

- adopting and implementing procedures for assigning cases to individual judges on the basis of their case backlog;
- adopting and implementing court rules specifying that written opinions must be completed within thirty to sixty days after decision;
- adopting and implementing procedures which allow for case re-assignment in instances where a judge is consistently behind in his case backlog;
- developing sanctions which can be imposed against judges who are consistently delinquent in completing assigned cases;
- eliminating scheduling policies which artificially limit the number of cases which can be heard per month; and
- designing and implementing formal mechanisms for increasing judge collegiality and resolving panel conflicts.

Each of these suggested changes is examined in more detail below.

Assessing the impact of new policies would require further analysis of time-lapse information from cases filed after the policies went into effect. The Appellate Justice Improvement Project could provide technical assistance to the First District for this additional analysis.

- The Illinois Appellate Court, First District, is divided into five divisions. While theoretically operating under the same rules and procedures, the five divisions differed noticeably in respect to the interpretation of both. The First District is urged to develop mechanisms for reinforcing its role as a single court. Mechanisms for unifying the court could include: a panel rotation system which periodically changes the memberships of the existing divisions, and holding at regular intervals all-court conferences which bring together the full bench to discuss court procedures and to resolve panel conflicts.

A panel rotation system which cuts across the existing panel memberships and a system of periodic all-court conferences would reinforce the court's position as a unified body by increasing interaction between all members of the court. Panel rotation would also facilitate case assignment on the basis of existing backlog.

Periodic all-court conferences would provide a forum both for examining how the court's rules could be uniformly implemented and for examining individual judge productivity. During the all-court conference, panel conflicts also could be considered by the court as a whole. The panel conflict resolution function could be of major consequence. There is currently no formal mechanism for resolving conflicts between divisions in the First District. The Illinois Supreme Court

is not required to resolve conflicts between divisions of a single district, only conflicts among districts. Implementing an all-court conference which includes panel conflict resolution procedures could fill the current void. Finally, the all-court conference could be empowered to return opinions for rewriting, and to reverse panel decisions when appropriate.

- Like many appellate courts throughout the United States, the Illinois Appellate Court, First District, has not adopted rules specifying how soon after oral argument written majority, concurring, and dissenting opinions should be submitted.

Data included in this study revealed that opinion preparation time may be a serious source of delay here. Consequently, the First District should consider implementing either a 30 or 60 day opinion preparation time limit.

- The Illinois Appellate Court, First District is urged to consider the feasibility of altering its scheduling policies which limit the number of oral arguments which will be heard per month. With the exception of the Oregon Court of Appeals, all courts included in this study limited the number of oral arguments scheduled each month. Oregon did not, and was also the only court included in the study with no backlog of ready cases waiting for oral argument.

Under policies in effect during the period when data for this study were collected, the First District scheduled a maximum of only 100 oral arguments per month. The reasons for

this very low limit on the number of oral arguments scheduled per month are unclear. This limit, however, appears to contribute to the substantial case backlog. The Oregon Court of Appeals, for example, has half the number of judges as the Illinois Appellate Court, First District. Nevertheless, in September 1978 the Oregon Court of Appeals had 167 cases on its oral argument calendar and was able to dispose of all of these cases. The Oregon example is not cited to suggest that a calendar of 167 cases is necessarily correct for the First District. Indeed, because of its substantial number of judges, the First District may be able to dispose of more than 167 cases per month. Oregon merely illustrates that hearing and deciding more cases than 100 a month is not impossible. Limits on the number of cases a court will hear might simply preclude the court from reaching its maximum desirable case processing potential.

- The Illinois Appellate Court, First District, uses central staff attorneys to screen cases to select those which could be disposed of without oral argument. However, it would not allow the project staff access to information which identified staff attorney cases. Consequently, project staff could not separate staff attorney cases from the larger sample for comparative analysis. The issue of whether or not the First District's screening mechanism is effective can not therefore be determined from information included in this study.

Nevertheless, because total case processing time was generally long, the First District is urged to examine in detail the effects of staff attorney participation in the appellate process.

- By court rule trial court judges in Illinois have the authority to grant extensions of up to 42 days for filing records and transcripts. These rules allow for immediate case processing delay and severely limit the direct control of the appellate process.

The Illinois Appellate Court, First District, should consider implementing rules which specify that all extensions for filing records and transcripts must be granted by it rather than by trial judges. Implementation and enforcement of these rules would not only eliminate potential sources of delay, but would also directly benefit the court by providing consistent and more readily accessible case tracking information.

- Although the First District had rules specifying when materials under the control of lower court clerks, reporters, and attorneys were to be filed, the analysis presented previously indicated that, during the period from which case record data for this study were collected the rules were not being consistently followed.

The First District must gain control over its caseload during the crucial pre-decision phases of the appellate

process, including the transcript preparation phase. Our examination of other appellate courts included in this study revealed that, in general, courts which had formal control of the appellate caseload at all phases of the appellate process exhibited substantially faster case processing time averages than courts which did not have formal control. Consequently, the First District is urged to consider the feasibility of implementing policies to authorize it to impose sanctions against court reporters, trial court clerks, and attorneys.

All of these suggestions for improvements designed to speed up case processing during the pre-decision phases of the appellate process assume that the First District can justify its use of sanctions. As noted previously, to be in a position to impose sanctions reasonably and effectively against court reporters and attorneys, the court probably would have to reduce substantially its case backlog and waiting time from the levels apparent during the period examined.

- The structure and procedures of the First District have apparently led to uncertainty in the appellate process. The court can not consistently predict when case materials will be filed. Attorneys, lower court personnel, and litigants can not consistently predict when cases will be considered by the First District. Affirmative case management, emphasizing strict enforcement of reasonable court rules, would add an element of certainty to the appellate process.

- The First District is urged to examine the effect of Supreme Court Rule 315 on total case processing time, and to encourage modification of the rule to specify a substantially shortened time limit for this step in the process.
- The Illinois Appellate Court, First District, currently does not have an effective case tracking system. It is urged to develop a uniform case tracking system which should be implemented and monitored by the clerk's office.

An effective case tracking system would enable the court to identify rapidly cases which are overdue in some respect and would also provide general information which could be used in periodic evaluations of the system's effectiveness. The information which would need to be collected on each case considered would include:

- the date of the lower court judgment;
- the date the notice of appeal was filed;
- the dates when records and transcripts were filed, both in the trial court and appellate court;
- the dates when appellant and appellee filed briefs;
- the date of oral argument (when applicable);
- the date the case decision was announced;
- the dates relevant to petitions for rehearing (when applicable);
- the date the mandate was issued;
- the dates of any motions;
- the method of case disposition;
- the effect of the disposition; and
- the types and number of opinions prepared by the court.

APPENDIX A

APPENDIX A

A Framework for Examining Delay in Appellate Court Systems

This framework reflects the assumptions that delay is determined subjectively but that any attempt to measure it must begin with measuring case processing time, and that case processing time is a function of the interactions among cases filed, the organizational aspects of a court, and the actions of its participants.

Constitutional and statutory provisions (Set A in the diagram) define the legal structure in which the appellate court operates. Environmental elements that can affect the court--size of population served by the court, geographic location of the court and court personnel, workload as defined by annual filings and backlog--are listed in Set B. Resources available to the court (Set C) are the third group of elements included in the framework.

