REPORT ON METHODS FOR ASSESSING THE IMPACT OF DRUG CASES ON COURT CASELOADS IN NEW HAMPSHIRE
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January 1992

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This report was prepared in conjunction with the Courts Technical Assistance Project, which is conducted under a grant from the State Justice Institute to The American University. The points of view expressed do not necessarily represent the official position or policies of the State Justice Institute.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>II. DEFINITION OF A DRUG CASE</td>
<td>2</td>
</tr>
<tr>
<td>III. GENERATING DATA</td>
<td>3</td>
</tr>
<tr>
<td>A. Caseload and Disposition Time</td>
<td>3</td>
</tr>
<tr>
<td>1. The Number of Different Kinds of Criminal and Civil Cases that are Processed</td>
<td>3</td>
</tr>
<tr>
<td>2. The Length of Time Required to Process Those Cases</td>
<td>4</td>
</tr>
<tr>
<td>3. What Processes Ordinarily Occur in These Cases from Filing to Disposition</td>
<td>4</td>
</tr>
<tr>
<td>4. The Number and Sources of Delays</td>
<td>4</td>
</tr>
<tr>
<td>5. The Kinds of Dispositions for Different Types of Criminal Cases</td>
<td>4</td>
</tr>
<tr>
<td>6. The Characteristics of Defendants Being Charged</td>
<td>5</td>
</tr>
<tr>
<td>7. The Changes and Trends in These Over Time</td>
<td>5</td>
</tr>
<tr>
<td>B. Resources and Procedures</td>
<td>5</td>
</tr>
<tr>
<td>C. Community Sentiment</td>
<td>6</td>
</tr>
<tr>
<td>D. Distribution of Drug Cases in the State</td>
<td>6</td>
</tr>
<tr>
<td>1. Sampling of Courts</td>
<td>7</td>
</tr>
<tr>
<td>2. Sampling of Cases</td>
<td>7</td>
</tr>
<tr>
<td>E. Measures and Analysis</td>
<td>8</td>
</tr>
<tr>
<td>F. Implementation Recommendations</td>
<td>9</td>
</tr>
</tbody>
</table>
I. INTRODUCTION

The Administrative Office of the Courts (AOC) of New Hampshire received a grant from the U.S. Department of Justice, Bureau of Justice Assistance entitled "Court System Drug Cases Needs Assessment." This grant provides for the addition and training of two staff members to the AOC to assess the impact of drug cases on the courts' caseloads. The purpose of this technical assistance project, provided by American University Courts Technical Assistance Project, is to advise the AOC on the appropriate methods for undertaking this assessment.

The author visited the AOC in Concord, NH on October 30 - 31 and November 14 - 15, 1991 to interview officials in the courts and related criminal justice agencies about their perceptions of the drug problem and its impact on their work. In total fourteen people were interviewed including three judges, two clerks, one prosecutor, one public defender, one civil attorney, one administrator of the Judicial Council, and five correctional officials.

As would be expected, there was no unanimity among those interviewed about the nature of a drug problem or its impact on their work. What is clear is that there is a lack of information within all levels of the court system about the quantity or quality of drug cases. There is clearly a shared perception that drug cases have increased, particularly in southern New Hampshire, but the amount of increase and for how long the increase has been occurring is unknown. Perceptions range from the corrections officials who perceive that well over 80 per cent of their caseloads have alcohol or drug problems to one court official who doesn't perceive any drug problem impacting his jurisdiction.

Two major problems have arisen in the course of the initial technical assistance interviews which must be addressed by the impact study. These problems include the need for clarification of what is included in the definition of a drug case. Another is the need to generate data from which policy decisions can be made by court officials to address current needs and to plan for future needs.

This report will address these problems and propose methods for solving each of them through the period of the BJA grant.
II. DEFINITION OF A DRUG CASE

When asked to what extent they perceived a drug problem to exist in their jurisdiction, several of the respondents replied with a question about the definition of drug case and thus drug problem. Usually the question concerned the issue of whether alcohol is to be considered a drug or whether "drug problem" includes such things as driving while under the influence of alcohol. Similarly, while many property crimes, such as burglary, forgery, theft, etc., are committed to obtain money, the proposed use of the illegally gained money is often a supposition rather than known. For those who work with the person following conviction the issue of whether s/he uses any illegal chemicals is important for rehabilitation, even if it is not at issue in the charges and proof for conviction. Thus inevitably the definition of "drug cases" depends on the purpose(s) one has for dealing with them.

