

RETHINKING 1970's COURT REFORM: MAGISTERIAL DISTRICT COURT OR CENTRAL COURT?

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Preface

I am writing to address a specific question. In accord with a state constitutional convention some fifty years ago, the courts, including the magisterial district courts, were unified. But some counties were resistant and later, in the 1970's and thereafter, retrenched, crafting their own central courts, each different in structure, procedure, and subject matter jurisdiction. It has created dissonance. The question is what to do?

I suggest it is important to look at the issue in its entirety. Each side comes at the matter from its own perspective. The trouble with perspectives is that, seeing things from only one vantage point, the field of view is limited. It may be difficult to fully appreciate a problem unless the limits of perspective are transcended. Or, to put it less technically, it helps to be able to see "the whole elephant." I thus examined many counties.

I discovered that across the state there are tremendous differences in legal culture, especially in scheduling, prosecutor attendance, and case resolution. I practiced in a county that had block scheduling. It deconflicted scheduling, freed assistant district attorneys to attend district court hearings, and utilized the hearing as a forum in which to achieve the earliest case resolution.

In some counties, though, the virtues of block scheduling went unrealized. They instead transitioned to central court. Each central court, moreover, is vastly different. It is a trend that, though still incipient, has eaten away at court unification and all its accomplishments and threatens to bring us to complete "chaotic localism."²

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¹ Jerry A. Fodor, Psychosemantics: The Problem of Meaning in the Philosophy of Mind (Explorations of Cognitive Science), Cambridge, Mass.: M.I.T. Press, 1987.

² Robert T. Golembiewski, Public Administration as a Developing Discipline, New York, N.Y.: Marcel Dekker, Inc., 1977.

It is a situation that requires decision, but it is not, as I see it, one that requires a choice between a slate of old ideas on one hand and a slate of new ideas on the other. It has been said that "wisdom lies neither in fixity nor in change, but in the dialectic between the two." I hope this study allows us to analyze the data, gather the best ideas, old or new, and, with wisdom, implement measures that improve the administration of justice.

I want to thank all the lawyers, judges, and court administrators and staff who lent me their data, anecdotes, and documents. Special thanks to the three past Presidents of the Special Court Judges Association of Pennsylvania and the Honorable Dennis R. Joyce, Magisterial District Judge and Solicitor for the Special Court Judges Association of Pennsylvania. I am deeply indebted to you for your insights, suggestions, and encouragement. I appreciate the Association's endorsement of this project.

³ Octavio Paz Lozano, El Mono Gramatica, New York, N.Y.: Arcade Publishing, Inc., 1974.

ABSTRACT

In general, central court fails cost-benefit analysis. But not all central courts are alike. There are important caveats. The data indicate there are significant differences in central courts depending upon several factors, among them county size or class. Central courts may be grouped into three categories: city central courts; class three, four, and five central courts; and class six, seven, and eight central courts.¹ The city central courts are nonproblematic; the class three, four, and five central courts are indeed problematic; and the class six, seven, and eight central courts are also problematic, although much less so. In view of these findings, this study focuses on the most problematic courts, the full scope central courts in counties of the third, fourth, and fifth class. The data regarding those counties, the class three, four, and five counties, demonstrate that the magisterial district court model is superior to the central court model on several grounds, including legitimacy, quality of justice, efficiency, accounting, budget, and even security.

¹ It is a long standing observation that there are differences between city and rural courts. The wards are much smaller than townships. The police stations, jails, and courts are all physically close together. There is a different level and mix of crime. The city police departments, employing hundreds of officers, cover several courts. In contrast to non-class two counties, there are altogether different problems and problems of a different order of magnitude. Solving those problems may point to centralizing city courts. See Missouri v. Lewis, 101 U.S. 22 (1879) ("Each state ... may establish one system of courts for cities and another for rural districts ... Convenience, if not necessity, often require this to be done ..."); Economides, Kim, Mark Blacksell, and Charles Watkins, The Spatial Analysis of Legal Systems: Towards a Geography of Law, 13 Journal of Law and Society 161, 1986; Theodore J. Fetter, In Search of Models for Court Operations in Rural Areas, in Shanler D. Cronk, Joanne Jankovic, and Ronald K. Green, eds., Criminal Justice in Rural America, Washington, D.C.: National Institute of Justice, 1982; E. Keith Stott, Jr., and Theodore J. Fetter, and Laura L. Crites, Rural Courts - The Effect of Space and Distance on the Administration of Justice, Williamsburg, Va.: National Center for State Courts, 1977.

RETHINKING 1970'S COURT REFORM: MAGISTERIAL DISTRICT COURT OR CENTRAL COURT?

INTRODUCTION.

It is a substantial task to structure the first tier of criminal court. In the last five decades, since the late 1970's, there has been some question as to what is best, the traditional magisterial district court or the alternative central court model. The vast majority of our counties attempted to perfect the traditional magisterial district court while a dozen and a half counties attempted to implement a central court.¹ Is magisterial district court or central court best?

It depends. There are significant differences in central courts depending upon several factors, among them county size or class. Central courts may be grouped into three categories: city central courts; class three, four, and five central courts; and class six, seven, and eight central courts. This study focuses on the most problematic courts, the full scope central courts in counties of the third, fourth, and fifth class. It examines the respective models in the areas of legitimacy of the judge, quality of justice, efficiency, accounting, budget, and even court security. Each of these is addressed ad seriatim.

¹ There are 67 counties in Pennsylvania, each sorted by population into one of eight main classes. There are 60 judicial districts, each county its own district except for the 17th, which includes Snyder and Union; the 26th, which includes Columbia and Montour; the 37th, which includes Forest and Warren; the 39th, which includes Franklin and Fulton, the 41st, which includes Juniata and Perry; the 44th, which includes Sullivan and Wyoming; and the 59th, which includes Cameron and Elk. PA. CONST., ART. V, §11; 42 Pa §901; The Pennsylvania Manual, Harrisburg: Department of Government Services, 2011. See Appendix, Maps, p. A-1, Tables, p. B-1 – B-3.

I. HISTORY: 1682 - 2019.

It is important to understand the historical foundation and purpose of the magisterial district courts. It is that purpose, even more than three hundred years after the establishment of the courts, which continues to the present and guides us in making decisions as to the magisterial district courts, including decisions as to their structure.

It was in 1681 that the English King, Charles II, issued a royal charter making William Penn sole owner and proprietor of Pennsylvania.² In 1682, Penn landed ashore at Upland, now Chester, and established the first courts, the justice of the peace courts.³ Ever since then, the justice of the peace courts have been in continual operation.

In 1968, there was a constitutional convention. It instituted a unified judicial system,⁴ one of the main tenets of which is that there be a simplified court structure and uniform procedure, the elimination of different procedures from court to court.⁵ It included "a major program to upgrade ... the minor judiciary."⁶ In 1970, the justice of the peace courts became the district justice courts.⁷

² Richard S. and Mary Maples Dunn, eds., The Papers of William Penn, Philadelphia, Pa.: University of Pennsylvania Press, 1986; Philip S. Klein and Ari Hogenboom, A History of Pennsylvania, Philadelphia, Pa.: Pennsylvania State University Press, 1973.

³ Frank Marshall Eastman, Courts and Lawyers of Pennsylvania: 1623-1923, vol. I, New York, N.Y.: The American Historical Society, Inc., 1922; William H. Lloyd, Early Courts of Pennsylvania, Boston, Mass.: The Boston Company, 1910 ("One of his first acts, after taking possession, was to commission six justices of the peace for New Castle and send out notices for the holding of a court.").

⁴ PA. CONST., ART. V (1968).

⁵ Allan Ashman and Jeffrey A. Parness, The Concept of a Unified Court System, 24 DePaul Law Review 1, 1974; William Raftery, Efficiency of Unified vs. Non-Unified State Judiciaries: An Examination of Court Organizational Performance, Ph.D. dissertation, Richmond, Va.: Virginia Commonwealth University, 2015.

⁶ Administrative Office of Pennsylvania Courts, 1975 Report, 1975.

⁷ PA. CONST., ART. V (1968) (Magistrates, Aldermen and Justices of the Peace and Magisterial Districts Other Than in the City of Philadelphia), §13 (magisterial districts) ("... these magisterial districts ... shall come into existence on January 1, 1970, the justices of the peace thereof to be elected at the municipal election in 1969."); Act of July 9, 1976, P.L. 586, No. 142 ("Judiciary Act of 1976"); Act of July 15, 1976, P.L. 1014, No. 204 ("Magisterial District Reform Act"); Act of April 28, 1978, P.L. 202, No. 53, §3(d) ("Judiciary Act Repealer Act") ("District justices. — An express reference in any statute or other law to a justice of the peace

In the 1970's, issues arose. The magisterial district courts were scheduling hearings for the same time, assistant district attorneys did not attend preliminary hearings, and many cases were sent to common pleas court unresolved. The counties were at a crossroads: either make adjustments or try something altogether new.

It was not until 1978 that the first central court was created. In the 1980's and 1990's, less than a dozen or so counties created central courts. It solved the problem, but created others.⁸ Moreover, each central court, instituting its own vastly different local procedure, disestablished the simplified court structure and splintered the unified procedure of the magisterial district courts.⁹

In the meantime, in all the other counties,¹⁰ there was a reform of the district justice courts. In the 1990's, the president judges issued block scheduling orders that deconflicted hearings. The district attorneys assigned lawyers to attend preliminary hearings. Many cases were resolved in district justice court.

In 2004, the district justice courts became the magisterial district courts.¹¹ It was widely seen that the 1990's measures solved the problem and the traditional magisterial district court model was working quite well. In the new millennium, fewer counties transitioned to central court.¹² Its momentum slowed and seems to have all but stopped.

shall hereafter be deemed a reference to a district justice or to the office of district justice. Any person appointed or elected to judicial office in a magisterial district shall be known as and hereafter shall be commissioned as the "district justice" in and for the appropriate magisterial district.").

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⁸ Sometimes referred to as the "dynamism of problems." "Reform measures, carefully studied over time, often prove to be problem solutions." Geoffrey Gallas, Court Reform: Has it Been Built on an Adequate Foundation?, 63 Judicature 28, 1979.

⁹ Robert T. Golembiewski, Public Administration as a Developing Discipline, New York, N.Y.: Marcel Dekker, Inc., 1977 (describing such disparate rules at the local court level as "chaotic localism."); Raferty, William E., Judicial Unification and Its Impact on Efficiency, Williamsburg, Va.: National Center for State Courts, 2016. See also Malcolm Feeley, Court Reform on Trial: Why Simple Solutions Fail, New York, N.Y.: Basic Books, 1983.

E.g., Monroe.
 Act of November 30, 2004, P.L. 1618, No. 207.

¹² See Appendix, especially Tables 2 and 3 and Surveys.

In its inception, central court was envisioned as a full scope hearing court, much like federal magistrate courts. It has not turned out so in several counties. Instead, in view of experiences in the central court counties, including accumulating backlogs in some instances, several counties resorted to limiting the sorts of cases sent to central court or remanding cases back to magisterial district court for hearings, a sort of slow motion collapse of central court into a subgroup of central court, "waiver courts." ¹¹³

¹³ Ibid. See, e.g., Mifflin County, General Overview Of Procedures, 2005 ("If the defendant requests a preliminary hearing while in Central Court, the District Justice assigned to Central Court will direct the Coordinator to return the defendant's file to the originating District Justice to reschedule the preliminary hearing. The hearing shall be rescheduled within ten (10) days from the date the case was scheduled for Central Court and written notice should be sent immediately to all interested parties. The originating District Justice will preside at the preliminary hearing, which will take place at his/her office. The District Justice shall prepare and forward the docket transcript and copies of all pertinent documents to the Clerk of Courts.") (Mifflin); Wayne County, Wayne County Court of Common Pleas Central Criminal Court Procedures Manual, n.d. ("If the defendant requests a preliminary hearing while in Central Court, the Magisterial District Judge assigned to Central Court will direct the Coordinator to return the defendant's file to the originating Magisterial District Judge to reschedule the preliminary hearing. The hearing shall be rescheduled within ten (10) days from the date the case was scheduled for Central Court and written notice should be sent immediately to all interested parties. The originating Magisterial District Judge will preside at the preliminary hearing, which will take place at his/her office. The Magisterial District Judge shall prepare and forward the docket transcript and copies of all pertinent documents to the Clerk of Courts.") (Wayne).

II. LEGITIMACY.

It has been an axiomatic principle, ever since 1682, that at the first tier of court there must be decentralized courts, courts in the communities, courts close to the people. The people, in Penn's vision, should choose whom they please to judge them.¹⁴ The principle of democratic selection of judges, all judges, is imbedded in our state constitutional law.¹⁵

In the traditional magisterial district court structure, a candidate runs for a judgeship and, if elected, hears the cases for the district in which he was elected. In contrast, in the central court structure, a judge is drafted from his district, where he is elected, to hear cases from other districts, where he is not elected.¹⁶

A citizen may vote for the Supreme Court justices who hear his case. He may vote for the Superior Court or Commonwealth Court judges who hear his case. He may vote for the common pleas judge who hears his case. But that citizen may not vote for the central court judge who hears his case.

¹⁴ In his 1682 Frame of Government, Penn declared, "Any government is free to the people under it where the laws rule, and the people are a party to those laws, and more than this is tyranny, oligarchy, or confusion." See Pennsylvania House of Representatives, Creating a Commonwealth: A Guide To Your State Government, http://www.legis.state.pa.us, Judicial Branch, §190, 1995.

¹⁵ PA. CONST., ART. V, §13:

Justices, judges and justices of the peace shall be <u>elected</u> at the municipal election next preceding the commencement of their respective terms of office <u>by the electors of ... the respective districts in which they are to serve</u>. (emphasis added)).

In 1776, the state constitution required justices of the peace be elected to seven-year terms by the freeholders of each city and county. In 1790, the state constitution changed so that justices of the peace were appointed by the Governor for life. In 1838, the state constitution called for an elective system through local elections. See Pennsylvania House of Representatives, Creating a Commonwealth: A Guide To Your State Government, http://www.legis.state.pa.us, Judicial Branch, §190, 1995. See also Robert E. Woodside, Pennsylvania Constitutional Law, Sayre, Pa.: Murelle Print. Co., 1985; Burton Atkins, Judicial Elections: What the Evidence Shows, 50 The Florida Bar Journal 152, 1976.

 $^{^{16}}$ Except in Dauphin (Harrisburg) and Lebanon, the central courts wherein the judges hear only their own district's cases.

It is voting and election, however, that make the selection process transparent. It is voting and election that make the judge accountable to the people. It is voting and election that makes the judge legitimate, ¹⁷ a quality without which the judge is made less relevant, less respected, and less effective. ¹⁸

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¹⁷ See Chris Bonneau, Why We Should Keep Judicial Elections, The Washington Post, May 26, 2011 (judicial election is the only selection mechanism that provides transparency, legitimacy, and accountability of the judge); Chris Bonneau and Melinda Gann Hall, In Defense of Judicial Elections, New York, N.Y.: Routledge, 2009 (same).

