PRESS

SYSTEM DEVELOPMENT PLAN

FOR THE IMPROVEMENT OF COURTS, PROSECUTION AND LAW REFORM

Prepared By
The Courts Task Force Of The
California Council on Criminal Justice

September 22, 1972
(Reprinted November 1972)

THE CALIFORNIA COURT SYSTEM

TABLE OF CONTENTS

CALIFORNIA COUNCIL ON CRIMINAL JUSTICE

HON. EVELLE J. YOUNGER, Chairman
Attorney General
State of California

DR. C. ROBERT GUTHRIE, Vice Chairman
Professor of Criminology
State College of Calif., Long Beach

HON. ARTHUR ALARCON, Judge
Los Angeles County Superior Court

WAYNE H. BORNHOFT
Chief of Police
Fullerton, California

ALLEN F. BREED, Director
Department of Youth Authority

EARL BRIAN, M.D. Secretary
Health and Welfare Agency

PAUL CARUSO, Attorney

BERNARD J. CLARK, Sheriff
Riverside County

JOHN T. CONLAN
Board of Supervisors
Ventura County

HON. GEORGE DEUKMEJIAN
Senator, 37th District

DOUGLAS F. DOLLARHIDE
Mayor, City of Compton

ROBERT G. ECKHOFF, Public Defender
Santa Barbara County

HERBERT E. ELLINGWOOD
Legal Affairs Secretary
Governor's Office

KENNETH F. FARE
Chief Probation Officer
San Diego County

HOWARD GARDNER,
Asso. Director, Emeritus
League of California Cities

HON. ARLEN GREGORIO
Senator, 12th District

HON. HARVEY JOHNSON
Assemblyman, 58th District

HON. JOAN DEMPSEY KLEIN, Judge
Municipal Court, Los Angeles

RALPH N. KLEPS, Director
Administrative Office of the Courts
Judicial Council of California

PATRICK G. LAPOINTE
Board of Supervisors
Shasta County

DAVID LUCE, District Attorney
Lakeport, California

JACK MERELMAN
General Counsel and Manager
County Supervisors Association

GENE S. MUEHLEISEN, Executive Off.
Commission on Peace Officer
Standards and Training

CECIL POOLE, Attorney

RAYMOND K. PROCUNIER, Director
Department of Corrections

WALTER PUDINSKI, Commissioner
California Highway Patrol

HON. ALAN SIEROTY
Assemblyman, 59th District

HON. CHARLES WARREN
Assemblyman, 56th District

ROBERT LAWSON
Executive Director

IMPROVEMENT OF PROSECUTION, COURTS AND LAW REFORM

TASK FORCE

HERBERT E. ELLINGWOOD, Chairman
Legal Affairs Secretary
Governor's Office

HON. HERBERT L. ASHBY
Associate Justice
Court of Appeal

LOREN BECKLEY
Chief Probation Officer
San Mateo County

HAROLD BRADFORD
Legislative Representative
State Bar of California

HON. TOM CALDECOTT
Associate Justice
Court of Appeal

HON. GEORGE DEUKMEJIAN
Senator, 37th District

ROBERT ECKHOFF
Public Defender
Santa Barbara County

AUSTIN B. EWELL
Attorney

VERNON L. GROSE, Vice President
Tustin Institute of Technology

ROBERT GYEMANT
Attorney

BYRON KANE
Executive Officer and Clerk
Ventura County Municipal Court

FLORENCE LINN, Head
Research and Training Division
L.A. County District Attorney's Office

VIRGIL MEIBERT
Chief Editorial Writer
Oakland Tribune

DAVID PEREZ
Senior Assistant City Attorney
Los Angeles

JON D. SMOCK, Assistant Director
Judicial Council of California

HON. GEORGE W. TRAMMEL
Judge of the Los Angeles Municipal Court District

SYSTEMS PLANNING SUBCOMMITTEE

HERBERT E. ELLINGWOOD, Chairman
HON. HERBERT L. ASHBY
ROBERT ECKHOFF
VERNON L. GROSE
FLORENCE LINN
JON D. SMOCK
HON. GEORGE W. TRAMMEL

CCCJ COURTS SECTION

DOUGLAS M. PHILLIPS, Chief
LARRY A. ALAMAO, Editor
PHILIP A. STEINER
LARRY KREIG
SHERYL CARTER
DIANA L. MARTIN

INTRODUCTION

INTRODUCTION

Increased concern over crime in America has resulted in a searching and critical examination of the criminal justice system. Recently, that examination has focused upon the judicial process. The courts are frequently criticized for their performance in criminal justice. Much of the concern with the courts stems from a lack of understanding of the American judicial system and a failure to appreciate the tremendous workloads and pressures facing our courts. Regardless of the reasons for this public disenchantment, the court system is receiving a mandate from the public to improve its operation.

The judicial process possesses a unique characteristic not generally found in other elements of the criminal justice system: The adversary process. The philosophy behind the adversary process is based on the assumption that truth can best be ascertained through the efforts of two opposing sides engaged in a form of combat before an impartial observer. This philosophy is the result of experience dating back to the days of trial by combat. The adversary process, when properly used, continues to be the best means of determining truth and securing justice. However, it is important that the participants in the adjudication process recognize that, while interests and processes may be adverse, the goals of all involved are common. This recognition is vitally necessary to the continued operation of the judicial process. This recognition is also a prerequisite to any measures designed to improve the system.

Public concern over the performance of the judicial system should be regarded by all members of that system as a call to action. The public is demanding that its system of justice perform its function. That demand underlines the necessity of each person engaged in the judicial process performing his responsibilities conscientiously and efficiently.

The courts are a pivotal point in the criminal justice system, serving as the link between apprehension and correction. The court system is also much more. There are no less than three major, critical decisions which may be made while a case comes under the jurisdiction of the courts system: 1) The prosecutor's decision to charge, which charges to file, how many counts to allege and the degree of the charges, 2) the determination of guilt or innocence or the decision to accept or reject a plea, and 3) the determination of what sentence will be imposed following conviction. The implications of all these decisions upon the accused are evident. These decisions also affect the criminal justice system itself.

The workloads of the correctional system are determined by conviction and sentence. Workloads of law enforcement are, in part, determined by the temporary removal or the failure to remove offenders from society.

The court system, including prosecutors and defenders, can be an important element in the deterrance of criminal behavior. Length of sentence and type of sentence are effective as deterrents to criminal activities only when there is a certainty that once apprehended, an offender will be tried quickly and fairly. Further, the public and potential offenders can easily lose faith and respect for a criminal justice system which allows delays of sometimes up to two years from apprehension to trial. Attempts to ameliorate the situation through negotiated pleas lose their effectiveness when, because of backlogs and large caseloads, the nature of dispositions is dictated by the size of the court calendar rather than the merits of the case. Both the public and the accused have a right to a speedy trial and a just disposition. The Omnibus Crime Control and Safe Streets Act program has, with some exceptions, failed to provide any significant assistance to the court system. By concentrating its efforts on other elements of the system, the Safe Streets Program has frequently caused additional problems for the courts, especially where grant project activities have resulted in increased arrests. Improved treatment programs are of little value if harried judges, prosecutors and defenders are either unaware or unable to take advantage of them.

The CCCJ System Development Funds were allocated to improvement of the courts system partly in recognition of previous neglect, partly in recognition of the importance of the judicial system and partly in recognition of the potential impact such funds will have upon that system. There has never been a better time for assisting in the improvement of the court system. Both the public and many members of the judicial system itself are committed to such improvement. So much has been done in identifying deficiencies and possible improvement programs that the judicial system is now ready to undertake ambitious steps to improve its role in the administration of criminal justice.

The following material is the result of the efforts of a variety of representatives of the judicial system to devise a plan for expenditure of system development funds. The plan consists of a brief description of the courts system, a listing of judicial system problems and a list of proposed solutions. While the authors of the plan believe it to be a comprehensive document, they make no claim that the plan has exhausted all of the available possibilities. Further, this document is, by necessity, only an outline. To adequately discuss the judicial process would require many volumes. It is important to recognize that meaningful change will require more than a commitment of funds, federal or otherwise. Lasting reform will occur only when judges, attorneys, legislaturs and the public become committed to the improvement of the judicial process.

The following document was prepared primarily to assist the California Council on Criminal Justice in providing funds for the improvement of courts, prosecutors and defenders.

THE CALIFORNIA COURT SYSTEM

The Constitution of the State of California provides that the judicial power of the State is vested in a Supreme Court, Courts of Appeal, Superior Courts, Municipal Courts, and Justice Courts (Art. VI, Sec. 1). Provision is also made for a Judicial Council (Art. VI, Sec. 6), a Commission on Judicial Appointments (Art. VI, Sec. 7), and a Commission on Judicial Qualifications (Art. VI, Sec. 8).

The California State Judicial System has the distinction of being the largest in the United States. In 1971, it had a total of 372 courts and 1,087 authorized judgeships. Criminal and civil filing exceeded 13.4 million, with matters disposed of by the court totaling 12 million. The total annual cost for these courts runs approximately $250 million.

CALIFORNIA'S APPELLATE COURT SYSTEM

SUPREME COURT

The Supreme Court is California's highest court. It serves as the state's court of final appeal and consists of a Chief Justice and six Associate Justices. All seven of the Justices hear each case, with each case decided by a majority vote. The members of the court are appointed or nominated by the Governor; they must be confirmed by the Commission on Judicial Appointments. Supreme court justices run on their own record, unopposed, with a majority of "yes" votes required for reelection. The term of office is 12 years. Any vacancies are filled by the Governor.

The court has original jurisdiction in habeas corpus proceedings and in cases involving extraordinary writs, such as mandamus and prohibition. The court may transfer to itself cases which involve major issues of law and cases on which lower courts differ, thereby providing uniformity of decision.

Since the Supreme Court is the final decisionmaker for uniform application of law, the burden of the ever-increasing number of appeals cannot be reduced by increasing judges at this level. Rather, the court must select the cases it will hear on discriminating basis. Thus, approximately 90 per cent of all petitions for hearing from the intermediate appellate courts are denied.

The Supreme Court holds regular sessions in San Francisco, Los Angeles and Sacramento. The Supreme Court has 3,179 new filings for the new year, 1970-71, of which 2,198 were petitions for hearing in cases decided by the Courts of Appeal.

COURTS OF APPEAL

The Courts of Appeal are California's intermediate appellate courts. The Constitution provides that they have appellate jurisdiction in all cases where the Superior Courts have original jurisdiction.

There are five Court of Appeal districts (San Francisco, Los Angeles, Sacramento, San Diego/San Bernardino, and Fresno), each serving a separate geographical area. Each district is divided into one or more divisions, with each division operating as a separate deliberative unit with its own presiding justice.

The Justices of the Court of Appeal are appointed or nominated by the Governor; they must be confirmed by the Commission on Judicial Appointments. The Justices of the Court of Appeal run on their own record, unopposed, with a majority of "yes" votes required for reelection. The term of office is 12 years. Any vacancies are filled by the Governor.

The 8,684 Court of Appeal filings in 1970-71 was an increase of 8 per cent over the previous year.

TRIAL COURTS

There are three types of trial courts presently operating in California: the superior, the municipal, and the justice courts. Each differs from the other in jurisdiction, organization, staffing, financing, and operation. They are--in a very real sense--the keystone of the state's system of criminal and civil justice. The present major categories of cases handled by these three trial courts are summarized as follows:

Superior Court	Municipal Court	Justice Court
Felonies	Misdemeanors (All)	Misdemeanors (Most)
Juvenile matters	Small claims	Small claims
Marriage dissolution and annulment proceedings	Traffic	Traffic
Probate	Felony preliminary hearings	Felony preliminary hearings
Civil cases when the amount in controversy exceeds $5,000 (or $1,000 in counties without municipal courts)	Civil cases when the amount in controversy is $5,000 or less	Civil cases when the amount in controversy is $1,000 or less
Equity actions		
Habeas corpus		
Extraordinary Writs		
Appeals from lower courts		

SUPERIOR COURTS

The Superior Court is a trial court of general jurisdiction in all causes except those given by statute to other courts, and it hears appeals from decisions of municipal and justice courts. Counties having municipal courts are required to maintain a three-judge appellate division in their superior court; there are 24 appellate divisions now operating. In other counties, a single Superior Court Judge hears appeals from justice courts.

There is one superior court and at least one judge in each of the 58 counties. The total filings for 1970-71 for all superior courts were 527,528, with a total of 443 judgeships for all courts.

The operational cost of the superior courts is the responsibility of the county--with the exception of a certain portion of the judges' salaries.

The court may have an executive officer who functions as an administrative officer under the direction of the presiding judge. A presiding judge is the judge selected by the other members of the court who presides for one year, and among other duties, represents the court in many capacities, as well as assigns judges of his court to various departments, divisions and branches.

Superior Court judges serve six-year terms and are elected on a nonpartisan ballot by voters of the county, and vacancies are filled by the Governor. Superior Court judges are required to be attorneys admitted to the practice of law in California for at least 10 years immediately preceding election or appointment (Art. VI, Sec. 15). Salaries are paid partly by the State and partly by the county according to a statutory formula based on county population.

MUNICIPAL AND JUSTICE COURTS

California has a system of lower courts which is comprised of municipal and justice courts. Each county is divided into judicial districts, with each district having either a municipal or a justice court.

In September, 1971, there were 308 judicial districts, 77 municipal courts, and 231 justice courts. Of the 58 counties in California, 53 have justice courts and 25 have municipal courts. These courts are located in a total of 380 different court facilities.

The lower courts are the major point of contact for most citizens who become involved with the judicial process. For 1969-70, nearly 6.7 million non-parking cases were filed in superior, municipal and justice courts. Of these, approximately 92 per cent were filed in the municipal and justice courts, with about 83 per cent going to the municipal court. In addition, the lower courts handled approximately 6.5 million parking filings.

These courts are also substantial sources of revenue. Over $122 million was generated through fees, fines and assessments in these courts; and was distributed so that approximately $52 million went to the counties, $51 million to the cities, $19 million to the state's special funds (e.g., Driver Education and Peace Officer Training Funds).

The lower court system consists of 308 judicial districts served by 587 judgeships. These courts are distributed so that 250 of the 308 judicial districts are one-man courts, and most justice courts are part-time courts.

Judges from municipal courts are elected for six-year terms on a nonpartisan ballot by voters of the judicial districts in which their court is located. Vacancies in judgeships are filled by the Governor. Municipal court judges are required to be attorneys admitted to practice in California for at least five years immediately preceding election or appointment. All staffing and compensation for municipal courts is provided for by state statute. The salary for judges is paid by the county.

Justice court judges are elected for six-year terms, and the vacancies are filled by the Board of Supervisors. With the exception of incumbents of previously existing courts who were blanketed into positions at the time of the lower court reorganization, judges of Justice Courts either must have been admitted to practice law in California or have passed a qualifying examination given by the Judicial Council. Their salaries are fixed by the supervisors.

JUDICIAL COUNCIL

The California State Constitution also establishes a Judicial Council composed of 21 members under the chairmanship of the Chief Justice of California. The policies and activities of the Judicial Council are conducted through the Administrative Office of the California Courts which is the staff agency for the Council. This staff includes a legal staff for preparation of the legal research necessary to recommend improved procedural rules and constitutional and statutory amendments, and a statistical research staff to collect, analyze and report judicial statistics. This staff also engages in the development of programs for assistance in the solution of administrative problems and management of the courts on a statewide basis through the adaptation to court use of proven business and public management techniques.

COMMISSION ON JUDICIAL APPOINTMENTS

The Commission on Judicial Appointments, established by the State Constitution, consists of the Chief Justice, the Attorney General and a presiding justice of the Court of Appeal. Nominations or appointments by the Governor to vacancies on the Supreme Court and the Court of Appeal

are reviewed by the Commission and become effective only after confirmation by the Commission.

COMMISSION ON JUDICIAL QUALIFICATIONS

The Commission on Judicial Qualifications, a constitutional agency, has the authority to investigate and conduct proceedings against any California judge when there may be wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or a disability of a permanent character that seriously interferes with the performance of his duties.

The Commission also gives consideration to complaints on the conduct and fitness of court judges. The Commission may investigate, hold hearings and then recommend to the Supreme Court, which has the final decision, that a judge be removed or retired from office or be censured.

PROSECUTION AND DEFENSE

DISTRICT ATTORNEY

For many reasons, the District Attorney is, unquestionably, the most powerful person in the criminal justice process. His decisions control the volume of business reaching the trial court's criminal department. He has, for all practical purposes, absolute power not to prosecute a case.

The decision to prosecute by the district attorney has a number of important consequences. Examples include: imprisonment while awaiting court hearing; the cost of a bail premium; cost of defense counsel--should the defendant not qualify for the services of a public defender or other counsel at public expense; a permanent police record which may both affect future employment as well as being considered by a judge at a later time should he be sentenced for the commission of another crime.

Each of the 58 counties elects a district attorney to institute investigations and prosecute public offenses. In nine northern counties, this function is carried out on a part-time basis. Statewide, as of December, 1969, there were 1,074 full-time and 32 part-time attorneys in district attorneys' offices; 514 full-time and eight part-time investigators; and 1,166 full-time and 76 part-time clerical staff. Their total operating budget is over $35.6 million.

CITY ATTORNEY

The primary duty of the City Attorney is to be attorney and legal advisor to the city and prosecute violations of city ordinances. Otherwise, city ordi-

nance violations are prosecuted by the District Attorney under contract with the city. Some city charters also provide that the city attorney may, if otherwise permitted by law, prosecute misdemeanor violations of state law. In 12 cities, mainly in southern California, the city attorney also prosecutes misdemeanor violations of state law.

PUBLIC DEFENDERS

The United States Supreme Court has required that indigent persons charged with an imprisonable offense be provided with legal counsel. In 1969-70, 31 of the counties in the state met this requirement by establishing an Office of the Public Defender. In 19 other counties, the court assigned private attorneys to defend indigents and paid them by the court. In the other eight counties, the private attorneys, law offices or law organizations performed the services under contract. As of December, 1969, there were some 604 full-time and 178 part-time attorneys involved in public defense activities; 103 full-time and 10 part-time investigators; and 193 full-time and 33 part-time clerical personnel. Operating budgets for public defenders totaled about $13.7 million for 1969-70, while the budget for court-assigned counsel was $4.8 million.

RECENT INNOVATIONS

Over the past 20 years, California has undertaken a number of steps to increase the efficiency and effectiveness of the court system. Many experimental and innovative programs have been initiated with experimentation being initiated in such areas as: expanded use--or studies of use--of electronic data processing in calendar management; passage of infraction legislation which eliminates the right to counsel and jury trial in the parking and other minor traffic violations; gradual expansion of the use of the subordinate judicial officers to handle lesser judicial duties; greater use of trial-setting and settlement conferences in the pretrial disposition of civil cases; experimental use of less than 12-men juries.

National attention has been given to a number of California's court administrators and judges for their successes in the area of general court improvement. But although successes have been achieved, the caseload backlog in some areas continues to increase, operational problems continue to exist, and expressions of concern over inefficiencies in the court system continue to be generated from both within and outside the judicial structure.

OVERVIEW OF PROBLEMS

OVERVIEW OF PROBLEMS

The most important problem facing the American judicial system is delay. In some jurisdictions of the United States, delays of up to one year are not uncommon. Delay of that magnitude is manifestly unjust to the defendant who is in custody. Society suffers when potentially serious offenders are free on bail for over two years while awaiting trial. The system suffers because of the pressures involved and because the public loses respect for the judicial system. Many of the problems of judicial agencies have been caused by an increase in workloads without a corresponding increase in manpower.

Another almost universal problem is the failure of the courts system to incorporate modern management practices and techniques. The Chief Justice of the United States declared at the National Conference on the Judiciary:

> "That with reference to methods and procedure we may be carrying continuity and tradition too far when we see that John Adams, Hamilton or Burr, Jefferson or Marshall, reincarnated, could step into any court today and after a minimal briefing on procedure and up-dating in certain areas of law, try a case with the best of today's lawyers. Those great eighteenth century lawyers would need no more than a hurried briefing and a Brooks' Bros. suit. They would not even need a hair cut, given the styles of our day."*

The judicial process has also lagged behind in personnel practices. Training of professional and support personnel is often negligible or nonexistent. There are seldom any standards for hiring, promotion or discipline. Compensation of personnel varies extensively, as does the number of subsidiary functions those personnel must perform. Responsibility for management of courts and offices is most often assigned on the basis of seniority or other factors, and not according to administrative ability. Finally, judicial agencies are frequently overworked, understaffed and victimized by high turnover rates.

California judicial agencies must contend with many of the problems listed above. While the California judicial system is generally recognized as one of the best, California also has its share of problems. The major problems of the California judicial system have been placed in ten general groupings. In so doing, it must be recognized that such a grouping is for purposes of analysis and that many problem areas may be inter-related; many fall within more than one group. The major problem areas identified are:

1. Calendar management and office management
2. Training
3. Diversion
4. Uniformity of rules, forms and procedures
5. Appellate problems
6. Jury selection and utilization
7. Plea bargining/sentencing
8. Research
9. Facilities and equipment
10. Public information and education

---

* "Justice in the States - Addresses and papers of the National Conference on the Judiciary", West, 1971, p. 13

Generally speaking, the problems mentioned in this report interfere with the timely and efficient operation of the court system, thus, in many instances, bringing the criminal justice system to a standstill. A major problem which affects all of the above is the lack of flexibility to experiement with alternative methods. The operation of the judicial system is subject to pervasive control by statute, case law or constitutional law. Thus, it may be impossible to examine the effects of certain innovations such as less than unanimous jury verdicts. However, there is much that can be done without ever encountering these obstacles. The judicial system is in need of much improvement in areas that are generally taken for granted in other disciplines. Effective calendar and office management, training and diversion are subjects that could easily occupy our attention exclusively for a number of years. This document is an effort to rationally allocate a limited amount of resources toward the solution of the major problems of the judicial system.

SYSTEM PLANNING FOR THE ADJUDICATION PROCESS

SYSTEM PLANNING FOR THE ADJUDICATION PROCESS

The systems approach has been used with great success in a number of disciplines. Application of systems methodology to criminal justice has progressed slowly for a number of reasons. Criminal justice decision makers haven't received the training and guidance necessary to adopt systems methodology, the criminal justice system contains a large number of variables (chiefly human and social factors) which do not lend themselves readily to the systems approach and, the criminal justice system is a large and extremely complex entity.

Keeping these limitations in mind, the Courts Task Force of the CCCJ undertook the development of a systems approach to planning for the adjudication process in September of 1971. The Task Force was fortunate in counting among its members an experienced systems engineer. Under his patient and able tutelage, the Task Force has developed a systems approach within the last year.

The Task Force embarked upon the systems approach because of a widely-held dissatisfaction with merely responding to requests for funding. While many of the requests were worthwhile, they appeared to respond to problems of relatively minor importance. The Courts Task Force views the relatively limited amount of federal funds available under the LEAA program as an opportunity to make significant improvements in the quality of criminal justice. In order to take optimum advantage of that opportunity, it became necessary to determine where those funds should be spent to best advantage. This document is a partial result of the Task Force's efforts. Another result is the change in attitude and outlook of the Task Force in fulfilling its responsibilities.

A systems planning subcommittee, consisting of an appellate court justice, a trial court judge, a prosecutor, a public defender, a representative of the Judicial Council and a representative of the Executive Branch,was appointed from the membership of the Courts Task Force. That subcommittee met regularly on the average of twice a month since September, 1971, to work on the systems approach. In addition, large portions of regular Task Force meetings were devoted to the systems approach.

The first step taken was the identification of decision points in the adjudication process. The functional flow block diagram on Page 13 and 14 is the result of those efforts. Judicial system problems were identified by the subcommittee, through regional plans and by searching through available literature on the subject. Those problems were matched with appropriate blocks in the flow diagram and listed preparatory to ranking them. An example of the worksheet used in that process appears on Page 15. Over 300 problems were identifed and ranked according to severity of the problem, frequency of occurrence and cost of solution. The ranking process was accomplished over a two-month period and resulted in a listing of major problems affecting the judicial process. That ranked listing of major problems is on Page 15a.

