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AURORA MUNICIPAL COURT STUDY:
Final Report

Submitted to the
City of Aurora

by the
Institute for Court Management
1624 Market Street
Denver, Colorado 80202

May 1, 1983

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TABLE OF CONTENTS

	<u>Page</u>
Executive Summary	i
I. INTRODUCTION	1
II. STUDY PLAN AND METHODOLOGY	4
III. ANALYSIS OF THE RESEARCH ISSUES	5
A. Current and Future Demands for Judicial Resources and Court Facilities	5
1. Nature of the Problem	5
2. Sources of Information	8
3. Findings	9
a. Types of Offenses	10
b. Caseflow Process	22
4. Summary	22
B. The Effect of Changes in Plea Bargaining Policies on Trial Rates	23
1. Nature of the Problem	23
2. Sources of Information	24
3. Findings	25
4. Summary	30
C. Efficiency of the Current Administrative Workflow	31
1. Nature of the Problem	31
2. Sources of Information	31
3. Findings	32
a. Workflow	33
b. Recordkeeping	36
1. File Maintenance	36
2. Records Retention and Destruction	38
3. Forms	39
c. Cashiering	43
d. Computer Support	45
4. Summary	46

Table of Contents (Cont'd.)

	<u>Page</u>
D. Full-Time Rather than Part-Time Judges	47
1. Nature of the Problem	47
2. Sources of Information	48
3. Findings	49
a. Costs	49
b. Productivity	52
c. Qualifications	54
d. Continuing Education	55
e. Consistency	57
f. Theoretical Advantages and Disadvantages	58
g. Administrative Issues Related to the Judicial Structure	64
4. Summary	66
E. Referee Use and Decriminalization of Lesser Traffic Offenses	67
1. Nature of the Problem	67
2. Sources of Information	67
3. Findings	68
a. The Use of Referees	68
b. Decriminalization of Lesser Traffic Offenses	69
4. Summary	70
F. The Introduction of Night and Weekend Court Sessions	71
1. Nature of the Problem	71
2. Sources of Information	71
3. Findings	71
a. Scope of Business Potentially Eligible for Night and Weekend Court	71
b. Court Proceedings to be Conducted During Night or Weekend Court	73
4. Summary	75
G. The Use of Electronic Recording in Lieu of Court Reporters	76
1. Nature of the Problem	76
2. Sources of Information	78
3. Findings	78
a. Cost Savings	78
b. The Conduct of Court Proceedings	80
c. Accuracy, Speed and Ease of Record Preparation	81
d. Management of Court Reporters	83
4. Summary	84
H. Role and Desired Level of Court Support Staff	85
1. Nature of the Problem	85
2. Sources of Information	86
3. Findings	86
4. Summary	88

Table of Contents (Cont'd.)

	<u>Page</u>
Appendix A - Description of ICM and the Aurora Study Team	
Appendix B - Profile of the Aurora Municipal Court	
Appendix C - Cost Analysis of Electronic Recording	

Tables

1. Actual and Projected Population Size for Selected Denver Metropolitan Communities	7
2. Types of Offenses Filed and Disposed in Aurora Municipal Court	12
3. Types of Offenses Handled at Arraignment and the Traffic Violations Bureau, Aurora Municipal Court	14
4. Final Dispositions for Cases Scheduled for Trial in Aurora Municipal Court	16
5. Types of Outcomes for Cases Scheduled for Trial in Aurora Municipal Court, October 1982	17
6. Types of Outcomes for Cases Scheduled for Trial in Aurora Municipal Court, January 1983	18
7. Outcome of Types of Procedures Scheduled in Aurora Municipal Court	20
8. Relationship Between the Use of Pretrial Conferences and the Final Disposition of Cases in Aurora Municipal Court	26
9. Projection of Salary and Fringe Benefit Costs: Part-Time and Full-Time Judiciary	51
10. Denver Metropolitan Municipal and Limited Jurisdiction Courts, 1982 Caseloads and Judicial Hearing Officers	53
11. Willingness of the Present Part-Time Aurora Judiciary in Accepting Appointment to a Full-Time Judicial Position	60
B-1 Breakdown of Individual Offenses Filed in Aurora Municipal Court	B-2
B-2 Percentage Breakdown of the Types of Offenses Filed in Aurora Municipal Court	B-3
B-3 Method of Disposing Cases in Aurora Municipal Court from 1977 through 1982	B-6
C-1 Comparative Costs of Electronic Recording and Court Reporters	C-3

Table of Contents (Cont'd.)

	<u>Page</u>
<u>Figures</u>	
1. Caseflow Diagram (from Issuance of Summonses to Various Stages of Disposition), Aurora Municipal Court	11
2. An Example for Redesigning the Back of the Court's Copy of the Summons	44
B-1 Projecting Caseload through 1990 in the Aurora Municipal Court	B-5

EXECUTIVE SUMMARY

I. Background

The Institute for Court Management (ICM) has analyzed eight issues revolving around the operations of the Aurora Municipal Court. This work was done pursuant to a contract with the City of Aurora and in close consultation with Court officials and others in the criminal justice system. The general research agenda was formulated by the City in response to a series of questions raised by the Aurora Citizens' Advisory Budget Committee (CABC) concerning the Court's efficiency and effectiveness. Upon undertaking the project, the ICM study team analyzed each issue with the aim of providing useful and valid findings. In some instances, initial research suggested the need for reformulating the original question but the ultimate product has remained consistent with what ICM promised to deliver.

The main body of the report is devoted to describing the nature of the problem, sources of information, and detailed findings in each issue area. Additionally, this report contains a set of recommendations based on empirical data and corresponding conclusions. These recommendations are offered as ways in which the City and the Court might work together to improve the administration of justice in Aurora. The remainder of this executive summary is devoted to highlighting the findings and to recommending changes in policies and procedures.

Before discussing specific issues, however, recognition must be given to the overall performance of the Aurora Municipal Court. The City's support of and confidence in the Court is well-justified. With a competent Judiciary as its cornerstone, the Court has successfully responded to a growing caseload and managed its resources wisely. Thus, the findings and recommendations in this re-

port do not call into question the Court's basic methods of dispensing justice. We can only affirm the course that the Court has charted.

In fact, we found that steps had been taken independently of our investigations by Court officials and others in the criminal justice system to resolve problems similar to those analyzed in our study. Hence, although this report may prompt consideration of some new ideas, the City can be assured that there is an ongoing commitment by the Court, the City Attorney's Office and the Police Department to improving the criminal justice system.

II. Findings and Recommendations

A. Current and Future Demands for Judicial Resources and Court Facilities

Findings. The current six divisions are needed to handle the volume of court business, as measured by the 4,378 trials held in 1982. Despite the overall balance between workload and resources, however, there is a need for more specific monitoring of the caseflow process to ensure efficient use of the available resources. Based on data gathered from case files, there appears to be a problem in trial scheduling, a critical activity. In many instances, court resources are mobilized to adjudicate cases only to have the cases dismissed or resolved by a plea bargain.

Recommendations. The City should maintain its support of existing resources and facilities, including division six. However, the Court should also implement a case management program that includes more specific indicators of workload and performance than the Court Administrator's current monthly status reports. Responsibilities for monitoring these indicators and resolving problems that are uncovered should be fixed in the hands of the Judicial Administrator and the Court Administrator.

Among the areas deserving immediate attention is trial scheduling. Court officials, the Managing Municipal Prosecutor and the Police Chief need to discuss ways of developing a firmer trial calendar, on the basis of the availabil-

ity of witnesses and the availability of police officers. In addition to these efforts by the Court, City Attorney, and the Police Department, the City should support the establishment of a Witness Coordinator position within the Office of the City Attorney. Based on the experience of other jurisdictions, a Witness Coordinator may significantly reduce the number of continuances and dismissals.

Finally, the City should consult the Managing Municipal Prosecutor and Court officials on the possible reallocation of space for the holding of pretrial conferences. Although we do not advocate the construction of new facilities, existing space should be examined closely to determine what rooms may be converted into areas more conducive to privacy and confidentiality than the existing arrangement of holding conferences in the back of courtrooms simultaneously being used for other purposes.

B. Effects of Changes in Plea Bargaining Policies on Trial Rates.

Findings. The City Attorney's plea bargaining policies, as applied in the pretrial conference, are successful in averting trials in most cases. Additionally, data from a sample of 490 summonses reveal that the plea bargains being made are consistent with the guidelines set by the City Attorney's Office. However, two factors inhibit a higher level of success and result in the Court having to schedule trials only to have some cases resolved on the day of trial by plea bargains or dismissals.

Recommendations. There should be no comprehensive change in plea bargaining policies, i.e., offers should not be made for additional offenses and further point reductions in traffic cases are not warranted.

The Managing Municipal Prosecutor should, however, undertake three steps to improve trial scheduling and case disposition. First, he should review all cases dismissed on the day of trial and suggest ways in which the assistant prosecutors might more expeditiously decide not to prosecute. Second, the Prosecutor's recent efforts to serve subpoenas to witnesses and to contact them prior

to trial should be strengthened. Here the City should provide the nominal resources necessary to computerize the mailing of subpoenas and reminder notices. In addition, the City should support the establishment of a Witness Coordinator position in the City Attorney's Office. This clerical position could help insure the presence of witnesses and police officers at trials. If an assistant prosecutor knew in advance of the trial date that a witness or police officer would be unavailable on the day of trial, a guilty plea might be negotiated and thus, an outright dismissal might be avoided. Third, the Managing Municipal Prosecutor should try to provide more information to defendants concerning the purpose of the pretrial conference. One alternative is to enclose a one-page "question and answer" sheet in the pamphlet that the Court currently distributes to defendants.

Finally, the Court should monitor the frequency and reasons for cases being resolved on the day of trial by guilty pleas to reduced or lesser charges. Here, the Court needs to enforce its policy of not accepting plea bargains on the day of trial.

C. Efficiency of the Current Administrative Workflow.

Findings. In spite of some backup of work at several workstations, workflow in the Clerk of Court's Office (Court Administrator) is basically efficient and effective given the volume of paper which must be processed and the tedious and routing nature of many of the jobs. The number of processing steps through which a case proceeds depends upon contingencies outside the control of the Court, such as the type of disposition, whether fines are paid on time, whether a warrant must be issued, and so forth.

Although the City has provided a sophisticated cash register (DTS 500) with the capability to communicate directly with the computer and alleviate the Court's manual accounting workload, it has failed to provide the equipment or program required to complete the register-computer linkage. Computer support

of workflow in the Clerk's Office has been a welcome asset; but much more can be done to relieve the volume of manual processing.

Recommendations. With the exception of improvements to the filing system, there is little room for improved technical efficiency to the workflow in the Clerk of Court's Office. However, greater effort should be placed on increasing job satisfaction in the Clerk's Office by the Judicial Administrator and Clerk of Court, possibly with assistance from the City Personnel Office. Toward this end, the Court should consider reorganizing cashiering and processing duties to integrate the interesting and tedious tasks and to assign clerks greater overall responsibility for specific groups of cases. Also with respect to increasing job satisfaction, the Clerk should create subcommittees of clerks to address issues jointly identified by the Clerk and staff.

The new open-shelf filing system contemplated by the Clerk should be implemented without delay. A carefully thought out set of file maintenance policies and procedures should be part of this implementation.

The Clerk of Court should aggressively seek authority to destroy most of the case papers such as accident reports, subpoenas, jury demands, and so forth, when the case is closed.

Present form redesign efforts should be expanded rapidly and should involve the staff in the Clerk's Office. The Court should spearhead an effort to formalize effective consultation regarding form design among the agencies affected.

An operations manual should be created detailing the tasks performed at each work station for both reference and use in training; responsibility for training should probably be assigned to one senior employee.

The Court and City should proceed immediately to resolve the delay in implementing the cash register to computer direct interface. Computer usage should be expanded just as rapidly as possible.

D. Full-Time Rather than Part-Time Judges.

Findings. The basic part-time judicial structure of the Aurora Municipal Court has served the community very well to date. The qualifications of the judges are very strong and their performance of judicial functions has been of good standard. Continuing education of the judges has become more meaningful and ample opportunity is provided for expanding their skill levels and working at commonly agreed upon policies, procedures, and dispositions.

Yet, judicial energies are divided between judicial performance and maintenance of a private law practice. The appearance of justice has deficiencies. The part-time judiciary is more costly than a full-time counterpart. The present judicial selection and reappointment method vests excessive power in one official.

The future growth of this community and of this Court suggests it is time to chart a new course with the selection, tenure, and structure of the judiciary. Further, there is a willingness on the part of present part-time judges in accepting appointment to full-time positions, though it is their preference that the current structure be retained.

Recommendations. It is recommended that the City initiate a task force, including citizen representatives, to plan the steps and procedures leading to the implementation of an appointive, full-time judiciary. The changeover could be initiated in January 1985. A four-year term appears to be most appropriate. A Judicial Commission, composed of citizens and attorneys, would be a useful device for screening applicants and recommending the most qualified candidates for appointment by the Mayor/City Council. The Judicial Commission could also be empowered to serve as a discipline body to receive and investigate complaints relative to judicial performance and to recommend disciplinary actions to the Mayor/City Council. The Presiding Judge could be appointed by the Mayor/City Council or elected by the judges.

In the event the recommendation for a full-time judiciary is not accepted, it is recommended that the Judicial Commission nevertheless be implemented as the device for selection, retention, and discipline of the judiciary. The Commission approach would remove these functions from the Judicial Administrator, thereby "democratizing" this responsibility and removing the time burden of these functions which can be expected to expand as additional divisions are created in the future.

E. Referee Use and Decriminalization of Lesser Traffic Offenses.

Findings. Referee utilization elsewhere in the Denver metropolitan area courts is viewed favorably. Cost savings are effectuated, case movement is accelerated, and certain matters assigned to referees save judge time. But, an additional level of judicial hearing officer should not now be examined seriously by a Court that already has too many levels of judicial hearing officers. Case processing can be expedited by other means, expenditures can be significantly reduced by the use of a full-time judiciary, and referee use, even lawyer-referee use, may lower the standards in a Court seen as having high quality judicial performance.

Decriminalization of certain lesser traffic offenses appears to have merit, in conformity with the national and state trends. More thorough assessment is needed of particular offenses that are appropriate for decriminalization, the numbers of offenses involved, and of procedures that would be necessary as a consequence of decriminalization.

Recommendations. It is recommended that appointment of a referee(s) not proceed forward at this time. It is recommended that, in the event City policy-makers decide to proceed with a full-time judiciary, a decision should then be made as to whether a referee(s) should be used in conjunction with a full-time judiciary. This decision affects the number of judges for which provision would be made. A referee is less costly than a judge. A referee can provide hearing

officer flexibility, and, if properly utilized, can help speed case dispositions. But a referee cannot hear jury trials or certain other matters that a judge must hear. A referee is not a judge. This position must be viewed and will be viewed as inferior to a judge.

It is recommended that the representatives of the City, and the Court, together with the Managing Municipal Prosecutor evaluate the minor traffic offenses that may be appropriate for decriminalization and proceed to develop legislation to achieve this objective. In conjunction with this, it will be necessary to assess the procedures and mechanisms needed in administering the consequences of eliminating jailing sanctions with these offenses.

F. The Introduction of Night and Weekend Court Sessions.

Findings. Almost half of all cases filed in Aurora Municipal Court are disposed of without an appearance before a judge. If night or weekend court sessions are made available for those types of defendants now appearing in court, the necessary resource and time commitment by the Court and City Attorney's Office will be considerably greater in traffic rather than criminal cases.

Before making this commitment, the court should also take into account the alternative of changing its policy governing the conditions under which traffic violations can be disposed of without a court appearance. A change in this area should offer defendants as much convenience as expanded court sessions but at far less cost to the City.

Recommendations. The Court should not introduce longer hours at the cashier's window or extend sessions for Court proceedings such as arraignment or trials. Instead, the Court should attempt to increase productivity through improved scheduling during the weekly, daytime period. Only if the Court is shown to be truly overburdened, should additional court sessions be contemplated.

G. The Use of Electronic Recording in Lieu of Court Reporters.

Findings. Electronic recording is a feasible alternative to the present system of court reporters but evidence of its desirability is thin. Electronic recording compares favorably in terms of cost but only when there are significant personnel changes do the savings become appreciable. The comparative accuracy and timeliness of the two methods are difficult to determine objectively at this time because of the lack of systematic information. Uncertainty on these questions makes it difficult to make a completely rational decision on whether to implement the technology. Finally, unlike in some other jurisdictions, the current system of court reporters is well managed and accountable to the Court.

Recommendations. The Court should not implement electronic recording until it has the benefit of a report by the Federal Judicial Center (FJC). The FJC study, available this summer, will provide the results of a side-by-side comparison of electronic recording and court reporters on many of the dimensions relevant to the situation in Aurora.

If the FJC report is a positive assessment of electronic recording, then the Court should consider conducting a controlled test in a single courtroom over a six-month period. This experiment should provide sufficient evidence of electronic recording problems and prospects in the specific context of the Aurora Municipal Court.

H. Role and Desired Level of Court Support Staff.

Findings. Because their operations are reviewed extensively elsewhere in the report, the Clerk's Office and the court reporters are excluded from consideration in this section. In terms of staffing, therefore, the major focus is on the Marshal's Office, which also is responsible for the bailiff function.

In view of the jurisdictional disparities and wide variation in duties assigned to staff, we conclude that staff/judge ratio comparisons among Colorado

municipal courts are not very meaningful. However, our review indicates that the Court may wish to consider one modification in the staffing pattern for the bailiffs.

Recommendations. For a court trial of an unconfined defendant, it may not be necessary for a bailiff to remain in the courtroom once the trial gets underway. Not having bailiffs in attendance could free up a substantial amount of time that could be devoted to other activities. Because the marshals' many duties do not allow them enough time to telephone all the defendants who should be called because they failed to appear in court or failed to make a scheduled fine payment, the bailiffs could fill this void by calling the defendants that the marshals are unable to reach. This suggestion could be tested by setting up a pilot project to determine whether the calls made by the bailiffs are producing sufficient additional revenue to warrant a permanent staffing pattern change.

I. INTRODUCTION

The objective of this report is twofold: First, it is intended to provide the City of Aurora with systematic information on the management, workload, and operations of the Municipal Court. Pursuant to a contract with the City, the Institute for Court Management (ICM)¹ has gathered and analyzed data from a variety of sources on eight issue areas. They include:

- (A) Current and future demands for judicial resources and court facilities.
- (B) Effects of changes in plea bargaining policies on trial rates.
- (C) Efficiency of the existing administrative workflow.
- (D) Full-time rather than part-time judges.
- (E) Referee use and the decriminalization of lesser traffic offenses.
- (F) Introduction of night and weekend court sessions.
- (G) Use of electronic recording in lieu of court reporters.
- (H) Role and desired level of court support staff.

Information on each issue is presented below in a separate section of the report.

The second purpose is to offer recommendations for planning and action by Court officials in several areas, including caseload management, resource and space allocation, recordkeeping systems, and applications of available technology. For the purpose of highlighting these recommendations, they are presented in the executive summary to this report. The empirical basis for these recommendations is contained within the remaining sections of the body of the report.

When considering our recommendations, the City should take the following four factors into account: First ICM relied on multiple criteria rather than a

¹ A brief description of the Institute for Court Management and staff members participating in the Aurora Municipal Court study is available in Appendix A.

single criterion to determine the advantages and disadvantages of current Court operations and promising alternatives in formulating its recommendations. Our assessment in each of the eight issue areas involves a combination of performance standards including efficiency, quality of services rendered, accountability of Court staff to superiors and citizens-at-large, and organizational management principles. Hence, our suggestions are based on a view of Court operations in broad perspective rather than on narrowly-conceived indicators.

Second, ICM has tried to formulate recommendations in a rational sequence. We believe that those problems that have consequences for the Court system as a whole need to be addressed first. Although every issue area deals with an important aspect of Court operations, the resolution of problems in certain areas can clarify and refine the nature of the problem in other areas. Thus, we urge the City and the Court to give priority to those issues that have consequences throughout the system.

Third, our overall assessment of the Court is that key functions are performed quite adequately. We uncovered no evidence of egregious policy or personnel problems that warrant radical solutions. Our recommendations, if adopted, should improve an already steady system. Furthermore, because our suggestions are directed at solving manageable problems, we believe that the Court is in a position to introduce the proposed changes expeditiously and without disrupting the ability to render basic services to the City and its citizens.