¹⁸ It is a separate question whether central courts are even constitutional. It is well established that only the constitution and, if the constitution so provides, the legislature, can create a court. It is arguable that, in accord, the rules authorize a court to be relocated or a few or several courts to be colocated to a different physical "location" or "place" but do not authorize the creation from scratch of an all new court, such as a central court, a court that exercises regular hours, county wide jurisdiction over preliminary hearings, a jurisdiction beyond that of a magisterial district judge. It is true a magisterial district judge may be reassigned "temporarily," but not, as in central court, in perpetuum. See PA. CONST., ART. V, §8 (the General Assembly "may establish additional courts or divisions of courts ..." (emphasis added); PA. CONST., ART. V, §10(a) (only "temporar[y]" assignment to another district); PA. CONST., ART. V, §10(c) ("the right of the General Assembly to determine jurisdiction of any ... justice of the peace ..." (emphasis added)); Pa.R.Crim.P. 117 (out of district coverage for "issuing warrants," "preliminary arraignments and summary trials," and "setting and accepting bail," not preliminary hearings); Pa.R.Crim.P. 131 (location of proceedings before issuing authority) ("All hearings and summary trials before the issuing authority shall be held publicly at the issuing authority's established office. For reasons of emergency, security, size, or in the interests of justice, the president judge, or the president judge's designee, may order that a hearing or hearings, or a trial or trials, be held in another more suitable location within the judicial district. ... When local conditions require, the president judge may establish procedures for preliminary hearings or summary trials, in all cases or in certain classes of cases, to be held at a central place or places within the judicial district at certain specified times. The procedures established shall provide either for the transfer of the case or the transfer of the issuing authority to the designated central place as the needs of justice and efficient administration require.) (emphasis added); Comment, Pa.R.Crim.P. 131 ("Ideally, this rule should minimize the inconvenience to defense counsel and the attorney for the Commonwealth by eliminating the necessity of travel at various unpredictable times to many different locations throughout the judicial district for the purpose of attending preliminary hearings or summary trials.").

III. QUALITY OF JUSTICE.

It is a complex concept, but perhaps the best definition of "quality of justice" is that it is "what citizens feel in the face of litigation, their wishes and their aspirations. Equity is the key to the concept." ¹⁹ It has to do with, inter alia, the quality of judgment, whether the judgments are sound, uphold legal rights, and address the concerns and priorities of the people.

A. Travel.

It is an inauspicious start for many cases in central court. It may take the better part of an hour for the affiant, defendant, victim, and witnesses to travel to central court. An Intergovernmental Task Force reported:

As the initial – and often only – point of contact between the community and the courts, district justice offices must be conveniently located to facilitate public access. Long driving times or out-of-the-way locations discourage the public from filing papers, attending hearings, paying fines, posting bail or collateral, or conducting other court business. Long travel distances also may result in dispositional delays and increased litigation costs. They may even hinder access to emergency relief, such as when a protection from abuse order is needed. Thus, reasonable proximity to district justice courts is an important ingredientin the public's willingness to place its trust in the judicial branch.²⁰

B. "Assembly Line" Operations.

It was said in a famous study of the quality of justice that "the crux of the problem is that there is a great disparity between the number of

¹⁹ Jacques Hamaide, President of the High Council of Justice of Belgium, The Quality of Justice: A Two-Sided Issue, Strasbourg, France: European Commission for the Efficiency of Justice, 2012. See International Consortium for Court Excellence, International Framework for Court Excellence, Williamsburg, Va.: National Center for State Courts, 2008 ("one of the important aspects of the quality approach and the "search for excellence" is that it takes the needs and perceptions of court users into account"); Lewis J. Liman, The Quality of Justice, 17 Yale Law and Policy Review 287, 1998.

²⁰ Report of the Magisterial District Reestablishment Subcommittee Intergovernmental Task Force to Study the District Justice System, 2001. See Kim Economides, Mark Blacksell and Charles Watkins, The Spatial Analysis of Legal Systems: Towards a Geography of Law, 13 Journal of Law and Society 161, 1986.

cases and the number of judges."²¹ In central court counties, although many judges are available to cover cases, all of the cases are diverted to a few judges or just one judge. It depends upon the county's caseload, but in some counties, the central court judge is subject to severe time constraints.

It is a hallmark of central court, in its attempt to move such a volume of cases under such severe time constraints, that the judges use "assembly line" or "fast food justice" techniques like mass queues or "cattle calls," unexplained standard forms, and sparse colloquies that leave people ill-informed and confused.

It is a time that is stressful for people, people on both sides of the case, and they expect and deserve individualized attention, a chance to ask at least some relevant questions.²⁷ In central court, however, the stakes are tied to speed. It is common when stakes are tied to short-term rather than long-term outcomes that "effort is distracted from and often becomes subversive of purpose."²⁸

²¹ David W. Neubaeur and Henry F. Fradella, America's Courts and the Criminal Justice System, 10th ed., Boston, Mass.: Wadsworth Cengage, 2011, quoting the President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: Government Printing Office, 1967.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Robert W. Tobin, Creating the Judicial Branch: The Unfinished Reform, Williamsburg, Va.: Williamsburg, Va.: National Center for State Courts, 2004; Susan M. Olson and David A. Huth, Explaining Public Attitudes Toward Local Courts, 20 Justice System Journal 41, 1998.

²⁸ Joseph L. Bower, Effective Public Management, Harvard Business Review, March 1977.

C. Chilling Effects.

It is common in central court for cases to pile up. In some central courts, there are long wait times.²⁹ The sessions are "all day affairs."³⁰ Everyone waits, lawyers, defendants, victims, witnesses, and law enforcement officers as well. It creates pressure to speed up cases.

There is little or no time for hearings. In some cases, though, justice requires a hearing. A hearing serves an important adjudicative purpose in that it informs counsel of the case, sharpens factual and legal issues, and assists the parties in determining a resolution, whether pre-trial intervention, plea, or trial. A hearing may be the only mechanism, short of habeas relief or trial, to achieve dismissal of a meritless case.

It is well established that the magisterial district court preliminary hearing is a "critical stage" of the criminal process and, as such, triggers important procedural due process rights, such as those found in the United States Constitution's Bill of Rights³² and the Pennsylvania Constitution,

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²⁹ Anthony J. Mangan, District Justice, letter, March 13, 1999 ("They are very unhappy with this system because victims and witnesses must sit for hours."). It seems a contributing factor is that the congestion in central court creates a bottleneck for public defender application review and approval, which makes other participants wait while the public defender stops to read the application and interview the applicant to decide whether he is able to represent him. See e.g., Daniel S. Bowman, Magisterial District Judge, letter, August 31, 2006 ("... I had a chance to speak to some of the Public Defenders ... One of the things they indicated [was] that they didn't like Central Court [because] now these people are filling out applications for a Public Defender and they had no real means to process their applications to see if they should really represent them or not. ...") (Adams).

³¹ Powell v. Alabama, 287 U.S. 45 (1932); Coleman v. Alabama, 399 U.S. 1 (1970) (defendant entitled to counsel at preliminary hearing because of the importance of the preliminary hearing in gathering evidence for the trial and preventing against erroneous continued prosecution); Gerstein v. Pugh, 420 U.S. 103 (1975) (in a preliminary hearing, "[t]he importance of the issue to both the State and the accused justifies the presentation of witnesses and full exploration of their testimony on cross-examination"); Commonwealth ex rel. Buchanan v. Verbonitz, 525 Pa. 413, 581 A.2d 172 (1990), cert. denied 499 U.S. 907 (1991) ("... the Pennsylvania Constitution mandates a criminal defendant's right to confrontation and cross-examination at the preliminary hearing ..."). See also Pa.S.C.M.D.J. Canon 2, Rule 2.6 ("A magisterial district judge shall accord to every person or entity who has a legal interest in a proceeding, or that person's or entity's lawyer or authorized representative, the right to be heard according to law.").

³² Especially the fifth, sixth, and eighth amendments.

Article I.33

The Superior Court examined the importance of the preliminary hearing in Pennsylvania. The court said:

The preliminary hearing has a common law and statutory rather than a constitutional origin. Its history extends for a period of nearly 500 years in English criminal jurisprudence. ... Pennsylvania first enacted a statute providing for preliminary hearings in 1915. ... Interpreting this statute, the Pennsylvania Supreme Court declared that a preliminary hearing is a "positive legal right" of an accused. ... The major changes in Pennsylvania law since 1915 have been to expand the right to a preliminary hearing to categories of crime not included in the original 1915 statute and to defendants already incarcerated. ... The public as well as the defendant has an interest in the preliminary hearing because it is a vital and integral part of the criminal adjudicative process. The public's interest in the proceeding derives from its fundamental interest in the proper administration of justice. (emphasis added) 34

The time pressure has a chilling effect on hearings, an effect that applies to assistant district attorneys³⁵ and defense counsel³⁶ alike. It chills the prosecution from exercising its right to a full and fair opportunity to present their case. It likewise chills the defense from exercising its right to a full and fair opportunity to challenge the case. In this manner,

³³ Especially sections 1, 6, 9, and 13.

³⁴ Commonwealth v. Murray, 504 A.2d 624 (Pa.Super. 1985), quoting Beck, J., concurring, Petition of Daily Item, 456 A.2d 580 (Pa.Super. 1983). See also Act of May 14, 1915, P.L. 499, No. 214 ("An act requiring magistrates, upon a preliminary hearing of persons charged with certain crimes and misdemeanors, to hear the accused and persons on behalf of the accused").

³⁵ Jerry Berardi, Assistant Court Administrator, "Ideas for Central Court in Adams County," memorandum, 2006 ("Commonwealth is limited to two (2) witnesses to present prima facie evidence (this prevents needless overcrowding of Central Court of non-essential persons as per MDJ's in Adams, Franklin, and Center Counties.").

³⁶ Daniel S. Bowman, Magisterial District Judge, letter, August 31, 2006 ("[The Chief Public Defender] referred to Central Court as McJustice ... It's great for cases that lend themselves to be waived or that a plea agreement can be made – but when it comes to having a Preliminary Hearing that's where there's a problem. He related that there are deterrents to requesting a Preliminary Hearing, such as the D.A. making one time only choices on pleas and motions for bail reduction, etc. ... One [public defender] who has been there for a long time was pretty adamant that she feels as though if you ask for a preliminary hearing you are somehow punished or moved to the end of the line, and there are roadblocks placed in your way to ask for a preliminary hearing and that this is definitely true and that is why she does not like Central Court. Throughout the day, almost every attorney I spoke to indicated the same thing that you are penalized if you ask for Preliminary Hearings in cases where the District Attorneys think you shouldn't ...") (Adams).

central court operations thwart due process.

Central court rushes hearings that do occur. It is true that redundancy is no one's friend in the courtroom, but there can be no artificial limits on the number of legitimate witnesses or legitimate objections or legitimate arguments. Rushed hearings only result in decisions that are not necessarily wise or fair."

It is this central court mode of operation that makes the judge look rushed, impatient, and discourteous. "Such courtroom conditions," remarked a leading scholar, "lack dignity and leave a bad impression, suggesting that the judiciary is more interested in collecting [money] than in doing justice." It is no surprise that people, defendants, victims, and witnesses alike, are disappointed, insulted, and even angered at their treatment in central court and thus less cooperative in subsequent proceedings.

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³⁷ James Gazell, The Rudiments of State Level Judicial Management, 47 Chicago-Kent Law Review 169, 1970 ("speedy decisions are not necessarily wise or fair"); H. Lee Sarokin, Justice Rushed Is Justice Ruined, 38 Rutgers Law Review 431 (1986).

³⁸ Mayberry v. Pennsylvania, 400 U.S. 455 (1971) (Harlan, J., concurring) ("the appearance of evenhanded justice . . . is at the core of due process"); David W. Neubauer and Henry F. Fradella, America's Courts and the Criminal Justice System, 10th ed., Boston, Mass.: Wadsworth Cengage, 2011; Robert W. Tobin, Creating the Judicial Branch: The Unfinished Reform, Williamsburg, Va.: National Center for State Courts, 2004; Yankelovich, Skelly, and White, Inc., The Public Image of Courts, Williamsburg, Va.: National Center for State Courts, 1978.

 $^{^{39}}$ See, e.g., Daniel S. Bowman, Magisterial District Judge, letter, July 21, 2006 ("I believe the District Courts were set up so that people could attend hearings in the district where the offense occurred ... When I first started as a police officer in York County we had a grand jury system in which all witnesses/victims had to go to the York Courthouse to testify, before a case could be held for court ... [T]he advent of a preliminary hearing at the district courts was a huge improvement ... for the victims and witnesses. ... [I]t does leave some people cold. I talked to one clerk who told me often after Central Court they receive phone calls either at the Central Court office or the Clerk of Courts or the District Court Judge offices, seeking an explanation of what happened during Central Court because the defendants who signed their waivers were fairly confused. I did notice that look on their faces that they really did not have a clue as to what was going on. They were sort of rushed through and didn't feel like they had an opportunity to ask questions, some did ask questions but were pretty rushed and it was obvious they wanted to keep you moving out the door. ... I noticed that in the morning that [the judge] was taking some time to explain ... bail conditions ... notice ... arraignment date ... waiver ... the purpose of the Preliminary Hearing and make sure they were doing it voluntarily and knowingly and going over all the checklists on the form. By the end of the day, [the judge was] saying this is your notice, sign here, this is your waiver, sign here. It was almost that abrupt at the end. ...") (Adams).

IV. EFFICIENCY.

It is paramount that the courts be effective, but to the extent possible they must also be efficient.⁴⁰ In general, efficiency, or technical efficiency, is "an aspect of production that seeks to identify, in physical terms, the optimal (best possible) combination of factor inputs to produce a given level of output."⁴¹ It is a concept familiar to those in engineering, economics, and government.

In government, efficiency has been a concern for quite some time. In 1887, in his famous essay, Woodrow Wilson said that government must do its work "with the utmost possible efficiency and at the least possible cost either of money or of energy." It is, in the field of public administration, a measure of how well resources are being used to provide public services. It means functioning in the best possible manner with the least waste of time, effort, and money. 44

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 $^{^{40}}$ See Sorrel Wildhorn, Marvin Lavin, and Anthony Pascal, Indicators of Justice, Lexington, Mass.: Lexington Books, 1977.

