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Interdependence of the Criminal Justice System:

A Report on Feasibility

Vera Institute of Justice

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The idea that there are important connections between the work of the agencies that make up the criminal justice system is not particularly new. The modern institution of the police evolved in large part from the activity of forward-thinking magistrates such as Henry Fielding and Patrick Colquhoun; the magistrates' courts themselves were known for a time as "police courts"; the probation service began as a ministry to the magistrates' courts; and prisons have long had important ties to the magistracy.

The existence of long-standing ties is not sufficient, however, to ensure that the activities of these agencies mesh as efficiently and effectively as possible. Indeed the familiarity of the relationships involved can itself inhibit the kind of review and examination necessary to adapt multi-agency functions to changing circumstances and improve system performance. Initiated at the suggestion of a Home Office Working Party, the purpose of this project is to provide a systematic scrutiny of the way that criminal justice agencies work together. The specific terms of reference of the project are:

a. By reviewing in consultation with all concerned the working relationships in Avon and Somerset between the magistrates' courts, the police, prison service and the probation service, to establish the principal points at which the operation of each of these elements of the criminal justice system affects the efficiency with which the others perform their tasks;

b. to initiate at these points of interaction experimental changes in the working methods of these services which appear likely to result in increased efficiency in the operation of one or more elements in the system;

c. to monitor and assess the effect of these changes, having regard to the manpower and expenditure implications.

The project is planned in two stages: (1) a feasibility stage to be completed in mid-1984, and (2) a demonstration stage to follow. This report discusses the results of the feasibility study.

I. METHOD OF STUDY

In order to provide a specific context for analysing the concept of interdependence this project was located in a single police force area. Avon and Somerset was chosen because of the willingness of key agencies and officials to participate, because the community encounters a diverse set of problems related to crime and criminal justice in both urban and rural settings, and because the force area contains many criminal justice agencies of varying size and complexity.

The Avon and Somerset police force area includes 17 petty sessional divisions of the magistrates' courts, has nine different clerks to the justices and covers two magistrates' courts committee areas. The area also includes two probation departments and is served by four local prisons--Bristol, Dorchester, Exeter and Pucklechurch. In 1982 over 20,000 persons were proceeded against for indictable crimes and non-motoring summary matters. Nearly half these cases were in the Bristol Magistrates' Court. Six magistrates' courts in the force area handled less than 1,000 such matters whilst five others handled less than 2,000.

The project began in July 1983. The initial step involved visits to each criminal justice agency in Avon and Somerset to discuss the ways in which the agency co-operated with other agencies and to identify areas of interaction which needed improvement. The interviews were largely open-ended and included middle managers as well as agency heads. The discussions focused particularly on relationships involving the police, the magistrates' courts, probation and prison but included other significant relationships as well. In addition to linkages among the four primary agencies relationships with the Crown Court, social services and mental health services were frequently mentioned as important.

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The agencies responded quite positively to the initial visits, indicating a general interest in the concept of interdependence and suggesting over 80 different areas for further exploration. (Appendix A.) Virtually all of these suggestions were useful ones with considerable potential for fairer or more efficient operations. To assist in identifying the most promising ideas for further study the suggestions were grouped according to 24 major themes. (Appendix B.) Steering Groups in the Home Office and in Avon and Somerset kindly assisted in evaluating and ranking these themes, reaching a high level of agreement. Ultimately eight themes were ranked as important by both:

- Scheduling of Magistrates' Courts
- Utilisation of Police, Probation and Prison Personnel at Magistrates' Court
- Witness Issues
- Bail Practices and Remands in Custody
- Fine Enforcement
- Summonses and Warrants
- Sharing of Information and Statistics and Computer Development
- Consultation and Liaison

This report analyses these eight themes in order to illuminate problems and suggest possible solutions. These analyses are discussed in section II. They seek to cover both the nature of the operational problems involved and the potential for contributing to the interdependence concept. The analyses draw extensively on the opinions and perceptions of knowledgeable officials and rely considerably on existing statistics, reports and studies. Wherever possible these sources of information have been supplemented by site visits, observations, and small scale studies undertaken specifically for the interdependence project. Because it was not feasible to conduct detailed obser-

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vations throughout the force area on each topic, the observations and analyses often focus on the city of Bristol, relying on contacts with other areas to determine the applicability of the findings and conclusions.

As the purpose of the feasibility phase of the project has been to generate ideas rather than to develop detailed operational plans, the analyses range widely, report impressionistic findings, and include suggested changes in law and agency orientation as well as more easily accomplished administrative changes in operational procedure. In the demonstration phase more emphasis will be placed on the practicalities of working within the present framework of the criminal justice system.

The general approach taken in the analyses is that interdependence is a practical concept designed to bring a system perspective to operational problems involving more than one agency. The focus is particularly on topics and issues of national interest but amenable or largely amenable to local control, as this approach seems likely to be the most productive for a demonstration project located in a particular area. The concept of interdependence is discussed further in section III.

The final stage of the feasibility study was to identify the most promising of the eight areas for development into demonstration projects. The Home Office and the Avon and Somerset Steering Committees again assisted by evaluating the results of the analyses. As in the ranking of the 24 themes, the two groups agreed on the most important topics. These are:

-- Scheduling of Magistrates' Courts and Utilisation of Police Probation and Prison Personnel at Magistrates' Court.

-- Bail Practices and Remands in Custody.

II ANALYSES OF CRITICAL INTERDEPENDENCE TOPICS

A. Scheduling of Magistrates' Courts: Days of the Week and Starting Times.

Because magistrates' courts are one of the vital hubs around which the criminal justice system turns virtually every aspect of scheduling raises important issues. Major areas of concern include the days of the week on which courts should sit, the starting and sitting times used, and how the daily and weekly lists should be compiled and organised. Scheduling as to day of week and starting times is discussed in this section; scheduling as to daily and weekly listing practices in section B (Utilization of Police, Probation and Prison Personnel at Magistrates' Court).

Scheduling as to day of week and starting and sitting times are generally determined by the individual court (petty sessional division) rather than on a county or some broader basis. Often the days and times chosen are the product of long historical practice and work reasonably well for the court involved. The patterns these individual choices create may not work so well, however, for other agencies. This is particularly true for agencies that have responsibilities across a number of different court areas.

The principal difficulty is that of uneven workload. In Avon and Somerset the police have eight geographic divisions. Six of these serve either a single large magistrates' court or one large and one relatively small court. The remaining two police divisions serve ten smaller courts, which sit in 12 different locations. Hearings for these smaller courts are not well distributed. In East Somerset four courts sit to hear adult cases on Thursdays and three on Tuesdays as compared with one on Mondays and Wednesdays and none on Fridays, as shown in Table 1. The disparity in the number of court rooms functioning is even greater--seven on Tuesdays and six on Thursdays as compared with one on Mondays and Wednesdays and none on Fridays.

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In west Somerset there are also sharp disparities in the number of court-rooms operating--seven on Monday as compared with two on Friday and none on Tuesday.

Prosecuting Solicitors. The burden of this over-concentration is greatest on the prosecuting solicitors, who have adapted by shifting solicitors from other areas and by hiring local private solicitors. Both of these steps engender additional costs--for the time staff solicitors spend travelling from other areas, for the travel itself, for the time required to arrange the employment of private solicitors and for the higher cost of private solicitors. Coupled with the small number of afternoon sessions, this over-concentration may also engender some under-utilisation of staff prosecuting solicitors as well. Obviously this kind of problem is of special importance in planning and initiating an independent prosecutorial service.

Police. Somewhat similar problems are created for the police but to a lesser degree. The uneven scheduling requires the police offices that prepare cases for court (primarily the process offices in Avon and Somerset) to work at an uneven rate. As much of the work of these offices is done in advance of the hearing day, they have some capacity to spread the work out, particularly if they can receive the court lists early enough. In some areas this is not possible, however, and the police must work at an uneven rate. The police problems involved with uneven workload are compounded when outside solicitors are used to prosecute, as the lead times involved in providing case papers are greater than those for prosecutions conducted by staff solicitors.

Probation. The heavy concentration of cases on particular days of the week also creates problems for probation. Somerset probation's general

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strategy for dealing with the large number of smaller courts spread out over the county is to assign an individual officer to each court. This system generally works well. It means that the probation staff is stretched thin on the peak hearing days, however, and if there are staff illnesses, vacancies or holidays, there are no other probation officers to fill the gaps.

Prisons. Logically the over-concentration of hearing days could be either a benefit or a problem for the remand prisons. If all the remand prisoners could be delivered by one escort, the concentration would be a benefit. If separate transports were needed for each court, it could unbalance the prison workload in much the same way as that for the police and probation. As a practical matter, however, the over-concentration of hearing days in Somerset has little effect on the prisons because the number of prisoners remanded in custody is very small.

Starting Times. Ten of the Avon and Somerset magistrates' courts begin at 10:00a.m., two at 10:15a.m. and five at 10:30a.m.. The five courts which regularly schedule afternoon sessions do so for 2:00p.m.. The smaller courts do not regularly schedule afternoon sessions, but often continue their sessions into the afternoon if necessary to complete the scheduled business.

These starting times appear to be reasonably efficient for police, probation and the remand prisons. Earlier starting times might also work well for police and probation but could create problems for the prisons. The minor variations in starting time among the various courts do not appear to be a problem for any of the key agencies.

Work schedules for police staff whose duties are regularly involved with the court are generally geared to the starting times used by the court.

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These work schedules generally provide the lead time needed for last minute duties such as final case preparation and transportation of overnight custody prisoners to court. Some problems do occur, however, if court sessions go late. The police have the responsibility for transporting prisoners to the prison and must generally pay overtime if this takes place after 5:00p.m. Somewhat earlier court starting times or staggered police schedules might alleviate this problem but both are obviously complicated.

Other police personnel are primarily involved with the court as witnesses. Shift schedules for many of these personnel do not fit well with the court starting time (6:00a.m. - 2:00p.m.; 2:00 - 10:00p.m.; 10:00p.m. - 6:00a.m.). This problem is minimised, however, by varying the tour for officers scheduled to serve as witnesses. Normally such officers will be instructed to work a 9-5 tour--giving them time to prepare for court on the morning of the hearing.

Starting times are also important to prison staff who must deliver remand prisoners in time for court. As prisoners must dress, eat and be processed out of the prison prior to transport, the lead time involved for the delivery of prisoners is considerable, even if the prison is nearby to the court. If the prison is some distance away or uses a regular route which goes to a number of courts, lead time can be an even bigger problem. A starting time that is too early is therefore dysfunctional for the prison.

The remand prisons serving Avon and Somerset seem generally satisfied with the existing starting times for magistrates' courts. In the past, however, at least one prison had difficulty transporting prisoners to the Bristol Magistrates' Court in time for a 9:30a.m. starting time. To avoid the difficulties involved the court altered the hearing time to a later hour. Something of a problem still exists in Bath where prisoners from one

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prison generally arrive in time for the 10:00a.m. court starting time but do not arrive early enough for defence solicitors to speak to their clients prior to court. Magistrates' court starting times are a particular problem for the Pucklechurch Remand Centre. As the principal remand prison for women throughout the south-west, the Pucklechurch catchment area is considerably larger than that of the typical remand prison. This makes it difficult for Pucklechurch to deliver women prisoners to the more distant courts by their starting times.

Solutions to these transport problems--to the extent that solutions are possible--appear to vary greatly according to the circumstances of each individual court and prison. Choosing a proper starting time may be the best answer in some situations; listing custody cases at a time that is particular but later than the normal starting time may be best for other situations; and still other solutions for different situations. Some of these other solutions are discussed in section B (Utilization of Police, Probation and Prison Personnel at Magistrates' Court).

The starting time for magistrates' courts does not appear to be a problem for probation. Probation appears to be flexible enough in scheduling its work so as to be able to accommodate to a variety of different starting times.

The extent to which magistrates' courts sit in the afternoon is also a matter of concern to other agencies. The Bristol Magistrates' Court, as most other large courts, holds nearly as many hearings in the afternoon as in the morning. Many of the smaller courts, however, have no regular afternoon sessions. This necessarily affects the staffing that will be needed for the independent prosecutorial service. Two recent studies of staffing needs have assumed that each prosecuting solicitor can cover eight half-day court sittings each week, and have "targeted" their calculations accordingly.[1] Obviously if

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the magistrates' courts do not have enough afternoon sittings for this to be feasible, the utilisation rate will be lower and the number of prosecuting solicitors required greater. (A recent national survey showed that prosecuting solicitors averaged only six sittings per week in practice.)[2]

The impact of more afternoon sittings on other agencies is less clear. Workload would appear to be about the same but the timing might be less suitable for the prisons who have to deliver custodial prisoners to the court and for the police who have to take them back to the prison at the end of the hearing. This is particularly true for the police, if more afternoon sittings mean more late afternoon, overtime trips to the prison.

Possible Solutions. The problem of over-concentration can be viewed in several ways. In part it is an aspect of the larger issue as to how the magistrates' courts should be organised within a particular magistrates' court committee area. It also necessarily involves questions as to the extent to which catchment areas for the courts should coincide with those of police divisions, probation areas and the remand prisons (as well as DHSS and local authorities). The problem is also partly one of scheduling, however, and that is the aspect dealt with in this report.

Altering the days of sitting and increasing the number of afternoon sittings obviously involves many considerations, including the effects on individual courts and the desires of the local bench and clerks. Among other things it may not be easy to persuade magistrates, who are contributing their own time, to change long-established practices for the sake of overall system efficiency. Magistrates' courts committees and individual clerks obviously have some capacity to produce changes in this area but may have little incentive to disrupt their own operations in pursuit of goals for more distant agencies.

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It is not clear how common these problems are in the country as a whole. A review of the hearing days used by magistrates' courts indicates some over-concentration in hearings by day of week in perhaps a fourth of the counties. These tend to be the smaller and more rural counties, as shown in Table 2.[3] Nationally the number of morning sittings appear to be at least 50 percent greater than the number of afternoon sittings.[4]

Ultimately the most straightforward method of dealing with the problem of over-concentration may be for central government to recommend or direct that benches, magistrates' clerks and magistrates' courts committees, in consultation with other agencies, even out the hearing times in the relevant areas. Before taking such a step, however, it might be desirable to have more information about the considerations involved. Whilst there are obviously limits to what a demonstration project in this area might achieve, such a project could help to produce information of the kind needed to develop a more general solution of the problem. A demonstration project in this area might be combined with topics B and C in a broad based project directed toward various aspects of scheduling and use of criminal justice perconnel at court. (Police, courts, probation, prison.)

B. Utilization of Police, Probation and Prison Personnel at Magistrates' Court.

Police probation and prison personnel have many duties at magistrates' court. The police prepare and present cases, testify, provide security, and transport and escort prisoners. Prosecuting solicitors prepare and present cases, probation provides in court services and social inquiry reports and prison officers transport and excort prisoners.

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Many of the problems involving utilisation of police, probation and prison personnel at magistrates' court relate to appearances in court and the waiting time involved in such appearances. Making more effective use of police, probation and prison personnel in these cases necessarily becomes part of the larger and more general problem of making more effective use of all court time.

Looked at in isolation problems related to appearances seem fairly simple. The time spent in court by police witnesses can be minimised by listing cases involving police witnesses first, at a specific time or whenever the police witness wants. This solution goes only so far, however, Others, including civilian witnesses, defendants, defence solicitors, prosecuting solicitors, probation and social services officers, experts, magistrates and court staff, also have legitimate needs that must be taken into account.

How this is done depends largely upon who is in charge of listing. At one time this was almost universally the police. In a simpler era when the magistrates' courts involved fewer solicitors and other outside participants, this system was entirely logical. The police were by far the largest user of the courts, were already the primary contact with witnesses, and were in an excellent position to work out any accommodations needed. As caseloads increased and defence solicitors and others became a more prominent feature, the magistrates' courts began to feel that they could handle their workload better, if they took over the listing task themselves. As a consequence in Avon and Somerset, as in most of the rest of the country, the courts are now largely in charge of listing.

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There are obviously many different ways that magistrates' courts might approach the problem of listing. Some of the more important are:

-- A general list in which all cases are set for a single starting time and called in alphabetical or some other fixed order that is not based on priorities.

