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IMPROVING THE USE AND ADMINISTRATION OF CRIMINAL FINES:  
A REPORT OF THE RICHMOND COUNTY CRIMINAL COURT  
DAY-FINE PLANNING PROJECT

Sally T. Hillsman  
Director of Research

Judith A. Greene  
Director of Court Programs

Vera Institute of Justice  
377 Broadway  
New York, New York 10013

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## ABSTRACT

This report describes the planning activities of a group of criminal justice practitioners, scholars, and Vera Institute of Justice planners and researchers working collaboratively in Richmond County (Staten Island), New York. With support from the National Institute of Justice, the Richmond workgroup has been addressing a need, increasingly voiced by American policymakers, for the development of a wider range of intermediate sentences which deliver effective punishment while avoiding unnecessary use of already over-subscribed jail space.

Specifically, the planning group has sought to make monetary penalties, particularly fines, more useable as a criminal sanction. The key to this reform effort is the careful design of an operational plan to permit an American court to replace fixed fines with means-based fines. This reform would enable sentencers to take both the gravity of the offense and the means of the offender into account when setting the amount of the criminal penalty, thereby rendering the fine a much more attractive punishment in a broader range of criminal cases than has heretofore seemed appropriate.

In approaching this problem, the Richmond planning group has drawn upon the well-developed jurisprudence and practical experience of Western European professionals with a relatively recent sentencing innovation, the "day fine." The day-fine concept was viewed as an important guide for the design of a new American sentencing strategy because it permits offenders of widely differing economic status to be punished equivalently for conduct of equal blameworthiness. If successfully implemented, the plan developed by the workgroup to adapt the day-fine concept to the Richmond Criminal Court will provide an important conceptual and practical framework for the many American jurisdictions now looking to improve their use and administration of fine sentences.

This report of the Richmond planning effort is the culmination of nearly eight years of NIJ-sponsored policy research conducted by the Vera Institute of Justice. The document lays out the conceptual foundations for the work done during the last year and describes the planning process itself (Chapters I-II). It then presents a detailed discussion of the operational plan for implementing a sixteen-month demonstration project in which day fines -- fully adapted to the American context -- would be substituted for fixed fines by the judges of the Richmond Criminal Court; this sentencing change would be accompanied by improvements in collection and enforcement and by evaluative research conducted by the Vera Institute (Chapters III-VII). Finally, the report requests \$250,000 in continued support from the NIJ to implement the demonstration in early 1988 (Chapter VIII).



TABLE OF CONTENTS

	<u>Page</u>
ABSTRACT	
ACKNOWLEDGEMENTS	
I. INTRODUCTION: CRIMINAL FINES IN AMERICAN COURTS . . . . .	1
A. Making Fines More Useful as Criminal Sanctions . . . . .	2
B. The Day-Fine Systems of Western Europe . . . . .	4
C. Adapting the Day-Fine Concept to American Courts . . . . .	6
D. Outline of the Report . . . . .	8
II. DEVELOPING A NEW APPROACH TO FINING: PLANNING THE DAY-FINE PROJECT FOR THE RICHMOND CRIMINAL COURT . . . . .	11
A. Purposes of the Reform . . . . .	11
1. Building appropriate sentencing options . . . . .	12
2. Reducing reliance on jail sentences . . . . .	14
B. Selection of the Richmond Criminal Court as the Pilot Site . . . . .	16
1. The Richmond Criminal Court . . . . .	17
2. Richmond County (Staten Island) . . . . .	20
C. The Planning Process . . . . .	21
1. Early stages: drawing upon the experiences of European practitioners . . . . .	22
2. Later stages: specifying the plan for Richmond . . . . .	29
D. Major Components of the Day-Fine Plan . . . . .	30
1. Establishing benchmarks to set the number of day-fine units . . . . .	31
2. Valuing the day-fine unit . . . . .	32
3. Collecting and enforcing day fines . . . . .	33
4. Researching the pilot and its outcomes . . . . .	34
III. SETTING THE NUMBER OF DAY-FINE UNITS: THE SENTENCING BENCHMARKS . . . . .	37
A. Introduction . . . . .	37
B. Classifying Offenses by Severity . . . . .	38
C. Assigning the Number of Day-Fine Units . . . . .	43

	<u>Page</u>
D. The Day-Fine Benchmarks: Rank Ordering and Unit Ranges . . . . .	45
E. Range Adjustments for Mitigating and Aggravating Circumstances . . . . .	45
IV. ASSESSING ABILITY TO PAY: SETTING THE VALUE OF THE DAY-FINE UNIT: . . . . .	51
A. Introduction . . . . .	51
B. Valuing the Day-Fine Unit: Swedish and West German Models . . . . .	52
C. The Valuation Method for Richmond: A Middle Ground . . . . .	55
1. Adjusting net income . . . . .	56
2. Discounting the adjusted value . . . . .	59
3. Value tables to assist in calculation . . . . .	61
D. What To Do About Offenders Without Personal Income . . . . .	62
E. Gathering Means Information . . . . .	67
F. The Means Investigation in the Richmond Court . . . . .	70
1. The need for supplemental information . . . . .	72
2. Testing new procedures and verifying information . . . . .	73
G. The Issue of Restitution . . . . .	75
V. MODEL DAY-FINE SENTENCES: CASES FROM THE RICHMOND COURT . . . . .	79
A. Introduction . . . . .	79
B. The Cases . . . . .	79
C. Comparison of Actual Cases and the Likely Day Fine . . . . .	85
D. The Application of Day Fines to Potential Jail Cases . . . . .	85
VI. COLLECTION AND ENFORCEMENT: A STRATEGY FOR THE DAY-FINE PILOT PROJECT . . . . .	89
A. Introduction . . . . .	89
B. Current Fine Collection and Enforcement Practices in the Richmond Court . . . . .	93
C. The VSA Experience: Restitution Collection . . . . .	102

	<u>Page</u>
D. A Collection and Enforcement Strategy for the Day-Fine Pilot . . . . .	108
1. Fine Administration . . . . .	109
2. Setting the Terms of Payment . . . . .	111
3. Monitoring Payments . . . . .	114
4. Escalating Enforcement . . . . .	117
5. Enforcement by the Most Coercive Techniques . . . . .	120
E. The Pilot Project's Computerized Management Information System . . . . .	122
VII. RESEARCH DESIGN: EVALUATING THE IMPLEMENTATION OF AN AMERICAN DAY-FINE MODEL . . . . .	125
A. Purposes of the Research . . . . .	125
B. Overall Research Design . . . . .	127
1. Research on Implementation . . . . .	131
2. Research on System Impacts . . . . .	133
3. Research on Displacement . . . . .	143
C. Sources of Data . . . . .	146
D. Future Research on Day Fines . . . . .	149
VIII. THE NEXT STAGE: IMPLEMENTING THE DAY FINE PILOT PROJECT . . . . .	153
A. Introduction . . . . .	153
B. Remaining Work . . . . .	154
1. Procedural issues . . . . .	154
2. Housekeeping issues . . . . .	155
C. Project Timetable . . . . .	156
D. Products . . . . .	157
E. Project Administration and Staffing . . . . .	157
F. Project Budget . . . . .	158
BIBLIOGRAPHY . . . . .	159
APPENDICES:	
A. Criminal Court Sentences in Richmond County, New York, for Cases Arraigned during the First Half of 1986 . . . . .	163
B. Richmond Day-Fine Benchmark Scales . . . . .	173

	<u>Page</u>
C. Data Collection Forms for Day-Fine Planning Project Means Information . . . . .	187
D. Variable Lists for Richmond Criminal Court Fine Cases: Post-Sentence Collection and Enforcement Histories . . . . .	199
E. Richmond (Staten Island) Victim Services Agency Restitution Cases: Data Collection Forms and Tables . . . . .	209
F. Richmond Day-Fine Pilot Project Management Information System . . . . .	223
RESUMES: Sally T. Hillsman, Ph.D. . . . .	237
Judith A. Greene . . . . .	245
Laura Winterfield, Ph.D. . . . .	249



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"Properly employed, the fine is less drastic, far less costly to the public, and perhaps more effective than imprisonment or community service" (National Advisory Commission on Criminal Justice Standards and Goals, Report on Corrections, 1973).

## CHAPTER I

### INTRODUCTION: CRIMINAL FINES IN AMERICAN COURTS

The use of fines as criminal sanctions is once again attracting the attention of American judges and other policymakers as dissatisfaction with present sentencing options becomes more widely acknowledged and the struggle with over-crowded jails and prisons becomes more acute. Indeed, a recent Institute for Court Management (ICM) survey of American judges who handle criminal cases in state trial courts (Cole, Mahoney, et al., 1987) suggests the time is ripe for developing ways to assist policymakers examine more systematically the place of fines in sentencing practices.

The judges interviewed by ICM generally view fining in a positive way and use fines more often than is commonly recognized (see also, Hillsman, Sichel, Mahoney, 1984). But they, and other criminal justice practitioners, identify two major impediments to improving the usefulness of the fine as a sanction: the assumption that poor offenders cannot pay fines and the belief that fines allow more affluent offenders to buy their way out of punitive sentences. It is clear, however, from discussions with judges, and from nearly a decade of empirical research on courts'

experiences with fines, that problems in the administration and collection of fines are very closely tied to the principles (or lack of them) guiding the imposition of fine sentences by American courts (Casale and Hillsman, 1986).

Since 1980 researchers at the Vera Institute of Justice, in conjunction with colleagues at ICM and the University of Connecticut, have been examining courts' experiences with criminal fine sentences in both the United States and Western Europe (see bibliography). This policy research, much of it supported by the National Institute of Justice, has documented the little explored phenomenon that fines are, and have been for some time, an important sentencing tool in American criminal courts. But it has also documented that while fine use is highly variable across American courts, few judges in this country use the fine as a sole sanction if the offender has a prior record and the offense is moderately serious. This is in sharp contrast, however, with sentencing practices in some Western European criminal justice systems where the fine as a sole penalty is widely used to sentence recidivist offenders and where, as a matter of policy, fines are viewed as the major alternative to short terms of imprisonment (Hillsman, et al., 1984; Casale and Hillsman, 1986).

#### A. Making Fines More Useful as Criminal Sanctions

In order to make fines (and other monetary penalties) more useful as a criminal sanction in American courts -- that is, useable as punishment in more cases -- criminal justice practitioners indicate that they need better ways than current American sentencing practices tend to permit to set fine amounts

which are proportionate to the gravity of the offense and consistent across offenders convicted of similar crimes, but which are also equitable. Our research indicates that courts across the country now generally impose fines well below statutory limits, despite the fact the many state legislature are increasing statutory fine maxima, anticipating judicial need in cases of better-off offenders for whom current fine levels would represent inadequate punishment. The limited range of actual fine amounts comes about because the retributive trend in American sentencing focuses judges primarily on the severity of the crime. In considering whether to impose a fine sentence, research suggests that American judges commonly find themselves with "tariff" systems as their only guide as to what an appropriate amount might be for the fine. Such tariff (or fixed fine) systems, however, tend to depress fine amounts causing them to cluster near the bottom of the permissible range, thereby constraining the fine's usefulness as a punishment.

The tariff systems typical of American courts are based upon informal understandings that fixed fine amounts will be imposed on all defendants convicted of a particular crime. Because practitioners involved in sentencing decisions are concerned with equity and consistency, our research indicates that they typically set fine amounts with an eye to the lowest common economic denominator of offenders coming before the court. Fixed-fine systems, therefore, restrict the sentencer's ability to adjust the fine amount to an offender's means as well as to crime severity. As a result, the range of cases in which fines are

used as a sole sanction is limited in most American courts. While in many jurisdictions we have studied, individual judges attempt to modify these tariff systems to take means into account, they acknowledge a lack of experience with ways to do this that are systematic and reflect the principles of both proportionality and equity.

Western European criminal justice systems provide important, and increasingly well-studied, experiences with different approaches to fining that are highly relevant to American practitioners' search for ways to improve the usefulness of criminal fines. As a matter of public policy, courts in Sweden, West Germany and England (among others) have moved toward fines as the sentence of choice in most criminal cases (including non-trivial ones) and as their major alternative to imprisonment.<sup>1</sup> As a result, these jurisdictions have developed principles and practices with respect to fining, the success of which has attracted the attention of American policymakers and legal scholars.

B. The Day-Fine Systems of Western Europe

Most notable are the experiences of European courts with methods of setting fines that are referred to as "day-fine systems" because in some, although not in all, these courts, the

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<sup>1</sup> In West Germany, for example, after judges were encouraged by changes in legislation in 1968 to reduce their use of sentences to six months or less of imprisonment, the number of such sentences decreased from over 113,000 (20% of the total) to under 11,000 (1.8%) without any increase in the frequency of longer sentences of imprisonment. Instead, the proportion of fine-alone sentences increased from 63 percent of the total to over 80 percent (Gillespie, 1980).

fine amount is linked to an offender's daily income. Whatever their variations, the principles and practices underlying day fines are structured to produce monetary punishments which are proportionate to the gravity of the offenses, but which are also equivalent across offenders with different financial resources.

In practice, the judge using a day-fine approach first sentences an offender to a certain number of fine units (e.g., 10, 50, 125 units) which reflects the degree of punishment the judge deems appropriate to the seriousness of the offending behavior. To help ensure that decisions as to the number of fine units are systematic and consistent (within a judge's own sentencing activities and across a given court), the courts using day fines have tended to develop informal guidelines which establish normal day-fine unit levels for specific offenses. After deciding upon the appropriate number of fine units, the judge then calculates the monetary value of each unit according to the means of the particular offender, but ignoring the offense. To do so, the judge uses information routinely available from the police, the court, probation or the defendant (often the latter), and is guided by a uniform, but usually flexible, method of calculation agreed upon by the court. Through this process, the total monetary penalty the judge imposes -- the degree of punishment -- is in proportion to the offense's seriousness but, at the same time, it should cause an equivalent level of economic burden

across offenders who have different means. (See Casale, 1981; Hillsman et al., 1984; Greene, 1987.)

When European courts began using day-fine systems, fine amounts rose significantly, to reflect just punishment for more affluent offenders, and the fine's usefulness as a sanction was broadened. This took place, however, without imposing costly demands on the enforcement system or increasing re-offending (Albrecht and Johnson, 1980).

### C. Adapting the Day-Fine Concept to American Courts

In response to increasing interest in the day-fine concept, Vera Institute researchers and criminal justice planners began to focus on the need for a disciplined adaptation of the day-fine concept to an American court. We viewed this effort as one that would be based upon collaborative planning with practitioners and careful implementation of a pilot (or test) program to be combined with evaluative research. For over twenty-five years, the Vera Institute has employed such a strategy of action-research to improve a wide range of criminal justice processes (Vera, 1987).

In 1986, the National Institute of Justice agreed to support a planning effort to be carried out by Vera in conjunction with the Richmond County (New York) Criminal Court and the Richmond County District Attorney's Office. The goal was to design a day-fine system for that court which would replace its current fixed-fine system with a method of setting fines, tailored to the court, that would permit means, as well as offense severity, to be taken into account in sentencing.



The planning process began in the fall of 1986; an operational design for all key components of a plan to introduce day fines into this first American court is now complete. The process has drawn upon Vera's research experience of the last eight years; it has involved all the key practitioners in the Richmond jurisdiction, European day-fine experts, and American legal scholars. As it has progressed, the planning process has drawn the attention of policymakers, practitioners and researchers from around the country who are interested in expanding the repertoire of flexible, enforceable sanctions available in their courts. By the beginning of 1988, all the minute operational details necessary to implement the day-fine pilot will be in place and the Richmond court and District Attorney's Office will be ready to begin substituting day fines for virtually all the fixed fines now levied for penal law convictions in the court (and, potentially, for other sanctions as well).<sup>2</sup>

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<sup>2</sup> The Richmond County Criminal Court, described in greater detail in the next chapter of this report, will sentence about 1430 offenders to fine sentences in calendar year 1987. About 42 percent of these offenders will have been charged with criminal offenses under the New York State Penal Law; the remainder will have been charged with Vehicle and Traffic Law (VTL) offenses, primarily Driving While Intoxicated. Many of the more serious VTL offenses, however, carry fixed-fine amounts set by statute. Therefore, despite their relative seriousness, VTL cases will be the only categorical exception to the Criminal Court's general shift to the use of day fines in lieu of fixed fines. As part of the pilot effort, however, judges, prosecutors and project staff will take a sample of the VTL cases in order to estimate what the day fine would have been in the absence of the statutory constraint.

D. Outline of the Report

This report has two major goals. The first goal is to provide a description of the collaborative planning process we have undertaken in the Richmond Criminal Court during the last year and to present in detail the key components of the plan we have developed to introduce day fines into the Richmond court. In this regard, this document represents a final report to NIJ of the initial planning grant. The second goal is to describe how the day-fine plan will be implemented as a pilot project in the Richmond court during 1988. In this regard, the report encompasses a request to NIJ for continued support of the current effort. The work plan and budget for the pilot phase cover a 16-month combined operational and research period (of which 12 months are operational); the budget which accompanies this report requests \$250,000 from NIJ for continued support of the demonstration.

These two purposes are woven together in the discussions which follow. In Chapter II we describe the RICHMOND PLANNING PROJECT itself -- the specific purposes toward which the reform is directed, the rationale for the selection of the site, how the planning was done, and the central issues which we needed to address in order to adapt the day-fine concept to this (or any other) American court. Then, in Chapter III, we present the first of the four major components of the plan: the SENTENCING BENCHMARKS developed by the project with the judges, prosecutors and defense bar to help the court systematically determine the

number of day-fine units that will be imposed for specific offenses.

In Chapter IV, we turn to the second key component of the plan: ASSESSING ABILITY TO PAY AND SETTING THE VALUE OF THE DAY-FINE UNIT; in this chapter we describe the method developed to establish the dollar value of the day-fine units that will be imposed on a particular offender. Then in Chapter V, we present a set of MODEL DAY-FINE SENTENCES which we have constructed by applying the benchmarks and the valuation methods to real cases from the Richmond Criminal Court to demonstrate what the sentences will look like as the judges begin to use day fines during the pilot year.

Chapter VI turns to the post-sentence period, and discusses the changes to be introduced during the day-fine pilot in the court's traditional procedures for the COLLECTION AND ENFORCEMENT of fine sentences. Improving fine enforcement is an important part of the day-fine plan because research has shown that fining must be viewed as a process in which the imposition of fines and their enforcement are inextricably linked. While day-fine systems can set the amount of the fine in relation to the means of the offender -- which research indicates is a key to successful collection -- without procedures to ensure that fine sentences will be efficiently enforced, they are not likely to become a more credible sanction in a wider range of American criminal cases.

Chapter VII discusses the last key dimension of the day-fine plan: the RESEARCH DESIGN to be implemented as a central part of the pilot project. The very essence of action-research as carried out by the Vera Institute over more than two decades is to subject innovative efforts to improve the criminal justice system to systematic, empirical examination.

The concluding chapter of this report, Chapter VIII describes THE NEXT STAGE: IMPLEMENTING THE DAY-FINE PLAN. In it we provide a timetable and work plan for the sixteen month pilot project which will substitute day fines for the fixed fines in penal law cases in the Richmond Court and empirically examine the outcomes of that effort. Appendices to the report provide supporting documents which expand upon issues raised in the body of the report.

CHAPTER II

DEVELOPING A NEW APPROACH TO FINING:  
PLANNING THE DAY-FINE PROJECT FOR  
RICHMOND CRIMINAL COURT

A. Purposes of the Reform

Introducing a sentencing system which tailors the fine amount to an offender's means, as well as to the offense, ought to increase the efficiency of collection and enforcement efforts, thereby enhancing the credibility of the sentence and widening its usefulness as a criminal sanction.<sup>1</sup> The opportunity afforded by the Richmond Criminal Court pilot to test the effects of such a reform on existing sentencing practices has broad implications for a national audience of criminal justice practitioners and policymakers who are interested in developing effective sentencing options, including those that might serve as alternatives to some sentences of imprisonment. The immediate goal of Vera's planning effort in the Richmond court, therefore, was to design a pilot that would test the feasibility of adapting the day-fine model to a rather typical American court and measure its outcomes.

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<sup>1</sup> There is substantial research evidence supporting the notion that fines set more closely in relation to means are more collectable. (For a summary, see Casale and Hillsman, 1986.) Because taking means into account in setting the original amount of the sentence is the key to its successful collection, a policy of focusing merely on enhancing collection and enforcement procedures as a way of improving the fine's usefulness is not likely to succeed (unless fine sentences are limited to trivial cases).

Building appropriate sentencing options. The trend in sentencing policy in the United States in recent years has been toward an increased emphasis on incapacitation, deterrence and punishment. Mandatory sentencing schemes, along with other limitations on the discretion of sentencing decision-makers, have contributed to a growing strain on our correctional resources. This is especially so because both the public and policymakers in the United States have tended to view imprisonment not only as the paramount means available for the effective punishment and deterrence of crime, but also as virtually the only means. While the heavy use of jail sentences in many American lower courts reflects this general trend, it is also driven by a perceived scarcity of appropriate alternative punishments.

Probation resources, for example, tend to be very scarce in lower courts and, when they do exist, they are often overtaxed to a point at which the probation sentence loses all credibility. Conditional discharges are nearly impossible for most courts to monitor and, in addition, are perceived as failing to deliver any punitive sting. Newer sentencing options which have emerged in recent years under the banner of "alternatives" -- restitution, community service, enhanced probation, and electronic monitoring -- are often difficult (and/or expensive) for courts to supervise or, to ensure program success, are targeted to narrow groups of offenders.

In this context, the fine emerges as a traditional sentencing device with the potential to become a major punishment op-

tion. Its advantages as a criminal sanction are well recognized: it is unmistakably punitive in its aim and can deprive offenders of ill-gotten gain; it sufficiently flexible in its structure to permit its adjustment to a level that is both appropriate to the offender's resources and to the seriousness of the offense; it does not further destroy the offender's ties to family and community; it is relatively inexpensive to administer, relying primarily on existing administrative agencies and procedures; and it can be financially self-sustaining and provide revenue for related social purposes such as victim compensation.

For the fine to realize its potential, however, the structural limitations of the fixed-fine system typical in American courts must be overcome. The European day fine is a device intended to do just this by breaking the decision process into two stages, one taking the offense into account and the other taking means into account. By so doing, the dayfine can address directly the major impediments to the fine's usefulness as a sole sanction in many American courts. The poverty of some offenders can be taken into account even if the offense is serious, and the affluence of other offenders can likewise be acknowledged even if the offense is not serious. The primary purpose of the Richmond pilot project, therefore, has been to develop a strategy for applying the day-fine approach to an American court in order to test how sentencers will begin to use the fine when they are freed from the constraints of a fixed-fine system.<sup>2</sup>

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<sup>2</sup> Concern is sometimes voiced about potentially negative implications of expanding the role of fine sentences for the use of

Reducing reliance on jail sentences. Legislative initiatives at both the state and federal levels to raise statutory fine maxima are succeeding. This invites still broader application of the fine to some types of crimes which now commonly draw jail terms and to offenders who now receive fines that are less punitive than might be appropriate because existing tariff systems make it difficult to increase their fine amounts without violating the principle of consistency or uniformity in sentencing. Exploring new applications of the fine sentence, therefore, requires an examination of possible approaches to using it as an alternative to current imprisonment sentences.

European day-fine systems provide several useful models. One conception is that substantial fines may be a replacement for terms of incarceration; this view of the fine -- found in West Germany -- sees it as a "ransom" for specific amounts of jail time.<sup>3</sup> This model creates a somewhat different (though poten-

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restitution to victims. There is, however, no research evidence that fines impede restitution; indeed they may enhance its use. In England, for example, where sentencing policies encourage reliance upon monetary penalties, restitution often accompanies a fine sentence and payment to the victim takes precedence over payment to the crown. Criminal fines also may provide communities with an opportunity to augment existing victim compensation funds, an opportunity that has been seized by recent federal legislation that changes the distribution of federal fine revenue. (See discussion in Chapter IV below.)

<sup>3</sup> As we have already noted, the introduction of the day fine in West Germany came about in connection with a broad revision of the German penal code instituted in 1969. The volume of offenders sentenced to terms of imprisonment in West Germany had flooded the capacity of the prison system and the high court had held the practice of triple-celling to be unconstitutional. In response, the legislature established the principle that short terms of imprisonment (six months or less) should only be used in exceptional cases, and that fines should become the sentence of



tially overlapping) set of implications from an alternative conception of the fine as "economic jail." In the first model, for example, the fine would be felt as a substantial sting, in order to approach balance with the tangible punitive weight of jail; in the second approach, however, a relatively milder measure of economic deprivation might suffice, but it would have to be sustained for a period of time determined at sentencing.<sup>4</sup>

The ballooning problem of jail overcrowding in the United States has put considerable pressure on criminal justice

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choice for cases then drawing such custodial terms.

To assist the success of this transition, the West German code reform provided for a conversion of what was then a fixed-sum fining system to a model based on the Scandinavian system, but it is also harsher in keeping with its goal to provide a direct substitute for imprisonment terms. And, indeed, it has proven its usefulness; fine amounts have risen, default has been held to acceptably low levels, and fine sentences have continued to comprise over eighty percent of all sentences meted out by the courts each year while the use of short-term imprisonment has continued to decline.

<sup>4</sup> The Swedish approach bears some similarity to the "economic jail" approach but it is not fully comparable. Although it involves the notion of a deprivation of income above the level of daily necessity (a "confiscation" of discretionary income), the number of day fines imposed under the Swedish system is not, strictly speaking, a temporal term of punishment. An offender may pay a lump sum at sentencing, if he or she is able.

It might also be noted that while the West German penal code revision was underway in the late 1960s, a group of law professors provided an alternative model to what was eventually passed which pressed for a pure "economic jail" day-fine concept. The measure failed in the Bundestag because it was pointed out that merely extending time for payment would not be adequate in cases of very affluent offenders, unless the court first stripped them of their capital assets to reduce them to an economic level at which the installment payments would constitute tangible economic deprivation, as would be the case for those with more modest incomes.

policymakers to search for viable alternatives, especially for those offenders who typically receive short terms for routine criminal behaviors which, though presenting no great danger to public safety, require some measure of credible punishment. The European experience suggests that with the introduction of a structure that can ensure both equity and efficiency, the role of the fine as an alternative penalty could be expanded to help fill the gap. One central purpose of the Richmond pilot project, therefore, has been to design a day-fine structure for this American court which, primarily through the architecture of the sentencing benchmarks, positions fines in relation to offense severity so that they can be used as an alternative to some current jail sentences.

B. Selection of the Richmond Criminal Court  
as the Pilot Site

The day-fine planning project has been carried out in the Criminal Court of Richmond County (Staten Island, New York). The selection of a lower court -- a trial court of limited jurisdiction -- resulted from several considerations. First, we wanted to select a type of American court in which the improvement of fine use and administration would be of immediate relevance and thus of substantial practitioner interest. Traditionally, lower courts in the United States are the primary users of fine sentences, both alone and in combination with other penalties. They are followed by "hybrid" general jurisdiction trial courts, courts which handle a wide variety of misdemeanor as well as fel-

ony cases; felony-only general jurisdiction courts are the only type of American criminal court that tends to use fines sparingly (Hillsman, et al. 1984:28ff).<sup>5</sup>

Second, insofar as fines can be structured to substitute for terms of imprisonment, it is likely to be easier, at least initially, to accomplish this at the less severe end of the spectrum of cases which now receive custodial sentences. It is probable that the short-term imprisonment sentences used increasing as punishment by lower courts play a role in driving the larger sentencing system. For example, in a given community, judges may hesitate to give (and prosecutors to recommend) non-imprisonment sentences to more serious cases when cases of lower severity are receiving jail sentences. It is probable, therefore, that until there are effective alternatives in use at lower levels of the offense spectrum, alternatives at higher levels will have less credibility.

The Richmond Criminal Court. The Richmond Criminal Court in particular has several characteristics which make it a desirable site for the pilot. First, it already uses fines extensively as sole sanctions. A 1986 sample of Richmond cases analyzed for the planning project indicates that 47 percent of all cases sentenced in the Criminal Court are sentenced to a fine, virtually all to a

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<sup>5</sup> This does not mean that they do not use them at all. Indeed, over a third of the (very small number of) felony-only courts surveyed for the 1984 study (N=24) indicated that they used fines in half or more of their cases; however, they may not use them as sole sanctions as is suggested by the Cole and Mahoney survey in 1987.

fine alone.<sup>6</sup> Second, the Richmond Criminal Court disposes of a substantial variety of cases displaying a fairly wide range of offense seriousness. The Criminal Court in New York City is a court of original jurisdiction; that is, all cases, whether charged by the District Attorney as felonies or misdemeanors, are arraigned and processed in the lower court before being either indicted and transferred to the court of general jurisdiction (the New York City Supreme Court) or disposed as a misdemeanor in the Criminal Court. Because case screening by prosecutors is carried out at the Criminal Court level, only cases with a very high probability of felony conviction are indicted; therefore, the Richmond Criminal Court disposes of many cases that originate as felonies. Of all cases charged as felonies in the 1986 sample, almost three-quarters remained in the Criminal Court for final disposition.

Third, the Richmond court is relatively rich in sentencing options other than fines, as compared with many other limited jurisdiction courts. These include probation sentences and supervised restitution and community service orders, as well as im-

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<sup>6</sup> The sample consisted of all Richmond County arrests during the first half of 1986. By early December 1986, 8.6 percent of these 2,357 cases had been transferred to the Supreme Court for felony indictment, and 0.5 percent to other jurisdictions; 76 percent had reached final disposition in the Richmond County Criminal Court, and 14.9 percent were still outstanding. The data were provided by the Research Department of the New York City Criminal Justice Agency from the agency's on-line computer system. (See Appendix A.)

prisonment and conditional and unconditional discharges. Thus, when day fines are introduced into this court, they will have to compete with a well developed menu of traditional options, and do so in a context characterized by serious jail overcrowding.<sup>7</sup>

Finally, both the Richmond Criminal Court and the Office of the District Attorney are well-administered. The three judges sitting on the Criminal Court bench are able and experienced. The District Attorney is well-regarded and in a politically stable situation. His Criminal Court Bureau Chief is talented, organized, well thought of by the bench and bar, and a thoughtful policymaker. In addition, and in some respects most important for the successful planning of an innovation, the key practitioners in the court -- the Administrative Judge, all three sitting judges, the District Attorney, and his chief assistant -- have been enthusiastic about introducing the day-fine concept into the court and ready to commit their scarce time and resources to planning and implementing a pilot test of this innovation.

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<sup>7</sup> For some time, the New York City correctional system has been under court order to reduce overcrowding; in 1983, the federal court required the city to release some defendants from custody to ease the problem. Conditions have not improved much in recent years. However, because Richmond County is the smallest jurisdiction within the City of New York, it does not contribute a significant proportion of the cases which crowd the city's facilities. Thus, while overcrowding as well as substantive sentencing concerns encourage a focus on alternative sentences, the situation in Richmond is not pressing as in some other jurisdictions around the country. This is also a favorable context for careful innovation and experimentation.

Richmond County (Staten Island). Several characteristics of the Staten Island community also make it a desirable site for the pilot. Although part of New York City, this county is similar to many middle-sized, suburban communities in the United States. It is distinguished by a sound economic base and a high degree of social stability; but it also has a not insubstantial crime problem and a sizable, if not dominant, resident population characterized by limited financial resources, poverty and unemployment.

Richmond is the eleventh most populated county in the State of New York (370,600 people in 1984) and is the fifth most densely populated (5,986 persons per square mile). While racially quite homogeneous, it has a minority population of eleven percent (compared to a state average of nearly 25%). Overall, the economic status of Richmond's residents exceeds state and national averages. Its per capita individual income in 1984 was \$12,433; and its mean family income was \$25,795 in 1980. Nevertheless, there are pockets of economic need. In 1984, Richmond's unemployment rate was 6.3 percent and approximately 7.2 percent of its households receive public assistance.

The New York City Police Department recorded 18,944 Index Crimes reported in Staten Island in 1986. The county's crime rate of 5,435 Index Crimes per 100,000 population in 1984 (the last year for which comparative data are available) ranked Richmond fifth of all counties in the State of New York. Its robbery

rate was 292 (also ranked fifth) and its burglary rate was 1,223 (ranked ninth). In 1986, the Richmond police made 2,628 felony arrests and 3,628 misdemeanor arrests; 6,947 cases were filed in the Richmond Criminal Court (30 percent of which were felonies) and 6,740 cases were disposed. (See, New York City Police Department, 1986; New York State Division of Criminal Justice Services, 1985.)

In summary, in undertaking an action-research project to develop and test a new approach to setting fine sentences, we selected a jurisdiction that presents many of the typical issues American courts face in sentencing: a mixture of more and less well-off offenders; a range of cases with regard to offense severity and frequency of offending; a choice of relatively enforceable non-custodial sanctions none of which, however, is viewed as particularly punitive; and a seriously overcrowded correctional system. Although not atypical, this jurisdiction also presents some attributes not routinely found in lower courts which make it an excellent site for the day-fine project: well-developed computerized information systems, already high collection rates for fines and restitution orders and, most important, effective managers who are willing and anxious to innovate.

### C. The Planning Process

The planning process during 1986-7 has involved several different kinds of activities, the goal of which has been to produce a workable design for the day-fine pilot and research -- that is,

a design which is conceptually sound, technically feasible and acceptable to key parties. The central components of the plan, discussed further in Section E below, involve a system of sentencing benchmarks to guide the number of day-fine units to be set for specific offenses; a method for collecting the necessary means information and a method for valuing the day-fine units imposed on a particular offender; strategic improvements in the collection and enforcement system so that it can respond to the higher fine amounts and the broader range of fines offenders that are expected under a day-fine system; and a research design.

The planning process began in October 1986 and is now entering its final stage. It has been a collaborative effort bringing the relevant parties in Richmond together with each other, with experienced Vera Institute planners and, initially, with day-fine practitioners from Europe. It has involved conceptual discussions, empirical research to describe existing processes, development of new or enhanced procedures, and such mundane tasks as figuring out where to carve out a place for pilot project staff in a crowded courthouse. Although a few additional mundane issues need to be resolved, this will be done in the coming weeks before the pilot is begun.

Early stages: drawing upon the experiences of European practitioners. In October 1986, the Vera Institute's Director of Court Programs, who is also the Director of Planning for the



Richmond Day-Fine Project, made a three-week trip to several European countries to examine first hand the operation of their day-fine systems (Greene, 1987).<sup>8</sup> She began her observations in Sweden, where a highly developed day-fine system has been in place for over fifty years. Day-fine practices have been standardized and refined in Sweden through the promulgation of policy standards for use by prosecutors (which are generally followed by judges) as well as through years of appellate review of sentences by the court.

She then visited West Germany, whose adaptation of the Scandinavian day-fine system during the 1970s provides a very useful model for the introduction of the concept to a modern court system, and where the scope of practice in many of the urban courts is perhaps more comparable to the American legal environment. In West Germany she interviewed judges and prosecutors who administer the fining system in two major urban jurisdictions. She observed court processes and also discussed fining issues with key policy researchers at the Max Planck Institute who have been studying the day-fine system since it was

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<sup>8</sup> Support for this information-gathering trip (and for the international conference discussed below) was provided by the German Marshall Fund of the United States. The GMF had previously provided Vera with a grant to study European fining systems which was carried out as part of Vera's first NIJ-sponsored fines study (Hillsman, et al., 1984; see Casale, Working Paper # 10, 1981). The GMF's commitment to the exchange of intellectual and practical ideas between Western Europe and the United States is reflected in their continued interest in, and support of, our work on criminal fines.

introduced into West Germany.

Finally, she spent some time with policymakers in England discussing their attempts to move English fining practices closer to the European model by improving the extent to which their method of setting fine amounts takes means into account.