⁴¹ Collins Dictionary of Economics, 4th ed., 2005. See Roman Vavrek, Efficiency and Inefficiency in Public Administration, Journal of Economic Development, Environment and People 7, no. 1, 2018; Azhar Manzoor, A Look at Efficiency in Public Administration: Past and Future, 4 Sage One 1, 2014, citing Mark R. Rutgers and Hendriekje van der Meer, The Origins and Restriction of Efficiency in Public Administration: Regaining Efficiency as the Core Value of Public Administration, 42 Administration & Society 755, 2010 (efficiency is defined as "axiom number one in the value scale of administration," Gulick (1937); "a ratio between input and output, effort and results, expenditure and income, costs and the resulting pleasure," Slichter (1950); "the maximum achievement of a given end with given resources, including within itself the values of maximization and achievement," Diesing (1973); "the shortest path, the cheapest means, toward the attainment of the desired goals, the attainment of maximum values with limited means; the ratio between input and output," Simon (1976); "the ratio of the effects actually obtained with the available resources to the maximum effects possible with the available resources," Waldo (1984); the greatest output for a given level of resources," J. Q. Wilson (1989); use of "inputs ... so as to produce an output in the cheapest possible way," Johansson & Lofgren (1996); "produc[tion of] a good or service at the lowest cost possible while maintaining a constant level of quality," Rainey (1997)).

⁴² Woodrow Wilson, The Study of Administration, 2 Political Science Quarterly 197, 1887, reprinted in Frederic C. Mosher, Basic Literature of American Public Administration, 1787-1950, New York, N.Y.: Holmes and Meier, 1981 (the object of administrative study is "to discover, first, what government can properly and successfully do, and, secondly, how it can do these proper things with the utmost possible efficiency and at the least possible cost either of money or of energy.").

⁴³ Coelli, Timothy J., D.S. Prasada Rao, Christopher J. O'Donnell, and George E Battese, An Introduction to Efficiency and Productivity Analysis, 2nd ed., New York, N.Y.: Springer Science and Business Media, 2005; Albertus Viljoen Bester, Efficiency in the Public Sector: An Analysis of Performance Measurements Employed by the Western Cape Provincial

In the wake of the Wilson essay, the courts too began to concentrate efforts on becoming more efficient. In 1906, Roscoe Pound⁴⁵ "sparked the white flame of progress"⁴⁶ when he addressed the American Bar Association and spoke of the need for court unification to make the courts more efficient. He disfavored judges sitting idle, wasted by improper method and machinery. Pound "... decried as archaic the waste of judicial power caused by ... rigid districts or courts or jurisdictions, so that congestion resulted in one court while judges in another sat idle."⁴⁷

It is a waste to idle assets, to overload them, or to expend resources, such as money or personnel, unnecessarily.⁴⁸ It is one of the primary findings of this study that, depending upon various factors, central court adversely affects efficiency:

- 1. It idles most judges and overloads others.
- 2. It spends money unnecessarily by requiring outlays for facilities, central court staff, and sometimes increased transportation costs.

Treasury, University of Stellenbosch, South Africa, 2007; Kristen Norman-Major, The Four E's of Great Governance, Minnesota Cities, 2012 ("Efficiency is getting the most public good in the fastest time using the available resources.").

⁴⁴ Oxford English Dictionary, 3rd ed., Oxford University Press, 2005; Gareth Goh, The Difference Between Effectiveness and Efficiency Explained, Insight Squared (blog), 2013; Robin C. Sickles and Valentin Zelenyuk, Measurement of Productivity and Efficiency: Theory and Practice, New York, N.Y.: Cambridge University Press, 2019 (efficiency often specifically comprises the capability of a specific application of effort to produce a specific outcome with a minimum amount or quantity of waste, expense, or unnecessary effort).

 $^{^{45}}$ Then Dean of the University of Nebraska College of Law, later Dean of the Harvard Law School.

 $^{^{46}}$ Wigmore, John Henry, Roscoe Pound's St. Paul Address of 1906: The Spark that Kindled the White Flame of Progress, 20 Journal of the American Judicature Society 136, 1937.

⁴⁷ Ashman, Allan and Jeffrey A. Parness, The Concept of a Unified Court System, 24 DePaul L. Rev. 1, 1974; Pound, Roscoe, The Causes of Popular Dissatisfaction with the Administration of Justice, 29 American Bar Association Reports, Pt. I, 395, 1906.

⁴⁸ Paul R. Verkuil, The Case for Bureaucracy, The New York Times, October 3, 2016 (wasteful "to make a one person job into a two person job"); Rajib Mukherjee, Technical Efficiency and Its Many Facets, Udemy (blog), May 6, 2014 (wasteful "[i]f a machine remains idle for a long period of time because of lack of coordination between the different departments ..."); encyclonomic webpedia, http://www.amosweb.com, 2019 (wasteful if "workers [are] standing idly around waiting ..."); Popa Florina, Elements on the Efficiency and Effectiveness of the Public Sector, 17 Ovidius University Annals, Economic Sciences Series 313, 2017 (wasteful to, e.g., add bureaucratic apparatus, adopt more time consuming procedures, and use ineffective communication technology).

3. It idles magisterial district court staff at times and overtasks them at others.

Such waste is, by definition, inefficient. The inefficiencies of central court are deep and comprehensive, touching all phases of a case and affecting everyone involved, magisterial district judges, court staff and administrators, lawyers, affiants, defendants, victims, and witnesses.

It is sometimes said in the literature that there is a "dynamism of problems," that sometimes a solution solves a problem but creates other problems. "Reform measures, carefully studied over time," says one leading scholar, "often prove to be problem solutions." It is true that in establishing a central court, counties solved the problem of lack of prosecutor attendance, but in so doing they created other problems, problems affecting efficiency.

A. Rotation Problems.

There are new problems that arise in central court because of its rotation of judges. In central court counties, judges leave their magisterial district courts and sit in central court on a rotational basis, usually weekly but in some cases daily or monthly.

1. Judge Shopping.

There is judge shopping, i.e., the act of seeking the assignment of a judge who will rule in a litigant's favor. In magisterial district court, there is one judge, and judge shopping is impossible. In central court, the rotational schedule of the judge allows the parties to judge shop.

 $^{^{49}}$ Geoffrey Gallas, Court Reform: Has it Been Built on an Adequate Foundation? 63 Judicature 28, 1979.

 $^{^{50}}$ lbid. See also Malcolm Feeley, Court Reform on Trial: Why Simple Solutions Fail, New York, N.Y.: Basic Books, 1983.

It comes from both sides, prosecution and defense. In instances where the prosecution encounters a judge not to their liking, there is a temptation to continue the case: they can't do worse, only better. In like manner, in instances where the defense encounters a judge not to their liking, there is a temptation to continue the case: they too can't do worse, only better.

It is sometimes said in the central court memoranda or procedures manuals that there are strict limits on continuances, including judge shopping continuances.⁵¹ It is naive, however, to believe a motion aimed at judge shopping announces itself as such. It of course masquerades as an ostensibly compelling motion to continue. It is often difficult to detect and requires extensive supervision⁵² to minimize. Limits on continuances are ignored in practice.

It is of note that at this level of court there are sometimes vast differences among judges, some former police officers, some former defense counsel,⁵³ which makes the incentive to choose a judge even more powerful than in common pleas court. To the extent judge shopping increases motions to continue and the time required to process them, it creates inefficiencies.

⁵¹ See, e.g., Venango County, "Rules Governing Central Court Procedure," n.d. ("If it appears that a defendant or attorney is attempting to 'District Justice shop,' the case shall only be continued to a date at which that District Justice ... is again presiding ...") (Venango); Daniel S. Bowman, Magisterial District Judge, letter, August 31, 2006 ("... I heard one person, I believe it was someone from the D.A.['s office, say] there would be no continuances ... It's just the opposite, in fact, the Central Court Administrator is very liberal with her continuances, as long as it's a good cause and grants them to private attorneys when they have cases in other courts, etc. ...") (Adams). See Administrative Office of Pennsylvania Courts District Judge Office Clerical Procedures Manual, 2004) (admonishing that "[o]nly the District [Judge], not the staff, may grant continuances.").

⁵² See David C. Steelman, "Judge Shopping: A Memorandum," Williamsburg, Va.: National Center for State Courts, 2003 (efforts to stop judge shopping involve extensive and time-consuming supervision of court administrators and clerks).

 $^{^{53}}$ E.g., Monroe, where of nine total, three magisterial district judges are former defense counsel, three are former police officers.

2. Case Avoidance.

In the face of such insurmountable overload, there is a temptation to continue cases. It might indeed be impossible for the central court judge, no matter how much he tries, to finish the caseload in the allotted time. In that event, the judge's continuing the cases may be the only practical option.

In addition, however, there is another issue. If a case presents uncomfortable issues to the judge, perhaps it involves taking an unpopular action or an action for which someone might criticize him, the judge is tempted to "pass the buck," continue the case knowing that, if he continues it, he will not see it in his next rotation.

In some counties, case avoidance is acknowledged and attempts have been made to regulate the central court caseload. It is addressed through measures such as limitations on certain classes of cases, e.g., murder, rape, other violent felonies, which are not sent to central court in the first place, 54 or, in other counties, through remand procedure. 55

B. Judge to Caseload Ratio Problems.

It is the difference between the number of judges and the number of cases, the low judge to caseload ratio, which is the problem in the courts.⁵⁶ It is sometimes claimed that central court is optimized because it lowers an input, manpower. But simply lowering input is not increasing

⁵⁴ See, e.g., Jerry Berardi, Assistant Court Administrator, Ideas for Central Court in Adams County, memorandum, 2006 ("No murder, rape, armed robbery or other violent felonies heard in Central Court.").

⁵⁵ See fn. 12, supra.

⁵⁶ David W. Neubaeur and Henry F. Fradella, America's Courts and the Criminal Justice System, 10th ed., Boston, Mass.: Wadsworth Cengage, 2011, quoting the President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C.: Government Printing Office, 1967.

efficiency. "Only lowering the input of a system without considering the output may decrease the efficiency."⁵⁷

The main problem of central court is that it is mired in judicial labor misallocation, the attempt to have one or a few judges do the work of all of the magisterial district judges in the county.⁵⁸ If, for example, in a given week the county has 10 magisterial district judges and 300 cases, 10 judges can each do 30 cases, but can one judge do 300?

It is not just the low ratio per se but the elimination of surge capacity that is of concern as well. So-called "optimized" systems eliminate surge capacity. "By eliminating surge capacity that allows a system to deal with any overload, optimized systems have evolved into fragile, error-prone systems." In contrast to magisterial district court, central court, and its claimed "optimization" of judicial manpower, stretches judicial manpower so thin that it is incapable of meeting any surge in caseload.

1. The "People Flood."

It is as expected that central court results in, as one central court judge put it, "a people flood," 60 a congestion of people in central court.

In magisterial district court, people are distributed amongst multiple courts

⁵⁷ Eric Saylors, Fire Departments are Response Models, Not Production Models, Medium (blog), January 1, 2017. See Michael James Farrell, The Measurement of Productive Efficiency, 120 Journal of the Royal Statistical Society, Series A, 253, 1957.

⁵⁸ Anthony J. Mangan, District Justice, letter, March 13, 1999 ("[T]he idea that [central court] would reduce the number of cases going to [common pleas] court has not materialized. The reason for this is that due to the large number of cases on each docket there is a tendency to send cases to [common pleas] court and sort them out at that level.").

⁵⁹ Eric Saylors, Fire Departments are Response Models, Not Production Models, Medium (blog), January 1, 2017. See Theodore Gyle Lewis, Bak's Sand Pile: Strategies for a Catastrophic World, Agile Research and Technology, Inc., 2011.

⁶⁰ See, e.g., Anthony J. Mangan, District Justice, letter, March 13, 1999 ("They are very unhappy with this system because victims and witnesses must sit for hours."); Daniel S. Bowman, Magisterial District Judge, letter, August 31, 2006 ("On our arrival [at Franklin Central Court], people were standing and sitting. All the chairs as we walked along the hallway towards the Preliminary Hearing room were full. Once inside the room itself, all of the folding chairs in the front and back section were completely full of people. ... Along both sides of the room, policemen stood, approximately 15 to 20 and the desks that were provided for the attorneys were full and active.") (Adams).

across the county. In central courts, people are concentrated in one court. It is often unappreciated, the number of people who appear in magisterial district court.

If, for example, there is an average of 300 criminal cases per week countywide and each case has an affiant, a prosecutor, a defendant, a public defender or, in some or many cases, private defense counsel, a complainant or complainants, and a witness or witnesses, there is a total of at least 900 people in court.⁶¹

If 900 people appear in ten district courts, two of which convene per day, five days per week, there are 30 people in each court. If the same 900 people appear in central court and court convenes for five days per week, there are 180 people in court; for four days, 225 people in court; for three days, 300 people in court; for two days, 450 people in court, and for one day, 900 people in court.

2. Long Wait Times.

It is inevitable that in some counties central court results in long wait times, some sessions described as "hurry up and wait," "all day affairs." Et is true that in magisterial district court there are occasionally unexpected events that create a wait for people. In some central courts, there are regular, extended wait times.

It seems, making matters worse, the flood of people in central court creates a chokepoint for public defender application review and approval, ⁶³ which makes other participants wait while the one and only public defender

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 $^{^{61}}$ The equivalent of the attendance at a Call of the List in a class three or four county but every week instead of every other month.

⁶² Anthony J. Mangan, District Justice, letter, March 13, 1999 ("They are very unhappy with this system because victims and witnesses must sit for hours."); Daniel S. Bowman, Magisterial District Judge, letter, August 31, 2006 ("The actual victims and witnesses themselves ... don't like the fact that they are sitting there from 9:00 o'clock until who knows when.").

⁶³ Ibid.

stops to read the application and interview the applicant to decide whether he is able to represent him.

The wait times create inefficiencies. In the course of waiting for the court to proceed through all its cases, one at a time, private defense counsel and conflict counsel must wait. Law enforcement officers must wait. In central courts, police spend more time in court, waiting for their case to be called.⁶⁴ It is time that lawyers are not in court elsewhere, that police are not in their jurisdictions on patrol or meeting other law enforcement duties.

3. Judge Fatigue.

In central court there is judge fatigue. In magisterial district court, the judge sits on his district's criminal cases one day of the week, having a session in the morning, sometimes in the afternoon as well, if needed. In central court, the judge, in attempting to do the entire county's criminal docket himself, sits all day and may be unable to complete the caseload.⁶⁵

If, for example, there are ten judges who have a full morning session and three of them have an additional afternoon session, the total time to do the work equals thirty-nine hours, four hours more than the thirty-five hour work week. It is even more of an overload if central court operates only four days, which means the judge sits late, even into the evening.⁶⁶

In some of the central court counties, the on-call and central court duties coincide, making a "hell week" 67 during which the judge must be up

⁶⁴ In addition to the extra time spent driving from their police jurisdiction to central court and from central court back to their police jurisdiction. In one county, Westmoreland, the various police departments defeated a proposal for central court, pointing to the time police must spend traveling from their jurisdiction to central court, the time police wait in central court for their cases, and the time police spend traveling from central court to their jurisdictions.

