



# National Institute of Justice

## R e s e a r c h i n g B r i e f

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### Issues and Findings

**Discussed in this Brief:** Factors that influence the timeliness and quality of felony case processing in State criminal court systems located in Albuquerque, New Mexico; Austin, Texas; Birmingham, Alabama; Cincinnati, Ohio; Grand Rapids, Michigan; Hackensack, New Jersey; Oakland, California; Portland, Oregon; and Sacramento, California. In each jurisdiction, researchers analyzed approximately 400 felony cases that reached resolution in 1994.

**Key issues:** Despite efforts to identify the sources of delay in felony case processing and find ways to alleviate it, the problem persists. Indeed, much of its apparent intractability can be traced to the longstanding belief that improvements in timeliness compromise the quality of case processing. To test the influence of factors thought to affect case processing time, the study measured the relative impact of each factor, alone and in combination, within and across all jurisdictions. Researchers also interviewed and surveyed judges, attorneys, and other court officials to ascertain attitudes toward court resources, management, and the skill and tactics of opposing counsel. Researchers then compared these opinions with the overall processing speed of their respective jurisdictions.

**Key findings:** The study challenges conventional thinking that the timeliness and quality of justice are mutually exclusive, arguing

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## Efficiency, Timeliness, and Quality: A New Perspective From Nine State Criminal Trial Courts

*by Brian J. Ostrom and Roger A. Hanson*

The Sixth Amendment to the U.S. Constitution guarantees the fundamental right to “a speedy and public trial,” yet balancing the pace of the legal process with quality case processing remains a formidable challenge. Other equally vital and fundamental values, such as due process, equality, and protections against double jeopardy, excessive bail, and self-incrimination, demand time and attention. Indeed, conventional thinking holds that these two values—the timeliness and the quality of justice—are in conflict, with a gain in one coming only at a loss in the other.

This Research in Brief discusses a study that challenges such thinking by demonstrating that courts can, in fact, improve the timeliness of case resolution without sacrificing defendant rights or quality of justice. With support from the National Institute of Justice, researchers at the National Center for State Courts (NCSC) and the American Prosecutors Research Institute (APRI) examined nine State criminal trial court systems. The study concluded that timeliness in felony case processing occurred in court systems that promoted effective advocacy, an integral component of quality case processing. In addition, researchers determined that all of the courts studied, regardless of their

case processing speed, adhered to a norm of “proportionality”; that is, more serious and complicated cases took longer to resolve and received more attention than less serious and complicated cases. In the more expeditious courts, however, the work got done in a tighter timeframe.

### About this study

In response to widespread concern about delays in case resolution, an extensive body of research in this field has emerged in recent decades. Most of these efforts sought to explain disparities in the length of time needed to resolve criminal cases by comparing caseload characteristics and aspects of court organization, management, and resources. When these factors failed to account for more than a small portion of the variation in the pace of litigation, however, researchers began to examine the qualitative social and political dynamics of court systems.

The NCSC/APRI study rigorously examined how this blend of quantitative and qualitative factors influenced not only the pace of litigation, but also the quality of case processing in nine trial court systems: Bernalillo County (Albuquerque), New Mexico; Travis County (Austin),

## Issues and Findings

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instead that courts can exercise considerable control over how quickly cases move from indictment to resolution without sacrificing advocacy or due process. Other highlights of this examination of quantitative and qualitative characteristics of case processing include the following:

- Meaningful and effective advocacy was more likely to occur in criminal justice systems where case resolution was the most timely.
- The relative pace of litigation depended largely on the local legal culture, that is, the expectations and attitudes of judges, prosecutors, and defense attorneys. In the more expeditious courts, personnel had more efficient work orientations, including clear case processing time goals. Attorneys in these courts had more positive views about resources, management policies, and the skill and tactics of their opposition than did their counterparts in less expeditious courts.
- All courts treated cases proportionately, giving each case the time and attention that it deserved. More complex cases took longer to resolve than less complex cases did. In the more expeditious courts, however, the time needed to reach resolution was shorter.
- The combined influence of four factors—a violent felony charge, the issuance of a bench warrant, pretrial release on bond, and resolution by trial—produced a significant increase in case processing time in all nine courts.
- All courts can become more efficient by maximizing attorney skills, management techniques, and available technology. Increases in efficiency will simultaneously improve the timeliness and quality of felony case processing.

**Target audience:** Attorneys, judges, court officials, and criminal justice researchers and practitioners.

Texas; Jefferson County (Birmingham), Alabama; Hamilton County (Cincinnati), Ohio; Kent County (Grand Rapids), Michigan; Bergen County (Hackensack), New Jersey; Alameda County (Oakland), California; Multnomah County (Portland), Oregon; and Sacramento County (Sacramento), California.<sup>1</sup>

For each court system, researchers looked at data on various case and defendant characteristics drawn from a random sample of approximately 400 individual cases resolved in 1994; questionnaire responses from prosecutors and criminal defense attorneys; onsite observations and interviews with judges, prosecutors, and defense attorneys; and community and court organizational attributes (see “Study Methodology”).

**Trial court system profiles.** The trial courts surveyed were in large urban or suburban counties with populations ranging from 522,328 to 1.3 million. Population density varied substantially, from fewer than 600 to more than 3,500 people per square mile.

The jurisdictions varied in income level and racial composition. Violent crime rates also varied markedly, from 161 per 100,000 population in Hackensack to more than 1,400 per 100,000 population in both Birmingham and Portland.

