

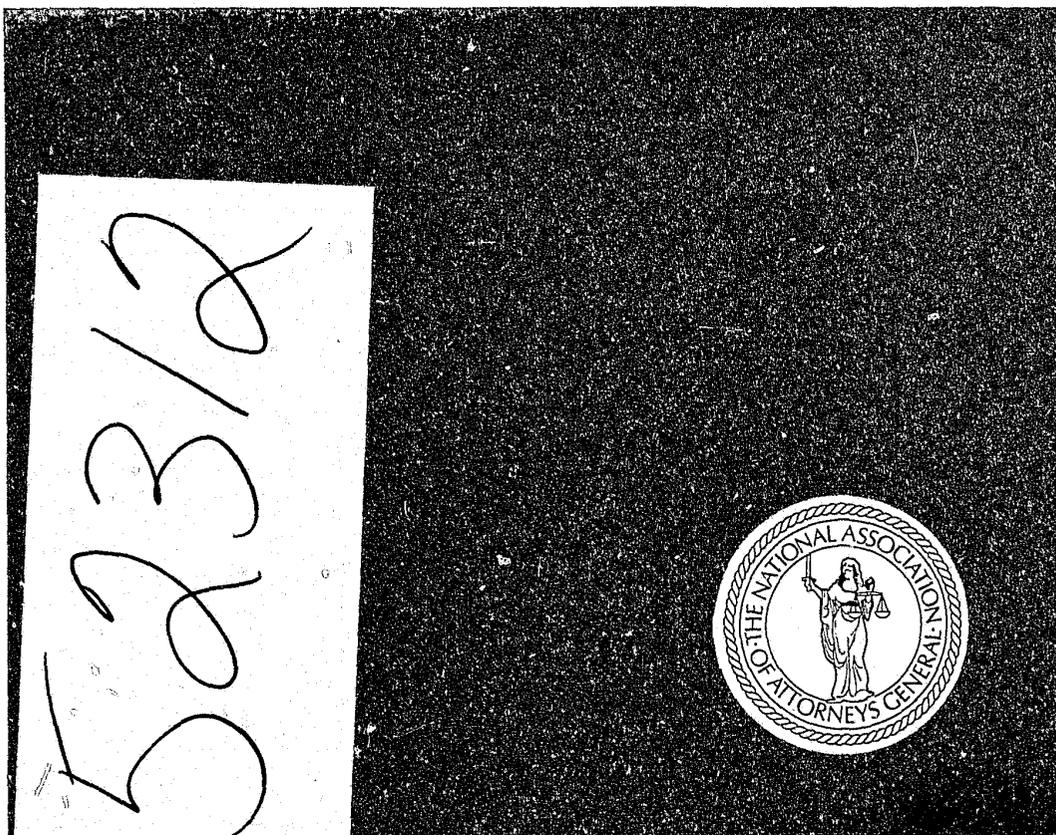
---

# **Time Reporting in Attorneys General's Offices**

**Management Manual No. 7**

---

The National Association of Attorneys General  
Committee on the Office of Attorney General



## NAAG MANAGEMENT MANUALS

1. *Planning in the Office of Attorney General*
2. *Recruitment and Retention of Attorneys in the Office of Attorney General*
3. *Evaluation of Attorneys in the Office of Attorney General*
4. *Public Information Programs for Attorneys General's Offices*
5. *Computer Uses for Attorneys General's Offices*
6. *Paralegal Personnel for Attorneys General's Offices*
7. *Time Reporting in Attorneys General's Offices*

Price: \$3.00 each, \$8.00 for any three manuals, or \$15.00 for all seven manuals.

## NAAG MANAGEMENT INSTITUTE PROCEEDINGS

*Summary of Proceedings: Second Management Institute*

*Summary of Proceedings: Third Management Institute*

*Summary of Proceedings: Fourth Management Institute*

*Summary of Proceedings: Fifth Management Institute*

Price: \$3.00 each, or \$10.00 for all four summaries.

✓ The National Association of Attorneys General  
Committee on the Office of Attorney General

NCJRS

NOV 22 1978

ACQUISITIONS

TIME REPORTING IN  
ATTORNEYS GENERAL'S OFFICES

Management Manual No. 7

November 1978



This project was supported by Grant Number 78-TA-AX-0023 awarded by the Law Enforcement Assistance Administration, United States Department of Justice. The fact that LEAA is furnishing financial support does not necessarily indicate its concurrence with the statements herein.

Copyright © 1978

The Committee on the Office of Attorney General  
of the National Association of Attorneys General Foundation  
3901 Barrett Drive  
Raleigh, North Carolina 27609

Price: \$3.00

THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

COMMITTEE ON THE OFFICE OF ATTORNEY GENERAL

Chairman

Honorable Chauncey H. Browning, Jr.  
Attorney General of West Virginia

Other Members

Honorable Carl R. Ajello  
Attorney General of Connecticut

Honorable Bronson C. La Follette  
Attorney General of Wisconsin

Honorable John D. Ashcroft  
Attorney General of Missouri

Honorable J. D. MacFarlane  
Attorney General of Colorado

Honorable Francis X. Bellotti  
Attorney General of Massachusetts

Honorable Daniel R. McLeod  
Attorney General of South Carolina

Honorable Arthur K. Bolton  
Attorney General of Georgia

Honorable Allen I. Olson  
Attorney General of North Dakota

Honorable Francis B. Burch  
Attorney General of Maryland

Honorable William J. Scott  
Attorney General of Illinois

Honorable M. Jerome Diamond  
Attorney General of Vermont

Honorable Theodore L. Sendak  
Attorney General of Indiana

Honorable Slade Gorton  
Attorney General of Washington

Honorable Robert F. Stephens  
Attorney General of Kentucky

Honorable Avrum Gross  
Attorney General of Alaska

Honorable A. F. Summer  
Attorney General of Mississippi

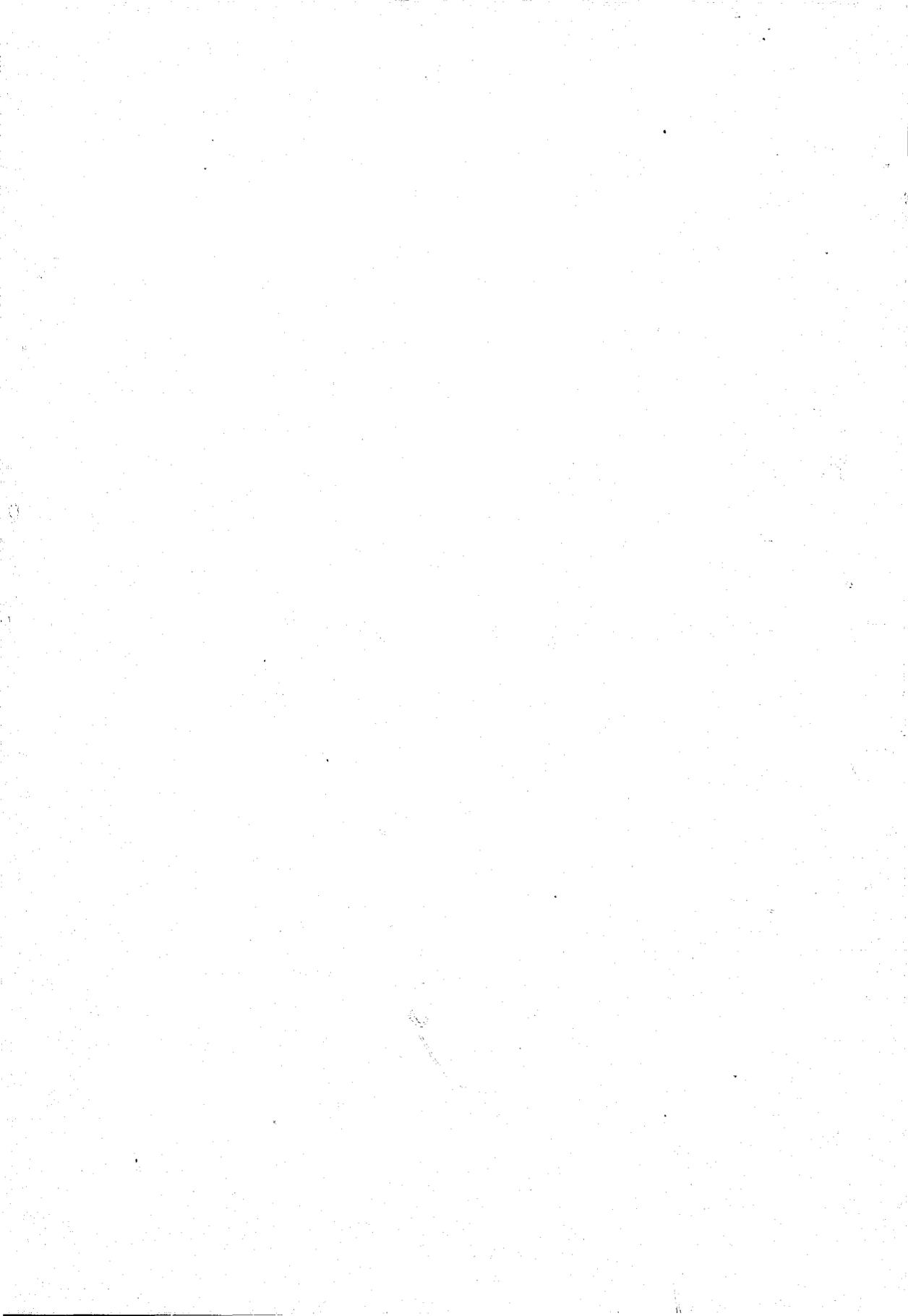
Honorable Frank J. Kelley  
Attorney General of Michigan