 $^{^{65}}$ It is even more difficult in that the judge does not have at hand his own staff, law library, or other resources.

⁶⁶ If the judge goes into overtime, so too does the staff, at a cost.

⁶⁷ E.g., Washington, Center, Adams, Beaver.

late at night covering arraignments, bail matters, and search warrant applications, and then, starting in the morning, must sit and hear cases all day, only to then start on-call duties again at 4:30 p.m. It is an extreme hardship, especially on the older judges.

4. Delay.

It is on the topic of time to disposition and delay that there is much confusion and misinformation. The role of the magisterial district judge is to schedule the case for preliminary hearing in a prompt time frame, issue an arraignment date, and, in appropriate cases, refer the defendant to expedited treatment or supervision. In the magisterial district courts, hearings are set, per the fourteen or twenty one day rule, 68 so as to be prompt. There is, however, a problem in the central courts. On this point, it is important to distinguish between full scope central courts and waiver courts.

The full scope central courts tend to inflict delay.⁶⁹ It is evident that when all of a county's cases are diverted to one judge or a few judges there is, due to overload, judge shopping, and case avoidance, built-in pressure to continue cases. Indeed, cases pile up, creating delay. In some central courts, all or several magisterial district judges are deployed to

⁶⁸ Pa.R.Crim.P. 540 (preliminary arraignment):

⁽F) Unless the preliminary hearing is waived by a defendant who is represented by counsel, ... the issuing authority shall:

⁽¹⁾ fix a and hour for a preliminary hearing which shall not be later than 14 days after the preliminary arraignment if the defendant is in custody on the current case only and no later than 21 days if the defendant is not in custody or is in custody but not on the current case only unless extended for cause shown ..."

⁶⁹ See Pound, Roscoe, The Causes of Popular Dissatisfaction with the Administration of Justice, 29 American Bar Association Reports, Pt. I, 395, 1906; American Bar Association, Section on Judicial Administration, The Improvement of the Administration of Justice, 5th ed., Chicago, Ill.: American Bar Association, 1971 (states should have a simplified court structure and "fragmentation of specialized and limited jurisdiction courts ... may impede the realization of full judicial efficiency and contribute in some measure to congestion and delay in the handling of certain categories of cases."). Delay "causes injustice and hardship ... and is the primary cause of diminished public trust and confidence in the court." U.S. Department of Justice, Bureau of Justice Assistance, Trial Court Performance Standards with Commentary, Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, 1997.

combat case arrearage.⁷⁰ In one full scope central court, there was such an insurmountable arrearage that the county returned to the cases to magisterial district courts. The magisterial district courts reduced the backlog in six months or so.⁷¹ The delay, too, reduced.

In contrast, the waiver courts do not inflict delay, but neither do they expedite the process. The proponents of waiver court often assert certain cases "clog"⁷² the system. For example, D.U.I. cases, they assert, may constitute as much as thirty percent of a court's typical caseload and, they add, most D.U.I. cases are waived for A.R.D. disposition. They claim waiver court promotes efficiency in that it "streamlines"⁷³ or "fast-tracks"⁷⁴ the process in such cases, that all these cases must go to waiver court lest they not be fast-tracked.

Such phrases as "streamline" and "fast-track," however, reference differentiated case management (D.C.M.).⁷⁵ D.C.M. is a technique courts can use "to tailor the case management process to the requirements of individual cases," a "mechanism for processing each case in accordance

⁷⁰ E.g., Lebanon, Lackawanna.

⁷¹ E.g., Luzerne.

⁷² Jeff Hawkes, Lancaster County's D.U.I. Court to Fast-Track Justice, Reduce Wasteful Spending and Maybe Save Lives, Lancaster Online, September 23, 2015. If there are indeed thirty percent of cases on a criminal day that are waivers, and there are thirty cases, there are ten or so waivers. The court can process ten such cases in an hour or so, leaving the remainder of the day for other cases, including R. 546 dismissals, pleas, and actual hearings. It seems hardly a "clogging."

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Holly C. Bakke and Maureen Solomon, Case Differentiation: An Approach to Individualized Case Management, 73 Judicature 17, 1989; U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, BJA Differentiated Case Management Program, Washington, D.C.: U.S. Department of Justice, 2019; U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Differentiated Case Management, Washington, D.C.: U.S. Department of Justice, November 1995; U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Differentiated Case Management: Implementation Manual, Washington, D.C.: U.S. Department of Justice, June 1993 (It is designed 1. "to make more efficient use of justice system resources by tailoring their application to the needs of the individual cases filed" and 2. "to serve the public more efficiently by providing different processing paths with different procedural requirements, appropriately geared to case requirements to achieve a just disposition in each case filed.").

with the time frame and judicial system resources required."76 It was devised in the 1970's and first tried in the 1980's.77 It was designed for courts existing at the time, but either a magisterial district court or a waiver court may put a case into a D.C.M. fast-track.⁷⁸ It is implemented by adding tracks, like a fast-track wherein at the time of arraignment an A.R.D. disposition is also entered.⁷⁹

In implementing D.C.M. fast-tracks, there is a problem regarding time to arraignment. The problem is not in the magisterial district court scheduling of the preliminary hearing, which is prompt, but in the common pleas court scheduling of the arraignment, which too often is many weeks or months later. To expedite the fast-track cases, the common pleas court need only schedule earlier arraignment. It is wholly unnecessary under D.C.M. principles, and indeed an inefficient waste of resources,80 to establish an entirely new court, like a waiver court, to expedite fast-track cases.

C. Relocation Problems.

There are supplemental problems relating to the additional processing required for central court. It may be touted as a simple matter of going to central court rather than magisterial district court, but it is not a simple matter at all. There are now two courts working the same case. There is a scattered venue. The case is filed in magisterial district court.81 But defendants, victims, and witnesses appear in central court. In many instances, a case is remanded for hearing or a defendant pleading guilty

⁷⁷ Ibid.

⁷⁶ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

 $^{^{80}}$ It requires outlays for facilities, staff, and transportation. See Budgeting, infra.

⁸¹ Pa.R.Crim.P. 503 ("In every court case a complaint shall be filed with the appropriate issuing authority."); Pa.R.Crim.P. 130 ("All criminal proceedings in summary and court cases shall be brought before the issuing authority for the magisterial district which in the offense is alleged to have occurred or before an issuing authority on temporary assignment to serve such magisterial district ...").

must plead in magisterial district court.⁸² In almost all instances, remitters must pay in magisterial district court.⁸³ In the unusual situation where the central court accepts payments, it still must send the case to the magisterial district court. Only the magisterial district court may disburse funds.

It is this scattered venue which creates inefficiencies.⁸⁴ People get lost in the shuffle. It increases failures to appear by defendants. It thus results in bench warrants, which burden court staff when it must prepare the warrants, and law enforcement, when it must serve them. It also increases failures to appear by witnesses.⁸⁵ It thus results in dismissals, which burden law enforcement, when it must prepare a new complaint, and the district attorney's office, when it must submit an approval for refile.

2. File Transfer.

There is a need to transfer, duplicate, and update case files, all of which are paper, not electronic. In magisterial district court counties, files are not transferred. In central court counties, files must be transferred from magisterial district court to central court and, in waiver court counties, vice versa as well.

It raises interesting questions. Is the original required? Is mail fast enough? Reliable enough? It seems that among the central court counties there are vastly different practices. Some use mail.⁸⁶ Some use

⁸² See Appendix, Tables, p. B-3.

⁸³ Ibid

⁸⁴ See Pound, Roscoe, The Causes of Popular Dissatisfaction with the Administration of Justice, 29 American Bar Association Reports, Pt. I, 395, 1906 (states should have a simplified court structure and "fragmentation of specialized and limited jurisdiction courts ... may impede the realization of full judicial efficiency").

Report of the Magisterial District Reestablishment Subcommittee Intergovernmental Task Force to Study the District Justice System, 2001 ("... Long driving times or out-of-the-way locations discourage the public from ... attending hearings, paying fines ...").
86 E.g., Lackawanna.

courier, the central court coordinator or interoffice mail.⁸⁷ Some use fax, or scanners and secure file transfer through a non-M.D.J.S. computer.⁸⁸

Regardless of which mode of transfer is used, the need to do the transfer at all imposes extra staff work. It takes considerable time to copy, to fax, or to scan dozens or hundreds of criminal case files per week. It also takes considerable time for the central court coordinator to transport files from all the district courts to the central court, if she couriers the files.

3. Coordination Burdens.

There are increases in required staff labor. Staff labor is a critical but limited court resource. In magisterial district court, the staff procedure is simple, streamlined, and brief. There are only three main steps.⁸⁹

The steps are as follows:

- 1. The complaint is filed in magisterial district court. The magisterial district court staff dockets the criminal complaint.
- 2. The magisterial district court staff schedules the case and sends the defendant notice and the witnesses subpoenas.
- 3. The magisterial district court staff, upon the scheduled court date, processes a disposition, either a dismissal, plea, waiver, or a held for court determination. If the case is waived or held for court, the staff sends the case to common pleas court.

⁸⁷ E.g., Beaver, Center, Wayne.

⁸⁸ E.g., Cumberland, Franklin, Mifflin.

⁸⁹ See Appendix, Diagrams, p. D-1.

In contrast, in central court, the magisterial district court staff procedure⁹⁰ is complicated, duplicative, and time consuming and labor intensive. There are dozens of steps or substeps.91

The steps are as follows:

- 1. The complaint is filed in magisterial district court. The magisterial district court staff dockets the criminal complaint.
- 2. In order to schedule a case, the magisterial district court staff and central court staff coordinate.
- a. The magisterial district court and central court staffs schedule the case.
- i. The magisterial district court staff contacts the central court staff for scheduling dates.
 - ii. The central court staff provides available dates.
 - iii. The magisterial district court staff schedules the case.
- iv. The magisterial district court staff contacts the central court staff to inform it of the scheduled date.
 - b. The magisterial district court staff sends notices and subpoenas.

The magisterial district court staff sends the defendant notice and the witnesses subpoenas for a preliminary hearing to be held in central court.

- c. The magisterial district court staff transfers case files to central court.
- i. The magisterial district court staff prepares and copies, i.e., makes multiple copies, of the case folders for mail, courier, fax, or secure file transfer to central court.92

⁹⁰ E.g., such as that of Wayne.

⁹¹ See Appendix, Diagrams, p. D-2.

⁹² See, e.g., Mifflin County, General Overview Of Procedures, 2005 ("All Central Court files should be ready for pick up by the Coordinator by noon the Monday of the week the case is scheduled for Central Court. The entire case file should be sent including all original documents. In addition to the Affiant and the Defendant, the District Justice must provide a copy of the case file to the District Attorney, Public Defender and the Probation Office in advance of the scheduled court appearance. It is recommended the District Justice make six copies of the case file upon the filing of the charges; retaining one as a file copy.") (Mifflin); Wayne County, Wayne County Court of Common Pleas Central Criminal Court Procedures Manual, n.d. ("All Central Court files should be ready for pick up by the Coordinator by noon the Monday of the week the case is scheduled for

ii. In central court, the case files arrive. If the files are sent through fax or secure file transfer, the central court staff must print out the files for use on the central court bench.

3. It is at this juncture that there is some sort of disposition. It seems that all central courts accept waivers, but, as to pleas and preliminary hearings, procedure varies much from central court to central court. Every central court is different.

a. Waivers.

In central courts, the court processes waivers of preliminary hearing. In such cases, the central court staff sends the case to common pleas court.

b. Pleas.

In some central courts, the court does not accept pleas, in some central courts the court accepts pleas but not monies, and in some central courts the court accepts pleas and monies. In most central court counties, the central court staff is not allowed to accept such monies due to accounting difficulties.

i. In Central Court.

1.) In courts that do not accept pleas, the case is remanded to magisterial district court. The central court staff mails, couriers, faxes, or secure file transfers the case files to magisterial district court.

Central Court. The entire case file should be sent including all original documents. It is recommended that the originating Magisterial District Judge make a copy of the case file to retain during this period if needed. ... The Coordinator or designee will be responsible for retrieving and distributing all files from the District Courts. If a file needs to be returned to the Magisterial District Judge office after being retrieved by the Coordinator, arrangements must be made with the Coordinator for the return of the file. This is necessary for the Coordinator to be able to track all files and to prevent the misplacement of any files. The Coordinator will retrieve files after noon on the Monday of the week that the case is scheduled for Central Court.") (Wayne).

- 2.) In courts that accept pleas but not fine, fee, and cost monies, the case is remanded to magisterial district court. The central court staff mails, couriers, faxes, or secure file transfers the case files to magisterial district court.
- 3.) In courts that accept pleas and fine, fee, and cost monies, the central court staff mails, couriers, faxes, or secure file transfers the case files to magisterial district court. In addition, the central court staff receipts the monies and sends them to magisterial district court.

ii. In Magisterial District Court.

The magisterial district court staff accepts the plea or the plea and fine, fee, and cost monies, as the case may be. The magisterial district court staff disburses the monies.

c. Hearings.

In some central courts, the court conducts hearings, in some the court conducts only certain types of hearings, and in some the court does not conduct any hearings at all. In the central courts that conduct hearings, the central court staff processes the disposition, either dismissed or held for court.

i. In Central Court.

- 1.) In courts that do not conduct hearings at all, the "waiver" courts, the central court staff transfers the case to magisterial district court. The central court coordinator mails, couriers, faxes, or secure file transfers the case files to magisterial district court.
- 2.) In courts that conduct hearings on some offense types but not others, the central court staff leave the case in central court if it has

eligible charges; otherwise, it transfers the case to magisterial district court.

3.) In courts that conduct hearings on all offense types, the central court staff leave the case in central court. In some courts, the case may still be remanded upon motion. In such an event, the central court staff transfers the case to magisterial district court.

ii. In Magisterial District Court.

In magisterial district court, the case is processed. The magisterial district court staff must now for the second time schedule the case for preliminary hearing, this time in magisterial district court.

- 1.) If the files are sent through fax or secure file transfer, the magisterial district court staff must print out or refolder the files for use on the magisterial district court bench.
 - 2.) The magisterial district court staff schedules the case.
- 3.) The magisterial district court staff sends the defendant notice and witnesses subpoenas for a hearing to be held in magisterial district court.
- 4.). If the case is dismissed, the magisterial district court staff processes the dismissal.
- 5.) If the case is held for court, the magisterial district court staff sends the case to common pleas court.

It sometimes happens that a defendant, after remand for plea or hearing, changes his mind and wants to waive, as is his constitutional right. The magisterial district court accepts the waiver, unless it is not authorized to do so. If it is not authorized to do so, the magisterial district court staff must then repeat the scheduling procedure in steps 2a through 2c, supra.

