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AFTERHOURS BUCKS COUNTY
CENTRALIZED COURT
ABC3
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Institute of Court Management
Court Execution Development Program
Phase III
May 1997

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Bucks County Courts
Pennsylvania

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ABSTRACT

This is an implementation project to determine the most effective way for establishing a permanent limited jurisdiction Afterhours Bucks County Centralized Court (hereinafter also called ABC3). The significance of this project for Bucks County is to realistically understand the makeup of the county today, the needs and requirements of ABC3 and to raise the awareness level of the stakeholders and public about the importance of the minor court system in terms of justice, equality, service, and renewal. Although this project is defined as an implementation project, it is also very much a planning project.

The project goal is to select the best features from a variety of models from other jurisdictions that would work best for Bucks County. The primary objectives are that the final model be able to accommodate growth and adapt to change while delivering effective and timely service at a cost equivalent to the existing system.

Upon implementation, the things to be measure shall be: levels of activity, error rates, timeliness of transfer of paperwork, collection amounts, salary and overtime costs, effect on daytime workloads, security risks, disposition types - especially to prison, and feedback from internal and external customers.

The research methodology undertaken was a review of literature, consisting of: newspaper articles and periodicals, research projects about “night court” from throughout the nation, and reading of books and studies related to customer service, access, re-engineering, leadership, quality, project implementation and adaptive change. A structured interview questionnaire was used to survey six other existing operational after hours limited jurisdiction courts in Pennsylvania. Also a data collection instrument was used for six weeks to capture the profile of the type and source of work of Bucks County’s existing after hours coverage system.

The project is satisfying its objectives in a number of ways because AbC3 will:

- address the needs of the county's growing population (Bucks County is one of the fastest growing counties in Pennsylvania),
- free up the daytime schedules of the District justice for improved efficiencies,
- ensure a safe and secure environment,
- become more accessible beyond regular daytime business hours,
- enhance the image of the Court by linking other professional services, support and referral, for defendants and victims,
- create productive use of resources by utilizing the site during day time for training, trial court arraignments, possible telephone conferencing and future special courts, e.g., drug courts, and
- make it easier to adapt to changes in technology, legislation, policy, procedures, and reorganization.

The conclusion is that Bucks County should implement a permanent limited jurisdiction Afterhours Bucks County Centralized Court (ABC3). ABC3 should be located near the geographic center of the county at a permanent site, preferably adjacent to or at the county prison, either using the existing district justices assigned by rotation schedule or by appointment of bail commissioners, [if legislation passes] and staffed with permanent designated clerks. A video conference hookup experiment should be conducted between a lower county location and the central site and also a proposal should be examined later for a possible video conference site for the upper county. An ongoing evaluation should be conducted for two years following implementation.

EPIGRAPH

FUNDAMENTALS

The key to good management is knowing what's fundamental to success and what's not.
... [L]ook around ... and see how many activities are at least one level removed from something that improves either the effectiveness of the people or the quality of the product.

Any activity that is one level removed from your people or your product will ultimately fail or have little benefit.

THE DILBERT PRINCIPLE

The most ineffective workers are systematically moved to the place where they can do the least damage: management.

by Scott Adams

I. INTRODUCTION

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PROBLEMS FACING THE COURT

During more than fifteen years, Bucks County has toyed with changing its after hours on-call assignment duty of its minor judiciary, or limited jurisdiction court. Throughout this time period, it is interesting that most of the changes have had little or nothing to do with backlog or workload, but a desire by the district justices (Judges who are elected for six years in Pennsylvania and serve minor judiciary system) to opt out or reduce their on-call.¹ It is understandable that a week of after hours duty, especially over a weekend or a three day weekend with a holiday, is extremely tiring; and serving the on-call duty week, means that a judge loses productive time to hear cases. However, all of these judges are fully aware of this fact when they run for the elected position. In spite of much discussion and complaining at meetings and other times, nearly all of the district justices prefer to keep things the way they are.

More recently there has been a shift of opinion and desire in the last five years to consider alternative schedules, or as the district justices say, "a fairer system." Some of the newly elected judges expressed interest in some form of centralized night facility where all nineteen district justices would serve the entire county rather than the existing method of two region county coverage system of: rotation of thirteen district justices of mid to lower county in one region and rotation of six district justices of the upper county serving another region. (Note, at one time there were three regions in the county, but that was short lived.)

The rationale of the current division of the county into two regions for after hours on-

¹ See Appendix A as sample of the 1996 On-call schedule of Bucks County's district justices, known as Annual Order of Temporary Assignment of Issuing Authority.

call is that the mid to lower county has a larger population and is busier; and because of this, the district justices serve only once every thirteen weeks. The upper end of the county which have six district justices is less populated, consequently these district justices serve only once every six weeks. The population composition of the county is fast changing, therefore, having these groups of two regions needs to be questioned. Also, one of the other primary reasons for having two regions is that the large police departments in the lower end of the county have enough manpower to transport to the court on call, but the upper county departments which are smaller do not have enough manpower to leave their municipality and travel to a court more than half the distance of the county. This is why, if all nineteen district justices are pooled into one schedule serving the entire county, they could not hold court at their local offices but would need to be assigned or go to an agreed centralized county site.

The judges are desirous of only coming out after hours up to 8:00 PM or 10:00 PM. These times are often cited because the judges are very aware of some surrounding counties who do not provide service after these times. However, the current and all former president judges of Bucks County have maintained through the years, that on-call after hours duty is expected of the minor judiciary judges and service must be available throughout the night until regular business hours. These president judges have based this on a 1977 rule established by case law, or *Commonwealth vs Davenport*,² (471 PA 370 A. 2d. 301), which resulted in what is known as the six hour rule. As applied, the rule means that a defendant should be brought before a judge within six hours of arrest for a preliminary arraignment. Otherwise any statements taken from the defendant, beyond six hours without a preliminary arraignment, are not binding or not admissible

² See Appendix B *Commonwealth v. Davenport*, 471 PA 278, 370 A.2d 301 (1977). Opinion by Supreme Court of Pennsylvania decided March 16, 1977.

in court.

To the district justices' credit, they have modified the prior on call to a periodic on-call at the preset times of: 8:00 PM, 12:00 Midnight, 4:00 AM, and for holidays and weekends the times include 8:00 AM, 12:00 Noon and 4:00 PM. This periodic on-call is a considerable improvement over the former schedule because it allows the on call judge some free uninterrupted time to rest between work activities. Under the prior schedule, no sooner did the judges go home then they were called out again to return to court. Additionally, it allows time for the police to have their paper work prepared in advance, ready for court. This has made better use of time for the courts and the police departments.

The problems addressed through this project are really two fold. First, of course, is the establishment of a permanent limited jurisdiction Afterhours Bucks County Centralized Court, (hereafter called ABC3), using all nineteen district justices. Such an action step would prevent future ad hoc patching and incremental changes by crises. Second, to provide a planned framework for future enhancements of this ABC3 (Afterhours Bucks County Centralized Court) as the county population and its related problems grow.

To envision the next steps, a plan is needed. So this project is really more of an action project plan first, followed by a longer term preparatory planning project second, or to use an analogy from the baseball world, it is not a "hit and run play", but a "run and hit play."

GENERAL PURPOSE OF PROJECT

The project is designed for implementation of a permanent limited jurisdiction Afterhours Bucks County Centralized Court (ABC3). It is preferred that the site be established at the geographic center of the county at or near the county prison. This location, center of the county,

is somewhat controversial because each stakeholder has a different idea or preference for location of the court. When projected over the next fifteen years, the population increases will result in a more even distribution of population, so that the geographic and demographic centers will gradually become the same.

ABC3 will be presided over by using the existing regularly elected district justices or appointed bail commissioners, and staffed with special trained clerks. The facility will be secure and have proper internal controls for collecting, processing, and depositing money. The facility will have computer equipment provided by the state Administrative Office of Pennsylvania Courts (AOPC) as well as the county's own computer system for record inquire, word processing, etc. A critical feature needing to be addressed is how to transport defendants or more importantly how to justify police having to travel further to a central site in terms of loss of patrol time and the cost of mileage.

The facility could be adapted easily for conducting preliminary arraignments at remote sites using cable television/video conferencing technology. Possible one site in the lower end of the county could be used, and in subsequent years, another at the upper end of the county. In addition, the facility has many possibilities for use during regular business hours, such as: a training site for clerks, or centralized preliminary hearings and arraignments by Common Pleas Judges. Another use for this facility in the future could be for conflict hearings, or in certain civil or private summary cases, to accommodate parties who have difficulty leaving their jobs or school during the day to attend court.

The ABC3 would be fully open and accessible to the public and any interested party. All interested victim support service providers would be able to be present. All of the things above described should be evaluated in terms of their effectiveness in existing courts of similar design.

OVERVIEW OF COURTS EXISTING OPERATIONS

Following the 1968 Constitution, there was a major reorganization of the minor judiciary. Essentially this reform changed the office of Justice of the Peace which had existed since 1776 from a fee based system to a salary system. In addition, the reorganization established the number and classes of magisterial districts and had the effect of reducing the number of this type of judges from about 5000+ to 550. Although the new position called district justice still required it to be filled by election of the voters, the reforms required certification before serving in office and continuing education annually. Vacancies are filled by gubernatorial appointment and Senate confirmation. The magisterial districts were mandated based solely on population and population density. Each magisterial district contains one district justice, who is elected for a six year term.

District justices are sometimes still referred to as: Justice of the Peace, District justice of the Peace, Squires, Magistrates, Special Court Judges and even Aldermen. Their court is considered a minor court - not of record and often referred to as a limited jurisdiction court or special courts, but more correctly it is termed District Court or District Justice Court.

These courts are considered the first level of courts. District justices have jurisdiction over summary offense; both traffic and non traffic offenses (such as violations of local ordinances); civil actions where an amount does not exceed \$8000 as well as the type of civil case known as Landlord and Tenant. The district justice can hold preliminary hearings in criminal court (misdemeanor and felony) cases for purpose of finding whether there is a prima facie case, and if so, hold the case (forward it) to the higher court or Court of Common Pleas.

In addition, these judges of the minor judiciary hold preliminary arraignments, set and fix bail, as well as perform marriages and handle emergency protection from abuse. Also district

justices collect and remit fines and costs due. The primary powers and authority of district justices is set by Pennsylvania Statue 42 Pa CS Section 1515,³ and by State Rules of Court.

In a related matter district justices generate warrants in criminal matters and court process paperwork in civil maters which they give to constables for service. The constables duties and powers are poorly defined and they lack direction and authority structure. In recent years legislation has been enacted that is now beginning to provide some structure and mandatory education to constables. A constable is a separate elected or appointed position, therefore, the district justice has no authority to direct the constable's work or their performance except indirectly by "carrot and stick" method, such as, withhold giving work to poorly performing constables. This brief background about constables is important because they are the primary service transport arm of the district courts especially during Night After hour on call duty.

Specific Background of Bucks County

Bucks County has nineteen district justices spread over 621 square miles with a population expected to be 600,000 by the year 2000. Currently, the after hours district justice on-call System consists of two district justices available after regular business hours at pre-set times, of every four (4) hours: 8:00 PM, Midnight, and 4:00 AM, and weekends and holidays day time of 8:00 AM, Noon, and 4:00 PM. The county's two on-call district justices are divided into two groups: a mid-upper county group of six and a lower county group of thirteen. In addition, if a district justice is needed by police via county police radio for an on-call, the district justice may call his clerical office staff to assist. The staff is unionized and paid, if scheduled, a standby rate for being available as scheduled, and an overtime rate if called into work. A couple of years ago the court

³ See Appendix C Jurisdiction and Venue of District Justices (42 PA CSA Section 1515).

was able to convince the prison (located near Doylestown) to accept bail at certain times after hours. This was accomplished by deputizing guards as Clerks of Court for accepting bail.⁴

It may be important that the term “night court” be precisely defined because it connotes the concept of a full service court - with more traditional type of hearings and dispositions. Therefore, the use of the words “night court” in this report means an after hours court where district justices handle bail, perform preliminary arraignments, defendants are brought before the district justice for failure to pay fines and costs due, protection from abuse - both emergencies and for violations of an order. Furthermore, this after hours court would be located close to or preferably at the county prison located six miles south of Doylestown near a village called Edison. The idea of having the facility at the prison has merit because the prison often has the best or most complete record of a defendant and the Doylestown-Edison area is the geographic center of the county. The after hours (night) court space could be fully utilized during the daytime as a training room; and too, it may become feasible for conducting centralized preliminary hearings.

By 1998, the county will have eighteen, instead of nineteen district justices. This is in accordance with a redistricting plan adopted in 1993 by the Supreme Court of Pennsylvania. It will be accomplished by closing one district justice court in lower Bucks County upon the retirement of a district justice.

Therefore, calculations for the coverage of one centralized afterhours facility should use all eighteen district justices and dissolve the current coverage system previously described. Also the facility should be staffed with full time permanent clerks, two or three, who are highly trained and specialized in the clerical requirements of the work. The cost of these positions would be

⁴ See Appendix D Bucks County’s New After Hours Bail Procedures and Order No. 39 (effective July 9, 1993).

offset by the savings of not having to pay for standby and overtime under the current system, in the other nineteen (eighteen by 1998) district court offices. Although the expenses for establishing and operating ABC3 could be funded today by the collection of a statutory cost not currently being assessed, it is believed that ABC3 could be shown to be cost effective even without such additional court cost collected and applied to support ABC3. This point of view takes into consideration the value of ABC3, when its benefits and spin off programs are measured and accounted for across the entire criminal justice system of the county. An ABC3 will result in efficiencies not initially apparent, such as the use of the facility for training, video linkage, and special courts like drug violations, etc. The creation of ABC3 will prepare the county and its courts to positively handle the myriad of court and social problems inextricable tied to the continual and dramatic population growth of Bucks County. To envision the development and evolutionary tract of the afterhours court see Figure 1 which represents the logical progression of modular levels of sophistication.

Figure 1

MODULAR LEVELS OF SOPHISTICATION

- 1) What we had before, on-call at any time, for a week, by two district justices, and county split upper and lower.
- 2) What we have now, or periodical on-call, for a week by two district justices and county split, upper and lower.
- 3) One (1) centralized Afterhours site, with all district justices combined.
- 4) One (1) centralized (like #3 above) Afterhours site but use technology to allow for preliminary arraignment from another site.
- 5) Use of appointed bail commissioner to serve at a centralized Afterhours site (see draft legislation).⁵
- 6) Same as #4 and #5 above, but extending the type of service to include bail commissioners conducting recusal and civil hearings for convenience of public.
- 7) All of features of #6 above, but more efficiently utilized, the centralized After Hours facility during regular day time hours as a training site and also to hold centralized preliminary hearings.
- 8) All the features of #7 (above) but with additional specialized courts, if ever needed.

⁵ See Appendix E Pennsylvania House Bill Preliminary Draft Legislation to Title 42 Section 1515.1 for the appointment of bail commissioners for Second class or Second class A counties.

SIGNIFICANCE OF THE PROJECT

The significance of this project for Bucks County can best be summarized, and synthesized in terms of four logical constructs hereinafter called: Justice, Equality, Service, and Renewal. Whenever we ask ourselves a question, like what is the significance of a thing, the answer is often embedded in the question. In other words the answer is not a quick how to, but an exploration back through the events and experiences to examine, verify and consolidate in a useful way a guide to development for ourselves or others.

The significance of establishing ABC3 has led this author through the literature, surveys and interviews to the above four logic-construct-words. How these four words tie this project together and give it character, meaning, and significance becomes evident when their definitions are expounded upon. First a brief tour of their dictionary definitions, and later a more extended visit upon the texture of each of these words in relation to this project.

Justice: This would refer to the quality of being right - doing the right thing, and includes applications of impartiality, fairness, and sound reasoning. It is treating all sides alike and always implies authority and power.

Equality: This pertains to having the same quantities, size, number, and value; and also privileges which are evenly proportioned, balanced, uniform, and equivalent.

Service: Refers to work performed for another such as public employment or being in public service. It is a method of providing people with access or use of something of value. And too, it is service that is given in a helpful, friendly and timely manner.

Renewal: The reference here is on renewing which is to make new again, stronger again,

to spirit a new beginning; and to renovate. Coupled with renewal is the culture of a particular community, its members, their ideas, customs, skills, special training, vision, habits and experiences. Finally, renewal implies a process of becoming with an emphasis on continual improvement.

Those four words were mentioned most often, or referred to and implied continually throughout the process of my research on after hour limited or special jurisdiction courts and night courts. Therefore these four logical word constructs help to give structure and focus to the project; especially how this project should be designed, implemented, operated and evaluated.

There is a need for our leaders and stakeholders to envision what such an after hours court might and should become. It requires planning and examining the needs of the court and an awareness of the projected population growth and density with its attended problems. Finally a willingness or commitment to act in an adaptable way to change.

Having now provided a skeletal framework of each word construct, the next step is to elaborate further to give body, character, or relative meaning to each for this project.

Justice may be the most important construct, certainly the one that everyone feels they know best what is meant by it. Isn't that why we have courts of any kind, to do justice?

Justice to a very great extent is image and the assurance that the court is doing right, and more than the narrow application of a law or rule.

When discussing an after hour court it is the institution that is entrusted with our liberties until morning and the reopening of traditional offices.

“Justice is the end of government. It is the end of civil society. It ever has been, and ever will be pursued, until it be obtained, or until liberty be lost in the pursuit.”⁶

When justice is done or perceived to be done then the image of the court is strong and remains viable. To a great extent the role of the court in the coming years will determine the kind of justice dispensed. Suzanne C. Stover identified image as one of the key issues in the coming decade for the courts in her 1996 article, in The Court Manager. She said that there will be a need “to assess the changing fundamental role of the court to determine whether they should continue to manage . . . many of the social and therapeutic programs.”⁷ More important Stover posited that the Court will need to think of its future and begin to do strategic planning to determine the relevancy of the court’s role in the future society.⁸

The administration of the court is only as effective as its image - a strong positive image results in Justice whereas a negative image creates a distrust of the court institution. Our society today is very much a twenty-four hour one and therefore a powerful argument can be made for a permanent relevant after hour court, not a rubber stamping procedural court, but a justice court.

Equality regarding ABC3 is really first about a balance of power of our branches of government and their institutional departments; second how such an after hour court should be organized and operated.

First it is important that the courts, specifically after hour courts, maintain their impartiality, and not give up or defer certain related court work to the executive (police) or

⁶ Rodger Warren, “Customer Service in the Courts: Responding to the Cry for Justice,” The Court Manager 11 No. 3 (Summer 1996): 11(5).

⁷ Suzanne C. Stover, “Issues facing Courts in the Next Decade: Image, Funding, Resources,” The Court Manager 11, No. 5 (Summer 1996): 8-9.

⁸ Ibid.

administrative (clerical) branches of government. Some examples are that court notices to defendants should be provided by the court and not the police, and the court should maintain the integrity of its files and data base. For in the middle of the night it is the night judge who stands between a defendant and prison, who decides whether to issue a search warrant, who determines the believability of a defendant's inability to pay, and who considers a victim's circumstances.

Second, the equality construct is referred to in this paper pertains to ensuring fair scheduling of the judges and their after hours workloads, and includes determining the best way to operate an after hours site for the police as well as the defendant's family and victim. By focusing on the equality construct we come to determine how this project will be measured, the type of activity information that needs to be captured and how the performance of this after hour court is to be evaluated. One element of measurement would entail a cost-benefit analysis, however, even this type of accounting is insufficient for public service type institutions. A more accurate tool would be the use of activity-based-costing which records the cost of not doing something.⁹ For example, what will be the additional costs (social costs as well) of not implementing ABC3. Also what opportunities would be lost by not implementing ABC3, such as better working relationships with internal customers, less paperwork errors, or better use of immediate defendant referral or victim services.

Equality as to how an after hour court is organized for delivery of service with the defendant in front of the judge or from a remote site using video technology will have to be decided. Suzanne C. Stover believes that the court and its "managers must learn to balance the

⁹ Peter F. Drucker, "The Information Executives Truly Need" Harvard Business Review (January-February 1995): 54-62.

customers' needs for person-to-person contact with the capability of providing higher service volumes through technology."¹⁰

Overall the equality construct of balance of power, organization structure, and evaluation - measurement is a responsibility issue which the court must resolve. The solutions in most instances will be deemed successful if the compromises are reasonable and don't effect the power of the court or the delivery of justice.

Service is really a matter of quality and responsiveness to our clientele, regardless of whether we call them clients, customers, citizens, victims, defendants, police, administrators, subjects, etc. Service is a striving for excellence in one's work, art or profession. It speaks to the desired or acceptable standards by which delivery of service is to be measured. The quality service movement pertains to the way each of us wishes to be treated if we were on the other side of the counter or bench. In a real sense it is an application of The Golden Rule: *Do unto others as you would have them do unto you.*

To develop a servicing organization and maintain high quality requires getting good information said Philip B. Crosby in his tome Quality is Free which stresses that "the basis of any good quality program is the data through visual and mechanical inspection which permits evaluation."¹¹ Writing in the The Court Manager, Roger Warren, President of National Center for State Courts, stresses feedback in his 1996 article saying, courts need to create more client feedback from the public and also from its internal customers. Mr. Warren goes on to say, "[i]t is

¹⁰ Stover, "Issues Facing Courts," 8-9.

¹¹ Phillip B. Crosby, Quality is Free: The Art of Making Quality Certain (New York: McGrall-Hill Book Company, 1980; reprint ed. New York: Mentor published by Penguin Group, 1980). p 60 (page references are to reprint edition).

important to focus on customers because it is important to preserve the public's trust and the public's respect for the role of the judicial branch in American democracy."¹² And in summation Mr. Warren pens, "[a] focus on customer service assures that we in the court serve not only our institution but also the causes of justice."¹³

Through the construct of service this project's performance, following implementation of ABC3, can be assessed and held accountable using quality management tools such as feedback instruments.

"Customer service", says Wagenheim and Reurink "is a philosophy and attitude which guides the actions of all individuals and groups within the organization."¹⁴ They go on to state that if "[a] customer is also defined as a person with whom one has to deal. This definition changes the organization boundaries from the public sector to groups within the public sector as agencies, bureaus, offices, and departments."¹⁵ The authors focus on recognizing the internal customer (other worker and other departments in the same organization) besides just the external customer so that customer service spans internal boundaries and results in organization integration. This is an important benefit to keep in mind with the implementation of ABC3, which is: in addition to establishing balance of power and work issues as outlined under the Equality construct, it is important to recognize the many players in the criminal justice system who, working together in a customer service milieu, would positively benefit from one another

¹² Warren, "Customer Service in Courts: Responding to Cry for Justice," 14.

¹³ Ibid., 45.

¹⁴ John H. Reurink and George D. Wagenheim, "Customer Service in Public Administration," Public Administration Review, Vol. 51, No. 3 (May/June 1991): n.s. p. 2.

¹⁵ Ibid., n.s. p. 2.

services.

Renewal entails elements of leadership and management and to some extent shared vision for the purpose of leading, guiding and challenging the organization. Many of the ideas and concepts about renewing are restated in numerous books and articles on organization management and leadership skills. An example is the popular book by Michael Hammer entitled Reengineering. [Many of Hammer's ideas are not particularly new and in fact this author questions the wisdom of reengineering since Hammer had to write a second book to explain what he meant.] Nonetheless one of the quotes from a 1990 Hammer article in Harvard Business Review (July/August) speaks to renewal, it reads "[a]t the heart of reengineering is the notion of discontinuous thinking - of recognizing and breaking away from the outdated rules and fundamental assumptions that underlie operations."¹⁶ Certainly discontinuous thinking will need to be part of the discipline followed in implementing ABC3. In that same article Hammer envisions how to implement by saying, "[r]eengineering cannot be planned meticulously and accomplished in small and cautious steps. It's an all-or-nothing proposition with uncertain results."¹⁷ Beginning any new project is fraught with never having enough data or studies to assure success, yet there is a time when action must be taken. A hesitation to move forward and a desire for more information will happen between the planning and implementation of ABC3. However noted business-government professor and author Henry Mintzberg has said in his 1996 article "Managing Government and Governing Management" that "[t]he fact is that assessment of

¹⁶ Michael Hammer, "Reengineering Work: Don't Automate Obliterate," (Harvard Business Review July-August 1990; reprint, Boston, MA Harvard Business Review Re-print collection No 90406), III. (page references are to reprint edition 110-118).

¹⁷ Ibid. p. 111.

many of the most common activities in government require soft judgment - something that hard measurement cannot provide.”¹⁸

In terms of what renewal for the organization means, especially related to implementing ABC3, research has shown that there is much more than meets the eye. In the Harvard Business Review article (June 1980) Structure is Not Organization, the authors of the article, Waterman, Peters, and Phillips, show that “[o]ur assertion is that productive organizational change is not simple a matter of structure, although structure is important.”¹⁹ “[Their] central idea is that organization effectiveness stems from interaction of several factors - some not especially obvious and some underanalyzed.”²⁰ These factors are Structure, Strategy, Skill, System, Style, Staff, and Superordinated goals. (A superordinated goal is some fundamental thing that an organization does particularly well or is known for).

There are a great number of leadership articles in the past years on vision and the learned or innate talent of a manager to perceive and be creative. More recently this “vision thing” is being debunked. One view on why vision isn’t all its cracked up to be was articulated by Heifetz and Laurie in a recent article Harvard Business Review (January-February 1997). The authors said “the prevailing notion that leadership consists of having a vision and aligning people with that vision is bankrupt because it continues to treat adaptive situations as if they were technical: the authority figure is suppose to divine where the company is going, and people are suppose to

¹⁸ Henry Mintzberg, “Managing Government, Governing Management,” (Harvard Business Review May/June 1996; reprint Boston, MA, Harvard Business Review Reprint No. 96306), 79 and 80. (page references are to reprinted edition 79-83).

¹⁹ Thomas J. Peters, Julien R. Phillips, and Robert H. Waterman, “Structure is not Organization,” (Excerpted from Indiana University Graduate School of Business, Business Horizons, Vol. 23, No. 3, June 1980): n.s. p 4.

²⁰ Ibid., n.s. 2 and 3.

follow.”²¹ These authors say that executives need to break the habit; that they must find the solution. Problems today require adaptive challenges and employees at all levels must be involved in the solution. An organization that was organized and supported in the style of adaptive challenge would have leadership using learning strategies. The ABC3 project would help the current minor judiciary organization to focus on handling change in a positive way. Additionally its members would, in time, develop and renew themselves in terms of establishing continually higher standards of public service.

These four constructs must remain in balance for a weakness in one will cause the other to also weaken. A dysfunctional experience in the process of renewal could lead to a lack of substance and an inability to adapt to change. Little or no effort in providing quality service creates a poor court image. By not insisting on meeting the issues outlined under the equality construct could create an environment of distrust, selfish misuse of others time and services and inaccurate measurements. Finally refusing to insist on the highest principles and right standards for justice could result in a laughable court that pigeon-holes each event and merely acts as a rubber stamp.

In relation to the Trial Court Performance Standards with Commentary (National Center for State Courts and the Bureau of Justice Assistance, United States Department of Justice, 1990) the establishment and implementation of a permanent ABC3 is aligned primarily to Standards 1.1, 1.2, 1.4 and 5.2, 5.3 and to a lesser extent but nonetheless important to one item of Standard 4.5.²²

²¹ Ronald A. Heifetz and Donald L. Laurie, “The Work of Leadership,” Harvard Business Review (January-February 1997): 134.

²² See Appendix F Excerpts of Trial Court Performance Standards with Commentary.

(Note: That these are of course Trial Court Performance Standards but the standards are applicable to the minor judiciary court as it is part of the unified structure of the common pleas (trial court).

