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# A Comparative Description of the New York and California Criminal Justice Systems: Arrest Through Arraignment

*Floyd F. Feeney\**  
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## I. INTRODUCTION

During 1970, more than three-quarters of a million cases were filed in the California criminal courts, and more than one-half million were filed in those of New York.<sup>1</sup> Although many of the cases

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1. In California, according to the State Bureau of Criminal Statistics, there were 129,046 felony and 677,459 misdemeanor complaints filed in 1970. CALIFORNIA BUREAU OF CRIMINAL STATISTICS, CRIME AND ARRESTS, REFERENCE TABLES 1970, at 2, 51. Comparable figures for New York are more difficult to obtain. The New York State Joint Legislative Committee on Crime, Its Causes, Control and Effect on Society estimated a total of 89,325 felony arrests for the State in 1969. N.Y. JOINT LEGIS. COMM. ON CRIME, ITS CAUSES, CONTROL & EFFECT ON SOCIETY, 1971 REPGRT 57. No statewide figures are available for misdemeanors or serious violations. The number of these offenses for New York City in 1968, however, was over 150,000. 1968 N.Y. CITY CRIM. CT. ANN. REP. 5. By comparing various reports, it seems clear that the statewide total of felonies, misdemeanors, and violations is at least 500,000.

do not proceed to trial, the enormous number of individuals involved makes these criminal court systems two of the world's largest. Therefore, it is somewhat surprising how little attention has been given to comparing the methods by which these two great court systems handle their business.

The purpose of this article is to outline by comparative description the arrest and related court processes for handling criminal defendants in New York City and Oakland, California. Hopefully the description will shed light on problem areas shared by both systems and will suggest ways of alleviating these problems. This article discusses the period from arrest through the first judicial appearance in each system. A later study, not yet completed, will detail the sequence between the first judicial appearance and the beginning of trial. For the purposes of convenience and because the term is widely used both in California and in New York, the defendant's first appearance in court will be referred to as the "arraignment."<sup>2</sup>

The basic methodology used in preparing this study was to trace a suspect through each system from arrest to arraignment. Interviews with officials were made at key stages throughout each process. Preexisting studies and relevant statistics also were gathered in order to supplement the observations made.

It should be noted that although it is common to speak of "the New York system" or "the California system," in some respects these are misleading terms. Criminal justice, even within a single state, is a highly local phenomenon. The procedure in Oakland is different not only from that in Los Angeles but also from that in San Francisco and Berkeley. Similarly, the process in New York City may differ significantly from that in Albany or Buffalo. Even within New York City, the criminal justice system is fragmented and localized. The police department operates throughout the City, but each borough—Manhattan, Bronx, Brooklyn, Queens, and Richmond—has its own court system. Thus, although some practices are uniform, many are not, and in a sense it can be said that each borough operates its own criminal justice system. In studying New York City, the authors primarily observed the Manhattan and Bronx arrest and court processing models. For purposes of comparison, a limited amount of observation and data collection was also performed in Brooklyn and Queens.

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2. "Arraignment" also is used in both jurisdictions to denote the defendant's first appearance after indictment or filing of an information.

Finally, it should be remembered that the processes discussed are almost always in a state of flux, constantly changing and shifting. Every effort has been made to describe accurately the procedures and policies as of the time of observation, primarily during early 1972. It is possible, however, that the descriptions do not reflect current practice in the jurisdictions discussed.

## II. THE NEW YORK CRIMINAL JUSTICE SYSTEM

### A. *Stage One: Arrest*

The decision to take a suspect into custody is seldom a simple one, and many variables influence the decision.<sup>3</sup> Although the purpose of this study is not to describe the factors motivating an arrest, it should be noted that the complexity and difficulty of the procedure after arrest may influence the arrest decision itself. One might expect, for example, that a system demanding a maximum amount of participation by the arresting officer in many cases would influence the officer's initial decision to make use of the system. This effect seems to occur in New York. In interviews with a number of New York officers, all said that frequently it is better to "look the other way" or to "move a guy on his way" in many minor misdemeanor or violation cases rather than spend the rest of the shift processing the suspect through the complicated and tedious arrest-arraignment procedure. These results are not necessarily bad ones and occur in all jurisdictions.<sup>4</sup> Where procedures are simpler, however, the arrest decision presumably is based less on administrative convenience and more on the merits of the case. There is no indication that the amount of post-arrest officer participation substantially affects the arrest decision in more serious misdemeanor or felony cases.

Whatever the reasons, once an officer decides to invoke the arrest process in New York, the next step is to transport the alleged offender to the appropriate precinct for arrest processing. For law enforcement purposes, each borough is divided into a number of police precincts and at least one criminal courthouse. Thus, when a decision to arrest is made in Manhattan, the arresting officer must escort the arrestee to one of the borough's 21 precincts, depending upon where the arrest was initiated, and finally to the Manhattan Criminal Court for arraignment.

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3. See generally W. LAFAVE, *ARREST* (1965).

4. See generally *id.* at 61-161; J. WILSON, *VARIETIES OF POLICE BEHAVIOR* 16-56 (1968).

The procedure from the time of arrest to arrival at the precinct in Manhattan is similar to that in many jurisdictions. If the officer is in a patrol car, he transports the suspect to the precinct in his car. If the officer is on foot, however, he summons a paddy wagon.<sup>5</sup> Most precincts are small enough to permit rapid arrestee transport to the stationhouse. Transportation becomes time-consuming, however, if the arrest is effected during rush-hour traffic or at a time when wagons are unavailable.<sup>6</sup> The average transport from the place of arrest to the precinct takes approximately 30 minutes. Few transports require more than an hour, and they can take as little as fifteen minutes. Because patrol wagons that are used for prisoner transport do not engage in other patrol activities, they essentially fulfill only a taxi function.

### *B. Stage Two: Precinct Processing*

The second stage of the arrest-arraignment process in New York takes place at the local police precinct. A variety of booking and precourt processing functions is performed there.

1. *Prisoner Search*—Despite the fact that a suspect may have been “frisked” in the field, the generally accepted procedure upon entry into a police station is initially to perform a more thorough search of the suspect. Observation in two precincts, however, indicates that this procedure is not always followed. In neither precinct observed were prisoners apparently being searched, including one situation in which the police were processing seventeen men arrested in a barroom altercation involving at least one gun. If a search is performed, it normally will not take longer than five to fifteen minutes.

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5. Inspector Farrell notes that “[t]he vast majority of all prisoner transportation is accomplished by patrolwagon, with the remainder being accomplished by other department vehicles or, in some cases, private vehicles.” M. Farrell, *Arrest Processing in the City of New York*, pt. 4, at 24 (May 1971).

6. The New York City Police Department had 42 patrol wagons at the time of observation. Thirty-eight were assigned to precincts, and 4 were used as spares. Borough assignments were: Manhattan (14); Bronx (4); Brooklyn (12); Queens (6); and Richmond (2). Special assignments and repairs, however, produce shortages of patrol wagons. Thus, “[o]n April 23, 1970, out of 14 wagons assigned to Manhattan, six were unavailable for transportation of prisoners. Three were out of service, 2 were assigned to a highschool and one was assigned to the Black Panther trials at the courtbuilding. On the same day, of 12 wagons assigned to Brooklyn, 6 were out of service. Those wagons designated as spares are virtually useless as far as the precincts are concerned. During the summer months they are assigned to the beach details and at other times are assigned to various other demonstrations and details.” M. Farrell, *supra* note 5, pt. 4, at 27.

2. *Arrest Report Documentation*—After searching and securing the prisoner in a waiting room or holding cell, the New York police officer obtains an arrest number from the booking officer and undertakes preparation of field arrest documentation. This procedure ensures the preservation of any factual evidence necessary for arraignment and trial. Additionally, if witnesses were present at the site of the offense and subsequently were transported to the precinct, they will be questioned now. After appropriate constitutional warnings, the defendant himself may be questioned. A lineup may be called if the police believe the defendant has committed more than one offense. If more research into the facts of the case is needed, a follow-up investigation often will be performed, in some instances by the officer, or in appropriate cases by the detectives. Depending upon the number of forms to be filled out,<sup>7</sup> the complexity of the case, and the number of prisoners awaiting processing, arrest documentation can take as little as fifteen minutes or as long as three hours;<sup>8</sup> the average, however, is probably closer to 40 minutes.

3. *Fingerprinting*—New York State law requires that the police department take the fingerprints of all persons arrested for a felony, a misdemeanor defined within the Penal Law, and certain misdemeanors defined outside of the Penal Law.<sup>9</sup> In addition, the police may take the fingerprints of a person arrested for a violation if they have reason to believe that he may be wanted or that he has not given his true identity.<sup>10</sup> Prior to September 1, 1971, the fingerprinting requirements were not as stringent. The former Code of Criminal Procedure required fingerprinting only for felonies and certain specified misdemeanors and violations.<sup>11</sup> Also prior to that time, all fingerprinting was conducted by precinct detectives or other specially trained personnel. With the increase in arrest categories that require fingerprinting and the elimination of precinct detective squads caused by reorganization of the Detective Bureau, each arresting officer now is required to take fingerprints himself

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7. Forms vary according to several factors: the age of the defendant; the offense charged; the identity, nationality, or occupation of the defendant; and the type and amount of evidence or other property seized. The purpose of many of the forms is notification to another agency or to a specialized unit of the Department.

8. New York City Police Department Criminal Justice Bureau estimate; see M. Farrell, *supra* note 5, pt. 3, at 3-6.

9. N.Y. CRIM. PROC. LAW § 160.10 (McKinney 1971).

10. *Id.*

11. N.Y. Laws of 1928, ch. 875, § 3 (repealed 1970).

and to complete the fingerprint backing form. In each fingerprint case, three separate sets of fingerprints are required—one for the police department, one for the New York State Identification and Intelligence System, and a third for the Federal Bureau of Investigation.

The changes in fingerprint procedure have had a notable effect upon the processing of defendants from arrest to arraignment. Some officials argue that “[b]oth increasing the number of crimes in the fingerprintable categories and increasing the number of persons taking the fingerprints have served to lengthen the arrest-arraignment process.”<sup>12</sup> Although every police officer theoretically has been trained in the technique of taking fingerprints, it is a skill that requires frequent repetition to maintain proficiency. Since the average officer does not effect many arrests each month, he spends longer in taking the prints, and he more frequently submits defective fingerprint forms for the records search. Since defective prints are rejected by the agency conducting the search, the officer must reprint the defendant and resubmit the prints, which substantially delays the arraignment of the defendant.<sup>13</sup> On the other hand, some observers argue that by allowing the officer to perform the fingerprinting function, a substantial amount of time is saved by not depending upon a detective’s presence to complete the precinct processing of a case. Since detectives are frequently away from the station, particularly after daylight hours, the contention is that patrol processing of prints now saves a considerable number of hours. Approximately fifteen to 45 minutes are consumed in taking the fingerprints and completing the forms, depending upon the volume of arrests being processed. In most instances, however, fingerprinting can be completed in 30 minutes.

4. *Booking*—Technically, “booking” is little more than the recording of the arrest by the desk sergeant. As the majority of the necessary reports have been completed by the arresting officer, the desk sergeant merely completes a portion of the arrest report form and assigns several serial numbers to the case. Each defendant is assigned an individual arrest number, and each arrest situation, also being considered a crime occurrence, is assigned a complaint

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12. M. Farrell, *The Need for Co-ordination in the Criminal Justice System: Some New Approaches to Reform* 75 (June 1973).

13. *Id.*

number. Thus each arrest situation will have one complaint number and one or more arrest numbers. Additionally, evidence voucher numbers are assigned to the case if necessary.

As a part of the booking process, a decision must be made whether to transport the defendant immediately to court, to detain him for later court appearance, to release him on bail, or to release him upon issuance of an appearance ticket, previously called a summons. Prisoners charged with a felony or a serious misdemeanor generally will be transported immediately to court if the arraignment court is still in session,<sup>14</sup> and the Department of Corrections is still accepting prisoners for court lodging.<sup>15</sup>

a. *Stationhouse Release on Appearance Ticket*—For many misdemeanors and violations, however, defendants may be released from custody and told to appear in court at a certain time in lieu of immediately being brought to court for arraignment.<sup>16</sup> This procedure, which cannot be used for felony cases, is called release on an appearance ticket and in some respects resembles release on a traffic ticket. Although many misdemeanor and violation defendants are released in this way, the majority are not, at least in Manhattan.<sup>17</sup> An appearance ticket release at the stationhouse allows those misdemeanor and violation defendants who are not likely to flee the jurisdiction to be released whenever possible without payment of money bail. Release is based upon a background investigation conducted by the arresting officer at the time of documenting the arrest.<sup>18</sup> If an individual is selected for a possible stationhouse release, the ensuing investigation at the time of arrest report docu-

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14. The Manhattan Criminal Courts are in session from 9:30 a.m. to 1:00 a.m. or later depending upon caseload.

15. This practice apparently varies somewhat from borough to borough.

16. N.Y. CRIM. PROC. LAW § 150.20 (McKinney 1971).

17. Between July 1, 1968, and June 30, 1969, the rates of release on summons—now called appearance tickets—in New York City ranged from 16.1% in Manhattan to 80% in Queens and 87.5% in Richmond. A number of offenses, including those in which the defendant was intoxicated, derelict, or addicted to narcotics, were not permitted to be handled by summons. The total proportion of misdemeanor defendants released on summons is therefore considerably less than the above. See VERA INSTITUTE OF JUSTICE, MANHATTAN SUMMONS PROJECT—ACTIVITY REPORT FOR THE SECOND YEAR OF CITY-WIDE OPERATION (1969).

18. This investigation has been described as follows: "The investigation is comprised of a series of questions asked of the defendant in an attempt to evaluate his probability of appearing in court voluntarily. The information given by the defendant is subject to verification which is conducted by telephoning references supplied by the defendant. Verification, however, is not mandatory, and is normally only employed when the defendant fails to provide any documentary proof of identity. The results of the investigation are evaluated by means of an objective point scale developed for this purpose. Those defendants meeting the minimum qualifications are issued an appearance ticket which directs them to appear in court on a preselected date to answer the charges against them. Upon issuance of an appearance ticket, the defendant is released from custody." M. Farrell, *supra* note 12, at 73.

mentation will normally take from fifteen to 30 minutes. If an arrestee qualifies for release, he will be free until the scheduled court appearance, the arresting officer may return to duty, and witnesses may return to work or home.

b. *Bail*—If a misdemeanor or violation defendant is not released upon an appearance ticket, if the court is not in session, or if the Department of Corrections has ceased to accept prisoners for the day, the police must set bail.<sup>19</sup> Unlike many jurisdictions that specify particular bail amounts for specific offenses, bail in New York is governed by the Criminal Procedure Law, which provides generally that in a Class A misdemeanor, bail may not exceed 500 dollars; in a Class B misdemeanor, it may not exceed 250 dollars; and in a violation case, it may not exceed 100 dollars.<sup>20</sup> One observer notes that “[a]lthough these amounts are specified as the maximum limits of stationhouse bail, the police department has adopted them as the minimum amounts. This has effectively all but eliminated the posting of stationhouse bail in the City of New York.”<sup>21</sup> Although these bail amounts are not particularly high as compared with those set for similar offenses in other cities, relatively few defendants appear to be released in this way.

In felony cases, the police have no authority to set bail or to release the defendant on an appearance ticket. Therefore, if it is impossible to go to arraignment court, the police must hold the defendant until the court reopens. Similarly, if the court is unavailable, the police must hold violation and misdemeanor defendants who do not qualify for release on an appearance ticket and cannot make bail. In either case, the defendant generally is detained overnight in a precinct detention cell. If no cell is available or if the precinct is not a detention precinct, the prisoner must be transported to the nearest detention precinct with available cell space.

Although the decision to detain a prisoner, to transport him immediately to court, or to release him on bail or on an appearance ticket usually is made in about five minutes, another hour may be required for transportation and processing if the prisoner must be lodged overnight at another precinct.

c. *Precourt Screening*—Although “booking” appears to be a purely mechanical procedure, in theory it is the occasion of the first nonparticipant screening of an arrest case in New York. The Admin-

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19. N.Y. CRIM. PROC. LAW § 140.20(3) (McKinney 1971).

20. N.Y. CRIM. PROC. LAW § 150.30 (McKinney 1971).

21. M. Farrell, *supra* note 12, at 77.

istrative Code of the City of New York requires that an arresting officer report each arrest to the desk officer in the precinct in which the arrest was effected.<sup>22</sup> Desk officers are required by department regulation to inquire into the facts of the arrest, the appropriateness of the officer's actions, and the charge to be filed, and they must instruct the officer on the subsequent processing of the case.<sup>23</sup> Since September 1971, when the new Criminal Procedure Law became effective, both desk and arresting officers have been empowered to release defendants from custody if subsequent investigation reveals that there is no probable cause to believe that the defendant committed the offense.<sup>24</sup> This procedure constitutes the first review of the arresting officer's actions and may result in termination of the case. Prior to the enactment of the new law, the police did not have authority to release a defendant, even when subsequent investigation indicated that the arrest was not warranted.

