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## SOME ASPECTS OF THE CRIMINAL COURT PROCESS IN NORTH CAROLINA\*

ROBERT G. LEHNEN† AND J. OLIVER WILLIAMS\*\*

“There was a society of men among us, bred up from their youth in the art of proving by words multiplied for the purpose, that white is black, and black is white . . . .”

Jonathan Swift, *Gulliver's Travels* (speaking about lawyers).

“The words *figure* and *fiction* both derive from the same Latin root, *figere*. Beware!”

M. J. Moroney, *Facts from Figures*

Men who use words and men who use numbers share a common bond of adversity—in the eyes of the nonpractitioner, each resorts to the subtleties of his particular medium to make truth out of falsehood. Using numbers to speak about complex legal processes then would appear to combine the worst of both approaches. We take the opposing point of view; and we hope to demonstrate in this article that systematic statistical reporting of court processes can provide an important overview of basic trends in the criminal justice process, an overview that is free from the unique factors associated with an individual case having a particular judge, set of facts, prosecuting attorney, and defendant. The general approach taken herein is that of the social scientist; the stress on the particulars, that of the lawyer. Together these approaches can tell us about the nature of court policy-making and its implications for the citizens of North Carolina.

### *Courts as Policy-makers*

The view that appellate courts such as the United States Supreme Court and state supreme courts use their personal, as opposed to legal,

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authority to make choices about who "wins" and who "loses" a case is not new. Legal considerations such as precedent and proper legal argument notwithstanding, certain behavioral characteristics such as a judge's personal values, the relative power of contending parties, the expertise of counsel, and the social characteristics of defendants and plaintiffs are regularly analyzed in social science journals and law reviews to determine their influence on the outcome of cases.<sup>1</sup> What is new for this behavioral perspective is the emphasis on the role of trial courts. In these courts the sensational case is the exception, and the sheer volume of citizens coming into contact with judicial agencies is an important fact. In North Carolina, a state of slightly over five million inhabitants, an estimated nine hundred thousand criminal actions were processed by the trial courts during 1969.<sup>2</sup> These figures indicate roughly that one citizen in five had some contact with a trial court in 1969. When, in addition, one considers the breadth of the entire criminal justice process, which includes activities by agencies concerned with detection of crime and enforcement of criminal laws as well as with rehabilitation and correction of criminals, the total impact on the citizens of North Carolina is impressive.

The trial courts<sup>3</sup> then must be considered in the broadest terms possible as a part of a process in which they may have little discretion over the types of cases coming before them, but by exercising their discretion in the disposition of these cases, their decisions have important implications for other elements in the process. Needless to say, the impact on the lives of individual citizens should not be ignored. Given the nature of the data available for this report, however, we shall concentrate on only two aspects of the criminal justice system. The first is the distribution within trial courts of different *types* of criminal cases. Statistics concerning the types of cases before the courts will reveal the composition of the basic work load they encounter and suggest causes, such as the role of enforcement policies or socio-economic conditions, that shape the work load. The

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<sup>1</sup> Two bibliographies dealing with literature in the area are Grossman, Jacob & Ladinsky, *Law and Society: A Selected Bibliography*, 2 LAW & SOC'Y REV. 291-339 (1968), and Schubert, *Behavioral Research in Public Law*, 57 AM. POL. SCI. REV. 433-45 (1963).

<sup>2</sup> The estimate is based on approximately three hundred thousand reported cases docketed by clerks of court in the eighty-three counties operating under the General Court of Justice during the first four months of 1969. This figure includes cases coming before magistrates and district and superior courts. Juvenile cases are excluded. See THE COMMITTEE ON LAW AND ORDER, *THE DISTRIBUTION, DETECTION, AND DISPOSITION OF CRIMINAL CASES IN NORTH CAROLINA* 42 (1969), for further details.

<sup>3</sup> The term "trial courts" refers to courts of first instance and their officials.

second aspect on which we will concentrate is the disposition of the cases. Facts relating to case disposition will suggest the general impact of the court system on citizens as well as on agencies in the criminal justice process concerned with correction and rehabilitation.

### *The Study of the General Court of Justice*

In 1968, the Omnibus Crime Control and Safe Streets Act<sup>4</sup> provided for joint action programs between federal and state governments for improving the criminal justice system. In response to this act, the Governor's Committee on Law and Order was designated to conduct studies and dispense program funds to appropriate state and local governmental agencies.<sup>5</sup> During the summer of 1969, the Committee undertook a study of North Carolina's General Court of Justice to determine the trial courts' basic criminal case load under the new court system.<sup>6</sup> At that time twenty-two counties had been operating under the unified court system since December, 1966, and an additional sixty-one counties had come under the system in December, 1968. The study involved a sample of cases<sup>7</sup> derived from court records by random selection of docket numbers.<sup>8</sup> The sampling procedure was such that each criminal docket number within the county files for the time period specified had an equal chance of being selected and of having all information contained in the file recorded for analysis. About 116 pieces of information were regularly reported in the case files—including such basic information as date of violation and arrest, original charge, final charge, plea, verdict, sentence, arresting officer, and judge hearing the case.