SPECIFIC GOALS

The specific goals of this project are:

- 1) The important reason for implementing this project now is because the county has a golden opportunity to be ahead of the so-called power curve. As professional hockey player, Wayne Gretzky, when asked how he was able to score so many goals said, that he always went to where the puck was going to be. It is critical then to implement this project now before the county population dramatically increases further and the problems related to population growth and density become unmanageable.
- 2) To raise the awareness level of the leaders and stakeholders regarding the needs for a night court and the services such a court could provide.
- 3) By creating an accessible court after hours, will result in improvement in communication with other internal customers such as District Attorney, Public Defender, Prison Records Office, Clerk of Courts, Sheriff, Constables, Police, etc., which is an improvement in customer service.
- 4) To relieve and liberate the current elected district justice so they can attend to their case load. There has and will continue to be an increasing jurisdiction and authority given to district justices. This effect will continue to keep them busy enough during the daytime.

- 5) To relieve the current clerical staff in the various nineteen district courts from doing on-call duty whenever their judge is assigned weekly on-call. Being relieved of this duty will mean a reduction in standby and overtime pay. Throughout the nineteen district court offices, there are 107 positions with an office staff ranging from a minimum of 4 to a maximum of 8. The savings in overtime and standby costs would be transferred and used to fund a permanent after our staff at no additional costs.
- 6) To have specially trained staff would result in less errors and a better work product. In cases of emergency, it would be possible to always find clerical staff from some of the district court offices to provide backup coverage.
- 7) To maintain a better balance of power after hours between the executive and administrative branches of government.
- 8) Safety and security issues and concerns would disappear because the after hours facility would be set up with security monitoring and better internal control procedures, especially for handling monies received for posting of bail or payment of outstanding fines and cost.
- 9) Another goal of the program is to let all see how an after hours operation works for effective and efficient delivery of service to the public. It would permit spin offs of other programs such as victim support linkage, better use of facilities, and as the county grows with attended problems, it could meet the demand for more service to the police, and actually provide savings for the taxpayer.
- 10) Also, another possible use of the court would be as a test site for a special type of court such as day court, retail theft court, drug court, etc.

MEASURABLE OBJECTIVES

The measurable objectives for determining the project's success are the following measurable items and events. Since project implementation is recommended for July 1, 1998, it is proposed that comparative data be collected for six months under the existing (old) system from January 1, 1998 to June 30, 1998 and compare it to the same data collected for six months under the proposed (new) system, or from June 1, 1998 to December 31, 1998.

1. Activity level or usage:

by Police:

- ◆ summaries
- ◆ court cases
- ◆ P.F.A.
- ◆ search warrants requested
- ◆ warrants requested

by private citizens:

- ◆ private criminal complaints
- ◆ PFA

2. Reduction in errors and increase in timeliness of paper flow:

3. Increase in the rate and amount of fines and costs collected and corresponding reduction in warrant to serve report:

4. Reduction in clerical overtime and standby costs:
5. Reduction or maintenance of daytime caseload: either reduction of any existing caseload or prevent any future back log from occurring:
6. Marked increase in level of security:
7. Measure number of defendants sent to prison: see if disposition mix changes:
8. Feedback by users and clients of the system:

Include but not limited to police, defendant, witness, victim, prison staff, friend/family of defendant, judges, criminal justice system workers, social services.

BRIEF OUTLINE OF THE REMAINDER OF THE REPORT

Outline of the remainder of the Report

There are four more main sections to this report which are: a review of the relevant literature, description of the methodology used, an analysis of the information uncovered with findings, and finally a conclusion section with a summation, recommendations and implications for further study and implementation.

RE: Review of relevant literature

A large portion of the literature review was limited to stories in newspapers about night courts. Most of these stories were based in three major cities of Los Angeles, New York City and Chicago. A review of the literature contains numerous articles from court and public administration magazines, and other business periodicals, such as Harvard Business Review. Also there were some basic business books on leadership and management which were found to be pertinent to the project. Finally, there were five National Center for State Court prior projects that were used as resources for this project.

RE: Methodology

Two primary research tools were used for this project. The first was the design of a structured interview questionnaire for the purpose of interviewing, by telephone and site visits, court officials and administrators in six other counties of Pennsylvania which already have a limited jurisdiction after hour court in operation. This structured interview questionnaire was designed as a tool for collecting helpful information, not for the purpose of a control test or pre and post design tests.

The second type was the design and use of a data collection instrument over six weeks in Bucks County to analyze the current after hour on-call system. This collection instrument helped to organize certain specific information during an on-call week from the upper and lower end courts scheduled. The six weeks of data collected were taken from November 1, 1996 and continued through December 13, 1996. It provided a profile or snapshot of work activity of the county. The information is summarized and analyzed to give a picture of the volume and type of work, and from what area or municipality of the county. The body of the methodology section specifies the collection procedures, and problems encountered.

RE: Findings

A narrative discussing the results of the data collected of the existing county on call system and what it indicates. Also a discussion of the findings obtained using the structured interview questionnaire and of other county night courts in Pennsylvania and ideas for what type of after hour court would be best for Bucks County. In addition some of the areas of concern or unexpected information will be discussed as well as limits of this study.

RE: Conclusions and Recommendations

A summary of the conclusions and recommendations on how to proceed is provided. Because this is an implementation project, there is very little review of the relationships of this study to previous ones, except what is self evident in reviewing the literature.

Following the list of recommendations, there are two separate sections set aside that briefly state the lessons learned (what might have been performed differently), and implications for further study (what related or follow-up studies should be conducted). Finally this paper concludes by revisiting the four constructs (Justice, Equality, Service, and Renewal) and ends with a summation reminder of the utilitarian purpose of this project.

II. REVIEW OF THE RELEVANT LITERATURE

II. REVIEW OF THE RELEVANT LITERATURE

OVERVIEW OF THREE BASIC TYPES OF NIGHT COURT

A review of the literature did not uncover any projects specifically pertaining to an after hours limited jurisdiction court. Nearly all of the types of after hour courts were of the night court variety and were of three types:

1. An extension of the day court beyond traditional business hours for the purposes of either providing greater service to clients so they wouldn't lose time from their day jobs, or because of a shortage of courtroom space and increasing backlog cases.
2. Very special courts, primarily drug courts, traffic and civil and family (non jury).
3. Night courts located in large metropolitan areas whose powers extended beyond limited jurisdiction more than arraignments, but night court for hearings.

There were articles in newspapers, mostly legal newspapers, reporting on night court experiences generally from large metropolitan areas. These articles were a chronology of events about creating, sustaining, or expanding night court and they provided insight into some of the pros and cons of such a court and the political realities in creating and maintaining them.

A review of prior research projects related to this one did turn up five relevant projects. Although these five were focused on night courts which were either of a special type or had broader jurisdiction, they did prove valuable. Their value was in the similar kinds of problems experienced, such as obtaining relevant data, overcoming resistance to change, difficulties in obtaining approval for funding, addressing service needs both perceived and unexpected, justifying their existence, and implementation. Correspondingly these projects were successful in markedly similar ways, such as in the involvement of various stakeholders in the creation of the

court, the satisfaction of performing a valuable service especially linking critical service for defendants and victims in the earlier stages after arrest. These projects utilized information such as population, caseload, security, etc., and its members were able to overcome small turf wars and skirmishes related to flow of paperwork and work schedules. The projects reported a sense of pride in the work being performed with better working relationship between and among different branches of government, its departments and agencies.

Following the above type of literature it was necessary to go beyond the specifics of an after hour court to relate and apply other literature that adds value to this project. For this there is a mother lode of books and articles written largely in the business and public administration field. There are excellent published works about quality management, customer service, application of leadership and management pertaining to change, vision, renewal, organizational structure and, least we forget, reengineering.

Added to this outside reading are some interesting publications on planning implementation and cost-benefit approaches to designing a project which will be left for another day. However with regard to cost studies, a future study is recommended for the purpose of applying activity-based-costing to analysis and evaluation of social, non business product service, such as an after hour limited jurisdiction court.

Finally a point should be made that these publications, referred to herein as value added literature, provided a growing recognition and body of knowledge that was helpful. First, there are more similarities than differences between the private and public sector. Second, which is occurring now, there is an exchange of knowledge, application, and modus operandi between the public and private sectors. Finally, what is just about to unfold, and heretofore was missing is the recognition or appreciation the unique characteristics of each. In other words, it is ineffective to

transfer applications in a wholesale way from public to private or vice versa, but very effective to select and customize the application for transfer. This requires an appreciation of both sectors and the refinement or development of a management discrimination skill. Many public bodies, especially courts, are being asked today to apply blindly or indiscriminately use applications from the private sector. However in doing so, the public bodies like courts are being given, in many cases, impossible tasks which are doomed to fail missions. Furthermore this driving force or trend to have the courts be more accountable, although an appropriate request, seems to be based on the need for ever greater efficiencies, which are believed by many to be accomplished only through unification. However with regard to the structure and nature of court systems there may be more unity and standardization by experience of what's unique; that is, we are using the wrong "U" word in Court Administration today.

NIGHT COURT PROGRAMS OF MAJOR METROPOLITAN AREAS REPORTED IN LEGAL NEWSPAPERS AND JOURNALS

The newspaper and magazine articles about night courts in the United States were primarily from Los Angeles, New York City and Chicago from 1973 to 1993, or 20 years worth of experience.

The Los Angeles night court program of the Superior Court had numerous related reports, in their legal newspaper centering on a controversy between two branches of government, the judiciary and executive, but with an interesting twist. In Los Angeles the executive branch was pushing for a night court with much resistance from the judiciary. In 1986, the Board of Supervisors of Los Angeles believed that the Superior Court judges should work longer hours. The judges had requested the construction of more courtrooms and, of course, the response from

the Board of Supervisors was to work longer hours. Since "the county has control over the Court's purse strings, it could theoretically hold up the new courthouse construction or refuse to fund judges."²³

The Supervisors view was that getting the most use out of existing facilities made good sense; whereas, the judges felt they were being forced to go into night court, made to work extended hours, and that they were being dictated to and held hostage over a separation of powers issue. (It should be noted that better use of the court facilities could be a very strong selling point in implementing an after hours court.)

Eventually for Los Angeles Superior Court a compromise was reached and the judges agreed to try the night court project for two years in exchange for the relocation of 15 Dependency Courts out of the downtown criminal courts building.²⁴

The theme of funding and balance of power issues is a recurring one in most judiciary settings. The overwhelming trend today is to run for office on a cost cutting platform. It is argued that for the foreseeable future funding for new projects; particularly court projects, will be minimal. Therefore an after hour project can be successful only if it creates no new costs, or is a service strongly felt to be needed. This way an after hours court can be seen more positively as providing greater service with value added and also as part of the total local service government.

In February of 1987, the Los Angeles Superior Court, in the latest move over their controversial Night Court Program, announced that it would form a task force to study possible

²³ David Oltman and Henry Unger, "L.A. Judges will rethink opposing night court pilot; supervisors, others increase the pressure for program's life Daily Journal," The Los Angeles Daily Journal, 23 January 1987, 1 (22 col. in.).

²⁴ David Oltman and Henry Unger, "Judges approve night court with reversal of vote, respond to pressure," The Los Angeles Daily Journal 100, 27, January 1987, 1 (24 col. in.).

evening sessions for civil and family law cases.²⁵ There were continuing disagreements between the Board of Supervisors and The Superior Court over the value of the current night court program which had been restricted to three criminal departments since the Spring of 1986. The judges wanted night court for non-jury issues because these cases didn't raise issues such as lack of jury facilities after hours, parking lot safety, and the problems and costs of prison transport.

Judges were very concerned about their image because they believed that the executive branch was portraying them as against night court. Also there were rumblings that the executive - legislative branch's court oversight committee was attempting to shift the blame of the cost of government to the judges.²⁶ One Los Angeles Superior Court Judge said, "We've had night arbitration sessions in civil cases for years ..." ²⁷ and she and her colleagues felt the Board of Supervisors had forgotten it.

As described earlier the image of a court is one of how it is perceived and thus how Justice, one of the four constructs, is portrayed. It was reported in the California Lawyer (December 1991) that after some years of operating night court that the Los Angeles Superior Court wished to end the experiment. The Los Angeles Superior Court Judges dislike of night court was eventually summed up by their new President Judge Ricardo Torres who said, "Judges dislike night court because they see it as beneath the dignity of the bench to work until 10:30 at night."²⁸ Also President Judge Torres said they don't like having to share their chamber - it's an

²⁵ Henry Unger, "Panel to Study Civil, Family and Night Sessions," The Los Angeles Daily Journal 100, 11 March 1987, p B 1 (15 col. in.).

²⁶ Sarah Bottonoff, "Night Court Panel formed amid doubts," The Los Angeles Daily Journal 100, 11 March 1987, p. 22 Sec. II (6 col. in.).

²⁷ Ibid.

²⁸ B. J. Palermo, "Nighty-Nite, Night Court," California Lawyer, II, No. 12 December 1991: p. 22 (2).

ego thing. However many of the judges of the Superior Court who withheld their names had expressed another reason to a legal reporter saying “many judges believe that because of the limited caseload and therefore down time, night court has not been productive”²⁹ and that it is a poor substitute for not getting a new building. But President Judge Torres’ view seems to be the prevailing one, “We’ve been objecting to night court since the day we went into it. It’s not really professional, in my opinion, for judges to have to work at night.”³⁰

The contentiousness of the Los Angeles President Judge Torres was expressed later when he came to the conclusion, as a result of a recent bill introduced nearly six years after the night court project which required for the first time judges to work night court, that it had become a constitutional issue, a separation of powers issue. It seems that this legislation would give court order discretion to utilize night and weekend sessions. According to President Judge Torres, this legislation, may be unconstitutional and violate the separation of powers provision in the state constitution.³¹ This point goes right to the core of the equality construct described in this paper.

Another major metropolitan area, Cook County Illinois (Chicago) moved in 1988 to examine the use of night court for traffic cases. A legal newspaper reported that Cook County Administrator Jeffrey M. Arnold said that, “the court is considering how it might reschedule the way traffic tickets are issued and court dates handled.”³² Cook County was looking to schedule arraignments in the evenings to provide more time in the day for other types of cases. The

²⁹ Ibid.

³⁰ Ibid.

³¹ Lauren Blau, “Counsel: Night Court Bill Unconstitutional,” The Los Angeles Daily Journal 105, No. 58, 24, March 1992, p 1 (18 col. in.).

³² Katherine Schuert, “Night Session for Traffic Court Being Considered,” Chicago Daily Law Bulletin, 134, No. 19, 28 January 1988, p 1 (7 col. in.).

evening arraignments would be only for the defendant appearance and plea from 5:00 PM to midnight, and if the defendant wanted a trial then a daytime date would be scheduled.

This Chicago Traffic Court model would be an excellent way for Bucks County to more fully utilize any after hour facility because it would allow a defendant to see a district justice without taking time from the defendant's daytime job. The critique of this might be that Pennsylvania's citation process overcomes this concern . Pennsylvania's citation process is a customer service process because it allows the defendant to enter his plea on the reverse side of the citation and mail it to the appropriate district justice. If there are fines and cost indicated than the defendant must send a check equaling the amount specified, either to pay or to request a hearing. If the defendant wished to plead not guilty but no fines or costs are specified than \$50 is required to obtain a trial. But the Cook County model goes further by giving the defendant the option of having his traffic hearing in the daytime or evening.

A year later another Cook County Court, the Circuit Court, pressed for courtroom space and a shortage of judges, decided to recommend the use of five courtrooms at night for special drug violation trials. However, the Illinois State Bar Association (ISBA) opposed such night drug violation trials because they said the rights of individual defendants involved in narcotics could lead to discrimination. The bar argued that "it was insensitive to minorities as the majority of cases involve blacks and Hispanics" and such a special night court was a "denial of due process or access to the court."³³

³³ Teresa Sullivan, "ISBA Panel votes to oppose night court," Chicago Daily Law Bulletin, 135, No. 198, 11 October 1989, p. 1 (21 col. in.).

The contrary view offered by the Cook County Board in its proposal was that the county's motivation was the result of being sanctioned by the Federal Government to reduce its backlog of cases, unreasonable delays, and jail overcrowding.³⁴

The Illinois State Bar Association responded by urging the Cook County Board to discontinue the special narcotics night court because it would have limited success in reducing backlog and that the costs were too high in terms of the time of attorneys, clerks, staff.

At the same time another point-of-view by the Cook County Sheriff was his concern about the safety of the building, and the parking lots at night, and the shortage of deputies on his staff to handle the job.

Regarding very special type courts like night drug court presents slightly different issues. The Cook County Illinois Circuit Court implemented a drug court which resulted in reduction of processing time for drug cases, and to a lesser extent, non drug cases as well.³⁵ Again the example shows that creating one positive program helps in unseen ways to create other positive benefits. As pointed out by Church, et al who coined the phrase local legal culture to refer to a cluster of intangible factors states "As a general rule, the fastest courts tend to be the courts in which the attitudes and concerns of the legal community support a speedy pace of litigation."³⁶

The importance of this quote is that it places the Bucks County Judiciary in a very good light. The county is known for its no nonsense approach to moving cases and is clearly the leader in the state in keeping up-to-date with their work. Using Waterman, Peters, and Phillips

³⁴ John Flynn Rooney, "Action deferred on proposals for use of courts at night, on Saturdays," Chicago Daily Law Bulletin 135, No. 191, 2 October 1989, p. 2 (20 col. in.).

³⁵ Barbara E. Smith and others, "Burning the Midnight Oil: an examination of Cook County's Night Drug Court," The Justice System Journal 17, No. 1 Summer 1994: 41-52.

³⁶ Smith and others, "Burning the Midnight Oil," p. 42; described by T. Church et al., Justice Delayed: The Pace of Litigation in Urban Trial Courts. Williamsburg VA, National Center for State Courts (1978).

principles, "Structure is Not Organization", (Business Horizons June 1980), the up-to-date dockets of Bucks County would be in the author's view a superordinate goal, that is a fundamental thing the county's judiciary is known for or does very well.

The Chicago experience is interesting because it brings out many issues that are often overlooked in planning. Certainly the issue of identifying all of the players and stakeholders that are or may become involved is important. The power in numbers, and status cannot be overlooked as expressed by the Illinois Bar Association. An important reality not to be overlooked is safety and the additional staffing which may be required. There is also the matter of other departments like the sheriff or housecleaning which must juggle their schedules in order to accommodate the court.

In the Chicago experience the court was established. This was accomplished by the leader of the Court and the Executive branch having the courage to perceive the need and to continue to support the project during implementation.

New York City may have the most intense and thorough after hour courts in the nation. The reports of the experiences of the judge are some of the most fascinating reading. Each of the city's five boroughs has its own branch of criminal court (a 24 hour operation), and virtually every criminal case in the city passes through one of them. "This is where most of the work is of the criminal justice system. Misdemeanors and summons are disposed of in criminal court, and felonies are assigned there before being sent on to the Supreme Court, the state's court of general jurisdiction."³⁷ It's really, however, assembly line justice - due solely to the volume. Persons arrested are out in fifteen hours and back on the street. Judges work on shifts from 5:00 PM to

³⁷ John A. Jenkins, "The Lobster Shift," ABA Journal 1 November 1986: p. 56 (5).

1:00 AM called night shift and then 1:00 AM to 9:00 AM called the lobster shift, and then, of course, the day shift, 9:00 AM to 5:00 PM. These shifts and workloads of the Manhattan, New York City, for example, are very similar to the shifts performed by the bail commissioners of the city of Philadelphia, Pennsylvania.

Judge Richard T. Andrias in a 1984 ABA Journal stated what is as true then as today, that the public cries for stiffer penalties even when resources are strained. He believes that the taxpayers are getting more than they're paying for but don't know it. This is a recurring theme pointed out earlier, but also contained within the judge's statement was the crying need for the court to do a better job of explaining what it does, essentially better public relations.

Judge Andrias in the same article said "There's a limit to what efficiency one should have in the criminal justice system, we're not building widgets here,"³⁸ and that many of the causes of our social problems cannot be solved by the court. The truth be told, the courts are doing an excellent job with handling their work and the skill level is quite high.

An article published in 1989 in the New Law Journal of Great Britain looked to New York City for ideas on how to set up an after hours court. The City of London is studying New York's after hour court for the purpose of reducing the strain on their daytime operations. The article emphasized that even if night court costs a lot it has the beneficial result of restoring confidence in the judicial system by giving the defendant the option of a night time hearing and therefore no loss of a day's wages and that cases would be held on a day certain.

This article was refreshing because it showed our neighbors across the pond were not cowed over the costs of service if made available for the entire public. Also while seeking a way

³⁸ Ibid., p. 57 (5).

to accommodate the wage earner they discovered something else which is key to any reduction in backlog: do what you said you were going to do when you scheduled to do it. This is called a date certain event approach to scheduling and in the current general literature today it is called first things first.

In Washington D.C., there had been years of institutional resistance from the D.C. Superior Court on establishing a night court. However in 1990 a number of factors, from studies by the economist Alice Rivlin, to having a newly elected mayor Sharon Pratt, helped to push forward with the night court proposal. In spite of the bench's resistance, the night court proposal gained favor and became a reality. One of the goals for establishing a night court was to be available to the police for issuing warrants and performing arraignments. Judge Ugast who was one judge on the bench who favored the night court said "Keeping the court open in the evening would be a great convenience to citizens who may have difficulty getting their day in court during working hours."³⁹

In summarizing the periodical night court literature it can be said that these courts they were able to:

- reduce backlog due to judicial vacancies,
- reduce backlog because of lack of courtroom space during daytime,
- serve the police better,
- uphold rights of defendants,
- help defendant from losing days pay,
- attack a specific problem like drug violations,

³⁹ Daniel Klaidman, "Night Court Gains Favor," Legal Times (Washington D.C.; Superior Court Watch), 13 No. 32, 7 January 1991: p 1 (24 col. in.).

**better utilize physical plant and facilities,
require judge to work harder,
serve the public, and
assist the victim.**

RESEARCH PAPERS AND PROJECT STUDIES ON NIGHT COURT

Bronx and Queens, New York City: A Rand Institute Study

A study sponsored by the New York State Division of Criminal Justice Services and underwritten in part by the Rand Institute entitled "Analysis of the Night and Weekend Arraignment Parts in the Bronx and Queen Criminal Court"⁴⁰ may, because it was done in 1973, appear dated, but it proved extremely helpful. One of the criticisms about operating a night court is that there would not be enough work with too much downtime of highly paid individuals, and consequently inefficient and uneconomical. Surprisingly even for two (Bronx and Queens) of New York's five Boroughs slow times were the norm. This is a question which would need to be thoroughly addressed by anyone planning a night court for how could any other municipal government justify a night court's downtime if two large boroughs, really cities, like the Bronx and Queens have downtime?

The problem with slowdown of work or dead time can be frustrating for the night court staff and, in fact, on such nights "... judges and other personnel may frequently be heard to complain that their time is being wasted ..."⁴¹

On further analysis the study determined some of the reason for downtime and subsequent adjustments were made to even the work flow. First the study determined there were too few cases being docketed for night court and this really required a change in scheduling habits.

⁴⁰ John B. Jennings, "Analysis of the Night and Weekend Arraignment Parts in the Bronx and Queens," Sponsored by the New York Division of Criminal Justice Service, (New York City: Rand Institute, April 1973). [68].

⁴¹ Ibid., p. 33.

However one of the features of the study that relate to our current Bucks County on call system and will probably always remain under any after hours court of any type, are the irregular spurts of activity due to the manner in which defendants are brought to the court in bunches by police. The authors found that some of this downtime problem would be resolved once police central booking facilities were constructed in various arraignment parts buildings. Another factor for the unevenness was the delay in starting timely caused by the Legal Aid Society of New York. It was determined that the lawyers started the same time as the court and therefore were interviewing their clients while judges waited. This was easily solved by having the attorneys begin their interviews hours prior to the start of night court to keep pace. This is a point to remember in planning and implementation of an ABC3 which is to make sure other court participants or services are following schedules that will be timed to the court's schedule.

To assist in coverage of the arraignment parts (courts) judges from civil court were assigned to help. It was found that assigning civil judges to help out in criminal court proved less effective. This is because, "[i]n general, civil court judges appear to be more cautious in their approach to arraignments, are unfamiliar with the plea bargaining process as it operated in the Criminal Court, and are less influenced by policies established by the Criminal Court Administrative Judge."⁴² This is a piece of information to tuck away in considering whether to use other types of judges to cover in emergencies. Also it may be an argument for special after hour court judges like bail commissioners.

The study found that it is a great advantage, at least psychologically, on the day of the crime to get cooperation from all parties, defendants, witnesses, prosecution and victim. This is a

⁴² Ibid., p. 38.

strong argument for use of ABC3 because it would effectively link up all referral, treatment or support services.

Citizen Dispute Settlement of Columbus, Ohio

A study entitled Citizen Dispute Settlement⁴³ about the night prosecutor program in Columbus, Ohio which was funded by a 1974 grant from the U.S. Department of Justice, Law Enforcement Administration, was in simplest terms an alternative outside the traditional court procedure. The program's uniqueness was its flexibility, as well as having the good fortune to staff the office with law students from a nearby university. The goals of the program were to: rapidly and fairly dispense justice, ease burdens of minor criminal court, reduce tension in the community, provide working people with a public agency forum during hours that won't interfere with their employment, remove the stigma of arrest involving a minor personal dispute, and prepare a case summary for the prosecutor.

The effectiveness of this program was that its administrators saw to it that sufficient training was performed. Also the screening criteria for acceptance of a case was worked out in advance of the program's implementation.

The goals described above are similar to some dispute resolution models currently in Bucks County. A permanent central after hour court would help focus such organizations and utilize their services. The Columbus model report stated that "With appropriate linkage to community social agencies, the program may be equipped to deal with a range of personal

⁴³ Department of Justice. Citizen Dispute Settlement: The Night Prosecutor Program of Columbus, Ohio. A Replication Manual, Prepared for National Institute of Law Enforcement and Criminal Justice, ([Washington, D.C.]: U.S. Department of Justice, Law Enforcement Assistance Administration, December 1974), (86).

problems which the courts cannot address.”⁴⁴ The report goes on to say, “In some instance, the sudden awareness on the part of the disputants that the law could apply to their behavior is sufficient motivation for agreement and a deterrent to continual harassment.”⁴⁵

Specifically the court, or for that matter the criminal justice system, simply is not oriented toward working compromises and solutions to citizen problems in any kind of personal way. Fundamentally, the court is called upon to handle questions and settle disputes along the lines of whether a crime has been committed.

Finally the Citizen Dispute project keyed upon three crucial factors for implementation: leadership, community support, and location which included access, safety and 24 hour operation. There are many features about citizen dispute models that are excellent resources for inclusion into a permanent after hours limited jurisdiction court.

Hennepin County, Minnesota: Midwestern Regional Office of N.C.S.C.

A 1990 research project, by the Midwestern Regional Office of the National Center for State Courts about night court and finding a solution to jail overcrowding in Hennepin County, Minnesota,⁴⁶ was conducted with the idea that a night court would reduce jail overcrowding. This was interesting because one of the concerns for Bucks County was that a permanent ABC3 would tend to increase the commitments to the Bucks County Correctional Center.

⁴⁴ Ibid., p. 37.

⁴⁵ Ibid., p. 19.

⁴⁶ Timothy R. Murphy, “Night Court: Is it a solution to Hennepin County jail overcrowding? Final Report,” by Overland Park Kansas Midwestern Regional Office, National Center for State Courts, (Williamsburg Virginia: National Center for State Courts, January 1990), (29).

