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THE EFFECTS OF WITNESS INFORMATION PROVIDED BY
THE VICTIM/WITNESS ASSISTANCE PROJECT TO AID
CASE DECISION-MAKING IN
BROOKLYN CRIMINAL COURT

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SUMMARY

This report reviews the results of three studies which examined the impact of several types of witness information provided by the Victim/Witness Assistance Project to the King's County District Attorney's Office and Brooklyn Criminal Court. Each type of information is intended to aid court officials in making decisions in individual cases. One form of information provided to courtroom prosecutors is an assessment of the cooperativeness of civilian witnesses. It was anticipated that this assessment would enable prosecutors to make more informed decisions about which cases to continue and which to dispose, in instances when witnesses were absent from court. A second form of information discussed is the project's Recommended Immediate Action List, forwarded to the Criminal Court Bureau Chief of the King's County District Attorney's Office. Its purpose is to seek an early termination of cases in which an essential witness has been chronically absent from court and/or has stated that he refuses to appear. A third type of information discussed in this report is data on future availability of police witnesses, which V/WAP provides to the prosecutor and the court for use in setting adjournment dates. The studies found that each of these forms of information do influence decisions made by court officials and have acted to promote more efficient case management.

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In addition to aiding victims and witnesses, one of the primary concerns of the Victim/Witness Assistance Project (V/WAP) has been to act as an information resource to the Kings County District Attorney's Office and Brooklyn Criminal Court. By providing accurate and timely information about prosecution witness, V/WAP has attempted to aid the prosecutor and the court in making informed decisions about cases and thereby promote more efficient case management. This paper describes the results of three studies that examine the effects of those efforts.

Brooklyn Criminal Court is one of the nation's busiest urban courts. It is the point at which over 60,000 felony and misdemeanor prosecutions originate each year. Some of the more serious felonies proceed to the grand jury and, if indicted, are sent to Supreme Court for disposition. Most felony - as well as all misdemeanor - arrests are, however, disposed in the Criminal Court.

Like most urban criminal courts, Brooklyn Criminal Court has a very high rate of non-cooperation on the part of civilian prosecution witnesses.¹ On any given day, more than half of those witnesses whose appearance is required are absent from court. The immediate consequence of a witness' failure to come to court is often that the case cannot proceed and must be postponed to another date. If a witness repeatedly fails to show up, the case may be dismissed by the court; the Kings County District Attorney's Office attributes two of every three dismissals to witness non-cooperation.

The high rate of witness non-cooperation and need to move cases quickly make the job of Criminal Court prosecutors a difficult one. Prosecutors are forced to make rapid

1. The term "civilian prosecution witness," as used in this paper, is understood to mean complainants, persons who were eyewitnesses to a crime, and other lay prosecution witnesses.

decisions about their assigned cases with very little time to acquaint themselves with the facts of each case. When a needed witness is absent, prosecutors must decide whether to seek an adjournment, try to negotiate a plea, or allow the case to be dismissed by the court.

Until 1975, this situation was made even more difficult by the antiquated witness management methods the District Attorney's Office was forced to rely upon. Witnesses who were needed in court were simply issued a subpoena to appear. Since contact information in the court's files was often incorrect or outdated, many subpoenas failed to reach the witnesses for whom they were intended. Except in the relatively rare instances in which a prosecutor found time to personally contact a witness by phone, he had no idea whether that witness was likely to come to court. If a witness did not appear, the prosecutor had no way of knowing whether the person failed to get the subpoena, was ill or otherwise temporarily unavailable, refused to cooperate, or had lost interest in the case. Thus, the prosecutor had no way of knowing what his best course of action was - to seek an adjournment to give the witness another chance to appear or to dispose of the case through a plea bargain or dismissal.

Recognizing these problems, the Kings County District Attorney's Office and the New York City Courts cooperated in the establishment of the Victim/Witness Assistance Project (V/WAP). The project, which was administered by the Vera Institute of Justice, began operations in July, 1975 with funding from the Law Enforcement Assistance Administration.

