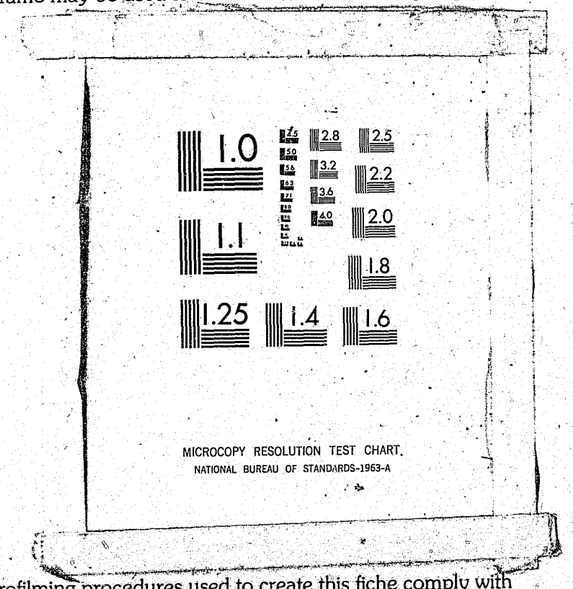

U. S. Department of Justice
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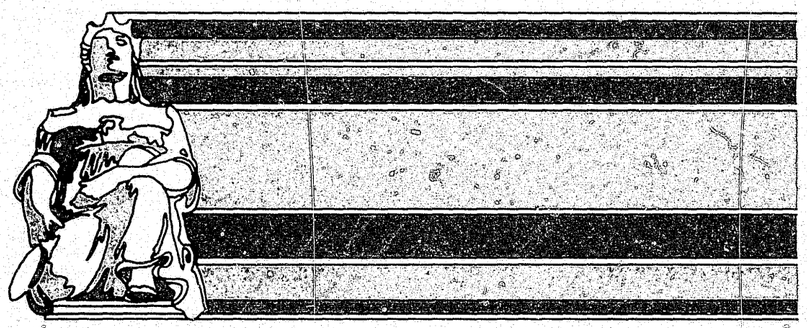
Managing the Pace of Justice

An Evaluation of LEAA's Court Delay-Reduction Programs

Executive Summary



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Harry M. Bratt
Acting Director

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An Evaluation of LEAA's Court Delay-Reduction Programs

Executive Summary

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*Delay stems from many institutional sources, not only defense attorneys.

*Case processing time can be reduced quickly, even dramatically.

*Delay-reduction can be accomplished through different programs.

*Successful delay-reduction efforts must be responsive to local conditions.

These are the most important policy implications to emerge from our intensive empirical analysis of four courts. Each court's criminal cases seemed, by subjective assessments, to be taking too long to reach disposition. We evaluate the delay-reduction programs subsequently introduced in the courts of Providence, Rhode Island; Dayton, Ohio; Las Vegas, Nevada; and Detroit, Michigan. In Providence, case processing time was reduced dramatically, from initially very lengthy time frames. In Detroit and Las Vegas, case processing time was reduced substantially, particularly among the slowest quartile of cases. In Dayton, where few cases initially took a very long time, case processing time for the more typical cases improved significantly.

The delay-reduction strategies in these four courts shared some broad similarities, yet varied greatly as to the specific programs implemented. Each court responded to problems that varied in scope and magnitude. Likewise, each court designed delay-reduction programs compatible with its distinctive local socio-legal culture. All the programs, though, shared a recognition that some problems worthy of attention did exist and that these problems were somehow caused by inefficient or indifferent management. Each of the programs, too, reflected the need for a critical nucleus of actors to initiate, and gain political support for, the idea of reducing delay.

I. RESEARCHING DELAY

Delay is the most visible problem facing America's courts today. Newspapers highlight cases that take years to reach disposition. Victims and witnesses complain that repeated continuances enact an unfair penalty on their normal activities and

ultimately discourage prosecution. Judges and lawyers decry delay because it undermines their professional responsibilities. Reformers cite delay as justification for changing various aspects of the legal system. Though cries for speedier and more efficient handling of cases are by no means new, calls to reduce delay — both in criminal courts and increasingly in civil courts — have attracted new energy and attention in recent years. In response, numerous reforms have been suggested to expedite court dockets, but knowledge as to which programs are "successful" and the conditions producing success have been sketchy to date.

Evaluation Research

Efforts to evaluate delay-reduction programs have been inadequate, hampered either by flawed methodological design or lack of attention to the courts as political institutions. Many evaluations consist merely of descriptions of innovations introduced by courts to reduce backlog and delay, without attempting to evaluate their impact. Other evaluations by practitioners merely report — without empirical data —some success in reducing delay in their own courts. But the amount of reduction is not described, nor is the reduction achieved clearly attributable to the changes introduced.

Still other evaluations discuss the problems of case backlogs and trial delays in legalistic or mechanistic terms, conveying the inaccurate impression that caseflow management is unrelated to other problems in the criminal court process. Case backlogs, trial delay, and case management are intimately intertwined with the dynamics of courthouse justice. The importance of the incentive structure of the court and the motives of participants has been demonstrated by numerous recent studies of criminal courts, which focus upon the interrelationships and interdependencies among courtroom actors.[1]

Evaluations differ in their purpose, scope, and methods. Ours is an impact evaluation. After determining which programs were actually implemented, we analyze their effect on the practices and operations of each court — in particular, on their case processing time. Evaluations also differ as to their intended level of explanation. Some are content to ask whether a program worked or not. We also seek to know why a program worked or did not work. As Rover-Pieczenik argues, "the more important task for evaluation research is to explain and specify the conditions under which success can be understood, so that programs can be refined and reshaped accordingly."[2] This statement summarizes our view of the evaluation of court delay-reduction programs.

We have three concrete objectives: (1) to describe the programs in action; (2) to measure case processing time before and after the introduction of the delay-reduction programs; and (3) to assess the impact of the programs.

The initial task is to describe the delay-reduction projects in the four courts. Many criminal justice evaluations have ignored simple description of the programs actually implemented. A recent authoritative review concluded that a majority of criminal justice evaluations did not even consider whether the program had been implemented as designed.[3] This is a critical omission, because some studies have indicated that no programs were implemented at all, or that a very different program was put into place. Similarly, a core concept may be implemented quite differently in different courts. Our description of the programs includes attention to such questions as: How was the delay problem defined? How severe was it perceived to be? Who was involved in planning the delay-reduction programs? How were programs implemented? What support or resistance was offered by key actors? For how long did the programs stay in place?

Another primary task is to measure and analyze case processing time in each jurisdiction, across a time period spanning the introduction of delay-reduction programs. A recurrent theme in evaluation literature is the difficulty in measuring the goals that the criminal justice program seeks to accomplish. Evaluations of delay-reduction programs, though, do not suffer from this kind of measurement problem. The duration of a case, from arrest to disposition, is highly quantifiable. We utilize a number of different statistics and data display techniques to accomplish this task.

Finally, we assess whether the programs were successful in reducing case processing time, and (if so) by how much. These assessments are made for total case processing time (from arrest to disposition), as well as for the time needed to process cases in the lower courts and trial courts respectively. Because programs may be implemented when other changes are also taking place, we disentangle these effects through multivariate analysis over time. We consider, in particular, the potentially confounding role of changing case and defendant characteristics.

II. METHOD

Our evaluation of court delay-reduction programs is rooted in the courtroom experiences of defendants in some 5,000 cases and the perceptions of more than 100 courtroom actors across the four courts. We played an active role in the selection of courts to be evaluated. From approximately twenty-five projects funded by LEAA's Court Delay-Reduction Program, we chose four. Two selection criteria, consonant with our mandate, were utilized. First, the projects to be evaluated had to focus on delay in criminal cases. Secondly, the projects to be evaluated must have begun their programs no later than September 1978, in order to insure an adequate amount of time after the innovations were introduced for impact analysis. The application of these two criteria resulted in the selection of Providence, Rhode Island; Dayton, Ohio; Las Vegas, Nevada; and Detroit, Michigan. The first three are general jurisdiction trial courts that hear a range of criminal and civil cases. In Detroit, a specialized court (Recorder's Court) hears all, and only, criminal cases.

Sampling from Case Files

Case processing information was gathered from official court records in each of the four sites. Key dates in the life-history of a case were collected, including the date of filing, arraignment, disposition, and sentence where applicable. Additionally, we gathered information on a wide range of case and defendant characteristics.

In constructing the sampling design, we first sampled from the population of cases filed rather than from cases terminated, choosing the defendant as the unit of analysis. We sampled across a substantial period of time: 36 months in Providence where the court received two grants at different points in time, and approximately 24 months in the other three sites. These time periods permitted the collection of data before, during, and after the introduction of programs designed to reduce delay in each site. These decisions resulted in sample sizes of 700 in Dayton, 884 in Las Vegas, 1381 in Providence, and 2079 in Detroit. In the first three courts, the sampling fraction was approximately 30%; in Detroit, 11%.

Interviews and Observations

The collection of qualitative data was an integral part of this project. Qualitative data provided descriptions of courts, the history of delay and delay-reduction programs, court participants' evaluations of the delay-reduction programs, and program implementation dates to facilitate the analysis of the quantitative data. The breadth and depth of the qualitative data also informed the quantitative analysis by providing explanations for unanticipated relationships between variables or dramatic changes in the quantitative data.

Formal interviews were conducted with key planners and courtroom actors in each site, including the chief judge, court administrator, prosecutor, public defender, judges hearing criminal cases at the time of our field work or during the delay-reduction program, and assistant prosecutors and public defenders. These interviews typically lasted from thirty minutes to one hour. Most interviews were tape recorded to facilitate full accuracy. Respondents were guaranteed anonymity. Attribution to quotations in the Final Report is done so as to insure that respondents cannot be identified.

