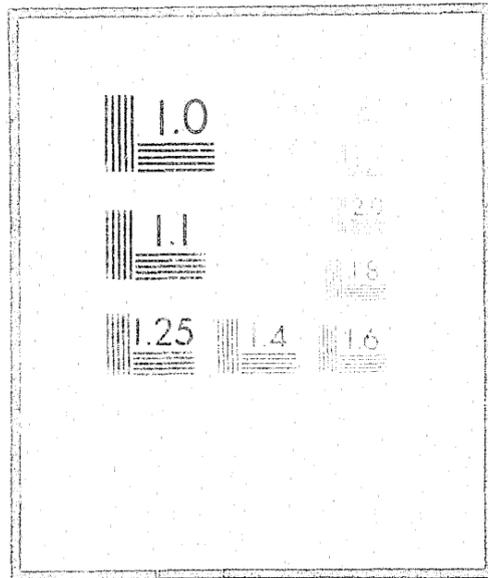


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RECOMMENDATIONS FOR REDUCING  
COURT RELATED EXPENDITURES ON  
POLICE OVERTIME IN MULTNOMAH  
COUNTY (PORTLAND), OREGON



**THE AMERICAN UNIVERSITY**

Criminal Courts Technical Assistance Project  
Institute for Studies in Justice and Social Behavior  
The American University Law School  
Washington, D.C.

39778

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COURT RELATED EXPEDITURES ON  
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October 1974

CONSULTANT:

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NCJRS

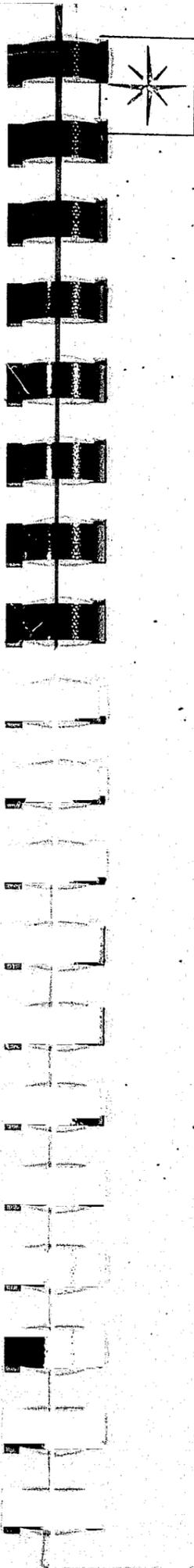
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ACQUISITIONS

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This report was prepared in conjunction with The American University Law School Criminal Courts Technical Assistance Project, under a contract with the Law Enforcement Assistance Administration of the U.S. Department of Justice.

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NOTICE TO THE READER

There is a September 30, 1974 contract deadline for completion of all technical assistance assignments conducted under the auspices of The American University Criminal Courts Technical Assistance Project. Consequently, assignment reports received after August 20, 1974, cannot be edited by the project staff prior to their transmittal to the client agencies, as is our usual procedure. The present report is one of those for which our time schedule did not permit editing. We apologize for any inconvenience this may cause.

Joseph A. Trotter, Jr.  
Director  
Criminal Courts Technical  
Assistance Project

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INTRODUCTION

For a number of years the amount of overtime expended by law enforcement officers in the city of Portland and in Multnomah County, Oregon has been of concern both to the officers involved and to those responsible for paying for this time.

On the one hand, officers have been concerned about the impact court appearances were having on their lives and on the otherhand, the city and county were growing more and more concerned about the amounts of money allocated to pay for police overtime. In recent years the amount expended for overtime payments for Portland police and Multnomah Sheriffs' deputies has grown to over \$1 million per annum. This is a considerable amount especially given the growing needs for economy in local government.

Their combined concerns resulted in the subject of police overtime being identified as a priority area for improvement and it was proposed somewhat arbitrarily that attempts be made to save one quarter of a million dollars each year. These concerns prompted a request to LEAA's Criminal Courts Technical Assistance Project at The American University to help in appraising present practices in this area and in suggesting possible improvements which would result in significant savings.

In response to these requests the author visited Portland for one day on the 21st June, 1974. With the assistance of Kurt Engelstand, at that time Justice Coordinator for the City and County of Portland, meetings were arranged with Portland Police personnel (including the chief) and with the administrators of the District and Circuit courts. This preliminary problem assessment led to a joint conclusion that 15-20 on-site days of assistance should allow the

following tasks to be accomplished:

1. Appraise the present state of affairs and identify where monies are presently spent.
2. Pick out high impact areas and analyze them to determine reasons for expenditures.
3. Identify specific proposals for dealing with these impact areas and indicate what would be required to implement a change.
4. Record positive practices for possible use by others.

Subsequently the author spent twelve working days (August 22nd through September 6th, 1974) in Portland analyzing the problems and producing the report which follows. Unfortunately fiscal constraints prevented the full twenty days being allocated and as we got into the problem it proved to be particularly broad requiring detailed examination of a number of different agencies. These time factors prevented the final report being as detailed as the author would like but it did not prevent significant areas for improvement being detected.

We were aided in our work by the fact that this problem had been examined sporadically since at least 1970 and, as a consequence, valuable written material was on hand. In addition, the individuals and agencies contacted were extremely open about possible problem areas, even in their own agencies, and they gave the author extremely valuable assistance. In fact, without that assistance we would not have been able to begin to deal with some of the areas in such short a time.

When the author first arrived it appeared that fairly strong feelings had arisen that the bulk of the police overtime costs lay within the control of the courts and the prosecution. Accordingly, the first stage of the author's analysis was an appraisal of present expenditures to determine whether those claims were true and, if true, to determine as specifically as possible where the money was expended. These analyses were performed using budget sources exclusively.

The next step was to pick out those areas of greatest fiscal impact for

more detailed examination. Unfortunately no one area was responsible for most expenditures and in fact significant expenditures took place in nearly every area examined. This meant that a significant number of different areas needed examination in detail.

The author then explored each of these significant areas utilizing interviews, information in readily available memos and , when possible, within the time limits, small amounts of data collection and interpretation. The basic goal was to understand how the processes worked in theory and practice and to dig out particular problem areas. Once the problem areas were identified possible steps to take for improvement were suggested for further consideration by those with the power to effectuate change.

During this work the author spoke with individuals too numerous to mention in the Portland police bureau, in the Multnomah County Sheriffs office, the office of the District Attorney and the District and Circuit Courts. Particular attention was paid to interviewing those intimately involved in the subpoena process, including court liaison officers, clerks and deputy District Attorneys. Fiscal and other planning information was made available by the Portland police data processing department, by the County criminal justice planning group, by the mayor's office and the city criminal justice planning group.

The author wants to express his sincere appreciation for all the help he received during his visit. If everyone cooperates together in the same way as they cooperated with the author significant improvements should readily be accomplished.

## ANALYSIS OF EXISTING SITUATION

### Agency and Process Description

Law enforcement services in and around Portland area are supplied by the Portland police bureau and the Multnomah County department of public safety (sheriffs). These services are supplemented by the Oregon State Police and by several small police departments in Gresham, Fairview, Troutdale and in the Portland Port Authority. All of these agencies make arrests and issue citations which result in cases in the Multnomah County Courts. Court statistics reflect all cases together but only the Portland police bureau and Multnomah sheriffs office are really significant.

There are two levels of Courts in Multnomah County. The lower court, the District Court, is a county court located in the same building as the county Circuit Court in downtown Portland. In addition, there is a branch district court located in Gresham which operates for one day a week (Wednesday at present). The District Court has jurisdiction over traffic citations and misdemeanors and also handles the first appearance and preliminary hearing in felony cases. The Circuit Court is the court of general jurisdiction and handles the rest of the felony process. Appeals from District Court decisions are also presently heard by the Circuit Court.

Prosecution in both courts is the responsibility of the District Attorney's office. The prosecutor utilizes the Grand Jury system for indicting felony defendants rather than prosecutor's information. The Grand Jury, although formally a department of the Circuit Court, is staffed and financed by the office of the District Attorney. Jurors serve for a 30 day period.

### The Traffic Case Process

Officers utilize the Oregon Uniform Complaint and Summons form in citing cases. Individuals are scheduled for an initial appearance two - four weeks after issuance. No officer appears at this hearing. If the individual pleads guilty, the judge makes the decision on the basis of the written information

supplied to him. If the individual pleads not guilty he is scheduled for a specific trial date two - three weeks hence which is scheduled to avoid the officers' days off which should be written on the front of the ticket. Cases are set according to four different 1½ hour sections during the day. Attempts are made to get the cases of one officer all close together and one officer could have up to five cases in one section. If a jury trial is requested a somewhat different system is used. The case is scheduled for call before the presiding judge who assigns the case out to a trial judge for the next day.