A description of the total environment (Sets A, B & C) in which the appellate court operates provides a context for analyzing the demands placed on the court and for determining the extent to which the court can adjust its rules and procedures to satisfy more efficiently those demands without enlisting the aid of other governmental units. Reforms designed to reduce case processing time may in fact depend on the alteration of some of these elements which define the general court environment. That is, it may be that in some jurisdictions courts simply do not have the resources necessary to insure acceptable

Figure A-1

APPEALS PROCESS AT THE APPEALS COURT LEVEL

A. General:

Statutes
and Consti-
tutional
Provisions
Applicable
to Appeals
Court
Structure

B. Characteristics
of Jurisdiction:

Number of Filings

Size of Population

Location of
Court & Judges

Backlog

C. Court Resources:

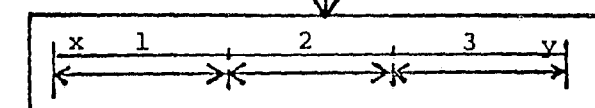
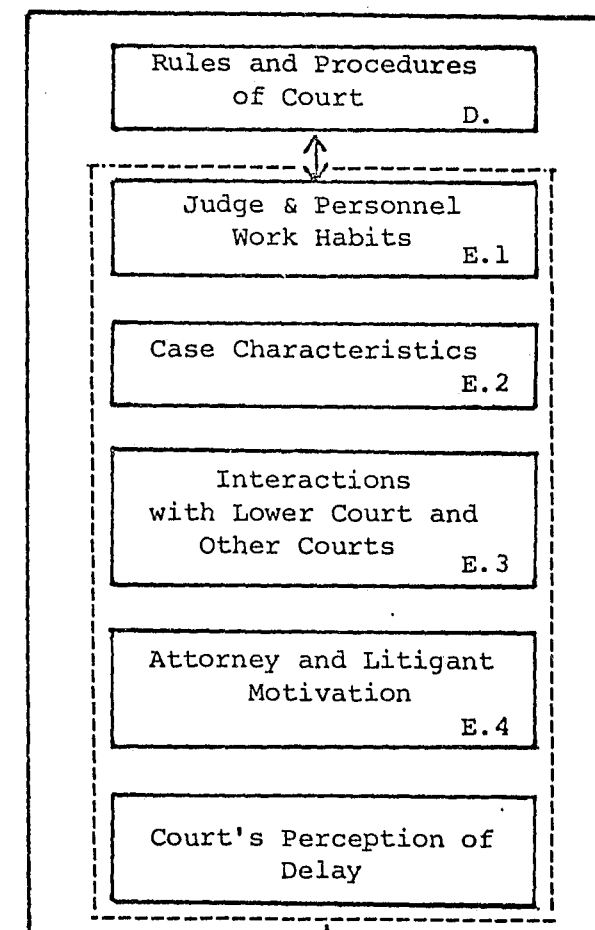
Size of Budget

Number of Judges

Number and Type
of Support Staff

Record Facilities

D. & E. Case Processing:



Indicator of Case Processing Time

xy = Total Time

x = Lower Court Judgment

y = Date of Mandate

xy_1 = Judgment to Materials

xy_2 = Decision Time

xy_3 = Post Decision Time

case processing times, and that efforts to improve the court are dependent on increased court resources. The availability of those resources may be limited by constitutional and statutory provisions or the actions of other governmental actors, e.g., state legislators.

The understanding of a court's rules and procedures (Set D) is crucial to an assessment of the sources and severity of delay. Conceptually, rules are an expression of the court's goals, procedures are means to implement those goals. In addition, the rules serve as a benchmark for assessing the performance of the court: are the participants meeting the time requirements (goals) set by court rule?

The final set of elements (Set E) included in the framework relate directly to variations in case processing time. Two of the elements--judge and court personnel work habits, and attorney and litigant motivation--deal with the behavior of individuals involved in the appeals process.

The third element included in set E, interactions between the appeals court and other courts, is the nature of relationships between the appeals court and other courts whose cooperation is essential for the efficient processing of appeals, and the official and unofficial interactions among them regarding this processing. For example, in some jurisdictions, lower court judges or clerks may control the preparation of the record needed by the appeals court. If the cooperation of the lower court is lacking, extensive delay may result.

Case characteristics, another element in the set, are classified into four primary categories: variables relating to parties and their attorneys; the substantive content of the appeal; variables regarding the information provided to the court to decide the appeal (briefs, transcripts, motions, etc.); and the final appellate court work product, usually opinions.

Another element is the court's own perception of delay in the processing of appeals. This perception may be either of specific cases which are considered to require fast disposition, or of the caseload as a whole. In the former instance the perception of urgency can prompt special treatment of the cases in question; in the latter, the perception of systemic delay can prompt both increased individual productivity and reexamination and possibly revision of the appellate system.

Case processing time is one result of the elements and their interactions. This measure begins with the date of the lower court's final order or judgment and ending with the date that a mandate is issued by the appeals court. In order to isolate specific problem areas, the comprehensive time interval is divided into three steps which correspond to steps in the appellate process. The first step begins with the date of final order or judgment in the lower court and ends with the date that all materials necessary to decide a case are filed with the appeals court. Step two focuses on appellate court decision-making time, beginning with the date materials are

available and ending with the date a decision is announced. In instances where cases have oral arguments, step two is divided into two parts. The first begins with the date that materials are available to the court and ends with the date of oral argument, while the second begins with the oral argument date and ends with the date the decision is announced. The final step in the appeals process measures elapsed time, if any, between the date that the decision is announced and the date that a mandate is issued.

Using the Framework

While the conceptual framework is useful as a theoretical device, the real test is its utility as a guide in addressing the critical issues of appellate court delay. Among these issues are the following:

- How long does it take to process cases? What is the average number of elapsed days from judgment in the lower court to mandate in the appellate court? Are there large variations in elapsed time among cases? How long does each step in the appellate process take? Is there an identifiable relationship between elapsed time in one step, and elapsed time in other steps?
- When does case processing time constitute delay? Does average time per step in the appellate process exceed the limit stipulated by court rule? Do the rules accurately reflect appellate court expectations?

- Can case processing time be reduced? At what points in the process is reduction possible? What are the specific sources of case processing delay?
- If case processing time can be shortened, how can that be accomplished? What are the relationships between elements included in the framework and case processing time? Can case processing time be shortened by stricter enforcement of court rules? By increasing resources available to the court? By changes in the environment in which the court operates?

The issues and questions outlined above are addressed in the text of the report.

APPENDIX B

APPENDIX B CASE SUBJECT MATTER

Criminal Cases			Civil Cases		Total	
51%	265		49%	253	100%	518
Criminal Case Type:	%	#	Civil Case Type:	%	#	
Murder One	18 %	46	Liquor Laws	1 %	2	
Murder Two	6 %	14	Motor Vehicle	1 %	1	
Manslaughter	1 %	1	Workman's Compensation	- %	-	
Rape or Sexual Assault	4 %	11	Elections	3 %	6	
Robbery	15 %	38	Taxes	4 %	9	
Burglary	6 %	16	Zoning	2 %	4	
Theft	8 %	20	Other Administrative Law	9 %	19	
Assault	9 %	23	Commercial	19 %	40	
Battery	1 %	1	Landlord/Tenant	3 %	6	
Fraud	2 %	4	Other Property	7 %	14	
Arson	1 %	1	Trust & Estates	- %	-	
Criminal Trespass	1 %	2	Child Custody & Support	8 %	16	
Narcotics	3 %	7	Juvenile	- %	-	
Drunkenness	- %	-	Other Domestic Relations	5 %	10	
Traffic	2 %	3	Auto Personal Injury	7 %	14	
Juvenile Delinquency	8 %	20	Other Injury	13 %	27	
Morals	4 %	11	Labor	4 %	8	
Weapons Charges	6 %	15	Other Non-Administrative	17 %	36	
Disorderly Conduct	1 %	2				
Other	7 %	18				
TOTAL	100 %	253			100 %	212

Source: 518 cases out of 519 cases in which case subject matter data were available.

APPENDIX C

APPENDIX C

TYPE OF ATTORNEY INVOLVED IN APPEAL

<u>Attorney Type</u>	<u>Appellant</u>		<u>Appellee</u>	
	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>
Private Counsel	54 %	281	45 %	227
Attorney General	2 %	13	5 %	23
District Attorney	4 %	21	47 %	237
Municipal Corp. Counsel	1 %	4	1 %	8
Public Defender	35 %	179	1 %	8
Legal Aid	- %	-	- %	-
Pro Se	2 %	9	>1 %	2
Other	2 %	9	>1 %	2
TOTAL	100 %	516	100 %	503

source: 516 cases out of 519 cases in which type of attorney data were available.

