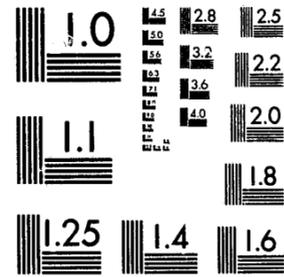


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EVALUATION OF THE STRUCTURED PLEA  
NEGOTIATION PROJECT

EXECUTIVE SUMMARY

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EVALUATION OF THE STRUCTURED  
PLEA NEGOTIATION PROJECT:  
EXECUTIVE SUMMARY

INTRODUCTION

The criminal justice system is criticized frequently and sharply for the practice of plea bargaining.<sup>1</sup> Widely regarded as both unfair and unseemly, plea bargaining is viewed by many as a serious threat to, if not a violation of, the defendant's Constitutional protection against self-incrimination, as well as his or her right to trial. Others view it as a denial of justice for victims of crime, who are inclined to see themselves as victims of the "system" as well following behind-closed-doors settlements and often extensive sentencing concessions by prosecutors and judges.

The unseemliness of plea bargaining tends to derive primarily from its sub rosa nature. Many regard the apparent "wheeling-and-dealing" between prosecutor and defense counsel, arm-twisting of the defendant, and official denial of any such pressure by the defendant in a brief courtroom proceeding as a travesty of justice. Thus plea bargaining is viewed not only as unfair, but as a practice that undermines the integrity of the court and breeds disrespect for the entire criminal justice system.

In an attempt to rectify the most serious of these long-held criticisms of plea bargaining, the National Institute of Justice has initiated and funded research on the Structured Plea Negotiation (SPN) project. This project represents a bold policy experiment aimed at transforming entrenched informal procedures

into a standardized forum for negotiations. The centerpiece of the SPN concept is a conference at which the judge, defendant, and victim join the prosecutor and defense counsel to discuss the case and reach an appropriate disposition. The primary goals of this conference are to produce out-of-trial settlements that are just, because they are subject to judicial involvement, and open, in the presence of both the defendant and victim. In creating the SPN conference concept, it was intended that victim and defendant involvement in the conferences would increase perceptions, if not the reality, of fairness. It was also hoped that through use of the conference the system would run more efficiently.

A recommendation for such use of pretrial settlement conferences in criminal courts, similar to those found in the civil system, was made by Norval Morris in 1974. That recommendation provided the basic model for the current SPN experiment. Morris's proposal included the suggestion that a pretrial hearing be called by a judicial officer and that all plea negotiations take place in the conference.<sup>2</sup> Inclusion of the judge and defendant was considered essential to the conference; involvement of the victim was also recommended. Morris suggested that the discussion remain off the record to avoid problems of self-incrimination.

The first National Institute of Justice test of the pretrial settlement conference idea was implemented in 1977 in Dade County, Florida. That experiment, involving randomly selected cases, illustrated that such a conference system could be

created, that meaningful negotiations could not only take place, but could and provide realistic outcomes as well, and that judicial and lay participation was feasible. An assessment of the impact of the conference procedures produce useful but guarded conclusions. While no adverse effects of the experiment were apparent--disposition patterns were similar to a randomly selected control group and delay was reduced somewhat--the evaluation did leave open questions about the broader impact of the program.<sup>3</sup>

To further explore the benefits and problems associated with SPN conferences, both on a larger scale and in a variety of jurisdictions, a second test of the concept was funded by the National Institute of Justice in 1979. The purpose was to explore the prospect of instituting structured plea negotiations in a variety of legal and organizational contexts in order to analyze their potential as an alternative to conventional bargaining practices. A test design outlined the conference procedure to be followed in selected jurisdictions.<sup>4</sup>

This second SPN test had two major aspects--implementation and evaluation--each funded and monitored separately from the other. Implementation of the project involved the hiring of on-site personnel to administer the new procedures and consultants to advise the sites on their implementation decisions. The evaluation of the SPN project was awarded to INSLAW, Inc. This summary presents the major results and conclusions of that evaluation.<sup>5</sup>

#### BASIC ELEMENTS OF THE SPN EXPERIMENT

The SPN experiment represented a new way of doing the court's business grafted on to an on-going system of criminal justice administration in each jurisdiction studied. In order to understand the impact of this and the success the experiment had in achieving the program's goals of efficiency and fairness, data were collected at the host jurisdictions so that changes in patterns of case disposition and sentencing, and in time and resource efficiency of the court systems, could be analyzed. The cases in the jurisdictions were divided into two groups: cases that were offered an SPN conference and cases that were not. The two groups were then compared.

#### The Test Sites

Three jurisdictions participated in the experiment: 1) Wayne County, Michigan, specifically the area of Wayne County outside the city limits of Detroit; 2) Jefferson County, Kentucky, which includes the city of Louisville; and 3) Pinellas County, Florida, specifically the city of Clearwater, near St. Petersburg in the northern half of the county. The three experimental sites differed both with respect to their negotiation processes and in terms of more fundamental legal and organizational characteristics. This allowed a limited analysis of the relationship between site characteristics and the program.

#### The Conference

The most conspicuous aspect of the SPN design, as noted above, was that the conference would involve not only the

prosecutor and defense counsel, but also the judge. The victim and defendant were also to be invited, and could choose to attend or not to. The conference design required that negotiations over the specific plea could not be completed outside the conference, that discovery and filing of motions would occur prior to the conference, and that the parties would have the authority to reach closure on the case at the conference.

It was also recommended that the judge notify the participants as he would in any hearing and that the hearing not take place in open court. The conference was to occur one week prior to the scheduled trial date. The judge was expected to act as a facilitator or moderator, helping to create a productive dialogue. Victims and defendants would be present for their own benefit and to provide information and opinions when appropriate. To ensure the validity of the experiment, cases would be selected for the SPN conference randomly; the other cases would be handled conventionally for statistical control.

Thus, the SPN experiment was designed to create a system of plea negotiation conferences that would differ from established plea bargaining practices. This was accomplished more or less successfully in all three experimental sites. The outward appearance of the conferences varied considerably among the three jurisdictions in large part because of existing legal and organizational differences. In addition, there were significant stylistic differences associated with the personalities of the various legal players. The dominant difference, however, was jurisdictional.

These considerations aside, a working definition of an "SPN conference" did evolve. At a minimum, a conference involved the fact that the major parties (judge, prosecutor, defense attorney) were present to discuss the case, an agreement had not already been reached, and ideas concerning an appropriate disposition (usually the sentence, but sometimes diversion) were exchanged.

#### MAJOR FINDINGS

##### What Were SPN Conferences Like?

Of the cases randomly selected as possible conference (i.e., test) cases, only about one quarter actually ended up going through the SPN conference format. Conferences averaged, in the three sites, some seven to nine minutes. In Wayne County and Clearwater they were held in the judges' chambers; in Louisville, in the open courtroom. In retrospect, the holding of the conferences in the courtroom appears to have been a mistake in that a clear distinction was not being made between the SPN conference and existing pretrial hearings. The courtroom was not conducive to the kind of give and take necessary for an effective SPN conference.

While the conferences were relatively short, clear patterns of dialogue emerged in each site in terms of both who was doing the speaking and what was the subject matter. The individual responsible for the greatest proportion of the speaking time was different in each site. The sites did not vary in that the judge, prosecutor, and defense counsel, collectively, dominated the discussion. Also, in all three sites the judge asked most of

the questions, thus serving as "facilitator" and as both source and destination of much of the discussion. Each jurisdiction, however, was unique in several respects:

- In Clearwater, the discussion concentrated almost exclusively on the facts of the case, background information about the defendant (including his prior record), and the sentence. The prosecutor and the defense attorney provided the facts and defendant descriptions, and the judge participated heavily in the negotiations, in part by asking questions. The defense counsel consumed the largest share of the speaking time in Clearwater. Overall, extraneous discussion was minimal.

- In Wayne County, the dominant set of interactions was between the judge, defense attorney, and defendant. The two most important subjects overall were the "bargain" and the defendant's characteristics. Only in Wayne County did the defendant have any significant speaking role. The prosecutor's dialogue, while not taking up a large proportion of time, was primarily about charge bargaining subjects. It appears from the form and substance of the interactions that the Wayne County conference judges took the opportunity (which they generally did not have before) to find out more about the defendant face-to-face. The judges consumed the largest share of the speaking time in Wayne County.

- In Louisville, the judge sat behind the bench and the attorneys stood by their tables in the courtroom. Comments by the attorneys were addressed to the bench and related primarily to the facts of the case, legal issues, and administrative concerns (i.e., topics related to case processing rather than case disposition). The prosecutor consumed the largest share of the average speaking time in Louisville. The judges spent a good deal of their speaking time on administrative matters, including introducing the conference. Relatively little time was devoted to bargaining or disposing of the case and almost no time was spent discussing the defendant. In short, the dialogue was indicative of an administrative pretrial hearing rather than a dispositional hearing. In Louisville the conference followed the intended experimental design much less closely than in the other sites.

##### Did the Conferences Produce Agreement?

Of central importance to the experiment is whether negotiations in fact took place and, if so, whether agreements were reached. In two of the three experimental sites the vast majority of conferences resulted in some kind of agreement. In

Clearwater 84 percent reached a full or tentative agreement;<sup>6</sup> in Wayne County, 76 percent did so. Louisville was quite another matter: less than half (44 percent) of the cases that had a conference arrived at a full or tentative agreement.

The question remained whether the plea negotiations actually took place in the conference in the manner that had been intended. Were the conference negotiations open, effective, and efficient? According to the prosecutors, public defenders, and judges, only in Clearwater were the conferences systematically used for the purposes originally intended.

The Clearwater state's attorneys reported that no discussion of the case went on prior to the conferences. Individual attorneys prepared their cases ahead of time and the negotiating attorneys came to conference with notes about those cases, ready to negotiate.

In Wayne County, prosecutors and defense counsel were accustomed to starting the negotiating procedures at the pretrial/arraignment stage. Considerable pre-conference negotiating took place as before. Often the conference itself was used for formally stating positions or placing agreements on the record.

The bargaining process in Louisville appeared to be occurring mostly before and after, rather than at the conference. As before, the negotiations were primarily between prosecutor and defense counsel. One judge indicated that it is the lawyers who negotiate and the judge follows their lead.

The conference judges were also asked whether negotiations within the SPN conference involved exactly the same discussion as negotiations for cases that did not have an SPN conference. All but one judge in Wayne County and half of the judges in the other two sites said that they believed SPN negotiations were different. Those judges thought that more information from different sources was available in the conference and that there was more give-and-take in the discussion. They indicated that the principal drawback was that more explanation about the conference was required.