-- A general list in which all cases are set for a single starting time but called discretionarily according to the court's sense of priorities on the day.

-- A general list in which all cases are set for a single starting time but called in the same general order of priorities each day (e.g., licensing matters first, overnight cases second, uncontested matters third, etc.).

-- A specialised list in which all first appearances are heard at one time or in one particular court.

-- An appointment system in which each case is scheduled in advance for a time that is unique to it.

-- Hybrids formed by combining features of the various other methods.

These different methods of listing vary greatly in their impact on use of police, probation and prison personnel at court as well as on court efficiency and waiting times. As a practical matter larger courts with many different courtrooms in session tend to use specialised lists which put first appearances in one courtroom, traffic matters in another and not guilty hearings in still others. Some smaller courts use simpler versions of the same procedure, but many use general lists. When a general list is used, there is a tendency to follow some customary sequence as to the kind of case that will be called first (e.g., licensing or overnight custody charges). Generally, however, this method of listing does not involve very much differentiation.

A major alternative which might be more efficient for police, probation and prison personnel is the appointment system of listing. If a police or probation officer knows the specific times at which cases will be dealt with, he or she need not waste time appearing earlier. Courts recognise the

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attractiveness of such an approach but generally feel it is not practicable. Many have tried some version of an appointment system and have concluded that it does not work. Because it is difficult to predict how long cases will take such schemes are believed to reduce the number of cases that can be handled by magistrates. Thus if the 11:45a.m. appointment fails to show up or takes only 5 minutes instead of the 30 scheduled, the magistrates must twiddle their thumbs until the next appointment. As a consequence there are no magistrates' courts in Avon and Somerset, and probably none elsewhere in the country, that use an appointment-type listing system.

It is worth noting, however, that specialised listing systems have many of the same advantages for use of police, probation and prison personnel as appointment systems. In Bristol this kind of system already helps greatly to minimise unproductive waiting time. Observation suggests that even more differentiation of this kind might be possible without impairing court efficiency. The methods necessary to accomplish this for smaller courts are probably different than those for larger courts, but the principles seem applicable to courts of all sizes.

Other possible methods of reducing unproductive time spent at the magistrates' court by police, probation and prison personnel include reducing the number of hearings at which their presence is needed, reducing the length of time required for hearings or reducing the number of witnesses involved.

One concern that some agencies now have about magistrates' court listing practices is that their interests are not taken into account sufficiently either in developing general listing practices or in making deviations from these practices in particular cases. In their perception the magistrates'

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courts tend to pay attention first to the needs of the magistrates and the court staff and second to those of defence solicitors. Opinions vary somewhat as to the hierarchy thereafter, but the general view is that the defendant comes next, followed by the prosecuting solicitors, the police and then probation. Prison staff are not sufficiently involved in appearances to be on the list and civilian witnesses are generally reckoned as last except for high status witnesses such as doctors or prominent people.

Police, probation and prison staff tend to believe that they should be given greater consideration. Whilst reluctant to acknowledge that any hierarchy such as that described above exists, magistrates' courts tend to justify their approach by pointing to the obvious facts that magistrates and staff are essential to the operation of the court and that magistrates do not get paid for their work. Courts also indicate that they are expected to minimise defence solicitor expenses chargeable to the legal aid fund.

Police. Two major groups of police are involved at magistrates' courts: those who come as witnesses and those whose regular work is directly related to the courts. The larger number of officers is clearly those who come as witnesses. It is likely, however, that police witnesses spend less aggregate time in the magistrates' courts than the staff who work regularly in the courts.

Police as Witnesses. At one time the police officer in charge of the case was responsible for presenting the case both at first appearance and at subsequent appearances unless a prosecuting solicitor was specially called into the case. In Avon and Somerset, as in many other forces, this is no longer the procedure. Instead crime and major traffic cases are prosecuted by a prosecuting solicitor and minor traffic cases by a special police prosecutor. This system is much more efficient than the older system and means

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that police officers are generally required to attend the magistrates' court as witnesses only when there is a not guilty contest or an old fashioned committal proceeding (Section 6(1)).[5]

In order to determine the workload involved in these appearances an analysis was made of the 1983 Bristol cases. During this year the police filed 5,588 adult crime cases, 1,078 juvenile crime cases and approximately 10,000 minor traffic cases. Most of these cases are disposed of by a guilty plea or an election for trial at a relatively early stage in the proceedings. The available figures, including projections based on very small samples, suggest that less than 20 percent of these cases resulted in a not guilty listing in the magistrates' court, as shown in Table 3. Virtually all of the elections for trial in the Crown Court resulted from paper committals rather than the more time consuming old-fashioned procedure in which witnesses are required to appear.

The available figures suggest that over 10,000 witnesses were involved in the cases listed for not guilty hearings and that over half of these were police witnesses.

Historically each of these witnesses was directed to appear at the magistrates' court on the day scheduled for the not guilty hearing. Since 1967 it has been possible to avoid appearances for some witnesses by serving their statements on the defence under section 9 of the Criminal Justice Act 1967. Analyses of a small number of crime cases in Bristol indicates that this procedure is used for about 20 percent of the witnesses. Until recently the normal procedure in Bristol has been to require the remaining police witnesses to attend the not guilty hearing. This results in an estimated 4,400 appearances by police witnesses annually, as indicated in Table 4.

In addition to the time spent at court each appearance requires a certain amount of travelling and preparation time. This time obviously varies considerably from case to case, but a reasonable estimate for the average appearance by a police officer in a crime case is one hour of preparation, one hour travelling on the day, one and one-half hours waiting and one hour testifying. Each case in which an officer testifies consequently involves an estimated four and one-half hours time, and each in which an officer appears but is not required to testify involves an estimated three and one-half hours time.[6] The total time attributable to police appearances as witnesses at the Bristol Magistrates' Court under these assumptions can be estimated at around 17,000 hours annually. This works out to about 15 hours per Bristol officer or about one percent of the 1,100 police assigned to the three Bristol operating divisions. These figures do not include any time spent in testifying or preparing to testify in the Crown Court or appearances at magistrates' court for the purpose of training or because the officer involved wants to personally observe the results. If these figures were included, the time involved could possibly equal two percent of the force strength.

Police Staff at Magistrates' Court. In addition to the officers who appear at the magistrates' court as witnesses or for special purposes, the police also have quite a large number of staff whose primary work is related to the magistrates' court. At its outer limit this staff might be said to include the booking sections and cell officers at the police stations and those CID and other personnel whose primary work is conducting further investigation of cases in which charges have already been made. There is a sizeable group of staff, however, whose work is even more closely related to the magistrates' court. In Bristol this group includes:

Divisional process offices--processes case papers, enters traffic and other

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	minor process papers into court computer, warns witnesses, maintains case files, serves summonses. (30 staff)
Magistrates' Court Department	--mans court cells; transports prisoners from station to court and from court to prison; provides court security and liaison; executes warrants. (29 staff)
Magistrates' Court Liaison	--responsible for case files in crime cases in court; assists prosecuting solicitor. (3 staff)
Divisional process sergeants	--makes final decision as to filing of traffic and other minor process cases; presents in courts. (4 staff)
Juvenile Bureau	--Makes final decision as to filing of juvenile cases. (11 staff)
Central ticket office	--processes fixed penalty cases; prosecutes defaulters (18 staff)
Coronors court	--processes matters relating to coronors court. (3 staff)
CID clerks	--record case results. (1 staff)
Prosecuting Solicitor	--prosecutes cases. (15 staff)

The total staff, excluding the prosecuting solicitor's office, is around 100, or about 11 percent of the total force staff in Bristol. Whilst any figure of this kind is somewhat artificial, it nonetheless indicates something of the magnitudes involved. Functionally, about 30 percent of the staff whose primary duties relate to the magistrates' courts work directly or indirectly on criminal cases, another 30 percent work on parking, traffic and other minor process matters, and an additional 10 percent work primarily in fine enforcement. Minor process matters are discussed further in section F (Summonses and Warrants) and fine enforcement in section E (Fine Enforcement).

Police Workload. The police would like to reduce the time spent at court by police witnesses, particularly that involved in simply waiting. They would also like to reduce the staff deployed at court to the extent feasible.

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By far the largest determinant of both police and court workload is the number of cases charged. The decision to charge is obviously one of the most important in the whole criminal justice system and has a major impact on every agency in the system. The magistrates' courts, probation and prison are aware of this importance and often express concerns about how this power is exercised in particular categories of cases and the extent to which they are notified in advance of major shifts in charging policy. How this power is exercised is beyond the remit of this study, however, and will not be discussed further here. Once a case is filed the major determinants of police workload are the number of remands, the length of hearings, and the number of witnesses required. Some preparation and appearance time is required for each remand and appearance, but the largest consumer of police witness and prosecuting solicitor time is the not guilty hearing. Considerable police staff time is also devoted to these hearings. Among other things each involves warning witnesses and reviewing the case files.

Pre-Trial Review. In Bristol, as in many other jurisdictions, large numbers of cases listed for not guilty hearings ultimately end before the hearing stage is reached. In many of these cases the accused pleads guilty or the prosecution withdraws the evidence at the last minute, and the case 'collapses". The fragmentary figures available suggest that perhaps as few as a third of the witnesses directed to attend court under the normal procedure are ever called upon to testify. Little police witness time is saved from these collapses, however, because the officer has already had to prepare for the hearing, travel to court and wait to learn of the disposal.

Obviously both police and civilian witness time could be conserved, if it were possible to reduce the number of cases in which witnesses appear at

court when their testimony is not needed. One possible method for accomplishing this is to identify in advance the cases that are going to collapse. Advance identification of this kind would also greatly assist the magistrates' courts, as the courts could then schedule other cases for the time originally allotted to the collapsed cases. This is obviously not possible for last minute collapses.

A procedure which appears to offer considerable potential for providing early identification of the cases which are going to collapse is the pre-trial review. Used by an increasing number of magistrates' courts, this procedure encourages or requires the prosecution and the defence to discuss cases in advance of trial or a contested hearing. The theory is that this process forces the accused, the prosecution and their solicitors to consider their positions in advance of the not guilty hearing and to decide whether they really want to contest the issue or not. Generally one incentive for the defence to participate is an agreement by the prosecution to disclose the basis of its case. Proponents claim that the procedure increases guilty pleas, aids in shortening the hearings that do take place, and provides notice of guilty pleas and other changes of position sufficiently in advance to permit hearings to be cancelled, witnesses to be dewarned and court time to be rescheduled for other cases.

Analysis of a small sample of pre-trial review cases in Bristol suggests that the procedure is indeed providing some benefits of the kind claimed. When a not guilty plea is entered in the Bristol Magistrates' Court, the court schedules a pre-trial review for four weeks later and a not guilty hearing for three weeks following the pre-trial review. This procedure was begun in August 1983 with the agreement of both the prosecution and the defence and is still regarded as experimental.

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About 20 percent of the pre-trial reviews studied resulted in a guilty plea or some other substantial case development, as shown in Table 5. Because of the three week interval between the pre-trial review and the not guilty listing it was possible to delist these cases, dewarn the witnesses and list other cases for the dates involved. This procedure made it possible to reduce the number of police witnesses directed to appear in court in crime cases by about 25 percent.

The remaining 80 percent of the pre-trial review cases continued ahead as not guilty listings after the pre-trial review. Ultimately, however, only 40 percent ended as not guilty hearings. The other 40 percent ended as gulty pleas or no evidence offered. Many of these "collapses" came on the day listed for the not guilty hearing--too late for the court to make use of the time or for the witnesses to be dewarned. The time consumed for both police and civilian witnesses was close to that required for actual testimony. Overall the pre-trial reviews were successful in identifying changes of plea or other major developments in only one of every three instances in which such changes occurred.

There are indications that pre-trial review procedures in other localities may have been more successful than those in Bristol to date.[7] No pre-trial review procedure has yet been rigorously studied, however, and despite their promise many questions about their utility and their cost effectiveness remain. Some of the more important questions are: (1) Does the pre-trial review procedure increase the rate of guilty pleas in the magistrates' courts? (No programme to date has been compared either against the previous experience of the court involved or a control group).

(2) Does the pre-trial review procedure increase the amount of

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advance notification of plea changes and other collapses? (Presumably there was some advance notification prior to the pre-trial review procedure.)

(3) Does the pre-trial review procedure decrease the time involved in not guilty hearings which are held?

(4) What form of pre-trial review is the most effective? (There are two major kinds of pre-trial review: the Nottingham model, which is essentially a voluntary procedure, and the Leeds model, which involves a scheduled appearance by the defendant. The original Bristol procedure followed the Nottingham model. There is a perception that this has not worked well because neither the defence solicitor nor the prosecution had enough authority to make decisions at the pre-trial review. Bristol is therefore shifting to the Leeds model. With the defendant present at the time of the pre-trial review the hope is that more decisions will be made then. Other variants of the pre-trial review also exist.)

(5) What is the effect of the pre-trial review procedure on delays and time to disposal? (Some believe that the availability of pre-trial reviews decreases the number of early guilty pleas and thereby increases both delay and workload.)

(6) How much do pre-trial reviews cost? (Magistrates' court clerk time is involved as well as that of solicitors. Defence solicitors are paid from the legal aid fund.)

(7) Do the benefits outweigh the costs? (Many magistrates' clerks, particularly from the smaller courts, question this and the Justices' Clerks' Society has taken no stand. The Bristol Magistrates' Court is unclear at this point. It is disappointed in the results to date but has instituted changes which it hopes will improve the procedure. The present procedure costs one and one-half clerk days per week plus

the time to set up the pre-trial reviews. The benefits to the court are about two courtroom days per week available for re-scheduling, as shown in Table 6.)

(8) Could the same expenditure of effort in some other manner produce better results?

(9) What will be the effects on pre-trial reviews of the regulations to be issued concerning advance disclosure of the prosecution case? (The Home Secretary has announced his intention to issue regulations requiring advance disclosure of the prosecution case in either-way cases within a year. As one of the major incentives for defence participation in pre-trial reviews is the opportunity for disclosure of the prosecution case, the new regulation could have a major effect on the reviews.)

Obviously, if it were possible to develop the pre-trial review or some other procedure to provide a greater measure of advance notification, this would be very helpful for police, civilian witnesses, the magistrates' courts, the solicitors, and in some custody cases the prisons as well, Whilst it seems doubtful that it will ever be possible or even desirable to identify in advance all changes of plea or disposal, it should be possible to develop procedures that would identify a much higher proportion than one in three. This will not be an easy process, however, and much more experimentation and research will be required. The next step needed is to test the pre-trial review procedure much more rigorously than has been done to date. Such testing would obviously be useful for the larger courts which are already expending considerable effort and resources on this procedure. Testing would also be useful for the smaller courts which have thus far been sceptical of the procedure and have little major experience with it.

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Other Procedures. It may also be possible to develop other procedures to reduce the number of police witnesses. In Avon and Somerset considerable use is already made of the procedure under section 9 of the Criminal Justice Act 1967 in which the prosecution serves witness statements upon the defence as a substitute for that witness' appearance in court. It is not clear whether use of this procedure could be expanded or not. There are indications, however, that it might be possible to do so. It is also possible that greater use might be made of section 10 of the Criminal Justice Act 1967. This section permits the prosecution and the defence to agree about particular items of evidence without the necessity for calling witnesses or supplying statements.

Still another procedure which might assist in reducing witness time is a telephone standby in which the witness goes to his or her normal work place on the day the hearing is listed but remains accessible by telephone so that the witness may respond quickly to a call indicating a need to appear in court.

Probation. Probation officers also spend a great deal of time preparing and presenting social inquiry reports and attending court to assist in whatever way they can. Preparing and presenting social inquiry reports is particularly important as national surveys indicate that probation officers spend about 13 percent of their time (and about a fifth of their non-administrative time) performing this duty.[8] Over two-thirds of this work is for the magistrates' courts or the juvenile court.

This work is a source of some tension between the probation service and the magistrates' courts. Many magistrates prefer to have reports presented by the officer who wrote the report so that he or she may answer questions about the case. Probation officers, however, often find that this requires

them to hang around the courts for a considerable time waiting to give their report. Probation surveys in one court also show that officers who do present their own reports are asked relatively few questions. Nonetheless both the Avon and Somerset probation services seek to have the report writer present as often as possible.

