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An Evaluative Study to Determine the Impact of the 1972 Court Reorganization on Criminal Case Processing Speed in the Lower Courts of Douglas County, Nebraska

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AN EVALUATIVE STUDY TO DETERMINE
THE IMPACT OF THE 1972 COURT REORGANIZATION ON
CRIMINAL CASE PROCESSING SPEED IN THE LOWER COURTS
OF DOUGLAS COUNTY, NEBRASKA

A Thesis

Presented to the
Department of Criminal Justice
and the
Faculty of the Graduate College
University of Nebraska

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts
University of Nebraska at Omaha

by

Patrick J. Ortmeier

March 1977

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THESIS ACCEPTANCE

Accepted for the faculty of the Graduate College,
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of Nebraska at Omaha.

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CHAPTER I
INTRODUCTION

Genesis of the Problem

"The courts are the pivot on which the criminal justice system turns" (Winslow, 1968:289). The criminal court is the central, crucial institution in the criminal justice system (President's Crime Commission Report, 1967:125). As the famous jurist Arthur T. Vanderbilt put it:

It is in the courts and not in the legislature that our citizens primarily feel the keen cutting edge of the law. If they have respect for the work of the courts, their respect for law will survive the shortcomings of every other branch of government; but if they lose their respect for the work of the courts, their respect for law and order will vanish to the great detriment of society (Vanderbilt, 1955:4).

There are fifty-six separate and distinct court systems in the United States. These include the national (federal) system, the court systems in each of the fifty states, the dual system in the District of Columbia, and the systems in Puerto Rico, Guam, the Canal Zone, and the Virgin Islands. These fifty-six systems include more than 3,000 courts. In addition, if every justice of the peace is counted as a court, the number exceeds 10,000 (Friesen, et al, 1971:35-6).

State court systems in the United States are organized in three basic levels of jurisdiction: limited or special (lower courts), general, and appellate. Courts of

limited or special jurisdiction are generally informal in nature and are ordinarily not courts of record. These courts try minor matters, such as traffic violations, and are often limited in the extent of punishment they may impose. Also, these courts very often hold preliminary hearings for more serious violations, thus acting as a committing agency for the higher courts. Courts of general jurisdiction are formal courts of record, have authority to try all cases brought before them, and often hear appeals from courts of limited or special jurisdiction. Appellate courts are responsible for hearing and deciding appeals from decisions of courts inferior to them (National Survey of Court Reorganization, 1973:1).

Ninety percent of the Nation's criminal cases are heard in the lower courts (Winslow, 1968:313). Fairest justice, reasonable expense, and ready accessibility are the three primary objectives of these courts of limited or special jurisdiction (Uhlenhopp, 1966:212). However, concern over the operation of these courts is mounting rapidly, especially in regard to the amount of delay involved in the processing of a criminal case.

Reports issued by various agencies, public and private, indicate that the amount of court delay is greater than generally anticipated. For example, a report issued by the Office of the United States Courts shows that nationally the backlog of criminal cases has more than

doubled, although the number of cases filed has remained relatively static (U.S. News and World Report, March 10, 1969:58).¹

On the average, urban courts take almost three times longer to dispose of a criminal case than the President's Crime Commission (1967) recommended as necessary.² The backlog of criminal cases in metropolitan trial courts throughout the country is scandalous, as is the impediment that such a backlog constitutes to the effective employment of the criminal sanction as a means of controlling anti-social behavior (The New Republic, December 23, 1972: 9). As Chief Justice Earl Warren pointed out:

. . . interminable and unjustifiable delays in our courts are today compromising the basic legal rights of countless thousands of Americans and, imperceptibly, corroding the very foundations of constitutional government in the United States (Criminal Justice Monograph, 1973:46-7).

The problem of court delay is not confined to the metropolitan areas of the United States but frequently can be found in rural areas where the dockets often are not crowded (Reed, 1973:3). Jail populations too indicate a need for reduction of court delay. For example,

¹In the eight years before the report was issued, the backlog of cases in one court system had increased from 7,691 to 14,763.

²Currently, up to two years may be required for final disposition of a criminal case. The President's Crime Commission recommended adherence to a timetable which would result in the disposition through trial of almost all criminal cases within four months and the decision of appeals within an additional five months.

on March 15, 1970, the federal government took a census of the 4,037 city and county jails in the United States. It found that 160,863 persons were incarcerated and that 83,000 of them (or 52%) had not been convicted of a crime. They were awaiting their day in court (Newman, 1972:88).

Delay in the processing of a criminal case may also have devastating consequences for the offender. Whether ultimately adjudged guilty or innocent, days drift by while his status remains unclarified. His job is lost. Bills and obligations accumulate. His family is unprovided for; it may start to disintegrate or become dependent on public assistance (President's Crime Commission Report, 1967:82).