What Factors Determined Whether a Case Designated as an SPN Conference Case Actually Had a Conference?

One of the most difficult aspects of implementing a system of SPN conferences was determining the point at which the conference would best fit in to the existing case processing system. While the design of the experiment set explicit requirements for the placement of the conferences (one week before the scheduled trial date), the variations in case processing from jurisdiction to jurisdiction meant that certain kinds of cases may have already left the system by that time.

The conferences ended up being held as scheduled, but it turned out that a great deal of prosecutory discretion had been exercised prior to that time. The result was the selection of specific kinds of cases for the conferences. Despite three diverse approaches to case processing, however, the types of cases that ended up in the SPN conferences were remarkably similar.

The cases that were most likely to be selected to proceed to an SPN conference generally involved serious crimes (although not always the most serious), had strong evidence, and generally resembled cases that ended as guilty pleas in conventional prosecution systems.

#### What Factors are Associated with Successful Agreement at an SPN Conference?

As noted above, two of the three sites were able to obtain agreements in most of the conference cases. As the experimental year progressed, the conditions under which successful agreements could be worked out became more obvious. The following factors were associated with successful agreement at conference:

- individual judges who were willing to get involved in negotiations and suggest specific sentences;
- negotiations that involved sentence or a combination of sentence and charge bargaining, especially if the sentence would most likely be probation;
- prosecutors who believed they had strong evidence and who had the authority to close agreements; and
- avoidance of delay once an agreement had been reached, by not having to wait for a presentence investigation (PSI) report and by having the defendant present to help ratify the agreement.

As also noted above, many "conference-bound" cases never made it to the SPN conference due to pre-sorting by prosecutors and others. In addition, a minority of cases that reached an SPN conference resulted in no agreement.

#### What Was the Nature of Victim and Defendant Involvement in the SPN Conferences?

One of the most innovative aspects of the SPN experiment was the invitation and inclusion of the victim in the plea negotiation process. The victim was asked to attend the SPN conferences largely in response to the well-documented dissatisfaction of victims with their treatment in the criminal justice system. By systematically involving the victim, it was hoped that the system would be more accountable in that victims would be allowed to observe court procedures and become more informed about the outcomes of their cases.

The defendant, like the victim, has also been largely excluded from direct involvement in the plea negotiation process. Hidden and often mysterious, plea bargaining has been a source of uncertainty and therefore potentially a source of perceptions of unfairness. It became clearly important to examine whether the process for deciding case dispositions influenced the defendant's perception of the fairness of the outcome.

In an attempt to achieve both the reality and the perception of fairness among defendants, the SPN conference would allow the defendant to observe the conference and hear the lawyers' arguments and the terms being agreed upon. It would also allow him greater access to the judge and prosecutor.

#### Once Invited, to What Extent Did Victims Attend SPN Conferences?

Interviews with prosecutors prior to the start of the project revealed that while prosecutors will say that victims have substantial influence over the terms of the plea negotiations,

only a small proportion actually "consulted" with victims to discuss the terms of the negotiation. Prior to the experiment there was a widely held belief among practitioners in the project that while it might be nice to include the victim in the conference, victims would not even show up or participate unless subpoenaed. (In this project "victims" included only those who suffered financial, psychological, or personal injury--and not simply witnesses or police officers. All conclusions derived here pertain only to those who were actually notified of and invited to the conference.)

Over 50 percent of the invited victims attended the SPN conferences. This rate of attendance was corroborated by the victims' self-reported rate of attendance obtained from a survey of all victims who said they were invited to an SPN conference.

What differentiates victims who attended from those who did not? One of the most important factors turned out to be the degree of harm done to the victim. When there was personal injury, stolen property of \$2,000 or more, or when the crime rated a high score on the Sellin-Wolfgang crime seriousness index, the victims were more likely to attend. Other factors such as sex, race, or whether the victim was employed were not indicators of attendance.

Additional reasons were discovered in the survey of victims who were invited but did not attend. Some of the most common reasons indicated were: the inability to take time from work, out of town at the time of the conference, and skeptical that

attendance would make a difference. Interestingly, very few victims indicated that they were afraid to meet the defendant.

#### To What Extent Did Defendants Attend the Conference?

In two of the three sites, defendant attendance at the SPN conference was routine. In one of the two, the defendant was ordered by the chief judge to attend, and in the other attendance was accomplished by "friendly persuasion" of the chief judge. In the third site defendants were present in just a third of the conferences. There the defense attorney exercised his right to decide whether his or her client should be present at the conference on a case-by-case basis. Often the defendant was in a holding cell near the judge's chambers where the attorney consulted with him after the conference.

Defendants who were present at the conference in site number three were not discernibly different--in terms of either prior record or severity of the crime--from those who were absent. The only significant difference found was in the type of defense counsel: defendants whose attorneys were public defenders were present at the conference at a higher rate than those with privately retained attorneys. This was the one site in which the negotiations were almost exclusively over the sentence. If defense attorneys in general do not like to negotiate sentences in front of their clients, it would appear that private attorneys in particular do not like to do so. Indirect confirmation of this came from one senior prosecutor who reported that when the defendant is present, it is understood that the prosecutor's

initial offer is higher, so when the sentence is agreed upon, the defense attorney will look good in front of the defendant.

#### How Did Victims View Their Participation?

The testimony of victims did not dominate the conference. When present, the victim had a speaking role that averaged less than ten percent of the total speaking time of the conference. Their comments were generally confined to their version of the facts of the case. The fact that victims had a limited speaking role does not, however, appear to be related to whether or not they thought it important to attend.

When asked in a survey how important they believed it was for them to attend, the vast majority said that it was at least somewhat important to attend the conference, and in two sites a majority thought it was very important. As with the defendants, that victims thought it important to attend does not suggest they thought they had a great deal of influence over the conference proceedings. A plurality in two sites thought they had none.

Of special significance was the apparent effect of the conference on the victim's knowledge of the outcome of the case. In two of the three sites, victims who attended an SPN conference were more likely to know the case outcome than a comparison group of victims whose cases had not been selected for conference. Victims in all three sites, by being able to describe the agreement in general terms, demonstrated that they were also aware of the nature of the bargains made at the conferences.

A majority of victims in each site indicated that they were satisfied with the SPN conference procedure. A majority also indicated that they believed the bargain proposed at the conference to be fair or very fair. Two-thirds of the victims who said that the SPN conference had affected their opinion of the court system said that they now had a better opinion of it.

#### How Did Defendants View Their Participation?

Defendant participation, for the most part, simply involved the observation of conference proceedings. Speaking time was negligible in two sites and only slightly more than that in the third. In the site where the defendant did have an opportunity to express himself, he was generally responding briefly to judicial questions about himself and about what happened from his point of view. The limited speaking role of defendants may have been due primarily to the warning given by judges in two sites, at the start of the conference, that defendant statements were impeachable.

With defendants generally having a limited opportunity to speak at the conference, it is not surprising that they would indicate that they had little or no influence on what happened there. The defendants nonetheless thought that it was important that they did attend. When asked immediately after the conference, over 80 percent thought it very important that they had attended. A majority also indicated that they were either very satisfied or somewhat satisfied with the procedure. When asked the same questions again some six to eight weeks later, a

majority, though not as many still said they were satisfied and that their attendance was important. It is noteworthy, although not statistically significant, that across the three sites the proportion of defendants who were satisfied with the conference procedure was correlated with the proportion of negotiations that reached agreement.

Defendants who attended the conference were also asked if they thought the bargain was fair. Again, the vast majority in each site thought it was. This assessment of fairness appears to be related more to process than to outcome. In comparing survey results of defendants who did and did not have an SPN conference, no significant differences in perceptions of the fairness of the sentence emerged. On the other hand, defendants who participated in an SPN conference tended to be more satisfied with the outcomes of their cases than those who were not invited.

#### What Was the Impact of Victim and Defendant Participation?

In allowing victims and defendants to observe and thus participate in the plea negotiation process, the experiment appeared to have a significant impact on the perceptions of the victims, defendants, and practitioners involved. Participation in SPN conferences led to a greater willingness on the part of practitioners to involve victims and defendants in the process. The experience also resulted in more positive attitudes on the part of victims and defendants about the criminal justice system.

Practitioners. The one-year experiment generally increased the practitioners' acceptance of victim and defendant involvement

in plea negotiations. In two of the three sites acceptance of defendant involvement represents an important shift in thinking especially among the public defenders. Public defenders also came to believe that the SPN conferences increased the defendants' perceptions of fairness.

Victims. As a result of their SPN conference experience, victims appear to have become more satisfied with the outcomes of their cases and more positive about the idea of plea negotiations. Victims who attended the conference and whose cases ended in probation were more satisfied with those outcomes than their counterparts who had not attended a conference. If the case ended in incarceration, victims were generally satisfied whether they attended a conference or not. Hence, the greatest impact was felt among victims who were least predisposed to be satisfied. In addition, victims who attended the SPN conference were generally more accepting of plea bargaining than were victims who did not.

Defendants. Defendants who attended the SPN conference tended to be more satisfied than other defendants--about having access to judges and about the outcomes of their cases. The SPN conference procedure not only allowed the defendant a chance to observe the negotiations and the efforts of his attorney acting in his behalf, it also gave him direct access to the judge and prosecutor; before, he could communicate only through his attorney. All defendants--including non-SPN conference defendants--were asked whether they had sufficient opportunity to tell the judge, prosecutor, and their attorney their side of the

story. The majority indicated that they had had sufficient opportunity to talk to their attorneys. However, only the majority of those who had an SPN conference indicated that they had had sufficient access to the judge and prosecutor as well. The fact that the SPN procedure allowed this kind of access and openness may largely explain the SPN defendants' greater feelings of fairness and satisfaction with the outcomes of their cases.

#### Did the Methods of Case Disposition Change?

The proportions of cases disposed by plea, trial, and diversion were compared for cases that were and were not offered an SPN conference. Overall, the methods used to dispose of cases remained almost identical between the two experimental groups.

The only exception was a slight increase in the trial rate. While this could be regarded as a failing of the SPN program, additional findings (discussed below) suggest that, even with this increase the system was more efficient, in terms of both case processing time and case "throughput," under the SPN program. Furthermore, to the extent that trial is the appropriate method of disposing cases, the SPN program appears to encourage trials without adding delay costs to the system.

In addition to formal methods of disposition, each jurisdiction already had in place prior to the SPN experiment informal practices to obtain guilty pleas--that is, specific plea bargaining practices and strategies. Some changes in these informal practices were observed following the introduction of SPN conferences.

