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Western Regional Office

FINAL REPORT :

Los Angeles Municipal Court

Project COURT,

National Center for State Courts
300 Newport Ave.
Williamsburg, VA 23185

August, 1979



National Center for State Courts
235 Montgomery St., Suite 1550
San Francisco, California

Alexander B. Aikman
Senior Staff Attorney
Project Director

Project Team:

Alan Carlson
Staff Attorney

Samuel D. Conti
Regional Director
Northeastern Regional Office

Sue K. Dosal
Senior Staff Attorney

Richard T. Martin
Staff Associate

John Mayson
Senior Staff Attorney

Robert W. Page, Jr.
Senior Staff Associate

Donald S. Skupsky
Senior Staff Attorney

Randy P. Wolfe
Staff Associate

* * *

Winifred L. Hepperle
Consultant

Joseph H. Kavanaugh, Jr.
Consultant

Prepared by:

National Center for State Courts
Western Regional Office
235 Montgomery Street
Suite 1550
San Francisco, California 94104

(415) 557-1515

Larry L. Sipes, Director

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The preparation of these materials was undertaken pursuant to a contract with the County of Los Angeles and was financially aided through a grant from the Regional Criminal Justice Planning Board (RCJPB). The opinions, findings, and conclusions in this publication are those of the authors and not necessarily those of the County of Los Angeles or the RCJPB. The RCJPB reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish and use these materials, and to authorize others to do so.

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ACKNOWLEDGMENTS

The National Center for State Courts is indebted to numerous individuals for their assistance and support during this study.

Judge Lawrence Waddington, Project Director, provided constant support, advice, and encouragement. John C. LeVan, Chief Clerk of the Criminal Division of the Clerk's Office, was particularly generous with his time, considerable knowledge, and support. Their efforts made our work much easier.

The project team interviewed over 50 judges, clerks, and other staff within the Court, public and private attorneys, and judges and clerks in several courts in Los Angeles County. Without fail they all were generous with their time and unstinting in their efforts to help the staff understand the processes of the Los Angeles Municipal Court and the options available for improvement. The National Center wishes to express its special appreciation to each.

This project included a substantial data collection effort. Carrie Fusee, John McCamman, and Donna Ritter were thorough and careful in this exacting task.

The County's Municipal Court Planning and Research Unit, initially through Norman Tarle and subsequently through Jayme Wilson, has been a valued liaison with the Court, the County Executive's Office, and the local funding authorities.

I. INTRODUCTION AND SUMMARY

The Los Angeles Municipal Court

The Los Angeles Municipal Court receives and disposes of a tremendous number of misdemeanor cases a year. In fiscal year 1977-1978, the Court received over 64,000 nontraffic misdemeanor and infraction cases,* or one of every nine nontraffic misdemeanor cases filed in the State of California. About twice as many misdemeanor complaints (excluding felonies reduced to misdemeanors) were filed in Los Angeles than in the court with the second highest number of misdemeanor and infraction filings in the state.**

The consequence of this mass of cases is that everyone in the system is overburdened. The judges and attorneys cannot give each case the considered evaluation and attention it should have. The clerk's office, which faces severe staffing shortages and has an antiquated records system, is hard-pressed to process the paper involved. The City Attorney's Office, which also has staffing problems, has trouble preparing the cases fully and in a timely fashion. The Public Defender's Office cannot represent all of the

*The caseload in 1976-1977 was almost 100,000 cases. The sharp reduction in this year's figures is attributable to a determination by the Superior Court in March 1978, now on appeal, that the procedures in Los Angeles for the arrest and adjudication of persons for public drunkenness are unconstitutional. Sundance v. Municipal Court, Los Angeles Superior Court, No. 000257 (March, 1978).

**Per-judge comparisons are not possible because Los Angeles assigns some judges and commissioners to hear only misdemeanor cases, whereas most municipal court judges hear a mixed caseload.

indigent defendants involved, so the Court must appoint private counsel, with significant additional costs for the taxpayer. Finally, the individuality and individual needs of witnesses, victims, and the defendants themselves are lost; at times these citizens are treated as if they were impediments rather than as integral and important parts of the system. In short, many of the problems in the Los Angeles Municipal Court can be traced to limited resources being overwhelmed by the volume of work to be done.

The problem of volume from the clerk's perspective is compounded by the Court's records management system. Case files lack folders and contain numerous odd-sized pieces of paper stapled together, making the files difficult to use. Case docket sheets are over-sized blank pages completed with the use of countless rubber stamps. Each judge has an individualized set of stamps because there is no agreement on standard language or procedures. The Court records are maintained at great cost in personnel time and record quality.

Project COURT

These features of the Los Angeles Municipal Court were apparent to a number of judges and clerks. As a result of their concern, Project COURT (Court Operations Utilizing Revised Techniques) was initiated. Following submission of competitive bids, the National Center for State Courts was selected to undertake this study. Under the direction of Project Director Judge Lawrence Waddington, the National Center was asked to review the administrative procedures of the Los Angeles Municipal

Court,* with particular emphasis on problems associated with five case types: prostitution, petty theft, narcotics and other drug-related offenses, assault and battery, and resisting arrest. The Center was asked to focus particular attention on several areas:

- Problems in and alternative procedures for Division 40, the master calendar court for the trial divisions;
- The handling and treatment of police and civilian witnesses;
- Initial redesign of critical forms and review of general records management problems; and
- Problems with respect to and alternative approaches for criminal justice system coordination and communication.

The Center also was asked to examine other problem areas identified by the Project Director and/or the National Center as the study progressed.

Matters clearly within the realm of judicial discretion were specifically excluded from the project's scope. The areas identified for study in Project COURT necessarily involve or affect--in varying degrees--the exercise of judicial discretion. The National Center is sensitive to the need to protect the legitimate scope of judicial discretion and has fashioned its recommendations accordingly.

Following is a chapter-by-chapter overview of the context that has led the National Center to its recommendations, followed by the recommendations themselves. The reader interested in the

*The investigation was conducted only in the central branch of the Court, involving two locations, Bauchet Street, where the arraignment courts are located, and the Criminal Courts Building, where the trial courts are located. The two sites are about a mile and a half apart. The Court's four other branch courts are not included in this study.

specific factual basis for the recommendations and the supporting rationale for them should refer to the pages indicated.

Summary of Findings and Recommendations

A. Calendar and Case Management

Cases are processed at two facilities: Bauchet Street, which is part of a jail/court complex, and the Criminal Courts Building. At present, two judges and two commissioners serve as bench officers in the four arraignment courts at Bauchet Street, although until the Spring of 1979 there normally was only one judge assigned to Bauchet Street. There is a master calendar court and 14 trial divisions in the Criminal Courts Building, located about a mile-and-a-half from Bauchet Street.

Sixty-six percent of all dispositions in a sample of 1978 dispositions* were entered at Bauchet Street, although the rate of disposition at arraignment varies by case type: prostitution - 79 percent; petty theft - 81 percent; assault and battery - 38 percent; and narcotics - 36 percent. There is a similar divergence among case types when one examines whether disposition occurs at the first or a subsequent appearance at Bauchet Street. For instance, 43 percent of all of the dispositions in the National Center's sample occurred at the first Bauchet Street appearance but almost 60 percent of the prostitution and petty theft dispositions occurred at the first appearance, whereas only 21 percent of all assault and battery dispositions and 11 percent of all narcotics dispositions occurred

*See Appendix B for a full discussion of the sampling technique and a full analysis of the data obtained.

at the first appearance of the defendant. The overall rate of dispositions achieved at Bauchet Street is higher than the disposition rate at arraignment in other metropolitan limited jurisdiction courts.*

Each of the four arraignment courts will hear between 50 and 85 cases in a normal day. The variation in caseload is determined by variation in the arrest rate, but also by the fact that two of the courtrooms at Bauchet Street are reserved for defendants in custody and two are for those released in the community. Within the National Center's sample, almost half (47%) of the defendants were in custody at their first appearance, but again this varied by case type. The percentage of defendants in custody at their first appearance was about average for narcotics and petty theft cases, but 61 percent of the defendants charged with assault and battery and 71 percent of the defendants charged with prostitution were in custody at their first appearance. In marked contrast, only five percent of those charged with gambling offenses and 13 percent of those charged with violating local ordinances were in custody at their first appearance.

If a defendant pleads not guilty, the case is set for trial--or, more precisely, trial assignment--in Division 40, the master calendar court at the Criminal Courts Building, roughly 21 days from the date of the plea.** The date chosen by the bench officers for appearance in Division 40 is selected in an effort

*See J.J. Alfini & R. Doan, "A New Perspective on Misdemeanor Justice," Judicature, Vol. 60 (1977), pp. 425, 429-30.

**The median time from the first Bauchet Street appearance until the first Division 40 appearance in the National Center's sample was 35 days, but some of the additional two weeks may have been consumed by additional appearances at Bauchet Street. Half of the cases are less than the median figure and half are more.

to keep the number of new cases on Division 40's calendar for any one day at about 45 cases. Some 60-70 cases (45 plus 15-20 others which have been carried over) are set for 9:00 a.m. each day in Division 40. Cases are to be disposed of in Division 40 or assigned to a trial division. Division 40 hears probation and motion matters and imposes sentences in cases having probation reports in the afternoon.

The Division 40 trial calendar seldom is completed--that is, all cases disposed of, continued, or assigned to a trial division--before noon. Management of the calendar is difficult because of: the large number of parties, witnesses, and counsel who appear at one time; lack of effective witness management procedures; incomplete preparation by the prosecutor prior to the start of the calendar call; delaying and judge/shopping tactics by defense counsel; court schedule conflicts for defense counsel; and the absence of agreement on and uniform application of court policy by the judges on certain critical legal and management matters.

About 40 percent of the cases which appear on the Division 40 calendar are resolved in Division 40; the balance are sent to the trial divisions, where most are disposed of by plea or dismissal. Only one in nine of the cases assigned to a trial division in the Center's sample resulted in a trial (about three percent of all dispositions). As with the earlier stages, this varies somewhat by case type. One in four of the prostitution cases which reach the trial divisions results in a trial and 18 percent of the assault and battery cases are tried, but only seven-and-one-half percent of the theft cases and four percent of the narcotics cases assigned to trial divisions actually are tried. An exceptional percentage of narcotics cases are dismissed in the trial divisions.

The overall pace of litigation is reasonably good. Half of the cases in the National Center's sample were disposed of within 16 days of the filing of the complaint and 21 days of the defendant's arrest. Three-quarters of the cases were resolved within 49 days of filing of the complaint. The "real" court time is even better. Only two days is required for the median case from the filing of the complaint to the first Bauchet Street appearance and half of the cases which reach Division 40 are resolved or disposed of on the first day of appearance. Of the cases which reach the trial divisions, half are disposed of within four days and three-quarters of the cases are disposed of within nine days. The only point at which court time seems to be long is the trial itself: the median length of trial was two days and the average is three. Most of the processing time for cases going beyond Bauchet Street is not court time at all, but the time between the first Bauchet Street appearance and the first Division 40 appearance. The number of days between arrest and the filing of the complaint also seems to be extended: the median time between arrest and filing of the complaint is three days. Since half the defendants are in custody at their first Bauchet Street appearance, their complaints seem to be taking most of the 72 hours allowed by law to be filed. Those cases which are handled by field release by law enforcement officers take the longest for the filing of a complaint.

The data suggest that the Court's problem is the quality of the work done on a large volume of cases rather than the time taken to process that volume. There also is a disproportionate amount of judicial resources ostensibly devoted to trials. The

Center's recommendations for an improved calendar management system follow:

Recommendation 2.1:

The Bauchet Street calendars should be divided, with half the cases scheduled for the morning and half scheduled for the afternoon. To achieve this division, defendants arrested between 12:01 a.m. and a selected hour between 6 a.m. and 12 noon should be scheduled for appearance in the morning and defendants arrested after the selected hour and 12 midnight should be arraigned in the afternoon.

Recommendation 2.2:

The Court should establish multiple master calendar groups among the trial judges. Initially, there should be three groups of five judges, with the possibility of going to five groups of three judges at some future date.

Recommendation 2.3:

The position of calendar coordinator should be established.

Recommendation 2.4:

A calendar information system should be established.

Recommendation 2.5:

The Court should develop communication and coordination within calendar groups, particularly in areas of judicial management.

Recommendation 2.6:

The Court should develop communication and coordination among calendar groups.

Recommendation 2.7:

The Court should adopt a procedure for assigning each deputy public defender or court appointed private counsel to a specific calendar group for a period of four to six weeks.

Recommendation 2.8:

Training materials and procedures manuals should be developed to assist full-time staff. A training seminar should be held to introduce the new procedures resulting from this study to staff.

B. Witness Coordination and Management

In 1976, the then-existing Witness Project determined that there were an average of about 25 civilian witnesses subpoenaed to Division 40 daily. Normally a greater number of law enforcement officers are subpoenaed to appear. Police officers, ordered not to appear in Division 40 itself, report to a lounge. Civilian witnesses are summoned to appear both at Bauchet Street and in Division 40 at 8:00 a.m., although the courtroom doors do not open until 8:30 and the calendar is not called before 9:00 a.m. Civilian witnesses and defendants wait in the hall and then the public area of the courtrooms.

One of the principal reasons for the time between appearance at Bauchet Street and first appearance in Division 40 is for counsel to complete their investigations and to prepare and serve appropriate subpoenas on witnesses. In fact, however, the City Attorney's Office often prepares the subpoenas about a week before the appearance date for Division 40 and the subpoenas are served within a few days of the Division 40 appearance date, if served at all. Because of difficulties in locating many of the witnesses, an unknown but significant proportion of witnesses are unserved--or are not known to be served--on the date the case appears on the Division 40 calendar. The now-defunct Witness Project determined through interviews several years ago that a third of the witnesses who did not appear claimed never to have received a summons.

The City Attorney's Office formerly included a bilingual information sheet with its subpoenas to civilian witnesses, but the practice has been discontinued. The City Attorney's Office

has two witness coordinators who provide invaluable assistance to that office in locating witnesses and helping to assure their timely appearance in Division 40. These coordinators are too busy, however, to attend to the needs of the witnesses once they appear in the courthouse.

Both civilian and police witnesses often are ignored by the prosecuting attorneys in Division 40, although on occasion they may be asked questions relating to the charged offense or a trial-division prosecutor may wish to interview the witness.

The level and pace of activity both at Bauchet Street and in Division 40 make it very difficult for most civilian witnesses to follow and understand the proceedings they are observing.

The present guidelines for allowable witness fees and expenses were set in 1976. The administrative process for paying witness fees is cumbersome for the Court and, because direct cash payments by the Court are precluded by a County administrative order even in emergency situations, payment often is delayed and can be a problem for witnesses.

There is divergence between the witnesses' perspective that time spent waiting in court is wasted and the Court's general view that at least the key witness for the prosecutor must be on hand if cases are to be disposed of by plea. Some judges oppose placing witnesses on call because of an understandable fear that they will not respond when finally needed. A 1976 experiment by the Witness Project and the City Attorney's Office demonstrated that prescreened witnesses can be placed on call and that they will appear when called without delaying court proceedings.

The Center's recommendations with respect to witness coordination and management follow.

Recommendation 3.1:

The Court should adopt rules requiring that:

- a. The subpoena have return of process to counsel issuing the subpoena;
- b. The Marshal not accept a subpoena for service without identification of counsel;
- c. Counsel, when presenting a motion on the day of trial to continue a matter because of unavailable witnesses, provide the Court with proof of issuance of the process service order at least seven days prior to trial date, or proof of return of service one day before the trial date.

Recommendation 3.2:

The Court should request the inclusion of a simple English-Spanish information sheet with the subpoena.

Recommendation 3.3:

Civilian witnesses and defendants should be subpoenaed or summoned to appear at 8:30 and police officers should be subpoenaed to appear at 8:45 a.m.

Recommendation 3.4:

The Court should designate a specific area as a lounge, or reception area, for the use of civilian witnesses appearing in the master calendar courts.

Recommendation 3.5:

The Court should designate or hire a qualified person to function as a civilian witness aide.

Recommendation 3.6:

The Court should take steps to insure that court proceedings are audible and understandable to the witnesses.

Recommendation 3.7:

The Court should post a copy of the daily calendar outside every master calendar division. As often as staff can obtain time, but at least at the noon break, the calendar should be filled in to show the status of each case. The witness lounge also should receive periodic calendar status reports.

Recommendation 3.8:

The Court should seek to transfer the processing of witness fee payments to the City Attorney's or District Attorney's Office.

Recommendation 3.9:

The Court should review and update its policy on allowable fees and expenses.

Recommendation 3.10:

The Court should conduct a controlled test to determine the feasibility and usefulness of inaugurating a system under which both civilian and police witnesses will be available on two-hour call to be present and testify in court proceedings.

C. Forms, Records, and Data Processing

The forms and records management system of the Court need substantial revision. The case file is a collection of papers stapled to a thin copy of the complaint. The file is not maintained in a folder and the pieces of paper comprising the case file are a variety of colors and sizes. Most of the papers are generated internally and are for internal use only. There were 18 pieces of paper in the average file of the more than 1500 case files examined by the National Center. Half of the files had 14 pieces of paper or less, with the most common number of pieces of paper per file being six, seven, or eight.

The case docket sheets are oversized (14 x 11) sheets completed with the use of rubber stamps. The stamps are applied by a docket clerk in the arraignment courts and Division 40 and by the courtroom clerk in the trial divisions based on notes and rubber stamps of the judges placed on odd-sized worksheets stapled to the case file. A docket clerk may have hundreds of rubber stamps on and in her or his desk. Half of the cases in the National Center's sample had one or two docket sheets; the average was three docket sheets per case.

Docket sheets and case files are stored in the clerk's office in the Criminal Courts Building. Out-cards are supposed to be

used when either files or dockets are removed, but the rule seems to be breached almost as often as it is followed. Most of the data collected for the sample of cases by the National Center were obtained from the docket sheet, but some had to be obtained from the case files themselves. The Center was unable to locate almost 11 percent of the files for which it found docket sheets.

By state law, docket sheets must be retained indefinitely, although microfilming dockets is allowed after a period of time. The Los Angeles Municipal Court has not microfilmed any docket sheets to date.

The Court has annual cumulative paper indexes of its cases, but the cumulative index for the year often is not prepared until well into the following year. During a calendar year indexes are produced monthly, but are not cumulative, so someone interested in a recent case must review each of the monthly indexes for the year to date. From October through perhaps April or May of the following year this can be a very time consuming task for clerks and members of the public. A cumulative microfilm index could be prepared with existing resources of the Court and would be cheaper to produce than the present paper indexes.

By state law and local custom the docket sheets are regarded as the official record of what occurs in a municipal court, even though a court reporter is present and taking a verbatim record in all misdemeanor matters in Los Angeles. The docket is an imperfect and necessarily incomplete record of what actually occurred in a particular case. A significantly simpler docket, similar to the register of actions now used in the Los Angeles Superior Court, could be developed if the court reporter's notes were the official record.