In the final analysis, the disposition of most court cases results from a process, not a decision. Instant justice is not advocated. The facts must be discovered and clarified. Lawyers must serve more than one client if they are to serve any client economically. Efficiency and effectiveness would be impaired, at least for serious offenses, if the courts heard and determined all cases within a few weeks after they are filed. Thus, a certain amount of delay in the processing of criminal court cases is a valid constraint on the court system. However, a distinction exists, and should be recognized, between delay that is desirable, or tolerable, and delay that is destructive and dysfunctional. It is the latter that must be eliminated.

Statement of the Problem

Several national commissions, including the National Commission on Law Observance and Enforcement (Wickersham Commission, 1931), the President's Commission on Law Enforcement and the Administration of Justice (1967), and the National Advisory Commission on Criminal Justice Standards and Goals (1973), as well as such famous jurists as Roscoe Pound, Earl Warren, and Warren E. Burger, have found the condition of lower court organization to be the most disturbing of all the processes in what has come to be known as the Criminal Justice System. But despite recommendations to the contrary, most states have done little to eliminate or, at least, to alleviate the organizational problems which plague the lower courts. The lack of attention to the need for a streamlining of these courts of limited jurisdiction has contributed to an increase in congestion and delay in the American judicial process.

Nebraska is one state that has made an effort to reform its lower court structure. It has done so by eliminating its justice of the peace and police magistrate's courts and merging their functions with the county court system. However, a paramount question remains: What effect or impact has this reorganization effort had on the efficient administration of justice in Nebraska? More

specifically, what effect has the reorganization had on the process which Constitutionally guarantees a "speedy" trial in all criminal prosecutions?

The purpose of this study will be to evaluate the impact of the court reorganization on the swift and efficient administration of the judicial process in Douglas County, Nebraska.

Douglas County was chosen because its boundaries include areas of high as well as low population density, because many of the critical problems and situations facing it are common to other socio-economically diverse communities throughout the state, and because its location is convenient and readily accessible for research purposes.

A comprehensive study of the total impact of the court reorganization would involve an examination of a great number of distinct aspects of the judicial process, namely, case processing speed, the number of case dispositions and the types of sentences, jail population, bond setting, plea bargaining, judge-time, and court administrative processes. The scope of this study will, however, be limited, because of available time and resources, to an in-depth examination of the speed with which a criminal court case is processed. The information which will be required in order to determine the nature of the reorganization's impact on criminal case processing speed will

be obtained through the inspection of the justice of the peace, police magistrate and county court records in Douglas County, Nebraska.

While a number of studies have dealt with particular aspects of the courts, few have dealt with an evaluation of the impact court reorganization may have on criminal case processing speed. Since state court systems throughout the country have experienced undesirable backlog and delay, often associated with a multiplicity of courts, it seems desirable to seek empirical knowledge of the impact a court system reorganization may have on such a delay.

CHAPTER II

THEORETICAL PERSPECTIVE

According to the President's Crime Commission (1967), the problem of court delay can best be met by the unification of all state trial courts and the abolition of the lower courts as presently constituted. The advantages of such a system are numerous. As one author put it:

Of all the changes which the twentieth century has brought to the administration of justice in America, none has such potential for strengthening and streamlining the judicial process as the movement toward unified state court systems (Lowe, 1973: 316).

The basic characteristic of a unified court system is a single structured court divided into two or three levels or branches, one to handle trial work and one or two for appellate business. A typical unified trial court system includes a trial court with specialized judges in large volume areas, an intermediate appellate court, and a court of last resort with the chief judge acting as the administrative head for the entire system.

Basically, the process of court unification has two forms: structural, which exists by virtue of constitutional or statutory law, and administrative, or de facto, unification, which is achieved through rules promulgated by the courts and sanctioned both by the written law and the doctrine of inherent judicial powers. Structural unification relates to the composition of the system,

and administrative unification pertains more to the way it works, regardless of its structure. To be fully unified, a system should have the basic elements of both (Lowe, 1973:316-22). But regardless of the number of levels of a unified court system, it still has advantages over a multi-court system:

The fundamental characteristic . . . is that there be 'one court' and only one. This basic principle is designed (a) to eliminate the confusion of courts now existing below the general trial court; (b) to minimize jurisdictional disputes that take up time without reaching the merits of the case; and (c) to provide for efficient judicial administration so as to minimize delay and cost in the trial of suits (N. Car. LR 858 [1964]).

Early proposals for integration and unification of state court systems failed generally to become law (Elliott, 1959:25-119). Slowly, plans for consolidation and simplification of court structures were adopted in various states. New Jersey effected such legislation in 1947. Florida, Minnesota, and Wisconsin adopted plans in 1955. Alaska developed a unified system by 1959 (Hermann, 1960: 265-72). Colorado took the approach of eliminating its justice of the peace courts, both constitutionally (Colo. Const. Art. VI, sec. 23, 1962) and statutorily (Colo. Rev. Stat. Ann., sec. 79, 1965), while Kansas restricted the jurisdiction of the justice of the peace to civil actions where recovery of money damages was limited to the amount claimed not to exceed one dollar (Kan. Stat. Ann., sec. 61-109, Supp., 1967).