It is a substantial increase in staff labor, demanding even more work from staffs that are already understaffed and underpaid.⁹³ It takes more time than one might think to accomplish some of these tasks. In contacting the central court coordinator to secure a date for hearing, moreover, the magisterial district court staffs vie against one another to gain phone time of the central court coordinator, wait for a response, and then schedule the hearing. It creates another bottleneck.

Slowdown.

In the meantime, in magisterial district court the clock does not stop. In magisterial district court, the judge is available at all times. In central court, the judge is unavailable to his home court.⁹⁴ Other matters that require the judge's attention come to a standstill when the staff, unable to conference with the judge on the matter, cannot proceed further. Central court results in a slowdown of regular district court business.

It is often forgotten that the magisterial district courts cover many sorts of cases. ⁹⁵ The vast bulk of the magisterial district court time is

⁹³ Ford Turner, Findings of Audits of Berks County District Judges Raising Questions, Reading Eagle, December 4, 2018 ("The district judges' offices are woefully understaffed.").

 ⁹⁴ Report of the Magisterial District Reestablishment Subcommittee Intergovernmental
 Task Force to Study the District Justice System, 2001 ("... the amount of time required for citizens to access their district justice office must be an important consideration ...").
 ⁹⁵ See 42 Pa.C.S. §1515(a). Jurisdiction includes:

¹⁾ summary offenses, except those within the jurisdiction of an established and open traffic court:

²⁾ certain matters arising under the Landlord and Tenant Act;

³⁾ certain civil claims (except those against the Commonwealth) wherein the sum demanded does not exceed \$12,000;

⁴⁾ as commissioners to preside at arraignments, to fix and accept bail in most cases, to issue warrants and other similar duties;

⁵⁾ offenses related to driving under the influence of alcohol or other controlled substances, if certain criteria are met;

⁶⁾ misdemeanors of the third degree under Title 18 (crimes and offenses), Title 30 (fish) and Title 35 (health and safety), if certain criteria are met;

⁷⁾ all offenses under Title 34 (game);

⁸⁾ any other matter in which jurisdiction is vested in district justices.

Other matters include dogs (3 P.S. §459-101 et seq.), marriages (23 Pa.C.S. §1503(a)(1)), certain protection from abuse matters (23 Pa.C.S. §§6101-6118), fish and boat (30 Pa.C.S. §101 et seq.), food and agriculture (31 Pa.C.S. §1 et seq.), oaths and affirmations (42 Pa.C.S. §327), truancy (42 Pa. C.S. §1333), tax license (72 P.S.

spent on the noncriminal case docket. ⁹⁶ In some of these matters, time is of the essence. For example, traffic cases often involve driver's license issues that are time sensitive, landlord-tenant cases must be heard in a seven to fifteen day time frame, ⁹⁷ etc. Sometimes, there are walk-in surrenders or arrests or other matters that require judicial attention without undue delay. If these cases are redirected to central court, there is even more overload there.

It is a core value of our courts to deliver efficient administration of justice. It seems that in central court counties the more the caseload, the more the inefficiencies. In some counties, there is a struggle just to move the caseload in central court. ⁹⁸ Inefficiencies, if severe, can impede case flow, even cause failure. ⁹⁹ It is notable that some central court counties resorted to remanding some cases back to magisterial district court for hearings, a sort of slow motion collapse of central court into limited central courts or "waiver courts."

§7208), and local ordinances, which themselves span a vast range of matters, from airports to zoning, etc.

- 1. There are 241 weekdays per year.
- 2. There are 15 court holidays per year.
- 3. The central court operates 5 days per week.
- 4. There is one judge in central court at a time.
- 5. A judge can cover 20 cases per day.

Thus:

⁹⁶ Joshua Vaughn, Minor Judiciary: A Look at the Role of the Magisterial District Judges, The Sentinel, August 28, 2017; Len Barcousky, The Judicial System's First Level: What Does a Magisterial District Judge Do?, Pittsburgh Post Gazette, April 28, 2011. See generally Victor E. Flango, Robert T. Roper, and Mary E. Eisner, The Business of State Trial Courts, Williamsburg, Va.: National Center for State Courts, 1983. ("Myth 1[:] criminal cases make up the bulk of court business.").

⁹⁷ Pa.R.C.P.M.D.J. 504 (setting the date for hearing; delivery for service): The magisterial district judge, at the time the complaint is filed, shall:

⁽¹⁾ Set a hearing date which shall be not less than seven (7) or more than fifteen

⁽¹⁵⁾ days from the date the complaint is filed.

⁹⁸ Anthony J. Mangan, District Justice, letter, March 13, 1999 ("[T]he idea that [central court] would reduce the number of cases going to [common pleas] court has not materialized. The reason for this that due to the large number of cases on each docket there is a tendency to send cases to [common pleas] court and sort them out at that level.").

⁹⁹ E.g., Luzerne.

 $^{^{100}}$ See Appendix, Table 3, column 2. Of the class 3, 4, or 5 central courts, only four are full scope courts. It is these four that are the most problematic and, indeed, the largest one failed.

It is interesting to hypothesize the caseload threshold at which a central court fails. Assume:

V. ACCOUNTING.

It is one of the judge's most important functions to conduct case and financial accounting, a requirement of the Supreme Court and auditor general. He must schedule cases, monitor warrants, record dispositions, and close cases. He must account for collateral and bail, and fines, costs, and fees. He must reconcile banking statements. He must disburse funds to recipients and escheat monies. For these matters, he is responsible and there are measures to make him accountable.¹⁰¹

A. Audits.

It is unavoidable that the complexities of central court increase the chances of several case and financial management errors, such as missing documents, lost case folders, unscheduled cases, unacceptable levels of continuances (and subsequent Rule 600 violations), warrants not issued, warrants not returned, undisbursed funds, unescheated funds, etc. Such errors constitute adverse audit findings.

B. Accountability Blur.

In central court, the lines of accountability become blurred. In magisterial district court, case management duties are limited to one judge and his staff. In central court, case management duties involve a lot more people, including the magisterial district court judge, the magisterial district court staff, the central court judges, the central court coordinator, and the central court staff. It can be unclear who is accountable for administrative errors.

 $^{20 \}times (241 - 15) = 4,520$

Is assumption 5 true? Can a judge cover 20 cases per day?

It depends on the local legal culture. If the county has more hearings than average, perhaps not. He may be able to cover only 10 cases per day. The failure point may be much lower.

¹⁰¹ See Administrative Office of Pennsylvania Courts and Auditor General of Pennsylvania, Understanding Your Audit, 2010.

C. Payment Remand.

In the cases where there is a plea and fines, fees, and costs, there are concerns regarding who takes the monies. In most central court counties, there are such accounting difficulties that the central court staff has been ordered to not accept such monies. ¹⁰² Instead, the case must be remanded to the magisterial district court for the magisterial district court staff to accept the monies.

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¹⁰² See Appendix, Tables, p. B-3. See also, e.g., Lawrence C. Bickford, Court Administrator, The Development of the Central Court Process in Centre County, memo, 1982 ("No monies will be collected by Central Court unless a sentence is imposed when a misdemeanor charge is reduced to a summary and a guilty plea is entered ..."); Jerry Berardi, Assistant Court Administrator, Observation of Central Court Procedure in Franklin County, memorandum, 2006 ("Absolutely no money is collected during central court. Initially money was collected, however it became apparent that it caused numerous problems and the practice was cancelled.") (Franklin); Jerry Berardi, Assistant Court Administrator, Ideas for Central Court in Adams County, memorandum (2006) ("No money collected during Central Court.") (Adams). Cf. Mifflin County, Overview Of Procedures, 2005 ("On cases settled by reducing the charge to a summary offense, the fine and costs can be paid in Central Court. The Coordinator would put the money in collateral and send a check to the original issuing authority for the actual disbursement of the fines and costs. A checking account has been set up for this purpose. Only cash, money orders or certified checks will be accepted as payment for fines, costs and restitution. Follow up for collection of any remaining balances will take place at the office of the originating District Justice.") (Mifflin).

VI. BUDGET.

It is essential in budget appropriation to account for ongoing gains and losses. ¹⁰³ In general, central court does not realize revenue or even mere savings, but it does realize costs, sometimes significant ones. It is expensive to establish and maintain a central court, as it requires facilities, a central court coordinator and central court staff, and, sometimes, increased transportation costs.

A. Facilities.

It costs money to acquire, renovate, or build a structure. In some counties, if there is no space in the common pleas court, there must be an acquisition, a renovation, or a construction project.¹⁰⁴ Often, there are substantial financing costs. It is costly for government to construct a building. In contrast to private enterprise, the government must, by law, pay prevailing wage¹⁰⁵ and, in this instance, meet A.O.P.C.¹⁰⁶ specifications, the effect of which is to increase the cost of building to a significant extent.

It is difficult to calculate an exact cost without architectural design and competitive bid, but it is instructive to look at comparables. In one county, a police department complex cost \$3.8 million in 2004, and a small township municipal center cost \$2.8 million in 2008. ¹⁰⁷ In another,

where:

 π = profit,

TR = total revenue,

TC = total cost.

Note it is the total cost that counts.

See Geoffrey C. Hazard, Jr., Martin B. McNamara, and Irwin F. Sentilles, III, Court Finance and Unitary Budgeting, 81 Yale Law Journal 1297, 1972.

¹⁰⁴ E.g., Dauphin.

 $^{^{103}~\}pi=TR-TC,$

 $^{^{105}}$ 43 P.S. §165-2(5); Pennsylvania National Mutual Casualty Insurance Co. v. Dep't of Labor and Industry (Penn National I), 715 A.2d 1068 (Pa. 1998).

¹⁰⁶ Administrative Office of Pennsylvania Courts.

¹⁰⁷ Monroe. Pocono Record, Stroud Area Police to Show New Station, March 12, 2004; Pocono Record, Smithfield to Ring in New Year at New Building, December 22, 2008.

a new justice center complex cost \$84 million in 2009.¹⁰⁸ In another, a safety and fire building cost \$9 million in 2011.¹⁰⁹ In another, a courthouse addition cost an estimated \$67 million in 2019.¹¹⁰

B. Central Court Staff.

It costs money to pay staff salaries and benefits. It has been possible in some counties to assign the executive level administrative tasks to the district court administrator, but in other counties the tasks were too demanding. In those counties, the task has been assigned to a dedicated, full-time central court coordinator. To hire a qualified coordinator requires expenditure of \$61,625.111

It seems that among the class three, four, and five central court counties, there are two, three, or four dedicated, full-time central court staff.¹¹² In order to complete tasks within regular hours and reduce wait time, there must be adequate staff working on different cases at the same time. To hire qualified staff requires expenditure of \$43,286.¹¹³

109 Pike. Pocono Record, Pike to Build Emergency Training Center, May 3, 2010.

¹⁰⁸ Bucks. See www.buckscounty.org.

⁽Estimated at more than \$4 million, the actual cost was \$9 million.) 110 Franklin. Joyce Nowell, Franklin County to Borrow \$55 M for Courthouse Project,

Franklin. Joyce Nowell, Franklin County to Borrow \$55 M for Courthouse Project, Herald News Media, March 1, 2018; Joyce Nowell, Expected County Tax Hike Tied to Courthouse Project, Herald Mail Media, October 23, 2018.

¹¹¹ See, e.g., Monroe County, Human Resources Department, facsimile (March 14, 2012):Grade/PositionHours/weekAnnual SalaryTotal BenefitsTotal Annual Cost24 MDJ Court Admin35\$38,265\$23,360.22\$61,625.22...* All Benefits based upon HMO or Geisinger Employee+ 1 Dependent, Low Option Dental

¹¹² E.g., Luzerne, Lackawanna, Center. (In some counties, although one staff is designated as "central court staff," the central court coordinator, district court administrator, or deputy court administrator, and sometimes all three, serve as staff, as needed.)

¹¹³See, e.g., Monroe County, Human Resources Department, facsimile (March 14, 2012):Grade/PositionHours/weekAnnual SalaryTotal BenefitsTotal Annual Cost7 MDJ Technician35\$20,796\$22,490.67\$43,286.67 ...* All Benefits based upon HMO or Geisinger Employee+ 1 Dependent, Low Option Dental& Vision.

In some central court counties, the judge brings one of his own staff. 114 It is not an option in all counties, though. In some counties, 115 there are districts that have only two staff. Having only one staff in magisterial district court is burdensome, raises audit issues, 116 and precipitates union contract violations as to lunch hour, sick time, vacation, personal days, etc. 117

It is assumed that the central court judge, like the other judges in the courthouse, is to be escorted to and from the courtroom by sheriff's deputies. In addition, in some counties' deputies transport inmates to central court.¹¹⁸ If there is inadequate manpower to meet this need, more deputies must be hired. To hire a qualified sheriff's deputy requires expenditure of \$54,000.¹¹⁹

C. Transportation.

It costs money to transport inmates to court. It is important to focus on these law enforcement costs, the minutes and miles spent on travel and inmate transport. It depends upon several variables, the most important of which is the distance from a police station to court. The

116 See Administrative Office of Pennsylvania Courts and Auditor General of Pennsylvania, Understanding Your Audit, 2010 (explains requirement of "segregation of duties" amongst staff as to acceptance, accounting, and deposit of cash receipts); Ford Turner, Findings of Audits of Berks County District Judges Raising Questions, Reading Eagle, December 4, 2018.

<u>Grade/Position</u> <u>Hours/week Annual Salary</u> <u>Total Benefits</u> <u>Total Annual Cost</u>
16 Sheriff's Deputy 40 \$30,390 \$23,610.96 \$54,000.96 ...

* All Benefits based upon HMO or Geisinger Employee + 1 Dependent, Low Option Dental & Vision.

¹¹⁴ E.g., Cumberland, Lebanon.

¹¹⁵ E.g., Monroe.

¹¹⁷ See, e.g., Collective Bargaining Agreement between Teamsters Local 229 and County of Monroe, Covering its Court-Appointed, Non-Professional Employees, January 1, 2009 through December 31, 2012, Art. 12, 13, 19, 20, 22.

¹¹⁸ In one county, Adams, constables transported inmates; thus, adopting central court and using sheriff's deputies to transport inmates saved \$36,000 in constable fees, though the increase in the deputies' workload is a factor in subsequent hiring of additional sheriff's deputies. In many counties, affiants transport inmates to court.

