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**IMPROVING ACCESS TO JUSTICE :
THE BEVERLY HILLS MUNICIPAL COURT
900 INFORMATION AND SERVICE LINE**

The Institute for Court Management
Court Executive Development Program
Phase III Project
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ACKNOWLEDGMENT

I owe a great deal of thanks to many individuals who have generously helped and supported me throughout my career. I begin by thanking and acknowledging the Judicial Officers and Court Administrator of the Beverly Hills Municipal Court for enabling me to participate in the Court Executive Program. I thank my mentor, Daniel Straub and the staff of the National Center for State Courts for steering me in the right direction and keeping me on course. I extend my appreciation to the cherished friendships that I have developed inside and outside of the court community, without whose help I could not have come this far. Most of all, I thank my husband Michael, who has been my friend, counselor, critic and source of strength throughout my educational and career endeavors.

ABSTRACT

The Red Light Camera Project is a program in which vehicles are photographed when they remain in the intersection after the traffic signal has turned red. Citations are automatically issued for any vehicle in the intersection after the light has turned red provided that the driver, license number and time of day is clearly photographed. Currently, the City of Beverly Hills has installed one camera in the Beverly Hills Judicial District at the intersections of Wilshire and Santa Monica Boulevards.

From January through March 1998, the Red Light Camera issued 9073 citations; an increase of 150% of the court's inventory. By December 1998, the City of Beverly Hills plans to add three additional cameras in the Beverly Hills Judicial District. At the current rate of increase, the Red Light Camera project may potentially increase the court's volume of traffic citations by 600%.

In an effort to address current and potential increases in traffic citations, the court must consider alternative methods of handling increased volume with current staffing while maintaining productivity and efficiency. In response to this task, the court considered a variety of programs to increase court access. The court needed a program that would provide court access and convenience to the customer while limiting unnecessary court appearances.

The court decided to institute a *900 Number Information and Service Line*. It was cost effective, it paid for itself, and it could be implemented, immediately. As the program progressed, it became apparent that a court 900 Number was more than just a matter of "flipping a switch". Employee policies and procedures needed to be developed (Appendix 1A&B), legal requirements and tariffs had to be addressed; not to mention the initial costs associated with implementing this type of program. In September 1997, the Beverly Hills Municipal Court 900 Information and Service Line became a reality. Unfortunately, once in effect, a program that was intended to provide convenience and increase public access to justice was met with strong public opposition. Customers began to condemn the program. The Los Angeles County Board of Supervisors and Beverly Hills Court administration received a variety of complaints regarding the cost of each call, the availability of 900 Number operators and telephone disconnections; even Judd McIlvain, Troubleshooter for CBS News telecast a report regarding paid telephone services. As such, the program was suspended in October 1997.

INTRODUCTION

Responsiveness to the public and local community has always been a priority for the Beverly Hills Municipal Court. The implementation of the Red Light Camera Project has doubled the volume of work in the Traffic Division, which has resulted in increased court appearances, traffic school requests, long lines in the Clerk's Offices and limited parking. In our effort to address these concerns, the Red Light Camera Project has posed new challenges to the court, specifically, *how do we address increased volume within the Traffic Division while maintaining current staffing without impeding access to justice and/or responsiveness to the public?* The Red Light Camera Project is a program in which vehicles are photographed when they remain in the intersection after the traffic signal has turned red. Citations are automatically issued for any vehicle in the intersection after the light has turned red provided that the driver, license number and time of day is clearly photographed. Currently, the City of Beverly Hills has installed one camera in the Beverly Hills Judicial District at the intersections of Wilshire and Santa Monica Boulevards.

The Red Light Camera Project issues approximately 300 citations per day. From July through December 1997, the Red Light Camera issued 7101 citations; an increase of 58% of the courts inventory. From January through March 1998, the Red Light Camera issued 9073 citations; an increase of 150% of the court's inventory. By December 1998, the City of Beverly Hills plans to add three additional cameras in the Beverly Hills Judicial District. At the current rate of increase, the Red Light Camera project may potentially increase the court's volume of traffic citations by 600%.

In an effort to address current and potential increases in traffic citations, the court must consider alternative methods of handling increased volume with current staffing while maintaining productivity and efficiency. In response to this task, the court considered a variety of programs to increase court access. A convenient drop box was installed outside of the Clerk's Office on the third floor, the doors are opened promptly at eight o'clock each morning, and pre-recorded telephone information was strengthened. In addition to these enhancements, the court needed a program that would provide court access and convenience to the customer while limiting unnecessary court appearances.

In response to this problem, the court considered installing an Automatic Teller Machine (ATM) or a Kiosk machine which would enable our customers to handle court matters outside the regular hours of operation. The court also considered conducting night court which would transition a portion of the daily case load to the evening hours one day per week. A satellite location would provide an alternate location to pay fines and request continuances. This would also assist in reducing the number of visitors to the Beverly Hills Municipal Court location. It was later determined that these alternatives were not feasible as short term goals and they presented other problems. ATM and KIOSK machines could not be considered for immediate implementation due to prior commitments and budgetary restraints. Night court and satellite locations raised issues of adequate staffing and security. Security guards and/or additional Sheriff personnel would be required to provide protection. The lack of adequate security would leave the court vulnerable to potential liability. As such, the court decided to institute a *900 Number Information and Service Line*. It was cost effective, it paid for itself, and it could be

implemented, immediately.

The methodology for determining community interest was to distribute a questionnaire to members of the public at the public counters in the various clerk's offices within the Beverly Hills Municipal Court. Once determined, meetings were conducted between court personnel, the Internal Services Division of the County of Los Angeles, Pacific Bell Telephone Company, Novus Network Services and Startel Systems to coordinate installation, programing and billing services. Notices were posted throughout the court facility indicating the date of implementation. Mailers were attached to notices and outgoing correspondence, and the pre-recorded telephone information message was modified to introduce the 900 Number.

As the program progressed, it became apparent that a court 900 Number was more than just a matter of "flipping a switch". Employee policies and procedures needed to be developed, legal requirements and tariffs had to be addressed; not to mention the initial costs associated with implementing this type of program. In September 1997, the Beverly Hills Municipal Court 900 Information and Service Line became a reality. Unfortunately, once in effect, a program that was intended to provide convenience and increase public access to justice was met with strong public opposition. As such, the program was suspended in October 1997.

Due to the termination of the program, this manual cannot discuss the Beverly Hills Municipal Court 900 Information and Service Line, as intended. This manual does however, discuss the issues which affected the implementation of the Beverly Hills Municipal Court 900 Information

and Service Line, as well as those issues which should be considered by any court, prior to implementing this type of program. It is my hope that this manual will provide foundational considerations which may cause future programs to achieve success and a higher level of support from the clients that we serve.

NEEDS ASSESSMENT

The Beverly Hill's Municipal Court is a small jurisdiction staffed with 35 employees assigned to the Civil, Small Clams, Criminal and Traffic divisions: four in Criminal, five in Civil, two in Small Claims and eight employees in the Traffic Division. Of the eight employees who are assigned to the Traffic Division, two of the employees are assigned to the public counter and one is assigned to the scanning station, leaving five employees to perform desk assignments and respond to all of the telephone inquiries. During court call and peak periods, additional employees are required to leave their work stations to assist at the public counter or to generate citation files to be forwarded to court. When this occurs, one employee is left to address all of the incoming telephone calls. In spite of these efforts, the public consistently requests that additional personnel be assigned to address their needs at the public counters. Employees express their need to concentrate on their specific assignments and fear of falling behind on their work.

In addressing this need the court considered implementation of a 900 Information and Service Line. It was the court's opinion that a 900 line would address the following concerns:

- The 900 number would focus calls to specific operators thereby limiting all of the remaining staff's need to answer telephones while providing more time to address other tasks.
- The 900 number would provide an additional service to the public because it would provide an alternative method for handling citations from any location.
- The 900 Information and Service Line would be cost effective because the customer

would not incur additional costs; the fees for the 900 number would supplant the four dollar parking fee generally paid by the customer during court visits.

- The 900 Information and Service Line would comply with Trial Court Performance Standard; Access to Justice, because it considers the community we serve as well as the issues that are important to that community: convenience, parking considerations, the physically disadvantaged, and affordable costs.

The Trial Court Performance Standards and Measurement System (TCPS) sets forth standards of performance for trial courts in five performance areas: Access to Justice; Expedition and Timeliness; Equality, Fairness and Integrity; Independence and Accountability; and Public Trust and Confidence. These standards are intended to act as a useful set of tools for conducting self-evaluation and for determining improved methods of providing service to the public. For the purpose of this report, we will focus on performance standard; *Access to Justice*.

Achieving *Access to Justice* requires the courts to be open and accessible to the public while eliminating unnecessary barriers to their services. TCPS encourages the court to make its facilities safe, accessible, and convenient to use; not only for members of the public who have legal representation, but also for those who cannot afford an attorney or have become part of the court process in their role as litigant, juror, victim, witness or family member. When the court considers *Access to Justice*, it must also consider the financial and procedural barriers which may impede that access. For example, when developing policy and procedure, the court must give careful consideration to ensure that fees and established procedures are fair and reasonable.

Perception plays an important role in the courts effort to provide *Access To Justice*. As a result, the court must be concerned with *Public Trust and Confidence*. This is best described in the epigram, "*Justice should not only be done but should seem to be done*". The court must not only be perceived by the public as accessible, the public must believe that the trial courts conduct business in a timely, fair, and equitable manner and that court procedures and decisions have integrity.

The Trial Court Performance Standards (TCPS) establishes the goals and responsibilities that each court must consider while meeting its obligation to be fiscally responsible and responsive to the public. Unfortunately, with current funding, these goals are sometimes conflicting. The court is consistently challenged to do more with less and encouraged to initiate innovative programs for those who are willing and able to participate in them while regarding those customers who cannot afford a portion of the cost of initiating these programs.

While being responsive to the needs of the public, the court must also be responsive to the employees who perform the work each day. Courts must establish cost effective and innovative methods of redirecting the work so that all areas may be addressed and to enable the employees some relief in addressing high priority assignments, instead of consistently piling on more and more work to meet the increased demands. It is unrealistic not to establish some criteria for addressing these problems. Although everyone's problem is of high priority to them, a separation of tasks may be required to ensure that everyone has the means to address the issues that surface daily.

In an effort to meet these conflicting demands, the Beverly Hills Municipal Court faced the following question: How can we provide our customers additional access to the court conveniently, while providing our staff increased time to address priority assignments without negatively impacting productivity?

THE DEBATE

The use of 900 Information and Service Lines has come under some scrutiny in the courts. Does a 900 Information and Service Line enhance or diminish Access to Justice? A primary criticism associated with 900 service in the courts is *cost*. Access to Justice is intended to provide and enhance services to the public, specifically those that are less fortunate or indigent. The argument has been that because there is a cost associated with 900 number service, it is not affordable or accessible to the indigent. Government Code Section 77211, is the authorizing legislation for 900 Information and Service Numbers in the court; it provides;

“Any trial court may establish a “900” telephone number or numbers for traffic, misdemeanor, and other telephonic arraignment, for court scheduling, and for rendering tentative civil decisions, provided the court provides an alternative method of obtaining the service or information in a free and timely manner, and informs individuals of this alternative in the message preceding the “900” information. The proceeds from these “900” telephone numbers shall be continuously and solely appropriated to the use of that court for staff, information, and data-processing services for the purposes specified in this section”.

It appears by G.C. Section 77211, that it is unrealistic to assume that a court can address every need of the public without incurring and/or transferring a portion of the costs for implementation to the user. It addresses this flaw by requiring a court to provide a cost free alternative to the public for the same services provided through the 900 Information and Service Line. If a court deliberately ignores opportunities to implement or enhance technology which may be affordable to a portion of the public, the court fails in its efforts to attain access to justice because it ignores that portion of society that can afford to pay for the added convenience that such a program provides. Further, failing to consider a 900 number solely on your inability to address all of

society contradicts Trial Court Performance Standards and California Judicial Council Goal III, Modernization. Goal III of the California Judicial Council's Long Range Strategic Plan encourages the courts to modernize judicial administration practices and to increase the use of technology to improve case processing and the dispensation of justice. Goal III of the Judicial Council Goals and Policy Directions specifically states that comprehensive programs should be developed to improve court ordered compliance and the collection of fines, fees and forfeitures.

The Benefits of a 900 Service Line:

A 900 Information and Service Lines provides for the expedient processing of traffic matters. Fines, fees and continuances may be processed more expediently and conveniently because the customer is not required to personally appear at a court facility. The convenience of conducting court business via telephone will ultimately reduced the amount of foot traffic within the court location and parking congestion. In some cases there is no added cost to the customer because costs which would have been incurred by the customer to park at the court location may be supplant the cost of using the 900 service. The revenues resulting from a 900 service line provides for the expansion and enhancement of the services provided through the 900 number.

In addition to the benefits afforded to the user, a 900 Information and Service Line provides additional benefit to the court. Decreased numbers at the public counters will enable court employees to focus their energies on those individuals who find it necessary to appear in court. It may also provide additional time to address high priority assignments. Shorter lines may also reduce the level of frustration felt by the customers who are waiting to be assisted as well as

those employees who are assigned to assist at the public counters. This reduced level of frustration felt by our customers will reduce the number of complaints posed by our customers while increasing confidence in the court.