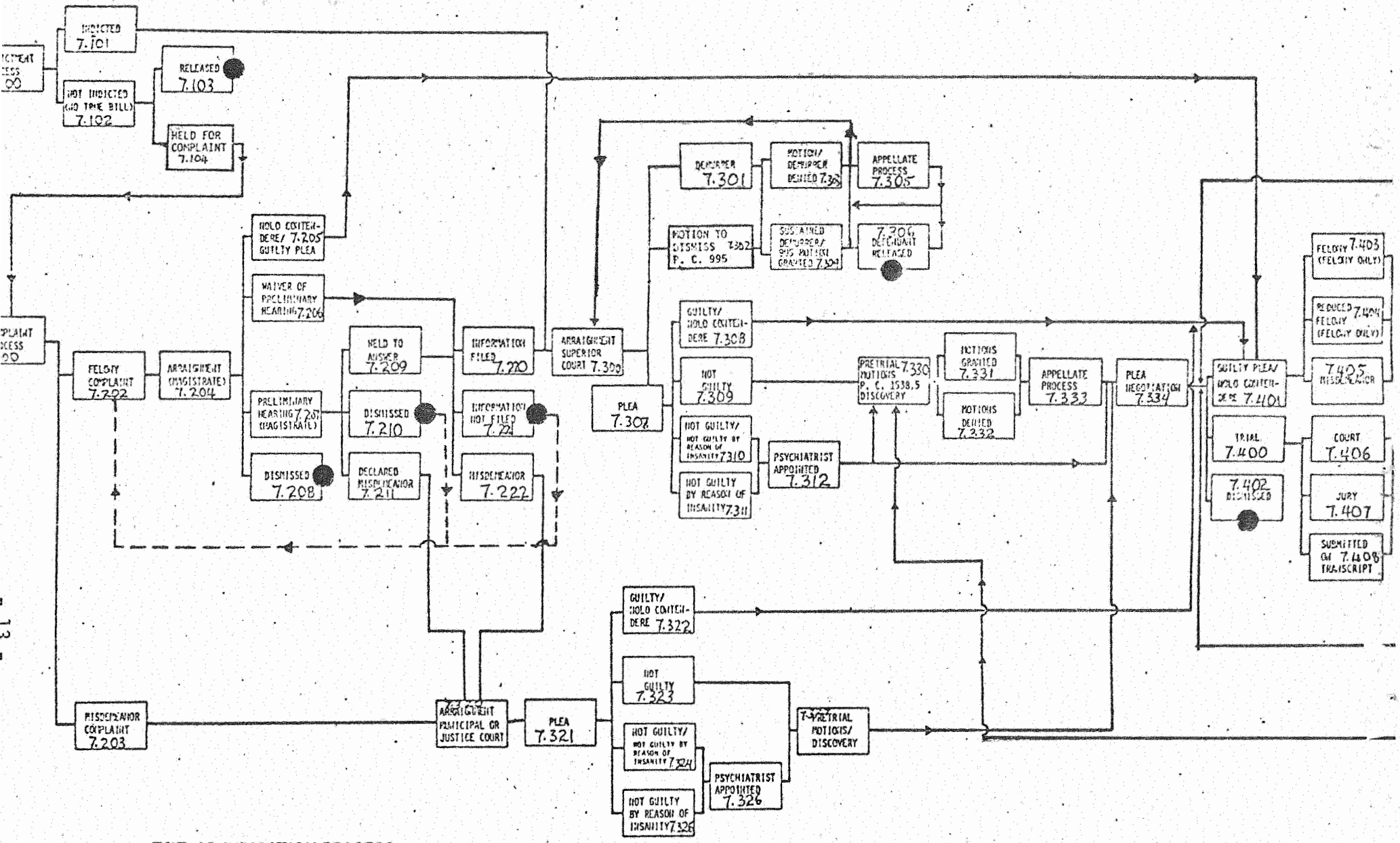
Two additional months were devoted to identifying and assigning priorities to possible solutions to the problems thus listed. The list of possible solutions in priority order comprises the action portion of this System Development Plan.

The systems approach normally leaves the selection of the solution to a problem to those interested in submitting bids. The Courts Task Force has taken upon itself the additional burden of identifying possible solutions in the hope of encouraging positive responses to the problems identified. The amounts allocated represent estimates of the CCCJ funds required to conduct projects aimed at the solution of judicial process problems.

In the considered judgment of the Courts Task Force, this listing represents a blueprint for improving the California court system. It also represents a great deal more: it is the first step toward insuring that funds allocated for the improvement of the courts system will, in fact, be spent on programs that address the major problems of the courts.

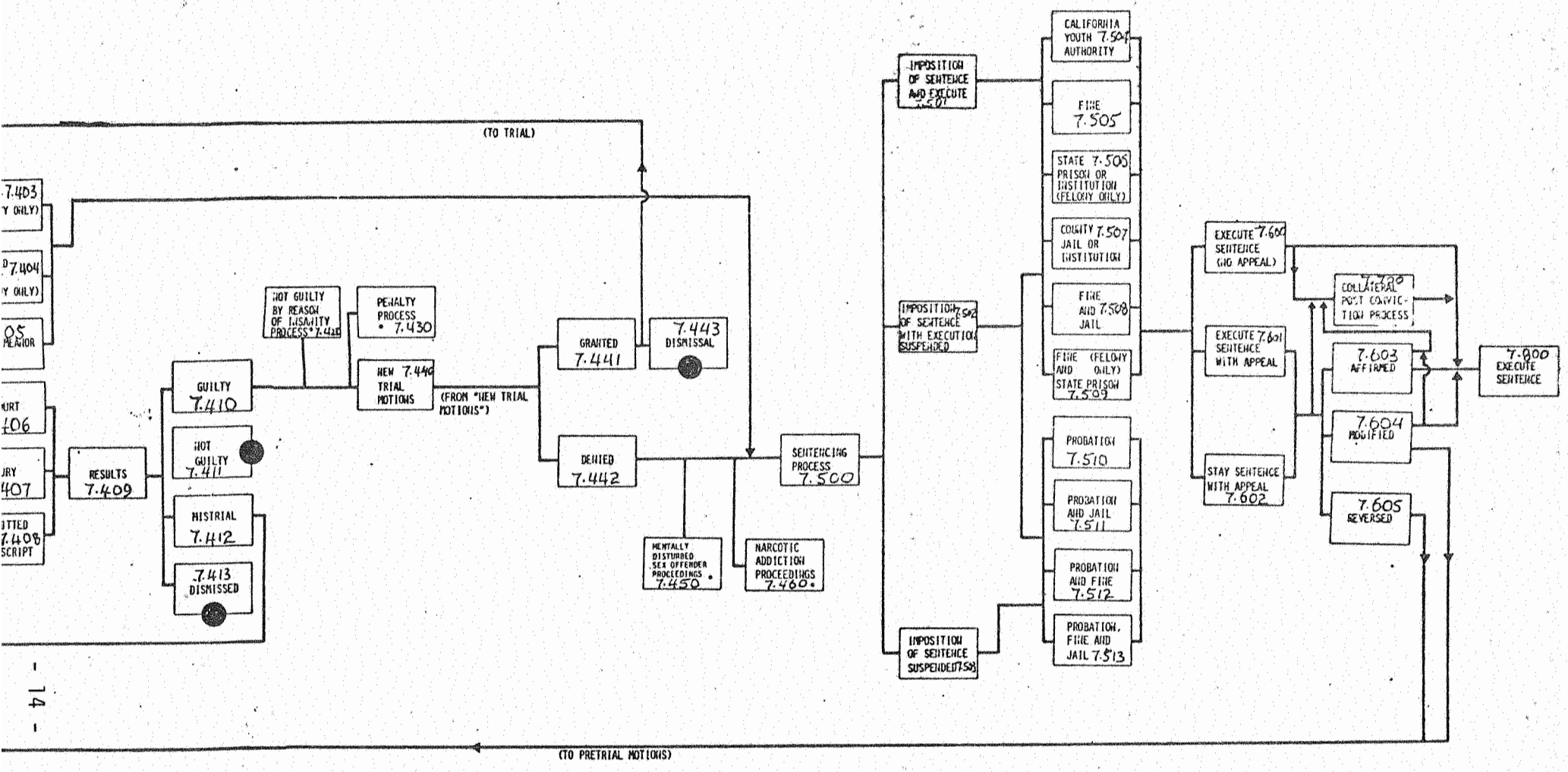
Upon adoption of this plan by the CCCJ, the Courts Task Force will issue Request for Proposals on most of the solutions listed within the priorities. In some instances, a specific project may require initiation by the CCCJ. The effect in both cases is the same: the CCCJ and its Courts Task Force will have taken a positive step toward insuring that funding programs will address major problems identified by the CCCJ. The new role will allow for a coordinated and comprehensive attack upon the problems facing the court system. The Courts Task Force has identified programs which will consume almost five times the amount set aside under the Systems Development Program. Therefore, this plan will serve as a model for future court improvement programs. It can also serve as a guide to the CCCJ Regions in planning for the courts system on a local basis.

For purposes of discussion, the problems identified are grouped by subject matter. That grouping should not be regarded as a priority ranking of problems. A listing of major problems in priority order appears on Page 15a.



UNCTIONAL FLOW BLOCK DIAGRAM **THE ADJUDICATION PROCESS**

PREPARED BY THE PLANNING SUBCOMMITTEE
OF THE JUDICAL PROCESS TASK FORCE - DECEMBER 15, 1971



*TO BE DEVELOPED LATER

SEVERITY (ADJ	SEVERITY	PROBABILITY	COST	
				7.210 - Dismissed
				a) Lack of finality - refiling is possible (J. P. Sub.).
				b) No appeal possible by people.
				c) Judge shopping on refiling.
				7.211 - Declared Misdemeanor
				a) Necessity of consent by the defendant (J. P. Sub.).
				b) Improper use of judicial discretion (J. P. Sub.).
				7.220 - Information Filed
				a) Undue delay between HTA and filing.
				b) Lack of limitation on what can be filed.
				7.221 - Information Not Filed
				a) Lack of finality (J. P. Sub.).
				b) Abuse of discretion.
				c) Lack of procedure for releasing defendant.
				d) Lack of procedure to notify Superior Court none to be filed.
				7.222 - Misdemeanor
				a) Lack of notice to Superior Court.
				b) Lack of information to lower court as to the fact had been an order holding to answer, etc.
				7.300 - Arraignment - Superior Court
				a) Lack of uniformity in arraignment procedures, reporting methods a statistics and other court operating procedures. (#42)
				b) Pretrial incarceration. (#68)
				c) Inadequate calendaring system. (#71)
				d) Multiple pre-trial appearances before court. Lack of transcript of Grand Jury. (#103)
				e) Inequitable bail policies. (#64)
				f) Lack of a uniform bail schedule (J. P. Sub.).
				g) Lack of information for O. R. release (J. P. Sub.).

RANK ORDER OF PROBLEMS

PROBLEM LISTING AND DISCUSSION

CLASSIFICATION OF PROBLEMS

I. CALENDAR MANAGEMENT AND OFFICE MANAGEMENT

A. Lack of Effective Calendar Management.

B. Continuances.

C. Multiple Appearances and Motions.

D. Undue Consumption of Time by and Misuse of Preliminary Hearings.

E. Lack of Professional Administration of the Courts.

F. Need for Prosecutor and Defender Office Management Assistance.

G. Insufficient Information About the Operations of Judicial Agencies to Allow Proper Management.

H. Lack of Internal Planning and Research Capacity in Courts, Prosecutor and Defender Offices.

I. Inefficient Use of Witness Time.

J. Duplication of Services and Administration in Superior and Municipal Courts.

K. Inadequate Staff, Secretarial and Research Assistance.

L. Fragmented Prosecution System.

M. Need for Improved Defender Services in Rural Areas.

N. Lack of Cooperation and Coordination Among Agencies.

II. TRAINING

A. Lack of Training and Standards for Judges.

B. Lack of Training and Standards for Prosecutors and Defenders.

C. Lack of Training and Standards for Court Executives.

D. Lack of Training and Standards for Court, Prosecutor, and Defender Clerical and Support Personnel.

E. Lack of Training in Juvenile Law and Procedure.

III. DIVERSION

A. General Diversion of Cases and Offenders More Appropriately Handled Elsewhere.

B. Traffic Cases.

C. Drug Cases.

D. Alcohol Cases.

IV. UNIFORMITY OF RULES, FORMS, AND PROCEDURES

A. Lack of Uniformity in Crime Charging.

B. Lack of Uniform Local Rules of Court.

C. Lack of Uniform Standards, Practices, and Forms for Criminal Law Practices.

D. Lack of Uniform Felony Bail Practices.

V. APPELLATE PROBLEMS

A. Piecemeal Pre-Trial Appellate Review.

B. Appellate Delay.

C. Unmeritorious Appeals.

D. Lack of Competent Appellate Counsel.

VI. JURY SELECTION AND UTILIZATION

A. Insufficient and Inefficient Use of Juror Time.

B. Problems Resulting from Deadlocked Juries.

C. Inadequate Juror Security.

VII. PLEA BARGAINING AND SENTENCING

A. Plea Bargaining.

B. Lack of Uniformity in Sentencing.

VIII. RESEARCH

A. Difficulty of Assessing Impact of Legislative Judicial and Executive Changes Upon the Adjudication Process.

B. Lack of Flexibility to Experiment.

C. Need for Restatment of Code Sections Affecting the Judiciary.

D. Inadequate Court Financing.

E. Need for Experimentation with Recommendations Concerning the Courts.

F. Problems Resulting from Piecemeal Revision of Juvenile Law.

IX. FACILITIES AND EQUIPMENT

A. Lack of Adequate Methods for Reporting in Lower Courts.

B. Requirement of Processing Large Amounts of Information.

C. Inadequate Facilities and Equipment of Judicial Agencies.

D. Inadequate Court Security Measures.

X. PUBLIC INFORMATION AND EDUCATION

A. Lack of Public Knowledge and Understanding of the Functions and Problems of the Judicial System.

DISCUSSION OF PROBLEMS

I. CALENDAR MANAGEMENT AND OFFICE MANAGEMENT

Effective management of court calendars is one of the best methods of reducing court congestion and delay. Even if there were an abundance of judicial resources, efficient operation of the courts would continue to be an important objective. Unfortunately, judicial, prosecutor, defender and clerical and support resources are at a premium. Therefore, significant improvements in the California court system will occur only when that system is operating at maximum efficiency.

A. Lack of Effective Calendar Management

Calendar management is the central core of court administration. It is the term used to describe the scheduling and hearing of cases. A number of factors have combined to create problems in calendar management: (1) Mobility of parties and attorneys, (2) tactical considerations, (3) antiquated administrative practices, (4) laxity in enforcing calendar management practices, (5) inadequate processing of information, and (6) sheer size and complexity of workloads.

Attorneys and parties in civil cases and defendants in criminal cases frequently reside in other counties, and attorneys practice in a number of different counties and in a number of different courts within a county. Often, branches of the same court have no way of knowing whether an attorney is scheduled for trial in a different branch of that court at the same time.

For a number of reasons, delay is a favored tactical weapon used by one party or the other. Therefore, there is a temptation to capitalize on inefficient practices and to add to the problems of calendar control. In many instances, antiquated administrative practices are the cause of inefficient calendar operations. Where the court lacks control over its own calendar and critical calendar-management decisions are being made by clerks or litigants, efficient and timely operation of the courts is in jeopardy. Finally, the increasing amount of litigation and the growing complexity of law and procedure (at least 10 appearances are possible in a felony case) have made effective calendar management a necessity. Ineffective calendar management results in delay which, in turn, creates problems for custodians of defendants awaiting trial, prosecutors' offices, police and civilian witnesses, and which generally prevents a timely and just disposition of cases. When criminal cases clog the calendar, pressure is exerted to dispose of them and they are frequently disposed of in a manner which does not promote the ends of justice.

1) Current efforts to improve calendar-management consist of increasing the number of cases processed by the courts and concurrently reducing the backlog of cases awaiting trial.

   Progress has been made in identifying and cataloging effective calendar management practices. Further work is needed in this area and, more importantly, in implementing the practices thus identified. In addition, experimentation with computerized case-scheduling techniques, common calendar systems for multi-court counties and multiple counties, and the individual calendar system is needed.

2) The objective of the CCCJ is the adoption by all courts of improved calendar-management practices. A further objective is the conduct and reporting of experiments designed to develop new calendar-management techniques.

B. Continuances

Obtaining a continuance is the procedure most often used for deferring the hearing of a case. At the time cases are scheduled for trial, it is difficult to insure that witnesses, evidence and counsel will all be available at trial. To require the conduct of the trial in the absence of an essential element would be manifestly unjust. However, continuances result in a multitude of scheduling problems. Witnesses must be excused subject to recall at a later time, the parties and the court must readjust their schedules and, finally, the case itself must be rescheduled for future hearing.

Section 1050 of the California Penal Code provides, inter alia, that "No continuance of a criminal trial shall be granted except upon affirmative proof in open court, upon reasonable notice, that the ends of justice require a continuance." The problem with continuances stems from an overly generous application of this statute. Cases are continued in many instances because of inconvenience or lack of preparation of the parties and for tactical reasons.

The CCCJ believes that another portion of Penal Code Section 1050 should be given greater emphasis:

> "The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time, and it shall be the duty of all courts and judicial officers and of all prosecuting attorneys to expedite such proceedings to the greatest degree that is consistent with the ends of justice."

The CCCJ believes that once litigants become accustomed to the practice of being ready for trial on the date originally scheduled, the inconvenience resulting will be minimal compared to the benefits obtained from speedy trials and efficiently managed calendars.

1) Possible solutions to the continuance problem include the creation of a rule which requires reporting of all continuances to the Judicial Council, requiring all requests for continuances to be heard by the master calendar judge, trailing cases where an attorney is engaged in another trial rather than granting a continuance (reports would also be made to the Judicial Council on cases thus trialed), a study to determine the extent of the continuance problem and the enactment of existing standards regarding continuances as a Rule of Court.

2) The objective of the CCCJ in this section is the elimination of unnecessary continuances.

C. Multiple Appearances and Motions

There are at least four motions which can be made during the felony process prior to trial. In most instances, these motions may be made orally and prior to commencement of the trial at any time. In many instances, appellate review of actions taken on motions is possible. Each motion and appearance requires separate scheduling of a courtroom and a judge. Opposing counsel must also appear. At a time when the number of case filings is reaching alarming proportions, multiple appearances for each of those filings creates an intolerable burden.

1) Among the suggested solutions to this problem are: a) Omnibus pretrial hearings, b) scheduling of multiple motions arising from the same matter for hearing at the same time, c) requiring that all motions be in writing, be noticed and contain Points and Authorities and that written responses to the motions be filed.

2) The objective of the CCCJ in this area is to demonstrate that substantial savings will result from consolidation of multiple motions and appearances.

D. Undue Consumption of Time By, and Misuse of, Preliminary Examination

A preliminary examination is conducted, unless waived by the defendant, prior to trial in each felony case not initiated by an indictment; 125,446 preliminary examinations were conducted in California municipal courts in 1970-71.[1] The examination is designed to screen groundless or unsupported charges of serious offenses, thus relieving the accused of the burden, expense and taint of an unnecessary criminal trial. The preliminary examination also serves some other practical purposes: 1) It gives the defendant some idea of the prosecutor's case, 2) it records testimony of witnesses who may not be present at the time of trial, and 3) it may result in the case being submitted at trial on the transcript of the preliminary examination.[2]

---

[1] Judicial Council of California Annual Report, 1972, p. 118.

[2] Witkin - California Criminal Procedure, p. 128.

Where prosecutors have established sound and reasonable crime charging practices, the need for a preliminary examination as a screening device has been lessened. Preliminary examinations often consume an excessive amount of time, they increase significantly the time required to process a felony case and as a result of the customary practice of conducting preliminary examinations in lower courts, they involve two different levels of courts in processing a felony case.

Finally, utilizing the preliminary examination as a means of discovery unnecessarily consumes the time of the court and counsel. If current discovery statutes are inadequate, they should be improved rather than relying on a process which consumes a substantial amount of Judicial resources.

1) Suggestions for improvement include alternatives to the preliminary examination and an alternative to conducting preliminary examinations in the lower courts. Among the alternatives to the preliminary examination are: a Use of a non-adversary "one-judge grand jury," b) direct filing of felonies in Superior Court and c) use of an affidavit to certify a case for felony prosecution. Conducting preliminary examinations in Superior Court with a Superior Court judge sitting as a magistrate is a possible solution to the problems caused by the involvement of two separate levels of courts.

2) The objective of the CCCJ in this area is the elimination of uses of the preliminary examinations for collateral purposes (i.e., discovery) and a substantial reduction in the amount of time consumed by preliminary examinations.

   In the alternative, the CCCJ will accept a significant reduction in the amount of time consumed by the preliminary hearing process.

E. Lack of Professional Administration of the Courts

The California court system is, in many respects, one of the most advanced. Its Judicial Council, Commission on Judicial Qualifications, Commission on Judicial Appointments and the high caliber of its judiciary are items of which Californians can be proud. While the California judicial system enjoys a number of advantages, it also suffers from many of the problems that are common to courts throughout the United States.

> "In terms of methods, machinery and equipment, the flow of papers--and we know the business of courts depends on the flow of papers--most courts have changed very little fundamentally in a hundred years or more. I know of no comprehensive surveys, but spot checks have shown that the ancient ledger type of record books, sixteen or eighteen inches wide, twenty-four or twenty-six inches high, and four inches thick are still used in a very large number of courts; and these cumbersome books, hazardous to handle, still call for longhand entries concerning cases. I mention this only as one symptom of our tendency to cling to old ways. We know that banks, factories, department stores, hospitals and many government agencies have cast off anachronisms of this kind."[3]

---

[3] Burger, Warren E., Address presented at the National Conference on the Judiciary, "Justice in the States," West, 1971, p. 15.

Further, the courts have lagged behind industry and the rest of the criminal justice system in adopting modern planning and personnel management techniques. The courts have generally been reluctant to apply calendar management techniques and to take advantage of modern technological advances. While the call for improved administration of the courts was voiced as early as 1906,[4] court administration is a relatively recent development. Due in large measure to the efforts of the Chief Justice of the United States, court administration has become a major concern. There are now three extensive training programs for professional court administrators.[5] As a result of the efforts of Chief Justice Burger, many court systems are now employing court administrators.

The increase in the number of filings over the past ten years[6] and the increasing complexity of cases before the courts make it imperative that an important resource, judicial manpower, not be squandered upon routine administrative matters best handled by someone with administrative training and skills. Hospital administration was developed upon that principle some 40 years ago. The non-judicial operations of a court (personnel, budgeting, liaison with other agencies, facilities planning and management of supplies and materials) have increased in complexity and in the time required to manage them. Not only must a judge spend more time on administrative detail, he must be better prepared and equipped to deal with it.

The hiring of a qualified and well trained court executive to administer the non-judicial functions of a court is an alternative to the above dilemma. The court executive is keenly aware of the nature and function of the court system and consequently he scrupulously avoids interference in the judicial functions of the court. The California Legislature has recognized the utility of court administration through the passage of legislation authorizing the employment of court executives in superior courts with seven or more judges.7

A number of California Superior Courts could profit from the placement of a court executive with those courts. Further, few California municipal courts have court executives.

1) Solutions suggested for this problem include the placement of qualified court administrators in all municipal and superior courts of five or more judicial positions, the addition of court administrative personnel to municipal court staffs, and conducting management training conferences for California court administrators.

---

[4] Dean Roscoe Pound - The Causes of Popular Dissatisfaction with the Administration of Justice.

[5] The Institute for Court Management, American University and U.S.C.

[6] Judicial Council Report 1971, p. 101-127, Superior Court: 329,539 Filings in 1959-60; 508,432 Filings in 1969-70, Municipal Court: 6,595,018 Filings in 1959-60; 11,227,332 Filings in 1969-70.

[7] Chapter 617. Statutes of 1971, Government Code Section 6989.8

2) The objective of the CCCJ in this section is the placement of an additional six court administrators initially and 16 more in the future as both funding and qualified administrators become available. A further goal is the upgrading and increased and improved use of the position of court administrator.

F. Need for Prosecutor and Defender Office Management Assistance

Management of prosecutor and defender offices is as important in the effort to reduce undesirable court delay as in calendar management. In fact, management of prosecutor and defender offices is a significant portion of calendar management.

Improved management of the offices is necessary for a number of reasons. Increases in staff have not kept pace with increases in workloads. Further, the size of many California offices makes efficient management imperative. In 1971, California district attorney offices had 1,106 attorneys, 522 investigators, and 1,274 clerical employees. Prosecutor budgets for fiscal year 1969-70 totaled $35,700,000.[8] In 1971 California public defender offices had 782 attorneys, 113 investigators and 244 clerical personnel. Fiscal 1969-70 expenses for defender offices were $13,800,000.[9]

As the above figures indicate, prosecution and defense in California are a big business. They are also vital to the operation of the criminal justice system. No criminal case is processed unless these offices are prepared to act. The crime charging process, plea negotiation and trial of criminal cases are almost entirely a function of the efficiency of the respective offices. Disposition of persons accused of crimes, the amount of protection afforded society, the end product of law enforcement activities and the workloads of correctional agencies are largely determined by the actions of prosecutor and defender offices. In addition, those agencies affect both the size and the nature of the criminal case workload of the courts.

Management of organizations as large and as complex as prosecutor and defender offices presents a number of problems. In addition to the usual management difficulties in operating a large office, the nature of prosecutor and defender duties creates additional problems. Management of the offices includes subjects such as personnel policies, budgeting, purchasing, physical facilities, filing and processing systems, case preparation, scheduling and storage and transmittal of large amounts of information.

All the above problems have been exacerbated by the huge increases in the size and workloads of the offices. For example, the Los Angeles County District Attorney's Office consisted of 233 deputy district attorneys on July 1, 1966. On June 26, 1972, that office had 528 deputies.[10] Felony

---

[8] Bureau of Criminal Statistics - "Criminal Justice Agency Resources in California", June, 1971, p. 32.

[9] Ibid. p. 33

[10] Los Angeles County Salary Ordinance.

workloads increased from 24,808 in 1966 to 37,953 in 1971. Management of prosecutor and defender offices is further complicated by the practice of using experienced professionals in managerial capacities. Since a thorough understanding of the operations and functions of prosecution and defense is essential for the proper management of prosecutor and defender offices, administrators of those offices should possess some practical knowledge and experience. However, these experienced professionals frequently lack training and background in administrative skills.

