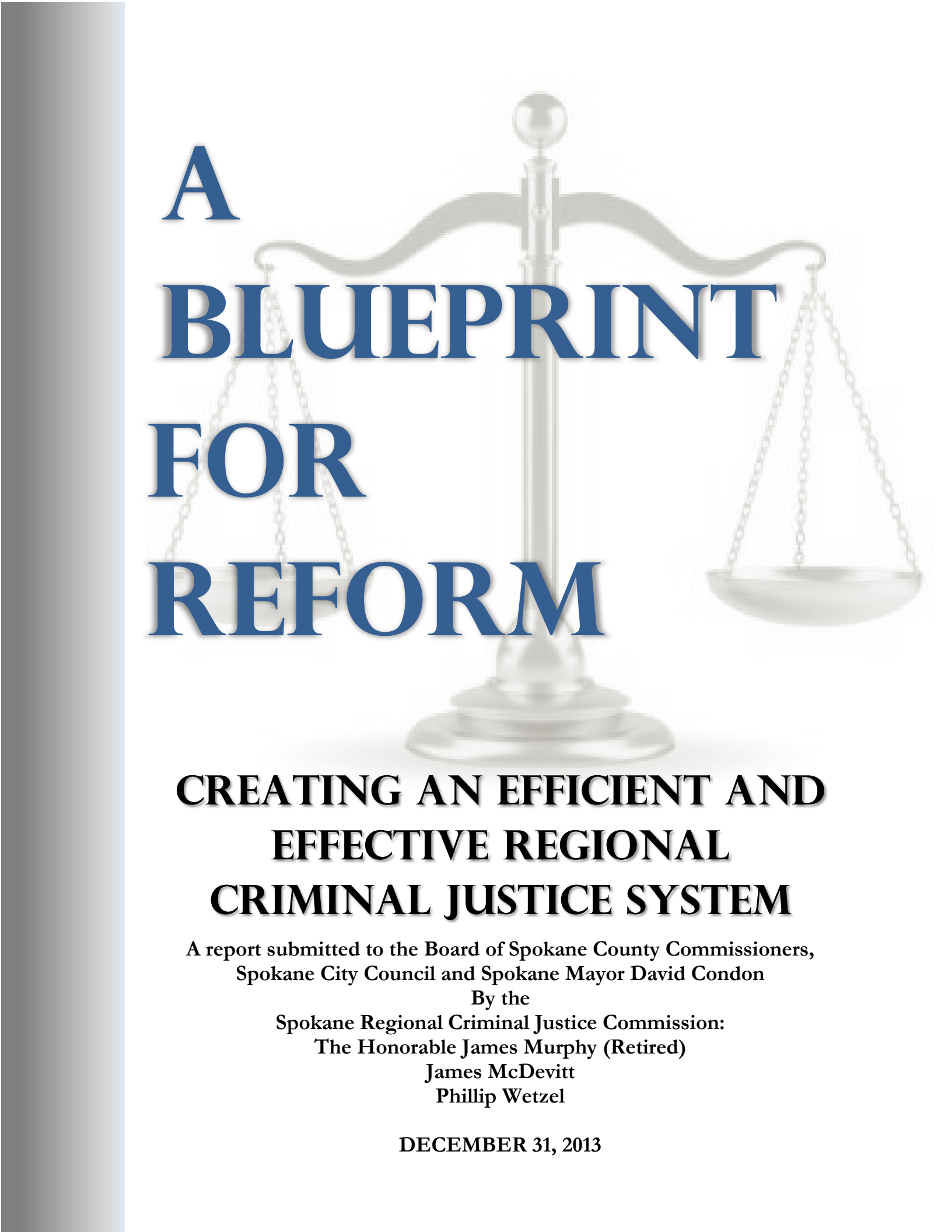

A BLUEPRINT FOR REFORM

CREATING AN EFFICIENT AND EFFECTIVE REGIONAL CRIMINAL JUSTICE SYSTEM

A report submitted to the Board of Spokane County Commissioners, Spokane City Council and Spokane Mayor David Condon

By the
Spokane Regional Criminal Justice Commission:
The Honorable James Murphy (Retired)
James McDevitt
Phillip Wetzel

DECEMBER 31, 2013

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The following references were used in drafting these recommendations:

Preface

Inherent to a report of this size is the use numerous acronyms and abbreviations. For ease in reading the following report, we provide the following list of definitions:

AOC:	Administrative Office of the Courts
BJA:	Bureau of Justice Assistance
CCC:	Community Corrections Center
CIT:	Crisis Intervention Team
CJ Administrator:	Criminal Justice Administrator
CJTA:	Criminal Justice Treatment Account
COMPSTAT:	Computer Statistics or Comparative Statistics
CrR 3.2:	Washington State Superior Court Rules 3.2
DCM:	Differentiated Case Management (also ECR)
DMC:	Disproportionate Minority Contact
DOSA:	Drug Offender Sentencing Alternative
DUI:	Driving Under the Influence
DWLS 3:	Driving With License Suspended 3rd Degree
EBP:	Evidence Based Practice
ECR:	Early Case Resolution (also DCM)
EHM:	Electronic Home Monitoring
FOSA:	Family Offender Sentencing Alternative
FTA:	Failure to Appear
IT/IS:	Internet Technology or Information Services
LEAD:	Law Enforcement Assisted Diversion
LFOs:	Legal Financial Obligations
LJCC:	Law and Justice Coordinating Committee
MOU:	Memorandum of Understanding
RCW:	Revised Code of Washington
RJC:	Regional Justice Commission
SCOUT:	Spokane County Geographic Information System
SRCJC:	Spokane Regional Criminal Justice Commission
SSI:	Social Security Insurance
WG:	Workgroup
WSIPP:	Washington State Institute of Public Policy

I. INTRODUCTION AND EXECUTIVE SUMMARY

1.1 Introduction

The Spokane Regional Criminal Justice Commission (SRCJC) was formed by City of Spokane and Spokane County administration with the goal of exploring current operations and efficiencies, identifying duplication of services, and developing a blueprint for successful reform that better meets the needs of those processed through our criminal justice system. The Commission engaged in over 140 hours of presentations, tours, and research, and consulted with David Bennett, on jail forecasting, enhancement of pretrial services and community correction centers. Through this process it has become clear to us that the regional criminal justice system in Spokane holds much strength, yet is also in need of systematic and collaborative reform. This reform will allow agencies to set new goals, and reach stronger operational efficiencies.

Of particular interest to us has been the various "pockets" of reform and strong, science informed practices that are already in place throughout the City and County. We even consider some programs and departments to be engaged in "pockets of excellence." What is needed, however, is a blueprint and structure to extend such reform to other departments and agencies, and to allow data and research to inform our systems. When properly built, these pockets of reform can be brought together into a regional system that will create greater community safety, provide for cost-effective services and create programs and practices focused on reducing recidivism.

During our months of public hearings and research, many ideas for reform were put forward, as were statements for independence across the various points in the system. There were major themes to develop across the hearings, regardless of the office or position held. These included reducing delays and duplications in court cases and supervision, improved and coordinated use of data across agencies, moving to an "evidence-based criminal justice system" and the need for an independent governance body. These themes highlight the fact that leaders of the Spokane regional criminal justice system recognize the need for systemic change. The question is how to go about it fairly and effectively.

This report is structured to allow first an overview of the current system operations, acknowledgement of work to date, followed by a set of recommendations for governance, reform, and research. A five-year timeline for the recommended reforms is put forward. The City Council and County Commissioners are encouraged to recognize that the recommendations put forward in this proposal are considered first-steps in a long-term strategic plan. Research on consolidation and shared service reform efforts reveals that such efforts can often take over ten years before efficiencies and true change are realized, and that in many instances, such efforts are considered to be in a continual state (Wilson et al., 2012). We are confident, however, that the recommendations and governance structure presented in this report will provide a strong blueprint for continual systems improvement, greater efficiencies and the continual application of best practices.

1.2 Executive Summary

This report is the result of hundreds of hours of public and agency testimony, research, and meetings by City and County officials and the SRCJC. Although we were given a set of "marching orders" in the form of objectives and a work plan from City and County officials, the SRCJC continually asked itself the following three questions as we held public meetings, conducted research and drafted the report:

- Does the recommended reform have the potential to provide equal or better service?
- Does it have the potential to save the City and/or County money?
- What type of governance structure or operational process can be developed for our region that assures that the participating local governments are active in guiding the reforms?

We approached our task humbly and with the utmost respect for the hundreds of professionals that work in our regional criminal justice system. We are inspired by the passion and dedication of the people who work tirelessly to maintain our criminal justice system, frequently with reduced resources. We are very appreciative of and commend these efforts. Yet, some key criminal justice professionals told us that we "can't put a price tag on justice." There is no question that justice must be achieved and maintained, but this must be done in a way that is most cost effective for the public. The public demands that the system be cost effective, and therefore we should *reform the system to be offender centered, rather than offense centered*. By moving to this model, we believe that the system will be the most cost-effective and efficient, while still protecting individual rights and keeping the public safe. Our existing systems and processes have simply become too duplicative and in some instances, even antiquated.

The recommendations we make in the following report should not be viewed as diminishing the current work being performed by those working in law enforcement, the courts, community corrections or detention services. We recognize the importance of the use of individual discretion by criminal justice professionals in performing their jobs. We understand and strongly express our support for maintaining an independent judiciary. We are cognizant of the responsibility and important role that the region's prosecuting attorney offices have in the system, particularly in deciding when criminal charges should be filed against a suspected offender. We appreciate that abiding by the Rules of Professional Conduct take precedence in the manner in which criminal defense attorneys represent their clients. The recommendations contained in this report should in no way be viewed as an attack on judicial independence, or professional discretion exercised by the individuals whose job it is to maintain regional public safety and uphold the Washington State and United States Constitutions.

The SRCJC supports some rather significant changes to current criminal justice operations. We maintain that a new governance structure must be created, to allow for overall management of the criminal justice system in our area. We recognize that technology must be embraced, and that system-wide performance measures (or "report cards") are needed. Research has repeatedly demonstrated that jail and intensive supervision do not reduce recidivism, and shifting away from an over-reliance on jail and towards community-based alternatives is critical to move us into a 21st century justice model.

Rather than recommending the immediate construction of a new jail facility, the SRCJC supports the implementation of alternatives and new practices, and then reassess the need for a new jail after these alternatives have been evaluated. We believe that renovations and already identified improvements to the jail should continue. These include needed structural updates to the booking area and kitchen, as well as the creation of a dual purpose courtroom space to expedite first appearances and an expanded area for pre-trial services. We also fully support the creation of a Community Corrections Center. The facility should be co-located on the Spokane Justice Campus to improve transportation and Detention Services efficiency, and to allow a direct hand-off of the offender to community services.

We do not recommend the consolidation of the District and Municipal Courts at this time. This issue was presented and discussed at length. It is clear that the Municipal Court, and all city agencies, have been innovative, cooperative and effective. This cannot be said about the District Court. All city agencies are vehemently opposed to consolidation with the District Court. The District Court was found to lack cohesion and was unwilling to embrace plainly needed reform, and unconcerned with the costs of jail sentences and detention before trials and probation hearings. We believe it is possible to achieve efficiency through the consolidation of the Municipal Court and District Court Probation offices. It is imperative that the innovations and the effectiveness of the Municipal Court Probation Office be maintained. The Regional Justice Commission (RJC) (Executive Board) must closely monitor all functions and outcomes of this consolidation.

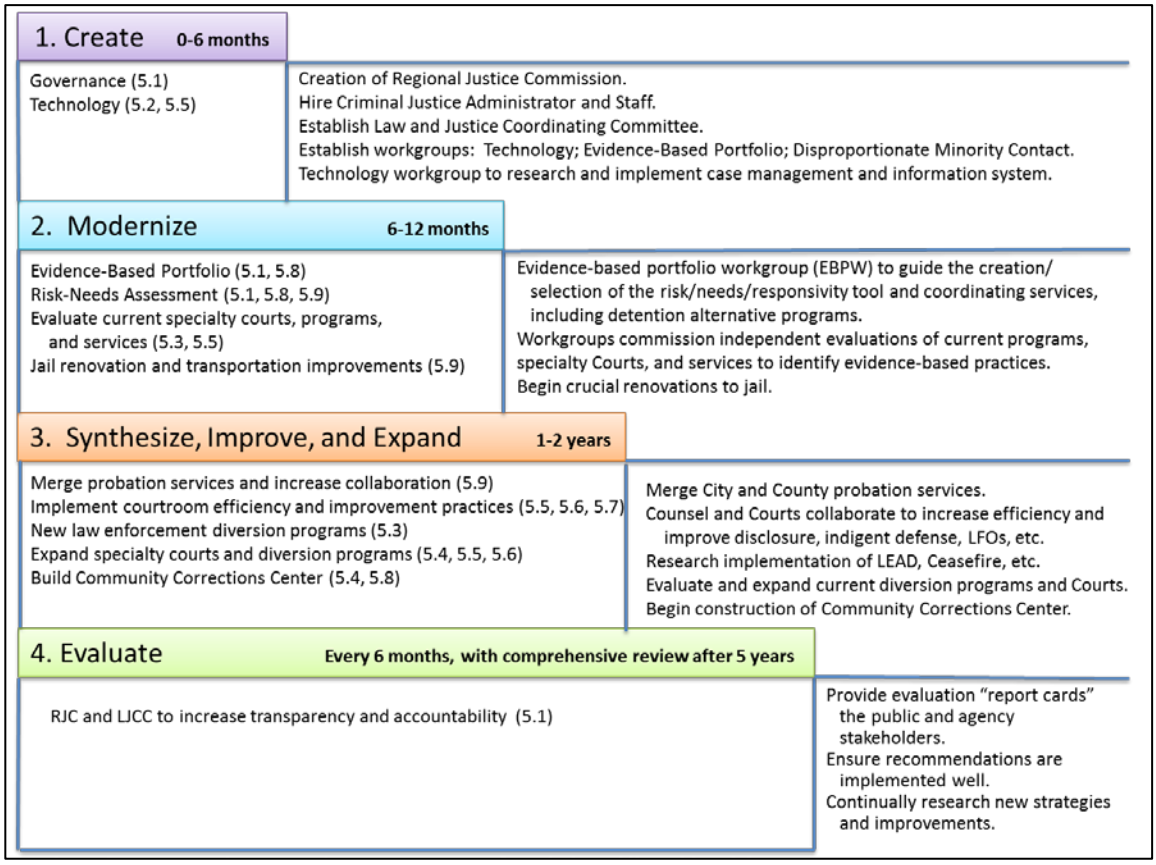
Ideally, with the adoption of the new governance structure and the report card system, the District Court can be held more accountable to the public. In time, the RJC may re-evaluate and determine whether the District Court should be consolidated with the more innovative and research-based Municipal Court.

We put forth many procedural changes that we believe will quickly create greater efficiencies, by way of renewed collaborative efforts between the judicial bench, prosecution and defense. Efforts should be undertaken to minimize and avoid unnecessary court hearings, combine cases whenever feasible, and minimize the issuances of warrants on non-payment of legal financial obligations.

Many of the recommendations put forth suggested in this report came directly from City and County employees across the various criminal justice agencies. These recommendations from the "front-lines," combined with reports and research provided to us by Smart Justice, Washington State University Department of Criminal Justice and Criminology, and countless community agencies, all combine to create a blueprint for sustainable regional reform. Highlighted in below in **Table One**[1] is a timeline to guide the implementation of the recommendations in this report. There are four stages of reforms: Create, Modernize, Synthesize, and Evaluate.

[1] A more detailed timeline grid can be located in the Table on pg. 56

Table One



First, priority should be given to creating a governance structure and immediately improving technology for case management, data sharing, and security. Second, the RJC should place emphasis on modernizing the regional justice system by creating a risk/needs assessment and evidence based portfolio that will inform future reforms. Jail renovations should begin during the second stage of priorities. Third, and perhaps during the first two steps in some select cases, reforms will be implemented including expansion of current evidence-based programs, improvement of practices that can be more efficient, merging to reduce duplicative services among probation services, consolidation of cases between courts when possible, and the Community Corrections Center project should be undertaken. Finally, the RJC and LLJC will undertake ongoing evaluations of each component of the justice system to increase transparency to the public and each agency. After five years, a thorough report will be completed across all systems to allow the community, agencies, and administrators to directly observe and assess the meaningful change created by investment in these reforms.

1.3 Acknowledgements

The work of the Commission could not have been completed without the assistance and guidance from many important individuals across the community. The Commission would like to thank the following individuals for their assistance in this important process:

City of Spokane - Mayor David Condon, the **Spokane City Council and staff**, and the **Spokane County Commissioners** and staff, who charged us with our mission, kept in contact with us in our progress, and supported us, while allowing us complete freedom to conduct our study independently.

Spokane County Detention Services - Lt. Michael Sparber for providing integral criminal justice input and insight. Michael and Sr. Tech Asst. Karen Westberg were our tireless guides and hosts through the many meetings and hearings, and provided us the physical space and resources needed to complete our task.

Washington State University - Department of Criminal Justice and Criminology, specifically Dr. Jacqueline van Wormer, Dr. David Brody, and Chyla Aguiar M.A., whose expertise and excellent assistance made the writing of this document possible. They combed through the reams of files and resources with us and were our most valued asset in developing a professional and well thought-out document. They gave many hours of time and diligence to our task on a completely volunteer basis.

David Bennett Consulting, and **Donna Lattin Consulting**, whose previous work and attentiveness in providing many hours of research and consultation essentially "got the ball rolling' in many areas of reform in the Spokane Regional Justice system. Their work has been a valued asset in our mission.

Smart Justice Campaign - Mary Lou Johnson and Julie Schaffer who attended nearly every hearing, and who were more than willing to bring their knowledge and experience in to assist this Commission.

Kathy Knox – The Director of City of Spokane Public Defenders office, who attended every hearing and offered valuable insight into processes and topics relevant to each hearing.

Gonzaga University Law School - Tim Schermetzler who offered the facility and provided the resources to host our November 6th 2013 Public Hearing. We are grateful for the use of that beautiful facility, and appreciate the gracious hospitality.

All of the **City and County employees** in the varied criminal justice offices who spent the time communicating with us and being transparent in their testimonies. Their open and honest input was extremely helpful and greatly enhanced our ability to analyze effectively.

Washington County Oregon - Courts, Law Enforcement and Probation officials who assisted us in our investigation and hosted our visit to their Community Correction Facility and Jail.

II. OVERVIEW OF WORK OF THE SPOKANE COUNTY REGIONAL CRIMINAL JUSTICE COMMISSION

"Our ultimate goal is to be the safest region of our size in the nation," Spokane Mayor David Condon (November 20, 2012)

2.1 History

In July 2012, the City and County of Spokane adopted a memorandum of understanding (MOU) focused on developing criminal justice reforms aimed at improving services, eliminating duplicate services, creating efficiencies and reducing recidivism.

Administrators from both the City and County committed to a broader, more holistic approach to the community's criminal justice system, rather than the current "siloed" system. As resources have dwindled over time, standard, historical practices have been called in to question. Spokane County has been working since 2008 to implement various reforms including the addition of expedited case processing, evidence-based community corrections programs, and the adoption of the problem solving court model. The MOU allowed for expanding reform efforts across systems and created the Spokane Regional Criminal Justice Commission (SRCJC).

By November 2012, three Commission members were appointed to the SRCJC. James McDevitt, Judge James Murphy (ret) and Phillip Wetzel all agreed to serve. The Commission was charged with seeking input from the public, stakeholders and City and County criminal justice officials. City and County Administration selected each member due to their extensive and exhaustive experience in the criminal justice system. Commission members experience includes:

(Commission Chair) The Honorable James Murphy (ret) is a 1973 graduate of Gonzaga Law School. Judge Murphy began his career as an Assistant Attorney General for the State of Washington. He was elected to the District Court in 1978, and served until 1985. He was then elected to the Superior Court, where he served until 2003. Judge Murphy is a former Magistrate Pro-Tem for the United States District Court, Eastern District of Washington. Judge Murphy is also a founding member of the Judicial Mediation Group: Civil Law Mediation and Arbitration Services.

Phillip Wetzel is a graduate from Gonzaga Law School, has been a lawyer in Spokane for 34 years. Phillip has worked at the Spokane County Prosecuting Attorney's Office in the juvenile and felony departments. He entered into private practice in 1986 and has since worked primarily in the defense of accused persons. Currently his practice is distributed among the District, Superior and Federal Courts and he appears in courts throughout Eastern Washington.

Jim McDevitt is also a graduate of Gonzaga Law School (1974), and obtained an MBA from Gonzaga (1975). Jim served as an Assistant Attorney General for the State of Washington, and also served in private practice (1977-2001) before accepting an appointment as the United States Attorney for the Eastern District of Washington. Mr. McDevitt served in this capacity under the Bush and Obama administrations until 2010. He currently serves as General Counsel for the Spokane Airports.

All three Commission members have served on a variety of boards, oversight committees, and community organizations. Each are held with high esteem in the community. They have collectively volunteered hundreds of hours to this study, and have a great wealth of knowledge for local processes, procedures, and law.

Standard questions were presented to reporting agencies/groups for each public meeting that began in March 2013. The purpose of these meetings was to create an understanding of services and organizational structures, current challenges, and self-identified areas for improvement. Recommendations and reforms put forward in this report come from, 1) direct recommendations by various City and County staff; 2) provided to us by community groups or via reports (e.g. Smart Justice); or 3) independent research and data analysis provided by Washington State University, Department of Criminal Justice and Criminology; or 4) the Bennett Report. Thirty-seven public meetings, totaling over 140 hours of public meetings were conducted. Commission members also had discussions with over 400 individuals involved directly or indirectly with our regional criminal justice system. Invited presentations were received from the following groups:

- City of Spokane Probation Services
- Spokane County Clerks
- City of Spokane Public Defenders
- Spokane County Public Defenders
- Spokane County Information Systems Department
- County Counsel for Defense
- Spokane County Pre-trial Services
- Spokane County Prosecutors Office
- Spokane County Juvenile Court
- City of Spokane Prosecutors Office
- Detention Services, including Transportation, Programs and Classification and Mental Health Services
- Spokane County Early Case Resolution project
- Spokane County Mental Health Court
- Spokane County Probation Services
- Washington State Department of Corrections
- City of Spokane Information Services
- City of Spokane Municipal Court
- Spokane County District Court
- Superior Court Judges
- Spokane County Behavioral Health Drug Court

- Spokane County Community Services
- Various Community Service Providers
- Private attorneys engaged in criminal law
- Sheriff Ozzie Knezovich, Spokane Chief of Police Frank Straub, Airport Police Chief Pete Troyer, Cheney Police Commander Rick Campbell, WSP Trooper Jeff Otis and Spokane Police Officer Craig Meidl.
- Geiger Correctional Center
- Judge Boyd Patterson, Dallas Texas and Cerium Networks
- Smart Justice Coalition
- Washington State University, Department of Criminal Justice and Criminology
- Washington County, Oregon judges, law enforcement and probation services
- Fulcrum Institute

2.2 Mission Statement

The mission of the Spokane Regional Criminal Justice Commission is to conduct a comprehensive review of the entire Spokane regional criminal justice system by examining the entire spectrum from pre-arrest (prevention programs), arrest, prosecution and defense, sentencing, incarceration (including alternatives to incarceration), re-entry and recidivism. The goal of the Commission is to make specific recommendations to the City and County which will address reduction of crime, the efficiency and effectiveness of the criminal justice system, the effective use of detention and alternatives to detention, the effectiveness of re-entry programs, and ultimately to put in place a criminal justice system which is efficient, effective and guarantees strict adherence to the mandates of the Constitution of the United States and the State of Washington.

2.3 Research and Objectives:

The SRCJC was charged with exploring the following objectives:

- Elimination of duplicate services and/or process that will more quickly service citizens while reducing overhead costs.
- Increase investment for diversion programs (alternatives to incarceration) that result in reduce jail time and more quickly returning individuals to productive members of community while reducing system costs.
- Achieve operational efficiencies that may allow for new programs utilizing operational savings.
- Allow for construction of capital facilities that fit regional business/service needs at a greatly reduced cost by eliminating duplicate facilities.
- Establish a precedent for multi-jurisdictional cooperative models that can be replicated in other lines of business.

A work plan was also developed by City and County officials and included the following:

- Evaluate best practices from existing regional models
- Document strengths and weaknesses of Spokane's regional system
- Define and document a proposed organizational structure
- Identify roles and responsibilities for participating jurisdictions and lines of business
- Propose a set of governance models
- Define staffing, budget and other support requirements
- Develop draft budget including detailed definitions of cost sharing models
- Determine the role(s) of partner organizations/committees/boards
- Define community and legislative activity necessary to implement a sustainable regional model.

III. OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM IN SPOKANE, WASHINGTON

This section will first provide a broad overview of the criminal justice system in Spokane. The overview is intended to give ordinary citizens an understanding of how various agencies interact to seek justice from the moment a crime has been committed until the moment the offender has been reintegrated into society after disciplinary or restorative action has been taken. Following the overview, specific details about how the City of Spokane and Spokane County facilitate the process are provided in tables with a description of the services to allow for easy comparison. The reader will note that many of the tasks and functions of the City and County justice system are the same, while others are different depending upon the nature of the crime.

Most criminal cases begin when one or more witnesses report a crime to a law enforcement agency, or when law enforcement officers directly observe a crime. After a preliminary investigation to determine probable cause that the person committed a criminal offense, police will do one of two things. The first option is issue the offender a citation and a summons to appear in court at a designated time, while the second is to arrest the suspect and transport him or her to the Spokane County jail for booking and processing. If the offender is booked into the jail, there will be a bond hearing. At the hearing, a judge will decide whether the offender should be released from custody on a promise to appear, with specific conditions, or upon posting of a bail bond.

After reviewing the police report, City of Spokane or Spokane County Prosecuting Attorneys must decide if sufficient evidence exists to justify using taxpayer money to pursue adjudication of the crime. If the prosecutor files charges (felony or misdemeanor), the case will be assigned to the Spokane Municipal Court for misdemeanors occurring within the city, or the Spokane County District or Superior Court depending on the seriousness of the charges. If the offender is indigent, and there is a possibility that he or she will be sentenced to jail if convicted, the offender will be appointed an attorney to represent him or her in court.

Some offenders may accept a plea bargain or be deferred to a specialty court such as Mental Health Court, Adult Drug Court, or Veterans Court. Some may participate in Early Case Resolution (or "Differentiated Case Management"), which speeds the process. Some cases go to trial, but the percentage is much less than the percentage of cases that are resolved without a trial. Additionally, some cases are dismissed entirely by the prosecuting attorney when there is a lack of evidence. Criminal prosecutions are generally adjudicated by a dismissal, a guilty plea (often via plea bargain), or conviction or acquittal at trial. If a defendant is found guilty, a judge will sentence the offender to a period of incarceration, a period of probation, or both.

The final stage in the process is reentry or reintegration. Offenders face considerable stigma once they have been found guilty of a crime. This is especially true of offenders who have been incarcerated. They often experience difficulty adjusting to conventional life when they are released from prison. They may struggle to find employment, avoid negative influences, remain free of drugs and alcohol, reconnect with their families, and abide by all of the requirements of probation or parole. Considerable research has highlighted the need for better programs to assist offenders with this transition (Petersilia, 2003), and identify those offenders who are less likely to commit new crimes once their criminogenic needs have been met (Taxman et al., 2010; Vincent et al., 2012). At this final stage, probation supervision and community services assist offenders as they reenter society. Evidence-based programs are used to help the offender arm themselves with new skills to build a more conventional life and refrain from new crimes.

Finally, at any given stage in the system, an offender may be involved with multiple agencies in both jurisdictions. For example, an offender may have a misdemeanor pending in the City of Spokane Municipal Court for driving with a suspended license and a felony assault charge pending in the Superior Court. The offender might also be under the supervision of either or both Spokane County or City of Spokane probation departments for prior charges. The criminal justice "system" is often considered less of an assembly line than an obstacle course (Packer, 1968).

3.1 The Details

There are many areas of overlap between the City of Spokane and Spokane County criminal justice systems. There are also many areas where the functions of agencies are unique enough that collaboration or integration is not possible. Details about the duties of law enforcement, prosecutors, public defenders, courts, clerks, detention services, probation services, and information systems are presented in this section. A brief description follows each box.

Law Enforcement	City	County	Joint
Operates and oversees City of Spokane Police Department	X		
Operates and oversees Spokane County Sheriff		X	

Fosters partnerships with regional and municipal police departments			X

The City of Spokane and Spokane County have separate law enforcement agencies, which are designated by the laws of the State of Washington. They preform similar functions, including apprehending suspects, keeping public order, enforcing traffic laws, investigating serious crimes, and responding to crisis. Each does a fantastic job of fostering beneficial partnerships with regional municipal police departments, who should also be recognized for the valuable services and collaboration they provide:

- Airway Heights Police Department
- Cheney Police Department
- Liberty Lake Police Department
- Medical Lake Police Department
- Spokane Valley Police Department
- Eastern Washington University Police Department
- Washington State University Police Department
- Washington State Patrol
- Washington State Department of Corrections

In addition to these partnerships, most of which are included in various mutual aid agreements, the Commission recognizes the exemplary level of cooperation between and among the various state, county and municipal law enforcement agencies, including their federal partners such as the Federal Bureau of Investigation, the Drug Enforcement Agency the Bureau of Alcohol, Tobacco, and Firearms, and U.S. Border Patrol. Through such partnerships and cooperative efforts, much is accomplished in the area of law enforcement. It should be noted, however, opportunities for additional cooperative efforts still exist in the area of crime prevention (see Recommendation 5.3 (5)).

Prosecutor	City	County	Joint
Prosecute misdemeanor crimes, including civil traffic and non-traffic infractions	X	X	
Prosecute domestic violence misdemeanors	X	X	
Prosecute felonies committed in City of Spokane and Spokane County		X	
Relicensing program to reinstate driving privileges for failure to pay traffic fines (DWLS 3 Diversion)	X		
Prosecute juvenile cases		X	
Prosecute drug, gang, property and fraud crimes committed in City of Spokane and Spokane County	X	X	
Prosecute major crimes, special assault, appeals, civil, and family law cases from City of Spokane or Spokane County		X	
Provide victim/witness services	X	X	
Offers day reporting through Friendship Diversion Services		X	

Electronic Home Monitoring (EHM)	X		

The City and County prosecute a wide array of misdemeanor and traffic offenses. Felonies and juvenile cases are prosecuted only by the County Prosecutor.

Public Defender	City	County	Joint
Provide representation to those who are entitled to counsel but cannot afford it	X	X	
Provide representation to juveniles		X	
Provide representation for Mental Health Court clients			X

The City of Spokane and Spokane County have separate Public Defender offices. Each provides representation to offenders who are entitled to counsel constitutionally but who cannot afford to hire a defense attorney on their own. The Spokane County Public Defender office provides all representation to eligible juveniles. Both Public Defender Offices coordinate to provide counsel to Mental Health Court clients. The Spokane County Counsel for Defense also represents indigent offenders, primarily cases in which the Public Defender's Office is unable to represent an offender due to a conflict of interests or other ethical reason.

Courts	City	County	Joint
Misdemeanor offenses are adjudicated in a court of limited jurisdiction	X	X	
Adjudicates felony offenses		X	
Adult Drug Court, Early Case Resolution, DOSA, and FOSA hearings		X	
Veterans Court	X	X	
Mental Health Court			X
Intensive Supervision Therapeutic Court		X	

Spokane currently has three courts: Municipal, District, and Superior. Other local jurisdictions (e.g. Cheney, and Spokane Valley) contract for services. Medical Lake and Airway Heights maintain their own Municipal Court system. The Municipal Court is operated by the City of Spokane, and adjudicates only misdemeanors. The District Court is operated by Spokane County, and also adjudicates misdemeanors. All felonies are adjudicated by the Spokane County Superior Court, which also hears civil cases and family law. Some specialty courts are offered by Spokane County, including Veterans Court, Intensive Supervision Therapeutic Court, and Adult Drug Court. Early Case Resolution is also utilized by Spokane County. The Municipal Court and District Court jointly operate Mental Health Court.

Clerks	City	County	Joint

Process and manage court records	X	X	
Provide support staff to judges	X	X	
Issue protection orders		X	

Clerks provide support staff to judges and manage court records. The Spokane County Clerk also issues protection orders, processes minor emancipation requests, name changes, adoptions, trusts or wills, and manages all financial transactions for the County courts.

Detention Services	City	County	Joint
Detain offenders who are awaiting adjudication, and who have been sentenced or detained under the authority of City, County and federal courts.		X	
Provide transportation services		X	
Operate Geiger Correctional Facility		X	

The City of Spokane and Spokane County rely upon Spokane County Detention Services to detain all offenders who are waiting for adjudication for a crime, sentenced, or detained under the authority of City, County, or federal courts. Detention Services also provides transportation for these offenders to court appearances, manages populations of incompatible offenders (such as gangs or violent and sex offenders), and facilitates visitation. Community corrections and medical and mental health services are also provided by Detention Services.

Probation	City	County	Joint
Probation support services for misdemeanor crimes committed within the City of Spokane	X	X	
Probation support services for misdemeanor crimes committed within Spokane County		X	
Probation support services for felony crimes committed within City of Spokane or Spokane County		**[2]	
Provide electronic home monitoring	X		
Contract with private companies for electronic home monitoring services in approved cases		X	
Facilitate Alive at 25!			X

The City of Spokane and Spokane County have separate probation offices. The functions of the two offices are essentially the same, and they collaborate to facilitate Alive at 25!. Both provide supervision for misdemeanor crimes committed within the City of Spokane or Spokane County. The City of Spokane currently offers electronic home monitoring within

[2] The County does not provide probation services for felony offenders. The Department of Corrections has traditionally served this function, but due to budget cuts, there are now severely limited probation services for felony offenders.

the office, while Spokane County Probation requires offenders to pay for private supervision after approved by a judge.

Information Systems	City	County	Joint
Create and maintain document imaging, filing, and indexing system		X	
Create case management applications for multiple agencies		X	
Facilitate information sharing among agencies		X	
Create and maintain court scheduling software		X	
Integrate data from state agencies with local databases		X	
Create and maintain Detention Services transportation scheduling software		X	
Create and maintain Detention Services and Sheriff data applications including forensics, sex offender registration, jail visits, and pawn property index		X	
Facilitate electronic document filing and submission	X	X	
Implement and maintain Just Ware for City of Spokane Prosecutor, Probation, Public Defender departments	X		

The City of Spokane and Spokane County have separate information technology departments that are responsible for managing the electronic elements of each of the regional criminal justice systems. The systems do not "sync." That is, none of the data from either department is integrated with the data from the other. The City of Spokane Information Technology Department recently implemented Just Ware, which is a highly successful web-based system for managing case files and could be used as a model for other agencies. Spokane County Information Systems has designed and maintains multiple software applications that manage case files for Detention Services, District Court, Superior Court, and the Sheriff's Office. Just Ware does, or will in the future, the same functions as many of the programs that were designed and are maintained by Spokane County. Both systems are designed to electronically document images for filing and indexing, schedule court appearances, coordinate transportation, integrate state data with local information, and meet other technology needs of the agencies as needed.

IV. CONTEXT FOR REFORM

4.1 Current Practices and Moving Forward

Seventy percent of the annual operating budgets of the County, and approximately 50 percent of the budget of the City of Spokane is allocated for criminal justice expenditures. The majority of the dollars are spent on personnel. In many departments or agencies, those funds are additionally supplemented by State and Federal monies, as well as grant awards. The demands on the current system in our region, coupled with economic challenges and the recognition that many of our current practices are outdated and duplicative, have created a wave of necessary reform.

Research shows that the impetus behind consolidation and shared services in the criminal justice area are diverse, depending on agency history and which agencies are involved. The benefits of consolidation and shared services can be numerous. Studies of over 130 public safety consolidation efforts reveal findings of increased efficiency, reduction of duplication of services, improved services that are based on research, reduction of physical infrastructure needs, greater cross-training, and the ability to respond more quickly to evolving community needs. Most importantly, research has shown that consolidation and shared services can increase *comprehensive* community safety (Wilson et al., 2012).

The potential drawbacks are worth noting however, and should be considered in the context of our pending reforms. Although cost-savings can certainly be realized under these recommendations, there are inevitably preliminary costs that must be managed and carefully considered. Union positions and needs must also be considered to ensure fairness. Departments often have their own unique identity and believe that they meet a niche that cannot be met by consolidation. Moving staff along the "continuum of change" and changing organizational culture is by far the biggest obstacle in reform efforts. Criminal justice reform takes political courage, skill, and most importantly **time and strong leadership,** to allow the efforts to evolve.

Through the process of presentations by the various County and City departments, and social service agencies, the RCJC has quickly discovered that most County and City entities are interested in re-engineering our criminal justice system to be more innovative, efficient, and flexible. In fact, most of the ideas for reform put forth in this report came directly from City and/or County staff.

A strong amount of research has emerged over the past decade on consolidation and re-engineering efforts. Some studies highlight great successes, while other studies focus on the challenges encountered and the impediments to success. Given these findings, it is critical that County and City leadership consider the following five conditions that must be present in order for the recommendations in section five to be properly enacted (Hall & Suskin, 2010).

1. **Gather the Right People:** This reform effort will require involvement from numerous department leaders and staff, community partners and County/City administration. The leaders of the reform efforts (see governance structure

outlined in 5.1), must work together to create a climate that is "conducive to reengineering," and must be willing to include at least one outsider that will ask them the hard questions and "shatter assumptions" (Hammer & Champy, pg 38, 2003). These same leaders must also be willing to implement the recommendations below, but also understand that we have elected to focus on only the most obvious (what we call "low hanging fruit") and needed areas of reform. It will be up to the governance structure and City/County leaders to move the vision beyond the five-year plan outlined in the Executive Summary.

2. **Identify the Long-term Structural and Governance Issues:** Outlined below is a detailed governance structure that is recommended for the Spokane region. This governance structure was developed after careful consideration of presentation materials, reports and research provided by The Smart Justice Campaign and a careful review of the research literature on consolidation (Wilson et al., 2012; Hall & Suskin, 2010).

3. **Develop Guiding Principles:** The governance structure, in conjunction with department leadership should engage in developing a set of operational goals and organizational values. By outlining these from the inception of the reforms, it will provide a unified vision for strategies to move efforts forward (Hall & Suskin, 2010).

4. **Determine Potential Solutions and Analyze Their Impact:** Outlined in the Recommendations section below are numerous solutions that address creating greater staffing efficiencies, developing technology solutions, policy changes, and governance and structural changes. We consider this set of recommendations a beginning to a more thorough and strategic long-term effort.

5. **Organize the Solutions into Waves of Change:** As was highlighted in the Executive Summary (see Table 1), the recommendations put forth in this reform are all time sensitive. Some carry greater weight and importance than others. We have structured the set of recommendations by those changes that can be accomplished fairly quickly, reforms that will take greater research, planning and execution, as well as those that will be realized over a much longer period of time.

V. RECOMMENDATIONS

5.1 Governance and General Operations

<u>Recommendation 5.1 (1):</u> Create the Spokane Regional Justice Commission (RJC) and hire support staff

Critical to any major reform effort is a strong governance system to oversee and guide the process. The SRCJC has explored many criminal justice system governance options. We carefully considered the importance of building a system that can effectively carry out the reforms put forth in this report, while also creating a permanent level of accountability and transparency. As is highlighted in figure one below, the SRCJC supports the creation of a governance system that facilitates coordination, cooperation and efficiency within the regional criminal justice system. The SRCJC recommends reestablishing the Law and Justice Coordinating Committee, yet with a different structural format and purpose. The SRCJC believes that the formation of a Regional Justice Commission (RJC) and the creation of a RJC Administrator is a critical first step in the reform process. The RJC must be viewed as the Executive Committee of the LJCC (further described below in Figure 1).

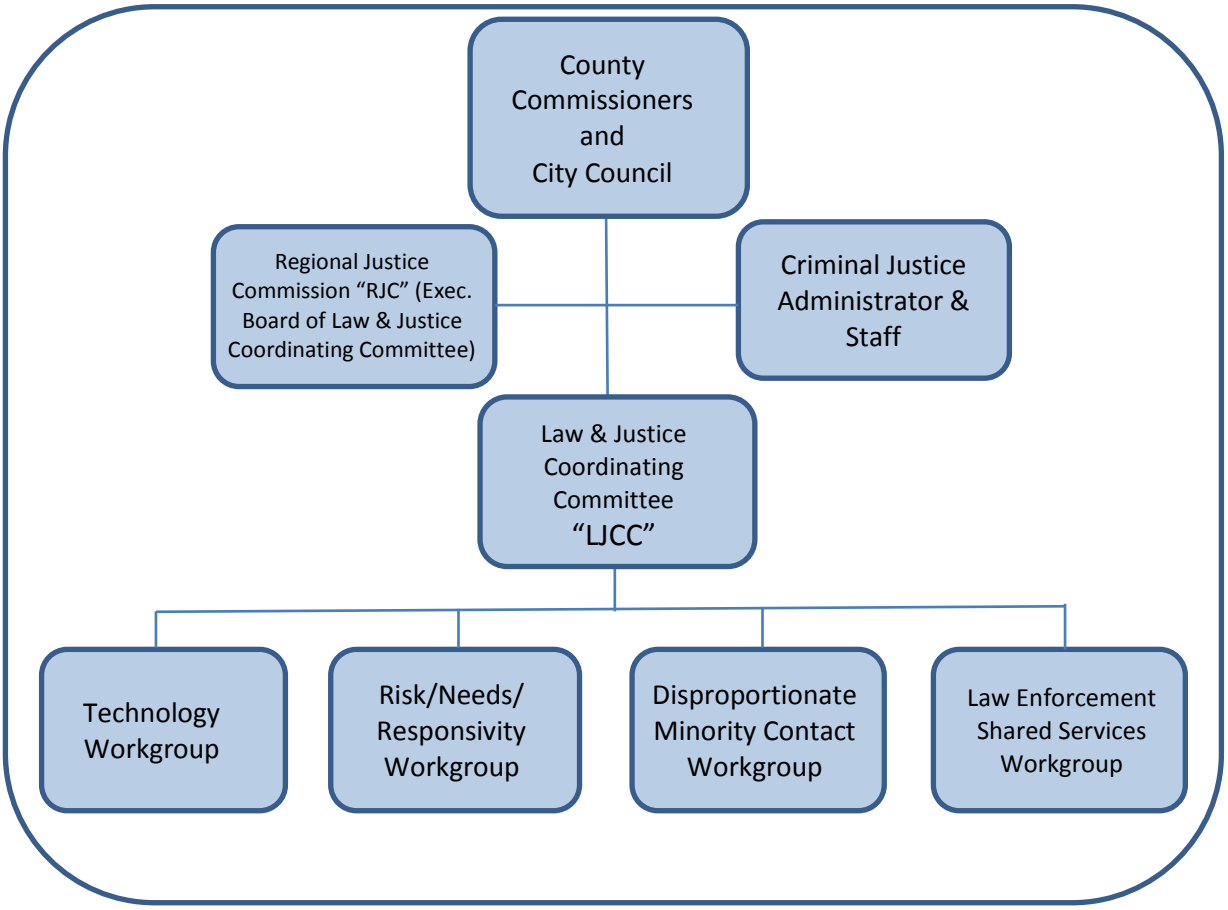


Figure 1

In order to accomplish its mission and objectives, the RJC must be given, by way of legislation or inter-local agreements, the authority to dictate and accomplish those changes necessary to improve our region's justice system. In short, the RJC must be free from the politics that now hamper progress. Autonomy is critical, but must be balanced against the constitutional independence of the courts.

The commission should consist of a 5-member panel, assigned for three-year terms. Positions for the RJC would be screened and appointed jointly by the City Council and Board of County Commissioners. Individuals selected for the board should have expertise in all facets of criminal justice. The RJC should meet monthly, and be charged with developing and managing an integrated, regionalized, and cost-effective criminal justice system for the Spokane region. The RJC would engage in the following:

- Appoint the Criminal Justice Administrator and part-time support staff (see below)
- Oversee the Law and Justice Coordinating Committee (LJCC) and operational workgroups of the LJC.
- Receive advice and input from the LJCC and workgroups to develop and administer on-going reform efforts.
- Review research, reports and best practices provided by the CJ Administrator, LJCC and other community agencies.
- Educate the community on reform efforts, as well as on-going criminal justice system operations
- Recommend and support legislation that helps to create an efficient and effective criminal justice system within the Spokane region and across the State of Washington.
- Review data and report cards to ensure that departments are reducing recidivism, increasing program completion, engaging in more efficient practices, generating cost-savings, and expediting cases when appropriate.
- Work with department administrators to eliminate under or negative performing programs and services.

Review of other criminal justice and local government consolidation and reform efforts across the country has shown that a commission and director structure allows for the greatest potential for effective and lasting change. The logical structure will establish a true chain of command for the reform and change efforts, and therefore all departments within the criminal justice system will be accountable and report to their department/agency director, as well as the RJC.

To support the work of the RJC, it is recommended that an administrator and office support staff be hired. The administrator would serve a five-year term, renewable by the RJC. The administrator would be largely tasked to:

- Collect, analyze and correlate information and data regarding the regional criminal justice system.
- Provide the RJC with important research and reports to guide reform efforts.
- Provide training and technical assistance to City and County agencies on reform efforts. An outside entity or the administrator can provide such

training, depending on the need (e.g. adoption of an evidence-based correctional therapy program; new law enforcement prevention program).

- Conduct meeting facilitation with various departments, agencies and workgroups to guide reform efforts.
- Develop media and educational materials for public use at the direction of the RJC.
- Assist RJC in monitoring report cards and performance measures.
- Assist RJC in developing draft policies and legislation based on recommendations from the LJCC and community groups.
- Work closely with City and County technology departments to develop a report card system and a video conferencing system to ensure seamless communication between all criminal justice units.
- Ensure that meetings comply with the Open Public Meetings Act, RCW 42.30.
- Meet with RJC during open monthly meeting to provide updates and receive further direction.

<u>Recommendation 5.1 (2)</u>: Re-establish the Law and Justice Coordinating Committee & supporting workgroups

The Law and Justice Coordinating Committee (LJCC) should include representatives from all of the criminal justice units in the City and County that provide direct services. The duties of the LJCC should be to:

- Identify problem areas and develop solutions via the use of standing workgroups (see Figure One above for examples). The workgroups would each use the model identified in section 4.1 in order to create a greater likelihood of success. At a minimum, the following workgroups should be created in order to carry out the proposed reforms:
  - Technology Workgroup: This workgroup would oversee the creation and implementation of video technology in the jail and courtrooms, as well as advancing the performance monitoring system (discussed further in 5.1 (5))
  - Evidence-based Portfolio Workgroup: This workgroup would explore the various risk/needs/responsivity tools available, recommend adoption of a selected tool, as well as work with local academic partners to develop a "portfolio" of evidence-based practices for offenders.
  - Disproportionate Minority Contact (DMC) Workgroup: The DMC workgroup would be a standing workgroup that would utilize data to monitor overrepresentation of minorities at key decisions points within the criminal justice system. The workgroup would ensure that all criminal justice departments make a commitment to achieving racial equity in our systems, and to building culturally appropriate programs and support services for offenders.
- Develop necessary inter-local agreements and memorandums of understanding.
- Carry out and successfully implement the recommendations of the RJC.

- Review data and report cards to ensure that departments are reducing recidivism, increasing program completion, engaged in more efficient practices, generating cost savings, and expediting cases when appropriate, and contributing to a reduction in crime.

<u>Recommendation 5.1 (3):</u> Ensure there is a role for outside agencies, non-profits and public by furthering community partnerships:

Transparency in the operations and outcomes of the Spokane regional criminal justice system is critical, and will allow for true and lasting criminal justice reform to occur in our community. Our current system is "siloed" and self-protective. By expanding community partnerships we can be more effective in addressing a complex population. The SRCJC recommends that the newly formed Regional Justice Commission engage in a "community mapping exercise" in order to fully inventory available community services, as well as identify gaps in services. This map will then be used to match offenders to needed services. Memorandums of Understanding and (potential) contracts will be developed between agencies, under the guidance of the LJCC, and monitored by the RJC. Additionally, the Commission urges jail and Community Corrections Center staff to utilize these MOUs to develop strong partnerships with community services that will improve offender outcomes post-release.

<u>Recommendation 5.1 (4):</u> Adoption of evidence-based portfolio & risk/needs assessment instrument for criminal justice system management across all agencies:

Historically, decisions about when to release an offender from jail, sentencing, and supervision in the Spokane region have been guided by professional judgment, personal experience, and statute. Most criminal justice officials have not had an opportunity to learn about the most effective, evidence-based ways to reduce recidivism and ensure a safer community given the complex nature of offenders. Across all of the agency and public presentations that the SRCJC completed, a common theme emerged regarding the need for the adoption and use of standardized risk/needs assessment instruments to guide decision making about offenders, as well as using programs that are proven to reduce recidivism.

Over the last decade, courts and correctional systems across the country have moved to the adoption of evidence-based programs (EBP's) (or "portfolios") and the use of standardized risk/needs assessment screening tools. In fact, the Spokane County Juvenile Court engaged in such a process over 15 years ago, and serves as an exemplary model for the adult criminal justice system. In Washington State, the adoption of EBP's and standardized risk/needs instruments across all the juvenile courts has led to a 40 percent reduction in the use of detention, and the juvenile crime rate continues to drop or remain stable for most crimes.

Risk/needs assessment instruments identify the key factors (risks) that predict the likelihood to reoffend if appropriate services and interventions are not offered. These tools generally assess whether an offender is low, moderate or high risk to reoffend. The more advanced instruments also indicate which areas of the offender's life should be targeted (e.g.

drug/alcohol treatment; mental health counseling; job skill training) and provide structured case management plans. Of course, proper training and on-going support is critical with the adoption of such instruments. *When used correctly and across the appropriate decision points in the criminal justice system*, risk/needs assessment instruments can help criminal justice officials appropriately classify offenders and target interventions to reduce recidivism, improve public safety and cut costs. Research has clearly demonstrated that adoption of evidence-based practices, and the standardized use of risk/needs assessment tools reduces recidivism at greater rates than historical practices. Adopting such tools also increases the likelihood that offenders will be "matched" to appropriate services based on criminogenic needs and available services, and that supervision levels are based on risk (Taxman et al., 2010; Vincent et al 2012).

The SRCJC recommends the following in the adoption of a regional criminal justice risk/needs and EBP portfolio process:

a. The risk/needs instruments to be used can help guide decisions and match offenders to appropriate interventions, but professional discretion still must exist at the judicial level.

b. Risk/needs instruments adopted in Spokane must be designed for the population, and validated on the local population.

c. Sufficient resources must be dedicated to this process. A workgroup should be established under the Law and Justice Coordinating Committee, with representatives from all affected agencies. This workgroup would develop a plan for tool selection, building staff buy-in, developing a training and oversight process, and determining how the data would be used to "feed into" the semi-annual report cards.

d. There is no one-size-fits-all risk/needs instrument. While a "foundational" model can be created, various agencies will likely need to employ multiple tools (e.g. pre-trial vs. probation; drug court) and significant attention must be dedicated by the assigned workgroup to ensure that appropriate instruments are selected or developed for each agency, while reflecting offender needs.

e. Once the instrument(s) is developed, the workgroup would develop a "portfolio" of EBP's for use. The workgroup would review current existing and available practices, recommend changes and program additions, and even recommend elimination of programs that do not meet the identified needs of offenders. The workgroup would receive support for this procedure (as well as the risk/needs instrument adoption) from researchers available through local universities.

<u>Recommendation 5.1 (5):</u> Establish semi-annual reporting – the creation of "report cards"

Various departments (e.g. clerk, probation and jail) have standard forms and reports that track such items as; case flow (new cases received, cases discharged, cases remaining), and activity counts (number of office or field contacts completed, number of drug tests administered). Some agencies, including the jail and City and County Probation, can easily pull point-in-time snapshots (average caseload size, types of cases supervised). These reports are important and highlight department and staff workload, but fail to address the results or **outcomes** achieved by the each agency.

The absence of standard outcome measures handicaps City and County administrators in their ability to assess department efforts in carrying out effective and cost-beneficial procedures. Lacking standard outcomes measures also limits the ability of department managers to effectively evaluate staff competencies and manage scarce resources. The SRCJC recommends implementing a systematic performance measurement model (or semi-annual "report cards," also commonly referred to as "dashboards") that includes measures of outcomes in key areas such as reducing recidivism, referral to and completion of treatment services, employment, jail bed usage, reduction of technical violations, and ultimately a reduction of the crime rate. In addition, the SRCJC supports a comprehensive five-year report across all systems to allow the community, agencies, and administrators to directly observe and assess the meaningful change created by investment in these reforms.

Jurisdictions across the country are moving to standardized measurements (see examples from Maryland and Seattle at http://www.statestat.maryland.gov/ or http://web1.seattle.gov/DPETS/DPETSWEbHome.aspx). There are numerous criteria that must be considered by the RJC and workgroup before and during the creation of the report card system. Research of numerous performance measurement efforts has shown that when certain steps are followed, the likelihood of launching a successful system is greater. These steps should be carefully considered by the RJC and workgroup and include:

1) Securing managerial commitment
2) Assigning responsibility (individuals or teams for spearheading/coordinating departmental efforts to develop a set of performance measures.
3) Designing measures that reflect performance relevant to objectives:
    a. Emphasizing service quality and outcomes rather than input or workload
    b. Including neither too few nor too many measures
    c. Soliciting line staff, as well as management input and endorsement
    d. Identifying the work unit's customers and emphasize delivery of service to them
    e. Considering periodic surveys of citizens, service recipients, or users of selected facilities
    f. Including effectiveness and efficiency measures
4) Determining desired frequency of reporting
5) Assigning departmental responsibility for data collection (if not automatically pulled from data systems) and reporting
6) Assigning centralized responsibility for data receipt, monitoring and feedback.
7) Auditing performance data periodically.
8) Ensuring that analysis of measures incorporates a suitable basis of comparison.

9) Ensuring a meaningful connection between the measurement system and important decision processes (e.g. resource allocation, employee development, program maintenance).
10) Continually refining measures, balancing the need for refinement with the need for constancy in examining trends.
11) Incorporating measures into public reporting documents. (Ammons, pg. 21, 2001)

The SRCJC strongly recommends that all city and county offices move away from simply reporting **outputs**, and instead change the focus to reporting **outcomes.** For example, because the State of Maryland has moved to a performance based reporting system, they were able to release a report just two weeks ago that revealed that the recidivism rate for ex-offenders had fallen from 47.8 percent in 2007 to 40 percent in 2012. The Maryland Department of Public Safety attributed this reduction to increase use of evidence-based practices, stronger collaborations among community agencies, departmental reorganization, and investing in an offender case management system (risk/needs/responsivity model). The Commission encourages stakeholders to utilize experts at local institutions of higher education, including Washington State University and Eastern Washington University, as well as technical specialists who have assisted other local governments, to support the process of developing the report cards and the measurements to be used for each office.

5.2 Coordinated Information Systems

The SRCJC noted numerous opportunities for technology improvement. While our current system is not "broken," there are certainly opportunities for improvements. By using video technology for court hearings and creating an interface between current data systems, there exists a potential for much greater efficiencies, including paper reduction across all agencies.

Recommendation 5.2 (1): Technological Improvements in Court and Jail

The Spokane Regional Criminal Justice Commission recommends that the use of technology be incorporated and increased wherever possible. Video-conferencing should be incorporated into every courtroom to increase efficiency and reduce costs. Opportunities for defense attorneys to confer with incarcerated clients via phone should be increased. See Recommendation 5.7 (2) for more detail.

Additionally, the Commission recognizes the need for improved security in the hallway at the Municipal Court, and recommends that technology be utilized wherever possible to improve security at all facilities. If security continues to be compromised after additional technology is implemented, then the RJC should consider an alternate location or other long-term solution for the Municipal Court in the future. The use of technology should be prioritized wherever possible in all facets of the regional justice system to improve efficiency, increase cost-savings, and make use of all of the tools available to a 21st century justice system.

<u>Recommendation 5.2 (2):</u> Create a coordinated case system processing for IT purposes

A common theme that emerged from the presentations was the need for a coordinated information system. Currently, the City of Spokane and Spokane County each rely upon separate information technology departments to manage the applications used by the courts, probation departments, detention services, pre-trial services, clerks, and others. As a result of the varied needs of each agency, multiple applications and user-interfaces have been developed and are in use. Some integration of the systems has occurred, primarily between the courts and detention services, but many stakeholders expressed the need for a single source of all information for each offender, regardless of the origin of the data.

The Spokane Regional Criminal Justice Commission recommends the City of Spokane and Spokane County collaborate to jointly produce and fund a single user-interface for all existing applications.

a) Data from CaseMan, Super Cal, SuperMan, Jail Management System, PDMan, Pretrial Services Application, Just Ware, JIS, Juvenile Information Management Systems, AOC, Jail Transport Notification System, Jail Visit Application, applications in use by the Sheriff, and each of the specialty court applications should be consolidated into one source of information via a shared windows platform.
b) Access should be granted to agencies and community organizations, as security precautions will allow, including probation and parole officers.
c) The user-interface chosen must be custom-tailored to fit the needs of each agency at inception and must not require duplicate data entry (neither historical nor future)
d) Contained within this single coordinated information system should be a central repository for all documents scanned by each agency, including police reports and protection orders, accessible to all interested personnel with access.
e) Information should be indexed by the offender's "known name," and searchable by aliases or other forms of identification.

The Commission encourages stakeholders to consider multiple proposals for the creation of the single coordinated information system. Before deciding upon the most cost-effective, easily implemented, and efficient selection, multiple options should be examined including those from County ISD, City IT, and external consulting firms such as FivePoint Solutions (myfivepoint.com) or Just Ware (newdawn.com). Stakeholders should seek input from state agencies early in the process of collaboration to ensure a seamless transition. A cost-benefit analysis should be conducted before implementation and after incorporation to identify economic resources that could be better allocated elsewhere in the criminal justice system.

<u>Recommendation 5.2 (3):</u> Create standard (quarterly and/or bi-annual) program performance reports

As was covered extensively in section 5.1(5) above, the City and County are strongly encouraged to develop standard report cards/dashboards for all agencies and all courts, as well as outside agencies that contract for services. Of course, this requires computer systems

that can interface so that data can be pulled from multiple sources, and the development of the report cards/dashboards into a usable and interactive format. There are numerous vendors that supply this service, and a "Request for Proposals" process is recommended in which to screen for an appropriate vendor that would meet the unique needs of our region. The City of Seattle, State of Maryland, various counties in Colorado, and even numerous Washington State agencies have moved to such formats, and these jurisdictions should be consulted for guidance and input on process, costs, and perceived drawbacks/benefits (see also Recommendation 5.2(2)).

5.3 Law Enforcement

In response to the tragic events that surrounded the death of Otto Zehm, Mayor David Condon established the City of Spokane Use of Force Commission on January 3, 2013. The Commission was tasked with undertaking a comprehensive review of use of force by the Spokane Police Department. Specifically, "with the assistance of legal counsel and expert consultants," the Use of Force Commission, "has systematically and thoroughly examined SPD use of force policies, procedures, practices and customs, and has explored the issues of civilian oversight and the role of the City's legal department in use of force cases" (City of Spokane Use of Force Commission, pg.1).

The Spokane Regional Criminal Justice Commission supports the recommendations of the Use of Force Commission. Additionally, the SRCJC strongly encourages the use of evidence-based prevention programs to increase the number of people who are provided with access to community services rather than becoming involved with the criminal justice system for low-level crimes. Also, increasing the use of neighborhood crime prevention strategies, such as hot-spot policing, COMPSTAT, and neighborhood watch, is encouraged. To that end, the SRCJC recommends the following evidence-based programs be considered for implementation by law enforcement in Spokane County and the City of Spokane.

Recommendation 5.3 (1): Establish a law enforcement assisted diversion program (LEAD)

Law Enforcement Assisted Diversion is a program that was implemented on October 1, 2011, in the neighborhoods of Belltown and Skyway near Seattle, Washington. "Arrest-referral" programs already in place in the United Kingdom were the inspiration for LEAD, which addresses low-level drug and prostitution crimes. Instead of processing these suspects through the criminal justice system, officers instead refer them to LEAD where case managers swiftly connect the offenders with community services. "LEAD's goal is to improve public safety and public order, and to reduce the criminal behavior of people who participate in the program" (for more information, see www.leadkingcounty.org).

LEAD is currently considered a pilot program. A rigorous evaluation will determine if LEAD has met numerous short-term, intermediate, and long-term objectives including a decrease in criminal activity, an increase in housing stability, a decrease open-air drug dealing in Belltown and Skyway, a decrease recidivism rates, operation in a cost-effective manner,

and freeing of public safety resources for other purposes. The evaluation is scheduled to begin October 2013, and will ensure LEAD as evidence-based. Private foundations, including the Ford Foundation, Open Society Foundations, Vital Projects Fund, RiverStyx Foundation, Massena Foundation, and The Social Justice Fund Northwest currently fund LEAD. If LEAD is found to be cost-effective and meeting objectives, permanent funding will be sought.

The SRCJC recommends that LEAD be implemented in Spokane if the evaluation demonstrates that LEAD has successfully met objectives and is cost-effective. Prior to implementation, the Criminal Justice Commission urges stakeholders to clarify the specific short-term, intermediate, and long-term goals of LEAD as they pertain to the City of Spokane and Spokane County. Important decisions must be made before implementing LEAD, including how to obtain funding, encourage culture change, engage the community, and collaborate with community services. A rigorous evaluation must be included in the LEAD implementation plan, which will help ensure that desired outcomes are obtained and that the program remains evidence-based in Spokane as it is in Seattle.

<u>Recommendation 5.3 (2):</u> Consideration of Ceasefire Program Efforts

Operation Ceasefire was an innovative approach by Boston law enforcement and community leaders during the 1990s to reduce gun violence perpetuated by gangs. Informed by researchers at Harvard University, Boston law enforcement put into action a "pulling levers" strategy of deterrence. They collaborated with community services to deter gun violence by directly communicating to gangs that violence would no longer be tolerated. Future gun violence would be met with the pulling of every "lever". That is, law enforcement promised to deliver very strict penalties from every angle of the criminal justice system for violence, including increased scrutiny from law enforcement, a new attention to low-level street crimes including drug dealing, trespassing, and public intoxication, heftier plea bargains from prosecutors, stricter enforcement from parole and probation officers, more difficulty obtaining bail, and federal attention for gun crimes. Simultaneously, community service organizations offered assistance to gang members to enable them to seek alternate paths. Involved community members included probation and parole officers, youth workers, churches, and others.

By directly advertising and enforcing the "pulling levers" strategy, Boston law enforcement observed a reduction in youth homicides by 63 percent and a 44 percent reduction in the number of youth gun assault incidents monthly. A recent, more sophisticated, evaluation determined that Ceasefire was associated with a 31 percent decrease in the total number of shootings by gangs who were targeted by the deterrence strategy (Braga, Hureau, Papachristos, 2013). Extensive review by other researchers revealed the most effective firearm violence reduction programs were those that were comprehensive (Makarios and Pratt, 2013). Programs that incorporated sanctions by numerous entities, as well as support and assistance from community organizations, were found to be the most promising. Finally, "pulling levers" research studies show that focused deterrence strategies are associated with an overall statistically significant, medium-sized crime reduction effect (Braga et al., 2012).

After reviewing the evidence for the most effective way to reduce gun violence, the SRCJC recommends that stakeholders evaluate the appropriateness of a "pulling levers" strategy in Spokane. A thorough review of the available research and tested strategies should be conducted to ensure that Spokane is employing best practices specific to the community. Stakeholders are cautioned to remember that just because a crime prevention strategy has worked elsewhere, there is no guarantee the strategy will work everywhere (Braga, 2010). Special consideration should be given to the characteristics of perpetrators of gun violence in Spokane, including what percentage of gun violence occurs as the result of a few, easily identifiable, youth gangs. It is important to include an evaluation plan in the analysis to ensure that the strategy is meeting objectives, increasing public safety, and is cost-effective.