Payments that are generated through the 900 Information and Service Line increase internal controls and support accounting practices. Payments generated through the 900 Information and Service Lines are primarily made using an approved credit card which is authorized by the credit card company (Discover, MasterCard, Visa). By securing prior authorization for each transaction, the credit card company takes full responsibility for the transaction, thereby reducing potential loss to the court as a result of stolen and/or bad checks.

The disadvantages of a 900 Information and Service Line:

The most obvious disadvantage of a 900 Information and Service Line is that it cannot meet all of the needs of every customer. For example, American with Disabilities Act (ADA) considerations may surface when you consider that a 900 Information and Service Line is unable to address those individuals who have special needs. Although the initial cost to implement a 900 Information and Service Line is minimal, approximately \$1500 for your initial service connection. If found in violation of ADA requirements however, fines and penalties could far exceed the amount of revenues collected.

Another potential disadvantage of a 900 Information and Service Line is the issue of staffing. Because the 900 Number is intended to be a service and convenience to the customer, adequate

staffing is imperative. Failing to assign adequate staffing to handle incoming calls will ultimately subvert the primary objective of the 900 program.

SURVEY: DETERMINING FEASIBILITY

In an effort to determine community interest and support of a 900 Information and Service Line, the Beverly Hills Municipal Court developed a survey (Appendix 2A) designed to determine specific criteria: public interest and support of a 900 Information and Service Line; how much the user would be willing to pay for 900 service; what services the users would like the 900 service to provide; the types of credit cards most frequently used, and what area of law the user believed the 900 number would best serve. These surveys were distributed at the public counters located in the Civil, Small Claims, Criminal and Traffic Divisions.

Fine and fee payments through a 900 service are currently limited to Discover Card only.

However, only eight percent of the survey responses expressed interest in using Discover Card. Although Visa and MasterCard have not yet been approved by the Auditor Controller's Office for 900 use, eighty-two percent of the surveys listed Visa and MasterCard as their preferred choice. Of that eighty-two percent; forty-four percent requested Visa Card access while thirty-eight percent of the responses expressed interest in using MasterCard.

Of the two hundred surveys that were distributed at the public counters; eighty two percent of the responses were in support of implementing a 900 Information and Service Line. An analysis of the returned surveys (Appendix 2B) also determined that forty-three percent were willing to pay five dollars per phone call; that twenty-seven percent would use the 900 Information and Service Line for payments, twenty-six percent would use the service to sign up for traffic school, twenty-

two percent would use the service for general information and twenty-one percent would use this service to schedule hearing dates.

In alignment with Government Code Section 77211, which authorizes the courts to establish a 900 telephone number, responses demonstrated that fifty-two percent of our users felt that traffic would be the best area of law to benefit from a 900 Information and Service Line. Surprisingly, twenty-three percent of the responses listed an interest in utilizing the services of a 900 number in Small Claims.

ANOTHER SUCCESS STORY

A recognized success story of 900 Information Service was realized and spearheaded by Tim Aguilar, Executive Officer of the Administratively Consolidated Municipal Courts. The Administratively Consolidated Municipal Courts (ACMC) are comprised of the Compton, Downey, Los Cerritos, South East, Whittier, Santa Anita, and East Los Angeles Municipal Courts.

Through a joint effort, the ACMC Municipal Court Traffic Information Line was initiated in September 1995. Staffed with live operators who are centralized in one court location, this service provides information and payment options to customers within five of the ACMC Judicial Districts. This program enables customers to post bail, enroll in traffic school, obtain citation information and obtain payment extensions by credit card. The fee is ninety-five cents per minute and the service may be accessed weekdays between the hours of 8:00 a.m. and 7:00 p.m.

The 900 Traffic Information Line has benefited both the customer and the participating ACMC Courts. By using experienced clerks to provide 900 service, customers speak to knowledgeable clerks who are trained to respond to complex questions and concerns. The service line provides extended hours of operation enabling customers to call anytime within an eleven hour period, Monday through Friday. The 900 service has also encouraged a uniform level of service to the customer through standardization of court rules and policies. By centralizing the location of 900 service operators, this service has increased efficiency and productivity at the various court

locations. By focusing payments and services through the 900 service line, fewer employees are assigned to telephone stations within each court location. Employees can now focus their energies on other tasks without constant telephone interruptions. Most importantly, 900 service has reduced the amount of foot traffic within the court locations while enabling the clerks to extend their undivided attention to those customers who continue to handle court business in person.

As a result of their efforts, the ACMC Courts 900 Information and Service Line received a 1996 Los Angeles County Quality and Productivity Award. At the time the award was presented, the ACMC had generated over \$67,000 in revenues from 38,000 calls. ACMC continues to enhance their 900 program. A cumulative total of revenues generated from September 1995 through December 1997 reflect revenues approximating \$205,773. Pursuant to Government Code Section 77211, the proceeds from the 900 telephone numbers are to be used for 900 number staff, information and data processing services.

Enhancements to the already successful program are anticipated in June 1998 when the ACMC Traffic Information Lines will introduce Interactive Voice Response (IVR). The IVR feature will not only enable the system to assist more callers; it will extend 900 service access to the customer twenty-four hours a day using fewer operators. In addition, the Los Cerritos Municipal Court will be piloting a feature which will enable customers to make partial payments on court ordered fines and fees, and schedule court trial through the 900 service (Appendix 3A).

BEVERLY HILLS 900 NUMBER PROGRAM

In preparation of the Beverly Hills Municipal Court Information and Service Line, the court held numerous meetings with various members for the Los Angeles County Internal Services Division, Pacific Telephone Company, Startel Telecommunications Systems, and Novus Services Inc. These meetings enabled the court to determine need, identify areas of responsibility and establish deadlines. As a result of these meetings, the court was able to assign staff, identify Discover Card terminal locations, establish telephone schedules, and modify the pre-recorded telephone information script (Appendix 3B). Signs were posted and mailers were sent out with court correspondence to provide ample notice to our customers (Appendix 3C).

During the period of September through October 1997, the Beverly Hills Municipal Court 900 Information and Service Line received 1921 incoming calls (Appendix 4). Of these calls, 1469 were billable. The average length of each call was 2.01 minutes. Revenues earned from the 900 Information and Service Line during this period was \$3,169.09 while expenses incurred during this two month period was \$1,920.73, resulting in a net revenue of \$1,248.36.

In spite of the apparent ability of the Beverly Hills Municipal Court 900 Information and Service Line to generate revenues; our information and service line faced many challenges. A primary difficulty to the success of our program was our current telephone information system:

STARTEL. The STARTEL telephone systems is designed to distribute telephone calls through an Automatic Call Distributor (ACD) which distributes calls equally among the operators who

have logged on. Difficulties with the STARTEL System included the untimeliness and delayed response time to service requests; line capacity and switch delays that occur when the system is moving between systems. Although switch delays are not visible to the naked eye, the delays can result in loss of revenues to the court due to timing delays and the transfer of information and compliance with FCC mandates.

For example, a 900 Information and Service Line requires that the following information be provided to each caller at the time the call is being made: 1) that they have reached the paid service line, 2) the rate of billing, 3) how long they have to hang up before being charged, 4) that the caller must be eighteen years of age or have their parents consent, and 5) that the charges will appear on their parents monthly telephone bill. This message must be delivered within eighteen seconds after the call has been connected (Appendix 5).

Other considerations which had to be contended with when implementing our program included telephone blocks. Businesses frequently install telephone blocks on their business phones to protect the company from unauthorized toll and long distance calls. When implementing a 900 Information and Service Line consideration must be given to business to business communications where a telephone block may have been installed.

Long distance calls, toll calls, international calls, and service carriers must also be considered. For example, in the State of California, the two primary service carriers are General Telephone Company (GTE) and Pacific Bell Telephone (PacBell). Although Pacific Bell provides 900

service access, GTE does not. This must be considered if a court conducts a high percentage of long distance, toll and international calls because these calls generally require the assistance of two or more telecommunications companies. As a result, the court must consider the percentage of calls which may originate from another state or country and may wish to secure 900 international service at a higher cost to the court.

By October 1997, our customers began to accept and enjoy the convenience of our 900 Number program however, reduced staffing as a result of promotional opportunities and persistent programming difficulties commanded terminating the program.

EVALUATION AND RECOMMENDATIONS

A 900 Information and Service Line can be of benefit to many courts. It is important however, to design a program specifically for your court and local community. The success of your 900 Information and Service Line is contingent on the following factors:





- Secure the support of your Bench and your staff. Keep them informed and encourage their participation. Oftentimes, employees can identify the issues that may inhibit the success of your program.
- Get community support. Secure information from your customers which will assist you in designing your 900 Information and Service Line. Surveys can assist you in determining reasonable fees, hours of service and service areas which will enhance support of your program.
- Evaluate the types of calls your court receives. Alternative communication methods must be developed to address business to business communications and possibly long distance, toll and international telephone calls.
- Give extensive notice to your customers prior to implementing your 900 Information and Service Program. This may be achieved through flyers, notices in local newspapers, modification of courtesy notices and pre-recorded voice mail messages.
- Monitor your program. By maintaining statistical information and record keeping you will be able to identify trends and problems, determine revenues and select enhancements to your program. This will also enable you to respond promptly to criticisms, encourage support for your program, enhance your system as needed and correct problematic areas

expediently.

- When choosing 900 Number representatives, select knowledgeable employees with strong interpersonal skills. These employees have the ability to reduce errors and processing delays while promoting confidence in the court.

In my opinion, the most valuable lesson that I have learned from the Beverly Hills experience is that involvement is key. In our efforts to become "consumer friendly" we must view our operations as users and secure the commitment of all concerned parties from the bench to line personnel. Change is inevitable and acceptance is easier if parties are involved in the planning and development stages of any program. Customers, consumers, and service providers are more disposed to support a program in which they have contributed to its evolution.

APPENDIX

BEVERLY HILLS JUDICIAL DISTRICT POLICY AND PROCEDURES ACCOUNTING	Number	Page 1 of 7
	Approved by:  Title: 	
Subject: DISCOVER CARD ACCEPTANCE	Approved by:  Title: 	

1.0 INTRODUCTION

- 1.1 The Discover Card acceptance system consists of an authorization terminal and printer located in the Clerk's Office (Room 300). This terminal will be operated and maintained by the cashiers/clerks of the Clerk's Office.

2.0 PURPOSE

- 2.1 The Discover Card acceptance system enables customers to pay court bail, fines and fees using their Discover Card over the counter. This will allow and encourage customers to pay the total amount owed on cases with credit as well as securing payment for the Courts.

3.0 POLICY

- 3.1 The Discover Card acceptance system will be used only by authorized individuals designated by the Court Administrator. A listing of authorized individuals will be maintained by the Accounting Unit.

3.2 Cashiers/Clerks will request a valid driver's license for identification purposes from a Cardmember presenting payment. Payment (full or partial) may be accepted from a valid Discover Cardmember to pay for fines and fees on behalf of another party.

3.3 Cashiers/Clerks will not process cash advances to the Cardmember. Payments shall be the exact amount of the transaction, plus the applicable transaction fee.

3.4 Cashiers/Clerks are not allowed to process credit returns or chargebacks. Chargebacks are payments refunded to the Cardmember and will be handled by the Bookkeeper.

NOTE: A Discover Card authorization can only be cancelled within eight (8) days after the transaction occurred, otherwise the payment will be charged on the Cardmember's account.

3.5 Cashiers/Clerks will not retain any documents bearing a Discover Card account number and expiration date. Once all documents are submitted to the Bookkeeper, they will be stored in a secured, locked drawer.

3.6 Transaction fees collected by the Court will offset transaction fees charged by Discover Card on a monthly basis.

3.7 A monthly transaction fee will be deducted from the Court's applicable Countywide Accounting and Purchasing System (CAPS) account #9267, Installments/Accounts Receivable. The Court's account will be charged by a (negative) Deposit Permit as a result of an Automated Clearing House debit to the Treasurer and Tax Collector's designated bank account.

4.0 CASHIERS/CLERKS PROCEDURES

4.1 If a customer wants to use their Discover Card to make a payment, the Cashier/Clerk must first advise the customer that there will be a nominal cost based on the published Discover Transaction Fee Schedule. Upon the customer's acknowledgement of the fee, the Cashier/Clerk can proceed with the transaction.

The transaction fee will be rung on the Cashmaster as "DISCOVER FEE."

- 4.2 Applicable fees will be included in the total amount of the transaction and charged to the customers based on the Discover Transaction Fee Schedule.
- 4.3 Discover Transaction Fee Schedule:

Discover Card Per Transaction Pricing	
Transaction Sales Amount Minus Transaction Fee	Discover Transaction Fee
\$0.01 - \$49.99	\$0.50
\$50.00 - \$199.99	\$1.00
\$200.00 - \$399.99	\$2.00
\$400.00 - \$699.99	\$3.00
\$700.00 - and up	\$5.00

- 4.4 Cashiers/Clerks will follow instructions provided by Discover Card as to payment transactions either by hand keying the card number or swiping the card (see Attachments A & B). Identification numbers (cashier's password) will be assigned to each authorized cashier/clerk in order to conduct Discover Card transactions. When swiping the card, cashiers/clerks will make sure the Discover Card embossed account number matches the card number that is displayed on the terminal. If the two card numbers do not match, the Discover Card will not be honored and a call will be placed to the Discover Authorization Center for instructions. The Authorization Center telephone number is (1-800-347-0451). If the card numbers do not appear on the Terminal's screen, a call will be placed to the Discover Card Help Desk representative or the Treasurer-Tax Collector for assistance.
- 4.5 Cashiers/Clerks shall ring the Discover Card transactions in Cashmaster **ONLY** after the following has occurred:
- * Authorization has been obtained and recorded on the receipt.
 - * A valid Driver's License or Identification Card has been presented.