In the jurisdiction that was heavily reliant on charge bargaining to obtain guilty pleas, greater participation by judges in the negotiation process led to increased sentence bargaining and a simultaneous increase in pleas to the top charge. Some judges expressed approval of their involvement in the negotiation process because it provided greater access to the defendant prior to disposition. Some prosecutors expressed approval as well, emphasizing the benefits of obtaining more convictions to the top charge.

In a second site, changes in the informal practices were not quite as obvious; however, new patterns did begin to emerge. Over time, the SPN conference was used to negotiate certain types of cases--specifically, cases in which the defendant had no prior arrests, cases that involved a robbery or drug-related offense, and those that eventually received probation at sentencing.

#### Did Sentencing Patterns Change?

When comparing all plea cases with all trial convictions in terms of the proportion that go to prison, a sentencing differential existed in each of the sites. In making the comparison, the severity of the offense was taken into account using the statutory maximum sentence of the most serious charge at conviction.

The question addressed next was whether the SPN procedure changed the extent of the differential. In comparing all cases that were offered an SPN conference to those that were not, in only one of the three jurisdictions did the differential

increase; notably, that was the site that relied most heavily on sentence negotiations to obtain guilty pleas.

A related issue was whether sentencing patterns in general changed as a result of the introduction of the SPN conferences. Indeed, sentencing patterns for guilty plea cases changed in all three sites. In two of the three sites, the SPN conferences were associated with more lenient sentences--an effect, according to practitioners, that was not simply a reflection of the particular judge. In the third site, lower sentences among conference cases appear to have been the result of case selection only.

#### What Were the Effects on Court Scheduling and Efficiency?

The Structured Plea Negotiation experiment involved a system-wide change in case processing for a particular subset of cases. To understand the full impact of SPN, it is necessary to examine these system-wide effects. Several aspects of the case processing system were included in the analysis: the time it takes to dispose of a case, the number of reschedulings of court events (continuances), the number of formal court events, and the number of trials.

Some local inefficiencies appear to have grown out of the implementation of the SPN program. Those inefficiencies, however, do not appear to have created delays in the system as a whole. In fact, delays were shortened significantly in one of the three sites.

The following "inefficiencies" were associated with the SPN program: 1) a slight increase in the trial rate; 2) an

additional formal court event, namely the SPN conference; and 3) an increase in unused court dates or continuances. (Continuances included the required trial date for all conference cases as specified by the program design, unused conference dates, and unused pre-trial conference dates that had been set in one site even though the SPN conferences were to replace them.) For the case processing system as a whole, however, the results do not appear negative. In the two sites where the program actually worked for a significant proportion of the caseload, the results are actually positive.

Of these two sites, one already had a very efficient system, with a much shorter time from arraignment to disposition than in most jurisdictions. Some feared that the SPN process would disrupt that efficiency. It did not. Even though many cases were delayed a few weeks to allow implementation of the program in accordance with its design, in the end the cases that went to conference were disposed of faster overall. This accomplished two goals: more time was provided to permit judicial involvement earlier in case disposition and more time was allowed for discovery and motions. This was done without increasing delay in the system as a whole.

In a second site, the results were even more dramatic. Most cases outside the SPN process in this site were not disposed of until the trial date, creating considerable delay and uncertainty in case processing. The SPN procedure advanced the timing of case disposition for conference cases some five weeks, on average, thereby reducing overall delay and uncertainty. The

results were seen as very beneficial by the practitioners involved. Thus, the program was able to accomplish some of its primary goals, such as improving perceptions of fairness, while not hampering the system's efficiency and actually improving it in one of the test sites.

#### **POLICY IMPLICATIONS**

Although an analysis of three sites does not provide a definitive basis for generalizing about other jurisdictions, the results of the Structured Plea Negotiation experiment do offer implications for how successful such an attempt to structure plea negotiations--and open them to the participation of judges, victims, and defendants--might be in other jurisdictions.

#### Is it Reasonable to Expect the SPN Program to Work in Other Jurisdictions? If So, Which Ones?

The results of the SPN experiment indicate that the program is capable of improving operations in most conventional settings. The results suggest, further, that it would be most successful in jurisdictions that already process cases in a manner that resembles central aspects of the SPN. Clearwater, Florida, is such a jurisdiction, with judicial involvement in negotiations and plea negotiations that center on the sentence. Successful conferences depend crucially on judicial support; jurisdictions in which judges are not inclined to provide such support would appear to be less well suited candidates for the SPN approach than other jurisdictions.

#### Are Practitioners Willing to Participate in SPN Conferences?

It appears generally that they are. The greatest support from practitioners came in the jurisdictions that ended up with the most judicial involvement and where obvious benefits occurred--benefits such as improved system efficiency. Support among practitioners grew in all three jurisdictions as the experimental year progressed and as benefits were perceived. Judges appeared to enjoy their greater involvement earlier in the process as well as their ability to gain additional information about the case and the defendant. Prosecutors saw the benefits of sharing the responsibility for negotiations with the judges, and defense attorneys saw generally improved attitudes of their clients.

#### Does Involvement in SPN Conferences Improve Victim and Defendant Perceptions of Their Criminal Justice System Experience?

Through the experiment, victims and defendants showed a preference for involvement in the disposition of their cases. Benefits followed in terms of perceptions of greater fairness and more satisfaction with the outcomes of their cases. In addition, victims gained a more positive attitude toward the idea of plea negotiations.

#### Do SPN Conferences Benefit Jurisdictions by Improving Equity and Efficiency?

Yes and no. Dispositions and sentencing patterns changed little in the three test jurisdictions. In one jurisdiction, the jurisdiction that relied most heavily on sentence negotiations, the sentence differential did increase. Overall, however,

dispositions and sentences remained essentially unchanged. Moreover, the benefits of victim and defendant involvement were obtained without apparent disruption of existing case processing routines and without an apparent decline in efficiency. In one site, case processing time was actually reduced.

What Appear to Be the Important Characteristics of a Successful SPN Conference System?

- Support from judges, prosecutors, and defense attorneys. Of the three, judicial support is most important for bringing the parties together in the required forum.
- Notification to all parties as part of the judicial court scheduling routine. Notification of the victims should come from a separate group such as a victim/witness unit.
- A general consensus among the judges that it is appropriate to involve themselves in the negotiation process. There should be neither legal constraints nor serious attitudinal considerations on the part of the judiciary to discuss the possible sentence outcomes.
- The fewer the administrative impediments to drawing closure on the case the better. Waiting for presentence investigation reports or approval from more senior prosecutors are examples of such impediments.
- If the jurisdiction has open discovery, there is likely to be less resistance to free and open discussion and a greater willingness to participate.
- The conference should not be held in a courtroom. Judges' chambers or some other private room is a setting that appears to be more conducive to productive negotiation.
- Conferences should be held prior to the first scheduled trial date and should allow sufficient time for motions and discovery. Setting the conferences one week prior to the scheduled trial date worked well in the experiment.
- The judge should act as facilitator at the conference, asking questions and suggesting areas of agreement.
- Discussion during the conferences should center primarily on the negotiations, keeping extraneous discussion to a minimum. Presenting the facts of the case, followed by

defendant descriptions, and followed in turn by suggested dispositions proved to be most successful.

- Victim and defendant attendance is important. Adequate and positive notification is necessary to ensure the attendance of both.
- Conferences should serve as the primary arena for negotiations. Negotiations outside the conference should be kept to a minimum.
- The aim of the conference should be to reach case closure. The vast majority of conferences should result in a settlement within such a context.
- The benefits of an SPN program are likely to be realized in proportion to the extent to which SPN replaces existing negotiation practices. As its use increases, the scheduling of, and attendance at, the conferences should become routine matters.

**CONCLUSION**

The Structured Plea Negotiation experiment showed generally that it is capable of creating more open and just plea negotiations, without doing violence to on-going systems. If the negotiated plea--the alternative to a trial or a straight guilty plea--is a given, policy makers nonetheless have substantial opportunity to conduct those negotiations with greater involvement of judges, defendants, and victims. Structuring negotiations with more involvement of others is, of course, not likely to occur without some resistance and compromise. The results of this experiment suggest that overcoming such resistance may be worthwhile. It is evident that plea bargaining can be more effectively structured and that plea bargaining can operate with more direction from judges and more involvement of those the system has been designed to serve.

NOTES

- 1 In this report the terms "plea bargaining," "plea negotiation," and "negotiated settlement" are used interchangeably to connote concessions made by the prosecutor or judge in exchange for a guilty plea by the defendant. The concession typically consists of a charge or sentence reduction.
- 2 Norval Morris, The Future of Imprisonment. Chicago: University of Chicago Press, 1974.
- 3 Wayne A. Kerstetter and Anne M. Heinz, Pretrial Settlement Conference: An Evaluation. Washington, D.C.: Government Printing Office, 1974.
- 4 National Institute of Law Enforcement and Criminal Justice, Structured Plea Negotiations Test Design. Washington, D.C.: U.S. Department of Justice, 1979.
- 5 For a detailed report of the evaluation, site descriptions, and analysis, see Deborah Buchner, et al., Evaluation of the Structured Plea Negotiation Project, Volume I: Findings of an Experiment in Three Cities and Volume II: Pre-Implementation Site Descriptions: A Legal, Organization and Attitudinal Survey, both available from the National Institute of Justice.
- 6 For purposes of data collection, "full agreement" reached at conference was defined as all parties accepting the agreement and having a plea put on the record either that day or within a few days. A "tentative agreement" was defined as one with a bargain specified, but one in which all parties had not ratified it or some indicated a desire to think about it further. "No agreement" meant the parties found no basis for agreement.

FINAL REPORT

EVALUATION OF THE STRUCTURED PLEA  
NEGOTIATION PROJECT

VOLUME I. APPENDICES

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July 31, 1984

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Appendix A

DATA COLLECTION FORM



1. Was full agreement reached at the conference:

- 1 - Yes
- 2 - No (if no, skip to question 3)

48

2. Negotiated settlement result: Describe exactly what was agreed to. Include any charge, count, sentence or condition information.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

49	50	CH
51	52	CO
53	54	ST
55	56	CON

TO BE CODED BY INSLAM

Skip to 6, if full agreement was reached (yes, on question 1).