It was determined that the law and rules of court of Pennsylvania help to alleviate prison overcrowding. Pennsylvania's rules requiring prompt preliminary arraignments, encouraged practice in use of bail 10% and R.O.R bail. Specifically, Bucks County has a very progressive judiciary that works well with the county's prosecutor (District Attorney) and public defender to speedily review and expedite bail modifications for reduction of unreasonably high bail to permit prisoner-defendant to post bail and be released from the correctional facility to report to their preliminary hearing.

Essentially Hennepin County did what Bucks County has been doing, or reviewing the prison list prior to each weekend to determine which defendants in prison would be eligible for bail reduction.

The National Center of State Courts were charged with review and analysis to determine, first if operating a night court have any meaningful effect on reducing the jail overcrowding; and second, would night court be justified in terms of personnel and financial resources.

The study reviewed the features of most night courts which are:⁴⁷

1. Traditionally night courts have been general jurisdiction courts which have insufficient space during day operations.
2. When growing courts are at capacity, there are budget constraints and plans are placed on hold for new construction, or there are delays in filling judicial vacancies to reap a savings.
3. Night courts are usually limited jurisdiction courts in large municipal governments and deal with minor offenses and traffic.

⁴⁷ Ibid., p. 5-6.

4. Night courts are special type courts like drug, traffic, or arraignments.

The National Center research staff found night courts to be expensive to operate because they cannot gain economics of scale in terms of security, data processing, probation staff, prosecutors, defender, etc, and there is usually too much downtime and not enough cases to keep the judges and staff busy.

The staff's primary conclusions⁴⁸ were that a night court for Hennepin County would only have a marginal impact, cost a lot to operate, and the defendants released would only be accelerated by a few hours. Therefore the staff's bottom line conclusion was that a Hennepin County night court could not be justified.

However the National Center's office staff made recommendations⁴⁹ to remedy many of Hennepin's problems, which are summarized below;

1. Continue with a Saturday Judicial Review.
2. Also review cases on holidays.
3. Make use of the felony arraignment judge on-call. It seems many persons in criminal justice system of Hennepin County were unaware of this service.
4. Use more pre trial release and this requires better records.
5. Seek to introduce state legislation to reduce the amount of time state wide a defendant can sit in prison before arraignment and also write a local rule.
6. Refine the bail program for domestic assault cases as current fixed bail policy is too high.

⁴⁸ Ibid., p. 12.

⁴⁹ Ibid., p. 12-22.

7. Make pre sentence investigation discretionary.
8. Permit additional or multi bail review.
9. Seek the State Administrative Court to promulgate a rule which would allow police to release defendants and proceed by summons in certain types of cases.

Clearly many of the problems and the resultant recommendations are already in place in Pennsylvania and locally in Bucks County so those portions of the study would not be useful to this paper's project. However, the conclusions of the Hennepin County study were helpful in the approach to weighing the cost to benefits obtained.

Night Court a Model Court Project of New South Wales, Australia

An illuminating evaluation of Night Court entitled Model Court Project⁵⁰ was examined. It was a 1987 evaluation of night court in New South Wales, Blacktown, Australia. Night court in Australia was first started in 1976 in Sydney, New Castle and Wellington. The origin was simply initiated in general terms by the Premier to go try new things. The Blacktown night court project was essentially to offer the public the option of appearing in court without losing a day's pay. Other reasons announced by the Attorney General were to reduce the court delays and improve service. A committee was formed to determine the most suitable cases and they decided upon fresh starts (new cases) and uncontested adjourned matters.

The evaluation after six months of operation found that nearly 60 percent of the court's clients preferred attending night court and of these more than 60 percent did so to avoid losing a

⁵⁰ Richard Mohr, "Night Court Evaluation: Model Court Project," Sponsored by the Law Foundation of New South Wales and the Local courts of the Attorney General's Department, (New South Wales, Australia: Social Research Policy and Manning, April 1987) (44).

day's pay. Also more than half of the clients resolved their case the first time. The legal profession were critical of the night court as they felt distance was too far. The media were extremely favorable because they played up the story as night court being what the public wanted.

The conclusion and recommendations were:⁵¹

1. Facilities are well utilized.
2. Attorney General will need to increase the remuneration for magistrates.
3. Extend to other areas.
4. Compensate magistrates who serve with additional time off.
5. Introduce other types of cases.
6. Use clerks to assist.
7. Train police to offer defendant's choice of being bailed to night court.
8. Collect better data.

An interesting request was to provide more tea money for magistrates (meaning meal money).

This Australian model like an earlier article from England once again looks to breaking out of a traditional mode of operation for the purpose of providing better service to the public. This kind of thinking is termed renewal, one of the logical constructs referred to earlier. The implementation of ABC3 is going to require us to renew, otherwise it will be a patchwork after hours system until a crisis comes along.

⁵¹ Ibid., pp. 11-15.

Review of the Night Court Program of Fayette County, Kentucky

The final project of related literature comes from Fayette County Quarterly Court of Lexington, Kentucky in 1977 which was a Review of the Night Court Program of Fayette County.⁵² Again this is a project funded in part by the now defunct Law Enforcement Assistance Administration (LEAA). Like a lot of projects funded in the 1970's by LEAA, this was a non-traditional approach for solving interpersonal disputes outside the court system. An impetus for this project was to find a way to reduce the activity of the urban police department on handling responses to family disturbance calls. The project evaluation centered on four things: diversion activities, timely disposition of cases, benefits to the public and personnel performance.⁵³ The project findings are listed below.

- ◆ Diversion of Activities: night court was very effective, but needs better records, follow up, and linkage to referral services.
- ◆ Timely disposition of cases: adapted an informal policy ranging from regular processing to crisis intervention. This was determined to be soft and unmeasurable.
- ◆ Benefits to the Public: Night court offered a viable alternative to traditional case processing.
- ◆ Personnel Performance: Night court staff was able to direct more than half of the cases, handled caseload timely and increase community confidence.

⁵² Joseph Butler, et al (Consultants), Review of the Night Court Program of The Fayette County Quarterly Court, Lexington, Kentucky: American University Law Institute a Criminal Courts Technical Assistance Project, (Washington, D.C., April 1977), pp. (38).

⁵³ Ibid., p. 12-15.

The authors make a final recommendation about cost/benefits and a the need for a follow up study to examine sample cases referred to night court compared to those cases going through regular court. [One wonders why this simple comparative tracking had not been performed in this study.]

This study failed to glean much that benefits ABC3 project except to point to need to develop better records and statistics to know what we have done, where we are going and what we will need, and what needs to be changed. This study did reference many features from other studies reviewed for this project, for example weakness of statistical record keeping. To a very great extent this is not the fault of project authors because up until now court data (as well as criminal justice data) has been imprecise, difficult to measure comparatively, and also there has been little motivation to format records in ways that statistics can be easily compiled. This is because the court for years was not looked upon as something to be managed and administrated, yet the court is being asked today to be more accessible, responsive, efficient, accountable, effective, and service centered.

VALUE ADDED LITERATURE: BOOKS AND ARTICLES

Beyond the kind of research about after hour night courts were publications and writings that added value and insight to the project. The authors provided either organization relevancy, even when discussing non court organizations, or proved instructive with principles to follow for anyone preparing an implementation project.

Planning and implementation are so intertwined that if it were otherwise - solely a cold discrete process, than more than likely the project either never becomes a reality or it is immediately doomed. [The message: become comfortable with planning and implementation

being intertwined.] Nobody seems to understand this better than Hudzik and Cordner who co authored the book Planning in Criminal Justice Organization and System (1983).

The authors say, “[a]lthough planning and implementation are distinct concepts, their interrelationship is critical.”⁵⁴ They go on by saying, “Implementation is obviously a key step in the sequence of rational actions but, oddly enough, until recently it has received relatively little attention. It is fast becoming clear, however, that the translation of plans and decisions into actions cannot be taken for granted.”⁵⁵ Therefore planning extends into implementation and becomes part of a feedback and control monitoring system, noting departures from the plan.

A great deal of literature abounds about Total Quality Management (TQM) and now TQM is being introduced into court organizations. This is commendable and useful, although it might not address the many unusual features of a court organization, yet it cannot be dismissed. TQM originated to improve and reduce defects in products used in the space industry. TQM will continue to be used in many organizations, but needs to be used selectively so that the organization – as with all other major overhauls, changes fundamentally. In other words TQM is not an add on component.

The reason TQM will be a driving force in the courts is that the courts are not immune from the public demand nor are any other institutions in our society. As Ronald J. Stupak said in an article on TQM, “The reasons are in the form of demands. Demand for Improved Productivity, demand for increase customer involvement, demand for more empowerment at the work site throughout the organization, demand for performance measurement and demand for

⁵⁴ Gary W. Cordner and John K. Hudzik, Planning Criminal Justice Organizations and Systems (New York: MacMillan Publishing Co., 1983), 24.

⁵⁵ *Ibid.*, p. 195.

development of a long term strategic plan. These demands are demands of any organization department and project.”⁵⁶ Implementation of ABC3 must fully address each one of these demands in its planning process.

We should remember that an objective of TQM is quality. Philip B. Crosby’s book title says it all: Quality is Free. Crosby also reminds us that quality is not brain surgery, “[t]herefore, quality means conformance and it is always cheaper to do the job right the first time.”⁵⁷ Crosby brings us back to where we started in this country and asks our managers to wake up and see who really does the work and serves the customers. Crosby says that, “What the headhunter and business writers don’t recognize is that functional jobs are what really make that sort of thing happen,”⁵⁸ (referring to turning organizations around, increase service, productivity and profits). Crosby believes that functional management is much more difficult than operations because with operations it is a matter of ordering functional people around. These quality considerations seem critical in any service organization. An after hour court is a real time thing, dramatically affecting people’s lives, and organized and staffed to render service in a functional way.

Bill Creech is the master of TQM and it shows in his book, The Five Pillars of TQM (1995), which he lists as: product, process, leadership, commitment and organization. Creech is insistent that these pillars are applicable to public or private sector and all five working together are necessary for organizational greatness. Creech takes a shot at Deming’s⁵⁹ fourteenth principle

⁵⁶ Ronald J. Stupak, “Total Quality Management: Driving Force for Quality Improvement in the 1990’s,” The Public Manager (The New Bureaucrat), Spring 1983: 32-34.

⁵⁷ Crosby, Quality is Free, p. 229.

⁵⁸ Crosby, Quality is Free, p. 229.

⁵⁹ Refers to Dr. W. Edwards Deming, a renowned American statistician and a founding father of quality-control and improvement. Japan created an annual award, beginning in 1951, called the Deming Prize which is awarded by the Union of Japanese Scientists and Engineers dedicated to improving product quality in Japan.

of leadership by saying Deming calls upon us to “institute leadership” but Deming is never able to articulate it. Also Creech says that there are many quality performing consultants out there but they rarely if ever run the place. He believes that, “ change can only be effective and successful if the top management becomes deeply involved - and pro actively leads the charge.”⁶⁰ What is particularly beneficial about Creech’s book is that anyone in any organization can use the principles by substituting a word or phrase indigenous to their organization for one of Creech’s.

A key article by Wagenheim and Reurink in Harvard Business Review (May/June 1991) points up a common misconception that customer service only satisfies external customers. These authors are big on reminding us that there are internal customers as well. The authors state that the customer service needs are: information and communication, problem resolution, on-time delivery, competence of personnel, and finally courteous and friendly service. These customer service needs are not, in my opinion, being adequately met under the present after hour on call system. It is proposed that these customer service needs be made part of the ABC3.

Peter F. Drucker in his 1995 Harvard Business Review article about “The Information Executives Truly Need” seems to speak right to ABC3 project when he mentions that the one activity at the center of cost is serving customer. His article pointed to the need for service organizations to begin using new accounting tools that more realistically determined the real costs, which is called activity-based-costing. This accounting seeks to determine the cost of not doing something as well as the cost of doing it. It is the type of accounting needed for service, social and government organizations. When viewed this way the development of an activity based

⁶⁰ Bill Creech, The Five Pillars of TOM, (New York: Truman Talley Books/Plume; published by Penguin Group, 1995), 223.

costing for ABC3 would be beneficial in showing many costs but more likely benefits that are currently invisible or unaccounted for.

Roger Warren, President of the National Center for State Courts, writing in The Court Manager (Summer 1996), recognized the similarities between the public and private sector. He said, "Organizations that provide services in the public sector have much in common with service industries in the private sector."⁶¹ What is required, he believes, is to adapt the quality improvement to the courts. Mr. Warren asked us in the courts to remember that most who come to court don't really want to be there in the first place. If ever there is a need and time to remember our customers its during after hours when the defendant is brought before the night judge.

Michael Hammer, the guru of Reengineering, sums up his principles⁶² as follows:

- ◆ Organize around customer, not task.
- ◆ Have those who use the out put of the process perform the process.
- ◆ Subsume information - process work into real work that produces the information.
- ◆ Treat geographically dispersed resources as though they were centralized.
- ◆ Link parallel activities instead of integrating their results.
- ◆ Put the decision point where the work is performed, then build control into process.
- ◆ Capture information once at the source.

⁶¹ Warren, "Customer Service in the Courts," p. 12.

⁶² Hammer, "Reengineering Work: Don't Automate Obliterate," pp. 114-118.

[Although previously I have been critical of Mr. Hammer the above principles cannot be criticized.]

To revert to the flagship book of reengineering, or Reengineering the Corporation (1993) by Champy and Hammer contains an important principle for ABC3 to remember which is that under the old rules the organization had to choose between centralization and decentralization but with new rules the organization select the best design at various stages throughout the system.⁶³ For ABC3, this is what needs to be done, so that the best after hour court for Bucks County may be an eclectic model using various types of tools and methods.

In Redefining What's Essential to Business Performance (July 1990), Leonard R. Sayles says that the hidden message on quality under just-in-time delivery, cross functional training, and others is that managers should not focus on discrete tasks but on the work flow.

This is important for ABC3 especially in light of some projects that reported downtime. Mr. Sayles reminds leaders that the good ones learn the realities of operations. Managers have to learn to manage downward all over again, says Sayles. They must learn how to shift from being supervisor of jobs and individual to being manager of a human/technical system. This requires, Sayles believes, managers to actively engage in real details and understand where and how value is added. Managers must cease being patronizing and pretending to give a sense of belonging.

Added to Leonard Sayles' comments should be J. Richard Hackman who said in a response as an expert to "Can Empowerment work at Sports Gear?" to Lawrence R. Rothstein's article in the (January-February 1995) Harvard Business Review about empowerment a case study

⁶³ James Champy and Michael Hammer, Reengineering the Corporation, (New York: Harper Collins Publishers, 1993), p. 93.

that often the main problem is that empowerment is an add-on; that is the program has not fundamentally changed.

The leadership to implement a project is more of an adaptive challenge. Heifetz and Laurie in their 1997 Harvard Business Review article about leadership speak about leaders needing to, as they put it, get out on the balcony. By doing so the leader gets a perspective of an out of body experience. This will allow them to identify struggles of value and power any dysfunctional work.

The authors say the next item is to identify the adaptive challenge and be mindful that what worked before may not work in a new environment. The leader needs to regulate distress or create holding environments, be responsible for direction but maintain tension, and continue to maintain discipline, yet being willing to confront opposing views but maintain focus. The authors claim that many efforts to transform organization have made classical errors of treating adaptive challenges as if they were technical problems that could be solved by tough minded senior executive. Redesign and reengineering often fall short of their mark because reengineering treats process redesign as a technical problem. The result is the manager neglects to identify the adaptive work and involve the very people who have to do the changing.

The implications for ABC3 is to recognize the adaptive challenges of the new environment and to make distinctions between what is a technical problem as opposed to a wider underlying problem and be sure to involve the people, who must live with it, in the process.

III. METHODOLOGY

III. METHODOLOGY

OVERVIEW

Because this project is centered upon implementation, the methodology followed was a departure from the traditional research design with its finely tuned pre and post test instruments and controlled survey methods. The course taken was this: There will be or will continue to be a need to change the existing after hours limited jurisdiction on-call system of Bucks County. Also pressure for greater after hour court service will only increase. So changes to the type of after hour service of the county's minor judiciary is very much a part of the project. Expectations and demands for greater service, especially support services is continually increasing. The court must begin to plan now for implementation of a different type of after hour service to accommodate the growing population and population density of the county which is closely tied to workloads.

Few courts can expect to see sufficient funding to meet their growing mandates, and Bucks County is no exception. To a great extent this project's call for preparedness and change is also as much a call for perception and awareness.

The purpose of the methodology used in this project was to bring real time information into play which came from two separate data collection exercises. One was to find out from other counties in the state of Pennsylvania, who had already gone through the experience of implementing such courts, for the purpose of learning from them. These other county government courts have nearly the same state laws to follow as Bucks county, and most of these county units of government have populations smaller than Bucks County. Also it was important

to understand why it was done and analyze the similarities and differences.

The other data collection exercise dealt with capturing a real time profile of activity that flows through Bucks County's district court after hours under the present on-call system. To gather this information a single page, ten columnar data collection sheet was designed. Information was collected over a period of six weeks. (If additional pages were needed the on call courts made copies.)

DATA COLLECTION EXERCISE OF SIX OTHER COUNTIES WITH NIGHT COURTS IN PENNSYLVANIA USING STRUCTURED INTERVIEW

Six counties in Pennsylvania were surveyed. These counties and the 1990 population and their major population of each county, along with Bucks County are indicated in Figure 2.

Figure 2
Population of Bucks County and Six Other Counties in
Pennsylvania and Populations of Each County's Largest Municipality

County	1990⁶⁴ County Population	Largest Municipality in County	Population(s) of largest Municipality
Bucks	511,174	Bristol Township	59,179
		Bensalem Township	56,788
		Middletown Township	43,063
		Falls Township	33,997
Berks	336,174	City of Reading	78,582
Dauphin	237,813	City of Harrisburg	52,376
Lehigh	291,130	City of Allentown	105,090
Philadelphia	(same as city)	Philadelphia	1,585,577
West Moreland	370,321	Hempfield Township	42,609
		Greensburg	16,318
		New Kensington	15,894
		Lower Burrel	12,251
		Jeannette	11,221
York	339,574	City of York	42,192

⁶⁴ McQueen, Lynn S. Editor, The Pennsylvania Manual, (Department of General Services, Commonwealth of Pennsylvania), Vol. 112, 1995.

The City of Pittsburgh (population 369,879) in the Allegheny County (population including the city of Pittsburgh 1,336,449) has a centralized after hour limited jurisdiction court. The city operates its nighttime services largely using retired service district justices. Such a model would not be feasible for Bucks County because unlike Pittsburgh which has a large number of retired judges, Bucks County has just three. Furthermore these three have had health complications in recent years and are reluctant to work after hours on a regularly scheduled basis.

The author of this project conducted interviews either by site visits (some at night and others during the day) and by telephone. To complete these interviews and collect information to assist this project a structured interview questionnaire was prepared and used.⁶⁵

The structured interview questionnaire was beneficial because it allowed for a variety of information to be obtained in an informal but controlled manner. The instrument allowed for separate note taking, follow up, and both closed and open question-response. The time to complete a structured question was a minimum of sixty five minutes, but usually much longer because of the explanations and interruptions, or sometimes over two hours, and if by telephone, two separate calls.

All but two of the interviews involved my counterparts of the respective county. Except for Lehigh County and Philadelphia, the structured interview participants were my counterpart of the respected county court. The participant for Lehigh County was the Operations Officer and a night court district justice. For the City of Philadelphia there were various persons: administrator, officer, and two bail commissioners.

⁶⁵ See: Appendix G (15) sample of Structured Interview Questionnaire.

The City of Philadelphia which consists of all of Philadelphia County is unique to the rest of the Commonwealth of Pennsylvania, and this is provided for by statute. The City of Philadelphia (or Philadelphia County) uses six bail commissioners and these commissioners have the same powers and authority and receive the same training and certification as district justices throughout the rest of the Commonwealth. The City of Philadelphia's limited jurisdiction court operates 24 hours a day all year and the six bail commissioners are scheduled to cover this court on a 24 hour basis all the time. The commissioners' primary role is to perform preliminary arraignments, review and issue search warrants, and set bails. These preliminary arraignments are conducted from one central facility in the city's New Justice Center using video remote hookup to five police lockup stations throughout the city.

Philadelphia (City and County) were included in this review because Bucks County may want to consider the use of bail commissioners. In the Commonwealth of Pennsylvania, Philadelphia is the only first class city and Pittsburgh is the only second class city. There are only three second class A counties⁶⁶ in Pennsylvania they are: Delaware, Montgomery, and Bucks. Legislation has been drafted and submitted to a committee of the state legislature which would give second class A counties, like Bucks, the authority to use bail commissioners.⁶⁷ The other five counties studied are all third class counties.

Four of these counties, Berks, Dauphin, Lehigh and York, have similar population make ups. Each of these have doughnut compositions, or a city located in the county - usually the center, that represents their largest population density and problems, and then the rest of the

⁶⁶ See: Appendix H copy of portion of State Statute which indicates the nine classes of counties in Pennsylvania. (16 P.S. Section 3202).

⁶⁷ See: Appendix E (repeat) Draft of State Legislation for the Appointment of Bail Commissioners for second class or second class A counties.

county is suburban or rural. Excluding the City of Philadelphia, Bucks County's make up is similar to Westmoreland, although even here the comparisons are not as close. Although Westmoreland has a heavy traffic corridor into Pittsburgh and two Pennsylvania State Police barracks, Bucks County's traffic corridor is also heavy between Philadelphia and Trenton and Interstate 95 and a portion of the Pennsylvania Turnpike running through it.

What Bucks County has is some large municipal populations located in townships and so the attended problems are sometimes not as apparent. In terms of population Bucks County has both the largest first class township (Bristol) and second class township (Bensalem) in Pennsylvania. Also with regard to second class townships, Bucks County has the third largest (Middletown), sixth, seventh, and eighth or Northampton, Falls, and Warminster respectively.

The primary obstacles to gathering information was the inability to make site visits to all six other counties. In one instance it was due to bad weather, and another it was due to sickness. One visit had to be rescheduled because of vacation time which the administrator had to use or lose.

DATA COLLECTION EXERCISE PROFILE OF BUCKS COUNTY'S EXISTING ON-CALL FOR SIX WEEKS USING A DATA COLLECTION INSTRUMENT

Information of this sector was needed to provide a picture, a snapshot in time, as to the volume of activity and the kind of activity (who, for what, from where, at what times, and when). This information was collected on a sheets called After Hour On-Call Data Collection Instrument.⁶⁸ Also each court that participated during the six weeks received a cover letter and

⁶⁸ See: Appendix I After hours On-Call Data Collection Instrument.

explanation sheet.⁶⁹

The instrument was used for six weeks from November 1, 1996 through December 13, 1996 by those district courts scheduled for after hours on-call. Bucks County's current after hour on-call schedule runs one week from Friday beginning at 5:00 PM through the following Friday to 8:00 AM. Each on call week involves two offices as the county maintains two regions of on call: the so called upper region which consists of six district courts, rotation once every six weeks; and the so called lower region which consists of thirteen district courts rotating once every 13 weeks. This six weeks of data represents 8.67 of a year, therefore, the data collected can be annualized when multiplied by 8.67.

Every Thursday, or the day prior to the beginning of an on-call week for which the data collection sheet was used, the author visited the district court to review the collection instrument and answer any questions. Although the data collection sheet had an explanatory sheet the visits were useful in explaining the purpose for the collection and the requirements for good information. Also every Monday, the weekend for which the data collection sheet was used, the author called each court to see if the data collection made sense and if the staff had any questions. At the end of the on call week each assigned court promptly mailed the completed data sheets to the author's office.

One District Court Administrative staff was assigned the job of reviewing the information collected to see if it contained any missing or misleading data; and if it did to follow up with the appropriate office who had filled out the information in order to correct or determine a reason. One office did fail to obtain constable activity related to bringing in defendants to pay outstanding

⁶⁹ See: Appendix J Cover memorandum with explanation of Data Collection sheet provided to the courts participating in on call study.

finer and cost due the court. To obtain this information after the fact, the staff employee requested copies of the constable's pay requests and matched the times and dates to ascertain the activity count.

The data pertaining to this project was tabulated as follows:

- ◆ Most active days
- ◆ Most active pre set times
- ◆ Cases introduced by: police, constable, private citizen
- ◆ Actions taken by judge or staff
- ◆ Number of defendants transported to prison
- ◆ Tabulation of other column, which contained 10 kinds of possible resource needs, such as for interpreter, security, etc.

The column and category totals presented a profile of Bucks County Courts' existing after hour on-call system. This type of profile survey would be more beneficial if it was either over a longer time span or taken in intervals over the year to reflect more variations.

The bounding of the project does not allow more sophisticated calculations of distances traveled. One interesting calculation would be to find the average distance from each police department to after hour court by region (upper and lower). Then compare these miles - using all police departments if they each had to travel to a central night facility. Following this, find the aggregate average currently and compare it to aggregate average to travel to a proposed after hour court.

Finally another piece of data that relates to this sector is the cost of overtime, of which, the overwhelming majority is related to after hour duty.

IV. FINDINGS AND ANALYSIS

IV. FINDINGS AND ANALYSIS

This section is set forth in five parts: First, a review of the findings by way of comparative summation of six other counties in Pennsylvania which have centralized after hours limited jurisdiction court already. Second, an analysis of the data collected over six weeks of Bucks County's existing on-call after hours system. Third, the critical need for Bucks County to address transportation issues, and followed closely by a proposal on how costs of ABC could be funded. Finally, an outline of data to measure for determining a successful implementation of this project. This will transition to Part V, conclusions and recommendations.

REVIEW OF FINDINGS THROUGH STRUCTURED INTERVIEWS OF SIX OTHER COUNTIES IN PENNSYLVANIA

The population figures were taken from the 1990 census, therefore, clearly adjustments will be in order. It is estimated that following the 2000 census, Bucks County's population will be 600,000. Likewise, population growth is expected to increase in five of the six counties reviewed with the exception of Philadelphia [Philadelphia has been losing population for the past 28 years]. Nonetheless, there is a proportionality to these population sizes and densities. Bucks County will continue to be a second class A county, therefore, after Philadelphia [first class] and Allegheny (Pittsburgh) [second class], Bucks and only two other counties are next in size, or 2A. The fact remains that these other six counties - with the exception of Philadelphia, of course, are about 60 to 65% of Bucks County's population and one about half, yet they have had centralized after hour limited jurisdiction courts for years.

Interestingly the number of magisterial districts in the other counties were nearly the same in number as Bucks County's - except for Philadelphia. Also, the majority of these other counties

have population distribution with one core area, or city of much greater population with the remaining portion of the county best described as less dense and more evenly distributed like suburban or semi rural. Because of this it is clear that the driving force for a centralized after hours facility came from the problems of a cityscape and the driving needs of a large police department.

All of the six officials interviewed by the author indicated that the centralized after hour court was meeting the objectives for which it was created. Interesting, however, there were only two who affirmed that an evaluation was ever performed! Four of these six night courts have been in operation for more than seven years, and the other two within the last three years or less.

Except for Philadelphia, which employs appointed bail commissioners,⁷⁰ all of the other five counties operate their after hours facility using regularly elected district justices assigned according to a rotation schedule. Only half of the counties submitted a written proposal or plan in advance of the creation of their after hours court.

Although the size of police force are things that most people are not aware of, it is important because there is an obvious correlation and relationship to the need for court services. Although Bucks County has no major city, or city of the third class, it has many large municipalities, which are larger than many cities, and many are contiguous to other municipalities of similar size. For example, as mentioned in the Methodology, Bucks County has the largest first and second class townships in Pennsylvania, and many others in the top fifteenth largest township in the state. Except for Philadelphia, the following counties of Berks, Dauphin, Lehigh, and York have their centralized night facility located in municipalities with populations of 78,582, 52,376,

⁷⁰ See: Appendix K Jurisdiction and venue of Philadelphia Municipal Court regarding bail commissioners, [42 PA C.S.A. Section 1123 (a) (5)].