- 4.6 Cashiers/Clerks shall request the customer to sign the credit card receipt and compare the signature on the card to the signature on the receipt prior to returning the card to the customer. The original credit card receipt will be retained by the Cashier/Clerk and kept in the cash drawer. The yellow copy will be handed to the Cardmember along with the Cashmaster receipt. The original card receipt will be retained by the Court for auditing purposes for seven years. The original card receipts will be filed by the Bookkeeper in chronological ascending order. The card receipts will be serialized by numerical order per day, and will be stored in a limited access location, accessible only by the Bookkeeper and the Administrative Assistant.
- 4.7 Cashiers/Clerks will notify the Bookkeeper in the event a transaction needs to be voided after authorization was obtained. Void transactions are permitted only if the "Batch Total" has not been transmitted. In the event a "Batch Total" has been transmitted, then a "Return Credit" must be performed on the terminal by the Bookkeeper.
- 4.8 If a security alert message appears on the terminal display while processing a transaction, cashiers/clerks will notify the division supervisor to immediately call the Authorization Center (1-800-347-1111) to ask for a "Code 10" authorization. The Authorization Center will direct the supervisor as to the course of action to be taken.
- 4.9 In the event a reward is given for confiscating a stolen credit card, the reward money shall be made payable to Beverly Hills Municipal Court, and said payment to be made directly to the Court.
- 4.10 For additional assistance regarding Discover Card, a supervisor can call:
- For Terminal assistance:
Terminal HELP DESK at 1-800-347-3375
- For Authorization assistance:
Authorization Center at 1-800-347-1111
- All other Discover Card assistance:
Merchant Relations at 1-800-347-0433

5.0 RECONCILIATION

5.1 The Bookkeeper will print the individual cashier's CSDAY Report from Cashmaster at the end of each day. The CSDAY Report will include Discover Card transactions which will be used to verify transactions made through the Discover Card terminal.

5.2 Cashiers/Clerks will balance their total collections (cash, checks, money orders, and Discover Card receipts) and prepare the balance slip. The division supervisor should reconcile and verify the cashiers/clerks total collections with the CSDAY Report. If the total collections agree with the CSDAY Report, the Bookkeeper will approve all collections (including Discover Card receipts). If these two totals do not agree, the Bookkeeper will research and correct any discrepancies. Discover Card voids or credit returns will be processed by the Bookkeeper.

Told D.J. About the Error

5.3 Adjustments will be handled according to the Treasurer-Tax Collector Discover Card operating procedures. The procedures will be maintained by the Bookkeeper (see Attachment D).

5.4 At the end of the day, the Bookkeeper will review and print a Discover Card detail total report by performing the following steps on the Discover Card terminal:

(press) 40
(press) FUNC/ENTER
(press) 0 (to print totals)

The Discover Card detail total report printout will be removed from the terminal for the Bookkeeper's balancing purposes at the end of the business day. This will be filed and stored in a limited access location, accessible only by the Bookkeeper and designated Administrative Services personnel.

5.5 At the end of the business day, the Bookkeeper will compare the Discover Card detail total report with the CSDAY Report from Cashmaster. The total amount printed on the Discover Card detail total report will be verified against the total amount shown on the CSDAY Report. Both of these totals must equal prior to "Transmitting a Batch".

5.6 If the totals from Cashmaster's CSDAY Report and the Discover Card detail total report are in agreement, the Bookkeeper will "Transmit A Batch" for processing by Discover Card for that transaction date (A "Batch" is the total number of credit slips grouped together). If these two totals do not agree, the Bookkeeper will research and correct discrepancies before transmitting a batch.

5.7 Transmitting batches will only be done by the Bookkeeper. An alpha-numeric password will be assigned to the Bookkeeper for security purposes and to ensure against unauthorized use of the batch function. The alpha-numeric password will be changed every six months.

5.8 The Bookkeeper will transmit batches by performing the following steps on the Discover Card terminal:

(press)	7 (enter password)
(press)	FUNC ENTER (Terminal will display TOTALS)
(press)	FUNC ENTER (Terminal will display CONFIRM 0=Y, 1=N)
(press)	0 (to confirm and begin transmission) The Discover Card terminal will print the batch slip.
(press)	Clear

5.9 After transmitting the batch and all transactions are cleared from Discover Card terminal,







(press)	FUNC ENTER
(press)	40 (the terminal will display "Print? 0=Y, 1=N")
(press)	0 (to print the batch report with "Zero" totals)

The terminal will display "BA 0.00 0" which indicates that all totals have been transmitted.

5.10 The Bookkeeper will account for all the daily batch slips. The total amount collected by all Discover Card terminals per daily batch slip including batch reference number will be recorded on a separate ledger. This ledger will be used to reconcile against the Merchant Daily letter sent by Discover Card and the Deposit Permit sent by the Treasurer-Tax Collector (See Attachment C).

5.11 The Bookkeeper will reconcile the monthly transaction fee (per Cashmaster's CSDAY reports) with the merchant monthly statement sent by Discover Card and to the transaction fees charged to the Court's CAPS Account.













ATTACHMENT A

DISCOVER		Terminal Quick Reference Guide How to Make A Sale
1	<ul style="list-style-type: none"> Press  	SALE (displays for 1 second) ENTER CARD
2	<ul style="list-style-type: none"> Slide credit card through cardreader (magnetic stripe on card facing stripe label on terminal) 	AMOUNT OF SALE?
3	<ul style="list-style-type: none"> Key in amount of sale without decimal point Example: 100 Press    Press  	1.00 PLEASE WAIT ... DIALING WAITING FOR ANSR. CONNECTED TRANSMITTING RECEIVING APPROVAL XXXXXX
4	<ul style="list-style-type: none"> Press  	IDLE PROMPT

HELP DESK
1-800-347-3375

VOICE AUTHORIZATION
1-800-347-1111

ATTACHMENT B

DISCOVER		Terminal Quick Reference Guide HOW TO MAKE A SALE
1	<ul style="list-style-type: none"> Press  SALE 	SALE (displays for 1 second) ENTER CARD
2	<ul style="list-style-type: none"> Key in account number Example: 6011 0000 0000 0000 Press  	6011 0000 0000 0000 EXPIRY DATE MMYY
3	<ul style="list-style-type: none"> Key in expiration date on front of card Example: 07/91 Press     Press  	0791 AMOUNT OF SALE?
4	<ul style="list-style-type: none"> Key in amount of sale without decimal point Example: 1.00 Press    Press  	1.00 PLEASE WAIT ... CALLING WAITING FOR ANSW. CONFIRMED TRANSACTION RECEIVED APPROVAL XXXXX
5	<ul style="list-style-type: none"> Press  	IDLE PROMPT

HELP DESK
1-800-347-3375

VOICE AUTHORIZATION
1-800-347-1111

DISCOVER CARD LEDGER

1

[illegible]

ATTACHMENT D

DISCOVER CARD OPERATING REGULATIONS

1001 Merchant Service Calls

A Merchant Service Center will be staffed to handle all inquiries, including information regarding Discover Card supplies, from 8:30 AM to 5:00 PM Eastern Time, Monday thru Friday, on all business days (legal holidays excluded).

1002 Discover Card Logo

The Merchant will properly display the appropriate Discover Card logo on promotional materials provided by Discover Card Services, Inc. ("Card Services") to inform the public that the Discover Card will be honored at the Merchant's place(s) of business. Use of decals, signs, printed and broadcast materials which bear the Discover Card logo must comply with the specifications provided to the Merchant. The Merchant may use the Discover Card logo or the Discover Card name or representations thereof, on promotional, printed or broadcast materials only to indicate that the Discover Card is accepted for payment and shall not directly or indirectly indicate that Card Services or Greenwood Trust Company endorses any goods or services other than services relating to the Discover Card or provided by Card Services.

1003 Altered and Counterfeit Cards

Merchant employees should be familiar with the appearance of a valid Discover Card and must check each Card presented for signs of counterfeiting or alterations. Sales transacted with cards which in appearance are obviously invalid are subject to chargeback. Merchant employees should exercise reasonable care in checking each Card.

1004 Preparation of Sales Slip and Credit Slip

The Merchant will use a suitable device to legibly imprint on each sales draft (hereinafter referred to as "sales slip") and credit voucher (hereinafter referred to as "credit slip") the embossed information from the Discover Card and from the Merchant's slip and will fully complete the sales slip or credit slip.

The Merchant shall provide the Cardmember with a completed copy of the sales or credit slip, as applicable, at the time of each completed Discover Card transaction. For transactions that are data-captured using POS Terminal s and/or where a Card imprint is not obtained, the Merchant will include the following information on the Cardmember's copy of the sales or credit slip:

1. The Cardmember's Account number.
2. The Merchant's name.
3. The description of merchandise or service purchased.
4. The total amount of the transaction (including sales tax and/or tip).
5. The transaction date.
6. For credits, original sale date and reason for refund.

1005 Authorization Requirements

Card Services will provide Authorization service to its Merchants located within the United States and its territories. Card Services will maintain its Authorization Center open for business 24 hours per day, 7 days per week.

A Merchant must obtain Authorization from the Authorization Center for transactions at or above its assigned Floor Limit or as otherwise required in these Operating Regulations or its Merchant Services Agreement with Card Services.

To obtain Authorization of a sales transaction, the Merchant must provide Card Services with:

1. The Cardmember's Account number.
2. The Merchant's Account number.
3. The total amount of the transaction (including sales tax and/or tip).
4. The expiration date on the Card.

The approval code must be entered in the appropriate box on the sales slip.

1006 Authorization Floor Limit

Card Services will assign maximum Floor Limits for its Merchants. If a Merchant accepts a sale at or above the assigned Floor Limit without authorization, the Merchant does so at its own risk. The Merchant should not construe the assigned Floor Limit as a guarantee against potential chargeback. Any infraction of the Floor Limit policy shall be for the total dollar amount of the transaction and not only the portion over the assigned Floor Limit.

1007 Request for Cancellation of Authorization

If a Merchant or a Cardmember cancels a sales transaction prior to its completion and an Authorization was previously obtained for such a sale, the Merchant should call the Authorization Center and request a cancellation of such an Authorization.

An Authorization can only be cancelled within eight days of when it occurred.

1008 Delayed Delivery Purchases

The Cardmember must agree to separate sales slips in a delayed delivery purchase. Authorization is required if both sales slips combined exceed the Merchant's assigned Floor Limit. If required, a separate Authorization number for each sales slip must be obtained. The Merchant shall identify this type of purchase by writing the words "deposit" or "balance," as applicable, on the sales slip. The sales slip labeled "balance" may not be remitted and processed until after the goods or services are delivered.

1009 Use of the Warning Bulletin

When applicable, Card Services will place selected accounts on the Discover Card Warning Bulletin. A Merchant selected to receive the Warning Bulletin must check the most current issue for each transaction under its assigned Floor Limit. If a Card bearing an account number listed on the Warning Bulletin is accepted for a purchase, the resulting transaction is subject to chargeback.

When presented with a Discover Card bearing an account number listed in the Warning Bulletin, a Merchant employee should follow these procedures:

1. Do not complete the transaction.
2. Call the Discover Card Authorization Center. Advise the operator that the account number is listed in the Discover Card Bulletin and await Security Department instructions.
3. If instructed to retain the Card, do so, but only by peaceful and reasonable means.

The Warning Bulletin is published on a regular basis as deemed necessary by Card Services. Publishing schedules provide for delivery prior to the effective date of the Warning Bulletin. The Merchant should not destroy a current Warning Bulletin on hand until receipt of the updated issue.

If a Merchant has not received an updated issue of the Warning Bulletin as scheduled, and has not been notified by Card Services of a delivery delay, the Merchant must contact Card Services at its toll-free number, 1-800-347-2000, for a replacement. Chargebacks disputed because of non-receipt of Warning Bulletins will be considered only if record of proper notification from the Merchant is on file with Card Services.

1010 "Code 10" Alert

A Merchant employee who is suspicious of the validity of a Discover Card or the presenter of the Card for any reason should notify the Authorization Center via the "Code 10" Alert. The "Code 10" Alert can be used regardless of the dollar amount of the sale, or the Merchant's assigned Floor Limit. The simple procedure is as follows:

1. Call the Authorization Center (1-800-347-1111) and ask for a "Code 10" Authorization.
2. The Authorization Center operator will request the Cardmember's Account number and the Merchant's name and account number and will immediately alert the Security Department.
3. Security Department personnel will ask a brief series of Yes or No questions about the Card or the presenter, and may ask the Merchant employee to attempt to obtain confirming I.D. from the presenter.
4. If the Security Department is able to confirm the identity of the presenter as a valid Cardmember or authorized user of the Card, approval for the sale will be given and the presenter will not be aware that anything unusual has transpired.
5. If, on the other hand, the Merchant employee is instructed to retain the Discover Card, do so, but only by peaceful and reasonable means.

1011 Arrests for Fraudulent Card Usage

Card Services through its Security Department may request the Merchant to cause the arrest of a Card presenter who is suspected of fraudulent use of a Card. The Merchant shall use reasonable, lawful means when complying with such a request.

Anyone arrested for fraudulent use of a Discover Card will be appropriately prosecuted. Except as provided below, Card Services shall bear all responsibility for the arrest of a person when Card Services has requested the Merchant to cause such an arrest.