The farthest advance to date toward total court unification has been in Illinois. In 1962 an Illinois constitutional amendment abolished all trial courts in the state except one, called the circuit court. This court has unlimited jurisdiction over all justiciable matters and a sufficient number of judges who sit where there are cases to be heard. Today, the Illinois court system is comprised of three levels: the State Supreme Court, the Court of Appeals, and twenty-one circuit courts. Minor cases come to the magistrate's court, a subdivision of the circuit court (Newbauer, 1974:26). There are no separate probate, juvenile, civil, or criminal courts of any kind in Illinois.

The Illinois court unification effort has produced very positive results. Records indicate the tremendous volume of work which can be accomplished by a unified court system. For example, during 1964, 1,617,822 cases of all types were filed in the Circuit Court of Cook County, Illinois, and 2,173,265 were terminated. In 1965, 1,753,182 cases were filed and 2,304,524 were terminated. Thus, in the first two years as a unified court system, the Circuit Court of Cook County increased its case processing speed, reduced backlog, and terminated a million more cases than were filed during the same period.

In 1972 Nebraska reorganized its state court system. Before the reorganization Nebraska suffered from excessive detail in the judicial article of its Constitution. For example, Article V, section 1, of the 1871 Nebraska Constitution stated:

The judicial power of this state shall be vested in a supreme court, district courts, county courts, justice of the peace courts, police magistrates, and in such other courts inferior to the district courts as may be created by law for cities and incorporated towns (Nebr. Const., Art. V, sec. 1, 1871).

As cities and incorporated towns developed throughout the state, so did municipal courts, probate courts and other courts of limited jurisdiction, compounding the problem of a multiplicity of courts.

By the mid-twentieth century the statewide system of courts of limited jurisdiction in Nebraska consisted of ninety-three county courts, more than 100 justice of the peace courts and 105 police magistrate courts. A county court was located in each of the state's ninety-three counties and had original jurisdiction in minor criminal matters which did not exceed a sentence of six months imprisonment and a fine of \$1,000, could hear felony preliminaries, had concurrent original jurisdiction with the district court in all civil matters not exceeding \$1,000 in controversy, and made jury trials available in any civil case where the amount claimed exceeded \$100. Appeals were de novo to the district court. On appeal,

the case was tried again, effort was duplicated, and delay in the final disposition increased.

The more than 100 justice of the peace courts had original jurisdiction to hear minor criminal cases in which the penalty did not exceed three months imprisonment and a \$100 fine. These courts could also hear minor civil matters involving \$200 or less, as well as violations of state statute that occurred within the county in which the court presided. Jury trials were not available. Appeals were de novo to the state district court. Judges were elected on a non-partisan ballot for a two-year term and were not required to have any legal training. Since no legal training was required, individual cases were often decided on the basis of the particular judge's concept of "justice" rather than on the merits of the case.

The police or police magistrate's courts, numbering 105, had original jurisdiction over municipal ordinance and traffic violations, with authority to impose a maximum penalty of a \$100 fine and three months in jail. Jury trials were not available. Appeals were de novo to the state district court. As in the justice of the peace courts, judges in the police magistrate's courts were elected on a non-partisan ballot for a two-year term and were not required to have any legal training (National Survey of Court Organization, 1973:176-7).

Finally, in 1972, by an act of the Eighty-Second Legislature, First Session, in Legislative Bill 1032, all of Chapter 24, Article V of the Nebraska Revised Statutes, 1943, pertaining to the organization of the courts, was repealed and a new judicial article substituted. The new article provided for a unified system of county courts for the state and combined, or consolidated, the functions of the justice of the peace and police magistrate courts into the new reorganized county court system.

The passage of LB 1032 meant the elimination of the justice of the peace and police magistrate courts and the merger of their functions with a new county court system consisting of 21 judicial districts of one to nine counties each. Each of the judicial districts has from one to four law-trained judges. Also, the total number of judges for the state courts of limited jurisdiction under the new law is 43, as compared to over 300 before the change. Depending on the caseload of the area, the judge(s) for each district may appoint one or more associate county judges to assist in the processing of cases.

The primary purpose of LB 1032 was complete revision of the courts of limited jurisdiction in Nebraska. It was designed to achieve greater uniformity in practice, procedure and result by providing for judges trained in the law.

It was also designed to reduce delay in the processing of criminal court cases by providing a central administrative authority to distribute the judicial workload more evenly (Hearings on LB 1032, Nebraska State Legislature, 82nd Leg., 1st Sess., March 28, 1972).