105,090, 58,987 (includes Greensburg, 16,318 surrounded by Hempfield Township, 112,609), and 42,197 respectively.

Upon examination, Bucks County's demographic center is located about two-thirds south of its northern border when viewed lengthwise from north-northwest to south-southeast. The county is shaped as a Christmas stocking hung by the fire - so to speak, with its toe protruding into Northeast Philadelphia, and its back seam, stitch from toe to top of back strap following the Delaware River. Continuing with this picture, the stocking's population, and density lies from heel to toe, and along the instep and shin. However, today population and density is increasing from all sides. The county's characteristics are notably that of a bedroom community, and is continually being built up by successful challenges of the zoning codes by developers which results in even more development and density of building units.

Most of the county seats throughout Pennsylvania are located approximately in the center of each county, along with its prisons, and old age homes. There is little exception to this feature in any of these six counties in the study. Because of this feature all of the six counties have a prison nearby. And in addition, because of the city locations, all but one county have large city police lockups that are used for temporarily holding a defendant.

As expected, all of the work performed by the other counties were the same as that performed by Bucks County's district justices when on call. One difference is Bucks County limited or practical nonexistent use of bail bondsmen. With few exceptions, there was little to no involvement by other stakeholders in the creation of these other six counties' centralized night facility. All of the counties had a practical and coherent plan of back up coverage for emergencies which essentially was controlled by a schedule and followed the usual standby status. All of the counties maintained a special clerical staff who worked only for the centralized after hour court.

The clerical positions were either full or part time, but designed in such a way to prevent overtime pay. Initial training of staff was minimal in most cases, because each of these counties had staff that were knowledgeable of the district court operation, and preferred, because of their personal schedules, to change jobs or transfer positions in order to work nights only. Emergency coverage for clerical staff was handled nearly the same by all counties either by use of existing daytime clerks, or a supervisor trainer. Only two of the counties received some kind of grant funds, or special earmarked monies to help cover the costs of implementation.

The space and the accommodations for each of the counties reviewed varied. However, these centralized after hour limited jurisdiction courts either were designed for use as night court only, or used during the daytime as district justice offices, or city municipal offices. All of the counties have recognized the need for additional comforts and amenities and have separate lounge rooms, comfortable chairs, refrigerator, microwave, and television.

Nearly all of the facilities are located near public transportation routes, or lie near a main thoroughfare. Again, this is due to the centralized facility being near the county seats, which have established routes. This is good not only for staff, police, or other persons in need of court service and protection, but also for families and friends of the defendants who wish to find or assist with bail of the defendant.

Proper signs, directions, and markings for those unfamiliar with the location is often presumed adequate. However, all felt signage could be improved.

There were no studies available that analyzed distances traveled by police to the centralized after hour court, or what their costs of travel and time away from their policing was costing. This would be a more extensive study and cost to this project but one that should be

studies in terms of costs, benefits, and optional arrangements for transport of defendants to prison.

Although all six counties have a centralized after hours limited jurisdiction court, their schedules of coverage varied. Philadelphia had a very prescribed fully scheduled night judge or specified bail commissioner. Philadelphia's mode was a 24 hour, 7 days a week, 365 days a year system. The city has six bail commissioners who are scheduled in rotation on a weekly basis. These commissioners are scheduled for coverage in eight hour shifts, then another is scheduled on call for emergencies. The other two commissioners for the week are either free or slated for training. After a week, the commissioners move one more cog in the rotation. Therefore, after serving for three consecutive weeks, at each of the three shifts, the bail commissioners would be off for a week and on standby for another week before starting to work again.

The other five counties reviewed had various coverage plans for other than daytime business hours. Often these plans covered various parts or up to certain designed times after hours. Some counties split up the after hour, for instance, and others worked until 2:00, 3:00, or 4:00 AM. Also there were combinations of coverage at times throughout a week at the district justice's own magisterial court.

All of the counties after hour courts were provided with the necessary office equipment, and had the same or similar equipment provided to any district justice office. Video hookup was available for preliminary arraignments at two Pennsylvania State Police barracks at New Kensington and Monssen in Westmoreland County. The most sophisticated video configuration was City of Philadelphia. Here in the new Justice Center was a full array of videos and computers for the bail commissioners which were linked to five of the city lockups. Also, the

district attorney's staff had a special room adjacent to the court for preparing the criminal complaints and doing warrant lookups.

Most of the counties, except Philadelphia, had processes for handling monies from bail and payments of fines and costs. Also, most of the counties established additional internal controls for accounting, depositing and handling of funds.

The Administrative Office of Pennsylvania Courts (AOPC) provided free of charge, the state computer equipment (CRT, laser, and receipt printer, modem) needed to connect on line to the state standard system in all counties except Philadelphia. Philadelphia designed its system, and has 24 hour information and data service available on the same floor.

There is concern by district justices, and county court administrators about an internal control breakdown since it is possible for the night staff to enter the computer files of any of the other county district justice's offices, because as configured, the after hour computer is a "master" and can oversee the others. There seemed to be little awareness or concern by the respondents regarding management reports that might be beneficial.

Few of the counties had conducted a study to measure the cost and benefits of establishing a centralized after hour court. Also there were no defined pre and post test, although there were some counties who prepared administrative follow up reports. These follow up reports did prove beneficial both in sharing information to the funding body of government, and for management reporting. There were no quality service type surveys or feedback performed to analyze both internal and external customers.

As the saying goes "some things never change" it appears, with or without a centralized after hour limited jurisdiction court. There will always be, a "cat and mouse" game between the

police and judges, where police want services of the judge at any time for all warrants, even summary; whereas, the judges want police to follow the citation process for summary violations.

The executive-administration branch of government, the county commissioners, appear to be a formidable group in opposition to an after hour type of court. They believe its too costly, and no benefits derive to them because defendants and most victims are not voters. In addition, the county commissioners would be easily swayed by any other opposition groups, police, etc., and also county commissioners often look at the court as a separate co-equal branch of government which is a burden, and is not under their control (read patronage).

A review of all six counties were remarkable in consistently reporting that their centralized after hours facility results in the following:

- ◆ Increase in fines and costs collected; correspondingly, reduction in the warrant serve list.
- ◆ Exposes flaws, gaps, and weakness in the system which were invisible before, but could now be positively addressed through training and procedures.
- ◆ Reduction in overtime costs throughout the district court offices.
- ◆ Initially dispositions change, whereby more defendants are sent to prison; correspondingly more defendants are brought into court.
- ◆ Greater use of technology because the site is identified, permanent, and usually recognized as needing support and linkage to other court, and court offices, in other words court becomes more visible.
- ◆ Results in better security and reduces high risk of having judge and clerical staff coming out at night to remote locations.

- ◆ Everyone knows where it is. No waiting.
- ◆ Limits informal practice of case initiation selection by police based on who the district justice is on call.
- ◆ Development of better communication and internal customer service with others involved in criminal justice system.

ANALYSIS OF DATA COLLECTED OVER SIX WEEKS FROM BUCKS COUNTY'S EXISTING ON-CALL SYSTEM

The finding for this area came from the reporting of Bucks County's after hour periods on call system over a six week period beginning November 1, 1996. Again for review, Bucks has a periodic on-call which means two district justices are available at 8:00 PM, 12:00 Midnight, and 4:00 AM each night, and 8:00 AM, 12:00 Noon, and 4:00 PM on weekends and holidays according to an annually established weekly rotation schedule. The reason for two district justices is the county has divided the 19 district justices into two on call regions - colloquially referred to as upper and lower with 13 judges in the lower and 6 in the upper.

The data over six weeks was collected on a sheet(s) referenced as After Hour On-Call Data Collection Instrument.⁷¹ The form called Case Initiated By⁷² triangulates the following columns of the After hours On-Call Data Collection Instrument, namely, Day of the Week, periodic On Call time, and Cases Initiated By. Six separate sheets⁷³ were used for the form Cases

⁷¹ See: Appendix I (repeat) After hours Data Collection Instrument.

⁷² See: Appendix L Cases Initiated By Sample of All Municipalities in the County Form.

⁷³ See: Appendix M consists of six separate sheets all the same, except for periodic on call time frame of: 8:00 AM, 12:00 Noon, 4:00 PM, 8:00 PM, 12:00 Midnight, and 4:00 AM. For Cases Initiated B Six time Frames.

Initiated By in order to show the six possible periodic on-call times, namely, 8:00 AM, 12:00 Noon, 4:00 PM, 8:00 AM, 12:00 Midnight, and 4:00 AM. These six sheets were summarized onto a separate Summary Sheet of Cases Initiated By⁷⁴ with totals and annualized figures.

The columns of date and case No. were included on the Data Collection Instrument for verification. The former to compare and verify internally on the collection instrument the date to on-call, and the later for contingency reasons should a verification or clarification of proper category of a case for summation have to be examined.

The Types of Offense Charged⁷⁵ form displays the types of offenses with some lumping of similar types such as thefts into more convenient reporting. This information reports the type of activity or crime by time of on-call.

The Final Issuing Authority⁷⁶ form indicates by week which district justices were on call, and for which other district court in their region (upper or lower, as well as their own court) they handled an activity or performed work.

The Type of Action Taken⁷⁷ form summarizes the number of action activity-event, that the on call judge performed over six possible on call times during the six on call weeks sampled. It is important to note that the type of action called “commitment” refers to the number of defendants which had to be transported to prison. Therefore, this figure is a total of the column “T” on the Data Collection Instrument.

⁷⁴ See: Appendix N Summary Sheet of all Case Initiated By with Totals and Annualized Projections.

⁷⁵ See: Appendix O Types of Offense Charged Form.

⁷⁶ See: Appendix P Final Issuing Authority Form.

⁷⁷ See: Appendix Q Types of Action Taken Form.

The form Special Problems⁷⁸ summarizes the ten possible types of problems. This column "J" on the data collection form provided an opportunity for the district justice or staff to report out a problem or need.

All of these five types of forms (Summary Sheets of Case Initiated By, Types of Offenses charged, Final Issuing Authority, Type of Action Taken, Special forms) used to summarize the data were also annualized to give a full year picture. Since the data was collected over six weeks it represented 8.67 of a 52 week year, and to annualize the totals for six weeks they were multiplied by 8.67

The six weeks sampled included an interesting situation by having three holidays, namely, Election Day, Veterans Day, and Thanksgiving. It is believed that this may have resulted in lower counts than usual. Also a general consensus of the on-call staff during this six weeks after doing follow up phone calls to the on-call court office indicates that nine of the on-call staffs felt that their weeks were lighter than average, and only one court reported heavier than average, and the remaining courts in the study reported that their on call week seemed about average.

As expected the largest number of cases initiated by municipal police departments came from the Bensalem and Bristol area, or about 35%, followed by the Middletown, about 8%, and Falls and Warminster each nearly 5%. This means the majority of work came from the toe of the Christmas sock and the arch, and a part of the heel and shin area respectively. Surprisingly, Lower Southampton, an area of shin, had much lower counts than expected in cases initiated.

It should be pointed out that the number of cases during the six week study came from 29 sources; 26 municipalities plus state police, state constables, and Bucks County Correctional

⁷⁸ See: Appendix R Special Problems Form.

Facility. The total number of municipalities in Bucks County is 54, however, this information displayed reflects only sources from which there was activity. For this six week study 14 municipalities were related to the upper end on call and 12 to the lower end on call.

Of the 294 cases initiated by the law enforcement 243 represent the lower on call region, and 51 represent the upper end on-call. This is about an 80:20 ratio of lower to upper.

If any argument is to be made for a center of the county permanent centralized after hour on call facility the police departments in the lower end which are relatively equidistant between the lowest portion of the county and the center of the county should have their counts adjusted by removing their case initiated count from the lower end and adding these figures to the upper end. The adjustment for the sample study would be 24. Therefore, the lower end figure would be 24 less or 219, and the upper end figure 24 more or 75. This adjustment enlarges the lower to upper end ratio to more than 70:30. When the totals of the six summary sheets are analyzed, the total for six weeks of 294 would be 2549 per year.

As expected the most active period on call time was 8:00 PM, however, 4:00 AM was the next most active on call followed by 12:00 Midnight. It was anticipated that these two would be reversed. Of course, the period on-calls pertaining to daytime would be considerably less because there are fewer of them - Saturday, Sunday, and weekday holidays, and the evening, and early morning time occur on these days as well making the 8:00 PM, Midnight, and 4:00 AM higher counts. With regard to the daytime on call the most active was the 4:00 PM followed by the 8:00 AM, and Noon time.

Finally, the most active day of the week was Saturday, followed by Friday, and then Thursday. The Thursday placement as third activity day had to do with one of the on call courts using Thursday as a warrant sweep. This is when the judge on call makes arrangements with the

constable to bring in defendants on warrants previously issued for outstanding fines and costs owed. This practice varies with district justices on call at different times throughout the year. Many district justices make a practice of discouraging such sweep tactics during their on-call, and arrange other times for such tactics. One of the motivations, and justifications, for a permanent after hours facility is that it would increase activity of these types of collection actions. The other remaining nights of activity were Wednesday, Sunday, Tuesday of nearly equal number, and Monday being the least active.

Another picture created from the six week study was of offenses charged. Recognizing that there can be more than one offense against a defendant, the total for the period sample was 5081. Of the 24 categories of offenses that were charged the ten most active represented nearly 80% of the total. The ten more active offenses charged from the greater to least were:

1. Simple Assault/Aggravated Assault
2. Summary violations. *
3. Theft: retail, unlawful, forgery
4. Possession of drugs/drug paraphernalia, intent to deliver
5. Receiving stolen property
6. Harassment/Stalking/Terroristic Threats.
7. Disorderly Conduct/Public Drunkenness
8. Conspiracy
9. Recklessly endangering/Welfare Child/Corrupt Minor
10. Tie for this position are: Burglary/Robbery and Driving Under the Influence

***Note: Summary violations consist of a number of traffic and non traffic violations, and nearly all pertain to cases tried and/or where outstanding fines and costs are owed and defendant in arrears.**

More important in terms of numbers the first three types of offenses, or the assaults, summary violations, and theft account for just over 40% of all the work, and adding in the fourth highest accounts suddenly for 50% of the total.

In relation to the cases initiated, the most active period on-call times were 8:00 PM followed by 4:00 PM, and somewhat less by 12 AM(Midnight). And, too, the most active daytimes were 8:00 PM and 4:00 PM equally, followed to a lesser frequency for the 12:00 PM (Noon).

The summarization sheet entitled Final Issuing Authority verifies once again that the Bensalem, Bristol area represents over 30% of the lower end activity. This display helps to verify and make internally consistent by comparison to those figures captured and displayed on the Case Initiated by forms.

As expected the overwhelming types of action by district justices as reflected on the form headed Types of Action Taken were conducting preliminary arraignments and bail determination, both with equal counts. These two judicial functions go together so for the purpose of this study they were counted as one activity. The next most intense activity of the court was to issue commitments and arrange for transporting the defendant to prison. To a much lesser extent the next two activities which are nearly equal are bail posted and handling summary warrants which include taking payment, setting or holding indigent hearing, and establishing time payment orders. Then there follows the next order of activity of issuing warrants and all of the remaining activities are considerably less in terms of significant number.

It must be recognized that commitments result in the need for transporting the defendant to prison. Therefore, any plan for the creation of a permanent centralized after hour court must take this into consideration. This matter will become critical for the police, and especially for the constables who currently do nearly all of the transporting. With regard to Special Problems, the most significant item pertained to unruly defendants or security issues.

The overtime expended related to the six week sample study of Bucks County totaled \$8420, or when annualized would be \$72, 995.⁷⁹ This amount would cover the costs of much of the clerical personnel, travel expenses, supplies, and services of a permanent ABC3.

TRANSPORTATION ISSUES

For Bucks County, transportation issues are much more critical than in many other counties and would require a separate study in and of itself. Unlike the other counties surveyed, Bucks County would need to resolve transportation issues before implementation of ABC3. A separate scheme should be prepared to clearly identify who and how defendants are to be transported, such as by police, constables, or special transportation units and the method of paying for costs of transportation services.

In the six Pennsylvania counties surveyed, the transportation issues, like those in Bucks County, were of little or minimal concern. This is because most of the surveyed counties had crime activity or cases initiated from their largest and most densely populated area which, of course, coincided with area having the largest police department. Also in this very same area was the county's night court facility. Usually within this same area or relatively close was the county's

⁷⁹ See: Appendix S District Courts Standby and Overtime Costs related to on-call during the six week profile of on call in Bucks County.

prison. In those situations where police had to come from further distances off less urbanized or more rural areas to the night court it was determined that their local police were pleased because of the immediate availability of the court. This immediate access to the court allowed the officers to quickly process the defendant and return to their local municipality.

There are various models for transporting and funding of transportation services that should be examined, such as:

- ◆ Certifying a few municipal police department lockups throughout Bucks County at strategic areas for other local police departments to utilize for holding their defendants. Then arranging specific transportation service, constable or otherwise, to pickup defendants and transport to ABC3 or prison.
- ◆ Explore the use of video conferencing, as discussed in this paper, at a designated lower county and upper county site. This would reduce the distance the local police would have to travel.
- ◆ Develop a reimbursement formula to pay municipalities for either travel cost or lockup costs. It is suggested that the billing be processed periodically, preferably annually.

FUNDING SOURCE FOR ABC3

The costs for operation and support of ABC3, including the costs of transporting of defendants, could come from adding and collecting a cost of service on any criminal warrant or civil process served upon a defendant. The funding source already exists for the judiciary in the Pennsylvania Statues. Specifically its cite is 42 PA C.S. Section 1725.1 (c) (5) and is categorized as an unclassified cost or charge, termed any other issuance not otherwise prescribed in the subsection. For 1997, the cost is \$11.50 and each year the Administrative Office of Pennsylvania

Courts adjust all court costs including this one according to specific formula based on one of the consumer price indexes.

To give an idea of the amount of money such a cost could generate we need only calculate the number of warrants and processes served times \$11.50. As an example, in 1997 the Bucks County minor judiciary served 20,916 criminal warrants (both summary and court) and 4,628 civil processes on defendants for a total of 25,544. Simply round this figure to 25,000 services times \$11.50 would be \$287,500. This substantial sum could be used to pay for operation of ABC3 and even pay for appointed bail commissioners to work ABC3. For example, if a bail commissioner were to be paid at an hourly rate equivalent to \$52,000 a year, (40 hours per week x 52 weeks = 2080 hours x 25.00 per hour), it would be at 25.00 per hour. (Regardless of number of bail commissioners appointed or assigned, the county would only pay, of course, for the one bail commissioner working the shift). There are 6992 hours of after hour work needed each year and times \$25.00 per hour would be \$174,800. If this amount were paid to bail commissioners it would leave \$112,700 (28,7500 - 174,800) to cover all other costs such as facility, supplies, equipment, and even transportation costs. As previously mentioned the salary costs of clerical staff for ABC3 would be covered or offset by the savings of not paying overtime to the nineteen district court office staff under the existing after hours on-call schedule.

RESTATEMENT OF THE MEASURABLE OBJECTIVES

The success of the project's implementation should be based on the following criteria and measurements.

- Usage or level of activity: By comparing the use or level of activity of ABC3 to the recent six week study or additional study data is a strong indication of

need. It is anticipated that more police would initiate more cases, and especially by constables. To a much lesser extent the activity increase in emergency protection from abuse orders would be an indication.

◆ Reduction in paperwork error, and increase in timeliness of transfer cases:

This area of measurement would be a comparative review before and after implementation of a ABC3. A reduction in errors made during after hours would expect to be reduced because of special trained clerical staff. Also, because any ABC3 would have state computer equipment installed by Administrative Office of Pennsylvania Courts, the cases filed after hours for another court - the final issuing authority (FIA), would be expected to be promptly transferred and docketed on the Final Issuing Authority's computer, and available next day.

◆ Higher collection rated for outstanding amounts due on summary warrants, and correspondingly reduction in warrant to serve list: The collection should increase which can be measured comparatively as before and after. The increase in collection would be as a result of always having a judge available at all times after hours. The report on the state computer would show a reduction in warrant level, and this is a measurable even status report.

◆ Reduction in overtime and standby paid to clerical staff in all district courts:

With the implementation of ABC3 new positions will be created to serve just this after hour facility. Therefore, little or no overtime would be needed for the district courts, and no standby at all should be paid. This information could be easily measured.

- ◆ Reduction in existing or future backlog at the district courts, or all district court officers should continue in the future to maintain up to date caseloads:

The implementation of an ABC3 would mean that either the scheduling of night duty could be less intense, and wearisome, or there would be none to perform because appointed bail commissioners would be used. Therefore, the current practice by district justices of not scheduling any hearings during their on-call week would be freed up for them to conduct regular hearings.

- ◆ Increased security: The implementation of ABC3 would result in a working environment that could be secured through monitors and guards. There would no longer be the need for clerical staff of each of the 19 offices to report to their office during night duty, and therefore a reduction in potential problems. This would be difficult to measure, but the increased security of something like ABC3 is obvious.

- ◆ Number of defendants sent to prison: This is an interesting statistic to watch, because it may result in more defendants going to prison than before just because the proximity of prison would be closed to the night court. However, this statistic is a real unknown, and measurement would depend on other things such as whether bail commissioners are used, dysfunctional work behavior, technological, and constables.

- ◆ Quality control feedback: This measurement would involve use of a variety of feedback instruments to collect quality of performance from all of the so called internal and external customers, or clients that in some way touch ABC3.

- ♦ Operations feedback: This would be operations data which would be reports composed to provide hard data as to actual number of activities, events, action type, monies collected, etc. for reporting to the appropriate overnight bodies.

V. CONCLUSIONS

AND

RECOMMENDATIONS

V. CONCLUSIONS AND RECOMMENDATIONS

SUMMARY OF FINDINGS

Bucks County has the population, population density, crime, and service needs for creation of a permanent ABC3. This is clear as counties of lesser size in all of these categories are operating such a court, and find it beneficial. Everyone would agree that Bucks County's growth rate, problems, and needs are not going to diminish, or level off, but only continue to increase.

Additionally, it is concluded that changes or developments whether they are organizational, economical, political, or technological will not change the need for some type of ABC3, only in what way it is designed.

It is important that in planning, Bucks County recognize the travel distances from its outlining boundaries to a central site. Bucks County is much longer than wide, and the distance for many of its clients and police will be much further than those of the other six counties studied. Those counties had their night court more equi-distance from the edges of its county boundaries, therefore, the driving distance from various outlining areas to their central night court were either more equal or similar.

RELATIONSHIP OF THE FINDINGS TO EXISTING AFTER HOURS COURTS ALREADY IN OPERATION

From the review of the literature and structured interviews many of the obstacles, pitfalls, and realities of implementation and operation of an ABC3 can be faced and addressed. For example, funding plans can be prepared of estimated costs, and especially the many cost/benefits which were not part of this project should be completed. We know that the courts must look at

this project from a criminal justice or system wide perspective, and not just from the courts' point of view. We know that the court has an obligation to present all viewpoints, and estimated costs to the funding body or executive branch of government. We know that there are many other parties or stakeholders that need to be considered during planning and implementation.

It is apparent that the data collected of Bucks County for just six weeks has proved valuable in documenting and understanding what work activity is performed after hours. By conducting either more samples, or one sample over a longer time frame, will firm up and help prepare for implementation.

The findings have shown that some of the tensions, oppositions, and obstacles for creation of ABC3 are things which exist, and would continue to be near the surface whether or not an ABC3 is established. These things occur between branches of government and the court; between law enforcement and courts; between many players in the criminal justice system, victims and their spokesperson, defendants and their families and defender, and the court, and finally between and among the judges and levels of judiciary, with or without an ABC3.

Since the four primary types of offenses account for 50% of the after hour work, there may be a need to examine these offenses, perhaps for disposing of them in other ways. There is the need for the court to be more available, more service oriented, and to dispatch their work in a qualitative way. This is closely aligned with the image of the court and to adapt to change.

It is believed that the cost of operating an ABC3 would be nearly a wash or the same as the cost of operating the existing on-call system. To be fair, many things need to be considered that are not part of the accounting now. For instance, greater collection of fines and costs of summary warrant, reduction of caseload, better working relationship of all the internal customers, and reduction of error and better exchanging of information. An ABC3 provides after hour

availability to all law enforcement - no waiting, with prompt handling of defendants, and also least we forget, to the victims, a place after hours to obtain immediate protection from abuse order.

The creation of an ABC3 will mean that the minor judiciary judges may feel vulnerable about themselves, because the change will expose the gaps and flaws in the current system, but such flaws, training deficiencies, or lack of standardization can be addressed and corrected. More important, ABC3 creates a golden opportunity to “become.” To become a permanent after hour location where new ideas can be tested, such as centralized preliminary hearings, or if a future need arises, a special court for certain types of offenses. It allows for the facility to be utilized more completed day as well as night, (for example, as described above, as a special court, and as a training facility). ABC3 is a place where new technology could be installed, and piloted. There is always the possibility of looking for more effective ways to accommodate clients. This might be in the form of conducting trials and hearings after hours to accommodate municipal police schedules, defendants or witness so they don’t loose time from their job.

Finally, we have the knowledge on how to proceed, and the additional information that needs to be gathered and examined, the next step is commitment. Upon commitment, the first step of the planning process would be to designate a project manager, and then the involvement of all the critical players. It must be emphasized that this means involvement by the existing district justices for they are the ones who ultimately must make it work.

RECOMMENDATIONS

Recommendation No. 1

Bucks County should undertake a planning and review process to

determine the type of after hours court. This should be accomplished within six months, and then allow for another six months to prepare the site for implementation. This would abolish the existing on call system, and the feature of two separate groups of upper and lower. It is imperative that the district justices, who must live with the final project and be responsible for making it work, be involved in the planning.

Recommendation No. 2

Although there are numerous models, Bucks County should select and formulate what is best for Bucks, but look to the future growth. The author recommends, based on the findings, that there be a permanent after hour site staff employing, if possible, bail commissioners. However, if this is not possible then use of regular elected district justices. If regularly elected district justices are used then develop a proposal for other types of rotation schedules which includes all district justices.

Recommendation No. 3

The location of the ABC3 site should be at or adjacent to the County Prison (Bucks County Correctional Facility).

Recommendation No. 4

The ABC3 should hire permanent special after hour staff, and not use existing daytime clerks in the system. The staff could be full time or part time, but in no event should they be paid overtime. Then eliminate all overtime, except for emergency, in the district court offices. This

recommendation would insist that the daytime clerical district justice manning table be reduced by one or two full time office clerical positions.

Recommendation No. 5

The feasibility of conducting preliminary arraignments between the central after hour site, and a location in lower Bucks, known as the Thiokol property, should be explored using video technology; since the majority of the work is from the Bensalem-Bristol area. This study should include how the paperwork for acceptance of bail could be handled, and whether any additional staff would be needed at this lower end video site.

Recommendation No. 6

Conduct a study of the problems and costs of transportation of defendants to prison and examine such options as use of constables, reimburse police for travel and municipality lockups, or creation of a transportation unit. Included as a subsection could be a proposal for establishing a centralized warrant control system.

Recommendation No. 7

Abolish Administrative Order 39 and relieve the Bucks County Correctional Staff from the duty and responsibility of accepting and processing bail.

Recommendation No. 8

Make arrangements for the ABC3 to be used as a training site during the daytime.