It is the expectation of Card Services that a Merchant will not initiate an arrest of a Card presenter except at the request of Card Services. A Merchant that causes the arrest or prosecution of any person for the use of a Discover Card without the specific request and authorization of Card Services or fails to use reasonable, lawful means in effecting an arrest that has been requested and authorized by Card Services, will bear all claims, liabilities, costs, and expenses resulting from such arrest or prosecution.

1012 Reward Program/Recovered Discover Cards

A Merchant qualifies for a \$25 reward when, upon instructions from Card Services, it recovers and returns to Card Services an unexpired Card which appears in the current Warning Bulletin or is contained in the Negative File.

A Merchant qualifies for a \$50 reward when, upon its own initiative, it alerts Card Services of a suspicious card or transaction via the "Code 10" Alert (see "Code 10" procedures), and is instructed by Card Services to recover an unexpired Card that does not appear in the Warning Bulletin or is not contained in the Negative File, and recovers and returns such a Card to Card Services.

Card Services will keep a record of all requests to recover Cards, indicating if the Merchant qualifies for a reward of \$25 or \$50. To claim a reward, a Merchant must return the recovered Card, cut in half, along with the Merchant's name, account number and mailing address to:

Discover Card Services, Inc.
Attn: Dept R
P.O. Box 28545
Columbus, OH 43228-0545

Upon receipt of the reward request, Security Department personnel will verify that a reward is due and forward all verified requests to the Security Manager for approval.

All rewards will be paid to the Merchant, unless otherwise agreed upon.

Rewards are paid only upon recovery of a Card in the course of its attempted use at a Merchant location and upon instructions from Card Services to recover the Card. No rewards are paid for the return of Cards lost or left at a Merchant location, or Cards found by citizens or police officers that have been lost or misplaced by Cardmembers.

1013 Remittance of Sales Slips and Credit Slips

Except for delayed merchandise delivery (See 1008), the Merchant will batch and submit all sales and credit slips to Card Services within seven calendar days of the transaction date or such shorter period of time as specified in the Merchant Services Agreement with Card Services. In remitting such data to Card Services, the Merchant shall provide Card Services with the location (City/State) of each transaction. Each Merchant batch should contain no more than 200 sales and/or credit slips and be accompanied by a Merchant Batch Transmittal Form. For sales data submitted electronically, it is recommended the number of detail records should not exceed 600 per batch.

1014 Credit Issued for Returned Merchandise and Adjustments

When merchandise or services originally purchased with the Discover Card are returned for refund, the Merchant shall not make any cash refund but shall promptly deliver a credit slip. The refund or adjustment amount indicated on the credit slip may not exceed the original Discover Card transaction amount.

1015 Payments

Merchants are not allowed to receive or process any monies representing a Cardmember's payment to Card Services.

1016 Chargeback Reason Codes – Immediate

Transactions violating the rules and regulations as established in these "Operating Regulations" will be subject to immediate chargeback for the following reasons:

Code	Definition	Explanation
CW	Card on Warning Bulletin	Discover Cardmember Account appeared in the Warning Bulletin at the time of the transaction and an authorization was not granted.
DA	Declined Authorization	A purchase was completed after the Merchant received a declined message from the Authorization Center.
EX	Expired Card	Discover Card transaction made using an expired card.
IC	Requested Item Not in Inventory	Sales slip provided in response to ticket retrieval request is not legible.
IN	Invalid Cardmember Account	Transaction was submitted using an account number for which no valid account exists or can be located.
LP	Late Presentation Transaction	The time from transaction date to date of processing exceeds 60-day limit allowed by Discover Card Services, Inc., and the transaction cannot be promptly collected from the Cardmember.
RI	Non-Receipt of Requested Item	Sales slip not provided in response to ticket retrieval request.
SS	Split Sale	Card Services determined that a transaction requiring Authorization was split into two or more sales to avoid Authorization, and had the transaction been submitted for Authorization, it would have been declined.
TF	Service Establishment Adjustment	Used in situations where Merchant has violated general operating procedures not covered by other alpha codes. A detailed explanation will be provided for the Merchant.

1017 Chargeback Reason Codes – Prior Notification

A pending chargeback notification will be provided to the Merchant in the following cases. The Merchant will have 15 business days to resolve the inquiry/dispute to avoid the chargeback. If the inquiry/dispute is not resolved by the Merchant within the 15 business days, or the Merchant has not notified Card Services of the resolution by the end of the 15th business day, then Card Services, at its option, may process a chargeback to the Merchant.

1017 Chargeback Reason Codes – Prior Notification (continued)

Code	Definition	Explanation
AW	Alteration of Amount	This reason code will apply only to Cardmember disputes claiming that the purchase amount for which the Cardmember signed was altered after the Cardmember signed the sales slip and without his/her consent or direction. Only the difference can be charged back.
CD	Credit Posted as Debit	Cardmember possesses credit slip which appears as debit on his/her statement.
DP	Duplicate Processing	Cardmember has been charged more than one time for a single transaction.
EF	Transaction Exceeds Floor Limit	Any transaction at or above the Merchant's assigned Floor Limit for which a required Authorization was not obtained and which cannot, for whatever reason, be promptly collected from the Cardmember.
HC	Hotel Cancellation	Cardmember has been charged for a hotel reservation which was previously cancelled.
IS	Missing Signature	Sales slip is missing signature and Cardmember does not recognize sale.
RG	Non-Receipts of Goods	Cardmember charged for goods or services never received or cancelled prior to receipt.
RM	Cardmember Disputed Merchandise Service	This chargeback reason code will be used for any Cardmember dispute regarding the quality of merchandise purchased or service rendered or any portion thereof.
RN	Non-Receipt of Credit	Cardmember claims that a credit issued by the Merchant has never posted to the Cardmember Account. The chargeback is limited to the amount of the credit.
SI	Slip Without Card Imprint	Sales slip not imprinted with Card. Cardmember does not recognize sale.
UA	Unauthorized Purchase	The Cardmember, claims, in writing, that neither the Cardmember, nor any party authorized by the Cardmember participated in the transaction and that the Cardmember has no knowledge of it.

The Merchant is expected to resolve a Cardmember dispute/inquiry directly with the Cardmember. Card Services will not arbitrate the dispute.

1018 Merchant Services Agreement

In addition to the chargebacks identified in Sections 1016 and 1017 above, Card Services may chargeback any transaction with respect to which a Merchant fails to comply with the terms and conditions set forth in its Merchant Services Agreement.

1019 Reversal of Chargebacks

The Merchant will have 90 days from chargeback to cure the reason for chargeback and request a reversal from Card Services. Card Services, exercising its reasonable judgment, shall decide whether any chargeback is to be reversed. If Card Services decides to reverse a chargeback, a separate credit for that chargeback will be issued to the Merchant by Card Services.

A Merchant may not redeposit any sales slip once that item has been charged back for any reason. Nor may a Merchant resubmit the amount in question by preparing a new sales slip, unless that sales slip bears the imprint of the Cardmember's Card and is signed by the Cardmember.

A Merchant may request to have a chargeback reversed by submitting to Card Services:

- 1) The original sales slip; and
- 2) Documentation of the Cardmember's agreement to the reversal.

Such chargeback reversal claims should be sent to:

Discover Card Services, Inc.
Merchant Services Center
P.O. Box 28542
Columbus, OH 43228-0542

1020 Good Faith Chargeback Reversals

If the 90 day reversal period has elapsed, the Merchant may request a Good Faith Reversal if extreme extenuating circumstances exist. Card Services, using its reasonable judgment, will be sole determiner in granting any Good Faith Reversal. If a Good Faith Reversal is granted, the transaction will be posted to the Cardmember's Account. If the Cardmember disputes for any reason, the amount will immediately be charged back to the Merchant with no further reversal rights.

A Good Faith Reversal can be requested by following the same procedure as outlined in Section 1019.

1021 Notices

Notices required under the Merchant Services Agreement should be sent to:

Discover Card Services, Inc.
2800 Lake Cook Road
Riverwoods, IL 60015
Attn: Vice President -- Merchant Operations

BEVERLY HILLS JUDICIAL DISTRICT POLICY AND PROCEDURES	Number	Page
	Date Issued/Revised*	
Subject: OPERATING PROCEDURES 900# INFORMATION AND SERVICE LINE	Approved By	

PURPOSE: To establish guidelines and operating procedures for the Beverly Hills Municipal Court's 900# Information and Service Line Operators.

1.0 Operator's Scope of Responsibilities

1.1 The 900# Operator will:

1.10 Provide efficient and accurate information to all callers.

1.11 Be familiar with the court profile of each participating ACMC judicial districts.

1.12 Provide extensions to eligible callers.

1.13 Accept payments via the Novus/Discover credit card for Bail Forfeitures, Traffic School sign-ups, Bail Forfeiture on cases in R1 status (outstanding holds or warrants) and cases in secondary collections.

1.14 Accurately enter completed transactions into ETRS and/or FPS.

2.0 Traffic Informational Services

2.1 Court Profile

2.2 Quoting Bail Amounts

2.20 Request citation number from caller, run citation number on PF3 screen. If caller does not have citation number, request the caller's drivers license number and run the number on the PF2 screen. If caller does not have their CDL, run their full name and date of birth on the PF1 screen.

2.21 From the PF3 screen, quote any applicable bail amount. If bail is not quoted, a mandatory court appearance is required.

- 2.22 For citations with correctable violations that are to be corrected, Operators will quote the \$10.00 fee per correctable citation. The correctables will be dismissed upon proof of correction. For correctable violations that cannot be dismissed pursuant to 40610(b) or the violator is unable to provide proof of correction, Operators will quote from the "bail w/o proof" field which is the full bail for the uncorrected violation.
- 2.23 Mandatory court appearances are required on all B/W (Bench Warrant) or C/W (Arrest Warrant).
- 2.24
- 2.3 Trial by Declaration
- 2.30 Callers requesting Trial by Declaration must do so in writing. Written declarations must include the citation number and a statement that "this declaration is made under penalty of perjury." Callers must post bail and provide proof of any correction on a correctable violation. Operators are to quote bail including additional bail for correctable violations. Callers may either mail their "declaration" to the court by sending a check or money order to post bail or make a personal appearance at the clerk's office. Callers should write their citation number and "Trial by Declaration" on their check or money order.
- 2.31 Operators will advise callers of the total amount of bail required if caller chooses not to show proof of correction.
- 2.32 The caller will receive written notice of the Court's ruling by mail.
- 2.33 If the caller is found guilty, bail shall be applied to the fine and balance if any, exonerated. If there is no fine or the caller is found not guilty, bail will be exonerated.
- 2.4 Requesting Court Trial
- 2.40 Callers requesting a Court Trial must write a letter stating their intent to plead Not Guilty and must post all applicable bail including bail for correctable violations. Operators are to quote bail including bail for any correctable violations. Court Trial requests and applicable bail may be mailed (check or money order only) or delivered by personal appearance. Callers are to be advised to write their citation number and "Court Trial" on their check or money order.

- 2.41 Callers will be sent a Plea and Trial setting form advising them of their court date. Operators are to verify the address of the violator and if necessary, update in the PF9 screen. (Note: If eligible, callers should be granted an extension. The address cannot be updated without an extension also being granted. If violator is ineligible for an extension, the change of address must be stated in their request for court trial.)

3.0 Traffic Transaction Services

3.1 Extensions

- 3.10 Operators may provide eligible callers up to two 30-day extensions on the due date for payment of a caller's citation.
- 3.11 A caller is eligible if:
- 1) he/she has received a citation from the court;
 - 2) he/she has not received any previous extension;
 - 3) he/she has received only one previous 30-day extension; and
 - 4) the citation is not in any delinquent status such as R1, Hold, Bench Warrant or Collections.
- 3.12 Using the ETRS manual for instructions, Operators will use the PF9 screen to enter the new due date which will be 30 days from the current due date. Operators must ensure that the new date is not a holiday or a weekend.
- 3.13 On the PF9 screen, in the Case# field, operators also will place their initials plus "900". Example: "CDK900"
- 3.14 Operators will advise the caller of the new date and suggest that the caller write down the date in order to avoid calling back at their own expense.

3.2 Accepting "Straight" Bail Forfeitures

- 3.20 Operators may accept payment of bail via the Novus/Discover credit card when the case is in OPEN or EXTENSION status.
- 3.21 Operators may not accept bail on any citation that:
- 1) has correctable violations;
 - 2) has no bail amount listed in ETRS; and
 - 3) indicates the defendant was exceeding the speed limit by 26 mph or more.
- 3.22 Operators will follow the Discover Card 900# Procedures in accepting

payment of bail.

3.23 After obtaining approval for the Discover Card transaction, operators will close out the case in the PF7/DSPO screen:

- 1) enter B in the JUD on ETRS.
- 2) using the Discover PC Capture Program, operators will enter the following information on the Discover Card receipt: "BF" (bail forfeiture), "900D", the clerk's initials i.e., "CDK" and the caller's first initial and last name. Example: "BF900DCDK J. Smith"

3.24 Operators will verify the address of the defendant.

3.3 Accepting Bail Forfeitures for Traffic School Sign-Ups

3.30 Operators will advise violators that to be eligible for traffic school:

- 1) the violator cannot have attended traffic school in California within the last 18 months;
- 2) the citation cannot be for any alcohol/marijuana/pedestrian offense; and
- 3) the citation cannot consist of 3 or more moving violations.

3.31 If the defendant is eligible, operators may accept payment of bail for traffic school sign-up via the Novus/Discover credit card only when the case is in OPEN or EXTENSION status. The fee for traffic school is the bail amount plus a \$5.00 administrative fee that must be paid at the time of sign-up.