Despite their geographic and demographic diversity, the jurisdictions surveyed reported similarities in the types of cases coming into their court systems:

- The majority of cases involved drug-related offenses and burglary or theft.
- Although rates of violent crime varied, very violent crimes against the person (capital murder, homicide, rape, and sexual assault) made up a small number of the cases filed.
- The majority of cases were resolved by guilty pleas; trials were rare.

- Most criminal defendants were released on bond, and most had a publicly appointed attorney.

These profiles suggest that virtually every State trial court in the country likely shares some key attributes with one or more of the nine courts in this study. Therefore, the findings of this study should be widely applicable.

To determine the pace of litigation in the nine courts, researchers used a modified version of the American Bar Association (ABA) standards on felony case disposition times (see “How Fast Is Fast Enough?”). Measured against this modified standard, the nine courts fell into three clusters: Cincinnati, Grand Rapids, and Portland were the most expeditious; Oakland, Sacramento, and Albuquerque were intermediate in terms of timeliness; and Austin, Birmingham, and Hackensack were the slowest (exhibit 1).

**Timeliness and quality linked to court efficiency.** The study team conducted a comprehensive and systematic inquiry into the relationship between the pace of litigation and the quality of case processing. To clarify this relationship, an analytical framework was developed to determine how a court system’s efficiency affects timeliness and quality.

*Timeliness* was measured as the number of days from indictment or bindover to final resolution of the case.<sup>2</sup> The *quality* of case processing—somewhat more difficult to gauge—was measured in two ways:

- The extent to which the decisions and actions of the trial court were based on attention to each individual case and were in proper proportion to the nature and magnitude of the charges, as established in Standard 3.3, “Equality, Fairness, and Integrity,” developed by the Commission on Trial Court Performance Standards.<sup>3</sup>

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## Study Methodology

The National Center for State Courts (NCSC) and the American Prosecutors Research Institute (APRI) conducted this study in nine State general jurisdiction courts in urban and suburban counties. The sites represented five geographic regions of the United States, with specific attention given to:

- The way the courts managed their cases (one jurisdiction had unified trial courts, and the others had two-tier systems; five courts used an individual calendar system, and four used a master calendar).
- Geographic location and socioeconomic context.
- How the courts provided indigent defense criminal services.

In each of the nine counties, research staff worked with court and/or district attorney staff to select a random sample of approximately 400 felony cases, all of which were resolved in 1994. These samples provided statistics with a reliability of ±5 percent and a confidence interval of 95 percent.<sup>a</sup> Research staff hired and trained court clerks and law students to complete a 1-page coding form for each of the 3,779 cases in the sample. Coding forms were sent to NCSC, where data were entered and analyzed.

## Site visits and interviews

Data also included responses to questionnaires completed by prosecutors and criminal defense attorneys; onsite interviews with judges, court managers, prosecutors, and criminal defense attorneys; and contextual measures of community and court organizational characteristics.

Two senior researchers from NCSC and APRI visited each court in the study.

Research staff spent 3 days at each site observing the courtroom and conducting interviews with the following individuals: three judges; three prosecutors; three public defenders and a private attorney who handles criminal cases only for private clients; the court administrator and chief deputy administrator in charge of the felony division (those who manage tasks such as calendar and records management); two courtroom clerks; two probation officers; and two police officers.

The 60- to 90-minute interviews involved primarily open-ended questions designed to assess (1) the caseload size and adequacy of staff resources; (2) the nature of the felony case management system, including its strengths and weaknesses; (3) the seriousness of delay in felony adjudication, along with its causes and possible solutions; (4) the nature and effectiveness of informal and formal methods of inter-agency communication and coordination regarding felony case management issues; and (5) the nature and effectiveness of court, prosecutor, and criminal defense leadership in addressing problems in the felony adjudication process.

## Questionnaires

A three-page questionnaire was distributed to each judge, prosecutor, and full-time public defender who handled felony cases in 1994. Response rates varied, but at least 15 prosecutors and 15 defenders completed questionnaires in each jurisdiction.<sup>b</sup> Because responses were anonymous, no determination could be made as to whether substantial differences existed between respondents and nonrespondents. Accordingly, questionnaire data should be interpreted cautiously; however, the questionnaires provided a broader picture of opinions than could be obtained through personal interviews alone. Responses were analyzed using four combinations of questionnaire items that measured attorney

attitudes toward resources, court management, opposing counsel's competence, and opposing counsel's practices.

## Preparation of statistics

An interactive regression model was used to analyze individual case-level data. The dependent variable was the number of days required to resolve each case, as measured from the time of indictment or bindover to final disposition, adjusted for a criminal defendant's time out on bench warrant.<sup>c</sup> This allowed direct jurisdiction-by-jurisdiction comparisons of the impact of each independent variable on the time necessary to resolve a criminal case.

