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Optional Waiver of Jury in Felony Trials in Recorder's Court, Detroit, Michigan

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OPTIONAL WAIVER OF JURY IN FELONY TRIALS IN RECORDER'S COURT, DETROIT, MICHIGAN¹

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¹For the first year of operation (Sept. 5, 1927, to Sept. 4, 1928). A study made in the Graduate School, Department of Sociology, University of Michigan, Ann Arbor, Mich.

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Note: The Roman figures refer to Tables in the general discussion; the Arabic to Tables in the Appendix.

CHAPTER I.

General Introduction

Students of social problems and particularly of the administration of justice have long been discontented with the apparent lava-like pace with which justice moves. Precedent has surrounded Defendants in Criminal cases with almost insurmountable "rights" and guarantees which were originally intended to protect the citizen against despotic government. Sufficient popular feeling has been aroused in recent years to culminate in State Crime Commissions, whose purpose has been to slash the barnacles from the hull of justice and to speed its progress. Among other matters, the Jury System has had its share of criticism and attack. Perhaps it has been too frequently true that Juries do not convict and acquit on the basis of facts presented but on the grounds of sentiment and dramatic display. There has been dissatisfaction with the time-consuming methods of selection of Jurors, with their lack of sufficient acquaintance and contact with Legal

Procedure (which renders them unable to try a Criminal case efficiently), and with their ease of confusion. Indeed, any Criminal Trial of consequence becomes not a battle of evidence but of emotion and oratory, with a great amount of usually sordid publicity. Again, legal research shows that Jury Trial was not the only and traditional method of Trial. Most States have laws on their books showing the progressive thought of their Legislatures in providing more equitable justice and several have gone further. Legal Procedure has been more or less simplified. Maryland and Connecticut have provisions for optional Trial of Criminal Cases by means of Waiver of Jury, or as it is popularly known, Trial by Judge, in addition to Trial by Jury. Generally, most States try the less serious Charges exclusively without Jury and have done so for a good many years. Yet, when the more serious Offenses are to be tried, the only provision is for Trial by a Jury. Improvements have been made in Jury Trial, among them being the possible selection of women as Jurors. A Jury Trial may be had for Misdemeanors in most States if expressly requested. Some States had provided for permissive Waiver of Jury in Felony Cases but the provision was declared unconstitutional.

With the view in mind toward improvement in the administration of justice in Michigan, the State Legislature, at its session of 1927, provided for a revised Criminal Code and for optional Waiver of Jury Trial in Felony Cases, in addition to Jury Trial. Prior to the enactment of this statute, all Misdemeanor Trials were held without Jury unless the Defendant expressly demanded a Jury Trial either before hearing or on Appeal after Conviction and all Felony Trials were solely by means of Jury. This study was made in order to show, during the first year of enactment, the concrete application and results of the use of Waiver of Jury Trials in the Recorder's Court of Detroit. It is made as a study in the Graduate School of the University of Michigan under the supervision of Professor Arthur E. Wood of the Sociology Department. There is no intention of personal criticism, implied or expressed, of anyone in this Court. The purpose is merely to present the facts regarding Waiver of Jury and Jury Trials as they were found to exist in the records of the Court studied. The situation is presented and interpreted within the conditions later set forth.

Statement of the Law

The Code of Criminal Procedure of the State of Michigan, as amended by Act number 175 of the Public Acts of 1927, reads as follows:

Chapter 3, "Rights of Persons Accused."

Section 3. "In all criminal trials arising in the Courts of this State, whether cognizable by Justices of the Peace or otherwise, the defendant shall have the right to waive the determination of the facts by a Jury and may, if he so elect, be tried before the Court without a Jury. Except in cases cognizable by a Justice of the Peace, such waiver and election by the defendant shall be in writing, signed by the defendant and filed in such cause and made a part of the record thereof. It shall be entitled in the Court and cause and in substance as follows:

"I,, defendant in the above cause, hereby voluntarily waive and relinquish my right to a trial by Jury and elect to be tried by a Judge of the Court in which said cause may be pending. I fully understand that I have, under the laws of this State, a constitutional right to a trial by Jury."

.....

Signature of the Defendant.

Such waiver of trial by Jury must be made in open Court after the defendant has been arraigned and had opportunity to consult with counsel."

Section 4. "In any cause where the defendant waives his right to a trial by Jury and elects to be tried by the Judge of the Court as provided in Section 3 of this chapter, any Judge of said Court in which said cause is pending shall have jurisdiction to proceed with the trial of such cause with the rules and in like manner as if such cause were being tried before a Jury."

It is to be recognized that Waiver of Trial by Jury is a right of the Defendant and cannot be taken from him by either the Prosecutor or the Judge. It is on a par with the right of the accused to waive an *examination* or to refuse to testify in his own behalf, without comment being made on his refusal.

The State Legislature adjourned, at this session, on June 6, 1927, and the law went into effect on Sept. 5, 1927 (Sept. 4, 1927, being Labor Day and a Legal Holiday).

Reforms in Criminal Procedure

In addition to the provision for optional Waiver of Jury in Felony Trials, the 1927 Code of Criminal Procedure made an honest attempt at greater efficiency of justice in Michigan. It provided, among other matters, that the State or Prosecution should have more of an equalized opportunity of proving its cases—providing, as it did, for notice of "Alibi" or "Insanity" as forms of defense to be given to the Prosecution in advance, together with names and addresses of witnesses, a

matter which has long been recommended by leading jurists and the need of which was self-evident. It copied, more or less wholesaley, the provisions of the much discussed Baumes Act of the State of New York and provided for increased penalties for persons who had been previously convicted of Felonies. It eliminated from the list of those eligible for Probation all persons who had been convicted of *breaking and entering a dwelling in the night time, murder, robbery armed, and treason*. The Code also included an ambiguously worded section which reads that "No person who has been twice convicted of a Felony in this State or elsewhere shall be so placed on Probation." (Act No. 175, Chapter XI, Section 1, of the Public Acts of 1927.) Whether this is meant to be one previous Conviction and the present or whether it means two previous Convictions exclusive of the present is questionable. Both interpretations have been made in the Recorder's Court.

The terms "Felony" and "Misdemeanor" are frequently referred to in this discussion and definitions are in order. Some of the statutes, in defining the Offense and the penalty, definitely state that a particular Charge is either a "Felony" or a "Misdemeanor." Generally speaking, however, a "Misdemeanor" is an Offense which is cognizable by a Justice of the Peace or by a Judge of the Criminal Court (where he has minor jurisdiction) acting in the capacity of a Justice of the Peace. In these cases, the Justice proceeds to hear, try, and determine the facts and on Conviction, imposes the sentence. The maximum sentence possible is a Fine of \$100.00, or ninety days imprisonment, or both, except in those specific instances where the statute defines the Offense as a "Misdemeanor" and also sets the penalty beyond that limit. "Felony" Charges are those where the penalty and Fine are beyond this limit and generally are those where the sentence imposed into a State Prison. As used here, however, the term "Felony" applies to all Charges which were tried under "Felony" procedure, regardless of the sentence.

Recorder's Court Organization

A brief outline of the organization of the Recorder's Court will, in all probability, give a better perspective of the problem dealt with here than might otherwise be had. The Recorder's Court Bench consists of ten Judges elected for a term of six years. Each month the Judges elect one of their members to be Presiding Judge for the ensuing month. The Judges rotate in this office and each Judge must serve before any other Judge, who has held the office, can serve again.

Prior to 1924, the term of the Presiding Judge was one year and the other Judges held their assignments for the same period. The Presiding Judge acts as administrative head of the Court and assigns cases and duties to the others on the following basis:

- a. Presiding Judge:—
 - Assignment of Felony Trials
 - Arraignments on Information
 - Motions and Miscellaneous Matters
 - Felony Trials and Condemnations
- b. Presiding Judge Pro Tem:—
 - Felony Trials
- c. Complaint Judge:—
 - Arraignment on Warrants and Examinations
 - Signing of all Warrants and Complaints
- d. Traffic Judge:—³
 - All Traffic Violations
 - All Ordinance Trials
- e. Early Sessions Judge:—
 - Arraignments and Trials in Non Support and other Domestic Relations Matters
 - Arraignments and Trials of all other Misdemeanors
- f. Trial Judges:—
 - Six Judges hear Felony Trials exclusively

Prior to 1921, all Felony Offenses occurring within the limits of the City of Detroit were arraigned on Warrants, Complaints signed and all *examinations* held by the Magistrates of the Police Court. If the Offenders were held for *trial*, they were bound over to the Recorder's Court for *arraignment on information* and *trial*. This practice of separation, with its inherent delays, still continues in the Circuit Court and here the function of the Police Magistrate is taken over by the Justices of the Peace within the County of Wayne but outside of the corporate limits of the City of Detroit. In one instance, however, the Recorder's Court acts as a Minor Court, taking the issuance of Complaints, the *arraignments on warrants*, and holding the *examinations* in *bastardy* cases. If held for *trial*, the cases are bound over to the Circuit Court for *arraignment on information* and *trial*. Such action is of course limited to *bastardy* cases occurring within the City of Detroit.

³A Traffic Court has been organized recently as a branch of the Recorder's Court with the appointment of two additional judges.

In the Recorder's Court, it will be seen that the Complaint Judge still has the functions of a Magistrate of the Former Police Court. In 1921 the Police and Recorder's Courts were merged and re-organized and all Criminal Trials are now heard in the Recorder's Court.

Court Procedure in Felony Charges

Prosecution is formally initiated by a sworn Complaint before the Complaint Judge, on the recommendation of the Prosecutor of the County of Wayne, and a Warrant is issued. When the individual complained against has been arrested or appears on notice, he is taken before the Complaint Judge and *arraignment on warrant* is held. At this time the Charge is read to the accused, his plea is taken and a bond is set. A date is then fixed for the *examination*.

The *examination* consists of hearing of testimony, under oath, in the presence of the accused, of the complaining witness or the witnesses in support of the Prosecution, to determine whether or not a Felony has been committed and whether or not there is probable cause to believe that the accused is the person having committed the Offense alleged. Only sufficient evidence is brought out to show these points. If the Judge feels that there is probable cause, the Defendant is held for *arraignment on information*. Should he believe otherwise—that a Felony has not been committed or that the Defendant is not the person alleged to have committed the Offense, the case is dismissed and the Defendant discharged. It is much to the advantage of the accused to have an Attorney present at this stage of the Procedure to give him (the Defendant) the full benefit of his legal rights. It is not unusual for a case to be dropped at this point. The *examination* may be waived at the discretion of the accused, although it is not usually to his advantage to do so.

An *information* or Prosecutor's Warrant is then drawn, the Defendant arraigned, the Charge read to him and his plea is taken. The *information* must contain the elements of time, place, and Offense alleged. Should he plead "Guilty" and the plea be accepted by the Court, the Judge may forthwith sentence him, or he may refer him to the Probation Department for investigation, to the Psychopathic Clinic for mental examination or to both. Should he plead "Not Guilty," bond is set or continued, he is held for Trial, and a Trial date set. Should the prosecution believe that they have no case, a formal motion is made to "Nolle Prose" or to abandon the Prosecution. In this case, if the Judge is agreeable—and he usually is—the motion is granted, the Charge dropped, and the Defendant discharged.

On the date set for Trial, the Defendant appears before the Presiding Judge and, if both the Defendant and the Prosecution are ready for Trial, it is held. If either the Defendant or the Prosecutor are not ready for Trial an adjournment, on showing of good cause, is allowed. If ready for Trial and he has no Attorney, the Presiding Judge will then appoint Counsel for him. Counsel in this case is paid by the Wayne County Board of Auditors, the Presiding Judge specifying the Attorney and the amount to be paid him for his services. The amount, although limited by law, is not fixed but varies with the nature of the Offense. (It is to be noted that the Legislature of Michigan in 1929 changed the law so that any fee may be specified.) The Appointed Attorney is paid the same fee regardless of whether the Defendant pleads "Guilty" or is tried. The case is then assigned by the Presiding Judge to whichever Judge is free to hold a Trial. It is at this time that the Defendant is asked whether he will be tried by the Judge (waiving a Jury) or whether he demands a Jury Trial. It is the practice of some Appointed Attorneys, immediately after their appointment, to attempt to induce the Defendant to plead "Guilty" to either the same Offense or to a lesser degree of the same Offense. Sometimes they prove able to convince their Clients that they possess special privileges at the Court and can promise and obtain a lighter sentence or Probation in return for a plea of "Guilty." Should the Defendant refuse to plead "Guilty," the Attorney, in consultation with his Client, will decide whether to waive a Jury Trial or to have one. The considerations involved in whether a Jury Trial is chosen or waived are based on the appearance of the Defendant, the type of the Offense, the evidence for or against him, whether or not the Judge, before whom the Trial is to be held, is inclined to be lenient or severe in sentencing for that Offense, and the relative probability of Acquittal by either Judge or Jury. The *trial* then proceeds and a finding, either by the Judge or Jury, is had. If the finding is "Not Guilty," the case is dropped and the Defendant discharged. If he is found "Guilty," the Judge may forthwith sentence him, or he may adjourn the case for investigation by the Probation Department, the Psychopathic Clinic for Mental Examination or both. After such investigation and examination, the Judge proceeds to sentence.

The conduct of the Trial in Waiver of Jury cases is the same as that in Jury cases, the rules and procedure are identical. The exception is that the Judge in a Waiver of Jury Trial takes the place of the Jury and proceeds to hear and determine both the law and the facts in the case.

The period covered is from September 5, 1927 to September 4, 1928, inclusive, the first year of the operation of the law. The Charges studied are exclusively Felonies only, that is, where the Offenses charged in the Complaint were Felonies.

The unit used in this discussion is that of the "Number of Individuals Complained Against" by the actual signing of a Complaint and the issuance of a Warrant. This unit is used rather than the "Number of Complaints Made" because one Complaint may carry the names of more than one individual, as is the case with a good many *robbery*, *larceny*, and other Charges. Again, the dispositions made of four individuals, complained against on one and the same Complaint may be different for each of the four individuals and would lead to much confusion in recording and tabulating the data.

Method of Collecting Information and Forms Used

After checking over the official Court Calendars, the Short Books of each Judge, and the Court files, it appeared that the files contained the fullest information in the most accessible form. In addition, the files were concentrated at one point and were the original sources of information. Because the Clerk of each Judge made the entries on the file at the time of the hearing, the probability of error in transcribing information was reduced to a minimum.

Official Permission

A request was made of the Hon. W. McKay Skillman, then Presiding Judge of the Recorder's Court for permission to use the files of the Court for this study. Permission was granted and the Clerk of the Court, Mr. Charles W. Casgrain and his assistants afforded the writer the fullest co-operation possible.

Forms Used

The forms used in collecting the data were the following:

FORM NO. 1

Name..... Docket Number..... Charge.....
 Own Attorney (1)..... (2) Appointed Attorney.....
 Judge's Name
 Found Guilty (3)..... Found Not Guilty (4).....By Judge (5).....
 Date Finished.....By Jury (6).....
 Charge Found Guilty of (7).....
 Sentence and Institution.....
 Check for Waiver (8)..... Date Complaint Signed.....

FORM NO. 2				
File Missing or Incomplete	Re-arrest Ordered	Dismissed	Nolle Prossed	Plead Guilty

Items (1) to (6) inclusive and item (8) were indicated by check marks, item (7) also by a check mark when it was the same as the original Charge but when the Charge found guilty of was less serious than the original Charge, the information was written in. The information for the other items was also written in. Cards were made for all individuals where the Complaint was finished by a Trial regardless of the finding of the Trial. Separate cards were made for each individual where there was more than one person charged on the same Complaint. For all other Complaints—those not reaching Trial at the time this study was made—the docket numbers were written on Form No. 2, and the dispositions made for each person complained against listed under the proper heading.

The files were then individually examined in serial order, beginning with the first Complaint entered on September 5, 1927, and ending with the last on September 4, 1928. Where the Complaint did not reach Trial, the dispositions were entered on Form No. 2. Where a Trial was had, a card was made for each individual complained against. After all the files for this year had been examined, the files listed under "File Missing or Incomplete (Form No. 2)" were checked and located. If disposed of, the proper entry was made on either Form No. 1 (if finished by Trial) and Form No. 2 (if "Otherwise Disposed Of"). On the face of it, it appears that the item "Cases Incomplete" means unfinished at the end of the year studied but in reality it means cases which were docketed within the year studied and also incomplete at the time this data was collected (February and March, 1929, six months after the end of the period studied).

When all the cases were accounted for, after a second checking, a Calendar was made for the two-year period following September 5, 1927. This gave a Calendar showing the actual Court working days

(Sundays and Legal Holidays having been eliminated) between the date the Complaint was signed and the date sentence was imposed. The number of elapsed days was then indicated on each card.

It was realized that the period chosen here is not the one ordinarily used for statistical work yet it was felt that the problem should begin with the actual date the law went into effect. If the period of January 1, 1928 to January 1, 1929, had been selected, there would have been too great a number of cases legitimately incomplete by February, 1929 (mostly those last docketed) for any real basis of comparison.