3.32 Operators may not accept bail for traffic school sign-up on any citation

- 1) that has correctable violations that have not been dismissed unless bail is paid; and
- 2) that has no bail amount listed in ETRS.

3.33 Operators will follow the Discover Card 900# Procedures in accepting payment of bail for traffic school sign-ups.

3.34 Operators will enter a one day continuance in the ETRS PF9/CONT screen and will

- 1) enter EX in the Action Code
- 2) enter the next business date in the Action Date
- 3) using the Discover Card PC Capture Program, operators will enter the following on the Discover Card receipt:
TS (traffic school) 900D (indicates payment by Discover Card on 900#), the clerk's initials, i.e., CDK, and the caller's first initial and last name. EXAMPLE: TS 900DCDK J. Smith.

3.35 Operators will inform callers that a list of traffic schools will be mailed by the court to the address listed in ETRS. Operators will verify the defendant's address and enter any changes in ETRS.

3.36 Operators are to inform the defendant that the courts allow 60 days from the date of sign-up to complete traffic school. If needed, the Operator may also allow an additional two week extension for completion of traffic school.

3.4 Accepting Payment for Cases in Delinquent Status

3.40 Operators may accept full payment via the Discover Card for

- 1) bail and/or civil assessment for cases in R1 status
- 2) certain citations that have holds/warrants issued on them
- 3) cases that have been referred to GC Services for collection.

3.41 Operators must verify the following in ETRS:

- 1) Bail cannot be accepted on any C/W (arrest warrant) or B/W (bench warrant).
- 2) Bail cannot be accepted if ETRS does not specify amount due.
- 3) Only full payment may be accepted - no partial payments.

3.42 Operators will determine if the caller wants an abstract sent to them and if so will add an additional \$7.00 fee. Operators are to collect this fee, but are not to enter into ETRS as part of the bail amount.

3.43 Operators will advise the caller that the court will issue the abstract within 14 days. Operators will notify (?)

3.44 Operators will refer callers to GC Services (1-800-333-8395) for any other information, partial payments, etc.

3.45 Operators will complete the Discover Card transaction according to the Discover Card 900# Procedures.

3.46 Operators will enter the disposition in ETRS using the PF7/DSPO screen.

3.47 Operators will

- 1) enter 202 in the JUD.CNT
- 2) enter B in the JUD.
- 3) enter the amount paid (excluding the \$7.00 abstract fee)
- 4) enter the Receipt Number of the Discover Card transaction.

3.48 Operators will maintain a copy of completed Discover Card transactions and the logs in the file cabinet in the (?) Office.

900 # QUESTIONNAIRE

We are conducting a survey to determine how a 900# Information Service Line would best serve you. Please take a few minutes to answer the following questions. Your opinion is important.

1. Instead of driving to the Beverly Hills Court and paying the four dollar parking fee; would you consider conducting court business using a 900# telephone for a nominal fee?

☐ Yes ☐ No

2. How much would you be willing to pay for 900 service?

☐ \$.99 per minute

☐ \$5.00 per call

☐ Other: _____

3. What services would you like our 900# to provide: ☐ Payments

☐ General Information

☐ Traffic School Sign up

☐ Schedule Court Dates

☐ Other: _____

4. What credit card services would you use:

☐ Visa ☐ MasterCard ☐ Discover
Card

5. What service areas do you feel a 900# would best serve:

☐ Civil ☐ Criminal ☐ Traffic

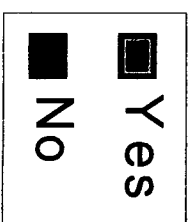
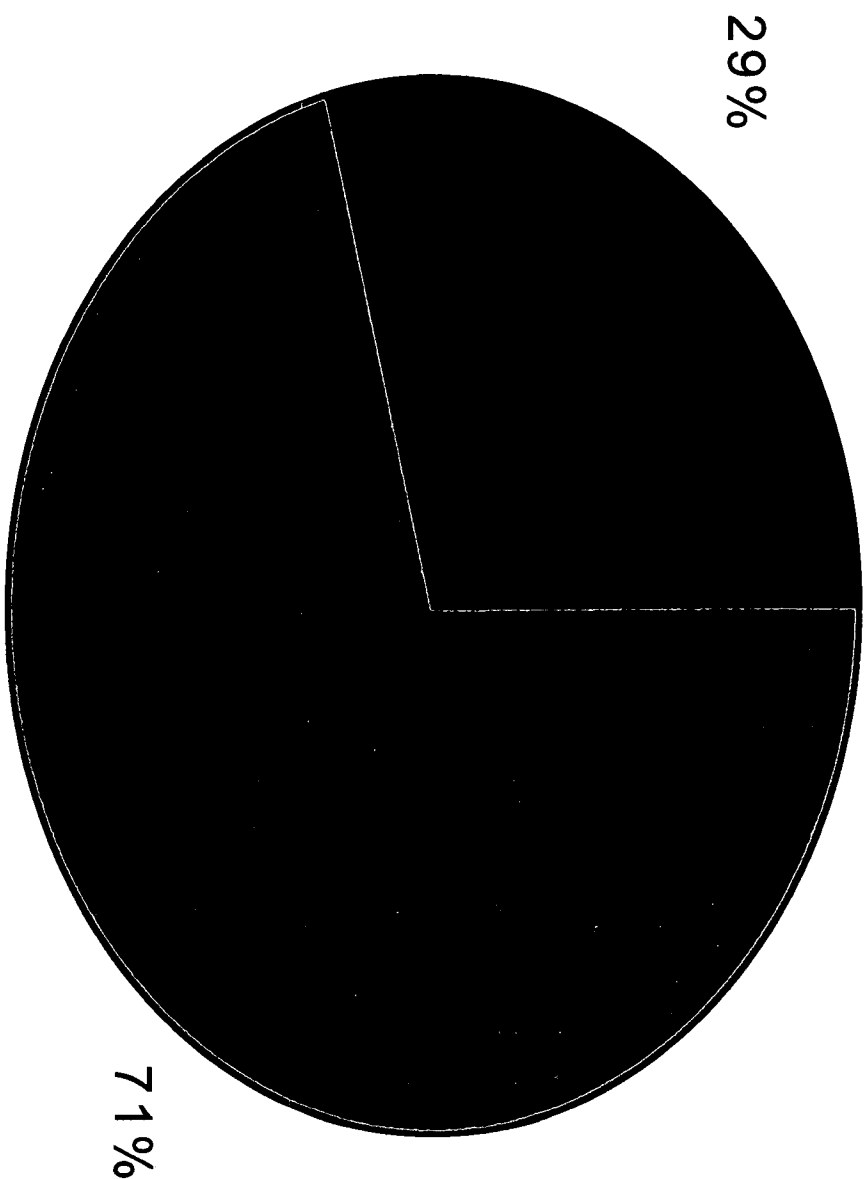
☐ Small Claims

Comments: _____

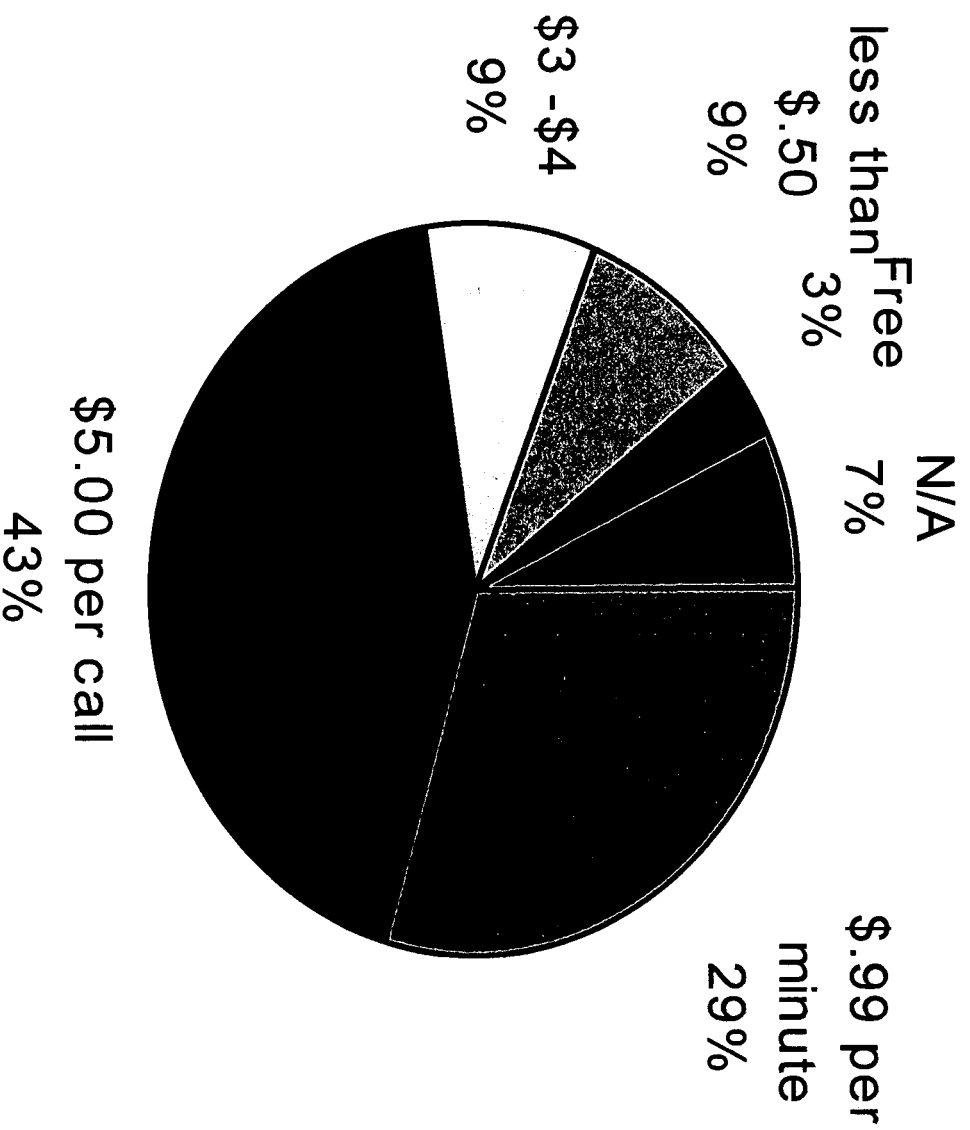
**Thank you for taking a few minutes to complete this form.
Your suggestions will help us to improve services and
respond to your specific needs.**

Management

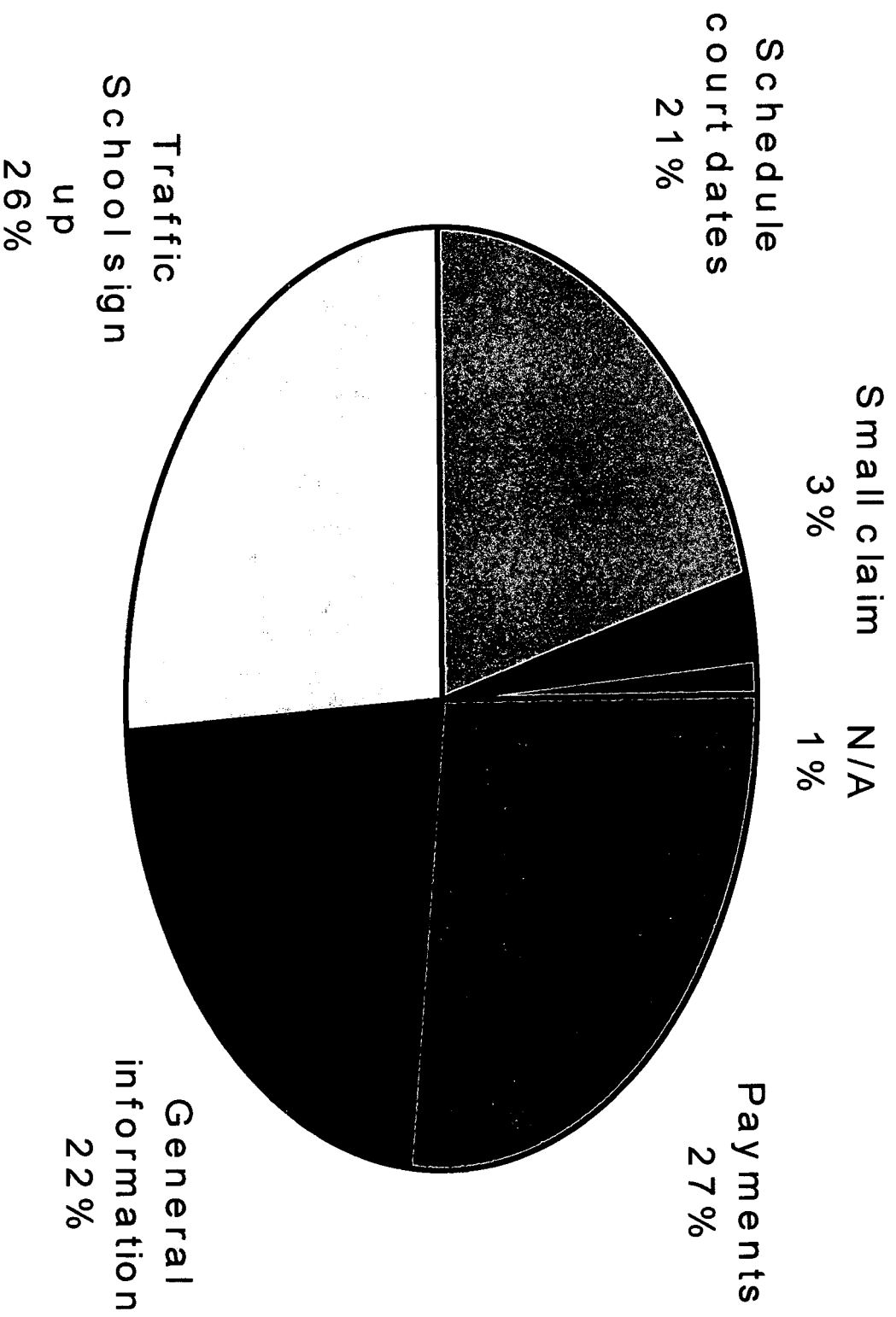
1. Are you interested in a 900 number service?