Honorable Richard C. Turner  
Attorney General of Iowa

Honorable Richard R. Wier, Jr.  
Attorney General of Delaware

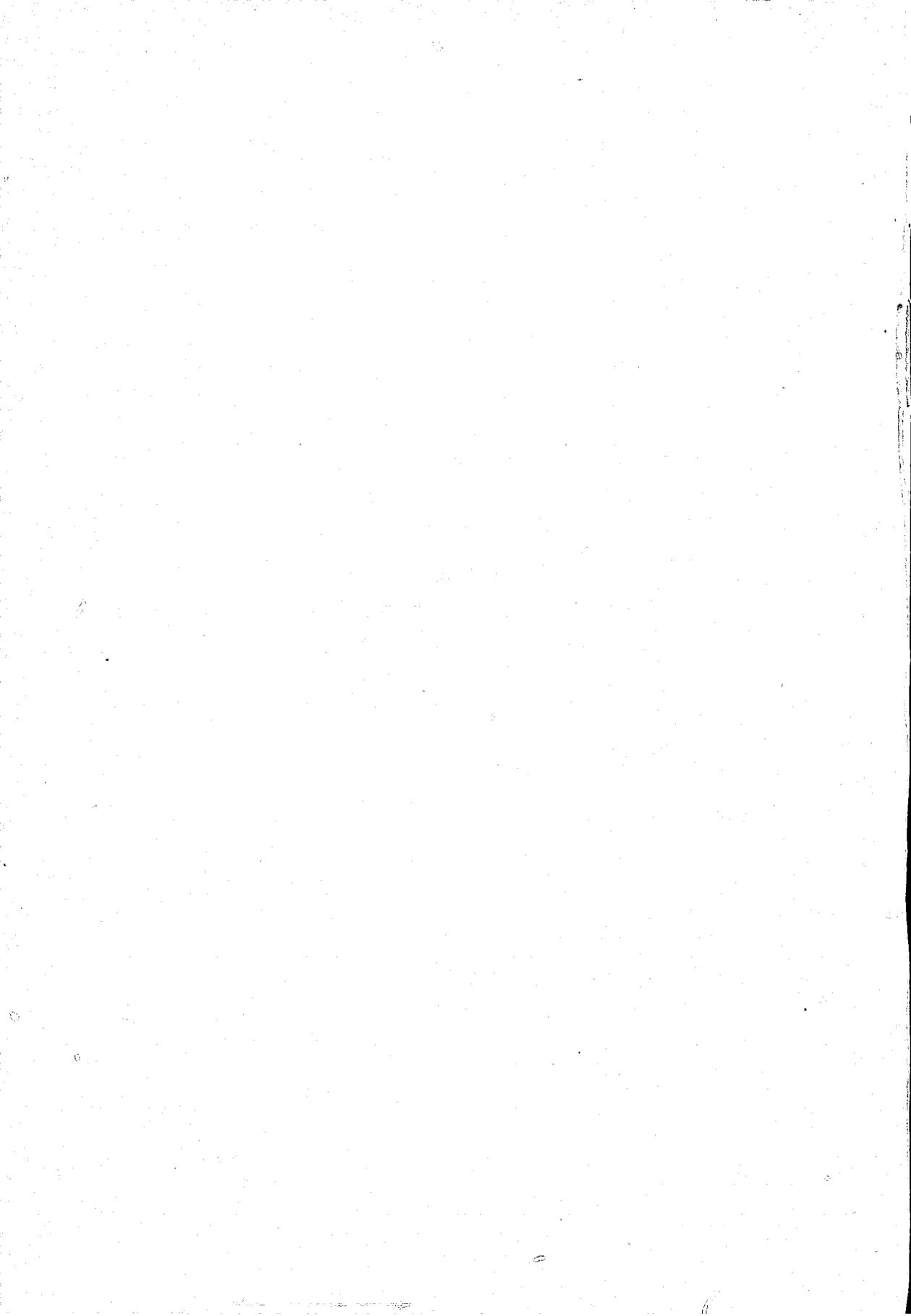
Executive Director

Patton G. Galloway  
3901 Barrett Drive  
Raleigh, North Carolina 27609



## TABLE OF CONTENTS

Committee on the Office of Attorney General. . . . .	iii
Table of Contents. . . . .	v
1. THE BENEFITS OF ATTORNEY TIMEKEEPING. . . . .	1
What Is Attorney Timekeeping? . . . . .	1
How Widely Is Timekeeping Used? . . . . .	2
What Are Its Benefits? . . . . .	4
2. USES IN ATTORNEYS GENERAL'S OFFICES . . . . .	7
Developing Workload Indicators. . . . .	7
Planning and Analyzing the Workload . . . . .	9
Budget Preparation and Justification. . . . .	10
Improved Efficiency . . . . .	11
Flexibility in Assignments. . . . .	11
Attorney Evaluation . . . . .	12
Billing for Legal Services. . . . .	13
Computing Attorney Fees . . . . .	14
What Problems May Be Encountered? . . . . .	15
3. DEVELOPING AND IMPLEMENTING A SYSTEM. . . . .	17
Who Should Design the System? . . . . .	17
Are Pretesting and Evaluation Necessary? . . . . .	19
How Should Users Be Introduced to the System? . . . . .	20
What Problems Can Be Anticipated in Implementa- tion? . . . . .	21
4. CONSIDERATIONS IN DESIGNING A SYSTEM. . . . .	23
What Information Should Be Required? . . . . .	23
How Frequently Should Time Be Recorded? . . . . .	26
What Time Interval Should Be Used? . . . . .	26
What Activity Codes Should Be Used? . . . . .	27
What Instructions Are Necessary? . . . . .	30
How Should the Format Be Designed? . . . . .	30
Should the System Be Computerized? . . . . .	30
5. PREPARING AND COMPILING TIME SHEETS	
Who Fills Out the Time Reports? . . . . .	32
Is the Information Reviewed for Accuracy? . . . . .	34
How Are Reports Collected and Compiled? . . . . .	35
What Reports Are Produced? . . . . .	36
How Are the Records Stored and Retained? . . . . .	37
FOOTNOTES . . . . .	39



## 1. THE BENEFITS OF ATTORNEY TIMEKEEPING

Many Attorneys General's offices are facing expanding workloads and tightening budgets, a situation which has led to greater emphasis on efficiency and productivity. One result of this has been the implementation by almost half of the offices of some system of timekeeping for attorneys; in most of these offices, however, the timekeeping requirement does not yet apply to all attorneys. Many other Attorneys General are actively considering use of time records.

This manual is intended to help Attorneys General and their management staffs by describing various methods of attorney timekeeping and discussing the differences between them. The text first explains what timekeeping is and why it is useful. It then examines how it works in practice by looking at examples. No "model" system is offered, but alternative approaches are evaluated, and their advantages and disadvantages are described. The practical problems of implementation are stressed, because even the most carefully-designed system may fail if attorneys' opposition to it is strong.

### What Is Attorney Timekeeping?

By the simplest definition, an attorney timekeeping system is a method of recording which lawyer worked on which project for which client for what amount of time. There are many ways of recording the information, as well as many reasons for doing so. An office's objectives in collecting attorney time records should largely determine the manner in which records are kept and what information they include.

Obviously, every office keeps some time records for all personnel, to record work time and leave for payroll purposes. This manual, however, is concerned only with systems that record how attorney work time is used, although such systems may also be used for payroll data.

The heart of any timekeeping system is the time card or slip made out by the attorney. How the lawyer spends his time may be recorded in a number of ways. Usually, the number of "billable" hours, or hours actually spent at working on projects that are attributable or can be charged to clients are logged along with the attorney's name, the date, the agency for which the service was performed, the case name or number, and the type of activity performed. For ease of compiling, alphabetical or numerical codes are often

used in place of names or types of activity. Some offices expect a few sentences describing the work performed to be included on the time sheet.

Time may be recorded on a daily, weekly, biweekly, monthly, or other basis. Often daily sheets are tallied onto weekly or monthly master sheets either manually or, more commonly, by computer. The units in which time is recorded vary, but are usually from 5 minute to one hour intervals.

Once information on how the attorneys have been spending their hours has been collected, the managers can use the data as a tool to operate the office more efficiently. Knowledge of how the lawyers' time is spent can help in planning, in workload analysis and control, in billing, in attorney evaluation, and in budget preparation and justification. In private practice, the main use of timekeeping is for billing clients. While Attorneys General's offices tend to use timekeeping data for a wider variety of reasons, many also use these records to bill state agencies for services rendered.

### How Widely Is Timekeeping Used?

Abraham Lincoln once said "A lawyer's time and advice are his stock in trade." Until the mid-1900's, relatively few lawyers kept inventory of that stock by recording their time use. In recent decades, however, private law firms have adopted this practice to the extent that timekeeping is now pervasive in the profession.

Advice on how to implement timekeeping in law firms has been available for decades. In 1932, A.C. Delvanti published a book called Systematizing an Attorney's Office which described the basis of recording daily expenditures of time and labor. Since then, numerous books and articles have appeared describing timekeeping plans and promising the reader increased income, more accurate client billings, and better personal records. Such publications, along with bar association periodicals containing survey results showing the cost effectiveness of timekeeping, have helped make timekeeping a standard procedure today in private law offices.

The reasons for this wide acceptance of timekeeping are clear. One author commented that, "when unimpeachable studies from coast to coast unanimously show that lawyers in the private sector who keep time make more money than lawyers who do not keep time, then certainly it is no more than common sense to keep proper time records."<sup>1</sup> Another reason for timekeeping was given by the managing attorney of a large private firm in a speech to COAG's Fourth Management Institute.<sup>2</sup> He pointed out that almost all lawyers have been forced to keep time records for billing purposes since

the Supreme Court held the use of bar association fee schedules to be illegal. Still another impetus for timekeeping has been the increasing unwillingness of clients, especially corporate clients, to accept bills "for services rendered," without a detailed explanation of charges. The most compelling reason for timekeeping, however, is increased productivity: "every known economic survey of the legal profession has reflected the fact that on the average the timekeeping lawyer has greater gross income from his practice than the lawyer who does not keep records or keeps them on other than a regular basis."<sup>3</sup>

A nationwide study of how timekeeping is practiced in private law firms was made on behalf of the American Bar Association as part of a special study on "Billing Techniques" and for presentation at the Third National Conference on Law Office and Economics Management in San Francisco.<sup>4</sup> In 1968, a two-page questionnaire was submitted to lawyers in every state, including sole practitioners, small firms, middle-size firms and large firms. Eighty-four percent of those responding stated that their firms record time on a regular basis. Responses showed not only that a large majority of firms record time, but that time was recorded successfully in many different ways. Some small firms devised their own systems. Many firms said they used commercial timekeeping plans, while others indicated that machines were being introduced into their systems. Almost half of the firms mentioned that significant changes to improve their systems had been made in the 10 years prior to the survey. Eighty-nine percent stated that they were now satisfied with their record keeping.