3. Was partial agreement reached?

- 1 - Yes
- 2 - No

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4. Describe partial agreement or reason for lack of any agreement, if no partial agreement.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

58	59
60	61
62	63
64	65

TO BE CODED BY INSLAM

5. Which of the following reasons account for the lack of full or any agreement (fill in as many as apply to case)

- 1 - Yes, a reason
- 2 - No, a reason

- (a) Lack of time to complete negotiations
- (b) Discovery process incomplete
- (c) Prosecutor wanted to go to trial
- (d) Defendant wanted to go to trial
- (e) Evaluation of defendant ordered (includes PSI)
- (f) Other charges pending
- (g) Absense of critical person(s) specify:
- (h) Request to discuss settlement conditions further with defendant.
- (i) Other, specify:

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Coder Observations

6. Did any of the following events occur? Code only if defendant was present)

- 1 - Yes
- 2 - No

- (a) Mention that a greater sentence would probably be given at trial
- (b) Mention of a greater delay in the case if not settled
- (c) Reminding defendant of criminal history
- (d) Emphasis on how serious a crime defendant committed
- (e) Mentioning expense of trial and inconvenience to court or society if case goes to trial
- (f) Judge, defense attorney or prosecutor showed great deal of anger with defendant or defendant's crime
- (g) Defendant advised that he/she could be helped with the sentence, e.g., settlement is for defendant's "own good"
- (h) No opportunity is allowed for defendant to indicate agreement or disagreement to judge or defense attorney

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7. Did anything (other than those events listed in item 6) happen in the conference to suggest pressure was being placed on the defendant to agree to the settlement?

If so, describe \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

83

8. Among the participants in the conference, who do you think had the most influence on the conference process and the outcome of the case?

- |                     |                    |         |
|---------------------|--------------------|---------|
| (1) judge           | (4) defendant      | Process |
| (2) prosecutor      | (5) victim         | Outcome |
| (3) defense counsel | (6) police officer |         |

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9. Was more than one case against this defendant consolidated and discussed in this conference?

- 1 = Yes
- 2 = No

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10. Any impressionistic comments by coder about conference.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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A-2

CODED BY INSLAM

CODED BY INSLAM

Appendix B

METHODOLOGY FOR CODING CONFERENCE INTERACTIONS

Methodology for Coding Conference Interactions

Conference observers were hired on site in each test location and were employees of the sites' project staff. Most did not have extensive experience in criminal justice settings prior to working for the research team nor had they previously used behavior-observation methods.

Observers were trained in the following way. First, they were given a complete explanation of the code structure and definitions. The codes had been developed and classified into meaningful categories to facilitate retention, eg., codes from 10 through 19 had to do with the defendant; codes in the 30's with the victim; codes in the 40's with the bargaining process, and so on

Next, the observers were given transcripts of early test conferences and were asked to code statements from the transcripts using the code descriptions. The research team discussed the results of this exercise with the observers, reviewing any discrepancies that occurred between the researchers' standard key and the observers' coding.

Following training with transcripts, a member of the research team visited each site and coded actual conferences with the observers. These coding sessions were used to improve intercoder reliability among observers in the sites to an acceptable training level (80-100 percent).

A standard procedure of double coding (having two observers code independently and simultaneously) every tenth conference

throughout the duration of the project was also adopted in each site. An analysis of these double-coded conferences was used to compute reliability.<sup>1</sup> The reliability for specific behavioral codes was inadequate (56-60 percent); but an acceptable level (approximately 75 percent) was achieved for the broad groupings of the codes, e.g., defendant characteristics, offense characteristics, victim characteristics, bargaining, legal procedures, administration issues. As a result of this analysis, interpretation of the intraconference data was limited to discussion of the broader definitions.

---

<sup>1</sup> Let  $P_{ai}$  be the proportion of conference time devoted to code  $i$  ( $i=1,6$ ) according to observer A.

Let  $P_{bi}$  be the analogous proportion of time according to observer B.

Reliability was expressed as:

$$1 - \left( \frac{\sum_{i=1}^6 |P_{ai} - P_{bi}|}{2} \right)$$

Intraconference Content Categories

<u>Abbreviation</u>	<u>Coding Definition</u>	<u>Additional Comments</u>
<b>DEFENDANT CODES</b>		
10 Def. Char.	General category of defendant characteristics. Used when codes 11-18 do not apply to statement about defendant characteristics.	
11 Def. Age	Mention of defendant's age.	
12 Crim. His.	Mention of defendant's criminal history or record.	Mention of existence of adult or juvenile record. Mention of no record Mention of felony or no felony record Mention of misdemeanor or no misd. Include comments about a defendant's being on probation, parole
13 Fam. Sta.	Mention of defendant's marital status, e.g., marriage, single, divorced, separated; <u>family status</u> (e.g., living with parents, living with another not married, etc.). Include references to defendant's having children, or not having them.	Mention of specific status: married, single, divorced, separated. Separation of marital status, living arrangements and breadwinner responsibilities.
14 Wrk. Sta.	Mention of defendant's current and/or past <u>work status</u> .	Mention of specific status: employed, not employed, stable or unstable work history. Include illegal work, e.g., pimping, dealing drugs as work. Also mention of student status.
15 Inform.	Mention of whether defendant has in past or present served as an informant for the court, police, or prosecutor.	Specific informant status, e.g., works regularly as police informant or informed re co-defendant.
16 Bail	Mention of defendant's <u>bail</u> status.	
17 Remorse	Mention of defendant's <u>remorse</u> or <u>lack of remorse</u> with respect to offense	Made statements about remorse, did not indicate remorse.
18 Prob's.	Mention that defendant has <u>problems</u> other than those specifically mentioned in 1 A-E.	
1A Psy.	Any mention of defendant's <u>psychiatric</u> or mental problems including suicidal incidents, retardation.	
1B Drg.	Any mention of <u>drug dependence</u> (not just use), or <u>alcoholism</u> .	
1C Finan.	Any mention of defendant's <u>financial difficulties</u> , need to be source of financial support to others, wanted by creditors.	
1D Fam.	Family problems <u>other than financial</u> , e.g., alcoholic spouse, pending divorce, handicapped child or spouse.	
1E Phys.	<u>Physical</u> problems, e.g., in wheelchair, heart condition.	
<b>OFFENSE CODES</b>		
20 Off. Char.	<u>Offense characteristics</u> mentioned that do not fall into categories 21-29.	

B-3

Intraconference Content Categories

<u>Abbreviation</u>	<u>Coding Definition</u>	<u>Additional Comments</u>
21 Facts	Mention of what happened (general circumstances) in offense	
22 Role	Mention of <u>defendants role</u> in the crime, e.g., accomplice, leader, follower of more experienced criminal	
23 Weap.	Mention of whether a <u>weapon</u> was used or not.	Breakdown of weapon type
24 Acq./Strang.	Mention of whether victim was <u>acquainted</u> with or a stranger to defendant or any discussion of victim and <u>defendant's relationship</u> .	Specific relationship codes, e.g., neighbor, ex-spouse, mother, etc.
25 Resp. Arrest	Mention of defendant's <u>response to the arrest</u> , e.g., hostile, cooperative	Specific codes on quality of defendant's response to arrest. Hostile, cooperative, etc.
26 Def. Inj.	Mention of defendant physical or psychological injury <u>during the offense</u>	Defendant may be injured by victim during offense
27 Prop. Dam.	Mention of amount of <u>property damage</u> caused by the defendant	Dollar ranges. Includes loss of income during or as a result of offense
28 Vict. Inj.	Mention of amount of <u>victim injury</u> , physical or psychological (code 26 if monetary), during or as a result of the offense	
29 Premed.	Mention of whether defendant planned offense ahead of time or not <u>Premeditation</u> .	Breakdown into premeditation, no premeditation
VICTIM CODES		
30 Vic Char.	General mention of any victim characteristics not appropriately coded 31-34	
31 Crim. his.	Mention of whether victim has a <u>criminal record</u> , juvenile or adult	Specific breakdowns such as felony vs. misdemeanor
32 Family Sta.	Mention of victim's marital status, e.g., married, single, divorced, separated; <u>family status</u> , e.g., living with parents, living with another, not married, etc. Also, mention of victim's children or lack of them.	Specific status. Separation of marital status living arrangements, and breadwinner responsibilities
33 Work Sta.	Mention of victims legitimate current or past employment history: <u>work status</u>	
34 Prob's.	Mention of victim having <u>problems</u>	
3A Psy.	Any mention of victim's psychiatric or mental problems, including suicidal incidents, retardation	
3B Drg.	Any mention of victim's <u>drug dependence</u> , or <u>alcoholism</u> (not simply use)	
3C Finan.	Any mention of victim's having <u>financial problems</u> (or lack of) or need to support others	
3D Fam.	<u>Family problems</u> other than financial, e.g., alcoholic spouse, pending divorce, handicapped child or spouse	
3E Phys.	<u>Physical problems</u> . Not related to offense, e.g., handicaps	

Intraconference Content Categories

<u>Abbreviation</u>	<u>Coding Definition</u>	<u>Additional Comments</u>
<b>BARGAIN CODES</b>		
40 Barg.	Bargaining-related behavior, general comments not appropriately coded 41-49	
41 G. Sent R	A <u>general</u> sentence recommendation (e.g., "he's got to do some time")	
42 S Sent R	A specific sentence recommendation (e.g., "2 yrs. + 3 months")	
43 Chg. R	Charge recommendation a specific or general recommendation about the defendant's charge(s) for the offense(s)	
44 Prece.	<u>Precedent</u> Mention about the generally accepted or common sentence or charge for offense and related circumstances	
45 Cond's.	<u>Conditions</u> A statement or question about the terms or tradeoffs or conditions of a settlement in the negotiation other than charge or sentence reduction	Can include restitution, deportation
46 Conv.	<u>Convictability</u> Statement about how likely defendant is to be convicted, at trial.	
47 Sent A.	<u>Sentence agreement</u> A statement or question about whether a sentence is agreeable	
48 Chg. A	<u>Charge agreement</u> A statement or question as to whether a charge is agreeable	
49 Add. info.	Statements indicating the need to obtain <u>additional information</u> to proceed with bargaining. Include need to obtain defendant's opinion of deal, pre-sentence investigation request	
<b>LEGAL PROCEDURE CODES</b>		
50 Proc.	General category for issues of <u>legal procedures</u> impacting the case that are not codeable in 51-59	
51 Rts.	Statement or question about the <u>rights</u> of the defendant	Specific rights mentioned
52 L. Prec.	Mention of a legal precedent affecting case	Specific precedent breakdown
53 Evid.	<u>Evidence statements.</u> Statements relating directly to the quality or availability of evidence (e.g., mention of police reports, victim statements, witness availability, lab reports, physical evidence, general quality of evidence or the suppression or inadmissibility of evidence)	
54 C def.	Mention that there are <u>co-defendants</u> involved in case	
55 Concur.	Mention of other cases pending against this defendant in any jurisdiction. <u>Concurrent cases</u>	
<b>ADMINISTRATIVE CODES</b>		
60 Admin. Code	General category for administrative details. E.g., where is the file? Have you filed motions on this case?	
99 Idle Chat.	Use to code chatter, stories that don't relate to case or unknowns. <u>Write comments</u> when using as "unknown."	
00 Silence	Silence. Nothing was being said	