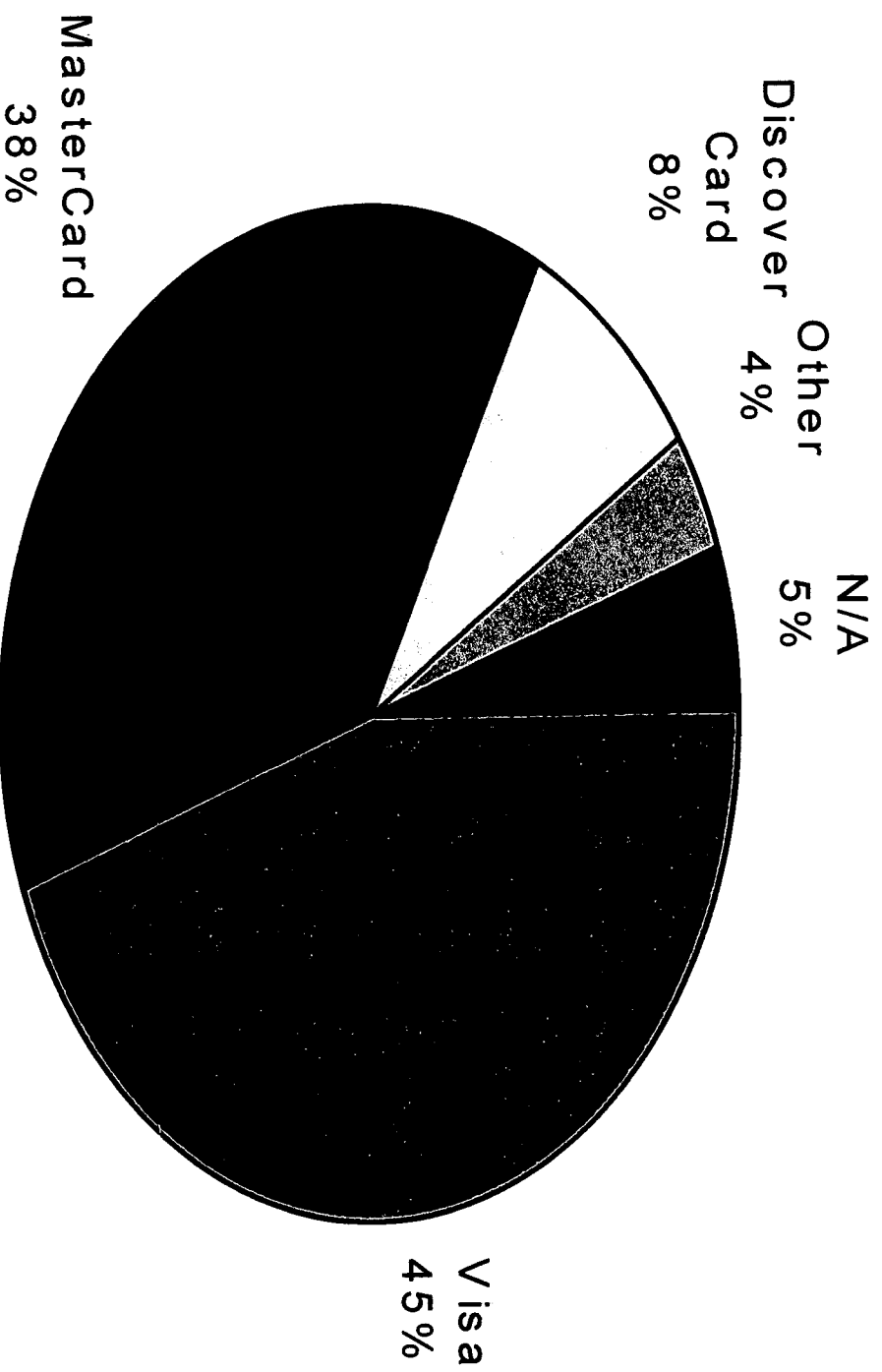
2. How much are you willing to pay?



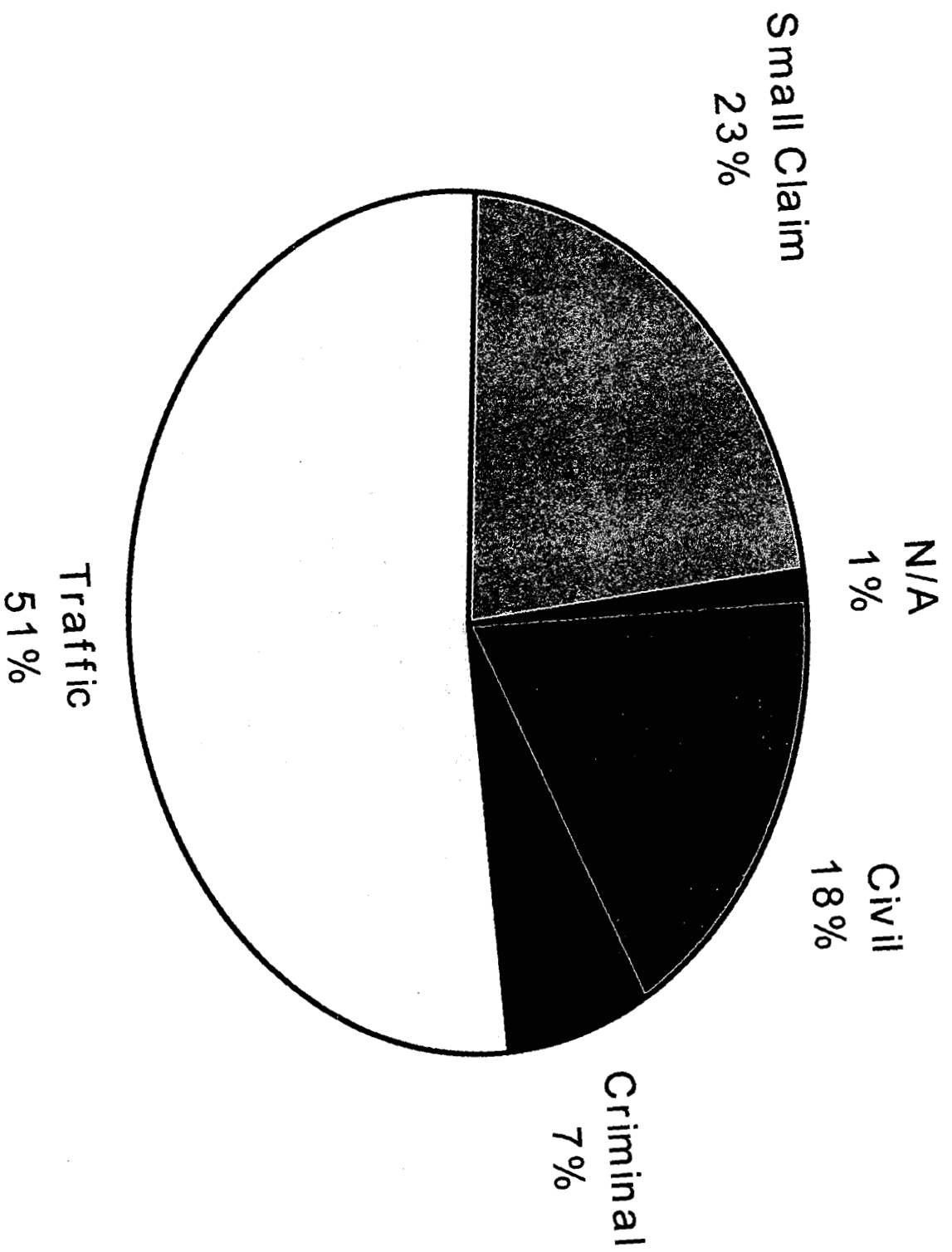
3. What services to provide with 900 number?

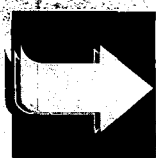


4. What credit card would you use?



5. What service area with 900 number?





PROJECTS IN PROGRESS

What's going on in your court or company? What's the status of your technology projects? Our readers want to know. Mail, fax, or e-mail your news item (see page 2 for how to contact us). We recently learned . . .

Courtroom of the Future Jackson County, Missouri

On February 21, 1997, the 16th Circuit Court in Jackson County, Missouri, unveiled its "Courtroom of the Future." This technically advanced courtroom is expected to bring the circuit court into the 21st century well prepared to handle the challenges of the new millennium.

A joint project of the court, the Kansas City Bar Association, and Southwestern Bell, the Courtroom of the Future features trial presentation hardware and software; videoconferencing equipment; real-time court reporting equipment; a "power podium," video monitors for the judge's bench, counsel tables, podium, and witness stand; a 37-inch television screen for jurors; and an Integrated Service Digital Network (ISDN) connection.

The courtroom display system will allow attorneys to present complicated cases in an understandable and simplified manner by displaying documents, animated images, and 3-D exhibits. The videoconferencing equipment provides for remote witness testimony, and the real-time court reporting equipment brings the court reporter's transcript to the video monitors and television screen.

The cables and support systems have been hidden under a false floor, thereby preserving the courtroom's dignified decorum. InData Corporation of Gilbert, Arizona, provided the trial presentation hardware and software for the courtroom display system. For more information about the courtroom, contact Ed

Papps, Computer Service Director, 16th Judicial Circuit in Kansas City, Missouri, (816) 881-3412.

Traffic Citation Telephone Service Los Angeles County, California

The traffic citation telephone service in Los Angeles County, California, provides information and payment options to customers calling their 900 number. This 900 number allows citation holders within five judicial districts to post bail by credit card, enroll in traffic school, obtain citation information, and/or obtain payment extensions. The fee is \$0.95 per minute, and initially the service was available 8 a.m. to 7 p.m. Monday through Friday.

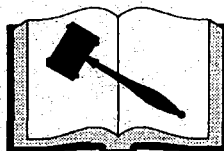
Made possible under California's Government Code Section 77209, this service allows any trial court to establish a 900 number provided that the court also offers a free and timely alternative to obtain the information. The statute also requires that all revenues from the 900 number be solely appropriated to the court for staff, information, and data processing services for that number. The credit card fees are absorbed by these funds.

Phase One of the project was implemented in September 1995,

when the 900 number was answered by live operators. Calls averaged two to three minutes in length. As of June 30, 1996, over \$67,000 in 900 number fees had been received from over 38,000 callers. Although there were some vocal and written complaints, largely about the 900 number fee, the operators reported many positive comments from callers.

The court has recently entered into Phase Two of the project, which involves replacing the live operators with an interactive voice response (IVR) system. The IVR contract was awarded to IPAT (International Public Access Technologies) in January 1997. Revenues raised from the 900 number will allow the court to recover the investment in IVR and callers to access the system 24 hours a day, seven days a week. The Windows NT-based IVR system features initial capacity of 48 ports, IBM 3270 integration, Touch-tone and voice recognition support, facsimile gateways, and multilingual (English and Spanish) support.