As in the private sector, timekeeping is becoming a standard office procedure in many Attorneys General's offices. However, implementation of timekeeping in the majority of Attorneys General's offices is coming a decade or more behind the changeover in private law firms. While the survey mentioned above showed that about 84 percent of private firms had begun some form of time record maintenance by 1968, less than half of the Attorneys General's offices required their attorneys to keep time at the end of 1977, and most of these limit timekeeping to only part of the legal staff.

COAG surveyed Attorneys General's offices in the fall of 1977 concerning their attorney timekeeping practices. Of the forty-five jurisdictions responding to the question, "Are attorneys required to complete time reports?" 25 responded "yes" and 20 said "no." When asked whether attorneys were required to complete time records and, if so, how often they were required to complete them, 8 offices reported recording time on a daily basis, 2 reported using both a daily and a weekly basis, 4 were on a weekly basis, 4 others were on a biweekly basis, 5 were on a monthly basis and one reported

recording time quarterly. Virginia later joined those states reporting time on a weekly basis. Some offices noted that only certain attorneys, such as those assigned to federally-reimbursable projects, were required to fill out time reports.

Twenty-three states responded to the question, "For what purposes are the time reports used?" The question suggested three categories-- billing state agencies for legal services, workload indicator reports, and evaluation of attorneys-- and allowed space for describing other purposes. Nine states noted billing as a purpose, thirteen marked workload indicator reports, and six checked evaluation of attorneys. Among the other purposes noted were budget justification and management analysis, each reported by two states. Other purposes reported included: information for the legislature, leave records, budget request information, to meet requirements of the state auditor, and for recording service to other agencies receiving federal money. Thus time recording seems to be used most often for workload management, secondly for billing and third most frequently for attorney evaluation.

#### What Are Its Benefits?

The primary impetus for timekeeping in private firms has been abundant evidence that it increases income:

Statistically, based upon the results of competent studies by every group that has ever tackled the problem, attorneys who keep an accurate record of their time, earn 140% to 200% as much as those who do not. Like any other statistics, these can be misleading. In all probability, an attorney who keeps time records is also a more efficient businessman, bills more promptly, and runs a better law office. It is, therefore, natural that he should make more money. Every such attorney, however, will tell you that the keeping of time records is the heart of his efficiency.<sup>5</sup>

The following table illustrates typical results of surveys conducted in the 1960's by various state bar associations. They all indicate that timekeepers earn more than non-timekeepers.<sup>6</sup>

DIFFERENCE BETWEEN AVERAGE INCOME OF  
TIMEKEEPING AND NON-TIMEKEEPING LAWYERS

<u>State Bar</u>	<u>Year of Survey</u>	<u>Percentage by which Time-keeper's Income Exceeds Non-Timekeeper's Income</u>
Maryland	1968	37
Texas	1967	40
Utah	1964	45
Michigan	1962	60
New Jersey	1962	44
Missouri	1961	39
Oklahoma	1961	45
Oregon	1961	44
Minnesota	1960	46

While lawyers, particularly those in private firms, are interested in timekeeping primarily because of its ability to increase income, there are other benefits that are only indirectly related to monetary matters. One article summarizes as follows some of the less tangible benefits of timekeeping:

Why is a timekeeping lawyer more productive?

(1) He knows the clock is running up chargeable time to his client, so his conscience urges him to give the client his money's worth by intense concentration on the matter at hand.

(2) It is an elemental management practice to examine logged-in time and to inquire of each entry whether that particular task was necessary. If so, could it be handled more efficiently? Could it be delegated to someone whose hourly rate is less expensive?

(3) It is an elemental management practice to set standards and goals. These goals cannot be reasonably established or their achievement measured, without time records. Where reasonable goals are set, the attempt to achieve or surpass them will increase a lawyer's productivity.

(4) Timekeeping can make management reports available to the attorney which show the results and direction of his productive ability. These management reports are essential in making sound decisions affecting future productivity, and become increasingly valuable as the activity of the lawyer's office grows - whether the growth results from increased professional staff or increased efficiency, or both.<sup>7</sup>

Another benefit of timekeeping is greater flexibility in delivery of services. This can be a boon to the lawyer, his office and to his clients. If lawyers are available on an hourly basis, rather than being assigned full time to a client or agency, the amount of legal services may be adjusted to handle the workload. Lawyers may be assigned a particular client or agency on a part-time basis. An hourly system can make it easier to get the best person for a legal task, instead of relying on one attorney to be a jack-of-all-trades. Managers can mention the possibility of increased flexibility in assignments when they try to convince attorneys of the need for timekeeping. If the attorneys believe that their work assignments may be more varied or more suited to their talents if timekeeping is initiated, then they may become less reluctant to, as they typically view it, toil under the tyranny of timekeeping.

Another benefit is that both the attorney and his or her supervisors can monitor the use of time to assure that it is used appropriately. Summary time reports can reveal to the attorney that too much time is spent in non-productive tasks, or that a certain case consumed more time than its importance warranted.

It should be stressed that these benefits do not automatically ensue from initiating a timekeeping system. Merely keeping records does not increase productivity; the records must be analyzed and used before they can improve efficiency. The system should be constantly evaluated to assure that sufficient benefits are actually being realized to justify the time and effort involved in record keeping.

## 2. USES IN ATTORNEYS GENERAL'S OFFICES

The trend in Attorneys General's offices is toward instituting or expanding timekeeping systems. A report on workshops held during COAG's Fourth Management Institute in 1977 said that "there were certain types of programs that people have done or agree that they want to do-- things that everyone agrees are good."<sup>8</sup> One of the three such programs enumerated was attorney timekeeping. The commentator added that "even though everyone seemed to favor timekeeping, few people had a good sense of what specific steps they should take toward this." Thus, there seems to be demand among managers in Attorneys General's offices for more control through timekeeping but a lack of assurance about how to get timekeeping started.

Instituting a timekeeping system can help an Attorney General's office perform its tasks better in a number of ways. The most obvious areas where time records help are in planning and managing workloads, in billing, in attorney evaluation, and in budget forecasting and justification. These are generally interrelated matters and all require some quantitative measure of attorneys' output, in a form that can be directly related to the office's operations. These benefits are discussed briefly below. Most of these advantages involve a key managerial function, which should be an ongoing activity of any well-managed Attorney General's office.

### Developing Workload Indicators

Reasonably accurate knowledge of how long it takes an average lawyer to perform a given type of legal task can be generated from a few months of time records. This knowledge of attorney hours per job can aid in planning by showing managers how many lawyers will be needed to handle a certain number of cases of a given type. It can also help in dividing the workload among the attorneys. Workload indicators can help manage an office's current workload and can aid in planning to meet future demands. Thirteen states noted in COAG's 1977 survey that their time reports were used for workload indicator reports. The thirteen states were California, Florida, Georgia, Hawaii, Kansas, Louisiana, Massachusetts, Minnesota, Missouri, Montana, New Mexico, Oregon and Utah.

California has been developing workload indicators or workload standards since 1972. The Attorney General's office

## USES OF ATTORNEY TIMEKEEPING

- √ Monitoring attorney output.
- √ Improving attorney productivity.
- √ Providing a basis for developing workload indicators.
- √ Estimating time needed for future jobs.
- √ Measuring legal services provided to client-agencies.
- √ Improving client awareness of the cost of services.
- √ Measuring progress towards management goals.
- √ Increasing the flexibility of attorney assignments.
- √ Increasing the flexibility of services to agencies.
- √ Monitoring attendance for payroll purposes.
- √ Providing data for developing budget figures.
- √ Justifying budget requests.
- √ Justifying requests for court-awarded fees.
- √ Billing state agencies for legal services rendered.
- √ Apportioning costs of personnel with multiple assignments.

first experimented with workload indicator development in their Criminal Division because most of the work there was of a similar nature-- criminal appeals and extraordinary writs. The major, common product of this sort of work is a brief, so this was taken as a measure of output. The workload indicators were arrived at by taking the total number of briefs handled in a year divided by the number of attorneys. The average proved useful and reliable in talks with budget analysts in setting up the 1972-73 budget.

Developing indicators for the Civil Division proved to be more difficult. It became apparent that administrative proceedings, cases and opinions lent themselves to counting whereas other services, such as the delivery of advice, did not. Therefore, indicators were developed only on the countable items. The California Department of Justice did, at length, come up with some viable indicators for the Civil Division.<sup>9</sup>

## Planning and Analyzing the Workload

The use of timekeeping data for planning purposes frequently takes the form of developing workload indicators for budget justification, which is discussed in the following section. There are, however, various other planning activities for which the data can be used. For instance, Florida uses timekeeping data for the assignment of new cases. Missouri's data serves as proof to agencies of the amount of legal services being delivered.

Oregon initiated its timekeeping system primarily for billing purposes, but has also found the data useful in several areas not directly related to billing. These areas include such planning-oriented functions as monitoring workloads, determining trends, and justifying staff and facilities. The data showing work statistics by attorney allows section heads to monitor individual productivity and to plan for fluctuating workloads. New Mexico reports that so far the data has proved useful in its raw form for such purposes as tallying the hours of legal services devoted to a certain agency in a given time period.

In Georgia, the time counts are proving to be of value in monitoring workload levels for individual attorneys and for single divisions within the Department of Law as well as showing how much time is being expended for a given client-agency. While attorneys' performances are evaluated by examinations of their work product rather than their time records, the time records do allow the manager to redistribute uneven workloads. Knowing the hours demanded by each client-agency proved to be of great value recently when

budget cuts were made and the Department of Law reduced the number of divisions from eight to six, requiring redistribution of the workload.