Observations were also conducted in each site. This included repeated observations of courtroom activity, such as trials, calendar calls, and guilty pleas. Also included were observations of case scheduling offices, arraignment courtrooms, and lower court proceedings, in order to gain a more complete picture of all the stages of criminal case processing in the sites.

Quantitative Analysis

Our first goal is the accurate measurement of case processing time in the months surrounding the introduction of delay-reduction programs in each of the four sites. To accomplish this, we refine the measurement of case processing time by limiting the variable to time "under the control of the trial court." Such events as psychiatric commitments and the failures of defendants to appear in court are excluded in the measurement of case processing time. Thus, the operationalization of the key dependent variable is consistent with an evaluation of trial courts' efforts to reduce delay. Then, through the use of time-lines and box-and-whisker plots, changes in case processing time are visually mapped. These changes are measured by different statistics, including means, standard deviations, medians, quartiles, and extreme points. The result is a thorough picture of fluctuations in case processing time across the critical periods in each court.

To assess the actual effect of the delay-reduction programs on case processing time, we also examine case and defendant characteristics. Potential changes in the frequency of various types of cases and defendants are scrutinized. So also is the relationship between case/defendant characteristics and case processing time. First, bivariate associations are explored through analysis of variance. Then, multivariate analysis is utilized to disentangle joint effects and to ascertain the net effect of the delay-reduction programs on case processing time. Net effects are presented tabularly in days of case processing time to enhance clarity. Through the application of these approaches, we control for as many potentially confounding variables as possible. The result is a statistically sound view of the impact of the delay-reduction programs, a view that is accurate within the limits of the court's own case files.

III. FINDINGS

Providence, Rhode Island

By almost anyone's standards, the Providence Superior Court had a severe delay problem prior to the introduction of innovations. Criminal cases took not merely months but typically years to be processed and disposed. Ironically, though, local court actors were among the last to come to view this situation as a problem. State supreme court decisions, a new attorney general, and a new chief justice proved to be the catalysts for local concern over the slowness in processing cases. It was state-level figures, encouraged by a Judicial Planning Council, who initiated a series of grant applications, plans, and programs, in concert with the local court, designed to reduce a large backlog and to introduce case scheduling mechanisms and routines. The local court subsequently assumed responsibility for ongoing implementation of these programs. One trial court judge described the thrust of the programs in this way:

> ...I think the major force is changing our concept about the court's responsibility to keep things moving smoothly and doing something about it. In other words, doing something now that's different from what we used to do. Because it turns over all the rocks, makes people look at things again -- from monitoring to making lawyers accountable, requiring judges to evaluate their own performance in terms of the way we give continuances and the way we deal with the calendar, all of that combined. But I think just the decision that there was a problem and then the decision to find ways to solve the problem, that kind of generates some force of its own.

A series of specific innovations were introduced in the court between late 1976 and September of 1978. The most important of these were (1) the "Push" program, a one-time crash program designed to reduce the large backlog; (2) an Administrative Order, issued by the presiding judge and designed to place all cases on a ninety-day track from arraignment to the trial date; and (3) the involvement of the Whittier team (headed by Dean Friesen) to resocialize judges and court personnel about management prerogatives and controls. In no instance did all the attempted innovations actually become implemented. Local resistance to such alien concepts as plea cut-off dates and reciprocal discovery prevented their implementation. A number of innovations were successfully introduced, however, particularly in the court's scheduling process.

The results were dramatic. In the baseline period, median case processing time from arraignment to disposition was 277 days. This dropped sharply to 101 days for the period of planning and implementation of innovations. For the impact period — when the programs were firmly in place — the median dropped further, to 61 days. Equally important, the time needed to process relatively slow cases improved materially. The "75% point" — the point at which three-fourths of the cases were processed —dropped from 573 days in the baseline period to 386 days in the planning period to 104 days in the impact period. The time needed for the slowest 10% of the cases also dropped sharply, from a minimum time of 904 days in the baseline period to 192 days in the impact period (see Figure 1). A month-by-month time-line indicates a similarly dramatic decline across the entire period of thirty-six months, from a mean (and median) of more than 600 days of case processing time in early 1976 to a mere 50 days by the end of 1978 (see Figure 2). These reductions can be attributed unmistakably to the programs introduced rather than to any changes in the characteristics of the cases or defendants coming before the court.

Detroit, Michigan

Unlike Providence, Detroit's court actors were attentive to the potential problems of delay. Detroit's Recorder's Court had a stormy history in the 1970s that included prior experience with delay-reduction programs. Though such programs were once successful, case processing time again deteriorated in the face of weak leadership and judicial vacillation over which type of case assignment system —master or individual — was preferable. The resultant backlogs and case processing times never approached those of Providence, but the situation was acute because of a

Figure 1
Box-and-Whisker Plot of Case Processing Time in Providence, by Time Period

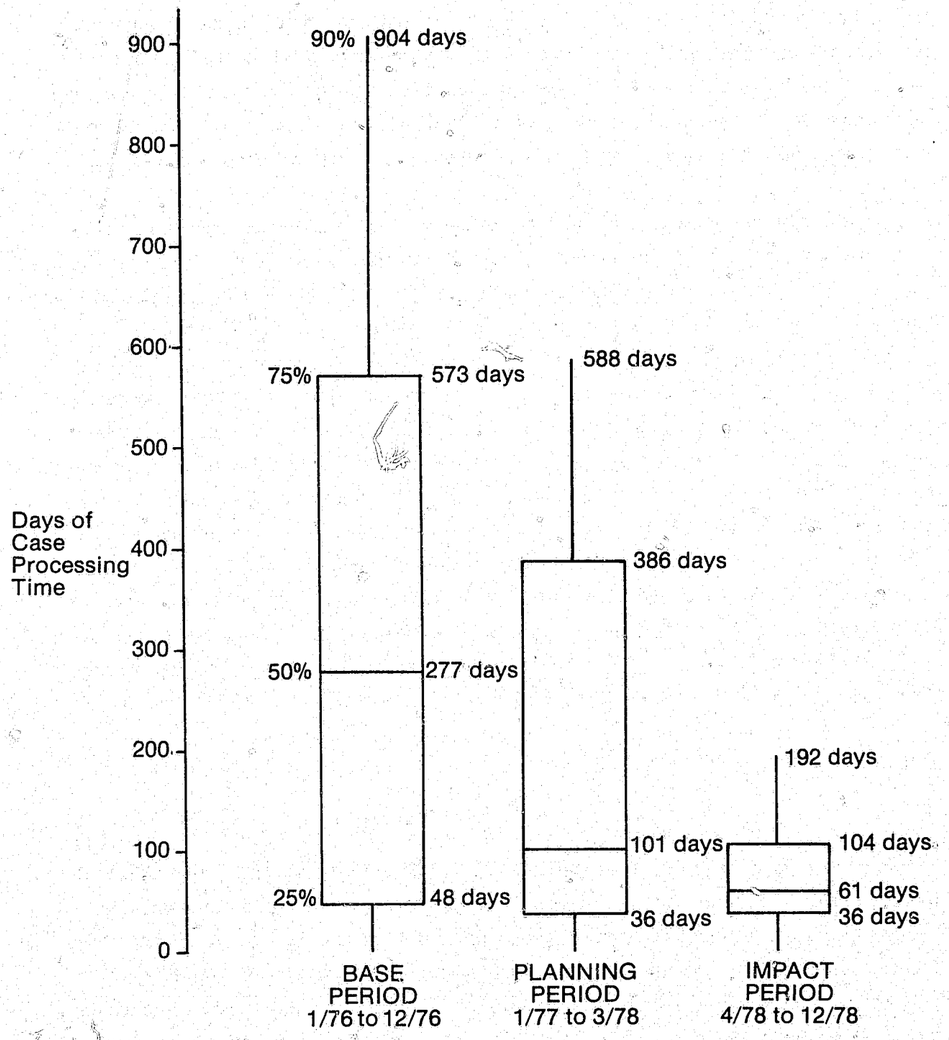
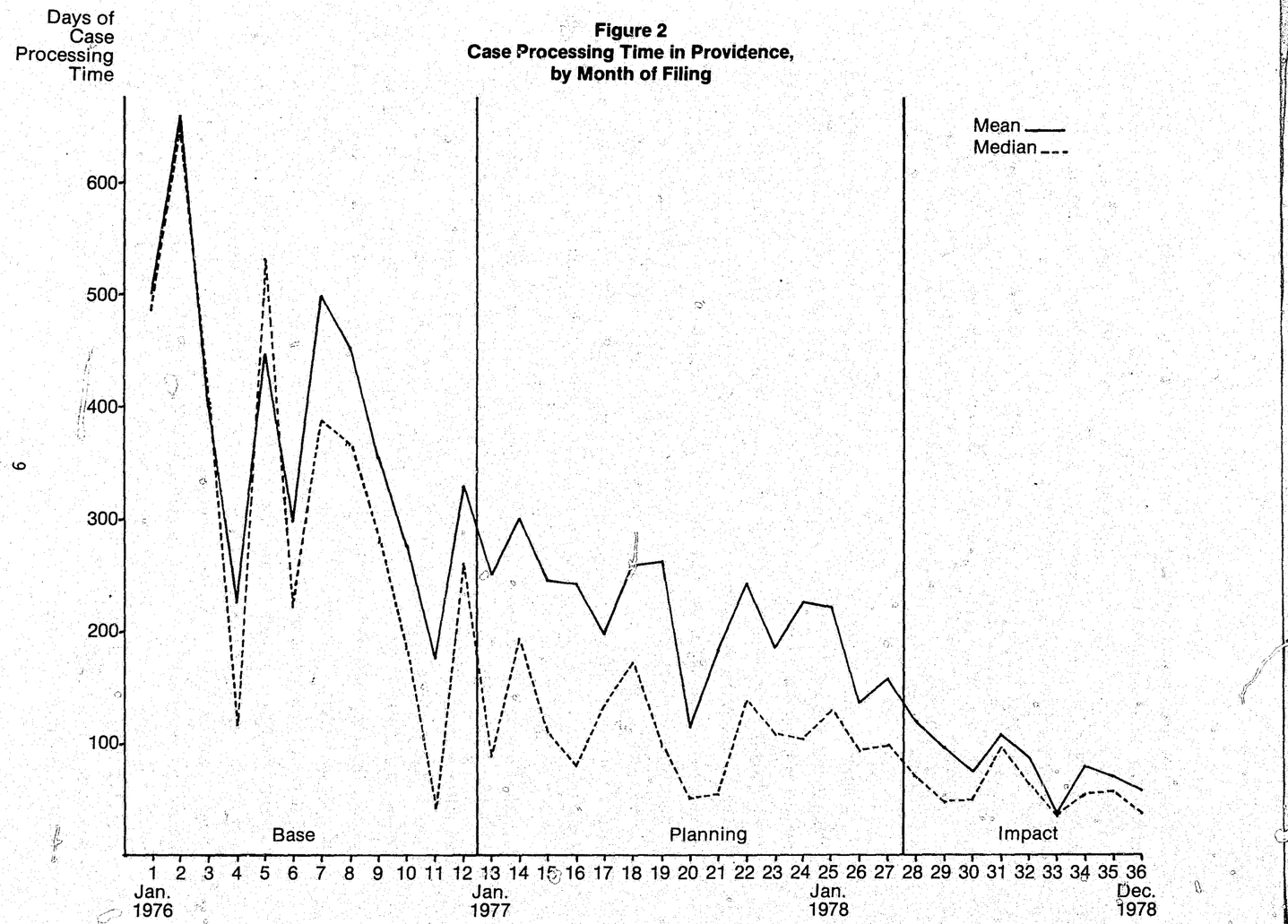