Under these circumstances methods of listing which make it possible to present social inquiry reports without excessive waiting time become of considerable importance. In larger magistrates' courts this goal is sought by devoting whole sittings of a court to social inquiry reports. In Bristol this process has been refined even further by using three different appearance times (10:00a.m., 11:30a.m. and 2:00p.m.). This means that probation officers who come late in the queue do not have to appear until 2:00p.m. This method of listing does not eliminate waiting time on the day but does help to reduce it.

The problem can hardly be regarded as resolved, however. In Bristol the author presents the report in 50-60 percent of the cases. The remainder are presented by members of the court liaison team, a special unit created to work with the courts. This unit has developed careful procedures for informing itself about reports which it presents instead of the author. Team members are consequently able to answer many questions that arise. On occasions, however, they are not able to answer important questions, and cases have to be either put over or resolved on less than adequate information.

Similar problems exist in the smaller magistrates' courts. Here the court sittings tend to be on only one or two days of the week and the court list includes all the cases for the day without any special scheduling. Probation officers must therefore wait their turn in the list in order to present reports. When not able to wait, the report must be presented by

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someone other than the author. Other areas of probation officer utilisation at court which present problems are:

(1) The need for probation officers to be present in court on a standby basis.

(2) The methods for notifying probation that a social inquiry or other report is needed.

(3) The determination as to the kind of report required.

(4) The handling of cases involving breaches of probation or community service orders.

Views vary as to the need for probation staff to be present in the courtroom when hearings not involving probation reports are taking place. Probation staff believe that magistrates want and expect this kind of presence and that it encourages proper use of the probation service. Presence in the courtroom provides a sure method of notification as to when a social inquiry report is needed and is often helpful in focusing the report on the specific questions which the magistrates want answered. Presence in court also enables probation staff to answer some questions on the day through stand-down reports and without the necessity of a full social inquiry report.

It is unclear, however, how cost effective this time is. National surveys indicate that probation officers and ancillaries spend about 10 percent of their time in the courtroom[9], but there are no studies analysing what this accomplishes. Certainly it would seem that there could be alternative methods for notifying probation of the need for a social inquiry report or even of the need for a stand-down report.[10]

Many in the probation service believe that the listing process for breaches of probation and community service orders is a problem. Unless heard promptly such breaches are viewed as disruptive of the larger probation

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or community service programme. Without some special priority in listing the persons subject to the order generally must continue in the programme even though they are believed by probation to be in violation of programme requirements.

Prison. Prison officers are rarely called upon to testify but are heavily involved in transporting prisoners to court. The workload involved in such transportation varies enormously from prison to prison and area to area. Whilst up to a third of the staff of some prisons may sometimes be involved in transporting and escorting prisoners, the majority of these personnel in the remand prisons studied were involved in providing transportation and security for the Crown Court. Whilst specific figures were not available, each prison also consistently appeared to need more staff for these purposes than was budgeted.

It should not be surprising that the staff requirements for the Crown Court are more onerous for the prison than those for the magistrates' courts, because at the Crown Court the prison performs many roles undertaken by the police at the magistrates' courts. Thus in the Crown Court the prison must provide two officers for the dock in each courtroom plus the security detail for the holding cells. The prison also provides transport to and from the Crown Court, whilst for the magistrates' courts it generally only provides transport to the court. An impressionistic view for the four remand prisons observed is that 60-70 percent of the staff time devoted to courts and transport went to the Crown Court, 10 percent to inter-prison transfers and the remainder to the magistrates' courts.

The report of the Working Party on Prison Officer Court Duties and the recently developed Manual of Guidance for Prison Service Court Duties outline many important steps for improving the efficiency of services for the courts

and particularly services to the Crown Court. Whilst the potential for reducing costs in services to the magistrates' courts is smaller, there are nonetheless areas that warrant further exploration. The most important are:

(1) The handling of "production" cases. When a prisoner who has already been sentenced is required to appear in the magistrates' court, present rules require prison staff (generally two prison officers) to remain with the prisoner throughout the day rather than dropping him off with the police as is done with unsentenced prisoners. As the police have generally provided security for the prisoner in question at some earlier point, the reason for the extra security provided would not appear to be because of any concern about the ability of the police to prevent the escape of the prisoner, but rather because it is the legal "duty" of the prison service to maintain custody. The extra security which the prison officers provide is normally largely wasted because the police are already providing all the security needed. Revision of the rules as to production cases could help to reduce this waste. In many instances prison officer time would be saved by handling the production of sentenced prisoners in the same way as the escort of remand prisoners.[11] An alternative arrangement for saving prison officer time is for these cases to be listed first.

(2) Reducing the number of production cases. Some production cases in the magistrates' courts concern prisoners charged with serious matters in the Crown Court and more minor matters in the magistrates' court. Often in these circumstances the minor matters are held in abeyance pending resolution of the more serious case. This is no doubt sometimes an efficient method for handling the minor matter insofar as the magistrates' court is concerned. If the prisoner is given a custody sentence, however, the result is that the prisoner must be brought back to the

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magistrates' court as a production. In addition to the changes in the rules concerning productions discussed in (1) above, consideration should be given to changing the law to permit or encourage the Crown Court to dispose of the entire case, at least in those instances in which there is no contest on the minor matter.[12]

(3) Allocation of transport duties between prison and police. Present practice in Avon and Somerset and in most other areas of the country is for the police to transport persons remanded in custody prior to committal or to sentence in the magistrates' courts from the magistrates' courts to the prison and for the prison to transport from the prison to the court. In London the police generally perform both roles. These general rules have the virtue of clarity but are often inefficient. Delineating the specifics of a more efficient system would require much more detailed study and possibly a location by location analysis. It is possible, however, to indicate some areas in which savings seem feasible or worth further exploration:

(a) Long trips involving short appearances. Generally overall costs would be reduced if prison staff remained at the court and returned with the prisoner on long trips involving short appearances. Such a policy would marginally increase prison costs but would reduce police costs by a greater amount. Most trips of over one half hour with an appearance of one hour or less would fall into this category. Savings would be increased if arrangements could be worked out with magistrates' courts to hear short matters involving prisoners quickly after the prisoners arrive.

If the defendant transported from the prison is not the only person who must be transported from the court to the prison on the day, the most efficient transport arrangement is less clear. Savings are still

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possible, however, and could be worked out on a location by location basis. Some prisons, magistrates' courts and police already follow the procedures indicated on an informal basis. Considerably more could be done, however, if stated policies for the various services required or encouraged this kind of co-operation.

(b) Return prison transport in Crown Court cities. Prison transport to Crown Court appears to be used efficiently to drop off prisoners at magistrates' courts along the way. In many locations this process is not reversed at the end of the day, however. Whilst it is not always feasible to do this, in some instances it would aid overall efficienty.

(c) Internal transport in Crown Court cities. Where a prison is located in a Crown Court city an integrated transport system in which either police or prison takes responsibility for all transport to and from the courts may be more efficient than the present dual systems.

(4) Remand in custody cases. Persons remanded in custody by the magistrates' court must appear before the court every eighth day unless the prisoner has waived this right. In some instances it may be possible to realise savings by concentrating hearings for remand prisoners on a single court day (e.g. Wednesday). This is probably not feasible for the largest courts, but for medium sized courts with hearings throughout the week this kind of listing would reduce the number of trips to court needed for remand in custody cases. This kind of saving would not be feasible for the smallest courts such as those which sit only one day per week. Even for these, however, concentration might be achieved by holding the remand hearing in another court. Whether this solution would solve more problems than it created would have to be determined.

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The possibilities for increasing the number of waivers of pro-forma appearances by prisoners remanded in custody are discussed in section D (Bail Practices and Remand in Absence Procedures). The possibilities for expediting hearings for these cases is also discussed in section D.

(5) Closed circuit TV for routine appearances. Court appearances vary greatly in their importance. Appearances involving pleas, not guilty hearings and other substantive matters clearly require the physical presence of the defendant in court. Other appearances, such as those occasioned solely by the eight-day rule, can be much more pro-forma. Consideration might therefore be given to testing procedures allowing some of the more routine appearances to be conducted over closed circuit television. Closed circuit television is relatively simple and inexpensive and would permit each party to see and communciate with the other. Whilst there are many obvious problems which might be raised about the use of such a procedure (legality, cost, whether the defendant could communicate effectively with solicitor, and others), the potential for saving resources without reducing the quality of justice merits consideration.

(6) Warrants. Transport to the prison at the end of the day is sometimes delayed because of the time required for the court to prepare the necessary warrant. The Manual of Guidance provides an alternative method of receipting for Crown Court prisoners when necessary to avoid undue delay. Extension of a similar kind of authority to the police would assist in transport of defendants from the magistrates' court to the prison.[13] Alternatively, it might be possible to develop routines allowing warrants to be completed in the courtroom.

Demonstration Project. A demonstration project involving utilisation of police, probation and prison personnel in the magistrates' courts would present many problems but would have a high potential for reducing the use of police personnel at court and considerable potential for reducing the use of probation and prison personnel. It might also assist in improving court efficiency. Probably the greatest potential lies in further testing of the pre-trial review concept. This procedure is being adopted by an increasing number of courts, but has not been rigorously tested in the larger courts, and has hardly been tried at all in the smaller courts. (Police, courts, probation, prison.)

C. Witness Issues.

Large numbers of witnesses must be notified for court appearances and for changes in court appearances, as shown in Tables 3 and 4. Generally these witnesses must also be compensated for the time spent in appearing in court. As the compensation available is often less than the witness could earn during the time involved, many witnesses are reluctant to attend court. Measures which help to reduce the number of witnesses needed can therefore be seen as aids to community co-operation with the criminal justice system and a kindness to crime victims who are perhaps the largest group of witnesses.

As a practical matter the considerations which determine utilisation of police witnesses also largely determine the utilisation of civilian witnesses as well. Procedures such as pre-trial reviews and use of witness statements in lieu of appearance consequently have considerable potential for reducing unnecessary witness appearances as well. Important progress has already been made in this regard in Avon and Somerset but more can probably be accomplished. Obviously reductions in the number of witness appearances also help to reduce the amount of witness compensation which must be paid.

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Any demonstration project in this area should probably be combined with topic A (Scheduling of Magistrates' Courts) and B (Utilisation of Police, Probation and Prison Personnel at Court). (Police, courts).

D. Bail Practices and Remands in Custody.

Bail practices also present major interdependence issues. The initial custody decision is of course made by the police. Decisions thereafter are made by the magistrates, although police views are often taken into account. Defendants initially are generally detained in police cells but thereafter are held in prison. Probation generally does not get involved in the bail decision but does operate a system of hostels designed to provide accommodation for defendants who might otherwise have to be detained because they have no fixed abode or place to go.

Generally the initial police decision is in favour of bail rather than custody. In 1982 over 85 percent of those accused in indictable cases, over 90 percent of those accused in summary non-motoring cases and over 99 percent of those accused in summary motoring cases were either bailed or summonsed.[14] About half of those first brought to court in custody and an even larger proportion of those first brought to court in custody for summary offences are disposed of at first appearance and are therefore never remanded in custody, at least as untried offenders.[15]

Half or more of those defendants who are remanded in custody are committed to the Crown Court for trial, while slightly less than half have their cases disposed of in the magistrates' court.[16] These two groups of cases appear to be quite different. In a study of defendants remanded in custody to HMP Bristol during one month from the Bristol Magistrates' Court most of those ultimately committed to the Crown Court were detained because of

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concerns about the nature and seriousness of the offence charged. Only 10 percent of these defendants were bailed prior to disposal. Defendants disposed of in the magistrates' courts on the other hand were often detained as the result of a need for a cooling off period after an assault, a new offence while on bail, a failure to appear in court or some similar reason. A third of this group were bailed prior to disposal despite an average custody period of only 17 days.

Whilst in the one month Bristol study the number of prison receptions for committal and for non-committal cases were roughly equal, the contribution each made to the overcrowding problem was dramatically different. Over three fourths of the time spent in prison was attributable to defendants tried in the Crown Court. On average these prisoners spent 42 days in the magistrates' court awaiting committal and 47 days in the Crown Court awaiting trial or other disposal.[17]

The committal and non-committal cases also differed considerably as to the proportion ultimately receiving non-custodial sentences. Nationally this group totals about 30 percent of all those remanded in custody,[18] and is frequently mentioned as a special target for efforts to reduce the prison remand population. In the Bristol study over half the cases disposed of in the magistrates' court received non-custodial sentences as compared with less than 20 percent of the committal cases, as shown in Table 7.[19]

Reducing the Prison Remand Population. Obviously any strategy to reduce the number of remand prisoners must distinguish carefully between the committal and the non-committal cases. Whilst it is no doubt possible that some committal prisoners could be handled through non-custodial means, a more likely strategy for reducing the number of prisoner days on remand would be to speed up the committal process. Such an effort would necessarily involve

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the magistrates' court, the police and the prosecuting solicitor's office, and might also need to involve defence solicitors as well.

Any such speedup effort would need to guard against increasing the number of committals as a result of the measures adopted and to take into account the effects to be expected from new requirements concerning advance disclosure of the prosecution case already announced by the Home Secretary. Such an effort might also be affected by proposals concerning time limits in criminal cases. Despite the difficulties and uncertainties involved further work in this area is clearly feasible and seems sufficiently important to warrant careful consideration.

It should also be noted that speeding up the committal process would reduce the number of pre-trial prisoners only if there were no increase in the length of time spent in custody while awaiting trial in the Crown Court. In addition because a high percentage of the committal cases held in custody eventually receive custodial sentences speeding up committals might not greatly reduce the overall prison population. Such a step would, however, reduce the proportion of the prison population in the remand prisons and would also reduce the need for transport to and appearances in the magistrates' courts.

Any strategy designed to reduce detention for prisoners tried in the magistrates' courts must take account of the reasons these prisoners are detained and the relatively short time periods involved. Some of the detentions are ordered for cooling off purposes or to show that the court is serious about expecting the defendant to appear in court. In some of these cases it seems doubtful that a non-custodial alternative could be arranged. In other cases, however, alternatives such as a bail hostel with very strict conditions might be feasible, if there were a

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mechanism for making the necessary recommendations and arrangements.

Bail Hostels. In the past one reason for remands in custody has been a concern that defendants without accommodation or with no fixed abode might not appear in court. To assist in reducing detention on these and other grounds the Home Office has created a network of hostels which may accept persons on remand who are in need of accommodation. One such hostel is located in Avon and Somerset. In addition there are privately operated hostels in the area which accept bail cases.

It is not clear whether these hostels could be mobilised to further reduce the prison remand population. Very few of those now detained by the Bristol courts appear to be detained because of a lack of accommodation or no fixed abode. Indeed most of the committal cases are detained because of the nature and seriousness of the offence and most of the non-committal cases for transitory reasons. Moreover, it is not clear that there is any unused hostel capacity available. The Bristol bail hostel operated by the probation service is generally full and would be unable to accept a large number of additional referrals.

Despite these obstacles there is some reason to think that greater use of hostels might be made for reducing the prison population. Present methods for arranging for hostel use are extremely haphazard and unsystematic. Generally the possibility of using a hostel is raised by the defence solicitor as a method of avoiding custody for his client. Most referrals come from a small number of solicitors who have learned how to locate hostel space and to make recommendations for its use. It might well be possible to increase the number of defence solicitors with this kind of skill. It might also be possible to develop other methods for making recommendations for hostel use.[20]

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Offences Committed Whilst on Remand. A 1981 Home Office study found that about seven percent of those bailed by magistrates committed at least one offence while on bail. Among other things this study indicated that defendants with long waiting times committed more offences whilst on bail than those with shorter waiting times.[21] The studies available indicate that when the police are concerned about releasing a particular individual and recommend a remand in custody that the magistrates generally agree.[22] There is a small percentage of cases, however, in which magisterial and police views differ. Thus the magistrates remand some defendants on bail over police objection and some in custody when this has not been recommended.

The police are particularly concerned about remands on bail over police objection and almost every force can recite instances in which serious crimes have resulted from such releases. In Avon and Somerset there was a particularly bad robbery which resulted from one such instance during the past year, and this was known throughout the force. A special survey conducted by the police over a three-month period, however, showed only a few instances of crimes committed by persons remanded on bail over police objection.