## Budget Preparation and Justification

Two popular uses of timekeeping data are to forecast budget needs and to justify budgets to legislatures. Florida, Minnesota, Missouri, Utah and Vermont all mentioned budget justification as one reason for keeping time records. State legislatures seem to be more easily convinced of the validity of an Attorney General's budget request if his estimates are based on projections from past case load and time records, rather than on less substantial methods of predicting needs. For instance, if an office knows the average time per attorney required to prepare a brief, and can tell from past records that the number of briefs taken in by the office has increased by a given percent annually, then it can calculate the number of extra attorney hours that will probably need to be added in the future. Such projections would be difficult and less accurate without records of time spent per job. However, a speaker at a COAG Management Institute cautioned that it is extremely difficult to measure the activities of an Attorney General's office:

It is possible to select some output measures, such as how many cases have been taken to trial and how many cases have been won, or even to estimate the value of mislabelled consumer products removed from the market. But all these examples are work load measures, and they do not actually get to the question of effectiveness for the money being spent.<sup>10</sup>

When time reporting was introduced in Oregon, it "clearly proved itself" in the area of budgeting, according to the then-Deputy Attorney General. He said that "never before have we been able to go to the legislature clearly and objectively proving why we need what we request."<sup>11</sup> The First Assistant Attorney General of Missouri reported to COAG that this state's legislature "responded positively" when time sheet information was submitted to it. The legislature was given summarized time data to show existing workloads of the office and to encourage increased funding.

Budget justification was the impetus for starting timekeeping in Vermont, but the Attorney General's office has found that the time reports also permit monitoring of the amount of services delivered to client agencies'. The reports, coupled with explanations of work still needing attention, can help justify demands for more staff. Budget justification was

also the primary reason that timekeeping was begun in New Mexico; budget requests submitted to the legislature and the Department of Finance now include data on attorney hours.

### Improved Efficiency

Many national studies have shown that those private firms which have instituted time recording almost always improved efficiency. In public law practice, there is also money and time to be gained through timekeeping, but they are often realized in the somewhat intangible form of improved efficiency.

Several Attorneys General's offices have reported gains in office efficiency as a result of timekeeping. In Oregon, the Attorney General's office is funded primarily by billing client agencies. Monitoring office efficiency is crucial, because unbilled hours must be minimized and billable hours maximized, just as they must be in a private firm. Oregon's time reporting system has also been used for one workload indicator study, which involved handling of drivers' licenses revocation cases. There was an extremely large volume of these cases, which are very similar in terms of the legal problems presented and time required for processing. A backlog problem developed with these cases and the office manager was instructed to study the handling of these cases and to recommend procedures for solving the backlog problem. The data derived from the time reporting system disclosed the need for an additional attorney. It also disclosed that attorneys in the division were spending a substantial portion of their time on work which could be handled by non-legal personnel, so the study also resulted in the consideration of adding some paralegal personnel.

### Flexibility in Assignments

By planning and delivering services in units of attorney hours, a manager may assign several attorneys to put in a few hours a day on a task rather than assign one attorney to it on a full-time basis. This can make the lawyer's day more interesting by varying the type of work he does. It also allows more flexibility in matching attorney assignments to work needs. Minnesota noted that one managerial use of timekeeping data is to allow an attorney the chance to distribute his time among different tasks or even different agencies. The old system in that Attorney General's office kept an attorney working full time for one agency. The new system will allow agencies to call on different attorneys with various specialties. Also, the attorneys benefit from the

flexibility entailed in allowing them to work outside of their usual areas. This benefit has helped attorneys view time-keeping more favorably.

## Attorney Evaluation

Time records can be a useful tool for assisting in evaluating performance of individual attorneys. Attorneys General's offices often assure their attorneys that time records will not be used for this purpose, in an effort to overcome attorney opposition to timekeeping. However, formal evaluation of staff is increasingly recognized as a necessary function of management. Employee evaluation is necessary not only to allow managers to select the best person for each position and task, but to award promotions, increments, and other discretionary benefits. Evaluation also makes it possible for an employee to learn his or her strengths and weaknesses. While time records are not the only means of evaluating an attorney's performance, they can be useful in this regard.<sup>12</sup>

One authority observes that time reports should be used as a basis for positive, corrective action, not just for information:

Of all the management reports available, those produced from a good timekeeping system are probably the most important to your firm. Unfortunately, too many lawyers are wary of time systems and controls; they cry "police tactics" and claim immunity. When they do succumb to a system, they tend to use it as a billing tool and thereby rationalize its existence for something other than control of themselves and their practice.

The real value of timekeeping systems has been misplaced and needs to be brought back into perspective. It is not primarily a billing tool; it is a management control tool.<sup>13</sup>

While many states use time reports to monitor the number of cases handled by an attorney for planning or budgeting purposes, the states seem reluctant to use the time reports to evaluate individuals. In response to COAG's 1977 questionnaire, only five states noted that they used time reports for evaluation of attorneys. They were Kansas, Louisiana, Ohio, Oregon, and Utah. Oregon delivers work statistics by attorney to each section head, who then may use the information to monitor each person's productivity or for workload planning. Utah's division chiefs use time records to see if attorneys are spending too much time on matters that could be handled by non-attorneys.

If supervisory personnel, such as division chiefs, are given time report summaries, they can use them to supplement their own observations on an attorney's performance. The time reports may show objectively, for example, that the attorney is spending too much time in some activities and not in others, or spending more time on a matter than its importance merits. Such observations are more readily made if several attorneys have generally similar work assignments, so that valid comparisons can be made as to the amount of time required for completion.

## Billing for Legal Services

Time accounting is essential if an Attorney General's office adopts a system whereby agencies are billed for legal services rendered to them. The benefits of hourly billing include: being able to account for and document what constitutes one of the most expensive services the state government utilizes; making consumers of state legal services aware of their costs; holding only agencies that use legal services responsible for their financial support; receiving funds from state-administered, federally-funded projects; knowing how many attorney hours an agency usually consumes and, therefore, being able to plan to provide those hours; and being able to justify budget requests. Furthermore, the Attorney General's relationship with the agencies becomes more like the traditional attorney-client relationship. Drawbacks of an hourly billing system are that the agencies may have trouble anticipating the amount of legal services that they will need, that the agencies may hesitate to use adequate attorney time, and that attorney-agency relationships may be weakened.

Billing is not only a frequently cited purpose of keeping time, but is sometimes the only purpose cited. Respondents to COAG's questionnaire who noted that billing is a purpose of their timekeeping system included: Alaska, California, Georgia, Maine, Minnesota, New York, Ohio, Oregon, and Texas. Four of these nine states, Alaska, Maine, New York, and Texas, noted no other purpose. Washington and Wisconsin also bill some agencies. Utah and Guam bill infrequently for matters involving federal funds.

Billing is the main purpose of Oregon's timekeeping system. The computer is programmed to apply the appropriate hourly rate for the person submitting the activity report. It reads the last digit of the billing number to find the correct rate. Four hourly rates are now in use: attorney services, investigative services, law clerks' services, and secretarial support. It was decided that having different rates for different attorneys would create more problems than

it would solve and that high and low rates would average out in the long run. New York bills some agencies, but the billing rates vary with the salaries of the attorneys. Both the federal government and specific state authorities are billed.

While most of the Minnesota legal staff's salaries and expenses are provided for out of the state's general funds, some attorneys work for agencies not funded out of the general fund or supported by federal funds. The legislature requires that such agencies be charged for legal services. Therefore, quarterly billings are sent based on the hours the professional put in multiplied by an hourly rate, which will be reviewed before each submission of a biennial budget. When the computer system is fully installed, the billing system will be automated.

Georgia and Wisconsin both kept time records for short periods to determine an appropriate flat fee to be paid in advance for legal services provided over a set length of time. In some cases the period is 6 months. At the end of the billing period, differences between the estimated and actual amount of services provided are taken into consideration. New Mexico also bills some state agencies by a flat fee in the form of a monthly retainer.

Hourly billing is a primary use of California's timekeeping data as are development of workload indicators and planning for workload distribution. In 1975 the state legislature mandated that billing for state legal services be done on a case-by-case basis. A feature of the new system is that computer-generated invoices will show the prior year's billing rates and adjustments. The billing information will be used by the Division of Administration, Accounting Office, which bills client agencies from its offices in Sacramento. Alaska's Department of Law bills state-funded programs for legal services, but only payroll records and out-of-pocket expense documents, not time sheets, are submitted with the bill. However, time sheets that include the employee's name, the date, the time worked, and the project code and description are included in bills sent to programs that are at least partially federally-funded.

### Computing Attorney Fees

Time records provide an objective basis for determining the costs of a particular case. This can be invaluable if the Attorney General's office asks the court to award costs in a suit. It can also be useful when the other party seeks to have attorneys' fees awarded, because the Attorney General's office may be able to show from its records that the fees

sought are unrealistically high.

### What Problems May Be Encountered?

The problems connected with timekeeping are associated with the implementation as well as the design of a system. First, there are problems with design. This is reflected in the fact that most offices have made substantial revisions in the original design, usually by changing the activity codes or the time interval. The frequency of reporting may also be changed.

Second, there are problems in overcoming attorney resistance to the system. The managers must summon enough conviction about the ultimate advantages of the system to weather the storm of attorneys' trauma with having to note their time use. One Deputy Attorney General said, "It sometimes seems as if the legal mind is at its greatest when trying to think of reasons why time records should not be maintained."<sup>14</sup> Since timekeeping is now almost a profession-wide practice, attorneys' reluctance to accept timekeeping may fade. However, almost every Attorney General's office with a timekeeping system reported to COAG that their biggest problem was attorneys' unhappiness with having to keep track of their time. This reluctance may manifest itself in different ways. Attorneys may fail to turn these records in promptly, or they may be inaccurate in what they record.

A third problem is the increased paperwork necessary at the outset. Additional equipment and possible staff may be needed to handle the time records. Not only must attorneys or their secretaries fill out the forms, but someone must collect and compile the time sheets. Managers must take time to study the resulting data. Of course, a good system should ultimately save time, money and manpower, but these savings may not be realized immediately.

Fourth, the information produced by the time reports may not be used sufficiently, or it may not correspond with the actual needs of managers. One state noted as a shortcoming of its system failure to use the data for more planning purposes, such as budget forecasting.

Fifth, there are additional problems if the system is to be computerized. These are often accentuated by the fact that few Attorneys General have in-house computer personnel, but must rely on other agencies to develop programs, key-punch data, and make corrections. It may be difficult to communicate to these personnel a clear idea of what the Attorney General's office needs. The process of keypunching and entering information creates a potential for considerable

error, especially if the Attorney General's office is not experienced in using computers.

Sixth, it is conceivable that there may be some intrinsic drawbacks to a system wherein time per task is scrutinized. Attorneys could tend to sacrifice quality for speed or only allow themselves a short, fixed amount of time to do a job. Therefore, it should be, and generally is, stressed from the start that quantity will not be mistaken for quality. An explanation of the purposes of a timekeeping system should dispel fears that an attorney who keeps time has to focus on productivity at the expense of professionalism.