APPENDIX D

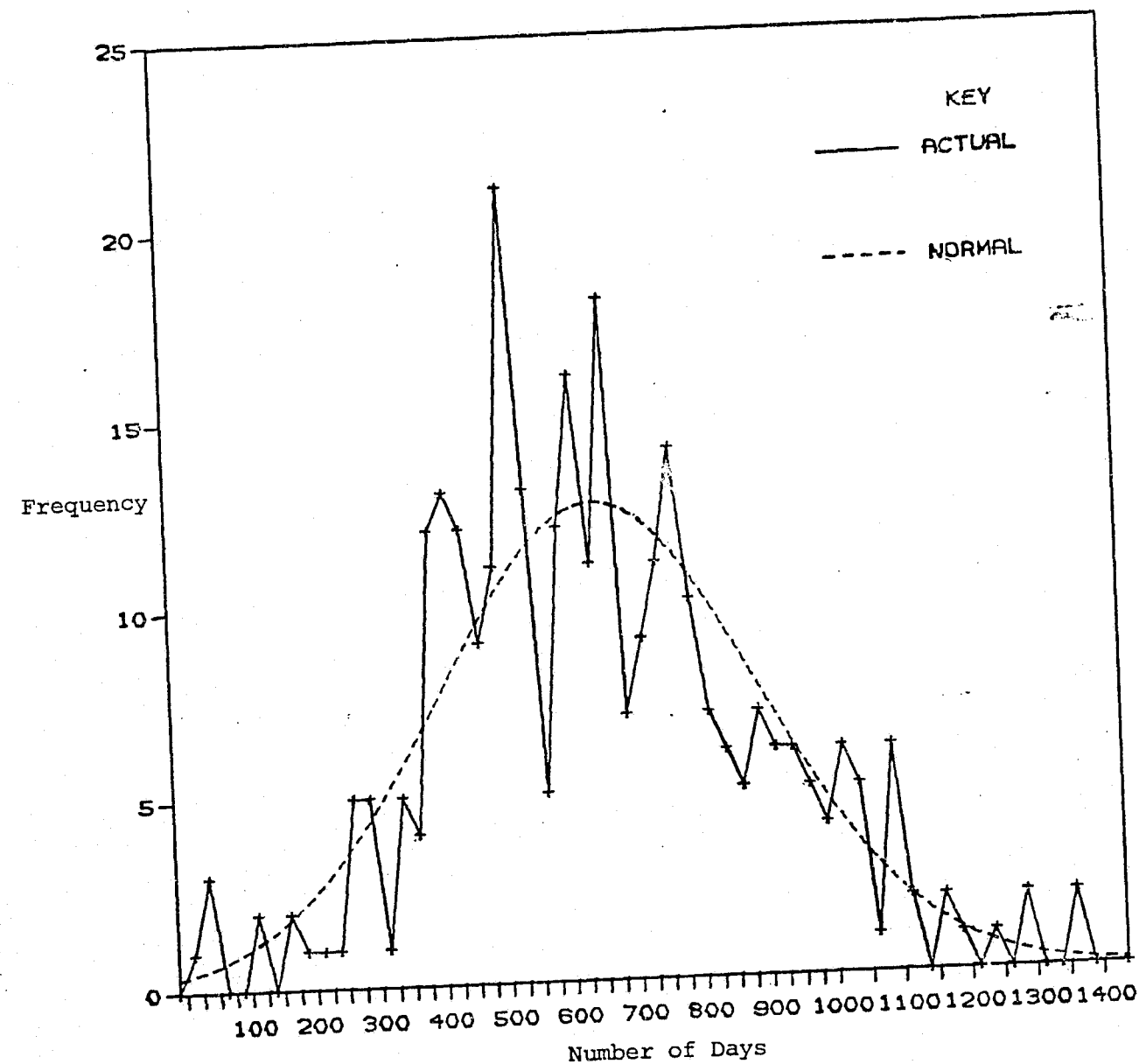
APPENDIX D

Time Interval Graphs

Graphs illustrating the distribution of cases for each step in the appellate process, along with statistics which describe each time interval are presented and discussed in this appendix. In addition, a summary table of statistics used in the analysis of variance portion of the study is also presented and examined.

Figure D-1, which summarizes the distribution of total case processing time data for all cases in the First District included in the study sample, illustrates the format used to describe time-lapse information. The horizontal, or X, axis of the graph, which ranges from 1 to 1,400 days, refers to the total number of case processing days, while the vertical, or Y, axis represents the absolute frequency of cases. The intersections of axis X and Y are represented by + and were used as coordinates for drawing the actual curves for each time interval. A second symmetrical curve, represented by a sequence of dotted lines, has also been included in each figure. The symmetrical curves are provided in order to aid the reader when interpreting the actual case distributions illustrated by the solid line curves. All of the symmetrical curves included in this appendix are normal. The dimensions for each of the symmetrical curves are based on the actual mean and standard deviation for each time interval. Thus differences in their peakedness are due only to differences in their standard deviations.

Figure D-1 Total Time:
Lower Court Judgment to Appellate Court Mandate



Descriptive Statistics

Valid Cases: 311

Mean	648.61	Standard Error	14.30	Kurtosis	0.34
Median	628.75	Standard Deviation	252.15	Skewness	0.37
Mode	602.00	Variance	63580.83		
	.95 Confidence Interval		620.48 to 694.53		

The actual case distribution curves and the symmetrical curves presented by themselves are useful devices for describing data. For example, by merely looking at the curves presented in Figure D-1, one can see that the actual distribution of cases in the First District differs somewhat from the normal case distribution. The actual case distribution curve shows that there are some extreme cases in the Illinois sample--cases which take anywhere from 900 to 1,400 total case processing days.

There are also numerous statistics which are useful for describing in detail the distribution of cases along the various time intervals. These descriptive statistics are included at the bottom of each graph.

While all of the descriptive statistics provide summary information about the nature of the distribution, each describes the distribution in a slightly different way. For example, the first three measures or descriptive statistics included with each figure, the mean, median, and mode, are all measures of central tendency or typicality, and are associated with the general notion of "average." The arithmetic mean or average is probably the most widely understood and used measure of central tendency. It is simply the sum of all scores divided by the number of scores. Because the mean can be affected by extreme scores, the median is usually also reported in descriptive tables. The median is the case at the exact mid-point

of the distribution--the point or case where 1/2 of all the cases fall below and 1/2 above. Finally, the mode is simply the value that occurs most often in a distribution pattern.

The standard deviation and variance are additional measures which describe the distributions of data. Variance is the arithmetic mean of the squared deviations from the mean. (While the concept of variability is of great theoretical consequence to statisticians it is used here primarily to define standard deviation.) The standard deviation is merely the square root of variance. The size of the standard deviation is inversely proportional to the degree of data concentration about the mean. Consequently, a large standard deviation indicates that data is widely spread and exhibits little central tendency. These two measures are often referred to as measures of dispersion because, in contrast to measures of central tendency (which describe the typicality of data) these measures describe the heterogeneity of, or variation among data. Measures of dispersion are particularly important in instances where data does not strongly group around a central value in that they indicate that the measures of central tendency, the mean and median, are not representative. Thus measures of dispersion and central tendency are complimentary statistics, the latter describing where the data are grouped, the former describing how widely data are dispersed around this point. For example, applying the principles of central tendency and dispersion to the total case processing time

distribution presented in Figure D-1, the statistics accompanying the graph indicate that cases do not cluster closely around the 649 day average but rather are subject to considerable variation as evidenced by the relatively large 252 day standard deviation.

The third set of statistics presented at the bottom of each graph, the confidence interval and standard errors, are measures which help determine how accurately the data from the sample of appellate cases reflect or represent the total case-load. Using Figure D-1 once again as an example, the .95 confidence interval statistic indicates that there is a 95% probability that the actual mean for all cases (not just the sample) in the First District will fall within a range of 620 and 695 days. In other words, if all the cases during the sample years would have been included in our data set, there is a 95% probability that the total case processing time mean would fall within this proportionately narrow range of 620 to 695 days. As an added check on the statistical reliability of the results, a measure called the standard error has been included in the statistics accompanying the time interval graphs. The calculation of this measure is extremely difficult to explain and not necessary for this presentation. The interpretation of the standard error, however, is important. It essentially indicates how much fluctuation within a sample of cases can be expected. The standard error of 14.30 for the

total time interval illustrated in Figure D-1, indicates that the mean of 649 days can fluctuate approximately 14.30 days higher or lower. The relatively low standard error thus once again confirms the reliability of the sample.