Preference is to either use an existing room within the Bucks County Correctional Facility, or to rent a large modular trailer facility and adjacent to the prison. The trailer rental costs range from \$4000 to \$5000 per year. Outline a security plan and install security systems for safety of judges and staff and control of money and defendants.

Recommendation No. 9

Establish a separate designated budget for all expenditures related to costs of ABC3, and a pass through revenue budget to capture and track monies collected and bails accepted after hours for the other district courts of the county.

Recommendation No. 10

Prepare a service plan to link related services. This would include providing an open after hours court for inspection by the public. It would entail the installation of county's computer system to link other departments for sharing of records, information, and lookup. The linkage of social service components, such as, victim advocate, mediation, and others.

Recommendation No. 11

The preparation of feedback instruments and exit interviews to measure the effectiveness and efficiencies of the ABC3.

Recommendation No. 12

To designate both the time frame and status report to be prepared and reported back to

the oversight body.

LESSONS LEARNED

Following are some things the author would have performed differently:

1. Attempt to gain the interest of the Administrative Office of Pennsylvania Courts (AOPC) to create a standard for after hour service, and to fund it. For example, the AOPC might consider funding incentives to the counties for creating such a facility.
2. If time had permitted to visit all of the after hours facilities, such as Pittsburgh.
3. Conducted a detailed cost study following the hard costs, like police salaries, etc., and then a composite of unseen costs of services using the activity-based-costing.
4. Again, if time permitted, to have gathered more information about existing and proposed court operations who have used video technology in similar projects.
5. Extended the data collection to at least six months to obtain even better figures - as the data collected during six weeks was by all accounts considered lighter than normal.
6. Find a way to include in any future data collection of Bucks County's existing after hours on-call, the monies collected both for bail and fines and costs. Often district courts that process money after hours deposit it and make receipts the next day. Therefore, it was difficult to determine what was performed at night. This could be adjusted by instructing staff in advance next time or collecting return deposit slips from the bank to track amounts deposited.

IMPLICATIONS FOR FURTHER STUDY

Without reservation the author has made a case for a permanent after hour limited jurisdiction court. It is from the author's findings to the drawing of conclusions, not whether it

will occur, but when. The author's point of view is open to what such a court might look like, but not constructing it, or bounding it specifically to what others have done.

If the basic information about population, density, crime, service needs, and municipal growth can not only be sustained but confirmed, then the likelihood for such a court is great. The justification for its needs are well founded, and the vision for its future with obvious and unforeseen changes have been raised, at least, for all to see. It is anticipated that such a realization for implementation could proceed naturally according to the timetable mentioned earlier with healthy discussions and differences above board.

As referred to in the Findings section, the author believes that a supplementary study should be prepared to devise a scheme for handling transportation of defendants and the funding of this service. Additionally, the author would like to see discussion entertained for overall funding of ABC3. This, of course, refers to obtaining authority for activating the collection of special costs, called any other issuance, from defendants served; and applying the monies collected to a designated and restricted court budget account set up for the operation of ABC3.

The author encourages a more intense fact finding along the lines of cost accounting models previously mentioned, or involving direct and indirect costs as well as the known and projected unknown potential costs. These costs could be studied in three layers: first, by collecting cost benefit of hard costs which are traditionally reported; and second, by looking at the indirect costs that can be measured from direct costs; and third, using a bolder approach, measuring the relationship costs usually never examined, and heretofore made invisible. These are the costs of not doing something which is what activity-based-costing is striving to measure. An example taken from the recent ending of the cold war would be to not only account for and measure the cost of dismantling aging atomic weapons, but also measure the cost if we don't!

FINAL TONIC

The four constructs (Justice, Equality, Service, and Renewal) discussed in the Introduction and referred to throughout this paper are relevant and dynamic chords on which to close. The minor judiciary culture in Bucks County has an opportunity, through implementation of ABC3, to reinvent or renew itself. The renewal process will cause enhanced service performance and close gaps in procedures. Expectation of good service will become the norm - a desired one and seamlessly built into the court's work. This service construct will transcend to better relationships between and among those in the criminal justice system. It will result in more positive participation, better exchange of information, and understanding of one another role and job - in short it falls under the influence of the equality construct. Fairness becomes a primary feature of equality, whether it is in the scheduling or understanding of the judiciary branch from that of the executive or administrative branches. Finally, Justice is done and also perceived to be done. Justice becomes self evident.

In summation, this project was not for the purpose of discussing a new phenomenon, but for utilitarian purposes; it was not to predict anything, but to prepare for implementation; and finally it was not to discuss new information that already existed, but how it might be used. This project then is the basis of an implementation plan to explain and understand how and why a permanent Afterhour Bucks County Centralized Court should be implemented.

APPENDICES

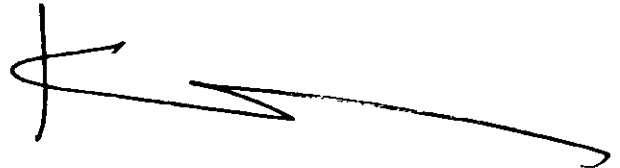
A. BUCKS COUNTY'S ANNUAL ON-CALL SCHEDULE FOR C.Y.

1996

COURT OF COMMON PLEAS OF BUCKS COUNTY
TEMPORARY ASSIGNMENT OF ISSUING AUTHORITY

ORDER

AND NOW, to wit, this 1st day of AUGUST 1995, pursuant to P.A.R. Crim. P. #23, of the Pennsylvania Rules of Criminal Procedure governing District Justices, the following schedule of temporary assignment to act as issuing authority at other than regularly scheduled and posted hours is hereby established.



KENNETH G. BIEHN
President Judge

ON-CALL NIGHTS - 8:00 PM (2000), 12:00 MIDNIGHT (2400), 4:00 AM (0400)
ON-CALL DAYS Weekends - Holidays -
8:00 AM (0800), 12:00 NOON (1200), 4:00 PM (1600)

- (1) All Police Departments shall call the Bucks County Radio Room when they need the District Justice who is on-duty (Pre-Set Times are FOR EMERGENCY ONLY). The Radio Room should then advise the officer to report to the district court at the next PRESET TIME.
- (2) Approximately fifteen (15) minutes before the PRESET TIME, the District Justice shall contact the Radio Room to verify if there are any calls, with the following exception: IN REGARD TO THE PRE-SET TIMES OF 4:00 AM and 12:00 MIDNIGHT ONLY, THE RADIO ROOM SHALL CONTACT THE DISTRICT JUSTICE 15-30 MINUTES BEFORE THE 4:00 AM and 12:00 MIDNIGHT PRESET TIMES IF A DISTRICT JUSTICE IS NEEDED.
- (3) If there are no calls, the District Justice does not have to open the office at the PRE-SET TIME. Once the District Justice has completed all cases, the district court will close until the next PRE-SET TIME.
- (4) An On-Call district justice who is called to go to the district court at the Pre-Set Time shall remain fifteen (15) minutes beyond the Pre-Set Time and thereafter may leave if the police requesting a district justice has not arrived. The response by a district justice to their Pre-Set On-Call may be as a result of: either an earlier call by police via Bucks County Radio Room or through separate arrangement made directly between police and the district justice.
- (5) SEARCH WARRANTS:
The On-Call assistant district attorney shall approve the Warrant and determine if the police should wait until the next PRE-SET TIME or if the District Justice should be contacted immediately. If at all possible, the Warrant shall be handled at the PRE-SET TIME. If the assistant district attorney determines they cannot wait until the next PRE-SET TIME, then the assistant district attorney shall contact the On-Call District Justice and advise them of the circumstances.
- (6) SIX HOUR RULE:
When there is a danger that a Preliminary Arraignment cannot be held within six (6) hours, a special exception shall be made to call the District Justice in the same manner as with Search Warrants.

(7) BAIL CALLS:

When the Radio Room receives a request for Bail, they shall follow the After Hours Bail Procedures set forth in Administrative Order #39.

(8) When a District Justice is on temporary duty assignment, the bordering District Justices shall act as issuing authority for that Magisterial District.

(9) Whenever a holiday occurs on a Friday, the On-Call District Justice coming on duty shall be responsible for the Friday On-Call all day, or beginning Friday at 8:00 AM.

(10) Whenever a situation occurs whereby the originally assigned On-Call District Justice requests assistance due to a personal need, the temporary assisting District Justice shall be responsible for all emergencies which occur between Pre-Set Times and before the return of the regularly scheduled On-Call District Justice.

(11) In addition, on special circumstances where a holiday falls on a Friday and there is the requirement of a temporarily assisting District Justice to help the scheduled District Justice during an emergency or personal need, the assisting District Justice shall handle emergencies until the next preset On-Call assignment District Justice.

(12) When the president judge deems it necessary for the district courts to close early whether due to inclement weather, or an unforeseen emergency, the district court scheduled for On-Call duty at 5:00 PM shall begin their On-Call duty effective beginning at the time the district courts have been officially closed.

(13) If the assigned District Justice knows in advance they will be unable to fulfil their scheduled On-Call due to illness, vacation etc., it is the responsibility of the assigned On-Call District Justice to provide proper coverage and to inform the Deputy Court Administrator/Minor Judiciary's office accordingly.



KENNETH G. BIEHN, President Judge

8/1/95
DATED

FOR DISTRICTS
2-02, 2-03, 2-05, 2-08, 3-01, 3-03

BEGINNING AT 5:00 PM ON THE SPECIFIED FRIDAY
AND ENDING AT 8:00 AM THE FOLLOWING FRIDAY

12/29/95 - 1/05/96	07-3-03	Kintnersville	DuBree, M. Kay
1/05/96 - 1/12/96	07-2-02	Warrington	Groman, Oliver A.
1/12/96 - 1/19/96	07-3-01	Doylestown	Schnell, Robert A.
1/19/96 - 1/26/96	07-2-08	New Britain	Gaffney, Robert E.
1/26/96 - 2/02/96	07-2-03	Sellersville	Dietrich, Ruth C.
2/02/96 - 2/09/96	07-2-05	Quakertown	Roth, C. Robert
2/09/96 - 2/16/96	07-3-03	Kintnersville	DuBree, M. Kay
2/16/96 - 2/23/96	07-2-02	Warrington	Groman, Oliver A.
2/23/96 - 3/01/96	07-3-01	Doylestown	Schnell, Robert A.
3/01/96 - 3/08/96	07-2-08	New Britain	Gaffney, Robert E.
3/08/96 - 3/15/96	07-2-03	Sellersville	Dietrich, Ruth C.
3/15/96 - 3/22/96	07-2-05	Quakertown	Roth, C. Robert
3/22/96 - 3/29/96	07-3-03	Kintnersville	DuBree, M. Kay
3/29/96 - 4/05/96	07-2-02	Warrington	Groman, Oliver A.
4/05/96 - 4/12/96	07-3-01	Doylestown	Schnell, Robert A.
4/12/96 - 4/19/96	07-2-08	New Britain	Gaffney, Robert E.
4/19/96 - 4/26/96	07-2-03	Sellersville	Dietrich, Ruth C.
4/26/96 - 5/03/96	07-2-05	Quakertown	Roth, C. Robert
5/03/96 - 5/10/96	07-3-03	Kintnersville	DuBree, M. Kay
5/10/96 - 5/17/96	07-2-02	Warrington	Groman, Oliver A.
5/17/96 - 5/24/96	07-3-01	Doylestown	Schnell, Robert A.
5/24/96 - 5/31/96	07-2-08	New Britain	Gaffney, Robert E.
5/31/96 - 6/07/96	07-2-03	Sellersville	Dietrich, Ruth C.
6/07/96 - 6/14/96	07-2-05	Quakertown	Roth, C. Robert
6/14/96 - 6/21/96	07-3-03	Kintnersville	DuBree, M. Kay
6/21/96 - 6/28/96	07-2-02	Warrington	Groman, Oliver A.
6/28/96 - 7/05/96	07-3-01	Doylestown	Schnell, Robert A.
7/05/96 - 7/12/96	07-2-08	New Britain	Gaffney, Robert E.
7/12/96 - 7/19/96	07-2-03	Sellersville	Dietrich, Ruth C.
7/19/96 - 7/26/96	07-2-05	Quakertown	Roth, C. Robert
7/26/96 - 8/02/96	07-3-03	Kintnersville	DuBree, M. Kay
8/02/96 - 8/09/96	07-2-02	Warrington	Groman, Oliver A.
8/09/96 - 8/16/96	07-3-01	Doylestown	Schnell, Robert A.
8/16/96 - 8/23/96	07-2-08	New Britain	Gaffney, Robert E.
8/23/96 - 8/30/96	07-2-03	Sellersville	Dietrich, Ruth C.
8/30/96 - 9/06/96	07-2-05	Quakertown	Roth, C. Robert

9/06/96 - 9/13/96	07-3-03	Kintnersville	DuBree, M. Kay
9/13/96 - 9/20/96	07-2-02	Warrington	Groman, Oliver A.
9/20/96 - 9/27/96	07-3-01	Doylestown	Schnell, Robert A.
9/27/96 - 10/04/96	07-2-08	New Britain	Gaffney, Robert E.
10/04/96 - 10/11/96	07-2-03	Sellersville	Dietrich, Ruth C.
10/11/96 - 10/18/96	07-2-05	Quakertown	Roth, C. Robert
10/18/96 - 10/25/96	07-3-03	Kintnersville	DuBree, M. Kay
10/25/96 - 11/01/96	07-2-02	Warrington	Groman, Oliver A.
11/01/96 - 11/08/96	07-3-01	Doylestown	Schnell, Robert A.
11/08/96 - 11/15/96	07-2-08	New Britain	Gaffney, Robert E.
11/15/96 - 11/22/96	07-2-03	Sellersville	Dietrich, Ruth C.
11/22/96 - 11/29/96	07-2-05	Quakertown	Roth, C. Robert
11/29/96 - 12/06/96	07-3-03	Kintnersville	DuBree, M. Kay
12/06/96 - 12/13/96	07-2-02	Warrington	Groman, Oliver A.
12/13/96 - 12/20/96	07-3-01	Doylestown	Schnell, Robert A.
12/20/96 - 12/27/96	07-2-08	New Britain	Gaffney, Robert E.
12/27/96 - 1/03/97	07-2-03	Sellersville	Dietrich, Ruth C.

FOR DISTRICTS
1-01, 1-02, 1-03, 1-04, 1-06, 1-07, 1-08,
1-09, 1-10, 1-11, 2-01, 2-06, 2-07

BEGINNING AT 5:00 PM ON THE SPECIFIED FRIDAY
AND ENDING AT 8:00 AM THE FOLLOWING FRIDAY

12/29/95 - 1/05/96	07-1-11	Morrisville	Adamchak, Joanne M.
1/05/96 - 1/12/96	07-1-04	Levittown	Wagner, Jr., Robert L.
1/12/96 - 1/19/96	07-1-08	Levittown	Kelly, Jr., John J.
1/19/96 - 1/26/96	07-1-07	Penndel	Marks, Catherine
1/26/96 - 2/02/96	07-1-03	Bristol	Kline, Joanne V.
2/02/96 - 2/09/96	07-1-02	Bristol	Manto, Michael J.
2/09/96 - 2/16/96	07-1-01	Bensalem	Brown, Leonard J.
2/16/96 - 2/23/96	07-1-06	Feasterville	McEwen, Susan
2/23/96 - 3/01/96	07-2-06	Tullytown	Basile, Joseph F.
3/01/96 - 3/08/96	07-1-10	Fallsington	Vislosky, Jan
3/08/96 - 3/15/96	07-1-09	Warminster	Cappuccio, Charles A.
3/15/96 - 3/22/96	07-2-01	Richboro	Hogeland, Warren
3/22/96 - 3/29/96	07-2-07	Newtown	Nasshorn, Donald
3/29/96 - 4/05/96	07-1-11	Morrisville	Adamchak, Joanne M.
4/05/96 - 4/12/96	07-1-04	Levittown	Wagner, Jr., Robert L.
4/12/96 - 4/19/96	07-1-08	Levittown	Kelly, Jr., John J.
4/19/96 - 4/26/96	07-1-07	Penndel	Marks, Catherine
4/26/96 - 5/03/96	07-1-03	Bristol	Kline, Joanne V.
5/03/96 - 5/10/96	07-1-02	Bristol	Manto, Michael J.
5/10/96 - 5/17/96	07-1-01	Bensalem	Brown, Leonard J.
5/17/96 - 5/24/96	07-1-06	Feasterville	McEwen, Susan
5/24/96 - 5/31/96	07-2-06	Tullytown	Basile, Joseph F.
5/31/96 - 6/07/96	07-1-10	Fallsington	Vislosky, Jan
6/07/96 - 6/14/96	07-1-09	Warminster	Cappuccio, Charles A.
6/14/96 - 6/21/96	07-2-01	Richboro	Hogeland, Warren
6/21/96 - 6/28/96	07-2-07	Newtown	Nasshorn, Donald
6/28/96 - 7/05/96	07-1-11	Morrisville	Adamchak, Joanne M.
7/05/96 - 7/12/96	07-1-04	Levittown	Wagner, Jr., Robert L.
7/12/96 - 7/19/96	07-1-08	Levittown	Kelly, Jr., John J.
7/19/96 - 7/26/96	07-1-07	Penndel	Marks, Catherine
7/26/96 - 8/02/96	07-1-03	Bristol	Kline, Joanne V.
8/02/96 - 8/09/96	07-1-02	Bristol	Manto, Michael J.
8/09/96 - 8/16/96	07-1-01	Bensalem	Brown, Leonard J.
8/16/96 - 8/23/96	07-1-06	Feasterville	McEwen, Susan
8/23/96 - 8/30/96	07-2-06	Tullytown	Basile, Joseph F.
8/30/96 - 9/06/96	07-1-10	Fallsington	Vislosky, Jan

9/06/96 - 9/13/96	07-1-09	Warminster	Cappuccio, Charles A.
9/13/96 - 9/20/96	07-2-01	Richboro	Hogeland, Warren
9/20/96 - 9/27/96	07-2-07	Newtown	Nasshorn, Donald
9/27/96 - 10/04/96	07-1-11	Morrisville	Adamchak, Joanne M.
10/04/96 - 10/11/96	07-1-04	Levittown	Wagner, Jr., Robert L.
10/11/96 - 10/18/96	07-1-08	Levittown	Kelly, Jr., John J.
10/18/96 - 10/25/96	07-1-07	Penndel	Marks, Catherine
10/25/96 - 11/01/96	07-1-03	Bristol	Kline, Joanne V.
11/01/96 - 11/08/96	07-1-02	Bristol	Manto, Michael J.
11/08/96 - 11/15/96	07-1-01	Bensalem	Brown, Leonard J.
11/15/96 - 11/22/96	07-1-06	Feasterville	McEwen, Susan
11/22/96 - 11/29/96	07-2-06	Tullytown	Baisle, Joseph F.
11/29/96 - 12/06/96	07-1-10	Fallsington	Vislosky, Jan
12/06/96 - 12/13/96	07-1-09	Warminster	Cappuccio, Charles A.
12/13/96 - 12/20/96	07-2-01	Richboro	Hogeland, Warren
12/20/96 - 12/27/96	07-2-07	Newtown	Nasshorn, Donald
12/27/96 - 1/03/97	07-1-11	Morrisville	Adamchak, Joanne M.

B. COMMONWEALTH OF PENNSYLVANIA VS. DAVENPORT

'If the improper use of [a] defendant's extrajudicial confession impelled his testimonial admission of guilt, . . . we could not, in order to shield the resulting conviction from reversal, separate what he told the jury on the witness stand from what he confessed to the police during interrogation.'

[*People v. Spencer*, 66 Cal.2d 158, 164, 57 Cal.Rptr. 163, 168, 424 P.2d 715, 719-20 (1967)]

. . . Having 'released the spring' by using the petitioner's unlawfully obtained confessions against him, the Government must show that its illegal action did not induce his testimony."

Harrison v. United States, 392 U.S. at 223-25, 88 S.Ct. at 2010-11.

Here, there is no showing that appellant's testimony at trial was not induced by the admission of the statement taken from him. Therefore, under the Supreme Court's decision in *Harrison*, we cannot refuse to consider appellant's claim that the statement was illegally obtained simply because its substance was repeated by appellant's testimony. See also *Stroble v. California*, 343 U.S. 181, 72 S.Ct. 599, 96 L.Ed. 872 (1952) (Admission of confession is not harmless error, even though five confessions of similar substance were properly admitted into evidence).

I dissent.

NIX, J., joins in this dissenting opinion.

NIX, Justice, dissenting.

In this case, appellant was convicted of murder of the third degree and possession of an instrument of crime. He was sentenced to a term of five to fifteen years imprisonment on the murder conviction and a concurrent term of one to two years on the weapons conviction. One of the al-

legations of error below is that the inculpatory statement which he gave to police was improperly admitted at trial.¹ Appellant contends that since the police lacked probable cause for his arrest, his subsequent confession was, "tainted" by this illegality under the "fruit of the poisonous tree" doctrine. *Commonwealth v. Daniels*, 455 Pa. 552, 317 A.2d 237 (1974); *Wong Sun v. United States*, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963). The majority of this court fails to reach the merits of whether probable cause for the arrest existed. Instead my brethren conclude that even if the arrest was illegal, it was harmless error since essentially the same inculpatory information that was in the "tainted" statement was repeated at trial by the appellant when he took the stand in his own defense. I emphatically disagree that any such illegal arrest was harmless error. For the reasons stated in my dissent in *Commonwealth v. Saunders*, 459 Pa. 677, 331 A.2d 193 (1975), I would resolve the question of probable cause to determine if the confession was properly admitted.

ROBERTS, J., joins in this dissent.



COMMONWEALTH of Pennsylvania

v.

Samuel R. DAVENPORT, Appellant.

Supreme Court of Pennsylvania.

Submitted Nov. 17, 1975.

Decided March 16, 1977.

Defendant, who was convicted of second-degree murder, appealed from judgment of sentence of the Court of Common Pleas of Philadelphia, Trial Division, Criminal Section at No. 954 May Term,

1. Appellant also argues that the evidence was insufficient to support his conviction.

1973, David N. Savitt, J. *The Supreme Court*, No. 563 January Term, 1974, Roberts, J., held that unnecessary delay between defendant's arrest and arraignment required suppression of statement taken from defendant prior to arraignment; and adopted rule that where accused is not arraigned within six hours of arrest, any statement obtained after arrest but before arraignment is not admissible.

Reversed and new trial granted.

1. Criminal Law §1035(1)

Where issue whether there was unnecessary delay between defendant's arrest and arraignment was argued at suppression hearing, presented at another hearing held to determine admissibility of lineup identification, and at trial defense counsel objected to introduction of defendant's statement, stating that he wanted to "renew" objection made at suppression hearing, defendant preserved claim of unnecessary delay. Pa.R.Crim.P., Rule 130.

2. Arrest §70

Purpose of requirement that individual who is arrested be brought before judicial officer for preliminary arraignment without unnecessary delay is to insure that accused is promptly afforded protections embodied by rule, including right to know nature and cause of accusation against him, right to counsel, and right to reasonable bail, and such requirement also protects accused's right to be free from unreasonable seizures of his person. Pa.R.Crim.P., Rules 122, 130, 140; P.S.Const. art. 1, §§ 8, 9, 14; U.S.C.A.Const. Amends. 4, 6, 14.

3. Criminal Law §264

Requirement of prompt arraignment reflects importance of having accused informed of his rights by neutral judicial authority and serves to check abuse of accused's rights by arresting authority. Pa.R.Crim.P., Rules 122, 130.

4. Arrest §70

Arresting individual and holding him over extended period while continuing investigation constitutes unnecessary prearraignment delay.

5. Criminal Law §412.1(3)

Extended prearraignment delay for purpose of obtaining incriminating statements is unnecessary.

6. Criminal Law §406(2)

Extended prearraignment delay, which included eight-hour delay between defendant's arrest and his first admission, could be attributed to investigation and interrogation and was therefore unnecessary.

7. Criminal Law §406(2)

Unnecessary prearraignment delay need not be sole cause of defendant's admission to warrant suppression of admission but rather it is enough that unnecessary delay bears some relationship to evidence obtained.

8. Criminal Law §412.1(3)

Where defendant initially denied any involvement in crime and only after eight hours in custody, during which he was subjected to two interrogation sessions, his clothing was seized and he was identified at a lineup, did he finally make incriminating statement, statement, introduction of which at trial prejudiced defendant, was reasonably related to unnecessary delay between arrest and arraignment and should therefore have been suppressed as product of unnecessary prearraignment delay. Pa.R.Crim.P., Rule 130.

9. Criminal Law §412.1(3)

If accused arrested after May 16, 1977, is not arraigned within six hours of arrest, any statement obtained from accused after arrest but before arraignment shall not be admissible at trial; if accused is arraigned within six hours of arrest, prearraignment delay shall not be grounds for suppression of statement of

accused except constitutional Pa.R.Crim.P.,

Robert P. P.
pellant.

F. Emmett
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Appeals Div.,

Before JOI
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from the re

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except as delay may be relevant to additional standards of admissibility. Crim.P., Rules 122, 130.

Port P. Paskings, Philadelphia, for ap-

Emmett Fitzpatrick, Dist. Atty., Ste-
Goldblatt, Asst. Dist. Atty., Chief,
s Div., Philadelphia, for appellee.

re JONES, C. J., and EAGEN,
EN, ROBERTS, POMEROY, NIX
ANDERINO, JJ.

OPINION OF THE COURT

ERTS, Justice.

Appellant, Samuel R. Davenport, convicted of murder of the second degree at a jury trial. Post-trial motions denied, and appellant was sentenced to twenty years imprisonment. In oral, he asserts that he is entitled to a new trial because a statement taken from him should have been suppressed as a result of unnecessary delay between arrest and arraignment in violation of Pa. Crim.P. 130. *Commonwealth v. Futch*, 379 Pa. 389, 290 A.2d 417 (1972). We hold that there was unnecessary delay between appellant's arrest and arraignment and that the statement taken from appellant while in custody should have been suppressed.³ We reverse and remand for a new trial.

Under this case pursuant to the Appellate Jurisdiction Act of 1970, Act of July 3, 1970, P.L. 673, art. II, § 202(1), 17 P.S. § 22(1) (Supp.1976).

Commonwealth contends that appellant's claim that his statement was obtained as a result of unnecessary delay between arrest and arraignment has not been preserved for appellate review. The Commonwealth argues that the claim was not raised in appellant's pre-trial suppression motion or at trial. In view of the record, we conclude that appellant has preserved his claim. It appears from the record that the *Futch* claim was ar-

On April 2, 1973, Richard Kennedy, a security guard, was stabbed in the locker room of the Triangle Publications Building in Philadelphia. Appellant was arrested at approximately 1:50 a. m. on April 3, 1973, several blocks from the premises by police officers who noticed that he was wearing his jacket inside out and that it was blood-stained. Appellant was immediately taken to the hospital where Kennedy was being treated. Kennedy, who died ten days later, could not identify appellant with certainty. Appellant was taken to the Central Detective Division headquarters at 2:15 a. m. and was placed in a detention room. At 3:08 a. m. he was given his *Miranda* warnings, and asked to participate in a line-up. He executed a written waiver of his right to counsel at the line-up. At 3:22 a. m. he was taken back to the detention room.

Appellant was held in the detention room until 5:00 a. m., when a line-up was conducted. At the conclusion of the line-up at 6:00 a. m., a detective told appellant that he had been identified as having been at the Triangle Publications Building the evening of the stabbing, and then began another interrogation session. Appellant denied any involvement in the killing. At 9:20 a. m. there was a break in the interrogation while appellant's clothing was taken for laboratory testing pursuant to a search warrant. After receiving assurances that the victim was still alive, appellant made his first admission of guilt at 9:55 a. m., eight hours after arrest. A

gued at the suppression hearing: the issue was presented at another suppression hearing held to determine the admissibility of the line-up identification. At trial, appellant's counsel objected to the introduction of appellant's statement, stating that he wanted to "renew" his objection made at the suppression hearing to the confession obtained "in violation of the rules of *Tingle, Dutton, Futch*."