#### The Misdemeanor Process.

Misdemeanors can be initiated either by an arrest or by issuance of a citation. When an individual is arrested for a criminal misdemeanor he is scheduled for arraignment in District Court for 10:30 a.m. or 2:00 p.m. on the judicial day following the arrest. In contrast, citations are for appearance at 9:00 a.m. at least one week but not more than two weeks after the citation is issued.

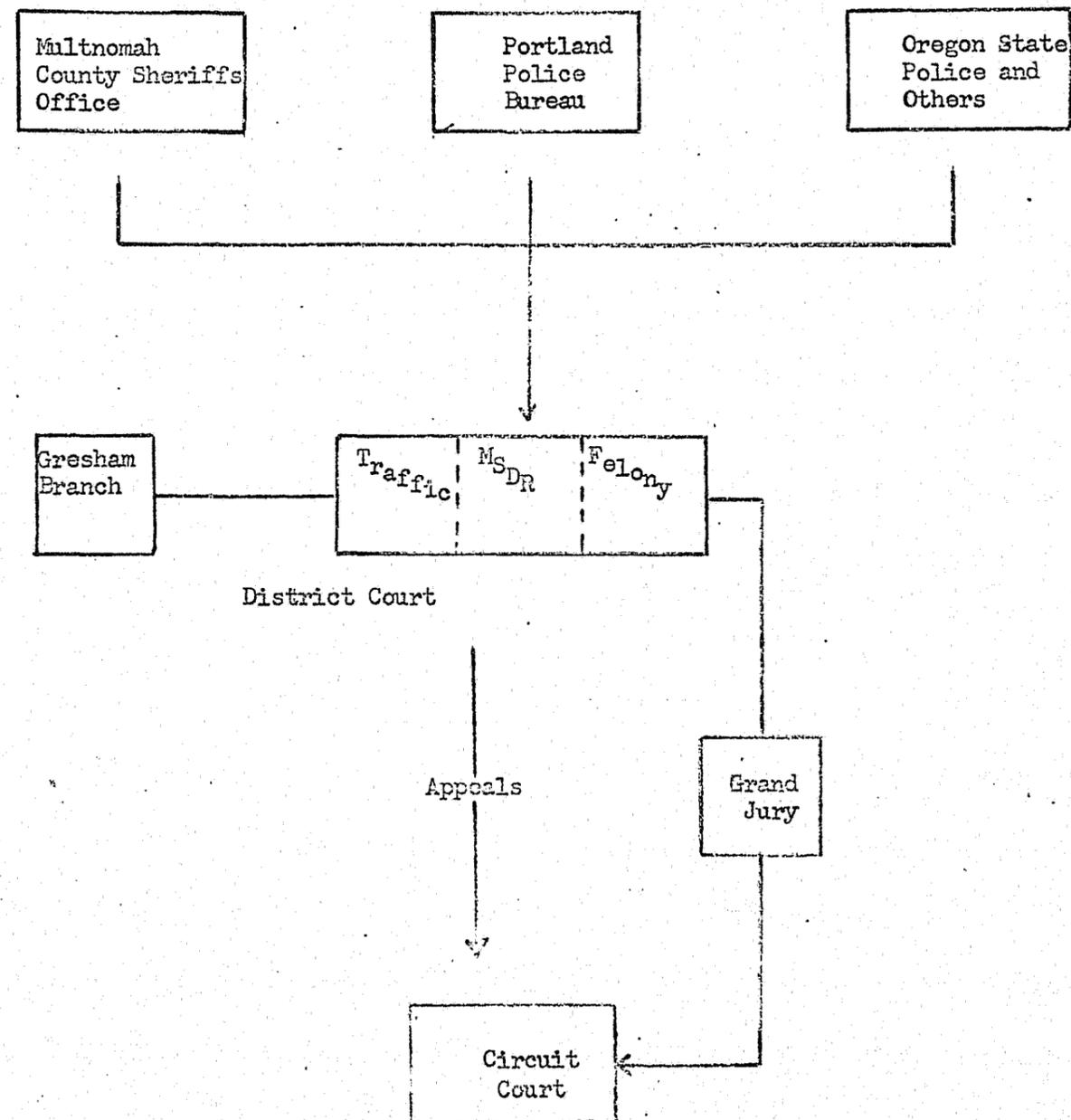
If a court trial is requested the date is arranged by the District Attorney according to his book. He looks at the officer's days off which are recorded on the front of the citation or complaint and reflects their schedules in arranging the date. If a jury trial is requested the attorney (usually defense only) goes to the trial clerk and arranges a trial date according to what is open at that time. There is approximately a six week wait at present. The day before trial the parties appear for call and are assigned out to a trial judge if they still desire a trial.

#### The Felony Process

Police bring cases to the District Attorney's complaint desk in the central precinct building at Second and Oak, where all complaints are issued (with the exception of Impact crimes which have complaints issued at the desk at the World Trade Center). The defendant will have a first appearance within 24 hours of arrest in the District Court. A preliminary hearing follows in short order

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AGENCIES IN MULTNOMAH COUNTY



as it has to be held within five judicial days of the issuance of the complaint. Those cases bound over from the preliminary hearing are then scheduled for presentation to the Grand Jury within a 30 day period. At the same time the Grand Jury receives direct presents which generally involve continuing investigations and therefore do not have time pressures for action. If a true bill is issued, then the case is scheduled for arraignment before the chief criminal judge in Circuit Court. No police officers are required to attend arraignment.

After arraignment the criminal coordinator schedules both a pretrial date and a trial date. Usually a pretrial is scheduled within one week and a trial date three weeks after that. Pretrials are solely between the prosecution and defense and no judge or witness is involved.

Motions can be heard at various stages but the majority are heard after pretrial and before trial. They are all heard by the chief criminal judge approximately ten days after filing. The case is kept on the trial docket unless the motion is dispositive.

Court trials are scheduled directly but jury trials utilize a call system. Under this system attorneys appear before the presiding judge the day before trial. They are then assigned out to a trial court if they are ready, otherwise they request a set over.

### System Effectiveness

The present system has a number of very positive features which should be commented upon. The courts do much to expedite cases by imposing strict time standards for the disposition of cases. These time limits for cases place more demands on the scheduling process than exist when the time limits are laxer. Undoubtedly some of the scheduling problems stem from this higher quality of service.

Within the constraints of the present system reasonable economies are practiced. Thus, there is a night office operated by the District Attorney for issuance of complaints. Police officers appearances appear to be kept to a minimum. Thus, police officers are not required to appear for the first appearance on traffic citations. They are not required to appear for felony arraignment or for pretrial negotiations in Circuit Court.

The court also is fortunate in being able to dispose of a high percentage of cases without going to trial. One local study shows that of a total of 108,130 cases filed (i.e. 1,190 citations in lieu of arrest, 90,100 traffic citations and 11,840 bookings after arrests) only 610 went to trial (approximately 0.6% of the total).

### Fiscal Expenditures

The first step in any analysis of this problem area has to be an examination of where the money is actually spent. Fortunately for us a recently installed financial management system had collected detailed information on expenditures by both the Portland police bureau and the Multnomah County Sheriffs Department for the fiscal year 73/74. By reviewing the individual computer print-outs it was possible to get a picture in reasonable detail of where the money was going and for what purpose. Although those responsible for the data processing indicated that the specific distribution may not be completely reliable the sum total of money expended was correct and the remaining figures were sufficiently accurate for our diagnostic purposes.

This analysis of court appearance expenditures for officers of the Portland police bureau in 73/74 showed an interesting profile.

Traffic Court	73,181.31
District Court	124,584.83
Circuit Court	72,584.20
Grand Jury	32,136.87
Pretrial Conference	57,946.70
Juvenile Court	10,863.63
DUIL Program	<u>31,490.74</u>
Total	402,789.28

These expenditures were also broken down according to a number (11) of different divisions i.e. central precinct, east precinct, north precinct, detectives, juvenile, women, special investigations, intelligence, traffic records and criminalistics. This matrix of information is available and is displayed in the appendix, but all the detail was not used for this diagnosis. Interestingly, 73/74 is the only fiscal year in which the areas of expenditure are recorded in detail. Prior to that time the information system was not operational and in 74/75 all the court appearance time is grouped into one category.

It should be possible to get a similar profile of expenditures for the Multnomah County Sheriffs Department which utilizes a similar FMS system. However, in the time that we had available, only a lump-sum court appearance figure for fiscal 73/74 could be obtained. Thus, \$121,521.03 was expended on court appearance time by that agency.