Because of the mathematical theory that underlies the sampling procedure, one can make statements about the statistical findings of the sort,

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<sup>4</sup> Act of June 19, 1968, Pub. L. No. 90-351, §§ 5315-16, 7313, 82 Stat. 197; Act of Aug. 8, 1968, Pub. L. No. 90-462, § 1, 82 Stat. 638; Act of Oct. 22, 1968, Pub. L. No. 90-618, tit. III, 82 Stat. 1236 (codified in scattered sections of 5, 18, 28, 42, 47 U.S.C.).

<sup>5</sup> This committee was established by Ch. 57, § 1, [1969] N.C. Sess. L. 39.

<sup>6</sup> At the time of the study, eighty-three counties operated under the system. The remaining seventeen counties came under the uniform court system in December, 1970. N.C. GEN. STAT. § 7A-131 (1969).

<sup>7</sup> A "case" was defined as any act resulting in the assignment of a criminal case docket number. Whenever a "complaint for arrest" is filled out by a magistrate or clerk of court, the standard procedure is to assign a criminal docket number and start a file or "shuck."

<sup>8</sup> In the twenty-two counties with longer experience under the new system, the docket numbers used from January 1, 1967 to April 30, 1969, were sampled; in the remaining sixty-one counties, the docket numbers from January 1, 1969 to April 30, 1969, were sampled.

"I am ninety-five per cent confident that, allowing for an error of plus or minus four per cent, the true proportion of a given type of case in the county, say traffic violations, is what I have observed." The error range for the estimated proportions of cases is the result of sampling error. In practical terms, sampling error is the "cost" one pays for studying only part of the thousands of cases in the files. Because the cases under study were selected by simple random sampling procedures, one can say how certain he is about being correct and state a mathematically determined range of error for his estimate.

### *Observations about Court Records*

The experience of the research staff and field representatives during the summer project provided a basis for several important observations about court record-keeping that must be considered before examining the data derived from those records since the manner of record-keeping obviously is reflected in the data. During the project, each field worker went to the appropriate clerk of court with a list of approximately five hundred docket numbers to be used to locate case files and to record information contained in the files. On the whole, there was little difficulty in finding particular cases. In those counties where some minor difficulties developed, special and temporary circumstances contributed to the problems encountered. Many clerks of court, however, expressed feelings that their physical surroundings were too limited, the volume of cases too great, or their staff too small to adequately carry out their functions.

Among the case files examined, the regularity with which each piece of information was reported varied greatly. The researchers attempted to record the same piece of information for each case. What information the researchers sought from the records was based on a preliminary study of court record-keeping to determine what common documents could be found in each file. For nontraffic cases, for example, a "complaint for arrest" form was usually present; in traffic cases, a pink copy of the original ticket was available. Certain types of information could usually be found in the records; other types were rarely reported. The two extremes in reporting were the socioeconomic characteristics of the defendant and the original charges. The "complaint for arrest" form had places for recording the defendant's race, sex, occupation, and age and the original charge. Except for race, the first four pieces of information were rarely found in the records, but one could usually find a record of the original charge.

The statement in the records of the original charge posed considerable problems in coding the information. The research staff had originally drawn up a recording scheme based solely on the criminal statutes of the state, allotting a unique code for each of the possible offenses stated in the criminal statutes. This scheme immediately failed on a trial application; the field staff found crimes described in the files that had no apparent basis in the statutes or, more commonly, distinctions between crimes in the description of offenses charged that had no corresponding legal distinction. One of the most common examples was the interchangeable use of terms such as "assault," "simple assault," "assault on a female," "affray," and "simple affray." As best as could be determined, there was no commonly held standard for distinguishing "assaults" from "simple assaults" across counties.

The coding of offenses then was modified to account for the imprecise terminology found in the records. Although the standard documents called for a citing of the relevant sections of the criminal statutes, this information was rarely found in the court records. In one county, the field staff found the regular use of a writ of *scire facias*, which had been abolished by the state legislature.<sup>9</sup> Thus, although the coding of criminal offenses had originally been approached from strictly legal definitions, it was necessary to amend the description of offenses to incorporate the actual language used by court officials.

Having worked with the problems of court record-keeping, one cannot help being impressed by the magnitude of the task of data storage and usage. At least six different state agencies regularly use some part of the information collected by clerks of court. Those agencies range from such obvious users as the Administrative Office of the Courts and the State Bureau of Investigation to the Department of Social Services. Each user apparently collects only the precise information needed by it, many times depending on the clerks of court and their staffs to do the initial data tabulation. These data are then processed for the particular agency with little thought of other potential users or needs. The present system apparently results in tremendous duplication of effort, lost information, and incomplete statistical reporting, and it inhibits desirable uses of court records that would be possible if a truly retrievable system of record-keeping were available. There is a great distance between what officials would like to know about the court system and what they can determine from the present system of decentralized record-keeping. The best existing

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<sup>9</sup> N.C. GEN. STAT. § 1-514 (1969).

example of comprehensive record-keeping of criminal actions is that of the Motor Vehicles Department where a file is kept for each person with a driver's license; however, even this system has a limited purpose and use. Computerized record-keeping is technically possible. The desirability of such a system in light of its implications needs to be considered.