Early experience with this new authority indicates, however, that it is utilized rarely. Between September 1 and December 31, 1971, only 72 defendants were released by precinct desk officers.<sup>25</sup> Perhaps the reason why in practice a more thorough screening does not take place in New York is that the desk officer first learns of the case when it is ready for booking, after most precinct processing has been completed. Instead of initially consulting the desk officer upon entry into the precinct, the practice is to delay consultation until all the paper work has been performed and the case awaits court process. As a result, a desk officer seldom will be encouraged to screen critically a case that has progressed so far.

In summary, the booking stage in New York contains a variety of decisions. Accordingly, considering technical booking, the court detention or bail decision, and any precourt screening performed by the sergeant, the total booking process takes from fifteen to 30 minutes, with twenty minutes as an appropriate average. Although any time required for a decision to release pursuant to an appearance ticket is included in this total, the fifteen to 30 minutes associated with preparing a background investigation report is treated separately.

5. *Transportation to Court*—If the arrestee has not been released—either on bail or on an appearance ticket—he must be

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22. 2 N.Y. CITY CHARTER & ADMIN. CODE § 435-12.0 (1971).

23. N.Y. POLICE DEP'T RULES & PROCEDURES, ch. 9, ¶ 7A.0 (1961), *as amended*, T.O.P. 307-1 (August 27, 1971).

24. N.Y. CRIM. PROC. LAW § 140.20(4) (McKinney 1971).

25. Statistics on file with the New York Police Department, Criminal Justice Bureau.

transported to court. Normally a patrol wagon must be secured. Substantial delays in prisoner transport are often incurred, however, because of the distance from the precincts to the borough criminal courts. In Manhattan, for example, the criminal courts are located at 100 Centre Street. Although most Manhattan precincts are within 30 minutes of the courts, some are nearly an hour's drive away, particularly in rush-hour traffic.<sup>26</sup> The limited number of patrol wagons in service also creates a strain on the police transport system in times of peak demand.<sup>27</sup> Additionally, a lack of supervision and communication with patrol wagon operators makes controlled dispatching of wagons very difficult thus creating further delays. There is little field supervision of patrol wagon operators, and after a wagon leaves for court, the Communication Division generally cannot locate it until it returns to the precinct—even though the wagons are radio-equipped and each wagon operator is required to telephone the wagon dispatcher to determine if there are any additional stops to be made. Apparently the phone rule is seldom enforced.<sup>28</sup>

These often cumulative delays are particularly notable in light of the fact that New York Police Department policy in general requires that the police officer *must* accompany every arrest case he initiates through the entire process from arrest to arraignment.<sup>29</sup> Since the officer cannot continue the processing of an arrest case until transportation arrives, he necessarily must spend his time idly waiting. Additionally, the officer and defendant are not the only participants required to wait in the arrest process. Since witnesses or civilian complainants frequently are requested to meet the arresting officer at the complaint room of the criminal court, they must wait until the officer finally arrives.

### C. *Stage Three: Criminal Court Processing*

After arrest, prisoner transport, and precinct processing, the arresting officer, any civilian witnesses or complainants, and the defendant must still spend a considerable amount of time in the criminal court building prior to actual arraignment. In comparing

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26. In other boroughs the distance and length of time can be either less or greater.

27. See note 5 *supra*.

28. M. Farrell, *supra* note 5, pt. 4, at 26-27.

29. This requirement does not apply if the suspect is released at the stationhouse, if the case is terminated for a lack of evidence, or if a complaint or information is sworn to by the arresting officer at the stationhouse pursuant to N.Y. CRIM. PROC. LAW § 100.30 (McKinney 1971).

the New York and California arrest processes, it is Stage Three that deserves most attention, for in the California model, virtually none of the Stage Three functions are performed by the arresting police officer.

1. *Court Holding Facility Procedure*—In New York, the arresting officer is charged with the custody of the defendant throughout the arrest-arraignment continuum. Upon arrival at the courthouse, a Manhattan officer first will escort his prisoner into the Department of Corrections court detention facility. The detention facility provides a secure and centrally located area in which to perform a number of remaining arrest processing functions. Even inside the detention facility, however, the arresting officer is charged with escorting and substantially caring for his prisoner. In addition, the arresting officer also must carry any evidence that was seized during the arrest. Security in the facility is minimal; upon entry, the prisoner is not searched. Therefore, if the arrestee is only “frisked” in the street and later not searched at the precinct, in effect he will be admitted almost totally uninspected.

a. *Fingerprint Drop-Off and Transmission*—Fingerprint identification is a major factor delaying the arrest-arraignment process in New York today. Hundreds of hours are spent each week waiting for the return of fingerprint identification sheets, known as “rap sheets.”

Upon entry into the court holding facility, the first order of business for a Manhattan police officer is to drop off the arrestee’s fingerprints at the borough transmission room located inside the criminal court detention area.<sup>30</sup> This takes approximately ten minutes.<sup>31</sup> In Manhattan, fingerprints submitted to the borough transmission room are held until a messenger is free to transfer them for processing to the New York Police Department Bureau of Criminal Identification, which serves as the central Manhattan fingerprint depository. The turnaround time for messenger travel to the Bureau is estimated at 40 minutes, excluding any delay in obtaining a messenger or in actual processing of prints. In the other four boroughs,

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30. If the particular arrest case was a holdover from the previous night, the fingerprints already would have been forwarded to the transmission room by messenger and usually would have been processed completely by the time the officer transports his prisoner to court the following morning. This procedure avoids hours of delay.

31. If the arresting officer is accompanied by a partner, the prisoner is escorted to another processing station within the detention area by one officer while the other attends to fingerprint transmission. Otherwise, the prisoner remains with the arresting officer while the prints are being dropped off.

fingerprints are submitted to a fingerprint facsimile terminal (FAX) located either in the borough criminal courthouse or in a nearby police precinct. At the FAX terminal, prints are placed upon a reproduction machine and transmitted to Albany for processing by the New York State Identification and Intelligence System, which serves as a central depository for fingerprints.<sup>32</sup>

At the time of the study, the average total turnaround time—from fingerprint drop-off by the arresting officer to return of the rap sheet—was approximately three to four hours in both the Manhattan and the multiborough systems. The minimum time was two and one-half hours and the maximum ten to fourteen hours. The impact of a lengthy turnaround time is substantial because felony cases may not be docketed for court arraignment until the rap sheet is returned to the arresting officer for submission to court for use in setting bail. As a result, the police officer, any witnesses or civilian complainants, as well as the defendant often are made to wait many hours before arraignment in court. This is generally true also for fingerprintable misdemeanors, but bail sometimes is set in these cases prior to the return of the identification sheet.

b. *Release on Own Recognizance*—After the fingerprints are dropped off, each defendant must be delivered by the arresting officer to a representative of the Office of Probation, Release on Recognizance Unit (R.O.R.). These are the first nonpolice personnel to have contact with the defendant in the New York arrest-arraignment process. The R.O.R. Unit conducts a background investigation of the defendant, similar to the one conducted in the stationhouse in appearance ticket cases. Upon completion of the investigation, the Unit prepares a report to the arraigning judge that may or may not recommend that the defendant be released on his own recognizance for future court appearances. The case will not be docketed unless the arresting officer presents the R.O.R. report to the court docket clerk.<sup>33</sup> Six interview booths exist to expedite the R.O.R. process, but because of the large number of arrest cases that

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32. Originally, Manhattan also transmitted its fingerprints to Albany for processing. The Manhattan caseload so burdened the system, however, that at the time of observation, 2 separate systems were in operation—one for Manhattan and one for the other boroughs. Subsequently, Manhattan again has begun processing fingerprints as do the other boroughs. Experienced observers indicate that time consumption in the present multiborough system is similar to that in the system observed.

33. The R.O.R. investigation is conducted by the Probation Department. The procedures are generally those developed in the highly successful Manhattan Bail Project. See generally Ares, Rankin & Sturz, *The Manhattan Bail Project: An Interim Report on the Use of Pre-Trial Parole*, 38 N.Y.U.L. REV. 67 (1963).

require court processing, an interview normally taking fifteen to 30 minutes can last more than one hour at peak times. The average, however, is probably closer to twenty minutes.

c. *Lodging*—From R.O.R. processing, the arrestee is escorted to the Department of Corrections court holding cell. Lodging an individual in this facility frees the officer from prisoner custody so that he can pursue the remainder of precourt processing unencumbered. Technically, when a suspect is "signed in" to the Department of Corrections, he is no longer the responsibility of the arresting officer until the officer eventually signs him out again. It is interesting to note that this stage marks the first time in the New York arrest-arraignment process that the arresting officer is not directly responsible for his prisoner. Procedurally, the lodging process is accomplished with a minimal effort on the part of the police officer. He merely fills in the equivalent of an arrest blotter and deposits his prisoner in a large, open-sided holding cell similar to a drunk tank. The whole process takes no more than five to ten minutes. After lodging his prisoner, an officer is free for the first time since his arrival at the criminal courts to leave the detention area and proceed to the complaint room. Nevertheless, before the remainder of the precourt process can be completed, the officer will have to make frequent return trips to the fingerprint transmission room in the detention area to check on the arrival of rap sheets.

2. *Complaint Room Processing*—The remainder of the precourt arrest-arraignment process in New York consists primarily of preparing a complaint and docketing the case. A complaint is a verified written accusation by a person, filed with a local criminal court, charging one or more other persons with the commission of one or more offenses.<sup>34</sup> Normally, it is the complaint that serves as the basis for commencement of a criminal action.<sup>35</sup> A properly prepared complaint must specify the name of the court with which it is filed and the title of the action, must contain both an accusatory part and a factual part, and must be subscribed and verified by a "complainant."<sup>36</sup> The complainant may be any person having knowledge, either personal or upon information and belief, of the commission of the offense charged.

a. *Sign-In*—Manhattan processes so many cases that police officers are required to sign in and receive a numbered priority

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34. N.Y. CRIM. PROC. LAW § 100.10 (McKinney 1971).

35. See N.Y. CRIM. PROC. LAW § 100.05 (McKinney Supp. 1972).

36. N.Y. CRIM. PROC. LAW § 100.15 (McKinney 1971).

before they may obtain assistance from an assistant district attorney in preparing their complaints. The fourth-floor complaint room itself is often so busy that the sign-in book has been placed on the second floor to alleviate congestion. In fact, because the number of officers signing in is so large, the police department has gone so far as to place separate sign-in books, one for even-numbered cases and one for odd-numbered cases, in the second-floor sign-in room. When an officer signs in, he gives his name and informs a desk officer of his business at the criminal courts, for example: "Officer Jones with prisoner John Doe, for arraignment." The desk officer enters this information in a large book and stamps a court slip with the date and time. The officer then fills out the slip with information similar to that entered on the arrest blotter and has it stamped upon his departure from the criminal courts. The slip is used as evidence of time spent at court so that overtime computations later may be made. Sign-in usually takes about five to fifteen minutes. At peak times, however, the procedure may take as long as 30 minutes, depending upon the number of officers waiting to be signed in.

b. *Wait for Assistance*—Having already proceeded from the first-floor detention area to the second-floor sign-in room, the Manhattan officer now goes to the fourth-floor complaint room for preparation of the complaint. The complaint room contains four main areas: a waiting area, a complaint processing area, a routing area, and a docketing area. As the officer enters the complaint room waiting area, he checks in with a supervising sergeant who places the officer's name on the bottom of a waiting list and gives the officer a number. If the officer has requested civilian witnesses to meet him in the complaint room and they are present, he gives this information to the supervising sergeant. Every effort is made to expedite the process when civilian complainants or witnesses are present, and officers with witnesses usually go first. Nevertheless, the witnesses often must wait fifteen minutes to one hour or more before the complaint processing finally has begun.<sup>37</sup> A 30-minute wait is average.

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37. Moreover, because it is difficult for an officer to estimate how long it will take to get to the complaint room, civilian witnesses and complainants frequently have to wait one hour or more before the officer has even arrived. The substantial inconvenience to civilians in the New York process is particularly noteworthy when one considers that many civilians must take time off from work or spend a whole night at the criminal courts. After speaking to a number of complaint room personnel, it was evident that this inconvenience "takes its toll." Many witnesses and complainants later refuse to appear or prosecute.

c. *Complaint Preparation*—When an officer's waiting room number is called, he and any civilian witnesses or complainants are directed to one of ten booths, where they await an assistant district attorney's aid in writing the complaint. This marks the first time in the New York arrest-arraignment process that a nonpolice participant screens the case. Perhaps more importantly, in practice this frequently constitutes the first time anyone has critically reviewed the arrest. Procedurally, the prosecuting parties enter a booth defined by a waist-high railing and provide some preliminary information to a typist. As soon as an assistant district attorney is available, he is summoned to the booth. The assistant district attorney begins his review of the case by reading the officer's arrest report. Turning from the report to the policeman, he typically says, "All right, Officer, now what happened?" Subsequently, in his own words, the officer or another party relates the reason for the arrest. The attorney then asks several questions concerning the arrest. If he is satisfied that the facts of the case make out a criminal offense and that there existed probable cause for the arrest, he begins to dictate a formal charge to the typist. If, however, he is not so satisfied, he then may dismiss the case.<sup>38</sup> Assuming the case is held for arraignment, as most are, the assistant district attorney will make notations upon an arraignment sheet to inform the attorney later trying the case of any pertinent facts.<sup>39</sup> To complete the complaint process, the arresting officer or prosecuting party signs the complaint.<sup>40</sup>

One basic problem that interrupts the smooth operation of the complaint room is the lack of assistant district attorneys to process the volume of work. Although the physical facilities would allow simultaneous preparation of seven complaints, the maximum number of assistant district attorneys generally assigned at any one time to the complaint room is five, and the average is closer to four.<sup>41</sup> Needless to say, when one or two assistant district attorneys decide to take a lunch or coffee break, the total process slows down. After

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38. The decision to release is known as a "343" discharge or dismissal. *See* note 73 *infra*. Although the officer and complainant in "343" cases have the right to demand that the matter be placed before a judge, this rarely is done. *Cf.* *People v. Van Sickle*, 13 N.Y.2d 61, 192 N.E.2d 9, 242 N.Y.S.2d 34 (1963).

39. The information is entered on a District Attorney's Data Sheet, which is a printed form with spaces for information about the defendant, adjournments, witnesses not included in the complaint, complaint room recommendations, and dispositions.

40. *See* N.Y. CRIM. PROC. LAW § 100.30 (McKinney 1971).

41. This number fluctuates to some degree. For instance, during periods such as New Year's Eve, when a particularly heavy caseload is expected, additional assistant district attorneys will be assigned to complaint-room duty.

30 minutes to one hour in the complaint room waiting area, Manhattan officers, witnesses, and complainants can expect to wait another five to twenty minutes with the typist after the check-in number is called until an attorney is available for assistance.<sup>42</sup> Once the assistant district attorney appears, only ten to fifteen minutes are needed for the actual preparation of the complaint, but without a processed complaint, no officer may proceed to the next stage of the arrest-arraignment system. In all, complaint preparation averages about twenty minutes.

d. *Document Routing*—Besides requiring that a police officer be strictly responsible for the custody of his arrestee and for the possession of evidence, the Manhattan system requires that the officer carry all arrest-arraignment documents by hand. At the end of the row of complaint room interview booths is a table area reserved to assist in routing the numerous arrest documents that the officer now possesses. The document routing step in the arrest-arraignment process ensures that the court, the trial assistant district attorney, and the Legal Aid attorney or public defender will be provided with copies of the complaint, arrest report, R.O.R. report, and other pertinent documents. Because of the volume of work, an officer may wait ten minutes to one-half hour before he is assisted at the routing table. The actual assistance consists of stamping the arrest and complaint papers with the date and time, and then preparing appropriate folders for the documents so that the officer eventually may deliver them to court properly sorted. The process appears simple enough, but the officer may not complete the routing process until the suspect's rap sheets derived from fingerprint processing have been obtained by the officer for those offenses for which these papers are required. For all practical purposes, therefore, the routing table is nothing more than a depository for arrest and charging papers until the fingerprints are returned to him.