Recommendation 5.3 (3): Renew efforts and expand neighborhood crime prevention programs

The City of Spokane Police Department and Spokane County Sheriff's Department have undertaken numerous, although somewhat independent, renewed efforts at addressing crime prevention in the Spokane region. While neighborhood watch exists sporadically throughout Spokane, and there is a renewed media campaign focused on the "crime check" model, the SRCJC recommends that the RJC work closely with law enforcement, the faith community, and non-profit agencies to develop a more thorough neighborhood watch program. Studies of neighborhood watch programs reveal a reduction in crime of between 16 percent and 26 percent, and have minimal costs associated with implementation and sustainability. The Commission recommends further analysis of this option.

The Spokane County Geographic Information System (SCOUT, www.spokanecounty.org) could be utilized to identify the neighborhood most in need of assistance. The Commission reminds stakeholders of the importance of creating an evaluation plan prior to implementation of any new crime prevention option, including Neighborhood Watch, to ensure the programs are evidence-based.

Recommendation 5.3 (4): Expand Crisis Intervention Team program across all local law enforcement agencies

Recommendation 12 from the City of Spokane Use of Force Commission is, "establish a continuing Crisis Intervention Training program and adopt protocols for the deployment of CIT officers." The Regional Criminal Justice Commission supports this recommendation and encourages the Crisis Intervention Team be expanded.

Crisis Intervention Teams are specialized groups of officers who are trained to respond to mentally ill offenders. Rather than booking these suspects into jail, which is an inefficient and temporary solution, the CIT refers mentally ill offenders to community services instead. Crisis Intervention Team officers can be certified after completing 40 hours of training (Lord et al, 2011). Crisis Intervention Teams were first utilized in 1988, and are associated with improved outcomes for offenders, law enforcement, and public safety (Compton et al., 2008).

Research indicates that CITs are most effective when demographics of the law enforcement agency and community are considered (Lord et al., 2011). The SRCJC recommends that stakeholders evaluate the current City of Spokane CIT to determine which practices are most beneficial for law enforcement and mentally ill suspects, and ensure those elements are encouraged regionally. Less effective or inefficient practices should be improved. Formal process and outcome evaluations should be conducted to ensure the CITs are effective and evidence-based.

Additionally, the Use of Force Commission recommends that all law enforcement officers be given some form of Crisis Intervention training. The SRCJC urges this recommendation also be adopted by Spokane County law enforcement. The National Alliance on Mental Illness provides training and implementation information (www.nami.org). Training must be informed by evidence-based CIT research, and evaluated using formal process and outcome measures to ensure effectiveness.

Recommendation 5.3 (5): Combine various law enforcement functions

The Commission recognizes that the total cost of the criminal justice system within the City of Spokane and Spokane County provided much of the impetus for this study. It should be noted that cost-savings could be realized within the law enforcement functions by means of additional cooperative partnerships. Select consolidations may even be appropriate. The Commission encourages further cooperative functions, consolidations, partnerships, and shared resources (including facilities) in the following areas:

- law enforcement training
- dispatch functions and record management systems
- task force operations
- detective, lab and investigative functions
- shared purchase of fleet vehicles
- regional intelligence functions
- shared purchase of body cameras and other officer technology
- crime prevention outreach efforts

To facilitate exploration of potential opportunities to increase cost-effectiveness and efficiency by means of partnerships and shared resources, a Law Enforcement Shared Services Workgroup should be formed under the RJC and LJCC (see Recommendation 5.1(2)). This workgroup should report its progress back to the Regional Justice Commission every six months.

5.4 Pre-trial Services

A review of research on pre-trial release programs reveals that the current pre-trial efforts in an area as large and urban as Spokane are desperately underfunded and underdeveloped as compared to other counties of our size. Pre-trial services lacks a current *functional* risk/needs assessment tool, lacks alternatives to incarceration, and has limited operations. We believe that the current pre-trial release system simply does not meet the needs of our region. Significant resources should be invested into developing a pre-trial services center, adopting appropriate screening tools, and ensuring that all necessary legal rights are afforded. The SRCJC maintains that CrR 3.2 serve as the basis of all pre-trial release decisions, and that all pre-trial release forms should track the language of CrR 3.2. This department should report directly to the RJC.

<u>Recommendation 5.4 (1):</u> Use of functional risk/needs assessment tool and proper intake screening

As was covered quite extensively in section 5.1(4) above, all offenders, at the first point of contact into the system, should receive a risk/needs assessment. This tool can assist in identifying offender needs, such as housing, treatment and employment, and assist in creating a viable release plan. In addition, the SRCJC maintains that all offenders should have a pre-trial services report completed. This risk/needs assessment tool could assist in identifying both needs and strengths of the offender.

<u>Recommendation 5.4 (2):</u> Create a 24-hour intake facility

The SRCJC recommends that a 24-hour intake facility that operates 7 days a week be constructed. This facility should exist within the jail and be utilized in partnership by staff at the jail and the Community Corrections Center (see Recommendation 5.8 (1)). The duties and scope of work at pre-trial should be expanded, and allow for the following:

- Immediate review of inmates for release eligibility
- Formalized referral and transition of select inmates to hospitals, detox, homeless shelters, treatment center or other services.
- Allow for continual review of cases for potential release.
- Process offenders regardless of court of jurisdiction, rather than limited to felonies only.
- Manage an expanded electronic home monitoring program for all offenders, especially given that such services are currently not available for Superior Court pre-trial detainees.
- Evaluate offenders for legal needs and appointment of defense attorney when applicable.
- Evaluate cases for conflicts and appoint Counsel for the Defense.
- Manage pre-trial release conditions, such as securing stable housing, drug/alcohol and/or mental health treatment, and drug testing.

- Employing a "triage" model that is staffed by personnel who have the authority to make immediate decisions on bail and pre-trial release, as well as the skill set to stabilize and treat offenders who are in immediate need (e.g. with acute mental health needs, intoxication, etc.).

Recommendation 5.4 (3): Expand diversion and alternative programs for low-level and first-time offenders

Utilizing the risk/needs assessment tool, pre-trial services can work to divert non-violent, low risk individuals from jail through pre-charge diversionary programs, such as treatment for those with disabilities or drug/alcohol addictions. Other diversionary programs are covered more thoroughly in sections 5.5 and 5.6.

5.5 Courts

The SRCJC received presentations from the regions three largest courts (Spokane Municipal Court, Spokane County District Court and Spokane County Superior Court). It is quite evident that there is a large amount of case overlap and duplication of services, most significantly between Municipal and District Court.

As was stated in the Executive Summary, the Commission does not recommend the consolidation of the District and Municipal Courts at this time. This issue was presented and discussed at length. Although ample research exists that incarceration and intensive supervision do not reduce recidivism, the District Court continues to rely heavily on these methods. Additionally, although research shows that swift and certain, but not lengthy, sanctions are a more effective way to change behavior, the District Court continues to detain arrestees for lengthy periods before resolution.

Ideally with the adoption of the new governance and report card system, the District Court can be held more accountable to the public. In time, the RJC may re-evaluate and determine whether the District Court should be consolidated with the more innovative and research-based Municipal Court, under technical advisement by the National Center for State Courts or other similar national organizations.

In the three sections that follow (Courts, Prosecution and Defense), recommendations are provided that address current practice duplication, inefficiencies consuming time and money, and opportunities to create prudent and effective policies and practices. While it may appear that there is some redundancy in our recommendations across the three areas, we believe that it highlights the need to make the court reforms collaborative in nature, rather than adversarial and hostile. Given that most of the recommendations put forth by the SRCJC impact the judicial branch, prosecution and defense, they are covered here under the "courts" section.

<u>Recommendation 5.5 (1):</u> Emulate reform efforts carried out by Spokane County Juvenile Court

For the past 15 years, the juvenile court system across the State of Washington has been engaged in a process of significant reform. This reform was multi-faceted, and included the creation of a risk/needs/responsivity tool, quality assurance procedures, and the use of evidence-based programs, all while focusing on reducing disproportionate minority contact. The risk/needs tool assists in determining the level of risk for re-offending, identifying targets for intervention, developing a case management plan, and monitoring progress in reducing risk factors. By matching youth offenders to appropriate services, based on risk and need, the juvenile court system across the State of Washington has managed to reduce the use of detention by 40% over the past decade. Juvenile crime has also dropped over the past 10 years.

As was evidenced by their presentation, the Spokane Juvenile Court should be acknowledged as a "pocket of excellence" within our current regional system. In spite of consistent budget challenges, the juvenile court has done an exceptional job of carrying out major reform, and achieving strong results. Critical to any major reform is strong leadership and vision at the judicial and administrative levels, and the ability of those leaders to engage staff in the process of change. This is clearly present at the Spokane County Juvenile Court.

The SRCJC recommends that the RJC begin their research and reform efforts by seeking presentations, reports and guidance from the Juvenile Court. Juvenile Court administration can provide a historical and current picture of reform efforts, including the creation of the risk/needs tool, the adoption of various evidence-based programs, targeted case management, enhancing staff readiness for change, quality assurance and performance measurement. They can assist in providing the blueprint for change that we referenced in our opening remarks.

<u>Recommendation 5.5 (2):</u> Collaborative efforts should be taken to minimize and avoid unnecessary court hearings

Hearings consume a great deal of the court system's limited resources. While face-to-face, in court hearings are necessary at times, quite often they are held as a matter of routine and not out of necessity. To make matters worse, attorneys frequently have to wait a significant amount of time to attend hearings that last but a few minutes. This wastes valuable attorney time and prevents both prosecutors and defense counsel from performing other tasks. Eliminating unnecessary hearings, and the time spent waiting for them, will allow attorneys to spend their time preparing cases for trial and permit the system to process cases more efficiently.

The SRCJC recommends that the court, prosecuting attorney offices, and indigent defense offices take proactive steps to limit the number of hearings conducted. These steps should include the following:

- The prosecution and defense should discuss motions and potential motions with the aim of coming to a stipulation between themselves and not take up judicial time and resources on uncontested matters.
- Judges should consider making rulings on motions in chambers without oral argument when possible and appropriate.
- Pretrial motions that require a hearing should be heard at a single pretrial/omnibus hearing.
- Deadlines for pretrial motions should be set and enforced.
- Meaningless hearings should be abolished.

<u>Recommendation 5.5 (3):</u> Offenders with pending criminal cases in more than one Spokane County-based court should have all pending matters handled by a single court and prosecuting attorney's office

It became evident during our study of the regional criminal justice system that there exists a significant amount of unnecessary duplication of efforts within the court system, particularly between the Spokane Municipal Court and the District Court. While deliberating how to address this issue, the Commission considered whether the District Court and Municipal Court should be consolidated to reduce duplication and increase efficiency. After receiving input from many individuals and agencies, the RCJC does not recommend court consolidation. Primarily, this is due to the unanimous and passionate concern expressed by municipal departments about the lack of effective leadership within the District Court. Given the complexity of court consolidations under mutual agreement, the Commission recognizes it would more prudent to take individual steps to decrease duplication of services provided by the two courts rather than consolidate,

Rather than wholesale consolidation of courts and agencies, the Commission urges that these issues should be addressed through coordinated collaboration between the relevant offices and departments. An example of this involves the concurrent prosecution of individuals across several jurisdictions within Spokane County. At any given time a significant number of individual offenders have multiple cases in a combination of Municipal, District, and Superior courts. Under the current case-centered system, each of these offenders requires the attention of multiple prosecutors, defense counsel, and court resources.

To eliminate such unnecessary duplication of efforts when possible, all of the pending cases involving an individual offender should be "consolidated." That is, they should be handled in a single court that is jurisdictionally permitted to adjudicate each matter. This would modify the current system from being case-centered into one that is offender-centered.

For example, Offender X is being prosecuted for DUI in Spokane Municipal Court and disorderly conduct in District Court. By transferring the DUI matter to District Court, it can be adjudicated with the disorderly conduct matter contemporaneously. Not only will this free up municipal attorney and judicial resources, but by having both cases handled together the offender only has one court process focus on and is less like likely to fail to appear. The same logic follows for an offender facing the two misdemeanors and a felony for residential

burglary. Under these circumstances, all three matters could be adjudicated in Superior Court with similar efficiencies realized. Reallocation of resources to cover added expense faced by the County can be covered by inter local agreement

Adopting an offender–centered adjudication system allows for the efficient disposition of multiple matters using a single judge, prosecutor and defense attorney while having no negative impact on individual rights or the prosecution's or judiciary's role in the system.

<u>Recommendation 5.5 (4):</u> The court, prosecution, and defense should collaborate to eliminate mandatory court appearances of defendants for all hearings except for trials and sentencing hearings

The court should routinely permit defendants to waive their right to be present at hearings other than trial. A problem facing courts across the nation is the frequency with which defendants fail to appear (FTA) at court hearings. FTAs waste the time of attorneys and the court. They frequently result in a warrant, arrest, and time spent in jail pending completion of the case, causing great disruption to the defendant's life. The commission recommends that courts freely allow the defense to waive the defendant's (in and out-of-custody) appearance at hearings upon his or her attorney's avowal that he/she has been in contact with defendant and obtained a knowing waiver of the right to appear.

<u>Recommendation 5.5 (5):</u> Trial courts should minimize the issuance of warrants, arrest, and incarceration for non-payment of Legal Financial Obligations (LFOs), and should make use of alternative sanctions to substitute for payment of LFOs as deemed appropriate

Under Washington State law, defendants convicted of a felony are assessed a number of Legal Financial Obligations (LFOs)[3] totaling at least $500.00 as part of their sentence. According to a 2008 report commissioned by the Washington State Minority and Justice Commission, a majority of individuals convicted of a felony in 2004 had not made any payments to their LFOs. Moreover, less than 20 percent of the defendants had paid half of the LFOs that they owed.

Even upon completion of the terms of incarceration and community custody imposed at sentencing, the sentencing court maintains jurisdiction of the defendant until the LFOs are paid in full. In response to failure to pay LFOs, trial courts frequently issue bench warrants for the arrest of non-paying defendants. Moreover, a significant number of these defendants are given a term of incarceration for non-payment of LFOs (Beckett et. al,, 2008).

While it is apparent that incarceration has a negative impact on the ability of a person to earn money and pay debts, it is not only incarceration that has a dramatic impact on a defendant's ability to repay LFOs. The mere issuance of a warrant for non-payment of LFOs has dire consequences for an individual and his or her family. Persons with a warrant

[3] RCW 9.94A.030 (28) provides "Legal financial obligation means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or inter-local drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction."

originating from a felony sentence violation, including for nonpayment of LFOs, "are considered 'fleeing felons,', and thus are ineligible for federal benefits including Temporary Assistance for Needy Families, Social Security Insurance (SSI), public or federally assisted housing, and food stamps." (Beckett et. al., 2008) The issuance of a warrant will only make the person's financial condition worse and decrease the ability to pay what is owed.

Beyond the negative impact to individuals, arresting and jailing offenders for nonpayment of LFOs has a negative impact on the criminal justice system itself. The arrest and incarceration of an individual requires the expenditure of scarce resources for the following processes:

- Arrest
- Booking into system
- Incarcerating
- Appointing counsel
- Court appearances by counsel
- Courtroom and other resources required for each hearing
- Transport to court from jail for hearing

Rather than using arrest and incarceration as a remedy for non-payment of LFOs, the Commission recommends monetary alternatives be presented to defendants when called for. Such alternatives include community service, work crew, or even the deduction of amounts owed associated with completion of treatment or educational goals.

Recommendation 5.5 (6): Develop a process by which technical probation violations are resolved by sanctions that are swift and certain, but not lengthy.

Research has proven that behavior is more likely to be changed by swift and certain sanctions. The length of the sanction is much less important. The optimum is one to six days confinement. Sanctions in excess of this negatively affect the probationer's job, family and increase recidivism. Without question, full Due Process rights are mandatory. However, a knowing and voluntary waiver of those rights for technical - that is non-criminal violations - should be sought and rewarded.

Recommendation 5.5 (7): All county and municipal courts, prosecuting attorney offices, and public defense agencies in the region should use the same case management system

As previously discussed in section 5.2, currently the various City of Spokane and Spokane County criminal justice agencies use a myriad of management information systems. From the perspective of the court system it is important that the participating entities be comfortable with a common system that facilitates joint access to relevant records, easy delivery of discovery, and interfaces with local law enforcement and corrections systems. While identifying an appropriate system can be a challenge, such systems do exist and are being used across the country (see Recommendation 5.2 (2)).

<u>Recommendation 5.5 (8):</u> The language and spirit of Washington State Superior Court Rule 3.2 should be the basis of pretrial release decisions

Monetary bond in any amount should be viewed as a last resort for release. In Washington State, it is presumed that a person arrested for a non-capital offense will be released from custody without conditions. Specifically, Rule 3.2 Washington State Superior Court Rules provides:

> Presumption of Release in Noncapital Cases. Any person, other than a person charged with a capital offense, shall at the preliminary appearance or reappearance pursuant to rule 3.2.1 or CrRLJ 3.2.1 be ordered released on the accused's personal recognizance pending trial unless:
>
> 1. The court determines that such recognizance will not reasonably assure the accused's appearance, when required, or
> 2. There is shown a likely danger that the accused:
>   a. will commit a violent crime, or
>   b. will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice

Division 2 of the Court of Appeals referred to the rule drafters' commentary to point out the basis of the rules.

> According to the drafters' comments, the purpose of the rule is to alleviate the hardships associated with pretrial detentions and bail: (1) offenders are handicapped in preparing their defenses; (2) offenders are unable to retain jobs and support their families; (3) defendants suffer the stigma of incarceration before their convictions; and (4) defendants suffer incarceration because they cannot afford (*State v. Perrett,* 86 Wash. App. 312, 318, 936 P.2d 426, 430-31 (Wash App. Div. 2, 1977), citing Criminal Rules Task Force, *Washington Proposed Rules of Criminal Procedure,* Rule 3.2 gen. cmt. at 22 (West Publ'g Co.1971).

Beyond the impact that being held in jail has on an individual offender, housing offenders pending trial is an expensive use of valuable and limited space in the Spokane County jail. With the cost of housing an offender in the jail pretrial costing roughly $100 per day, the total cost for holding inmates in custody until their case is adjudicated frequently runs into the thousands of dollars each day.

To alleviate the cost and hardships incarceration poses on pretrial detainees, the Commission encourages the judiciary, prosecuting attorneys, and defense counsel take steps to ensure that the presumption that arrestees be released on their own recognizance be adhered to. Moreover, when the court deems conditions of release are necessary, it should use the least restrictive conditions designed to ensure the offender's appearance at trial and future proceedings. Conditions such as electronic home monitoring, day reporting, phone/kiosk reporting, and other conditions should be considered and employed before resorting to the setting of a bail bond.

Recommendation 5.5 (9): Expand Adult Drug Court

The Spokane County Behavioral Health Adult Felony Therapeutic Court (Adult Drug Court) is another "pocket of excellence." Independent evaluation of the program has found that recidivism is significantly reduced among participants after completion (Short, 2012). While a cost-benefit study of the program has not been completed, the Adult Drug Court is in compliance with the currently available National Best Practice Standards, and therefore is likely generating significant cost-savings for taxpayers.

The SRCJC recommends that the Adult Drug Court be expanded to include more available participant slots, and that funding be made available to support additional personnel for the team (e.g. Defense Attorney; Prosecutor; Judicial time). Research has shown that drug courts that operate with greater than 125 participants on each docket have lower success rates. The SRCJC believes that given the additional (up to 50) slots, separate dockets should be created to allow for two smaller, and more manageable courts of approximately 75 offenders on each docket.

Recommendation 5.5 (10): Conduct independent evaluation of all therapeutic court models

The Adult Drug Court has completed an independent, outside evaluation of their program. Given their involvement in some federal grant programs, they are undergoing another evaluation. Research has shown that drug courts, which continually use their data and program evaluations to make program adjustments and improvements, experience greater reductions in recidivism and stronger cost-savings (Carey et al., 2012).

The District/Municipal Mental Health Court should be subject to independent evaluation to determine if the program is effective. If the program is found to have positive outcomes, then the program should be expanded to accommodate more clients. Additionally, following evaluations of Veterans Court and the Family Offender Sentencing Alternative (FOSA), those therapeutic courts should also be expanded if they are determined to be effective, cost-efficient, and evidence-based.

Recommendation 5.5 (11): Explore legislation that removes requirements that have the effect of unfunded mandates on local jurisdictions

Mandatory arrests and mandatory minimum jail sentences are unfunded mandates upon local jurisdictions. The focus should be on the offender rather than the offense, and the system should rely on the sound discretion of the courts, prosecutors, and law enforcement.

5.6 Prosecution

Recommendation 5.6 (1): City and County Prosecuting Attorney's Offices should provide disclosure to defense counsel immediately upon receipt from law enforcement agencies via centrally-based secure computer system and appropriate software

Criminal prosecution cannot begin to be resolved until the defense is given initial disclosure. Without police reports, a defense attorney cannot adequately consider the charges nor consider what options are in the offender's best interest. Delayed production of initial disclosure to defense attorneys is a central reason for unnecessary delays in adjudicating a case. To facilitate speedy disclosure, the SRCJC recommends that the county and city prosecutors and indigent defense offices jointly obtain a software system that is designed for criminal prosecutions (see Recommendation 5.2(2)). Currently the City of Spokane uses Justware for this purpose. There are a number of similar programs on the market that may be better suited for the combined needs of the city and county. Relevant stakeholders should examine the options available that will fill their needs and take steps to purchase and implement the system.[4]

Recommendation 5.6 (2): Spokane County should develop a driving while license suspended diversion and relicensing program

The SRCJC recommends that Spokane County develop a diversion and relicensing program for (DWLS3) offenders. Under Washington law, a person who drives on a suspended driver's license when that person is eligible to have the license reinstated commits the crime of Driving While License Suspended in the Third Degree; which is a misdemeanor and carries a penalty of up to 90 days in jail and a $1,000 fine. The most common reason for a suspended license is the failure to pay a traffic ticket.

DWLS3 is the most charged crime in Washington State, making up one-third of misdemeanor cases statewide (Boruchowitz, 2010). Across the state, nearly 200,000 driver's licenses are suspended annually (Mitchell and Kunsch, 2005). In response to the staggering number of DWLS3 cases, cities and counties across the state have established relicensing diversion programs. Under these programs, in lieu of criminal prosecution, offenders are required to agree to a payment schedule to pay all fines, either with money or through community service or work crew. Once all fines are paid and other holds removed, the license is reinstated.

Relicensing programs have proven to be highly successful. In its first year, the King County relicensing program reduced criminal DWLS3 filings by 84 percent, saved approximately $300,000 in prosecution and public defense costs, cut 1,330 jail days and returned $2 for every dollar spent (Boruchowitz, 2010). Additionally, such programs increase collections on outstanding fines and get legal, licensed drivers back on the road.

[4] It is in the region's best interest that the city and county use the same system. Not only does this decrease the overall cost, it allows for easy exchange of materials when cases migrate between courts.

The Spokane City Prosecuting Attorney's Office operates a relicensing diversion program for DWLS3 committed in the city. Under the City program (and a program operated through the Center for Justice), low-income people are given the opportunity to get their licenses back so that they can legally drive while paying down their fines.

While the District Court postpones the hearings on many DWLS3 cases so that defendants can perform conditions and receive benefits, this procedure is time consuming and unwieldy. We recommend the creation of a true diversion program.

<u>Recommendation 5.6 (3):</u> Spokane County should commission an independent evaluation of the Spokane County Superior Court Early Case Resolution program

The Spokane County Superior Court Early Case Resolution program has been operational since 2008. The ECR program is a form of differentiated case management (DCM). Differentiated case management is a technique used by hundreds of courts across the nation to tailor the case management process to the requirements of specific types of cases. The process can be viewed as putting police referrals through a "triage" procedure in which the prosecutor reviews the facts and nature of all cases in order to classify them for further action. Under most DCM programs, cases are placed in different tracks based on their anticipated complexity. Cases that are viewed as relatively simple are identified and placed into an expedited process. As these cases represent a majority of a court's workload, handling them as efficiently as practical can reduce overall case processing delay, and free up resources for more complex matters.

The introduction to the Montgomery County, Maryland, Criminal Differentiated Case Management (2010) does an excellent job of describing a process similar to the Spokane ECR program:

> "Differentiated Case Management (DCM) emerged as a best practice for courts in the early 1990s concurrent with the development of time standards for the resolution of cases by organizations such as the American Bar Association (e.g. ABA Standards). DCM provides a structured and active approach to caseload management to drive the early and appropriate resolution of the 90 percent or more cases that can be resolved without a trial while preserving adjudication time, court and public resources for those cases that require trial. DCM is characterized by the early differentiation of cases entering the justice system in terms of the nature and extent of judicial/justice system resources they will require. Each case is assigned to the appropriate case track established within the court system that allows for the performance of pretrial tasks and allocates the appropriate level of judicial and other system resources, minimizing processing delays. Established mechanisms avoid multiple court appearances and assure the timely provision of resources for the expeditious processing and resolution of cases on each track."

The Spokane ECR program is based on the above premises. The initial goal of the program, which was established largely with the aim of decreasing the population at the Spokane County Jail, was for the prosecutor to identify low-level felonies that met stated criteria for speedy disposition through an expedited process.[5] To date, it has not been independently evaluated. It is essential that such an evaluation should be commissioned to provide information on the effectiveness of the program and ways in which the program can be improved. Without a sophisticated independent evaluation, the degree to which the program is "evidence-based" cannot be assessed.

Recommendation 5.6 (4): Spokane County should make specific modifications to ECR program based on Differentiated Case Management best practices

a) ECR prosecuting attorneys and public defenders should work together to identify whether a case is appropriate for ECR. Such decisions should be based on police reports and other relevant information available at that time. To facilitate this all law enforcement agencies in the county should use a system that has reports submitted to the prosecutor's office electronically (see also Recommendation 5.2 (2)).

b) Cases with multiple defendants should not be excluded from ECR. Under current practices, cases with more than one defendant are automatically are excluded from ECR consideration. Research on differentiated case management programs shows no negative impact on productivity by including multiple defendant cases as part of a fast track system. It is our view that if multiple defendant cases are eligible for ECR in all other respects, they should be included in the program. In such cases, conflict counsel, particularly the Counsel for Defense and City Public Defender should participate in a similar mode as the Public Defender.

c) The ECR prosecuting attorneys and public defenders should collaborate to establish standard ECR plea offers for classes of offenses and criminal history as much as possible. The identification of such cases can be made at the ECR screening process. Having predictable pleas that can be offered within days of arrest, or the filing of charges, will shorten the adjudication time of cases greatly.

d) ECR plea offers must be substantially better than plea offers made as part of the standard adjudication process. The key aspect of the ECR program is having a defendant plead guilty pursuant to a plea agreement within weeks of the filing of charges. For an attorney to advise a client to agree to do this and waive his or her right to trial, rather than wait and see what happens with pretrial motions and investigation, the plea offer must be sufficiently superior to what may come several months later. By setting up standard plea offers as described above, the attorneys can operate with the expectation that such an offer is being made.

[5] For a more thorough description of the ECR program see Spokane County Corrections Needs Assessment Master Plan Draft (2008); Smart Justice Coalition (2012) Early Case Resolution – "Same Justice Sooner" http://smartjusticewashington.org/media/blogs/spokane/Early%20Case%20Resolution.pdf?mtime=1351967482

e) Plea offers in ECR cases should not include additional county jail time. If an underlying purpose of ECR is to help keep the jail population manageable, sentencing a defendant serve part of his sentence in the jail defeats that purpose.

f) ECR should focus on cases where the defendant is in custody following the preliminary appearance. Sentencing a defendant to serve part of his sentence in the jail defeats that purpose.

g) The ECR team should work with an independent evaluator to establish a data collection plan for future program evaluation.

Recommendation 5.6 (5): Adult Drug Court Prosecutor should review program admissibility standards

The SRCJC believes that there is a need to revise the admissibility standards for the Adult Drug Court. This should include considering all federal funding limitations that can impact the expansion of the program versus what drug court research currently shows about appropriate populations for the program (high risk/high need). In addition, the Prosecutors office is encouraged to expand the range of eligible offenses for the program, as well as review current policies on prior felonies. Given that research has shown that certain types of violent offenders are just as likely to be successful as more traditional drug offenders (Carey et al., 2012). Eligibility for drug court should be offender-based rather than offense and/or affiliation based.

5.7 Indigent Defense

For cases to be efficiently adjudicated it is essential the defense attorneys have the ability to meet with their clients without undue difficulty. At our public hearings we heard from the region's three indigent defense offices that they spend vast amounts of time visiting and trying to visit clients at the Spokane County Jail. To help facilitate timely meetings between attorneys and their in custody clients, we make the following recommendations.

Recommendation 5.7 (1): Indigent defense offices should work with Detention Services to place a system video conferencing system at the Spokane County Jail whereby counsel meet with client inmates from their offices

To decrease this time commitment the SRCJC recommends that Detention Services work with the Technology workgroup, and the City and County Public Defender Offices, as well as the Counsel for Defense, to obtain a video conferencing system that can be used for secure meetings between inmates and their attorneys. Such systems have been used in a dozens of counties across the nation, and have proven to be quite effective, saving hundreds of hours of attorney time, jail staff time, and tens of thousands of dollars (see also Recommendation 5.1 (1)).

<u>Recommendation 5.7 (2):</u> Indigent defense offices should work with Detention Services to permit attorneys to contact inmate clients via telephone or e-mail when needed

Currently inmates are permitted to telephone their attorneys during their out-of-cell time. Attorneys, however, have no means of contacting their clients at the jail other than a face-to-face visit. This is inefficient. It is wasteful to have a busy attorney go through the jail visiting process for a short meeting with a client. These brief meetings may involve items such as having a client waive his or her right to appear at a hearing, or check on the client's thoughts about a plea offer. Allowing attorneys to clarify items with clients prior to a hearing can save the expense incurred when hearings have to be rescheduled due to concerns raised by the client in court and not at a pre-hearing discussion with counsel. Detention services and the indigent defense offices should jointly explore and consider options for such telephonic or electronic communication initiated by counsel (see also Recommendation 5.1 (1)).

<u>Recommendation 5.7 (3):</u> Quick and easy meeting area access should be established for use by attorneys visiting client inmates when a face-to-face visit is desired

An important component of the job of a criminal defense attorney involves meeting with his or her client. In cases where the client is being detained pending completion of the case or posting of bail, this involves visitation at the Spokane County Jail. The facilities currently available at the jail are woefully inadequate for attorney-client meetings. Due the layout of the jail and a limited number of potential meeting places, attorneys must routinely wait long periods of time before they can see a client. If an attorney has several clients to meet on a given day, he or she may spend most of a day navigating the visitation process. As noted above, this is a tremendous waste of attorney time that has a direct impact on court delays and cost to the system.

The Commission recommends that steps be taken as soon as possible to establish a quick and easy meeting area for use by attorneys visiting client inmates when a face-to-face visit is desired. We emphasize that for the efficient operation of the court system, the development and operationalization of such an area cannot wait for new facilities to be built. While such an area must be included in any new corrections facility, immediate efforts should be made to increase attorney-client meeting capacity at the Spokane County Jail.

5.8 Detention Services

Recommendation 5.8 (1): Create a Community Corrections Center

Another theme that emerged from the presentations was the need for a centrally located Community Corrections Center. CCCs provide offenders with transitional housing and access to community services to aid in the reentry process. To reduce the physical and practical obstacles that prevent offenders from seeking assistance from community services, many programs such as anger management, victim's services, drug and alcohol treatment, cognitive programs, employment services, drug court, probation, and community service are offered in one facility. The facility contains housing for populations of sentenced or transitional adults with varying levels of supervision and restriction.

The Spokane Regional Criminal Justice Commission recommends a Community Corrections Center be jointly funded, built, and utilized by Spokane County and the City of Spokane. The CCC should include a 24/7 receiving center to provide low-level offenders with access to services rather than entwining them in the criminal justice system by default. Pre-trial services should be located at the jail, but a strong partnership between Community Corrections Center staff and corrections officers at the jail must be fostered to ensure a hand-off occurs as offenders are referred from pre-trial services to community services. Additionally, the unified City and County probation department should be located at the CCC.

The Commission recommends the facility be constructed after stakeholders conduct a cost-benefit analysis and determine how to fund construction and ongoing costs of utilizing the facility. Effective community services and programs are crucial to ensuring the criminogenic needs of offenders are met, which will prevent them from continually cycling through the criminal justice system. The RJC should evaluate current programs and services for evidence-based practices and then ensure sufficient funding for these programs is allocated. Reforms to the regional justice system will only be successful at reducing costs and recidivism if offenders have an opportunity to enact meaningful change through quality community services and programs.

Additionally, it is important to review evaluations of Community Corrections Centers that are currently operating to ensure best practices are implemented in Spokane. Research indicates CCCs in neighborhoods with multiple amenities are associated with improved offender outcomes (Johnson 2006). Detention Services has conducted a three-phase analysis of the optimal location for the CCC, which is available for review on the Spokane County Detention Services Project website, http://www.spokanecounty.org/jep/default.aspx. Geiger Corrections Center is considered to be a suboptimal facility due to where it is physically located, security restrictions, and the age of the structure. Geiger should be closed after the new Community Corrections Center is built.

Finally, the Commission recommends renovations of the jail continue. These include renovations to the kitchen, expansion of pre-trial services, and the construction of a multi-use courtroom for use by the "triage" model staff. Stakeholders should reassess the need for a new jail facility after sufficient time has elapsed to rigorously evaluate the effect of the

programs recommended by this report. The anticipated needed capacity of the new jail facility is likely to change as the recommendations in this report are implemented. Ideally, jail beds will only be needed for violent offenders.

<u>Recommendation 5.8 (2):</u> Develop alternative sentencing programs, and expand electronic home monitoring to all courts

The SRCJC recommends the use alternative sentencing programs be extensively expanded by Spokane County and the City of Spokane. Alternative sentencing programs are an attractive substitute to incarceration as they are associated with improved offender reentry outcomes and are cost-effective (Valentine, Albers, and Huebner, 2006; WSIPP 2012). There are many alternatives that are either currently in use or could be considered for implementation in Spokane. These include day reporting, community service, problem-solving courts for failure to pay, electronic home monitoring, Community Court, Veterans Court, Therapeutic Courts, Drug Court, Family Court (FOSA), and Mental Health Court.

The Commission recommends stakeholders conduct formal process and outcome evaluations of the alternatives currently employed by the City of Spokane and Spokane County, as well as potential new options. Each alternative should be appraised for its ability to meet offender needs, target appropriate populations of offenders under the tenets of risk-needs-responsivity, improve public safety, and be cost-effective. Implementation proposals must include a plan for rigorous evaluation to ensure each alternative is evidence-based, and should be complete prior to incorporating or expanding programs. Additionally, Spokane County and the City of Spokane should continually collaborate to implement, evaluate, and operate alternative sentencing options.

The Commission recommends every alternate sentencing opportunity be available to all appropriate offenders, as identified by risk and needs, regardless of jurisdiction. According to the Washington State Institute for Public Policy (2011), electronic home monitoring generates $18,112 in savings for every offender placed on EHM rather than in jail/prison. Coupled with random home visits by court officers and/or law enforcement officers, this is an attractive jail alternative that should be made available for offenders involved in any of the court systems.

<u>Recommendation 5.8 (3):</u> Ensure greater coordination of transportation & scheduling

The Spokane Regional Criminal Justice Commission was made aware of the need for better synchronization between Detention Services and the Municipal and District courts regarding inmate transportation and scheduling. The Commission recommends a coordinated information system be created for use by all entities in Spokane County and the City of Spokane (see 5.2 (2): Create a Coordinated Information System). The Commission anticipates that improved information access will increase scheduling and transportation efficiency. To resolve conflicts, the Commission recommends that stakeholders include specific feedback regarding needs to improve efficiency from Detention Services and the

Municipal, District, and Superior courts in the creation of the coordinated information system.

Recommendation 5.8 (4): Ensure proper classification and identification of specialized populations

The presentation by Detention Services on April 29, 2013, highlighted the need for an improved Objective Jail Classification measure. The Commission recommends administrators at Detention Services be provided with an effective and validated risk assessment tool which will inform improvements to the intake interview. Specifically, the tool will help with identifying offender needs, which offenders are at highest risk for violence or maintain gang affiliations, and other criteria of interest to effectively improve management of special populations.

5.9 Probation Services

Another common theme that emerged from the presentations was the need for improved access to electronic home monitoring and a reduction in duplicative services between the City of Spokane and Spokane County probation departments. The SRCJC recommends these two departments be consolidated into one. This unified department should utilize a standardized risk/needs case management system, and increase collaboration with law enforcement and community agencies.

Recommendation 5.9 (1): Develop inter local agreement to combine City and District Court probation services to remove duplication

The Commission recommends that probation services be consolidated between the City and County. At present, there is significant potential for supervision overlap due to the similar cases that are adjudicated by the Municipal and District Courts. The Municipal Court estimated that 15 percent of offenders have misdemeanor cases in both Municipal and District Courts (Smart Justice, 2013). This is likely a conservative estimate. The result is that the same person will have two different probation officers for similar charges, which is neither cost-effective nor efficient. The City of Spokane and Spokane County should create an inter-local agreement to facilitate the transition and allocation of resources. A workgroup comprised of members of the Law and Justice Coordinating Committee (LJCC) should be assembled to design and implement the inter-local agreement. It is imperative that the innovations and the effectiveness of the Municipal Court Probation Office be maintained. The Regional Justice Commission (RJC) (Executive Board) must closely monitor all functions and outcomes of this consolidation.

Once a single unified probation office has been created, the Commission urges stakeholders to expand electronic home monitoring. Eligible offenders should be provided access to the service without being required to contract with private companies. Offenders should be eligible regardless of which court adjudicated their case.

<u>Recommendation 5.9 (2):</u> Application and use of standardized risk/needs case management system & use of evidence-based practices

As was discussed in 5.1 (4), Probation Services should adopt a standardized risk/needs case management system. This will enable probation officers and community services to target the specific criminogenic needs of the offenders. The Commission expects that the implementation of an "evidence based portfolio" by probation services, including a risk/needs case management system, will increase efficiency, improve public safety, and refine transparency. The use of such a tool will assist probation with reducing their reliance on probation violation holds that result in a significant use of jail beds.

Probation is also encouraged to employ greater use of "flash sanctions". Research indicates that there is no correlation between time served in jail on violations and reductions in future violations (WSIPP, 2012). In other words, a greater amount of time served in jail on violations has little to no impact on future violations. Jail is the least effective way to change behavior, and should be reserved for those individuals that are a true threat to public safety.

<u>Recommendation 5.9 (3):</u> Collaboration with law enforcement and community agencies

The Commission recommends that the unified probation office diligently increase collaboration with law enforcement and community agencies to increase active community supervision. The Washington State Institute for Public Policy (2012) reports that the community benefits $6.96 among high and moderate risk offenders for every $1 invested in supervision with an evidence-based risk assessment including need and responsivity principles. By contrast, for every $1 invested in supervision alone, the community loses 14 cents. The workgroup is encouraged to research evidence-based practices and use the portfolio to guide the implementation of active community supervision by the unified Spokane Probation Services. Additionally, probation officers should be granted access to all offender information contained in the integrated information system (see section 5.2(2)). This will decrease time between violations and possible sanctions, as well as enable increased and more efficient coordination with community agencies and law enforcement.

<u>Recommendation 5.9 (4):</u> Probation Caseloads should be reduced to workable numbers

At present there is no real supervision due to excessive caseloads. Probation should be reserved for those who truly need supervision as demonstrated by judicial prohibition or direction that requires such supervision.

VI. RESOURCES AND PRIORITIES

A detailed budget is beyond the scope of this report. Given the number of recommendations put forth above, it would be too complicated to develop at this initial step in the process. It is most likely that the reforms put forward in this report will contain up-front costs. We fully believe, however, that given the current state of research and findings available on reforms, significant cost savings can be generated in the long term if the model is followed as intended. We recommend that the following be considered by City and County Administration:

1. Reallocation. Because the cost of incarceration far exceeds more effective alternatives, these alternatives can be funded by reduced jail costs in both the short and long terms without seeking a vote of taxpayers. The three easiest methods of reducing jail costs are: 1) Reducing the time from booking to adjudication; 2) Increasing the number of pre-trial detainees that are moved to electronic home monitoring; and, 3) Increasing the number of offenders that are promptly diverted out of the of the traditional justice system into more effective alternatives.

2. Proportional Participation. Funding for misdemeanor criminal justice should be allocated by proportional participation by similarly situated offenders in each jurisdiction rather than by flat fee contract.

3. Sales Tax. The County Commissioners should consider giving voters the option to pass either 1/10th ($7.5 million/year)or 2/10th ($15 million/year) of one percent sales tax for seven years in order to expedite criminal justice reform and long term savings as authorized by the legislature. Similar to the emergency communications and the "crime check" levy, these funds could be earmarked both for programming costs and the construction of facilities that would support alternatives to incarceration like the Community Corrections Center. These funds should not be used for traditional jail or criminal justice operations which already have their own funding.

4. State and Federal Funding. The City and County must continue to pursue state and federal funds for the criminal justice system. Although some grants can have difficult compliance measures attached and may not provide long-term funding, they still have provided needed start-up funds for programs like SHARPP Re-entry Program (housing), the Behavioral Health Therapeutic Drug Court, and Veteran's Court. Other grants provide more sustainable funding for programs in Juvenile Court and Community Services. According to the Behavioral Health Therapeutic Drug Court, the Criminal Justice Treatment Account (CJTA) is an example of one state program that provides funds for substance abuse treatment that is critically needed. Important community treatment providers have also been forced to reduce staff and services as public funding has decreased. A unified Regional Criminal Justice Plan will make it far easier to attract grant funding.

VII. CONCLUSION

Researchers and criminal justice professionals have logged countless hours trying to understand the drastic crime rate drop that occurred in New York City between 1991 and today. It has been called the "largest and longest sustained drop in street crime ever experienced by a big city in the developed world" (Zimring, 2013). Certain factors most likely had an impact, including the quality of police hires, the use of COMPSTAT, increases in community based services, and grassroots movements to increase what is referred to as "social capital." The impact, however, cannot be contributed to one or two single factors. The totality of the circumstances was captured perfectly by author Adam Gopnik of *The New Yorker* magazine when he wrote:

> "Epidemics seldom end with miracle cures. Most of the time in the history of medicine, the best way to end disease was to build a better sewer and get people to wash their hands. Merely chipping away at the problem around the edges is usually the very best thing to do with a problem; keep chipping away patiently and, eventually, you get to its heart. To read the literature on crime before it dropped is to see a kind of dystopian despair; we'd have to end poverty, or eradicate the ghettos, or declare war on the broken family, or the like, in order to end the crime wave. The truth is, a series of small actions and events ended up eliminating a problem that seems to hang over everything. ***There was no miracle cure, just the intercession of a thousand small sanities.***" (Gopnik, 2012, as reprinted by Berman, 2013)

The SRCJC is honored and humbled to have been given the task of reviewing our current regional criminal justice system, and we hope to begin to build an "intercession of a thousand small sanities" for our own community with this report.

Our journey took us through a myriad of meetings and research efforts. Hundreds of hours were spent by the SRCJC in conducting public and system hearings, completing necessary research and engaging in discussions with over 400 hundred criminal justice professionals. It has become clear to us that the regional criminal justice system is maladapted for current and future needs. As it is exists it is stove-piped and inefficient, save for a few "pockets of excellence." There is a lack of trust, no unified leadership, and duplicated services between and among jurisdictions across the system, and it unnecessarily costs the City and County taxpayers thousands of extra dollars each day. Much of the current system is measured on trivial factors, rather than using valid metrics that measure such variables as recidivism, program completions, and outcomes that reflect enhanced public safety. This is in part due to the fact that our local criminal justice process has been offense based rather than offender based for too long, and has resulted in a system unable to measure the outcomes we need to achieve.

This report attempts to eliminate such duplications and foster efficiencies while maintaining a high level of justice. We have found examples of this in the county and termed these efforts "pockets of excellence" within the county system. The Juvenile Court and Adult Drug Court should be models, given their willingness to embrace reform, utilize evidence and science to inform practice and look critically and their own performance.

To move towards an overall system of excellence and efficiency, a new governance structure is necessary. The SRCJC supports the creation of a governance system that facilitates coordination, cooperation and efficiency within the regional criminal justice system. The SRCJC recommends reestablishing a Law and Justice Coordinating Committee for the purpose of providing advice and research to a newly established Regional Justice Commission. The SRCJC believes that the formation of a Regional Justice Commission (RJC) and the creation of a RJC Administrator is a critical first step in the reform process. The RJC will modernize and manage and the integrated regional system. It is important that a full-time paid Criminal Justice Administrator position be created to carry out the direction of the RJC. The failure of leadership at the City and County to create this process through the granting of authority to the RJC will doom us to the status quo.

The SRCJC and community have been promised that this report will not be "put on the shelf" and it is our hope that the City and County will follow through on this promise to carry out the recommended reforms. We thank them for their deep commitment to improving the health and safety of our community.

VIII. POST PUBLIC HEARING COMMENTS AND RECOMMENDATIONS

The Spokane Regional Criminal Justice Commission (SRCJC) held an open public hearing on November 6, 2013 to receive public and department comment on the proposed *Blueprint for Reform*. During the public hearing, the SRCJC received dozens of comments regarding our draft report, most of which were positive. We also accepted written response submissions up until 11/15/13. As was found during the public presentations, the overwhelming response was positive and supportive of the proposed reforms.

As stated, the report and the recommendations contained therein were generally praised by a clear majority of those who took the opportunity to comment. No one questioned the credibility, integrity or experience of the members of the Commission; nor did anyone question the methodology used. In short there was much support for this year long endeavor which involved over 30 hearings, hundreds of witnesses and volumes of written material. For these reasons the draft report will remain essentially as written and become the final report of the Commission, except as noted below.

We received both oral and written feedback on five key areas that we believe are worthy of further discussion and consideration. These include: 1) Collaboration on domestic violence cases between Municipal and District Court; 2) Continued focus on victims and services; 3) Response to the focused written critiques from David Bennett and the Spokane County District Court regarding our recommendation against court consolidation, and the manner in which the District Court was portrayed; 4) ECR and 5) Mental Health. Outside of these five areas, we have no further adjustments or changes that will be made to the current set of recommendations. We address each of the three areas as follows:

1) Domestic Violence Collaboration:

   While the SRCJC does not currently recommend consolidation of the Municipal and District Court (for detailed reasoning please refer to section 3 below), we do believe that there should still exist a high level of collaboration across select cases, most specifically domestic violence cases, and that all collaboration and programs used by both courts should be evidence based. Domestic violence cases are complicated, and while research has shown that most therapies are ineffective (e.g. the "Duluth Model"), some promising practices are emerging. Very few evaluations of domestic violence courts exist, but one study of a misdemeanor DV court did reveal significant reductions in recidivism. The Municipal and District Courts should collaborate, along with current partners such as the Prosecutors office, SPD, YWCA, and Lutheran Community Services to ensure that cases are being addressed in a comprehensive and collaborative manner. The newly appointed Spokane Regional Justice Commission (RJC) should provide direct oversight on these cases to ensure that collaboration occurs.

2) Victim Services:

The SRCJC did not directly address the needs and roles of victims within the Spokane regional criminal justice system. This was an oversight on our part. There currently exists numerous community based services and supports, as well as the Spokane County Victim/Witness Unit established by the Spokane County Prosecuting Attorneys Office, that exist to assist victims throughout the criminal justice process. We maintain that such important work should continue, and that the RJC should work to monitor and ensure that high quality services and supports exist for victims of crimes. The provision of victim support services provides yet another opportunity for multiples agencies, both City and County, to pool their efforts through consolidation or partnerships in order to provide victim support services in a coordinated, efficient and cost effective manner.

3) District and Municipal Consolidation:

In a November 11, 2013 memo to the Spokane Regional Criminal Justice Commission, David Bennett argued that the Commission was foolhardy in not recommending the District and Municipal courts consolidate. In the memo, Mr. Bennett asserts that we:

- Considered no hard facts
- Based decision on subjective input from system players
- Made its decision due to politics and personalities
- Conducted no comprehensive analysis
- Was based on the wishes of one entity
- Ignored what is best for the system
- Ignored national research

These allegations are incorrect. The decision to recommend against the consolidation of the District and Municipal courts *at this time* was based on the evidence received at the Commission's hearings and the social scientific research on court consolidation. **This research has consistently found that the attitudes of departments and personnel who work closely with the courts involved in a consolidation must be taken into account when considering if a consolidation is appropriate**.

At many of the hearings we held over the past year, we repeatedly heard apprehensions about having to consolidate the District and Municipal Courts. In particular, personnel from almost every department voiced strong trepidation about a consolidated court. This lack of trust and clear reluctance to consolidate courts was a key component in our conclusion that any attempt to formally consolidate the District and Municipal courts would be ripe for failure at this time.

Mr. Bennett also insists the courts should consolidate as such a move would save huge sums of money and increase efficiency to markedly. While such outcomes are

possible, it is also possible that a consolidation will not produce any benefits, and in fact do long-term harm to the system.

In 2001 the Washington Board for Judicial Administration (BJA) cautioned against court consolidations. The BJA found that coordinating efforts between courts rather than consolidating courts is advisable. It noted that the "experience in trial courts across the nation has suggested that many of the desirable goals and outcomes of court unification can be achieved by implementing collaborative efforts rather than by fundamentally altering the structure and organization of the courts."

As we stated above, a review of the limited research on the topic of consolidation has consistently found that the attitudes of departments and department personnel who work closely with the courts involved in a consolidation must be taken into account when considering if a consolidation is appropriate. Certain characteristics must be present, including mutual respect and buy-in to the new process, synergy around the proposed consolidation, and common vision, mission and purpose. We maintain that these conditions are simply not present at the current time. The RJC will be charged with overseeing the few collaborative efforts that we put forth (e.g. consolidation of probation and stronger collaboration on domestic violence cases). It is our sincere hope that the two courts can begin to build strong mutual trust and respect across these efforts, and as efficiencies and stronger outcomes are realized, other areas of court functions can be considered for further collaboration.

This is essentially the path we recommend in our draft report. Rather than recommending consolidation *at the present time*, we put forth a number of recommendations related to enhanced coordination and efficiencies between courts as well as other components of the regional criminal justice system that will hopefully allow for a foundation of mutual respect and trust to be built, and expanded upon over time.

4) ECR

The Count Prosecutor's office requested that our recommendations regarding ECR be held in abeyance until their study of ECR is complete. We believe that this is a reasonable approach and agree that the ongoing study should be completed before implementation of our recommendations.

5) Mental Health

Many comments stressed the need to pay more attention to, and provide more resources for the mentally ill who come in contact with the justice system. Thus, it is imperative that Crisis Intervention Training (5.3(4)) be a top priority for law enforcement. In addition, emphasis must be placed on the evaluation of the existing Mental Health Court at the earliest possible time. If such an evaluation provides positive results, these programs should be expanded. Likewise, focus must be put on alternative sentencing programs (5.8(2)) for the mentally ill, especially since incarceration alone is often not the answer.

Other Matters

A number of comments, both oral and written, were anecdotal in nature. They detailed individual stories of frustrations with certain aspects of the criminal justice system. While that input was informative and illustrative of certain frustrations and problems within the "system", it is beyond the scope of this Commission to deal with these individualized issues, other than to say that such testimony was appreciated, illustrative of the need for reform in many areas, and contained in the record for anyone to view.

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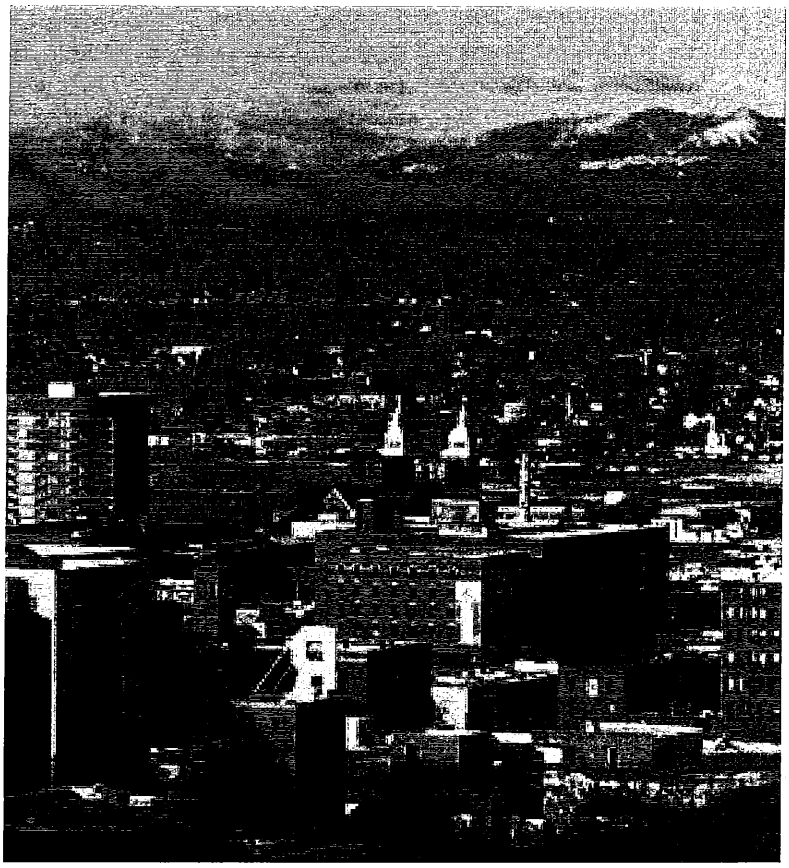
X. Recommendation and Task Table

Recommendation & Tasks	Priority Level (1-3)	Timeline
Rec 5.1 (1): Creation of Regional Justice Commission: Five person commission. Three year term & monthly meetings.	1	0-3 months
Rec 5.1 (2) Establish Law and Justice Coordinating Committee to provide workgroup(s) function to report to Commission. Minimum workgroups to include: Technology WG; Evidence-Based Portfolio WG; DMC WG.	1	0-6 months
Rec 5.1 (1) Hire Criminal Justice Administrator and staff.	1	0-3 months
Rec 5.1 (2): Form Technology workgroup, consisting of representatives from County IT, state level systems (e.g. AOC), and department reps.	1	3rd month
Rec 5.1 (2) & 5.8 (2): Form evidence-based portfolio workgroup (EBPW) to guide the creation/selection of the risk/needs/responsivity tool and coordinating services, including detention alternative programs.	1	3rd month.
Rec 5.1 (2): Form Disproportionate Minority Contact (DMC) workgroup and develop process evaluation.	1	3rd month.
Rec 5.1 (2): Create other workgroups as needed.	2	On-going
Rec 5.1(5) & 5.2(2): Tech. workgroup to research and implement video monitoring system, and performance measures.	1	3-36 months
Rec 5.3 (6): Create LEAD program.	2	6-18 months
Rec 5.3 (2): Consideration of Ceasefire type law enforcement programming efforts.	2	6-18 months
Rec 5.3 (3): Renew efforts and expand neighborhood crime prevention programs.	1	3-24 months
Rec 5.3 (4): Expand Crisis Intervention Team program across all local law enforcement agencies.	2	12-24 months
Rec 5.4 (2) & 5.8 (1): Create a 24 hour intake facility and Community Corrections Center.	1	0-60 months
Rec 5.4 (3) & 5.6 (2): Expand diversion and alternative programs for low-level and first-time offenders, including a DWLS alternative program.	3	12-60 months
Rec 5.5 (1) & 5.5 (3): Collaborative efforts should be taken to minimize and avoid unnecessary court hearings.	1	0-60 months

Rec 5.5 (2): Defendants with criminal cases pending in more than one court should have all pending matters handled by a single court and prosecuting attorney's office.	1	0-12 months
Rec 5.5 (4): Trial courts should minimize issuance of warrants, arrest, and incarceration for non-payment of Legal Financial Obligations (LFOs), and should make use of alternative sanctions to substitute for payment of LFOs.	2	0-12 months
Rec 5.5 (5): Superior Court judges, prosecutors and defense attorneys should work collaboratively to meet BJA time standards for felony prosecutions.	2	12 months
Rec 5.5 (9): Expand Adult Drug Court.	2	24 months
Rec 5.6 (1): City and County Prosecuting Attorney's Offices should provide disclosure to defense counsel immediately upon receipt from law enforcement agencies via centrally-based secure computer system and appropriate software.	2	12-24 months
Rec 5.6 (4): Spokane County should make specific modifications to ECR program based on Differentiated Case Management best practices & commission independent evaluation of the program.	2	12-24 months
Rec 5.7 (2): Indigent defense offices should work with Detention Services to permit attorney-initiated contact with inmate clients via telephone or e-mail when needed.	1	6 months
Rec 5.5 (10) Independent evaluation of current mental health court.	3	18 months
Rec 5.9 (3): Ensure greater coordination of transportation & scheduling of inmates.	2	
Rec 5.9 (4): Ensure proper classification and identification of specialized populations.	2	12 months
Rec 5.9 (1) Develop inter-local agreement to combine City and District Court probation services to remove duplication.	2	12-36 months
Rec 5.9 (3) Probation to collaborate with law enforcement and community agencies to enforce risk/needs/responsivity and active case management techniques.	2	12-24 months



Criminal Justice System Master Plan

Moving Forward

Spokane County, Washington

David Bennett Consulting in association with Donna Lattin

18 March 2013

Spokane County

Criminal Justice System Master Plan
Moving Forward

In 2008 a Criminal Justice System Master Plan was developed for Spokane County, Washington. The Plan recommended broad system reforms designed to improve system efficiency, reduce recidivism and fully realize the overarching principles of fair and humane justice. Recommendations were built upon an analysis of local data and grounded in the science of evidence-based practices. Much has been accomplished since the Plan was developed. Still, there is more to do. This memo provides an update of what still remains unrealized and adds a few new issues to the list. The appointment of a local Criminal Justice Commission, charged with the review of system governance and other issues, presents a good opportunity to step back and look at how far Spokane County has come in implementing the Master Plan, and how much farther it has to go.

Key Original Findings

Key findings of the 2008 Master Plan were:

- Lack of core services: No 24/7 Pre-Trial Services program
- Lack of validated risk tools in use at Pre-Trial, County Probation, and Jail Re-entry
- Higher than average case processing times
- High prosecution dismissal rates
- High pre-trial failure rates
- County Probation Department unable to provide meaningful supervision
- System redundancies due to bifurcated City and County prosecution and probation
- Strong and effective Mental Health and Drug Courts

The Progress

The last several years have been a time of significant progress within the Spokane County criminal justice system with the implementation of expedited case processing; the expansion of Pre-Trial Services and the development of pre-trial supervision; the refinement of in-custody bail review; the design and start-up of a Sheriff's Community Corrections Center program; and the refinement of jail data collection.

It has also been a time of exploring new ideas. Judges and others in the criminal justice system attended a 'smart sentencing' conference; and Donna and I presented information about an innovative law enforcement model called Project Ceasefire.

Over the last several years we conducted a study of the local sentenced inmate population, examining their risk and need profile to inform future planning; and we continued to update system trend data and the jail forecast.

We have also facilitated conversations about domestic violence and specialty courts.

A common thread over time has been our consistent advocacy for streamlining system operations, and the call for a serious review of the benefits of system consolidation. We believe that the consolidation of City and County prosecution and defense operations; and the merging of City and County Probation services would create a more efficient and effective system and help advance many of the recommendations in the original Plan. We encourage the Commission to make the issue of Consolidation their central focus.

Next Steps

The following pages provide a brief overview of key system issues. Some of these issues are foundation issues that were presented in the 2008 Master Plan and deserve full attention as part of an updated system review:

- Consolidation
- A Full-Service Pre-Trial program
- Evidence-based Probation & Programs
- Complete Community Corrections Center program
- Fully Supported Early Case Resolution (ECR) program

Governance: The Consolidation Issue

Consolidation of City and County prosecution and probation holds great potential for achieving a more efficient and responsive criminal justice system. We applaud the appointment of a special Commission to study this issue as part of a larger system review.

The consolidation of the municipal and county prosecutor's offices, defender offices, probation offices, and ultimately the municipal and district court, has long been one of our central recommendations.

The system is currently broken: from beginning to end. If the Spokane Police Department arrests a defendant on a misdemeanor offense and in the course of searching the defendant finds a controlled substance, the defendant is booked on both the felony and the municipal misdemeanor. The mechanism does not currently exist for the county prosecutor to file the misdemeanor and resolve the two cases together. The resolution of both cases is delayed, when the same office should prosecute them both.

There are countless numbers of cases where there is duplication in the prosecuting, defending, and supervising of probation conditions that could more efficiently be handled by single offices.

Consolidation of key functions can also serve to improve offender outcomes and enhance community safety. Dr. Barnoski reports that in his study of other Washington county jurisdictions, Municipal Court actually processed more 'high-risk' cases than District Court. Consolidation allows the development of a coordinated strategy to identify and manage the highest risk cases, employing a common portfolio of best practices.

In a meeting that we held with County Probation staff we were reminded that DUI Court is available for District Court cases but not Municipal cases, and that Day Reporting serves Municipal offenders but not District Court probationers. Inconsistencies in offender management are made worse by system redundancies. The fact that probationers can have multiple probation officers and multiple cases plans is a formula for failure.

On another Governance issue, the Board of County Commissioners made the decision to transfer the jail to the administration of the county effective 1 June. We continue to recommend that the jail become part of a larger County Department of Corrections that includes a consolidated Probation Department and Pre-Trial Services.

We recommend that Governance issues be the principal focus of the Commission.

Law Enforcement

We met with Spokane Police Chief Frank Straub regarding Project Ceasefire, a program that we have previously facilitated a couple of discussions with the criminal justice system. Chief Straub is personally acquainted with the program's founder David Kennedy of Harvard and has worked with the program in several jurisdictions. He is interested in continuing the discussion in Spokane.

Next Steps

- We recommend convening a steering committee meeting that includes representatives from the sheriff, police, prosecutor's office, and court to discuss the target population and the next steps. **(Recommendation made)**

- We also recommend the formation of a working group to explore the value of Mental Health Receiving Centers that would offer law enforcement a therapeutic stabilization option to a booking into jail for the mentally ill offender arrested for a low level offense. We have had several meetings to discuss this issue. **(This issue is under review)**

Pre-Trial Services

We continue to assist the Pretrial Services manager with the implementation of new and enhanced services. This last year we collected data on staff release decision-making and held a staff training workshop; helped refine supervision and bail review processes; and assisted with the design of a risk tool validation study. We continue to work with the program on the design and initiation of a pre-trial risk tool study. This important work has been on hold until local filing practices were improved and more cases were meeting the 72-hour threshold. To have proceeded with a pre-trial risk study without first fixing this issue would have complicated the measurement of defendant failure. Given the good ECR team work to tighten filing practices the program can now proceed with the study. Cheryl is in the process of working on the cost and bid process to get this going.

They have now served over 130 defendants on pre-trial supervision and have continued to refine their policies and practices. Great progress has been made.

Next Steps

- The funding of a full-service Pre-Trial Services program should be a County priority. We recommend the development of an updated staffing plan (we developed a plan in 2008) for Board review at the conclusion of the Commission's work. **(Recommendation made)**

- Risk tool validation study. This should soon be underway. **(Recommendation made)**

- Discuss with ECR prosecution team how to ensure a more consistent and swift response to pre-trial violations

Prosecution

The Early Case Resolution (ECR) program is having a significant impact upon the processing of cases through the system. In calendar year 2012, twenty-five percent of all felony cases were resolved through this program. The reorganization of the prosecutor's office has resulted in over 80 percent of all felony arrests filed and/or formally declined within 72-hours—an excellent rate. Judge Harold Clarke is presiding over this docket.

With the changes in the fling rates, there has been a significant increase in the number of cases entering ECR. While it is anticipated that over time the numbers will even out, it is creating stress, particularly on the public defender staff to properly evaluate cases, counsel clients, and discuss case resolution with the prosecutor. Resolutions are being delayed and the prosecutor's office and the court are also feeling the demands of the calendar.