Figure 2
Case Processing Time in Providence, by Month of Filing



shortage of local resources. The county jail was bursting with inmates, and delays in processing jailed defendants threatened both the fiscal resources of the community and the safety and well-being of defendants. Furthermore, judges themselves were badly divided as to how to improve the situation. One judge, commenting upon the depth of division within the bench, remarked:

> We were at the point where we had something like 6,000 cases backlogged and the top was about to blow off the building. The chief judge at that time...was walking around telling everybody how wonderful everything was and how beautifully everything was working... And, in reality the situation was such that it was going to end up in a conflagration in this court if not in the city of Detroit.

Against this backdrop, the Michigan Supreme Court intervened directly by appointing a Special Judicial Administrator (some said a "czar") to oversee the delay-reduction program. The Administrator was a former state court of appeals judge known locally for his managerial skills and ability to raise money. Changes introduced included a return to the individual calendar, a "docket control center" that monitored the progress of cases and the work habits of judges, decentralization of plea bargaining in the prosecutor's office to facilitate the concept of floor teams, and extensive use of visiting judges. Again, not all attempted changes came to be implemented (e.g., a "war room" which was to serve as the base for the docket control center). Most were successfully put in place, though, because of the higher level of coercion.

The results indicated substantial improvement, most notably in the court's handling of the tougher cases. Though median case processing time dropped only from an initially modest 40 days from bindover to disposition in the baseline period to 19 days in the post-innovation period, the 75% and 90% points improved considerably. Where the toughest 25% of the cases consumed 170 days or longer in the baseline period, this dropped to 76 days in the innovation period and to 60 days in the post-innovation period. Likewise, the longest 10% of cases improved from a minimum of 276 days in the baseline period to 146 days in the innovation period to 119 days in the post-innovation period (see Figure 3). Thus, Detroit's problem prior to the innovations was not in handling routine cases but in disposing of tough or unusual cases. These dragged on for many months and contributed to a substantial backlog until the innovations corralled them. This is reflected in the disproportionate improvement of mean — as opposed to median — case processing time illustrated in Figure 4. As in Providence, statistical controls indicated that the delay-reduction innovations — particularly those related to the operations of the docket control center — accounted for the reductions in case processing time.

Figure 3
Box-and-Whisker Plot of Case Processing Time in Detroit, by Time Period

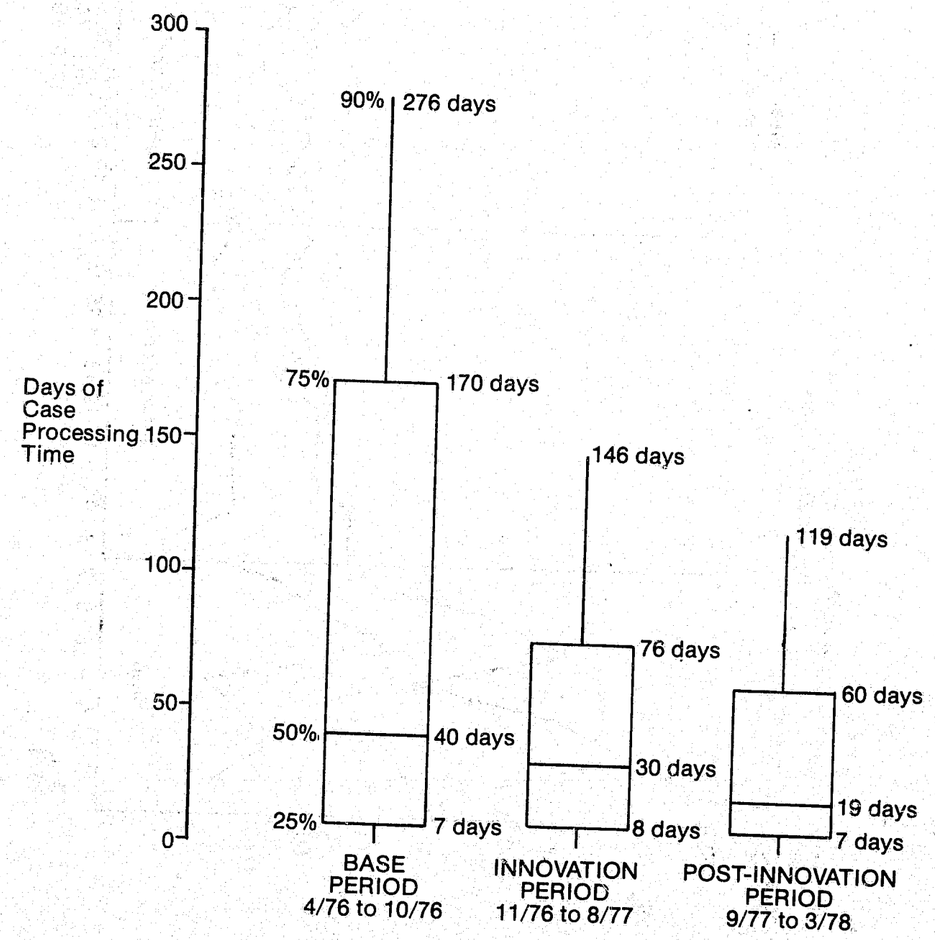
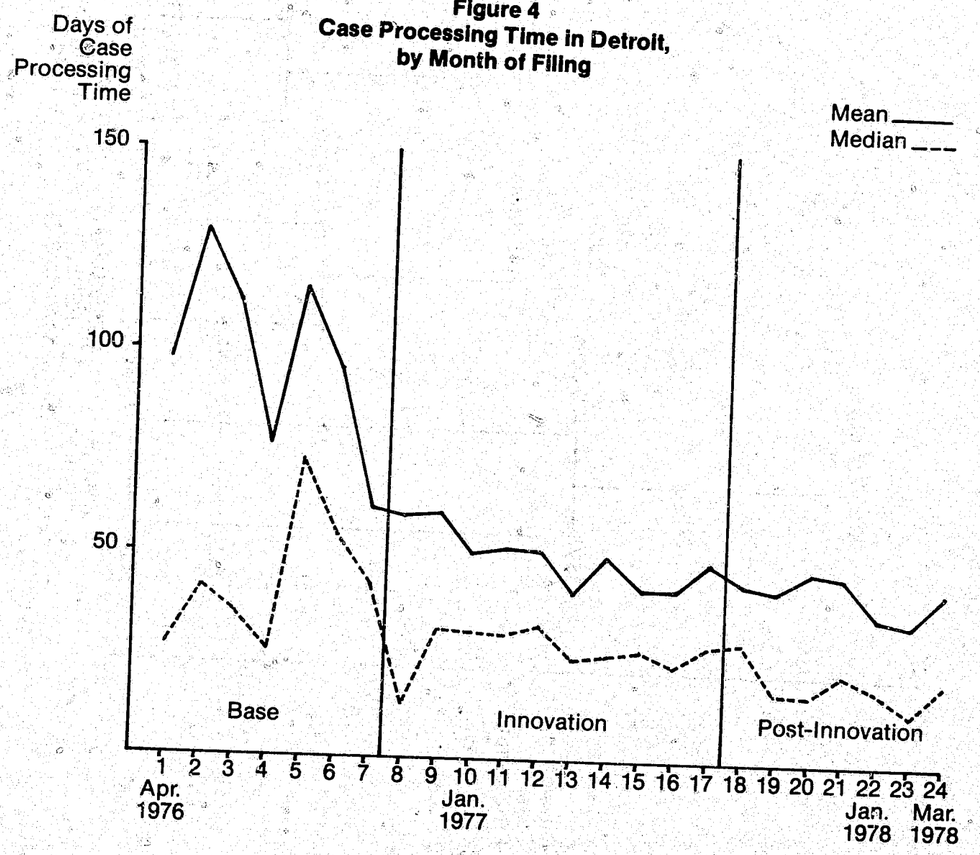


Figure 4
Case Processing Time in Detroit, by Month of Filing



Las Vegas, Nevada

Las Vegas, too, was a troubled court system in the 1970s, beset with problems of understaffing, ineffective management, and large backlogs and slow processing of cases. These problems were present in the trial court (District Court) and extended down to the justice of the peace courts, which serve as the filter to the trial court in Las Vegas. Problems surfaced and escalated rapidly in the early 1970s, as the Las Vegas area experienced a sharp population growth and concomitant crime explosion. Increases in judgeships seemingly did not keep pace with this expansion. Furthermore, judges' work was not coordinated by the court's master calendar, and intense feelings of judicial autonomy also interfered with coordination. A public defender, commenting upon the master calendar system in action, noted:

> One of the problems that would happen is that the master calendar judge might refer a case down there (to a department), but the judge sitting down there would say he was busy and he couldn't take a case. And, you really didn't know what he was doing, maybe he was legitimately busy, but...(voice trails off).