The process of translating what was learned through these discussions into operational ideas for adapting the different European day-fine models to the Richmond context began in November. Vera planners and researchers expanded previous contacts with policymakers and administrative personnel in Richmond and prepared for the initial meeting of a planning group. Discussions were held with judges, prosecutors, court administrators, the court's chief clerk, the public and private bar, the New York City Criminal Justice Agency (CJA, which is responsible for all pre-arraignment defendant interviews), and the Victim Services Agency (VSA, which administers restitution orders for the court). These discussions were aimed at informing key practitioners about the day-fine project, soliciting their participation, and obtaining information about dimensions of current court operations that were of importance to developing a workable plan.<sup>9</sup>

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<sup>9</sup> The project recognized the importance of having a broad range of participants in the planning process. While it is obvious that judges are crucial to the introduction of any change aimed at sentencing, prosecutors are also important allies. Because they tend to establish a single policy in a jurisdiction with respect to sentence recommendations made to all judges, prosecutors exercise considerable influence on the consistency of decisions made within the court. The prosecutor's involvement is also desirable in any effort to encourage judges to use fines more broadly, especially as an alternative to short terms of im-

The Richmond judges, prosecutor, and key representatives of the defense bar responded most favorably to our invitation for their personal involvement in the planning process, and they have remained actively engaged through a series of working sessions and meetings which have provided thoughtful and informed guidance at each stage of development.

Initially, there was general agreement that fines are underutilized by the court, because both the New York State Penal Law framework of relatively low fine maxima and the traditions of local practice, have resulted in low "going rates" for minor offenses, and relatively little use of fines where conviction charges, or offender criminal histories, raise the likelihood of a jail sentence. Judges, prosecutors, and defense attorneys alike took the planning process as a welcome opportunity to review sentencing policies in this area, indicating a belief that development of easy-to-use methods which could result in a more meaningful tailoring of the fine to the individual circumstances presented by each criminal case would enhance the sentencing process in their court. Some participants expressed the hope that, once the system is refined through actual practice, the developmental process would be extended to the Supreme Court to

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prisonment. Other participants in the planning process are valuable too because, for a court to implement fine sentences credibly, it must coordinate or oversee the actions of many different criminal justice and civilian agencies, some of which may act as the court's agents in fine collection and enforcement but which are not ultimately responsible for the outcome of the sentence.

encompass an appropriate range of felony cases.

CJA administrators were also supportive and cooperative in the planning process. Their assistance was deemed essential to the project from the very beginning because of the need to ensure means information is readily available to the court at the time of initial arraignment. Research has shown that while some means-related information is available in many courts, important items of information are not always collected routinely or early in the process, but only in the course of pre-sentence investigations which are not done on all convicted defendants (Hillsman, et al., 1984; Cole, et al., 1987). Because CJA interviews most (but not all) defendants in the Richmond Criminal Court prior to arraignment to collect and verify information relevant to the release decision, it was logical to engage its staff in the collection of any additional means information. Workable procedures to accomplish this were worked out and field tested during the spring of 1987, as discussed in Chapter IV below.

VSA administrators were similarly supportive and cooperative, providing us with access to their files from which we extracted data on restitution amounts and collection rates (see Chapter VI below). Restitution is an important sentencing option in this jurisdiction, receiving a great deal of public as well as criminal justice system support. While sentences combining restitution with a fine are rare in Richmond, it was agreed that

a day-fine system needed a framework within which such cases could be handled if they occurred. Prosecutors, VSA and Vera staff agreed from the outset that the day-fine plan should assume a restitution order would be paid first in a day-fine case that received a combined sentence; that is, the restitution amount would be taken off the top of the total dollar amount set for the day-fine.

The culmination of these early planning efforts was a two-day meeting in December in which all relevant parties to the Richmond planning process -- Richmond practitioners and Vera planners -- came together with knowledgeable policy researchers and academics from around the country and with the European practitioners familiar with operational day-fine systems who had been visited during the October trip made by the project's Planning Director. The meeting was held at the New York University Law School and was also attended by several prosecutors from jurisdictions elsewhere in the United States, who had expressed interest in possible replications of the Richmond day-fine project, and by the Chief Administrative Judge of the New York State Unified Court System.<sup>10</sup>

To ensure the meeting would cover the wide range of topics essential to the planning effort and do so from both conceptual

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<sup>10</sup> As indicated above, the inclusion in this planning meeting of a diverse and knowledgeable group of European practitioners and American scholars who have long been thinking and writing about sentencing and court reform, was made possible through the support of the German Marshall Fund of the United States.

and practical perspectives, Vera staff prepared a 30-page working paper that was, in effect, a draft day-fine plan for Richmond which the group could use as a point of departure for discussion (Greene, 1986). This working paper discussed the underlying principles for the project and enumerated various issues that needed resolution if day fines were to be introduced successfully into the Richmond court on a pilot basis. Most important, however, it presented one or more proposals for how to handle each issue.

The meetings began with an overview of traditional fining practices in American courts and with an examination of the role a strengthened fining structure might play in sentencing reform. A detailed and highly pragmatic discussion of the European experience with day fines followed, involving primary input from British, German and Swedish experts on day-fine imposition and enforcement. The agenda continued with an overview of the Richmond planning project, focusing on the working paper, and followed by roundtable discussions of its two most critical aspects: development of a schedule of sentencing benchmarks for the imposition of day-fine units for particular offenses; and development of a reliable method for gathering means information and for using it to determine the value of a day-fine unit that would reflect an offender's ability to pay. The experience of the European participants in dealing with dimensions of these issues

that were particularly troublesome to Richmond practitioners was of immeasurable value to the overall planning effort because it provided insights into tested methods that might be adapted to the Richmond context.

Later stages: specifying the plan for Richmond. In the months after the initial planning meeting, Vera planners and researchers worked to develop more operational designs for specific aspects of the day-fine pilot. Richmond practitioners were consulted as the work progressed, and they reviewed the products at various stages of their development.

Several information-gathering strategies were put in place to help guide the planning. Primary among them was the development and analysis of several case samples to provide an empirical base for estimating the frequency with which various events were occurring. We also conducted extensive court observations and interviews in order to understand how various processes actually occur and how participants perceive these processes.

Over the course of several months, researchers collected and analyzed relevant data for the following samples: (1) all cases entering the Richmond Criminal Court during the first half of 1986, including detailed sub-samples of (a) all fined cases' post-sentence collection/enforcement histories and (b) all jailed cases; (2) all restitution orders during the same period; and (3) 100 arraigned cases interviewed by CJA during May 1987 for which supplementary means information was collected and verified.

At the same time, researchers and planners developed full process analyses of how fine cases are handled by the Richmond District Attorney's Office, the Criminal Court, the chief clerk's office, and the Office of Court Administration. Information of similar detail was also prepared for the following dimensions of the overall monetary penalty system in Richmond County: (1) the warrant process (involving the court, chief clerk, prosecutor, and police department); (2) the judgment order process (involving the court, chief clerk, prosecutor, and county clerk); (3) the restitution collection and enforcement process (involving the court, VSA and the prosecutor); and (4) the garnishment and property seizure processes (involving the court, prosecutor and county sheriff).

These empirical data on current practices in Richmond, the practical experiences of operational day-fine systems in Europe, and the goals and objectives of Richmond practitioners provided the raw materials needed to design the four major components of the day-fine pilot.

#### D. Major Components of the Day-Fine Plan

To address the challenge of developing an American day-fine model adapted to the Richmond context, planners and researchers had to analyze the concepts underlying the practices applied in West Germany and Sweden, the two Western democracies whose day-fine systems were best-developed and whose legal systems (at



least with regard to fining) were most applicable to the United States. This was particularly necessary in order to develop a basic architecture for setting the number of day-fine units in relation to the offense severity and for valuing each unit in relation of the means of a specific offender.

Establishing benchmarks to set the number of day-fine units.

To facilitate the conversion from fixed-sum fines to day fines, it seemed appropriate to provide a common starting point for Richmond sentencing decisionmakers -- a system of benchmarks for determining the number of units that would be appropriate for the offense. While the benchmarks should focus on cases convicted at the misdemeanor level, the overall range of day-fine units in this system (e.g., 1-180 or 1-360, etc.) should also take into account that the system might be extended at a later date to offenses in the felony range.

To create benchmarks, penal law offenses had to be rank-ordered in some appropriate manner, categorized, and then related in a conceptually sound manner to a specific number (or range) of day-fine units. Decisions also had to be made as whether, and if so how, prior record would be taken into account. The system developed in Richmond is discussed in Chapter III.

It might be noted that the conceptual work underlying the Richmond benchmarks for misdemeanor cases and the architecture developed for the system, is of interest beyond the issue of imposing day fines. Most American attempts at developing sentenc-

ing schemas such as this have been addressed to the development of guideline systems; these tend to be more rigid than benchmark systems, exclusively target felony offenses, and focus on the imprisonment decision. While sentencing structures of flexible benchmarks for imposing non-custodial sentences have been discussed in the United States (for example, to augment formal guideline systems so as to handle cases that fall below the cut-off line for imprisonment), they remain largely undeveloped.

Valuing the day-fine unit. The conceptual basis for designing a routine method for placing a dollar value on the day-fine units to which an individual offender is sentenced (independent of the number of day fines, which reflects offense gravity and not means) will largely determine how punitive the day-fine system is and, therefore, how it will be regarded with respect to other sentencing options. The West German system, for example, is more punitive than the Swedish system, reflecting its purpose in being a direct exchange for days in prison. Thus, while the Swedish system values the units based on a detailed accounting of the offender's annual income, adjusted for family support obligations, and then discounts it by almost two-thirds, the West German system establishes the unit value at the net daily income (which is not discounted).

The system developed for Richmond is an amalgam of both these models but also, in many respects, a further refinement of

their approaches; it is discussed in Chapter IV. This section of the report also discusses the basis for our decisions about what items of information will be collected at arraignment to establish the offender's ability to pay and how they will be collected.

Collecting and enforcing day fines. Empirical analyses of 1986 fine and restitution collection data for Richmond confirmed earlier data (Zamist, Working Paper # 7, 1986 (revised)) which had indicated relatively high collection rates. However, the analyses also suggest that the most likely explanation for Richmond's success lies in the relatively small size of most current fines and the relative affluence of the offender population fined in this court. If day fine amounts rise and if a wider range of the offender population is fined, as the project anticipates, collection problems could increase; the pilot needs to be prepared for this possibility. In addition, there is a not insignificant proportion of fines which are currently not collected or otherwise enforced because of the court's currently limited repertoire of responses to non-payment. Calendared court appearances and bench warrants for arrest are the courts only means of encouraging payment; their combination is a typical, but inefficient and time-consuming, strategy. An analysis of the court's current collection and enforcement process and a description of the new procedures to be introduced as part of the day-fine pilot -- and their rationale -- are found in Chapter VI. It

includes a discussion of the PC-based management information system which has been designed for the Richmond Fines Officer (a new position to be introduced) who will use the system to track fine payments, identify non-payers, and trigger notification and other enforcement actions.

Researching the pilot and its outcomes. A key component of the action-research strategy is evaluation research to assess what has actually been implemented (i.e., determining whether the reform or intervention was carried out as planned) and measure its outcomes. An important part of the research design is the analysis of pre- and post-test samples of cases disposed and sentenced in the Richmond Criminal Court in order to measure the effects of introducing the day fine on sentencing patterns, fine amounts, collection rates, collection patterns, and enforcement outcomes. These samples will also be used to ask a key question about the introduction of any new sentencing option: what traditional sentences does it displace? A statistical modeling technique, employing discriminant function analysis, will be used to determine whether day fines are substituting only for traditional fixed fines, or whether they are also displacing current sentences to jail and probation or to a conditional or unconditional discharge.

Before concluding this discussion of the project's planning efforts and turning to a detailed discussion of the results of

those efforts -- the benchmarks, the valuation method, the enforcement plan, and the research design -- it is useful to note the interest that has been generated by the Richmond Day-Fine Project. This interest reflects the increased focus of criminal justice policymakers on monetary penalties and on enforceable non-custodial sentencing options that offer some punitive sting. While this focus is largely a product of forces and pressures found throughout the American criminal justice system, it also has been encouraged by dissemination of the results of NIJ-sponsored research on criminal fines through publications, addresses, and testimonies. (See attached bibliography.)

Vera planners and researchers are currently working with practitioners in several jurisdictions (including Minneapolis and Phoenix, and possibly Portland, Oregon) to develop day-fine projects. Some of this work has emerged through our participation in a set of three regional meetings sponsored by the Prosecuting Attorneys' Research Council (PARC), a newly formed organization to promote and assist creative prosecutors around the country develop innovative program and improved managerial strategies. Other organizations, such as the National Institute of Corrections, have expressed interest in this work because they need to assist probation departments and other community correctional agencies in handling issues that are emerging in their attempts to more adequately set and administer fees and other monetary penalties.

Finally, policymakers are interested in intermediate sanctions. This is evidenced by the requests for policy-relevant presentations by Vera staff on day fines and other alternatives at national meetings of state criminal justice planners (National Criminal Justice Association, May 1987), of state correctional leaders (National Institute of Justice and the National Research Council, October 1986), and of state and local judges (National Institute of Justice, September 1987).

CHAPTER III

SETTING THE NUMBER OF DAY-FINE UNITS:  
THE SENTENCING BENCHMARKS

A. Introduction

To address the challenge of developing an American day-fine model adapted to the Richmond court context, a common starting point was needed for all the participants in the sentencing process that would facilitate the conversion from fixed-sum fines to day fines. The basic structure of the day fine as a sentence suggests that judges would find it helpful to have informal benchmarks, or scales of day-fine units related to offenses ranked according to their gravity, as they seek to set the number of day-fine units for a particular offense. The general principles underlying the benchmark schema, following the discussion of the planning group at the December 1986 conference, are presented below; the full set of scales which the court will use in sentencing offenders during the twelve-month pilot is appended (Appendix B).

Vera planners and Richmond judges, prosecutors and defense attorneys developed an informal, but comprehensive framework of standards to be used in determining the number of day-fine units to be imposed in individual cases. In Sweden, such guidance is provided by circulars promulgated by the regional Public Prosecutors' Offices for use by prosecutors in routine cases which can be resolved by prosecutor's penal orders. The practice of the

courts is generally to follow these guidelines in cases which come for sentencing. In a somewhat different manner, but also reflecting a local (rather than centralized) process for setting standards, courts in many West German jurisdictions have developed informal guidelines for use in setting the number of day-fine units. To develop sentencing benchmarks for use in the Richmond court day-fine pilot, planners began with the penal law and with a theoretically-derived analytic schema for ranking offenses by severity. We drew court practitioners into a process that involved a careful assessment of the relative severity of all of the penal law violations commonly charged by the court.

B. Classifying Offenses by Severity

To provide a basic architecture for constructing the day-fine scales, we first rank-ordered the seventy-one penal law misdemeanor and violation offenses most commonly handled in the Richmond Criminal Court.<sup>1</sup> Vera researchers had drawn a sample of all cases arraigned in the court during the first half of 1986, and this sample was searched to identify all conviction charges as well as all penal law misdemeanors and violations which appeared as charges filed at arraignment.

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<sup>1</sup> As noted in Chapter I, VTL offenses were excluded from the benchmarks because the mandatory schedules for fixed-sum fines required by statute for the common VTL charges disposed in the Criminal Court (the great bulk of which are driving-under-the-influence offenses) create a major impediment to experimentation with the day-fine system in these cases. Therefore, a sample of these cases will be taken during the pilot in order to estimate what the day fine would have been in the absence of the statutory constraint; such data can be used to encourage legislative reform if this appears appropriate.



These offenses were then sorted according to a classification process which included an analysis of the relative degree of seriousness of the specific criminal behaviors typically involved, with some adjustments performed to reflect current Richmond sentencing norms as deduced from discussions with court officials as well as from actual sentencing patterns reflected in the sample of arraigned and disposed cases.

The ranking process began with a classification framework of six severity levels, representing an upper and lower band for each of three offense groups of high, medium, and low severity (i.e., upper high and lower high; upper middle and lower middle; upper low and lower low). Those offenses deemed to be the most serious would be placed in level one; the least serious, in level six. A structure such as this, we believed, would allow the classification process to produce a more refined grading system than the three general classes of offenses found in the New York State Penal Law (A misdemeanors, B misdemeanors, and violations). Furthermore, we decided to grade each offense without regard to its penal law classification, so that the rank ordering of each could reflect more accurately the relative seriousness of the actual criminal behavior involved.

To facilitate this process, we began with some general analytic principles suggested by Andrew von Hirsch in his recent book on the jurisprudence of sentencing, Past or Future Crimes.

Professor von Hirsch sets forth a threefold classification of victimizing crimes which suggests a hierarchy of harms. At the highest level are crimes which damage or destroy the welfare interests of individuals -- that is, crimes which affect a person's life, health, or economic livelihood at the level of basic subsistence. Next come crimes which threaten a person's security interests -- those which threaten or damage physical well-being, or the enjoyment of a tolerable living environment. Crimes affecting accumulative interests are ranked next -- those which involve property beyond that which is necessary for preservation of basic subsistence or a tolerable living environment.

Because the scope of criminal behaviors to be sorted for the sentencing in the Richmond Criminal Court include only those to be disposed as misdemeanors and violations -- and so involved many petty, nonvictimizing offenses, we asked Professor von Hirsch to assist us in devising a conceptual framework which, while resting upon his concept of harm, would also be broad enough to include the lesser victimizing crimes, as well as drug and contraband offenses, offenses involving obstruction of legal process, and offenses involving breaches of public decorum and community standards of behavior -- the stuff of which many lower court cases are made.

To develop a classification system for these nonvictimizing crimes, we first identified those which, while not involving violation of the personal interests of an identifiable "victim,"

nonetheless present a risk of resultant harm. Some of the common vice crimes (trafficking in drugs, and gambling activities, for example) may result in quite serious harm, even though it can be argued that consumers of these goods and services have willingly assumed (even sought out) the risks involved. On the other hand, there are vice crimes (prostitution, for example) which involve no palpable harm, but rather constitute conduct offensive to community sensibilities.

A third category of nonvictimizing crime involves conduct which might be characterized as breaching the duties of citizenship. The most serious instances of such conduct involve the corruption of public officials. Less serious instances would include crimes which interfere with or otherwise undermine the proper administration of justice or other governmental operations, ranging down to such minor crimes as the false report of an incident.

To anchor these various classes of offenses in relation to each other, we followed some general ranking principles derived from the above analysis:

- Among the victimizing crimes, property and theft offenses should generally be weighed as less serious than those involving physical harm;
- Those nonvictimizing crimes which present a clear potential for tangible harm should be considered only slightly less serious than property crimes, while those presenting no risk of harm should be ranked in the lowest ranges of severity;

- "Breach of duty" crimes should range from medium to low severity, according to the degree of interference with proper governmental operations presented.

We then applied the concepts and ranking principles we had developed both to distribute the seventy-one offenses among the six levels of severity and to determine their rank order within each level. Offenses involving substantial physical harm were ranked in the highest levels. The lowest levels were devoted primarily to harmless nonvictimizing and public decorum offenses. Property offenses and the more serious drug and gambling offenses were distributed primarily in the middle bands.

Next, we conferred at length with the District Attorney's Criminal Court Bureau Chief in order to determine the specific criminal behaviors commonly associated with each of the penal law offenses on the list. Some rankings were then adjusted to reflect the real degree of harm typically involved. Subsequently, this process was repeated with judges in the court and representatives of the defense bar and further adjustments were made. As a result of this detailed review of actual criminal behavior, some offenses were broken down into sub-categories. This was done in instances where the scope of a particular offense, as defined in the penal law, was found to span widely dissimilar conduct, or a broad range of harms in terms of real-life criminal behavior.

Once the most serious category of harm chargeable within a particular penal law offense had been anchored within the ap-

appropriate severity level, the lesser categories of harm also encompassed by that offense could be distributed to appropriately lesser severity levels. For example, we determined that assaults should be distinguished by the gravity of the injury -- substantial or minor -- and then further categorized according to the type of victim involved. The most serious type of assault (e.g., where the victim is especially vulnerable and the injury is substantial) was anchored at severity level one, while the least serious (e.g., a trivial injury resulting from an altercation between acquaintances) was assigned to level five. Similarly, drug possession cases are distinguished as to the type of drug: possession of street drugs was assigned to severity level three, while criminal possession of pharmaceutical drugs was ranked at level four.

### C. Assigning the Number of Day-Fine Units

While establishing a sound rank ordering of offenses was the first necessary step in creating benchmarks, it had to be accompanied by a rationale for setting the overall range of day-fine units across which the number (or range) of day-fine units for each specific offense would be spread. Practices in the West German courts provided a model for such a scale. Introduced in 1975 to facilitate changes in the criminal code which had the goal of substituting fines for short terms of imprisonment, the West German day-fine system operates with a range of from five to

360 units, reflecting up to one year's imprisonment. Assuming that in Richmond a full scale of 360 day-fine units could, as in West Germany, offer sufficient flexibility for the complete range of offense charges appearing in the New York State code (from infractions through felonies), a scale for Criminal Court misdemeanors and violations was established which ranged from five to 120 day-fine units. Setting a floor at five day fines guards against trivialization of offenses at the low end of the scale; setting the ceiling at 120 day fines reflects the less serious nature of the cases disposed in the Criminal Court, and reserves the upper two-thirds of the full scale for felony convictions should the use of day fines be extended to the upper court.

The resulting range of 115 day-fine units was then distributed across the six severity levels. Relatively broad ranges were assigned to the more severe levels, and progressively narrower ranges were assigned as the severity level decreased. The ranges were varied in this fashion because the offenses which cluster at the low end of the scale reflect very minor criminal behaviors at a relatively uniform level of low severity; in contrast, the upper levels of the scale contain a wider range of offense severity (often involving felony charges which are reduced to misdemeanors for disposition). Each individual offense was then assigned a specific day-fine unit value within the range assigned to its severity level. Those offenses which had been sub-categorized appear on the ranking list within the severity level

assigned to their most serious sub-category but the assigned number of day fines is expressed as a range rather than a specific unit value.

D. The Day-Fine Benchmarks: Rank Ordering and Unit Ranges

Chart III-1 shows the rank order of the initial seventy-one offenses used by the planning group to develop the day-fine scales and the day-fine unit ranges established for each offense in relation to its severity. The organization of this chart is designed to display the infrastructure of the benchmark scales, its structure and logic as discussed in the text. The final scales are to be found in Appendix B; they are organized for ease of use by judges on the bench (and not, as is Chart III-1, for conceptual clarity). The full scales also include the final refinement we have made to the range of day-fine units which is discussed in the next section.

E. Range Adjustments for Mitigating and Aggravating Circumstances

Because additional circumstances besides those considered in determining the rank order of each offense may be important in selecting the proper number of day-fine units to be assessed in an individual criminal case, a further refinement was added to the benchmarks to account for such factors. For each offense, the scales incorporate a discount of fifteen percent off the assigned number of day fines to account for those factors which

CHART III-1

INITIAL BROAD CLASSIFICATION OF PENAL LAW OFFENSES  
INTO DAY-FINE BENCHMARK LEVELS

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LEVEL ONE: 95 to 120 DAYFINE UNITS

130.20	AM	HARM PERSONS	SEXUAL MISCONDUCT	90 to 120	DF
130.60	AM	HARM PERSONS	SEXUAL ABUSE 2	100	DF
120.00	AM	HARM PERSONS	ASSAULT 3	20 to 95	DF

LEVEL TWO: 65 to 90 DAYFINE UNITS

260.10	AM	HARM PERSONS	ENDAN CHILD WELF	20 to 90	DF
215.50	AM	OBSTR JUST	CRIMINAL CONTEMPT 2	75	DF
135.05	AM	HARM PERSONS	UNLAWFUL IMPRISON 2	65	DF
120.20	AM	HARM PERSONS	RECKLESS ENDANGER 2	65	DF
110-155.30	AM	PROPERTY	ATT GRAND LARCENY 4	20 to 65	DF

LEVEL THREE: 45 to 60 DAYFINE UNITS

265.01	AM	WEAPONS	POSS WEAPON 4	35 to 60	DF
145.00	AM	PROPERTY	CRIM MISCHIEF 4	5 to 60	DF
155.25	AM	PROPERTY	PETIT LARCENY	5 to 60	DF
165.40	AM	PROPERTY	POSS STOLEN PROP 5	5 to 60	DF
165.05	AM	PROPERTY	UNAUTH USE VEHIC 3	5 to 60	DF
140.35	AM	PROPERTY	POSS BURG TOOLS	50	DF
145.15	AM	PROPERTY	CRIM TAMPER 2	50	DF
140.15	AM	PROPERTY	CRIM TRES 2	50	DF
221.40	AM	DRUGS	SALE OF MARIJUANA 4	50	DF
190.25	AM	THEFT	CRIM IMPERSON 2	50	DF
175.05	AM	THEFT	FALSE BUS RECORDS 2	50	DF
200.30	AM	THEFT	GIVING UNLAW GRATUIT	50	DF
165.30	AM	MISCONDUCT	FRAUD ACCOSTING	50	DF
225.05	AM	MISCONDUCT	PROMOT GAMBLING 2	50	DF
225.15	AM	MISCONDUCT	POSS GAMB RECORDS 2	50	DF
240.30	AM	MISCONDUCT	AGGRAV HARASSMENT	50	DF
205.20	AM	OBSTR JUST	PRISON CONTRAB 2	50	DF
220.03	AM	DRUGS	POSS CONT SUBST 7	35 to 50	DF
130.55	BM	HARM PERSONS	SEXUAL ABUSE 3	45	DF
120.15	BM	HARM PERSONS	MENACING	30 to 45	DF
110-120.00	BM	HARM PERSONS	ATT ASSAULT 3	10 to 45	DF

continued.../



LEVEL FOUR: 30 to 40 DAYFINE UNITS

170.05	AM	THEFT	FORGERY 3	40	DF
110-170.70	AM	THEFT	ATT POSS VEH ID #	35	DF
170.20	AM	THEFT	POSS FORGED INSTRU 3	35	DF
240.55	AM	MISCONDUCT	FALS REPORT INCID 2	35	DF
115.00	AM	OBSTR JUST	CRIM FACILIT 4	35	DF
221.15	AM	DRUGS	POSS OF MARIJUANA 4	35	DF
110-140.15	BM	PROPERTY	ATT CRIM TRESPASS 2	30	DF
245.00	BM	SEX CRIME	PUBLIC LEWDNESS	30	DF
110-155.25	BM	PROPERTY	ATT PETIT LARCENY	5 to 30	DF
110-165.40	BM	PROPERTY	ATT POSS STOL PROP 5	5 to 30	DF
110-145.00	BM	PROPERTY	ATT CRIM MISCHIEF 4	5 to 30	DF

LEVEL FIVE: 15 to 25 DAYFINE UNITS

240.37A	AM	SEX CRIME	LOITERING/PROSTIT	25	DF
195.05	AM	MISCONDUCT	OBSTRUC GOVT ADMIN 2	25	DF
205.30	AM	OBSTR JUST	RESISTING ARREST	25	DF
110-221.40	BM	DRUGS	ATT SALE MARIJ 4	25	DF
110-265.01	BM	WEAPONS	ATT POSS WEAP 4	5 to 25	DF
110-120.20	BM	HARM PERSONS	ATT RECKL ENDANG 2	20	DF
145.14	BM	PROPERTY	CRIM TAMPER 3	20	DF
140.10	BM	PROPERTY	CRIM TRES 3	20	DF
110-175.05	BM	THEFT	ATT FALSE BUS RECS 2	20	DF
110-225.15	BM	MISCONDUCT	ATT POSS GAMB RECS 2	20	DF
240.50	BM	MISCONDUCT	FALS REPORT INCID 3	20	DF
110-215.50	BM	OBSTR JUST	ATT CRIM CONTEMPT	20	DF
240.25	VIO	MISCONDUCT	HARASSMENT	15	DF

LEVEL SIX: 5 to 10 DAYFINE UNITS

165.09	AM	PROPERTY	AUTO STRIPPING 2	10	DF
220.45	AM	DRUGS	CRIM POSS HYPO IN	10	DF
220.50	AM	DRUGS	USING DRUG PARAPH 2	10	DF
240.37B	BM	SEX CRIME	LOITERING/PROSTITUTION	10	DF
221.10	BM	DRUGS	POSS OF MARIJUANA 5	5	DF
130.38	BM	SEX CRIME	CONSENSUAL SODOMY	5	DF
230.00	BM	SEX CRIME	PROSTITUTION	5	DF
170.55	BM	THEFT	UNLAW USE SLUGS 2	5	DF
190.05	BM	THEFT	ISSUING BAD CHECK	5	DF
240.36	BM	MISCONDUCT	LOITERING 1	5	DF
260.20	BM	MISCONDUCT	UNLAW DEAL W/A CHILD	5	DF
270.05	BM	MISCONDUCT	POSS NOXIOUS MATER	5	DF
240.45	BM	OBSTR JUST	CRIMINAL NUISANCE	5	DF
221.05	VIO	DRUGS	UNLAW POSS OF MARIJ	5	DF
240.37V	VIO	SEX CRIME	LOITERING/PROSTIT	5	DF
140.05	VIO	PROPERTY	TRESPASS	5	DF
240.20	VIO	MISCONDUCT	DISORDERLY CONDUCT	5	DF
240.35	VIO	MISCONDUCT	LOITERING	5	DF

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could mitigate the normal level of seriousness. A premium of fifteen percent has been provided as well to allow for consideration of factors which could aggravate seriousness above the norm. These discounts and premiums appear on the scales in Appendix B to the left and right of the presumptive day-fine number.

Although it is assumed that an offender's prior criminal record will have already been weighed by sentencers in their determination of the type of sentence (i.e., jail, probation, fine, etc.), it is likely that an absence of prior convictions would warrant a discount from the normal day-fine number, while a criminal record of exceptional length might trigger a move to the premium number. Other mitigating factors might include evidence of provocation by the victim, or that the offender played a relatively minor role in the crime. Additional aggravating factors might include evidence that the offender played a major role in initiating the crime, or that the offense involved a breach of trust, or planned or organized criminal activity.<sup>2</sup>

We believe that these simple scales will be very easy to

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<sup>2</sup> It is obvious that "determination of the type of sentence" involves the complex process of plea and charge negotiation that goes on in most American courts. Vera planners and researchers will both be observing this process as it occurs when day-fines are introduced into the court, to see how this new sentence "plays itself out." During planning group meetings, members of the bench and bar -- prosecutors and defense attorneys -- have engaged in dialogues reflecting these negotiations as we have discussed the structure of the day fines; but until these dialogues occur in the context of real cases and real offenders facing conviction and sentence, the impact of this sentencing reform cannot be known.

use. At the same time, however, the conceptual foundation which undergirds them is relatively sophisticated. This will assure, we hope, that the fines which will result from their use will reflect a systematic application of the important principle of proportionality in sentencing.

In the next chapter, we turn to the second dimension of the day fine's structure which lends itself to the development of a common starting point for sentencing decisionmakers: valuation of the day-fine unit in relation to an offender's ability to pay.



CHAPTER IV

ASSESSING ABILITY TO PAY: SETTING THE VALUE  
OF THE DAY-FINE UNIT

A. Introduction

The requirement that the court have adequate and reliable information about the offender's means is often cited by practitioners as a primary stumbling block to means-based fining systems, and the day fine in particular (Hillsman, et al., 1984; Cole, et al., 1987). While it is true that in Sweden the day-fine system is bolstered by the court's legal access to tax records for verifying the means information volunteered by offenders, the experience of the West German system, where tax information is not legally available, indicates that the lack of such formal legal recourse is not a barrier to successful implementation. Some information as to employment status, occupation and living circumstances is available to judges in West Germany from police records; this is supplemented by a brief oral investigation conducted by the judge. In most cases, such information can be easily translated into a valuation for the day-fine unit in a rough, but apparently reasonably accurate, fashion.

In planning the day-fine project for the Richmond court, we reviewed the Swedish and West German methods for obtaining means information, assessing ability to pay, and valuing the day-fine unit. We also examined the type of information currently collected in the Richmond Criminal Court and other efforts in the

New York City justice system to obtain means information from defendants in an expeditious manner. In this chapter we will first describe the method of setting the day-fine unit value agreed upon by the planning group and the logic underlying this approach. Then we will then turn to the issue of what specific items of means information will be collected during the pilot, and how it will be collected and verified.

B. Valuing the Day-Fine Unit: Swedish and West German Models

Discussions of the Richmond planning group at its first meeting in December 1986 centered around the procedures used in Sweden and West Germany, as described by representatives of those systems present at the meeting. Briefly, the Swedish method is very precise and is designed to result in a relatively low total day-fine amount (for reasons detailed in earlier sections of this report). In contrast, while the West German courts use a more "rough and ready" process, it is geared to produce stiffer amounts which are, therefore, more suitable for substitution when a case would otherwise draw a short sentence of imprisonment.

Elements of both systems were used to design an approach for Richmond. The Swedish system provides that the value of the day-fine unit be limited within a narrow range of 10 to 1000 Kr (about \$1.69 to \$169), based on the offender's discretionary income, that is, the amount the offender could afford to give up when practicing strict economy in his or her spending habits. An adjusted annual income figure is divided by 1000, thereby reducing the amount to approximately one-third of the offender's daily discretionary income. It is then adjusted for taxes, capital

wealth, and significant debts. Accomplishing this valuation is actually quite straightforward, using a computation formula prepared by the Swedish Prosecutor General (Chart IV-1).

As this formula suggests, the resulting Swedish day-fine amounts are quite lenient (at least, compared to West Germany), largely because the net income figure is discounted by nearly two-thirds in the process of calculating the "daily" rate. Because the maximum number of day fines which can be imposed under the Swedish system is capped at 120 for a single offense, the maximum day fine is 120,000 Kr (about \$20,292 at highly fluctuating 1986 exchange rates). This amount may be viewed as properly reflecting the original intent of the Swedish parliament in authorizing the day fine as the normal sanction for lesser criminal cases although, in practice, it permits day fines to be used as a sanction across a broader range of crimes.

In contrast, the West German parliament, having introduced the day fine in conjunction with a virtual abolition of terms of imprisonment below six months, clearly intended the new practice to result in amounts which would be substantial. To adequately substitute day fines for imprisonment, the West German system sets a scale with a maximum of 360 units, and allows for a single unit maximum value of up to 10,000 DM (about \$6,000, again at fluctuating 1986 exchange rates), thus providing for day fines which could total as much as \$2.1 million. Following this statutory lead, West German courts have established a day's-wage-for-a-jail-day exchange system by valuing the day-fine unit at or near the offender's daily net take-home pay. Although some

Chart IV-1  
SWEDISH DAY-FINE VALUATION FORMULA

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Annual income [before taxation and reductions for costs of earning income and support contributions]:	_____
20% reduction for marriage or living together:	- _____
20% addition for marriage or living together: [Married offenders -- and those who have long-standing "living together" relationships -- are granted a 20% deduction accounting for support of the other person. If, however, the other person also has an income, 20% of that income is added back in. If the offender has no personal income, the day fine is computed on the basis of 20% of the spouse's income.]	+ _____
Reduction of half of the base amount (or less) for each child: [This deduction is allowed for each child at home who is mainly dependent on the offender. If both the offender and a spouse have income, the deduction is to be appropriately adjusted.]	- _____
	Total: _____
1/1000 of the total: [To determine the "daily" income figure, the adjusted annual income is divided by 1000 -- rather than 365 -- for ease of calculation and to maximize affordability.]	_____
Ten Kronor reduction:	- _____
Reduction for progressive taxes:	- _____
Addition for wealth: [The offender's net wealth (assets minus liabilities, if it is more than 200,000 KR (\$33,820), is increased by 5 KR for the first 200,000 KR, and an additional 5 KR for each additional 100,000 KR.]	+ _____
Reduction for significant net debt: [Appropriate consideration is to be applied in cases of significant net debt.]	- _____
Dayfine amount: [An amount over 25 KR is rounded to the nearest lower amount divisible by five.]	_____

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judges make rough adjustments to reflect family responsibilities, there is no standardized formula for doing so. The resulting fine amounts are, therefore, very high in comparison to Sweden.