To some people limiting the definition of a "drug case" to only those charges of possession, sale, or manufacture of an illegal chemical substance is perceived to obscure the nature of the "real problem." On the other hand, from the court's perspective, legally technical definitions are important and assumptions about unproved intentions or motivations are highly suspect. Police and prosecutors may "know" that defendants are "into" drugs but may not bring such charges unless they have proof beyond a reasonable doubt which will stand up under adversarial processes.

For the purposes of the proposed study it seems most logical to take the conservative stance and limit the determination of the "drug cases" to violations of the New Hampshire codes dealing specifically with controlled and illegal chemicals. Given the way in which charges are made, pursued, dropped and recorded in court files, the most meaningful classification of criminal cases is not simply a dichotomy of drug case or non-drug case. Instead a variable should be established which provides at least three possible classes: (1) drug charges made and conviction or admission obtained; (2) drug charges made but withdrawn or dropped in a plea bargain; and (3) no drug charges indicated in the file.
III. GENERATING DATA

A. Caseload and Disposition Time

The court information system and the information systems of the police, prosecution, public defender, and corrections agencies in New Hampshire are not related in any way. Thus data gathered by other agencies is not currently of significant help to the courts. The court information system is not sufficiently comprehensive to provide much information to address the issue of the impact of drug cases on court caseloads. Therefore an assessment of this impact will be limited to methods for obtaining data from actual court case files. This will require the use of sampling from the courts, and the cases within the courts for a restricted number of years.

Given the lack of hard data about court caseloads and the nature of changes in those caseloads very basic information is needed. In order to understand the impact of drug cases on the court system the proposed study needs to obtain data about:

(a) the number of different kinds of criminal and civil cases that are processed,
(b) the length of time required to process those cases,
(c) what processes ordinarily occur in these cases from filing to disposition,
(d) the number and sources of delays,
(e) the kinds of dispositions for different types of criminal cases,
(f) the characteristics of defendants being charged, and
(g) the changes and trends in these over time.

To begin the study a series of specific answerable questions must be raised about each of the general concerns noted above.

1. The Number of Different Kinds of Criminal and Civil Cases that are Processed

What is the breakdown of types of criminal and civil cases disposed during the year?

What is the distribution of clear drug cases, suspected drug cases, and non-drug cases disposed during the year?
2. The Length of Time Required to Process Those Cases
What is the distribution of times required for processing each type of criminal and civil case disposed during the past year?

What is the distribution of times required for processing clear drug cases, suspected drug cases and non-drug cases disposed during the year?

3. What Processes Ordinarily Occur in These Cases from Filing to Disposition
What are the significant events that take place in processing clear drug cases, suspected drug cases and non-drug cases disposed during the year?

What time elapses between the significant events in the three types of cases?
For example, time elapsed from arrest to indictment, indictment to arraignment, arraignment to assignment of counsel, etc.

In what proportion of cases are all significant events necessary (for justice) and meaningful (something important happens that could not have happened earlier, elsewhere)? For example, in what proportion of cases brought before a grand jury does no indictment occur? In what proportion of cases arraigned in district court could a plea to the charges have been made there without taking the case to superior court?

4. The Number and Sources of Delays
For each type of case how many times are events held when they were initially scheduled?

For any indication in the file of rescheduling of an event or continuance granted, who requested the change? Prosecution, defense, or court?

What are reasons given for changes in schedule and continuances?

5. The Kinds of Dispositions for Different Types of Criminal Cases
For each type of criminal case what is the distribution of types of dispositions?
Plea, bench trial, jury trial, etc.

For each type of criminal case what is the distribution of types of sentences?
Probation, prison time, fine, etc.?
6. **The Characteristics of Defendants Being Charged**

Demographic characteristics of defendants charged with clear drug cases, suspected drug cases and non-drug cases are important to begin understanding the causes and trends in drug cases processed. Gender, age, employment, education, race and ethnicity, past criminal record, and length of residence in the state are a few of the important demographic variables that need to be measured. These can help pinpoint the sources of drug and other crimes and identify court resources required to adequately process the cases.

7. **The Changes and Trends in These Over Time**

Here the concern is with the sampling of cases at different times. A determination must be made about over what period of time to look at rates of the three types of criminal cases and civil cases. Given the limited resources of the needs assessment grant a realistic comparison of trends could be made by sampling cases from 1985 and the immediate past two years. For example, using cases disposed during 1990 and 1991 would provide data on the current caseload and immediate trends. Adding cases disposed during 1985 would provide data for comparison and detection of longer term changes.

B. **Resources and Procedures**

In addition to the information about the caseloads of the New Hampshire courts, a thorough inventory of human, physical and financial resources must be made to determine the extent to which the courts can handle the caseloads. This information is needed in order to determine the changes and trends in available resources for processing the cases filed.