At this point, the Manhattan officer usually will inform his complainants or witnesses where the arraignment eventually will be held. Although there is no need for them to continue to wait in the complaint room, they must appear for arraignment in court on the first floor. After the officer leaves them, he proceeds from the fourth-floor complaint room back down to the first-floor detention area where the fingerprint room is located to check on the return of his

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42. The busiest time of the day for complaint processing is from 8:00 a.m. until noon or 1:00 p.m. The average length of time necessary to process a complaint decreases from 1:00 p.m. until the 10:30 or 11:00 p.m. closing time.

suspect's fingerprints.<sup>43</sup> If the prints have not yet been returned, there is nothing he can do but wait.<sup>44</sup>

e. *Photography*—All prisoners arrested for felonies and for the more serious misdemeanors must be photographed prior to arraignment. Since the photographing of prisoners is closely tied to the processing of fingerprints, no prisoners are photographed until after the fingerprint search has been conducted.<sup>45</sup> Consequently, when the arresting officer receives the identification returns on his suspect's fingerprints, he must return to the holding cell in the detention area, sign his prisoner out, escort him to the photograph section in the detention area to take the photos, then return him to the holding cell and sign him back in. Unless there is a backlog of cases, the photographing process can be accomplished within fifteen to 30 minutes.

f. *Docketing the Case*—In order to identify which, as well as how many, cases are ready and awaiting arraignment, an arraignment docket is maintained in the complaint room. After fingerprints are returned and photography is completed for cases in which these steps are required, the officer may complete the processing of his papers at the routing table. He then proceeds again to the fourth-floor complaint room to complete document routing and case docketing. Upon display of the appropriately processed documents, a clerk will docket the case for court appearance.<sup>46</sup> Most often, this

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43. Assuming approximately two and one-half hours for processing up to this stage, an officer can expect his suspect's fingerprints to be returned at any time.

44. This observer was informed of several cases in which fingerprints were not processed and returned for 5 to 10 hours or longer. Although this is not typical, it apparently occurs frequently enough to create a great deal of inconvenience to the officer and parties, who *must* await the print return. Several policemen went so far as to say that the arrestee, who often is released on his own recognizance at arraignment, was more rested than the prosecuting parties by the time the process was completed.

45. Several reasons are advanced for this requirement: (a) the defendant's "B" number—an identification number issued in New York City—is included in the photograph, thereby offering proof of identification and tying the photograph to the fingerprint record; and (b) if a different system were utilized, such as photographing the prisoner with the arrest number in the photograph and entering the "B" number at a later date, there would be an increased possibility of error during the matching process and a need for increased operating personnel. M. Farrell, *supra* note 5, pt. 4, at 49. It should be noted that the "B" number is now issued in Albany and is called the NYSIIS number (New York State Identification and Intelligence System) or the DCJS number (Division of Criminal Justice Services).

46. "The formula for the assignment of court docket numbers varies from borough to borough, but in general, each defendant receives a separate docket number and each charge receives a separate docket number. Therefore, one defendant may receive more than one docket number on a case to which the police department assigned only one arrest number. This fact, and the manner in which each of the agencies maintains its records, virtually

step takes only five minutes, unless the docket counter is crowded, in which case it can take ten minutes or more.<sup>47</sup>

3. *Courtroom Procedure*—When docketing has been completed, the arresting officer, armed with case folders, retraces his steps for the fourth time from the fourth floor to the first and deposits the documents with the clerk of the arraignment part of the court. The court clerk enters the case on the court's calendar and directs the officer to deliver the prisoner from the detention area to the court-feeder pen.

a. *Prearraignment Pen*—The prearraignment or court-feeder pen is in effect a second holding cell. It is located directly behind the courtroom and thus is closer to the arraignment courtroom than the first holding cell. The average time necessary to sign a defendant into the prearraignment pen is five minutes, with a maximum of ten minutes. After a defendant is signed into the feeder pen, he may be interviewed by a Legal Aid attorney. Near the time of his appearance, the defendant will be taken by the arresting officer from the feeder pen to the courtroom a few steps away. The effect of all this coming and going is something like a train station, and it is one of the most distracting features of the Manhattan Arraignment Court. This result is partly attributable to the volume of arraignments, but partly also to the system of holding the arresting officer personally accountable for the movement of the prisoner.

b. *Legal Aid Interview*—Once Legal Aid has been notified

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renders impossible a cross indexing of case histories, and a meaningful interchange of information." M. Farrell, *supra* note 12, at 83-84.

47. Although the next stage in the arrest-arraignment process should be the courtroom procedure leading up to actual arraignment, this frequently is not the case. Because of an ever-increasing caseload as the day progresses, docketed cases may not be reached by the court in one session and will be rescheduled for the next session. To catch up, the court discontinues docketing cases when it is estimated that a sufficient number have been docketed to occupy the court until the scheduled closing hour. This procedure has a significant effect upon the arresting officer and any witnesses or complainants.

Once docketing has been suspended, the officer and other interested parties are precluded from arraigning the prisoner in that session of the court regardless of the stage of processing. When this occurs, the parties must do one of the following:

a. If day court is unavailable, the parties must wait for night court in the same borough, except in Richmond, which does not have a night court. Jurisdiction for night court arraignment for Richmond cases is placed in the Brooklyn Night Arraignment Part.

b. If night court is unavailable, the officer must arrange for transportation, locate a vacant precinct detention cell, and transport the prisoner to that location. In these cases, the officer returns in the morning and resumes the process, beginning at the point completed the previous evening. Witnesses and complainants are informed where and approximately at what time to appear the next day for arraignment.

M. Farrell, *supra* note 12, at 84-85.

that the defendant is ready for an interview, a representative is sent to the prearrest facility.<sup>48</sup> The Legal Aid interviewer receives a copy of the complaint and the arrest report.<sup>49</sup> The Legal Aid interview is conducted through the bars of the prearrest cell. Understandably, it is performed in a perfunctory manner. The interviewer asks the defendant for his version of the arrest and then questions him about relevant points gleaned from the arrest report. The interviewer makes notes on a Legal Aid trial report, which is returned to the Legal Aid trial deputy who in turn uses the notes when the case finally is heard. The typical Legal Aid interview lasts from fifteen to twenty minutes.

c. *Case Call*—Once the Legal Aid interviewer returns the defendant's papers to the clerk, the case is finally ready to be heard for arraignment. The clerk places the case at the end of a list of cases ready to be heard, and all interested parties wait for the case to be called. Usually a group of ten to twenty cases is ready to be heard at any one time, and one typically can expect to wait from 30 minutes to one hour before his case is called.

4. *Arraignment*—Just prior to calling the case, the bridgeman, whose function is similar to that of the bailiff in some courts, will notify the police officer that it is time to bring his prisoner from the prearrest detention cell and into the courtroom. When this is done, the bridgeman will call the case. The defendant, the Legal Aid attorney, the arresting officer, the prosecutor, the witnesses, and the complainant all will then step forward. What transpires next is reproduced here in classical form:

*Bridgeman*: Your Honor, the next case is the People of the State of New York versus John Doe. John Doe, you are charged with section 155.35 of the Penal Law of the State of New York, commonly known as grand larceny in the second degree. How do you plead?

*Legal Aid*: Defendant pleads "not guilty," Your Honor.

*Court*: Mr. Prosecutor, what evidence does the State have?

*Prosecutor*: Your Honor, the defendant was seen tampering with a parked auto, license number XYZ 333, New York, in the vicinity of 66th Street and 2nd Avenue at 4 p.m. today. Officer X

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48. Usually the volume is large enough to require that a Legal Aid representative be stationed near the prearrest cell and perform all interviewing.

49. He does not receive a copy of the district attorney's data sheet, nor is he entitled to it. Strict New York discovery law prevents acquisition of such information. N.Y. CRIM. PROC. LAW §§ 240.10-.20 (McKinney 1971).

asked defendant if it was his car. Defendant replied that it was. Officer X then asked defendant for his registration. Defendant failed to produce it. Officer X then radioed headquarters and found that such car was reported stolen two weeks ago. Officer X then arrested the defendant.

*Court:* Is that true, Officer? Did you arrest this man?

*Officer:* Yes, Your Honor, it is true. I arrested that man.

*Court:* Does Legal Aid have contrary evidence?

*Legal Aid:* Your Honor, the defendant says he was not tampering with the vehicle but was merely leaning against it. Moreover, he claims that he never told the officer that it was his car.

*Prosecutor:* Your Honor, the People have a witness who says that he saw defendant in the vehicle. The witness also claims seeing the defendant tampering with the vehicle under the dashboard.

*Court:* Is that so, Witness?

*Witness:* That is what I saw today, Your Honor.

*Legal Aid:* Witness, are you sure you saw this man in the car in question?

*Witness:* Yes. I remember because of the clothes he is wearing.

*Court:* Case held over. Bail will be \$500 or \$150 cash.

*Legal Aid:* Your Honor, this man has never been convicted of anything before. He should be entitled to \$250 bail or \$100 cash.

*Prosecutor:* Yes, Your Honor, the defendant has never been convicted before, but he has been arrested two times for the same offense in the past.

*Court:* Bail will remain \$500 or \$150 cash—next case, Bridgeman.<sup>50</sup>

The typical arraignment observed takes about five or at most fifteen minutes. Most of the dialogue is carried on between the court, the Legal Aid attorney, and the prosecutor—seldom does the arresting officer enter into the discussion. A recent New York Police Department study reported that in a sample of 500 arraignment cases, there was no police officer participation 86 percent of the time.<sup>51</sup>

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50. After the arraignment, the defendant either is released on his own recognizance or posts bail. A clerk informs him where he is expected to appear next and on what date. Similarly, the arresting officer finds out where he is to appear next and in turn informs the witnesses or victim.

51. See New York Times, Dec. 13, 1972, at 1, col. 6.

According to a recent court report, the emphasis at arraignment is to:

- Advise defendant of charges against him.
- Advise defendant of rights to legal representation, adjournment, trial by Judge or Jury, etc.
- Consider and determine bail or release on recognizance for defendant.
- Set date for future appearance.<sup>52</sup>

Since 1967, there also has been an emphasis on disposing of the case at arraignment: "With the cooperation of the office of the District Attorney for New York County and the Legal Aid Society, the Manhattan arraignment part added an important aspect to the first appearance stage, i.e. consideration and action on the final disposition of the case. Essentially this process involved (1) screening out for dismissal at arraignment those cases where the District Attorney deemed that further prosecution was untenable and (2) the conduct of plea discussions during the arraignment stage for defendants charged with minor offenses."<sup>53</sup> Court administrators have been seeking to increase use of these procedures—known generally as "front loading"—and to extend their use to other boroughs. They also have sought to take advantage of the presence at arraignment "of all necessary parties needed to conduct preliminary hearings in felony and misdemeanor cases and to even conduct trials involving limited and sharply defined issues."<sup>54</sup> The method of accomplishing this disposition is a procedure called an "instant hearing," in which the arraignment is temporarily adjourned and the parties later reconvened, usually within 30 minutes, for a hearing of the case. The purpose of the instant hearing is to expedite the criminal process by holding a hearing immediately after the arraignment. With all the parties present, the potential for later adjournments due to witness or police absences is thought to be greatly decreased, and the inconvenience to witnesses and complainants thereby reduced because the parties need not return to court for a hearing at a later date.

5. *Sign-out*—After arraignment, the Manhattan officer is free to reodge his prisoner into the Department of Corrections holding facility if he is to be detained.<sup>55</sup> He then returns to the second-floor

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52. 1971 N.Y. CITY CRIM. CT. ANN. REP., Exhibit VII, at 2.

53. *Id.*

54. *Id.* at 3.

55. The officer first must obtain from the court clerk a commitment order, which he submits to the corrections intake officer at the time of lodging of the prisoner.

sign-in room in order to sign out. There his time slip is stamped and his next appearance date and time are entered on the police blotter. Relodging and signing out generally take from ten to 30 minutes. Once the officer signs out, he is given 45 minutes travel time to return to his precinct, exclusive of time consumed in storing any court evidence he may have in his possession. Evidence is stored at a property warehouse several blocks from the criminal court building, and storage can extend travel time up to one hour or more.<sup>56</sup>

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56. Inspector Farrell makes some interesting observations about police possession of court property:

The processing of property obtained as evidence in arrest cases is an important element in the arrest process. However, the impact of this function on available manpower is lost if the survey is concerned only with the arrest-arraignment phase. The main impact of the property procedures of the department is felt in considering subsequent appearances on the arrest, as the officer is required to obtain the evidence, bring it to court and return it to the property clerk's office concerned on each subsequent appearance.

(1) Arrest-Arraignment. Evidence secured by an officer in an arrest is vouchered in the precinct of arrest and a precinct voucher number assigned. Initial disposition of this evidence occurs in one of three ways:

(a) The evidence is delivered to the desk officer who places it in the property locker at the desk. It is then picked up by the property clerk and delivered to the appropriate facility for its retention pending disposition of the case.

(b) In some instances, the officer will retain the evidence, bring it to court with him for the initial arraignment and personally deliver it to the borough property clerk's office upon completion of the arraignment.

(c) Evidence which must be delivered to the police laboratory for analysis (narcotics, alcohol, glue, etc.) or to the ballistics unit, must be personally delivered by the arresting officer either before or after the court arraignment, but in any case within 24 hours. Total lost time occasioned by this trip on the part of the arresting officer is between one and three hours, depending on the borough of arrest. After analysis the arresting officer retrieves the evidence from the laboratory and delivers it to the borough property clerk's office.

(2) Subsequent Appearances: The amount of time spent by an officer in retrieving and returning his evidence on subsequent appearances is dependent upon several factors:

(a) Volume of work at the property clerk's office.

(b) Location of the borough property clerk's office with respect to the borough court building.

(c) Whether or not the evidence is stored at the local property clerk's office or is centrally stored at the warehouse, which is located in Queens and serves the entire city.

In addition to travel time incurred, a delay in obtaining evidence on appearance dates has other ramifications:

(a) The officer may miss the first calendar call in the court and be forced to remain for the afternoon session.

(b) On some occasions, cases are dismissed when the officer is absent for the first calendar call.

M. Farrell, *supra* note 5, pt. 4, at 27-30.

#### D. Chronological Summary

Thus far this article has sought to describe in some detail the New York arrest-arraignment process.<sup>57</sup> This section will trace in summary form the time it takes a Manhattan police officer to process an arrestee through the steps from arrest through arraignment.

1. *Stage One: Arrest*—Transportation from the scene of an arrest to the precinct may take from as little as fifteen minutes to as much as one hour.

2. *Stage Two: Precinct Processing*—It was estimated that a prisoner search would take from five to fifteen minutes; arrest report documentation takes from fifteen minutes to three hours; an inquiry concerning stationhouse release may take from fifteen to 30 minutes; fingerprinting consumes fifteen to 45 minutes; booking requires fifteen to 30 minutes; and finally, transportation to court may take fifteen minutes to one hour. Consequently, the minimum amount of time needed to perform the precinct processing of an arrestee in Manhattan is one hour and twenty minutes. On the other hand, the process could last as long as six hours. From observations during this study, it is probably fair to estimate an average of two and one-half to three hours per arrest for precinct processing in Manhattan.<sup>58</sup>

3. *Stage Three: Criminal Court Processing*—Because of the chronological overlap in the arresting officer's duties, it is more difficult to obtain an accurate overview of criminal court processing than of other stages in the arrest-arraignment procedure. For example, while an officer is awaiting the return of the suspect's fingerprints, he also is proceeding with other stages of the system for which fingerprint returns are not a prerequisite. To add the average fingerprint turnaround time to the time necessary for this other processing would greatly distort a chronological description. Keeping in mind the problem of overlap, criminal court processing may be summarized as follows:

(a) Court holding facility procedure should include ten minutes for fingerprint drop-off, fifteen to 30 minutes for R.O.R. processing, and five to ten minutes for lodging. Thus the total minimum amount of time necessary for the holding facility procedure is 30 minutes, and the maximum is 50 minutes.

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57. For a graphic representation of the arresting officer's path through this labyrinthine system see Appendix A.

58. This average does not take into account nonfingerprintable cases or those cases terminated at the precinct.

(b) Complaint room processing normally requires five to 30 minutes for signing in, a wait for assistance of fifteen minutes to one hour, fifteen to 35 minutes for preparation of the complaint, ten to 30 minutes for document routing, fifteen to 30 minutes for photography, and finally five to ten minutes for docketing the case. Therefore, the minimum time consumed in the complaint room is one hour and five minutes, and the maximum is three hours and fifteen minutes.<sup>59</sup>

At this point, the effect of delay in obtaining fingerprints upon arrest processing must be taken into account. Without fingerprints, a Manhattan officer may not complete complaint room processing for the many fingerprintable offenses. Since the minimum processing time from entry into the court detention area until departure from the complaint room is less than the minimum time necessary for fingerprint turnaround, the delay in obtaining fingerprints lengthens the time necessary for completion of complaint room processing. In reality, however, because time must be allowed for several other complaint room procedures that cannot be performed during fingerprint processing, including initial fingerprint drop-off, photography, document routing, and case docketing, the time necessary for completing criminal court processing through the complaint room stage will be even greater than the minimum fingerprint turnaround time. Consequently, the minimum time for processing from entry into the court holding facility until departure from the complaint room appears to be three hours and ten minutes, based upon a minimum two and one-half hour fingerprint turnaround time. The estimated maximum is approximately five hours and twenty minutes, based upon a four-hour maximum fingerprint turnaround time.<sup>60</sup> The average is approximately three hours and 50 minutes.