Under the new law, the county courts hold felony preliminary hearings and try most misdemeanor cases, including traffic and municipal ordinance violations. These courts also hear civil matters involving less than \$5,000 and all juvenile cases, except in Douglas, Lancaster and Sarpy counties, where separate juvenile courts have been established. Misdemeanor and civil jurisdiction is exercised concurrently with the state district courts, but misdemeanor cases are rarely filed in the district courts. Each county court has a small claims department for hearing, without the benefit of counsel, civil cases involving \$500 or less. The county courts also act as probate courts and make jury trials available in any misdemeanor case involving a violation of state statute, and in civil cases except in the small claims department. Appeals are to the state district court on the record, in other words, not as a new trial, but rather as a review of the transcribed proceedings of the county court trial (National Survey of Court Organization, 1975 Supplement, 1975:28). As a result of the new appeal procedure, a new trial is not required.

Today, Nebraska has basically a three level court system. It has a court of limited jurisdiction (County Court), a court of general jurisdiction (State District Court), which also accepts appeals from the county court on the record, and a court of last resort (State Supreme Court).

Although justice is not a concept that can always be equated with efficiency and speed, neither can it be equated with unjustifiable delays and ineffectiveness in our courts. It is hoped that the results of this study will support the theory that conscientious court organizational unification and simplification can and does overcome much of the delay which has been experienced in the processing of criminal court cases.

Hypothesis

The case for unification and simplification of lower court structures is strong. It can be said that the streamlining of lower court structures has a positive impact on the administration of justice generally and specifically on the speed with which a criminal case is processed. In this study the following null hypothesis was tested in an effort to support this theory.

Hypothesis: There has been no significant impact on criminal case processing speed as a result of the 1972 reorganization of the courts of limited jurisdiction in Douglas County, Nebraska.

In order to test the hypothesis, it was necessary to examine systematically the time required to process a criminal court case in the lower courts in Douglas County, both before and after the reorganization of the courts of limited jurisdiction in Nebraska. The following chapter will describe the method that was used to obtain the data needed to test the hypothesis.

CHAPTER III

METHOD AND PROCEDURE

Subjects of the Study

The subjects of this study were drawn from a survey population of the non-traffic statute and ordinance misdemeanor and felony court cases added to the dockets of the justice of the peace, police magistrate and county courts in Douglas County, Nebraska, for each month in calendar year 1972 and disposed of within the same year. Also included were court cases falling within the same categories which were added to the docket of the county court in Douglas County in calendar year 1973 and disposed of within the same year. Since the Nebraska court reorganization was responsible for the elimination of the justice of the peace and police magistrate courts and the merger of their functions with the county court, only county court records were examined for 1973, the year following the date (1-4-73) the reorganization became effective.

Measurement

This study involved the use of the Interrupted Time-Series research design as described by Campbell and Stanley (1966).

The Interrupted Time-Series design is a quasi-experimental design for studying the effect of a given "treatment," i.e., the Nebraska court reorganization, on a

variable, i.e., the speed with which a criminal court case is processed, that is repeatedly measured over a period of time before and after the application of the treatment. Like all quasi-experimental techniques, the time-series design is a substitute for an unfeasible true experiment. Since the true experiment requires randomized assignment of subjects to experimental and control groups and since true experiments can seldom be performed in the law because legal or practical considerations prevent the necessary randomization, the time-series design is appropriate under these circumstances (Ross, et al, 1970:495-97).

The essence of the Interrupted Time-Series design is the extension of the typical before-and-after study to a series of observations at various times removed from the experimental treatment, both before and after. For this study the series of observations consisted of repeated measurements taken for each month in calendar years 1972 and 1973. The typical before-and-after study, on the other hand, concerns only points immediately prior and subsequent to the treatment; it is, therefore, difficult to determine if the treatment has had any significant impact on a variable.

The Interrupted Time-Series research design is subject to certain threats to validity. These include:

(1) history, (2) maturation, (3) instrumentation, (4) testing, (5) instability, and (6) regression. In analyzing the impact of the Nebraska court reorganization, an attempt will be made to rule out the aforementioned threats to validity as plausible alternative causes of a significant impact on case processing speed.

The data collected for this study included the following:

1. Court. Identified by the court from which the information was taken, i.e., police magistrate, justice of the peace or county.
2. Date of charge. Determined by the day of the year on which the charge was filed. The individual days of each year studied were assigned a number from 1 to 365. Thus, if a charge was filed on February 2, 1972, the thirty-third day of the year 1972, the date of charge was indicated numerically by the number 33.
3. Docket Number. Used to verify a particular case selected for a particular year.
4. Charge Reduction. Used to determine if the increased speed with which a criminal court case was processed was the result of an increase in charge reductions. It is possible, for example, that a reduction in the charge may have been granted by the prosecutor in exchange for a plea of guilty.
5. Date of Disposition. Determined by the day of the year on which the criminal court case was terminated, used in conjunction with the date of charge to determine the length of time required for disposition of the particular case.
6. Time (in days) from date of charge to date of disposition. Determined from items 2 and 5 above. It is the dependent variable in this study and was used to evaluate the impact of the Nebraska court reorganization on the speed with which a criminal court case was processed.