### *The Work Load of the Trial Courts*

The distribution of types of criminal offenses reaching the trial courts is indicative of both the business of the courts and the nature of the crime problem in North Carolina. It must be remembered, however, that arraignments—that is, offenses reaching the courts—do not represent the total crime picture. Many alleged crimes may not occur in fact; other crimes may not be known to the investigating officials; or if known, these alleged crimes may not result in an arrest. Arraignments do, however, represent alleged crimes that have a suspect and sufficient evidence to warrant the initiating of court action.

Table 1 reports, by crime categories,<sup>10</sup> the distribution of criminal arraignments in eighty-two counties<sup>11</sup> for the first four months of 1969.<sup>12</sup> From this table one observes that nearly three-quarters of all criminal cases (74.0%) involved some type of motor vehicle or traffic offense. The single largest category, accounting for one-third of all criminal cases, was speeding (31.4%), and other forms of traffic offenses accounted for another one-third of total criminal actions (36.1%). Serious traffic offenses—driving while under the influence of intoxicants, reckless driving, and offenses involving serious property damage and/or injury—accounted for 6.5 per cent of all cases.

Although traffic offenses account for a major proportion of the criminal case load in trial courts, other nontraffic cases that involve offenses not generally considered "serious" constitute a significant proportion of the work load in those courts. "Public drunkenness" (9.9%), "Bad and Worthless Checks" (4.4%), and "Nonsupport" (1.3%) together account for more than half of all nontraffic cases in the courts. Assaults and attacks

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<sup>10</sup> The Appendix to this article lists the eleven broad crime categories and the most common offenses within each of the eleven categories. In Table 2, *infra*, all property-related crimes and all attacks on persons have been combined into two broader categories in order to simplify the analysis.

<sup>11</sup> The data from the sample in Catawba County have been excluded from the analysis in this article because of difficulties encountered in the computer processing of the original data.

<sup>12</sup> See THE COMMITTEE ON LAW AND ORDER, *supra* note 2, at 7, 10 (Tables II & III).

TABLE 1  
THE DISTRIBUTION OF CRIMINAL ARRAIGNMENTS IN EIGHTY-TWO  
NORTH CAROLINA COUNTIES  
(Docketed, January to April, 1969)

OFFENSE CHARGED	PERCENTAGE OF TOTAL CASES <sup>13</sup>
<b>Nontraffic</b>	
Public Drunkenness .....	9.9%
Bad or Worthless Checks.....	4.4
Nonsupport.....	1.3
Major Attacks on Persons.....	1.1
Minor Attacks on Persons.....	2.5
Major Property.....	.4
Minor Property.....	2.4
Miscellaneous.....	4.1
	26.1%
<b>Traffic</b>	
Major Traffic (DUI, Reckless, Collision).....	6.5%
Speeding.....	31.4
Other Traffic.....	36.1
	74.0%

on persons constitute only about three per cent of arraignments. Property offenses, including larcenies and burglary, account for two per cent of total arraignments. Although almost everyone has his own definition of serious crime and what constitutes a "crime in the streets" problem, by even the most elastic definition, the proportion of serious crimes being processed in the state's lower court system represents only a small amount of the total volume of the court's business.

### *A Comparison of County Crime Profiles*

In a previous report by the Governor's Committee on Law and Order based on the summer project, it was established that the volume of a county's criminal cases, when viewed as a whole, is directly related to the size of the population in the county.<sup>14</sup> The results of the project showed that Mecklenburg and Guilford counties, two of the state's more populous counties, had the largest proportion of total criminal cases in the state.<sup>15</sup> When cases in the more populous counties are compared with

<sup>13</sup> The percentages in the table are based on the total sample of cases studied. The sum of the percentages is not precisely one hundred because of rounding error.

<sup>14</sup> THE COMMITTEE ON LAW AND ORDER, *supra* note 2, at 14-15.

<sup>15</sup> *Id.* at 16-17, Table V.



those in the less populous ones, it was shown that the total number of criminal cases within more populous counties increase at a faster *rate* than population.<sup>16</sup> But while an increase in the total number of criminal actions may follow population growth, the distribution of *types* of criminal actions within a county may not consistently follow such a pattern of increase.

Overall arraignments may conceal significant deviations of specific types of crime within counties. Urban counties, for example, may be prone to a particular type of crime not found in rural counties. Border counties or counties with large numbers of transients may have different crime problems than those counties without these characteristics.

