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Western Regional Office

A REVIEW OF THE TUCSON CITY COURT

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Acknowledgements

Thanks must be expressed to the many people who took time to assist us in this study. First, to Jean Wilkins and her staff for providing us with background information and literature that was critical to this project and for facilitating our contacts with city government agencies and employees. Thanks also to Judge Thomas Martin and the other magistrates for their assistance and insights into various issues relating to the court. We thank Ron Zimmerman, Nancy Moore, and the rest of the administrative staff for their gracious and timely response to our numerous requests for information and interviews. In all cases their assistance, courtesy and forthrightness greatly facilitated our efforts.

We also interviewed several persons in city government who interact with Tucson City Court. We are grateful for their willingness to be interviewed and, especially, for their candor.

Finally, a special thanks to the National Center's secretarial staff for their efforts on this project.

I. INTRODUCTION

A. Background Statement

When the National Center for State Courts conducted a management review of the Tucson City Court in late 1984, the court's problems were legion: management was in chaos, files and papers were piled everywhere as staff spent hours searching out needed information, staff morale was very low while turnover and absenteeism were high, the facility was inadequate, and the court's efforts to computerize were partial and flawed. The court was almost a textbook example of poor operations.

Today the court has turned around or virtually eliminated almost every problem found just four-and-a-half years earlier. Although some problems remain, the improvement is dramatic. Credit for this improvement is due to much-improved management of the court, but it also is clear that the improvement would not have been realized without the support and cooperation of, and the significant infusion of resources by, city government.

The irony and disappointment underlying the current management review is that it is not occasioned by deficient management; its basis is the loss of trust and cooperation between the city's legislative and executive branches and the court. This loss is the reason for the relatively long list of problems and issues cited for study. Until affirmative steps are taken to restore the trust and spirit of cooperation that should exist, problems will remain no matter what response is made to the recommendations in this report.

While personalities are an element of the breakdown of cooperation and trust, the essential problems are institutional. Certain key relationships must be resolved: the role of the city manager and city council in reviewing the court's budget; the multi-faceted fiscal relationships between the city and court, including the role of the court in reducing its costs to the city, the responsibility of the court to conform to budget guidelines; the court's need to conform to fiscal procedures of the city; and the relationship between the court administrator and the city manager. There also are barriers of communication and cooperation between the court and other justice agencies of the city.

Associated with these institutional issues between the court and the city are institutional issues within the court, primarily, the relationship between the administrator and the chief magistrate and the role of all magistrates in the general administration of the court. All of these issues concern the court as an institution and must be so addressed. The primary goal of this report is to suggest ways to restore positive relations within and among these institutions.

The resolution of fundamental institutional issues will do much to improve the current environment of mistrust, failed or absent communication, and the tension resulting from these conditions, but it will not solve all of the court's problems. These problems include: computer software, statistical accuracy, management of fines collection, training, calendar management, and the use of resources. This report also will address these matters.

B. Organization of the Report

The institutional issues are addressed in Chapter II. Once these institutional issues are resolved, the court will be in an excellent position to address the relatively few and less serious issues discussed in Chapter IV. Some of the matters discussed in Chapter IV are solely within the purview of the court, but resolution of others will depend on the cooperation and support of city government. With a rekindled sense of forward progress, it will be much easier for the court to focus on the matters discussed in Chapter IV than it was to address the problems cited in the National Center for State Courts' 1984-1985 management review.

The court's response to and progress in the areas discussed in that 1985 report are reviewed in Chapter III.

The report closes with a final, short, conclusory chapter.

There are 7 appendices: 1) Appendix A contains the questions presented for study; 2) Appendix B, the city court cash balancing procedures; 3) Appendix C, REACT system logic and on-line inquiries; 4) Appendix D, REACT projects' priority list; 5) Appendix E, REACT retailoring needs; 6) Appendix F, City Attorney's Opinion regarding collection of revenues; and 7) judicial merit selection criteria.

C. Project Methodology

The project team was able to bring a uniquely informed perspective to this study. Three of the six team members participated in the 1984-1985 management review of the court. Thus, their general expertise in judicial administration was

enhanced by knowledge of this particular court and acquaintance with key people still with the court and city government. This familiarity with the court enabled the study and resulting conclusions to advance more rapidly than might otherwise have been the case.

Two or more of the five-member project team visited Tucson on four separate occasions. Two of the project team talked to all but one of the members of the city council and a number of other city officials in January. All of the project team visited the court for most or all of one week in February and there were two, two-person visits in separate weeks of April. In all, project staff were on site for a total of 36 person days.

During our visits to the court, interviews were conducted of most of the magistrates and several special magistrates, all of the court's division managers, and many of the staff. The court administrator, the associate court administrator, and the chief magistrate met with members of the project team on several occasions during each visit. Project staff also observed court proceedings and court staff as they worked.

At the project team's request, the court provided substantial written background material and developed several statistical reports. Various members of the executive and legislative branches of the city also provided the project staff with documents and memoranda, all of which were reviewed.

In addition to the five project staff members who visited the court, a statistician in the National Center's Western Regional Office reviewed the court's 1989 Strategic Plan, 1990-2005 to

assess the plan's projection of judicial and staff needs in the court for the next 15 years. That assessment is included in Chapter IV of this report.

The project team was provided with a lengthy list of specific issues and questions to be addressed in this study. (See Appendix A.) Accordingly, the most time was spent obtaining information concerning those items. As other issues and questions surfaced during observations or interviews, project staff attempted to pursue them. Inevitable limitations of time and resources precluded following every issue or devising specific and detailed answers to all identified problems, but the project team has attempted to address all of the questions raised in the contract and provide the court's staff with at least general guidance for resolving the problems identified.

The specific recommendations of the project team are listed below, without comment. Parenthetical page references following each recommendation direct the reader to that portion of the report in which supporting discussion appears.

RECOMMENDATIONS

Recommendation No. 1

The court and city council members should pursue ways to keep the council more fully advised of the court's operations, achievements, and problems. Possible techniques would be periodic luncheon meetings between judges and council members, periodic visits by council members to the court, periodic visits by council members' staffs to the court (announced or unannounced), and periodic reports by the court to council members regarding recent activities. (Page 15)

Recommendation No. 2

City council should retain its final authority over the city court's budget, continuing to acknowledge the court's position as the third branch of city government. (Page 18)

Recommendation No. 3

The city court should participate fully in the budget development and review process of the city manager's office. The city manager should present to the city council the budget as originally submitted by the court, all items agreed to by the city manager and the court, and the items remaining for final resolution by the city council. The city manager and the court should separately prepare and submit to the council their positions on the items that remain for city council resolution. It should be expected that the court and the city manager would be able to resolve most issues before the budget is presented to the city council. (Page 19)

Recommendation No. 4

The city manager and court should schedule their joint discussions of the court's budget to permit both the city manager's office and the court to prepare their supporting rationale regarding disputed items early enough that they can fully review each other's statements and so that the city council will have sufficient opportunity to review and consider their positions. (Page 20)

Recommendation No. 5

All matters with a fiscal impact that arise outside the regular budget process should follow the same procedure outlined for submission of court's budget. (Page 21)

RECOMMENDATIONS (CON'T)

Recommendation No. 6

The city manager should have a reasonable opportunity to review and comment upon all non-fiscal matters brought to the city council by city court before the council makes its decision. The court should have the same opportunity regarding matters initiated by the city manager. And both should have that opportunity when nonfiscal matters that involve city court are brought by others to the council. As with budget items, the council should request a joint statement from the city manager's office and the court setting forth areas of agreement and identifying areas of disagreement, with separate submissions on these latter items. (Pages 21-22)

Recommendation No. 7

The cashiering function should continue to be handled by city court employees. (Page 24)

Recommendation No. 8

City court should utilize the expertise of the finance department to develop a cash balancing method that adheres more closely to generally accepted accounting principles. (Page 25)

Recommendation No. 9

City Court should recognize the responsibility of the finance department to account for all city revenues and assist them with reconciling the costs and revenues of the court. (Page 25)

Recommendation No. 10

The court administrator should continue to be hired by and responsible to the chief magistrate of city court. (Page 28)

Recommendation No. 11

A coordinating committee of senior representatives of the court, police department, the sheriff's office, the city attorney, and the new public defender's office should be established. This group should meet regularly to address shared problems and to consider the impact of proposed changes within one agency on other agencies' workload and procedures. The committee should be chaired by a member of the city manager's office or a city-manager designee. (Page 29)

RECOMMENDATIONS (CON'T)

Recommendation No. 12

The perceived division between the judicial part of the court and the administrative functions of the court must be eliminated. All magistrates should have a broader, defined role in matters of court policy and administration. (Page 32)

Recommendation No. 13

The court administrator should assume administrative responsibility for staff assigned to the judicial part of the organization. (Page 33)

Recommendation No. 14

The computer services department should continue to work with the local IBM sales office on the proposed computer upgrade and to recommend an appropriate computer configuration to support the REACT system. (Page 61)

Recommendation No. 15

The retailoring plan for REACT should be supported and funded. (Page 61)

Recommendation No. 16

A batch criminal history report should be produced for the city attorney's office. (Page 62)

Recommendation No. 17

The city attorney's staff should receive additional training in the use of REACT. (Page 62)

Recommendation No. 18

Witness letters and subpoenas should be printed from REACT. (Page 63)

Recommendation No. 19

The typed court calendars should be proofed and corrected before distribution. (Page 63)

Recommendation No. 20

The city attorney's office should receive the afternoon court calendar by 11 a.m. or earlier and the morning calendar by 2 p.m. the previous day. (Page 64)

RECOMMENDATIONS (CON'T)

Recommendation No. 21

The court should make every effort possible to respond in a timely manner to informational requests from other city agencies. The court should inform the agency of the timeframe in which it can respond, and if it is not possible to respond timely with existing programming staff, the computer services department should be requested to provide additional programming support on a temporary basis. (Page 64)

Recommendation No. 22

The court should ask the telephone company to track the number of callers to the general information number who receive a busy signal. Depending on the results of this survey, the court should install an "automatic attendant" message system on the general information line that directs callers to the appropriate number according to the type of information they need. (Page 65)

Recommendation No. 23

When defendants on the arraignment list have been identified by Sentence Enforcement as having outstanding warrants or fines, judges should use this list and request payment or order the defendant to report to Sentence Enforcement. (Page 68)

Recommendation No. 24

The judges should try to obtain some payment from the defendants on the same day the fine is imposed. (Page 71)

Recommendation No. 25

Sentence Enforcement should document the number of defendants identified on the arraignment calendar who have delinquent fines or outstanding warrants to see if this is an effective utilization of the Sentence Enforcement clerks' time. (Page 73)

Recommendation No. 26

The Sentence Enforcement unit should develop a financial form to be used in determining payment schedules for imposed fines. (Page 73)

Recommendation No. 27

The court and the finance department should reconsider the feasibility of accepting charge cards for payment of fines. (Page 74)

RECOMMENDATIONS (CON'T)

Recommendation No. 28

Sentence Enforcement staffing should remain at the current staff level. (Page 74)

Recommendation No. 29

The court should make every effort to ensure the completeness and accuracy of its data. It should seek the assistance of the Statistics Department of the University of Arizona (hopefully provided on an uncompensated basis) and, as appropriate, staff of the city manager's office and the computer services division. (Page 76)

Recommendation No. 30

No additional staff positions should be added at this time. (Page 78)

Recommendation No. 31

The two full-time special magistrate positions should be made regular magistrate positions. (Page 80)

Recommendation No. 32

More training courses specifically geared for both regular and special magistrates should be developed. (Page 82)

Recommendation No. 33

The approach currently used to select topics for staff training should be reviewed and revised. (Page 83)

Recommendation No. 34

The court should study further and pilot-test team management of cases. (Page 83)

Recommendation No. 35

The court should begin to develop a foundation for making projections based on weighted caseloads. (Page 85)

Recommendation No. 36

Pending development of a weighted caseload system, the court should forecast staffing and judicial needs using population only. (Page 86)

RECOMMENDATIONS (CON'T)

Recommendation No. 37

The court and city council should review and agree upon an acceptable proportion of full-time equivalent special magistrate positions to regular magistrate positions. (Page 94)

Recommendation No. 38

The court should review its staff workload standards and, if necessary, revise them to provide a sound basis for projecting current and future staff needs. (Page 95)

Recommendation No. 39

The court should seek an alternative to the "speak-up sessions" currently held as an outlet for staff to vent feelings and opinions on policies and procedures. (Page 96)

Recommendation No. 40

The court should continue to investigate approaches that will cut down the amount of staff time devoted to looking for case file folders. (Page 98)

Recommendation No. 41

Investigate further the advantages and disadvantages of a terminal-digit filing system. (Page 99)

Recommendation No. 42

Alternate ways to maintain civil traffic citations should be explored. (Page 100)

Recommendation No. 43

Development of caseflow management reports should be given a high priority, particularly reports showing case aging and continuance rates. (Page 103)

Recommendation No. 44

The court should institute a program to examine cases that are greater than 150 days old to determine ways of disposing of these cases in less time. (Page 104)

Recommendation No. 45

The court should conduct a further analysis of its continuance policy. (Page 107)

RECOMMENDATIONS (CON'T)

Recommendation No. 46

City court should continue to process all civil moving traffic violations. The use of hearing officers in city courts needs further analysis, but probably would not help control costs or improve case processing. (Page 112)

Recommendation No. 47

The city's Merit Selection Commission should review its criteria for initial selection and for reappointment of magistrates and revise and expand its criteria as appropriate. The criteria should be published. (Page 117)

Recommendation No. 48

Attorney-members of the Merit Selection Commission should be required to derive at least 15 percent of their annual income from litigation, preferably with some of their caseload each year being city court or justice-of-the-peace cases. (Pages 118-119)

II. INSTITUTIONAL ISSUES AND RELATIONSHIPS

When the National Center for State Courts conducted its management review of the city court in 1984-1985, it was asked to address several institutional issues. The most important were: 1) whether the court administrator should be hired by and report to the city manager or to the court, and 2) the division of administrative responsibility between the chief magistrate and the court administrator. Those two institutional issues remain in 1989. There are several explanations for their persistence. One is our government's structure of divided responsibilities and checks and balances. That structure necessarily involves tension among the branches while mandating cooperation.

The National Center for State Courts' and the U.S. Department of Justice, Bureau of Justice Assistance's Commission on Trial Court Performance Standards soon will promulgate proposed trial court performance standards. The introduction to the standards states: "The Standards project focuses on what courts should accomplish with means at their disposal. It represents a shift from resources ... and processes ... to outcomes and their measurement." The standards seek to define the results one would expect from a well-managed court. On the subject of independence and accountability of courts, the first standard states:

The trial court, as an important component of the judicial system, is independent and self-managed and, at the same time, observes the principle of comity in its governmental relations.

In the context of the situation in Tucson, the conjunctive word "and" between the need for independence and self-management and the observation of comity might be replaced by the word "yet." A successful court will grant and observe comity with the other branches of government while maintaining its independence and self-management. It is not clear that the city court has given comity appropriate value as it has pursued its independence and self-management. At the same time, however, it must be noted that the principle of independence and self-management for the court has not yet found full acceptance within city government. This chapter is offered to assist both city government and the court to meet all elements of the independence and comity concepts.

A. Issues and Relationships Between City Court and Other Units of City Government

The issues of independence and comity underlie a number of specific points of irritation between the court and other units of city government. As might be expected when funds are limited, as they definitely are in the city of Tucson, several of these irritations relate to financial matters. There also are some issues that impact the independence of the court. These each will be addressed in turn. This chapter will conclude by addressing the negative effects of significant breakdowns in communication and understanding among justice agencies on the institutions, the city's budget, and the city's residents and taxpayers.

1. Relations Between City Council and City Court

The court is not just another government agency. It is a co-equal branch of local government. Accordingly, the city

council's relationship to and with city court is different from its relationship to and with executive-branch agencies of the city.

The different quality of the relationship between the court and the city council imposes an increased responsibility on the court to keep council members informed of its activities and problems and council members to be more informed about the court's activities than they might be about other units of city government. Both sides of the relationship need to assume more responsibility for full communication.

Recommendation No. 1

The court and city council members should pursue ways to keep the council more fully advised of the court's operations, achievements, and problems. Possible techniques would be periodic luncheon meetings between judges and council members, periodic visits by council members to the court, periodic visits by council members' staffs to the court (announced or unannounced), and periodic reports by the court to council members regarding recent activities.

It is apparent to the National Center that council members are very interested in the court's activities but suffer from a lack of information. It also is apparent that rumors, "stories," and past negative incidents play a larger role in council members' perspective of the court than might be justified by current data and a fuller understanding of the court's operations.

Some on the court suggested that regular, periodic meetings between representatives of the court, including judges, and the city council members would be beneficial. The National Center concurs. It also would be useful for the council's court liaison member or one of his staff to visit and otherwise keep in touch with the court on a more regular basis so that at least the

liaison member can be fully informed and able to respond to questions, or to assist the council to understand problems the court may be having and improvements it has made.

Leadership of the court is conscious of the need to keep in touch with council members, but this consciousness has not developed into a formal program. The court should seek to develop a more formal and regular means of communicating directly with council members.

2. Direct Submission of Budgets and Other Matters by the Court to City Council.

a. Direct submission of the budget. Under the city charter the city manager has responsibility for developing and proposing a balanced budget to the city council. Pursuant to that authority, at the start of the budget cycle the city manager announces to all city agencies the guidelines that will be used for developing the budget for the coming fiscal year. He also might request that each agency prepare a contingency budget containing a defined percentage of dollar reductions below current operating levels. Each agency then develops its budget or budgets and presents it/them to the city manager. The city manager and his budget staff review all budgets and then meet with the agency heads to discuss specific items. The purpose of these meetings is to reach agreement on a final agency budget and to establish a list of contingency items, based on the agency's priorities, that will be added back should the final budget document show that additional revenue is available. Following these meetings, a recommended budget is prepared and presented to the city council. The council reviews the proposed budget and can either add or

delete items. It often receives supplemental submissions from some agencies, although most agencies accept the decision of the city manager and do not make separate presentations to or requests of the council.

In recent years, city court has participated in this process, but in a different manner from other city agencies. There have been meetings between the city manager and representatives of the court to review the court's budget, but both sides suggest that the focus of discussions has not always been constructive. This year the court submitted its budget directly to the city council and argued its position with respect to that budget directly with council members. A courtesy copy of the budget was provided to the city manager, but the court made clear that it believed the city manager lacked authority to change the court's request.

Council members, who may have two or three personal staff, rely on the city manager for both staff support and expertise with respect to the budget. Unlike a state legislature, there is no permanent budget committee of the council and there is no budget staff other than the staff of the city manager. While a number of state supreme courts submit the budget for the state courts directly to their legislatures, normally with a courtesy copy to the governor, the state legislators' staff support puts them in a much better position to evaluate those budgets than are members of Tucson's city council. These distinctions between state legislatures and Tucson's city council are relevant and significant in this discussion.

There is a further distinction between local and state government. At the state level there is a fully functioning, independent legislative branch, a clearly defined and independent executive branch, and a defined and independent judicial branch. At the city level, the executive and legislative functions are folded into one body, the city council. While the city manager's staff is large and some city agencies may have gained a measure of independence by virtue of their function or size, the city manager is responsible to and hired and fired by the city council. This employer/employee relationship creates a significant difference between a city manager and a governor of a state. The legislative and executive branches within city government are not independent and complete but are melded into one ultimate authority (the council). The staff and expertise a state legislature would have in budgeting matters are contained in the city manager's office and not an independently functioning staff. Thus, the analogy to state government and its three branches of government breaks down to some extent when one looks at city government. There are still three functions in local government, but in budget matters the analogy to state government does not hold.

Recommendation No. 2

City council should retain its final authority over the city court's budget, continuing to acknowledge the court position as the third branch of city government.

Not only does the city charter provide the city council with final authority over the budget, but principles of comity within government suggest that the city council should

retain final authority with respect to the city court's budget. The court's position as the third, independent branch of government¹ also imposes on the city council members more personal involvement in reviewing and passing upon the merits of the court's budget than they might exercise when reviewing the budget of the park and recreation department or of the water department.

Recommendation No. 3

The city court should participate fully in the budget development and review process of the city manager's office. The city manager should present to the city council the budget as originally submitted by the court, all items agreed to by the city manager and the court, and the items remaining for final resolution by the city council. The city manager and the court should separately prepare and submit to the council their positions on the items that remain for city council resolution. It should be expected that the court and the city manager would be able to resolve most issues before the budget is presented to the city council.

City council members do not have the expertise individually to evaluate effectively the city court's budget requests, nor do they have the time and staff support to undertake the necessary review. While both the city council and the court should anticipate that the court's budget request is responsible and well-supported, in today's fiscal environment no agency should expect that all of its requests can or should be met without

¹ The National Center is pleased to note that all members of the city council seem to recognize and acknowledge the court's independence and express no interest in influencing or controlling the magistrates' exercise of judicial discretion. Their concern is with administrative matters not the concept of the court as a special unit of government.

question or review. Even if the need identified by the court is legitimate, there may be alternative responses, some of which would be less expensive than others. Again, neither the city council members nor their staffs are in a position to identify and investigate these possible alternatives. Even if the court had identified the alternatives and rejected them before submitting its budget, it should not assume that its analysis is conclusive. The city manager's office has both the expertise and the staff to review the intricacies of the budget submission and to consider possible alternatives.

Implementation of this recommendation does not threaten the independence of the court; it provides the city council with the staff support required to make informed decisions. It was apparent to the National Center during its discussions with both the city manager's office and the court that both entities are willing to consider alternative approaches to solve problems and to accommodate each other's legitimate proposals and needs. If the accommodation indicated to us can be extended to face-to-face budget reviews, this recommendation will work for all.

Recommendation No. 4

The city manager and court should schedule their joint discussions of the court's budget to permit both the city manager's office and the court to prepare their supporting rationale regarding disputed items early enough that they can fully review each other's statements and so that the city council will have sufficient opportunity to review and consider their positions.

Every governing body seems to have trouble completing the budget process within the allotted constitutional or statutory

timeframe. Last-minute efforts to resolve budget matters often produce decisions based on expediency or who-talked-to-whom-last rather than the merits of an issue. The timeliness of the court or city manager presenting positions in writing and the time available to others to respond to misinterpretations or incorrect facts have become additional points of contention among the council, the court, and the city manager's office. Some last-minute memoranda, negotiations, and decisions may be inevitable, but as the court, city manager's office, and the city council move to rebuild communication and trust, efforts should be made to define in advance a schedule appropriate and acceptable to all parties. Minimizing last-minute memos and presentations should remove this additional element of irritation.

b. Submission to City Council of Other Matters. The budget is one of a number of items involving city court that might be brought to the council. Some of these additional matters have a fiscal impact and some do not. Regardless, the city council continues to look to the city manager's office for staff support and the court should acknowledge the appropriateness of this perspective.

Recommendation No. 5

All matters with a fiscal impact that arise outside the regular budget process should follow the same procedure outlined for submission of court's budget.

Recommendation No. 6

The city manager should have a reasonable opportunity to review and comment upon all non-fiscal matters brought to the city council by

city court before the council makes its decision. The court should have the same opportunity regarding matters initiated by the city manager. And both should have that opportunity when nonfiscal matters that involve city court are brought by others to the council. As with budget items, the council should request a joint statement from the city manager's office and the court setting forth areas of agreement and identifying areas of disagreement, with separate submissions on these latter items.

During a recent exchange of memoranda among the city council, city manager's office, and city court, one participant commented that the "proper" procedure would have been for the city manager's office and the court to have discussed the matter and resolved their differences to the greatest extent possible before either submitted memoranda to the city council. Part of this procedure would be that the first memo to city council says that the two parties are working out differences and will get back to the council by a specific date. The National Center fully concurs in that assessment and recommends that approach in the future. This procedure should be followed if the city council requires it.

3. Collection of Cash at the Court by the Finance Department

The cashiering function at City Court is currently handled by the public services division. At the time of the National Center's visit, five clerks were working the front counter during the day, three of whom are also cashiers and take payments. Three clerks work at night, one of whom, the night court team leader, is also a cashier. Not all clerks are cashiers because previously there were only three cash registers in the department. For reasons of security and accountability, two clerks cannot work out

of the same drawer. The cash registers recently were phased out, however, and as soon as all terminals are on-line, all front counter clerks will be able to assume cashiering responsibilities.

The cashiering function appears to be running smoothly, particularly in terms of convenience to the public. The court has linked the financial function of the court to the case processing function and as a result, files are instantly updated in the computer when a payment is made. What they have done, in effect, is instituted "one-stop shopping" for citizens who come into court to pay fees and fines.

According to the court, the average waiting time for assistance is 12 minutes. There are no statistics on the average time a citizen requires to complete a transaction (i.e., waiting time plus time spent at the counter).

There is currently a proposal that the finance department handle the cashiering function of the court. The finance director, by city charter, has the responsibility for collecting city revenue. According to her, city court is the only government unit in which finance department employees are not handling revenue collection. She feels she may be in violation of the city charter by not directly supervising the cashiering function. However, there is a city ordinance that gives the court the authority to collect revenue. A recent opinion by the City Attorney (Appendix F) states the City Charter authorizes collection of fees and fines by the court.

Recommendation No. 7

The cashiering function should continue to be handled by city court employees.

Having the finance department handle the cashiering function for the court would reduce the current efficiency and quality of service to the public. Because finance cashiers would not be court employees, the payment of fines would have to be separated from case processing updating. Citizens then would have to go to at least two windows to complete their business, instead of one. Also, because the case processing and financial transactions are integrated, these two functions would have to be separated again, which would increase the potential for data entry and require an investment of time and money for reprogramming.

In speaking with members of the finance department it seems the real issue is not the legality of having the court collect its own revenue, but dissatisfaction of the finance department with the financial and cash handling information it receives from the court. The working relationship between the two groups has deteriorated so that information does not flow freely between them. Whether poor communication is the cause of the problem or the result of it is unclear. It is clear, however, that until communication improves, problems will continue to occur.

For example, it was brought to our attention that city court was balancing their drawers incorrectly and that when a register did not balance, they made changes to the printout and

essentially forced it to balance. This is a very serious allegation; upon investigation, it was found to be untrue.

City court does correct the computer printout when balancing, but these corrections are made only after verifying that a payment has been entered incorrectly. When this occurs a correction/void slip is completed explaining the error and why the correction was made. For a full description of the court cash balancing procedures see Appendix B.

Even though it is not true that the court is "forcing their register drawers to balance," we agree that the current balancing method has the appearance of impropriety.

Recommendation No. 8

City court should utilize the expertise of the finance department to develop a cash balancing method that adheres more closely to generally accepted accounting principles.

It was also brought to our attention that the daily cash summary report and the revenue breakdown were not being delivered to finance on a timely basis; sometimes it was as much as a week late. The court now has a written policy to deliver the cash summary report to finance within 24 hours, except in those instances when the computer is down.

Recommendation No. 9

City court should recognize the responsibility of the finance department to account for all city revenues and assist them with reconciling the costs and revenues of the court.

One source of ongoing disagreement has been the inability of finance to verify the total dollar amount of city court receivables. This is due to several reasons. When the court converted from the CACCTIS to the REACT computer system, much of the information in CACCTIS regarding fees and fines was not converted. The court also does not have accurate information regarding the amount of revenue that has been deemed uncollectible. Third, there is a disagreement between city court and finance as to what constitutes a receivable. The court tracks civil sanctions only if the defendant is convicted; if a defendant defaults, this outstanding amount is not recorded as a receivable. Finance thinks it should be. We agree with the finance department.

4. Administrative Location of the Court Administrator within City Government

One of the key questions during the 1984-1985 review of the court was whether the court administrator should be responsible to the city manager or to the magistrates of the city court. In the 1985 report, the National Center recommended that the court administrator be responsible to the magistrates of the court, not to the city manager. This recommendation was based on considerations of separation of powers, the need to ensure the court's independence, and elements of management and administration unique to the court environment. This recommendation was accepted at the time and the court administrator remains solely responsible to the magistrates.

Despite acceptance of this recommendation four years ago and despite improvements that the court has made, the issue has not died. Some in city government still believe there is merit to the court administrator being responsible directly to the city manager rather than to the magistrates.

Some of the basis for this belief may derive from the perception that the court is not truly a separate branch of local government but simply another unit. There also is a belief that administration of the court through the city manager would not jeopardize judicial independence. These perspectives are inconsistent with the development of government in the United States. They also conflict with Administrative Order No. 83-11 of the Supreme Court of Arizona. As members of the city council are aware, the city court is not solely a local institution; not only do state statutes impact the city court's operations, but the Supreme Court of Arizona has supervisory authority over the court. Because of these factors and the management problems that would result, discussed in the 1985 report, the National Center sees no basis for changing its recommendation of 1985.

Another reason some would like to see the reporting relationship changed are the frustrations and concerns about court administration addressed throughout this report. Some believe management of the court would improve and the frustrations disappear if the court administrator were responsible to the city manager. The frustrations and concerns are genuine and, in some cases, well founded. They do not justify changing the institutional relationship between the court administrator and the

magistrates, however. The court should be held to a high standard of administrative competence by city officials. If it falls short, it should be asked to account for and correct the problem. The court can be held accountable without changing the reporting relationship for its administrator. Further, changing the reporting relationship might eliminate today's irritants but they are likely to be replaced by others caused by the new reporting structure. As suggested above, tension and irritants are inherent in a government of divided responsibilities; changing the reporting relationship will not eliminate these tensions.

Recommendation No. 10

The court administrator should continue to be hired by and responsible to the magistrates of city court.

It is hoped that this report will enable the court and city government to resolve the irritations that occasioned this study and enable the court to address the problems that persist. If communication and the level of cooperation improve and if some of the court's problems that have frustrated city government agencies are addressed, the issue of reporting responsibility should fade and ultimately disappear.

5. Communication and Operational Issues Involving Other Justice Agencies

The problems of communication and cooperation extend beyond the city council and the city manager's office to other justice agencies. There are important differences on both a policy and operational level between the court and the police

department and between the court and the prosecutor. Some of these differences are serious and some are almost petty, but all rankle and perpetuate the underlying communication problem.

These problems are not new. They existed in 1984 and were addressed in the 1985 report. At that time, the National Center for State Courts recommended that a coordinating committee of senior representatives of the court, police department, sheriff's office, city attorney, and the contract defense attorneys should be established. The National Center renews its recommendation.

Recommendation No. 11

A coordinating committee of senior representatives of the court, police department, the sheriff's office, the city attorney, and the new public defender's office should be established. This group should meet regularly to address shared problems and to consider the impact of proposed changes within one agency on other agencies' workload and procedures. The committee should be chaired by a member of the city manager's office or city manager designee.

Individual agencies discuss individual problems with the court. It should be noted that they sometimes discuss their problems with city staff, city council, or the city manager's office rather than the court. Each of the justice agencies, including the court, has instituted new policies or procedures that impact the others without advance notice or planning, and each has complained about the decisions or practices of the other.

During interviews with representatives of each of these agencies (except the sheriff's office and the new public defender's office) the idea of a coordinating committee was

broached. The idea did not receive strong support. The mistrust, the different policy perspectives and, frankly, the personalities in the agencies, lead most of the involved agencies to believe that a coordinating committee would not be useful.