### 3. DEVELOPING AND IMPLEMENTING A SYSTEM

It is important to understand that there is no "best" or "model" timekeeping system for Attorneys General's offices. These offices have different information needs, different workloads, different relationships with clients, and other differences that mandate different timekeeping systems. This makes it essential that the office be closely involved with the design and implementation of its system. Such involvement should extend not only to the managers who will be the primary users, but to the attorneys who will be required to complete these forms.

A timekeeping expert in the private sector noted three fundamental bases for a successful timekeeping system.

You must understand and believe in the advantages and necessity of keeping time records. Unless this statement honestly applies to you, forget the whole thing. You have to be a believer in order to become a doer.

Constant self-discipline and self-surveillance is required. There are no magic buttons you can press that will make you keep track of time. There are no computers that will do the job for you. You have to consciously train and discipline yourself in the habit of recording time to the point where you experience an uneasy or guilty feeling when you fail to neglect to record a phone call, interview or other time record.

You employ a practical and efficient time recording system. It is possible to fall into the trap of taking so much time to keep track of time that you find yourself left without any time to keep track of. You must master a system that works for you and which can even save time. You must not become a slave to a nonproductive time-inhibiting system.<sup>15</sup>

#### Who Should Design the System?

Once the decision is made to implement a timekeeping system, the tasks of designing and developing an appropriate system must be assigned. There are three places to look for a system designer: within the Attorney General's office; in another state agency; and in consulting firms. Which approach should be followed obviously depends upon the com-

plexity of the system planned, the quality of the expertise available within the office and, of course, on the amount of money available for this phase. There are advantages and drawbacks to each approach.

It should be noted, however, that most systems which have been successful in Attorneys General's offices have been designed in-house or, if consultants were used, have involved staff closely in their design. Timekeeping systems were introduced in two large Attorneys General's offices-- those of New Jersey and Pennsylvania-- and subsequently abandoned. Both were designed by outside consultants. There is a danger that consultants may fail to work closely enough with the people who use the system, and therefore produce an unsatisfactory system.

California's Department of Justice has a somewhat unique solution to the problem of getting experts to design a system, because it has a large in-house management staff. California approached the development of a timekeeping and billing system to suit the needs of its large office with careful deliberation. To assess timekeeping needs in anticipation of major improvements in the system in March 1978, ten attorneys on the Legal Time Reporting Task Force were asked to submit "want list" requests to the Chief Assistant Attorney General. Their reports were submitted for consideration in March 1977, at least a year before the latest change was instituted. The Task Force members also held several meetings to discuss their timekeeping needs. This type of careful check on the needs of data users helps avoid production of worthless management reports. A program analyst manages the system and is responsible for revisions. Staff attorneys may suggest changes when they submit time sheets to their regional office.

Minnesota's system was designed by a committee of staff attorneys and supervising attorneys. The committee examined timekeeping systems in other Attorneys General's offices as well as in private law firms. When an office manager was added to the Attorney General's staff, one of his first assignments was to refine the timekeeping forms. Minnesota's Chief Deputy Attorney General advises offices which are contemplating timekeeping to obtain a professional management person to assist them full time. He says that such a person should be brought on board at the beginning so that fewer mistakes will be made and so that the system can be implemented faster. The Chief Deputy advised further that the person need not be a lawyer, but should be trained in management, with knowledge of computers. This facilitates dealing with computer personnel.<sup>16</sup>

Utah's current timekeeping system was developed by the Attorney General and his Chief Deputy Attorney General, working with state computer programmers. The Chief Deputy

Attorney General and seven division chiefs held meetings and adapted a system that the Attorney General had used in private practice to the needs of his public office. The system is revised periodically by the Chief Deputy Attorney General who receives ideas from the staff attorneys at monthly meetings. The Vermont Attorney General's office also designed its own system. A timekeeping system was started in 1975 with the motivational push coming from the Attorney General, the Deputy Attorney General and the Business Manager. In Oregon, the initial timekeeping and billing system was designed by the Management Division of the Executive Department. It was patterned somewhat after the billing method used by the Executive Personnel Division in assessing agencies for the handling of classified employees.<sup>17</sup>

Other states that had managerial staff develop their offices' timekeeping systems include Louisiana, Florida, New Mexico and New York. Florida's timekeeping system, implemented in January 1976, was designed by a Deputy Attorney General. In New Mexico, the staff themselves developed the initial form of the time sheet and activity codes, which have subsequently undergone some revision. The New York system was developed under the direction of the Assistant Bureau Head and the Administration Bureau of the Department of Law.

### Are Pretesting and Evaluation Necessary?

Pretesting timekeeping systems has not been a popular practice among Attorneys General's offices, although there is evidence to indicate that it ought to be. Steps to test a system before implementation consume time and money, but omitting them may be even more costly. Systems in New Jersey and Pennsylvania failed in part because of inadequate pretesting. Oregon reported that its initial system was implemented without pretesting and that many problems resulted.

Whether or not a system is pretested, there should be provision for review once it has been initiated, so that problems can be quickly identified and corrected. Several Attorneys General's offices have reported that their systems were modified on the basis of experience. Another approach would be to initially limit use of the system to one unit in the office. Modifications can then be made, as problems are perceived, before it is applied to the whole office.

The best model for long-range and careful pretesting is, not surprisingly, in the state with the largest, most ambitious system. To avoid failures on the operational front, California is taking great care to ensure adequate pretesting of the new system revision. The 1978 automated version of the system

will run simultaneously with the old system for 2 months. This will allow time for corrections and adjustments in the new system. The old system will not be dropped until the new system is proven viable in practice. Also, a conversion plan to file old data for some 50,000 transactions will be put into effect under the new system.

Ongoing analysis and revision of a timekeeping system can lead to an effective, efficient system. The middle level managers in California have been given opportunities to offer input on system design. The members of the Legal Time Reporting Task Force were given the opportunity to submit requests for reports to be produced and attend seminars where consensus of their wishes could be taken by top level managers. It would seem that similar, ongoing conferences between middle level managers and staff attorneys would also be an aid in ensuring that meaningful statistics are being generated and that the system remains easy for the staff to use.

#### How Should Users Be Introduced to the System?

When the managers and designers of the timekeeping system are ready to put the system into operation, directions must be given to the attorneys who will start recording use of their time. Because most attorneys react adversely to having timekeeping imposed on them, it is crucial to make it clear at the outset that the Attorney General and his top managers are committed to the plan. All the encouragement possible should be given to the staff to help lessen their unhappiness. Managers should explain the system and its uses, tell of any direct benefits such as increased flexibility in assignments, and point out that virtually all the top private firms have used timekeeping for years.

Staff meetings and interoffice memoranda are commonly used to introduce the system. The Minnesota Attorney General's office established a staff attorney committee to help design the time report forms and to handle any problems that arose with respect to their use. The committee drafted a memo explaining the system. The memo was reviewed and revised by an office management committee, then distributed to the entire staff. The memo contained two copies of instructions on when and how to fill out a time report. In addition, a number of meetings were held to stress the importance of the system to the office and to answer staff attorneys' questions concerning implementation. This involvement of the staff throughout the design and implementation stages undoubtedly is one reason the staff response to the system was much more positive than had been anticipated.

An intra-office memorandum from the Attorney General put the Louisiana system into action in 1974. The Vermont system was described and implemented at a staff meeting; the system's users had previously had an opportunity to contribute their ideas while it was being developed. When the Missouri Attorney General's Office decided to purchase a computer software package for its office operation, all division heads were asked to participate in the process of modifying the system to assure that it met the office's needs. Discussions were held over several months to decide what information was needed and in what format it should be presented.

Acceptance may be gained more readily if the system is introduced in one unit or division before it is applied office-wide. In New York, the system was first implemented in the Real Property Bureau as a manual operation but later grew to include other areas of the Department and was computerized. The same gradual approach is found in California, which has been steadily establishing a comprehensive timekeeping and management system for several years.

#### What Problems Can Be Anticipated in Implementation?

There have been several types of timekeeping development and implementation problems reported, but the most common barrier to smooth acceptance of systems is attorney dissatisfaction. As a rule, lawyers are annoyed at the notion that their supervisors can impose timekeeping. Attorney reluctance to keep regular, detailed accounts of their time was specifically mentioned as a system development problem in Florida, Louisiana, New York, and Vermont, but it was undoubtedly experienced in other states. Florida reported that attorney reluctance to accept timekeeping faded in about a month, which is not an uncommon occurrence.

Some advice on "soft" and "tough" measures to take against noncomplying attorneys was given by a manager in the private sector.<sup>18</sup> He listed four approaches. The first method was to educate all of the lawyers in the firm on the need for maintaining accurate time records and the result that such records can have on the well-being of the firm. It was suggested that lawyers be shown how inaccurate estimates of the costs of legal services can be. The second method is to embarrass those who do not comply; some firms publicize the names of all attorneys who are not keeping up-to-date time records. Another method was to ignore the violation; the author suggests this might be the best approach in a firm where most lawyers are cooperating with the procedures, but where one or two attorneys are not. The reluctant attorneys may ease into the system gradually. More important than these measures described above is the example that the senior

staff sets. The firm's leaders "must understand the need for timekeeping and be dedicated to the principle. Only by their example will the rest of the firm cooperate."

Implementation problems are not confined to attorneys. The process of compiling data will undoubtedly reveal some inconsistencies in uses of work codes or methods of entering information. Error rates in compiling information may be higher than anticipated. Managers may find that the resulting reports are not producing the information they actually need, or, conversely, contain more data than they can realistically use. None of these problems may be serious if provision is made for ongoing evaluation of the system, and for revision when appropriate.

#### 4. CONSIDERATIONS IN DESIGNING A SYSTEM

"The account system and the time records system in any law office, regardless of size, are the heart of an efficient practice."<sup>19</sup> Therefore, care should be taken to create a system that will collect, summarize and distribute summaries of all the desired information with minimum effort and maximum results. The first step towards a good system is to figure out what the managers need to learn from their time recording employees. Then a time sheet can be designed that asks, as concisely as possible, all the necessary questions-- and that asks only those questions.