In total, the Portland police bureau and the Multnomah Sheriffs office expended \$524,310.31 for court appearance time in 73/74. This amounts to approximately \$10,000 per week.

This preliminary analysis resulted in some significant conclusions. First and foremost these expenditures on court appearance time, although large, are

less than half the cost of all police overtime in that period. Thus, budgeted overtime amounts for 73/74 were as follows:

Sheriff's office	\$ 424,214
Police Bureau (Regular)	739,999
Police Bureau (Impact)	<u>300,000</u>
Total	\$1,464,213
Court Appearance Time	<u>524,310.31</u>
Other time	<u>939,903</u>

It is evident that close to \$1 million is being spent on overtime which is not related to court appearances. This would indicate that any comprehensive approach to the court overtime issue must look at the reason for these enforcement expenditures in the same way as court expenditures need to be examined. A break-down of the overtime expenditure by the Sheriff's Department (73/74) easily indicates where one should look in their office.

<u>Total Overtime Pay (73/74)</u>	
<u>Multnomah County Sheriff's Office</u>	
Administration	26,352.84
Corrections	201,735.87
Operations	157,371.00
Investigations	72,160.39
Services	<u>28,730.93</u>
Total	\$486,351.03

It is important to emphasize this distinction between total overtime and court appearance overtime. Although some individuals on the police bureau staff are aware of the distinction judging by data in internal memos, many people are not. Many individuals I spoke with felt strongly that the major expenditures were court related. This just is not so. This is not an attempt to minimize the need for improvement in the court related overtime area but it

does point out that other areas are equally deserving of attention if full savings are to be accomplished.

The second conclusion from this preliminary data was that expenditures were significant in a number of separate areas and that no one area was preeminent. Unfortunately, this means that we are not going to find one problem area which can be addressed in isolation. Instead it is going to be necessary to analyze a number of different processes. Thus although expenditures for District Court were the highest, traffic expenditures were also large and Circuit Court expenditures were almost as high. Expenditures for pretrial conferences and for Grand Jury, although less, were not inconsequential. In fact only expenditures in the juvenile area could be considered of little impact.

This profile of court expenditures was roughly confirmed by an analysis of overtime expenditures, incurred by the night relief shift, in the east precinct of the Portland police bureau during one pay period in 1973. However, this particular shift did not report any significant expenditure of overtime on enforcement and thus the profile is not typical of the overall expenditures by the bureau.

No further examination of the non-court related overtime was made due to time constraints but this area should be looked at in detail.

Analysis of Overtime Expenditures by the  
Night Relief Shift, in the East Precinct in  
1973

	<u>Hours</u>	<u>%</u>
Enforcement	12.5	7.15
Complaints	3	1.75
District Court	47.5	27.6
Circuit Court	18	10.5
Traffic Court	45	26.2
Safety Court	16	9.3
DUIL	6	3.5
Grand Jury	24	14.0

Fiscal Impact

The use of overtime has a particularly significant fiscal effect because of the liberal overtime clauses that the police association and the Sheriff's representative have managed to negotiate with the City and County respectively. Their agreements provide for officers to be paid a minimum of four hours overtime, at  $1\frac{1}{2}$  time, whenever they are called in for an appearance on their time off. As the weighted average hourly rate for a Portland police officer is \$6.32/ hour, this means that, on the average, each overtime appearance costs \$37.92.

Using this figure it is possible to illustrate how many appearances need to be saved in order to accomplish specific fiscal goals. Thus:

10% saving	\$1,000/ week or \$52,000 per annum	26 appearances/ week or 5/day
20% saving	\$2,000/week or \$104,000 per annum	52 appearances/ week or 10/day
25% saving	\$2,500/week or \$130,000 per annum	65 appearances/ week or 13/ day

If one is to spread these savings equally, the present profile of expenditures would indicate that in order to save \$130,000 per annum ( or 25% of the total) one needs to cut back on overtime appearances as follows:

Traffic Court	2.5/ day
District Court	4/ day
Circuit Court	2.5/ day
Grand Jury	1/ day
Pretrial	2/ day
Juvenile	-
DUIL	<u>1/ day</u>
Total	13/ day

The rest of the report deals with the feasibility of attaining these goals. However, it would appear that these numbers should be well within the realm of possibility given the number of proceedings scheduled every day. For example, more than 20 DUIL cases are assigned out for trial every day.

Similarly approximately 15 Circuit Court cases are assigned out. Estimates of the numbers of subpoenas issued every day by the District Attorneys office are as follows:

30-40 for District Court

30-40 for Circuit Court

70 + for DUIL cases

It would appear that fiscal goals can be accomplished by a cut-back of only 10% in the total number of witnesses called.

These court savings can be accomplished in two different ways. The best way for everyone is to insure that appearances that are not really required are kept to a minimum. The other way is to attempt to move needed appearances which are required from high cost overtime to lower cost on-duty time. In the later instance it should be recognized that success would also be correlated with a lowering of the percentage of time that the officer is working on the street and that in reality it would represent a reduction in service. However, because of the special overtime clause that cost would be much less than the savings.

There is another constraint that also has to be kept in mind when analyzing these costs. From the point of view of the total system it makes no sense to save in one area if the change results in even more costs in another area. For example, one might revize processes minimizing police overtime resulting in a high waste of judge time (an even more expensive commodity). Now it is recognized that the costs of different components of the criminal justice system are borne by different units of government. Therefore, savings would accrue to one unit (e.g. the City of Portland for police costs) and that added costs would be borne by another (State of Oregon and Multnomah County). But this author has only considered changes which result in overall benefit.

In the same way he has not considered proposals which lead to a reduction in effectiveness in the system e.g. processing less cases probably results in overtime savings.

## RECOMMENDATIONS

### The Basic Processes

The first approach taken was to look at the basic legal processes used in order to assess whether they are designed for economy of effort or whether they actually are cumbersome and inefficient. It appears that there is room for substantial improvement in the basic structure but that otherwise police appearances are kept to a minimum and the system performs creditably.

#### a) The Grand Jury

The first area which seems to be needlessly cumbersome is the present practice of having a preliminary hearing for felony defendants and then binding over the defendant to the Grand Jury which in turn issues a true bill or dismisses the case. Not all cases go this route as the Grand Jury receives a substantial number of direct presents (estimated at 55%) but a sizable number of defendants go through both proceedings. Officers testify at both. It seems to this author that probable cause could be established by utilizing one or other of the proceedings. Apparently there is a proposed constitutional amendment to be voted on shortly which would give the prosecution the choice of utilizing either Grand Jury indictment or prosecutors information. Adoption of this amendment would save a considerable amount of money both in police witness time and in prosecutors' time. It would also help alleviate scheduling problems as those cases still going to the Grand Jury would be direct presents which can be scheduled relatively easily. The cases removed would be those already in the system which have to be processed within the 60 day time period from arrest to trial.

It is estimated that this change would save approximately \$20,000 of police overtime costs without other undesirable effects and therefore local officials should seriously consider supporting this amendment.

#### b) Appeals from District Court to Circuit Court

At the present time the District Court is not a Court of Record and as a consequence, judgments in District Court can be appealed to Circuit Court

and the parties will receive a trial 'de novo'. As a practical matter certain categories of cases, especially DUIL cases, are particularly prone to follow this route hoping for change in sentence, failure of an officer to appear or just stalling for time to delay loss of a drivers license. The net result is that police officers are called to testify again, prosecutors' time is utilized again etc., etc. All of this time could be saved if the District Court were a Court of Record. Under those conditions any appeals would be on the record which would almost certainly cut down on the number. Even those cases which do proceed would not require police testimony therefore the entire amount of police time presently spent on 'de novo' appeals would be saved. I was not able to accurately determine how much time would be saved by this change but it would not be inconsequential. Circuit Court statistics show that 2-3 appeals per day are set for trial. Thus in 1974, 61 appeals were set for May, 42 for June and 44 for July. It is probable that there was an average of two witnesses per case on overtime status. This would represent a maximum savings of \$3,200-4,800 per month. Actual savings would be less because some appeals settle without requiring the officers' presense.

Apparently the District Court is scheduled to become a Court of Record in mid 1975, unless the legislature intervenes in the interim. Thus, it is likely that mid 1975 will see a substantial fiscal savings. Of course there will be costs associated with this change as the Court will have to bear the cost of making the record - but they will be incurred in categories other than police overtime. It is suggested that this change to a Court of Record be supported as there is more than money at stake. The quality of justice is called into question when an individual can have the same case heard twice.

In the meantime the Circuit Court can do much to discourage excessive appeals by supporting the original sentence where appropriate and scheduling the appeal for a prompt hearing. I am informed that both practices are followed.