Finally, the available time and the resources committed to this study must be kept in mind. Because every issue, being sufficiently broad and complex, could be the subject of a special study, the current report provides guidelines for evaluating each issue area and designing solutions to problems where they exist. ICM has been able to reach certain conclusions and to make specific recommendations on what policies, procedures, and practices should be changed. Yet, we are not in a position to identify the exact process through which the changes should

be introduced. Instead, we believe that some form of management structure--task forces, committees, teams--needs to be established, including non-Court personnel where appropriate, to work out the specific plans to implement possible changes. The formation of this structure will ensure the incorporation of detailed procedural and personnel factors necessary for successful implementation.

II. STUDY PLAN AND METHODOLOGY

A common format is used throughout the substantive sections of this report in order to facilitate the exposition and an understanding of the substantial amount of material that is presented. Basically, each issue is discussed in terms of four components: (1) the nature of the underlying problem; (2) the sources of information used in analyzing the problem; (3) the findings resulting from the analysis; and (4) a broad summary based on the findings.

In conducting this study, the Institute has relied upon multiple sources of information. They include:

- (a) A random sample of approximately 500 summonses;
- (b) A sample of nearly 100 scheduled trials;
- (c) A sample of the Court's docket, including scheduled arraignments, pre-trial conferences, and trials;
- (d) Observations of arraignments and trials;
- (e) Mail questionnaires sent to all associate and relief judges;
- (f) Interviews with the Presiding Judge-Judicial Administrator;
- (g) Interviews with the Court Administrator, the Chief Marshal, all of the court reporters, all court clerks, selected judges, selected members of the private bar, City prosecutors, and others;
- (h) Interviews with officials in comparable Colorado court systems; and
- (i) Meetings with personnel in the City Manager's Office.

One measure of the Court's solid operations was the high degree of cooperation rendered by Court personnel to ICM's requests for information. Similar responsiveness was shown by the City Attorney's Office and the Police Department. The City of Aurora can take considerable pride in having institutions where there is strong leadership and dedicated workers. Moreover, there is sufficient goodwill among all of the participants to ensure that new ideas can be tried out in a fair and controlled manner.

III. ANALYSIS OF THE RESEARCH ISSUES

A. Current and Future Demands for Judicial Resources and Court Facilities

1. Nature of the Problem. Both the volume and the type of work imposed on the Court are critical factors to be considered by the City of Aurora in evaluating court operations for several reasons.² One reason is that the Court's overall structure and staffing pattern should reflect the kind of business that it is called on to transact and the amount of the workload. These variables have significant consequences for personnel costs and capital cost requirements in terms of the number of required judges and divisions, respectively.

Second, procedures governing the management of cases, support staff, and recordkeeping should be designed according to the type of work imposed on the Court. The Court's jurisdiction includes a range of different categories of offenses, including parking, traffic, criminal (non-traffic), animal violations, and water and zoning ordinance violations. Yet, because cases vary in complexity and the extent to which defendants pursue their rights varies, the Court's caseload at each stage of the criminal process affects the appropriate level of resources and necessary procedures.

On a general level, we find the current configuration of six divisions, nineteen judges, and forty-nine courtroom, clerical, and probation staff consistent with the demands placed on the Court. We base this judgment on the annual number of trials held, ostensibly a valid indicator of the most expensive combination of court resources; judges, reporters, bailiffs, and courtroom space.

According to the 1982 Annual Report compiled by the Court Administrator, there were 4,378 trials held in 1982. Assuming that trials average one and a

² For a general description of the Aurora Municipal Court, including individual types of offenses handled, see Appendix B.

half hours in length,³ including judicial and staff preparation time, four divisions, devoted exclusively to trials, are required to handle this workload.⁴

We know that in addition to the divisions required to handle the 4,378 trials, three divisions are currently used each morning to handle arraignments and hearings for prisoners. Combining the 4,378 trials and the current volume of arraignments and instant pretrials, five and a quarter divisions are needed. To this number must be added, at least three quarters of a division to handle regularly scheduled pretrial conferences and instant pretrials. Because the estimated number of divisions for trials is based on conservative assumptions (no post-trial work and no down time), the existing six divisions is not excessive. Thus, on a general level we recommend that the City continue to support all six divisions through the rest of the fiscal year.

Moreover, we believe that the relationship between workload and resources in Aurora is not illuminated by considering situations in other jurisdictions. The problem in comparing jurisdictions is basically twofold: First, there is virtually no common data base that can be used to measure workload across jurisdictions, comparability in the definition of offenses and the nature of proceedings are lacking. Second, the basis for projecting workload varies tremendously across jurisdictions. For example, population growth, which should be a reasonable predictor of workload, exhibits different patterns in Aurora than in other

³ The figure of one and a half hours is our estimate. Clearly, there is variation in the length of the 4,170 trials to the court and the 208 trials to a jury, with the latter presumably taking longer, on average. Obviously, if the Court measured the length of trials, the relationship between resources and workload could be determined more precisely and validly. (For a projection of future case filings, see Appendix B.)

⁴ This estimation assumes 250 working days per year and seven available work hours per day or 1,750 hours annually. Hence, $4,378 \times 1.5 = 6,567 - 1750 = 3.75$ divisions.

municipalities. In Table 1, the growth in Aurora's size from 1970 to 2000 is unlike that of other Denver area communities.

Table 1

Actual and Projected Population Sizes for
Selected Denver Metropolitan Communities

<u>City</u>	<u>1970</u>	<u>1980</u>	<u>Percent Change</u>	<u>Percent 1990</u>	<u>Percent Change</u>	<u>2000</u>	<u>Change</u>
Arvada	49,844	84,576	69.7	106,800	26.3	122,400	14.6
Aurora	74,974	158,588	111.5	208,700	31.6	260,400	24.8
Boulder	66,870	76,685	14.7	114,100	48.8	134,900	18.2
Denver	514,678	492,365	-4.3	574,400	16.7	626,700	9.1
Englewood	33,695	30,021	-10.9	42,000	39.9	45,900	9.2
Lakewood	92,743	112,860	21.7	165,100	46.3	193,400	17.1
Littleton	26,466	78,631	8.2	41,300	44.2	49,300	19.4

*SOURCE: Denver Regional Council of Governments

Despite the fact that the overall number of divisions and corresponding staff are justifiable in light of the Court's caseload, the aggregate number of filings and trials do not reveal how resources are used at each stage of the criminal process to resolve cases. Although the Court may have the overall level of resources necessary to dispose of cases, more questions need to be addressed about how cases are handled at specific points in the caseflow process. Based on our knowledge of other courts, we believe that effective court management requires the ability to answer the following sorts of questions:

- (1) How are most cases within each offense category being resolved? Waiving of arraignment and payment of a fine at the Traffic Violations Bureau? Guilty plea at arraignment? Negotiated plea at a pretrial conference? Trial?
- (2) What is the elapsed time, on average, for cases to reach each stage of the criminal process? Does this vary by type of case? What kinds of cases take the longest?

- (3) How many cases that go to a pretrial conference are resolved by a subsequent guilty plea or dismissal?
- (4) How many cases require more than one pretrial conferences before they are resolved? What are the characteristics of these cases?
- (5) What sorts of cases go to a pretrial conference, but are not resolved?
- (6) What sorts of cases go to trial? How many involve witnesses? How many involve counsel for the defense?
- (7) How many cases that are scheduled for trial are resolved on the day of trial by a guilty plea or dismissal? Why are cases that are scheduled for trial being dismissed on the day of the trial?
- (8) How many trials are continued? At whose request?
- (9) How long do trials last? What is the average time for different offenses?
- (10) What are the penalties imposed in criminal cases? Are the fines imposed near the minimum or the maximum amount?

In the remaining portion to this section, we seek to show the utility of being able to answer these types of questions. Based on information gathered from court files, the caseflow process in Aurora is described and many of the questions above are answered.

2. Sources of Information. Because of the importance of this issue, and the critical role that information should play in making rational allocation decisions, we have devoted considerable effort to gaining an accurate picture of what happens to cases once they reach the Court. Basically, we gathered data from three primary sources:⁵

⁵ Additionally, the caseflow data presented here are relevant to other issues, such as plea bargaining, administrative workflow, night and weekend court sessions. Hence, in subsequent sections, references will be made back to the data sources initially described here. In collecting the data, court staff were consulted to resolve problems of interpreting case records and to locate certain files. The court reporters provided special assistance, especially in retrieving information on trials.

- o Closed Case Files. A random sample of 490 cases⁶ was selected from matters terminated in 1982.
- o Scheduled Trials. Because of the small number of trials in the overall case sample, noted above, information was obtained from a sample of 98 trials that were scheduled during five days in October 1982.
- o Court Dockets. Courtroom utilization was measured by an examination of court dockets for one week in January 1983.

In addition to these sources, the study team observed arraignment sessions, trials to the court, and trials by jury.

3. Findings.

a. Types of Offenses. Most offenses in Aurora Municipal Court are traffic violations. As seen in Table 2, moving traffic and parking cases account for eighty percent of the study sample, with criminal matters⁸ constitut-

⁶ The sample of 490 cases is, of course, not necessarily a perfect picture of all closed cases. Specifically, there is a small risk (1 out of 100) that the calculated percentages based on the sample data may be five percent higher or lower than the percentage in the total number of 46,000 or so closed cases in 1982. We did not believe that it would be worth the cost to choose a larger sample that would have only marginally reduced the risk and increased the accuracy.

⁷ Because the Court files closed cases alphabetically (by the defendant's last name), the sampling process was as follows: Having decided on a total sample size of 450, we selected at random nine letters of the alphabet. We then went to the closed files for each of these letters and, by using a table of random numbers, selected 50 names under each letter. The sample is larger than 450 because some defendants had more than one summons disposed in 1982; yet, because cases were sometimes misfiled, multiple cases for some defendants did not find their way into the sample.

⁸ Our criminal category includes offenses such as theft, prostitution, and other general offense violations such as assault and battery, resisting arrest, disorderly conduct. Being that animal violations was the largest group of all the non-traffic offenses, they were put into a separate category.

ing fifteen percent.⁹ In our opinion, a critical question in deciding what resources need to be mobilized to meet the demands of judicial adjudication is to see how these cases are terminated.

b. Caseflow Process. Nearly half of the cases that are terminated by the Court are disposed of without judicial involvement. Moreover, of those cases that go to arraignment in the Municipal Court, 85 percent are disposed of by a plea of guilty or are dismissed without a trial never being scheduled. For those cases set for trial, scheduling problems arise in an appreciable number of instances. Resolution of this problem should lead to a greater efficiency in the use of existing resources and facilities.

There are four basic ways for cases to be resolved in the Aurora Municipal Court system: (1) payment of a fine for certain traffic offenses by mail or at the Court's Traffic Violations Bureau; (2) guilty plea or dismissal of charges at arraignment; (3) guilty plea or dismissal of charges after arraignment or after a pretrial conference; and (4) court or jury trial.

An overall view of how cases are resolved by one of these four alternative methods is illustrated in Figure 1. From our perspective, there are at least four findings pertinent to the efficient allocation of resources that can be drawn from this graphic representation. First, in terms of the volume of cases, there is a clear need for trained personnel and an effective recordkeeping system to handle the more than forty percent of summonses (217/490) which

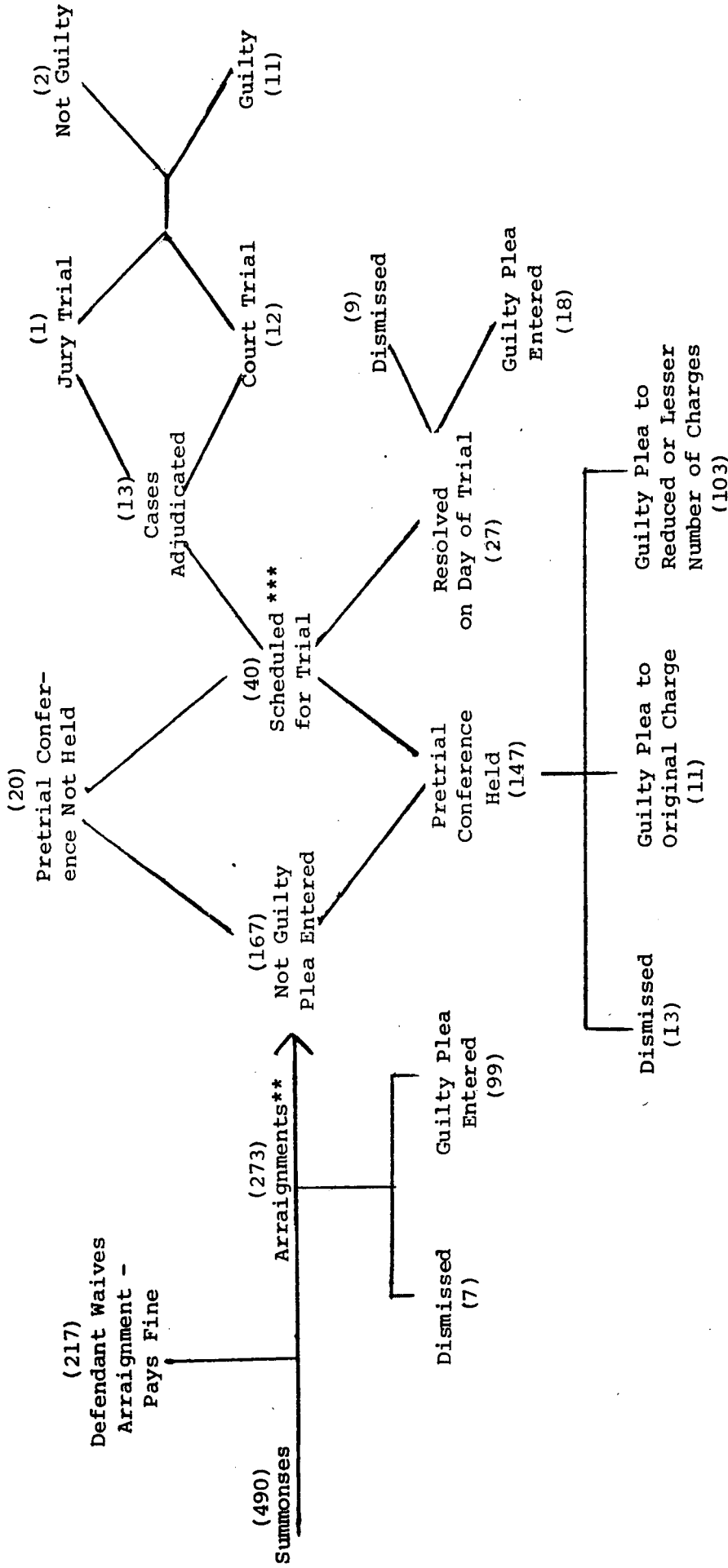
9

Our method for selecting the 490 random cases from the 1982 closed files may have resulted in an underrepresentation of criminal cases. Given the nature of the Court's filing system, a criminal case that was technically disposed of in 1982 but the defendant was placed on probation, was not placed in the closed files, but in a separate "probation" file. Because our sample was drawn from the closed files only, the opportunity for these cases to be selected as part of our sample never existed. Despite this possibility, however, our sample data bear close resemblance to the Court's own monthly statistics which indicate that in 1982, 16 percent of the cases filed in Aurora Municipal Court were "criminal" and 8 percent were animal violations. Thus, the total 24 percent of non-traffic offenses corresponds to our sample statistic of 21 percent.

Figure 1

CASEFLOW DIAGRAM (FROM ISSUANCE OF SUMMONSES TO VARIOUS STAGES OF DISPOSITION*)

Aurora Municipal Court



*Source: A random sample of cases closed in 1982.

**Includes 17 summons where defendants pled not guilty but waived formal arraignment.

***Because this diagram is intended to highlight how cases are ultimately disposed, the incidence of continuances in scheduling trials and other proceedings is not shown.

are disposed of by payment of a fine at the Violations Bureau and which never involve court appearances. In fact, this portion of the court staff and corresponding space, equipment, and supplies is perhaps the one sector that can be budgeted in terms of case filings. That is, annual percentage increases (or decreases) in the volume of summonses resolved prior to arraignment are grounds for setting staff requirements and searching for more efficient recordkeeping systems to keep pace with increasing caseloads without adding more staff. In our opinion, this finding highlights the importance of viewing the Court as multi-faceted--cases are resolved through alternative means and each method involves different personnel, support services, and facilities. Hence, in deciding whether to expand court resources, the question should not simply be are total filings increasing (or decreasing), but how are different sectors of the Court experiencing greater or less demands for services?

The fact that over forty percent of the cases are resolved without judicial resources emphasizes the need for a well-managed staff of clerks with adequate recordkeeping systems. As discussed in Section C, infra, there are certain problems in the general administrative workflow. The information presented here serves to underscore the need for early implementation of the new ideas and for internal assessments by the Court Administrator to refine the new procedures, as necessary.

Table 2

Types of Offenses Filed and Disposed in Aurora Municipal Court*

<u>Type of Offense</u>	<u>Number</u>	<u>Percentage</u>
Parking and Traffic	389	79.4
Criminal	71	14.5
Animal Violations	30	6.1
TOTAL	490	100.0

*SOURCE: A random sample of cases closed in 1982.

Second, the impact of the initial court appearance--arraignment--is another aspect of the caseflow process that needs to be monitored for several reasons. One reason is that if the annual percentage of defendants arraigned increases (or decreases), then the need for judicial resources and courtroom staff, such as court reporters and bailiffs, changes accordingly. As a result, shifts in this percentage need to be observed in order to determine the need for more resources or to explore alternative ways of holding arraignments. Additionally, arraignments should be monitored to gain a sense of the number and types of cases being disposed of at this stage by guilty pleas or dismissals. The lower the disposition rate at the arraignment stage, the greater the need for pretrial conferences and trials, which involve judges, their courtroom staff, and city prosecutors.

As seen in Table 3, most of the cases that go to arraignment are traffic rather than criminal. However, the proportion of traffic cases that are resolved at arraignment (guilty pleas, dismissals) is much lower than it is for criminal cases. Although criminal cases may be more complex and involve more witnesses, exhibits, and motions than traffic cases, the evidence indicates that traffic cases are creating the demand in terms of volume for both pretrial conferences, and judicial resources and courtroom staff to take a plea or to dismiss the case on the prosecutor's motion at the conclusion of a pretrial conference.

Third, even though the Court does not participate in pretrial conferences, as is the case in other jurisdictions, it should monitor the effects of the conferences, especially in traffic cases. As is discussed in Section B, supra, there are ways in which the pretrial conference might be improved in order to reduce the need for gearing up the Court to conduct as many trials as it currently does.

Apart from the position of the pretrial conference in the caseflow process, the space allocated to the holding of pretrial conferences does not seem commen-

Table 3

Types of Offenses Handled at Arraignment and the Traffic Violations Bureau*

Aurora Municipal Court

Types of Offenses

Arraignment Status	Types of Offenses			Totals (%)
	Parking/ Traffic	Criminal	Animal Violations	
Guilty Plea Entered at Arraignment	50	36	13	99 (20.2)
Not Guilty Plea Entered at Arraignment	131	30	6	167 (34.1)
Dismissed at Arraignment	1	5	1	7 (01.4)
Arraignment Waived - Fine Paid at Violations Bureau	207	0	10	217 (44.3)
Totals (%)	389	71	30	490 (100.0)

*Source: A random sample of cases closed in 1982.

surate with the role that they play in the disposition of cases. We observed conferences being held in the rear of the courtrooms that were simultaneously being used to conduct business in other cases. Although the physical surroundings of legal proceedings are intangible factors, most courts that we are familiar with provide designated rooms in which the prosecutors and defendants can discuss cases in an atmosphere of confidentiality, order, and decorum. In our opinion, the current environment calls for more private accommodations and should be on the City's agenda in deciding the size and configuration of court facilities.

The fourth finding concerns the scheduling of trials. According to Figure 1, over half of the trials scheduled ultimately result in either a dismissal by motion of the prosecutor, or entry of a guilty plea by the defendant. The remaining group results in adjudication of guilt or innocence by a judge or jury. A breakdown of those cases scheduled for trial by type of offense is found in Table 4.