The Court's volume of cases and paperwork would seem to justify the use of data processing at a number of points. A computerized record of probation and sentencing orders was developed several years ago, but was never fully implemented and today is unused. The Court's experience with the computerization of sentencing and probation information and experience in other courts suggest the need for a sound and reasonably uniform manual set of operations before the Court seeks to address the complex issues associated with computerization.

The Center's recommendations on these issues follow.

Recommendation 4.1:

A simplified docketing procedure for use with a printed docketing form should be adopted.

Recommendation 4.2:

The courtroom clerk should complete the new docket as the case is heard.

Recommendation 4.3:

Judges' worksheets should be developed to assist in recording case-related information for the case file.

Recommendation 4.4:

A revised complaint form should be developed.

Recommendation 4.5:

All case-related forms should be redesigned for easier completion and use.

Recommendation 4.6:

All case documents should be placed in folders.

Recommendation 4.7:

Closed case files should be kept in their original case folders. If folders are not used for all case files then the files that are in folders should be removed from the folders, stapled together and stored in accordian folders in case number order.

Recommendation 4.8:

Use of out-cards to indicate the location of files removed from the filing system and docket sheets removed from the docket filing area should be enforced.

Recommendation 4.9:

The Court should use cumulative indexes in microfilm form.

Recommendation 4.10:

Cumulative indexes should be prepared for a five-year period.

Recommendation 4.11:

Docket sheets should be microfilmed for retention.

Recommendation 4.12:

A central microfilm center should be established to serve all divisions of the Court.

Recommendation 4.13:

The case number should be revised to include year of filing, court division or type, and case number.

Recommendation 4.14:

The court reporter's notes should be deemed to be the official record of court proceedings.

Recommendation 4.15:

A computerized court information system should be developed over the next few years.

D. Additional Areas Requiring Attention

There are a number of other areas in which the project staff observed problems but which do not fall directly within the subject areas discussed above. These involve staff utilization, fees paid to counsel assigned to represent indigent defendants, late appearances by counsel, particularly in Division 40, advising defendants of their rights and taking waivers of those rights, the return of property used as evidence, the practice of the City Attorney's Office in about 20 percent of the cases of including more than one defendant on a single complaint, and the absence of

coordination within the justice system. The National Center's recommendations with respect to each of these areas are listed below.

Recommendation 5.1:

The Court should end its reliance on college students to staff the clerks' offices at Bauchet Street and the Criminal Courts Building.

Recommendation 5.2:

In the arraignment courts and the master calendar courts, the clerk now serving as docket clerk should answer inquiries from attorneys and parties in the courtroom, answer the telephone, and be responsible for incidental paperwork unrelated to completion of the docket. Clerical staff not serving as a courtroom clerk or deputy clerk should be located in the clerk's office.

Recommendation 5.3:

Preparation of the daily courtroom calendars at Bauchet Street should be shifted from the City Attorney's Office to the Clerk's Office.

Recommendation 5.4:

The Court should work to eliminate the differences in the fees awarded appointed counsel. This could be accomplished by designating one judge to make all fee awards, or by preparing a more precise statement of the standards for payments to appointed counsel.

Recommendation 5.5:

The Court should seek to reduce substantially the number of late appearances by counsel.

Recommendation 5.6:

The uniform use of a written statement of rights on which a waiver of those rights would be noted should receive the Court's serious consideration.

Recommendation 5.7:

The statutory provision regarding return of evidence should be amended to permit advice to be given to owners about the procedures for regaining their property following testimony in a case.

Recommendation 5.8:

Senior-level representatives of the court, including both judges and clerical staff, should meet regularly with senior representatives of the other justice agencies to discuss and resolve shared problems. This group should have staff support.

Recommendation 5.9:

The Court should renew discussions with the City Attorney's Office regarding reducing the number of complaints charging more than one defendant.

E. Short-Term and Long-Term Recommendations

The final chapter of this report sets forth the National Center's view of which recommendations should be addressed in the next six to nine months and which should be regarded as longer-term goals. Within each of these two categories, the Center also suggests an order of priority.

Factors Limiting Change

The National Center has been encouraged by the broad base of interest in and support for improvement. We believe the changes recommended in this report address the Court's most pressing needs and that their implementation will bring noticeable benefits. There are at least two factors, however, which may make agreement to implement the recommendations or their successful implementation difficult to achieve. The first is within the Court's control, but the second ultimately is not.

The first factor is the strong and long-standing tradition of independence among the judges. The scope of the judges' independence is interpreted broadly by many of them. Thus, matters that might be regarded as administrative and ministerial in some courts are seen as within the judges' judicial prerogative to accept or reject in the Los Angeles Municipal Court. The

consequences of this perception are several. There is: 1) great divergence in forms used and procedures--including the Court's own rules--followed, with resulting excessive costs for forms and rubber stamps and unnecessary difficulties for clerks who have to serve different judges from time to time; 2) potential confusion for attorneys and members of the public on which procedures apply in which courtrooms; 3) incentive for counsel to try to steer cases to judges who are "good" on a particular issue or procedure; and 4) little communication among judges seeking to share problems or solutions to common problems. Further, the tradition has resulted in neither the position of presiding judge nor the executive committee being ceded any authority in fact to improve the Court's administration. No one can speak for the Court or lead it to accord on desirable changes.

As the Court considers adoption and implementation of the recommendations in this report, some judges may have to evaluate and possibly redefine those aspects of their work which are necessary to their proper and unique responsibility to resolve disputes brought before them justly, and which can be moderated, changed, or abandoned in the interest of having a more efficient, well-managed court system. It is the National Center's view that the judges of the Los Angeles Municipal Court must work together in the future for the common good of the Court by moderating their commitments to their individual preferences and interests.

The second factor which may inhibit change is the severe fiscal constraints under which the Court operates. The Court's budget for the coming fiscal year is one of the few in Los Angeles

sent to the Board of Supervisors without cuts.* This relative good fortune, however, follows years of budgets which have not been adequate. Several problems observed by the National Center and discussed in this report can be traced to past parsimony of the Court's budget. "Bottom-line" budgeting as applied to the Court by the Board has proven to be false economy in several areas studied by the Center.**

Two consequences flow from the Court's fiscal limitations. First, some of the changes recommended here that involve the expenditure of money may not be achieved even if the Court is committed to achieving them. Indeed, in light of the recent budgetary history of the Court and the post-Proposition 13 limitations in Los Angeles County, unless the Court is strongly committed to achieving the changes that require extra money, they probably will not be reached. Second, in the present political climate, it probably is necessary for the Court to reach out and

*"County Budget Would Maintain Courts, Cut Law Enforcement," Los Angeles Daily Journal, August 10, 1979, p. 1., col. 5.

**For instance, the clerk's office at the arraignment courts receives about 1,500 fine payments a month. For at least three years the office has requested a cash register to facilitate both the issuance of receipts and the accounting of money. For three years the request has been deleted either before the budget was submitted to the Board of Supervisors or after. Finally, the 1978-79 budget included money for a cash register, which will be installed in August of this year. The number of receipts written and the money involved easily justified a cash register years ago. The "saving" resulting from elimination of this item was more apparent than real since it preserved the manual preparation of two receipts per payment by a clerk and further manual accounting for the payment in the Court's accounting division. The staff time in all likelihood far exceeded the cost of the register. See also pages 90-92, below.

continue its efforts to achieve accommodation with the Board of Supervisors. There is no assurance that if the Court makes this effort its gesture will be successful, but it appears that without this effort there is little reason to expect a significant change in the Court's budget.

Report Appendices

Several appendices are attached to this report. The first reviews the project's methodology. The second, Appendix B, explains in detail the data collection that was undertaken and analyzes the data obtained. As indicated at the beginning of this chapter, the Center was asked to place particular emphasis on the processing of five case types. The data collection effort was directed to discovering any differences that might exist among these case types. As it turned out, most of the recommendations the Center believes are needed are not affected by case-type differences. The data demonstrate some interesting differences among the case types, however, with respect to their processing time and when and how they are disposed of within the Court. These differences are discussed in Appendix B. Appendix C contains the new complaint and docket sheet, and some of the new judges' worksheets the Center recommends.

The balance of the report reviews in detail the Center's findings and recommendations.

II. CALENDAR AND CASE MANAGEMENT

Judges, court administrators, and scholars continually debate the relative merits of various calendar systems--master, individual, and various mixes of the two. Neither the debate nor the research has established a clear advantage for any one system in all circumstances; in any particular court each system offers both advantages and disadvantages.* When a court chooses among calendaring systems, therefore, it probably should acknowledge that each of the several options may have advantages, but on balance the approach chosen is preferable for its particular situation. The National Center has balanced various factors in developing its recommendations, which will be discussed shortly, but believes the balance weighs heavily for the new approach. Before turning to the approach recommended by the National Center, though, some understanding of the present system and its problems is necessary.

A. Present System

1. Bauchet Street

All arraignments are scheduled for nine o'clock in the morning. Depending on the custody status of the defendant and the

*A recent National Center study of civil and criminal case processing times in courts of general jurisdiction found that the time to disposition for civil cases was distinctly shorter in courts using the individual calendar than in courts with master calendars, but there was no clear advantage for one system over the other in the disposition of criminal cases. Thomas W. Church, Jr., et al., Justice Delayed: The Pace of Litigation in Urban Trial Courts (Williamsburg, VA.: National Center for State Courts, 1978), pp. 36-39. These findings do not detract from the textual statement, however, because time to disposition is only one measure of a calendar system's value to an individual court.

type of case involved, the cases are allocated among four courtrooms in the Bauchet Street facility. Two of the courtrooms are for arraigning defendants held in custody and two are for those who post bail, are released on their own recognizance, or are released on a field citation. The bench officers in these courtrooms are two judges and two commissioners, although there was only one judge at Bauchet Street until the Spring of 1979. The allocation of cases among the courtrooms is determined by the presiding judge at Bauchet Street and transmitted to the police and jail authorities for implementation. Each of the four courts receives between 50 and 85 cases on a normal day.

The City Attorney prepares all complaints at Bauchet Street, with the assistance of a police liaison officer. Cases against those held in custody are to be filed within 72 hours of arrest and receive priority. The filing deadline was met in 88 percent of the cases in the National Center's sample.* (See Table II-A.) The cases of those not in custody appear on the calendar for arraignment 10 days following arrest. Table II-A shows the median times to filing of complaint for each custody status at the time the complaint is filed. It shows that the 10-day standard is being met in only about two-thirds of the cases involving release on one's own recognizance, field release, or notices to appear. The figure is better for cases where the defendant is on bail.

*The data in this paragraph and in the balance of this report are derived from a sample of 1,750 of the cases disposed of in 1978. See Appendix B for a full discussion and presentation of these data.

TABLE II-A
TIME TO FILE COMPLAINT

Custody Status When Complaint Filed	Elapsed Time from Arrest to Filing of Complaint		Percent Filed after Specified Standard
	Median*	75th Percentile**	
In custody	1 day	3 days	12% after 3 days
On bail	6 days	8 days	12% after 10 days
Own Recognizance	6 days	13 days	33% after 10 days
Field Release or Notified to Appear	9 days	11 days	36% more than 10 days after first notice or release

Calendar call seldom starts at nine o'clock; on occasion the start of calendar call will be delayed until after ten o'clock. The judges and commisssioners could start calendar call on time, because they normally arrive at the courthouse between 8:30 and 9:00 a.m., but delays in the paperwork often occasion the delay in starting court. The City Attorney has constant and continuing problems preparing complaints and getting them to the clerk's office by 8:00 a.m. The clerk's office needs about an hour to initiate the Court's files and case records, check on the presence of a bond from a bondsman (if bond is involved in the case), check on defendant's criminal history and probation conditions, if any, and to get the papers to the appropriate courtroom. The Public Defender's Office also may contribute to the delay because it

* Half the cases are faster and half slower than the median.

** Three-quarters of the cases are processed in the indicated time; the remaining 25% take longer.

reviews complaints after their preparation by the City Attorney's Office and before the start of the calendar call to determine which cases it will accept and which will be left for assignment to private counsel.

Sixty-six percent of all dispositions in the Center's sample were disposed of before they left Bauchet Street, although there are differences among the various types of cases. For instance, only 38 percent of the assault and battery cases (which may include cases involving resisting arrest) and only 36 percent of the narcotics cases are resolved at Bauchet Street. On the other hand, roughly 80 percent of the two heaviest volume case types, petty theft and prostitution, normally are disposed of at Bauchet.

If a case is not terminated in the arraignment courts, it is set for trial in Division 40 at the Criminal Courts Building about three weeks from the date of arraignment. Based on experience the Court has determined that the four arraignment courts should schedule about 45 new cases per day for Division 40's calendar. The actual date for trial is chosen by the arraignment bench officer, but coordination by the clerk's office assists in keeping the number set per day close to 45. Each morning a deputy clerk reviews the number of cases already set for Division 40 for each future trial day and indicates how many more trials can be set for each day by each arraignment division and not exceed 45 cases per day. Defendants are provided a slip of paper giving them the address of the Criminal Courts Building and the date and time of trial.

2. Division 40

Division 40 normally has between 60 and 70 cases calendared per day, comprised of the 45 new cases set by the arraignment courts and 15 to 20 cases which have been continued for various reasons. It may have over 100 cases on some days. On any given morning the court may start with 50 to 150 defendants and witnesses, three prosecutors, one or two public defenders, perhaps a dozen private attorneys, four witness coordinators (two for civilian witnesses and two for police witnesses), four clerks, and two bailiffs in the courtroom. In addition, perhaps 40 to 50 police officers will be in the building as potential witnesses.

Court usually commences at about 9:00 a.m., although staff have been present and working from 8:30. There usually is a first call of the calendar for a quick status report, then a break for counsel to negotiate, then a second call and the acceptance of pleas. A separate calendar for sentencings and motions normally is scheduled for the afternoon. Often the trial calendar is not completed--that is, with all cases either assigned to a trial division for trial, continued for a short period in Division 40, or a plea taken--until the afternoon. There are several reasons. First is simply the number of cases. Also, management and procedural matters exacerbate the volume problem. For instance, the organization and process of the City Attorney's Office directly relates to the delay in the call of the calendar in Division 40. One group of deputy city attorneys handles cases at Bauchet Street, a different group handles the cases at Division 40, and a third group of attorneys are assigned to the trial divisions. Division 40 is staffed by three senior attorneys, but

for a variety of reasons they are unable to review the cases for a day's calendar until the day before that calendar is to be called. Normally this review consists of a quick reading of the police report and identification of the witnesses who are essential for proof of the charges. Since no City Attorney reviews the case with an eye to disposition between the time it leaves Bauchet Street and the day before it appears on the trial calendar, there is no opportunity for defense counsel to explore disposition during that period. Also, because these attorneys will not have any involvement in the trial of the matter if disposition is not achieved, they have little incentive to obtain dispositions. Since no attorney has seriously addressed the question of disposition at this point, hurried negotiations occur between defense and prosecution lawyers in Division 40 during the calendar call, which then is delayed until negotiations can be completed.

Another problem occurs because both Division 40 and the trial divisions operate at the same time; if a defense attorney is in trial and also has a case scheduled for Division 40, either the trial division or Division 40 must wait while the attorney makes an appearance in the other court. Because of the constant activity in Division 40 and because there are two or more calls of the calendar, many defense lawyers will start the day in the trial division and then go to Division 40 during a break in the morning trial. This produces a more manageable schedule in the trial division, but makes the call of the calendar in Division 40 very difficult. Private counsel face not only conflicts among divisions of the Los Angeles Judicial District, but also the

possibility of having to appear in other branches of the Los Angeles Court or other courts throughout the County. The calendar procedures, volume, and activity level in Division 40 seem to lead private counsel to allocate a low priority to Division 40 when they establish their daily calendars. Consequently, they often make appearances in these other courts at 9:00 a.m. and then appear at Division 40 later in the morning, during or following the second call of the calendar.

Another factor affecting timely completion of the calendar in Division 40 is that some witnesses do not appear on time or at all, either because the subpoena was not served or delivered to the witness, or because the witness received it but chose to disregard it. Defense counsel know that a significant portion of the witnesses do not appear and for this reason, and also to reduce their time commitment to the case, will not attempt to interview any witnesses prior to the trial date. The uncertainty of both sides about the presence and quality of witnesses is another factor inhibiting negotiations prior to reaching the trial division. Further discussion of problems involving witnesses appears in chapter III, below.

About 40 percent of the cases sent to Division 40 are disposed of there, 26 percent at the first appearance. The balance are sent to the trial divisions for disposition. The number of cases pending in a trial division ranges from two or three to as many as 12 to 15. On most days, a trial division will have at least six or seven cases on its calendar. Analysis of the cases sampled shows that the median time to disposition once a case is assigned to a trial division is two days, whereas the

median is four days to start of trial for those cases which do start trial. Slightly less than half of the cases assigned to a trial division are terminated or start trial on the day assigned. The other half average 2.8 continuances per case before being terminated, or about 7 days, median time, to disposition.

Normally, cases are assigned to trial divisions with the shortest calendars, but if a defense attorney already has cases pending in a trial division, new cases for that attorney normally also will be sent to the division in which he or she already is appearing. This is done for two reasons. First, for the convenience of the attorney so that he or she will not have to appear in a number of different courtrooms at the same time. Second, and more importantly from the Court's perspective, the Court will not need to dismiss a case for want of speedy trial; all of an attorney's cases after the first starts trial are protected against dismissal because delay is attributable to the unavailability of defendant's counsel. Some judges also feel that after an attorney has tried two or three cases in a row, he or she will consider more seriously offers to settle the remaining cases.

However long a trial division's calendar, its length probably is deceiving with respect to workload, since only one in nine cases assigned to a trial division will actually be tried. About 90 percent of the cases will result in a plea of guilty, dismissal, or other final disposition without trial. As with dispositions at Bauchet Street, however, the percentage of pleas and dismissals varies with case type. Overall, 59 percent of the

cases assigned to a trial division end in a guilty plea and 24 percent are dismissed. For assault and battery the figures are 61 percent and 14 percent respectively and for petty theft they are 63 percent and 22 percent. In contrast, the figures are 55 percent pleas and 32 percent dismissals for narcotics cases. One-quarter of the cases tried involve charges of assault.

3. Problems Requiring Attention

To the extent that calendar systems are supposed to move cases toward disposition and keep judges fully occupied, the system in the Los Angeles Municipal Court works surprisingly well. A high percentage of dispositions is achieved at Bauchet Street.* The trial divisions process only about 21 percent of all dispositions. All this is done with comparatively little delay. Because of their trailing calendars, the trial division judges normally keep busy, although this will vary among the judges to a limited extent. Nonetheless, there are certain obvious problems created or enhanced by the present calendar system.