In accomplishing these savings judicial time will be freed for other cases. In dealing with those pending cases, one will call other witnesses who of course will have to be paid. Indeed one might even find that the outlays have not changed at all. At first glance this might appear frustrating but the important thing to remember is that more cases are being processed for the same dollar and that the cost effectiveness ratio is improving. Eating into the backlog saves money in the future.

c) Decriminalization of Traffic Cases: DUIL

There are proposals in the legislature, in Salem, to decriminalize traffic cases. If these proposals ever become law, individuals will not be able to invoke the present range of constitutional protections and indeed they probably would be less likely to perceive that hearings were required. As a consequence not only would there probably be less cases in District Court but those present would not be utilizing time consuming jury trials. It is a matter of public policy whether indeed the public wants to change these laws but if changes do take place then savings of police overtime (and court costs generally) will almost certainly result.

In a related area, substantial efforts have been made in Portland to crack down on drunken driving. Federal highway safety monies have been utilized for the last few years to address this area. Although the project conditions have changed over the years, federal monies are still utilized to pay for police enforcement and for a special DUIL section in the District Attorneys Office. As a result of these efforts, a large number of arrests have been made and many cases are now pending in District Court. At last count (August, 1974) there were 2,622 DUIL cases and 946 0.15% cases pending. As only 287 DUILs and 134 0.15% cases were scheduled in July it can be seen that a considerable amount of work remains.

It is a political judgment whether this enforcement effort is profitable or not and this author does not intend to comment on that, but the administrative

consequences of the effort are clear. Immense amounts of time are expended by police, prosecution and court personnel dealing with this area. Even if the enforcement effort stopped at once the present backlog would last for a considerable time. In addition, a whole law practice has grown up around these cases and defense specialists have learned how to exploit the system for their clients' benefit. The administrative consequences of such practices add considerably to the total load on all agencies.

Scheduling to Consider Officers Days Off

Police officers generally expressed a belief that their schedules were not really taken into account in setting proceedings. As unwanted appearances on off-duty times disrupt officers' lives they feel strongly about the issue. Feelings of antagonism are exacerbated when they appear and are not actually required, due to settlement on day of trial or noticing snarls. Undoubtedly improvement in this area would please a substantial number of officers (but not all - See later).

We attempted to determine whether indeed officers' schedules were taken into account in setting dates for the various proceedings in the various courts. Also we examined the problems involved in accomplishing this, given realities of court calendaring constraints and the officers' own schedules.

In the District Court both traffic cases and misdemeanor trials take the officers day off into account in the original trial setting. Officers write on the front of the Uniform Traffic Complaint their days off and, to the extent possible, hearings are held on officers regular duty time. Of course, this system can break down if officers write down incorrect days or if their schedules are changed after they write down the initial correct days. Comments were made that problems did arise in both areas but we were not able to determine how big the problems might be.

Perhaps the more likely cause for a conflict would arise if a case were held over to the next day (or to another future date). The longer one waits, the more likelihood there is that the officer is reassigned, especially if he is a trainee. The likelihood of a case being set over is increased by the volume of business in the District Court and the calendaring policy followed. In essence, the calendar is over set to utilize all available judicial time but with the inevitable result that sometimes cases will be set which just could not be heard on that day.

In those cases in which only one officer is present as a witness, scheduling

is relatively straight forward. As soon as more than one officer is required the problem grows in complexity unless the officers have the same days off. In fact it is probably true that if two officers with different schedules are involved one is almost certain to appear on an off-duty day. Obviously the presence of more than two officers makes scheduling around officers duty time almost impossible.

It is usual that only one officer is required in traffic citations and simple misdemeanors. Both the Portland police bureau and the Sheriffs office use one man cars on nearly every beat which does simplify matters somewhat. However, the same thing is not true when one discusses driving under the influence of liquor (DUIL) cases or felony cases. Those cases commonly involve more than one officer. In DUIL cases in particular, up to seven police witnesses are called in individual cases and 3-4 officers are relatively common. In fact, prosecutors teaching at the police academy suggest that the arresting officer gets another officer to run the breathalyzer in order to strengthen the testimony before a jury. As long as a number of officers with different schedules are required as witnesses for the same case overtime expenditures are inevitable. It would appear that the best method of dealing with this would be to have the officers work in teams wherever possible so that the breathalyzer coperator and arresting officer have the same time off. This would not guarantee that they would not testify on overtime but it would at least make it possible to try to reflect officers' schedules. One might hope that the proposal change to a four, ten hour, day week for the Sheriffs office would assist in that regard.

Another way of simplifying this scheduling is to have less officers called. This will be discussed in detail later.

Although attempts are made to reflect officers' schedules in traffic actions and misdemeanor trials the same is not presently true for felony proceedings for a variety of reasons. State statute requires that a defendant receive a

first appearance the next day after arrest there are only four days available to schedule the preliminary hearing. This is a severe constraint and as a practical matter it means that it is extremely difficult to really reflect officers' schedules. This is not to say that attempts should not be made to reflect officers' schedules where possible but this area does not offer great potential for significant savings given the rigid time constraints.

The same cannot be said for the Grand Jury proceedings, which follow preliminary hearings. It is true that there are time constraints here. The hearing should be held within 30 days of the preliminary hearing and the presentment has to be completed within the term of one Grand Jury, which is actually about 17½ working days. However, not all those called to testify need to appear at the same time so there is more flexibility in considering the schedules of others. At the present time deputy district attorneys responsible for the Grand Jury do not believe that it is feasible to reflect officers' schedules in date setting. Although work schedules may make this difficult at present, it is certainly inherently feasible to attempt this. One suggestion which offers great promise is to move witnesses immediately from the preliminary hearing to the Grand Jury, although the better alternative is to dispense with the Grand Jury altogether. In the area of direct presents (approximately 55% of the total) the Grand Jury has almost complete control of the scheduling process and it should therefore operate at maximum efficiency.

Police officers' schedules are not presently considered when setting cases for trial in Circuit Court. This is obviously an area for possible improvement. Conversations with the Circuit Court administrator determined that the court had no objection to modifying the procedures to attempt to consider officers' schedules. In order to accomplish this the Deputy District Attorney present at arraignment needs to have the officers' schedules on hand in order to arrive at a trial date which considers everyone's schedule. This information should

be available on every case file not just on the computer print-out, which is difficult to review in short order.

In summary, officers' schedules are considered in setting dates for trials in traffic court and District Court generally. Any problems in those areas should be restricted to conflicts in schedules between individual officers, set overs and oversetting. In contrast, officers' schedules are not really considered at any step of felony case processing. Although, not much hope is held out in the area of preliminary hearings, both Grand Jury presentments and felony trials offer significant prospects for improvement. Both areas need active involvement of the District Attorney to effectuate changes. The Circuit Court has indicated that it is prepared to actively cooperate in any changes needed. Indeed, the criminal coordinator indicated that attempts are already made to set the dates for appeal hearings according to the officers' schedule marked on the original citation.

Set Overs and Last Minute Settlements

In order to accomplish the positive results commented on earlier the courts (both District and Circuit) appear to have tended to over set the calendar. For instance, in District Court, 5-6 jury trials are called for every one that can be handled. Obviously under these conditions there are going to be numerous occasions when the court will not be able to hear the cases. The cases involved are either held over to the next day (apparently held over cases are not sent to the head of the list in District Court) or they are reset to a date 2-3 weeks in the future. Each case held over to another day wastes the time of the officer. On the first date this means probably that on-duty time is wasted but if the case is held over a day or so, the officer is probably coming in on off-duty time for the second or third or later session. Those cases which are set over should not have the same problem except that officers' schedules may change in the interim. In addition, each time the process is gone through there are chances that errors are made which result in extra overtime payments.

In Circuit Court a similar system prevails except that trial setting does not presently take officers' schedules into account with the results that each delay, whether it be a hold over of a day or so or a set over, has a strong likelihood of resulting in extra overtime payments for officers. Noticing snarls can occur here also.

Statistics made up from data collected by the Circuit Court Criminal Court Coordinator confirm that set overs are a frequent occurrence although no data was available on hold overs of a day or more. Over 30% of all cases set for trial are set over in some months. These set overs take place at various steps in the process and are prompted by a number of different factors. These factors include unavailability of a judge, issuance of bench warrants, or incarceration of defendant. They can occur by request of the Chief of Criminal Court, at call or after assignment. Both attorneys move for set overs but the defense has them granted more often than the prosecution.

Clearly the basic system is dependent upon set overs for its successful operation and as such it contributes systematically to waste of the time of attorneys on both sides, as well as waste of witness time (police and civilian). However, the system does result in a large number of settlements. Over 60% of the cases set for trial never are tried, they are disposed of in other ways including dismissal for failure of police witness to appear. Thus, it is difficult to say that the overall system is deficient. The waste of attorneys' time and witnesses' time may be the necessary price paid for settlements.