After meeting with program staff and supervisors along with the judge, we are recommending that the county increase funding for the public defender's office by one attorney for the ECR program. We are also recommending the addition of a criminal justice record specialist for the prosecutor's office who will be assigned to the ECR program to complete the necessary prior criminal history checks required to resolve cases. These two steps will help with the workload.

ECR is the most efficient mechanism for resolving cases and now that the filing rates have been increased, having the necessary staff to resolve as many cases as appropriate will be a benefit for the entire system, including the offenders and the community.

Next Steps

- Hire additional defense staff for ECR **(Recommendation made)**
- Make probation services available to the Courts to expand ECR sentence options **(Recommendation made)**
- Use ECR process to shift more defendants to Drug Court **(Recommendation made)**
- Explore how to insert risk assessment and drug screening into process to inform ECR sentencing
- Collect ECR data on case processing times; collect outcome data **(Recommendation made)**

- DV issues: Defense Counsel have said they need more time to assess DV cases before court (calendar issue); lack of common prosecution guidelines about dismissals, plea downgrades, and if downgrade – when to refer to treatment, in DV cases; inconsistent use of Stipulated Order of Continuances in DV cases; need to review 52-week Batterer treatment requirement given new research that questions its efficacy; need single process for Civil Protection Orders; etc. **(Issue Summary was presented after a Facilitated Discussion with System Players)**

Courts/Sentencing

Next steps

In last month's report we recommended the formation of a workgroup to discuss how to apply the lessons learned. Issues to discuss include the following:

- Review the Smart Sentencing conference information and discuss the value/appropriate use of risk information at sentencing

- Review County Probation pre-sentence reports and discuss how they are used by the Court, which cases would benefit from standardized report presentation, and suggestions for how to improve report content. For County DV cases, the lack of uniform use of a pre-sentence report results in each court creating their own checklist for risk factors to consider.

- Review how to expedite prosecution/court response to supervision violations for County probation cases. "We never have a Probation Violation resolved on list hearing; there are always 5 to 6 continuances. It can take 6 months to 1 year to resolve a PV." (County Probation staff in meeting last month)

- Review the range of judicial responses to supervision violations. For County DV cases with supervision violations the response, depending upon the judge, may be removal from probation or jail with treatment suspended. Discuss the use of treatment termination of the use of fines as a sanction for DV violations.

- Review the substantial delays for entry into the District Court's DUI Court: Once a probationer is identified as a program candidate it can take 6 months or longer to gain program entry.

- Review Court use of Jail alternatives. Partial Confinement and Work Release not being used. There are 4 individuals in each jail alternative program.

- Discuss use of Supervisory Authority: Jail staff does not have this authority for Superior Court cases so must go back to judge for step-down.

- County Probation receives Felony reductions from Superior Court for DV cases with few conditions attached which challenges their management of higher risk offenders.

- County Probation cases would benefit from some standard court conditions for all cases.
- County Probation would benefit from court adoption of general probation step-down guidelines

- We met with Presiding District Court Judge Hayes last month and learned that the number of referrals to Mental Health Court has increased. We have dealt with the drop in referrals during the last couple of trips, and had facilitated discussions with the mental health court team. We are pleased to learn that this has improved. We encourage continued expansion of this program and Drug Court

Spokane County Jail

We have continued to work with Lt. Lake to provide advice regarding the expansion of the Community Corrections (CCC) program. We organized a meeting with Lt. Lake's program staff and some DOC staff to explore how to better coordinate the joint-case management of offenders in this jail program; and we have continued to provide new research and suggestions on next-steps for the program. We are pleased with the continual adding of new services and the dedication to this new concept.

Next Steps

- Explore how to expand the CCC program with possible renovation of building 1296 at Geiger, which would provide capacity for 100 inmates **(Recommendation made)**

- Review eligibility for Geiger and CCC: Can the sentenced population at Geiger be expanded? By policy? With risk assessment. Today only 26 sentenced inmates at Geiger (most are not sentenced). Could Geiger serve a predominantly sentenced population, with the goal of creating a holistic, therapeutic environment? **(Recommendation made)**

- Design a step-down process that would use incentives and behavior-based management to move inmates across the custody-to-community continuum; explore how to provide transportation to allow inmates to work in community while in program; ensure supervision/case management services for higher risk inmate upon release. Our Jail Inmate Risk study revealed that while half of the high risk/high need sentenced population is serving time for a misdemeanor offense only 26 percent are under active probation supervision. **(Recommendation made)**

- Adopt a risk assessment tool in the jail to guide re-entry planning (this is under review) **(Recommendation made)**

- Other issue: We recommend a discussion about LFO cases in custody, with a review of how to get out ahead of the problem by standardizing the development of payment plans, and a discussion about possible alternatives to incarceration (work crews, community service, etc.) for this population. **(Recommendation made)**

- Other issue: City has requested a jail bed rate that does not include programs.

- Other issue: Ask State Legislature to review RCW exclusions for jail alternatives. They are at variance with the concept of risk management. In our Jail Inmate Risk study, approximately 30 percent of the sentenced population who were excluded from participation in jail alternatives (work release, etc.) due to RCW restrictions was classified as low risk or medium risk to re-offend. Unexpectedly, the rate of program exclusion for the lower risk inmate was higher than for the highest risk

inmate: roughly 15 percent of high risk sentenced inmates were subject to RCW exclusion.

- Other issue: City recent interest in pulling inmates from local jail to house at 'lesser cost' in another jurisdiction **(We have issued memos on this issue and made the case against it)**

Spokane County Probation

We have met with County Probation to discuss their operations and challenges, to review their available data, and to explore how to best conduct a risk study of their population. The manager has been looking at gaining access to the DOC tool for this purpose.

Next Steps

- Adopt a risk assessment to structure probation supervision **(Recommendation made)**

- Form a workgroup to develop a plan for evidence-based probation services: review caseload size, contact standards, use of structured sanctions, etc. **(Recommendation made)**

- Review funding of County Probation Services. It is a fee-based operation.

- Consolidation: No case coordination with City Probation. Sets offender up for failure when have multiple case plans and requirements. The bifurcated system results in redundancies, higher failure rates, and inconsistent case management. Municipal Probation cases not eligible for District Court DUI Specialty Court; County Probation cases do not access the City's Day Reporting services, as two examples. **(Recommendation made)**

- Domestic Violence No funding for domestic violence programs; no program quality standards; need RFP selection process for DV programs; no clear guidelines about DV treatment length or when to graduate clients (no incentive for programs to discontinue treatment); no standardized DV perpetrator evaluations (three agencies do evaluations but vary widely and some not considered by probation to be 'true' evaluations); get Felony DV reductions from Superior Court with few conditions attached and sometimes no treatment condition; Department of Corrections does not necessarily supervise a DV case if the principal conviction is another crime that is rated low risk; need a consistent measure of DV recidivism (official record + victim input); no use of risk assessment to guide supervision levels, sanction intensity, or service dosage; need to review ability of indigent, low income offenders to access DV treatment; consider Ceasefire model for DV cases (this is being tested in High Point, North Carolina).

A STRUCTURAL FRAMEWORK FOR IMPLEMENTING SMART JUSTICE POLICY RECOMMENDATIONS IN SPOKANE COUNTY

Presented to Spokane Regional Criminal Justice Commission July 8, 2013,
by the Smart Justice Campaign Coalition

EXECUTIVE SUMMARY

Recommendations for Administrative Structure of Spokane Regional Criminal Justice System

Objectives:

- Coordinated cooperative criminal justice system that will implement smart justice
- Structure that satisfies statutory mandates and has already received favorable reviews by stakeholders working directly in the system
- County wide executive and legislative representatives, along with citizen representatives, creating general criminal justice policy
- Executive level administrator who is charged with facilitating communication and cooperation
- Forum where those working directly in the system come together regularly to identify and solve problems and implement general Smart Justice policies
- Structure that respects the constitutional, statutory, and ethical obligations of the various stakeholders in the system
- Centralized departments/agencies that cross jurisdictional lines

Recommendations:

1) Board of County Commissioners adopt an ordinance that implements the state mandated Law & Justice Council [LJC]

2) Membership of the LJC be expanded to be truly regional and include all significant executive, legislative and agencies/department working directly in the system as well as citizens from communities that are disproportionately represented in the criminal justice system

3) LJC Executive Committee be formed that includes representatives from the executive and legislative bodies in Spokane County as well as citizens. This Committee would

- appoint a Criminal Justice Administrator
- develop general smart justice policy recommendations
- review outcome reports
- recommend necessary interlocal agreements
- enter an MOU with WSU, Department of Criminal Justice & Criminology for data analysis & research
- actively pursue sustainable funding sources
- recommend and support legislative changes

4) LJC Coordinating Committee be formed that includes representatives from all of the criminal justice units that provide direct services in the criminal justice system. This Coordinating Committee would

- discuss problems and explore solutions
- ensure that the Criminal Justice Commission recommendations are implemented
- review outcome data to make sure are reducing recidivism, creating a safer community, reducing costs, eliminating institutional racism, reducing number of people with disabilities (cognitive, mental and/or physical) or drug/alcohol issues in our jail, and changing the psycho-social functioning of the offenders
- recommend to the Executive Committee necessary interlocal agreements and legislative changes, and identify funding needs

5) Criminal Justice Administrator -executive level professional to hold the centralized position of leadership and accountability for the region. The duties and responsibilities would include

- Supervising an Integrated Justice Information Technology Department
- Supervising a fund development coordinator/grant writer
- Supervising a training department
- Supervising Detention Services
- Supervise Pre-trial Services and Community Supervision (Probation)
- Coordinate and Facilitate regular meetings of LJC, Executive Committee and Coordinating Council

Recommendations on Regional Consolidation

Objectives:

- Shift resources from pre-trial warehousing model to more effective and less costly community accountability model by substantially increasing the use of problem-solving courts.
- Coordinate robust pre-trial risk and need assessment under one management authority.
- Choose data driven effectiveness and efficiency over historical practice in consolidating criminal justice functions.
- Utilize interlocal agreements to minimize any current duplication of services.

Recommendations:

1) Courts - Increase participation in therapeutic courts; enter interlocal agreement for the unified adjudication of the 15% of misdemeanor offenders who are being prosecuted concurrently in District and Municipal Court; consider reducing the number of District Court Departments by two or designating three District Court Departments that are elected by and serve the City of Spokane boundaries in lieu of a separate Municipal Court.

2) Public Defense - Retain the current public defender model of separate departments in order to preserve the ability to manage legal conflicts.

3) Prosecution - all misdemeanor prosecutions should be consolidated into the City by interlocal agreement, with the County focusing on felony prosecutions.

4) Probation (Community Supervision) - enter interlocal agreement so that a person with misdemeanors pending in municipal and district courts has only one probation officer.

5) Pretrial Services - robust department needed that reports to Administrator

Recommendations for Facilities

Objective:

- Facilities that support the implementation of smart justice throughout the system including law enforcement diversion, alternatives to incarceration and comprehensive re-entry services

Recommendations:

1) Construct a 24/7 Intake Unit
2) Construct a Community Corrections Center
3) Continue renovation of Jail but defer construction of new jail facility

Recommendations for Funding

Objectives:

- Fund reforms that will create long term safer communities and lower costs by using current designated jail operating funds to expand Early Case Resolution, Electronic Home Monitoring, Problem Solving Courts and other community accountability models that reduce recidivism.
- Create a unified schedule of proportional cost-sharing for similarly situated offenders accessing similar criminal justice services that apply to all jurisdictions within the region.
- Create a unified and more effective system that will attract outside funding and voter support.

Recommendations:

1) Reallocation - Shift funds from jail costs to alternatives to incarceration.

2) Proportional Participation - Funding for misdemeanor criminal justice should be allocated by proportional participation by similarly situated offenders in each jurisdiction rather than by flat fee contract.

3) Short term sales tax - $1/10^{th}$ (7.5 million/year) or $2/10^{th}$ ($15 million/year) of one percent sales tax for seven years in order to expedite criminal justice reform

4) Federal & State Grant Funding - essential to creating a sustainable funding structure. Administrator should employ a full time fund development coordinator/grant writer

5) Innovative funding sources - should be explored e.g., social impact bonds

Recommendations to End the Disproportionate Impact Based on Race and Ethnicity

Objectives:

- Set a goal of eliminating the disproportionate impact of our criminal justice system on people of color
- All criminal justice departments make a commitment to achieve racial equity
- Identify and use effective tools to achieve racial equity
- Fund culturally appropriate programs and support services for offenders

Recommendations:

1) Recognize problem of racial disparity and commit to address it

2) Charge Law and Justice Council to end racial disparities

3) Use Racial Equity Toolkit

4) Fund culturally appropriate programs and support services for offenders

5) Charge Administrator with collecting race and ethnicity data and initiating a comprehensive, independent study of racial disparity in the Spokane criminal justice system

6) Produce Racial Impact Statements before adopting criminal justice policies

7) Ask the Washington State Minority and Justice Commission to include Spokane in their research on the problems experienced by racial and ethnic minorities

A STRUCTURAL FRAMEWORK FOR IMPLEMENTING SMART JUSTICE POLICY RECOMMENDATIONS IN SPOKANE COUNTY

Presented to Spokane Regional Criminal Justice Commission July 8, 2013,
by the Smart Justice Campaign Coalition

Purpose

The purpose of this document is to suggest a structural framework for implementing the "Smart Justice Policy Recommendations" in Spokane County (attached as Appendix A). The Smart Justice Campaign Coalition and other stakeholders developed this plan to address the administrative structure of a Spokane Regional Criminal Justice System, regional consolidation, facilities, funding, and the racial, economic and other problematic disparities in the Spokane criminal justice system.

We continue to believe that the most effective means of creating lasting criminal justice reform is to adopt a Smart Justice Lens. That means examining every current practice and proposed reform to determine if it creates greater community safety, is cost effective and reduces recidivism so that there are fewer victims and offenders. In order to achieve Smart Justice in Spokane, we will need to redirect money from pre-trial warehousing towards proven programs that hold offenders truly accountable to their community. This will require a substantially higher level of communication and coordination across county and city jurisdictions. In the long term, adopting a Smart Justice Lens will cost taxpayers less and provide them with more safety. In the short term, pre-trial jail costs, which are unrelated to punishment, can be re-directed to fully fund the alternatives that will likely reduce the need for the large capital expense of a new jail.

Enhanced communication and coordination can be achieved with some consolidation, a new administrative structure for a regional criminal justice system, targeted funding sources and more citizen involvement. These changes will make it possible to address the current problems in the system and achieve the Smart Justice goals to lower costs, reduce recidivism, make the community safer, and improve outcomes for victims and offenders. The current problems include inadequate assessment of offender risk and needs and over reliance on incarceration of non-violent individuals, those with substance addictions and disabilities (cognitive, mental and/or physical), people of color and those who are low-income. The current programs that offer alternatives to incarceration and services are available to only a fraction of the individuals eligible or in need of the programs. By expanding evidence-based programs and regularly evaluating the programs we can create a 21st century model regional criminal justice system in Spokane that is humane, respectful, and free of racial bias and that creates opportunities for change for offenders.

Creating a Spokane Regional Criminal Justice System[1]

Objectives:

- Coordinated cooperative criminal justice system that will implement smart justice
- Structure that satisfies statutory mandates and has already received favorable reviews by stakeholders working directly in the system
- County wide executive and legislative representatives, along with citizen representatives, creating general criminal justice policy
- Executive level administrator who is charged with facilitating communication and cooperation
- Forum where those working directly in the system come together regularly to identify and solve problems and implement general smart justice policies
- Structure that respects the constitutional, statutory, and ethical obligations of the various stakeholders in the system
- Centralized departments/agencies that cross jurisdictional lines

The Coalition recommends that Spokane County create a Regional Criminal Justice System using the Law and Justice Council model mandated by state law. RCW 72.09.300 requires that every county establish a local Law and Justice Council, by ordinance or resolution, to facilitate cooperation and coordination of local criminal justice systems. RCW 72.09.300**.** The statute mandates that membership in the Council include specific legislative and executive policy makers, as well as certain departments that work directly with offenders. [2] Beyond those prescribed members, however, the law leaves each county with discretion to expand membership and to organize each council so that it meets local needs. In enacting RCW 72.09.300, the legislature described the statute's purpose as follows:

> … [T]o encourage local and state government to join in partnerships for the sharing of resources regarding the management of offenders in the correctional system. The formation of partnerships between local and state government is intended to reduce duplication while assuring better accountability and offender management through the most efficient use of resources at both the local and state level. [1987 c 312 § 1.]

Spokane County enacted a resolution in 1992, establishing a Law and Justice Council (Resolution 92-0769). The Law and Justice Council replaced the previously established Confined Population Management and Review Board (Resolution 91-235). Part of the mission of the Law and Justice Council was to recommend alternatives to incarceration. It was also charged with developing a Local Law and Justice Plan. We have been told that the Council previously functioned for a number of years under

[1] See Appendix A for the Statement of the Problem, Comparative Regional Cooperation Models, and Legal Authority for Interlocal Agreements.

[2] "… the county sheriff and a representative of the municipal police departments within the county, the county prosecutor and a representative of the municipal prosecutors within the county, a representative of the city legislative authorities within the county, a representative of the county's superior, juvenile, district, and municipal courts, the county jail administrator, the county clerk, the county risk manager, and the secretary of corrections and his or her designees." RCW 72.09.300.

primarily judicial leadership, but ceased to meet around 2000. Past participants told us that it provided a helpful forum for discussion. To our knowledge no Local Law and Justice Plan was developed.

We recommend that the Board of County Commissioners adopt an ordinance, rather than an advisory resolution, that implements a Law and Justice Council in Spokane County; this Council could serve a plenary function for the administration of a Regional Criminal Justice System. The role of this Council should be to facilitate cooperation and coordination within the region's criminal justice system in order to meet the following goals: 1) reduce crime, 2) lower costs, 3) create safer communities, and 4) improve outcomes for victims and offenders.

Specific Recommendations for Creating a Spokane County Law and Justice Council:

Adopt an Implementing Ordinance

The Board of County Commissioners should adopt a Spokane County Law and Justice Council Ordinance that includes the provisions below.

Membership of the Law and Justice Council

The Spokane County Law and Justice Council should expand membership beyond what is required by the statute so that the Council has broad regional representation include the following members (members in italics are those mandated by statute to be included):

- County Executives: Three County Commissioners and the *County risk manager*.
- Municipalities: City of Spokane Mayor, City of Spokane risk manager, two Spokane City Council members, two Spokane Valley City Council members, and *one person representing the legislative authorities from the smaller cities/towns within Spokane County*.
- Courts: *Representatives from Spokane County's Superior, Juvenile, and District Court, a representative for City of Spokane Municipal Court* (also representing specialty courts[3]) and *one representative from other municipal courts* (Airway Heights, Cheney, Medical Lake).
- Prosecution: *County Prosecutor*, City of Spokane Prosecutor, and *one representative from other municipal prosecutors in Spokane County.*
- Public Defense: Representatives from City Public Defenders, County Public Defenders, Counsel for Defense, and Private Defense (Selected by Spokane County Bar Association).
- Law Enforcement: *Sheriff*, Spokane Police Chief, and *one representative from other municipal police departments in Spokane County.*
- Facilities: *County Jail administrator* (representing Transport, Classification & Mental Health), and the Community Corrections Center Administrator (to be created).
- Clerks: *County Clerk* and the Spokane City Clerk.

[3] Special Courts - Superior Court (Behavioral Health Therapeutic Drug Court, ECR, Family Court; District Court (Mental Health, Veterans, ISTC (DUI), DV); Municipal Court (Veterans, Community)

- Community Supervision: Representatives from Pretrial Services, Municipal Probation, County Probation, and the *Secretary of Department of Corrections or designee.*
- Labor: One representative from County and one from the City of Spokane labor unions.
- Citizens: Three citizens who represent the communities that are disproportionately represented in our offender population. This is similar to the citizen representation on the Spokane Regional Health District.

Law and Justice Executive Committee and Coordinating Committee

The Ordinance implementing the Spokane County Law and Justice Council should provide for an Executive Committee and a Coordinating Committee which will meet more frequently and serve as the functional groups of the Law and Justice Council.

Executive Committee:

The Law and Justice Executive Committee should include the following members from the larger Law and Justice Council: The City of Spokane Mayor, two Spokane City Council members, three Spokane County Commissioners, two Spokane Valley City Council members, one representative from the small cities/towns, and the three citizen representatives from the Law and Justice Council.

The Executive Committee should have the following responsibilities:

- Appoint a Criminal Justice Administrator (position described below);
- Develop general smart justice policy goals for the criminal justice system, which include recommendations of the Spokane Regional Criminal Justice Commission;
- Review outcome reports supplied by the Criminal Justice Administrator and prepare an annual report to the community;
- Recommend that the legislative and executive members of the Law and Justice Council adopt interlocal agreements that are found to be necessary for the efficient and effective functioning of the criminal justice system;
- Enter a Memorandum of Understanding [MOU] with Washington State University Spokane, Department of Criminal Justice and Criminology, to assist in the analysis of data and to conduct research related to outcomes in the criminal justice system; [4]
- Actively pursue sustainable funding sources for criminal justice programming; and
- Recommend and support legislative changes that are necessary for an efficient and effective criminal justice system that: reduce recidivism, create a safer community, reduce costs, eliminate institutional racism, reduce the number of people with disabilities (cognitive, mental and/or physical) or drug/alcohol issues in our jail, and improve the psycho-social functioning of the offenders.

- [4] WSU has such an MOU with the Washington State Department of Corrections. WSU can also offer consultation to the Law and Justice Council and Criminal Justice Administrator.

Law & Justice Coordinating Committee:

The Law and Justice Coordinating Committee should include representatives from all of the criminal justice units that provide direct services in the criminal justice system.[5] This can include individuals who do not serve directly on the Law and Justice Council.

The Coordinating Committee should have the following responsibilities:

- Discuss topics suggested by the RCW 72.09.300, policy directions, how to continue to improve system efficiency and effectiveness, how to change to a system driven by a valid risk/need assessment of the offender, how to reduce and end racial, economic and other disparities in the criminal justice system, and how to robustly implement and expand evidence-based alternatives to incarceration and needed support services (e.g., treatment, housing, education, training, etc.) (Juvenile Court can be used as model for the implementation of evidence-based practices);
- Identify and solve problems through working groups, as needed, e.g., Courts, law enforcement or groups addressing specific programs;
- Ensure that the Regional Criminal Justice Commission's recommendations are implemented;
- Review outcome data to verify that all programs within the system are reducing recidivism, creating a safer community, reducing costs, eliminating institutional racism, reducing number of people with disabilities (cognitive, mental and/or physical) or drug/alcohol issues in our jail, and improving the psycho-social functioning of the offenders. Under-performing programs must be improved or replaced; and
- Recommend to the Law & Justice Executive Committee necessary interlocal agreements and legislative changes, and identify funding needs.

<u>Criminal Justice Administrator</u>

The Ordinance implementing the Spokane County Law and Justice Council should provide for the appointment of a Criminal Justice Administrator by the Council's Executive Committee.

Role and Qualifications: We recommend that the Ordinance clearly define the role of the Criminal Justice Administrator as holding the centralized position of leadership and accountability for the region, with a focus on outcomes for the whole criminal justice system. The Ordinance should clearly mandate that the person appointed be an executive level professional that is innovative, committed to facilitating the creation of a new level of regional cooperation in the criminal justice system, and who is dedicated to building coalitions to implement evidence-based programs and practices in the system. The person must have knowledge of, and respect for the constitutional, statutory, and ethical obligations of the various stakeholders in the criminal justice system. In addition, the Ordinance should require that the person selected have demonstrated experience applying an equity analysis (racial, economic, and

[5] There are many dedicated and talented professionals in the criminal justice system that can be further empowered by this structure to collaborate to achieve better outcomes for the system.

disability), excellent communication skills and the ability to supervise units that cross jurisdictional boundaries.

The Criminal Justice Administrator should report to the Executive Committee, and serve a term of 5 years, which is renewable.

The Duties and Responsibilities of the Administrator should include the following:

- Supervise an Integrated Justice Information Technology Department that is responsible for: 1) developing and maintaining an integrated criminal justice management information system to ensure seamless communication between all criminal justice units; and 2) to collect data and to analyze and report on outcomes of all criminal justice units, in collaboration with the Washington State University, Department of Criminal Justice and Criminology;
- Supervise a fund development coordinator/grant writer (see funding recommendations);
- Supervise a training department that will ensure that all criminal justice unit and program staff receive appropriate and up-to-date training (which is a requirement of evidence-based programs);
- Supervise Detention Services which cross jurisdictional boundaries;
- Supervise Pre-trial Services and Probation (community supervision); and
- Coordinate and Facilitate regular meetings of the Law and Justice Council, Executive Committee, Coordinating Committee and working groups, and ensure that these meetings comply with the Open Public Meetings Act, RCW 42.30.

Regional Consolidation

Objectives:

- Shift resources from pre-trial warehousing model to more effective and less costly community accountability model by substantially increasing the use of problem-solving courts.
- Coordinate robust pre-trial risk and need assessment under one management authority.
- Choose data driven effectiveness and efficiency over historical practice in consolidating criminal justice functions.
- Utilize interlocal agreements to minimize any current duplication of services.

Spokane County Consultant David Bennett recommends the consolidation of several city and county departments or units. If consolidation occurs, it would be expected that the County would take the lead over some of the consolidated units and the City would take the lead over others based upon proven efficiency (measured by cost per offender served for offenders of equal status), effectiveness in reduction in recidivism, and reduction in disproportionate incarceration of people of color, people with mental illness, people with addictions, and other inequities.

Recommendations regarding Possible Consolidations:

Courts:

The District and Municipal Courts should substantially increase the number of offenders participating in therapeutic courts. Because offender participation is voluntary, the District and Municipal Courts can rotate judicial leadership of therapeutic courts by interlocal agreement and pro tem arrangements. Costs can be allocated between participating jurisdictions based on the proportional number of similarly situated offenders. The criteria for acceptance into therapeutic courts should be expanded so that it is based on the offenders' needs as opposed to the offense with which they are charged, and people of color should not be screened out based on allegations of gang affiliation. Consideration should be given to whether specially designated and trained judicial commissioners can be used to expand therapeutic courts at a lower cost than full judicial officers.

Establish an interlocal agreement for the unified adjudication of the 15% of misdemeanor offenders who are being prosecuted concurrently in District and Municipal Court. This would result in a single prosecutor, public defender, judge and probation officer for the offender and a likely more consistent intervention and outcome. The agreement would likely designate the Court with the first offense in time to adjudicate all pending misdemeanor offenses. Current state law would preclude Municipal Court from adjudicating District Court offenses without the consent of the offender. A unified request to the legislature would likely resolve this issue. In the meantime, the interlocal agreement should be designed to minimize the number of District Court offenders who would not agree to voluntarily participate in Municipal Court adjudication.

In the long term, consider reducing the number of District Court Departments by two or designating three District Court Departments that are elected by and serve the City of Spokane boundaries in lieu of

a separate Municipal Court. RCW 3.38.070 provides for the creation of sub-county district court departments that follow municipal boundaries in order to more closely tie the elected judges to the constituency they serve.

When the current three departments of the Municipal Court were created, only one District Court Department was eliminated leaving a net excess of two judicial departments. Under RCW 3.50.095, the current three Municipal Judges can't be removed involuntarily until January of 2018. District Court Departments can be eliminated by January 2015 as long as notice is given prior to the electoral filings in May of 2014. If the Municipal Court Judges consent, they could be appointed as District Court Judges for the newly created City of Spokane sub-county departments under RCW 3.38.070 as soon as January of 2015.

Public Defense.

Retain the current public defender model of separate departments in order to preserve the ability to manage legal conflicts between clients. Establish interlocal agreement for cost-sharing based on proportional representation of similarly situated offenders.

Prosecution.

In order to create one consistent policy voice in the region, all misdemeanor prosecutions could be consolidated into the City by interlocal agreement, with the County focusing on felony prosecutions. This will allow for one prosecutor in cases that have pending misdemeanor matters in both the city and county. This would be especially helpful when felonies committed within Spokane city limits are reduced to misdemeanors. If full consolidation is not possible, an interlocal agreement could be created to use a single prosecutor for offenders with concurrent charges in District and Municipal Court.

Probation (Community Supervision).

One potential reason advanced for consolidation of probation services is that one defendant may have multiple probation officers due to having charges in several courts. The scope of this problem has not been well documented. The Municipal Court reports that 15% of the individuals with Municipal Court cases also had misdemeanor cases in District Court. An interlocal agreement could determine which probation department, City or County, would provide community supervision so that each individual would have only one probation officer.

If consolidation is considered appropriate, the lead agency should be chosen based upon proven efficiencies and effectiveness in the delivery of community supervision at the lowest cost per similarly situated offender served. All Pretrial and Probation Departments, whether consolidated or separate, should report directly to the Criminal Justice Administrator.

Pretrial Services.

Implement a far more robust Pretrial Services Department than currently exists, based off model programs. This Pretrial Services Department, whether or not combined with the Probation Department, should report directly to the Criminal Justice Administrator.

A substantial benefit of a robust Pre-Trial Services Department is the ability to shift numerous pre-trial detainees out of the jail and on to programmed Electronic Home Monitoring or other appropriate interventions that preserve community safety. Currently, the vast majority of jail inmates are awaiting trial and not serving a sentence. By conducting dynamic risk and needs assessment and providing appropriate real time monitoring, these individuals could be diverted out of the high cost jail and into a setting that is far less expensive, maintains community safety and reduces recidivism. The estimated cost savings is at least $100/day/inmate, and could be applied to several hundred inmates each day based on current jail census data.

See Appendix C for specific recommendations and resources concerning Pretrial Services.

Facilities

Objective:

- Facilities that support the implementation of smart justice throughout the system including law enforcement diversion, alternatives to incarceration and comprehensive re-entry services

Recommendations:

Intake Unit. A 24/7 intake/receiving unit should be constructed where evaluations can be performed of those individuals contacted by law enforcement who may require assistance (treatment, housing, etc.) but can be diverted from booking into the criminal justice system. The Pretrial Services department should be housed in this facility.

Community Corrections Center. A community corrections Center [CCC] should be constructed near the Courthouse to provide a central location for re-entry/ transition to the community services and secure treatment options. Once the Community Corrections Center is in place, Geiger should be closed.

Jail. The County should continue its ongoing renovation of the downtown jail and add expanded space for booking. The County should defer any construction of a new jail facility until criminal justice reforms have been in place long enough to analyze the need for any additional jail beds, if any.

Funding

Objectives:

- Fund reforms that will create long term safer communities and lower costs by using current designated jail operating funds to expand Early Case Resolution, Electronic Home Monitoring, Problem Solving Courts and other community accountability models that reduce recidivism.
- Create a unified schedule of proportional cost-sharing for similarly situated offenders accessing similar criminal justice services that apply to all jurisdictions within the region.
- Create a unified and more effective system that will attract outside funding and voter support.

Spokane City and County criminal justice professionals have developed some life-changing alternative to incarceration programs and treatment and support services. As the testimony before the Commission has shown however, the programs and services are available to only a fraction of the individuals eligible or in need of the programs. Successful change will require that these programs and services be taken to scale. Funding is critical.

Recommendations:

1. Reallocation. Because the cost of incarceration far exceeds more effective alternatives, these alternatives can be funded by reduced jail costs in both the short and long terms without seeking a vote of county residents. The three easiest methods of reducing jail costs are: 1) Reducing the time from booking to adjudication; 2) Increasing the number of pre-trial detainees that are moved to electronic home monitoring; and, 3) Increasing the number of offenders that are promptly diverted out of the of the traditional justice system into more effective alternatives. For every 100 bed daily reduction in the jail census in favor of alternatives, the system would save at least $3.65 million/year[6]. However, appropriate cost accounting must be implemented that allows for the smooth transfer of funds for jail costs to alternatives across jurisdictional budgets.

2. Proportional Participation. Funding for misdemeanor criminal justice should be allocated by proportional participation by similarly situated offenders in each jurisdiction rather than by flat fee contract.

3. Sales Tax. The County Commissioners should consider giving voters the option to pass either 1/10th ($7.5 million/year)or 2/10th ($15 million/year) of one percent sales tax for seven years in order to expedite criminal justice reform and long term savings as authorized by the legislature. This is cheaper than the currently projected cost of $260 million to build and finance a new jail (or $13 million/year for 20 years). Similar to the emergency communications and crime check levy, these funds could be earmarked both for programming costs and the construction of facilities that would support alternatives

[6] This assumes a daily jail cost of $120/bed and an average alternative cost of up to $20/day. Savings would of course be more for quicker processing of pre-trial felony detainees who make up a substantial portion of the current jail population.

to incarceration like the Community Corrections Center. These funds should not be used for traditional jail or criminal justice operations which already have their own funding.

4. State and Federal funds. The City and County must continue to pursue state and federal funds for the criminal justice system. Although some grants can have difficult compliance measures attached and may not provide long-term funding, they still have provided needed start up funds for programs like SHARPP Re-entry Program (housing), the Behavioral Health Therapeutic Drug Court, and Veteran's Court. Other grants provide more sustainable funding for programs in Juvenile Court and Community Services. According to the Behavioral Health Therapeutic Drug Court, the Criminal Justice Treatment Account (CJTA) is an example of one state program that provides funds for substance abuse treatment that is critically needed. Important community treatment providers have also been forced to reduce staff and services as public funding has decreased. A unified Regional Criminal Justice Plan will make it far easier to attract grant funding.

The Criminal Justice Administrator should employ a full time fund development coordinator/grant writer. This role is critical to achieve sustainability because individual criminal justice agency leadership does not have the system-wide knowledge, resources, or time to manage a large network of grants. The fund development coordinator would work closely with and report to the Criminal Justice System Administrator. This position would be responsible for seeking out, applying and reporting on State and Federal grants. In addition to managing grant funds, this position would be responsible for leveraging innovative sources of funding listed in number (5) below.

5. Innovative funding sources. In addition to the traditional sources of funding for local governments listed above, the regional criminal justice system should consider seeking creative sources to secure funding for alternatives to incarceration. *e.g.,* social impact bonds.

See Appendix D for additional information and resources on funding.

Recommendations to End the Disproportionate Impact Based on Race and Ethnicity

Objectives:

- Set a goal of eliminating the disproportionate impact of our criminal justice system on people of color
- All criminal justice departments make a commitment to achieve racial equity
- Identify and use effective tools to achieve racial equity
- Fund culturally appropriate programs and support services for offenders

The Smart Justice Campaign Coalition strongly recommends that any administrative structure for a Spokane Regional Criminal Justice System that is developed must adopt a goal of eliminating the disproportionate impact of the criminal justice system on people of color. In order to do this we must take intentional steps to achieve racial equity.

Recommendations:

1. The Law and Justice Council recognize the problem of racial disparity in the criminal justice system and commit to addressing it. The Juvenile Court has already established a goal to reduce disproportionate minority contact.

2. Ordinance implementing the Law and Justice Council would include the charge of ending racial disparities in Spokane's criminal justice system. An example of such a disparity is the process by which African Americans are excluded from drug court participation by assertions of gang affiliation by law enforcement.[7]

3. The Law and Justice Council would use a Racial Equity Toolkit to conduct comprehensive reviews of all programs, policies and budgets to identify needed changes to increase racial equity. The City of Seattle Race and Social Justice Initiative developed the Toolkit. Glenn Harris, the manager of the City of Seattle Race and Social Justice Initiative should be asked to present to the Law and Justice Council to guide them on how to use and implement the Racial Equity Toolkit. The Criminal Justice

[7] A recent Report on Racial and Ethnic Fairness in Drug Courts from the National Association of Drug Court Professionals' *Chief of Science, Policy and Law,* Dr. Douglas Marlowe found that *Drug Courts on the right track, but more work is needed to address racial and ethnic disparities.* The National Association of Drug Court Professionals is working to achieve racial and ethnic fairness in all Drug Courts. "[D]rug Courts cannot and do not accept disproportionate minority representation in their programs, no matter how small the magnitude," said Dr. Marlowe. His review of the research also indicates that graduation rates of minority participants may be substantially increased by providing vocational services and assistance, administering structured, cognitive-behavior treatment curricula, and administering culturally tailored interventions. http://aja.ncsc.dni.us/publications/courtrv/cr49-1/CR49-1Marlowe.pdf (7.5.13)

Administrator would work with each department/program to develop and implement plans to increase racial equity.

4. Fund culturally appropriate programs and support services for offenders (as described in the Smart Justice Campaign Policy Recommendations) that are designed to be most effective for people of color, which allow people to heal within their own communities. This would also include providing essential translation and interpretation services for non-English speaking people – for both offenders and family members. Experts and providers of culturally appropriate programs should serve on a subcommittee of the Law and Justice Coordinating Committee to develop a plan for creating new and supporting existing programs.

5. The Administrator would be charged with collecting race and ethnicity data throughout the Spokane criminal justice system and use this data to inform criminal justice policy. In addition, the Administrator would initiate a comprehensive, independent study of racial disparity in the Spokane criminal justice system.

6. The Administrator should be responsible for the production of Racial Impact Statements before adopting criminal justice policies, modeled after a recent bill passed by the Oregon Legislature (SB 463).

7. Ask the Washington State Minority and Justice Commission to include Spokane in their research on the problems experienced by racial and ethnic minorities in the Washington State Justice System.

Appendix A:

1.22.13

SMART JUSTICE POLICY RECOMMENDATIONS

The Spokane Smart Justice Campaign is a broad coalition of organizations and individuals committed to changing lives, lowering costs, and creating safer communities by relying on more efficient and effective responses to crime than incarceration alone. We know that incarceration and a lack of treatment programs make offenders worse. It does not have to be that way. The system needs to shift its focus from the "offense" to the "offender" so that the criminal justice interventions are the most likely to reduce crime, lower costs and create safer communities.

The Spokane Smart Justice Campaign Recommends that the County and City:

1. Adopt a Smart Justice Lens

The Smart Justice Campaign coalition recognizes that Spokane County and the City are currently exploring cooperation and consolidation of criminal justice systems in an effort to reduce costs and increase efficiency. We recommend that these decisions, and all other decisions about how to improve our criminal justice system, be made through a Smart Justice lens. This means focusing on the person, not the crime, matching individuals with appropriate alternatives to incarceration that reduce recidivism and reduce costs, and monitoring such programs to ensure effectiveness. In addition, this lens includes paying particular attention to victims' needs as well as racial, economic, and other disparities within the criminal justice system. With regards to cooperation and consolidation, whatever structural system is in place, all the courts must have equal access to the tools and programs recommended below.

2. Invite Community Participation in Policy Formation

The Smart Justice Campaign requests a meaningful seat at the table and involvement in a transparent process for the creation of criminal justice policy in the City and County of Spokane. It is important that communities that are disproportionately impacted by the criminal justice system are represented in the process, as well as criminologists and other relevant experts.

3. Expand Collection of Race and Ethnicity Data and Use this Data to Inform Criminal Justice Policy

- Plan for and implement a comprehensive, independent study of racial bias and disparity in the Spokane County criminal justice system. This should include expanding law enforcement data collection and examining racial disparity in criminal justice employment
- Use existing reports and research, compiled by reputable sources such as criminologists, to inform recommendations for improved outcomes

4. Implement Criminal Justice Process and Program Changes, Including Diversion and Individual Assessment

a. Divert non-violent, low-risk individuals from jail by providing:

- Court hearing notification to reduce "failure to appear" warrants

- Problem-solving courts for the collection of legal financial obligations, instead of jail sanctions for failure to pay
- Diversion for driving while license suspended 3rd degree charges with robust re-licensing programs
- Pre-charge diversion to treatment for those with disabilities (cognitive, mental and/or physical) or drug/alcohol issues

b. Assess each person arrested, as soon as possible, to ensure that release conditions, plea negotiations and sanctions are matched to the individual's risks and needs:

- Give high-risk individuals interventions with more accountability than interventions for low-risk individuals
- Give high-need individuals more treatment of their criminogenic needs (traits of a person that are directly linked to criminal behavior) than low-need individuals

c. Implement the Bennett Report recommendations to reduce case processing time:

- Reduce time to filing
- Resolve holds and new charges at the same time
- Reduce the number of continuances granted by the courts
- Expand the early case resolution program

d. Reallocate resources away from incarceration to fully fund a broad range of community-based alternatives to incarceration and support services:

- Alternatives to incarceration include Community Court, Therapeutic/Specialty Courts, expanded use of electronic home monitoring, community service, day reporting and active community supervision
- Support Services include drug and alcohol treatment, mental health treatment, cognitive behavioral therapy, basic life skills classes, education and employment training, and job and housing placement
- Coordinate re-entry services with a goal of stable housing and employment in living wage jobs

e. Establish the following criteria for alternatives to incarceration and support services:

- Evidence-based or best practices, unless designed as a pilot program with an evaluation to determine efficacy
- Culturally appropriate and respectful of each person
- Free of institutional bias based on race and ethnicity, income level or disability (physical, cognitive or mental)
- Designed to be most effective with particular disproportionately impacted groups, which includes people of color, people with disabilities and people with low incomes
- Offered so that different risk categories and different genders are not mixed
- Provided on a sliding fee scale, with an option to retire the debt through community service or completion of treatment goals
- Staffed by high-quality program professionals who engage in on-going team training

- Regularly evaluated to assure that programs are reducing recidivism and racial, economic and other disparities, lowering costs, and improving the psycho-social functioning of the offender

5. Evaluate and Recognize Successful Programs

- Employ an executive level professional to guide the development of alternative programs, to coordinate the various courts and professionals' involvement in the programs, and to participate with the management information system person in the evaluation of the programs.
- Employ a designated professional to collect data, utilizing a management information system, and to issue regular reports to the courts, county commissioners and community on the success of all criminal justice programs in reducing recidivism, lowering costs, and improving the psycho-social functioning of the offender.
- Give formal recognition and awards for successful criminal justice programs and services.
- Replace or improve under-performing programs and support services.

6. Postpone Expenditures for Increased Jail Capacity

All decisions to approve expenditures for increased jail capacity, and actual expenditures, should be postponed until all Smart Justice policy recommendations have been fully implemented and evaluated.

For more information on the Smart Justice Campaign go to www.smartjusticespokane.org
Greater Spokane Progress – Anne Martin, Director, (509) 624-5657, anne@spokaneprogress.org
Center for Justice – Julie Schaffer, Attorney, (509) 835-5211, jschaffer@cforjustice.org

APPENDIX B

Administration of Spokane Regional Criminal Justice System

Statement of the Problem. Spokane County's current criminal justice system lacks communication and cooperation over the entire range of criminal justice issues at the executive/legislative level (Mayors, City Councils, and County Commissioners). No overall cooperative policy direction is provided, though conversations occur on some limited issues. Nor is there adequate communication and cooperation among the various department and agencies within each governmental entity and especially between the governmental entities where the day to day work of criminal justice occurs. To their credit people who work in the system have taken the initiative to establish some work groups to address specific problems. Still, there is no place where all departments and agencies come together regularly to discuss policy directions, to review data on the system, to focus on how to create an efficient and effective justice system, to discuss how to change to a focus on the risk and needs of the offender, how to eliminate the disparate impact on people of color and how to robustly implement alternatives to incarceration. There is no significant citizen representation in criminal justice policy making. There is no executive level administrator who is charged with facilitating communication and cooperation. Nor is there any centralized management information system to collect and analyze data and report on the success of all programs in reducing recidivism, lowering costs and improving the psycho-social functioning of the offender. The local Law and Justice Council, mandated by RCW 72.09.300, functioned in the past to provide some of communication and coordination, but ceased to meet in about 2000.

Insufficient communication and cooperation within the criminal justice system seems to be the norm. It was identified as a significant problem in both Yakima County and Phoenix, Arizona, when studies were completed in those communities. [8] The Phoenix study described the difficult task of coordinating different agencies saying:

> [T]he adversary system and basic constitutional principles of due process drive these stakeholders apart toward separate, distinct roles that tend to detach them from each other and inhibit collective efficiencies. The result is the overall justice system is loosely coupled, predisposed to operate in silos, and uncoordinated in its approach to change.

Phoenix, p. 10-11.

The study continued:

> A railroad system provides a good analogy. Each justice organization has built its own railroad, including all of the tracks, trains, and other equipment. Because decisions usually are made within separate companies, the gauge of tracks varies from organization to organization.

[8] Law & Justice, Panel Review Report [Yakima County], June 7, 2012; National Center for State Courts Innovations and Efficiency Study, City of Phoenix Justice System, February 23, 2012.

> The size, speed, and capacity of the trains also vary. Whenever goods must move from one company to another, the train must stop at the transfer point. Cargo must be offloaded and physically carried to the train of the receiving organization. A train with sufficient capacity to haul the goods may or may not be waiting, so it is difficult to predict when delivery will occur.

Phoenix, p. 80.

Comparative Regional Cooperation Models. The City of Spokane and Spokane County have cooperated to address regional issues in several different ways. For example, in 1970, they merged the City and County Health Departments to form the Spokane Regional Health District, which is administered by the Board of Health (BOH) pursuant to state statute. The BOH selects the District Health Officer. Similarly, in 1988, the City and County entered into an interlocal agreement to create Spokane Regional Solid Waste. The system operates as a department of the City of Spokane's government. The concurrence of the County is required for certain major decisions. A Liaison Board and Advisory Committee exist to provide input on solid waste issues. In 2013 (effective January 1, 2014), the City and County again cooperated to form a regional Animal Control system, with the County taking responsibility of the program in exchange for payment of an annual fee from the City under a 20 year interlocal agreement. Both the solid waste and the animal control interlocals addressed financial and control issues.

A regional criminal justice system presents unique challenges because of the multiple criminal justice-related departments/agencies in both the City of Spokane and Spokane County, several of which include elected officials who have statutory responsibilities. Further, constitutional and ethical requirements control the action of many of the professionals working in the system. However, recognition that the system is fundamentally broken requires innovative solutions at this time. It is possible to construct a regional criminal justice system if there is the political will to do so.

Legal Authority for Interlocal Agreements. The Interlocal Cooperation Act, Chapter 39.34 RCW, allows government units to cooperate with each other and to jointly exercise their powers and authorities. RCW 39.34.010, .030. The statute sets forth specifics that must be included in interlocal agreements. RCW 39.34.030.

In the criminal justice area, the Interlocal Cooperation Act specifically provides that cities, counties or towns may enter interlocal agreements to provide for "the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions." RCW 39.34.180. Superior Courts have original jurisdiction "in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law…." RCW 2.08.010. Municipal Court has exclusive original jurisdiction over traffic infractions arising under city ordinances and also over all city criminal ordinance violations.[9]

[9] The Municipal Court is proposing a statutory change to remove the "exclusive" jurisdiction so that municipalities can provide some services themselves and contract with hosting jurisdictions for some services.

Thus, the City of Spokane, other cities in Spokane County and Spokane County can enter interlocal agreements to jointly exercise their powers and authorities in the area of criminal justice. The agreement of course cannot impinge upon the statutory powers and authorities held by other governmental agencies, e.g. the County Sheriff's department, the elected judges, and the County Prosecutor. The constitution, ethical considerations, statutes and ordinances also delineate functions and responsibilities for particular entities, e.g. public defenders, Spokane City Police Department, and drug courts and DUI courts. These must be respected by any cooperation agreement.

APPENDIX C

Pretrial Services

The Pretrial Justice Institute (PJI), a national non-profit originally established by the Department of Justice in 1976, provides a wealth of research and resources on pretrial services, including the publication, "Pretrial Services Program Implementation: A Starter Kit," found at www.pretrial.org (Home Page, Featured Resources). The Kit explains the crucial importance of comprehensive pretrial services and provides steps for implementing a model program. It also provides sample interview forms, risk assessment tools, supervision forms and other materials used by jurisdictions with model programs, such as Allegheny County, PA, and Multnomah County, OR.

According to PJI, the six core functions of a pretrial services program, as derived from national standards are: 1) Impartial universal screening of all defendants, regardless of charge; 2) Verification of interview information and criminal history checks; 3) Assessment of risk of pretrial misconduct through objective means and presentation of recommendations to the court based upon the risk level; 4) Follow up reviews of defendants unable to meet the conditions of release; 5) Accountable and appropriate supervision of those released, to include proactive court date reminders; and 6) Reporting on process and outcome measures to stakeholders. The Smart Justice Coalition believes it is crucial that Spokane County implement a pretrial services department modeled off national standards and optimal programs. To function effectively, a "safe harbor" procedure must be in place for pretrial admissions by those charged with crimes.

Appendix D

Funding Sources

1) Federal & State Grant Funding
    a. The White House – Office of National Drug Control Policy (ONDCP)
        i. High Intensity Drug Trafficking Area (HIDTA)
        http://www.whitehouse.gov/sites/default/files/docs/state_profile_-_washington_0.pdf
        ii. Drug Free Communities (DFC) Grant
        iii. http://www.whitehouse.gov/ondcp/drug-free-communities-support-program
    b. DOJ – Office of Justice Programs Grants
    c. http://www.ojp.usdoj.gov/funding/solicitations.htm
    d. NCJRS – National Criminal Justice Reference Service
    e. United States Attorney's Office
        i. Office of Justice Programs (OJP)
            1. http://www.ojp.usdoj.gov/
        ii. Office of violence against women
            1. http://www.ovw.usdoj.gov/
        iii. Community Oriented Policing Services Office (COPS)
            1. http://www.cops.usdoj.gov/
        iv. Operation Weed & Seed
            1. http://www.justice.gov/usao/md/Community-Programs/Weed%20and%20Seed/
        v. Bureau of Justice Assistance (BJA)
            1. https://www.bja.gov/
        vi. Office of Juvenile Justice and Delinquency Prevention OJJDP
            1. http://www.ojjdp.gov/funding/funding.html
    f. Criminal Justice Treatment Account. *See* RCW 70.96A.350.
    g. Housing & Urban Development (HUD)
        i. Community Development Block Grants (CDBG) [Funded Re-entry program]
        http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/stateadmin
        ii. Homelessness Grant Assistance Program (HGAP) of Washington State. [Funded the SHARPP Program]
        http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/homeless/programs

    h. Innovative funding sources - Social Impact Bonds
    In 2010, Social Impact Bonds were used to fund Moral Reconation Therapy, an evidence-based program proven to reduce recidivism, at New York City's Riker's Island Prison. A broker (Goldman Sachs) sold bonds to provide funding to non-profits that provide evidence-based programs (MRT) under contract with the government (New York City's Riker's Island prison). If the program achieves its social goals (reduces recidivism) then

the government will pay the investors back at 9% out of the savings it realized because the social goal (reduced recidivism) was achieved.

Below is just a short quote of the benefits from Judith Rodin, president of the Rockefeller Foundation:

So it's a triple win because the government gets a proven intervention, the organization giving the intervention gets to take it to scale, and the investor -- the buyer of the bonds, whether it's an individual investor or an endowment or some kind of private wealth fund -- gets a chance to have a double bottom line investment: something that can produce quite a significant financial return, but at the same time produce social returns as well. So there's a financial return on the social impact bond, but there's also a social return because they are supporting a proven intervention, they are helping the government to deliver more effective services at lower costs.

The following sites provide more information on the Riker's Island project.

i. PBS News Hour Documentary Part 1 – Private Investors
    1. http://www.pbs.org/newshour/bb/business/jan-june13/bonds_04-09.html
ii. PBS News Hour Documentary Part 2 – MRT at Riker's Island
    1. http://www.pbs.org/newshour/bb/business/jan-june13/prison_04-10.html
iii. Transcript of PBS interview on Social Impact Bonds
    1. http://www.pbs.org/newshour/businessdesk/2013/03/how-modern-finance-promises-to.html

Smart Justice Presenters

Breean Beggs, Civil Rights Attorney

Rev. Dr. Todd Eklof, Unitarian Universalist Church of Spokane

Candy Jackson, NATIVE Project, JD, RD/CDE/Health Educator

Mary Lou Johnson, Volunteer Attorney, Center for Justice

Anne Martin, Executive Director, Greater Spokane Progress

Liz Moore, Director, Peace and Justice Action League

Julie Schaffer, Staff Attorney, Center for Justice

Rev. Percy "Happy" Watkins, New Hope Baptist Church

Innovations and Efficiency Study
City of Phoenix Justice System

Final Report
February 23, 2012

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This document was prepared for the City of Phoenix as part of a series of studies by national consulting firms experienced in improving efficiencies and promoting innovations in city governments. Specifically, this inquiry focuses on suggestions to improve the City's Justice System (the Justice System, the System, or Phoenix Justice Stakeholders) including the Prosecutor's Office, Public Defender's Office, Municipal Court, and the Police Department functions related to the processing of cases/defendants for court. The ultimate objective is to pinpoint areas and initiatives that have the potential to save time and money in administering justice while concurrently not diminishing the principles of a sound, limited jurisdiction adjudication system that ensures the transparent, accessible, fair and unbiased public resolution of disputes, and, ultimately, a safer community.

The National Center for State Courts (the Center, the National Center, or NCSC) a public benefit corporation targeting the improvement of courts and justice systems nationwide and around the world, was selected to conduct the study through a competitive bid overseen by the City Finance Department. Since its inception in 1971, the Center has managed a substantial number of justice improvement studies for city, county and state governments as well as numerous foreign countries.

The points of view and opinions expressed in this report are those of the authors as agents of the National Center, and do not necessarily represent the official position or policies of the City of Phoenix, the Phoenix Justice System Stakeholders, the Arizona Judicial Branch, or the Presiding Judge of the Superior Court of Arizona in Maricopa County.[1] NCSC grants the City of Phoenix, a royalty-free, non-exclusive license to produce, reproduce, publish, distribute or otherwise use, and to authorize others to use, all or any part of this report for any governmental or public purpose.

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Lastly, we wish to applaud the unwavering care and concern shown by all Phoenix Justice System Stakeholders for their responsive and diligent work on this review. We hope this report will help contribute to improved proficiencies within the City Justice System and provide the best possible array of limited jurisdiction justice services to the litigants, victims, witnesses, lawyers, jurors, and general public served by the City.

Online legal research provided by LexisNexis.

[1] The Phoenix Municipal Court, as is true of all courts of law in Arizona, is part of a statewide, Integrated Judicial Branch as defined by the Arizona State Constitution. As such, all trial and appellate courts must abide by the administrative policies and directives of the Arizona Supreme Court and its Chief Justice. Furthermore, Arizona Rules of Court and various Supreme Court Administrative Orders grant general administrative responsibility to each Superior Court Presiding Judge in Arizona's 15 counties over all state trial courts (superior, municipal, and justice of the peace) within their respective counties.

Innovations and Efficiency Study
City of Phoenix Justice System
Table of Contents

Innovations and Efficiency Review
City of Phoenix Justice System

1.0 EXECUTIVE SUMMARY

1.1 PURPOSE | BACKGROUND | IMPORTANCE | CAVEATS

What is the Purpose of the Study?

This study is focused on ways to reduce costs and improve performance within the City of Phoenix's Justice System. It targets Police Department activities related to the adjudication of cases (i.e. booking, prisoner transportation, arrest records, etc.), and case processing work and programs of the City Prosecutor's Office (a division of the City Law Department), the City Public Defender's Office, and the Phoenix Municipal Court.

Our analysis is directed at improved business procedures within Phoenix justice agencies and between them. It does so while respecting the unique responsibilities of each.

We have found that the justice system in Phoenix functions quite well. In our opinion, better than most cities its size or larger. Although staffing levels have been reduced in some agencies by as much as 20 percent over the last few years, time from filing to disposition for major case types has not appreciably lengthened. We attribute this situation to a variety of factors.

Relative stable workloads due to declining crime and arrest levels as the City population only increased marginally over the last decade helped to maintain productivity levels.[2] An emphasis on front-end misdemeanor dispositions early in the adjudication process takes numerous offenses out of the case process saving time and money.

More versatile use of staff through widespread cross-training, back office consolidations, and flattened organization structures has helped to streamline business processes. Expanded automation of routine, high volume, redundant work tasks (i.e., transmitting paper files, scheduling cases, contacting witnesses) has reduced time-consuming busy work for lawyers, judges, managers and clerical staff.

Our suggestions for improvement build on these existing changes by pushing strategic reforms further and faster, and by opening the door to broader systemwide collaborations where long-term savings and efficiencies can be generated. The underlying objective is to reduce unnecessary delay in the movement of cases (work) through the Phoenix justice system by elevating performance while holding costs steady or decreasing them. Doing so requires adherence to uniform and expeditious procedures, realistic time standards and goals, and increased coordination among police, prosecutors, defense attorneys and the court.

How was the Study Conducted?

The National Center for State Courts is an independent public benefit corporation founded in 1971 by the Conference of Chief Justices at the urging of the late Warren E. Burger, then Chief Justice of the United States. Its mission is to improve the administration of justice

[2] *Innovations and Efficiency Review of the Phoenix Police Department*. Berkshire Advisors, Inc. (April 19, 2011).

through leadership and service to courts and justice systems nationally as well as around the world.

The NCSC project team assigned to the City of Phoenix Justice System engagement included three senior consultants with extensive experience in justice system operations, criminal case processing and electronic information technology. They were assisted by research staff from the Center's Court Consulting Services Division in Denver. Collectively, the NCSC project team has nearly 100 years of justice system management and consulting experience.

The team began the engagement by conducting a one-day retreat at a city-operated conference facility in downtown Phoenix on June 15, 2011, that included over 30 participants from four major departments: the Municipal Court, Phoenix Police Department, Prosecutor's Office and Public Defender Department. The purpose was to explore problems and interagency challenges, identify ideas and innovations, and permit shared discussions by City staff about their internal operations. The results provided the NCSC project team with an array of issues to look at and a frame of reference to help target ensuing inquiries and data gathering.

Following the retreat, a five-day on-site visit took place from June 27 through July 1, 2011. Numerous interviews with top officials and operational staff at the City of Phoenix, Administrative Office of the Arizona Courts, Superior Court of Arizona in Maricopa County, Municipal Courts of Tempe, Scottsdale, and Glendale, Governor's Office of Highway Safety, and the Arizona Criminal Justice Commission were conducted. The NCSC project team was also able to observe activities and procedures at the courthouse, jail initial appearance court, police pre-booking facility, neighborhood community prosecution offices, and offices of the prosecutor and public defender. Follow-up visits took place during the next four months by the project director who resides in the Greater Phoenix area. Additionally, numerous telephone conferences, email exchanges, and data reports were occasioned.

The NCSC project team has reviewed and approved the recommendations presented in this report. They conclude the suggestions and directions are sensible and consistent with best practices in moving the City's justice system toward additional cost-efficient and forward-thinking business processes.

Why is this Study Important?

Rarely does a city objectively examine its criminal justice system in such a wide-ranging, inclusive fashion as has been done in this study. Rarer still is there a predisposed desire on the part of city officials to use the data collected and recommendations offered to improve and streamline it in a comprehensive, inter-connected fashion.

Commonplace efforts directed at criminal justice reform are usually piecemeal; directed at remediating problems that are primarily internal to individual parts of the system. Certainly, agency-specific, segmented reforms can produce notable economies and advances. But in process-oriented organizations like criminal justice systems, consistent, coordinated systemwide improvements in the interconnected workflow from one entity to another is where many long term benefits can have their biggest impact.

The City of Phoenix has a unique opportunity to promote a series of coordinated, systemwide improvements in both the flow of work and the flow of information transmitted within and between the relatively autonomous municipal entities composing its criminal justice system. In doing so, it must accommodate two juxtaposed objectives.

First, it must respect and accommodate the unique and rightful roles of the separate stakeholders imbedded in the city's criminal justice process. Even though the justice agencies are all city-funded and part of one integrated municipal justice system, each is constitutionally bound and ethically obligated to perform distinctly different duties to ensure due process and democratic justice.

Second, it must facilitate, encourage and promote open-minded thinking and initiatives toward streamlining criminal justice business practices that hold benefits for the entire system, not just for one or two agencies within it. As many justice systems find out the hard way, improvements in one part of the system sometimes cause counter-productive or unanticipated difficulties in another part.

In considering the data and conclusions within this report, Phoenix justice system officials have an opportunity to respect, honor and uphold their rightful separate roles, and at the same time operate more systemically to better avoid unintended, and often costly, consequences. It is the opinion of the National Center that Phoenix justice policymakers are quite capable of doing so.

What are the Caveats in the Study?

Placing specific dollar savings on recommended systemwide reforms is risky. Complex process-oriented justice organizations are replete with complicated, interconnected relationships, policies and procedures making it hard to identify cost recovery with any degree of certainty. Instead, expected efficiencies are noted based on National Center experience in working with justice systems.

Unlike the recent Berkshire Study of the Phoenix Police Department which concentrated on staffing and patrol officer savings vis-à-vis crime patterns and calls for service, the NCSC project team has opted not to do a weighted workload analysis comparing justice system personnel needs to case processing times for three reasons. First, it is beyond the scope of this study given the number of staff, functions and work processes in the Phoenix Justice System. Secondly, in assessing times from filing to disposition by major case type and comparing them to national standards and best practices, the vast majority of cases are processed within acceptable standards. Thirdly, we did not detect any overstaffing in the Offices of the Prosecutor, Public Defender or in the Municipal Court. Resultantly, this report is much more a strategic operational review and as such offers suggestions on how to improve case handling linked to technology improvements and better scheduling, not specific reductions in staff.

Misdemeanor filing trends are hard to predict and directly affect system costs. NCSC envisions only a limited growth in misdemeanor filings over the next three-five years. Why? Crime statistics tend to parallel demographic patterns. Recent decelerated population growth in Phoenix, only a nine percent increase (124,000 residents) in the last ten years, has prompted economists to project only a modest rise in the next three-five years as the economy and job growth slowly improves.[3] This circumstance will not likely trigger large-scale criminal justice filing increases.

Lastly, the NCSC project team raises the urgency of developing a next generation, integrated, electronic case management system for the entire City justice system, but does not pinpoint how to do it. The NCSC project team suggests some guidelines and best practices, but leaves the choices about directions to City policymakers, noting that the timing is right. Two

[3] ASU W.P. Carey School of Business, Elliott Pollack. (Q3 2011 Projections).

major stakeholders – the Police Department and Municipal Court – are presently positioned to jettison their current antiquated legacy systems. The NCSC project team concurs they should do so and jointly work with the prosecutor and public defender to explore systemwide solutions. How to decisively resolve the knotty internal governance and external state requirements issues, we feel, is more political than technical and, therefore, best left to City justice system policymakers not outside consultants.

1.2 OVERVIEW OF STUDY FINDINGS

There is much to be proud about regarding the Phoenix Justice System. Numerous advances have reduced costs, streamlined work, and permitted case management systems to share limited critical information in productive ways.

The Police Department arrest, booking, records, prisoner transport, and police witness operations quickly process arrestees, get officers back on the street, and provide timely service for court hearings.

- Special mobile vans are dispatched to draw blood from those arrested for DUI allowing the transmission of data quickly to the prosecutor and court.
- A centralized police run Pre-Booking Facility avoids long waits and costs associated with County Jail processing, and allows prompt adjudication of those in custody.
- Police officer scheduling systems between PPD and the Court work well.
- The PACE police case management system transmits electronic data directly to the Prosecutor and Court.
- Forensic lab work is routinely delivered three weeks from request; a very creditable turnaround time.

The Prosecutor's data interfaces with the Police and Court computer systems are impressive as are their special computer applications for electronic discovery.

- *eDiscovery,* a unique software app, allows the electronic disclosure of case evidence to secure defense attorney website accounts early in the life of a case.
- *ePlea*, another homegrown app, emails tailored plea offers together with optional terms and diversion possibilities to defense attorneys prior to pretrial disposition conferences saving time and clerical expense.
- An *eVictims Center* permits victims to electronically invoke their rights, submit impact statements, and request restitution over the Internet.

The Municipal Court processes numerous case types in a timely fashion, especially massive numbers of civil infraction matters which include parking and petty misdemeanors.