Also a careful review of the current procedures used for processing all court cases would reveal where streamlining case processing is possible without degradation in service to the community and justice to litigants and criminal defendants. Changes, if any, in procedures over the time of the study should be noted to account for the impact on the time required for case processing.
C. Community Sentiment

Although such data is less systematically gathered the study should include attention to significant events in New Hampshire which might have impacted the numbers of drug cases. For example, changes in laws, both substantive and procedural, during the study period, major notorious drug crime cases producing strong community response, and increased action by law enforcement, prosecutors, etc. to engage in "clean-up" operations with respect to drug manufacture, dealing, or use should be noted. For example, among those interviewed for this technical assistance effort is a belief that an increase in drug cases in southern New Hampshire is associated with the immigration of people from Puerto Rico and the Dominican Republic. Such beliefs could be tested by this needs assessment through noting the ethnic background of persons charged with criminal offenses. If the belief is true then the courts' needs for processing these cases would necessarily be different (more need for qualified interpreters, potentially unique meanings of disparate sentencing options due to cultural differences).

These are important but less quantifiable intervening variables which can have a marked impact on the number and complexity of cases handled by the courts over time.

D. Distribution of Drug Cases in the State

An advantage of a statewide court system is the ability to make resource allocation decisions to meet the unique needs of the varied communities. There must be comparative data about the nature and extent of the drug cases throughout the state to indicate where the needs are as well as the nature of those needs. Interviews with court and other criminal justice officials revealed the perception that drug cases are primarily a problem in southern New Hampshire but the northern counties are beginning to experience an increase also. The spread of drug cases throughout the state needs to be documented in order to make informed policy decisions about unique drug case processing procedures and resources by the courts. Thus the needs assessment must include data from courts throughout the state and from cases within those courts.

Time and resource limitations of the grant do not permit the ideal situation of gathering data on all cases from all courts over the proposed time period. Thus sampling of courts and cases in such a way as to guarantee representativeness of the total within acceptable error limits is required.
1. **Sampling of Courts**

Given the belief among officials that the major problem of drug cases is in southern urbanized counties, some problem in central counties and little or no problem in northern counties, sampling of courts should be purposeful and random. For example, one of the southern counties, Merrimack, Hillsborough, and Rockingham counties should be included. Coos county should be included for comparison since it occupies a large, portion of the rural northern land area of the state, and a random choice of two counties should be made from among Cheshire, Sullivan, Strafford, Belknap, Carrol and Grafton counties.

It would be most efficient for the study to include one district and one superior court in each of the four counties chosen. This court sample would be comprised of four counties, one southern urbanized, one rural, and two intermediate counties. The cases would be drawn from four district and four superior courts reflecting the full range of communities and court caseloads.

The purpose of the data collection is not only to describe the distribution of drug cases in the courts of New Hampshire but to identify the current and changing characteristics of those cases over time. The data from the entire project should be assumed to have a somewhat higher potential error rate for describing the distribution than the data on the characteristics of the cases and the defendants. The state description will still be the most accurate information available until further data can be collected.

Important advantages of this needs assessment include: (1) it will provide the basis for future expanded studies of drug cases in the courts by developing a model of data collection needed for planning and resource allocation, (2) it will serve as a basis for an important educational effort (e.g., a statewide seminar) by the AOC for the state's judges and other court staff, and, (3) it will provide an important baseline of information for policy decisions and monitoring changes over time.

2. **Sampling of Cases**

Within the eight courts (four district and four superior) a total of 100 randomly selected criminal cases for each year would be included in the criminal sample. This would provide a data base of 2,400 criminal cases (100/yr x 3 yrs x 8). This number is based on the assumption that all counties have over 100 criminal cases each year. If a county has fewer than 100 cases for a year the entire population of cases would be used.
Within the four superior courts a total of 100 randomly selected civil cases for each year would be included in the civil sample. Within the four district courts a total of 25 civil cases would be randomly chosen. This difference between the district and superior courts reflects the dominance of civil case processing in superior court and the potentially greater impact of increases in drug cases interfering in the processing of civil cases in those courts. This would provide a database of 1,200 superior court civil cases and 300 district court cases.