Further, due to the labor involved, no cards were made for the Complaints not ending in Trials, the point under discussion here being the comparison of Waiver of Jury and Jury Trials—by frequency of cases, types of Offense, time elapsing for completion of Complaints, and by Sentences. The general disposition of all cases for the year was considered but as a minor issue. No cards were made for those individuals who pleaded "Guilty" although this would have given a more complete picture of the general disposition of all cases. Various questions arose in connection with the pleas of "Guilty" among them being the relation of Appointed Counsel to pleas of "Guilty" to the same and lesser Charges (than the original Charge in the Complaint). Further, it would have been interesting to have noted, on the basis of elapsed time, the time between issuance of the Complaint and service of the Warrant, between service of the Warrant and *arraignment on warrant*, between *arraignment on warrant* and *examination*, between *examination* and *arraignment on information*, between *arraignment on information* and date *trial* is begun, between date *trial* is begun and finished, between completion of *trial* and *sentence*. This would show the definite points at which there is delay and just what elements in procedure, if any, needed speeding up. The comparison between Waiver of Jury and Jury Trials by elapsed time can, strictly speaking, include only the period between the date *trial* is begun and *sentence* is passed. It would, nevertheless, be an interesting item to verify.

Classification of Offenses

The Classification of Offenses used here is that of the United States Census (1923) as adapted to the laws and Charges of the State of Michigan (1). They are as follows:

I. *Crimes Against Persons*

Abduction

Assault with Intent to do great Bodily Harm

Assault with Intent to Kill and Murder

Assault with Intent to Rape

Assault with Intent to Rob While Armed
Assault with Intent to Rob While Unarmed
Attempted Suicide
Attempted Murder
Felonious Assault
Kidnapping
Manslaughter
Manslaughter (Involuntary)
Mayhem
Murder—First Degree
Murder—Second Degree
Negligent Homicide
Threats to Extort (Extortion)

II. *Crimes against Sobriety and Good Order*

Drunk—Third Offense

III. *Crimes against Public Policy*

Violating Blue Sky Laws
Violation of the State Prohibition Law
Violation of the Gaming Law
Distributing Obscene Literature

IV. *Crimes against Administration and Government*

Bribery
Perjury
Conspiracy Against the State
Obstructing Justice

V. *Crimes against Property—Gainful*

Breaking or Escaping Prison
Attempted Breaking and Entering Business Place in the Day Time
Attempted Breaking and Entering Business Place in the Night Time
Attempted Breaking and Entering Dwelling in the Day Time
Attempted Breaking and Entering Dwelling in the Night Time
Attempted Unlawfully Driving Away Auto
Attempted Larceny of Property
Attempted Larceny from the Person
Attempted Grand Larceny
Attempted Larceny by Trick
Attempted Robbery of Bank
Attempted Defrauding Bank
Attempted Uttering and Publishing
Breaking and Entering Business Place in the Day Time
Breaking and Entering Business Place in the Night Time
Breaking and Entering Dwelling in the Day Time
Breaking and Entering Dwelling in the Night Time
Burglary
Embezzlement
Entering with Intent to Commit Larceny

False Pretences—Obtaining Money or Property Under
 Grand Larceny
 Horse-Stealing
 Insufficient Funds—Issuing Checks with
 Larceny by Conversion
 Larceny by Trick
 Larceny from the Dwelling
 Larceny from the Person
 Larceny from Store
 Larceny of Property
 Receiving Stolen Property
 Robbery, Armed
 Robbery, Not Armed
 Removing Contract Property
 Removing Mortgaged Property
 Unlawfully Driving Away Auto
 Uttering and Publishing
 Violation of Act Number 142 of the Public Acts of 1923
 Taking Auto without Permission—No Intent to Steal

VI. *Crimes against Property—Not Gainful*

Arson
 Malicious Destruction of Property

VII. *Crimes against Children*

Abandonment
 Non Support—Third Offense
 Enticing Female Child for Marriage
 Non Payment of Alimony

VIII. *Crimes against Sex Morality*

Attempted Rape
 Attempted Indecent Liberties with Female Minor Child
 Accosting—Second Offense
 Accosting—Third Offense
 Adultery
 Bastardy
 Bawdy House Keeper
 Bigamy
 Bestiality
 Crime Against Nature (Sodomy)
 Gross Indecency
 Incest
 Indecent Exposure
 Indecent Liberties with Female Minor Child
 Keeping House of Ill Fame
 Lewd and Lascivious Co-habitation
 Pandering
 Rape (Common Law)
 Statutory Rape

IX. Crimes against Public Health and Safety

Attempting to Wreck Train
Carrying Dynamite
Carrying Concealed Weapons
Having Burglary Tools in Possession
Leaving Scene of Accident
Practicing Medicine without License
Practicing Optometry without License
Practicing Law without License
Practicing Dentistry without License
Practicing Midwifery without License
Violation of the Drug Law
Possession of Stench Bomb
Unlawful Possession of Gun with Intent to Use Unlawfully

Outline of Procedure

It is to be definitely understood that, for Complaints which did not reach Trial, no cards were made and no information obtained except that of their numerical distribution into the various Pre-Trial dispositions. These dispositions are as follows:

1. Cases not completed.
2. Re-arrest Ordered—the Defendant having failed to appear, his bond is forfeited and his return to custody ordered.
3. Unapprehended—no service on the Warrant. In these cases formal Complaint has been made but the Defendant has not been found.
4. Dismissed—in this group are all those Complaints where the Judge feels at the time of *examination* that there is no probable cause to believe that a Felony has been committed or that the Defendant committed the Offense, as a result of which the Charge is dropped; or where witnesses do not appear for the prosecution.
5. Nolle Prossed—the abandonment of Prosecution by the State and here too the Charge is dropped. Where one individual has been complained against in more than one Complaint, it is practice—particularly if the Offense is serious—to “Nolle Prossed” all the remaining Complaints against him in event of Conviction on one Charge. The same is done where there is a disagreement of Jury one or more times.
6. Pleas of “Guilty”—also included in the group for whom no cards were made.

Cards were made, on the other hand, for all individuals for whom the Complaint was finished by a Trial regardless of whether the Charge was proved and the Defendant convicted or the Charge disproved or not proved and the Defendant acquitted. The information obtained on these cards was then hand-sorted and re-checked.

The results are presented in the following sequence:

1. General distribution of Complaints for the first year of permissive Waiver of Jury Trial and for a ten-year period of exclusive Jury Trial (1918-1927).
2. Analysis of Convictions into Classes of Offense and further analysis into Method of Trial and Type of Counsel.
3. Time required for Completion of Complaints by means of Trial.
4. Analysis of Sentences imposed after Conviction by Waiver of Jury and by Jury and further by Type of Counsel employed.
5. General Summary of facts found.

CHAPTER II

GENERAL DISPOSITION OF COMPLAINTS

TABLE NO. I

DISTRIBUTION OF FELONY COMPLAINTS MADE AGAINST INDIVIDUALS RECORDER'S COURT FELONY CHARGES				
Dispositions	No.	% of Total	No.	% of Total
<i>Complaints Not Reaching Trial</i>			4576	53.78
Cases Incompleted	103	1.21		
Unapprehended	1053	12.36		
Re-arrest Ordered	701	8.26		
Dismissed	2156	25.33		
Nolle Prossed	563	6.62		
<i>Complaints Reaching Trial and Pleas of Guilty</i>			3934	46.22
Pleaded Guilty	2348	27.59		
Waiver of Jury Trials.....	(952)	(11.19)		
Convicted	563	6.62		
Acquitted	389	4.57		
Jury Trials	(634)	(7.44)		
Convicted	368	4.32		
Acquitted	266	3.12		
Totals	8510	100.00	8510	100.00

A. *Complaints Not Reaching Trial* (See Table I)

Of 8,510 Individuals complained against during the year studied, 4,576 or 53.78% did not reach Trial and were distributed as follows:

Dismissed and Nolle Prossed.....2,719 or 31.95%
 Unapprehended1,053 or 12.36%
 Incomplete and Re-arrest Ordered. 804 or 9.47%

Of the total number of Complaints against Individuals only 103 or 1.21% were "Pending" and awaiting Trial (as distinguished from "Re-arrest Ordered" and "Unapprehended") by the time this study was made. This must not be taken to mean that only 103 Complaints had not been disposed of at the end of the time of this study but by March, 1929, the time this information was collected. In other words,

this number of Complaints had been unfinished within 161 working days after the end of the year covered (September 5, 1927 to September 4, 1928). Data presented in Table IX shows that the median time for completion of Complaints by Waiver of Jury Trials is 31.78 days and by Jury Trials 33.28 days, that 75% of all Complaints finished by Waiver of Jury Trial are completed in 65.84 days and in 60.74 days for Jury Trial. On the basis of these figures it is reasonable to state that most of the Complaints reaching Trial are disposed of within two to two and one-half working months (counting 25 working days to the month) and that the Recorder's Court is working with a fair degree of dispatch. The reasons for the delay in the other cases are not all inherent in the Court or in Court Procedure. Such items as illness of witnesses, press of business of Attorneys, and inability to obtain the testimony of witnesses who are outside the jurisdiction of the Court are among the factors contributing to the general delay. Some of the delays inherent in the Court Procedure might be due to faulty preparation or lack of preparation of the necessary forms. It might be due to error in the listing of a case as a "Bail" or "Jail" case (whether the Defendant has furnished bond or is in custody because of inability to furnish bond) inasmuch as the Clerk of the Court gives precedence to and lists for immediate Trial all cases where the Defendants are in Jail.

Further included in the broad sense of "Complaints Incompleted" are those where the Defendants were not present in Court on the adjourned date and have technically or actually "jumped their bonds." In these cases, the bond is forfeited and "Re-arrest" is ordered. This delay in completion of cases is hardly attributable to the Court. This group numbers 701 or 8.26% of the number of Individuals Complained Against.

The group "Un-apprehended" or "Warrants Not Served" constitute 12.36% of the total and number 1,053. A good portion of these are the Check Charges—*insufficient funds, uttering and publishing, forgery*, etc., the exact number furnished by this group not having been determined. These offenders are difficult to apprehend, the essence of their Offense involves the use of aliases and it is almost impossible to identify the names used and to group them by the persons using the various aliases. In addition, the "modus operandi" of the check passers is to issue a large number of checks in one community at any given period of operation and then to pass on to the next place. Probably the number of individuals concerned in these cases is less than the number of Complaints made on the basis of checks issued.

From the total of all Complaints not disposed of ("Incompleted," "Re-arrest Ordered," and "Unapprehended") which total 21.83% of all Complaints, only 1.21% ("Incompleted") are attributable to the Court. The remainder of this group are strictly functions of the Police despite the reflection of them in the Court data.

The group "Dismissed" and "Nolle Prossed" which number 2,719 or 31.95% indicate that in approximately one-third of all Complaints initiated during this year there is either insufficient legal evidence to prove that the Offense alleged was committed or that the individual charged with the Offense was the actual Defendant. This shows a great loss of time and expense of Police Officers, witnesses, Court employees and Judges. This large elimination might be explained, in part, perhaps on the basis of lack of sufficiently thorough investigation of the Offense before the Complaint was issued, perhaps to inability to find or to present sufficient legal evidence to convict, perhaps to unwillingness of witnesses to testify, and perhaps to intimidation of witnesses in certain Offenses (*extortion, robbery, check Charges*) and where certain groups as involved (bootleggers and "racketeers"). A good portion of the Frauds and Check cases probably do not reach Trial, after the issuance of the Complaint and Warrant, because they are settled by restitution before Trial. In one sense it is unfair to a Complainant to insist that he press Criminal Charges on the theory of his public spirit and sense of justice. Certain Complainants are interested only in the return of their money or property and whether civil or criminal means be used is of little import to them. More pressure can be exerted toward a settlement if the Defendant is arrested. Once the settlement is made, the Complainant is no longer interested in Prosecution. In such cases it is very difficult to convict and dismissal is probably the best solution. The average citizen is mildly interested in crime prevention but his interest becomes transformed into action when he is the victim of criminal activity. In this connection, it seems that one of the most important contributions which the Presidential Crime Commission can make toward more effective justice will be that of arousing a definite and constructive public opinion against crime and in favor of law enforcement. The "Nolle Prossed" cases are those where the Prosecutor is of the opinion that he cannot prove the case and, rather than try cases which are clearly unprovable, he is willing to drop them. It has been the custom in the Recorder's Court, where an individual has been convicted of one serious Charge, to "Nolle Prossed" the other Charges

pending against him. This is also done where Trial has resulted in "Mis-Trials" or in disagreements of Jury one or more times.

All these total 4,576 Complaints which did not reach Trial and most of which are "Otherwise Disposed Of." For the period covered, it shows that slightly more than half of all Complaints made do not reach Trial and most of them are eliminated from the judicial "grist." The Judiciary are ever-ready to place the responsibility for this situation at the door of the Administrators of the law and vice versa but, despite the question of responsibility, the important element to remember is that the net, figuratively speaking, is apparently too loosely woven to retain the catch.

B. *Disposition by Trial and Pleas of Guilty*

Of the total number of Individuals Complained Against 3,934 or 46.22% reached Trial or plead "Guilty." They are distributed as follows: 3,279 or 38.53% are convicted (either by finding of Judge or Jury or by pleas of "Guilty"); 655 or 7.69% are acquitted by Trial (either Waiver of Jury or Judge).

Of the 3,279 Convictions, 2,348 have pleaded "Guilty" and their pleas were accepted. This amounts to 27.59% of all Complaints. It is wondered, in this connection, particularly when the Attorney is appointed, just what pressure is exerted to have the Client plead "Guilty" and what promises, supported by alleged power and influence are made to gain this end. It would be of interest to know whether there is "bargaining" between the Defense and Prosecuting Attorneys in allowing Defendants to plead "Guilty" to lesser degrees of the Offense charged in the Complaint.

In the group convicted by Waiver of Jury Trial, there were 563 or 6.62% of the total number of Complaints and in Jury Convictions 368 or 4.32%. Acquittals for Waiver of Jury Trials amount to 389 or 4.57% of the total number of Complaints and for Jury 266 or 3.12%. While on the face of it, it appears that Waiver of Jury Trials result in both a greater percentage of Convictions and also of Acquittals than Jury Trials, still a comparison of Convictions and Acquittals in relation to the respective number of Waiver of Jury and Jury Trials shows otherwise. This will be discussed in Table III.

TABLE NO. II

DISPOSITIONS OF FELONY CHARGES IN RECORDER'S COURT, 1918-1927
(From Annual Reports of the Clerk of Recorder's Court)

Year	Total		Convicted		Acquitted		Other Dispositions		Pending	
	No.	%	No.	%	No.	%	No.	%	No.	%
1918	3274	100.	1896	57.91	266	8.13	837	25.56	275	8.40
1919	3823	100.	1865	48.79	322	8.42	1335	34.92	301	7.87
1920	4840	100.	2073	42.83	360	7.44	1714	35.41	693	14.32
1921	6180	100.	3154	51.04	375	6.07	1945	31.47	706	11.42
1922	6558	100.	3141	47.90	286	4.36	2373	36.18	758	11.56
1923	6149	100.	2309	37.55	336	5.46	3225	52.45	279	4.54
1924	6510	100.	1902	29.21	430	6.61	3069	47.14	1109	17.04
1925	7485	100.	2366	31.61	425	5.68	3226	43.10	1468	19.61
1926	9510	100.	3135	32.97	410	4.31	4874	51.24	1091	11.46
1927	8913	100.	2890	32.42	430	4.82	3710	41.63	1883	21.13
Average for 10 Years....			41.22		6.13		39.91		12.74	

Disposition of Cases in Recorder's Court for Years 1918 to 1927.
(See Table II)

This Table is made from the figures given in the Annual Reports of the Clerk of the Recorder's Court for years 1918 to 1927. In these reports the figures for any one year carry the headings of "Total Number of Cases" (the total number of "Individuals Complained Against" between January 1st and December 31st), "Number Convicted" (both by Trial and pleas of "Guilty"), "Number Acquitted," the "Number Pending" (all cases unfinished at the time the report was compiled) "Number Dismissed," "Number Nolle Prossed," and "Number with Information Quashed," etc. The Annual Reports for these years are compiled between March 1st and June 1st of the following year. The Annual Report for the next year shows the dispositions of cases marked "Pending" in the preceding Report. In Table II, the various Dispositions given for any one Annual Report are combined with the Dispositions of the cases marked "Pending in Previous Report." This gives a more accurate picture of the Dispositions for any one year than the figures taken from the Annual Report for that year. It should be borne in mind that better than one and one-fourth years (after the year studied) have elapsed, when the figures shown in the above Table were compiled. In other words, the figures for Dispositions for year 1925, for example, as shown in Table II, were partly from the Annual Report for year 1925, which figures were compiled about March, 1926, and the balance of the numbers taken from the Annual Report for year 1926, which carries the Table "Dispositions of Cases Reported Pending in Previous Report." Because the numbers of Dispositions in this study were compiled six months after the

year studied and the figures for the ten years of the Annual Reports approximately a year and a fourth after the year studied there will not be a strictly comparable time basis. Generally, however, an approximate comparison may be made. Table II further shows the percentage which each type of disposition bears to the general number of Complaints made during each year.