Remands in Absence. Historically the law has been that defendants may be remanded in custody for only a week and must therefore be brought back to court at least once every eight days. The modern purpose of this law is to provide the court with a periodic opportunity to consider whether the defendant should be retained in custody. In the early stages of a case defendants often use this opportunity to have their status reviewed and frequently are successful in securing their release. Weekly reviews rapidly become less useful to all concerned, however, and the Criminal Justice Act 1982 gave defendants the right to be remanded in their absence, if they did not wish to appear in court. A survey of the extent to which this privilege was used during the first eight months of the new law was undertaken in HMP Bristol.[23] This survey

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showed that defendants initially used the remand in absence procedure for only 20 percent of their appearances but gradually increased their usage to around 30 percent. The survey also showed that many prisoners were either not aware of the remand in absence procedure or were confused by it and that the percentage of use varied widely by court.

Some further analysis of the use of the remand in absence procedure was undertaken in the special one-month Bristol study. This showed that the procedure was rarely used by defendants disposed of in the magistrates' court but frequently used by committal prisoners. Further work in this area may have potential for reducing the number of appearances in court and the number of prisoners requiring transportation to court.

Length of Bail Period. Many defendants first come to court after having been arrested and then bailed to appear by the police. At one time the typical bail period was very short--usually the next day. In the early 1970's this period was deliberately lengthened in many areas in order to give defendants an opportunity to contact solicitors prior to their first appearance in court and thereby increase the number of disposals at first appearance.

Although the remand periods used were often as long as four to six weeks, experience with this new system has been quite disappointing and the percentage of defendants who consult their solicitors is generally believed to be little higher now than under the older system. Magistrates' courts and police are therefore now trying to shorten the bail periods involved in order to reduce the overall delay in handling cases. There are a number of problems involved in doing this. The most important of these is the time required to obtain previous conviction information, an issue which is more fully discussed in section H (Sharing of Information and Computer Development).

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Demonstration Project. Whilst the analyses thus far completed suggest that solutions to the various bail problems are likely to be complex, they also suggest that there is considerable potential for useful work through a demonstration approach. (Police, courts, probation, prison.)

E. Fine Enforcement

The fine is the principal sanction used by the criminal courts and an important source of revenue for central government. The efficiency and effectiveness of fine enforcement is therefore a matter of importance. This importance is heightened by the contribution that fine defaulters make to the prison overcrowding problem.

No doubt part of the problem of fine enforcement lies in the need to assess more appropriate fines in the first instance and in such social factors as unemployment. The fragmentation of the fine enforcement process and the involvement of different agencies is also an important part of the problem, however. The magistrates' courts impose fines and receive monies; the police enforce warrants; probation conducts means inquiries and administers money payment supervision orders; and prisons lock up defaulters. The magistrates' courts undoubtedly have the largest responsibility, but no single agency has full direction or control over the process. Fine enforcement is thus a classic inter-dependence problem in which costs and problems can be shifted from agency to agency without regard to overall system effectiveness or costs.

Once a fine has been imposed the first step in the present enforcement process is generally for the magistrates' court to issue a fine notice.

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If this does not result in payment, procedures vary considerably. The most common step is a reminder letter. If this also fails to produce payment, the court usually issues a warrant for the arrest of the defaulter in order to require his attendance at a means inquiry court. The warrant is generally directed to the police. Rather than execute it straight away, however, they normally send the defaulter a letter indicating that they have the warrant and will arrest him if he does not come in voluntarily. In Bristol this letter generally brings in about 40 percent of the defaulters--some to pay their arrears, others simply to acknowledge the letter and be bailed to a means inquiry hearing.

Generally the means inquiry hearing results in a new payment plan. If this plan also fails to produce payment, the court generally issues a committal warrant to send the defaulter to prison. This warrant is also generally enforced by the police but without the warning letter. If the defaulter can pay the fine when the police go to arrest him, however, his payment will be accepted and he will not go to prison. Moreover, even after the defaulter has been committed to prison, he can still be released if he can find a way to pay his fine.

Viewed from an interagency perspective the present system of fine enforcement poses four major issues:

-- A growing lack of clarity as to whether fine warrants should be enforced by the police or the magistrates' courts.

-- Considerable uncertainty as to the effectiveness of the present system

-- The high cost of present enforcement procedures.

-- The problem of prison committals for fine default.

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Responsibility for Fine Warrant Enforcement. The execution of means inquiry and committal warrants is a particular problem. Traditionally this has been a role for the police, and in parts of Avon and Somerset the police still perform this mission. In other areas the courts have assumed responsibility for the execution of warrants through the use of civilian enforcement officers. Neither solution is without problems.

The principal problem with the execution of warrants by the police is that the police are hard pressed for manpower, do not regard warrants as a priority area and would prefer to be rid of the responsibility. This line of reasoning is intensified by financial pressures from local authorities, who are eager to shift functions from the police to the magistrates' courts (where the local contribution is 20 percent instead of the 50 percent applicable to the police). The result is that in some areas of the country the police staff employed is not sufficient to administer the number of warrants issued and there are huge backlogs of unexecuted warrants.

In Avon and Somerset magistrates' courts encountering these problems strongly favour the assumption by the courts of the responsibility for warrant enforcement. They find it difficult to accomplish this goal, however, because of budgetary problems. They have no budget to employ civilian enforcement officers, can find no mechanism for transferring resources from the police, and could not get police consent for such transfers in any event because the police purpose for withdrawal is to use the resources in other ways.

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Some of the courts that already have civilian fine enforcement officers see other problems. They find that many warrants are more easily served in the evening when people are at home and argue that this schedule fits better with police than with court supervision, particularly in rural areas. Generally courts with civilian fine enforcement officers report no special difficulty in arresting fine defaulters. Some do, however, report delays at police stations in processing fine defaulters for bail. Magistrates' courts which report this problem tend to believe that police warrant officers would encounter fewer delays.

It may well be that there is no single best way to execute warrants, and that there should be some flexibility for alternative arrangements. It seems clear, however, that the execution of warrants is too important a task to be left to chance. Both financial considerations for central government and the integrity of the most common penalty used in the criminal courts require that fine enforcement be attended to on a regular, businesslike basis. This can best be done by having a common national framework in which each agency understands it responsibilities.

In this situation there is much to be said for placing the major responsibility, and the financial and staff resources to implement that responsibility, with the magistrates' courts. If the courts then choose to employ the police to exercise that responsibility, this can be done by contractual arrangements in which the courts reimburse the police for the tasks undertaken. Apparently arrangements of this kind have already been worked out in some areas outside of Avon and Somerset.

It might be possible to develop a model framework for fine enforcement

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through a demonstration project in Avon and Somerset. Many of the issues go beyond local matters, however, and would seem to require either legislation or some nationally agreed set of responsibilities. Because there are both financial and operational considerations involved any such agreement would presumably need to include the police, the magistrates' courts and local government. Obviously in the end there will also be a need to tackle the thorny question of finances. Otherwise the police are likely to continue to withdraw from this area, leaving the courts to cope as best they can.

The choices essentially are (1) to require the police to continue to provide the service, (2) arrange a transfer of resources from the police to the magistrates' courts, (3) provide new money to the magistrates' courts, suffer a reduction in the enforcement effort, or (4) adopt some new and more efficient enforcement strategy.

Is the Present System of Fine Enforcement Effective? It is difficult to know how issues relating to interagency relationships in fine enforcement should be resolved in the absence of better information about the effectiveness of the present system.

The most recent national figures concerning fines are for fiscal year 1982-83. They show collections of £113 million, arrears of £50 million and write-offs of £3 million as uncollectable.

On their face these figures would seem to show that the present system is highly ineffective, as the arrearage totals almost half of the collections. Further investigation, however, shows that "arrears" includes amounts imposed on installments and not yet due, as well as the amounts already overdue. The arrearage figure thus is largely useless for determining system effectiveness.

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This leaves the write-off figure. This figure suggests that the system is highly effective, as the fines written off as uncollectable total less than 3 percent of the amounts collected--a record that would be very impressive in commercial circles. Investigation of individual court reports, however, indicates that there are other uncollectable amounts that are deducted from the arrearage totals and are therefore not included in the write-off figure.[24] This means that the write-off figure also may not be used as a measure of effectiveness.

Better information is provided by a series of research studies over the past 15 years. These studies fall into two groups. Those that study all fines show a high rate of collection--often in the 80 to 90 percent range, as shown in Table 8. Those that study criminal offences only or which have separate figures for criminal offences show much lower rates of collection for these offences.

The only published figures showing payment rates by offence group are Softley's 1973 figures for the years 1967 and 1968. These help to reconcile the two sets of figures. They show that motoring fines which have very high rates of payment dominate the overall figures and help to produce a high overall collection rate. They also show that property and revenue offences dominate the collection problem, as indicated in Table 9. This suggests that the present system is relatively effective in collecting motoring fines but much less effective in collecting fines related to property and revenue offences. These figures also raise the question as to whether it is the enforcement effort that results in payment or the characteristics of the offenders. Are collections for motoring offences high because the offenders are mostly middle class citizens likely to pay in any event or

because the deadbeats involved are continually chased until they pay? Are the collections for crime cases in turn low because there is no enforcement effort or in spite of it? A number of studies indicate that some kind of enforcement action is needed for one third to one half of all fines.[25] In most instances, however, reminder letters and notices that a warrant has been issued produce most of the payments and relatively little money is taken in as a result of means inquiry hearings and committals.[26]

Lowering the Cost of Enforcement. This is not the place to review the whole of the fine enforcement problem. Interagency problems do bear heavily, however, on overall questions of strategy. The fragmentation and structure of the present system appears to result in very high enforcement costs. In Bristol enforcement costs not including the cost of initial case and adjudication or the cost of imprisoning fine defaulters, probably total 20 percent of collections (not including fixed penalties), as shown in Table 10. If the cost of imprisoning fine defaulters is included, enforcement costs could total 45-50 percent of collections.[27] Projections based on prior studies suggest that these figures mask two very different kinds of reality, however: enforcement costs of about 20 percent for motoring offences and 70 percent for criminal and revenue and other kinds of offences.

Costs for all kinds of offences could be reduced if there were (1) incentives for individuals to pay fines, (2) less reliance on such high cost collection methods as personal execution of warrants, means inquiry courts and committals to prison, (3) a streamlined procedure for granting bail to fine defaulters, (4) greater computerisation, (5) methods for adding fine warrants to the police computer system, (6) improved information for fine enforcement officers, (7) a longer period for the write off of

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fines, (8) meaningful standards of performance, and (9) incentives to agencies to collect fines.

(1) Incentives to Individuals to Pay. The principal sanction at present for not paying a fine is committal to prison, and even this can be avoided by paying at the last moment. In strict economic terms it is to an individual's advantage not to pay until the last moment, and repeat offenders appear to know this. Small, automatic, well-publicised and consistently enforced penalties for failure to pay could be expected to improve the rate of voluntary payment. Creating such an incentive would require legislation, as neither the cost of collection nor a penalty can now be lawfully added to the basic fine. Properly structured, such an incentive need not add to the number of fine defaulters committed to prison.

(2) An Administrative Approach to Collection. Present methods of enforcement often require enormous numbers of warrants, means inquiry courts and committals. In Bristol a means inquiry warrant is issued for one of every ten fines imposed. Three means inquiry courts are held each week, occupying about 5 percent of the available court calendar space. The rate of payment resulting from these proceedings is not known but in other courts is no more than 50 percent.[28] About half those brought before the means inquiry court are ultimately committed to prison.[29]

If this description is at all accurate, there would appear to be a good case for reviewing the basic approach to enforcement. Consideration might be given to a much more administrative strategy than is typically used at present. Instead of bailing defaulters to come before a means inquiry court directly, defaulters might first be

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required to see the court staff so that the nature of the problem could be identified and action taken if possible without a means inquiry hearing.[30]

This kind of approach would more clearly resemble private collection methods and would use more fully the powers already exercised by court staff to adjust the weekly payments or the time to pay. Whilst at present this tends to be done only when requested by the defaulter, the suggestion is that the court staff become much more actively involved. Arrest warrants, means inquiry courts and committals would remain important enforcement tools but would be employed more selectively and at a later stage in the process. As a recent Barclay's Bank publication concerning the recovery of doubtful debts from individuals states:

> "It must be stressed that a constant aim during the recovery process should be to keep a dialogue going between Bank and the customer however strained relationships may become. This may require great restraint and patience on our part but experience shows that when the talking stops and the recovery passes to the hands of the Bank's legal representatives the outcome is likely to be far less satisfactory and costs escalate quickly".[31]

(3) <u>"Doorstep Bail".</u> Under present law many believe that persons arrested under a warrant can lawfully be bailed only at a police station, even if the warrant itself is backed for bail. Because of the travel time involved from where the defaulter is found to the police station, this requirement greatly reduces the efficiency of all warrant enforcement officers either police or civilian. To overcome this problem some forces permit police officers to bail the defaulter at the "doorstep" of his home rather than travelling to the police station. Clause 44 of the Police and Criminal Evidence Bill will eliminate any doubts as to the lawfulness of this practice when

carried out by police officers. As there are an increasing number of civilian fine enforcement officers, it would be highly desirable for this authority to be extended to them as well. This would require legislation.

(4) Greater Computerisation. Computers are already bringing many benefits to fine enforcement. Magistrates' courts are using computers to maintain records, identify defaulters and to implement initial enforcement actions such as reminder letters.

In the jurisdictions observed computers are not yet being fully used across agency lines, however. In one area a police typist was employed full time to retype onto index cards default notices received from the court computer. These index cards were then used as a manual file of warrants to be served. The unit had considered whether it might be able to use the court computer instead of the manual warrant file but had rejected this because the computer might break down, was not available on Saturday mornings and for other reasons. Although the unit indicated that one of its major problems was a lack of clerical assistance to type the cards and maintain the file of warrants to be served, it was unaware that the court computer could print the index cards being typed in the office and had not thoroughly explored possibilities for solving the other problems it was concerned about.

In addition, despite the fact that many warrants involve individuals who frequently appear before the courts, no consideration had been given to the feasibility of cross-indexing the outstanding warrants with the court lists available on the computer. Whilst

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cross-indexing in this way would obviously require some additional programming, it should be relatively simple to set up routines for doing this automatically on a daily basis. Such a system would be much more effective than the very limited and partial cross-indexing now done manually.[33] This kind of cross-indexing is now being done by at least one police force outside Avon and Somerset and is discussed further in section H (Sharing of Information and Computer Development).

The purpose of this section is not to criticise a unit that works extremely hard and is well led, but rather to illustrate the potential benefits of further integration of police and magistrates' court operations in this area.

(5) Adding Fine Warrants to the Police Computer. One important way to improve present fine enforcement procedures is by taking full advantage of other contacts that defaulters have with courts through computerised methods such as those discussed above for cross-indexing of default warrants and court lists. Fine enforcement would be improved even more if advantage could be taken of the vastly larger number of contacts that police have daily with the citizenry as a whole. By far the most effective way of doing this would be through a computerised system in which police officers could rapidly check whether individuals with whom they were in contact had outstanding fine warrants. The police already have such a computer system for other kinds of warrants, but this system includes only a tiny fraction of the fine warrants. Adding fine warrants to the present police computer system or to some new system would greatly assist in fine enforcement. Such a system could also be used with summons administration as discussed in section G (Sharing of Information and Statistics and Computer Development).

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(6) Improving the Information Given to Fine Enforcement Officers.

A warrant directed to a fine enforcement officer is serious business. It instructs the officer to locate and arrest the defaulter. It is important therefore that the court issuing the warrant identify the defaulter as clearly as possible, giving both a full name and an accurate address. Such information is generally available at the time a fine is imposed and is important to the enforcement process both to avoid misidentification and to improve efficiency. Because of the large number of fines and warrants processed the kind of clarity needed is not always now achieved.