Although, as its name suggests, V/WAP was designed to provide services to crime victims, it also set out to overhaul witness management procedures.

It took over from the Court and District Attorney's Office the responsibility for notifying prosecution witnesses of court dates. It tried to reduce the wearing down of witnesses after repeated trips to court by expanding the on-call or witness "alert" procedure begun several years before by the Appearance Control Unit (an earlier Vera Institute project); witnesses who qualified for alert status were summoned to court by phone on the day their case was scheduled only after it was determined that the case was ready to move forward. Other witnesses were notified of court dates not only through the mail but also by phone or, if they had no phone, by a personal visit from a project representative.

For all witnesses, information about whether they were contacted, how they were contacted, their willingness to come to court, and special needs or problems was provided by V/WAP to courtroom prosecutors on a listing called the Court Part Information Sheet (CPIS). Thus, for the first time, witness information was available to prosecutors to guide them in making decisions about their cases.

It was expected that this listing would enable prosecutors to better organize their day's caseload and reduce time wasted by court officials in waiting for witnesses who were unlikely to show. It was also anticipated that this information would allow prosecutors to make more informed decisions about how to proceed when a necessary witness was absent from court. If V/WAP indicated that an absent witness remained cooperative and interested in prosecuting, it was hoped that prosecutors would seek an adjournment to give the witness another chance to appear. Without such an assurance from

V/WAP, it was expected that prosecutors would be more likely to seek a plea to a lesser charge or concur in the motion to dismiss that defense counsel was likely to make when the state's witness failed to appear.

In its second year of operations, V/WAP devised a procedure in conjunction with the prosecutor's office to expedite cases with chronically uncooperative witnesses. Many of these cases, in which witnesses refused to appear or could not be located, were adjourned again and again, often because assistant district attorneys did not want to incur responsibility for a dismissal. Eventually, most were dismissed by the court, but only after resources of criminal justice agencies had been wasted, and after the defendant had been required to make numerous appearances. Recognizing the constraints on courtroom prosecutors to take positive action in such cases, V/WAP developed the Recommended Immediate Action List (RIAL) -- a list that identified cases in which it was considered very unlikely that an essential witness would ever appear to testify. The list was forwarded to the Criminal Court Bureau Chief of the prosecutor's office for review; the Bureau Chief in turn forwarded the list with instructions to his courtroom prosecutors on how to handle the cases.

V/WAP also began providing the prosecutor with a third type of information designed to reduce court delay. This was information on police witnesses' duty tours, to be used in case scheduling. V/WAP informed the prosecutor of the days that each police witness (normally the arresting officer) would be available to come to court, in order to prevent the scheduling of adjournments to police officers' regular days off.² Without the police officer, cases often could not proceed

2. Police officers are not required to come to court on a regular day off unless the defendant in their case is in jail pending a preliminary hearing; in the latter instance, officers can be compelled to attend, but must receive overtime wages.

on the scheduled date and had to be adjourned again. As a result, the court's time, the prosecutor's time, the defendant's time, and civilian witnesses' time were wasted.

The nature and method of presentation of each of these forms of information was refined and enhanced as the project gained more experience. Information about witnesses' cooperativeness on the court part information sheet was expanded; witness attendance histories were added to the sheet, as well as appropriate notations in cases where the complainant wanted to drop charges.

In cases where V/WAP knew of no way to contact a witness, the prosecutor's files and the arresting officer's records were checked before putting the case on the Recommended Immediate Action List. Uncooperative witnesses whose whereabouts were known were issued subpoenas before their cases were placed on the list. Each of these additional efforts insured that for those cases which finally did appear on the list, all reasonable means to secure the witness' attendance had been exhausted.