In order to examine the effects of population size on the incidence of specific types of criminal cases within counties, we have developed a Crime Ratio based on the proportion of criminal cases (C) to the proportion of population (P) within each of seventy-nine counties for nine broad categories of crime.<sup>17</sup> As reported in Table 2, the Ratio (C/P) allows one to judge whether a county may have an unusually high or low proportion of a given criminal case considering its population. Thus, the ratio of 2.5 for cases involving speeding offenses in Guilford county means that during the period of this project, Guilford courts processed two and one-half times more speeding cases than might be expected based on its proportion of population. A ratio of 1.0 means that a county had exactly the proportion of cases that might be expected from its population size. By reading down the columns (type of crime), one may find which counties were high and low for that crime. The ratios of counties holding or tied for the top eight positions for each crime category (top 10%) are printed in bold face in Table 2. In order to facilitate the comparison of Crime Ratios based on total numbers of criminal cases with those based on types of criminal cases, the counties listed in the table are arranged in

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<sup>16</sup> *Id.*

<sup>17</sup> The ratio is defined as follows:

C = the proportion of a given type of criminal case occurring within a county, the proportion being derived by comparing the *number* of such cases within a county to the *total number* of such cases in seventy-nine counties surveyed.

P = the proportion of population residing within a county, the proportion being derived by comparing the size of the population within a county to the size of the population for all seventy-nine counties surveyed.

Crime Ratio =  $C/P$ .

All proportions are based on population and crime data for seventy-nine counties. Camden, Tyrrell, and Yancey Counties were excluded in Table 2 because their small sample sizes did not justify the computation of Crime Ratios.

TABLE 2  
ARRAIGNMENTS IN SEVENTY-NINE NORTH CAROLINA COUNTIES BY NINE CATEGORIES OF CRIME  
(Docketed, January to April, 1969)

COUNTY	TOTAL ARRAIGNMENTS	PUBLIC DRUNKENNESS	BAD/WORTH- LESS CHECKS	NON- SUPPORT	ATTACKS ON PERSONS	PROPERTY OFFENSES	MISCEL- LANEOUS	MAJOR TRAFFIC	SPEEDING	OTHER TRAFFIC
Guilford	2.3	1.6	0.8	1.3	1.0	0.9	1.5	2.8	2.5	2.4
Wake	1.5	1.6	1.3	*	0.7	1.2	1.2	0.5	1.5	1.8
Lee	1.4	2.4	2.7	2.0	2.7	1.7	1.7	1.0	1.1	1.1
Mecklenburg	1.4	1.6	0.4	2.5	1.0	1.0	1.1	0.8	1.4	1.7
Duplin	1.3	1.3	2.7	1.2	0.7	0.6	0.8	1.7	1.8	0.8
Lincoln	1.3	1.3	0.6	1.0	0.8	1.4	1.5	1.1	1.8	0.8
Bladen	1.1	0.9	2.3	1.7	1.4	0.7	1.9	1.1	1.6	0.6
Cleveland	1.1	1.4	0.9	0.9	1.7	1.6	1.6	1.3	1.1	0.8
Durham	1.1	0.9	1.2	*	1.5	1.2	2.4	0.8	0.7	1.3
New Hanover	1.1	1.7	0.6	1.5	1.3	1.5	1.2	1.9	0.8	1.1
Alamance	1.0	1.1	1.1	1.7	2.1	1.2	0.6	1.2	1.1	0.8
Brunswick	1.0	0.4	2.0	0.4	0.6	0.8	1.0	0.8	1.2	0.8
Clay	1.0	*	*	*	1.0	1.0	1.0	1.0	1.0	1.0
Dare	1.0	*	*	*	*	*	*	1.0	1.0	1.0
Edgecombe	1.0	*	*	*	0.2	*	*	1.1	1.1	1.6
Forsythe	1.0	0.8	0.9	1.4	1.5	1.7	0.8	0.9	0.8	1.2
Gaston	1.0	1.5	0.7	2.0	2.2	2.1	1.6	0.3	0.7	0.9
Harnett	1.0	1.4	2.1	0.3	1.1	1.6	0.7	0.9	0.9	0.8
Hyde	1.0	*	*	*	1.0	*	8.0	*	1.0	1.0
Sampson	1.0	*	*	*	*	*	*	1.4	1.1	1.7
Swain	1.0	5.0	5.0	*	0.5	0.5	1.0	1.0	*	*
Carteret	0.9	0.5	1.4	0.8	1.8	1.1	1.4	1.1	1.1	0.4
Halifax	0.9	1.7	0.8	0.9	1.5	1.5	0.5	0.7	1.0	0.5
Haywood	0.9	1.6	1.8	0.8	0.8	1.0	1.2	0.7	0.8	0.6
Martin	0.9	0.6	2.7	0.6	0.6	0.4	0.6	1.0	1.0	0.6