(7) Write offs. When a fine is identified as uncollectable, present rules allow the magistrates' court involved to request Home Office approval to write the fine off.[34] The written rules do not specify any particular waiting time, but many courts observe an informal rule that fines should not be written off until at least a year after their imposition. In Avon and Somerset there is some tension between the magistrates' courts and the police over the write off of fines. Some courts view fines not paid within a year of imposition as unenforceable and wish to request Home Office approval for writing the fine off. Some police units are reluctant to declare the fine unenforceable, however. Because many defaulters are repeat offenders they incline to the view that if the police wait long enough, they will have an opportunity to execute the warrant.

The police would seem to have the better of this argument. Whilst there are no figures available concerning the rearrest rate for fine defaulters, the rate of rearrest for persons fined for theft--a group from which many defaulters come--is 30 percent within two years of the fine.[35] Consideration might therefore be given to

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clarifying the present unwritten rules to provide that no fine may be written off until at least two years after the date of the initial fine or possibly two years after the date of the last default. Whilst it might be argued that changing the write off rules is unnecessary because fines which have been written off remain enforceable, many enforcement systems remove fines which have been written off from the active files and thus have no systematic way of identifying the defaulters involved. Obviously it will be easier for computerised enforcement systems to carry fines for a longer period of time than for systems which are not computerised.

(8) Meaningful Standards of Performance. As previously discussed, it is virtually impossible from published data to determine what percentage of fines are paid either on a national or a local basis. As a consequence neither central government nor local agencies have standards by which to measure performance. Some information of course is available to local agencies--their own past record, an audit visit every several years by the Lord Chancellor's Audit Branch, and what little information they can gather on their own from other jurisdictions. This seems inadequate, however, to guide such an important activity.

One step that would help in developing meaningful standards of performance would be to revise the financial data now submitted quarterly to the Home Office. Considerable local effort already goes into preparation of these figures and with some redirection this could be made to yield information that would help to measure performance. One method of providing such information with little or no extra effort is shown in Table 11. Whilst better formats could undoubtedly be developed, all the calculations for this particular format must already be made to file the present form. The format suggested would give a much fuller picture of

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the effectiveness of the system. If figures were kept separately for motoring and non-motoring offences, the picture would be even clearer. Publication of the results, particularly if by court or region, would enable agencies to measure their own performance against a relevant standard. Any costs involved in compiling and publishing the results might be offset by eliminating the present requirement for advance approval for Home Office write offs. The present requirement for advance approval does not require huge amounts of work but is essentially meaningless. The integrity of the write-off procedure could be better and more cheaply monitored through the audits already conducted by the Lord Chancellor's Office.

(9) Incentives to Agencies. None of the local agencies now involved considers fine enforcement a central function and none has any particular incentive to perform with distinction, although many do. Magistrates' courts are much more apt to be judged on their ability to handle their caseload and the quality of their sentences; the police by their effect on the crime rate; probation and prison by their work with offenders. The strongest kind of incentive would obviously be a financial one--perhaps rebating to the agencies a percentage of the fines collected minus the costs incurred. This kind of incentive would raise serious questions of justice and administration, however, and other kinds of incentives are probably therefore best sought. One possible method would be to publish comparative collection figures in much the way that crime figures are now published for police force areas. This would help both to create standards of performance and incentives to perform. Accountability and incentives would also be strengthened by making it clearer that the

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overall responsibility for collection rests with the magistrates' court.

Committals for Fine Default. The ultimate sanction for non-payment of fines is committal to prison. This sanction results in the imprisonment annually of over 20,000 defaulters and creates a considerable problem in the remand prisons both in Avon and Somerset and the country.[36]

As current law prohibits the committal to prison of an offender who cannot pay the fine, each of these defaulters is presumably capable of paying his way out of prison and nationally about 20 percent do so.[37] It is tempting to say that better enforcement techniques could help to reduce the number of committals for default. Certainly to the extent that the defaulters can pay, this would seem logical. The determination that a defaulter can pay is a difficult one, however, and some of the problem is probably that some cannot pay despite the earlier determination. Either way the enforcement steps previously discussed, and particularly those for a more administrative approach to enforcement, offer some possibilities for modest improvement.

Mechanically the process of receiving fine defaulters is essentially the same as that for other prisoners. Extra work is created because of the need to compute the amount owed for persons who wish to pay their way out of prison after serving part of their sentence and because of the need to handle the money involved. These problems seem manageable, however, and do not appear to be a matter of great concern.

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Probation Role. The probation role in fine enforcement varies greatly throughout the country. In Avon and Somerset it is most extensive in Bristol, where probation administers about 300 money payment supervision orders for individuals who are thought to have problems with budgeting or handling money. These orders result in a pay up rate of about 60 percent and total payments are about twice the staff costs involved. Views vary as to what the pay up rate of these individuals would be without the money payment supervision order.

Money payment supervision orders appear to present few problems. The court would make even greater use of them, if the resources were available. On the other hand probation would prefer to limit such orders to persons who have already defaulted, as this helps to keep the number of orders under control. In many areas of the country money payment supervision orders are not used, partly because probation considers this to be a low priority activity.

Some probation agencies also provide information to the means inquiry court and conduct means inquiries. The recent Home Office circular on fine enforcement encouraged greater use of probation services to provide means information at the means inquiry hearing.

F. Summonses and Warrants.

Summonses and warrants are basic legal documents used to transact some kinds of interagency business. A summons is a legal notice issued by a court directing a defendant or witness to appear before the court. Most witnesses appear voluntarily but all are subject to being summonsed. Warrants are orders issued by a court directing that particular actions be taken. Thus if a defendant fails to pay a fine or to appear in court, the

court may issue an arrest warrant ordering that the defendant be arrested. Similarly if the defendant is sentenced to prison or remanded in custody, the court may issue a committal warrant ordering that the defendant be taken to prison.

Summonses. Criminal cases begin either with an arrest or a summons. Seventy percent begin with a summons, including virtually all summary motoring matters, nearly 60 percent of summary non-motoring matters and over 20 percent of the indictable cases.[38] Despite this large volume present procedures for issuing and enforcing summonses are cumbersome, slow and expensive. As a consequence many police forces, including Avon and Somerset, initiate cases by arrest whenever legally possible. (Nationally the percentage of indictable cases initiated by summons appears to have been declining.)[39] The arrest procedure is at present also cheaper for the courts. Inherently, however, there is no reason why issuing a summons should be either slower or more expensive than arresting the offender. Indeed logically it should be cheaper to process a sheet of paper than to move a person about, and that has been the experience in some other countries. Logically also the procedure used for the great mass of minor cases should be cheaper than that used for more serious cases in which the offender is bailed or taken into custody.

Whatever the logic, however, the summons entails two features which make it more expensive to initiate than arrest: (1) the internal police review procedures for issuance are more stringent, and (2) the summons must be approved in advance by the courts. There are at least two other major problems with the use of the summons at the present time: (1) it is extremely difficult for magistrates and chief clerks to follow the law requiring a personal review of each summons, and (2) there is no penalty

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for failing to comply with the summons (despite the elaborate procedure for issuance).

In order to obtain each of the one and a half million plus summonses issued each year the police must present evidence to the magistrates' court that an offence has been committed and that the person to be summonsed is the right person to appear before the court. Generally this is done through the presentation of written statements. In Bristol when an officer observes a violation and decides to proceed with the matter, he prepares a request for summons along with a signed statement detailing the offence and forwards these papers and any other witness statements needed through his sergeant, inspector and chief superintendent to the process office. The papers are "full files" in form to be served on the defence under section 9 of the Criminal Justice Act 1967 and typically in summary matters are 2-3 pages long.[40] Each reviewer is free to recommend that the offender be cautioned instead of prosecuted, but typically the reviewer approves the action recommended by the officer and passes the case on. On average in the Bristol division studied it takes about 25 days from the date of an offence for the summons to reach the process office. About half this time comes from delays in writing up the summons papers in the first instance and about half from the review process.

When the papers reach the process office, they are given a more thorough review by the minor process sergeant. As a practical matter his decision as to whether the case will be prosecuted or not is the final word. Once a decision has been made to prosecute the case a summons is requested from the court. This is done by entering appropriate information into the magistrates' court computer using a terminal in the police process office. A hard copy of the summons is then printed out at the process office, signed by the minor process sergeant and delivered as part of a

batch to the court. The minor process sergeant dictates a brief statement of facts (usually 2-4 lines) to go on to the computer for each case. At the magistrates' court the summonses are checked by an assistant clerk and then presented to the clerk or the magistrates for approval.

Under recent opinions by the High Court and the House of Lords the decision to issue a summons cannot be delegated and must be made personally by the magistrates or the chief clerk to the justices.[41] Whilst the courts were undoubtedly correct under the law as it now exists to refuse to sanction the delegation of the decision to issue a summons, the workload involved in individually reviewing more than a million and a half summonses annually is enormous, and, if taken completely literally, would totally paralyse the larger magistrates' courts. As a practical matter most courts--and virtually all of the larger courts--have developed methods of review that involve large amounts of fiction. In some courts, for example, summonses are processed in large bundles and then brought before the chief clerk. He flips through a few of the papers, cursorily examines the evidence and then authorises an aide to stamp his signature on the forms.

Conscientious, meticulous clerks who care about the work of their courts are forced to this kind of procedure by the huge amounts of time that would be required to "judicially" review each summons personally. Hard pressed already to keep up with more urgent tasks, many clerks and justices must find the choice between spending scarce time in a largely pointless way or choosing a legally tenuous approach extremely uncomfortable. A great deal is revealed when the Justices' Clerks' Society notes in a formal, public document that the procedure now being used "does not perhaps conform with the letter of the law, but is the only practical way in which this job can be done in modern conditions".[42]

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Once a summons is signed by the magistrates or the clerk it is returned to the police for delivery. In Bristol the police make this delivery by recorded post. A small sample of Bristol cases indicates that this produces an appearance or an agreement to plead guilty by mail in about 80 percent of the cases, as shown in Table 12. In some of the remaining 20 percent of the cases the accused fails to appear because the recorded post was not delivered. Generally in these cases the summons is reposted and if this fails, personal service is attempted. In a larger group of cases the initial service was properly effected and the accused simply did not appear. The next step for these cases is to serve witness statements on the defendant so that the case may be proved in his or her absence. This service is also done by the police via recorded delivery. At the same time an adjournment notice is sent via recorded delivery by the courts. This process often has to be repeated, and in motoring cases is complicated by the need to have driving documents in virtually all cases and the accused personally present when there is a possibility of disqualification.[43]

Overall the 20 percent who initially fail to appear create enormous problems. Many also fail to appear on other occasions, half or more require personal service of the summons at least once, half require proof of the case in the absence of the accused, and one sixth or more require execution of an arrest warrant either to bring the accused to court for adjudication or after conviction for sentence. On average these cases require five appearances, consume 5-10 percent of the time spent by magistrates, and take up proportionate amounts of police time. Whilst not investigated, it is likely that the persons involved in these cases also make up a considerable portion of the offenders who fail to appear at police stations with their driving documents and an important part of the fine default population as well.

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Those who work daily with these cases believe that many of these defendants deliberately use the protections provided for honest citizens to thwart the system and drag out the procedure. Repeat offenders frequently give bad addresses in the first instance, refuse to accept recorded delivery when made, and fail to appear in court after service has been effected.

Part of the problem is that there is no obligation on the part of the citizen to obey the summons and no financial or other penalty for refusing to respond. An arrest warrant may be issued if the offence is one for which arrest is permitted but cannot be issued before conviction for a non-arrestable offence.[44] Present procedures which allow the case to be proved against an accused in his absence if witness statements have been served help considerably. These procedures entail expense, however, because they generally require the prosecution to serve the accused a second time, often personally. In addition these procedures may not be used in motoring cases in which the possible penalties total to disqualification because such penalties can only be imposed if the accused is personally present. Overall the present system can be characterised as one involving:

- Delay
- Meaningless reviews
- Duplication of work
- Lack of accountability
- Poor enforcement credibility

Improvements in Progress. The situation will be improved considerably by the new fixed penalty scheme and by the Police and Criminal Evidence Bill. The new fixed penalty scheme for moving traffic violations will eliminate the need for advance court approval of summonses for a third or more of the cases presently initiated by summons and will eliminate the need for court

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hearings for many of these cases as well because accused persons will need to go to court only if they wish to contest the charges.

The present lack of enforceability for summonses will be improved somewhat by the Police and Criminal Evidence Bill. Clause 22 of this bill will allow officers to arrest suspects charged with non-arrestable offences if they do not identify themselves properly or are not able to demonstrate that they will appear in court when required. This provision should help to cut down on the number of persons who give phony names or addresses or who are likely to refuse to accept the initial delivery of the summons. The bill does not appear, however, to provide any new authority to deal with persons failing to appear on non-arrestable charges.

Possible Legislative Improvements. Some possible legislative improvements which might be considered include:

(1) Allowing the police to issue summonses on their own authority as recommended by the Royal Commission on Criminal Procedure.[45]

This would simplify the review procedure for both police and courts. It would also bring the procedure for initiating middle-level cases into line with that now available for both the most serious (arrestable) cases and the least serious (fixed penalty) cases.[46] If necessary, the new procedure could be retitled as a "notice to appear" to make it clear that it is not an attempt to evade the House of Lords decision on summonses. (Properly viewed there is no inconsistency between the House of Lords opinion and the new procedure.)[47]

(2) Imposing penalties for non-appearance.

Fairness requires that an accused be made aware of the charges and given an opportunity to present his or her side of the case. Fairness does not require, however, that an accused by rewarded for intransigence.

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Valid service of a summons provides notice and an opportunity to be heard. Once this has been accomplished the burden should shift to the accused to appear or accept the consequences. Present procedures for proving the case in the absence of the accused go some distance in this direction, but generally require the prosecution to go to the expense of serving statements under section 9 of the Criminal Justice Act 1967. It would be desirable to have some sanction that did not require further prosecutorial action. Some possibilities are:

(a) a new offence of failure to appear in response to a valid summons

(b) allowing the prosecution to proceed to proof without serving statements under section 9

(c) treating the non-appearance as a guilty plea.[48]

(3) Authorising the use of an arrest warrant when defendants charged with non-arrestable offences fail to appear in response to a valid summons.

At present the summons is the primary method for securing the appearance of persons charged with non-arrestable offences. There are problems, however, when an accused refuses to appear, as there is no simple mechanism for enforcing appearance. The most frequently used method of securing appearance in Bristol is to prove the offence in the absence of the accused and then secure an arrest warrant after conviction. Even this procedure cannot be used in some cases, however, because the accused must be personally present in order to be convicted of some offences. One such situation occurs when the accused is charged with a motoring offence that might result in disqualification. In this situation the accused can effectively be neither summoned nor arrested. This catch 22-type gap could be closed by allowing arrest warrants to be issued when there is a failure to appear in a summons case.[49]

Demonstration Project. In the absence of new legislation it obviously would

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not be feasible in a demonstration project to test all the features of a system based on police issuance of enforceable summonses. Some useful improvements might nonetheless be tested. These include:

(1) Steps to increase immediacy and reduce delay

(a) Eliminate unnecessary steps in police review procedure. This could be done by using the same review procedure for summonses as for arrests.[50]

(b) Use the same time frame for making decisions about summonses as for making decisions concerning arrests. Require officers to complete reports on the day (or at the latest the next day if necessary to avoid overtime).

(c) Notify citizen on the day or within several days of the date of the hearing in writing. Notice of this kind would not be legal service but would improve the immediacy and credibility of the summons process.

(d) Develop better procedures for locating the offender. (Instruct officers to collect more identifying information such as telephone number, alternative addresses, etc. Ask officers to account for offenders who cannot be located.)

(e) Set initial dates of hearing within 2-4 weeks of offence (or if driving is involved the minimum Swansea time).

(2) Steps to streamline court proceedings

(a) Administratively eliminate from the court list cases in which no service has been made so that these cases do not take up court time.

(b) Group other cases to expedite handling (guilty plea by post without problems, those with problems, proof in absence, etc.).

(c) Use 6 month or 12 months as the return time for arrest warrants to avoid repeated returns to court.

(d) Consolidate the handling of multiple offences. (In computerised systems this may require new computer routines.)

(3) Special steps to deal with problem offenders

A relatively small group of offenders who are largely already identified appear to account for a considerable part of the problems associated with non-appearance.