The noticeable incidence of cases disposed of by a guilty plea or a dismissal on the day of trial is corroborated by supplementary data collected exclusively on trials. The trial-only data, however, represent what happens to trials on the day that they are scheduled, and not necessarily their ultimate dispositions. As a result, in addition to the cases adjudicated, guilty pleas and dismissals, two other outcomes are possible: (1) continuances and (2) failure by the defendants to appear. Nevertheless, of the cases that were disposed of on the day scheduled for trial, more than 40 percent (31/75) were disposed of by guilty pleas or dismissals rather than by adjudication, according to Table 5.

This same pattern is also evident from the third set of data--selected court dockets in January 1983. As can be seen in Table 6, of the 154 trials scheduled, sixty-eight resulted in an adjudication of guilt or innocence. A total of

Table 4

Final Dispositions for Cases Scheduled for Trial in Aurora Municipal Court*

Final Dispositions	Types of Offenses			Totals (%)
	Parking/ Traffic	Criminal	Animal Violations	
Court Trial Adjudication	6	5	1	12 (30.0)
Jury Trial Adjudication	1	0	0	1 (02.5)
Case Disposed on Day of Trial by Guilty Plea or Dismissal	14	11	2	27 (67.5)
Totals (%)	21 (52.5)	16 (40.0)	3 (07.5)	40 (100.0)

*Source: A random sample of cases closed in 1982.

Table 5

Types of Outcomes for Cases Scheduled for Trial in Aurora Municipal Court*

October, 1982

Types of Offenses

Trial Status	Types of Offenses			Totals (%) **
	Parking/ Traffic	Criminal	Animal Violations	
Case Adjudicated by Court or Jury Trial	28	12	4	44 (46.8)
Case Resolved on Day of Trial by Guilty Plea or Dismissal	20	9	2	31 (33.0)
Case Not Disposed (Continued to later date or Defendant Failed to Appear)	10	9	0	19 (20.2)
Totals (%)	58 (61.7)	30 (31.9)	6 (06.4)	94 (100.0)

*Source: A sample of trials scheduled on five different days in October, 1982.

**Totals do not equal 98 because files on four cases could not be located.

Table 6

Types of Outcomes for Cases Scheduled for Trial in Aurora Municipal Court*

January, 1983

Type of Trial Scheduled	Adjudicated Guilty or Innocent**	Continued on Day of Trial	Continued at Earlier Date	Dismissed by Prosecutor	Defendant Failure to Appear	Defendant Pled Guilty	Reason Not Indicated on Docket	Totals (%)
Court	61	14	1	12	16	26	15	145 (94.2)
Jury	7	1	0	0	0	0	1	9 (05.8)
Totals (%)	68 (44.2)	15 (09.7)	1 (0.6)	12 (07.8)	16 (10.4)	26 (16.9)	16 (10.4)	154 (100.0)

*Figures are based on docket sheets for all six divisions for a one-week period in January 1983.

**Includes dismissals following a trial (e.g., when a jury could not reach a decision).

86 trials were continued, dismissed, resolved by a guilty plea, or were not held because the defendant failed to appear on the day of the trial.

Although some judicial time is required to take the plea or to dismiss the case, it is less than the time required for a trial, which involves testimony, opening and closing arguments by counsel, and deliberation by a judge or jury.¹⁰ If trials are scheduled but result in guilty pleas, dismissals, or the defendant failing to appear on the day of trial, considerable resources--judge, bailiff, court reporter, prosecutor, have been mobilized only to resolve the matter quickly. This may cause considerable waiting by judge and courtroom staff until the next set of participants--prosecutor, defense counsel, defendant, witnesses--can be assembled. On the other hand, if there is "double scheduling", that is, two trials set for the same time period, the second set of participants must spend a considerable amount of time waiting until the first case is terminated, providing it could not be transferred to another division.

Finally, the problem of scheduling trials seems to be part of a broader problem of scheduling court proceedings. As indicated in Table 7, approximately

10

Although trials may be a very appropriate indicator for determining current and future judicial and courtroom needs, the available data contained in the Court Administrator's Monthly Status Reports may not be adequate for this task. According to the Reports, approximately nine percent of the cases disposed of in 1982 resulted in a trial. Our data indicate eight percent, if the guilty pleas and dismissals are counted as trials (i.e., the 40 cases scheduled for trial correspond to our sample total of 490 cases the same as the Court's annual figure of 4,378 trials corresponds to the 46,849 cases disposed of in 1982). Yet, we believe that efforts can and should be made to resolve matters in advance of scheduling them for trial. If that can be accomplished, then the annual percentage change in number of trials should be a more precise way to determine judicial and courtroom needs.

Table 7

Outcome of Types of Procedures Scheduled in Aurora Municipal Court*

Outcome	Types of Procedures					Totals (%)
	Arraignment	Regular Pretrial Conference	Court Trial	Jury Trial	Sentencing	
Procedure Held	390	106	61	7	26	590 (58.5)
Procedure Not Held	229	96	84	3	6	418 (41.5)
Totals (%)	619 (61.4)	202 (20.0)	145 (14.4)	10 (01.0)	32 (03.2)	1008 (100.0)

* Figures are based on docket sheets for all six divisions for a one-week period in January 1983.

** These procedures do not include show cause hearings, instant pretrial conferences and prisoner arraignments which are all generally not pre-scheduled.

40 percent of all proceedings that are scheduled end up not taking place.¹¹

Our observations on scheduling problems are shared by some of the judges who responded to our mail survey. According to responses given, there are problems in scheduling, especially pretrial conferences and trials.

Because the Court annually schedules over 4,000 cases for trial, we believe that certain scheduling problems are inevitable. For example, one can expect that some witnesses will forget their court dates or that a number of police officers will be scheduled to appear in other courts on the same day that they are expected to appear in Aurora Municipal Court. Yet, both the City Attorney's Office and the Police Department realize that they can contribute to a solution of trial scheduling problems. For example, the City Attorney's Office, through the use of a private process server, has strengthened efforts to notify witnesses prior to trial. Recent steps have also been taken by the Police Department, such as the clarification and stricter enforcement of disciplinary policies when officers fail to appear in court for no legitimate reason.

Thus, we believe that both the prosecutors and the police recognize the problems in scheduling trials and are taking steps to deal with them. Furthermore, informal discussions with officials in both agencies indicate that they favor the implementation of a Witness Coordinator Program to aid in the notification of witnesses before trial.

¹¹ If the disposition, or some indication that the defendant had appeared in court, was not noted on the docket sheet by the Court Reporters, the assumption was (according to Court Reporters) that the procedure had not taken place. In the case of regular pretrial conferences, however, if a disposition was not reached between the defendant and prosecutor and a plea entered, there was no way that the Court Reporter could document this information on the docket sheet. Therefore, we do not know of the 96 pretrial conferences, where there was no indication of an appearance, what percentage were not held because the defendant did not appear and what percentage were held but no disposition was reached. However, even if the pretrial conferences were eliminated altogether from the data presented in Table 7, the overall percentage of procedures not held would still be 40 percent. (Based on our sample of 490 summonses, we know that a significant proportion of defendants who schedule pretrial conferences do not show up for the conferences.)

4. Summary. We have reached three basic conclusions in our attempt to assess current and future resource needs of Aurora Municipal Court.¹² First, the existing six divisions and staff are appropriate, based on the reported number of trials held in 1982. Second, the monitoring of the caseflow process is an activity that the Court could well undertake. The utility of a monitoring program with specific indicators is illustrated through the analysis of cases selected from court records. Of primary concern is the number of scheduled trials that are resolved on the day of trial by guilty pleas, including pleas to reduced and lesser charges, and dismissals.

Third, we believe that existing facilities for conducting pretrial conferences are far less private and orderly than one would expect of a major metropolitan municipal court.

12

In addition to questioning present and future resource needs, the CABC also raised the issue of how and why there was simultaneously an increase in the number of summonses and a decrease in the City Attorney's workload. Two observations are pertinent here. First and foremost, this situation apparently existed prior to the introduction of the "instant pretrial", i.e., pretrial conferences held immediately after arraignment in traffic cases, in the fall of 1982. For January and February 1983, the caseloads for the two agencies were nearly identical and in March 1983, the Court's workload increased while the City Attorney's decreased. Hence, the problem uncovered by the CABC appears to no longer exist. Second, the reason for the problem arising was probably because the Court's pending caseload was increasing. That is, cases may have been taking longer to resolve.

B. The Effects of Changes in Plea Bargaining Policies on Trial Rates

1. Nature of the Problem. Trials are the most time-consuming stage of the criminal process. All of the participants--defendant, defense counsel, prosecutor--are assembled before the judge, courtroom staff, including a reporter, bailiff, and marshal (if the defendant is incarcerated) and sometimes a jury. The calling of witnesses, the introduction of exhibits, the opening and closing remarks of counsel, and rulings from the bench make each trial labor intensive. Whereas other proceedings, such as arraignment or the taking of a plea, may require only a few minutes, trials can consume hours or even days. For all of these reasons, the ability of the prosecutor and the defendant to resolve the case short of trial can save judicial time and thus is an important method of disposition.

According to the plea bargaining policies established by the Aurora City Attorney, the offering of a "favorable" disposition, i.e., reduced charge, is still primarily reserved for traffic offenses. In general, the plea bargaining guidelines state that a person charged with a traffic offense who is not a "chronic" violator, will be offered a reduced charge, although the maximum reduction is dependent upon past driving record.¹³ Disposition offers made in cases involving many of the general offense violations (e.g., disorderly conduct, assault and battery), are conditional on the approval of either the victim or a probation officer, or both. In all cases of theft, prostitution, and animal code violations, no favorable offers are permitted.

¹³ In traffic cases, plea bargains are made on the basis of the point system. That is, if a person has been driving at least two years and has a clean driving history, a maximum reduction of two categories can be offered (e.g., 6-point violation to a 3-point violation, 4-point violation to a 2-point violation); if an individual's driving record shows past traffic violations, a maximum reduction of one category can be offered (e.g., 6-point violation to a 4-point violation); "chronic" traffic violators are offered no reduction in charges.

Offers of favorable dispositions in individual cases are made during pre-trial conferences¹⁴ by assistant prosecutors, who work under the supervision of the Managing Municipal Prosecutor. In cases in which plea bargains are made and accepted, they are disposed of by the entry of guilty pleas to reduced or lesser charges before a judge.

The pretrial conference may lead to other types of final dispositions, however. Defendants may decide to plead guilty to the original charge and forego the opportunity to go to trial. Prosecutors, on the other hand, may decide to dismiss the case because of inadequate evidence. Consequently, a complete picture of the prosecutor's role in disposing of cases prior to trial requires an examination of several types of dispositions--guilty pleas to reduced charges, lesser charges, and original charges, as well as dismissals. Furthermore, because pretrial conferences are not mandatory, except when the defendant requests a jury trial, the pretrial conference needs to be viewed within the context of all cases in which defendants plea not guilty at arraignment. Thus, in assessing the ability of the prosecutors to dispose of cases prior to trial, we need to answer three basic questions. They include:

- (1) Of the total number of cases in which defendants plea not guilty at arraignment, how many are resolved prior to trial?
- (2) Of the cases that go to a pretrial conference, how many are disposed of by a guilty plea prior to trial?
- (3) Of the cases that go to a pretrial conference, how many result in a guilty plea to reduced charges or fewer charges?

2. Sources of Information. The City Attorney's Office does not maintain information on the individual cases that are bargained, the nature of the plea

¹⁴ Pretrial conferences in Aurora involve a city prosecutor, defendant, and possibly defense counsel. In the past, conferences were scheduled several weeks after arraignment for defendants pleading not guilty in either traffic or non-traffic cases. This procedure has now been changed for traffic cases in that "instant pretrials" are held immediately following arraignment.

bargains in individual cases, and so forth. Thus, the random sample of 490 closed cases from 1982 provides the basic source of information on the plea bargaining issue. Information gathered on these cases that is relevant to plea bargaining includes the type of offense, the original charge, the type of disposition, the date of disposition, and the nature of the ultimate charge. Additionally, meetings were held with the Managing Municipal Prosecutor. These meetings included discussions on both general office policies and specific practices. The study team also observed jury and court trials.

3. Findings. There are three basic findings that we believe merit the attention of the City Attorney, Court officials, and the City of Aurora. First and foremost, the pretrial conference, which is the arena in which plea bargaining policies are carried out, does not need to be substantially revised in order to resolve cases prior to trial. This can be seen from Table 8 which indicates the conference's effect on the resolutions of those cases that go beyond arraignment.

Eighty-six percent (127/147) of the cases that go to a pretrial conference are resolved either through a guilty plea to the original charge, a guilty plea to a reduced or lesser number of charges,¹⁵ or a dismissal (e.g., by the prosecutor for lack of sufficient evidence). Because 88 percent (147/167) of all the cases that go beyond the arraignment stage enter into a pretrial conference, the plea bargaining policies at the pretrial conference contribute to the disposition of 76 percent (127/167) of all cases where a not guilty plea is entered at the time of arraignment. However, additional cases that initially went to a pretrial conference are later resolved, generally on the day of trial, so that a total of 82 percent of those cases that go beyond arraignment are disposed, at

¹⁵

Based on our sample of 490 summonses, all 106 cases that were resolved by a plea bargain indicate that the plea bargaining guidelines set by the City Attorney's office are being adhered to.

TABLE 8

Relationship Between the Use of Pretrial Conferences and
the Final Disposition of Cases in Aurora Municipal Court*

	Cases Entering into a Pretrial Conference	Cases Not Entering into a Pretrial Conference	Totals (%)
Number of Cases Re- solved at a Pretrial Conference	127 (86.4)	-	127 (76.0)
Number of Cases Re- solved on Day of Trial by Guilty Plea or Dismissal	10 (06.8)	17 (85.0)	26 (15.6)
Number of Cases Re- solved by Adjudication	10 (06.8)	3 (15.0)	14 (08.4)

*SOURCE: A random sample of cases closed in 1982.

least in part, by the pretrial conference.¹⁶ In our opinion, this evidence suggests that no comprehensive change, such as offering more generous reductions to all offenders under all conditions, is required in plea bargaining policies to achieve high disposition rates.

The second and third findings, however, suggest room for improvements in the management of cases by the City Attorney's Office. The second finding concerns the fact that in twelve percent (20/167) of the cases, defendants do not enter into a pretrial conference. It is important to recognize that the circumvention of the pretrial conference does not mean that these cases are inexorably headed for a full-scale adjudication because the defendants are committed to their "day in court". The vast majority of these cases are resolved on the day of trial by a guilty plea or dismissal.¹⁷ Additionally, avoidance of the pretrial conference does not mean that cases cannot be plea bargained. The data indicate that the cases involve traffic offenses, as well as general offense violations, for which plea bargains are permitted. Finally, most of these cases involve defendants acting on their own behalf. They are not being advised by counsel to avoid the conference.

These factors raise a question about the defendant's understanding of the pretrial conference. If the defendants ultimately resolve their case without a trial, and are charged with an offense amenable to a plea bargain, do they avoid the conference because they fail to understand its purpose?

¹⁶ In our sample of 490 summons, of the 20 cases that went to a pretrial conference and were not ultimately resolved, ten were later disposed on the day of trial without adjudication: three defendants entered pleas of guilty and seven defendants had their cases dismissed on motion of the City Attorney.

¹⁷ In our sample of 490 summons, of the 20 cases that did not go to a pretrial conference, 17 were later resolved on the day of trial without adjudication: eleven defendants entered pleas of guilty and six defendants had their cases dismissed on motion of the prosecutor.

The Managing Municipal Prosecutor is currently considering providing a supplement to the "fact sheet" which the Court provides to defendants. This insert would answer basic questions about the functions of the pretrial conference. Because the avoidance of the pretrial conference may be the product of misinformation or lack of information, this alternative should be tried out, at least on an experimental basis.

The third finding concerns the seven percent of the cases (10/147) that entered into a pretrial conference but were resolved on the day of trial. This situation could suggest a problem of timing on the part of prosecutors. Either they may be holding on to some cases too long (those dismissed on the day of trial) or they are failing to make their position sufficiently clear and convincing (those resulting in guilty pleas). On the other hand, defendants could hold out until the day of trial, hoping that a police officer or city witness will be unavailable for trial. In any of these situations, the Court is forced to schedule a trial only to end up taking a plea or dismissing the case.

There are a couple of possible ways in which dismissals on the day of trial may be reduced. One alternative is for the Managing Municipal Prosecutor to review those cases in which dismissals resulted because of the insufficiency of the evidence. The purpose of the review would be to determine if the assistant prosecutor assigned to the case might have misjudged the sufficiency of the evidence. This monitoring may permit the Managing Municipal Prosecutor to offer advice to assistant prosecutors that will enable them to dismiss cases more expeditiously in the future. Given the Managing Municipal Prosecutor's responsibilities, this "post-mortem" review should not undermine the morale of prosecutors and may help them to act on their inclinations to dismiss certain cases more quickly.

The second alternative concerns those cases that are dismissed because of the lack of a city witness or a police officer. Generally speaking, one would

expect that the assistant prosecutors would be in touch with their witnesses and the Police Department prior to scheduled trial dates. Although the City Attorney's office is now attempting to serve subpoenas to witnesses more effectively, there is still little telephone or face-to-face contact between prosecutors and witnesses until the day of the trial. Currently, the Police Department maintains a court liaison clerk whose responsibility it is to coordinate court trial dates and the schedules of police officers. However, contacts are generally not made between prosecutors and the Police Department prior to trial dates.

We see merit in adopting an idea used successfully in other jurisdictions to avoid outright dismissals because of the unavailability of a witness or police officer. In other jurisdictions, a Victim-Witness Coordinator has been used to provide both prosecutors and the court with information about the likelihood of witnesses and police officers appearing as scheduled. The result has been an increase in conviction rates for prosecutors and the granting of fewer continuances by the court.¹⁸

Applied in the context of Aurora Municipal Court, there appears to be a need for a person to perform certain important administrative functions, such as maintaining contact with witnesses and police officers, notifying the prosecutor of the likelihood of the witness's or the police officer's appearance, and relaying this same information to the Court. These functions may possibly be performed within a clerical position authorized, but unfilled for the City Attorney's Office.

A final area involving the scheduling of trials that should be investigated evolves around the "good cause" clause in accepting a plea bargain on the day of trial in lieu of going to trial. As stated in the Rules of Procedure for the

¹⁸ The positive aspects of information about witnesses is demonstrated by Robert C. Davis in "Providing Information about Witnesses: Introducing Greater Rationality into Criminal Court - Scheduling Decisions", 7 The Justice System Journal (Summer 1982), pp. 278-79.

Aurora Municipal Court, 1980, the policies of the Court on this issue appear to be fairly strict--that is, Rule 6 states that it is the policy of the Court to discourage the non-trial dispositions of cases set for trial. Sections 6A and 6B in particular state that non-trial dispositions will not be accepted on the day of trial except in "unusual circumstances and for good cause shown".¹⁹ Clearly there are such instances. Despite the fact that the judiciary is capable of making these kinds of judgments, a clarification and enforcement of this Rule may be appropriate. We urge the Presiding Judge to continue his past and present effort in maintaining that the Rule is interpreted in the same way by all the judges.

4. Summary. The pretrial conference currently serves to reduce the number of court and jury trials. At the most general level, there is little evidence to suggest the need for overhauling the plea bargaining policies. On the other hand, there appears to be two deficiencies in the existing situation. One is the fact that pretrial conferences are avoided in certain instances and the other is the resolutions other than adjudication that are achieved on the day of trial. Both contribute to what we consider to be a key problem for the Court--the scheduling of trial time to accommodate dispositions not requiring extensive judge or jury deliberation.

¹⁹

See Rules of Procedure, Municipal Court, Aurora, July 21, 1980.

C. Efficiency of the Current Administrative Workflow

1. Nature of the Problem. This section of the report deals with administrative workflow in the Clerk's Office of the Aurora Municipal Court. In item 3E of its report, the Aurora Citizen's Advisory Budget Committee (CABC) stated "At one time the Committee was told each case required 17 separate actions by court clerks. The number of support staff per judge...is out of line with any similar municipality. We would recommend a study to recommend improvements in this administrative workflow."

Accordingly, the Institute for Court Management proposed to analyze and evaluate workflow in the Clerk's Office to "identify any problem areas such as duplicative handling of the same form, unnecessary multiple recordkeeping of the same information, lack of cross-referencing, [or] inadequate storage capacity" and to recommend, as appropriate, "changes in the flow of paper, personnel assignments, and the use of automated processing."