- The Court's case tracking system clearly identifies case delay problems so managers are aware of problem areas early.
- The internal restructuring of the Phoenix Municipal Court since 2007 has enabled it to maintain high performance with a sharp reduction in its judicial and non-judicial staffing levels.
- Court staff has done a very creditable job in promoting compliance with Court financial orders through easy to use pay-by-phone and pay-by-web applications, and a state-sponsored, outsourced collections program called FARE.
- Plans are in place for public access to on-line, real time courtroom information; access to court records through the Internet; and electronic filing and imaging of court documents as the Court moves toward the goal of a paperless Court.

The Public Defender Program, too, handles thousands of cases well while meeting many ABA and National Legal Aid and Defender Association basic guidelines in providing an experienced, professional cadre of 70+ private contractors as part-time public defenders.

- A comprehensive performance review of each private contractor takes place annually by an independent Public Defender Review Committee.
- Indigent defense costs are held in check with a weighted workload system of 270 case credits per a $52-55K full contract annually.
- Program administrators have spearheaded diversion programs for veterans and homeless populations that have reduced recidivism.

Despite these improvements and efficiencies in the system, there are some issues that warrant attention. Virtually all of them require collaboration among the stakeholders, even where the difficulties may be centered in a single justice agency.

- Arrest data and evidence report packets may be missing, delayed or incomplete when transmitted to the Prosecutor from the Police Department. This is especially problematic when speedy trial rules require short time periods between major events in a case.
- Defendants with serious misdemeanor violations may fail to appear at various court hearings causing cases to be inactive.
    - Approximately 14.6 percent of DUI arrests have one or more periods of inactivity
    - Numerous domestic violence cases set for non-jury trials are dismissed for lack of prosecution (victim/witness no shows)
- There are no systemwide standards governing how information is exchanged between stakeholders in the Phoenix Justice System. Although standards have been created as needed by stakeholders, such piecemeal methods are cumbersome and time consuming.
- Bottlenecks in processing cases commonly occur after arraignment due to delays occasioned by scheduling difficulties, witness interviews, defendant unresponsiveness, and other issues related to timely case preparation. There may be multiple pretrial disposition conferences (PDC's) without case closure.
- The electronic case management systems in the Police Department and Court are antiquated and in need of replacement.
    - The Police PACE electronic records management system does not cover all aspects of Police Department automation. Although DUIs are included in Police Department Reports (DR) in PACE, Alcohol Influence Reports (AIR) comprising the majority of the police report for DUI cases are not in PACE. Photographs, forensic information, and 911 data are all in separate places outside of the PACE case management system (CMS).
    - A two-year effort funded by the Supreme Court AOC to design a new vendor-developed, stand-alone statewide limited jurisdiction CMS for the Court using Phoenix as the development site has been diverted to the Mesa City Court. New system designs are seen to limit rather than meet or expand current Phoenix CMS functionality.

To facilitate Phoenix Justice System improvement, NCSC offers a number of suggestions throughout the body of this Report which are summarized and prioritized on the next few pages. Phoenix Justice System leaders have subsequently developed a Work Plan to address them that is found in Appendix A.

Report Recommendations

Priority 1 = high 5 = low	Recommendation Synopsis	Report Section	Page
1	**A.** Improve collaboration among the City justice system agencies regarding interconnected business processes and case processing initiatives; the Chief Presiding Judge taking the lead through a Phoenix Justice System Coordinating Council (PHXJustice).	Introduction	13
2	**B.** Reduce failures to appear in DUI and non-traffic misdemeanor cases through a more comprehensive approach that includes better defendant tracking, noticing and evidence-based pretrial release programs.	Court	46
2	**C.** Enhance victim/witnesses cooperation in domestic violence cases consistent with the requirements of the *Crawford* case through better incident protocols, a "no drop" program, expedited case scheduling, and more supportive contact with the victim.	Prosecutor	50
3	**D.** Continue setting civil ordinance violation hearings within 120 day of the filing of a complaint to prompt settlements.	Court	51
1	**E.** Create a special DUI and non-traffic misdemeanor task force under the aegis of the Phoenix Justice System Coordinating Council (PHXJustice) to streamline and assure continual timely processing of these cases.	Court	51
3	**F.** Consider participation in or development of a problem-solving court or specialized docket consistent with some of the successful models pursued by Maricopa County and neighboring limited-jurisdiction courts pursuant to available funding.	Court	53
2	**G.** Apply the highly successful FARE management approaches used by the Court in prompting defendants to pay monetary sanctions in the post-conviction phase of a case to reduce the failure to appear rates in the pre-conviction phases of a case. This may mean outsourcing some defendant locator, tracking and noticing processes.	Court	58
3	**H.** Monitor efficiencies that occur regarding future technological and operational improvements with an eye to keeping judicial and non-judicial staffing levels in check.	Court	66
1	**I.** Replace the current Municipal Court automated Case Management System with a new custom built system or as a second choice purchase a highly-configurable vendor package. Evaluate the pros and cons of the AOC AmCad system as well.	Technology	79
1	**J.** Develop an Integrated Justice Information System within City Government that includes the Police Department, City Prosecutor's Office, Municipal Court and Public Defender Department. This means a systemwide governance structure, an intermixed business process analyses approach, a coordinated, shared and effective CMS technology solution, and a funding strategy with identified, allocated and dedicated resources approved by the City Council.	Technology	85
1	**K.** Ensure that arrest reports are filed in an accurate, complete and timely manner.	Police	88

2	**L.** Move to an e-citation (e-ticket) system consistent with other systemwide technology advances (i.e., integrated justice system information system).	Police	89
3	**M.** Explore and adopt interactive video appearances, where appropriate and cost effective, between the City Courthouse, Madison Street Jail and PPD pre-booking or precinct facilities for in-custody misdemeanant defendants. These appearances may include any adjudication process that is consistent with Rule 1.6, Arizona Rules of Criminal Procedure.	Police	92
1	**N.** Consider replacing the CMS systems in both the Police Department and Prosecutor's Office with custom-built systems similar to the recommendation for the Court. (Consistent with Recommendation 10)	Police	93
3	**O.** Collectively investigate (i.e., Prosecutor, Public Defender and Court) and expand approaches, as possible, to more effectively address special offender populations in Phoenix that exhibit habitual misdemeanor arrest and adjudication patterns linked to social, psychological, chemical and economic issues. Effective specialty court models exist in other Valley municipal courts should be explored as well as a possible contractual relationship with the Maricopa Adult Probation Department.	Prosecutor	103
2	**P.** Assign experienced lawyers to the early stages of misdemeanor caseflow, principally initial appearances, arraignments, the charging bureau, and pretrial disposition conferences. Pay scales and other accouterments should provide incentives for seasoned prosecutors to work in front-end case processing services.	Prosecutor	104
3	**Q.** Although overall resource parity between the Public Defender and Prosecutor's Office is not necessary in the opinion of the NCSC project team, there should be increased adjustments in the compensation formula for contract public defenders, and more congruity in salary levels between the Public Defender Assistant Director and City Prosecutor Division Directors.	Defender	111
2	**R.** The Presiding Judge of the Phoenix Municipal Court should convene a special task force of City criminal justice stakeholders to review pretrial detention with the specific purpose of shortening lengths of stay for detainees, developing protocols to reduce later failures to appear, and scheduling Bond Review Court (BRC) sooner than ten days after the initial appearance. In doing so, interactive video technology systems should be investigated regarding their potential to reduce jail time, speed defense lawyer/client meetings, and conduct appropriate hearings remotely.	Defender	113
3	**S.** Review the process of setting pretrial motions on the day of trial and determine if it is the most cost effective and efficient manner to set motions. Most limited jurisdiction courts set motions on a separate hearing date before the trial and thereby increase the certainty of trial.	Defender	117
2	**T.** Explore the use of settlement conferences permitted by Arizona Rules of Criminal Procedure, Rule 17.4.	Defender	118

3	**U.** Strengthen the role of the Citizen's Judicial Selections Advisory Board in evaluating judges' performance by increasing the type and percentage of survey responses, improving JSAB and City Council communications, and facilitating additional judicial self-improvement methods.	General	124
4	**V.** Identify criminal misdemeanor offenses that could be decriminalized without endangering public safety and would result in cost savings for the City. Input and assistance should be sought from the Arizona League of Cities and Towns as well as the Judicial Branch. As appropriate, develop data and proposals to encourage ordinance and statutory changes toward decriminalizing selected offenses.	General	127

2.0 INTRODUCTION

2.1 URBAN LIMITED JURISDICTION JUSTICE

Municipal justice systems are where most people experience the American legal system firsthand. They handle close to 55 percent of the 100 million plus trial court matters filed nationally. One traffic, parking or ordinance violation case is filed annually for every five people in the United States.[4]

These justice systems include trial courts as the hub of their activity, as well as local and state law enforcement agencies, prosecutor offices, public defender systems and sometimes an array of public, nonprofit and private probation and treatment services for sentenced defendants. They are fast-acting, high volume environments that handle low-level, minor crimes where the harshest penalties are generally restricted to a year or less in jail. Most cases, however, are decriminalized petty violations, defined as civil infractions requiring only a fine payment, community service, or attendance at remedial courses such as drivers training and anger management sessions. Although some municipal justice systems include minor civil lawsuits and preliminary or probable cause hearings in felony matters, the municipal-based justice systems in Arizona do not.[5]

Urban limited jurisdiction systems have operational characteristics common to all trial courts that condition both how they are organized and how they process their caseloads. In large measure there are competing forces of efficiency and due process that simultaneously pull these systems together and push them apart. On the one hand, the high, rapid turnover of cases conditions the need for sound administrative structures and efficient work processes. Resultantly, there is a strong emphasis on uniform procedures, cross-trained staff, high-tech solutions, hands-on managers, and caseflow streamlining within the justice system agencies from the police department, to public lawyer offices, and eventually the court.

At the same time, however, the adversary system and basic constitutional principles of due process drive these stakeholders apart toward separate, distinct roles that tend to detach them

[4] National Center for State Courts' Court Statistics Project (2010).
[5] Justice of the peace courts in Arizona are authorized to conduct preliminary hearings, hear misdemeanors and traffic matters filed by state and county law enforcement agencies (i.e., DPS) or police agencies serving unincorporated areas, and hear civil matters up to $10,000.

from each other and inhibit collective efficiencies. The result is the overall justice system is loosely coupled, predisposed to operate in silos, and uncoordinated in its approach to change.

This situation is not unusual at either local or state levels in the United States. The American democratic system of public dispute resolution is based on an ardent search for the truth by opposing parties before a neutral, unbiased tribunal of judges and juries. As such, it regulates interaction among the players, prescribes specific roles and responsibilities, governs the pace of litigation, and ensures individual rights are protected. This is all done in the interest of upholding a methodical search for truth. We would have it no other way.

It is important, however, in improving efficiencies within and among the major municipal justice agencies that their differing roles be honored and any improvements not diminish the requirements placed on them by statutes and the Constitution. A starting point in understanding that dynamic, essentially balancing efficiency and due process as bedrock virtues in the operation of the justice system, is to look at how those foundational principles uniquely condition the organization and culture throughout the system.

Justice systems are loosely coupled structures by design and as a result are more resistant to organization-wide change. The individual agencies possess a relatively high level of autonomy vis-à-vis the larger system within which they exist. Actions in one part of the system can have little or no effect in another, or may trigger unintended consequences that cause technical or caseflow difficulties.[6] Although communications among the various agency leaders is commonly cordial, none have the ability to compel the others to change internal operations, staffing, business processes, or organizational configurations. This is especially problematic in process-oriented systems when agency leaders do not get along and a "war of the parts against the whole" ensues. Phoenix, fortunately, has a strong tradition of mutual civility among its justice system leaders.

The autonomous nature of justice systems hampers systemwide improvement in other noticeable ways, too. In times of fiscal stress, attempts to change priorities among loosely coupled structures are not only initially resisted, but often considered too disruptive and disturbing to pursue. As economic struggles linger, as they have today, pressures are inclined to

[6] Examples of changes in the justice system that may complicate or unexpectedly impact overall day-to-day operations and the pace of litigation include new or ramped up crime reduction initiatives (i.e., DUI patrols, prostitution stings, photo radar, etc.), the nature of what is criminal and the degree of punishment or type of sanctions required by law (i.e., tougher drug/alcohol violation laws, deferred prosecution programs, etc.), and the level of public defense or prosecution services available to adjudicate cases.

mount for more transformational change that refocuses on the larger system. This study is an example of that broader direction, targeting greater economies of scale, improved efficiencies, and increased uniformity systemwide.

Justice agencies have a tendency to operate as independent silos where the focus is inward and information exchange is largely confined to within agencies. The silo syndrome commonly extends to electronic information systems and digitized data as well as work procedures. Separate computer systems in the police, court, prosecutor and public defender's offices are examples in Phoenix.

Silo mentality inhibits collaboration since there is little understanding of mutual needs and opportunities to streamline processes outside the agency. Silos create an environment where sharing and collaboration for anything other than one silo's special interests is tough to accomplish. If it seems necessary to involve a different agency, function or business unit, it is frequently up to a senior manager to engage them. As a result, silo thinking is a common killer of innovation. Innovation is a critical component, the NCSC project team contends, in readjusting to a more long-term, austere future. Justice systems don't change because they want to. They change because they are forced to by caseloads (e.g., growth in domestic violence), lack of resources (Great Recession), the law (e.g., no jury trials in first offense DUI), higher authority (Supreme Court), or advances in science (DNA) and technology (wireless).

The justice system is commonly disjointed in its approach to change. Rarely is a systemwide tact taken to address business process improvements, electronic information exchanges, caseflow management, enforcement and compliance programs, or compatible policy setting. Yet, justice systems do from time to time revamp themselves successfully. How is that possible if they are so predisposed to separate actions?

Experience has repeatedly shown that when interagency discussions take place in earnest, there is a very high level of consistency among issues related to efficient work processing. Often this surprises participants who have assumed that the interests and perceptions of judges, prosecutors, defenders, and others differ substantially. In fact, it turns out that most participants can look beyond their immediate concerns and positions regarding their own jobs and agencies when defining how an effective system should operate. The upside is that shared interests form the basis for agreement on necessary changes. The downside is the justice system itself is so loosely coupled, silo ridden, and uncoordinated that promoting enterprisewide innovation and

efficiency, where the biggest returns on investment exist, is difficult. Not impossible; just challenging. So, who has the responsibility to do so? The NCSC project team's conclusion is that the court does.

Positioned at the center of the justice system, the court is vested with ensuring overall processes are fair and impartial and individual rights are protected based on Constitutional provisions and guarantees. As such, court leaders at the local level have an obligation to coordinate interdependencies among justice system partners by working beyond the boundaries of the judicial branch. This mandate positions the court as more than just a justice system stakeholder. It expects the court to take a systemwide problem-solving and coordinating role to ensure the decisional independence of judges in individual cases, the institutional independence of the court, and the effective functioning of the entire system as a result. The court cannot effectively carry out its role as justice guardian, we contend, without simultaneously promoting systemwide efficiency and safeguarding fundamental due process rights.

Recommendation A

The Chief Judge of the Municipal Court, with the backing of the City officials, should institute a Phoenix Justice System Coordinating Council (PHXJustice) to meet at least every other month with the purpose of developing efficiencies and programs to streamline the processing of limited jurisdiction matters among police, prosecution, defense and the court.

Currently, there is no formally sanctioned group to conduct research, address systemwide improvements, or document inefficiencies between justice system stakeholders. The City Budget and Research Department has conducted studies from time to time assessing costs and benefits of specific improvements and initiatives of interest to City Management or the Council, but lacks the capacity, insight, and understanding that stakeholders, including the Court, can bring to internal and interconnected problems. Also, given organizational independence as a requisite for the proper functioning of justice system entities, it is more problematic to require or permit extensive studies of caseflow processes by the City's executive agents than holding the justice system stakeholders themselves accountable for improvements.

Formal resolutions and policy statements should be effectuated by all justice system stakeholders endorsing and supporting a Coordinating Council and its responsibilities. Subcommittees and task forces to explore systemwide issues, efficiencies and innovations should be permitted. Minutes of meetings and shared responsibilities among the members for staffing the Council and sub-groups should be developed. Representatives of the City Manager's Office and Budget and Research Department should be permitted to attend meetings and participate in discussions.

Expected Efficiencies

In vesting the justice system stakeholders with the responsibility to think systemically about caseflow, it is expected that processing problems will be detected and addressed earlier, understandings about issues and impacts will be more readily shared, and mutually advantageous solutions and ideas about options for improvement can be better discovered and implemented. The National Center has found that in municipal justice system venues, formal criminal justice coordinating councils led by the court and supported by the city are generally quite effective at addressing systemwide issues.

2.2 INDEPENDENCE: A NECESSARY SYSTEM UNDERPINNING

Because of its unique position in the City justice system, the Municipal Court has, perhaps, the most difficult and confusing role. It must operate as part of two separate organizational structures, the Arizona Judicial Branch and City government. [7]

In its Judicial Branch role, the Court must be concerned with justice in the broadest sense of the word as applied to the entire system, and justice related to its own role as a neutral court of law charged with making judgments about the practices and cases brought to it by the police, prosecutor and public defender, all parts of the same City government to which it belongs. It must comply with directives from Judicial Branch policymakers, the Supreme Court and Superior Court, too, in carrying out its responsibilities to guard the integrity and fairness of the City's criminal and civil justice process. Those responsibilities include protecting the rights of both the prosecutor and city-paid indigent defense counsel to conduct themselves independently as advocates for their clients.

As a component of City government, it must be a responsible steward of municipal resources and comply with reasonable requests by City policymakers to improve work efficiencies and operate economically. It also must participate and spearhead justice initiatives and programs that enhance public safety and the quality of life in the City consistent with its role to protect individual rights and provide a fair, impartial judicial process.

The NCSC project team believes the City courts have a much more intricate structural entanglement than confronted by general jurisdiction courts funded by local governments

[7] The Arizona Constitution requires limited jurisdiction courts to function as part of an Integrated Judicial Branch under the policy, procedural and supervisory control of the Arizona Supreme Court.

(generally counties) for several reasons. City administrations are commonly more tightly interwoven with the agencies and entities they oversee and fund, including municipal and city courts; controlling such functions as personnel systems, payroll, purchasing, accounting, facilities, and other day-to-day operations in great detail.

Many city courts are seen by municipal policymakers as executive-level departments, not independent courts of law. This is especially problematic where judges are appointed by city councils for contractual periods of time (usually two to four years) in such states as New Jersey, Arizona, Missouri, and Utah. The NCSC project team contends such circumstances can work against the needed independence and separation of limited jurisdiction judges from both mayor/council legislative functions and city manager/executive functions. Fortunately, Phoenix and various other Arizona cities have adopted, at the encouragement of the Arizona Supreme Court, nonpartisan, citizen "judicial appointment and evaluation advisory boards" that independently review judicial performance to recommend hiring, retention or dismissal of city judges. Although these boards are appointed by city councils, they have largely conducted themselves as autonomous watchdog groups promoting an impartial adjudication process free of untoward entanglements with city officials whether they are top city administrators or elected policymakers.

Municipal police departments, tightly interconnected with the executive and legislative functions of a city, often unwittingly give the impression that city courts are merely extensions of law enforcement. Although the police greatly influence the workload and pace of litigation within city courts, city court officials must guard against this false perception to ensure the court services its rightful function as an independent court of law.

Some cities have mollified inappropriate entanglements structurally by the election of municipal judges. Michigan, New Mexico, Ohio and Washington are examples. Interestingly, Yuma is the only city in Arizona that elects its city judges. All of this said, we neither advocate nor recommend that Phoenix elect their judges. Our observations indicate that the current appointed judge system with a strong, independent judicial advisory council serves the City well.

Other complicating factors for limited jurisdiction courts in their role as independent tribunals are occasioned by large numbers of self-represented litigants and simpler proceedings often giving the misleading notion there is disregard for due process. Some conclude these courts function more like administrative organizations rather than courts of law. Nothing could

be further from the truth. In limited jurisdiction matters, judges often must take a more active role in all phases of the adjudicatory process even when lawyers are present to help establish the facts of the case, monitor proceedings, and ensure a record is made of the matter (where records are required).[8] In fact, since many of the attorneys appearing in city and municipal courts handle a high volume of cases themselves, the judge may be the only guarantee of real fairness in the proceedings by assuring the lawyers have not overlooked a critical issue. In criminal and traffic matters where the city or state is represented by a lawyer and many litigants are not, municipal judges and magistrates must be even more watchful to ensure that procedural fairness and a balanced playing field exists.

The roles of others in the justice system bind them ethically to be independent as well. The National District Attorneys' Association encourages prosecutors, regardless of jurisdiction, to act as independent administrators of justice.[9] The public defender agency, even though supported by public funding, is obligated to operate independently by not taking direction from the government regarding the acceptance or handling of cases, or the hiring of contract attorneys.[10]

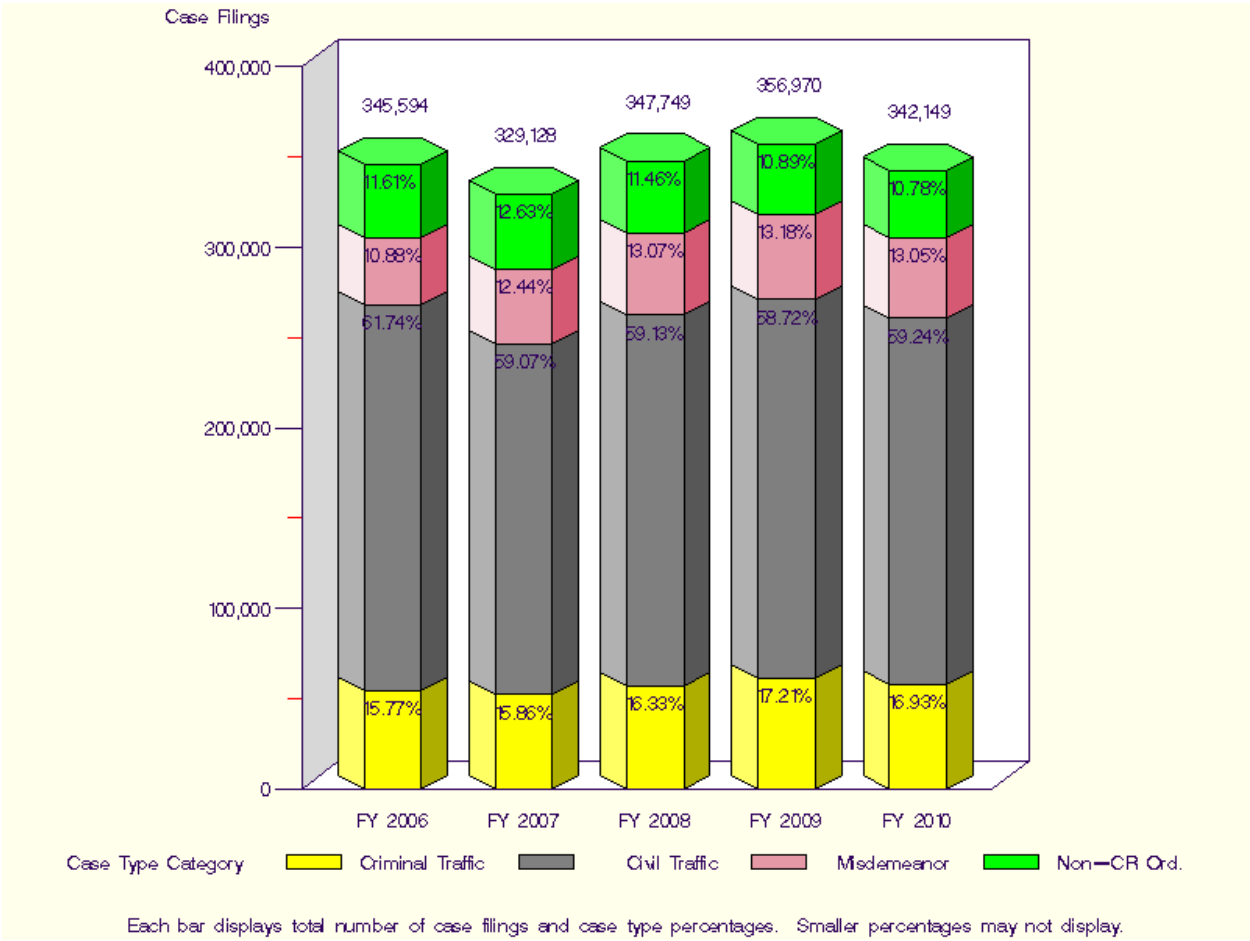
2.3 PHOENIX CITY JUSTICE SYSTEM

Phoenix is the highest volume limited jurisdiction justice system in the southwestern United States with an overall caseload of over 342,000 cases in FY2010.[11] Its case volumes and the percentages of major case categories, namely criminal traffic, civil traffic, misdemeanor and non-criminal ordinance violations, have remained relatively stable over the last five years as seen in the following Figure 2.2 (1). In this regard, Phoenix has bucked the national trend where many city court cases have declined in recent years by three to five percent.[12] Although speculative, this nationwide downturn is thought to be linked to improved driver safety, a

[8] *Adjudicatory Processes: A Review of Critical Research*, by Gordon Griller, The Court Manager, Volume 20, Issue 4, pp 18-21. Winter 2005-2006. National Association for Court Management. Williamsburg, VA.
[9] *National Prosecution Standards*, Second Ed., National District Attorneys Association. Alexandria, VA (1991).
[10] American Bar Association Standards on Public Defense (2002).
[11] Arizona is the fourteenth most populous state, but the 1.6 million traffic/violations cases they reported statewide in the most recent National Center for State Courts survey of limited jurisdiction case volumes ranks it third in cases per 100,000 population among those reporting incoming traffic caseloads to the Center. National Center for State Courts' Court Statistics Project. Williamsburg, VA (2010).
[12] Ibid.

widespread re-direction of law enforcement toward serious crimes, and a reduction in the number of miles driven occasioned by the ongoing economic slump and jobless recovery.

Figure 2.2 (1): Phoenix City Court Case Filings from FY2006 through FY 2010



Source: Arizona Administrative Office of the Courts

As with city justice systems nationally, Phoenix has been forced to reduce budgets and downsize personnel, the most dramatic reductions occurring in FY2010. Arizona governments, like other states, lagged business and financial markets in feeling the force of the recession.

It has been common for local, county and state justice systems across the country to see staff reductions ranging from ten to 20 percent over the past four years. As Table 2.2 (2) depicts, the Phoenix Municipal Court cut its authorized position count by nearly 14 percent from FY2009 to FY2010 and the Prosecutor's Office lost almost 20 percent of its staff over a two year period

from FY2009 to FY2011; more attorney positions were cut than non-attorney jobs as shown in Table 2.2 (3). The Public Defender fared better as seen in Table 2.2 (4) in maintaining its number of City employees. Public Defender budget reductions have primarily impacted contract attorney compensation as over 75% of the Public Defender budget is dedicated to contract legal services and court-mandated services (transcripts, interpreters, etc.).

Table 2.2 (2): Phoenix Court Staffing, Budget and Caseload Summary[13]

Fiscal Year	Operating Budget	Authorized Positions			Criminal Traffic Filed			Misdemeanors Filed	Civil Traffic Filed	
		Judges	H.O.	Staff	DUI	Serious TR	Other TR		Civil TR	Non-CR ORD
2012 (est.)	$39,732,809	28.4	4.0	281.0	No Data Available					
2011	39,767,000	28.4	4.0	281.0	No Data Available					
2010	38,096,553	30.4	4.0	283.0	17,755	994	39,185	44,634	202,691	36,890
2009	40,461,563	30.4	4.0	327.0	17,170	1,084	43,198	34,790	209,597	38,865

Table 2.2 (3): Prosecutor's Office Staffing, Budget and Caseload Summary[14]

Fiscal Year	Operating Budget	Authorized Positions		Defendants Submitted to Charging Review	Pretrial Disposition Conferences	Criminal Cases Sent to Diversion	Number of Jury Trials
		Attorneys	Staff				
2012 (est.)	$16,028,583	61.0	80.0	46,000	59,000	4,300	200
2011 (est.)	16,148,294	62.0	80.0	46,000	59,000	4,300	200
2010	15,822,124	67.0	94.0	54,499	62,949	7,035[15]	195
2009	16,320,921	82.0	95.0	54,865	57,659	4417	153

Table 2.2 (4): Public Defender's Office Staffing, Budget and Caseload Summary[16]

Fiscal Year	Operating Budget	Authorized Positions		Represented Defendants Charged with a Misdemeanor	Represented Defendants in Jail Court
		Attorneys[17]	Staff		
2012 (est.)	$4,708,450	2.0	7.0	14,000	26,000
2011 (est.)	4,658,733	2.0	7.0	16,000	26,000
2010	4,536,206	2.0	7.0	15,379	33,122
2009	4,683,665	2.0	7.0	15,379	33,122

[13] Arizona Administrative Office of the Courts
[14] Phoenix Budget Office
[15] Implemented a new Underage Drinking Diversion Program
[16] Phoenix Budget Office
[17] Contract attorneys are not shown; approximately 70 private attorneys handle up to 270 cases each for $52-55,000 annually

For the most part, justice systems throughout the country have used tactical rather than strategic approaches to reduce costs since they are easier to implement and allow policymakers needed time to assess the nature and longevity of budget problems. Too often, however, tactical methods are left in place as the only solutions. Many of them are either not sustainable over the long-run, limited in their application (i.e., raising fees), hamper the ability to do needed surgical re-engineering when across-the-board reductions have demoralized staff, sidestep true organizational weaknesses, or promote politically expedient solutions rather than substantive, transformational change. As the adage goes, "A crisis is a terrible opportunity to waste."

While there is debate in economic circles over how long the current economic funk will linger in the wake of the last recession, there is little doubt that continued government debt loads and long-term structural imbalances in public budgets will require calculated, deliberate readjustments in government services. Strategic and adaptive initiatives are directed at re-making basic operations by thinking seriously about what to stop doing, do less of, do new, do differently, or get someone else to do.

Table 2.2 (5): Common Justice System Budget Responses

JUSTICE SYSTEM BUDGET RESPONSES	
TACTICAL	**STRATEGIC**
Hiring freezes	Consolidate back-office services
Across-the-board cuts	Merge divisions; departments
Travel; education reduction	Flatten organization structures
Raise fees; surcharges	Force use of on-line services
Lay-off staff; hire temps.	Outsource; homesource functions
Delay salary increases	Cross train; liberalize work rules
Improve collections	Increase technology
Scale back purchases	Eliminate non-core functions
Reduce hours	Re-engineer business processes
Salary give backs	Create new revenue flows
Temporary furloughs	Partner with other agencies

Growing numbers of economists are concluding automation and technology efficiencies, including enterprise software and the Internet, have helped to solidify the current trend toward a jobless recovery. Productivity has been on the upswing since 2009 with fewer workers. Many firms that shed payrolls in anticipation of a drop in business are making do with reduced numbers of employees today and are re-making the way they conduct business. They are finding

ways to produce the same number of goods or services with fewer workers through fundamental change. This also appears true among local and state governments.

As staffing has been reduced in many of Phoenix's Justice System agencies, the National Center has not detected delays in case processing. No doubt part of the reason is workloads have been relatively stable over recent years. An equally significant reason we feel is that productivity has ostensibly improved through cross-training, merged work units, flatter organizations, and fewer middle managers as a result of budget cuts. These changes have largely occurred through the work of existing Justice System leaders, not at the impetus of outside consultants. Consequently, one of the greatest strengths the City has in re-adjusting to a more austere future is its current managers. Essentially, we are convinced they understand that transformational change is the wisest course to address the new economic realities of the times. Clear messages in support of such directions, reinforced by top policymakers, are important to continually emphasize.

3.0 MUNICIPAL COURT

3.1 A WELL-DESERVED REPUTATION FOR EXCELLENCE

The Phoenix Municipal Court is the largest limited-jurisdiction trial court in Arizona, and it is one of the ten busiest limited-jurisdiction trial courts in the country. Among its noteworthy accomplishments are the following:[18]

- In 2005, it was the first court in Arizona to fully implement the Fines/Fees and Restitution Enforcement Program (FARE) and is still the only court in the State which refers all active cases and daily referral of all newly filed cases. As of June 2008, more than $35.6 million has been processed and paid on the FARE website alone.

- In 2006, it was the largest of eleven pilot courts in the State to implement the re-engineering of DUI case processing which resulted in the dramatic reduction of backlogged and pending cases. Excluding warrants, the Court was able to meet the Arizona Supreme Court's Administrative Order and goal of concluding 90 percent of DUI's within 120 days and concluding 98 percent of DUI's within 180 days.

- Between 2006 and 2008, the Court undertook to implement all ten of the core court performance measures known as "CourTools" (© 2005 National Center for State Courts), making it one of the first courts in Arizona and in the country to have done so successfully. Now it provides a report of the results not only as critical management information for court leaders, but also to Phoenix city management, to the presiding judge of the Superior Court in Maricopa County, and to the Arizona Administrative Office of the Courts.

Other notable accomplishments and enhancements to services include advancements in court technology systems:

- Plans are in place for public access to on-line, real time courtroom information; access to court records through the Internet; and electronic filing and imaging of court documents as the Court moves toward the goal of a paperless court.

- All courtroom proceedings are now digitally recorded.

- Additional enhancements have been made to the Court's website providing for additional juror and public information, as well as, the ability to make fine and fee payments electronically.

[18] See "Message from the Chief Presiding Judge," *Phoenix Municipal Court Progress Report 2008* (2009), http://www.phoenix.gov/COURT/pr2008.pdf.

Further initiatives and programs that have enhanced case processing and efficiencies were the establishment of the "Early Disposition Court" in Arraignments, and the staffing of attorneys in the Initial Appearance Court in Jail.

3.2 CASE PROCESSING IMPROVEMENTS TO SAVE TIME AND MONEY

The importance of rendering prompt justice has long been acknowledged, as is reflected in the assertion that "justice delayed is justice denied." Timely case processing is a critical consideration for any trial court, as is indicated by the fact that four of the ten "CourTools" measures for court performance and accountability have to do with caseflow management.[19]

One might also say that "justice delayed is expensive justice." Studies have shown that unnecessary delay is costly in the judicial process, and that resource pressures for prosecutors and public defenders are less important in jurisdictions where the court exercises early and continuous control over the pace of litigation.[20] In a time when public resources are under pressure, as they are now for the City of Phoenix, it is important to see if the existing resources funded by the City for the Municipal Court and its justice partners can be used more effectively and efficiently through caseflow management steps that have the effect of reducing wasted time for judges, lawyers, support staff, law enforcement, and corrections.

In search of opportunities to improve what is already considered an excellent case-processing system, the NCSC project team interviewed judges, prosecutors, public defenders and court managers in late June 2011. In addition, they analyzed case processing data provided by the Phoenix Municipal Court on the following kinds of cases concluded between August 1, 2010, and July 31, 2011:[21]

- Civil Traffic
- Parking

[19] CourTools Measure 2 has to do with "clearance rate," in terms of whether a court's dispositions during any given period of time are keeping up with new filings; Measure 3 looks at the portion of case dispositions that have been achieved within applicable time standards; Measure 4 assesses the size and age of a court's pending inventory of cases, in relation to applicable time standards; and Measure 5 addresses "trial-date certainty" -- how often a case must be scheduled for trial before it is disposed.

[20] See Brian Ostrom and Roger Hanson, *Efficiency, Timeliness and Quality: A New Perspective from Nine State Criminal Trial Courts* (Williamsburg, VA: NCSC, 1999). See also, David Steelman and Jane Macoubrie, *Staff Efficiency and Court Calendars for the District Court in Duluth, Minnesota* (NCSC, November 2008); Steelman, *Improving Criminal Caseflow Management in the Alaska Superior Court in Anchorage* (NCSC Technical Assistance Report, March 2009); and Steelman and Jonathan Meadows, *Ten Steps to Achieve More Meaningful Criminal Pretrial Conferences in the Ninth Judicial Circuit of Florida* (NCSC, May 2010).

[21] See Appendix B for a summary of the data that were provided by the Court.

- Zoning Violations
- Other Civil Ordinance Violations
- Driving Under the Influence (DUI)
- Domestic Violence
- Protective Orders
- Non-Traffic Misdemeanors

In September 2011, the NCSC project team analyzed the data provided by the Court. The results of their analysis of data for all of the above case types are presented in Appendix C.

The analysis by the NCSC project team addressed actual elapsed times from filing to finding to post-finding conclusion, so that they included elapsed times during which cases were inactive. They do show, however, the extent of the impact of case inactivity on elapsed times. They also show the duration of post-judgment time until cases were concluded. Although the "inactive" time in those cases is not fairly charged against the Municipal Court in terms of performance measurement, the data in these appendices does show (a) total time that elapses before a defendant is held to account for an offense, and (b) total time that elapses from the date of the offense to the date when compliance by the defendant with sanctions imposed by the Court, whether in terms of fine/fee/cost/restitution payments or any other penalties, was concluded.

3.2.1 Civil Infractions: Traffic, Parking, and Ordinance Violations

Civil infractions are violations of the law that are not considered crimes. In Arizona, they are punishable by fines of no more than $300, while crimes are punishable by larger fines or by incarceration. In the fiscal year ending in 2010, 70 percent of all cases filed in the Phoenix Municipal Court were civil traffic, non-criminal parking, or non-criminal (zoning and other) ordinance violations.[22] In terms of sheer case volume, these are the most common matters heard by the Court, and they represent the primary way in which most citizens ever come into contact with the courts. For such cases, the Court applies a performance goal of 120 days from filing date to finding date, exclusive of "inactive time" beyond the Court's immediate management control.

3.2.1(1). Civil Traffic Violations. Most traffic tickets in Phoenix are issued for such offenses as routine speeding or running a stop sign, which are civil violations. Almost 60 percent

[22] See Arizona Judicial Branch, "Municipal Court Case Activity: Maricopa County: Phoenix Municipal Court," *Annual Data Reports: 2010 Data Report*, http://www.azcourts.gov/Portals/39/2010DR/MN_Maricopa.pdf#page=35.

of all cases filed in the Phoenix Municipal Court in fiscal year 2010 were civil traffic cases. In the 12-month period from August 1, 2010, through July 31, 2011, the Court closed 89,509 such cases after the conclusion of all post-judgment activity.

Among the cases closed out were 71,567 cases in which there had been no periods of inactivity because of defendant failures to appear in court or other reasons for delay reflecting failure by the Court to manage and control case progress to resolution. Elapsed times in these cases from filing date to the court finding date (primarily dismissal, diversion, or finding that the defendant was either responsible or not responsible) are summarized in Table 3.2.1(1) below.

Table 3.2.1(1). Elapsed Time (Days) from Filing Date to Finding Date for Civil Traffic Violations with All Post-Judgment Court Work Concluded between August 1, 2010, and July 31, 2011 (Excluding Cases with any Inactive Periods)[23]

Elapsed Days	Aug 2010-Jan 2011 (N=32,619)	Feb 2011-July 2011 (N=38,948)
Within 120 Days	97.8%	99.6%
Average (Mean)	52	28
Median (50th Percentile)	19	19

For a huge majority of these cases -- 98.8 percent over the entire 12-month period -- the table shows that a judicial finding on the responsibility of defendants was made within 120 days after cases were filed. In fact, half of all the cases had a finding within 19 days, or less than three weeks after filing.

One reason for this is that most cases (93.7%) were disposed before any trials were even scheduled. Moreover, NCSC sampling indicates that most cases (92.3%) were disposed without any pretrial court events whatsoever. (See Appendix C, Part 1.)

A second reason is that the Court provides high trial-date certainty, reducing any likelihood of delay and encouraging case participants to decide promptly whether there is

[23] Source: NCSC analysis of data provided by Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC. For more on the entire data set from the Court, see Appendix B. For more details from NCSC's traffic case analysis, see Appendix C, Part 1.

sufficient basis to contest the charges.[24] To assure that case participants in any kind of case know that trial will actually be held by a court on or very near the first-scheduled trial date, the average number of trial settings with trial dates should typically be no more than 2.0, and an optimal average would be 1.5 or lower. For all civil traffic cases with any trial dates scheduled that were closed in Phoenix between August 2010 and July 2011 (see Appendix C, Part 1), the average number of trial settings per case was 1.14, meaning that only one case in seven or eight would be continued and have a second trial date scheduled before it was concluded.

From the point of view of municipal government wherever a trial court has jurisdiction of traffic cases, prompt payment of monetary sanctions in terms of fines, fees and costs is an important source of local revenue to offset the expense of providing trial court services. Although generation of municipal revenues cannot be a goal for the Court in traffic cases,[25] it is critical to assure that case participants comply with the orders of the Court.[26] Data from the Court (see Appendix C, Part 1) show that defendants in more than half of all civil traffic cases closed between August 2010 and July 2011 paid all moneys due on the day they were found responsible. Over 75 percent were fully paid within a week, and 92 percent were fully paid within six months.

3.2.1(2). Parking Violations. When a person violates a parking ordinance in Phoenix, a parking officer places a notice of violation (parking ticket) and envelope on the windshield of the vehicle. If the City receives payment for the violation within 21 days after the date of the violation, a $20 discount is allowed. If payment is not received by the City within 50 days, however, the Municipal Court issues a parking summons and complaint that provides a court date and the fine amount due, as well as the vehicle description, the violation date, and the ordinance violation for which the vehicle was cited. If the vehicle owner fails to pay the amount

[24] National research and literature on delay reduction and court management of case progress confirms that creating and maintaining trial date certainty is a key management device for a trial court to promote prompt achievement of just outcomes in cases. See Steelman, Goerdt and McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (Williamsburg, VA: NCSC, 2004 edition), p. 6. For this reason, it is one of the core indicators (Measure 5) of effective court performance in CourTools. For more on the measurement of trial-date certainty, see http://www.ncsconline.org/D_Research/CourTools/Images/courtools_measure5.pdf.
[25] See Ward v. Monroeville, 409 US 57 (1972).
[26] See CourTools, Measure 7, "Collection of Monetary Penalties," as revised, at http://www.ncsconline.org/D_Research/CourTools/Images/courtools_measure7.pdf.

due, or fails to appear in court, a default judgment is typically entered for both the fine amount and any additional fees, including imposed collection fees.[27]

From the beginning of August 2010 through the end of July 2011, Phoenix Municipal Court records show that it concluded all post-judgment work in 12,287 cases, with judgments in no cases delayed by failures to appear. Elapsed times from filing to finding are summarized in Table 3.2.1(2). As the table indicates, 99 percent of the cases adjudicated within 120 days after filing, and more than half were done within a month.

Table 3.2.1(2). Elapsed Time (Days) from Filing Date to Finding Date for Parking Violations with All Post-Judgment Court Work Concluded between August 1, 2010, and July 31, 2011[28]

Elapsed Days	Aug 2010-Jan 2011 (N=6,126)	Feb 2011-July 2011 (N=6,161)
Within 120 Days	99.1%	99.0%
Average (Mean)	33	39
Median (50th Percentile)	27	27

Although the great bulk of parking tickets are promptly paid to the City, those reaching the Court can be expected to include a number in which the person who parked or owned the vehicle would contest the charges. Among the cases analyzed by NCSC (see Appendix C, Part 2), about one in seven (14.4%) was scheduled at least once for trial. As with civil traffic offenses, the Court provided a high level of trial date certainty -- an average of 1.1 trial dates per case for any cases, with the result that only 7.3 percent of the cases actually went to trial.

If defendants were found responsible by the Court in these parking cases, more than half of them paid their fines immediately. In part because the owner of a vehicle might not be the person responsible for a parking violation, or otherwise because the violator might not expect to be held accountable, payments in some cases took some time. Nonetheless, over 75 percent were concluded within 180 days after a finding of responsibility.

[27] See City of Phoenix, Municipal Court, "Parking Tickets," http://phoenix.gov/COURT/parking.html.
[28] Source: NCSC analysis of data provided by Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC. For more on all the data received from the Court, see Appendix B. For more details of the NCSC analysis of parking cases, see Appendix C, Part 2.

3.2.1(3). Criminal Zoning Violations and Civil Ordinance Violations. Like every other municipal government in Arizona or any other state, Phoenix has a City Code[29] and city ordinances that people must obey to promote a pleasant living environment and allow people to carry out all their legitimate activities without undue hindrance or inconvenience. The City Code has several different sections addressing different areas of city services, including the Municipal Code, the Zoning Code, the Building Code, the Fire Code, and the Tax Code.[30]

A person violating an ordinance in Phoenix may be prosecuted for a misdemeanor and, if convicted, may be liable to pay a fine of as much as $2,500, or be jailed for up to six months, or be under probation supervision for up to three years.[31] Non-zoning ordinance violations that are misdemeanors are among the non-traffic criminal offenses discussed below in Section 3.2.4.

As an alternative to proceeding with a criminal case, however, the City of Phoenix may also institute a civil action, under which any person found to have violated an ordinance may be subject to a civil fine of up to $2,500 for each day in violation.[32] This section deals with criminal zoning cases and all civil actions on ordinance violations concluded in the Municipal Court during the 12-month period from the beginning of August 2010 through the end of July 2011.

3.2.1(3a). Criminal Zoning Violations. Those involved in developing property or in construction projects in Phoenix are required not only to observe subdivision, grading and draining ordinances in the City Code, but also to work with the City's Planning and Development Department and meet the requirements of zoning ordinances for historic preservation, signage and other issues.

There were 198 zoning cases with all post-judgment activities concluded during the period under study. (See Appendix C, Part 3, for details of NCSC analysis.) The majority of the cases were criminal prosecutions, with 5.5 percent going to criminal trials and 49 percent disposed by guilty pleas. Another 41.4 percent were dismissed without prejudice as part of

[29] For an online codification of the General Ordinances of the City of Phoenix, see http://www.codepublishing.com/az/phoenix/.
[30] For some of the most frequently-invoked ordinance codes, see http://phoenix.gov/citygovernment/codes/citycodes/index.html.
[31] Phoenix City Code, § 1.5.
[32] See, for example, Phoenix Zoning Ordinances, Section 1004, http://www.codepublishing.com/az/phoenix/; 2006 Phoenix Building Construction Code, Administrative Provisions, Section 113, http://www2.iccsafe.org/states/Phoenix2006/Phoenix_Admin/admin_frameset.htm; and 2006 Phoenix Fire Code, Section 109, http://www2.iccsafe.org/states/Phoenix2006/Phoenix_Fire/Fire_Frameset.htm.

negotiations between the City and defendants. An additional two percent were ultimately disposed by a civil finding of responsibility by plea or default.

Of the cases concluded during this period, 150 proceeded from filing to finding without any inactive periods. Elapsed times from filing to criminal or civil finding for cases without periods of inactivity are shown in Table 3.2.1(3a). Overall, 96.7 percent were adjudicated within 180 days (the Municipal Court time standard for criminal cases). More than 75 percent were adjudicated within two months after filing.

Table 3.2.1(3a). Elapsed Time (Days) from Filing Date to Finding Date for Criminal Zoning Violations with All Post-Judgment Court Work Concluded between August 1, 2010, and July 31, 2011 (Excluding Cases with any Inactive Periods)[33]

Elapsed Days	Aug 2010-Jan 2011 (N=72)	Feb 2011-July 2011 (N=78)
Within 180 Days	98.7%	94.9
Average (Mean)	33	53
Median (50th Percentile)	6	23

Trials were requested in ten percent of the cases, although only half of them were resolved by trial. As with civil traffic and parking cases, the Court was able to provide a high level of trial-date certainty, with an average of only 1.30 settings per case with any trial dates.

Since these were criminal zoning cases in which convicted defendants might face more than nominal fines and even a possibility of incarceration, times from court finding to the conclusion of all post-judgment activities involved different dynamics than those for civil traffic or parking cases. More than half were concluded at entry of judgment, and 74.2 percent were closed out within 180 days.

3.2.1(3b). Civil Ordinance Violations. Between August 1, 2010, and July 31, 2011, the Municipal Court concluded all post-judgment work in 6,987 civil actions involving violations of city ordinances, with no cases delayed with any periods of inactivity. The most common kinds of cases were:

- Plants (34.2%)
- Light rail (19.9%)

[33] Source: NCSC analysis of data provided by Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC. For more on the total data set from the Court, see Appendix B. For more details of the NCSC analysis of criminal zoning cases, see Appendix C, Part 3.

- Exterior premises (8.9%)
- Neighborhood preservation (8.1%)
- Civil zoning (3.1%)
- Solid waste (3.1%)

NCSC analytical results on the elapsed times from filing to finding on responsibility for these cases are shown in Table 3.2.1(3b). (For more details, see Appendix C, part 4.) About two-thirds of these cases were adjudicated within 120 days after filing, and 99 percent were decided within 180 days.

Table 3.2.1(3b). Elapsed Time (Days) from Filing Date to Finding Date for Civil Ordinance Violations with All Post-Judgment Court Work Concluded between August 1, 2010, and July 31, 2011[34]

Elapsed Days	Aug 2010-Jan 2011 (N=3,862)	Feb 2011-July 2011 (N=3,125)
Within 180 Days	99.4%	98.9%
Within 120 Days	66.2%	68.8%
Average (Mean)	70	70
Median (50th Percentile)	60	53

The overwhelming bulk (92.4%) of these cases were resolved either by affirmative or tacit acknowledgment of responsibility, or by compliance steps taken by defendants that resulted in having cases dismissed without prejudice. Defendants demanded a non-jury trial in 28.7 percent of all cases, but only one case in six (4.8% of all cases) was actually resolved by trial.

The high portion of civil ordinance cases set on a non-jury trial docket but not resolved by trial is unlike that in most of the other case types analyzed by the NCSC project team, with the exception of domestic violence cases. For all of the other case types, at least 40 percent scheduled for trial are resolved by trial. For further discussion and a recommendation on this matter, see Sections 3.2.5 and 3.2.7(2) below.

Compliance with the Court's judgment in civil ordinance cases was typically concluded promptly after judgment was entered. At least 75 percent were concluded on the same day as judgment, and 95.5 percent had all post-judgment activities concluded within 180 days.

[34] Source: NCSC analysis of data provided by Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC. For more on all the data from the Court, see Appendix B. For more details of the NCSC analysis of civil ordinance violations, see Appendix C, Part 4.

3.2.2 Driving Under the Influence (DUI)

In terms of gravity and case volume, DUI cases constitute a very important part of the caseload of the Phoenix Municipal Court and other limited-jurisdiction trial courts in Arizona. During the 12-month period from August 2010 through July 2011, the Court concluded all post-judgment work on 3,501 DUI cases, including 2,225 cases that had no periods of inactivity before trial or non-trial disposition. (For details of the NCSC analysis of these cases, see Appendix C, Part 5.)

From these totals for concluded DUI cases, the reader should note how many had periods of inactivity, whether because of defendant incompetence to stand trial or defendant failures to appear for court proceedings. In all, case progress was interrupted in 36.4 percent of all DUI cases for some period of time. While this is not a fair basis for criticizing the Court alone for its management control of case progress, it is a problem that has been addressed since 2007 by the Court with other leaders of the City of Phoenix justice system. See Sections 3.2.5 and 3.2.7(1) below for further analysis and a recommendation by NCSC.

Of all the cases concluded in this 12-month period, 1,814 were initially filed between 2009 and 2011, and 1,687 were initially filed between 1989 and 2007. Among the concluded cases with no periods of inactivity, 1,568 were initially filed between 2009 and 2011, and there were 657 commenced before that, with the oldest filed in 1989.

Times from filing to entry of the Court's finding on the guilt or innocence of a defendant are shown in Table 3.2.2(1). Although half the cases were adjudicated within a little over two months and 76 percent within 120 days, the portion adjudicated within 180 days (88.1% overall) was short of the Court's performance goal of having 93 percent decided within 180 days.[35] In terms of effectiveness and efficiency, the table shows a need for improvements that the Court and its justice partners have already taken important and meaningful steps to address.

[35] During the Arizona Supreme Court's DUI Case Processing Pilot Program, which concluded in June 2007, the Supreme Court set a performance goal of disposing of 98% of DUI cases within 180 days. See Arizona Supreme Court Administrative Order No. 2006 – 38 (April 26, 2006). Following a discussion with the participating courts in the pilot program, the Chief Justice issued an Administrative Order in December 2007 establishing a second phase of the pilot program and revising the 98% performance goal downward to 93% within 180 days. Arizona Supreme Court Administrative Order No. 2007 – 94 (Dec. 13, 2007). This revision was in recognition that the 98% goal of the initial phase of the pilot program was not realistically sustainable. Since the Administrative Order was issued in December 2007, the Court's performance goal for DUI case processing has remained at a disposition rate of 93% within 180 days.

Table 3.2.2. Elapsed Time (Days) from Filing Date to Finding Date for DUI Cases with All Post-Judgment Court Work Concluded between August 1, 2010, and July 31, 2011 (Excluding Cases with any Inactive Periods)[36]

Elapsed Days	Aug 2010-Jan 2011 (N=1,162)	Feb 2011-July 2011 (N=1,063)
Within 180 Days	89.5%	86.6%
Within 120 Days	77.7%	74.0%
Average (Mean)	103	117
Median (50th Percentile)	61	73

Prior to 2006, DUI delays were a problem not only for Phoenix, but also for all of Arizona. Recognizing that the courts must resolve DUI cases in a prompt and fair manner, the Chief Justice of Arizona created a DUI Case Processing Committee in June 2005, directing it to examine DUI cases from the time of the commission of the offense through the imposition of sanctions, with particular emphasis on the processing of cases once they reach the court. The report submitted by the committee in November 2005 included findings and recommendations on case processing in general; steps before and immediately after the filing of cases with the court; post-adjudication sanctions; training; and statistical reporting.[37]

As was note at the opening of Section 3.0, the Phoenix Municipal Court was the largest of 11 pilot courts in 2006 to implement the recommendations of the DUI Case Processing Committee, achieving a dramatic reduction in the size and age of its pending inventory of DUI cases. According to a state-level court official interviewed by NCSC, the Court's DUI effort had the local effect of eliminating two full-time courtrooms dedicated to jury trial, while serving as a model for subsequent efforts throughout the State. Excluding warrants, the Court was able by the end of the pilot effort to meet the Arizona Supreme Court goals by disposing 98 percent of DUI cases filed on or after July 1, 2006 (excluding cases filed prior to that date) within 180 days.[38]

[36] Source: NCSC analysis of data provided by Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC. For more on the data from the Court in general, see Appendix B. For more details of the NCSC analysis of DUI cases, see Appendix C, Part 5.
[37] See Supreme Court of Arizona, DUI Case Processing Committee, *Re-engineering DUI Case Processing in Arizona* (November 2005), http://www.supreme.state.az.us/media/archive/2006/optDUI_Report_10405.pdf.
[38] See Phoenix Municipal Court Final DUI Pilot Project Report (August 2007)..

The data provided by the Court show the areas where the judges and their justice partners will have to continue to focus their management attention as they seek ongoing compliance with the objective set by the Supreme Court's DUI Committee. Unlike civil traffic, parking, or many common ordinance violations, DUI cases can have very serious consequences for convicted defendants in terms of monetary sanctions, cost of insurance, loss of driving privileges (which may result in job loss), and even loss of freedom through incarceration.

In addition, they often include an array of lesser-included charges in addition to a DUI charge (those closed out by the Court from August 2010 through July 2011 had an average of 5.02 charges per case). As a result, they often require that the Court provide opportunities for defendants and counsel to determine which charges in their cases must be resolved by trial rather than through a plea agreement that may include dismissal of at least some lesser-included charges.

NCSC analysis of a sample of data from the Court shows that pretrial disposition conferences (PDC's) were scheduled, typically 14-21 days after arraignment, in 79.6 percent of all cases and suggests that there were 2.1 such conferences reset as there were scheduled. One experienced participant in the court process told NCSC in an interview that PDC's in many cases did not need to be reset routinely to a date 30 days in the future.

The grave consequences attaching to a DUI conviction and the multitude of charges per case also mean that DUI cases have a higher incidence of multiple trial settings than other kinds of cases. In a random sample of the DUI case records provided by the Court, the NCSC project team found that the number of scheduled trial date conferences (in which a judge would speak with the defendant and counsel to decide on an actual date for a contested trial) amounted to 45.2 percent of the cases. Of all the concluded DUI cases, 18 percent were set for trial (see Appendix C, Part 5), which often meant that they would be scheduled for trial and then have the trial date continued and reset one or more times.

DUI cases typically present greater difficulties than other case types for the Court to assure trial-date certainty. One of the cases ultimately reaching the conclusion of post-judgment proceedings in 2010 had 17 scheduled trial dates, having been initially filed in November 2000 and last reactivated in November 2010. Another case, finally concluded in 2011, was first filed in March 2001 and last reactivated in March 2011, and it had 16 trial dates. For all the DUI cases set for trial, there was an average of 2.4 scheduled trial dates.

While the actual average of trial settings per case can vary from month to month, NCSC urges that a Court seek an average number of trial settings per case of 2.0 or less. The most recent monthly court data for 2011 show the following averages:.[39]

- June 2.3
- July 2.3
- August 1.8
- September 1.8
- October 1.9
- November 2.5

Thus, the Court achieved monthly averages of lower than 2.0 trial settings per case in three of the last six months, with an average number of trial settings for that period of 2.1. As indicated in the Court's monthly DUI report to the Maricopa County Superior Court, approximately 50-60 percent of DUI cases proceed to a disposition on the first trial setting. Of the remainder, most are fully resolved at the second trial setting. For some cases, court officials indicate that legitimate delays are occasioned by medical issues or newly-filed charges that push a case out beyond two settings. But these cases are the exceptions. This is in marked contrast to DUI case processing before 2007. While 16 and 17 trial settings in a DUI case were not uncommon in 2003, the Court's current average number of jury trial settings demonstrates that the current processes are remarkably different and improved.

That the Court was able during the pilot program to meet the statewide goals for timely adjudication of DUI cases means that the judges have been able to exercise early and continuous control of these cases and help the lawyers and parties prepare them for disposition without undue wasted time in the scheduling and rescheduling of pretrial court events and trial dates. The difficulty that the judges face with prosecutors and defense attorneys in preparing cases for prompt and just resolution is illustrated by the Court's disposition rates in years since the conclusion of the pilot program:

- 2008 91.5%
- 2009 89.5%
- 2010 89.2%
- 2011 88.3% (January through November 2011)

[39] See Phoenix Municipal Court, DUI Statistical Reports for June 2011 through November 2011, as provided to NCSC in December 2011.

To keep current and assure timely DUI dispositions, it will be important for court leaders to keep a close eye on the relative incidence of trial date and pretrial disposition conference resetting. See the NCSC recommendation in Section 3.2.7(3) below.

Because a DUI conviction can result in loss of a driver's license and even incarceration, the considerations affecting elapsed time from case adjudication to the conclusion of all post-judgment activity are very different from those in civil traffic, parking, or most ordinance violation cases decided by the Court in Phoenix. Although at least half the cases were finally concluded on the date of finding and judgment, and 75 percent were concluded within 100 days later.

3.2.3 Domestic Violence and Orders of Protection

Judges, prosecutors and police in Phoenix are among the state and city government officials and employees responsible for responding to incidents of domestic violence and for providing protection to victims. Given the frequency and severity of events involving domestic violence, the justice system in Phoenix must cope with the problems they present through an awareness of victim resources, the imposition of sanctions for criminal conduct, enforcement of protection orders by the police, and development of treatment and rehabilitation resources to promote and enhance safety for victims and the professionals who interact with them.[40] As a result, the judges of the Phoenix Municipal Court must hear and decide cases involving charges of criminal domestic violence, and they must also promptly issue civil orders of protection on behalf of a spouse, child or significant other if domestic violence has occurred or to prevent an act of domestic violence in the future.

3.2.3(1). Criminal Domestic Violence Cases. Between the beginning of August 2010 and the end of July 2011, the Court concluded all post-judgment work in 2,377 cases involving charges of criminal domestic violence. Of these, 840 (35.3%) had no interruptions or inactive periods because of failures to appear or other reasons. (See Appendix C, Part 6, for details.)

[40] See Arizona Supreme Court, Administrative Order 94-14 (March 3, 1994), establishing the Committee on the Impact of Domestic Violence and the Courts, available online at http://www.azcourts.gov/portals/22/admorder/orders94/pdf94/9414.pdf.

Table 3.2.3(1) shows elapsed times from filing to finding date for the cases with no inactive periods. More than half of these cases were adjudicated within three months, and 92.4 percent were adjudicated within 180 days.

Table 3.2.3(1). Elapsed Time (Days) from Filing Date to Finding Date for Criminal Domestic Violence Cases with All Post-Judgment Court Work Concluded between August 1, 2010, and July 31, 2011 (Excluding Cases with any Inactive Periods)[41]

Elapsed Days	Aug 2010-Jan 2011 (N=458)	Feb 2011-July 2011 (N=382)
Within 180 Days	92.9%	91.8%
Average (Mean)	110	127
Median (50th Percentile)	77	86

That 64.7 percent of these cases could not move forward to resolution for some period of time does not indicate a failure of case-management control by the individual judges who hear them. Yet in terms of the purposes of the domestic violence laws, it may be a matter of serious concern for all the leaders of the Phoenix justice system to address together. While the figures in Table 3.2.3(1) show that the average time from filing to finding for cases with no inactive periods was only 117.7 days (3.9 months), those in Part 6 of Appendix C indicate that the average time for all the domestic violence cases concluded in this period was ten times longer at 1,176.8 days (39 months). The need for justice system efforts to reduce the impact of having cases in an inactive status, for any reasons other than those like diversion or incompetence to stand trial, is the focus of the discussion in Section 3.2.5 and the recommendation by the NCSC project team in Section 3.2.7(1).

From a representative sample of domestic violence cases (see Appendix C, Part 6), NCSC analysis shows some evidence of pretrial disposition conferences or other pretrial events being scheduled and then reset or vacated, but it is modest by comparison to the problem this presents for maintaining timeliness in DUI cases. The Court maintains high trial-date certainty, with an average of 1.12 trial settings per trial case, meaning that only about one case in 11 reaching a trial docket must have more than one trial setting before it is disposed.

[41] Source: NCSC analysis of data provided by Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC. For more on the Court data in general, see Appendix B. For more details of the NCSC analysis of criminal domestic violence cases, see Appendix C, Part 6.

A very high portion of the domestic violence cases (45.2%) were listed for trial. Cases listed for trial are scheduled for hearing twice a week on the Court's non-jury trial docket. In addition to the victims, witnesses for the prosecution include police officers, who received half a day's overtime pay (for a total cost that NCSC understands is about $1 million each year). Yet only 8 percent of all the domestic violence cases analyzed by NCSC were actually disposed by trial, meaning that only one in 5.7 cases on the Court's trial docket actually went to trial. If one puts aside the cases disposed by guilty plea or diversion, seven of every eight cases (87.7%) were disposed by a dismissal without prejudice.

The data from the Court for these cases confirm what was discussed by the participants in a one-day workshop held by NCSC in Phoenix on June 15, 2011, with key stakeholders in the City of Phoenix justice system. Participants described the current process. On two days each week, court staff members list a number of domestic violence cases on the Court's non-jury trial dockets. Notices to appear are sent to victims, defendants, and police or other witnesses, and the judges and lawyers for prosecution and defense prepare for the trial of all cases on the trial dockets. Then only one case in every five or six on the docket is actually tried. Only a small number are rescheduled for trial on a later date. After all the expenditure of time and effort by case participants, most cases on the docket are dismissed without prejudice. Victims simply do not show up for court. Rarely do they call in advance.

At the June workshop, participants discussed possible ways to solve this problem. In Section 3.2.7(2) below, the NCSC project team offers a discussion of options and a recommendation to reduce wasted resources in these cases.

On the date of a finding by the Court on domestic violence charges, more than half of all cases were concluded. Overall, 70.6 percent had all post-judgment activities concluded within 180 days after the Court finding. Defendants convicted of a DV offense are, by statute, required to attend DV counseling that includes 26 to 52 two-hour sessions. Failure to complete DV counseling is the primary reason the State (prosecutor) files petitions to revoke probation in these matters and the reason a substantial number of cases show up in the statistics as taking a long time to conclude.