The fourth and final set of statistics accompanying the time interval graphs, the kurtosis and skewness, describe the shape of a graph or curve relative to the ideal bell-shaped curve. Both statistics indicate how closely the actual curve approximates a normal bell shaped curve, i.e., the skewness indicates whether cases generally cluster to the right or left of the mean, while the kurtosis indicates the "peakness" of the curve. The skewness statistics has a value of zero when the distribution of cases approximates a normal bell-shaped curve, while a positive value means that cases cluster to the left of the mean and a negative value indicates clustering to the right of the mean. A zero value for the Kurtosis statistics indicates a normal distribution, a positive value a more "peaked" than normal curve, and a negative value, a flatter than normal curve. For example, the skewness and kurtosis statistics accompanying the curve presented in Figure D-1 indicate that cases in the Illinois court approximate a normal curve.

The statistics appearing in Table D-1 amplify the relative percentage of total variance figures presented in Table 3-4. The Multiple r statistic is a summary multiple correlation which indicates the cumulative amount of total variation explained

as each variable is added to the overall variance equation. An examination of the Multiple r statistics presented in Table D-1 indicates that when the last step in the appellate process variable, step 4, is added to the equation, all of the total time variation has been explained by the cumulative effects of the four steps in the process. If the final Multiple r did not equal 1.00 or 100%, one would know that a portion of the total time variance is due to error and/or the effect of other variables not included in the equation.

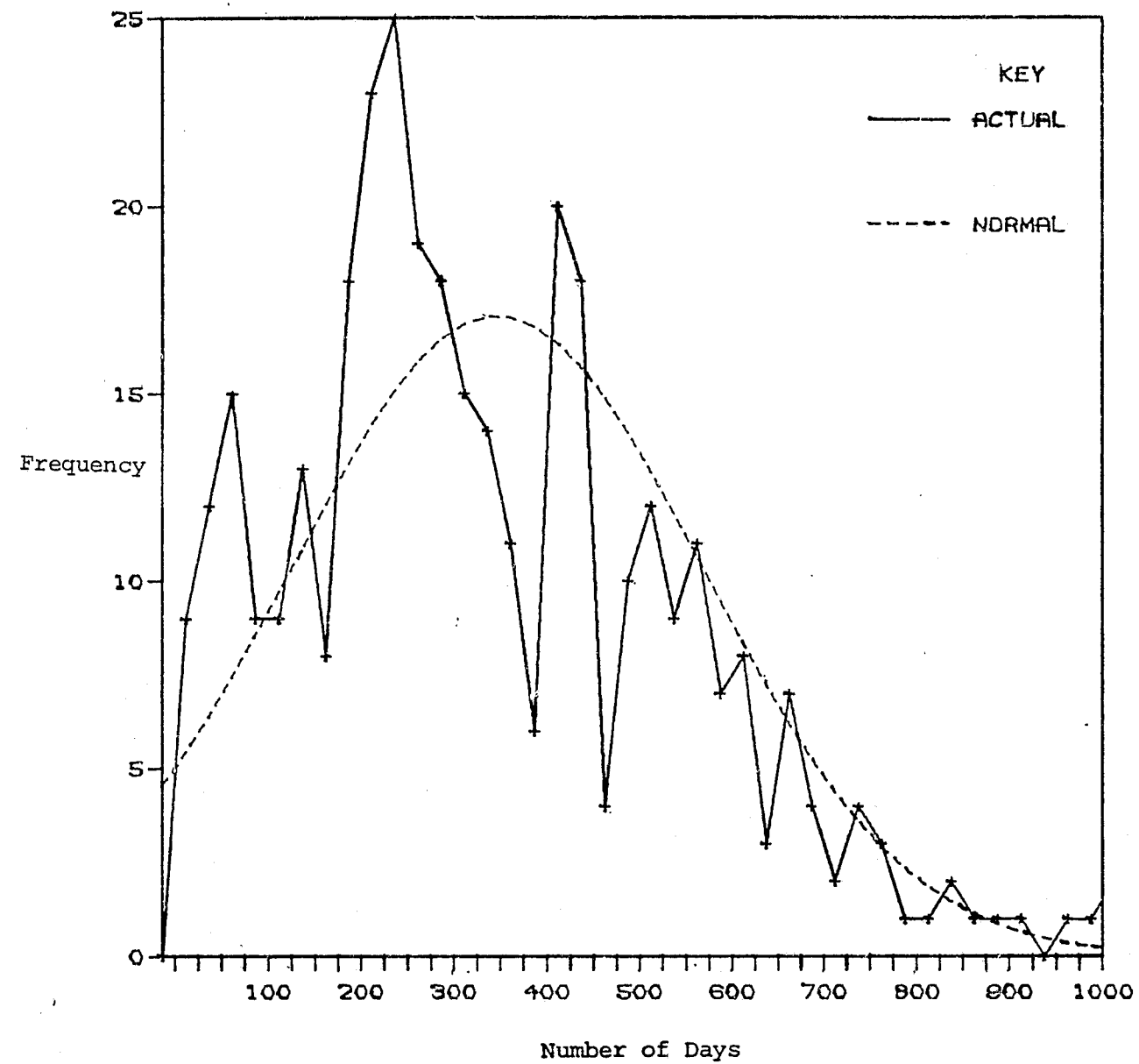
The Pearson's correlations r, appearing in Table D-1, indicate the bi-variant relationship between each step in the process and total time when the interactive effects of all the steps are not controlled. The r^2 indicates the cumulative amount of correlation within total processing time obtained as each variable is added to the equation. Finally the r^2 change statistics indicate the proportionate increase in explained variation accounted for by each step when the effects of other steps are controlled for. The r^2 change is thus the figure used for determining the percentages of total variance explained by each step.