Each independent variable was multiplied by a set of nine "dummy" or categorical variables representing each of the nine jurisdictions.<sup>d</sup> This data manipulation was designed to help distinguish the contextual or organizational influences of specific court systems on case processing time. The benefit of this system was that it identified the influence of each independent variable on case processing time according to jurisdiction, and it compared the influence of each variable across all sites. In Oakland, for example, one could compare the time required to resolve the case of an offender who was represented by a publicly appointed attorney and convicted of a violent crime at trial with the time needed to resolve the case of a drug offender who was represented by a privately retained attorney and convicted by a guilty plea. Additionally, one could readily examine whether the same determinants had a similar impact on case processing time in the other jurisdictions.<sup>e</sup>

## Results

Regression analysis was applied to the individual case attributes for the pooled

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## Study Methodology

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data from all nine sites. The statistically significant regression coefficients are indicated in exhibit 4, which reveals the effect of each characteristic, alone or in tandem, controlling for the influence of all other factors in the model. The numerical value of coefficients in the exhibit shows the average number of days that each factor adds to or subtracts from case processing time within and across courts. The exhibit also indicates the statistical significance level of each factor and how much of the total variation in case processing time for all nine sites combined is explained by the model ( $R^2 = 0.30$ ). This relatively small number of common case and defendant characteristics accounted for nearly one-third of the variation in the time required to resolve criminal cases in all nine courts.

- Whether the criminal court system was conducive to providing effective advocacy.

Researchers then examined how this overall measure of quality varied among courts with different levels of timeliness.

In the context of case resolution, *efficiency* means the effective use of resources to produce the most of what a court system values. Well-performing court systems have examined the policies and practices that allow them to better use personnel, procedures, and technology to achieve desired results. To become efficient, therefore, court leaders should devote the time necessary to examine and define their court values.

**Analyses.** To understand the factors that contribute to differences in felony case processing times, researchers conducted three separate analyses:

a. Herbert Arkin and Raymond Colton, *Tables for Statisticians*. (New York: Barnes and Noble, 1963).

b. To protect the anonymity of the small number of felony judges in some courts, judges' responses to questionnaires were not included in this analysis.

c. A primary goal was to ascertain how a number of case- and defendant-related characteristics influenced case processing time while the defendant was under court control. Approximately 21 percent of the defendants in the sample had a bench warrant issued for failure to appear. For those cases, the number of days that the defendant was outside of court control (bench warrant time) was deducted from total case processing time.

d. This technique expanded the number of independent variables in the model from 14 to 126 (14 times 9).

e. This approach circumvented many previous methodological roadblocks. One technique used in the past was to include a set of dummy variables that identified each court participating in the study. However, using a dummy variable for each site, rather than using an interactive model, did not permit the investigation of any differential impact of case and defendant characteristics across sites (e.g., whether the existence or absence of a prior record makes a substantial difference in case processing time in one court but makes little difference in another). Rather, all aspects of court context were merged into a single indicator and the effects of the context were assumed to be independent of case characteristics. As a result, the prior approach assumed that individual case characteristics did not have a differential impact on processing time based on where the case was filed—say in Austin or Portland. This method presumed that the Austin context affected the time necessary to dispose of cases by trial or guilty plea to the same degree as the Portland context.

- **Court-level analysis.** An examination of aggregate court-level data to determine the extent to which various caseload characteristics

contributed to differences in the pace of felony litigation.

- **Case-level analysis.** An examination of individual case- and defendant-

**Exhibit 1. Felony case processing time in the nine courts**

Court	Percentage of felony cases resolved within 180 days of indictment or bindover
<i>Most expeditious:</i>	
Cincinnati <sup>†</sup>	89
Grand Rapids	83
Portland <sup>†</sup>	80
<i>Intermediate:</i>	
Oakland	71
Sacramento	67
Albuquerque <sup>†</sup>	64
<i>Least expeditious:</i>	
Austin	56
Birmingham <sup>†</sup>	51
Hackensack <sup>†</sup>	49
<b>All courts combined</b>	68

<sup>†</sup> Jurisdiction charges most of its felony cases by grand jury indictment.

related factors whose collective impact is believed to affect case processing time.

- **Legal culture analysis.** A qualitative analysis of the local legal culture to determine whether attorney attitudes toward the work environment varied systematically with the speed of case processing.

## Court-level analysis

In previous research, the analyses of felony caseload characteristics focused on four factors: the severity of the charge at indictment, procedural aspects of local justice systems, defendant resources, and manner of case resolution. To determine how these factors affected case processing time in the nine court systems under study, NCSC/APRI researchers used a traditional bivariate approach to examine aggregate court-level data for each jurisdiction.

**Severity of the charge at indictment.** The composition of a court's caseload is often considered a primary determinant of case processing time because certain types of cases (e.g., most violent felonies) are thought to be inherently more complex (e.g., they involve more motions, more trials, more victims and witnesses); therefore, such cases require more court time and attention to resolve than do other felony cases. The research literature, however, does not necessarily support this assertion. Some studies confirm that more serious cases take longer to resolve, but others conclude that the seriousness of an offense has only a weak relationship to case processing time.<sup>4,5</sup>

The initial results of this study were also mixed. Almost all of the courts studied took longer to adjudicate the most violent cases, such as murder and rape, than other less serious cases.

Accordingly, courts with a larger proportion of violent crimes had longer overall case processing times. Exhibit 2 shows that violent felonies made up 20 percent or less of the caseload in the three fastest courts. However, exhibit 2

also shows that the same violent crimes accounted for 20 percent or less of the caseload in the two slowest courts.

The data also failed to show a clear relationship between case processing



## How Fast Is Fast Enough?

**A**n important role of courts is to balance the competing interests of speed and due process. But what is the optimal combination of expedition and quality justice?