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(4) Experiment with a system of police summonses

A more radical proposal would be to experiment with a system of police-issued notices to appear. One way in which this might be done is for the police to issue notices to violators directing that the violator appear in court on a certain day and indicating that if the violator did not do so a summons would be sought. While the initial notice would not have the status of a summons, the court is authorised to adjudicate cases where the defendant voluntarily submits to the court's jurisdiction.[51] (Most witnesses now voluntarily appear in response to an extra-legal notice sent by the police.) If the defendant failed to appear, no action could be taken against the defendant for the failure to appear. This would present no new problems, however, because even with a court-issued summons no action may be taken against a defendant who fails to appear. The advantage of the suggested procedure of course is that considerable police and court time would be saved in those cases in which the defendant did appear.

(5) Increase use of witness statements in summonses cases

An alternative experiment would be to serve witness statements under section 9 of the Criminal Justice Act 1967 with the initial summons. No new workload would be involved in producing the statements as they are already in existence. Whilst service in this way would increase expenses for photocopying and postage, it would reduce the number of cases in which a second service would be necessary in order to prove the case in the defendant's absence and could substantially increase the rate of guilty pleas. Alternatively section 9 papers might be served in all cases requiring personal service. This would obviously be a more limited experiment.

Warrants. Warrants also present problems. In addition to the problems discussed in this section concerning when arrest warrants may be issued prisons and magistrates' courts have also experienced some difficulties in interpreting the form of warrant used in remand in absence cases. Enforcement of warrants

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of breach of probation is a problem for the probation service, and in delay in the preparation of committal and remand warrants can affect police and prisons in the handling of prisoners, as discussed in section B (Utilisation of Police, Probation and Prison Personnel at Magistrates' Court). Execution of fine enforcement warrants also involve some difficulties as discussed in section E (Fine Enforcement). (Police, courts, probation, prison.)

G. Sharing of Information and Statistics and Computer Development.

Many items of information are shared among agencies--previous convictions, custody status, court results, fines paid, calendaring of new offences and changed dates of hearing. Some present methods for sharing this information are excellent, whilst others are highly duplicative and leave much to be desired. As computerisation proceeds in all agencies, an increasing number of issues relating to information sharing and access to information can be expected to arise. Many of these issues will present important opportunities to improve system performance, reduce costs or both.

Previous Convictions. Perhaps the most important category of shared information is that concerning previous convictions. This information is essential for police, prosecuting and defence solicitors, the courts, probation and prison. The most important previous conviction information is that concerning the more serious criminal offences ("recordable offences"). Most local forces, including Avon and Somerset, maintain records for offences of this kind committed in the force area, while the National Identification Bureau in the Metropolitan Police maintain national records of these offences as well as serving as the local repository for London.

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A second category of previous conviction information concerns non-recordable offences. As the police must deal with applications for fire-arms and other matters for which information about non-recordable offence is useful, Avon and Somerset maintain this information locally. Records of these matters are not, however, maintained nationally. Avon and Somerset also keeps track of information concerning conditional discharges, bindovers and police bail.

A third category of previous conviction information concerns motoring offences. The basic repository for this information is the Driver and Vehicle Licensing Centre in Swansea. Practices apparently vary among local forces as to whether some information of this kind is also maintained locally. Avon and Somerset do not record this kind of information locally. Whilst very important, this kind of previous conviction information presents quite different issues from that for the criminal offences and will not be discussed further in this section.

Access to Previous Conviction Information. As previous conviction information is collected and maintained by the police, only they have direct access to it, and others must obtain it from them. The most important interdependence questions consequently concern when agencies other than the police are entitled to this information and how they obtain it.

Magistrates' courts are by far the biggest users of previous conviction information other than the police and the prosecution. Courts regard this kind of information as necessary in nearly every case either for sentencing, determining the terms of a remand or some other purpose. In Avon and Somerset the police automatically supply photocopies of previous convictions to the magistrates' courts by hand at the time the accused first appears. This system seems to work well in Bristol but to present some problems in

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the outlying areas.

Previous conviction information is also critical to the preparation of social inquiry, community service order and other reports which probation is expected to prepare.[52] Arrangements for probation access are much less standardised than those for the courts, however, and are generally worked out locally on an ad hoc basis. Even where relationships are very good these arrangements can be very cumbersome. In one area the police automatically supply probation with previous convictions for cases going to the Crown Court but leave probation to work out their own arrangements for the magistrates' court cases. The best arrangement probation has been able to work out for obtaining previous conviction information for cases disposed of in the magistrates' courts is to borrow the copy brought to court by the prosecuting solicitor, take this several blocks to the probation office for photocopying, and then returning the original to the prosecuting solicitor.

Remand prisons use previous convictions to assess the risk posed by the prisoners they receive and to assist in allocation. Their right of access to previous convictions is clearly defined, but the method of transmission used--hand delivery by the police at the time the prisoner is turned over by the police--works poorly. Prison reception officers are instructed not to accept prisoners unless the police turn over a copy of the prisoner's previous convictions at the same time. Rigid adherence to this police would create serious problems, however, and it is often not enforced. Recently one prison was missing previous conviction information for so many newly sentenced prisoners that it was unable to make allocations to training prisons that had open spaces.

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Present problems relating to previous conviction information derive from a variety of problems. One is a lack of clarity as to the obligations of the police to other agencies. Coupled with the considerable pressure to protect the confidentiality of the records, this lack of clarity often leads to less disclosure than might otherwise be forthcoming. A third important problem is that police record bureaus like other agencies are hard pressed to keep up with increasing workloads.

Despite these problems it obviously is important from a system point of view for the magistrates' courts, probation, prison and the independent prosecution service to be able to obtain quickly and efficiently the previous conviction information that they need to perform their tasks. Some steps that might assist in accomplishing this are to:

- Develop more formal policies concerning rights of access to previous conviction information. Preferably these should be developed nationally, but they could be developed locally.
- Pay attention to confidentiality issues in the development of new policies. Police and others are more likely to approve of easier access if recipient agencies are subject to the same confidentiality standards as the police.
- Give serious consideration to allowing the magistrates' courts, probation, and prison to request records directly from local and national police record bureaus. Each of these agencies must obtain previous conviction information in order to function, and all can now do so if they devote enough effort to the problem. Overall system costs would be lower, however, if there were simple, direct methods for obtaining the appropriate information. Whilst direct access need not necessarily replace present methods, where these work adequately it would be highly useful as a back-up system.

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- Focus attention on resource issues. The extent to which providing easier access to other agencies will increase police costs should be determined. If significant some method for providing the necessary resources needs to be worked out.
- Review and improve present methods of access. Whilst it is perhaps sound policy for prisons to occasionally accept prisoners from the police when the police have not brought the previous conviction record, it would be a simple matter in such instances to require the police officer to complete a standard form requesting his records bureau to supply the record directly to the prison. These forms might then be kept on file for a time to insure that the record was sent and to identify officers who frequently appeared without the necessary records.
- Store previous conviction information in useable form. Avon and Somerset, for example maintain previous conviction records in a format that can be photocopied when needed for use in court. In some other areas such records must be retyped.

In theory computerisation also offers a way of solving the problem of access to previous conviction information. Police computerisation is proceeding rapidly, however, and if consideration is to be given to this solution, it is desirable that the problems begin to be addressed soon. The national police computerised system will go on line on a partial basis on 1 January 1987. The Avon and Somerset system is even further advanced and will become partially operational in early 1985. These systems have not been designed to allow outside agency access and it is unknown what problems providing such access might now present.

Previous Convictions and the Period for Police Bail. As the police and the courts need previous conviction information in order to make bail, sentencing and other decisions, the time required to secure such information is an important factor in determining the length of the police bail period between arrest and the first appearance in court. Because the reduction of waiting times in the magistrates' courts depends in part upon reducing the three to six week bail period which now prevails in many parts of the country, the time required to supply previous conviction information is an important issue.

Whilst frequently stated as a single question, at least two separate matters are involved:

- the time required to confirm the accused's identity through fingerprints or otherwise;
- the time required to supply the accused's record of previous convictions.

The more time consuming problem is that of confirming that the accused is who he says he is. For perhaps as many as 80 percent of those arrested this is not a particularly difficult problem because they are known locally. Confirming the identity of the remaining 20% is trickier, however, because this must primarily be done through fingerprints. Some cases can be confirmed through local or regional fingerprint files--generally in 4-5 days--whilst others must be checked through the National Identification Bureau in London and generally take around two weeks. Previous conviction information can generally be obtained locally in several days and from the National Identification Bureau in about a week.

As defendants held in custody rather than bailed to appear are generally taken to court on the day following their arrest the process for confirming identity and that for supplying the record of previous convictions

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are speeded up. If adequate confirmation of identity cannot be obtained by the time of the appearance, the police often will request that the accused be remanded in custody until this has been checked. The number of such cases is not known but is probably not great.

Some police officials believe that it is risky to have police bail periods shorter than the time required to confirm identity through the National Identification Bureau. Whilst such a requirement obviously provides no guarantee against absconding by serious offenders bailed under false names, it does insure that persons dealt with at court are who they say they are.

Disposal Results. A second widely shared category of information is disposal results. Courts obviously need this information because adjudications are their basic business. The police need it to complete case files, compile previous convictions, maintain and transmit statistics and other purposes. Probation needs it for cases involving social inquiry, community service or other reports, as well as for other persons with whom they have been involved. Prison needs it to determine sentences and maintain statistics. Present methods for recording, transmitting and storing this information are complicated, involve considerable duplication of effort, and often do not work well. A simpler, but more accurate system would save money and produce better results.

At present the court clerk compiles the basic record and provides a copy to the police for statistical purposes. Other police units also use this information, however, and generally record the information themselves as well. In Bristol the magistrates' court liaison officer records results in order to complete his own case files, as well as the process office files, the CID files and the station charge book. The records office, which

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maintains the summary of previous convictions, typically obtains the result later by having its own liaison officer look at the records in the magistrates' court.[53]

Probation gets information about probation and community service orders from the notice of judgement prepared by the court. Because this often takes some time to arrive, however, probation relies primarily on disposal information furnished by the probation staff member stationed at court.

Prison needs result information for all persons sentenced or remanded to prison so that it will know what to do with the prisoner. Generally it obtains this information from the committal warrant prepared by the court. It also needs information about persons who have been remanded in custody but are ultimately not sentenced to prison for statistical reasons. As there is no warrant in these cases it must obtain this information in other ways. Sometimes this is done by writing or telephoning the court involved; sometimes by contacting the police.

Despite the considerable effort required to compile these multiple records their accuracy is not high and the records often do not agree. In these circumstances it would seem both more efficient and more effective to compile fewer but more accurate records. It may be that no single record will satisfy all the many purposes for which results are presently recorded. Many present needs could be met by a single record, however, if this was accurate, complete and very rapidly available. Ideally the basic record might be a computerised information system providing case history and current status which was accessible to all relevant agencies. As some users need results on paper, such a system should also be capable of generating hard copies for interested users. Whilst full blown systems of this type are still some distance in the future, the rudiments already

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exist in some places and planning for additions to these systems needs to take the interagency dimension into account. No manual system is likely to be quite as satisfactory in providing results information to all the various users, but much could nonetheless be done to simplify and consolidate the present methods for obtaining such information.

Custody Records. Records of custody are important because they involve the liberty of citizens, affect the timing of court appearances and if the suspect is convicted, the sentence given, including the length of any custodial sentence. Police, the magistrates' courts and the prison all maintain some records of custody.

Under the present rules, prisons are responsible for calculating when a custodial sentence has been completed and the prisoner is entitled to release. One step in making this calculation is to deduct any time served in custody before conviction from the sentence. In order to do this the prison needs information about any police custody involved during the pre-trial period.

Present methods of providing this information are awkward and not always effective. Whilst custody times involved are generally short, this does not reduce the workload required to track down the information. One possible method for improving present methods of transmission might be a common custody record which accompanied the prisoner. Under the Police and Criminal Evidence Bill the police will have to devote even more attention to custody decisions than they have to date. To assist in providing the proper attention ACPO is apparently considering whether it might be useful to develop a standard custody form for police purposes. If this development proceeds, it might be useful to consider whether the form adopted could also be used to improve the flow of custody information to the prisons and the courts, possibly by accompanying the prisoner.

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Offence Information. The police routinely provide details of the offence to the prosecuting solicitor and when necessary to prove the offence to the magistrates' courts. In many parts of the country such information is not routinely supplied to the probation service, however, and probation officers writing social inquiry reports often must rely largely on what they are told by defendants. This is unfortunate as information about the offence is the category of information shown by studies to be that most wanted by the magistrates.[54] In Avon and Somerset, however, such information is routinely supplied to the probation service when a social inquiry report is to be prepared. This information is found to be highly useful by all concerned.

A Possible Link Between Previous Convictions and Statistics. The police now compile at least two sets of information concerning recordable offences for transmission to London. One set concerns disposal results and goes to the National Identification Bureau to be added to the file of previous convictions. The other set contains information about the offence and goes to the Home Office for statistical purposes. It is not clear that it would be feasible, but the possibility exists that both these purposes could be satisfied from a single record. In addition to eliminating a certain amount of duplication and waste this might assist in improving the accuracy and completeness of previous conviction information.

Co-operation in Computer Development. Whilst no comprehensive survey of specific needs for interagency co-operation in computer development has been undertaken in the course of this study, such co-operation presents an almost infinite number of opportunities for system improvement. A good start toward the kind of co-operation necessary has been made in Bristol where the police and the magistrates' court worked closely together in the development of the court computer.

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Much remains to be done, however, to take full advantage of the interagency potential of this system now that it is in place.

These further steps seem typical of the kind of interagency issues likely to arise everywhere as computerisation proceeds. A police typist, for example, now spends virtually all of every week re-typing fine default warrant information from flimsy strips printed by the court computer onto index cards to be used in a manual index used for fine enforcement. It would not be a simple matter to adapt the court computer to replace the manual index, but it would not be difficult either--particularly if the proper interest existed on both sides. It would be even easier to adapt the computer to produce the index cards for the manual file.

It would also be possible with some effort to cross-index the lists of means inquiry warrants with the daily court list so that warrants might be executed at the court for persons appearing there instead of at the defaulter's home. Ideally the list of persons requiring personal service of a summons should also be included in such a scheme. As many persons appearing in the magistrates' courts have other pending matters such as outstanding fines or summonses, such a system of cross-indexing could save substantial amounts of time.

Other areas of police computer development are also likely to be of interagency interest. One which may or may not now be feasible but which will at some point clearly be feasible is to include fine warrants and outstanding summonses in the police computer system. The police national computer (PNC) already includes arrest warrants, thus making it possible for officers to determine quickly whether a particular individual is wanted for arrest anywhere in the country. This system also includes a few of the

thousands of unenforced fine warrants, making similar checks possible for these warrants.

Because of the volume involved, however, the National Identification Bureau strictly limits the fine warrants which may be included in the police national computer to a few of the more serious recordable offences. This means that an officer who has stopped an individual for a traffic offence or some other matter has no quick, easy way to determine if that individual has an outstanding summons or fine warrant. It may well be that systems for making this kind of check are best developed locally rather than nationally. It seems clear, however, that they could be very useful and are apt to be very cost effective.

There are also important opportunities for probation and prisons to make use of court computer systems. Case listings and disposals results are two obvious items of information that might be shared in this way. The computer might also be a useful method for transmitting requests for social inquiry and other reports.

As the use of computers by probation and prisons is still in its infancy, it is less clear what use other agencies may wish to make of their computer systems. Concerns are already being expressed, however, about the impact that these developments may have on interagency relationships. Some probation agencies, for example, are giving thought to the development of a computerised case file to store basic case information.[55] Because this file will contain information given by clients on a confidential basis, the access planned is very restrictive. It is not yet clear, but it is possible that the restrictions planned will prevent the sharing of some information now used by interagency committees in juvenile cases. This is of concern to some police officials and possibly to other agencies as well. Probation

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on the other hand is concerned that the price of obtaining information, such as previous convictions, that it would like from other agencies, may be to turn over information that it feels morally bound not to disclose because it was given in confidence.