While recognizing the difficulties and reasons for this belief, the National Center believes the absence of a coordinating committee has exacerbated the problems cited and that one-to-one negotiations on specific issues have been inadequate. Personality differences must be put aside. Policy differences cannot be eliminated, but a distinction can be drawn between a policy difference that has only one solution and a policy difference susceptible to alternate solutions. During interviews with the justice agencies it appeared that policy positions and "our" answer were seen as synonymous. They need not be.

Some of the matters cited to the National Center as problems may be too complex and charged to be addressed satisfactorily by the coordinating committee in its early meetings. The committee should identify issues that most likely can be dealt with in a positive manner and address those at the outset. As success is achieved and trust is established, the more complex and difficult issues can be addressed.

There are two important reasons for recommending the chair of the coordinating committee be a senior representative of the city manager's office. First, a senior representative of the city manager's office would be less directly involved in the issues

being addressed and thus could be more neutral in seeking their resolution. In other jurisdictions, the presiding judge chairs these committees on the theory that the court serves as the hub of the justice system and without the court's direct, high-level involvement it is difficult to resolve some issues. In Tucson, this approach is not likely to work well at this time. Nor would a chair representing one of the other agencies be viewed as any more acceptable.

The second reason is that many of the committee's solutions to problems will have a budgetary impact. Since the city manager is responsible for assuring a balanced budget under the city's charter, it is fitting that this office have a key role on the committee.

Ordinarily the establishment of a coordinating committee would be at the initiation of the agencies involved. In Tucson at this time, the city council or city manager may wish to take the lead.

B. Issues and Relationships within City Court

1. Separation between judicial and administrative sections of the court.

When the court sent the National Center its organization charts, there were two: one for "administration and operations" and one for "judicial." There was no chart combining the "judiciary" and "administration" as part of an integrated court. This reflects a problem that extends beyond organization charts. Several examples illustrate this polarity.

There is a sense among some magistrates that their needs are not given equal weight with the needs of administration, both in terms of daily operations and in budget preparation. Some magistrates commented to the National Center that some staff in "administration" appear to resent requests from magistrates for assistance; they appear to see such requests as interfering with their "job." In another example, the strategic plan was shared by administration with at least some magistrates after it was finished, but only the chief magistrate saw the plan before it was promulgated. Also, the magistrates indicated they are not asked what items, if any, they wish to have included in an upcoming budget.

When the court moved to the new facility last summer the magistrates' frustration with their isolation from the court's management resulted in requests for weekly meetings. Weekly meetings were held for a period of time, then the meetings were held every two weeks, and now meetings are held about monthly. This reduction in the number of meetings probably reflects the perspective of some magistrates that they do not want to be or should not be involved in the management of the court, being content to leave "management" to the chief magistrate. Yet, comments during interviews indicate an underlying frustration about the degree to which they are removed from management.

Recommendation No. 12

The perceived division between the judicial part of the court and the administrative functions of the court must be eliminated. All magistrates should have a broader, defined role in matters of court policy and administration.

There are indications of a need for greater consultation with the magistrates by both the chief magistrate and the court administrator on a range of issues connected with court policy, as well as judicial and administrative operation. This is not to say that a consensus always must be the goal; often decisions must be made where consensus simply is impossible. Nor does it mean that every issue dealt with by the chief magistrate and court administrator must be presented to the full bench for consideration. Nevertheless, greater collegiality can be built through enhanced magistrate participation in policy deliberations. Within guidelines agreed to by the court, there is need for enhanced consultation by the chief magistrate with the magistrates on a range of issues, and greater care to assure that magistrates are advised of proposed procedural changes which, while within the purview of administration, affect judicial functions.

To the extent that the magistrates' perception about the attitude of administrative staff regarding their requests for help has any basis, both the chief magistrate and the court administrator also should assure that all staff of the court understand they are to facilitate and support the judges' work and that the judicial function is at the top of the organizational chart, not an appendage to administration.

Recommendation No. 13

The court administrator should assume administrative responsibility for staff assigned to the judicial part of the organization.

One of the reasons for a separate organization chart for the judicial division is that the magistrates have resisted giving

the administrator authority over the bailiffs, probation officers, and judicial secretaries. Interestingly, some of these staff feel disadvantaged by not having the court administrator supervise them and act on their behalf because the judges are less conversant with court and city administrative policies and procedures than the administrator.

One of the reasons for having an administrator is to provide judges with skilled support who can assume daily responsibility for nonjudicial matters. This concept extends to supervision of and responsibility for all staff in the courthouse. The magistrates have expressed concern over the adequacy of current secretarial support. There are 2.5 judicial secretarial positions serving all the magistrates. Placing these positions under the authority of the court administrator should provide more opportunity for flexibility in scheduling secretarial coverage for the judges. Shifting responsibility for the judicial staff to the administrator might be more palatable if the magistrates have a broader policy-making role in the court (see Recommendation No. 12).

III. COURT'S RESPONSES TO 1985 RECOMMENDATIONS

Following the on-site observations of the study team in 1984, the National Center presented a series of findings and recommendations on various issues. The court has implemented most of these recommendations and, in so doing, has made significant strides in improving its operations. This chapter reviews the court's progress in implementing selected recommendations in the National Center's 1985 report.

A. Relationship between the Chief Magistrate and Court Administrator

(1985 Recommendation No. 2): The court administrator and chief magistrate should function as a management team based on mutual understanding of and agreement on their respective roles in this team. Recognizing that a clear distinction sometimes cannot be made between policy decisions and policy execution, the chief magistrate should endeavor to delegate considerable administrative responsibility to the court administrator.

(1985 Recommendation No. 3): In developing the court's management team, emphasis should be placed on incorporating all the duties and responsibilities contained in the existing job description into the court administrator's sphere of responsibility.

(1985 Recommendation No. 4): The court administrator should be the court's representative or spokesperson in a wider range of affairs.

The court administrator and chief magistrate appear to function as a management team in the manner contemplated by the National Center's 1985 report. Mutual respect is evident. There are open lines of communication and the chief magistrate delegates responsibility for management and administration to the administrator. The administrator appears to consult the chief magistrate on matters of policy, but has considerable latitude for

representing the court with other agencies and in drafting memoranda in policy areas for the signature of the chief magistrate.

Some magistrates believe that delegation by the chief magistrate to the administrator exceeds reasonable limits. A few believe, for example, that some memoranda to other city agencies, signed by the chief magistrate but prepared by the court administrator, should have been scrutinized more closely by the chief magistrate. This perception is not limited to magistrates. In a number of instances, the tone and occasionally the substance of correspondence have offended the recipients and others who have seen the correspondence. Several magistrates are concerned that this type of delegation contributes to poor relationships with other city agencies.

There also is some perception both within and outside the court that the administrator often proceeds without consultation with the chief magistrate. Based on the National Center's multiple interviews of the involved parties, this seems highly unlikely. It is more likely that the chief magistrate's personal and management styles lead those who are not privy to all of the communications between the administrator and the chief magistrate to believe that the chief magistrate is not being consulted. There is a need for the chief magistrate to be more forthcoming with magistrates about the degree of consultation between himself and the administrator.

Institutionally, relationships between the chief magistrate and the administrator seems appropriate, but at the operational level the chief magistrate may have to take more time and responsibility to follow up on matters delegated to the administrator.

B. Selection of Chief Magistrate

(1985 Recommendation No. 5): The chief magistrate should be selected by the judges of the city court for a two-year renewable term.

The present selection method appears to be a compromise between the old method and this recommendation. The mayor and council continue to appoint the chief magistrate. The council, however, while not bound to do so, solicits and considers the recommendation of the full bench in making the appointment. Appointment is for a two-year term. This seems to be an effort to incorporate the spirit of the National Center's recommendation while maintaining the appearance of city council authority over the position. While the National Center acknowledges the apparent rationale behind the approach taken, it believes the logic presented in its 1985 report remains sound. Organizationally, it is preferable for the magistrates to select their own chief based on administrative and leadership abilities.

C. Personnel

In 1985 the court was wracked with morale problems. These were brought on largely by constant changes in procedures with no documentation of the new changes and virtually no staff training for implementing the changes. The court was understaffed, staff

functions and assignments were wholly disorganized, there were problems with the classification of some positions, and the organizational structure of the court was an impediment to staff productivity. The National Center's 1985 recommendations concerning personnel covered an array of issues, including: improving staff morale and increasing employee participation, adding staff, implementing a staff training program, experimenting with team management, reorganizing staff functions and reclassifying some staff positions.

There is a marked contrast between morale in the court today and the morale that existed in 1985. A significant improvement in morale is supported not only by project-staff observation during recent site visits, but also by court statistics that show a significant reduction in absenteeism and turnover during the past four years. Staff turnover in the court decreased from 37 percent in FY 1984 to 6 percent in FY 1988; absenteeism (sick leave) for this same time period decreased from 12 percent to 5 percent.² Morale improvement can be attributed, in part, to the court's move to its new facility and the increase in court staffing levels over the years. Yet, much of it has stemmed from the court's implementation of a clearly-defined personnel plan, one that addresses the major issues of communication, employee participation, training, and court organization.

² Annual Report of the Civil Service Commission, Personnel Department, City of Tucson, 1983-1988.

1. Communication.

(1985 Recommendation No. 7): The court's efforts to improve employee morale and increase staff involvement in planning new procedures should receive whatever support it needs from appropriate agencies of city government.

The court has taken certain steps to improve communication among its different levels of staff. Team building, regular staff meetings, internal promotions, the establishment of flexible hours, and the production of a court newsletter all have played a role in opening the lines of communication throughout the court. The formation of teams, which has created an atmosphere conducive to thoughtful and productive exchange of information, has probably had the most significant impact on improving communication. The court administrator and associate administrator meet regularly to address policy issues. This team also is part of a larger team that includes the division managers. This expanded team meets weekly to discuss issues and to report on activity levels within the respective court divisions. There are also individual teams within each division (e.g., the arraignment team, the calendar team, the warrant team), whose members work together to accomplish their tasks. Within these specialized teams there is a lot of cross-training so that if a member of the team is absent, another team member can step in and perform the necessary tasks to get the job done.

Another attempt by the court to improve communication was the implementation of "speak-up sessions," in which nonsupervisory staff are invited to vent feelings and express opinions to the court administrator and chief magistrate. The idea of having no

supervisors at these meetings is that nonsupervisory staff can speak freely on issues without fear of retaliation from supervisors.

The court has a strong policy of promoting from within. While this adds some burden to the records section because of the section's many entry-level positions, this disadvantage is clearly offset by its positive impact on the advancement aspirations of court staff and has done much to improve morale. The court has instituted flexible hours that accomodate staff needs in addition to addressing some unusual operating hours created by weekend and early morning arraignment sessions. Finally, a monthly newsletter is generated, produced entirely on the donated time of interested court staff members. The newsletter provides information to staff on comings and goings (welcome to new staff, farewell to departing staff), upcoming events (training sessions, social gatherings for the employees), and appreciation for work done.

There has been a push by the court to have administrative staff play a more participatory role in designing and implementing court policies and procedures. Employees have been involved in the documentation and review of procedures and in the establishment of work standards for the different job functions. In addition, there have been instances where staff have played key roles in the design of new procedures and in the restructuring of the court's divisions. While on site, National Center project staff witnessed meetings between various staff members as they were redesigning the court's warrant form.

2. Training

(1985 Recommendation No. 8): A multi-faceted training program should be designed for court staff.

The court's "Comprehensive Education and Training Plan" was implemented recently in response to the 1987 mandated training requirements of the Arizona Supreme Court, which require orientation training for new staff and other approved course work for all staff. The court's plan was adopted by the Arizona Supreme Court as a model for the entire state.

Beginning on the first day of employment, a training and orientation jacket is completed on the new employee (both judges and nonjudicial staff) and is used throughout the staff member's employment to track the individual's training. The court's education and training manager is responsible for monitoring the training progress of employees.

The training plan includes general training for all employees and comprehensive orientation for all new employees. General training is for all staff throughout the duration of their employment and covers a wide range of topics. Each employee is required (by order of the Arizona Supreme Court) to complete 16 credit hours of training each year. Courses that are accredited include topics that are court- or position-related, such as motions, warrants, case assignment, which are usually taught by magistrates or other court staff, or topics that are indirectly related to courts or job functions, such as stress management and CPR, which generally are taught by staff from various city government offices. Included in this general training are courses on public and customer service for the public services and

conflict between State Court holidays and the City's secretarial staff; courses on leadership, motivation, and employee discipline for supervisors; and communication classes for all staff. Twice a year the court closes to the public (when a state court holiday is not provided as a paid city holiday) but is open for staff, who then are required to attend day-long training sessions.

In addition to some initial orientation classes for all new employees, the court soon will be implementing a two-week special orientation program for new administrative staff. Following a two-week period in the job, new court clerks will be assigned for a period of 10 working days to various court areas to observe and obtain an overview of what happens in each area. This program is strictly to help administrative staff gain an understanding of how the court operates and how their individual job tasks fit into the court's scheme of things

Newly-appointed magistrates work alongside a regular magistrate for a two-week period before assuming their assigned caseloads. Unfortunately, special magistrates do not receive this kind of in-depth training, but are subject to periodic courtroom observation by the chief magistrate.

For those already employed by the court, cross-training is accomplished on an ongoing basis within each of the specialized teams, so that a team member can often fill in during another team member's absence. In addition, the court's training plan will soon include a voluntary court-wide cross-training program in which employees will be temporarily assigned for 30-45 days to a different section or function to learn different jobs.

The court's training plan provides for an education and training manager, which is a full-time position within the court. This person is responsible for accrediting courses, soliciting ideas for topics, finding instructors and scheduling courses, monitoring individual employees' compliance with the Supreme Court's training requirements, and reviewing staff evaluations of course offerings.³

In addition to the training plan, the court has developed procedures manuals for each division. The manuals outline the tasks by function and appear to be good descriptions of the way things are done at each desk. The development of these manuals enables the court to review and revise, where necessary, all procedures relevant to the processing of cases through the court. They are reviewed on a regular basis by both the division manager and the court administrator. This continuous monitoring assures that the manuals are updated on a regular basis and also serves as a method for reexamining procedures to guarantee continued efficiency and effectiveness.

The manuals include work standards that have been set in each division. Work standards were established on the basis of direct input from staff in the respective divisions; they have been subject to modification.

3. Court Organization.

(1985 Recommendation No. 9): Staff functions and assignments should be reorganized. The pending plan of reorganization should be adopted or used as the basis for the reorganization.

³ This individual has the additional responsibility of managing the court's forms.

The court has undergone a drastic reorganization; operations appear to be running smoothly. In addition to administration, support staff are organized into three divisions, which are organized by function. Many of the functions have been structured around individual teams. As a result, team players seem to have a working knowledge of the function as a whole and all seem to perform their tasks very efficiently. In light of the reorganization, a number of positions were upgraded. Accountability of staff exists in terms of the work standards set out in each of the procedures manuals. When problems arise, staff generally know who to go to for help. Supervisors appear to be very helpful in dealing with problems and very knowledgeable of the processes involved.

The teams operating in the court are very effective but do not operate as contemplated by a 1985 recommendation on team management. This matter will be addressed again in Chapter IV.

In making personnel management a top priority, the court has succeeded in significantly reducing the negative feelings that had so consumed it in 1984-1985. The court's reorganized structure and its attention to employee morale and staff training appear to have had a very positive effect, as evidenced by the high caliber of the court's current staff, the strong commitment of staff to their jobs, and the smooth operation of the court in general.

D. Records Management

In 1985, records management in the court was a shambles. There were more than twenty different locations where files were

housed; a file was physically handled by innumerable staff, with no way of determining who had it at any given time; loose paperwork very often did not find its way into the appropriate file jacket; and lost files were the rule rather than the exception.

(1985 Recommendation No. 13): The court should consolidate existing files into a unified system for active cases. That is, all open cases regardless of status should be filed together in one area. A similar system should be designed and implemented for closed case files in the court's basement. Alternative shelving and additional filing equipment may be necessary to accommodate such systems.

There were four major factors responsible for the court's records problem. One was the records system itself: case files were not centrally located, meaning that tracking down a file could require a clerk to check many different locations within the court. To solve this problem, the National Center recommended that the court consolidate its files into two filing systems, one for closed cases and one for active cases.

The court has now consolidated its files; all files are housed in one central location, the records room. Instead of separating out the closed cases from the active cases, however, the current filing system has all files intermingled. The current filing system is a vast improvement over the 1984-1985 situation.

(1985 Recommendation No. 15): A functional analysis within the records section should be undertaken to determine (1) the functions assigned to individual records personnel, (2) the appropriateness of these functions within the records section, and (3) if some functions are determined to be inappropriate for the records section, the area(s) to which these functions should be moved.

A second factor that added to the records problem was that each staff person in records was performing a variety of tasks, leading to much confusion in the section and leaving little time for the important task of updating files. As part of the court's massive reorganization scheme, records functions were streamlined and individual staff were assigned to handle particular functions. Consequently, for example, all loose paperwork is now attached to the appropriate files on a daily basis by an assigned clerk. There also is an assigned staff person who exclusively handles all records requests, which generally results in immediate responses to these requests.

A third contributing factor to the records problem in 1984 was the excessive handling of files, which meant that a file often was not on the shelf when it was needed, and there generally was no way of knowing its whereabouts.

(1985 Recommendation No. 14): The court should assess its records needs, identify its current problems, and evaluate various microfilm approaches and equipment. In the event that a microfilm system is deemed desirable, the court will need a file control system. For those cases in which a microfilm system is not feasible, the court should investigate ways to monitor the physical handling of files.

Because of the prohibitive cost associated with microfilming all of the court's cases, the court decided against this method, saying it would consider it again in about seven years. Although an out-card system is a noteworthy solution and has worked in numerous courts, an out-card system in this instance is complicated by the court's frequent handling of cases. An out-card will not guarantee that the file is where the out-card

says it is. Files are often routed from one location to another without ever going back to the records room.

In an attempt to address this issue of handling files, the court instituted a clearing desk, through which every file in transit from one location to another must be routed. While this process verifies that the file is routed to the correct area and in the proper sequence, it does not serve to identify where a file is at any given time. Thus, because there continues to be much handling of the files by various court staff, the tracking down of file folders continues to consume a lot of staff time.

During a recent three-week period, five staff members in the records section kept daily logs on the amount of time each spent searching for files. Over the three-week period, the average amount of time spent each day looking for files for all five staff persons was 12.7 hours. This is the equivalent of 1.5 fulltime positions still devoted solely to the task of locating files.

The fourth factor that had a negative impact on the courts record system in 1985 was the lack of space and inadequate shelving for files. With the court's new facility, this is no longer a problem. Closed cases remain on the shelves for a period of one year; at one year they are boxed and sent to the City Records Center for retention or destruction, whichever is appropriate.

E. Facilities

(1985 Recommendation No. 26): The city should investigate either expanding the current facility or purchasing or constructing a larger facility to house the court. In the meantime, the court should improve its current use of space in accordance with the proposals of the city architect.

The difference between the new courthouse and the old in terms of space is, of course, incredible. In addition to there being plenty of space now, there is plenty of room for future growth. The layout of the building seems a bit confusing for the public, in that it is not easily discernible what floor you are on at any given time. This could be resolved by simply putting numbers on the doors, such as 101, 102, etc., for rooms on the first floor; 201, 202, etc. for the second floor, and so forth.

Following our 1985 site visit, the city architect made a number of recommendations with which we concurred and which now have been implemented: (1) the motions/domestic violence counter has been moved away from the front lobby and is now housed in a separate area; (2) the employees' lounge has been moved out of the records section (employees now have a separate lounge area on the fourth floor); (3) the appeals clerk now has a separate office in the administration area; and (4) the court has installed sound-deadening modular dividers between each of the clerical desks.

F. Data Processing

The court has made substantial progress toward implementing the recommendations related to automation in the 1985 report. During the past four years, the court has continued to implement the INSLAW REACT system, has phased out the inadequate CACCTIS system, replaced the NCR cash registers with on-line terminals, and integrated financial and cashiering software.

At the time of the 1985 report, the court's data processing support was in transition. The report focused on recommending a general framework of automated support for the court. This framework set a standard against which the systems that have since been implemented can be assessed.

(1985 Recommendation No. 16): The new computer software must satisfy certain minimum requirements.

1. Case Tracking:

The INSLAW software substantially meets the requirements stated in the 1985 report. REACT provides the court with the ability to record summary information about the case, defendants, and events and their outcomes from filing of the complaint through disposition. Warrants are produced by the system, stays and payment of fines are recorded, and the system has the ability to track deadlines, missed actions, and the age of cases. The software has some difficulty in maintaining information in the event record; this problem has been referred to the INSLAW programming staff for correction.

2. On-Line Inquiry:

REACT has substantial inquiry capabilities through various "keys." Any portion of the case record may be accessed on screen. (See Appendix C.) The only suggestion made that has not been implemented is to allow access to defendant records through defendant name. This issue will be discussed later, in Chapter IV.

which still is typed manually from a computer-generated listing of scheduled court dates. Court programming staff have begun work on a calendaring system that will run on personal computers with an interface to the REACT database. This method was selected rather than implementing the calendaring function within REACT because of the slow response time of the system and the increased flexibility of programming tools for the PC environment.

8. Management Reports:

Although INSLAW provides two report-generation software packages, programs written in these "languages" run far too slowly and inefficiently on the city's IBM 4341 computer. To solve this problem, the city's computer services staff and the court evaluated statistical software packages during 1988 and selected SAS. All reports are being converted to SAS and new programs will be written exclusively in this statistical language. SAS provides the needed capability to generate the required statistical reports at a satisfactory speed.

9. MVD Reporting:

Dispositions recorded on REACT are sent to the Motor Vehicles Department by computer tape. Several improvements to this interface have been made in the past year to reduce the number of rejected transactions and to replace the driver's license number with the social security number as an identifier.

10. Officer Scheduling:

This function is being replaced by a new set of programs written by INSLAW. The results of preliminary testing show that substantial further modifications will have to be made to make the

3. Cash Accounting:

The cash accounting software supports all recommended functions. Front-counter clerks in the public services area post payments directly to the system and print receipts through nearby printers. Breakdowns of cash and checks received by each operator, running balances, and type of disbursement are supported by the system.

4. Payment Posting:

This requirement is met by the REACT system. Payments are posted directly to the case and the balance due is maintained for each case. The system handles progress payments for any case.

5. Case Scheduling:

This function is not yet operational through REACT. The court continues to use the police department's officer scheduling system, but new software is being written and tested at this time.

6. FTA and Warrant Control:

The REACT system allows the court staff to generate, record, and monitor failure-to-appear complaints and warrants. A new "multiple warrant" form is in the final phase of programming and testing at this time.

7. Exception Reports and Forms Generation:

The INSLAW software has the ability to generate exception reports and other output forms, such as those recommended through custom outputs created through the FORMPAK software. Many of the recommended outputs currently are generated. Other reports are on the lengthy "projects list" for court programming staff to do. (See Appendix D.) The major exception is the court calendar,

programs run efficiently. The court hopes to have this function completely operational by early fall 1989, but the latest tests raise questions whether it can meet this goal.

(1985 Recommendation No. 17): The court should obtain all of the INSLAW software packages and whatever custom-written programs are necessary to satisfy the requirements listed above.

The discussion of this recommendation in the 1985 report suggested that the court should be concerned with conversion of the data from CACCTIS to REACT, the MVD tape interface, and court scheduling. The latter two issues have been discussed above. Not all data have been converted from CACCTIS to REACT. The conversion was based on age of cases and activity. The court estimates that it has two more "write offs" of old, uncollectible fines from the CACCTIS system before all the old cases will be gone and the system can be fully retired. (If old cases become active, they are converted one at a time to REACT; otherwise they remain on CACCTIS.)

(1985 Recommendation No. 18): The computer record must become the primary source of case-related data, replacing many manual auxiliary records and reducing the need to continuously access hard-copy records.

In 1985 the court still relied heavily on manual records for information. Numerous examples are mentioned in the discussion of this recommendation in the 1985 report. The report states:

"There probably are valid reasons why the dual manual and automated systems have persisted and the manual systems dominate: . . the failure of the automated system to provide the court with all the same functions that are being performed manually . . . lack of ease of use, adaptability and reliability."

Four years later, the situation is changed greatly. The REACT system is integral to many of the case tracking and management processes of the court. Court staff use the system daily in their work at the front counter, in some courtrooms, and in the "back office" areas. The case files are still necessary, but there is less reliance on the file than previously. The old payment card system has been discarded. The calendar, although still typed manually at this time, is produced from a computer-generated listing rather than case files. Case files no longer have to be retrieved to process many transactions at the front counter. In general, the court seems to have made considerable progress in this area, although not all redundant recordkeeping has been abolished.

(1985 Recommendation No. 19): A thorough analysis of manual recordkeeping and information retrieval systems should accompany the systems design phase for the new INSLAW software.

The design of the REACT system is substantially different from the previous CACCTIS system. It incorporates many more data elements, screens, and reports. The increased functionality of the software supports the court far better than did the old system. Nonetheless, there are weaknesses that have been discovered in the internal design and the workings of some functions. The court reports any programming problems to INSLAW (through the computer services staff) and is keeping a list of desired modifications for a planned "retailoring" of the system. (See Appendix E). This is a normal situation. There are almost always some problems and enhancements needed to any system after a court gets to know its software.

(1985 Recommendation No. 20): At least one key person . . . should be assigned to monitor the computer system development project.

The associate court administrator is responsible for technical overseeing and monitoring the computerization project. A systems analyst reports to the court administrator. The person serving as the court's MIS Coordinator reports to the systems analyst. A user committee composed of key supervisors in the court has also been formed and meets periodically to discuss problems and on-going needs. The court administrator also is actively involved in overseeing the project. Periodically, other criminal justice agencies are invited to participate in designing a new portion of the system, but there is no "extended" users group that meets regularly.

(1985 Recommendation No. 21): The data entry and query processes must be made quicker and easier.

Although the REACT system incorporates many of the suggested "ease of use" and "shortcut" features discussed in the original recommendation, the slow response time of the computer frustrates the staff. On some days, the data entry is not quicker than it was prior to REACT. (Response time will be discussed in Chapter IV.) Based on interviews with the few users who were employed by the court in 1985, REACT seems to be easier to use than CACCTIS was, the design of the system more adequately mirrors the structure and flow of court case data, and the system keeps much more comprehensive records of the cases. The prosecutor's office has expressed some dissatisfaction with REACT, particularly the lack of a "criminal history" inquiry screen and the redundancy

of information on screen displays. It also dislikes having to page through several screens to reach the defendant's alias and AKA information. This problem will be discussed later in Chapter IV.

(1985 Recommendation No. 22): Terminals should be located in each courtroom and data entry of in-court generated information should be accomplished as it occurs.

Data entry terminals now are located in two courtrooms; the court would like to install terminals in the other courtrooms. This has not been done due to the slow response time of the computer, which would be worsened if more users were added. In the two courtrooms where terminals have been installed, court clerks update the case record with the outcome of the proceeding and produce a case summary printout for the defendant. This printout shows the court's judgment, including any payments or other required actions for the defendant to satisfy (e.g., proof of insurance).

(1985 Recommendation No. 23): The court should postpone consideration of procuring and operating its own computer hardware until after it has had at least a year's experience with the new software.

The court apparently accepted this advice because the city's Computer Services Department operates REACT on the city's IBM 4341 model 12 computer. The inadequacy of this computer environment will be discussed in Chapter IV. Despite problems with the response time of the computer, the National Center does not recommend that the court purchase and operate its own computer at this time.

(1985 Recommendation No. 30): The court should monitor more closely the outcome of its scheduling system through appropriate data collection and analysis, including the number of and reasons for continuances.

The court still needs to implement methods for closer monitoring, including review by the chief magistrate, of the outcome of its scheduling system and the age of cases at disposition. Development of management information to allow this is in the court's plans, using the new SAS language. There should also be written guidelines regarding the continuance policy.

G. Citizen's Needs and Night Court

(1985 Recommendation No. 24): The front counter and lobby area should be improved through better use of informative and directional signs, one line reserved for those who wish only to pay a fine, and a single line for all others needing front counter assistance.

The new court facility has improved citizens' access appreciably. The entry lobby and the area where fines are paid have large signs that do an excellent job in serving the basic needs of citizens. Because the process itself is complex, however, the signs are somewhat complex. Therefore, the court has a separate information booth in the area where fines are paid that is staffed normally by volunteers, but occasionally by staff and even by the chief magistrate. People who come to pay a fine or transact other business take a number and are served in order of arrival. They normally are waited on in 15 minutes or less. This contrasts dramatically to waits for service of an hour or more in 1984.

Through a cooperative agreement with the Motor Vehicles Department that was in place until a few weeks before this report was submitted, one window in the fine payment area was staffed by

an employee of MVD so that people who paid off fines in order to enable them to renew their licenses or car registrations could go direct to the MVD window and deal with MVD at the courthouse. This not only was an improvement but was a feature unique in courts around the country. DMV withdrew from the court because of budget constraints. It is to be hoped that it will be able to reassign staff to the court soon. A suggestion for a slight improvement in the court's signs is offered in section C of this chapter, above.

(1985 Recommendation No. 25): One person should be assigned to answer the telephones and the recorded message should be simplified.

The court has implemented this recommendation.

(1985 Recommendation No. 27): The court should establish a night court on an experimental basis for six months. Only matters that can be handled by clerical staff at the front counter should be part of the six-month experiment. The night court should operate from 5:30 p.m. to 8:00 p.m., Monday through Thursday. If the pilot project proves successful, night court should be expanded to add selected courtroom proceedings on Monday and Thursday evenings.

Night court was established in 1985 and continues to operate today. Its use was expanded to include courtroom proceedings. Some questions regarding the night court were raised recently, but they were addressed by the Department of Budget and Research, city court, and the police department. The city council already has determined as a matter of policy that night court is to continue.

H. Fines as a Sanction

In 1985 the National Center acknowledged that the imposition of fines and a decision to defer payment or allow payments to be made in installments is a matter of judicial discretion. It was

suggested, nonetheless, that the magistrates review and reconsider whether the deferrals and installment payments were needed as often as they were being granted. The interviewed magistrates who were on the bench in 1985 indicate that their use of deferred and installment payments of fines has not changed markedly since 1985. If anything, they see a greater need now to allow some deferral of fine payments and payments through installments, since some fines have increased substantially since 1985 while the general Tuscon economy has not improved.

Overall, magistrates today feel time payments are appropriate and many mandatory fines are too high. They are generally unaware of major problems in collecting fines. The issue of fines collections is addressed further in Chapter IV, below.

IV. PROBLEMS TO BE ADDRESSED

A. Data Processing and Equipment Needs

Although the city court has made significant strides in implementing an effective and functionally comprehensive court case management system, a few issues remain unresolved. This section discusses the problem areas and suggests some additional steps for the court and city government to take.