A judge was more pointed in his criticism of favoritism in the master calendar system operating amidst fiercely individualistic judges:

> On Monday, the master calendar judge would assign cases out for trial. Several friends had already told him they wanted a murder case, so the murder case was assigned to department x. Somebody else had said, "Well, I don't want this type of case, but send me that type of case."

A series of changes were introduced, gradually over a period of time, in both the lower and trial courts. In contrast with Providence and particularly Detroit, these attempted solutions to delay were initiated locally without significant pressure from state-level figures. Like Detroit, the Las Vegas court reverted to an individual calendar. A new, professionally-trained court administrator was hired, and shortly thereafter an application for a "team and tracking" grant was submitted to LEAA and accepted. The key focus of the team and track innovation was improvement in coordination between the lower and trial courts, to be achieved by the creation of teams of prosecutors and public defenders who would appear before designated justice of the peace and trial court judges. Most of the envisioned changes were successfully implemented.

The results were dramatic in the justice of the peace courts, but quite modest in the trial court. In the trial court, the innovations associated with team and tracking had only a small effect on case processing time (though significant delay-reduction

may have already occurred prior to our sampling period). The median time dropped from 61 days from arraignment to disposition in the baseline period to 47 days in the innovation period, and rose slightly (to 48 days) in the post-innovation period. Much like Detroit, however, problems were concentrated in the tough or relatively long cases. The toughest 25% of cases improved from a minimum of 142 days in the baseline period to 88 days in the innovation period to 80 days in the post-innovation period. A parallel improvement occurred in the toughest 10% of cases, dropping from 228 days in the baseline period to 167 days by the post-innovation period (see Figures 5 and 6). Not all of these improvements, however, could be attributed to the innovations, for the kinds of cases coming before the trial court changed in slight but significant ways.

For the justice of the peace courts, improvement was substantial. (Unlike the other sites, the lower courts were a specific target of delay-reduction programs in Las Vegas). Median case processing time improved from 81 days from arraignment to bindover in the baseline period to only 40 days by the post-innovation period. Furthermore, long, drawn-out lower court proceedings were virtually eliminated. The slowest or toughest 10% of cases dropped from a lengthy minimum of 305 days in the baseline period to only 117 days by the post-innovation period (see Figures 7 and 8).

Dayton, Ohio

The Montgomery County (Dayton) Common Pleas Court, on the surface, was strikingly different from courts in the other three sites. There was no atmosphere of crisis about delay. There were no controversies over, or vacillation as to, which case assignment system should be used. There was no absence of strong leadership: the chief judge was a well-entrenched, aggressive leader of the court. Furthermore, case processing time was already respectable by national and local standards.

Impetus for delay-reduction activities came by happenstance. When the court received a federal grant to centralize and computerize court records, it hired a consultant who was a member of the Whittier team. When the Whittier team itself subsequently received LEAA funding to implement and test its delay-reduction program, Dayton was asked, and agreed, to serve as one site. The innovations introduced in Dayton consisted mostly of "management tinkering" — e.g., centralized arraignments, mandatory discovery at the preliminary hearing, establishment of a plea

Figure 5
Box-and-Whisker Plot of Case Processing Time in Las Vegas Trial Court, by Time Period

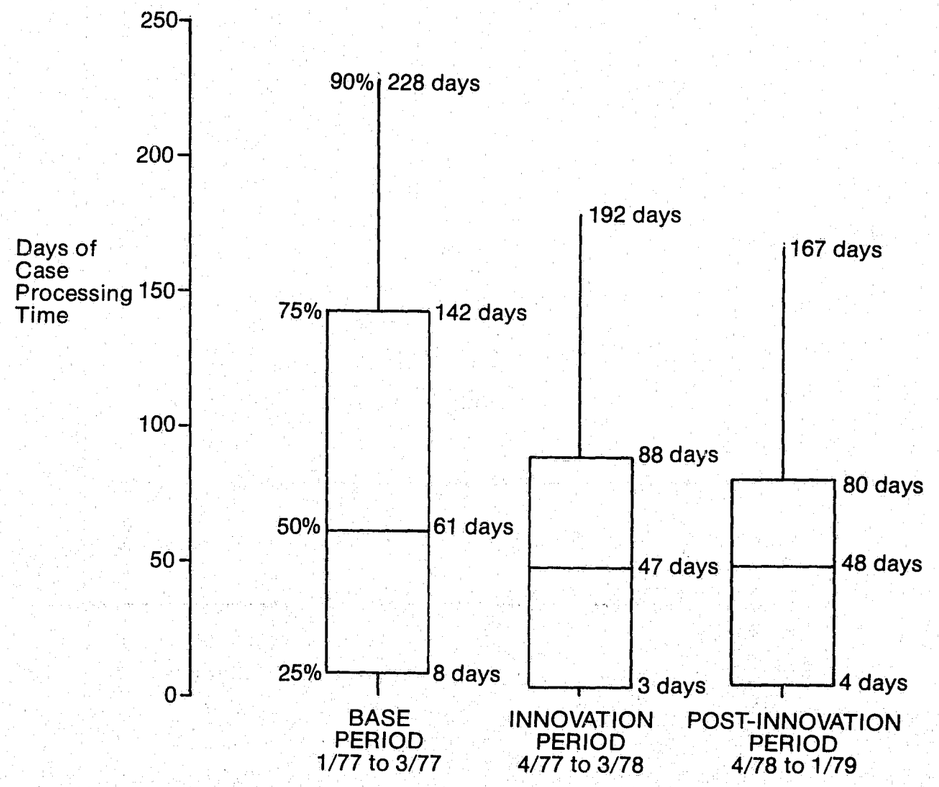


Figure 6
Case Processing Time in Las Vegas Trial Court, by Month of Filing

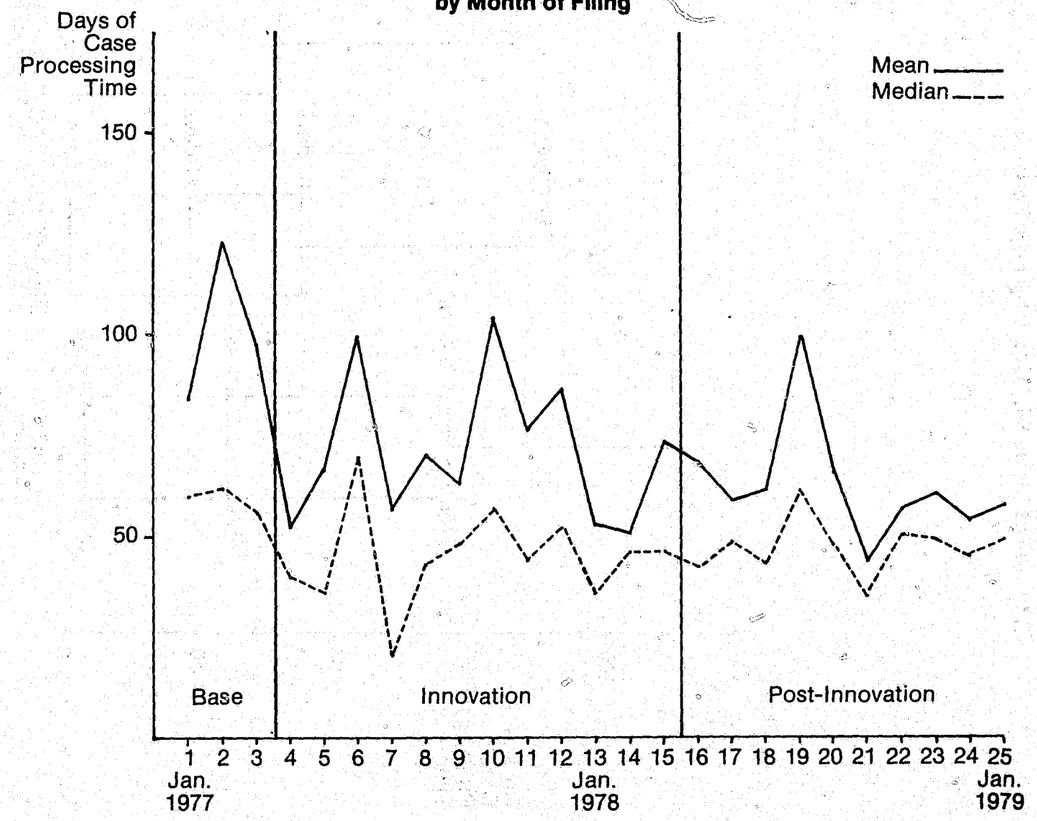


Figure 7
Box-and-Whisker Plot of Case Processing Time in Las Vegas Lower Courts, by Time Period