- Each arraignment court and Division 40 must handle a large number of cases every day.
- The number of cases results in masses of people-- attorneys, defendants, police officers, civilian witnesses, and others--appearing in each arraignment court and in Division 40 daily.

*See J.J. Alfini and R. Doan, "A New Perspective on Misdemeanor Justice," Judicature, Vol. 60 (1977), pp. 425, 429-430, for comparison of disposition rates in other metropolitan courts at arraignment. Whether this high rate of dispositions at arraignment will continue if California's bail procedures are modified by the California Supreme Court or the legislature, both of which are considering the issue now, is an open question.

- Trailing calendars of 12 to 15 cases in some trial divisions undermines the flexibility and timeliness of the master calendar approach; even the more usual 6-7 cases may be too many.
- There are significant differences in approach on both legal and management questions among the judges, with no apparent effort to narrow, or interest in narrowing, the range of differences. The legal differences are beyond the scope of this report, but the administrative differences have several negative impacts.
- The difficulty the City Attorney's Office has in being prepared undermines the Court's operations at both Bauchet Street and in Division 40 and reduces the incentives for defense counsel to appear on time and to be prepared.
- The potential and actual need for defense attorneys in both Division 40 and in the trial divisions at or about the same time of day continually produces delays in completion of the calendar in Division 40, and, to a lesser extent, disrupts the calendars in the trial divisions.

B. Recommendations

The overwhelming fact in the Los Angeles Municipal Court is the volume of cases with which it must deal. No longer can it achieve economies of scale in its calendaring system. Both the arraignment courts and Division 40 must reduce the volume of cases to be handled at any one time.

1. Bauchet Street

Recommendation 2.1:

The Bauchet Street calendars should be divided, with half the cases scheduled for the morning and half scheduled

for the afternoon. To achieve this division, defendants arrested between 12:01 a.m. and a selected hour between 6 a.m. and 12 noon should be scheduled for appearance in the morning and defendants arrested after the selected hour and 12 midnight should be arraigned in the afternoon.

The precise hour of cutoff for the morning calendar should be determined following a review of police records to determine the distribution of arrests throughout the day. The goal would be to have half the cases appear on the morning calendar and half in the afternoon. This division of the calendar might ease the burden of preparing complaints for the City Attorney's Office, might smooth the flow of work to and through the courtrooms, and certainly will ease the crush of people in the courtroom at the beginning of each day.

Some adjustment in schedule might be required for public and private defense counsel. The public defenders like to receive their cases as early as possible in the morning so that they have the rest of the day to work on them. Private defenders--even those present for the day to receive appointments--prefer to spend as little time as possible in court. With a divided calendar, some cases which might now be reached in the morning would not be reached until the afternoon, thus requiring counsel to wait. Offsetting this concern is the probability of more effective assistance of counsel by the public defender and assigned counsel, since they will have fewer clients to see and represent during any one calendar session. Since the public defenders like to have all their cases heard at about the same time, the bulge this now creates in the calendar also would be spread out.

It is to be anticipated that some cases scheduled to be heard in the morning would be postponed until the afternoon. The bench

officers should be sensitive to limiting the number of such postponements, however, or the afternoon calendars will become overburdened and the advantages of dividing the calendar lessened.

A finer breakdown of the calendar, such as setting some cases each hour, is not recommended because of the coordination difficulties this would create for the various police precincts and officers assigning arraignment times and dates for defendants released from custody. Multiple calendar settings also might be even more disruptive of the day for defense counsel than one morning and one afternoon call.

2. Trial Divisions

Recommendation 2.2:

The Court should establish multiple master calendar groups among the trial judges. Initially, there should be three groups of five judges, with the possibility of going to five groups of three judges at some future date.

a. Alternative Approaches

An uninvolved observer in Division 40 soon is struck by the belief that there must be a better way to process the cases coming to this court each day. This feeling is shared by most of the judges hearing criminal cases and the clerks, but there is division on the most appropriate change. Some judges believe the master calendar approach is the best and that ways should be sought to improve but keep intact the present Division 40 operation. A growing number of judges are coming to believe that the problems of Division 40 are too great and that the master calendar should be abandoned in favor of individual trial calendars.*

*No one suggested to the project team that the individual calendars be started with arraignment. Most of those interviewed seemed to favor retention of the present Bauchet Street operation.

In light of the project team's observations and the feeling throughout the Court that some change might be helpful, the project team considered each of the above options and has rejected both tinkering with the present system and complete abandonment of the master calendar approach. Introduction of minor improvements into the present Division 40 operation would not address any of the problems highlighted above (pages 29-30). The diseconomies of volume would remain and there would be no new incentive for cooperation within the Court.

Individual calendars. Although the project team does not recommend an individual calendar system, the pros and cons are discussed briefly in order to provide focus and background to the ultimate recommendation.

In view of the Court's tradition of independence among the judges, the individual calendar might best fit the way the Court operates. Each judge would receive about 30 cases a week, assuming the present level of dispositions at Bauchet Street continues, which would be double or treble the number of cases a week on most judges' calendars. And experience in other courts suggests that the individual calendars would grow constantly because of longer-than-usual trials and the need to hear motions and grant continuances. A calendar coordinator could reduce discrepancies in the length of each judge's calendar, but there is not quite the same flexibility as in a master calendar. Also, although several judges presently hearing criminal cases have demonstrated an ability and indicated a willingness to handle an individual calendar, not all judges are receptive to that approach.

One advantage to the individual calendar is that it would largely reduce judge shopping. The case would be assigned immediately following arraignment and, absent special circumstances or the filing of an affidavit of prejudice by counsel, would remain with the judge to whom it was assigned until disposition. On the other hand, it is easier for one or both attorneys to manipulate the individual trial date by challenging the judge, which would permit a minimum gain of several days between the date of the challenge and the assignment to and trial by a new judge. Use of the affidavit of prejudice by counsel also might produce calendars of significantly different length among the judges.

An individual calendar might result in earlier review of cases by the City Attorney's Office. Individual deputies now are assigned to trial divisions, but do not receive a case until it is assigned by Division 40. In an individual calendar system, the trial deputy for the City Attorney's Office would be identified as soon as the judge was identified and would have responsibility for the case from that moment until disposition; that might facilitate earlier disposition of the cases.

From the defense perspective, one of the major problems with the present Division 40 operation is the need for defense counsel to move between Division 40 and one or more trial divisions. With individual calendars there is a substantial possibility that the defense lawyers would have even more conflict in schedules.

The job of coordinating attorney conflicts and the direct assignment of cases to 15 judges by four arraignment courts, together with the reassignment of cases following a challenge and

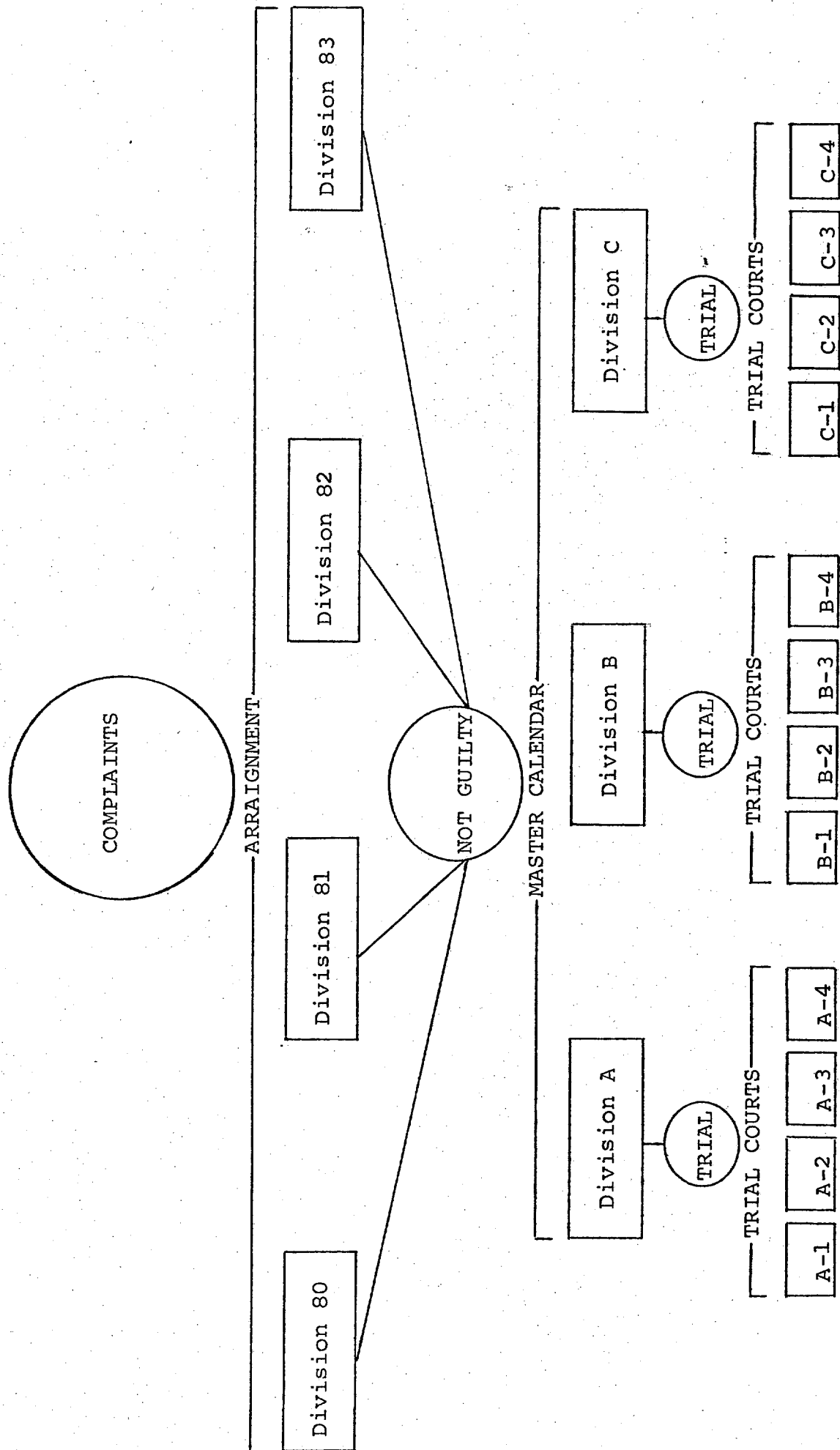
coordinating several cases of one defendant, is a significant step beyond the coordination presently required. The likelihood of the Court facing speedy trial deadlines also increases with an individual calendar system. Balancing all the factors, the National Center feels that an individual calendar for the trial departments is not appropriate at this time.

Multiple Master Calendars. A system of three or more units, each consisting of a master calendar judge and several trial judges is possible under the Court's present rules.* Creating several master calendar groups addresses the principal need in Division 40: reducing the volume of cases the judge and the lawyers in the master calendar court must handle. By reducing the calendar to one-third of its present size, it becomes manageable for each master calendar judge, the City Attorneys assigned to each of the master calendar courtrooms, and the defense bar. It also reduces the number of people required to appear in a master calendar courtroom to a more manageable size. Retention of the master calendar approach also retains the flexibility of assignment inherent in master calendars, thus reducing the problem of individual courts becoming backlogged. Further, it reduces the impact of a challenge to a particular judge, since the case can be reassigned within the calendar group with minor disruption and delay. A schematic representation of the new system is provided on the next page.

*See Local Rules for Municipal Court of the Los Angeles Judicial District, Rule 9 (1975).

FIGURE 1

DIAGRAM OF CASE FLOW FOR
MULTIPLE MASTER CALENDAR SYSTEM



Each of the three master calendars initially established usually will have between 20 and 25 cases per day, assuming that the number of cases stays roughly as it presently is in Division 40. Division 40 now disposes of about 40 percent of the cases not resolved at Bauchet Street; if that proportion of dispositions is sustained by each of the three master calendar courts, 12 to 17 cases would be allocated among the four trial divisions of each group, or three to four cases per day per judge. This is about the number of cases per available judge in Division 40 today, so even shifting from one to three master calendars does not reduce the ability of the Court to handle its caseload.

In fact, the shift to three master calendar courts should increase the Court's capability to dispose of cases before trial. Only three percent of all dispositions are by trial; the balance are dismissed, diverted, or result in pleas of guilty. Shifting two trial judges to disposition courts (the master calendar courts) will increase the judicial resources devoted to the type of dispositions that are the norm. And if the four trial judges in each calendar group need back-up help, the master calendar judge should have some afternoons to hear half-day trials.

Presently the amount of paperwork in Division 40 is extremely heavy. A courtroom clerk, calendar clerk, and two docket clerks are needed--and overtime work is often required. Each of the three master calendar courts probably will require a clerk to assist the courtroom clerk, but the two docket clerk positions presently assigned to Division 40 will be available for reassignment to the two new master calendar courts. The allocation of the calendar clerk in Division 40 remains an open

question (see page 48 below), but it may be that no additional clerical positions are needed when going from one to three master calendar courts.

Despite the advantages of the multiple-master-calendar-group approach, it will not be without its difficulties. One of the most serious consequences of any change in any system is the disruption of established patterns. In this case, even though a master calendar is used by the Court, going from one to three master calendars will disrupt work patterns for the judges and staff, as well as for the City Attorney's Office and the defense bar. There will be incidental consequences for some of the other justice agencies. These consequences will be reviewed in more detail in the following section, but their existence must be recognized and addressed.

Another factor is the pattern of independence among the judges; this might impact the new system in two ways. First, for the Court to achieve full and satisfactory implementation of the change will require effective leadership. In this context, an effective leader is not one who can "steamroll" or mandate a change, but one who is persuasive and can be effective in dealing with legitimate concerns of all the parties involved. Although the Court undoubtedly has judges who are effective in this sense, the tradition of the Court does not acknowledge this role for any judge. Unless the judges collectively agree that the change is worth attempting and that to achieve implementation one judge or a very small committee of judges will be delegated the authority to establish the new system, it may not be possible to effect this change--or, if effected, the change may not succeed.

The second way in which the traditional pattern of independence can impact the change is to preclude effective communication. For calendar groups to work well, there must be different and improved communication and coordination among judges. Since the Court does not have a viable pattern of communication and cooperation among the judges and staff now, it may take substantial time and effort to achieve, even with the smaller work groups.

Finally, it will be difficult to implement even three calendar groups unless the Court develops a good information system to track cases through the system and assigns a coordinator to monitor the information. If a senior clerk is not assigned the role of calendar coordinator, or the judges do not work with that clerk when problems of cooperation and coordination surface, the system quickly will break down. It should be pointed out, incidentally, that the calendar coordinator would not be given authority to control a judge's workload or decision-making processes. The calendar coordinator would merely monitor the system for breakdowns and provide needed information for the four arraignment bench officers and the three master calendar judges. Final decision making and responsibility would remain with the judges, as it is today.

b. Changes Needed to Implement Recommendation

Calendar Coordinator

Recommendation 2.3:

The position of calendar coordinator should be established.

Four arraignment courts will be assigning cases to three calendar groups and seeking to assure that all of the cases of individual defense counsel within a given period are assigned to one calendar group. Unless the arraignment courts are assisted in this task, the assignments will be uneven in number and counsel may face numerous conflicts among the three calendar groups. Full and effective implementation of the recommendation for multiple master calendars requires the staff position of calendar coordinator. The position is a highly responsible one and should be at the level of a Clerk IV. The position of calendar clerk presently assigned to Division 40 (a Clerk III position) no longer would be needed and might be reallocated toward the calendar coordinator position.*

Calendar Information System.

Recommendation 2.4:

A calendar information system should be established.

The calendar coordinator will need a calendar information system not now available. Presently a clerk at Bauchet Street monitors the number of cases assigned to Division 40, but only for the purpose of assisting the arraignment bench officers and not for the purpose of assisting Division 40. The trial divisions advise the criminal presiding judge daily on their calendar and this information is fed back to the judge in Division 40. But this flow of information is not monitored or accumulated to provide a general view of the status of the calendar over time. The calendar coordinator should maintain information on the following:

*If the Division 40 calendar clerk position is allocated toward the calendar coordinator position, a new clerk position would be needed to assist in the third master calendar court.

Daily

- Cases set for trial in each master calendar, by trial date
- Total cases on each master calendar
- Cases sent to trial divisions for disposition
- Cases on each trial division's calendar and their status

Weekly

- Cases filed
- Pleas at arraignment
- Dismissals at arraignment
- Pleas in each master calendar court
- Continuances in each master calendar court and the reasons therefore
- Dismissals in each master calendar court
- Cases reassigned within calendar group and among calendar groups
- Number and length of trials in each trial division
- Number of pleas in each trial division
- Number of dismissals in each trial division
- Number of judge-days available for trials in each calendar group
- Percentage of cases tried or disposed of on the date first set for trial and within four working days (roughly one week) of that date

This information will be important for assessing the effectiveness of the multi-master calendar system, for balancing case assignments, and for planning modifications or improvements. If this information or an appropriate summary is sent to each master calendar judge and to each criminal division judge it would

broaden the sense of responsibility to the Court, and provide a basis for individual comment and input.

The calendar coordinator should be apprised of the judges' vacation schedules and other scheduled absences and be advised whenever a judge unexpectedly is unable to hear cases. This will permit adjustments in the case allocations to calendar teams in order to avoid any one team getting a backlog of cases.

Communication and Coordination within Calendar Group.

Recommendation 2.5:

The Court should develop communication and coordination within calendar groups, particularly in areas of judicial management.

Open discussion and development of agreed procedures within and between calendar groups is critical. If an uniform procedure for all the calendar groups is acceptable, so much the better. Yet, it may be beneficial for different groups to adopt their own policies to determine what in fact works best. For instance, now roughly half of the cases that are not resolved at arraignment result in pleas in the trial division. The calendar group should discuss a general policy regarding whether the trial divisions will continue to accept pleas or whether all pleas must be made in the master calendar court. In this connection, the judges also might want to discuss appropriate ranges for sentences for some of the more common offenses. Obviously, individual cases will require an individual judicial decision regarding the appropriate sentence, but if there is a wide range of opinion about appropriate sentences within the calendar group, counsel will be encouraged to try to maneuver the case before the judge whose sentencing pattern is preferred. On the other hand, if the judges

can agree on a relatively standard range of sentences, this type of maneuvering can be virtually eliminated.

Judges might also discuss whether cases should trail in the trial division and, if so, the maximum number to be trailed. Under the present procedure in Division 40, cases must trail in the trial divisions because a trailing calendar in Division 40 would be too lengthy and complex to manage. After the calendar has been split to one-third its present size, it may be possible to manage a trailing calendar in the master calendar court and to give each trial division only two or three cases at a time. Perhaps experimentation among the groups will provide the best solution.