Table II indicates that there is a general increase in the volume of business disposed of by the Court, ranging from 3,274 Complaints in 1918 to 8,913 in 1927. The percentage convicted shows a decline from 57.91% in 1918 to 32.42% in 1927, the average for the ten years being 41.22%, although 1924 has 29.21% and 1925 has 31.61% convicted. The Acquittals are reduced by almost half, ranging from 8.13% in 1918 to 4.82% in 1927, the average for the ten years being 6.13%. The number "Pending" shows an increase from 8.40% in 1918 to 21.13% in 1927, the general average being 12.71%. However the year 1923 declines to 4.54%. The number "Otherwise Disposed Of" shows an increase from 25.56% in 1918 to 41.63% in 1927 with the general average of 39.91%. The last item includes those cases "Dismissed," "Nolle Prossed" and "Information Quashed." However, the year 1926 shows 51.24% and 1923 shows 52.45% "Otherwise Disposed Of."

This table generally shows decreases in number of "Convicted" and "Acquitted" and increases in number "Otherwise Disposed Of" and "Pending." This tendency is more marked since 1923. There is apparently a smaller number of Convictions for the past five years and as increase in both the number of unfinished cases and cases finished of by pre-Trial dispositions.

The first year of permissive Waiver of Jury Trial shows that 21.83% were "Pending" (including "Cases Incomplete," "Warrants not Served" and "Re-arrest Ordered"). This is 9.09% more than the average for the ten years of the Annual Reports and slightly more (0.80%) than for year 1927. It should be recalled that the figures for this paper were compiled only six months after the year studied but those for the Annual Reports were collected about one and one-quarter years after the end of the year given in the Annual Report.

The group here shows 31.95% "Otherwise Disposed Of" as compared with the average of 39.91% for the Annual Reports, which is a reduction of 7.96% in favor of the year September 5, 1927 to September 4, 1928. It is less than the percentages similarly disposed of in the last five years of the Annual Reports.

The Acquittals for this year show 7.69% as compared with the ten-year average of 6.13%. The former is a gain of 1.56% over the average and 2.87% over year 1927. The Convictions total 38.53% for the above year and 41.22% for the ten-year average, or a loss of 2.69%. The Convictions for the year covered in this paper are greater than those shown for the last five years of the Annual Reports.

The New York Crime Commission Report for 1927 (2) shows, for New York City, that 2% of all Felony arrests are eliminated by the Police, 57% in the preliminary hearing, 12% in the Grand Jury, 8% in the Trial Court and 5% after guilt is established (not sentenced to prison). While the basis used in the New York study is not strictly comparable with that used here, it indicates at the same time the general tendency elsewhere of many arrests and few Convictions.

Generally, the first year of Waiver of Jury Trial, as compared with the ten-year average of the Annual Reports of The Recorder's Court, shows a smaller number of cases "Otherwise Disposed Of," which is favorable, and losses in percentages of "Convictions," and "Acquittals," and more "Pending" all of which are unfavorable. However, the result might be otherwise if the data in this study and in the Annual Reports had been collected after the same period had elapsed after the years under discussion.

TABLE NO. III

CONVICTIONS IN RELATION TO METHOD OF TRIAL AND TYPE OF COUNSEL		
Total Trials	1586	
Without Jury	952	(60.02%)
By Jury	634	(39.98%)
Trials Without a Jury		
Convicted	563	(59.14%)
Acquitted	389	(40.86%)
Trials by Jury		
Convicted	368	(58.06%)
Acquitted	266	(41.94%)
Convicted Without Jury		
As Charged	514	(91.11%)
Reduced Charge	49	(8.89%)
Convicted by Jury		
As Charged	325	(91.03%)
Reduced Charge	33	(8.97%)
As to Attorneys		
Convicted Without Jury		
Appointed Attorneys	289	(49.73%)
Own Attorneys	283	(50.27%)
Convicted by Jury		
Appointed Attorneys	159	(43.21%)
Own Attorneys	209	(56.79%)
Acquitted Without Jury		
Appointed Attorneys	96	(24.68%)
Own Attorneys	293	(75.32%)

Acquitted by Jury		
Appointed Attorneys	70	(26.31%)
Own Attorneys	196	(73.69%)

Relation of Convictions to Method of Trial and Type of Counsel
(See Table III)

Waiver of Jury Trials constitute 60.02% of the total number of Trials and Jury Trials 39.98%. Using a hypothetical group of 100 cases, 6 would be tried by Waiver of Jury and 4 by Jury. This shows that, during the first year of permissive Waiver of Jury Trials, three-fifths of all Trials were heard by the Judge without a Jury.

Of the total number waiving Jury Trials, 59.14% are convicted and 40.86% acquitted; for Jury Trials, 58.06% are convicted and 41.94 acquitted, which is a gain of 1.08% in Convictions for Waiver of Jury Trials.

Both methods of Trial show approximately the same percentages (8.89% for Waiver of Jury and 8.97% for Jury) convicted of lesser Offenses than charged in the Complaint and the same percentages (91.11% and 91.03% respectively) convicted of the Offense charged in the Complaint.

In Waiver of Jury Trials resulting in Convictions, there were 0.54% more with Own Counsel than with Appointed Counsel but Jury Trials resulting in Convictions, show 13.59% more with Own Counsel than with Appointed Counsel.

In Waiver of Jury Acquittals there were 50.64% more Defendants with Own Counsel than with Appointed and 47.38% in Jury Trials.

To summarize this discussion, we find, 1). that three-fifths of all Defendants tried during the period covered in this paper availed themselves of the alternate method of determination of guilt or innocence (Waiver of Jury Trial) which the 1927 Michigan Code of Criminal Procedure provided; 2). that Waiver of Jury Trials result in 1.08% more Convictions than do Jury Trials; 3). that both methods of Trial show the same relatively small percentage of Convictions of reduced Charges and also the same relative percentage of Convictions of the Offense charged in the Complaint; 4). that the distribution of Waiver of Jury Convictions shows an equal division in numbers of Own and Appointed Counsel but that Jury Convictions show the proportion of six Own Attorneys out of every 10; and 5). that in Acquittals the proportion of Own Attorneys is relatively the same for Waiver of Jury Trials and Jury Trials but the absolute percentages for both methods of Trial increase to the proportion of three Appointed for every 7 Own Attorneys.

TABLE NO. IV
CONVICTIONS IN RELATION TO TYPE OF COUNSEL

	No. of Cases	Per Cent
Appointed Attorneys for All Trials.....	605	38.29
Own Attorneys for All Trials.....	981	61.71
Total All Attorneys for All Trials.....	1586	100.00
<i>Of the 605 Appointed Attorneys, Convictions were had</i>		
By Waiver of Jury Trials in.....	280	46.28
By Jury Trials in.....	96	15.86
Total	376	62.14
<i>Of 605 Appointed Attorneys, Acquittals were had</i>		
By Waiver of Jury Trials in.....	159	26.28
By Jury Trials in.....	70	11.58
Total	229	37.86
<i>Of 981 Own Attorneys, Convictions were had</i>		
By Waiver of Jury Trials in.....	283	28.84
By Jury Trials in.....	293	29.87
Total	576	58.71
<i>Of 981 Own Attorneys, Acquittals were had</i>		
By Waiver of Jury Trials in.....	209	21.31
By Jury Trials in.....	196	19.98
Total	405	41.29

Convictions in Relation to Own and Appointed Attorneys (See Table IV)

Appointed Attorneys constitute 38.29% of all Attorneys in the 1,586 Felony Trials during this year and Own Attorneys 61.71%, or generally that two-fifths of all Defendants had Counsel appointed for them. Of the Trials in which Counsel was appointed, 46.28% were Convictions by Waiver of Jury and 15.86% by Jury; of the Acquittals, 26.28% were by Waiver of Jury and 11.58% by Jury, making a total of 72.56% with Appointed Attorneys tried by Waiver of Jury and 27.44% by Jury. Of the Trials in which Counsel was retained by the Defendant 28.84% were convicted by Waiver of Jury and 29.87% by Jury; of the Trials in which the Defendants had Own Counsel, 21.31% were acquitted by Waiver of Jury and 19.98% by Jury. This makes a total of 50.15% tried by Waiver of Jury where Counsel was retained by the Defendants and 49.85% by Jury.

It appears that where Counsel is appointed, Waiver of Jury Trials are used in the proportion of three cases out of every four but where Counsel is hired by the Defendants, Waiver of Jury Trials are used in the proportion of only two cases out of four. The tendency seems to be that Appointed Counsel will use Waiver of Jury Trials in 25%

more of the cases than Own Attorneys. While numerically Appointed Counsel stand in the proportion of four out of every ten Attorneys, they contribute three-fourths of the Convictions in Waiver of Jury Trials; Own Attorneys, whose numerical distribution constitutes six-tenths of all Attorneys, contribute only 50% of the Convictions in Waiver of Jury Trials. The tendency is here shown that Appointed Counsel use Waiver of Jury Trials more frequently than they do Jury Trials; that Convictions for Waiver of Jury Trials with Appointed Counsel are relatively greater than by Jury Trials; and further that Convictions by Appointed Counsel are greater than Convictions by Own Counsel in both Waiver of Jury and Jury Trials.

The explanation may be made on the basis that the Counsel chosen by the Court for an impoverished Defendant does not have the same interest in his Client which he would have if the Client personally retained him. The appointed Counsel is apparently interested in the speediest method of Trial and disposition of the case. It may further be explained as due to the probability that Defendants choosing Waiver of Jury Trial and having Counsel retained for them are those generally guilty of the Offense. The question arises whether or not the Defendants requiring Appointed Counsel are the novices in Crime and their guilt may be easily proved, due to their inexperience in criminal methods.

TABLE NO. V
DISTRIBUTION OF CLASSES OF OFFENSE BY METHOD OF TRIAL

Classes of Offense	Waiver of Jury		Jury		Total No.
	No.	%	No.	%	
Offenses Against:					
Property—Gainful	363	52.61	327	47.39	690
Property—Not Gainful	3	42.85	4	57.15	7
Children	15	93.75	1	6.25	16
Sex Morality	161	65.98	83	34.02	244
Public Health and Safety.....	81	82.65	17	17.35	98
Public Policy	227	80.21	56	19.79	283
Administration and Government.....	8	72.72	3	27.28	11
Persons	94	39.83	142	60.17	236
Sobriety and Good Order.....	0	0	1	100.00	1
Totals	952	60.02	634	39.98	1586

Distribution Frequency of Classes of Offense by Type of Trial (See Table V)

Eliminating, because of the relatively few cases in them, a total of 26 Complaints in Waiver of Jury Trials (for *offenses against property—not gainful, children, administration and government and sobriety and good order*) or 3.8% of the total number of Waiver of

Jury Trials, we find, of the remaining five Classes of Offense that more than fifty per cent of the Trials in four Classes (*offenses against property—gainful—52.61% sex morality—65.98%, public health and safety—82.65%, and public policy—80.21%*) are by Waiver of Jury and less than fifty per cent in one Class (*offenses against persons—39.83%*). Eliminating, for the same reason, a total of 9 cases in Jury Trials (for *offenses against property—not gainful, children, administration and government and sobriety and good order*) or 1.6% of the total number of Jury Trials, we find, in four of the remaining five Classes, that there are less than fifty per cent tried by Jury (*offenses against property—gainful, sex morality, public health and safety, and public policy*) but that in the other Class, *offenses against persons*, 60.17% are tried by Jury.

When this is considered in relation with the fact that 60.02% of all Trials are by Waiver of Jury, it indicates that the Bar of the City of Detroit have not hesitated to adopt, rather extensively, a measure in legal procedure which is relatively new. Because of the extensive adoption of this method of Trial, it leads to speculation whether there might not be dissatisfaction with the "traditional" method of determination of guilt or innocence and possibly suggests the need of procedural methods more suitable to and in keeping with the times.

TABLE NO. VI

 COMPARATIVE CONVICTIONS FOR CLASSES OF OFFENSE IN RELATION TO
METHOD OF TRIAL

Offenses Against	Waiver of Jury Trials					Jury Trials				
	Convicted No.	%	Acquitted No.	%	Total No.	Convicted No.	%	Acquitted No.	%	Total No.
Property—Gainful ...	240	66.56	123	33.34	363	200	61.16	127	38.84	327
Property—Not Gainful	1	33.34	2	66.66	3	2	50.00	2	50.00	4
Children	13	86.66	2	13.34	15	0	0	1	100.00	1
Sex Morality	111	68.94	50	31.06	161	55	65.54	28	34.46	83
Public Health and Safety	44	54.32	37	45.68	81	8	47.06	9	52.94	17
Public Policy	93	40.96	134	59.04	227	24	42.85	32	57.15	56
Administration and Government	3	37.50	5	62.50	8	0	0	3	100.00	3
Persons	58	61.70	36	38.30	94	78	54.86	64	45.14	142
Sobriety and Good Order	0	0	0	0	0	1	100.00	0	0	1

Comparative Convictions in Each Class of Offense by Method of Trial
(See Table VI)

Waiver of Jury Trials generally show greater percentages of Convictions than do Jury Trials and specifically the gains are: 7.26% for *offenses against public health and safety*, 6.84% for *offenses against persons*, 5.40% for *offenses against property—gainful*, and 3.40% for

offenses against sex morality although *offenses against public policy* show 1.89% less for Waiver of Jury than for Jury Trials. The other Classes of Offense (*offenses against property—not gainful, children, administration and government, and sobriety and good order*) do not contain a sufficient number of cases to warrant comparison in this study.

Offenses against public policy show a lesser percentage of Convictions in Waiver of Jury Trials than in Jury Trials and generally less Convictions proportionately to its numbers than the other four Classes of Offense (excluding the four Classes which have but a few cases in them). In addition, *offenses against public health and safety* show the smallest gain for Waiver of Jury Trials. In this group (*offenses against public policy*) are included the Charges of *violation of the prohibition law* and *violation of the gaming law* and these two Charges contribute the largest portion of the group. The Charge of *carrying concealed weapons* is included in *offenses against public health and safety* and it too has the greatest share of the cases in its Class. In all three Charges mentioned, the element of search and seizure plays a predominant part, both in the arrest and in the determination of guilt or innocence. The right of a Police Officer to search a citizen's home, car, and person is involved and the Constitutional guarantees of personal liberty and freedom from search brought to the fore. The interpretation of the law, insofar as the Recorder's Court Bench is concerned, is not uniform. The practice varies from the one extreme of giving the Police Officer the benefit of the doubt and very liberal interpretation of the right of search to the other extreme of giving the citizen the benefit of the doubt and a very strict interpretation of the Constitutional safeguards. This might, in part, explain the variations between the smaller percentage of Convictions in these two Classes of Offense when compared with the other three (in both Waiver of Jury and Jury Trials) and between Waiver of Jury Trial and Jury Trial respectively.

TABLE NO. VII
COMPARATIVE CONVICTIONS FOR CLASSES OF OFFENSE IN RELATION TO
METHOD OF CONVICTION AND TYPE OF COUNSEL

	Per Cent Own Counsel Guilty	Per Cent Appointed Counsel Guilty	Per Cent Difference
Waiver of Jury Trials			
<i>Offenses Against:</i>			
Property—Gainful	55.10	73.61	18.51
Sex Morality	56.59	82.89	26.30
Public Health and Safety.....	55.17	52.17	— 3.00
Public Policy	39.42	57.89	18.47
Persons	49.29	89.31	40.02
All Waiver of Jury Offenses.....	49.13	74.46	25.33

Jury Trials			
<i>Offenses Against:</i>			
Property—Gainful	54.02	69.28	15.26
Sex Morality	58.73	90.00	31.27
Public Health and Safety.....	41.66	60.00	18.34
Public Policy	47.06	0	—47.06
Persons	47.42	71.11	23.69
All Jury Offenses.....	51.97	69.43	17.46

Note: The absence of a sign in front of figures in "Differences" column indicates a gain for Appointed Attorneys; a minus (—) sign indicates a loss for Appointed Attorneys.

Comparative Convictions by Classes of Offense in Relation to Type of Counsel (See Table VII)

In Waiver of Jury Trials, Appointed Attorneys show the following gains in percentages of Convictions over Own Attorneys:

Offenses Against Persons.....	40.02%
Offenses Against Sex Morality.....	26.30%
Offenses Against Property—Gainful.....	18.51%
Offenses Against Public Policy.....	18.47%

In *offenses against public health and safety*, Appointed Attorneys show a loss of 3.0%—in favor of Own Counsel. For all Offenses in the Waiver of Jury group, Appointed Attorneys show a gain of 25.33% in Convictions when compared with Attorneys retained by the Defendants.

In Jury Trials, the same tendency is noted for Appointed Attorneys and specifically it is:

Offenses Against Sex Morality.....	31.27%
Offenses Against Persons.....	23.69%
Offenses Against Public Health and Safety.....	18.34%
Offenses Against Property—Gainful.....	15.26%

There is a loss of 47.06% (in favor of Own Attorneys) in *offenses against public policy*. This loss is high because of the small number with Appointed Counsel. Considering all Jury Convictions, there is a gain of 17.46% more convicted where Attorneys are appointed than where the Defendant retains his own Counsel. It is further seen, in comparing Appointed Attorneys, that Waiver of Jury Convictions show a gain of 7.87% over Jury Convictions.