Finally, the subject of management for California offices represents different levels and different needs for California's 58 counties. Prosecutor and defender offices in California vary from a single attorney prosecutors office with a yearly budget of approximately $7,000 to a 528 attorney prosecutors office with a budget of approximately $15 million in Los Angeles County.

1) Possible solutions for this problem include conducting management conferences and training programs for administrative personnel, providing office management assistance and advice, developing model management systems for large medium and small offices and devising a workload measurement system for professional and clerical personnel in order to determine staffing needs.

2) The objective of the CCCJ in this area is the initiation and adoption of improved management practices in all California prosecutor and defender offices.

G. Insufficient Information about the Operations of Judicial Agencies to Allow Proper Management

A lack of information about the operation and production of an office makes effective management extremely difficult. Unless bottlenecks and deficiencies can be identified, they will never be corrected. Further, managers are unable to reallocate resources in order to equalize workloads unless they are able to pinpoint the locations and causes of those inequities in workload. These problems are equally applicable on a statewide level. Inadequate collection of statistics and data within each county not only affects that county but also precludes state assistance or correction of those problems.

The need for management information is especially acute in the larger offices. Due to the volume of cases, the large number of employees and the immense amount of paperwork and information which is generated and processed, it is possible for major items to become "lost" in the process. It is often impossible for managers of such offices to know about events in their offices, let alone take any remedial action.

The operation of the courts is plagued by similar difficulties. It is often impossible in the larger courts to gauge employee effectiveness and production. It may also be impossible to locate areas which are in need of correction. The courts are in need of assistance not only in processing their paperwork but also in determining what has and can be done in such processing activities.

1) Suggested solutions for this problem are: a) The development of improved statistical collection and analysis methods of state and local levels, b) the development of a weighted workload measurement system for nonjudicial court personnel, c) the implementation of management information systems for prosecutor and defender office and d) the implementation of management information systems for courts.

2) The objective of the CCCJ in this area is the implementation of procedures and methodologies which will allow for the collection and analysis of information necessary to allow for proper management.

H. There is a Lack of Internal Planning and Research Capacity in Courts, Prosecutor and Defender Offices

Experience has proven the value of planning and research units. Law enforcement agencies have used such units to good advantage. The planning and research unit derived from a realization that employees and managers with operational responsibilities have scant time to engage in either planning or research. The larger the office, the greater is the need for a qualified and competent staff unit whose sole responsibility is to conduct planning and research necessary for the improvement of the agency.

Planning and research bureaus have been installed in police agencies of less than 100 sworn and nonsworn personnel. There are many judicial agencies with up to ten times that number of employees without a similar capacity. The Los Angeles County District Attorney's Office has well over 1,000 employees and the Los Angeles Public Defender's Office has over 800 employees. The San Francisco Superior Court employs approximately 150 people while the municipal court for the Los Angeles Judicial District counts in excess of 800 employees.[11] None of these agencies have a planning and research unit comparable to that of the Lodi Police Department.

1) A possible solution to this problem is the creation of planning and research units for all judicial agencies above a certain minimum size.

2) The primary objective of the CCCJ is the demonstration of the feasibility and value of internal planning and research units for judicial agencies. The ultimate objective in this area is the institution of planning and research units for all judicial agencies above a certain minimum size.

I. Inefficient Use of Witness Time

Frequent complaints have been heard about the public's reticence in becoming involved in its system of justice. Concern has been properly expressed about this non-involvement since the criminal justice system is dependent upon the public for many things: Witnesses, jurors, complainants and information. Further, without public support and cooperation, the criminal justice system will suffer a decline in its effectiveness.

---

[11] Bureau of Criminal Statistics - "Criminal Justice Agency Resources in California", June, 1971, p. 31, 33, 37-48.

This reluctance to become involved stems in part from the manner in which the criminal justice system treats its witnesses. The following account is an example.

> "The young man had happened to observe a three-car accident. He He had been ordered to appear in the office of the local prosecutor the following morning, along with other witnesses.
>
> "When he arrived, he was ushered into an anteroom. There he remained until 4:30 in the afternoon. At that time, someone told him that he could go home. Between 9 a.m. and 4:30 p.m., no one had spoken to him.
>
> "With a little imagination, it is not hard to fill in the details of the picture. Probably the young man spent his day on a hard slat bench in a grimy outer office amidst a bewildering flurry of comings and goings with nothing to read and no one to talk to. Probably he missed a day of school.
>
> "Probably some harried assistant prosecutor at some point in the afternoon had finally gotten around to talking to the officer, and perhaps some of the other witnesses and had decided not to prosecute. Probably everyone forgot about the boy who was, after all, only one of the countless anonymous faces swirling in and out throughout the day.
>
> "And at the end, probably the person who had told him to go home felt nothing, thought nothing about the way the young man was treated, except perhaps for a momentary uneasiness, a shrug, and a resigned, 'Well that's the way the system works.'
>
> "The plight of this young man was untypical of that of witnesses in urban areas throughout the nation in only one respect.
>
> "For most, experiences like those described above are repeated not once, but several times.
>
> "Several Times the witness will be ordered to appear in some designated place, often a courtroom rather than a prosecutor's office.
>
> "Several times he will be made to wait tedious. unconscionably long intervals of time in grim surroundings.
>
> "Several times he will suffer the discomfort of being ignored by busy officials, bewilderment, and the painful anxiety of not having any information or knowledge about what's going to happen to him.

"On most of these occasions, he will never even be asked to testify or give information because of adjournments granted in huddled conferences at the judge's bench. He will miss many hours from work (or school) and will lose many hours of wages. At best he will receive only token payment as recompense for his time and trouble."[12]

The above description is, unfortunately, all too common an occurrence. It is small wonder that eyewitnesses are reluctant to come forward and assist the criminal justice system.

Police witnesses are treated in much the same manner. Valuable time which could be spent on law enforcement duties is often wasted awaiting a call to testify, a call which often is postponed at the last minute.

The processing of criminal cases is dependent upon a number of variables: The judge, the prosecutor, the defense, the defendant, witnesses for both sides, and the condition of the cases calendared for hearing prior to the case in question. Any one of these factors could force a continuance or could be responsible for causing delays affecting witnesses. Equally common are cases in which guilty pleas are entered at the last moment.

Previously, witnesses were considered an abundant resource completely at the disposal and convenience of the system -- better to have a witness wait than a judge, courtroom and counsel. There is no reason why anyone should be forced to wait. Further, there is a growing awareness on the part of members of the criminal justice system that remedial measures for this problem are long overdue.

1) The following have been suggested as possible solutions for this problem:

   a) Make use of technological advances, such as videotaping, to obviate the necessity of personal appearances by witnesses;

   b) Restrict the granting of continuances; and

   c) Develop methods for arriving at better estimates of when witnesses will be required. Encourage increased and improved use of on-call techniques and issuance of subpoenas for specific time.

2) The objective of the CCCJ in this area is the significant reduction of the time a witness must spend awaiting to testify.

---

[12] Ash, Michael W., "Witnesses: The Forgotten People of Our Criminal Justice System," LEAA Newsletter, Vol. 2, No. 7, p. 6 and 7.

J. Duplication of Services and Administration in Superior and Municipal Courts

California has a superior court in each of its 58 counties. In 25 of those counties, there are also 77 municipal courts.[13] Each of those 135 courts is a separate entity with its own administrative structure, staff and support service. Within a county, there may be as many as 23 independent municipal courts.[14] Each of those courts may have separate jury services, administration and staffing.

A number of economies may be effected by a consolidation of services and administration. Resources available to judicial agencies are scarce. Since the prospects for increasing those resources are limited, the only alternative is to make better use of the services and support that are available. Further, consolidation of certain services and administration will eliminate costly duplication.

1) Possible solutions include consolidation of certain services and administrative functions and the creation of a multi-court or multi-county court administrator for trial courts.

2) The objective of the CCCJ is the elimination of all unnecessary duplication of services among county courts.

K. Inadequate Staff, Secretarial and Research Assistance

Staffing patterns of each judicial agency vary greatly. The county clerk serves as the clerk of the superior court. The superior court may also have its own employees. Each municipal court has its own clerk and staff whose positions are created by the California Government Code.[15] Staffing for both the superior and municipal courts follow no standard patterns. Neither do the staffing patterns for prosecutor and defender offices. Some offices may be more than adequately staffed; others may be woefully understaffed. Justice courts, prosecutor and defender offices occasionally consist of part-time employees.

California judges generally don't have the secretarial and research assistance necessary to help them in performing their duties. The growing complexity of the criminal law has also placed a premium on legal research assistance in prosecutor and defender offices. Adequate preparation and proper rulings are dependent upon thorough research which often is not performed because of a lack of manpower or time.

1) Possible solutions include:

   a) Encouraging the use of para-legal personnel, including law student internship programs for courts, prosecutors, defenders, clerks, court administrators and probation departments;

   b) Creating standards for the staffing of judicial agencies;

---

[13] Judicial Council of California Annual Report, 1972, p. 77

[14] Ibid, p. 114

[15] See California Government Code Sections 72000-74889

c) Instituting computerized legal research programs; and

d) Creating specialized prosecution teams.

2. The objective of the CCCJ is insuring the provision of the staff, secretarial and research assistance necessary for the proper function of judicial agencies.

L. Fragmented Prosecution System

The city attorney retains some responsibility for criminal prosecutions in many California jurisdictions. City attorney's offices with prosecutorial responsibilities generally are responsible for prosecution of local ordinance violations and misdemeanors. Where the city attorney prosecutes misdemeanors, the result is the existence of two separate agencies responsible for crime charging and prosecution. The district attorney prosecutes misdemeanor violations in areas of the county outside the jurisdiction of the city attorney (usually the area outside the city limits). Thus, there may be two different sets of standards and policies regarding misdemeanors within a single county. A fragmented system of prosecution also results in law enforcement agencies having to determine the gravity of a case in order to determine to which office the case must be referred. A system of fragmented prosecution causes problems of cooperation and coordination.

Fragmentated prosecution often results in processing of cases in inappropriate courts. Cases may be filed as felonies and at some subsequent point (usually in superior court) the defendant is allowed to plead guilty to a misdemeanor. Los Angeles County, with over one-half the number of sentences in superior court, imposes felony sentences in 41 percent of the cases. The statewide average for felony sentences imposed in superior court is 56 percent.16 If the figures for Los Angeles County are subtracted from the statewide totals, 71 percent of the sentences imposed in superior court are felony sentences.

The above figures are not conclusive evidence of what has been described as an "extended guilty plea to a misdemeanor." However, they do indicate some support for such a conclusion.

The final problem with a fragmented system of prosecution is the neglect of the city prosecutor in programs to improve prosecution. The question of the desirability of maintaining a city prosecutorial function is far from being settled. In the meantime, the office of city prosecutor remains a part of the criminal justice system. As such, consideration of the needs of the city prosecutor must be made in any general program designed to improve prosecution.

1) Suggested solutions include an evaluation and identification of the problems and duplication resulting from a fragmented system of prosecution.

2) The CCCJ has two objectives in this area. The first objective is

---

16 CCCJ, California State Plan 1972, p. A-159

to bring an end to the problems caused by fragmentation of the prosecutorial function. A secondary objective is the provision of assistance to city prosecutor's offices.

M. Need for Improved Defender Services in Rural Areas

The responsibility for defense of indigents accused of crimes is no longer subject to question. The Supreme Court of the United States has held that no person may be imprisoned for any offense, regardless of its classification (misdemeanor or felony), unless represented by counsel.[17] Sections 987 and 987.2 of the California Penal Code provide for such representation with the attendant expenses borne by the respective counties. Thirty-one California counties have adopted the public defender system. Two other counties (San Diego and San Mateo) utilize organized programs involving members of the private bar.[18] The remaining counties provide counsel for indigents either through court appointments or contracts with law firms or members of the bar. The latter approaches are generally used by less populous counties because of an insufficient number of cases to justify the employment of a full-time public defender.

The counties which have adopted the public defender system have done so because of the economic advantages of such a system over the court appointment or contract approaches. A full-time public defender is able to provide more and better services at less cost.

The less-populous counties of California might also profit from using a public defender system. Current costs of indigent defense in those counties is a matter of considerable concern. Less populous counties in California are in need of improved defender services which can be provided more economically.

1) A suggested solution to the above project is the examination of the feasibility of creating a regional public defenders office to serve a multi-county area.

2) The objective of the CCCJ in this area is the provision of improved and economically advantegeous defender services for less-populous counties of California.

N. Lack of Cooperation and Coordination Among Criminal Justice Agencies

The judicial process relies upon an adversary system in order to determine truth. That system is based upon an assumption that two vigorous and contending forces engaged in a form of combat before an impartial observer is the best means of determining the truth in a particular case. The adversary process is also designed to insure that every relevant item will be placed before the trier of fact.[19]

---

[17] Argersinger v. Hamlin (U.S. Sup. Ct. 6/12/72), 11 Cr.L. 3089

[18] Bureau of Criminal Statistice - "Criminal Justice Agency Resources in California," June 1971, P. 33

[19] ABA "Standards Relating to the Prosecution and Defense Function," approved draft, p. 2-6

While the adversary system was designed to promote productive conflict, it was never intended to be used to defeat the administration of justice.[20] A substantial amount of cooperation and understanding is required of all elements of the criminal justice system. This cooperation is necessary for the orderly and efficient operation of the system and in no way conflicts with the adversary process.

A similar source of difficulty lies in the attitudes and actions of various criminal justice agencies towards each other. Each agency is usually under the leadership of an elected official (for example, a sheriff, district attorney or judge) and feels no obligation toward other agencies. It is this failure to view criminal justice from a broader system viewpoint which leads to friction and unnecessary conflict. For example, a special traffic enforcement program almost doubled the workload of a local traffic court, with the result that the court was unable to operate in an optimum fashion.

Judicial process agencies have been able to maintain a precarious balance between workloads and resources. That balance can be altered radically by relatively minor events which significantly and unexpectedly increase workloads.

1) Possible solutions for the problems in this area include:

   a) The development of cooperative arrangements, under which judicial agencies are given advance notice of changes which may affect their workloads;

   b) An articulation of the respective functions and responsibilities of criminal justice agencies; and,

   c) The provisions of assistance to judicial agencies whose workloads have substantially increased as a result of activities of other criminal justice agencies.

2) The objective of the CCCJ is to encourage cooperation among criminal justice agencies.

---

[20] Ibid, p. 148-150

II. TRAINING

A. Lack of Training and Standards for Judges

Unlike law enforcement agencies, there is no "judicial academy" at which judges must satisfactorily complete a specified number of hours of training prior to assuming the bench. Apart from informal orientation programs operated by a few courts, judges must generally learn from experience. In addition to creating difficulties for individual judges, the lack of an organized training program also adversely affects the administration of justice. Errors due to inexperience and lack of training result in increased work for appellate courts and counsel, prosecutors, defenders, law enforcement personnel and court clerical employees. Reversal by an appellate court has the effect of negating most of the work of a number of persons at the trial level. To the extent that reversible error can be avoided by improved training, the means of providing that training should be adopted. In addition, judicial training programs can assist in streamlining and improving the flow of cases through the courts. The cost of such training is undoubtedly less than the cost of correcting errors which result from a lack of training.

The ever-increasing workloads of the courts effectively prevent the new judge from using his first few months on the bench as a training program. The new judge is expected to bear his share of the caseload as soon as possible. Because of the pressure of large caseloads, the new judge is often assigned to cases in areas of the law with which he is unfamiliar. Thus, a judge with an extensive background in civil law as an attorney may find himself hearing criminal cases.

Calendar management and court administration are also areas in which scant training is given new judges. The improved practices developed in calendar management are of little effect unless those responsible for implementation are fully conversant with them.

All the above comments are equally applicable to the lack of training and preparation of subordinate judicial officials. There is even less training provided for commissioners, referees and temporary judges.

Finally, continuing education of judges and subordinate judicial officials is a need which is only partially filled by existing programs. New developments in the law occur daily, changes in procedures are frequent and new administrative techniques are being developed. Training and information about those developments is imperative.

1) Possible solutions for the problem of lack of training for judges include:

   a) The establishment of a center for judicial education and research which would include judicial training programs for commissioners, temporary judges, and referees;

   b) The development of standards and certification programs for judicial positions; and

   c) The creation of a commission to develop improved selection procedures.

2) The objective of the CCCJ in this area is the provision of training for all newly appointed judges and subordinate judicial officials. A secondary objective is the institution of an organized continuing education program for judges and judicial officials.

B. Lack of Training and Standards for Prosecutors and Defenders

The prosecution and defense function are critical elements in the administration of justice. Both determine to a large extent what will be done with a particular case. The prosecutor determines which charge or charges, if any, should be filed and is responsible for representing the state in criminal proceedings including plea negotiations. The defender represents the accused in those matters. Jointly and separately, the actions of the prosecution and the defense determine both the outcome of cases and the speed with which those cases are processed. Errors or lack of judgment on the part of the prosecutor or defender may produce an unjust result. Errors or lack of judgment based on inexperience or lack of training can and should be remedied. The effect upon the justice system of a lack of training in this area is similar to the effect of comparable deficiencies in judicial training discussed above.

The average beginning deputy district attorney or deputy public defender is trained on the job. He may observe more experienced deputies in action, handle minor cases and, if he is fortunate, receive informal training from his office on certain aspects of his job. He received very little practical training in law school unless he participated in a clinical internship program.

The intermediate level and advanced deputies are trained in approximately the same manner. There are few continuing education programs in criminal law and procedure and virtually no programs in administration and supervision. Most prosecutor and defender offices are unable to provide the necessary training of deputies because of ongoing responsibilities. Large workloads and inadequate staff resources permit only cursory attempts at training.

There are over 1,800 California attorneys employed by local public agencies as either prosecutors or defenders. [22] There is a great need for training of prosecutors and defenders. There is a need to provide such training on an organized, coordinated and ongoing basis because of the high turnover rates in those offices. Finally, there is a need to provide such training on a statewide basis because of the economies and improved programs which can be realized through a pooling of resources throughout the state.

1) Suggested as solutions for the above problem are:

a) The creation of training units for offices above a certain number of deputies (a number of smaller offices might jointly operate such a unit);

b) The creation of statewide training coordinators for both prosecutor and defender training programs;

---

[22] Bureau of Criminal Statistics, "Criminal Justice Agency Resources in California," June 1971, p. 31, 32.

c) Prosecutor and defender training programs;

d) The encouragement of law student intern programs; and

e) The development of standards and certification programs.

2. The objective of the CCCJ in this program is to insure that every California prosecutor and defender receives the requisite amount of training necessary to adequately perform his function.

C. Lack of Training and Standards for Court Executives

The founding of the Institute for Court Management in 1970 marked the first organized training program for court executives in the United States. Since that time, American University and the University of Southern California have initiated degree programs in judicial administration. However, each of the three programs is by necessity limited in size and in the services they provide. No provision has been made for court administrators unable to enroll in one of the programs and none of the three programs offers continuing education or training for persons now holding the office of court administrator.

California Superior Courts employ court administrators in 13 counties.[23] In addition, the position of clerk of some of the metropolitan municipal courts is equivalent to that of a court administrator. These courts are responsible for the bulk of the state's judicial business and yet few efforts have been made to gather their court executives together to discuss common problems and solutions.

Increased concern over the administration of the courts combined with increased interest in the role of the court executive indicate that the office of court executive will be created in a number of California courts. Two superior courts have added a court executive position within the last year.[24] Apart from a brief statement in the Standards of Judicial Administration Recommended by the Judicial Council,[25] there are no standards or qualifications established for the office of court executive. Such standards must be developed to insure that the office of court executive is used to its fullest potential.

1) Listed among the possible solutions to this problem are:

a) The conducting of court executive training programs and conferences; and

---

[23] Alameda, Contra Costa, Los Angeles, Orange, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Barbara, Santa Clara, Ventura and Yolo Counties.

[24] Santa Barbara and Ventura Counties.

[25] California Rules of Court, "Standards of Judicial Administration Recommended by the Judicial Council," Section 4.

b) The development of standards and certification programs for the office of court executive.

2. The objective of the CCCJ in this area is the provision of the necessary continuing education and interchange of ideas among court executives. A further objective is the assurance that the office of court executive will be occupied only by those able to discharge the duties of that office competently and in a professional manner.

D. Lack of Training and Standards for Court, Prosecutor and Defender Clerical and Support Personnel

Court, prosecutor and defender clerical staff are often the forgotten people of the justice system. While judges, prosecutors and defenders usually occupy the central role in the adjudication process, without the efforts of clerical and support personnel, there would no adjudication process. Included in the term "clerical and support personnel" are clerks, secretaries, marshals, bailiffs, investigators and research assistants.

There are no organized training programs for the above employees. On-the-job training is once again the rule rather than the exception. Efforts to improve the adjudication process which do not involve clerical and support personnel will be less than successful. Training is necessary to develop an understanding of the criminal justice system, the various roles within the system and their relationships, improvement programs and to develop increased competence in performance of the duties of clerical and support personnel.

1) Suggested programs include:

a) Court, prosecutor and defender clerk training programs;

b) Prosecutor and defender investigator training programs; and

c) Development of standards and certification for clerical and support personnel.

2) The objective of the CCCJ under this section is the initiation of programs to train court, prosecutor and defender clerical and support personnel.

E. Lack of Training in Juvenile Law and Procedure

Previous sections of the training problem area have dealt with the training needs of personnel. This section is the only portion which considers a lack of training in a particular subject matter. A lack of training in juvenile law and procedure is thus listed because of the unique nature of the subject and because of the importance to the criminal justice system in improving the quality of juvenile justice.

Juvenile law and procedure differs from adult criminal law and procedure in a number of important ways. While certain due process standards must be met, the promotion of the welfare of the juvenile is still the guiding principle of the juvenile justice system.[26]

The juvenile process represents an opportunity to intercept future criminal justice problem cases at a time when they are most amenable to treatment. A juvenile offender, if treated properly, can be redirected toward a more useful life. Because of the sensitivity and awareness required of juvenile justice personnel, it is essential that they receive adequate training. Law enforcement officers and probation officers generally receive some training in juvenile matters prior to or during their service. The Judicial Council of California regularly conducts institutes on juvenile law for judges and commissioners. Unfortunately, not much provision has been made for supplying such training to prosecutors and defenders.

Juvenile law and procedure has undergone sweeping changes within the last five years. Case law and statutory revisions subsequent to In re Gault[27] have radically altered the nature of the juvenile justice system. Training for judicial process personnel in this area is essential.

1) A suggested solution to the above problem is the organizing and conducting of training programs in juvenile law and procedure.

2) The objective of the CCCJ in this area is the assurance that all judicial process personnel with juvenile justice responsibilities are given the opportunity to receive a certain minimum amount of training in juvenile law and procedure.

---

[26] California Welfare and Institutions Code, Sections 502, 503.
[27] In re Gault, 387 U.S. 1 (1967).

III. DIVERSION

A. General Diversion of Offenders and Cases More Appropriately Handled Elsewhere

Diversion of certain offenders and certain offenses from the criminal justice system is one of the most important issues facing that system today. The system itself admits that, in many cases, it has failed in fulfilling its responsibilities: correctional programs do not promote correction, prevention activities do not prevent the commission of crimes and deterrent measures do not deter. Many argue that the criminal justice system is largely responsible for the further criminalization of offenders.

There are a number of reasons for these shortcomings. The entire system, and especially judicial agencies, must dispose of an overwhelmingly large caseload. The size of that caseload precludes allocation of the necessary resources to serious cases or those cases which the system is well-equipped to handle. Thus, a failure to divert some offenses from the system results in a dilution of the attention which can be given to the important offenses. This failure is even more unforgivable in view of the cases which are heard and perhaps should not be: minor drug violations, minor traffic violation and the common drunk cases. That the criminal justice system has been notably ineffective in dealing with these cases is further argument for diversion.

There are a number of fine efforts being made to divert certain cases (chiefly juvenile), and to dispose of cases administratively prior to involvement with judicial agencies. This discussion focuses upon what can be done by way of diversion when the case is first referred to a judicial agency.

Diversion programs are often established without first obtaining the support of the prosecutor and the courts. Since the prosecutor and the courts often possess the final decision-making power in a given case, programs which fail to involve them are certain to be less than successful. Where the prosecutor and the courts actively and enthusiastically participate in diversion programs, those programs will be much stronger and are more likely to achieve their purposes.

1) Possible solutions to this problem are:

   a) Increased use of citation to the district attorney with possible informal or voluntary probation under the police department;

   b) Deferred prosecution; and

   c) Adoption of "no fault insurance," improved settlement procedures and arbitration.

2) The objective of the CCCJ is the creation of pilot diversion programs in a limited number of jurisdictions. The ultimate objective is the adoption in all jurisdictions of improved and successful diversion programs.