Another item for group consideration is the time at which the master calendar will be called and whether the trial divisions will have a standard time for starting or whether that will be within the discretion of each judge. Communication also may have to be maintained, at least with the master calendar judge, about scheduling problems for individual attorneys.

Senior managers in the City Attorney's Office and some judges believe that the calendar would benefit from pretrial conferences. The National Center believes that the smaller calendars in the calendar group and the group's ability to try cases on the dates assigned will achieve most of the benefits perceived from pretrial conferences, but this should not bar experiments with pretrial conferences.

Another item for discussion within a calendar group is the selection and term of the master calendar judge. The assignment could be rotated within the group on some periodic basis to be

agreed upon. Yet, even with the smaller calendars, not every judge is interested in or skilled at handling a master calendar assignment. Depending on the judges assigned to the group, one, two, three, or all of the judges in the group might share the master calendar responsibilities over the course of a year. The operative criterion should be management and volume-court skills, though, and not a judge's interest or seniority.

There presently is some variation among trial-division judges with respect to whether police and civilian witnesses will be placed on call pending the start of trial. Depending on the results of the experiment recommended below with respect to putting witnesses on call (pages 68-70 below), each calendar group may wish to consider a common approach to placing witnesses on call pending commencement of trial.

Finally, assigned counsel now have a subtle but real incentive to judge-shop for a reason other than a "good" sentence for their clients. The incentive is to get higher fees. The fee for assigned counsel is determined by the judge before whom the matter is resolved. If Court-wide agreement cannot be achieved (see page 94, below), each calendar group should discuss and seek to narrow differences regarding appropriate fees.

Communication and Coordination Among Calendar Groups.

Recommendation 2.6:

The Court should develop communication and coordination among calendar groups.

Just as there should be coordination and communication within the calendar groups, the three master calendar judges should meet periodically to discuss common problems in implementing the multiple-master-calendar approach, to share procedures that appear

to work well in their individual groups or with which their group is having problems, and to determine whether there are any communication or other problems between the trial divisions and the arraignment courts.

Assigning Defense Counsel to Calendar Groups.

Recommendation 2.7:

The Court should adopt a procedure for assigning each deputy public defender or court appointed private counsel to a specific calendar group for a period of four to six weeks.

Reference has been made several times to the potential problem of conflicting schedules inherent in defense counsel having to appear in several courts at the same time. If cases which are not resolved at Bauchet Street are assigned randomly to the three master calendar groups, a single attorney might have to appear before all three master calendar judges and several trial judges on the same day at the same time. To avoid this problem, each deputy public defender and each private counsel who receives assigned cases at Bauchet Street should be assigned to a specific calendar group for a four-to-six-week period.* In this way, one master calendar judge will be able to keep track of the trial assignments of the majority of defense attorneys and be able to identify cases with speedy trial problems and potential schedule conflicts. The attorneys will not be prejudiced, because in the course of the year they will appear several times before each calendar group.

*This will cover about 80 percent of the cases. Over half of the defendants appear at Bauchet Street without counsel. In Division 40, however, only 3 percent of the defendants appear in propria persona. To the extent that counsel status changes between Bauchet Street and Division 40, it usually is the retention or appointment of counsel by those who appeared in propria persona at Bauchet Street.

This procedure meshes well with present practices in the Public Defender's Office. Presently, each deputy public defender spends six days at Bauchet Street, obtaining about eight cases per day. Thus, during this six-day assignment at Bauchet Street, the attorney will be appointed on approximately 48 cases. Twenty-five to thirty of those cases will be scheduled for trial in the trial divisions, according to the Public Defender's Office. Most deputy public defenders resolve these 25 to 30 cases within a four to six-week period, following which they return to Bauchet Street to obtain a new set of cases. Thus, if all of the attorney's cases are assigned to a single trial group for the next six weeks, in most situations the Court's and the Public Defender's schedules will match. Occasionally one or two cases of an attorney will not be resolved in the period allotted and a conflict between the first calendar group and a subsequent calendar group might result. In these cases, the calendar coordinator and the master calendar judges should be able to work to resolve conflicts, as only one or two cases will be involved.

c. Impact of the New System

City Attorney's Office. The City Attorney will be affected by the new system in several ways, although the workload will be unchanged. The assignment or need for attorneys is uncertain. Presently there are three attorneys assigned to Division 40: one to deal directly with the judge, one to assist the first attorney and to keep a record of the disposition of each case, and one to negotiate with counsel. Two attorneys per master calendar court may be desirable even with the smaller calendars, in order to have one attorney who is available to discuss the case with defense

counsel, victims, and witnesses without holding up the Court. The two judges who will switch from trial-division duties to master-calendar duties each presently has one deputy city attorney assigned to the courtroom. So five attorneys are available but six may be needed. A new position may not be needed, but some reallocation of responsibility may be.

One of the clearest impacts on this office will be a reduction in the number of cases to be handled by each master calendar deputy. Now, instead of having to handle 60 to 70 cases per day, the attorney will have to prepare for only 20 to 25. Absent other changes in the workflow in the City Attorney's Office, the cases may not be reviewed any earlier with the new system, but the lesser number of cases to be reviewed should improve the quality of the review and the attorney's knowledge of the case.

The management of witness coordination will be affected. Today, all civilian witnesses appear in Division 40 and are sent to the trial divisions from that point. The office's two witness coordinators check in all civilian witnesses and work closely with the deputy city attorneys to find necessary witnesses who do not appear. Under the new system, the civilian witnesses will appear in three different courtrooms unless the Court implements the witness reception area recommended below (see pages 63-64). Information about which witnesses have appeared and have not appeared in each master calendar courtroom will have to be fed, probably by a deputy city attorney or the bailiff, to centrally located witness coordinators. The direct communication which presently exists between the witness coordinator and the deputy

city attorney in Division 40 will be lost. One way to avoid this would be to have a third coordinator and assign one to each master calendar. Although this requires new staff it would provide the most effective means of witness management. The proposed new system increases the need for and advantages of a witness reception room; if no such room is provided, witness coordination problems and costs will increase.

Defense Counsel. Under the proposed system both the public and private defense bar will have fewer courtrooms in which to appear, since, for the most part, they will be assigned to work with one calendar group of five judges for four to six weeks. From a tactical standpoint, the defense bar may not view the change as desirable, since the opportunity for judge shopping will be reduced, but this limitation affects tactics more than substance and should not be regarded as critical in evaluating the merits of the proposal.

Court's Clerical Staff. The changes also will impact the clerical staff of the Court. Some of the staff may need additional training to act as courtroom clerks in master calendar settings, although the job will be somewhat easier than in Division 40 because of lower volume. Since the three support positions assigned to Division 40 do not correspond precisely to the job requirements of a calendar coordinator for the new system, and since these positions match better the need for a second clerk in each of the master calendar courts, it is likely that one new Clerk IV position will be required for the calendar coordinator position.

Another transitional step will be to make sure that each master calendar courtroom has sufficient space and accommodations for two clerks.

Finally, until the specifics of the data to be collected and the method of collection are determined, it is unclear what burden, if any, would be added to the courtroom clerical staff by data collection for the calendar coordinator. The final data collection instruments should be designed with this in mind.

Recommendation 2.8:

Training materials and procedures manuals should be developed to assist full-time staff. A training seminar should be held to introduce the new procedures resulting from this study to staff.

In general, staff training and orientation are integral to a successful changeover. It is important that the administrative and clerical staff understand the new system and be assured of their place in it. The most effective way to transmit this information is by a one- or two-day workshop designed to work through the changes with the various personnel groups.

Even with orientation, however, training aids and a procedures manual should be provided as backup and to assist new staff. Training aids will reduce the time required of the supervisor for training and procedure manuals can reduce daily supervision needs. A procedures manual is being updated and revised now; that work should be completed as soon as possible. Attention then can be turned to developing the training materials.

Police Officers. Overall, the new system should be beneficial to the Los Angeles Police Department. The department now assigns two witness coordinators to Division 40. If an on-call system cannot be worked out for all officers (see pages 68-70, below),

then some officers still will have to appear at the time of the master calendar call. Since there now will be three master calendars instead of one, one additional police witness coordinator will be needed for the third master calendar courtroom. On the other hand, because each calendar will be shorter, those officers who still have to appear should have to wait shorter periods. Fifty percent of the officers in a test week in April waited four hours or more before their cases were assigned a trial court or disposed of in Division 40. If this time can be reduced to two hours or less, the police department will save significant overtime expenses and possibly offset the cost of the extra coordinator.

Sheriff's Department and Marshal's Office. Division 40 now requires two marshals to help manage the large number of people in the courtroom and to move prisoners back and forth between the holding cell and the courtroom. Reducing the calendar and the number of people who appear in any one courtroom may only require one marshal for each master calendar courtroom. If so, that would require one more marshal than now assigned to Division 40. Two related questions involve the additional movement of prisoners to two more (master calendar) courtrooms. This could increase the security risk slightly, even though the movement is completely isolated from areas of public access. Another question is whether the holding cells associated with the master calendar courtrooms (other than Division 40) are adequate to hold the prisoners who would be involved in the master calendar calls--possibly as many as 15 prisoners a day. Preliminary information indicates that they are.

d. Schedule for Implementing Recommendations

The division of the Bauchet Street calendar can be implemented as soon as the decision to do so is made and the concerned law enforcement agencies are advised. A lead period of at least two weeks should be provided. During this time the information can circulate and released defendants can be scheduled for court 10 days hence.

A period of about three months should be allowed to implement the changes for the trial courts' calendars after the decision has been made to adopt them. During that time, each judge in the trial divisions should be consulted regarding several sensitive areas: his or her preferences of judges to work with, interest in serving as a master calendar judge, and attitudes regarding the items each calendar group should discuss in an effort to achieve common approaches. Because this information is sensitive and confidential, a judge probably would be the most appropriate person to seek this out. Based on this information, the presiding judge of the Court, in consultation with the presiding judge for the criminal divisions, should set up the three calendar groups.* This process probably will require about 10 weeks. In the interim, a calendar coordinator should be selected and monitoring forms devised. About one month before formal implementation of the new system, calendars for the new master calendar groups should begin to be developed. Cases already assigned to trial divisions on the first day of the new system probably should stay with the assigned trial judge. Cases which remain unresolved in

*The groups should serve together for at least a year. Membership can be changed annually thereafter, but two or three members of the group should remain together to assure continuity of approach.

Division 40 will have to be reallocated among the three master calendars. This should be done by the presiding judge for the criminal divisions with the assistance of the calendar coordinator.

III. WITNESS COORDINATION AND MANAGEMENT

The perplexing problems involved in summoning witnesses and using them in the most effective manner are not new in the Los Angeles Municipal Court. From 1974 through 1976 "Project Witness" sought to assist civilian witnesses generally and especially in relation to court proceedings. Valuable data were collected, some experimental efforts were undertaken, and some changes were made. More recently, the Los Angeles Police Department has surveyed the manner in which police officer witnesses are called and used in the Los Angeles misdemeanor courts; it will be making some recommendations. These examinations are important because they document that there is a continuing need to improve this area of court function and because they reflect the perspective of the civilian and police witnesses.*

The Process

A brief review of the general process (from arrest through trial) and the role of the witness will provide focus to the chapter.

After an arrest is made the arrested person may be kept in custody until arraignment, or may be released (field release, own recognizance, or bail posted) with a citation to appear in the arraignment court at 8:00 a.m. on a specified date, about 10 days later. The police officer's arrest report is submitted to the City Attorney's Office for decision as to whether to file a

* Cf. Western Regional Office, National Center for State Courts, A Report to the Judicial Council on Witness Treatment in Criminal Proceedings (1978).

complaint. During the review process a deputy city attorney analyses the sufficiency of the evidence; an important component of that analysis is the strength of testimony that the complaining, or key, witness can present. To a lesser extent consideration is given to the type of witness (e.g., a police officer, a non-involved citizen, a party to the incident, or family member) and to the probability that the witness will be available to testify. Only in complex or unique cases does the City Attorney talk with the key witness (or witnesses)--whether police or civilian--prior to filing a case.

At arraignment, each side guesses whether the witness will be available for trial. If the witness is expected to be available and can be expected to testify in support of the facts stated in the police report, the prosecution may resist defense efforts to settle the case. On the other hand, if the defense believes the witness will not be available or may not have strong testimony, the defendant may plead not guilty in order to get a better deal later or a dismissal.

If a case proceeds beyond Bauchet Street, there is a significant chance that a key civilian witness will not appear for trial. A principal reason is that subpoenas are not issued shortly after arraignment, but about a week before the trial date. They are served mainly by the Los Angeles Police Department, but sometimes by the Marshal's Office, the Sheriff's Department, or, rarely, by private process servers. Some are hand delivered to the witness and some are left at the stated address; a duplicate normally is mailed. The service address is based on the arrest report; the percentage of inaccuracies in name and

address is not known for Los Angeles, but was found to be high (25 percent) in Washington, D.C.* In a study in June, 1976 the Witness Project found that a third of 54 nonappearing witnesses said they were not notified. Even if a witness is served, proof of service often is not filed before the trial date, with the result that the prosecution has no inkling of who will appear on the trial date.

Most of the judges who have presided over Division 40 in the last few years have believed that unless the City Attorney could assure the Court that the key witness is on hand (or, perhaps, available within an hour or so), or reliably available on a date certain (such as when a police officer is on vacation or ill), the case should be dismissed. Also, many judges agree that if the City Attorney cannot substantiate proof of service on the trial date, the Court has a right to dismiss the case. Thus, although there has been some variation in strictness of application, Division 40 judges have been reluctant to trail a case from one day to another in order for the prosecution to find and produce a key witness.

One commendable step to improve the rate of witness appearances is the use of two witness coordinators by the City Attorney's Office. Each afternoon one of them attempts to contact by phone each witness subpoenaed for the next day's calendar. This reminds the witness of his obligation, may clarify some of his questions, and identifies some of the witnesses who will or

* F.J. Carnavale & W.D. Falcon, Improving Witness Cooperation (Washington, D.C., National Institute of Law Enforcement and Criminal Justice, 1976).

will not appear. The nature and timing of the effort assures that many witnesses will not be reached, however. Each morning one of the coordinators uses a telephone in the courtroom in a last-minute effort to reach witnesses who have not appeared. Nevertheless, and largely because of the late hour at which this process is started for each day's calendar, many witnesses do not appear or arrive late.

The police department has three witness coordinators, and two reception-lounge rooms. Subpoenaed officers check in with the coordinator in charge of the lounge (they are ordered not to enter Division 40) at 8:00 a.m. and wait there (or in the building) until notified. The other two coordinators are in Division 40, relaying the availability of the subpoenaed officers to a deputy city attorney, trying to contact "missing" officers by telephone, and transmitting information to the lounge for the affected officer on his need to be interviewed, status of evidence, case disposition, appearance in another court, etc.

The City Attorney who will try the case is not known until it is assigned to a trial division. At Division 40 the prosecution seeks verification that the witness is there and occasionally will talk briefly with him. Data are not available, but observation indicates that only a small percentage of subpoenaed witnesses are interviewed by prosecution staff or even introduced to the city attorneys, on whose behalf they have been called. Depending on tactics, defense counsel may try to identify and interview witnesses at this stage.

When a case is assigned to a trial division, the parties, witnesses, and counsel go directly there without any advance notice to that court from Division 40. Consequently, parties and witnesses often must wait while the ongoing matter is concluded or a recess called. Suffice it to say, there is almost always a delay before the assigned case can be heard. Some judges set a time certain for the case; others require it to trail (sometimes day to day). Some require the witnesses to remain in the courthouse; others have an on-call procedure, usually requiring the witness to be in court on two-hour notice. It is at this point that both prosecutor and defense seriously interview the witness and prepare him or her for trial.

The Witnesses' Perspective

Observation and interviews by project staff have clearly demonstrated that witnesses, particularly non-police witnesses, receive shabby, second-class treatment from beginning to end. Some examples follow.

For civilian witnesses:

- The summons is not bilingual, although a substantial number of witnesses cannot read English.
- The citation orders appearance at 8:00 a.m., but the courtroom doors do not open until 8:30 a.m. and court does not start before 9:00 a.m.
- The witness is given no basic information: no indication of required or possible court time; no information on the possibility of recovering a witness fee; and no information about victim indemnification.

- The witness is provided no courtesies: no information desk or reception area; no parking facilities or bus tokens; no greeting, orientation, or interview by anybody.
- An interpreter usually is available but the witness is not told this before or on entering the court.
- Child care is available, but the witness is not told this in advance, and only casually if at all, at court.
- The case disposition and sentence often are difficult for a witness to hear and understand at Bauchet Street and in Division 40 and often no one seeks to assure that they are heard and known.
- Witnesses wait for hours and may be asked to return another day with little or no acknowledgement of the burden this involves. "Thank you" is seldom offered.*

According to a survey by the Los Angeles Police Department, police officer witnesses face the following:**

- Five percent of the subpoenaed officers spent an average of 4.4. hours each in court before being notified that the defendant failed to appear.
- During a sample week not one officer who completed a questionnaire (144 of 234 appearing) actually testified on the day subpoenaed for a Division 40 appearance.

* It can be summed up: "Three days sitting around and not one city attorney talking to me, then the guy pled guilty." Review of Witness Project Activities, September, 1975 through September, 1976, by John Swasy (Jan., 1977), p. 69.

** "Problems Identified Within the Metropolitan Misdemeanor Court System," p. 59. Letter from Daryl F. Gates, Los Angeles Chief of Police to Wendy Hepperle, July 9, 1979.

- Forty-one percent of all appearing officers' time was consumed on cases which were continued or traileed for the purpose of locating or subpoenaing victims or witnesses.
- An average of 53 minutes per officer was spent between Division 40 and the trial court before he was excused or released from testifying.

The officers sit or sleep in their reception room or they go to a snack bar in the building. Appearing to testify is time consuming, but they get paid. The process was summed up by one officer on his questionnaire:

"I really like getting subpoenaed to Division 40 because I know I'm going to make a lot of money and accumulated over-time for doing nothing. You couldn't ask for a better part-time job."*

Nevertheless, some officers resent this intrusion on their job assignment, and may not make arrests so they will not be summoned to court.**

The Los Angeles Police Department has estimated that on a city-wide basis in 1977, overtime hours--required by contract with the police officers' union to compensate for time spent by officers in court--amounted to about 263 man-years, with a cost in the neighborhood of \$5 million.***

*"Problems Identified Within the Metropolitan Misdemeanor Court System," p. 68. Letter from Daryl F. Gates, Los Angeles Chief of Police to Wendy Hepperle, July 9, 1979.

**Id., p. 67.

***Data provided by Roger Gripe, LAPD Detective, to Wendy Hepperle, June 13, 1979. Exact figures of cost are unavailable because of the manner of accounting for these costs within the Police Department.