Because computer development throughout the country is more advanced in some places and some agencies than in others the specifics as to how co-operation should take place vary enormously. The need for co-operation and the need to plan for future co-operation, however, exists everywhere. Major issues such as the compatability of equipment, software, information items, confidentiality and concepts of use need to be widely discussed at both the national and the local levels. Whilst attempting to integrate the development of computer systems among agencies too closely would stifle initiative and be undesirable, there is a need for much greater integration and interagency planning than that which has taken place to date.

Demonstration Project. A demonstration project in this area might focus on developing better methods of access to and transmission of previous conviction information, on the development of a better local framework for planning computer development or other aspects of information sharing. (Police, courts, probation, prison.)

H. Consultation and Liaison.

Many methods of liaison and consultation, both formal and informal, now exist throughout the criminal justice system. Magistrates sit on police authorities, probation committees and prison boards of visitors. Court user groups include representatives of most agencies, and many agencies have specific individuals designated as liaison officers to other agencies with whom they have important relationships. Many informal methods of liaison

and consultation also exist.

There are relatively few gaps in these methods of consultation, and the general feeling in Avon and Somerset is that relations between agencies are good. Nonetheless the channels of communication are not as open and clear as might be desirable. Whilst immediate operational problems are generally worked out amicably and quickly, longer term and more complex issues are harder to identify and handled more erratically. Among other things agencies may make major changes of policy affecting other agencies without either notification or consultation and there is little incentive to review long standing arrangements in the absence of specific operational issues.

These problems are not unique to the criminal justice system, and developing worthwhile solutions will not be easy. A recent hopeful development is the creation of court user groups. These are still in their infancy but are likely to prove quite useful as they become better established.[56] As they are court centered, they do not always include representation from agencies such as the prisons and do not provide an ideal forum for discussing problems that do not involve the magistrates' courts.[57] It is doubtful at this point, however, that additional committees, at either high or low levels, would be productive. Better institutional underpinnings for interagency co-operation, such as more interagency training, would undoubtedly be very helpful as would more systematic designation of liaison officers. Neither, however, is a full solution. Unconventional methods of consultation and liaison might be worth considering, but run the risk of adding work without helping the problem. Such methods might include development of a standard documentary method for notifying other agencies of actions that could have a major impact on them (a "probation impact report") or periodic reviews by agency heads of some standard list of questions related to interagency performance.

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Demonstration Project. A demonstration project might explore the problem of consultation and liaison in greater depth and seek to initiate systematic changes on a trial basis. (Police, courts, probation, prison.)

III. INTERDEPENDENCE AS A WORKING CONCEPT

There may well have been a time when criminal justice was viewed as a series of separate processes connected neither with each other nor anything else. These times have long since passed, however, and today there is widespread agreement that the work of the various criminal justice agencies is closely related and that together these agencies form some kind of "system". There is much less agreement, however, about the nature of this system and the implications of such concepts as interdependence for policy planning and management.[58]

Whilst interdependence is a concept that has few natural boundaries and could easily be taken to encompass the whole of the criminal justice system, it is perhaps best understood as meaning that what one criminal justice agency does is likely to affect and be affected by other agencies and that a detailed knowledge of the kinds of interactions that are likely to take place is essential for undertaking system improvements.

Perhaps the most fundamental sense in which criminal justice agencies are linked together lies in the process of discretionary decision making by which cases are adjudicated and transferred from one agency to another. Cases typically begin with the discovery of a crime and the apprehension of a suspected offender by the police. After deciding whether to prosecute, the police pass the case on to the courts for adjudication. The courts in turn often secure the services of the probation service to assist in the sentencing decision, and in this decision may pass the case on either to probation or the prison service. This process is rather like an assembly line in which each agency's workload is essentially controlled by the actions of the previous agency. In most instances the decision of the transmitting agency is largely discretionary, but the receiving agency generally has little

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or no say in the decisions made. Probably the most important of these discretionary decisions are the decision to prosecute and the sentencing decision.

This discretionary process is not the only way in which criminal justice behaves as a system, however. Many of the more mechanical or administrative aspects of case processing also involve more than one agency--often in very complicated ways. Both police and the prisons transport prisoners to and from court, whilst the police, the magistrates' courts, probation and the prisons may all at one time or another become involved in collecting fines or sharing information.

Interaction among agencies and the solution of interagency problems takes place at many different levels. The prison escort officer, the police and the deputy magistrates' clerk may work out a deal so that the prisoner is put on quickly and taken back to prison by the escort officer rather than the police. Top agency officials may decide to try a pre-trial review scheme as a way of reducing workload and speeding up cases. Or at an even more macro-level the Home Secretary may decide to increase probation resources as a way of providing sentencing options alternative to prison.

The idea that what one agency does is likely to affect or be affected by other agencies is accepted at all these different levels and has proved to be quite useful in gaining an understanding of the full dimensions of issues and in helping to solve particular problems that arise. Systematic reviews of contacts and processes involving more than one agency, such as that involved in this project, can also be useful in identifying problems and critical points for intervention. The full implications of the interdependence concept have not yet been established, however.

One possible implication of the close linkages involving the police, the magistrates' courts, probation and the prisons is that these agencies (and

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others such as the Crown Court and the soon to be created prosecution service) should be merged into a single organisation. Such an entity would undoubtedly have a clearer policy focus than the present array of separate agencies, would probably be easier to manage and would almost surely be more efficient.

Efficiency is not the only goal of criminal justice, however, and it has long been clear that fairness is better served if the process of judging guilt and imposing sentence is kept separate from that of discovering crimes and punishing offenders. More primitive and more totalitarian societies may combine these functions, but those that care about the liberties of the citizenry do not. It is one thing to urge the police to vigorously ferret out wrongdoers when some other agency has been given the independence necessary to rigorously assess the evidence assembled by the prosecution and quite another when a single entity serves as both prosecutor and judge. Ensuring the independence of each of these decision-makers necessarily requires a grant of some independence concerning efficiency matters as well. In this context creating an independent prosecution service will no doubt increase the integrity of the decisions made but in all likelihood at the price of adding some further inefficiency.

Another possible implication of the close linkages among agencies is that the system can be made to work optimally if only there is enough consultation and liaison, particularly at the local level. As consultation and liaison are important to ensure that agencies know what each other is doing and reach agreements whenever possible, this conclusion seems partially justified. The same factors that make it inadvisable to place all these agencies under one roof, however, also make it wrong to expect too much from increased consultation and liaison.

In addition to decision-making prerogatives that are jealously guarded, the agencies have different internal organisations, administrative styles,

recruitment and promotion patterns, disciplinary backgrounds and funding sources and formulas. Much fruitful co-operation takes place in spite of these factors, but they do often limit what can be done. The strength of these limitations is illustrated by the modest results that large sums of money expended on systemwide planning have achieved in the United States in the past decade and a half.

Significant improvement in interagency functioning at the local level is likely to be generated, if at all, only with much stronger incentives than those that are now present. Two possible ways to creating new incentives without using large sums of money might be (1) to encourage more explicit bargaining among criminal justice agencies as to functions and services or (2) to create a small incentive fund to encourage cost-cutting experiments that run across agency lines.

(1) Interdependence as Bargaining. Agencies involved in the criminal justice system have many different kinds of contact with each other. When one agency wants something from another, it normally requests what it wants. If the other agency can do what is requested, it will generally do so without attempting to extract any price. If the matter requested is difficult or expensive, however, the other agency may refuse or indicate that it can assist only if it is provided with the resources needed to undertake the task. The requesting agency will then either drop its request, provide the resources or seek to find some third party, such as the local authority, to do so. If the requesting agency attempts to provide resources itself, it may provide money or offer to trade a service that it believes the other agency might like. Whilst trades of services of this kind have not been investigated, it is likely that they increase efficiency and effectiveness.

One possible method of creating greater incentives for interagency

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co-operation might be to promote and facilitate trades of this kind. Whilst it might be assumed that agencies that are already in close touch with each other have already identified all trades of this kind that they might choose to make, it is not clear that this is so. Trades are indeed often made, but as they are not the normal way of dealing with requests from sister agencies, they almost surely have not been developed as fully as they might be. There are risks as well as potential gains in this idea, however. If it proved possible to get such a process started, it might destroy other forms of co-operation. Moreover, hard as it might be to initiate such a process on any sizeable scale, it might be even harder to stop.

(2) An Incentive Fund. An alternative idea might be to create a small incentive fund for financing interagency projects with cost cutting possibilities. If operated under appropriate guidelines, such a fund could help to focus attention on the need for better management of interagency problems and could probably be made to produce savings that were demonstrably greater than any funds utilised. Guidelines for such a fund might specify that it would finance only those projects that truly went across agency lines, whose aim was to cut costs, that could become self-financing in a short time (one year or less) and that if successful could document the savings produced. Consideration might even be given to attempting to develop ways of recouping part or all the cost of grants from savings generated. Such a fund would have greatest impact if operated locally but with a periodic national review of its fidelity to the guidelines. This concept could be used either as a broad-based measure to encourage initiative in many areas or

as a demonstration project in a particular area designed to produce ideas that might be applied elsewhere.

IV. SUMMARY

The purpose of this study, the first part of a two-stage project, has been to analyse the way that police, magistrates' courts, probation and prisons in Avon and Somerset work together. The study has sought to identify problems, assist in improving performance, and pinpoint changes in working methods likely to result in increased system efficiency that might be tested in an experimental demonstration during the second stage of the project.

An initial project survey of criminal justice agencies in Avon and Somerset identified over 80 major areas of interagency operation that responsible officials considered in need of improvement. These suggested areas of work were consolidated into 24 more general topics, investigated briefly, and, with the assistance of Steering Groups in the Home Office and in Avon and Somerset, reviewed to determine the areas where further work had the greatest potential for improved system efficiency and effectiveness. Detailed analyses of the eight most important topics produced these major findings:

-- Scheduling of Magistrates Courts--Hearings in some areas are heavily concentrated on certain days of the week, creating uneven workloads for other agencies, particularly prosecuting solicitors, the police and probation.

-- Utilisation of Police, Probation and Prison Personnel at Magistrates' Court--Virtually all police time spent as witnesses and much of the time of police assigned to court duty is attributable to not guilty listings. Last minute changes of plea cause much of this time to be wasted. Pretrial reviews offer some hope of reducing this wastage but have thus far proved erratic and have not yet been carefully tested. Social inquiry reports occupy much probation time and present listing difficulties. Police and prisons both transport prisoners, with duplication sometimes resulting because of the inflexibility of present rules.

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-- Witness Issues--Most of the time spent in court by civilian witnesses is also attributable to not guilty listings, and much is also wasted by last minute changes of plea.

-- Bail Practices and Remands in Custody--Remands in custody that are committed to the Crown Court differ greatly from those disposed of in the magistrates' court. Such remands are usually held because of the seriousness of their offence, are rarely bailed prior to disposal, rarely receive non-custodial sentences and frequently use the remand in absence procedure. Remands in custody disposed of in the magistrates' courts on the other hand are often held because of the need for a cooling off period, are often bailed prior to disposal, frequently receive non-custodial sentences and rarely use the remand in absence procedure.

-- Fine Enforcement--There is considerable uncertainty as to the percentage of fines that is actually collected, raising questions about the effectiveness of present procedures. Present procedures appear to be fragmented among agencies and costly. There is a growing lack of clarity as to whether fine warrants should be enforced by the police or the magistrates' court.

-- Summonses and Warrants--Large amounts of police and court time are now consumed in attempting to enforce summonses against the 20 percent of offenders who repeatedly fail to appear. Present rules impose no penalties on these offenders and place all the responsibility for dealing with such cases on the system. Present methods for issuing summonses which require lengthy internal police reviews and personal consideration by the magistrates or the clerk to the justices involve delay, duplication of work, cost and a lack of accountability.

-- Sharing of Information and Statistics and Computer Development--Probation, prisons and some magistrates' courts have problems obtaining previous conviction information quickly and efficiently and there is some duplication of effort in the collection of case results. As computerisation is proceeding rapidly but separately in all agencies, there is a need for more interagency planning to assist in the sharing of information and to ensure coverage of interagency operations.

-- Consultation and Liaison-- Immediate operational problems are generally worked out amicably and quickly but longer term issues are harder to identify and handled more erratically. Agencies sometimes make major changes of policy affecting other agencies without either notification or consultation.

Each analysis describes the interdependence problems involved, suggests solutions and identifies approaches that might be tested through experimental work. The study concludes that a demonstration project is feasible, that there are important issues in each topic that might usefully be addressed in

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such a project, but that it would be preferable for the demonstration phase to concentrate on a limited number of topics.

With the assistance of the two Steering Groups the eight analyses were reviewed in order to identify the most important areas for experimental work. This review determined that the first three topics should be combined and that the topics to be addressed in the demonstration phase of the project should be:

- Scheduling of Magistrates' Courts and Utilisation of Police, Probation and Prison Personnel at Magistrates' Court.
- Bail Practices and Remands in Custody.

TABLE 1

Magistrates' Court Sittings--Avon and Somerset

Magistrates' Courts in each Police Division	Starting Time	Monday	Tues.	Wed.	Thurs.	Fri.
A,B,C. (BRISTOL)						
Bristol	10.30	8	8	8	8	8
D. (STAPLE HILL)						
Avon North	10.00	3	3	3	3	3
Thornbury	10.00		2			
E (BATH)						
Bath	10.00	3	3	3		3
Radstock[a]	10.00	2				
Temple Cloud[a]	10.00			1		
Keynsham[a]	10.00					2
F (YEOVIL)						
Wincanton	10.00	1				
Yeovil	10.00		3		2	
Glastonbury[b]	10.30		2			
Shepton Mallett	10.00		2			
Ilminster	10.00			1		
Frome	10.00				1	
Wells[b]	10.30				1	
Somerton	10.00				1	
G (TAUNTON)						
Taunton	10.30	3		3	3	
Bridgewater[c]	10.30	2		2		
Burnham[c]	10.30				2	
Minehead	10.30					2
J (WESTON-SUPER-MARE)						
Long Ashton	10.15	2			2	
Weston-S-Mare	10.15	1		3		3

NOTE: Small letters indicate separate locations in the same Petty Sessional Division.