These findings bear out the impression received in the first analysis of the data—that Waiver of Jury Trials result in more frequent Convictions, in proportion to numbers, than do Jury Trials; that Appointed Attorneys show more Convictions than Own Attorneys; and further that Defendants with Appointed Counsel in Waiver of Jury Trials

are convicted more often than those tried by Jury and also having Appointed Counsel. Generally speaking, it appears, insofar as justice is concerned, that Trial by Judge guarantees a slightly better rate of Conviction than does Trial by a "Jury of Peers"; secondly, that the probability of Conviction is greatly increased where the Defendants are impoverished to the extent of having the Court appoint Counsel for them; and thirdly, that Trial by Judge, as compared with Jury Trial, shows a sizeable increase in percentage of Convictions where the Court appoints Counsel for the Defendants.

Questions arise, in this connection, as to the probable explanation of the three premises outlined. Does it mean that Counsel retained by the Defendants and paid by them exert greater efforts to secure Acquittals? Does it mean that the group without sufficient funds to retain Counsel are the novices in crime or the group most guilty of the Offenses Charged? Does it mean that, in Waiver of Jury Trials, the Judges are less confused by the facts, by the legal issues and the technical terms and are able to separate the essentials necessary for a legal defense or prosecution; that they convict and acquit more equitably than a body of laymen, all unused to the ways of crime and more or less easily swayed by the drama of the Trial?

Observation leads one to believe that the first and third reasons given express the actual situation but that there is considerable doubt as to the second point. These explanations are hardly intended to be iron-clad but the contention is made that they explain the situation fairly.

TABLE NO. VIII

VARIATION IN PERCENTAGE OF CONVICTIONS IN SELECTED INDIVIDUAL CHARGES IN
RELATION TO TYPE OF TRIAL AND COUNSEL

RECORDER'S COURT FELONY CHARGES

Charge	Waiver of Jury			Jury		
	%	%	Dif- ference	%	%	Dif- ference
	Own Counsel Guilty	Appointed Counsel Guilty		Own Counsel Guilty	Appointed Counsel Guilty	
<i>Crimes Against Persons:</i>						
Assault with Intent to Kill and Murder	75	75	0	54	**	..
Assault with Intent to do Great Bodily Harm.....	80	100	20	25	75	50
Felonious Assault	46	83	37	30	57	27
Murder	**	**	..	70	81	11
Negligent Homicide	**	**	..	25	50	25
All Offenses in Class.....	49	89	40	47	71	24
<i>Crimes Against Public Policy:</i>						
Violation of the Prohibition Law	35	61	36	50	**	..
All Offenses in Class.....	38	57	19	47	**	..
<i>Crimes Against Property—Gainful:</i>						
Breaking and Entering Busi- ness Place—Day Time....	66	77	11	33	100	67
Breaking and Entering Busi- ness Place—Night Time...	60	74	14	66	63	— 3
Breaking and Entering Dwell- ing—Day Time	28	69	41	50	100	50
Breaking and Entering Dwell- ing—Night Time	100	57	—43	75	50	—25
All Breaking and Entering Business Place	63	75	12	60	75	15
All Breaking and Entering Dwelling	54	65	11	60	67	7
Larceny by Conversion.....	43	50	7	**	**	..
Larceny from the Person....	63	90	27	100	81	—19
Larceny of Property.....	67	69	2	47	76	29
All Larceny	63	73	10	54	81	27
Robbery, Armed	11	78	67	54	75	21
Robbery, Not Armed	37	77	40	57	55	— 2
Unlawfully Driving Away Auto	62	73	11	83	61	—22
All Offenses in Class.....	55	73	18	54	69	18
<i>Crimes Against Sex Morality:</i>						
Accosting—2nd Offense	33	64	31	75	100	25
Accosting—3rd Offense	64	94	30	20	75	55
Indecent Liberties	50	50	0	33	100	67
Pandering	58	**	..	50	100	50
Statutory Rape	48	100	52	62	**	..
All Offenses in Class.....	56	83	27	58	90	32
<i>Crimes Against Public Health and Safety:</i>						
Carrying Concealed Weapons.	48	43	— 5	50	50	0
Violating Drug Law.....	66	62	— 4	**	**	..
All Offenses in Class.....	55	52	— 3	41	60	19

Note: Absence of a sign in front of figures indicates gain for Appointed Attorneys; minus sign indicates loss.

**Too small a number for accurate comparison.

Variations in Percentages of Convictions in Selected Individual Charges in Relation to Type of Counsel and Method of Trial (See Table VIII)

The selection is based on the presence of a sufficient number of cases in each Offense for the two divisions of Trial and the two groups of Counsel. The discussion is first by Class of Offense and then by the Charges within the Class.

A. Crimes Against Persons:

In Waiver of Jury Trials Appointed Attorneys show a greater percentage of Convictions than Own Attorneys, the variation being:

Felonious Assault	37.0 %
Assault with Intent to Do Great Bodily Harm.....	20.0 %
Assault with Intent to Kill and Murder.....	0 %
All Offenses in Class.....	40.0 %

except that *negligent homicide* and *murder* have too few cases for comparison.

In Jury Trials the same tendency is noted:

Assault with Intent to Do Great Bodily Harm.....	50.0 %
Felonious Assault	27.0 %
Negligent Homicide	25.0 %
Murder	11.0 %
All Offenses in Class.....	24.0 %

except that *assault with intent to kill and murder* has too few cases for comparison. A comparison of the figures for All Offenses in the Class show 16% more convicted in Waiver of Jury Trials where Counsel is appointed than the same group of Attorneys in Jury Trials.

B. Crimes Against Public Policy

In Waiver of Jury Trials Appointed Attorneys show 36% more convicted than Own Attorneys in the Charge of *violation of the prohibition law*. For *violation of the gaming law* there are too few cases for comparison. For both of these Offenses there are too few Jury Trials. In comparing all Offenses in the Class Appointed Attorneys in Waiver of Jury Trials show 19% more convicted than Own Attorneys in the same Method of Trial. There are too few Jury Trials to use comparatively.

C. Crimes Against Property—Gainful

In Waiver of Jury Trials, Appointed Attorneys show the following greater percentages of Convictions than Own Attorneys:

Robbery Armed	67%
Breaking and Entering Dwelling in the Day Time.....	41%
Robbery Not Armed.....	40%
Larceny from the Person.....	27%
Breaking and Entering Business Place in the Night Time.	14%
Breaking and Entering Business Place in the Day Time..	11%
Unlawfully Driving Away Auto.....	11%
Larceny by Conversion.....	7%
Larceny of Property.....	2%
All Offenses in Class.....	18%
All Breaking and Entering Business Place (Exclusive of Attempts)	12%
All Breaking and Entering Dwelling (Exclusive of Attempts)	11%
All Larceny (Exclusive of Attempts).....	10%

except that *breaking and entering dwelling in the night time* shows 43% less convicted by Appointed than by Own Counsel. Although the gain or loss, in some instances, is large, it should be taken into consideration that a small number of cases, most of which result in Convictions, will show a higher rate of Conviction than a larger number of Offenses with a smaller number of Convictions. It is evident that the reliability of percentages derived from the group with the greater frequency is greater than that from a small group. For example, a group of 100 cases with 50 convicted would indicate a more reliable group tendency than a group of 6 with 3 convicted, although the percentage convicted is the same in each case.

In Jury Trials Appointed Attorneys show gains over Own Attorneys in the following Charges:

Breaking and Entering Business Place in the Day time...	57%
Breaking and Entering Dwelling in the Day Time.....	50%
Larceny of Property.....	29%
Robbery Armed	21%
All Offenses in Group.....	18%
All Larceny	27%
All Breaking and Entering Dwelling.....	7%
All Breaking and Entering Business Place.....	15%

although in the following Charges, Own Attorneys show greater percentages of Convictions than Appointed Attorneys:

Breaking and Entering Dwelling in the Night Time.....	25%
Unlawfully Driving Away Auto.....	22%
Larceny from the Person.....	19%
Breaking and Entering Business Place in the Night Time.	3%
Robbery Not Armed.....	2%

D. *Crimes Against Sex Morality*

In Waiver of Jury Trials, Appointed Attorneys show the following gains in percentages of Convictions over Own Attorneys:

Statutory Rape	52%
Accosting—Second Offense	31%
Accosting—Third Offense	30%
Indecent Liberties	0
All Offenses in Class.....	27%

except that there are too few cases for *pandering* to warrant comparison.

In Jury Trials the same tendency is noted and the specific gains are:

Indecent Liberties	67%
Accosting—Third Offense	55%
Accosting—Second Offense	25%
Pandering	50%
All Offenses in Class.....	32%

except that there is an insufficient number of cases of *statutory rape* for comparison.

Comparison of Convictions for All Offenses in the various Classes of Offense shows that Appointed Attorneys in Waiver of Jury Trials result in 5% more Conviction than the same Attorneys in Jury Trials. In other words, while there is a gain for Appointed Attorneys both in Waiver of Jury Trials and Jury Trials over Own Attorneys, still the gain in Waiver of Jury for Appointed Counsel is greater than the gain for the same Attorneys in Jury Trials.

E. *Crimes Against Public Health and Safety*

The Offenses in this Class scatter considerably in Waiver of Jury Trials. However, Appointed Attorneys, as compared with Own Counsel, show a loss of 5% in Convictions for *carrying concealed weapons* and a loss of 4% for *violation of the drug law*. All Offenses in the class show a loss of 3% for Appointed Counsel. In Jury Trials Appointed Attorneys show the same per cent convicted as do Own Counsel in *carrying concealed weapons* but there is a loss of 50% for Appointed Attorneys in the Charge of *violation of the drug law*. The Appointed Attorneys show a gain of 19% in Convictions when the Class as a whole is considered.

The large loss shown by Appointed Attorneys in *violation of the drug law* is not significant because of the small number of cases on which it is based. This illustrates the point previously made that a

small number of cases would, in certain instances, give a larger percentage of Convictions as contrasted with a larger distribution which shows a smaller percentage but a more significant and reliable one. The other Classes of Offense (*offenses against property—not gainful, children, administration and government, and sobriety and good order*) do not contain enough cases to warrant a comparison.

Summarizing all Offenses, it will be seen (Table VII) that 49.13% are convicted in Waiver of Jury Trials where the Attorneys are retained and paid by the Defendants and 74.46% where the Court appoints Counsel, in the same method of Trial, or a gain of 25.33% in favor of Appointed Counsel. The same Table shows, for Jury Trials, that 51.97% are convicted where there is Own Counsel and 69.43% where Counsel is appointed, or a gain of 17.46% for the latter. It may be said, generally, first that cases with Appointed Counsel have a greater tendency to result in Conviction than where Counsel is retained by the Defendants; secondly, that the gain for Appointed Counsel in Waiver of Jury Trials is greater than for the same Counsel in Jury Trials.

The contention is not made here that the sole factors in Convictions or Acquittal are the financial ability or inability of a Defendant to retain Counsel or whether the Trial was by Jury or by Judge. Sound thinking in any social problem, and the administration of justice is surely such, dictates that there are no unit causes which may be used as the ultimate explanation in any situation but rather that the social organism is complex and organically involved. This makes definite demarkation and separation into effects difficult, if not unreliable. The hope of this paper is merely to indicate that perhaps the elements of Own and Appointed Counsel and Waiver of Jury and Jury Trial have some effect on Convictions as shown in the foregoing discussion.

CHAPTER III

TIME REQUIRED FOR COMPLETION OF COMPLAINTS BY TRIALS

TABLE NO. IX

PERCENTILES OF ELAPSED TIME IN DAYS FOR COMPLETION OF COMPLAINTS BY TRIAL
RECORDER'S COURT FELONY CHARGES

Method of Trial and Finding	Percentiles					
	25%	50%	75%	90%	95%	Median
Waiver of Jury—Guilty.....	18.89	25.73	50.80	85.94	120.98	24.59
Waiver of Jury—Not Guilty	20.79	50.74	80.94	115.94	140.98	46.54
Jury—Guilty	20.69	30.84	50.98	85.94	120.98	30.10
Jury—Not Guilty	24.94	40.69	60.99	90.99	110.98	38.34
All Waiver of Jury.....	19.44	35.53	65.84	105.94	130.98	31.78
All Jury	24.39	35.54	60.74	85.98	120.98	33.28

Table IX is derived from Tables 4 and 5 (appendix). In Waiver of Jury Trials resulting in Convictions, the range for all cases is from 1 to 295.99 days, the median being 24.59 days—which means that half of the cases are finished in 24.59 days or less and half over that period. It will be seen from Table IX that 90% of all cases are finished in 85.94 days or 3.44 working months and although the range for all cases is approximately one working year, 95% of all cases are finished in 120.98 days or approximately five working months (counting 25 working days to the month).

For Waiver of Jury Trials resulting in Acquittals, the range is from 1 to 295.99 days, the median being 46.54 days. 90% of all cases are finished in 115.94 days or 4.64 months and 95% in 140.98 days or 5.64 months.

Waiver of Jury Convictions show the same range as do the Acquittals but when 90% of the cases are considered, the Convictions show 30.00 days or 1.20 months less required for completion than do the Acquittals but neither loss nor gain when 95% of the cases are compared. The medians show that 21.95 days less are required for the Convictions than for the Acquittals or slightly less than one month.

In Jury Trials resulting in Convictions, the range is from 1 to 235.99 days, the median being 30.10 days. 90% of the cases are completed in 85.94 days or 3.44 working months and 95% in 120.98 days or 4.8 months. Acquittals in Jury Trials show a range from 1 to 240.99 days, the median being 38.34 days. 90% of the cases in this group are completed in 90.99 days or 3.64 months and 95% in 110.98 days or 4.4 months.

While the range for Convictions in Jury Trials is five days less than for Acquittals, the median for the former shows a saving of 8.24 days. There is a further gain (in days saved) of 5.04 days at 90% of the cases but a loss for Convictions of 10.00 days at 95% of the cases.

Comparing the time required for completion of Complaints resulting in Convictions (as between Waiver of Jury Trials and Jury Trials) the former show that 1.80 days less are required for completion of 25% of the cases. 5.11 days less at 50%, 0.10 days less at 75%, and 5.38 days less at the median. There is neither gain nor loss at 90% and 95% of the cases.

Comparing the time required for completion of Complaints resulting in Acquittals (as between Waiver of Jury Trials and Jury Trials) we find that 4.15 days less are required for 25% of the cases tried by Waiver of Jury than by Jury. There is no difference found

at 50%, but from this point, more time is required for Waiver of Jury cases, as follows: 10.05 days at 50%, 19.95 days at 75%, 24.95 days at 90%, 30.00 days at 95% and 8.20 days at the median.

Considering all Waiver of Jury cases (both Convictions and Acquittals), the range is from 1 to 295.99 days, the median being 31.78 days or 1.27 months. 90% of the Waiver of Jury cases are finished in 105.94 days or 4.20 months and 95% in 130.98 days or 5.24 months. All Jury cases (both Convictions and Acquittals) show a range from 1 to 240.99 days, the median being 32.28 days. 90% of all cases are finished in 85.98 days or 3.44 months and 95% in 120.98 days or 4.84 months. A comparison of the two methods of Trial shows that Complaints finished by Waiver of Jury Trial require less time for completion up to 50% (including the median) and more time after that point. Specifically the gains for Waiver of Jury are: 4.95 days at 25%, 0.01 days at 50%, and 1.50 days for the median; the losses for Waiver of Jury are: 5.10 days at 75%, 19.90 days at 90%, and 10.00 days at 95% of the cases. Summarizing, it is seen that Waiver of Jury cases require from 4.95 days to 0.01 days less for completion than Jury cases when the first half of the Complaints and the median are considered and from 19.95 days to 5.10 days more for the last half to finish.

The figures in the above Table show that there is considerable scattering of cases and that much time is needed for the final five per cent to finish. 175 days are required for the completion of this final five per cent in Waiver of Jury Convictions and 115.01 days for Waiver of Jury Acquittals, 130.01 for Jury Acquittals, 165.01 days for all Waiver of Jury Trials and 120.01 days for all Jury Trials.

Accurately speaking, the total time between the date of the Complaint and the date the case is finished by either sentence or Acquittal cannot be charged to either Waiver of Jury or to Jury Trial. The specific time which is chargeable to either method of Trial is that between the date Trial begins and the date of final disposition of Trial by either Conviction or Acquittal. It is very probable, at the time the Complaint was signed all through the stages of the Procedure prior to Trial, that neither the Client nor the Attorney were considering the method of Trial to choose. Possibly the Attorney was confident and the Client hopeful that the Charge would be disposed of before Trial was reached. Yet in a larger sense, a Trial is initiated by a Complaint and completed by a finding of either "Guilty" or "Not Guilty" (if the Charge is not "Otherwise Disposed Of" prior to Trial) and the total period between these two dates must be considered. A

more detailed study than the present would include the time elapsing between Complaint and service of the Warrant, between service of the Warrant and *arraignment on warrant*, between *arraignment on warrant* and *examination*, between *examination* and *arraignment on information*, between *arraignment on information* and trial date, between trial date and Conviction or Acquittal, and finally between Conviction and Sentence. Such a study would more logically find its place in an inquiry of Court Procedure and would have required much more time than at the disposal of the writer.

Generally, it appears that Waiver of Jury cases require from 3.18 days to 1.50 days less for their completion than do the Jury cases—when the first half of the cases and the median are considered—but from 13.60 days to 4.18 days more for the final fifty per cent to finish. It cannot be too strongly emphasized that this statement applies only to the year studied here, which is the first year of the operation of permissive Waiver of Jury Trials in Felony cases. At best the results of the first year of operation of any procedure must be held as tentative. It is very probable that the second and subsequent years might show other results.