CONTINUED

1 OF 2

Figure D-2 STEP 1

Lower Court Judgment to Materials Received



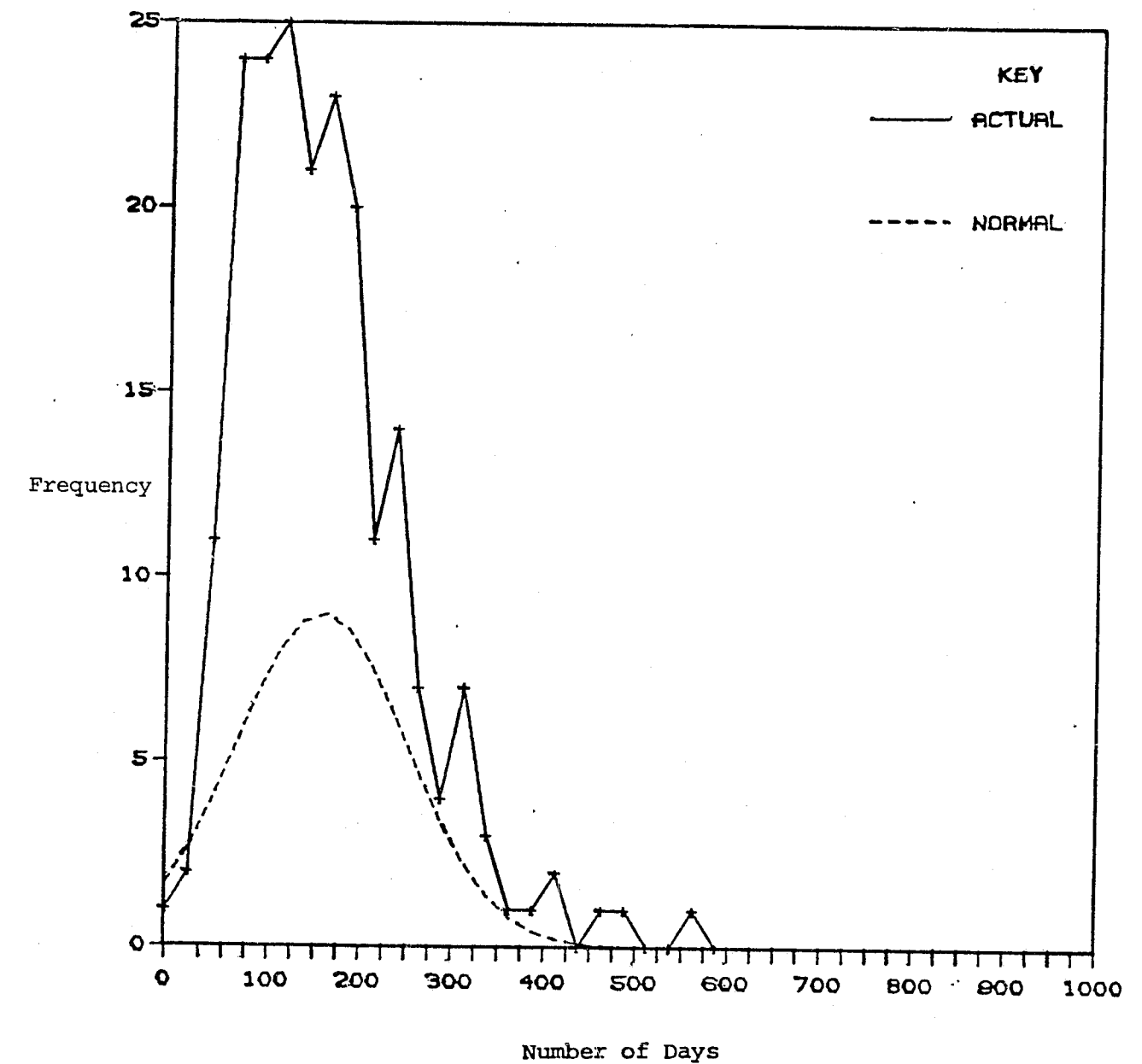
Descriptive Statistics

Valid Cases: 360

Mean	347.84	Standard Error	11.67	Kurtosis	1.10
Median	302.50	Standard Deviation	221.35	Skewness	0.91
Mode	224.00	Variance	48996.79		
		.95 Confidence Interval 324.90 to 370.79			

Figure D-3 STEP 2

Materials to Oral Argument

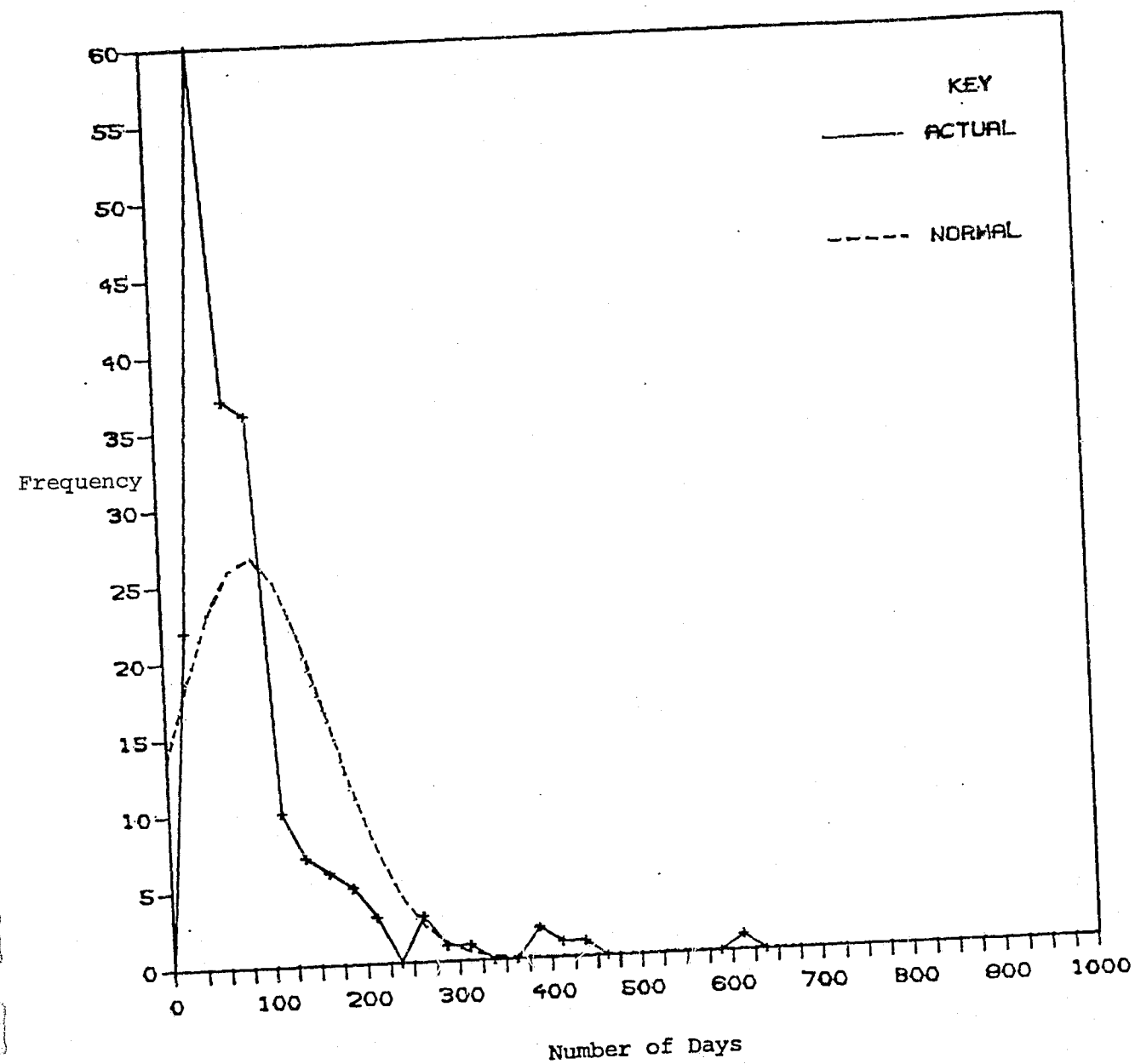


Descriptive Statistics

Valid Cases: 204

Mean	158.63	Standard Error	6.46	Kurtosis	2.30
Median	145.50	Standard Deviation	92.25	Skewness	1.22
Mode	98.00	Variance	8509.35		
		.95 Confidence Interval 145.89 to 171.36			