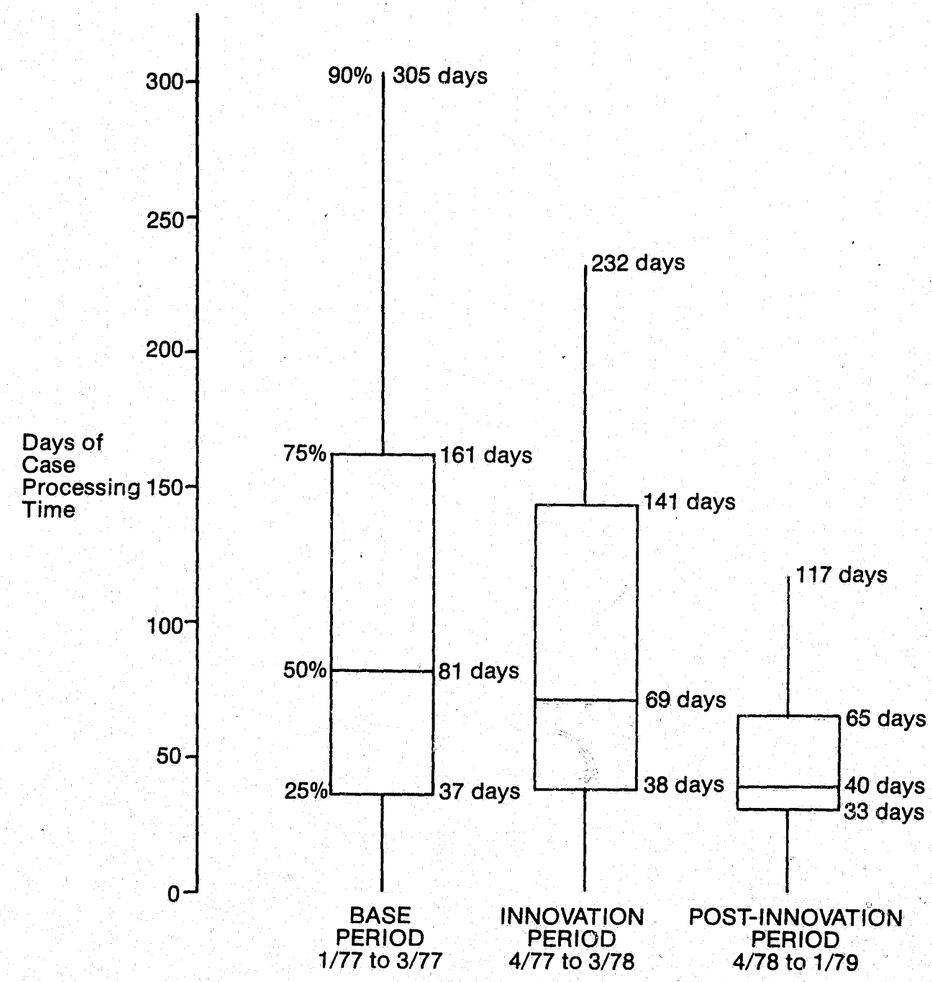
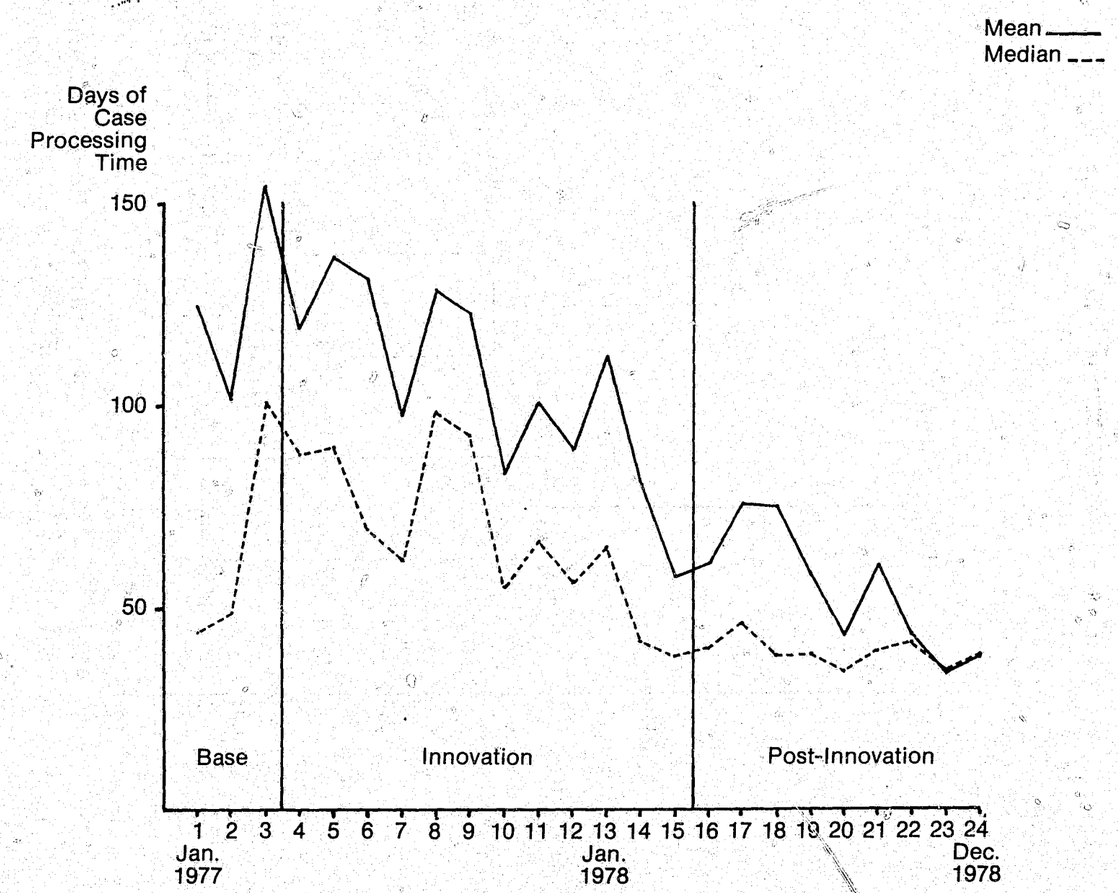


Figure 8
Case Processing Time in Las Vegas Lower Courts, by Month of Filing



cut-off date — rather than the dramatic changes and additions in the other sites. Even so, a number of court actors initally resisted, and ultimately some of the changes (such as the removal of judges from pretrial negotiations) were never fully implemented.

The results indicated improvement, notably in the processing of routine cases. Median time dropped from 69 days from arraignment to disposition in the baseline period to only 43 days in the post-innovation period (see Figure 9). Nevertheless, monthly-based time lines suggest lack of consistency and instability in the improvement, calling into question long-term effects (see Figure 10). The 75% and 90% points in Dayton were not particularly slow at the outset. Thus, modest improvements were perhaps all that could be expected. The toughest 25% of the cases consumed a minimum of 104 days in the baseline period, 87 days after the innovations. Improvement in the slowest 10% of cases was even smaller — from 167 days in the baseline period to 153 days in the post-innovation period.

Summary

Viewing the four sites together, the most significant finding from our quantitative data is the homogenization of case treatment that occurred subsequent to delay-reduction innovations. This increased similarity in the pace at which cases were handled is evident both across the four courts as well as within the courts. Figure 11 illustrates this phenomenon by comparing box-and-whisker plots of case processing time in each of the courts after the innovations. Note that the four courts become much more comparable in the pace of their dispositions than at the outset (see Figure 12). Providence remains the slowest of the four courts, but not by much. Las Vegas and Dayton are a bit faster and quite similar to one another, while Detroit is the speediest of the courts. The gap between the slowest and speediest court is not great (median of 61 days versus median of 19 days). Larger differences still remain among the lower courts in these sites where, except for Las Vegas, delay-reduction programs were not introduced. Overall, though, the trial courts in the four sites became more routinized in their handling of criminal cases, and thus they came to look more alike.