C. The Valuation Method for Richmond: A Middle Ground

The method for valuing the day fine for adaptation to the Richmond court steers a middle course.<sup>1</sup> As indicated in Chapter III, the day-fine scale designed for Richmond echoes the West German model of a 360-unit range (which is three times broader than the Swedish range), but caps the Richmond lower court range at 120 units (closer to the Swedish range, but the bottom third of a full scale, were it to be extended to felony convictions in Richmond). Similarly, the value of a single day-fine unit for the Richmond experiment will be based on an individual's net daily income, as is done in both Germany and Sweden; but it will be adjusted by a simple formula to account for personal and family responsibilities, and then reduced by a discount rate (similar to what is done in Sweden, but not in Germany). However, in keeping with the goal of having Richmond's day fines substitute for some current sentences to jail terms, as well as for current fixed-fine sentences, the standard discount rate will be one-third,

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<sup>1</sup> The method developed here aims for simplicity. The reasons are obvious: to expedite the process in a swiftly moving, crowded court that is dealing primarily with less serious offenders. However, in other types of courts, were the day-fine approach to be adapted for use with other types of offenders, a more complex formula involving assets and indebtedness, for example (like the Swedish one, or like ones currently used by the American consumer credit industry), could be used. It requires only that more time be taken, perhaps through a probation report, to describe and verify fully the offender's financial status.

rather than to the more lenient two-thirds Swedish rate.

Adjusting net income. The formula for adjusting the net individual income figure for family responsibilities in Richmond will not be as detailed as the Swedish model. The method is derived from the practices now commonly used by American courts to assess child support payments to be paid by a non-custodial parent, and was suggested in early working papers by the staff of the United States Sentencing Commission (Tevelin, 1986). Net income would be adjusted downward by a factor of fifteen percent for the offender's self-support, fifteen percent for the needs of a dependent spouse, fifteen percent for the first dependent child, ten percent for each of the next two dependent children, and five percent for each additional dependent child.

Using hypothetical model cases based upon actual New York City salaries and welfare information, we developed Chart IV-2 which presents the daily net individual incomes of a variety of hypothetical offenders, ranging from a welfare recipient with three children to a single parent, supporting one child, with an annual gross income of \$37,500. Once hypothetical net incomes had been adjusted using this formula, it became clear to us that the amount would have to be discounted further (as in Sweden) to bring the day fines into an appropriate range for the Richmond court.

The three income columns at the left of Chart IV-2 show the gross, annual net, and daily net individual income for offenders who have ten different household statuses. Using the method described above to account for these differing family responsibilities (shown as a percent in the family support discount column), the chart displays an adjusted figures which represent the full day-fine value for each offender (Total DF Value I). If we apply these values to the proposed Richmond day-fine range of five to 120 units, the resulting range of day-fine amounts would run from a low of \$45 (for a welfare recipient with three children convicted of a five-unit crime), to a high of \$6,000 (for a single offender with a gross annual income of \$35,000, and no dependents, convicted of the most serious, 120-unit crime).

This range is quite high, when compared with the current patterns of fine use in the Richmond Criminal Court. A sample of cases arraigned in the first half of 1986 and disposed with a fine sentence indicates that the median fine amount for penal law convictions was \$100. The lowest fine imposed (typically for a violation-level offense) was \$25.

While it is intended that the day fine should serve in an intermediate position in the informal sentencing tariff (that is not now covered by any other routine sentencing option), the day-fine amounts reflected in the DF Value I column of the chart nevertheless appear too high. The routine day-fine amounts should be high enough to be viewed as a more substantial sanction

Chart IV-2

RICHMOND DAY-FINE VALUATION: HYPOTHETICAL CASES

Household Status	Income		Family Support Discount	Total DF Value I	Total DF Value II (flat 1/3) discount)	Total DF Value III (two-tiered) discount)
	Annual Gross	Annual Net				
Welfare mother 3 children	\$6,176	\$6,176	50%	\$9	\$6	\$5
Single man	9,000	7,150	15%	17	11	11
Single father 3 children	12,500	10,218	50%	14	9	7
Single woman	13,000	9,932	15%	23	15	15
Single father 1 child	15,000	11,622	30%	22	15	15
Married man wife; 3 children	15,000	12,974	65%	13	9	7
Married man wife; 1 child	18,000	13,520	45%	20	13	13
Single woman	28,500	18,928	15%	44	29	29
Single woman	35,000	21,502	15%	50	33	33
Single father 1 child	37,500	23,764	30%	46	31	31

than the conditional discharge, but less severe than jail. Although, in introducing this sentencing reform, we hope to provide the court with a credible, enforceable sanction which can draw a variety of cases now receiving short jail sentences, we do not anticipate that, absent sweeping legislative reform such as the one which provided a whole new sentencing framework for West Germany, the day fine will be used primarily as an alternative to jail. Thus, at least in the Richmond court, using the total net daily income standard (as in Germany), even adjusted for family responsibilities (as do the Swedes), seems too steep.

Discounting the adjusted value. It makes sense, therefore, to discount this initial day-fine amount to set an appropriate unit value. However, a discount as liberal as that incorporated in Swedish practice (about two-thirds) would probably diminish the utility of the day fine as an intermediate sanction in the American context, given current sentencing norms.

If a flat reduction rate of one-third is applied to the chart of hypothetical offender incomes (as is done in the column of the chart, Total DF Value II), the lowest day-fine amount is reduced to \$30, very close to the low fine amount in current use in Richmond, and the top of the income range produces a maximum fine of \$4,000. A further exploration of the day-fine totals which would result from applying the proposed valuation method to the hypothetical offender income chart lends additional support to the notion that a reduction around one-third results in an appropriately just range of day-fine amounts. An offender whose crime fell into the 30 day-fine level on the scale (a typical of-

fense involving property valued at about \$400, for example), assuming a modest gross annual income of \$13,000 and no dependents, would have to pay a day fine amounting to \$450.

However, any flat rate falls more harshly on low-income offenders than on the affluent, and this was of concern to the Richmond planning group. Those with savings and access to credit can more easily absorb the bite of their "fair share" fine than those for whom a fine -- though income-adjusted -- will cause obvious hardship in meeting basic expenses. An alternative method for devising an appropriate adjustment, therefore, was proposed to us by Hans-Jorg Albrecht of the Max-Plankt Institute who has done the major research on the West German day-fine system. He suggested applying a progressive rate of reduction which would acknowledge that the impact of a flat discount rate, although applied to each individual's level of income, still falls more heavily on those with the lowest incomes.

The simplest way to accommodate the concept of a progressive rate is to use a two-tiered rate: leaving the one-third discount rate for those whose income is above the poverty level but increasing the rate of reduction to one-half for offenders whose incomes fall below Federal poverty income guidelines. The day-fine values using this variable discount procedure are found in the last column of the chart (Total DF Value III).

Applying this final model to the hypothetical cases, the resulting discounted range of day-fine amounts would run from a low of \$25 (for the welfare recipient with three children convicted of the lowest five day-fine crime) to the high of \$4,000

noted above. This scale, therefore, preserves the current low fine amounts at the very bottom of the Richmond court's offense range. However, the scales for the middle-to-upper range of offenses which build on this base are increasing high when compared with the current patterns of fine use in the court.<sup>2</sup>

Value tables to assist in calculation. The process of applying this seemingly complicated, but actually quite simple, method for valuing the day-fine unit for each offender to be sentenced will be streamlined by producing value tables for the court. These tables are currently being calculated and are like tax tables, with net daily income on the vertical axis, and number of dependents across the horizontal axis. (The cells of the tables merely present the day-fine unit values for various combinations of income amounts and family circumstances so the judges do not need to calculate this every time they use a day fine.) All a court official will need to do to determine the appropriate day-fine amount, therefore, is (i) divide an offender's weekly take-home pay figure by seven (or a bi-monthly welfare grant figure by fourteen); (ii) find the correct value of each unit in the tables under the column headed by the offender's number of dependents; and then (iii) multiply that value by the num-

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<sup>2</sup> Day-fine amounts during the pilot test period will be capped, of course, by New York State's current statutory maxima: \$1000 for A misdemeanors, \$500 for B misdemeanors, and \$250 for violations. Evidence about the number of offenders who have been "underfined" in relation to their means will be gathered during the research, and can be used to design a legislative reform proposal seeking to raise fine maxima if this appears desirable.

ber of day-fine units to which the offender has been sentenced.

D. What To Do About Offenders Without Personal Income

From the first meeting of the Richmond planning group in December of 1986, it was assumed that any offender with a steady income stream would be appropriately fined under this system. The feasibility of fining offenders without a personal income stream, however, needed examination.

An approach to this issue is emerging from the planning group's examination of current practices by the court; it will be refined further before the judges and other court officials begin to put these procedures into practice in early 1988, and indeed will continue to evolve as they gain experience. Of 100 Staten Island defendants interviewed last May during a test run of new procedures for collecting means information (discussed in section F below), fifty-five reported either employment earnings or public assistance income. The remainder were unemployed (34), or enrolled in school (11). Discussions with the planning group, however, indicated that they were by no means convinced that those without a steady personal income could not (or should not) be fined.

Using family income. The issue largely turned on the judges' views about including family income in the income base when applying the valuation formula described above. This day-fine formula, although taking account of an offender's financial responsibilities for other household members, does not automati-



cally incorporate the income of the household as a whole. It relies on individual income. This is partially a conceptual decision and partially a pragmatic one; many defendants, particularly those who are young, had only sketchy information about household income.<sup>3</sup>

On the other hand, an examination of the court's restitution orders for the first half of 1986 (obtained from the records of the Victim Services Agency) showed that, in cases for which income status was indicated in the file, about one-third of those ordered by the Richmond Criminal Court judges to pay restitution were unemployed or students. The average amount ordered in these cases was not less than the amount for employed offenders (it ranged from \$50 to \$2500, and the median was \$348). Neither was their payment record less impressive.

The members of the planning group were well aware of this. The judges (and the defense bar) confirmed what the restitution records suggested: judges make case-by-case assessments of offenders who report no personal income (on the basis of their ability to make bail, their type of legal representation, and especially upon the location of their residence) to help them identify offenders capable of making payment.

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<sup>3</sup> Of sixty defendants interviewed in May who reported other household income, forty said they didn't know the amount involved. Of thirty-five who reported that other household members were employed, only thirteen defendants reported knowing the amount of the other's wages.

There are five major categories of offenders who have no personal income stream but for whom "means" must be assessed in order to apply the valuation formula: housewives (or their male equivalents); students (who are primarily dependent upon their families); disabled (nonworking) adults who are dependent upon their families; unemployed adults who may live with others on whom they temporarily depend but who are potentially self-supporting; and individuals who report no income but appear self-supporting (i.e., they are probably employees of criminal enterprises, such as gamblers).<sup>4</sup>

The following represents the current position of the planning group on how the "means" of these categories of offenders will be assessed, thus permitting the day-fine unit value to be calculated by the formula presented above. This approach, however, is still undergoing vigorous discussion by the planning group, and may undergo some change or refinement as we move closer to implementing the day-fine plan in early 1988. It is also likely to undergo further refinement as the judges, prosecutors, and defense attorneys in the Richmond court negotiate actual sentencing outcomes for offenders for whom a day fine is an option. This process is an appropriate one for a demonstration project, one aspect of which is a research component to closely track the subtle (or not so subtle) shifts that occur as models for change confront the realities of practice.

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<sup>4</sup> There may be, of course, persons without income streams who are utterly destitute or homeless; it would not appear appropriate for fines of any type or size to be used for such offenders.

It seems a conceptually sound approach to assume that unemployed, full-time housewives/househusbands, dependent students and disabled adults should be fined on the basis of family income. This position is based upon the idea that they are fully enmeshed in the income stream of the family, and fully dependent upon it by choice of the family (or by necessity). This is not the case, however, for unemployed adults who may be living with families or other households from whom they acquire resources, at least temporarily. For this group, it seems conceptually sound to follow the West German model and base their day-fine amount on an estimate of their earning potential in the labor market (especially given the availability of employment on Staten Island). For individuals claiming no income, but whom court officials believe to be supported by their criminal activity, a "life style" assessment for estimating their level of means will be used (also paralleling West German practices).

It is important to note that approaches such as these to assessing means are also not uncommon in American courts when judges set monetary penalties. In keeping with the underlying conception of the day fine, however, the planning group wished to move away from entirely individualized, "ad hoc" methods of accomplishing this task by developing more systematic, and therefore, more uniform methods for assessing income potential and family income when the latter is not known.

Estimating family income and earnings potential. When an offender is found to be entirely dependent upon family income but

the amount of that income is unknown (which will happen frequently as our analysis of sample means information in section E below shows), the court will use an "assessment table" designed to simplify the valuation of the day-fine unit based on broad family life-style classifications. This table is similar to the value tables (discussed above) which the judges will use when the amount of income is known. However, in lieu of specific net income amounts, the assessment table will provide an array of family "life-style" groups (such as welfare family, working poor, lower-middle class, affluent and so forth) which we are currently developing with specific reference to the Staten Island community. These groups will be arrayed down the left-hand side of the table with the number of and type of dependents who live in the family arrayed across the top. The table cells will contain recommended day-fine unit values.

Using the type of case-by-case assessment currently used by the judges in setting restitution (the sizing-up process which weighs key personal factors such as location of residence, type of car, type of legal counsel, and ability to make bail) to roughly categorize the economic circumstances of the offender and the family, the court will be able to quickly locate a fair value figure on the assessment grid.<sup>5</sup>

For unemployed adults with no legitimate income streams but who are clearly employable, the court will have the option of as-

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<sup>5</sup> The judges will also use this "life style" assessment table for individuals with no income who appear to be supported by criminal activity.

sessing the day-fine unit value on the basis of the offender's "potential income" (as is commonly done in West Germany), that is, on the basis of his or her viability in the labor market. For the unskilled offender, the value will be figured on the basis of the typical take-home pay earned by those employed in low-paying, secondary labor market jobs which are in plentiful supply in Staten Island (counterpersons, stock clerks, porters, etc.). For a skilled worker, the assessment will be made on the basis of the wages received for the last job held, assuming a comparable job would be readily available. The judges will have a chart of earnings for various types of employment, based on Staten Island data from the Bureau of Labor Statistics.

E. Gathering Means Information

As indicated at the beginning of this chapter, a major question raised about the feasibility of means-based fining in American courts focuses on the availability, and reliability, of relevant information before the sentencing court. Certainly in many lower courts, where fining is most prevalent, cases often proceed to disposition and sentencing swiftly and without resentence reports even when probation services are available (which they are often not). As Cole and Mahoney (1987:13) have pointed out, based on their survey of American trial court judges, "the extent to which limited jurisdiction court judges appear to lack such information in a significant portion of their cases raises serious questions about the sentencing process in these courts.... In the absence of information on these

[economic] factors, it is difficult to see how judges can effectively shape a viable economic sanction that could punish or deter yet still be within the capacity of the offender to meet."

Yet as we have indicated, judges in many American jurisdictions do attempt to adjust fines amounts roughly to offenders' ability to pay (Hillsman, et al., 1984); and in virtually all American courts, judges routinely set bail amounts, some of which they expect to be met. Based on our examination of West German day-fine practices, and on discussions with practitioners, the means information issue for most American courts -- and certainly for lower courts -- appears to center around whether basic, rather simple financial information can be systematically and routinely collected from defendants before sentencing, and not whether detailed and complex information can be collected at all.<sup>6</sup>

As we have already indicated, in West Germany where day fines are high, and substitute for imprisonment, virtually all the information used in establishing ability to pay is obtained

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<sup>6</sup> The judicial survey (Cole and Mahoney, 1987:13 ff) suggests that many lower courts do not now routinely collect basic means information. Although 64% of the limited jurisdiction judges surveyed said that they had employment information in most or all cases they sentenced, under half (41%) had information on income in most or all cases. These data suggest that in most courts pretrial procedures produce information on employment (possibly for release on recognizance decisions) but do not specifically ask the defendant about income; they also suggest that full pre-sentence reports are rare in lower courts. The survey does not tell us, however, what proportion of the judges themselves ask offenders about their incomes in the course of making a sentencing decision and whether, as in Europe, most offenders relatively accurately report their incomes. Our May test sample in Staten Island suggests American offenders can and will report income.

from the offender himself. The police collect some of it during interviews with the defendant and the judge supplements this with oral investigation of the defendant (and his attorney, if necessary). In most cases, this is translated into the day-fine value in a reasonably accurate fashion.

West German court officials report a high degree of confidence that, in the main, the information they are given by most offenders is accurate.<sup>7</sup> They do complain, however, that those offenders with higher incomes (particularly self-employed professionals and business people) tend to be less candid and under-report their income. In these cases, West German judges' statutory power to merely assess an offender's income de facto can be used by them to encourage a more realistic report from a reluctant offender. Ultimately, in such cases, the judge may simply announce a day-fine value based on a "best guess" method. Because day-fine sentences are appealed quite rarely in West Germany, it appears that these assessment power are either used with judicious restraint, or tempered by the offender's cooperation when faced with a "generous" best guess by the judge. In either case, most judges appear satisfied that the results are appropriate.

Similarly, while American law limits a court's formal access

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<sup>7</sup> The Swedes also report high degrees of accuracy in self-report, but recall that they have easy access to tax records for verification (which they rarely do). In West Germany, however, the courts have no legal means of verifying information and fine amounts are generally quite high compared to Sweden; yet they do not report major problems at the operational level.

to many forms of verified information, courts are not without power to determine an offender's financial status. New York law, for example, presupposes an active fact-finding process during sentencing. CPL 390.30 sets forth a legal basis for presentence investigations of virtually unlimited scope, including "the defendant's social history, employment history, family situation, economic status, education, and personal habits." And New York judges themselves ask about these matters, even when no formal presentence investigation is carried out on behalf of the court. However, ensuring that key pieces of financial information are available routinely, in all cases appearing for sentencing, is crucial to the successful operation of a formalized means-based fining system, and especially to the day-fine system to be implemented in the Richmond Court.

F. The Means Investigation in the Richmond Court

New York City's Criminal Court is already ahead of many other jurisdictions, at least as they are reflected by the Cole/Mahoney survey. All defendants arrested and brought by the police to the Criminal Court for arraignment are interviewed by the New York City Criminal Justice Agency (CJA), a private organization (whose roots are in the original Manhattan Bail Project of the Vera Institute) under contract to the city to provide pretrial services. This prearraignment interview is routinely performed to inform the court about the prospects of each defendant for successful pretrial release. It includes self-reported (and sometimes verified) information on employment:



length of employment; full or part time; name, address and telephone number of employer; job position and shift worked; hours per week; and take-home pay. If the defendant is unemployed, the CJA report discloses the length of time he or she reports having been unemployed, and whether he or she has ever worked, or is disabled. If the defendant is in school or enrolled in a training program, this too is noted. Other sources of income are identified: parents, welfare, SSI, unemployment compensation, etc. Additional means-relevant information is also provided by the CJA interview about the defendant's living circumstances and financial responsibilities: the defendant's address is given, and the people who live with him or her are described (spouse or common law; parent; grandparent; legal guardian; children; other relative; friend). Any dependents who are supported are noted. (See Appendix C for a copy of the CJA interview form.)<sup>8</sup>

Thus, at the time of sentencing, whether this be at the same time as the arraignment or at a later appearance, the Richmond Criminal Court judge already has a fairly substantial amount of financial information upon which to rely for assessing an offender's ability to pay a fine and for valuing the day-fine unit, even when the CJA interview data are not as complete as might be hoped.

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<sup>8</sup> At the same time, CJA interviewers also summarize information from each defendant's official criminal history record (or RAP sheet); record any outstanding warrant information on the defendant; and record information on all open cases, including the case number and, if it involves a fine sentence, the date of sentence, amount of the fine, and the next adjourn date to pay. Hence, the full CJA interview form provides the judge with a substantial amount of information relevant to fine sentencing, as well as to the setting of release conditions.

The need for supplemental information. Nevertheless, court officials in the planning group initially suggested that, in addition to the CJA interview data, it would be useful to have information regarding the amount and source of household income other than the defendant's employment earnings; monthly housing costs; and the type of car used by the defendant. We assumed this type of supplemental information would be needed to fill in the financial picture when an offender had no individual income stream and the judge was attempting to apply whatever procedures were established to determine a fair value for the day-fine unit.

CJA agreed, therefore, to add a supplemental set of questions to its regular interview in Richmond. In designing this form, we relied heavily on CJA's experience in another New York City Criminal Court where, for a period of time, its interviewers collected similar family information geared to helping the court determine defendants' eligibility for public defender services. (A copy of the supplemental form to be used is also found in Appendix C.)

Furthermore, there are two categories of Richmond Criminal Court defendants that are not interviewed by CJA: defendants who are given a Desk Appearance Ticket (DAT) and appear at arraignment voluntarily (i.e., they are not in police custody), and defendants arraigned in the Brooklyn Criminal Court over the weekend when the Richmond court is not in session. Procedures to obtain the missing financial information for these groups during the day-fine pilot had to be established. A DAT interview was

designed, based on the CJA interview, and incorporating the supplemental information. (See Appendix C.)<sup>9</sup>

Testing new procedures and verifying information. During a six-day period in May 1987 Vera staff tested the instruments with the cooperation of CJA interviewers. The test was undertaken to determine whether the formats were appropriate, whether the procedures (especially with respect to DATs) were feasible, and to assess the validity of the information collected. Interviewers were instructed to explain that the purpose of the questions was to give the judge more exact income information in the event a monetary penalty was imposed at sentencing.

Data were collected for 102 cases arraigned during the six-day period. Thirty-four cases were DATs interviewed by Vera staff, and the remainder were CJA-interviewed defendants. In two CJA cases, the defendants refused to give any information to the interviewer; all defendants interviewed by Vera staff were cooperative. In our verification efforts (which were done entirely by day and evening telephone calls using information provided by the defendant), Vera staff focused on the routine CJA items that are particularly relevant to means assessment (and later fine enforcement): address; employment status; and wages; and on the new, supplemental items.

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<sup>9</sup> During the pilot year, the DAT and Brooklyn-arraigned cases will be interviewed by Vera pilot project staff as was done during the May test run of this procedure. The court clerk will call these individuals each morning from the calendar and instruct them to report to the Vera office for the interview; Vera project staff will verify that all those appearing in court have been interviewed by double-checking the District Attorney's copy of the calendar.

In brief, the findings suggest that the interview procedures are workable and they will be implemented routinely during the day-fine pilot.<sup>10</sup> Generally, the interviewees are very forthcoming about their incomes and living circumstances, and where a contact was made to provide verification, the information volunteered by the defendants was accurate in most cases. For example, in over 80 percent of the cases where the offender claimed employment, verification was possible, and the information was correct in over 90 percent of these cases. Specific income verification was more difficult; first because many offenders did not give permission that their employer be contacted, and also because many employers were (legitimately) reluctant to release such information over the telephone; however, in those cases in which we did get information (38%), almost all defendants proved truthful.

The greatest area of difficulty in the interviewing, therefore, was not the willingness of the defendants to give truthful information, but the fact that many defendants claimed not to know the amount (and sometimes the source) of household income beyond their own. This parallels CJA's experience (noted above) to collect supplemental information in another New York City court to determine assigned counsel eligibility: defendants will

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<sup>10</sup> Vera staff will conduct periodic verification efforts on the means information, using the same procedures as were used during the planning period. We will select a random sample of cases for telephone verification each quarter during the twelve-month pilot operations. However, all defendants interviewed during the pilot will be asked to provide sources for verification, although in only a relatively small proportion of the cases will verification actually be done.

provide household income information when they know it; some simply do not know it.<sup>11</sup>

It is for this reason, among others discussed in section C above, that we have established methods for judges to estimate family income so they may have an adequate basis for applying the day-fine unit valuation formula developed for the court.

G. The Issue of Restitution

One issue remains that requires a brief discussion before we turn to some model day fine cases. As mentioned earlier in Chapter II, American courts appear to be increasing their use of restitution as a sentence (or condition of a sentence) in recog-

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<sup>11</sup> Otherwise the information collected, and verified where possible, was extremely relevant and useful to assessing ability to pay (and informative with respect to collection and enforcement issues). For example, the great majority of the sample defendants reside in Richmond County, and address verification was high. Three-quarters live with family members; only one was homeless. Half were employed or enrolled in school or a training program; those who were students were virtually all living at home and supported by parents. The third of the sample that reported being unemployed were not collecting unemployment benefits, although they had been unemployed five and a half months, on the average. Fifteen percent reported public assistance (welfare or disability payments) to be their only source of income; most were living alone and not supporting a family. Almost a third of the sample reported full-time employment, with a median take-home wage of \$1200 per month; part-time employees and those working irregularly "off the books" reported an average wage of \$470 per month.

The third of the sample that was unemployed -- those who had no steady personal income stream -- were mostly (56%) supported by family members (a third of this number by welfare); 30 percent were supported by odd jobs, savings, or friends; and twelve percent claimed no income at all; one refused to give information.

In summary, almost a third of those interviewed claimed to be their own source of support; sixty percent reported living in households with sources of income beyond their own income; five percent claimed absolutely no income. Two-third of those who reported other household income, did not know the amount involved. However, two-thirds of all those interviewed claimed to know the monthly housing costs for themselves or their household; the median amount was \$300.

dition of victims' needs and interests. The Richmond court is no exception. At the current time, sentencing practices in this court rarely result in a fine being combined with a restitution sentence; however, the possibility cannot be ruled out and, in moving toward a day-fine system, provision for a combined sentence must be made. In England, where fines are the sentence of choice in all but the most serious cases, restitution often accompanies a fine sentence.

Although restitution is not a criminal sanction in some European day-fine systems (e.g., West Germany), there is no conceptual or structural reason the day fine cannot accommodate the American interest in restitution. In the Richmond court, some proportion of the day-fine amount set by the court (using offense severity and ability to pay) could be allocated to the victim in the form of restitution in appropriate cases. Indeed, the amount of harm or loss to the victim is already be reflected in the overall size of the day fine because the number of units of punishment is set by the court in relation to the crime's gravity which includes an assessment of the degree of victimization.

To accomplish this, the court is now considering the Vera planners' suggestion that they apply the day-fine procedures in all cases in which restitution orders are to be the sentence, thereby calculating a monetary amount that is in relation to the severity of the offense but which is also payable by the offender. This approach would mean that in some cases the victim's damages may exceed the amount the court would order because the

"day-fine" amount would represent a cap or limit on the restitution amount. However, this would also ensure the court does not order those of few means to pay full damages if they are beyond their ability to pay.<sup>12</sup>

In addition, the court is considering the planners' proposal that, at the other end of the economic scale, the court add a fine to restitution orders which are made as a condition of discharge when the restitution orders, insofar as they reflect damages, are less than the day-fine amounts.<sup>13</sup> Such an approach would lay the groundwork in Richmond for a broad monetary penalty policy which would represent a day-fine system in which revenues are assigned to the victim whenever it is appropriate, with the remainder going to the state or city as designated by law.

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<sup>12</sup> The second of Vera's NIJ-sponsored research efforts (Casale and Hillsman, 1986) documents the problems which result from the tendency of English magistrates' courts to overlook means when setting fine amounts which, in England, are often a combination of a fine and a restitution (or compensation) order. These composite monetary sentences are often set at a relatively high level. This is partly because monetary penalties are used frequently at the more serious end of the offense spectrum, and thus the fine portion of these sentences reflects the gravity of the offense. However, this is also because magistrates desire to impose restitution when victims have suffered injury or unrecovered losses, and they simply add the amount of damages to the already substantial fine. The fact that magistrates do not systematically take the offenders' means into account in setting these amounts -- or some maximum fine amount -- has resulted in rising default rates and increased pressure on highly overcrowded prisons. The fine default issue is of sufficient policy concern in England that a question was raised in the House of Commons during the spring of 1986 in which the analysis of the problem presented in the Vera study -- namely, that fine default was often linked to fine/restitution amounts which were far out of line with the offender's means -- was noted.

<sup>13</sup> This cannot be done in those cases where the restitution order is a condition of an ACD, which does not constitute a criminal conviction under New York State law.





CHAPTER V

MODEL DAY-FINE SENTENCES: CASES FROM  
THE RICHMOND CRIMINAL COURT

A. Introduction

In this Chapter we attempt to provide a sense of what the fine amounts will be in actual Richmond Criminal Court cases when the day-fine procedures outlined in the last two chapters are implemented by the court. To do this, we have taken six cases from the test sample for which we collected means information in May 1987 and prepared descriptions of the offenders and offenses. These cases were all disposed in the Richmond Court with a fine sentence, and represent a range of personal and economic circumstances.

Our first exercise with these cases is to apply the benchmarks and means assessment methods to calculate what the day fine would be and then contrast it with the amount actually imposed by the court. Our second exercise with these cases is to alter the conviction charge, substituting charges that are more likely to result in a jail sentence in the Richmond Court. Using the real offenders' characteristics, we then apply the day-fine method to determine what the day-fine amount would be if the judges were to select a day fine in lieu of imprisonment.

B. The Cases

In describing the following six Richmond cases, we have changed the offenders' names; all other items of information are reported from the court records and from either the CJA or Vera

means interview with the defendant. If the offender heads a household, we have used his or her reported net income to calculate the day-fine unit value, following the procedures outlined in Chapter IV. In cases in which the offender was at least partially dependent on other household members but was not a student or otherwise out of the labor market (e.g., a young person who is unemployed and lives with parents), we did not take account of other family income beyond that of the offender. In one case involving a welfare mother, we have first excluded her husband's income (derived from disability payments); however, we have also shown the day-fine that would result from including his income (because the wife did know it).

In general, therefore, for the purposes of this exercise, we have not based the value of the day fine on family income, but only on the individual offender's income. When there is no individual income stream, we have followed the West German practice by providing a reasonable estimate of potential income -- that is, what the individual could make if he or she went out and got a job.

#### CHARLOTTE ROSS

The offender is married, and lives with her husband and six children. The family is supported by public assistance. Mr. Ross is disabled, and receives \$411 per month in benefits. Mrs. Ross and the children depend on AFDC. The grant amount is \$446 every two weeks.

Mrs. Ross was charged with shoplifting \$54 worth of merchandise. Her criminal record indicated three prior arrests and one misdemeanor conviction. She had been placed on probation for one year in 1984. She pleaded guilty to trespass (PL 140.05 -- a violation). The sentence imposed was a \$25 fine.

Under the day-fine system as designed, Mrs. Ross' conviction charge for a violation would call for the minimum day fine of five units. (Had she been convicted of petit larceny, the day fine would have been ten units.) Her income is well below federal poverty income guidelines for a family of eight. (Even including the husband's disability payments, the family's net annual income remains below the poverty line; it is \$16,526, compared to the federal standard of \$18,791 for a family of this large size).

Setting the fine amount entirely upon Mrs. Ross' income, the day-fine unit would be calculated on the basis of the AFDC grant. Net daily income would be \$32. Mrs. Ross would be given a sixty-five percent reduction for family responsibilities (fifteen percent for herself, and her first child; ten percent for each of the next two children; and five percent for each of the remaining children; however, she would not get a reduction for Mr. Ross because he has an income). Because the family lives in poverty, the flat-rate discount would be fifty percent. The resulting the day-fine value is \$6. Thus the total amount of the day-fine becomes \$30, or \$5.00 more than the original fine.

If the court were to include Mr. Ross' income, the net daily income for the family would rise to \$45. Mrs. Ross would be given an eighty percent reduction for family responsibilities (the above reductions plus fifteen percent for her husband). This produces a net income of \$9 per day. With the flat-rate poverty discount of fifty percent, the day-fine unit value would be \$5.00 (as rounded off to the nearest dollar).

Five day-fine units at \$5.00 each would produce a fine total of \$25 -- precisely the fine she had received.

MARK COPELAND

The offender is thirty-one years old, single and employed. He lives with his parents who, he reports, have an income of \$200 per week, and are not supported by him. He is employed as an auto-body repairman, and indicates his take-home pay is \$600 per week.

Mr. Copeland was arrested in connection with the sale of a stolen vehicle and was charged with illegal possession of a vehicle identification number (PL 170.70). He had no prior record. He pleaded guilty to disorderly conduct and received a sentence of a \$225 fine.

Under the day-fine system, the day fine for disorderly conduct would be five units. Mr. Copeland's daily net income is \$86. Figuring a fifteen percent reduction for his own support, and the standard discount rate of one-third, his day-fine unit value would be \$49.

At \$49 per unit, five day fines total \$245, which is slightly above the fine he actually received.

WILLIAM GONZALEZ

The offender is an employed seventeen-year-old who lives with his parents. He reports receiving support from them (though he doesn't know the amount of their earnings), and he is employed by an automobile dealership where he rust-proofs cars. His take-home pay is \$150 per week.

Mr. Gonzalez was charged with assaulting a police officer (PL 120.05) who complained of a sprained ankle and contusions. He had one prior felony arrest, which was disposed as a misdemeanor. He is on probation. He pleaded guilty to disorderly conduct, resulting in a fine of \$75.

The day fine under the Richmond system would be the minimum five units. Although Mr. Gonzales' wages are low, his personal income alone (disregarding any additional support from his

parents) puts him above federal poverty guidelines (\$5,572 for a single person). His net daily income is \$21. Allowing fifteen percent for self-support and a one-third standard discount, the value of his day-fine unit totals \$12.

Five day fines at \$12 each comes to \$60, or \$15 less than the fine he actually received.

#### ROBERT WHITE

The offender is an unemployed twenty-year-old who lives with, and is supported, by his parents. He claims to have no information about the amount of their earnings.

Mr. White was charged with possession of \$250 worth of auto parts which had been stripped from a car which had been reported stolen. He had two prior felony arrests, both of which had been dismissed. He pleaded guilty to the charge (PL 165.45). The sentence was a \$500 fine.

Under the day-fine system, the number of day-fine units in a stolen property case would be determined by the value of the property involved; in this case, it was twenty units.

Because Mr. White is currently unemployed, he has no steady personal income stream. Therefore, we apply the expedient (but fair) alternative of assessing his potential earnings at a reasonable level -- \$150 per week (which is slightly above minimum wage -- which assumes that he faces no barriers to employment. Given a fifteen percent reduction for self-support and the standard flat reduction of one-third, his day-fine unit value would be \$12.

At twenty units of \$12 each, his total day-fine amount would be \$240 -- about one-half of the actual fine he received.

FRANK MARINO

The offender is a twenty-one-year-old who is single and lives with his parents. He claims to support himself with odd jobs (off the books) but was not forthcoming about his estimated income, nor could he say what his parent's earnings were.

Mr. Marino was charged with sale of two packets of marijuana (PL 221.40). He had one prior misdemeanor conviction in 1986, for which he had been fined. He pleaded guilty to the current charge and he was fined \$350.

The number of day fines for this case would be fifty units. To estimate the appropriate value for a day-fine unit in this case, the court would again assume a modest income level -- \$150 per week -- representing his potential earnings if he were to gain legitimate employment. The fifteen percent self-support reduction coupled with the one-third standard deduction would produce a unit value of \$12.

Fifty day-fine units at \$12 each would total \$600, which is almost twice the actual fine Mr. Marino had received.

RAMON VELASQUEZ

This offender is a twenty-three-year-old man who lives with, and is the sole support of, his wife and child. He is employed by a church as a maintenance man. He draws a take-home pay of \$1,200 per month.

Criminal history information about Mr. Velasquez was unavailable, but it is known that in the present case he pleaded guilty to resisting arrest, and was given a \$25 fine.

The day-fine system would provide for twenty-five day fines for this charge. Mr. Velasquez and his family live above the poverty level (\$8,737 for a family of three). His net daily income is \$40 per day. After reductions for family support (fifteen percent each for himself, his wife, and the child) and a flat standard deduction of one-third, the unit value in his case would be \$15.

Twenty-five day-fine units at \$15 each would total \$375, which represents a very large increase from the small fine he had actually received.

C. Comparison of Actual Fines and the Likely Day Fines

During the pilot year, judges, prosecutors, defense attorneys and Vera planners will have an opportunity to study the results of applying the standardized day-fine method to a large number of cases. During this period of experimentation, the methods can be adjusted as needed to fine-tune the standards in the context of actual practice.

However, in summarizing the results of the above brief application of these methods to six real cases from the court, we suggest that the method does what it was designed to do: there is relatively little change in fine amounts for low-income offenders convicted of minor offenses, but the differential impact -- caused by replacing fixed sums with sums reflecting means -- broadens as incomes rise and/or crime severity increases. Furthermore, the development of standardized methods for assessing the appropriate day-fine value for offenders who, though without a steady income stream, are nonetheless finable, should help reduce disparity in fine amounts for offenders convicted of crimes of equivalent severity.