 $^{^{119}}$ See, e.g., Human Resources Department, County of Monroe, Facsimile (March 14, 2012):

urban areas,¹²⁰ where central court is closer than magisterial district court, save money, whereas the rural counties,¹²¹ where central court is farther than magisterial district court, lose money. It is not unusual for rural police to travel two or three times as many miles to get to central court as they do to get to magisterial district court.¹²²

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120 E.g., Dauphin, Lehigh.
<sup>121</sup> E.g., Westmoreland.
122 E.g., Monroe's Pocono Township Police Department, a medium sized department,
covering Pocono Township. See Appendix, Maps, p. A-2; mapquest.com.
   Examine the following proof:
   Let:
   m
                          = miles for affiant travel and inmate transport to and from court
                          = unincarcerated defendants (station to court + court to
                           station) + incarcerated defendants (station to jail + jail to
                           court + court to jail + jail to station)
   I. District Court:
   Let:
   Unincarcerated
   defendants
                          = 45
                                      defendants (average per month)
   Incarcerated
   defendants
                          = 5
                                      defendants (average per month)
   Station to court
                          = 2.3
   Court to station
                          = 2.3
                                      miles
   Station to jail
                          = 7.3
                                      miles
                          = 5.7
   Jail to court
                                      miles
   Court to iail
                          = 5.7
                                      miles
   Jail to station
                          = 7.3
                                      miles
   Thus:
                          = 45 \times (2.3 + 2.3) + 5 \times (7.3 + 5.7 + 5.7 + 7.3)
   m
   m
                          = 337
                                      miles per month
                           x 12
                                      months per annum
                          = 4,044
                                      miles per annum
   m
   II. Central Court:
   Let:
   Unicarcerated
   defendants
                          = 45
                                      defendants (average per month)
   Incarcerated
   defendants
                          = 5
                                      defendants (average per month)
   Station to court
                          = 8.8
                                      miles
   Court to station
                          = 8.8
                                      miles
   Station to jail
                          = 7.3
                                      miles
   Jail to court
                          = 7.1
                                      miles
                          = 7.1
   Court to jail
                                      miles
   Jail to station
                          = 7.3
                                      miles
   Thus:
                          = 45 \times (8.8 + 8.8) + 5 \times (7.3 + 7.1 + 7.1 + 7.3)
   m
   m
                          = 936
                                      miles per month
                                      months per annum
                           x 12
                          = 11,232
                                      miles per annum
   m
   Thus:
                            11,232
                            4,044
                          = 2.78
   Q.E.D.:
   m central court
                          = 2.78 m district court
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It is true that in some instances the central court is closer to the police station than the magisterial district court. In that situation, the police enjoy savings — on transportation costs. But let us not forget the additional time police spend in central court waiting for their cases to be called. It is not only wasted time. It also often triggers overtime pay. The additional costs of the wait time exceed the savings in transportation time. It is a net loss.

There are attorney and judge transportation costs as well. It is multivariate for attorneys. Some are closer to magisterial district court. Some are closer to central court. It is easier to make a conclusion regarding judges, however. Judges must leave their jurisdictions, where they live, to travel to central court, and, in counties where the judge's staff assists in central court, the staff too must travel to central court.

In addition, there are other, less obvious costs. It is the preliminary hearing that brings parties to a plea agreement in a lot of cases. Fewer hearings mean more trials. Jury trials are expensive, in particular those involving expert witnesses, who charge hundreds of dollars an hour to conduct an examination, prepare a report, and testify at trial. In almost all criminal cases, the county must cover the costs. One cases expert witness fees may tower in comparison to the marginal amounts saved, if any, in transportation costs.

It is sometimes said, in promoting establishment of a central court, that it saves money, that it pays for itself, that the court is free. It is true that in some instances there are savings in inmate transportation costs,

The Pocono Township Police Department, therefore, incurs more costs. The Pocono Mountain Regional Police Department, even farther from the county seat, incurs more costs as well. The Stroud Area Regional Police Department, covering the county seat area, is expected to be only marginally affected. In the aggregate, the county's local police departments lose money.

¹²³ Chambers v. Florida, 309 U.S. 241 (1940) ("... our own constitutional guarantees of due process and equal protection both call for procedures in criminal trials which allow no invidious discriminations between persons and different groups of persons. Both equal protection and due process emphasize the central aim of our entire judicial system – all people charged with crime must, so far as the law is concerned, 'stand on an equality before the bar of justice in every American court.'"). See also Yick Wo v. Hopkins, 118 U.S. 356 (1866).

but these are marginal. The savings, if any, do not cover other costs, the costs of central court wait time, the central court staff salaries and benefits, and the acquisition, renovation, or construction of a central court facility. Courts are not free.

VII. SECURITY.

Every effort must be made to secure the courts, to secure all courts. It is indeed true that central courts, at least the ones in the county courthouse, are secure. On criminal case days, however, magisterial district courts are equally secure. There are many armed police officers present. On noncriminal case days, the magisterial district courts sometimes cover contentious cases, for example harassment, landlord-tenant, and neighbor dispute cases. It is on these days, when police are not present, that there is a concern. Central court does not make court on criminal case days any more secure, but it does divert funds that might be used to improve security measures in the magisterial district courts on noncriminal case days.

VIII. A LOOK AHEAD: 2019 AND BEYOND.

The data indicate that central court implies duplicative effort, misallocation of resources, and underutilized capacities. Its inherent design flaws adversely affect legitimacy of the judge, quality of justice, efficiency, accounting, budget, and even security. In general, transition to a central court fails cost-benefit analysis. It costs much, in time, effort, and money, but affords no actual benefits in achieving deconflicted schedules, attorney attendance, or early case resolution, which the magisterial district court counties already enjoy.

It seems that it is sometimes best to not attempt an entire overhaul but to troubleshoot one problem at a time, to not start entirely anew but to perfect what you have.¹²⁴ It should be the task of counties to perfect their magisterial district courts, to make them even more efficient. The counties must use not the old thinking of the five decades ago, but the new thinking of the 2010's to advance the magisterial district court model to the next level.

In the commonwealth today, there is an effort to expedite certain cases, but it is antiquated thinking that those involved must meet at a central court. Innovation, real innovation, is the answer. Now, from magisterial district court, cell phone, computer, and live stream video can instantly link in-crisis defendants to pre-trial services, probation, and social services agencies treating addiction, anger and domestic violence issues, and mental illness.

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¹²⁴ Charles E. Lindblom, The Science of Muddling Through, 14 Public Administration Review 79, 1959; Bob Fryer, Leadership, Reform and Learning in Public Services, in Tom Bentley and James Wilsdon, The Adaptive State: Strategies for Personalising the Public Realm, London: Demos, 2003; Malcolm Feeley, Court Reform on Trial: Why Simple Solutions Fail, New York, N.Y.: Basic Books, 1983.

It is important to learn from our respective successes and failures. It may be instructive to apply those lessons learned to the different models of court:

1. Magisterial District Courts.

It has come a long way, magisterial district court has. It enjoys the highest capacities. It performs quite well when it uses best practices.

It is suggested that magisterial district courts:

- 1. Use block scheduling.
- 2. Have prosecutors attend hearings.
- 3. Facilitate early case resolution.
- 4. Use default scheduling.
- 5. Assign common pleas arraignment dates to defendants at the time of the preliminary hearing.
 - 6. Connect defendants to pre-trial services, if not already done.
- 7. Refer A.R.D. defendants to probation for immediate supervision and use communications technologies to link in-crisis defendants to social services for immediate evaluation and treatment.¹²⁵

2. Central Court.

It does not enjoy the efficiencies that magisterial district court does, but central court may be efficient enough in limited circumstances, i.e., in cities. ¹²⁶ In cities, the wards are much smaller than townships. The police

 $^{^{125}}$ Including, where applicable, C.R.N. evaluation, Alcohol Highway Safety School, and D.U.I. repeat offender programs.

¹²⁶ It is a long standing observation that there are differences between city and rural courts. The wards are much smaller than townships. The police stations, jails, and courts are all physically close together. There is a different level and mix of crime. The city police departments, employing hundreds of officers, cover several courts, making the scheduling of police officers an entirely different problem. In contrast to non-class two counties, there are altogether different problems. Solving those problems may point to centralizing city courts. See Missouri v. Lewis, 101 U.S. 22 (1879) ("Each state ... may establish one system of courts for cities and another for rural districts ... Convenience, if not necessity, often require this to be done ..."); Kim Economides, Mark Blacksell, and Charles Watkins, The Spatial Analysis of Legal Systems: Towards a Geography of Law, 13

stations, jails, and courts are all physically close together. There is a different level and mix of crime. The city police department, deploying hundreds of officers, covers several courts, making the scheduling of police officers an entirely different endeavor. In contrast to non-class two counties, there are altogether different problems. Solving those problems may point to centralizing those courts.¹²⁷

It is a bit more complicated in the rural areas. Each county is unique. In general, however, in the class six, seven, and eight counties, caseloads are small enough that they do not overstress their central courts, but in class three and four and some class five counties the problems are more serious. 128 In those counties, some thought should be given to transitioning to magisterial district court.

It is suggested, if they are not transitioned to the magisterial district court model, that the rural central courts:

- 1. Use block scheduling to ensure each judge covers his own cases. 129
- 2. Open the court as many days a week as is required to control backlog, probably five days a week in counties class five or larger.
 - 3. Connect defendants to pre-trial services, if not already done.
- 4. Refer A.R.D. defendants to probation for immediate supervision and use communications technologies to link in-crisis defendants to social services for immediate evaluation and treatment.
- 5. Do not take pleas to charges graded misdemeanor of the second degree or higher. In one county, 130 it was thought that central court

Journal of Law and Society 161, 1986; Theodore J. Fetter, In Search of Models for Court Operations in Rural Areas, in Shanler D. Cronk, Joanne Jankovic, and Ronald K. Green, eds., Criminal Justice in Rural America, Washington, D.C.: National Institute of Justice, 1982; E. Keith Stott, Jr., and Theodore J. Fetter, and Laura L. Crites, Rural Courts — The Effect of Space and Distance on the Administration of Justice, Williamsburg, Va.: National Center for State Courts, 1977.

¹²⁷ To address legitimacy concerns, there should be reform such that the city judges' district matches their coverage area, establishing one court staffed by multiple judges, each elected to hear any case in the city.

¹²⁸ It is suggested that following the upcoming census and decennial reestablishment judgeships be added to the class three, four, and five class counties to address the especially high caseload to judge ratio in those areas. See 42 Pa.C.S. §1503.

¹²⁹ As in Dauphin (Harrisburg) and Lebanon.

¹³⁰ McKean.

would facilitate the taking of pleas to second and subsequent D.U.I.'s by providing immediate access to common pleas judges, who, unlike magisterial district judges, have jurisdiction to accept such pleas. Results proved otherwise, however. In a nine month period, only four pleas to second or subsequent D.U.I.'s were accepted by the common pleas judges. It seems defendants, who meet their counsel for the first time at the preliminary hearing, require more time to deliberate before pleading guilty in a case carrying mandatory jail time. ¹³¹

3. "Waiver Court."

It is suggested, if they are not transitioned to the magisterial district court model, that waiver courts:

- 1. Use block scheduling.
- 2. Open the court more hours to avoid "assembly line" operations.
- 3. Connect defendants to pre-trial services.

4. Refer A.R.D. defendants to probation for immediate supervision and use communications technologies to link in-crisis defendants to social services for immediate evaluation and treatment.

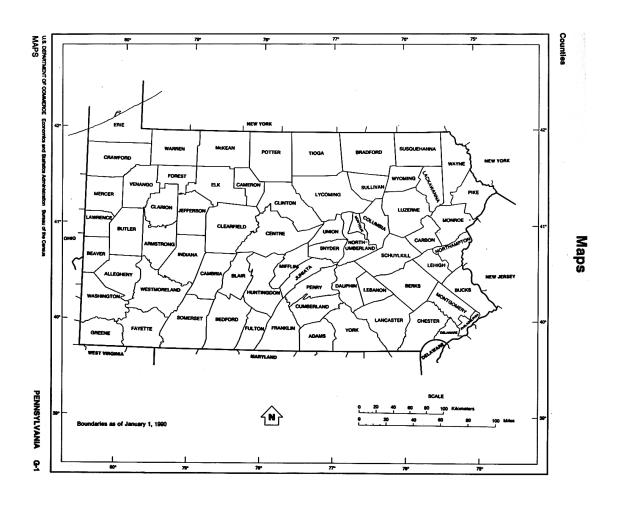
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 $^{^{131}}$ See 75 Pa. §3802 (a)(2)(i) (general impairment, second conviction, 5 days), (a)(3)(i) (general impairment, third or subsequent conviction, 10 days), (b)(2)(i) (high rate, second conviction, 30 days), (b)(3)(i) (high rate, third or subsequent conviction, 90 days), (c)(2)(i) (highest rate, second offense, 90 days), (c)(3)(i) (highest rate, third or subsequent conviction, one year).

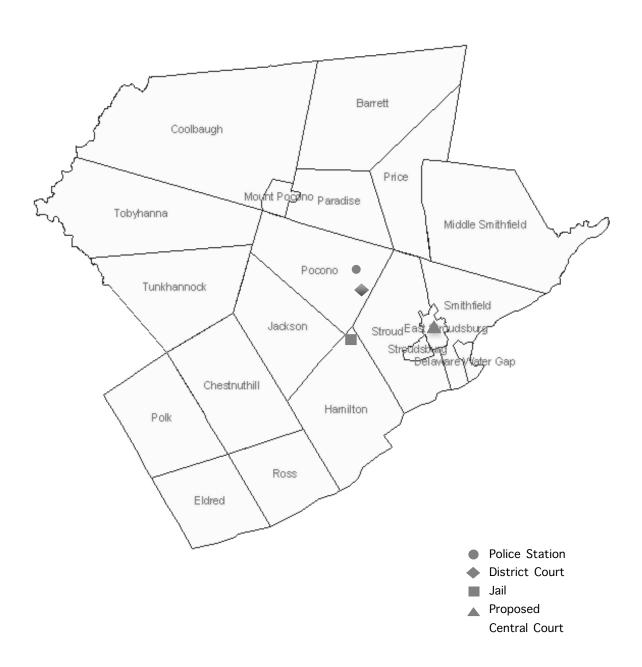
CONCLUSION.

It is now, in 2020, time to turn our attention to the new challenges of the coming decades. Innovate? Yes. Break core values? No. This is a time to create, not destroy. To change, to change effectively, the judiciary must rely on its strengths, the strengths it has drawn upon over the centuries, especially its accessibility, its willingness to listen and explain, and its ability to thoughtfully decide in each case, on a case-by-case basis, the most appropriate course of action, whether plea, hearing, or waiver, regular- or fast-track. It is these qualities that have made magisterial district court the important institution it is and which will preserve it into the future.

PENNSYLVANIA



MONROE



COUNTIES BY CLASS		
CLASS 1	CLASS 2	
1.5 million or more	800,000 - 1,499,999	
Philadelphia	Allegheny	
	CLASS 2A	
	500,000 – 799,999	
	Montgomery Bucks Delaware	
The Pennsylvania Manual, Harrisburg: Department of Government Services, 2011.		