B. Traffic Cases

Minor traffic cases in 1970-71 amounted to 3,731,225 filings in the municipal courts. There were 809,848 traffic filings in justice courts in 1971. Parking filings in 1970-71 totaled 6,878,812 (municipal court 6,602,917; justice court 277,895). The total of the above figures is 11,419,885 filings. This figure amounts to 88.5 percent of all filings in municipal and justice courts, 1970-71 (12,889,994).[28]

Most of the above filings resulted in non-contested matters. Therefore, the subject of traffic presents two problems for the judicial system: The disposition of non-contested traffic cases, and the disposition of minor contested traffic matters. In cases where there is no dispute over a traffic or parking case, the courts serve a revenue-collecting and processing function. This is an inappropriate role for the court system since there are other agencies better equipped to perform those tasks. These cases also consume a substantial amount of clerical resources and result in transforming a major portion of the court's operation into paper processing. Alternative methods of disposing of these cases should be adopted to free the courts to perform the job they were designed to perform -- resolution of disputes.

Minor contested traffic violations consume not only judge and clerical time, but also the time of the district attorney who must prosecute those cases. In addition, the police officer often must also appear. In the great majority of these cases, the "defendant" is merely interested in telling his side to the court. The "guilty, with an explanation" plea accounts for most of these cases. Once again, this is a misuse of court and prosecutor time. An alternative to the use of the criminal justice system should be developed.

It is important to note that no one is advocating the removal of serious traffic offenses from the criminal justice system. These offenses are properly a part of that system, since they represent conduct with which the criminal justice system is designed to deal.

1) Possible solutions to this problem include:

   a) Summary disposition of minor traffic violations;

   b) Administrative disposition of minor traffic violations;

   c) Greater use of traffic referees (possibly on a multi-county basis); and

   d) Decriminalization of minor traffic cases.

2) The objective of the CCCJ is the removal of minor traffic offenses from the criminal justice system.

C. Drug Cases

The increase in the incidence of drug abuse is a major social tragedy. The problem of drug abuse has touched a great number of California citizens.

---

[28] Judicial Council of California Annual Report, 1972, p. 124, 143, 155.

The California Council on Criminal Justice has identified drug abuse as its highest priority. This Section focuses on the effect of drug offenses upon the judicial process. In terms of workload, drug abuse cases account for 41 percent of felony cases processed by the courts; in 1970 there were 29,030 felony drug cases processed (this includes 13,084 marijuana cases).[29] In addition to constituting a significant portion of the workloads of judicial agencies, current handling of drug cases casts some doubt on the ability of the criminal justice system to effectively treat drug users or deter potential drug users. Drug users generally need intensive counseling and therapy. This treatment is often impossible to obtain in existing criminal justice facilities. Clearly, an alternative to large workloads with ineffectual results is necessary.

Most drug abuse programs attempt to treat drug abuse cases prior to their referral to judicial agencies. Many of these programs deserve commendation for their accomplishments. This section is concerned with those cases which have become the responsibility of a judicial agency: either the prosecutor or the courts or both. The need at this stage is for effective programs which will serve as an alternative to further processing by the judicial agency.

1) Possible solutions are:

   a) Increased use of civil addiction proceedings under Section 3100 of the Welfare and Institutions Code;

   b) Drug abuse institutes for local judicial agencies; and

   c) The creation of a special drug abuse unit in the prosecutor's office.

2) The objective of the CCCJ under this section is to reduce the number of drug cases processed in the courts.

D. Alcohol Cases

Arrests under Section 647f of the Penal Code constitute a major source of initiation to criminal justice agencies. In 1970, the common drunk accounted for 258,151 misdemeanor arrests out of a total of 707,305 misdemeanor arrests in California.[30] The common drunk case has been aptly described as the revolving door syndrome. An alcoholic, usually a resident of skid row, is arrested, booked, jailed, tried and sentenced, usually within a 24-hour period. He may be sentenced to jail or to a work detail. One thing is certain though, he will be back through the cycle shortly after he is released.

The common drunk generally poses no threat to society and is arrested chiefly for his own protection. While intoxicated, the alcoholic is an easy mark for criminals, is in danger of being hit by motor vehicles or is in need of medical attention. The common drunk is often an esthetic problem more than a criminal justice problem. The criminal justice system provides protection, medical care if necessary, temporary shelter and short-term detoxification. The costs of these services are great. Arresting and booking the common drunk consumes substantial police time.

---

29 Felony Defendants Disposed of in California Courts, BCS 1970, p. 9.
30 Crimes and Arrests, BCS 1970, p. 7.

Custody in a local jail is also costly. An alternative to the arrest/custody, trial and return syndrome, which provides some treatment for the alcoholic is sorely needed.

1) Suggested solutions concern either implementation or expansion of the provisions of Penal Code Section 647ff. Penal Code Section 647ff provides for civil custody and detoxification in lieu of the criminal process. The major difficulty with this section is the expense involved in providing detoxification centers which meet the standards for such centers. Therefore, a possible solution consists of expanding some of the standards for establishing detoxification centers. Another approach is the provision of funds for establishing detoxification centers under existing laws and regulations.

2) The objectives of the CCCJ are to establish a sufficient number of detoxification centers to implement Penal Code Section 647ff and to insure that these centers are utilized in all common drunk cases.

IV. UNIFORMITY OF RULES, FORMS AND PROCEDURES

California has 58 counties and while all counties operate under the same criminal law and procedure, practice and forms may differ markedly from county to county. The development of improved and uniform practices will take the guesswork out of criminal law practice and allow criminal justice personnel to devote their full time to the substantive issues of criminal law. The need for a certain amount of uniformity of rules, forms and practices is evident in view of the mobility of California's population and its criminal justice personnel. A deputy district attorney in Santa Barbara who leaves to become a deputy district attorney in Sacramento, should be able to do so with a minimum amount of retraining.

A. Lack of Uniform Crime Charging

The district attorney's decision to file criminal charges initiates the formal processing of the accused through the adjudication system. The criminal complaint also commences the involvement of the court and defense counsel. There are a number of critical decision points in the adjudication process. Crime charging is easily the most important point since it is the first step and since subsequent actions are in large measure determined by that decision. The crime charging process may well determine in what manner and for what amount of time the criminal justice system will exercise jurisdiction over the accused. Crime charging also helps determine the measure of protection and recompense which will be afforded to society.

In addition to the decision to file criminal charges, the number and nature of counts alleged, the possibility of alternative dispositions and the initiation of the plea negotiation process are also determined in the crime charging process. The prosecutor is vested with a substantial amount of discretion in making these determinations. Standards are necessary for the proper exercise of this discretion.[31] Since the charging process sets the stage for plea negotiations (discussed in another section), and since the negotiated plea is by far the most prevalent means of disposition, the appropriate exercise of discretion in crime charging is of paramount importance.

Deficient crime charging policies result in a denial of justice to either society or the accused. Overcharging results in an unnecessary increase in contested matters or an unnecessary filing in superior court of cases which should be disposed of at a lower level. Undercharging results in an offender's return to society without adequate assurance of the future protection of society. Uniform crime charging policies are necessary to promote optimum practices and to insure that criminal justice is uniformly and expeditiously secured throughout the State of California.

1) Suggestions for improvement in this area are: the creation of a high level policy committee to develop crime charging standards and practices and the implementation of those standards in an experimental program. The policy committee might also examine and develop uniform police reporting and charging practices and citation hearing practices.

---

[31] ABA "Standards Relating to the Prosecution and Defense Function," Approved Draft, p. 92ff.

2) The objective of the CCCJ in this area is the adoption of uniform crime charging policies and practices throughout California.

B. Lack of Uniform Local Rules of Court

Local rules of court are the operating policies and procedures of the local court. Both California law and procedure and the California Rules of Court adopted by the Judicial Council leave many operational details to the discretion of local courts. Local court rules include such topics as: "Organization of the Court," "Pre-trial and Setting for Trial," "Conduct of Trial," "Impaneling Juries" and "Probate."[32] Local rules may also include prescribed forms and local filing fees.

California attorneys regularly practice before a number of courts in a number of different counties. The difficulties caused by each county having its own local rules are not difficult to imagine. The diversity and confusion resulting from a multiplicity of local rules interferes with the efficient administration of justice in California.

In the Third and Fifth Appellate Districts of California, uniform local rules of court have been developed for local courts within the district. This practice could be extended to other appellate districts.

1) The provision of staff assistance in drafting uniform local rules of court has been suggested as a possible solution to the above problem.

2) The objectives of the CCCJ is the development and adoption of uniform local rules of court similar to those in effect in the Third and Fifth Appellate Districts.

C. Lack of Uniform Standards, Practices and Forms for Criminal Law

Each of California's 58 district attorney's offices is an independent unit. California public defender offices are also independent units. Similarly, there are 309 separate courts in California.[33] While all of these entities enjoy a considerable amount of autonomy, they also frequently utilize materials and practices developed in other offices. An example of this exchange is the extent to which the Los Angeles County Superior Court Benchbooks and Deskbooks are used in other superior courts.

Uniform statewide practices and forms can be an asset if they incorporate the best of existing practices. Under a uniform system, professional and clerical staff will be able to spend less time learning (or relearning, in case of a transfer) the mechanical aspects of their jobs. The time thus saved could be devoted to matters of substance. In addition, well-developed manuals will assist in improved employee performance.

1) Suggested solutions include:

a) The development of uniform statewide pleading and practice forms;

b) Distribution of materials and benchbooks such as those produced by the California College of Trial Judges;

---

[32] See, for example, the Rules of the Superior Court, County of Sacramento

[33] Judicial Council of California Annual Report, 1972, p. 58.

c) The distribution of misdemeanor benchbooks; and

d) The development of uniform prosecutor, defender and clerical manuals.

2) The objective of the CCCJ in this program is the development and adoption of uniform statewide standards, practices and forms for criminal law.

D. Lack of a Uniform Felony Bail Schedule

1) Persons arrested for a felony late at night or on weekends are often detained for a long period of time because of the inability to locate a magistrate for release on bail or own recognizance.

a) A felony bail schedule should be established.

b) The objective of CCCJ is to ensure that incarceration following arrest is used as selectively as possible.

V. APPELLATE PROBLEMS

Many of the problems which have affected the appellate courts for years have only recently gained widespread recognition as the number of appellate filings have dramatically increased. In 1960-61 there were 2,874 appeals filed in the courts of appeal; in 1970-71 there were 8,684 appeals filed in these courts.[34] Although a significant percentage of these appeals are completely devoid of merit, present California law compels the appellate courts to write an opinion in each case. As a result, the time delay from initial filing with the appellate court until its decision as finally rendered is often over a year.

A more serious problem than delay is the quality of representation on appeal. Counsel is appointed in approximately 50 percent of the cases. Most of these appointed attorneys are young and inexperienced and as a result, the quality of their work is often substandard. Because of this, appellate judges find that their staffs must spend a great amount of time on criminal cases.

A. Piecemeal Pre-Trial Appellate Review

There are various points at which appellate review may be sought prior to trial. As a result of the need for a timely decision, the appellate court must often interrupt its regular business to decide the merits. Separate appellate review may be sought in a number of different instances.

1) A possible solution to this problem is consolidation into a single motion for pre-trial appellate review, requiring to raise all grounds for pre-trial review at the same time.

2) The objective of CCCJ is the improvement of the present time-consuming pre-trial appellate review process.

B. Appellate Delay

During fiscal year 1970-71, the average time, statewide, from notice of appeal to filing of opinion was 16 months for civil appeals and 14 months for criminal appeals. The average delay from the time an appeal was ready for calendaring to the filing of the opinion was six months for civil appeals and less than three months for criminal appeals.[35] Numerous factors contributed to this delay and the mere increase in the number of filings (an average of 8 percent a year) may not be the most important. Due to the large number of indigent appeals, counsel must often be appointed by the court. Though most of these attorneys are conscientious, they are inexperienced and presentations are often of substandard quality. As a result clerks of the appellate judges often spend a great deal of time reviewing criminal cases to make sure that every issue has been appropriately raised and argued. This takes away from the time the clerks need to spend on other important matters and contributes to appellate delay. Additionally, many inexperienced and experienced counsel, because of pressing workloads, submit their briefs many months after they are due, thus compounding the delay.

---

34 Judicial Council of California Annual Report, 1972, p. 68.
35 Ibid.

1) Most of the suggestions for reducing appellate court delay are of a procedural nature and require little in the way of funds. A major concern is an adequate record of the trial court proceedings. This may be accomplished by increased supervision of the preparation of the transcript. Specifically, financial sanctions might be imposed for late preparation; trial counsel could be retained until the record is complete; appellate counsel could be appointed at an earlier stage of the proceeding; electronic court reporting could be implemented to provide a more accurate and timely record; the submission of an appeal could be made on a settled statement rather than upon a record. Sanctions could be imposed on counsel for a late submission.

   Finally, experimentation could be conducted with a certification program, similar to that required by Penal Code Section 1237.5, whereby, appeals would be presented for hearing in the supreme court only if certified meritorious.

2) The objective of CCCJ is to eliminate undesirable appellate delay.

C. Unmeritorious Appeals

Whether there are sufficient grounds for appeal is often a difficult question. However, appeals are often made merely as a delaying tactic with the knowledge that the appeal has little chance of success. Unfortunately, even when it is quite apparent that an appeal has no chance of success, an opinion must be written.

1) An approach to this problem is restricting the issues on appeal by use of a petition for hearing or a petition for leave to appeal with the petition specifically outlining the grounds for appeal. With the issues on appeal outlined, it would be possible to rank the appeals according to merit. Lastly, if judges were allowed to render oral opinions in certain cases, a great deal of time would be saved.

2) The objective of CCCJ is to eliminate all unmeritorious appeals.

D. Lack of Competent Appellate Counsel

Counsel was appointed by the court in approximately 60 percent of the more than 2,000 criminal appeals heard in 1968.[36] It is becoming increasingly difficult for courts to recruit attorneys to handle criminal appeals. The situation is due primarily to the increase in the number of indigent appeals and the marginal compensation given appointed attorneys. Although the courts have been able to recruit a sufficient number of attorneys, it appears that quality has suffered. It is estimated that 40 percent of the appeals which are submitted are of substandard quality. Close to 90 percent of appeals are handled by attorneys who are in their first three years of practice.

[36] Report of Assembly, Interim Committee on Criminal Procedure, "Statewide Public Defender's Office", 1970

1) Generally, the attorney who tries the case is not the same one which carries the appeal. As a result, an attorney who is thoroughly familiar with the case and various appealable issues, turns the case over to another attorney who must start from the beginning. A possible solution would be to have the trial attorney handle the case on appeal. Another approach would be to establish an Appellate Defender System whereby attorneys experienced in appellate practice could provide a higher standard of representation. To insure a minimum standard of ability, an appellate certification process could be established with such certification required of all attorneys who appear before an appellate court.

2) The objective of CCCJ is to insure that competent appellate counsel is provided in all cases which merit an appeal.

VI. JURY SELECTION AND UTILIZATION

The use of jurors in criminal trials is more than a Constitutional guarantee. It is also the only opportunity which the general public has to participate directly in the judicial system. What the juror is exposed to as a juror unquestionably influences his future attitude toward, and support for, the judicial system. An equally important consideration is the effect that poor jury utilization has on the administrative functioning of the courts.

A. Insufficient and Inefficient Use of Juror Time

Jurors are often puzzled by the intracacies of the law. But perhaps even more exasperating for the juror or prospective juror is that he is required to appear for jury duty and frequently wait for long periods of time. Compensation and amenities provided for jurors are minimal. Voir dire is often needlessly lengthy and sometimes leads to what is clearly jury indoctrination by counsel.

On a purely administrative level, there are a number of changes which can easily be implemented. Superior and municipal courts have separate jury pools resulting in needless duplication. Many trials are delayed because an insufficient number of prospective jurors have been notified in advance to appear. In short, experimentation with a number of possible methods of better utilization of jurors is possible.

1) A variety of possible solutions has been suggested. A number of these solutions can easily be implemented on an experimental basis. A common jury pool for superior and municipal courts could be adopted. A certain number of prospective jurors could be placed on call. Uniform and improved procedures and aids for juror education could be developed. Jury service could be given more appeal by increasing juror compensation, improving juror facilities, providing for tax deductions for jury time served, awarding certificates of appreciation. Improved methods of juror selection could be initiated whereby exemptions are reduced, earlier notification of jurors is made, and better use of a questionnaire is made to determine juror suitability. Judges could be allowed to conduct voir dire in criminal cases. Limitations could be placed on the right to a jury trial in minor criminal offenses. Jury size should be reduced.

2) The objective of CCCJ is to maximize the efficient use of juror time and to eliminate outmoded procedures which do little more than to contribute to trial court delay.

B. Problems Resulting from Deadlocked Juries

Undoubtedly one of the most frustrating aspects of a trial is a hung jury. It also represents a tremendous loss in court time. The requirement of unanimity of verdict in a criminal trial effectively places a jury under the control of the lone dissenting juror.

1) An empirical study should be made of the frequency of occurrence, causes, effects and amount of time consumed by hung juries. Alternatives to the unanimous verdict might be examined: Reduction of the number of jurors required to return a verdict, allowing a judge to render a judgment should the jury fail to agree, allowing the judge to render a judgment based on the majority opinion of the jury, or by replacing the jury with a three-judge panel.

2) The objective of CCCJ is to eliminate the number of hung juries.

C. Inadequate Juror Security

In controversial trials, many jurors -- reasonably or unreasonably -- fear reprisals from defendants or their sympathizers. Although the problem has not gained widespread attention, a juror should not have to subject himself to even the remote possibility of future harassment.

1) A study should be conducted in which standards for juror security are established.

2) The objective of CCCJ is to eliminate any possibility of danger to a juror as a result of his participation in a trial.

VII. PLEA BARGAINING AND SENTENCING

A. Plea Bargaining

Plea bargaining is the term used to describe the process whereby a defendant pleads guilty to one or more charges or lesser included charges in the hope of obtaining a more favorable disposition. The major advantage to the defendant lies in the relative certainty of obtaining a specified disposition under a negotiated plea rather than risking the uncertainty of a trial. The major advantage to the criminal justice system lies in reducing congested court calendars by dispositions without time-consuming trials. Negotiated pleas are not only recognized as an acceptable form of disposition, they are also recognized as essential to the continued operation of the system. Contested cases account for only 14 percent of the criminal cases disposed of in superior court.[37]

Plea bargaining can serve the ends of justice for both the accused and society when conducted properly. In order for the plea negotiation process to function properly, both the prosecutor and the defender must be competent, prepared, fair and not under pressure to dispose of the case by plea because of workloads. Court calendars must be such that a defendant can receive a speedy trial if he so desires. The absence of any one of these and other requisites creates the possibility of an unjust outcome.

Even though the negotiated plea has been a fact of life for many years, it is only recently that plea bargaining has received official acceptance.[38] There is a need to develop standards for plea negotiations to insure just and fair dispositions. There is a need to improve the plea negotiation process itself for the same reasons. Finally, there is a need to examine the current role of the probation department in the process to determine whether changes in that role are required.

1) Suggested solutions are:

   a) The development of uniform plea negotiation practices based in part on a study of existing practices and,

   b) A study of the role of the probation department in the plea negotiation process.

2) The objective of the CCCJ is the improvement and standardization of the plea negotiation process.

B. Lack of Uniformity in Sentencing

Sentencing refers to the stage of the criminal process where punishment is imposed upon a convicted offender. This stage of the adjudication process is important because of the effect the disposition will have upon the offender and upon society.

---

[37] Judicial Council of California Annual Report, 1971, p. 109.

[38] Boykin v. Alabama, 395 U.S. 238, In Re Tahl; 1 Cal. 3rd 122; People v. West, 3 Cal. 3rd 595.

The judge has a broad amount of discretion in imposing sentence.[39] The sentence imposed may vary from probation to the statutory maximum. Despite the indeterminate sentence, a great deal of control over the sentence still resides with the judge. It is the judge who decides whether to commit a convicted felon to a state institution. Although various modifications of the sentencing function such as sentencing by panels of judges or clinicians have been suggested, the sentencing process is, and will probably remain, a solitary responsibility. Despite probation reports, special diagnostic services and the assistance of counsel for the prosecution and the defense, it is the judge who must make the sentencing decision.

As a result of the individual nature of the sentencing process, sentencing practices may vary widely among the more than 1000 California trial judges. Such variances may, for the most part, may be desirable. The sentencing stage is one of the few areas of the criminal justice system which allows for an individualized application of the law.[40] However, some uniformity of sentences is desirable.

The California Legislature has recognized the importance of achieving a certain amount of uniformity in sentencing by providing for conferences of trial judges, under the direction of the Judicial Council, to discuss sentencing practices.[41] The Judicial Council Sentencing Institutes have been well received, and have contributed much to the promotion of uniformity of sentencing practices in California. However, there is a need for greater uniformity of sentences.

1) Among the solutions suggested for this problem are:

   a) The adoption of sentencing standards and uniform sentencing practices based upon a broad consensus of the California judiciary;

   b) An empirical study of sentences imposed; and

   c) An evaluation of the probation subsidy program.

2) The objective of the CCCJ in this area is the encouragement of greater uniformity of sentencing practices.

---

39 Witkin California Criminal Procedure, p. 606.
40 Cardozo, Benjamin N., The Nature of the Judicial Process, Yale University Press, New Haven, 1965, p. 108ff.
41 California Government Code, Section 68551.

VIII. RESEARCH

A. Difficulty of Assessing Impact of Legislative, Judicial, Executive, and Administrative Changes Upon the Adjudication Process

As various legislation is adopted, it is sometimes not realized until too late the severe burden it places on the judicial system. No methodology exists for determining with sufficient accuracy the workload impact of legislative enactments, executive, administrative and judicial decisions.

1) A possible solution to this problem is development of a methodology for determining workload increases that may result from legislative, executive, administrative, or judicial changes. A system should also be developed whereby information about changes -- including both the nature and effect of the changes -- is disseminated to agencies which should be aware of those changes.

2) The objective of CCCJ is to encourage the development of a system methodology for assessing the workload impact of legislative changes and to provide information about these changes to those agencies which may be affected.

B. Lack of Flexibility to Experiment

Much experimentation is unnecessarily restricted because of the resistance of agencies and individuals to changes in their methods of operation. Given the necessity for experimentation, much more could be accomplished in this area if cooperative and positive attitudes toward experimentation could be developed.

1) An approach should be developed which will allow or provide greater acceptance and cooperation among judicial agencies and personnel subject to experimental programs.

2) The objective of CCCJ is to eliminate obstacles to experimentation and provide for maximum flexibility in the system for the conduct of experiments.

C. Need for Restatement of Code Sections Affecting the Judicial System

A number of code sections which concern the judicial system are outdated and inapplicable to the system as it now operates. Moreover, code sections affecting the judicial system often overlap or duplicate one another, and are dispersed throughout the codes.

1) A comprehensive "Judicial Code" should be drafted to compile all the laws affecting the judicial system.

2) The objective of CCCJ is to improve the body of law affecting the judicial system.

D. Inadequate Court Financing

The present methods of financing our trial courts are a patchwork. The counties bear all capital costs. Salaries for superior court judges are primarily state expenses, while municipal and justice court judges are paid entirely by the counties in which they sit. The Legislature prescribes the salaries of superior and municipal court judges but each county determines the salaries for its justice court judges. Likewise, the counties finance any retirement benefits for justice court judges but the state financially supports and administers the retirement system for superior and municipal court judges. And, as noted above, the counties bear the expense of all non-judicial court personnel.[42]

1) A joint state/local commission should be created to explore and recommend improved court financing approaches.

2) The objective of CCCJ is to develop a court financing system with clearly outlined state and local responsibilities and resources.

E. Need for Experimentation with Recommendations Concerning the Courts

A number of excellent recommendations concerning improvement of the judicial system have been made. Little action has been taken or most of these recommendations; many of them should be implemented on an experimental basis to test their worth.

Studies and reports on court consolidation and reorganization -- although given much attention -- have not been implemented. Moreover, few counties cooperate in sharing judicial agency resources or information when such cooperation could be valuable.

1) An area court administration project might be established to fill the administrative gap between local and state judicial administration. A multi-county court coordinator/administrator position could be established. These offices would foster inter-county cooperation and eliminate unnecessary duplication where feasible. Experimentation with court consolidation and court reorganization could be undertaken in selected courts.

2) The objective of CCCJ is to actively encourage implementation of some of the recommendations which have resulted from extensive studies of the courts.

F. Problems Resulting from Piecemeal Revision of Juvenile Law

Juvenile law has been extensively revised on a piecemeal basis by recent cases and statutes.

1) A juvenile justice commission could be established to re-examine juvenile court law.

2) The objective of the CCCJ is the re-examination and recodification of juvenile law.

---

[42] Select Committee on Trial Court Delay, Report 6, p. 86.

IX. FACILITIES AND EQUIPMENT

A court handled on a sound administrative basis is a vital asset to a smoothly functioning judicial system. But of equal importance, are the resources available to the court. Without adequate facilities to conduct a trial, modern and adaptable methods of reporting the proceedings, an accessable and extensive information system, judicial administration is severely handicapped. Unfortunately, facilities and equipment are often prohibitively expensive. Faced with limited funds, many courts augment their staffs rather than provide the means by which existing personnel can operate more efficiently. Without sufficient resources with which to operate, sound administration of the courts is unnecessarily undermined.