Recommendations

There are two areas where improvements can be made concerning witnesses: notice of appearance and in-courthouse treatment. In addition, the National Center recommends that an experiment be conducted comparing the usefulness of witnesses who are present to on-call witnesses. Several recommendations that follow are beyond the ability of the Court to implement, as the City Attorney bears primary responsibility for dealing with witnesses. They are included in this report to alert the Court to the problem and to encourage a dialogue with the City Attorney's Office regarding these matters.

A. Notice of Appearance

1. Preparation and Return of Service

Recommendation 3.1:

The Court should adopt rules requiring that:

- a. The subpoena have return of process to counsel issuing the subpoena;
- b. The Marshal not accept a subpoena for service without identification of counsel;
- c. Counsel, when presenting a motion on the day of trial to continue a matter because of unavailable witnesses, provide the Court with proof of issuance of the process service order at least seven days prior to trial date, or proof of return of service one day before the trial date.

The identification, selection, and preparation of the subpoena for witnesses tends to lag, thus impeding early disposition of not guilty pleas. Subpoenas should be prepared shortly after a trial date is assigned. This is particularly important regarding the key witness, since in many cases the availability of that witness is said to be the critical factor in disposition. The problem of subpoenaing witnesses in a timely

fashion is not solely the City Attorney's. Some defense counsel also delay in the issuance of subpoenas and then claim they are not ready to proceed to trial because a critical witness has not yet been served.

Delay in issuing subpoenas and problems in serving them directly affects the function of the Court and impedes its operations. An expression of Court concern in the form of the proposed rules might help on both sides of the bar. Process should be returned to the issuing counsel so that she or she can provide the Court with the required proof. Identification of the issuing counsel should be required because some private counsel now request the Marshal to serve a subpoena but do not put their name on the subpoena so the Marshal does not know who to advise that service has been completed. The third part of the recommendation will provide the Court some assurance of a good-faith effort to locate and obtain the witness in sufficient time.

2. Bilingual Information Sheet

Recommendation 3.2:

The Court should request the inclusion of a simple English-Spanish information sheet with the subpoena.

The information sheet should clearly specify the name and number of the case; the exact place to report; the hearing date and time; the amount of time the witness should plan to spend in court; interpreter availability; child care facilities; the availability of a witness fee; a phone number to obtain further information; and a brief explanation that initial appearance will be in one court but the trial will occur in a second court that day or within a few days of the original date of appearance.

The Court should consider preparing this sheet itself and making it available to all counsel.

3. Time of Appearance

Recommendation 3.3:

Civilian witnesses and defendants should be subpoenaed or summoned to appear at 8:30 and police officers should be subpoenaed to appear at 8:45 a.m.

Some civilian witnesses and defendants will be late no matter when they are required to appear. But most citizens will try to be at the court when told to be. The numerous citizens who appear on time now must sit in the hall, ignored, for half an hour before the courtroom doors are opened. Even then no one talks to them other than to obtain their names before court starts, so even the 8:30 to 9:00 period is wasted so far as they are concerned.

Requiring appearance at 8:30 will accommodate the concern of some prosecutors and judges about late arrival yet reduce the imposition on citizens.

The justification for summoning civilian witnesses to appear an hour before court starts--the need to assure they will be there when court starts--is inappropriate for police officers subpoenaed to Division 40. They are ordered by the Department to be at the courthouse at the time appearing on the subpoena and are subject to administrative discipline if they are late. A one-week sampling of police officer utilization in Division 40 cases disclosed that the average subpoenaed officer spent four hours and 40 minutes between check-in time and disposition of their case by the court.* One hour of that time was between 8:00 and 9:00 a.m.,

*"Problems Identified Within the Metropolitan Misdemeanor Court System," p. 61. Letter from Daryl F. Gates, Los Angeles Chief of police, to Wendy Hepperle, July 9, 1979.

clearly an unnecessary waste and expense. The project staff did not observe officers being interviewed during this hour. Arrival at 8:45 a.m. would seem to be sufficient to assure the City Attorney of their presence.

This recommendation, applies principally to the master calendar courts and those who are to appear for the morning calendar at Bauchet Street, of course. Defendants scheduled for the afternoon calendar at Bauchet Street should be ordered to appear at one o'clock, or one-half hour before the calendar starts, whichever is later.

B. Treatment in Courthouse

1. Civilian Witness Lounge

Recommendation 3.4:

The Court should designate a specific area as a lounge, or reception area, for the use of civilian witnesses appearing in the master calendar courts.

Witnesses and defendants are mixed together in the public area of Division 40. A recent study in New York found that many efforts to intimidate witnesses occurred in the courthouse.* If the Court adopts three master-calendar divisions, there may not be three courtrooms with sufficiently large public seating areas to accommodate all parties, witnesses, and counsel. Both of these reasons, plus the humanitarian interest in making the participation of witnesses as attractive as possible, suggest the desirability of a witness reception area.

*"Hearings Probe Problems of Victim/Witness Intimidation," American Bar Association Journal, Vol. 65 (1979), pp. 1025, at 1026.

It should be centrally located, preferably on the fifth floor of the Criminal Courts Building, so as to be convenient to some of the courtrooms, the snack bar, and the child care area. It should accommodate at least 25-30 persons,* be comfortably furnished, have a telephone for the coordinator, and a pay telephone for witnesses.

The only space presently available that might be adequate is the office space on the fifth floor formerly assigned to the witness project. The space would require redesign and might be too small. It would have to be reviewed by an architect. If that space is not adequate, no other available space for the lounge is readily apparent. The need exists, however; the absence of an obvious location should not preclude the effort to find suitable space, even if one or more other offices must be relocated.

2. Civilian Witness Coordinator

Recommendation 3.5:

The Court should designate or hire a qualified person to function as a civilian witness aide.

The City Attorney's witness coordinators do a marvelous job of locating witnesses and getting them to appear. They have no time, however, to assist and devote no effort to assisting witnesses with questions or problems after they arrive at the courthouse. This position would not replace or compete with the City Attorney's coordinators but complement them.

The witnesses' aide would help witnesses in the courthouse, with responsibility to the Court. This person would be stationed

* Witness Project figures indicate an average daily civilian witness attendance over a 10-month period in 1975-1976 of 23; the average attendance of police officers for the same period was 40. Witness Project, 1977, p. 49 et seq.

at the witness lounge; pending completion of the lounge the aide should be located in the booth outside Division 40. The aide should be bilingual in order to assist the many Spanish-speaking witnesses. He or she, should be supplied with information on the status of each case on a daily basis, and should have general information on the court function and calendars. In a manner similar to the coordination of police witnesses, this aide should have responsibility for checking civilian witnesses in, directing them to the proper trial courts, and dispensing general information, including witness fee applications, victim indemnification procedures, and letters of excuse from the Court to employers. As a Court employee, the person would be a neutral in the adversary process with responsibility for making the witnesses' appearance as nonthreatening as possible.

3. Audible Proceedings

Recommendation 3.6:

The Court should take steps to insure that court proceedings are audible and understandable to the witnesses.

Microphones for the counsel podiums recently were added in Division 40 in an effort to make the proceedings audible. This change is a worthwhile step. Further, judges in all divisions, but particularly in the master calendar divisions, should take pains to advise witnesses and members of the public what has happened in each case, particularly when a disposition has been reached or sentence imposed. The additional few minutes a day this would require would be repaid in better understanding and appreciation by the public.

4. Posting Status of Cases

Recommendation 3.7:

The Court should post a copy of the daily calendar outside every master calendar division. As often as staff can obtain time, but at least at the noon break, the calendar should be filled in to show the status of each case. The witness lounge also should receive periodic calendar status reports.

If a witness lounge is established, it should be sufficient to notify the witness aide periodically of calendar status. Pending opening of the lounge, though, the witness will continue to report to the master calendar divisions. Even if the above recommendations are implemented, some victims and witnesses will be unsure about the disposition of their cases. This recommendation is a small step toward further improved communication. It also might reduce the occasions when witnesses are ordered to a trial division but they do not hear the division number clearly or forget it and therefore just leave the courthouse.

5. Payment of Fees

Recommendation 3.8:

The Court should seek to transfer the processing of witness fee payments to the City Attorney's or District Attorney's Office.

At present, the process for paying a fee to a witness is cumbersome for the Court and often involves delayed payment for the witness. In most cases the delay is not critical, but there have been many instances involving out-of-town witnesses who needed immediate cash for a hotel or return home and were unable to obtain it because the Court cannot provide cash payments or advances to witnesses because of administrative limitations

imposed by the County. In 1976 the Superior Court, which had a similar problem, obtained authority from the Board of Supervisors to transfer the budget and payment responsibility for witness fees and expenses to the District Attorney; that office then issued on-the-spot checks to witnesses through use of a revolving fund. That process was reviewed in 1977 and was reported to be working "outstandingly well."* The District Attorney handles payments for all Superior Court witnesses, regardless of the subpoenaing agency.

The District Attorney normally does not prosecute cases in the municipal court. Thus, to date he has not shown any interest in assuming responsibility for paying witnesses appearing in that court. If the judges endorsed the inquiry, however, there might be some arrangement that could be negotiated satisfactory to all concerned. If not, the issue should be pursued with the City Attorney's Office. The experience gained by the District Attorney's Office should facilitate assumption of the task by the City Attorney's Office. If neither of these options work out, the Court should approach the County Executive's Officer to regain authority to issue emergency cash advances to witnesses.

6. Allowable Witness Fees and Expenses

Recommendation 3.9:

The Court should review and update its policy on allowable fees and expenses.

Guidelines were issued in 1976 for allowable witness fees and expenses.** In view of inflation and other factors it

* Memo from Stephen S. Trott, then--Chief Deputy District Attorney to Dallas H. Candy, Acting Director, Bureau of Administrative Services, March 10, 1977.

** Memorandum to Los Angeles Judges and Commissioners from Judge Brian D. Crahan, October 22, 1976.

would be appropriate to review this schedule, and to make known the Court's policy on the granting and level of witness fees and expenses. If a Court witness aide is selected, such person would need specific guidance in order to assist witnesses in preparing their claims. If a court witness aide is not available, the Court should consider the feasibility of distributing an information sheet on fees to each witness at the conclusion of his/her court service.

C. On-Call Compared to In-Court Witness Experiment

Recommendation 3.10:

The Court should conduct a controlled test to determine the feasibility and usefulness of inaugurating a system under which both civilian and police witnesses will be available on two-hour call to be present and testify in court proceedings.

There is divergence between the witness' perspective that time waiting in court is wasted* and the Court's general view that the key witness must be on hand if cases are to be disposed of by plea. There also is concern that a witness placed on call will not respond to the call when needed. The judges' concerns in these regards are understandable but they may be misplaced.

In June, 1976 Witness Project and the City Attorney's Office began an experimental on-call system for a limited number of misdemeanor cases. According to the report of the evaluator:

This program was designed to determine:

1. Whether witnesses could be adequately coordinated so that unnecessary trips to the court could be eliminated; and,
2. Whether witnesses who were On-Call would cooperate and appear when called in for trial.

* The evaluator's report on Witness Project said: "Without a doubt the primary witness problem and complaint is Time Waiting In Court!" J. Swasy, Review of Witness Project Activities, September 1975 Through September 1976 (1977), p. 33.

This experimental Program has demonstrated that:

1. Witnesses can be placed On-Call; and,
2. Witnesses who are placed On-Call and are required to appear do so without delaying court proceedings.

To date, approximately 200 witnesses have been involved in the On-Call Program. About 80 percent of these witnesses were not required to appear in court because of their case ending in either a dismissal, plea, or continuance.

In follow-up telephone interviews with witnesses participating in the On-Call Program, witnesses indicated an extremely favorable evaluation of the Program and substantial savings in time and money.

This Program, however, did have some problems, i.e. "witnesses receiving conflicting information on whether to appear", "witnesses are uncertain what the "On-Call Program meant", etc. These problems appear to be due to the "limited" or "experimental" nature of the Project. (Emphasis in original.)*

The evaluator cited two principal limitations on the project: 1) staff limitations in the City Attorney's Office for pretrial case preparation, and 2) judicial attitudes toward an on-call procedure.** No data on cost savings were presented in the evaluator's report.

The Witness Project screened the witnesses put on call in order to minimize risk. The impact of an on-call system applied to all witnesses cannot be determined by this process. Another reason for caution before concluding that all witnesses should be placed on call for the first master calendar appearance is that 18 percent (roughly one in five) of the cases, in the National Center's sample of 1978 dispositions which were referred to a trial division were disposed of on the day of referral. On the

* Id at pp. 33-34.

** Id at p. 34.

other hand, three out of four of the cases which reached Division 40 had more than one appearance in Division 40 and the trial divisions and cases referred to the trial divisions were more likely than not to be continued or trailed, averaging almost three continuances per case.

Thus, there is evidence on both sides that a selective or across-the-board on-call system for witnesses would not adversely affect case dispositions and the timely starting of trials. Further evidence is needed. To obtain a true test of an across-the-board on-call system, witnesses have to be assigned randomly to appear or to be placed on call and the results (effect on plea rate and when pleas were obtained, need for testimony, on-time appearances, and other relevant data) carefully monitored and evaluated. If an across-the-board test is not acceptable at this point, a selective approach involving prescreening of good risks and/or cases likely not to need a witness on the first trial date should be tried with more rigorous collection and analysis of relevant data. The test should include both civilian and police witnesses and be for a period long enough to provide sufficient data.

The cost to the taxpayer in police overtime charges and the many private costs for civilian witnesses would seem to warrant testing the need for the personal appearance of witnesses in all cases prior to the actual start of trial.

IV. FORMS, RECORDS, AND DATA PROCESSING

Records Management in the Court

Records are the life-blood of courts, and forms comprise a large portion of those records. Yet many courts are decades behind the business community in records management and forms design and use. The Los Angeles Municipal Court shares this problem with many courts across the nation.

In courts poor forms handicap all those who use or work with forms: litigants, lawyers, clerks, and judges. At the same time this diffusion of users makes it hard to agree on a form satisfactory to all. Judges, for example normally are quite concerned about the wording used in forms; clerks care about arrangement and spacing; lawyers and litigants want certain substantive information; related agencies often desire data of relevance to them. Thus, even when judges and clerks recognize that a form is hard to use, incomplete, or partially duplicates another form, it normally is easier to muddle through with the present form than to undertake the tedious task of redesign. Further, very few judges or clerks are schooled in forms design concepts, so even if redesign is attempted, an optimum design may not result. Nevertheless, most of the documents used in the Los Angeles Court are produced by the Court at its expense. This makes the need for forms design even more crucial.

Adopting new forms or implementing more modern records management techniques may involve initial expense, but the future savings in personnel and personnel time and the intangible benefit of improved record quality normally more than offset these initial

costs. The Center has developed several new forms suitable for the Court's use which are described and discussed in the following section. A proposed complaint and docket and some possible worksheets are reproduced in Appendix C at the end of this report.

Similarly, effective file management is critical to a well run organization. This is especially so for a court, where the use and retrieval of documents and case information is a necessity. The suggestions of the National Center for improved records management are contained in the following pages.

The use of data processing offers other related benefits. But transition to data processing should proceed with care and caution. Before a court can use computers successfully it must have a sound manual records system; a poor records system transferred to a computer remains a poor records system. This and related issues are discussed at the end of this chapter in a brief review of the potential of computer assistance for the Court.

A. Forms

1. Docket

Recommendation 4.1:

A simplified docketing procedure for use with a printed docketing form should be adopted.

The Court currently uses an 11" x 14" docket sheet to preserve details of case proceedings. Although procedures vary among divisions, generally the judge writes or stamps what occurs during a hearing on a small sheet of paper stapled to the case file. The docket clerk then is given the file and uses rubber stamps to record this same proceeding information on the docket sheet. Each clerk may have 50 or more stamps; in the arraignment courts and

Division 40 the docket clerks have hundreds of stamps. Stamps vary from division to division since judges cannot agree on the precise wording for the stamps. An average of three to four docket sheets are used per case in order to accommodate these verbose stamps and because space on the docket sheet is not optimally used.

It is recommended that a simplified docketing procedure and printed docket form be developed. Only selected information regarding the progress and major activities relating to the case should be recorded on the docket. These include prearrest information, arraignment, plea information, judgment, and sentence. Rather than placing the details of all these activities on the docket sheet, as happens now, they should be included on supplemental judge worksheets. (See Recommendation 4.3.)

Use of a simplified, printed, standard-size docket sheet will facilitate these procedures. This form will consist of one sheet with information printed on the front and back sufficient to meet the requirements of most cases. It should be noted that of the cases sampled, 79 percent had only one defendant and 42 percent of all defendants had only one appearance. These figures are probably higher for the Court's entire caseload, as the sample did not include some case types, e.g., marijuana, which generally are terminated at the first appearance. Thus, the form is tailored to meet the major demonstrated needs. This form can be completed quickly by the courtroom clerk, either by checking off boxes, filling in dates, or adding other variable information. (See Recommendation 4.2.)

Docket sheets are not efficiently used now. Often only one activity or hearing is recorded regardless of how much or how little of the sheet is used; a new docket sheet is prepared for each new hearing so that the sheets previously prepared can be kept in a central location. The recommended printed docket sheets would return to the courtroom with the case file for each hearing so that all basic case information will be on one docket sheet. When a docket sheet is removed from the central file area to be used again in court, an out-card would be inserted (see Recommendation 4.8).

At present, docket sheets are considered as the court record on appeal in Los Angeles, although the California Rules of Court do not seem to warrant this narrow a view of the acceptable appellate record.* A court reporter is present at all misdemeanor hearings in the Los Angeles Municipal Court and the transcript of these hearings is available for review. The docket revisions suggested in this recommendation can be a first step in an ongoing process to convert from the docket to the official transcript when an official record of proceedings is required. (See Recommendation 4.14.)

2. Completion of Printed Docket

Recommendation 4.2:

The courtroom clerk should complete the new docket as the case is heard.

In the trial divisions, completion of the docket now is the responsibility of the courtroom clerk. That arrangement should

*California Rules of Court, Rule 183.

not change. In the arraignment courts and in Division 40, specially designated docket clerks now are responsible for translating the judges' notes onto the docket. The responsibility for completing the printed docket should become the courtroom clerk's. Courtroom clerks should be encouraged to understand that this change in responsibility is an enhancement of their job.

3. Judges' Worksheets

Recommendation 4.3:

Judges' worksheets should be developed to assist in recording case-related information for the case file.

Judges currently use small slips of paper to record notations of case-related activities. Often information is rubber-stamped on these slips to correspond to the activity being recorded. The slips are then stapled to the case file. It is difficult to follow the progress of the case by reviewing the case file for the following reasons: slips may not be in true chronological order, may be stapled in various directions, may be difficult to read because staples for other papers subsequently attached to the file cover important portions of the form, and because it may be difficult to read the judge's handwriting or the stamp used.