TABLE 2

Magistrates' Court Sittings

Counties With The Greatest Proportion of Uneven Sittings

on Some Days of the Week

County	Number of Petty Sessional Divisions	Number of Petty Sessional Divisions Sitting On:				
ENGLAND		Monday	Tuesday	Wednesday	Thursday	Friday
Cambridgeshire	8	2	4	4	4	3
Cheshire	8	10	8	5	7	7
Devonshire	18	7	6	8	7	4
Durham	7	5	4	3	5	2
Humberside	16	5	6	10	6	5
Norfolk	13	7	6	3	5	5
Northumberland	10	2	3	6	3	2
Oxfordshire	13	6	5	2	3	4
Shropshire	8	7	3	4	6	6
Somerset	10	3	3	3	6	2
Suffolk	13	5	3	4	5	6
Surrey	10	8	8	7	8	3
West Sussex	9	6	4	6	4	3
Wiltshire	16	5	5	6	4	3
WALES						
Clwyd	8	4	3	2	4	2
Gwent	8	3	2	6	5	2
Gwynedd	13	3	6	3	2	5
Mid-Glamorgan	6	1	4	4	5	3
West-Glamorgan	4	3	1	3	1	3
Powys	12	2	3	4	1	2

TABLE 3

Number of Witnesses in Not Guilty Listings

Bristol Magistrates' Court--1983 (Estimated)

	Adult Crime	Juvenile Crime	Traffic	Total
Number of cases	5,588	1,078	10,000	16,666
Not guilty listings	1,700	300	1,700	3,700
Witnesses per not guilty listing.				
-- Police	4.2	4.2	1.4	-
-- Civilian	2.4	2.4	0.2	-
Number of witnesses	7,000	1,200	2,300	10,500
-- Police	3,000	500	2,000	5,500
-- Civilian	4,000	700	300	5,000

TABLE 4

Use of Witnesses in Not Guilty Listings

Bristol Magistrates' Court--1983 (Estimated)

	Adult Crime	Juvenile Crime	Traffic	Total
Number of police witnesses				
-- in not guilty listings	3,000	500	2,000	5,500
-- no appearance needed; disposal at pre-trial review	600	-	-	600
-- statements served under section 9	600	100	400	1,100
-- appeared at court	1,800	400	1,600	3,800
-- testified in court	900	200	800	1,900
Number of civilian witnesses				
-- in not guilty listings	4,000	700	300	5,000
-- no appearance needed; disposal at pre-trial review	800	-	-	800
-- statements served under section 9	800	140	60	1,000
-- appeared in court	2,400	560	240	3,200
-- testified in court	1,200	280	120	1,600

TABLE 5

Final Results of Pre-Trial Review Cases

Bristol Magistrates' Court

(Seven Days)

	Number	Percent of Total	Percent of Final Disposals
Guilty plea at PTR	5	6	9
Other change at PTR	5	6	9
Not guilty throughout	24	30	41
Last minute changes			
- Guilty plea	12	15	21
- No evidence offered	6	8	10
- Elect trial	3	4	5
- Bindover	3	4	5
PTR adjourned	11	14	-
Warrant (Failure to appear)	3	4	-
Open	7	9	-
Total	79	100	100
Number of cases	(79)	(79)	(58)
Summary			
PTR aided	10	-	17
No change	24	-	41
Last minute changes	24	-	41
Total	58	-	100

TABLE 6

Pre-Trial Review Costs and Benefits

Bristol Magistrates' Court - 1983

(Estimated)

Costs	Total Per Week
Assistant court clerks	
- ½ day per session X 3 days per week	1½ clerk days
Listing officer	
- Arranging 50 cases per week	1 day
Legal Aid Fund	
- 50 appearances	50 appearances
Prosecuting solicitor	
- 50 appearances	50 appearances
Benefits	
Ability to re-schedule court rooms	
- 10 cases per week	2 court room days
Police witnesses not called	
- 10 cases per week X 2 per case	20 per week
Civilian witnesses not called	
- 10 cases per week X 2 per case	20 per week

TABLE 7

Custodial Sentences for Remand in Custody Cases

One-month Special Study--HMP Bristol

(In Percent)

	Remanded in Custody and Committed for Jury Trial	Remanded in Custody and Disposed in Magistrates' Court	Total
Custodial sentence	72%	47%	60%
Non-Custodial sentence	17%	52%	35%
Not Guilty	10%	-	5%
Total	100%	100%	100%
Number	(40)	(40)	(80)

TABLE 8

Effectiveness of Fine Enforcement

Study	Type of Fine	Number of Courts	Follow-up Period	Percent of Offenders Who Paid
Softley (1973)	All	National sample	9 months	89%
Softley (1978)	Crime	National sample	18 months	77%
NACRO (1981)	All	40	Not based on individual cases [1]	53 - 98% most 80-90%
Moxon & Softley (1982)	All	34	12 months	78 - 99%
Casale (1984)	Crime	4	12 months	54 - 79%

NOTE 1. Is based on ratio of collections to amounts imposed for 3 months.

TABLE 9

Fine Payment Rates By Offence Group

(Within Nine Months)

Type of Offence	Amounts Imposed (£'000)	Amount Paid (£'000)	Amount Not Paid (£'000)	Payment Rate
Indictable				
- Property	2,920	2,314	606	79%
- Other	707	667	40	94%
Non-indictable				
- Revenue and Property	2,711	1,926	785	71%
- Motoring	7,082	6,615	467	93%
- Drunkenness	270	213	57	78%
- Other	802	750	52	93%
Total	£14,492	£12,485	£2,007	£84%

Source: Derived from P. Softley, A Survey of Fine Enforcement (1973) (Home Office Research Study No. 16), Table 35. The amounts imposed are estimates for England and Wales for 1968.

TABLE 10

Enforcement Costs as a Percentage of Fine Enforcement Collections

(Estimated)

	Collections	Percentage of Enforcement Costs	Enforcement Costs	Enforcement Costs as a Percentage of Collections
Non-prison Costs				
Motoring	£689,000	31%	79,360	12%
Non-motoring	611,000	69%	176,640	29%
Total	1,300,000	100%	256,000	20%
Prison Costs				
Motoring	689,000	21%	68,250	10%
Non-motoring	611,000	79%	256,750	42%
Total	1,300,000	100%	325,000	25%
Total Costs				
Motoring	689,000	25%	147,610	21%
Non-motoring	611,000	75%	433,390	71%
Total	1,300,000	100%	581,000	45%

Data sources: The amount collected is from the Bristol Magistrates' Court Annual Report 1983. Non-prison enforcement costs are an estimate developed by the Vera Institute of Justice based on data supplied by the police, the magistrates' courts and probation. Prison enforcement costs are extrapolations from national data.

The proportion of non-prison enforcement costs assigned to motoring and non-motoring offences is derived from P. Softley, A Survey of Fine Enforcement (1973)(Home Office Research Study No. 16), Table 35. This derivation assumes that enforcement costs are proportional to the percentage of fines imposed that are collected.

TABLE 11

Financial Reporting For Fines

Present Report

Collections

Arrearages

Home Office write-offs

Suggested Report

Amount imposed

Transfers in

Collections

Amounts owing but not paid

Amounts imposed but not yet due

Amounts written off

- Transfers out
- Home Office write-offs
- Lodged fines
- Prison committals
- Other

TABLE 12

Disposal of Minor Process Cases in Magistrates' Court

Bristol 'B' Division

Tuesday, 3 April 1984

		Number of Cases Presented	Percent Completed
First Appearance			
Plea guilty by post		25	88
- Fined	22		
- Totters	3		
Personal appearance, pled guilty		9	100
Personal appearance adjourned		2	-
Evidence withdrawn		2	100
- Produced insurance	1		
- Other offences	1		
Failure to appear		8	-
Recorded delivery refused		1	-
Total first appearance		47	70
Further Appearances			
Completed		11	100
- Fined	4		
- Disqualified	4		
- Evidence withdrawn (other offences)	2		
- Other	1		
Adjourned		36	-
- To look for	7		
- To obtain driving or Swansea documents	3		
- To tie to other cases	5		
- Not guilty	4		
- Other	17		
Total further appearances		47	23
TOTAL		94	47

TABLE 13

Results in Minor Traffic Cases

Bristol "B" Division--1984

Percent ordered to produce documents at station	50%
Percent producing	25%
Percent pleading guilty by post	50%
Percent pleading guilty in person at first appearance	20%
Percent failure to appear at first appearance	20%
Average number of hearings for failure to appear cases	4 - 5
Proof in absences required for failure to appear cases	50 - 75%
Personal services required for failure to appear cases	50%
Warrants required for failure to appear cases	15%

NOTE: Fine collection process not included in above figures

N O T E S

1 P. Jones, The Staff Resource Implications of an Independent Prosecution System (Home Office Research and Planning Unit Paper 22) (1983); D. Kaye, The Prosecution System: Organisational Implications of Change (1980) (Royal Commission on Criminal Procedure Research Study No. 12).

2. See Jones, note 1 supra at pp. 7 and 21.

3. Studies in Hampshire and Northamptonshire show no particular problem of overconcentration of hearings on particular days of the week. They do indicate that hearings are concentrated in the mornings. J. Raine and J. Baldwin, In Search of Direction: A Review and Strategy for the Northamptonshire Magistrates' Courts (1983), p.7, J. Raine and I Scott, Planning for the Future-- The Hampshire Magistrates' Courts (1982), p.30.

4. Jones, note 1 supra at p.25. Columns 2 and 3 in this table have been transposed.

5. Research into methods of listing is being conducted at the University of Manchester Faculty of Law by Diane Hare and Frances Winch.

6. These figures are greater than those given by Kaye, note 1 supra, at Appendix H, because they involve not guilty hearings rather than first appearances in court.

7. Whilst there has been no rigorous empirical assessment, a considerable amount has been written about the pretrial review procedure. See, e.g., B. Mahoney, Disclosure in Magistrates' Courts: A Preliminary Assessment of Alternative Approaches (1983); A. Desbruslais, "Pre-trial Disclosure in Magistrates' Courts: Why Wait?", 146 Justice of the Peace 384 (26 June 1982); G. Barnatt, "Section 48-A Viable Alternative?", 147 Justice of the Peace 117 (19 Feb. 1983); C. Sheppard, Pre-trial Review of Evidence in Magistrates' Courts (1983); The Leeds Pre-Trial Review System: Report of the Courts Sub-Committee of the Leeds Law Society (1982); J. Baldwin, "Pre-Trial Disclosure in the Magistrates' Court", 147 Justice of the Peace 499 (6 August 1983).

8. Inner London Probation and After-Care Service, National Activity Recording Study: A Report on the Results for Inner London: Tables at Table 17. Some probation services write many more reports for the magistrates' courts than do others. See J. Thorpe, Social Inquiry Reports: A Survey (1979) (Home Office Research Study No.481, p.46. Pointing to the increasing number of social inquiry reports required some writers have urged that the numbers be curtailed. Ibid. at p.8. See also Justices' Clerk's Society, The Work of the Magistrates' Courts (1983), pp.13-16.

9. National Activity Recording Study, note 8 supra, at Table 25A. The proportion of time spent on this activity by ancillaries is higher than that for probation officers.

10. The method for notifying probation of the need for a report has apparently been a problem for some time. See, e.g., J. Thorpe, supra note 8, at p.16.

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11. There obviously would be no need to take the prisoner's property to court in the same way as for remand prisoners.

12. Prison Department, The Manual of Guidance (1984) instructs the officer in charge of court duties to query the need for the production so that it can be avoided if possible by such steps as dropping the charge or delaying the adjudication until the prisoner is released. Role, paragraph 9.

13. Manual of Guidance, Duties, paragraph 14.

14. Criminal Statistics in England and Wales 1982 (Cmnd.9048), Table 8.1.

15. As the cases remanded for further proceedings are generally more serious than those disposed of at first appearance, it might be expected that they would contain a higher proportion of custody cases than those disposed of at first appearance. This is not the case, however. See note 14 supra.

16. Special analysis of prison index for another study.

17. The national figures appear to be similar. See note 16 supra.

18. Prison Statistics, England and Wales 1982 (Cmnd.9027), Table 2.4.

19. Some of the reasons for the high percentage of non-custodial sentences for persons remanded in custody are given in the report of the Home Affairs Committee, Session 1983-84, Remands in Custody, (vol.I), p.vi.

20. The bail hostels is also discussed in the report of the Home Affairs Committee. Ibid, at p.xix.

21. Home Office Statistical Bulletin 1981, Estimates of Offending By Those on Bail.

22. See, e.g., A. Bottomley, Prison Before Trial (1970); M. King, Bail or Custody (1971), pp.17-24; P. Simon and M. Weatheritt, The Use of Bail and Custody by London Magistrates' Courts Before and After the Criminal Justice Act 1967 (1974))Home Office Research Study No. 20), p.7.

23. J. Francis, Remands in the Absence of the Accused : HM Prison Bristol (1983).

24. See, e.g., Portsmouth Magistrates' Court Annual Report of the Clerk to the Justices 1982, p.22.

25. See, e.g., P. Softley, Fines in Magistrates' Courts (1978) (Home Office Research Study No.46), p.21; P. Softley, A Survey of Fine Enforcement (1973) (Home Office Research Study No.16), p.27; P. Softley and D. Moxon, Fine Enforcement: An Evaluation of the Practices of Individual Courts (1982) (Home Office Research and Planning Unit Paper 12), p.8; S. Casale, The Enforcement of Fines in Magistrates' Courts (draft report 1984).

26. See, e.g., S. Casale, note 25 supra.

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27. D. Moxon, "Fine Default: Unemployment and the Use of Imprisonment", 16 Home Office Research Bulletin (1983), pp.38,39, indicates that nine large courts account for 25 percent of all committals but only 10 percent of all fines. Whilst Bristol is not one of the nine courts, the indications are that it commits fine defaulters to prison at a similar rate. The projections included in the text are based on this rate.

27a. The Report of the Inter-Departmental Working Party on Road Traffic Law (1981), p.8, made a similar recommendation with respect to fixed penalty notices.

28. See note 25 supra.

29. Bristol Magistrates' Court, Annual Report--1983, p.13.

30. The Report of the Home Office Working Group on Magistrates' Courts (1982) stressed the need for prompt identification and pursuit of defaults. This and other measures are discussed in Home Office Circular HOC 13/1984, Fines and Their Enforcement.

31. Research has shown that the number of means hearings a magistrates' court holds is negatively correlated with its success in fine enforcement. See P. Softley and D. Moxon, note 25 supra at pp.9-10.

32. From a private and confidential guide.

33. The lack of a cross-indexing system would partially help to explain why recent research has shown that courts with computerised enforcement systems tend to be less successful than those without. See, P. Softley and D. Moxon, note 25 supra at p.7. Another reason that courts with computerised enforcement systems appear less successful than other courts may be that they tend to be the larger courts with the more serious problems.

34. See Home Office Circular 22/1983, Remission and Write-Off of Fines, Legal Aid Contritution Orders and Costs Due to Central Funds.

35. See P. Softley, Fines in Magistrates' Courts, note 25 supra at p.8.

36. Prison Statistics, England and Wales 1982 (Cmnd.9048), p.205.

37. Ibid at Table

38. Criminal Statistics in England and Wales 1982 (Cmnd.9048), p.205.

39. The percentage of indictable cases summoned in 1971 was 27 percent as compared with 24 percent in 1980 and 22 percent in 1982. Changes in the definition of indictable offences make this comparison inexact but may mask an even larger shift away from the use of the summons. A sizeable proportion of suspects summoned for indictable offences are juveniles.

40. See R. Gemmill and R. Morgan-Giles, Arrest, Charge and Summons (1980) (Royal Commission on Criminal Procedure Research Study No. 9).

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41. R. v Gateshead Justices, ex parte TESCO Stores Ltd., /1981/ Q.B. 470; /1981/ 1 All E.R.1027; R. v. Manchester Stipendiary Magistrate, Ex parte Hill, /1983/ 1 A.C. 328; /1982/ 2 All E.R.963.

42. Justices' Clerk's Society, The Work of the Magistrates Courts (1983), p.77.

43. Magistrates' Court Act 1980, section 11(4).

44. Magistrates' Court Act 1980, section 13(3).

45. Royal Commission on Criminal Procedure, Report (1981) (Cmnd.8092) p.46 (appearance notice). See also Justices' Clerk's Society, The Work of the Magistrates' Courts (1983), pp.75-78.

46. There is no "judicial" pre-charge review for either arrest or fixed penalty cases.

47. The House of Lords clearly indicated that it reached the decision it did because of the wording of the existing statute. It expressed no views about either the merits or demerits of any alternative procedure. See speech of Lord Roskill, R. v. Manchester Stipendiary, note 41 supra.

48. This is how the fixed penalty system deals with non-responses.

49. This would allow action after non-appearance similar to that authorised by clause 22 of the Police and Criminal Evidence Bill when non-appearance is feared prior to the issuance of a summons.

50. R. Gemmill and R. Morgan-Giles, note 40 supra.

51. The House of Lords has indicated that the requirement for initiating a case is that a proper information be laid, not that a summons be served. See R. v. Manchester Stipendiary Magistrates, Ex parte Hill, /1983/ 1 A.C. 328; /1982/ 2 All E.R. 963. See also "A Major Re-Organisation in the Practices of the Magistrates' Courts", 145 Justice of the Peace (14 March 1981), pp.155, 156.

52. J. Thorpe, Social Inquiry Reports: A Survey (1979) (Home Office Research Study No. 48), p.48, indicates that when a group of magistrates were asked to indicate the kind of information that they found to be useful in making sentencing decisions, the most frequently listed category was information about the offence and next most frequently listed category was previous conviction information.

53. In Bristol this process is now being computerised.

54. See J. Thorpe, note 52 supra.

55. See, e.g., A. Maclean, "Computerised Management Information System for Probation Services, "17 Home Office Research Bulletin (1984), p.23.

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56. The Report of the Home Office Working Group on Magistrates' Courts (1982) suggested the establishment of such groups.

57. As these groups must function locally, the exact composition is best left to local discretion at this point. The difficulties and benefits of establishing a working consultative group are described in A. Blaber, The Exeter Community Policing Consultative Group (1979) (NACRO).

58. See, e.g., D. Skoler, Organising the Non-System (1977).