A. Lack of Adequate Methods for Reporting in Lower Courts

The United States Supreme Court has ruled that defendants in all criminal cases are entitled to "records of sufficient completeness" to present their claims to an appellate court.[43] Generally, reporters are used routinely in lower courts only for the reporting of felony preliminary hearings. Although the need for verbatim transcripts of all municipal court proceedings is questionable (as is the case with superior courts in matters such as uncontested dissolutions), some form of record is of value. It provides judges and attorneys with a reference source as to what has transpired, as well as being useful in preparing settled statements on appeal.

It has, for some time, been the experience of many large metropolitan courts that it is extemely difficult to recruit qualified court reporters. The decision mentioned above will compound this problem.

Another problem that has arisen as a result of the shortage of qualified reporters is increased requests for extensions of time for the preparation of transcripts on appeal and preparation of transcripts from preliminary hearings. This problem has become another element of undesirable delay in the judicial process.

1) Suggested solutions to the shortage of court reporters involve the use of electronic court reporting. Through the use of a single or multi-track recording device, transcripts may be produced without the necessity of waiting for the reporter to transcribe his notes.

2) The objective of the CCCJ is to improve court reporting procedures and methods. Where necessary, alternate methods of court reporting should be developed to supplement or supplant the existing system.

---

[43] Mayer v. City of Chicago, (U.S. Supreme Court 1971) 30 L.Ed. 2nd 372.

B. Requirement of Processing Large Amounts of Information

When a person is arrested, considerable data is accumulated by the arresting agency. Often this data is transcribed into a documentary form by the police department, and usually only portions of the data are passed on to other agencies. A similar process occurs in each succeeding agency; the district attorney's office, the municipal court, the superior court, the public defender and the probation office. Each agency keeps its own records and very little of the information collected is shared. This duplication is unnecessary, inefficient and often leads to conflicting information. Complete and recent data, easily accessible and reasonably accurate, insures consistency of background information between the district attorney and the public defender. Also important, is the ability of the court to gain rapid access to that data which is necessary in the consideration of release on own recognizance or sentencing.

Improved information systems should greatly facilitate the ability of the court to swiftly try persons and sentence offenders. The immediate effect is that the serious offender is on the street a much shorter period of time while awaiting trial and thus can be treated before he has an opportunity to commit further offenses. With the certainty of trial and sentencing increased, negotiated disposition on routine cases would be expedited. Carrying this reasoning further, a drastic reduction in inter-departmental duplication of clerical work would occur, thus enabling greater court output without necessary corresponding increase in personnel.

1) Approaches to the problem of inadequate court information centers around more extensive use of electronic data processing. The inadequate information systems which are presently operational should be modified and improved to incorporate the latest techniques of swift and accurate data retrieval. Technical assistance must be provided both to enable modification of existing systems and to establish new systems as economically as possible.

2) The objective of CCCJ is to assist in the creation and implementation of information systems.

C. Inadequate Facilities and Equipment of Judicial Agencies

Judicial agencies are often plagued by inadequate facilities and equipment. Unavailability of courtrooms prevents the use of referees or temporary judges to help handle case backlog. Juries are often forced to deliberate in uncomfortable or inadequate conference rooms. Judges or attorneys who must use library facilities of the court frequently find inadequate and outdated material, or cramped working quarters and are thus hampered in performing necessary research. The facilities and equipment of the district attorney, the public defender, court clerk and other support agencies are also inadequate--limited space is often their most aggravating problem. It is difficult for judicial agencies to determine the best equipment to use for a particular function or activity. Whe- equipment an agency uses proves impractical or ineffecient, there is generally no method by which other judicial agencies can be informed of this inadequacy.

1) A suggested solution to the problem of inadequate facilities and equipment in judicial agencies is assisting in the devolvement of standards for improving physical facilities and equipment. With such standards as a guideline, judicial agencies would have greater ability to examine their existing arrangements compared with those which could provide maximum efficiency. Persons acquainted with the array of equipment available for office use could observe and evaluate the equipment courts and court-support agencies use. They could additionally conduct costs/benefit analyses to determine which equipment is most efficient.

2) The objective of CCCJ is to improve the facilities and equipment of judicial agencies and to provide technical assistance to those agencies in selecting the most suitable equipment available.

D. Inadequate Court Security Measures

As a result of unfortunate occurrences in the past, there has arisen a need for greater security measures in the courtroom. Some controversial trials have necessitated expensive modifications of a courtroom to meet a high standard of security. Although need does not require -- nor money permit -- that all courtrooms be constructed in such a manner, many inexpensive but important changes in existing courtrooms can provide significant increases in security.

1) A substantial part of the solution to this problem would be the creation of improved security procedures. However, in the long run, it is likely that large amounts will have to be spent to greatly improve the security of the courtroom. Prior to these large capital expenditures, security standards and procedures for physical facilities, equipment and personnel must be developed. Minimum standards for all courtrooms must be established along with standards for the various levels of security.

2) The objective of CCCJ is to develop uniform security standards for the courts and their personnel and to actively encourage, their adoption.

X. PUBLIC INFORMATION AND EDUCATION

A. Lack of Public Knowledge and Understanding of the Functions and Problems of the Judicial System

Information disseminated about the judicial system is severely limited and sometimes inaccurate. Statistics are disseminated without sufficient explanation and thus are often misleading. The techniques which are used to disseminate that material which the public is provided, are usually of such an unsophisticated nature that they often are ignored entirely. The power of the news media is unquestioned. Thus, it is vitally important that the media have an unbiased and thorough knowledge of the court system, so that a fair and accurate presentation of news dealing with the judicial system is given.

1) Suggested approaches to this problem center around providing more correct and more extensive information to the public about the judicial system. Media techniques such as cartoons and "tests" could be utilized. Statistics could be provided and interpreted to show their true significance. Educational programs could be developed to educate news media representatives about the judicial and legal system.

2) The objective of CCCJ is to ensure that the public is adequately informed about the nature, role, and function of the judicial system.

GENERAL POLICIES, CONSTRAINTS AND OBJECTIVES FOR SYSTEM DEVELOPMENT FUNDS

GENERAL POLICIES, CONSTRAINTS AND OBJECTIVES

FOR SYSTEM DEVELOPMENT FUNDS

The goal of the System Development Program as articulated by the CCCJ is to "measurably improve or refine the criminal justice system for more effective performance."

The objectives of the program as identified by the CCCJ are:

1. Impact conditions or situations which affect the well-being or success of the criminal justice system by: (a) reducing crime, (b) improving the quality of justice or (c) reducing the cost of administration.

2. Develop public understanding and support of the criminal justice system.

3. Impact two or more elements of the criminal justice system.

4. Develop a transferable demonstration model that is applicable in jurisdictions of various sizes, i.e., large, medium and small. (CCCJ will coordinate, monitor and provide statewide dissemination of results.)

5. Enhance interaction in project development between the Council, task forces, regions and criminal justice system components.

6. Help develop projects with results which can be measured within the prescribed grant period.

The System Development Program will be governed by policies generally in effect for the Improvement of Courts, Prosecution and Law Reform Program.

1. Preference will be given to projects which will further the development of the judicial system throughout the state.

2. Preference will be given to projects where, because of their experimental nature, no other possible source of funding exists. Programs whose merit and value have been conclusively proven and, in view of the substantial savings such programs bring, should properly be a concern of local government, will generally not receive funding.

3. Evidence of commitment will be required on the part of an appropriate local agency to continue a program which was designed, if successful, to be incorporated as a part of the local criminal justice system. Similarly, some assurance that recommendations of studies conducted with CCCJ funding will be implemented is required.

4. Projects which are primarily civil law in nature and have no appreciable impact upon the criminal justice system will generally be discouraged.

5. Construction programs and programs requiring large amounts of costly equipment will generally be discouraged due to the limited amount of funds available.

6. Programs designed primarily to augment existing agency staffs will also be discouraged due to the limited amount of funds available.

In addition to the above policies, the CCCJ has adopted the following selection criteria:

Projects or areas of emphasis should:

1. Be related to Council priorities;

2. Be related to regional plans;

3. Not be eligible for funding from other funding sources (Crime Specific, Laboratory Development, Resource Centers, Part E);

4. Address problems which are prevalent in more than one region;

5. Have transferable characteristics;

6. Show inter-relationships between all elements of the criminal justice system even though a particular component may be the target for the project funds.

Due to the nature of the funds involved, and the uncertainty of obtaining continuation funding, projects which will require multi-year funding should make provision for securing such continuation funding. Since periods longer than the normal 12-month project period may be required, projects may be funded for a period not to exceed 18 months.

Projects submitted for funding must correspond with the solutions listed in the priority category of the System Development Action Plan. Projects must also demonstrate a potential impact upon the courts system and they must fulfill all requirements for evaluation.

RANKING AND CLASSIFICATION OF POSSIBLE SOLUTIONS

RATIONALE FOR SELECTION AND RANKING OF POSSIBLE SOLUTIONS

The Courts Task Force has identified 107 possible solutions to the problems listed in the preceding sections. While the Task Force makes no claim that its listing of solutions is an exhaustive one, that list does represent over two months of concerted effort to identify all possible and feasible solutions. A number of suggestions listed will require legislative or constitutional changes. They are listed because they constitute possible improvements to the judicial system. A number of solutions listed will require no extra funding in order to be implemented. They are included in the listing because they represent important and necessary changes which should be implemented or encouraged.

Solutions under each problem were ranked on the basis of the impact each solution might have on that problem. An overall ranking of solutions was then developed based on overall impact and importance, cost and feasibility and likelihood of implementation. The last criteria used in ranking solutions was an attempt to allocate funds to as many problem areas as possible. Problem area I is the most important problem area, but $5.7 million would be required to implement all the solutions listed for that problem area. Even if that amount were available, other important problem areas would be ignored. Problem area II is also important, but there are a number of existing programs, many funded by CCCJ in this area. Thus, the following ranking is an attempt to provide funding for the most important solution or solutions in as many problem areas as possible. A listing of the allocation of funds by problem area follows the ranking of solutions.

RANK	POSSIBLE SOLUTIONS (See Discussion Beginning on Page 75)	CCCJ FUNDS	PROBLEM CATEGORY
1	Technical assistance in establishing calendar management practices, including a conference for court administrators and presiding judges.	$170,000	IA
2	Creation and enforcement of tough rules on granting of continuances.	45,000	IB
	a) Establishment of a rule which requires reporting of all continuances to the Judicial Council.		
	b) Stern enforcement of Penal Code Section 1050.		
	i) Calendar judge is the only judge who can grant continuances.		
	ii) Require proof by counsel that client has been notified of request for continuance.		
	iii) Trail cases unable to go to trial but good cause not shown. Reports will be filed on all cases thus trailed.		
	c) Make standards concerning continuances a Rule of Court.		
3	Develop criteria and experiment with alternatives to the grand jury/preliminary hearing system, including:	70,000	ID
	a) Non-adversary one-judge "Grand Jury;"		
	b) Affidavit proceeding similar to deposition;		
	c) Direct filing by affidavit in Superior Court;		
	d) Hold preliminary hearings in Superior Court.		
4	Provide court administrators and supportive secretarial staff for six courts (Superior and Municipal) of five or more judicial positions.	180,000	IE
5	Restrict issues on appeal through use of a petition for hearing or a petition for leave to appeal which specifies grounds for appeal.	NONE	VC
6	High-level policy committee to develop crime charging standards and an experimental program.	350,000	IVA
	a) Uniform police reporting and charging.	Included in above	IVA
	b) Uniform citation hearings.	Included in above	IVA

	c) Develop uniform statewide pleading and practice forms.	Included in above	IVC
	d) Development of uniform prosecutor, defender and clerical manuals.	Included in above	IVC
7	Increased use of citation to the District Attorney with informal/voluntary probation (police).	$100,000	IIIA
8	Schedule multiple motions for hearing at the same time.	NONE	IC
9	Expand standards and possible centers which may be used for detoxification.	NONE	IIID
10	A. Development of a system for determining staffing needs for non-judicial court personnel.	100,000 (Funding from other sources)	IG
	B. Develop a system for determining prosecutor and defender professional and clerical staff needs.	150,000	IF
11	Develop a methodology for determining judicial workload increases arising from legislative changes.	150,000	VIIIA
	a) Development of a methodology for determining judicial workload increases arising from executive, administrative and judicial decisions.	(Undetermined)	
12	Make greater use of technological advances such as conducting examination of witnesses on video tape, similar to depositions.	225,000	I-I
13	Insure timely processing of appeal through increased supervision of preparation of record.		VB
	a) Financial sanctions for late preparation.	LEGISLATION	
	b) Retention of trial counsel until record prepared.	NONE	
	c) Early appointment of appellate counsel.	NONE	
	d) Use of electronic court reporting.	LEGISLATION	
	e) Appeal without record, based on settled statement.	NONE	
14	Encourage adoption of improved settlement procedures.	NONE	IIIA
15	Reclassify minor traffic violations as civil matters.	LEGISLATION	IIIB
16	Summary disposition of traffic violations.	70,000	IIIB
17	Retention of trial counsel as counsel on appeal.	NONE	VD

18	Develop arbitration procedures.	$ 60,000	IIIA
19	Institution of a "single writ" concept.	LEGISLATION	VA
20	Computerized case scheduling and calendaring systems.	100,000	IA
21	Encourage adoption of no fault insurance.	LEGISLATION	IIIA
22	Require written noticed motions including Points and Authorities and written Responses.	NONE	IC
23	Omnibus pretrial hearing--pilot project.	45,000	IC
24	Court executive training programs and conferences.	40,000	IIC
25	Conduct management conferences for prosecutor and defender administrative personnel.	40,000	IF
26	Develop co-operative arrangements whereby judicial agencies are given advance notice of changes which will affect their workloads.	NONE	IN
27	Administrative disposition of minor traffic matters.	LEGISLATION	IIIB
28	Empirical study of frequency of occurrence, causes, effects and amount of time consumed by hung juries.	80,000	VIB
29	Examine feasibility of alternatives to unanimous verdicts:	LEGISLATION	VIB
	a) Reduce number of jurors required to return a verdict.		
	b) Allow judge to render judgment either way if jury fails to agree.		
	c) Allow judge to render judgment based on verdict agreed on by a majority of the jury.		
30	Allow oral opinions.	LEGISLATION/ CONSTITUTION	VC
31	Priority of appeals according to merit.	NONE	VA
32	Comparison of individual and master calendar systems and combinations thereof.	70,000	IA
33	Implementation of Penal Code Section 647ff.	250,000	IIID
34	Modification of jury trial.	LEGISLATION/ CONSTITUTION	VIA
	a) Eliminate right to jury trial;		

	b) Eliminate right to jury trial in minor criminal cases;		
	c) Eliminate right to jury trial in civil cases;		
	d) Eliminate right to jury trial in specified cases;		
	e) Reduce jury size;		
	f) Replace jury with three-judge panel.		
35	Assist in improving internal operations of prosecutor and defender offices through developing model management systems for large, medium and small offices and creating management assistance, consultation, etc., resources for the offices.	$150,000	IF
36	Local drug abuse institutes/workshops.	30,000	IIIC
37	Provide electronic court reporting for the lower courts.	50,000 (Funding from other sources)	IXA
38	Establish a felony bail schedule.	LEGISLATION	IVD
39	Limit Federal Court review of State Court convictions.	NONE	VB
40	Distribution of materials produced by the California College of Trial Judges.	40,000	IVC
41	Distribution of misdemeanor benchbook.	20,000	IVC
42	Common calendaring systems for multi-courts and multi-counties.	100,000	IA
43	Development of uniform plea negotiation practices. Study of existing practices.	35,000	VIIA
	ADMINISTRATION	30,000	
		$2,600,000	

44	Deferred prosecution programs.	500,000	IIIA
45	Center for Judicial Education and Research.	200,000	IIA
	a) Training programs for presiding judges.		
	b) Improved pre-service and continuing education programs for judges of courts of record.		
	c) Training programs for Justice Court Judge.		
	d) Mandatory training programs.		
	e) Training programs for commissioners, referees and temporary judges.		
46	Support the establishment of a juvenile justice commission to re-examine juvenile court law.	$100,000	VIIIF
47	Study the role of the probation department in the plea bargaining process.	60,000	VIIA
48	Civil addiction proceedings (W & I 3100) in lieu of criminal prosecutions.	120,000	IIIC
49	Create standards for staffing of judicial agencies.	80,000	IK
50	Create a planning and research unit for each court, prosecutor or defender office above a certain minimum size.	950,000	IH
51	Training unit for offices above a certain number of deputies.	390,000	IIB
52	Adoption of standards and uniform sentencing practices based on consensus on sentencing patterns and uniform sentencing alternatives.	80,000	VIIB
53	Adopt improved juror selection procedures.	60,000	VIA
	a) Reduce exemptions;	LEGISLATION	
	b) Develop standardized and improved juror questionnaire;	40,000	
	c) Improved techniques which allow for earlier notification of jurors.	50,000	
54	Examine the feasibility of creating a regional public defender office to serve a number of rural counties.	45,000	IM

55	Court, prosecutor and defender clerk training programs.	$100,000	IID
56	Provide court administrators and supportive secretarial staff for sixteen courts (Superior and Municipal) of five or more judicial positions.	480,000	IE
57	Create commission to develop improved selection procedures for appointment of judges.	100,000	IIA
58	Provide financial assistance for the operations of the commission on judicial qualifications.	100,000	IIA
59	Use of expanded motion for new trial.	LEGISLATION	VB
60	Encourage paralegal assistance, including law student internship programs for courts, prosecutors, defenders, clerks, court administrators and probation departments.	NONE	IK
61	Create common jury pool for Superior and Municipal Courts. Adopt on-call techniques.	60,000	VIA
62	Development of improved statistical collection and analysis procedures at state and local levels.	200,000	IG
63	Implementation of court management information systems.	200,000	IG
64	Implementation of management information systems for prosecutor and defender offices.	200,000	IG
65	Prosecutor and defender training programs.	170,000	IIB
66	Statewide training coordinators for prosecutor and defender programs.	140,000	IIB
67	Special drug abuse unit in prosecutor office with emphasis on diversion.	60,000	IIIC
68	Experiment with judge-conducted voir dire in criminal cases.	50,000	VIA
69	Make jury service more attractive through increased incentives.		VIA
	a) Increased juror compensation;	LEGISLATION	
	b) Improved juror facilities and parking;	EXPENSIVE	
	c) Provision of tax deduction for jury time served (limit on deliberation time);	LEGISLATION	

	d) Awarding of jury service certificate.	NONE	
70	Prosecutor and defender investigator training programs.	$ 45,000	IID
71	Adoption of sanctions to insure timeliness. Authorizing administrative judge only to grant extension.	NONE	VB
72	Training programs in juvenile law and procedure.	50,000	IIE
73	Examination of problems of branch courts.	40,000	IA
74	Uniform and improved procedures and aids for juror education and pre-service training.	75,000	VIA
75	Provide technical assistance for EDP programs.	60,000	IXB
76	Conduct a costs/benefits analysis of certain types of equipment (e.g., dictation equipment, automated typewriters for routine matters).	50,000	IXC
77	Evaluation of impact where CCCJ grants to other elements of the system have increased the work-loads of judicial agencies.	150,000	IN
78	Evaluation of problems and duplication resulting from a dual system of prosecution.	90,000	IL
79	Study and develop recommended standards for juror security.	120,000	VIC
80	Multi-county traffic court referee.	120,000	IIIB
81	Certification of appellate counsel.	65,000	VD
82	Computerized legal research.	300,000	IK
83	Provide assistance/develop standards for improving physical facilities and equipment.	80,000	IXC
84	Implement court EDP systems.	200,000	IXB
85	Provide financial assistance for the drafting of a "Judicial Code."	45,000	VIIIC
86	Create a joint state/local commission to recommend improved court financing approaches.	80,000	VIIID
87	Establish a multi-county court coordinator/administrator position.	40,000	IXE

88	Development of standards and certification for court executives.	$ 50,000	IIC
89	Development of standards and certification for prosecutors and defenders.	60,000	IIB
90	Institute an experimental certification program for Petitions for Hearing in the Supreme Court.	75,000	VB
91	Develop and implement court security standards and procedures for physical facilities, equipment and personnel.	80,000	IXD
92	Development of standards and certification for court clerical personnel.	70,000	IID
93	Encourage court consolidation and court reorganization.	NONE	VIIIE
94	Assist in the creation of integrated criminal justice information systems.	EXPENSIVE	IXB
95	Develop methods for arriving at better estimates of when witnesses will be required. Encourage increased and improved use of on-call witnesses. Issue subpoenas for specific times.	80,000	I-I
96	Establish an area court administration project composed of: an area administrator and county court administrators.	90,000	VIIIE
97	Consolidation of services and administration.	120,000	IJ
98	Development of local rules of court similar to practices in effect in the Third and Fifth Appellate Districts. Require approval of rules by Judicial Council.	50,000	IVB
99	State Public Defender System.	LEGISLATION	VD
100	Provide for rapid and thorough dissemination. Information about changes (nature and effect) should be disseminated to agencies which should know about those changes.	Included in #45	
101	Multi-court/multi-county court administrator for trial courts.	400,000	IJ
102	Develop standards and certification for judicial positions.	60,000	IIA

103	Creation of specialized prosecution teams.	$100,000	IK
104	Evaluation of the probation subsidy program.	60,000	VIIB
105	Assist in disseminating better and more-correct information about the judicial system.	500,000	XA
	a) Report statistics on convictions.	60,000	XA
	b) Greater use of media techniques, e.g., cartoons, national "tests," etc.	150,000	XA
106	Articulation of respective functions and responsibilities of various agencies.	90,000	IN
107	Educate the media about the judicial and legal system.	250,000	XA
	TOTAL	$11,315,000	

PROPOSED ALLOCATION OF SYSTEM DEVELOPMENT FUNDS

BY PROBLEM AREA

PROPOSED ALLOCATION OF FUNDS BY PROBLEM AREA

I. CALENDAR MANAGEMENT AND OFFICE MANAGEMENT

RANK	SOLUTION	COST
1	Technical assistance in establishing calendar management practices, including a conference for court administrators and presiding judges.	$170,000
2	Creation and enforcement of tough rules on granting of continuances.	45,000
3	Develop criteria and experiment with alternatives to the grand jury/preliminary hearing system.	70,000
4	Provide court administrators and supportive secretarial staff for six courts (Superior and Municipal) of five or more judicial positions.	180,000
8	Schedule multiple motions for hearing at the same time.	NONE
10	A. Development of a system for determining staffing needs for non-judicial court personnel.	100,000 (Funding from other sources)
	B. Develop a system for determining prosecutor and defender professional and clerical staff needs.	150,000
12	Make greater use of technological advances such as conducting examination of witnesses on video tape, similar to depositions.	225,000
20	Computerized case scheduling and calendaring systems.	100,000
22	Require written noticed motions including Points and Authorities and written Responses.	NONE

I. CALENDAR MANAGEMENT AND OFFICE MANAGEMENT - Continued

RANK	SOLUTION	COST	
23	Omnibus pretrial hearing--pilot project	$ 45,000	
25	Conduct management conferences for prosecutor and defender administrative personnel.	40,000	
26	Develop co-operative arrangements whereby judicial agencies are given advance notice of changes which will affect their workloads.	NONE	
32	Comparison of individual and master calendar systems and combinations thereof.	70,000	
35	Assist in improving internal operations of prosecutor and defender offices through developing model management systems for large, medium and small offices and creating management assistance, consultation, etc., resources for the offices.	150,000	
42	Common calendaring systems for multi-courts and multi-counties.	100,000	
	TOTAL	$1,345,000	51.8%

II. TRAINING

RANK	SOLUTION	COST	
24	Court executive training programs and conferences.	$ 40,000	
	TOTAL	$ 40,000	1.5%

III. DIVERSION

RANK	SOLUTION	COST
7	Increased use of citation to the District Attorney with informal/voluntary probation (police).	$ 100,000

III. DIVERSION - Continued

RANK	SOLUTION	COST	
9	Expand standards and possible centers which may be used for detoxification.	NONE	
14	Encourage adoption of improved settlement procedures.	NONE	
15	Reclassify minor traffic violations as civil matters.	LEGISLATION	
16	Summary disposition of traffic violations.	$ 70,000	
18	Develop arbitration procedures.	60,000	
21	Encourage adoption of no fault insurance.	LEGISLATION	
27	Administrative disposition of minor traffic matters.	LEGISLATION	
33	Implementation of Penal Code Section 647ff.	250,000	
36	Local drug abuse institutes/workshops.	30,000	
	TOTAL	$510,000	19.6%

IV. UNIFORMITY OF RULES, FORMS AND PROCEDURES

RANK	SOLUTION	COST	
6	High-level policy committee to develop crime charging standards and an experimental program.	$350,000	
38	Establish a felony bail schedule.	LEGISLATION	
40	Distribution of materials produced by the California College of Trial Judges.	40,000	
41	Distribution of misdemeanor benchbook.	20,000	
	TOTAL	$410,000	15.8%

V. APPELLATE PROBLEMS

RANK	SOLUTION	COST	
5	Restrict issues on appeal through use of a petition for hearing or a petition for leave to appeal which specifies grounds for appeal.	NONE	
13	Insure timely processing of appeal through increased supervision of preparation of record.	NONE	
17	Retention of trial counsel as counsel on appeal.	NONE	
19	Institution of a "single writ" concept.	LEGISLATION	
30	Allow oral opinions.	LEGISLATION/ CONSTITUTION	
31	Priority of appeals according to merit.	NONE	
39	Limit Federal Court review of State Court convictions.	NONE	
	TOTAL	NONE	0%

VI. JURY SELECTION AND UTILIZATION

RANK	SOLUTION	COST	
28	Empirical study of frequency of occurrence, causes, effects and amount of time consumed by hung juries.	$ 80,000	
29	Examine feasibility of alternatives to unanimous verdicts.	LEGISLATION	
34	Modification of jury trial.	LEGISLATION/ CONSTITUTION	
	TOTAL	$ 80,000	3.1%

VII. PLEA BARGAINING/SENTENCING

RANK	SOLUTION	COST	
35	Development of uniform plea negotiation practices. Study of existing practices.	$ 35,000	
	TOTAL	$ 35,000	1.3%

VIII. RESEARCH

RANK	SOLUTION	COST
11	Develop a methodology for determining judicial workload increases arising from legislative changes.	$150,000
	a. Development of a methodology for determining judicial workload increases arising from executive, administrative and judicial decisions.	(Undetermined)

IX. FACILITIES AND EQUIPMENT

RANK	SOLUTION	COST	
37	Provide electronic court reporting for the lower courts.	$ 50,000 (Funding from other sources)	
	TOTAL	NONE	0%

X. PUBLIC INFORMATION AND EDUCATION

RANK	SOLUTION	COST	
	None	NONE	0%
	ADMINISTRATION	$ 30,000	1.1%
	TOTAL	$2,600,000	100%

DISCUSSION OF POSSIBLE SOLUTIONS

DISCUSSION OF POSSIBLE SOLUTIONS

1. Technical Assistance in Establishing Calendar Management Practices

A team of calendar management experts and supporting staff will be established to provide the necessary management expertise for dealing with complex calendar problems. Present calendaring practices will be examined and suggestions will be made for the development of more effective procedures. The team will provide additional expertise to those courts that have court administrators and will provide the essential management training for effective calendar management to both presiding judges and their clerks.