##### What Information Should Be Required?

A tradeoff of brevity against detail occurs in designing a time sheet or activity log. The more information you ask for, the greater the attorney resistance to the system, and the more difficult it is to summarize. On the other hand, you need enough detail to meet your informational needs. Time sheets are usually designed to show at least the following information, either directly or in coded form: the date; the name of the attorney; the kind of activity; the client for which the activity was performed; and the amount of time spent on the activity.

Time sheets used by Attorneys General's offices usually include all or most of this information. Florida's time sheets have space for the date, attorney code number, client agency, case/matter, activity code, time spent, file number of case, and additional comments. The attorneys also submit weekly summaries of their time, which show attorney hours by activity and by client agency. New Mexico's time sheets note time spent, in quarter-hour intervals, on a certain activity for a certain client. Space is provided for brief comments. The Minnesota time sheets have space to note the client agency, case/matter, activity, time spent to the nearest tenth of an hour, and description. Virginia's have spaces for the agency number, case number, activity code, time worked, date and comments.

The basic component of the Utah system is the attorneys' activity log, which is turned in once a week. New York's time sheets are for a 2-week pay period. They provide space for daily entries to identify the attorney, the client agency, the program code, the nature of the work and the total hours. In Missouri, attorneys and legal interns record the

CHECKLIST FOR DESIGNING AND IMPLEMENTING  
AN ATTORNEY TIMEKEEPING SYSTEM

- ✓ Assess those needs of the office which require information on the use of attorney time.
- ✓ Set objectives and goals for the system.
- ✓ Assign responsibility within the office for developing a system.
- ✓ Select any necessary consultants or additional staff.
- ✓ Ask the managers who will use the data for their ideas on what should be reported.
- ✓ Determine which staff members will be required to keep time records; solicit ideas from them.
- ✓ Evaluate the possibility of computerization.
- ✓ Design the time sheet, keeping it simple.
- ✓ Choose the most appropriate time interval.
- ✓ Create activity, agency, attorney, and other codes.
- ✓ Decide how the time sheets will be collected.
- ✓ Devise a method for compiling the time sheet data, by keypunching or manually.
- ✓ Devise a method for storing the data, either by computer or manual files; set policies on retention.
- ✓ Check with managers, client agencies and timekeepers to assess system performances.
- ✓ Revise and adjust the system to meet new demands.

usual information, except that the client agencies have an alphabetical code and each division within an agency receives a numerical one. Thus a typical entry might record hours, client agency, agency division, and type of activity with a notation such as "4-R2-5". At least one state employs a commercial system often used in private firms. The time sheet in use in Vermont is from Day-Timer, Inc., a private firm, and shows time spent by attorney, time per client, and time per activity.

In Oregon, the daily time report shows the identification of the attorney preparing the report (name and assigned number), the date, the identification of the agency or division being served (numerical code), the case or claim number assigned by the Department of Justice, the appropriate work code, the number of hours or tenths of hours required to complete the task, and a description of the work being performed; for example, "Brief, Jones v. Department of Environmental Quality."

In some federally-funded agencies in Washington state, attorneys keep time records. These are designed to suit the cost accounting needs of the particular agency. The records may show time by program, by case, or by some other coding system appropriate to the agency. The approximately thirty attorneys who work for more than one agency are also required to keep track of their time. Sometimes the records delivered show time by case name. This occurs, when, for example, a tort action comes up that involves all state agencies. Some detailed information that describes services rendered that is not included in the summary reports may be obtained from reviewing the time sheets upon request.

Under the California timekeeping system there are eleven forms used to collect data for the computer. The principal form is the attorney's turnaround time sheet which has spaces for attorney code, attorney name, hourly rate, productive hours, non-productive hours, and a transaction code that directs the computer to add, subtract, change, or not print the hours marked. The time sheets are preprinted with the attorney's cases. To obtain all the necessary information, the data on the time sheets must be combined with the information on the other ten forms. The other ten documents are used for file maintenance; that is, to open or close projects, make corrections, specify output, or control batches of input documents. The volume of time sheets input each week varies with the number of attorneys and the number of projects that each reporting attorney is handling each week.

Some or all of the information shown on the time record may be in the form of letter or numerical codes. These not only require less space, but simplify keypunch, or manual tabulations. They may also lead to a higher rate of error,

since it is difficult to detect discrepancies. In Missouri, for example, attorney numbers were reassigned frequently due to a high rate of turnover. However, the computer operators were not informed of the reassignments and attorney names and numbers did not correspond.

### How Frequently Should Time Be Recorded?

A survey of the private bar found that 98 percent of attorneys who record time do so on a daily basis. It showed that 75 percent make the entry on the time record "at the time the service is rendered" or "immediately thereafter"; 12 percent make the entry "sometime during the day"; 10 percent "at the end of the day or early the next morning"; and 2 percent make it at various other times, such as weekly, "as it accumulates," "at his convenience," or at the end of each month.<sup>20</sup>

Attorneys in Attorneys General's offices tend to mark their time down less frequently. Eight of the twenty-six offices which reported to COAG in 1977 that they had a time reporting system turned in time sheets daily. Two offices reported on a daily and weekly basis, 4 on a weekly basis, 4 on a biweekly basis, 5 on a monthly basis and 1 reported recording time quarterly.

The most accurate notes about time usage are those that are made while the memory of the activity is fresh. Therefore, the greater the need for detailed reporting, the more often time use should be noted. Oregon, for example, recently changed from weekly to daily reports. The change to a daily system of reporting time has resulted in a 27 percent increase in billable hours, apparently because attorneys are keeping more accurate records. The first month the daily billing system was in use resulted in an average of 2,100 billable hours per attorneys; this has now increased to 2,500 hours.

### What Time Interval Should Be Used?

Another question to be answered in designing a system is what time interval will be used for recording purposes. A survey of private firms asked "upon what time interval do you actually keep time records?" and found the following responses:<sup>21</sup>

6 minute intervals	- 40%
10 minute intervals	- 13%
15 minute intervals	- 37%
1 hour intervals	- 9%
Daily	- 1%

Another survey found that, of 180 firms responding to the question, 65 used a 10-segment hour as a time keeping interval, 29 used a 4-segment hour, and 6 used some other interval. A 1967 survey found a clear correlation between the time interval used and chargeable hours logged. The survey concluded that lawyers who record time in 15 minute or hourly intervals recorded about 1,500 billable hours annually while attorneys using 10 minute or 1 day intervals logged about 1,400 hours and those recording in 5 or 6 minute or other intervals averaged only 1,350 hours. The survey also found a correlation between the length of the interval used and the lawyer's income, with those using 10 or 15 minute intervals earning the most.<sup>22</sup>

However, at least one expert argues that the correlation of income with time units merely means:

that the unit of time most commonly used will produce the highest income. However, to repeat, this should be a choice made by you as an individual. The unit should suit your purposes. The system should be geared to your needs and not to the needs of the lawyer across the hall or across the street.<sup>23</sup>

Attorney General's offices seem to favor 15 minute and 6 minute intervals. Florida, New Mexico and Utah use 15 minutes, while Minnesota and Vermont use 10. Virginia measures time to the nearest 5-minute interval.

There is no obvious choice of a time interval for an Attorney General's office to adopt; rather, there are pros and cons to any choice. The 6-minute interval is easy to use because the units can be counted as tenths of hours. It is also a smaller unit than most, allowing for a more detailed description of the lawyer's day. However, this places a burden on the reporting attorney and on the compiler of the time sheets.

The efficiency of the 10- and 15-minute intervals is supported by survey evidence. But some Attorneys General's offices may not need to record in units this precise. If most attorneys are assigned full-time to a single agency, and do primarily one type of work, such as litigation or administrative hearings, longer intervals might be more suitable. Longer time intervals decrease bookkeeping chores, provided that the interval used offers enough information for the managers.

#### What Activity Codes Should Be Used?

In making up a list of activity codes, the need for enough detail to describe activities adequately should be

balanced against simplicity of use. The more codes there are, the more time will be required to fill out and compile the time sheets. Information that is too detailed may also be difficult for managers to use. On the other hand, the list should be precise enough to let managers know how time is being spent.

There is considerable variation in the number and types of codes used by Attorneys General's offices. At one extreme, New Mexico uses only three headings: general litigation, citizen requests, and office legal work. This system, however, was expected to be revised. Oregon's form showed fifteen categories of work time: general advisory, telephone advice, reviewing files, legislative, outside meeting, travel, administrative hearings, trial litigation, appellate courts, opinions, other, criminal trial, criminal coordination, criminal advisory, and non-charge time. Colorado uses twenty-two codes, in addition to leave: administrative regulations, Attorney General opinion, appellate preparation, community service, conference, contract review, correspondence/memos, court appearance, discovery, file review, investigation, legislative matters, office administration, phone, professional development, pleading preparation, proof read, research, rule opinion, staff meeting, trial preparation, and travel.

Utah uses forty-eight work activity codes. Virginia's time sheet shows forty-nine codes, grouped into seven major categories: advice/assistance, administrative hearings, litigation, document preparation, document review, opinions, and administration. The same activity may be listed under more than one heading, with different codes; for example, legal research appears under advice/assistance, administrative hearings and litigation. This prevents ambiguities that develop if a code like "travel" is used without explaining the purpose of the travel.

Provision is usually made to account for all time, including time spent in activities such as professional development that are not directly related to specific legal services. Codes are also provided for general activities such as office management or staff meetings. Most time sheets also have space for comments or explanations, although such information is not entered onto the summary sheet.

Users of the system may suggest additional codes. In Oregon, the timekeeping system was initiated in order to provide data to bill state agencies for legal services. Many agencies previously had attorneys assigned to them on a full-time basis, and resented the new system. Some agencies were suspicious of the activity codes and lack of specific descriptions of work performed. Revising the time forms to collect additional information helped overcome these objections. On the other hand, experience in using activity codes may

SAMPLE ACTIVITY CODE

<u>Code</u>	<u>Activity</u>
AA	Advice to Agencies
AG	Attorney General Opinions
LA	Leave-Annual
LS	Leave-Sick
LO	Leave-Other
MA	Miscellaneous/Special Assignments
MC	Miscellaneous Correspondence & Telephone
MR	Miscellaneous Research
OM	Office Management & Supervision
OC	Office Conferences & Meetings
OA	Other
PB	Personal Business
PD	Professional Development
PL	Public Information/Legislative Work
TH	Trial or Hearing
TP	Trial or Hearing Preparation

suggest some which could be eliminated or combined with others, because they are used infrequently.