D. The Application of Day Fines to Potential Jail Cases

Although the six cases presented above include only offenders actually sentenced to a fine in the Richmond Court, the range of family circumstances and means is very typical of the

entire set of cases sampled. Therefore, we have used these six offenders as the basis for an exercise to illustrate what the day fines would be if the conviction charges (and prior records) in these cases had resembled case configurations that often result in a jail sentence in the Richmond court.

To do this, we first reviewed data from the full 1986 sample of Richmond Court cases analyzed by us for use in the planning process. We selected a range of criminal charges that were common conviction charges in cases where jail was actually imposed as the sentence in a significant number of sampled cases.<sup>1</sup> When the particular conviction charge selected had been broken down into sub-categories in the day-fine benchmarks (because the various real-life criminal behaviors typically charged under that statute covered a wide range of severity), we chose a representative example from the sub-categories for purposes of this exercise.

Chart V-1 arrays five such conviction charges/criminal behaviors across the top; the six real offenders whose income and family circumstances are detailed above are displayed down the left side of the chart. The cells contain the number of day-fine units for the offense, the value of the unit for the particular offender (as derived in the case descriptions above), and the total day-fine amount calculated by their product.

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<sup>1</sup> Those penal law categories in which appeared as conviction charges in less than fifteen cases in the sample were excluded, as were any charges for which jail was imposed in less than one-third of the sentences.



Chart V-1  
 MODEL DAY FINES FOR ACTUAL RICHMOND CRIMINAL COURT DEFENDANTS  
 WHEN CONVICTION CHARGES SUGGEST A POSSIBLE JAIL SENTENCE

	ASSAULT (PL 120.00) Assault resulting in a minor injury; victim is related to the assailant, and is weaker and more vulnerable	CRIMINAL MISCHIEF (PL 145.00) Damage to property amounting to \$130	PETIT LARCENY (PL 155.25) Shoplift of item worth \$400	CRIMINAL POSSESSION OF STOLEN PROPERTY (PL 165.40) Possession of stolen property valued at \$850	CRIMINAL POSSESSION OF CONTROLLED SUBSTANCE 70 (PL 220.03) Criminal Possession of Valium
<u>CHARLOTTE ROSS</u> Welfare mother with disabled husband and six children	70 DFs x \$6 unit Value = \$420	10 DFs x \$6 unit Value = \$60	30 DFs x \$6 unit Value = \$180	50 DFs x \$6 unit Value = \$300	35 DFs x \$6 unit Value = \$210
<u>WILLIAM GONZALEZ</u> <u>ROBERT WHITE</u> <u>FRANK MARINO</u> All three are young offenders living with their parents; \$150 per week take-home pay (actual for Gonzalez but estimated for White and Marino)	70 DFs x \$12 unit Value = \$840	10 DFs x \$12 unit Value = \$120	30 DFs x \$12 unit Value = \$360	50 DFs x \$12 unit Value = \$600	35 DFs x \$12 unit Value = \$420
<u>RAMON VELASQUEZ</u> Employed; supporting a wife and child; \$1200 per month take-home pay	70 DFs x \$15 unit Value = \$1050	10 DFs x \$15 unit Value = \$150	30 DFs x \$15 unit Value = 450	50 DFs x \$15 unit Value = \$750	35 DFs x \$15 unit Value = \$525
<u>MARK COPELAND</u> Single, employed; \$600 per week take-home pay	70 DFs x \$49 unit Value = \$3430	10 DFs x \$49 unit Value = \$490	30 DFs x \$49 unit Value = \$1470	50 DFs x \$49 unit Value = \$2450	35 DFs x \$49 unit Value = \$1715

The resulting day-fine amounts portrayed here suggest that introduction of the new system should provide the court with a sound basis for substituting day fines for jail in appropriate cases. Most of the fine amounts fall well above the current average of fixed-sum fines imposed by the court for penal law conviction charges. Fine amounts will become quite substantial in cases such as those portrayed here, but the result seems nonetheless fair.

For example, the day-fine amounts for the mid-range property offenses (Criminal Mischief, Petit Larceny, and Criminal Possession of Stolen Property) are, for offenders with modest mid-range incomes (Gonzalez, White, Marino, Velasquez), roughly comparable to the value of the property involved. At the same time, the day-fine amounts which would be imposed on a poor person (represented here by Mrs. Ross), though not at all insubstantial, are kept reasonably within the scope of what such an offender can be expected to pay over time. Furthermore, Mr. Copeland (who represents offenders at the fairly affluent end of the scale) would pay a day-fine amount that is substantial enough to deliver a comparable amount of punitive sting.<sup>2</sup>

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<sup>2</sup> While all but five fines fall within the current statutory maxima for A misdemeanors, it seems clear that legislative action to raise the ceiling is needed before offenders such as Mr. Copeland can be adequately sanctioned with a day fine where conviction charges reflect more than minor criminal conduct.

CHAPTER VI

COLLECTION AND ENFORCEMENT: A STRATEGY FOR  
THE DAY-FINE PILOT PROJECT

A. INTRODUCTION

The collection of fine sentences, and their enforcement if and when payment is not forthcoming, is essential if the fine is to be a credible sentence in its own right and particularly if it is to be seen as an alternative to other sentencing options that traditionally have been viewed as more punitive. Unlike other sanctions, however, imposition of a fine involves the court directly in a complex set of administrative tasks that are different from its other administrative activities. This is because the execution of a fine sentence (i.e., its collection and enforcement) is typically carried out by the court itself. This is generally so even when the collection and enforcement process requires the contribution of other criminal justice agencies (including the police, the sheriff, probation, etc.) which act as the court's agents but which are ultimately not responsible for the outcome of the sentence.

As we have indicated elsewhere (Casale and Hillsman, 1986:235ff), fine administration is ripe for further professionalization and for the rationalization of process and procedures this would undoubtedly encourage. Professionalization certainly means more specialization and possibly additional training. While it may mean more personnel as well, this is not

at all certain. One goal of the day-fine pilot is to introduce some improvements into Richmond's collection and enforcement system, relying initially upon pilot project personnel. In order to understand the usefulness of these improvements, these changes will be subject to study through the research component discussed in the last section of this planning report.<sup>1</sup> The pilot project will then attempt to transfer those operations that prove effective to existing agencies, particularly to the clerks and court officers of the Criminal Court and to the Department of Probation. Should these changes require additional personnel for these agencies -- which is not self evident -- increased fine revenues and reduced reliance on incarceration for default (and, possible, for offenders now sentenced to a fine) may create equal or greater savings to the criminal justice system as a whole. (See, for example, the Scottish experience introducing specialized fine enforcement officers, Millar, 1984.)

The Richmond Criminal Court already has a good collection record; indeed, this was one of several reasons for selecting this court as the pilot site. Vera's 1981 study of New York City courts' fining activity indicated that, citywide, two-thirds of

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<sup>1</sup> As discussed in the research design which follows this chapter, we propose to randomly assign day fine cases to the new enforcement methods and to the traditional methods. In combination with the pre/post-test design that is central to the overall research strategy, this random assignment will enable us to separate the effects on collection which result from the introduction of the day fine (with its likely higher amounts) from those effects associated with the use of new enforcement techniques.

the fined offenders in the lower courts paid in full during a sample period in late 1979; in Richmond, three-quarters paid in full (Zamist, 1981, revised 1986:98).

A more recent sample of Richmond Criminal Court cases collected in support of the day-fine planning effort also indicates that about three-quarters of fined offenders pay in full in this court.<sup>2</sup> The Richmond Court's good record exists despite collection and enforcement activities, discussed more fully below, that are relatively undeveloped and rely heavily on the use of calendared court appearances and arrest warrants. We suggest, therefore, that the likely explanation for the court's success lies less in the adequacy of its collection process and more in the relatively small size of the fixed fines typically levied by the court and in the socio-economic status of the majority of offenders whom this court fines: working and middle class offenders whose median age is 29, charged with DWI and drug-related offenses, who are sentenced to a median fine of \$200.<sup>3</sup> While

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<sup>2</sup> A research sample of all cases arraigned in the Richmond Criminal Court in the first half of 1986 and disposed in that court by early December of that year was drawn from the computerized database of the New York City Criminal Justice Agency. This sample contained 372 fined offenders for whom collection and enforcement data were analyzed. Statistics reported in this section of the planning document, therefore, refer to these 372 cases unless otherwise indicated.

<sup>3</sup> A quarter of the fines are \$100 or less; the modal fine amount is \$250 (reflecting the statutory fixed-fine amount for certain DWI offenses). Twelve percent of the fines are between \$301 and \$500, and three percent are between \$501 and the maximum finable amount in this misdemeanor jurisdiction -- \$1000.

this pattern is far from uncommon in American courts (Hillsman et al., 1984:105ff), it poses potential problems if, as we anticipate, the introduction of day fines extends the use of fines to types of offenders not currently fined and increases the average fine amount.<sup>4</sup>

In the sections which follow, we describe the current fine collection and enforcement procedures in the Richmond Criminal Court and the changes to be introduced at the start of the day-fine pilot. In planning a new strategy, we have built upon the strengths of the existing system. We have also taken into account the positive experiences of the New York City Victim Services Agency (VSA) in Staten Island. VSA advocates on behalf of victims to encourage judges in the Richmond Court to impose restitution as a condition of sentence, and the agency also collects the restitution payments. In addition, we have drawn upon

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<sup>4</sup> Given the range of current fine amounts, there is clearly room for fines to increase significantly under the day-fine system, despite the relatively low statutory maximum for misdemeanors in New York State. If this is to happen to a significant degree, the Richmond judges will have to begin to use fines more extensively than at present for non-Vehicle and Traffic Law (VTL) cases. At the current time, six out of ten fined offenders are charged with VTL offenses, particularly DWI and Aggravated Unlicensed Operation of a Vehicle. While a wide range of non-VTL criminal charges are also represented among the fined offenders (including assault, larceny, criminal possession of stolen property, drug sale, gambling, theft, forgery and even a few robbery and weapons possession charges), it is clear that the proportion of these latter cases among all fined cases will have to rise if significant changes are to occur in the extent of fine use in the court (as well as in their amounts). (See the discussion in Chapters IV and V, and especially Charts IV-2 and V-1.)

the wisdom of other jurisdictions, both in the United States and Western Europe, whose experiences Vera researchers have examined in site visits and interviews over the last eight years (Hillsman et al., 1984; Casale and Hillsman, 1986; Greene, 1987).

Our planning efforts have focused on three aspects of the post-sentencing process. In each area, the changes we will introduce are both administrative and substantive; that is, there will be changes in how various activities are done and also in what is done. First, there will be changes introduced in how the terms of payment for fined offenders are to set and what those terms are. Second, the court's collection strategy will be altered by changing how fine payments are monitored. Third, the court's enforcement activities will be enhanced by expanding and improving the use of both coercive and non-coercive responses to nonpayment.

#### B. CURRENT FINE COLLECTION AND ENFORCEMENT PRACTICES IN THE RICHMOND COURT

While one-fifth of all offenders sentenced to a fine in the Richmond Court pay on the date of sentence, eight out of ten ask the judge for time to pay and have their cases adjourned for payment. (See Appendix D for the variables used in analyzing the collection and enforcement histories of Richmond fine cases.) The court officer then gives these sentenced offenders a form

which indicates the date on which they must return to court to pay the full amount of the fine. The form informs offenders that they must come in person if they cannot pay the fine at that time and that an arrest warrant may be issued if they do not appear as scheduled.

Initial stages. The court's procedures at the beginning of the collection and enforcement stage of the fining process has several important characteristics. First, there is no formal process whereby installments are set. The constitutional (and humanitarian) requirement that offenders be given time to pay, if they need it, before more coercive techniques are imposed is met in the Richmond court by making the full amount due at the next appearance but by giving every offender up to three adjournments before he or she must explain to the judge why full payment has not been made. These terms are lenient in so far as most offenders are given four-to-five weeks before they must return to court. (The median time from sentence to first scheduled adjourn date is 34 days.) While a quarter are given less than a month, another quarter are given more than five weeks before they must make their first post-sentence appearance to pay the fine or to have scheduled the second of their three "free" appearance before facing any type of pressure or admonition from the court.

The second important dimension of these initial procedures is the absence of early pressure on fine offenders to pay. So



long as offenders appear in the clerk's office as scheduled (with or without money to make a payment), no effort is made to encourage them to pay their fines until after the third post-sentence appearance has passed and full payment has still not been made. While the court appearance process is supervised by senior staff in the court clerk's office, this is strictly a clerical procedure; the clerks function exclusively as record-keepers and cashiers and do not in any way encourage offenders to pay their fines or admonish those who are not paying.

Third, there are only two relatively mild threats offered by the court at the beginning of the collection process. The first threat, or inducement to pay, is established at the time the judge initially imposes the fine. In two-thirds of the fine sentences, the judge imposes a jail alternative to the fine as part of the original sentence; the mean number of days judges impose is 7.9 for those whose cases are adjourned for payment. The second threat is the statement, contained in the return-to-court form routinely given fined offenders who ask for time to pay, that an arrest warrant "may" be issued if they fail to appear on the specified date.<sup>5</sup>

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<sup>5</sup> There is one other way in which the fine sentence itself can include an enforcement component or threat. If the fine is imposed in combination with another sanction which includes an enforcement potential (e.g., probation), there is at least an implied threat of revocation. However, in the Richmond court, this sentence rarely occurs (and did not in the 1986 sample). Three-quarters of the fine sentences imposed were fines alone (or a fine embracing a jail alternative in the form of dollars/day); the remaining one-quarter were fines combined with a conditional

This relative leniency at the front end of the collection and enforcement process may appear understandable in a court that ultimately collects full payment from three-quarters of its fined offenders. But as a collection strategy, it lacks flexibility for dealing with the significant number of offenders from whom payments are not promptly forthcoming. The court is left to rely solely on the most coercive devices at its disposal -- arrest warrants for failure to appear and judicial actions such as re-sentencing or execution of the jail days alternative -- as its first, and last, response to nonpayment.

Arrest warrants. Arrest warrants are not only the court's major enforcement technique for the many offenders who fail to meet the initial terms of payment by not appearing in court as scheduled, they are virtually the court's only enforcement device. Just over half (51%) the majority of fined offenders who do not pay in full on the date of sentence have at least one arrest warrant issued by the court (the average for this group is 1.2). That these warrants function as an enforcement tool is reflected by the fact that three-quarters of those fined offenders who are issued an initial warrant return to court, and many eventually pay in full (indeed, half do so on their first

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discharge (CD). The data collection for the planning effort did not allow us to know if the conditions associated with the CD included restitution or community service which contain enforcement mechanisms but, if so, they would not in any way encompass collection of the fine.

post-warrant court appearance).<sup>6</sup>

The warrant as an enforcement technique operates as follows in the Richmond Court -- a process which is very similar to that in many other American courts. Upon the offender's failure to appear in the clerk's office to pay the fine on the scheduled court date, the judge orders that an arrest warrant be issued. After it is processed by the court and the District Attorney's office, the warrant order is sent to the Central Warrants Division of the New York City Police Department in lower Manhattan. The Central Warrants Division classifies all in-coming warrants by the severity of the charges and by borough. The information on the individual named in the arrest warrant is validated against the individual's RAP sheet (his or her official New York State criminal history record) and the Department of Correction is checked to ensure the individual is not currently in custody. It is only after this necessary but time-consuming clerical process is completed that anything happens which directly involves the offender in the fine enforcement process.<sup>7</sup>

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<sup>6</sup> Of those who return, about 16 percent eventually abscond without paying their fines; these offenders represent significant enforcement failures.

<sup>7</sup> It should not be underestimated just how much processing time this enforcement technique consumes. After the judge stamps the court papers and the court officer enters it onto the calendar, the court clerk's office fills out the warrant order form and records the warrant on the Police Department warrant record (through which the warrant and the offender are tracked). The court papers containing the warrant stamp are then filed in the clerk's office in the active warrant file and the warrant itself is forwarded to the District Attorney's office. Information on

The Central Warrant Squad mails a form letter which notifies the offender that an arrest warrant has been issued and that if he or she does not appear at the court, arrest will follow. The letter says nothing about the fine or the amount due; it only tells the offender to return to the court. Research on fine enforcement both here and abroad suggests that notification of the offender that the court is aware of his or her delinquency is precisely what ought to occur at this relatively early stage of the enforcement process, before more coercive actions are initiated. Offenders should be notified promptly that the court recognizes their failure to live up to their obligations and threatens more serious consequences if the nonpayment continues.

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the warrant is then entered into the district attorney's computer system (it has already been entered into the court's computer system by the clerk's office); only after all this is done is the warrant forwarded to the Police Department.

When, as generally happens, the offender voluntarily returns to court to pay all or part of the fine, the process to vacate the warrant requires even more steps. Offenders must receive a form filled out by the court verifying their voluntary return in case a warrant check is done on them before the warrant has been dropped from the computer system's active file. The clerk's office also must notify the Police Warrant Squad that the individual has returned, at which time the warrant squad conducts a check of its warrant records to see if there are further outstanding warrants.

Although the use of warrants as a primary enforcement tool may appear to be a relatively simple mechanism, it is clearly not. It is a time-consuming clerical process which is repeated each and every time a fined offender fails to appear for one of the many scheduled post-sentence court appearances that are the court's only current means of monitoring the fine collection and enforcement process.

Although arrest warrants in the Richmond court represent a form of notification, and one that appears to have some effect, it is a time-consuming process, not very prompt, and does not focus specifically on the fine default itself.

Furthermore, nothing is done with these arrest warrants when fined offenders do not voluntarily appear in court after receipt of the police letter. Although this class of warrants (i.e., those for any case involving a misdemeanor offense or a violation) is returned to the police precincts, their volume is high and their priority is low so that few are actually served by the police. Fine enforcement, therefore, virtually ends with the police warrant notification letter unless the fined offender voluntarily returns to court or is subsequently arrested for a new offense.<sup>8</sup>

Enforcement after a return on an arrest warrant. The court is faced with a limited repertoire of enforcement devices when a fined offender returns to court and fails to make full payment of the fine. Fortunately, in the Richmond Court, most offenders now sentenced to fines pay all or something upon their return to

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<sup>8</sup> One other form of enforcement occurs in the Richmond Court which we will discuss in more detail below. Whenever a warrant is issued, the District Attorney's office simultaneously files a judgment order on behalf of the court with the county clerk for the outstanding amount of the fine. Currently, however, nothing is done with these judgment orders; they are merely more paper work done each and every time a warrant is ordered, paper work that must then be undone each time the person returns to court on the warrant.

court. Currently, therefore, judges are faced infrequently with the need to enforce the fine by virtually the only other means they have available -- which is also the most coercive means -- imprisonment. In six percent of all fined cases the offender is imprisoned (in four percent through an execution of the jail days alternative and in two percent through a re-sentence). Because warrants had been ordered in most of these cases, it is likely (although our data are not complete on this point) that these offenders had been returned to court involuntarily through arrest for a new offense and the judge cleared the outstanding fine case by imprisoning the offender.

When judges do not want to jail the offender for default (which is obviously the preferred position if the fined offender has not re-offended or is not thoroughly recalcitrant), the only options available are either to continue the case for yet another appearance (with more warrants as the only threat) or to re-sentence to a non-jail option. While the judges eventually re-sentence about three percent of all fined offenders, in less than half these cases, the re-sentence is to a reduced fine or a combination of a reduced fine, a conditional discharge, or time served in pretrial custody.

In sum, when faced with nonpayment of a fine, the judges use the only real enforcement option they have -- imprisonment -- sparingly, not only because it is in opposition to the intent of

the original sentence (to punish without confinement) but because it is a highly coercive response. Judges also use imprisonment primarily when there has been a new offense (as best we can tell from these data). For the remaining outstanding fine cases, judges can only encourage fine payments by continuing the cases on their calendars, using appearances and warrants as enforcement devices.

The 277 fined offenders in our 1986 sample who returned to court post-sentence were scheduled to appear in court a total of 580 times. They made 270 court appearances at which a payment was made; they made 100 appearances at which no action except a continuance was recorded by the court; they failed to appear on schedule 167 times and the court issued a warrant; and they appeared 46 other times for other events such as re-sentencing, execution of jail days alternative, etc. Because half these 277 offenders had only one post-sentence appearance scheduled (at which they either paid in full or had a warrant ordered), 133 of them (36% of all fined offenders in the sample) represent the bulk of the post-sentencing court activity -- they made 436 of the 580 appearances (3.3 per person).

These data suggest that for this not insignificant proportion of currently fined offenders in the Richmond Court -- those who do not pay readily -- continuances and arrest warrants are time consuming and costly, even if they encourage some offenders

to pay. Furthermore, this strategy for collection and enforcement is not successful in one fifth of the cases that are fined. The court never collects full payment, or otherwise fully enforces, 14 percent of its fine sentences, and in another five percent the payment period drags on beyond six months to an uncertain conclusion.

C. THE VSA EXPERIENCE: RESTITUTION COLLECTION

The experience of the Victim Services Agency (VSA) collecting restitution payments ordered by the Richmond Criminal Court, either as a condition of a discharge or of an ACD, is of considerable interest to understanding the process of collecting and enforcing monetary penalties. VSA handled 293 restitution cases in Fiscal Year 1986, collecting in excess of \$90,000. The restitution amounts VSA sought successfully to collect are considerably higher, on average, than are the fine amounts levied by the court. Half the restitution amounts are over \$300, compared to 15 percent of the fine amounts, and one out of four are in excess of \$500, compared to three percent of the fine amounts; indeed, one out of ten restitution orders exceeds the statutory fine maximum of \$1000 for Criminal Court cases (see Appendix E).<sup>9</sup>

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<sup>9</sup> The Department of Probation also collects restitution payments ordered as a condition of probation; however, only about six percent of the sentences in the Richmond Criminal Court are to probation, fewer than 100 per year of which only small number include restitution. We have concentrated, therefore, on VSA's relatively successful collection experiences. In addition to interviewing VSA staff in Staten Island on their collection ac-



Types of offenses. Part of the reason for these differences is that the range of charges faced by offenders ordered to pay restitution is broader than the range faced by fined offenders; the range for restitution cases also extends more deeply into the serious end of the Criminal Court spectrum. The complaint charge was a Class A Misdemeanor in 54 percent of the restitution cases compared to 29 percent of the fined cases; two of these (Criminal Mischief 4 and Assault 3) comprised 40 percent of the restitution cases. A third of the restitution cases were charged as D and E felonies compared to seven percent of the fined cases (including Criminal Mischief 3, Grand Larceny 3 and 4, Burglary 3 and Assault 2).

Collection strategy. Despite relatively high restitution amounts, VSA staff collected the full amount in 83 percent of the cases they closed.<sup>10</sup> Three characteristics of VSA's collection and enforcement activities resonate positively with the existing

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activities, we drew a sample from their case files of all restitution cases handled by the agency that entered the Richmond court in the first half of 1986. This sample, therefore, would be part of the larger sample of all cases entering the Richmond Court during this period which we analyzed for day-fine planning purposes.

<sup>10</sup> At the point we collected the data, 14 percent of the restitution cases in the sample were still open. Of those VSA had closed, 83 percent were closed by a full payment, 6 percent by a partial payment, 4 percent by being ordered out of the system (generally because the victim's loss was covered by insurance); there was no payment in 6 percent of the cases and the reason for closing the case could not be determined in one percent of the cases.

literature on successful collection strategies. First, immediately after the sentencing hearing, VSA staff interview all offenders ordered to pay restitution and set schedules for installment payments that are both specific and as short as possible. Second, the VSA staff routinely check their logs to identify offenders who have missed a payment and issue warning letters that threaten offenders with further court action. Finally, if there is no response to the warning letter within ten days, VSA notifies the District Attorney's office to restore the case to the calendar (if it is an ACD) or notifies the judge if the case is a conditional discharge.

Although in setting payment schedules, VSA staff do not explore offenders' ability to pay in great detail, they do generally examine offenders' employment circumstances and discuss the amounts offenders themselves think they can pay. If the person is on a fixed income (such as welfare or SSI), a monthly amount is agreed upon and the total is divided by that amount to determine the number of payments. For those who are employed, VSA staff set the installment amounts by dividing the total due into monthly sums, keeping the total number of months (the length of the payment period) relatively short. Almost four out of ten (37%), for example, are scheduled for only one payment and two out of ten are scheduled for two payments; nine out of ten are scheduled to be paid in six or fewer payments. Because payments

are generally scheduled a month apart, the total payment period scheduled is rarely over six months.

Collection outcomes. More than four out of ten offenders paid full restitution within the terms set by VSA; of the 83 percent from whom full payment was obtained, 60 percent paid within the installment terms VSA set. Insofar as this is a function of VSA's collection procedures, it probably results from VSA's attempt to set the number of payments roughly in accordance with the amount due and yet to keep the total period short.

All the cases in which five or more payments were initially scheduled by VSA involved restitution amounts of at least \$200; half involved amounts of \$500 or more. By contrast, half the cases scheduled for only one or two payments were for amounts of \$150 or less. Of the 62 percent of the offenders scheduled to pay their restitution in three months or less (the vast majority of whom had amounts due under \$300), half paid on schedule. As the amount due and the scheduled payment period increased (although most remained under five months), the proportion who paid on schedule declined (to one third for those scheduled for a three-to-six month period). Overall, whereas six out of ten offenders with payments periods of over five months paid in full, nine out of ten with payment schedules under five months completed their restitution obligation.

VSA's experience confirms what other courts have learned

about the collection of monetary penalties: short payment schedules are possible and desirable, even when the amount is relatively large. The VSA data suggest that the payment periods for smaller amounts should be kept under two months and larger amounts under five months, whenever this is possible given offenders' means.<sup>11</sup> In addition, VSA's experience confirms the value of warning letters. VSA issued a warning letter in four out of ten cases, using a more specific but much less complex and time-consuming method than fine warnings using warrants; yet half of these cases pay in full.

Enforcement tools. One final aspect of the VSA process should be noted -- the lack of available enforcement devices in the Richmond Court, whether for restitution or for fine cases. Once enforcement efforts have escalated to the point of issuing a warrant (which happens immediately in fine cases but after monitoring of installment payments and issuance of warning letters in restitution cases) enforcement activity ends. The court has virtually no capacity to carry through on its threat to employ more coercive devices against defaulters to ensure they live up to their obligations. As indicated above, the threat of

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<sup>11</sup> The current average length of time to full payment in the Richmond court, for fined offenders who pay after the date of sentence, is a mean of 62 days (8.9 weeks) and a median of 39 days (5.6 weeks); this reflects the fact that many who pay the relatively small fine amounts currently do so on the first appearance post-sentence, which is generally scheduled five weeks later.

arrest contained in the warrant is meaningless. Unless the defaulter is arrested for a new offense, the judge's capacity to re-sentence or to execute a jail-days alternative occurs is unlikely to be used because willful defaulters are not brought back to court. Police resources to serve warrants are largely reserved for pretrial offenders facing felony or the most serious misdemeanor charges; they are rarely employed to arrest post-conviction misdemeanants who have violated a condition of the court.

Furthermore, even if the defaulter is returned to court, the only effective coercive technique the court has to enforce its fine or restitution sentence is imprisonment. However effective this may be (and the "miracle of the cells" has not gone unnoticed (Hillsman, et al., 1984:112)), imprisonment for default is a failure of a sentencing process that intended to punish the offender (and, with restitution, to restore the victim) by monetary deprivation. If the integrity of the monetary sentence can be enforced only by imprisonment, it is likely to remain flawed; judges are not inclined to use scarce jail space for offenders they had not intended to put in custody in the first place. Other means of enforcement which focus on the offender's financial resources or time are needed if monetary penalties are to be improved.

The mechanisms to do this already exist in the Richmond

Court, but they have not been effectively used. Judgments orders -- which put liens on an offender's real property and which could be converted into property seizures or salary garnishments -- are currently issued by the court when an offender fails to appear to pay a fine, but offenders are not notified of this and the orders are not executed by either of these means. Community service sentences are also available to the court, but they are not being used to provide an enforcement alternative to a monetary penalty when a defaulter is willing, but truly unable, to pay. As we turn to a discussion of the changes in the collection and enforcement system which we will introduce into the Richmond Court as part of the day-fine pilot, we will discuss how these enforcement options will be utilized more effectively to support the use, and expansion, of monetary penalties.

D. A COLLECTION AND ENFORCEMENT STRATEGY  
FOR THE DAY-FINE PILOT

It is evident from this discussion that current collection rates for fines and restitution in the Richmond Court are relatively high. It is also evident that this is partially a result of the type of offenders who are now sentenced to a monetary penalty and the size of the amounts most owe. However, the court's current collection and enforcement strategy (and here primary reference is made to the court's fine system) is called into play

in a sizable proportion of the cases; yet it is cumbersome and time consuming in its monitoring and notification aspects and extremely limited and inflexible in its responses to default (absent rearrest). This suggests there is room for improvement in the current collection and enforcement system of the Richmond Court, even if no changes were made in fine use.

However, assuming as we do, that the introduction of day fines will increase both fine amounts (reflecting appropriately higher fine levels for more affluent offenders) and the frequency of fine use among groups of offenders currently not fined, some strategic alterations in the court's collection and enforcement system will be introduced. As noted earlier, in order to test their effectiveness and to separate the effects of higher fine amounts from new enforcement strategies, all penal law cases sentenced by the court will be randomly assigned by researchers to the court's traditional collection/enforcement treatment and to the new system implemented by the Day-Fine Pilot Project.

#### Fine Administration

In most courts around the country, as in Richmond, fine administration tends to be a secondary activity rather than a priority for all those involved. While at each stage, the person responsible for a particular piece of the collection or enforcement process may do that task in a credible and competent manner, courts rarely put one person in charge of the full process. As a

result, no one is responsible if the process breaks down and no one is accountable if the fine is not collected. Indeed, most incentives in the system encourage each person involved to pass the enforcement task on to someone else as quickly as possible, even if it eventually returns.

The first need, therefore, in setting up an alternative collection/enforcement strategy for the court is to fill this administrative gap. We take our approach from the English magistrates courts (Casale and Hillsman, 1986), most of which have court personnel specifically designated as Fines Officers; their only function is to supervise the collection and enforcement of monetary penalties for the court.<sup>12</sup>

The Richmond Day-Fines Officer (DFO) will be located in an office in the Criminal Court with ready access to the judges and the clerk's office. He or she will be, however, an employee of the Vera Institute's Day-Fine Pilot Project. At the end of the project's twelve-month pilot period, all the DFO's procedures

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<sup>12</sup> This type of position is not unheard of in American courts but it is rare, although fining is a big business in many American courts and involves substantial revenue. In the Phoenix (Arizona) Municipal Court, for example, there is a Fines Collection Coordinator, a position established in 1980 to provide some coherence to the collection process. This person and her small staff establish installment plans, monitor payments, notify delinquents and encourage them to pay, and initiate more coercive forms of enforcement when necessary; the court collected over \$464,000 in non-traffic criminal fines in 1980 (Hanson and Thornton, 1981). These activities are very similar to those routinely carried out by the more common English Fines Officers, and the Richmond VSA restitution staff, and are the model upon which our Richmond Day-Fines Officer is based.



will have been established, will function smoothly, coordinate well with the work of the court and other agencies, and have been tested as to their effectiveness. At this time, the work of the DFO will be transferred to the appropriate court personnel. During the pilot year, however, the Day-Fines Officer will report to the chief planner for the Day-Fine Pilot Project, Vera's Director of Court Programs, who will maintain close on-going contact with the project's planning group (which includes the Supervising Judge of the Richmond Criminal Court).

With the assistance of one support staff (a Day-Fines Aide) and a PC-based information system designed and maintained by the project (discussed below), the DFO will carry out three key functions which reflect the centralization of responsibility in this position for the collection and enforcement process: (1) establishing specific installment schedules for offenders sentenced to day fines; (2) monitoring payments and notifying delinquents of the further action to be taken by the court if they fail to pay; (4) enforcement.<sup>13</sup>

#### Setting the Terms of Payment

The Day-Fines Officer will interview each fined offender at

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<sup>13</sup> The Day-Fines Officer and Aide will also collect the supplemental means information needed for those not interviewed pre-arraignment by CJA; see Chapter IV, Section E above. We anticipate that the DFO will handle the collection and enforcement activities described below and the Day-Fines Aide will interview DAT defendants to obtain initial means information and maintain the MIS system.

the conclusion of the sentencing hearing.<sup>14</sup> The purpose of this interview will be to set the terms of fine payment (an installment scheduled if needed). In addition, the DFO will ensure that all information needed to contact the offender is up-to-date (residence, mailing address, telephone) and that the file contains the name and address of the offender's current employer, the person's social security number and weekly salary (information that will be needed if, for enforcement purposes, the offender's wages are garnisheed).<sup>15</sup>

To establish the terms of payment, the DFO will be guided primarily by the total amount due (the setting of which has already taken means into account). If the amount due is less than \$500 and the offender needs to pay by installments, the DFO will permit a maximum of four bi-weekly payments. If the amount due is greater than \$500 (to a statutory maximum of \$1000), the DFO

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<sup>14</sup> That is, the DFO will handle the collection/enforcement activities associated with those fined offenders who are randomly assigned to the new, rather than the traditional, procedure. The remaining fined offenders will proceed through the regular court process as described above.

<sup>15</sup> For most day-fine offenders, this information will be available from the CJA interview or from the Day-Fine Aides' pre-arraignment interview with defendants not covered by CJA. However, although many offenders currently fined are sentenced on the same date as they are arraigned, others are not; the median number of days between arraignment and sentence is now 31 and the mean is 47 (6.7 weeks). Therefore, at the time of sentence, the DFO will need to ensure important elements of the pre-arraignment information are still current, primarily employment and residence.

will permit no more than eight bi-weekly payments. (These parameters reflect the payment periods found for current successful restitution and fine collections in the court -- under two months for smaller sums and under four months for larger sums).

These payment terms will apply to all fined offenders except those who have small fixed incomes (i.e., those relying on welfare, SSI, unemployment or social security). For these individuals, the rules require modification not only because their incomes are modest but also because some receive this income on a monthly (not bi-weekly) basis.

When re-couping overpayment from public assistance clients, many agencies (including New York City's Human Resources Administration) withhold ten percent of the basic welfare grant. We intend to follow this standard. For the above categories of fined offenders, the day-fine amount due will be divided by ten percent of the offender's basic grant to determine the number of fine payments. The length of time to full payment, therefore, will depend both on the number of payments and on whether those payments are made monthly basis (e.g., social security) or on a bi-weekly basis (e.g., AFDC).

Once the terms of payment have been established by the DFO and the offender, it will be the DFO's responsibility to inform the offender of the consequences of nonpayment. The offender will be asked to sign a form confirming the payment schedule.

This form will also contain a summary of the sequence of steps that will be taken by the court in the event the offender becomes delinquent; for example:

IF YOU DO NOT MAKE THESE SCHEDULED PAYMENTS TO THE COURT:

(1) A JUDGMENT ORDER WILL BE ISSUED AND FILED WITH THE COUNTY CLERK THUS PUTTING A LIEN ON YOUR HOME OR OTHER REAL PROPERTY YOU NOW OWN OR MAY OWN IN THE FUTURE; A LIEN MEANS YOU CANNOT SELL YOUR PROPERTY UNTIL YOU PAY THE FINE;

(2) AN ARREST WARRANT WILL BE ORDERED, AND THE DEPARTMENT OF PROBATION WILL COME TO YOUR HOME TO EXECUTE THIS WARRANT BY BRINGING YOU BACK TO COURT [see discussion of this below; use of Probation in this process is still under review];

(3) UPON YOUR RETURN TO COURT, THE JUDGE WILL DETERMINE (a) WHETHER YOU SHOULD BE IMPRISONED FOR DEFAULT OR (b) WHETHER THE JUDGMENT ORDER SHOULD BE CONVERTED INTO A GARNISHMENT ORDER TO HAVE YOUR EMPLOYER WITHHOLD THE FINE AMOUNT FROM YOUR WAGES OR, IF YOU ARE NOT EMPLOYED, INTO AN ORDER TO HAVE THE SHERIFF SEIZE YOUR PERSONAL PROPERTY TO PAY THE FINE.