These two samplings would provide a data base of 1,300 cases (800 criminal and 500 civil) for each of the three years. Overall the sample would include 3,900 total cases broken down as follows:

<table>
<thead>
<tr>
<th>Sample Distribution</th>
<th>District Civil</th>
<th>District Criminal</th>
<th>Superior Civil</th>
<th>Superior Criminal</th>
<th>Total Civil</th>
<th>Total Criminal</th>
</tr>
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<tbody>
<tr>
<td>1985</td>
<td>25</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>125</td>
<td>200</td>
</tr>
<tr>
<td>1990</td>
<td>25</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>125</td>
<td>200</td>
</tr>
<tr>
<td>1991</td>
<td>25</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>125</td>
<td>200</td>
</tr>
<tr>
<td></td>
<td>75</td>
<td>300</td>
<td>300</td>
<td>300</td>
<td>375</td>
<td>600</td>
</tr>
<tr>
<td>x 4 courts =</td>
<td>300</td>
<td>1,200</td>
<td>1,200</td>
<td>1,200</td>
<td>1,500</td>
<td>2,400</td>
</tr>
<tr>
<td>All cases</td>
<td>1,500</td>
<td>2,400</td>
<td></td>
<td></td>
<td>3,900</td>
<td></td>
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The error limits of this sampling distribution would necessarily depend on the total number of cases in each court and in the state for each year. Randomly selected, the margin of error should be fairly small, e.g., within 10 per cent on either side of the means. The changes in rates of different types of cases among the years should likewise give adequate estimates for resource and policy decisions.

E. Measures and Analysis

A survey instrument should be constructed which addresses the questions raised in III, A. above. This instrument should provide a set of simple, clear items to be filled in from case files in the sample courts. Data should be collected in easily coded form for
entry into a computer program such as the Statistical Package for the Social Sciences (SPSS-PC+). A codebook of responses to the survey items should be constructed for maintaining uniformity of coding and a random sample of five per cent of the coded cases should be selected for cross-tabulations for comparisons between years, between courts, and between types of cases. Complete answers to the questions raised above should be provided by the data. These answers should then be integrated with the resource data and community sentiment data to provide an overall understanding of the changing caseloads in the courts.

Recommendations for improving case processing should be made based on the integrated answers to the study questions. The needs of the courts in processing drug and other criminal cases should emerge clearly from the integrated findings of the study.

The New Hampshire AOC will share the findings with the state’s court professionals in a judicial conference or seminar for judges, and in workshops for other court staff.

F. Implementation Recommendations

The BJA grant calls for the hiring of a full-time staff person and a secretary to conduct the needs assessment. The study outlined here does not necessarily require a full-time professional staff person to conduct it. The following are needed:

1. A professional social scientist (project director) trained in applied research and experienced in court management to:
   a. select the sample of courts in cooperation with the AOC and administrative judges of the superior and district courts;
   b. select the samples of cases within each court;
   c. construct the survey instrument, pretest it, and develop the response codebook;
   d. select and train court clerk staff to collect the data from the court files;
   e. supervise the data collection, verify the data, and clean up unclear responses;
   f. select and supervise staff to enter data into the computer for analysis;
   g. collect the resources and community sentiment data through interviews, observations, and documents;
h. analyze the integrated data, and prepare a report to the court including recommendations for improvements in case processing;

i. present and defend the findings verbally to the New Hampshire court officials and others chosen by the courts;

j. assume overall responsibility for completing the project on time and within budget.

2. Part-time clerical staff to:
   a. prepare documents for the study;
   b. maintain a central location for communication between data collectors, court officials and the project director;
   c. handle all correspondence related to the conduct of the study;
   d. possibly serve as data entry person for the quantitative data;
   e. maintain files, handle payments to data collectors, and enter the final report on word processing equipment.

3. Part-time data collectors knowledgeable about the court files (usually court clerk staff working for extra pay on their own time are the best) to collect the data from the files.

4. Temporary data entry people to enter the data and verify it for accuracy. (Often college or university students or temporary clerical help can do this short term job.)

5. Access to a personal computer with SPSS or some similar software package.

6. Funds for travel to the courts in the sample to collect the resource and community sentiment data and for supervision of the data collectors.

7. Modest office supplies, and telephone expense.

Hiring a consultant to conduct the study will require paying travel and per diem but will eliminate significant fringe benefit and overhead expenses. In addition it doesn't appear that this study will require a full year of full-time work for a person at the level required to conduct the study. The National Center for State Courts, university social scientists and private consultants have the survey research capabilities for conducting such a study. The National Center has the combination of research expertise and knowledge
about courts. University social scientists are ordinarily lacking in the knowledge of court case processing procedures. Private consultants may have the necessary skills in both areas.

AOC contact a variety of sources and determine who has the best skills for the money to conduct the study. It is his opinion that this entire needs assessment and the follow-up of communicating the results to the New Hampshire court community can be done within the amount provided in the BJA grant.