3.2.3(2). Civil Protective Order Cases. In Arizona as in most other states, civil proceedings are designed to protect victims of domestic violence through the issuance of orders of protection prohibiting contact between the parties. They must also be designed to avoid abuse

by persons who may seek to abuse orders of protection to harass an innocent spouse or significant other, to have him or her removed from a residence, or to gain an unfair advantage in a child custody or divorce case. Thus, while a protective order case typically commences with a petition by an alleged victim for the Court to enter an ex parte (uncontested) order that very day against the respondent, the issuance and service of the order on the respondent also provides that the respondent is entitled to contest the matter in a hearing to be held within five days if expulsion from the residence is at stake, and otherwise within ten days after it is requested by the respondent.

From August 1, 2010, through July 31, 2011, the Court concluded all work in 2,910 civil protective order cases. (See Appendix C, Part 7, for details of the results of NCSC analysis.) In all but 1.8 percent of these cases, the Court issued an initial order of protection on either the same day or within one day after the filing of a petition. While five separate orders of protection were ordered in one case, only 12.1 percent of the cases had more than one order.

A critical step after the issuance of an order of protection is service of the order on the respondent. Results from NCSC analysis of data on times from order date to last service date are shown in Table 3.2.3(2). As the table shows, there was no service of orders at all on defendants in slightly more than one-fourth of the cases. Service was accomplished in two days or less in more than half of the cases.

Table 3.2.3(2). Elapsed Time from Initial Order of Protection to Last Service on Respondent in Civil Protective Order Cases Concluded from August 1, 2010, through July 31, 2011[42]

Description	August 2010 - July 2011 (N = 2,910)
Percent of Cases with No Service on Respondent	27.5%
Average Days from Order of Protection to Last Service on Respondent	20
Of Cases with Service on Respondent, Percent within 10 Days after Order	72.6%
Median Days from Order of Protection to Last Service on Respondent	2

[42] Source: NCSC analysis of data provided by Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC. For more on the Court data in general, see Appendix B. For more details of the NCSC analysis of civil protective order cases, see Appendix C, Part 7.

From a representative sample of cases, NCSC found that hearings on exclusive use of a residence were rare, occurring in only 1.4 percent of the sample cases. In most (81.1%) of all 2,910 cases, there was no contested hearing whatsoever, although 2.1 percent had more than one contested hearing scheduled, and there were five contested hearings scheduled in one case. Whether or not there was any contested hearing, the duration of an order of protection was almost always one year (never less than exactly 11 months or fewer than exactly 12 months), as calculated either from the order of protection date to expiration (in cases with no service on the respondent) or from the last service date to expiration (in cases with service on the respondent).

3.2.4 Non-Traffic Misdemeanors

The Municipal Court in Phoenix has jurisdiction only of crimes punishable as misdemeanors, which carry less severe penalties than felonies. There are three classes of misdemeanors:

- Class 1 (punishable by incarceration for no more than six months)
- Class 2 (punishable by incarceration for no more than four months)
- Class 3 (punishable by incarceration for no more than 30 days)

Depending on the facts of the case and the charge, the Court imposes statutorily prescribed fines upon conviction of a misdemeanor. Common non-traffic misdemeanor charges brought in the Court include shoplifting, assault, trespass, criminal damage, liquor, prostitution, theft, and disorderly conduct. From August 2010 through July 2011, the Phoenix Municipal Court concluded all post-judgment work in 20,053 non-traffic misdemeanors, including 11,295 in which there were no inactive periods as a result of defendant failures to appear or other reasons. (For details on the NCSC analysis of these cases, see Appendix C, Part 8.)

For cases with no inactive periods, Table 3.2.4 shows elapsed times from filing to a finding by the Court on the guilt or innocence of a defendant. As the table indicates, at least half of the cases were adjudicated within a week after filing. The average time to finding was about five weeks; and 98.1 percent of the cases progressed from filing to finding within 180 days.

Table 3.2.4. Elapsed Time (Days) from Filing Date to Finding Date for Non-Traffic Misdemeanors with All Post-Judgment Court Work Concluded between August 1, 2010, and July 31, 2011 (Excluding Cases with any Inactive Periods)[43]

Elapsed Days	Aug 2010-Jan 2011 (N=6,464)	Feb 2011-July 2011 (N=4,831)
Within 180 Days	98.1%	98.1%
Average (Mean)	36	36
Median (50th Percentile)	7	7

Yet only a little more than half (56.4%) of all these cases were free of failures to appear or other developments that would suspend case progress to resolution. When one looks at all of the cases concluded during this 12-month period (see Appendix C, Part 8), including inactive cases, the average time from filing to finding was 484 days (16 months), or roughly 13 times the average for cases with no inactive periods. As we have already noted, the problem of having long inactive periods is not one for which the Court is solely responsible.

NCSC analysis of pretrial events in a representative sample of these cases shows that there were reasons for inactive periods other than failures to appear. In 27.4 percent of the sample cases studied, the Court continued arraignment, occasionally because of a defendant's serious mental illness, but more often for a defendant to participate in one of a broad array of diversion programs operated under the auspices of the justice system. Ultimately, defendants in 12.3 percent of the cases had their cases dismissed because of successful completion of diversion programs and occasionally because of unremitting serious mental illness. For all the cases dismissed on this basis, however, there must have been others in which defendants failed to complete diversion programs or regained mental competency to stand trial, so that the prosecution of their cases was reinstated after a period of inactivity. For more on this issue, see Sections 3.2.5 and 3.2.7(1).

For criminal cases in general, including non-traffic misdemeanors and other cases with criminal charges, there is a modest problem with the timely provision of police reports for the two initial appearance court dockets -- one for Jail Court and the other for Arraignment -- that are held each day by the Court. The Assistant City Prosecutor responsible for these two dockets

[43] Source: NCSC analysis of data provided by Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC. For more on the Court data in general, see Appendix B. For more details of the NCSC analysis of non-traffic misdemeanors, see Appendix C, Part 8.

reported to the NCSC project team that for 26 days in June 2011, police reports were missing in an average of 4.73 cases per day.[44] This means that such cases had to be rescheduled for a subsequent day, with attendant wasted time and costs of scheduling and preparing a case for the following day.

As in DUI cases, defendants in the non-traffic misdemeanor cases face the prospect if convicted of having to pay fines or serve time in jail. Perhaps in part because the socio-economic mix of DUI defendants differs somewhat from that for non-traffic misdemeanor defendants, NCSC analysts found fewer pretrial court events per case in the data for non-traffic misdemeanors. Thus, while NCSC found 1.80 pretrial disposition conferences continued and reset for every such conference scheduled in a representative sample of cases, only 19.2 percent of the sample cases had the initial scheduling of a pretrial disposition conference.

Non-traffic misdemeanors also involved fewer charges per case than DUI cases. While each DUI case involved an average of 5.02 charges, there were only 1.41 charges per non-traffic misdemeanor. It is not surprising, therefore, that the NCSC data analysis (see Appendix C) suggests that plea negotiations in DUI cases resulted in roughly half again as many charges dismissed without prejudice as they did in non-traffic misdemeanors.

Furthermore, the Court was able to exercise considerable control of trial dates in the non-traffic misdemeanor cases. Trial date conferences were set in only three percent of the cases sampled by NCSC. Trial dates were scheduled in 12.7 percent of all the cases, and they were held in 5.7 percent. The Court was able to provide a high level of trial-date certainty, with an average of 1.22 settings per case scheduled for trial, meaning that only about one case in five required two settings before it was disposed.

In all of the non-traffic misdemeanor cases under study, at least 75% were completely finished as of the date of the Court's finding on guilt or innocence, meaning that defendants were acquitted, had their cases dismissed, paid their fines in full, or received credit for time served on jail sentences. In 83.5 percent of all cases, all post-judgment activity was concluded within 180 days after the date of the finding by the Court. Violation of Superior Court probation or failure to complete fine payments were among the reasons why 16.5 percent of the cases took longer than 180 days to be concluded after judgment in Municipal Court.

[44] City of Phoenix Prosecutor's Office, electronic mail message from Kevin Krietenstein, Assistant City Prosecutor, to David Steelman, NCSC, Subject: Data requested for problem statement (missing police reports for City of Phoenix IA Court) (July 8, 2011).

3.2.5 Impact of Inactive Periods

At various places in the discussion of case processing in Sections 3.21 through 3.24, the fact that cases had periods of inactivity has been noted by NCSC. The incidence and duration of inactive periods is summarized below in Table 3.2.4(1).

Table 3.2.4(1). Incidence of Inactive Periods, by Case Type, in Cases with All Post-Judgment Court Work Concluded between August 1, 2010, and July 31, 2011[45]

Case Type (number of cases with any periods of inactivity)	Portion of All Cases	Average Total Days Inactive per Case
Domestic Violence (N = 1,537)	64.7%	1,705
Non-Traffic Misdemeanor (N = 8,750)	43.6%	1,128
DUI (N = 1,276)	36.4%	2,790
Zoning Violation (N = 45)	22.7%	697
Civil Traffic Violation (N = 17,942)	20.4%	37
Parking Violation (N = 0)	0.0%	0
Civil Ordinance Violation (N = 0)	0.0%	0
Order of Protection (N = 0)	0.0%	0

As the table shows, there were no parking, civil ordinance of protective order cases with any periods of inactivity. About one case in five among civil traffic and zoning violations had periods of inactivity, but they were relatively short in traffic cases and not very numerous in zoning cases. Yet there were periods of inactivity in more than one-third of all the DUI cases (for an average of 93 months from the first date inactive to last date reactivated; in more than three-fifths of all domestic violence cases (average total duration 57 months); and in more than two-fifths of all non-traffic misdemeanors (average total duration 37 months).

Because of the emphasis by the Court on management of DUI cases since 2007, however, it is critical to look more closely at the data on inactive DUI cases. With assistance from the

[45] Source: NCSC analysis of data provided by Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC. For more on the Court data in general, see Appendix B. Calculation of "average total days inactive" was based on elapsed time in each case from first date inactive to last date reactivated. For more details of the NCSC analysis of inactive cases, see Appendix C, Parts 1-8.

Court's IST director, NCSC distinguished DUI cases filed before 2007 with those filed after 2007, with the following results:[46]

Description	Total Cases/Total Inactive	Percent with Inactive Period
Full Data Set	3,501 / 1,276	36.4 %
Filed Before 2007	1,295 / 953	73.6 %
Filed 2007 and After	2,206 / 323	14.6 %

Thus, when the data set is broken down into DUI cases filed before 2007 and those after 2007, the substantial improvements of the Court's re-engineered DUI case management processes becomes evident. Of the cases in the data set filed on or after January 1, 2007, only 14.6 percent (about one in seven) had an inactive period. In contrast, the proportion of pre-2007 cases in the data set that had some period of inactivity (73.6%) was five times greater. Furthermore, not all of the inactive periods in domestic violence or non-traffic misdemeanors were problematic in terms of case processing and caseflow management. Regular progress from filing to a formal finding by the Court on whether a defendant was guilty or responsible for an offense was sometimes interrupted for specific policy reasons, including those when the Court found that defendant met established criteria for either (a) participation in a diversion program under the auspices of the justice system, or (b) serious mental illness resulting in incompetence to participate in trial or other court proceedings. See Table 3.2.4(2).

Table 3.2.4(2). Diversion Programs or Serious Mental Illness as Reasons for Inactive Periods in Domestic Violence Cases and Non-Traffic Misdemeanors with All Post-Judgment Court Work Concluded between August 1, 2010, and July 31, 2011[47]

Domestic Violence Diversion Dispositions (Total Cases)	Portion of All Concluded Domestic Violence Cases
Dismissal, Domestic Violence Diversion (N = 89)	3.7%
Dismissal, Seriously Mentally Ill Diversion (N = 3)	0.1%
Dismissal, Prostitution Diversion (N = 1)	0.04%

[46] Source: NCSC analysis of data provided by Jennifer Gilbertson, IST Director, in electronic mail message, December 30, 2011, from Phoenix Municipal Court to Gordon Griller, NCSC.
[47] Source: NCSC analysis of data provided by Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC. For more on the Court data in general, see Appendix B. For more details of the NCSC analysis of case-processing inactivity because of diversion or serious mental illness, see Appendix C, Parts 1-8.

Non-Traffic Misdemeanor Diversion Dispositions (Total Cases)	Portion of All Concluded Non-Traffic Misdemeanors
Dismissal, Shoplifting Diversion Program (N = 1,212)	6.0%
Dismissal, Underage Drinking Diversion (N = 623)	3.1%
Dismissal, Domestic Violence Diversion (N = 229	1.1%
Dismissal, Positive Alternatives Program (N = 181)	0.9%
Dismissal, Prostitution Diversion (N = 125)	0.6%
Dismissal, Solicitation Diversion (N = 69)	0.3%
Dismissal, Seriously Mentally Ill Diversion (N = 21)	0.1%
Dismissal, Defensive Driving Program (N = 5)	0.02%

The case-processing records provided by the Court to the NCSC project team suggest that dismissal after diversion for specialized programs or because of serious mental illness was among the outcomes for domestic violence and non-traffic misdemeanor cases. As is shown in Table 3.2.4(2), dismissals for successful completion of diversion programs or because of unremitting serious mental illness were entered in 3.9 percent of the domestic violence cases and 12.2 percent of the non-traffic misdemeanors.

We can be certain that the number of defendants referred to diversion programs was greater than the number who completed them successfully, so that those who failed the programs were subject to reinstated prosecutions in Municipal Court after periods of case-processing inactivity. Similarly, the total number of defendants who were diverted from prosecution because of serious mental illness was greater than the number whose cases were dismissed because they showed no likelihood of regaining competence, and that cases were reinstated for those whose competence was restored.

Yet the data on such dismissals suggests that the total number of defendants found by the Court before trial to meet the criteria for diversion could not have been anything approaching a majority of the defendants whose cases were in inactive status for any period of time. This confirms the observation by Municipal Court leaders to NCSC that defendant failure to appear for court hearings was overwhelmingly the most common reason for such interruptions of case processing. Experience in other states shows that the number of cases with failures to appear can be reduced, suggesting that City of Phoenix justice system leaders should consider the suggestions offered by NCSC in Section 3.2.7(1) below.

3.2.6 Problem-Solving Courts

In August 2000, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) adopted a joint resolution supporting "problem-solving" court programs. That resolution was based on the work of a joint task force, which found that the traditional adversarial process does not effectively address such complex problems as substance abuse and recidivism; that a focus on remedies for such problems as well as on issues of fact and law is required; that the application of principles and methods grounded in "therapeutic jurisprudence" advances trial court performance as well as public trust and confidence; and that there is broad support for drug courts and other such programs.[48]

There now are thousands of problem-solving court programs around the country, which are testing new approaches to difficult cases where social, human and legal problems intersect. Among them are a number of programs in Arizona, including drug courts, DUI courts, and domestic violence courts:

- ***Drug courts*** are voluntary programs for offenders charged with or convicted of drug and drug-related crimes. As an alternative to regular criminal adjudication, drug court teams typically consist of a judge, prosecutor, defense attorney, probation officer, and a treatment provider who collaborate to design appropriate treatment, counseling, and sanctions to reduce the offender's dependency on illegal drugs and their future chances of incarceration. Drug courts have been in operation in Arizona since March 1992, and it was reported in 2008 that there were 36 programs operating in 12 Arizona counties and nine Native American tribal governments.[49] Budget problems, however, may have forced a reduction in the number of funded programs. Through its adult probation department, the Arizona Superior Court for Maricopa County operates a post-sentencing drug court program using non-traditional methods to address the complex problems associated with substance abuse addiction. [50]
- ***DUI courts*** use the drug court model, blending court supervision with judicial oversight, monitoring, and a treatment regimen. Program operations begin shortly after a defendant's initial court appearance, last at least 12 to 18 months, and use a team concept to address repeat DUI offenders and those with a high blood-alcohol concentration. An adult DUI court program has been in operation for several years for felony cases in the

[48] Conference of Chief Justices, "CCJ Resolution 22," and Conference of State Court Administrators, "COSCA Resolution 4," "In Support of Problem-Solving Courts" (adopted as proposed by the Task Force on Therapeutic Jurisprudence of the Conference of Chief Justices in Rapid City, South Dakota, at the 52nd Annual Meeting on August 3, 2000).
[49] See Arizona Legislature, Joint Legislative Budget Committee, Staff Program Summary, "Judiciary Drug Court" (updated September 10, 2008), http://www.azleg.gov/jlbc/psjuddrug.pdf.
[50] See Judicial Branch of Arizona, Maricopa County, Adult Probation, "Substance Abuse: Drug Court Program," http://www.superiorcourt.maricopa.gov/AdultProbation/AdultProbationInformation/SubstanceAbuse/DrugCourtProgram.asp.

Superior Court for Maricopa County, and its combination of continued judicial monitoring, extended counseling and treatment for up to 36 months, increased alcohol and other drug testing, and increased contact with probation officers recently received a favorable evaluation by the National Highway Traffic Safety Administration.[51]

- ***Domestic violence courts*** are special post-adjudication programs that have been established in about 200 jurisdictions around the country (including several Arizona counties).[52] They typically provide for a team of judges, prosecutors, and probation officers to closely monitor convicted domestic-violence offenders on probation. In response to a recent survey, Arizona judges were divided over the need for separate domestic violence.[53] One judge asserted that such a program promotes efficient and timely handling of cases. But other Arizona judges questioned the wisdom of diverting resources to domestic violence issues, arguing that creation of a special court program for such programs would negatively affect the quality of justice.

The Phoenix Municipal Court does not now operate any problem-solving court programs like those described above. As the NCSC project writes below (see the discussion of "Option 7" in Appendix C for domestic violence cases), the decision whether to introduce any such program would involve consideration of a number of qualitative factors and cost considerations. While a specialized problem-solving program (whether drug court, DUI court, DV court, or another area of concern) offers the promise of more focused attention to substance abuse or other problems bringing parties before the Court, its success might require employment of probation officers or caseworkers, dedicated court and prosecution personnel, and specialized training for judges, prosecutors, defense lawyers, and staff. For further NCSC discussion and a recommendation on this topic, see Section 3.2.7(4) below.

3.2.7 Recommendations and Expected Efficiencies

The NCSC project team concludes that the data support the Court's well-deserved reputation for managing its business well. For purposes of innovation and improved efficiency,

[51] See R.K. Jones, *Evaluation of the DUI Court Program in Maricopa County, Arizona* (US Department of Transportation, National Highway Traffic Safety Administration, and US Department of Justice, Office of Justice Programs, Report No. DOT HS 811 302) (Winchester, MA: Mid-America Research Institute, July 2011), http://www.nhtsa.gov/staticfiles/nti/pdf/811302.pdf.

[52] See Melissa Labriola, Sarah Bradley, Chris S. O'Sullivan, Michael Rempel, and Samantha Moore, *A National Portrait of Domestic Violence Courts* (New York: Center for Court Innovation, February 2010).

[53] Richard Toon and Bill Hart, *System Alert: Arizona's Criminal Justice Response to Domestic Violence* (Phoenix, AZ: Arizona State University, Morrison Institute for Public Policy, 2007), p. 29, http://morrisoninstitute.asu.edu/publications-reports/SystemAlert-AZsCJRespToDVreports/SystemAlert-AZsCJRespToDV.

NCSC sees four areas in which the Court and its justice system partners might assure service to the citizens of Phoenix by providing a high quality of justice in a prompt and affordable manner.

3.2.7 (1) Reduce Impact of Inactive Cases. The area needing greatest improvement by far in terms of justice system innovation and efficiency has to do with pretrial release of defendants and periods of inactivity because defendants have failed to appear for scheduled court events. As the data in Table 3.2.4(1) indicate, the incidence and duration of case inactivity is greatest in domestic violence cases and non-traffic misdemeanors. Inactive status for a substantial number of these cases for long periods of time imposes substantial burdens on victims and society, undermining the purposes of the judicial process for criminal matters. Defendants are able to delay fine payments or otherwise be held accountable for their offenses, leaving victims feeling unprotected and threatening public safety. It also wastes justice system resources, in terms of the time of judges, lawyers, and support staff who prepare for court events that do not occur; in terms of the costs of issuing bench warrants, managing warrants, and executing them; and in terms of resuming case processing after reinstatement when evidence has grown stale and witnesses may no longer be available.

After a case is initiated by law enforcement, a defendant's first contact with a judicial officer is either at "Jail Court" (arrested defendants) or at arraignment (those receiving summonses), after which one or more court events (such as a motion hearing or a pretrial disposition conference) may be scheduled before a trial is scheduled.[54] It is desirable that system attention to the risk of failures to appear begin at case commencement and continue throughout the life of a case.

Recommendation B

To reduce any avoidable inactive elapsed time and waste of judicial, prosecution, defense and law enforcement resources, the City of Phoenix and its justice system leaders should consider a comprehensive approach that might include one or more of such steps as the following:

1. **As a part of broader information systems improvements, enhance access for law enforcement, prosecution, and the Court to more up-to-date defendant contact information from public sector databases at the local, state and perhaps even federal level.**

[54] For an overview of the court process for criminal cases in the Phoenix Municipal Court, see City of Phoenix Prosecutor's Office, Victim Information Center, "Understanding the Court Process," http://phoenix.gov/VICTIMS/courtprocess.html.

2. **Continue steps to improve evidence-based pretrial release decisions by including more intense appraisal of factors affecting risk of failure to appear.**
3. **Explore the value of "reminders to appear" or other options for cost-effective notice of court events to defendants and other case participants.**

Defendant Contact Information. One important source of problems leading to defendant failures to appear for court proceedings arises from the mobility of the members of American society and, more particularly, the transience of many people who may be charged with offenses requiring their appearance in court. A recent study of the Phoenix City Police Department recommended that improvements must be made to the Department's records management system (PACE),[55] and the Municipal Court's case management system (CMS) is a key focus for this NCSC study. (See below, Section 4.0.) To the extent that the City and its justice system undertake information systems improvements, it is desirable to take advantage of any suitable links to other public information systems to help reduce the incidence of inaccurate or outdated contact information for defendants and other case participants.[56]

Evidence-Based Pretrial Release Decisions. NCSC understands from an interview in June 2011 that efforts have begun in Phoenix to improve the quality of pretrial release decisions. Criminal justice researchers in other jurisdictions have been testing models for predicting failure to appear for a scheduled court appearance and re-arrest for a new offense during the pretrial period.[57] Pretrial release problems are so common throughout the United States that the US Justice Department has formed a working group to promote pretrial release decisions founded upon evidence-based risk assessments rather than upon financial conditions.[58]

Reminders to Appear. A defendant's failure to appear increases workloads and expenditures for the courts and law enforcement and can also lead to increased penalties,

[55] See Berkshire Advisors, *Innovation and Efficiency Study of the Phoenix Police Department* (April 2011), p. 36, http://phoenix.gov/webcms/groups/internet/@inter/@citygov/@efficiency/documents/web_content/058341.pdf.
[56] For one example of efforts in such areas as this, see New York State, Criminal Justice Services, "eJusticeNY," http://criminaljustice.state.ny.us/ojis/ejusticeinfo.htm.
[57] See, for example, Richard R. Peterson, *Pretrial Failure To Appear and Pretrial Re-Arrest Among Domestic Violence Defendants in New York City* (NCJ Publication No. 216210) (New York: New York City Criminal Justice Agency, September 2006), http://www.ncjrs.gov/App/publications/abstract.aspx?ID=237819.
[58] See NCSC, Government Relations Office, "United States Justice Department Forms Pretrial Justice Working Group," *Washington Update,* Vol. XXI, No. 10 (November 2011), http://view.exacttarget.com/?j=fe5c1678776501747712&m=ff3417737561&ls=fdff13737664077970167575&l=fe6315757366067c7311&s=fdf515757562017473157 17d&jb=ffcf14&ju=fe3117727664007c731c73 (as downloaded on November 9, 2011). Those interested in learning more about this endeavor should contact NCSC's participant on the Working Group, Judge Gregory Mize, at gmize@ncsc.org or at 202-607-6111.

including pre- or post-trial incarceration and increased fines for what started out as a minor offense. Significantly, failure to appear disproportionately impacts racial and ethnic minorities. Some jurisdictions have reduced failures to appear by using reminders to defendants to appear in court. In a federally-funded project, social scientists evaluated different types of misdemeanor reminder programs in several of Nebraska's counties to determine which was the most effective.[59] Defendants were randomly assigned to four reminder categories:

- Sending no reminder notices to defendants at all (control group);
- Sending a reminder to defendants, with no further information;
- Sending a reminder with information on the negative consequences of failure to appear; or
- Sending a reminder with information on both sanctions *and* the procedural justice benefits of appearing.

The researchers found that reminders significantly reduced failures to appear overall, and more substantive reminders were significantly more effective than a simple reminder.

Expected Efficiencies

Successful implementation of such steps as those recommended here can be expected to yield returns on investment of planning effort and capital resources that would include the following:

- **For victims, reduction of lost income from wasted court appearances, earlier achievement of emotional closure, and earlier receipt of any restitution payments.**
- **For citizens in general, increased public safety and greater feelings of public trust and confidence in the justice system and its processes.**
- **For defendants, more prompt accountability, increased possibility of deterrence, and earlier prospects for any rehabilitation.**
- **For the City, earlier municipal receipt of fines, fees and costs assessed against defendants.**
- **Reduction (for defendants) of unjust confinements and (for the City) of attendant jail costs caused by defendant indigence.**
- **For defendants from racial and ethnic minorities, reduction of the potential disproportionate impact of failures to appear.**
- **For the justice system, less resource waste in terms of the time of judges, lawyers, law enforcement and support staff who must prepare for court events that do not occur; in terms of the costs of issuing bench warrants, managing warrants, and executing them; and in terms of resuming case processing after reinstatement when evidence may have "grown stale" and witnesses may no longer be available.**

[59] Brian Bornstein, Alan Tomkins, and Elizabeth M. Neeley, *Reducing Courts' Failure to Appear Rate: A Procedural Justice Approach* (University of Nebraska, Public Policy Center) (Washington, DC: NCJRS Document No.: 234370, May 2011), https://www.ncjrs.gov/pdffiles1/nij/grants/234370.pdf.

3.2.7(2) Nonjury Trials for Domestic Violence and Civil Ordinance Case. For many of the case types in the Phoenix Municipal Court, trials are actually held for 40 percent or more of all cases in which a trial is demanded and scheduled. In these matters, the likelihood of having cases actually go to trial after being scheduled for it is substantial enough to support a conclusion that the time and effort involved in setting and preparing for trial is not being wasted because of last-minute negotiations that perhaps should have happened sooner, or by dismissal because of the last-minute decision by a victim or other key witness not to testify for the prosecution.

As Table 3.2.7 shows, however, there are two kinds of cases in which most cases set for trial are never actually tried. The data from the Court show that there are problems in the handling of domestic violence cases set for non-jury trial, the great majority of which end up being dismissed without prejudice because the victim has decided not to testify against the defendant. Although civil ordinance cases probably have very different dynamics from those in domestic violence cases, the results are similar, with a substantial portion being set on the non-jury trial docket but seldom actually resolved by trial.

Table 3.2.7. By Case Type, Percent of Cases on Trial Dockets That Were Actually Disposed by Trial, for Cases Concluded from August 2010 through July 2011

Case Type	Percent of Cases Scheduled for Trial that are Actually Resolved by Trial
Criminal Zoning Violation	55%
Parking Violation	50%
Civil Traffic Violation	48%
Non-Traffic Misdemeanor	44%
DUI	40%
Domestic Violence	18%
Civil Ordinance Violation	17%

Domestic Violence. The problem of having domestic violence cases dismissed because victims have chosen not to testify at trial is not unique to Phoenix.[60] As alternatives to

[60] See Melissa Labriola, Sarah Bradley, Chris S. O'Sullivan, Michael Rempel, and Samantha Moore, *A National Portrait of Domestic Violence Courts* (New York: Center for Court Innovation, February 2010), p. 81.
[60] See City of Phoenix Prosecutor's Office, "Victim Information Center," http://phoenix.gov/VICTIMS/.

continuing current practices for such cases, there are several plausible options that might be considered (see Appendix D):

- Create a separate problem-solving "domestic violence court" program
- Expand victim services with volunteer victim advocates or "witness advocates"
- Explore post-*Crawford* application of a "no drop" prosecution policy
- Introduce a trial status docket just before each non-jury trial week
- Require that the prosecutor's office issue subpoenas to all victims for domestic violence trials
- Introduce vertical prosecution for all domestic violence cases

Based on analysis presented more fully in Appendix D, the NCSC project team concludes that simply continuing current practices is not desirable. On the other hand, something as dramatic as creating a separate Phoenix Municipal Court "Domestic Violence Court" program, perhaps with specialized vertical prosecution, cannot be done right now in Phoenix because of costs associated with additional personnel. Instead, the NCSC project team recommends the following:

Recommendation C

In addition to reducing the impact of avoidable inactive time in domestic violence cases [see Section 3.2.7(1)], and to reduce wasted resources because of having the Court's twice-weekly non-jury trial dockets fall apart, the leaders of the City of Phoenix and its justice system should support the City Prosecutor with such steps as the following:

1. **Provide educational programs and training for police, prosecutors and others to allow reactivation of the Phoenix "no drop" prosecution policy in a manner consistent with the US Supreme Court decision in *Crawford v. Washington*[61] and any subsequent case law in Arizona.**
2. **Use volunteer victim advocates or "witness advocates" to (a) expand victim services, (b) make broader use of available instruments or evidence to assess party dynamics, and thereby (c) enhance prosecution capacity for earlier identification of circumstances under which victims may decline to testify.[62]**
3. **Application of the above information by the lawyers in each prosecution trial bureau to screen cases not only for severity, but also for victim cooperation.**
4. **As an alternative to vertical prosecution, early identification (no later than arraignment) of one lawyer in each prosecution trial bureau as a contact person for defense counsel to discuss any discovery issues or prospects for negotiation.**

[61] 541 U.S. 36 (2004).
[62] To explore prospects in this respect, such organizations as the Regional Domestic Violence Council of the Maricopa Association of Governments may be helpful. See http://www.azmag.gov/Committees/Committee.asp?CMSID=1053.

Expected Efficiencies

The benefits from the successful adoption and implementation of such steps as those recommended here include the following:

- **Improved prospects for achieving the purposes of legislation and procedures for domestic violence cases to protect vulnerable adults and children.**
- **Reduction of burdens on the Phoenix Police Department budget from having to pay officers half a day each of overtime pay to appear as prosecution witnesses in domestic violence cases without being asked to testify in about four of every five cases.**
- **Reduction in the number of court appearances required for prosecution and defense lawyers because of trials that are scheduled but not held.**
- **Improved use of the Court's judicial and support staff resources because of less time needed to schedule and prepare for nonjury trial dockets, perhaps with fewer such dockets being required.**

Civil Ordinance Violations. As noted above, over three-fourths of all civil ordinance violations involve salvageable plants and landscape requirements, the light rail system, exterior premises, neighborhood preservation, civil waste, and solid waste disposal. There is not a problem of failures to appear; and while only two-thirds of the cases inspected by the NCSC project team were disposed within the Court's civil time standard of 120 days after commencement, over 99 percent were disposed within 180 days. While most cases scheduled for trial end up being resolved by negotiation or other non-trial means, only an average of about one case in five requires more than one trial setting to be disposed.

Recommendation D

The Court and its justice partners should revise practices for scheduling nonjury trials in civil ordinance cases only (a) if any substantial number of cases begin to take longer than 180 days from filing to finding, (b) if there is an increase in the number of trial settings sufficient to undermine trial-date certainty, and (c) the amount of wasted time for judges, prosecutors and support staff working on the trial dockets for these cases is too great to justify having so many docketed cases not tried.

Expected Efficiencies

This is an area in which the setting of a trial date appears to serve as a setting for the defendants, who may often be small business owners, to make a formal record of the resolution that has been reached with the City. Although there might be steps taken for the cases to be resolved sooner or with fewer cases set for trial, it is not clear to the NCSC project team that the effort to introduce changes would yield efficiencies sufficient to offset the difficulties that might be presented.

3.2.7(3) Caseflow Management for DUI Cases and Non-Traffic Misdemeanors. In pure caseflow management terms, the Court and its justice partners must continue to focus on the management of DUI cases and non-traffic misdemeanors.

Recommendation E

To assure that the Phoenix Municipal Court continues to achieve prompt and fair resolution of DUI and non-traffic misdemeanor cases, attention should be given to a variety of ways to streamline and assure continual timely processing of these cases. It is suggested that a special task force of representatives from each of the city justice system agencies be developed as a permanent sub-group of a Phoenix Justice System Coordinating Council. Among the items the task force should address and monitor are the following:

1. **To avoid delay at case commencement, the City Prosecutor's Office and the City Police Department should give particular attention to assure the timely provision of police reports for Jail Court and Arraignment Court dockets each day.**
2. **The justice system should take advantage of the excellent electronic disclosure system in the City Prosecutor's Office, optimizing its use for timely transmission of discoverable information as required by the institutional participants in the court process.**
3. **Any new issues associated with early defense counsel contact with clients and communications with the prosecution should be promptly identified and addressed.**
4. **Scheduling and resetting of pretrial disposition conferences (PDC's) should be monitored on an ongoing basis to optimize the utility of such conferences as a means for prosecution and defense lawyers to prepare their cases and decide which must be set for trial to be resolved.**
5. **When appropriate, any "PDC reset" should be to a date less than 30 days in the future.**
6. **For DUI cases, the Court's should be particularly attentive to monitoring trial-date certainty with CourTools Measure 5, keeping in mind that the timeliness of case dispositions is best promoted if the number of trial settings should not exceed an average of 2.0 per case for matters on the trial dockets, and that an average of 1.50 or lower is often best.**

Expected Efficiencies

The judges and staff of the Court and its justice partners deserve high praise for the great success that has been achieved in terms of prompt dispositions for DUI and non-traffic misdemeanor cases without warrants. As the judges, lawyers and managers know, however, there is a constant battle to achieve such success in view of the amount of work to be done with the resources that the City is able to provide. National research has shown that trial courts whose judges exercise active management of case progress are able to reduce the impact of resource problems for prosecutors and public defenders as well as the

court itself.[63] To promote continued success in this area, it will be important for the Court to continue the exercise of the kinds of caseflow management activities noted in this recommendation.

3.2.7(4) Problem-Solving Court Programs. The NCSC project team concludes that the adoption of a separate problem-solving program, such as a drug court, DUI court or DV court, cannot be done right now in Phoenix because of such additional costs as those for probation personnel, other case management people, and service providers. Yet the leaders of the City of Phoenix and of its justice system should not completely dismiss the possibility of participating in one or more problem-solving court programs.

Recommendation F

To serve citizens including parties in cases before the Municipal Court, the leaders of the Phoenix justice system should consider participation in or development of a problem-solving court or specialized docket relating consistent with some of the successful models pursued by Maricopa County and neighboring limited-jurisdiction courts pursuant to available funding and a sufficient return on investment to justify the effort.

Expected Efficiencies

Problem-solving court programs have been found to be a very cost-effective tool for government service to persons whose personal problems and difficulties bring them into contact with law enforcement and the courts. In 2001, for example, researchers from the Washington State Institute for Public Policy undertook a rigorous examination of the costs and benefits of drug courts based on a review of multiple studies that met the Institute's research design criteria.[64] The researchers found that each dollar of cost for a drug court program yields an average benefit to society worth $2.83. They also analyzed the effects of treatment-oriented intensive supervision programs, finding that a reduction in crime could be expected that would more than offset an up-front increase in costs, equivalent to benefits worth $2.45 per dollar of cost. Studies like this suggest that the citizens of Phoenix might benefit from having parties take part in a problem-solving court program if circumstances make the expenditure of initial program outlays possible.

3.3 REVENUE RECOVERY AND COLLECTIONS PRODUCTIVITY

Although the purpose of a trial court is not to generate revenue for government, it is critical for any court to assure compliance with its orders (including those imposing monetary

[63] See Brian Ostrom and Roger Hanson, *Efficiency, Timeliness and Quality: A New Perspective from Nine State Criminal Trial Courts* (Williamsburg, VA: NCSC, 1999).
[64] Steve Aos, Polly Phipps, Robert Barnoski, and Roxanne Lieb, *The Comparative Costs and Benefits of Programs to Reduce Crime,* Version 4.0 (Olympia, WA: Washington State Institute for Public Policy, May 2001, http://www.wsipp.wa.gov/rptfiles/costbenefit.pdf.

sanctions) in order to promote continued respect for the law and the courts. As a result, court efficiency and effectiveness in the collection of monetary penalties is an important measure of court performance.[65]

In Arizona, the Supreme Court collects quarterly revenue data from all the limited-jurisdiction courts in the State -- both Justice Courts and Municipal Courts.[66] Major revenue categories represent monies collected from four sources: (1) fines, sanctions and forfeitures; (2) surcharges; (3) fees; and (4) other revenue from sources not otherwise specified. In FY 2010, the total revenue collected by limited jurisdiction courts was almost $328 million. About three-fourths of that came from the limited jurisdiction courts in Maricopa County and Pima County.[67]

The Phoenix Municipal Court is an active participant in the statewide Arizona Fines/Fees and Restitution Enhancement (Arizona FARE) program, a voluntary statewide collection unit for courts that use various initiatives and processes to maximize collection potential. The program has two parts: one component deals with backlog processing and the other component takes responsibility for all collection tasks from the time of charge filing.[68]

As a court taking early advantage of the benefits of performance measurement through the adoption and application of national court performance measures, the Municipal Court actively measures and reports on its collections of fines and other monetary sanctions through the application of National Center for State Courts' CourTools Measure 7, "Collection of Monetary Penalties." Each month, the Court reports to the City of Phoenix on payments collected for cases with a final monetary penalty due date in the previous month, expressed as a percentage of total monetary penalties ordered in the cases.

Assuring Compliance with Monetary Penalties Over Time

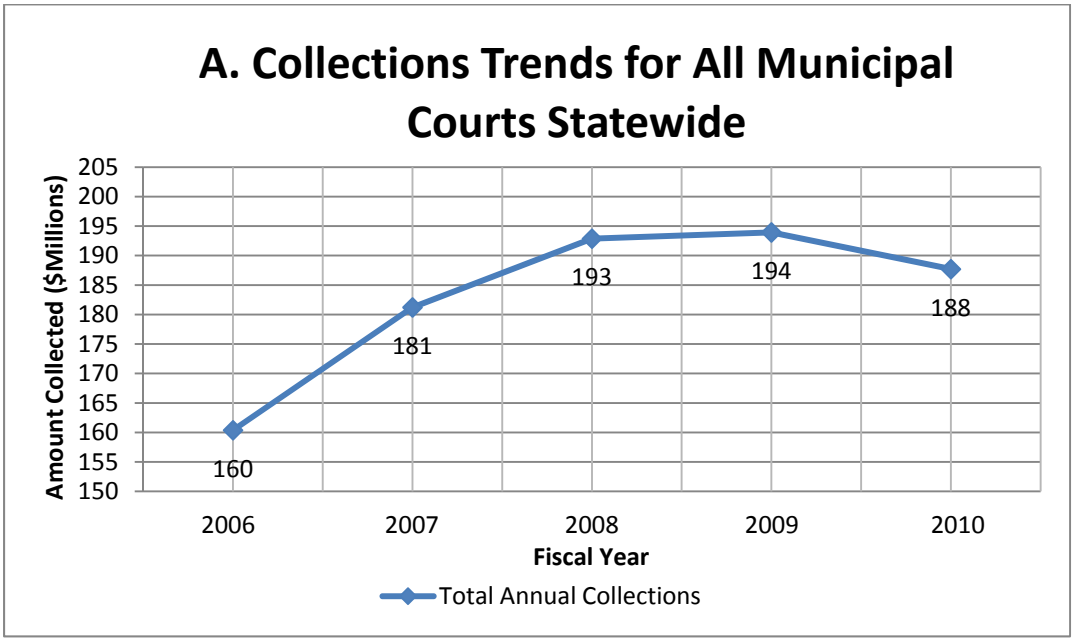
Improving compliance rates for the collection of monetary penalties as well as for collection and disbursement of restitution is enhanced by monitoring the trend in performance. Table 3.3(1) shows how trends over the past five years (from FY 2006 through FY 2010) for the

[65] See CourTools, Measure 7, "Collection of Monetary Penalties," http://www.ncsconline.org/D_Research/CourTools/Images/courtools_measure7.pdf.
[66] See Arizona Judicial Branch, AOC Court Services Division, "Statistics: Annual Data Reports," http://www.azcourts.gov/statistics/Home.aspx.
[67] See "Court Revenue: Limited Jurisdiction Courts Narrative Summary" (FY 2010), http://www.azcourts.gov/Portals/39/2010DR/LJ_Revenue.pdf.
[68] See Laura Klaversma, "Courts and Collections," *Future Trends in State Courts, 2008,* http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/financial&CISOPTR=122.

Phoenix Municipal Court compare with those for all Municipal Courts in Maricopa County, as well as those for all Municipal Courts throughout the State of Arizona.

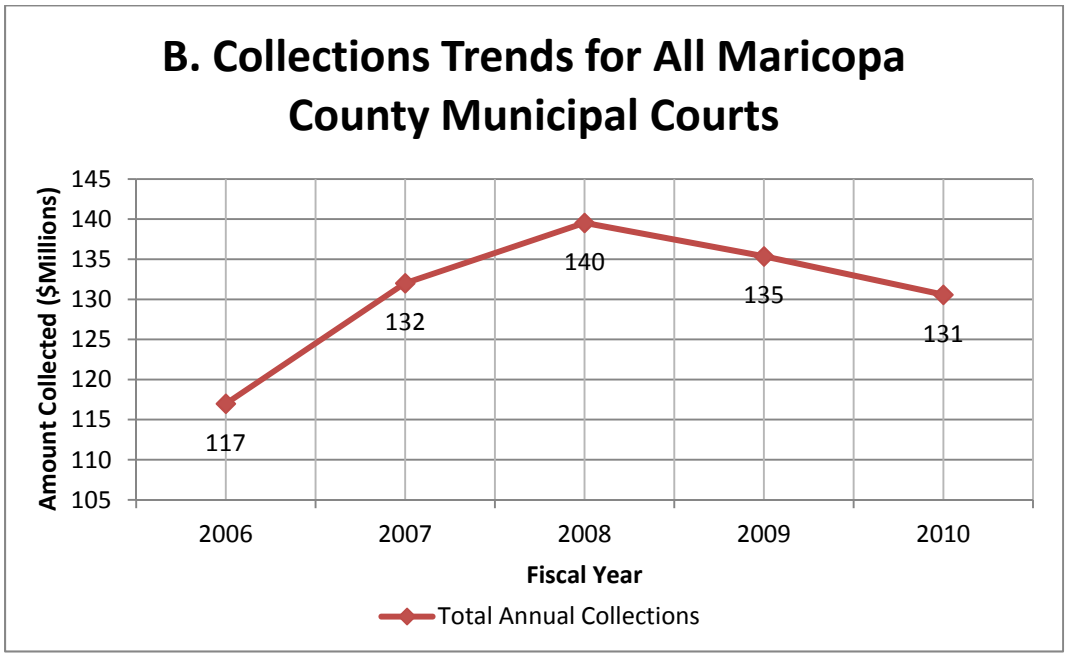
Part A of the table shows that total statewide collections by Municipal Courts increased by 20 percent between FY 2006 to FY 2008, with a flattening of the growth curve in FY 2009 and a decrease in FY 2010. As Part B shows, all of the Municipal Courts in Maricopa County together had a similar growth pattern from FY 2006 to FY 2008, with a falling off in FY 2009 that continued in FY 2010. Part C shows a different pattern in the trends for the Phoenix Municipal Court, however.

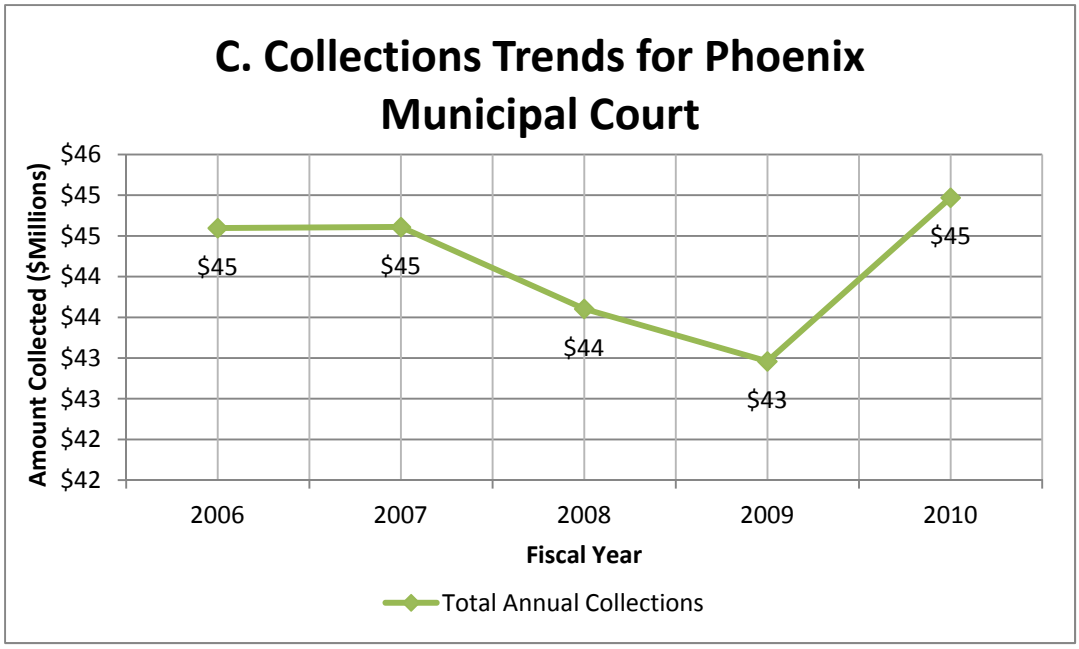
Table 3.3(1). Arizona Municipal Court Revenue Collection, FY 2006-2010, for All Municipal Courts Statewide, for All Those in Maricopa County, and for the Phoenix Municipal Court[69]



[69] Source: Arizona limited jurisdiction court revenue data, as reported in Arizona Judicial Branch, AOC Court Services Division, "Statistics: Annual Data Reports," http://www.azcourts.gov/statistics/Home.aspx.

Table 3.3(1) (continued)





As Part C shows, the Phoenix Municipal Court experienced a fall in court collections earlier, with totals falling from FY 2007 through FY 2008 and FY 2009. In FY 2010, however, the Court's collection totals rebounded by $2 million, to a level even higher than FY 2006 and 2007. This uptick in Phoenix offset some of the decreased collections totaling around $6 million

in the County's other Municipal Courts, and without it the statewide reduction in collections would have dropped $8 million rather than $6 million.

The Phoenix Municipal Court deserves commendation for having embraced the responsibility to assure compliance with its orders, including those involving payment of monetary sanctions. The evidence for this includes the Court's active participation in the Arizona FARE program, its active monitoring and acceptance of accountability for its own collections performance through CourTools Measure 7, and its success in lessening the decrease in Municipal Court collections that Arizona and Maricopa County experienced in FY 2010.

"Raising the Bar" by Linking Management of Post-Judgment Collections with Management of Pretrial Failures to Appear

Given what has been accomplished to date, the NCSC project team believes that the Court and its justice partners may well be in a position to take an innovative step that will represent a quantum leap forward for courts in Arizona and other states. Most attention in the management of court collections is focused on assuring a high rate of payment by defendants of court-ordered monetary penalties, without undue delay from date of sentence to date of full compliance. Yet there is growing recognition that managing post-disposition court collections is on a continuum with pretrial caseflow management."[70]

Unnecessary and avoidable delay before adjudication puts off accountability for defendants who may be found guilty or responsible. Similarly, unnecessary and avoidable delay in payment of fines and fees not only puts off accountability, but also makes it less likely that defendants will pay.[71] Recognizing that there is a management continuum from case initiation through finding and entry of judgment to full compliance with court-ordered sanctions, the NCSC project team urges the Phoenix Municipal Court to take an innovative step by linking its management of post-judgment collections with Phoenix justice system efforts to improve the management of pretrial failures to appear in keeping with Recommendation 1 above.

[70] See John Matthias and Laura Klaversma, *Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions, Second Edition* (Williamsburg, VA: National Center for State Courts, 2009), p. 87.
[71] Ibid. p. 14.

Recommendation G

Recognizing that many defendants ordered by the Court to pay monetary sanctions may often have failed to appear for scheduled court events before sentencing, the Phoenix Municipal Court and its justice partners should make management efforts to reduce the elapsed time from the date of an alleged offense to the date of full compliance with monetary sanctions by defendants who have been convicted by

1. **Determining whether any steps to track defendants and assure post-judgment compliance with monetary sanctions might be applied to track defendants and reduce the incidence of pretrial failures to appear.**
2. **Determining whether any steps to implement Recommendation 1 and track defendants to reduce the risk of pretrial failures to appear might be applied to track defendants and assure post-judgment compliance with monetary sanctions.**
3. **As an innovative expansion of its monitoring of court collections under CourTools Measure 7, determining whether reducing the incidence and duration of case inactivity from defendant failures to appear results in shorter times from initial offense to final government receipt of fines and fees and victim receipt of restitution payments.**

Expected Efficiencies

As we noted earlier in this section, case inactivity leading to delayed decisions on guilt or responsibility for offenses is a justice system problem in the City of Phoenix, causing extra work for judges, lawyers, police officers and support staff. It is a problem especially in domestic violence cases, non-traffic misdemeanors, and DUI cases. The NCSC analysis of Municipal Court cases [see above, Table 3.2.4(1) and related discussion] found that payment of any fines, fees, costs and restitution in these cases was delayed by periods of inactivity in more than one-third of all the DUI cases (for an average total duration of 93 months from first date inactive to last date reactivated); in more than three-fifths of all domestic violence cases (average total duration 57 months); and in more than two-fifths of all non-traffic misdemeanors (average total duration 37 months).

For effectiveness in court collection of fines and fees, courts must recognize that "many defendants do not have stable addresses and can 'disappear' quickly, and a comprehensive approach to collections would include attention to such steps before adjudication as the following:[72]

- **Law enforcement notices at arrest, even before initial appearance**
- **Systematic communication of court expectations at initial hearing or pretrial court events**
- **Use of defendant contact information and other caseflow management information in justice system databases**

[72] Ibid. see pp, 23, 45 and 87.

Working with its justice partners, the Court can help to create an expectation that defendants will not only have their guilt or innocence determined promptly, but that accountability in terms of compliance with court-ordered monetary sanctions will occur without unnecessary or avoidable delay after an offense for which they are found guilty or responsible.

3.4 ORGANIZATION STRUCTURE; COURT STAFFING REQUIREMENTS

In February 2008, the Arizona Administrative Office of the Courts (AOC) initiated a review and evaluation of Phoenix Municipal Court operations, conducting on-site activities in June and July 2008. After giving the Court an opportunity to respond to its findings and recommendations, the AOC published the report in February 2010. The report included a comparison of the Court's judicial and non-judicial staffing, as well as its filings, dispositions and clearance rates, with those of the other large municipal courts in Arizona (Tucson, Scottsdale, Mesa and Tempe) As Table 3.4(1) indicates, the Phoenix Municipal Court had dramatically fewer total cases filed per judge and per non-judicial staff member than the other large municipal courts in 2007.

Table 3.4(1). Comparison of Phoenix Municipal Court Filings per Judge and Non-Judge Staff Member with Those in Other Large Arizona Municipal Courts, Fiscal Year 2007[73]

Municipal Court	Case Filings	Staffing Levels		Filings per	
		Judicial	Non-Judicial	Judicial Officer	Staff Person
Phoenix	329,128	39	401.5	8,439	820
Tucson	249,870	15	141.5	16,658	1,766
Scottsdale	209,174	7	85	29,882	2,461
Mesa	136,124	8	89	17,016	1,529
Tempe	107,220	3	31	35,740	3,459
Average	206,303	14	150	14,736	1,375

The data presented by the AOC would thus seem to suggest that the Phoenix Court was dramatically overstaffed by comparison to the other large courts. The implication from this was that the Phoenix Court might have the same results with many fewer personnel if it were as efficient and productive as the other large courts appeared to be.

[73] Source: see Arizona Supreme Court, Administrative Office of the Courts, *Phoenix Municipal Court Operational Review Evaluation* (February 2010), Table A, p. 2.

Whatever one makes of the raw caseload numbers and hypothetical workload numbers for Phoenix and the other large municipal courts, however, the NCSC project team concludes that the restructuring of the Phoenix Municipal Court since 2007 has enabled the Court to maintain high performance with a sharp reduction in its judicial and non-judicial staffing levels. Beyond any incidental further structural changes that the Court may make in the immediate future, there is little ground to conclude that there should be any further reduction in force for the Court.

A measure of staffing needs based solely on case filings or case dispositions does not give due recognition to variations in the amount of work that different kinds of cases present for judges, lawyers and support staff. It is unlikely that anyone could reasonably expect a parking case or civil traffic violation to present the same level of effort as a DUI case or other serious misdemeanor, or to present the same level of emotional turmoil as a domestic violence case.

Recognition of the different levels of work that different case types present has led to the development of "weighted caseload" methodologies for the assessment of workloads for judges and court staff members.[74] Although this workload assessment methodology has been applied to at least one general-jurisdiction trial court in Arizona,[75] there does not appear to be a suitable Arizona example for application to the work of the Phoenix Municipal Court. Yet the NCSC project team perceives that a court staff needs assessment done for the King County District Court in greater Seattle, Washington, might provide a rough guide.[76]

If Arizona Municipal Court case weights were the same as those in the King County District Court for non-judicial staff, then Table 3.4(2) shows that the case types heard in Municipal Court would hypothetically have the following case weights reflecting the average amount of required staff work time (in minutes):[77]

[74] For more detailed discussion of issues and methods, see Victor E. Flango and Brian J. Ostrom, *Assessing the Need for Judges and Court Support Staff* (Williamsburg, VA: National Center for State Courts, 1996).
[75] See Margaret Guidero and Suzanne Tallarico. "Judicial Workload Study for the Superior Court in Yuma County, AZ," *The Court Manager*, Vol. 25, No. 2 (Summer 2010), 15-25.
[76] The King County District Court is a limited-jurisdiction trial court with county-wide jurisdiction in parts of greater Seattle not served by municipal courts. For the case weights developed in the assessment for that court, see Suzanne Tallarico, et al., *King County District Court, Staff Needs Assessment Study* (Denver, CO: National Center for State Courts, 2007).
[77] Ibid. Table 13, p. 38.

Table 3.4(2). Hypothetical Model for Relative Support Staff Work Needed for Arizona Municipal Court Case Types

Case Type	Case Weight (Minutes)	Relative Work Needed (Civil Traffic = 1.000)
DUI	370	9.250
Serious Criminal Traffic	305	7.625
Other Criminal Traffic	149	3.725
Civil Traffic Violation	40	1.000
Non-Traffic Misdemeanor	149	3.725
Non-Criminal Ordinance Violation	9	0.225

The "Relative Work Needed" column in the hypothetical model above represents an effort to use the most common kind of limited-jurisdiction case -- a civil traffic violation -- as the basis for measuring the relative amount of staff work that different case types present. Thus, the King County data suggest that a DUI case requires 9.25 times the amount of work that is needed for a civil traffic violation, while a civil ordinance violation requires only 22.5 percent as much work as the typical civil traffic violation. It is important to recognize and acknowledge that the amount of work required for different case types in Arizona Municipal Courts in 2011 would undoubtedly be different from the results of the 2007 assessment in King County. Yet the "relative weights" are suitable for comparison.

By the use of such case weights as these, one can go beyond anecdotal perceptions to determine how differences in case mix between one court and another can affect their staffing needs for judges and non-judicial staff. Application of the hypothetical model to FY 2007 case filings in the Phoenix Municipal Court and the four other large Municipal Courts yields the results shown in Table 3.4(3) below.

As the table shows, applying the hypothetical model to show the varying levels of non-judicial staff work that may be necessary for different case types does not on its surface yield overall results different from those in Table 3.4(1) above in terms of a comparison of the Phoenix Municipal Court with the four other large Municipal Courts in Arizona. Yet the hypothetical model does show that there are some nuanced differences in case mix among the courts.

For example, the most difficult and time consuming case type (DUI) make up twice as much of the total work time per staff member in Phoenix as it does in Tucson, and one-third

more than in Scottsdale. In Mesa and Tempe it presents a larger portion of the hypothetical work for staff members as in Phoenix, although those courts have much lower volume than Phoenix. Criminal cases overall (including DUI and both traffic and non-traffic misdemeanors) make up two-thirds of the hypothetical work demands for Phoenix staff, as they do in Mesa and Tempe. Criminal cases represent only about 40 percent of the workload in Scottsdale. Criminal cases demand almost three-fourths of hypothetical staff time in Tucson, even with only half as much DUI work as in Phoenix.

Overall, the figures in Table 3.4(3) suggest that the hypothetical demands on personnel in Phoenix in 2007 were different than in the other large Municipal Courts. Although the hypothetical work demands per person on non-judicial staff in Phoenix were lower than in any of the other large courts, the total workload in Phoenix seems to have included a somewhat greater portion of more difficult cases.

Between FY 2007 and FY 2010, there was a dramatic change in the level of judicial officers in the Phoenix Municipal Court. While the court had a total of 39 judges and magistrates in FY 2007, by FY 2010 that total was reduced to 26 -- only two-thirds the total for the earlier fiscal year.[78]

Moreover, in 2007, even before the commencement of the AOC operations review, the Municipal Court had already begun an assessment of its organizational structure, to accommodate City budget shortfalls while continuing to meet its constitutional obligations. As a result of that assessment, the Court achieved a reduction of 63 FTE management and line staff positions from 2007 through 2010 by streamlining or consolidating functions in areas including Administration, Courtroom Operations, Jail Court, Warrants, Central Files, Support Services, and Screening and Assessment. By Summer 2010, the Court had achieved what the Chief Presiding Judge considered "an optimum structure which fulfills Constitutional mandates, provides exceptional customer service and does so at reasonable taxpayer expense."[79] After that, as budget pressures continued for the City, the Court continued its cutbacks and restructuring by eliminating an assistant court administrator position and considering further reorganization involving its Court Security Section.

[78] See 2010 Arizona limited jurisdiction court personnel data, as reported in Arizona Judicial Branch, "Statistics: Annual Data Reports," http://www.azcourts.gov/statistics/Home.aspx.
[79] City of Phoenix Municipal Court, Memorandum to David Cavazos, City Manager, from Roxanne K. Song Ong, Chief Presiding Judge, Subject: Organizational Review - Executive Summary (September 17, 2010).

Table 3.4(3). Application of Hypothetical Model for the Non-Judge Work Needed for Phoenix Municipal Court Filings in Comparison with That in Other Large Arizona Municipal Courts, Fiscal Year 2007[80]

Municipal Court	Case Type	FY 2007 Case Filings	Hypothetical Work Level Needed	Non-Judge Staff	Work Needed per Staff Member
Phoenix	DUI	15,768	145,854		
	Serious Crim Traffic	1,517	11,567		
	Other Crim Traffic	34,913	130,051		
	Civil Traffic	194,408	194,408		
	Non-Traffic MD	40,938	152,494		
	Non-Crim Ord	41,584	9,356		
	Totals	***329,128***	***643,731***	***401.5***	***1,603.31***
Tucson	DUI	6,270	57,998		
	Serious Crim Traffic	1,092	8,327		
	Other Crim Traffic	12,236	45,579		
	Civil Traffic	118,723	118,723		
	Non-Traffic MD	68,494	255,140		
	Non-Crim Ord	43,055	9,687		
	Totals	***249,870***	***495,454***	***141.5***	***3,501.44***
Scottsdale	DUI	5,596	51,763		
	Serious Crim Traffic	589	4,491		
	Other Crim Traffic	8,549	31,845		
	Civil Traffic	180,621	180,621		
	Non-Traffic MD	9,161	34,125		
	Non-Crim Ord	4,658	1,048		
	Totals	***209,174***	***303,893***	***85***	***3,575.21***
Mesa	DUI	8,273	76,525		
	Serious Crim Traffic	451	3,439		
	Other Crim Traffic	9,446	35,186		
	Civil Traffic	96,347	96,347		
	Non-Traffic MD	18,595	69,266		
	Non-Crim Ord	3,012	678		
	Totals	***136,124***	***281,442***	***89***	***3,162.26***
Tempe	DUI	5,481	50,699		
	Serious Crim Traffic	412	3,142		
	Other Crim Traffic	5,480	20,413		
	Civil Traffic	56,845	56,845		
	Non-Traffic MD	13,988	52,105		
	Non-Crim Ord	25,014	5,628		
	Totals	***107,220***	***188,832***	***31***	***6,091.36***

[80] Source: Source: Arizona limited jurisdiction case activity and court personnel data, as reported in Arizona Judicial Branch, "Statistics: Annual Data Reports," http://www.azcourts.gov/statistics/Home.aspx.

In terms of staffing levels and NCSC's hypothetical model for workload demands on non-judicial court staff as they now compare with those for Arizona's other large municipal courts, the consequences of the court restructuring are shown below in Table 3.4(4). By maintaining timely adjudication of cases and even increasing its court collections, the Phoenix Municipal Court in FY 2010 appears under the application of the hypothetical model to have increased staff productivity by about 39 percent since FY 2007.

For all case types, the overall gap between Phoenix and the other large courts in terms of total hypothetical work demands per staff member was a good deal narrower in FY 2010 than in FY 2007. At the more detailed level, the case mix in Phoenix in FY 2010 included a higher percentage of work demands from criminal cases, including DUI cases, was greater than in FY 2007 with lower demands from civil cases. Exactly the opposite occurred for the workload mix in Tucson, Mesa and Tempe, where the criminal (including DUI) workload was lower than in FY 2007. The greatest shift was in Scottsdale, where the work demands for criminal cases increased from 40.2 percent of the total in FY 2007 (including 17.0% DUI) to 63.0 percent in FY 2010 (including 28.7% DUI). Overall, however, the hypothetical staff workload per person for Scottsdale was roughly comparable to that for Phoenix, while there had been a wide disparity in FY 2007.

It is clear from this analysis that the restructuring of the Phoenix Municipal Court since 2007 has enabled the Court to maintain high performance with a sharp reduction in its judicial and non-judicial staffing levels. Beyond any incidental further structural changes that the Court may make in the immediate future, there is little ground to conclude that there should be any further reduction in force for the Court. Rather, it will be important to see what consequences come from the implementation of information technology changes of the sort that are discussed later in Section 4.0 of this report.

Table 3.4(4). Application of Hypothetical Model for the Non-Judge Work Needed for Phoenix Municipal Court Filings in Comparison with That in Other Large Arizona Municipal Courts, Fiscal Year 2010[81]

Municipal Court	Case Type	FY 2010 Case Filings	Hypothetical Work Level Needed	Non-Judge Staff	Work Needed per Staff Member
Phoenix	DUI	17,755	164,234		
	Serious Crim Traffic	994	7,579		
	Other Crim Traffic	39,185	145,964		
	Civil Traffic	202,691	202,691		
	Non-Traffic MD	44,634	166,262		
	Non-Crim Ord	36,890	8,300		
	Totals	***342,149***	***695,030***	***311***	***2,234.82***
Tucson	DUI	7,715	71,364		
	Serious Crim Traffic	836	6,375		
	Other Crim Traffic	10,298	38,360		
	Civil Traffic	125,057	125,057		
	Non-Traffic MD	70,461	262,467		
	Non-Crim Ord	36,665	8,250		
	Totals	***251,032***	***511,872***	***141***	***3,630.30***
Scottsdale	DUI	6,641	61,429		
	Serious Crim Traffic	580	4,423		
	Other Crim Traffic	7,539	28,083		
	Civil Traffic	78,495	78,495		
	Non-Traffic MD	10,985	40,919		
	Non-Crim Ord	3,030	682		
	Totals	***107,270***	***214,030***	***76.5***	***2,797.78***
Mesa	DUI	4,979	46,056		
	Serious Crim Traffic	317	2,417		
	Other Crim Traffic	5,808	21,635		
	Civil Traffic	98,688	98,688		
	Non-Traffic MD	15,970	59,488		
	Non-Crim Ord	2,585	582		
	Totals	***128,347***	***228,866***	***80.5***	***2,843.05***
Tempe	DUI	4,256	39,368		
	Serious Crim Traffic	492	3,752		
	Other Crim Traffic	4,394	16,368		
	Civil Traffic	64,367	64,367		
	Non-Traffic MD	14,438	53,782		
	Non-Crim Ord	14,646	3,295		
	Totals	***102,593***	***180,931***	***38***	***4,761.34***

[81] Source: Arizona limited jurisdiction case activity and court personnel data, as reported in Arizona Judicial Branch, "Statistics: Annual Data Reports," http://www.azcourts.gov/statistics/Home.aspx., except that Phoenix non-judge staffing levels are as reported by Chief Presiding Judge Roxanne K. Song Ong, in Memorandum to David Cavazos, City Manager, Subject: Organizational Review - Executive Summary (September 17, 2010).