#### Monitoring Payments

As described above, the court currently uses the regular calendar to monitor the payment of fines; 277 fined cases were calendared 583 times post-sentence in the 1986 sample studied for planning purposes. This traditional monitoring strategy is linked to the court's exclusive reliance on arrest warrants for failure to appear as its only means of notifying a delinquent offender that it has identified his nonpayment.

As an alternative strategy for the day-fine pilot, the court is considering placing on the Reserve Calendar the cases of all

fined offenders who do not pay in full on the sentence date and who are randomly assigned to the DFO. (Cases on the Reserve Calendar are part of the court's caseload, but are not "active" in the sense that they are not scheduled for a future court appearance until there is some reason to do so; when one of the parties (e.g., the prosecutor) requests the case be restored to the calendar for an appearance, the judge will do so.) For the day-fine cases on the Reserve Calendar, the DFO will use a PC-based Management Information System (MIS) to keep track of their performance meeting the payment schedule established. Moving these cases to the responsibility of the DFO, therefore, will reduce the number of cases on the court's active calendar.

The DFO's computerized MIS system will perform several functions, the first of which is to provide an on-going record of all payments made and their amounts, and of all enforcement actions taken. This record will be used by the DFO to monitor and enforce the day fine, and it will be used by the pilot project's research component.<sup>16</sup>

The Day-Fine Project MIS system will automatically provide a "tickler file" for monitoring payments. On a daily basis it will inform the DFO who is due to make a monthly or bi-weekly payment. At the end of each day, the computer will generate a form warning

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<sup>16</sup> Although the DFO will supervise the monitoring and enforcement system, the cashier in the Court Clerk's Office will continue to actually receive the fine payments, record them in the court's ledgers, and bank them in the usual way.

letter which the DFO will mail immediately to each offender who did not make the scheduled payment. The DFO will also enter a notation into the system which will automatically generate a list of offenders for whom telephone contacts will be attempted for those warned offenders who do not contact the DFO within a week.

For those offenders who contact the DFO upon receipt of the warning letter, or whom the DFO reaches by telephone, the DFO will attempt to assess the reasons for the nonpayment. This case-by-case assessment is designed to identify individuals for whom the original payment schedule was inappropriate (too stringent) or whose financial circumstances have altered dramatically enough (e.g., lost employment) to warrant a revision of the terms of payment. The DFO will verify important new information by telephone if possible.

If the DFO's revision of the payment schedule does not solve the payment problem, and the fined offender's delinquency continues for reasons of hardship, the DFO will request the case returned to court for judicial review. With input from the DFO and the offender, the judge can select from several options: resentence to a reduced fine or to a community service alternative to the day fine, or to a non-custodial, traditional sentence.<sup>17</sup>

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<sup>17</sup> The conversion rate of day-fine units for community service days is under discussion by the Richmond planning group.

The logic governing the judge's decision at this stage will reflect the following considerations. What do the offender and the DFO have to say about the fined offender's changed financial circumstances and ability to pay? Community service should not be ordered unless either the offender is financially unable to pay a meaningful fine (i.e., the original day-fine amount was in error or his circumstances are irrevocably altered), or the offender is so unable to manage his limited resources that even the DFO's assistance in helping him plan a budget that includes fine payments is unlikely to result in full payment.<sup>18</sup>

Finally, the court should never imprison (either by resentencing to a jail term or executing the jail-days alternative to the day fine) at this point in the enforcement process unless there is a strong indication that the offender is thoroughly recalcitrant.

#### Escalating Enforcement

Returning to those delinquent offenders who do not contact the DFO in response to the initial warning letters or who are unable to show the DFO that their nonpayment is a result of hardship, the DFO will proceed with the next step in the enforcement process: issuance of a judgment order.

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<sup>18</sup> If the altered circumstances involve unemployment, the judge should assume re-employment is likely (unless something suggests not) and should merely change the schedule for payment to reflect current circumstances. Or, if unemployment is likely to be extended, the day-fine amount should be re-calculated based upon unemployment insurance.

The MIS system will generate (a) a judgment order to be signed by the judge and (b) a notification letter informing the offender that the judgment order has been issued, that it is being filed with the County Clerk, that this places an automatic lien on his property, and that an arrest warrant will be ordered (and, potentially, served by the Department of Probation) if he does not appear immediately to make payment.<sup>19</sup>

If delinquents have not appeared to make payments within one week of being notified that the judgment order has been filed and that they may be arrested, the DFO will request the court to issue an arrest warrant. Assuming agreement can be reached to have this warrant served by the Probation Department, this action will represent a substantial punishment in its own right. The offender will not only be arrested but is likely to spend 24 hours or more in police custody before appearing before the judge.<sup>20</sup>

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<sup>19</sup> The New York City Probation Department Field Service Unit (FSU) has developed an agreement with the Vera Institute of Justice whereby Probation Officers from the FSU provide service for all bench warrants issued by New York City Criminal Court judges in cases where an offender fails to perform a sentence of community service under the supervision of Vera's Community Service Sentencing Program. We hope to be able to establish a similar agreement with the Probation Department to secure warrant service in cases where offenders sentenced to a day fine prove seriously delinquent.

<sup>20</sup> There is precedent for the court ordering the arrest of individuals under sentence without previously requesting their appearance in court. This is done routinely in New York City for offenders sentenced through a conditional discharge to Vera's Community Service Sentencing Program who violate the conditions of their participation by failing to appear for work. People v. Amaro (1974 (358 N.Y.S. 900)) has been interpreted by the courts to permit issuance of an arrest warrant under these conditions



This court appearance represents an opportunity for the court, with the assistance of the DFO, to ensure (for those whose day-fine cases it has not already reviewed) that the offender's nonpayment is not the result of hardship. (If it is, the court has the opportunity to use the less punitive alternatives described above: resentence to a reduced fine, community service sentence, or other non-custodial option.) If the default is willful, however, the court has two punitive options: execute the judgment order by ordering a wage garnishment or a property seizure; or imprison by executing the jail-days alternative to the day fine or by re-sentencing.

It is assumed that, in most day-fine cases, the court will choose first to execute the judgment order, described below. As we have discussed elsewhere (Casale and Hillsman, 1986:253), forcible material deprivation -- an admittedly extreme response to fine default -- is, however, more in keeping with the sentencer's original intent than the only other coercive option available -- deprivation of liberty. The latter should only be used as a last resort.<sup>21</sup>

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because failure to perform the conditions of sentence is considered appropriate grounds for it to believe the offender will not appear if summoned by the court. The circumstances of day-fined offenders who fail to pay scheduled installments, who are notified of their delinquency, and who are informed of the consequences is certainly analogous.

<sup>21</sup> The other circumstance in which this response might occur is if a day-fined offender is arrested on a new offense prior to completing payment of the day fine. If the previously fined offender is not delinquent and is able to continue paying, the new

Enforcement by the Most Coercive Techniques

Executing the judgment order is a relatively complex and expensive activity (another reason, besides its coerciveness, to reserve it for the end of the enforcement process). Whenever possible (i.e., the individual is steadily employed at an on-the-books job), the judgment order will be executed by conversion into an Income Execution (wage garnishment) order. Before filling out the income execution, the DFO will call the employer listed in the MIS system to verify that the offender is still employed. The order will then be signed by the District Attorney, as the attorney for the "plaintiff" (i.e., the court). Then the order is served on the offender (the "judgment debtor"); to have this done, the DFO must deliver the original and five copies of the signed Income Execution to the sheriff. If the offender does not settle the order by payment of the fine within thirty days, the DFO will deliver five additional copies to the sheriff, and the Income Execution will be served on the offender's employer.<sup>22</sup>

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offense should have no effect on the day-fine enforcement process. However, if the offender is delinquent or in pretrial detention on the new arrest, the judge may execute the jail alternative on the day fine.

<sup>22</sup> The sheriff selected by the DFO must be the sheriff of the county in which the person on whom the order is served resides. That is, if the offender lives in Staten Island, the Richmond County Sheriff serves the Income Execution order; but if the offender's employer is in Manhattan, the New York County Sheriff serves the order on the employer.

A Property Execution is a similar procedure initially, but becomes more complex if property must actually be seized. As with the income execution, the original property execution order (signed by the District Attorney) and three copies will be delivered by the DFO to the Sheriff. The offender/debtor is served; if he does not settle the order within thirty days, another three copies of the property execution are delivered to the sheriff. It is the sheriff who seizes and auctions the property to collect the amount owed the court.<sup>23</sup>

Research gives us reason to believe that the threat of garnishment or property seizure will be sufficient in most cases to produce payment of the fine (or at least renewed payment by installments). (See, Casale and Hillsman, 1986:187.) This suggests, therefore, that the actual service of a garnishment order on an employer or seizure and sale of property by the sheriff is likely to be extremely rare.

The last step would be to issue a second arrest warrant,

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<sup>23</sup> We believe the court will generally be willing to accept whatever amount is produced by the seizure of property as full payment of the day fine, even if the dollar amount did not equal the amount due. For example, if a \$400 TV was seized and realized \$50 at auction, the court would accept it as satisfying in full an outstanding day fine of \$300. Because, unlike a civilian creditor, the court is interested primarily in punishment through monetary deprivation (and the "deprivation value" of the TV set from the offender's perspective is more its replacement value than its resale value), this procedure is appropriate as well as expedient.

serve it, and have the court impose a term of imprisonment for default if the person has no property to seize and is a willful defaulter. Because the collection and enforcement procedures that will be implemented prior to this final step are fairly encompassing, relatively few (and, ideally, no) day-fined offenders should face this consequence of nonpayment. However, if they do, a conversion rate for day-fine units to be translated into jail days is needed. The Richmond planning group is currently considering a conversion formula of one jail day for three day-fine units. (The New York Criminal Procedure Law, 420.10(4), limits the conversion to no more than one-third the maximum authorized term of imprisonment for the offense.)

E. THE PILOT PROJECT'S COMPUTERIZED  
MANAGEMENT INFORMATION SYSTEM

To facilitate the monitoring work of the Richmond Day-Fines Officer, we have begun designing a management information system that will also provide data for the pilot's research component. The system will be located in the Day-Fine Project office in the court and will run on a minicomputer (an IBM AT). The software to be used is currently being selected, at which time the programming will be done by Vera's MIS Department. The Day-Fines Aide will do the routine data entry and generate the output documents (such as daily listings, warning letters, routine statistical reports).

Appendix F contains an outline of the Day-Fines MIS design prepared by Vera's Director of Management Information Systems in conjunction with the Day-Fines Planning staff after close examination of the current flow of relevant documents through the Richmond Criminal Court. This outline describes the data elements to be collected for each case record in the MIS system. (Using an OBTS model, a case record in this system is defined as a single offender sentenced to a fine for a particular arrest; case records can be cross checked through a unique identifier -- the state's criminal justice identification number, or NYSID, to identify subsequent cases resulting in fine sentences for the same offenders.) The outline also contains a description of the payment record and the enforcement record that will be used to track each fined offender's post-sentence activity and to record the responses to non-payment taken by the Fines Officer. The outline also lists the types of output documents to be generated by the system (e.g., warning letters; notifications) and the types of management reports (listings and statistical summaries) to be produced on a regular basis.

As indicated in other sections of this report, the main programmatic purpose of the MIS system is to allow the Day-Fines Officer to identify non-payment immediately and to respond immediately and directly to the delinquent offender. Few fine enforcement systems, and certainly not those based on arrest warrants

(as is the Richmond Court's), are able to react swiftly, which the literature on default suggests is essential to effective enforcement (Softley and Moxon, 1982; Casale and Hillsman, 1986). The PC-based MIS system will operate as a tickler system, enabling the Fines Officer to know immediately when a scheduled payment has not been made and to issue a warning letter automatically and without delay.

In addition, the MIS system will provide a record of all enforcement actions taken by the DFO (on a case-by-case basis and in summary statistical form). Computerization will enable enforcement activity to occur quickly; it also permits that activity to be routinely monitored and its effects assessed.

Finally, the MIS system will be part of the raw database used in the research on the pilot. The collection and enforcement data compiled by the MIS system for each offender sentenced to a day fine will be an important part of the research record, transferred on floppy disks to the main research database at the Vera Institute. It is to a discussion of the pilot's research component, both the overall design of the research and the data to be collected, that we now turn.

CHAPTER VII

RESEARCH DESIGN: EVALUATING THE IMPLEMENTATION  
OF AN AMERICAN DAY-FINE MODEL

A. PURPOSES OF THE RESEARCH

In previous sections of this report we have described the structure of an innovative system of fining to be implemented in the Richmond Criminal Court. The specific purposes sought through a pilot test of the day-fine system as adapted to an American court are reflected in the research strategy to be carried out as part of the pilot.

The pilot seeks to accomplish three major goals. First, it aims to demonstrate that a day-fine system can be implemented in an American court; that is, that day fines can be substituted for fixed fine amounts, that the number of day-fine units imposed conforms to the benchmarks judges have developed, that the methods developed to set the value of day-fine units are utilized, and so forth. Second, the pilot aims to determine what effects the change from a fixed-fine to a day-fine system will have on current fining practices in the court; these include changes in sentencing outcomes (such as increases in the use of fines, particularly fine-alone sentences rather than fines in combination with other penalties); in fine amounts; in collection rates and revenues; and in enforcement patterns (such as the length of time to full payment).

Third, as a further refinement, the pilot aims to

determine what penalties day fines are displacing. The pilot seeks to explore whether day fines come to be used by the court as an alternative to short jail sentences or to probation (sanctions generally regarded as more punitive than current fine sentences); whether they come to be used in lieu of less punitive sanctions such as conditional and unconditional discharges; or whether they only replace traditional fine sentences.

Overall, therefore, the research is viewed as an implementation evaluation of the pilot. It is designed to describe the day fine system and how it is introduced, what impacts this has on existing court processes, and which pre-existing sentencing categories the new day-fine sentences tap. The products of the research phase of the pilot will make available to practitioners and policymakers in other jurisdictions, as well as to scholars and researchers, the steps that were necessary to implement a day-fine system and the stumbling blocks that were encountered; additionally, the impacts -- both intended and unintended -- that occurred with the introduction of day fines will be highlighted.<sup>1</sup>

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<sup>1</sup> This research strategy does not include an attempt to measure the crime control effects of either day fines or any other sentencing option used in this court. There are several conceptual and practical reasons for this. Conceptually, it is important to know first whether a new sentence has been successfully implemented and what its immediate system impacts are before devoting substantial resources to assessing longer-range consequences. Practically, regardless of the basic design selected, studying the recidivism patterns of differently sentenced offenders would require an extensive offender-based follow-up strategy which would allow for data collection over a minimum of one to two years post completion of the sentence. Because the major focus of the current research is to assess, for policy purposes, the implications of introducing the European day-fine sys-



B. OVERALL RESEARCH DESIGN

The basic research design consists of three parts. The first is interviews and observations providing descriptive information on how day fines are actually implemented in the court. These descriptive data will be used to compare how the overall fining process was structured before and then after introduction of the day fine. The materials about current court practices developed as part of the planning effort (some of which are incorporated in this report) will be used to describe the baseline pre-day fine period. These materials provide rich detail for a description of traditional court practices and attitudes with respect to sentencing (fining in particular), the gathering of defendant information, and the collection and enforcement of fines.

The second part of the research design is a comparison of two samples of cases disposed in the Richmond Criminal Court. The first sample will consist of all felony and misdemeanor arrests disposed in the Criminal Court during calendar year 1987, the year preceding the introduction of the day fine. (This 1987 sample constitutes the "before" period in a traditional pre/post-test design.) The second or post-test sample will consist of all

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tem into an American court, that lengthy timeframe (and the costs associated with it) is not feasible. However, we will return to the crime control issue at the conclusion of our discussion of the full research design, because it is desirable that future research addressing this issue be built upon the current design.

cases disposed in the Criminal Court in the twelve months after introduction of the day fine (that is, during the pilot period which is projected to start in early 1988). Each sample will consist of approximately 6,900 dispositions, of which about 1,488 are likely to be fine sentences, 600 of which will be fine sentences to penal law charges. (These estimates are based on the 1987 rates of dispositions and sentences in the court; they may be low if, as expected, the introduction of day fines increases the judges' use of fines in penal law cases.) These samples will permit pre/post-test comparisons of various outcome measures to assess the initial impact of introducing day fines. Details of the proposed analyses are discussed in Section 2 below.<sup>2</sup>

The pre-test sample has been structured to ensure that the data reflect sentencing behavior as close as possible to the beginning of the pilot and that most of the post-sentence fine enforcement has been completed before the pilot begins. Obviously, this is to avoid contaminating the comparison cases. The cases in the post-test sample will be determined by the pilot itself -- the court will begin using the day fine on a regular basis in early 1988 and continue for a period of at least one year. How-

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<sup>2</sup> This design is similar to the one used in the major research project conducted by the Max Planck Institute to assess the effects of introducing the day fine into the West German criminal justice system in 1975. See, Albrecht and Johnson, 1980.

ever, because a period after the close of the pilot will be needed for day-fined cases to be carried through the collection/enforcement process, research data collection will continue for two or three additional months.<sup>3</sup>

These pre/post-test samples will also provide the databases necessary for the third part of the research design, which consists of applying statistical modeling techniques to estimate the extent to which day fines are displacing other traditional sentencing options. The primary statistical modeling technique we will use -- discriminant function analysis -- is described in Section 3 below; a similar approach (using logistic regression) has been used previously to estimate the jail-displacement effect of the Vera Institute's Community Service Sentencing Project. (See, Douglas Corry McDonald, Punishment Without Walls, Rutgers University Press, 1986.)

Statistical modeling is a good alternative to true experimental designs in which cases are randomly assigned to a test group (for which a new option, in this case a new sentence, is available) or to a control group (for which the new option is not available). The day-fine pilot in the Richmond court is not suited to true experimental treatment, primarily because of the

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<sup>3</sup> Data on 1986 cases analyzed during the planning period indicate that three-quarters of all currently fined cases complete payment within two months of sentence. Therefore, it should be sufficient for the relatively small number of fine cases outstanding at the end of the project period, to extend the final data collection for two to three months to provide for complete data.

small size of the bench in this rather typical suburban/small-city court, but also because the planning process has involved all the judges on the court and thus would contaminate the handling of control group cases.

There are only three judges on the Richmond Criminal Court bench, two of whom sit on a given day. This makes it virtually impossible to separate out the effects of individual judicial behavior from the effects of introducing the day fine if random assignment of cases were to be used. There are far too few judges on this bench to permit use of the two-step design that would address this problem, that is, a design which would first randomly assign judges either to the day-fine or to the fixed-fine condition and then, second, randomly assign cases to the judges. Random assignment of cases only (and not judges) would be insufficient because experience on the bench with the experimental (day-fine) condition would undoubtedly alter the behavior of the judges when they handle cases eligible only for traditional (fixed-fine) treatment.

Furthermore, while this contamination problem would exist under any circumstance, it is particularly acute in this research site. It was essential to the success of the day-fine planning process in the Richmond court that all key actors in the system be involved in this first effort to adapt the European model to an American jurisdiction. This meant not only securing the permission and commitment of the court's administrative judge,

but also actively involving all three sitting judges, the Assistant District Attorney in charge of the Criminal Court Bureau who supervises all charging and plea negotiations, and the defense bar. As a consequence, all the central participants in the disposition and sentencing process are familiar with, and supportive of, the day fine's underlying logic and structure. Furthermore, they are all committed to the pilot project's attempt to shift the court entirely away from fixed fines to day fines in penal law cases.

Research on Implementation. As indicated above, this first part of the research will be based largely, but not exclusively, on interviews and observations. With regard to the sentencing side of the fine process, researchers will observe judges in court, and interview them about their experiences implementing the new fining procedures and their attitudes toward those experiences. One key focus of this work will be to determine whether judges have difficulty using the means information provided by CJA and the project to set the value of the day-fine unit, and whether they seek clarification or additional information from other sources, including the defendant and his/her attorney.<sup>4</sup>

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<sup>4</sup> Chapters VI and V raise the issue of whether Richmond judges will use family income (in contrast to potential individual income) to determine ability to pay and to set the value of the day-fine unit for offenders who are without income streams of their own. These sections lay out guidelines for this decision developed during the planning process. However, actual practices -- the extent to which judges conform to these suggested procedures or deviate from them, thereby developing a new set of

Judges will record on the court papers the number of day-fine units, their value and the total amount of the fine. Thus, the research will be able to examine the following questions, largely relying on simple frequency counts or qualitative data: (1) In cases sentenced to a fine for a penal law violation (i.e., excluding VTL convictions), is a day-fine used in all cases; if not, why not? (2) Do the number of day-fine units set conform to the benchmarks established by the judges? and (3) Do the number of jail days set by the judges as an alternative to the day fine conform to the conversions agreed upon in conjunction with the sentencing benchmarks?

The research will also continue the procedures established during the planning period to monitor the amount and type of means information being routinely collected by the project and CJA. Periodically, researchers will select a random sample of in-coming cases and verify the accuracy of the information, as we did during the planning period (see Chapter IV).

Finally, the research will examine the collection and enforcement of day fines, using routine court-based data and data collected by the project's MIS system. The purpose of this will be to determine the extent to which the new enforcement procedures

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guidelines -- will have to be studied during the pilot test of the day fine. This will be done largely through observation on the bench and through interviews with judges, assistant district attorneys, and defense counsel.

(described earlier in this report) are actually implemented. Using interviews and observations, the research will also document how the project and the court administration integrates these new procedures into the on-going operations of the court as the pilot phases out.

Research on System Impacts. Research on the short-term impacts of the day fine on the criminal justice system will be carried out comparing the two twelve-month samples described above. Because the second, or post-test sample covers the entire pilot period after the day-fine system is introduced, it is likely that some system effects will not be visible immediately. However, the sample sizes are large enough to permit the research to examine changes in some types of behavior during the period of the pilot (e.g., frequency with which day fines are used) to know whether they become more frequent over time, particularly after the initial "start-up" period.

First, changes in sentencing patterns -- particularly in the proportion of different sentences used before and after introduction of the day fine -- will be examined. The proportion of cases in which the day fine is used, in contrast to other sanctions, will be measured controlling for charge type/severity and prior record.<sup>5</sup> It is expected that day fines will be used in all

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<sup>5</sup> Although we will examine the use of the day fine alone or in combination with other sanctions (including probation, community service or other conditions of discharge), fines in this court are now very rarely used in combination, and it is not expected

cases for which fixed fines are now used except for the VTL (largely DWI) cases in which fixed fines are statutory.

It is also anticipated that, over time, the district attorney will begin to recommend, and judges will begin to impose, day fines in a wider range of penal law cases. Pre/post-test comparisons (using frequency distributions and chi square) of cases sentenced under the penal law will include examination of the traditional range of sentencing options (jail, probation, fine/day fine, and discharge); the sentencing outcomes will also be expanded to include two newer, less traditional options that are currently available in this court -- community service and restitution as conditions of probation, conditional discharge or ACD.<sup>6</sup> It is possible that some of the procedural changes result-

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that the introduction of day fines will alter this pattern. We include this category, however, because in other jurisdictions fines are commonly used in combination and it is likely that the successful introduction of day fines (with their typically higher amounts for more affluent defendants) might alter this sentencing pattern.

There is, however, one dimension of the day fine procedure in the Richmond context that could result in day fines, on occasion, being combined another sanction. As already indicated, some day fines (for serious offenses and more affluent offenders) will exceed existing statutory maxima. In most of these cases, the judges will indicate the fine amount as established by the day-fine procedure, but will only formally sentence the offender to the statutory maximum. If, however, such a case is very serious, the judge could add an additional penalty to the fine, reflecting the gap between the statutory amount and the day-fine amount. We have no estimate of the proportion of day fines likely to exceed the statutory maximum; however, cases sufficiently serious to impel the judge to construct a composite penalty are likely to be rare.

<sup>6</sup> An ACD, or Adjournment in Contemplation of Dismissal, is not a sentence following conviction; it is technically a deferred prosecution. Under New York State statutes, the prosecutor may agree



ing from implementation of the day-fine system -- for example, the availability of enhanced means information at the time of sentencing and the court's more systematic attention to assessing offenders' ability to pay -- could affect the frequency with which restitution orders are imposed by the court (or their size).

Second, changes in fine amounts will be measured. Total fine amounts set by the court in penal law pre- and post-test cases will be examined, overall and controlling for charge and prior record. It is anticipated that, as day fines begin to reflect the variation in offenders' means, average fine amounts will rise and there will be a greater spread in fine amounts within and across penal law charge and priors categories. The first will be measured with a simple one-way analysis of variance with charge categories as the independent variable; a similar analysis will be done with number of priors, defined as a categorical variable, as the independent variable. The second will be analyzed with a homogeneity-of-variance test, such as those of Levene and Bartlett.

Using the same type of analysis, the total financial penalty

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to an adjournment of the case for six months, automatically followed by a dismissal of the charges if the prosecutor does not restore the case to the calendar. Restoring a case is rare, unless the defendant is rearrested; in Staten Island, however, restitution orders are sometimes linked to an ACD by the court and the case may be restored if restitution is not paid.'

imposed in penal law cases will be examined, to determine whether there are any changes in the amount of restitution imposed and its potential combination with fine sentences. While fines are not now imposed in conjunction with restitution in the Richmond court, this could change or, more likely, average restitution-only amounts could increase if use of this penalty expands to include more, or different, types of cases.<sup>7</sup>

Third, changes in collection outcomes and other issues associated with fine collection and enforcement will be studied. As indicated in the earlier section of this report on the revisions to be made in enforcement procedures in the Richmond court, we intend to randomly assign all post-test cases sentenced to day fines. The experimental group will be subject to the new procedures for establishing terms of payment, monitoring and enforcement, and the control group will be handled by the court in the traditional manner. In the analyses directed at this area of impact, therefore, we will be able to separate the overall collec-

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<sup>7</sup> There are two other monetary dimensions to sentences in this, as well as in other courts: attorneys' fees and bail amounts. The introduction of additional means information might increase the number of cases determined to be ineligible for a court-appointed attorney, thereby increasing the caseloads of private attorneys. However, the imposition of higher fines under a day-fine system might also influence the size of private attorneys' fees or make it more difficult for them to collect their usual fees. Unfortunately, systematic and reliable data are not available to measure either outcome directly; however, we will use interviews with key system actors and informants to determine whether or not either of these becomes an issue as the pilot project progresses. Similarly, bail amounts will be tracked to see if there are any changes with the introduction of the day-fine system.

tion/enforcement consequences of the new fine levels expected to result from introduction of the day-fine method for setting fine amounts from those resulting from the introduction of new enforcement procedures.

In the impact analyses discussed below, we will be referring to three sets of comparisons that will enable us to separate three different effects: (a) the effect of introducing the new day-fine system, which includes changes in both the court's sentencing procedures and changes in how collection and enforcement are carried out; (b) the effect of introducing the day fine per se as a new sentencing option; and (c) the effect of introducing new enforcement procedures.

By comparing the fined cases from the pre-test sample with the experimental group cases from the post-test sample, we will see (a) -- the overall impact of the day-fine system. By comparing the pre-test fined cases with the control group cases from the post-test (those subject to the traditional enforcement activities), we will see (b) -- the impact of introducing the day-fine sentence, without changing the court's enforcement activities. Finally, by comparing the post-test experimental and control groups, we will see (c) -- the effect of the new enforcement activities on the day-fine cases.

The total fine dollars collected from the pre-test fined group (penal law cases) and from each of the two post-test groups

(the experimentals and the controls) will be compared using simple t-tests. These comparisons will indicate whether the amount of revenue generated by fine sentences in penal law cases rises under the full day-fine system (by comparing the pre-test fined group with the post-test experimentals) and, if so, whether that is a result of the day-fine sentence itself (by comparing the pre-test fined group and the post-test controls), or primarily the result of the new collection activities (a comparison of the post-test experimentals and controls). Similarly, the collection rates before and after the introduction of the day fine will be analyzed. Using chi square, we will test for significant differences among the three groups in the proportion of offenders who pay in full (expressed as a dichotomous variable) and the fine dollars collected expressed as a proportion of total fine dollars levied by the court.<sup>8</sup> Other measures reflecting collection patterns will also be analyzed using analysis of variance; these will include such things as the number of calendar days until full payment occurs, the number of post-sentence court appearances, the frequency with which warning letters, warrants, etc. are issued.

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<sup>8</sup> The fine literature typically defines the concept of a court's "collection rate" by these two measures -- the proportion of fined offenders who pay in full and the proportion of fine dollars levied by the court which is collected. While these two indicators are sometimes confused in discussions about how successful fine enforcement is in a particular court, they are both significant dimensions of this process and will be used in this evaluation.

Conceptually, the "enforcement" process does not begin until a fined offender fails to meet the initial terms of payment set by the court at sentencing, and more coercive methods are employed to ensure the fine obligation is met (Hillsman et al., 1984:73ff; Casale and Hillsman, 1986:94ff). In the Richmond court, however, such things as formal installment schedules for payment of the fine are not typically established. Instead, the offender either pays the fine on the date of sentence, or the case is calendared for a future date (about one month) at which time full payment is expected. If full payment is not made at this point, the chief court clerk is authorized by the court to set another adjourn date after which the offender must come before a judge to discuss payment.

Under such a system, it is difficult to define when the original "terms of payment" have been violated and thus when the enforcement, rather than the collection, process is formally under way. For the purposes of this research, therefore, the impact of the day-fine system on fine collection patterns will be measured first by comparing all offenders fined for penal law offenses in the pre/post-test samples, and comparing the post-test sample fined offenders assigned to the experimental and control groups as described above. Using chi square, we will compare the proportion who pay on the date of sentence, and using analysis of variance (or chi square if appropriate) we will compare a variety of other measures including the length of time between

sentence and full payment, the number of partial payments made, and the number of post-sentence court appearances.

Finally, changes in the fine enforcement outcomes resulting from the day-fine system will be analyzed by comparing the same three groups to separate out sentence and enforcement impacts; we will use chi square and t-tests, as appropriate. The main focus of these analyses is the final outcome for fined offenders who do not pay in full, primarily the proportion imprisoned for default (including those for whom a jail days alternative has been executed and those resentenced to imprisonment) and the proportion who remain out on a warrant for default.<sup>9</sup> In addition, there is one other measure of enforcement outcomes: the proportion of fined offenders for whom a warrant is ordered during the enforcement process (i.e., warrants other than the warrant representing the final status of the fine case) and the average number of such interim warrants.

Before concluding this discussion of enforcement outcomes, it is necessary to address the issue of the impact of fines, and fine enforcement, on the offender. The concept of the day fine

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<sup>9</sup> All these outcomes are clearly failures of the fining process, including fined offenders who must be resentenced to a non-custodial sentence, because the purpose of the original sentence -- to use monetary deprivation as a penalty -- has not been accomplished. However, only those offenders who remain out on warrants are exclusively enforcement failures; imprisonment for default or resentence to a non-fine is a successful enforcement of the original sanction even if it is not a desirable outcome of the fine sentence. (We might also include very slow payers as potential enforcement failures.)

is specifically addressed to the difficulty, endemic to tariff or fixed-fine systems, of simultaneously taking into account the means of the offender as well as the seriousness of the offense. Setting a fine amount using a day-fine system should create a more enforceable sentence because the amount due the court should be a punitive, but payable, amount. However, the extent to which the fine amount is more equitable in its punitive effect is not measurable directly. If the collection and enforcement measures indicate that day fines are as readily, or more readily, collected without resorting to more frequent coercive actions (e.g., arrest warrants, imprisonment for default) then it is likely that day-fine systems are achieving the goals intended. Nevertheless, these measures do not reveal directly the level of hardship undergone by offenders to pay fines or how they obtain the money to pay the fines.

Two research strategies will be employed to address this issue of equity; one is comparative and quantitative (using the pre/post-test design) and the other is qualitative and looks only at day-fine cases. The qualitative, non-comparative strategy involves selecting a sample of fined offenders during the pilot period (using a strategic rather than random sampling method) which reflects defendants of fewer and greater means who are fined relatively high amounts, and interviewing them periodically post-sentence. The purpose of these interviews would be to describe

how they report obtaining the resources to pay the fines and what, if anything, they are doing without to fulfill their obligation to the court. (The model for this set of interviews is a 1973 study in England by Softley.) While it would be possible to develop a comparable set of cases from the pre-day fine sample, it is not likely that these offenders could reliably reconstruct what it took for them to raise the money to pay the fine.

The comparative strategy relies first on regression analysis to predict those among the penal law fined offenders in the pre-test group and in the post-test group who pay in full, and to predict the speed with which they pay. We would like this analysis to indicate whether income becomes less significant as a predictor of payment after introduction of the day fine. We will use logistic regression to predict the dichotomous dependent variable (pay/not pay), and multiple regression to predict the continuous dependent variable (number of days to full payment). The types of predictor variables to be used include charge, prior record, demographic variables, means information, and fine amount. In both these analysis, if income has less predictive power after introducing the day fine, we would see it as an indication that poorer offenders are having a less difficult time paying the day fines.<sup>10</sup>

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<sup>10</sup> These analyses depend upon whether complete enough means information will be found on the CJA interview forms for the pre-test period. Regardless, these analyses will be restricted to cases in custody at arraignment; CJA does not interview DAT (Desk Appearance Ticket) cases prior to arraignment, a task the Vera day-fine project staff will carry out during the pilot.



Research on Displacement. The final central research issue for the day-fine pilot is to determine which traditional sanctions day fines are displacing. The key question is whether, over the course of the pilot, sentencing judges begin to use day fines in penal law cases other than those in which they are currently using fixed fines. As we have already indicated, an experimental design randomly assigning judges and cases would be useful to address this question; but it is not feasible. There are, however, quite powerful statistical alternatives which also provide some types of information not readily obtained through an experiment. Vera's evaluation of the Community Service Sentencing Program in New York City is an example of such an alternative (McDonald, 1986).

In his research, McDonald statistically modeled actual sentencing decisions made by judges in a large sample of cases. Using logistic regression, McDonald undertook an iterative statistical process until a model was built that correctly predicted his dependent variable (the in/out or jail/non-jail sentencing outcome) in well over three quarters of the cases in the three jurisdictions he studied (the range was from 78% to 87%). This statistical model was then applied to the research population -- all cases sentenced by the courts to a Vera Institute Community Service Sentence -- to estimate the proportion of cases that, in the absence of this new sentencing option,

would have been sentenced to a jail term.

In our research on the day-fine pilot, we propose to use a similar approach to determine which traditional sentences day fines are displacing. However, while McDonald was interested only in estimating the proportion of cases in the research sample that would have been jailed in the absence of the new sentencing option, we want to know what proportion of the penal law cases sentenced to day fines during the pilot would have been sentenced to a term of imprisonment or probation, to a traditional fixed fine or to a conditional/unconditional discharge had the day-fine option not been available.

We propose to use a discriminant function analysis to determine what factors discriminate among the different sentencing outcomes as categorized by probation, jail, fine, conditional/unconditional discharge. This procedure will tell us both what factors characterizing the defendant and the case are associated with these different sentencing choices, and what the sentence would have been if no day fine option had been available. This analysis will answer the question: what traditional sentences are the day fines displacing?<sup>11</sup>

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<sup>11</sup> Although we will explore further the possibility of using logistic regression for this analysis (because this statistical technique handles the problem of heteroscedasticity whereas discriminant function analysis does not), we are not inclined in this direction because logistic regression is most commonly used when the dependent variable is dichotomous (e.g., in/out); when the dependent variable is polytomous, this technique is more difficult to apply.