2. Sources of Information. Step by step documentation was necessary in order to analyze and evaluate workflow. Documentation in this study began with interviews. Each member of the Clerk's Office was interviewed in detail at her work station concerning the job she performs, the papers she handles and the functional interface of her job with those of others in the Office. At the conclusion of the interviews, the information obtained was reduced to a detailed Operational Sequence Diagram which graphically portrays the flow of work through the office from one clerk to another and describes the actions taken by each clerk. After the diagram was constructed, it was verified with the Clerk of Court Administrator (Chief Clerk) and each member of the Clerk's Office and revised as necessary. It will be supplied to the Presiding Judge and the Court Administrator for their interest and use in future efforts to improve operations in the Clerk's Office.

In addition to interviewing, it was necessary simply to observe case pro-

cessing in the Clerk's Office. This allowed verification and further understanding of the information obtained during interviews. Every form originated or received by the staff in the Clerk's Office was collected during the course of the interviews as an adjunct to documentation of workflow.

Members of the City Attorney's Office, the Police Department, and the Data Processing Department were also interviewed. As members of the justice environment, their perspectives on court operations were essential to this aspect of the project.

Additional informal discussions were held with various members of the Clerk's Office concerning possible improvement to the workflow. The ideas which were discussed originated with both the study team and individual members of the Clerk's Office. Meritorious ideas raised by the clerks have been incorporated in this report within the appropriate topical areas.

Throughout the interviews, observations, re-interviews, and discussions, all members of the Clerk's Office were extraordinarily helpful, open, and willing to discuss their perceptions not only of their jobs but of the operation of the Clerk's Office as a whole. This demonstrates two important points. First, many members of the Clerk's Office have solid, constructive ideas for improvement. Second, if properly encouraged, they would not be reluctant to make suggestions and participate in planning for future improvements.

3. Findings. Analysis of the Operational Sequence Diagram shows workflow in the Clerk's Office basically to be efficient and effective, even though there is some backup of work at several work stations. This backup is largely attributable to an ineffective filing system, the fact that some tasks are extremely tedious, and the importance of attention to detail at certain stages. The findings presented below, and subsequent recommendations, are in the nature of fine-tuning an essentially effective operation, as opposed to major overhauling. The areas discussed are overall workflow, the records filing system, records re-

tention and destruction, form size and design, cashiering, and computer support.

a. Workflow. Disposition of most traffic cases occurs at the window where a cashier accepts payment, validates all copies of the summons, and issues a receipt if necessary. From there the paper work goes to other staff members for accounting and then on to others who separate the papers, make appropriate entries on various copies of the citation, set aside the copies for distribution to the appropriate agencies, and arrange for filing of the Court's copy of the summons in the appropriate place. Cases which go through the adjudicative process in Court also come to the cashier's window after a finding of guilty. The cashier processes the summons as described above. However, more detailed checking is necessary to determine whether or not bond or a jury fee had been posted in the case. If so, the cashier may then transfer or apply the bond or fee against the fine imposed. Then the paperwork usually goes to other clerks who are responsible for posting in bond and jury fee books and issuing refund checks. After this accounting function is concluded, the file would go to the processors mentioned earlier who double check the entries made on the summons, separate the copies of the summons, enter the disposition on the various copies and set them aside for distribution to the Motor Vehicle Department and the Police Department. Thereafter, the Court's copy of the summons and associated papers are filed.

As currently organized, staff members are assigned to functional areas, and the summonses flow through the various work stations according to the next operation required to be performed on the file. This is true from the filing of summonses, through scheduling cases for trial and pretrial, to final disposition and receipt of fines. For example, certain clerks are assigned to cashiering responsibilities involving service at the window, others work exclusively on accounting functions involving the receipt and disbursement of funds. Four are

responsible for trial and pretrial scheduling; two staff the telephones and receive and file newly issued summonses; one handles morning mail; another works in warrant issuance exclusively. Others process the paperwork only after a case is disposed of and another employee is responsible almost exclusively for data input into the computer.

The CABC alleges that this organization of workflow results in "each case requir[ing] 17 separate actions by court clerks". Actually, the number of actions that might be taken in an individual case probably far exceeds the number 17. Yet, the number is not particularly significant because it depends on such factors as the type of disposition, whether fines are paid on time, whether a letter must be written or a warrant issued, whether a case must be set for trial, and so forth. These contingencies are outside the control of the Court. Furthermore, conditions imposed by other agencies such as the Police Department and the state Motor Vehicle Department require a certain method of processing. The following are some examples: (1) the disposition of a case must be written on the back of the Police Department's pink copy of the summons and again separately on the back of the state Motor Vehicle Department's copy of the summons; (2) if the Motor Vehicle Department sends a request for transcript, a clerk must find the summons and copy the required information; (3) officers setting arraignment dates less than thirty days in the future cause clerks to telephone the Motor Vehicle Department to obtain the driving record in time for arraignment; (4) if an officer inadvertently sets an arraignment on a weekend, a notice of change must be sent to the defendant.

As efficient as the present functional division of labor may be, there is a good possibility that this configuration diminishes job satisfaction for many of the clerks. The most efficient configuration, objectively, may not necessarily result in the most effective performance over the long run. The reason is that the sense of a job well done is less likely to be achieved. Job satisfaction

depends on an employee's own feeling of accomplishment and, to a lesser extent, on recognition of performance.

It is suggested that increasing job satisfaction may contribute to reduction of work backlogs which were observed at some desks. First, top management might consider reorganizing some of the work of the cashiering and processing sections so that individuals are responsible for certain cases from processing at the window to returning the summons to the file. For example, if four clerks were assigned to the window, these personnel could be organized as follows: each one would have two hours a day on the window accepting fines, fees, and so forth and when their two hours were over, they would be responsible for all the paperwork and follow up (except accounting) required to finish out these cases whether they are final dispositions or stays of execution, and return them to the files.²⁰ That way, each one would be responsible for following through completely on a given block of cases (those cases that come through the window during their two hour assignment). While this is a departure from the traditional approach to processing in a high volume operation, we think it is worth considering. A variation of this approach has been implemented with great success in the U. S. District Court for the Southern District of New York.

A second way to attack the situation is to increase efforts to create an atmosphere which encourages clerks to offer ideas. People are reluctant to suggest ideas for improvement if they believe they will be disregarded or if they perceive top management as having little regard for their status or ability.

Creation of subcommittees of clerks to address issues jointly identified by the Court Administrator and staff and to develop recommendations might encourage participation. Many valuable suggestions were made by staff during the course

²⁰ Since accounting and docketing are basically self-contained, result-oriented functions, these areas would be exempt from the type of reorganization discussed here.

of study interviews, which by their nature, encourage problem identification and an exchange of ideas. Perhaps, with the expertise of the City Personnel Department, it will be possible to build on the openness exhibited during these interviews to increase staff participation in decision-making concerning office operation.

Aside from the job-satisfaction issue, this organization involves clerks checking the work of the clerks who handled the papers previously. This re-checking may have two negative effects: first, the inclination toward care and accuracy of those handling the paperwork earlier may be diminished because errors may be detected later on in the process; second, the time required for re-checking takes time away from the task to be performed at the work station. When a large volume of paperwork is to be processed, double checking may be worthwhile only in connection with critical activities, such as those affecting warrant issuance or accounting.

b. Recordkeeping.

(1) File Maintenance. Maintenance of active and closed case files has been of continuing concern to both the Court Administrator and the Judicial Administrator. Prior to initiation of this study, funds had been appropriated in the budget for a new open-shelf filing system and plans were initiated for a modernized recordkeeping system. At the time this workflow analysis commenced, those plans were in progress. The findings presented here buttress the Court's present plan for its new filing system and offer suggestions for further modification to the system after open-shelf files are installed.

During the course of this analysis, it was discovered that there are approximately 30 different files maintained in the Clerk's Office. Of these, approximately sixteen are files in which a summons might be lodged. In theory, the "pink file" serves as a locator for summonses in these sixteen files. The difficulty in locating summonses is a continual annoyance. In addition to these

files, summonses may be found on desk tops or in in/out baskets awaiting further processing.

Case papers rapidly become dog-eared because of their light weight. File jackets are not used so that constant retrieving and refiling leads to rapid deterioration of the papers. Further, there seems to be no pattern in the order or manner in which case papers are stapled together so that reviewing the file often requires tearing them apart, turning them upside down, and searching through the entire file to find the document that may be needed at the time.

The new open-shelf filing system will include a file jacket for each case and a system of color coding to denote current status (for example, "delinquent", "warrant issued", "letter written", and so forth). To assure that the new filing system achieves the goals of reducing misfiling, facilitating location of summonses, and reducing the space required for files, considerable thought and effort must be devoted to development of a file maintenance policy and procedures. Therefore, it is suggested that a committee be appointed for this purpose. A good beginning would be for the committee to list all the files which currently lodge summonses and to determine the purpose served by each. Working from this list, the committee should determine precisely how these purposes can be served by the open-shelf system. This will, no doubt, involve working with the color coding system referred to above. There will be enormous temptation to retain some of the old files, such as the "pink file" and the "warrant file". Careful planning will avoid this temptation which would undermine the new recordkeeping system.

Procedures to assure file integrity should include standards for the removal and return of summonses to and from the open-shelf file, the length of time a summons may be out of the file, who may remove and refile a summons, and what type of outcard system should be used.

In connection with consolidating most of the existing files into a unified

open-shelf system, the Court's ability to monitor "stays" may depend upon the ability of the Data Processing Department to modify the computer record of the summons so that a "next action date" is incorporated into the record. The "next action date" (essentially a due date for the next action) is a very important concept in courts of all jurisdictions. Presently, the issuance of a letter in delinquent cases and the issuance of a warrant thereafter depends on a tedious case-by-case search through a file drawer to find those cases in which stay dates or pay dates have expired. This type of search would still be required under the open-shelf filing system. One solution would be to create a master card for each summons on which is recorded the next action date--e.g., the date by which drivers' school should be finished, expiration of a stay, etc. However, this runs contrary to the idea of discontinuing as many of the files as possible. If the existing computer record had a field in which the date of the next action is required could be entered and by which the summonses could be sorted, the computer could trigger letters and warrant issuance.

(2) Records Retention and Destruction. The Court's present policy provides for destruction of the summons/case file seven years after case disposition. This destruction schedule has been approved by the state archivist; and the court has a well-organized program for moving closed cases to a storage area to await destruction after seven years. Records are destroyed on a regular basis. Nevertheless, storage requirements are much higher than would be necessary if most of the papers associated with the case were destroyed prior to assigning the summonses to storage.

A review of the destruction schedule approved by the state archivist revealed that it does not make provision for destruction of most of the papers which become part of the case file during the life of the case. The time which would be required to find and remove the few forms whose destruction is now authorized (e.g., jury demand) cannot be justified by the small benefit to be derived.

Over the years, official responsibility for retention/destruction of court records decisions has passed to several city departments. Recently, the Court Administrator was designated custodian of court records. This should facilitate development of a more realistic policy. An aggressive policy calling for destruction of most of the case papers after disposition is suggested. Many of the papers now maintained are of no long-range utility; others are also on file at the Police Department (for example, accident reports); others, like subpoenas, might better be maintained by the City Attorney's Office, if they need them. The policy could either specify the papers which must be retained for seven years or specify those which can be destroyed, whichever method is easier to administer and execute. Regardless of the approach chosen, such a comprehensive destruction policy would reduce the space required for maintaining closed cases and would assure a less cluttered, more accessible filing system.

(3) Forms. Form redesign is a priority activity with the Clerk of Court and the results of this study support the need for redesign. There are approximately fifty forms and records which may be received, processed, and maintained, in the Clerk's Office in connection with each case. These forms are a variety of sizes with the majority being larger than the summons (the basic case record) which is 5 by 8 inches. Many of the forms are internal to the Clerk's Office and, therefore, their design is totally within the control of the Clerk. Other forms such as the summons, are the concern of several agencies: the Court, the state Motor Vehicle Department and Police Department. Other records such as subpoenas and pleadings involve the City Attorney and the private bar.

Forms design should be a cooperative effort. However, while there may have been some consultation, past efforts were evidently not collaborative. As a result, for example, the present summons design causes duplicative work for the court clerks. The backs of the Police copy and the state Motor Vehicle copy,

while requiring entry of approximately the same information by the clerk, differ substantially in layout. Thus, information must be entered individually on each copy rather than using carbon paper. Input from the clerical staff who work with the forms on a regular basis might have resulted in conformance of the backs of the two copies to meet the needs of the agencies and facilitate the clerks' processing.

Forms redesign efforts should proceed rapidly and should involve the clerical staff. During interviews with the clerks, many good ideas concerning forms redesign emerged. For the most part, they concerned the following areas: conforming the backs of the police and motor vehicle copies of the summons so that disposition could be entered using carbon paper, thereby eliminating duplicate entries; moving the location of information to a different copy of the summons (e.g., placing the dates of warrant issuance, execution, and cancellation on the police copy rather than the state motor vehicle copy); reducing all forms that become part of the case record to the size of the summons or some other standard, compatible size. Consultation with other agencies may disclose that some papers cannot be reduced in size. But emphasis should be placed on standardization whenever possible.

Further, the Court should spearhead an effort to formalize consultation regarding forms among the agencies affected. Perhaps a standing committee on forms design would be salutary in this regard. It could build an atmosphere of trust and cooperation which should facilitate future changes.

The final issue with respect to forms concerns the judges' entries on the summons. The clerks frequently have difficulty reading and interpreting the judges' orders because they are handwritten on the back of the court copy of the summons, often illegibly (see samples 1 and 2 on the following pages). This produces the potential for case-processing errors and increases the time required for processing.

SAMPLE 1

THE COMPLAINANT KNOWS OR BELIEVES AND SO ALLEGES THAT THE WITHIN
NAMED DEFENDANT COMMITTED SUCH OFFENSE(S) AS SET FORTH ON THE
REVERSE SIDE HEREOF

COMPLAINANT

SUBSCRIBED AND SWORN TO ME THIS _____ DAY OF _____

19

PHONE**ADDRESS**

DATE	PROCEEDINGS	JUDGE/CLERK (initials)
8/4/82	WINE PTC	Sal
One Oct 28 3:45 PM		
Trial Jan 24 10:00 AM		
1-2/83 Trial to Court		
18.	Guilty of 27.52.	
2-11/83	Sentences of	
10	180 days in jail and	
2-24/83	\$750.00 fine. Suspend	
	175 days of sentence and	
	\$500.00 of fine on following	
	conditions:	
	1.) Supervised probation for	
	12 mos. - Check in twice each month,	
	and \$100.00 supervision fee.	
	2.) A to leave 1451 Macon St.	
	w/ 24 hrs. and take no action	
	against roommate, MGT. or owners.	
	3.) No further similar violations	
	for 12 mos, incl. assault, battery,	

SAMPLE 2

NAMED DEFENDANT COMMITTED SUCH OFFENSE(S) AS SET FORTH ON THE
REVERSE SIDE HEREOF

NAME Bob [Signature] TELEPHONE # 376-224
COMPLAINANT

SUBSCRIBED AND SWORN TO ME THIS _____ DAY OF _____

1st _____

MUNICIPAL JUDGE

PHONE _____

ATTORNEY FOR

DEFENDANT _____ ADDRESS _____

DATE	PROCEEDINGS	JUDGE/CLERK (Initials)
5/28/82	N.G. priority trial	[Signature]
Trial June 2 3:00 PM		
6/2/82	Contempt to [Signature]	[Signature]
	Defendant - [Signature]	
	July 10 8:30 PM	
7-29-82	MOVES TO CONTINUE AND WAIVES SPEEDY TRIAL. CITY HAS NO OBJECTION. CONTINUANCE GRANTED.	[Signature]
10/14/82	Dismissed by Ct. per Ct's order. Jury fee refunded	[Signature]
	<small> PURSUANT TO SECTION 24-72-305(2), C.R.S. 1973, AS AMENDED, INFORMATION PERTAINING TO THIS CASE SHALL BE RELEASED ONLY TO PERSON IN INTEREST OR TO A PERSON JUSTICE DEPARTMENT OF COLORADO AS DEFINED BY SECTION 24-72-305(3), C.R.S. 1973, AS AMENDED, IN THE UNITED STATES OF AMERICA </small>	
11-10-82	Jury fee return ch# 5607	

☐ RESTITUTION INJURIES _____ AMOUNT OF DAMAGE \$ _____

A committee of clerks could also study and recommend revisions to the back of the court copy of the summons to allow judges to simply check off dispositions, sentences, and so forth, instead of handwriting them. This may be difficult, but it can be done. Redesign of the back of the summons as suggested would involve considerable effort and was beyond the scope of this study. Figure 2 is presented, however, to show what a redesign might look like.

c. Training. For the most part training of new employees or of employees who are moving to a new work station is strictly OJT, i.e., On-the-Job Training, provided by the experienced incumbent of that particular job. This means that over a period of time training for a specific position may be provided by a variety of personnel depending on turn-over in the job. Consequently, the style, completeness and accuracy of the training may change gradually over time.

Several clerks suggested that training could be improved by development of an operations manual containing a detailed step-by-step procedural guide for each job. Not only would this be helpful in training new personnel, but would also facilitate cross-training and the covering of work stations necessitated by vacations and illness. To further assure consistency in overall training and workflow, responsibility for training all positions should probably be assigned to one senior employee.

d. Cashiering. The cashiers handle nearly 5,000 cases (dispositions) a month through the cash register. Additionally, the same cases may be rung on the register several times in connection with other events such as bonding, receipt of jury fees, partial payment of fines, and so forth. An adjunct to the cashiering function is accounting. Bonds and jury fees are posted in account books as well as disbursements from these accounts. Checks are written by the Court and accounts are reconciled with the City Accounting Department. Thus, the Court performs a substantial accounting function.

Figure 2

<u>Date</u>			
_____	Arraigned	<input type="checkbox"/>	
_____	Pretried	<input type="checkbox"/>	
_____	Tried		
_____	Jury	<input type="checkbox"/>	
_____	Court	<input type="checkbox"/>	
	Disposition		
_____	Type: Dismissed	<input type="checkbox"/>	
_____	Guilty Plea	<input type="checkbox"/>	
	to		_____
_____	Acquitted	<input type="checkbox"/>	
_____	Convicted	<input type="checkbox"/>	
	of		_____
	Sentence:		
_____	Fine	<input type="checkbox"/>	_____
			amount
_____	Jail	<input type="checkbox"/>	_____
			time

Example of the Redesigned Back Portion of the Court Copy of the Summons.

In an effort to alleviate the hand posting/accounting activities in the Clerk's Office, the Court purchased a Data Terminal System cash register about a year ago. In addition to the standard cash register function, this machine can produce a tape of transactions that can be either a) converted to magnetic tape for computer input, or b) input directly to the computer which, in turn, will perform accounting functions and even produce statistics on dispositions and other transactions. At the present time, for reasons that are not clear, those capabilities have not been implemented. According to the Judicial Administrator and Court Administrator, the City has been unwilling to purchase a component needed to complete the register-computer linkage. Thus, hand posting, accounting, checkwriting, account reconciliation and all statistical tabulations are performed manually. It is suggested that the Court proceed immediately to implement the full potential of this sophisticated cash register. Benefits include increasing accuracy in the financial area, freeing the cashiers for other work and facilitating the work of the City Accounting Department.

e. Computer Support. During the past two years, considerable progress has been made in the area of computer support. Summonses are entered into the computer at the Police Department and, thereafter, are available for reference and updating on the terminals in the Clerk's Office. In addition, the Court now has a terminal that is hooked up to the Colorado Bureau of Investigation's computer file which allows them to look up drivers' names on parking tickets.

More computer applications are planned. Within the next six months, it is anticipated that the computer will generate warrants by making a determination from the computer record that a warrant should be issued for failure to appear or failure to pay, and so forth. Once issued by the computer, the clerical personnel will double check the case file (summons) to verify that the warrant is correctly issued. In addition, the computer will soon generate letters advising traffic defendants of the amount of their fines and a similar application would

send letters on delinquent cases. To a large extent, this will replace the present system in which defendants are advised to call the Court after 14 days to determine whether an appearance will be required and, if not, what fine they should send by mail.