For more information, contact Cathy Kyker, Senior Administrative Assistant, 200 W. Compton Blvd., Room 403, Compton, CA 90220, (310) 603-7157, or Don Ruberg, IPAT, 4733 Cornell Rd., Cincinnati, OH 45241, (513) 489-9599, ext. 178, djruberg@intlpat.com. ▲



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BEVERLY HILLS COURT 900 SCRIPT

ENGLISH	SPANISH	SCRIPT
✓ 90000 Greeting	97000	You have reached the Beverly Hills Court information service line. You must be 18 years of age or have your parents consent, This call will be billed at 99 cents per minute and appear on your telephone bill starting now. For Traffic, press 1 For Criminal, press 2. For Civil , press 3. For Small Claims, press 4. To repeat this message, press 8.
✓ 90001	97001	Please hold while your call is being transferred to Traffic. (310-288-3111)
✓ 90002	97002	Please hold while your call is being transferred to Criminal. (310-288-3117)
✓ 90003	97003	Please hold while your call is being transferred to Civil. (310-288-3107)
✓ 90004	97004	Please hold while your call is being transferred to Small claims. (310-288-3104)
✓ 90080 Night Message	97080	Telephone assistance is available Monday through Friday excluding Holidays from 8:30 a.m. to 12 noon and 2 p.m. to 4:30 p.m. Please hang up and call again during our regular telephone hours. Thank you. (<i>This message will play at night after 4:30 p.m. and between 2 p.m. & 4:30 p.m. Monday through Friday</i>)
900060 Busy message	97060	All of our operators are busy at this time. If you wish to continue to hold, press 1 ^{Please} or hang up and call again.
900081 Ring no answer in Traffic	97081	We are experiencing a high volume of calls. You may hold for the next available operator or hang up and call again.
900082 Ring no answer in Criminal	97082	We are experiencing a high volume of calls. You may hold for the next available operator or hang up and call again.
700083 (PAA)Ring no answer in Civil	97083	We are experiencing a high volume of calls. You may hold for the next available operator or hang up and call again.
700084 Ring no answer	97084	We are experiencing a high volume of calls. You may hold for the next available operator or hang up and call



900-505-2687

Beginning September 8, 1997

you may call the Beverly Hills Court Information and Service Line. Billing is \$.99 per minute. If you hang up in the first 18 seconds of your call, you will not be charged. You must be 18 years of age or have your parents consent. Charges will be applied to your telephone bill



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BEVERLY HILLS MUNI COURT
900 NUMBER PROGRAM ANALYSIS
 For the Period of 9/05/97 - 10/01/97**

Number of Calls

	Billable	Unbillable	Total
Pacific Bell	748	185	933
GTE	52	29	81
Total	800	214	1014
(%)	79%	21%	100%

Average Length of Calls

	Total Min	No of Calls	Average Length
Pacific Bell	1981	748	2.65
GTE	144	52	2.77
Total	2125	800	2.66

Revenue

	Initial Min.	Addnl. Min.	Total
Pacific Bell	\$ 628.02	\$ 1,309.47	\$ 1,937.49
GTE	\$ 51.48	\$ 116.82	\$ 168.30
Total	\$ 679.50	\$ 1,426.29	\$ 2,105.79
(%)	32%	68%	100%

Expenses

	Pac. Bell	GTE	Total
Svc Connection (One time)	1,100.00	N/A	1,100.00
Monthly charge-fixed	20.00	N/A	20.00
Transport*	183.74	14.98	198.72
Billing Charges(call @ \$.15)*	112.20	10.70	122.90
Cost Allocation(3%, \$1,641.55)	49.24	N/A	49.24
Blocking Surcharge(min@\$.012)	23.76	3.40	27.16
Taxes & Surcharge	43.72	N/A	43.72
Misc.	0.30	N/A	0.30
Total	\$ 1,532.96	\$ 29.08	\$ 1,562.04

Net Revenue

	Pac. Bell	GTE	Total
Total Revenues	\$ 1,937.49	\$ 168.30	\$ 2,105.79
Total Expenses	\$ 1,532.96	\$ 29.08	\$ 1,562.04
Net Revenue	\$ 404.53	\$ 139.22	\$ 543.75

** For GTE: 9/06/97 - 10/05/97

* For GTE: different rates were applied.

December 9, 1997

900 Number Program Analysis

The followings are some observations on the 900 Number Program for the two months period of September and October of 1997 based on the telephone Bills.

Categories	September	October	Total
Number of Calls	800 billable 1014 total calls	669 billable 907 total calls	1469 billable calls 1921 total calls
Average Lengths of Calls	2.66 min./call	1.37 min./call*	2.01 mins/call
Revenue	\$2,105.79	\$1,063.30**	\$3,169.09
Expenses	\$1,562.04	\$358.69***	\$1,920.73
Net Revenue	\$543.75 (25% of Revenue)	\$704.61**** (66% of Revenue)	\$1,248.36

*Average length of calls is dramatically decreased in October compared to September.(more than one minute per call.)

**Total revenue in October was decreased about 50% from September as average length of calls decreased that much.

***Expenses in October was decreased mainly because one time service connection charge of \$1,100 was not charged.

**** Same rate of Net Revenue is expected for next periods.

BEVERLY HILLS MUNI COURT
900 NUMBER PROGRAM ANALYSIS
 For the Period of **10/02/97 - 11/01/97****

Number of Calls

	Billable	Unbillable	Total
Pacific Bell	347	175	522
GTE	322	63	385
Total	669	238	907
(%)	74%	26%	100%

Average Length of Calls

	Total Min	No of Calls	Average Length
Pacific Bell	441	347	1.27
GTE	478	322	1.48
Total	919	669	1.37

Revenue

	Initial Min.	Addnl. Min.	Total
Pacific Bell	\$ 275.53	\$ 160.11	\$ 435.64
GTE	\$ 318.78	\$ 308.88	\$ 627.66
Total	\$ 594.31	\$ 468.99	\$ 1,063.30
(%)	56%	44%	100%

Expenses

	Pac. Bell	GTE	Total
Svc Connection (One time)	30.00	-	30.00
Monthly charge-fixed	20.00	-	20.00
Transport*	42.21	58.16	100.37
Billing Charges(call @ \$.15)*	52.05	54.50	106.55
Cost Allocation(3%, \$341.38)	10.24	-	10.24
Blocking Surcharge(min@\$.012)	5.29	12.68	17.97
Taxes & Surcharge	5.29	-	5.29
Recharged Calls	48.00	16.83	64.83
Information Service Calls	3.44	-	3.44
Total	\$ 216.52	\$ 142.17	\$ 358.69

Net Revenue

	Pac. Bell	GTE	Total
Total Revenues	\$ 435.64	\$ 627.66	\$ 1,063.30
Total Expenses	\$ 216.52	\$ 142.17	\$ 358.69
Net Revenue	\$ 219.12	\$ 485.49	\$ 704.61

** For GTE: 10/06/97 - 11/05/97

* For GTE: different rates were applied.

**Beverly Hills Municipal Court
Cases processed per Clerk & Work Hour in Traffic Division
For the Last Five Years(1993-1997)**

of Citations per Work Hour (without Red Light Tickets)

Year	# of Citations	# of W.H.	Cit./W.H.
1993	24,713	11,487	2.15
1994	29,599	13,336	2.22
1995	26,338	14,096	1.87
1996	22,773	14,376	1.58
1997	11,525	7,248	1.59
(Jan-Jun)		Average	1.88

of Citations per Work Hour (With Red Light Tickets)

Year	# of Citations	# of W.H.	Cit./W.H.
1997	20,252	6,956	2.91
(Jul-Dec)			

Calculation of Additional Clerks Needed Due to the Red Light Tickets

Total Number of Red Light Tickets in 1997(6/26/97 - 12/31/97)*:	7,101
Average Citations Per Work Hour(from above)	1.88
# of Work Hours needed (# of ticket divided by average Cit. per Work hour from above)	3,777.13
Average Work Hours Per Clerk(from attached worksheet)	1,764.53
# of Additional Clerks Needed due to Red Light Tickets	2.14

*** Number of Red Light Tickets Per Month**

Jul-Aug 97	147
Sep-97	656
Oct-97	2,283
Nov-97	1,612
Dec-97	2,403
Total	7,101

To: Sharon Takaha FAX 714 863-9650
Startel

Fr: A. Joseph Padilla, Court Administrator

Re: 900 18 sec script (Suggested changes by PAC Bell)

Pls. Change box 90000 greeting:

"YOU HAVE REACHED THE BEVERLY HILLS COURT INFORMATION/SERVICE LINE.
BILLING IS \$.99 PER MINUTE, UNLESS YOU HANG UP IN THE FIRST 18 SECONDS NO
CHARGE WILL APPLY. YOU MUST BE 18 YEARS OF AGE OR HAVE YOUR PARENTS
CONSENT - CHARGES WILL APPEAR ON YOUR PARENTS BILL. TO START BILLING -
PRESS 1 FOR TRAFFIC; 2- CRIMINAL, 3-CIVIL, 4-SMALL CLAIMS, 8 TO REPEAT.

REFERENCES

Administratively Consolidated Municipal Courts, 1996 Annual Summary Report, PICS/900# Municipal Court Traffic Information Line, p22., 23.

Judicial Council of California, (1997). Leading Justice Into the Future, 21-27, C7-C10.

Kanige, J., (1994), Panel Oks 900 Numbers; Issues Ethics Warnings, New Jersey Law Journal, 4.

Motion Denied, That'll Be \$5., San Francisco Daily Journal, (June 1997) p2.

1-900-USER- FEE, New Jersey Law Journal, (April 1996), v144, n4, p26.

1-900-ETHICS, New Jersey Law Journal, (September 1995), v141, n11, p24.

National Center for State Courts, Traffic Citation Telephone Service, Los Angeles County, California, Court Technology Bulletin, v9, n2, March/April 1997, p9.

National Center for State Courts, Institute for Court Management, Trial Court Performance Standards and Measurement System, June/July 1996.

State of California Assembly Bill 233 Guidelines, The Lockyer-Isenberg Trial Court Funding Act of 1997 Chapter 850/1997, Kathleen Connell California State Controller, Division of Accounting and Reporting, (December 1997)

§ 77208. Municipal and justice court judges; retiree health benefits

(a) The state shall provide municipal court and justice court judges retired under the Judges' Retirement System with retiree health, dental, and vision care plans equal to and in the same manner as the health, dental, and vision benefits provided to retired superior court judges.

(b) No judge shall have any salary or benefits reduced solely by reason of the enactment of this section.

(Added by Stats.1994, c. 308 (A.B.2544), § 29, eff. July 21, 1994.)

Historical and Statutory Notes

1994 Legislation

Legislative findings, declarations, and intent regarding the policy of the state for funding trial court operations, see Historical and Statutory Notes under Government Code § 22754.35.

Former § 77208 was repealed by Stats.1994, c. 308 (A.B.2544), § 28, eff. July 21, 1994. See, now, this section.

Derivation: Former § 77208, added by Stats.1988, c. 945, § 10, amended by Stats.1989, c. 132, § 6; Stats.1989, c. 986, § 2; Stats.1990, c. 1676, § 5.

§ 77209. "900" telephone numbers

Any trial court may establish a "900" telephone number or numbers for traffic, misdemeanor, and other telephonic arraignment, for court scheduling, and for rendering tentative civil decisions, provided the court provides an alternative method of obtaining the service or information in a free and timely manner, and informs individuals of this alternative in the message preceding the "900" information. The proceeds from these "900" telephone numbers shall be continuously and solely appropriated to the use of that court for staff, information, and data processing services for the purposes specified in this section.

(Added by Stats.1994, c. 996 (S.B.1800), § 2.)

Historical and Statutory Notes

Derivation: Former § 74351.5, added by Stats.1991, c. 882, § 1.

Article 4

COUNTY OPTION PROCEDURE

Section

77300. Notification to controller of decision to accept state funds; time.

77301. Resolution.

Section

77302. Alpine and San Francisco Counties; trial court funds; 1995-96 fiscal year.

Additions or changes indicated by underline; deletions by asterisks * * *

77209

Code for

Panel OKs 900 Numbers; Issues Ethics Warnings

By Jeffrey Kanigs

Attorneys can give legal advice over the phone and even collect a tidy fee for the service, but a Supreme Court committee has ruled that doing so creates all the obligations and potential malpractice pitfalls associated with the attorney-client relationship.

Opinion 17 of the Court's Committee on Attorney Advertising notes that while the establishment of such a "900 number" service is not unethical on its face, "there are several problem areas, which, if not addressed, could result in malpractice liability and/or ethical exposure." The opinion was published in the April 29 edition of the *Law Journal*, 136 N.J.L.J. 1702.

The opinion considered the committee's response to an inquiry submitted last summer by Daniel Bell of Bell, Adelman & Etkin in East Orange. Bell proposed setting up a "900" telephone number and charging callers \$3.99 for minute of consultation with attorneys.

Bell says he hasn't decided whether to go ahead with the idea, but adds that "there should be no problem in dealing with the opinion."

Sue Yang, the chairwoman of the State Bar's Committee on Lawyer Advertising, says that despite the committee's cautions, she still finds it "very frightening" that the opinion doesn't impose an outright ban on the practice. "No attorney has such a broad grasp of the law that he or she could provide meaningful advice to all the possible kinds of callers," says Yang, a solo practitioner in Bridgewater.

In addition, Yang notes, "a 15-minute conference could not provide sufficient facts to provide a proper consultation." Yang was referring to Bell's plan to limit the calls to 15 minutes to keep the cost to callers down and avoid the accusation that he would be charging fees by keeping callers on the phone.

Disclaimer

In a letter memorandum accompanying his inquiry, Bell noted that he intended to disclaim liability for the consequences of a caller acting on the advice received. The disclaimer, which would be heard by callers before the actual advising would begin, would state that the advice offered was "intended to pro-

vide broad answers to general questions and that the attorneys answering the call "cannot accept responsibility for the answers or advice provided."

The committee, though, found that such a disclaimer would be ineffective because it would violate "established law and public policy." The panel first noted that accepting the call and charging for advice rendered would establish an attorney-client relationship. Because the callers would, in all likelihood, disclose confidential information to the attorney, and because the attorney would charge the equivalent of \$240 an hour, the callers "will have every reason to believe, and we conclude, that an attorney-client relationship will exist," the committee wrote.

The Committee on Attorney Advertising ruled that lawyers cannot disclaim liability for legal advice given over the telephone.

The existence of such a relationship would require the attorney to observe all the strictures against disclosure of confidential information and guard against conflicts of interest. "Unless the attorney providing the service employs some kind of preliminary screening device sufficient to identify the caller and potential adverse parties, if any, information received from callers adverse to existing or former clients could prompt withdrawal or result in disqualification of the attorney," the opinion states. "Similarly, the attorney will not be able to represent any individual or entity adverse to the caller in the subject matter of the inquiry if later advised to do so." The committee also notes that the attorney shouldn't charge the client for spending time screening conflicts.