1. System Response Time

Court staff report that the response time⁴ of the computer is very slow at certain times of the week. On Monday and Friday mornings the response time slows to 30-to-60 seconds or more and often is unsatisfactory during other parts of the week, as well. (Satisfactory response time on a shared system is generally 5 seconds or less between screens.) The slow response time has hindered the court's plans to install more terminals in courtrooms. Data entry functions are hampered, particularly in the courtroom where the pace of proceedings sometimes exceeds the computer's ability to accept the information. There have been times when defendants have had to wait in line for their case summaries (printed in the courtroom) before they can leave the courtroom to pay their fines.

There are three main reasons for the slow response time. The first is the contention for computer resources that occurs when both the court and the park and recreation department systems

⁴ Response time is the amount of time it takes the computer to accept a transaction once it has been entered, to clear the screen, or paint another screen when requested.

are heavily in use. Contention means, in effect, that the computer is "overworked"--it cannot process the "requests" quickly enough. Contention is a persistent problem when golf tee times are being scheduled at the same time that heavy data entry and in-court functions are occurring in the court. The computer services department believes that the second factor that contributes to slow response time is the internal design and structure of the REACT system. The REACT system does not handle the "input/output" function as efficiently as some other application programs do, producing a bottleneck that slows the response. In addition, REACT maintains a large number of index records. For every index that is created, additional time is required to update the case records. Third, the size and processing power of the IBM 4341 model 12 computer is inadequate to handle the demands of both the Park and Recreation system and the REACT system.

The computer services department also plans to upgrade to a larger computer (IBM 4381) as soon as possible. NCSC staff contacted INSLAW and IBM for a recommendation as to the appropriate-size computer for the REACT system. The INSLAW representative with whom this matter was discussed would not venture an opinion as to the adequacy of the current computer and was not able to make any suggestions for a "recommended" configuration.

The Center's project staff is unable to assess with any degree of assurance whether the planned upgrade will reduce the response time sufficiently and whether the proposed 4381 is a long- or short-term solution.

Recommendation No. 14

The computer services department should continue to work with the local IBM sales office on the proposed computer upgrade and to recommend an appropriate computer configuration to support the REACT system.

The slow response time of the present computer will continue to have a detrimental impact on the court's ability to implement all the functions required. Any new functions, such as the replacement scheduling system, will overload the computer further. It is crucial that the computer be upgraded. (A plan should be developed to ensure that any upgrade will be sufficient to handle the court's needs for the foreseeable future.)

Recommendation No. 15

The retailoring plan for REACT should be supported and funded.

Several structural modifications need to be made to the REACT system to make it run more efficiently and to fine-tune the system based on the experience of the past three years. The court has not yet completed the retailoring plans, but those reviewed to date should be supported.

2. Support for Other City Departments

Although the REACT system was installed primarily to meet the needs of city court, other city departments have a legitimate interest in the system. The city attorney's office has access to inquiry functions on the system and several other city agencies periodically request information about court operations that can be produced from REACT. The National Center's project team heard various complaints from the city attorney's office and the

department of budget and research. The main problems are covered in the following discussion and recommendations.

Recommendation No. 16

A batch criminal history report should be produced for the city attorney's office.

The city attorney's staff has experienced some difficulties in using the REACT system. The main complaint is that information must be accessed by the court's docket number. The staff would prefer to be able to access a defendant's entire previous criminal or traffic history through inquiry on the defendant's name. It would be possible to satisfy this need in either of two ways: to create an inquiry screen that accesses information by defendant name and social security number, or through a printed batch report. At this time, the response time of the computer is too slow for an on-screen defendant criminal history to work satisfactorily. The hardcopy report is the best option if it could be run overnight 3-5 days prior to the court date and if it would meet the city attorney's needs. Even a printed report may be difficult to accommodate because of the heavy batch-report schedule run at night. We suggest that the court try to accommodate this request, if possible, but the court's priorities for running other reports should be satisfied first.

Recommendation No. 17

The city attorney's staff should receive additional training in the use of REACT.

The city attorney's staff mentioned at least one inconvenient function of the REACT system which need not be

inconvenient. The AKA and alias screen is at the end of several pages of the defendant's record; the city attorney's staff are under the impression that they have to page through all previous screens to get to the information they want. In fact, two key strokes will take them to this screen, no matter how many preceding screens of information are contained in the record. Some additional training would acquaint the staff with "shortcuts" like this that make the system easier to operate.

Recommendation No. 18

Witness letters and subpoenas should be printed from REACT.

Witness letters and subpoenas can be printed from REACT using forms that have been designed by the court for the city attorney's office. The city attorney's office needs to enter the witness names and to receive instruction from the court's systems analyst on how to print the notices.

Recommendation No. 19

The typed court calendars should be proofed and corrected before distribution.

The city attorney's staff report that the court calendars contain numerous errors, including incorrect names, docket numbers, and citation numbers. Strictly speaking, this is not a REACT software problem. It appears that the problem is usually a transposition of numbers in the docket or citation number caused by inaccurate typing. The calendars should be proofed before distribution. This problem may be eliminated when the new PC calendaring system is completed, since the calendars will be produced directly from the REACT data without retyping.

The city attorney's office also reports that an average of six cases a day are left off the calendar or added on at the last minute. Court staff report that some tickets are not received timely from the law enforcement agencies that issue the citations, causing last minute add-ons on the day of arraignment. This problem has decreased somewhat in the past six months since the agencies were notified of the problem, but it still persists to some degree. The coordinating committee recommended in Chapter II might address this matter.

Recommendation No. 20

The city attorney's office should receive the afternoon court calendar by 11 a.m. or earlier and the morning calendar by 2 p.m. the previous day.

The afternoon calendar is not available until about 12 noon for the afternoon hearing beginning at 1:30 p.m. The Monday morning calendar is not available until 4 p.m. on Friday. This does not allow enough time for the city attorney's records clerks to pull the files. The schedule proposed above probably cannot be met until the PC calendaring system is operational.

Recommendation No. 21

The court should make every effort possible to respond in a timely manner to informational requests from other city agencies. The court should inform the agency of the timeframe in which it can respond, and if it is not possible to respond timely with existing programming staff, the computer services department should be requested to provide additional programming support on a temporary basis.

During the past year, particularly during the fall of 1988, the court and computer services data processing staff have

been occupied with installation of the third version of REACT software, evaluating and selecting a new statistical package (SAS), learning to use SAS, and converting many of the existing management reports to SAS, as well as numerous other projects to enhance the system. Due to the large number of projects, informational requests from other agencies have not always been produced in a timely manner and some of the information provided has been inaccurate due to programming errors.

The priorities established by the court should recognize the legitimate needs of other city departments for court information. If it is impossible to satisfy these requests in a timely manner, additional support from the computer services department should be sought on a temporary basis. It also may be possible to hire a part-time local contract programmer, if the city agencies can pay for this support. Using noncourt data processing staff to program reports or other system enhancements would be effective only if the programmer had sufficient time and training to become familiar with the court's system.

3. Equipment Needs

Recommendation No. 22

The court should ask the telephone company to track the number of callers to the general information number who receive a busy signal. Depending on the results of this survey, the court should install an "automatic attendant" message system on the general information line that directs callers to the appropriate number according to the type of information they need.

Several years ago, the court had the telephone company track the number of callers who reached a busy signal. The study showed that the court missed about 500 calls a day; as a result,

the court expanded its phone system. About three years ago, the court's taped information message was reduced from three minutes to two minutes and twenty seconds. There is reason to believe that there are still many people calling the general information number who get busy signals or simply hang up and call another court number rather than wait through the entire message. (The judicial secretaries estimate that 30 percent of the calls they receive are general inquiries that should be handled by another court department.) The court's information number may be too busy. Another study by the telephone company would help the court assess whether to take further steps, such as installing a different message system.

An "automated attendant" message system that refers callers to the appropriate line by pressing a number on a touch-tone phone can help to shorten the wait and handle more callers. The city's telecommunications department has recently contacted telephone equipment vendors that offer message system equipment. According to one vendor, the approximate cost of a system that would handle the volume of calls to city court is \$10,000.

B. Collection of Outstanding Fees and Fines

1. General

All money transactions that come into the court are processed in the public services division of city court. These include both civil and criminal traffic fines; criminal misdemeanor fines; fees for indigent defense and the first-offender DUI program; and miscellaneous filing and copying fees. Defendants

can either pay these by mail, in person at the front counter of public services, or through the 24-hour drop box located outside city court.

There is a Sentence Enforcement (SE) unit of public services which has as its primary responsibility the collection of delinquent fees and fines. They also monitor the First Offender Program, which is a substance abuse education program offered by the National Traffic Safety Institute (NTSI).

SE has a staff of six people - one supervisor, four SE clerks, and one attorney fee clerk. The four SE clerks, who are court clerk III's, handle the collection of delinquent fines and set up payment schedules for those defendants who are making installment payments. They also send follow-up letters to non-attendees of the NTSI program and if no response, request that a warrant be issued.

The attorney fee clerk, who is a court clerk I, attempts to collect attorney fees from indigent defendants and acts as a receptionist. There is also a clerk who handles restitution who logically should be part of SE; however, there is no office space available for her in that section.

2. Fines Collection

The point at which SE becomes involved in fines collection varies from judge to judge. In previous years, the judges set the payment schedule in court and the defendants only became involved with SE if they became delinquent. Now, some judges will give a final payment date and, as in previous years, SE will become involved only when that date passes. Some will tell the defendant

to pay in full or to go see SE that day. Others will order the defendant to report to SE by a certain date or appear at a show-cause hearing and the judge will write a minute order to that effect. (See below.)

SE also receives a list of the next day's scheduled driving and criminal misdemeanor arraignments. They check the names on this list to see if any of the defendants scheduled to appear have a current outstanding warrant or a delinquent fine. If so, they mark the names and send the list to the judge. According to SE, some judges consistently use the list and some do not. The purpose of checking this list is to have defendants answer to outstanding warrants and delinquent fines while they are in court. This reinforces the penalty aspect of the fine and underscores the court's seriousness in seeing that its orders are carried out.

Recommendation No. 23

When defendants on the arraignment list have been identified by Sentence Enforcement as having outstanding warrants or fines, judges should use this list and request payment or order the defendant to report to Sentence Enforcement.

One problem with the collection of fees and fines is that often when the judge orders the defendant to report to SE, he or she leaves the courthouse without doing so. The court has tried various ways to reduce this problem, including having volunteers escort the defendants to SE and having SE clerks escort defendants to SE after being buzzed by the judge. Both of these procedures have drawbacks, including an inability to ensure the security of the volunteers and the investment of SE staff time required to escort defendants, respectively.

TUCSON CITY COURT

103 E. Alameda Street

P.O. Box 27210 Tucson, AZ 85726-7210

Phone: (602) 791-4216

State of Arizona, Plaintiff

vs.

Defendant

Docket #

8899933

8899934

Citation #

1017853-54

1006745

MINUTE ENTRY

☐ DUI
☐ PROSTITUTION
☐ OTHER

ORDERS OF THE COURT

IT IS ORDERED THAT

(name)

ON

Month Day Time

IS to appear and show cause why:

☐ Arrest warrant should not issue
☐ Default judgment should not enter

☐ Bond should not forfeit
☐ He/She should not be held in Contempt of Court

FOR

☐ Failure to appear in Court this date

☐ Failure to pay fine
☐ Third party custodian not obeying Orders of the Court

☐ Willful disobedience of Court Order, to wit:

☐ ISSUE WARRANT
☐ ORDER DEFAULT
☐ Set Bond ☐ Bench

Defendant not appearing at:

☐ Arraignment
☐ Pretrial
☐ Hearing
☐ Trial
☐ Sentencing

☐ Release defendant from custody of sheriff

☐ Detain in custody until full satisfaction of Order

A Continuance requested by
☐ Plaintiff ☐ Defendant,
and extraordinary circumstances existing, Continuance granted.

Time is excluded per Rule 8, AZ Rules of Criminal Procedure

☐ Pretrial ☐ Trial/Civ Hrg
☒ Hearing
☐ continued set for

(date) 3-8-89
at 11:00 a.m./p.m.

☐ Defendant ☐ Bond Poster
FAILED TO APPEAR

☐ Forfeit Bond/Deposit

\$20 RECEIVED BUT DEFENDANT HAS NOT REPORTED TO SENTENCE ENFORCEMENT -

DEFENDANT MUST REPORT TO SENTENCE ENFORCEMENT BY 2/28/89 OR SHOW CAUSE ON 3/8/89 AT 11AM WHY SHE SHOULD NOT BE HELD IN CONTEMPT

COMPUTER UPDATE

WARRANT Issue/Quash
DEFAULT Entered Set Aside
EVENT Entered Scheduled
CASE Disposed Terminated
FIN/COLL
OS Entered Cleared
CACCTIS Conversion

DATE INITIALS

☒ White-File ☒ Yellow-Defendant ☒ Pink-Pros. ☐ Goldenrod-Prob. ☐ Other

initials/date

☐ Pull for review by undersigned (date)

Date 2/9/89 Judge *Chavez*

Some courts have addressed this problem by designing the courthouse in such a way that defendants cannot exit the courthouse without first stopping at the cashier's office. Even if that mechanism were desired by city court, the design of the courthouse probably precludes it.

There probably is little the court can do to rectify this particular problem, other than having the judges continue to order defendants to SE and stress to the defendant the importance of doing so.

3. Minimum Fine Payments

There is a perception by some that city court judges are far too lenient in allowing payment deferrals and that some judges encourage deferred or installment payments even when they are unrequested or unwarranted.

Many of the defendants who are in court are there because of uninsured motorist violations. This violation often is not a willful act of disobedience, but rather the result of not being able to afford to buy insurance. Consequently, some judges try to minimize the financial hardship placed on these defendants by allowing installment payments, deferred payments, or community service in lieu of fine.

DUI fines represent a significant portion of court revenue. Although the \$250 penalty for DUI is mandatory, the court has the discretion to waive a portion of the additional \$162.50 state surcharge, which judges often do. Again, since the \$250 mandatory fine is prohibitively high for many defendants, judges have the discretion of allowing this to be paid on an installment basis.

Judges have a right and a duty to exercise discretion when imposing sentences and fines. There are measures, however, that can be taken to see that court policies are being applied more uniformly without impinging on judicial independence. Written guidelines should be developed by the magistrates on the exercise of discretionary fee reductions and waivers.

Recommendation No. 24

The judges should try to obtain some payment from the defendants on the same day the fine is imposed.

Although many defendants may not be able to pay a fine in full at the time of sentencing, they may be able to afford a minimal portion of the fine at that time. Even in those cases in which deferred or installment payments are deemed appropriate, the judges could ask the defendant, "What amount can you pay today?" Even if the defendant can only pay \$5.00 or \$10.00 on the spot, that is \$5.00 or \$10.00 less revenue that is outstanding to the court.

It is important to stress that the National Center does not feel that the court should be a profit-making entity. Nor should it be put in the position where it has to continually justify its failure to make a profit.

We also caution against comparing city court costs and revenues with those of other jurisdictions. Such comparisons are often more misleading than illuminating due to differences among jurisdictions in size, demographics, prosecutorial and law enforcement policies, accounting methods used to calculate revenues, and percentages and types of cases.

The court does, however, have an obligation to enforce its orders so that the integrity of the adjudicatory process is preserved. It is for this reason that the court should be concerned that its orders are observed.

It should be recognized that enforcement itself lies beyond the court, in the province of those agencies who serve the court as its enforcement arm, namely the police and sheriff's department who are responsible for the service of warrants. Unless those agencies efficiently perform that function, court policies to ensure compliance with its orders will be undermined.

Standard 3.5 of the Trial Court Performance Standards addressed this issue.

Courts ought not say that certain things should be done and that certain actions be taken, and then allow those bound by its orders to honor them more in the breach than in the observance The integrity of the dispute resolution process is reflected in the degree to which parties adhere to awards and settlements arising out of them. Noncompliance signals . . . lack of respect for or confidence in the courts.

. . . no court should be unaware of or unresponsive to realities which cause its orders to be ignored. Patterns of systematic failure to have civil judgments satisfied, child support paid, and criminal sentences fulfilled are contrary to an important purpose of the courts, undermine the rule of law, and diminish the public's trust and confidence in the courts.

4. Sentence Enforcement Practices

One of the problems SE has had in justifying its existence is its failure to document its effectiveness and its failure to maintain accurate statistics. For example, SE did not have any figures on the number of people it identifies on the arraignment calendar who have delinquencies or outstanding warrants.

According to the SE supervisor, this activity takes 18-24 hours per week. This is a substantial investment of time and the effectiveness of this activity should be evaluated.

Recommendation No. 25

Sentence Enforcement should document the number of defendants identified on the arraignment calendar who have delinquent fines or outstanding warrants to see if this is an effective utilization of the Sentence Enforcement clerks' time.

The court also did not have accurate statistics on the amount or percentage of delinquent fines the unit collects. At the time of our visit, the statistical software was being converted. Once that is completed, the court will have the capability of tracking payments and issuing reports.

Recommendation No. 26

The Sentence Enforcement unit should develop a financial form to be used in determining payment schedules for imposed fines.

The unit does not have any financial information form or mechanism for determining a defendant's financial status. Currently, when a defendant reports to SE, the clerk simply accepts the person's word regarding the amount they are able to pay. Screening for ability to pay would probably increase the amount of fines collected and also give the court more accurate information in locating the defendant should more aggressive collection measures be desired.

One of the more aggressive measures the court is considering is the use of small claims court to collect attorney fees. Since, as previously mentioned, the court has no statutory authority to collect attorney fees, its previous collection

efforts consisted primarily of sending letters to defendants requesting payment. So far, they have only initiated four small claims actions; these have not yet been resolved. They plan to pursue those cases in which the defendant owes at least \$300 - \$500 and in which at least three follow-up letters have been sent and not returned by the post office (i.e., the address is assumed to be good one). They also plan to look into the feasibility of garnishment or attachment of wages, seizure of property and working with the Tucson Police Department to improve the service of warrants.

At one point the court considered allowing defendants to use charge cards to make payments. They had a staff person conduct the research into the feasibility of this option and had made preliminary arrangements with a bank regarding the handling of the transactions. For reasons that are unclear to the National Center, this idea was met with resistance by the finance department and was subsequently dropped.

Recommendation No. 27

The court and the finance department should reconsider the feasibility of accepting charge cards for payment of fines.

Recommendation No. 28

Sentence Enforcement staffing should remain at the current staff level.

City court would like to have one SE clerk per magistrate (i.e., ten total). If it implements some of the procedures it currently is exploring regarding fines collection, the unit will probably have to be increased. We do not recommend increasing staffing level at this time, however.

C. Integrity of Statistics

A court needs data for a number of purposes: 1) to track its filings and dispositions to see if it is keeping up, falling behind, or getting ahead of cases being filed; 2) to provide information needed by the state supreme court to assess and manage the judicial system; 3) to enable the court to monitor its performance and manage its workload; and 4) to respond to ad hoc requests for information from local government, academic and other researchers, and interested citizens. There are always at least three issues associated with data collection: 1) does the court collect useful items of data; 2) does it use the data it collects; and 3) are the data accurate? This section addresses the third of these issues.

The court has had trouble in the past with the accuracy of its statistics. Court officials have indicated that filing and disposition data prior to August 1987 are of dubious validity. A recent review of data in the court's 1989 Strategic Plan indicated that failure-to-appear warrants were being counted twice, so the grand total of matters to be addressed by the court was overstated to that extent. Because of a programming error, the court incorrectly reported the amount of outstanding fines to be collected. Even when the court's data have been accurate, questions have been raised about the manner in which the data are used; misused data raise the same kinds of doubts as incorrect data.

Problems with the accuracy of the court's data have caused some credibility problems with other agencies of government. When inaccuracies in data are identified, the inaccuracies taint valid data, thus complicating internal management and undermining the validity of arguments made outside the court about its status, problems, and achievements. For all these reasons, it is vital for the court to have and to use accurate data.

Recommendation No. 29

The court should make every effort to ensure the completeness and accuracy of its data. It should seek the assistance of the Statistics Department of the University of Arizona (hopefully provided on an uncompensated basis) and, as appropriate, staff of the city manager's office and the computer services division.

The need for accurate data is understood by the court. The desire for its data to be accurate exists. The understanding and desire now must translate into action. Until the accuracy of the court's data is accepted both within and without the court, it will have difficulty developing a perspective on problems and issues and convincing others of that perspective. The job of internal management also will be more difficult. If the court can establish and then demonstrate the validity of its data, one basis for tension and distrust between the court and other agencies of city government will disappear.

Graduate students or professors at the University of Arizona might be willing to consult with the court for academic credit or as a public service. If assistance cannot be gained from the University of Arizona, perhaps a local business, such as a bank,

would be willing to assist. The process of obtaining and ensuring accurate data would also have the incidental benefit of providing training to court staff so they could maintain the validity of the data thereafter.

Since the validity of the court's data is in question in some parts of city government, the court should seek to work with appropriate people in city government so that they can see and attest to the court's progress. Since data are "objective," perhaps joint efforts to improve and validate data would be a good way for different elements of city government to work with the court to restore needed trust.

D. Personnel

Efforts made by the court over the past four years to resolve its personnel problems have been highly successful in improving staff morale and raising the caliber of staff. With the cooperation of the city council, the court has expanded the number of staff. However, questions continue about the number of personnel and magistrates in the court today and the numbers needed in the future. This section will address these matters, both for staff and for judges.

1. Number of Staff and Judicial Positions Today and Allocation of Staff Among Sections and Divisions

a. Staff Needs. In 1984 the court's staff could not complete their work on a timely basis, in part because of insufficient staff. The National Center was not able to give a firm assessment of the number of staff needed to operate the court effectively, but recommended a short-term addition of 2.5 positions.

In 1984 there were 42.5 full-time equivalent (FTE) positions on the court's administrative side and a total of 58.5 FTE staff positions in the court. In the current fiscal year the court has 78.5 people on the administrative side of its operations and a total of 101.5 staff. (The numbers for both years exclude magistrates.) Administrative staff has grown 85 percent in the last four years, while total staff growth is just under 75 percent. Most of the increase in staff occurred in the current fiscal year, when the city council agreed to provide the court the staff numbers it said it needed to perform its functions.

The city council is to be congratulated for its willingness to support such a significant increase in staff in one year. The court now believes and the National Center concurs that the current staffing level is adequate.

Recommendation No. 30

No additional staff positions should be added at this time.

b. Judicial Needs. Two special magistrates work essentially full time for the court. They receive \$150 a day and are not entitled to fringe benefits. The maximum a special magistrate may earn a year is \$35,000; a regular magistrate is paid \$50,000 a year.

Between July 1988 and February 1989, the court used an average of almost five special magistrates a day, ranging from a little over three a day to almost seven a day. The number of special magistrates being used represents a daily 50 percent supplement to the number of regular magistrates. This is an unacceptable ratio from a public policy standpoint.

The resume of an attorney wishing to be considered for a special magistrate position is first submitted to the Merit Selection Commission. If the commission has no objections, the attorney's name is forwarded to the mayor and council for consideration. If the mayor and council appoint the attorney as a special magistrate, the term is for two years. At the end of two years the attorney's name again is submitted to the mayor and council; they may or may not reappoint the attorney.

While the pay differential between magistrates and special magistrates is to the city's benefit, the economic advantage masks policy problems. Attorneys willing to consider a position paying \$50,000 plus fringe benefits might not be willing to consider a position paying \$35,000 a year without fringe benefits. The National Center does not wish to question or impugn the abilities of the two people now serving full time as special magistrates, but suggests that at least in the abstract changing the positions to ones that pay \$50,000 plus fringe benefits might increase the quality of judiciary, which should be encouraged.

Beyond the policy concerns about the number of special magistrates, the position of special magistrate limits the court's capacity to manage its resources. The jurisdiction of special magistrates is limited. They cannot hear certain matters or sit on certain calendars unless the parties agree to allow a special magistrate to do so.

Recommendation No. 31

The two full-time special magistrate positions should be made regular magistrate positions.

If two special magistrate "slots" are converted to regular magistrate positions, the policy issues would be addressed and the court would be in a better position to cover its calendars with regular magistrates; it would gain needed flexibility to match cases with judges that it now lacks.

The National Center cannot assert with confidence that the two regular magistrate positions recommended are sufficient to meet the court's current needs. The court has 15 calendars to cover daily and averages almost five special magistrates a day. These two numbers suggest that the court needs 15 regular magistrates. This answer is too simple; a more informed judgment is not possible without a complex and time-consuming workload analysis. Accordingly, the National Center proposes only two new magistrate positions be created in 1989 to replace two FTE special magistrate positions but recommends that the court regularly track both its judicial availability and the need for judges and share this information with the city council next year.

Establishing two new regular magistrate positions will not eliminate the need for special magistrates. The increase in flexibility and productivity derived from the conversion should represent more than two FTE judicial positions, however. Nor will converting these two positions be a full answer to the policy issues associated with the use of special magistrates. The longer-term need of the court for judicial positions and its use of special magistrates will be addressed later in this chapter.

c. Allocation of Staff to Sections and Divisions

In its revised budget request for this fiscal year, the court requested an additional 2.5 positions. While the court now concurs with the National Center's assessment that it does not need those positions, it may be useful to reexamine the allocation of positions to sections and divisions.

Most of the current workflow issues appear to be concentrated in the court services division of the court, where tasks are more time-pressure oriented. In addition, the court's encouragement of internal promotions results in a high turnover rate for the records section, where most positions are entry-level. Records staff are often promoted to other functions/divisions, resulting in the frequent influx of new staff into the records section--staff that need job training.

As mentioned in Chapter III, a significant amount of the time of records staff is devoted to tracking down files--a total of 12.5 hours per day (1.5 FTE). In our discussion on records, below, a recommendation is made that the court investigate new ways for staff to identify where a file folder is located. If this can be done it will relieve staff of this burdensome and time-consuming task. Valuable time of at least five members of the records staff will be freed up. Time savings in this area might translate into a meaningful reallocation of one or more of these staff members to other functions within the records section.

This project is not the proper vehicle for a complete desk audit of the court, but the National Center might be able to

spend additional time in the court to provide the court with further views about allocation of staff among sections, if the court desires that further analysis. This additional time can be provided under the current contract without additional cost to the city because of economies achieved in the study to date.

2. Training

Recommendation No. 32

More training courses specifically geared for both regular and special magistrates should be developed.

Although training for magistrates is part of the court's training plan, few courses are geared specifically to them. While many of the magistrates are able to satisfy the Arizona Supreme Court's training requirement of 16 credit hours, they do so primarily through the 13.5 credits they receive for attending the Arizona Judicial Conference. Some of the magistrates also receive credit for teaching courses to either the special magistrates or the administrative staff. Magistrates expressed interest to the National Center in attending programs in addition to the state's annual conference, such as programs that emphasize new developments in the law and judicial administration, both areas identified by the Supreme Court as being appropriate training topics for judges.

Because funds are not available to allow all the magistrates to attend some of the national programs in these areas (such as those offered by the National Judicial College or the Institute for Court Management), it might be preferable to design and conduct a program for all the magistrates, including special magistrates, at the court. The education and training manager has plans to solicit

ideas from the magistrates on possible topics and faculty and hopes to develop more training for them. We encourage this approach.

Recommendation No. 33

The approach currently used to select topics for staff training should be reviewed and revised.

Some court staff expressed concerns that some of their training, although interesting, is not directed to helping them do their jobs. They would like to see more training devoted to court-related or job-specific matters. The education and training manager uses a staff survey to help select appropriate topics and evaluations by all staff are reviewed following each session. While this process seems to be appropriate, it also appears not to be producing optimum results so far as the employees are concerned. It may be necessary to redesign the survey instrument to solicit ideas for courses, and perhaps strengthen the research and planning functions of the education and training manager position.

3. Use of Team Management

In its 1985 report the National Center recommended that the court explore team management for possible future implementation. The court successfully has introduced teaming of staff to do certain tasks but has not yet taken the next step to team management of cases. The court is now in a good position to try case management by teams on a pilot basis.

Recommendation No. 34

The court should study further and pilot-test team management of cases.

The difference between the court's teams and team management of cases is significant. Most large courts, including the city court, organize case processing like an assembly line, with discrete, limited functions assigned to one or more people, who receive cases or work from someone in the line before them and pass it on to someone in the line after them. City court has created supportive teams to do discrete functions, and in so doing has broadened the knowledge and skills of those working on that function; however, someone working on function A--e.g., motions--still cannot do the job of someone working on function B--e.g., calendar management--or function C--e.g., front counter.

In team management of cases, a team of five-to-eight (maybe ten) people has responsibility for processing a block of cases. They perform all functions: opening mail, docketing motions, creating a calendar, (possibly) serving as court clerks, and entering dispositions. Team management of cases also might reduce the incidence of lost files.

City court now has adequate staff, good line supervisors and administration, and a staff stable enough and knowledgeable enough to test the feasibility of team management of cases. While only a test of the system will tell for sure, this approach holds the promise of improved productivity that might defer some increases in staff size in the future.

4. Future Need for Judges and Staff

a. Need for Regular Magistrates. In 1988 and again in 1989 the court developed a strategic plan designed to identify for both court and city officials its long-term needs for judicial and

staff resources. The court used as a basis for its projections the population of a part of Pima County, the number of complaints filed, and the number of citations issued per law enforcement officer. The National Center was asked to comment on both future judicial and staff needs.

The court's effort to develop a strategic plan is commendable. There are not half a dozen court systems, state or local, that have developed strategic plans. While the attempt is to be congratulated, the result is confusing and, from a statistical perspective, not convincing. The National Center would be pleased to share a more specific analysis of the plan with court representatives should they desire, but it would not help to burden this report with a detailed statistical analysis. Rather, the National Center prefers to focus on a way to improve the process in the future and to share its own projection of needs.

Recommendation No. 35

The court should begin to develop a foundation for making projections based on weighted caseloads.

Everyone familiar with courts recognizes that different types of cases make differing demands on staff and judges. The workload for staff and for judges represented by one civil traffic case is different from the workload represented by a petty theft case, which again is different from the workload represented by a DUI case. While rough estimates of resource needs and workload can be based on unweighted filings, a system for weighting those filings according to the relative amount of work represented by each is much more likely to produce accurate projections of need.

Systems for weighting filings to produce a more accurate picture of workload have been used in courts across the country for over 20 years. They still are not widely used, however, because it requires substantial time and money to develop appropriate weights and it is necessary to repeat the process regularly if the weights are to remain useful guides. There are some theoretical problems with weighted caseload systems and different methods for devising weights may produce different results. Nonetheless, so long as there are significantly different workload implications from different case types--as there are in city court--systems that weight filings will produce better results than systems that do not. If the city court wishes to refine its staffing and judicial needs assessment, it should move toward a weighted caseload system.

Recommendation No. 36

Pending development of a weighted caseload system, the court should forecast staffing and judicial needs using population only.

The National Center obtained population data from the city's planning department from 1970 to the present as well as the planning department's projections through the year 2035. The Center used population to project judicial needs from 1978 through 2035. The Center's projection, shown in Figure 1, correlated with actual numbers at the 90 percent level. Given this high level correlation, little can be gained by adding additional variables.