Within courts, too, case treatment became increasingly homogenized as a result of the innovations. This is reflected in the decline of the discriminating power of case and defendant characteristics. Before the innovations, there was often a wide disparity in the processing times of certain classes of cases. Most notably, the number

Figure 9
Box-and-Whisker Plot of Case Processing Time in Dayton, by Time Period

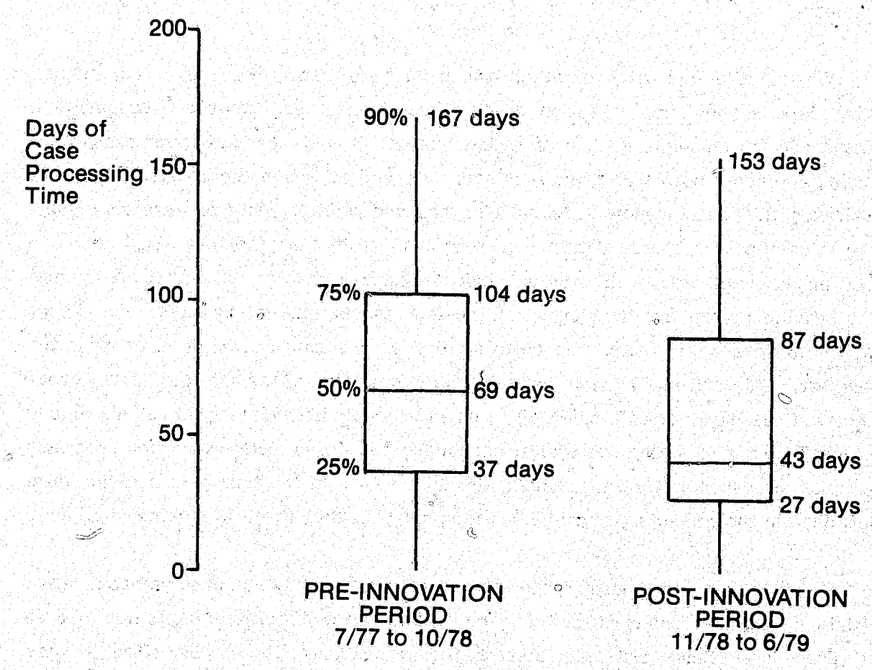


Figure 10
Case Processing Time in Dayton, by Month of Filing

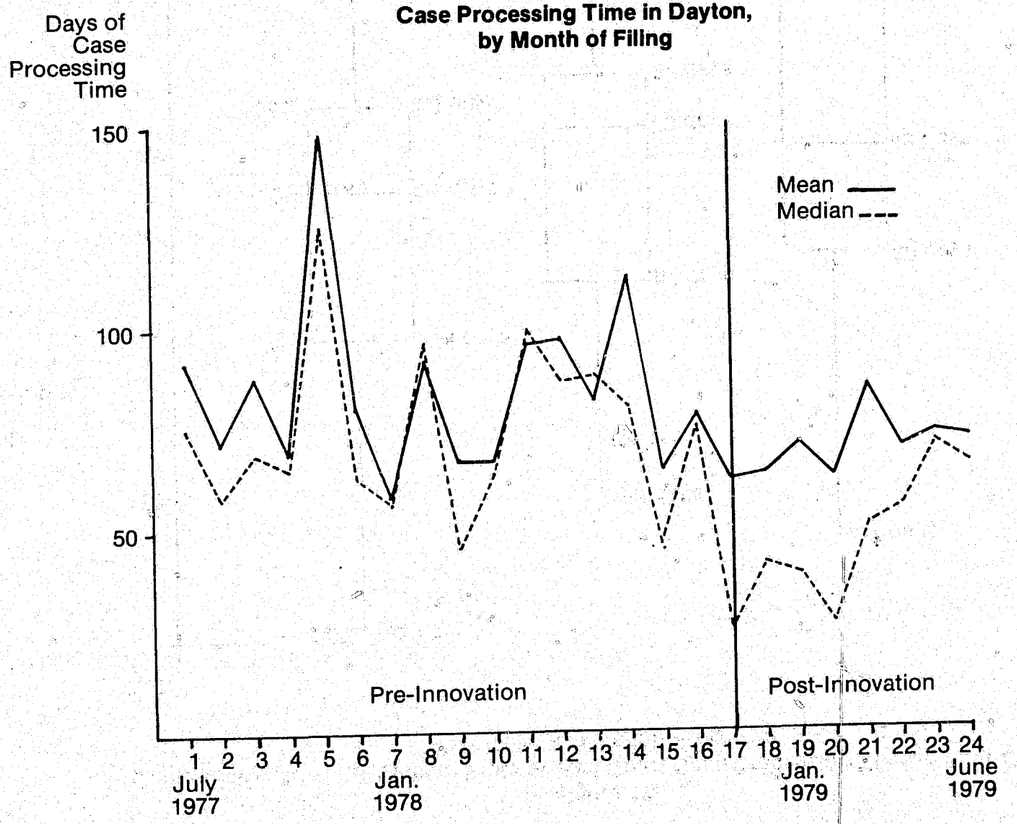


Figure 11
Comparative Box-and-Whisker Plots of Trial Court Case Processing Time in Four Courts After Delay-Reduction Programs

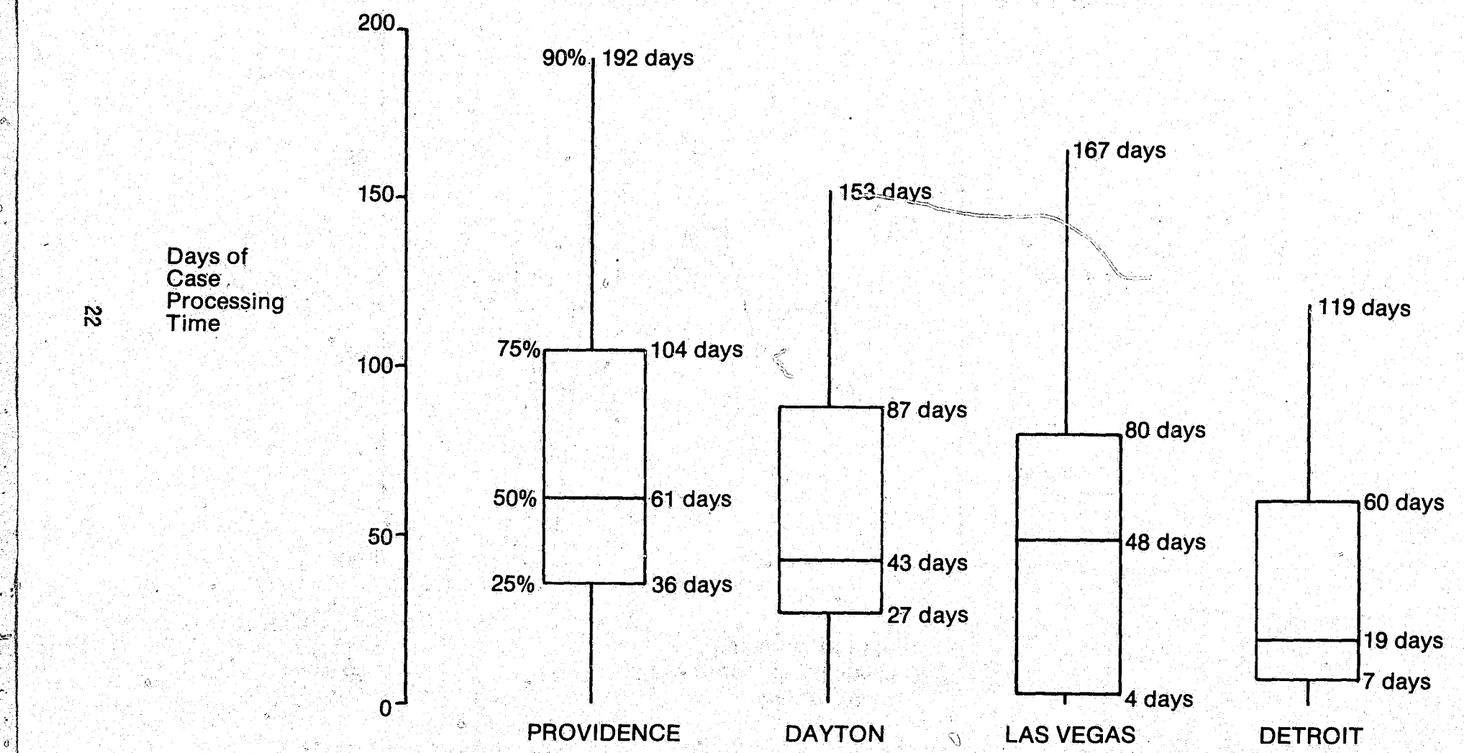
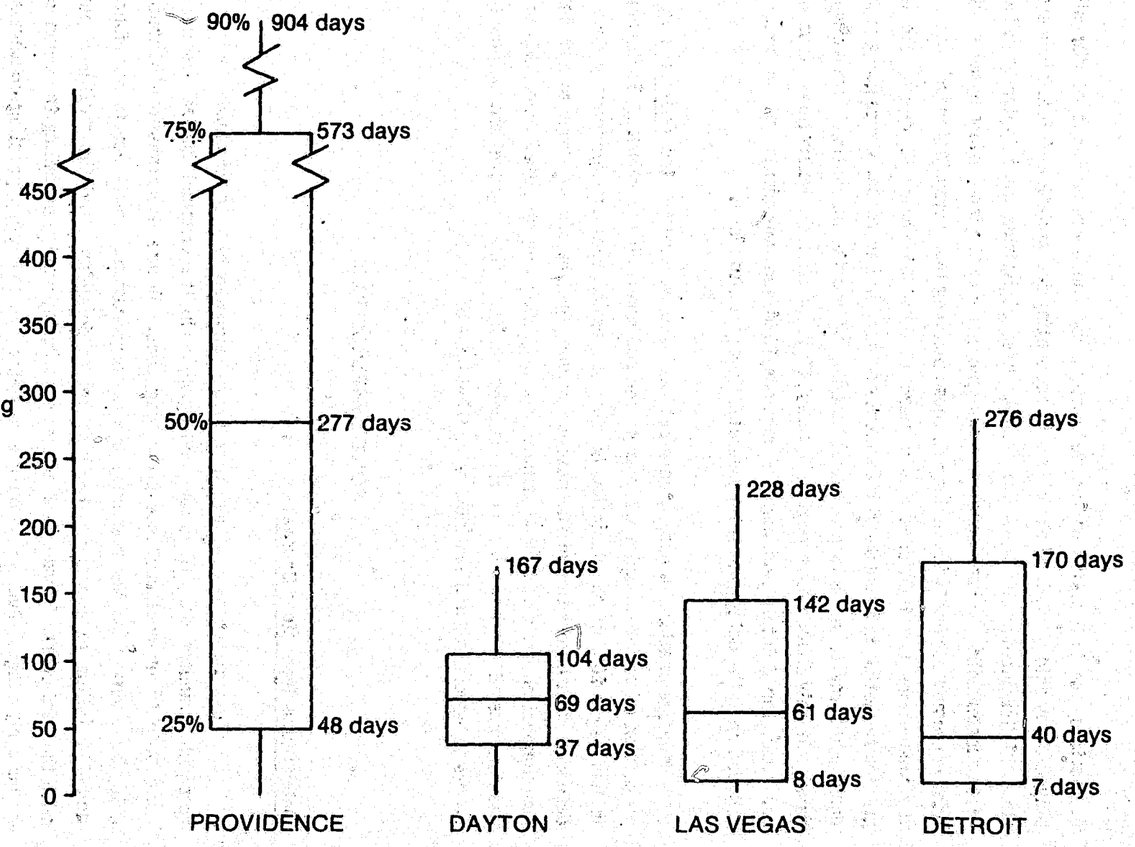