COUNTY	TOTAL ARRAIGNMENTS	PUBLIC DRUNKENNESS	BAD/WORTH- LESS CHECKS	NON- SUPPORT	ATTACKS ON PERSONS	PROPERTY OFFENSES	MISCEL- LANEOUS	MAJOR TRAFFIC	SPEEDING	OTHER TRAFFIC
Moore	0.9	*	0.1	0.3	*	0.4	0.2	0.9	0.8	1.4
Pitt	0.9	1.1	2.7	1.1	1.1	0.4	1.1	1.6	1.0	0.6
Robeson	0.9	1.0	2.7	0.8	1.8	1.2	1.6	1.8	0.8	0.6
Scotland	0.9	0.9	1.1	*	1.4	0.7	2.3	2.0	0.9	2.3
Anson	0.8	1.3	1.7	1.0	2.0	1.3	1.2	0.7	0.3	0.7
Beaufort	0.8	0.4	1.9	0.3	0.4	0.8	1.0	0.7	0.6	0.8
Caldwell	0.8	0.8	*	*	1.1	*	0.4	0.4	0.8	1.1
Cherokee	0.8	1.0	*	*	*	*	0.5	0.5	0.8	0.8
Columbus	0.8	1.2	2.8	1.0	0.7	1.2	0.6	0.8	0.8	0.5
Cumberland	0.8	0.6	0.8	1.4	0.3	1.0	0.7	0.8	0.7	0.9
Granville	0.8	0.6	1.0	0.6	1.3	0.8	1.1	0.8	0.9	0.7
Greene	0.8	0.8	1.0	2.5	0.5	1.0	1.3	0.8	0.8	0.8
Hoke	0.8	0.8	3.3	0.8	3.3	1.5	1.0	0.8	0.5	0.3
Jackson	0.8	2.3	0.3	1.3	*	1.0	1.3	1.3	0.5	0.5
Johnston	0.8	1.0	1.3	0.5	0.3	0.6	0.3	0.6	0.9	0.8
Lenoir	0.8	1.1	1.3	0.6	0.3	0.7	0.3	1.5	0.6	0.8
Onslow	0.8	0.7	1.3	1.1	0.7	1.0	1.2	1.3	1.0	0.5
Orange	0.8	0.5	0.7	0.8	1.5	1.1	1.6	1.3	0.8	0.7
Pender	0.8	0.2	0.4	1.0	0.6	1.0	1.8	0.8	1.2	1.0
Vance	0.8	0.6	0.8	1.5	1.1	0.5	0.5	0.8	0.8	0.6
Avery	0.7	*	*	*	0.3	*	*	0.3	0.7	1.3
Bertie	0.7	0.3	1.7	0.2	0.8	0.7	0.7	0.5	0.8	0.5
Burke	0.7	1.4	0.2	*	0.5	0.6	1.8	1.0	0.5	0.5
Chatham	0.7	0.4	0.6	1.1	1.3	0.9	0.9	0.6	0.9	0.6
Chowan	0.7	*	*	*	*	*	*	0.3	1.3	1.0
Henderson	0.7	0.9	0.3	0.6	1.4	1.2	0.5	1.1	0.7	0.6
Hertford	0.7	0.3	1.2	0.5	1.3	1.0	1.0	0.5	0.8	0.5
Jones	0.7	0.3	1.0	0.3	1.0	0.3	1.3	0.7	0.7	0.3
McDowell	0.7	1.3	0.3	3.1	0.9	0.1	1.4	0.6	0.7	0.6
Mitchell	0.7	*	*	*	*	*	*	0.3	0.7	1.3

COUNTY	TOTAL ARRAIGNMENTS	PUBLIC DRUNKENNESS	BAD/WORTH- LESS CHECKS	NON- SUPPORT	ATTACKS ON PERSONS	PROPERTY OFFENSES	MISCEL- LANEOUS	MAJOR TRAFFIC	SPENDING	OTHER TRAFFIC
Northampton	0.7	0.5	1.5	1.7	1.3	0.7	0.7	0.8	0.7	0.7
Richmond	0.7	0.8	1.1	1.3	1.8	1.5	0.8	0.5	0.7	0.3
Rutherford	0.7	2.1	0.3	0.8	0.8	0.6	0.5	0.7	0.4	0.4
Union	0.7	0.8	0.6	0.9	1.1	0.7	0.3	0.9	0.8	0.5
Wilson	0.7	0.4	1.5	1.3	0.9	0.9	0.7	1.3	0.6	0.5
Craven	0.6	0.3	0.8	0.5	1.1	0.8	1.5	0.9	0.6	0.5
Nash	0.6	0.6	1.3	0.6	0.4	0.9	0.5	0.5	0.6	0.6
Warren	0.6	0.6	0.4	0.2	0.6	1.4	0.8	0.6	0.4	0.4
Franklin	0.6	0.7	0.7	0.3	0.6	0.7	0.4	0.3	0.7	0.6
Watauga	0.6	0.6	0.6	0.6	0.4	0.4	0.2	0.2	0.4	0.8
Wayne	0.6	0.7	1.3	0.4	0.6	0.9	0.4	0.7	0.6	0.5
Currituck	0.5	0.5	*	0.5	0.5	*	1.0	0.5	1.0	*
Gates	0.5	*	0.5	1.0	0.5	0.5	1.0	*	1.0	*
Graham	0.5	0.5	*	0.5	0.5	0.5	1.0	*	*	0.5
Pamlico	0.5	*	*	*	*	*	*	0.5	0.5	1.0
Perquimans	0.5	0.5	*	*	2.0	*	0.5	0.5	1.0	0.5
Stanly	0.5	0.5	1.2	1.6	0.8	1.2	1.1	0.6	0.4	0.4
Washington	0.5	0.3	1.0	1.5	1.0	1.0	1.0	0.3	0.5	0.5
Pasquotank	0.4	*	0.2	2.0	0.4	2.3	0.3	1.0	0.4	0.5
Person	0.4	0.9	0.3	0.7	0.7	1.1	0.7	1.0	0.3	0.4
Transylvania	0.4	0.6	0.4	0.4	0.4	1.8	1.0	0.4	0.2	0.4
Macon	0.3	0.3	*	*	*	0.3	0.3	0.5	0.5	0.3
Madison	0.3	0.3	*	0.3	0.8	0.5	1.3	0.3	*	0.5
Polk	0.3	1.0	*	0.7	0.7	*	0.3	0.7	*	0.3