In spite of this ambiguity, which really represents one of the basic problems of calendar management there are definitely things that can be done. There are all together too many cases set over at call and some cases are even set over after assignment. Both areas should be examined closely to minimize the use of sets overs for tactical reasons. It is difficult to see what one can do about bench warrants and incarcerations except to ensure that the court learns of the situation at as early a stage as possible.

This setting problem is a difficult one because the more the court attempts to ensure a full calendar by calling an excess of cases the less likely it is that cases called are ready, which in turn causes calling of yet more cases, which in turn increases the uncertainty yet further. The only way of dealing with this is to match as equitably as possible cases and available judges and backing that up with a strict continuance policy. It would take major efforts by the courts to change the present system but such a commitment has the potential of resulting in substantial cut-backs in the payments for policeofficers' overtime.

The problem of set overs is of central importance in dealing with police overtime. In fact, in District Court (both misdemeanors and traffic cases) this area had to be improved if the proposed cost-saving goals are to be achieved. It is recommended that more detailed analysis of this area be performed with a view to reducing the numbers of cases held over even if this means setting

fewer cases every day.

One of the reasons cases have to be set over is the uncertainty about the number of cases that will actually go to trial. Although attempts are made to schedule more exactly by having a call system for jury trials in which the parties meet the day before trial to confirm or deny their willingness to go to trial, problems still arise. Cases still settle on the day of trial in significant numbers. Analysis of the experience with DUII cases set for trial in a ten day period in March 1973 showed that of 209 cases set for trial, 85 plead on trial day. In addition 17 defendants failed to appear and bench warrants were issued. In all, reconstruction of the record indicates that 267 police officers were affected by these last minute settlements. This is obviously a significant expense.

Of course it would be most desirable to cut out settlements on the day of trial which are the result of purely tactical considerations by the defense. It is, however, a difficult thing to accomplish. There have been proposals by the District Attorney to penalize the defendant financially for such late settlements. There have also been proposals to refuse to plea bargain after certain stages in the proceedings. As a practical matter none of these suggestions appears to have been pursued. The prosecution is busy and is anxious to dispose of cases. The court is reluctant to compel a person to go to trial knowing that they have ample cases to hear and that even given the waste of the officers' time it is still cheaper to settle than to go through a trial. In addition, penalizing a defendant for exercising a constitutional right is of doubtful validity and would probably not be sustained.

It is, however, a fact that settlements on the day of trial are costing a considerable amount of money. Even a small improvement in the present track record would be worthwhile.

In summary, at the present time the scheduling is based on the assumption that judicial time is by far the most expensive commodity and that in economic

terms wasting police or prosecution time makes more sense. It would be interesting to see what would happen if a suggestion to pay triple time for police overtime, which was thrown out during one interview, were to become reality.

Subpoena System

Even if an effective basic system is established which attempts to reflect officers' schedules it is only as good as its actual operation. Numerous complaints were voiced by officers about the lateness of the notices they receive for appearances. Many said that they often received subpoenas after the scheduled date or that they arrived for a scheduled hearing only to learn that it had been cancelled but they had not received notice. Undoubtedly both of these problems are real, although the extent still needs to be established by more detailed documentation.

Of course the date of receipt of a subpoena is governed by two factors. First the effectiveness of the process of getting subpoenas out from the office of the District Attorney and secondly the effectiveness of the process of distributing the information to the individual officer. It appears that significant improvements need to be made in both areas.

For instance, there should be up to 30 days notice of a scheduled appearance before a Grand Jury. However, in practice the District Attorneys' office is pleased if notice of a week is obtained. In order to understand this, one needs to understand the detailed operations within that particular section of the District Attorney's office. Thus, a list of those cases bound over to the Grand Jury is made up by the individual responsible for that area. When this list is received it is reviewed by another person for various factors e.g. property release and impact status. A sentence form is attached and a log note made. The case file is then brought down to the Grand Jury subpoena clerk who waits for a case summary to be supplied by the legal assistant present in court. In order for this summary to be received it has to be dictated and then typed. Only when all these things are completed is the case file made ready by attaching a pleading form. At this stage, a deputy District Attorney reviews the file for appropriate witnesses and the subpoenas are drawn up.

It can be seen that there are numerous steps in this process, each of which could fail. The individuals making up each list can be busy or sick, this guaranteeing a significant delay. It was suggested that witness subpoenas could be drawn up without waiting for this process to be completed but deputy District Attorneys interviewed believed that they did not have the time to review each case file and needed to wait for the summary to simplify their task. Only a more detailed work analysis will tell if that claim is justified. Certainly every attempt should be made to get subpoenas out as early as possible.

Each of the other areas probably had the same type of problems in getting out subpoenas. Interviews with the individual responsible for notifying deputy sheriffs of subpoenas indicated that this is certainly true for trial notices. It is certainly true of preliminary hearings because of the short time available overall. The District Attorney's office needs to examine every stage in the proceedings in detail in order to ensure that advantage is taken of the time available.

Once the list is made up, the subpoenas still need to be put in the hands of the officers. There also appears to be a problem in this area. Subpoenas which are sent out by the District Attorneys office are sent either to the Chief's office for the Portland police bureau (by interdepartmental mail) or to the court liaison officer for Multnomah County Sheriff's office and Oregon State Police etc. In the case of the Portland police bureau, the subpoena is then distributed to each precinct where the officer in command of the precinct distributes it to the men on each shift in any way he sees fit. The subpoena may be handed out personally, placed in the mail box or forwarded to another shift or precinct, if the officer has been reassigned. This system falls down because the officer concerned may or may not check his mail box. If the officer is on his days off or on vacation he may return to find the subpoena still in his box.

The Portland police bureau has a liaison officer serving with the District

Attorney's office who is in the process of suggesting improvements in this process. Basically he has suggested that a uniform method of subpoena distribution be established for each precinct and shift. We support their suggestions and recommend that a more effective process for distributing subpoenas be arrived at, which guarantees that the officer will receive the subpoena on the day it is received at the station. If the officer is on vacation or off-duty for some days, then a mechanism for communicating with him directly needs to be installed.

The sheriff's office has established a system whereby a deputy is assigned to a courthouse with the responsibility of sending out the subpoenas for the Multnomah sheriffs and the Oregon State Police. Not only does he forward the subpoenas but he actively calls officers both at the precinct and at home if that is appropriate. Comments by those interviewed indicated that this was an effective system although it is certainly not fool proof. Obviously, the earlier subpoenas are received by the officer making the calls the better is the chance of making it effective.

The Portland police bureau does not have an equivalent system, although a recently appointed police legal advisor has been exploring the causes of police overtime with a view to possible improvements. It is recognized that there are many more Portland police subpoenaed than sheriffs deputies. This makes the job a big one but that doesn't make it any less necessary. The subpoena sections in the office of the District Attorney do call sporadically if they happen to know that a problem exists in particular cases but it is not a comprehensive, regular process. The police liaison officer does not have responsibility for calling either. It is recommended that serious consideration be given to establishing a process whereby calls are regularly made to officers. It is anticipated that objection to this might be made on grounds that the task is too time consuming. One way to handle this would be to incorporate a request for assistance in this area into the grant request for victim assistance. In fact an individual might

be responsible both for victim witness and police scheduling.

If indeed the notices are sent out far enough ahead of time and the distribution system works effectively there would be little need for regular calls except under special circumstances. Unfortunately we do not presently have that happy situation and until it is present, active calling will be necessary.

At the present time we have no accurate figures of the number of individual officers who do not get their notices on time but estimates by those working in the subpoena section of the District Attorney's office were that, on the average, 20 cases per day had problems.

The same problems exist when set overs take place. In those cases the deputy District Attorney on the case had the responsibility of calling his witnesses. Again we do not have numbers on those who do not get notified but we are sure that this process has the same problems associated with it.

### Case Screening

The District Attorney's office plays a critical role in determining the amount of police overtime utilized. The District Attorney decides whether to issue complaints, whether or not to settle a case and if settlements are agreed upon he controls the time and terms of settlement. He also determines how many witnesses are to be called. In making these decisions, he has to consider a number of factors including the strength of the case, the resources available to him, and the priorities he places on different types of cases.