The planning department's population forecast assume a linear increase in population. It seems to the National Center that the rate of growth projected by the planning department may

FIGURE 1

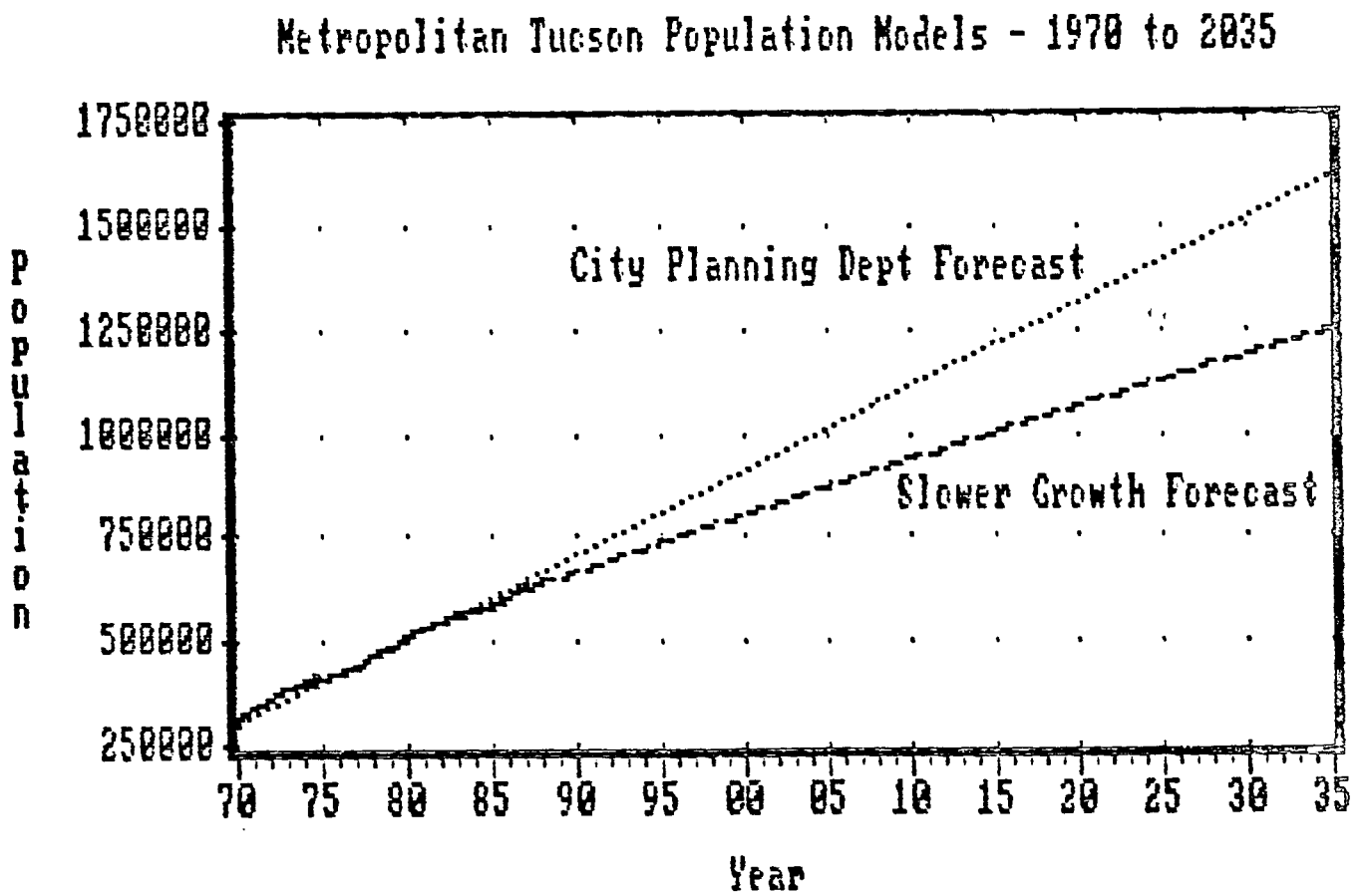


FIGURE 2

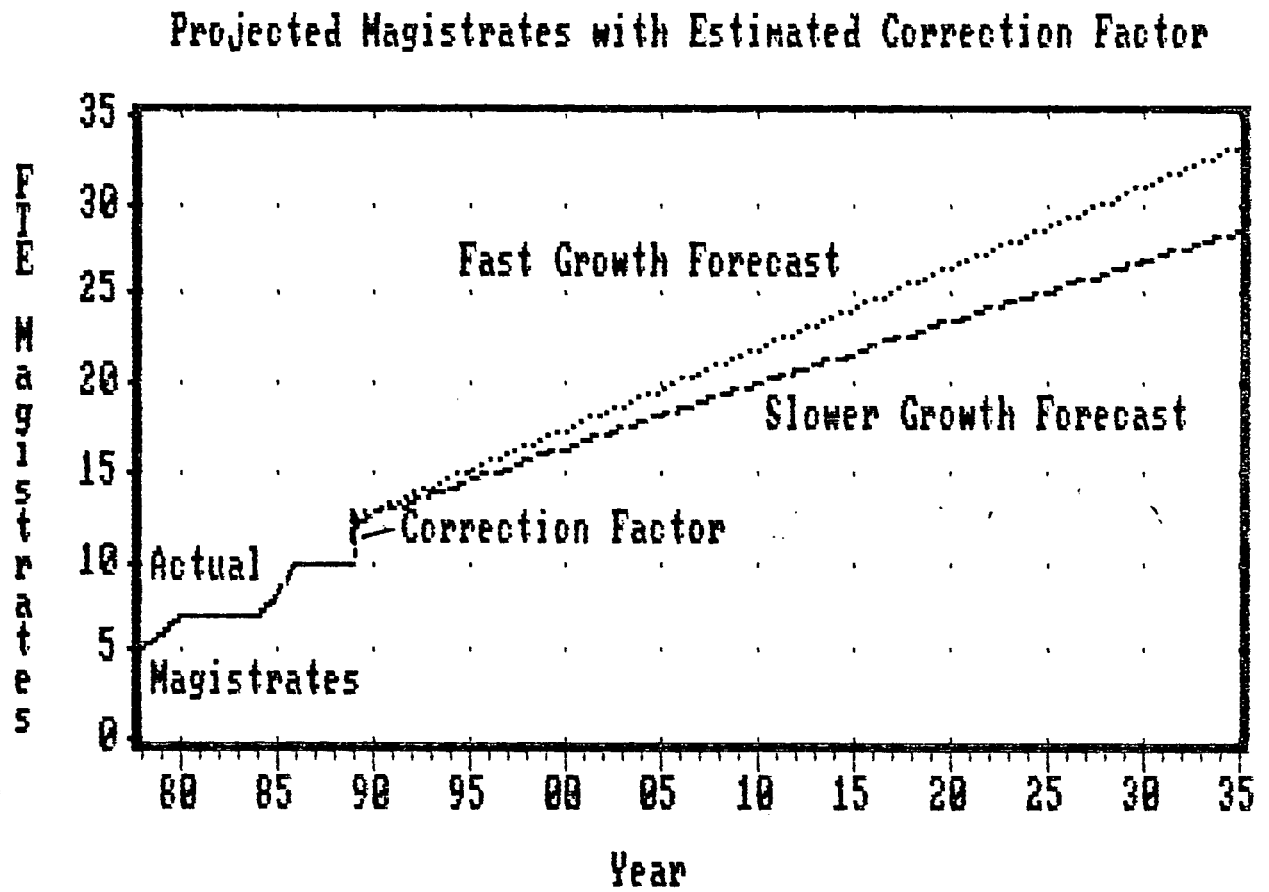


TABLE 1

ESTIMATE OF JUDGES NEEDED, 1989-2035
 BASED ON PROJECTED POPULATION DATA

<u>Year</u>	<u>Projections Based on Planning Department Population Forecasts</u>	<u>Projections Based on NSCS Slower-Growth Forecast</u>
1989	12.33	12.10
1990	12.79	12.50
1991	13.24	12.89
1992	13.70	13.29
1993	14.15	13.68
1994	14.61	14.06
1995	15.06	14.44
1996	15.52	14.82
1997	15.97	15.20
1998	16.42	15.58
1999	16.88	15.95
2000	17.33	16.32
2001	17.79	16.69
2002	18.24	17.05
2003	18.70	17.42
2004	19.15	17.78
2005	19.61	18.14
2006	20.06	18.50
2007	20.52	18.86
2008	20.97	19.21
2009	21.42	19.57
2010	21.88	19.92
2011	22.33	20.27
2012	22.79	20.62

TABLE 1 (Cont'd)

ESTIMATE OF JUDGES NEEDED, 1989-2035
BASED ON PROJECTED POPULATION DATA

<u>Year</u>	<u>Projections Based on Planning Department Population Forecasts</u>	<u>Projections Based on NSCS Slower-Growth Forecast</u>
2013	23.24	20.97
2014	23.70	21.32
2015	24.15	21.67
2016	24.61	22.01
2017	25.06	22.36
2018	25.52	22.70
2019	25.97	23.05
2020	26.42	23.39
2021	26.88	23.73
2022	27.33	24.07
2023	27.79	24.41
2024	28.24	24.75
2025	28.70	25.09
2026	29.15	25.43
2027	29.61	25.76
2028	30.06	26.10
2029	30.52	26.43
2030	30.97	26.77
2031	31.42	27.10
2032	31.88	27.44
2033	32.33	27.77
2034	32.79	28.10
2035	33.24	28.43

not be sustainable into the 21st century, particularly as land and water become scarcer. Further, the general U.S. population, and probably the Tucson population, will be aging significantly over the next 50 years. Accordingly, the percentage of the population 25 years of age or younger--the portion of the population most likely to commit minor crimes and that contributes disproportionately to traffic violations--will decline. The relationship between population growth and cases in city court will be affected correspondingly as we move into the 21st century. Accordingly, the National Center developed a second, "slower growth" forecast of population that anticipates a growing population, but a growth that eventually decreases and a population that eventually ages. Thus, whereas the planning department projects an actual population of almost 894,000 in the year 2000, the National Center's slower-growth model suggests an affective population⁵ of a little over 801,000. By the year 2015, the difference between the planning department's projected population and the National Center's slower-growth model is about 226,000 people.

The National Center projected the number of magistrates needed using both the planning department's population numbers and its slower-growth numbers. Figure 2 and Table 1 show the estimates.

Before referencing the specific numbers, a word about the "correction factor" in Figure 2 is in order. The National

⁵ The "affective" population is artificially depressed to account for the changing demographics foreseen by the Center, a change that should impact the court's caseload as well as population totals.

Center is recommending creation of two regular magistrate positions. The "correction factor" reflects those two additional positions. Use of a correction factor is an acceptable statistical adjustment. In this case, it is used to adjust historical staff levels, that we believe inadequate for the workload. The basic linear correlation between population and judgeship needs remains sound and valid; the correction factor does not change that correlation; it simply recognizes a new starting point in 1989 if the city council accepts the National Center's recommendation.

In the short run the difference in magistrates needed using these two approaches is small. Using the planning department's numbers the number of regular magistrates needed in 1995 would rise from 12.3 today to 15. The National Center's slower-growth model would show an increase from 12.1 today to 14.4 in 1995. This difference of about one-half a full-time position six years from now increases to about one full-time magistrate less in the year 2000 using the National Center's slower-growth model. The two projections suggest that the court will need from between 16 and 17 magistrates by the year 2000. Whatever the actual number, it is clear the number of magistrates will increase as the city's population increases.

b. Number of Special Magistrates Needed. The special magistrates are needed and will continue to be needed in the future for two reasons. First, it is impossible to predict with accuracy the number of cases and which cases from a calendar will need to be handled in the courtroom on a particular day. Parties fail to appear, people decide to plead guilty or responsible at

unpredictable and varying rates, and the number of people who say they want a trial and change their minds varies materially from day to day. On the resource side, one cannot predict when a magistrate will be ill or suddenly be unable to handle a calendar. The court needs flexibility to bring in additional judicial resources when the law of averages operates to create a demand that exceeds the number of judges available. The second reason special magistrates are required is the historical lag between the need for full-time judgeships and their creation. As population and caseloads grow, or other changes increase judicial workload, inevitably a court reaches a point where it needs .3, .4, or .5 of a judge but the responsible funding authority has not yet created a full-time position. In this circumstance, the court also needs the capacity temporarily to increase its judicial resources.

On paper, with the two new regular magistrate positions the court still would average almost three special magistrates used every day, which would represent almost one-quarter of the complement of regular judges. As suggested earlier, however, the court should gain greater flexibility and, therefore, productivity from the two positions filled by regular magistrates than it has now with those same two positions filled by special magistrates, so the need for special magistrates should decrease by more than 2.0. It is not possible at this time, however, to predict how much of a decrease will occur.

There are no national standards or norms for a "proper" or "acceptable" ratio of full-time to temporary judgeships. But

as the ratio grows, the policy arguments against extensive use of temporary judgeships also grows stronger. (See the discussion in Section D.1., above.)

Recommendation No. 37

The court and city council should review and agree upon an acceptable proportion of full-time equivalent special magistrate positions to regular magistrate positions.

As there are no national norms to reference, the city council and court should confer and agree upon a threshold beyond which the use of special magistrates will trigger additional judgeships. The use of special magistrates should not be the only criterion for adding a judgeship, since there is at least a potential for manipulating their use, but it is one important indication of need (assuming, as we do, that the regular magistrates are carrying their fair and appropriate share of the judicial burden). As a point of reference for this discussion, the National Center suggests that if the court is using special magistrates to the point that they represent the full-time equivalent of one quarter of the regular number of magistrates, at least one additional regular magistrate's position should be created.

c. Staff Needs. The absence of historical data about staff positions that go back far enough to support a statistical projection precludes the National Center from undertaking the same kind of statistical projection of staff needs that it has performed for judicial needs. Therefore, the different approach to future staffing needs must be taken.

The court has workload standards for most administrative positions. The standards were developed from the experience and expertise of staff and are reviewed periodically. These standards should be applied to the current workload to determine the number of staff that would be needed using these standards. If the number of staff indicated is the same as or close to the number of staff currently employed, these workload standards would seem to be a good basis for assessing need in the future. If there is a significant difference between the number of staff the court needs when the workload standards are used and the number of staff it currently has, then the workload standards should be reviewed again and adjusted appropriately. Once an agreed-upon set of standards exists, it can be used to assess future workload needs.

Recommendation No. 38

The court should review its staff workload standards and, if necessary, revise them to provide a sound basis for projecting current and future staff needs.

If it is determined that the current workload standards do not correlate sufficiently with current staffing and thus new standards are needed, it would be best for the city's management research division to work with the court to determine new standards. For this partnership to work effectively, staff in the management research division will have to understand the unique working environment of a court and not assume that a person with the same job classification in the court as someone in the water department is doing the same work and can do that work at

the same level as the person in the water department. The court's environment and the demands made on court staff often are different from those in executive branch agencies. True, someone who types letters and memoranda in a court is doing work essentially the same work as someone who types memoranda and letters in the welfare department, but very few people in court spend all day typing letters and memoranda or performing other tasks that are routine in other agencies. If that difference is understood by the management research people assisting the court, their expertise should be very helpful.

It also may be possible to find someone at the University of Arizona who could assist in the development of these standards or check the results after the standards have been developed.

5. Other

Recommendation No. 39

The court should seek an alternative to the "speak-up sessions" currently held as an outlet for staff to vent feelings and opinions on policies and procedures.

The "speak-up sessions" currently held by the court do not seem to be serving their intended purpose. The most notable deficiency with the sessions is that some staff often do not have the opportunity to attend. For example, when the morning or afternoon calendars must be produced by a certain time, the calendar team is able to attend the session only if the calendar has been generated.

Beyond the scheduling problem for some staff is the question of whether speak-up sessions now are the best way to address the need to air grievances and voice suggestions. The sessions were started to provide nonsupervisory staff with a forum to express grievances (sometimes against their own supervisors). Yet some of the staff interviewed feel that caution still has to be exercised in expressing opinions. Because of the openness of the forum, there is an underlying concern that voiced opinions travel far along the court's grapevine. While the sessions have served to address some minor matters adequately, there is concern that major issues are not raised. Many people interviewed said they do not attend the sessions because of disinterest; this professed lack of interest may or may not be a reflection of the perceived value of the sessions. There also is concern among some staff that many of the issues raised during these meetings are those identified by the more aggressive and outspoken staff members and that the grievances of the more shy or quiet employees may go unaddressed. Finally, because the sessions are held a maximum of four times a year, the issues raised are likely to be the most recent, leaving older issues to simmer until they reach the boiling point.

The speak-up sessions probably were invaluable in 1985 and 1986 when the court was responding to a large range of problems and personnel issues. Today, more complete reliance on available one-on-one communication with selected supervisors or the court administrator and his associate administrator might be more effective.

E. Records Management

The difference in the court's filing system today from its filing system in 1985 is like night and day. Gone are the messy piles on desks throughout the records section. Although vast improvements have been made by the court in the area of records, there are problems that should be addressed.

Recommendation No. 40

The court should continue to investigate approaches that will cut down the amount of staff time devoted to looking for case file folders.

The most pressing problem concerning the court's management of its case records continues to be the difficulty in locating files. The associate administrator will soon complete a report on the feasibility and cost of implementing bar code scanning in the court. This technology allows for the easy and accurate tracking of case file location, simply by passing a hand-held wand over a bar-coded case number affixed to each file folder. The scanning device records characters that are represented by the bar code patterns and automatically enters the information into the computer. Using this technique, the location of a file is an item that could be easily and regularly tracked.

From previous studies, the NCSC can recommend bar coding as an effective technology for file tracking, but the cost of implementing the technology in the Tucson computer environment is still being researched by the associate administrator. The results of her research should help the court determine whether bar coding will be cost-effective. An alternative approach would be to use the file

tracking screen available through REACT by keying the docket number when the file is transferred from one location to another. The disadvantage of key entry is, of course, the possibility of errors, which are eliminated through bar code scanning.

Whichever method is used, another issue remains. Should the location of the file always be recorded whenever the file moves from one desk to another? This may not be necessary and may involve significantly more staff time than the time saving to be realized.

The greatest problem with lost files occurs when files go to the judicial departments. Specifically, when a motion is filed on a case, the file is sent to the magistrate without first entering the receipt of the motion in the computer. When the file is needed, the computer record is of no help in determining the likely location of the file. If possible, motions should be entered before the files go to the magistrates. Also, since this seems to be the primary source of "lost" files, file tracking (whether by bar coding or key entry) might be restricted to files that are transferred outside of the case processing area.

Recommendation No. 41

Investigate further the advantages and disadvantages of a terminal-digit filing system.

An ongoing problem for the records section is having to backshift the files. Cases are purged every two-to-three months because they are older than one year and need to be sent to the city's Records Center for either retention or destruction. When closed files are pulled off the shelves, large, unused spaces results, which then necessitates the physical reordering of the

remaining files. Because of this burdensome task, the court services division manager has requested that the court go to a terminal-digit filing-system.

A terminal-digit system is designed to address this backfiling problem, as it allows new files to be distributed throughout the existing files, as opposed to new files getting a consecutive number and being filed at the end. The National Center suggests further study so the court will understand fully the pros and cons of this system. The court also should be sure it has identified other options for dealing with backshifting. For example, if fewer cases receive file jackets or groups of cases are batched in jackets (see below), the backfiling problem might change or disappear.

Recommendation No. 42

Alternate ways to maintain civil traffic citations should be explored.

Currently, the court prepares an individual file folder for every case, criminal or civil, whether there is one citation or several. This practice evolved because of the difficulty the court had in keeping all paperwork together for each case. This was a particular problem when it involved attaching paperwork to traffic citations. But each file folder costs 27 cents and there are almost 100,000 civil traffic filings per year. This is an expensive process. A substantial number of these cases are disposed through a mailed fine payment, bail forfeiture, or one appearance in court, so the paperwork is limited. Other ways to maintain these cases should be explored. Plastic sleeves have

been used in some courts at a cost of about three-to-five cents per sleeve. Another option might be to use group files, in which 10, 25, or 50 traffic citations would be filed consecutively in one folder. A third option is to batch the tickets initially and then create a file folder only if the case requires or involves a court appearance.

The National Center was unable to determine whether any of these options is or is not viable for the city court, but some option to using a file folder for each civil traffic case seems worth exploring.

F. Calendar Management

(1985 Recommendation No. 29): The court should expand its use of deadlines and case-process monitoring to monitoring to minimize delays attributable to attorney control of the docket.

Commitment to court and judicial responsibility for control of case progress was evident in magistrate interviews. Further, while generally maintaining a courteous and thoughtful attitude toward defendants, the magistrates are firm in their conviction that cases must proceed as scheduled and reach disposition within the statutory time limits.⁶ This means early setting of a series of deadlines in "assigned cases"⁷ and strict limitation of continuances in unassigned cases. Unfortunately, management information is not

⁶ See Rule 8.

⁷ Assigned cases are those which are assigned to an individual magistrate at arraignment for all further proceedings; these generally are cases expected to request a jury trial, notably DUI and prostitution cases.

produced to allow them to assess success in achieving their goals. Some magistrates indicate that many continuances by stipulation still are allowed in unassigned cases, suggesting the court can do even more to keep case progress under court control. Table 4 shows a lower continuance rate in unassigned cases than in assigned cases, however.

The "assigned case" system has been adopted since the 1984 management study. Magistrates seem very satisfied with its operation and are contemplating expansion to include certain additional cases. "Clearing Court" is another innovative technique used to deal with motions, pleas, and trials in other cases. Essentially, this is a master calendar at which non-"assigned" defendants appear for motions, disposition, or trial. The judge assigned to clearing court handles most of the motions and miscellaneous matters but assigns most dispositions and trials out to available magistrates. Thus the court uses both individual and master approaches to case assignment to meet the special needs of its caseload.

In so doing, the court has implemented the 1985 recommendation to expand its use of deadlines and case-progress monitoring. Deadlines for all further activities in "assigned cases" are set at the arraignment and are monitored by the magistrate assigned to the case. Even the trial date is set at arraignment to assure compliance with time standards. In view of the low trial rate, the court should consider deferring setting of the trial date until the final pretrial hearing in the case. This will give the magistrates more control over their docket through enhanced ability to predict which cases most likely will be tried.

Recommendation No. 43

Development of caseflow management reports should be given a high priority, particularly reports showing case aging and continuance rates.

The court still needs to implement methods for close monitoring, including review by the chief magistrate, of the outcome of its scheduling system (as recommended in the January 1985 report) and of the age of cases at disposition. Development of management information to allow this is in the court's plans, using the new SAS language. We recommend that such development be given a high priority. The list of reports, either ad hoc or regular, now contemplated by the court administrator is quite extensive, however; some prioritization is needed. We suggest that the following should be at or near the top of the list: for each magistrate, the ability to determine cases' age at disposition, compared to the Arizona Time Standards and the American Bar Association standards, the ability to analyze easily the age of pending cases and readily flag those in danger of exceeding the time standard, the ability to determine the percent of scheduled hearings that are continued, and the ability to detect readily any cases without future action dates assigned.

For purposes of this review, the project team requested the first three items, above, from the court's data base along with information about the distribution of assigned cases among the magistrates. Table 2 shows the age of cases disposed of during calendar year 1988.

Recommendation No. 44

The court should institute a program to examine cases that are greater than 150 days old to determine ways of disposing of these cases in less time.

The America Bar Association Standards Relating to Delay Reduction call for disposition of 90 percent of all misdemeanors, infractions, and other non-felony cases within 30 days from arrest or citation. Further, 100 percent of cases should be disposed of within 90 days. Table 2 shows that the Tucson City Court is disposing of about 60 percent of cases⁸ within 30 days and about 83 percent within 90 days. The greatest delay occurs in DUI and criminal misdemeanor cases, in which 54 percent and 44 percent of dispositions, respectively, occurred more than 90 days after arrest or citation.

In cases (not shown) in which the defendant failed to appear for hearing at least once, 80 percent of dispositions occurred more than 90 days after arrest or citation.

In Arizona, Rule 8 governs the disposition of misdemeanors and provides for disposition within 120 days for custody cases and 150 days for noncustody cases. There are many exclusions of time under this Rule, however.

These standards are much more stringent in DUI cases as a result of the Hinsen case. Table 2 shows that 10 percent of all cases and 17 percent of DUI cases exceeded 150 days to disposition.

⁸ Cases not involving a failure to appear or default judgment.

TABLE 2
TUSCON CITY COURT
DISPOSITION AGING REPORT FOR CALENDAR YEAR 1988
CITATIONS W/O FTAS OR DEFAULT JUDGEMENTS

CASE TYPES BY AGE	AGE OF DISPOSITION												CASE TYPE TOTALS	
	0 - 30 DAYS		31 - 60 DAYS		61 - 90 DAYS		91 - 120 DAYS		121 - 150 DAYS		OVER 150 DAYS			
	Citation Count	Percent of Citation	Citation Count	Percent of Citation	Citation Count	Percent of Citation	Citation Count	Percent of Citation	Citation Count	Percent of Citation	Citation Count	Percent of Citation	Citation Count	Percent of Citation
Citation Case Type														
Civil Traffic	69017	75.19	13520	14.73	4802	5.23	2092	2.28	986	1.07	1371	1.49	91788	100.00
Criminal Misdeamnor	11946	29.99	5881	14.76	4435	11.13	3622	9.09	2207	5.54	11746	29.49	39837	100.00
Criminal Traffic	5052	55.02	1569	17.09	1266	13.79	648	7.06	297	3.23	350	3.81	9182	100.00
Driving While Intox.	530	12.58	598	14.19	773	18.35	1011	24.00	590	14.00	711	16.87	4213	100.00
All Case Types	86545	59.68	21568	14.87	11276	7.78	7373	5.08	4080	2.81	14178	9.78	145019	100.00

DISPOSITION: FOUND OR PLED GUILTY OR RESPONSIBLE
DISMISSED FOR REASON
TRANSFERRED OUT OF THIS COURT
FOUND NOT GUILTY OR RESPONSIBLE

FTAS: CITATIONS THAT HAVE HAD A WARRANT
FOR FAILURE TO APPEAR

DEFAULT JUDGEMENT: DEFENDANT FAILED TO APPEAR
ON CIVIL CITATION

TABLE 3

TUCSON CITY COURT *December 31,*
 AS OF *December* YEAR 1988

PENDING CITATION AGING REPORT FOR CALENDAR YEAR 1988

CITATIONS W/O FTAS OR DEFAULT JUDGEMENTS

CASE TYPES BY PENDING AGE	PENDING AGE												CASE TYPE TOTALS	
	0 - 30 DAYS			31 - 60 DAYS			61 - 90 DAYS			91 - 120 DAYS			OVER 120 DAYS	
	CITATION COUNT	PERCENT OF CITATION COUNT	PERCENT OF CITATION COUNT	CITATION COUNT	PERCENT OF CITATION COUNT	PERCENT OF CITATION COUNT	CITATION COUNT	PERCENT OF CITATION COUNT	PERCENT OF CITATION COUNT	CITATION COUNT	PERCENT OF CITATION COUNT	PERCENT OF CITATION COUNT	CITATION COUNT	PERCENT OF CITATION COUNT
CITATION CASE TYPE	3856	47.06	31.93	815	9.95	205	2.50	700	8.54	8194	100.00			
CIVIL TRAFFIC	2629	32.88	2353	29.32	1231	15.75	361	4.61	1051	13.44	7811	100.00		
CRIMINAL MISDEMEANOR	2881	36.88	2291	29.32	1231	15.75	361	4.61	1051	13.44	7811	100.00		
CRIMINAL TRAFFIC	2781	27.44	2021	19.94	2271	22.41	781	7.50	2301	22.20	10131	100.00		
DRIVING WHILE INTOX.	75031	23.20	5400	17.76	3858	12.64	2156	7.09	11936	39.26	304031	100.00		
ALL CASE TYPES														

FTAS: CITATIONS THAT HAVE HAD A WARRANT
 FOR FAILURE TO APPEAR

DEFAULT JUDGEMENT: DEFENDANT FAILED TO APPEAR
 ON CIVIL CITATION

Curiously, Table 3 shows that about 46 percent of the pending cases⁹ (as of December 31, 1988) were over 90 days old, whereas 1988 dispositions showed only 17.5 percent occurring more than 90 days after arrest or citation. While there currently is no way to know for sure, this comparison suggests that some older cases may be lagging while newer cases are being disposed of. An alternative explanation involves the conversion of the data base from the CACCTIS to the REACT system. When old cases still pending in CACCTIS are resurrected as a result of a defendant appearing on a new charge, the case is entered into REACT at that time.

Recommendation No. 45

The court should conduct a further analysis of its continuance policy.

The National Center examined tables containing information on events scheduled for bench trial, jury trial, or pretrial hearing during March 1989 for assigned cases. From this we were able to determine some indication of the proportion of scheduled cases that are continued. (See Table 4, below).

There were 917 cases in which some event occurred on the date on which a bench trial, jury trial, or pretrial hearing was scheduled. In a significant percentage of assigned cases (31%) the event was a continuance of a trial or pretrial, the majority on defense motion. Many of these may have resulted in a later guilty plea. The number of continuances is sufficiently high, however, to warrant further examination by the court to ascertain the reasons. The court should also explore whether the number

⁹ Cases not involving a failure to appear.

Table 4
Number of Continuances and Their Origin in Assigned Cases
March 1989

<u>Number</u>	<u>Event Type</u>
255 (28%)	Defense Motion to Continue
15 (2%)	State Motion to Continue
9 (1%)	Continuance by Court Order
199 (22%)	Change of Plea Hearing
234 (26%)	Scheduled Event Occurred
86 (9%)	Bench Warrants Issued
83 (9%)	Court Order to Vacate Future Setting
12 (1%)	State Motion to Dismiss
<u>24 (2%)</u>	Misc. Other
TOTAL 917 (100%)	

can be reduced in the future or whether subsequent resulting guilty pleas can be taken earlier.

Not shown in the table are 347 appearances in which the deendant appeared on a date different from (usually in advance of) that originally scheduled for a change of plea, motion, trial or pretrial, or other activity. Thirty-three percent of these appearances involved a request or court order for continuance.

Table 5 below provides the same breakdown for scheduled events in 2,634 unassigned cases during March 1988.

Table 5
Number of Continuances and Their Origin in Unassigned Cases

<u>Number</u>	<u>Event Type</u>
493 (19%)	Bench Warrant Issued
628 (24%)	Change of Plea Hearing
609 (23%)	Defense Motion to Continue
472 (18%)	Scheduled Event Occurred
177 (7%)	Court Order to Vacate Future Setting
149 (6%)	Dismissal by State
20 (.5%)	Court-Ordered Dismissal
19 (.5%)	Continued by Court
37 (1%)	State Motion to Continue
<u>30 (1%)</u>	Miscellaneous Other
TOTAL 2634 (100%)	

Twenty-five percent of scheduled events in these 2,634 unassigned cases were continued compared to 31 percent in the assigned cases. This is contrary to the speculation of several magistrates that continuances were more readily granted in unassigned cases.