\*indicates that the sample size was too small to justify analysis.

descending order based on Crime Ratios for the total number of criminal cases.

The Crime Ratios for four of the first five counties—Guilford, Wake, Mecklenburg, and Duplin—show a definite pattern of a high incidence of traffic cases. These four counties in particular are in the top ten per cent for at least two of the three categories of traffic offenses. Duplin, for example, is in the top ten per cent for "Speeding" and "Major Traffic" cases; Wake is high on "Speeding" and "Other Traffic" offenses. Another factor contributing to the high ratio observed in three of these four counties is the high ratio of "Public Drunkenness" cases. Since traffic offenses and public drunkenness are the most common forms of crime dealt with by trial courts in the state, it is clear that the high overall ratio attributed to these four counties is primarily the result of their high ratio for these types of cases.

Traffic offenses and public drunkenness are crimes particularly correlated with enforcement policies: During this project, police officers initiated ninety-six per cent of all complaints for arrest in public drunkenness cases, whereas over ninety per cent of all complaints for arrest in assault-on-persons cases were initiated by private citizens.<sup>18</sup> Although the former types of offenses are particularly subject to observation and arrest by police officials, the latter type of crime is not. Thus, these high ratios may reflect the enforcement activity in these counties.

A second pattern emerges in counties such as Lee, Gaston, Jackson, and Richmond. These four counties rank in the top eight in cases involving both potentially serious types of crime: "Attacks on Persons" and "Property Offenses." Only one county, Gaston, may be considered urban. Another twelve counties rank in the top ten per cent either on "Attacks on Persons" or "Property Offenses." Although some counties with large urban areas are included in this list (New Hanover, Alamance, and Forsythe), the general pattern shows that high ratios for serious crimes are not limited to the more populous areas.

A third pattern pertains to the geographical location of the county. Of the top nine counties having the highest ratio of "Bad and Worthless Check" cases, three have borders adjacent to other states and two others are contiguous with these border counties. Except for Swain county, all of these counties also are located in the southern and eastern sections of North Carolina and are counties ranked low in total economic growth.

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<sup>18</sup> THE COMMITTEE ON LAW AND ORDER, *supra* note 2, at 24, table VIII.

TABLE 3  
DISPOSITION OF CRIMINAL CASES IN EIGHTY-TWO NORTH CAROLINA COUNTIES  
(Docketed, January to April, 1969)

OFFENSE	Guilty Verdicts				Not Guilty Verdicts				% Guilty† Verdicts	% Guilty** Pleas	Net %††
	G/G*	G/PJ	NG/G	NG/PJ	NG/NG	NP	Other				
Public Drunkenness	89.4%	2.9%	2.2%	.2%	.9%	3.5%	.9%		94.7%	92.3%	2.4%
Bad/Worthless Checks	87.1	2.9	1.5	.2	.7	7.4	.4		91.7	90.0	1.7
Nonsupport	38.4	4.4	21.6	2.8	9.7	17.4	5.7		67.2	42.8	24.4
Major Traffic	69.4	1.9	15.0	.5	4.8	7.3	1.1		86.8	71.3	15.5
Attacks on Persons	27.1	3.4	18.5	4.0	12.8	24.7	9.5		53.0	30.5	22.5
Property Offenses	50.9	4.0	12.3	1.4	8.4	19.9	3.3		68.6	54.9	13.7
Speeding	90.1	2.5	2.3	.3	.8	2.2	1.7		95.2	92.6	2.6
Other Traffic	75.9	4.5	2.7	.7	4.6	9.5	2.0		83.8	80.4	3.4
Miscellaneous	62.1	5.4	11.6	2.0	6.3	9.8	2.8		81.1	67.5	23.6
TOTAL	78.3%	3.4%	4.8%	.7%	3.4%	7.3%	2.1%		87.2%	81.7%	5.5%

\*The letters used are explained in the key below.† The first letter in each heading indicates the plea made by the defendant; the second, the verdict rendered by the court following the plea. ††Net % = % Guilty Verdicts minus % Guilty Pleas. This statistic represents the percentage of cases in which guilty verdicts were reached by a decision of a trial court.