B-5

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INTRACONFE E CODING FORM

Content Categories

- 10 Def. Codes
- 11 Def. age
- 12 Crim. his.
- 13 Fam. Sta
- 14 Wrk Sta.
- 15 Inform.
- 16 Bail
- 17 Remorse
- 18 Prob's
  - 1A. psy.
  - 1B. drg.
  - 1C. finan.
  - 1D. fam.
  - 1E. phys.
- 20 Off. Codes
- 21 Facts
- 22 Role
- 23 Weap.
- 24 Acq/Stran.
- 25 Resp. Arrest
- 26 Def. inj.
- 27 Prop. Dam.
- 28 Vic. Inj.
- 29 Premed.
- 30 V. Codes
- 31 Crim. his.
- 32 Fam. Sta.
- 33 Wrk. Sta.
- 34 Prob's
  - 3A. Psy.
  - 3B. Drg.
  - 3C. Finan.
  - 3D. Fam.
  - 3E. Phys.
- 40 Barg. Codes
- 41 G Sent. rec.
- 42 S Sent. rec.
- 43 Chg. rec.
- 44 Prec.
- 45 Cond's
- 46 Conv.
- 47 Sent agree?
- 48 Chg. agree?
- 49 Add. info.
- 50 Legal Proc.
- 51 Rights
- 52 L. Prec.
- 53 Evid.
- 54 Co-def.
- 55 Concur.
- 60 Admin. Code
- 99 Idle Chat
- 00 Silence

Case no. 1 2 3 4 5 6 7 8 9 10

Conference no. 11 12 13 14 15

Date M M D D Y Y  
16 17 18 19 20 21

Form no. 22 for this case

Coder initials 23 24

B-6

	Start Time		FROM	TO	STYLE	CONTENT			FROM	TO	STYLE	CONTENT
	Minutes	Seconds										
1	0	1 0	J ADVPCO	J ADVPCOE	? C	---	22	4 0	J ADVPCO	J ADVPCOE	? C	---
2	0	2 0	J ADVPCO	J ADVPCOE	? C	---	23	5 0	J ADVPCO	J ADVPCOE	? C	---
3	0	3 0	J ADVPCO	J ADVPCOE	? C	---	24	4 0 0	J ADVPCO	J ADVPCOE	? C	---
4	0	4 0	J ADVPCO	J ADVPCOE	? C	---	25	1 0	J ADVPCO	J ADVPCOE	? C	---
5	0	5 0	J ADVPCO	J ADVPCOE	? C	---	26	2 0	J ADVPCO	J ADVPCOE	? C	---
6	0	1 0 0	J ADVPCO	J ADVPCOE	? C	---	27	3 0	J ADVPCO	J ADVPCOE	? C	---
7	0	1 0	J ADVPCO	J ADVPCOE	? C	---	28	4 0	J ADVPCO	J ADVPCOE	? C	---
8	0	2 0	J ADVPCO	J ADVPCOE	? C	---	29	5 0	J ADVPCO	J ADVPCOE	? C	---
9	0	3 0	J ADVPCO	J ADVPCOE	? C	---	30	5 0 0	J ADVPCO	J ADVPCOE	? C	---
10	0	4 0	J ADVPCO	J ADVPCOE	? C	---	31	1 0	J ADVPCO	J ADVPCOE	? C	---
11	0	5 0	J ADVPCO	J ADVPCOE	? C	---	32	2 0	J ADVPCO	J ADVPCOE	? C	---
12	0	2 0 0	J ADVPCO	J ADVPCOE	? C	---	33	3 0	J ADVPCO	J ADVPCOE	? C	---
13	0	1 0	J ADVPCO	J ADVPCOE	? C	---	34	4 0	J ADVPCO	J ADVPCOE	? C	---
14	0	2 0	J ADVPCO	J ADVPCOE	? C	---	35	5 0	J ADVPCO	J ADVPCOE	? C	---
15	0	3 0	J ADVPCO	J ADVPCOE	? C	---	36	6 0 0	J ADVPCO	J ADVPCOE	? C	---
16	0	4 0	J ADVPCO	J ADVPCOE	? C	---	37	1 0	J ADVPCO	J ADVPCOE	? C	---
17	0	5 0	J ADVPCO	J ADVPCOE	? C	---	38	2 0	J ADVPCO	J ADVPCOE	? C	---
18	0	3 0 0	J ADVPCO	J ADVPCOE	? C	---	39	3 0	J ADVPCO	J ADVPCOE	? C	---
19	0	1 0	J ADVPCO	J ADVPCOE	? C	---	40	4 0	J ADVPCO	J ADVPCOE	? C	---
20	0	2 0	J ADVPCO	J ADVPCOE	? C	---	41	5 0	J ADVPCO	J ADVPCOE	? C	---
21	0	3 0	J ADVPCO	J ADVPCOE	? C	---	42	7 0 0	J ADVPCO	J ADVPCOE	? C	---

Final '23/80

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- 23 Weap.
- 24 Acq/Stran.
- 25 Resp. Arrest
- 26 Def. inj.
- 27 Prop. Dam.
- 28 Vic. Inj.
- 29 Premed.
- 30 V. Codes
- 31 Crim. his.
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  - 3B. Drg.
  - 3C. Finan.
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  - 3E. Phys.
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- 44 Prec.
- 45 Cond's
- 46 Conv.
- 47 Sent agree?
- 48 Chg. agree?
- 49 Add. info.
- 50 Legal Proc.
- 51 Rights
- 52 L. Prec.
- 53 Evid.
- 54 Co-def.
- 55 Concur.
- 60 Admin. Code
- 99 Idle Chat
- 00 Silence

Case no. 1 2 3 4 5 6 7 8 9 10

Conference no. 11 12 13 14 15

Date: M H D D Y Y  
16 17 18 19 20 21

Form no. 22 for this case

Coder initials 23 24

B-6

Start Time		FROM	TO	STYLE	CONTENT	FROM	TO	STYLE	CONTENT
Minutes	Seconds								
1	1 0	JADVPCO	JADVPCOE	? C	---	22	4 0	JADVPCO	JADVPCOE ? C
2	2 0	JADVPCO	JADVPCOE	? C	---	23	5 0	JADVPCO	JADVPCOE ? C
3	3 0	JADVPCO	JADVPCOE	? C	---	24	4 0 0	JADVPCO	JADVPCOE ? C
4	4 0	JADVPCO	JADVPCOE	? C	---	25	1 0	JADVPCO	JADVPCOE ? C
5	5 0	JADVPCO	JADVPCOE	? C	---	26	2 0	JADVPCO	JADVPCOE ? C
6	1 0 0	JADVPCO	JADVPCOE	? C	---	27	3 0	JADVPCO	JADVPCOE ? C
7	1 0	JADVPCO	JADVPCOE	? C	---	28	4 0	JADVPCO	JADVPCOE ? C
8	2 0	JADVPCO	JADVPCOE	? C	---	29	5 0	JADVPCO	JADVPCOE ? C
9	3 0	JADVPCO	JADVPCOE	? C	---	30	5 0 0	JADVPCO	JADVPCOE ? C
10	4 0	JADVPCO	JADVPCOE	? C	---	31	1 0	JADVPCO	JADVPCOE ? C
11	5 0	JADVPCO	JADVPCOE	? C	---	32	2 0	JADVPCO	JADVPCOE ? C
12	2 0 0	JADVPCO	JADVPCOE	? C	---	33	3 0	JADVPCO	JADVPCOE ? C
13	1 0	JADVPCO	JADVPCOE	? C	---	34	4 0	JADVPCO	JADVPCOE ? C
14	2 0	JADVPCO	JADVPCOE	? C	---	35	5 0	JADVPCO	JADVPCOE ? C
15	3 0	JADVPCO	JADVPCOE	? C	---	36	6 0 0	JADVPCO	JADVPCOE ? C
16	4 0	JADVPCO	JADVPCOE	? C	---	37	1 0	JADVPCO	JADVPCOE ? C
17	5 0	JADVPCO	JADVPCOE	? C	---	38	2 0	JADVPCO	JADVPCOE ? C
18	3 0 0	JADVPCO	JADVPCOE	? C	---	39	3 0	JADVPCO	JADVPCOE ? C
19	1 0	JADVPCO	JADVPCOE	? C	---	40	4 0	JADVPCO	JADVPCOE ? C
20	2 0	JADVPCO	JADVPCOE	? C	---	41	5 0	JADVPCO	JADVPCOE ? C
21	3 0	JADVPCO	JADVPCOE	? C	---	42	7 0 0	JADVPCO	JADVPCOE ? C

Appendix C

METHODOLOGY FOR THE VICTIM AND DEFENDANT SURVEYS

Methodology for the Victim and Defendant Surveys

I. INTRODUCTION

One of the major goals of the evaluation was to measure the attitudes of participants toward the criminal justice system generally and the structured plea negotiation conference in particular. To measure the attitudes of victims and defendants, we surveyed all victims and defendants with designated test and control cases that resulted in conviction. The survey was designed to ascertain whether there was a difference in attitudes between those victims and defendants who went to a structured plea negotiation conference (test case) and those whose cases were processed in the routine manner (control cases).

A self-administered mail survey was employed in order to survey the largest number of persons possible. This appendix describes the methodology used to field the survey to victims and defendants.

II. CASE-TRACKING PROCEDURES

The first step was to develop a procedure by which the sites would provide a list of all test and control cases at the time they were assigned to test or control status. All sites selected their test and control cases at the time a defendant was arraigned. (For an explanation of each site's sampling technique, see Chapter IV.) To conduct the survey, we required

the following data elements: case number, defendant name, number of co-defendants, charges, scheduled conference date, and indicator for test or control.

The arraignment lists were used to create a computerized record for each test and control case. The arraignment data was entered in Datatrieve (DTR), Digital Equipment Corporation's automated file management system for the PDP-11/70. Using an automated file management system facilitated the handling of large numbers of cases for both the victim and defendant survey and the case-jacket data collection portion of the evaluation.<sup>1</sup> By the end of the project, we had information in our files for 2,167 defendants in Wayne County, 1,610 defendants in Louisville, and 1,917 defendants in Clearwater.