CHAPTER IV

SENTENCES

General Statement

The Offenses were individually listed and then grouped into Classes of Offense, keeping the distinctions of Waiver of Jury Trial, Jury Trial, Own Counsel and Appointed Counsel, regardless of whether the Charge convicted of was the same as the original Charge (in the Complaint), reduced to a lesser Charge, or whether it was a Felony or a Misdemeanor. A separate Table was made showing the sentences, and other pertinent data for those convicted of Misdemeanors. Where there was a Trial for "Repeated Offenses," the Court file shows either the sentence imposed for the original Charge or for Conviction of "Repeated Offenses." In all such cases only the term given for "Repeated Offenses" was listed. It was believed that regardless of whether the Conviction was of the original Charge, a reduced Charge, a Misdemeanor, or "Repeated Offenses," it was, nevertheless, still a sentence imposed on the basis of the original Charge, and therefore no distinction was made between them in the general listing and computation of sentences.

For purposes of comparison, the Probation periods were listed separately but in the computation of the medians, they were considered

as equivalent to a maximum sentence of the same length. To have omitted them from the computation of the median would have led to greater error than to have included them as equivalents of maximum sentences of the same length. Probation terms were listed under three two-year intervals—two years and under, over two and up to and including four years, and over four years. The Michigan Statutes provide that the maximum Probation period for Misdemeanors shall be two years and for Felonies five years. The term Probation whenever used in the following discussion also includes those few cases where a Fine was imposed in addition to Probation, the Fine to be paid either before Probation is begun (which is the usual method) or during the supervisory term.

Whenever a particular Offense showed a good many sentences by Fine, the Fines were listed separately and the median Fine determined. Sentences were in most cases given as alternative of the Fines and a large portion of the Fines are paid within a short time after their imposition. The alternative sentences were therefore not included in the computation of the median, even though the use of the Fines alone, for purposes of the median, leads to some inaccuracy.⁴

Each Class of Offense is composed of Charges with varying maximum sentences. The numerical distribution of these variants may not be the same for the same Class, when Waiver of Jury Trials and Jury Trials are considered. Different distributions may exist between any two Classes of Offense, even for the same method of Trial. The total result is that comparison of the "Median maximum sentence" imposed for *offenses against property—gainful*, for example, bears little relation to that found for *offenses against sex morality*. The comparison of similar groups appears to be when the sentences for the same Class of Offense by one method of Trial are studied in relation to the sentences of that Class by the other method of Trial. Or generally there are two variants to be considered when comparing sentences imposed—that of the numerical distribution of Charges with the same maximums and further that of the varying maximum sentences.

In the computation of the medians, it was found that the minimum sentence imposed for the same Charge and for other Charges varied considerably while the maximum sentence for the same Charge

⁴In a study of a group of numerically frequent Charges, conveniently termed "Key Offenses" (and not published), it was found that the more serious Charges, such as Robbery Armed and Murder, among a large number of others, select trial by Jury more frequently than trial before the Judge; that generally the sentences imposed after conviction by Waiver of Jury trial are the lighter Non-Penal terms and that the sentences are less severe in length (as determined by the median maximum sentence) than those convicted by Jury trial. The reverse is true for the less grave Charges.

TABLE NO. X
SUMMARY OF SENTENCES FOR CLASSES OF OFFENSES IN RELATION TO METHOD OF CONVICTION AND TYPE OF ATTORNEY
RECORDER'S COURT FELONY CHARGES

SENTENCES	OWN ATTORNEY					APPOINTED ATTORNEY												
	Offenses Against Property— Gainful	Sex Morality	Public Health and Safety	Children	Property—Not Gainful	Administration and Government	Public Policy	Sobriety and Good Order	Persons	Property—Gainful	Sex Morality	Public Health and Safety	Children	Property—Not Gainful	Administration and Government	Public Policy	Sobriety and Good Order	Persons
Suspended Sentences and Fines	4	4	10	0	0	1	68	0	5	3	8	1	0	0	0	7	0	1
Probation:																		
0-20 years	32	7	13	4	0	2	14	0	7	19	12	3	4	0	0	3	0	5
21-40 years	1	4	0	0	0	0	0	0	2	14	1	0	0	0	0	0	0	0
41-60 years	0	2	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Penal Terms:																		
0-20 years	6	9	2	0	0	0	0	0	3	13	32	0	2	0	0	1	0	1
21-40 years	4	2	0	1	0	0	0	0	10	4	1	0	2	0	0	0	0	4
41-60 years	22	7	7	0	0	0	0	0	1	60	2	8	0	1	0	0	0	0
61-80 years	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0
81-100 years	4	7	0	0	0	0	0	0	3	14	3	0	0	0	0	0	0	0
101-120 years	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
121-140 years	2	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
141-160 years	5	3	0	0	0	0	0	0	0	22	3	0	0	0	0	0	0	5
161-and over	1	3	0	0	0	0	0	0	1	6	1	0	0	0	0	0	0	1
Grand Total	81	48	32	5	0	3	82	0	32	159	63	12	8	1	0	11	0	26
Median Maximum Sentence in Years	2.20	4.0	1.46	1.25	..	..	2.0	..	2.58	4.92	1.25	4.62	1.34	..	..	2.0	..	8.55
Sub-total (Excl. S. S. and Fines)	77	44	22	5	0	2	14	0	27	156	55	11	8	1	0	4	0	25
Percentage of Total, (Excl. S. S. and Fines)	95.06	91.66	68.75	100.00	0	66.67	17.07	0	84.37	98.11	87.30	91.66	100.00	100.00	0	36.36	0	96.15
Percentage of Total (All S. S., Fines and Pro- bation)	45.64	35.41	..	..	..	..	..	..	43.75	23.27	33.34	..	..	..	..	..	..	23.07

remained constant—having been determined by the Legislature at the time of the enactment of the statute. It is well to recall that the “median maximum sentence” treated of later in this discussion does not refer to the period served in prison but to the sentence imposed by the Judge. The time served in Prison is determined by the recommendation of the sentencing Judge, the Parole Board and by the sentence itself, at the time of Conviction.

Comparative Sentences for Classes of Offense in Relation to Type of Counsel (See Table X)

A. Convictions by Waiver of Jury

For *offenses against property—gainful* 95.06% of all sentences—for those having Own Attorneys—are either Probation or Penal Terms, the median maximum sentence being 2.20 years; for Appointed Attorneys 98.11% are given either Probation or Penal Terms, the median maximum sentence being 4.92 years. For *offenses against sex morality* 91.66% of those Defendants having Own Attorneys are sentenced by Penal Terms or Probation, the median maximum sentence being—4.00 years; for those having Appointed Counsel 87.30% receive either Probation or Prison Terms, the median maximum sentence imposed being 1.25 years. 68.75% of those convicted of *offenses against public health and safety* and having Own Attorneys receive Probation and Prison Terms, the median maximum sentence being 1.46 years; for those having Appointed Counsel 91.66% receive Probation or Penal Terms, the median maximum sentence imposed being 4.62 years. For those convicted of *offenses against public policy* and having Own Attorneys only 17.07% receive other than Fines or Suspended Sentence, the median maximum term being 2.0 years (all of them Probation); for those having Appointed Counsel 36.36% are given either Probation or Prison Terms, the median maximum sentence being 2.0 years. 84.37% of those convicted of *offenses against persons* and having Own Attorneys are given either Probation or Prison terms, the median maximum sentence imposed being 2.58 years; 96.15% of those having Appointed Counsel receive either Probation or Prison terms, the median maximum sentence being—8.55 years. The other Classes of Offense (*offenses against children, property—not gainful, administration and government, and sobriety and good order*) contain too few cases to be of value in comparison.

It will be seen for *offenses against property—gainful, sex morality, public health and safety, and persons*, both where Attorneys are retained by the Defendants and where appointed by the Court,

TABLE NO. XI
SUMMARY OF SENTENCES FOR CLASSES OF OFFENSE IN RELATION TO METHOD OF TRIAL AND TYPE OF ATTORNEY
RECORDER'S COURT FELONY CHARGES
JURY CONVICTIONS

SENTENCES	OWN ATTORNEY									APPOINTED ATTORNEY								
	Offenses Against: Property—Gainful	Sex Morality	Public Health and Safety	Children	Property—Not Gainful	Administration and Government	Public Policy	Sobriety and Good Order	Persons	Property—Gainful	Sex Morality	Public Health and Safety	Children	Property—Not Gainful	Administration and Government	Public Policy	Sobriety and Good Order	Persons
Suspended Sentence and Fines	2	1	0	0	0	0	12	0	2	0	2	1	0	0	0	0	0	3
Probation:																		
0 to 2.0 years.....	9	6	1	0	0	0	11	4	8	4	1	1	0	0	0	0	0	1
2.1 to 4.0 years.....	2	4	1	0	0	0	0	0	3	4	0	0	0	0	0	0	0	1
4.1 to 6.0 years.....	0	0	0	0	0	0	0	1	2	1	0	0	0	0	0	0	0	0
Penal Terms:																		
0 to 2.0 years.....	4	5	0	0	0	0	1	6	2	9	9	0	0	0	0	0	0	2
2.1 to 4.0 years.....	1	0	0	0	0	0	0	1	1	1	0	0	0	0	0	0	0	3
4.1 to 6.0 years.....	22	7	3	0	0	0	0	33	1	33	0	1	0	0	0	0	0	0
6.1 to 8.0 years.....	1	0	0	0	0	0	0	2	0	2	0	0	0	0	0	0	0	0
8.1 to 10.0 years.....	12	12	0	0	1	0	0	10	4	10	5	0	0	0	0	0	0	7
10.1 to 12.0 years.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12.1 to 14.0 years.....	0	0	0	0	0	0	0	2	0	2	0	0	0	0	0	0	0	0
14.1 to 16.0 years.....	18	0	0	0	1	0	0	19	13	19	1	0	0	0	0	0	0	7
16.1 and over.....	23	2	0	0	0	0	0	24	10	24	0	0	0	0	0	0	0	8
Grand Total	94	37	5	0	2	0	24	106	46	106	18	3	0	0	0	0	0	32
Median Maximum Sentence in Years	9.17	4.85	4.34	..	..	..	2.0	8.40	14.15	8.40	1.60	..	..	..	..	..	..	14.14
Sub-Total (Excl. S. S. and Fines)	92	36	5	..	2	..	12	106	44	106	16	2	..	..	..	..	..	29
Percentage of Total (Excl. S. S. and Fines).....	97.87	97.27	..	..	..	..	50.00	100.00	95.65	100.00	88.88	..	..	..	..	..	..	90.93
Percentage of Total (All S. S., Fines and Probation)	13.83	29.73	..	..	..	..	..	8.49	32.56	8.49	16.67	..	..	..	..	..	..	15.62

that 85% or more of the sentences imposed are either Probation or Prison terms. For Own Attorneys in *offenses against public policy*, which includes the Charges of *violation of the prohibition law* and *violation of the gaming law*, using 6 sentences as a basis, 5 are either Fines or Suspended Sentences and the other is Probation for 2 years or less. For Appointed Counsel, using 11 sentences as a basis, 7 are Fines or Suspensions, and, of the remainder, 3 are Probation for 2 years or under, and the other is a Workhouse term of 2 years or under.

The median maximum sentences imposed in Waiver of Jury Convictions do not show any apparent relationship to either Own or Appointed Counsel. There does not seem to be, in this distribution, any uniform or consistent gain or loss for Appointed Counsel over Own Counsel or vice versa, in any of the Classes of Offense considered.

B. *Convictions by Jury* (See Table XI)

Where Attorneys are retained by the Defendant, 97.87% of all convicted of *offenses against property—gainful* are given either Probation or Penal Terms, the median maximum sentence being 9.17 years; for Defendants with Appointed Counsel 100.00% are given either Probation or Penal Terms, the median maximum sentence being 8.40 years. For those having Own Attorneys and convicted of *offenses against sex morality* 97.27% receive either Probation or Prison terms, the median maximum sentence being 4.85 years as contrasted with those having Appointed Counsel where 88.88% are given other than Fines or Suspended Sentences, the median maximum sentence imposed being 1.60 years. The percentage becomes much lower in *offenses against public policy* where 50% of those having Own Counsel (and being convicted) receive Fines and Suspensions and the remainder Probation or Penal Terms, the median sentence being 2.0 years. There are no Convictions in this Class of Offense for those having Appointed Counsel. The percentage becomes much higher in *offenses against persons* where 95.65% of those having Own Counsel receive either Probation or Penal Terms, the median maximum sentence being 14.15 years; the percentage is 90.93% where Counsel is Appointed. In the latter case the median maximum sentence is 14.14 years. The other Classes of Offense (*offenses against property—not gainful, public health and safety, children, administration and government and sobriety and good order*) contain either insufficient numbers or no cases at all and a comparison cannot be made.

From the foregoing it appears that 90% or more of the sentences imposed for Convictions by Jury are either Probation or Penal terms in four of the five Classes of Offense treated above, the other (*offenses against public policy*) having an equal number of Fines and Suspended Sentences and Probation and Penal terms. The type of Attorney employed apparently has no relationship to the type or length of sentence imposed with the exception of *offenses against persons* where the median sentence imposed for both Own and Appointed Counsel is the same.

The median maximum sentences found for the various Classes of Offense show no consistent gain or loss for comparison of either method of Conviction or type of Counsel. The Jury Convictions do show greater median maximum sentences than the Waiver of Jury Convictions, when the same Class of Offense is considered in relation to Own and Appointed Counsel. For Counsel retained by the Defendants in Jury Convictions there is an increased median sentence (over that imposed in Waiver of Jury Convictions) which ranges from 11.57 years for *offenses against persons* to 0.85 years for *offenses against sex morality*; for Counsel appointed by the Court in Jury Convictions the increase ranges from 5.59 years for *offenses against persons* to 0.45 years for *offenses against sex morality* (an increase over the medians in Waiver of Jury Convictions). The exception is found in *offenses against public policy* where the median maximum sentence is the same for both methods of Conviction. Whether the gain in length of sentences imposed in Jury Convictions is due to differences in the numerical distribution of the Offenses with greater possible maximums or to other reasons is not known. It is apparent that the tendency exists for the Judge to sentence those Defendants convicted by Jury more severely than those he himself convicts (without Jury). It becomes speculation as to whether the professional criminal believes that the probability of Conviction is less, and of Acquittal greater, if tried by a Jury than by Waiver of Jury. The more serious offenses, as *robbery*, *murder*, etc., appear to be tried by the Jury more frequently than by Waiver of Jury.

It is further noted that the increase in median sentences is greater for Jury Convictions with Own Counsel (compared with the same Counsel in the other method of Trial) than Jury Convictions with Appointed Counsel (as compared with Waiver of Jury Convictions by the same Counsel).

A further comparison of type of sentences imposed may be made. For this purpose, the sentences are divided into groups—Penal and

Non-Penal. The former comprises Probation with or without Fines and all sentences to either Prison or Workhouse and the latter includes both Fines and Suspended Sentences. When this distinction is made, the results show no consistent gain or loss either between Own and Appointed Counsel or by method of Conviction, in the three Classes of Offense with the greatest numerical distribution of the cases (*offenses against property—gainful, sex morality, and offenses against persons*).

Probation, strictly defined, is a Non-Penal Sentence although it remains a potential Penal Sentence and becomes such when it is violated. If a different grouping of the Penal and Non-Penal Sentences is made which includes the Probation terms in the Non-Penal group, we find, using the three Classes of Offense with the greatest numerical share of the cases; that there are a greater number of Non-Penal Sentences imposed than Penal in Waiver of Jury Convictions when the type of Counsel is considered. Specifically, these gains for Own Counsel (over Appointed Counsel) are: 22.37% for *offenses against property—gainful*, 20.68% for *offenses against persons*, and 2.07% for *offenses against sex morality*. In other words, the tendency is present in Waiver of Jury Convictions for the Defendants having Own Counsel to receive the Non-Penal or lighter sentences more often than those having Appointed Counsel. The same generalization holds true for the Jury Convictions and here the specific gains are: 16.94% for *offenses against persons*, 13.06% for *offenses against sex morality*, and 5.34% for *offenses against property—gainful*.

When the Non-Penal Sentences are compared for Own Counsel as between Waiver of Jury and Jury Convictions, we find that suspended Sentences, Fines and Probation are imposed more frequently in Waiver of Jury Convictions than in Jury and the specific gains are: 31.80% for *offenses against property—gainful*, 20.68% for *offenses against persons*, and 5.68% for *offenses against sex morality*. The same tendency is further shown by Appointed Counsel where Waiver of Jury Convictions show a greater percentage of Non-Penal Sentences than Jury Convictions and the specific gains are: 16.67% for *offenses against sex morality*, 14.78% for *offenses against property—gainful*, and 7.45% for *offenses against persons*. The generalization may be made that Waiver of Jury Convictions show more Defendants receiving Non-Penal Sentences than do Jury Convictions, both where Own Counsel is considered between the two methods of Conviction and where Appointed Counsel is compared.