Figure D-4 STEP 3
Oral Argument to Decision Announced



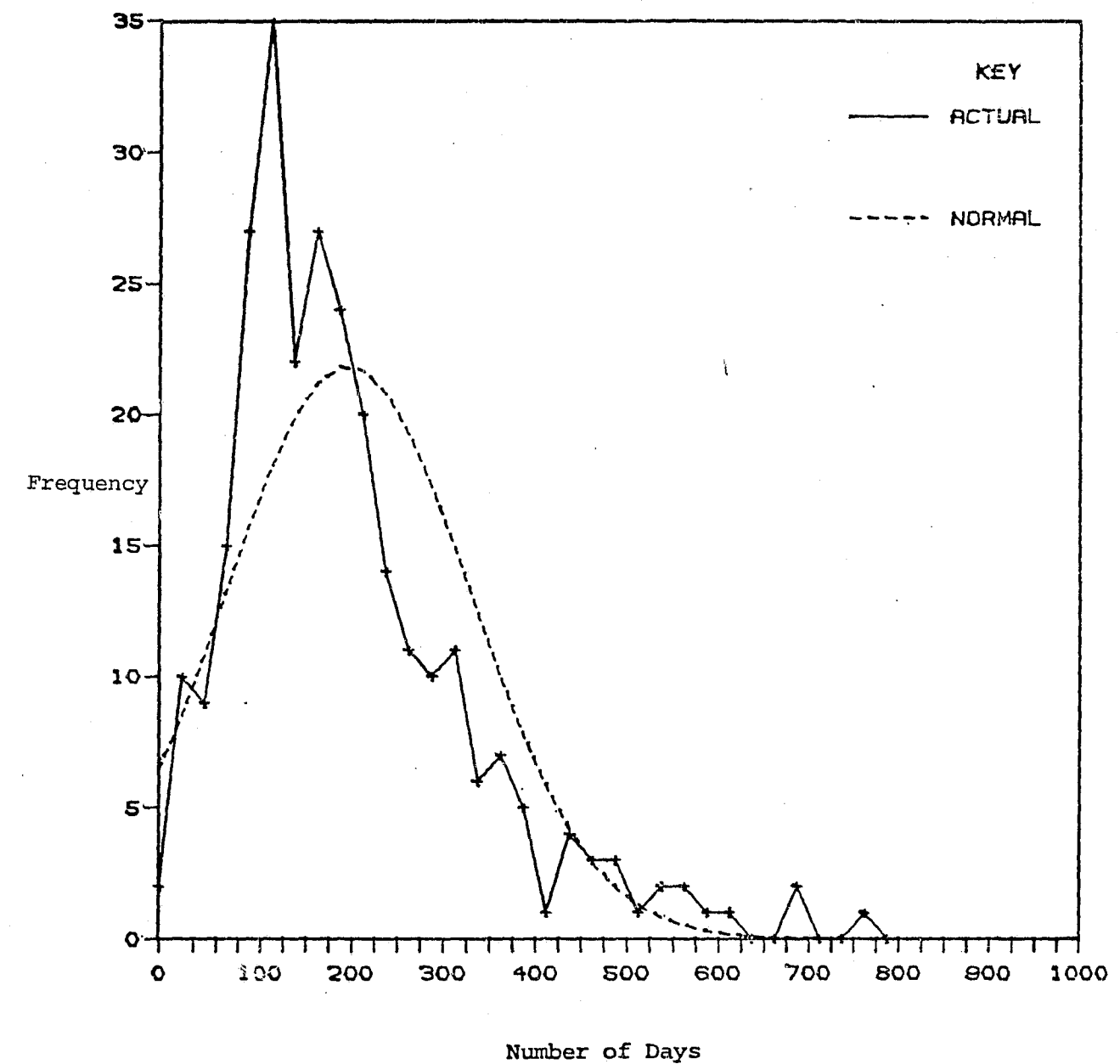
Descriptive Statistics

Valid Cases: 197

Mean	96.79	Standard Error	14.36	Kurtosis	136.36
Median	59.33	Standard Deviation	201.59	Skewness	10.86
Mode	28.00	Variance	40637.46		
		.95 Confidence Interval	68.47 to 125.12		

Figure D-5 Decision Time Non-Oral Argument Cases (STEPS 2 & 3)

Materials to Date Decision Announced

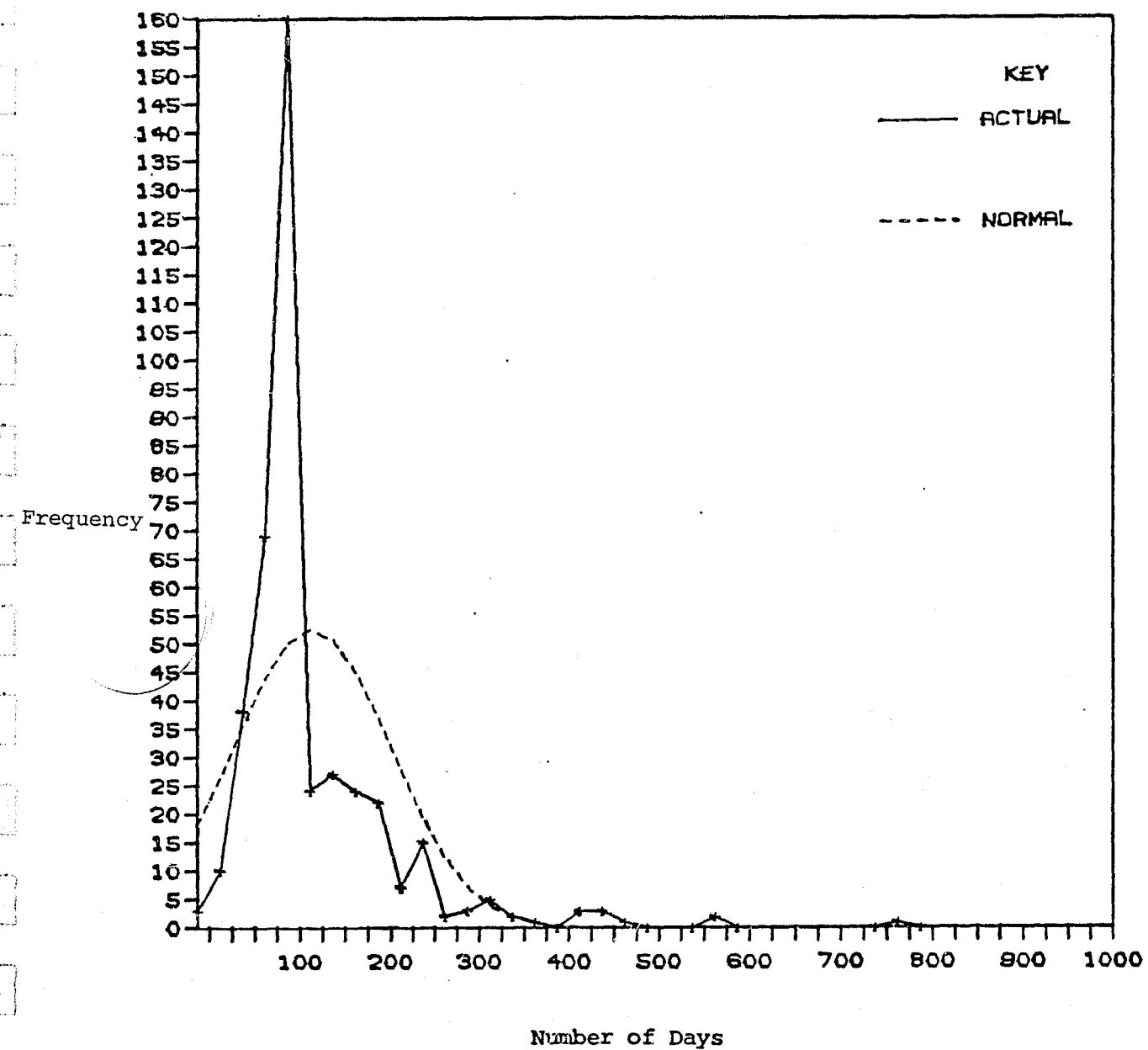


Descriptive Statistics

Valid Cases: 276

Mean	196.63	Standard Error	7.97	Kurtosis	2.30
Median	163.50	Standard Deviation	132.42	Skewness	1.37
Mode	98.00	Variance	17535.73		
		.95 Confidence Interval	180.935 to 212.32		