Nevertheless, both figures considered in connection with Table 2 data on case age at disposition again suggest the wisdom of the court's further examination of its continuance policies and practices. Table 6 shows the distribution of assigned cases among the magistrates. Certain categories, identified with an asterisk (*), are errors in the printout that the court now is in the process of correcting; it is unlikely, however, that redistribution of these cases would result in relative changes in the ratio of pending cases among the magistrates.

TABLE 6

PENDING ASSIGNED CASELOAD AS OF 3/19/89

<u>Judge</u>	<u>Number of Cases (Docket Numbers)</u>	<u>Approximate No. of Defts.</u>	<u>Number of Citations (After Dups. Removed)</u>
Bernal	108	105	175
Bowen	94	89	156
Castillo	103	100	177
Chayet (Newly Appointed)	13	12	21
Dolny (Recently left the Bench)	50	46	84
*Clearing Court	25	23	36
*Drug Judge	33	33	50
*Get out of Jail Free Judge	2	2	3
Goldman	113	100	158
Hays	93	92	160
*Hearings	13	13	19
*Special Judge	30	29	52
Jett	138	128	230
Knopp	142	134	250
*Lex	1	1	2
Martin	114	108	186
Okoye (Assigned to Drug Cases under Special Grant)	30	26	47
*Pretrial	18	18	28
TOTAL	1,120	1,059	1,834

Average Citations Per Case
Consistently is 1.6

G. Handling Civil Traffic Cases

Most traffic offenses were decriminalized in Arizona in 1985, shortly after the National Center's site visits for the previous study. Some in city government are concerned that city court may not be sufficiently differentiating the handling of civil traffic matters from criminal traffic cases and that if city court assigned all civil traffic matters to hearing officers rather than magistrates, the cost of adjudicating civil traffic matters (about half of all filings) would go down. The National Center was asked to comment on whether the court should use hearing officers for all civil traffic cases or, alternatively, whether civil traffic violations should be handled and decided in the administrative hearing office the city has established to handle parking violations.

1. Use of Hearing Officers

Arraignments in civil traffic matters--when citizens have their first opportunity to plead "responsible" or "not responsible" before a judicial officer--are all handled by special magistrates. Special magistrates handle all arraignments because there are not enough regular magistrates to sit on these calendars. The use of special magistrates is like using hearing officers and may be less expensive, since special magistrates are paid only a maximum of \$150 a day and do not receive fringe benefits.

Recommendation No. 46

City court should continue to process all civil moving traffic violations. The use of hearing officers in city courts needs further analysis, but probably would not help control costs or improve case processing.

With special magistrates already handling arraignments, the question devolves to use of hearing officers for trials of civil traffic offenses. Currently, regular magistrates try most of the civil traffic cases.

The court does not have an exact count of the number of civil traffic violations tied to criminal traffic violations, but court officials estimate that about 25 percent of civil violations have associated criminal charges, too. Thus, hearing officers would not be able effectively to dispose of one in four of the civil traffic filings.

Further, with its clearing calendar the court is making excellent use of available magistrates to provide needed trials. It is unlikely that hearing officers would improve productivity markedly.

One circumstance might change this conclusion. Roughly 75,000 civil traffic cases a year do not have associated criminal matters. The number of cases requiring trials out of these 75,000 cases is unknown, but if the number were sufficient to keep one hearing officer occupied full time, one hearing officer assigned full time to hear civil traffic trials would free up time of regular magistrates for other matters. The National Center estimates a trial rate of ten percent or higher would be needed to keep one hearing officer busy full time with trials. In a court like city court, a trial rate that high is unlikely.

It was suggested that magistrates hear so many criminal matters that they have trouble adjusting their perspective regarding rules of evidence and burden of proof when they try a civil traffic matter. The National Center is not able to comment

except to note that if this is true, training and the coordinating committee proposed in Chapter II might be a more effective way to respond than hiring hearing officers.

2. Transfer to Administrative Hearing Process

Two thoughts lie behind the idea that the city would be better off if civil traffic cases were transferred to the administrative hearing office that now handles parking violations: 1) city court is not managing its civil traffic cases well; and 2) the city's cost-per-ticket and total cost would be less.

The first perception is erroneous. Even people who are concerned about city court acknowledge the improved level of management in the last four years. The perception may be based on a mistaken impression that a moving traffic violation that is civil in nature is more like a parking ticket than like a criminal moving violation. It is not. Parking tickets are issued against a vehicle, often are issued in batches by an officer riding or walking down a street, and almost never have any other, associated charges. Moving traffic tickets are issued to individuals, are issued by many officers throughout the city on an almost random basis, and six out of ten times involve more than one ticket per defendant; one out of four times there is a criminal as well as a civil charge.

Each case averages 1.6 tickets (officers put only one charge on a ticket) that have to be matched up by court staff before processing a citizen's case. Greater care, and thus greater time and cost, is needed when a charge is against a person and there is a good chance that there is more than one charge. The information that must be captured and retained about a traffic offense is much

greater than about a parking violation, even if the traffic offense is civil in nature. A representative parking and a representative traffic ticket are reproduced on the following page. It has been reported to city officials, and the National Center has confirmed, that data entry operators in the administrative hearing office can enter many more tickets per hour than data entry operators in city court. The reason is clear: they are doing substantially simpler and different work. There is no reason to believe that data entry operators in the administrative hearing office would enter moving traffic tickets materially faster than their counterparts in city court. Nor could the amount of information entered from a moving traffic ticket be reduced without jeopardizing the integrity of the adjudication process.

Magistrates can and do try associated criminal and civil charges together, thereby handling both more efficiently. If only civil matters were transferred, the workload shift would not be as great as some may imagine and inevitable human error about whether a charge is civil or criminal or has an associated criminal charge would result in some back-and-forth transfers and resulting delays.

The cost of processing each parking ticket should be less than the cost of processing a moving traffic ticket. The cost advantage probably would not survive the transfer, however. Plus, the administrative office would need new software (or a transfer of the city court's software), probably new computer hardware, and more (initially untrained) staff. There would be significant initial start-up costs that would take time to recoup. The transfer idea does not appear to be sound.

MOVING TRAFFIC TICKET

Complaint No. 1899219		Soc. Security No. [REDACTED]		Military <input type="checkbox"/> Yes <input type="checkbox"/> No		Civil Traffic <input checked="" type="checkbox"/> Criminal <input type="checkbox"/> Criminal Traffic <input type="checkbox"/>	
Case No. 8809071458		Driver's License No. [REDACTED]		State CA Class 3		COMPLAINANT IN THE: 3 <input type="checkbox"/> TUCSON CITY COURT, City of Tucson <input type="checkbox"/> JUSTICE COURT, Pima County <input type="checkbox"/> JUVENILE COURT, Pima County The undersigned says: The defendant did:	
STATE OF ARIZONA vs DEFENDANT		First [REDACTED] Middle [REDACTED] Last Name [REDACTED]		On 9 Month 7 Day 88 Time 12:5 AM/PM		At Location 612 + Campbell	
Address (Residence) [REDACTED] City [REDACTED] State [REDACTED] Zip [REDACTED]		Sex [REDACTED] Weight [REDACTED] Height [REDACTED] Eyes [REDACTED] Hair [REDACTED] Origin [REDACTED] Date of Birth [REDACTED]		Commit a: <input type="checkbox"/> Misdemeanor <input checked="" type="checkbox"/> Civil Traffic Violation <input type="checkbox"/> Accident <input type="checkbox"/> Approx. Speed [REDACTED]		In violation of Section [REDACTED] Law/Speed [REDACTED]	
Business/Address [REDACTED] City [REDACTED] State [REDACTED] Zip [REDACTED]		VER [REDACTED] Make [REDACTED] Model [REDACTED] Year [REDACTED] Color [REDACTED] Interior [REDACTED]		As Follows: NO PROOF INSURANCE		I certify that, upon reasonable grounds, I believe the defendant committed the act described, contrary to law, and have served a copy of this complaint upon the defendant.	
YOUR COURT DATE AND TIME IS: Month 9 Day 26 Year 88 Time 9:00 AM/PM		CITY COURT 103 E. ALAMEDA ST. TUCSON, AZ <input checked="" type="checkbox"/>		CRIMINAL <input type="checkbox"/> Without admitting guilt, I promise to appear as directed hereon.		COMPLAINANT MEDAL 1086	
JUSTICE COURT 115 N. CHURCH AVE. TUCSON, AZ <input type="checkbox"/>		JUVENILE COURT 2225 E. AJO WAY TUCSON, AZ <input type="checkbox"/>		Without admitting responsibility, I acknowledge receipt of this complaint.		Docket No. 888858821 Date of Disposition [REDACTED]	
Signature [Signature]		DISP CODE 19 FINE \$ or DAYS JAIL 					

LICENSE NUMBER [REDACTED] 109 STATE AR	
VIOLATION TIME DATE	HOUR 1030 MONTH 4 DAY 10 YR 87
LOCATION	WATER DEPT
<input type="checkbox"/> TCC 20-222 1. PK. VIOL. HANDICAP SIGNS \$50.00	
<input type="checkbox"/> TCC 20-223 2. PK. PROP OF ANOTHER W/O PERMISSION \$25.00	
<input type="checkbox"/> TCC 20-226 3. PK. VEH. FOR SALE UNPAVED LOT \$25.00	
<input type="checkbox"/> TCC 13.3/13-6 4. PK. VIOL. FIRE LANE OFC 10-207* \$25.00	
<input type="checkbox"/> 20-219 \$10.00	
<input checked="" type="checkbox"/> TCC 20-255 METER VIOL METER NUMBER 3 \$10.00	
<input type="checkbox"/> TCC 20-218.5 RED/YELLOW ZONE VIOL \$10.00	
<input type="checkbox"/> TCC 20-209 YELLOW FREIGHT LOAD ZONE VIOL \$10.00	
<input type="checkbox"/> TCC 20-218.6 NO PARKING SIGN \$10.00	
<input type="checkbox"/> OTHER PARKING VIOL TCC \$10.00 or \$25.00	
ISSUED BY: P.R. # 1531 NAME M.G.	

770562 ★ PARKING VIOLATION ★

CITY OF TUCSON, ARIZONA
MAKE CHECK OR MONEY ORDER PAYABLE TO
CITY OF TUCSON
RETURN THIS NOTICE WITH PAYMENT
(no currency, coins or stamps)

PAYMENT may be mailed, in this envelope, or made in person at ADMINISTRATIVE HEARING, 103 E. ALAMEDA, STE. 401, 4TH FLOOR, TUCSON. Office hours are 8:00 a.m. to 5:00 p.m., Monday thru Friday, except legal holidays.

Payment or request for a hearing to contest must be RECEIVED by the Collections Office within seven (7) working days (Saturdays, Sundays and legal holidays excepted) from the day on which the Parking Violation notice was issued OR A LATE PENALTY OF \$10 (plus \$25 for TCC 13-3/13-6) WILL BE ASSESSED. Both owner and operator are jointly and individually liable. Failure to pay or contest this violation may result in referral to a collection agency and/or Civil court action for collection of the increased fine plus costs.

IF YOU WISH TO CONTEST this violation, check here ☒ and print your name and address clearly in the space provided. A hearing will be scheduled and you will be notified by mail of the time and date of your hearing. Failure to appear at your hearing will result in a default judgment and may result in Civil court action for collection of the increased fine plus costs.

REPEAT VIOLATIONS ARE SUBJECT TO TOWING PER T.C.C. 20-12(3)

NAME [REDACTED] (PLEASE PRINT)

ADDRESS [REDACTED]

INQUIRIES: PHONE (602) 791-4585

REMOVE THE TAPE AND FOLD FLAP
OVER THIS AREA TO SEAL ENVELOPE.

PARKING TICKET

H. Criteria for Selecting and Retaining Magistrates

After the questions to be addressed in this study were agreed upon, the city council had to deal with a difficult situation involving reappointment of a magistrate. The council did not reappoint the incumbent. The incident brought into focus the question of proper criteria for initial appointments and for reappointments.

Neither the time nor resources available for this study allowed this significant issue to be addressed comprehensively. Rather, project staff have collected criteria and approaches used in other jurisdictions and include these materials in Appendix G. These materials should be made available to the Merit Selection Commission for study and consideration in light of the city's needs.

Recommendation No. 47

The city's Merit Selection Commission should review its criteria for initial selection and for reappointment of magistrates and revise and expand its criteria as appropriate. The criteria should be published.

While the National Center cannot prepare a full list of criteria that seem to be appropriate for city court, some comments supplementing the material in Appendix G may help.

It seems appropriate that criteria for reappointment would be different from the criteria for initial appointment. There is the obvious difference that when one is considering reappointment there are at least four years of on-the-job performance that were unavailable for an initial appointment. Beyond that, credit should be given for experience. People do not become good judges overnight. Many commentators and judges indicate it can take one-

to-two-years for a new judge to pass through the "learning curve." There is growing recognition around the country that judges, like many other professionals, may take 15 or more years to fully mature in their craft. The work of city court is not as varied or complex, and is not as likely to involve as many complex legal issues, as work in superior court. Nonetheless, it takes special qualities to handle large volume, repetitive calendars with grace and skill and to convey to citizens that their case is, in fact, understood by the judge to be important to and unique for that citizen. "Proper judicial demeanor" in a limited jurisdiction court means more than not laughing at witnesses, not berating or being rude to parties or witnesses, and not making up one's mind prematurely. Skill at managing a high-volume calendar and "judicial demeanor" in the special context of a court like city court should be assessed and rewarded by retention when found in a sitting judge.

Knowledge of calendar management principles and application of those principles increasingly are recognized as important for all judges. Criteria in this area would be appropriate for both initial appointments and reappointments, although the threshold appropriately can be higher for reappointment.

The National Center was asked if it would be appropriate for the city to require that attorney-members of the Merit Selection Commission have litigation experience.

Recommendation No. 48

Attorney-members of the Merit Selection Commission should be required to derive at least 15 percent of their annual income from litigation, preferably

with some of their caseload each year being city court or justice-of-the-peace cases.

Attorney-members on a selection commission would be looked to by citizen-members for their unique and informed opinion about the legal knowledge, skills, and performance of an applicant. By virtue of their training and presumed expertise, the opinions of attorney-members would carry special weight. It seems entirely appropriate for the city to require that attorney-members of the commission in fact have the practical expertise and understanding presumed.

V. CONCLUSION

The Tucson City Court has gone from chaos to competence, from a court overwhelmed by problems to a court with problems that now can be addressed and managed relatively easily. When one considers the state of the court just four short years ago, the progress made is remarkable.

One area that was a problem in 1984-1985 remains a problem in 1989: concern within city government that the court's operations somehow are deficient and that its level of concern about costs and revenue collection are inadequate. One can view and approach the problems in the former area as "personality" and "personal" issues only. Or, one can review them and approach them as institutional issues. This report suggests ways for both the city court and other units of city government to treat these concerns and respond to them as institutional issues. The National Center for State Courts recognizes that its physical and emotional distance from these problems and issues makes it easier for the Center's project staff to address the issues from an institutional perspective. At the same time, it is clear to the National Center that all units of city government in Tucson employ skilled, intelligent, and sophisticated public servants. It is for this reason that we remain optimistic about the ability of the court and other city agencies to solve the problems set forth in this report.

We are aware of the city's financial difficulties and have tried to fashion our recommendations with an understanding of the difficulty additional expenditures might involve. Most of our

recommendations do not require cash expenditures. When expenditures are recommended, we believe them to be necessary to enable the court to improve its service to the public and efficiently perform its duties.

With the continued support of the mayor and council and other city agencies, we believe city court will continue to provide a high level of service to the public and ancillary agencies.

APPENDIX A

Listing of Issues and Questions
To Be Addressed During Management Review

The study will consist of two major parts.

In part one, you shall conduct and complete a follow-up study to the National Center for State Courts' (NCSC) January 1985 report on City Court Administration. In this part of the study you will perform the following:

- Review and evaluate the current condition of City Court Administration and the progress Court Administration has made since 1985 in the areas addressed in the original NCSC study, and report on the Court's progress in implementing the study's recommendations. General topics addressed in the 1985 study included organization, management structure, staffing, administrative procedures, and physical facilities. The NCSC study team assessed the current and future requirements and needs of City Court, with particular attention to issues of organizational structure, managerial authority and continuity, personnel, case flow and records management, fines collection, and data processing.
- Evaluate the current and future requirements and needs of City Court Administration, and present recommendations concerning appropriate methods for meeting the requirements and needs that are identified. Particular attention should be given to addressing the following questions:
 - Have the resources authorized for the Court since FY 84/85 been satisfactory to meet the Court's legitimate needs?
 - What are Court Administration's future requirements for staffing and other resources likely to be?

- Is Court Administration optimizing its resources; i.e., is the Court achieving maximum benefits from the resources available?
- How does Tucson City Court Administration compare with other similar jurisdictions in terms of overall operational efficiency and effectiveness?
- Is the Court's Long-Range Plan a useful and valid guide to the Court's future needs?
- Is the Court's REACT computer system an efficient and effective system?
- What are the Court's current office automation needs and are these needs being met?
- How efficient and effective are the fine collection efforts of the Sentence Monitoring Unit?
- What are the major strengths and weaknesses of Court Administration?
- To what extent and in what areas, if any, can and should the Mayor and Council and the City Manager exercise authority over the management and operation of City Court Administration?

In part two, you will review and evaluate the organization and activities of the Judicial Division of Tucson City Court, and make recommendations to the Chief Magistrate for any needed improvements that you identify. In this part of the study you will perform the following:

- Review and update findings and recommendations on judicial-related subjects addressed in the 1985 report, with particular attention to sections of the report that addressed calendar management and fines as a sanction.
- Thoroughly review and evaluate the efficiency and effectiveness of the internal organization, staffing levels, work schedules, and administrative procedures of the Judicial Division. Particular attention should be given to addressing the following questions:
 - Is the Judicial Division adequately staffed with clerical support personnel and bailiffs?
 - Is coordination between the Magistrates and Court Administration effective and efficient with respect to case flow, record keeping, administrative procedures, and other policies and procedures of the Court?
 - Are City Magistrates (both regular and special) satisfactorily oriented and trained with respect to the Court's administrative activities? Do written procedures exist for the Magistrates' use?
 - What is the role of the Chief Magistrate in providing leadership and direction to the other Magistrates with respect to both judicial and administrative matters?
- Review and evaluate the judicial workload demands on City Magistrates and the quantity and quality of work accomplished. Particular attention should be given to addressing the following questions:

- Is the number of City Magistrates currently authorized adequate to the needs of the Court?
- Is the workload fairly and evenly distributed among the Magistrates?
- Are Special Magistrates used effectively and efficiently?
- Should the City Administration or Courts use hearing officers to assume some of the workload currently handled by Magistrates?
- Is City Court handling civil traffic infractions in an efficient and cost-effective way?
- Are courtrooms used to their full potential?
- Evaluate the current and future requirements and needs of the City Court Judicial Division. Particular attention should be given to the following questions:
 - With the future growth of the judicial workload, should the number of regular City Magistrates be increased, or should the Court instead increase its use of Special Magistrates?
 - Is the Court's Long-Range Plan a good guide to future needs of the Judicial Division?

APPENDIX B

Tuscon City Court Cash Balancing Procedures

BALANCING

- A. Daily Cash Count Reports are compared to Total Revenue Per Terminal Report.
- B. When they don't balance:
 1. Cash
 - a. Every entry from the Log of Cash Payments is checked for accuracy.
 - b. If error is located Correction /Void slip is completed. Total Revenue Per Terminal, Totals By Account By Terminal, Summary Report Totals are changed per correction slip.
 - c. Computer entry is made to correct file.
 - d. If error cannot be located an entry is made on Total Revenue Per Terminal Report indicating discrepancy. Totals are not changed.
 2. Checks
 - a. Compare each check to the entry made in the computer.
 - b. When the error is located a Correction/Void slip is completed. Total Revenue Per Terminal, Totals By Account By Terminal, Summary Report Totals are changed per correction slip.
 - c. Computer entry is made to correct file.
- C. Summary Report Totals by Account - each account is totaled across to equal "amount paid" column.
 1. When account doesn't total across:
 - a. Go to Totals By Account By Terminal - total each terminal across for the account in question.
 - b. When terminal with error is located refer to Daily Payment Transactions Report - locate terminal - locate account - total each entry across to determine error. Look at collection record in computer to determine correction. Complete Correction/Void Slip.
 - c. Make necessary corrections to totals on:
Total Revenue Per Terminal Report
Totals by Account by Terminal
Summary Report Totals
 - d. Computer entry is made to correct file.

000

BANK DEPOSIT

0-00 \$

0-05 +

0-15 +

COIN

002

0-20 \$

000

0-00 \$

500-00 +

500-00 +

500-00 +

500-00 +

500-00 +

500-00 +

20-00 +

160-00 +

12-00 +

CURRENCY

009

5,202-00 \$

000

0-00 \$

892-75 +

105-00 +

1,144-00 +

2,207-00 +

190-50 +

CHECKS

005

5,647-25 \$

000

0-00 \$

0-20 +

5,242-00 +

5,647-00 +

COIN

CURRENCY

CHECKS

8,889-20 \$

TOTALS

DEPOSIT

The supervisor or designated person is responsible for getting all the revenue ready for the armored car pickup.

After all the money has been counted and adding machine tapes run on checks and currency, the following steps are to be taken for deposit to First Interstate Bank.

- A. Deposit Tape - The deposit tape lists the total amount of currency, coin and checks being deposited from all the cash drawers for that day. Run one tape on the adding machine. See example.
 - 1. Add currency totals from all Cash Count Reports. Total.
 - 2. Add coin totals from all Cash Count Reports. Total.
 - 3. Add all check totals from Cash Count Reports. Total.
 - 4. Use money straps to band together all currency by denomination.
 - 5. Total all the above items. This total should balance to the Daily Payment Transaction Report.
 - 6. The original tape is to be included with the deposit to the bank.
- B. Deposit Slip - Prepare an original and four copies of the deposit slip for the Deposit Clearing Account, using total currency, checks and coin totals from Deposit Tape.
 - 1. Deposit is verified by Fiscal Unit of City Court.

Distribution -

- a. Original and two copies for bank.
 - b. One copy to City Collections with Summary Report Totals and Total Revenue Per Terminal reports.
 - c. One copy for our files.
- C. Deposit Bag -
 - 1. All loose coins should be inserted into coin envelope. Total amount of coins should be recorded on coin envelope in space provided.
 - 2. Combine currency, coin envelope and check bundles, the original and two copies of the deposit slip; and place in deposit bag.
 - 3. Record bag number, amount of deposit and number of bags on armored car control sheet.
 - 4. Place locked bag in safe.
 - 5. Give to Loomis representative after he signs control sheet.

Terminal # _____

Date _____

LOG OF CASH PAYMENTS

[illegible]

CLOSING OUT CASH DRAWERS

- A. Cashiers count money in drawer at end of shift and turn in their log of cash payments.
- B. Money is verified by a designated employee from Case Management or Court Services.
- C. Cash drawers and logs of cash payments are locked in the safe overnight.

START OF DAY

- A. Cash drawers are removed from safe by the Supervisor.
- B. All money except for the \$50 change fund is taken from each drawer.
- C. A Cash Count Report is prepared for each drawer.
- D. The Cash Count Report is verified by an employee of the Public Services Section.
- E. Preparation of the Deposit is then completed.



MEMORANDUM

DATE: April 14, 1989

TO: Mike Parisi
Treasury Administrator
Finance Department

FROM: Ron Zimmerman *RZ*
City Court Administrator

SUBJECT: CASH BALANCING PROCEDURES

I am enclosing for your review and comment a copy of our daily reconciliation and balancing procedures. Please let me know if you have any suggestions. You have my invitation to visit our Public Services division and observe the procedures in action. I will welcome any recommendations you may have.

In addition, I have given instructions that the daily cash summary report will be delivered to Finance within 24 hours, excepting those rare occasions where the computer is down. You will be advised by phone in that case by the Public Services Manager. My Fiscal Unit clerk will obtain a written receipt for each delivery and we will maintain a receipt record. This is a very demanding schedule for us. The daily operation in Public Services is completed between 2:00 p.m. and 3:00 p.m. My Fiscal Unit needs 30 minutes to conduct verification and hand-carry to Finance. Collections closes at 4:00 p.m. As you can see, there is virtually no tolerance for a difficult balancing. On a day when it is physically impossible to deliver by 4:00 p.m., my staff will remain on overtime and have the report ready when you open in the morning, unless you grant an extension.

RZ:s1

Enclosure

cc: Judge Martin
Nancy Moore
Vicki Madaras
Boris Baird
Donald E. Lowe

DAY: THU C: FOUR WAR
TIME: 12:00 PM
TOTAL REVENUE PER TERMINAL

		AMOUNT	
		PAID	
TERMINAL NO	IPRINTTYP		
1	ICA ✓	1610.50 ✓	
	ICK ✓	527.20 ✓	
2	ICA ✓	2401.45 ✓	
	ICK ✓	1232.25 ✓	
3	ICA ✓	720.00 ✓	
	ICK ✓	418.50 ✓	
4	ICK	1907.50 ✓	
TOTAL REVENUES ALL TERMINALS		10719.40 ✓	

NOTE: THE PROCEDURE TABULATE USED 4-81 SECONDS AND 87LK AND PRINTED PAGE 10.

PROC TABULATE DATA = PAYMENTS MISSING: 79 TABLE 2 *

TITLE1 = TUESON CITY COURT:

TITLE2 = DAILY PAYMENT TRANSACTION SUMMARY REPORT:

TITLE3 = TOTAL REVENUE PER TERMINAL:

CLASS PMREGIST:

VAR PMCOLANT:

LABEL PMREGIST = TERMINAL NO:

TABLE PMCOLANT = AMOUNT:

TABLE (PMREGIST ALL):

KEY LABEL SUM = PAID

ALL = TOTAL REVENUES ALL TERMINALS:

145
146
147
148
149
150
151
152
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158
159

CITY OF IUCSON

REVENUE DIVISION

CASH COUNT REPORT

①

DATE

3/24/89

STATION

SDA

#7

CURRENCY		COIN	
_____ x Ones		_____ x .01	
_____ x Twos		_____ x .05	
_____ x Fives		_____ x .10	
_____ x Tens		_____ x .25	
_____ x Twenties		_____ x .50	
_____ x Fifties		_____ x 1.00	
_____ x Hundreds			
Total Currency	\$ _____	Total Coin	\$ _____
		Deposit Slip Total	\$ _____
		Add: Credit Advices	\$ _____
		Less: Charge Advices	\$ _____
		Total Misc. Items	\$ _____

(Collections Only)

Currency Total

Coin Total

Checks Total

Misc. Item Total

GRAND TOTAL

Cashier

Verified by

Bag No.

3057.50

3059.50

Madara

Seaman

DEPOSIT WITH
ERROR.
CORRECTION MADE.

CC FORM #35

SUPERVISOR'S SIGNATURE

add 25 to 2200-1836

REASON:

AMOUNT

ACCOUNT #

TRANS # 8925105

TERMINAL # 07

CASHIER SDA

DATE 3/24/89

CITY COURT
CORRECTION/VOID SLIP

DEPOSIT SLIP



First Interstate Bank of Arizona, N.A.
Tucson Main Office 201-68
160 N. Stone
Tucson, Arizona 85701

USE OTHER SIDE
FOR LISTING
ADDITIONAL CHECKS
OR ATTACH LIST

PLEASE IDENTIFY
ATTACHED TAPES
WITH YOUR
ACCOUNT NUMBER

DATE 3/24 1989
TO THE CREDIT OF

CITY OF TUCSON
TREASURER'S ACCOUNT
CITY COURTS NO. 02

A HOLD FOR UNCOLLECTED FUNDS MAY BE PLACED ON CHECKS OR SIMILAR INSTRUMENTS YOU
DEPOSIT. ANY DELAY WILL NOT EXCEED THE PERIOD OF TIME PERMITTED BY LAW.

CURRENCY	60	4710	-
COIN	5	19	
CHECKS	1	529	26
	2	1732	2
	3	618	52
	4	3057	52
	5		
	6		
TOTAL FROM OTHER SIDE			
TOTAL ITEMS	TOTAL DEPOSIT	10719	4

000000211 5555010091

20193960111

23:07 FRIDAY, MARCH 24, 1989 22

TUCSON CITY COURT
DAILY PAYMENT TRANSACTION SUMMARY REPORT
TOTALS BY ACCOUNT BY TERMINAL

TERMINAL NO	PMCOLTYP	AMOUNT		FINE/FEE		EMOF		372	
		PAID		PAID		PAID		2200-R276	2200-R200
12	121-8308	179.25		199.36		0.00		39.89	
	121-8306	1325.00		879.93		120.00		325.07	
	121-8306	446.50		373.23		0.00		73.29	
	121-8310	351.75		293.78		0.00		49.17	
	121-8309	440.00		376.02		0.00		63.78	
	121-8621	15.00		15.00		0.00		0.00	
	12208-R113	105.00		0.00		0.00		0.00	
TOTALS FOR ALL COLLECTION TYPES: 2719.80 2719.80 468.00 2141.80									

NOTE: THE PROCEDURE TABULATE USED 4.71 SECONDS AND 871K AND PRINTED PAGES 20 TO 22.

PROC TABULATE DATA = PAYMENTS MISSING: / * TABLE 4 0/

TITLE1 TUCSON CITY COURT:

TITLE2 DAILY PAYMENT TRANSACTION SUMMARY REPORT:

TITLE3 TOTALS BY ACCOUNT:

CLASS PMCOLTYP:

VAR PMCOLANT PMFEANT PMOFFE PMTHRTYS:

FORMAT PMCOLTYP \$CTYPE:

LABEL PMCOLANT=COLLECTION TYPE:

PMFEANT=FINE/FEE

PMOFFE=EMOF

PMTHRTYS=372

TABLE (PMCOLTYP ALL):

KEYLABEL SUM = PAID

ALL = TOTALS FOR ALL COLLECTION TYPES:

176
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193

DEPOSIT SLIP



First Interstate Bank of Arizona, N.A.
Tucson Main Office 301-48
121 N. Stone
Tucson, Arizona 85701

USE OTHER SIDE
FOR LISTING
ADDITIONAL CHECKS
OR ATTACH LIST

PLEASE IDENTIFY
ATTACHED TAPES
WITH YOUR
ACCOUNT NUMBER

DATE 4/10 19 89
TO THE CREDIT OF

CITY OF TUCSON
TREASURER'S ACCOUNT
CITY COURTS NO. 82

A HOLD FOR UNCOLLECTED RENTS MAY BE PLACED ON CHECKS OR OTHER INSTRUMENTS YOU
DEPOSIT. ANY HOLD WILL NOT EXCEED THE PERIOD OF TIME PERMITTED BY LAW.