TABLE NO. XII
SUMMARY OF SENTENCES FOR CLASSES OF OFFENSE IN RELATION TO METHOD OF CONVICTION
RECORDER'S COURT FELONY CHARGES

SENTENCES		WAIVER OF JURY CONVICTIONS							JURY CONVICTIONS								
Offenses Against:	Sex Morality	Public Health and Safety	Children	Property—Not Gainful	Administration and Government	Public Policy	Sobriety and Good Order	Persons	Property—Gainful	Sex Morality	Public Health and Safety	Children	Property—Not Gainful	Administration and Government	Public Policy	Sobriety and Good Order	Persons
Unsuspended Sentence and Fines	12	11	0	0	1	75	0	6	2	3	1	0	0	0	12	0	5
probation:																	
0 to 2.0 years.....	19	16	8	0	2	17	0	12	13	7	2	0	0	0	11	0	9
2.1 to 4.0 years.....	5	0	0	0	0	0	0	2	6	4	1	0	0	0	0	0	4
4.1 to 6.0 years.....	2	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	2
Equal Terms:																	
0 to 2.0 years.....	41	2	2	0	0	1	0	4	10	14	0	0	0	0	1	1	4
2.1 to 4.0 years.....	3	0	3	0	0	0	0	14	2	0	0	0	0	0	0	0	4
4.1 to 6.0 years.....	9	15	0	1	0	0	0	1	55	7	4	0	0	0	0	0	1
6.1 to 8.0 years.....	2	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0
8.1 to 10.0 years.....	10	0	0	0	0	0	0	12	22	17	0	0	1	0	0	0	11
10.1 to 12.0 years.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12.1 to 14.0 years.....	3	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0
14.1 to 16.0 years.....	27	6	0	0	0	0	0	5	37	1	0	0	1	0	0	0	20
16.1 and over.....	4	0	0	0	0	0	0	2	47	2	0	0	0	0	0	0	18
Grand Total	111	44	13	1	3	93	0	58	200	55	8	0	2	0	24	1	78
Median Maximum Sentence in Years	4.56	1.65	1.83	1.30	..	2.0	..	1.25	8.82	4.28	4.25	..	..	..	2.0	..	14.15
Sub-Total (Excl. S. S. and Fines)	233	99	33	13	1	2	18	..	198	52	7	..	..	..	12	..	73
Percentage of Total (Excl. S. S. and Fines).....	97.08	80.18	75.00	100.00	..	19.36	..	87.24	99.00	94.54	87.50	..	..	..	50.00	..	93.59
Percentage of Total (All S. S., Fines and Probation)	30.83	34.23	..	..	..	..	..	34.46	11.00	25.45	..	..	..	..	..	..	25.64

To summarize this discussion of Penal and Non-Penal Sentences, there is no consistent gain or loss between the two methods of Conviction or between the two types of Counsel when Probation is included in the Penal group of Sentences. However, when the Non-Penal group includes Probation (in addition to Fines and Suspended Sentences) and the Penal group consists only of Prison or Work-house terms, the relationship between methods of Conviction and types of Counsel is definite and clearly apparent. We find, for the same Class of Offense (using only the three Classes with the greatest frequency) that Non-Penal Sentences are given more frequently in both Waiver of Jury and Jury Convictions where the Defendants have their Own Counsel than where Counsel is appointed by the Court; that, in considering the same type of Counsel, between Waiver of Jury and Jury Conviction, the former shows a greater percentage of Non-Penal dispositions than the latter, in both instances of Own Counsel and Appointed Counsel. To re-state this in non-technical terminology, we find that, where the prisoner has retained and paid Counsel through his own efforts, the probability is that he will receive one of the comparatively lighter sentences more often than in those cases where the Court appoints Counsel for him and secondly, that he will receive the lighter sentences of the Non-Penal group more frequently if he has been convicted by Waiver of Jury than if found "Guilty" by Jury, in both instances of Counsel—Own and Appointed.

Comparative Sentences for Classes of Offense in Relation to Method of Conviction (See Table XII)

For offenses against property—gainful, Waiver of Jury Convictions show 97.08% receiving either Probation or Penal terms and Jury Convictions 99%. The median maximum sentence for Waiver of Jury Convictions is 4.56 years and 8.82 years for Jury Convictions, or a gain of 4.26 years in favor of Jury Convictions. For offenses against sex morality, the Waiver of Jury group show 80.18% sentenced by other than Fines or Suspensions and the Jury group 94.54%. The median maximum sentence for the former is 1.65 years and for the latter 4.28 years, or a gain of 2.63 years. Offenses against public health and safety show 75% sentenced by Probation and Penal Sentences for Waiver of Jury Convictions and 87.50% for Jury Convictions. The median sentence for the former is 1.83 years and for the latter 4.25 years, or a gain of 2.38 years. Offenses against public policy show 19.36% receiving other than Fines or Suspensions for the Waiver group as compared with 50% in the Jury group. The

median sentence in both groups is 2.0 years and in both cases there is only one Prison Sentence. *Offenses against persons* show 87.24% given Probation or Penal Terms in the Waiver of Jury Convictions and 93.59% in Jury Convictions. The median maximum sentence for the former is 1.25 years and for the latter 14.15 years, or a gain of 12.90 years. The other Classes of Offense do not contain a sufficient number of cases to be of value in comparison.

Generally speaking, for those Classes of Offense which have a large enough number of cases to treat comparatively, the sentences imposed after Conviction by Jury are considerably heavier than those given in Waiver of Jury Convictions and the difference varies from 12.90 years for *offenses against persons* to 1.65 years for *offenses against sex morality*, except that *offenses against public policy* shows no difference between the two methods of Conviction.

Continuing the discussion, from Table XII, of types of sentences, we find, where Probation is considered a Penal term, that the Non-Penal terms are imposed more frequently in Convictions by Waiver of Jury than by Jury. For the three Classes of Offense mentioned above, the specific gains are as follows: 14.36% for *offenses against sex morality*, 6.35% for *offenses against persons*, and 1.92% for *offenses against property—gainful*.

If Probation is included in the Non-Penal group, the same trend is shown but the variation becomes more marked. *Offenses against property—gainful* show 19.83% more disposed of by Non-Penal Sentences, 8.82% for *offenses against persons*, and 8.78% for *offenses against sex morality*—for Waiver of Jury Convictions than Jury Convictions.

Generally speaking, and particularly in the three Classes of Offense here discussed, the tendency is for Jury Convictions to receive more severe Prison terms; where Probation is considered a Non-Penal term, for Jury Convictions to receive Penal Sentences more frequently than the Non-Penal terms. Conversely, Waiver of Jury Convictions are disposed of by less severe Prison terms and the lighter Sentences of Suspended Sentence, Fines, and Probation are imposed more often than the Prison or Workhouse terms.

It is probable, where the Offense charged in the Complaint is a serious Offense, as *murder*, *robbery*, etc., that the Attorney will ask a Jury Trial more frequently than he will waive a Jury—all in the expectation of an Acquittal. In less severe Offenses, the tendency is to use Waiver of Jury. In addition, it should be recalled that Appointed Attorneys tend to select Waiver of Jury Trials in most instances. A

number of other factors determining the selection of one method of Trial or the other are given in Chapter V.⁵

TABLE NO. XIII
DISTRIBUTION OF TYPES OF SENTENCES
RECORDER'S COURT FELONY CHARGES

Type of Sentence	No. Waiver of Jury	% Con- viction	Number Jury	% Con- viction
Suspended Sentence and Fines.....	112	19.90	23	6.25
Probation	150	26.64	60	16.30
Penal Terms:				
0.1 to 6.0 years.....	205	36.41	103	28.00
6.1 to 12.0 years.....	42	7.46	54	14.67
12.1 and over.....	54	9.59	128	34.78
Totals	563	100.00	368	100.00

Percentile Distribution of Type and Length of Sentences by Method of Conviction (See Table XIII)

This discussion is a condensation of that made under Table XII. In Waiver of Jury Convictions, 19.90% or slightly less than one-fifth of all sentences are either Suspended Sentence or Fines with the alternative of Sentences, 26.64% or slightly more than one-fourth are placed on Probation, 36.41% or one-third receive Sentences to Prison of six years or under, 7.46% or one-sixteenth receive Penal Sentences between six and twelve years, and 9.59% or one-tenth Penal Sentences over twelve years. In Jury Convictions, 6.25% or one-sixteenth are given Suspended Sentences or Fines with the alternative of Penal terms, 16.30% or one-sixth are placed on Probation, 28.00% or one-fourth are sent to Prison for terms of six years or less, 14.67% or one-seventh Prison terms between six and twelve years, and the remainder, 34.78% or one-third Prison terms of twelve years and over.

The same tendency is apparent here as has been shown previously. Waiver of Jury Convictions show 13.75% more Suspensions and Fines, 10.30% more Probation terms, 8.41% more with Penal terms of six years and under, 7.21% less with Penal terms of between six and twelve years, and 25.18% less with Penal terms over twelve years, than do the Jury Convictions. In other words, the tendency is for the Defendant convicted by Waiver of Jury to receive the Non-Penal Sentences (Suspensions, Fines, and Probation) in a greater percentage of the cases and the more severe and longer Penal terms in a lesser percentage of the cases than those convicted by Jury Trial. To use a hypothetical illustration, of two Defendants, one convicted by Waiver of Jury and the other by Jury, the former will, in most instances re-

⁵See footnote 4.

ceive a lighter Sentence than the latter and a less severe Penal term (if it is given) and conversely, the one convicted by Jury Trial will tend to receive a more severe Penal term than the former and the term will be Penal more frequently than Non-Penal. Again, the Defendant convicted by Judge (without Jury) has a greater opportunity of being sentenced by other than a Penal term than the Defendant convicted by Jury. Whether or not this is due to the type of Defendants asking Waiver of Jury Trial or to the fact that Defendants charged with more serious Offenses ask for Jury Trials is not definitely known. Generally, there are too many intangible and varying factors involved to offer any simple explanation.⁶

TABLE NO. XIV

SENTENCES FOR FELONY CHARGES REDUCED TO MISDEMEANORS—BY CLASSES OF OFFENSE AND METHOD OF TRIAL

Sentences	<i>Waiver of Jury Convictions</i>		
	Offenses Against:		
	Property— Gainful	Sex Morality	Persons
Suspended Sentence and Fines.....	2	0	4
Probation:			
0 to 2.0 years.....	2	2	3
2.1 to 4.0 years.....	0	0	0
Penal Terms:			
0 to 2.0 years.....	10	0	3
2.1 to 4.0 years.....	0	0	0
Total	14	2	10
Percentage of Convictions in Class.....	5.62	1.81	17.24
	<i>Jury Convictions</i>		
Suspended Sentence and Fines.....	1	0	3
Probation:			
0 to 2.0 years.....	2	1	3
2.1 to 4.0 years.....	0	0	0
Penal Terms:			
0 to 2.0 years.....	5	3	4
2.1 to 4.0 years.....	0	0	0
Total	8	4	10
Percentage of Convictions in Class.....	4.00	7.27	12.97

Sentences for Felony Charges Reduced to Misdemeanors (See Table XIV)

Fourteen or 5.62% of offenses against property—gainful are convicted of Misdemeanors in Waiver of Jury Convictions and 8 or 4.00% in Jury Convictions; 2 or 1.81% in offenses against sex morality for Waiver of Jury and 4 or 7.27% for Jury; and 10 or 17.24% in offenses against persons in Waiver of Jury and 10 or 12.97% in Jury. These figures show gains (in number convicted of Misdemeanors) in

⁶See footnote 4.

Waiver of Jury Convictions over Jury Convictions in *offenses against property—gainful and persons* and a loss in *offenses against sex morality*. Because of the relatively few cases here, no comparison is made between type and length of Sentences.

Chapter V

SUMMARY OF FINDINGS

The information gathered may be briefly summarized in the following form:

1. *General Disposition of Complaints against Individuals:*
 - a) A large number of Complaints—53.78% of the total—do not reach the stage of Trial and most of these are “Otherwise Disposed Of.”
 - b) Almost one third of all Complaints (31.95%) are either “Dismissed” or “Nolle Prossed”.
 - c) Only a small number (9.47%) are not disposed of within six months after the end of the year studied here, and of this group, only 1.21% of the Total Number of Complaints are “Incomplete” or “in process”. The remainder, 8.56%, are the group where “Re-arrest” has been ordered, which is essentially a Police and not a Court function.
 - d) Warrants are not served and Defendants not apprehended in 12.36% of the Complaints issued.
 - e) Less than half of the Complaints (46.22%) reach the Trial stage and in this group are the pleas of “Guilty” (27.59% of all Complaints).
 - f) One-tenth of all Complaints (10.94%) are convicted by Trial (both Waiver of Jury and Jury).
2. *Comparison with Dispositions for Other Years.*
 - a) The first year of Waiver of Jury shows a lesser percentage “Otherwise Disposed Of” which is favorable, but also lesser percentages “Convicted” and “Acquitted” and more “Pending” than the previous ten-year period. The last three are unfavorable. This difference might be attributed to unequal length of time between the end of the year studied and the date this data was collected (approximately six months) and the time elapsing between the end of the year of the Annual Reports and the date that data was collected (approximately sixteen months).
 - b) The Annual Reports show a gradual decline in number “Convicted” and increases in number “Acquitted” and “Pending”.
3. *Relation of Convictions to Method of Trial*
 - a) Three-fifths of all Trials are by Waiver of Jury and two-fifths by Jury.
 - b) 59.14% of Waiver of Jury Trials result in Convictions and 58.06% in Jury Trials, or a gain of 1.08%.

- c) Both methods of Trial show the same percentages of Convictions of the original Charge and also for reduced Charges.
 - d) Waiver of Jury Convictions show equal numbers of Own and Appointed Counsel but Jury Convictions show 13.59% more with Own than Appointed Counsel.
 - e) The Acquittals, in both Waiver of Jury and Jury Trials, show approximately one-fourth Appointed and three-fourths Own Counsel.
4. *Convictions in relation to type of Counsel*
- a) In all Trials, two-fifths of all Attorneys are Appointed and three-fifths retained by the Defendants.
 - b) One-fourth of all Convictions, where Counsel is Appointed, is by Jury Trial and three-fourths by Waiver of Jury Trial.
 - c) Half of all Convictions are by Jury Trial and half by Waiver of Jury Trial where Counsel is retained by the Defendants.
5. *Numerical Distribution of Classes of Offense in relation to Method of Trial*
- More than 50% of all Trials are by Waiver of Jury (specifically from 52.16% to 80.21%) in four of five major Classes (*offenses against property—gainful, sex morality, public policy, and public health and safety*) and less than 50% in one group—*offenses against persons* (39.83%).
6. *Convictions for Classes of Offense in relation to Method of Conviction*
- Waiver of Jury Trials show appreciable gains in percentage of Convictions over Jury Trials in three of the major numerical groups—(*offenses against property—gainful, sex morality, and persons*)—but in *offenses against public policy* there is a slight gain for Jury Convictions over Waiver of Jury.
7. *Convictions for Classes of Offense in relation to Type of Counsel*
- a) For Waiver of Jury Trials, Appointed Counsel show appreciably more Convictions than Own Counsel in four of the five major numerical groups—*offenses against persons, sex morality, property—gainful, and public policy*—where the gain is from 18.47% to 40.02%; there is a loss of 3% in *offenses against public health and safety*. The same generalization holds good for Jury Trials, except that the gain is less and also has a smaller range (15.26% to 31.27%) for *offenses against sex morality, persons, public health and safety, and property—gainful* and there is a loss of 47.06% for Appointed Counsel in *offenses against public policy* which loss is not so significant as it is based on a comparatively small group.
 - b) Generally, all Appointed Counsel show gains in percentage of Convictions over Own Counsel—25.33% for Waiver of Jury and 17.46% for Jury Trials; the gain for Appointed Counsel in Waiver of Jury Trials is greater than that shown by the same Counsel in Jury Trials.

8. *Percentage of Convictions for Individual Charges in relation to Method of Trial and Type of Counsel*

- a) Individual Charges, having a sufficient number of cases for reliable comparison, generally show greater percentages of Conviction where Counsel is Appointed than where retained by the defendants. The major exceptions are found in *offenses against property—gainful* where some of the Charges show the reverse.
- b) Waiver of Jury Convictions for Appointed Counsel are generally greater by 8.87% than Jury Convictions, although the absence of cases in the two divisions of Trial (Waiver of Jury and Jury) and also in the two divisions of Counsel (Own and Appointed) makes comparison for all Charges impractical.

9. *Time required for Completion of Complaints by Trial*

- a) Waiver of Jury cases require from 3.18 to 1.50 days less for completion (from date of Complaint to date of Sentence) than Jury cases in the median and the first 50% of the cases; Waiver of Jury cases require from 13.60 to 4.18 days more for the final 50% to finish.
- b) There is considerable scattering of the final 5% of cases to finish in both methods of Trial and almost as much time is needed for this group to finish as for the remaining 95%.

10. *Sentences for Classes of Offense in relation to Type of Counsel*

- a) For Waiver of Jury Convictions there is no direct relationship in either length or type of sentence for the two types of Counsel. In Jury Convictions, however, the median maximum sentence for Own Counsel is greater in length than for Own Counsel.
- b) Waiver of Jury Sentences are less severe in length than Jury Sentences.
- c) Where Probation is considered a Non-Penal Sentence, Defendants with Own Counsel, in both Waiver of Jury and Jury Convictions, receive the Non-Penal Sentences more frequently than those with Appointed Counsel; and conversely, the Penal Sentences less frequently.
- d) Defendants convicted by Waiver of Jury Trial receive the Non-Penal Sentences more often than those convicted by Jury Trial, both for Own and Appointed Counsel; and conversely, Jury Convictions carry with them more frequent Penal Sentences than Waiver of Jury Convictions.