Procedure

Collection of the data for this study involved the sampling of the criminal court cases on the dockets of the justice of the peace, police magistrate and county courts in Douglas County, Nebraska, in calendar years 1972 and 1973. The sampling design for this study involved the use of the systematic sampling technique, technically referred to as a systematic sample from a random start. For example, when a list of items (e.g., entries on the court docket) is available, systematic sampling is an efficient approach (Slonim, 1960:58).

Cases are entered on the criminal court docket chronologically and are numbered consecutively. A number between 1 and 5 (2 in this case) was selected at random. The second case on each court's criminal docket in calendar years 1972 and 1973 was included in the sample along with every fifth criminal case thereafter to yield a 20% sample of the population of cases; or, alternatively, a 20% sample of the total number of non-traffic statute and ordinance violation cases added to the courts' dockets and disposed of within the same calendar year. This technique yielded a total sample of 256 court cases.

Since the court cases are entered on the docket individually and in chronological order, whether non-traffic misdemeanor or felony in nature, and since felony cases

are naturally more serious and therefore less common, both misdemeanor and felony cases were sampled separately, thus yielding a 20% sample ratio in each category.

In order to collect the data, arrangements were made with the Clerk of the County Court in Douglas County, Nebraska, for access to the criminal court dockets and other pertinent court records. Generally, access to the records of all courts involved was not difficult because the records of the justice of the peace and police magistrate courts, as well as the Douglas County Court, have been on file with the County Court since the reorganization became effective. However, due to the sensitive personal nature of the information contained in these records, individual criminal court cases selected for the sample were identified only by the court, year, and docket number. Thus, each defendant's anonymity and right to privacy was maintained.

CHAPTER IV

FINDINGS

Through this study, an attempt was made to determine the impact of court reorganization in Douglas County, Nebraska, on criminal case processing speed. The hypothesis stated that the 1972 reorganization of the courts of limited jurisdiction (lower courts) in Douglas County, Nebraska, has had no significant impact on criminal case processing speed. An analysis of the data tends to support the theory that simplification and unification of lower court structures may have an impact on criminal case processing speed, at least in Douglas County, by reducing the average number of days required to process a criminal court case in the lower courts. This chapter will be devoted to an explanation of this finding through the presentation, description and interpretation of the data collected.

Criminal court cases sampled for this study were segregated according to the month and year in which they were initiated. As mentioned in Chapter III of this thesis, the date on which the criminal case was initiated (date of charge) or terminated (date of disposition) was cited as a particular day of the year (1-365) rather than as a specific date in order to facilitate analysis of the time (in days) required to process a criminal case in the lower courts of Douglas County, Nebraska.

The day of the year, as indicated by a designated numerical figure, on which the criminal case was initiated (date of charge) was subtracted from the day of the year on which disposition took place to yield the specific number of days required for the processing of that court case. Subsequently, the average number of days required for the processing of all criminal cases within a given month of the year was determined. The results of this analysis are presented in Figure 1. It plots the average time (in days) required to process a criminal case in the justice of the peace, police magistrate and county courts in Douglas County, Nebraska, for each month in calendar year 1972, and in the county court for each month in calendar year 1973.

The method through which the evidence is presented in Figure 1 is referred to as a quasi-experiment, the Interrupted Time-Series, because there is a pretest (the 1972 figures), an "experimental treatment" (the Nebraska court reorganization), and a posttest (the 1973 figures). The "causal" variable or "experimental treatment" is examined as an event or change occurring at a single point in time. The dependent variable (criminal court case processing speed) is measured repeatedly over an extended period of time before the application of the treatment.