The approach we will use is as follows. To develop a model that accurately differentiates cases receiving different sentences in the pre-day fine period, we will split the 1987 pre-test sample into two randomly selected halves. The first half will be used to develop the model (using about 20 independent variables characterizing the case and the offender) and the second half will be used to test how accurately the model so developed predicts (or classifies) the actual sentencing outcomes used by the court in the 1987 cases.<sup>12</sup>

The functions derived through this method to discriminate among the four main sentencing options will then be applied to each case coming into the court after the introduction of the day fine. Each post-test sample case will be classified according to the criteria used by the court during the pre-day fine period to determine the sentencing category in which it would have been placed had there been no day-fine option. The results of this analysis will be displayed as a cross-tabulation, with the

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<sup>12</sup> The variables to be included in this analysis will include, but are not restricted to, the following: whether the case came into court through an arrest or a desk appearance ticket; charge type/severity at arraignment and at sentence; custody status at sentence; number of prior arrests and convictions; number of open cases; number of days since last conviction; prior imprisonment sentences; number of days between arraignment and disposition; ethnicity, age, marital status and gender of offender. McDonald found for the other New York City Criminal Courts that custody status, length of time since last conviction and whether the last conviction resulted in an imprisonment sentence were highly predictive of whether or not a case received an imprisonment sentence for the instant arrest.

predicted sentencing outcome (based on sentencing behavior during the pre-test period) displayed down the left side and the actual sentence (as found in the post-test sample) across the top. The diagonal of the table will show the proportion of cases in which the same sentence was the outcome (e.g., fine/day fine). Remaining cells will show, for example, the proportion of cases the model estimates would have been jailed in the previous year (in the absence of the day fine option) but which actually received a day fine.

This statistical process will thus not only provide an estimate of the extent to which each of the traditional sentences is being displaced but it will also provide some understanding of what factors influence the decision-making process in the Staten Island court. It is this latter contribution of a post-hoc statistical design that makes it somewhat richer, and certainly more complex, than an experimental design which provides information primarily about outcomes.<sup>13</sup>

#### C. SOURCES OF DATA

Several computerized and manual databases will be needed to provide the substantial amount of data necessary to research the pilot.

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<sup>13</sup> Nevertheless, it is important to recognize that outcome estimates (in this case displacement effects) made with a true experimental design are more certain than those made with any other design, including the statistical modeling proposed here.

The pre/post-test samples will be drawn from the computerized database of the New York City Criminal Justice Agency. CJA maintains full appearance histories for all cases (desk appearance tickets as well as arrests) arraigned in the New York City Criminal Court. This includes the charge history of the case and limited custody status information; for fine cases, it includes post-sentence information on payments, warrants, execution of jail days alternatives and resentences. The database also includes some key demographic information, such as age, and a prior criminal history summary (number of previous misdemeanor and number of previous felony convictions) as well as the number of open cases. (For a more detailed example of the types of information relating to fine cases in the CJA system, see Appendix D: the variable lists and codebook used during the planning process to analyze fine sentencing and enforcement during the first half of 1986.)

Other data sources will be needed to supplement the CJA database for purposes of this research. Fuller prior criminal history records will be needed for the statistical analysis of displacement.<sup>14</sup> Two sources of information will be used: CJA's archival data (previous arrests and dispositions can be linked to the current case through the New York State NYSIS identification

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<sup>14</sup> As indicated above, McDonald's analyses indicate that in New York City, whether or not the offender was imprisoned for his/her last conviction and the length of time since that last conviction are important predictors of a jail sentence for the current offense.

number); and RAP sheets obtained from the Division of Criminal Justice Services through the New York City Police Department.

Information will also be obtained from the manual records of CJA's pretrial interviews. As indicated in our discussion of means information, CJA conducts face-to-face interviews with all defendants (except DAT cases) to provide information relevant to the arraignment judge's release decision. The research will need important demographic and means-related data from this interview that are not now computerized by CJA. In addition, parallel data on DAT cases will be obtained from Day-Fines Pilot Project staff in the court who will be conducting means interviews for cases not handled by CJA. These data will be entered into the Day-Fines Pilot Project MIS, which will also contain all the relevant collection and enforcement data needed both for the operation of the pilot and for the research. A copy of the data elements to be included in the MIS is attached as Appendix F. The MIS will be maintained on a daily basis by the pilot project staff and will contain information from the court's records and calendars, as well as from the staff's records of their own enforcement activity. The MIS will be on a micro-computer; quality control will be supervised by the Research Department, and the data routinely transferred to the research database on floppy disks.

Access to these various manual and computerized databases for the purposes of the day-fine program and research have been

assured by the appropriate agencies, with which the Vera Research Department has long-standing relationships. Much of the work of developing the data collection forms has already been done during the process of preparing data for the planning process. These have already been noted, and may be found in Appendices C (Means Information); E (Restitution Information); D (Fine Enforcement Information); and F (Pilot MIS).

#### D. FUTURE RESEARCH ON DAY FINES

The proposed research on the Richmond Day-Fine Pilot Project will provide a wealth of descriptive and evaluative information on this first attempt to systematically introduce the Northern European system of means-related fining into an American court. These materials will be an important basis for practitioners around the county to assess whether they wish to adapt the day-fine model to their own particular court systems. They will be a guide for courts that decide to proceed by identifying issues that must be addressed, methods that might be used, problems and successes that resulted in this first attempt. It is not expected that this pilot and its research will provide a pure means-based fining model for every court to follow; rather this effort is viewed as an example of a principled and systematic process -- planning and implementation -- which identifies the central questions and issues to be addressed in re-structuring a court's fine system and illustrates at least one method of ad-

addressing those issues in a systematic manner guided by principle and precedent.

This research will leave several important questions unanswered. One of these involves whether such a planning and implementation process can be duplicated in another jurisdiction, one dissimilar from the suburban Staten Island court and community. If it can be, what shape and form would it take? And, what would the outcomes be? No one-site demonstration can provide the answers. It is anticipated, therefore, that the Vera Institute will seek to replicate this project in at least one additional site, preferably one that is more urban, with a greater proportion of offenders living at the poverty level. The Superior Court of Maricopa County in Phoenix, Arizona -- which is a felony jurisdiction and a high-volume urban court -- has expressed interest in being this second site, and applications are underway to secure funding to move forward.<sup>15</sup> The overall research design, therefore, has been structured so that the essential analyses can be carried out in jurisdictions other than New York and with adaptations of the day-fine project that are not in all respects the same as the Richmond project. This should en-

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<sup>15</sup> Several other jurisdictions have also expressed interest in adapting the day-fine concept to their courts. Minneapolis, for example, has already established a planning group, initiated by the Hennepin County Attorney but including all the relevant court, administrative, probation, police etc. policy makers in the jurisdiction. Vera staff are working with this group in an advisory capacity, as we are with planners in Portland, Oregon.



hance the knowledge-building that results from the anticipated replications.

The other major question that cannot be addressed by the proposed Richmond pilot research is that of crime control effects of day fines. As already indicated, the crime control effects of virtually any sanction are difficult to assess; the best method -- random assignment to sanction -- is notoriously hard to implement. However, some statistical approaches to this question have been undertaken. Albrecht (1980) studied the German day-fine system using a pre-post design. He then followed the offenders in both samples who were sentenced to short jail sentences, probation and fines for a period of time in order to analyze their rates of recidivism. In these analyses, Albrecht held constant a variety of case and defendant variables to create, as much as possible, statistically similar groups for comparison. The findings were favorable to the fine sentences, but more important for our discussion, Albrecht's analyses could be replicated -- at a later date -- by adding recidivism data to the research data collected during the proposed Staten Island pilot. In addition, should the work currently underway at the University of Southern California by Professor Daniel Glaser (1987) be successful in developing a model for predicting alternative penalties and recidivism, it might also be adapted to these samples. As indicated above, such a study is viewed as a subsequent effort and not part of the present design; however, the

design will take into account the desirability of conducting a recidivism study at a later date and will include as many appropriate variables as possible in the database.

## CHAPTER VIII

### THE NEXT STAGE: IMPLEMENTING THE DAY-FINE PILOT PROJECT

#### A. Introduction

Chapters I and II of this report discuss the reasons for initiating this complex Day-Fine Planning Project: namely, the need judges and other sentencing decisionmakers in this country have expressed for a wider range of intermediate sentences which delivery effective punishment while avoiding unnecessary use of already over-subscribed jail space; and, in particular, the need for a method of making monetary penalties more usable. These chapters provide a detailed description of the planning process undertaken by the Vera Institute to demonstrate that practitioners and experienced criminal justice planners, working together, could design a feasible strategy for meeting this need by adapting the Western European day-fine model to an American jurisdiction.

In Chapters III through VIII we have presented the products of that collaborative effort: operational plans for how key dimensions of a day-fine demonstration project -- imposition of day-fine sentences, enhanced enforcement, and research -- will be implemented in the Richmond County Criminal Court. While some work remains to be completed (summarized below), practitioners in the court are eager to begin, and Vera planners and researchers believe this is possible early in 1988 if our request to the National Institute for continuation support meets with approval.

In the remainder of this chapter, therefore, we will do three things. First, we will briefly point to those areas of the plan for the demonstration that are still incomplete, both significant procedural issues and more mundane "housekeeping" ones. Second, we will present a timetable, work plan, and staffing structure for the proposed day-fine demonstration project. Third, we will outline a budget of \$313,969 for the 16-month project, of which \$250,000 is sought from the National Institute.

#### B. Remaining Work

The central conceptual and operational issues initially facing the Richmond court, prosecutors, defense bar and Vera planners have all be addressed. The Day-Fine Benchmark Scales are in place; the formula for valuing the day-fine unit is designed; the enforcement strategy is articulated; and the research design is complete. The planning group, however, has several subsidiary issues remaining on its agenda for which deliberations have not yet been concluded. While most are relative small points, they are significant and need resolution before the day-fine procedures can be put into full operation. All have been noted in the text of the report, but bear summarizing here.

Procedural issues. Key among the procedural issues is specification of the circumstances under which family income rather than individual income should be used. This valuation issue was discussed at length in Chapter IV. The planning group also needs to agree upon a conversion rate for using both community service days and jail days in lieu of day fines. For each of these

topics, proposals have been narrowed and the planning group is actively debating the alternatives. Further work is also needed by Vera planners to secure the assistance of other criminal justice agencies in the process of warrant service and property seizure. Similar procedural linkages have been established for other Vera projects, and we are hopeful that they will be extended to the day-fine project as well.

Finally, on the research side, some procedural issues remain about the recording of case information and how that information will flow into Vera's research files. No questions exist about access to necessary information, only about how to compile it in an efficient manner.

Housekeeping issues. The most important of the operational tasks to be completed by the start of the pilot project are hiring two project staff people to be located in the Richmond Criminal Court and programming the pilot's MIS to the specifications outlined in Appendix F. Work will begin on both in early January. We anticipate hiring staff from the local Staten Island community for the positions of Day-Fines Officer and Day-Fines Aide. Laura Winterfield of the Vera research staff, who has worked on the day-fine planning effort and who will manage the day-to-day research work for the demonstration project, will refine the MIS specifications to meet all the final program and research needs of the project, and a Vera MIS-programmer will write the actual code. This work will be complete by mid-February.

Other housekeeping issues include completing plans for the Richmond Day-Fine Office, in space contributed by the court; pre-

paring the value tables, the assessment tables, and the earnings tables for typical occupations which will facilitate the judges' routine calculation of day-fine amounts using the valuation formula designed for the pilot; and completing final drafts of the research instruments and the enforcement reminder and notification letters.

C. Project Timetable

The demonstration project is expected to be completed in sixteen months, beginning March 1st, 1988. The remaining planning work (section B above) will be completed in January and February. It is also anticipated that the Richmond court personnel and Vera staff will spend much of February pre-testing the day-fine procedures and refining them, in anticipation of beginning to implement the full-scale pilot in March. The operational side of the pilot -- gathering means information, imposition of day fine sentences, and enhanced enforcement -- will last twelve months, after which the procedures will either merge into normal court operations or be abandoned.

The research side of the project will begin at the same time, March 1988, and continue for the full sixteen month period. Research staff will begin by collecting and analyzing the pre-test sample data; simultaneously, they will be accumulating data on the post-test sample as cases are sentenced and day-fine cases are subject to collection and enforcement action. Final data collection on the enforcement of day-fine cases will occur during months thirteen and fourteen, while the final data analyses using both samples are being completed. The draft final report

will be submitted to the National Institute at the end of month sixteen, June 1989; the database will be archived and transferred to the University of Michigan after final revisions are made to the report.

D. Products. The Vera Institute will provide quarterly reports and a final report, as required by the NIJ, and will also be prepared to host a site-visit for interested practitioners and NIJ staff once the day-fine pilot operations are underway. In addition, both Dr. Hillsman and Ms. Greene have written and spoken extensively on fines and on day fines and will continue to do so. It is expected that several professional publications, aimed at both scholarly and practitioner audiences, will be prepared to describe the results of the demonstration. Indeed, early in the sixteen month project (May-June 1988), discussions of the Richmond Day-Fine Planning Project will appear in two practitioner-oriented periodicals: Judicature (Hillsman and Greene, 1988 forthcoming) and The Justice System Journal (a special issue devoted to NIJ-sponsored fines research, edited by Hillsman).

E. Project Administration and Staffing

The demonstration project will be co-administered by Sally T. Hillsman, Director of Research at the Vera Institute and Judith A. Greene, Director of Court Programs, who have collaborated on the planning phase of this project. (Their resumes are appended and a list of their relevant writings included in the attached bibliography.)

The research dimension of the project will be managed by Dr. Laura Winterfield, a Senior Research Associate who has been with the Vera Research Department since 1984. She is highly experienced in the management of large-scale evaluation research, sophisticated statistical analysis (including discriminant function analysis) and the design and management of court-based management information systems. (Her resume is also appended.)

These principal staff will be supported by an experienced Vera planner, Julie Macht, and by two additional members of the Research Department: Robert Heffernan, Senior Research Associate and Department Statistical Programmer, and an as yet un-named Research Associate who will be an experienced criminal justice field observer and interviewer.

The two on-site project staff, to be located in the Richmond Criminal Court, will be newly hired, preferably from the Staten Island community. Their day-to-day work will be supervised by Ms. Greene.

#### F. Project Budget

A full budget and budget narrative accompany this report. The sixteen month Richmond Day-Fine pilot project is expected to cost \$314,509, of which \$250,000 is requested from the National Institute of Justice as a continuation of the planning grant. Vera intends to raise the additional \$64,509 for this demonstration project from local funding sources, including private foundations. In addition, resources are available for this project from the Vera Institute's unrestricted income and from its planning and technical assistance contract with the New York City Police Department.



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APPENDIX A

CRIMINAL COURT SENTENCES IN RICHMOND COUNTY, NEW YORK  
FOR CASES ARRAIGNED DURING THE FIRST HALF OF 1986

- Table 1. Final Disposition in Criminal Court,  
by Affidavit Charge
- Table 2. Criminal Court Sentence by Affidavit Charge  
(Felony/Misdemeanor)
- Table 3. Criminal Court Sentence by Affidavit Charge  
(UCR Charge Type)
- Table 4. Affidavit Charge Type for Criminal Court Fined Cases
- Table 5. Fine Amounts in Criminal Court by Affidavit Charge
- Table 6. Fine Enforcement Outcomes, Richmond County  
Criminal Court
- Table 7. Post-Sentence Criminal Court Appearances  
by Fined Offenders
- Table 8. Post-Sentence Criminal Court Appearances for  
Fined Offenders: Type of Action Taken



Richmond Day-Fines Planning Project

Criminal Court Sentences in Richmond County, New York

For Cases Arraigned During First Half of 1986

NOTE: The sample upon which these tables are based consists of all Richmond County arrests during the first half of 1986 (January - June) arraigned in the Richmond Criminal Court, including Desk Appearance Tickets. Of the total 2357 cases arraigned, 824 had reached sentence as a misdemeanor in the Criminal Court by 5 December 1986. The remainder either had failed to appear for a hearing and had a warrant ordered for their arrest, had been transferred to another jurisdiction, had been dismissed, or they had been transferred to the Richmond County Supreme Court for prosecution as a felony.

The tables which follow focus on various sub-groups of this sample, particularly the 824 cases sentenced in the Criminal Court and the 372 of the 387 cases sentenced to a fine on which post-sentence collection and enforcement data are available.

These data were provided for planning purposes only by the New York City Criminal Justice Agency; as such they are preliminary and unverified.

TABLE 1

Final Disposition in Criminal Court, by Affidavit Charge

Final Disposition	Affidavit Charge		
	Felony	Misd./Other	Total
Pled guilty in CC	29.0% (210)	39.1% (638)	36.0% (848)
Dism/ACD	34.1 (247)	42.6 (695)	40.0 (942)
Warrant Ordered	5.4 (39)	12.2 (199)	10.1 (238)
Case Continued	4.7 (34)	4.9 (80)	4.8 (114)
Trans. Supreme Court	26.7 (194)	0.6 (10)	8.6 (204)
Trans. Other Jurisd.	0.1 (1)	0.6 (10)	0.5 (11)
Total	100.0% (725)	100.0% (1632)	100.0% (2357)



TABLE 2  
Criminal Court Sentence by Affidavit Charge

Sentence*	Affidavit Charge		
	Felony	Misd./Other	Total
Fine	16.1% (32)	56.8% (355)	47.0% (387)
CD/UD	33.2 (66)	26.1 (163)	27.8 (229)
Imprisonment	27.1 (54)	16.0 (100)	18.7 (154)
Probation	23.6 (47)	1.1 (7)	6.5 (54)
Total	100.0% (199)	100.0% (605)	100.0% (824)

\* Most fine sentences are fine-only sentences (75%); the remainder are fines plus a conditional discharge.

Imprisonment sentences in the Criminal Court may not exceed one year.

Conditional Discharges may contain an order of the court for the offender to pay Restitution to the victim and/or to do a specified number of hours of Community Service under the supervision of the Probation Department; cases in which prosecution is deferred (shown on Table 1 as ACDs, Adjournments in Contemplation of Dismissal) may also be required by the court to pay restitution or prosecution will be resumed.

**TABLE 3**  
**Criminal Court Sentence by Affidavit Charge**  
**(percent/number)**

Affidavit Charge (UCR)	Conditional or Unconditional Discharge	Fine	Imprisonment	Probation	TOTAL
A. Robbery	14 (3)	14 (3)	45 (10)	27 (6)	100% (22)
B. Aggravated Assault	50 (13)	15 (4)	19 (5)	15 (4)	100% (26)
C. Burglary, Breaking & Entering	41 (12)	--	21 (6)	38 (11)	100% (29)
D. Larceny/Theft	37 (42)	17 (19)	32 (37)	15 (17)	100% (115)
E. Drugs	24 (7)	34 (10)	24 (7)	17 (5)	100% (29)
F. Marijuana	20 (10)	68 (34)	12 (6)	--	100% (50)
G. Weapons	36 (5)	43 (6)	21 (3)	--	100% (14)
H. Stolen Property	20 (9)	48 (22)	24 (11)	9 (4)	100% (46)
I. Criminal Mischief	67 (16)	4 (1)	29 (7)	--	100% (24)
J. Simple Assault	70 (46)	21 (14)	8 (5)	2 (1)	100% (66)
K. Driving under the Influence	2 (3)	95 (144)	2 (3)	1 (1)	100% (151)
L. Other Fingerprinted Offenses	27 (43)	62 (98)	10 (16)	1 (1)	100% (158)
M. Miscellaneous*	30 (18)	48 (29)	21 (13)	2 (1)	100% (61)
N. Prostitution	6 (2)	9 (3)	85 (28)	--	100% (33)

\* Including: negligent manslaughter, forcible rape, arson, bribery, other sex offenses, forgery, fraud, gambling (bookmaking), gambling (other), offenses against family, unauthorized use of vehicles, possession of burglar's tools, disorderly conduct, loitering, other.

TABLE 4

Affidavit Charge Type for Criminal Court Fined Cases

Affidavit Charge Type	Specific Charges	(N)	Percent
<u>Vehicle &amp; Traffic Law</u>	DWI	(134)	58%
	Agg. Unlicensed Oper.	(80)	
	Other	(2)	
<u>Drug Offenses</u>	Sale Marijuana	(30)	13%
	Poss. Controlled Substance, Marijuana, Hypodermic	(18)	
<u>Property Offenses</u>	Criminal Possession Stolen Property	(22)	11%
	Petit Larceny	(16)	
	Grand Larceny, Crim. Mis- chief, Poss. Burg. Tools	(3)	
<u>Misconduct</u>	Gambling	(10)	5%
	False Reporting, Criminal Trespass, Dis Con	(8)	
	Other	(2)	
<u>Harm to Persons</u>	Assault	(9)	4%
	Menacing, Reckless Endangerment	(4)	
	Endanger Welfare Child	(2)	
<u>Theft</u>	Theft of Services, Forgery, Fraud	(12)	3%
<u>Weapons</u>	Weapons Possession	(6)	2%
<u>Harm Person &amp; Property</u>	Robbery	(3)	1%
<u>Sex Crimes</u>	Prostitution, Public Lewdness	(5)	1%
<u>Obstructing Justice</u>	Resisting Arrest	(4)	1%
TOTAL		(371)	100%

TABLE 5

Fine Amounts in Criminal Court by Affidavit Charge  
(percent/number)

Affidavit Charge (UCR)	\$25-50	\$51-100	\$101-200	\$201-300	\$301-500	\$501-1000	(n)
A. Robbery	100 (3)	--	--	--	--	--	100% (3)
B. Aggravated Assault	--	50 (2)	25 (1)	--	25 (1)	--	100% (4)
C. Larceny/Theft	37 (7)	37 (7)	21 (4)	5 (1)	--	--	100% (19)
D. Drugs	40 (4)	10 (1)	--	20 (2)	30 (3)	--	100% (10)
E. Marijuana	12 (4)	38 (13)	21 (7)	18 (6)	9 (3)	3 (1)	100% (34)
F. Weapons	33 (2)	33 (2)	33 (2)	--	--	--	100% (6)
G. Stolen Property	68 (15)	5 (1)	9 (2)	14 (3)	5 (1)	--	100% (22)
H. Criminal Mischief	--	100 (1)	--	--	--	--	100% (1)
I. Simple Assault	43 (6)	21 (3)	21 (3)	14 (2)	--	--	100% (14)
J. Driving under the Influence	3 (5)	--	1 (1)	74(107)	22 (31)	--	100%(144)
K. Other Finger-printed Offenses	9 (9)	7 (7)	76 (74)	6 (6)	1 (1)	1 (1)	100% (98)
L. Miscellaneous	14 (4)	17 (5)	10 (3)	14 (4)	17 (5)	28 (8)	100% (29)
M. Prostitution	66 (2)	--	--	33 (1)	--	--	100% (3)
TOTAL	15.8 (61)	10.9 (42)	25.1 (97)	34.1(132)	11.6 (45)	2.3 (10)	100.0% (387)

Median = \$200      Mean = \$220      25% = \$100      75% = \$250      90% = \$350

TABLE 6

Fine Enforcement Outcomes:  
Richmond County Criminal Court

---

Fine Paid in Full	73.7%	(274)
Re-Sentence*	3.0	(11)
Executed Jail Days Alt.	4.0	(15)
Case Continued	5.1	(19)
(Partial Payment Made)	(1.6)	(6)
(No Payments)	(3.5)	(13)
Arrest Warrant Outstanding	14.2	(53)
(Partial Payment Made)	(1.6)	(6)
(No Payments)	(12.6)	(47)

---

TOTAL FINED CASES	100.0%	(372)
-------------------	--------	-------

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\* Over half (55%) were re-sentenced to a punishment including a term of imprisonment; the remainder were sentenced to a reduced fine, a conditional discharge, time served pretrial, or some combination of these.

TABLE 7

Post-Sentence Criminal Court Appearances  
by Fined Offenders

Number of Appearances	Proportion of All Offenders	Proportion of All Who Appeared Post-Sentence
None (Paid in Full at Sentence)	26%	--
1 Appearance	39	52%
2 Appearances	17	23
3 Appearances	8	10
4 Appearances	5	6
5-12 Appearances	6	9
Total 583 Appearances	100% (372)	100% (277)

TABLE 8

Post-Sentence Criminal Court Appearances for Fined  
Offenders: Type of Action Taken

Action at Appearance	Number of Appearances	Percent
Payment Made (Full or Partial)	270	46%
Arrest Warrant Ordered	167	29
Continuance	100	17
Other Action (Re-Sent., Ex. Days Atl., etc.)	46	8
Total Number of Appearances		

APPENDIX B

RICHMOND DAY-FINE BENCHMARK SCALES





## OFFENSES INVOLVING HARM TO PERSONS:

### 120.00 AM ASSAULT 3: range of 20 - 95 DF

- |  |               |
|--|---------------|
| A. SUBSTANTIAL INJURY  | 81 - 95 - 109 |
| Stranger to stranger; or, where victim is known to assailant, he/she is weaker, vulnerable   |               |
| B. MINOR INJURY  | 59 - 70 - 81  |
| Stranger to stranger; or, where victim is known to assailant, he/she is weaker, vulnerable; or, altercations involving use of a weapon |               |
| C. SUBSTANTIAL INJURY  | 38 - 45 - 52  |
| Altercations among acquaintances; brawls   |               |
| D. MINOR INJURY  | 17 - 20 - 23  |
| Altercations among acquaintances; brawls   |               |

### 110/120.00 BM ATTEMPTED ASSAULT 3: range of 10 - 45 DF

- |  |              |
|--|--------------|
| A. SUBSTANTIAL INJURY  | 38 - 45 - 52 |
| Stranger to stranger; or, where victim is known to assailant, he/she is weaker, vulnerable   |              |
| B. MINOR INJURY  | 30 - 35 - 40 |
| Stranger to stranger; or, where victim is known to assailant, he/she is weaker, vulnerable; or, altercations involving use of a weapon |              |
| C. SUBSTANTIAL INJURY  | 17 - 20 - 23 |
| Altercations among acquaintances; brawls   |              |
| D. MINOR INJURY  | 8 - 10 - 12  |
| Altercations among acquaintances; brawls   |              |

120.15 BM MENACING: range of 30 - 45 DF

A. THREAT OF SERIOUS PHYSICAL INJURY 38 - 45 - 52  
Stranger to stranger; or, where victim is weaker,  
vulnerable

B. THREAT OF SERIOUS PHYSICAL INJURY 25 - 30 - 35  
Altercations among acquaintances; brawls

120.20 AM RECKLESS ENDANGERMENT 55 - 65 - 75

110/120.20 BM ATTEMPTED RECKLESS ENDANGERMENT 17 - 20 - 23

130.20 AM SEXUAL MISCONDUCT: range of 90 - 120 DF

A. SEXUAL INTERCOURSE 102 - 120 - 138  
Without consent involving forcible compulsion

B. SEXUAL INTERCOURSE 76 - 90 - 104  
Where victim is incapable of consent or under  
the age of fourteen

130.55 BM SEXUAL ABUSE 3 38 - 45 - 52

130.60 AM SEXUAL ABUSE 2 85 - 100 - 115

135.05 AM UNLAWFUL IMPRISONMENT 2 55 - 65 - 75

260.10 AM ENDANGERING THE WELFARE OF A CHILD: range of 20 - 90 DF

A. Serious physical injury with indication 76 - 90 - 104  
of neglect by parent or guardian

B. Neglect of a child involving substantial  
risk of serious physical injury 42 - 50 - 58

C. Neglect of a child 17 - 20 - 23

PROPERTY AND THEFT OFFENSES:

140.05 vio TRESPASS	4 - 5 - 6
140.10 BM CRIMINAL TRESPASS 3	17 - 20 - 23
140.15 AM CRIMINAL TRESPASS 2	42 - 50 - 58
110/140.15 BM ATTEMPTED CRIMINAL TRESPASS 2	25 - 30 - 35
140.35 AM POSSESSION OF BURGLARY TOOLS	42 - 50 - 58
145.00 AM CRIMINAL MISCHIEF 4: range of 5 - 60 DF (damage to property scaled as for petit larceny)	
110/145.00 BM ATTEMPTED CRIMINAL MISCHIEF 4: range of 5 - 30 DF (damage to property scaled as for attempted petit larceny)	
145.14 BM CRIMINAL TAMPERING 3	17 - 20 - 23
145.15 AM CRIMINAL TAMPERING 2	42 - 50 - 58

155.25 AM PETIT LARCENY: range of 5 - 60 DF

\$1000 or more	51 - 60 - 69
700 - 999	42 - 50 - 58
500 - 699	34 - 40 - 46
300 - 499	25 - 30 - 35
150 - 299	17 - 20 - 23
50 - 149	8 - 10 - 12
1 - 49	4 - 5 - 6

110/155.25 BM ATTEMPTED PETIT LARCENY: range of 5 - 30 DF

\$1000 or more	25 - 30 - 35
600 - 999	17 - 20 - 23
350 - 599	13 - 15 - 17
150 - 349	8 - 10 - 12
1 - 149	4 - 5 - 6

110/155.30 AM ATTEMPTED GRAND LARCENY: range of 20 - 65 DF

A. PURSE SNATCH	55 - 65 - 75
Regardless of amount of value	
B. EXTORTION	55 - 65 - 75
Regardless of amount of value	
C. VALUE EXCEEDING \$1000	51 - 60 - 69
D. STOLEN CREDIT CARD	51 - 60 - 69
E. STOLEN MOTOR VEHICLE: range of 20 - 60 DF	
(car value scaled as for petit larceny)	

165.05 AM UNAUTHORIZED USE OF A VEHICLE 3: range of 5 - 60 DF

(car value scaled as for petit larceny)

165.09 AM AUTO STRIPPING 2	8 - 10 - 12
165.40 AM CRIMINAL POSSESSION OF STOLEN PROPERTY 5: range of 5 - 60 DF (property value scaled as for petit larceny)	
110/165.40 BM ATTEMPTED CRIMINAL POSSESSION OF STOLEN PROPERTY 5: range of 5 - 30 DF (property value scaled as for attempted petit larceny)	
170.05 AM FORGERY 3	34 - 40 - 46
170.20 AM CRIMINAL POSSESSION OF A FORGED INSTRUMENT	30 - 35 - 40
170.55 BM UNLAWFUL USE OF SLUGS	4 - 5 - 6
110/170.70 AM ATTEMPTED ILLEGAL POSSESSION OF VEHICLE ID NUMBER	30 - 35 - 40
175.05 AM FALSIFYING BUSINESS RECORDS 2	42 - 50 - 58
110/175.05 BM ATTEMPTED FALSIFYING BUSINESS RECORDS 2	17 - 20 - 23
190.05 BM ISSUING A BAD CHECK	4 - 5 - 6
190.25 AM CRIMINAL IMPERSONATION 2	42 - 50 - 58
200.30 AM GIVING UNLAWFUL GRATUITIES	42 - 50 - 58

## OFFENSES INVOLVING DRUGS AND CONTRABAND:

205.20 AM PROMOTING PRISON CONTRABAND 2	42 - 50 - 58
220.03 AM CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE 7: range of 35 - 50 DF	
A. Possession of cocaine, heroin, pcpc, lsd or other "street jobs"	42 - 50 - 58
B. Criminal possession of valium, methadone, or other pharmaceutical drugs	30 - 35 - 40
220.45 AM CRIMINAL POSSESSION OF A HYPODERMIC INSTRUMENT	8 - 10 - 12
220.50 AM CRIMINAL USE OF DRUG PARAPHERNALIA 2	8 - 10 - 12
221.05 VIO UNLAWFUL POSSESSION OF MARIJUANA	4 - 5 - 6
221.10 BM POSSESSION OF MARIJUANA 5	4 - 5 - 6
221.15 AM POSSESSION OF MARIJUANA 4	30 - 35 - 40
221.40 AM SALE OF MARIJUANA 4	42 - 50 - 58
110/221.40 BM ATTEMPTED SALE OF MARIJUANA 4	21 - 25 - 29
265.01 AM CRIMINAL POSSESSION OF A WEAPON 4: range of 35 - 60 DF	
A. CRIMINAL POSSESSION OF A FIREARM	51 - 60 - 69

B. CRIMINAL POSSESSION OF ANY OTHER DANGEROUS OR DEADLY WEAPON 30 - 35 - 40

110/265.01 BM ATTEMPTED CRIMINAL POSSESSION OF A WEAPON 4: range of 5 - 25 DF

A. ATTEMPTED CRIMINAL POSSESSION OF A FIREARM 21 - 25 - 29

B. ATTEMPTED CRIMINAL POSSESSION OF ANY OTHER DANGEROUS OR DEADLY WEAPON 4 - 5 - 6



MISCONDUCT, OBSTRUCTION, AND SEX OFFENSES:

115.00 AM CRIMINAL FACILITATION 4	30 - 35 - 40
130.38 BM CONSENSUAL SODOMY	4 - 5 - 6
165.30 AM FRUADULENT ACCOSTING	42 - 50 - 58
195.05 AM OBSTRUCTING GOVERNMENTAL ADMINISTRATION 2	21 - 25 - 29
205.20 AM PROMOTING PRISON CONTRABAND 2	42 - 50 - 58
205.30 AM RESISTING ARREST	21 - 25 - 29
215.50 AM CRIMINAL CONTEMPT 2	64 - 75 - 86
110/215.50 BM ATTEMPTED CRIMINAL CONTEMPT 2	17 - 20 - 23
225.05 AM PROMOTING GAMBLING 2	42 - 50 - 58
225.15 AM POSSESSION OF GAMBLING RECORDS 2	42 - 50 - 58
110/225.15 BM ATTEMPTED POSSESSION OF GAMBLING RECORDS 2	17 - 20 - 23

230.00 BM PROSTITUTION	4 - 5 - 6
240.20 VIO DISORDERLY CONDUCT	4 - 5 - 6
240.25 VIO HARRASSMENT	13 - 15 - 17
240.30 AM AGGRAVATED HARRASSMENT 2	42 - 50 - 58
240.35 VIO LOITERING	4 - 5 - 6
240.36 BM LOITERING 1	4 - 5 - 6
240.37A AM LOITERING FOR PROSTITUTION	21 - 25 - 29
240.37B BM LOITERING FOR PROSTITUTION	8 - 10 - 12
240.37V VIO LOITERING FOR PROSTITUTION	4 - 5 - 6
240.45 BM CRIMINAL NUISANCE	4 - 5 - 6
240.50 BM FALSELY REPORTING AN INCIDENT 3	17 - 20 - 23
240.55 AM FALSELY REPORTING AN INCIDENT 2	30 - 35 - 40

245.00 BM PUBLIC LEWDNESS

25 - 30 - 35

260.20 BM UNLAWFULLY DEALING WITH A CHILD

4 - 5 - 6

270.05 BM UNLAWFULLY POSSESSING NOXIOUS MATERIAL

4 - 5 - 6



APPENDIX C

DATA COLLECTION FORMS FOR DAY-FINE PLANNING PROJECT  
MEANS INFORMATION

1. CJA Interview Report and Supplemental  
Day-Fine Means Questions
2. DAT Interview: Day-Fine Means Questions
3. Verification Procedures: CJA and DAT Interview  
Means Questions



# 1. CRIMINAL JUSTICE AGENCY

## NEW YORK CITY CRIMINAL JUSTICE AGENCY

## INTERVIEW REPORT

INT  
36/29

LAST NAME		FIRST		MIDDLE		NYSID/ARREST REPORT AKA'S			
AGE	DATE OF BIRTH	SEX	ETHNICITY			ARREST DATE	ARREST TIME	PRECINCT/ARREST #	
		<input type="checkbox"/> M <input type="checkbox"/> F	<input type="checkbox"/> B <input type="checkbox"/> W <input type="checkbox"/> SS <input type="checkbox"/> O <input type="checkbox"/> AI <input type="checkbox"/> OTH						
INTERVIEW DATE	INTERVIEW TIME	INTERVIEW LOCATION		ARRESTING OFFICER		COMMAND		ADD LID	
		<input type="checkbox"/> CB <input type="checkbox"/> COURT <input type="checkbox"/> PCT							
CJA INTERVIEWER	INT CLASS	INTERVIEW LANGUAGE		ARREST CHARGES		3		4	
		<input type="checkbox"/> ENG <input type="checkbox"/> SP							
DOCKET NUMBERS		2		3		4		NYSID NUMBER	

### VERIFIED INFORMATION

CURRENT ADDRESS

LENGTH OF RESIDENCE AT CURRENT ADDRESS

ALTERNATE ADDRESS

PERSONS LIVES WITH

EMPLOYMENT STATUS

TELEPHONE

NONE OF THE ABOVE

VERIFIER \_\_\_\_\_

REQUESTS NO CJA VERIFICATION

CONFLICT RE \_\_\_\_\_

PENDING CASE (ADD L. INFO BELOW)

THIS REPORT ASSESSES THE DEFENDANT'S COMMUNITY TIES AS DEFINED IN SECTIONS 214.1(a) and 214.1(b) OF CPL 160.50. A POSITIVE ASSESSMENT IS WITHHELD FOR DEFENDANTS WITH OUTSTANDING BENCH WARRANTS AS DEFINED IN SECTION 214.1(b). THIS REPORT DOES NOT CONSIDER OTHER CRITERIA LISTED IN CPL 160.50 SUCH AS THE DEFENDANT'S MENTAL CONDITION, HIS CRIMINAL RECORD, THE WEIGHT OF THE EVIDENCE OR THE POSSIBLE SENTENCE.