V/WAP also took initiatives to encourage the use of information provided to the court for scheduling of police witnesses. The project recognized that prosecutors in courtrooms were often overworked and harried, and therefore were not always able to relay to the court the information on police availability that V/WAP provided on the court part information sheet. Therefore, the project also gave the availability information to the bridgeman, a court officer who controls the caseflow in the courtroom. In addition, V/WAP developed a computer routine which stores police duty schedules and automatically prints available dates on the CPIS. This departure from manual procedures increased the proportion of cases on which the project was able to provide information.

The remaining three sections of this report describe studies that were conducted to determine the impacts of each of these types of information, the findings of those studies, and suggestions for operational changes based on the research findings.

EVALUATION OF THE INFLUENCE OF V/WAP'S
WITNESS ASSESSMENT PROVIDED TO COURTROOM PROSECUTORS

To examine the impact of the information about witness cooperativeness that V/WAP provides to courtroom prosecutors, a sample of case-court dates was drawn from V/WAP's computer files. For simplicity's sake, a case had to have exactly one civilian witness to be eligible for the sample. For cases that passed this initial test, a check was made of each of the cases' post-arraignment court dates to determine whether the witness was absent from court. Each date on which the witness was absent was included in the sample. Each case could therefore appear several times in the sample - once for each date that the witness was absent.

The rationale behind these criteria was that V/WAP's information would be likely to affect a prosecutor's view of the case only if a witness was not in court. In that event, messages communicated by V/WAP about its ability to contact a witness or about the witness' interest in prosecuting might be expected to influence the prosecutor's decision to continue or dispose of the case on that date. If a witness was present in court, it was reasoned that he could speak for himself, making V/WAP's information unnecessary. Cases with multiple witnesses were eliminated from consideration to simplify data analysis.

All case-court dates in V/WAP's computer system at the time of sampling (March, 1978) that met the study's criteria were included in the sample. This yielded a total of 7,732 case-court dates, from both active and disposed cases.

Results

V/WAP's witness assessments on the court part information sheet were initially trichotomized into "cooperative witness", "uncooperative witness, and "no assessment possible" groupings. V/WAP's message was classified in the cooperative witness category if the project told the prosecutor that the witness was willing to appear and/or that he was unable to appear on that date.

Cases fell into the "uncooperative witness" category if V/WAP told the prosecutor that the witness was unwilling to appear, had a history of non-appearance, or could not be located. Cases in which V/WAP had not contacted the witness and could not make an assessment of the witness' cooperativeness were classified into the "no assessment possible" grouping. Because there were no consistent differences in the outcomes of cases in the latter two categories they have been combined in this report.

The principal hypothesis to be tested was that V/WAP's message would affect prosecutors' handling of cases when a civilian witness was absent from court. If a witness was absent, but V/WAP told the prosecutor that the witness was cooperative, it was expected that the prosecutor would be likely to adjourn the case to give the witness another chance to appear. Without an indication from V/WAP that the witness was cooperative, it was expected that prosecutors would be more likely to dispose of cases, either by seeking a guilty plea or by not objecting to a defense motion to dismiss.

Table 1 presents the results of the test of this major hypothesis. The table shows a difference in the expected direction; when V/WAP told the prosecutor that an absent witness was cooperative, the case was more likely to be adjourned (84%) than when V/WAP did not make such an assurance (76%).

TABLE 1

V/WAP's ASSESSMENT OF WITNESS COOPERATIVENESS
 BY CASE OUTCOME ON THAT COURT DATE

	<u>Adjourned</u>	<u>Dismissed</u>	<u>ACD</u>	<u>Pled Guilty</u>	<u>Transferred to Grand Jury</u>	<u>Total</u> ¹
V/WAP states that witness is cooperative.	84%	5%	3%	6%	1%	100% (n=1, 797)
V/WAP does not state that witness is cooperative.	76	15	3	5	1	100% (n=5,704)

Because of the large sample, virtually any size difference between groups would be statistically significant. Therefore, significance tests are deleted in this and the subsequent two tables.