A number of those interviewed believed that the present screening methods used in the District Attorney's office were not effective. The mayor has been quoted in the press as believing that this is a big problem area. These critics complained that issuing of complaints was handled by junior members of the District Attorney's staff including legal assistants (who are third year law students). As a consequence they claimed that an excessive number of witnesses were being subpoenaed. In addition they believed that bad cases were not being screened out at this early stage with the result that cases were even being dismissed on the motion of the prosecution at late stages. If indeed bad screening takes place, the results tend to persist awhile because the witness list for both the preliminary hearing and the Grand Jury is made up on the basis of that initial complaint witness list. This tendency is probably exacerbated as the District Attorney's office has divided the responsibility for cases according to a master calendar system so that different individuals ( or groups) are responsible for different steps in the process. In contrast the metropolitan public defenders system utilizes an individual assignment system.

In defense of the prosecution it may well be that they have deliberately decided to call all witnesses needed, erring on the side of overcalling, in order to avoid the chance that a case will be lost. In fact the prosecution argues that failure to call all witnesses has been actively utilized by the defense to undermine their cases and therefore they are compelled to call all possible

witnesses.

Whatever the reason for calling the maximum number of witnesses, the result is the same, expenditures as police overtime. Only the District Attorney can effect this aspect of the problem although the assistance of the Public Defender would be beneficial. It is suggested that the District Attorney might review his screening policy generally to assess if the present system is effective to his needs and economical in operation. At the same time, active attempts should be made to explore arrangements with the defense bar and the bench so that the prosecution's case is not unfairly undermined because of changes in this policy. Perhaps one way is to have the other officers on telephone alert so that they would only be called when required.

It is evident that considerable amount of police witness time is spent assisting the District Attorney's office in preparing their cases. \$57,946 of police overtime is attributed to pretrial conferences. There was insufficient time to explore this area, although it obviously has potential for improvement. Scheduling of these conferences by deputies should have great flexibility and a good potential for having the meetings at times which minimize overtime expenditures. Scheduling practices for these conferences should be examined and it would be also interesting to see how many officers are called who ultimately are not used. This should give some measure of the effectiveness of the initial screening.

A number of different parties, including judges, police officers and District Attorneys were asked whether officers frequently were called to appear but were not actually asked to testify. In one jurisdiction in California it has been reported that 83% of officers called actually did not testify. In contrast, informants indicated that nearly every policeman called in Portland did in fact take the stand indicating a much better level of effectiveness.

Economic Factors

Although it is true that a substantial number of officers would like to improve the system in order to have their 'free time' more free and less interrupted by overtime court appearances, there are other factors at work. There are persistent reports that some officers are happy to appear on overtime status, in order to pick up the extra \$38, especially if only a short appearance is required. In fact there are unsubstantiated claims that some officers will deliberately make borderline traffic citations or arrests in order to get the extra overtime. It is also believed that some officers will organize the pre-booking process in such a way that several officers need to be called as witnesses, thus guaranteeing overtime. Finally there are claims that officers sometimes turn up for hearings unsolicited or deliberately do not check their boxes for possible rescheduling of hearings.

Charges such as this cannot be assessed for accuracy without detailed knowledge of line operations. This author does not know if they are true or untrue. However, enough people in different positions specifically raised these points that further detailed examination is justified. For a long time it has been recognized that it is most undesirable for a judge to have a fiscal interest in a case. It is not less undesirable for a police officer to have such an interest.

The important point at the present time is that the present ineffective system of distributing subpoenas allows abuses to take place and that therefore the procedures should be scrutinized and revised to give more command control over the process. Each precinct should probably assess its own practices in detail to determine if procedures could be tightened up in order to save needless court appearances. This activity could be handled easily with the police bureau although liaison with the District Attorney's office would help at later stages. Effective case screening by the District Attorney's office would enhance efforts made in the precincts to prevent unneeded officers appearing.

In a related area there are reports of lax control over approval of vouchers for overtime payment. I realize that this subject has been discussed over the years and that changes have taken place but the present system used by the police bureau does not appear to have real controls on it - officers sign in and out themselves and the slips appear to be forwarded for payment direct. Examples of signing of blank slips by deputy District Attorneys and the recording of substantial inaccurate times on the slips were both reported to the author. Again the author was not able to confirm these claims but the process deserves more examination to ensure that abuses do not take place.

Obviously there are financial pressures on officers in these times of inflation as there are on all of us. In addition present policy in the police bureau has cut out extra payment for special duty and has also forbidden moonlighting. It is inevitable that some officers will stretch matters under these conditions. We do not want to blow this out of proportion but it is one of several areas where improvement is possible.

SUMMARY

1) The majority of overtime expenditures of the Portland Police Bureau and the Multnomah County Sheriffs Office are enforcement related and therefore these areas need direct attention if total overtime costs are to be reduced.

2) Court/prosecution, related police overtime expenses are still considerable, amounting to approximately \$10,000 per week.

Savings of 25% of court related overtime (\$130,000 per annum) could be accomplished by saving approximately 13 unnecessary police witness overtime appearances per day ( at the overtime rate - 4 hrs. minimum).

3) Spreading these savings in proportion to present expenditures would mean overtime appearance savings per day as follow:

District Court	4
Traffic Court	2½
DUIL	1
Pretrial Conferences	2
Grand Jury	1
Circuit Court	2½
Juvenile	-

4) These savings are reasonable to hope for as they represent 10% or less of the total appearances per day. It is suggested that these numbers be made specific goals and that they be pursued actively.

5) The savings will be not accomplished by any one change. They will require a series of changes in all of the agencies involved in the adjudication process i.e. police bureau, District Court, Circuit Court and District Attorney's office.

A number of proposals which might be considered as partial solutions to the problem are as follows:

- A. Circuit Court should work with the District Attorney to reflect officers' schedules when trial dates are set at arraignment.
- B. Support should be given to the proposed constitutional change restricting presentment to the Grand Jury to special cases.
- C. Consideration should be given to supporting proposed legislation to decriminalize traffic offenses.
- D. Serious appraisal of the DUII program should be made to decide whether social benefits are worth the administrative costs.
- E. Ensure that the District Court does indeed become a Court of Record.
- F. Both Circuit Court and District Court should revise their trial setting policies with a view of minimizing the significant number of cases that require set overs (for whatever reason). Hold overs in addition should be minimized.
- G. The District Attorney's office should review the internal paper work flow with the view to simplifying it. Subpoenas should be distributed almost as soon as the cast lists are received from the court rather than two weeks later.
- H. The District Attorney should consider incorporating a component for dealing with police witnesses in his grant proposal for victim assistance funds.
- I. Screening policies of the District Attorney's office should be reviewed with the intention of minimizing the calling of unnecessary witnesses.

Particular attention should be paid to the initial issuance of the complaint.

- J. Further analysis of the expenditures on police overtime for pretrial conferences is needed to ensure that officers are called on on-duty time whenever possible.
- K. After early subpoenas are sent out it should be possible to check up on receipt of notices by the Portland police bureau through a telephone call system like that presently utilized by the Sheriff's office.
- L. The mechanism of distribution of subpoenas to individual officers is a problem area which should be addressed. A method similar to that being proposed by the Portland police - District Attorney liaison office might be adopted.
- M. Individual precincts should review the practices of each shift with a view to minimizing the witnesses needed on each case. Command control should be increased to minimize possible abuses.
- N. A review of the process of payment for overtime for Portland police is in order to ensure proper management control.
- O. The feasibility of the use of an on-call system by the Portland Police bureau should be explored as well as the possibility of using officers called in on the 4 hour overtime for other tasks when they have actual free time.

It is evident that two things are necessary for improvements. First of all the offices concerned have to make a conscious effort to revise their procedures to reflect the cost of police overtime. It is an expensive commodity. Next, although the areas for possible improvement have been identified more detailed work needs to be done to say specifically what needs to be done to accomplish these changes. There are many important details untouched by this brief summary.

In order to accomplish these two things it is suggested an individual or group of individuals with the confidence of all agencies be assigned to deal with this problem on an ongoing basis. One of the several planning and research groups in the city and county of Portland might be able to take this on or a group of staff members from the participant agencies might pursue it. This group should not indulge in rehashing of old information but set specific goals within each area and work to accomplish these goals keeping close tabs on what actually happens over a period of time.