<b>RESIDENCE/FAMILY</b>	CURRENT ADDRESS		CITY/STATE	ZIP	APT. FL. RV.
	CURRENTLY LIVES WITH <input type="checkbox"/> ALONE		<input type="checkbox"/> SPOUSE	<input type="checkbox"/> COMMON LAW SPOUSE (6 MOS)	<input type="checkbox"/> FRIEND
RELATIONSHIP _____		ALL THAT APPLY <input type="checkbox"/> PARENT <input type="checkbox"/> GRANDPARENT <input type="checkbox"/> CHILDREN _____		<input type="checkbox"/> INCARCERATED	
NAME _____		<input type="checkbox"/> LEGAL GUARDIAN <input type="checkbox"/> OTHER RELATIVES _____		<input type="checkbox"/> MILITARY	
CAN RETURN TO CURRENT ADDRESS <input type="checkbox"/> YES <input type="checkbox"/> NO	CURRENT CID	PHONE #	NAME LISTED	AT CURRENT ADDRESS YRS MOS	
CAN RETURN TO ALTERNATE ADDRESS <input type="checkbox"/> YES <input type="checkbox"/> NO	ALTERNATE ADDRESS	MAILING ADDRESS	PRIOR ADDRESS	AT PRIOR ADDRESS YRS MOS	
PHONE #	CITY/STATE/ZIP	CITY/STATE/ZIP	CONTACT NAME		
NAME LISTED	CID	RELATIONSHIP	PHONE #	RELATIONSHIP	CONTACT STILL RESIDES <input type="checkbox"/> YES <input type="checkbox"/> NO

EXPECTS SOMEONE AT ARRAIGNMENT  YES  NO

NAME \_\_\_\_\_ RELATIONSHIP \_\_\_\_\_

ON PAROLE  YES  NO

ON PROBATION  YES  NO

IN TREATMENT PROGRAM TYPE \_\_\_\_\_  YES  NO

<b>EMPLOYMENT/SCHOOL</b>	EMPLOYED <input type="checkbox"/> FT <input type="checkbox"/> PT	IN SCHOOL <input type="checkbox"/> FT <input type="checkbox"/> PT	TRAINING PROGRAM <input type="checkbox"/> FT <input type="checkbox"/> PT	<input type="checkbox"/> NONE	<input type="checkbox"/> UNEMPLOYED	<input type="checkbox"/> DISABLED
					LENGTH OF UNEMPLOYMENT YRS MOS <input type="checkbox"/> NEVER WORKED	
DEPENDENTS SUPPORTED	NAME _____			LENGTH OF EMPLOYMENT YRS MOS		
TAKE HOME PAY \$ PER	ADDRESS _____			SUPPORTED BY <input type="checkbox"/> PARENTS <input type="checkbox"/> WELFARE <input type="checkbox"/> SSI		
HOURS PER WEEK	PHONE #	SHIFT	JOB POSITION	CJA CAN CONTACT <input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> UNEMP COMP	<input type="checkbox"/> OTHER _____

<b>CRIMINAL RECORD</b>	FIRST ARREST (EXCLUDING VIOLATIONS) <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NYSID NOT AVAILABLE	PRIOR CONVICTIONS	FELONIES _____	MISDEMEANORS _____	OPEN CASES _____
	WARRANT ATTACHED TO NYSID <input type="checkbox"/> BENCH <input type="checkbox"/> FAMILY COURT <input type="checkbox"/> NONE ATTACHED <input type="checkbox"/> ARREST <input type="checkbox"/> OTHER _____	OTHER BENCH WARRANT INDICATED IN CJA FILES AND VERIFIED BY NYPD <input type="checkbox"/> YES (ADD L. INFO BELOW) <input type="checkbox"/> NO			

OPEN CASES FROM NYSID (MOST RECENT)	ARREST DATE	BOROUGH	CHARGE	DOCKET #	ADDITIONAL CJA INFORMATION DISPOSITION	NO ADD. INFO
1						
2						
3						

<b>MISC.</b>	GRAY SHADING = INFORMATION FROM OFFICIAL SOURCES	DK = DOESN'T KNOW	NA = NOT APPLICABLE	RA = REQUESTED ANSWER
	NO SHADING = INFORMATION FROM DEFENDANT	<b>COURT</b>		

CRIMINAL JUSTICE AGENCY  
Supplemental Means Interview Form

Introductory Statement

Before completing the supplemental means interview form, explain to the defendant that this information (i.e., household income, monthly housing expenses, and car make, model and year) may be used by the judge at sentencing. Explain that the purpose of these questions is to give the judge more exact income information in the event that a monetary penalty will be imposed at sentencing.

Instructions

1. Fill in defendant name and docket number.
2. Fill in amounts of household income from sources other than the defendant's employment. These amounts should include any defendant income from these sources in addition to that of other household members.

The following codes should be used:

DK - don't know  
R - refuse  
0 - does not apply

3. Fill in amount of monthly rent or mortgage.
4. Fill in make, model, and year of car used by defendant.



CRIMINAL JUSTICE AGENCY  
SUPPLEMENTAL MEANS INTERVIEW FORM

Name (last, first middle): \_\_\_\_\_

Docket # \_\_\_\_\_

Household Income from Sources Other Than Defendant's Employment:

Spouse, Parents,  
Guardian Earnings: \$ \_\_\_\_\_ per \_\_\_\_\_  
Welfare: . . . . . \$ \_\_\_\_\_ per \_\_\_\_\_  
Social Security: . . . \$ \_\_\_\_\_ per \_\_\_\_\_  
Unemployment Comp.: . \$ \_\_\_\_\_ per \_\_\_\_\_  
Other: . . . . . \$ \_\_\_\_\_ per \_\_\_\_\_  
  
Total: . . . . . \$ \_\_\_\_\_ per \_\_\_\_\_

Total Monthly Housing Expenses (Rent or Mortgage): \$ \_\_\_\_\_

Car Defendant Uses: Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_

2. DAT INTERVIEW  
Introductory Statement

Before completing the supplemental means interview form, explain to the defendant that this information (i.e., household income, monthly housing expenses, and car make, model and year) may be used by the judge at sentencing. Explain that the purpose of these questions is to give the judge more exact income information in the event that a monetary penalty is imposed.

DAT Interview Form

Name (last, first middle): \_\_\_\_\_

NYSID Arrest Report AKA's: \_\_\_\_\_

Age: \_\_\_\_\_ Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_ Sex: M: \_\_\_\_ F: \_\_\_\_

Ethnicity: Black \_\_\_\_\_ White \_\_\_\_\_ Spanish Surname \_\_\_\_\_  
Oriental \_\_\_\_\_ Amer. Indian \_\_\_\_\_ Other \_\_\_\_\_

Interview Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Interviewer: \_\_\_\_\_

Docket Numbers: 1) \_\_\_\_\_ 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_

NYSID Number: / / / / / / / / / /

-----  
RESIDENCE FAMILY:

Address:

Street: \_\_\_\_\_ City/State: \_\_\_\_\_  
Zip: \_\_\_\_\_ Apt./Fl./Rm. \_\_\_\_\_ Tel. No. \_\_\_\_\_

Lives With:

Relationship: \_\_\_\_\_ Name \_\_\_\_\_  
\_\_\_\_ Alone \_\_\_\_\_ Spouse \_\_\_\_\_ Friend \_\_\_\_\_ Common Law Spouse  
\_\_\_\_ Parent \_\_\_\_\_ Grandparent \_\_\_\_\_ Children (#\_\_\_\_) \_\_\_\_\_ Legal Guardian  
\_\_\_\_ Other Relatives

Will return to address: \_\_\_\_ Yes \_\_\_\_ No

Alternate Address:

Street: \_\_\_\_\_ City/State: \_\_\_\_\_  
Zip: \_\_\_\_\_ Apt./Fl./Rm. \_\_\_\_\_ Tel. No. \_\_\_\_\_

Lives With:

Relationship: \_\_\_\_\_ Name \_\_\_\_\_  
\_\_\_\_ Alone \_\_\_\_\_ Spouse \_\_\_\_\_ Friend \_\_\_\_\_ Common Law Spouse  
\_\_\_\_ Parent \_\_\_\_\_ Grandparent \_\_\_\_\_ Children (#\_\_\_\_) \_\_\_\_\_ Legal Guardian  
\_\_\_\_ Other Relatives

Will return to address: \_\_\_\_ Yes \_\_\_\_ No

continued.../

Previous Night's Address:

Street: \_\_\_\_\_ City/State: \_\_\_\_\_  
Zip: \_\_\_\_\_ Apt./Fl./Rm. \_\_\_\_\_ Tel. No. \_\_\_\_\_

Lives With:

Relationship: \_\_\_\_\_ Name \_\_\_\_\_

\_\_\_\_ Alone      \_\_\_\_ Spouse      \_\_\_\_ Friend      \_\_\_\_ Common Law Spouse  
\_\_\_\_ Parent      \_\_\_\_ Grandparent      \_\_\_\_ Children (#\_\_\_\_)      \_\_\_\_ Legal Guardian  
\_\_\_\_ Other Relatives

Will return to address:    \_\_\_\_ Yes    \_\_\_\_ No

Release Address:

Street: \_\_\_\_\_ City/State: \_\_\_\_\_  
Zip: \_\_\_\_\_ Apt./Fl./Rm. \_\_\_\_\_ Tel. No. \_\_\_\_\_

Lives With:

Relationship: \_\_\_\_\_ Name \_\_\_\_\_

\_\_\_\_ Alone      \_\_\_\_ Spouse      \_\_\_\_ Friend      \_\_\_\_ Common Law Spouse  
\_\_\_\_ Parent      \_\_\_\_ Grandparent      \_\_\_\_ Children (#\_\_\_\_)      \_\_\_\_ Legal Guardian  
\_\_\_\_ Other Relatives

Will return to address:    \_\_\_\_ Yes    \_\_\_\_ No

Mailing Address:

Street: \_\_\_\_\_ City/State: \_\_\_\_\_  
Zip: \_\_\_\_\_ Apt./Fl./Rm. \_\_\_\_\_

EMPLOYMENT/SCHOOL:

Employed: \_\_\_\_ FT    \_\_\_\_ PT    In School: \_\_\_\_ FT    \_\_\_\_ PT    Training Program: \_\_\_\_ FT    \_\_\_\_ PT  
Military    \_\_\_\_    None \_\_\_\_

# Dependents Supported: \_\_\_\_\_

Employer's Name: \_\_\_\_\_

" "    Address: \_\_\_\_\_

" "    Phone #: \_\_\_\_\_    Shift \_\_\_\_\_

Job Position \_\_\_\_\_    Can Contact:    \_\_\_\_ Yes    \_\_\_\_ No

Hours per week \_\_\_\_\_    Take Home Pay: \_\_\_\_\_ per \_\_\_\_\_

Length of Employment:    \_\_\_\_ Yrs.    \_\_\_\_ Mos.

continued.../

Unemployed\_\_\_ Disabled\_\_\_ Never Worked\_\_\_

Length of Unemployment.:\_\_\_Yrs. \_\_\_Mos.

Supported by: \_\_\_Parents \_\_\_SSI \_\_\_Welfare \_\_\_Unemp. Comp.  
\_\_\_Other\_\_\_\_\_

Household Income from Sources Other Than Defendant's Employment:

Spouse, Parents,  
Guardian Earnings: \$\_\_\_\_\_ per \_\_\_\_\_  
Welfare: . . . . . \$\_\_\_\_\_ per \_\_\_\_\_  
Social Security: . . . \$\_\_\_\_\_ per \_\_\_\_\_  
Unemployment Comp.: . \$\_\_\_\_\_ per \_\_\_\_\_  
Other: . . . . . \$\_\_\_\_\_ per \_\_\_\_\_  
  
Total: . . . . . \$\_\_\_\_\_ per \_\_\_\_\_

Total Monthly Housing Expenses (Rent or Mortgage): \$\_\_\_\_\_

Car Defendant Uses: Make\_\_\_\_\_ Model\_\_\_\_\_ Year\_\_\_\_\_

Additional Contacts:

Name\_\_\_\_\_ Phone #\_\_\_\_\_ Relationship\_\_\_\_\_

Name\_\_\_\_\_ Phone #\_\_\_\_\_ Relationship\_\_\_\_\_

### 3. VERIFICATION PROCEDURES

1. Fill in offender name and case docket #.
2. Fill in contact name and telephone number of individual listed on DAT Interview form.
3. Fill in date and time of each verification call.
4. Check yes (Y) or no (N) for contact made. If no, state reason (e.g., line busy, no answer).
5. When making the verification call, explain the purpose of the call. For example:

Hello, my name is \_\_\_\_\_ and I work for the Vera Institute of Justice. We interview persons who have been issued a desk appearance ticket and must appear in the Staten Island court. I am calling in reference to John Doe, who told us that you would be able to verify the housing and economic information that he gave us.

6. The interviewer should ask the verification questions so that all information is provided by the contact. The questions should be phrased as follows:

- a. Where does Mr. Doe live?
- b. Is he employed?
- c. What is his income?
- d. What is the amount of household income from:
  1. spouse, parent or guardian earnings
  2. welfare
  3. social security
  4. unemployment compensation
  5. other sources
- e. What is the amount of monthly household expenses for rent or mortgage?
- f. What is the make, model and year of the car Mr. Doe uses?

RECORD OF VERIFICATION - EMPLOYER

Name \_\_\_\_\_ Docket # \_\_\_\_\_

Contact Name \_\_\_\_\_ Phone # \_\_\_\_\_

Title \_\_\_\_\_

	Date	Time	Contact Made		If no, reason
			Y	N	
1	_____	_____	_____	_____	_____
2	_____	_____	_____	_____	_____
3	_____	_____	_____	_____	_____
4	_____	_____	_____	_____	_____
5	_____	_____	_____	_____	_____

VERIFICATION

Current Address \_\_\_\_\_

Employment Status \_\_\_\_\_

Employment Income \_\_\_\_\_

RECORD OF VERIFICATION - OTHER CONTACTS

Name \_\_\_\_\_ Docket # \_\_\_\_\_

Contact Name \_\_\_\_\_ Phone # \_\_\_\_\_

Title \_\_\_\_\_

	Date	Time	Contact Made		If no, reason
			Y	N	
1	_____	_____	_____	_____	_____
2	_____	_____	_____	_____	_____
3	_____	_____	_____	_____	_____
4	_____	_____	_____	_____	_____
5	_____	_____	_____	_____	_____

VERIFICATION

Current Address \_\_\_\_\_

Employment Status \_\_\_\_\_

Employment Income \_\_\_\_\_

Household Income \_\_\_\_\_

Household Expenses \_\_\_\_\_

Car \_\_\_\_\_



APPENDIX D

VARIABLE LISTS FOR RICHMOND CRIMINAL COURT FINE CASES:  
POST-SENTENCE COLLECTION AND ENFORCEMENT HISTORIES



DAYFINES SCREEN 1 (DATA SET 1)

Variable List for Data Entry

Variables				
Name	Label	Field Length		Codes
Docket	Docket	8	A	i.e., 6R002897
Type	Type	1	A	S=Arrest D=DAT
Stamp	STAMP	2	A	Actual value
PFel	P Fel	2	N	## Fel Conv.
PMis	P Mis	2	N	## Misd. Conv.
POPEN	P Open	2	N	## Open Cases
ACh	Arrgn Ch	10	A	P.L. format
ABail	Arrgn Bail	6	N	\$ (Lowest Amount) 999996 = WO 999997 = no bail, case concluded at arrgn 999998 = ROR 999999 = RE
ACust	Arrgn Cust	1	N	1 = ROR 2 = Bail Made 3 = Bail Not Made 4 = Remand 5 = WO 6 = PGSI
AStat	Arrgn Case	1	N	1 = Cont 2 = Dism 3 = PGSI 4 = PG 5 = WO
RBail	Release Bail	6	N	\$ (Lowest Amount) 999997 = Bail Not Made 999998 = ROR
Cnvch	Convict Chg	10	N	PL format
Finel	Fine Amnt	6	N	\$ first sent.
Days1	Days	3	N	# alternative imposed (at any time <u>exc.</u> resent)
CD1	CD/UCD	1	N	0 = No 1 = Yes

Variables				
Name	Label	Field	Length	Codes
Prob1	Prob	1	N	0 = No 1 = Yes
TS1	TS	1	N	0 = No 1 = Yes
Jaill	Jail	1	N	0 = No 1 = Yes
Fine2	Re-Fine	6	N	\$ Resent
Days2	Re-Days	3	N	# alternative imposed (at any time <u>excl.</u> resent)
CD2	Re-CD/UCD	1	N	0 = No 1 = Yes
Prob2	Re-Prob	1	N	0 = No 1 = Yes
TS2	Re-TS	1	N	0 = No 1 = Yes
Jail2	Re-Jail	1	N	0 = No 1 = Yes
NPay	Apps-Pay	2	N	PP or FP
NCon	Apps-Cont	2	N	Cont w/o action
NWO	Apps-PRWO	2	N	BF/PRWO (post sent)
N0th	Apps-Other	2	N	Other Actions
NTot	Apps-Tot	2	N	Tot Appearances
ROWACT	ROW ACT	1	N	1 = Paid in full 2 = EXS 3 = Resent 4 = PP 5 = PP + Imp 6 = Imp 7 = Cont 8 = Other
LStat	Last Stat	1	N	1 = PD full 2 = PP/C, not out on WO 3 = C 4 = PP + out on WO 5 = No PP ever, out on WO 6 = EXS 7 = Res 8 = Oth

CODEBOOK

Screen 1

PFEL First two columns of the PRIORS field. Right justify (i.e., ##.##.##). If blank, enter 00.

DMIS Middle two columns of the PRIORS field. Right justify (i.e., ##.##.##). If blank, enter 00.

POPEN Last two columns of the PRIORS field. Right justify (i.e., ##.##.##). If blank, enter 00.

ABail Amount of Bail Set at arraignment (ARR). Usual format is two numbers that will be the same or different amounts (e.g.: 1000/1000 or 1000/500). Enter the lowest of the two figures.

ACUST Custody Status at arraignment (ARR). Line will show "ROR" (1); or "RE" (4); or it will show a bail amount set (as ABail above) and then "\$N" for Not Made (3); or "\$M" For Bail Made (2); or it will show the case disposed by a PGSI (6).

ASTAT Status of CASE at arraignment (ARR). Generally, the Case will either be Continued "C" (1), or "PGSI" (3); in some cases the case will be pled "PG," but continued for later sentencing (4). There should be no cases in this dataset that are Dismissed (3).

RBail Code only for ACUST #3 cases (bail set at Arr, not made): Amount of bail, if bail made ("M") after date of arraignment (if two amounts, select lowest). Code 999998 if the case was "ROR" after arraignment; code 999997 for all other ACUST #3 cases because arraignment bail was set but not made.

ConvChg Conviction Charge is the PL Number on the first appearance line SEN. It may be the same as the PL # the Arr line, or it may be different. If there are two charges listed, code the one on the right (the reduced charge).

Fine1 Amount of the FINE: on the first appearance line for Sentence.

Days1 Number of Days of Impris: set in conjunction with a fine amount, (\$I); this may be on the first appearance line for sentences, or on a later sentence line. Do NOT record if it is on an appearance line called Resentence. If this does not occur, code "0".

CD1 - Jail1 On first appearance line for SENTENCE, there may be a sentence in addition to "\$I". This will be rare. It will appear as (e.g.): "\$,CD". Code 1 if present for each of the following if they appear, or 0 if they do not.

CD1 = "CD" or "UCD"  
Prob1 = "Prob"  
TS1 = "TS"  
Jail1 = "\$,IMP" (other than IMPRIS associated with the I of a "\$I" sentence).

Fine2 - Jail2 On appearance line RESENT, enter the Fine amount in dollars and IMPRIS: days for a resentence to "\$I". Code 1 or 0 for a resentence to IMP.COMM (imprisonment); same for resentence to PROB, CD, UCD, or TS. All vars. should have 0 or 1 (except Fine, which is 0 or \$ amount).

Fine2 = "Fine"  
Days2 = "\$,I"  
Prob2 = "Prob"  
TS2 = "TS"  
Jail2 = "\$,IMP" - If yes, write number of days beneath LastStat.

\*The following counts of appearances are only for appearances after the First SENTENCE appearance, and they do not count the SEN appearance:

NPay # of appearance lines which show "\$-PP" or "\$-Paid" (N = POST-SEN ONLY)

NCon # of appearance lines which show no action taken except "C" (N = POST-SEN ONLY).

NWO # of appearance lines on which there is either a "PRWO", "WO", "BFWP" (NB. POST-SEN ONLY)

NOTH # post initial SEN appearance on which there is no \$-PP, \$-PAID, PRWO or BFWO, but where there is an action such as:

EXS DISMISSED (possible but rare)  
RESENT ABATED " " "  
or, where a Sent of \$ alone becomes a  
SENT: \$I; \$N; \$M

NTOT Count # of appearances after the first SEN line. This number should equal the sum of: NPAY, NCON, NWO, NOTH.

ROWACT Action taken on the first post-sentence appearance that is a ROW (return on warrant): These will be either (1) a payment in full (\$ PAID); (2) an EXS; (3) a RESENT; (4) a partial payment (\$PP); (5) a partial payment (PP) that is accompanied by a change in the sentence from a fine alone ("\$\$") to "\$I" with the number of days IMPRIS: indicated; or (6) no payment is made, but the fine (\$) alone is changed to a "\$I". Finally, (7) the case may have none of these actions, and only be continued ("C" or "PC") and defendant remains on ROR. (8) is a category for any other action, including \$N, \$M.

LSTAT This represents the last known status of the case at the time of the final appearance in our data collection (i.e., as of 9 June 87). It is a composite summary of what is known about the post-sentence history of the case:

- (1) PAID. Def. paid in full.
- (2) Def. made at least one partial payment (PP); and a BFWO or PRWO might have occurred but the case was still continued (C) for payments (i.e., the last action was not PRWO or BFWO).
- (3) No payments, full or partial, but case still continued (i.e., not out on PRWO, WO, BFWO).
- (4) At least one partial payment (PP) made but case out on a warrant (final PRWO, WO or BFWO)

- (5) No payments (PD or PAID), and case out on a warrant (final PRWO or BFWO).
- (6) The impris alternative to the fine executed (EXS).
- (7) Case was Resentenced, regardless of its status after the resentence.
- (8) Other - should be very rare. Record examples and mark case.

For cases with no docket number, use the sequentially numbered Screen 1 sheets (e.g., Docket #00000001, 00000002, 00000003, etc.) and mark the new docket # on printout.



DAYFINES SCREEN 2 (DATA SET 2)

Variable List for Data Entry: Dates

Variables				
Name	Label	Field Length		Codes
ARRSTD	1. Arrst Dt	8		DD MM YY
DOBD	2. DOB Dt	8		DD MM YY
ARRGN	3. Arrgn Dt	8		DD MM YY
DISPOD	4. Dispo Dt	8		DD MM YY
SENTD	5. Sent Dt	8		DD MM YY
NEXTD	6. 1st Post-Sent App	8		DD MM YY
PAYD1	7. 1st Pay Dt	8		DD MM YY
IMPD	8. Days Imp Dt	8		DD MM YY
WOD	9. WO Dt	8		DD MM YY
SENTEXD	10. Sent Exec Dt	8		DD MM YY
RESENTD	11. Resent Dt	8		DD MM YY
FULLD	12. Full Pay Dt	8		DD MM YY
FINALD	13. Other Final Dt	8		DD MM YY
LASTD	14. Last Cal Dt	8		DD MM YY

CODEBOOK

Dates/Screen 2

1. ARREST D ---
2. DOB ---
3. ARRAIG DT First Appearance Date; will sometimes be the same as DISPO DT and SENTENCE DT (PGSI)
4. DISPO DT Date at which Def. PG or Convicted at trial; will often be same as date sentence imposed (PGSI)
5. SENT DT DT which appears above SENT; will often be the same as DISPO date if PGSI
6. NEXT DT DT following SENT DATE
7. PAY DT 1 First DT on which SENT shows either "PP" (for partial payment) or "PAID" (for full payment); PP may show more than once; code dt for first.
8. IMP DT FINE SENT (\$) sometimes includes a jail-days alternative (\$I); date 8 is first date on which "I" appears in SENT:field. This may be the original sent date (date 5), or any subsequent dt.
9. WO DT The first date after SENT DATE (#5) at which either "PRWO" or "BFWO" appears (warrant ordered)
10. SENT EX DT FIRST DT at which "EXS" of the fine alternative days of imprisonment appears. Sentence line will also show SENT:IMP (sentence executed - committed).
11. RESENT DT Date on which "RESENT" occurs.
12. FULL DT Date on which fine sent is paid in full:  
SENT: \$-PAID
13. FINAL DT Date on which a final outcome occurs which is other than payment in full (PAID) EXS, or Resent; this is an infrequent, residual category, and will include: DISMISSED; ABATED; ...
14. LAST DT Final dt on appearance history

APPENDIX E

STATEN ISLAND VICTIM SERVICES AGENCY RESTITUTION CASES:  
DATA COLLECTION FORMS AND TABLES  
(All Restitution Cases in the First Half of 1986)

Data Collection Form

Table 1. Top Complaint Charge

Table 2. Restitution Amount

Table 3. Number of Payments Scheduled by Restitution Amount

Table 4. Days Scheduled to Pay by Number of Payments Scheduled

Table 5. Days Scheduled to Pay by Restitution Amount

Table 6. Reasons for Closing Case by Number of  
Payments Scheduled



STATEN ISLAND VSA  
DATA COLLECTION

VSA # \_\_\_\_\_ Docket # \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Employment Status:  Business  
 Unemployed  
 Student  
 Disability  
 Other (specify): \_\_\_\_\_

Date of Sentence: \_\_\_\_/\_\_\_\_/\_\_\_\_ Judge: \_\_\_\_\_

Sentence: \_\_\_\_\_ Charge: \_\_\_\_\_

Amount Due: \_\_\_\_\_ + \_\_\_\_\_  
(restitution) (surcharge)

Final Date to Pay: \_\_\_\_/\_\_\_\_/\_\_\_\_

Original Schedule of Payments:

Number of Payments Scheduled: \_\_\_\_\_

Amount to be Paid (each payment): \_\_\_\_\_  
\_\_\_\_\_

Date Payments to Start: \_\_\_\_/\_\_\_\_/\_\_\_\_

Payments Received (Original Schedule):

Number of Payments Received: \_\_\_\_\_

Amounts Received: \_\_\_\_\_  
\_\_\_\_\_

How Paid:  Cash  
 Check  
 Money Order

Date of Late Payment Recorded: \_\_\_\_/\_\_\_\_/\_\_\_\_

Warning Letter(s) Sent:  Yes # Sent \_\_\_\_\_  
 No

Warrant Ordered:  Yes  
 No

Action Taken on ROW:

Case Continued  
 Resentence  
 New Payment Schedule Set  
 Other (specify): \_\_\_\_\_

New Payment Schedule:

Number of Payments Scheduled: \_\_\_\_\_  
Amounts to Be Paid (each payment): \_\_\_\_\_  
Date Payments to Start: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date of Final Payment: \_\_\_\_/\_\_\_\_/\_\_\_\_

Payments Received (New Schedule):

Number of Payments Received: \_\_\_\_\_  
Amounts Received: \_\_\_\_\_  
\_\_\_\_\_

How Paid:  Cash  
 Check  
 Money Order

Date of Last Payment Recorded: \_\_\_\_/\_\_\_\_/\_\_\_\_

Final Case Status:

Closed:  Yes  
 No

If Closed:

Closing Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Reason for Closing:  CF  
 CPP  
 CNP  
 OOS  
 Other:

\_\_\_\_\_  
(specify)

TABLE 1

<u>Top Complaint Charge</u>	<u>Description</u>	<u>Class</u>	<u>Number of Cases</u>
145.00	Crim. Mischief 4	A Misd	21 (22%)
120.00	Assault 3	A Misd	17 (18%)
145.05	Crim. Mischief 3	E Fel	10 (11%)
155.30	Grand Larceny 4	E Fel	8 (8%)
140.20	Burglary 3	D Fel	5 (5%)
155.35	Grand Larceny 3	D Fel	4 (4%)
165.15	Theft of Services	A Misd/V	4 (4%)
140.25	Burglary 2	C Fel	3 (3%)
120.05	Assault 2	D Fel	3 (3%)
155.25	Petit Larceny	A Misd	3 (3%)
160.15	Robbery 1	B Fel	2 (2%)
145.15	Crim. Tampering 2	A Misd	2 (2%)
165.40	Poss. Stolen Prop.	A Misd	2 (2%)
110/125.25	Att. Murder 2	B Fel	1 (1%)
170.10	Forgery 2	D Fel	1 (1%)
145.10	Crim. Mischief 2	D Fel	1 (1%)
110/155.35	Att. Grand Larceny	E Fel	1 (1%)
145.45	Tamper, Consumer Prod.	E Fel	1 (1%)
120.20	Reckless Endangerment	A Misd	1 (1%)
205.30	Resisting Arrest	A Misd	1 (1%)
165.05	Unauth. Use Vehicle	A Misd	1 (1%)
140.10	Crim. Trespass 3	B Misd	1 (1%)
240.25	Harassment	Viol.	1 (1%)
VTL 600	Leaving Scene	Class B	1 (1%)
Total			95

TABLE 2

---

<u>Restitution Amount</u>	<u>Number of Cases</u>
up to \$50	8 (8%)
\$51 to \$100	9 (9%)
\$101 to \$150	11 (11.5%)
\$151 to \$200	11 (11.5%)
\$201 to \$250	9 (9%)
\$251 to \$300	2 (2%)
\$301 to \$350	6 (6%)
\$351 to \$400	9 (9%)
\$401 to \$450	5 (5%)
\$451 to \$500	3 (3%)
\$501 to \$600	2 (2%)
\$601 to \$700	1 (1%)
\$701 to \$800	3 (3%)
\$801 to \$900	2 (2%)
\$901 to \$1000	5 (5%)
\$1001 to \$1100	3 (3%)
\$1101 to \$1200	0 -
\$1201 to \$1300	1 (1%)
\$1301 and up	5 (5%)



TABLE 3

Restitution Amount	Number of Payments Scheduled									
	1	2	3	4	5	6	7	8	9	10
20	1									
35	2									
40	1									
45	2									
50	1	1								
52	1									
60	1									
78	1									
80	1									
86		1								
100	2	2								
103		1								
107		1								
110	1									
116	2									
128			1							
150	2	3								
151				1						
162	1									
168	1									
175		1								
185		1		1						
199				1						
200		2	1		1					
221						1				
250	4	2			1					
280						1				
300			1							
306	1									
307					1					
309				1						
322					1					
325										
335					2					
360	1									
	1	2	3	4	5	6	7	8	9	10

Number of Payments Scheduled

continued.../

TABLE 3 continued

Restitution Amount	Number of Payments Scheduled									
	1	2	3	4	5	6	7	8	9	10
365		1								
367	1									
368			1							
369					1					
375					1					
400	2				1					
417					1					
425		1		2						
433	1									
466		1								
495					1					
500										1
549					1					
600		1								
700					1					
750	1									
790						1				
865			1							
900										
945	1									
988						1				
1000	1				1					1
1015										1
1100					2					
1250							1			
1700			1	1						
2500					1					
4300	1									
8000					1					
TOTALS	34 (37%)	19 (21%)	6 (6.5%)	7 (7.5%)	18 (20%)	4 (4%)	1 (1%)	0	0	3 (3%)
	1	2	3	4	5	6	7	8	9	10
	Number of Payments Scheduled									

TABLE 4

Number of Payments Scheduled	Days Scheduled to Pay																															
	0	1	4	10	15	20	30	40	50	60	65	70	75	80	85	90	95	100	105	110	120	125	130	140	150	160	170	180	190	200	300	
1	1	1	1	3	3	1	11	1	1	2	2	1	1		1	1				1												
2							1	2	10	1	1				2	3																
3									1							4	1															
4											1	1						1		4												
5						1																		11		4		1				
6																								1		3						
7																												1				
8																																
9																																
10																																
TOTAL = 91																																

TABLE 5

Resti- ution Amount	Days Scheduled to Pay																															
	0	1	4	10	15	20	30	40	50	60	65	70	75	80	85	90	95	100	105	110	120	125	130	140	150	160	170	180	190	200	300	
20							1																									
35							1			1																						
40				1																												
45							2																									
50															1																	
52									1																							
60							1																									
78							1																									
80																																
86																																
100							1			2			1																			
103												1																				
107										1																						
110												1																				
116						2																										
128																																
150							1		1	1																						

Days 0 1 4 10 15 20 30 40 50 60 65 70 75 80 85 90 95 100 105 110 120 125 130 140 150 160 170 180 190 200 300 continued...

Table 5 continued

Resti- ution Amount	Days Scheduled to Pay																															
	0	1	4	10	15	20	30	40	50	60	65	70	75	80	85	90	95	100	105	110	120	125	130	140	150	160	170	180	190	200	300	
151																					1											
162							1																									
168				1																												
175								1																								
185									1												1											
199										1																						
200										2							1															
221																																
250																																
280																																
300																																
306																																
307																																
309																																
322																																
325																																

Days: 0 1 4 10 15 20 30 40 50 60 65 70 75 80 85 90 95 100 105 110 120 125 130 140 150 160 170 180 190 200 300 continued...

Table 5 continued

Resi- tion Amount	Days Scheduled to Pay																															
	0	1	4	10	15	20	30	40	50	60	65	70	75	80	85	90	95	100	105	110	120	125	130	140	150	160	170	180	190	200	300	
335						1																										
360				1																												
365															1																	
367	1																															
368																1																
369																																
375																																
400								1		1																						
417																																
425																																
433																																
466																																
495																																
500																																
549																																
600																																
700																																

Days: 0 1 4 10 15 20 30 40 50 60 65 70 75 80 85 90 95 100 105 110 120 125 130 140 150 160 170 180 190 200 300  
continued...