In conjunction with the revised docket sheet, it is recommended that detailed judges' worksheets be developed to assist the judge in maintaining information during a hearing. The worksheets would provide guidance as to the sequence of procedures to be followed, the rights to be communicated to defendants, and interim and sentencing orders. The worksheets would be stored in the case file, although initially they may be considered part of the docket for purposes of appeal, if desired. If the Court moves

toward the reporter's transcript as the official record on appeal, the judges' worksheets then would be considered as aids to the judge and back-up for the case file rather than part of the official record.

4. Complaint

Recommendation 4.4:

A revised complaint form should be developed.

The current form used for the complaint is not an effective document for today's needs. It is largely preprinted in legal language with blank space for inserting the charged offenses. The form, however, covers only a single count. If additional counts are required, small slips of paper are stapled to the front of the initial complaint. Preprinted material on the reverse is seldom used and should be contained in other court forms, such as judges' worksheet. The information on the back of the complaint is not used by the City Attorney's Office. Finally, the existing complaint does not conform to modern concepts of forms design.

A revised complaint should consist of a multipart form with sufficient copies for all necessary parties. The form should provide space for multiple counts and for the counts to appear sequentially. Its final form should be determined in consultation with the City Attorney's Office.

5. Forms Review and Redesign

Recommendation 4.5:

All case-related forms should be redesigned for easier completion and use.

Review of the Court's case-related forms during this project revealed that the forms:

- were on a variety of paper sizes;

- do not correspond to horizontal tabs on a typewriter;
- contain needless legal and Latin terminology;
- do not contain consistent heading styles or consistent locations for information such as case number.

Project COURT was not able to encompass a full forms review and redesign component. Rather, the National Center agreed to submit recommended redesign of the most critical forms and to work with the Court to establish an on-going forms review capacity. A full-scale effort should be made to review and redesign all forms used by the Court. A select committee of the Court should be responsible for a continuing study of forms need and design. The following components should be considered when the forms are redesigned. The forms should be:

- on standard letter-size (8-1/2 x 11) paper, as mandated by California court rule;
- prepunched on the top so they can be placed easily on folder fasteners;
- designed with consistent headings, with information placed in identical locations on all forms, if possible;
- assigned numbers and the date of last revision;
- written in plain English, eliminating legal nomenclature and foreign terms as much as possible;
- multipart, when copies will be distributed to more than one individual; and
- designed so the Court always maintains the original copy, printed with black ink on white paper.

B. Filing Systems

1. File Folders

Recommendation 4.6:

All case documents should be placed in folders.

Currently all case documents are stapled together to create a case file. The National Center believes it would be preferable to place all case documents in folders, including those opened and closed at Bauchet Street. There were 18 pieces of paper in the average file of those reviewed by the Center. For cases ending at Bauchet Street the average number of pages in the complaint file is 13.2, whereas the average is 28.3 pages for cases sent to Division 40. Half of the files had 14 pieces of paper or less, with the most common number of pieces of paper being six, seven, or eight. There seem to be a sufficient number of papers in almost all files to justify folders. Further, folders would protect the documents and facilitate transfer of files, retrieval of information, and storage. The folders should be designed for open shelf equipment with side tabs. Use of folders would not require additional filing space. Folders cost approximately ten cents each, so the cost of storing all misdemeanor cases in file folders would be about seven thousand dollars a year.

This cost is minimal for the benefits gained. If \$7,000 is not available, however, a compromise is possible: use file folders only for cases in which "not guilty" pleas are entered at arraignment. Files for cases assigned to Division 40 tend to be thicker, and these cases often involve several court appearances, justifying the added protection and ease of handling provided by a file folder.

Statistics show that approximately 34 percent of the cases (24,000 or so) remain open after arraignment. Prior to sending these cases to Division 40, clerks in the Bauchet Street office could insert the case papers into folders using fasteners. (As mentioned above, all forms should be prepunched so they can readily be inserted onto the fasteners without punching.) The folders will protect the case documents during transit and facilitate the addition of new documents during proceedings in Division 40 and the trial divisions. When the case closes, the documents should be removed from the folder and stored sequentially in the accordian files described below; the folder then will be available for reuse, thus achieving some economies in the use of folders.

Folders for this compromise approach will require an initial expenditure of perhaps \$2,500, including some extra folders to replace folders as they are damaged, lost, or worn out.

2. Closed Files

Recommendation 4.7:

Closed case files should be kept in their original case folders. If folders are not used for all case files then the files that are in folders should be removed from the folders, stapled together and stored in accordian folders in case number order.

All case file documents should be maintained in file folders. In that case, all files could be maintained on open-shelving without the need for additional supplies or reorganization.

If the compromise proposal is adopted, however, then the following procedure is recommended. Cases concluded at arraignment would be filed as received in the central file area.

Cases concluded in the trial divisions should be removed from the case folder after the case closes, stapled, and placed in an accordian folder in correct numeric order. The clerical cost of doing this is further support for putting all files in folders and leaving them there.

The Court currently maintains closed cases on open-shelf equipment. Some of the closed cases are maintained in accordian folders while others are placed in TAB unit boxes. All files should be maintained in accordian folders if the file folder approach is rejected. The accordian folders are easier to handle and less expensive than the unit boxes. In addition to saving money on the boxes, the open-shelf equipment needed for accordian folders and file folders will save the Court about 25 percent per shelf unit and potentially expand the available filing space capacity by approximately seven percent without any increase in the floor space required.

3. Out-Cards

Recommendation 4.8:

Use of out-cards to indicate the location of files removed from the filing system and docket sheets removed from the docket filing area should be enforced.

Any time a file is removed from the file room for reference or other purposes, an out-card should be used. In addition, whenever a bulky file is filed in an alternate location, an out-card should be included in the location where the file normally would reside.

The use of out-cards is not a new idea for the Court; the file room now contains signs indicating that out-cards should be completed upon removal of a file. Due to the press of daily work, however, out-cards are not always completed or used. It is

important to complete out-cards in order to be able effectively to track case files and to prevent their loss. The Center's data-gathering staff were unable to locate almost 11 percent of the files they sought to review. This is an exceptionally high factor of missing, misplaced, or lost files. Out-cards could be obtained in different colors to indicate different individuals who have removed the file or different locations for the file (in the case of fat files) so that no information need necessarily be written on the out-card itself. This might make it easier to insist on use of out-cards.

The same procedure should be used for docket sheets. The new docket sheets can continue to be stored in a central location between and following court appearances, but when a case returns to a courtroom and the docket is removed from the central area, a color-coded out-card should replace it in the file.

C. Indexing

1. Cumulative Indexes in Microfilm

Recommendation 4.9:

The Court should use cumulative indexes in microfilm form.

The Court currently enters index information into a computer for production of computer-generated indexes in paper form for public use. The system could further be improved and costs reduced by producing this information on microfiche instead of paper through the use of computer output microfilm (COM) equipment. Discussions with the data-processing coordinator for the Court indicate that COM would be a less expensive way to produce the index than paper. In addition, COM indexes occupy less space, are easier to handle, and are easier to transfer than

paper printouts. They are authorized by California court rule.* Duplicate copies of the index can also be produced inexpensively. A microfiche reader for the index would cost \$200 to \$300.

A copy of the same COM index which is provided to the Court staff should be provided for public use. One or two extra microfiche readers would be needed for the public. This cost would be more than offset by the saving in clerical time now consumed to aid the public to use the paper indexes. Simplified instructions should be attached to the reader and the clerks should be trained to provide assistance when it is necessary. A similar arrangement is now very effectively being used in the civil division of the Court.

2. Cumulative Indexes for Five-Year Periods

Recommendation 4.10:

Cumulative indexes should be prepared for a five-year period.

The current plan is to prepare cumulative indexes for a ten-year period. Since most misdemeanor cases have an active life of only a few years and files may be destroyed after five years, this would mean that many irrelevant cases would be included in the cumulative index, resulting in greater difficulty in locating a particular name. It is recommended, therefore, that the active cumulative index cover a period of five years to better reflect the period in which the most recent case information would be accessed. If a more extended index is thought to be necessary to provide information to law enforcement agencies, the Court could produce another cumulative index from the time the index was first computerized to the present, in order to incorporate all cases

*California Rules of Court, Rule 1010.

which are more than five years old. This division would facilitate retrieval of index information and be less of a change from present plans.

D. Microfilm

1. Docket Sheets on Microfilm

Recommendation 4.11:

Docket sheets should be microfilmed for retention.

Since the docket sheets must be retained indefinitely under the retention schedule established by statute,* the Court should microfilm these documents to reduce space requirements and facilitate retrieval. Such microfilming is permitted by statute and is planned for the near future.** The most appropriate microfilm system would be a simple roll microfilm system with a simple procedure for identifying the start of each document. The roll and frame number of the docket sheet could be included in the computerized index after the case closes. Additionally, the microfilm cartridge should be labeled to indicate the range of case numbers contained.

The Court should establish cross-referencing to indicate docket sheets which have been updated since they were first microfilmed. This is generally done by marking the microfilm box with the location of the update or by splicing the update to the beginning of the roll.

It is critical that proper inspection and quality control procedures be followed to insure the permanence of the microfilm as required by law. The Court should review the microfilming

*Penal Code section 1428b.

**Government Code section 71007.

procedures contained in the National Center's publication, Microfilm in the Courts: Reference Manual, particularly Chapter 8, "Instrument Filing Microfilming System."

2. Central Microfilm Center

Recommendation 4.12:

A central microfilm center should be established to serve all divisions of the Court.

Currently different divisions within the Court utilize differing microfilm systems. For example, the Civil Division now operates a Kodak Oracle Microfilm System for its active records. This microfilm system is different from the one recommended for the Misdemeanor Division. Other groups are either using microfilm or have proposed microfilm for the future. As a result, the Court as a whole soon may be operating several different types of microfilm systems with no central coordination or quality control.

It is recommended that all microfilm operations be centralized so that the equipment, personnel, and microfilm expertise can be shared effectively by all court divisions. Each division should have lulls and peaks in its need for microfilm production; thus, the center should be able to meet the requirements of all groups for timely production while maintaining a reasonably steady work flow. The center would also be able to afford more expensive equipment for faster production which could not necessarily be purchased by a single division. The extra initial cost of the equipment would be offset by higher productivity of staff.

E. Other Records Issues

1. Case Numbering System

Recommendation 4.13:

The case number should be revised to include year of filing, court division or type, and case number.

The Court currently uses an eight-field case number to represent both the court division and the case number. The case number portion of this number is increased over several years until the end of the number reaches 999,999, at which time the case number starts again from the number 1. Thus, eventually more than one case might have the same number. In addition, the court location part of the number has no operational function and serves as an additional burden each time the case number must be rewritten.

The recommended form for case numbers is as follows: 79M12345. The actual case number component--12345--would begin again from 1 on January 1 of each year without duplicating numbers. The "M" refers to misdemeanor, but could be adapted to indicate other specialized types of cases or locations which the Court would like to track independently. The year indicator--"79"--represents the year in which the case was submitted and enables the Court to begin resequencing the actual case number from "1" each year. It should be noted that the case number consists of a numeric-alphabetic-numeric sequence which does not require hyphens or spaces in order to separate the fields.

This type of case number is easy to use because generally only the actual case number digits are significant. The fact that there are only five significant digits in the recommended case number versus eight for the currently used case number will reduce

errors significantly. In addition, inclusion of the year of filing in the number facilitates other activities, such as destruction of records under the retention schedule.

Two modifications in the proposed number might be required. First, the court division part of the present case number serves to distinguish cases in the central divisions of the Court from divisions in the branch courts, as well as case types. If this type of branch-court identification is useful--possibly for computerization purposes at a later date--a second letter could be added before the "M" to identify the branch. Second, the Court had 64,000 cases filed in 1977-78, but almost 100,000 cases the year before. If public drunkenness cases should return to the Court's caseload, the number of cases filed per year might soon exceed 100,000. In order to accommodate the caseload of misdemeanors several years hence (even if public drunkenness cases do not return in large numbers) and to use this type of number for the more numerous traffic cases, it might be prudent to allow for a six-digit case number. If this is done, however, some reprogramming for the larger number in existing computer programs would be required.

2. Court Reporter's Notes as Official Record

Recommendation 4.14:

The court reporter's notes should be deemed to be the official record of court proceedings.

The State of California does not recognize audio recording in municipal courts in other than exceptional circumstances and therefore requires a qualified shorthand reporter to be present whenever a record is required. The Court pays the salary of this individual to record the proceedings. From all indications, the

elaborate docket sheet now maintained by the Court is considered the official record of proceedings for appeals by the Superior Court, rather than the court reporter's notes.* Hence, the court reporter's notes have little significance for the Court, even though the reporters' salaries are a continuing expense. The transcript (or portions of it) is seldom used on appeal.

The court reporter's notes should be viewed as the official record of what was said in court. In case of appeal, those sections of the reporter's notes in question could be transcribed for consideration on appeal. Since most misdemeanor cases are short, transcripts would also be limited and relatively inexpensive to prepare. If the court reporter's notes were the official record, the Court could simplify the docket entries and adopt a simplified register of actions similar to the system now being used by the Los Angeles Superior Court. This change would reduce the record keeping requirement in the Municipal Court and provide additional staff resources to handle additional case volume increases without the need to add additional staff.

The effect of Proposition 13 on the Court's budget could be a primary reason for reconsidering what is regarded as the "official record." This matter should be discussed with the Superior Court, particularly in light of its impact on all municipal courts in the County. In 1977-1978 there were 138,300 nontraffic misdemeanor filings in the County and 1,028 appeals, less than 1%. Simplification of the records and use of the transcript when an occasional case is appealed would seem to be desirable.

*But see California Rules of Court, Rule 183.

Data Processing

Recommendation 4.15:

A computerized court information system should be developed over the next few years.

Currently, the Court has very little information which has been put in a computer bank. As described above, the Court currently maintains indexes in computer form. This application should be expanded to further assist the Court in daily operations. In addition, the Court has previously operated the PASS (Probation and Sentencing System) computerized system to facilitate retrieval of information on individuals receiving probation.* This information was entered into the computer by personnel from the sheriff's office and served the needs of both law enforcement at arrest and judges at arraignment. Unfortunately, due to budgetary constraints, no new probation information has been entered into the system for more than six months. As a result, the system has become practically valueless as a source of information.

Due to the large volume of case filings and the speed with which actions occur, the Court could greatly benefit from the assistance offered by a computerized court information system in conducting daily operations. The system could be designed to include basic tracking information as to the status of each case, calendaring information regarding the expected date for future activities, and management information to assist in identifying causes of delays or other problems within the court environment.

*The existing PASS terminals are now being converted to enable users to access other criminal justice data bases in the Los Angeles County area.

The development of a computerized court information system, however, is an extremely expensive undertaking. The Court might consider, therefore, developing such a system in conjunction with other criminal justice agencies who could mutually benefit and share from the information provided by the system. For example, the City Attorney currently maintains a computer system (CAMIS) for recording case information after the case is closed. This system is used mainly for preparing statistics to enable the City Attorney to monitor activity after the fact. As a practical matter, the City Attorney basically maintains a duplicate file of court proceedings to the one maintained by the Court. In addition, the Public Defender also maintains similar information. Some sharing of information might be possible. The total costs of the system could therefore be reduced for the County. Because of the unique relationship of these agencies to each other, this possibility would have to be evaluated carefully, however.

This chapter recommends several changes to existing procedures. The Court should implement and perfect these recommendations prior to any attempt to expand computerization. The Court first needs to establish uniform procedures, standard language to identify court activities, and a greater degree of cooperation among the judges. After these tasks have been accomplished, the Court will be in a much better position to design and develop a successful computer system.

V. ADDITIONAL AREAS REQUIRING ATTENTION

Some suggestions for change do not fit readily into the previous chapters, but nevertheless are an essential part of this report. They relate to court personnel, to court policy and to procedures. In some instances they affect the Court but involve noncourt agencies and consequently may take time to address or resolve.

Staff Utilization

A. Student Staff

Recommendation 5.1:

The Court should end its reliance on college students to staff the clerks' offices at Bauchet Street and the Criminal Courts Building.

A majority of the people working at Bauchet Street and a significant portion of the staff in the central clerk's office at the Criminal Courts Building are college students. This extraordinary reliance on part-time, hourly-rate staff is justified as a cost-saving measure. It is false economy.

College students, no matter how dedicated, are students first and part-time employees second. The turnover among such employees is great, so the cost of training them is high. Their absentee rate is even higher than their turnover rate. They have no career commitment to the job and thus no incentive to expend more than minimal effort. These costs of student employees--beyond their hourly rate--are apparent. A less apparent cost is the excessive amount of supervisor time spent locating, training, and replacing them, covering their unannounced absences, and checking their work.

Because of the limitations inherent in student work, each student has a relatively narrow job to perform. Each student

works about half a day and sometimes the work does not consume all the time the student is present. The jobs of two or three students should be combined onto one full-time position. Contrary to the apparent belief of the Board of Supervisors, a full-time position would at most be only marginally more expensive than using students.

Students presently receive \$3.00 to \$3.50 an hour and no fringe benefits. At Bauchet Street, each student works about four hours a day, either four or five times a week. Thus, three part-time students require a cash outlay of \$175 to \$200 a week. Assuming 4.2 weeks per month, they cost up to \$840 a month or slightly over \$10,000 a year. Also, much valuable supervisor time is spent dealing with student-worker problems.

In contrast, a full-time Clerk I position is paid a maximum of \$10,004 a year at present salary rates. Fringe benefits cost the County 25.84 percent of salary,* or \$2,585 a year. Training and supervision might be equivalent to a student's training and supervision initially, but would fall off rapidly over time. Overall, a full-time employee should require less supervision than students. Thus, out-of-pocket, the full-time employee would cost the County roughly \$15,600. The National Center estimates that salary and supervision of three student workers cost the Court \$13,000 to \$14,000 per year. In return, for the small additional cash outlay a year, productivity would be higher, the work product would improve, fewer people would need to be supervised, and the turnover and absentee rate should drop considerably.

*This is the rate as of September 1978. The figure may change as a result of new contracts negotiated by the County and its employees.

It clearly is possible to operate a court system with the exceptional percentage of student help found in the Los Angeles Municipal Court, since the Court has been doing so for several years. But both the quality and quantity of work produced by that system suffer, citizens are inconvenienced, and the speed at which the Court is able to dispose of cases may be adversely affected because of delays in paperwork. The National Center is aware that this problem is not the result of any choice made by the Court; its staff positions and budget have been inadequate for a number of years and it is responding in the only way open to it. It must renew its efforts to communicate to the Board of Supervisors the invisible as well as visible costs of this false economy, even in light of the constricted budgets with which the County will operate in the post-Proposition 13 era.