		COUNTIES	BY CLASS		
CLASS 3	CLASS 4	CLASS 5	CLASS 6	CLASS 7	CLASS 8
210,000 – 4999,999	145,000 – 209,999	90,000 – 144,999	45,000 – 89,999	20,000 – 44,999	Less than 20,000
Lancaster Chester York Berks Westmoreland Lehigh Luzerne Cumberland Northampton Erie Dauphin Lackawanna	Washington Butler Beaver Monroe Schuylkill Center Cambria Fayette Franklin	Lebanon Blair Lycoming Mercer Adams Northumberland Lawrence	Crawford Indiana Clearfield Somerset Armstrong Columbia Carbon Bradford Pike Venango Wayne Bedford Mifflin Huntingdon McKean Perry Jefferson Susquehanna Warren Tioga Clarion Greene Clinton Elk	Union Snyder Wyoming Juniata	Montour Potter Fulton Forest Sullivan Cameron

The Pennsylvania Manual, Harrisburg: Department of Government Services, 2011.

ALL COUNTIES		
CLASS	COUNTY	COMMENTS
1	Philadelphia	Municipal Court. (No Magisterial Districts.)
2	Allegheny	Municipal Court.
2A	Montgomery	District Court.
2A	Bucks	District Court.
2A	Delaware	District Court.
3	Lancaster	Central Court. (DUI, DV only.)
3	Chester	District Court.
3	York	District Court.
3	Berks	District Court. Reading Central Court.
3	Westmoreland	District Court.
3	Lehigh	Central Court. (Incarcerees Only.)
3	Luzerne	Central Court. (Central Court closed, except for City of Wilkes-Barre, then reopened.
3	Cumberland	Central Court. (Waivers Only.)
3	Northampton	District Court.
3	Erie	District Court.
3	Dauphin	District Court. Harrisburg Central Court. (Some cases excluded.)
3	Lackawanna	Central Court.
4	Washington	Central Court. (DUI only)
4	Butler	District Court.
4	Beaver	Central Court. (Waivers Only.)

4	Monroe	District Court.
4	Schuylkill	District Court.
4	Center	Central Court.
4	Cambria	District Court.
4	Fayette	District Court.
4	Franklin	Central Court. (Some Cases Excluded.)
5	Lebanon	Central Court. (Some Cases Excluded.)
5	Blair	District Court.
5	Lycoming	District Court.
5	Adams	Central Court. (Some Cases Excluded.)
5	Mercer	District Court.
5	Northumberland	District Court.
5	Lawrence	District Court.
6	Crawford	District Court.
6	Indiana	District Court.
6	Clearfield	District Court.
6	Somerset	District Court.
6	Armstrong	District Court.
6	Columbia	Central Court.
6	Carbon	District Court.
6	Bradford	District Court.
6	Pike	District Court.
6	Venango	Central Court.
6	Wayne	Central Court. (Waivers Only.)
6	Bedford	District Court.
6	Mifflin	Central Court. (Waivers Only.)
6	Huntingdon	Central Court.
6	McKean	Central Court.
6	Perry	District Court.
6	Jefferson	District Court.

6	Susquehanna	District Court.
6	Warren	Central Court.
6	Tioga	District Court.
6	Clarion	District Court.
6	Greene	District Court.
6	Clinton	District Court.
6	Elk	District Court.
7	Union	District Court.
7	Snyder	District Court.
7	Wyoming	District Court.
7	Juniata	District Court.
8	Montour	District Court.
8	Potter	District Court.
8	Fulton	Central Court.
8	Forrest	District Court.
8	Sullivan	District Court.
8	Cameron	District Court.
The Pennsylvania Manual Harrishurg: Department of General		

The Pennsylvania Manual, Harrisburg: Department of General Services, 2011.

CENTRAL COURTS

CITY	CENTRAL	WAIVER
ALLEGHENY (2) (PITTSBURGH)	LUZERNE (3) ×	LANCASTER (3) # ×
DAUPHIN (3) * (HARRISBURG)	CUMBERLAND (3) # ×	WAYNE (6) # ×
BERKS (3) (READING)	LACKAWANNA (3) ×	MIFFLIN (6) #
LEHIGH (3) # (ALLENTOWN)	WASHINGTON (4) # ×	McKEAN (6) # ×
	BEAVER (4) ×	
	CENTER (4)	
	FRANKLIN (4) # ×	
	LEBANON (5) * # ×	
	ADAMS (5) # ×	
	VENANGO (6) ×	
	HUNTINGDON (6) ×	
	WARREN (6)	

^{*} judges hear cases only from their magisterial district. # judges hear enumerated cases only, e.g. D.U.I. cases only, incarceree cases only, etc.

 $[\]times$ judges do not accept pleas, m-3 or summary or both, or do not accept monies.

ALLEGHENY (PITTSBURGH)	
Class?	2.
Established?	2005. (There are no more Pittsburgh Magistrates. In 2005, they were replaced with magisterial district judges.)
Facilities?	Municipal court.
Staff?	There is a manager of the Pittsburgh municipal court, and an assistant manager, and fifty or so support staff.
Coverage?	The court covers hearings, A.R.D.'s and other waivers, and pleas, M-3 and summary, including traffic cases. There is a payment center. There is an Expedited Disposition Program (E.D.P.). E.D.P. pleas are video linked to a common pleas judge.
Judges?	There are 12 magisterial district judges in the city limits. They rotate in municipal court. There are 36 other magisterial district judges. These judges sit in their own court only. They have block scheduling.
Caseload?	One hundred cases in the morning session, one hundred in the afternoon.
Sessions?	There are sessions every day. There are two sessions, 8:30 a.m. and 12:30 p.m. E.D.P. sessions are at 11:30 a.m. and 3:30 p.m. Homicide cases are heard on Fridays.
Files?	Per rules of court, the municipal court is deemed the home jurisdiction. Complaints are filed in municipal court, scanned in, and sent to the magisterial district court covering the area in which the incident occurred.
Comments?	In comparison to counties class four or smaller, there are large numbers of defendants in jail unable to post bail. The E.D.P. program gets them pled and released before they have more time in than their likely sentence.

DAUPHIN (HARRISBURG)	
Class?	3.
Established?	1996.
Facilities?	In the jail now but a new central court building is under construction.
Staff?	There is a district court administrator. There is no separate central court coordinator, but there is one central court staff who acts as an office manager. Each judge brings one of his own staff too.
Coverage?	The court covers hearings, except homicides and other time consuming cases, which, upon motion, may be remanded to district court. It covers waivers. It accepts pleas to M-3's and summaries but accepts no monies. It sends remitters to district court.
Judges?	There are fifteen districts but only five participate in central court. One judge sits at a time on a set day each week. Each judge covers his own district's cases.
Caseload?	There are approximately a dozen or so. Most districts have between 400 and 600 cases per annum.
Sessions?	There are sessions are five days a week. There is a staggered schedule, every half hour or so. Courts starts at 8:30 a.m. and goes straight through until done, usually by 2:00 p.m. for the two smaller districts, 2:00 p.m. to 4:00 p.m. for the three larger districts.
Files?	The judge's staff brings the files from district court to central court and brings them back to district court (sometimes in boxes, if there are too many cases for an accordion folder).
Comments?	The city district judges missed court a lot, so the president judge formed central court. In addition, Harrisburg police transport a lot of incarcerees each day, mostly to those five city districts. The other ten district courts operate on block scheduling, and there was no need to include them in central court.

BERKS (READING)	
Class?	3.
Established?	1990's.
Facilities?	In common pleas court. There are three courtrooms specifically designed for central court. Each has its own holding cell.
Staff?	The special court administrator functions as the central court coordinator. In addition, there are three full-time staff.
Coverage?	The court covers waivers and hearings. It does not cover pleas, M-3 or summary. It sends M-3 pleas to common pleas court. It sends summary pleas to magisterial district court.
Judges?	There are seventeen magisterial districts. Central court is only for the city of Reading, which has five judges, not the rest of the county. The twelve non-central court judges sometimes substitute for the five central court judges when there is illness, vacation, recusal, etc.
Caseload?	Usually, there are fifteen cases in the morning session, fifteen in the afternoon session. There is a maximum of eighteen per session. Excess cases are continued to the next week. Sometimes judges end early, sometimes they sit late.
Sessions?	There are sessions every Friday. There is a 9:00 a.m. session and a 1:00 p.m. session. Three judges sit on a session every other Friday. Two judges sit on a session the other Fridays.
Files?	Files are sent by courier, a county employee, to magisterial district court for summary pleas.
Comments?	The Reading police department has 150 officers. Officers were often scheduled to appear in different courts at the same time. A decision was made to centralize and sort out the officers in court.

LEHIGH (ALLENTOWN)	
Class?	5.
Established?	1984.
Facilities?	In common pleas court.
Staff?	The district court administrator serves as central court coordinator. There are two central court staff.
Coverage?	The court covers incarcerated defendant cases only. It accepts pleas and monies for fines, fees, and costs in M-3 cases but not in summary cases. Remitters are sent to district court.
Judges?	There are fourteen districts. One judge at a time sits in central court. Judges are assigned on a daily basis, one day twice a month. Central court assignment does not coincide with on-call (i.e. night court) duties.
Caseload?	There are eighteen to twenty cases per day.
Sessions?	Sessions are five days per week. There are three to four hearings per day. Sometimes court is done at 3:00 p.m., sometimes later, sometimes at 5:30 p.m.
Files?	Files are mailed from district court to central court and from central court to district court.
Comments?	Lehigh is unusual in that the jail is across an alley from the common pleas court and connected by an underground tunnel, so it costs nothing to transport inmates there, and there are a lot of incarcerees on serious violent felonies from the city of Allentown who must go to court. Participants acknowledge judge shopping to some degree, but indicate it is difficult to detect. The initial continuance rate is thirty percent.

LEHIGH (ALLENTOWN) — CONT'D	
Class?	5.
Established?	2019.
Facilities?	In common pleas court.
Staff?	The district court administrator serves as central court coordinator. There is one central court staff.
Coverage?	The court covers D.U.I. waivers only. It remands hearings to district court. It does not accept pleas or monies for fines, fees, and costs. It remands plea cases to district court.
Judges?	There are fourteen districts. One judge at a time sits in central court per a rotational schedule.
Caseload?	There are eighteen to twenty cases per day.
Sessions?	Sessions are the first and third Thursdays of the month.
Files?	Files are scanned and mailed from district court to central court and from central court to district court.
Comments?	It is a D.U.I. waiver court. Continuance motions are filed in the home magisterial district court.

LUZERNE	
Class?	3.
Established?	2007 - 2009. The court was shut down in 2009.
Facilities?	In common pleas court.
Staff?	There is one central court coordinator and four full-time central court staff, two for each central court judge.
Coverage?	The court covers hearings. It takes pleas to M-3's and summaries but accepts no monies. It sends remitters to district court to pay.
Judges?	There are seventeen districts. Two judges at a time sit in central court, one regular and one senior. Judges are assigned on a daily basis.
Caseload?	There are approximately sixty cases per day. A large case backlog developed.
Sessions?	There are sessions four days per week. The court had to work full days. Central court and on-call duties do not coincide.
Files?	Files are mailed from district court to central court and from central court to district court.
Comments?	In 2009, due to a large backlog of cases, central court was shut down. Sending the cases back to the district courts cleared them. There was a limited central court for the two city of Wilkes-Barre districts only. In this revised model, the judge's own staff acts as central court staff. They bring the files from district court to central court and back to district court.

Luzerne — Cont'd		
Class?	3.	
Established?	2018.	
Facilities?	In a former house approximately 1000 yards from common pleas court. There are two small courtrooms, one a former living room, the other a former dining room and kitchen, and a hallway used as a courtroom.	
Staff?	There are four central court staff.	
Coverage?	The court covers hearings. It takes pleas but accepts no monies. It sends remitters to district court to pay. Hearings in Southend cases involving nonincarcerated defendants are remanded to district court.	
Judges?	There are sixteen districts. Three judges at a time sit in central court. Judges are assigned on a daily basis, one day at a time.	
Caseload?	There are sixty to seventy cases per day.	
Sessions?	There are sessions Monday through Thursday.	
Files?	Files are scanned from district court to central court and from central court to district court. Files are printed at central court.	
Comments?	In 2009, the central court was shut down, due to increasing backlogs. In 2018, Luzerne attempted another central court.	

CUMBERLAND	
Class?	3.
Established?	2011.
Facilities?	In common pleas court.
Staff?	The deputy court administrator serves as central court coordinator. There is one central court staff. One district court staff accompanies the judge. The central court coordinator prepares subpoenas.
Coverage?	The court covers D.U.I.'s only, but not if the defendant is incarcerated, in which event the case is scheduled in district court. There are motions to not transfer a case to central court and motions to remand a case from central court to district court. Central court accepts pleas to M-3's but not to summaries and accepts no monies at all. It sends remitters to district court to pay.
Judges?	There are ten districts. Two judges at a time sit in central court. Judges are assigned on a rotational basis. On-call and central court duties are deconflicted to ensure they do not coincide
Caseload?	There are fifty to seventy cases per session.
Sessions?	There are two sessions per month on Fridays. In the mornings, at 8:30 a.m., there are waivers; in the afternoons, at 1:30 p.m., there are hearings. Mornings are crowded and hectic. Sessions usually end at 3:30 p.m. to 4:30 p.m., sometimes earlier, sometimes later.
Files?	In district court, case files are scanned and sent via secure file transfer to central court. Before that, U.S. mail was used but was found too slow and unreliable.
Comments?	It achieved assistant district attorney attendance, the reason for adopting central court. Still, though, assistant district attorneys do not attend district court, as there is no block scheduling order. In plea and A.R.D. cases, defendants are directed to the probation department, where probation officers are available to schedule appointments.

LACKAWANNA		
Class?	3.	
Established?	Late 1980's.	
Facilities?	In common pleas court. There is a central court dedicated courtroom.	
Staff?	The district court administrator serves as central court coordinator. There are three full-time central court staff.	
Coverage?	The court covers hearings. It processes waivers. It accepts M-3 pleas and monies for fines, fees, and costs. It does not accept summary pleas. It remands summary plea cases to district court.	
Judges?	There are ten districts. One judge at a time sits in central court. Judges are assigned on a daily basis. Central court duties and on-call duties coincide.	
Caseload?	There are approximately thirty-five cases per day.	
Sessions?	The sessions are four days per week, Monday through Thursday. There is a staggered schedule but the court schedules several cases for the same time. Judges usually sit all day.	
Files?	On-call case folders are phoned in to central court and the files are mailed to central court.	
Comments?	District court staff must get dates to schedule from central court staff before their judge goes on call so that in after-hours cases the judge knows when to schedule preliminary hearings.	