The American Bar Association (ABA), the Conference of Chief Justices (CCJ), and the Conference of State Court Administrators (COSCA) addressed this question in the mid-1980s.<sup>a</sup> Because the needs of each case differ, and a single time standard could not be applied to all cases, the groups determined that practitioners should draw on their own experience to estimate case processing times.

The ABA standards suggest that, from the date of arrest to the date of disposition (e.g., entry of guilty plea, verdict, or dismissal), courts should dispose of 90 percent of their felony cases in 120 days; 98 percent in 180 days; and 100 percent within 1 year.<sup>b</sup>

The study summarized in this Research in Brief focused on general jurisdiction court case processing, and the researchers adopted a modified version of the ABA standards—in part because of practical considerations, such as unreliable or unavailable arrest dates in some jurisdictions. Also, in felony adjudication, various stages of the legal process frequently occur in two different courts—one of limited jurisdiction and another of general jurisdiction.<sup>c</sup> Speedy trial rules in almost every State take effect when the indictment is

issued and the defendant is arraigned in the general jurisdiction court, further complicating the issue of a uniform starting point for measuring time to resolution.

Therefore, this study modified the ABA standard calling for 98 percent of all felonies to be resolved within 180 days of the *initial arrest* to a standard calling for the disposition of 98 percent of all cases within 180 days of *indictment* or *bindover*. No court in this study met the unmodified ABA standards.

a. American Bar Association, *Standards Relating to Trial Courts, As Amended* (Chicago: American Bar Association, 1987); Steve Otto, "National Time Standards for Case Processing," *Court Management Journal* 7 (1985): 32.

b. The ABA standards, which this study uses as a framework, are similar to the standards promulgated jointly by CCJ and COSCA. CCJ/COSCA criminal standards state that 100 percent of felony cases should move from arrest to trial in 180 days except in cases where the court determines exceptional circumstances exist. Since 1985, most States have adopted disposition time goals (besides speedy trial rules) for adjudicating all felony cases. NCSC has compiled a report on State disposition time goals for criminal, civil, and other cases; the report is available upon request.

c. Eight of the nine jurisdictions employed a two-tiered court system; only Sacramento had a unified court system.

time and the proportion of less serious cases, such as drug sale and possession. Among the fastest courts, for example, Portland had almost three times the proportion of drug cases (53 percent) as Grand Rapids (19 percent).

The absence of a clear relationship between caseload composition and processing time may reflect explicit court practices and priorities. Some have noted that courts can exercise control over their caseload composition; it is not necessarily a product of chance.<sup>6</sup> For example, the proportion of violent criminal cases was highest (39 percent) in Sacramento, where the court system strives to obtain guilty pleas prior to preliminary hearings in municipal court. Because this practice substantially reduces the number of less serious (nonviolent) cases that are bound over to superior court for trial, it produces a relatively high percentage of violent cases in the superior court caseload.

Courts may also influence caseload composition by processing one type of case in a highly efficient manner. In Portland, where the proportion of drug cases was highest, a drug court processed more than 50 percent of the total

caseload with only 10 percent of the judicial resources. As a result, Portland not only prosecuted more drug cases but also made the timely processing of its remaining, and relatively more serious, caseload a priority.

These examples illustrate two points. First, courts can and do set priorities for processing different types of cases. Second, establishing priorities can affect both the caseload composition and the time allocated to each type of case.

**Procedural aspects.** Particular crime and defendant characteristics—mandatory sentence enhancements, charge reductions, multiple-defendant cases, and bench warrants for failure to appear—are believed to increase the procedural complexity of cases and lengthen time to disposition. Some observers maintain, for example, that mandatory sentence enhancements for offenders who use weapons when committing crimes make defendants less likely to plead guilty and/or more likely to delay final disposition in an effort to avoid the enhancement.<sup>7</sup> Overall, there was no apparent relationship between the percentages of weapons-related

felony charges and the corresponding case processing times (exhibit 3).

Sentence enhancement for offenders with prior felony convictions is also common, especially for those involved in violent or drug crimes. Generally, the fastest courts had higher percentages of defendants with prior felony convictions than the slowest courts. This finding seems counterintuitive, but interviews at some sites suggested that prosecutors used sentence enhancement as a “hammer” in plea negotiations. For example, a defendant facing a habitual-offender penalty may be persuaded to plead guilty to the underlying charge sooner if the prosecutor offers to waive the repeat-offender enhancement.

Charge reduction rates also may affect case processing time. Some prosecutors “charge high” with the expectation that they will negotiate a guilty plea to a lesser, and perhaps more realistic, charge. Other prosecutors interviewed suggested that having something to offer the defendant, such as reducing or dropping a charge, often facilitates plea negotiations. However, variations in plea negotiation tactics did not appear to be related to case processing times.

*Exhibit 2. Composition of cases in the nine courts*

Type of felony case, as a percentage of total caseload	Overall	Cincinnati	Grand Rapids	Portland	Oakland	Sacramento	Albuquerque	Austin	Birmingham	Hackensack
Most violent crimes <sup>a</sup>	6	4	5	5	8	12	5	7	7	5
Other violent crimes <sup>b</sup>	17	13	15	13	23	27	26	17	11	15
Burglary, theft	32	28	45	24	14	18	40	36	36	35
Drug sale, possession	34	40	19	53	45	32	18	28	39	30
Other felonies <sup>c</sup>	11	15	17	6	9	12	11	12	7	15
<b>Total<sup>d</sup></b>	100	100	101	101	99	101	100	100	100	100
<b>Number of cases</b>	3,779	485	463	455	417	200	375	499	478	407

a. Most violent crimes include capital murder, homicide, and rape.

b. Other violent crimes include robbery, assault, kidnaping, manslaughter, and child abuse.

c. Other felonies include weapons possession, DWI, destruction of property, and escape from confinement.

d. Totals may not equal 100 due to rounding.