Recommendation H

No reduction in current staffing levels should be made for the Court in the immediate future. As the leaders of the Phoenix justice system implement operations and information technology changes such as those recommended in this report, the Phoenix Municipal Court leaders, and the leaders of other City justice agencies, should closely monitor their impact on judicial and non-judicial staffing needs. As the consequences of such changes become more evident, the Court, and all justice system stakeholders, should make further changes in their staffing and organizations so improvements in organizational structures and the use of personnel resources continue pursuant to fulfilling Constitutional mandates and providing exceptional customer service at reasonable taxpayer expense.

Expected Efficiencies

It is foreseeable that implementation of the kinds of case management improvements suggested in this Section will help to ameliorate pressures on the personnel of the Court as well as on prosecution, public defense and law enforcement.[82] It is also foreseeable that implementation of the kinds of information technology improvements discussed in Section 4.0 following may considerably change the work demands for justice system personnel. Consequently, it is predictable that the leaders of the Court should be able to make further improvements in the organization and productivity of judicial and non-judicial personnel as the results of the changes contemplated in this report unfold.

[82] See Brian Ostrom and Roger Hanson, *Efficiency, Timeliness and Quality: A New Perspective from Nine State Criminal Trial Courts* (Williamsburg, VA: NCSC, 1999).

4.0 INFORMATION TECHNOLOGY

4.1 PRESENT COURT CASE MANAGEMENT SYSTEM

The Phoenix Municipal Court uses a legacy case management system that was developed internally and deployed in 1999, which has been operated, maintained, and upgraded for roughly 13 years. This client/server application runs in the UNIX environment with an Informix database, and was written using JAM.[83] It provides functional case processing support throughout the court. The system is mature, stable, and reliable.

The Phoenix Municipal Court Information Systems Technology (IST) Group provides technology support for the case management system and other applications used by the Court. IST consists of three sections: User Technology Support, System Administration, and Application Support – which is comprised of the Application System Development and Support Section and the Business Analyst Support Section. While the IST staff is skilled and competent, they have recently lost a number of long-term employees to retirement. They are certainly capable of continuing to support the CMS in the future and appear to have adequate resources to do their work –though staffing is quite lean.

Strengths of Current System

The current CMS is notable in that it truly automates most of the business processes of the Court. It is not a traditional case management system, where the results of judicial and staff decisions and actions are recorded, but it actually assists in the completion of many tasks. Without this system, a much larger contingent of staff would be required by the Court. This approach to technology-supported business process management is innovative and has not been achieved in many courts in the country.

The Phoenix Municipal Court displays an extraordinarily high level of business process discipline, which is required for successful business process automation. Business process discipline is defined as the degree to which the work of individuals is defined and documented, with accountability and quantitative measures of performance, and with continuous improvement based on the performance measurement data. Most courts are unable to automate their work this

[83] JAM is a cross-platform tool for building client/server applications created by Prolifics. http://www.jyacc.com/jam.htm.

extensively because judges and staff display a high degree of independence and do their work the way that they want to do it. Many courts have not even documented clerical work requirements. This business process discipline will prove extremely valuable to the Phoenix Municipal Court as technology improvements are implemented in the future. The work that has gone into business process documentation, database design, and the creation of business logic in the automated system will translate well into whatever system the court implements in the future.

Weaknesses of Current System

While the current case management system – and the way it automates business processes in the Phoenix Municipal Court – is very impressive, it is not without flaws. These flaws relate to an aging technology environment, the inability to integrate with newer technologies efficiently, less than optimal interoperability with justice system partners,[84] and functional limitations of system design.

Unfortunately, the technology platform on which the case management system operates and is supported is approaching obsolescence.[85] Technology tools have a useful life cycle and must be replaced periodically. The Phoenix Municipal Court has done an excellent job of applying technology to support its operation in the past, but is unable to continue to move forward for very much longer in this environment. While the case management system has facilitated effective court performance in the past, it is now becoming a barrier to future improvements, particularly the move from paper to electronic records in the Phoenix justice system.

The current case management system was designed at a time when character-based systems were state-of-the-art. Newer graphical (and web-based) interfaces are much easier to learn and to use. Because of technological advancements, it is now practical and much easier to integrate electronic documents and other digital resources with case management data. The current case management system does not do so. Other new technological capabilities that are

[84] This issue will be covered in detail later in this Technology Section.

[85] A technology is considered obsolete when there are equally capable alternatives available at a lower cost, or superior alternatives available at the same price. This definition is generally applied to the technology selection process. In reality, the primary risks associated with older technologies are that hardware and software are no longer supported by their manufacturers and that they will not work with newer equipment, operating systems, device drivers, etc. In today's environment, court applications have a useful life cycle of roughly ten years, which is shortened by the length of time required to create and implement the systems. As products approach the end of their life cycles, costs of operation and maintenance tend to increase, along with risk of failure.

not a part of the Phoenix Municipal Court CMS also include configurable workflow and information exchange.

The current system requires difficult and time-consuming programming changes whenever any business process is modified. Certain desirable improvements to the case management system would require changes to its fundamental structure. In other words, user needs for a larger and better system cannot fit on the existing foundation. Modification of that foundation would not be cost-effective, given where the system is in its life cycle.

A recent Arizona AOC Compliance Audit[86] and the Court's response highlight some of the functional issues and limitations of the current case management system. Finding #9 states that the Court is unable to capture all case events…

> Currently, court staff are [sic] unable to docket all case proceedings in the CMS due to the system limitations. Specifically, the case management system does not include a screen where court staff can docket case notes, sentencing data, documents filed (i.e., motions, correspondence, etc.), and court responses (i.e., rulings). In lieu of an automated docketing tool, court staff currently use [sic] a manual docket sheet in the case file to reflect case notes, documents filed, and judge's orders or rulings. Arizona Revised Statute § 22-422 requires the magistrate to keep a docket, 'in which there shall be entered each action and proceedings of the court therein.' Since the automated docket represents the complete history of a case, it is vital that it be updated as soon as possible and with as much specificity as possible.

The report then makes the following recommendation:

> 15. The court should consider modifying the current case management system to include the ability to docket all case events, including case notes.

In response, the Court indicated, "…programming changes to the Court's aging case management system are not a viable or cost effective option at this time," and suggested that this issue will be dealt with by replacing the current system. This is not to say that it would be impossible to make these improvements, only that the cost of doing so does not make business sense.

[86] Phoenix Municipal Court: Court Operational Review Evaluation, February 2010.

4.2 BUSINESS CASE FOR REPLACING THE COURT CMS

The Phoenix Municipal Court is committed to replacing its current case management system. This is the correct choice. Too many courts have waited too long to make this decision and have suffered severe consequences. By choosing to begin, the Court will avoid being forced to acquire a new system with too little time to do the job right.

The current system is not broken. All components of the system are supported. While it does not do everything the Court would like, it does a great deal and does it very well.

The court could continue to operate as it has in the past. This is not a crisis or an emergency. Why not wait until the budget picture improves and resources are more readily available?

The answer to this question is that the current system cannot be modified to support the operational changes that are needed by the Court today. The Court is being required to do more with less, and **the only changes that will produce significant efficiencies in the future require a better and a more flexible case management system and related technologies**. The current CMS is a barrier to progress, in this respect. That is the reason that its replacement must be a high priority.

The Court and the entire justice system must move from a paper-based system to an electronic system to achieve the required efficiencies. By eliminating paper, clerical operational costs can be reduced from 20 percent to 40 percent in the Court (and perhaps an even greater amount in some other justice organizations). In order to do so, the case management system must be upgraded, electronic document management and e-filing must be implemented, and information exchange between justice organizations must be improved significantly.[87]

A significant investment will be required to make the transition to a new system. Once the new system is in place, reductions in operating expenses and system support costs will eventually compensate for that investment. In order to determine the magnitude of the investment and its payback period, it is necessary to explore the options that are available to the Court.

4.3 OPTIONS FOR REPLACING THE COURT CMS

The Court should evaluate seven options in determining a strategy for CMS replacement.

[87] Information exchange issues will be covered later in this Technology Section.

1. Continue to operate the same system indefinitely
2. Build a new system in-house
3. Adopt the state AmCad system
4. Adopt the Tempe City Court system or a system from another court
5. Purchase a commercial case management system
6. Custom build a new system with an outside vendor using business process management tools
7. Platform migration only

1. Continue to operate the same system indefinitely

To continue to operate the same system indefinitely means to do nothing. If sufficient funding is not available to pursue one of the other options, this will be the default choice.

2. Build a new system in-house

Construct a new system to replace the old one, relying on IST staff to do the work. This option likely would require additional employees or contractors.

3. Adopt the state AmCad system

Follow other courts in Arizona by adopting the AmCad system that has been implemented in various general jurisdiction courts throughout the state and that is being adapted for use by limited jurisdiction courts. In this option, the state would provide most of the operational support.

4. Adopt the Tempe City Court system or a system from another court

Use the system developed for the Tempe Municipal Court or the system used by another large municipal court in Arizona. This option would require modifications to the software to support the needs of the Phoenix Municipal Court, and the Court would be responsible for ongoing maintenance and support of the system.

5. Purchase a commercial case management system

Numerous vendor products are available to support the work of courts. There are two primary approaches: (A) a fixed system with customization provided by the vendor and (B) a highly configurable system, where the court can configure screens, data elements, reports, information exchanges, and workflow.

6. Custom-built system by vendor using business process management tools

This approach would require a vendor to work with the court to analyze and improve business processes, and then to create automation support for those business processes.

7. Platform migration only

Move the current system, as-is, to a more modern technology platform without addressing functionality issues.

Analysis of the Options

Many issues must be considered in selecting one of these options. The following questions illustrate some of them. The specific constraints addressed are listed following the question.

- How well will this option meet the current business needs of the Court? (scope)
- How well will this option enable the future improvement of Court performance? (scope)
- What are the risks associated with this option? (risks)
- What are the life cycle costs of this option? (cost)
- How long will this option require to implement? (time)
- What levels of disruption of business and technical operations will be tolerated during development and implementation? (quality)
- Will the system users accept an incomplete system or partial solution that will be perfected over time, or will they only accept a completed package at deployment? (quality)

The constraints must be prioritized by policy leaders of the Court. If, for example, it were more important to meet the business needs of the Court than to meet a specific budget target, the choice would be different than if cost was the primary constraint. For purposes of this analysis, the NCSC project team has taken the most strategic view, that scope and quality are the most important constraints, that risk reduction and cost are intermediate priorities, and that time is the lowest priority. If the Court disagrees with these priorities, then the NCSC project team's recommendation likely will not be an appropriate decision.

The scope constraint defines how closely the application will fit with the business processes (current and future) of the Court. The time constraint shows how quickly the option

can be implemented. The cost constraint considers the total life cycle cost of the solution. The quality constraint deals primarily with process—how disruptive to business and technical operations will the option prove to be. Risk indicates the probability of failure to achieve the scope, schedule, and budget.

In each case, estimates have been made for each constraint for each option. These are relative rankings. The higher number is the preferred score on the constraint: for time, a higher score means faster; for cost, a higher score means cheaper. The scores for the scope and quality constraints have been multiplied by three and the scores for the cost and risk constraints have been multiplied by two to determine the weighted total score.[88]

The following table 4.3 (1) summarizes the NCSC view of how each option meets the various constraints.

Table 4.3 (1) Weighted Options Analysis for Replacing the Current Court CMS

Option	Scope	Time	Cost	Quality	Risk	Total	Weight
1. Continue to operate current system	3	5	5	2	1	16	32
2. Build a new system in-house	4	1	3	3	1	12	30
3. Adopt the state AmCad system	2[89]	3	4	2	2	13	27
4. Adopt the Tempe or similar system	3	3	4	3	2	15	33
5a. Purchase a commercial CMS	1	4	1	1	3	10	18
5b. Purchase a configurable CMS	4	4	1	4	4	17	38
6. Custom build with vendor	5	3	1	5	3	17	41
7. Platform migration	4	2	3	2	2	13	30

Scope

The NCSC project team gave a score of five on the scope constraint to the custom-build option. It was felt that the configurable vendor CMS has configuration limitations that would keep that option from achieving the same level of scope as the custom-build approach. The in-house build also rated a four because courts typically have limited resources and time and can

[88] This reflects the NCSC assumptions about the priority of the constraints, as previously mentioned.
[89] This score was assigned based on the fact that AmCad and the state AOC seemed reluctant to address the business process management issues of the Phoenix Municipal Court. Since the initial draft of the document was completed, the AOC and the vendor have demonstrated an increased desire to work with the court to address this issue. If they are able to demonstrate that they can fully satisfy the needs of the Court, this score should be increased to a '4', which would provide a total of 15 and a weighted total of 33. If they are only able to partially satisfy Court needs, the score should be increased to '3', which would produce a total of 14 and a weighted total of 30. Clearly, any progress that can be made by the AOC and the vendor would make this option more attractive.

only pursue bare-bones functionality, while vendors have frameworks in place that already supply many of the features and perform much of the development work. The Tempe system, while an excellent system, does not provide as much functionality as the current system, so it would require additional development work with some rather obscure tools. Continuing to operate the current system or performing a platform migration would continue to provide the same level of functionality, but the migrated system would then be much easier to enhance from that point forward. The state AmCad system does not appear to address the same level of business process automation as is currently employed by the Court and any specific needs of the Phoenix Municipal Court would be balanced against the needs of other courts in the state. Vendors are typically unwilling to perform enhancements to their systems that only benefit a single court, so they make these changes very expensive, to discourage courts from pursuing them. The final option of a commercial CMS rated the lowest, because it contemplates bringing in a product developed for courts in other states that would not support the level of business process automation that currently exists.

Time

For the time constraint, doing nothing obviously takes no time at all, so this option rated the highest. Vendor systems rated second highest, since they can be implemented relatively quickly. Adopting a system from the state or from another court in the state was next in the ranking, along with the custom-build option. Custom-build vendors claim that they can have a system in place as quickly as a commercial system purchase, but there is little evidence to support this claim. Performing a platform migration or building a new system in-house would be the slowest options.

Cost

Options involving vendors rated the lowest on the cost constraint. Commercial purchase or builds tend to be the most expensive. Building a new system in house was considered the next-lowest option. Platform migration and adapting the state system or a system from another court were next, with the cheapest option being to do nothing.

Quality

Quality is a difficult ranking because it combines a number of issues, including disruption of business and technical operation during development (i.e., technical staff are not available to support the old system because they are working on the new one), disruption of business operations because of the need to un-automate certain activities, and limitations on being able to address new functional needs. Having court staff develop a new system or migrate the old system to a new environment would be disruptive of existing operations. Having vendors or someone else outside of the Court perform that function would be better. Losing critical functionality would be damaging to business operations.

Risk

With respect to risk, the vendor options were considered to be the safest choices because vendors have experience doing this work and are interested in having satisfied customers. There is still a significant amount of risk in all of these alternatives, so no option scored a five on this scale. The highest risks were estimated to be in options where there are known deficiencies, such as systems that do not supply all of the functionality needed by the Court.

1. Continue to operate the same system indefinitely

Continuing to operate the current system does not address the needs of the Court to increase system functionality or to achieve greater operational efficiency and reduce costs. There is no impending crisis, but the Court has a responsibility to prepare for the future as aggressively as possible. Doing nothing is only an option if no resources are available to move forward. Even then, the Court should be planning and preparing for a time when resources will be available in the future.

2. Build a new system in-house

Building a new system in house will provide an application that will meet the functional needs of the Court. The Court has done this work before, and could succeed in doing it again. Today, the trend in courts is in a different direction. Twenty years ago, most courts constructed their own systems and most of them succeeded. Today's technology is more complex and fewer courts are still building systems. Most are going in the direction of vendor solutions.

One of the reasons for this change is that many technical staff members in the courts lack the skills needed to work in a new environment, and have not been able to make the leap from

old technology to new. In some states, work has been successful, but the pace has been so slow that many have concluded in retrospect that the time and resources expended and those yet to be spent in continuing internal development are increasingly difficult to justify.

3. Adopt the state AmCad system

This option is attractive because it would provide consistency with the way that other courts in the state do business and would remove much of the responsibility of supporting the system from the Court. It could be implemented relatively quickly and both the state and the vendor are capable and competent to support the system. The NCSC almost always recommends that a court adopt a state system, because of these advantages. This being said, adopting the Arizona's AmCad solution **as it currently exists** is not a viable option because the application lacks the functionality needed by the Phoenix Municipal Court.[90] The Court would be required to increase its staff to fill the gaps that the new system could not cover, and would be unable to achieve some of the system-wide efficiencies that would be possible if the police, prosecutor, and court were operating on a unified platform. Only time will tell if AmCad will be able to meet its commitment to provide most of the Court's current level of business process automation.

[90] It should be noted that NCSC staff reviewed documentation provided to the state and the vendor concerning its needs for a new system. This documentation suggested some unrealistic expectations about how a new system should operate. The court expectations appeared to be that a new system, to be acceptable, must perform exactly like the old system. The following are just a few examples of requirements for the new system that were identified by the court that appear to be overly definitive of how the new system should operate:

- The system and only the system must post events. A user must not be allowed to post an event, modify an event, or delete an event. The system must determine the appropriate event to post based on the users' actions and the system's own records.
- The system must allow the specific staff taking sentence amendment actions that affect funds already paid to take actions with these funds. The system must not do this by allowing non-accounting staff access to accounting functions or by creating a disbursement that must be processed by another user. Instead the system must allow the user access to apply the funds in specific ways, such as posting it as a bail or applying it to obligations or marking it to be refunded. This process must be seamless and invoked automatically as part of the sentence amendment actions. A user taking any sentence amendment actions must not be required to manually check to see if a disbursement has been created each time one of those actions is taken, but instead by automatically presented the process to re-apply any affected funds.
- The system must include processing logic to create various forms. Forms cannot be required to pull data directly from the database only. The system must be able to have conditions and edits for the creation of a document and the data included on the document; tables inserted into documents with multiple charges, obligations, etc, that need to be included. The system must store documents in a way that the user may not modify the document either before or after it is stored. The system must be able to send a document directly to a printer or other distribution method without the user being involved.

It seems more reasonable to the NCSC to define 'what' the new system should be able to do without defining exactly 'how' the new system should do it. The approach that was used seems to set requirements that would be virtually impossible for any multi-jurisdictional system to meet.

4. Adopt the Tempe system or a system from another court

The case management system built in Tempe could be implemented quickly and at low cost. It is a better functional match with the Phoenix Municipal Court than the state system, but still falls far short of providing the automation of business processes that is needed. It also has been built with obscure tools that would greatly increase risk in the project.

5. Purchase a commercial case management system

Most commercial court case management systems have been built to support an original court, and then are sold to other courts. The approach is to make custom modifications to the original design, where absolutely essential, but then to adapt court business practices to fit the application. Because they support such a wide range of courts, vendor-supplied case management systems are not business process automation tools; they are record keeping systems that provide some limited support to court operations. The advantages of these vendor packages are that they are proven in many court environments, and that they can be adapted and implemented very quickly. They are also quite expensive.

There is an emerging class of case management applications – highly configurable systems – that allow a greater amount of flexibility than the classic vendor packages. Courts can define their own screens, data elements, and reports. Workflow and information exchange can be configured with tools, rather than with custom coding. These new systems provide courts with greatly improved capabilities to match work processes with support tools, thus increasing the level of business process automation. The purchase price is similar to other vendor packages, but customization costs are much lower, since little programming is required.

To date, the primary audience for these highly configurable systems has been smaller courts. There is much less experience available to determine how well they would work in a large operation like the Phoenix Municipal Court. This approach is an intriguing option for the Court to consider.

6. Custom-built system by vendor using business process management tools

Courts are beginning to focus on the case management system as a business process automation tool. Some have used companies and techniques that are very popular in the private sector to discover, document, automate, monitor, and continuously improve their business processes. This approach could allow the Court and other Phoenix justice system agencies to increase business process automation greatly from its current state.

There are a number of vendors that offer products and services to automate business processes. They are relatively expensive, though not more so than commercial case management systems. While some of these vendors claim to be able to deliver a system as quickly as a case management application vendor, these claims have not been proven. The level of business process discipline that exists in the Phoenix Municipal Court would lend itself to this kind of approach.

It must be added that the level of risk is higher with a custom build than with a commercial package or in-house construction of a system.

7. Platform migration only

One approach that is best demonstrated by the Colorado courts is to migrate the current application to a new technology platform. Colorado operated a case management system built on the AS/400 platform, coded in RPG. The court system is currently migrating all of its code from RPG to Java. This would allow the Court to keep its current functionality, while preparing the system for improvements in the future. The system could be migrated a bit at a time, rather than all at once.

There are several downsides to this approach. First, the architectural inadequacies of the current system would be migrated to the new platform. Second, system modifications, of necessity, would be frozen during this migration period, which could last for several years. Third, the opportunity to rethink how business is done would be missed.

Recommendation I

Overall, with the assumption that the NCSC prioritization of constraints conforms to Phoenix Court desires, the custom-build option is the best choice for the Court and is the recommendation of the NCSC project team. Vendor tools to do this work are outstanding and have been successfully demonstrated in the trial court environment.[91] The second highest rated choice, the purchase of a highly-configurable vendor package, also is an acceptable option. If the state AOC is successful in modifying the AmCad package to provide most of the business process automation needed by the Court, this option also would be acceptable. The Court's work plan (found in Appendix A) in response to this recommendation states that the Court "…will evaluate the relative pros and cons of which type of case management

[91] The best example is the courts of Puerto Rico, which have used Metastorm as a consultant to build the criminal component of a system called SUMAC that is operational in a number of courts. Development of a civil module is in progress and will be followed by family, traffic, and other case types. Metastorm is one of many commercial products that are available. Metastorm was recently purchased by OpenText.

system is appropriate, including the cost of this recommendation." Further, it should be noted that such an evaluation is future oriented since modifications to the AmCad package directed at increased functionality are not projected to be available until late 2012 to mid-2013.

Expected Efficiencies

See the earlier Options Table 4.3 (1).

4.4 INTEGRATED JUSTICE SYSTEM STRATEGIES

Information Sharing in Phoenix

The justice organizations in the City of Phoenix exhibit a strong desire to work together and have achieved many significant accomplishments over the years. Numerous business process and information-sharing initiatives have been undertaken, which are responsible for significant improvements in efficiency and effectiveness. Despite this culture of collaboration, much can be done to further speed the processing of people and cases, thereby reducing operational costs.

As is done in justice systems across the country, systems, business processes, and technology are managed in silos in Phoenix as the Introduction Section of this report outlines. Good work has been done in sharing information between organizations, but it has been accomplished through the heroic efforts of individuals, rather than through institutional design. Information sharing is ad hoc and custom, rather than systematic, planned and strategic. This is why there are unsolved issues with the filing of traffic citations, moving police reports to the prosecutor's office, scheduling police officers for trials, etc.

A railroad system provides a good analogy. Each justice organization has built its own railroad, including all of the tracks, trains, and other equipment. Because decisions usually are made within separate companies, the gauge of tracks varies from organization to organization. The size, speed, and capacity of the trains also vary. Whenever goods must move from one company to another, the train must stop at the transfer point. Cargo must be offloaded and physically carried to the train of the receiving organization. A train with sufficient capacity to haul the goods may or may not be waiting, so it is difficult to predict when delivery will occur.

Each organization manages its own railroad very well. The equipment has been maintained and everything runs on time. Organizational leaders regularly communicate with the

other companies since they are in the same business. Decisions have been made that speed the transfer of cargo, but no one seems to notice that there might be a better way to deliver freight.

The railroad systems in each organization are becoming antiquated and must be replaced. Wouldn't it make sense to collaborate on the development of a common system of tracks and equipment to eliminate the physical handling of cargo as it passes from one organization to another? Justice system transactions could then reach their destinations immediately, with no delay or human intervention. Each organization would be required to change the way that it does business, to a certain degree. There would be an investment required to rebuild the track in some places and to replace equipment in others. The sacrifices and benefits should be shared equally. The cost of this investment would be recovered quickly as operational costs would be reduced significantly and freight would be moved more quickly in higher volumes.

While this analogy is not perfect, it does illustrate a concept that is difficult to describe when talking about the bits and bytes of information technology. No justice organization can accomplish its purposes on its own. They are completely interdependent in doing their work, despite the structural independence that is required in an adversarial legal system. Each organization makes decisions to improve its own internal processes, but these decisions sometimes are detrimental to the performance of the justice system as a whole. This principle is known as internal sub-optimization.

Each justice organization must operate independently as it plays its role in the system, but they all must work together in managing how cases and people are processed, if the work is to be done efficiently. These dual relationships are often difficult for justice system leaders to manage.

Fortunately, the desire to improve is apparent at all levels of the system. What is needed to make it happen is an approach. Many justice systems around the country have experimented with a concept and a proven set of integrated justice best practices that are available. *Integrated justice* is more than connecting computers; it is a strategic process to manage technology and shared business practices for the good of the system, as a whole.

Building Integrated Justice

The roadmap to integrated justice has four key milestones:

- Governance

- Business process management
- Resources
- Technology

Governance

Justice system organizations must have a structure and process for working together to create an integrated information environment. This collaboration must occur at several levels. The NCSC has created a three-tiered (policy, business, and technical) governance model[92] for courts and for integrated justice.[93] Without institutionalized governance, integrated justice cannot produce the kind of systemic efficiencies and improvements desired by Phoenix justice system leaders.

IT governance is a formal structure and process for managing business operations and supporting technology tools. It is a method of making decisions, allocating resources, and resolving problems within and across organizational boundaries, arriving at solutions that are optimal for the system as a whole, rather than for its discrete parts. From multiple interests, it produces a single, consolidated agenda to guide the efforts of individuals and organizations.

Once governance is established and operational, a strategic plan should be developed.[94] This plan should include a realistic assessment of the state of integrated justice in the City, a vision of where justice system leaders desire to be in the future, and a prioritized list of projects that will achieve the future vision.[95] Some of these projects may relate to documenting and improving shared business processes, creating technical architectural standards, or replacing computer systems that support justice organizations.

After the strategic plan is adopted, the role of the governance groups is to execute, monitor, and manage implementation of the projects. Some of these projects will be entirely internal to individual justice organizations, but most will affect multiple agencies. Periodically, the integrated justice governing body should reassess progress and update the strategic plan.

Another role of the governance group is policy. There are usually several dozen types of policy decisions associated with automation and integrated justice. Certainly many of these have

[92] This model is based, in part, on the integrated justice structure pioneered in Maricopa County.
[93] The NCSC Court IT Governance Model, Future Trends in State Courts, (NCSC, 2006).
[94] Court IT Strategic Planning, Future Trends in State Courts, (NCSC, 2006).
[95] Roadmap to Integrated Justice: A Guide for Planning and Management, (SEARCH, 2004).

already been addressed, but others have not. It is the role of the governing group to work through and resolve these issues so they do not get in the way of justice system improvement.

It should be added that there are other organizations outside the City of Phoenix that play an important role in justice system operations, e.g., the County Sheriff, the Administrative Office of the Arizona Courts, the Department of Public Safety, and the Motor Vehicle Division are examples. The City has no control over these organizations and their cooperation, in some instances, will be vital to justice system initiatives. This will be a challenging management issue for the governance group.

Business Process Management

It is important to note that most justice system business processes are shared by multiple organizations. Managing these business processes within silos produces internal sub-optimization and is counterproductive. Integrated justice governance provides a forum for jointly managing these shared business processes for the benefit of the system as a whole.

Justice organizations in Phoenix display a very good level of business process discipline, which is a critical success factor in integrated justice. Good process discipline consists of many activities:

- Identification and documentation of business processes, both internal and shared
- Accountability mechanisms to ensure that these practices are consistently followed
- Automation of business processes, where cost-effective, to minimize human effort and cost, and to maximize speed and quality
- Quantitative metrics that show how well the business processes are performing
- Continuous improvement of business processes, using performance metrics

While internal business processes in the Phoenix justice system are fairly well documented, shared business processes are not. In one sense, integration is the automation of these shared business processes, and it is impossible to automate a process that has not been defined or fully understood. Documenting these processes will reveal many opportunities for improvement that have nothing to do with technology and that have no cost or very low cost. Once processes are identified and documented, they can be improved and automated in a systematic manner. This is the ultimate goal of integrated justice.

It should be noted that while a great deal of information is shared electronically between justice organizations today in the City, each agency often complains of not getting needed information or not getting it quickly enough. Clearly, there is still much to be done to improve information sharing in the City.

Business process management is not a one-time event. It is an ongoing activity that will facilitate continuous improvement of the justice system and that will enable fast and effective response to legislative changes and other environmental dynamics.

Resources

Identification of resources to implement an integrated justice agenda is always a challenge, particularly in tight budget times. The beauty of the approach is that limited budget dollars can be allocated to the most important needs of the justice community. For example, it may be that a very high priority of the Court might be the implementation of electronic citation devices by law enforcement. It is not unusual in an effective integrated justice environment to see justice organizations lobbying funding bodies for projects in other agencies.

Technology

Technology is a major issue in integrated justice. This occurs at several levels. The first is standards and architecture. Currently, there are no systemwide standards governing how information is exchanged in the Phoenix justice system. A particular approach might make sense for one interface, so it is developed in that manner. The next exchange might require a different approach, which then creates a problem. As a part of the strategic plan, a process should be created to define standards and an architecture to apply to all integration activity. National standards for information exchange should be consulted, to avoid reinventing the wheel.

Among these standards should be a common table of offense codes that can be shared by all justice organizations and that is consistent with those used by other justice organizations in the state.

It may be that information sharing is conducted directly between systems, or that some type of message switch or middleware is required to exchange data most efficiently in the Phoenix justice system. Many approaches could work well. In most cases, some additional equipment or software will be required to support integration activities. The strategic plan

should outline a process for determining what resources will be required and how they will be managed and maintained.

Finally, it is clear that applications currently employed by the Court and Police Department must be replaced. The Prosecutor also is developing applications to fill functional gaps. **It is essential that governance and planning activities be conducted before any system replacement decisions are made.** Once a new system is in place, it may be impossible (or very expensive) to realize many of the goals of integrated justice because requisite needs were not considered. If justice system officials move quickly, it should be possible to complete the planning process in approximately six months.

Recommendation J

Phoenix Justice System stakeholders – including the Police Department, Prosecutor's Office, Municipal Court and Public Defender Department – should collaborate to develop a formal Integrated Justice Information System within City Government. This means at a minimum: a system-wide governance structure, a business process analysis and management approach, a coordinated, shared, and effective CMS technology solution, and a funding strategy with identified, allocated and dedicated resources approved by the City Council.

Expected Efficiencies

The benefits of an integrated justice system are immense. Automation of information exchange is a necessary step in allowing the Court, Prosecutor, Police Department, and Public Defender to eliminate most paper records. Elimination of paper will reduce the need for clerical resources in all Phoenix justice organizations, saving considerable operational costs. Information will move more quickly and more data will be available to decision makers, improving the speed, efficiency, and effectiveness of the justice system. This affords the greatest opportunity to achieve meaningful efficiencies in the future.

5.0 POLICE DEPARTMENT

5.1 BOOKING AND DATA TRANSFER TO PROSECUTION

The vast majority of cases filed originate with the Phoenix Police Department. The police have developed a number of ways to quickly process arrest information and transmit it to the court and prosecutor.

Cite and release programs, avoiding booking altogether, are heavily used for non-violent offenses where department protocols allow it and the officer concludes there is a high probability that an offender will appear in court for arraignment and won't present a safety risk to himself or the general public. Most DUI arrests are processed this way with blood draws or breathe tests at the arrest site by officers in mobile DUI processing vans or at precinct police stations.

Other felony and misdemeanor arrests are brought to a Pre-Booking Facility run by the Police Department located in south-central Phoenix before being transferred to the Maricopa County Jail in downtown Phoenix to await an IA hearing. The Pre-Booking Facility became operational in June 2010 as an alternative to paying county booking fees for misdemeanants ($198 per arrestee)[96] and incurring long waits for officers prior to returning to the street. Based on PPD statistics, between 75-80 percent of all arrests are processed at the Facility with average booking time around 80 minutes. The Facility is operational 24/6, excluding Sundays.[97] Six holding cells are available at the site. Between 100 and 140 people are arrested by PPD each day and pre-booked; two-thirds are misdemeanants, the rest are felons. Arrestees who are combative or need medical treatment are taken directly to the County Jail and booked.

When a defendant is booked, data collected about the accused is entered by a civilian workforce located at the Pre-Booking Facility into the Police Automated Computer Entry (PACE) system. It is automatically transmitted to the City Prosecutor's (PO) case management system called ePRO. PACE is a 25 year old, legacy system with antiquated technology. It is targeted to be replaced in the near future.[98] Replacement cost estimates by the PPD range from $10 to $16 million.

[96] The Sheriff is required to book those arrested on felonies into the County Jail without charge.
[97] Civilian staff is at the Pre-Booking Facility every day, including Sunday, since it is the principal data entry point for PACE.
[98] PACE functionality is quite limited. Since it is not real-time, it is updated every two hours requiring officers to call R&I to see if a warrant is active. Data fields are quite limited and cumbersome to use in entering information.

Officers are able to return to the street within 10-15 minutes of dropping off a prisoner. A Police Transportation Unit buses booked offenders to the County Jail where they await initial appearance hearings; one scheduled hearing in the morning at 8:00 AM and one in the afternoon at 4:00 PM. DR reports are delivered to the Prosecutor and Court three times per day at 6:00 AM, 12:30 PM and 2:30 PM by a Police Department runner. The DR is electronically submitted once at night for all cases submitted to the City that day.

A dedicated Phoenix IA courtroom in the County Jail is used for these hearings. A defendant's IA appearance must be made within 24 hours of arrest.

A prosecutor and two court appointed defense attorneys employed by the City's Public Defender Program are at all IA hearings. The on-duty prosecutor reviews the arrest information for legal sufficiency, makes a plea offer if there is a police report, and highlights cases that may be complex or high profile for review by a senior prosecutor in the Charging Bureau. The court appointed defense attorneys routinely speak for the accused to reduce sanctions. New arrest cases, warrant cases and probation violation matters are all heard at IA.

In addition to case related information in PACE, a Police Report (DR) is sent as text file to the City Prosecutor (PO) which in turn converts it to a pdf file and attaches it to the case in e-PRO. Anytime the arresting officer or crime lab generates a supplemental police report, the supplement also imports and attaches to the case file in ePRO. During CY2010, 60,000 original and supplemental police reports were sent from the PPD to the PO. Resultantly, PO staff no longer has to locate and print every police report.

The DR data received by the prosecution for IA hearings, however, is sometimes incomplete or missing altogether. A Charging Bureau attorney interviewed estimated that incomplete or absent arrest reports occur in approximately 20 percent of normal, composite daily IA caseloads of 25-30 cases (15 in the AM and ten to 15 in the PM). In such instances, a defendant may be held over to the next IA appearance or remain in jail for as many as three to seven days. Only one out of ten booked defendants, however, actually do remain in custody beyond the IA hearing. Also, problems exist in identifying and linking pending charges to new charges for the same defendant.

General PPD policy requires police officers to file a DR as soon as possible and not later than the end of their shift. Although officers can write reports themselves, most call them into a "voice writer" at PPD's Records and Identification (R&I) Bureau located at Police Headquarters

(600 Washington Avenue). R&I is supposed to first transcribe any cases where the accused has been booked. On occasion, however, an officer may not distinguish those cases and the case is not transcribed. Brookshire Associates, in an earlier efficiency and innovations study of PPD, recommended the voice writer process be outsourced and that officers enter data directly into PACE allowing R&I to assemble any other items required to be part of the arrest packet which is transmitted to the prosecution.

Recent steps taken by the Prosecutor's Charging Bureau to reduce incomplete arrest packets have also been initiated. They include (a) sending R&I email listings every day of cases without complete reports alerting them as to the next available court date, (b) assisting the PPD in developing training materials outlining the most common items missing in arrest reports, and (c) working with the Assistant Police Chief for Administration to prompt improvements.

Recommendation K

The level of urgency in filing arrest reports in an accurate, complete and timely manner should be elevated. As good as many police departments are in making arrests, it has been the National Center's experience that many encounter difficulties in documenting and entering arrest information rapidly and accurately into law enforcement and prosecution information systems. The development of a computer-based report writing system should be a priority permitting officers to enter data in various high-tech ways including voice, keyboard, point and click (mouse) or digital pen.

Expected Efficiencies

Reductions in missing or lost records and incident reports will speed case processing. When police reports are absent, a defendant may remain in custody driving up City jail costs. Where police reports are missing, prosecutors cannot make an offer to dispose of the case at the IA hearing requiring that it be continued or dismissed. Ideally, automated report writing technology should be part of a more complete revamp or replacement of the antiquated PACE system, but should that be delayed it would be wise to explore interim, high-tech, low cost solutions that could be dovetailed with later systemwide upgrades.

5.2 ELECTRONIC TICKETS

A growing number of Arizona municipal police departments are experimenting with handheld electronic ticket writers.[99] Introduced years ago to issue parking tickets, the technology has become more miniaturized and wireless making it versatile for use by patrol officers.

The Administrative Office of Arizona Courts is responsible for facilitating, monitoring and approving the use of e-citation formats in the state in place of standard Arizona Traffic Ticket and Complaint (ATTC) paper citations.[100] The Arizona Supreme Court encourages this direction even though a variety of different automated court case management systems exist throughout the state.

Electronic ticket-writing machines can be used to scan information from driver's licenses and vehicle registrations. It also allows officers to check for outstanding warrants. At the end of a shift, the officer sets the device into a docking station and it downloads the ticket information. The information can be simultaneously and electronically sent to police records, the prosecution and court. eTicketing for mobile computers/laptops is also a solution for patrol cars should hand-held devices be desired only for motorcycle officers.

Recommendation L

Municipal justice systems are increasingly moving to e-citations; Phoenix should as well to be consistent with other suggested technology advances in this report. The technology provides numerous benefits not only to law enforcement but prosecution and courts as well. Even greater gains could be made in Arizona if driver's licenses and auto tags utilized magnetic and bar code technologies, although those changes need to be made by state-level agencies.

Admittedly, a unifying, single numbering system would be necessary. Other municipal police, prosecutor and courts have done so in Arizona; Glendale and Tucson are examples.

The National Center recently completed a study of the Traffic Division of the Superior Court in Marion County Indiana (Greater Indianapolis) where eighty percent (80%) of the traffic tickets issued by the Indiana Highway Patrol and Indianapolis Metropolitan Police Department, the two major law enforcement agencies in the county, are e-citations.

[99] Example: Governor's Office of Highway Safety grant to the Glendale Police Department (2009).
[100] Rule 4, Arizona Rules of Procedure in Civil Traffic Violation Cases and Rule 3, Arizona Rules of Procedure in Traffic Cases and Boating Cases, require each law enforcement agency or public body responsible for issuing Arizona Traffic Ticket and Complaint (ATTC) forms to submit any "substantial variations" to the ATTC form to the Supreme Court for approval.

Expected Efficiencies

Today, most patrol officers can issue a moving violation with a standard multi-part ticket form in approximately ten to 15 minutes. With an electronic ticketing solution, officers are able to issue a ticket in two to three minutes. This time-savings results in an enormous increase in productivity. For example, for 20 patrol officers who each issue five traffic citations per day, with just a five-minute time-savings per citation, the result during just one year is an increase of more than 1,600 hours of patrol time.

In national studies regarding the accuracy of the data contained on traffic citations, approximately ten to 20 percent of citations have been found to contain errors, with some regions/agencies experiencing error rates as high as 35 percent. In many municipalities, these types of errors "invalidate" the citation; the citation and its associated fine are dismissed. Using an electronic ticketing solution eliminates the typical errors associated with handwritten citations. Assuming just a ten percent reduction in the citation error rate applied to 20,000 citations that have an average fine amount of $50, the amount of additional revenue that will be collected each year is $100,000.[101]

With an electronic ticketing system, all of the data from the citation form can be electronically transferred to the necessary back-end system(s) without the cost of outsourcing or data entry by clerical staff. The data is immediately available in the database/records systems.

National statistics indicate roadside traffic stops are the second most deadly incidents encountered by law enforcement officers (second only to domestic violence incidents). One of the major contributors to the high death rate for traffic stops is the prolonged period of time officers are on the side of the road. The longer a traffic stop lasts, the higher likelihood an officer is injured by a passing motorist or violator who becomes agitated due to the long delay. An electronic ticketing solution enables officers to clear traffic stops three to five times faster – significantly increasing officer safety.

5.3 INTERACTIVE AUDIO/VIDEO CONFERENCING

A practice Phoenix Justice System policymakers are beginning to explore which offers considerable potential to reduce police transportation costs, save case processing time, and increase productivity is interactive voice/videoconferencing of selected hearings involving prisoners. Currently, hearings for in-custody defendants after the initial appearance require the PPD to transport them to the courthouse. Many misdemeanor courts are using video technology between courtrooms and jails for a growing number of proceedings when the accused remains incarcerated.

A special Arizona Supreme Court Video Conference Advisory Committee in June 2009 recommended that Rule 1.6 of the Arizona Rules of Criminal Procedure be amended to expand

[101] It should be noted that the bulk of revenue resulting from ATTC citations reverts to the State of Arizona not the issuing municipalities.

the use of interactive audio-video conferencing while also safeguarding the rights of the accused. The rule has since been amended based on the Committee's proposals.

Since inmate transportation is not required with the use of video arraignment, risks to officers transporting and securing the defendant during a normal arraignment proceeding is removed. Also, public safety is improved by avoiding the need to have inmates intersect with the public which invariably creates risk.

Benefits cited in jurisdictions using these systems include a savings in time, increased productivity as a result of reduced travel requirements, savings of direct and indirect costs associated with travel, improved courtroom and jail security, and reduced size requirements for court lockup facilities. Most users of interactive video systems, including defendants, that have been cited in the available literature report high satisfaction with these systems.

Some defense attorneys have reported varying degrees of comfort with the concept and the process. Objections center on the need for private attorney-client conversations, the ability to discuss/negotiate aspects of the case face-to-face with the prosecutor, and technical problems with interpreter services if language translators are at another remote site.

Yet, others support interactive video court proceedings because their clients are able to maintain their dignity by avoiding being searched and transported to court under restraint, they can be released earlier than if they had to wait for transport, and video conferencing facilities at the court routinely enable defense attorneys to interview in-custody clients without the need for a trip to the detention facility.

One of the more advanced uses of video in Maricopa County is at the Mesa Municipal Court which recently began videoconferencing initial appearances and arraignments between their courthouse and the Mesa Police Department's short-term booking and lock-up facility. It is working very well according to Mesa justice system officials.

It is noteworthy that initially trial courts employed videoconferencing to overcome distance problems where costly travel was required for witness testimony or prisoner appearances. Lately, however, high-tech video has been increasingly used to improve productivity and reduce costs regardless of travel distances.

Arizona, like other states, limits the expansiveness of videoconferencing for judicial proceedings to ensure due process, confidentiality, and individual rights are protected. Arizona criminal rules for videoconferenced hearings require (a) at a minimum the equipment must allow

the court and all parties to view and converse with each other simultaneously, (b) the making of a full record of the proceedings by digital audio or video transcript, (c) written stipulation by all parties to appear by video and the determination by the judge that such an agreement has taken place, (d) provision of confidential communication between the defendant and counsel, (e) means whereby the victims may view the proceedings or be present should the defendant have such a right, (f) compliance with all victim rights, (g) exclusion of trials, evidentiary hearings, probation violation hearings and felony sentencing from videoconferencing technology, (h) hearings to be open to the public, and (i) that victims can exercise their rights to comment on conditions of release, plea agreements and sentences. Based on these rules, NCSC's project team feel the Phoenix justice system would benefit from the use of this technology.

Recommendation M

Interactive video appearances between the courthouse, Madison Street Jail and any appropriate Phoenix Police Department pre-booking or precinct facilities for in-custody misdemeanant defendants should be explored. These appearances may include, but not necessarily limited to such proceedings as initial appearances, bond hearings, misdemeanor sentencings, motion hearings, domestic violence appearances and other matters determined to be beneficial (cost effective) and consistent with Rule 1.6, Arizona Rules of Criminal Procedure governing the use of video technology in court hearings. It is noted, however, that the current initial appearance process with a prosecutor, defense counsel, court staff and a judge physically present at the jail courtroom works well and should not be abandoned unless there are significant and substantiated savings.

Expected Efficiencies

Cost efficiencies achieved in using interactive video conferencing in criminal proceedings arise predominately from a reduction in prisoner transportation costs. Jail bed cost savings may also be expected since in-custody defendants in various instances may be released sooner due to more flexible hearing schedules that do not require complicated scheduling and logistical processes in physically transporting an inmate to the courthouse.

There may be other possible benefits to interactive video as well related to police officer scheduling and calendaring in such matters as misdemeanor dispositive motion hearings or for DV hearings where they actually take place. This presumes that overtime expenses could be reduced through such a process.

5.4 POLICE CMS REPLACEMENT

In addition to reviewing specific information interfaces between the Police Department, Prosecutor and Court, the NCSC project team has been asked to comment generally on the use of

business-related electronic information technology used by the PPD. These comments are particularly relevant to the integrated justice discussion in Section 4.

The most striking issue is that there are many "stovepipes" within the Police Department silo. The NCSC project team was told that the PACE records management system does not cover all aspects of Police Department automation. DUIs are included in the DRs in PACE, but the Alcohol Influence Reports (AIR) comprising the majority of the Police report in DUI cases is not included in PACE. Photographs, forensic information, and 911 data are all in separate places, not in PACE. There are numerous separate systems, some developed with grant funds, which cannot be consolidated until the grant period is complete. While it is not unusual to have separate dispatch and records system, it is unusual to have all of the fragmentation that is apparent in police department automation. This problem appears to be based in organizational issues, rather than technology limitations. Certainly, consolidation of all or at least most of the law enforcement functions should be a very high priority in acquiring a new records management system. This, of course, is in addition to the requirement to be able to participate fully in integrated justice activities and comply with standards and architecture.

Recommendation N

In this Report's Technology Section, the NCSC recommended a custom-build approach for replacing the Phoenix Municipal Court case management system. There might be some value in considering the same approach for the Police Department and Prosecutor systems. There would be a higher level of risk because the business process discipline in the Police Department (or at least in some of the silos) is not as high as in the Court. It is an intriguing and worthwhile idea, National Center consultants feel, to do full business process automation of the justice system from end to end. Given the size of the operation, off-the-shelf systems are not a very attractive option.

Expected Efficiencies

See the discussion in the previous Technology Section.

6.0 PROSECUTOR

6.1 BLENDING TRADITIONAL AND COMMUNITY PROSECUTION

The Phoenix Prosecutor's Office (PO) has a history of efficient case processing and modern business practices, including a highly effective, internally developed electronic case management system called "ePRO." The department is well organized, professional, and very creative in its approach to high-tech business processes.

The litigation functions of the office are organized in three major departments: a Charging Bureau, Trial Bureau and a recently merged Appellate/Community Prosecution Bureau. The majority of the staff is assigned to the Trial Bureau where there are five trial teams working with 19 criminal judges who rotate assignments every two weeks (17 criminal division judges, an arraignment judge and Bond Review Court judge). Based on recent statistics, the vast majority of cases charged are resolved without a jury trial either through waivers and trials before the court (a judge only), by pleading to reduced/amended charges, and by dismissals or diversions. There are also substantial numbers of defendants who fail to appear causing arrest warrants to issue and the case to be relegated to "inactive status." This is a common occurrence among limited jurisdiction trial courts nationwide. Generally, trial rates vis-à-vis matters filed in courts have dropped over the last decade for a variety of reasons, including higher plea rates due to better evidence collection systems, more diversion programs, higher failure to appear rates, decriminalization of petty crimes, and fewer arrests and citations. In Phoenix, less than one percent of the misdemeanors charged will end in a jury trial based on the number of jury eligible cases filed.

Commonly, low jury trial rates, coupled with early case resolutions within accepted time standards (i.e., over 90 percent of jury eligible misdemeanors disposed or resolved within 180 days of filing), indicate an efficient system. In Arizona, Phoenix prosecutors are by and large able to steadily pace their case preparation work to meet these court directed standards.[102]

[102] Although the Arizona Judicial Branch has not adopted overall time standards for case processing in its trial courts, including municipal courts, it encourages courts to target the ABA time standards. An exception to this stance is in the area of driving while impaired matters, principally drug and alcohol related violations, wherein special Arizona Supreme Court Administrative Order 2006-38 was issued in 2006 directing courts to target the processing of 98 percent of those matters within 180 days of filing. This was done to address excessive delays in numerous limited jurisdiction courts of the state.

In addition to traditional courthouse based operations, the office has developed a small community/neighborhood based prosecution program where a limited cadre of lawyers and community action workers are remotely located in high crime precincts. Currently, community prosecution is staffed by five assistant city attorneys and two non-attorney specialists.[103] It has been downsized from eight full-time attorneys due to budget cuts.

6.2 WORKLOAD ISSUES

Case filings and dispositions have remained relatively stable over recent years with a maximum variance from one year to the next by no more than 10-14 percent. This has been true as the number of lawyers on staff has dropped during the same time by roughly 20 percent meaning that productivity has held steady and perhaps increased a little in spite of some downsizing.

During the same time, various programs have been cut back (i.e., community prosecution) and new computerized advances introduced (i.e., eDiscovery). The result being output has kept pace with the workload, and in some instances – especially regarding clerical work and data exchanges between justice system partners - looks to be enhanced.

The PO uses a horizontal case assignment system where different attorneys handle the same case at different stages in the litigation process. Essentially, the case is handed off from one assistant city attorney to another as it moves from one major point in the process to the next on its way toward disposition, regardless of the type of resolution.

Attorney work groups are organized around major case processing events, namely initial appearance, charging, arraignment, pretrial disposition conferences (PDC), motions practice, and trial. At each major step, a new attorney assumes responsibility for the case and must familiarize him/herself about the specifics of the case. This can be problematic in offices where information flow is disorganized, staff is poorly trained, computerized data is lacking, and organization structures are confused or overly complex. That does not seem to be the case in the City Prosecutor's Office. NCSC observations of work processes, management structures, training regimens, and electronic information flows indicate quite a high level of efficiency which, in turn, permits different attorneys to promptly grasp the particulars of a case.

[103] Four positions are temporary and are funded by Federal Stimulus Grants; two attorneys and the two specialists.

Where cases may require more constant attention by fewer attorneys over the life of a case, accommodations have been made that permit a greater degree of specialization and developed expertise on the part of a more limited number of attorneys. Two case types where that occurs are domestic violence and community prosecution matters, essentially quality of life crimes.

Another indicator of efficiency is the staff to attorney ratio. Generally, narrow fact and legal issues in misdemeanor cases tend to lessen workload burdens on prosecutors while high numbers of cases increase workload levels on support staff. Misdemeanor case processing is quite clerically intense. Scheduling, noticing, documenting, auditing, and coordinating among witnesses, victims, police officers, co-defendants and other parties entails considerable clerical work. Advances in computerization aside, where the ratios of staff (primarily support staff and victim/witness advocates; not investigators) to attorneys are higher, case processing times are usually lower. [104] The current staff to lawyer ratio in Phoenix is 1.5 to 1.0, a healthy correlation that facilitates more timely movement of cases.

Motions and evidentiary hearings are considered separate events, and can only be set after a trial date has been determined. This procedure, established by the Court to reduce police officer overtime expenses occasioned by a separately docketed hearing, upsets many defense attorneys who conclude scheduling motions and rulings on evidence prior to trial would result in fewer trial settings and quicker case processing. Prosecutors, on the other hand, like the current system; they feel it limits the number of "shotgun" or nuisance motions that may be exercised by the defense in their efforts to explore the strength of the City's case.

The conflict over motions practices is not just confined to Phoenix. Prosecutors nationwide feel the number of motions and motion hearings is a primary cause of larger prosecutor caseloads and slower case processing according to studies by the American Prosecutor's Research Institute.[105] A mitigating force in Phoenix toward reducing unnecessary motions is the PO's Interactive Disclosure Center that contains information and evidence commonly related to the most prevalent type of jury trial, DUI's. (See an explanation of the Disclosure Center later in this section.)

[104] "How Many Cases Should a Prosecutor Handle?" A monograph published by the American Prosecutor's Research Institute, Alexandria, VA (2002).
[105] Ibid.

Continuances also look to slow case processing and increase workload for the smaller number of Trial Bureau prosecutors vis-à-vis the larger pool of defense lawyers. Although data is sketchy, it appears most requests for "enlargements of time" (roughly 65 percent) are initiated by the defense primarily due to scheduling conflicts. A common lament of prosecutors is the difficulty they have in making contact with part-time contract defenders who are often busy with private-pay clients and court appearances throughout the Valley.

All in all, given the relatively stable caseload, organized nature of the office, extensive level of automation, and high staff to attorney ratio, NCSC's project team concludes the City Prosecutor's Office is functioning at an effective level. Should at some point in the future, the City Prosecutor wishes to more definitively analyze attorney workloads within the Office, a weighted case load (WCL) study would be an option. At this point, the NCSC project team does not feel the effort to do so would result in any sizeable savings for the City.

6.3 FRONT-END CASE FOCUS: EARLY TRIAGE; PLEA CUT-OFF

The Prosecutor's Office is focused on resolving cases early in the caseflow. An assistant city attorney has been consistently assigned for nearly a decade to the IA Court to facilitate early pleas and diversions. The IA prosecutor works with two court-appointed public defenders that are also present. This is not a common practice in most misdemeanor courts. A number of case dispositions occur at the IA. The NCSC project team feels the fact situations and legal elements of cases that move on to arraignment after an IA hearing have been crystallized to a greater degree due to the presence of defense and prosecution advocates at the hearing and thereby cause increased numbers of dispositions at arraignment. Where not guilty pleas are entered, the defendant is scheduled for a Pretrial Disposition Conference.

Indigent defendants are subsequently appointed a public defender if the state seeks jail as a possible penalty. An eDiscovery packet of arrest information is electronically sent to the assigned counsel. This electronic transmission occurs quite rapidly, occasionally before the Public Defender's Office advises the assigned contract defense attorney of his/her appointment.

Most in-custody defendants are released. Approximately ten percent are held in jail, because they are considered either a flight risk, a danger to themselves or the public, or cannot post bond.

For the accused that remain incarcerated, a Bond Review Conference (BRC) is set three to five days after the IA hearing. Cases are expedited for those that remain in custody.

If a defendant is cited and released at the scene or at a police precinct, PPD advices him/her of an arraignment date approximately 30 days from the issuance of the citation. Criminal complaint "long forms" may be filed by the PO; accused parties are then summoned for appearance at arraignment. As with most limited jurisdiction courts, a great many defendants do plead guilty or no contest at arraignment and are sentenced on the spot.

At arraignment, a plea offer is made by the prosecutor. The offer normally tends to be better than it would be should the defendant plead not guilty and continue on to a Pretrial Disposition Conference (PDC). In DUI cases the assistant city attorney has latitude in structuring a plea offer, although the Prosecutor's Office has detailed guidelines on what factual elements to consider and acceptable parameters for an offer. Where defendants remain in custody, plea offers generally include time served.

It is common to offer diversion options for some non-traffic misdemeanor cases. Generally at arraignment, defendants have an opportunity to discuss diversion options with defense counsel before making a decision. Diversion is only a post-plea opportunity which is problematic for defendant types. Undocumented defendants are an example since a plea to a misdemeanor carrying a maximum penalty of 180 days in jail even if it is stayed or suspended is classified as a felony by federal immigration and custom authorities, subjecting the defendant to possible deportation. In DUI cases and DV assault cases, where counseling requires payment by the defendant on a sliding scale, indigent defense attorneys routinely enter objections and not guilty pleas on behalf of their clients.

6.4 EARLY DISCOVERY EXCHANGE

In order to streamline the process of disclosing evidence, the Prosecutor's Office (PO) designed and developed a special application called *eDiscovery*. It is a secure website for individual defense attorneys to obtain specific case discovery on their assigned cases. Downloads to website (https://www.lawphx.net/eDiscovery) accounts occur daily at 4:30 and 9:00 PM. If an account doesn't exist, the system automatically creates one based on the defense attorney's name and bar number whether the attorney is a contract public defender or private

counsel and sends an email listing the case(s) disclosed. The evidence on the case is available to the assigned defense attorney 24/7 to view, download or print.

The Court, in anticipation of *eDiscovery*, installed Wi-Fi for defense attorneys to access the Internet and their *eDiscovery* accounts from within criminal courtrooms. This new system replaced the previous time-consuming and costly process of physically photocopying and sending evidence by interoffice mail to the Public Defender's Office or mailing it to private defense attorneys.

An *Interactive Disclosure Center* is another new "app" the PO has developed that aids greatly in early case handling and review by defense attorneys. This site contains information and evidence commonly related to DUI cases such as Phoenix Horizontal Gaze Nystagmus (HGN) logs; officer and forensic scientist certificates; training, curriculum vitae, affidavits and permits; blood and breath testing procedures, and calibration and control certificates. This information is available for disclosure.

The PO has also developed and implemented an electronic plea agreement application called *ePlea* where prosecutors generate plea offers on cases and transmit them to defense attorneys or self-represented defendants. The program has mandatory minimum and maximum sentences and the PO's plea offer guidelines as the defaults within the application. The application permits the inclusion of optional terms and counsel programs that allow the assigned assistant city attorney to tailor the offer for the case. The plea offer can be emailed as appropriate to defense attorneys prior to a Pretrial Disposition Conference (PDC). The PO, through the Court, installed network printers in each of the criminal courtrooms for prosecutors to print plea agreements and other documents on a case in court

6.5 COMMUNITY PROSECUTION: QUALITY OF LIFE CRIME INITIATIVES

The philosophy behind community prosecution is to develop new collaborative relationships in an effort to be more responsive to crime-related concerns of a community. It is a grassroots approach to justice. The Phoenix City Prosecutor's Office (PO) began their community prosecution program in 1996. In essence, it is a different way of delivering prosecutorial services while staying true to the Office's basic objectives of prosecuting/punishing criminals and reducing/preventing crime.

Programs throughout the country vary depending on community needs. What works in one neighborhood may be ineffective a few blocks away. Generally four defining characteristics are embraced by all programs: (1) a focus on quality of life issues in specific geographic areas that exhibit high crime patterns, (2) an array of crime prevention and early crime detection strategies, (3) interagency collaborations and partnerships within and beyond the criminal justice system, and (4) the physical location of attorneys and non-lawyer community specialists in the targeted neighborhoods.[106] Community prosecutors and specialists currently work in seven Phoenix neighborhoods.

NEIGHBORHOOD	BOUNDARIES
Canyon Corridor	Indian School Road to Missouri Road 35th Avenue to Black Canyon Freeway
Garfield	Van Buren Street to Interstate 10 7th Avenue to 16th Street
Hermosa	Baseline Road to Roeser Road 16th Street to 24th Street
Palomino	Greenway Road to Bell Road 32nd Street to Cave Creek Road
Westwood	Indian School Road to Camelback Road 19th Avenue to Black Canyon Freeway
Ocotillo	Black Canyon Freeway to 35th Avenue Bethany Home Road to Glendale Avenue
Isaac	35th Avenue to 43rd Avenue Van Buren Street to McDowell Road

Many of the collaborations are with state, city and county agencies to address such visible problems as housing and environmental offenses, blight, loitering, street crime recidivists, prostitution, drug sales, probation violations, and gang activity. As prosecution help has become more widely accepted and entrenched in neighborhoods, the staff has strengthened their presence and value by working with schools, faith-based organizations, refugees, teenagers (i.e., teen court), and Boys and Girls Clubs to develop block watches, curtail problematic liquor licenses, and provide information on such topics as landlord-tenant law, cyber bullying, truancy, status offenses, and youth violence.

The ultimate aim is to promote community self-help by building collective neighborhood capacity and pride in knowing and understanding how to independently take lawful actions to

[106] American Prosecutor's Research Institute; Center for Court Innovation; U.S. Department of Justice's Bureau of Justice Assistance.

promote safety and prevent crime in their communities. Empowering residents to become more invested in their neighborhoods and neighbors by building trust with city government programs and educating people on the processes and procedures increases property values and strengthens the livability and economy of a community as well.

Although the community prosecution program has been reduced in size in recent years, NCSC project team feels it is a valuable component of the PO. Based on interviews and observations there appears to be a heightened perception by the affected communities of public safety, a visible, and continued involvement of residents in neighborhood meetings and programs sponsored by community prosecution staff. Even though data is sketchy, the NCSC project team also believes the active presence of the PO in these areas has contributed to reduced calls for police service and fewer arrests of residents on misdemeanor charges.

The Diversion Unit is part of the Community Prosecution Bureau and is responsible for developing, administering, and monitoring all diversion programs citywide. Eligible defendants may be offered an alternative to jail if the prosecutor concludes there is a likelihood that through education and counseling there is greater chance for rehabilitation and reduced recidivism than incarceration. These programs benefit the individual, the community, and City resources. The Diversion Unit currently manages seven programs administered by contract with community providers:

- Domestic Violence Diversion Program
- Home Detention Program
- Positive Alternatives Diversion Program
- Prostitution Diversion Program
- Prostitution Solicitation Diversion Program
- Shoplifting/Theft Diversion Program
- Underage Drinking and Alcohol Possession Diversion Program

The Diversion Unit also administers the Mental Health Diversion Program with Magellan Health Services. This is a pre-trial, post booking program that provides appropriate misdemeanor offenders an opportunity to participate in relevant counseling rather than proceeding through the court system and establishing a criminal record. Through counseling and classes, participants are guided toward alternative methods of managing and understanding the kind of behavior that leads to criminal activity. Those who successfully complete diversion receive a dismissal of the misdemeanor charge(s).

The community prosecution and diversion philosophies have spread beyond the PO to the Court and Public Defender Department where collaborations have spawned a few special dispute resolution forums, mostly in the form of specialized dockets rather than "problem-solving courts."

Whether structured as separate dockets or organized as specialty stand-alone courts, they target identifiable offender groups that have overlapping chemical, social, economic and criminogenic issues that cause them to appear regularly in court. Substantial research (as noted in Section 3 of this report) concludes that incarceration absent treatment will not effectively deter future crime, reduce recidivism or improve public safety for these types of offenders.[107] As a result, a small number of special dockets and prosecution programs have developed in Phoenix around a limited number of offender groups where existing support programs are more readily available, namely veterans and the homeless. Other municipal courts in the Valley have created problem-solving courts or specialty calendars that target domestic violence, drug dependency, and mental health issues. Tempe, Mesa and Glendale are examples.

Specialty courts provide a more diagnostic approach to adjudication, just as community prosecution does in diverting matters. These special forums are more effectively created and work best when they are developed collaboratively by the courts, prosecution and public defender. Many types and versions exist ranging from pretrial programs that parallel many of the current prosecution diversion programs to post-trial approaches that incorporate the full power and authority of the court to prompt compliance. The most prevalent models are drug courts.

It appears to the NCSC project team that leadership in developing diversion and diagnostic approaches within Phoenix rests more with the PO than the Court. (The defense bar in any community is generally always supportive of increased diversion and rehab options rather than incarceration.) Further, it is the impression of the NCSC project team that some of the current prosecutorial diversion programs could be more impactful (i.e., improved outcomes, less recidivism) with greater court involvement, perhaps even to the extent of developing specialized calendars or problem-solving courts that add the authority of the Court to enhance compliance and rehabilitation.