(c) Courtroom procedure includes five to ten minutes for prearrest pen placement, fifteen to twenty minutes for a Legal Aid interview, and 30 minutes to one hour for the case call. Therefore, the minimum amount of time spent in courtroom proce-

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59. Supporting these estimates, one recent study on the Manhattan court complaint room determined that the average case time was almost 3 hours. F. O'Brien, *Writing Times in the Manhattan Complaint Room*, February 17, 1972 (unpublished report to the commanding officer, Criminal Justice Liaison Division, New York Police Department).

60. The estimated maximum, however, does not take into account the possibility of fingerprints getting "hung up." In such cases, some officers report waiting 10 to 14 hours before returns finally are made.

dures prior to arraignment is 50 minutes; the maximum is one and one-half hours, and the average is one hour and five minutes.

(d) The typical arraignment lasts five minutes, but more time may be required if an instant hearing is held.

(e) Sign-out for the arresting Manhattan officer takes an additional ten to 30 minutes, depending on the need to relodge the prisoner prior to signing out. On the average, sign-out takes twenty minutes.

(f) Finally, as part of criminal court processing, the arresting officer in Manhattan is allowed 45 minutes for travel back to his precinct, but this amount can be increased to one hour or more if case evidence must be stored before returning to the stationhouse.

By adding the minimum and maximum times estimated for courtroom procedure, arraignment, sign-out, and travel, the time necessary to complete the second "half" of criminal court processing—from complaint room on—may be ascertained. In Manhattan, the minimum time is one hour and 50 minutes, and the maximum for the second "half" of processing is three hours and fifteen minutes.

The total of the minimum time from courthouse entry through complaint room processing—three hours and ten minutes—and the minimum time from complaint room to precinct return—one hour and 50 minutes—is five hours. The maximum for the same periods—five hours and twenty minutes and three hours and fifteen minutes, respectively—is eight hours and 35 minutes. Thus, a Manhattan police officer can expect to spend from five hours to eight and one-half hours per arrest case in the criminal courts.

In order to verify the accuracy of maximum and minimum time estimates from arrival at the criminal courts until departure, a sample of 336 arrest-arraignment cases in the Manhattan Criminal Court was studied.<sup>61</sup> Data was compiled from the sign-in and sign-out police log books in the Criminal Court. The result showed an average court processing time from sign-in to sign-out of four hours and 25 minutes.<sup>62</sup> This total does not include the time required for

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61. The sample was conducted on February 22 and 23, 1972, and comprised one full shift—from 4:00 p.m. to midnight on Tuesday, and from 8:00 a.m. to 4:00 p.m. on Wednesday. Although it was not possible to rid the sample of all nonarraignment cases such as motion appearances, trial cases, "343" releases, and district attorney appointments, it is believed that most of the nonarraignment appearances were screened out.

62. This sample of cases included eight "343" release cases yielding a combined average processing time that was substantially lower than the average arraignment processing time per case. A New York Police Department Criminal Justice Bureau study of "343" cases

those procedures that must be performed prior to sign-in and those to be performed after sign-out. The times estimated for these procedures are ten minutes for fingerprint drop-off, fifteen to 30 minutes for R.O.R., five to ten minutes for reloading, and 45 minutes to one hour for travel to precinct. If these times are added to the total, the sample indicates that a Manhattan police officer may expect to spend an average of five hours and 40 minutes to six hours and fifteen minutes in the criminal court processing of any fingerprintable arrestee who is not released at the stationhouse.

4. *Total Time Consumption*—To arrive at the total time consumed by the arresting Manhattan officer in the New York arrest-arraignment process, one must add: Stage One—Arrest, 30 minutes; Stage Two—Precinct Processing, two and one-half to three hours; and Stage Three—Criminal Court Process, five hours and 40 minutes to six hours and fifteen minutes.<sup>63</sup> The total average time expended is approximately eight hours and 40 minutes to nine hours and 45 minutes per fingerprintable arrest case.<sup>64</sup>

### III. PREARRAIGNMENT PROCESSING: THE BRONX EXPERIMENT

Due to the enormous amount of police and public time and participation demanded by the New York arrest-arraignment process, an experimental alternative procedure—prearraignment processing—was initiated in the Bronx in 1969. The origin of this project is described in the ten-year report of the Vera Institute of Justice:

Prior to 1969, when an accused person was arraigned the complaint against him had to be sworn to in court by the arresting officer. Witnesses or victims were also required to appear to give statements relating to the complaint. The need to have all these people in arraignment court at the same time had always presented problems of logistics and coordination, and extensive delays accompanied the process. . . .

The Prearraignment Processing project, developed by the police liaison

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revealed an average time of 3 hours and 53 minutes. Since an officer normally does not expect the case to be dismissed when he escorts an arrestee to arraignment court, the "343" cases were allowed to remain in the sample.

63. For a detailed table of the maximum, minimum, and average times consumed by the various steps in the New York arrest-arraignment process see Appendix B.

64. The New York Police Department Criminal Justice Bureau estimates a minimum of 6 and a maximum of 10 hours for the arrest-arraignment process. Additionally, they estimate an *average* of approximately 8 hours for the process. M. Farrell, *supra* note 5. More recently, Commissioner Murphy reported an average of 9 hours and 20 minutes. See New York Times, Dec. 13, 1972, at 1, col. 6.

office at Vera and inaugurated in the Bronx on February 27, 1969, sought to help solve these difficulties. . . .

Under the new plan, a person arrested in the Bronx when the Bronx arraignment court was closed was taken to the prearraignment facility where the necessary paper work was done by the arresting officer, the victim, the witnesses, and the assistant district attorney. Then, usually within an hour after arrest, all of these people except the district attorney were free to leave.<sup>65</sup>

Originally, the prearraignment processing project in the Bronx operated at nights and on weekends, when the regular arraignment court was closed. After the complaint was signed and the arresting officer and witnesses excused, the accused was taken to the arraignment court in Manhattan along with the papers in the case. Arraignment personnel in Manhattan then handled the case from the papers, calling the prearraignment processing facility if necessary. In September 1971, a night and weekend court was established in the Bronx, thus eliminating the necessity for transmitting prisoners to Manhattan.<sup>66</sup>

Prearraignment has been a source of concern at times to the court administration. Thus the Criminal Court 1971 Annual Report stated that one problem facing the courts at the beginning of the year was that "[a]rresting officers and witnesses in Bronx cases were not present at arraignment, preventing judicial consideration of relevant information from important parties to the case."<sup>67</sup> Be-

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65. VERA INSTITUTE OF JUSTICE, PROGRAMS IN CRIMINAL JUSTICE REFORM, TEN-YEAR REPORT 1961-1971, at 133-34.

66. See 1971 N.Y. CITY CRIM. CT. ANN. REP., Exhibit VII. After the opening of the Bronx facility in February 1969, similar facilities were established in Brooklyn and Queens. Like the Bronx project, the Queens project originally operated only when the regular arraignment court was closed, with cases then being transported to Brooklyn for arraignment on the papers.

In Brooklyn, because there was already a night court at the time the arraignment project was started, the project never was limited solely to after-hours cases. In 1971, however, the Legal Aid Society challenged the Brooklyn project in court for violating an alleged right to confrontation at arraignment. The challenge began on February 1, 1971, with a memorandum opposing introduction of the prearraignment procedure. On March 16, 1971, the Society formally moved to require production of the State's witnesses in Brooklyn arraignments. J. Lacy, *An Evaluation of the Booking Through Arraignment Processing of Brooklyn Arrests in the Brooklyn Criminal Court: A Working Paper of the Appearance Control Project 2-3* (June 8, 1971).

This suit later was dropped by the Legal Aid Society when the New York Police Department agreed to produce all parties at arraignment. Recently, however, the Society again initiated legal action when Commissioner Murphy proposed to free police and witnesses from arraignment proceedings. See *New York Post*, Dec. 16, 1972; *New York Times*, Jan. 6, 1973, at 33, col. 5.

67. 1971 N.Y. CITY CRIM. CT. ANN. REP., Exhibit VII, at 3. Similar "impediments" were found to exist in the Queens and Brooklyn prearraignment systems.

cause the prearrest procedure seemed to have a great time-saving potential for police and witnesses, but had aroused considerable concern about its effect on the courts, this procedure was observed and compared with the more usual arraignment procedure. All observations were made in the Bronx after the opening of the special night and weekend courts.

1. *Stage One: Arrest*—Arrest and transportation to precinct are the same as that previously described.

2. *Stage Two: Precinct Processing*—Except for transportation to court and fingerprint processing, precinct processing is virtually the same in prearrest precincts as it is in traditional arraignment precincts. Instead of escorting the arrestee to the criminal courts, as in Manhattan, those individuals arrested in the Bronx are delivered to the 42nd Precinct holding cells. The 42nd Precinct is located virtually adjacent to the Bronx Criminal Court and thus affords the nearest detention facility available to the criminal courts.<sup>68</sup> The travel time to the 42nd Precinct depends of course upon how far away the initial arrest precinct is located, but 30 minutes is probably an accurate average. Upon entry into the 42nd Precinct's detention facility, the arresting officer signs his prisoner in and receives a Polaroid snapshot for identification purposes. The lodging and photography usually take no longer than ten to twenty minutes. If the cells are filled, however, the arresting officer must locate a nearby precinct with available detention facilities, which can create a considerable delay.<sup>69</sup>

Once a prisoner has been lodged, the arresting officer must submit his suspect's fingerprints to the FAX terminal located on the second floor of the 42nd Precinct. Fingerprint drop-off takes approximately ten to twenty minutes. As in Manhattan, the Bronx fingerprint turnaround time is approximately two and one-half to four hours, but the arresting officer and complainant do *not* have to await the return of fingerprints before proceeding with prearrest. Consequently, once fingerprints have been dropped off, the arresting officer and any complainants and witnesses may proceed directly to court for complaint processing.

After lodging and Polaroid photographing, the prisoner will

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68. The holding facilities in the criminal courts are inadequate for the volume of cases and the length of detention.

69. Precinct personnel indicate that lack of cell space is a frequent occurrence. Moreover, when cells are found to be filled, the escorting officer will begin to drive from one precinct to the next until space is found available. No effort apparently is made in advance to determine by phone where an empty cell is available.

wait for his rap sheet to be processed. When his fingerprints are returned and New York City has issued an identification number known as a "B" number, the suspect will be escorted upstairs in the 42nd Precinct to the second-floor photo facility. There a "mug" shot displaying his "B" number will be prepared. Next, he will be taken by police patrol wagon to the court detention pens of the Department of Corrections for further processing and eventual arraignment.

3. *Stage Three: Criminal Court Processing*—The most significant differences between traditional arraignment and prearraignment are the amounts of officer and complainant time spent in the criminal court processing stage. In comparison with traditional arraignment, the involvement demanded in prearraignment is minimal.

a. *Sign-In*—Upon arrival at the criminal courts, the arresting officer must sign in on a police log book. During prearraignment, the log book is located in the complaint room.<sup>70</sup> At other times, when traditional arraignment is in operation, the officer must sign in on the first floor of the Bronx Criminal Court and then proceed to the second-floor complaint room. Sign-in takes five to ten minutes during prearraignment.

b. *Complaint Processing*—After the officer signs into the complaint room, he receives several forms that he now must complete. The forms include a prearraignment report, an arraignment card, a report of the docket number, a warrant information card, a narcotics addiction form,<sup>71</sup> and a court availability schedule form.<sup>72</sup> It takes approximately fifteen to 25 minutes to fill in the appropriate information unless the complaint room is crowded, in which case the amount of time can easily double. Once the papers are in order, the Bronx arresting officer obtains the assistance of an assistant district attorney and a typist to complete the actual complaint.<sup>73</sup> The officer

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70. In the Bronx, prearraignment operates from 3:30 p.m. to 10:30 p.m. on weekdays and around the clock on weekends. At other times the traditional arraignment procedure is employed.

71. A narcotics addiction form gives the defendant's name, docket number, and a statement that the defendant is not suspected of being a narcotics user. The form must be signed by the arresting officer.

72. This information permits the court to schedule later appearances without conflicting with the officer's schedule.

73. The drafting of the actual complaint is virtually the same process as that described in the Manhattan section. Thus the assistant district attorney performs a screening function during prearraignment complaint processing as well as during traditional complaint processing. After questioning the officer, he may decide to release the defendant on a "343" form,

then signs the complaint and swears to it before the assistant district attorney.

When the complaint and papers are in order, they are taken to the docket counter in the complaint room, and the officer docket the case. Swearing to the complaint and docketing the case usually take no more than ten to twenty minutes. If the assistant district attorney believes the case can be disposed of quickly, he asks the officer and the witnesses to remain for arraignment, and possibly for an instant hearing.<sup>74</sup> If the case is handled this way, the procedure is exactly the same as in traditional arraignment. If, however, the assistant district attorney does not believe that such a disposition is possible, the officer and the witnesses are free to leave. The arresting officer may sign out and return to his precinct, and, as in Manhattan, he is allowed 45 minutes to return to his precinct.

c. *Prisoner Processing*—Upon arrival at the Bronx Criminal Courts, the prisoner is placed in a holding cell by the Department of Corrections. He subsequently is processed by R.O.R. and Legal Aid personnel in much the same manner as in Manhattan. Once the individual has been interviewed by R.O.R. and Legal Aid, his case papers, rap sheet, and R.O.R. report are delivered with him to the arraignment court detention pen. When the case is called, the prearraignment court platoon<sup>75</sup> escorts the prisoner from the detention pen into the courtroom.

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which typically is used when there is no causal nexus between the defendant and the crime allegedly committed. Normally, the more experience an assistant district attorney has, the more frequently will he use the "343" release. Moreover, if the case goes to arraignment, the assistant district attorney has discretion to recommend "dismissal" simply by not putting forth a case. Finally, the assistant district attorney may move for an adjournment in contemplation of dismissal—an "A.C.D. motion." This disposition usually is recommended in first-offender cases, and it means that all charges against the defendant will be dismissed if he "stays clean" for a specified period of time.

74. See text accompanying note 54 *supra*. An instant hearing may be held shortly after arraignment, and it basically is used by the court for dispositional purposes. Although the hearing requires the cooperation of the defense attorney, consent usually is given because the Legal Aid attorneys must cooperate with the busy court in order later to obtain favorable bail decisions. The instant hearing is actually to the prosecutor's advantage in felony proceedings because the complainant will not be forced to return within 72 hours to participate in a subsequent hearing. See N.Y. CRIM. PROC. LAW § 180.80 (McKinney 1971).

The decision to hold an instant hearing frequently depends upon the immediate court load—if the court is too busy arraigning, no instant hearings will be held. On the other hand, if the complainant would suffer adverse economic effects by later reappearing in court, there is a strong incentive to hold an instant hearing.

75. The prearraignment court platoon is a group of police officers assigned to administer the prearraignment facility. Much of the processing and paper work required of the arresting officer in arraignment is performed by this platoon in prearraignment precincts.

d. *Arraignment*—The actual arraignment is virtually identical in the prearraignment and traditional arraignment systems, except that after calling the case, the bridgeman usually calls attention to the fact that the defendant was “prearraigned earlier today, by having a sworn complaint prepared in the Bronx prearraignment facility.” Occasionally at arraignment the Legal Aid attorney may question the existence of a crime or the probable cause for arrest. For example, the attorney might assert that the defendant was arrested for stealing his *own* car. If such a question is raised, the judge will question the defendant and the assistant district attorney in order to clarify the issue.<sup>76</sup> If the case is a prearraignment case in which the police officer, the complainant, and the witnesses are not present, the court may have some problem disposing of the issue at this time, and a subsequent hearing may be necessary.<sup>77</sup> After the court has adjourned the case, the prearraignment officer—not the arresting officer—records the date of the next appearance and the court part to which the case is assigned. If the prisoner was not paroled<sup>78</sup> and cannot make bail, the prearraignment officer returns him to the custody of the Department of Corrections. The actual arraignment consumes the same amount of court time—about five minutes—whether the case is a product of the traditional Manhattan arraignment system or of the Bronx prearraignment experiment.

4. *Chronological Summary*—This section will summarize the time it takes a Bronx police officer to process an arrestee through the stages of the New York arrest-arraignment system by using prearraignment processing.

a. *Stage One: Arrest*—Because prearraignment does not differ significantly from traditional arraignment in the suspect’s arrest and transportation to the precinct, the 30-minute average time for Manhattan also applies here.

b. *Stage Two: Precinct Processing*—The police log in the Bronx Criminal Court provided data for the time consumed from arrival at the arrest precinct until booking. In the sample studied,

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76. In California and other jurisdictions, such issues are often resolved in the complaint room prior to any court appearances.

77. An additional argument against the use of prearraignment is based on the difficulty of holding instant hearings when the officer or complainant is not present. *See* note 67 *supra* and accompanying text. In practice, however, there appear to be relatively few instant hearings, and for many of these, the parties have been requested to stay for arraignment. The bridgeman of the Bronx arraignment court estimated that of 30 to 70 cases per night, less than 4 or 5 have instant hearings.