B. Reassignment of Docket Clerks

Recommendation 5.2:

In the arraignment courts and the master calendar courts, the clerk now serving as docket clerk should answer inquiries from attorneys and parties in the courtroom, answer the telephone, and be responsible for incidental paperwork unrelated to completion of the docket. Clerical staff not serving as a courtroom clerk or deputy clerk should be located in the clerk's office.

In the arraignment courts and in Division 40 specially designated docket clerks are responsible for transcribing the judges' notes onto the docket. The courtroom clerk handles all inquiries in the courtroom, prepares committal and release forms for defendants in custody, notes the disposition of each case on the daily calendar, and handles a variety of incidental paperwork. In arraignment courts there also is a calendar clerk and sometimes a student assistant. With courtroom clerks

completing the docket (see pages 74-75, above) and the adoption of multiple master calendars, the present docket clerks should be retrained to handle the matters now being handled by the courtroom clerk. Two clerks in the arraignment and master calendar courts should be sufficient to handle the court's documents and related matters. Any other clerical staff should be located in the clerk's office and subject to use there or assignment as needed to another courtroom.

Court Procedures and Policies

A. Calendar Preparation at Bauchet Street

Recommendation 5.3:

Preparation of the daily courtroom calendars at Bauchet Street should be shifted from the City Attorney's Office to the Clerk's Office.

The daily calendar of arraignments at Bauchet Street now is prepared by the City Attorney's Office. This arrangement was established to ease the workload on the clerk's office and because preparation of so many cases occurs at the last minute that the add-ons are handled most conveniently by the City Attorney's Office as complaints are completed in the morning.

It generally is recognized, however, that the physical preparation of a court's calendar is and should be the responsibility of the court. The clerk's office should resume preparation of each arraignment division's calendar as it moves toward a complement of full-time staff.

The willingness of the City Attorney's Office to assist the Court in this respect has been appreciated, but the problem of timely preparation of complaints is separate from the question of who should prepare the calendar and should not determine the agency which prepares the Court's calendars.

B. Fees for Appointed Counsel.

Recommendation 5.4:

The Court should work to eliminate the differences in the fees awarded appointed counsel. This could be accomplished by designating one judge to make all fee awards, or by preparing a more precise statement of the standards for payments to appointed counsel.

The Court's Executive Committee has adopted a schedule of recommended fees for appointed counsel, but the schedule has little impact on judges' determination of fees when bills are submitted. Each judge appears to have individual views regarding the value of an attorney's time generally and in particular types of cases, and regarding whether time an attorney spends waiting in court for his or her case to be called should be compensated in full, only partially, at a discounted rate, or not at all. This variation in views is important because the judge before whom the matter is disposed determines the fee to be paid appointed counsel. Counsel thus have a potential conflict with their clients' best interests, since a judge who might give a favorable hearing or sentence to a client may have views about attorneys' fees that are unacceptable to the attorney. Most attorneys resolve the potential conflict in favor of their clients' interests, but they should not have to face the choice. Either the Court should assign one judge to determine all attorney fee applications or it should revise and make its standards more detailed and precise. If it cannot agree to follow either of these courses, all judges should discuss openly the differences that exist and seek to narrow those differences to the point where counsel do not have to face significant differences in income depending on the judge before whom the matter is resolved.

C. Late Appearances by Counsel

Recommendation 5.5:

The Court should seek to reduce substantially the number of late appearances by counsel.

Defense counsel may be late at both Bauchet Street and in Division 40, but the problem appears to be greater in Division 40. The fact that the City Attorney's Office often is not prepared to proceed at the start of the calendar call in Division 40 reinforces whatever other tendencies exist for counsel to put other court appearances and appointments ahead of appearances in Division 40. The multiple-master-calendar arrangement might ease any perceived burden on counsel, since each calendar will be shorter and thus the maximum potential wait also will be shorter.

To reduce the problem of tardiness the Court should become aggressive in making its position clear. For example, the Court can implement a new policy regarding timely appearance in staged responses. Initially it may wish only verbally to advise counsel of their obligation to be on time. It also may wish to count the number of times each counsel is late and to post the results in a conspicuous place. Once counsel have had an opportunity to become aware of the Court's policy, contempt of court should be considered, with fines levied on counsel. The fines should cover witness fees, if witness fees are involved, plus an amount representing inconvenience to the Court, the police department, if there are police witnesses, and the clerk's office.

D. Advising Defendants and Taking Waivers of Rights

Recommendation 5.6:

The uniform use of a written statement of rights on which a waiver of those rights would be noted should receive the Court's serious consideration.

The method of advising defendants of their rights and obtaining waivers of those rights varies among the judges. Many judges use a preprinted form setting forth the rights available to a defendant and require the defendant personally to initial each paragraph to confirm his or her waiver of those rights. Some judges, however, require that the defendant be advised of his or her rights orally and waive those rights as the oral advice is being given.

In the former process, counsel meet with the defendant to discuss each paragraph in the written form and assure that the defendant's questions, if any, are answered. The defendant and counsel can take as long as necessary, since the court can proceed with other matters while the defendant is reviewing and initialing the form. Further, a Spanish-language form can be provided to the many defendants whose native tongue is Spanish. When the rights are stated orally, they are given in English. A Spanish interpreter translates if necessary, but the defendant must listen to a whispered translation while a clerk or deputy city attorney is talking in English at the same time and other noise may be coming from court attaches or the public seating area of the courtroom. The court can hear only the matter in which the rights

are being provided. There is subtle pressure on the defendant not to ask questions in order not to slow the court process further.*

While this is an area which involves judicial discretion and therefore may be beyond the scope of the project, it is pointed out that the choice to use an oral waiver procedure has an adverse impact on the administration of the calendar.

E. Return of Evidence to Owners

Recommendation 5.7:

The statutory provision regarding return of evidence should be amended to permit advice to be given to owners about the procedures for regaining their property following testimony in a case.

Penal Code section 1418 requires the Court to advise owners of property used as evidence as to the procedure for obtaining it "at the time of the conviction" or whenever the proceedings are finally terminated. Earlier notice does not seem to be possible. The purpose of the statute is commendable, but its specificity regarding the timing of the notice is too restrictive, especially since three months must elapse after the notice before the owner can actually recover the property. Very few owners of property used as evidence are present when a case finally terminates. Compliance, therefore, normally requires mail notice to the owner. In a court with the caseload of the Los Angeles Municipal Court, the burden of this notice is severe. It was reported that in many cases notice is not given at the required time or at all.

*Real or imagined pressures created by the courtroom setting involve issues which clearly are within the court's control. An attorney also may pressure his client not to ask questions but simply initial the form in order to avoid having to pursue the matter into the trial stage or to limit the time devoted to a particular case, but that raises different issues which generally are beyond control of the Court.

The Court should seek amendment of Penal Code section 1418 to permit notice to be provided "at any time following introduction of the property into evidence," or "following introduction of the property into evidence or at the time the conviction or, if none, when the judgment or other termination of the proceedings, becomes final." This will continue to assure notice but permit the Court to give notice following the owner's testimony in court or at conclusion of the matter, whichever seems most appropriate.

System Coordination

A. Justice Agency Meetings

Recommendation 5.8:

Senior-level representatives of the Court, including both judges and clerical staff, should meet regularly with senior representatives of the other justice agencies to discuss and resolve shared problems. This group should have staff support.

There is little coordination among the various agencies working in the misdemeanor courts although there is reasonably good communication when specific problems arise. A coordinating body was established several years ago but was abandoned because of the time required and lack of focus. But communication is different from coordination. A solution to a problem worked out by, say, the Court and the City Attorney's Office may affect the Public Defender's Office; unless the Public Defender's Office is made aware of the problem and can present its views, the selected solution may have an adverse impact on the Defender's Office.

The need for coordination will be both concrete and more immediate if the Court implements a multiple master calendar system. Initial adjustments will be required by each of the other justice agencies, as discussed in chapter II. Adjustments to

accommodate problems at one agency may further affect another agency. The preferred approach would be to work out these matters in an organized fashion, rather than to move from problem to problem with each individual agency as the the impact is felt.

For a coordinating group to be effective, the Court must be involved, since the Court normally is the hub of the justice system. Even if the Court is not directly affected by a particular problem, its presence on and commitment to a coordinating body can facilitate that problem being resolved within the group.

Court involvement alone will not assure the group's success, however; there must be staff support. It is necessary because the people who will serve on the committee do not have the time to collect necessary background information, to analyze the implications of the data, and to prepare a range of policy or operating alternatives for the committee's consideration. Also, there may be decisions made by the committee that will require monitoring to assure follow-through. Ultimate responsibility for this monitoring may have to reside with the committee members, but important assistance can be provided by staff. The Los Angeles County Planning and Research Unit gives the Court access to staff comparable to the staff access of other justice agencies. This staff availability is not common for most courts and should be utilized. Each participating agency could contribute staff, depending on the problem to be addressed, or the group could agree on one or two agencies providing staff on a regular basis.

Meetings can be held regularly (each week, month, or bimonthly) or on an "as needed" basis. Initially, the National Center recommends regularly scheduled meetings, but in time an "as needed" schedule may be acceptable.

It should be understood, of course, that these meetings would not replace the informal, ad hoc communication that occurs today. That type of communication remains a valuable tool for addressing day-to-day questions that might be inappropriate for a coordinating group.

B. Number of Defendants Charged on a Single Complaint

Recommendation 5.9:

The Court should renew discussions with the City Attorney's Office regarding reducing the number of complaints charging more than one defendant.

One in five complaints charges more than one defendant with a crime. The average number of defendants per complaint is one-and-a-half, which is slightly higher than the National Center has encountered in metropolitan courts of general jurisdiction. Cases with multiple defendants average 3.2 defendants, with a high of 44 in the cases sampled.

Decisions about the number of defendants to charge on one complaint are within the sole discretion of the City Attorney. Nonetheless, the Court can point out the difficult problems associated with charging multiple defendants on one complaint. One complaint results in the creation of one file by the Court. Each defendant averages three appearances before disposition. If the defendants are in different custody status and thus appear in different arraignment divisions, and then reach Division 40 at

different times, the single file must move constantly among various divisions. The risk of the file being misplaced or proceedings delayed while the file is retrieved from another courtroom is great.

VI. SHORT-TERM/LONG-TERM IMPLEMENTATION

The National Center was requested to indicate which recommendations were for short-term implementation and which for long-term implementation. "Short-term" means implementation should be undertaken and completed in the next six to nine months. "Long-term" refers to full implementation beyond nine months, although for the higher priority items planning and initial development might start within the next nine months. In addition to dividing the recommendations between long- and short-term, the following list suggests the National Center's view of the relative priority of these recommendations. It should be noted that an item listed as a long-term recommendation might have a high priority among all recommendations, but because of funding or other limitations implementation must be regarded as long-term.

The recommendations are paraphrased in this listing. For a full statement of the recommendation and a discussion of the rationale behind it, the reader is referred to the appropriate pages of the report.

Short-Term Recommendations

- Subpoena civilian witnesses and defendants to appear at 8:30 a.m. and police witnesses at 8:45 a.m. for the morning calendars. (Recommendation 3.3: pages 62-63.)
- Develop and use printed dockets. (Recommendation 4.1: pages 72-74.)
- Develop and use printed judges' worksheets in association with the dockets. (Recommendation 4.3: pages 75-76.)
- The courtroom clerk should complete the docket. (Recommendation 4.2: pages 74-75.)

- Docket clerks should be retrained and do jobs now done by courtroom clerks in arraignment courts and master calendar courts. (Recommendation 5.2: pages 92-93.)
- Request the inclusion of bilingual information sheets with all subpoenas to civilian witnesses. (Recommendation 3.2: pages 61-62.)
- Establish three master calendar groups for the trial divisions. A calendar coordinator will need to be designated and a calendar information system created in conjunction with this change. (Recommendations 2.2, 2.3, 2.4: pages 32-42.)
- The new calendar groups will need to communicate and coordinate on several management issues. (Recommendations 2.5, 2.6: pages 42-45.)
- Defense counsel should be assigned to a calendar group for four to six weeks. (Recommendation 2.7: pages 45-46.)
- Divide the calendar for each arraignment division into morning and afternoon calendars. (Recommendation 2.1: pages 30-32.)
- There should be a civilian witness coordinator to assist civilian witnesses upon arrival at the courthouse. (Recommendation 3.5: pages 64-65.)
- Training in new procedures and a training manual are needed for staff. (Recommendation 2.8: page 49.)
- Late appearances by counsel should be significantly reduced. (Recommendation 5.5: page 95.)
- Court proceedings should be audible and understandable. (Recommendation 3.6: page 65.)

- Color-coded out-cards should be used for files and dockets. (Recommendation 4.8: pages 80-81.)
- File folders should be used for all case files. (Recommendation 4.6: pages 78-79.)
- Accordion folders should be used for case files in the central storage area if folders are not used. (Recommendation 4.7: pages 79-80.)
- The procedures manual presently being prepared for clerks should be completed. (Recommendation 2.8: page 49.)
- The case number should be revised. (Recommendation 4.13: pages 85-86.)
- Differences in fees granted to appointed counsel should be eliminated or substantially narrowed. (Recommendation 5.4: page 94.)
- The Court should adopt several new rules regarding the service of process and its return. (Recommendation 3.1: pages 60-61.)
- An on-call experiment for witnesses should be undertaken. (Recommendation 3.10: pages 68-70.)
- A copy of the daily calendar for the master calendar divisions should be posted, with case status added at least during the lunch recess. (Recommendation 3.7: page 66.)
- The Court should review its witness fee schedule and policies regarding compensation of witnesses. (Recommendation 3.9: pages 67-68.)
- Develop, in conjunction with the City Attorney's Office, a revised complaint format. (Recommendation 4.4: page 76.)

- The Court should prepare the daily calendar for the arraignment divisions at Bauchet Street.
(Recommendation 5.3: page 93.)
- Senior judges and clerks should participate in a coordinating group of justice system agencies.
(Recommendation 5.8: pages 98-100.)
- Judges should further consider the uniform use of a written statement of rights and waiver form. (Recommendation 5.6: pages 96-97.)
- The Court should discuss further with the City Attorney's Office the matter of the number of defendants charged on a single complaint. (Recommendation 5.9: pages 100-101.)

Long-Term Recommendations

- Reliance on student staff should end. (Recommendation 5.1: pages 90-92.)
- The Court should undertake a complete forms review and redesign project. (Recommendation 4.5: pages 76-77.)
- The court reporter's notes should be regarded as the official record. (Recommendation 4.14: pages 86-87.)
- The Court should designate a lounge or reception area for civilian witnesses. (Recommendation 3.4: pages 63-64.)
- Docket sheets should be microfilmed. (Recommendation 4.11: pages 83-84.)
- The clerks should use microfilmed versions of case indexes. (Recommendation 4.9: pages 81-82.)
- There should be a five-year index of cases.
(Recommendation 4.10: pages 82-83.)

- All of the Court's microfilm operations should be placed in one work center. (Recommendation 4.12: page 84.)
- The Court should seek amendment of Penal Code section 1418 regarding return of property used as evidence to its owners. (Recommendation 5.7: pages 97-98.)
- The Court should seek to transfer responsibility for payment of witness fees to the City Attorney's or the District Attorney's Office. (Recommendation 3.8: pages 66-67.)
- A computerized information system should be developed in the future. (Recommendation 4.15: pages 88-89.)

APPENDIX A
PROJECT METHODOLOGY

APPENDIX A

PROJECT METHODOLOGY

The methodology used in preparing this report involved a variety of procedures, ranging from direct observation to staff conferences. The basic sources of information were: 1) on-site observation and study; 2) personal interviews with persons involved in the system; 3) the collection of data pertaining to the nature, volume, and elapsed time in processing cases; 4) legal and literary research; and 6) the professional expertise and experience of the project team and advisory committee.

1. On-Site Observation

Site visits were made by key staff personnel to get an overview of the total system, and in particular of case processing and the arraignment process. Time was spent observing patterns of caseload, the process in the courtroom and clerk's offices, and the interaction among these units. General observations were also made of related agencies such as the City Attorney's Office, Public Defender's Office, the Los Angeles Police Department, Marshal's Office, and court personnel such as reporters and interpreters. Attention was paid to the forms utilized and the records management system. During this period staff informally talked with and observed people functioning in the court system, including judges, court support staff, witnesses, defendants, and others.

From this preliminary work came a detailed project plan which included developing an overview of the total system as it worked toward the shared goal of processing

defendants' cases fairly and efficiently within statutory time limits. Narrative descriptions of the processes were developed and then reviewed by appropriate court personnel to verify the accuracy of the Center's observations.

2. Interviews

In preparation for interviews, two outlines were created for guidance. Over the course of several months interviews were held with over 55 people in the justice system: fifteen judges in the Los Angeles Municipal Court and other courts, three commissioners, ten persons in the clerk's or related offices in the Court and elsewhere, nine members of the City Attorney's Office, three members of the Public Defender's Office, six persons in law enforcement (including members of the Marshal's Office, the Sheriff's Office, and Los Angeles Police Department), four attorneys in private practice with emphasis in the misdemeanor court, two civilian witness coordinators, a court reporter, a court interpreter, several members of the County's Planning and Research Unit, and several others in related agencies. Similarities or trends were observed, while discrepancies or matters needing further attention were pursued.

3. Data Collection

The data collection scheme was developed to respond to the needs described in the Request for Proposal for the project and was based on the experience of the National Center in evaluating judicial case processing in

other courts. The manner and depth of material collected is explained in Appendix B. In brief, the data collection process involved the review of 1749 cases disposed of in 1978 and filed over a period of about 19 months. These data were tabulated, fed into a computer, and intensively analyzed. In addition, aggregate data collected or reported by the Planning Unit or other agencies were gathered and reviewed.

4. Forms and Records Management

With respect to forms revision and record keeping processes, experts from the National Center gathered all relevant forms used in the Court and discussed the matter with appropriate Court personnel. In addition, relevant forms used in other courts in California and elsewhere were collected and compared. Extended conversations going to the needs of the forms and records retention program were held with Court staff and others. Typical sample cases, complete with all attachments and stamps, were collected, duplicated and distributed to Center staff for analysis. Draft, revised forms were prepared, reviewed by staff and Court personnel and reworked to produce the forms reproduced in Appendix C.

5. Research

The Center team attempted to identify research pertinent to Project COURT. For example, it was learned that the Los Angeles Police Department was conducting its own survey on the utilization of police officers as witnesses in the Los Angeles Municipal Court system.

Liaison with the Department was established to share the results of its work. Similarly, the report on the activities of Project Witness was reviewed. From these sources valuable data were obtained that served both to provide baseline information and observations from a non-court perspective. Review of contemporary literature and research of relevant statutes and appropriate case law also was undertaken.

7. Professional Review

On June 7-8, 1979 the National Center's project team gathered for a two-day conference to review the material that had been collected, to analyze its applicability and formulate appropriate recommendations. The team also identified additional material that was required before reaching a final decision on workable recommendations.