**Exhibit 3. Case- and defendant-related characteristics**

Characteristic	Overall	Percentage of defendants with named characteristic, by court								
		Cincinnati	Grand Rapids	Portland	Oakland	Sacramento	Albuquerque	Austin	Birmingham	Hackensack
Reduction in category of offense	27	8	40	25	27	31	38	34	23	17
Weapons charge	14	12	12	5	26	21	19	12	13	16
Case has multiple defendants	25	19	22	23	27	47	27	16	23	34
Bench warrant for failure to appear	21	16	8	28	13	27	16	34	24	25
Prior felony conviction	43	75	40	48	55	28	43	30	30	28
Out on bond	64	67	69	69	34	66	74	69	49	81
Privately retained attorney	25	20	15	9	18	13	29	34	41	47

In six of the nine jurisdictions examined, the percentage of cases involving multiple offenders ranged from 22 to 34. Such cases can be more complex in that they require separate criminal defense counsel and, therefore, have greater potential for problems with scheduling and coordination.<sup>8</sup> Extra time also might be required to persuade one or more defendant to testify against each other. Again, researchers found no apparent connection between the number of defendants per case and case processing times.

The extent to which defendants fail to appear for scheduled hearings appears to be only weakly connected to case processing time. In the three slowest courts, bench warrants were issued in 24 to 34 percent of cases. Only one of the fastest courts had such a high proportion of defendants with a bench warrant.

#### Criminal defendant resources.

Researchers and practitioners often assert that a defendant's economic status can affect case processing time in two ways: in the ability to post bond and in the ability to retain a private attorney. Additionally, State laws requiring that

cases be brought to trial more quickly when defendants remain in pretrial custody can complicate the adjudication process.<sup>9</sup> Courts with a large proportion of defendants in custody may exert more pressure on them to plead guilty than courts in which most defendants are released on bond.<sup>10</sup> Conversely, detained defendants are likely to be accused of more serious offenses. These cases are more likely to go to trial and, therefore, take longer to resolve. In this study, however, little or no relationship existed between the proportion of defendants in custody and case processing times.

As exhibit 3 indicates, the four slowest courts had the highest percentage of cases with privately retained attorneys (29 to 47 percent, compared with 9 to 20 percent in the five fastest courts). This finding supports the contention that privately retained attorneys contribute to longer case processing times in felony adjudication. Cases handled by public defenders move more swiftly because these attorneys are usually systematic in handling cases and have a clear understanding of court operations.<sup>11</sup> In addition,

defendants who can afford privately retained attorneys also may have the economic resources to contest evidence and file more motions.

**Manner of case resolution.** Conventional wisdom suggests that higher trial rates, especially jury trial rates, will be associated with longer case processing times.<sup>12</sup> Data in this research, however, showed that higher jury trial rates did not necessarily lead to slower case processing times. Two of the fastest courts, Cincinnati and Portland, reported the two highest jury trial rates (exhibit 4).

Six of the courts studied had guilty plea rates of 80 to 90 percent, and two had guilty plea rates of nearly 75 percent. These differences also were not associated with overall case processing time.

Despite the intuitive importance of these case characteristics, this analysis of aggregate court-level data found little systematic connection between each court's individual case- and defendant-related attributes and the pace of litigation. It is possible, however, that the examination of individual caseload factors

understates and obscures their collective impact. To ascertain the factors' collective influence, researchers used the statistical technique of multivariate regression to pool the datasets and uncover similarities and differences in how individual case attributes influence case processing time within and across the nine jurisdictions.

### **Case-level analysis**

Though aggregate data on case and defendant characteristics had little effect on case processing time, an individual-level analysis of those factors *in combination* revealed a set of characteristics that consistently affected the time to resolution in all courts. Like the court-level analysis, this case-level interactive regression analysis examined important aspects of felony case processing, such as the severity of the charge, procedural aspects of the case, defendant resources, and manner of resolution. The analysis showed that, collectively, four specific factors—violent felonies, the issuance of a bench warrant, release on bond, and a trial by jury—were key determinants of case processing time.

#### **Severity of charge at indictment.**

An analysis of the time required to resolve various types of cases found that the most violent felony cases (i.e., capital murder, homicide, and sexual assault) took the longest to resolve in eight of the nine courts (significantly longer in six of them). The analysis withheld drug sale and possession cases from the model in order to create a base category against which other types of charges could be compared. Therefore, each of the coefficients under severity of charge at indictment shows the average number of case processing days that a particular charge adds to or subtracts from the time required to resolve a drug-related case.

Exhibit 4 shows that disposition of the most violent felony cases took about 39 days longer than drug cases in Cincinnati and 152 days longer in Birmingham. In five of the nine courts, moreover, the combination of cases involving the most violent offenses and cases involving other violent offenses (e.g., armed robbery) took the longest to resolve.

#### **Procedural aspects of the case.**

The analysis found that only one procedural factor—the issuance of a bench warrant—clearly and consistently affected case processing time. Cases involving the issuance of a bench warrant took considerably longer to resolve in all nine courts (significantly longer in six).<sup>13</sup>

In addition, cases involving a charge reduction added time in seven of nine courts (though significantly in only three). The three courts in which charge reductions significantly affected case processing time were among the slowest (Albuquerque, Birmingham, and Hackensack), but charge reductions added little or nothing to case processing time in the fastest courts.