78. In New York, arraignment judges frequently use the word “parole” to mean release on one’s own recognizance.

the average time taken for this process was two hours and 23 minutes.<sup>79</sup> Processing a prisoner from booking through criminal court sign-in takes an average of one hour and twelve minutes.<sup>80</sup>

c. *Stage Three: Criminal Court Processing*—Clearly, the most significant time differential between the Manhattan and Bronx systems occurs in the criminal court processing stage. The average time spent by a Bronx officer during prearrest from sign-in to sign-out from the criminal courts is 38 minutes.<sup>81</sup> Adding 45 minutes for travel back to his precinct yields a total of one hour and 23 minutes.

d. *Total Time Consumption*—By combining the time totals for the three stages, a total processing time for prearrest may be computed and compared with traditional arraignment procedure. The three stages include: Stage One—Arrest, 30 minutes; Stage Two—Precinct Processing, (1) arrival at precinct through booking, two hours and 23 minutes; (2) booking through court sign-in, one hour and twelve minutes; Stage Three—Criminal Court Processing and Return to Precinct, one hour and 23 minutes.<sup>82</sup> Thus, the arresting officer and the complainant spend a total of five hours and 28 minutes in the processing of an average fingerprintable arrest case following the Bronx prearrest procedure, compared with an average of eight and one-half to nine and one-half hours following Manhattan's arraignment procedure.<sup>83</sup>

#### IV. THE CALIFORNIA CRIMINAL JUSTICE SYSTEM

For purposes of comparison, the Oakland Police Department was selected as the California model for this study. Oakland is a city of some 360,000 population, is one of two major cities in a metropolitan area of over three million, and has all the problems and difficul-

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79. This conclusion is based upon a total of 72 entries during a 24-hour period on November 6, 1971.

80. The steps in this process are transportation of the prisoner from the arrest precinct to the 42nd Precinct or to another precinct if the detention facility in the 42nd is unavailable, lodging, Polaroid photography, fingerprint drop-off, travel to the criminal courts, and criminal court sign-in. The time average is based upon a total of 42 entries during a 24-hour period on November 6, 1971. This sample is smaller than the one previously taken due to the delayed processing of many suspects when the criminal courts discontinued hearing arraignments for the observation night.

81. Based on a total of 63 entries during a 24-hour period on November 6, 1971.

82. For a detailed table of the maximum, minimum, and average times consumed by the various steps in the Bronx prearrest procedure see Appendix C.

83. The apparent time saving of 3 to 4 hours must be qualified by the man-hours required to operate the prearrest facility. Estimates based on the Brooklyn facility indicate considerable manpower consumption in its operation. See J. Lacy, *supra* note 66, at Table 11. The efficiency of the facility obviously depends in part upon the caseload.

ties of other core cities.<sup>84</sup> The Oakland Police Department long has been recognized as an outstanding department, and many of its procedures have been copied by other departments.

A. *Stage One: Arrest*

As in the New York section, no attempt is made here to describe every variable involved in the arrest decision in Oakland. To the extent, however, that the complexity of a criminal justice system after arrest exerts an influence upon the initial decision to bring a suspect into custody, that influence clearly is less in Oakland than in New York. Participation after arrest is so minimal in Oakland that the arresting officer virtually never leaves the field after he initiates an arrest. As a result, an Oakland officer's decision to arrest is less likely to be influenced by any subsequent procedural burden placed upon him.

Once the decision to arrest has been made in Oakland, the arresting officer places a call for the patrol wagon and begins to fill out an arrest report. In juvenile cases, the officer also completes a crime report that accompanies the arrestee;<sup>85</sup> in felony cases, the crime report generally is completed later.<sup>86</sup> The arrest report contains the defendant's name, other identifying information, and the charge, and it takes approximately five minutes to complete. The crime report contains considerably more information, including a narrative of the offense and the basis of the arrest.<sup>87</sup> Crime reports require an average of fifteen to 30 minutes to complete, but reports concerning complicated crimes may take substantially longer, up to one hour or more. Once an Oakland officer finishes the appropriate report and deposits his arrestee in a patrol wagon, he is free to return to field duty. Because the reports contain the details of the cause for arrest and the elements of the offense, there is no need for the officer to return to the stationhouse. As a result, the Oakland arrest system achieves a maximum of in-service time for its patrol units.

One feature that makes the Oakland model stand out from

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84. In 1970, the Oakland Police Department reported making 51,414 total arrests.

85. In juvenile cases, the crime report and statements must accompany the arrestee. The Probation Department assumes jurisdiction 4 hours after arrest and immediately must screen the suspects into those who will be released and those against whom a petition—a substitute in juvenile cases for a criminal complaint—will be filed. See CAL. WELF. & INST'NS CODE § 650 (West 1972). Probation officers utilize the crime reports in this process.

86. This report often is completed in the station just prior to the end of a shift.

87. In drunk and warrant arrests, no crime report is required. Also, in drunk cases only a "short" arrest form is necessary.

other systems observed is its method of transporting arrestees to the police station. The rule in Oakland is that *every* arrestee must be transported to the station by patrol wagon.<sup>88</sup> Because of the patrol wagon transportation requirement, no officer himself may transport an arrestee to the station unless he first obtains permission from his supervisor by radio. Permission is granted only under extenuating circumstances, such as the quick gathering of a crowd or the lack of an immediately available wagon. Typically, there are four wagons that patrol specific areas of Oakland. In an average shift, each wagon makes from ten to fifteen trips to the station with prisoners. During a heavy shift, a patrol wagon makes fifteen to twenty trips to the station.

When a van is not in the process of transporting a prisoner, it remains in service on a general patrol of its jurisdiction. Since the wagon's primary function is to be available for transportation, wagon officers, as a general rule, do not initiate arrests. However, if an offense is "on view," the situation will be handled. If the wagon is in service and available when a call comes in, it is normally no farther than ten to fifteen minutes from the scene. In addition, the wagon operators monitor the police radio so that when an arrest is being made in their jurisdiction, they often begin traveling to the scene even before an actual request. Upon arrival, the wagon driver and his partner leave the vehicle and assist the arresting officer by searching the arrestee and placing him in the van. The arresting officer then gives them the arrest report and a crime report, if necessary. The procedure at the scene of the arrest usually takes less than five minutes.

The return trip to the station for prisoner drop-off takes another ten to fifteen minutes. Although other prisoners may be picked up, the policy is to drop off one load as quickly as possible so that an arrestee can be processed and the patrol wagon operators can return to service. Although the distances in Oakland are somewhat greater than those in a New York borough, travel times generally are somewhat less because of the street and freeway layout.<sup>89</sup> Once at the station, the wagon officers escort the suspect to the jail, deliver the

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88. There are 2 exceptions to the rule. First, no juvenile, 12 years or under, may be transported by patrol wagon. Secondly, older juveniles may not be so transported if an adult is also in the wagon unless they were parties to the same offense. Under no circumstances, however, may an adult and juvenile be transported together if a sex crime is involved.

89. Oakland is larger than Manhattan but smaller than New York City. The area of Manhattan is 22.36 square miles; Oakland, 53.4 square miles; and New York City, 299.7 square miles. INFORMATION PLEASE ALAMANAC, ATLAS AND YEARBOOK 651 (1973).

arrest report to the watch supervisor, and then return to duty. Drop-off at the station takes no longer than five minutes unless the suspect has been arrested on a warrant.<sup>90</sup>

### *B. Stage Two: Stationhouse Processing*

There are several noteworthy features of the stationhouse processing stage in Oakland. First, felony and misdemeanor suspects are processed substantially differently. Secondly, the processing is carried on entirely within the city jail by civilian jailers under the supervision of a police sergeant and lieutenant, which ensures a maximum of security and efficiency.<sup>91</sup>

1. *Prisoner Search*—Immediately upon entry into the jail, arrestees are requested to step back and “grab the rail”<sup>92</sup> so that they may be pat-searched for weapons. Then they are escorted to a holding cell to await further processing. The prisoner search and escort take no longer than three to five minutes. Because felony suspects always are processed before misdemeanor suspects, the length of a prisoner’s wait until the next stage of processing depends upon the classification of his offense.<sup>93</sup>

2. *Booking*—Depending upon the number of arrestees waiting to be processed and whether the particular arrestee is a felony or a misdemeanor suspect, the wait in the holding cell can vary considerably—from a few minutes to several hours. Even under crowded conditions, however, a misdemeanor suspect seldom will have to wait longer than one hour to begin the booking process. Once an arrestee’s turn comes, he is escorted out of the holding cell to a

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90. In these cases, the wagon officers must retrieve the actual warrant from the records section before the suspect can be accepted by the jail. The Oakland Police Department utilizes a computerized Police Information Network System (PIN), which contains information on outstanding criminal and traffic warrants. The arresting officer enters, via radio, the suspect’s name, race, date of birth, and physical description. From this information it can be determined whether the suspect has an outstanding warrant. When a warrant exists, the arresting officer completes an abridged arrest report and calls for the wagon. The wagon officer has the responsibility for picking up the actual warrant from the fugitive file in the police records section.

91. Because civilian attendants are trained for and assigned to particular jobs, they perform them more quickly and more competently than the street policemen. Moreover, this observer was impressed by the fact that the jailers interviewed took a great deal of pride in their work. They felt that they were able to maintain better rapport with the prisoners, which meant that the job was performed better and with less hesitation.

92. The “rail” is a chest-high metal protrusion securely fastened to a wall.

93. The purpose of processing felony suspects before misdemeanor suspects is to ensure that all of a suspected felon’s relevant papers and investigation are completed prior to arraignment. If important information is missing at the time of arraignment, a suspect may be released.

booking counter 30 feet away, where the case receives a booking number and is entered in the jail arrest log. Immediately thereafter, a detention record is completed, using the information available on the arrest report.<sup>94</sup> No more than five minutes is consumed in logging the prisoner and compiling a detention record. After the arrestee's name has been recorded on the booking log and a detention record has been completed, his thumbprint is placed on the back of the detention record. The purpose of the admitting thumbprint is identity verification at the time of release. Recording the thumbprint usually takes less than a minute.

3. *Property Inventory*—Even though the prisoner has been frisked by the arresting officer at the scene of the crime, pat-searched by the wagon operators, and again pat-searched by the jailers upon entry into the jail facility, he is searched once more at the booking counter. Up to this point, the searches were intended primarily to discover concealed weapons. The prisoner is searched at this stage to make an inventory of his personal belongings and to prevent introduction of contraband into the jail security areas. As a result, searches made at the booking counter generally are witnessed by a third party. Additionally, a property receipt is filled out in the arrestee's presence, explained, and signed by him. He in turn receives a copy of the receipt for anything taken from him. Upon release from the jail, the prisoner may recover his property by surrendering the receipt. The typical search takes approximately five minutes, but may be slightly longer for felony suspects because the jail requires a strip-search for every felony arrestee.

4. *Release on Bail*—A misdemeanor suspect has several opportunities for release prior to court appearance. The first of these is release under a predetermined bail schedule established by the judges of the county. Under this schedule the defendant may secure release directly from the jail, pending his subsequent court appearance. This stationhouse bail schedule applies only to misdemeanor arrests and is reviewed annually by the judges,<sup>95</sup> and under its provisions each offense has a specific bail that must be posted.<sup>96</sup> In Oak-

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94. No prisoner is admitted into the jail without an arrest report. Essentially, the detention record provides 2 types of information—basic background information on the suspect and activity information relating to the action taken on the suspect while in custody, such as place of lodging and date of release. Various copies of the detention record are distributed throughout the jail.

95. See CAL. PENAL CODE § 1269b(c) (West 1970).

96. For instance, a petty theft offense has a bail range of \$100 to \$500, depending upon the value of the property taken.

land, misdemeanor suspects are informed of the amount of bail when booked,<sup>97</sup> and the amount also is listed on the jail detention record. Once a misdemeanor arrestee learns of his bail and indicates a desire to be released on bail, he is given priority in processing. However, because jail policy allows no one to be released prior to fingerprinting and a warrant check, the pre-release processing of a misdemeanor arrestee may take two to three hours. Interestingly enough, the County of Alameda has authorized the Oakland Police Department to accept a personal check for the exact amount of the bail if the defendant so desires.<sup>98</sup>

In felony cases, however, bail must be set by a judge. In Alameda County, once a formal charge is filed the judges customarily set bail in these cases without an appearance by the defendant.<sup>99</sup> Generally, the amount of bail follows a recommended schedule that the judges review periodically. Felony defendants also may be released on bail at any time upon special application to a judge.<sup>100</sup>

5. *Background Investigation Form*—Jailers complete this form in all misdemeanor arrests for later use in considering release on a citation. It contains information supplied by the arrestee about the length of his residence, employment, marital status, and persons who could be contacted to verify the information. Although it only takes approximately two to five minutes to complete the background investigation form, no release decision is made at this time, and the suspect may have to wait several hours before a decision is made. The delay enables the department to complete processing, including a check for outstanding warrants, and allows a superior officer to review the case and make the release decision.

6. *Record Check*—After booking and related processing are completed and the defendant is relodged in a holding cell, a copy of his detention record is forwarded to a jailer at the fingerprint desk located inside the jail. The jailer uses a direct phone line to call the third-floor Identification Bureau for a records check. In the Identification Bureau, a technician searches the local files to see if the arrestee has a record of prior arrests. The search is accomplished by

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97. Stationhouse release occurs after processing has been completed. All misdemeanor suspects therefore are informed of the bail amount at booking, even though they may be released later on citation or R.O.R.

98. The suspect's name must be imprinted on the check. One jail sergeant with 6 years' experience indicated that he was not aware of any cases of bail jumping when payment had been made by check.

99. See CAL. PENAL CODE § 1269b (West 1970). This procedure is not followed in all California jurisdictions.

100. See CAL. PENAL CODE § 1276 (West 1970).

comparing the defendant's name, date of birth, sex, race, and state of birth with similar information in files on previously arrested individuals. Depending upon workload, the record check takes approximately ten to 30 minutes and will effectively match the arrestee with former arrests in the Oakland area only. If the individual possesses a prior Oakland record, his "jacket"<sup>101</sup> is sent down to the jail by means of dumbwaiter. On the other hand, if no such record is found, the technician phones the fingerprint jailer and instructs him to initiate a new file on the arrestee.

Once fingerprints are taken from a new arrestee, his jacket must be resubmitted by dumbwaiter to the third-floor Identification Bureau for further investigation. A fingerprint check is made to verify an arrestee's identity and to correct any misstatements before a new record is completed. A separate fingerprint check on new arrestees can take nearly one hour, depending upon the volume of work and manpower available.

While one copy of the detention records goes to the fingerprint station, another is routed to the administrative office of the jail. Upon receipt, office personnel make another record check for outstanding warrants. Instead of examining the files, the searcher uses a computer system called "PIN,"<sup>102</sup> which can be used not only for a search of the local Bay Area records, but also can be coupled with other computer networks for a statewide or even a national investigation.<sup>103</sup> The results from a PIN check are virtually instantaneous for local searches and take ten to twenty minutes for statewide and national checks. Findings from a PIN check are returned to the fingerprint desk, where they are entered onto the suspect's records and finally into his jacket. Although a complete record check may take one and one-half hours for a new arrestee, the typical search requires no more than 30 minutes.

7. *Fingerprints*—Five sets of fingerprints are made of each new felony arrestee. One set is transmitted to the FBI and one to the California Criminal Identification and Investigation Bureau. The remaining three sets are retained by the police department: one

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101. The "jacket" contains all aliases used by the defendant and lists the date and reason for each previous arrest. The Oakland Police Department City Jail was constructed so that the Identification Bureau is located directly over the fingerprint station in the jail, thereby allowing connection of the 2 areas by dumbwaiter.

102. See note 90 *supra*.

103. The statewide search is made through the California State Criminal Identification and Investigation Bureau (CII) headquarters in Sacramento and its CLETS system. The national search is conducted through the National Crime Information Center (NCIC) established by the FBI in Washington, D. C.

set goes to the Identification Bureau for insertion into the individual's jacket, one set goes to a fingerprint classification unit for later reference, and one set goes to the crime laboratory for comparison with latents that have been processed. Only four sets of fingerprints are made for new misdemeanor arrestees. Although the prints of all new arrestees must be submitted for further investigation, former arrestees' prints merely are checked against what already exists in their jackets. This verification takes only ten to twenty minutes and is performed at the fingerprint desk. Although fingerprinting and record checks may consume a considerable amount of time, they are not prerequisites for further processing, which may continue while these searches are pending.<sup>104</sup>

8. *Photography*—The Oakland Police Department photography station is adjacent to the fingerprint desk in the jail. Front and profile photographs—"mug shots"—are taken of all suspects, and in addition, stand-up photographs are taken of suspected felons. A person previously arrested is rephotographed only if five years have elapsed since the last photographs, or if his appearance has changed significantly since the last photographs. New photographs always are taken of persons accused of a serious felony. The photography usually is completed within two to five minutes, and the photographs then are added to the prisoner's jacket.