Thereafter, the project team's tentative suggestions were presented to members of the Project COURT Advisory Committee at a meeting in Los Angeles on July 12, 1979. Subsequently, an initial draft report was circulated to members of the project team for comment and further refinement of the recommendations.

APPENDIX B
DATA COLLECTION

APPENDIX B

DATA COLLECTION

Methodology

Effective case management is founded on factual information about the caseload: the kind of cases, the number, and the manner of process. This should be backed up with detailed data pertinent to the court under study. For the Los Angeles Municipal Court this would include information about the procedures required by law and policy, the actors and agencies involved, required papers and notations, the number of steps in the process and the time between those steps. Empirical analysis of this kind of information indicates how well a court is processing cases and how factors outside the court's control (e.g., the charge against the defendant) impact on the handling of cases.

To obtain this basic information the National Center decided to collect specific information about a representative sample of cases handled by the Los Angeles Municipal Court. The type of information collected on each case was governed by the intended analysis. Information was collected on when various events took place in a case in order to measure and compare the pace of litigation. The number of appearances in Bauchet Street, Division 40, and the trial divisions, and the point at which disposition occurred were collected to compare the demands made on the Court by different types of cases. Finally, information was collected about particular characteristics of each case, such as most serious charge, number of defendants, custody status, and attorney type, to see how they were related to the rate with which cases

were processed. A copy of the instrument used to collect this information is included at the end of this Appendix.

The Municipal Court had expressed particular interest in five categories of crimes: assault and battery, assaults with a police officer victim, prostitution, drugs, and petty theft. The size of the sample was chosen so that sub-samples of each of the above case types would be large enough to permit statistical analysis by charge type. The sample covers misdemeanors filed between June 1, 1977, and December 31, 1978, and terminated in the Municipal Court in calendar 1978.

The survey was limited to misdemeanor cases filed at the Bauchet Street branch of the Los Angeles Municipal Court and was further restricted by excluding cases involving marijuana possession, intoxication, traffic violations, and dog leash cases.

Other cases were excluded during the sampling because they were not yet terminated or because of their nature. The latter included cases in which the defendant was unapprehended on a warrant, extraditions, transfers to another court, and probation violations (unless the underlying case was terminated in 1978).

The sampling was accomplished by individual examination of docket sheets in the central filing area in the Criminal Courts Building.* Beginning with the last case filed in 1978 and going backwards in time, every 15th defendant (not case number) was included in the sample if the case was terminated in 1978 and it was not one of the excluded case types.

The results of the sampling are given in Table B-1.

*Research assistants who participated in the survey were Carrie Fusee, John McCamman, and Donna Ritter.

TABLE B-1
RESULTS OF SAMPLING

Number of defendant-cases from which sample derived		47,800
Number of defendant-cases examined		3,178
Number of defendant-cases with outstanding warrants	302	(9.5%)
Number of non-1978 dispositions	1,099	(34.6%)
Number of open cases as of 6/30/79	16	(0.5%)
Number of missing dockets	8	(0.3%)
Number with partial dockets	12	(0.7%)
Number with docket but no file	191	(10.9%)
Number of cases on appeal (no docket present)	4	(0.1%)
Number of 1978 dispositions	1,749	(55.0%)

Condition of the Records

The collection of data for this study provided a close scrutiny of the condition of the Court's records. The number of misfiled docket sheets decreased from a high of three per 100 for cases filed in the later half of 1977 to a low of one in every 100 for cases filed in the later half of 1978. The number of missing or partial docket sheets appears to be almost one percent, as noted in Table B-1. Cases having only partial dockets were generally missing the earlier pages. A number of them involved cases filed in January and February 1978 when there apparently were a number of problems with dockets at Bauchet Street. Missing dockets could be the result of misfiling of the docket,

subsequent probation violations, and co-defendant cases still being open, as well as dockets actually being lost. Finally, in a large number of cases, the more recent pages of the docket are not stapled to the older pages. Out-cards seldom indicated the absence of a docket and were found in the file where no docket was missing.

Complaint files were also examined to collect a few items of information. Although discussed earlier in this report, it is worth emphasizing the difficulty in handling the files because of the use of odd-sized pieces of paper and an almost unbelievable number of staples. The percentage of files that could not be located approached 11 percent (see Table B-1). Missing files could be due to misfiling, co-defendant cases open, or probation violations, as well as the files themselves being lost. The data collectors looked for the files on two separate occasions and about 15 percent of those missing on the first check were found on the second check. As with dockets, out-cards are not being properly used for files.

Results

Before discussing the analysis of the cases, the limitations of the study should be noted. The cases examined are a sample of cases filed after June, 1977, and terminated between January 1, 1978 and December 31, 1978. They are representative of the bulk of the cases, but not of cases terminated more than a year or so from the filing date. The number of such cases is probably quite small, however, and would have little effect on the median case processing times given below. All but four data items were collected from the docket; the remaining four were collected from the complaint file.

The data are only as good as their source. Some items are occasionally left off the docket. A greater problem is with the detail and thoroughness of the information on the docket. For example, determining the number of motions in a case is difficult, because some, which often are oral, brief, and almost routine, may not be mentioned in the docket. The type of counsel is also a problem, as some clerks do not indicate whether defense counsel is a private lawyer appointed for the case or a public defender. The data gatherers, unfamiliar with the attorneys' names, generally assumed they were retained, since there was no indication to the contrary. Thus, the results should not be taken as absolutely precise. A statement that 56 percent of the defendants charged with assault have retained counsel, for instance, should be read to mean that slightly more than half have retained counsel, not necessarily that the percentage is exactly 56.

The validity of the sampling technique can be determined by comparing results from the sample with aggregate statistics collected by the Court, City Attorney, or Los Angeles Police Department. Results are often not strictly comparable due to varying definitions of categories or timing as to when cases are counted. Where definitions are equivalent there is general agreement between the sample results and information from other sources.

A. When Do Dispositions Occur

In such a high volume court the point at which dispositions occur is of considerable interest. If dispositions do not occur at an early stage, the backlog at the next stage grows. In the Los Angeles Municipal Court, a case that is not terminated at

Bauchet Street moves to the Division 40 calendar, and then to a trial division calendar. A judge or commissioner who is more effective in obtaining dispositions at Bauchet Street will reduce the workload for Division 40 and the trial divisions. Table B-2 shows where the dispositions were occurring for the sample of 1978 terminations.

TABLE B-2
PLACE AND TIME OF DISPOSITION

<u>Disposition occurred at:</u>	<u>Percent of all Dispositions</u>	<u>Cummulative Percent of Dispositions</u>
First Bauchet Street appearance	43%	43%
Later Bauchet Street appearance	23%	66%
First Division 40 appearance	9%	75%
Later Division 40 appearance	5%	80%
After assignment to a trial division	21%	100%

As can be seen, the bulk of the dispositions are occurring at Bauchet Street. The next largest percentage is in the trial divisions, with Division 40 not far behind.

Looking at specific methods of disposition, about half of all guilty pleas occur at the first Bauchet Street appearance, and about 74 percent occur at the arraignment courts. Over one-third of the dismissals occur after the case is assigned to a trial division and almost one-third occur in Division 40. Diversions occur at later Bauchet Street appearances about two-thirds of the time and in the trial division almost 20 percent of the time.

The City Attorney's management information system reports indicate that about 70 to 75 percent of the dispositions occur in the arraignment courts, versus the 66 percent reported here. This discrepancy is due to the fact that several types of cases which

tend to terminate at Bauchet Street are counted in the City Attorney's figure but were not included in the sample analyzed (especially the marijuana cases).

B. Pace of Litigation

There are a large number of events from which the overall disposition time of a case can be measured. The measure used depends upon the perspective chosen. A victim might choose to measure from the offense date, police and City Attorney from the arrest date, and the Court from the date of first appearance. All of these time measures are given, along with others, in Table B-3. The median figure represents the time within which half the cases were terminated. The other half took longer than the median time. The 75th percentile is the time within which 75 percent of the cases were terminated.

TABLE B-3
TIME TO DISPOSITION
USING DIFFERENT INITIAL POINTS

<u>Time Period Measured</u>	<u>median</u>	<u>75th Percentile</u>
Offense to disposition	24 days	68 days
Arrest to disposition	21	55
Complaint filed to disposition	16	49
First Bauchet Street appearance to disposition	4	40
First Division 40 appearance to disposition	2	21
Assigned to a Trial Division to disposition	2	9

Note that cases typically move very quickly once there is a court appearance.

TABLE B-4
INTER-EVENT TIMES

Offense

median: same day
75th percentile: same day

to

Arrest

median: 3 days
75th percentile: 7 days

to

Complaint filed

median: 2 days
75th percentile: 7 days

to

First Bauchet Street appearance

median: 35 days
75th percentile: 52 days

to

First Division 40 appearance

median: same day
75th percentile: 1 day

to

Assigned to a trial division

median: 4 days
75th percentile: 9 days

to

Trial Began

median length of trial: 2 days
average length of trial: 2.9 days

The data in Table B-4 show the time between various events and confirm that cases proceed expeditiously after the first court appearance. The median time from arrest to first Bauchet Street appearance is nine days, whereas the median time from that appearance to disposition is only four days. Table B-4 further shows that a considerable amount of time (median is 35 days) is

spent between the first Bauchet Street appearance and the first Division 40 appearance, yet the time from the first Division 40 appearance to disposition (see Table B-3) is two days median time. The extended time frame between these two court appearances may indicate a need to tighten this portion of the process.

Initial custody status also has an impact on the pace of litigation. Table B-5 shows that cases in which defendants are released on their own recognizance (OR), field release, or notice to appear move the fastest. This may have as much to do with charge type as custody status, as cases involving OR or field releases tend to involve less serious crimes. In-custody cases move the next fastest, possibly because of the 30-day speedy-trial rule. Finally, cases where the defendant is on bail at the first appearance take substantially longer to disposition than the other cases.

TABLE B-5
DISPOSITION TIME BY CUSTODY STATUS

<u>Custody Status at First Bauchet Street Appearance</u>	<u>Elapsed Time from First Bauchet Street Appearance to Disposition</u>		<u>Percent Terminated at First Appearance</u>
	<u>Median</u>	<u>75th Percentile</u>	
In Custody	1 day	25 days	44%
On Bail	35 days	66 days	26%
Own Recognizance, Field Release or Notified to Appear	same day	47 days	55%

A brief examination was made of old cases, measuring the age from the first Bauchet Street appearance. An old case was arbitrarily defined as one taking more than 100 days from Bauchet Street appearance to disposition (8.5 percent of the sample). Table B-6 compares these old cases with those terminated in less than 100 days.

TABLE B-6
CHARACTERISTICS OF OLD CASES

<u>Disposition Breakdown</u>	<u>Cases terminated after more than 100 days</u>	<u>Cases terminated in less than 100 days</u>
Guilty pleas	60%	81%
Verdicts (court or jury)	6%	2%
Dismissals	24%	12%
<u>Charge Types Breakdown</u>		
Assault and Battery	9%	10%
Officer assault	4%	0.5%
Narcotics	35%	12%
Petty Theft	11%	20%

As might be expected for old cases, the plea rate is lower and the trial rate higher. The dismissal rate is doubled. This phenomenon is also found in some general jurisdiction courts across the country and is attributed to weak screening of cases and the tendency of the prosecutor to ignore a weak case until it gets very old. Whether this is true for limited jurisdiction courts generally remains to be seen.

C. Other Characteristics of the Cases

Almost half of all defendants are in custody at the time of the initial Bauchet Street appearance. Almost one-quarter are on bail and about 30 percent have been released on their own recognizance, field release, or been notified to appear. See Table B-7. For the cases that proceed to Division 40 the custody status figures change dramatically: the percentage of defendants in custody at their first Division 40 appearance drops to a little under 30 percent, the number of defendants released on bail rises to almost 50 percent, and the defendants free on OR or field release drops to about 23 percent.

TABLE B-7
CUSTODY STATUS AT
FIRST BAUCHET STREET AND
FIRST DIVISION 40 APPEARANCES

<u>Custody Status</u>	Percent in Custody Status at	
	<u>First Bauchet Street Appearance</u>	<u>First Division 40 Appearance</u>
In Custody	46.8	28.7
Bail	23.5	48.5
OR, Field Release or Notified to Appear	29.6	22.8

The number of defendants in a case can have an impact on movement of the case because of scheduling complexities. Among the cases sampled the average number of defendants was 1.5; there was only one defendant in 79% of the cases. In comparison to general jurisdiction courts across the country, this average is high.

The number of counts against a defendant can affect plea negotiations. Cases sampled showed an average of 1.5 counts per defendant, with 32% of the defendants being charged with two or

more counts. The plea rate for cases with one count was 79.3% and 78.4% for cases with more than one count. Notably, cases with five or more counts against the defendant always ended in a plea (65%) or dismissal (35%).

The total number of appearances can provide a crude measure of the level of scheduling needed in a court. All cases average 3.2 total appearances, counting Bauchet Street, Division 40, and trial division appearances but not days on trial. Cases averaged 1.9 appearances in Bauchet Street, three appearances in Division 40 or a trial division, and 2.8 in just the trial division, for those cases that made it to each stage mentioned.

Motions are almost universally accused of causing delay in cases. A count was made of the number of motions made and heard at each stage for the sampled cases. This showed that 24% of the cases had motions at Bauchet Street, averaging 1.2 motions per case. For those cases reaching Division 40, about 32% had motions, also averaging 1.2 motions per case. The impact of motions on processing time was significant. The time from first Bauchet Street appearance to disposition was 0 days median for cases having no motions at that stage, and 32 days for cases having just one motion heard at Bauchet Street. In contrast, for cases reaching Division 40 the median time from first Division 40 appearance to disposition was one day for cases with no motions and two days for cases with just one motion. It should be noted that motions occur more in assault, narcotics, and sex crime cases than in petty theft and prostitution cases, which may also account for the differences in processing times.

Court or jury trials were begun in about 3% of all cases, with 26% of those ending in a non-verdict disposition (e.g., guilty plea, dismissal, or diversion). Acquittals occurred in more than half of the trials ending in a jury verdict, but in only about 20% of the court trials. Mistrials or hung juries occurred in less than 10% of the trials. Subsequent probation violations occurred in about 6% of the cases in the sample; these tended to be in narcotics and prostitution cases. No information was collected on whether there were violations of previous probation in these cases.

D. Specific Charge Types

The Court has expressed particular interest in five specific case types. Characteristics of these case types, with comparative data for all other cases and the caseload as a whole, are given in Table B-8. Each of these charge types is discussed separately below.

1. Assault and Battery

This category of cases included all those cases sampled in which the defendant was charged with violating either Penal Code section 242 or Penal Code section 245.* These defendants also may have been charged with other crimes not of an assaultive nature.

The information in Table B-8 shows that these cases take much longer to be disposed of, have a lower plea rate, a higher trial rate, more appearances per case, and more motions than the caseload as a whole or other non-target charge

*Hereafter all code section references, unless otherwise noted, will be to the Penal Code.

types. In addition, a far greater percentage of these cases reach Division 40, and about half as many are disposed of at the first Bauchet Street appearance. While these cases represent only about 10% of the terminations, they account for 25% of the trial verdicts. These findings are in agreement with previous findings by the Los Angeles County Research and Planning Unit.

About 61% of the defendants charged with assault are in custody when the complaint is filed (versus an overall average of only 48%). Eighteen percent are out on bail and the remainder released on their own recognizance.

TABLE B-8

COMPARISON OF SPECIFIC CHARGE TYPES

Most Serious Charge*	Median elapsed time, first Bauchet Street appearance to disposition	Plea Rate	Trial Rate	Percent Disposed of in Div. 40 or a trial Division	Percent Disposed of at First Bauchet St. appearance	Average number of appearances per case	Average number of motions per case
All cases	4 days	79%	2%	34%	43%	3.2	0.5
Assault and Battery	25 days	71%	6%	62%	20%	4.2	0.6
Assault on an officer	49 days	60%	7%	93%	0%	5.8	0.9
Narcotics	36 days	53%	2%	64%	11%	5.4	1.2
Petty Theft	same day	93%	1%	19%	58%	2.3	0.2
Prostitution	same day	92%	4%	20%	60%	2.7	0.2
All other	1 day	81%	2%	28%	49%	2.7	0.4

* See discussion in text for definition of cases included in each category.

2. Assaults with Officer Victims

This category includes only defendants charged with violating 148 P.C., 241 P.C., or 243 P.C. Only 15 of the 1749 cases sampled fit into this category, a much smaller number than expected. If the charge in such cases was 242 P.C. or 245 P.C. instead, the case would have been counted as an assault (see 1. above). Perhaps this is why so few such cases were found.

Since the sample of such cases is very small, not much can be said with reliability. Although they represent less than one percent of the total terminations, they account for 2.5% of the trials. Nearly all of them reach Division 40, where about a third are dismissed. They involve a large number of appearances and average more than twice as many motions per case. Almost half are in custody when the complaint is filed and one-third on bail.

3. Narcotics Cases

Cases were included in this category if at least one of the counts was a charged violation of 11350 H&S,* 11357 H&S, 11377 H&S, 11550 H&S, or 4230 B&P.** Marijuana cases were not included.

Narcotics cases are exceptional in a number of ways. Only 11% are disposed of at the first appearance and two-thirds reach Division 40. Other studies of Los Angeles data, particularly that of the Research and Planning Unit, indicate this varies with the specific type of violation charged. The trial rate is the same as for all cases, but the plea rate is only 53%, compared to 79% for all cases.

*"H&S" represents "Health and Safety Code."

**"B&P" represents "Business and Professions Code."

Another unusual characteristic is the large number of dismissals, 25% versus 13% for all cases. Even more significant, 54% of these dismissals come after the case is assigned to a trial division. This suggests that either the trial deputies are reaching decisions about the quality of evidence that might have been made earlier or witnesses are being lost at the last minute. These cases average 5.4 appearances, compared to 3.2 overall, and 61% of them have motions, averaging two motions per case.

Almost 30% of the cases where the defendant was out on bail at the time the complaint was filed involved narcotics offenses. Of all narcotics cases, 40% were on bail and 48% in custody when the complaint was filed. The relatively slow pace of narcotics dispositions is thus due to a number of factors, bail status, motions, evidence problems, etc.

4. Petty Theft

A case was placed in this sub-sample if at least one count against the defendant was an alleged 484 P.C. violation and there was no assault or drug charge. In sharp contrast to narcotics cases, petty theft cases require little court attention. Over half are terminated at their first appearance. The plea rate is extremely high (93%) and they average only 2.3 appearances per case, a low figure by comparison. This is despite the fact that they represent a full 20% of the terminations. More than one-quarter of the cases where the defendant is on field release at the time the complaint is filed involved petty theft, and a low percentage were out on bail.