CURRENCY			
CASH		6110	-
CHECKS		186	-
CHECKS	1	41ST	9282.50
MINUS	2	61ST	967.50
IN DOLLARS	3	61ST	2479.00
EACH	4	61ST	659.00
ITEM IS	5		
ENCLOSURE	6		
TOTAL FROM OTHER SIDE			
TOTAL		TOTAL DEPOSIT	18106.36

⑈000002⑈ ⑆555501009⑆

201939601⑈

FD-557 (5-88)

Deposit Sample
BALANCED WITHOUT CORRECTION

TUCSON CITY COURT
 DEPT. CLERK'S OFFICE
 TUCSON, ARIZONA

	AMOUNT	FINE/FEE	END OF		37%
			2200-R276	PAYD	2200-R200
	PAYD	PAYD	PAYD	PAYD	PAYD
PMCOLTYP					
ATTORNEY FEE 121-8791	255.00	215.00	0.00	0.00	0.00
CHILD RESTRAINTY 2200-R214	25.00	25.00	0.00	0.00	0.00
BOND 2200-R078	100.00	0.00	0.00	0.00	0.00
CR MV TRAFFIC 121-8307	324.00	228.68	20.00	80.32	
CR NON-MV TRAF 121-8308	105.00	83.40	0.00	21.60	
CIVIL SANC 121-8306	7275.75	4855.44	605.50	1789.81	
CIVIL SANC N-E 121-8306	4000.25	4075.61	0.00	724.54	
DOGS 2200-R436	125.00	125.00	0.00	0.00	
DUI 121-8307	2722.50	2227.15	127.50	365.85	
DV & HARR FEE 121-8304	200.00	200.00	0.00	0.00	
CR MISDEMEANOR 121-8307	1851.45	1508.04	0.00	343.41	
MISCELLANEOUS 121-8623	67.00	67.00	0.00	0.00	
ALCOHOL FUND 2200-R035	140.00	0.00	0.00	0.00	
RESTITUTION 2200-R113	123.41	0.00	0.00	0.00	
TRANSCRIPT FEE 121-8617	7.00	7.00	0.00	0.00	
TOTALS FOR ALL COLLECTION TYPES	18106.36	13449.37	753.00	3320.58	

NOTE: THE PROCEDURE TABULATE USED 4.05 SECONDS AND 874K AND PRINTED PAGE 24.

PROC CHART DATA = PAYMENTS: /% CHART 1 8/

TITLE1 TUCSON CITY COURT
 TITLE2 DAILY PAYMENT TRANSACTION BLOCK CHART
 TITLE3 PAYMENT TYPE AMOUNTS ON EACH REGISTER

FORMAT PHCOLANT DOLLAR12.2
 BLOCK PHREGIST MISSING SUMVAR=PHCOLANT
 GROUP=PHPHNTYP

DISCRETE SYMBOL=120A

LABEL PHREGIST=TERMINAL NO
 PHPHNTYP=PAYMENT TYPE

208
 209

TUCSON CITY COURT
REV AS ON LRY
TOTAL REVENUE PER TERMINAL

TERMINAL NO	IPRPHSTYP	AMOUNT	
		PAID	
11	ICA	576.50	✓
12	ICK	454.00	✓
13	ICA	3522.61	✓
14	ICK	2475.50	✓
15	ICA	2010.75	✓
16	ICK	947.50	✓
17	ICK	8042.50	✓
TOTAL REVENUES ALL TERMINALS		18106.36	✓

NOTE: THE PROCEDURE TABULATE USED 3.78 SECONDS AND 574K AND PRINTED PAGE 17.

150 PROC TABULATE DATA = PAYMENT'S MISSING: 76 TABLE 2 47
 151 TITLE1 = TUCSON CITY COURT:
 152 TITLE2 = DAILY PAYMENT TRANSACTION SUMMARY REPORT:
 153 TITLE3 = TOTAL REVENUE PER TERMINAL:
 154 CLASS PHREGIST:
 155 VAR PHCOLANT:
 156 LABEL PHREGIST = TERMINAL NO:
 157 PHCOLANT = AMOUNT:
 158 TABLE (PHREGIST ALL Y,
 (PHCOLANT):
 159 KEY LABEL SUM = PAID
 160 ALL = TOTAL REVENUES ALL TERMINALS:
 161
 162
 163
 164

IN (COU
DAILY PAYMENT TRANSACTION SUMMARY REPORT
TOTAL REVENUE PER TERMINAL

TERMINAL NO	AMOUNT	
	PAID	
1	1037.50	✓
13	5916.31	✓
16	2978.25	✓
17	8092.50	✓
TOTAL REVENUES ALL TERMINALS	18206.56	✓

NOTE: THE PROCEDURE TABULATE USED 3.57 SECONDS AND 874K AND PRINTED PAGE 20.

PROC TABULATE DATA - PAYMENTS MISSING: 78 TABLE 3 27

TITLE1 TUESON CITY COURT

TITLE2 DAILY PAYMENT TRANSACTION SUMMARY REPORT

TITLE3 TOTALS BY ACCOUNT BY TERMINAL

CLASS PRECIST PMOCTYP

VAR PMCOLANT PMFEANT PMOFFEE PMOIRTY

FOR NAT PMOCTYP SCTYPE

LABEL PMOCTYP PMFEANT PMOFFEE

PMFEANT PMOFFEE 2200-R276

169
165
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TULSA COUNTY COURT
DAILY PAYMENT TRANSACTION SUMMARY REPORT
TOTALS BY ACCOUNT BY TERMINAL

TERMINAL NO	PMCDL TYP	AMOUNT		FINE/FEE		EMOF		372	
		PAYD		PAYD		PAYD		PAYD	
1	BOND								
1220-R078		100.00	0.00			0.00		0.00	
1	CIVIL SANC								
121-830L		716.00	275.28			30.00		70.72	
1	CIVIL SANC N-E								
121-830L		541.50	418.25			0.00		123.25	
3	ATTORNEY FEE								
121-8791		87.00	80.00			0.00		0.00	
1	CR MV TRAFFIC								
121-8307		130.00	103.40			5.00		21.60	
1	CR NON-MV TRAF								
121-8306		25.00	18.25			0.00		6.75	
1	CIVIL SANC								
121-830L		225.25	153.83			145.50		547.92	
1	CIVIL SANC N-E								
121-830L		2772.25	1742.49			0.00		347.85	
1	DOGS								
2200-R636		25.00	25.00			0.00		0.00	
1	DOJ								
121-8310		350.00	330.03			0.00		19.97	
1	DOV & HARR FEE								
121-8314		115.00	115.00			0.00		0.00	
1	CR MISDEMEANOR								
121-8307		801.20	666.42			0.00		134.78	
1	MISCELLANEOUS								
121-862L		25.00	25.00			0.00		0.00	
1	RESTITUTION								
2200-R113		88.42	0.00			0.00		0.00	
1	TRANSCRIPT FEE								
121-8617		7.00	7.00			0.00		0.00	

(CONTINUED)

DAILY PAYMENT TRANSACTION SUMMARY REPORT
TOTALS BY ACCOUNT BY TERMINAL

TERMINAL NO	PRCOLTYP	AMOUNT		FINE/FEE		EMOF		372	
		PAID		PAID		PAID		PAID	
16	1CR MV TRAFFIC 121-8307	75.00		64.60		5.00		5.00	
	1CR NON-MV TRAF 121-8308	20.00		14.60		0.00		5.00	
	1CIVIL SANC 121-8306	1309.00		880.52		130.00		338.48	
	1CIVIL SANC N-E 121-8306	809.50		759.29		0.00		55.21	
	1OUT 121-8330	145.00		145.00		0.00		0.00	
	1DV 6 MARK FEE 121-8314	85.00		85.00		0.00		0.00	
	1CR MISDEMEANOR 121-8307	474.75		388.04		0.00		76.71	
	1MISCELLANEOUS 121-8621	20.00		20.00		7.00		0.00	
	1RESTITUTION 1200-8113	35.00		0.00		0.00		0.00	
17	1ATTORNEY FEE 121-8741	135.00		135.00		0.00		0.00	
	1CHILD RESTRAINT 1200-8214	25.00		25.00		0.00		0.00	
	1CR MV TRAFFIC 121-8307	129.00		60.68		10.00		53.32	
	1CR NON-MV TRAF 121-8308	60.00		50.55		0.00		9.45	
	1CIVIL SANC 121-8306	9332.50		2215.81		270.00		825.69	
	1CIVIL SANC N-E 121-8306	1357.00		1160.72		0.00		196.28	

(CONTINUED)

TUCSON CITY COURT
DAILY PAYMENT TRANSACTION SUMMARY REPORT
TOTALS BY ACCOUNT BY TERMINAL

TERMINAL NO	1 PMCOLTYP	AMOUNT		FINE/FEE		ENDF		37%	
		PAID		PAID		2200-R27%	PAID	2200-R200	
7	DOGS								
	2200-R236		100.00		300.00		0.00		0.00
	DUI								
	121-8310		222.50		1754.12		127.50		345.88
	FOR MISDEMEANOR								
	121-8314		570.50		453.58		0.00		136.72
	MISCELLANEOUS								
	121-8421		22.00		22.00		0.00		0.00
	ALCOHOL FUND								
	1200-R935		150.00		0.00		0.00		0.00
	TOTALS FOR ALL COLLECTION TYPES		10106.36		13444.37		753.00		3320.58

TOTALS FOR ALL COLLECTION TYPES AND 87% AND PRINTED PAGES 21 TO 23.

NOTES: THE PROCEDURE TABLE USED 9.27 SECONDS AND 87% MISSING: /% TABLE 4 %/

PROC TABULATE DATA = PAYMENTS MISSING:

TITLE1 TUCSON CITY COURT:

TITLE2 DAILY PAYMENT TRANSACTION SUMMARY REPORT:

TITLE3 TOTALS BY ACCOUNT:

CLASS PMCOLTYP:

VAR PMCOLANT PMFEANT PMOFFFE PMTHRTYS:

FORMAT PMCOLANT PMCOLLECTION TYPE:

LABEL PMCOLANT AMOUNT:

PMFEANT FINE/FEE:

PMTHRTYS PMTHRTYS:

TABLE (PMCOLTYP ALL):

KEY LABEL SUM = PAID:

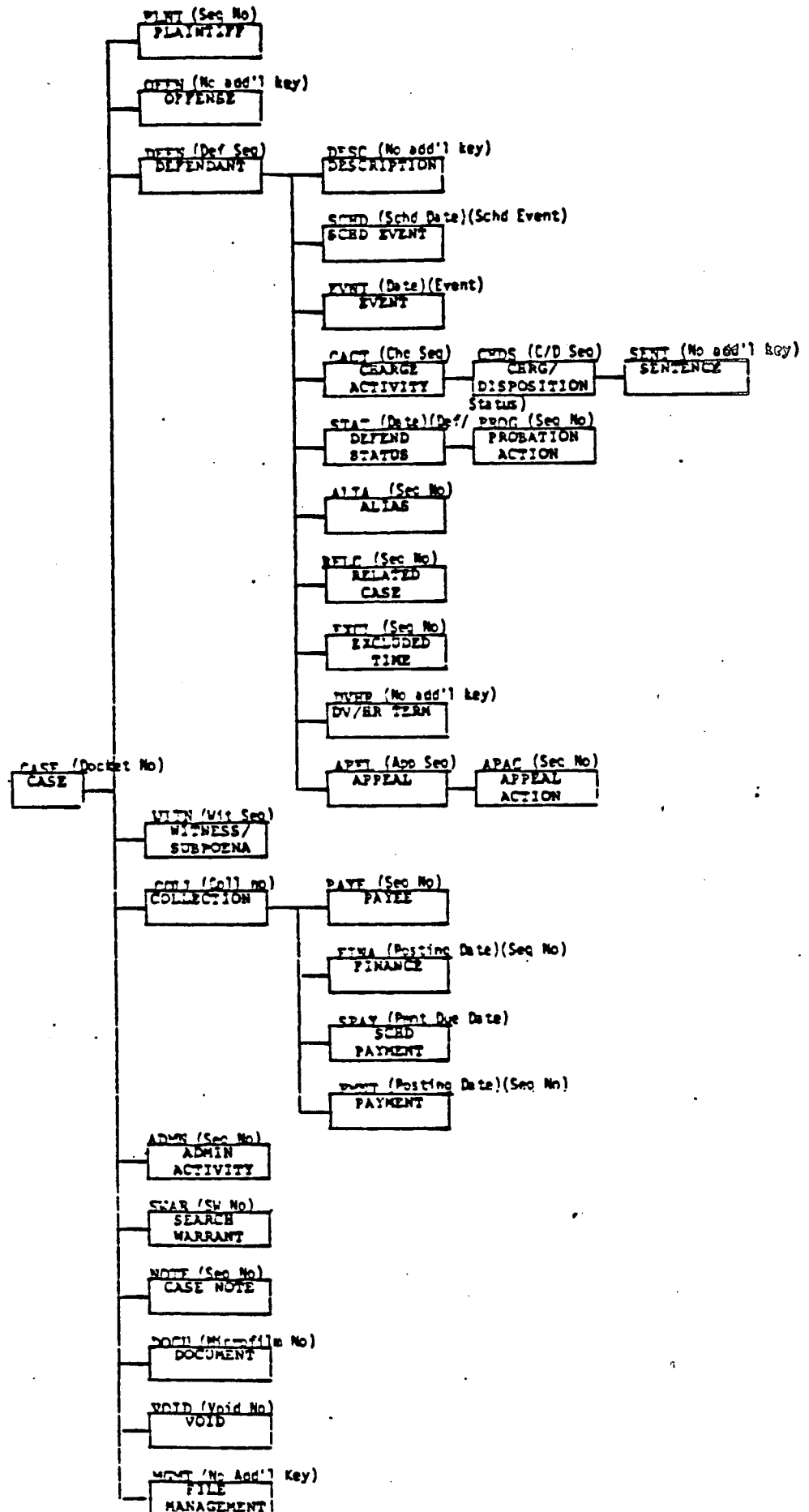
KEY LABEL ALL = TOTALS FOR ALL COLLECTION TYPES:

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APPENDIX C

REACT System Logic and On-Line Inquiries

REACT SYSTEM LOGICAL DIAGRAM



**ON-LINE ENTRY GUIDE
KEY DATA REQUIREMENTS**

General Format - UPDT/ (Function Code) (Record Code)/Key Data

Function Code -
 A = Add
 M = Modify
 D = Delete
 R = Replicate

<u>Record</u>	<u>Code</u>	<u>Key for "A"</u>	<u>Key for "M" "D" "R"</u>
Admin Activity	ADMN	Docket No	Docket No/Seq No
Alias	ALIA	Docket No/Def Seq	Docket No/Def Seq/Seq No
Appeal	APEL	Docket No/Def Seq	Docket No/Def Seq/App Seq
Appeal Action	APAC	Docket No/Def Seq/ App Seq	Docket No/Def Seq/App Seq/ Seq No
Case	CASE	Docket No	Docket No
Case Note	NOTE	Docket No	Docket No/Seq No
Charge Activity	CACT	Docket No/Def Seq	Docket No/Def Seq/Chg Seq
Charge/Disposition	CHDS	Docket No/Def Seq/ Chg Seq	Docket No/Def Seq/Chg Seq/ C-D Seq
Collection	COLL	Docket No	Docket No/Coll No
Defendant	DEFN	Docket No	Docket No/Def Seq
Defendant Status	STAT	Docket No/Def Seq	Docket No/Def Seq/Date/ Def Status
Description	DESC	Docket No	Docket No/Def Seq
Document	DOCU	Docket No	Docket No/Microfilm No
DV/HR Term	DVHR	Docket No/Def Seq	Docket No/Def Seq
Event	EVNT	Docket No/Def Seq	Docket No/Def Seq/Date/ Event
Excluded Time	EXCL	Docket No/Def Seq	Docket No/Def Seq/Seq No
File Management	MGMT	Docket No	Docket No
Finance	FINA	Docket No/Coll No	Docket No/Coll No/ Posting Date/Seq No
Offense	OFFN	Docket No	Docket No
Payee	PAYE	Docket No/Coll No	Docket No/Coll No/Seq No
Payment	PMNT	Docket No/Coll No	Docket No/Coll No/ Posting Date/Seq No
Plaintiff	PLNT	Docket No/Seq No	Docket No/Seq No
Probation Action	PROG	Docket No/Def Seq/ Date/Def Status	Docket No/Def Seq/Date/ Def Status/Seq No
Related Case	RELC	Docket No/Def Seq	Docket No/Def Seq/Seq No
Schd Event	SCHD	Docket No/Def Seq	Docket No/Def Seq/ Schd Date/Schd Event
Schd Payment	SPAY	Docket No/Coll No	Docket No/Coll No/ Pmnt Due Date
Search Warrant	SWAR	Docket No	Docket No/SW No
Sentence	SENT	Docket No/Def Seq/ Chg Seq/C-D Seq	Docket No/Def Seq/ Chg Seq/C-D Seq
Void	VOID	Docket No	Docket No/Void No
Witness/Subpoena	WITN	Docket No	Docket No/Wit Seq

APPENDIX D

REACT Projects' Priority List

REACT TASKS PRIORITY LIST

April 14, 1989

<u>TASK</u>	<u>E.T.C.</u>
Install fix to MVD program - move REACT SSN to MVD tape DL field	04-06-89
CACCTIS batch update	04-18-89
REACT system purge - Phase II (condition precedent)	05-10-89
Court Scheduling Module - Testing	05-10-89
Screenpac screens: Rearrange, delete from, add to, add verification field	06-01-89
Warrant notices	06-01-89
REACT retailoring	TO BE DETERMINED
Electronic Docket: Driving Misd. Arrm.) Crim. Misd. Arrm. } Video Misd. Arrm.)	TO BE DETERMINED
Alias Report (CACCTIS)	TO BE DETERMINED
Prosecutor's form on screen or print priors	?
CC: T. Martin Ron Nancy Beaver Tom Vicki Maryanne Gloria C-B	

SAS CONVERSION SCHEDULE

April 14, 1989

Job Name	Description	Priority	Completion Date
CRUJTC02-06	Reports for Supreme Court Report	4	04-30
CRW2TC	Under Advisement	5	05-01
ADVISE	Tickle Report		
TICDTE	DV/HR Closings		
DVHARR	Probation Terminations (Monitored)		
PBTERM	Probation Terminations (Unmonit.)		
PBHEAR	Scheduled Probation Related Hearings		
INTERP	Interpreter Report		
DLPMWK	Delinquent Restitution Payments - Weekly		
PBRERT	Probation New - Past Week Monitored		
ADD XXXXXX	Bond Report (4)		
CRM1TC	Delinquent Attorney Fees	6	05-01
ATYFEE	DUI/PROS - Assigned Case Load		
DUIPRO	Schedule Events Past Due		
SEPAST	Civil w/o INS for Destruction		
TERM1A	Civil with INS for Warehouse		
TERM1B	Criminal for Warehouse		
TERMS2	Citations for Amendment		
AMENDS	Quash & Dismissal - Crim over 1 yr		
QD1TRC	Quash & Dismissal - Crim over 3 yr		
QD2TRC	Quash & Dismissal - Crim over 5 yr		
QD3TRC			
CRA1TC	Criminal Violations		After all
VIOLA1	Civil Violations		else
VIOLA2			

SAS CONVERSION SCHEDULE

April 14, 1989

Job Name	Program Name	Description	Priority	Completion Date
<u>NEW REPORTS</u>				
CRUJTC	CDG	DEG Report	2	04-15
CRUJTC	JCP	Caseload - Judicial Productivity	Open	To be announced
CRUJTC	NT	Report on completed cases that have not terminated	Open	To be announced
CRUJTC	CCP	SAS report on CPAY dockets	Open	To be announced
CRUJTC	MR	Money Penalty Status Report	Open	To be announced
CRUJTC	CXX	Charge Disps. of FTA with no open Defn Stat of BW no following CDs	Open	To be announced
CRUJTC	CXX	Dockets with improper name entry ie first name first, no comma, etc.	Open	To be announced
CRUJTC	CXX	No CACT and CHDS with Offence Recs.	Open	To be announced
CRUJTC	CXX	Aging Report - Pending Crim Traff Case	Open	To be announced
CRUJTC	CXX	Zip Codes	Open	To be announced
CRUJTC	CXX	Military Report	Open	To be announced

APPENDIX E

REACT Retailoring Needs



MEMORANDUM

DATE: February 6, 1989

TO: MISAC

FROM: Ron Zimmerman *RZ*
Court Administrator

SUBJECT: REACT RETAILORING

When you next meet to ponder your recommendations for the FY89/90 budget, I request your most careful and considered deliberation of our REACT retailoring package. I list below our nine priorities for retailoring as a short-story of the need.

Priority:

1. Collection module modification. Collection types in the module are hard-coded. Since REACT implementation in August 1986, several new laws have imposed additional collection and distribution imperatives on Arizona courts. Some examples are: overweight trucks, marijuana, child restraints and DUI levy. Currently, we must handle all of this work manually. Modifying the collection module to a court adjustable mode will enable us to handle these collections automatically, the same as all others. Manual manipulation is inefficient and error-prone and denies us the full use of an installed system.
2. Add initials and date field to collection record. Without this capability it is virtually impossible to track the performance of our enforcement officers with regards to delinquent fine collections.
3. Screen to close case unconditionally. Many cases cannot be closed by the software closure logic. Unless we can close them ad hoc, they become "eternal". This case status skews the accuracy of certain reports and causes omission from the records disposition list.
4. Add operator's initials to update screens. Currently, we can track an error back to the transaction which contained it. Without an operator's initials, however, it is nearly impossible to conduct the "point" training necessary to reduce operator error.

MISAC: REACT Retailoring
Page 2

5. Modification of EVENT record without deletion of related SCHED EVENT record. Entry of an event closes out an open scheduled event. In the current system, the record reflects what was originally scheduled and what actually transpired. If the event record is subsequently modified, the modification requires deletion of the scheduled event. At that point, the record reflects only what actually occurred. This skews management reports that have as selection criteria the scheduled event record. It also removes a piece of the puzzle that is vital to the evaluation of the status of the case.

6. Change the ADMINISTRATIVE ACTIVITY record to prevent case from closing with an open AA. The case closure logic does not contain a criterion of ADMIN ACT = zero. Cases will, therefore, close when there is still some action pending (i.e. review by the judge.). Obviously, a case with any unresolved activity should not terminate.

7. Block default on criminal charges. This is a simple mechanism to avoid operator error. Default judgements are not appropriate (are illegal) on criminal charges. Currently, the system will accept such an error and dutifully report it to AZ DMV. All manner of lip biting then ensues.

8. Delete/Add indices. Chuck Farrington can explain this need most eloquently.

9. New defendant status record of ZONE RESTRICTION. Without this addition we have no way of entering prostitute zone restrictions into the defendant status record.

Thank you for your consideration.

RZ:sl

cc: Judge Martin
Court Managers

APPENDIX F

City Attorney Opinion - Collection
of City Revenues By Other Than
Finance Director and Staff



MEMORANDUM

DATE: April 27, 1989

TO: Kay Gray
Director of Finance

FROM: *Dwight E. Eller*
Dwight E. Eller
Assistant City Attorney
(x4221)

SUBJECT: Collection of City Revenues By Other Than Finance Director and Staff

Councilmember Laos, as Chairman of the Mayor and Council Audit Subcommittee, has requested through your office an opinion from this office with respect to whether it is a violation of Charter Ch. XXIX, Sec. 3(6) for any City office or department, other than the Finance Department, to collect City revenues. It is the opinion of this office that, with the exception of City Court, collection by any department or office, unilaterally administered without the control of the Finance Director, is a violation of the Charter. With respect to City Court, the responsibility given the Magistrate by Charter Ch. XXII, Sec. 4, third sentence, probably survived the later adoption of Charter Ch. XXIX, hence the Magistrate must perform the collection function mandated by the cited provision. Since Charter Ch. X, Sec. 1 prohibits the Manager from exercising authority over the Magistrate, and since Ch. XXII, Sec. 4 places the Magistrate under the direct control of the Mayor and Council, the Mayor and Council can impose collection administrative requirements on the Magistrate either directly or through the Manager or Finance Director functioning ministerially within limits established by the Mayor and Council.

DISCUSSION:

A. Departments and Offices other than City Court.

Charter Ch. X, Sec. 1 excludes from City Manager administrative jurisdiction and control the City Clerk, Attorney and Magistrate and therefore these officers under this Section standing alone would not be responsible to the Finance Director or the Manager with respect to revenue collection activities performed by any of them. However, Charter Ch. XXIX was later adopted and states that the Finance Director shall be responsible subject to the direction of the City Manager for the administration of the financial affairs of the City and to that end has authority to

and is required to collect all City revenues. This indicates that the Clerk and Attorney must adhere to any revenue collection administrative requirements established by the Finance Director. All other administrative officers of the City are subject to City Manager direction and control and must either act as agencies of the Finance Director or allow the Finance Director to perform their revenue collection activities, in either case as directed by the City Manager. The Finance Director, subject to the direction of the City Manager, must establish or cause to be established all revenue collection administrative requirements including but not limited to those in the areas of procedure, staffing, internal control, accounting, records and transmission, deposit and investment of City revenues. Whether any revenue operations in the various departments and offices are to continue subject to these requirements but without control and supervision by the Finance Director or whether they are to be assumed and administered directly by the Finance Director through her staff are matters to be determined by clear and unequivocal directive from the City Manager. Thereafter, collection activities at variance with the directive would constitute Charter violations. It should be noted specially that the Administrative Hearing Office established in Sec. 28-1 of the City Code is one of these offices as the Manager appoints and removes the hearing officers (Sec. 28-2); it seems clear that they are subject to his supervision and control.

B. City Court.

City Charter Ch. XXII, Sec. 4 states as follows:

Sec. 4. Mayor and council to provide courtroom, supplies, clerical help; records required; disposition of fines, fees.

The mayor and council shall provide each magistrate with a proper court room, and with all necessary stationery, furniture and paraphernalia. The mayor and council shall also provide proper and necessary clerical force for the keeping and maintaining of a proper record of the transactions of the magistrate's court, and of the acts, judgments and orders of the said magistrate, and the clerk may be assigned to that duty. All fines, penalties and fees collected by the magistrate in the course and performance of his duties shall be paid to the treasurer on the first day of each and every month, and proper receipt taken therefor. The moneys so paid by the magistrate may, by ordinance of

the mayor and council, be apportioned to any particular fund, and shall thereafter be used in accordance with such ordinance.

(Emphasis added)

This Section pre-existed Charter Ch. XXIX. In the 1960 election in which Ch. XXIX was adopted by the electorate, Sec. 3 of Ch. X was repealed thus abolishing the Office of Treasurer. By administrative interpretation the Finance Director has long been made the replacement recipient of money collected by the Magistrate. As a matter of good financial management it should be turned over as soon as possible since only the Finance Director is given the duties of custody and investment of City funds. Differently stated, Ch. XXIX's adoption probably repealed by implication, there being an unacceptable conflict with respect to good financial management, the provision in the third sentence in the section set forth above requiring the monies to be paid over to the Treasurer on the first of the month. It is the City's obligation to the public that these funds be put to use as soon as reasonably practicable.

It may be argued that XXIX, Sec. 3(6), being later enacted, supervenes the quoted section's establishment of a collection function within the power of the Magistrate. However, the case law of this State on construction of one or more statutory provisions alleged to be in conflict is that the Courts have a duty to attempt to harmonize the provisions so as to give effect to the maximum content of both, in absence of manifest legislative intent to the contrary, because repeal or partial repeal by implication is not favored since repeal is a function of the Legislature or, in the case of a Charter, the electorate. Hence, the independent auditor's conclusion that XXIX 3(6) controls is not correct. The two provisions, read together, say that the Mayor and Council shall see to the collection by the Magistrate of City Court imposed fines, penalties and fees and the Finance Director subject to the Manager's supervision will collect all other City revenues. Hence, the provisions can be harmonized; Mayor and Council have one collection function, through the Magistrate; the Manager, through the Finance Director, has another. Also, assuming for argument that the whole third sentence of XXII, Sec. 4 was repealed by implication from the adoption of Ch. XXIX or becomes repealed at some time in the future, Arizona Revised Statutes, Title 22, Ch. 4, Police Courts, must be considered, particularly Sec. 22-404:

All fines and forfeitures collected in a police court maintained by a city or town which pays the salaries of the police court officers shall be paid to the treasurer of the city or town in which such court is located.

Other provisions of Ch. 4 include our City Court as a "police court." The quoted section, while stating that the fines and forfeitures are collected "in" the police court instead of "by" the police court, nonetheless goes on to say that money shall be paid to the treasurer which clearly implies that another officer has done the collection and that can only be the Magistrate. A.R.S. Title 22, Ch. 5 is a state-wide scheme or plan of establishment and operation of police courts and probably would be held to preempt City Manager/Finance Director jurisdictional control of City Court collections.

However, these statutes do not preempt the powers given to the Mayor and Council by the Charter with respect to City Court. Since the Mayor and Council has authority to appoint a Chief Magistrate to govern administrative matters, and since the Mayor and Council also has Charter control of the City Manager, the governing body is given two options. It may impose City Court revenue collection administrative requirements directly or it may request the City Manager, whether through the Finance Director or otherwise, to do so as to such requirements as it approves. Requirements established at the request of the Mayor and Council must accord with general accepted accounting principles applicable and principles and standards applicable to good public financial management. Expert staff in these fields may be assigned to monitor and review City Court implementation of such requirements or an appropriate outside entity may be contracted with to form such functions. The point is that it is the governing body which has the plenary power to determine the nature and content of the administrative requirements and whether the ministerial implementation thereof is delegated by the governing body to the Manager or to the Magistrate is a matter within the sole discretion of the governing body.

KAY GRAY

-5-

APRIL 27, 1989

SUMMARY:

The Charter speaks clearly in requiring City Manager/Finance Director control, which can be direct or indirect, of all revenue collection activities outside City Court; the Mayor and Council may utilize the Manager or deal directly in the area of administration of City Court revenue collection.

DEE:jt

cc: Mayor and Council Audit Subcommittee:

Roy B. Laos, Chairman

Sharon Hekman, Member

Joel D. Valdez, City Manager

Thomas Martin, Chief Magistrate

APPENDIX G

Judicial Merit Selection Criteria

A PLAN FOR JUDICIAL EVALUATION IN COLORADO

Report of the Judicial Planning Council's
Committee on Judicial Performance

August 1980

DISCUSSION AND ANALYSIS

A Framework for Discussion

Several major themes emerged from the Committee's early deliberations and public hearings. The Committee used these assumptions as premises to test various ideas or proposals. For example, the Committee assumed the public is entitled to more information than it now receives about the judiciary. Colorado has a progressive court system, and its citizens have been active in creating new administrative structures and improved judicial selection and disciplinary systems. But these changes took place more than ten years ago. It now appears that the public's desire for information about judicial performance exceeds the judiciary's ability to provide such information. The public simply is not as familiar with the judiciary as it can or should be.

The Committee further assumed the judges themselves should be directly involved in the creation of any evaluation system. Studies of successful performance appraisal systems consistently conclude that those being evaluated should participate in evaluation design and implementation. With this in mind, the Committee, working through the Judicial Planning Council, conducted a survey to determine judges' attitudes about performance evaluation. The survey was conducted dur-

ing the 1979 judicial conference, and ninety percent of the state's 231 judges responded. Information from the survey was used by the Committee during its deliberations and for preparing the tables referred to in this section.