Figure 12
Comparative Box-and-Whisker Plots of Trial Court Case Processing Time Prior to Delay-Reduction Programs in Four Courts



of motions, the bail status of the defendant, and the eventual mode of disposition played a key role in each of the courts in accounting for variations in case processing time. After innovations were introduced, these disparities were typically reduced, often substantially. In Providence, for example, prior to the innovations cases going to trial consumed almost twice as long as those pleading (483 versus 318 days), but after the innovations the difference was a mere 14 days (95 versus 81 days). An even greater reduction in disparity of treatment occurred in Las Vegas. Cases going to trial consumed three times as long as cases pleading before the innovations (239 versus 72 days), but only fifteen days longer (67 versus 52 days) after the innovations. In most of the sites, the deleterious impact of motions filed and defendants out on bond was reduced once the delay-reduction programs were put into place.

Homogenization of case treatment can also be seen in the decreases in the proportion of variance explained by case and defendant characteristics. For example, in Las Vegas 26% of the variation in case processing time is explained by case and defendant characteristics in the baseline period, but that figure drops to 20% in the post-innovation period. In Providence, too, a decline can be noted from 21% in the baseline period to only 10% in the impact period. Thus, innovations helped these courts to rationalize and routinize their treatment of cases.

IV. POLICY IMPLICATIONS

Delay Stems from Many Sources

Defense attorneys and judges are most frequently blamed for causing delay. Our research indicates that all actors and agencies in the criminal justice system may contribute to unnecessary case processing time. Police departments contribute to delay by devoting too few resources to case preparation. Lower courts contribute to delay by failing to coordinate the bindover of defendants and the shuffle of papers with the trial court. Prosecutors' offices contribute to delay by failing to screen cases at an early stage. Judges contribute to delay by too readily granting continuances. Prosecuting and defense attorneys contribute to delay by requesting continuances for the purpose of strengthening or weakening cases. The relative contribution to delay by each actor or agency varies across our four sites, but our research indicates a myriad of sources of delay. Courts need to rise above the simple but misleading rhetoric that

defense attorneys alone cause delay, if they are to understand accurately the problem. Courts should search widely for the causes of delay.

Case Processing Time Can Be Reduced through Different Delay-Reduction Strategies

The four sites introduced a rather different mix of delay reduction programs. Detroit and Providence relied, in part, upon the psychology of "crash programs" to rid their courts of backlogs of very old cases. Providence introduced a new case monitoring and tracking system; Detroit and Dayton refined theirs, and Las Vegas remained without such a system. Detroit and Las Vegas abandoned master calendars, whereas Providence retained the master calendar (Dayton had an individual assignment system for years). Even the Whittier Model, which was introduced into both Providence and Dayton, operated differently in the two sites. Yet all four sites subsequently experienced some, often marked, reduction in case processing time, in their trial courts. Thus, no one program, no one set of attributes are required for a court to improve its case processing time. Instead, programs that come to grips with the local socio-legal culture are less likely to meet resistance.

Crash Programs Can Be Helpful for a Time, But...

Crash programs were used with some success in Detroit and Providence. In Las Vegas, too, judges scrutinized old cases. These crash programs produced some important benefits including a reduction in the inventory of cases, often by weeding out old, or otherwise untriable, cases that should have been dismissed earlier. Success in disposing of more cases than normal can provide positive feedback to court actors that helps break the psychological syndrome of defeatism, the attitude that "nothing can be done." But crash programs are likely to be only temporary palliatives. Their most lasting impact in our sites occurred when they were a forerunner to other systemic changes. Crash programs in our sites were beneficial because they focused attention on the problem of delay and announced to lawyers and the public alike that the court was serious about reducing delay.

Courts faced with an extensive backlog may feel as if they have no other alternative but to institute a crash program. Such efforts, however, require careful thought, for the courts we studied experienced some negative results. During a crash

program, other cases (particularly civil) may be neglected. Moreover, the public and the press may highlight negative results by charging that the judges are "giving the courthouse away." Our analysis found no support for these charges, but what is important is that negative assessments existed and often persisted. The negative assessments in Providence, for example, are likely to prevent that court from conducting another crash program in the near future. But the main consideration is the follow-up to a crash program. Unless there is a systematic program to follow, lawyers are likely to view crash programs as nothing more than a periodic and predictable plague of "locust" to be endured until it goes away, not an indication that a new day has dawned.[4]

The Role of Local Socio-Legal Culture

America's courts operate within different environments and varying legal structures and procedures. Courts reflect a variety of informal practices and local norms. Our study focuses on this diversity in local socio-legal culture.[5]

Some aspects of local socio-legal culture may contribute to delay, others facilitate efficiency, and some have no effect on delay. Some aspects of the local culture are amenable to change by courts while others remain outside a court's control. Each of our research sites designed delay-reduction programs compatible with existing political and economic parameters. Thus, they coped in different ways with the components of local socio-legal culture. In the sections below, we discuss the impact of various elements of local socio-legal culture on delay-reduction efforts. Consideration of cultural characteristics and legal structures provides the broader context within which local courts operate. Discussions of communication networks and the role of the judge illustrate the importance of specific informal practices and norms that Church et al. more generally identified as sources of delay.[6]

Cultural characteristics. Whereas most of the demographic characteristics of the jurisdictions had only a general influence on the operations of the courts, several were influential in shaping delay-reduction programs. For example, the communities of both Detroit and Dayton were faced with sharply rising unemployment as a result of national and local economic factors. Consequently, both courts expected some rise in crime and devised programs that would allow for an increased workload. The Providence court had a large number of cases involving outstanding warrants, due at

least in part to the ease of leaving the jurisdiction of a very small state. Consequently, its delay-reduction program virtually excluded cases involving outstanding warrants because of the difficulty in retrieving defendants across state lines. In Las Vegas, the program had to take into account the explosive growth of the community between 1960 and 1980. Consequently, the innovation was the vehicle for adding new personnel — trial and lower court judges, prosecutors, and public defenders.

Law and legal structures. In contrast to demographic characteristics that placed only modest boundaries upon delay-reduction innovations, the legal structures of the state and locale were more formidable. Speedy trial laws, methods of formal charging, and the formal and informal role of the lower courts all were relatively immovable objects requiring compatible innovations. By contrast, case assignment systems — often part of the delay problem — proved amenable to change and thereby became part of the delay-reduction solution.

All four states in which our sites were located had speedy trial laws or rules that placed time limits on some phase of case processing. Rhode Island had the least restrictive (informal) timetable, whereas the other states had time standards fixed by statute between certain stages, especially for defendants in custody. Of necessity, the delay-reduction programs worked within the standards prescribed. Conversely, no new standards were formally introduced as a result of the innovations, except in Providence where the establishment of a 180 day time-guideline was the first step toward a series of delay-reduction innovations.

There was some variation in formal charging mechanisms across the four sites. Dayton used almost exclusively indictment by a grand jury, whereas prosecutorial informations heavily predominated in Providence, Las Vegas, and Detroit. Abolition of the grand jury has long been a goal of reformers, including the Whittier team that assisted in the development of delay-reduction programs in Dayton where the grand jury prevailed. Nevertheless, the program in Dayton had to accommodate use of the grand jury, for attempted legislative change was not realistic.

The role and activities of the lower courts varied sharply by site. In Detroit, there is no lower criminal court, only a unified criminal court. The Dayton and Las Vegas lower courts set bail and determine probability of guilt through a preliminary hearing. The Providence lower court does little more than set initial bail; its lack of a

screening function limits severely the potential effectiveness of any innovations directed there. Accordingly, delay-reduction programs were targeted at the trial court. By contrast, Las Vegas and Dayton were free to attempt improvements in both levels of court. Las Vegas did so, given the deep-rooted problems in its lower courts; Dayton did not, absent such problems.

There was a shared philosophy in all the delay-reduction programs. Legal structures and procedures were viewed not as impediments that hopelessly blocked improvement but as characteristics or quirks that could successfully be accommodated. This parallels an increasingly widespread understanding that structural features are much less decisive than the informal organization of the courthouse.[7]

Unlike the above-cited areas of court structure and procedure, case assignment systems were not immovable objects that delay-reduction programs were required to accommodate. Indeed, in two sites — Detroit and Las Vegas — the assignment system changed from master to individual in anticipation of, or as part of, the innovations. In Dayton, an element of the master calendar principle — centralized arraignments —was instituted at the recommendation of the Whittier team. Only in Providence did the innovations work within the general framework of the existing (master) case assignment system. The mechanisms of case assignment and scheduling often proved to be critical ingredients in the recipes for change recommended by outsiders and concurred in, if sometimes grudgingly, by local court actors.