3. In view of our resolution of this issue, it is unnecessary to address appellant's claim that his confession was obtained in violation of *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

written statement was taken at 11:30 a. m., and a formal typewritten statement was later taken, which appellant signed at 2:40 p. m. The last entry on the police department records is 2:50 p. m., when appellant was slated. At the suppression hearing, defense counsel tried to ascertain the time of arraignment, but the police did not know when he was arraigned. Appellant's uncontradicted testimony was that he was not arraigned until 9:30 p. m., 19½ hours after his arrest.

II

[2] A. The Pennsylvania Rules of Criminal Procedure require that an individual who is arrested be brought before a judicial officer for preliminary arraignment without unnecessary delay. Pa.R. Crim.P. 122, 130.⁴ The purpose of this requirement is to insure that the accused is promptly afforded the protections embodied in Pa.R.Crim.P. 140.⁵ *Commonwealth v. Dixon*, 454 Pa. 444, 311 A.2d 613 (1973); *Commonwealth v. Tingle*, 451 Pa. 241, 301 A.2d 701 (1973). Rule 140 provides that the court shall inform the accused of the charges against him, his right to counsel, his right to bail and his right to a preliminary hearing. Thus, the requirement of a prompt arraignment serves to protect the accused's right to know "the

nature and cause of the accusation against him," Pa.Const. art. I, § 9, his right to counsel, *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966); U.S.Const. Amends. VI, XIV; Pa.Const. art. I, § 9, and his right to reasonable bail. Pa. Const. art. I, § 14. It also protects the accused's right to be free from unreasonable seizure of his person. See *Gerstein v. Pugh*, 420 U.S. 103, 95 S.Ct. 854, 43 L.Ed. 2d 54 (1975); U.S.Const. amends. IV, XIV; Pa.Const. art. I, § 8.

[3] The requirement of a prompt arraignment reflects the importance of having the accused informed of these rights by a neutral judicial authority, see *Commonwealth v. Tingle*, 451 Pa. 241, 301 A.2d 701 (1973), and serves to check against abuse of an accused's rights by the arresting authority:

"The prohibition . . . against any unnecessary delay between an arrest by an accusatorial authority and a preliminary arraignment minimizes the possibility of any unnecessary abridgement of a citizen's liberty. Such an abridgement would, of course, be unconstitutional. The danger of any such unnecessary and unconstitutional restriction of liberty diminishes significantly when a citizen is brought swiftly before a neutral judicial authority . . ."

4. Rule 122, formerly Rule 116, provides:

"When a defendant has been arrested, with a warrant, within the county where the warrant of arrest was issued, where the complaint charges a court case, he shall be taken without unnecessary delay before the issuing authority whose name appears upon the warrant for preliminary arraignment."

Rule 130, formerly Rule 118, provides:

"When a defendant has been arrested without a warrant in a court case, he shall be taken without unnecessary delay before the proper issuing authority where a complaint shall be filed against him and he shall be given an immediate preliminary arraignment."

5. Rule 140, formerly Rule 119, provides, in part:

"(a) At the preliminary arraignment, the issuing authority shall not question the

defendant respecting the offense charged, but shall forthwith deliver a copy of the complaint to him. The issuing authority shall also inform the defendant:

(1) of his right to secure counsel of his choice and his right to be assigned counsel in accordance with Rule 318;

(2) of his right to have a preliminary hearing or, except as provided in these rules, to waive it;

(3) if the offense is bailable, of the amount of bail demanded and the types acceptable as provided in these rules; and

(4) where to apply for bail if the offense is not bailable before the issuing authority.

(b) If the defendant desires to post bail, secure counsel or notify others of his arrest, he shall be held but not be committed to jail until he has been given immediate and reasonable opportunity to do so."

Commonwealth v. Tingle, 311 A.2d 613.

In order to prevent requirement requiring preliminary arraignment without unnecessary delay, the delay in the production of evidence must be minimized. *Commonwealth v. Tingle*, 311 A.2d 613 (1973).

B. In *Commonwealth v. Tingle*, 311 A.2d 613 (1973), the court held that the delay in the production of evidence must be minimized.

The police that appellant was arrested after his arrest was initial involvement caused by the accused, arrested.

6. In *Commonwealth v. Tingle*, 311 A.2d 613 (1973), the court held that the delay in the production of evidence must be minimized.

Commonwealth v. Dixon, 454 Pa. 444, 446, 311 A.2d 613, 614 (1973).

In order to enforce the prompt arraignment requirement this Court held in *Commonwealth v. Futch*, 447 Pa. 389, 290 A.2d 417 (1972), that evidence obtained during an unnecessary delay between arrest and preliminary arraignment is inadmissible at trial. This rule was adopted not simply to guard against the coercive influence of custodial interrogation, but to ensure that the rights to which an accused is entitled at preliminary arraignment are afforded without unnecessary delay. "[T]he exclusion . . . of statements made during the illegal delay in producing a person before a magistrate . . . is premised not only on the possible coercive effect of the delay itself, but on the postponing of the additional protections which attach on production." Model Code of Pre-Arraignment Procedure § 150.2 Commentary, at 388 (1975).

B. In *Commonwealth v. Williams*, 455 Pa. 569, 319 A.2d 419 (1974), this Court established a three part test for determining whether evidence obtained during a pre-arraignment delay will be suppressed: (1) the delay must be unnecessary; (2) the evidence must be prejudicial; and (3) the evidence must be reasonably related to the delay.

The police records in this case indicate that appellant was not arraigned for at least thirteen hours after his arrest, and appellant's uncontradicted testimony was that he was not arraigned until 19½ hours after his arrest. After his arrest appellant was initially unwilling to admit any involvement in the crime. The delay was caused by a line-up, interrogation of the accused, and execution of a search warrant.

[4-6] We conclude that the eight hour delay between appellant's arrest and his first admission was unnecessary.⁶ Arresting an individual and holding him over an extended period while continuing an investigation constitutes unnecessary pre-arraignment delay. *Commonwealth v. Showalter*, 458 Pa. 659, 328 A.2d 841 (1974); *Commonwealth v. Cherry*, 457 Pa. 201, 321 A.2d 611 (1974). Extended delay for the purpose of obtaining incriminating statements is also unnecessary. *Commonwealth v. Barilak*, 460 Pa. 449, 333 A.2d 859 (1975); *Commonwealth v. Williams*, 455 Pa. 569, 319 A.2d 419 (1974). The extended pre-arraignment delay in this case can be attributed to investigation and interrogation. Therefore the delay was unnecessary. See *Commonwealth v. Cherry*, 457 Pa. 201, 321 A.2d 611 (1974).

The second part of the *Williams* test requires that the evidence be prejudicial. Here, it is clear that the introduction of appellant's admission at trial was prejudicial. See e. g., *Commonwealth v. Williams*, 455 Pa. 569, 572-73, 319 A.2d 419, 420 (1974); cf. *Stroble v. California*, 343 U.S. 181, 72 S.Ct. 599, 96 L.Ed. 872 (1952) (Admission of confession is not harmless error, even though five confessions, of similar substance were properly admitted into evidence).

[7, 8] Finally, we must decide whether the evidence obtained is reasonably related to the delay. It is not required that the unnecessary delay be the sole cause of appellant's admission; it is enough that the unnecessary delay bear some relationship to the evidence obtained. *Commonwealth v. Barilak*, 460 Pa. 449, 333 A.2d 859 (1975); *Commonwealth v. Cherry*, 457 Pa. 201, 321 A.2d 611 (1974); *Commonwealth v. Futch*, 447 Pa. 389, 290 A.2d 417 (1972).

6. In *Commonwealth v. Barilak*, 460 Pa. 449, 333 A.2d 859 (1975) we held that a statement taken five and one quarter hours after arrest was the product of an unnecessary pre-arraignment delay. See *Commonwealth v. Bey*, 462 Pa. 533, 341 A.2d 907 (1975)

(opinion of Nix, J., joined by Roberts and Manderino, JJ.) (five hours); *Commonwealth v. Johnson*, 459 Pa. 171, 327 A.2d 618 (1974) (opinion of O'Brien, J., joined by Roberts and Manderino, JJ.) (four hours).

Here, appellant initially denied any involvement in the crime. Only after eight hours in custody, during which he was subjected to two interrogation sessions, his clothing was seized, and he was identified at a line-up, did appellant finally make an incriminating statement. We conclude that this statement was reasonably related to the unnecessary delay. See *Commonwealth v. Cherry*, 457 Pa. 201, 321 A.2d 611 (1974); *Commonwealth v. Tingle*, 451 Pa. 241, 301 A.2d 701 (1973).

Accordingly, appellant's statement should have been suppressed as the product of an unnecessary pre-arraignment delay. Because this statement was admitted over objection at appellant's trial, he is entitled to a new trial.

III

[9] In light of our experience since *Commonwealth v. Futch*, 447 Pa. 389, 290 A.2d 417 (1972), we conclude that, pursuant to our supervisory power, we should adopt a rule under which the admissibility of any statement taken while the accused is in custody before preliminary arraignment is based on the length of the delay between arrest and arraignment. If the accused is not arraigned within six hours of arrest, any statement obtained after arrest but be-

7. We recognize that it is difficult to fix any particular time limit. Nevertheless, we conclude that it is desirable to set such a standard, and that six hours provides a workable rule which can readily be complied with in the absence of exigent circumstances.

In no case have we held that a delay of six hours or more was not an "unnecessary delay." See e. g., *Commonwealth v. Lasch*, 464 Pa. 250, 346 A.2d 547 (1975); *Commonwealth v. Cullison*, 461 Pa. 301, 336 A.2d 296 (1975); *Commonwealth v. Barilak*, 460 Pa. 449, 333 A.2d 859 (1975); *Commonwealth v. Showalter*, 458 Pa. 659, 328 A.2d 841 (1974); *Commonwealth v. Parker*, 458 Pa. 381, 327 A.2d 128 (1974); *Commonwealth v. Sanders*, 458 Pa. 281, 327 A.2d 43 (1974); *Commonwealth v. Cherry*, 457 Pa. 201, 321 A.2d 611 (1974); *Commonwealth v. Williams*, 455 Pa. 569, 319 A.2d 419 (1974); *Commonwealth v. Dison*, 454 Pa. 444, 311 A.2d 613 (1973); *Commonwealth v. Wayman*, 454 Pa. 79, 309 A.2d 784 (1973), overruled

fore arraignment shall not be admissible at trial.⁷ If the accused is arraigned within six hours of arrest, pre-arraignment delay shall not be grounds for suppression of such statements except as the delay may be relevant to constitutional standards of admissibility. See *Commonwealth v. Eiland*, 450 Pa. 566, 301 A.2d 651 (1973); *Commonwealth ex rel. Butler v. Rundle*, 429 Pa. 141, 239 A.2d 426 (1968).

This rule will assure more certain and even-handed application of the prompt arraignment requirement, and will provide greater guidance to trial courts, the bar and law enforcement authorities. Such a rule will simplify the task of determining the admissibility of statements taken before arraignment and thereby further judicial economy. It will also lessen the burden on prosecution and defense resources. In many cases this rule should eliminate the need for pre-trial litigation of the admissibility of statements by the defendant and thus help reduce pre-trial delay. Moreover, a rule based on the length of delay between arrest and arraignment will better serve to deter violations of the prompt arraignment requirement and to ensure that the protections afforded at preliminary arraignment are made available without unnecessary delay.

on other grounds, *Commonwealth v. Mitchell*, 464 Pa. 117, 346 A.2d 48 (1975); *In re Geiger*, 454 Pa. 51, 309 A.2d 559 (1973); *Commonwealth v. Dutton*, 453 Pa. 547, 307 A.2d 238 (1973); *Commonwealth v. Tingle*, 451 Pa. 241, 301 A.2d 701 (1973).

We note also that the National Advisory Commission on Criminal Justice has recommended a maximum time limit of six hours. Standards and Goals of the National Advisory Commission on Criminal Justice, Corrections § 4.5 (1973). ("A person in the physical custody of a law enforcement agency on the basis of an arrest, with or without a warrant, should be taken before a judicial officer without unnecessary delay. In no case should the delay exceed 6 hours.") (emphasis added); see Model Code of Pre-Arraignment Procedure § 130.2 (1975) (accused may be held for two hours before he is brought before a judicial officer, except under special circumstances when an additional three hours are allowed).

Accordingly, which the admittedly taken in arraignment required by the length of arraignment. In all cases in which after the date of

Judgment of new trial granted

JONES, for the State, in the decision

While we do not have the opportunity in the present case to stay the proceedings for stay in final Procedure *Commonwealth v. Jones*, 301 A.2d 301 (1977) reconsidering the effective date of the decision until May 16, 1977

In the Matter of Mae Phillips, Venango County, Incompetent.

Appeal of

In the Matter of PHILLIPS, Ienton, Venango County, ceased.

Supreme

Argued

Decided

The Court Court Division C.D. Nos. 294 : Breene, J., dissenting to petitions see an and to set : against her husband

B-6

MATTER OF PHILLIPS

Pa. 307

Cite as, Pa., 370 A.2d 307

Accordingly, we adopt a standard under which the admissibility of statements allegedly taken in violation of the prompt argument requirement will be determined the length of delay between arrest and arraignment. This standard shall apply to cases in which the accused is arrested after the date of this opinion.

Judgment of sentence reversed and a new trial granted.

ONES, former C. J., did not participate in the decision of this case.

ORDER

While we do not accept several allegations in the application of the District Attorney for stay of the new Rule of Criminal Procedure recently announced in *Commonwealth v. Davenport*, — Pa. —, 370 A.2d 301 (1977), and have no intention of reconsidering said Rule, we do direct that the effective date thereof be postponed until May 16, 1977.



Matter of Mae PHILLIPS a/k/a Ida Mae Phillips, of the Borough of Emlenton, Venango County, Pennsylvania, an alleged incompetent.

Appeal of Ida Mae PHILLIPS.

Matter of the ESTATE of Arthur W. PHILLIPS, late of the Borough of Emlenton, Venango County, Pennsylvania, Deceased.

Supreme Court of Pennsylvania.

Argued Nov. 19, 1976.

Decided Feb. 28, 1977.

The Court of Common Pleas, Orphans' Division of Venango County at O. Nos. 294 and 300 of 1974, William E. Egan, J., dismissed preliminary objections seeking appointment of guardian to set aside wife's election to take under her husband's will and depose and

medically examine her, and wife appealed. The Supreme Court, Nos. 19 and 20 March Term, 1977, Roberts, J., held that since statute providing that appeals may be taken from interlocutory orders in cases in law or in equity involving questions of jurisdiction does not apply to orphans' court proceedings and since wife had not petitioned for permission to appeal from interlocutory order, appeals were not properly before the Supreme Court.

Appeals quashed.

Pomeroy, J., filed concurring statement.

Manderino, J., filed dissenting statement.

1. Appeal and Error §78(3)

Ordinarily, dismissal of preliminary objections is interlocutory order which is not appealable. 17 P.S. § 211.202; Pa.R. A.P. No. 311(a).

2. Courts §202(5)

Since statute providing that appeals may be taken from interlocutory orders in cases in law or equity involving questions of jurisdiction does not apply to orphans' court proceedings and since wife had not petitioned for permission to appeal from interlocutory order, her appeals from decree of orphans' court dismissing her preliminary objections to petitions seeking appointment of guardian for her and to set aside her election to take against her husband's will and depose and medically examine her were not properly before the Supreme Court and had to be quashed. 12 P.S. § 672; 17 P.S. § 211.501(b); Pa.R.A.P. No. 312.

John E. Egan, Wasson, Egan & Wilson, Franklin, F. Walter Bloom, III, Oil City, Joseph C. Owens, Chicago, Ill., guardian ad litem, for appellant.

Benjamin G. McFate, William J. McFate, Milton W. Rosen, Oil City, Robert P.

C. JURISDICTION AND VENUE OF DISTRICT JUSTICE

(42 PA C.S.A. SECTION 1515)

42 Pa.C.S.A. § 1503

JUDICIARY & JUDICIAL PROCEDURE

CHAPTER 15

DISTRICT JUSTICES

SUBCHAPTER A. MAGISTERIAL DISTRICTS

§ 1503. Reestablishment of districts

Cross References

Community courts, discontinuance, procedure thereafter under subsec. (b) of this section, see 42 Pa.C.S.A. § 1102.

SUBCHAPTER B. DISTRICT JUSTICES

Section

1515. Jurisdiction and venue.
1517 to 1519. Repealed.
1520. Adjudication alternative program.
1521. Repealed.

Section

1522. Notice of summary cases involving juveniles.
1523. Parental or legal guardian attendance required at juvenile hearings.

§ 1513. Powers of district justice

Notes of Decisions

Immunity 1

1. Immunity

District justice was immune from liability for judicial acts performed by justice relative to criminal complaint, even though those acts allegedly constituted false arrest and malicious abuse of process. *Praisner v. Stocker*, 459 A.2d 1255, 313 Pa.Super. 332, Super.1983.

There can be no recovery of damages in civil action against district justice who temporarily

detains in his or her office or courtroom a person against whom criminal complaint has been filed. *Praisner v. Stocker*, 459 A.2d 1255, 313 Pa.Super. 332, Super.1983.

There can be no cause of action and no recovery of damages against district justice who accepts and processes criminal complaint, even though careful examination of evidence may have revealed that there was no probable cause for criminal charges against defendant. *Praisner v. Stocker*, 459 A.2d 1255, 313 Pa.Super. 332, Super.1983.

§ 1515. Jurisdiction and venue

(a) **Jurisdiction.**—Except as otherwise prescribed by general rule adopted pursuant to section 503 (relating to reassignment of matters), district justices shall, under procedures prescribed by general rule, have jurisdiction of all of the following matters:

(1) Summary offenses, except those arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed under Chapter 63 (relating to juvenile matters).

(2) Matters arising under the act of April 6, 1951 (P.L. 69, No. 20), known as The Landlord and Tenant Act of 1951,¹ which are stated therein to be within the jurisdiction of a district justice.

(3) Civil claims, except claims against a Commonwealth party as defined by section 8501 (relating to definitions), wherein the sum demanded does not exceed \$8,000, exclusive of interest and costs, in the following classes of actions:

(i) In assumpsit, except cases of real contract where the title to real estate may be in question.

(ii) In trespass, including all forms of trespass and trespass on the case.

(iii) For fines and penalties by any government agency.

A plaintiff may waive a portion of his claim of more than \$8,000 so as to bring the matter within the monetary jurisdiction of a district justice. Such waiver shall be revoked automatically if the defendant appeals the final order of the district justice or when the judgment is set aside upon certiorari.

JUDICIARY & JUDICIAL PROCEDURE

(4) As commissioners to preside at arraignment offenses under 18 Pa.C.S. §§ 2502 (relating to murder) for which the fixing and accepting judge of any court of common pleas, and to issue similar nature, including the jurisdiction of a court proceedings.

(5) Offenses under 75 Pa.C.S. § 3731 (relating to controlled substance), if the following criteria are met:

(i) The offense is the first offense by the defendant.

(ii) No personal injury (other than to the defendant) resulted from the offense.

(iii) The defendant pleads guilty.

(iv) No property damage in excess of \$500 other than resulted from the violation.

(v) The defendant is not subject to the provisions of the juvenile matters.

(vi) The arresting authority shall cause to be any violation of 75 Pa.C.S. § 3731 to the office of the court of common pleas within five days after the preliminary arraignment.

In determining that the above criteria are met the certification of the arresting authority. Certification shall be in writing. Within ten days after the disposition, the defendant shall appear in person at the court of common pleas to the office of the clerk of the court of common pleas.

(6) (i) Offenses under Title 18 (crimes and offenses) which are classified as misdemeanors (health and safety) which are classified as misdemeanors following criteria are met:

(A) The misdemeanor is not the result of a previous conviction.

(B) Any personal injury or property damage.

(C) The defendant pleads guilty.

(D) The defendant is not subject to the provisions of the juvenile matters.

(ii) Subparagraph (i) shall not apply to any offense under Title 18:

Section 4303 (relating to concealing death of a person).

Section 4321 (relating to willful separation of a family).

Section 5103 (relating to unlawfully listening to a conversation).

(6.1) All offenses under Title 34 (relating to gaming).

(7) Matters jurisdiction of which is vested in district justice.

(b) **Venue and process.**—The venue of a district justice which jurisdiction is conferred by subsection (a) shall be the process of the district justice shall extend to the extent prescribed by general rule.

Amended 1981, Oct. 1, P.L. 282, No. 95, § 1, imd. eff. 260, § 1, effective Jan. 1, 1983; 1982, Dec. 20, P.L. 1-1, in 60 days; 1984, Dec. 19, P.L. 1089, No. 218, § 1, in No. 93, § 3, eff. July 1, 1987; 1992, Dec. 16, P.L. 126, March 31, P.L. —, No. 9 (Spec. Sess. No. 1), § 1, eff. 198 P.S. § 250.101 et seq.

1981 P.S. § 250.101 et seq.

Repealed in Part

Section 3 of Act 1985, Sept. 27, P.L. 238, No. 1 and (a)(6)(i)(C) of this section insofar as they relate to the following:

Historical and Statutory

1981 Amendment: In subpar. (a)(6)(i), inserted "and Title 30 (fish)" following "Title 18 (crimes and offenses)". 1982

(4) As commissioners to preside at arraignments, fix and accept bail, except for offenses under 18 Pa.C.S. §§ 2502 (relating to murder) and 2503 (relating to voluntary manslaughter) for which the fixing and accepting of bail shall be performed by any judge of any court of common pleas, and to issue warrants and perform duties of a similar nature, including the jurisdiction of a committing magistrate in all criminal proceedings.

(5) Offenses under 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance), if the following criteria are met:

(i) The offense is the first offense by the defendant under such provision in this Commonwealth.

(ii) No personal injury (other than to the defendant or the immediate family of the defendant) resulted from the offense.

(iii) The defendant pleads guilty.

(iv) No property damage in excess of \$500 other than to the defendant's property resulted from the violation.

(v) The defendant is not subject to the provisions of Chapter 63 (relating to juvenile matters).

(vi) The arresting authority shall cause to be transmitted a copy of the charge of any violation of 75 Pa.C.S. § 3731 to the office of the clerk of the court of common pleas within five days after the preliminary arraignment.

In determining that the above criteria are met the district justice shall rely on the certification of the arresting authority. Certification that the criteria are met need not be in writing. Within ten days after the disposition, the district justice shall certify the disposition to the office of the clerk of the court of common pleas in writing.

(6) (i) Offenses under Title 18 (crimes and offenses), Title 30 (fish) and Title 35 (health and safety) which are classified as misdemeanors of the third degree, if the following criteria are met:

(A) The misdemeanor is not the result of a reduced charge.

(B) Any personal injury or property damage is less than \$500.

(C) The defendant pleads guilty.

(D) The defendant is not subject to the provisions of Chapter 63.

(ii) Subparagraph (i) shall not apply to any offense under the following provisions of Title 18:

Section 4303 (relating to concealing death of child born out of wedlock).

Section 4321 (relating to willful separation or nonsupport).

Section 5103 (relating to unlawfully listening into deliberations of jury).

(6.1) All offenses under Title 34 (relating to game).

(7) Matters jurisdiction of which is vested in district justices by any statute.

(b) **Venue and process.**—The venue of a district justice concerning matters over which jurisdiction is conferred by subsection (a) shall be as prescribed by general rule. The process of the district justice shall extend beyond the territorial limits of the magisterial district to the extent prescribed by general rule.

Amended 1981, Oct. 1, P.L. 282, No. 95, § 1, imd. effective; 1982, Dec. 13, P.L. 1141, No. 260, § 1, effective Jan. 1, 1983; 1982, Dec. 20, P.L. 1409, No. 326, art. II, § 201, effective in 60 days; 1984, Dec. 19, P.L. 1089, No. 218, § 1, imd. effective; 1986, July 8, P.L. 442, No. 93, § 3, eff. July 1, 1987; 1992, Dec. 16, P.L. 1269, No. 167, § 1, imd. effective; 1995, March 31, P.L. —, No. 9 (Spec. Sess. No. 1), § 1, effective in 60 days.

1 68 P.S. § 250.101 et seq.

Repealed in Part

Section 3 of Act 1985, Sept. 27, P.L. 238, No. 60, repealed subpars. (a)(5)(iii) and (a)(6)(i)(C) of this section insofar as they are inconsistent with said act.

Historical and Statutory Notes

1981 Amendment: In subpar. (a)(6)(i), insert—
and "and Title 30 (fish)" following "Title 18
(crimes and offenses)".

1982 Amendment: Act 260, in par. (a)(3),
substituted "\$4,000" for "\$2,000" in two places

**D. BUCKS COUNTY'S NEW AFTERHOUR BAIL PROCEDURE;
AND ORDER NO. 39 EFFECTIVE JUNE 9, 1993**

COURT OF COMMON PLEAS COUNTY OF BUCKS

MEMORANDUM #93-41

INTER-OFFICE CORRESPONDENCE

All District Justices

G. Thomas Wiley, Dep. Court Adm/Minor Judiciary

NEW AFTER HOURS BAIL PROCEDURES AND ORDER

June 25, 1993

Attached is Administrative Order No. 39 setting forth the procedures for posting court criminal bail after close of regular business hours for both the Court of Common Pleas and District Justice Courts of Bucks County. This Order becomes effective Friday, July 9, 1993, beginning at 5:00 PM.

GTW
enc.

cc: Kenneth B. Biehn, President Judge
J. Allen Nesbitt, Director and Warden, Bucks County Corrections
Audrie Zettick Schaller, Clerk of Courts/Criminal Division
Alyce V. Deyo, 1st Deputy, Clerk of Courts/Criminal
Alan M. Rubenstein, District Attorney
Stephen H. Shantz, Public Defender
Brenton T. Wiggins, Director of Communications
Dennis R. Forsyth, Supervisor of Operations/Communications
~~District Justice Bail Committee~~
Bucks County Chiefs of Police

COURT OF COMMON PLEAS OF

BUCKS COUNTY

ADMINISTRATIVE ORDER NO. 39

IN RE: ACCEPTANCE OF BAIL AFTER :
REGULAR OFFICE HOURS :
OF DISTRICT JUSTICES AND :
COMMON PLEAS JUDGES :

ORDER

AND NOW, to wit, this 4th day of June, 1993, it is hereby directed that all court case criminal bails for both District Justices and Common Pleas Judges be accepted and posted at the Bucks County Correctional Center in accordance with the following procedures:

All posting of bail previously set by either district justices, senior assigned district justices or common pleas judges that occur after hours (that is after regular daytime office hours on weekdays and on weekends or holidays) shall be accepted by a correctional officer deputized by the Clerk of Courts/Criminal Division in the Records Office at the Bucks County Correctional Center.

This order pertains only to all court criminal case bails and not to summary cases such as non-payment of fines and costs.

All after hours court case criminal bail shall be accepted at Bucks County Correctional Center only at the following specified times:

Weekdays - between the hours of 5:00 PM and 9:00 PM

Holidays and Weekends - between the hours of 4:00 PM and 6:00 PM

Bail set by district justices will continue to be accepted and posted at the district justice offices and bail set by common pleas judges will continue to be accepted at the Court of Common Pleas/Criminal Division during regular daytime business office hours.