Potential procedural complexities, such as weapons charges, multiple defendants, or prior felony convictions, had little or no consistent relationship to case processing time.<sup>14</sup> The presence of multiple defendants significantly affected case processing time in six of the nine jurisdictions, but the effect in Grand Rapids and Austin (to reduce) was the opposite of the effect in Oakland, Sacramento, Hackensack, and Birmingham (to increase). Weapons charges and the existence of a prior record were significant in few courts. This finding was somewhat surprising because established literature shows that weapon use and prior record are important determinants of offense seri-

ousness and sentence length, yet they appeared largely unrelated to case processing time.

**Level of defendant resources.** In seven of the nine courts, case processing time was significantly longer when defendants were released on bond. As expected, courts gave priority to cases in which defendants were detained. The net effect of this practice varied. In the three fastest courts (Cincinnati, Portland, and Grand Rapids), release on bond added 19 to 33 days to case processing time; in the three slowest courts (Austin, Birmingham, and Hackensack), bail added 77 to 119 days to case processing time. Additionally, privately retained attorneys did not consistently contribute to delay. Although the data showed that defendants in the slower courts tended to use privately retained defense attorneys more frequently, attorney type had little impact when all case characteristics were taken into account. Privately retained attorneys were associated with significantly longer case processing times in only three courts (Cincinnati, Grand Rapids, and Albuquerque).

**Manner of case resolution.** Cases resolved by trial rather than a guilty plea took significantly longer in eight of the nine courts. Measured against case processing time for a guilty plea, case resolution by trial took approximately 147 days longer in Austin and 133 days longer in Grand Rapids. The analysis also indicated that trials led to longer case processing time regardless of other factors. Assembling jurors, witnesses, defendants, attorneys, judges, and court staff—regardless of the type of offense or case and defendant characteristics—is more time consuming and complicated than negotiating a guilty plea. As a result, trials had a significant impact on the pace of litigation in all courts,

but the relative impact was less among faster courts.

Cases resolved by deferral or dismissal often took far longer than cases resolved by guilty plea. Although dismissal hearings can be completed in minutes, the time necessary to schedule such hearings supports the notion that prosecutors are reluctant to dismiss charges against defendants who proceed through the screening and indictment process. Deferrals were a rare form of disposition, except in Austin, where they were

treated much the same as a traditional guilty plea. The lengthy deferral process in Grand Rapids, Portland, and Oakland reflected the terms of their deferrals, which require monitoring a defendant's progress before final disposition of a case.

Two overall observations emerged from this analysis. First, the combined influence of a most violent felony charge, the issuance of a bench warrant, pretrial release on bond, and resolution by trial tended to produce a significant increase in the time to resolution in all courts

studied. Violent crime cases that went to trial, for example, took about the same proportion of case processing time in the faster courts as in the slower courts. Still, these core case and defendant characteristics accounted for less than one-third of the variation in case processing time for all nine courts combined.

Second, the nine court systems handled their common caseloads with the same *relative* degree of timeliness. In all courts, more serious and complex cases took

**Exhibit 4. Factors affecting case processing time<sup>a</sup>**

Factor	Effect on case processing time in general jurisdiction court, measured in days <sup>b</sup>								
	Cincinnati	Grand Rapids	Portland	Oakland	Sacramento	Albuquerque	Austin	Birmingham	Hackensack
<i>Severity of charge at indictment</i>									
Most violent	39	105***	24	282***	110***	106***	62*	152***	26
Violent	-12	20	-4	10	68***	5	14	20***	48**
Burglary/theft	-31**	3	4	13	13	9	5	-4	4
Other felony	-52*	13	13	-12	61*	-21	-26	11	-24
<i>Procedural aspects</i>									
Bench warrant	40**	29	43***	84***	33	90***	69***	67***	14
Charge reduction	-21	13	5	26	-11	97***	11	74***	46*
Weapon	45*	-5	38	66***	-36	-17	-12	-6	18
Multiple defendants	24	-30**	-8	29**	35**	24	-49*	26*	41***
Prior record	-4	-20	-23**	-12	-11	8	2	-7	26*
<i>Manner of resolution</i>									
Trial	37*	133***	85***	158***	27	122**	147***	118***	53**
Deferral	29	128**	343***	139***	98	-88*	14	— <sup>c</sup>	-1
Dismissal	19	146***	26	-51*	128***	-10	123**	66**	33
<i>Defendant resources</i>									
Release on bond	20*	33***	19	60***	25	39***	95***	119***	77***
Private counsel	25*	60***	13	-29	-19	25*	31	53	12

Constant: 68\*\* R<sup>2</sup> = 0.30<sup>d</sup> Number of cases: 3,152

Level of statistical significance: \*p < .10 \*\*p < .05 \*\*\*p < .01

a. Regression analysis using case processing time in general jurisdiction court as dependent variable.

b. The numerical value of coefficients in the table shows the number of days, as well as the statistical significance, that each factor, on average, exerts on case processing time within and across courts.

c. Birmingham had no deferral cases.

d. R<sup>2</sup> is the proportion of variation in case processing times explained by this regression model.

longer than those that were less serious and complex. Hence, the principle of proportionality, rather than assembly line justice, guided case resolution.