9. *Telephone Calls*—By state law, the police must permit every arrestee to make two telephone calls within three hours after his arrest.<sup>105</sup> Thus in Oakland, after an arrestee is fingerprinted and photographed, he is escorted a few steps to a "security area" within the jail where he is allowed to make his phone calls. It is the practice in Oakland not to charge prisoners for local calls,<sup>106</sup> but long distance calls must be made collect. Oakland jailers are very careful to note on the arrestee's detention record the time of the phone call, to whom it was placed, how long it lasted, the jailer's serial number, and a signed consent if the arrestee waives his right to make the phone calls.<sup>107</sup> The phone call procedure generally takes about ten minutes.

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104. The principal effect of a delay in fingerprinting or record checking is to lengthen the detention of those seeking to post bail or those seeking to qualify for a stationhouse release.

105. CAL. PENAL CODE § 851.5 (West 1970).

106. The statute, however, requires the prisoner to make phone calls "at his own expense." *Id.*

107. The jail phones are equipped with special monitors and cut-off switches. Every call by a felony suspect must be monitored by a jailer in the presence of the suspect, and calls by misdemeanor suspects will be monitored and cut off only if abusive language is used.

10. *Offense Segregation*—After prisoners have been allowed an opportunity to make telephone calls, they are segregated by offense and lodged. Most misdemeanor suspects are secured in a misdemeanor dormitory, but petty theft suspects and traffic arrestees are lodged in two additional dormitories. Low-bail felony suspects stay in still other dormitories, and sex offenders and persons accused of serious felonies are placed in maximum security cells.<sup>108</sup>

11. *Misdemeanor Citations*—California law provides that every misdemeanor suspect must be examined to determine whether he should be released on a citation pending court appearance.<sup>109</sup> Felony suspects are not similarly eligible for release. During the booking procedure, jailers ask misdemeanor arrestees questions pertinent to the Oakland Police Department's stationhouse release policy, and the information gathered is reported on a background investigation form. The citation investigation must include, but need not be limited to:

the person's name, address, length of residence at that address, length of residence within this state, marital and family status, employment, length of that employment, prior arrest record, and such other facts relating to the person's arrest which would bear on the question of his release pursuant to the provisions of this chapter.<sup>110</sup>

After background investigation and other processing has been completed, the watch supervisor makes the actual citation release decision.

12. *Release on Own Recognizance*—After lodging but prior to arraignment, the R.O.R. Unit interviews Oakland detainees who have not been released on citation or bail. The R.O.R. Unit, which is a part of the Alameda County Probation Department, interviews everyone except those arrested for narcotics offenses, drunkenness, and crimes of violence. The R.O.R. Unit operates both day and night and will interview suspects who have been denied a misdemeanor citation release. As in New York, the arraignment judge reads and acts upon any recommendations made by the Unit for release on own recognizance.

13. *Stationhouse Screening*—California police traditionally

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108. The purpose of this segregation is to prevent one class of offender from interfering with or harassing another type. For instance, the large majority of misdemeanor suspects are traffic violators, and it is thought that placing this group with the petty theft suspects might encourage thefts.

109. CAL. PENAL CODE § 853.6 (West 1970). See generally Feeney, *Citation in Lieu of Arrest: The New California Law*, 25 VAND. L. REV. 367 (1972).

110. CAL. PENAL CODE § 853.6(i) (West 1970).

have exercised more post-arrest screening power than have the police in New York. This authority is codified in section 849(b) of the California Penal Code, which provides in part:

Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:

- (1) He is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.<sup>111</sup>

This section enables the police critically to review conduct in the field and to release suspects who were arrested on insufficient grounds or for whom there exists no reason for further detention. As a result, a significant amount of screening of felony arrests takes place at the stationhouse during the period prior to actual arraignment. With some exceptions, misdemeanor cases generally are not screened as extensively as felony cases.<sup>112</sup> In Oakland, cases of drunkenness and petty theft are referred automatically to the district attorney. In some other California police departments, however, certain kinds of misdemeanors may be screened out prior to trial. For example, the treatment of drunkenness cases varies widely throughout the State. Although some police departments, like Oakland, routinely send these cases to court, others invoke a statutory provision allowing release without going to court,<sup>113</sup> while still others do not make arrests for drunkenness.

Procedurally, the stationhouse screening process begins in the department's report reproduction section, where arrest and crime reports are integrated by name of complainant, and Xerox copies of the report are made and distributed to appropriate agencies and bureaus.<sup>114</sup> For felony cases and some misdemeanor cases, a copy of

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111. CAL. PENAL CODE § 849(b) (West Supp. 1973).

112. In California, a person arrested without a warrant must be taken before a magistrate "without unnecessary delay, and, in any event, within two days after his arrest, excluding Sundays and holidays." CAL. PENAL CODE § 825 (West 1970). Sections 849 and 859 also contain the "without unnecessary delay" requirement, but without providing a specific time limit. CAL. PENAL CODE §§ 849, 859 (West Supp. 1973). The requirements of § 825, although part of the arrest warrant portion of the Code, also apply to warrantless searches. *See Dragna v. White*, 45 Cal. 2d 469, 289 P.2d 428 (1955).

Misdemeanor defendants generally are arraigned within one day—excluding weekends and holidays—although not as quickly as in New York. In Oakland, misdemeanor suspects arrested after 6:00 a.m. usually are arraigned the following day. Except for prostitutes, who usually are quarantined for the maximum 48 hours, misdemeanor suspects arrested prior to 6:00 a.m. will be arraigned the same day. Because of the greater screening conducted, felony suspects are not arraigned as quickly as misdemeanor suspects.

113. CAL. PENAL CODE § 849(b)(2) (West Supp. 1973); *cf.* CAL. PENAL CODE § 647(f)-(ff) (West Supp. 1973).

114. These agencies and bureaus may include the crime analysis bureau, statistics, records, originating division, jail, investigation division, and court clerks.

the report is routed to the police department's Investigation Division, in which most of the police screening takes place. This division includes a number of units assigned to specific crimes, such as homicide, robbery, burglary, and vice. Each of these is manned by police investigators<sup>115</sup> and supervised by a lieutenant who assigns an investigator to each arrest case routed to his unit. It is the investigator's duty to examine the case to determine whether a complaint should be filed. Very weak cases generally will be dropped, and the investigator will confer with a deputy district attorney about questionable cases.<sup>116</sup> The investigator also must forward to the district attorney's complaint bureau the documents and other materials for the misdemeanor and felony cases that are to be prosecuted. Finally, the investigator must ensure that all cases are prepared properly in time for arraignment. Thus, only after stationhouse screening does the case go to the district attorney.

14. *District Attorney Complaint Screening*—Even after a thorough stationhouse screening by the police, the district attorney's office may not prosecute a case. Once a case is forwarded to the district attorney's complaint bureau, it receives a second screening by a deputy district attorney. He evaluates the case and the likelihood of securing a conviction. If he believes that the evidence is insufficient, or that there is some other serious problem with the case, he may, and in felony cases often does, refuse to file a complaint.<sup>117</sup> In felony cases, a deputy district attorney typically meets with the police investigator, and they briefly discuss the case. Occasionally the deputy district attorney will request a more thorough investigation before issuing a complaint, and because the deputy district attorney can refuse to prosecute, the police usually cooperate. In contrast, misdemeanor cases are not screened as closely by the district attorney, and police conferences seldom are held. In Oakland, the district attorney's office has one misdemeanor complaint deputy and three felony complaint deputies who are available to screen cases, confer with police, and write complaints.<sup>118</sup>

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115. A police investigator usually holds the rank of sergeant.

116. The police department works closely with the district attorney's office. Perhaps one reason for the close association is the physical proximity of the 2 agencies—the district attorney's office is located inside the Police Administration Building.

117. See generally Graham & Letwin, *The Preliminary Hearing in Los Angeles: Some Field Findings and Legal-Policy Observations* (pts. 1-2), 18 U.C.L.A.L. Rev. 636, 916 (1971).

118. The purpose of a complaint is to initiate a proceeding for the examination before a magistrate of a person on a charge of an offense originally triable in a superior court. CAL. PENAL CODE § 806 (West 1970). Penal Code § 806 provides that the preliminary complaint must be under oath, subscribed by the complainant, and filed with the magistrate. It may

*C. Stage Three: Court Room Processing*

Once the decision is made to issue a complaint, one of the district attorney's complaint deputies initiates the mechanism by which the file is prepared, the complaint is typed, and the case is placed on the calendar for the defendant's initial appearance before the magistrate for arraignment. Significantly, in California the arresting officer and complainant are not required to appear at the defendant's arraignment. Those parties who usually do appear are the defendant,<sup>119</sup> the prosecutor, the public defender, and the magistrate. Pursuant to the California Penal Code, the magistrate must advise the defendant of his various statutory and constitutional rights, inform him of the charges against him, provide for counsel, deliver a witness list to him, ask whether he pleads guilty or not guilty to the accusatory pleading, and set bail.<sup>120</sup> To accomplish the statutory tasks, some California jurisdictions, such as Oakland, provide for two appearances at arraignment. At the initial appearance, the defendant is advised of his rights, informed of the charges, assigned counsel if he cannot retain his own, and notified of bail, which must be reset in misdemeanor cases. After counsel has had an opportunity to confer with the defendant, usually a day or two later, there is a second appearance, at which a plea is taken and a preliminary hearing date is chosen. In Oakland, the complete arraignment takes an average of five minutes.

A single-appearance procedure is in operation in some other

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be verified on information and belief. However, the statute does not designate any particular officer before whom the complaint must be verified; it follows that it may be verified before anyone authorized to administer an oath. A district attorney and his deputies are, as county officers, empowered to administer and certify the oaths of complaining witnesses to criminal complaints.

119. Only in felony cases is the personal presence of the defendant at arraignment required. In misdemeanor cases he may appear by counsel. CAL. PENAL CODE § 977 (West 1970).

120. CAL. PENAL CODE §§ 858, 988, 1269b (West 1970, Supp. 1973). One of California's leading practice manuals suggests that the functions of arraignment are:

- (a) to ensure that the accused is correctly identified;
- (b) to inform him of charges and his right to counsel;
- (c) to protect him from unlimited detention.

The author also states that counsel can do the following:

- (a) make objections to the complaint or arrest warrant;
- (b) raise search and seizure issues;
- (c) waive the preliminary hearing;
- (d) move to reduce bail;
- (e) move to disqualify the magistrate.

CALIFORNIA CONTINUING EDUCATION OF THE BAR, CALIFORNIA CRIMINAL LAW PRACTICE §§ 3.56, 3.63 (1964).

counties. In this procedure the public defender generally is present to represent defendants without counsel. When counsel is present, it is customary to waive a reading of the advice of rights and summarily to address the charges. Bail is set and motions are made if the defendant is not deemed qualified for an R.O.R. release. The case then is scheduled for a preliminary hearing.<sup>121</sup> In all, a single-appearance arraignment averages no more than about five minutes.

#### D. Chronological Summary

Section D of Part II summarized the time it took a Manhattan police officer to process an arrestee through the stages of the New York arrest-arraignment system. Since the amount of police officer participation is so drastically dissimilar under California procedure, this section will focus more on the system's demand for participation from persons other than the arresting officer. Accordingly, the total arrest-arraignment processing time per arrest is much less significant in this section than in the New York section.<sup>122</sup>

1. *Stage One: Arrest*—In Oakland, field report writing usually takes from fifteen to 60 minutes. Including those times during which an officer must await the arrival of the patrol wagon, a practical average may be 30 minutes. Thus, in Oakland the typical arrest case requires that the arresting officer be "out of service" for one-half hour from the time of apprehension to the initiation of wagon transport. Just prior to a shift's termination, however, an arresting officer may return to the stationhouse in order to complete any remaining paper work or to deposit any evidence in the property section. This may take another fifteen minutes to one hour. Total officer time per arrest case in Oakland is therefore from 30 minutes to two hours.

The patrol wagon operators generally spend 30 to 40 minutes per arrest case, including ten to fifteen minutes traveling to the scene of the arrest, five minutes assisting the arresting officer, ten to fifteen minutes transporting the prisoner to the stationhouse, and five minutes for stationhouse drop-off. If more than one arrestee is carried in one trip, the average time will be less.

2. *Stage Two: Stationhouse Processing*—Stationhouse processing in Oakland can vary considerably depending upon whether

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121. CAL. PENAL CODE § 859b (West Supp. 1973) provides that: "Unless the defendant waives the right, the defendant if he is in custody shall have the right to preliminary examination within 10 court days of the date he is arraigned or pleads, whichever occurs later."

122. For a table of the maximum, minimum, and average times consumed by the various stages of the Oakland arrest-arraignment system see Appendix D.

an individual has been arrested for a misdemeanor or a felony, the number of defendants awaiting processing, and whether the arrestee previously has been arrested in Oakland. Since the time of arraignment is not a function of the time necessary for jail processing, but is dependent, instead, upon the time of day of the arrest, it would be of minimal usefulness to compute a minimum, maximum, and average time from stationhouse processing to arraignment. Instead, however, it may be interesting to determine how long an Oakland arrestee may have to wait until he is released on bail or on a citation, if he qualifies.

Considering the variables involved, an estimated time of three to four hours is reasonable for misdemeanor cases. Assuming a fifteen-minute delay between the initial prisoner search and booking, and a similar delay between the completion of booking and fingerprinting, the minimum jail processing time is approximately one to one and one-half hours. This includes three minutes for a search, a fifteen-minute wait, eleven minutes for booking, another fifteen-minute wait, ten minutes for fingerprinting and a record check, and five minutes for photography. Therefore, an estimated average time for jail process from inception to release would be one and one-half to three hours per arrest case. To this must be added the time for traveling from the point of arrest to the jail.

Felony cases normally complete the necessary jail processing in about the same length of time as misdemeanors. Unless special application is made to a judge, however, these defendants will not be eligible for bail release until a charge has been filed. Generally this occurs within 48 hours, and often sooner. On weekends and holidays, however, it may be somewhat longer.<sup>123</sup>

3. *Stage Three: Court Processing*—The average arraignment in Oakland takes about five minutes.

## V. SOME CONCLUSIONS AND SPECULATIONS

This study has sought to compare the handling of arrest cases in New York and particularly in New York City, with the handling of such cases in California, particularly in the City of Oakland. The study primarily describes the period between arrest and arraignment and is part of a larger study that also will describe the period between arraignment and trial. Although the study speaks of the

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123. A 1971 Oakland Police Department study based on a random sample of 2,139 case records indicated an average time of 11.6 hours between booking and first appearance in court. Separate breakdowns for felony and misdemeanor cases were not available.

New York and the California "systems," in truth criminal justice in both jurisdictions is highly localized, and different areas within these states may have procedures unlike those described. The basic purpose of both the present and the overall study is to describe the steps in the processes rather than to analyze all their effects and implications.

It is difficult to read the descriptions, however, without becoming acutely aware of enormous differences in time consumption and complexity between the two systems. At virtually every stage, the New York system is both more complex and more time-consuming. At a time of great concern with crime and the criminal justice system—particularly with the problems of court delay and police manpower—it is surprising that this complexity is so little known and so poorly understood.

One of the most striking of the differences described involves the arresting officer. In a typical felony case in Manhattan, the arresting officer can expect to spend nearly ten hours in the processing of the case from arrest through arraignment. In Oakland, the arresting officer on the average will spend less than two hours. The effect of this difference is lessened somewhat by the participation in Oakland of police personnel, other than the arresting officer, who do not participate in the New York system. The total differences in time consumption, however, still are striking in the extreme—ten hours in New York and only three hours in Oakland.

This difference is shown dramatically in Table 1.

Table 1  
*Arrest to Arraignment*  
*Time Spent by Arresting Officer*  
 (In Minutes)

	<u>New York</u> (Manhattan)	<u>California</u> (Oakland)
Arrest and transportation to station	30	30
Precinct processing	180	15
Criminal court processing	230	-
Courtroom procedure	60	-
Arraignment	5	-
Sign-out and return to precinct	<u>60</u>	<u>-</u>
Total	<u>565</u>	<u>45</u>

The time spent by other participants except complainants and witnesses is more comparable, as shown in Table 2.

Table 2  
*Arrest to Arraignment*  
*Average Time Spent by All Participants*

	<u>New York</u> (Manhattan)	<u>California</u> (Oakland)
Arresting police officer	9 hrs. 40 min.	45 min.
Patrol wagon driver	30-40 min.	30-40 min.
Civilian jailer	--	1 hr.
Police investigator	--	Misd.—none Felony—1 hr.
Prosecutor	½ hr.	Misd.—½ hr. Felony—¾ hr.
Legal Aid attorney/public defender	½ hr.	¾ hr.
Judge	5 min.	5 min.
Complainant and/or witnesses	9 hrs.	15 min.
Defendant	9 hrs.	1 day

The principal question posed by these figures is that of "Why." Does New York's greater investment of time and manpower result in some better outcome or some fairer result? Or, is New York's investment counterbalanced in some way by a lesser amount of time and effort required at some later stage in the proceeding? The answer to both these questions appears to be "no." There is no indication of better or fairer results in New York, and the time required for handling cases in the New York system after appearance in court is not less than that in California, it is more.