One of the first programs the team will undertake is to coordinate and conduct a training conference on calendar management for court administrators and presiding judges.

The team will also be a research and information center for the courts. A court administrator or presiding judge will be able to consult the team for answers to pressing calendar problems or for general information on calendar management.

The team will be an important first step toward development of uniform calendar management practices. It will work closely with the Sacramento and San Francisco calendar management teams in developing a "Model Calendar Management Manual" suitable for use in all California courts.

The estimated cost of the team is $170,000. This will include team salaries, salaries of supporting staff, and operating expenses for the team.

2. Creation of Stern Rules Regarding Continuances

The courts should rigidly enforce the provisions of Penal Code Section 1050 regarding continuances and thereby establish rules that will promote closer adherence to the requirements of this section.

It should be emphasized that Section 1050 requires that:

> "No continuance of a criminal trial shall be granted except upon affirmative proof in open court, upon reasonable notice, that the ends of justice require a continuance...Whenever any continuance is granted, the facts provided which require the continuance shall be entered upon the minutes of the court or, in a justice court, upon the docket."

Stern enforcement of these requirements should reduce the number of continuances granted for frivolous or insubstantial reasons.

In order to promote closer adherence to the requirements of Section 1050, rules should be established which:

a) Require the reporting of all continuances;

b) Authorize only the presiding judge or master calendar judge to grant continuances; and

c) Require the reporting of cases trailed in lieu of granting continuances.

Approximately $45,000 will be required to provide the necessary staff assistance in monitoring and evaluating the project.

3. Alternatives to Grand Jury/Preliminary Hearing Systems

Criteria and experiments with alternatives to the grand jury and preliminary hearing systems should be developed. Suggested alternatives include:

a) A non-adversary, one-judge "grand jury";

b) An affidavit proceeding similar to a deposition;

c) Direct filing by affidavit in superior court; and

d) Holding preliminary hearings in superior court.

The alternatives to be developed will be calculated to reduce the present undue consumption of time and misuse of preliminary hearings. Legislative and/or constitutional changes will probably be necessary to implement some of the alternatives.

Approximately $70,000 will be needed to sufficiently develop the criteria and alternatives for legislative consideration.

4. Court Administrators for Superior and Municipal Courts of Five or More Judicial Positions

Court administrators and supportive secretarial staff will be provided for six superior or municipal courts of five or more judicial positions. The court administrators will become involved in and improve general management of the court, personnel management, data processing management, financial management, calendar management, jury and witness management, space and equipment management, and public information and report management.

The estimated cost of providing a court administrator and supportive secretarial staff is $30,000 per court. One hundred eighty thousand dollars will be needed to provide court administrators for six courts of five or more judicial positions.

5. Restricting Issues on Appeal

Issues on appeal should be restricted through use of a petition for hearing or a petition for leave to appeal which specifies the grounds for appeal. The essential feature of this procedure is that it will provide a means for screening out and disposing of cases involving only frivolous issues without the necessity of the court issuing a written opinion.

This solution will not require grant funds, although it may require legislation and/or rule changes.

6. Policy Committee to Develop Crime Charging Standards

A high-level policy committee will be created to study the crime charging practices of prosecutorial agencies throughout the state and to develop crime charging standards. After these standards are developed, an experimental program will be implemented to test the validity and merit of the standards.

The committee will have four major objectives:

a) Development of uniform police reporting and prosecutor charging practices;

b) Development of uniform citation hearings and formalization of the citation process;

c) Development of uniform statewide pleading and practice forms; and

d) Development of uniform prosecutor, defender and clerical manuals.

It is estimated that this project will cost $350,000. This estimate is based on the magnitude of the task and the inclusion of related activities, such as development of the experimental program and development of the manuals.

7. Increased Use of Citation to the District Attorney with Informal/Voluntary Probation by Police

This solution will establish a program which will utilize citation to the district attorney in an attempt to divert cases from the judicial process.

This solution would also establish programs of informal/voluntary probation handled by the police department. The police would be allowed to release certain offenders on voluntary probation to the police department. If the offender refused to participate in the voluntary program, the police could file a report with the district attorney and the offender would then be handled through regular procedures.

It is estimated that $100,00 would be needed for this diversion project.

8. Schedule Multiple Motions for Hearing at the Same Time

A calendaring practice of scheduling multiple motions for hearing at the same time should be developed and utilized in all trial courts throughout the state. This practice should reduce trial delay and facilitate calendar management.

The project should not require grant funds and may be implemented by a Rule of Court.

9. Standards and Centers for Detoxification

The standards for placing persons in civil protectice custody for detoxification should be expanded so that more facilities can be used at a minimal cost. The number of detoxification centers will be increased by designating a number of possible centers which meet certain minimum requirements.

Grant funds will not be required to implement this suggestion. Legislation may be required for expansion of the standards for detoxification and expansion of the standards for eligible detoxification centers.

10A. Non-Judicial Staffing Needs

A weighted workload system similar to that used by the Judicial Council will be developed for non-judicial court personnel (administrators, bailiffs, clerks, secretaries, etc.). This system will be a valuable manpower-planning tool for court administrators.

The cost of development is estimated to be $100,000. Funds will be secured from other sources.

10B. Prosecutor and Defender Staffing Needs

A weighted workload system will be developed for prosecutor,public defender, professional and clerical personnel. Such a system will provide these offices with greater manpower-planning capabilities.

Development of this system will cost about $150,000. This figure is comparable to the cost of development of the weighted caseload system for the judiciary.

11. Methodology for Determining Judicial Workload Increases Arising from Legislation

A methodology will be developed for determining judicial agency workload increases that may arise from legislative changes. Such a methodology will aid legislators in determining the impact of their actions and, more importantly, will provide a tool for more meaningful planning on the part of judicial agencies. The Chief Justice of the United States emphasized the need for such "Judicial Impact Statements" at the American Bar Association Convention.

It is estimated that such a project will cost $150,000. A Request for Proposal will be developed to secure consultant services for this project.

a) Methodology for Determining Judicial Workload Increases Arising from Executive, Administrative and Judicial Decisions

Such a methodology should be developed and is only mentioned here as a desirable goal.

12. Greater Use of Technology--Video Tape Examination of Witnesses

A pilot program in conducting examination of witnesses on video tape should be implemented to demonstrate the effectiveness and efficiency of the particular program, and to demonstrate the potential of technological advances in the courts. Video taped examination of witnesses might reduce court time spent examining witnesses, allow witnesses to testify at their convenience, and would eliminate the possibility of the jury hearing inadmissable testimony.

It is estimated that $225,000 will be needed to obtain equipment, develop procedures and implement this program on an experimental basis.

13. Timely Processing of Appeals through Increased Supervision of Preparation of Records

Timely processing of appeals can be better ensured through an increased supervision of the preparation of trial records. Five possible approaches have been suggested:

a) Financial sanctions on court reporters for late preparation of records.

b) Retention of trial counsel until the record is prepared.

c) Early appointment of appellate counsel.

d) Use of electronic court reporting.

e) Allowing appeals to be taken without a record, based on a settled statement of the lower court proceedings.

None of the suggestions will require grant funds for implementation. Legislation or court rules may be required to implement this solution.

14. Encourage Adoption of Improved Settlement Procedures

Effective settlement procedures can assist greatly in the processing and disposition of cases. The CCCJ should encourage the development and adoption of improved settlement procedures. This solution will not require grant funds.

15. Reclassify Minor Traffic Violations

Minor traffic violations should be reclassified as civil matters. The harm involved in these violations and the impact on the public is relatively minor compared to the court time and expense they consume. A traffic violation classified as a civil matter will be processed by an administrative agency. This reclassification will substantially alleviate court congestion in California.

Legislation will be required to reclassify minor traffic violations as civil matters. Grant funds will not be necessary to implement this solution.

16. Summary Disposition of Traffic Violations

Programs which provide for the summary disposition of minor traffic violations will be developed, improved and expanded. Summary disposition of these violations will streamline the processing of such cases, thus releasing valuable judge and prosecutor time for more serious criminal matters.

The cost of this program is estimated at $70,000 for the staffing of two traffic court commissioners.

17. Retention of Trial Counsel on Appeal

Trial counsel should be retained as counsel on appeal. This practice will assist in expediting appeals since counsel will already be familiar with the case. This solution will not require grant funds.

18. Develop Arbitration Procedures

Arbitration has often been mentioned as an alternative to the processing of cases through the courts system. There are a number of arbitration programs designed to reduce civil case backlogs. The CCCJ should assist in these efforts since reduced civil workloads will allow more time for criminal cases, lessen pressures upon the courts, assist in calendar management and improve public attitudes toward the judicial system.

Sixty thousand dollars will be used to provide staff assistance and monitoring in order to develop model arbitration programs.

19. Institution of a Single Writ Concept

The current collection of writs, each with its own rules, should be combined into a single form of writ. Another facet of this solution involves the consolidation of all the possible instances of pre-trial appellate review in an individual case.

Legislation will be necessary to implement this "single writ" concept. Grant funds will not be needed.

20. Computerized Case Scheduling and Calendaring Systems

This solution will provide an experimental computerized calendaring system for a California court. This system should make it possible for the judge or administrator in charge of the calendar to monitor the flow of cases, measure cases against fixed standards or timetables for disposition, and assign priorities among cases. The system should allow identification of those cases which have not met time standards at various stages of the trial process and thus should greatly facilitate the flow of cases. The system will also make calendaring decisions.

It is estimated that $100,000 will be needed to implement this system. The grant funds will provide the necessary system design and implementation and training for the court's calendaring personnel.

21. Encourage Adoption of No Fault Insurance

The CCCJ should encourage the enactment of legislation providing for compulsory no-fault automobile insurance in California. Since litigation regarding motor vehicle accidents is a time-consuming and delay-causing class of litigation, the concept of no-fault insurance would provide a means of alleviating court congestion and delay.

Grant funds will not be required.

22. Written Noticed Motions with Points and Authorities and Written Responses

All courts should require pre-trial motions to be in writing, noticed for a time certain and accompanied by points and authorities. Written responses accompanied by points and authorities to the motions should also be required. These requirements should reduce the number of court appearances by screening out many frivolous motions calcul ted to delay, expedite the hearing on genuine motions by reducing areas of contention, and reducing or eliminating the need for continuances.

No grant funds will be required for implementation of this solution, although legislation and/or rule changes may be necessary.

23. Omnibus Pre-Trial Hearing

A pilot project will be developed in which all pre-trial motions will be made in a single omnibus pre-trial hearing. Both the defense and the prosecution will have the right to pre-trial appellate review of the determinations made at the omnibus hearing. These omnibus hearings will eliminate delays produced by successive pre-trial motions and petitions for appellate review.

It is estimated that $45,000 will be needed to implement this pilot project.

24. Court Executive Training Programs and Conferences

Training programs and conferences will be conducted for court executives. These programs and conferences will aid in the development of a comprehensive body of California court management theory, and of standards, qualifications and functions of court executives. The meetings will be used to inform court executives of court management practices and techniques, provide them a forum for the discussion of common problems and encourage the dissemination of ideas and innovative programs.

It is estimated that $40,000 will be sufficient to organize and conduct two or three such programs or conferences.

25. Management Conferences for Prosecutors and Public Defenders Administrative Personnel

Three or four conferences will be held to train managerial personnel, including those in non-attorney positions. Emphasis will be placed upon skills and techniques necessary to improve the management and efficient operation of both prosecutors' and public defenders' offices. The program will be modeled after similar successful programs presently used by the Federal Government.

Development of the program content and actual presentation of the conferences could be accomplished by a management consulting firm. This firm should be thoroughly acquainted with the unique managerial problems facing prosecutors' and public defenders' offices.

Approximately $40,000 will be required to conduct two such conferences.

26. Co-operative Arrangements for Advance Notice to Judicial Agencies of Changes that will Affect Workloads

Co-operative arrangements should be developed among the various agencies of the criminal justice system so that judicial agencies will be given advance notification of changes or special enforcement programs that may affect judicial agency workloads.

Expenditure of grant funds should not be necessary to implement this solution. The various agencies involved should merely be made aware of the impact which their activities have on judicial agencies so that simple procedures can be developed for reporting changes in activities or special activities which may affect the workloads of judicial agencies.

27. Administrative Disposition of Minor Traffic Matters

Legislation should be sought to remove minor traffic violations from the courts and to have such violations disposed of by an administrative agency such as the Department of Motor Vehicles. This solution will divert a large number of cases from the courts, allowing more time to be spent on important cases.

Grant funds will not be required to implement this solution.

28. Hung Juries

A study should be undertaken to determine the frequency of occurrence, causes, effects and amount of time consumed by hung juries in order to determine whether legislation should be considered.

It is estimated that the study will cost $80,000.

29. Alternatives to Unanimous Verdicts

A number of alternatives to the requirement of unanimous jury verdicts in criminal cases should be examined. The suggested alternatives are:

a) Reduce the number of jurors required to return a verdict;

b) Allow the judge to render judgment either way if the jury fails to agree on a verdict; and

c) Allow the judge to render judgment based on the verdict agreed on by a majority of the jury.

Implementation of any of these alternatives might reduce trial delay and expense caused by hung juries.

Grant funds will not be required for this solution.

30. Oral Opinions

Procedures and standards should be developed for allowing oral opinions from appellate courts in certain cases. Allowing oral opinions will reduce the workload of the appellate courts and will aid in speedy disposition of appeals.

Grant funds will not be required for this solution. Legislation and Constitutional change may be required to implement these procedures.

31. Priority of Appeals According to Merit

A program of priority ranking of appeals according to their merit should be implemented in the appellate courts. This system will encourage timely disposition of appeals raising substantive issues while at the same time deferring consideration of frivolous appeals until time permits their hearing.

Legislation may be necessary to implement this program. Grant funds will not be needed.

32. Calendaring Systems

This project will involve a comparison of individual and master calendaring systems and various combinations thereof, to determine which calendaring system is the most effective management tool for the courts.

It is estimated that this study will cost $70,000.

33. Implementation of Penal Code Section 647ff

Detoxification centers should be established to implement the civil protective custody provisions of P.C. 647ff. Standards for detoxification centers will be further developed and eligible detoxification centers will be designated. The project will divert a number of alcohol cases from the judicial system, thereby reducing the workload of the judicial system.

It is estimated that $250,000 will be needed to implement P.C. 647ff in a single California county.

34. Modification of Jury Trial

Modifying the jury trial could greatly reduce the expense of trials and reduce trial delay. Five suggestions have been made regarding limitation of the right to jury trial:

a) Eliminate the right to jury trial in all cases, allowing the judge to be the sole trier of fact;

b) Eliminate the right to jury trial in minor criminal cases;

c) Eliminate the right to jury trial in civil cases;

d) Eliminate the right to jury trial in specified cases;

e) Reduce jury size; and

f) Replace the jury with a three judge panel.

All of these suggestions will require legislation or Constitutional changes to be implemented. It should be noted, however, that regarding the last suggestion, a recent U.S. Supreme Court decision holds that a jury of six persons is Constitutionally sufficient in a criminal trial. William v. Florida (1970), 399 U.S. 78, 90 S.Ct. 1893.

Grant funds will not be required for these suggestions.

35. Model Management Systems and Management Assistance for Prosecutor and Defender Offices

This project will assist in improving the internal operations of prosecutor and public defender offices through development of model management systems for large, medium and small offices. Management assistance and consultation resources will also be developed. This assistance will increase the operating efficiency and operating uniformity of these offices throughout the state.

It is estimated that $150,000 will be required for this project.

36. Local Drug Abuse Institutes/Workshops

Drug abuse institutes or workshops will be established on a local level to provide training for judges, prosecutors and defenders. These workshops will emphasize the judicial systems' problems in disposing of drug cases and will increase awareness of alternate methods for handling drug cases, especially local diversionary programs.

Fifteen local workshops could be conducted for approximately $2,000 each, or a central staff could be hired for approximately $20,000 to conduct five workshops at $2,000 each. (Either solution would require a total of $30,000 to implement.)

37. Electronic Court Reporting

Electronic court reporting equipment and training in the use of the equipment will be provided for lower courts. This will provide a more efficient and perhaps more accurate means of reporting. This project will solve the problems that arise because of the shortage of qualified court reporters.

It is estimated that such a project will cost $50,000. The funds will come from other sources.

38. Felony Bail Schedule

A uniform felony bail schedule should be established. If such a system were implemented, it would eliminate the necessity of the presence of a magistrate or having the amount of bail set in the warrant for release on bail in felony cases.

Legislation will be required. No grant funds are necessary.

39. Limit Federal Court Review of State Court Convictions

Federal Court review of State Court convictions should be limited, for in many cases this review adds to the expense and problems of the state's judicial system without contributing to the fairness of the trial or hearing or further guaranteeing the rights of the convicted person. Law is probably more effectively, responsively and inexpensively administered at the lower levels of the judicial system. Effort should be directed toward combating the trend of federal infringement upon the local or state administration of justice. Limiting Federal Court jurisdiction will be an important first step in this direction.

Grant funds will not be required for this solution.

40. Materials Produced by California College for Trial Judges

This project will finance the costs of printing the materials produced by the California College of Trial Judges and distributing them to all of the superior and municipal court judges who have been unable to attend the college. These materials will provide valuable information on the conduct of trials. court management, and recent developments in criminal law and procedure. They will provide valuable resource information which should greatly improve the professional skills of the state's trial judiciary.

41. Misdemeanor Benchbook

This project will provide funds for printing and distributing the Misdemeanor Benchbook. It is expected that this resource will be as valuable to California's lower court judges as the Los Angeles County Superior Court Benchbook has been to superior court judges.

Based on the cost of distributing the Superior Court Benchbook, it is estimated that this project will require $20,000.

42. Common Calendaring Systems for Multi-Courts and Multi-Counties

Common calendaring systems for multi-courts or small courts on a multi-county basis will make it possible to deal with one of the most troublesome variables of trial scheduling--availability of counsel. Lengthy delays often result from actual or claimed conflicts in court engagements of counsel. Multi-court or multi-county cases scheduling will make better use of attorney availability and priorities than is possible under existing calendar practices. A centralized record of attorney commitments and active civil and criminal cases will be utilized to coordinate the calendars of the multi-courts or courts of a number of contiguous counties.

Based on a Judicial Council estimate, $100,000 will be needed to implement this solution. The funds will be used to develop the system and provide training for the calendaring personnel who will operate the centralized calendaring administration.

43. Uniform Plea Negotiation Practices

A study will be conducted of the policies and practices regarding plea negotiations of prosecutors throughout the state. After the study, uniform plea negotiation policies and practices will be developed. It is estimated that such a project will cost $35,000.

44. Deferred Prosecution

This solution will implement a program of deferred prosecution. The prosecutor's office will file charges but will not prosecute selected offenses if the offender voluntarily agrees to participate in a designated rehabilitation program. Should the offender fail to participate as required, the prosecutor will seek conviction on the charges filed. This should divert a number of cases from the court caseload and will save the prosecutor's office a great deal of time otherwise spent in prosecuting these offenses.

Extensive information on existing diversion programs will be gathered and compiled for distribution to the prosecutors so that they may properly divert the selected offenders.

It is anticipated that it will cost $500,000 to implement three model programs. This amount will be used to establish the programs, pay additional staff in the prosecutor's office to screen offenders for diversion and follow-up the diverted offender's progress. A portion of the funds will also be used to gather and compile the information about existing diversion programs.

45. Center for Judicial Education and Research

An education and research center should be created for California judges at all levels. The center will gather, compile and publish materials for judicial education. It will coordinate and assist in the conduct of judicial educational programs which will provide pre-service and continuing education programs for judges, special programs for presiding judges, and special programs for justice court judges, commissioners, referees and temporary judges will also receive training.

The center staff will plan and conduct research in fields pertinent to judicial education. They will also keep abreast of legislative changes and administrative or judicial decisions that may affect the courts.

It is estimated that it will cost $200,000 to establish and maintain the center for one year. Establishment of the center will probably represent the combined efforts of the Judicial Council, the Conference of California Judges, and other judicial organizations. Alternative sources of funding will be explored for continuation of the center after funding ceases.

46. Juvenile Justice Commission

This project will support the establishment of a juvenile justice commission to re-examine and reorganize juvenile court law. The commission will compile juvenile court law into a comprehensive body which will integrate the piecemeal revisions and major developments which have taken place in the last decade.

Operating expenses for the commission will be approximately $100,000.

47. Study the Role of the Probation Department in the Plea Bargining Process

A study should be conducted to determine existing and optimum roles for a probation department in the plea bargaining process.

Approximately $60,000 will be required.

48. Civil Addiction Proceedings in Lieu of Criminal Prosecutions

Greater use of Welfare and Institutions Code Section 3100, which provides for civil addiction proceedings for narcotics addicts, or those in imminent danger of becoming addicts, will divert a number of narcotics cases from the criminal system and allow offenders to obtain medical treatment.

It is estimated that $120,000 will be necessary to encourage widespread use of this procedure, and provide the necessary staff for monitoring and implementing the procedure.

49. Standards for Staffing of Judicial Agencies

Standards for staffing of judicial agencies should be created. Adoption of the standards should eventually result in improved staff and uniform staffing policies throughout the state.

It is estimated that $80,000 will be necessary to develop these standards.

50. Planning and Research Units for Judicial Agencies

Prototype Planning and Research Units should be established in certain courts, prosecutor and public defender offices above a specified minimum size. These units will plan and conduct research in fields pertinent to agency operations. There are 28 judicial agencies which would qualify for such units.

A cost of $50,000 will be required for each larger agency. A one-man staff and support at a cost of $25,000 would suffice for each of the smaller agencies. The total cost of this program is $950,000.

51. Training Units for Prosecutor and Public Defender Offices

Training units should be created in prosecutor and public defender offices above a minimum size. These units would keep abreast of the rapid changes in criminal law and procedure and provide "in house" training and educational materials for the agencies. These units will be able to supervise and direct law student interns so that the interns will receive more comprehensive training and can be utilized in agency operations in the most effective manner. These units will also coordinate with in-state and out-of-state training programs available to prosecutors and public defenders.

There are 13 offices (excluding Los Angeles District Attorney) with 25 or more attorneys and 40 or more total employees. Each training unit would consist of one professional staff, one secretary and necessary operating expenses for a cost per unit of $30,000, and $390,000 for 13 units.

52. Uniform Sentencing Practices and Alternatives

A study will be undertaken to assess current policies and practices regarding sentencing. Standards and uniform sentencing practices will be developed as a result of this study. A conference will be held for the judiciary during which these standards and uniform sentencing practices will be presented. The materials prepared for the conference will be published and widely distributed. A part of the study and conference will be devoted to developing uniform sentencing alternatives.

Approximately $80,000 will be needed to support this project. A portion of the funds will cover staff salaries and operating expenses. The remaining funds will be used to fund the conference and to distribute materials produced.

53. Improved Juror Selection Procedures

A study will be conducted to examine juror selection practices and recommend improved procedures. Improved procedures should increase the efficiency of the selection process and reduce the cost of obtaining jurors. Three suggested improvements are:

a) Reduce the number of exemptions available to an absolute minimum;

b) Develop standardized and improved juror questionnaires; and

c) Improve techniques to allow for earlier notification of jurors.

It is estimated that the study will cost $60,000.

54. Regional Public Defender

A study will be conducted to determine the feasibility of creating a regional public defender office capable of serving a number of rural counties.

Such a study would cost approximately $45,000.