In an effort to clarify how some courts are able to achieve higher levels of both timeliness and quality, the next phase of this research examined the concept of “local legal culture.” This effort involved an indepth analysis of the attitudes of the nine court systems’ criminal defense counsel and prosecuting attorneys toward their work situations.

### Legal culture analysis

Interest in the relationship between attorney attitudes and timely case processing reflects the widespread belief that, in almost all court systems, attorneys and judges share common “expectations, practices, and informal rules.” These dynamics are known as the “local legal culture.”<sup>15</sup> Practically speaking, this means that attorneys’ and judges’ expectations about how long it will take for cases to be resolved have profound effects on how long cases actually take to resolve.

To understand the local legal culture and to determine whether the court work environment promotes or inhibits timeliness and effective advocacy, data were gathered on attorney attitudes toward four aspects of the work environment: the adequacy of resources; court management characteristics, including policies governing the pace of litigation; competency of opposing counsel; and jurisdiction practices. The hypothesis was that in more expeditious court systems, attorney attitudes toward factors that influence timeliness would differ markedly from those of attorneys in less expeditious court systems.

**Adequacy of resources.** The data showed large and significant differences

between the views of attorneys in the faster courts and those in the moderate-paced and slower courts. In the faster courts, both prosecutors and criminal defense attorneys were less anxious about staffing levels and more likely to regard their resources as adequate than were attorneys in the slower courts. Despite comparable workloads across all nine courts, prosecutors and defense counsel in the fastest courts were in strongest agreement that their courts had sufficient judges, prosecutors, and defense attorneys to resolve their felony caseload within 1 year of the time of arrest. In the less expeditious courts, prosecutors and defense attorneys tended to see resource shortages. Prosecutors felt there were too few prosecutors, and defense attorneys believed there were too few defense attorneys.

In all nine courts, attorneys were concerned about the budget keeping pace with an expanding workload. They also concurred in their desire for greater compensation and improved facilities, but the work environment in the fastest courts appeared to foster a “can do” expectation among attorneys that they could accomplish more with limited personnel resources.

**Court management characteristics.** Attorneys in the fastest courts were significantly more satisfied with the level and quality of communication in felony case processing than were attorneys in the slower courts. Prosecutors and defense attorneys in the fastest courts were also in greater agreement about the clarity of time goals than were their counterparts in less expeditious courts. Indeed, a prosecutor in one of the slower courts claimed that the court’s disposition time goals were “pie in the sky” and that “no one pays attention to them.” Conversely, a public defender

in Portland, one of the fastest courts, asserted: “Everyone knows about the court’s disposition time goals. They’ve really changed the legal culture.”

**Competency of opposing counsel.** Attitudes concerning the experience, preparation, and trial skills of both prosecutors and defense attorneys were significantly more positive in the faster courts than in the slower courts. Moreover, in the faster courts, prosecutors’ positive views of defense attorneys were reciprocated by defense attorneys. Although this could be interpreted as a sign of mutual respect between prosecuting and defense attorneys in the faster courts, strong evidence of an adversarial relationship remains.

In the less expeditious courts, attorneys’ views on the competency of opposing counsel were reciprocal but negative. Prosecutors and defense attorneys were less likely to regard each other as skilled and well trained. This research suggests that the significant difference in attitudes between attorneys in the faster courts and those in the slower courts can be traced to efficiency. Efficient attorneys are more likely to be perceived as competent, and the evidence indicates that they do, in fact, handle cases in a more timely manner.

**Jurisdiction practice.** Attorneys in all three court categories said delay was a problem, although prosecutors in the faster courts reported a significantly more positive outlook about court practices than did prosecutors in the slower courts. Although prosecutors in the faster courts saw room for improvement, their counterparts in the slower courts expressed deep concern about delay. Prosecutors in the slower courts also were significantly more concerned about the ease of continuances.

The data on prosecutor and defender practices also attest to the health of the adversary system. Uniformly large and significant differences between the views of prosecutors and defenders were found in courts of all speeds. Defense attorneys thought prosecutor plea bargaining practices caused delay, but prosecutors disagreed. Conversely, prosecutors were more likely than defense attorneys to view the plea bargaining practices of defense attorneys as a source of delay.

Still, prosecutors in the fastest courts had significantly more positive views of defense attorney practices than did prosecutors in the slower courts. At the same time, prosecutors and defense attorneys in the faster courts remained adversarial in their views of each other. As this analysis demonstrates, attorneys' attitudes about their work environment and about each other are linked to the timeliness of their particular court. The pace of litigation in the more expeditious courts reflects the efficient work orientations of their prosecutors and criminal defense attorneys. Although prosecutors and defense attorneys in expeditious courts were as adversarial in their outlook as their counterparts in slower courts, they shared views about resources, management, and the competency of their opponents that were significantly more positive than the views of attorneys in less expeditious courts. In faster courts, prosecutors and defense attorneys were more likely to see each other as well prepared, well trained, and trial tested and less likely to perceive resource shortages, even though their caseloads were no less burdensome than those of their counterparts in slower courts. Clearly, high levels of both timeliness and quality are achievable in more efficient court systems.

## Policy implications

This research suggests that the court community can achieve efficiency, timeliness, and quality by adopting a three-step process of self-diagnosis, communication, and education.