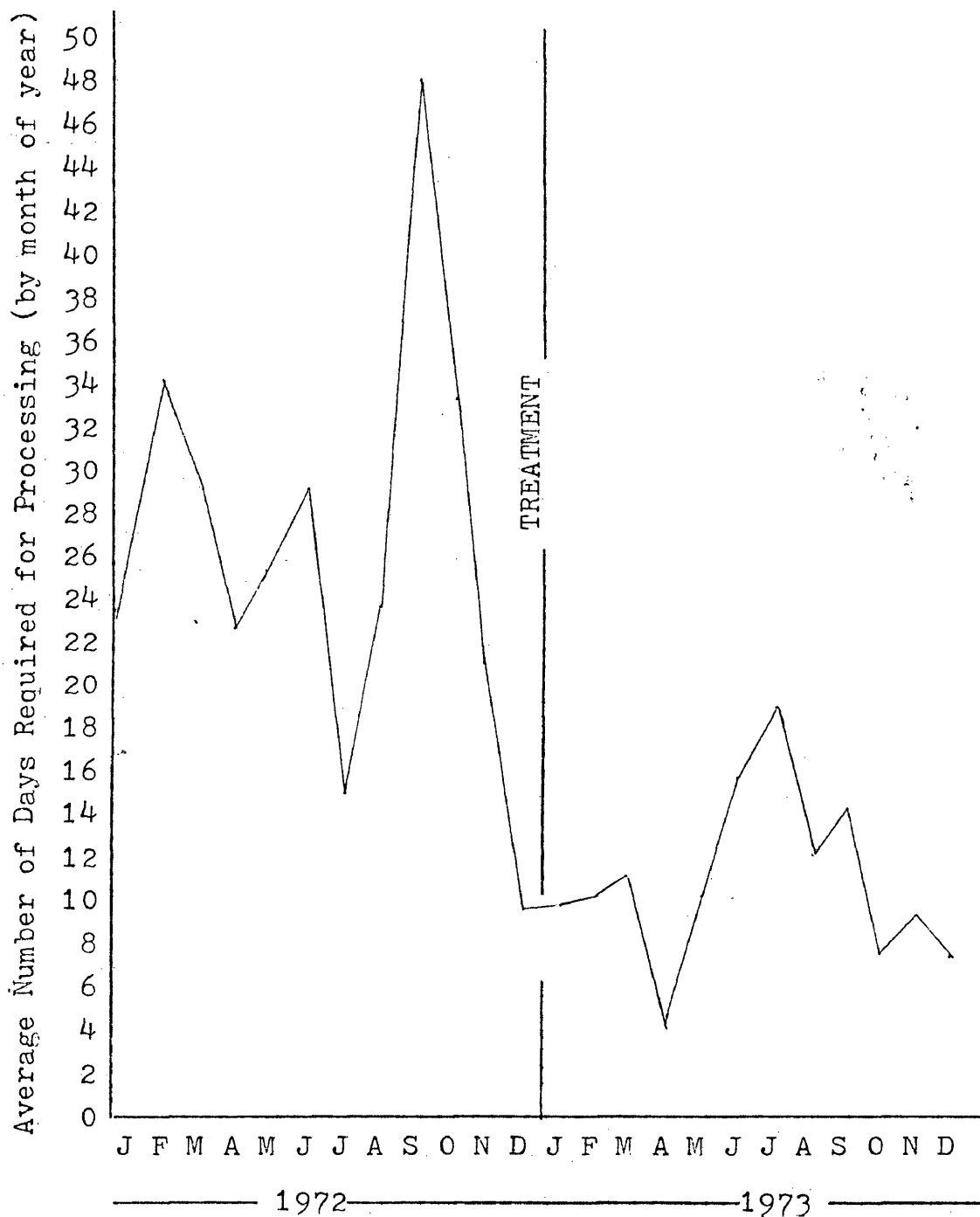


FIGURE 1. Graphic Analysis of Time-Series Data of Time Required to Process Criminal Cases in Courts of Limited Jurisdiction in Douglas County, Nebraska.

These measurements are subsequently compared to measurements taken in an identical manner for an extended period of time after the application of the treatment.

The comparison of the 1972 measurements to the 1973 measurements (See Figure 1) indicates that a substantial change in the average number of days required for criminal court case processing took place between the years 1972 and 1973. One would like to ascribe the noted change to the "experimental treatment." In quasi-experimental analysis this interpretation is held to be legitimate, provided consideration is given to plausible rival explanations for the differences (Campbell, 1968:33-53). These rival explanations include the six common threats to validity in such experiments. They are history, instrumentation, maturation, testing, instability and regression. Each of these threats to validity will be considered before reference is made to some specific reasons why the reorganization of the lower courts in Douglas County may or may not have had a significant impact on criminal case processing speed.

History

It is possible that an event (or events), other than the experimental treatment, occurred simultaneously with it. This event could, therefore, be held to account, wholly or partially, for the increase in case processing speed. This threat to validity in the quasi-experiment

is referred to as "history." It is possible, for example, that one or more judges were added to the Douglas County Court bench in anticipation of an increase in judicial workload resulting from the reorganization. In light of the merger of the functions of the justice of the peace and the police magistrate courts with that of the county court, the selection of additional judges to sit on the county court bench would be justified. Furthermore, the addition of a judge or judges to the county court could result in a more evenly distributed judicial workload, more effective use of judge-time and an increase in overall criminal case processing speed. However, no new judges were added to the bench of the Douglas County Court during the period under study. Therefore, "history," as a possible threat to validity, is of little significance.