APPENDIX

- (i) Payments to Portland Police for Court Appearances 73/74
- (ii) Portland Police Bureau, Overtime Report
- (iii) Profile of Cases Set For Trial in Circuit Court
- (iv) Resets in Circuit Court
- (v) DUII Cases Set for Trial, March 15-30, 1973
- (vi) Procedures for Court Appearance by Multnomah County Department of Public Safety
- (vii) Press Clipping - District Attorney's Liaison with Police
- (viii) Subpoena System Proposal - David Ueland
- (ix) Copy of Subpoena Form
- (x) Overtime Report Slip - Sheriffs' Office
- (xi) Overtime Report Slip - Portland Police Bureau

PAYMENTS TO PORTLAND POLICE FOR COURT APPEARANCES (73/74) \*

	Circuit	District	Grand Jury	Traffic	Juvenile	Pretrial	DUIL
Central	9,059.76	23,780.27	5,460.47	14,413.02	720.24	8,782.40	
East	13,598.89	22,301.80	6,831.45	19,338.24	584.35	7,526.70	
North	11,404.96	34,933.35	3,474.46	15,061.37	748.75	6,256.34	
Detectives	21,885.25	9,477.44	11,516.45	-	2,035.49	11,027.98	
Juveniles	343.90	402.78	121.99	-	4,013.00	-	
Women	1,179.09	1,539.66	378.43	-	2,394.29	34.14	
Special Inv.	3,633.30	6,306.74	2,798.76	-	23.26	18,906.97	
Intelligence	341.31	206.57	-	-	-	-	
Traffic	7,652.99	24,231.38	-	23,719.19	115.61	3,952.76	
Records	52.81	30.87	-	54.51	-	603.21	
Criminalistics	3,431.94	1,374.97	1,569.84	594.98	226.64	251.22	
<b>Totals</b>	<b>72,584.20</b>	<b>124,585.83</b>	<b>32,136.87</b>	<b>73,181.31</b>	<b>10,863.63</b>	<b>57,467.70</b>	<b>31,490.74</b>

\* These numbers include some small amounts of straight time but the majority is overtime.



EAST PRECINCT  
Bureau of Police

May 3, 1973

POLICE OVERTIME ANALYSIS

Unit : East Precinct' Night Relief

Period: April 19th - May 2, 1973

I. Overtime under POLICE CONTROL:

<u>Reason</u>	<u>No. Men</u>	<u>HRS</u>	<u>Total</u>
Late calls	2	4	4
Late arrest/booking	1	2	2
Officer-Coach reports	$\frac{1}{4}$	$\frac{4}{10}$	$\frac{4}{10}$

II. Overtime with NO police control; by dictate of Court a/o DA:

<u>Reason</u>	<u>Work Week</u>		<u>Days Off</u>		<u>Total</u>
	<u>No. Men</u>	<u>HRS</u>	<u>Men</u>	<u>HRS</u>	
Sign complaints	1	2.0	-	-	2.0
District Ct.	2	8.5	3	18.0	26.5
Circuit Ct.	1	4.0	1	9.0	13.0
Traffic Ct.	13	57.0	2	12.0	69.0
Grand Jury	1	6.0	3	18.0	24.0
DUIII Ct.	-	-	3	18.0	18.0
OLCC hearing	$\frac{1}{19}$	$\frac{6.0}{83.5}$	$\frac{-}{12}$	$\frac{-}{75.0}$	$\frac{6.0}{158.5}$
					168.5

RESUME:

I.	Percent of total under Police control	=	.06%
II.	" " " " Court/DA control	=	.94%
	Percent of Court appearances BOOKED FOR OFF' DAY OFF	=	.39%
	" " DUIII " " " "	=	100%

*W. L. Sullivan*  
Capt. Wayne L. Sullivan,  
Commander, East Precinct

PROFILE OF CASES SET FOR TRIAL IN  
CIRCUIT COURT IN FIRST SEVEN MONTHS OF 1974\*

Month	Total Cases Set	Total Set Over	Bench Warrant	Incarcerated	No Judge	After Assignment	At Call	By Chief Criminal Clerk	Cases Disposed w/o trial
Jan	347	81	7	1	4	3	15	51	220
Feb	285	91	3	2	1	4	26	55	156
March	346	95	4	3	-	6	23	58	215
April	337	101	6	5	2	11	32	45	191
May	306	77	5	2	6	3	29	32	174
June	275	86	2	-	3	1	43	37	152
July	378	136	-	14	17	1	62	42	199

\* Based on raw statistics kept by chief criminal clerk

\*\* This number does not include hold overs of up to three days.

PROFILE OF PARTIES OBTAINING RESETS\*

	<u>Reset by the Chief Criminal Clerk (CCC)</u>			<u>Reset at Call</u>	
	<u>State Not Ready</u>	<u>Defense Not Ready</u>	<u>Stipulation</u>	<u>State Not Ready</u>	<u>Defense Not Ready</u>
Jan	5	33	13	8	7
Feb	10	28	17	9	17
March	2	38	18	4	19
April	2	25	18	13	19
May	6	18	8	17	12
June	3	21	13	16	27
July	6	30	6	28	34

\* Based on raw statistics kept by Chief Criminal Clerk

**CONTINUED**

**1 OF 2**

EXPERIENCE WITH DUIL \* CASES SET FOR

TRIAL MARCH 15-30, 1973

Day	No. of Cases Set	Cases Pleading on Trial Day	Bench Warrants	Total Police Officers Affected
15th	22	9	4	32
16th	19	12	2	32
20th	20	6	4	38
21st	18	9	1	25
22nd	17	4	1	19
23rd	14	9	2	34
27th	31	10	-	24
28th	25	7	2	22
29th	20	11	-	22
30th	23	8	1	19
Totals	209	85	17	267

\* DUIL - Driving under the influence of liquor

\*\* Numbers were obtained by abstracting information from old docket sheets with the assistance of an attorney in the DUIL section of the District Attorney's office.

PROCEDURES MANUAL

2.9 NOTIFICATION OF COURT APPEARANCE

I. PURPOSE

To insure notification of Department members of court appearances and to provide the Department, District Attorney's Office and Juvenile Court with confirmation that a member has been notified and will appear.

II. INITIATION OF NOTICE

A. Traffic Court

1. A member of the Court Guard Unit will be assigned to the District Court Traffic sessions as the Court Liaison Officer, both in Portland and Gresham.
2. This officer will complete one copy of Department of Public Safety Notification of Court Appearance form for each officer who is scheduled to testify.

B. District and Circuit Court

1. One copy of District Attorney's Office Notification of Court Appearance form will be completed by the Deputy District Attorney handling a case where an officers' testimony is required.
2. This copy will be forwarded to the Court Liaison Officer for distribution.

C. Juvenile Court

1. An officer of the court will complete the Circuit Court Juvenile Department Summons form for each case which requires an officer's testimony.
2. The Juvenile Court Clerk will send one copy of the Summons to the Court Liaison Officer for distribution.

III. COURT LIAISON OFFICER

- A. The Court Liaison Officer's mailing address is

Building 101, Room 120 District Court Traffic Section, 1021 SW 4th Avenue, Multnomah County Courthouse, Court Liaison Officer. Telephone number is 248-3901.

#### IV. DISTRIBUTION

- A. Notification of all court appearances of Department members will be made by the Court Liaison Officer.
- B. If the appearance will occur within four days from the date the Court Liaison Officer receives the Summons, he will immediately notify the member by telephone and record the date and time of acknowledgment.
- C. In all other cases the Court Liaison Officer will make three copies of the Court Appearance Notices. He will retain one copy and forward the other two via interdepartmental mail to the member's Unit Commander. Those two copies will be handed to the member by his supervisor. The member will initial one copy and return it to the supervisor who will place it in a Suspense File. The remaining copy will be retained by the witness.

#### V. SUSPENSE FILE

- A. A Suspense File will be established and maintained for unit management control at each unit.
- B. The initialed copy of every Notice to Appear or Summons will be placed in the Suspense File.
- C. This copy will be held in the Suspense File for 30 days and then be destroyed.

#### VI. FAILURE TO APPEAR OR BE PROMPT

- A. If a member fails to appear in Court or is not prompt, the Court Liaison Officer will forward an interoffice memorandum to the member's Unit Commander stating the circumstances of the incident.
- B. The Unit Commander will immediately investigate the matter, causing the offending officer to submit a Special Report on the incident. The Unit Commander will then submit all reports and indicate his findings and recommendations to the Sheriff.
- C. The failure to appear or be prompt for court is a serious dereliction of duty.

# DA's liaison with police explained

BY DAVE EULAND  
*Liaison Officer*

Most of you are aware that we have a police liaison. Some of you are not only aware of a police liaison but wonder what he does. The District Attorney's Office, under Harl Haas, wanted to have a position created that would be primarily responsible for handling complaints between Multnomah County Sheriff's Office, Portland Police Bureau and his office. In cooperation with the police bureaus, the police liaison job was created. The first year the position was represented by Dennis Griffiths of the Multnomah County Sheriff's Office. This year the position is filled by the Portland Police Bureau.

The Police liaison does the following:

A. Coordinates all DA's Office/Police relations programs: (1) Ride-along program; (2) DA Police newsletter; (3) Coordinates DDAs for police training programs.

B. Observes the day-to-day operations of the District Attorney's Office with a view to suggesting improvements or changes in DA Office procedures which will benefit or provide better service to the individual police officers, e.g.: (1) Intake Section; (2) DUI Project; (3) Traffic Court; (4) Subpoena Section; (5) District Court Process; (6) Circuit Court Process.