Figure D-6 STEP 4
Appellate Court Decision to Mandate

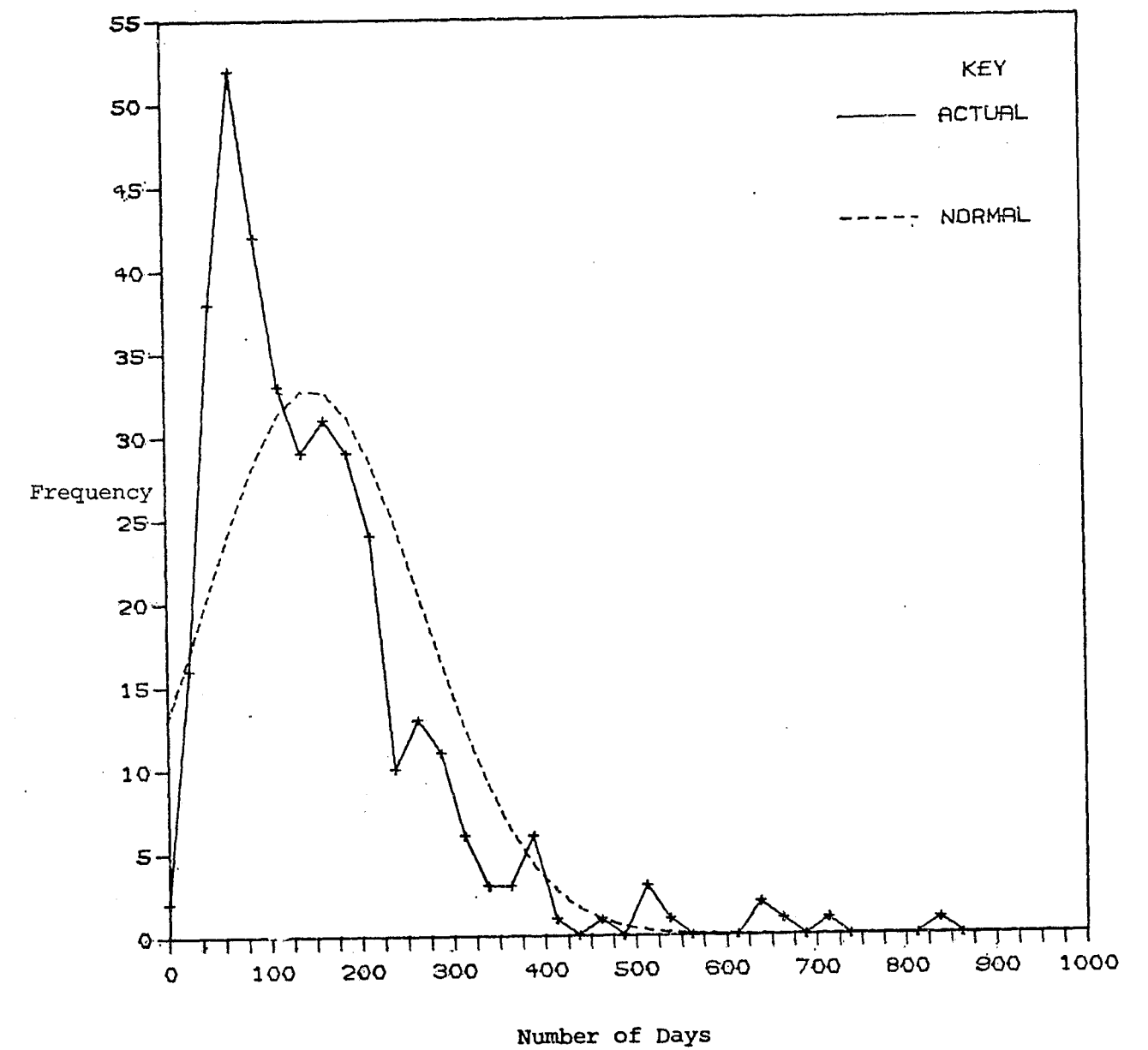


Descriptive Statistics

Valid Cases: 422

Mean	112.71	Standard Error	4.24	Kurtosis	12.385
Median	82.68	Standard Deviation	87.09	Skewness	2.87
Mode	77.00	Variance	7585.205		
		.95 Confidence Interval			
		104.375 to 121.04			

Figure D-7 STEP 1A
Filing of Record to Appellant Brief

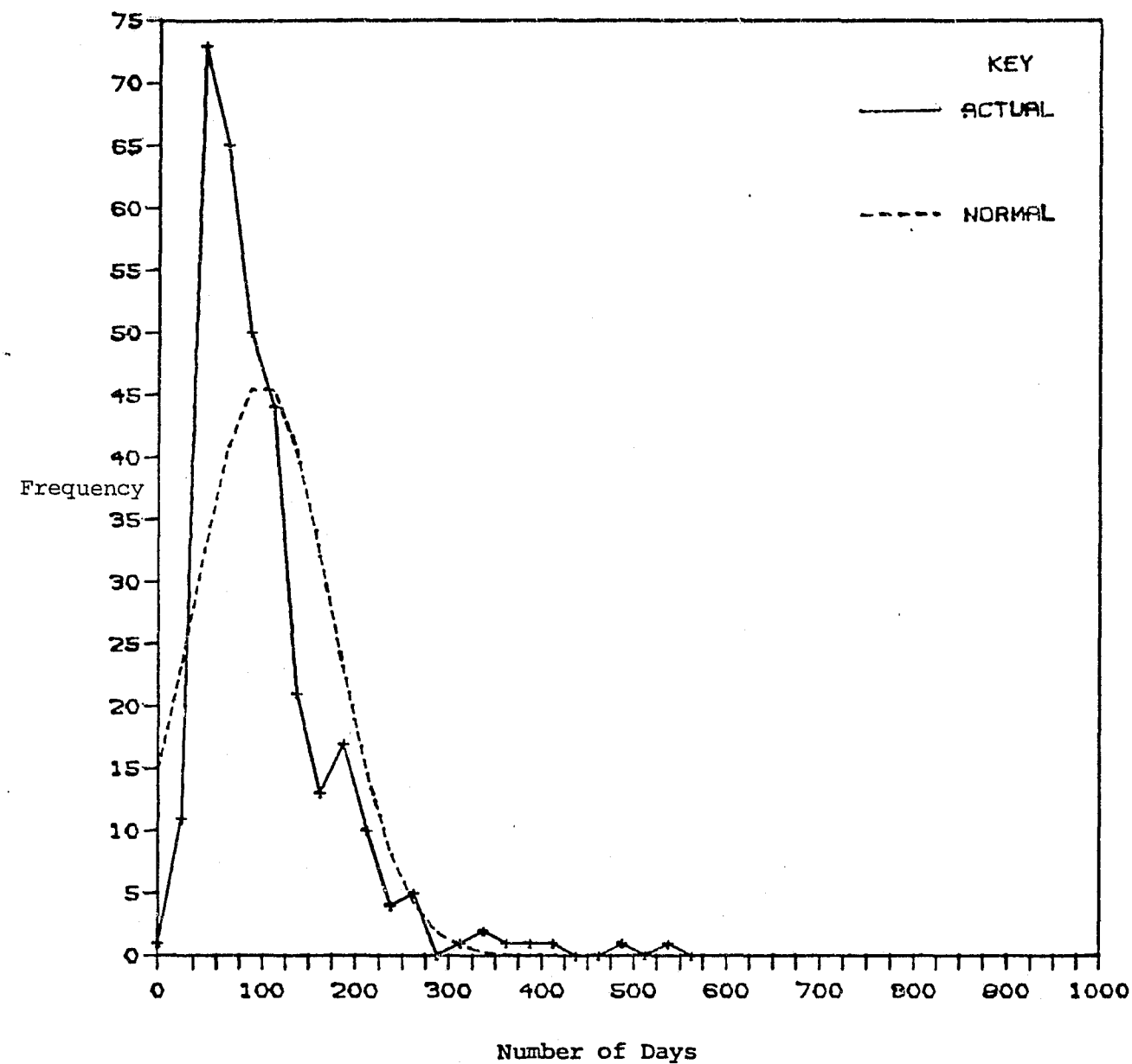


Descriptive Statistics

Valid Cases: 359

Mean	149.53	Standard Error	6.245	Kurtosis	6.51
Median	123.75	Standard Deviation	118.33	Skewness	2.05
Mode	35.00	Variance	14001.965		
		.95 Confidence Interval			
		137.25 to 161.81			

Figure D-8 STEP 1B
Appellant's Brief to Appellee's Brief



Descriptive Statistics

Valid Cases: 322

Mean	99.72	Standard Error	4.15	Kurtosis	7.49
Median	81.00	Standard Deviation	74.53	Skewness	2.205
Mode	35.00	Variance	5554.25		
		.95 Confidence Interval	91.55 to 107.89		