55. Judicial Agencies Clerk Training Programs

Training programs for clerical personnel of courts, prosecutors and public defenders' offices should be developed and conducted. No such programs exist presently. They will aid in the development of qualifications and standards for these personnel. These programs should also increase uniformity of clerical practices throughout state judicial agencies.

It is estimated that $100,000 will be necessary to organize and conduct such programs.

56. Court Administrators for Superior and Municipal Courts of Five or More Judicial Positions

This solution would provide administrators for the remaining 16 courts which qualify. The cost would be $480,000.

57. Create a Commission to Develop Improved Selection Procedures for Appointment of Judges

A "Blue Ribbon" commission should be created to develop improved selection procedures for the appointment of judges. The operating costs of the commission are estimated at $100,000.

58. Provide Financial Assistance to the Operations of the Commission on Judicial Qualifications

The California Commission on Judicial Qualifications has served as a model for a number of other states. Because of the importance of the Commission's work and the limited resources available to it, some assistance should be provided. A program to assist the Commission on Judicial Qualifications would require approximately $100,000.

59. Expanded Motion for New Trial

An expanded motion for a new trial should be required prior to appeal in order to allow the trial judge to consider all the claimed bases of trial error. The trial judge will deny or grant the new trial after fully considering the merits of the claimed errors. This procedure will reduce the workload of the appellate courts by creating a form of appellate review at the trial level.

Legislation will be required to implement this procedure. No grant funds are required for this project.

60. Paralegal Assistance for Judicial Agencies

This solution will encourage a greater use of paralegal assistance, including law student internship programs, for courts, prosecutors, public defenders, clerks, court administrators and probation departments.

This solution will not require funding.

61. Common Jury Pools and Adoption of "On-Call" Juror Techniques

The number of jurors called for service can be substantially reduced and the effective use of jurors increased by instituting a central jury administration for all municipal and superior courts within a county. The juror needs of all the courts would be met from this centrally administered pool. This procedure has proven successful in New York County.[44]

Adoption of "on-call" techniques of prospective jurors will also ensure a more effective use of jurors. Prospective jurors would not be required to wait at the courthouse, but could be called to the courthouse on short notice.

It is estimated that $60,000 will be necessary to establish these programs in one county. The funds would be used to support the centralized jury administration and to develop the procedures for an "on-call" system of summoning prospective jurors.

62. Improved Statistical Collection and Analysis

This project will develop improved statistical collection and analysis procedures for judicial agencies at state and local levels. There is presently insufficient data to perform meaningful planning for judicial agencies. Improved collection and analysis procedures will provide the quality information that is necessary for planning and evaluation.

It is estimated that this undertaking will cost about $200,000. This sum is needed to assess what types of additional data should be collected, to develop the procedures for all judicial agencies to follow in gathering data, and to create comprehensive guidelines for analysis of the data on both state and local levels. Staff with expertise in courts, prosecution, and defense at all levels is needed to adequately perform this task.

63. Court Management Information Systems

Court management information systems will be implemented in selected counties. These information systems will be able to provide output in the form of immediately accessible data, reports, statistics and notices for utilization by court management personnel. The information systems will be particularly valuable in the areas of allocation of resources, scheduling court appearances, calendaring, jury management (selection, notices, fees), records, probation, corrections and juvenile programs, timetables for case progress, evaluation of current procedures and the effect of procedural changes and experimentation.

Approximately $200,000 would be required to implement this solution in three to five courts.

64. Implementation of Management Information Systems for Prosecutor and Defender Offices

Management information systems will be implemented in four prosecutor or public defender offices. These information systems will provide data, reports and case following capabilities.

---

44 President's Commission on Law Enforcement and Administration of Justice--Task Force Report: The Courts, p. 91.

65. Prosecutor and Defender Training Programs

Prosecutor and defender training programs should be expanded and improved. In many instances, such training programs must be established. Training should be provided for beginning deputies, experienced deputies and managerial level deputies. A minimum of $170,000 is required to conduct these programs.

66. Statewide Training Coordinators

Statewide training coordinators for prosecutor and defender training programs should be established. The statewide training coordinators will compile and disseminate training materials and generally act as a training resource office. The training coordinators will also travel to offices throughout the state to conduct training seminars and to aid agency training units. They will coordinate in-state prosecutor and defender training programs and will provide information on out-of-state programs. Specific programs will be developed and conducted for beginning, intermediate, and advanced deputies.

Separate coordinating offices for prosecutor training and public defender training should be created. Each office will cost about $70,000 and will include three professional staff, secretarial and operating expenses.

67. Special Drug Abuse Unit

A special drug abuse unit should be established in a prosecutor's office that handles a significant number of drug cases. The unit should be well acquainted with diversionary projects and will emphasize diversion of drug cases from the criminal system. The unit will be particularly valuable in civil addiction proceedings.

It is estimated that $60,000 will be necessary to place such a unit in a large prosecutor's office.

68. Judge Conducted Voir Dire

An experiment should be conducted with the voir dire questioning of prospective jurors by the trial judge in criminal jury trials. This practice is employed in civil cases in California and in the Federal Courts. Such a procedure would eliminate certain voir dire excesses and thereby expedite the judicial process. The procedure would encourage more efficient methods of jury selection.

Approximately $50,000 would be needed to conduct the experiment.

69. Making Jury Service More Attractive

Programs to make jury service more attractive should be encouraged to increase the number of citizens willing to participate as jurors and to improve the public's view of the judicial system. Four such programs have been suggested:

a) Increase juror compensation;

b) Improve juror facilities and parking;

c) Provide a tax deduction for jury time served with limits on the deliberation time that will be eligible for this special tax treatment; and

e) Award jury service certificates.

Legislation will be necessary to institute some programs to improve the attractiveness of jury service (e.g., increased compensation). Improving juror facilities would be a massive and expensive undertaking, as far as grant funds are concerned, but should be encouraged as a local undertaking.

Grant funds will not be required to implement any of these suggestions.

70. Investigator Training Programs

Training programs for prosecutor and defender investigators should be developed and conducted. Based on existing CCCJ projects, it is estimated that this project will cost $45,000.

71. Timeliness and Extensions in Appellate Courts

Appellate courts should adopt rules that will authorize sanctions on attorneys or reporters to insure the timely preparation of briefs and the timely preparation of the trial court record. Rules should also be adopted which allow the administrative presiding justice exclusive power to grant extensions. These rules will reduce delay in the appellate courts.

Grant funds will not be required to implement this solution.

72. Training Programs in Juvenile Law and Procedure

Judges, prosecutors and defenders should receive training in juvenile law and procedure. Major developments in juvenile law and procedure have occurred in the last decade and judicial agencies must be kept aware of those developments.

Approximately $50,000 will be needed to conduct two such training programs.

73. Examination of Problems of Branch Courts

This project will examine the problems associated with branch courts and propose recommendations for dealing with these unique problems in order to utilize branch court personnel and facilities more effectively. Solving the problems associated with branch courts may also provide insight on some of the problems associated with establishing a unified lower court system.

It is estimated that this study will cost $40,000.

74. Juror Education and Pre-Service Training

Uniform and improved procedures and aids for juror education and pre-service training should be developed and implemented.

The project will involve development of uniform juror handbooks, films, as well as the active encouragement of the education of jurors.

It is estimated that $75,000 will be needed to produce juror education materials that will also be suitable for use by court clerical employees and members of the public.

75. Technical Assistance for EDP Programs

Technical assistance should be available for judicial agencies that have existing EDP programs and for all judicial agencies considering the implementation of EDP programs. The assistance will improve the programs and operating procedures of the individual agencies and would also be instrumental in establishing uniform practices which will eventually facilitate the integration of such systems throughout the state.

It is estimated that $60,000 will be needed to provide a team of EDP experts to operate throughout the state.

76. Costs/Benefits Analysis of Equipment

A costs/benefits analysis of certain types of equipment appropriate for judicial agencies will be conducted. Some of this equipment (e.g., dictation equipment, automated typewriters) might greatly improve the efficiency of judicial agencies.

Approximately $50,000 will be needed to conduct this analysis.

77. Evaluation of Impact where CCCJ Grants have Increased the Workloads of Judicial Agencies

CCCJ grants to other elements of the criminal justice system have frequently caused additional problems, especially where the grant activities have resulted in increased arrests. This project will identify the extent of the increases and the remedial steps necessary.

It is estimated that this evaluation will require $150,000 in grant funds.

78. Evaluation of Problems and Duplication Resulting from a Dual System of Prosecution

An evaluation of the problems and duplication resulting from a dual system of prosecution would be of tremendous assistance in determining how best to correct those problems. Such a study will require approximately $90,000.

79. Standards for Juror Security

Existing juror security provisions should be studied and recommended standards for juror security be developed. In view of public demonstrations, possible threats

from parties, and attempts to bribe or illegally influence jurors, improved security measures are needed to ensure juror safety and impartiality. Adoption of the recommended standards will improve justice and decrease the reluctance of citizens to serve as jurors.

Approximately $120,000 is needed to study the security provisions and develop recommended standards of security.

80. Multi-County Traffic Court Referee

Four multi-county traffic court referees should be provided on an experimental basis to relieve the judiciary of traffic duties. Traffic cases do not require the expertise of a judge, and relieving judges of these minor cases will make more efficient use of judicial resources. The projects will be implemented in areas where the traffic caseloads of a single county do not warrant a full time traffic court referee.

A referee and support will require approximately $30,000 or $120,000 for four such referees and support.

81. Certification of Appellate Counsel

A commission will be created to establish certification standards and procedures for appellate counsel in criminal appeals. The program will insure a high level of professional competence among appellate counsel. Competent counsel will relieve law clerks from much of the research work they must undertake to insure that all issues have been raised.

82. Computerized Legal Research

Legal research materials should be programmed and stored in a computer for access by judicial agencies throughout the state. This program will be up-dated to include the most recent judicial decisions, new statutes and amended statutes. This computerized information will provide valuable research assistance for all judicial agencies and would improve the quality of research while reducing research time.

It is estimated that $300,000 will be needed to implement this program.

83. Provide Assistance/Develop Standards for Improving

Assistance will be provided in developing standards for improving physical facilities and equipment of judicial agencies. Many judicial agencies have inadequate facilities and equipment.

It is estimated that $80,000 will be necessary to develop these standards.

84. Implement Court EDP Systems

This project will implement an EDP system in a major metropolitan court. The EDP system will greatly improve the capability of the court to collect, compare and display court management and scheduling information. This improved capability will enable the court to deal more effectively with its caseload. The EDP system will be valuable in improving case flow through the court.

Approximately $200,000 will be necessary to implement an EDP system in a major metropolitan court.

85. Drafting a "Judicial Code"

Financial assistance will be provided for the drafting of a "Judicial Code". Code sections affecting the judiciary are presently scattered throughout the California Codes. This project will gather these scattered sections and compile them into a comprehensive "Judicial Code".

Approximately $45,000 will be needed to provide two professional staff, secretarial and operating expenses.

86. Improved Court Financing

A joint state/local commission should be created to recommend improved court financing approaches. Responsibility for financing the courts is unevenly distributed between state and county governments. The commission will develop a rationale for proper distribution of the financing responsibility between state and county government.

It is estimated that the project will cost $80,000.

87. Multi-County Court Coordinator/Administrator

A position of court coordinator/administrator should be created for a multi-county area. The court coordinator/administrator will provide technical support in court management to the presiding judges or court administrators of the counties and counsel on the utilization of court facilities and automated data processing systems within the area to identify opprtunities for improvement and coordinated usage. This project should increase uniformity of practices in the multi-county area and aid the improvement of management practices within the area.

Approximately $40,000 will be needed.

88. Development of Standards and Certification for Court Executives

Standards and procedures for certification should be developed for court executives to insure a high level of professional competence in the administration of courts.

It is estimated that $50,000 will be needed for this project.

89. Development of Standards and Certification for Prosecutors and Defenders

A commission should be created to establish certification standards and procedures for prosecutors and public defenders. The program will insure a high level of professional competence and aid in insuring that the criminal justice system operates in an efficient and just manner. When competent criminal counsel participate in criminal proceedings, time-consuming procedures should be sharply curtailed.

This project will cost approximately $60,000.

90. Certification for Petitions for Hearing in the Supreme Court

A study should be conducted to determine the feasibility of and develop procedures for an experimental certification program for Petitions for Hearing in the Supreme Court. Cases that are to be heard by the Supreme Court would be certified by the lower appellate courts. This screening process would remove a considerable burden from the Supreme Court, which must presently screen all appeals before deciding to hear them. This process would be similar to that required by Penal Code Section 1237.5 which provides for certification of appeals from a conviction on a plea of guilty or nolo contendre.

It is estimated that the study will cost $75,000.

91. Court Security Standards

Court security standards and procedures for physical facilities, equipment and personnel should be developed for use throughout the state. These standards and procedures will be designed to prevent tragic events of the sort that have recently occurred in courtrooms. Measures would also be developed for handling public demonstrations at court facilities.

It is estimated that $80,000 will be needed to develop these standards and procedures.

92. Development of Standards and Certification of Judicial Agency Support Personnel

Standards and procedures for certification will be developed for judicial agency support personnel (clerks, bailiffs, reporters, investigators, etc.) to increase their respective levels of competence and to encourage greater uniformity in the performance of their responsibilities.

It is estimated that $70,000 will be needed for this study, considering the varied nature of the duties involved.

93. Encourage Court Consolidation and Court Reorganization

Experiments with court consolidation and court reorganization should be encouraged to determine the most efficient lower court structure. The results of these experiments should provide data on the feasibility of court consolidation or court reorganization.

Grant funds will not be required for this program.

94. Integrated Criminal Justice Information System

Assistance should be provided for the creation of integrated criminal justice information system throughout the state. This would involve integration of information systems within jurisdictions and ultimately the integration of all jurisdictions into a statewide criminal justice information system. Such an integrated system would greatly facilitate the operation of judicial agencies and the coordination of judicial agencies with other elements of the criminal justice system.

Such a project would be expensive in view of the diverse nature of information systems of different agencies within a jurisdiction and the diverse nature of information systems in jurisdictions throughout the state.

95. Improved Use of Witnesses

Methods should be developed for arriving at better estimates of when witnesses will be required for court appearances. Improved and increased use of "on-call" techniques for utilizing witness will be encouraged. Subpoenas for witnesses should be issued for the specific time that the witness will be required in court.

It is estimated that $80,000 will be needed to develop the methods and disseminate the methods throughout the state.

96. Area Court Administration Project

An area court administration project composed of an area administrative judge and an area court administrator could be established. Presently, there is an administrative void between the trial courts and the State Administrative Office of the Courts. The area administrative judge will aid in implementing statewide judicial policies embodied in statutes, Rules of Court and Standards of Judicial Administration. The area administrator will assist local trial courts with problems of planning, organization and management. The area administrator will also provide staff and technical support to the area administrative judge.

This project will cost about $90,000.

97. Consolidation of Services and Administration of Superior and Municipal Courts

This project will consolidate the services and administration of all the municipal and superior courts of a county. It will eliminate the unnecessary duplication of services and administration that presently exists.

Approximately $120,000 will be needed to hire temporary staff, develop the procedures and regulations and to implement the new administrative structure.

98. Uniform Local Rules of Court and Judicial Council Approval of Local Rules

Uniform local rules of court should be developed and be subject to the approval by the Judicial Council before they become effective. The nine superior courts in the Fifth Appellate District developed a uniform set of local rules which became effective in 1968. Comments from members of the bar and other California courts and various national organizations indicate that these uniform local rules have been well received and have eliminated in large part the research problems and confusion that resulted from varying court practices.

It is estimated that $50,000 will be required to provide the staff necessary to develop uniform local rules in the Appellate Districts that do not presently have uniform local rules.

99. State Public Defender System

Legislation should be considered to implement a defender system to handle indigent criminal appeals. The establishment of this system will greatly improve the quality of legal appellate work by replacing the young, inexperienced attorneys who handle the majority of criminal appeals with a full-time professional staff of criminal appellate lawyers. Alternatives such as the Appellate Defender Inc. Program in San Diego should also be examined.

Grant funds will not be needed for this project.

100. Dissemination of Information About Changes

Information about the nature and effect of changes should be disseminated promptly to all judicial agencies which may be affected by the changes or who should be aware of them. This will improve agency response to changes and provide for an easier implementation of the changes.

Grant funds are not required.

101. Multi-Court/Multi-County Court Administrator for Trial Courts

A court administrator, supporting staff and operating expenses should be provided for large multi-court counties or for a number of contiguous counties with only a few courts. The administrators would be able to improve administration and coordination among these courts. They would be particularly valuable in instituting common calendaring systems among them.

This project will cost approximately $400,000.

102. Standards and Certification for Judicial Positions

A project should be implemented to develop standards and procedures of certification for judicial positions. Adoption of these standards and procedures will assist in the appointment of qualified personnel to the bench.

It is estimated that this project will cost $60,000.

103. Specialized Prosecution Teams

A specialized prosecution team will be provided to a district attorney's office. The team would control all investigation and prosecution in a specified criminal area such as drugs, consumer fraud, burglary, etc. The team would become well-acquainted with the law and problems in its area of specialization and thereby improve the quality of prosecution in this area.

It is estimated that $100,000 will be necessary to provide such a team to a district attorney's office of sufficient size to realize the benefits of such a team.

104. Evaluation of Probation Subsidy Program

A study should be conducted to evaluate the probation subsidy program to determine what effects the program has on sentencing patterns, whether or not it contributes to a lack of uniformity in sentencing.

It is estimated that the study will cost $60,000.

105. Informing the Public About the Judicial System

A massive effort to disseminate accurate information about the judicial system to the public should be undertaken. Greater use of modern media techniques will probably be most effective in educating the public about the nature and role of the judicial system. It has been suggested that possible projects might include: 1) Weekly news reports on conviction statistics to demonstrate the actual performance of the courts; 2) Use of cartoons (e.g., "Believe it or not") to relay information on accomplishments or statistics concerning judicial agencies; 3) Televised or written "tests" on the nature and functions of the judicial system.

It would also be necessary to develop educational information for dissemination on local levels to civic organizations, school groups, professional and fraternal organizations.

It is estimated that $500,000 would be needed to initiate this massive educational effort on a statewide basis. This would include development of educational material and techniques and media time or space. Many of the educational programs could probably be carried by the media on a public service basis.

106. Articulation of Functions and Responsibilities of Judicial Agencies

The respective functions and responsibilities of the various judicial agencies should be articulated. This project will identify problem areas where various agency roles are not clearly identified. This articulation of functions and responsibilities will facilitate increased cooperation and coordination among the various agencies.

It is estimated that $90,000 will be needed to identify and articulate the functions and responsibilities of the various agencies throughout the state.

107. Educating the Media About the Judicial and Legal System

A statewide effort to educate representatives of the media about California's judicial and legal system should be conducted. The program will cover the nature, duties, functions and role of the judicial system. Problems of media inaccuracies concerning the judicial system, media coverage of criminal cases, and the role within the media can play in educating the public will be emphasized. Conducting these programs and providing educational and informational materials to the media representatives may secure public service presentations by the media for education of the public. It might be desirable to coordinate this program with programs and materials directed at informing the public about the judicial system (see Solution 105.)

Approximately $250,000 will be needed to initiate this statewide educational program. This would include development of the program and materials.

EVALUATION

EVALUATION

Timetable for submitting System Development Program Evaluation to the CCCJ:

1. January and June 1973 -- Initial Reports

2. January 1974 -- Final Report on Portions of the Program

3. June 1974 -- Final Report

Evaluation of the System Development Program and its constituent projects is of prime importance. A thorough and accurate evaluation of the program is necessary in order to determine the success of the program itself and of the systems methodology used in developing the program. The following section will describe the approach selected for conducting the evaluation of projects and the entire program, the elements of that evaluation and the responsibilities for conducting the evaluation.

Each project will articulate a clear statement of objectives for the project. The objectives of the System Development Program as stated in the section of this document entitled, "General Policies, Constraints and Objectives for System Development Funds" will be referred to in determining project objectives. As each project is implemented, periodic reports will be required from the project which document the initiation or operation of the project, activities undertaken since the previous report and problems or accomplishments in conducting the project. In addition, copies of all project publications or reports will be submitted.

Each project will provide a brief description of existing conditions prior to initiation of the project and any changes brought about by the project. Where possible, those descriptions should be supported by relevant data. Each project should also report on the prospect for continuation or incorporation of the project into the existing system. The project (especially demonstration projects) should indicate whether and to what extent other jurisdictions are adopting project methods or findings. Reports should also include assessments of the project by participants or users. Finally, project evaluation reports should describe the effect the project has had on other elements of the criminal justice system.

All project evaluations should be designed in such a way as to allow incorporation into an overall evaluation of the entire System Development Program. Evaluation measures should begin not later than halfway through the project period and should be almost completed not less than one month prior to the final date of the project.

A sub-committee of the Courts Task Force will be given the responsibility for supervising project evaluations and for submitting periodic reports to the CCCJ. The sub-committee will meet monthly and may be divided into sub-units with responsibility for all projects within given problem areas. This will enable evaluation of the System Development Program by problem area. The sub-committee will prepare a report on the full System Development Program.

Initial evaluation reports describing inter alia, the results of the initiation of projects will be submitted to the CCCJ in January and June, 1973. Another report will be made in January, 1974. The final report will be submitted in June, 1974 since some projects may be of 18 months duration and since some projects might not begin until January, 1973.

APPENDIX

1973 PROGRAM GUIDELINES

CATEGORY E -

IMPROVEMENT OF PROSECUTION, COURTS AND LAW REFORM

PRIORITIES AND PROGRAM STATEMENT

I. INTRODUCTION

This statement is designed to articulate the goals, priorities and policies of the Improvement of Prosecution, Courts and Law Reform Task Force. It also serves as an accounting of the activities of the Courts Task Force and the directions the Task Force has given to statewide planning for the judicial area. This statement is intended to provide direction and guidance to local, regional and statewide criminal justice agencies in planning judicial programs.

Courts are the organizations formed for the express purpose of administering justice. Largely because of a rapid population expansion and the development of a litigious society, the workload of our judicial system has increased tremendously over the course of the past few years. Unfortunately, developments and improvements in the day-to-day administrative functions of the courts have not kept pace with the rapid increase in workload. In concise terms, California needs study, overhaul, and reform of its judicial structure.

The California court system has evolved over a period of years. The methods employed to deal with problems have largely been piecemeal. There has been little systematic planning and development on a statewide basis. Innovations and efforts have been put to work locally for a variety of reasons, and in many jurisdictions, problems have not been dealt with effectively or even identified.

Adjudication is an integral and essential element of a criminal justice system. Attempts to improve the quality of criminal justice which ignore the courts, prosecutors and defenders will fall short of their objectives. A comprehensive criminal justice plan must consider a balanced systemwide approach to meet the challenge of crime in a free society.

II. CATEGORY SCOPE

The scope of the Courts Program is the adjudication process. That process includes actions from the decision to file criminal charges through the sentencing process.

III. CATEGORY GOALS

The goal of the Courts Program is to improve the administration of justice throughout California.

(Approved 6/22/72)

IV. PRIORITIES

1. Reduction of undesirable delay at all levels of the judicial system by: examination and identification of the causes and elements of delay, establishment of improved procedures and practices, and efficient utilization of the judiciary and related professional disciplines.

2. Training of judges in the conduct of trials and administration of the courts.

3. Providing material and operational assistance for courts, prosecutors and defenders.

4. Examination of possible alternatives to judicial action.

5. Development of a systematic program of crime charging by prosecutors.

V. PROGRAMS

A. Reduction of Undesirable Delay at all Levels of the Judicial System

1. The Courts Task Force considers the reduction of undesirable delay its most important priority. Congestion and delay are subjects of concern to everyone from the Chief Justice of the United States to the man in the street.

   Delays in the administration of justice involve all levels of the judicial system, prosecutors, defenders and all other personnel and agencies which affect the adjudicatory system. Further, since the courts must hear both civil and criminal litigation, problems of civil delay are inextricably bound to problems of criminal delay.

2. The dual guarantees of a fair and speedy trial are more than a constitutional mandate, they are essential to an effective criminal justice system. Therefore, the Courts Task Force is concerned with the development of projects which will define and remedy the causes of undesirable delay, increase the efficient operation of the courts, develop improved procedures and practices, and study the manpower needs of the judicial system.

   a. The problem of undesirable delay is a complex one and encompasses many areas of the judicial process. Perhaps the greatest problem included under this topic is a lack of knowledge as to what the elements and causes of delay are and how they operate to prevent the timely adjudication of civil and criminal cases.

i. The Select Committee on Trial Court Delay, a "Blue Ribbon" panel composed of three judges, three lawyers, three laymen and liaison members from the Governor's Office and both houses of the California Legislature, assisted by a highly competent staff, has examined the problem of delay. The Committee has made a number of recommendations for change in court rules and practices and statutes.

b. Effective management of existing resources is essential to reduction of delay.

i. Calendar management teams composed of personnel trained in judicial administration have been placed with the superior courts of two metropolitan counties. These teams will assist in the improvement and adoption of calendaring techniques for the two courts. The ultimate goal of these projects is the development of a calendar management manual suitable for use in courts throughout the State.

ii. Court executive positions have been created and financed in two superior courts not having such positions. The implementation of legislation authorizing the employment of court executive officers is one of the recommendations of the Select Committee on Trial Court Delay.

iii. An experiment with the use of traffic court commissioners is also being conducted.

c. An exhaustive study of judicial caseloads is being conducted to validate the weighted caseload system. The weighted caseload system is designed to measure judicial workloads and the need for additional judicial manpower. Use of this system is preferable to use of unweighted caseload figures since the latter makes no allowance for differences in types of cases filed.

d. A study of witness scheduling practices has been completed. Scheduling problems are a major contributing factor to delays.