KEY  
G = Guilty  
NG = Not Guilty  
PJ = Payer for Judgment  
NP = *Not Proven* (or *not pros*)  
OTHER = Special pleas and verdicts, motions to dismiss, etc.

Thus, a combination of transient populations combined with lower economic development no doubt contributes to higher ratios of "Bad and Worthless Check" cases.

It is evident from this simple analysis of county criminal-case profiles that no single factor dominates the overall crime picture. Such factors as police enforcement practices, socio-economic conditions, and the location of the county may best explain the incidence of a given type of arraignment in the courts.

### *The Disposition of Criminal Cases*

Table 3 reports the general patterns for processing arraignments in the lower state courts. Although the decisions of judge, defendant, and prosecutor all affect the final outcome of a case, one dominant fact stands out. In 87.2 per cent of all criminal cases, the defendant experiences a guilty verdict. The defendant makes a guilty plea in 81.7 per cent of the cases and is judged guilty in only 5.5 per cent. In looking at particular types of crimes, one finds that for "Speeding" and "Public Drunkenness," guilty verdicts are the result in ninety-five per cent of the cases. Most of these guilty verdicts again occur because of guilty pleas. At the other extreme, fifty-three per cent of "Attacks on Persons" have guilty verdicts.

That so many defendants plead guilty on arraignment is an important fact in itself. One wonders how many of these defendants would be convicted on the evidence and to what extent they feel they have "no chance" and take the least costly way out? How many are misinformed of their rights in court and mistakenly accept a guilty plea? While the court itself presumably has no presumption of a defendant's guilt, it is clear that the outcome of the court process results in such guilt even though such an outcome may not be justified.

What happens when defendants do not make a guilty plea? The role of the prosecutor is important, for more defendants avoid guilty verdicts by obtaining a *nol pros* than by receiving a not-guilty verdict. *Nol pros* cases account for 7.3 per cent of all cases, whereas not-guilty verdicts account for only 3.4 per cent. Thus, for all cases one is twice as likely to avoid conviction by means of the prosecutor's decision than by the court's. For each category of crime, one finds the same pattern: *nol pros* cases are more common than not-guilty verdicts.

Finally, another way of pointing out that the defendant has, in general, a very low probability of receiving a not-guilty decision from a court is to

compare the outcomes of not-guilty pleas. One finds from Table 3 that guilty verdicts are the most common outcome (4.8% of all cases); not-guilty verdicts are next (3.4% of all cases); followed by "prayers for judgment" (.7% of all cases), the equivalent of a guilty verdict. Thus, one finds that, given a not-guilty plea, the likelihood of a guilty verdict is greater than a not-guilty verdict.

The total case picture suggests that most defendants will plead guilty. Those that do not are more likely to avoid a guilty verdict by the prosecutor's decision not to prosecute the case than by a decision of the court. Individual categories of crimes, however, show interesting deviations from this pattern. Thus, while all traffic cases, "Public Drunkenness" cases, and "Bad and Worthless Check" cases show a very high rate of guilty pleas, low rates of *nol pros*, and even lower rates of not-guilty verdicts, cases involving such crime categories as "Nonsupport," "Attacks on Persons," and "Property Offenses" have a lower rate of guilty pleas and higher rates of *nol pros* and not-guilty verdicts than the average for all cases. These variations suggest that, given the general tendency for a defendant to be found guilty, the criminal justice system is somewhat flexible in dealing with different types of crime.

Clearly, the pattern of guilty pleas suggests that defendants are guided in their actions by the seriousness of the violation with which they are charged. In those cases in which fines are low and social stigma slight, defendants often plead guilty rather than bother with the time and expense of a court challenge. The behavior is especially prevalent in minor traffic violations. On the other hand, in more serious cases or in those in which opportunity for contesting evidence is great, defendants choose the route of trial.

#### *Some Additional Observations and Conclusions*

The results from the study of the General Court of Justice reported herein have important implications for a persistent problem in the application of the law—securing the interests of society while at the same time maintaining the rights of the individual. Society has an interest in protecting the collective interest with maximum efficiency in the expenditure of time, money, and energy. The individual is concerned in that he wishes to avoid needlessly experiencing the sanctions of the state. Yet there is no necessary conflict between the needs of society and the individual, for it is in the interests of society as well as the individual to secure fair and just treatment of defendants in criminal cases. A growing body of evidence



shows, however, that the sanctions of the state are, in fact, inappropriately applied to citizens through such practices and conditions as plea bargaining, disposition without trial, and delay in the court process.<sup>19</sup>

Four types of cases previously examined in this report—"Public Drunkenness," "Nonsupport," "Bad and Worthless Checks," and "Traffic"—pose special problems, apart from those we have already examined, that deserve specific attention:

(1) "Public Drunkenness" cases present as many medical and psychiatric problems as legal difficulties. Existing evidence shows that the current processing of these cases by strictly "legal" channels results in very low rates of rehabilitation.<sup>20</sup> Consideration should be given to adapting the court process to include medical and psychiatric treatment for chronic offenders.