Figure D-9 STEP 1C
Lower Court Judgment to Transcript Filing

UNRELIABLE SAMPLE

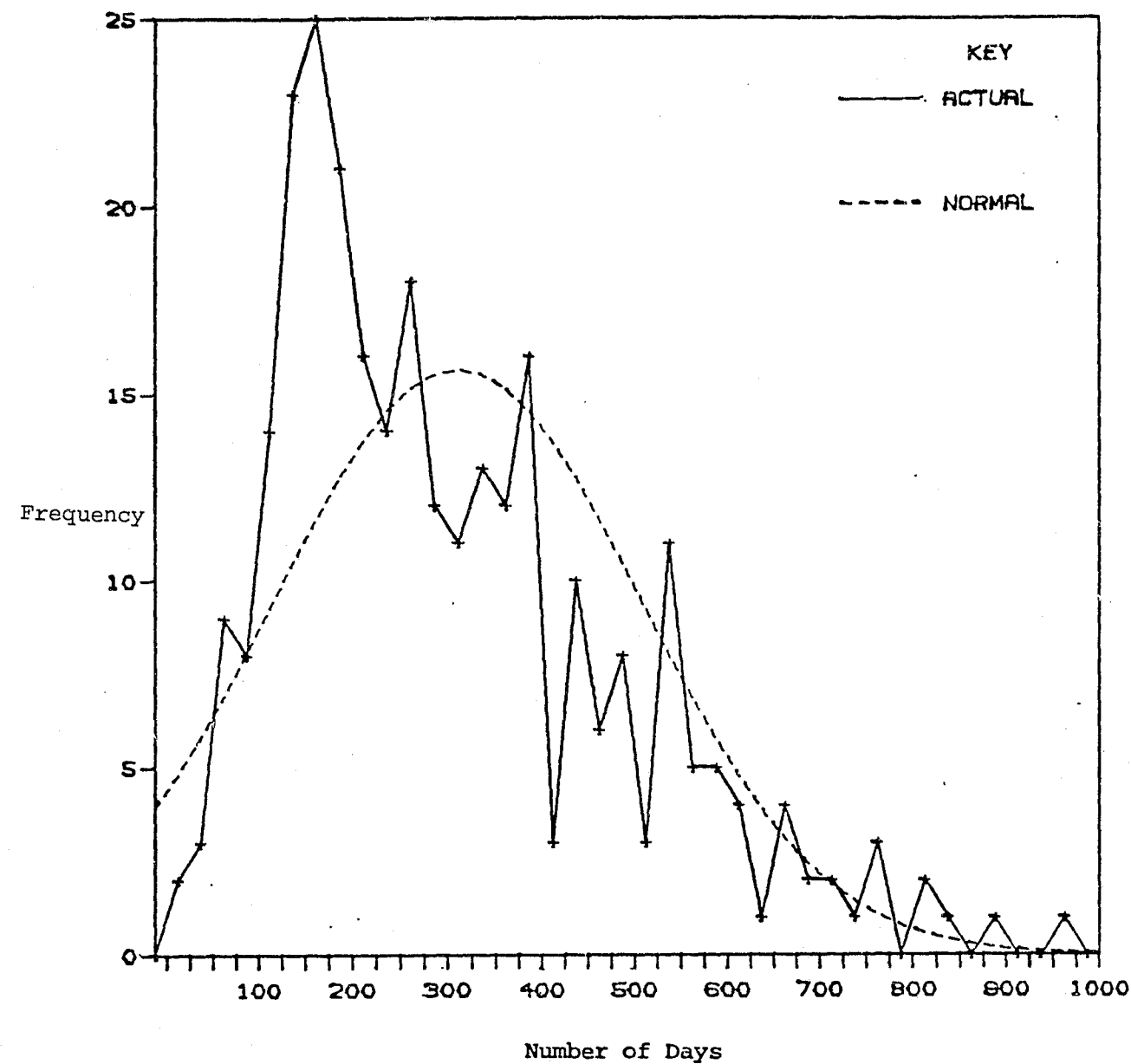
Number of Days
Descriptive Statistics

Valid Cases: 3 (Unreliable Sample)

Mean	339.00	Standard Error	171.44	Kurtosis	7.49
Median	251.00	Standard Deviation	296.95	Skewness	1.22
Mode	96.00	Variance	88177.00		
		.95 Confidence Interval	-398.66 to 1076.66		

Figure D-10 STEP 1D

Lower Court Judgment to Filing of Appellant's Brief



Descriptive Statistics

Valid Cases: 292

Mean	312.66	Standard Error	11.44	Kurtosis	1.78
Median	264.50	Standard Deviation	195.44	Skewness	1.20
Mode	187.00	Variance	38196.09		
		.95 Confidence Interval	290.15 to 335.17		

TABLE D-1

SUMMARY FIGURES OF VARIANCE BY STEPS IN APPEALS PROCESS

	Multiple r	r	r^2 Change	r
<u>ALL CASES</u>				
STEP 1 Lower Court Judgment to Materials Received by Appeals Court	.803	.644	.644	.803
STEP 2 & 3 Materials Received to Court Decision	.941	.886	.241	.423
STEP 4 Decision to Mandate	1.000	1.000	.113	.310
(N = 293)				
<u>ORAL ARGUMENT CASES</u>				
STEP 1 Lower Court Judgment to Materials Received by Appeals Court	.779	.608	.608	.779
STEP 2 Date Materials Received to Date Oral Argument	.872	.761	.153	.308
STEP 3 Oral Argument to Decision	.929	.864	.103	.314
STEP 4 Decision to Mandate	1.000	1.000	.135	.391
(N = 137)				
<u>NON-ORAL ARGUMENT CASES</u>				
STEP 1 Lower Court Judgment to Materials Received by Appeals Court	.810	.656	.656	.810
STEPS 2 & 3 Materials Received to Court Decision	.955	.912	.255	.403
STEP 4 Decision to Mandate	1.000	1.000	.087	.233
(N = 155)				

APPENDIX E

APPENDIX E

Correlates of Case Processing Time

Table E-1 presents Spearman's correlations between case features and the processing time intervals. These correlations indicate the degree to which variation in one variable is related to variation in another. The value of Spearman's correlations varies between 1.0 and -1.0, with 1.0 indicating a very strong positive relationship, zero indicating no relationship, and -1.0 indicating a very strong negative relationship. Although there are no set mathematical criteria for labeling the strength of Spearman's correlations, the conventional standards used in social science literature were used in this study. These standards are: .0 to .10 positive or negative are non-significant relationships, .10 to .19 positive or negative denote weak relationships, .20 to .50 positive or negative denote moderate relationships, and .50 to 1.0 positive or negative denote strong relationships.*

Turning to the specific correlations, Table E-1 reveals a few significant relationships between time spent in the first stage of the appellate process and case features. The data indicate that there was a slight tendency for pre-decision time to increase as the length of appellant and appellees briefs increased. In addition, Table E-1 reveals moderate correlations

*For a more thorough discussion of the principles of correlation and the use of Spearman's correlations, see Hubert M. Blalock, Jr., Social Statistics, (New York: McGraw Hill Book Company, 1972), pp. 415-418

TABLE E-1
CORRELATES OF CASE PROCESSING TIME

Independent Variable	STEP 1 (Lower Court Judgment to Materials)			Oral Argument Cases						Non oral Cases STEP 2 & 3 (Materials to Decision)			STEP 4 (Decision to Mandate)		
	r	sig	N	r	sig	N	r	sig	N	r	sig	N	r	sig	N
Number of Civil Subject Matters	.015	.421	(166)	.117	.107	(115)	.067	.241	(111)	.056	.312	(77)	Not applicable		
Number of Criminal Subject Matters	.163	.014	(184)	-.042	.351	(86)	.012	.458	(83)	.34	.339	(153)	Not applicable		
Number of Issues Raised by Appellant	.189	.001	(322)	.033	.321	(198)	.153	.010	(191)	-.034	.316	(200)	Not applicable		
Number of Issues Raised by Appellee	-.052	.166	(351)	.130	.033	(204)	.084	.121	(197)	-.134	.016	(260)	Not applicable		
Length of Appellant's Brief	.221	.001	(249)	.168	.010	(190)	.223	.002	(183)	-.106	.106	(141)	Not applicable		
Length of Appellee's Brief	.223	.001	(249)	.037	.310	(184)	.224	.002	(178)	.048	.310	(107)	Not applicable		
Length of Appellant's Reply	-.0004	.449	(153)	.215	.007	(135)	.215	.007	(131)	.171	.136	(43)	Not applicable		
Length of Trial Court Transcript	Too few cases			Too few cases			Too few cases			Too few cases			Not applicable		
Total Number of Motions	.477	.001	(360)	.093	.083	(204)	.028	.346	(197)	.133	.014	(276)	Not applicable		
Length of Majority Opinion	Not applicable			Not applicable			.185	.007	(182)	-.131	.052	(156)	Not applicable		
Concurring vs. No Concurring Opinions	Not applicable			Not applicable			-.040	.291	(185)	.059	.173	(254)	-.043	.197	(396)
Dissenting vs. No Dissenting Opinions	Not applicable			Not applicable			-.156	.017	(184)	-.043	.197	(396)	-.093	.033	(395)
Petition for Rehearing vs. No Petition	Not applicable			Not applicable			Not applicable			Not applicable			.229	.001	(422)

between processing time and the number of time extensions in a case. This should not be too surprising in that time extensions would by definition increase case processing time.

The correlations between case features and Step 2 reveal a weak relationship between appellant reply brief lengths and waiting time. Since this step of the process is essentially a waiting period, the lack of moderate or strong relationships is predictable. Table E-1 also reveals weak relationships between brief lengths, majority opinion length and time spent at the decision phase of the appellate process (Step 3). Cases with relatively longer opinions take slightly longer to process than cases where less information is considered.

Finally, Table E-1 documents a weak relationship between whether or not cases had petitions for rehearing, and post-decision time. Cases in which petitions for rehearing were filed generally took slightly longer at the post decision phase than cases in which petitions were not filed.

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