### What Instructions Are Necessary?

The instructions on how to fill out the time sheet may either be printed on the form or accompany it. They should state who must complete the forms, how to complete them and where to hand them in. Many states have also held staff meetings to explain how to use the time sheets.

The most lengthy part of the instructions usually concerns what activities are to be listed under what activity code. Use of an activity code can be confusing if certain tasks can conceivably be listed under two or more codes. Questions that arise during pretesting or explaining the system to the staff serve as a guide to the instructions needed. It is helpful to revise the instructions on the basis of initial experience with the time sheets, after it becomes apparent what matters need clarification.

### How Should the Format Be Designed?

Care should be given to designing a form that is clear and concise. Adequate space should be allowed for whatever information is called for. Like all office forms, the time sheet should have an identifying form number, be clearly titled, and have space at the top to fill in the attorney's name. If the data is to be keypunched, it will have to be designed in consultation with the persons who will be responsible for that operation.

If possible, activity codes should be listed on the form for ease of reference. Instead of numerical codes, some states use letter codes, such as "OP" for opinions and "AH" for administrative hearings. This helps reduce the percent of erroneous entries.

Most states use a one-page printed timesheet, which is either letter or legal-sized. Colorado, however, uses a 3-1/2" x 7" timeslip; a new timeslip is filled out for each case the attorney works on during the day.

### Should the System Be Computerized?

It is possible to have a useful timekeeping system with or without the assistance of a computer. A computer will save tabulation time and offer more data printout possibilities; it can generate many different data summaries that might be

too complicated to generate by hand. A computer can handle a large volume of data quickly and, for this reason, a large office would find that a computer is virtually a necessity. One author suggests that any law firm with more than twenty attorneys would be wise to consider a computerized system.<sup>24</sup> Use of a computer also makes it possible to produce a greater volume of reports. California, Minnesota, Missouri, Oregon, Virginia and Washington all have computerized systems. Several Attorneys General's offices, however, have successful time records systems that do not use computers.

There are also problems involved with computerizing a system. First, the system design will be more complicated, perhaps necessitating the hiring of computer personnel such as programmers or office managers with computer experience. It will be necessary to decide such matters as the type of computer to be used, the computer language, the type of input, and the form in which files will be stored.<sup>25</sup> Computers may also add substantially to the cost of time reporting. However, it may be possible to use a state-owned computer at minimal cost. For example, the Missouri Attorney General's office stores its data on the State Highway Patrol's computer. The only cost was a relatively small sum spent for a remote access terminal and a printer. Second, the Attorney General must get access to a computer, which is usually operated by another state agency. Third, computer personnel may fail fully to understand the Attorney General's informational needs. Fourth, there may be problems accessing computer-stored data, especially if it is located in another agency. Finally, the computer is capable of producing great amounts of data, so designers of the system may call for more information than the office actually can use. Despite these drawbacks, however, computerization is virtually a necessity if a large office is to adopt a timekeeping system.

## 5. PREPARING AND COMPILING TIME SHEETS

Attention should be given to the process of filling in and compiling time sheets. This is important to ensure that the resulting information is accurate and is produced in a timely manner. It is also important to ensure that no more staff time is used than is necessary to produce the data desired.

### Who Fills Out the Time Reports?

In a few Attorneys General's offices including California, Florida, Louisiana, Minnesota, Missouri, Oregon, Virginia and Vermont, all attorneys are required to keep time records. In New Mexico, the requirement applies to all attorneys in the civil division. In a larger number, only attorneys who are assigned to federally-funded projects keep time. Usually, supervisory as well as staff attorneys, complete time sheets. In some states, they are also used by interns and paralegals; if such personnel do legal work, this would be necessary to obtain an accurate picture of the time spent on different projects.

Who actually fills out the time sheets varies from state to state. Most offices require that professional staff members personally fill out the time reports. Oregon, however, allows its attorneys the choice of preparing their activity reports themselves or giving the information to the division assistant for transcription.

In the private sector, one survey found that 28 percent of attorneys responding make the original entry of chargeable time to a client. Only 8 percent replied that the entry was made by the receptionist. Sixty-four percent advised that the entry was made by the secretary, but 79 percent of this category stated that this was upon direction from the attorney. The same argument was used to justify both approaches: "If the lawyer makes the entry directly himself it is because it saves time and if it is made by the lawyer to his secretary who makes the entry, again it is stated that the reason is because it saves the lawyer's time."<sup>26</sup> Attorneys General's offices are for the most part following the private sector's lead with respect to who fills out the time forms. It generally seems to be more accurate and time efficient to have the attorney make the initial recording; this is particularly true as offices replace the traditional attorney-secretary arrangement with team approaches to staffing and support services.

## THE PATH OF A TIME SHEET

- √ The time sheets are filled out by the attorneys or other timekeeper as the work is performed or at the end of the day.
- √ The time sheets are collected periodically, usually daily or weekly, and delivered to a central location such as a secretary's desk or a computer terminal; a copy of the time sheet may be left at the timekeeper's desk.
- √ The time sheet may be reviewed for accuracy.
- √ The time sheets are compiled at the central location. Compilation may take place in stages, such as having daily totals recorded onto weekly summary sheets and then recording the weekly totals onto monthly summary sheets. Compilation may be done manually or by computer.
- √ The time sheet may be filed for future reference; however, such filing may not be necessary once the information is entered into a computer or put on file.
- √ The tabulations are given to management personnel and other users.
- √ The tabulations (or copies of individual time sheets) may be returned to the individual attorney.

The major problem in getting any of the diverse attorney timekeeping systems to work in both private practice and in Attorneys General's offices is persuading the attorney to record his time usage faithfully and accurately. "Without exception the weakness of all systems is pinpointed at the lawyer making the original entry of time expended."<sup>27</sup> When attorneys fail to prepare their time records accurately, the billing process is slowed, more time and manpower must be devoted to billing, services may go unbilled, and innumerable other problems may occur.

### Is the Information Reviewed for Accuracy?

A few Attorneys General's offices reported that time records were reviewed for accuracy prior to compilation. Such review, however, consists only of ascertaining that no unrecognizable codes are used or that other obvious errors exist. There is no indication that any office reviews the time slips to see if the amount of time worked is reported accurately. One state noted that the data could be verified only in very broad terms; for example, questioning the report of 80 hours worked in one week. There is no practical way to verify time reported.

Computers provide some automatic checks as to accuracy, in that they will not compute improper or non-existent codes. They may also reject obvious errors such as a date not within the reporting period. Under Virginia's system, for example, the computer reports the following errors: invalid attorney number; invalid agency/case number; invalid activity number; time left blank or in excess of 24 hours for one day; minutes reported not in multiples of 5; date not within the report period. The large number of such errors has posed some initial problems, but it is anticipated that these will decrease substantially.

To help reduce problems with computerizing data, Virginia reports that secretaries now scan time sheets for obvious errors before they are forwarded for data processing.

New York, Florida, Missouri and Utah also mentioned making at least some effort to check their data for accuracy. In Missouri, docket clerks who collect the forms and computer operators who enter the data note errors such as non-existent work codes or blank spaces and return such forms for correction. In Utah, division chiefs review the time sheets before they are keypunched, but do not really check the data for accuracy. In Colorado, an attorney's daily time record is rechecked if it shows less than 8 or more than 10 hours.

Computers also cause some inaccuracies. Some states have found a high rate of error in keypunching data. These

errors are, of course, difficult to detect in the resulting reports.

### How Are Reports Collected and Compiled?

In planning a system, attention must be given to steps involved in getting the time sheets from the attorneys who complete them to the persons who compile them and, finally, to the managers and other users. The flow of information should be designed to move the time sheets and summaries along briskly. Information that is delayed is losing value.

New York reported a computer-oriented procedure. Those bureaus of the Department of Law which record time send the sheets in a batch to the Department's finance office every 4 weeks. Data compilation is done by computer, following keypunching by an outside service organization. The computer also stores the data. In Missouri, the professional staff members place their completed time forms in messenger trays. A docket clerk then collects these and delivers them to a computer operator. Florida reported that the section chiefs receive and compile the time sheets. Each section's time records are combined into a final report.

In Vermont, a secretary is in charge of preparing a weekly summary for each attorney. The secretary tallies attorney time by client and by code. The Business Manager and a secretary compile the weekly summaries into monthly and year-to-date reports. All of Louisiana's attorneys fill out time slips daily and submit the slips to the supervising administrative secretary every 2 weeks. The administrative secretary then compiles the time slip data and delivers it to the First Assistant Attorney General. In Washington, those attorneys who must keep time records report their time at the end of each fiscal quarter to their division head.

In Oregon, the time information is compiled and stored in the accounting office. There, the time records are stamped with the date received, checked for arithmetic errors and the attorney's cost center code is marked down. A terminal operator enters the information into a computer. California initially had a problem with tardiness. A study showed that it took 3 or 4 weeks after the time sheet was received to get the information on the computer. The problem was resolved by using courier delivery services and by decentralizing review responsibilities, so processing time was reduced to an acceptable amount.

## What Reports Are Produced?

Keeping time records permits the development of a wide variety of summary reports on activities within the office. If useful information can be made available in a form that is quick and easy to read, then managers can be well informed on office activities and have a better basis for decision-making. However, care must be taken to make sure that the reports are concise and relevant; too much data can be as much of a problem as too little. One Attorney General's office abandoned its timekeeping system partly for this reason. Management reports were produced and designed without enough consultation with the users. Relevant information was not necessarily included in the reports, and managers received large stacks of printouts, including much information of little use to them.

In some states, the data summaries are quite brief. For instance, in New York only one summary report is generated. It is used by the Finance Office for billing purposes and the Planning Office for workload information. Missouri's timekeeping data is displayed by attorney, by agency and by activity. In Utah, the computer printouts of the data go to the Deputy Attorney General after a secretary summarizes the data on the first page.

Among the managerial applications of the timekeeping data in Minnesota are summary reports to inform attorneys, division leaders, and the Chief Deputy Attorney General of staff activities. The formats for these computer-produced reports are still being developed. The capability of producing reports on special topics is also anticipated.