As another assumption, the Committee quickly concluded that evaluation of individual judges' professional performance would be extremely difficult. Performance appraisal is more an art than a science, and there are no applicable models to follow to design a judicial evaluation program. Performance appraisal methods used to evaluate managers are not easily transferred to judges. In fact, formal performance evaluation is rarely given to top executives in either the private or public sectors, because it is so difficult (1) to designate the proper evaluator, and (2) to define performance standards for leaders with complex roles and discretionary responsibilities similar to those of judges. Likewise, it is naive to suggest that judges be evaluated on the quantity of disputes resolved or cases processed. Although new studies about the complex roles of judges are now emerging, there is still a great lack of understanding about what judges do and the role of courts in society.²⁴

Finally, the Committee decided that any system for evaluating judges must be practical. The system should be simple

24. See John Paul Ryan, Allan Ashman, Bruce D. Sales, and Sandra Shane-DuBow, American Trial Judges: Their Work Styles and Performance, (Riverside, N.J.: The Free Press, Macmillan Publishing Co., 1980).

to administer, and results should be easy to analyze and understand. Performance evaluation should not be so complex and cumbersome that its costs outweigh its benefits.

These four assumptions:

- That the public wants and is entitled to more information about the judiciary,
- That any credible judicial evaluation system requires direct judicial involvement in its creation,
- That standards and methods for evaluating judges are very limited, and
- That the entire evaluation system must be practical and cost-effective,

served as guidelines in the Committee's deliberations. The Committee's findings are summarized in the following sections.

Purposes of Evaluation

The primary purpose of judicial evaluation should be to improve the judicial system. A well-designed and carefully implemented program should benefit the judicial branch of government while serving both private citizens and judges. For example, a systematic evaluation of judges can help assure that merit selection and retention work, by providing voters with information useful in deciding retention questions. Voters are concerned about the quality of the judiciary, and

many people expressed concern about the lack of sufficient information to decide whether or not a judge should be retained in office. Judicial evaluation should help nominating commissions verify and improve their selection techniques. Colorado has twenty-three nominating commissions with 165 members, and while each commission has some criteria for selecting nominees, none has formal methods for reexamining its criteria. A judicial evaluation system should enable them to learn if judges are living up to the standards by which they were selected and if these standards are realistic and practical or should be revised.

Regular performance evaluations should assist judges in their professional training and development. In the judicial survey, many judges commented on the lack of training available to improve specific judicial skills. In the absence of specific performance standards and techniques for appraising individual performance, judges are limited in their ability to evaluate their own behavior or skills. Even though continuing judicial education is mandatory for judges in this state, there are no methods for linking judicial performance and continued education.

Another problem with judicial evaluation is the lack of incentive. In the private sector the assumption is that excellent or improved performance is rewarded with increased compensation or other benefits. Unlike the private sector, public service offers little or no tangible reward for excel-

lence or high achievement. Judges and other public servants seek satisfaction in work well-done, and voluntary improvement of performance usually stems from a sense of professionalism and commitment to high standards and ideals. An evaluation system that offers recognition of quality and opportunities for improving professional skills can be viewed as an important benefit. On the other hand, an intimidating or premature or ill-conceived evaluation program may only increase the deterrents to entering public service without providing benefits for either the judiciary or the public.²⁵

Performance evaluation should be integrated into the existing judicial system to meet a variety of organizational and individual needs. Selection, evaluation, retention, and discipline should be linked together in a common feedback loop. Standards used in selection, for example, should have some relationship to judicial performance and retention, and evaluation results should be used to design educational programs.

As a practical matter, there may not be sufficient funds for the simultaneous pursuit of all evaluation goals. This

25. Table 10, Appendix A, shows that judges split fairly evenly in opinions about the effect of evaluation on decision-making and judicial independence. Judges' concerns were that evaluation might affect decisions unpopular with influential groups, influence sentencing decisions, and pressure judges to sacrifice quality in the interest of quantity. Table 11 indicates that judges also split their views about possible effects of evaluation on the ability of the judicial system to attract new judges. A common concern was that an improperly designed evaluation program or one that appeared to be unfair or biased would make it more difficult to attract lawyers to the bench.

does not minimize the importance of using evaluation data to pinpoint specific educational needs. In the face of limited resources, therefore, it may be necessary for the judiciary to develop administrative relationships that encourage coordination of the activities of nominating commissions, the qualification commission, continuing judicial education, and future performance evaluation programs.

Organization of an Evaluation Program

Judicial selection has traditionally been a local function in this state. And even though the Governor appoints judges, local nominating commissions are responsible for selecting qualified candidates. Local commission members are familiar with their communities and with the character and fitness of local attorneys.

Judicial evaluation also should be a local function. Judges should be evaluated by those they serve, and the information generated should be distributed to the appropriate voter population.

The Committee debated using local nominating commissions to evaluate sitting judges. The combination of nominating and evaluating functions appears to be impossible at the present time because of constitutional restrictions on the authority of nominating commissions.²⁶ Even if nominating

26. Wyoming requires nominating commissions to screen judges seeking retention, Ashman and Alfini, The Key to Judicial Merit Selection, p. 15. Also, the Alaska Judicial Council is responsible for nominating and evaluating judges.

commissions could screen judges standing for retention, the Committee had serious reservations about combining selection and evaluation in the present political climate. The coordination of selection and evaluation should be encouraged, however, and criteria used for selection should relate to a judge's subsequent performance.²⁷

Committees composed of local citizens and lawyers would provide the best vehicle for evaluating judges. Local citizens, however, cannot provide all the expertise needed to analyze judicial performance. Therefore, a coordinating unit or commission at the state level should be created to provide professional expertise, uniform standards for evaluation, and policy guidelines for dissemination and use of data. For economic and practical reasons, such a commission should be small, and to assure appropriate public involvement, the majority of its members should be non-lawyers. Evaluation techniques developed by the state-wide commission would be administered by the local committees. Until such time as local committees are organized, local bar associations would be asked to administer judicial evaluations.

The Committee also considered recommending that the Commission on Judicial Qualifications be authorized to conduct

27. As a first step toward greater uniformity in procedures and selection criteria, the Colorado Bar Association has proposed model uniform rules for nominating commissions and a model application form for judges. See Colorado Bar Association, "Report of the Judicial Selection and Tenure Committee of the Colorado Bar Association," November 21, 1979.

performance evaluations. Only the Qualifications Commission presently evaluates any portion of judicial conduct. More accurately, the Commission evaluates judicial misconduct, an activity that often requires strict confidentiality.²⁸ During its public hearings, the Committee heard frequent complaints about Qualifications Commission secrecy imposed by the constitution. The same criticism was made of nominating commissions (whose proceedings are not constitutionally required to be secret). Judicial performance evaluation, on the other hand, generates information for public consumption, focuses on improving judicial performance or conduct, and increases public knowledge of the judicial system.

Selection, discipline, and evaluation are not necessarily incompatible, although present constitutional or statutory provisions prevent the use of the existing structures for evaluation purposes. As viewed by the Committee, however, the evaluation process--the development of performance standards and the appraisal of each judge in light of these standards--should be separate from selection processes and the discipline of judges for misconduct.²⁹

28. Colorado Constitution, Article VI, Section 23(b) states that a justice or judge of any court of record of this state may be removed for willful misconduct in office, willful or persistent failure to perform duties, intemperance, or by retirement for disability interfering with the performance of duties, which is, or is likely to become, permanent.

29. A clear understanding of court-related commissions is sometimes hampered by inconsistent labeling; for example, the name of the California Commission on Judicial Qualifications was changed in 1976 to the Commission on Judicial Performance. It is still a judicial conduct or discipline commission, however.

Evaluation Criteria

The Committee discussed at great length these key questions of criteria: what makes a good judge; how can good judicial performance be recognized; and which performance measures will provide useful information to the judiciary and the public? Committee members and non-members agreed that it is easier to answer the inverse of these questions than it is to come up with positive, meaningful criteria for performance evaluation.

The Committee obtained a better understanding of evaluation criteria from the survey of judges.³⁰ One part of the survey asked for reaction to each of forty-seven criteria selected from the literature on judging or commonly used in bar polls. The criteria can be grouped in the six general categories listed below:

1. Technical qualifications, such as legal knowledge and ability, correct application of legal principles, intellect, quality of reasoning in decisions or opinions, and experience as a practicing lawyer.
2. Work capacities, including diligence and industry, control of court proceedings, efficient use of time, administrative ability, and punctuality and promptness.
3. Interpersonal abilities, such as neutrality and fairness, patience and tolerance, compassion and humanity, concern for parties and witnesses, the ability to communicate, attentiveness, kindness, and a sense of humor.

30. The tables in Appendix A and the discussion of survey results in this section are based on "A Report on the Colorado Survey of Judges," prepared by Joyce Sterling, E. Keith Stott, Jr., and Steven Weller and submitted to the Judicial Council as a separate report.

4. Personal characteristics, covering such traits as conscientiousness, humility, general health, common sense, sound judgment, moral values and ethics, mental and emotional stability, independence, ability to make decisions, and a willingness to learn and improve.
5. Productivity factors related to workload, including the number of cases decided or opinions written, and the number of hearings held; and
6. Miscellaneous items covering speaking skills, writing ability, the reasonableness of sentences imposed, and the ability to handle complex cases.

The survey showed that judges see the criteria as having varying degrees of usefulness and validity. Table 1 (Appendix A) presents the scores the judges assigned to the various criteria. The combined scores for all judges who responded to the questionnaire are rank-ordered and presented together with the separate responses for appellate and trial judges. The judges selected ten criteria they felt most important for evaluating their performance:

1. Quality of reasoning in decisions or opinions;
2. Procedural correctness;
3. Conscientiousness;
4. Neutrality and fairness;
5. Common sense and sound judgment;
6. Intellectual honesty;
7. Ability to make decisions;
8. Legal ability;
9. Intellectual and moral courage; and
10. Ability to handle complex cases.

These criteria generally fall in the evaluation categories of technical qualifications, work capacities, and interpersonal abilities. The judges also selected ten criteria they felt least important for evaluating judicial performance:

1. Age;
2. Settlement efficiency;
3. Involvement in civic activities;
4. Quantity of hearings held;
5. Speaking skills;
6. Reasonableness of sentences imposed;
7. Administrative ability;
8. Appearance;
9. Sense of humor; and
10. Kindness.

These items are more related to personal characteristics, and several are from the productivity and miscellaneous categories which included criteria used less frequently in bar polls.

Although the combined scores suggest using one set of criteria for all judges, there are clear preferences between criteria for evaluating appellate judges and trial judges. Table 2 is a comparison of the rank orderings made by the two groups of judges. For the appellate judges, the top ten criteria essentially remain the same as the overall criteria discussed above. The differences appear in the top criteria

selected by trial judges for evaluating themselves.

For trial judges, five of the ten highest ranked criteria are the same as those selected by appellate judges, for example: neutrality and fairness; common sense and sound judgment; conscientiousness; the ability to make decisions; and intellectual honesty. They then chose some different criteria they felt more important: courtesy, consideration, and respect for others; attentiveness; mental and emotional stability; concern for parties and witnesses; and punctuality and promptness. This shows a recognition of the different functions performed by trial and appellate judges, the contact that a trial judge has with both the public and litigants, and his or her behavior with respect to other individuals.

Based upon these findings, the Committee suggests that different performance standards be developed for different kinds of judges. This suggestion is reinforced by the trial judges' choices analyzed by demographic characteristics. The survey showed significant differences between the choices of lawyer judges, and non-lawyer judges, all of whom are part-time and from rural areas. These differences indicate that rural, non-lawyer judges may view the role of a judge differently from urban or lawyer judges. The Committee concluded, therefore, that different types of evaluations may be needed for at least three types of judges: appellate judges, lawyer trial judges, and non-lawyer trial judges (or, in the alternative, that non-lawyer judges need additional

education in the judicial process and function).

The results from the judicial survey also suggest that there is considerable agreement among judges concerning evaluation criteria. That consensus overlaps with polls being done by groups such as the Denver Bar Association, particularly since criteria used in the Committee's survey were based on polls used nationally. Thus, it appears feasible, especially in Colorado, to conduct correlation studies of judges' own role perceptions, performance expectations of judges made by lawyers who practice before them, and the public's expectations, and consequently to reduce the criteria needed. A comparison of the rankings made by judges with the criteria used in the Denver Bar Association poll reveals that judges and lawyers consider skills and behaviors in the following categories to be most important: technical qualifications, work capacity, interpersonal ability, and personal characteristics. Further research could refine and simplify the criteria in these basic categories.³¹

The Committee's research on criteria is only a starting point for future studies. The determination of valid criteria based on specific judicial behaviors should be a first priority of the Commission on Judicial Performance.

31. The 1980 DBA poll used 17 criteria, down eight from the 25 used in the 1978 survey as a result of a correlation study. It is likely that the list of 47 criteria in the judges' survey could be reduced in a similar fashion.

Elements and standards of performance must be selected; an effective data collection system must be created; methods of analyzing the data must be established; and, the fair, objective and proper use of evaluation results must be determined. The Committee stresses that judges should be evaluated on the basis of performance, and not on personal, social, or political philosophies. Performance evaluation is complex enough without considering personal philosophies. Besides, there is no evidence to suggest that Colorado judges are anything more than a cross-section of their communities representing a variety of political philosophies.

Overshadowing the problem of selecting evaluation standards is concern about the amount and complexity of the data that may be produced, and whether the costs of evaluating some components of performance will exceed the expected benefits. The problem of judicial productivity is a good example. Many techniques exist to measure judicial activity, but the quantity of matters processed does not provide a qualitative measure of productivity. Trying to analyze productivity, particularly in terms of a judge's efficiency and the quality of justice rendered, becomes mind-boggling when considered on a state-wide basis. This doesn't mean some attempt should not be made to examine productivity. It simply suggests that measures of activity are not meaningful measures of productivity and may have no relevance whatever to the quality of a particular judge.

To illustrate further, copious information can be col-

lected on simplistic productivity indicators such as numbers of hearings; numbers of orders; numbers of motions decided; numbers of settlements; numbers of trials to court or jury; complexity of matters heard, and so forth. After all this information is collected, analyzed, and explained, evaluators will have to distinguish between types of cases and individual judge responsibilities. The workload of the judge who handles a relatively few complex civil or criminal trials each year cannot be fairly compared with that of the judge who processes thousands of traffic cases. The measurable productivity of the chief judge of a district will be different from that of other trial judges who do not have the chief judge's administrative responsibilities. Thus, not only would measuring productivity be, at the very least, extremely complex and costly, but it is the type of information that would be difficult to disseminate and explain to the public.

As another illustration of information with limited public usefulness, voluminous detail can be collected about the sentencing practices of judges. But such information would be of little benefit unless the circumstances of each case also were analyzed. Trial judges sentence convicted defendants within statutorily-prescribed ranges of penalties, and they are generally guided by information in pre-sentence investigation reports and recommendations of prosecution and defense counsel. An evaluation of a judge on "harshness" or

"leniency" in criminal sentencing or supposed conservative or liberal beliefs could easily mislead the public if a comprehensive and costly analysis of the particular facts and the law of each individual case is not added.

Other examples may be cited, but this brief discussion of the extraordinary complexity involved in using productivity and sentencing to measure judicial performance warns of the danger in oversimplifying criteria, particularly in the initial phases of an evaluation program. It also serves to illustrate one of the basic differences between performance evaluation in the judicial system and evaluations conducted in large public or private organizations. A significant feature of many performance appraisal systems is an emphasis on results, whether this is the number of items manufactured or processed, or dollars of revenue produced. Justice, on the other hand, should not be mass-produced, and while performance evaluation is to be encouraged, performance measures should not affect judicial behavior in undesirable and unintended ways.

Methods of Evaluation

Performance evaluation is always complex. Private industry has spent large sums of money developing methods for appraising the performance of lower and mid-level employees. It has yet to be more than modestly successful in formally assessing high-level executives or professional staff.

It is even harder to appraise performance objectively

when intangibles are involved. The final indicator of performance in the private sector is profitability. There is no comparable indicator for judges. Unlike the marketplace, which provides a reflection of general public tastes or needs, justice is determined case by case and may even run counter to some public desires, perceptions, or expectations.

The more complex the activity or the greater the responsibility, the harder it is to evaluate performance objectively. Top executives, college professors, high-level government administrators, doctors, lawyers, judges, and many other professionals constantly exercise a high degree of personal discretion and judgment. This activity cannot be assessed in terms of numbers on scales or checklists.

Many qualities can be measured best only by colleagues, familiar with professional standards or with similar backgrounds and abilities. The public hearings showed a general consensus that a judge's legal capabilities and qualifications could be evaluated best by other similarly qualified persons, for example, by lawyers who practice before the judge or by other experienced judges. The survey revealed feelings from judges. While judges show no strong enthusiasm for any of the specific methods of evaluation described in the survey (Table 3), they view lawyers who have practiced before them as the best qualified to evaluate judges in terms of technical qualifications, work capacity, interpersonal abilities, and personal character traits (Table 4). Surveys or polls and rating scales are preferred by judges for tapping the

opinions of lawyers who have practiced before them (Table 5). Evaluations based on achievement of goals or results, similar to the popular management by objectives approach used in industry, and the ordering of judges by ranking are viewed by judges as undesirable.

The Committee concluded that in the first phase of developing an evaluation program, the best method would be to survey lawyers who have practiced before the judge being evaluated. The Committee reasoned that lawyers' surveys would be an appropriate first step in evaluation because lawyers are knowledgeable in the areas in which judges are working, they have an opportunity to observe judges, they have a self-interest in making sure that there are good judges on the bench, and judges as well as lay citizens feel that lawyers are an appropriate source of information. Another important consideration is that surveys, although not entirely objective, are efficient, and they can reach many people at relatively low cost. Other evaluation techniques are more expensive.

The public, however, has some reservations about leaving judicial evaluation entirely to members of the "legal fraternity" to which judges belong. Although non-lawyers acknowledge that lawyers know the judicial process and are familiar with the work of judges, many citizens felt that other persons involved in the courts, such as other judges, jurors, and court-watchers, should participate in the evaluation process. Jurors, in particular, represent a cross-

section of the community, and they have first-hand experience with judges. The Committee concluded, therefore, that lawyer surveys should be supplemented by surveys of jurors during the first phase of an evaluation program.

Two different questionnaires should be prepared--one appropriate for lawyers and one for jurors. The kinds of characteristics jurors would be asked to comment on should be different from those evaluated by lawyers, although there could be some overlap. The use of juror surveys was also attractive because there may be a means, if not now, in the near future, of reaching jurors quickly and inexpensively. Juror exit questionnaires are used in several courts, and these forms could be adapted for evaluation purposes. In addition, the Alaska Judicial Council has surveyed jurors, and its experience could be studied by Colorado.

State-wide judicial evaluation based upon surveys will benefit by using computers for construction of questionnaires, data analysis, and sampling. For example, lawyer polls require accurate lists of attorneys and methods for matching attorneys with judges before whom they have practiced. In order to make the system work state-wide, the Supreme Court must improve its attorney registration list (a project that is now underway), and the Judicial Department must improve case data input generated by clerks in the courts. Although the Committee did not study data processing in the Judicial Department, it appears that sufficient data processing resources are now available to avoid creating

expensive new systems. If this were not the case, the use of lawyer surveys as the basis for performance evaluation would be seriously questioned because of its costs.

Participants in the public hearings and members of the Committee generally agreed that a trained court observer program would be a useful part of an evaluation system. Some people favored court-watching as an alternative to jury service. The Committee concluded, however, that the cost of training the large number of observers needed limits the wide use of court-watching, especially at the beginning of a comprehensive evaluation program.

The Committee considered using peer evaluations and interviewing knowledgeable lawyers. Once again, the potential cost of such techniques limited their usefulness during the first phase of an evaluation program. Peer evaluations may work in judicial districts with small populations and few lawyers or jury trials. After Colorado gains experience with survey techniques, performance evaluation may be expanded to include interviews with judges and lawyers, along the lines of those conducted in the District of Columbia.

In summary, the Committee found that bar polls supplemented with juror surveys would be appropriate methods to use initially in an evaluation system aimed at providing more information to voters about judicial performance. Existing bar polls need improvement. One place to begin is developing better rating scales and criteria using industrial performance appraisal methods. In addition, different approaches to

evaluation may be needed for appellate and trial judges and for judges in rural and urban areas. Surveys are appropriate with large lawyer and juror populations, but interviews or other methods should be considered where there are insufficient lawyers and jurors to provide a sound data base for a survey.

Frequency of Evaluation

In the Committee's survey, the judges were asked how often evaluation should take place. Their responses are summarized in Table 6. A plurality of judges favored evaluation every two years for each level of judge, but in no case did this choice receive a majority. There was a clear difference of opinion between appellate and trial judges on frequency of evaluations. Appellate judges most often chose evaluation twice per term for themselves while favoring evaluation every two years for trial judges. Trial judges generally chose evaluation every two years for all levels of judges. The difference in responses may be attributed to the longer terms of appellate judges, and, therefore, the likelihood of fewer benefits for retention purposes from more frequent evaluations.

The Committee concluded that every judge should be evaluated prior to his first retention election, and after that an appellate judge should be evaluated every four years and a trial judge every two years.

Use and Dissemination of Results

Interpretation and handling of evaluation results pose additional problems. Evaluation of professional performance

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JUDICIAL PERFORMANCE EVALUATION:

ISSUES AND OPTIONS,

Daina Farthing-Capowich,
Research and Information Service
National Center for State Courts

May 1, 1983
Revised

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Introduction

Those involved in the evolving efforts to improve the performance of the judiciary through the evaluation of sitting judges are pioneers in an inherently difficult and complex field. A plethora of issues must be carefully considered in the initial stages of program development to ensure a proper "fit" between the model and the context in which it will be applied.

The framework of this presentation is one of neutrality. The intent is to stimulate discussion and deliberation concerning the basic issues that surround judicial performance evaluation without injecting assessments or recommendations. Although advantages and disadvantages of the various issues will be raised, any planning group must, of necessity, weigh the various factors, costs, and benefits in light of their unique needs, resources, philosophy, and the nature of judicial selection and retention processes in their state.

There are five basic issues to be addressed by those involved in the development of a judicial performance evaluation process:

- 1) the purpose of evaluation,
- 2) the measures of a "good judge",
- 3) methodological considerations,
- 4) the use of the results, and
- 5) the administrative structure of the program.

The nature of judicial responsibilities and duties dictates the interdependency of these issues. For example, decisions concerning the goal(s) of an evaluation program will affect the ultimate use and dissemination of the results.

Furthermore, throughout the deliberations on each of these issues, one over-riding concern will be evident. The fundamental principle of judicial independence, the insulation of judicial decisions from the tides of public and political influence, must not be jeopardized. Concern for maintenance of the judiciary's integrity should accompany any effort to improve systematically the quality of judicial performance. The design of an evaluation program should guard against the undue influence of particular groups. For example, judges should not be concerned with evaluative ratings to the extent that lawyers dominate proceedings, are granted unwarranted continuances, or otherwise receive preferential treatment. In addition, the prospect of evaluation and its use should not affect judicial decision-making such that judges become apprehensive about rendering unpopular decisions. Nor should evaluation interfere with fair sentencing practices (Rosenberg, 1981; Sterling et al., 1981; Stott, 1981).

Another form of pressure that might arise from a poorly designed evaluation program is an over-emphasis on quantity. Although workload indicators offer advantages, they must be formulated carefully and reliably to avoid sacrificing quality for quantity (Sterling et al., 1981). As Maurice Rosenberg (1981) has noted, a judge may be efficient and productive through nearly tyrannical methods. On the other hand, appropriate attention to the "numbers" is not wholly improper. Excessive delay and mounting workloads pose significant problems for the provision of justice in today's courts.

However, these concerns are not sufficient to discourage judicial performance evaluation. Judges currently face public and political pressures in many of these areas and the potential benefits of judicial

evaluation can be garnered while simultaneously protecting the independence of the judiciary. Indeed, development of a systematic evaluation program can reduce the risks noted above, thereby providing the reliability essential to counterbalance competing goals (Handler, 1981; Rosenberg, 1981).

Following this "options" paper, the National Center for State Courts' Research and Information Service has provided selected materials that address the issues discussed herein, including concerns for judicial independence. The references are organized by principle theme (e.g., bar polls, general judicial evaluation, existing and proposed programs, and methodology). However, since the majority of the sources discuss a variety of topics, a brief introduction precedes the materials (see the annotated bibliography, Appendix A). A listing of the issues addressed in each article follows each annotation.

Twelve sample evaluation instruments appear in Appendix B. These materials were selected in an effort to provide a wide range of examples in terms of format, criteria, specificity, subjects and respondents.

Issue 1. The Purpose of Evaluation

According to the Honorable Alan B. Handler, Associate Justice of the New Jersey Supreme Court, the "sound selection and clear articulation of goals are probably the most important tasks to be accomplished by initiating any judicial evaluation effort" (New Jersey Law Journal, March 26, 1981). The ultimate configuration of the performance program will be shaped by the choice of goals; therefore comprehensive discussion and specificity are essential. If multiple goals are delineated, it may be

necessary to assign priorities or implement objectives in stages. Regardless of the purpose(s) selected, vigilance is urged in pursuing those goals without infringing on judicial independence (Mountain, 1982).

It is important to recognize differences between the evaluation of judicial performance and personnel performance evaluation in the private sector. Generally assessments of job performance are related to pay raises or promotion. However, these mechanisms are lacking for the judiciary. It would appear that the sole means of rewarding judges for improved or exemplary performance are nonpecuniary. Therefore, the selection of program goals and the concomitant design and plans for implementation must consider the context in which judicial performance evaluation will occur.

Among the most commonly suggested goals of judicial evaluation programs are a) merit retention, b) the improvement of judicial performance, c) effective assignment, d) judicial discipline, and e) public education.

Merit Retention

The most frequently cited purpose of judicial performance evaluation focuses on merit retention through election or reappointment. The establishment of a sound assessment process is viewed by many as an attempt to assure the effectiveness of merit selection and retention. From this perspective, evaluation of the sitting judge's performance can provide relevant information to the electorate or appointing official(s).

Alaska conducts judicial performance evaluations specifically for the purpose of providing the public with sufficient information on which to base voting decisions. Colorado has proposed a similar approach. The

District of Columbia uses the data gathered for reappointment purposes. It has also been suggested that evaluations for the purpose of merit retention may result in the refinement of selection procedures employed by nominating commissions or officials.

The provision of accurate data to the public may prove beneficial to judges facing retention decisions. Dissemination to the public of reliable information gathered in a systematic fashion is preferable to uncontrolled judicial polls and campaign hyperbole. However, the lack of comparable data for the opponent can be problematic. Meidinger (1977) suggests that a reasonably equivalent method of assessing the candidate's skills be developed to address this predicament.

Improvement of Judicial Performance

The key purpose of the program in New Jersey is to determine the primary areas of performance in which individual judges require improvement. In an effort to improve the quality of service to the public, evaluative data can be used to identify areas that require improvement and provide feedback to individual judges. It is assumed that the information provided will result in a heightened sense of awareness that culminates in self-improvement, either at the judge's initiative or, in a more structured program, with the guidance of an assignment or presiding judge. In addition, the identification of strengths can be used to reinforce appropriate behavior and use exceptional skills to the best advantage of the court system. The South Carolina Bar Association conducted its first evaluation survey in 1982 in an effort to provide sitting judges with the information and impetus for professional development.

Effective Assignment

Judicial performance evaluations can be used as a judicial management tool to facilitate effective assignment of judicial personnel. For example, individual profiles that pinpoint judges who are exceptionally skillful in arranging settlements could be assigned to handle pretrial conferences. It has been suggested that such information would be especially useful to assignment judges or in states in which administrative authority is centralized with the chief justice.

Judicial Discipline

Although the District of Columbia and California employ evaluative measures as a disciplinary aid, several writers suggest that such purposes should be viewed as secondary. Justice Handler has noted that other institutions and avenues exist that fulfill this need. However, judicial performance evaluations occasionally generate information of interest to disciplinary commissions or that may warrant a less serious response from a presiding judge. The concerns surrounding the combination of evaluative and disciplinary processes appear to focus on potential subversion of the evaluation. It may be that defensiveness, silence, and a lack of cooperation may result.

Judicial Education

E. Keith Stott, Jr. (1981), deputy court administrator for the Colorado Judicial Department, has proposed a linkage between judicial performance and continuing education. Following performance evaluations, training programs, seminars, and workshops that address identified weaknesses would be scheduled. Attendance could be specified for

particular judges, thereby employing training resources prudently while simultaneously providing the opportunity to improve performance through meaningful educational experiences.

Public Education

Cynthia Owen Philip (1976), a researcher with the Institute of Judicial Administration, has suggested the use of evaluation results for public education purposes. The dissemination of evaluation results might afford a greater segment of the general public the opportunity to be better informed about the legal system and the role of the judiciary. Additional benefits could accrue such as a) enhanced confidence in the judiciary, b) bringing the judiciary more "in touch" with the people and vice versa, c) increased accountability, and d) providing the impetus for improved judicial performance through public awareness. It has been suggested that an educational purpose is better suited to an on-going program. For example, Ms. Philip noted that when the results of judicial evaluations are only released prior to retention elections, the educational opportunity is lost as public interest focuses solely on the election then quickly dissipates.

The North Carolina Center for Public Policy Research, an independent non-profit research institution, published Article IV: A Guide to the North Carolina Judiciary (1980) in an attempt to fulfill this goal. The Center's intentions were two-fold: to lessen the distance between the people of North Carolina and their judges, and to provide the public with the results of a judicial performance evaluation survey completed by members of the state bar.

However, the fact remains that public dissemination of evaluation results is generally related to retention elections. In such cases, it may be more appropriate to view public education as a by-product of judicial evaluation.

Issue 2. The Measures of a "Good Judge"

Early bar polls tended to ask a few broad questions. However, over time, the number of indicators used has increased and gained consistency. In fact, previous research efforts have demonstrated substantial consensus on certain measures. Although the specific criteria have been grouped in various ways, the general categories usually include the following:

- 1) technical qualifications and competence,
- 2) work capacity and productivity,
- 3) interpersonal skills, and
- 4) personality traits.

In an effort to illustrate this classification, it may be useful to enumerate the possible evaluative criteria. The following breakdown, assembled from multiple sources, is in no way intended to be exhaustive or definitive and any ultimate delineation would necessarily arise from the selected goals and structure of a particular evaluation program.

Technical qualifications, competence, and legal ability

knowledge of substantive law
familiarity with evidentiary law
knowledge of procedural rules
grasp of constitutional principles
awareness of recent legal developments
thoroughness of decisions and factfinding
sound judgment
professional writing skills
intelligence
reversal rate
proportion of complaints found meritorious

Work capacity and productivity

effective administrator
diligent (number of hours on bench, in office, etc.)
number of continuances granted
punctual
prompt and timely rendering of decisions (time between submission and decision)
control of courtroom
efficiency
quantity of dispositions
number of hearings or trials held
case and appellate preparation
number of cases pending (assumes individual calendar)
age and health (as affect work capacity)

Interpersonal Skills

ability to communicate
courtesy
compassion
patience and tolerance
listening skills

Personality Traits

integrity
moral courage
impartiality and fairness
sense of humor
judicial demeanor
freedom from arrogance
independent from public and political influence
firmness

It is apparent that some overlap may exist between characteristics presumed to illustrate certain criteria. This may be indicative of the interdependence of indicators and the complex nature of judging.