[107] See research by the Center for Court Innovation, National Institute of Corrections, American Probation and Parole Association, and National Center of State Courts.

Recommendation O

Court, prosecution and public defense representatives should collectively investigate and expand approaches, as possible, to more effectively address special offender populations in Phoenix that exhibit habitual misdemeanor arrest and adjudication patterns linked to social, psychological, chemical and economic issues. Effective specialty court models exist in other Valley municipal courts should be explored as well as a possible contractual relationship with the Maricopa Adult Probation Department.

Expected Efficiencies

Reductions in recidivism, economic improvements in blighted areas, increased public safety, enhanced community responsibility, and crime prevention are proven, substantiated outcomes in diagnostic approaches to adjudication processes. Specialty courts and evidence-based probation are examples of these approaches in action.

6.6 LAWYER EXPERIENCE AND PERFORMANCE

The turnover in assistant city attorneys has slowed in recent years due to a number of factors, the lackluster economy and job scarcity being the primary reasons. In many ways this is a good thing for the Prosecutor's Office since the experience level of contract public defenders is quite high, averaging 12 years of criminal defense practice. Why? Experienced attorneys tend to dispose of cases quicker and earlier in the process, saving time and money in the long-run and avoiding inventory build-up which tend to lead to backlogs, crash programs and increased costs.

The American Prosecutors Research Institute studied prosecutor workloads in 56 jurisdictions across the nation a few years ago and found on average that experienced prosecutors (more than five years) spent 35 percent more time screening cases than their less experienced colleagues and less time preparing cases and bringing cases to disposition. Prosecutors with less than five years of experience spent nearly twice as much time overall bringing cases to disposition. The findings suggested that seasoned prosecutors invest more time initially screening cases which resulted in more pretrial dispositions (i.e., pleas) and less experienced prosecutors spend more time at the backend of the caseflow process in trials.[108]

[108] "How Many Cases Should a Prosecutor Handle?" A monograph published by the American Prosecutor's Research Institute, Alexandria, VA (2002).

Recommendation P

The assignment of experienced lawyers to the early stages in misdemeanor caseflow, principally initial appearances, arraignments, the charging bureau, and pretrial disposition conferences, should be encouraged. Pay scales and other accouterments should provide incentives for seasoned prosecutors to work in front-end case processing services.

Expected Efficiencies

Effective early screening of cases by seasoned prosecutors will result in more early pleas and reduce workloads later in the caseflow.

7.0 PUBLIC DEFENDER

7.1 OUTSOURCING AS A SOLUTION

Like all municipal criminal justice systems in Arizona, Phoenix is legally required to provide government-funded legal counsel to any indigent person charged with a misdemeanor where the penalty may result in loss of liberty. The City has opted to do so by contracting with a cadre of 70 to 80 private attorneys who agree to handle either a "full contract" of 270 cases per year for a flat fee of $52,000 - $55,000 or a "half contract" of 135 cases for a lesser amount. Cases are assigned and monitored by a small nine person full-time office staff, including a City Chief Public Defender and Assistant Chief Public Defender.

The Sixth Amendment to the U.S. Constitution guarantees that in all criminal prosecutions where incarceration is a possible penalty, the accused shall have "the assistance of counsel for his [or her] defense." In furthering this right, the U.S. Supreme Court has ruled (*Gideon v. Wainwright, 372 U.S. 335 (1963))* that states must provide counsel to anyone accused of criminal wrongdoing and unable to afford private counsel. The function of a public defender, then, is to provide the due process safeguard that the Supreme Court deems necessary for a constitutionally sound criminal justice system. Where the justice system is locally based, as in Arizona, the states have routinely delegated the responsibility of funding and administering trial-court public defense services to counties and cities.

Different jurisdictions use different approaches in providing legal counsel for criminal defendants who cannot afford private attorneys. The most common method is a government funded public defender office. The public defender system in use at the Superior Court in Maricopa County is an example.

Typically, these offices function as agencies of state or local government and as such, the attorneys are compensated as salaried government employees.[109] They are most prevalent at the general jurisdiction level.

In addition to government-based offices, there is a smaller but significant number of not-for-profit agencies, often referred to as "defender services," that provide indigent criminal

[109] Prior to 1979, Phoenix Municipal Court indigent defense services were provided through a contract with the Maricopa County Public Defender's Office. Costs were difficult to control, NCSC consultants were advised, so the City moved to a system of private attorney contracts. An impetus for the change was *Arizona v. Joe U. Smith* referencing case type workload caps for full-time public defenders.

defense representation. These entities tend to rely heavily on grants and public funding to meet their operating costs. The City of Seattle, a justice system similar to Phoenix, operates such a system, although much smaller in volume.[110]

It is instructive to look more closely at the Seattle Municipal Court since it provides a good picture of the nonprofit model. Seattle contracts with three public defense nonprofits through its City Budget Office (CBO).[111] All contracts are governed by a public defense ordinance that outlines indigent defense requirements, including 380 case credits per attorney per year as a workload standard.[112] The Seattle standard has consistently remained one of the lowest in the country.

The primary defense agency in Seattle is guaranteed enough cases to support 15 FTE attorneys. A secondary agency has a contract supporting seven FTE attorneys, and the third group is assigned cases where the two primary firms have conflicts. The third agency employs one FTE attorney and also administers a Conflict Attorney Panel (CAP) and a CAP Oversight Committee. Cases are assigned to a CAP attorney if all three public defense agencies have a conflict. All contracts are renewable and re-negotiated every three years causing the agencies to compete with each other for appointment as the primary firm. Seattle's budget for the Indigent Defense Program in 2010 was $5.4 million, 16 percent higher than Phoenix.

The third method of appointing indigent defense counsel is used in Phoenix; a "panel" of private attorneys who individually enter into agreements with the government to handle a specific number of cases for a flat fee. It is less common than the other two methods nationwide,

[110] At 609,000 residents, Seattle is roughly a third the size of Phoenix. Case filings are quite a bit less than Phoenix as well. In 2010, Phoenix had 44,633 misdemeanor filings. Seattle had 16,005, roughly 36 per cent of Phoenix's level.

[111] Because conflict of interest problems can exist where multiple defendants participated in a single crime, only one person in a group of co-defendants will be assigned an attorney from a public defender office. For many defendants, it is in their best interest to testify against co-defendants in exchange for a reduced sentence. To ensure that each defendant is afforded their constitutional right to an effective defense; jurisdictions may have several public defender entities, or "conflict panels" of private practice attorneys. This enables the assignment of an attorney from a completely separate office, thereby guarding against the risk of one client's privileged information accidentally falling into the hands of another client's attorney. In the case of Phoenix where 70 or more lawyers work independently through separate contracts, the appointment of conflict representation is much easier to accomplish.

[112] The American Bar Association (ABA) standard is a maximum of 400 misdemeanor cases accepted and assigned per FTE attorney per year. The Washington State Bar recommends 300 cases. Seattle considered both guidelines and opted for a 380 case level. In theory, any of these standards includes a number of caveats. As an example, the Seattle model assumes that a minimal number of cases are carried over from year to year, the cases are a mixture of difficult and more simplistic ones, and there are various methods after a case is filed wherein it can be resolved early in the caseflow process (e.g. conversion to a non-criminal violation, diversion, etc.). Where a significant number of cases are carried over, Seattle public defense supervisors make appropriate assignment adjustments in the caseloads.

but more economical and flexible for the City. Here, attorneys operate as independent contractors. In larger systems like Phoenix they are frequently screened, hired/fired and overseen by a public defense agency attached to the city.

In reviewing Phoenix's public defense program, NCSC's project team has referenced the *American Bar Association's Ten Principles of an Effective Public Defense Delivery System.* These guidelines have been in existence for some time and capture the basic elements of a sound public defense program at any level of government. In most instances, the Phoenix system demonstrates a high level of adherence to these standards.

7.2 PROGRAM ORGANIZATION

Public defense programs must be independently operated and managed

Although tied to the City for funding, the Public Defense Program is independent of political influence by either the City or the Court. Contract defense counsel is subject to judicial supervision only in the same manner and to the same extent as retained counsel.

An independent seven member Public Defender Review Committee appointed by the Mayor and City Council oversees the work of the Department.[113] Each year it reviews the performance of the City Public Defender and the Department and annually selects and terminates each contract defender with the advice and counsel of the Public Defender and Assistant Public Defender. The Committee also has the responsibility to hire and fire the Public Defender.

Originally the Committee's composition included an array of lawyers and non-lawyers, but over time its makeup has changed by design. The Committee now consists exclusively of criminal defense practitioners since the items discussed and decided upon require a great deal of knowledge about public defense issues and operations. A particular duty of the Committee requiring in-depth knowledge about Phoenix justice system operations and the criminal defense bar is the selection and dismissal of contract lawyers.

The NCSC project team concludes the City's public defense organizational structure and the duties and functions of the Review Committee satisfy the ABA guideline that a public defense program function independently under an organized and accountable management structure.

[113] See City Charter Section 2-150.

A formal, organized system buttressed by the private bar is a necessary standard

The City PD Department consists of a small permanent staff of full-time employees who have specialized administrative and support duties, including management coordination, legal research, clerical assistance and forensic aid to trial lawyers. Defense counsel contracts are solicited publicly and those hired are carefully screened, vetted and selected according to published guidelines targeting experience, efficiency, and integrity. The City Public Defender and Assistant Public Defender do not have caseloads. At one time they did handle specialized calendars, but in doing so they found it ethically compromised their ability to effectively perform their administrative duties in working with others in the City's criminal justice system.

It is the opinion of the NCSC project team that the Department meets this ABA principle. The defender contract approach ties the Phoenix program tightly to the private bar.

Adequate time and private space for defense counsel to meet with clients

Data on case processing in this report indicates no rush to justice. The Court is mindful of the need to responsibly move cases to resolution and reasonably accommodate requests for continuances from lawyers. Time periods between most major events are short enough to prompt adequate preparation and long enough to allow it.

Client meetings generally take place at the assigned counsel's office or in a neutral, confidential setting. The new Phoenix Courthouse, opened in 1999, is a state of the art facility and has a number of attorney/client conference rooms and spaces to meet and confer in relative privacy.

Base on a review of the caseflow process, the assignment patterns for contract public defenders, and the issues related to meet and confer space, NCSC project team concludes that both private and public defense counsel have adequate time and private space to meet with clients, and, therefore, are essentially in compliance with this ABA standard.

The same attorney should continuously represent the client

The Phoenix Public Defender's Office operates a vertical assignment system, meaning the same contract public defender continuously represents a client from the first post-arraignment court date through case disposition, regardless of the type of disposition. It is considered a best practice by numerous public defense experts.

Given the number of defendants and requirements of the Initial Appearance process, it is not feasible for individual public defenders to be assigned to clients that early in the process. The current batch processing of defendants represented by the "on duty" PD's at the jail is an appropriate way to operate.

Based on interviews with public lawyers from both the defense and prosecution, each group complains about access to the other. Two different attorney assignment systems, a vertical one for the public defender and a horizontal approach for the prosecution seemingly contribute to the frustrations. Public defenders complain that it is difficult to identify and respond to numerous different assistant city attorneys who touch a file as it moves from one bureau and group of prosecutors to the next. Prosecutors, on the other hand, complain about delays and problems in coordinating meetings and contacting assigned public defenders who have a mix of indigent clients in Phoenix and private-pay clients throughout the county. Their feeling is that contract PD's are prone to give higher paying private clients first priority in returning phone calls and face-to-face meetings.

NCSC project team concludes it is likely that different scheduling systems used by the prosecution and defense may cause some slowdown and confusion in the interaction between public lawyers. The virtues of the two different assignment systems each have merit. When managed well, they provide effective representation for either type of client; the City on one hand and the accused on the other.

Solid steps have been taken by the Prosecutor's Office to facilitate early discovery and plea opportunities through its electronic *eDiscovery ePlea* and *eDisclosure Center* applications that confidentially disclose arrest/evidence information, plea offers and assigned prosecutors to defense counsel. The first PDC is scheduled within time periods that permit defense counsel to review arrest and forensic data and conduct routine investigative work to discuss settlement. Furthermore, many municipal prosecutor offices operate with horizontal assignment systems and their counterpart public defender systems with vertical ones without the early discovery found in

Phoenix, and they do so effectively without substantial delay. Consequently, the NCSC project team does not put much credence in the argument that different attorney assignment systems are a major contributing cause of unnecessary delay. It is far more likely that unprepared lawyers are the root cause of communication dislocations.

The ABA encourages parity between public defense and prosecution resources

Although parity between public defense and prosecution resources is a widespread desire of state and local public defender programs, in reality it is rare. For Phoenix as an example, the Public Defense Program is funded at 29 percent of the Prosecutor's Office. This percentage remained relatively consistent over the past few years as annual City appropriations to these functions have been increased and decreased.

ABA guidelines also call for reasonable fees to contract counsel for overhead, legal research, investigative and forensic services. Phoenix provides some limited funding through the Public Defender's Office for these expenses.

There are a few municipal justice systems with jurisdictions similar to Phoenix where prosecution and public defense funding is at more comparable levels. Seattle is the prime example. The 2011 adopted Seattle budget for its prosecutor, a part of the Law Department as is the case in Phoenix, is $6,352,029. The corresponding Indigent Defense budget is $6,043,667.

We are not advocating in this report for parity in Phoenix, but we do feel it is important to document for policymakers the disparity in historic and current funding levels, and best practice recommendations by the ABA, a group we feel is objective in arriving at its suggestions for balanced, high quality prosecution/defense services.

A particular concern, however, that Phoenix City policymakers should address is the growing disparity in compensation levels between public defenders and City Assistant Prosecutors. The formula for a contract public defender was set by the City Council some time ago as 80 percent of the midpoint salary of an Assistant City Attorney II (ACA II). Currently, that mid-point is $65,620 (80% X $82,025 = $65,620). The current average public defender contract attorney compensation is less than $55,000, over $10K lower than the City Council policy established. This disparity is especially troublesome given the differences in the level of legal experience. One year of legal experience is the minimum requirement for an ACA II while

contract public defenders average approximately 12 years of legal experience.[114] This compensation deficiency has resulted in substantial turnover in contract PD's, many accepting contract work at higher pay in other city courts. The result has been fewer Spanish speaking attorneys and a growing decline in contract attorney experience levels.

The compensation disparity between the defense and prosecution can also be seen in the full-time Assistant Public Defender position (Assistant City Attorney III). There are currently 79 attorneys working in the Civil and Criminal Divisions of the Law Department. Forty-six percent are at a higher pay scale than the Public Defender Assistant Director. All attorney administrators in the Law Department's Civil and Criminal Divisions are at classifications higher than the Assistant PD Director. There should be greater salary similarity between the Public Defender Assistant Director position and City Prosecutor Division Directors classifications.

Recommendation Q

Although overall resource parity between the Public Defender and Prosecutor's Office is not necessary in the opinion of the NCSC project team, there should be increased adjustments in the compensation formula for contract public defenders, and more congruity in salary levels between the Public Defender Assistant Director and City Prosecutor Division Directors.

Expected Efficiencies

Compensation says something about the value an organization places on positions. Where positions are relatively comparable regarding knowledge, skills and abilities, their compensation levels should be similar. If not, an organization runs the risk of diminishing both the quality and capacity of the job holders.

7.3 CLIENT SCREENING AND TIMELY REPRESENTATION

For arrested and detained defendants, both public defense and prosecution lawyers are in attendance at the initial appearance in the jail courtroom. Jail court is conducted within 24 hours of arrest. The vast majority of arrestees are indigent and public defender eligible. Those that can post bond are released. Normally on multiple initial appearance calendars handled throughout a normal day and on the weekends, there are a range of eight to 25 people in custody. There are two IA sessions per day, seven days a week.

[114] Note there are no Assistant City Attorney I's in the City.

In urban misdemeanor courts, it is rare for a public defender to routinely attend initial appearances, and even rarer for a prosecutor to be present. Phoenix provides both; a pattern we wish more courts would follow.[115] The earlier a prosecutor and defense attorney can meet and exchange information regarding a case, the more likely the case will be disposed in a timely fashion reducing costs for the government and all parties. By fully staffing the initial appearance court with attorney advocates, numerous cases are diverted, dismissed and resolved at the earliest point possible in the criminal justice process.

In addition to resolving cases quickly, early disposition helps by integrating social service assistance for defendants into the judicial process at the beginning of the case. Frequently, these referrals allow the defendant to avert jail time, save the City incarceration expenses, and channel the accused to a treatment program where behavior change and restitution, as appropriate, is more likely. If incarceration does take place, it often is a result of other outstanding concurrent charges or arrest warrants that require more time and information to process and resolve.

Although in-custody misdemeanants are not formally pre-screened by court or pre-trial service officers for release recommendations, arrest reports, criminal history information, and some summary economic information is available at the time of this first appearance. For those who remain in custody beyond the initial appearance an automatic bond review hearing (called BRC Court) is held within ten days to re-visit the possibility of release with a contract defender available to assist and advise defendants of their options. Often by that time, plea bargains have been facilitated with many defendants pleading guilty, sentenced to time served, and released.

In observing the initial appearance court, NCSC project team feels cash or security bail and bond is only set if there is evidence of danger to the community, or evidence of flight risk and possible failure to appear for future hearings. The NCSC project team feels there is no abuse of pretrial incarceration. In fact, the City is incentivized toward release, diversion and community social service referral to avoid daily jail charges by the Maricopa County Sheriff for housing City inmates.

The NCSC project team does not deny there is potential for the BRC Court approach to promote pleas through holding defendants in-custody. We did not detect that situation in examining the data regarding holdovers to BRC Court or talking with judicial officers and staff.

[115] It is common for public defenders to be present at arraignments where a defendant exercises his/her rights regarding a plea.

To do so would require the complicit involvement of judges, an unlikely situation based on the caliber and independence of the Court.

Misdemeanants represented by the public defender also enter the system through citation in lieu of arrest and criminal complaint and summons. They are screened for indigent defense services eligibility by Court staff and assigned a public defender based on an assignment algorithm developed by the PD Department and approved by the Arizona Supreme Court. The City Prosecutor electronically emails defense counsel information concerning discovery. This process often happens so quickly that a contract defense attorney may first learn he/she has an assigned case from the City Prosecutor rather than the PD Department.

For the most part, the NCSC project team very impressed with the front-end misdemeanor procession system in Phoenix, especially the fact that the Initial Appearance Hearing is staffed by both a prosecutor and public defender empowered to make dispositive recommendations to the Court about defendants within 24 hours of arrest. Although information related to release is slim, it is better than in many urban misdemeanor courts. The NCSC project team remains somewhat concerned about the ten day pretrial detention period before a BRC Court hearing and whether that could be shortened. Overall, the Phoenix Justice System compares well with the ABA guideline for prompt, timely and early involvement of public defense counsel.

Recommendation R

The Presiding Judge of the Phoenix Municipal Court should convene a special task force of City criminal justice stakeholders to review pretrial detention with the specific purpose of shortening lengths of stay for detainees, developing protocols to reduce later failures to appear, and scheduling BRC Court sooner than ten days after the initial appearance. In doing so, interactive video technology systems should be investigated regarding their potential to reduce jail time, speed defense lawyer/client meetings, and conduct appropriate hearings remotely.

Expected Efficiencies

Shortening lengths of stay will reduce jail costs. It also allows the justice system stakeholders to purposefully review and improve the way incarcerated defendants are processed, opening the door (no pun intended) to interactive audio/videoconferencing as a cost savings and efficiency inducer.

7.4 WORKLOAD ISSUES

Case counts and quality representation

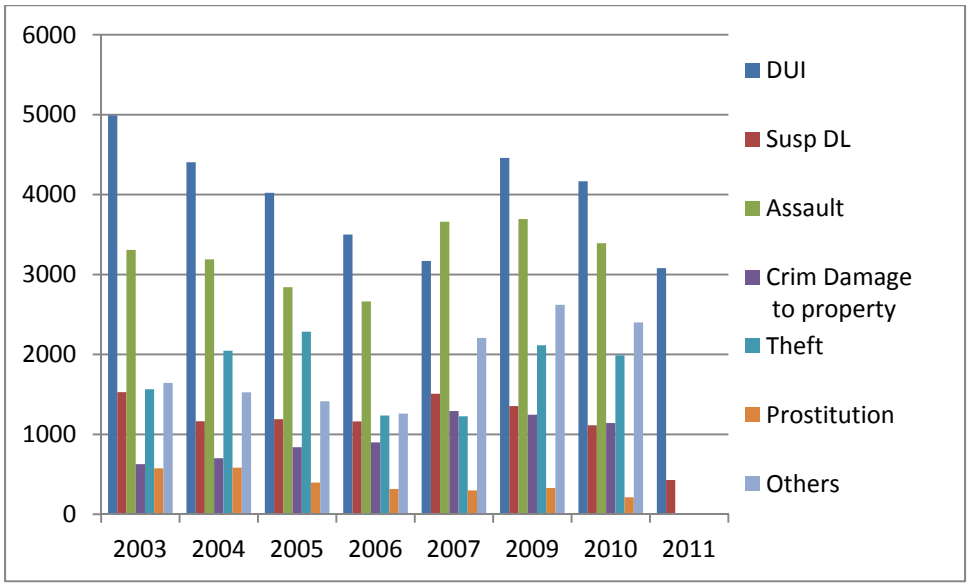
Nationally, there is a great deal of controversy over the number of cases a single public defender should represent. ABA standards skirt the issue to some extent by saying that defense counsel workload should be controlled to permit quality representation and ensure the effective assistance of counsel.

In Phoenix, a mixed workload of 270 misdemeanor cases is considered a "full contract" for a public defender and in turn the contractor is paid a flat fee of $52,000-$55,000 annually. There are a number of defenders who take only half a contract (135 cases) for $26,000-$27,500 per year. Also, there are a small number of special caseloads having fewer assigned matters involving defendants with mental health issues, some having complicated co-occurring chemical and psychological problems. These cases are more difficult to represent and may cycle through the justice system numerous times.

The typical mix of misdemeanor case types that compose a standard workload is weighted in favor of less complex, short cause matters. DUI's, the most complicated matters, comprise about 25 percent of the caseload, assault-related crimes are about 40 percent of the volume, and minor crimes such as prostitution and shoplifting encompass 35 percent of the workload.

Table 7.4 (1) Public Defender Case Types (Defendants)
Years

CASE TYPE	2003	2004	2005	2006	2007	2008	2009	2010
DUI	4991	4404	4023	3499	3169	No data	4459	4167
Suspended DL	1528	1163	1190	1162	1508	No data	1355	1114
Assault	3307	3189	2841	2663	3661	No data	3695	3391
Criminal Damage	627	702	840	899	1292	No data	1247	1142
Theft	1564	2047	2284	1237	1225	No data	2115	1988
Prostitution	575	584	398	318	300	No data	329	213
Others	1645	1527	1415	1261	2207	No data	2621	2401
Total Assigned	14232	13425	12973	10933	13389	No data	15954	14504
Total Denied	167	113	69	65	67	No data	84	57



The 270 number is somewhat misleading as only cases that extend into the caseflow process are officially counted as part of the 270 number. No credit is given for a case if the client fails to appear at the first PDC and a warrant is issued even if the attorney has met with the client, reviewed the police report, and commenced case preparation. No credit is given for in-custody cases if they are resolved on the first court date. One-half (1/2) credit is given for pre-assigned in-custody cases if the attorney resolves the case at the PDC level. An attorney is given one (1) full credit if a case goes to trial. One-half (1/2) credit is given to an attorney for each additional case assigned on a client they are currently representing. In essence, then, a truer number would be 400 to 425 cases since roughly 30 to 35 percent of all misdemeanors exit the system sometime within six weeks of initial filing with the Court.[116] Essentially, through experience the Public Defender's Office has developed a weighted workload system.

In the Phoenix experience, for every three cases assigned, one exits the criminal justice system with little or no involvement from the assigned public defender. For the remaining cases, some extend only a short distance into the system, a very few go all the way through trial (less than one percent), and most drop out along the way with pleas, dismissals and diversions. In such a system, is it possible for a skilled, efficient criminal defense lawyer to represent and

[116] It should be noted that the National Council of Criminal Defense Lawyers advocates that early dispositions of cases whether through pleas, dismissals, diversions or referrals to special prosecutorial programs should not be excluded from a workload formula.

manage 410 to 425 misdemeanor defendants in less than half (42 percent) of his/her billable time? Yes.

Fortunately, most misdemeanor cases have narrow, limited fact situations which are fairly straight forward. They often repeat themselves over and over again in different contexts allowing proficient public defenders to become familiar with related legal issues and prosecution plea patterns.

Outcome measures show that of the 14,504 misdemeanors initially assigned to the Public Defender in 2010, one percent ended in a jury trial and 14 percent ended in a bench trial. This is typical among misdemeanor courts nationwide. Sentencing guidelines and mandatory minimum penalties imposed by statute are largely responsible for a steady decline in criminal jury trials throughout state courts. Fewer defendants today take the risks associated with a conviction by a jury.[117]

7.4 (2) Public Defender Case Dispositions by Defendant – CY2010

Contract Type[118]	Non-jury trials and dismissals	Jury trials	Jury waivers	Jury trial dismissals	Extreme DUI reductions
Full Contract	996	69	18	85	29
Half Contract	981	71	20	62	22
Total	1977	140	38	147	51
Average	27.8	1.9	0.5	2.0	0.7

Based on the high scratch rate and large number of early pleas, whether to an original or amended charge, the NCSC project team concludes the workload levels do not unduly hamper the ability of contract defenders to provide competent representation. A helpful factor is the high experience rate of the majority of defenders.

Pretrial Motions

As mentioned earlier in this report, no mechanism in the current caseflow exists to hear pretrial motions except at a trial setting. The Phoenix Municipal Court is somewhat unique in that respect. The prosecution, therefore, commonly must subpoena all of its witnesses for the trial setting or have them on "stand-by" when only one or a lesser number of witnesses would be necessary for the motion.

[117] Center for Jury Studies, National Center for State Courts.
[118] Twenty-four attorneys hold full contracts (270 cases) and 47 attorneys have half contracts (135 cases).

A common motion in a DUI case, for example, is to determine whether the necessary "reasonable suspicion" existed for the stop of the vehicle. A hearing on such a motion generally requires only the officer who made the stop. A trial setting requires the arresting officer, any backup officers, the transport officers, if applicable, the van operator who did the blood draw and post-arrest interview, and the forensic scientist who did the blood analysis.

Resultantly, trial dates are set before a judge has actually decided issues necessary to properly evaluate a case for trial or other disposition. This is likely a contributing factor to the relatively high rate of jury trial dismissals at 50 percent by the Court; for every jury trial conducted, there is at least one that is dismissed on the day of trial (see Table 7.4 (2)).

Recommendation S

The Court should review its process of setting pretrial motions on the day of trial and determine if it is the most cost effective and efficient manner to set motions. Most limited jurisdiction courts set motions on a separate hearing date before the trial and thereby increase the certainty of trial

Expected Efficiencies

Both the prosecution and defense are better positioned to determine the viability of a case after the motion process. DUI trials would proceed more rapidly if a jury was empanelled or a trial actually began at the beginning of the business day and not after the Court has taken the time to read the motion and conduct the hearings. A mechanism to hear motions may therefore also result in cost savings and facilitate a more timely disposition of cases.

Settlement Conferences

Current Municipal Court case processing patterns do not utilize settlement conferences prior to trial. Consequently, some cases get set for trial solely to exit the original assigned division in order to negotiate a change of plea before another judge. Prior to that change of plea, however, the Court and the parties will have had a Pretrial Disposition Conference, a calendar call, and a trial date set with witnesses.

Settlement conferences have proven quite successful in other Arizona courts that operate master criminal calendar systems, most notably the Superior Court in Maricopa County. Settlement rates average 64 – 78 percent for felony cases. It is likely settlement rates for misdemeanors could be equally as successful.

Settlement conferences under *Rule 17.4, Arizona Rules of Criminal Procedure*[119] have a three-fold purpose: give information to the defendant, advise the defendant of the evidence, and examine the plea offer. The context is non-coercive. It examines the role of the jury regarding conviction and acquittal, and it relates the settlement statistics for like criminal cases, indicating that most arrive at a negotiated plea. Unless the parties stipulate, the settlement judge is not the trial judge should the case go to trial. Normally, prior to the settlement conference the conference judge is briefed by the lawyers about the case including the nature of the offense and facts surrounding it, the prosecutor's plea offer, the defendant's criminal history, and the defense arguments. In some instances, judges have required a settlement memorandum be filed.

Recommendation T

The Court should explore the use of settlement conferences permitted by Arizona Rules of Criminal Procedure, Rule 17.4.

Expected Efficiencies

The availability of a settlement conference has the potential to promote cost savings, solidify calendars and save resources.

7.5 LAWYER EXPERIENCE AND PERFORMANCE

Defense Lawyer Skills Must Match Case Complexity

The high numbers of veteran lawyers on contracts have pushed the average experience level to 12 years of criminal defense practice. Flexible contract options ranging from full to half workloads, and increasing numbers of accomplished solo and small firm criminal law practitioners postponing retirement to remain in the workforce longer expand the pool of potential contractors.

[119] Arizona Rules Crim. Proc., Rule 17.4 a. Plea Negotiations. The parties may negotiate concerning, and reach an agreement on, any aspect of the case. At the request of either party, or sua sponte, the court may, in its sole discretion, participate in settlement discussions by directing counsel having the authority to settle to participate in a good faith discussion with the court regarding a non-trial or non-jury trial resolution which conforms to the interests of justice. Before such discussions take place, the prosecutor shall afford the victim an opportunity to confer with the prosecutor concerning a non-trial or non-jury trial resolution, if they have not already conferred, and shall inform the court and counsel of any statement of position by the victim. If the defendant is to be present at any such settlement discussions, the victim shall also be afforded the opportunity to be present and to state his or her position with respect to a non-trial or non-jury trial settlement. The trial judge shall only participate in settlement discussions with the consent of the parties. In all other cases, the discussions shall be before another judge or a settlement division. If settlement discussions do not result in an agreement, the case shall be returned to the trial judge.

Annual turnover of public defense contractors in Phoenix is roughly 15 to 20 percent today, although it has been as high as 33 percent in the recent past. An anemic economy is likely a major reason for the current lower attrition rate.

Accordingly, the NCSC project team concludes the PD program is doing well in matching lawyer skills and experience with case complexity. Phoenix meets the ABA guideline of employing a knowledgeable, competent cadre of public defenders.

Public Defenders Must Comply with Required Continuing Professional Education

The Arizona State Bar requires that actively practicing lawyers must have 15 CLE (Continuing Legal Education) hours annually. Contract lawyers who do not acquire this number of credit hours yearly are not rehired.

The Phoenix Public Defender's Office also provides CLE courses quarterly on defense related topics (i.e., trial skills, substantive and procedural laws, collateral consequences of a plea, etc.). Contract lawyers are expected to attend as possible.

The NCSC project team concludes the City PD program is in substantial compliance with this ABA standard. Quarterly sponsored programs on defense lawyer education are helpful as well.

Defense Counsel Must Meet or Exceed Set Quality and Efficiency Standards

The City Public Defender and Assistant Public Defender routinely monitor the work of each contract public defender. In some instances, where a contractor has done an outstanding job, conducted more trials than normal, or had an unusually difficult workload, he/she may be given additional compensation. This decision is at the sole discretion of the Chief Public Defender.

Annually, a formal evaluation of each public defender is conducted. Recommendations for reinstatement, dismissal, and performance improvement are brought to the Citizen's Public Defender Review Committee each May. The Committee makes the final decisions as to who is given a contract.

Performance evaluation criteria, listed below, are quite comprehensive. Additionally, the Assistant Public Defender routinely visits and canvasses the courthouse at least twice a day to check on contractors and talk with prosecutors, judges and court staff.

- Legitimate complaints received from clients, judges and court staff
- Court coverage responsibilities (timeliness, volunteered time)

- Additional contributions (seminars, memos, presentations, motions, research)
- Number of trials conducted (jury, nonjury) relative to the Department's average
- Number of dismissals obtained (jury, nonjury) relative to the Department's average excluding dismissals for felony prosecutions
- Number of motions filed relative to the Department's average
- Evidentiary hearings conducted
- Appeals and special actions handled
- Compliance with administrative responsibilities
- Extraordinary cases or issues handled
- Attendance at scheduled Department training and meetings
- Contact with in-custody clients prior to court proceedings

Based on the criteria, there are a handful of contract lawyers whose contracts are not renewed each year. Generally out of roughly 75 contractors, five to ten are dismissed annually based on marginal or poor performance.

Collectively, the NCSC project team considers the performance assessment practices of the PD Department to be sound. Compliance with ABA guidelines is in effect.

8.0 HELPFUL SYSTEMWIDE IMPROVEMENTS

8.1 JUDICIAL PERFORMANCE EVALUATION UPGRADES

In most Arizona cities, city councils appoint municipal judges for specific terms, generally ranging from two to four years.[120] Judges in Phoenix serve four year terms. The Chief Presiding Judge, designated by the City Council from among the judges of the Court, serves a one year term. Appointments are non-partisan on merit and appointees may be lawyers or non-lawyers depending on the city charter. The Phoenix City Charter (Chapter VIII Section 6) requires all judges to be lawyers. Phoenix full-time city judges must be admitted in good standing to practice law in Arizona, have at least five years of relevant legal experience, and agree to refrain from the practice of law and from engaging in any political activity.

The performance of sitting judges is reviewed at the end of their terms in office regarding their retention and reappointment. The Arizona Supreme Court and a variety of court reform organizations have encouraged cities to develop non-partisan commissions or boards of citizens appointed by the mayor and city councils to independently screen candidates and recommend new appointments when the council creates a judgeship, and evaluate the performance of sitting judges when they become eligible for retention and reappointment.

Phoenix has a seven member Judicial Selection Advisory Board; each voting Board member serves a three-year term and is eligible for re-appointment to one additional term.[121] The County Bar, State Bar, State Supreme Court,[122] and Superior Court in Maricopa County each have one representative on the Board, and three positions are filled by private citizen residents of the City. The Chief Presiding Judge of the City Court serves as a nonvoting eighth member of the Board. Board recommendations are submitted to the Council's Public Safety and Veterans Subcommittee for review, public discussion and referral to the Mayor and Council for final discussion and vote.

A formal set of procedures adopted by the Board govern its activities and duties according to the City Code. Initial candidates for judgeships must present an application, background data and references regarding their qualifications. Public comments are solicited by the Board regarding them. After vetting the applicants, Board members nominate a final group

[120] Yuma is the only city in Arizona where municipal court judges are elected.
[121] See Phoenix City Code Chapter 2 Administration, Article III, Section 2-96 Judicial Selection Advisory Board
[122] The Supreme Court representative is appointed by the Arizona Supreme Court Chief Justice.

of candidates for interviews, further investigation, and comment from individuals and institutions on their experience, credentials, character and competency to hold the position of a city judge. Pursuant to candidate interviews, the Board submits three or more names for each vacancy to the Mayor and City Council for final selection.

Retention reviews for sitting judges begin no later than 60 days prior to a judge's reappointment date. The Chief Presiding Judge and Court staff prepares a Judicial Evaluation Packet of statistical summaries related to the subject judge. There are nine basic components of the packet, including

- *Case and Jury Management Statistics*
  An electronic Judicial Activity Report is maintained monthly for each full-time judge on the court's network drive. It provides statistics on case aging and the percentage of non-jury trials adjudicated. Data for each judge is compared against summary data for all judges and any established norms or time standards established by the court. Monthly data is summarized in yearly quarters for the four years prior to the subject judge's reappointment date.

- *Juror Service Exit Questionnaire Responses related to Judicial Behavior*
  All jurors who have been selected and serve on a jury complete a section on the court's standard Jury Exit Questionnaire pertaining to their experience in the courtroom. Quarterly, a courtwide summary and each judge's individual statistics, graphically portrayed, are distributed to all judges. The subject judge's annual statistics are included in the Judicial Evaluation Packet at the time of his/her reappointment.

- *Attorney Questionnaire Responses*
  Court appointed public defenders, prosecutors and private attorneys who practice in the Municipal Court are surveyed electronically using a third party Web site to solicit comments on the performance of each full-time judge. Each judge is surveyed every two years. Responses are summarized and compiled for two bi-annual periods since the subject judge's last appointment date (four years prior). The subject judge and Assistant Presiding Judge as well as the Chief Presiding Judge receive the summary of all attorney responses which is included in the reappointment packet. Only the Chief Presiding Judge receives the summary responses delineated as defense attorney or prosecutor. Open-ended comments submitted via the survey are separated, compiled, and made available only to the Chief Presiding Judge, the Assistant Presiding Judge and subject judge.

- *Judge Questionnaire Responses*
  Full-time judges in the Court are surveyed electronically once every four years using a third party Web site to solicit performance data on a fellow judge prior to his/her reappointment date. Open-ended comments submitted via the survey are separated,

compiled, and made available only to the Chief Presiding Judge, the Assistant Presiding Judge, and subject judge.

- *Public Comments*
  Public comments relating to the performance of a judge are collected in three ways. First, when public comments relate directly to the reappointment of a particular judge and addressed to the Judicial Selection Advisory Board, they are included in the Judicial Evaluation Packet. Public comment is also received at reappointment hearings.

  Secondly, Customer Service Report (CSR) forms are available to courthouse visitors at three public areas in the courthouse. If an individual judge is named or identified by courtroom number in a filed report, it is treated as a public comment on the judge identified. The comment is then distributed and researched as provided in the Court's detailed Written Judicial Public Comment Procedures. Letters or emails of complaint on a specific judges are also treated the same as a CSR.

  Thirdly, Customer Service Surveys (CSS) are available to citizens at three additional high traffic areas in the courthouse. People completing the survey can deposit it in a locked drop box, leave the survey at a service counter, or return it by mail. All responses are entered into a database. If an individual judge is named or identified by courtroom number in the survey, a copy of the survey is forwarded to Administration and it is treated as a public comment on the judge identified. The comment is distributed to the identified judge and supervising judges, and researched and addressed by the staff attorney in the same manner as a CSR.

  All comments are placed in the individual judge's performance file. All CSS and CSR comments are summarized and forwarded to the Chief Presiding Judge and the Assistant Presiding Judge prior to a subject judge's review. These public comments may be considered and reflected in the Chief Presiding Judge's recommendations on reappointment to the Judicial Selection Advisory Board. A summary of 'favorable' or 'unfavorable' comments, by year, are included in the reappointment packet.

- *Education and Judicial Training since the Last Appointment*
  The Arizona Supreme Court requires that all judges receive 16 hours of judicial continuing education and attend the statewide Annual Judicial Conference. Annual training transcripts of programs and credits completed are included in the Judicial Evaluation Packet at the time of a judge's reappointment.

- *Judicial Availability and Work Attendance*
  Judicial availability relates to work attendance. Attendance reports, including vacation and sick time used since the last reappointment are included in the Judicial Evaluation Packet along with a record of any instances wherein the subject judge was unavailable without good cause for required judicial duties. If such is the case, the Assistant Chief Judge documents the circumstances and the recalcitrant judge is permitted to file a written explanation. Barring removal of the judge for malfeasance,

misfeasance or nonfeasance in office, all related information is included in the packet for review by the Judicial Selection Advisory Board.

- *Reports from the Arizona Commission on Judicial Conduct*
  Information on any complaints filed or correspondence received by the statewide Commission on Judicial Conduct against the subject judge that may be related to reappointment and performance review is made part of the packet.

- *Personal Statement and Resume*
  Each judge standing for reappointment may include a written declaration about his/her candidacy along with a resume of accomplishments. Most judges do so.

Despite the comprehensiveness of the Judicial Evaluation Packet, some Court officials, members of the Judicial Selection Advisory Board, and City Council Members have asked the National Center to comment on the accuracy and reliability of the current procedures and data used to evaluate judges and suggest any additional processes or information that may improve the current practices. To that end, other assessment approaches the JSAB may wish to explore center on (a) increasing the type and percentage of survey responses, (b) promoting in-court observations, and (c) facilitating additional judicial self-improvement methods. There are also some statistics that should be avoided in assessing judges since they hold questionable value, can be easily misinterpreted, and may unfairly misrepresent and penalize judges. Change of judge notices are an example.

Recommendation U

- ***Increase the Type and Percentage of Survey Responses***
  Currently only attorney and judge surveys are distributed. Some judicial performance programs also routinely provide questionnaires for court employees that work and interact with the subject judge and a self-evaluation questionnaire for the subject judge to complete. The American Bar Association Judicial Division Lawyers' Conference has developed prototype models that can be downloaded. They were designed by David C. Brody, Associate Professor of Criminal Justice at Washington State University. Dr Brody has conducted extensive research and written a number of law review and social science articles on judicial performance evaluation programs.

  The response rate for surveys is low. Efforts to improve it should be sought. Most survey research experts consider a 26 percent reply rate an important benchmark to strive to achieve to ensure better accuracy. There are many techniques to encourage higher response rates. Phoenix already uses more convenient web-based electronic surveys where return rates are normally higher than with mailed surveys. Announcing the impending arrival of a survey prior to its distribution and heavily marketed assurances that the survey is voluntary, anonymous and confidential are ways to enhance the number of responses. The biannual pattern in issuing surveys likely

depresses response rates. Court leaders should consider either reducing the number of survey periods or shortening the manner of response for recipients.

- ***Improve JSAB and Council Communications***
  It should be the policy of the JSAB that one or more Board members, as designated by the JSAB chairperson, meet personally with the Mayor and each City Councilmember individually following any formal recommendations by the Board to appoint, evaluate, retain or not retain a judge of the City Court to convey the decisions of the Board and answer any questions. In doing so, the Board must comply with Arizona's Open Meeting Law.

  Generally, judicial advisory boards in Arizona have conveyed their recommendations along with accompanying data on judicial performance in writing to mayors and city council members. Unfortunately, on occasion substantial confusion and misinformation has occurred. Sometimes questions by Council members have gone unaddressed or answered only partially. Since the work of the JSAB is critical to the assessment of City Court judges, it is imperative that information be accurately and clearly conveyed. It is the responsibility of the JSAB to do so.

- ***Facilitate Additional Judicial Self-Improvement Methods***
  Judging is often a lonely and isolated profession. Honest feedback is limited or guarded. Resultantly, it is often difficult for judges to obtain an objective view of their weaknesses and areas of needed improvement. To that end, some trial courts have developed judicial self-improvement opportunities that complement judicial performance evaluation programs where they exist. The District Court of Minnesota in Hennepin County and the Superior Court of Arizona in Maricopa County are two of them. Each of these courts has experimented with various approaches and likely would be willing to share their observations and findings.

  These efforts are generally voluntary regarding judicial participation and may involve (a) monthly meetings to discuss work related skills enhancement, (b) one-on-one mentoring programs involving senior judges, (c) videotaping judges on the bench and privately critiquing the way a judge projects a sense of "procedural fairness" in the courtroom.[123] Occasionally, they have used executive coaches to help in improving judicial competencies. Coaching

[123] Procedural fairness is a term coined by Dr. Tom Tyler, New York University Professor to describe the importance of perceptions by the public and participants appearing in court in developing attitudes and opinions about how their case was handled and the quality of treatment they received from judges and staff. Procedural fairness includes not only litigant and lawyer perceptions about whether judicial decisions are fair (outcome fairness), but whether their experiences in the presence of a judicial officer left them with a feeling of respect (they were treated with politeness and dignity as a valued part of the process and informed about what was happening), whether they were permitted to tell their story and explain their unique circumstances, whether the actions of those in authority projected a sense of trustworthiness in that they were aware of and genuinely concerned about customer

is not advice, therapy or counseling; rather it targets assessments about working relationships, professional challenges, communication improvements, options building and values clarification. Government in general and courts in particular have been slow to recognize the importance of such help as opposed to business organizations. Unfortunately, the need is no less.

Expected Efficiencies

Municipal Court judges are the key figures in delivering fair, unbiased justice through the City Court System. Time spent improving the JSAB processes and assistance to these important officials will help them improve their personal and professional competencies as well as enhance the trust and respect among the public for the Justice System.

8.2 DECRIMINALIZATION OF LOW-LEVEL CRIMES

A growing number of states, Massachusetts, Hawaii, and Washington are examples, have begun to decriminalize a series of low level misdemeanors that do not involve a significant risk to public safety. In moving selected offenses to civil infractions, there is no right to government provided counsel since conviction subjects the accused to a fine only and no term of incarceration.

Arizona recently reduced penalties in 2010 on one of the most common low-level criminal violations, driving with a suspended license (DWSL). No longer is there mandatory jail time or a required mandatory fine. This has reduced public defender volumes noticeably in the last 12 months.

The NCSC project team realizes such changes are often controversial, requiring action by state legislatures. As an example, it took a decade or more of legislative debate and discussion in Arizona for DWSL penalties to be reduced.

It is wise public policy the NCSC project team feels, for City criminal justice policymakers to review other low-level criminal and ordinance violations for possible penalty reductions or decriminalization. Violations of minor criminal offenses should be decriminalized where adjudication typically and routinely results in an imposed fine only, and where such a change would not undermine public safety. Where there is a consensus in these instances, and it is possible to decriminalize an ordinance locally, it should be unilaterally done by the City. Where statewide statutes must be changed and upon agreement among justice system leaders as

needs, and whether those in authority (primarily the judge) did things that were both actually and perceived to be fair and neutral (litigants were treated like everyone else, no favoritism was shown).

well as the City Council, reforms should be considered for inclusion in the City's state legislative program.

Offenses proposed for decriminalization in other states include first offense shoplifting, prostitution, trespass and various hunting, fishing, boating and transportation violations. Arizona, we feel, has the potential to decriminalize additional offenses. Its conservative reputation sometimes masks a progressive bent in criminal justice reforms such as reducing penalties for small drug possession. Although not without controversy, a notable change that decriminalized nonviolent drug possession in 1996 through a voter referendum called Proposition 200, The Drug Medicalization, Prevention, and Control Act, has been in existence over 15 years.[124]

Recommendation V

Identify criminal misdemeanor offenses that could be decriminalized without endangering public safety and would result in cost savings for the City. Input and assistance should be sought from the Arizona League of Cities and Towns as well as the Judicial Branch. As appropriate, develop data and proposals to encourage ordinance and statutory changes toward decriminalize selected offenses.

Expected Efficiencies

Decriminalizing minor crimes that do not present public safety problems opens the door to ways other than incarceration to change aberrant, antisocial, self-destructive behavior and reduce recidivism.

[124]Prop 200 is intended to give persons charged with minor drug crimes a chance to avoid jail or prison through probation or substance abuse treatment. On a first offense of possession of marijuana or certain other drugs, the defendant faces no jail, but only a sentence of probation. The defendant might also qualify for diversion, which will result in dismissal of the drug charges upon successful completion of chemical abuse treatment program and court supervision. Even persons charged with possession for sale of marijuana or cocaine can be eligible for charging and sentencing under Prop 200, if the amounts involved are relatively small. Methamphetamine charges are no longer eligible for Prop 200 disposition, however, due to a referendum passed by Arizona voters in 2006. Second-time offenders charged with possession or minor distribution charges are also eligible for sentencing under Proposition 200, but they might face a short jail sentence if unsuccessful in obtaining an order for probation. Persons charged with a third or subsequent drug offense can be sentenced to incarceration in state prison.

APPENDIX A.

SUMMARY OF WORK PLANS BY PHOENIX JUSTICE SYSTEM STAKEHOLDERS IN RESPONSE TO THE RECOMMENDATIONS BY THE NATIONAL CENTER FOR STATE COURTS

Rec. No.	Recommendation	Implementation Steps	Primary Department
A.	Improve collaboration among City justice agencies regarding interconnected business processes and case processing initiatives; the Chief Presiding Judge taking the lead through a Phoenix Justice System Coordinating Council (PHXJustice)	• The City Manager's Office will reinstitute the Criminal Justice Coordinating Committee (CJCC).	Municipal Court
B.	Reduce Failures to appear in DUI and non-traffic misdemeanor cases through a more comprehensive approach that includes better defendant tracking, noticing and evidence-based pretrial release programs.	• The Justice System is aware of this as an issue and has already substantially reduced the failures to appear and is continuing to address this via Live Scan Fingerprinting, e-mail notifications, address updating, and is exploring the cost benefit of additional options.	Municipal Court
C.	Enhance victim/witness cooperation in domestice violence cases consistent with the requirements of the *Crawford* case through better incident protocols, a "no drop" program, expedited case scheduling, and more supportive contact with the victim.	• This is a national issue and all parties will continue to investigate the best practices, policies and procedures, including the development of an incident investigative protocol and enhanced support from victim services in domestic violence cases.	Prosecutor's Office
D.	Continue setting civil ordinance violation hearings within 120 days of the filing of a complaint to prompt settlements	• We agree with the current findings and continue to implement best practices and procedures.	Municipal Court
E.	Create a special DUI and non-traffic misdemeanor task force under the aeigis of the Phoenix Justice System Coordinating Council (PHXJustice) to streamline and assure continual timely processing of these cases.	• The CJCC will create a subcommittee to continue implementing this recommendation. This process was used successfully in 2006 to eliminate backlog.	Municipal Court
F.	Consider participation in or development of a problem-solving court or specialized docket consistent with some of the successful models pursued by Maricopa County and neighboring limited-jurisdiction courts pursuant to available funding.	• The Court is examining the cost effectiveness of this approach for mental health cases and veterans. The Court implemented a regional homeless court in 2006 that has become a model court for other jurisdictions.	Municipal Court

Rec. No.	Recommendation	Implementation Steps	Primary Department
G.	Apply the highly successful FARE management approaches used by the Court in prompting defendants to pay monetary sanctions in the post-conviction phase of a case to reduce the failure to appear rates in the pre-conviction phases of a case. This may mean outsourcing some defendant locator, tracking and noticing processes.	• We agree with the current findings and continue to implement best practices and procedures. The collections process is already outsourced to private companies.	Municipal Court
H.	Monitor efficiencies that occur regarding future technological and operational improvements with an eye to keeping judicial and non-judicial staffing levels in check.	• We agree with the current findings and continue to implement best practices and procedures.	Municipal Court
I.	Replace the current Municipal Court automated Case Management System with new custom built system, or as a second choice consider purchasing a highly-configurable vendor package.	• The Court has been working on this recommendation with the Arizona State Supreme Court. The Court will evaluate the relative pros and cons of which type of case management system is appropriate, including the cost of this recommendation.	Municipal Court
J.	Develop an Integrated Justice Information System within City Government that includes the Police Department, City Prosecutor's Office, Municipal Court and Public Defender Department. This means a systemwide governance structure, an intermixed business process analyses approach, a coordinated, shared and effective CMS technology solution, and a funding strategy with identified, allocated and dedicated resources approved by the City Council	• The current system has a significant amount of integration of information between the stakeholders. Through the CJCC, the City will examine the integration of all future technologies for the stakeholders.	• Municipal Court • Public Defender • City Prosecutor • Police Dept.
K.	Ensure that arrest reports are filed in an accurate, complete and timely manner.	The scheduled replacement of the Police Department's Police Automated Computer Entry (PACE) System should result in a more accurate, complete and timely manner of reporting.	Police Department

Rec. No.	Recommendation	Implementation Steps	Primary Department
L.	Move to an e-citation (e-ticket) system consistent with other systemwide technology advances (i.e., integrated justice system information system).	• We agree with this recommendation and a pilot system is currently in the development stages.	Police Department
M.	Explore and adopt interactive video appearances, where appropriate and cost effective, between the City Courthouse, Madison Street Jail and PPD pre-booking or precinct facilities for in-custody misdemeanant defendants. These appearances may include any adjudication process that is consistent with Rule 1.6, Arizona Rules of Criminal Procedure.	• We agree with this recommendation. A pilot program is in progress to effectuate these goals.	Police Department
N.	Consider replacing the CMS systems in both the Police Department and Prosecutor's Office with custom-built systems similar to the recommendations for the Court (Consistent with Recommendation J)	• The current systems have a significant amount of integration of information between the stakeholders. The Prosecutor's Office's CMS system is currently being migrated to the newly developed/integrated modularized CMS system. Through the CJCC, the City will examine the integration of all future technologies for the stakeholders.	• Police Department • Prosecutor's Office
O.	Collectively investigate (i.e. Prosecutor, Public Defender and Court) and expand approaches, as possible, to more effectively address special offender populations in Phoenix that exhibit habitual misdemeanor arrest and adjudication patterns linked to social, psychological, chemical and economic issues. Effective specialty court models exist in other Valley municipal courts should be explored as well as a possible contractual relationship with the Maricopa Adult Probation Department.	• The Court is examining the cost effectiveness of this approach for mental health cases and veterans. The Court implemented a regional homeless court in 2006 that has become a model court for other jurisdictions.	• City Prosecutor • Public Defender • Municipal Court

Rec. No.	Recommendation	Implementation Steps	Primary Department
P.	Assign experienced lawyers to the early stages of misdemeanor caseflow, principally initial appearances, arraignments, the charging bureau, and pretrial disposition conferences. Pay scales and other accounterments should provide incentives for seasoned prosecutors to work in front-end case processing services.	• The Prosecutor's Office will examine the current assignments. However, the Prosecutor's Office is already performing these functions with a strategic mix of experience levels with the resources available.	City Prosecutor's Office
Q.	Although overall resource parity between the Public Defender and Prosecutor's Office is not necessary in the opinion of the NCSC project team, there should be increased adjustments in the compensation formula for contract public defenders, and more congruity in salary levels between the Public Defender Assistant Director and City Prosecutor Prosecutor Division Directors.	• We agree with this recommendation. This is reflected in the citywide compensation study for City employees.	Public Defender's Office
R.	The Presiding Judge of the Phoenix Municipal Court should convene a special task force of City criminal justice stakeholders to review pretrial detention with the specific purpose of shortening lengths of stay for detainees, developing protocols to reduce later failures to appear, and scheduling Bond Review Court (BRC) sooner than ten days after the initial appearance. In doing so, interactive video technology systems should be investigaged regarding their potential to reduce jail time, speed defence lawyer/client meetings, and conduct appropriate hearings remotely.	• The CJCC will examine this recommendation and take appropriate action.	Municipal Court
S.	Review the process of setting pretrial motions on the day of trial and determine if is is the most cost effective manner to set motions. Most limited jurisdiction courts set motions on a separate hearing date before the trial and thereby increase the certainty of trial.	• The Court will review this process and implement the most cost effective measure.	Public Defender's Office

Rec. No.	Recommendation	Implementation Steps	Primary Department
T.	Explore the use of settlement conferences permitted by Arizona Rules of Criminal Procedure, Rule 17.4.	• We agree and will implement this recommendation.	Public Defender's Office
U.	Strengthen the role of the Citizen's Judicial Selections Advisory Board in evaluating judges' performance by increasing the type and percentage of survey responses, improving JSAB and City Council communications, and facilitating additional judicial self-improvement methods.	• We agree and will implement this recommendation.	Municipal Court
V.	Identify criminal misdemeanor offenses that could be decriminalized without endangering public safety and would result in cost savings for the City. Input and assistance should be sought from the Arizona League of Cities and Towns as well as the Judicial Branch. As appropriate, develop data and proposals to encourgae ordinance and statutory changes toward decriminalized selected offenses.	• The CJCC will make recommendations for consideration as appropriate.	All Departments

APPENDIX B.

SUMMARY OF DATA PROVIDED BY PHOENIX MUNICIPAL COURT TO NCSC ON CASES AND CHARGES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011[125]

[125] Source: Phoenix Municipal Court, in electronic mail message, August 8, 2011, from Jennifer Gilbertson, IST Director, to David Steelman, NCSC.

APPENDIX B.
SUMMARY OF DATA PROVIDED BY PHOENIX MUNICIPAL COURT TO NCSC ON CASES AND CHARGES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011

Report Range for Information Provided by the Court

The NCSC requested information for the 12-month period from August 1, 2010, through July 31, 2011.

The data were provided to NCSC in formatted Excel spreadsheet files. Separate Excel files were created for each category of cases. Additionally, due to the large volume of data, each non-petition case category was split into two separate Excel files -- one for the first 6 months of the report range and the second for the final six months of the range. The only exception to this was for the Order of Protection petition cases, which were less voluminous and could be provided in a single Excel file for the entire report year.

The following files were provided:

Domestic Violence Cases	2 Excel Files:	Aug 2010-Jan2011, Feb 2011-July2011
DUI Cases	2 Excel Files:	Aug 2010-Jan2011, Feb 2011-July2011
Criminal Cases	2 Excel Files:	Aug 2010-Jan2011, Feb 2011-July2011
Minor Criminal Traffic Cases	2 Excel Files:	Aug 2010-Jan2011, Feb 2011-July2011
Major Criminal Traffic Cases	2 Excel Files:	Aug 2010-Jan2011, Feb 2011-July2011
Civil Traffic Cases	2 Excel Files:	Aug 2010-Jan2011, Feb 2011-July2011
Parking Cases	2 Excel Files:	Aug 2010-Jan2011, Feb 2011-July2011
Civil (Non-Traffic) Cases	2 Excel Files:	Aug 2010-Jan2011, Feb 2011-July2011
Petty Offense Cases	2 Excel Files:	Aug 2010-Jan2011, Feb 2011-July2011
Zoning Cases	2 Excel Files:	Aug 2010-Jan2011, Feb 2011-July2011
Orders of Protection Cases	1 Excel File:	Aug 2010-Jul 2011
List of PMC Codes	1 Excel File	
List of PMC Events	1 PDF File	

A List of PMC Codes was provided to allow deciphering of references to hearing and trial codes in the events, as well as codes used for case, charge and petition status, and findings.

Report Scope for Information Provided by the Court

The report to NCSC from the Court included information for the following categories of case types. Court representatives noted that a non-petition case might consist of multiple complaints, and each complaint might contain multiple charges. The "case type" attribution was based on by the most severe charge in the case. Petition cases consisted of a single petitition only.

	Case Category	Description
1	Domestic Violence	Cases containing at least one charge identified as a domestic violence charge.
2	DUI	Cases not included in the Domestic Violence category, and containing at least one charge identified as a DUI charge.
3	Criminal	Cases not included in the Domestic Violence or DUI category, having a Criminal case type.
4	Minor Criminal Traffic	Cases not included in the Domestic Violence or DUI category, having a Minor Criminal Traffic case type.
5	Major Criminal Traffic	Cases not included in the Domestic Violence or DUI category, having a Major Criminal Traffic case type.
6	Civil Traffic	Cases not included in the Domestic Violence or DUI category, having a Civil Traffic case type.
7	Parking	Cases not included in the Domestic Violence or DUI category, having a Parking case type.
8	Civil (Non-Traffic)	Cases not included in the Domestic Violence or DUI category, having a Civil (Non-Trafic) case type.
9	Petty Offense	Cases not included in the Domestic Violence or DUI category, having a Petty Offense case type.
10	Zoning	Cases not included in the Domestic Violence or DUI category, having a Zoning case type.
11	Orders of Protection	Petition cases for Orders of Protection. (Petition cases for Injunction Against Harassment, Injunction Against Workplace Harassment, Notice of Animal Seizure, and Notice of Weapon Seizure are not included in this report.)

The report included non-petition cases that were updated to a case status designation indicating that they had been concluded between 8/1/2010 and 7/31/2011. Below is a list of all non-petition case status codes, identifying those indicate a concluded-type case status. The "case status" designation for a case indicated that it was in a concluded-type status only when all charges in that case had a concluded-type status.

Case Status Code	Status	Concluded-Type Status
PRAR	Pre-Arraignment	No
PRAJ	Pre-Adjudicated	No
POAJ	Post_Adjudicated	No
CONC	Concluded	Yes
CNJV	Concluded due to transfer to Juvenile Court	Yes

CNSC	Concluded due to transfer to Superior Court	Yes
CNOJ	Concluded due to transfer to other jurisdictions	Yes
CONS	Concluded due to consolidation with another case	Yes

This report included information for Order of Protection petition cases that were updated to a concluded-type petition status between 8/1/2010 and 7/31/2011. Below is a list of all petition status codes, identifying those that indicate a concluded-type petition status.

Petition Status Code	Status	Concluded-Type Status
PEND	Pending	No
ORD	Ordered	No
SERV	Served	Yes
EXPD	Expired	Yes
DISM	Dismissed	Yes
WITH	Withdrawn	Yes
DENY	Denied	Yes
CNSC	Concluded to Superior Court	Yes
CNOJ	Concluded to Other Jurisdiction	Yes
APND	Appeal Pending	No
ASNT	Appeal Sent	No
VOID	Voided	No

The report information was extracted from a copy of Phoenix Municipal Court's production database taken after all end-of-day processing on July 31, 2011.

Report Format for Information Provided by the Court

A separate Excel file was provided to NCSC for each category of case types. Each Excel file was sorted by case number and includes the columns described below. A separate row was displayed for each charge in the non-petition cases. Order of Protection petition cases contained a single petition per case.

Non-Petition Cases

The data displayed in spreadsheet columns 1-7 was stored at the case level, while the data displayed in columns 8-18 was stored at the charge level. Therefore, the same case-level data was repeated in columns 1-7 for each charge row in a case .

	Column	Description
1	Case Number	System-assigned case number
2	Case Status	Status code assigned to the case as of 7/31/2011. See separate PMC Code List for description of status codes.
3	Case Initial Inactive Date	Start date of the case's first inactive period. If the case has never had an inactive period, this column will be blank.
4	Case total # Inactive Periods	Count of all inactive periods for the case. If the case has never had an inactiver period, this column will be blank. This count includes an inactive period which has started but not yet ended. (Note: Petition cases do not have inactive periods.)
5	Case Last Reactivate Date	The date when the last inactive period ended. If the case is currently in an inactive period which has not ended, it will be the end date of the previous inactive period. If there is only one inactive period and it hasn't ended, this column will be blank.
6	Case Scheduled Events Up To Last Trial Date or, If No Trial, All Scheduled Events	The event code numbers which represent a scheduled, rescheduled or vacate arraignment, hearing and/or trial event for the case, which were scheduled up to the last trial date or, if no trial was scheduled, this column includes all scheduled event code numbers. The events don't include the initial arraignment or non-scheduled appearances, but do include a scheduled arraignment and judicial reviews, along with other hearing types and trials. See separate PMC Code List for description of hearing types.
7	Case Total # Trial Events	The count of scheduled trial dates for the case. The CourTools 5.5 definition of a "trial" event was used.
8	Charge Number	A concatenation of the complaint number and charge extension
9	Charge Serial Number	A system-assigned charge ID which will assist us when answering any questions you may have on this charge
10	Charge Status	Status code assigned to the charge as of 7/31/2011. See separate PMC Code List for description of status codes.
11	Charge Violation	The statute or local ordinance cited for the charge
12	Charge Violation Description	A short description of the statute or local ordinance cited for the charge
13	Charge Filing Date	The date the charge was filed with the court
14	Charge Plea Date	The date a plea was entered on the charge
15	Charge Finding Date	The date a findinding was entered on the charge.
16	Charge Finding	The finding entered for the charge. See separate PMC Code List for description of finding codes.
17	Charge Sentence Date	The date sentence was ordered on the charge
18	Charge Concluded Date	The date when the charge status was updated to a concluded-type status

Order of Protection Petition Cases

	Column	Description
1	Case Number	System-assigned case number
2	Petition Status	Status code assigned to the petition as of 7/31/2011. See separate PMC Code List for description of status codes.
3	Petition Filing Date	The date the petition was filed with the court
4	Initial Order Date	The date of the first Order of Protection ordered in the case.
5	Total # of Orders in Case	The count of the number of orders in the case, including the initial order and any subsequent amendments.
6	Last Service Date	The most recent date of service of an order in the case.
7	Expiration Date	The order expiration date
8	Case Scheduled Events Up To Last Trial Date or, If No Trial, All Scheduled Events	The event code numbers which represent a scheduled, rescheduled or vacated hearing and/or trial event for the case, which were scheduled up to the last trial date or, if no trial was scheduled, this column includes all scheduled event code numbers. The events include judicial reviews, along with other hearing types and trials. A reference of event code numbers is attached.
9	Case Total # Trial Events	The count of scheduled trial dates for the case. The CourTools 5.5 definition of a "trial" event was used.