Perhaps the most serious criticism of Bell's idea is the committee's rejection of his proposed disclaimer. "Once an attorney decides to render legal advice to a client or prospective client, the attorney must assume that the recipient will rely and act upon the information provided, whether it is given as legal advice or simple information," the committee wrote. "A fiduciary relationship is established when there is reliance ... and an attorney ought not be able to avoid malpractice liability or ethical responsibility by claiming that no attorney-client relationship exists or that the advice rendered is intended to be nothing more than 'broad answers to questions of a general nature.'"

Bell acknowledges that his original disclaimer won't work and says that he will "have to change it in accordance with the opinion." He adds, though, that he hasn't decided how to amend it.

Preliminary Opinion

In his memorandum, Bell relied on two opinions from the Attorney Committee on Professional Ethics that Bell said supported the concept of giving advice over the phone. The first, Opinion 480, held that an attorney appearing at a public hearing or a televised program could answer legal questions from members of the audience. But could not later accept a retainer and represent an audience member. Bell wrote that his idea "is certainly consistent with the philosophy expressed" in Opinion 480, 107 N.J.L.J. 330 (1981), namely that attorneys have a growing responsibility to communicate with the public about the law and legal processes.

Bell also cited Opinion 340, 114 N.J.L.J. 387 (1986), which held that attorneys could organize themselves into for-profit corporations to provide informational public programs on legal topics. This opinion held that attorneys could later represent program attendees.

Opinion 17 did not directly address either ethics opinion.

ATTENTION: ALL MUNICIPAL COURT PRACTITIONERS THE MUNICIPAL COURT MATTERS

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EDITORIALS

Why This Opinion?

In *Gubernat v. Deremer*, 140 N.J. 120 (1995), the fundamental question was whether Scott Deremer, a child born out of wedlock, should have his legal name changed to his father's last name. The New Jersey Supreme Court could have answered the issue in a short per curiam opinion, giving effect to the regulations promulgated by the New Jersey State Department of Health, which prescribe that if two parents cannot agree on a child's name, its birth certificate carries both their surnames, in hyphenated alphabetical order (e.g., Deremer-Gubernat). This standard can be easily applied by the health officers for New Jersey's 567 municipalities who are charged with responsibility for recording live births.

Instead, our Supreme Court seized upon the occasion to deliver a missive covering 39 typewritten pages on the subject of birth names. This essay states that, "the Anglo-Saxon tradition of surnames dates back to the Norman Conquest of 1066" (which was the birth of Anglo-Saxon England), and concludes that it has been customary since that time to use the father's surname. This might have suggested that more than 900 years of tradition should be followed with respect to what would appear to be such a personal matter.

However, the Court decided that a person's legal name is not just personal. By a leap of logic it announced that, because the American Revolution witnessed working class women actively participating in both the home-front and battle-front, tradition may have been wrong. The Court then drew upon the heavy cliché, "best interests of the child," to conclude that under that principle, a child's legal name should be the surname of its custodial parent. This decision was heralded by some activists as a significant legal victory.

Whatever the intentions of our Supreme Court may

have been, its conclusion that the "best interests of a child" are served by having a child's legal name correspond to the surname of its custodial parent may have unintended consequences as precedents.

Most children receive their father's name at birth. If the parents later separate, custody often becomes an issue. In this era of "gender free" custody determinations, if the best interests of a child are that it should bear the surname of its custodial parent, then maybe by correlative presumption, custody should be with the parent whose surname the child bears. Perhaps a divorcing wife wishes to resume a former name or change her name in remarriage. Then presumptively custody should remain with the husband for the "best interests of the child." We anticipate that the rationale of *Gubernat v. Deremer* will be seized upon by husbands seeking 10 score points in custody and support negotiations.

The opinion is also flawed in several other respects. It creates a "strong presumption" in favor of the surname chosen by the custodial parent. Then in almost the next breath, it envisions the presumption as rebuttable by a fair preponderance of the evidence. One would think that, since the presumption was not conclusive but was to be given unusual weight consideration the Court would have required the non custodial parent to satisfy a clear and convincing standard.

In its analysis the Court conflates the best interests of the child with the interests of the mother by saying that the right to have the child bear her surname "reflects the significant societal change in women's rights." But the opinion ignores the effect on the relationship of the father and the child, directly affecting the health and welfare of the child.

In short, was the opinion of the Supreme Court in *Gubernat v. Deremer* really necessary?

1-900-E-T-H-I-C-S

The Ethics Hotline (1-900-555-0505) begins with a recorded message stating that the cost is \$1.25 for the first minute and 70 cents for each minute thereafter. That is a small price to pay for an invaluable service recently inaugurated by the Supreme Court's Advisory Committee on Attorney Ethics. The people answering the phone after the recording is finished, and he is pleased. Although one should not expect to receive detailed advice regarding every case that may have been decided under a specific rule of the RPC, at least not for the sake of price, the advice is fast and to the point. So far, problems have been brisk.

We offer a hearty "thank you" to the Supreme Court for this service, and we commend the hotline to all attorneys. However, the hotline is only the start of a long process to

reform the "front end" of the ethics problems faced by the profession. The grievance procedure (the "back end" of the ethics problem) now has been reformed and, despite initial criticisms and a slow start in establishing diversion, proctor and other programs for minor offenses, the revised grievance procedures seems to be working well. With the grievance process now under control, we believe that more attention must be paid to measures that can help attorneys avoid being caught up in a grievance proceeding.

Advertising the hotline in bar association publications and in this newspaper should be given a high priority so that as many attorneys as possible become aware of the service. The ABA's ethics research service, called "ETHICSearch," and available to ABA members by dialing (312) 988-5323, also deserves greater publicity.

William E. McGlynn

The passing of William E. McGlynn on August 9, 1995 not only took from our midst a good friend and colleague, it also highlighted yet again the need to restore collegiality to the legal profession. Bill practiced law for more than 50 years. To have a case with or against him was a learning experience. He would give no quarter in the adversarial representation of his client. But at the same

also recall from the many meetings of the Essex County Bar Association or various committees of the State Bar Association at which all gathered. Quite simply, he could be hilarious. The tensions of the times could at least for a moment evaporate as he would not only entertain the audience, he would leave them with the feeling that it was indeed a noble profession they had selected.

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EDITORIALS

Line Item Veto

Before Congress passed a law that apparently gives the president a line item veto, *The New York Times* reported that the Judicial Conference of the United States opposed the legislation. In essence the judges argued that control of the judiciary's budget belongs to the legislative branch and not to the executive. Since the United States is a frequent litigant in the federal courts, it was contended, giving the president detailed control over the judiciary budget with a line item veto would create a conflict of interest. There was a hint of a constitutional issue based on separation of powers.

New Jersey lawyers should be surprised by this argument. We have lived for 50 years with a gubernatorial line item veto with no discernable fiscal retaliation against the state courts. Moreover, the federal line item veto is merely a self-restriction by Congress, rather than an enhancement of the president's power. Unlike the New Jersey version, it is a statute rather than a constitutional provision. Any Congress may overturn the work of its predecessors by a simple majority. A future Congress determined to protect any appropriation item from a presidential veto may, as now, include in a bill that the president must sign, and include in the bill a provision that it shall not be subject to the line item veto statute. To get what he wants, as now, the president will be compelled to swallow what he does not.

As far as it goes, though, perhaps there is more good than harm in the new statute. As long as a simple majority in Congress is willing to protect the federal courts, it cannot be used to target particular judges. But unless and until it is overridden by a subsequent Congress intent on protecting its members' pet projects, it will at least cut down on fiscal logrolling and put the responsibility for the control of federal pork clearly on the president. If nothing else, it might actually allow the defense budget to be based on what the armed forces think they need for the defense of the country rather than serving as a piffle for favored congressional districts.

We doubt that there are too many ways the president could inflict fiscal retaliation on the federal courts for unfavorable decisions. Judicial salaries, of course, are made irrevocable by the U.S. Constitution. The appropriation for the federal courts, a minuscule part of the budget, is not broken

down by judge, by court or by district. The only separate items which might be considered pork are the appropriations for the construction of new courthouses. These, we do not doubt, Congress will find a way to protect. We think the fears of the Judicial Conference are exaggerated.

The most likely scenario, alas, is that Congress' line item good intentions will in the end prove no match for the self-interest of individual members. If that does not happen, and the line item experiment succeeds, perhaps Congress might like to consider proposing a line item constitutional amendment like N.J. Const. art. V, sec. 1, par. 15.

If that in turn were to succeed, Congress could move on. Line item vetoes can deal with inappropriate appropriations, but not with duplicitous authorization acts. What if Congress were to combine establishment of a cabinet-level department of gender affairs, say, with a bill to abolish the Internal Revenue Service? To get one of these, the president would have to accept both. The solution is found in N.J. Const. art. IV, sec. VII, par. 5:

To avoid improper influences which may result from intermingling in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

Beyond that, there is one more control of pork and logrolling to be used. N.J. Const. art. IV, sec. VII, par. 5 was designed to keep the Legislature from giving a little help to its friends:

No general law shall embrace a provision of a private special or local character.

The problem with all this is, in the final analysis, that unless those to be constrained have respect for the law, constitutional and statutory can do little. The Prohibition Amendment didn't stop people drinking any more than Graham-Rudman ended the deficit. Unless the executive and the legislative branches are each willing to behave more like serious people than either has recently, no amount of tinkering is going to help.

Proportionality

On February 26, 1996, this journal reported on a study conducted by the Death Penalty Proportionality Review Project at the behest of the New Jersey Supreme Court, to determine whether our death penalty works evenhandedly. 143 N.J.L.J. 769. The study concludes that it does not. According to project researchers, the race of the defendant plays such a disproportionate role in sentencing outcomes that, with mitigating and aggravating factors taken into account, a black person is ten times more likely than a white person to be sentenced to death.

The attorney general's office takes issue with the reliability of the finding, asserting that the project's flawed research methodology has produced a false result. We very much hope that the state is right. We will not be surprised, though, if the finding holds up. Racial attitudes run deep and may indeed play some role in penalty outcomes.

The study nowhere suggests that prosecutorial or judicial malfeasance contributes to the found result. If that result is nonetheless verifiable, it must therefore proceed from the perhaps unconscious racism of death penalty jurors.

Can our judicial system control for such responses?

That question is squarely before the Court in *State v. Harris*, now awaiting proportionality review. If the Court concludes that the project's finding is valid, it must reach the question of whether a race can be fashioned. But none of the remedies thus far suggested seems tenable. A "don't be racist" charge to jurors can hardly be effective if racial bias operates below the level of cognition. And, as an equal protection matter, it is unthinkable to forbid the death penalty for black defendants while allowing it for white defendants. Thus, if the Court adopts the project's finding, it may ultimately be forced to declare the death penalty unworkable and abolish it altogether.

Indeed, that may be the proper solution. New Jersey has had extraordinary difficulty in implementing the penalty in a way that keeps faith with equal protection requirements. The problems thus far encountered, whether in connection with white or black defendants, seem all but insurmountable. If the project's finding is accurate, it may be time to conclude that the retribution game is not worth the constitutional candle.

1-900-USER-FEE

A colleague recently advised us that he tried to notify the New Jersey Supreme Court that an unlicensed person was holding himself out on the Internet as a New Jersey lawyer. He called the main telephone number listed for the Supreme Court in the *Lawyers Directory and Manual* and, after the obligatory two transfers, was advised that he had to call the Court's office hotline (1-900-555-0305) in order to

report the charlatan.

Why should anyone have to pay (\$1.25 for the first minute and \$0.75 for each additional minute) in order to report that there is a phony lawyer on the loose? We hope that our colleague was simply misdirected by an uninformed clerk. If not, this is one user fee that should be repealed.

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Motion Denied, That'll Be \$5

Imagine David Hicks' surprise when he called a court telephone number to receive a tentative ruling — which he affectionately calls Dial-a-Prayer — and found it would cost him \$1.98 per minute.

But even if the East Bay trial attorney wanted to spend the money, which he didn't, Hicks couldn't complete the call. The tentative rulings were offered through a 900 service, a class of phone numbers blocked through the phone system in his office — a safeguard often used when teenagers (and lawyers, apparently) are near.

Turns out that the San Leandro-Hayward Municipal Court adopted the toll number system four years ago, allowing callers to punch in a docket number and jump directly to their case instead of having to listen first to dozens of other rulings.

Upset by the phone arrangement, Hicks sent a letter the other day to Presiding Judge Reginald Saunders that reminded him of the court's obligation under Government Code section 77208. That provision says a court can use a 900 number but must also provide a toll-free for lawyers and their clients.

Saunders called Hicks a short while later with the good news that the old number — (510) 670-6026 — would be back in commission by this Monday. The 900 number, meanwhile, will still be available for those impatient souls who don't want to listen to the drone of other people's rulings.

"I was very happy with [Saunders'] prompt response," said Hicks.

For the record, Saunders noted that attorneys

always were able to learn about tentative rulings, at no cost, from court personnel during business hours.

When told that the 900 number had been in effect since 1993, Hicks, who's usually plying his trade in Superior Court, not-so-diplomatically opined, "I guess all of the other sheep were going along with it."

Another thing that seemed to stick in Hicks' craw was that the money generated by the 900 number was not helping to subsidize a cash-strapped court. Instead, it was just plowed back into the profits of U.S. Audiotex, a San Ramon company, that operates the 900 service. Saunders said he had not been aware the court didn't get a cut all along and was now going to try to remedy the situation.

For his part, Hicks wondered about a system that generates private profits from public courts. "Can you imagine that you could get a dollar every time someone sued somebody?"

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San Francisco Daily Journal 103(118) June 19 1997 p. 2

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