1. Excludes bench warrants and cases transferred to Family Court.

Correspondingly, more cases were dismissed without a positive assessment of the witness (15%), than with a positive assessment from V/WAP (5%). In other words, with a clear indication from V/WAP that an absent witness was cooperative, prosecutors were apparently able to argue successfully with the court for a continuance. However, without V/WAP's assurance that the witness remained cooperative, prosecutors were less inclined or unable to give the court a persuasive reason to adjourn a case, and as a consequence, more cases were dismissed.

It was further believed that V/WAP's information would have a greater effect on less serious cases, where the courtroom prosecutor might perceive himself as having greater discretion than in more serious cases where he might feel under greater pressure to oppose a dismissal. With a witness absent, it was expected that more serious cases would be adjourned at a high rate regardless of V/WAP's message, since courtroom prosecutors in these cases (according to office policy) should not normally accept pleas, and they would be particularly reluctant to bear responsibility for a dismissal. In less serious cases, on the other hand, a courtroom assistant has more latitude, and V/WAP's information could be useful in helping him to decide whether an adjournment was worthwhile, or whether he should dispose of the case through a negotiated plea or dismissal.

One indication of case seriousness is the nature of the victim/offender relationship. Cases in which the victim and offender are acquainted are often given lower priority ratings by the prosecutor's Early Case Assessment Bureau, and defendants in these cases often receive lighter sentences than defendants in stranger-to-stranger cases. Court personnel frequently voice the opinion

that witnesses who know the defendant are likely to be reluctant to prosecute and that many of these cases do not belong in the Criminal Court. It was expected that a V/WAP statement that an absent witness was cooperative would help to overcome a prosecutor's expectation that a witness who knows a defendant is less reliable than another witness; such a statement from V/WAP was expected to have less effect in stranger-to-stranger cases in which prosecutors expect witnesses to be more cooperative.

Table 2 shows that the effect of V/WAP's witness assessment did vary according to the existence of a prior victim/offender relationship. V/WAP's message had the greatest effect in cases involving the closest victim/offender relationships (family or friends). Within these cases, the adjournment rate was 14 percentage points higher if V/WAP had identified the absent witness as cooperative than if it had not. Among cases involving a marginal victim/offender relationship (neighbors, acquaintances, etc.), the difference in adjournment rates according to V/WAP's assessment was 11 percentage points. There was a difference of only seven percentage points among stranger-to-stranger cases.

These differences in adjournment rates according to V/WAP's assessment are reflected in dismissal rates. Without a positive assessment of the witness from V/WAP, fewer cases were ajourned and more were dismissed -- especially among cases involving a close victim/offender relationship.

Looking at the table another way, the dismissal rate did not differ between the relationship groupings as long as V/WAP told the prosecutor that the witness was cooperative. Without such an assurance, however, dismissals in the witness' absence increased as the closeness of the victim/offender relationship increased. Thus, the effect of V/WAP's

TABLE 2

EFFECT OF V/WAP'S ASSESSMENT OF WITNESS COOPERATIVENESS
BY TYPE OF VICTIM/OFFENDER RELATIONSHIP

	<u>Adjourned</u>	<u>Guilty Pleas and Grand Jury Transfers</u>	<u>Dismissals and ACD's</u>	<u>Total¹</u>
V/WAP States That Witness is Cooperative	84%	8%	8%	100% (n=1,331)
<u>No Relationship:</u> V/WAP Does Not State That Witness is Cooperative	77	7	16	100% (n=4,052)

<u>Marginal Relationship:</u> V/WAP States That Witness is Cooperative	86%	6	8	100% (n=234)
V/WAP Does Not State That Witness is Cooperative	75	2	23	100% (n=755)

<u>Close Relationship:</u> V/WAP States That Witness is Cooperative	87%	5	8	100% (n=225)
V/WAP Does Not State That Witness is Cooperative	73	3	24	100% (n=888)

1. Excludes bench warrants and cases transferred to Family Court.

information was to prevent dismissals in cases involving a prior victim/offender relationship, where an absent complainant had expressed to V/WAP an interest in prosecuting.