APPENDIX C.

ANALYSIS OF CASE-PROCESSING TIMES FOR PHOENIX MUNICIPAL COURT CASES WITH ALL POST-JUDGMENT COURT WORK CONCLUDED BETWEEN AUGUST 1, 2010, AND JULY 31, 2011[126]

[126] Source: NCSC analysis of data provided by Phoenix Municipal Court, August 8, 2011, as summarized in Appendix A.

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

1. CIVIL TRAFFIC CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011

Elapsed Time from Filing Date to Finding Date, All Cases (Including Inactive Time)

Elapsed Days	Aug 2010-Jan 2011 (N=41,018)	Feb 2011-July 2011 (N=48,491)
Maximum	7,593	7,901
Within 120 Days	96.9%	96.8%
98th Percentile	144	161
75th Percentile	45	46
Average (Mean)	53	61
Median (50th Percentile)	21	21
25th Percentile	14	14
Minimum	-1	-4

Elapsed Time from Filing Date to Finding Date, Excluding Cases with Inactive Time

Elapsed Days	Aug 2010-Jan 2011 (N=32,619)	Feb 2011-July 2011 (N=38,948)
Maximum	7,593	202
Within 120 Days	97.8%	99.6%
98th Percentile	130	101
75th Percentile	26	35
Average (Mean)	52	28
Median (50th Percentile)	19	19
25th Percentile	13	12
Minimum	-1	-3

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

1. CIVIL TRAFFIC CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Inactive Cases

Description	Aug 2010-Jan 2011 (N=8,399)	Feb 2011-July 2011 (N=9,543)
Percent of All Cases with Inactive Periods	20.5%	20.4%
Total Inactive Periods	8,467	10,076
Most in One Case	3	4
Average Times per Inactive Case	1.01	1.01
Most Days One Case Inactive	2,822	295
98th Percentile	1	113
Average Days Inactive	39	36
Median Days Inactive (50th Percentile)	31	30
Fewest Days One Case Inactive	0	0

Pretrial Events (Sample Size = 1,000 Cases[127])

Event Description (CMS Code)	Number	Percent of Sample
Continued Arraignment (1563)	1	0.1%
Traffic Hearing (1614)	11	1.1%
No Witness Trial (1589)	1	0.1%
Motion Hearing (1585)	8	0.8%
Vacate Hearing (1675)	57	5.7%

[127] The margin of sampling error for a sample of this size is plus or minus 3.1 percent.

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

1. CIVIL TRAFFIC CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Trial Rate

Description	Aug 2010-Jan 2011 (N=41,018)	Feb 2011-July 2011 (N=48,491)
Percent of Cases without any Trial Dates:	93.4%	94.0%
Percent of Cases with Trial Dates:	6.6%	6%
Number of Cases with Trial Dates	2,727	2,919
Total Number of Trial Dates Scheduled:	3,136	3,316
Most Trial Dates in One Case:	5	6
Average No. Trial Settings per Case w/Trial Dates	1.15	1.14
Total Number of Cases with Trials Held	1,333	1,377
Trial Rate (Cases with Trials Held as Pct of Total)	3.3%	2.8%

Case Dispositions

CMS Code	Description	Aug 2010-Jan 2011 (N=41,018)	Feb 2011-July 2011 (N=48,941)
AP	Responsible - Post & Forfeit (Paid)	8,926	10,936
D	Dismiss Without Prejudice	1,157	1,445
DD	Dismiss, Defensive Driving Program (DDP)	12,670	15,509
DI	Dismiss - Proof Of Insurance	1,073	1,146
DJ	Dismiss, Lack Of Jurisdiction	1,754	2,080
FR	Responsible By Judicial Finding	1,092	1,152
NR	Not Responsible	242	225
R	Responsible By Plea	8,535	9,614
RD	Responsible By Default	5,392	6,717
	(Prosecution Voided)	177	117

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

1. CIVIL TRAFFIC CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Post-Finding Events (Sample Size = 1,000 Cases[128])

Event Description (CMS Code)	Number	Percent of Sample
Judicial Review (1563)	19	1.9%
Sentencing (1608)	10	1.0%
Sentence Review Hearing (1610)	6	0.6%

Elapsed Time from Finding Date to Case Conclusion Date

Elapsed Days	Aug 2010-Jan 2011 (N=41,018)	Feb 2011-July 2011 (N=48,491)
Maximum	7,908	8,025
Within 180 Days	93.3%	90.9%
98th Percentile	2,422	3,824
75th Percentile	6	5
Average (Mean)	134	182
Median (50th Percentile)	0	0
25th Percentile	0	0
Minimum	0	-2

[128] The margin of sampling error for a sample of this size is plus or minus 3.1 percent.

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

2. PARKING VIOLATIONS CONCLUDED AUGUST 1, 2010 - JULY 31, 2011

Elapsed Time from Filing Date to Finding Date

Elapsed Days	Aug 2010-Jan 2011 (N=6,126)	Feb 2011-July 2011 (N=6,161)
Maximum	3,828	4,389
Within 120 Days	99.1%	99.0%
98th Percentile	73	72
75th Percentile	28	28
Average (Mean)	33	39
Median (50th Percentile)	27	27
25th Percentile	21	21
Minimum	-50	-97

Inactive Cases

August 2010 - January 2011	0
February 2011 - July 2011	0

Trial Rate

Description	Aug 2010-Jan 2011 (N=6,126)	Feb 2011-July 2011 (N=6,161)
Percent of Cases without any Trial Dates:	84.9%	86.3%
Percent of Cases with Trial Dates:	15.1%	13.7%
Number of Cases with Trial Dates	926	846
Total Number of Trial Dates Scheduled:	1,030	932
Most Trial Dates in One Case:	5	3
Average No. Trial Settings per Case w/Trial Dates	1.11	1.10
Total Number of Cases with Trials Held	479	413
Trial Rate (Cases with Trials Held as Pct of Total)	7.8%	6.7%

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

2. PARKING VIOLATIONS CONCLUDED AUGUST 1, 2010 - JULY 31, 2011 (continued)

Case Dispositions

CMS Code	Description	Aug 2010-Jan 2011 (N=6,126)	Feb 2011-July 2011 (N=6,161)
AP	Responsible - Post & Forfeit (Paid)	2,383	2,087
D	Dismiss Without Prejudice	357	351
DI	Dismiss - Proof Of Insurance	1	0
DP	Dismiss with Prejudice	1	1
FR	Responsible By Judicial Finding	312	278
NR	Not Responsible	167	135
R	Responsible By Plea	421	405
RD	Responsible By Default	2,416	2,867
	(Prosecution Voided)	68	37

Elapsed Time from Finding Date to Case Conclusion Date

Elapsed Days	Aug 2010-Jan 2011 (N=6,126)	Feb 2011-July 2011 (N=6,161)
Maximum	5,671	4,400
Within 180 Days	78.7%	71.8%
98th Percentile	3,940	3,860
75th Percentile	104	286
Average (Mean)	439	467
Median (50th Percentile)	0	4
25th Percentile	0	0
Minimum	0	-2

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

3. CRIMINAL ZONING VIOLATIONS CONCLUDED AUGUST 1, 2010 - JULY 31, 2011

Elapsed Time from Filing Date to Finding Date, All Cases (Including Inactive Time)

Elapsed Days	Aug 2010-Jan 2011 (N=98)	Feb 2011-July 2011 (N=100)
Maximum	3,613	3,615
Within 180 Days	89.7%	85.9%
Within 120 Days	80.9%	77.3%
98th Percentile	3,611	1,182
75th Percentile	82	99
Average (Mean)	279	163
Median (50th Percentile)	32	28
25th Percentile	4	6
Minimum	0	0

Elapsed Time from Filing Date to Finding Date, Excluding Cases with Inactive Time

Elapsed Days	Aug 2010-Jan 2011 (N=72)	Feb 2011-July 2011 (N=78)
Maximum	379	724
Within 180 Days	98.7%	94.9
Within 120 Days	93.8%	88.7%
98th Percentile	168	342
75th Percentile	47	54
Average (Mean)	33	53
Median (50th Percentile)	6	23
25th Percentile	0	4
Minimum	0	0

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

3. CRIMINAL ZONING VIOLATIONS CONCLUDED AUGUST 1, 2010 - JULY 31, 2011 (continued)

Inactive Cases

Description	Aug 2010-Jan 2011 (N=23)	Feb 2011-July 2011 (N=22)
Percent of All Cases with Inactive Periods	23.2%	22.0%
Total Times Inactive	25	24
Most in One Case	2	3
Average Times per Inactive Case	1.09	1.18
Most Days One Case Inactive	3,612	3,552
98th Percentile	3,612	2,558
Average Days Inactive	1,009	370
Median Days Inactive (50th Percentile)	71	92
Fewest Days One Case Inactive	9	6

Trial Rate

Description	Aug 2010-Jan 2011 (N=98)	Feb 2011-July 2011 (N=100)
Percent of Cases without any Trial Dates:	88.8%	91.0%
Percent of Cases with Trial Dates:	11.2%	9.0%
Number of Cases with Trial Dates	11	9
Total Number of Trial Dates Scheduled:	14	16
Most Trial Dates in One Case:	4	3
Average No. Trial Settings per Case w/Trial Dates	1.27	1.78
Total Number of Cases with Trials Held	5	6
Trial Rate (Cases with Trials Held as Pct of Total)	5.1%	6.0%

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

3. CRIMINAL ZONING VIOLATIONS CONCLUDED AUGUST 1, 2010 - JULY 31, 2011 (continued)

Case Dispositions

CMS Code	Description	Aug 2010-Jan 2011 (N=98)	Feb 2011-July 2011 (N=100)
D	Dismiss Without Prejudice	45	37
DP	Dismiss with Prejudice	1	0
FG	Found Guilty	5	4
NG	Found Not Guilty	0	2
G	Guilty by Plea	45	52
R	Responsible By Plea	1	2
RD	Responsible By Default	0	1
	(Prosecution Voided)	1	2

Elapsed Time from Finding Date to Case Conclusion Date

Elapsed Days	Aug 2010-Jan 2011 (N=98)	Feb 2011-July 2011 (N=100)
Maximum	1,403	2,532
Within 180 Days	78.6%	67.9%
98th Percentile	1,090	1,830
75th Percentile	152	334
Average (Mean)	131	242
Median (50th Percentile)	0	0
25th Percentile	0	0
Minimum	0	-2

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

4. CIVIL ORDINANCE VIOLATIONS CONCLUDED AUGUST 1, 2010 - JULY 31, 2011

Elapsed Time from Filing Date to Finding Date

Elapsed Days	Aug 2010-Jan 2011 (N=3,862)	Feb 2011-July 2011 (N=3,125)
Maximum	1,760	3,491
Within 180 Days	99.4%	98.9%
Within 120 Days	66.2%	68.8%
98th Percentile	137	140
75th Percentile	126	127
Average (Mean)	70	70
Median (50th Percentile)	60	53
25th Percentile	21	20
Minimum	-6	0

Inactive Cases

August 2010 - January 2011	0
February 2011 - July 2011	0

Trial Rate

Description	Aug 2010-Jan 2011 (N=3,862)	Feb 2011-July 2011 (N=3,125)
Percent of Cases without any Trial Dates:	69.4%	73.6%
Percent of Cases with Trial Dates:	30.6%	26.4%
Number of Cases with Trial Dates	1,127	824
Total Number of Trial Dates Scheduled:	1,414	1,001
Most Trial Dates in One Case:	8	7
Average No. Trial Settings per Case w/Trial Dates	1.25	1.21
Total Number of Cases with Trials Held	165	165
Trial Rate (Cases with Trials Held as Pct of Total)	4.4%	5.3%

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

4. CIVIL ORDINANCE VIOLATIONS CONCLUDED AUGUST 1, 2010 - JULY 31, 2011 (continued)

Case Dispositions

CMS Code	Description	Aug 2010-Jan 2011 (N=3,862)	Feb 2011-July 2011 (N=3,125)
AP	Responsible - Post & Forfeit (Paid)	671	646
D	Dismiss Without Prejudice	1,729	1,324
DP	Dismiss with Prejudice	1	4
FR	Responsible By Judicial Finding	138	148
NR	Not Responsible	27	17
R	Responsible By Plea	863	637
RD	Responsible By Default	244	345
	(Prosecution Voided)	9	4

Elapsed Time from Finding Date to Case Conclusion Date

Elapsed Days	Aug 2010-Jan 2011 (N=3,862)	Feb 2011-July 2011 (N=3,125)
Maximum	4,042	4,539
Within 180 Days	97.9%	92.6%
98th Percentile	203	650
75th Percentile	0	0
Average (Mean)	21	60
Median (50th Percentile)	0	0
25th Percentile	0	0
Minimum	0	-2

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

5. DUI CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011

Elapsed Time from Filing Date to Finding Date, All Cases (Including Inactive Time)

Elapsed Days	Aug 2010-Jan 2011 (N=1,785)	Feb 2011-July 2011 (N=1,716)
Maximum	4,104	5,432
Within 180 Days	63.8%	61.0%
98th Percentile	3,623	3,624
75th Percentile	1,819	3,400
Average (Mean)	980	1,057
Median (50th Percentile)	103	116
Within 120 Days	54.6%	51.2%
25th Percentile	42	46
Minimum	0	-1

Elapsed Time from Filing Date to Finding Date, Excluding Cases with Inactive Time

Elapsed Days	Aug 2010-Jan 2011 (N=1,162)	Feb 2011-July 2011 (N=1,063)
Maximum	4,104	2,687
Within 180 Days	89.5%	86.6%
98th Percentile	501	662
75th Percentile	112	125
Average (Mean)	103	117
Median (50th Percentile)	61	73
Within 120 Days	77.7%	74.0%
25th Percentile	21	29
Minimum	0	-1

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

5. DUI CASES CONCLUDED AUGUST 1, 2010 -- JULY 31, 2011 (continued)

Inactive Cases

Description	Aug 2010-Jan 2011 (N=623)	Feb 2011-July 2011 (N=653)
Percent of Cases with Inactive Periods	34.9%	38.1%
Total Times Inactive	764	794
Most in One Case	7	4
Average Times per Inactive Case	1.23	1.21
Most Days One Case Inactive	6,480	5,411
98th Percentile	3,618	3,615
Average Days Inactive	3,041	2,550
Median Days Inactive (50th Percentile)	3,584	3,556
Fewest Days One Case Inactive	0	0

Pretrial Events (Sample Size = 500 Cases[129])

Event Description (CMS Code)	Totals	Percent of Sample
Trial Date Conference (450)	226	45.2%
Bond Review Court (1485)	4	0.8%
Continued Arraignment (1563)	74	14.8%
Bail Forfeiture Hearing 1565)	10	2.0%
Calendar Call (1567)	304	60.8%
Jury Trial with Calendar Call (1569)	279	55.8%
Non-Jury Trial with Calendar Call (1571)	28	5.6%
In-Custody Jury Pretrial Disposition Conference (PDC) (1577)	22	4.4%
K Court (1584)	25	5.0%
Motion Hearing (1585)	34	6.8%
Non-Jury Trial (1587)	10	2.0%
No-Witness Trial (1589)	49	9.8%
Reset PDC (1594)	846	169.2%
Jury PDC (1595)	395	79.0%
Non-Jury PDC (1596)	3	0.6%
Application -- Court-Ordered Abatement (1597)	2	0.4%
Traffic Hearing (1614)	12	2.4%
Under Advisement (1616)	5	1.0%
Rescheduled No-Witness Trial (1647)	6	1.2%
Vacate Hearing (1675)	507	101.4%

[129] The margin of sampling error for a sample of this size is plus or minus 4.1 percent.

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

5. DUI CASES CONCLUDED AUGUST 1, 2010 -- JULY 31, 2011 (continued)

Trial Rate

Description	Aug 2010-Jan 2011 (N=1,785)	Feb 2011-July 2011 (N=1,716)
Percent of Cases without any Trial Dates:	82.0%	82.1%
Percent of Cases with Trial Dates:	18.0%	17.9%
Number of Cases with Trial Dates	321	308
Total Number of Trial Dates Scheduled:	738	764
Most Trial Dates in any Case:	17	16
Average No. Trial Settings per Case w/Trial Dates	2.30	2.48
Total Number of Cases with Trials Held	126	124
Trial Rate (Percent of All Cases with Trials Held)	7.1%	7.2%

Case Dispositions

CMS Code	Description	Aug 2010-Jan 2011 (N=1,785)	Feb 2011-July 2011 (N=1,716)
D	Dismiss Without Prejudice	1,076	1,028
DP	Dismiss With Prejudice	64	66
FG	Guilty By Judicial Finding	67	64
G	Guilty By Plea	518	494
GJ	Guilty By Jury	33	35
NG	Not Guilty	19	6
NJ	Not Guilty By Jury	7	19
RD	Responsible By Default	1	1
CNOJ	Concluded -- Other Jurisdiction	0	3
	(Prosecution Voided)	0	0

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

5. DUI CASES CONCLUDED AUGUST 1, 2010 -- JULY 31, 2011 (continued)

Post-Finding Events (Sample Size = 500 Cases[130])

Description (CMS Code)	Totals	Percent of Sample
Judicial Review (1581)	22	4.4%
Order to Show Cause (1590)	13	2.6%
Financial Order to Show Cause (1591)	85	17.0%
SASS Order to Show Cause (1592)	78	15.6%
Probation Revocation Arraignment (1600)	51	10.2%
Probation Revocation Sentencing (1601)	1	0.2%
Probation Revocation Hearing (1602)	2	0.4%
Sentencing (1608)	13	2.6%
Sentence Review Hearing (1610)	90	18.0%
Continued Order to Show Cause (1676)	8	1.6%
Jail -- Order to Show Cause (1714)	10	2.0%

Elapsed Time from Finding Date to Case Conclusion Date

Elapsed Days	Aug 2010-Jan 2011 (N=1,785)	Feb 2011-July 2011 (N=1,716)
Maximum	6,996	7,182
Within 180 Days	78.7%	79.6%
98th Percentile	3,751	3,806
75th Percentile	99	99
Average (Mean)	300	319
Median (50th Percentile)	0	0
25th Percentile	0	0
Minimum	-2	-2

[130] The margin of sampling error for a sample of this size is plus or minus 4.1 percent.

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

6. CRIMINAL DOMESTIC VIOLENCE CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011

Elapsed Time from Filing Date to Finding Date, All Cases (Including Inactive Time)

Elapsed Days	Aug 2010-Jan 2011 (N=1,225)	Feb 2011-July 2011 (N=1,152)
Maximum	3,911	3,633
Within 180 Days	48.3%	42.3%
98th Percentile	3,620	3,622
75th Percentile	2,068	3,518
Average (Mean)	1,076	1,284
Median (50th Percentile)	191	284
25th Percentile	83	92
Minimum	0	0

Elapsed Time from Filing Date to Finding Date, Excluding Cases with Inactive Time

Elapsed Days	Aug 2010-Jan 2011 (N=458)	Feb 2011-July 2011 (N=382)
Maximum	2,655	2,088
W/in 180 Days	92.9%	91.8%
98th Percentile	743	903
75th Percentile	101	107
Average (Mean)	110	127
Median (50th Percentile)	77	86
25th Percentile	49	70
Minimum	0	0

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

6. CRIMINAL DOMESTIC VIOLENCE CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Inactive Cases

Description	Aug 2010-Jan 2011 (N=767)	Feb 2011-July 2011 (N=770)
Percent of Cases with Inactive Periods	62.6%	66.8%
Total Inactive Periods	1,169	1,147
Most in One Case	6	5
Average Times per Inactive Case	1.52	1.49
Most Days One Case Inactive	3,631	3,632
98th Percentile	3,619	3,621
Average Days Inactive	1,597	1,812
Median Days Inactive (50th Percentile)	747	1,214
Fewest Days One Case Inactive	1	1

Pretrial Events (Sample Size = 500 Cases[131])

Event Description (CMS Code)	Totals	Percent of Sample
Trial Date Conference (450)	4	0.8%
Bond Review Court (1485)	24	4.8%
Continued Arraignment (1563)	60	12.0%
Bail Forfeiture Hearing (1565)	15	3.0%
Calendar Call (1567)	1	0.2%
Criminal Complaint Entry Judicial Review (1568)	19	3.8%
DVD (Domestic Violence Diversion) Continued Arraignment (1575)	114	22.8%
In-Custody Jury Pretrial Disposition Conference (PDC) (1577)	2	0.4%
In-Custody Non-Jury PDC (1578)	53	10.6%
K Court (1584)	67	13.4%
Motion Hearing (1585)	42	8.4%
Reset PDC (1594)	194	38.8%
Jury PDC (1595)	2	0.4%
Non-Jury PDC (1596)	296	59.2%
Vacate Hearing (1675)	273	54.6%

[131] The margin of sampling error for a sample of this size is plus or minus 3.9 percent.

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

6. CRIMINAL DOMESTIC VIOLENCE CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Trial Rate

Description	Aug 2010-Jan 2011 (N=1,225)	Feb 2011-July 2011 (N=1,152)
Percent of Cases without any Trial Dates:	54.0%	55.6%
Percent of Cases with Trial Dates:	46.0%	44.4%
Number of Cases with Trial Dates	563	512
Total Number of Trial Dates Scheduled:	625	576
Most Trial Dates in any Case:	6	6
Average No. Trial Settings per Case w/Trial Dates	1.11	1.13
Non-Jury Trials	94	96
Jury Trials	0	0
Total Number of Cases with Trials Held	94	96
Trial Rate (Percent of All Cases with Trials Held)	7.7%	8.3%

Case Dispositions

CMS Code	Description	Aug 2010-Jan 2011 (N=1,225)	Feb 2011-July 2011 (N=1,152)
D	Dismiss Without Prejudice	750	763
DB	Dismiss, Prostitution Diversion	1	0
DP	Dismiss With Prejudice	5	3
DS	Dismiss, Seriously Mentally Ill Diversion	2	1
DV	Dismiss, Domestic Violence Diversion (DVD)	47	42
FG	Guilty By Judicial Finding	85	85
G	Guilty By Plea	318	241
JD	Judgment Deferred, No Conviction	1	1
NG	Not Guilty	9	11
	(Prosecution Voided)	7	5

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

6. CRIMINAL DOMESTIC VIOLENCE CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Post-Finding Events (Sample Size = 500 Cases[132])

Court Event Description (CMS Code)	Totals	Percent of Sample
Domestic Violence Review Hearing (334)	12	2.4%
Judicial Review (1581)	21	4.2%
Order to Show Cause (1590)	1	0.2%
Financial Order to Show Cause (1591)	2	0.4%
SASS Order to Show Cause (1592)	4	0.8%
Probation Revocation Arraignment (1600)	269	53.8%
Probation Revocation Sentencing (1601)	3	0.6%
Probation Revocation Hearing (1602)	16	3.2%
Sentencing (1608)	35	7.0%
Sentence Review Hearing (1610)	16	3.2%
Judgment Deferred Hearing (1902)	24	4.8%

Elapsed Time from Finding Date to Case Conclusion Date

Elapsed Days	Aug 2010-Jan 2011 (N=1,225)	Feb 2011-July 2011 (N=1,152)
Maximum	6,062	6,148
Within 180 Days	68.6%	72.7%
98th Percentile	2,729	2,208
75th Percentile	595	364
Average (Mean)	358	310
Median (50th Percentile)	0	0
25th Percentile	0	0
Minimum	0	0

[132] The margin of sampling error for a sample of this size is plus or minus 3.9 percent.

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

7. CIVIL PROTECTION ORDER CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011

Elapsed Time from Petition Date to Issuance of Initial Order of Protection

Description	August 2010 - July 2011 (N = 2,910)
Order or Protection Issued on Same Date as Petition Filed	97.8%
Order of Protection Issued More than One Day After Petition Filed	1.8%
Longest Elapsed Time (in Days) from Petition Date to Order Date	42

Orders of Protection per Case

Description	August 2010 - July 2011 (N = 2,910)
Average Number of Orders of Protection per Case	1.14
Percent of Cases with More than One Order of Protection	12.1%
Most Orders of Protection in One Case	5

Elapsed Time from Initial Order of Protection to Last Service on Respondent

Description	August 2010 - July 2011 (N = 2,910)
Percent of Cases with No Service on Respondent	27.5%
Most Elapsed Days from Order of Protection to Last Service on Respondent	380
98th Percentile	212
75th Percentile	13
Average Days from Order of Protection to Last Service on Respondent	20
Percent of Cases with Service on Respondent within 10 Days after Order	72.6%
Median Days from Order of Protection to Last Service on Respondent	2
25th Percentile	0
Shortest Time in Days from Order of Protection to Last Service on Respondent	0

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

7. CIVIL PROTECTION ORDER CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Incidence of Events Before Any Contested Hearings on Orders of Protection

Description	August 2010 - July 2011 (N = 2,910)
Percent of Cases with No Events Before Hearing on Protection Order	79.4%
Percent of Cases with More than One Event Before Hearing on Protection Order	4.5%
Most Events Before Hearing on Protection Order in One Case	10

Specific Events Before Contested Hearing on Protection Order (Sample Size = 500 Cases[133])

Event Description (CMS Code)	Totals	Percent of Sample
Order of Protection -- Post Issue (248)	117	23.4%
Petition for Hearing on Exclusive Use of Residence (252)	7	1.4%
Petition for Pre-Order Hearing (1585)	8	1.6%
Vacate Hearing (1675)	26	5.2%
Cases with No Events Before Contested Hearing on Protection Order	395	79.0%

Contested Hearing Dates for Orders of Protection

Description	August 2010 - July 2011 (N = 2,910)
Percent of Cases with No Contested Hearing Dates on Protection Order	81.1%
Percent of Cases with More than One Such Contested Hearing Date	2.1%
Most Events Before Hearing on Protection Order in One Case	5

[133] The margin of sampling error for a sample of this size is plus or minus 4.0 percent.

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

7. CIVIL PROTECTION ORDER CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Duration of Orders of Protection

Description	Maximum	Minimum
Cases with No Service on Respondent:		
Days from Order of Protection Date to Expiration Date (N = 799)	360 Days	359 Days
Cases with Service on Respondent:		
Days from Last Service Date to Expiration Date (N = 2,111)	360 Days	330 Days

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

8. NON-TRAFFIC MISDEMEANOR CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011

Elapsed Time from Filing Date to Finding Date, All Cases (Including Inactive Time)

Elapsed Days	Aug 2010-Jan 2011 (N=10,002)	Feb 2011-July 2011 (N=10,051)
Maximum	4,213	6,986
W/in 180 Days	75.1%	74.0%
98th Percentile	3,615	3,617
75th Percentile	180	191
Average (Mean)	471	496
Median (50th Percentile)	55	55
25th Percentile	6	7
Minimum	-13	0

Elapsed Time from Filing Date to Finding Date, Excluding Cases with Inactive Time

Elapsed Days	Aug 2010-Jan 2011 (N=6,464)	Feb 2011-July 2011 (N=4,831)
Maximum	4,213	6,986
W/in 180 Days	98.1%	98.1%
98th Percentile	176	177
75th Percentile	44	37
Average (Mean)	36	36
Median (50th Percentile)	7	7
25th Percentile	0	0
Minimum	-13	0

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

8. NON-TRAFFIC MISDEMEANOR CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Inactive Cases

Description	Aug 2010-Jan 2011 (N=3,538)	Feb 2011-July 2011 (N=5,220)
Percent of Cases with Inactive Periods	35.4%	51.9%
Total Inactive Periods	5,061	6,693
Most in One Case	6	7
Average Times per Inactive Case	1.24	1.28
Most Days One Case Inactive	3,628	3,629
98th Percentile	3,614	3,611
Average Days Inactive	1,413	933
Median Days Inactive (50th Percentile)	253	154
Fewest Days One Case Inactive	0	0

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

8. NON-TRAFFIC MISDEMEANOR CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Pretrial Events (Sample Size = 500 Cases[134])

Event Description (CMS Code)	Totals	Percent of Sample
UDP (Underage Drinking Diversion Program) Continued Arraignment (391)	33	6.6%
Trial Date Conference (450)	15	3.0%
Bond Review Court (1485)	45	9.0%
Continued Arraignment (1563)	33	6.6%
Bail Forfeiture Hearing (1565)	8	1.6%
Calendar Call (1567)	13	2.6%
Criminal Complaint Entry Judicial Review (1568)	7	1.4%
DVD (Domestic Violence Diversion) Continued Arraignment (1575)	15	3.0%
In-Custody Jury Pretrial Disposition Conference (PDC) (1577)	14	2.8%
In-Custody Non-Jury PDC (1578)	18	3.6%
K Court (1584)	12	2.4%
Motion Hearing (1585)	19	3.8%
PAP (Positive Alternatives Diversion Program) Continued Arraignment (1593)	16	3.2%
Reset PDC (1594)	173	34.6%
Jury PDC (1595)	56	11.2%
Non-Jury PDC (1596)	104	20.8%
SDP (Shoplifting Diversion Program) Continued Arraignment (1607)	59	11.8%
Sentencing (1608)	14	2.8%
SMI (Seriously Mentally Ill Diversion) Continued Arraignment (1609)	6	1.2%
TLP (Diversion Program) Continued Arraignment (1618)	8	1.6%
Special Prosecutor PDC (1620)	2	0.4%
Vacate Hearing (1675)	222	44.4%

[134] The margin of sampling error for a sample of this size is plus or minus 4.3 percent.

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

8. NON-TRAFFIC MISDEMEANORS CONCLUDED AUGUST 2010 -- JULY 2011 (continued)

Trial Rate

Description	Aug 2010-Jan 2011 (N=10,002)	Feb 2011-July 2011 (N=10,051)
Percent of Cases without any Trial Dates:	86.3%	88.3%
Percent of Cases with Trial Dates:	13.7%	11.7%
Number of Cases with Trial Dates	1,366	1,177
Total Number of Trial Dates Scheduled:	1,681	1,429
Most Trial Dates in any Case:	7	7
Average No. Trial Settings per Case w/Trial Dates	1.23	1.21
Non-Jury Trials	561	537
Jury Trials	8	6
Total Number of Cases with Trials Held	569	543
Trial Rate (Percent of All Cases with Trials Held)	5.7%	5.4%

Case Dispositions

CMS Code	Description	Aug 2010-Jan 2011 (N=10,002)	Feb 2011-July 2011 (N=10,051)
AP	Responsible - Post & Forfeit (Paid)	0	2
D	Dismiss Without Prejudice	4,400	4,064
DB	Dismiss, Prostitution Diversion	89	36
DC	Dismiss, Solicitation Diversion	26	43
DD	Dismiss, Defensive Driving Program (DDP)	0	5
DI	Dismiss - Proof Of Insurance	0	1
DL	Dismiss, Shoplifting Diversion Program (SDP)	521	691
DP	Dismiss With Prejudice	24	35
DS	Dismiss, Seriously Mentally Ill Diversion	15	6
DT	Dismiss, Positive Alternatives Program (PAP)	114	67
DU	Dismiss, Underage Drinking Diversion (UDP)	385	238
DV	Dismiss, Domestic Violence Diversion (DVD)	115	114
FG	Guilty By Judicial Finding	504	502
FR	Responsible By Judicial Finding	1	
G	Guilty By Plea	3,580	4,057
GJ	Guilty By Jury	4	6
JD	Judgment Deferred, No Conviction	0	3
NG	Not Guilty	56	35
NJ	Not Guilty By Jury	4	0
R	Responsible By Plea	19	21
RD	Responsible by Default	7	10
	(Prosecution Voided)	137	116

APPENDIX C. ANALYSIS OF CASE-PROCESSING TIMES FOR CASES WITH POST-JUDGMENT COURT WORK CONCLUDED

8. CRIMINAL NON-TRAFFIC MISDEMEANOR CASES CONCLUDED FROM AUGUST 1, 2010, THROUGH JULY 31, 2011 (continued)

Post-Finding Events (Sample Size = 500 Cases[135])

Court Event Description (CMS Code)	Totals	Percent of Sample
Domestic Violence Review Hearing (334)	5	1.0%
Judicial Review (1581)	10	2.0%
Order to Show Cause (1590)	2	0.4%
Financial Order to Show Cause (1591)	52	10.4%
Probation Revocation Arraignment (1600)	99	19.8%
Probation Revocation Hearing (1602)	1	0.2%
Sentencing (1608)	14	2.8%
Sentence Review Hearing (1610)	28	5.6%
Jail -- Order to Show Cause (1714)	2	0.4%
Judgment Deferred Hearing (1902)	34	6.8%

Elapsed Time from Finding Date to Case Conclusion Date

Elapsed Days	Aug 2010-Jan 2011 (N=10,002)	Feb 2011-July 2011 (N=10,051)
Maximum	7,708	7,999
Within 180 Days	84.6%	82.4%
98th Percentile	1,085	1,103
75th Percentile	0	0
Average (Mean)	114	138
Median (50th Percentile)	0	0
25th Percentile	0	0
Minimum	0	0

[135] The margin of sampling error for a sample of this size is plus or minus 4.3 percent.

APPENDIX D.

DOMESTIC VIOLENCE COURT PROGRAMS AND OTHER ALTERNATIVES TO CURRENT PROSECUTION AND ADJUDICATION PRACTICES FOR MISDEMEANOR DOMESTIC VIOLENCE CASES IN PHOENIX MUNICIPAL COURT

APPENDIX D. ANALYSIS OF DOMESTIC VIOLENCE COURT PROGRAMS AND OPTIONS TO CURRENT PATTERNS

Introduction

One of the issues that arose during the workshop held by NCSC for this project in Phoenix on June 15, 2011, and again during NCSC interviews in the week of June 27, 2011, had to do with the frequent dismissal of domestic violence (DV) cases on the Court's nonjury trial calendars. By far the most common reason for such dismissals is non-appearance by the victim in a DV case.

The problem of having DV victims choose not to testify at trial is not unique to Phoenix. A Bureau of Justice Statistics study looked at 3,750 cases in 16 large urban counties. Almost half of the cases involved a defendant with a prior history of violence against the same victim. Over half of the cases resulted in a conviction (most were for a misdemeanor) and about one third of the cases were dismissed (Smith, 2009). A review of 135 DV studies from over 170 courts and five countries found that one third of police reports were prosecuted and charges are filed for three fifths of arrests. Convictions occur for about one third of the arrests and for over half the prosecutions (Garner, 2009).

The impact of trial dismissals for victim non-appearance in Phoenix is far from insignificant. An immediate consequence is the waste of overtime pay for police officers appearing as prosecution witnesses. Wasted time for judges, prosecution lawyers, defense lawyers and support staff is another consequence. Beyond that is the potential negative impact on one of the major purposes of criminal proceedings -- to punish and deter violent behavior by those found to have committed crimes.

In view of such considerations as these, the NCSC project team has explored whether there might be ways to achieve the purposes of the court process in criminal DV cases in a more efficient manner. After consultation with officials in Phoenix and other jurisdictions and a review of the literature on criminal DV prosecutions, NCSC has made a comparison of the advantages and disadvantages of the current manner of processing DV cases in Phoenix ("Option 1, Maintain the Status Quo") with those for other possible approaches.

Most prominent among the plausible alternatives to current practices in Phoenix is the prospect of creating a separate problem-solving "domestic violence court" program (see below, "Option 7, Introduce Problem-Solving DV Court Program"), which is discussed at some length here because it has been introduced in over 200 courts around the country, including Pima County, Arizona. Yet such an approach is not the only one that should be considered in Phoenix. Others include the following:

- Expand victim services with volunteer victim advocates or "witness advocates"
- Explore post-*Crawford* application of a "no drop" prosecution policy
- Introduce a trial status docket just before each non-jury trial week
- Require that the prosecutor's office issue subpoenas to all victims for domestic violence trials
- Introduce vertical prosecution for all domestic violence cases

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Because this is a justice system efficiency study, NCSC gives particular emphasis to the expected benefits and costs of these options, as the above analysis indicates.

Option 1. Maintain Status Quo

Under current practices in Phoenix, cases not disposed by dismissal, diversion or plea are heard on a non-jury trial docket. Prosecution of cases is done by teams, and no prosecution attorney takes direct responsibility for any specific case unless it is identified as one that presents greater than usual severity. Victims are notified of trial dates by mail, and there is little prosecution contact with a victim before the day of trial. Virtually all cases are disposed within applicable time expectations.

Option 1. Maintain Status Quo	
Advantages	**Disadvantages**
Qualitative: • Virtually all cases are now promptly disposed within applicable time standards. • Protection of defendant right to confront adverse witnesses is protected. • Prosecution responsive to victim's fear of retribution by the abuser and fear of testifying in court. • Simpler and less complex than other alternatives. *Cost Issues:* • Horizontal prosecution optimizes prosecutor allocation • Mail notices to victims are less costly than subpoenas • Less day-to-day prosecution attention to victim safety and preparation is required.	*Qualitative:* • Violent defendants may go unpunished. • Victim fear of further violence may persist. • Prosecutor typically do not know details of case before day of trial. • Difficult for defense counsel to contact prosecutor familiar with case before scheduled trial date. • Potential recidivism of DV offenders towards the same victim, often coupled with substance abuse related crimes, persist. *Cost Issues:* • Police officer overtime payments wasted if case dismissed for victim non-appearance. • Wasted time for court, prosecution, defense if case dismissed for victim non-appearance. • Missed opportunities for early dismissals or pleas, thereby increasing trial-scheduling requirements.

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Option 2. Expand Victim Services with Volunteer Victim Advocates or "Witness Advocates"

According to a study by the Center for Court Innovation in New York of 208 criminal specialized domestic violence courts,[136] victim advocates worked at or in conjunction with 79% of the domestic violence courts. T he presence of victim advocates was significantly associated with prioritizing the goal of "facilitating victim access to services."

In the national prosecutor survey conducted as part of that study, court-based victim advocates (many of whom are employed by the prosecutor's office) were described as providing a range of services that include accompanying victims to court (80%), safety planning (79%), explaining the criminal justice process (79%), providing housing referrals (73%), facilitating prosecution (64%), and counseling (56%).

One recommendation from advocates and prosecutors for addressing issues of victim cooperation was to reach out to the victim at the time of the incident or as soon as possible afterwards (at arraignment or bail hearing) to educate the victim about the criminal court process, and provide "options counseling," which provides victims with information about the choices and services available to them.

> In one of the sites we visited, one of the dedicated prosecutors served as a dedicated 'witness advocate' and provided precisely these kinds of educational and support services related to the legal process. This site also included dedicated victim advocates who were employed by a local nonprofit agency and whose work complemented the witness advocate by focusing more on counseling, safety planning, and social services beyond the immediate legal process. (Labriola, 2010, p. 75).

The Phoenix City Prosecutor's Office has a Victim Services Unit responsible for providing information and support services to victims of misdemeanor crimes in the City of Phoenix. Each case is supposed to be assigned to a victim advocate. Yet because of resource limits, the staff in the unit now are able to do little more than provide information for victims,[137] and they cannot provide a fuller array of such services as (a) determining in advance of trial whether victims are prepared to go forward, and (b) helping victims prepare for trials.

The Prosecutor's Office has no lawyer serving as a "witness advocate" and contacting victims early in the court process to discuss options and identify cases early in which the victim might not wish to proceed to trial. According to one trial prosecutor, victim rights contacts are largely run by computer.

[136] See Melissa Labriola, Sarah Bradley, Chris S. O'Sullivan, Michael Rempel, and Samantha Moore, *A National Portrait of Domestic Violence Courts* (New York: Center for Court Innovation, February 2010).
[137] See City of Phoenix Prosecutor's Office, "Victim Information Center," http://phoenix.gov/VICTIMS/.

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Option 2. Expand Victim Services with Volunteer Victim Advocates	
Advantages	**Disadvantages**
Qualitative: • Crime victims and witnesses often suffer emotional trauma, fear, confusion, and financial loss. Victim Advocates are available 24 hours a day, 7 days a week to respond within one hour to a designated location. • Advocates will serve the victims and witnesses for free. • Advocates will be present with victims in court, and possibly will help with shelters. • Does not require to change horizontal prosecution or scheduling of DV cases (though it is desirable anyway). • Increase in attendance of victims and witnesses may increase number of trials and number of convictions. • Will increase efficiency of public defender's office. *Cost Issues:* • No-cost increased efficiency in serving victims and witnesses.	*Qualitative:* • Increased number of trials. *Cost Issues:* • Court may or may not provide a space for the advocates. • Increased number of convictions may result in increased jail cost (though this cost expected in a sense of providing justice). • Having volunteers would require more active management oversight, requiring allocation of time by a paid employee.

Option 3. Return to Application of Existing "No Drop" Prosecution Policy

According to Labriola (2010), the primary challenge noted in court surveys was the difficulty of reaching victims and the "fluidity" of victim cooperation, as one response framed it. According to survey respondents, this problem not only hinders prosecution, but it also poses a threat to victim safety when victims seek withdrawal of orders of protection, "identify" with the person who perpetrated the abuse, or refuse to testify.

A second recommendation was to "always be prepared for 'victimless' prosecutions" and to "try to resolve cases as quickly as possible; multiple continuances are detrimental to domestic violence cases."

Conversely, another prosecutor claimed, "No-drop policies are not realistic and take away efforts from other cases." On many site visits and in the court survey, stakeholders cited early resolution and rapid speed of case processing as an important strength of the domestic violence court. Prosecutors also suggested that quick processing of cases achieves better results. One prosecutor went so far as to say, "Time is our enemy." Two prosecutors indicated on their surveys that they had learned the importance of flexibility and creativity. As noted earlier, five prosecutors

reported that in their estimation, expedited prosecution and few continuances produce better results (p. 75).

In Phoenix, the victim in a DV case cannot drop charges against the defendant, because the Phoenix Prosecutor's Office has a "no drop" policy on DV cases. As a practical matter, however, the application of the policy has been severely curtailed after the decision by the US Supreme Court in *Crawford v. Washington*, 541 U.S. 36 (2004), where the Court ruled that the admission of certain statements by victims into evidence violates the Sixth Amendment Confrontation Clause unless the defendant has the opportunity to cross-examine the victim.

Option 3. Return to Application of "No Drop" Prosecution Policy	
Advantages	**Disadvantages**
Qualitative: • Likelihood of more convictions. • Reduction in case dismissals. • More certainty in process. • Possible reduction in times to disposition • Victims cooperation and satisfaction may be increased. *Cost Issues:* • Less wasted time for court, prosecution, defense if case dismissed for victim non-appearance. • Less waste of police officer overtime payments. • Prospect of earlier dismissals or pleas, thereby reducing transaction costs from trial-scheduling requirements.	*Qualitative:* • Presenting evidence in post *Crawford* prosecutions must be considered. • Victim must face fear of retribution by the abuser and fear of testifying in court, so greater prosecution attention to victim safety and preparation may be required. *Cost Issues:* • Likelihood of more trials. • Police have to be trained on other types of evidence to be collected. such as the defendant's post arrest behavior. • More victim-witness resources may be required. • May not reduce defendant recidivism.

Option 4. Introduce Trial Status Docket Just Before Nonjury Trial Week

As noted in the introduction to this appendix, a common problem in DV cases has to do with the frequent dismissal of domestic violence (DV) cases on the Court's nonjury trial calendars, most often because of non-appearance by the victim. Despite the existence of a "no drop" prosecution policy, cases have typically been dismissed without prejudice since the *Crawford* decision. The most visible consequence of such dismissals is a waste of overtime pay for police officers appearing as prosecution witnesses.

To help forestall the constant collapse of trial dockets set by the Court during non-jury weeks, one suggestion has been for the Court to hold a trial status docket on the Friday before a non-jury trial week. Creating and holding this court event would provide a requirement for the prosecutors actually trying cases to ascertain the availability and willingness of victims to proceed to trial before the actual trial week. All cases on the upcoming non-jury trial docket would be called by a judge, and the prosecution would give an indication of the likelihood that

the victim would appear to testify at trial. Some cases might be dismissed without prejudice before the trial week, and others might be resolved by plea at the time of the trial status docket call if it were certain enough that the victim would in fact be willing to go forward.

Option 4. Introduce Trial Status Docket Just Before Nonjury Trial Week	
Advantages	**Disadvantages**
Qualitative: • Likelihood of more convictions. • Victim fear of further violence may be diminished. • No threat to defendant right to confront adverse witness. • Greater certainty on trial day. *Cost Issues:* • Less wasted time for court, prosecution, defense if case dismissed for victim non-appearance. • Less waste of police officer overtime payments. • Reduced number of trials to be scheduled.	*Qualitative:* • Requires court to schedule additional event to force prosecutors to do their work earlier. • Additional court appearance for defense counsel. • Does not eliminate prospect of last-minute victim non-appearance. • Does not necessarily reduce down-time for judges presiding over non-jury trial dockets. *Cost Issues:* • Likelihood of more trials • Burden on court staff and judges to prepare and hold trial status docket.

Option 5. Require That Prosecution Issue Subpoenas to all Victims for DV Trials

Notice to victims and witnesses in DV cases is now given by postal mail rather than by in-person service of subpoenas. Victims receiving notice by mail typically have 20 days to prepare for trial. This approach saves a substantial amount of money in terms of the costs of in-hand service by a deputy sheriff or other process server. Yet many institutional participants in the DV case process perceive that it contributes significantly to a high incidence of case dismissals on days that cases are to be tried.

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Option 5. Require That Prosecution Issue Subpoenas to all Victims for DV Trials	
Advantages	**Disadvantages**
Qualitative: • More victim appearances at trial. • No threat to defendant right to confront adverse witness. • Greater certainty and fewer dismissals on day of trial. *Cost Issues:* • Less wasted time for court, prosecution, defense if case dismissed for victim non-appearance. • Less waste of police officer overtime payments.	*Qualitative:* • Makes process more cumbersome and may cause delay and rescheduling of more cases. • Does not eliminate prospect of last-minute victim non-appearance. • May cause victim to be punished for having fear of retribution by the abuser and fear of testifying in court. *Cost Issues:* • Likelihood of more trials. • issuance of subpoenas much more costly than mail notification. • More victim-witness staff resources may be required for prosecutor's office. • Noncompliance with subpoena requires issuance and service of bench warrant.

Option 6. Adopt Vertical Prosecution for all DV Cases

Vertical prosecution has been defined as a management policy that designates the same specialized prosecutors and victim-witness staff to handle all aspects of a DV case.[138]

> One benefit to this approach is that it reduces the number of times and individuals in which the victim must recount the traumatic incident. In addition, vertical prosecution increases communication between the victim and the prosecution office thereby enhancing the ability of the prosecutor to effectively address victim concerns.

The adoption of vertical prosecution may often be associated with the creation of a specialized domestic violence prosecution unit:[139]

> Larger offices should establish a Domestic Violence Unit staffed by experienced, committed prosecutors who can build rapport with victims. Smaller offices should ensure that all prosecutors handling domestic violence cases are fully trained to implement model practices. All protocols should emphasize the

[138] Alabama Coalition Against Domestic Violence, *Guidelines for Prosecution of Domestic Violence Cases* (2004), http://www.acadv.org/Prosecutionguidelines.pdf, p. 7.
[139] Sara Buel, "Prosecution in Domestic Violence Cases," in M. Drew, L. Jordan, D. Mathews, and R. Runge (eds.), *The Impact of Domestic Violence in Your Legal Practice: A Lawyer's Handbook*, 2d edition (Chicago: American Bar Association, 2004), pp. 340-344, reproduced in "Family Violence and Children: Perspectives for Policy" (New Mexico Family Impact Seminar, New Mexico State University, 2005), http://www.familyimpactseminars.org/s_nmfis01c03.pdf.

effective and timely handling of misdemeanor, as well as felony, matters. Vertical prosecution, in which the initial prosecutor remains with the case even if it changes courts, is strongly recommended.

A recent comprehensive study for the National Institute of Justice[140] indicates that specialized DV prosecution programs often coexist with specialized DV courts (see Option 7), but research suggests that these programs can work well on a number of levels even without specialized DV courts. Having vertical prosecution for DV misdemeanors is one of the innovations associated with the success of specialized DV prosecution units. Yet studies suggest that specialized prosecution units must be adequately staffed to make a difference.

The Phoenix City Prosecutor's Office currently has its attorneys organized in a "charging bureau," five or six "attorney teams," and an "appellate bureau." With initial case screening done by a separate unit from the attorneys who try cases, the office has "horizontal," instead of vertical, prosecution. While DV cases are screened for severity, with the most severe cases handled in a more vertical fashion by the DV specialist attorney in each trial bureau, the horizontal structure of the lawyers means that they typically do not know the details of specific DV cases until they are to be tried. This makes it more difficult for defense counsel to speak to a prosecutor about a case before it is about to be tried.

Option 6. Adopt Vertical Prosecution for all DV Cases	
Advantages	**Disadvantages**
Qualitative: • Greater prosecutor knowledge of cases before trial date. • More victim appearances at trial. • No threat to defendant right to confront adverse witness. • Fewer dismissals on day of trial. • Easier for defense counsel to contact assigned prosecutor before scheduled trial date. *Cost Issues:* • Less wasted time for court, prosecution, defense if case dismissed for victim non-appearance. • Less waste of police officer overtime payments. • Prospect of earlier dismissals or pleas, thereby reducing trial-scheduling requirements.	*Qualitative:* • Requires change from horizontal assignments for allocation of prosecutor resources. • May require adjustments in court dockets to avoid conflicts for prosecutors. *Cost Issues:* • Likelihood of more trials. • May require more staff support resources for prosecuting attorneys. • May require greater DV training for prosecutors, law enforcement, and staff.

[140] Andrew R. Klein, *Practical Implications of Current Domestic Violence Research: for Law Enforcement, Prosecutors and Judges* (NIJ Special Report 225722) (Washington, DC: US Department of Justice, 2009), pp. 50-52, https://www.ncjrs.gov/pdffiles1/nij/225722.pdf.

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Option 7. Introduce Problem-Solving DV Court Program

According to the Center for Court Innovation (see Labriola 2010), there are now over 200 criminal courts that hear domestic violence cases on separate calendars, which they may call "domestic violence courts." Some domestic violence courts emerged in the context of the broader "problem-solving court" movement and share characteristics with other specialized courts, such as separate dockets and specially trained judges. There is a wide variations in the policies and protocols that different courts have implemented to achieve their goals, so that domestic violence courts cannot be described in terms of any single 'model.' Yet common features seem to include pro-arrest policies, evidence-based prosecution, and specialized police and prosecution units (Rebovich 1996; Sherman 1992).

Option 7. Introduce Problem-Solving DV Court Program	
Advantages	**Disadvantages**
Qualitative: • More focused attention to DV cases. • Concentration of treatment and services for victims and defendants. • Reduction in time from case filing to final disposition. • Improved victim safety. • Prospect of including civil protection order cases to allow greater coordination between criminal and civil case approaches. *Cost Issues:* • Less wasted time for court, prosecution, defense if case dismissed for victim non-appearance. • Less waste of police officer overtime payments. • Prospect for reduced recidivism. • Reduced costs and increased efficiency if criminal DV and civil protection order cases are heard in one forum. • Reduced costs and increased efficiency if a voluntary victim advocacy program is established.	*Qualitative:* • Prospect of conflict with due process values of more adversarial process (prosecution without witnesses, evidence-based prosecution). • Requires restructuring of scheduling practices for court, prosecutor and defense counsel. • Requires revision of practices and procedures if criminal DV and civil protection order cases were heard under the same program. *Cost Issues:* • Likelihood of more trials. • Success may require employment of probation officers or caseworkers. • May require dedicated court and prosecution personnel. • May require greater DV training for prosecutors and staff. • Varied results as to whether recidivism is reduced by having these specialized dockets. • Use of batterer intervention programs has little effect.

Most problem-solving courts also share a number of common practices, such as referral to community-based programs, ongoing compliance monitoring, and collaboration among multiple justice and community partners (Farole et al. 2005; Wolf 2007). To provide centralized oversight spanning the different models, more than a dozen states have established a statewide problem-solving court coordinator.

Even though they emerged concurrently with the broader problem-solving court movement, domestic violence courts do not reflect all the movement's principles and practices as just

summarized. Most problem-solving courts focus on victimless crimes. Drug and mental health courts, for instance, deal with nonviolent offenses and can focus their attention on the defendant. In domestic violence cases, not only is there a victim but also the same victim is at ongoing risk of being assaulted by the same offender. Domestic violence courts have a responsibility to the victim, and often provide services for them in addition to addressing the criminal behavior of the defendant. At the same time, victim advocates have argued that the criminal justice system has not treated assaults by intimate partners as seriously as similar crimes committed against strangers or acquaintances.

Perhaps more critically, most problem-solving court models operate under the assumption that the defendant's criminal behavior stems from underlying problems that treatment or services can resolve. Although many if not most domestic violence courts subscribe to this analysis as well, the premise is controversial in regard to domestic violence offenders. Many agencies that work with victims of domestic violence argue that the underlying problem is not an aberration or treatable illness of individual offenders but of societal values. Furthermore, among researchers, there is considerable doubt over whether court-mandated programs can succeed at rehabilitation in this area (Babcock, Green, and Robie 2004; Feder and Wilson 2005; Rempel 2009; and others).

In some states, statutes and policies have influenced the planning and operations of domestic violence courts. For example, California, Florida, and North Carolina have statutes specifying mandatory sentences and monitoring requirements for those convicted of domestic violence crimes. In these states, domestic violence courts may be seen as a logical mechanism to promote the proper execution of statutes, such as mandatory sentences to probation and batterer programs. In other states that allow greater discretion in charging and sentencing, domestic violence court models may be more variable and depend on the goals and resources of the individual court.

In some jurisdictions the specialized approach occurs only at the pretrial conference (Helling 2003). Some domestic violence courts pick up cases after the initial court appearance, e.g., subsequent to arraignment or bond hearing, but others hear cases from arraignment through disposition. Depending on the volume of cases and resources, domestic violence courts may operate full time, while others have a more limited calendar, meeting a few times per week or on alternating weeks. Similarly determined by volume and resources, some jurisdictions have a single specialized judge and domestic violence calendar, whereas others have multiple judges and calendars. In the latter situation, the different domestic violence parts may be able to specialize by phase of adjudication, such that cases in the pretrial phase appear on one calendar and those appearing for compliance monitoring on another.

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Impact of Domestic Violence Court Programs on Recidivism

While studies show that specialized domestic violence courts increase conviction rates, Deborah Saunders of Research Division of NCSC notes that the effect of conviction rates on recidivism is not totally clear. She cites the report in Labriola (2010) that:

> A central goal of the domestic violence courts and a component of victim safety is to reduce recidivism. To our knowledge, 10 domestic violence courts have been evaluated utilizing quasi-experimental methods. Findings were that three produced significant reductions in re-arrests on most measures (Angene 2000; Gover et al. 2003; Harrell et al. 2007), five produced no reductions or increases in recidivism (Harrell et al. 2007; Henning and Kesges 1999l; Newmarket al. 2001; Peterson 2004; Quann 2007), and two separate studies of Milwaukee domestic violence courts yielded mixed results. (Page 9-10)

Klein (2009) does review studies that indicate that the disposition rather than the conviction may have more significance in terms of reoffending. He notes that simply prosecuting does not affect re-abuse rates. (See Sec. 6.14, "Does prosecuting domestic violence offenders deter re-abuse?" pp. 46-49.)

> The more intrusive sentences — including jail, work release, electronic monitoring and/or probation — significantly reduced re-arrest for domestic violence as compared to the less intrusive sentences of fines or suspended sentences without probation. The difference was statistically significant: Re-arrests were 23.3 percent for defendants with more intrusive dispositions and 66 percent for those with less intrusive dispositions. (Page 47)

So reducing the number of dismissals in Phoenix and increasing the conviction rate may not affect re-abuse rates unless the disposition is intrusive. But there does seem to be a significant effect if the appropriate disposition is used. Klein recommends taking into account all prior criminal history not just domestic violence when making dispositional decisions. Without knowing the current sentencing options/practices in Phoenix it is hard to predict the effect of changes. Taking this into account I think your chart gives a great overview of the options.

Summary of Findings from National Study of Specialized Domestic Violence Courts

In a research report funded by the US Department of Justice and submitted to the National Institute of Justice by the Center for Court Innovation (Labriola, 2010), findings were presented from a survey of criminal domestic violence courts and prosecutors' offices across the country, supplemented by insights from site visits to such courts in California, Florida, Illinois, New York and Washington. Those findings include the following.

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1. Probably the most frequently reported challenge was the difficulty of involving victims in prosecution. Across the board, courts reported that victims commonly wish the charges to be dropped in their cases, with some courts responding by instituting a "no-drop" policy and others making decisions case-by-case.(page 81)

The vast majority of surveyed courts (88%) reported either that they issue a temporary order of protection or restraining order at first appearance in the domestic violence court or that such an order has already been issued before defendants reach the specialized court. At sentencing, 82% of courts reported that they often or always impose a final order of protection prohibiting or limiting contact with the victim. California's courts were especially likely to report imposing final protection orders. (p. vi)

Qualitative data revealed that stakeholders consider the physical safety of victims who are attending court to be a major concern. Survey results showed that courts do not consistently provide safety measures, however: 60% do not provide separate seating areas in the court; 50% do not provide escorts in the courthouse; 40% lack separate waiting areas in the courthouse; and 76% do not provide childcare. Court staff reported a desire to offer these accommodations but a lack of resources. (p. vi)

Offender assessments were not conducted by the majority of courts. They were usually conducted by prosecution staff, probation, or the staff of batterer programs or other outside programs. Just less than half the court survey respondents (45%) reported that assessments were conducted often or always, and another 11% reported that they were conducted sometimes. The most common types of assessments conducted in conjunction with domestic violence courts were for drug and alcohol dependence (51%) and mental health issues (49%). Some courts also assess the offender's history of victimization (26%), background characteristics (40%), risk of repeat violence (40%) and service needs (34%).

2. Batterer Programs: All courts reported using batterer programs in at least some cases, but with widely varying frequency. Batterer program mandates were the primary response to domestic violence offenses by 34% of courts responding to the survey, which reported ordering 75% to 100% of offenders to a batterer program. More courts infrequently mandate batterer programs: 44% reported ordering less than a quarter of the offenders to such programs. Courts rating offender rehabilitation as an extremely important goal were especially likely to report sentencing offenders to batterer programs, as were domestic violence courts located in the state of California (presumably because of California's statutes governing the sentencing of domestic violence offenders).

3. Other Programs: Orders to attend other types of programs appeared to be as prevalent as orders to batterer programs. Nearly all surveyed courts reported that they order offenders to alcohol or substance abuse treatment (94%) or mental health treatment (86%) in at least some cases. Many courts also reported ordering domestic violence offenders to parenting classes

(64%). We found that the use of other programs was independent of the use of batterer programs; that is, reported use of each other type of program neither increased nor decreased as a function of frequency of use of batterer programs.

4. Probation Monitoring: Overall, more than half of the courts (62%) reported often or always ordering offenders to probation supervision. When probation is involved, extremely few courts (10%) indicated that they rarely or never receive compliance reports. Courts that rated offender accountability as an extremely important goal were especially likely to use probation, as were courts from states that have statutory sentencing requirements. Independent of the relationship with state statutes, California's courts were also especially likely, and New York's courts especially unlikely, to report often or always sentencing offenders to probation.

5. Judicial Monitoring: Use of judicial monitoring or ongoing court review hearings varied, with 56% of courts reporting that they often or always mandate offenders to return to court post-disposition for monitoring and an additional 15% reporting they sometimes do so. The data also revealed variation in the frequency of judicial monitoring and the practices implemented at each judicial status hearing (e.g., reviewing program reports, restating responsibilities, praising compliance, or sanctioning noncompliance). Hence, the surveyed domestic violence courts have not arrived at a set of widely adopted or recommended monitoring practices. In general, domestic violence courts in California and New York were more likely than those in other states to use judicial monitoring.

6. Response to Noncompliance: At judicial status hearings, 27% of courts reported that they always impose sanctions for noncompliance with court mandates and 50% reported that they often do so. The most common responses with failure to comply with mandates were the least punitive: verbal admonishment (83% often or always), immediate return to court (73%), and increased court appearances (59%). Less common were revoking or amending probation (37%) and jail (29%). The results point to a lack of consistency across courts. Respondents emphasizing the goals of accountability and penalizing noncompliance were especially likely to report imposing jail as a sanction.

7. Many stakeholders emphasized the importance of having a dedicated and experienced judge (as well as other dedicated and experience staff) to achieve a consistent and predictable approach to the adjudication of domestic violence cases. More than 91% of the courts surveyed reported that their dedicated judges had received specialized training. Nonetheless, the need for training and retraining of judges and other team members (police, attorneys, and court personnel) on domestic violence dynamics and related legal issues was a recurrent theme in our qualitative data. Staff turnover was a related concern, connected with the need to maintain a team that is trained, sensitive, and invested in addressing the problem of domestic violence.

8. Many stakeholders underlined the difficulty of involving victims in prosecution and the negative impact on the chances of conviction and appropriately severe sentencing. Prosecutors especially expressed that they often struggle to pursue cases because victims often want charges dropped. Some prosecutors' offices respond to this challenge by instituting "no-drop" policies (see Option 3), but state statutes can constrain their ability to pursue charges without victim testimony. How to handle prosecution when the victim opposes it or declines to participate can create tensions among prosecutors, victim advocacy agencies and the court. (Prosecutors did not perceive this obstacle, per se, as specific to domestic violence courts, but rather as an important general concern in domestic violence case prosecution.)

9. Stakeholders expressed great concern about scarce resources. They variously articulated a need for increased funding for probation supervision, offender programming, and victim services. Several stakeholders also expressed regret that understaffing and swelling caseloads precluded effective judicial monitoring. In places where stakeholders felt that their court was successful, they attributed the success to having adequate resources for intensive supervision of domestic violence offenders, services for victims by multiple agencies, and programs for offenders.

10. Volume and Adequate Staffing. The knowledgeable staff and informed decision making that stakeholders perceived as the great advantages of domestic violence courts can be undermined by the sheer volume of cases. On the court survey, seven respondents identified volume as the primary challenge, with two commenting that the caseload in the domestic violence court prevented adequate case review and implementation of judicial monitoring. Framing the issue of caseload differently, 15 court survey respondents identified inadequate staffing—or lack of funding to staff the domestic violence court adequately—as the primary challenge. Four specifically mentioned lack of funding for probation supervision, eight identified lack of resources for offender programming, one identified insufficient services for victims, and others mentioned needing more domestic violence court services and more clerks.

> In one site, again, the comment was made that judicial monitoring was ineffective because the caseload was too high and there was inadequate time allotted for each case. In another, the problem was that the prosecutor's office has insufficient staffing, money, and technical assistance, and in another, the resource coordinator's caseload was too high, prohibiting tracking and monitoring (p. 75-76).

Other courts that apparently had adequate resources found that their successes could be attributed to just these features:

- probation,
- services for victims,
- cooperation among multiple agencies that helped victims escape abuse,
- effective monitoring and frequent case review, and programs for offenders.

Further,

- One stakeholder mentioned that, contrary to expectations, having a domestic violence court actually lightened the overall criminal court caseload because the resource coordinator was able to relieve the burden on the courts. This stakeholder did not fully explain the observation, but the point appears to be that the establishment of the domestic violence court provided justification to hire a dedicated resource coordinator, whose efforts in turn alleviated some of the strain on other court staff.

Another court dealt with the case overload issue by capping the number of cases from the start; they took only as many cases into the domestic violence court as they estimated they could handle given the staffing and then gave those cases more intensive attention than they would have received in a non-specialized court.

NCSC Conclusions

Based on the preceding discussion, the NCSC project team concludes that maintenance of the status quo (Option 1 above) is not the most desirable alternative. NCSC perceives that Option 7 (adoption of a separate "DV Court" as a problem-solving program) cannot be done right now in Phoenix because of costs, unless there is sufficient external funding that would offset outlays and result in sufficient return on investment to justify program continuation even after the end of external funding. In all likelihood, some combination of options might turn out from the NCSC analysis to be most cost-efficient for Phoenix