One principal reason for the difference in the amount of time involved is that in New York the arresting officer is required to appear for arraignment, but in California he is not.<sup>124</sup> The question whether the arresting officer and the witnesses need appear at arraignment is a highly controversial one in New York. Nonappearance has been challenged on legal grounds by defense counsel and opposed on administrative grounds by the court administration, the district attorneys, and defense counsel.<sup>125</sup> The court administration clearly believes such presence to be essential to its drive for improved court performance. This drive includes a concentration of "resources and procedural changes at the intake stage" of court in order "to improve case processing and reduce delay." The presence of the arresting officer and the witnesses at arraignment is seen as one of the "unique aspects" of this stage that makes such a strategy possible.<sup>126</sup>

The court's diagnosis of its problems and the steps it has taken to improve performance are impressive and leave little doubt that in general it is moving in the right direction. Comparison of the results in New York with those in California suggests, however, that the presence of all parties at arraignment is not really essential to a high degree of case dispositions at or before first appearance. Using figures for Manhattan, where the concept of concentration at intake has been in effect the longest, the average rate of disposition at arraignment for nontraffic arrest cases was 44 percent for the months of October, November, and December 1971.<sup>127</sup> These figures include all three kinds of cases handled by the Criminal Court in New York City and are not broken down into rates for felonies, misdemeanors, and violations. Separate breakdowns are available,

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124. Other reasons include the requirement that the officer personally carry all papers, his responsibility for the defendant, and the delay in fingerprint processing.

125. See note 66 *supra*.

126. 1971 N.Y. CITY CRIM. CT. ANN. REP., Exhibit VII, at 3.

127. *Id.* at 7.

however, for Manhattan during 1968 and 1969. A special study for 1969 indicates that ten percent of the felony arrest cases, 31.1 percent of the misdemeanor arrest cases, and 72.9 percent of the violation arrest cases were disposed of at first appearance.<sup>128</sup> Taken together, these figures produce an overall disposition rate of 42.4 percent—very close to the 44 percent reported for 1971.

Much of the screening that takes place at first appearance in New York is done in California felony cases at an earlier stage by the police or prior to charge by the district attorney. Consequently, although very few California felony cases are disposed of *at* first appearance, between twenty and 30 percent are disposed of *before* the first appearance.<sup>129</sup> Defendants in these felony cases are released without charge or eventually are charged with misdemeanors. This procedure has obvious advantages in terms of judicial economy.

The California method of handling misdemeanor offenses is closer to that of New York. For these offenses there is much less prefiling screening. Statewide in 1970, only one misdemeanor arrestee in fourteen was released prior to filing.<sup>130</sup> The rate of disposition at first appearance, however, appears to be quite similar to that of New York. In Sacramento in 1971, 30 percent of the misdemeanors were disposed of at arraignment, twenty percent by pleas of guilty, and ten percent by dismissals of some kind.<sup>131</sup> In Los Angeles the first appearance disposition rate for misdemeanors was even higher, about 40 percent. Rates for San Diego and San Jose are in the vicinity of 33 percent.<sup>132</sup> While there are some differences in the categories used in the two jurisdictions, comparisons of available data by specific offense strongly suggest that there is little difference in the proportion of misdemeanor cases disposed of at first appearance.

The category for which Manhattan had the highest rate of first appearance dispositions—over 70 percent—was violations. Included within this category in 1968 were the following offenses:

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128. J. Jennings, *The Flow of Arrested Adult Defendants Through the Manhattan Criminal Court in 1968 and 1969*, at 45, 60, 75 (New York City Rand Institute 1971). The rates for 1968 were 11% of felony arrests, 22.6% of misdemeanor arrests, and 74.2% of violation arrests. *Id.* at 88, 104, and 120. The overall first appearance disposition rate was 41.1% in 1968.

129. CALIFORNIA BUREAU OF CRIMINAL STATISTICS, *CRIME IN CALIFORNIA 1971*, at 22. See also CALIFORNIA BUREAU OF CRIMINAL STATISTICS, *CRIME IN CALIFORNIA 1970*, at 19.

130. CALIFORNIA BUREAU OF CRIMINAL STATISTICS, *EXTENDED TABLES—1971, CRIMES AND ARRESTS 77*.

131. Data collected by the Center on Administration of Criminal Justice, University of California, Davis.

132. *Id.*

Table 3

*Arraignments for Violation Arrests—Manhattan*

Disorderly conduct	7,935
Disorderly persons	1,399
Prostitution	6,200
Public intoxication	7,708
Other	9,510
Total <sup>133</sup>	32,752

Given the nature of these offenses, it is not surprising that the rate of disposition at first appearance is very high. Although there is no category in California fully comparable to violations, data for individual offenses indicate rates of disposition for these offenses at least as high as those in New York.<sup>134</sup>

Thus, as Table 4 indicates, the disposition rates achieved in Manhattan with participation of the arresting officer and the witnesses are no higher and may be lower than those achieved in California without the presence of the arresting officer and witnesses.<sup>135</sup>

Table 4

*Dispositions at or Before First Judicial Appearance*

	Manhattan (In Percent)	California (In Percent)
Felonies	10.0	23.3
Misdemeanors	31.1	35.0+
Violations	72.9	70.0+

In one respect these figures do not tell the full story. The number of cases screened out by the district attorney in Manhattan appears to be increasing from historically low rates to about fourteen percent in 1971 and about seventeen percent in 1972.<sup>136</sup> If the

133. 1968 N.Y. CITY CRIM. CT. ANN. REP. 37; J. Jennings, *supra* note 128, at 4. The total does not include traffic matters. Prostitution has become a Class B misdemeanor and is now harder to dispose of in court. Therefore, the same percentage rate of disposition in 1973 may indicate a better performance.

134. See materials cited note 131 *supra*.

135. For the source of Table 4 see notes 127-34 *supra*.

136. The number of arrest cases in Manhattan in 1972 was 99,245. In 17,211 of these, no complaint was filed by the district attorney. No figures are available for the distribution of these "343" cases, but data from the N.Y. County District Attorney's Office indicates that the great majority were prostitution cases initiated under N.Y. PENAL LAW § 230.00 (McKinney Supp. 1972). Many of these arrests were made in sweeps of Times Square. The distribu-

full effects of this change were taken into account, it seems likely that the New York disposition rates in the table above would show an increase. It seems doubtful, however, that even with these changes, the New York rate of disposition by first appearance would exceed the California rate.

Some figures reported in 1971 for the Bronx also suggest that presence at arraignment is not crucial to early dispositions. A police department report on the operation of the Bronx night court and prearraignment project indicated a disposition rate of "somewhere between twenty-five and thirty-five percent," despite the fact that arresting officers were held for arraignment only ten percent of the time.<sup>137</sup> When adjusted for the higher proportion of violation cases in Manhattan, this disposition rate is similar to that in Manhattan.<sup>138</sup>

The legal arguments concerning appearance at arraignment are too complex to be discussed here in detail. It seems clear, however, that there is no federal constitutional requirement that the witnesses and the arresting officer be present at arraignment,<sup>139</sup> and it

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tion of the remaining 82,000 cases on which charges were filed was: felonies, 30,417; misdemeanors, 30,878; violations, 20,730.

A study by the New York City Police Department Criminal Justice Bureau indicated a 14.2% discharge rate for 308 defendants arrested during the week of November 15-21, 1971. A sample taken by the Center on Administration of Criminal Justice in 1972 indicated that of the cases in which the district attorney did not file a complaint, about one-third were due to failure of the witness to press charges or appear, about 10% were due to the absence of a complainant, and the remainder were due to evidentiary considerations.

There also are some indications that the rate of dispositions at first appearance in court may be increasing for Manhattan. For the week ending March 4, 1973, the overall disposition rate, not counting "343" cases, was over 50%. The figures by part were as follows:

Part	Calendared	First Appearance	Percent
		Dispositions	
AR 1	340	273	80.3
AR 2	413	183	44.3
AR 3	427	143	33.5
Total	1180	599	50.8

The distribution of these cases among felonies, misdemeanors, and violations is not available, nor is the distribution of the dispositions. Therefore, it is not possible to compare the first appearance disposition rates with those reported in Table 4.

137. 1971 N.Y. CITY CRIM. CT. ANN. REP., Exhibit VII (Memorandum from New York City Police Department to Lester Goodchild, Executive Officer, New York City Criminal Court).

138. Manhattan has a higher proportion of violations than does the Bronx. See 1968 N.Y. CITY CRIM. CT. ANN. REP.

139. A defendant's sixth amendment right "to be confronted with the witnesses against

is worth noting that the California procedure has been in effect since at least the turn of the century.<sup>140</sup>

In summary, there seems to be very little justification for the appearance of the arresting officer and the witnesses at arraignment—with all the expense and time involvement which that involves for both.

The argument here is not, however, that the California procedure is superior in all respects to that of New York. Rather it is that each jurisdiction has much to learn from the other. There are a number of highly attractive features in the New York system, including several post-arraignment innovations that seem particularly worthwhile. The Appearance Control Project, for example, arranges for prosecution witnesses to be excused from post-arraignment appearances when their presence is unnecessary and assists in file management and notification of adjourned dates to all parties.<sup>141</sup> An "alert system" puts both police and witnesses on immediate call for necessary post-arraignment appearances, thereby avoiding long waits in the courthouse while the case is proceeding. The intensive process of self-study and of study in conjunction with private individuals is also one from which other jurisdictions could profit greatly. An organizational study of the criminal courts by the Economic Development Task Force, a private group that provided management specialists for the study, was particularly innovative and important. The court administration credited these studies with playing a large part in "turning the court around" and helping

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him" is clearly a right to be confronted at trial. *See, e.g., California v. Green*, 399 U.S. 149 (1970).

140. In any event, it appears that verification by oath for felony complaints was assumed to be necessary, but a number of cases allowed the oath to be given by someone other than the magistrate, and out of his presence. In *Dunn v. Ketchum*, 38 Cal. 93 (1869), it was held that unless otherwise required by statute, an oath administered by any officer empowered to administer oaths would be sufficient. In *People v. Dolan*, 96 Cal. 315, 31 P. 107 (1892), the court held that an information could not be set aside merely because the magistrate himself did not swear the complaining witness in magistrate's court. In *People v. Mullaley*, 16 Cal. App. 44, 116 P. 88 (1911), the court upheld a complaint verified before a notary, concluding that the statute did not require any particular officer to administer oaths. In *People v. Currie*, 16 Cal. App. 731, 117 P. 941 (1911), a district attorney was allowed to swear to the complaint. In 15 OP. CAL. ATT'Y GEN. 304 (1940) and in *People v. Balthazar*, 197 Cal. App. 2d 227, 17 Cal. Rptr. 58 (1961), a district attorney was permitted to certify the oath of a complaining witness to a criminal complaint. In 34 OP. CAL. ATT'Y GEN. 234 (1959) and in *People v. Salazar*, 266 Cal. App. 2d 113, 71 Cal. Rptr. 894 (1968), it was held that § 2015.5 of the California Code of Civil Procedure allows the substitution of a statement signed under penalty of perjury for the oath in front of an official, thus allowing arresting officers to sign forms in the field.

141. NEW YORK CITY CRIMINAL JUSTICE COORDINATING COUNCIL, 1972 CRIMINAL JUSTICE PLAN 81.

it to reach "its present capability of managing its caseload."<sup>142</sup> Even more important in many respects are New York City's determined efforts to arraign all defendants as quickly as possible. To this end, the City has established special night and weekend arraignment courts,<sup>143</sup> which makes arraignment possible at virtually any time of day or night. Thus in a typical case, a defendant first will appear in court some five to seven hours after arrest. At this time, the judge will set bail and appoint an attorney to represent the defendant. The defendant also may be released on his own recognizance at this appearance.

In California, on the other hand, arraignments generally take place only in the daytime and within the confines of a 40-hour week. Defendants arrested in the daytime may be arraigned the same day, but those arrested at night generally are not arraigned until the next day, and those arrested during a weekend must wait until Monday morning. In some cases, arraignment may be postponed even further because despite a general legal requirement of prompt arraignment, sanctions for delay usually do not accrue until 48 hours after arrest.

For felony defendants prompt arraignment is generally advantageous. While both bail and R.O.R. are available in California through special contact with the judge, the decision as to both is generally made at the defendant's first appearance in court. Even in those California jurisdictions having a procedure for bail setting in felony cases prior to first judicial appearance, the procedure takes place only after the charge has been filed in court.<sup>144</sup> Such a filing generally occurs at least a day after arrest and almost always later than arraignment in the New York system.<sup>145</sup> In the case of misdemeanors, however, the advantages of the New York system over the California system in terms of prompt arraignment may be more apparent than real. Both the New York and California systems make substantial use of stationhouse citation release. In New York, misdemeanor defendants who are not given a stationhouse citation release are taken to court for arraignment—a process that at best takes several hours and may take longer. In California, defendants of this kind who are not released on a stationhouse citation may post bail within this time if they have the means to do so. There is a misdemeanor bail schedule which allows the defendant to post bail

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142. 1971 N.Y. CITY CRIM. CT. ANN. REP. 8. *See also id.* at 6-20.

143. *See id.* Exhibit VII.

144. *See notes 95-97 supra* and accompanying text.

145. *But see note 123 supra.*

at the jail without a court appearance. In this system, scheduling of appearances is better for both defendants and the court. For those defendants who are not able to make bail, the prompt arraignment may be of benefit. The judge may set a lower bail at arraignment than that set by the schedule, and of course there is an opportunity to have the case itself disposed of in some way—either by dismissal or by plea.

In addition to these advantages, there may also be some drawbacks to prompt arraignment—the principal one being that very prompt arraignment makes precharge screening by the police and the district attorney difficult. Thus the price of a too prompt arraignment may well be the prosecution of some defendants who would otherwise not be charged. To be sure, many of these cases are now dismissed at arraignment, but little purpose seems served by having them proceed even this far.

Moreover, there exists a variety of methods for rapid bail-setting that would allow time for the screening of cases by the district attorney, none of which has been explored fully in California or New York. These methods include a commissioner system, police R.O.R. or bail-setting authority for felony cases, and a felony bail schedule under which a defendant could post bail at the station-house or jail.<sup>146</sup> These procedures would improve the speed with which decisions are made, but would not increase the amount of time and effort required to process cases. Most could be accomplished within existing workloads.<sup>147</sup>

For the sake of clarity, it also should be noted that whatever advantages there are to prompt arraignment are unrelated to the presence or absence of the arresting officer and witnesses at arraignment. As discussed above, the possibility of disposition at arraignment does not depend upon the presence of these parties. The other principal advantage of prompt arraignment—pretrial release of the defendant—depends upon the bail amount and the R.O.R. decision, not upon the presence of the witnesses or the officer.

One additional point. Although full explication must await completion of the overall study, it is already clear that the New York procedure from arraignment to trial, like the New York procedure from arrest to arraignment, is substantially more complicated and

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146. See, e.g., CONN. GEN. STAT. ANN. § 54-63b (Supp. 1973) (bail commissioner); *id.* § 54-63c (Supp. 1973) (police R.O.R. and bail-setting authority).

147. Other procedures would be possible if bail reform proposals such as those of the recent New York Temporary Commission on the Courts were adopted. See TEMPORARY COMMISSION ON THE NEW YORK STATE COURTS, AND JUSTICE FOR ALL, pt. 2, at 65 (1973).

time-consuming than the California procedure. The principal reason for the complexity in felony cases is that New York requires both a finding of probable cause by the judge at a preliminary hearing and an indictment by the grand jury.<sup>148</sup> This problem is ameliorated to some extent by waivers, but at least one-third of felony cases seem to require both.<sup>149</sup> California and most other states, however, require only one of these procedures.

In misdemeanor cases, New York City grants the defendant the option of a preliminary hearing before trial, but California, the rest of New York State, and virtually all other states simply proceed directly to trial.<sup>150</sup> Called "an anachronism" by one of the draftsmen of the new Criminal Procedure Law,<sup>151</sup> this option produced more than 48,000 appearances in 1968 in the Manhattan misdemeanor preliminary part and over 53,000 such appearances in 1969.<sup>152</sup> Over 114,000 such appearances were estimated for the whole of the City in 1967.<sup>153</sup>

These extra steps require thousands of hours of time by the courts, prosecutors, defense attorneys, police, defendants, and witnesses. That the New York courts have been able to make dramatic inroads upon their backlogs during the past year in spite of these procedural difficulties is a remarkable tribute to the effort, energy, and determination of the court administration.