(2) "Nonsupport" and "Bad and Worthless Check" offenses pose a different sort of problem. The President's Task Force on the Administration of Justice reports that many "Bad and Worthless Check" cases are originated as a threat of criminal prosecution in order to secure the payment of debts.<sup>21</sup> Similarly, in "Nonsupport" cases, often the sole purpose of the criminal action is not to punish the defendant but to secure support for the family.<sup>22</sup> Consideration should be given to restricting the courts in "Bad and Worthless Check" cases to arraignments where possible fraud is involved and to encouraging merchants to use existing civil procedures to collect bad debts. In "Nonsupport" cases, the criminal court processes seem unsuited for remedying the essential problem of families without adequate income. To quote the Task Force on Administration of Justice, "A social service which communities are unwilling to fund and support is imposed on criminal law enforcement agencies which are obliged to perform the service as best they can."<sup>23</sup> An expanded role for public agencies in this area of the present court business would serve not only to ease the burden of the courts but also to secure better treatment for all concerned.

(3) In "Traffic" cases, the American Bar Association has recommended that special procedures for traffic courts be set up to relieve

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<sup>19</sup> TASK FORCE ON ADMINISTRATION OF JUSTICE, THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: THE COURTS ch. 1 (1967).

<sup>20</sup> *Id.* at 99.

<sup>21</sup> *Id.* at 101.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 101-02.

congestion on court dockets.<sup>24</sup> The volume of traffic cases, especially in the more populated counties, can more than justify the adoption of special courts for traffic cases. One result of adoption of these recommendations would be that about eighty per cent of all criminal actions in the trial courts would be subject to altered court procedures. Benefits would indeed accrue to defendants in the remaining twenty per cent of cases, for the trial courts might then devote more time to the processing of more serious cases.

(4) Finally, some attention should be given to the decision process whereby a defendant is charged and ultimately tried. Although this report has not given specific evidence of irregular and haphazard procedures, the general evidence in North Carolina is similar to that reported by the President's Task Force for the nation.<sup>25</sup> The Task Force suggestions should receive serious examination in light of the existing evidence. In particular, some thought should be given to the decision process whereby defendants are charged. Furthermore, fair and visible negotiated guilty pleas should be insured.<sup>26</sup>

If North Carolinians continue to work with their court system in the present spirit of change and reform, we can be assured that a fair and efficient criminal justice system will be the end product.

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<sup>24</sup> J. ECONOMOS, *TRAFFIC COURT PROCEDURE AND ADMINISTRATION* (1961).  
See also G. WARREN, *TRAFFIC COURTS* (1942).

<sup>25</sup> TASK FORCE ON ADMINISTRATION OF JUSTICE, *supra* note 11, ch. 1.

<sup>26</sup> *Id.*

## APPENDIX

MAJOR COMPONENTS OF ELEVEN CATEGORIES OF CRIMINAL ARRAIGNMENTS  
FOUND IN TABLE 1

	% of Total Cases	
<i>Public Drunkenness</i> .....		9.9%
Public drunkenness	9.2	
Drunk and disorderly	.3	
Disorderly conduct	.3	
<i>Bad and Worthless Checks</i> .....		4.4
Worthless check	3.8	
Bad check	.5	
<i>Nonsupport</i> .....		1.3
Abandonment	1.0	
Inadequate support	.2	
Nonsupport	.1	
<i>Major Attacks on Persons</i> .....		1.1
Assault with a deadly weapon	.7	
Assault by pointing a gun	.1	
Assault with a deadly weapon with intent to kill	.1	
Rape	< .1	
Fatal violence (homicide, manslaughter)	< .1	
<i>Minor Attacks against Persons</i> .....		2.5
Assault, simple assault on female	1.3	
Assault, simple assault	.9	
Affray, simple affray	.2	
<i>Major Property</i> .....		.4
Property offense involving motor vehicles	.2	
Burglary	.1	
Forgery, fraudulent use of credit	< .1	
<i>Minor Property</i> .....		2.4
Larceny	.9	
Trespass and wrongful entry	.5	
Damage to property	.4	
Shoplifting and concealment of merchandise	.3	
<i>Miscellaneous</i> .....		4.1
Hunting and fishing violations	.6	
Possession and/or public display of alcoholic beverages	.6	
Failure to cooperate with police officers	.4	
Regulatory	.3	
Possession of concealed weapons	.3	
Using profane language	.2	
Disturbing the peace	.1	
<i>Major Traffic</i> .....		6.5
Driving while under the influence	2.5	
Reckless driving	2.4	
Collision	1.6	
<i>Speeding</i> .....		31.4
1-14 mph above the limit	21.4	
15+ mph above the limit	9.8	
<i>Other Traffic</i> .....		36.1
Passing, wrong side road, wrong way, failure to obey sign/signal, illegal parking	17.5	
Registration, license tags, inspection, insurance	9.6	
Improper equipment - lights, mirror, etc.	3.7	