Instrumentation

As a part of the 1972 Nebraska court reorganization effort, a modification could have occurred in the Douglas County Court's administrative processes. This change in administrative procedure could hold explanatory power for the decrease in the time required to process a criminal court case. However, no change in standard county court administrative processes (or instrumentation), including case scheduling and record keeping, took place simultaneously with the reorganization. Therefore, a change in

the extrajudicial business affairs of the county court may be ruled out as a rival explanation for a change in lower court case processing speed in Douglas County between 1972 and 1973.

The noted increase in the time required to process a criminal court case could also be attributed to an increase in the frequency of charge reductions associated with such unofficial actions as plea bargaining. However, as indicated in Table I, a charge reduction was effected in only 2% of the cases surveyed. The frequency of charge reductions, as indicated by this survey, was therefore minimal and not sufficient for a reliable test of its impact on criminal case processing speed.

TABLE I

Analysis of the Frequency
of Charge Reduction

N= 256

| Category | Absolute Frequency | Relative Frequency | Cumulative Frequency |
|---------------------|-----------------------|-----------------------|-------------------------|
| Charge Reduction | 5 | 2.0% | 2.0% |
| No Charge Reduction | <u>251</u> | <u>98.0%</u> | <u>100.0%</u> |
| Total | 256 | 100.0% | |

Maturation

"Maturation" is another threat to the validity of the results of this study. It is distinguished from the threat

of "history" in that it refers to a long-term trend that may account for the noted change rather than a specific event. In other words, the noted reduction (See Figure 1) in the average number of days required to process a criminal court case may have been the result of a long-term trend toward reducing delay in the courts of limited jurisdiction in Douglas County, Nebraska.³ The data, as presented in Figure 1, could support this contention. For example, a visual inspection of the data reveals that, except for a very sharp decrease in criminal case processing speed for September 1972, a gradual trend toward reducing court delay may have existed during the period under study. This long-term trend could, therefore, account for the reduction in time required, between 1972 and 1973, for the processing of criminal court cases.

However, it is also apparent that between September and December 1972, the courts under study experienced a very sharp reduction in the time required for criminal case processing. Although no official explanation is available for the strong downward trend during this period, it is possible that it was the result of a premature impact of the reorganization. It is possible, for

³This long-term trend could have been the direct result of a conscientious effort on the part of those involved in the judicial process to reduce case congestion in the lower courts.

example, that it was the result of a premature shifting of the responsibility for the judicial workload of the justice of the peace and police magistrate courts to the county court, made in anticipation of the official effective date (1-4-73) of the Nebraska court reorganization, and carried out in order to promote a smooth transition. Therefore, considering the possibility of a premature impact, one could assume that, in addition to the effect of the long-term trend, the reorganization may have had an impact, although premature, on criminal case processing speed.⁴

Testing

In regard to "testing" as a potential threat to validity, a change could have occurred as the result of the impact of the pretest itself. For example, the measurement and subsequent publicizing in 1972 of the time required for the processing of a criminal case in the lower courts of Douglas County could have encouraged the lower courts to "speed up" their dispositions or, alter-

⁴In order to demonstrate, through the use of the Interrupted Time-Series design, that the reorganization had a definite impact on criminal case processing speed, the results of the study must show a significant reduction in time required for case processing shortly after the application of the treatment (reorganization).

natively, prompted the state legislature to act immediately to reduce congestion in the courts by enacting legislation to reorganize the courts of limited jurisdiction. However, there is no indication that any study was undertaken in 1972 or before for the purpose of determining the nature and extent of criminal case processing speed in the courts of limited jurisdiction in the State of Nebraska. Therefore, it is unlikely that "testing," as a threat to validity in the quasi-experiment, is of any significance here.

Two other rival explanations, or threats to validity, for the noted change in case processing speed must be considered. They are instability and regression.

Instability

The change may be due to the "instability" of the measures involved. The graphic presentation of the data (Figure 1) provides evidence of the general instability in the average number of days required to process criminal cases in the courts of limited jurisdiction in Douglas County, against which the posttest months may be compared. Notice should be given to the relative magnitude of the shifts in the average number of days required for case processing as well as in the actual averages themselves. A comparison of the 1972 and 1973 figures demonstrates that the magnitude of the shifts as well as the actual averages are not as great in 1973 as in 1972. Therefore, the nature of the instability makes the impact (reduction

in time required for case processing) of the treatment (reorganization of the lower courts) look more plausible as an explanation of the treatment effect than the instability itself.

Regression

With respect to "regression" as a threat to validity, consideration must be given to the fact that where a group, such as the courts, is selected to receive treatment because of the extreme performance on the pretest (See, e.g., the month of September 1972 in Figure 1), it follows that on the average the posttest measurements will be less extreme than the pretest. However, in the case of the Nebraska court reorganization, the legislation was proposed long before this extreme variation in criminal case processing speed could have been anticipated. In other words, the reorganization was not a reaction to a particular peak crisis. Therefore, regression too may be ruled out as a rival explanation for the change in the average time required for criminal case processing.