The personnel in the Clerk's Office are enthusiastic about the developments in computer processing to date and are anxious to see an expansion of the applications. Such expansion should proceed as rapidly as possible. Both the clerks and the Data Processing Department are aware of some of the improvements currently needed, such as changing the layout of the screen. Beyond that, the computer could assist greatly in reducing the necessity for looking up summonses, particularly if terminals were located at the cashier's window. The computer could flag delinquent cases and print letters and notices.

If the computer record could be expanded to include the driving record or fine amount, the clerks who advise defendants of fines by telephone would be able to look up the summons on the computer rather than pulling and refiling the summons. Considering the volume of cases and paperwork now processed, expansion of computer use should help the Court keep pace with the expanding workload and possibly even keep ahead of it.

(4) Summary. Organization and workflow in the Clerk's Office are basically sound and efficient. Pursuit of improvements now planned and changes suggested in this section of the report should assure continuing high quality service to the public.

D. Full-Time Rather than Part-Time Judges

1. Nature of the Problem. The issue of judicial structure is a particularly basic and important one. The present judicial structure consists of a half-time Presiding Judge-Judicial Administrator, one full-time judge, ten (half-time) associate judges, and seven relief judges. A fundamental restructuring, such as converting to a full-time judiciary, would be a major undertaking as it would change the nature of Court organization and the provision of judicial services.

Certain factors would seem to bear on the choice of alternative judicial structures. They include: a) comparative costs, b) judicial productivity, c) the respective qualifications of the judges, d) the provision of continuing education opportunities, and e) the relative consistency among and between judges. Each of these factors is described briefly below.

In consideration of the cost dimension, examination of alternative structures may yield information that one structure is less costly to provide than another. Although courts do not exist to produce profits for a community, and although it has been said that justice should not be rationed by cost, court system expenditures represent a relevant consideration. Comparative cost data need not be the sole consideration for choosing one structure over another, but it would be unwise to ignore apparent differences.

The question with productivity is whether there may be a measurable difference between case disposition rates by a full-time jurist compared with the composite total of two half-time jurists. Were this provable, policymakers would want to consider this.

Similarly, the qualifications of a judiciary are pertinent. Could one anticipate more qualified or less qualified judges depending upon the structure? Would qualified attorneys be interested in a full-time judgeship? Further, how does one measure the qualifications of a judge beyond the minimum requirement of

the current City Charter that a judge be a member of the bench or bar for five years prior to appointment?

The encouragement, if not requirement, of ongoing education for the judiciary is essential. Education and training of the judiciary should precede appointment and continue following selection. These opportunities can be provided through in-service training and external educational opportunities. Judges also "teach each other" through informal communication and exchanges on legal issues and case decisions.

Consistency in the decisionmaking between judges has merit; there should be a basic predictability as to court outcomes. Courts are hinged on stare decisis, or precedent. A Colorado Supreme Court ruling on a municipal ordinance requires all judges of that municipality to enter similar holdings. But there is judicial flexibility with other matters as with ordinances that have not been ruled on by appellate courts. Furthermore, discretion is awarded judges in determining contentious fact situations, in deciding the credibility of the testimony of particular witnesses, in choosing whether to jail or how much to fine. There will never be perfect consistency by one judge either within himself or herself, or with another judge, but relative uniformity in decisionmaking is a desirable judicial system goal.

A final consideration pertinent to the issue of judicial structure relates to assumptions on the advantages and disadvantages of one structure over another. These assumptions have been advanced by persons interviewed in this study or have been described by study staff as relevant to the assessment of this overall issue.

2. Sources of Information. A variety of resource methods were utilized in the evaluation of this issue. Budget information on the salaries and fringe benefits provided the judiciary were obtained from the City Budget Office. Certain attorneys and judges were interviewed and a mail questionnaire was sent to

all judges. The Court supplied information on judicial tenure, training, and judicial meetings. Written statements were also solicited from the Presiding Judge and the Managing Municipal Prosecutor. Finally, workload data were gathered on other Colorado limited jurisdiction courts.

3. Findings.

a. Costs.

(1) The City provides greater fringe benefits to Associate Judges than to comparable city employees. Present City policies result in the full-time benefits of health and dental insurance to the half-time judiciary. City health insurance payments per judge are approximately \$1,999 annually; dental insurance payments are generally \$358 per year.

Social Security payment savings would accrue to the City in the event of a change to a full-time judiciary. Presently, such payments for eleven of twelve judges do not reach the maximum Social Security income base of \$35,700. With a full-time judiciary, such payments for the smaller number of judges would all terminate when the maximum income base, currently \$35,700, is reached.

Several savings presently accrue to the City due to the basic part-time nature of its judiciary. A longevity pay bonus, less than one percent of salary, is paid only to full-time employees following a specified period of time. Long-term disability insurance, also, is provided only to full-time employees. This, too, amounts to less than one percent of a salary.

(2) The number of days in which relief judges are utilized is not excessive. Information provided by the City Budget Officer from personnel and payroll sources reveals the following information for 1982: 1,040.5 relief judge hours (130 days) @ \$25 per hour = \$26,014.

In considering that five Court divisions were maintained during 1982, the following estimate on the utilization of relief judges can be made:

6 days vacation + 3 days sick leave + 4 days educational leave
= 13 days X 5 divisions X 2 judges per division = 130 (1,040
hours) days in need of relief judges in 1982.

If a relief judge is utilized for times other than vacation, sick leave, or education leave, it results in the subtraction of time from a regular judge's leave accrual. Relief judges receive no fringe benefits; their pay rate in 1983 is \$27 an hour.

(3) Certain overall cost savings could be achieved with a full-time judiciary. Table 9 projects the costs of the present, essentially part-time judiciary in comparison with a full-time judiciary. The figures, based on 1983 budget amounts, include salary and fringe benefits, although leave accrual calculations do not include sick leave accrual. Longevity pay and long term disability insurance payments are also not factored into this calculation.

The study makes the assumption that six full-time judges can perform the work now done by the Judicial Administrator, one full-time judge, and ten associate judges. In Table 9, Models 1-3, the present structure is calculated as eleven part-time judges and one full-time judge. The Table does not reflect the actual salaries presently received by the judiciary, but uses present minimum, maximum, and a figure halfway between minimum and maximum on the City Council approved judicial salary scales. Based on these assumptions, annual savings to the City would range from \$42,512 (minimum salary scale) to \$51,577 (maximum salary scale) were the judicial structure converted to a full-time judiciary. Primary savings result from eliminating one half-time judicial position (\$21,650 to \$26,521), health (\$11,944), and dental (\$2,148) insurance savings, and Social Security payment (\$3,997 to \$7,587) savings. It can be anticipated that Social Security net savings would reduce in future years as the maximum income base and "tax" rate increase.

Table 3

Projection of Salary and Fringe Benefit Costs: Part-Time and Full-Time Judiciary

<u>Model 1 - Present Judicial Structure - Minimum Salary Scale \$21,650</u>						
<u>Salaries</u>	<u>Social Security @ 6.7%</u>	<u>Pension @ 7%</u>			<u>Life Insurance @ .0077%</u>	
\$281,450	\$18,348	19,702			2,167	
<u>Health Insurance @ \$1,999</u>	<u>Dental Insurance @ \$358</u>	<u>Leave Accrual*</u>			<u>Total Annual Cost</u>	
23,988	4,296	13,510			\$363,461	
<u>Model 2 - Present Judicial Structure - Maximum Salary Scale \$26,521</u>						
<u>Salaries</u>	<u>Social Security @ 6.7%</u>	<u>Pension @ 7%</u>			<u>Life Insurance @ .0077%</u>	
\$344,773	21,938	24,134			2,655	
<u>Health Insurance @ \$1,999</u>	<u>Dental Insurance @ \$358</u>	<u>Leave Accrual*</u>			<u>Total Annual Cost</u>	
23,988	4,296	16,549			\$438,333	
<u>Model 3 - Present Judicial Structure - Salary Halfway between Minimum and Maximum, or \$24,086</u>						
<u>Salaries</u>	<u>Social Security @ 6.7%</u>	<u>Pension @ 7%</u>			<u>Life Insurance @ .0077%</u>	
\$313,118	20,143	21,918			2,411	
<u>Health Insurance @ \$1,999</u>	<u>Dental Insurance @ \$358</u>	<u>Leave Accrual*</u>			<u>Total Annual Cost</u>	
23,988	4,296	15,050			\$400,924	
<u>Model 4 - 6 Full-Time Judges - Minimum Salary Scale \$43,300</u>						
<u>Salaries</u>	<u>Social Security @ 6.7% of \$35,700</u>	<u>Pension @ 7%</u>			<u>Life Insurance @ .0077%</u>	
\$259,800	14,351	18,186			2,000	
<u>Health Insurance @ \$1,999</u>	<u>Dental Insurance @ \$358</u>	<u>Leave Accrual**</u>			<u>Total Annual Cost</u>	
11,994	2,148	12,470			\$320,949	
<u>Model 5 - 6 Full-Time Judges - Maximum Salary Scale \$53,043</u>						
<u>Salaries</u>	<u>Social Security @ 6.7% of \$35,700</u>	<u>Pension @ 7%</u>			<u>Life Insurance @ .0077%</u>	
\$318,258	14,351	22,278			2,000	
<u>Health Insurance @ \$1,999</u>	<u>Dental Insurance @ \$358</u>	<u>Leave Accrual**</u>			<u>Total Annual Cost</u>	
11,994	2,148	15,276			\$386,756	
<u>Model 6 - 6 Full-Time Judges - Salary Halfway Between Minimum and Maximum, or \$48,172</u>						
<u>Salaries</u>	<u>Social Security @ 6.7% of \$35,700</u>	<u>Pension @ 7%</u>			<u>Life Insurance @ .0077%</u>	
\$289,032	14,351	20,232			2,226	
<u>Health Insurance @ \$1,999</u>	<u>Dental Insurance @ \$358</u>	<u>Leave Accrual**</u>			<u>Total Annual Cost</u>	
11,944	2,148	13,874			\$353,857	

* Leave accrual calculated at daily rate for 125 days and 6 vacation days.

** Leave accrual calculated at daily rate for 250 days and 12 vacation days.

b. Productivity.

(1) Compared with other metropolitan area courts, Aurora maintains the lowest number of arraignments per full-time equivalent judge. Yet, as can be seen in Table 10, an Aurora judge conducts the greatest number of jury trials and the second highest number of court trials in comparison to judges in the other courts.

Comparing courts is an inexact process because workloads are different and the available data may be imperfectly totaled. Categories may not be fully comparable; for example, what constitutes an arraignment or trial may vary across jurisdictions. Further, different courts have different processing patterns in actual practice. Yet, certain comparisons and findings can be suggested, as indicated in Table 10.

One is that each of the other courts conducts more arraignments per judge than Aurora. While three Aurora divisions conduct the great bulk of the arraignments thereby freeing up the other divisions for more trials, this comparative court analysis is based on full-time equivalent judges in all these courts. It should be noted, also, that the Aurora Judicial Administrator does not hear cases. The disproportion is particularly evident with the Denver Traffic Court. The full-time Englewood judge, also engaged in judicial administration, conducted more arraignments than the Aurora judiciary, on average.

Second, the data suggest that Aurora judges are more engaged in trials than most other metropolitan judges, though Lakewood has the highest number of trials to court per judge and Aurora the highest number of jury trials per judge.

From these data, and from what is known about the Aurora caseflow process, certain observations can be made. The Aurora scheduling process reduces the number of arraignments per judge, thereby providing certain judges with more time for trials and the taking of pleas following plea agreements negotiated at pretrial conferences. As discussed in Section A, infra, there is a need for

Table 10

Denver Metropolitan Municipal and Limited Jurisdiction Courts
1982 Caseloads and Judicial Hearing Officers

Total	¹ Aurora	Denver (Traffic Only) ²	Denver (General Sessions) ³	Lakewood ⁴	Englewood ⁵
Number of Arraignments	24,897	74,222	11,877	16,333	4,764
Number of Trials to Court	4,170	1,149	372	2,380	240
Number of Jury Trials	208	98	79	82	18
Number of Pre-trials Involving Judge	-	-	-	609	-
Per Full-Time Judge Equivalent					
Number of Arraignments	4,527	12,370	5,398	6,453	4,764
Number of Trials to Court	758	192	169	952	240
Number of Jury Trials	38	16	36	33	18

¹ Five divisions plus 1040.5 relief judge hours.

² Four judges plus two FTE lawyer referees (plus marshals now handle informal parking violation disputes). Lawyer referees exclusively handle nightly traffic court division (arraignments and pleas only). Referees also conduct small claims court.

³ 2-1/5 judges.

⁴ Two judges plus 1300 relief judge hours.

⁵ One judge plus average 12-15 day relief judges annually.

more thorough information and more extended management of the caseflow process and judicial scheduling practices. Refinements growing out of such efforts will impact upon judicial productivity.

c. Qualifications.

(1) Attorneys report that the present Aurora judiciary is well qualified--interviews with six attorneys who practice regularly in this Court indicate an overall competency among the judges. This is a reflection of the current screening and review practices of the Judicial Administrator and of the present ordinance that requires five years of law practice or judging prior to judicial appointment.

(2) There is extremely strong continuity among the Aurora judiciary. Information provided as to judicial appointments and termination dates of judges from January 1978 to date found remarkable continuity over this five plus year period. The pattern is as follows:

(a) Just one associate judge and one relief judge terminated their association with the Court (or were terminated);

(b) The Judicial Administrator has retained this position since 1967 (previously, he had been a relief judge).

(c) The one full-time judge has served full-time since 1978 and had been an associate judge the two previous years.

(d) Associate judge tenure reflects continuity together with the growth of the court. One associate judge has served in this capacity since 1970, two since 1978, two since 1980, one since 1981, three since 1982, and one since 1983. Earlier, associate judges had served as relief judges, or, in two cases, as Assistant City Attorneys. The former group had served as relief judges from one to four years prior to appointment as an associate judge. The primary pattern has been to initiate a jurist as a relief judge. Presumably, he

or she has performed suitably in this role, likes the position, and is promoted to half-time status.

(e) A present relief judge had served as associate judge for approximately one year before returning to relief judge status. He had initially served as a relief judge for a year prior to associate judge status.

(f) Other present relief judges have served in this role since 1975 (1), 1980 (1), 1981 (1), and 1982 (3).

d. Continuing Education.

(1) Monthly judge meetings have increased in frequency and are well attended; important substantive, procedural, and administrative issues are considered. Prior to June 1981, meetings of the Aurora judiciary were sporadic and held on an "as needed" basis. No minutes of the meetings were kept.

Four meetings were held in the latter half of 1981 and formal minutes began being printed and circulated. An average of 7 associate (and full-time) judges and 5.5 relief judges attended these meetings. Consideration was given to such topics as procedures for amending a complaint, amendments of local court rules, interpretation of ordinances, methods for advisement of rights, sentence uniformity, reviews of newly-passed ordinances, and the handling of companion cases at different hearings. Consensus is sought on policy and procedure. Speakers at the judicial meetings included the Senior Probation Officer (deferred judgments, sentencing, and probation), the Managing Municipal Prosecutor (revised plea bargaining guidelines), and the Court Administrator (docketing and pretrial procedures).

During 1982, twelve regularly scheduled monthly meetings and one special meeting took place. On the average, nine full/associate judges and five relief judges attended these meetings. Consideration was given to such topics as proposed rules regarding pretrial, jury instructions, and probation, implementing "instant" pretrials, revision of fine and bail schedules, the penalty provisions

of new ordinances, electronic recording of hearings, prisoner arraignment scheduling, state legislation relating to traffic offense decriminalization and authority to use a referee, and procedures for certifying records for appeal.

Among meeting speakers were state court system officials (local court rules), Managing Municipal Prosecutor (instant pretrials), Head Docket Clerk (docketing problems), an Assistant City Attorney (sentencing indigent defendants), an Assistant City Attorney and a Zoning Enforcement Officer (zoning enforcement), and probation officers (problems with probation orders).

Clearly, a useful structure has been attained for regular conferences of the Aurora judiciary. Furthermore, these meetings are used successfully to provide important information, consider court policies and practices, and facilitate knowledge and consistency among judges.

(2) Aurora judges are regular participants at Colorado municipal judge conferences; their participation in educational conferences conducted by national judicial education organizations is modest.

The pattern is evident that the Court is well-represented at semi-annual Colorado municipal judge conferences. These tend to be three-day meetings. Apparently, one conference of three days duration incorporates a holiday/weekend so that just one day of absence from the Court occurs. During 1982, eleven judges attended the June conference and nine judges attended the November meeting.

Information provided revealed that just one judge had attended out-of-state educational conferences during the past three years. No other judges participated in the educational offerings of the National College of the State Judiciary, the American Academy of Judicial Education, national traffic institutes, or related national training offerings, although several efforts were made, unsuccessfully, to procure outside funding for out-of-state institutes.

The judicial questionnaire used in this study found that fourteen of sixteen respondents considered present educational and training opportunities to be very adequate; two judges gave responses of somewhat adequate. No judges responded that the present educational and training opportunities were inadequate.

(3) There is a pre-assignment orientation for new relief judges.

An initial criterion for appointment as a new relief judge is experience in handling criminal matters. New relief judges are required to observe court hearings and procedures for approximately eight hours prior to their initial assignment. Observation includes discussions of the proceedings with the observed judge(s). Additionally, relief judges are provided with a packet of forms which includes a sample advisement of rights, a sample "script" for calling a jury panel and instructing them, samples of the most commonly used jury instructions, and an outline of legal problems pertinent to speed-measuring instrument (radar) evidence. Furthermore, new relief judges must attend at least one monthly judge's meeting prior to initial assignment. They are encouraged to attend these meetings regularly as well as the semi-annual Colorado municipal judge conferences.

e. Consistency.

(1) Definitive measurement of consistency between judges was not possible within study limitations.

City ordinances are directed toward both a more equalized justice and an individualized justice, goals that have conflicting dimensions. Judicial discretion is allowed, if not fostered.

One measure, obtained from the judicial questionnaire, sought views from the judges as to the consistency of their peers in decisionmaking. Ten of sixteen judges responded that judges are very consistent with their decisions and dispositions, five responded somewhat consistent, and one judge was unsure.

Another question posed to the full-time and associate judges bears on consistency. Judges were asked to record the number of days annually, other than for vacations or illnesses, that a substitute associate or relief judge was obtained to hear their calendars. If a large number of days was involved, one could suggest that on a number of occasions one judge took the plea or heard the trial and a second judge performed the sentencing role, providing the sentencing took place on a subsequent date. This hypothesis was not confirmed, however. Just one of eleven responding judges indicated that substitution had involved more than 2.5 days (that judge recorded four days).

f. Theoretical Advantages and Disadvantages. A number of arguments have been made in support of the retention of a basically part-time judiciary.²¹ These arguments are often based on philosophical orientations or involve factors not easily susceptible to measurement. Because they touch on important issues, however, they are presented here in order to show what sorts of issues are raised both for and against a change from a part-time to a full-time judiciary.

(1) Arguments for the part-time judiciary.

(a) That there is a greater "freshness" factor. Stimulated by their part-time law practice and part-time judging, associate judges avoid the routine and boredom that may accompany a full-time judgeship. Related to this is the "sharpening" effect on judges through practicing law. Yet, conversely, part-time judges may be expected to have less comprehensive knowledge of municipal court legal concerns than full-time judges.²²

(b) The advantage to the court of insights derived by part-time judges through law practice in other courts. Innovations they observed in other courts can be communicated to the Judicial Administrator for consideration in the Aurora Court.

²¹ Expressions on many of these viewpoints were provided by Judge Ayers, Presiding Judge-Judicial Administrator, on behalf of the Court.

²² Certain rather obvious counter-arguments are presented in this commentary, anticipating the responses of the reader.

(c) Part-time judges have a greater understanding of attorney case scheduling and case management concerns. Because they are practicing attorneys, part-time judges are, quite probably, more sensitive to the problems lawyers face in handling a trial practice. There is a converse argument. Part-time judges might be too sensitive to the concerns and requests of the Court made by attorney colleagues.

(d) The present appointment and retention structure enables the Judicial Administrator to terminate an inadequately performing judge readily. There is general high regard for the present judiciary that is essentially appointed and continued or discontinued by the Judicial Administrator, who takes strong pride in his bench. Of course, one should keep in mind that a future Judicial Administrator may hold to different standards or be more arbitrary with selection and retention. There is extensive power held by the Judicial Administrator in this regard, and while, nominally, City Council is the appointive authority, in reality the function vests with one person.