11. *Sentences in relation to Method of Trial*

Jury Sentences (as shown by the median maximum sentence) are more severe in length than those imposed in Waiver of Jury Convictions; Jury Sentences are more frequently Penal and less frequently Non-Penal than Waiver of Jury Sentences.

The savings effected by Waiver of Jury Trial are the following:

1. Time consumed in selection of a Jury panel from the list

of qualified electors, the time and expense of the Jury Commissioners, and the clerical work in notifying the Jury panel.

2. The time of the Judge and Counsel in the selection of a Jury from the panel.

3. The opening and summarizing addresses to the Jury by both the Prosecutor and the Defense Counsel are either eliminated or materially reduced.

The New York Crime Commission⁷ gives an excellent summary of the reasons for favoring Waiver of Jury Trials:

- "1. Greater expedition of the business of the Court.
2. Less time required for Trials of cases.
3. Saving in expense to the public.
4. Lessened number of appeals and reversals.
5. Trivial cases move speedily and are less expensively disposed of.
6. Unwholesome publicity is obviated in Trials of Offenses of immoral nature.
7. Minimizing the effects of popular prejudice because of the nature of the crime or the accused's personality.
8. Trial of Charges against women and girls.
9. Trial by Court offers an escape from some of the evils of 'Trial by Newspaper,' or at least, some mitigation of them."

An attempt was made to determine whether or not the members of the Recorder's Court Bench were hearing more Trials per Judge since the Waiver of Jury provision than previously. This was abandoned because the Court Calendars for years 1925 and 1926 did not contain the entries for all cases initiated during those years.

In connection with the discussion of time required for completion of Complaint by Trial, it should be borne in mind that all Trials, by the nature of the Charge, do not consume the same time for Trial. For example, testimony in a Trial for *violation of the prohibition law* usually consists of the evidence of the arresting Police Officer, of the Police Chemist who analyzed the beverage, and occasionally of the Defendant. Contrasted with this simple case is that of a Trial for *negligent homicide*, where witnesses are heard as to the speed of the car, the manner in which it was driven, the identification of the body, the testimony of the Coroner as to the cause of death, and all other witnesses to the accident. Here a Trial is necessarily long. Even a *negligent homicide* Trial by Waiver of Jury would probably require more time than a Jury Trial for *violation of the prohibition law*. As stated before, the legal steps involved in the disposition of a case, from Com-

⁷Legislative Document No. 94, 1927, Albany, N. Y.

plaint to Trial, do not lend themselves to analysis by single or unit factors or to the specific statement that each factor contributed a definite percentage of the total result.

Recalling, that during the year covered here, 60% of all Trials were by Waiver of Jury and the remainder by Jury, it was believed that this single factor should be reflected in the amount paid to Jurors for their services. The money expended for Jurors' fees, as given in the Annual Reports of the Clerk of the Recorder's Court, includes the fees paid to Jurors in Condemnation cases—where private property is taken for public use. In addition, the number "Convicted," as reported in the same source, includes the number who pleaded "Guilty," where no Jury was needed. The presence of four variants in the fees of Jurors and the actual number of Trials complicates the discussion to such an extent that analysis is practically impossible. For all Jurors, the sum of \$123,250.00 was paid out in 1925, \$139,870.00 in 1926, \$142,170.00 in 1927 and \$150,032.00 in 1928. On the face of these sums, it appears, despite the Waiver of Jury provision and its extensive use, that Jurors' fees increased but when the amounts are considered relative to the increase in the volume of Court business, the fees are fairly constant. We feel justified in saying, however, if 60% of all Criminal Trials were by Waiver of Jury, that the sum expended for Jurors in Criminal cases must have been proportionately decreased. The apparent increase in fees is probably due to the large amount of Condemnation work being carried on in the Recorder's Court as the City is engaged in an extensive street-widening, airport-building, and other similar activities.

To close the discussion without mention of the question of Appointed Counsel would be to omit one of the more important factors in Waiver of Jury Trial and in the Court generally. By May 1, 1929, the Wayne County Board of Auditors (which pays the salaries and shares the expense of the Court) had paid out, in fees for Appointed Counsel in the Recorder's Court, the sum of \$60,920.64, and the appropriation for the same fiscal year (1928-1929) was \$78,000.00. The increase in Convictions, for those Defendants having Appointed Counsel, has been noted. Because of the controversial nature of the subject and because personal opinion and observation are the bases of the treatment of this subject, the matter will be left for future discussion.

In addition to the specific gains for Waiver of Jury, compared with Jury Trials, as shown in this Chapter, an important phase of the discussion are the reasons for the selection of Waiver of Jury

Trial in preference to Jury Trial or vice versa, particularly in specific instances. It is the opinion of a number of County Prosecutors in the State of Michigan (as reported to Professor John B. Waite of the Law School of the University of Michigan) that a Jury is waived where the Defendant is obviously "Guilty" but refuses to plead "Guilty." Further, Waiver of Jury Trial is favored where the factual elements of the defense are comparatively simple but where the legal question of admissibility of evidence or other legal distinctions are involved. Conversely, a Jury is used where there are no important legal questions but where the facts are involved and complicated. These viewpoints are all from the angle of the Defendant and his Attorney. If the contention is made in a case that illegal search and seizure had been carried on, as in *violation of the prohibition law* and in *carrying concealed weapons*, a Waiver of Jury Trial would be used in most of the cases. The tendency, as shown here, is for the more serious Offenses, such as *murder, robbery*, etc., to go to the Jury in the hope of Acquittal. Again, if the Charge is a serious one, the Judge, in a number of cases, might prefer to have the responsibility for determination of guilt or innocence rest elsewhere than himself and can suggest, informally, that the Defendant insist on a Jury Trial. The contention is made in the literature, although no specific instance is recalled here, that Trial by Judge acts as a safety device in times of high public tension, race riots, and atrocious or vile crimes. Waiver of Jury is further used to a great degree, as shown here, where Counsel is appointed inasmuch as it provides a fast method of Trial, a minimum of effort is required, and no emotion or dramatics need be displayed.

In addition to previous statements as to the condition of the Court files, it should be stated that no social data is kept or uniformly available. The sex of Defendants must be determined from their names where possible, color is not indicated and age is had only where the Defendant has been sentenced to a Penal term, which is in only a small quota of the total number of Complaints. No age information is available for the vast group who do not reach Trial or who are acquitted by Trial. This data is of sufficient social value to be recorded for all individuals. It avails little if it is not uniformly had in all cases. In addition, the entries of the files are not always clear and particularly is this the case where there is more than one Defendant charged on the same Complaint. Entries are found on the back and all sides of the file cover. In a good many cases, the entries for various Defendants is so confused that both the entries on the file

and the information in it and occasionally the Calendars must be checked before the proper disposition of the individual Offender can be determined.

The literature on Waiver of Jury and Jury, while not comprehensively examined, is generally confined to opinion as to the merits and demerits of the two methods with several outstanding exceptions. Among these are the discussions of the results of Waiver of Jury Trials in Maryland and Connecticut.

Judge Bond⁸ states that Trials without Jury at the election of the accused were used as early as 1693 and 1694 in the Baltimore County Court, and, up to the Act of 1809, resorted to in minor cases, with occasional use in major cases. The Legislature in 1852 finally enlarged the practice to cover all Offenses, giving criminal jurisdiction and power to "try any person upon any charge whatsoever, although it may put such persons to the pains of death." There was further revision and codification of the statute law in 1860 and now Section 549 of Article 27 of the Maryland Code of Public Laws (1924 Edition) states: "Any person presented or indicted may, instead of transversing the same before a Jury, transverse the same before the Court, who shall thereupon try the law and the facts."

Judge Bond's article further continues that agreement of both parties has never been required for a Criminal Trial with Jury. The accused alone, by his election, may compel such a Trial. (*League v. State*, 36 Maryland, 257 [1872].) He infers the same for Trials without Jury. The practice in Maryland is one of "respectable age" and "it seems to Maryland lawyers as natural a feature of the administration of criminal justice as does the Jury Trial." In 1924 over 90% of the cases tried by the Criminal Court of Baltimore City were tried without Jury and a count ten to twelve years earlier showed 70% so tried. For some years only one Jury panel has been needed and they usually sit as spectators. Of 1,500 criminal cases docketed during the four months of the January 1925 Term of the Criminal Court of Baltimore City, all except 177 (mostly those last docketed) were disposed of before the final day of the term. There is "no common length for Non-Jury Trials but they are very much shorter than Jury Trials," the former requiring about one-third of the time for a Jury Trial of the same Charge. Trial by Court alone is preferred when the defense involves and is mainly based on points of law. There is less formality in Non-Jury Trials, no delay in selection of Jury,

⁸The Practice of Trying Criminal Cases without Juries, *Amer. Bar Assn. Jour.* XI, No. 11, 699-703, Nov., 1925.

opening statements are omitted, the evidence is more direct and concise, there are fewer objections and interruptions.

Justice Maltbie⁹ gives the results of Waiver of Jury Trials in the State of Connecticut, where the original law was enacted in 1874, repealed in 1875, and was re-enacted in 1921. He shows that Waiver of Jury Trials, for a period of 7 years (1921 to 1928) resulted in Convictions in 76% of the cases and Jury Trials in 74% over a similar period of time. He emphasizes the point, also made by Judge Bond, that Waiver of Jury Trials are used where the defense is technical, where fine legal distinctions are to be drawn, where distinctions between degrees of Offense had to be made. The further point is made that where the case of the defense is weak, the tendency will be for Trial by Jury in the hope that one or more Jurors may hold out for Acquittal but where the defense is strong, Waiver of Jury Trial will be used. The opinion of Prosecutors in that State is that the same degree of justice is had by both methods of Trial but the Judges themselves feel better qualified to determine guilt or innocence. The exception occurs in Capital Offenses and here some of the Judges would prefer to have one or more members of the Bench assist in a decision.

Oppenheim¹⁰ presents a comprehensive study of the legal issues involved in Waiver of Jury Trial in criminal cases. Legal history indicates, as stated previously, that Jury Trial was not the traditional and exclusive method of determination of guilt or innocence. His inquiry is first concerned with the power of the accused to voluntarily submit his case to the Judge and secondly, with the merits of elective Trial without Jury. Most States are silent on Waiver of Jury in criminal cases and the view taken is based on the criterion of whether the framers of the constitutions intended "Jury Trial as a personal security of the accused" or "also as a protection to the State." His answer is that Jury Trial "is a privilege intended solely for the benefit of the accused and one which he may forego at his election, provided there is legislative authority for so doing." The majority of Courts have held the above view in the interpretation of Waiver of Jury and only a small minority have held otherwise. The well-known examples of Maryland and Connecticut (cited above in this Chapter) lead the list of successful Waiver of Jury Trials, followed by Indiana and New Jersey. The Wisconsin Act was passed too recently (1925)

⁹Criminal Courts and Trials without Jury in Connecticut, this JOUR., XVII, 335-342, Nov., 1926.

¹⁰Waiver of Jury Trial in Criminal Cases, *Mich. Law Rev.*, XXV, 7, 695-739, May, 1927.

and in the State of Washington, which also has a similar provision, the law is a dead-letter insofar as its application is concerned.

Among other things, Waiver of Jury provision for Felony Charges is a step in the right direction, advance notice, to the Prosecution, of "Alibi" and "Insanity" as form of defense is also good but sureness of detection and apprehension of criminals and certainty of Conviction coupled with a reasonably fast Court system play a larger part in any comprehensive program against crime. Mere sporadic attempts to eliminate legal loopholes cannot provide results. A general tightening of legal procedure, more equity in the rights of the State and of the Defendants are needed, both to convict the guilty more often and to protect and acquit the innocent. We have great need of swift, sure, and reasonable judicial administration. If the Police would apprehend the wrong-doers in 100.00% of the cases, the Courts convict, and the correctional system (all phases) benefit those convicted in the same proportion, there would be ideal justice. Contrasted with this we have apprehensions in a majority of cases, Convictions of a minority of those apprehended, and a questionable correctional system, insofar as treatment is concerned. Granting even 50% efficiency in all three branches, the contention is made that there would be shown an improvement over the present situation. Granting co-operation between the Police, Courts, Prosecutor, and Prisons instead of responsibility shifting, an enlightened and interested citizenry instead of popular vengeance in isolated cases and a general disinterest in most of the judicial grist, co-operation of the press instead of sordid notoriety, our judicial efficiency, so to speak, would be on a much higher plane.

The view is not held that merely vindictive Conviction and punishment is the aim of the Courts and Penal institutions. If justice is to be interpreted correctly, it must mean, in the first place, that the aim is toward the protection of society from the depredations of the criminal, secondly, toward reformation of the Offender, and ideally toward prevention of the Offense. If the State must carry on Police activity, in the broad sense, if taxation is raised for such purposes, no valid reason exists why legal administration should not be sound and efficient.

We seem loath to part with time-honored legal methods and institutions, despite their unsuitability, inflexibility, and poor adaptation to present needs. To obtain the goal of efficient justice, the need of wholesale revision and perhaps elimination of the entire present Code is pressing instead of isolated and generally unrelated improvements,

an outstanding example of which is optional Waiver of Jury Trial in Felony cases.

APPENDIX

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of the State of New York—Legislative Document No. 94,
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- (4.) Maltbie, William M.—"Criminal Courts and Trials without Jury in Connecticut," Journal of Criminal Law and Criminology, 17:335-42, Nov., 1926.
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List of Sentences by Individual Charges

The sentences are grouped first by method of Trial and then by type of Counsel. They are further divided into Classes of Offense and then listed individually.

A. Waiver of Jury Sentences—Defendants with Appointed Counsel

1. Crimes against Persons

Abduction	none
Assault with intent to Do Great Bodily Harm	1.. Probation 2 yrs. 1.. 1-10 yrs. 1.. 5-10 yrs.
Assault with intent to Kill and Murder	1.. 3-10 yrs. 1.. 5-10 yrs. 1.. Life

Assault with Intent to Rape	none
Assault with Intent to Rob While Armed	1..2½-10 yrs. 1..2-15 yrs. 2..5-15 yrs.
Assault with Intent to Rob While Not Armed	1..2-10 yrs. 1..3½-10 yrs. 2..5-10 yrs. 1..5-15 yrs.
Felonious Assault	3..Probation 6 months 1..Probation 1 yr. 1..Fine or Sentence 1..90 days 1..6 mos.-3 yrs. 3..1-3 yrs.
Kidnapping	none
Manslaughter	none
Murder	1..7½-15 yrs.
Mayhem	none
Negligent Homicide	none
Extortion	none
<i>2. Crimes against Sobriety and Good Order</i>	
Drunk—Third Offense	none
<i>3. Crimes against Public Policy</i>	
Violating Blue Sky Law	none
Violating Prohibition Law	3..Suspended Sentence 3..Probation 1 yr. 1..30 days 4..Fine or Sentence
Violating Gaming Law	none
<i>4. Crimes against Administration and Government</i>	
Bribery	none
Perjury	none
Obstructing Justice	none
<i>5. Crimes against Property—Not Gainful</i>	
Arson	none
Malicious Destruction of Property	1..1-5 yrs.
<i>6. Crimes against Children</i>	
Abandonment	1..Probation 1 yr. 3..Probation 2 yrs. 1..1-3 yrs. 1..1½-3 yrs.
Non Support—Third Offense	2..6 mos.-2 yrs.

7. *Crimes against Public Health and Safety*

Carrying Concealed Weapons	1..Fine or Sentence 2..Probation 6 months 1..1-5 yrs. 2..2½-5 yrs.
Leaving Scene of Accident	none
Practicing Medicine without License	none
Practicing Optometry without License	none
Violating Drug Law	1..Probation 6 months 2..6 mos.-5 yrs. 1..1-5 yrs. 1..2½-5 yrs.
Possession of Stench Bomb	none
Unlawful Possession of Gun—with Intent to use Unlawfully	1..1½-5 yrs.

8. *Crimes against Sex Morality*

Accosting—Second Offense	1..Probation 6 mos. 1..Probation 2 yrs. 6..Fine or Sentence 3..30 days 3..90 days 2..6 months
Accosting—Third Offense	1..Probation 3 mos. 1..Probation 2 yrs. 1..Probation 2½ yrs. 2..Fine or Sentence 1..60 days 2..90 days 1..6 months 1..3 mos.-1 yr. 1..6 mos.-1 yr. 2..2 mos.-2 yrs. 1..3 mos.-2 yrs. 13..6 mos.-2 yrs. 2..1-2 yrs. 1..11 mos.-2 yr. 11 mos.
Bawdy House Keeper	none
Bigamy	none
Crime against Nature (Sodomy)	1..5-15 yrs.
Gross Indecency	2..Probation 1 yr. 1..Probation 2 yrs. 1..Fine or Sentence 1..2½-5 yrs. 1..1-10 yrs. 1..1-5 yrs.
Indecent Liberties	none
Keeping House of Ill Fame	1..Life
Pandering	2..Probation 1 yr.
Rape (Common Law)	1..Probation 2 yrs.
Statutory rape	

1..1-10 yrs.
1..2½-10 yrs.
1..2½-15 yrs.
2..5-15 yrs.