Additional information subsequently added to the records included addresses and telephone numbers for victims and defendants and sentencing data, (charge(s) at conviction, date of sentencing, and place and length of incarceration, if applicable). Wayne County sentencing data were hand collected by a member of the site staff using court records. Louisville

---

<sup>1</sup> Over the years, INSLAW has developed an extensive protection system for computerized data. Access to the computerized records was controlled by a series of passwords and codes. The paper files that were used to create the computerized data were kept in a locked file cabinet, the key to which was available only to SPN staff. Paper records that were no longer needed were shredded, and computerized data that were no longer needed were deleted from the file.

and Clearwater both have automated case management systems that produced the sentencing data.

Survey packets sent to victims and defendants contained the following: 1) a cover letter explaining the purpose of the project and giving a number to call if the respondent had questions about the survey; 2) a prepaid return envelope; and 3) the questionnaire, identified by case number and defendant or victim number if the case had co-defendants or co-victims. Questionnaires were sent by certified mailed to maintain a record of who received the questionnaire, when, and at what address. Mailing date and return date were entered in Datatrieve, information necessary to calculate the response rate.

### III. SURVEY PROBLEMS

During Month 9 of the project, we discovered that the court records needed to hand collect sentencing data were often missing in Wayne County. To determine the extent to which court records (and therefore sentencing data) were missing, 175 Wayne County cases that should have already been disposed were randomly selected from our DTR files. We asked the SPN site staff to make a special effort to determine the disposition for each one. The results indicated that we were missing sentencing information for approximately 38 percent of convicted cases. For those cases, victims and defendants who should have been surveyed were not. The conviction rate is

approximately 84 percent. Yet our records show we received sentencing data for only 53 percent.

During Months 4 through 5 we noticed that we were receiving the names of a large number of people we suspected were not "true victims" according to the evaluation's definition of the term "true victim." For example, we had not anticipated that the sites would identify police officers as the victims in drug cases.

During that time, we worked with the sites to define "victim" (see Vol II:IV). For evaluation purposes we defined a "true victim" as a person who was directly injured physically, financially, or emotionally as a result of a crime. This excluded such people as retail store security guards in larceny cases, police officers in a "victimless crime" case, and government agents in welfare fraud cases.

#### IV. RESPONSE RATE

Tables C.1 through C.3 present the overall response rates for the survey of victims and defendants in the three sites.

The delivery rate (the rate at which respondents received the questionnaire) was about equal for all sites, an average of 69 percent. The return rate (the rate at which questionnaires were completed and returned to INSLAW) was slightly higher for victims (66 percent) than for defendants (60 percent). In Wayne County, victims were more likely to return their questionnaires than defendants (67 percent for victims versus

50 percent for defendants). In Louisville and Clearwater, victims and defendants returned the questionnaire at about the same rate. However, when we broke down the defendants into those who were incarcerated and those who were on probation, we found that incarcerated defendants were much more likely to return the questionnaire than either victims or defendants on probation. The average return rate for incarcerated defendants was 74 percent compared with 66 percent for victims and 51 percent for probationers. There are a number of obvious reasons for this. The incarcerated person has more available time to complete a questionnaire, has more need of the \$5.00 payment, and may see the questionnaire as an opportunity to express his dissatisfaction with his sentence.

The return rate for defendants in Wayne County was significantly lower than in the other two sites. (Wayne County 50 percent, Louisville 64 percent, and Clearwater 66 percent). We believe the lower response rate in Wayne County was due to the high percentage of offenders who were given probation. Seventy-two percent of all surveys mailed to Wayne County were mailed to defendants on probation, compared with 61 percent in Louisville and 51 percent in Clearwater. As discussed below, probationers were the least likely to respond.

During months 6 through 11 we conducted a substudy in Clearwater to determine the most effective method of encouraging nonrespondents to return their questionnaire. Using our computerized file, we identified all victims and

defendants who had not returned their questionnaire within eight weeks of its being mailed.

For incarcerated defendants we solicited the assistance of Florida's central reception and medical facility at Lake Butler. All incarcerated defendants go to Lake Butler before being assigned to a corrections facility. The staff at Lake Butler very generously assisted us in locating incarcerated defendants who had been transferred to other facilities. We then sent the respondent another questionnaire in care of his/her most current address. We found this method to be very successful.

For victims, we asked the SPN site staff to help locate a current address and telephone number. For defendants on probation, we obtained the assistance of the probation office in Clearwater, which provided a current address and/or telephone number for nonrespondent probationers.

Probationers and victims were telephoned when we had a current telephone number. We explained the importance of their answers to the study and encouraged them to return their questionnaire. This method was successful for improving victim response rate, but was less successful for probationers because we had operating telephone numbers for only a small number of probationers.

Victims and probationers for whom we had no telephone number were sent a brief letter explaining the project and the importance of their response. The letter asked them to complete an enclosed preprinted postcard that told us what

action to take in their case. We found this to be successful for victims, who frequently requested another questionnaire, which they subsequently completed and returned. However, it was less successful for probationers because again they were difficult to locate.

The Clearwater response study indicated which techniques were likely to be most effective in increasing the response rate. The following procedures were then used in all sites.

1. For incarcerated defendants we contacted the prison officials and asked for their assistance in locating the defendant, then sent the defendant another questionnaire. Because incarcerated defendants were the most likely to respond even without a follow-up effort, we expended the least effort locating these nonrespondents.

2. Probationers were the most difficult to locate and also the least likely to return the questionnaire. Therefore, we decided to concentrate our efforts on this group. We obtained the support of the probation department in each site and sent the probation office a second questionnaire for each nonrespondent probationer. The probation office then distributed the questionnaire, either in person if the probationer reported or mailed the questionnaire to the probationer's last current address. The results of this effort are shown in Table C.4.

This technique was most successful in Louisville, where 93 percent of the probationers who we know received the questionnaire returned it. It was least effective in Wayne County where only 21 percent returned the questionnaire. The effectiveness of the probation follow-up was very much a function of the Department of Corrections' jurisdiction over probationers. In Louisville, most probationers are required to report to the probation officer routinely and records are carefully maintained on each client. In Wayne County, on the other hand, a large proportion of probationers are given unsupervised probation and the office does not keep complete and accurate records for these clients. The probation office in Wayne County was unable to locate 30 percent of the nonrespondent probationers, compared with 18 percent for Louisville.

3. Victims were contacted by telephone, if possible, and encouraged to return the questionnaire if they had received it, or asked to complete one if they had not received the original one. We contacted an average of 35 percent of nonrespondent victims by phone. Of those contacted, an average of 43 percent returned a survey; Wayne County victims responded at the highest rate, 53 percent, and Louisville victims responded at the lowest rate, 35 percent. The results of the victim phone follow-up are shown in Table C.5.

Table C.1. OVERALL RESPONSE RATE: WAYNE COUNTY

	Victims		All Defendants		Incarcerated Defendants		Probated Defendants	
	N	%	N	%	N	%	N	%
Questionnaires Mailed	512		947		263		683	
Delivered	364	71	624	66	178	68	441	65
Of Those Delivered								
Returned	242	67	312	50	134	75	178	40
Of Those Returned								
Test	120	50	163	52	59	44	106	60
Control	122	50	149	49	75	56	72	40

Table C.2. OVERALL RESPONSE RATE: LOUISVILLE

	Victims		All Defendants		Incarcerated Defendants		Probated Defendants	
	N	%	N	%	N	%	N	%
Questionnaires Mailed	276		461		177		282	
Delivered	186	67	325	71	124	70	200	71
Of Those Delivered								
Returned	122	66	207	64	85	69	122	61
Of Those Returned								
Test	46	38	85	41	31	37	53	43
Control	76	62	122	59	54	64	69	57

Table C.3. OVERALL RESPONSE RATE: CLEARWATER

	Victims		All Defendants		Incarcerated Defendants		Probated Defendants	
	N	%	N	%	N	%	N	%
Questionnaires Mailed	603		1,139		547		592	
Delivered	440	73	770	68	380	70	390	66
Of Those Delivered								
Returned	292	66	505	66	299	79	206	53
Of Those Returned								
Test	160	55	257	51	146	49	113	55
Control	132	45	248	49	153	51	93	45

Table C.4. PROBATION NONRESPONDENT FOLLOW-UP

	Wayne County		Clearwater		Louisville	
	N	%	N	%	N	%
Nonrespondents	228		241		160	
Postcards Returned	73	32	140	58	94	59
Probationers Received Second Questionnaire	48	21	88	36	72	45
Of Those Who Received Second Questionnaire:						
Surveys Returned	10	21	44	50	67	93
Percentage of Nonrespondents Who Returned a Questionnaire		4		18		42

Table C.5. VICTIM NONRESPONDENT FOLLOW-UP

	Wayne County		Clearwater		Louisville	
	N	%	N	%	N	%
Nonrespondents	152		84		227	
Phone Available	90	59	52	62	43	19
Of Those With Phone:						
Contacted	30	33	17	33	17	40
Of Those Contacted:						
Questionnaire Returned	16	53	6	35	7	41

Appendix D  
BACKGROUND CHARACTERISTICS OF THE  
VICTIM SURVEY SAMPLE

Background Characteristics of the Victim Survey Sample

Table D.1 presents the self-reported background characteristics of test victims who were invited and those who were not invited to attend an SPN conference. In each site, victims who were invited were very similar to those who were not invited. In all sites the majority of both invitees and noninvitees were white men who had completed high school or some college and who were employed full-time when they responded to the survey. The one exception to this was in Louisville, where a majority of the invitees were females. However, the differences remain small. Although the average age of invitees and noninvitees was between 35.5 and 43.0, there was a considerable range of ages in each group. Victim respondents included persons in their teens through their mid-eighties.

The results in Table D.2 show that test victims who attended an SPN conference and control victims were for the most part similar. Test and control victims tended to be white males, and 50 percent or more in each site were employed full-time at the time of the survey. However, there were some differences between test and control victims. Test victims in Louisville appeared to be less-well educated than control victims, and in Louisville and Clearwater control victims were more likely to have a household income of \$40,000, whereas the opposite was true in Wayne County. None of these differences approached statistical significance, however.