After hours bail monies and accompanying paperwork shall be deposited in the existing drop safe located in the Records Office. Personnel of the Clerk of Courts /Criminal Division or their designee shall pick up the bail monies and paperwork from the drop safe and handle according to their required procedures.

District justice and Common Pleas bail shall be segregated by Courts/Criminal Division and retained until a determination of the criminal case by a district justice following a preliminary hearing. If a district justice finds a prima facie case, the Clerk of Courts shall return the bail monies upon final disposition of the case (including all Appeals). However, if a district justice does not find a prima facie case, the Clerk of Courts shall issue a check to the district court which in turn shall refund the bail to the individual who posted it.

This Order and its accompanying procedures shall be circulated to law enforcement and Bucks County Police Radio staff

in order that they can instruct interested parties that wish to post bail.

District Justices shall hand serve all defendants who are sent to prison with a notice (see attached) of where and how to post bail.

The Order shall become effective Friday, July 9, 1993, beginning at 5:00 PM.

BY THE COURT:



KENNETH G. BIEHN, P.J.

NOTICE TO PERSONS WISHING TO POST BAIL SET BY DISTRICT JUSTICE

IF YOU WISH TO POST BAIL YOU MAY DO SO AT THE FOLLOWING TIMES AND PLACES:

DAYTIME - 8:30 a.m. until 5:00 p.m.

At the office of the district justice (or final issuing authority) where your Preliminary Hearing was held or scheduled to be held during daytime office hours only.

AFTER HOURS, WEEKENDS & HOLIDAYS

All bail after hours will be accepted at the prison records office of the Bucks County correctional Center, (215) 345-3774, located at 1730 South Easton Road near the village of Edison, 3 miles south of Doylestown as follows:

Monday through Friday: 5:00 PM until 9:00 PM

Weekends (Saturday and Sunday) and Holidays:
4:00 PM until 6:00 PM.

E. PENNSYLVANIA HOUSE BILL PRELIMINARY DRAFT

LEGISTATION TO TITLE 42 SECTION 1515.1 FOR

APPOINTMENT OF BAIL COMMISSIONERS FOR

SECOND CLASS A COUNTIES

1996D02975

02975 RZ:JC 10/01/96 #42

1

PRELIMINARY DRAFT

AN ACT

Amending Title 42 (Judiciary and Judicial Procedure) of the
Pennsylvania Consolidated Statutes, providing for the
appointment of bail commissioners in judicial districts
located in counties of the second class and second class A.

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:

Section 1. Title 42 of the Pennsylvania Consolidated
Statutes is amended by adding a section to read:

§ 1515.1. Bail commissioners.

(a) Appointment.--With the approval of the Supreme Court,
the president judge of each judicial district which comprises a
county of the second class or second class A shall have the
power to appoint for a term of four years qualified attorneys to
act as after-hours, on-call bail commissioners.

(b) Jurisdiction.--Bail commissioners appointed under this
section shall have the same jurisdiction exercised by district
justices under section 1515(a)(4) (relating to jurisdiction and
venue). The method of selection and appointment and removal of

bail commissioners and establishing standards of conduct and the 29
rights, responsibilities and authority of the bail commissioners 30
and the procedures for appealing from the decisions of the bail 31
commissioners shall be provided by local rules. 32

Section 2. This act shall take effect July 1, 1997. 34

**F. EXERPTS OF TRIAL COURT PERFORMANCE STANDARD
WITH COMMENTARY**

Standard 1.1 Public Proceedings

The court conducts its proceedings and other public business openly.

Commentary

This standard requires the trial court to conduct openly all proceedings, contested or uncontested, that are public by law or custom. The court must specify proceedings to which the public is denied access and assure that the restriction is in accordance with the law and reasonable public expectations. Further, the court must ensure that its proceedings are accessible and audible to all participants, including litigants, attorneys, court personnel, and other persons in the courtroom.

Standard 1.2 Safety, Accessibility, and Convenience

Court facilities are safe, accessible, and convenient to use.

Commentary

Standard 1.2 considers three distinct aspects of court performance: the security of persons and property within the courthouse and its facilities, access to the courthouse and its facilities, and the reasonable convenience and accommodation of those unfamiliar with the court's facilities and proceedings. It urges a trial court to be concerned about such things as the centrality of its location in the community that it serves, adequate parking, the availability of public transportation, the degree to which the design of the court provides a secure setting, and the internal layout of court buildings (e.g., the signs that guide visitors to important locations). Because the attitudes and behavior of trial court personnel can make (or fail to make) the courthouse safer, more accessible, and more convenient to use, Standard 1.2 pertains to the conduct of trial court personnel as well.

Unusual or unexpected conditions, such as bomb threats, records destruction, employee strikes, sting operations, mass arrests, and natural disasters, challenge the routine operations of the court. Mechanisms (both internal and operated in coordination with other justice system agencies) may be required to handle emergent situations that could clog the courts and disrupt daily routines.

Standard 1.3 Effective Participation

All who appear before the court are given the opportunity to participate effectively without undue hardship or inconvenience.

Commentary

Standard 1.3 focuses on how a trial court accommodates all participants in its proceedings—especially those who have language difficulties, mental

impairments, or physical handicaps. Accommodations made by the court for impaired or handicapped individuals include the provision of interpreters for the deaf and special courtroom arrangements or equipment for blind and speech-impaired litigants.

Standard 1.4 Courtesy, Responsiveness, and Respect

Judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact.

Commentary

The intent of Standard 1.4 is to make the justice system more accommodating and less intimidating. A responsive court ensures that judicial officers and other court employees are available to meet both the routine and exceptional needs of those it serves. Requirements of the standard are particularly important in the understanding shown and assistance offered by court personnel to members of minority or disadvantaged groups and to those unfamiliar with the trial court and its procedures. In keeping with the public trust embodied in their position, judges and other court employees should reflect by their conduct the law's respect for the dignity and value of all individuals who come before or make inquiries of the court. No court employee should by words or conduct demonstrate bias or prejudice based on race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation. These requirements extend to the manner in which the employees of the court treat each other.

Standard 1.5 Affordable Costs of Access

The costs of access to the trial court's proceedings and records—whether measured in terms of money, time, or the procedures that must be followed—are reasonable, fair, and affordable.

Commentary

Litigants and others who use the services of the trial court (e.g., nonlitigants who require records kept by the courts) face three main financial barriers to effective access to the trial court: court fees, third-party expenses (e.g., deposition costs, expert witness fees), and lawyers' fees. Standard 1.5 requires that the trial court minimize its own fees for access and participation in its proceedings and, where possible, scale its procedures and those of others under its influence or control to the reasonable requirements of a matter before the court. Means to achieve this include the simplification of procedures and reduction of paperwork in uncontested matters, the use of volunteer lawyers to do pro bono work, simplified pretrial procedures, fair control of pretrial discovery, and establishment of appropriate alternative

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Standard 4.4 Public Education

The trial court informs the community of its programs.

Commentary

Most members of the public do not have direct contact with the courts. Information about the courts is filtered through, among others, the media, lawyers, litigants, jurors, political officeholders, and employees of other components of the justice system. Public opinion polls indicate that the public knows very little about the courts, and what is known is often at odds with reality. Standard 4.4 requires trial courts to inform and educate the public. Effective informational brochures and annual reports help the public understand and appreciate the administration of justice. Participation by court personnel on public affairs commissions is also effective. Moreover, courts can effectively educate and inform the public by including able public representatives on advisory committees, study groups, and boards.

Standard 4.5 Response to Change

The trial court anticipates new conditions or emergent events and adjusts its operations as necessary.

Commentary

Effective trial courts are responsive to emergent public issues such as drug abuse, AIDS, child and spousal abuse, drunken driving, child support enforcement, crime and public safety, consumer rights, gender bias, and the need to do more with fewer resources. Standard 4.5 requires trial courts to recognize and to respond appropriately to such public issues. A trial court that moves deliberately in response to emergent issues is a stabilizing force in society and acts consistent with its role of maintaining the rule of law.

Courts can support, tolerate, or resist societal pressures for change. In matters for which the trial court may have no direct responsibility, but nonetheless may help identify problems and shape solutions, responsiveness means that the trial court takes appropriate actions to inform responsible individuals, groups, or entities about the effects of these matters on the judiciary and about possible solutions.

5. PUBLIC TRUST AND CONFIDENCE

Compliance with law is dependent to some degree upon public respect for the court. Ideally, public trust and confidence in trial courts stem from the many contacts citizens have with the courts. The maxim "Justice should not only be done, but should be seen to be done!" is as true today as in the

Standard 5.1 Accessibility

The trial court and the justice it delivers are perceived by the public as accessible.

Commentary

The five standards grouped in the area of ACCESS TO JUSTICE require the removal of barriers that interfere with access to a trial court's services. Standard 5.1 focuses on the perceptions of the court's accessibility held by different constituencies. A trial court not only should be accessible to those who need its services, but it also should be so perceived by those who may need its services in the future.

Standard 5.2 Expeditious, Fair, and Reliable Court Functions

The public has trust and confidence that the basic trial court functions are conducted expeditiously and fairly and that its decisions have integrity.

Commentary

As part of effective court performance, Standard 5.2 requires a trial court to instill in the public trust and confidence that its basic functions are conducted in accordance with the standards in the areas of EXPEDITION AND TIMELINESS and EQUALITY, FAIRNESS, AND INTEGRITY.

Standard 5.3 Judicial Independence and Accountability

The trial court is perceived to be independent, not unduly influenced by other components of government, and accountable.

Commentary

The policies and procedures and the nature and consequences of interactions of the trial court with other branches of government affect the perception of the court as an independent and distinct branch of government. A trial court that establishes and respects its own role as part of an independent branch of government and diligently works to define its relationships with the other branches presents a favorable public image. Obviously, the opinions of community leaders and representatives of other branches of government are important when considering perceptions of the court's institutional independence and integrity. Other constituencies' perceptions (e.g., those of court employees) of the court's relationships with other government agencies, its accountability, and its role within the community should not be overlooked as important contributions to the view of the court as both an independent and accountable institution. ✓

G. STRUCTURED INTERVIEW QUESTIONNAIRE

**Interviewing six other Pennsylvania Counties which have centralized
after hour courts**

County _____

Contact Persons

STRUCTURED INTERVIEW QUESTIONNAIRE

I. General Profile:

What is population of your county? _____

How many magisterial districts? _____

What is total overall case load of your district justice system?

Where is this centralized After Hours court located? (Describe in relation to demographics and geographics.)

How long have you had a centralized After Hours court? _____

Why was it created? _____

Is it currently meeting the needs and objectives? _____

Do you use regular elected district justices or do you have another arrangement (describe)?

Did you submit a written plan or proposal initially? _____

If so, to whom (judges, commissioners, planning committee, etc.)? _____

How many municipalities are there in your county? _____

Cities: _____ Borough: _____ Township: _____

How many police departments?

How many police departments of less than 3? _____

How many police departments between 4 and 10? _____

How many police departments between 10 and 25? _____

How many police departments over 25? _____

Is there PSP and if so how many? _____

What is largest urbanized area? _____

What is its population? _____

Where is county prison located? _____

Are there other approved lockups available for detaining defendants in custody longer than 24 hours? _____

Is the After Hours court truly centralized the entire week or is it only centralized part of the time? _____

Does your After Hours court system provide or perform:

Preliminary Arraignment? _____

Bail? _____

Take fines and costs due on Warrant for Fine and Costs due or post adjudication? _____

Protection from Abuse - Emergency? _____

Indirect Criminal Contempt? _____

Conduct Preliminary Hearing? _____

Consolidate criminal cases for preliminary hearings? _____

Civil cases? _____

Recusal Hearings? _____

What type of involvement and support was needed by: court, district justices, police, attorneys, etc.?

What is the backup emergency plan should your centralized After Hours court not be available for use - for whatever reason?

STRUCTURED INTERVIEW QUESTIONNAIRE

II. People:

How many regular district justices does your county judicial district have? _____

Total number of clerical staff for all magisterial district justice offices? _____

How many of the total clerical staff are:

Union? _____

Personal secretary to district justice? _____

Floater? _____

Part time? _____

Back up or specialized other than Floaters? _____

How many staff also work the centralized After Hours court? _____

Who hires and fires the centralized After Hours court staff?

Do you pay overtime for After Hours staff? _____

Has your president judge or any judge of the Court of Common Pleas visited the After Hours court? _____

Who are your major stakeholders (e.g. D.A., P.D. Prison, etc.)?

What concerns did these stakeholders have? _____

Describe training required to support centralized After Hours court.

What was the approximate amount of training time provided (please indicate in hours)? _____

Who did the training? _____

Describe backup staff arrangement. _____

Were new job descriptions required to be written for centralized After Hours court staff? _____

Did this After Hours court receive a grant? _____

Did you receive any special grant funds for or toward this project?

If so, approximately what percentage were supported through grants?

When a defendant is required to be transported to prison, who performs transport? _____

Who pays cost of transport? _____

STRUCTURED INTERVIEW QUESTIONNAIRE

III. Facility:

Where is the After Hours court located? Describe location in terms of:

Geography of county (?) _____

Population of county (?) _____

Total number of square feet of space? _____

How is space utilized or configured (approximately)? _____

Describe the space in terms of amenities. _____

What types of security are in place (describe)? _____

What types of public transportation is available and during what hours?

Is the facility easy to find and does it have adequate signage?

Is facility utilized in any other way day or night when not being used as After Hours court (such as meeting room or central preliminary hearings)? _____ If yes, describe _____

What is furthest police department? _____ miles and time
_____ (one way)

STRUCTURED INTERVIEW QUESTIONNAIRE

IV. Things:

Describe the schedules of shifts (etc.) both of judge and support staff.

What type of controls are in place for handling of money?

Do you take bail? _____

Do you collect monies due from defendant for fines and costs?

Who prepares deposit? _____

Who makes the deposit? _____

Who tracks and reconciles deposit? _____

Did the AOPC provide free of charge, the necessary state computer equipment? _____

Describe other technological equipment or service that your court or county has provided?

Please provide a listing of the major pieces of equipment and furniture.

What types of alarm systems are installed?

Explain type of banking arrangements you have - who or how is money distributed?

Describe any special events required in preparation of setting up a centralized After Hours court.

What type of management reports are used? _____

Which reports do you find most helpful? _____

What type of management reports would you like to see (that you need but do not have).

Are there any problems with accessibility to records After Hours?

STRUCTURED INTERVIEW QUESTIONNAIRE

V. Costs and Benefits

What were the initial costs for set up? _____

What are the annual ongoing costs? _____

Prior to implementation, what costs were unforeseen? _____

What new costs will be forthcoming? _____

What are benefits to:

Police _____

Defendant _____

Family of defendant _____

Court _____

Tax payer _____

STRUCTURED INTERVIEW QUESTIONNAIRE

VI. Obstacles and Recommendations:

A: Obstacles (to implementation and sustaining) _____

How did you overcome them? _____

B: Recommendation (If you were starting again, what would you do different)?

C. What other types of models for After Hours courts do you think would be better than what you currently have?

D. Other:

STRUCTURED INTERVIEW QUESTIONNAIRE

VII. Evaluation and Monitoring:

Did you perform an evaluation? _____

Was there a written report? _____ If so, to whom was it submitted?

If so, what were primary results: _____

Was there an increase or decrease in usage by law enforcement? _____

Was there an increase or decrease in access by public (other than defendant or law enforcement)?

To what extent has this concept expanded to include citizen disputes, etc.?

Is the general profile of the crime or defendant the same or different than before?

Has the disposition mix changed? _____

Did you tie this After Hours court to a trial court performance standard?

Did you utilize any customer service programs or practices from the private sector? _____

Did you conduct any opinion polling before and after? _____

Did you do any public relations work (such as invite reporters to the After Hours court)? (Describe)

How important was it to have public support for this project? _____

STRUCTURED INTERVIEW QUESTIONNAIRE

VIII. Samples and Exhibits:

Court Orders

Schedules of Coverage

Special Forms

Public Relations Releases

Minutes, notes, etc., of any preparation "selling" or clarification

Initial written proposals or plans

H. NINE CLASSES OF COUNTIES IN PENNSYLVANIA

(16 P.S. SECTION 3210)

16 P.S. § 3202

COUNTIES

ARTICLE II. NAMES AND CORPORATE POWERS; CLASSIFICATION

(a) DIVISION OF THE STATE INTO COUNTIES; CORPORATE POWERS

§ 3202. General powers

Cross References

Political subdivision as trustee of funds for care and maintenance of cemetery or burial ground, see 53 P.S. § 5651 et seq.

Notes of Decisions

In general 1

1. In general

Fact that municipal corporations and public auditorium authorities had statutory power to choose products to be sold through the conces-

sions in the public facilities which they owned and operated as a function of their authority to manage the facilities did not exempt alleged activities in boycotting plaintiff's malt beverages from scrutiny under the state action exception to the Sherman Anti-Trust Act, 15 U.S.C.A. § 1. *Duke & Co. Inc. v. Foerster*, C.A.3 (Pa.)1975, 521 F.2d 1277.

(b) CLASSIFICATION

§ 3210. Counties divided into nine classes

For the purposes of legislation and the regulation of their affairs, counties of this Commonwealth, now in existence and those hereafter created, shall be divided into nine classes as follows:

- (1) First Class Counties, those having a population of 1,500,000 inhabitants and over.
 - (2) Second Class Counties, those having a population of 800,000 and more but less than 1,500,000 inhabitants.
 - (2.1) Second Class A Counties, those having a population of 500,000 and more but less than 800,000 inhabitants.
 - (3) Third Class Counties, those having a population of 250,000 and more but less than 500,000 inhabitants.
 - (4) Fourth Class Counties, those having a population of 150,000 and more but less than 250,000 inhabitants.
 - (5) Fifth Class Counties, those having a population of 95,000 and more but less than 150,000 inhabitants.
 - (6) Sixth Class Counties, those having a population of 45,000 and more but less than 95,000 inhabitants.
 - (7) Seventh Class Counties, those having a population of 20,000 or more but less than 45,000 inhabitants.
 - (8) Eighth Class Counties, those having a population of less than 20,000 inhabitants.
- As amended 1967, Oct. 20, P.L. 472, § 2; 1982, Dec. 10, P.L. 1084, No. 254, § 1, effective in 60 days.

Historical and Statutory Notes

Section 8 of the act of 1967 (17 P.S. 1592.1, note), provided for the fees to be charged by the prothonotary in second class A counties.

Section 9 of the act read: "The provisions of this act shall become effective immediately. The Governor shall forthwith certify to the county

commissioners of every county affected, the fact that because of this act, such county has become a county of the second class A. The change in classification and the provisions of law relating to counties of the second class A as provided by this amending act shall become effective November 1, 1967."

I. AFTER HOURS ON-CALL DATA COLLECTION
INSTRUMENTS USED IN SIX WEEK SAMPLE OF BUCKS
COUNTY ON-CALL SYSTEM

DISTRICT COURT 07-1-03

[illegible]

J. MEMORANDUM WITH EXPLANATION OF DATA
COLLECTION SHEET COLUMNS A-J

COURT OF COMMON PLEAS COUNTY OF BUCKS

INTER-OFFICE CORRESPONDENCE

To: On-Call After Hours Issuing Authority/District Court 07-1-03

From: G. Thomas Wiley, Deputy Court Adm/Minor Judiciary

Subject: DATA COLLECTION PROFILE OF AFTER HOURS ON-CALL

Date:

For just your upcoming On-Call week only, please have your staff collect and report the specific information requested about the case and work activity handled during the On-Call times. This information is to be recorded on the data collection sheets attached. If you need more, make extra copies. At the end of your On-Call week, please return them to my office. Thank you.

Also attached is an explanation sheet which reviews the columns A through J.

GTW/fk
encs.

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EXPLANATION
of
DATA COLLECTION SHEET
for
COLUMNS A - J

- (A) Although self explanatory, must stress precise Date.
- (B) Same as above, stress the need to use correct Day. (Don't consider, for example, Tuesday 4:00 AM to be part of Monday.)
- (C) Use Periodic On-Call times and reference each as follows: 4:00 AM, 8:00 AM, Noon, 4:00 PM, 8:00 PM, and Mid (night).
- (D) Case Number is how you assigned it.
- (E) Preferably describe in a few words, the Offense Charged (describe).
- (F) Generally, the Initiator is police department, so provide name of P.D. If Constable, give name of constable and his/her municipality. If private citizen, please indicate "private citizen".
- (G) F.I.A. = indicate Final Issuing Authority by Magisterial Number 07 - X - XX.
- (H) Action Taken [P= S=] Please indicate the (P) primary action taken by district justice, such as Held Preliminary Arraignment, Accepted Payment of Fines and Costs, Issued Warrant.

Then also indicate (S) secondary action, when relevant, such as if set bail indicate type and amount, or if issued warrant, indicate whether it was for regular arrest, search warrant approved by District Attorney, or for monies due following a previous adjudication.
- (I) Indicate whether or not defendant was sent to Prison by recording 'Y' for, yes, sent to Prison, or 'N', not sent to prison.
- (J) Other - use codes below to indicate any special problems or needs, as well as Code 10
 - (1) Defendant created altercation or was unruly and disruptive.
 - (2) Defendant required critical level of security while in custody and had to be restrained.

- (3) Defendant did not speak English.
- (4) Defendant was unable to understand what was taking place.
- (5) Defendant or his family/friends had transportation needs or difficulties.
- (6) Defendant has serious health risks
- (7) Police were uncooperative
- (8) D.J. did not have proper resources (describe).
- (9) Staff did not have proper resource (describe).
- (10) Anything else(?)

**K. JURISDICTION AND VENUE OF THE PHILADELPHIA
MUNICIPAL COURT REGARDING BAIL COMMISSIONERS,**

[42 PA C.S. SECTION 1123 (a) (5)]

Com. v. Seeley, 444 A.2d 142, 297 Pa.Super. 498, Super.1982.

As each division of a court of common pleas is vested with jurisdiction of the whole court, any division would have jurisdiction of assumpsit action brought by former wife against former husband to enforce private support agreement, regardless of whether it was the court division to which the type of case had been administratively assigned. *Guerin v. Guerin*, 442 A.2d 1112, 296 Pa.Super. 400, Super.1982.

2. Transfer of cases

Provision that "each division of the court is vested with the full jurisdiction of the whole

court, but the business of the court may be allocated among the divisions" gives every division of the court of common pleas jurisdiction to transfer any case properly heard in court of common pleas to proper division having subject matter jurisdiction over that particular matter, but does not give every division jurisdiction to hear any matter that could be brought in court of common pleas, since power and authority of court of common pleas is defined and limited by legislation which may vest limited and exclusive jurisdiction in one division. *Com. v. Johnson*, 669 A.2d 315, Sup.1995.

§ 953. Administrative judges of divisions

Each division of a court of common pleas shall have an administrative judge who shall assist the president judge of the court in supervising and administering the business of the court and shall be responsible to him.

As amended 1982, Dec. 20, P.L. 1409, No. 326, art. II, § 201, effective in 60 days.

Historical and Statutory Notes

1982 Amendment: Substituted "have" for "be presided over by" and "who" for "". Each such administrative judge".

ARTICLE D

MINOR COURTS

CHAPTER 11

COMMUNITY AND MUNICIPAL COURTS

SUBCHAPTER B. PHILADELPHIA MUNICIPAL COURT

Section

1123. Jurisdiction and venue.

Section

1125. Substitute bail commissioners.
1126. Masters.

§ 1123. Jurisdiction and venue

(a) General rule.—Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), the Philadelphia Municipal Court shall have jurisdiction of the following matters:

(1) Summary offenses, except those within the jurisdiction of the Traffic Court of Philadelphia and those arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed under Chapter 63 (relating to juvenile matters).

(2) Criminal offenses by any person (other than a juvenile) for which no prison term may be imposed or which are punishable by imprisonment for a term of not more than five years, including indictable offenses under Title 75 (relating to vehicles). In cases under this paragraph the defendant shall have no right of trial by jury in the municipal court, but shall have the right of appeal for trial de novo, including the right of trial by jury, to the court of common pleas. The judges of the municipal court exercising jurisdiction under this paragraph shall have the same jurisdiction in probation and parole arising out of sentences imposed by them as judges of the court of common pleas.

(3) Matters arising under the act of April 6, 1951 (P.L. 69, No. 20), known as The Landlord and Tenant Act of 1951.¹ The judges of the Philadelphia Municipal Court shall have the power to enter judgments exceeding \$5,000 in matters arising under

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this subsection. Appeals from a judgment of the municipal court shall be to the court of common pleas in accordance established by the administrative judge of the trial division inconsistent with Statewide rules of procedure as established.

(4) Civil actions, except actions by or against a Commonwealth, section 8501 (relating to definitions), wherein the sum is \$10,000, exclusive of interest and costs, in the following classes:

(i) In assumpsit.

(ii) In trespass, including all forms of trespass and trespass.

(iii) For fines and penalties by any government agency.

A plaintiff may waive a portion of his claim of more than \$10,000, exclusive of interest and costs, in the following classes: matter within the monetary jurisdiction of the municipal court, but shall have the right to appeal for trial by jury, to the court of common pleas, in accordance established by the administrative judge of the trial division inconsistent with Statewide rules of procedure as established. It is the purpose of this paragraph to establish an expedient whereby it shall not be necessary for the litigants to obtain a confession shall not be entered in the municipal court.

(5) As commissioners to preside at arraignments, fix and perform duties of a similar nature, including the duties of a magistrate in all criminal proceedings. In addition to the judges set forth in this paragraph, the Philadelphia Municipal Court shall appoint for four-year terms six bail commissioners, to act as commissioners, preside at preliminary arraignments, assign criminal complaints, fix bail and issue arrest warrants. The bail commissioners shall be employees of the Court of Philadelphia. The method of selection and appointment of bail commissioners and establishing standards of conduct and authority of the bail commissioners and the procedure for decisions of the bail commissioners shall be provided by the municipal court.

(6) Civil actions wherein the sum demanded does not exceed \$10,000, exclusive of interest and costs, in the following classes.

(7) Actions to enjoin any nuisance caused by the operation on licensed premises subject to the act of April 12, 1951, the Liquor Code.²

(8) Any action to enjoin a public nuisance. The action shall be brought by any person who resides or has a place of business within the municipal court.

(a.1) Appeal from contempt citation or nuisance order. An appeal from a contempt citation or nuisance order shall be limited to a review of the record of the appeal to the Court of Common Pleas of Philadelphia. A municipal court judge in any action under subsection (a)(7) shall be limited to a review of the record.

(See main volume for (b) and (c).)

Amended 1982, Dec. 20, P.L. 1409, No. 326, art. II, § 201, effective in 60 days; 1990, Dec. 12, P.L. 959, No. 187, § 2, effective in 60 days; 1990, Nov. 29, P.L. 574, No. 14, Reenacted 1992, April 16, P.L. 146, No. 25, § 1, ind. effective in 60 days; 1995, March 1, P.L. 872, No. 140, § 1, effective in 60 days; 1995, March 1, P.L. 872, No. 140, § 1, effective in 60 days; 1995, Nov. 21, P.L. 619, No. 1, § 1 effective in 60 days.

168 P.S. § 250.101 et seq.

247 P.S. § 1-101 et seq.

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this subsection. Appeals from a judgment of the municipal court under this subsection shall be to the court of common pleas in accordance with local rules of court established by the administrative judge of the trial division. Those rules shall not be inconsistent with Statewide rules of procedure as established by the Supreme Court.

(4) Civil actions, except actions by or against a Commonwealth party as defined by section 8501 (relating to definitions), wherein the sum demanded does not exceed \$10,000, exclusive of interest and costs, in the following classes of actions:

- (i) In assumpsit.
- (ii) In trespass, including all forms of trespass and trespass on the case.
- (iii) For fines and penalties by any government agency.