**Self-diagnosis.** The first step requires that court officials examine case processing practices and reach a consensus on the court's goals. To be efficient, a court needs meaningful time standards and continuous monitoring of both disposition timeframes and the size of pending caseloads. Proportionality, a fundamental underpinning of criminal justice, is another important subject for discussion. Both efficiency and due process require proportionality in the amount of time attorneys and judges devote to the preparation and resolution of criminal cases.<sup>16</sup> Such an examination would likely sharpen a court's knowledge of how different case and defendant characteristics affect case processing times.

**Communication.** This study's survey of prosecutors and defense attorneys revealed a significant difference between faster and slower courts in the clarity of goals for case processing time. This finding suggests that effectively communicating a court system's goals is essential to attorney receptivity to and shared understanding of those goals. Courts could conduct a similar survey to help determine the clarity of their own message among judges, prosecutors, and criminal defense counsel. The more a court understands about the attitudes of its attorneys, the better the court can tailor management strategies to improve efficiency.

**Education.** National, State, and local judicial and attorney training programs should emphasize how judges and attorneys can become more efficient and how

gains in efficiency can be used to secure timeliness and quality in felony case processing. Such programs should not focus simply on delay reduction. Indeed, one reason that delay is such a formidable problem for courts, despite the development of delay reduction techniques, is that successful delay reduction continues to be viewed as a threat to quality. Promoting both delay reduction and enhanced quality as natural consequences of efficiency will help courts overcome this resistance to change and, ultimately, achieve higher levels of timeliness and quality in felony case processing.

## Notes

1. For ease of exposition, the nine jurisdictions are identified henceforth by their primary city rather than county name.
2. Bindover refers to the date the decision is made to bind over or transfer the case or defendant to another forum.
3. Commission on Trial Court Performance Standards, *Trial Court Performance Standards, With Commentary* (Williamsburg, VA: National Center for State Courts, 1990).
4. Studies by Church and by Hausner and Seidel found that more serious cases took longer to resolve. See Thomas W. Church, Jr., "The 'Old' and the 'New' Conventional Wisdom," *Justice System Journal* 7 (1982): 395–412. Also see Jack Hausner and Michael Seidel, *An Analysis of Case Processing Time in the District of Columbia Superior Court* (Washington, DC: Institute for Law and Social Research, 1979).
5. The following studies concluded that the seriousness of an offense was only weakly related to case processing time: David W. Neubauer and John Paul Ryan, "Criminal Courts and the Delivery of Speedy Justice: The Influence of Case and Defendant Characteristics," *Justice System Journal* 2 (1982): 213–235; Mary Lee Luskin and Robert C. Luskin, "Case Processing Time in Three Courts," *Law and Policy* 9 (1987): 207; Roy Flemming, Peter Nardulli, and James Eisenstein, "The Timing of Justice in Felony Trial Courts," *Law and Policy* 9 (1987): 179.

6. Neubauer and Ryan, "Criminal Courts and the Delivery of Speedy Justice."
7. Flemming, Nardulli, and Eisenstein, "The Timing of Justice in Felony Trial Courts."
8. Luskin and Luskin, "Case Processing Time in Three Courts"; Neubauer and Ryan, "Criminal Courts and the Delivery of Speedy Justice"; Paul Wice, *Criminal Lawyers: An Endangered Species* (Beverly Hills and London: Sage Publications, 1978).
9. Neubauer and Ryan, "Criminal Courts and the Delivery of Speedy Justice."
10. Jonathan D. Casper, *American Criminal Justice: The Defendant's Perspective* (Englewood Cliffs, NJ: Prentice Hall, 1972).
11. Roger Hanson, Brian Ostrom, William Hewitt, and Christopher Lomvardias, *Indigent Defenders: Get the Job Done and Done Well* (Williamsburg, VA: National Center for State Courts, 1992); Roger Hanson, Brian Ostrom, and Ann Jones, "Comparing Publicly Appointed and Privately Retained Criminal Defense Attorneys" (paper presented at Sato conference, Berkeley, CA, April 1998).
12. Raymond Nimmer, *The Network System Change: Reform Impact in Criminal Courts* (Chicago: American Bar Foundation, 1978); Luskin and Luskin, "Case Processing Time in Three Courts"; Neubauer and Ryan, "Criminal Courts and the Delivery of Speedy Justice."
13. Because the case processing time dependent variable is calculated by deducting the number of days from the scheduled hearing for which the defendant failed to appear to the defendant's rearrest, the bench warrant variable is not influenced by the length of time that defendants are outside court control. Instead, the bench warrant variable can be interpreted as the additional court time related to processing a defendant who has been apprehended after jumping bail.
14. Oakland was the only jurisdiction where both weapons and multiple defendants were significant.
15. Thomas W. Church et al., *Justice Delayed: The Pace of Litigation in Urban Trial Courts* (Williamsburg, VA: National Center for State Courts, 1978).
16. The handling of a criminal case requires a reasonable effort by the criminal defense attorney. In the absence of such an effort, the judgment may be overturned because of counsel's ineffective assistance, which is a violation of the Seventh Amendment. What constitutes a "reasonable" effort by a defense attorney is inevitably determined by the seriousness and complexity of the case. Furthermore, from a management perspective, the desire for proportionality is driven by a concern for efficiency and quality case processing. A district attorney and chief public defender typically have limited staff resources. They want their staff to make the most of these resources by devoting an appropriate amount of time to each case: less time to simple and less serious cases; more time to serious and complex cases.

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