Table D.2. BACKGROUND CHARACTERISTICS OF TEST AND CONTROL VICTIMS

	Wayne County		Louisville		Clearwater	
	Test (N=18)	Control (N=102)	Test (N=18)	Control (N=53)	Test (N=65)	Control (N=105)
<u>Sex</u>						
Male	61%	64%	67%	62%	61%	59%
<u>Race</u>						
White	88%	88%	89%	79%	92%	95%
Black	12	7	11	21	6	5
Other	0	4	0	0	2	0
<u>Education</u>						
No HS Degree	18%	19%	50%	15%	11%	16%
HS Grad	18	34	22	32	40	27
Beyond HS	65	47	28	53	49	57
<u>Household Income</u>						
10K	13%	24%	17%	24%	16%	26%
10-39K	38	56	78	58	77	56
40+K	50	20	6	18	8	18
<u>Employed Full Time</u>						
Employed Full Time	50%	64%	61%	60%	69%	63%
<u>Mean Age</u>						
Mean Age	45.9	37.2	34.8	36.6	41.6	43.9
<u>Age Range</u>						
Age Range	14-75	15-88	18-62	14-72	16-78	17-84

(N may vary slightly due to missing information.)

Table D.1. BACKGROUND CHARACTERISTICS OF INVITED AND NON-INVITED TEST VICTIMS IN PERCENTAGES

	Wayne County		Louisville		Clearwater	
	Not Invited (N=69)	Invited (N=44)	Not Invited (N=20)	Invited (N=24)	Not Invited (N=51)	Invited (N=93)
<u>Sex</u>						
Male	64%	60%	65%	42%	65%	60%
<u>Race</u>						
White	90%	93%	90%	92%	100%	93%
Black	7	5	10	8	0	7
Other	3	2	0	0	0	0
<u>Education</u>						
No HS Degree	16%	14%	10%	42%	12%	14%
HS Grad	36	19	30	17	22	31
Beyond HS	48	67	60	42	66	56
<u>Household Income</u>						
10K	28%	17%	16%	25%	22%	23%
10-39K	55	56	74	67	69	69
40+K	16	27	11	8	8	8
<u>Mean Age</u>						
Mean Age	40.8	43.0	35.9	35.5	38.8	42.7
<u>Age Range</u>						
Age Range	18-77	14-84	19-67	18-64	17-79	16-85
<u>Employed Full Time</u>						
Employed Full Time	64%	59%	70%	63%	77%	68%

(N may vary slightly due to missing information.)

Appendix E

CASE DATA COLLECTION METHODOLOGY

Case Data Collection Methodology

Case data, including characteristics of the defendant, victim, and offense and processing information from arrest to disposition, were gathered for all cases designated test or control in the three participating jurisdictions. In general, the samples represent non-excluded (from the experiment) cases from calendar year 1981.

In Wayne County, data were collected from the prosecutors' case files, the court case files, and the SPN site staff's files. In Louisville, data were collected from the prosecutors' case files, court docket cards, the pretrial services' files, and the SPN site staff's files. In Clearwater, data were collected from the prosecutors' case files, the automated case information system, and from the SPN site staff's files. Coders in each site were trained to collect the information using the data collection instrument designed by the evaluators.

Case files were not always available. Table E.1 lists the proportion of coded and missing cases.

Table E.1. CASE DATA CODED FOR THE EVALUATION

	<u>N</u>	<u>Coded</u>	<u>Open Test Cases</u>	<u>Open Control Cases</u>	<u>Missing</u>	<u>Fugitive/ Excluded</u>
<u>Wayne County</u>	2,168	81%	7%	3%	3%	5%
Test	1,137					
Control	1,031					
<u>Louisville</u>	1,307	61%	11%	24%	3%	2%
Test	444					
Control	863					
<u>Clearwater</u>	1,915	85%	7%	3%	2%	3%
Test	1067					
Control	848					

LOUISVILLE:

Prosecutor Files Coded \_\_\_\_\_

SPN Files Coded \_\_\_\_\_  
(for test cases only)  
Court Files Coded \_\_\_\_\_  
Bail Files coded \_\_\_\_\_

1. Defendant's race \_\_\_\_\_ (12)  
1. white 2. black 3. hispanic  
8. other, specify \_\_\_\_\_

2. Defendant's sex \_\_\_\_\_ (13)  
1. male 2. female

3. Defendant's date of birth \_\_\_\_\_ (14-19)  
Y Y M M D D

4. Charges and counts at indictment/information:  
a. Total number of indict/info \_\_\_\_\_ (20-21)  
b. Total number of counts on original indict/info \_\_\_\_\_ (22-23)  
c. List the first five charges at indict/info:

Counts	Statute #	Search Code	Max. Sentence (months)	Reduce
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____
5. _____	_____	_____	_____	_____

(24-53)

Max. Sentence  
555 = indeterminate (PFO)  
666 = fine, no time served  
777 = death  
888 = life

Prosecutor's Sentence Recommendation:

Revised 3-5-82

5. Did this case result in conviction? \_\_\_\_\_ (54)

1. No (skip to 7) \_\_\_\_\_ 2. Yes  
1. If Yes: Charges and counts at convictions:  
a. Total number of charges at conviction \_\_\_\_\_ (55-56)  
b. Total number of counts at conviction \_\_\_\_\_ (57-58)  
c. List the first five charges at conviction:

Counts	Statute #	Search Code	Max Sentence
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____

(59-83)

6. What was the sentence? Be as explicit & complete as possible. Use back of page if necessary. (Print clearly) \_\_\_\_\_ (84-86)

7. What was the final disposition? \_\_\_\_\_ (87-88)

GUILTY  
1. by plea (includes nolo contendere)  
2. by jury  
3. by judge  
4. this case was combined with another case in which the defendant was found guilty in the other case and this case was dismissed or combined.

NOT GUILTY  
5. by jury  
6. by judge

DISMISSED  
7. by prosecutor (includes nolle prosequi)  
8. by judge

OTHER DISPOSITION

10. specify other disposition \_\_\_\_\_  
11. adjudication withheld \_\_\_\_\_

Case # \_\_\_\_\_

8. What type of defense attorney represented the defendant at final disposition? Attorney Name: \_\_\_\_\_ (89)  
1. Public defender      2. Private retained  
3. Court appointed      8. Other, specify \_\_\_\_\_

9. What type of bail was ordered between arrest and District Court arraignment? \_\_\_\_\_ (90)  
1. bail denied and/or pretrial detention  
2. monetary bond  
3. released on own recognizance (ROR)  
4. released to third party  
8. other, specify \_\_\_\_\_

10. What was defendant's status before arraignment? \_\_\_\_\_ (91)  
1. in jail                      2. released  
8. other, specify \_\_\_\_\_

11. What was defendant's status before final disposition? \_\_\_\_\_ (92)  
1. in jail                      2. released  
8. other, specify \_\_\_\_\_

12. Does the defendant have a prior juvenile and/or adult arrest record? \_\_\_\_\_ (93)  
1. No (skip to 15)      2. Yes  
If yes: a) Total number of prior arrests \_\_\_\_\_ (94-95)  
b) Number of prior arrests for crimes against persons (rape, robbery, assault) \_\_\_\_\_ (96-97)  
c) Number of arrests for escape \_\_\_\_\_ (98)

13. Does the defendant have prior juvenile and/or adult conviction record? \_\_\_\_\_ (99)  
1. No (skip to 15)      2. Yes  
If yes: a) Total number of prior convictions \_\_\_\_\_ (100-101)  
b) Number of prior convictions for crimes against persons (rape, robbery, and assault) \_\_\_\_\_ (102-103)  
c) Has defendant ever been incarcerated before this offense \_\_\_\_\_ (104)  
1. No, no mention      2. Yes  
If yes, a) Total time served in months \_\_\_\_\_ (105-107)  
b) Defendant's age at first commitment \_\_\_\_\_ (108-109)

14. Has the defendant ever had parole or probation revoked? \_\_\_\_\_ (110)  
1. no, no mention      2. Yes  
If yes: Total number of times parole/probation have been revoked \_\_\_\_\_ (111-112)

15. Was this case originally chosen as test or control? \_\_\_\_\_ (113)

1. Test                      2. Control  
If test case, which of the following occurred? \_\_\_\_\_ (114)

1. SPNC was held and agreement was reached  
2. SPNC was held but agreement was not reached  
3. No SPNC was held  
If SPNC was not held, why not? \_\_\_\_\_ (115)

1. Judge or prosecutor absent on day of conference  
2. Defense attorney absent on day of conference  
3. Defendant/Defense attorney refused conference  
4. PTI/Diversion  
5. Prosecutor refused conference (severity of offense, nature of defendant)  
6. Pled guilty prior to conference  
7.  
8. Other, specify \_\_\_\_\_  
9. No reason given

E-4

CODE BOOK

16. How many days did the defendant spend in jail awaiting trial for this case? (If defendant is in jail for another case code 888. If unknown code 999) \_\_\_\_\_ (116-118)

17. Names of Judges at various stages: (code 88 if not applicable; code 99 if unknown)

- a. 1st Scheduled trial judge (codes) \_\_\_\_\_
- b. Disposition judge (codes) \_\_\_\_\_
- c. Sentencing judge (codes) \_\_\_\_\_
- d. Actual SPN judge (codes) \_\_\_\_\_

- 74 = Anderson - 3
- 75 = Burton - 7
- 76 = Eckert - 1
- 77 = Higgins - 13
- 78 = Hopson - 8
- 79 = Kunzman - 16
- 80 = Liebson - 9
- 81 = McDonald - (old 7)
- 82 = Mudd - 6
- 83 = Nicholson - 14
- 84 = O'Bannon - 5
- 85 = Oldham - 2
- 86 = Peers - 11
- 87 = Revel - 4
- 89 = Ryan - 10
- 90 = Shobe - 15
- 91 = Stephenson - (old 11)
- 92 = Written - 12
- 93 = Keith

88 = not applicable  
99 = unknown

18. Was a presentence investigation (PSI) report requested or received? \_\_\_\_\_ (127)

- 1. No, no mention
- 2. Requested
- 3. Received
- 4. Waived

19. Were other cases combined with this case? \_\_\_\_\_ (128)

- 1. No, no mention
- 2. Yes

If yes, list the top charge for the first three cases:

	Charge	Statute #	Search Code	Max Sentence	
1.	_____	_____	_____	_____	
2.	_____	_____	_____	_____	
3.	_____	_____	_____	_____	(129-153)

20. Number of cases resulting from another criminal incident pending in Pinellas County against this defendant during the processing of this case: \_\_\_\_\_ (154-155)

21. Was a preliminary hearing (exam) held in the District Court?  
1. no.                      2. Yes                      9. Unknown                      \_\_\_\_\_ (156)

22. At the time of the offense was the defendant: \_\_\_\_\_ (157)

- 1. Employed full time
- 2. Employed part time
- 3. Student full time
- 4. Housewife
- 5. Disabled/Unable to work
- 6. Retired
- 7. Unemployed or in jail
- 8. Other, specify \_\_\_\_\_
- 9. Unknown

23. Defendants Living Arrangements: \_\_\_\_\_ (158)

- 1. living with relatives (parents, children, spouse)
- 2. co habiting with lover
- 3. living with non-relatives (roommates, dormitory, group house)
- 4. living alone fixed abode (hotel, apt, boarding house)
- 5. alone, no fixed abode
- 6. Institution (correctional, mental, hospital)
- 7. military
- 9. unknown

24. Is the defendant receiving public assistance? \_\_\_\_\_ (159)

- 1. No, no mention      2. Yes

25. Were any of the following mentioned by judge or prosecutor as a problem for the defendant? (Place a "1" next to those that were mentioned as problems. Place a "0" next to those that were not mentioned.)