A plaintiff may waive a portion of his claim of more than \$10,000 so as to bring the matter within the monetary jurisdiction of the municipal court. Such waiver shall be revoked automatically if the defendant appeals the final order of the municipal court. In cases under this paragraph the defendant shall have no right of trial by jury in the municipal court, but shall have the right to appeal for trial de novo, including the right of trial by jury, to the court of common pleas, in accordance with local rules of court established by the administrative judge of the trial division. These rules shall not be inconsistent with Statewide rules of procedure as established by the Supreme Court. It is the purpose of this paragraph to establish an expeditious small claims procedure whereby it shall not be necessary for the litigants to obtain counsel. Judgments by confession shall not be entered in the municipal court.

(5) As commissioners to preside at arraignments, fix and accept bail, issue warrants and perform duties of a similar nature, including the jurisdiction of a committing magistrate in all criminal proceedings. In addition to the exercise of the powers by the judges set forth in this paragraph, the Philadelphia Municipal Court, through the president judge and a majority of the judges of the court, shall have the power to appoint for four-year terms six bail commissioners, to administer oaths and affirmations, preside at preliminary arraignments, assign counsel in certain cases, issue criminal complaints, fix bail and issue arrest warrants and search and seizure warrants. The bail commissioners shall be employees of the Commonwealth and they shall receive an annual salary equal to the salary of an associate judge of the Traffic Court of Philadelphia. The method of selection and appointment and removal of bail commissioners and establishing standards of conduct and the rights, responsibilities and authority of the bail commissioners and the procedures for appealing from the decisions of the bail commissioners shall be provided by local rules adopted by the municipal court.

(6) Civil actions wherein the sum demanded does not exceed \$15,000 in matters involving judgments of real estate taxes and school taxes levied by cities of the first class.

(7) Actions to enjoin any nuisance caused by the operation of a licensee or occurring on licensed premises subject to the act of April 12, 1951 (P.L. 90, No. 21), known as the Liquor Code.²

(8) Any action to enjoin a public nuisance. The action to enjoin may be brought by any person who resides or has a place of business within 500 feet of the location of the alleged nuisance.

(a.1) Appeal from contempt citation or nuisance order.—There shall be a right to appeal to the Superior Court of a contempt citation issued by a municipal court judge but the appeal shall be limited to a review of the record. There shall be a right of appeal to the Court of Common Pleas of Philadelphia County of an order issued by a municipal court judge in any action under subsection (a)(7) or (8), but the appeal shall be limited to a review of the record.

[See main volume for (b) and (c)]

Amended 1982, Dec. 20, P.L. 1409, No. 326, art. II, § 201, effective in 60 days; 1984, Oct. 12, P.L. 959, No. 187, § 2, effective in 60 days; 1990, July 11, P.L. 454, No. 111, § 1, effective in 60 days; 1990, Nov. 29, P.L. 574, No. 147, § 2, effective in 60 days. Reenacted 1992, April 16, P.L. 146, No. 25, § 1, imd. effective. Amended 1992, Dec. 14, P.L. 872, No. 140, § 1, effective in 60 days; 1995, March 31, P.L. —, No. 9 (Spec. Sess. No. 1), § 1 effective in 60 days; 1995, Nov. 21, P.L. 619, No. 65, § 1, effective in 60 days.

¹ 68 P.S. § 250.101 et seq.

² 47 P.S. § 1-101 et seq.

Concurrent Jurisdiction of Court of Common Pleas of Philadelphia County

Section 10 of Act 1976, July 9, P.L. 586, No. 142, as affected by Act 1982, Dec. 20, P.L. 1409, No. 326, § 316 [42 P.S. § 20076], provides as follows:

"Court of Common Pleas of Philadelphia County shall have concurrent jurisdiction over the matters specified in 42 Pa.C.S. § 1123(a)(2) (relating to jurisdiction and venue) and the assignment of cases between the two courts shall be determined by rule prescribed by the President Judge of the Court of Common Pleas of Philadelphia County."

Historical and Statutory Notes

1982 Amendment: In par. (a)(4) inserted "except actions by or against a Commonwealth party as defined by section 8501 (relating to definitions)," in the first sentence and "monetary" in the second sentence.

1984 Amendment: In two locations in cl. (a)(4), substituted "\$5,000" for "\$1,000"; in cl. (a)(5), added second, third and fourth sentences; added cl. (a)(6) and subsec. (a.1).

1990 Legislation

Act 1990, No. 111, in subsec. (a), added cls. (7) and (8).

Act 1990, No. 147, in subsec. (a)(8) substituted "public nuisance" for "common law nuisance or a nuisance which involves a violation of any city ordinance or code, or any penal statute", and in subsec. (a.1) added "or nuisance order" in the heading and inserted "or of an order issued by a municipal court judge in any action under subsection (a)(7) or (8)".

1992 Legislation

Section 1 of Act 1992, April 16, P.L. 146, No. 25, effective immediately, reenacted subsecs. (a)(8) and (a.1) without change. Section 3 of Act 1992, July 9, P.L. 689, No. 102, effective immediately, repealed Act 1990, Nov. 29, P.L. 574, No. 147, which had amended subsecs. (a)(8) and (a.1).

Act 1992, No. 140, in subsec. (a)(3), added the second sentence.

1995 Legislation

Act 1995, March 31, No. 9 (Spec. Sess. No. 1), in subsec. (a)(1), added "and those arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed under Chapter 63 (relating to juvenile matters)".

Act 1995, Nov. 21, No. 65, in subd. (a)(3), added the last two sentences; rewrote subd. (a)(4) and subsec. (a.1). Prior to revision, subd. (a)(4) and subsec. (a.1) read:

"(4) Civil actions, except actions by or against a Commonwealth party as defined by section 8501 (relating to definitions), wherein the sum demanded does not exceed \$5,000, exclusive of interest and costs, in the following classes of actions:

"(i) In assumpsit.

"(ii) In trespass, including all forms of trespass and trespass on the case.

"(iii) For fines and penalties by any government agency.

"A plaintiff may waive a portion of his claim of more than \$5,000 so as to bring the matter within the monetary jurisdiction of the municipal court. Such waiver shall be revoked automatically if the defendant appeals the final order of the municipal court. In cases under this paragraph the defendant shall have no right of trial by jury in the municipal court, but shall have the right to appeal for trial de novo, including the right of trial by jury, to the court of common pleas, it being the purpose of this paragraph to establish an expeditious small claims procedure whereby it shall not be necessary for the litigants to obtain counsel. Judgments by confession shall not be entered in the municipal court."

"(a.1) Appeal from contempt citation or nuisance order.—There shall be a right to appeal to the Court of Common Pleas of Philadelphia County of a contempt citation issued by a municipal court judge or of an order issued by a municipal court judge in any action under subsection (a)(7) or (8), but the appeal shall be limited to a review of the record."

Notes of Decisions

In general 1

1. In general

Specific provision of the Protection From Abuse Act, vesting jurisdiction in the court of common pleas to adjudicate and impose punishment for indirect criminal contempt of order issued pursuant thereto, takes precedence over broader and more general language of Philadelphia municipal court statute and rules of criminal procedure which apply to commission of any criminal offense with penalty not exceeding five

years: the criminal rule provision referencing right to jury trial upon appeal following imposition of sentence by municipal court judge is rendered nugatory by Legislature's abolition of such right in Protection From Abuse Act context. *Com. v. Burton*, 624 A.2d 138, 425 Pa.Super. 49, Super.1993.

Common pleas court has jurisdiction to review order of municipal court under statutes concerning appeals from minor judiciary and right to de novo jury trial after trial in municipal court without right to jury trial. *Com. v. Rosario*, 615 A.2d 740, 419 Pa.Super. 481, Super.1992, appeal grant-

ed 629 A.2d 1379, 535 Pa. 617, affirmed 648 A.2d 1172, 538 Pa. 400.

Defendant, convicted of making false statements to obtain public assistance, was not entitled to a second sentencing hearing because she

received a harsher plea than the one in municipal court. *Judge concurs* in specially designated hearing. 301 Pa.Super.

§ 1125. Substitute bail commissioners

The President Judge of the Philadelphia Municipal Court may, upon a written finding by the president judge, substitute bail commissioners upon a written finding by the president judge. 1988, April 13, P.L. 336, No. 47, § 2, imd. effective.

§ 1126. Masters

The President Judge of the Philadelphia Municipal Court may, upon a written finding by the president judge, substitute masters upon a written finding by the president judge. 1990, Dec. 19, P.L. 1240, No. 206, § 4, effective in 90 days.

SUBCHAPTER C. PITTSBURGH MAGISTRATES COURT

Section

1144. Lien of judgment.

§ 1144. Lien of judgment

A judgment of the Pittsburgh Magistrates Court shall be a lien upon real property until a transcript of the record showing a final judgment of the prothonotary of Allegheny County. After entry of the judgment, from the date of its entry, be a lien upon real property recovered in the court of common pleas is a lien upon real property. The lien shall be filed until 30 days after the entry of final judgment in the Magistrates Court. No execution against real estate shall be issued by the Magistrates Court.

1988, Dec. 21, P.L. 1862, No. 179, § 1, effective in 60 days.

Historical and Statutory

1988 Legislation

Section 3 of Act 1988, P.L. 1862, No. 179 provides in part that this section shall apply to

final judgments of the Magistrates Court.

ARTICLE E

DISTRICT JUSTICE

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

PROCEDURE

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as follows:
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JUDICIARY & JUDICIAL PROCEDURE

42 Pa.C.S.A. § 1144

ed 629 A.2d 1379, 535 Pa. 617, affirmed 648 A.2d 1172, 538 Pa. 400.

Defendant, convicted of making false state-
ments to obtain public assistance, was not enti-
tled to a second sentencing hearing because she

received a harsher sentence in court of common
pleas than that originally imposed on conviction
in municipal court. (Per Cirillo, J., with one
Judge concurring in result and one Judge concur-
ring specially.) Com. v. Visconto, 448 A.2d 41,
301 Pa.Super. 543, Super.1982.

§ 1125. Substitute bail commissioners

The President Judge of the Philadelphia Municipal Court may appoint qualified
attorneys who are court employees to act as substitute bail commissioners during an
emergency upon a written finding by the president judge that an emergency exists.
1988, April 13, P.L. 336, No. 47, § 2, imd. effective.

§ 1126. Masters

The President Judge of the Philadelphia Municipal Court may appoint attorneys who
are members of the Pennsylvania Bar to serve as masters in proceedings under 23
Pa.C.S. Ch. 61 (relating to protection from abuse).
1990, Dec. 19, P.L. 1240, No. 206, § 4, effective in 90 days.

SUBCHAPTER C. PITTSBURGH MAGISTRATES COURT

Section

1144. Lien of judgment.

§ 1144. Lien of judgment

A judgment of the Pittsburgh Magistrates Court shall not operate as a lien on real
property until a transcript of the record showing a final judgment of the Pittsburgh
Magistrates Court has been filed in the manner prescribed by general rules in the office
of the prothonotary of Allegheny County. After entry of the judgment, the judgment
shall, from the date of its entry, be a lien upon real property to the same extent that
judgment recovered in the court of common pleas is a lien. No transcript of the record
shall be filed until 30 days after the entry of final judgment by the Pittsburgh
Magistrates Court. No execution against real estate shall be issued by the Pittsburgh
Magistrates Court.

1988, Dec. 21, P.L. 1862, No. 179, § 1, effective in 60 days.

Historical and Statutory Notes

1988 Legislation

Section 3 of Act 1988, P.L. 1862, No. 179
provides in part that this section shall apply to

final judgments entered by the Pittsburgh Magis-
trates Court on or after the effective date of this
act.

ARTICLE E

DISTRICT JUSTICES

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide
following the Preface.

K-4

**L. CASES INITIATED BY SAMPLE OF ALL MUNICIPALITIES IN
THE COUNTY FORM**

CASE INITIATED BY:

POLICE DEPT.	FRI	SAT	SUN	MON	TUES	WEDS	THURS	FRI	TOTAL
Bedminster Township									
Bensalem Township									
Bridgeton Township									
Bristol Borough									
Bristol Township									
Buckingham Township									
Chalfont Borough									
Doylestown Borough									
Doylestown Township									
Dublin Borough									
Durham Township									
Falls Township									
Haycock Township									
Hilltown Township									
Hulmeville Borough									
Ivyland Borough									
Langhorne Borough									
Langhorne Manor Borough									
Lower Makefield Township									
Lower Southampton Township									

POLICE DEPT.	FRI	SAT	SUN	MON	TUES	WEDS	THURS	FRI	TOTAL
Middletown Township									
Milford Township									
Morrisville Borough									
New Britain Borough									
New Britain Township									
New Hope Borough									
Newtown Borough									
Newtown Township									
Nockamixon Township									
Northampton Township									
Penndel Borough									
Pennridge Regional									
Perkasie Borough									
Plumstead Township									
Quakertown Borough									
Richland Township									
Richlandtown Borough									
Riegelsville Borough									
Silverdale Borough									
Solebury Township									
Springfield Township									

POLICE DEPT.	FRI	SAT	SUN	MON	TUES	WEDS	THURS	FRI	TOTAL
Telford Borough									
Tinicum Township									
Trumbauersville Borough									
Tullytown Borough									
Upper Makefield Township									
Upper Southampton Township									
Warminster Township									
Warrington Township									
Warwick Township									
Wrightstown Township									
Yardley Borough									
PA State Police-Trevoze									
PA State Police-Dublin									
Constable									
Private Citizen									

M. CASES INITIATED BY: SIX TIME FRAMES FORM

POLICE DEPT.	FRI	SAT	SUN	MON	TUES	WEDS	THURS	FRI	TOTAL
Bedminster Township									
Bensalem Township		2							2
Bristol Borough		2							2
Bristol Township		1	1						2
Buckingham Township									
Chalfont Borough								1	1
Doylestown Borough									
Doylestown Township									
Dublin Borough									
Falls Township					1				1
Hilltown Township									
Hulmeville Borough									
Lower Makefield Township									
Lower Southampton Township									
Middletown Township									
Morrisville Borough		1							1
New Hope Borough									
Northampton Township									
Pennridge Regional									
Perkasie Borough									
Quakertown Borough		1							1
Tinicum Township									
Tullytown Borough							1		1
Upper Southampton Township									
Warminster Township		1							1
Warrington Township									
PA State Police		1	1						2
OCF									
onstable		5							5
TOTAL		14	2		1		1	1	19

POLICE DEPT.	FRI	SAT	SUN	MON	TUES	WEDS	THURS	FRI	TOTAL
Bedminster Township									
Bensalem Township									
Bristol Borough									
Bristol Township									
Buckingham Township									
Chalfont Borough									
Doylestown Borough									
Doylestown Township									
Dublin Borough									
Falls Township		1			2				3
Hilltown Township									
Hulmeville Borough									
Lower Makefield Township									
Lower Southampton Township									
Middletown Township									
Morrisville Borough									
New Hope Borough									
Northampton Township									
Pennridge Regional									
Perkasie Borough									
Quakertown Borough									
Tinicum Township									
Tullytown Borough									
Upper Southampton Township									
Warminster Township									
Warrington Township									
PA State Police		1							1
CCF		1		1					2
Constable									
TOTAL		3		1	2				6

POLICE DEPT.	FRI	SAT	SUN	MON	TUES	WEDS	THURS	FRI	TOTAL
Bedminster Township									5
Bensalem Township		4	1						
Bristol Borough									5
Bristol Township		4	1						
Buckingham Township									1
Chalfont Borough		1							
Doylestown Borough									
Doylestown Township									
Dublin Borough							1		1
Falls Township									
Hilltown Township									
Hulmeville Borough									
Lower Makefield Township									
Lower Southampton Township									3
Middletown Township		2	1						1
Morrisville Borough		1							
New Hope Borough									
Northampton Township									1
Pennridge Regional		1							1
Perkasie Borough							1		1
Quakertown Borough		2							2
Ridgely Township									
Ridgely Township									
Upper Southampton Township									1
Bedminster Township		1							1
Bedminster Township		1							1
Bedminster Township		1				1			2
PA State Police									
DCF									
Unstable									
TOTAL		18	3			1	2		24

POLICE DEPT.	FRI	SAT	SUN	MON	TUES	WEDS	THURS	FRI	TOTAL
Bedminster Township									
Bensalem Township	5	5	1		4	3	6		24
Bristol Borough	1	1	1	1		1			5
Bristol Township	1	2	2	2	2	2			11
Buckingham Township									
Chalfont Borough					1				1
Doylestown Borough									
Doylestown Township	1	1					1		3
Dublin Borough				1					1
Falls Township	1					1	2		4
Hilltown Township					2		1		3
Hulmeville Borough									
Lower Makefield Township					1				1
Lower Southampton Township	1					1			2
Middletown Township	2	1	2	1	1	1	1		9
Morrisville Borough		1					1		2
New Hope Borough									
Northampton Township		1		1					2
Pennridge Regional						2			2
Perkasie Borough									
Quakertown Borough	1								1
Tinicum Township									
Tullytown Borough									
Upper Southampton Township		1							1
Warminster Township					1		1		2
Warrington Township		1	1		1				3
PA State Police	2						4		6
OCF						1			1
Constable	7	15			3		23		48
TOTAL	22	29	7	6	16	12	40		132

POLICE DEPT.	FRI	SAT	SUN	MON	TUES	WEDS	THURS	FRI	TOTAL
Bedminster Township						2			2
Bensalem Township		3	2	1	1		1	2	10
Bristol Borough		1				1			2
Bristol Township	2	2				1			5
Buckingham Township		1							1
Chalfont Borough									
Doylestown Borough		2							2
Doylestown Township		1	1						2
Dublin Borough								1	1
Falls Township							1		1
Hilltown Township									
Hulmeville Borough									
Lower Makefield Township					1				1
Lower Southampton Township									
Middletown Township	2	2		3	1			1	9
Morrisville Borough				1		3			4
New Hope Borough				1					1
Northampton Township									
Pennridge Regional								1	1
Perkasie Borough									
Quakertown Borough									
Tinicum Township				1					1
Tullytown Borough									
Upper Southampton Township						1			1
Warminster Township		1	2						3
Warrington Township			1				1		2
PA State Police									
BCCF									
Constable									
TOTAL	4	13	6	7	3	8	3	5	49

POLICE DEPT.	FRI	SAT	SUN	MON	TUES	WEDS	THURS	FRI	TOTAL
Bedminster Township									
Bensalem Township		6		3		2		3	14
Bristol Borough		2	4						6
Bristol Township		1	1		1	2	3	1	9
Buckingham Township		2				1			3
Chalfont Borough								1	1
Doylestown Borough					1				1
Doylestown Township						1			1
Dublin Borough									
Falls Township			2		1				3
Hilltown Township									
Hulmeville Borough								2	2
Lower Makefield Township									
Lower Southampton Township					1				1
Middletown Township				1	1	1			3
Morrisville Borough									
New Hope Borough							3		3
Northampton Township			1						1
Pennridge Regional							2		2
Perkasie Borough									
Quakertown Borough							1		1
Tinicum Township									
Tullytown Borough									
Upper Southampton Township		2							2
Warminster Township		2	2	1			1	1	7
Warrington Township		1							1
PA State Police		1			1				2
CCF									
Constable		1							1
TOTAL		18	10	5	6	7	10	8	64

**N. SUMMARY SHEET OF ALL CASES INITIATED BY WITH
TOTALS AND ANNUALIZED PROJECTIONS**

CASE INITIATED BY:

POLICE DEPT.	U/L	8AM	12N	4PM	8PM	12M	4AM	TOTAL	ANNUALIZED
Bedminster Township	U					2		2	17
Bensalem Township	L	2		5	24	10	14	55	477
Bristol Borough	L	2			5	2	6	15	130
Bristol Township	L	2		5	11	5	9	32	277
Buckingham Township	U					1	3	4	35
Chalfont Borough	U	1		1	1		1	4	35
Doylestown Borough	U					2	1	3	26
Doylestown Township	U				3	2	1	6	52
Dublin Borough	U				1	1		2	17
Falls Township	L	1	3	1	4	1	3	13	113
Hilltown Township	U				3			3	26
Hulmeville Borough	L						2	2	17
Lower Makefield Township	L				1	1		2	17
Lower Southampton Township	L				2		1	3	26
Middletown Township	L			3	9	9	3	24	208
Morrisville Borough	L	1		1	2	4		8	69
New Hope Borough	U					1	3	4	35
Northampton Township	L				2		1	3	26
Pennridge Regional	U			1	2	1	2	6	52
Perkasie Borough	U			1				1	9
Quakertown Borough	U	1		2	1		1	5	43
Tinicum Township	U					1		1	9
Tullytown Borough	L	1						1	9
Upper Southampton Township	L				1	1	2	4	35
Warminster Township	L	1		1	2	3	7	14	121
Warrington Township	U			1	3	2	1	7	61
PA State Police		2	1	2	6		2	13	113
BCCF	U		2		1			3	26
Constable		5			48		1	54	468
TOTAL		19	6	24	132	49	64	294	2,549

AV

O. TYPES OF OFFENSES CHARGED FORM

TYPES OF OFFENSES CHARGED

OFFENSE CHARGED	8AM	12N	4PM	8PM	12M	4AM	TOTAL	ANNUALIZED
Simple Assault/Agg Assault	4	2	4	30	18	32	90	780
Theft								
Retail/Unlawful/Cr. Cards/Forgery	4	4	9	33	15	11	76	659
Misc. Summary (TPA, INHG, Payment)	1	-	-	48	-	-	49	465
Possession Drugs/Paraphernalia								
Possess w/intent to deliver	1	-	-	19	12	15	47	407
Receiving Stolen Property	5	1	2	21	5	10	44	381
Harrassment/Stalking/Terr. Threats	1	-	3	11	7	17	39	338
Disorderly Conduct/Public Drunken.	2	2	-	4	11	18	37	321
Conspiracy	3	2	3	7	10	6	31	269
Summary Companion Citations	2	-	-	-	9	17	28	243
Recklessly Endanger/ Welfare of Child/Corrupt Minor	1	2	-	12	4	8	27	234
Criminal Mischief								
Criminal/Defiant Trespass	2	-	1	1	6	12	22	191
Driving Under the Influence	1	-	1	2	2	8	14	121
Burglary/Robbery	2	-	-	2	4	6	14	121
Criminal Contempt/Emergency PFA	1	2	3	2	2	2	12	104
Possess Instru of Crime/Weapons	1	2	-	2	2	3	10	87
Resisting Arrest/Escape	-	2	-	3	1	2	8	69
Indecent Exposure/Open Lewdness								
Sexual/Indecent Assault	-	-	1	6	-	-	7	61
Unauthorized use of Auto	1	-	1	1	-	4	7	61
Search Warrant	1	-	2	3	-	1	7	61
Accident	1	-	1	-	-	3	5	43
Fugitive from Justice	-	-	1	1	2	-	4	35
Elude Police/Unsworn Falsification	-	-	1	1	1	1	4	35
Warrant	-	-	1	1	-	-	2	17
Arson	-	-	-	-	-	1	1	9
Kidnapping	-	-	-	-	-	1	1	9
TOTAL	34	19	34	210	111	178	586	5081
ANNUALIZED	295	165	295	1820	962	1543	5081	

P. FINAL ISSUING AUTHORITY FORM

[illegible]

Q. TYPES OF ACTION TAKEN FORM

TYPE OF ACTION TAKEN

<u>TYPE OF ACTION TAKEN</u>	<u>8AM</u>	<u>12N</u>	<u>4PM</u>	<u>8PM</u>	<u>12M</u>	<u>4AM</u>	<u>TOTAL</u>	<u>ANNUALIZED</u>
Preliminary Arraignment	10	6	15	63	44	59	197	1708
Bail Set	10	6	15	63	44	59	197	1708
Commitment	8	6	9	45	38	48	154	1335
Bail Posted	2	-	7	18	7	11	45	390
Warrant Issued	1	3	4	10	1	3	22	190
Search Warrant Approved	1	-	2	2	-	2	7	61
Indigent Hearing	-	-	-	2	-	-	2	17
Collateral Set	-	-	1	2	2	2	7	61
Collateral Posted	-	-	-	2	-	-	2	17
Payment Received	-	-	-	2	-	-	2	17
Payment Arrangments	-	-	-	1	-	-	1	9
Emergency PFA	1	1	-	1	-	-	3	26
Hearing set for Family Court	-	-	2	1	1	-	4	35
Accepted a Plea	1	-	-	5	3	-	9	78
Juvenile Petition	-	-	-	1	-	-	1	9
Waiver	-	-	-	1	-	-	1	9
Hearing Set -30 days (Fugitive)	-	-	1	1	2	-	4	35
Misc. Summary Warrants	-	-	-	42	-	-	42	364
TOTAL	34	22	56	262	142	184	700	6,069
ANNUALIZED	295	191	486	2271	1231	1595	6069	

Q

R. SPECIAL PROBLEMS FORM

SPECIAL PROBLEMS

PROBLEM CODE	DESCRIPTION	8AM	12N	4PM	8PM	12M	4AM	TOTAL	ANNUALIZE
1.	Defendant created altercation or was unruly and disruptive.				1	2	5	8	69
2.	Critical level of security was required while in custody.				1			1	9
3.	Defendant did not speak English.					2		2	17
4.	Defendant was unable to understand hat was taking place.					1		1	9
5.	Defendant/family/friends had transportation needs/difficulties								0
6.	Defendant has serious health risks.								0
7.	Police were uncooperative.								0
8.	DJ did not have proper resources.								0
9.	*COMPUTER UNAVAILABLE Staff did not have proper resources.		1	1				2	17
10.	Police arrived late or not at all.				2		1	3	26
TOTAL		0	1	1	4	5	6	17	147
ANNUALIZED		0	9	9	35	43	51	147	

R

**S. BUCKS COUNTY DISTRICT COURT STANDBY AND
OVERTIME COSTS WITH CALCULATIONS FOR THE SIX WEEK
PROFILE OF AFTERHOURS ACTIVITY IN 1996**

DISTRICT COURT STANDBY/OVERTIME USEAGE

PAY PERIODS		DISTRICT COURT	BUDGET CODE	HOURS	DOLLARS
FROM	TO				
'03/96 - 11/08/96		07-1-02	(0202)	51.00	\$753.73
		07-2-03	(0214)	6.00	\$67.04
		07-2-08	(0219)	24.00	\$289.78
		07-3-01	(0215)	36.00	\$413.07
				117.00	\$1,523.62
'09/96 - 11/22/96		07-1-01	(0201)	54.50	\$926.88
		07-1-04	(0204)	29.00	\$537.50
		07-2-03	(0214)	48.00	\$547.19
		07-2-05	(0216)	3.00	\$33.52
		07-2-06	(0205)	36.00	\$451.45
		07-2-08	(0219)	45.00	\$509.79
				215.50	\$3,006.33
23/96 - 12/06/96		07-1-06	(0206)	53.30	\$766.95
		07-1-10	(0210)	54.00	\$658.53
		07-2-03	(0213)	9.00	\$105.96
		07-2-05	(0216)	45.00	\$502.86
		07-3-03	(0217)	48.00	\$536.38
				209.30	\$2,570.68
07/96 - 12/13/96		07-1-09	(0209)	74.50	\$1,006.36
		07-2-02	(0213)	40.50	\$452.58
		07-2-03	(0214)	3.00	\$33.52
				118.00	\$1,492.46
TOTAL					\$8,593.00 ROUNDED
RD. UNRELATED TO ON-CALL					- 174.00
REVISED TOTAL					<u>\$8,419.00</u>
					x 8.67
ANNUALIZED TOTAL					<u>\$72,993.00 ROUNDED</u>

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