The implementation of the suggestions proposed by that study in conjunction with the results of a computer simulation of scheduling problems will assist in the development of improved scheduling techniques.

B. Training of Judges in the Conduct of Trials and Administration of the Courts

1. Continuing education of the California judiciary is of critical importance to the improvement of courts, prosecution and law reform.

2. Projects which provide for the upgrading of judicial and professional skills, the teaching of new developments in criminal law and procedure and the teaching of management principles and techniques are included in this program.

a. Support has been given to the California College of Trial Court Judges and a workshop for justice court judges.

b. The Courts Task Force seeks to avoid duplicative efforts and therefore has generally attempted to assist in improving the quality and coverage of existing programs.

3. The Courts Task Force will cooperate with the Upgrade Law Enforcement Personnel Task Force in the development and implementation of training programs for prosecutors, defenders and clerical and support personnel.

C. Material and Operational Assistance for Courts Prosecutors and Defenders

1. The judicial system has been somewhat slow to adopt technological advances. For example, a significant amount of time is wasted in processing large amounts of paper through traditional methods. This program is intended to assist the judicial system in its day-to-day operations.

a. A study of the application of electronic data processing techniques in the operation of the courts is now being conducted. That study will produce a modular integrated court information system adaptable to use in small, medium and large courts. The results of that study should materially affect the direction of future E.D.P. projects.

b. The Courts Task Force has also approved projects designed to implement court information systems.

c. Material assistance to superior court judges in the form of distribution a criminal benchbook has been provided by the Courts Task Force. The benchbooks are comprehensive and practical reference manuals on criminal law and procedure designed for use at trial. These books will greatly assist superior court judges in the conduct of criminal trials.

D. Examination of Possible Alternatives to Judicial Action

1. Courts, prosecutors and defenders must deal with a massive caseload which may not be amenable to judicial treatment. Various drug and alcohol violations are often cited as best treated outside the criminal justice system.

a. The Courts Task Force considers this problem important enough to warrant investigation into possible alternative treatment for certain offenses. However, the Task Force also recognizes that any such alternatives must receive legislative approval before implementation. Therefore, while the examination of alternatives is a worthwhile endeavor, greater emphasis should be placed upon developing better judicial understanding of these problems.

i. The Courts Task Force has approved a drug abuse institute for judicial and other criminal justice personnel.

E. Development of a Systematic Program of Crime Charging by Prosecutors

1. The decision to file criminal charges is a basic and important step in the criminal process, but even more crucial are the questions of what specific charges and how many should be filed. Another underlying query is how many counts are to be charged as well. At present, practices in prosecutorial agencies through the state vary widely. Further, there is a tendency in many counties to file multiple charges describing a number of offenses as well as several counts under individual crimes.

2. To date, there is a definite paucity of descriptive information regarding the policies and practices of crime charging throughout the state. There is a feeling on the part of many lawyers that prosecutors file multiple charges knowing that most of them will be dismissed. Multiple charging is thought to facilitate plea bargaining. In short, there is no scientific study which validly documents the crime charging process in California. However, the distinct variation between California counties and the wide variances that exist have been documented. Comparative data reveals that a significant percentage of felony complaints are dismissed or reduced to misdemeanor charges. The true rationale behind the variance has yet to be explained.

VI. GENERAL POLICIES OF THE IMPROVEMENT OF PROSECUTION, COURTS AND LAW REFORM TASK FORCE

A. Statewide Impact

1. The California judicial system is essentially a statewide one. Therefore projects approved by the Courts Task Force generally possess a potential for statewide application. The Courts Task Force will not reject projects designed strictly for local effect but it will give preference to those projects which will further the development of the judicial system throughout the state.

2. Special emphasis is given to programs which require statewide efforts and for which no other source of funding is available.

3. Preference is also given to programs which will further the goals developed as part of the statewide planning process.

B. Innovation

1. A project need not be innovative to gain the approval of the Courts Task Force. However, the Task Force will give preference to programs designed to bring about significant improvement where, because of experimental nature, no other possible source of funding exists.

2. The Courts Task Force has developed a policy against support of programs whose merit and value have been conclusively proven and in view of the substantial savings such programs bring to local agencies, are quite properly a legitimate concern of that local agency.

3. Where a project adds to or modifies an on-going operation, there must be a showing of coordination between that project and the on-going operation.

C. Local Commitment

1. The Courts Task Force requires evidence of a commitment on the part of local agencies to continue a program which was designed, if successful, to be incorporated as a part of the local criminal justice system.

2. Similarly, the Task Force requires some assurance that the studies it supports will be implemented.

D. Public Information and Education Concerning the Functions of the Judicial and Legal System

1. Public understanding and support of the judicial and legal system is essential.

2. The Courts Task Force is cooperating with other task forces concerned with the problems of community relations and public education regarding the criminal justice system.

E. Projects Dealing Primarily with Civil Law Problems

1. The Courts Task Force has generally discouraged projects designed to remedy problems which are primarily civil law in nature and have no appreciable impact upon the criminal justice system.

F. Pre-Trial Release Programs

1. The Courts Task Force wholeheartedly endorses pre-trial release programs such as misdemeanant citations and release on own recognizance and recommends their adoption. These programs have done much to alleviate inequities in the bail system. However, the Courts Task Force has concluded that pre-trial release programs have conclusively proven their success, effectiveness and value; result in substantial human and monetary savings to the public and to local agencies; and therefore, should not require funding from the California Council on Criminal Justice.

G. Construction and Equipment

1. Construction of additional facilities (courtrooms, office space, etc.) is an almost universal need. However, due primarily to the limited amount of funds available, the Courts Task Force has been forced to discourage these projects. Construction programs and programs which require large amounts of costly equipment (computers, etc.) have generally been discouraged on this basis.

H. Augmentation of Existing Agency Staffs

1. The need for additional skilled personnel is another commonly articulated problem of the judicial area. Since there are simply not enough funds to meet staffing needs of all agencies throughout the state, and since selection of those few agencies whose staffs could be augmented with available federal funds poses an impossible problem, the Courts Task Force has avoided programs designed to augment existing agency staffs.

VII. CONCLUSION

The Courts Task Force does not intend to present this statement as the final word in comprehensive planning for the judicial area. Indeed, this is only the beginning.

The Courts Task Force has and will continue to engage in investigation, analysis, and planning of judicial improvement. As new developments occur and as a more comprehensive understanding of judicial problems becomes available, the Task Force hopes to actively encourage projects designed to remedy the problems thus identified.

JUDICIAL PROCESS PROJECTS

1969

(0068) L.A. REGIONAL JUSTICE INFORMATION SYSTEM

Two Year Project
Total Cost: $726,622
First Year Grant Funds: $146,351

Summary: Analysis of L.A. County Criminal Justice Information Systems, suggested improvements and plan for implementation.

(0101) SAN BERNARDINO SYSTEM STUDY OF MUNICIPAL COURT CALENDAR AND WITNESS SCHEDULING

One Year Project
Total Cost: $22,500
Grant Funds: $13,500

Summary: Study of calendaring and notification of witness procedures in the Municipal Court.

1970

(0122) MUNICIPAL COURT AUTOMATED PROCEDURES PROJECT (Central Orange Municipal Court)

One Year Project
Total Project Cost: $241,700
Grant Funds: $145,000

Summary: Would computerize traffic and related cases information in Orange County Municipal Court Districts.

(0151) CRIMINAL JUSTICE INFORMATION CONTROL (Santa Clara County) (In Conjunction with Science and Technology and Corrections Task Forces)

Four Year Project
Total Cost: $1,330,000
First Year Grant Funds: $106,770

Summary: Creation of system for gathering retrieval and interchange of information on criminal activities, custody status and judicial process.

Object: To provide the data base and tools for planning and testing of alternative strategies.

(0189) CALIFORNIA COLLEGE OF TRIAL JUDGES (Regents of U.C.)

Two Year Project
Total Cost: $128,800

Second Year (1971) Grant Funds: $38,500

Summary: Assistance in conducting a two week education program for approximately 70 California Judges, most of whom are recent appointees to the Bench.

(0395) A STUDY TO EVALUATE, VALIDATE AND IMPROVE THE WEIGHTED CASELOAD SYSTEM (Judicial Council)

16 Month Project
Total Cost: $151,750
Grant Funds: $79,250

Summary: In depth study by professional consulting firm of the "Weighted Caseload System" used by the Judicial Council in determining the need for additional Judicial manpower. Will look into procedures and criteria for establishing weights. Will also examine allocation of judicial time.

(0397) PRELIMINARY PLANS FOR MODULAR CONSTRUCTION OF THE MODEL CRIMINAL JUSTICE CENTER (Ventura County) (In Conjunction with Corrections Task Force)

One Year Project
Total Cost: $158,900
Grant Funds: $84,280

Summary: Development of preliminary planning for a "Model Criminal Justice Center". Study of facilities for corrections law enforcement and hall of justice, containing modern automated information systems.

1971

(0461) CALENDAR MANAGEMENT TEAM DEMONSTRATION PROJECT (Judicial Council)

Two Year Project
Total Cost: $117,800
First Year Grant Funds: $34,500

Summary: Placement of specially trained two-man calendar management team in the Sacramento County Superior Court.

Goal: Development of model procedures for handling court calendars.

(0455) SELECT COMMITTEE ON TRIAL COURT DELAY

One Yeal Project
Total Cost: $130,500
Grant Funds: $116,000

Summary: Convenes "blue ribbon" committee with staff support financed by grant funds to study the problem of trial court delay.

(0468) MAXIMIZING THE USE OF ELECTRONIC DATA PROCESSING EQUIPMENT IN THE CALIFORNIA COURTS (Judicial Council)

17 Month Project
Total Cost: $331,400
Grant Funds: $198,800

Summary: Employment of consulting firm to design automation of routine clerical and administrative functions for Superior and Municipal Courts.

(0496) SAN MATEO COUNTY DEFENDER INTERNSHIP PROGRAM (San Mateo County Bar Association)

One Year Project
Total Cost: $36,700
Grantee Funds: $21,500

Summary: Places law students (under student practice act) with San Mateo private defender program.

May 5, 1971

(0544) DEVELOPMENT OF GRADUATE DEGREE PROGRAM IN JUDICIAL ADMINISTRATION (USC)

Two Year Project
Total Project Cost: $503,900
First Year Grant Funds: $112,973

(Note: This project was approved pending satisfactory budget revisions)

Summary: Would create graduate degree program in judicial administration similar to the Institute for Court Management in Denver.

(0555) CRIMINAL JUSTICE CLINIC (Hastings College of the Law)

Two Year Project
Total Project Cost: $135,600
First Year Grant Funds: $46,384

Summary: Will finance program to provide classroom training for 60 students yearly who will be placed in Bay Area criminal justice agency offices (prosecutors and public defenders).

(0556) PROBLEMS OF NARCOTICS AND DRUG ABUSE INSTITUTE (Judicial Council)

One Year Project
Total Project Cost: $42,600
Grant Funds: $25,000

Summary: Would set up seminar on drug abuse laws, treatment and procedures relying on background materials prepared by project staff. The conclusions and recommendations of the seminar would be widely distributed.

(0586) CALENDAR MANAGEMENT TEAM DEMONSTRATION PROJECT (Judicial Council)

Two Year Project
Total Project Cost: $131,318
First Year Grant Funds: $38,500

Summary: Project identical to Sacramento Calendar Team but will be placed in San Francisco Superior Court.

(0615) DEFENDER ORIENTATION PROGRAM (California Public Defenders Association)

One Year Project
Total Project Cost: $43,300
Grant Funds: $20,700

Summary: Would provide assistance in staging a weeklong seminar for new public defenders. Held at Boalt Hall, in August 1971, room and board and speaker financed by Council funds.

(0630) PROSECUTION TRAINING FOR DISTRICT ATTORNEYS AND DEPUTY DISTRICT ATTORNEYS (District Attorney and County Counsel Association)

One Year Project
Total Project Cost: $26,700
Grant Funds: $20,000

Summary: Would finance attendance of 20 California prosecutors at the National District Attorney's College in Houston, Texas, in July and August 1971. Travel, tuition, room and board and expenses of participants provided by Council.

July 7, 1971

(0168) LAW IN A FREE SOCIETY (STATE BAR OF CALIFORNIA)

Second Year Funding

Three Year Project
Total Project Cost: $667,000
Grant Funds: $400,000

Summary: Will finance the implementation of a statewide educational program for students and teachers devoted to the development of support for the legal and political institutions of our state and nation and to provide students with an understanding of the law, the purposes of the law, and the problems with which the law must deal.

0635 REPRODUCTION AND DISTRIBUTION OF SUPERIOR COURT CRIMINAL TRIAL BENCH BOOK (Judicial Council)

One Year Project
Total Project Cost: $38,014
Grant Funds: $20,136

Summary: Will finance reproduction and distribution of the Los Angeles Superior Court Bench Book to all California Superior Court Judges. The Bench Book is a comprehensive manual suitable for use during trial on the practical application at trial of criminal law and procedure.

0720 UNIFICATION OF STATE TRIAL COURTS - FEASIBILITY STUDY (Judicial Council)

Five Month Project
Total Project Cost: $51,445
Grand Funds: $38,480

Summary: Will finance an in-depth feasibility study of a unified trial court system in California. The study, conducted by a highly qualified consulting firm, will recommend a plan for implementing such unification as proposed in measures now pending before the California legislature.

0729 JUDICIAL TRAINING FOR JUSTICE COURT JUDGES (Judges, Marshalls and Constables Association)

Four Month Project
Total Project Cost: $8,330
Grant Funds: $4,730

Summary: Will finance attendance (travel, tuition and expenses) of six California Justice Court Judges at the American Academy of Judicial Education.

0731 SAN FRANCISCO OWN RECOGNIZANCE RELEASE PROJECT (San Francisco Institute for Criminal Justice)

Three Year Project
Total Project Cost: $212,914
Grant Funds: $159,684

Summary: Will finance the continuation of a highly successful O.R. Program in San Francisco and add to that program: misdemeanant citation, station house release, release of defendants in hospital custody and a consultative secretariat to assist other jurisdictions in creating pre-trial release programs.

0733 JUDICIAL TRAINING FOR JUSTICE COURT JUDGES (Judges, Marshalls and Constables Association)

Four Month Project
Total Project Cost: $20,605
Grant Funds: $14,605

Summary: Will finance securing the services of six qualified consultants to improve the quality of presentations made at the annual Justice Court Workshop. Will also finance travel and living expenses of an additional 50 Justice Court Judges who would otherwise be unable to attend the two-day workshop.

0744 COURT ADMINISTRATIVE OFFICER-DEMONSTRATION PROJECT (Santa Barbara County)

One Year Project
Total Project Cost: $34,939
Grant Funds: $23,000

Summary: Will finance placement of an executive officer, skilled in court management techniques, with the Santa Barbara County Superior Court. The project will attempt to demonstrate the economy and efficiency which can be realized in utilizing a court administrative officer.

Sept. 1, 1971

(0769) CONSUMER FRAUD TASK FORCE (Department of Consumer Affairs)

One Year Project
Total Project Cost: $37,370
Grant Funds: $24,070

Summary: Grant funds will finance staff research for the Consumer Fraud Task Force. That research will study various types of fraud and their impact, list and evaluate present consumer laws, determine whether enforcement agencies are equipped to deal with the problem and recommend remedial legislation.

(0783) SIMULATION TEST OF MUNICIPAL COURT CASE SCHEDULING METHODS (San Bernardino Co.)
One Year Project
Total Project Cost: $103,100
Grant Funds: $61,000

Summary: Will use computer simulation techniques to test court case scheduling methods recommended by a 1970 CCCJ study. Will also examine various scheduling approaches. Object: the development of improved court calendaring methods.

(0813) PUBLIC DEFENDER INVESTIGATOR TRAINING SEMINAR (Defense Investigators)
One Year Project
Total Project Cost: $55,122
Grant Funds: $20,450

Summary: Will finance training seminars for public defender investigators. Emphasis will be upon development of defense investigative skills and insight into the entire ceiminal justice system. Grant funds will be used for travel and living expenses of participants.

Nov. 4, 1971

(0189) CALIFORNIA COLLEGE OF TRIAL JUDGES (Regents of U.C.) - Third Year Funding
Three Year Project
Total Cost (3rd Year): $156,441
Grant Funds: $54,586

Summary: Will finance a two week education program for approximately 70 California judges, most of whom are recent appointees to the bench. Will also distribute copies of a Juvenile Court Benchbook produced at the College to all California Superior Court Judges, referees and commissioners.

Feb. 1, 1972

(0941) PILOT PROGRAM IN LEGAL SPECIALIZATION (State Bar of California)
One Year Project
Total Project Cost: $86,787
Grant Funds: $61,783

Summary: Will finance development of standards and procedures for certification of attorneys in criminal law practice.

(0957) OPERATION BENCHMARK (Conference of California Judges)
Three Year Project
Total Project Cost (First Year): $57,756
Grant Funds: $33,756

Summary: Will finance staff to assist local courts in identifying public concerns with the judicial system and assist in fostering cooperation and communication among the bench, bar and public. Will help to develop public information program for the judiciary.

(0461) CALENDAR MANAGEMENT TEAM DEMONSTRATION PROJECT (Judicial Council) - Second Year Funding
Three Year Project
Total Cost (Second Year): $69,092
Grant Funds: $45,143

Summary: Will continue operation in the Sacramento Superior Court of a specially trained two man calendar management team to describe and catalog effective calendaring procedures, compile a calendar management manual, and assist in the implementation of improved calendaring practices.

(0555) CRIMINAL JUSTICE CLINIC (Hastings College of the Law) - Second Year Funding
Two Year Project
Total Cost (Second Year): $54,150
Grant Funds: $40,600

Summary: Will finance continuation of program to place 60 senior law students in criminal justice agencies in an attempt to provide practical training supplemented by seminars and classroom discussions.

(0586) CALENDAR MANAGEMENT TEAM (City and County of San Francisco) - Second Year Funding
Two Year Project
Total Cost (Second Year): $67,845
Grant Funds: $38,500

Summary: Will continue operation of team similar to Sacramento Calendar Management Team in the San Francisco Superior Court. The two teams will cooperate in the development of model calendar management procedures. In addition, the San Francisco team will also provide direct operational assistance to the San Francisco Superior Court.

(0615) DEFENDER ORIENTATION PROGRAM (California Public Defenders Association) - Second Year Funding
Three Year Project
Total Project Cost (Second Year): $48,661
Grant Funds: $18,480

Summary: Provides funding for a week-long orientation session for newly appointed deputy public defenders.

(0630) PROSECUTION TRAINING FOR DISTRICT ATTORNEYS AND DEPUTY DISTRICT ATTORNEYS (District Attorney and County Counsel Association) - Second Year Funding
Three Year Project
Total Project Cost (Second Year): $29,700
Grant Funds: $20,000

Summary: Will send 20 experienced California prosecutors to a month-long Career Prosecutor's Course in Houston. Operated by the National College of District Attorneys, the course covers subjects such as administration and office management, budgeting, automatic data processing, recent changes in law and procedure and advanced trial practice. The attendees will serve as a nucleas for a California Prosecutors Institute.

(0733) JUDICIAL TRAINING FOR JUSTICE COURT JUDGES AND CONSTABLES (Judges, Marshals and Constables Association) - Second Year Funding
Total Project Cost (Second Year): $35,600
Grant Funds: $25,000

Summary: Will provide professional assistance in conducting two identical workshops (held at different times and different places) for most of California's justice court judges and constables. Financial assistance will also be provided for those otherwise unable to attend. Major presentations will be published and widely distributed.

(0829) ORANGE COUNTY JUSTICE INFORMATION SYSTEM (Orange County)
Two Year Project
Total Project Cost (First Year): $265,336
Grant Funds: $159,201

Summary: Will expand present traffic warrant system to criminal and bench warrants, set up central warrant system and create subject in process case monitoring system.

(0873) FOURTH APPELLATE DISTRICT DEFENDER PROJECT (Judicial Council)
Three Year Project
Total Project Cost (First Year): $166,500
Grant Funds: $124,000

Summary: Will provide counsel in 140 indigent criminal appeals. Project staff attorneys will act as counsel in one-half of the cases and assist private attorneys in handling the remainder.

(0949) ATTENDANCE AT DRUG ABUSE INSTITUTE (Judicial Council)
Total Project Cost: $32,500
Grant Funds: $19,500

Summary: Will provide financial assistance (travel, room and board) for 130 leading judges and officials in attending a three-day seminar on the administration of narcotics statutes and problems stemming from drug abuse.

(1002) PROGRAM FOR EXPERIMENTATION WITH A MODEL CRIMINAL TRIAL COURT (McGeorge School of Law)
Total Project Cost: $104,000
Grant Funds: $52,000

Summary: Will provide funds necessary to build a flexible program into a trial courtroom which will be constructed.

(1047) SAN JOSE MUNICIPAL COURT TRAFFIC COMMISSIONER (Santa Clara County)
Total Project Cost: $71,188
Grant Funds: $27,000

Summary: Will place commissioner and support staff in metropolitan municipal court to hear minor traffic violations. The placement of such violations in an informal setting will allow greater individualized treatment of traffic violations and will free court time for other matters.

(1092) SUPERIOR COURT EXECUTIVE OFFICER (Ventura County)
Total Project Cost: $40,620
Grant Funds: $23,000

Summary: Will place an executive officer in the Ventura County Superior Court.

(1115) ATTENDANCE AT THE INSTITUTE FOR COURT MANAGEMENT (Judicial Council)
Total Project Cost: $48,450
Grant Funds: $32,700

Summary: Will provide financial assistance (travel, tuition, room and board) for seven Californians to attend the Institute for Court Management training program for court administrators.

(0168) LAW IN A FREE SOCIETY (State Bar of California) - Third Year Funding
Three Year Project
Total Project Cost (Third Year Funding): $642,000
Grant Funds: $374,000

Summary: Will finance the implementation of a statewide educational program for students and teachers designed to develop support and understanding of the legal and political institutions of our state and nation and to provide students with an understanding of the law, the purposes of the law and the problems with which the law must deal.

July, 1972

(0544) GRADUATE DEGREE PROGRAM IN JUDICIAL ADMINISTRATION - Second Year
Three-Year Project
Total Project Cost: $153,728
Grant Funds: $111,321

Summary: Will expand the graduate program in judicial administration begun during the first year of the project.

(1161) ADVANCED CRIMINAL LAW PROGRAM (California Public Defender's Assn.)
Three-Year Project
Total Project Cost: $99,445
Grant Funds: $33,485

Summary: Training seminar for 150 attorneys from defender offices throughout the state. Presentations will be geared to attorneys with at least two years of practical experience.

(1223) CALIFORNIA REVIEW OF ABA STANDARDS OF CRIMINAL JUSTICE (Judicial Council)
One-Year Project
Total Cost: $16,800
Project Cost: $12,600

Summary: Will study the feasibility of implementing in California the recently approved standards and procedures adopted by both the American Bar Association and the Institute of Judicial Administration.

(1234) MANAGEMENT TRAINING PROGRAM (Southern California Counties District Attorney's Association)
One-Year Project
Total Cost: $71,410
Project Cost: $30,678

Summary: Will provide three seminars over a 12-month period concentrating on skills necessary to improve the management and operation of prosecutor offices.

Sept., 1972

(1186) COURT MANAGEMENT SYSTEM (San Francisco)
One-Year Project
Total Cost: $212,201
Grant Funds: $103,538

Summary: Will install computerized record systems (calendaring, case histories) in San Francisco courts. Will purchase equipment, supplies and staff services, and will begin work on an information system involving all criminal justice agencies. (Point in fact: System is in preliminary stages of operation in anticipation of funding.)

(1190) SAN FRANCISCO JUVENILE COURT INFORMATION SERVICES
Three-Year Project
Total Cost: $534,300
First Year Grant Funds: $73,400

Summary: Designed to modernize the record keeping and information systems of the San Francisco Juvenile Court by installation of Electronic Data Processing methods and equipment. Computer services, record storage and retrieval equipment will be rented. The proponent plans a project duration of three years.

(1241) ALTERNATIVE TO THE USE OF COURT REPORTERS IN THE MUNICIPAL COURTS (Judicial Council)
One-Year Project
Total Project Cost: $66,719
Grant Funds: $50,080

Summary: Will locate recording devices in a minimum of 30 municipal courtrooms, thereby testing the feasibility of using such equipment to record court proceedings.

(1267) CRIMINAL COURT COORDINATORS (Judicial Council)
Two-Year Project
Total Project Cost: $131,086
First Year Grant Funds: $48,642

Summary: Would finance the placement of a criminal Court Coordinator in each of two Superior Courts. The Judicial Council would oversee the project and select the two courts. The Presiding Judge of each court would be in charge of direct supervision of his respective court coordinator.