Furthermore, it may be necessary to determine the placement of an indicator within a particular category based on the intended use of the information. The "breadth of measurement" evidenced by the extensive listing above demonstrates recognition of the diverse, and often nonjudicial, activities and skills required of a judge. Due to this complexity, numerous sources warn against oversimplification (Kinch and Seashore, 1977; Ryan, 1982; Stott, 1981). Brevity and a lack of specification may result in meaningless and therefore useless (if not actually harmful) results.

It should be noted that virtually all bar polls have focused primarily on judicial duties related to trials. An evaluation program could conceivably be limited in this manner if accompanied by an explicit recognition of the fundamental diversity inherent in judging. Evaluators might also choose to begin with a limited focus and gradually expand the evaluation process to encompass the full spectrum of judicial duties.

The determination of appropriate indicators of judicial performance will be guided by the goal(s) to be pursued (American Bar Association, 1982; Kinch and Seashore, 1977). For example, if the intent is improvement of the individual judge's performance and the results will only be disseminated internally, subjective criteria may be quite useful. However, if the data will be released to the public for educational or voting purposes, problems of objectivity and possible interpretation may require use of more "concrete" indicators (ABA, 1982).

Occasionally the distinction between subjective and objective indicators is characterized in terms of a quantitative-qualitative dichotomy. Regardless of the differentiation drawn, some consensus exists that both objective and subjective criteria should be employed (ABA, 1982; Aynes, 1981; Kinch and Seashore, 1977; Ryan, 1982).

Objective criteria are generally viewed as being less subject to bias; therefore, use of such indicators would increase the reliability of the evaluation. However, reliability could be further enhanced by employing objective and subjective criteria designed to measure the same characteristic. For example, responses to a subjective item concerning legal ability and the soundness of decisions could be compared with the number of reversals on appeal.

It should be noted however, that care is required in the use of objective indicators. Ryan (1982) and Aynes (1981) caution that thoughtful interpretation and further analysis are essential to the prudent use of objective criteria. Consider for example, a trial judge's reversal rate. Detailed information concerning each case and the appellate holding would be required. Furthermore, it may be that cases taken on appeal are atypical of the total distribution or population of a judge's caseload. Another example of judicious use of objective criteria can be illustrated with the indicator "number of cases disposed." Ryan (1982) has argued that this measure is practical only if the court employs an individual case assignment system. In addition, determinations must be made concerning the definition of a "disposed case" and the appropriate method of counting such cases (e.g., no-shows will or will not be counted as disposed cases). It should be understood that considerations of this nature apply to the use of all objective measures.

Several sources have noted the need to employ different criteria depending on the type and level of judge evaluated (e.g., trial, appellate, family court judge). Proponents of such an approach point to the differing functions of trial, administrative, and appellate jurists which require specialized skills (ABA, 1982; North Carolina Center, 1981; South Carolina State Bar, 1982; Stott, 1981). For example, interpersonal skills may be more important for trial judges who deal with litigants and the public more frequently than appellate judges.

Intertwined with the selection of appropriate criteria is the process of careful specification and definition of the criteria chosen. Lists of indicators or explanatory sentences for each category or criterion have been employed as illustrations to enhance understanding for purposes of accurate rating (ABA, 1982; Aynes, 1982; North Carolina Center, 1980; Philip, 1976; State Bar of Connecticut, 1981). Generally, definitional aids of this type precede the questionnaire or rating form. In some cases, the underlying trait is noted (e.g., legal ability) and a series of statements that purport to measure that trait are ranked.

The purpose of this process is to specify behaviorally each quality to be measured. Legal ability is an important indicator of judicial performance but the evaluators must develop some method of actually measuring legal ability. As previously noted, one objective measure might be the number of reversals (as well as affirmations) on appeal. Subjective questions must be developed that will also measure legal ability. For example:

- a) Judge X is competent in the usual civil case.
- b) Judge X keeps abreast of legal developments.
- c) Judge X understands the issues in highly complex cases.

(To assist in this process, see Appendix B, which includes sample evaluation instruments.)

An innovative method of measurement was designed by the New Jersey State Bar Association. Instead of developing individual questions to measure certain traits, passages were quoted from the Canons of Judicial Ethics. Respondents were then asked to rate each judge as excellent, good, fair, or poor with reference to each statement.

However, since some respondents will be lay persons (e.g., jurors, parties), this process of specification should also include information on the special matters or considerations pertinent to evaluation of which individuals outside the justice system would otherwise be unaware. For example, jurors asked to rate a judge on his punctuality should be aware of procedural requirements (e.g., motion hearings prior to trial) that might affect the beginning of a court session. Elaboration of this type would increase informed decision-making on the part of jurors and protect judges from inappropriate criticism.

Furthermore, the reliability of the evaluation results can be significantly enhanced by 1) eliciting information from judges and attorneys concerning the characteristics indicative of quality judicial performance, 2) gathering information on the relative importance of these factors, 3) conducting some form of pretest or developing a feedback mechanism prior to initiating the evaluation process, and 4) conducting preliminary analysis (as well as on-going refinement and development) to strengthen the reliability and validity of the results. For example, the Bar Association of Metropolitan St. Louis crystalized definitions and categories by distributing the results of its pilot poll to the judiciary for feedback (Middleton, 1983).

An additional point concerning the measurement of judicial performance focuses once again on the independence of the judiciary. Several sources warn evaluators against including items that deal with the substance of judicial rulings or judicial philosophy (Maddi, 1977; Stott, 1981). To avoid infringing on judicial independence, it has been suggested that questions concerning sentencing practices (e.g., lenient vs. tough) and a judge's liberal or conservative leanings should also be excluded from judicial performance evaluations.

Issue 3. Methodological Considerations

The methodology appropriate for a particular evaluation program will depend upon the goals of the evaluation and the criteria selected. In any case, a "sound evaluation methodology [is essential to] lay a firm foundation for a sound performance program" (Mountain, 1982). The topics to be addressed within this rubric include 1) which judges will be evaluated, 2) the possible sources of evaluative information, 3) screening for knowledgeable respondents, 4) concerns for the confidentiality of responses, 5) data collection methods, and 6) analysis.

Which Judges will be Evaluated?

Decisions concerning whose performance will be evaluated will be governed by the goals of the program. States that develop a program that focuses on producing information for retention purposes (reappointment or retention election) will probably evaluate all judges facing retention.

This may include:

- 1) general jurisdiction trial judges,
- 2) limited and special jurisdiction judges, and
- 3) appellate judges.

Similarly, programs designed for disciplinary or educational purposes may choose to evaluate all or only certain types of judges. If different levels of judges are evaluated, it may be appropriate to develop separate questionnaires (or other methods of data collection) due to the varying functions, activities, and required skills.

In concert with the purpose of individual and institutional improvement, New Jersey decided to evaluate all full time, sitting trial judges with emphasis placed on new judges. Distinctions are made between judges who are 1) recently appointed, 2) subject to reappointment, and 3) tenured.

Sources of Information

Since bar polls have historically served the function of evaluating judicial performance, attorneys have often been the sole source of information. There is strong agreement that attorneys are logical respondents and bear a professional responsibility for such involvement. However, some writers have expressed concern that if attorneys are the sole respondents, evaluation results may reflect only their interests. According to Meidinger (1977), it may be desirable to solicit input from numerous groups within the legal system "since no one group has a claim to infallible judgment." The trend toward broader involvement can probably be attributed to 1) the public demand for such involvement and 2) the recognition that different groups may be more capable of responding to particular criteria. This conclusion appears to be supported by the literature. Judges tend to be more confident in the results of evaluations conducted by committees composed of judges, attorneys, and various representatives of the general public.

With reference to specific criteria, judges generally view attorneys as quite reliable sources concerning legal capabilities. Occasionally, similar suggestions are made about judicial colleagues. However, a counter-argument has been raised that peers rarely see their colleagues in action and therefore, might base an assessment on reputation, hearsay, or informal contacts (Kinch and Seashore, 1977).

Some writers have suggested that certain court personnel should be included as sources for evaluation programs. Bailiffs, court clerks, law clerks, and court administrators may be more qualified to respond to questions about a judge's administrative ability. (However, it should be recognized that court employees appointed by the judge may not be unbiased respondents in which case it might be inappropriate to include them; or if included, it might be necessary to screen or weight their responses.) Assignment, presiding or administrative judges may also offer insight in this area.

Judge Handler has noted that appellate judges represent an unique source of information on trial judges. During the normal course of fulfilling their appellate duties, appellate judges review the quality of a trial judge's performance whenever the record of a particular case is reviewed. However, the issue raised previously concerning the potential of a judge's appealed cases representing a biased sample is also pertinent here.

A variety of lay attitudes can be solicited. In particular, jurors by definition represent a cross-section of the public (Rubenstein, 1977). Jurors may be appropriate sources of information on courtesy, communication skills (e.g., comprehension of jury instructions), and equal treatment of parties and attorneys. Additional possible lay

respondents include witnesses, courtroom spectators, and parties (or victims in criminal cases). Although parties are not impartial observers, evaluators may be able to identify particular judges that are consistently viewed as fair by the losing party (or convicted criminal defendant).

Several writers have pointed to the potential of self-evaluation (ABA, 1982; Aynes, 1982; Handler, 1979; Ryan, 1982). It may be that judges will be able to sense shortcomings of which others are unaware. Previous research has demonstrated that judges do discriminate among their various skills. For example, a particular judge may perceive himself or herself as an excellent adjudicator but an average administrator. Particularly valuable insights might be gained by comparing the results of self-evaluations and those completed by others.

Other groups that have been suggested as potential respondents include law enforcement personnel, probation and parole officers, media representatives, members of various citizen groups, social science observers and academicians, and law professors. Consideration of potential sources should focus on their knowledge of and involvement in the legal process, the specific criteria to which they could respond, and the perspective to be offered.

Screening for Knowledgeable Respondents

The reliability and credibility of judicial performance evaluation results depend upon simultaneously excluding unknowledgeable sources and including knowledgeable respondents. The ultimate goal should be a representative sample of those eligible to respond. Decisions concerning

sample screening will be influenced by costs, available resources, and staff time.

The process of sampling jurors, witnesses and parties is relatively straight forward. Depending on available resources, evaluators may ask that all citizens involved with a particular judge's caseload complete a questionnaire or grant a brief interview. Alternative approaches might involve 1) systematic sampling (e.g., selecting every fifth case) and then interviewing all participants involved with the cases sampled or 2) random or systematic sampling of participating individuals by case, month, or session.

A case-oriented approach would negate the concern about self-selecting samples that has surrounded bar polls. The accuracy of bar poll results often depends on the hope that only those attorneys who are sufficiently familiar with the judges to be evaluated will respond. The two screening methods generally suggested are 1) select the sample based on accurate, independent information or 2) request demographic information on each respondent that can be used for screening purposes. The first method might require the sample of attorneys to be drawn from the judge's docket. Some proponents suggest inclusion of only those attorneys whose name appears on the docket a specified number of times within a designated time period. However, Maddi (1977) noted that although docket sampling excludes the unknowledgeable, it may be underinclusive (e.g., when teams of attorneys are employed). Therefore, it may be necessary to tap a supplementary source.

The second possible method requires that respondents answer a variety of questions addressing the extent of their interaction with particular judges. Screening questions might include:

a) Would you consider your professional experience with Judge X to be

substantial _____
limited _____
none _____

b) How many times have you appeared in court before Judge X within the last year?

c) In which judicial district do you usually practice?

d) What is the basis of this evaluation?

_____ professional contact
_____ personal contact
_____ reputation
_____ insufficient experience to rate

Other respondent demographics that may prove useful are the types of cases generally handled, years in practice, and type of practice.

Although such questions are helpful for analytical purposes they should not be so specific as to jeopardize the confidentiality of the respondents.

The Bar Association of Metropolitan St. Louis established standards for participation in its recent judicial evaluation survey (Middleton, 1983). Only those attorneys that had begun at least two trials or appeared at least five times before a specified judge were sampled. Furthermore, only trial attorneys that handled at least twenty cases within four years received a survey.

Confidentiality of Responses

Virtually all writers agree that the maintenance of confidentiality is imperative. Guarantees of anonymity are assumed to increase response rates and result in more forthright answers. The thoughtful design of certain procedures can be valuable in this respect. For example, the

distribution and collection of questionnaires by an independent entity such as a university or public opinion survey firm may provide respondents with greater assurance of confidentiality. Further protection can be provided by the use of double envelopes. The South Carolina State Bar included an additional step: the survey was designed so that the names of the judges evaluated were removed from the form by the respondent following completion. For coding and analytical purposes, numerical codes were substituted for the names of the evaluated judges. This practice ensures that the coders are unaware of the identities of the judges whose ratings they compile.

Data Collection Methods

The method or methods of collecting the necessary information on judicial performance will be chosen based on the scope of the evaluation program, the costs involved, the required labor, and the other resources available. These considerations will include the role to be played and extent of involvement on the part of research specialists.

1) Surveys

The data collection method most often discussed in the literature is the questionnaire. A multitude of issues arises once the decision is made to use a questionnaire. For example, different questionnaires might be required to obtain the specialized information different respondents can provide. Surveys for jurors can be specifically designed or several questions added if exit questionnaires are currently administered. In addition, since it is likely that the response rate will be affected by

the length of the survey and the ease of its completion, the instrument should be as concise as possible.

Decisions must also be made concerning the means by which the questionnaire will be administered (by mail or phone; immediately after the hearing, trial, etc.; during an interview) as well as the format to be used. Open-ended questions can be designed, thereby allowing maximum flexibility in response. In contrast, one sentence statements can be developed that require the respondent to rate the judge on a designated scale (poor-deficient-acceptable-good-excellent) with reference to each item. A more simplified form of this approach would entail requesting a yes-no response to a question such as "Does Judge X possess the necessary legal skills for judicial office?". Many bar polls and judicial evaluations have constructed charts with the names of the judges to be evaluated on one axis and one word descriptors listed on the other axis (impartial, diligent, firm). Respondents then rate each judge on a numerical basis (e.g., 1-5, with 1=very good through 5=unqualified).

It should be recognized that the selection of an appropriate format will depend on the goals of the evaluation program, the related cost, and other available resources. For example, open-ended questions may be valuable when used during an interview designed to solicit in-depth responses or in an evaluation process (like that in New Jersey) designed to preclude comparative ranking of judges. In addition, open-ended questionnaires are generally time-consuming to complete and may affect the response rate, especially when distributed by mail.

Many of the concerns noted previously are relevant at this juncture as well. The need for careful, specifically worded questions is essential to ensure the reliability and validity of the results. The

importance of conducting a pilot program or pretest also deserves re-emphasis.

2) Observation

Three types of observation have been suggested as possible methods for judicial evaluation programs. The first involves "court watching" programs. In use in numerous jurisdictions across the country, these programs generally use volunteers due to the significant expense of staffing and training. The effectiveness of "court watching" hinges on sufficient training of the observers in court procedures (formal and informal) and observation techniques. Other in-court observation efforts can involve social scientists and attorneys. A checklist or structured form is usually completed by the observer. The compiled data are then summarized in a manner similar to survey data and used to make recommendations to the judge, administrators, or the legislature.

3) Interviews

Personal interviews can be conducted with a variety of people knowledgeable about the judge's abilities such as attorneys, administrative or assignment judges, and court personnel. Conferences can be conducted privately or by an evaluation committee, but regardless of procedure respondents are generally questioned from a structured interview form that determines the areas and flexibility of response.

4) Official Records

Existing court records and files can be employed as a source of performance data. Statistical reports that detail a judge's workload and

output can provide objective measures that offer further insight concerning judicial performance when combined with additional information and careful interpretation. Analysis of dockets, case files, opinions, and appellate decisions might also be helpful. Generally speaking, administrative court staff can compile the majority of these data from existing records and files. Courts with computerized systems may already receive all or portions of this information. In addition to staffing and logistical concerns, the costs related to compiling these data should be examined closely, especially in court systems that must create such data management systems.

It may be appropriate to use a combination of the data collection methods noted above. A hybrid program that makes use of quantitative and qualitative measures can provide more information, enhance meaningful analysis, and increase reliability.

Analysis

Regardless of the sophistication of the planned analysis, it will be essential that adequate data management capabilities and expertise be obtained to ensure the integrity of the program. Some sources suggest that the data analysis be conducted by an independent entity (university, accounting or public opinion survey firm, etc.) although court employees or performance committee staff members with the necessary skills might also be appropriate.

A wide range of analytical possibilities exist. New Jersey preferred a simple, qualitative approach that deemphasized statistical measurement in favor of identifying areas of strength and weakness. A basic

descriptive approach might also include the computation of percentages by item and response category for each judge. Non-statistical analysis is often necessary when descriptive, open-ended questionnaires or interviews are used. For example, a review committee might be responsible for examining and assimilating 1) recommendations from a courtwatching group, 2) perceptions of several attorneys that interviewed various judges, 3) comments from appellate jurists regarding specific cases, and 4) information provided by a behavioral psychologist on nonverbal cues recorded during observation periods. The committee would then write a comprehensive report with (or without) recommendations for the evaluated judge, the chief justice, nominating officials, and so forth.

Decisions concerning statistical analysis will be necessary if the evaluation program results in primarily quantitative data. It will be necessary to focus on the proper use of raw data, the need for and development of weighting systems, and the reconciliation of multiple evaluations (e.g., attorney and juror surveys with differing questions and response rates).

The main analytical concerns in the literature center on comparative rankings and summarized, overall performance ratings. Varying viewpoints exist on the need for and proper method of summing individual responses to obtain a composite score or rating versus inserting a simple, final question requesting an overall rating of qualified-unqualified or excellent-good-fair-poor. Comparisons of this type are often used haphazardly and can be misleading, improperly calculated, and subject to misinterpretation unless the necessary precautions are taken. However, the goal of the evaluation program may dictate the calculation and use of comparative ratings. For example, comparisons may be viewed as more

appropriate for a retention-oriented program than an individual improvement program.

The need for professional assistance may arise at some stage during this process. The reliability and credibility of the evaluation program will depend heavily on the attention paid to methodological and analytical issues during development and implementation. Research expertise can be obtained from local universities, consulting firms, or qualified non-profit research organizations such as the National Center for State Courts.

Issue 4. Use of the Results

The manner in which the results of a judicial performance evaluation program are used will depend greatly on the objective of the program. It will also be necessary to determine when, to whom, and in what format the results will be disseminated.

Ryan (1982) delineated two models relevant to this discussion. Alaska and Colorado reflect the "populist" model, a model that values and therefore emphasizes citizen input and feedback. On the other hand, New Jersey's evaluation program epitomizes the "employer-employee" model in which all information is generated and controlled by system insiders for internal purposes. Ryan's description serves to further illustrate the interdependence of the various issues discussed herein and therefore, the need for comprehensive planning.

Dissemination to the Public

Historically, the results of bar polls have been released to the public. Proponents of this approach emphasize that reliable information

is necessary to cast an informed vote in merit elections or to provide the impetus required to induce improved judicial performance. Assuming that public dissemination is the preferred route, in what form will the results be published? The options include:

- a) overall scores or ratings
- b) comparative ratings that identify individual judges
- c) a profile of the entire court without identifying individual judges
- d) descriptive information without recommendations
- e) statements concerning qualifications based on a predetermined standard
- f) raw, weighted, and summarized data
- g) pamphlets mailed to registered voters that include summarized results and background information on each jurist
- h) some combination of the above

Potential problems due to the release of evaluation results have been raised by several sources, especially when comparative ratings are published. Some writers fear that dissemination to the public will be demeaning to the judiciary, cause intrabench tensions, and have an adverse effect on morale. Concern has also been expressed that misuse by the media (or election opponents) and misconceptions on the part of the public will occur, ultimately causing the public's confidence in the judiciary to be undermined. For example, when comparative rankings are used some judges will necessarily place at or near the lower end of the scale. However, the range of scores or rankings might be exceptionally narrow with the majority of judges receiving very high individual

GUIDELINES FOR REVIEWING
QUALIFICATIONS OF CANDIDATES
FOR JUDICIAL OFFICE

Introduction

These guidelines are intended for use by bar association committees and judicial nominating commissions that are evaluating candidates for state and local judicial office. It is assumed that these evaluators desire to recommend to the electorate or to the appointing authority the most qualified candidates based on merit.

The guidelines attempt to identify those traits and characteristics to be sought after in the judicial candidates. They attempt to establish criteria for the prediction of successful judicial performance. The identified traits are not mutually exclusive and cannot be wholly separated one from the other. The outlined areas are identified as essential for inquiry in considering all candidates for judicial office. With the exception of integrity, which is always indispensable, the degree to which the areas may be present in any particular candidate may vary in relation to the responsibility of the office and public expectations.

These guidelines are not intended to deal with methods or procedures for judicial selection. Nor are they intended to provide specific operating rules for the commissions and committees. The guidelines are not intended as a definitive review of the qualifications of sitting judges when being considered for retention or elevation, since judicial experience will then provide important additional criteria which are treated elsewhere.

It is hoped that the use of these guidelines, if made known to the public and the press, will enhance the understanding and respect which the judiciary commands in the community being served.

1. Integrity

A CANDIDATE SHOULD BE OF UNDISPUTED INTEGRITY.

The integrity of the judge is, in the final analysis, the keystone of the judicial system; for it is integrity which enables a judge to disregard personalities and partisan political influences and enables him or her to base a decision solely on the facts and the law applicable to those facts. It is, therefore, imperative that a judicial candidate's integrity and character in regard to honesty and truthfulness be above reproach. An individual with the integrity necessary to qualify must be one who is able to speak the truth without exaggeration, admit responsibility for mistakes and put aside self-aggrandizement. Other elements demonstrating integrity are intellectual honesty, fairness, impartiality, ability to disregard prejudices, obedience to the law and moral courage.

A candidate's past professional conduct should demonstrate consistent adherence to high ethical standards. The evaluator should make inquiry among other members of the bar as to whether or not a candidate's representations can be relied upon. A candidate's disciplinary record should be considered. A candidate should waive any privilege of confidentiality, so that the appropriate disciplinary body can make available to the evaluator the record of disciplinary sanctions imposed and the existence of serious pending grievances. The reputation of the individual for truthfulness and fair dealing in extra-legal contexts should also be considered. Inquiry into a candidate's prejudices that tend

to disable or demean others is relevant. However, since no human being is completely free of bias, the important consideration is whether the candidate can recognize his or her own biases and set them aside.

2. Legal Knowledge and Ability

A CANDIDATE SHOULD POSSESS A HIGH DEGREE OF KNOWLEDGE OF ESTABLISHED LEGAL CONCEPTS AND PROCEDURES AND HAVE A HIGH DEGREE OF ABILITY TO INTERPRET AND APPLY THEM TO SPECIFIC FACTUAL SITUATIONS.

Legal knowledge may be defined as familiarity with established legal concepts and evidentiary and procedural rules. Legal ability is the intellectual capacity to interpret and apply established legal concepts to specific factual situations and to communicate, both orally and in writing, the thought processes leading to the legal conclusion. Legal ability connotes also certain observable behaviors, such as reaching concise decisions rapidly once apprised of sufficient facts, responding to issues in a reasonably unequivocal manner and quickly grasping the essence of questions presented.

Legal knowledge and ability are not static qualities, but are acquired by experience and by the continual learning process involved in keeping abreast of changing concepts through education and study. While a candidate should possess a high level of legal knowledge, and while a ready knowledge

of rules of evidence is of importance to judges who will try contested cases, a candidate should not normally be expected to possess particular substantive expertise. More important is the demonstration of an attitude reflective of willingness to learn the new skills and knowledge which will from time to time become essential to a judge's performance and of a willingness to improve judicial procedure and administration.

The review of a candidate's academic record, participation in Continuing Legal Education Forums, legal briefs and writings and reputation at the bar and among professional colleagues who have had first-hand dealings with the candidate will be helpful in evaluating legal knowledge and ability.

3. Professional Experience

A CANDIDATE SHOULD BE A LICENSED, EXPERIENCED LAWYER.

A candidate should be admitted to practice law in the jurisdiction. The number of years that a lawyer has practiced is a valid criterion in screening applicants for judgeships. The professional experience should be long enough to provide a basis for the evaluation of the candidate's demonstrated performance and long enough to ensure that the candidate has had substantial exposure to legal problems and the judicial process.

It is desirable for a candidate to have had substantial trial experience, particularly the candidate for the trial bench. Trial experience includes the preparation and presentation of matters of proof and legal argument in an adversary setting. The extent and variety of a candidate's experience as a litigator should be considered in light of the nature of

the judicial vacancy that is being filled. Although substantial trial experience is desirable, other types of legal experience should also be carefully considered. An analysis of the work performed by the modern trial bench indicates that, in addition to adjudication, many judges perform substantial services involving administration, discovery, mediation and public relations. The private practitioner who has developed a large and loyal clientele, the successful law teacher and writer and the careful corporate or government attorney, all may have experience which will bear on potential judicial performance. Outstanding persons with such experience should not be ruled out of qualification solely for lack of trial experience. The important consideration is the depth and breadth of the professional experience and the competence with which it has been performed, rather than the candidate's particular type of professional experience.

For a candidate to an appellate bench, professional experience involving scholarly research and the development and expression of legal ideas is especially desirable.

4. Judicial Temperament

A CANDIDATE SHOULD POSSESS A JUDICIAL TEMPERAMENT, WHICH TRAIT INCLUDES COMMON SENSE, COMPASSION, DECISIVENESS, FIRMNESS, HUMILITY, OPENMINDEDNESS, PATIENCE, TACT AND UNDERSTANDING.

Judicial temperament is universally regarded as a valid and important criterion in evaluating a candidate. There are several indicia of judicial temperament which, while premised upon subjective judgment, are sufficiently understood by lawyers and non-lawyers alike so as to afford workable guidelines for the evaluator.

Among the qualities which comprise judicial temperament are patience, openmindedness, courtesy, tact, firmness, understanding, compassion and humility. Because the judicial function is essentially one of facilitating conflict resolution among competing interests, judicial temperament requires an ability to deal with counsel, jurors, witnesses and parties calmly and courteously, and the willingness to hear and consider what is said on all sides. It requires the ability to be even tempered, yet firm; openminded, yet willing and able to reach a decision; confident, yet not egocentric. Because of the range of topics and issues which a judge may be required to deal, judicial temperament presumes a willingness and ability to assimilate data outside the judge's own experience. It presumes, moreover, an even disposition, buttressed by a keen sense of justice which enables an intellectual serenity in the approach to complex decisions, and forbearance under provocation. Judicial temperament also implies a mature sense of proportion; reverence for the law, but appreciation that the rule of law is not static and unchanging; understanding of the judge's important role in the judicial process, yet recognition that the administration of justice and the rights of the parties

transcend the judge's self-importance. Judicial temperament is typified by recognition that there must be compassion as the judge deals with matters put before him or her.

Factors which indicate a lack of judicial temperament are also identifiable and understandable. Judicial temperament, thus, implies an absence of arrogance, impatience, pomposity, loquacity, irascibility, arbitrariness or tyranny. Judicial temperament is a quality which is not easily quantifiable, but does not wholly evade discovery; its absence can probably be fairly ascertained.

Wide-ranging interviews should be undertaken to provide insight into the temperament of a judicial candidate.

5. Diligence

A CANDIDATE SHOULD BE DILIGENT AND PUNCTUAL.

Diligence is defined as a constant and earnest effort to accomplish that which has been undertaken. While diligence is not necessarily the same as industriousness, it does imply the elements of constancy, attentiveness, persistence, perseverance, painstakingness, assiduousness and untiring effort. It does imply the possession of good work habits and the ability to set priorities in relation to the importance of the tasks to be accomplished.

Punctuality should be recognized as a component of diligence. A candidate should be known to meet procedural deadlines in trial work and to keep appointments and commitments. A candidate should be known to respect the time of other lawyers, clients and judges.

Health

A CANDIDATE SHOULD BE IN GOOD PHYSICAL AND MENTAL HEALTH.

Health embraces a condition of being sound in body and mind and with some freedom from physical disease or pain. This is one criterion which may be capable of objective consideration. Any history of a past disabling condition or suggestion of a current disabling condition should require further inquiry as to the degree of impairment. Not all physical disabilities should be cause for rejection of a candidate, but any serious condition must be considered carefully as to the possible effect it could have on the person's ability to perform the duties of a judge. Thus, it is proper for the evaluator to require a candidate to provide a physician's written report of a recent medical examination.

Good health includes freedom from the personality characteristics of erratic or bizarre behavior which would significantly affect functioning as a fair and impartial judge. Addiction to alcohol or other drugs is sufficiently common, and often of such an insidious nature, that the evaluator should affirmatively determine that a candidate does not presently suffer from any such disability.

The ability to handle stress is a component of good mental health. A candidate should have developed the ability to refresh himself or herself occasionally with non-work

related activities and recreations. A candidate should have a positive perception of his or her own self-worth, so as to be able to withstand the psychological pressures inherent in the task of judging.

The evaluator should give consideration to the age of a candidate as it bears on health, as well as to the anticipated years of service that the candidate may be able to perform.

7. Financial Responsibility

A CANDIDATE SHOULD BE FINANCIALLY RESPONSIBLE.

Demonstrated financial responsibility of a candidate is one of the factors to be considered in predicting ability to properly serve. Whether there have been unsatisfied judgments or bankruptcy proceedings against a candidate and whether the candidate has promptly and properly filed income tax returns are pertinent to financial responsibility. Financial responsibility demonstrates self-discipline and the ability to withstand pressures which might compromise independence and impartiality.

8. Public Service

CONSIDERATION SHOULD BE GIVEN TO A CANDIDATE'S PREVIOUS PUBLIC SERVICE ACTIVITIES.

Participation in public service and pro bono activities adds another dimension to the personality of the candidate. The degree of participation in such activities may indicate fairness, honesty, industriousness, diligence, social consciousness and consideration for others. Likewise, the degree to which bar association work provides an insight into the qualifications of the candidate varies in each individual. It may enhance a personal background.

The rich diversity of backgrounds of American judges is one of the strengths of the American judiciary, and a candidate's non-legal experience must be considered along with the candidate's legal experience. Experience which provides an awareness of and sensitivity to people and their problems may be just as helpful in the decision-making process as a knowledge of the law to be applied. There is, then, no one career path to the judiciary. A broad, non-legal academic background, supported by varied and extensive non-academic achievements and accomplishments are part of the sum total of a judge's qualifications. Included in this non-legal experience are involvements in community affairs and participation in political activities, including election to public office. The most desirable candidate will have had broad life experiences.

There should be no issue-oriented litmus test for selection as a judge. No candidate should be precluded from consideration because of his or her opinions or activities in regard to controversial public issues. No candidate should be excluded from judicial consideration because of race, creed, sex or marital status.

While candidate interviews may touch on a wide range of subjects in order to test a candidates breadth of interests and thoughtfulness, the candidate should not be required to indicate how he or she would decide particular issues that may arise in litigated cases. A candidate's judicial philosophy and ideas concerning the role of the judicial system in our scheme of government are relevant subjects of inquiry.