(e) Because a part-time judiciary is only partially dependent on this position for income, it can function more independently of the wishes of other officials and attorneys.

(f) It would be difficult, if not impossible, to obtain an equally well qualified judiciary for full-time judicial positions. Because of strong interest in the half-time positions and remarkable judicial continuity, there is the assumption that full-time positions would go unwanted by highly qualified lawyers or judges. Yet, as indicated in Table 10, the judicial questionnaire yielded contrary findings.

To the extent that all members of the current bench are well qualified, the argument that a full-time judiciary cannot be staffed is brought into question. However, as Table 11 shows, a majority of the current bench would accept full-time positions. Seven of the eleven associate judges who responded to the sur-

Table 11

Willingness of the Present Part-Time Aurora Judiciary
in Accepting appointment to a Full-Time Judicial Position*
(at twice the salary of an Associate Judge)

	<u>Associate Judges</u>	<u>Relief Judges</u>	<u>Totals</u>
Would accept appointment to a two-year term	2	1	3
Would accept appointment to a term of at least four years	5	1	6
Would not accept appointment to a full-time judgeship	3	3	6
Not sure	1	-	1
	—	—	—
Totals	11	5	16

*SOURCE: The question, posed in a mail questionnaire that was sent to all Aurora associate and relief judges, read as follows:

Of the following three statements, which one best describes your likely response if offered a full-time judgeship (at twice the salary of a half-time judge) within the Aurora Municipal Court?

1. I would accept appointment to a full-time judgeship for a two-year term.
2. I would accept appointment to a full-time judgeship for a term of at least four years.
3. Under neither condition would I accept a full-time judgeship.

vey are willing to accept full-time status for either a two or four year term. However, judicial interest in considering acceptance of a full-time judgeship should not be interpreted as judicial endorsement or support for a full-time judiciary.

(2) Arguments in favor of change to a full-time judiciary.

(a) Full-time judicial status would enhance the independence of the judiciary. Here, the argument is that judges are exclusively judges. The efforts and procedures of court-related agencies (for example, police, prosecution, probation) will be viewed more independently and must comply with what a full-time judiciary has determined is needed for the efficient and effective administration of justice. With this argument, a four-year term would provide greater freedom to judges in entering rulings that may be unpopular but are legally founded. There should be caution with this, however. A full-time judiciary may become more arrogant.

Standards for Traffic Justice, approved by the American Bar Association (ABA) in 1975, does not consider the part-time, full-time issue. But the Standards address the question of traffic court referees who "should be full-time public employees" (Standard 2.3). It seems fair to suggest that if the ABA deemed part-time traffic referees improper, it would deem part-time judges improper, except where a court's limited workload does not merit a full-time judge. The commentary to this standard is relevant to the appointment scheme: "Political and personal patronage in the selection of para-judicial officers to adjudicate traffic offenses should be avoided."

(b) An appointment scheme for a full-time judiciary that utilized a Judicial Nominating Commission would broaden participation in the selection process. Colorado, of course, eliminated the political election of District and County Court judges fifteen years ago. The substitute has been judicial applicant review by citizen-lawyer commissions appointed by the Governor,

commission nominations of two or three candidates, final selection by the Governor. This process has not gone without criticism. Concerns with the earlier elective approach, however, prompted the change to an appointive approach.

Standards Relating to Court Organization, approved by the American Bar Association in 1974, strongly urged appointment following a Judicial Nominating Commission method (Standard 1.21). Appointment of full-time Aurora judges by the Mayor/City Council following Nominating Commission recommendations would broaden the base of the selection process to include a larger number of persons than the present method. A subsequent term could be based either on the present Colorado method of a yes-no, on-the-record retention vote by voters, or a renewed application at the end of one's term for consideration by the Nominating Commission and Mayor/City Council.

(c) A full-time judiciary could place a full-time focus on Court business. This could provide an opportunity for more efficient case handling and an increased number of case dispositions per judge. This is arguable. Present judges doubt that one full-time judge can handle more than twice as many cases as two half-time judges. Yet, the proposition may have merit. One judge who fully "owns" all the cases assigned to his division may well take more total control of his cases and, through a variety of strategies, more readily dispose of more cases.

(d) A full-time judiciary would improve the appearance of justice. Correctly or incorrectly, comment is made that part-time judges, in their chambers while awaiting case hearings, are off and on the telephone to their law offices and private law clients. If true, this is not an unexpected occurrence. If not true, some believe it is true, and this has negative consequences for the appearance of justice, as viewed by court officials, agency representatives, and others. There are also reports of judges taking recesses on a signal that a telephone call is waiting, and even of a somewhat prolonged recess to enable a

judge to drive to a law office and take care of a matter. A full-time judiciary would experience recesses, but not for this negatively viewed purpose. The present approach to calendaring a judge's work time provides frequent waits between hearings, which may prompt the judge to use this time for law practice business.

(e) There would be more consistent decisions and dispositions. Fewer judges should prompt less disparity. More judges should prompt increased disparity. In part, this is an arithmetical consequence. Moreover, fewer judges should be able to talk informally on more occasions about their work.

(f) There would be a more cohesive administration of the Court. This argument follows from earlier propositions related to greater responsibility and the full-time focus. It suggests more consistent oversight of non-judicial employees of the Court. It suggests the opportunity for a more collegial judicial administration and expanded working committees of the judiciary.

(g) There would be less need for the recusal of a judge due to a conflict of interest. Here, the argument is that full-time judges would not have to shift a case to another judge when a party's attorney is a law office associate of the part-time judge, or a client of the part-time judge in his part-time lawyer role. Judicial questionnaire responses indicated this is no large problem, however. Among responding associate judges, five judges reported no recusals during 1982, one reported one, three reported two, one reported three, and one responded from one to five. Seemingly, a full-time judiciary would further reduce this presently modest need.

(h) There would be a more viable reason to utilize a referee. A full-time judiciary could make more extensive use of a lesser-paid attorney referee to handle minor matters, thereby freeing up certain more routinely ex-

panded judicial time for more major matters. Although a referee could be utilized similarly under the present structure, it would seem somewhat easier to organize this with a smaller judiciary.

g. Administrative Issues Related to the Judicial Structure. Although the choice of a particular judicial structure rests on the sorts of considerations discussed above, an analysis of this question raises other issues about the management of the Court, especially the Presiding Judge's position and role. Because of their close connection to the question under direct consideration, they are mentioned here in order to provide a more complete report.

(1) In any event, there would seem to be merit in converting the Presiding Judge-Judicial Administrator position into a full-time position. Obviously, there have been significant achievements by the half-time Judicial Administrator. Yet, the current and projected future size of this Court suggests advantages to making this a full-time position in order to provide more extended direction and oversight. Contemporary court management is a complex, everchanging process. Myriad procedures, factors, technologies, and agencies interact here. The Court must be on top of these processes and an active force in initiating changes and improving coordination. A full-time onsite Judicial Administrator should be seen as valuable to further improvements in the Court's administration.

But the Court, now or foreseeably, is not so large that a full-time Judicial Administrator should serve only in an administrative role, for the full-time Court Administrator is the primary functionary responsible for the effective implementation of Court policies and procedures. A full-time Presiding Judge-Judicial Administrator can allocate the bulk of his or her time to hearing cases, as other judges, but reserve important time for the administrative function. Full-time dedication to the Court, conceivably, can enhance overall court performance.

Pertinent to the Judicial Administrator's workload responsibility in the future is the previously discussed issue of the judicial selection/retention method. Were this responsibility entrusted to a Judicial Nominating Commission-Mayor/City Council mechanism, this function would be removed from the Judicial Administrator's workload responsibility. Further, were a full-time judiciary utilized, regardless of the appointment mechanism, less Judicial Administrator time would be required in coordinating a smaller judiciary. Our mail survey of the Aurora judges inquired whether this should become a full-time position. Three of sixteen respondents saw advantage to this, eleven were opposed, two were unsure. Two respondents qualified their opposition--they saw no advantage unless additional duties were imposed on this position or if the present Judicial Administrator stepped down or if a new building were to be planned and constructed.

(2) Even if the basic part-time judicial structure is seen as advantageous today, its structure could be more problematic as the Court grows. Pertinent to this is the discussion of the present judge selection-review-retention scheme now resting essentially in the Judicial Administrator. Would this scheme work as well with twelve divisions and twice the number of associate judges, plus additional relief judges, to recruit, screen, appoint, assign, coordinate, oversee? Quite conceivably, heightened public concern would follow the still greater power entrusted to the Judicial Administrator as the number of judges dependent upon his selection and evaluation increases.

Pertinent to this is the issue, also, as to whether greater productivity is possible with a full-time judiciary, as well as the concern expressed in this report that greater productivity is possible with this Court regardless of its judicial structure. Enhanced caseflow and improved use of judge time are important factors as the City considers a new court building, the number of divisions needed in the future, and the high cost of construction and furnishings.

4. Summary. Certain conclusions can be drawn from this presentation.

First is that cost savings accrue with the use of a full-time judiciary. Cost savings become greater as the court's divisions expand.

Second is that there are opportunities to increase judicial productivity. This is true regardless of judicial structure. Third is that the qualifications and continuity of the present judiciary are strong.

Fourth is the belief that the present continuing education program for the judiciary is satisfactory. Increased participation in national training programs would be an advantageous addition. Also, a majority of the current bench responded that they would accept a full-time judgeship, suggestive that a competent full-time judiciary can be obtained.

Further, a part-time judiciary that has served this community well will become more problematical as the City expands in population, particularly if the screening, appointment, and retention function is retained with the Judicial Administrator. The problem will not go away that this approach vests too much power in one person and will require still more time from this official in the future. The problem of the appearance of justice also will not disappear so long as Aurora judges are permitted to carry private law practices. There is also the belief, not provable, that a full-time judge can dispose of more cases than two half-time judges. If true, this could yield still greater cost savings in the future. Further, a full-time Presiding Judge-Judicial Administrator will be increasingly necessary for onsite superintendency of this growing court.

It is recommended, then, that a full-time judiciary be instituted, to take effect January 1985, and that a citizen-attorney Judicial Commission be authorized to serve as the mechanism for nominating applicants to the Mayor/City Council for appointment as judges of this court and for investigating complaints lodged against the judiciary.

In the event that the full-time judiciary is not accepted, it is still urged that the Judicial Commission mechanism be instituted.

E. Referee Use and Decriminalization of Lesser Traffic Offenses

1. Nature of the Problem. This section will address the use of referees, judicial hearing officers who conduct certain hearings in lieu of a judge. Frequently they are attorneys, but not always. Recently, the Colorado legislature expressly authorized the use of referees in County Court--House Bill 1019 provides for referees in addition to decriminalizing certain lesser traffic offenses and eliminating jury trials in this regard. Probably because of the diverse nature of the State (i.e., urban, as well as large rural areas), non-lawyer referees were approved to hear these decriminalized matters.²³ Lawyer referees were also authorized to hear these matters, as well as a broader range of County Court cases when there is a waiver of the right to appear before a judge.

Generally, where referees have been utilized across the nation, they have been furnished with offices rather than courtrooms, fewer support personnel, and fewer emoluments of office than judges. Referees receive a lower salary than judges and their powers are more limited.

The issue for the Aurora Court is whether the present judicial structure and caseflow process are appropriate for modification to absorb one or more referees to advantage. In conjunction with this are questions of whether cost savings can be realized, and whether savings can be accomplished without reducing the quality of justice. Further questions relate to how a referee(s) might appropriately be used and the qualifications desired for a referee(s). A separate but somewhat related issue is the question of whether certain lesser traffic offenses should be decriminalized.

2. Sources of Information. Several information sources were used in our investigation of the issue of referees. Interviews were held with selected Aurora judges and members of the private bar who have practiced in the Aurora

²³ Decriminalizing an offense removes the possibility of a jail sentence being imposed upon conviction of or entry of a guilty plea to an offense.

Municipal Court. In addition, in order to determine the purported advantages and disadvantages of the use of referees, interviews were conducted with the current referee of the Greenwood Village Court, and with the Court Administrator of the Denver County Court where referees have been used on a regular basis for a number of years. Finally, our mail survey of the Aurora Municipal Court judges explored the issue of decriminalizing certain lesser traffic offenses.

3. Findings.

(a) The Use of Referees. There appears to be only modest interest in referee utilization by the Aurora Municipal Court at this time. According to the Aurora lawyers and judges interviewed, the referee issue seems contingent on the resolution of the more significant issues of the future judicial structure of the Court and improvement of Court caseflow. For the most part, the general consensus is that the use of referees is appropriate with other types of courts. For example, in Colorado District Courts, where their use is of longer standing, the quality of referees is high, and their use facilitates an earlier hearing of certain types of offenses. It was further agreed by those interviewed that if a referee were to be used in Aurora, a lawyer, as opposed to a non-lawyer, would be favored for this position.

In the Greenwood Village Court,²⁴ arraignees for Class 3 and 4 traffic offenses (which have been decriminalized in Greenwood Village) are given the option of a case hearing before the referee. The great bulk of these defendants exercise this option.

²⁴ A Greenwood Village ordinance authorizes the referee's appointment by the Presiding Judge, with the advice and consent of City Council. The referee must be a licensed attorney. (The Greenwood Village referee is also an Associate Judge of the Court.) The referee is authorized by ordinance to conduct arraignments and hear Class 3 and 4 traffic offenses. Defendants must be advised of their right to a hearing before the Municipal Judge in the first instance. If this right is waived, referee findings and orders become the final decrees of the Municipal Court, unless a request for review is made within ten days of the conclusion of the referee hearing. Appeals are to be held as a trial de novo before the Municipal Judge.

In Denver County Court,²⁵ referees handle the daily night sessions, conducting arraignments and accepting pleas. Cases in which a not guilty plea is entered before the referee are normally scheduled for trial before a Judge during daytime court sessions. Referees also hear contested traffic trials in daytime (when there is waiver of trial before a judge) and preside over small claims proceedings.

Commentary by the Aurora Judicial Administrator suggests that the issues of a referee and decriminalization are intertwined. A joint conference of Aurora judges and City Attorneys decided that Aurora should delay experimentation in this area until an experiment on referee use currently underway in the Arapahoe County Court had at least a year's experience and had been evaluated.

(b) Decriminalization of Lesser Traffic Offenses. Although House Bill 1019 linked the issues of decriminalization with the use of referees, the decriminalization issue can be considered on its own merits. The decriminalization of certain traffic offenses could involve thousands of cases filed annually in the Municipal Court. Decriminalization of certain traffic offenses has made inroads nationally, and has now taken place in Colorado at the County Court level. An advantage is that jury trials may be eliminated with decriminalization, with resultant cost savings, and with time savings to the judiciary. Deliberation by City policymakers may be considered for this reason, regardless of the referee issue. A decision to decriminalize would require attention to fines administration and contempt remedies. Several Aurora lawyers saw merit with decriminalization as did some of the Aurora judges. Following is a list of offenses that the judges felt could appropriately be decriminalized:

25

A Denver ordinance authorizes the Presiding Judge to appoint referees who may conduct arraignments and handle parking, traffic, and criminal violations. Provision is made for the appeal of referee findings and recommendations. Reportedly, few appeals are taken.

<u>Offenses Possibly Appropriate</u>	<u>Number of Judges Mentioning Offense</u>
Parking Violations	13
Defective Vehicle	10
Obstructed Windshield	6
Failure to Dim Headlights	3
Headlamps not in Use	2
Failure to Signal	2
Emission Control	1
Speeding within 5 Miles per Hour over Authorized Speed	1
Speeding less than 20 Miles per Hour over Authorized Speed	1
Three and 4 Point Speeding Violations	1
Stop Sign Violation	1
Failure to Stop for Traffic Control Device	1

4. Summary. Several observations may be drawn regarding these two issues.

First, regarding referees, the issue of a full-time judiciary is, at present, a more overriding concern than referee use in Aurora Municipal Court. There appears to be merit in improving the Court's control over its caseload and more efficient utilization of judicial resources prior to the consideration of using referees. If referees were to be used in Aurora, the position might be better served by a lawyer--more flexibility occurs with the use of a lawyer referee than with a non-lawyer in this position. Furthermore, a non-lawyer referee might well demean the standards that this Court has utilized in building its bank of lawyer judges. Appropriate referee functions could include arraignments, taking of pleas, negotiating pleas, and trying lesser offenses.

Regarding the issue of decriminalization, it is our belief that given decriminalization of certain offenses in other courts, and in view of the responses of the Aurora Municipal Court judges, certain lesser traffic offenses should be considered for decriminalization. It is recommended that Aurora officials proceed to develop legislation to implement this approach.

F. The Introduction of Night and Weekend Courts

1. Nature of the Problem. The Aurora Municipal Court currently operates on a five day week with official hours from 8 a.m. to 5 p.m. for the acceptance of fine payments and the conduct of court proceedings, including arraignments, pretrial conferences, and trials. The Aurora Citizens' Advisory Budget Committee has raised the issue of extending this schedule to include evening and weekend hours. The rationale behind this suggestion is to make court hours more convenient to citizens who have been issued summonses but who might have to disrupt their work to appear in court.

Several questions revolve around the problem of determining whether Court hours should be expanded. They include:

- (1) How many cases currently involve court appearances, and thereby are potentially suitable for night or weekend court?
- (2) What types of cases, traffic or non-traffic, could be resolved by appearance in night or weekend court?
- (3) What would be the additional cost to holding night or weekend sessions?

2. Sources of Information. The sample of 490 closed cases from 1982 provides information on the current caseflow process which must be understood in order to determine what cases night or weekend court may siphon off from the existing schedule. Additionally, contacts were made with other courts in the Denver metropolitan area that currently operate extra sessions in order to determine possible advantages and disadvantages.

3. Findings.

(a) Scope of Court Business Potentially Eligible for Night or Weekend Court. As noted in Section A, supra, forty-four percent of all summonses are currently resolved without a court appearance before a judge. They involve payment of fines either by mail or directly at the cashier's window at the courthouse. Unfortunately, there is virtually no way to determine the relative fre-

quency of each method of payment given the existing recordkeeping system. However, it seems reasonable to assume that defendants who waive arraignment and pay their fines directly choose the mode most convenient. Hence, the option of night or weekend court sessions would seemingly offer little or no convenience in forty-four percent of the cases but at some cost to the City in maintaining extra hours.

Additionally, there is a way to extend the convenience of payment of fines without a court appearance to some of the remaining fifty-six percent of the defendants. Except for certain offenses, the Presiding Judge is permitted to allow payment of fines for traffic offenses without a court appearance.²⁶ In Aurora, the policy is to permit fine payments unless the defendant has had a traffic violation in the preceding twelve months. The policy of denying traffic offenders with past violations to directly pay their fines may account for a considerable number of the defendants now appearing in-court. The Court could change this policy and allow, for example, the defendant to pay a certain amount for past violations, in addition to the fine for the current offense.

Thus, before existing hours are extended, some consideration should be given to permitting more cases to be resolved without a court appearance. Presumably, payment by mail, and even payment during regular court hours, is more convenient to defendants than waiting for and attending court proceedings during evening hours or on weekends. In other words, if convenience to defendants is a value to be maximized, there are more cost-effective ways to achieve this end than by extending court time. Even if this sort of policy change is not adopted, however, there are reasons for not introducing night and weekend court sessions.

26

Colorado Municipal Court Rule 210(b) and corresponding Aurora Municipal Court Rules permit the Presiding Judge to allow defendants to pay fines, without appearing before a judge, except in four offenses: (1) reckless driving, excessive speeding, drag racing, and automobile accidents involving serious property damage or personal injury.

(b) Court Proceedings to be Conducted During Night or Weekend Court.

The time and resources required to handle cases during night or weekend sessions will be greater for traffic than non-traffic cases. However, if the court decides to handle only criminal cases, then the convenience of the extra sessions will accrue only to a small portion of the defendants. Hence, the City must balance its willingness to provide the additional resources necessary to support the extra sessions with the importance of making court proceedings more convenient to defendants.

These findings are based on an examination of the caseflow data discussed earlier (Section A, supra). Of the fifty-six percent of the cases that appear in court, arraignment is the common court proceeding, with increasingly smaller percentages continuing on to pretrial conferences and trials. Thus, arraignment is presumably a proceeding that proponents of the extra sessions would consider suitable.