It was also believed that the effect of V/WAP's witness assessment might vary according to the age of the case on the date when V/WAP supplied the information. If V/WAP's assessment increased the prosecutor's resistance to defense counsel's motion to dismiss, it would be expected that the assessment would have the greatest impact at later stages of the case. At an early stage, neither the court nor the prosecutor would be likely to accept a dismissal without the witness present, regardless of what V/WAP said about the witness; rather, the witness would automatically be given the benefit of the doubt and given another chance to appear. After several absences, however, V/WAP's assessment might play a critical role in deciding whether to adjourn the case yet another time.

The data in Table 3 confirm the hypothesis. For cases which had appeared before the court only once before (at arraignment), there was no difference in case outcomes according to V/WAP's assessment. However, some effect was evident for cases which had been calendared twice previously, and the largest effect was found among cases which had been calendared at least three times previously. For the latter set of cases, the adjournment rate was 15 percentage points higher and the dismissal rate 16 points lower in instances in which V/WAP had assured the prosecutor that the witness was cooperative.

In summary, V/WAP's assessment of witnesses' cooperativeness appears to influence the manner in which prosecutors treat cases when a witness is absent. Since, however, it was not possible to employ a true experimental

TABLE 3

EFFECT OF V/WAP'S ASSESSMENT OF WITNESS COOPERATIVENESS
 BY NUMBER OF TIMES CASE HAS BEEN PREVIOUSLY BEFORE THE COURT

	<u>Adjourned</u>	<u>Guilty Pleas and Grand Jury Transfers</u>	<u>Dismissals & ACD's</u>	<u>Total</u> ¹
<u>One previous appearance:</u>				
V/WAP States That Witness is Cooperative	87%	8%	5%	100% (n=782)
V/WAP Does Not State That Witness is Cooperative	87	6	6	100% (n=182)
<u>Two previous appearances:</u>				
V/WAP States That Witness is Cooperative	83%	7	10	100% (n=388)
V/WAP Does Not State That Witness is Cooperative	77	5	19	100% (n=140)
<u>Three or more previous appearances:</u>				
V/WAP States That Witness is Cooperative	82%	7	11	100% (n=620)
V/WAP Does Not State That Witness is Cooperative	67	6	27	100% (n=246)

1. Excludes bench warrants and cases transferred to Family Court.

design in the study, the results must be viewed tentatively. It cannot be conclusively determined that the prosecutor was relying solely on V/WAP's information about witnesses' interest. It might be for example, that arresting officers present in court gave the prosecutor the same information about witnesses as V/WAP did, and that it was the police officer's story, rather than V/WAP's assessment, that convinced the prosecutor to seek an adjournment rather than permit a dismissal. This seems unlikely, however, since arresting officers are often themselves absent from court, and in any event, seldom have contact with civilian witnesses outside the courtroom after arrest processing.

The results of the study suggest that V/WAP's information is permitting prosecutors to make more informed decisions about cases in which a civilian witness is absent. In such instances, information that the witness wants the case prosecuted and is willing to come to court has the most effect when the case is one which would otherwise have a high probability of dismissal -- that is, a case involving a close victim/offender relationship or which has been before the court several times. In these instances, a positive assessment of the witness by V/WAP is apparently leading prosecutors to seek an adjournment to give witnesses another chance to appear, rather than concurring in a motion to dismiss.

IMPACT OF V/WAP'S INFORMATION ON UNCOOPERATIVE WITNESSES
PROVIDED TO MANAGEMENT IN THE PROSECUTOR'S OFFICE

One of V/WAP's early goals was to promote court efficiency by reducing the number of adjournments necessary to reach dispositions in Criminal Court. Initially, the project sought to achieve this by decreasing no-shows by civilian witnesses, and thereby make an impact on one of the major causes of adjournments. Since early studies indicated that V/WAP was not increasing attendance of civilian witnesses, the project turned to another means to reduce unnecessary continuances.