C. Reviews and follows up on individual complaints or suggestions directly from the City police and Sheriff's officers where these complaints relate to the operation of the District Attorney's Office or the handling of particular individual cases therein.

D. Is available to pursue any project within the framework of DA/PPB relations as directed by the command of either the Portland Police Bureau or the Multnomah County Sheriff's Office: (1) Exploring the subpoena system; (2) Specific legislative projects, etc.

This is just a brief summary of the job and some of the areas of interest. Please feel free to utilize this office.

CHIEF PHIL SMITH, PORTLAND POLICE BUREAU

DAVID M. UELAND

May 14, 1974

SUBPOENA SYSTEM

The subpoena system, because of its complexity, has cost the Portland Police Bureau a considerable amount of money in overtime. This is partly due to the fact that many officers are either notified too late or are not notified at all. This causes the officer to mistrust the subpoena system and act on his own for court appearances. The problem of officers showing up when not subpoenaed or on the wrong day is where a large portion of the problem exists. Checking over the subpoena system from point of issuing to the receiving officer has been found to be a complex system. From the courts to the District Attorney's Office a time is prescribed for court date. This date can change several times due to setovers, sickness, and many other factors. Add to this, the many hands the subpoena goes through until received by the witness and indeed it is easy to see why problems exist. Because the Police Bureau can benefit from the savings in overtime and because there does not exist a uniform way to receive and hand out subpoenas in the various divisions, I thought an appropriate procedure would be to start at the bottom and work up. Therefore, when the bureau can show that its procedures are working and can pinpoint areas of responsibilities then there is a good argument for better cooperation from the other parts of the system.

At present each division has its own procedure for notifying the officers of court appearances. In fact in some cases, each relief in each division has a different procedure. What this proposal requests is that by General Order the subpoena "hand out system" be uniform. As it exists now, the subpoena is received by the Chief's Office. On normal district, traffic and circuit court subpoenas, there is generally ten days or enough notification time. In the case of preliminary hearings, there are only five judicial days given. This is one area that has severe problems. For example, if on a Friday the judge gives five judicial days for a hearing the information is then given to the subpoena desk that day (generally in the afternoon or last court) so the following morning the clerk types the subpoena and sends it to the bureau. Then, the Chief's Office sends it to the proper precinct and the mail runs smoothly. That is, saying the subpoena gets to the desk person the evening of the first day. It is then logged and placed in the sergeant's box. If he hands it out at roll call, it will be the second day. If the officer is on his days off, when he gets back it will be the fourth day and the subpoena is for the next day. This would normally give the officer the notice the day before, if everything ran smoothly. But it doesn't. In some cases, the sergeant will place the subpoena in the officer's mail box, which can be overlooked. In other cases, the relief sergeant will hand them out at roll call. If the officer is not there, he will return

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the subpoena to the call box and it could get lost. All in all, for every precinct and every relief there is a different method. To make the system uniform, I propose the following:

(1) Present procedure - Chief's Office

As soon as the subpoenas are received (approximately three times a day), they are sent out to precincts. If the time element is not sufficient or it is marked "rush" then personnel in the Chief's Office will try to contact the officer. If she is unable to do so before 5:00 p.m., then it is left until the next day.

(2) Proposed method

The Chief's Office, as it presently does, will do all the routing.

(a) A yellow subpoena means rush - (This will usually be a preliminary hearing or a court date without the appropriate number of days.)

*... will  
give info. how  
what time  
to phone or  
if they return.*

(1) With the yellow subpoena, the Chief's Office will contact the proper precinct and check on days off. If a time problem exists, the desk person will log the information and notify the officer by phone consistent with his sleeping hours.

(3) Present procedure - Precincts and Divisions

This problem is different in each precinct or division. Some reliefs hand out the subpoenas at roll calls, other reliefs put them in the officer's mail box, and others just notify the officer a subpoena exists and he makes a note.

(4) Recommended procedure

(a) When the subpoena reaches the desk person at the precinct, it will immediately be logged. with a number & case number

(b) The officer's days off will be checked to see if subpoena date conflicts with it.

(1) If there is a conflict in dates, the desk person will notify the officer by phone consistent with his sleeping hours.

(2) The subpoena will stay on the "call list" of the desk person's desk until the officer has been notified.

(3) When the officer is notified the desk person will initial in the log that the officer was notified by phone

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and file the subpoena. (The subpoenas will be filed in an alphabetical file system. There will be one for each relief and the log will be placed next to the files.)

(4) It will be the responsibility of every officer to check the subpoena file daily. (He can double check the log.) When the officer checks and sees a subpoena in the file, he will remove it and initial the log.

Scrt. can  
check file  
and log.

Goals that will be accomplished by the recommended procedure:

(1) It will make the subpoena procedure uniform throughout the bureau so that when personnel are transferred (especially trainees), they will not have difficulty in receiving subpoenas.

(2) An officer when concerned about a court appearance can call and the desk person can check the log or subpoena and give him whatever information is desired.

(3) The cases that are setover can be double checked by the officer.

(4) With the yellow flag, the notification of a setover or cancellation will be expedited to the officer.

(5) The main goal is that the uniformity of the system will create a smooth flow so that if errors crop up they can be dealt with individually. Plus, the system should eliminate unnecessary appearances by the officers, saving the bureau considerable overtime pay.

OFFICE OF THE DISTRICT ATTORNEY  
(D.U.I.I.L. PROJECT)  
ROOM 120  
Multnomah County Court House  
Portland, Oregon 97204

TO : \_\_\_\_\_

CASE : \_\_\_\_\_

CIT.# : \_\_\_\_\_

CHARGE: \_\_\_\_\_

Arrest Date: \_\_\_\_\_

The above captioned case, in which you are a necessary witness, has been set for trial on \_\_\_\_\_, 197\_\_\_\_, at \_\_\_\_\_.

Please report to Room 120 at the Multnomah County Court House no later than one-half hour prior to the time set for trial in order that the deputy assigned to try the case may review it with you.

If, for any reason, you will not be available to testify, contact this office immediately at 248-3122. Unless we receive immediate notice of your unavailability, we will not be able to obtain a set over.

Call this office (248-3122) on the business day preceeding the date your case is set for trial in order to confirm the exact time that the case will be tried.

Very truly yours,

\_\_\_\_\_  
Dale W. Conn  
Deputy District Attorney

Sent: \_\_\_\_\_

Multnomah County Oregon

SHERIFF'S OFFICE • DEPARTMENT OF PUBLIC SAFETY

OVERTIME PAY REQUEST

NAME AND RANK OR NUMBER UNIT DATE OF OVERTIME

REGULAR HOURS WORKED: FROM: TO:

OVERTIME HOURS WORKED: FROM: TO:

SIGN COMPLAINT DEFENDANT: FILE NO.

PRETRIAL CONFERENCE CHARGE

DISTRICT COURT  TRAINING (Nature)

CIRCUIT COURT  INSTRUCTED (Class)

GRAND JURY  EXTRA SHIFT

LATE CALL (Explain)

OTHER (Explain)

MEMBER (Signature) APPROVED: Deputy District Attorney

APPROVED: SUPERVISOR APPROVED: UNIT COMMANDER

OVERTIME REPORT  
BUREAU OF POLICE  
PORTLAND, OREGON

NAME and NUMBER \_\_\_\_\_ DATE: \_\_\_\_\_

UNIT \_\_\_\_\_ RELIEF \_\_\_\_\_ DEFENDANT: \_\_\_\_\_

REG. HRS. WORKED: FROM \_\_\_\_\_ TO \_\_\_\_\_

OVERTIME WORKED: FROM \_\_\_\_\_ TO \_\_\_\_\_ OVERTIME HRS. \_\_\_\_\_

- |  |                                     |  |
|--|-------------------------------------|--|
| <input type="checkbox"/> SIGN COMP.              | <input type="checkbox"/> TRAFFIC    | <input type="checkbox"/> OTHER (EXPLAIN) _____ |
| <input type="checkbox"/> PRETRIAL CONF.          | <input type="checkbox"/> SAFETY     | _____  |
| <input type="checkbox"/> DISTRICT                | <input type="checkbox"/> GRAND JURY | _____  |
| <input type="checkbox"/> CIRCUIT                 |                                     | _____  |
| <input type="checkbox"/> LATE CALL - TIME: _____ |                                     | _____  |

TYPE OF CALL: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

BAILIFF \_\_\_\_\_ SUPERIOR OFFICER \_\_\_\_\_

UNIT COMMANDER \_\_\_\_\_

**END**

*7/25/50*