- a. psychological . . . . . \_\_\_\_\_
- b. drug/alcohol . . . . . \_\_\_\_\_
- c. financial . . . . . \_\_\_\_\_
- d. family . . . . . \_\_\_\_\_
- e. physical . . . . . \_\_\_\_\_ (160-164)

VICTIM CHARACTERISTICS

For Q26-29, if more than one victim, choose the one closest to the offense, or the victim with the most information available.

26. Which of the following best describes the type of victim involved in this case: \_\_\_\_\_ (165)

- 1. Victim suffered physical or emotional injury or monetary damages (includes small business owner)
- 2. Bank, corporation, church, school, or major retail store suffered damages or financial loss
- 3. State, local, federal government suffered damages or financial loss
- 4. Case is a "victimless" crime (drugs, gambling, carrying concealed weapon, negligent driving, prostitution)
- 9. Unknown

} if 2, 3, 4, or 9  
SKIP TO Q33.

27. Victim's name: \_\_\_\_\_ (last name first)

28. Victim's sex: \_\_\_\_\_ (166)

- 1. Male      2. Female      9. Unknown

29. Victim's race: \_\_\_\_\_ (167)

- 1. Black
- 2. White
- 3. Hispanic
- 4. Other, specify \_\_\_\_\_
- 9. Unknown

30. Date of birth: \_\_\_\_\_ (168-173)

Y   Y   M   M   D   D

31. Which of the following best describes the victim's role? \_\_\_\_\_ (174)

- 1. innocent of all involvement
- 2. victim indirectly involved in incident
- 3. victim directly provoked the defendant
- 4. victim was charged with a crime in conjunction with this case
- 9. Unknown

32. At the time of the offense was the victim: \_\_\_\_\_ (175)

- 1. Employed full time
- 2. Employed part time
- 3. Student full time
- 4. Housewife
- 5. Disabled/Unable to work
- 6. Retired
- 7. Unemployed
- 8. Other, specify \_\_\_\_\_
- 9. Unknown

33. Print all other victims and/or complainant names (last name first) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

34. Did the SPN project staff identify a victim in this case? \_\_\_\_\_ (176)

- 1. No      2. Yes      9. Unknown

Is the victim the same as the victim named in Q27 or Q33? \_\_\_\_\_ (177)

- 1. No      2. Yes      3. N/A (victimless crime)

If no, print the name of the victim identified.  
\_\_\_\_\_

EVIDENCE

35. Did the defendant or an accomplice make a confession? \_\_\_\_\_ (178)

- 1. No, not stated
- 2. Yes, before first court appearance
- 3. Yes, before final disposition

36. Number of witnesses available at arraignment (Detroit, Clearwater)/indictment (Louisville): \_\_\_\_\_ (179-180)

37. Number of each type of witness at arraignment/indictment:

- a. Victim: \_\_\_\_\_
- b. Complaining witness: \_\_\_\_\_
- c. Other lay witnesses: \_\_\_\_\_
- d. Police officer & police staff \_\_\_\_\_
- e. Expert Witness \_\_\_\_\_

(181-190)

38. Place a "1" in the blank next to any of the types of incriminating evidence available. Place a "0" next to any type that was not available.
- a. Photographs . . . . . \_\_\_\_\_
  - b. Positive lineup identification (include photo pak ID) . . . . . \_\_\_\_\_
  - c. Weapon recovered . . . . . \_\_\_\_\_
  - d. Stolen property recovered . . . . . \_\_\_\_\_
  - e. Positive lab tests (positive fingerprint tests). . . . . \_\_\_\_\_
  - f. Physical evidence . . . . . \_\_\_\_\_
  - g. Other, specify \_\_\_\_\_ . . . . . \_\_\_\_\_ (191-197)

39. According to the prosecutor, was there evidence to help prove defendant's innocence or that the case was weak? \_\_\_\_\_ (198)
- 1. No, no mention
  - 2. Yes

OFFENSE DESCRIPTION

40. Number of other defendants charged in this incident: \_\_\_\_\_ (19)-200)
41. You should have a codesheet for each defendant with this same case number. If you do not, check with supervisor.
42. According to the prosecutor, what is the best description of the role of the defendant in this offense? \_\_\_\_\_ (201)
- 1. Primary role
  - 2. Subordinate role (assistant)
  - 3. Co-equal
  - 9. Unknown

43. Was a weapon used by the defendant in the commission of this crime? \_\_\_\_\_ (202)
- 1. No, no mention (skip to Q46)
  - 2. Yes, visible
  - 3. Yes, implied or concealed
44. How was the weapon used? \_\_\_\_\_ (203)
- 1. threat only
  - 2. attack or discharged
  - 9. unknown
45. What type of weapon was used? \_\_\_\_\_ (204)
- 1. firearm
  - 2. knife
  - 8. other, specify \_\_\_\_\_
46. Was there injury to persons other than the defendant(s) in this case? \_\_\_\_\_ (205)
- 1. No, no mention
  - 2. Yes
  - a. If yes, number of persons receiving minor injuries but not treated: \_\_\_\_\_
  - b. number of persons treated and released: \_\_\_\_\_
  - c. number of persons hospitalized: \_\_\_\_\_
  - d. number of persons killed: \_\_\_\_\_ (206-213)
47. Number of victim(s) threatened or intimidated: \_\_\_\_\_ (214-217)
- a. Physically or verbally only: \_\_\_\_\_
  - b. By a weapon: \_\_\_\_\_
48. Number of victims of forcible sexual intercourse: \_\_\_\_\_ (218-219)
49. Number premises forcibly entered: \_\_\_\_\_ (220-221)
50. Number of motor vehicles stolen: \_\_\_\_\_ (222-223)

51. Did the offense involve theft, damage or destruction or property? \_\_\_\_\_ (224)

1. No, no mention      2. Yes

If yes, value of property stolen, damaged, or destroyed (estimate if necessary): \_\_\_\_\_ (225)

1. Under \$10
2. \$10 - \$250
3. \$251 - \$2,000
4. \$2,001 - \$9,000
5. \$9,001 - \$30,000
6. \$30,001 - \$80,000
7. Over \$80,000
9. Unknown

BARGAINING PROCESS

52. Was there a plea negotiation in this case? \_\_\_\_\_ (226)

1. No, no mention (SKIP TO Q58)      2. Yes (GO ON TO Q53)

53. Was there a sentence bargain made in exchange for a guilty plea? \_\_\_\_\_ (227)

1. No, no mention
2. Yes, type of sentence (e.g., probation, incarceration)
3. Yes, both type and length of sentence
4. Yes, delayed or deferred sentence (HYTA, 771.1, 7411.347)

54. Which of the following describes the prosecutor's action in the bargain: \_\_\_\_\_ (228)

1. The prosecution will not speak in aggravation of the sentence
2. The prosecution will agree not to oppose probation
3. The prosecution made a specific recommendation to the judge regarding the length and/or type of sentence
4. none of the above (HYTA)

55. Was there a charge bargain or was a recommendation concerning the charges made in exchange for a guilty plea? \_\_\_\_\_ (229)

1. No, no mention
2. Yes, offer to reduce or dismiss the most severe charge
3. Yes, offer to reduce or dismiss lesser charge(s)
4. Yes, offer to reduce or dismiss counts
5. Yes, offer to dismiss this or another case if defendant pled guilty in this or another case.

56. Was something else bargained or recommended in exchange for a guilty plea? \_\_\_\_\_ (230)

1. No, no mention
2. Yes, defendant must receive treatment
3. Yes, defendant must make retribution
8. Yes, other, specify \_\_\_\_\_

57. Was something else bargained that was not described above? \_\_\_\_\_ (231)

1. No      2. Yes, adjudication withheld

8. Yes, other, please describe \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6 58. MOTIONS

Type/Action

Type of Motion = 1st digit

- 1 = Discovery \_\_\_\_\_
- 2 = Quash/Suppress Evidence  
or Deposition \_\_\_\_\_
- 3 = Dismiss or Discharge case  
or counts \_\_\_\_\_
- 4 = Reduce Bail or Change  
Conditions of Release \_\_\_\_\_
- 5 = Mental/Physical Exam \_\_\_\_\_
- 6 = Separate/Severe counts  
and/or indictments \_\_\_\_\_
- 7 = Continuance \_\_\_\_\_
- 8 = Other, Specify \_\_\_\_\_
- 9 = Severe or separate defendants \_\_\_\_\_

Action Taken = 2nd digit

- |           |                       |               |              |
|-----------|-----------------------|---------------|--------------|
| Defense { | 1 = requested (filed) | 3 = requested | } Prosecutor |
|           | 2 = granted           | 4 = granted   |              |

EXAMPLE:

- 11 = Discovery motion requested by defense
- 22 = Suppress evidence motion granted to defense
- 13 = Discovery motion requested by prosecutor

59. Was this a pilot case? \_\_\_\_\_ (254)

- 1. No
- 2. Yes

60. DATES & CODES

1. Put all dates in the following format:  
YYMMDD
2. Code the activity & type of activity as follows:

Type of Activity = 1st digit

- 1 = scheduled
- 2 = occurred

Activity = 2nd & 3rd digit

- 01 = arrest (use date of warrant recommendation  
if arrest date is not available)
- 02 = offense
- 03 = arraignment
- 04 = sentencing
- 05 = SPN conference
- 06 = trial
- 08 = disposition
- 10 = pretrial
- 11 = hearing
- 12 = referred to PTI
- 13 = information filed
- 14 = preliminary hearing
- 15 = defendant appeared in court w/o scheduled event

EXAMPLE:

<u>DATE</u>	<u>CODE</u>	
8 1 / 0 3 / 0 6	1 0 6	Date Trial Scheduled
8 1 / 0 3 / 2 8	2 0 6	Date Trial Occurred

(255 to end)

**END**