In cases in which an essential witness (most often the complainant) was, in the project's estimation, extremely unlikely to come to court, the project notified the Criminal Court Bureau Chief in the prosecutor's office. A list of such cases was forwarded to the Bureau Chief office several times weekly. Cases chosen for the list were ones in which an essential witness had established a history of non-attendance over several court dates, and/or in which the witness refused to appear or could not be located. Prior to V/WAP's intervention, such cases were typically adjourned numerous times until they were eventually marked "final vs. the people" and then often dismissed by the court because courtroom prosecutors were reluctant themselves to make a motion to dismiss the case. By bringing these cases to the Bureau Chief's attention, V/WAP hoped that the prosecutor's office would take affirmative measures to terminate them, either through dismissal or negotiated plea of guilty.

The list, called the Recommended Immediate Action List (RIAL), was first tried in the fall of 1976. However, this initial implementation met with little success. The prosecutor, in almost all instances, wanted V/WAP to take additional measures on cases before agreeing to take action. V/WAP was asked to send a strongly-worded subpoena to the witness, or to seek additional contact information on the witness from prosecutor or police records.

Results from this early version of the list suggested that rather than having the desired effect of reducing adjournments, the fact that V/WAP brought problem cases to the attention of the Bureau Chief prolonged the life of these cases. It was also found that more pleas resulted in cases placed on the list than in comparable cases not included on the list. It appeared that courtroom prosecutors, aware that one of their cases was being scrutinized by their supervisor, were even more reluctant than usual to allow the case to be dismissed by the court. Instead, they may have made more strenuous efforts to negotiate a plea, or at least to see that the case was adjourned so that they would not have to incur the responsibility for dismissal. V/WAP did, however, learn through this experience how to improve its predictions about which witnesses would not appear in court on future dates.

The list was discontinued as V/WAP assessed its results. With a new director of V/WAP, and a new Criminal Court Bureau Chief, a second version of the list was begun early in 1978, this time with more stringent screening criteria. This time, to be eligible for the revised list, witnesses had to: (a) have established a pattern of non-attendance; and (b) have refused to appear or be unlocatable. In addition, V/WAP made sure that it had exhausted all reasonable means to bring witnesses to court before forwarding a case to the Bureau Chief.

In March, 1978, an experiment was begun to evaluate the revised list's impact. After V/WAP staff selected cases for the list on a given day, a member of the evaluation staff randomly deleted cases from the list; half of the eligible cases were forwarded to the Bureau Chief's office, and half were not. Both sets of cases were tracked: Information was collected on the number of times each case was scheduled by the court, on the disposition of the case, and on several other factors. By the end of the sampling period (mid-August), 74 experimental cases (forwarded to the Bureau Chief), and 80 control cases (not forwarded) were included in the sample.

Results

Cases which were forwarded to the Bureau Chief were disposed twice as quickly as cases which had been deleted from the list. The former cases required an average of 0.6 adjournments to be disposed after appearing on the list, compared to 1.2 adjournments for control cases.³ Thus, V/WAP's primary objective in forwarding the list was achieved.

The list had another effect as well -- this one unintended. Cases placed on the list were twice as likely as control cases to result in guilty pleas, and correspondingly less likely to be dismissed (Table 4). Although there were some instances in which V/WAP received from the prosecutor new information on how to contact witnesses who had appeared on the list, the difference in plea rates is not attributable to greater success in getting witness to court in cases which were brought to the Bureau Chief's attention; 93% of witnesses whose cases were forwarded never appeared in court after being selected for the list, compared to 90% of witnesses on control cases.