Yet, the caseflow data reveal that most (78%) of the traffic cases at arraignment result in not guilty pleas and requests for "instant" pretrial conferences. This means that if the City decides to hold arraignments during extra sessions, it must support not only the presence of the judge and courtroom staff, but also prosecutors who must be present to negotiate with defendants.

In contrast, fifty percent of the defendants in criminal cases plead guilty. When this occurs, the judge schedules a sentencing hearing in the future. The case is thus handled quickly and without the presence of the prosecutor. Similarly, if the defendant pleads not guilty, the case is set for trial or a pretrial conference is scheduled in the future. Again, the prosecutor is not required. Thus, the nature of the proceedings and their corresponding cost in time and resources to the City will vary depending on the matters deemed eligible for the extra sessions. If the City decides to limit the extra sessions to criminal cases, benefits of increased convenience will accrue to a relatively small portion of the caseload because criminal cases are a small percentage of

cases arraigned in Court. On the other hand, if the City decides to focus on traffic cases, more defendants may benefit from increased convenience, but more resources and time will be required to process the workload.²⁷

Finally, although the issue of night and weekend court is generally framed in terms of convenience to defendants, it is relevant to consider the consequences to the Court. Based on our examination of the caseflow process and utilization of courtroom space, we find little evidence to suggest that the Court will benefit from additional sessions. That is, in addition to the convenience, conceivably, to defendants, the Court might benefit by being able to deal with an increasing caseload without adding more facilities and personnel. However, we believe that the existing level of judges, support staff, and courtrooms is sufficient to meet the current workload within the regular business hours. In fact, we believe that more efficient use of current resources is possible through improved scheduling, especially of trials (Section A, supra). It is very possible that by improved scheduling and tighter management by the City Attorney over pretrial conferences, more cases can be disposed of faster and without wasting resources when the trial calendar is lax. Thus, consideration of night and weekend court should be on the City's agenda only after the Court has acted to improve its management during regular hours.²⁸

²⁷ The Court did experiment with nightly court sessions in 1980 and 1981 and found that staff requirements were considerable. In addition to judge and courtroom staff, marshals were necessary for security reasons, and because a cashier was on duty, an additional clerk had to be brought in to handle telephone calls. Court officials also found that occasionally proceedings were disrupted by defendants who had consumed alcohol prior to their scheduled appearances. Thus, the Court, in its experiment, concluded that conducting night sessions was not feasible at that time.

²⁸ We realize that the Court did hold night sessions in 1980-81 and conducted trials to the court as well as arraignments for traffic and non-traffic cases. However, to the extent that the problems of trial scheduling (discussed in Section A, supra) argue against conducting night or weekend court in general, these arguments apply force against the idea of conducting trials at night or weekends. Thus, we strongly recommend that no trials be conducted at night or on weekends until the problems of scheduling, found to exist among regular hours, are resolved.

4. Summary. The introduction of night and weekend court will not benefit all defendants. Nearly half of all cases disposed by the Court do not involve an appearance before a judge and seemingly would benefit only marginally by extra court hours.

Additionally, the convenience to defendants and the cost to the City will vary considerably depending on whether the extra court sessions are made available in criminal or traffic cases. We strongly urge the City to consider the matter seriously before opening up extra sessions.

Finally, changes in the policy governing the payment of fines without court appearances should be considered. Although there may be arguments against such a change, it should make the criminal process more convenient and at far less cost than evening or weekend sessions.

G. The Use of Electronic Recording in Lieu of Court Reporters

1. Nature of the Problem. A record of proceedings conducted in Aurora Municipal Court must be made for judicial review in cases that are appealed. The current method is stenotyping by a court reporter. Six reporters, including a Chief Reporter, are assigned to each of the six divisions. If a record of a given proceeding is requested by a defendant, the City Attorney, the Police Department, or other City agencies, the reporter transcribe the notes and produces the desired transcript.

The use of electronic recording is an alternative method of making a record and, if need be, providing a transcript.²⁹ Here, court proceedings are captured on magnetic tape by having an electronic recording device positioned in the courtroom (or chambers). If a written copy of a proceeding is desired, a trained transcriber listens to the tape and types a transcript.

The choice of a method to record court proceedings varies across jurisdictions. For example, Colorado municipal courts in Lakewood, Boulder, Englewood, and Littleton use electronic recordings, while Colorado Springs, like Aurora, retains court reporters. Recording devices are used in virtually all of the County courtrooms in Denver.

Based on the experience of jurisdictions that have adopted electronic recording, electronic recording is a feasible substitute for court reporters. The widespread adoption of electronic recorders and the reported satisfaction by judges and court managers attest to its utility. In addition to reviewing reports on courts that use electronic recording,³⁰ we have examined the applica-

²⁹ Other ways of making records and transcripts, such as computer-aided transcription are not under consideration here.

³⁰ See, for example, Larry P. Polansky and Leroy J. M. Barthlow, "Audio Recording in the Superior Court of the District of Columbia," 7 State Court Journal (Winter, 1983), 12 and Electronic Court Reporting in Alaska, Office of the Administrative Director, Alaska Court System (July, 1979).

tion of electronic recording in three Denver metropolitan courts. Interviews with judges, court administrators, and division clerks in Lakewood and Englewood Municipal Courts and Denver County Court, suggest that the technology has the five following features:

- (1) High performance equipment which eliminates the need for constant monitoring by court staff to ensure microphone activation or basic reception functions.
- (2) Ability to record different persons speaking simultaneously through multiple channel (or track) systems.
- (3) Audible tapes that permit accurate transcribing.
- (4) Minimal equipment maintenance problems.
- (5) Reduced costs to the court by eliminating the need for a court reporter to be in court and devoted exclusively to preparing a record.

Some of the judges that we interviewed were against the introduction of the equipment but are now pleased with it. This suggests that the "users" of electronic recording are satisfied with the equipment not because of a predisposition to like it but because of their experiences with it. Thus, the Aurora judiciary may find it helpful to ask the judges in other jurisdictions how and why they see net gains with the equipment.

Despite the apparent feasibility and purported advantages of electronic recording, the extent to which electronic recording is desirable in Aurora Municipal Court is an open question.³¹ We believe that the experiences of other jurisdictions is sufficient for the Court to consider its application, but the decision to implement it should be made only after measuring electronic recording against relevant criteria. Thus, the problem is in determining whether

³¹ The distinction between feasible and desirable is intended to permit a rational rather than a polemical discussion of the subject. Given the nature of the debates over electronic recording, the level of discourse needs to be raised in order to determine whether electronic recording is a satisfactory substitute for court reporters and for what matters. A similar effort has been made by some court reporters. See Gary M. Cramer, "The Reporting Team - A Technique of the Future", National Shorthand Reporter (June, 1982) 28.

electronic recording is sufficiently more desirable than court reporters to warrant adoption of the technology.

Four interrelated criteria seem particularly appropriate. They include:

- (1) The cost savings, if any, attributable to the equipment.
- (2) Modifications in courtroom staffing that accompany the introduction of the equipment.
- (3) The performance of the equipment in terms of the accuracy, speed, and ease of record and transcript preparation.
- (4) The management of court personnel, especially court reporters.

As we see it, the problem is to determine how well electronic recording compares along these four dimensions. The remainder of this section is devoted to a consideration of these issues.

2. Sources of Information. Basically, three sources of information are used to analyze the relative advantages and disadvantages of electronic recording equipment. One source was the literature on the subject. A second was interviews with court reporters in Aurora to gain a sense of their workload and management structure. Third, interviews were conducted in jurisdictions where electronic recording has been introduced, and with representatives of equipment companies.

3. Findings.

a. Cost Savings. There are possible cost savings to the Court with the electronic recording. We estimate that \$93,600 may be saved over a period of seven years, which is a reasonable life expectancy of the equipment. The average annual savings if electronic recording is used would be \$13,371. (The basis for these estimates is available in Appendix C.) The size of the savings depends upon three variable conditions and may be higher (or lower) than our estimates, depending upon the particular circumstances under which electronic

recording equipment is introduced.³² The conditions include:

(1) The difference in salary and fringe benefits paid to court reporters and the clerks who would likely operate the recording equipment. The amount of the savings would increase over time as the salary differential becomes greater. This assumes that reporters begin with a higher salary base but receive the same percentage adjustment each year as the clerks.

(2) The manner in which the courtroom is staffed when the electronic recording equipment is in operation. Here there are, at least, three basic possibilities. First, a clerk is in the courtroom constantly monitoring the equipment but also performing other functions, such as handling exhibits, swearing in witnesses during trials and working on dockets, orders, and other clerical business. If a clerk is in the courtroom constantly, performing these other functions, the need for the presence of a bailiff is questionable. Hence, the first possibility involves the constant presence of a clerk who monitors the equipment, but who also performs other duties commonly associated with a bailiff.

The second possibility is when a clerk is in the courtroom to activate the equipment, monitor its performance occasionally, and to shut it off at the end of the proceeding. When out of the courtroom, the clerk may work at a violations bureau, perform general typing duties for the Clerk's Office, or prepare written materials for individual judges. Under this arrangement, a bailiff may be in the courtroom to escort defendants to the cashier's window for fine payments after arraignment and to handle exhibits during trials.

The third situation is when a clerk is in the courtroom monitoring the

32

Currently, the court reporters provide transcripts at no cost to city agencies such as the Police Department (internal investigations) and the City Attorney's Office (civil suits against police officers). With the introduction of electronic recording equipment, we assume that tapes instead of transcripts would be provided. Thus, although this may save the Court time and money, the costs will ultimately be borne by another agency.

equipment, but performing no other duties, such as paperwork or trial-related activities. A bailiff is also in the courtroom constantly.

Clearly, the first possibility yields greater cost savings than the second possibility and the third possibility is likely to produce only limited savings beyond the salary differential between reporters and clerks.

(3) The locations of electronic recording units. The decision on where the equipment is to be located is a critical factor because the total amount of the purchase price and the corresponding maintenance costs depend on the number of units acquired.

There are at least two ways of arranging the equipment. First, units can be placed in each courtroom and in each judge's chambers. Second, units can be placed in each courtroom and no equipment in chambers, foregoing the use of chambers for the transaction of court business. Clearly, the first alternative is going to reduce the possible cost savings.

Thus, savings are not automatic and should not be assumed to be the difference between equipment costs and court reporters' salaries. On the contrary, cost savings are highly interrelated with the way in which courts wish to conduct and manage their proceedings.

b. The conduct of court proceedings. When technological innovations are introduced in courts, the implementation process is not simply an exchange of equipment for traditional procedures. The equipment is usually accompanied by changes in other areas in order to integrate the new method into the existing court system.

In the case of electronic recording, the Court and the City must decide how they prefer to staff courtrooms in order to administer justice fairly, effectively, and efficiently. From our perspective, there are at least three basic questions about the delivery of services that need to be addressed: They are:

- (1) How closely should the equipment be monitored? Some courts choose to monitor it constantly to avoid the risk of equipment malfunctions going undetected. Others believe that the equipment performance record is such that constant monitoring is not necessary.
- (2) If the equipment is monitored constantly, should the clerk performing this task work on other business? Although no one suggests that the clerk needs to wear headphones constantly, it is legitimate to ask if the clerk can effectively serve as a bailiff or perform clerical duties.
- (3) If the equipment is monitored constantly, and the clerk performs clerical tasks, is there a need for a bailiff to escort defendants to the cashier's window and to be in the courtroom during trials involving defendants on bond? Although defendants are escorted in Aurora, this practice is not followed in all courts. Moreover, as noted in Section H, supra, bailiffs might be better used elsewhere than in the courtroom during trials involving defendants on bond.

There is no "single, right" answer to any of these questions. Rather, the answer depends on how much confidence can be placed in the equipment and how strongly does the Court want to reduce costs. Hence, the issues of cost savings and delivery of services are related to the performance of the equipment.

c. Accuracy, Speed, and Ease of Record Preparation. Both the court reporters and electronic recording equipment are subject to errors. Court reporters may not hear every word correctly, may record words incorrectly, and may not type a transcript perfectly from notes. On the other hand, electronic equipment may be subject to several technical problems, such as inadequate amplification, defective microphones, poor quality tapes, and so forth. In addition, court personnel may cause the equipment to fail by forgetting to turn on the system, inadvertently unplugging the equipment, and failing to inform defendants, witnesses, and counsel to speak directly into the microphones.

Because electronic recording is innovative, it is natural that horror stor-

ies abound about inaudible tapes and gaps in tape recordings.³³ On the other side, there is the testimony by users of the equipment that serious problems are the exception.

Yet, the real problem here is that there has been virtually no controlled side-by-side comparison of the two methods over a reasonable period of time. There is uncertainty about the nature of the errors in both methods and how the errors compare according to frequency, type and functional significance.

Fortunately, the Federal Judicial Center (FJC) is currently conducting a study in selected U.S. District Courts on precisely this topic. Because of the relevancy of the FJC's findings, systematic answers to the questions of accuracy will be available by August 1983, when the FJC's report is expected to be published. Although the FJC study will not answer every question about the use of electronic recording, the Court and City can avoid making a precipitous decision about electronic recording by waiting until it has the benefit of the FJC's information.

The available information on speed suggests that it takes longer to produce a transcript from an audio recording than from stenotyped notes. In fact, the actual work time may be one and a half times as great with electronic recording.³⁴ The comparative elapsed times from the end of a proceeding to production of a transcript is not currently known. Again, the FJC study will help to clarify this matter. Hence, the City and Court would be well advised to consider those findings before choosing one method over the other.

Electronic recording appears to be convenient in certain ways and inconvenient in others. The convenience of the recording mode is that the time and cost

³³ For example, a defendant recently alleged that inadequacies in the tape recording of his trial denied him the right of a meaningful appeal. See Westminster Window, November 18, 1982.

³⁴ See Federal Court Reporting System: Outdated and Loosely Supervised (Washington, D.C.: U.S. General Accounting Office), p. 37.

of producing a transcript are not necessary to review a past proceeding. The Court can make a duplicate tape, at a nominal cost, for defendants, insurance companies, police officials, and others who wish to review a given hearing. In this way, the Court provides a service without costly transcript preparation. On the other hand, when the judge wants to review a given portion of a proceeding, the Court reporter is in a better position to retrieve the desired information quickly than a clerk who must reverse the tape in search of the desired section.

Thus, the critical factors of accuracy and speed are difficult to resolve at this time because of the lack of systematic information. It would seem prudent for the Court and City to take into account the soon-to-be available results of a thorough study of the subject before concluding which is the better method.

d. Management of Court Reporters. Although the movement toward electronic recording is motivated by goals of efficiency, this may not be the only objective. The desire for electronic recording in many jurisdictions is also a negative reaction to court reporters. That is, court officials may look to electronic recording because they find reporters difficult to manage. Frequently raised criticisms of reporters are that they are unaccountable; they set their own schedules in producing transcripts, they design to perform work other than reporting and transcribing, and they perform non-court work on Court time and space.³⁵ If these allegations are true, it is understandable why Court officials look for alternatives. By eliminating court reporter positions, certain personnel problems are eliminated.

The situation in the Aurora Municipal Court is not characterized by such problems. We uncovered no evidence of personnel conflicts between reporters and

³⁵ Federal Reporting System, ibid.

other staff and no criticisms by judges of inaccountability, sloppiness, or arrogance on the part of the reporters.

The situation in Aurora can be described as follows: Reporters are carefully screened by the Chief Court Reporter and Presiding Judge before they are hired. They are held accountable to a definite time schedule and are available when needed. Moreover, they are not permitted to work on non-court business during court time and, in fact, do very little "moonlighting". Thus, they serve the Court well.

Yet, there appears to be no formal system of documenting how reporters spend their time. From a management perspective, it is important to know how much time each reporter spends recording and how much time is spent transcribing. Moreover, the more time that a reporter spends recording and transcribing, the lower are the possible cost savings with the introduction of electronic recordings. For this reason, there is a need to gauge the workload of the reporters more precisely in order to see what gains, if any, can be made by the use of electronic recording.

4. Summary. Although electronic recording is feasible, it is desirable on some criteria and not necessarily on others. Specifically, there are possible cost savings under certain staffing arrangements. To achieve the cost savings, the Court will have to decide if the cost savings warrant the corresponding elimination of staff positions.

The issues of accuracy and speed are currently the subject of testimonials and countervailing horror stories. Fortunately, the Court will soon have access to systematic information to assist it in making its decision. Finally, the current arrangement is a well-run organization of professional court reporters who serve the judiciary well and prepare transcripts on a timely basis.

H. Role and Desired Level of Court Support Staff

1. Nature of the Problem. The issue discussed in this section of the report is the ratio of support staff to judges in the Aurora Municipal Court. It is an issue raised from time to time by the Citizen's Advisory Board Committee, most recently in its October 1982 report to the City Council concerning a possible audit of the Court. That report indicated that the support staff, including courtroom and non-courtroom personnel, required for each Aurora judge was substantially higher (268%) than the average of the other courts. Although a dramatic statistic, it is much less significant than it appears for several reasons. First, the municipal courts in Colorado vary as to the types of jurisdiction they have, and, as a consequence, in the work they do. Second, staff bearing the same position titles in these courts do not necessarily perform the same duties. Thus, across the board comparisons are not very meaningful.

In addition, based on our interviews with the municipal court administrators in Colorado Springs and Lakewood, we found that the judge figures for those courts contained in Appendix B to the CABC report were not accurate. Colorado Springs has the equivalent of three full-time judges while Lakewood has two. Using those figures to recalculate the staff to judge ratio produced ratios of 7.6 and 7.5 for those courts, respectively. The new figures are substantially higher than shown in Appendix B and narrow significantly the differences in staff/judge ratios among the Aurora, Colorado Springs and Lakewood Municipal Courts.

Finally, in our view, using a total staff to judge ratio is not an appropriate measure. Not all the court staff work directly with the judges in adjudicating cases. A good example of this is the Traffic Violations Bureau, which handles parking and uncontested traffic cases. According to the Court's statistical reports, the Bureau processed, without any judicial involvement, about 46% of the Court's workload in 1982.

Accordingly, we believe it is necessary to narrow the focus of the staffing level question to assure that the conclusions reached are based on sound analysis. In doing so, the clerk's office (including the Traffic Violations Bureau) has been excluded from consideration. As indicated above, the work of that staff is not directly related to the number of judges, and, in any event, its operations are examined in depth earlier in this report. However, it should be noted that, while we did not find an overstaffing problem in the Clerk's Office, we suggest that the Court refrain from adding staff until the new operational changes now underway are fully implemented. Similarly, the court reporters are also excluded from consideration in this section in view of the discussion of their utilization in the preceding section of this report. Thus, our major focus in terms of staffing has been the Marshal's Office, which also is responsible for the bailiff function.

2. Sources of Information. In order to broaden our analytical perspective, as noted earlier, we contacted the Colorado Springs and Lakewood Municipal Courts for information about staffing levels and assignments. These courts were selected because, like Aurora, they serve growing communities and have comparatively large budgets. Telephone and on-site interviews were conducted with judges and administrators to obtain the needed information.

In the Aurora Municipal Court, the Judicial Administrator, Court Administrator, Chief Marshal, Chief Court Reporter, clerical supervisors and the staff of the Traffic Violations Bureau were interviewed in connection with the staffing issue. In addition, courtroom operations were observed and, as discussed in Section C, above, the Clerk's Office workflow was studied in detail.

3. Findings. As stated at the beginning of this section, staff/judge ratio comparisons among Colorado municipal courts are not very meaningful in view of the jurisdictional disparities and wide variation in duties assigned to staff. For example, the courts in Aurora, Lakewood, and Colorado Springs all

have Marshal's Offices. In Aurora, four full-time marshals, four full-time bailiffs, and four part-time bailiffs serve the six court divisions (one marshal and one bailiff position are unfilled). In Colorado Springs, eight full-time marshals serve the equivalent of three full-time judges. Two full-time marshals are employed by the two-judge Lakewood Municipal Court.

However, comparing these figures sheds little light on the issue. The duties performed must also be examined. In Aurora, in addition to the usual duties of prisoner handling and transport, courthouse and courtroom security, and warrant service, the Marshal's Office also has the responsibility for jury management, providing bailiffs to staff the courtrooms and coordinate the flow of people and cases, and assisting the city police by transporting some of their prisoners.