Although arguments can be and no doubt are made in favor of the extra steps in the New York procedure from arraignment to trial, even minimal observation of proceedings in the two court systems indicates that the extra steps serve no clear purpose and are patently unnecessary. The purpose of both the grand jury and the preliminary hearing is to determine whether there is enough evidence of the defendant's guilt to warrant proceeding with the case. Historically, there was some reason for this redundancy, because it early had been established that felony cases could be prosecuted only on the basis of an indictment by the grand jury. The court that convened the grand jury and held the trial was not always in session, however, and there was a need for some kind of procedure to determine who should be held for the grand jury. This was the origin and

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148. N.Y. CRIM. PROC. LAW §§ 180.10(2), 180.70 (McKinney 1971).

149. J. Jennings, *The Flow of Defendants Through the New York City Criminal Court in 1967*, at 21. (New York City Rand Institute 1970).

150. N.Y. CRIM. PROC. LAW § 170.75 (McKinney 1971) (New York City only).

151. *Id.* (Practice Commentary by R. Denzer).

152. *See* J. Jennings, *supra* note 128, at 31.

153. *See* J. Jennings, *supra* note 149, at 4.

function of the preliminary hearing. Under present day circumstances, however, there is no reason whatsoever for two separate probable cause court proceedings. The criminal courts are always in session and one proceeding to determine that there is sufficient cause to hold the defendant for trial seems clearly enough. For this reason, England long since has abolished the grand jury entirely,<sup>154</sup> and recently the Criminal Justice Act of 1967 created even simpler procedures for the preliminary hearing itself.<sup>155</sup> As for the optional preliminary hearing for misdemeanor offenses, which appears to be taken by many defendants, there seems to be little excuse for it at all. Such a procedure did not exist at common law and exists in no other state.

These complicated procedures from arrest to trial constitute one of the reasons that New York City, with a population of less than eight million, requires a police force of more than 33,000,<sup>156</sup> but California, with a population of twenty million, has less than 48,000 police officers for the entire State.<sup>157</sup> Similarly, the equivalent of 113 California municipal court judges handled over 400,000 criminal cases in 1971, compared with 98 criminal court judges in New York City handling 256,000 arrest cases during the same period.<sup>158</sup>

As independent steps, these procedures would be wasteful enough. As part of a system that is already tedious and involuted by the time the case arrives in court, they become even more intolerable. It should be clear that more is at stake here than the time of police officers, although that is clearly an important factor. What is at stake is to some extent justice itself. The most damaging aspect of the system is not the way it treats the employees of the state, but the way it treats the citizenry—the victims and witnesses of crime. They are compelled to go through the whole long process from arrest to arraignment and to appear time and time again—at arraignment, at the preliminary hearing, before the grand jury, at trial, and at the inevitable continuances in a busy court system.

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154. Administration of Justice Act, 23 & 24 Geo. 5, c. 36, § 1(1) (1933). See P. DEVLIN, *THE CRIMINAL PROSECUTION IN ENGLAND* 8-10 (1958).

155. Criminal Justice Act 1967, c. 80, § 1.

156. This figure does not include housing and transit forces.

157. See FBI, *UNIFORM CRIME REPORTS—1971*, at 170; CALIFORNIA BUREAU OF CRIMINAL STATISTICS, *CRIME IN CALIFORNIA 1970*, at 138.

158. In 1970 and 1971, 125,466 felony complaints and 274,424 misdemeanor complaints were filed in the California municipal courts. There were 337 municipal court judges, who spent an estimated 36% of their time on these cases alone. JUDICIAL COUNCIL OF CALIFORNIA, *1972 REPORT* 118, 131, A-27, A-51. For the New York statistics see *TEMPORARY COMMISSION ON THE NEW YORK STATE COURTS*, *supra* note 147, at 8.

Such highly useful innovations as the Appearance Control Project help but do not cure the problem. It is not surprising that the Vera Institute of Justice found that victims "have often withdrawn their complaints," and "witnesses have refused to appear" as a result of "this frustrating and time consuming process."<sup>159</sup> The ultimate effects of such a system upon citizen cooperation and participation in the criminal justice system can only be imagined.

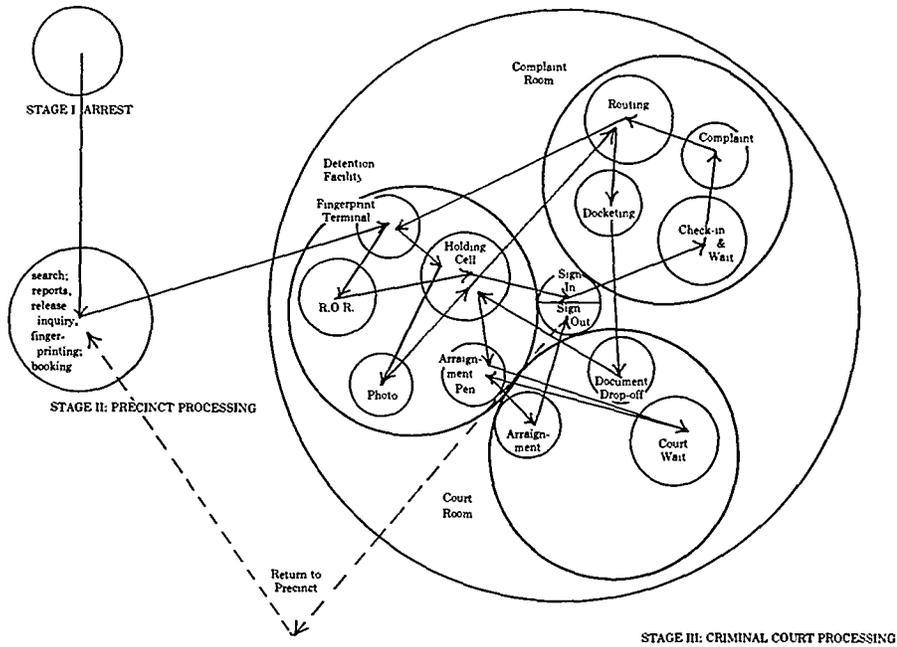
There is no single correct path in criminal procedure, any more than there is in any other complicated human endeavor. Different conditions and different problems produce different solutions. The need for change and for experimentation is also an important factor. In this situation, comparative studies of the separate paths hopefully can aid significantly both in calling attention to developments in other jurisdictions that are worthy of emulation and in bringing about a better understanding of the functions and accomplishments of procedures in one's own jurisdiction.

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159. VERA INSTITUTE OF JUSTICE, *supra* note 65, at 133.

APPENDIX A

*New York Traditional Arrest-Arraignment: Arresting Officer's Route*



**APPENDIX B**  
 THE NEW YORK SYSTEM FOR THE  
 ADMINISTRATION OF CRIMINAL JUSTICE  
 Arrest Through Arraignment  
 Arresting Officer

Procedure	Time			Variable	Performed By
	Average	Minimum	Maximum*		
<b>A STAGE I ARREST</b>					
1 Transport to Precinct	30 min	15 min	1 hr	Proximity to Precinct, Traffic	Officer/Officer & Driver
<b>ESTIMATE FOR STAGE I</b>	30 min	15 min	1 hr		
<b>B STAGE II PRECINCT PROCESSING</b>					
1 Prisoner Search	10 min	5 min	15 min	Detail of Search	Officer
2 Arrest Report	40 min	15 min.	3 hr	Complexity of Case, # Awaiting Processing	Officer
3 Inquiry re Station House Release	20 min	15 min	30 min	Investigation Detail & Need for Verification	Officer
4 Fingerprinting	30 min	15 min	45 min	Ability of Fingerprinter	Officer
5 Booking	20 min	15 min.	30 min.	# Awaiting Processing	Supervisor
6 Court Transport	30 min	15 min	60 min.	Proximity to Court, Traffic, # Awaiting Processing	Officer/Driver
<b>ESTIMATE FOR STAGE II</b>	2 1/2-3 hr	1 hr 20 min	6 hr		
<b>C STAGE III CRIMINAL COURT PROCESSING</b>					
1 Court Holding Facility Procedure					
a Fingerprint Drop Off	10 min	10 min	10 min	# Awaiting Processing	Officer
b R O R	20 min.	15 min	30 min	# Awaiting Processing, Difficulty in Verifying	Probation Department
c Lodging	5 min	5 min	10 min	Not Applicable	Officer
2 Complain Room Processing					
a PD-Complain Room Sign In	10 min	5 min	30 min	# Awaiting Processing	Officer
b Wait For Assistance	30 min	15 min.	1 hr.	# Awaiting Processing	Officer
c Swear to Complain	20 min	15 min.	35 min	# Awaiting Processing; # A D A.'s	Officer
d Document Routing	15 min	10 min	30 min	# Awaiting Processing	Officer
e Photo	20 min.	15 min.	30 min	# Awaiting Processing	Officer
f Docketing Case	5 min	5 min	10 min	Not Applicable	Officer
<b>ESTIMATE FOR STAGE III, PART I</b>	3 hr 50 min.	3 hr 10 min	5 hr 20 min		
3 Court Room Procedure					
a Pre-Arraignment Pen Sign In	5 min.	5 min.	10 min.	Not Applicable	Officer
b Legal Aid Interview	15 min.	15 min.	20 min.	Detail of Case	Legal Aid Attorney
c Case Call	45 min.	30 min.	1 hr.	# Awaiting Processing	Officer
<b>ESTIMATE FOR COURT ROOM PROCEDURE</b>	1 hr 5 min	50 min.	1 hr 30 min		
4 Arraignment	5 min	5 min	15 min.	Detail of Case	Judge, Legal Aid Attorney, D.A., Def. & Officer
5 PD/Court House Sign Out	20 min.	10 min	30 min.	Re-Lodge Prisoner; # Awaiting Processing	Officer
6 Travel Time	45 min	45 min.	1 hr.	Property Storage	Officer
<b>ESTIMATE FOR STAGE III, PART II</b>	2 hr 15 min.	1 hr 50 min.	3 hr. 15 min.		
<b>ESTIMATE FOR STAGE III</b>	6 hr. 5 min	5 hr.	8 hr. 35 min		
<b>ESTIMATED AVERAGE FOR STAGE III BASED UPON SAMPLE OF 336 CASES</b>	5 hr. 40 min. —6 hr. 15 min.				
<b>ESTIMATE FOR ARREST THROUGH ARRAIGNMENT</b>	8 hr. 40 min. —9 hr. 45 min.				

FINGERPRINT TRANSMISSION  
2 1/2 - 4 hr

\*Note The maximum times cited herein are *practical maxima*—consumed by not uncommon occurrences—as opposed to *extreme maxima* that result from very rare occurrences.

## APPENDIX C

THE NEW YORK SYSTEM FOR THE  
ADMINISTRATION OF CRIMINAL JUSTICE  
(Bronx Prearrestment)  
Arrest Through Arraignment  
Arresting Officer

Procedure	Time			Variable	Performed By
	Average	Minimum	Maximum		
A. STAGE I: ARREST 1. Transport to Precinct	30 min.	15 min.	1 hr.	Proximity to Precinct; Traffic	Officer/Officer & Driver
ESTIMATE FOR STAGE I:	30 min.	15 min.	1 hr.		
B. STAGE II: PRECINCT PROCESSING 1. Precinct of Arrest					
a. Prisoner Search	10 min.	5 min.	15 min.	Detail of Search	Officer
b. Arrest Report	40 min.	15 min.	3 hr.	Complexity of Case, # Awaiting Processing	Officer
c. Inquiry re Station House Release	20 min.	15 min.	30 min.	Investigation Detail & Need for Verification	Officer
d. Fingerprinting	30 min.	30 min.	30 min.	Ability of Fingerprinter	Officer
e. Booking	20 min.	15 min.	30 min.	# Awaiting Processing	Supervisor
ESTIMATE FOR STAGE II—Arrival at Precinct Through Booking:	2 hr.	1 hr. 20 min.	4 hr. 45 min.		
ESTIMATED AVERAGE FOR STAGE II—Arrival at Precinct Through Booking—Based Upon Sample of 72 Cases:	2 hr. 23 min.				
f. Transport to 42nd Precinct	30 min.	15 min.	1 hr.	Proximity to Precinct, Traffic	Officer
2. 42nd Precinct Processing a. Lodge and Photograph Prisoner	15 min.	10 min.	20 min.	Availability of Detention Facilities at 42nd Precinct	Officer
b. Fingerprint Forwarding	15 min.	10 min.	20 min.	# Awaiting Processing	Officer
ESTIMATE FOR STAGE II—Booking Through Court Sign In:	1 hr.	35 min.	1 hr. 40 min.		
ESTIMATED AVERAGE FOR STAGE II—Booking Through Court Sign In—Based Upon Sample of 42 Cases:	1 hr. 12 min.				
C. STAGE III: CRIMINAL COURT PROCESSING 1. Officer Sign In	5 min.	5 min.	10 min.	# Awaiting Processing	Officer
2. Complaint Processing a. Preparation of Forms	20 min.	15 min.	25 min.	# Awaiting Processing	Officer
b. Swear to Complaint and Docket Case	15 min.	10 min.	20 min.	# Awaiting Processing; Complexity of Case	Officer
3. Sign Out*	5 min.	5 min.	10 min.	# Awaiting Processing	Officer
ESTIMATE FOR STAGE III—Sign In—Sign Out:	45 min.	35 min.	1 hr. 5 min.		
ESTIMATED AVERAGE FOR STAGE III—Sign In—Sign Out—Based Upon Sample of 63 Cases:	38 min.				
4. Travel Time	45 min.	45 min.	1 hr.	Property Storage	Officer
ESTIMATE FOR STAGE III:	1 hr. 30 min.	1 hr. 20 min.	2 hr. 5 min.		
ESTIMATED AVERAGE FOR STAGE III—Based Upon Sample of 63 Cases:	1 hr. 23 min.				
ESTIMATE FOR ARREST THROUGH ARRAIGNMENT (Bronx Prearrestment):	5 hr. 28 min.	3 hr. 30 min.	9 hr. 30 min.		

\*As in the Manhattan model, actual arraignment takes ten to twenty minutes. However, unlike Manhattan, neither the officer nor the complainant are required to appear at arraignment.

**APPENDIX D**  
THE CALIFORNIA SYSTEM FOR THE  
ADMINISTRATION OF CRIMINAL JUSTICE

Arrest Through Arraignment

Procedure	Time			Variable	Performed By
	Average	Minimum	Maximum		
<b>A STAGE I ARREST</b>					
1 Arrest and/or Crime Report	45 min.	15 min.	1 hr. 30 min.	# of Reports; Complexity of Case	Officer
2 Transport to Station	15 min.	15 min.	20 min.	Proximity to Station	Wagon Driver
<b>ESTIMATE FOR STAGE I:</b>	1 hr.	30 min.	1 hr. 50 min.		
<b>B STAGE II: STATION HOUSE PROCESSING</b>					
1 Prisoner Search	4 min.	3 min.	5 min.	Not Applicable	Jailer
<b>W A I T</b>	35 min.	15 min.	2-3 hrs.	# Awaiting Processing	Prisoner
<b>BAIL OR STATION HOUSE RELEASE DECISION</b>					
2 Booking					
a Arrest Log and Detention Record	5 min.	5 min.	10 min.	Not Applicable	Jailer
b Thumb Print	1 1/2 min.	1 min.	2 min.	Not Applicable	Jailer
3 Property Inventory	5 min.	5 min.	10 min.	Not Applicable	Jailer
<b>TOTAL BOOKING TIME:</b>	11 1/2 min.	11 min.	12 min.		
<b>W A I T</b>	15 min.	—	4-5 hrs.	# Awaiting Processing	Prisoner
4 Fingerprinting and Record Check	30 min.	10 min.	2 hrs.	Volume of Work; Old or New Arrestee; Manpower Available	Jailer
5 Photography	5 min.	5 min.	10 min.	Not Applicable	Jailer
<b>ESTIMATED TIME FOR JAIL PROCESS FROM INCEPTION TO RELEASE</b>	1 1/2 - 3 hr.	1 hr.	2 hr. 42 min.		
6 Phone Calls and Offense Segregation	10 min.	5 min.	15 min.	# of Calls Made	Prisoner/ Jailer
7 R. O. R.	20 min.	15 min.	30 min.	Degree of Verification Necessary	County Probation Officer
8. Public Defender	30 min.	15 min.	45 min.	Complexity of Case	Public Defender
9 Station House Screening	1 day	1 hr.	48 hr.*	Misdemeanor or Felony; Complexity of Case	Police Investigator
<b>C STAGE III: COURT PROCESSING</b>					
1 Arraignment	5 min.	5 min.	15 min.	Complexity of Cases	Judge, Public Defender, D.A., Defendant
<b>ESTIMATE FOR STAGE III:</b>	5 min.	5 min.	15 min.		

\*Excluding weekends and holidays.