The most likely explanation for the difference in dispositions between the two groups of cases is that, knowing that cases could not be won at trial (or would eventually be dismissed by the court if further adjournments failed to produce the uncooperative witness), prosecutors were induced to make or accept a lower plea offer than they would have otherwise insisted on. Rather than holding out fruitlessly for a higher plea until witnesses appeared, prosecutors may have been taking the initiative and trying to negotiate pleas while they still could. Unfortunately, the type of data needed to confirm this explanation - a complete record of plea offers for

3. $F(1,146) = 5.96, p < .02$

TABLE 4

TYPE OF CASE DISPOSITIONS ACCORDING TO WHETHER OR NOT CASES WERE
FORWARDED TO THE CRIMINAL COURT BUREAU CHIEF FOR REVIEW

	<u>Dismissed</u>	<u>ACD</u>	<u>Pled Guilty</u>	<u>Sent to the Grand Jury</u>	<u>Bench Warrant</u>	<u>Total²</u>
Cases forwarded to the Bureau Chief	36%	11	36.1	7	10	100% (n=72)
Cases not forwarded	62%	13	17	5	3	100% (n=77)

$\chi^2 = 14.09, p .01$

1. Includes one case in which one defendant pled guilty and charges against a co-defendant were dismissed. In all other cases involving co-defendants, dispositions for both defendants were the same.
2. Excludes five cases still open at the time of data analysis.

each case in the sample - was beyond the scope of the present study.

The results indicate that the list is effective in reducing court delay by alerting the prosecutor to problem cases at a relatively early stage. So far, however, his procedure has been used by V/WAP in a limited number of cases (less than ten per week), so it cannot be expected to produce a measurable impact on the average length of the pre-trial process within the court's total caseload.

The finding that reduction in court delay was accompanied by an increase in guilty pleas in cases that would otherwise have been dismissed for lack of prosecution raises legal and ethical questions. The study does not provide a basis for judging whether the defense in these cases was ignorant of the weaknesses in the People's cases, nor does it permit an answer to the question of whether the defense inquired about the status of the People's witnesses. It can be questioned whether guilty pleas should be entered by defendants without the knowledge that the essential witnesses could be produced. Whether the situation requires remedial action and, if so, by whom -- V/WAP, the prosecutor, the court, or the defense bar -- cannot be determined from the study alone.

EVALUATION OF THE INFLUENCE OF INFORMATION
ABOUT AVAILABILITY OF POLICE WITNESSES

When a case is scheduled to an officer's regular day off, the officer is usually not required by Police Department policy to attend court, and this often means that the case cannot proceed and must be rescheduled to another date; in the meantime, civilian witnesses, defendants, and defense attorneys may have made a pointless trip to court. If the defendant is in jail pending a preliminary hearing, officers can be brought in on their days off. In this event, however, they must be paid overtime wages. V/WAP, on its court part information sheet (given to the prosecutor) and its bridgeman's list (given to the court bridgeman), supplies the court with dates that police witnesses are available to attend court to reduce instances of cases scheduled to officers' days off.

An experiment was conducted to determine the impact of V/WAP's police availability information. With the cooperation of the Criminal Court Bureau Chief of the Kings County District Attorney's Office, the information that V/WAP normally supplied to the court was deleted on a random sample of cases. From August 15 to August 26, 1977, V/WAP's computer was programmed to eliminate police officers' schedules from the court part information sheet and bridgeman's list in one of every four cases. The experiment was supplemented by several days of observations in court by a member of the evaluation staff, who recorded interactions between prosecutor, judge, defense counsel, and bridgeman in choosing adjournment dates. The sampling procedure yielded 489 cases in which information was provided

and 148 cases in which the information was deleted.⁴

Results

The courtroom observations conducted for the study found that the use of V/WAP's information on police officers' availability varies from courtroom to courtroom. They suggested that the process of setting dates is idiosyncratic; in some courtrooms, prosecutors were the dominant figures in date-setting and took the initiative in proposing dates. In other courtrooms, however, judges or defense attorneys were observed to be the dominant parties in deciding on a new date. Prosecutors were found to vary greatly in the extent to which they referred to V/WAP's CPIS as the date-setting decision occurred, and the extent to which they then interjected data from the sheet into the discussion at the bench.