Virginia's timesheets, which are keypunched on a weekly basis, are used to produce a series of monthly reports. One shows the number of chargeable, non-chargeable, and leave hours per attorney; another shows the time spent by each attorney on each type of activity, and for what agencies the activity was performed; a third report lists activities according to the agency for which they were performed; and the fourth report shows activities according to the Division of the Attorney General's office performing the work. These monthly reports are still in the developmental stage. The reports go to the Director of Administration and to the five Deputy Attorneys General.

Four major monthly reports are generated by Colorado's time records. These are: a list of each attorney's cases; a report showing the total number of hours by activity code and by attorney; a detailed client report, showing the activities performed for the agency, with case and attorney names; and a summary client report, which omits the names. Copies of all reports go to the Deputy Attorney General.

In the California Department of Justice, twenty-eight management reports will be generated to display the information in various ways such as project hours by fiscal year, projects' milestone completion status, number of projects assigned to individual attorneys by project type, and number of hours spent on each project by the assigned attorney. The frequency of issuance for the management reports varies from one week to one year. Report users will be the managers of the Civil, Criminal and Special Operations Divisions. Managers were given ample opportunity to express their desires concerning what was to be put in the reports when the system was designed.

In Oregon, the compiled data is used to generate invoices at the end of the monthly billing periods. The invoice contains updated costs by case and attorney; workload statistics by attorney and by type of work; and statistics of non-productive, non-billable time by type and attorney. Information is not available as to whether any Attorneys General's offices make the summary reports available to all attorneys. While it would be difficult to furnish reports to all, it might be feasible to have a set of reports available for their inspection.

California's time reporting/docketing system uses a "turnaround" time sheet, which goes to individual attorneys. Time sheets are computer-generated, and the computer automatically prints an entry on the time sheet for all cases assigned to an attorney. This goes to the attorney on a weekly basis, and the attorney then reports time worked and certain "milestones" completed in the case.

### How Are the Records Stored and Retained?

Decisions must be made as to retention of the time records: who will keep records and for how long? Other considerations include: whether or not the individual attorney will keep a copy of his time report for personal reference and whether or not the manager will desire copies of the time sheets as well as summaries. Many of the states, including California, Missouri, New York, Oregon, and Utah, noted that timekeeping information is stored in the computer or on computer tape. Although it does not use a computer, Florida noted that its timekeeping data is stored in the Department of Legal Affairs Record Room for future reference and review.

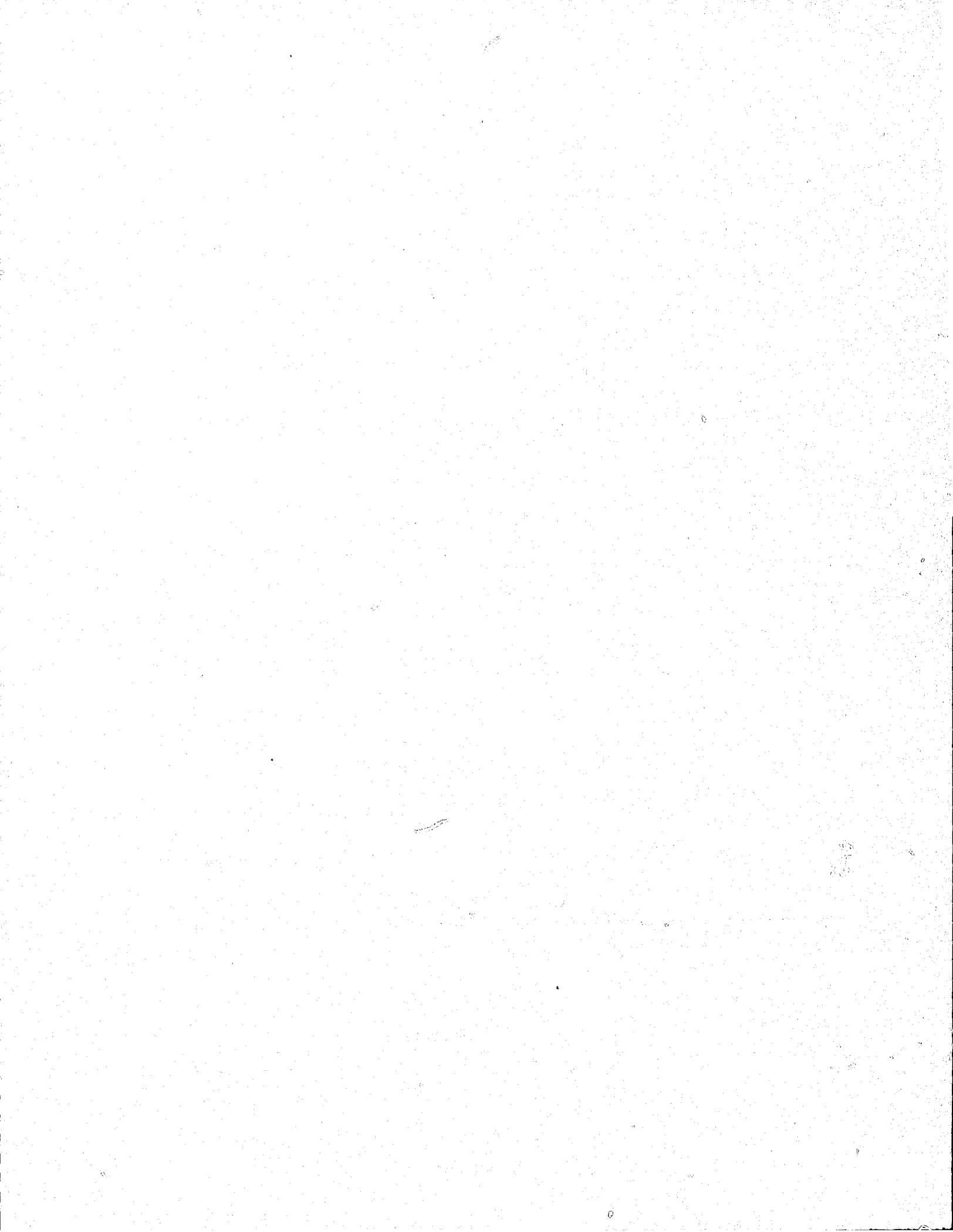
While storing data indefinitely seems to be the prevalent practice, at least one state, Wisconsin, mentioned that it does not keep elaborate timekeeping records. However, Wisconsin bills state agencies in three different ways and uses average time per job figures rather than keeping ongoing, precise

time records. Oregon reports the billing data that results from its timekeeping system is kept approximately 7 years, and that it plans to retain the individual case data permanently. This information is transferred to microfilm and through the capability of auxiliary printing devices connected to the viewing mechanism, it is possible to obtain a hard copy of any case at any time.<sup>28</sup>

## FOOTNOTES

1. Joseph E. Roehl, Survey of Timekeeping Techniques, PROCEEDINGS OF THE THIRD NATIONAL CONFERENCE ON LAW OFFICE ECONOMICS AND MANAGEMENT, 139 (1968).
2. John L. Bauer, Attorney Timekeeping and Evaluation, in National Association of Attorneys General, Committee on the Office of Attorney General, SUMMARY OF PROCEEDINGS: FOURTH MANAGEMENT INSTITUTE, 54 (1977).
3. Mitchell W. Miller, A Systematic Approach To Time Control, in American Bar Association, LAW OFFICE EFFICIENCY, 158 (1972).
4. Roehl, supra note 1.
5. Harding A. Orren, How to Save Time Keeping Time, 24 L.O.E.M., 1 (1975).
6. Kline D. Strong and Arben O. Clark, LAW OFFICE MANAGEMENT, 152 (1974).
7. Donald B. Jones, Time Accounting and Lawyer's Income, 67 NEW JERSEY STATE BAR JOURNAL 33 (Spring, 1977).
8. Douglas R. Gill, Seminar Report, in National Association of Attorneys General, Committee on the Office of Attorney General, SUMMARY OF PROCEEDINGS: FOURTH MANAGEMENT INSTITUTE, 67 (1977).
9. Chief Assistant Attorney General Robert Burton, California Department of Justice, Developing Workload Indicators, in National Association of Attorneys General, Committee on the Office of Attorney General, SUMMARY OF PROCEEDINGS: THIRD MANAGEMENT INSTITUTE, 45 (1975).
10. Dr. S. Kenneth Howard, Dynamics of the Budgetary Process, in National Association of Attorneys General, Committee on the Office of Attorney General, SUMMARY OF PROCEEDINGS: SECOND MANAGEMENT INSTITUTE, 25-26 (1973).
11. Former Deputy Attorney General James W. Durham, Oregon Department of Justice, Managing and Billing Services to State Agencies, in National Association of Attorneys General, Committee on the Office of Attorney General, SUMMARY OF PROCEEDINGS: SECOND MANAGEMENT INSTITUTE, 14 (1973).

12. National Association of Attorneys General, Committee on the Office of Attorney General, EVALUATION OF ATTORNEYS IN THE OFFICE OF ATTORNEY GENERAL, 1,4 (1975).
13. Frank J. Ebenhardt, Time Records as a Management Tool, LAW OFFICE EFFICIENCY, 164-165 (1972).
14. Durham, supra note 11, at 13.
15. Stanley R. Kurisko, Recording and Analyzing Time Usage, LAW OFFICE EFFICIENCY, 150 (1972).
16. Letter from Chief Deputy Attorney General Byron E. Starns, Minnesota Office of Attorney General, February 14, 1978.
17. Letter from Executive Assistant Mark Nelson, Oregon Department of Justice, February 13, 1978.
18. Managing the Small or Medium-Sized Law Office, Practicing Law Institute, Bradford W. Hildebrandt, Chairman, 84-87 (1976)..
19. Orren, supra note 5.
20. Roehl, supra note 1, at 148.
21. Roehl, supra note 1, at 147.
22. Texas Bar Journal, Vol. 31, No. 1, 52-62 (January 22, 1968).
23. Miller, supra note 3, at 161.
24. Roehl, supra note 1, at 159.
25. Assistant Attorney General Stephen Schultz, Computerized Docket Control, in National Association of Attorneys General, Committee on the Office of Attorney General, SUMMARY OF PROCEEDINGS: FIFTH MANAGEMENT INSTITUTE, 50 (1978).
26. Ibid. 148.
27. Ibid. 156.
28. Nelson, supra note 18.



**END**