WASHINGTON	
Class?	4.
Established?	2017.
Facilities?	In a magisterial district court located one block from common pleas court. To accommodate central court, the magisterial district judge there does not schedule cases on Fridays.
Staff?	There is a special courts administrator who acts as central court coordinator. There is a D.U.I. clerk and two floater staff as well. The central court staff sends notices and subpoenas.
Coverage?	The court is a D.U.I. only court. It accepts waivers and conducts hearings. It does not accept pleas to either M-3's or summaries and thus does not accept monies.
Judges?	There are eleven districts. One judge at a time sits in central court. The on-call or night duty judge sits in central court.
Caseload?	It varies. It ranges from 30 to 80 a day.
Sessions?	There are sessions every Friday in the morning and the afternoon. Cases are staggered, e.g., at 9:30, 10:30, etc. If a defendant wants a hearing, it is rescheduled for the following Friday afternoon.
Files?	The district court staff scans and transfers files to central court.
Comments?	The jail is one block behind the common pleas court. Since the late 1970's, the county has relocated homicide and rape cases to the common pleas court building, utilizing the juvenile court courtroom in the new courthouse building (annex). It achieved assistant district attorney attendance at major felony hearings. The county, however, did not try block scheduling.

BEAVER	
Class?	5.
Established?	1980.
Facilities?	In common pleas court. There are more than fifty people in central court at any given time. Sheriff's deputies are required to maintain order.
Staff?	There is a deputy court administrator, one full-time central court staff, and one part-time central court staff.
Coverage?	The court court covers all cases. If a case requires a hearing, it is rescheduled for the afternoon. The court accepts pleas to M-3's and summaries but does not accept monies. It sends remitters to district court.
Judges?	There are nine districts. One judge at a time sits in central court. He sits all week. On-call week and central court week coincide. The judge might conduct judicial business all day and all night, depending upon events.
Caseload?	There are approximately eighteen cases per day.
Sessions?	The sessions are four days per week, on Monday, Tuesday, Thursday, and Friday. Sessions last all day.
Files?	There are issues regarding file transfer. Court staff or constables transport files from district court to central court and vice versa.
Comments?	It achieved A.D.A. attendance, the reason for adopting central court. There were not enough A.D.A.'s to send to all the district courts and cover common pleas court.

CENTER	
Class?	4.
Established?	1978.
Facilities?	In common pleas court. The president judge gives up his courtroom. If another courtroom is available, it is used to do two hearings at the same time.
Staff?	There is an assistant court administrator as well as a separate central court coordinator. The central court coordinator serves as the central court staff. She lists all cases in an excel file.
Coverage?	The court covers hearings. It processes waivers. It takes pleas to M-3's and summaries. It accepts money, which is put in escrow, then sent to district court.
Judges?	There are six districts. Two judges at a time sit in central court. Central court and on-call duties are not deconflicted, but there are no arraignments at central court.
Caseload?	There are forty to eighty cases per day.
Sessions?	Every Tuesday there is a phone meeting among the central court coordinator, district attorney's staff, and public defender staff to go over the case list. Private defense counsel call in their cases. Every Wednesday there is a court session, starting at 8:30 a.m. and going straight through (no lunch) until finished, usually by 12:00 p.m. or 1:00 p.m., but sometimes not until 4:30 p.m., making it an eight hour session.
Files?	Vans drive to each district court to pick up case files. District courts must fax last minute case additions.
Comments?	The challenge of processing so many cases means the M.D.J.S. computer is not used to print forms, except for bail. The staff does all the M.D.J.S. computer processing after the session is over and during the next day.

FRANKLIN		
Class?	4.	
Established?	2001.	
Facilities?	In common pleas court. It uses the jury assembly room and a hearing room. It is very crowded.	
Staff?	There is a deputy court administrator, district court administrator, and central court coordinator. The central court coordinator serves as the central court staff, though a part-time district court staff serves in central court as well.	
Coverage?	The court covers all cases, except homicides, cases with a lot of people, and time consuming cases, which are remanded to district court. It does not accept pleas to M-3's. It accepts pleas to summaries, but accepts no monies. It sends remitters to district court to pay.	
Judges?	There are seven districts. Two judges at a time sit in central court. There is one alternate on call. After-hours on-call and central court duties are deconflicted to ensure they do not coincide.	
Caseload?	There are forty to fifty cases per day.	
Sessions?	Sessions are every Tuesday. There is a 9:00 a.m. session and a 1:00 p.m. session. The court stays to 4:30 p.m. or later, if needed, but staff do not get overtime, only comp. time.	
Files?	District courts fax files to central court; central court mails files to district court.	
Comments?	It achieved assistant district attorney attendance, the reason for adopting central court. The county, however, did not try block scheduling.	

LEBANON	
Class?	5.
Established?	2002.
Facilities?	In common pleas court. It uses an auditorium with ante rooms. It also uses hearing rooms.
Staff?	There is a district court administrator, but no separate central court coordinator. The judge brings his own staff. There is no computer at central court. A computer cannot be secured. The court uses manual forms. Using manual forms creates duplicate work.
Coverage?	The court covers hearings, except for enumerated cases, e.g. homicide cases, child abuse cases, etc. It does not accept pleas to M-3's. It accepts pleas in summaries but accepts no monies. It sends remitters to district court to pay.
Judges?	There are six districts. All six judges come to central court at the same time every two weeks, on Thursday. Each judge covers his own district's cases.
Caseload?	There are approximately 110 cases in total for all six judges each session. Each judge has approximately eighteen cases per session.
Sessions?	Sessions are every other Thursday at 8:30 a.m. until done, usually by noon, sometimes later.
Files?	The judge's staff brings the files to central court and brings them back to district court.
Comments?	It achieved assistant district attorney attendance, the reason for adopting central court. A.D.A.'s had attended hearings only in high-grade felony cases.

ADAMS	
Class?	5.
Established?	2010.
Facilities?	In common pleas court. Central court uses the juvenile court courtroom, which is not often in session.
Staff?	The deputy court administrator serves as central court coordinator. There is one central court staff.
Coverage?	The court covers hearings, except for enumerated cases. It accepts M-3 and summary pleas but no monies for fines, fees, and costs. It sends remitters to district court to pay.
Judges?	There are four districts. One judge at a time sits in central court. Judges are assigned on a daily basis, i.e. the Wednesday that central court convenes. The on-call judge for the week covers central court on Wednesday.
Caseload?	There are twenty-eight to thirty-five cases per week.
Sessions?	Sessions are every Wednesday, from 8:30 a.m. to whenever court is adjourned. It can be a session of eight hours or more on Wednesday, depending upon the number of actual hearings and their duration.
Files?	Files are sent from district court to central court and vice versa by Interoffice mail.
Comments?	It achieved assistant district attorney attendance, the reason for adopting central court. Adams used constables, who charged \$36,000 per annum to transport inmates. The county switched to sheriff's transport.

VENANGO		
Class?	6.	
Established?	1994.	
Facilities?	In common pleas court. The domestic relations office, as well as a jury room, was turned into a courtroom.	
Staff?	The central court coordinator acts as staff. There is one staff assistant who works part-time two days per week.	
Coverage?	The court covers all waivers, hearings, pleas to M-3's but not pleas to summaries. If a plea is to be to a summary, the complaint is withdrawn, the affiant issues a citation, and the case is sent to district court for plea and payment.	
Judges?	There are four districts. Two judges at a time sit in central court. One covers waivers. The other covers hearings.	
Caseload?	The caseload varies but is usually twenty-three. There have been as many as eighty.	
Sessions?	One day per week, on Wednesdays, starting at 8:30 a.m. and continuing until done, usually at 4:30 p.m. but there are sometimes longer sessions.	
Files?	Files are sent by overnight mail but some courts drive them in to central court.	
Comments?	Central court deconflicted magisterial district court schedules. The county, however, did not try block scheduling.	

HUNTINGDON		
Class?	6.	
Established?	2010.	
Facilities?	In common pleas court. It is a one common pleas judge county. The president judge shares his courtroom.	
Staff?	There is a central court coordinator. The C.C.C. serves as the staff. Tipstaves distribute papers.	
Coverage?	The court covers hearings. All cases are scheduled as hearings: if the case is a waiver, it is done in the morning: if it is a hearing, it is continued to the next week in the afternoon. It accepts pleas in M-3's and summaries but accepts no monies. It sends remitters to district court.	
Judges?	There are four districts. One judge at a time sits in central court.	
Caseload?	There are ten to twenty waivers, six to eight cases continued for hearings, but many of those cases fold on the continuance date.	
Sessions?	There are sessions every Tuesday, a session at 8:45 a.m. for waivers, a session at 12:30 p.m. for hearings.	
Files?	Files are transferred from district court to central court and vice versa by mail.	
Comments?	It achieved A.D.A. appearance, the reason for adopting central court. The county, however, did not try block scheduling. The court gives formal arraignment, pre-trial conference, and jury selection dates.	

WARREN	
Class?	6.
Established?	1990's.
Facilities?	In common pleas court. There is a separate courtroom for central court.
Staff?	There is one staff. Staff is taken from the magisterial district courts.
Coverage?	The court covers hearings. It covers pleas, M-3's and summaries. It accepts monies, receipts the transaction, then sends the money to district court for disbursement. It also tells remitters they may go to district court to pay.
Judges?	There are three magisterial district judges.
Caseload?	There are fifteen to twenty cases per day. It is usually a full day.
Sessions?	The sessions are usually once a week, on Wednesdays, but overflow cases are scheduled for Tuesdays.
Files?	Files are scanned and transferred from district court to central court.
Comments?	The common pleas court does not schedule criminal cases on Wednesdays to accommodate central court events. The county has a jail building right next to the courthouse. Affiants transport incarcerees but sheriffs substitute when the affiant is unavailable.

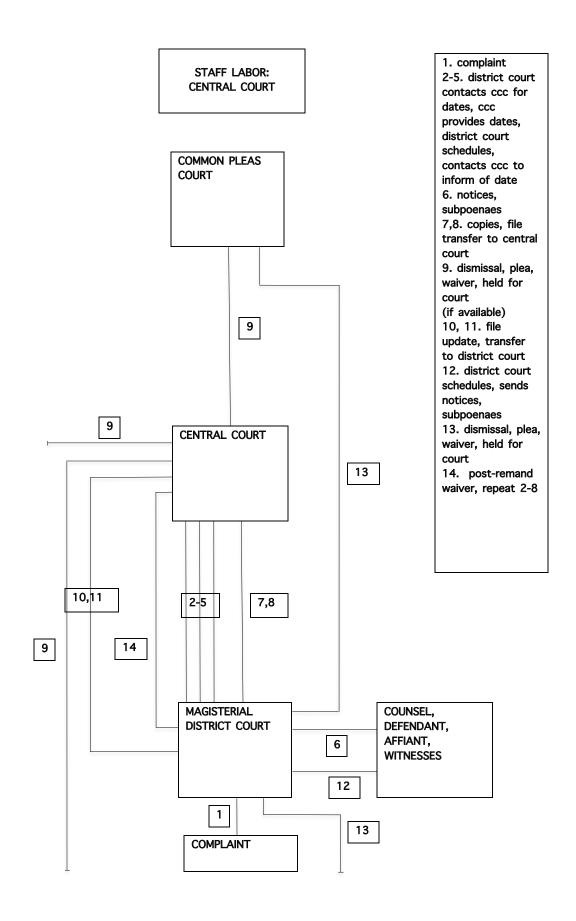
LANCASTER		
Class?	3.	
Established?	2015.	
Facilities?	In common pleas court. It is held in a hearing room.	
Staff?	There is one full-time staff. Supplemental staff are from the floater staff and also from district court staff, on a rotational basis.	
Coverage?	The court covers D.U.I and D.V. cases only. It covers hearings. It takes pleas but accepts no monies. It sends remitters to district court to pay.	
Judges?	There are nineteen judges. Two judges at a time sit in central court. Judges are assigned on a daily basis, one day at a time. The judges are both senior judges.	
Caseload?	There are ninety cases (non-hearings) in the morning, fifteen cases (hearings) in the afternoon.	
Sessions?	The sessions are every other Thursday.	
Files?	Files are scanned from district court to central court and from central court to district court. Originals are couriered by inter-office mail.	
Comments?	It is a D.U.I. court. In 2018, domestic violence cases were added.	

WAYNE		
Class?	6.	
Established?	2012.	
Facilities?	In common pleas court.	
Staff?	The central court coordinator is a staff member from a district court loaned to central court.	
Coverage?	The court does not conduct hearings. It processes waivers. It takes pleas to M-3's and summaries but accepts no monies. It sends remitters to district court to pay.	
Judges?	There are three districts. One judge at a time sits in central court. They rotate. Judges are assigned on a daily basis.	
Caseload?	There are approximately fifteen to twenty cases per day.	
Sessions?	There are sessions one day a week on Wednesdays.	
Files?	Staff pick up files and drive them to central court.	
Comments?	The central court was supposed to reduce the time between complaint filing and preliminary hearing. There were many continuances. The county, however, did not try block scheduling. It is reported that R. 540 is currently not met.	

MIFFLIN		
Class?	6.	
Established?	2002.	
Facilities?	In common pleas court. There are two courtrooms there.	
Staff?	The special courts administrator serves as the central court staff.	
Coverage?	The court covers only waivers. It does not conduct hearings. Hearings are held in district court. It accepts pleas to M-3's and summaries and accepts monies, which are receipted to district court.	
Judges?	There are three districts. One judge at a time sits in central court.	
Caseload?	There are twelve to fifteen cases per week, sometimes less.	
Sessions?	There are sessions every Wednesday. Sessions start at 9:00 a.m. and usually end by 11:00 a.m.	
Files?	Files are faxed from district court to central court.	
Comments?	It achieved A.D.A. appearance, the reason for adopting central court. The county, however, did not try block scheduling.	

McKEAN	
Class?	6.
Established?	2011.
Facilities?	In common pleas court.
Staff?	There is a court administration staff employee who acts as central court coordinator. The central court judge also brings one of his staff.
Coverage?	It is a waiver court. It does not cover hearings. It takes pleas graded M-2 or higher by sending them to a common pleas judge; however, few cases take that route. M-3 and summary pleas are sent to magisterial district court.
Judges?	There are four magisterial district judges. They rotate.
Caseload?	The average is fifteen cases total. It has covered as many as twenty cases in a day.
Sessions?	The sessions are only once a week, Thursday morning.
Files?	Files are faxed to the central court judge. He brings them to central court.
Comments?	The judges did not often schedule at the same time. There are only four. The court was instituted to effect default scheduling and to take pleas, i.e refer them to a common pleas judge, but few take that route (only a half dozen or so per year.)

1. complaint STAFF LABOR: 2. scheduling, MAGISTERIAL DISTRICT COURT notices, subpoenaes 3. disposition, i.e. dismissal, plea, waiver, or held for COMMON PLEAS court COURT 3 MAGISTERIAL COUNSEL, DISTRICT COURT DEFENDANT, AFFIANT, 2 WITNESSES 3 1 3 COMPLAINT



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The author appreciates comments, updates, and questions on this and any related topic.