Not surprisingly, then, the data from the experiment show a modest impact of V/WAP's availability information on the court's selection of dates. The results (shown in Table 5) indicate that when the officers' available dates were provided by V/WAP, 19% of the adjournments were scheduled for times the officer was off-duty; without officers' schedules available from V/WAP, 26% of adjournments were scheduled for off-duty times. In other words, when scheduling information was made available by V/WAP, the court adjourned 25% fewer cases to officers' days off.

The fact that the availability of information had only a limited impact on scheduling is not surprising in light of the numerous constraints upon the process of setting an adjournment date. Defendants who are detained

4. The original sample was larger, but to facilitate the task of data collection, only officers who worked under the "A" Duty Chart were included in the final sample. These officers comprise about three-quarters of the police witnesses V/WAP handles.

TABLE 5

PROPORTION OF CASES ADJOURNED TO DATES THAT
OFFICERS WERE UNAVAILABLE TO ATTEND COURT

	<u>Adjourned To Officer's Available Date</u>	<u>Adjourned to Officer's Regular Day Off</u>	<u>Total</u>
Scheduling Infor- ation Provided	81%	19	100% (n=489)
No Information Provided	74%	26	100% (n=148)

$$x^2 = 3.18, .10 < p < .05$$

awaiting a preliminary hearing, for example, are entitled to that hearing within 72 hours; in these cases there are few dates available to the court on which to schedule the case. The schedules of defense attorneys who, unlike prosecutors, do not remain in the same courtroom, must also be given consideration by the court in scheduling cases. These and other factors may override the court's consideration of the police officer's schedule.

Because the results of the experiment suggested that V/WAP's police availability information does reduce instances of cases adjourned to officers' days off, V/WAP has made efforts to expand the scope of this activity to include arraignment as well as post-arraignment and court parts. The projects' arraignment representatives have been encouraged to promote the selection by the court of dates on which officers are on duty, based upon schedule information V/WAP obtains from arresting officers in the complaint room. Most preliminary hearings in cases where the defendant is detained are scheduled from arraignment parts, and it is in these cases that the Police Department incurs a direct monetary loss in payment of overtime wages if officers must be brought in on their day off. By expanding its procedure to arraignment parts, V/WAP should be able to save the Police Department substantial overtime wage payments, in addition to the savings it already produces in post-arraignment parts for those participants who are saved an extra trip to court when their case cannot proceed because the arresting officer is absent.

CONCLUSIONS

In each of the three studies described above, it was found that the information that V/WAP provides to the prosecutor and court is having an impact. In each instance, the impact of the information is limited, when viewed in context of the total volume of cases handled by Brooklyn Criminal Court. The witness assessment and police duty schedule data provided by V/WAP on the CPIS have a small impact because the effect of the information on decision-making is slight. In these instances, V/WAP should consider ways in which it might increase court officials' reliance on the information. The data presented here suggest that the Recommended Immediate Action List given to the Criminal Court Bureau Chief of the prosecutor's office has a substantial effect on court delay and on the guilty plea rate, but the list covers only a small number of cases. Here, V/WAP should consider expanding its criteria for deciding which cases will be brought to the Bureau Chief's attention, but not without resolving the dilemmas rooted in possible defense ignorance about the availability of the People's witnesses.

The results of this research are on the whole encouraging. Limited efforts to assess the impact of each of these forms of information were undertaken early in V/WAP's history with negative results. The acceptance of V/WAP as a credible provider of information, and reliance of court officials upon that information in making decisions, have apparently increased as the project has matured. While the project's impact at this point remains limited, the trend suggests that information generated by V/WAP is becoming an integral part of the criminal justice process.