As to the bailiffs in particular, they currently perform the following functions:

- open the Court building;
- direct defendants, witnesses, and parties to proper courtrooms;
- coordinate shifting of cases among courtrooms when necessary;
- note presence or absence of witnesses, parties, and defendants, and advise court staff and City Attorney;
- announce opening and closing of Court sessions;
- administer oaths and maintain order;
- check courtroom supplies, heat, light, and amplification systems;
- coordinate juror use; and,
- escort defendants to cashier or docket clerks after court appearance.

In both Colorado Springs and Lakewood, by contrast, the responsibilities of the Marshal's Office are much more limited and are largely confined to dealing with defendants in custody, serving warrants, and providing some in-court security, particularly during jury trials. Most of the bailiff duties listed above

are not performed in those courts.

4. Summary. In view of the major differences in responsibilities among Marshal's Offices, inter-court comparisons are not very revealing, except in one respect. Based on our review, the Court may wish to consider a modification in the staffing pattern for the bailiffs. Currently, for a court trial of an unconfined defendant, in addition to the judge, each Court division has assigned to it a court reporter and a bailiff. However, for those types of trials, it may not be necessary for a bailiff to remain in the courtroom once the trial gets underway. The experience in both Colorado Springs and Lakewood demonstrates that it is entirely feasible to conduct a court trial of a defendant not in custody without a bailiff being present. In fact, in Lakewood, because sound recording is used, the division clerk, after calling the case and starting the electronic equipment, also leaves the courtroom. The judge thus conducts the trial without any support personnel being present.

Because routine court trials are, by far, the most common type of trial, not having bailiffs in attendance could free up a substantial amount of time. This time could be devoted to other activities. For example, according to the Chief Marshal, the marshals' many duties do not allow them enough time to telephone all the defendants who should be called because they failed to appear in court or failed to make a scheduled fine payment. The bailiffs could fill this void by calling those defendants the marshals are unable to reach. In many situations, it appears that a telephone call is all that is needed to remedy the problem.

In effectuating this suggested change, some modification in the job descriptions of at least those bailiffs assigned to making telephone calls to delinquent defendants would, no doubt, be necessary. Also, appropriate space would have to be found for the bailiffs to carry out this function. Neither requirement would appear to be insurmountable.

In summary, we recommend that the Court considering not having bailiffs remain in the courtroom once a routine court trial of a non-incarcerated defendant gets underway. We believe that the gain in revenue that can be expected as a result of the increased telephoning of non-appearing and non-paying defendants, would outweigh the effort and cost involved in making the suggested change in bailiffs' assignments.

This idea can be tested easily. With one or two bailiffs who would be willing to telephone defendants, the Court could set up a pilot project to determine whether the calls are producing sufficient revenue gains to warrant a more permanent staffing pattern change. Because the telephone calls would be made while a court trial is underway, for the purposes of the test, the bailiffs could place the calls from the offices of the judges in trial. A three month test should be sufficient to determine whether this recommendation should be adopted.

APPENDIX A

The Institute for Court Management, established in 1970, is dedicated to improving the management of the nation's courts, whether they be trial or appellate, federal, state, or local. In addition to providing educational and training programs for judges, court administrators and others on various topics of court management, the Institute conducts research on the administration of specific courts and court systems. The Institute is sponsored by the American Bar Association, the American Judicature Society, and the Institute of Judicial Administration.

ICM staff members participating in the Aurora Municipal Court study include: Dr. Roger Hanson, study director; H. Ted Rubin, Marlene Thornton, and Harvey Solomon, who collected and analyzed data on specific questions. One outside consultant, Maureen Solomon, was also responsible for the collection and analysis of data on specific issues.

APPENDIX B

Profile of the Aurora Municipal Court

I. Personnel

The Aurora Municipal Court has a total judicial staff of nineteen, including one presiding judge/judicial administrator, eleven associate judges and seven relief judges (a relief judge is called in when an associate judge is not available, i.e., in cases of illness, vacation). The Court has nineteen judicial support staff--six court reporters, nine bailiffs (two are part-time) and four marshals (two are part-time). The administrative staff consists of the court administrator and twenty-six clerical members. The Court also has a probation staff of three people.

II. Types of Cases Handled in 1982

The Aurora Municipal Court services the City of Aurora, which has a population of approximately 180,000. The Court has jurisdiction over a range of offenses if committed within Aurora city limits or on City-owned property. A random sample of 490 cases that were disposed by the Court in 1982, indicates the breakdown of the types of offenses handled in the Municipal Court (See Table B-1).

The types of offenses that are being filed in the Municipal Court do not appear to have changed significantly over the past three years.* As indicated in Table B-2, traffic (including parking) cases have remained consistently high, and non-traffic cases (which includes "criminal" cases and animal violations) remained virtually unchanged in 1982 from the previous year. Although there was a five percent increase in the filing of non-traffic cases from 1980 to 1981, the majority of cases that are filed (75% in 1982) are traffic-related.

III. Past, Present, and Future Caseload

The Municipal Court has experienced considerable growth in its caseload over the past few years. The Court has gone from an actual decrease in case filings in 1978 and 1979 to an annual average increase of 29% over the past three years. It reached 55,491 in 1982.

The number of filings expected in the future is difficult to predict with a high degree of reliability for several reasons. First, the Court has no record

* Municipal Court officials indicate that the range of offenses that come within the Court's jurisdiction are continually increasing. However, according to the 1983 Internal Audit, many of the seemingly new offenses have been within the Court's jurisdiction for a number of years. The issue surrounding the increases in the filing of certain types of offenses, therefore, is not one of increased jurisdiction over these types of offenses but maybe that the City has only recently been enforcing the ordinances.

TABLE B-1

Breakdown of Individual Offenses Filed in Aurora Municipal Court

Offenses	Number	Percentage
Parking*	6	1.2
0-Point Traffic	7	1.5
2-Point Traffic	3	0.6
3-Point Traffic	53	10.8
4-Point Traffic	311	63.5
6-Point Traffic	8	1.6
8-Point Traffic	1	0.2
Animal Violations	30	6.1
Theft	19	3.9
Assault	7	1.5
Battery	1	0.2
Disturbing Peace/Trespassing/Disorderly Conduct	6	1.2
Concealing Weapon/Malicious Injury	2	0.4
Curfew Violation	5	1.0
False Information/False Reporting	5	1.0
Drugs	3	0.6
Resisting Arrest	1	0.2
Failure to Appear	17	3.5
Other (e.g., Harrassment)	5	1.0
Totals	490**	100.0

* Our sample statistics indicate that only one percent of the cases that are disposed of by the Court involve parking violations. This percentage is inconsistent with the Court's estimate that 13 percent of the summonses disposed of were parking offenses (6,030/546,849). According to the Court Administrator, the reason for this is that parking tickets, because the offenders name is unknown, are filed separately from the closed files and, therefore, would not have been selected in our sample.

** Of the 490 cases, 450 involved single offenses only, 33 involved two separate offenses, 22 involved at least three offenses. The 490 cases equal the number of summonses selected in the sample. Only one offense per summons is represented in the above table.

Table B-2

Percentage Breakdown of the Types of Offenses Filed in
Aurora Municipal Court from 1980 through 1982*

Type of Offense	Year		
	1980	1981	1982
Moving Traffic	58.5	61.4	57.7
Non-Traffic	18.5	23.1	23.9
Parking	23.0	15.5	18.4
Totals	100.0	100.0	100.0
N =	32,439	44,824	55,491

* Percentages are based on figures from City of Aurora - Municipal Court Reports, 1980-1982.

of annual case filings prior to 1977. This means that there are only six years on which to base past trends. In making statistical projections, a rule of thumb is that ten data points (ten past years) are needed to predict one point (one year) into the future. Hence, even modest projections are hazardous.

Second, there is instability in past years. Filings went down from 28,471 in 1977 to 27,852 in 1978, to 25,664 in 1979, and then upward in 1980, 1981, and 1982. This raises a question about the true past trend.

Third, the predicted number of offenses probably depends on factors such as the number of police officers, and how they are assigned. If the Police Department grows faster (or slower) and shifts its priorities, e.g. more toward municipal criminal offenses and less toward traffic, the past trend will not prove reliable. Instead, predictions will have to be made year to year depending on the nature of the police force. For all of these reasons, a note of caution must be attached to our statistical projections. Nevertheless, if past trends continue, filings may reach over 100,000 by 1990, as seen in figure B-1.*

IV. Case Disposition at Different Stages of the Criminal Process

According to the Court's records, the method of disposing cases (i.e. Traffic Violations Bureau versus Court adjudication) appears to be changing over time. As Table B-3 shows, the Traffic violations Bureau handled 15% less of the caseload in 1982 than in 1977. Thus, there is a corresponding 15% increase in 1982 of the number of cases requiring courtroom resources.

Based on this trend, therefore, the indication is that more courtroom resources may be needed in the future to handle courtroom dispositions. However, it still does not tell us at what stage of the courtroom process is there a demand for services. For example, even though most of the 53.6% of the cases in 1982 went to formal arraignment, the data do not indicate what percentage was disposed of at arraignment, at or after a pretrial conference, or at a trial.

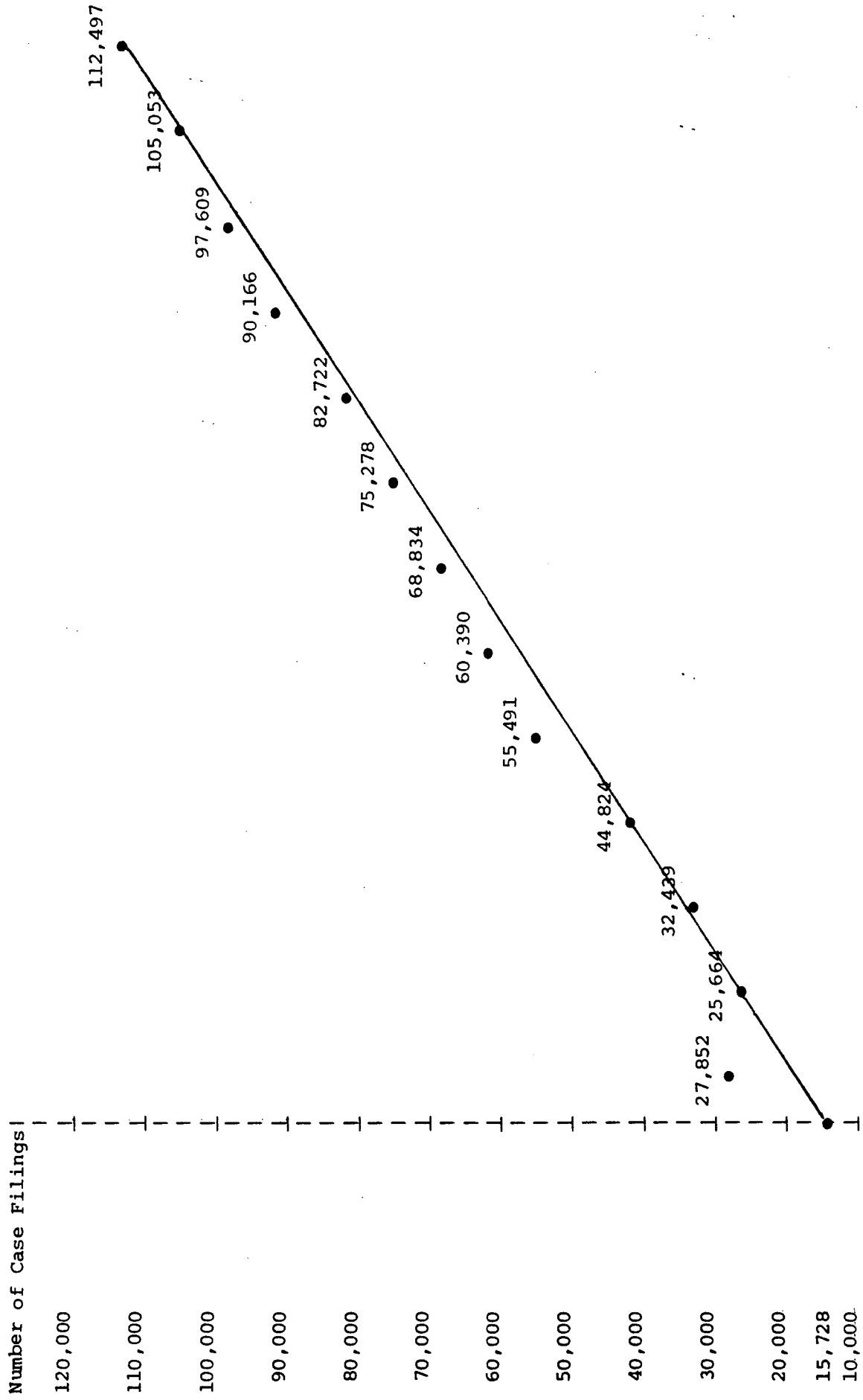
V. Penalties Imposed by the Court

Penalties imposed by the Court for the violation of offenses within its jurisdiction are set by City ordinance. In general, a person who pleads guilty or is found guilty for any offense within the Court's jurisdiction may be fined

* The ability to project the number of case filings in a given year is based on the linear regression formula $Y = a + bX$ where y = number of case filings predicted; a is the point where the regression line intersects the vertical axis (thus the starting point from which the slope of the line is determined); b is the slope of the line (i.e., the average increase in filings for each additional year); and X is a given year. Therefore, to project out to 1990 (the thirteenth year from 1978), the formula would be written out as $y = 15,727.51 + 7,443.8 \times 13$ (15,727.51 and 7,443.8 are calculated from the filings from 1978-82). Thus, the number of cases that the Court can expect to be filed in 1990 is 112,497. (In making this projection, we began with data available for 1978 because the use of data from 1977 would have caused the trend line to have an unrealistically graduated slope.)

Figure B-1

Projecting Caseload through 1990
in the Aurora Municipal Court*



1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990
Year

*Caseload figures for 1978 through 1982 are from the City of Aurora-Municipal Court Reports.

Table B-3

Method of Disposing Cases in Aurora Municipal Court
from 1977 through 1982 (in percentages)*

Method of Disposition	1977	1978	1979	1980	1981	1982
Arraignment Waived - Fine Paid at Traffic Violations Bureau	61.4	58.6	49.5	50.7	47.0	46.4
Involved Courtroom Resources (Guilty at Arraignment, Plea Bargained, Trial)	38..6	41.4	50.5	49.3	53.0	53.6
Totals	100.0	100.0	100.0	100.0	100.0	100.0
N =	25,314	24,882	22,841	30,192	35,440	46,849

* Percentages are based on City of Aurora - Municipal Court Records, 1977-1982.

up to \$500 and/or sentenced to 180 days in jail. The City codes do make exception to these limitations, however, in regard to the violation of certain sections which are determined to be of sufficient gravity as to warrant punishment in excess of the above limitations. These violations include assault, battery, resisting arrest, reckless endangerment, theft, prostitution, and eluding or attempting to elude a police officer. In these offenses, the Court may impose a fine up to \$999 and/or a sentence up to 180 days in jail.

VI. Frequency of Appeals

Cases heard before the Court may be appealed to a higher court for reconsideration. Presently, about 25 Municipal Court cases are appealed annually to the District Court level.

APPENDIX C

Cost Analysis of Electronic Recording

The purpose of this appendix is to compare the anticipated costs associated with electronic recording with those associated with the current system of six reporters. A note of caution is necessary in making cost estimates because of the variable nature of resources required to purchase, install, and operate the electronic equipment. For example, it is extremely difficult to know what acoustical modifications would be necessary to achieve high quality recording. Moreover, precise information on this point is likely to be obtained only from a firm that is formulating a bid pursuant to a solicitation from the City.

Furthermore, the number of alternative combinations of equipment, personnel, and maintenance fees is sufficiently large that there is no single purchase or operating cost figure. For example, a microphone may be purchased at retail stores, e.g., Radio Shack, for \$20, but lack the capacity to eliminate background noise to the same extent that a microphone does which costs \$100.

Despite these caveats, some general determination of the costs of the two alternative methods are possible. Moreover, if the City decides to consider introducing electronic recording on a pilot basis, more specific cost estimates will be provided as equipment retailers submit competitive proposals.

For the purpose of making this issue tractable, several assumptions about the electronic recording equipment and its use are made. They include:

(1) The basic recording equipment consists of a four-track dual cassette recorder, four microphones, and a set of headphones. There is one unit per courtroom and one per chamber.

(2) Supplemental equipment includes a transcriber, and a four-track to four-track tape duplicator. Both are shared among all six current divisions.

(3) The equipment has a life expectancy of seven years with no salvage value.

(4) Tapes will be used, stored for three and a half years and then re-used.

(5) The equipment will be monitored periodically except during trials when it will be monitored continuously.

(6) During court trials involving defendants on bond, the equipment operator will swear in witnesses and handle exhibits.

(7) There will be recording equipment in each of the six courtrooms and corresponding chambers.

(8) The clerk who operates the equipment will spend, on average, four and a half hours monitoring the equipment and the remaining time performing the same out-of-court tasks now performed by court reporters.

(9) One of the clerks will be hired to prepare transcripts for the City Attorney's Office for criminal cases on appeal. This person will also be in charge of storing tapes and providing them to other agencies.

(10) A tape will be provided to the Police Department, City Attorney's Office, and others for a record of court proceedings in non-criminal matters, e.g., civil suits and internal investigations.

Clearly, there are alternative assumptions to each of the ten circumstances posited above. These circumstances permit the costs to be calculated. The resulting comparative costs are displayed in Table C-1.

The cost savings with the introduction of electronic recording is \$93,600 over seven years, an annual savings of \$13,371. This amount is about two-thirds the current salary of a court reporter.

Two qualifications must be attached to these numbers. On the one hand, the estimated saving is, perhaps, a conservative figure because the personnel costs were calculated on the basis of salaries alone, excluding fringe benefits. Because the absolute amount of fringe benefits increases as salaries increase, there is even a greater potential savings.

On the other hand, the calculations are based on the assumption that one clerk can perform the necessary transcription work for the city prosecutors. The rationale for this assumption is that demands for records by other organizations and individuals will be satisfied by providing them with tapes. This means that an authorized court official would sign an affidavit certifying that a certain tape was the "authentic tape". The party then requesting the tape would use its transcriber and secretarial services to produce the transcript.

Table C-1

Comparative Costs of Electronic Recording and Court Reporters

Electronic Recording System*	Annual Unit Cost	Seven Years Total Cost**	Court Reporter System	Annual Unit Cost	Seven Years Total Cost**
<u>Personnel</u>			<u>Personnel+</u>		
Clerk (5x\$16,000)	\$80,000	\$692,300	Court Reporter I (5x\$19,971)	\$99,855	\$ 864,148
Clerk/Transcriber	20,000	173,076	Court Reporter II	22,378	193,660
Subtotal		\$865,376	Subtotal		\$1,057,808
<u>Equipment</u>			<u>Equipment</u>		
Recording Unit (18x\$2500)	\$45,000	\$ 45,000	(None Charged to City)	--	--
Transcriber	800	800			
Tape Duplicator	500	500			
Microphone (36x\$100)	3,600	3,600			
Tapes++ (6000x\$2)	12,000	42,000			
Subtotal		\$ 91,900			
<u>Equipment Maintenance</u>			<u>Equipment Maintenance</u>		
Service Agreement (3 units x 6 divisions x \$200)	\$ 3,600	\$ 25,200	Service (6x\$35)	\$ 210	\$ 1,470
			Papers, Ribbon, Ink (6x\$400)	2,400	16,800
			Subtotal		18,270
			Total Cost		\$1,076,076
Total Cost		\$982,476			

*Information on cost estimates for electronic recording was gathered from discussions with Lakewood and Englewood court officials (where electronic recording is currently used), and representatives of electronic recording manufacturers.

**The seven year cost estimates take into consideration a 7% average salary increase per year.

+In implementing an electronic recording system, the possibility arises that bailiffs may be used to perform a variety of other duties outside the courtroom. If this is the case, considerable savings can be accrued by the Court in reassigning these individuals to perform different or entirely new tasks. Because we could not measure the extent of time that bailiffs spend in the courtrooms, the savings to the Court (although significant) cannot be calculated on a dollar basis.

++The estimated need for tapes is based on 4 tapes for each of the six divisions per day x 250 days. Because the tapes are reusable and because files can be destroyed after 3.5 years, it is estimated that the maximum 7 year cost of tapes would amount to \$42,000.