The changes in Detroit and Las Vegas from master to individual calendar were particularly instructive for the similarities of their previous management problems. In both courts' master calendar systems, some judges were criticized for "hiding from cases," for doing less than their fair share of work. In both courts, participants felt that the master calendar placed too great a burden on one judge (the assignment judge), possibly resulting in favoritism, fatigue, or sheer unwillingness of any judge to take on that position. In both courts, attorneys consistently pointed to scheduling difficulties under the master calendar, leading to unpredictability of trial calendars and delayed guilty pleas. Finally, in both courts participants believed that the master calendar introduced an unhealthy amount of judge-shopping, far beyond the necessary occasional exchanges or transfers of cases from judge to judge in individual calendar systems. For these two courts, then, the change to the individual calendar was perceived by court actors to be a beneficial one, a view supported by our quantitative data.

Informal organization. Communication networks are one key aspect of informal organization. A development or expansion of existing communications mechanisms occurred in all sites. In Las Vegas, a team and track advisory committee was created to ameliorate the individual agency bailiwicks that flourished prior to the innovations. In Detroit, a coordinating committee of criminal justice agency representatives met frequently, sometimes daily, in the early stages of the innovations. In Providence, a series of committees were formed to discuss problems at each stage of case processing and to make recommendations for change to the court. In Dayton, a criminal justice coordinating committee was created by the chief judge to be a vehicle for planning the implementation of a delay-reduction program. Though most of these committees periodically fell into disuse, they provided an important —often the only —forum for inter-agency communication during critical periods of planned change. These new communication mechanisms did not, however, disrupt or materially alter informal relationships within the court. Rather, they were typically instruments of rationality by improving the sharing of information, and perhaps instruments of cooptation by incorporating the input of key local actors to facilitate program legitimacy. Improved communication mechanisms operated primarily at the level of agency head.

The role of the judge was a second key aspect of informal organization that delay-reduction programs had to confront. The innovations typically required that individual judges become more "docket conscious" — more aware of management principles and their application in their own courtrooms. This was perhaps most visible in Detroit, where statistics assessing the comparative performance of judges were distributed widely within the courthouse. In Dayton and Providence, the Whittier team worked hard to socialize judges to the need for sensitivity to courtwide caseflow even if, as in Providence, no judge had his or her own individual docket. In Las Vegas too, a newly-hired court administrator tried to heighten judicial sensitivity to management.

The success of these delay-reduction innovations in making judges more docket-conscious largely depended upon whether judicial autonomy was perceived to be seriously threatened. Despite the occasional crudeness of case monitoring mechanisms in Detroit, most judges took these measures in stride. Few became convinced that their autonomy was threatened. In Las Vegas, by contrast, judges revolted and ousted the court administrator, after they became convinced that the availability of comparative statistics on judicial productivity would threaten their autonomy or

perhaps even their job security.[3] In Providence, the unusual lifetime tenure of judges provided no incentive to be receptive to new management principles but no reason not to be, for job security was assured. In Dayton, judges perceived that certain aspects of the Whittier model — notably, their removal from pretrial negotiations —intruded on their autonomy, on their definition of the role of a judge. As a result, some procedures were implemented with resistance and subsequently disintegrated. The lesson from all four sites, then, is much the same. To the extent that delay-reduction programs accommodated a perceived sense of judicial autonomy — however exaggerated — the programs succeeded in sensitizing judges to case management principles.

Reducing Delay May Improve the Judicial Process

The delay-reduction programs produced an improved court process, in the view of many of the judges, prosecutors, public defenders, private attorneys and others we interviewed. Predictability increased. Trial dates were more likely to be the dates on which cases were actually tried, not merely continued. Efficiency increased. Judges were less likely to incur large waiting times, attorney were more likely to know where, when, and if their case would go to trial. Favoritism decreased. As courts began to rationalize and keep better track of cases, the opportunities for judge-shopping by attorneys, case-shopping by judges, and unwarranted dismissals declined.

Delay-reduction programs ultimately must be gauged not only by the improved convenience and satisfaction of the participants but also by the quality and equity of the justice meted out. Such discussions are inherently subjective, and though we can offer no definitive statement we can point to several empirical findings that bear upon the question. First, delay-reduction programs did not alter the patterns of dispositions or sentences in the four courts. Guilty pleas neither increased nor decreased. Likewise, sentences were neither more harsh nor more lenient. In short, the fear that reducing delay necessarily means "giving away the courthouse" is unfounded. Secondly, our statistical analysis revealed that case processing became more homogenous after the introduction of delay-reduction programs. Disparities in processing time across categories of case or defendant were reduced substantially, indicating that "access" to justice became more even-handed. Finally, we did not find evidence to suggest that lawyers were more likely to be forced to trial unprepared or that judges were pressured into hasty rulings once delay-reduction programs were instituted.

Indeed, during our interviews we generally detected little sense that important norms or protections of the judicial process were being violated as a result of speedier case processing. The one notable exception was in Dayton, where the public defender's office frequently referred to the new delay-reduction program as "one, two, three, you're in jail." This may reflect the impact of attempting to expedite an already-quick case disposition process.

Delay Is a Symptom of Underlying Court Maladies of Substance and Procedure

Discussions of delay in courts typically view delay as the primary problem. Two years of research have convinced us that viewing delay as the problem is not very helpful in explaining its causes, assessing its consequences, or in suggesting remedies. Delay is better seen as a symptom of substantive, equitable and managerial problems that exist within a particular court system. Much as a physician might view a patient's chronic indigestion as a symptom of a variety of possible diseases, so should a court pay attention to lengthy case processing time as a symptom of many other problems.

Carry the medical analogy one step further. Upon seeing a patient complaining of indigestion, a physician begins probing for other symptoms that can lead to a diagnosis. The physician probes the patient's medical history, runs diagnostic tests, and asks for information that a patient may not think to volunteer. Correctly diagnosing the source of a court's symptom of delay requires an analogous approach. Some courts may never experience serious delay or may feel that delay is unavoidably the result of structural features in the criminal justice system. Others may conduct an internal search for problems and derive internal solutions, or look to outside management and court specialists for help. All of our research sites relied to some degree on external help for coping with their symptom of delay, including external funding.

Upon recognizing delay, each site first attempted to measure the magnitude of the problem. Some had initial case processing times that were shorter than the ultimate goal in others sites. Upon further diagnosis, the sites found other problems associated with delay and designed different programs to address them. Some found scheduling and case tracking to be a problem. Others focused on budgetary concerns, lower court problems, the timing of guilty pleas, or jail overcrowding. The diagnostic process often looked beyond the court, to measure institutional and social costs of

delay. As the sites generated lists of problems, they developed programs that varied in length and scope. Some programs were implemented over a period of several years, and others were introduced all on one day. No one program or timetable for implementation seemed inherently better than another. Rather, court actors planned and implemented solutions that could be tolerated by their respective systems. Just as a medical problem can respond to alternative modes of treatment, so can problems in courts respond to different solutions.

Delay can be a symptom of severe maladies afflicting courts, including the lack of effective management controls and even the lack of desire for such controls. Like some patients in our medical analogy, some courts may fear that the proposed cures will be worse than the known problems. The interests of court participants in using case processing time to their own ends brings us back to the larger purpose for which courts exist -- to do justice. By doing justice, or perhaps invoking its name, court actors make more difficult the work of reformers who would streamline and purify the processing of cases. Doing justice and disposing of cases are somehow related, but we do not know exactly how. That is the task of future research, using as its groundwork the kinds of empirical analyses of delay, delay-reduction, and case processing time that Managing the Pace of Justice: An Evaluation of LEAA's Court Delay-Reduction Programs provides.

NOTES

[1]See, for example, Martin A. Levin, "Delay in Five Criminal Courts," 4 Journal of Legal Studies 83 (1975); James Eisenstein and Herbert Jacob, Felony Justice: An Organizational Analysis of Criminal Courts (Boston: Little Brown, 1977); Milton Heumann, Plea Bargaining: The Experiences of Prosecutors, Judges, and Defense Attorneys (Chicago: University of Chicago Press, 1977).

[2]Roberta Rover-Pieczenick, Pretrial Intervention Strategies (Lexington, Mass.: D.C. Heath, 1976), pp. 10-11.

[3]Richard Larson et al., Interim Analysis of Two Hundred Evaluations on Criminal Justice (Cambridge, Mass.: Operations Research Center, MIT, 1979).

[4]Thomas W. Church, Jr. et al., Justice Delayed: The Pace of Litigation in Urban Trial Courts (Williamsburg, Va.: The National Center for State Courts, 1978), p. 57.

[5]We refine the concept of "local legal culture" (developed by Church, et al., see note 4) to include such elements as the demographic environment of the community and the legal structures and procedures of the court, as well as the attitudes of local court actors. We term this refined concept, "local socio-legal culture."

[6]Church et al., Justice Delayed.

[7]See Church et al., Ibid; Levin, "Delay in Five Criminal Courts;" Macklin Fleming, "The Law's Delay: The Dragon Slain Friday Breathes Fire Again Monday," 32 Public Interest 13 (1973).

[8]To explain why judges in Las Vegas felt threatened by judicial productivity statistics whereas judges in Detroit did not is not easy. One possibility is the role of the media in a small town (like Las Vegas). In recent times, Las Vegas district attorneys, for example, have been hounded from office by a vitreolic press attacking their job performance. In the Detroit press, criticisms of public officials are frequent (as in most big cities) but seemingly have less impact.

APPENDIX

Final Report

Managing the Pace of Justice:
An Evaluation of LEAA's Court Delay-Reduction Program

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