Impact of the Nebraska Court Reorganization

The President's Crime Commission (1967), as well as various experts on the subject of the United States judicial process, have indicated that the problem of court delay can best be solved by reorganizing state lower

court systems. Such reorganization may have a positive impact on case processing speed because it provides for a unified system and centralized administration. The Nebraska court reorganization fulfills both of these requirements.

Merger of the justice of the peace and police magistrate courts in Nebraska into a newly reorganized county court system effectively abolished more than 200 courts, thus eliminating much of the duplication of effort and financial burden often associated with a multiplicity of courts. The reorganization simplified and streamlined the judicial process, made possible the efficient and rapid communication of changes in criminal law, and allowed the judicial system to concentrate its resources (probation, defense, prosecution, judge-time, etc.) in a few courts of limited jurisdiction rather than many. The Nebraska court reorganization made provisions for a centralized court of limited jurisdiction. Thus, it provided for a centralized location for professional and continuous gathering and assessment of up-to-date information and statistics for scheduling and monitoring of cases and budgeting. It also centralized extrajudicial business affairs of the court, such as hiring, training and supervision of non-judicial personnel, as well as ordering and inventory of supplies and maintenance of

equipment and facilities. In addition, the reorganization provided for the maintenance of accurate records which could be used to develop career data on criminal offenders.

The reorganization also resulted in a centralized, rather than decentralized, judicial system which, because of its centralized nature, made possible realistic decisions on the deployment of judicial manpower as well as effective decisions for long-term planning and research.

Thus, it appears that the Nebraska court reorganization, through a process of unifying, simplifying and streamlining the judicial process in the courts of limited jurisdiction, has had an impact, at least in Douglas County, Nebraska, on the administration of criminal justice generally and specifically on criminal case processing speed.

Summary of Findings

The results of this study revealed the following:

1. The analysis of the data tends to support the theory that the Nebraska court reorganization may have had an impact, although premature, on criminal case processing speed in the courts of limited jurisdiction in Douglas County, Nebraska, by providing the judicial machinery through which case processing speed could be increased.

2. The reduction in the amount of time required to process a criminal case is not likely to be due to any simultaneous events other than the experimental treatment (the court reorganization).
3. The apparent reduction in the time required for the processing of a criminal case may have been the result of a general long-term trend.
4. The measured change is not due to a change in the record keeping procedures of the lower courts in Douglas County, Nebraska.
5. The change was not stimulated by the pretest (the month to month measurement of the time required for case processing in 1972).
6. The apparent reduction in the time required for the processing of a case is not the result of mere chance or random variation.
7. Regression is not apparent; that is, the pretest group (the lower courts) was not selected because it was extreme on the measure of the time required for the processing of a criminal court case.

CHAPTER V

DISCUSSION

It has been determined that ninety percent of the nation's criminal cases are heard in the lower courts. Much of the delay encountered in the processing of criminal cases is also found in these courts. The purpose of this study was to attempt to determine the impact the 1972 Nebraska reorganization of the lower courts (courts of limited jurisdiction) has had on the speed with which a criminal case is processed in the lower courts in Douglas County, Nebraska.

This study compared the average month-to-month case processing speed of the lower courts in Douglas County, Nebraska, in 1972, the year before the reorganization, or treatment, became effective, to the same month-to-month averages in 1973, the year after the reorganization became effective. The study, after giving careful consideration to plausible alternative causes or threats to validity, has revealed that the reorganization of the lower courts in Nebraska may have had an impact on criminal case processing speed in the lower courts in Douglas County, Nebraska.

Methodologically, it has been shown that the Interrupted Time-Series design can be an effective research tool for the social scientist, especially in studying

the effects of legal reform. The student of society is not necessarily required to use an experimental control to assess the impact of a change (Ross, et al, 1970:507). The resulting knowledge may be imperfect but the imperfection applies, even if to a lesser degree, to the social scientist who attempts to generalize findings beyond the best controlled laboratory experiments. As long as one considers and accounts for the limitations of this type of quasi-experiment, the technique may prove invaluable to the social scientist generally and specifically to those involved in research in the field of Criminal Justice.

Substantively, it has been shown that constructive reform of court organizational structure can and does tend to overcome much of the waste, confusion and duplication of effort in the courts which often contributes to unnecessary delay in the processing of criminal cases. Evidence now exists which tends to show that the elimination of the justice of the peace and police magistrate courts in Nebraska and the merger of their functions with the expanded jurisdiction of the county court has produced, at least in Douglas County, the results for which it was intended, that is, the swift and efficient handling of criminal cases in the lower courts. Although direct generalization is not possible, no reason can be

seen why such action would not have a similarly beneficial impact on the administration of the judicial process in other parts of Nebraska or in the United States as a whole.

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