Table 5 continued

Resti- ution Amount	Days Scheduled to Pay																																							
	0	1	4	10	15	20	30	40	50	60	65	70	75	80	85	90	95	100	105	110	120	125	130	140	150	160	170	180	190	200	300									
750						1																																		
790																																								
865																																								
900																																								
945																																								
988																																								
1000																																								
1015																																								
1100																																								
1250																																								
1700																																								
2500																																								
4300																																								
8000																																								
TOTALS	2	0	1	3	3	2	11	2	2	13	4	3	1	0	3	8	1	0	1	0	5	0	1	0	12	0	0	8	0	1	4									
Days:	0	1	4	10	15	20	30	40	50	60	65	70	75	80	85	90	95	100	105	110	120	125	130	140	150	160	170	180	190	200	300									

TABLE 6  
Reason for Closing

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<u>Number of Payments Scheduled</u>	<u>CF</u>	<u>CPP</u>	<u>CNP</u>	<u>OOS</u>	<u>Other</u>
1	32		1	1	
2	13	3	1		
3	5				
4	7				
5	7	1	2	1	1
6	1		1		
7	1				
8					
9					
10	1	1			
Totals	<u>67</u>	<u>5</u>	<u>5</u>	<u>2</u>	<u>1 = 80</u>

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APPENDIX F

RICHMOND DAY-FINE PILOT PROJECT  
MANAGEMENT INFORMATION SYSTEM



APPENDIX F

RICHMOND DAY-FINE PILOT PROJECT MANAGEMENT INFORMATION SYSTEM

Definition of Case Record

<u>Field Description</u>	<u>Type</u>	<u>Size</u>	<u>Comments</u>
Docket #	Alpha	12	Primary search key
<b>Identifying Data:</b>			
Last name	alpha	12	index name:
First name	alpha	12	last,first,mi
Middle initial	alpha	1	
Street address	alpha	20	
Apartment	alpha	4	
City	alpha	20	
State	alpha	2	
Zip	numeric	5	
Telephone	numeric	10	
Residence code	numeric	1	define
Months at address	numeric	3	
NYSID #	alpha	12	for secondary id, index
Date of birth	date		
Sex	alpha	1	
Ethnic group	alpha	1	
<b>Sentencing Data:</b>			
Court	alpha	3	define
Judge	alpha	12	link to table
Date of sentence	date		
Amount Fined	numeric	6	no pennies
Days alternative	numeric	3	
Method of payment	numeric	1	immediate, adjourned, installment
# of installments	numeric	2	
Installment period	numeric	3	days between installments
Installment amount	numeric	6	
Adjourned date	date		initial date adjourned
Next Installment Date	date		subsequent adjournments
Type of defense	numeric	1	define
Defense counsel	alpha	12	link to table
Day Units of Fine	numeric	3	program calculation
Day Value of Fine	numeric	5	program calculation
Day Fine Amount	numeric	6	units * value

Payment History Data:

Total amount paid	numeric	6	
Total number payments	numeric	3	
Date last payment	date		
Amount last payment	numeric	6	
Balance Remaining	numeric	6	
Warrant Outstanding	alpha	1	y/n
Warrant date	date		
Case Closed Date	date		

Resentencing Data:

Court	alpha	3	May be repeated if needed
Judge	alpha	12	
Date resentenced	date		
Fine Amount	numeric	6	revised amount of fine
Days in jail	numeric	3	imposed
Adjourned date	date		if adjourned again
Payment method	numeric	1	see above
#installments	numeric	2	
installment amount	numeric	6	
installment period	numeric	3	days

Arraignment data:

			Are we interested in arraignment or conviction charges?
Charge #1	alpha	12	
Charge #2	alpha	12	
Charge #3	alpha	12	
Charge #4	alpha	12	
Charge #5	alpha	12	
Charge #6	alpha	12	
Date of arraignment	date		

Criminal History

Prior Felony convictions	numeric	2	
Prior misdemeanor convictions	numeric	2	
Outstanding warrants	numeric	2	
Previous fines - number	numeric	2	
Previous fines fully paid	numeric	2	
# outstanding fines	numeric	2	
Amount outstanding fines	numeric	6	

Means Data:

Employed	alpha	1	ft,pt,none
Income type	alpha	1	salary,hourly,underground
Weekly takehome	numeric	4	
Other family income	numeric	4	
Welfare	numeric	4	
Social security	numeric	4	
Unemployment	numeric	4	
Other income	numerci	4	
Savings	numeric	6	
Total debt	numeric	6	
Weekly debt payments	numeric	4	
Monthly Housing cost	numeric	4	
Rent/mortgage	alpha	1	
Other weekly expenses	numeric	4	
Net disposable weekly income	numeric	4	
Make of car	alpha	12	
Model of car	alpha	12	
Year of car	numeric	2	
value of car	numeric	6	

Employment data:

Employer name	alpha	20	
Employer address	alpha	20	
Employer city	alpha	20	
Employer state	alpha	2	
Employer zip	numeric	5	
Employer phone	numeric	10	
Employer contact	alpha	20	
Months employed	numeric	3	
Months employed last 3 yrs	numeric	3	

Contact data:

Contact name	alpha	20	
Contact address	alpha	20	
Contact city	alpha	20	
Contact state	alpha	2	
Contact zip	numeric	5	
Contact phone	numeric	10	
Contact type	alpha	1	define codes

This may be repeated.  
How many times?

Definition of Payment Record

<u>Description</u>	<u>Type</u>	<u>Size</u>	<u>Comments</u>
Docket #	Alpha	12	Key
Date payment due	date		
Amount due	numeric	4	
Date payment made	date		
Amount of payment	numeric	4	
Balance Due	numeric	6	
Next Installment date	date		
Receipt number	alpha	6	
Clerk id	numeric	3	table/define
How paid	alpha	1	check/cash
How paid	alpha	1	person/mail
Type arrest	alpha	1	city/state arrest/summons DWI separate?

Definition of Enforcement Record

<u>Description</u>	<u>Type</u>	<u>Size</u>	<u>Comments</u>
Docket #	alpha	12	key
Date of action	date		
Type of action	alpha	2	code table/define e.g. reminder letter warning letter phone call home visit warrant issued warrant cancelled
Staff id	alpha	3	table
Comments	alpha	300	narrative ????

## Day Fines System Transactions

### Input Transactions

Entry of case data at sentencing: from CJA forms, case records, court papers.

Entry of case data following staff interviews/investigation: contents and procedures need to be defined. Includes additional means information gathered as necessary.

Modification of payment terms and schedules, including calculations from means data.

Payment entry

Recording enforcement actions: letters, calls, warrants, etc.

Modification of sentence

Issue warrant

Cancel warrant

### Output Transactions

Issue payment receipt: currently done by cashier. ??

Issue warrant: currently done manually. ??  
Vacate warrant?

Issue judgment order: currently done manually. ??  
Vacate judgment?

Issue original notification letter: currently done by court officer. We may want to generate a follow-up letter to be mailed out with specific directions??

Issue reminder letters of each payment due.

Issue warning letters of missed payments and instructions.



## Day Fines System Reports

### Daily Reports:

Daily payments due next work day: calendar for the day.

Daily payments made, by case: include date and amount due, balance remaining.

Default report: payments missed previous day, schedule for enforcement.

Daily Cashier's Report: similar to current report.

New cases sentenced previous day.

Cases modified previous day: payments rescheduled, resentences, warrants, etc.

### Weekly Reports

Open Case Report: list status all open cases at end of week.

Closed cases report: list all cases closed during week, either from full payment or resentencing.

Payments Due Report: list all payments due next week.

Enforcement Tickler Report: list all cases due for reminder letters, phone calls, other enforcement action.

Arrears report: list all cases in arrears.

Weekly Statistical MIS Report

	Current Week	Previous Week	Year to date
Open Cases Beginning of week			
# cases			
Total fine amounts			
Total paid on fines			
Balance due on fines			
Average fine			
New Case in week			
# cases			
Total fine amounts			
Total paid on fines			
Balance due on fines			
Average fine			
Cases closed in week			
# cases			
Total fine amounts			
Total paid on fines			
Balance due of fines			
Average fine			
# re-sentenced			
Open Cases end of week			
# cases			
Total fine amounts			
Total paid on fines			
Balance due of fines			
Average fine			
# Payments due in week			
# Payments made in week			
Amount due in week			
Amount paid in week			
Average payment amount			
Defaults in week			
Amount defaulted in week			
Warrants issued in week			
Warning letters sent in week			
Reminder letters sent in week			
Other enforcement actions			

Weekly Open Case Analysis Report

	Current Week	Previous Week
Duration:		
Cases paid at sentencing		
Cases open 1-10 days		
Cases open 11-30 days		
Cases open 31-60 days		
Cases open 61-90 days		
Cases open 91-180 days		
Cases open over 180 days		
Completion Percentage:		
Cases 0% complete		
Cases 1-10% complete		
Cases 11-25% complete		
Cases 26-50% complete		
Cases 51-75% complete		
Cases 76-99% complete		

Weekly Closed Case Analysis Report

	Current Week	Previous Week	Year to date
Duration:			
Cases paid at sentencing			
Cases open 1-10 days			
Cases open 11-30 days			
Cases open 31-60 days			
Cases open 61-90 days			
Cases open 91-180 days			
Cases open over 180 days			
Completion Percentage:			
Cases 0% complete			
Cases 1-10% complete			
Cases 11-25% complete			
Cases 26-50% complete			
Cases 51-75% complete			
Cases 76-99% complete			
Cases 100% complete			



RESUMES

Sally T. Hillsman, Ph.D., Director of Research

Judith A. Greene, Director of Court Programs

Laura Anne Winterfield, Ph.D., Senior Research Associate



SALLY T. HILLSMAN

Director of Research  
Vera Institute of Justice  
377 Broadway  
New York, New York 10013  
212-334-1300

749 West End Avenue  
Apartment 10-E  
New York, New York 10025  
212-662-7712

EDUCATION

Columbia University, Ph.D. (Sociology 1970).  
Mount Holyoke College, A.B. with Great Distinction  
(Economics and Sociology 1963).  
University of Edinburgh, Scotland, non-degree candidate  
(Political Economy and Social Philosophy 1962).

ACADEMIC HONORS

Doctoral Research Grant, U.S. Department of Labor, 1968-1970.  
Graduate Research Assistantship, Columbia University, 1968.  
Pre-doctoral Fellowship, National Institute of Mental Health,  
1964-1967.  
Danforth Fellowship, 1963-1964.  
Phi Beta Kappa, 1963.  
Gold Medal in Political Economy, University of Edinburgh, 1962.  
Merchant Company Prize in Political Economy, University of  
Edinburgh, 1962.

RESEARCH EXPERIENCE

Director of Research, Vera Institute of Justice, New York City,  
1979-Present. The Vera Institute is a private, non-profit  
corporation that has been working since 1961, with funding  
from foundations and government, to help make the criminal  
justice and social service systems work better. Vera uses  
research to identify and analyze key social problems, de-  
signs and implements programs to alleviate these problems,  
and conducts evaluative studies to assess the worth of  
particular programs and to identify ways in which their  
impact may be enhanced. At the present time, Vera employs  
over 200 people performing these functions in New York and  
London, including over 30 in the Research Department.  
Assistant Director of Research, Vera Institute of Justice, New  
York City, 1978-1979.  
Project Director, Court Employment Project Evaluation, Vera In-  
stitute of Justice, New York City, 1976-1979. Controlled  
experiment conducted in the New York City Criminal Court  
examining the impact of pretrial diversion, under a grant  
from the National Institute of Law Enforcement and Crimi-  
nal Justice, LEAA.

Research Associate, Center for Policy Research, New York City, 1970-1972. Research on the relationship between the social and psychological characteristics of workers and the structural characteristics of jobs, under a grant from the U.S. Department of Labor.

Project Director, Bureau of Applied Social Research, Columbia University, New York City, 1968-1970. Research on early employment and educational experiences of working class white, black and hispanic women, under a grant from the Manpower Administration, U.S. Department of Labor.

Research Assistant, Bureau of Applied Social Research, Columbia University, New York City, 1967-1970.

#### TEACHING EXPERIENCE

Assistant Professor of Sociology, Queens College of the City University of New York, 1971-1976. Courses taught at BA and MA levels; member, Sociology Department Personnel and Budget Committee (elected 1973-1976); member, Graduate Program Committee (1971-1973).

Associate in Sociology, School of General Studies, Columbia University, New York City 1970-1971.

Adjunct Instructor, Humanities and Social Science Division, The Cooper Union, New York City, 1967-1968.

#### PUBLICATIONS

Fines as Criminal Sanctions. Research in Brief. September 1987. Washington, D.C.: National Institute of Justice. With Barry Mahoney, George H. Cole and Bernard Auchter.

The New York City Speedy Disposition Program: Incentives and Prosecutorial Initiatives in Reducing Court Delay and Jail Overcrowding. 1986. New York City: Vera Institute of Justice. With Dan Johnston and others.

Enforcement of Fines as Criminal Sanctions: The English Experience and Its Relevance to American Practice. 1986. Washington, D.C.: National Institute of Justice. With Silvia S.G. Casale.

Fines in Sentencing: A Study of the Use of the Fine as a Criminal Sanction. 1984. Washington, D.C.: National Institute of Justice. With Joyce L. Sichel & Barry Mahoney.

Executive Summary, Fines in Sentencing: A Study of the Use of the Fine as a Criminal Sanction. 1984. Washington, D.C.: National Institute of Justice. With Joyce L. Sichel & Barry Mahoney (70 pages).

"Pretrial Diversion of Youthful Adults: A Decade of Reform and Research." 1982. The Justice System Journal 7 (Winter).



The Diversion of Felony Arrests: An Experiment in Pretrial Intervention. 1981. Washington, D.C.: National Institute of Justice. With Susan Sadd.

"Random Time Quota Selection: An Alternative to Random Selection in Experimental Evaluations." 1979. Evaluation Studies Review Annual, Volume 4, Lee Sechrest (ed.). Beverly Hills, California: Sage Publications. With Orlando Rodriguez.

"Women in Blue-Collar and Service Jobs." 1978. Women Working: Theories and Facts in Perspective, Ann H. Stromberg and Shirley Harkess (eds.). Palo Alto, California: Mayfield.

"Earnings Prospects of Black and White Working-Class Women." 1976. Sociology of Work and Occupations 3 (May): 123-150. With Bernard Levenson.

"Job Opportunities of Black and White Working-Class Women." 1975. Social Problems 22 (April): 510-533. With Bernard Levenson. Reprinted in Women and Work: Problems and Perspectives. 1982 Rachel Kahn-Hut, Arlene Kaplan Daniels and Richard Colvard (eds.). Oxford Press.

"Job Design and Worker Satisfaction: A Challenge to Assumptions." 1975. Journal of Occupational Psychology 48: 79-91. With Richard A. Hansen.

"Tolerance for Bureaucratic Structure: Theory and Measurement." 1973. Human Relations 26 (December): 775-786. With Amitai Etzioni, Richard A. Hansen, and Marvin Sontag.

Police on Campus: The Mass Police Action at Columbia University, Spring, 1968. New York: New York Civil Liberties Union. With others.

#### MONOGRAPHS AND REPORTS

Final Report. Enforcement of Fines as Criminal Sanctions: The English Experience and Its Relevance to American Practice. 1986. New York and London: Vera Institute of Justice. With Silvia S.G. Casale.

The Court Employment Project Evaluation. Final Report to the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration. New York: Vera Institute of Justice, 1979. With Susan Sadd.

Pretrial Diversion from Prosecution: Descriptive Profiles of Seven Selected Programs. New York: Vera Institute of Justice, 1978. With Pamela Samuelson and Ann Berrill.

Research Design and Implementation: Court Employment Project Evaluation. New York: Vera Institute of Justice, 1977. With Orlando Rodriguez.

Workers' Predispositions and Job Requirements. New York: Center for Policy Research, 1972. With Amitai Etzioni, Richard A. Hansen and Marvin Sontag.

Tolerance for Bureaucratic Structure: A Scale and Test Manual. New York: Center for Policy Research, 1972. With Marvin Sontag, Richard A. Hansen, and Amitai Etzioni.

Problems in the Evaluation of Mental Health Projects. New York, Bureau of Applied Social Research, Columbia University, 1970. With Carol H. Weiss.

Entry Into the Labor Market: The Preparation and Placement of Negro and White Vocational High School Graduates. Ph.D. dissertation. Columbia University, 1970.

PRESENTED PAPERS AND ADDRESSES

"Criminal Fines as an Alternative Sanction." National Criminal Justice Association Annual Meetings. Wrightsville Beach, North Carolina, May 1987.

"Interpreting and Utilizing Results from Field Experiments: The Court Employment Project Study of Pretrial Diversion." Workshop on Criminal Justice Experiments, National Research Council and National Institute of Justice. New Orleans, Louisiana, March 1987.

"Alternatives to Incarceration as a Response to Prison Crowding." Scholar/Practitioner Workshop on Prison and Jail Crowding. National Research Council. Chicago, Illinois, October 1986.

"Reducing Court Delay: The Results of the New York City Speedy Disposition Program." Annual Meeting of the American Society of Criminology. October - November 1986.

"Fine Usage in England and America." Annual Meetings of the American Society of Criminology. San Diego, California, November 1985.

"The Politics of Randomization." Annual Meetings of the American Society of Criminology. Cincinnati, Ohio, November 1984.

"From Family Court to Criminal Court: A Study of Delinquent to Criminal Careers." Crime Control Theory Conference. Carnegie-Mellon University, Pittsburgh, Pa., June 1983.

"Pretrial Diversion as an Alternative to Prosecution." Committee of Community Social Researchers of the Community Council of Greater New York. New York City, May 1983.

"Research on Sentencing Alternatives." Judicial Council of the Second Circuit, United States Courts. New York City, March 1983.

"An Innovative Approach for Fostering Independence in Developmentally Disabled Adults: Supported Work as a Rehabilitative Mechanism." Annual Meeting of the American Orthopsychiatric Association. Boston, April 1983. With Janet Weinglass and Arlene Silberman.

"The Fine as a Criminal Sanction." Annual Meeting of the Law and Society Association. Toronto, Canada, June 1982. With Barry Mahoney.

"Sociologists at Work: Satisfactions and Dissatisfactions." Annual Meetings of the Society for the Study of Social Problems. Boston, August 1979.

"Diversion: Do the Standard Pretrial Intervention/ROR Models Still Work? Their Effect on Women." Women in Crisis Conference, Project Return Foundation and School of Social Welfare, SUNY at Stony Brook. New York City, May 1979.

"How Some Diversion Programs 'Fail'." National Symposium on Pretrial Services, Pretrial Services Resource Center. Lexington, Kentucky, April 1979.

"The New Marketplace: Roles of Practicing Sociologists." Annual Meetings of the Eastern Sociological Society. New York City, March 1979.

"Publishing and the Non-Academic Sociologist." Annual Meetings of the American Sociological Association. San Francisco, September 1978.

"Random Time Quota Selection." Annual Meetings of the American Sociological Association. San Francisco, September 1978; also presented at the Second National Workshop on Criminal Justice Evaluation, Law Enforcement Assistance Administration. Washington, D.C., October 1978.

"Pretrial: An Update." Plenary Session of the National Symposium on Pretrial Services, Pretrial Services Resource Center. San Diego, California, April 1978.

"The Pretrial Agency and the Evaluator." National Conference on Pretrial Release and Diversion, The National Association of Pretrial Services Agencies and the Pretrial Services Resource Center. Arlington, Virginia, May 1977.

"Sociologists in Non-Academic Employment." Annual Meetings of the Eastern Sociological Society. New York City, 1977.

"Women and Organized Labor." Conference on Women and Work: Feminist and Social Perspectives, Sociologists for Women in Society. New York City, February 1976.

"Employment Opportunities of Black and White Working-Class Women." Annual Meetings of the American Sociological Association. San Francisco, August 1975.

"Vocational Education: The Unmet Needs of Blue-Collar Women." First Working Conference on Research, The Ford Foundation. December 1974.

"School and Work: The Operation of Selection Processes and Their Consequences for the Early Careers of Black, Puerto Rican, and White Working-Class Women." Annual Meetings of the Society for the Study of Social Problems. New York, August 1973.

"Tolerance for Structure: Implications of Work Orientations for Job Placement and Development." Annual Meetings of the Society for the Study of Social Problems. New Orleans, August 1972.

#### OTHER PROFESSIONAL ACTIVITIES

Advisory Committee Memberships (recent list): Chair, "Comprehensive Evaluation of the Community Boards Program of San Francisco," Frederic DuBow, University of Illinois, 1983-7. (William & Flora Hewlett Foundation); "The Effects of Sentences on Subsequent Criminal Behavior," State of New Jersey Administration Office of the Courts, 1984 - (National Institute of Justice); "The Relationship Between Drug Use and Pretrial Crime," Toborg Associates Inc. and Narcotics and Drug Research Inc., 1984 - (National Institute of Justice); "Survey of Judges' Attitudes Toward the Fine as a Criminal Sanction," Institute for Court Management and University of Connecticut, 1984-7 (National Institute of Justice); "Telephone Hearing Project," Institute for Court Management and the ABA Action Committee to Reduce Court Costs and Delay, 1983 (National Science Foundation & National Institute of Justice). "Work appreciation for Youth (W-A-Y) Project," The Children's Village, 1984- ;

American Sociological Association, Committee on Nominations 1987-88; Practice Journal Task Force, 1986-7.

Society for the Study of Social Problems:

Committee on Permanent Organization, 1985-1986; Chair, 1986-1987;  
Chair, Lee Founders Award Committee, 1984-1985;  
Vice President, 1982-1983;  
Board of Directors, 1977-1980;  
Co-Chair, Committee on Unemployment in the Profession 1975-1981.

Member, Public Affairs Committee Inc, New York City, 1984-1987.

Participant, Conference on Statistical Prediction in Corrections, National Academy of Corrections, Rutgers University, September 1986.

Testimony, "Fines as Criminal Sanctions." Hearings before the United States Sentencing Commission. Washington, D.C.: July, 1986.

Testimony, "Criminal Fine Collection and Enforcement," Hearings before the Subcommittee on Energy, Nuclear Proliferation and Governmental Processes of the Senate Committee on Governmental Affairs. Washington, D.C., August, 1983.

Editorial Board, The Justice System Journal, 1983-1988.

Eastern Sociological Association, Papers Committee, 1982-1983;  
Committee on Employment, 1980-1981.

Participant, Sentencing Institute for the Second Circuit, United States Courts. New Paltz, New York, November 1981.

Guest, Planning Meeting on Women's Employment and Related Social Issues. Assembly of Behavioral and Social Sciences, National Academy of Sciences. Washington, D.C., April 1980.

Testimony, Hearings on Women in Blue-Collar, Service and Clerical Occupations, New York City Commission on Human Rights. April 1975.

Participant, First National Working Conference on Research: Women in Blue-Collar Jobs. The Ford Foundation. New York, December 1974.

Participant, Forty-third American Assembly on the Changing World of Work. Columbia University, November 1973.

Consultant: American Telephone and Telegraph, Project on Women, Minorities, and Management, 1976; Community Services for Human Development, Jackson Heights-Elmhurst, Queens, New York, 1975-1976; American Civil Liberties Union, in Tatum v. Laird, 1971-1972.

Reviewer: American Sociological Review; Social Problems; Work and Occupations; Signs; Justice System Journal.

#### MEMBERSHIPS IN PROFESSIONAL ASSOCIATIONS

Society for the Study of Social Problems

American Sociological Association

Eastern Sociological Association

Sociologists for Women in Society

SALLY T. HILLSMAN

PAGE 8

Law and Society Association  
National Council on Crime and Delinquency  
National Center for State Courts  
American Society of Criminology  
Clinical Sociology Association

September 1987

JUDITH A. GREENE  
Director of Court Programs  
Vera Institute of Justice

PROFESSIONAL EXPERIENCE

1981 - Present: VERA INSTITUTE OF JUSTICE, Director of Court Programs

Responsible for development and management of programs designed to improve the functioning of the court in pretrial release, sentencing, and enforcement of sentencing alternatives. Current activities include management of the Institute's Community Service Sentencing Project, development of a not-for-profit bail bond company, and planning for the introduction of the European day fine system to the American courts. Previously served as project director for the expansion of the Community Service Sentencing Project into the Manhattan Criminal Court in 1981; became responsible for management of Manhattan, Brooklyn and Bronx Borough Projects in 1982; planned and executed the expansion into the Borough of Queens in 1985.

1986 - Present: PROSECUTING ATTORNEYS RESEARCH COUNCIL, Program Consultant

Assisting prosecuting attorneys with the development of sentencing alternatives in their local jurisdictions.

1980 - 1981: NATIONAL INSTITUTE FOR SENTENCING ALTERNATIVES, BRANDEIS UNIVERSITY, Director

Developed a training and technical assistance program designed to foster the use of alternatives to traditional criminal sanctions in local court jurisdictions.

1978 - 1980: NATIONAL CENTER FOR YOUTH LAW, Research Associate/Planner

Analyzed public policy and advocated legislative reforms to improve the legal rights of poor and minority youth. Primary

concentration in juvenile justice and youth employment rights. Designed and implemented an evaluation component for a project which entailed litigation and law reform activities in six target states.

1978 - 1979: NATIONAL ECONOMIC DEVELOPMENT AND LAW CENTER,  
Training Consultant

Gave technical assistance to community development organizations in planning CETA services linked to community economic development.

1977 - 1978: APPROACH ASSOCIATES, Research Analyst

Planned and evaluated programs in criminal justice and substance abuse treatment. Primary concentration in alternatives to incarceration and community corrections; correctional work programs, vocational training, and prison industries.

1977: SAN FRANCISCO PHOENIX CORPORATION, Planning Director

Responsible for planning and fund raising for a demonstration project providing employment and training services for criminal offenders on parole.

1975 - 1977: SAN FRANCISCO SHERIFF'S DEPARTMENT, Director of  
Women's Resources

Planned and developed programs for three women's jail facilities. Designed and implemented a work release program for women prisoners. Developed citation release guidelines for both the Sheriff's Department and the San Francisco Police Department. Conducted field research on the enforcement of the prostitution laws by the police, the courts, and corrections.

1975: NORTHEAST COMMUNITY MENTAL HEALTH CENTER, Vocational  
Counselor

Assisted criminal offenders with substance abuse problems.

1974: SAN FRANCISCO SHERIFF'S DEPARTMENT, Deputy Sheriff



Performed duties as a correctional officer assigned to the maximum security women's jail.

1973 - 1974: MEHARRY MEDICAL SCHOOL ALCOHOL AND DRUG ABUSE PROGRAM, Project Coordinator

Developed services for incarcerated offenders with substance abuse problems. Designed and implemented pre-plea advocacy unit for sentencing component of a multi-modal drug treatment program. Conducted group counseling for prisoners in State Institutions.

1974: VANDERBILT UNIVERSITY HOSPITAL, Substance Abuse Counselor

Conducted group counseling for first offenders in a diversion program.

1971 - 1973: THE HOUSE BETWEEN, Project Coordinator

Developed program services for residential alternative project serving adult and juvenile women offenders. Provided counseling and developed educational and employment resources.

#### PUBLICATIONS, PAPERS, AND REPORTS

Project Report: Alternatives to Incarceration in Alaska, Approach Associates, 1977. With Alan Kalmanoff and others.

Project Report: Women Patrol Officers and Newton Massachusetts, Approach Associates, 1977. With Carol Kizziah and others.

Project Report: Master Plan for New Mexico Corrections, Approach Associates, 1977. With Alan Kalmanoff, Mark Morris and others.

Project Report: Master Plan for New Mexico Mental Health Services, Approach Associates, 1978. With Mark Morris, Howard Schecter and others.

Project Report: California Legislative Study of Correctional Needs, Volume Four: Work and Vocational Programs, Approach Associates, 1978.

Paper: Youth Employment Advocacy Issues, prepared for the Legal Services Corporation and presented at training conferences for legal aid attorneys. With Deborah Bachrach and Larry Glantz.

Article: "Governmental Restraints on the Employment of Sixteen- and Seventeen-year-olds: Vestiges of a Bygone Era," Clearing-House Review, Vol. 13, No. 12, April, 1980. With James Morales.

Project Reports: The New York City Community Service Sentencing Program: Interim Report Series, Vera Institute of Justice, 1983, 1984, 1985.

Paper: Suggestions for a Proposed Day Fines Plan for Richmond County, Vera Institute of Justice, 1986. Presented at an international conference on the implementation of a Day Fines system in American courts.

Laura Anne Winterfield

Residence: 399 Sterling Place                      Business: 377 Broadway  
Brooklyn, N.Y. 11238                              New York, N.Y. 10013  
(718) 783-7330                                      (212) 334-1300

EDUCATION

1980                      Ph.D., Department of Sociology, University of Colorado,  
Boulder, CO.  
1975                      M.A., Department of Sociology, University of Colorado,  
Boulder, CO. (Specialty: Human Services)  
1971                      Secondary Education Teaching Certification, Department of  
Education University of Colorado, Boulder, CO.  
1970                      B.A., Department of Sociology, University of Colorado,  
Boulder, CO.

AREAS OF SPECIALIZATION

- ° Action Sociology
- ° Policy Analysis and Evaluation Research
- ° Large-Scale Organizations
- ° Research Methods
- ° Deviance and Criminology

WORK EXPERIENCE: RESEARCH AND EVALUATION

March, 1984- Project Director, Vera Institute of Justice, New York, NY  
Present:

- ° Design and conduct an analysis of the criminal careers of a cohort of juvenile offenders, processed in New York City.
- ° Design and conduct an evaluation of a prosecutorial program developed to speed up the disposition of criminal cases in New York City.
- ° Design a data collection system and prepare instruction manuals for New York State's Alternatives to Incarceration programs.
- ° Design a jail population analysis to determine the feasibility of instituting a private not-for-profit bail bond program.
- ° Design and conduct a survey of complainants who filed complaints with the Civilian Review Board to measure citizen satisfaction.
- ° Hire and supervise support staff as necessary.

Aug., 1982-  
March, 1984:

Private Consultant, President, Timberline Associates  
Boulder, CO

- ° Provide technical assistance to local jurisdictions regarding policy development and implementation concerning jail and prison overcrowding.
- ° Conduct population projections.
- ° Carry out training regarding development of alternatives to incarceration.

Jan, 1982-  
March, 1984:

Vice President, Policy Sciences Associates, Boulder, CO

- ° Conduct research in natural resources field.

Sept. 1981-  
Aug. 1982:

Post-Doctoral Fellow, Carnegie-Mellon University,  
Pittsburgh, PA

- ° Design analyses to test findings regarding criminal career information generated from adult arrest data in order to determine whether similar patterns can be found in juvenile data.
- ° Design and conduct a study to determine the impact of pretrial policies on jail populations.
- ° Develop and analyze the impact of a new sentencing policy on commitment rates.

Oct. 1980-  
Sept. 1981:

Research Associate, Policy Sciences, Boulder, CO

- ° Design a research project to assess the public acceptability and potential impact of various water management policies on residential water use.
- ° Design the questionnaire used in the analysis; perform analyses, write final report.

Oct. 1980-  
Sept. 1981:

Research and Systems Analyst, Boulder County Community  
Correction, Boulder, CO

- ° Carry out all systems analysis and design for a comprehensive Management Information System (MIS) to be used by all criminal justice agencies in Boulder County.
- ° Conduct on-going staff training for the MIS system.
- ° Develop and carry out an evaluation to measure the effectiveness of an LEAA Jail Overcrowding/Pre-Trial Detainee Project in Boulder.

Sept. 1979-  
Oct. 1980:

Alcohol-Drug Program Evaluator, Division of Highway Safety  
Colorado Department of Highways, Denver, CO

- ° Design a statewide computerized evaluation system and all necessary forms used to monitor and assess the impact of new legislation placing alcohol specialists in Colorado's judicial districts to perform diagnostic evaluations on all persons convicted of DUI or DWAI (House Bill 1467).
- ° Train alcohol specialists, probation and judicial personnel, and treatment agencies in the use of that system.
- ° Design and conduct a recidivism study to determine the effectiveness of H.B. 1467.
- ° Write necessary status reports regarding the program, and present to probation, judicial, and treatment personnel.
- ° Carry out a research project relating to the impact of motorcycle helmet use on injury severity.

March, 1978-  
Sept. 1979:

Research Associate, Colorado Department of Corrections  
Colorado Springs, CO

- ° Design and conduct a statewide evaluation of community corrections, both state-operated and contractual.
- ° Design and conduct evaluation of Outward Bound, a treatment program at the Colorado State Reformatory, and write legislative recommendations concerning future funding.
- ° Design, implement, and evaluate Performance-Based Budget System. Develop workload, efficiency, and effectiveness factors for all operational and programmatic areas within the department's facilities and agencies.
- ° Design, implement, and evaluate weighted caseload system for parole and community corrections. Develop typology of offenders based on risk and need factors. Conduct time analyses of job activities and establish standards for job tasks and client supervision levels.

Jan. 1976-  
March 1978

Research and Evaluation Coordinator, Colorado State Judicial Department, Denver, CO

- ° Design and conduct a study to determine sentencing patterns for three felony offenses.
- ° Conduct on-going research relating to the evaluation of sentencing disparities in Denver District Court.
- ° Design and conduct study to develop a typology of probationers based on client risk factors.
- ° Design weighted caseload system for the state probation system.
- ° Design on-line computer system for adult probation statewide.
- ° Design program evaluation module for the juvenile on-line probation system.
- ° Design and conduct a survey of state probation staff to determine attitudes regarding the effectiveness of the on-line computer system.
- ° Serve as trainer for and liaison with state probation staff regarding the computer system.

Jan. 1974-  
Dec. 1975:

Evaluator, Paraprofessionals in Probation Services, Colorado State Judicial Department, Denver, CO

- ° Design and conduct a two-year evaluation of a grant designed to develop innovative use of probation personnel.
- ° Monitor and supervise probation department compliance with grant stipulations.

March 1973-  
Jan. 1973:

Research Analyst, Colorado State Judicial Department, Denver, CO

- ° Design and conduct analysis of processes, procedure and case flow for juvenile, county, and district courts.
- ° Design and conduct analysis of case processing times in Denver's juvenile, county and district courts.
- ° Develop baseline data for evaluation of computerization of Denver's juvenile court.

PUBLICATIONS AND MONOGRAPHS

- Lord, William B., James A. Chase, and Laura A. Winterfield. "Choosing the Optimal Water Conservation Policy." American Water Works Association Journal, 75 (7), July, 1983: 324-329.
- Lord, William B., James A. Chase, and Laura A. Winterfield. Evaluation of Demand Management Policies for Conserving Water in Urban Outdoor Residential Uses. Boulder, Colorado: Policy Sciences Associates, Research Report 82-1, January, 1982.
- Winterfield, Laura A. Colorado Community Corrections: A Case of Not Widening the Net. Pittsburgh: Carnegie-Mellon University, 1982.
- Winterfield, Laura A. Analysis of Front-End Diversion Community Corrections. Colorado Department of Corrections, March, 1979.
- Winterfield, Laura A. Design of a Weighted Caseload System for Colorado Adult Probation. Colorado Judicial Department, 1978.
- Winterfield, Laura A. Evaluation of Outward Bound. Colorado Department of Corrections, January, 1978.
- Winterfield, Laura A. An Analysis of Sentencing Patterns for Three Felony Offenses. Colorado State Judicial Department, Final Report, 1977; Preliminary Report, 1975.
- Winterfield, Laura A. Evaluation of Paraprofessionals in Probation Services. Colorado State Judicial Department, Final Report, 1976; Preliminary Report, 1975.
- Winterfield, Laura A. An Analysis of Case Processing Times in Denver Juvenile Court. Colorado Judicial Department, 1974.
- Winterfield, Laura A. Case Weighting Study in Metropolitan Courts. Colorado Judicial Department, 1974.
- Winterfield, Laura A. A Study of Procedural Patterns and Case Flow in Denver Juvenile Court and Probation Department. Colorado Judicial Department, 1973.
- Winterfield, Laura A. Evaluation of Intake Procedures in Denver Juvenile Probation Department. Colorado Judicial Department, 1973.

PRESENTATIONS

"Criminal Careers of Juveniles in New York City: Results." Annual Meetings of the American Society of Criminology. San Diego, CA, November, 1985.

"Criminal Careers of Juveniles in New York City: A Proposal" Annual Meetings of the American Society of Criminology. Cincinnati, Ohio, November, 1984.

"Community Corrections in Colorado: A Case of Not Widening the Net." Annual Meetings of the American Society of Criminology. Denver, Colorado, November, 1983.

"The Use of Community Corrections as an Alternative Sentencing Policy." International Symposium on the Impact of Criminal Justice Reform. NCCD, San Francisco, CA, 1983.

"Comparative Evaluation of the Effectiveness of Community Corrections as a Sentencing Alternative." Annual Meetings of the American Society Criminology, Toronto, Canada, 1982.

"Probation or Community Corrections: Who's Appropriate for Placement?" Annual Meetings of the American Society of Criminology. Washington, D.C., November, 1981.

Testimony before the New Mexico Special Legislative Subcommittee concerning Prison Reform. Presented information on the structure of the Colorado Community Corrections Act, and data regarding use of community corrections in Colorado. March, 1978.

"Use of an On-line Computer System for Program Evaluation." National Conference on Criminal Justice Evaluation, Washington, D.C., February, 1977.

HONORS AND GRANTS

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| 1981 | Selected for a Post-Doctoral Fellowship at Carnegie-Mellon University funded by NIMH.                         |
| 1979 | Selected for an award for an LEAA Fellowship for dissertation support.  |
| 1976 | Co-author on a grant titled "Probation Research and Evaluation," awarded to the Colorado Judicial Department. |