9. *Crimes against Property—Gainful*

Attempted Breaking and Entering Business Place in Day Time

1..Probation 1 yr.
2..Probation 2 yrs.
1..4 months
1..6 mos.-3 yrs.
1..1-3 yrs.
1..1½-3 yrs.

Attempted Breaking and Entering Business Place in Night Time

none

Attempted Breaking and Entering Dwelling in Day Time

none

Attempted Breaking and Entering Dwelling in Night Time

none

Attempted Larceny from the Person

none

Attempted Larceny of Property

1..Probation 1 yr.
1..3-6 yrs.
1..1½-3 yrs.

Attempted Unlawfully Driving Away Auto
Breaking and Entering Dwelling in Day Time

1..Suspended Sentence
1..90 days
1..1-5 yrs.
1..2-5 yrs.
3..2½-15 yrs.
2..2½-7½ yrs.

Breaking and Entering Dwelling in Night Time

1..Probation 2 yrs.
1..6 mos.-5 yrs.
2..2½-5 yrs.
1..1-15 yrs.
2..2½-15 yrs.

Breaking and Entering Business Place in Day Time

2..Probation 1 yr.
1..Probation 2 yrs.
1..Probation 3 yrs.
2..60 days
1..6 mos.-1 yr.
5..1-5 yrs.
5..2½-5 yrs.

Breaking and Entering Business Place in Night Time

1..Probation 1 yr.
1..Probation 2 yrs.
4..Probation 3 yrs.
1..2½-5 yrs.

	2..1-15 yrs.
	2..2-15 yrs.
	1..2½-15 yrs.
	2..3-15 yrs.
	1..3½-15 yrs.
	1..5-15 yrs.
	1..7½-15 yrs.
	1..7½-22½ yrs.
Entering with Intent to Commit Larceny	1..9 mos.-15 yrs.
Embezzlement	1..Probation 6 mos.
Insufficient Funds	1..3 mos.-1 yr.
Larceny—Grand	1..1½-5 yrs.
Horse Stealing	1..1-5 yrs.
Larceny by Conversion	1..6 mos.-5 yrs.
	1..2½-5 yrs.
Larceny by Trick	3..1-5 yrs.
	1..2-5 yrs.
	1..5-10 yrs.
Larceny from the Person	1..Probation 2½ yrs.
	1..Probation 3 yrs.
	1..1-5 yrs.
	2..1½-5 yrs.
	3..2½-5 yrs.
Larceny from Store	none
Larceny of Property	1..Suspended Sentence
	3..Probation 1 yr.
	2..60 days
	1..6 mos.-1 yr.
	3..6 mos.-5 yrs.
	1..9 mos.-5 yrs.
	13..1-5 yrs.
	1..1½-5 yrs.
	2..2-5 yrs.
	2..2½-5 yrs.
Obtaining Money or Property under	
False Pretenses	none
Receiving Stolen Property	none
Robbery Armed	1..Probation 3 yrs.
	1..60 days
	1..1-5 yrs.
	1..2-15 yrs.
	1..3-15 yrs.
	1..5-15 yrs.
	2..5-25 yrs.
	1..7½-15 yrs.
	1..10-20 yrs.
	1..15-30 yrs.
Robbery Not Armed	2..Probation 2½ yrs.
	1..Probation 3 yrs.
	2..60 days

Removing Contract Property	1..1-5 yrs.
Removing Mortgaged Property	1..2-5 yrs.
Unlawfully Driving way Auto	3..3-15 yrs.
	none
	none
	1..Probation 6 mos.
	3..Probation 1 yr.
	2..Probation 2 yrs.
	3..Probation 3 yrs.
	1..Probation 5 yrs.
	2..6 mos.-10 yrs.
	2..9 mos.-10 yrs.
	1..2-10 yrs.
	4..3-10 yrs.
	4..5-10 yrs.
	1..5-15 yrs.
	1..4 yr. 10 mos.-14 yr.
	10 mos.
Uttering and Publishing	1..Fine or Sentence
Violating Act 142, P. A. 1923	1..2-14 yrs.
Taking Auto without Permission—No Intent to Steal	none
	1..6 mos.-2 yrs.

B. Waiver of Jury Sentences—Defendants with Own Counsel

1. Crimes against Persons

Abduction	none
Assault with Intent to Do Great Bodily Harm	1..Probation 1 yr.
	1..1-10 yrs.
	1..3-10 yrs.
	1..5-10 yrs.
Assault with Intent to Kill and Murder	1..Suspended Sentence
	1..Probation 1 yr.
	2..Probation 2 yrs.
	2..6 mos.-3 yrs.
	1..1-3 yrs.
	1..25-50 yrs.
Assault with Intent to Rape	none
Assault with Intent to Rob While Armed	none
Assault with Intent to Rob While Not Armed	none
Felonious Assault	2..Suspended Sentence
	2..Fine or Sentence
	1..30 days
	1..60 days
	1..90 days
	2..Probation 6 months
	1..Probation 1 yr.
	2..6 mos.-3 yrs.

	1..1-3 yrs.
	4..1½-3 yrs.
Kidnapping	1..Probation 3 yrs.
Manslaughter	none
Murder	none
Mayhem	none
Negligent Homicide	1..2½-5 yrs.
Extortion	1..Probation 3 yrs.
<i>2. Crimes against Sobriety and Good Order</i>	
Drunk—Third Offense	none
<i>3. Crimes against Public Policy</i>	
Violation of the Blue Sky Law	1..Probation 2 yrs.
Violation of the Prohibition Law	8..Suspended Sentence
	1..Probation 3 mos.
	4..Probation 6 mos.
	5..Probation 1 yr.
	43..Fine or Sentence
Violation of the Gaming Law	5..Suspended Sentence
	2..Probation 3 mos.
	1..Probation 6 mos.
	12..Fine or Sentence
<i>4. Crimes against Administration and Government</i>	
Bribery	1..Probation 2 yrs.
Perjury	1..Probation 6 mos.
Obstructing Justice	1..Fine or Sentence
<i>5. Crimes against Property—Not Gainful</i>	
Arson	none
Malicious Destruction of Property	none
<i>6. Crimes against Children</i>	
Abandonment	2..Probation 1 yr.
	1..Probation 2 yrs.
	1..9 mos.-3 yrs.
Non Support—Third Offense	1..Probation 1½ yrs.
<i>7. Crimes against Public Health and Safety</i>	
Carrying Concealed Weapons	1..Suspended Sentence
	1..Probation 6 months
	2..Probation 9 months
	3..Probation 1 yr.
	1..Probation 1½ yrs.
	4..Fine or Sentence
	1..9 months
	1..6 mos.-5 yrs.
	1..1-5 yrs.

Leaving Scene of Accident	1..Probation 2 yrs. 1..6 mos.-1 yr.
Practicing Medicine without License	1..Probation 3 months 1..Probation 6 months 1..Probation 1 yr. 1..Probation 2 yrs. 5..Fine or Sentence
Practicing Optometry without License	none
Violating Drug Law	1..Probation 1 yr. 2..6 mos.-5 yrs. 2..1-5 yrs. 1..2-5 yrs.
Possession of Stench Bomb	none
Unlawful Possession of Gun with Intent to Use Unlawfully	none

8. *Crimes against Sex Morality*

Accosting—Second Offense	3..Fine or Sentence 1..30 days 1..90 days
Accosting—Third Offense	1..Probation 1 yr. 1..30 days 1..90 days 1..5 months 2..2 mos.-2 yrs. 2..11 mos.-3 yrs. 1..1-2 yrs.
Bawdy House Keeper	1..6 mos.-5 yrs.
Bigamy	none
Crime against Nature (Sodomy)	1..Probation 1 yr. 1..1½-15 yrs.
Gross Indecency	1..Fine or Sentence 1..2-5 yrs.
Indecent Liberties	2..1-10 yrs. 1..1½-10 yrs.
Keeping House of Ill Fame	1..Probation 5 yrs. and Fine 1..4 months 2..6 mos.-5 yrs. 1..1-5 yrs. 1..2½-5 yrs.
Pandering	1..Probation 1 yr. 3..Probation 3 yrs. 1..6 mos.-10 yrs. 1..1-10 yrs. 1..1-20 yrs.
Rape (Common Law)	1..Probation 3 yrs. 1..Life

Statutory Rape	3..Probation 1 yr.
	1..Probation 2 yrs.
	1..Probation 5 yrs.
	1..6 mos.-5 yrs.
	1..1-10 yrs.
	1..5-10 yrs.
	1..5-15 yrs.
	1..7½-15 yrs.
	1..10-20 yrs.

9. *Crimes against property—Gainful*

Attempted Breaking and Entering Business Place in Day Time	1..1½-3 yrs.
Attempted Breaking and Entering Business Place in Night Time	none
Attempted Breaking and Entering Dwelling in Day Time	none
Attempted Breaking and Entering Dwelling in Night Time	none
Attempted Larceny from the Person	1..5 months
	1..6 mos.-3 yrs.
	1..9 mos.-3 yrs.
	1..1-3 yrs.
Attempted Larceny of Property	none
Attempted Unlawfully Driving Away Auto	none
Breaking and Entering Business Place in Day Time	2..Probation 1 yr.
	1..6 mos.-5 yrs.
	1..1-5 yrs.
Breaking and Entering Business Place in Night Time	1..Probation 6 months
	1..Probation 1 yr.
	1..1-5 yrs.
Breaking and Entering Dwelling in Day Time	1..90 days
	1..Probation 2 yrs.
Breaking and Entering Dwelling in Night Time	1..90 days
	2..1-15 yrs.
	1..5-15 yrs.
Entering with Intent to Commit Larceny	none
Embezzlement	1..6 mos.-15 yrs.
Insufficient Funds	none
Larceny—Grand	none
Horse Stealing	none
Larceny by Conversion	3..Probation 1 yr.
	2..Probation 2 yrs.
	1..3-5 yrs.

Larceny by Trick	none
Larceny from the Person	1..Probation 2 yrs. 2..6 mos.-5 yrs. 3..1-5 yrs. 1..2-5 yrs.
Larceny from the Store	1..Probation 6 months
Larceny of Property	1..Suspended Sentence 2..Probation 6 months 4..Probation 1 yr. 1..Probation 3 yrs. 2..4 months 3..6 mos.-5 yrs. 4..1-5 yrs. 2..1½-5 yrs. 1..2½-5 yrs.
Obtaining Money or Property under False Pretenses	1..Suspended Sentence 2..Probation 6 months 1..2-5 yrs.
Receiving Stolen Property	none
Robbery Armed	1..10-20 yrs.
Robbery Not Armed	1..Fine or Sentence 1..Probation 6 mos. 1..1-5 yrs.
Removing Contract Property	1..Suspended Sentence 1..Probation 6 months 1..Probation 1 yr.
Removing Mortgaged Property	1..Probation 2 yrs.
Unlawfully Driving Away Auto	2..Probation 1 yr. 1..Probation 2 yrs. 1..Probation 2½ yrs. 4..1-10 yrs. 1..5-15 yrs. 1..10-20 yrs.
Uttering and Publishing	1..Probation 1 yr. 1..6 mos.-14 yrs.
Violating Act 142, P. A. 1923	2..Probation 1 yr.
Taking Auto without Permission--No Intent to Steal	1..Probation 1 yr. 1..1-2 yrs.

C. Jury Sentences—Defendants with Appointed Counsel

1. Crimes against Persons

Abduction	none
Assault with Intent to Do Great Bodily Harm	1..6 mos.-1 yr. 1..1-3 yrs. 1..2½-10 yrs.
Assault with Intent to Kill and Murder	1..3-10 yrs.

Assault with Intent to Rape	1..5-10 yrs.
Assault with Intent to Rob While Armed	1..Probation 2 yrs. 1..3-15 yrs.
Assault with Intent to Rob While Not Armed	1..Suspended Sentence 1..2-10 yrs. 2..3-10 yrs. 1..5-10 yrs.
Felonious Assault	1..Fine or Sentence 1..90 days 2..1-3 yrs.
Kidnapping	none
Manslaughter	1..5-15 yrs.
Murder	1..2-15 yrs. 1..3-15 yrs. 1..5-15 yrs. 2..7½-15 yrs. 8..Life
Mayhem	none
Negligent Homicide	1..Suspended Sentence 1..Probation 3 yrs.
Extortion	none
2. <i>Crimes against Sobriety and Good Order</i>	
Drunk—Third Offense	none
3. <i>Crimes against Public Policy</i>	
Violating Blue Sky Law	none
Violating Prohibition Law	none
Violating Gaming Law	none
4. <i>Crimes against Administration and Government</i>	
Bribery	none
Perjury	none
Obstructing Justice	none
5. <i>Crimes against Property—Not Gainful</i>	
Arson	none
Malicious Destruction of Property	none
6. <i>Crimes against Children</i>	
Abandonment	none
Non Support—Third Offense	none
7. <i>Crimes against Public Health and Safety</i>	
Carrying Concealed Weapons	1..Fine or Sentence
Leaving Scene of Accident	none
Practicing Medicine without License	1..Probation 2 yrs.
Practicing Optometry without License	none
Violating Drug Law	1..2½-5 yrs.
Possession of Stench Bomb	none
Unlawful Possession of Gun—with Intent to Use Unlawfully	none

8. *Crimes against Sex Morality*

Accosting—Second Offense

1..Probation 2 yrs.

1..30 days

1..6 months

Accosting—Third Offense

1..Fine or Sentence

1..90 days

1..6 mos.-2 yrs.

1..9 mos.-2 yrs.

2..1-2 yrs.

Bawdy House Keeper

none

Bigamy

none

Crime against Nature (Sodomy)

none

Gross Indecency

none

Indecent Liberties

1..Suspended Sentence

2..60 days

Keeping House of Ill Fame

none

Pandering

1..4 mos.-10 yrs.

1..6 mos.-10 yrs.

1..1-10 yrs.

1..2-10 yrs.

1..3-10 yrs.

Rape (Common Law)

none

Statutory Rape

1..5-15 yrs.

9. *Crimes against Property—Gainful*

Attempted Breaking and Entering Business Place in Day Time

none

Attempted Breaking and Entering Business Place in Night Time

1..1½-5 yrs.

Attempted Breaking and Entering Dwelling in Day Time

none

Attempted Breaking and Entering Dwelling in Night Time

none

Attempted Larceny from the Person

none

Attempted Larceny of Property

1..1-2½ yrs.

Attempted Unlawfully Driving Away Auto

none

Breaking and Entering Business Place in Day Time

1..90 days

1..6 mos.-5 yrs.

1..1-5 yrs.

2..2½-5 yrs.

Breaking and Entering Business Place in Night Time

1..Probation 1 yr.

1..Probation 2 yrs.

1..1-15 yrs.

1..2-15 yrs.

1..5-15 yrs.

1..7½-15 yrs.

1..7½-22½ yrs.

Breaking and Entering Dwelling in Day Time	1..1-5 yrs. 1..2½-5 yrs.
Breaking and Entering Dwelling in Night Time	1..2½-5 yrs. 1..3-15 yrs.
Entering with Intent to Commit Larceny	none
Embezzlement	1..6 mos.-5 yrs. 1..2½-5 yrs.
Insufficient Funds	none
Larceny—Grand	none
Horse Stealing	none
Larceny by Conversion	1..1-5 yrs.
Larceny by Trick	1..6 mos.-5 yrs. 1..1½-5 yrs. 1..2½-5 yrs.
Larceny from the Person	1..1-5 yrs. 1..2-5 yrs. 5..2½-5 yrs. 1..2½-7½ yrs. 1..2½-10 yrs.
Larceny from the Store	none
Larceny of Property	2..Probation 2 yrs. 1..Probation 5 yrs. 2..90 days 1..6 mos.-1 yr . 1..6 mos.-5 yrs. 2..1-5 yrs. 2..1½-5 yrs. 4..2½-5 yrs. 1..3-5 yrs.
Obtaining Money or Property Under False Pretenses	none
Receiving Stolen Property	none
Robbery Armed	1..90 days 1..1-5 yrs. 1..2½-7½ yrs. 1..2½-10 yrs. 2..5-10 yrs. 1..2½-15 yrs. 2..5-15 yrs. 3..7½-15 yrs. 1..5-20 yrs. 5..10-20 yrs. 7..15-30 yrs. 1..20-30 yrs. 5..20-40 yrs. 1..30-40 yrs. 1..Life

Robbery Not Armed	1..Probation 3 yrs. 1..2½-5 yrs. 1..1½-15 yrs. 1..3-15 yrs. 2..5-15 yrs. 4..7½-15 yrs. 1..7½-22½ yrs.
Removing Contract Property	none
Removing Mortgaged Property	none
Unlawfully Driving Away Auto	2..Probation 3 yrs. 1..Probation 3½ yrs. 1..6 mos.-2 yrs. 1..1-10 yrs. 1..2-10 yrs. 2..2½-10 yrs. 2..5-10 yrs. 1..10-20 yrs. 2..2-14 yrs. none
Uttering and Publishing	none
Violating Act 142, P. A. 1923	none
Taking Auto without Permission—No Intent to Steal	none

D. Jury Sentences—Defendants with Own Counsel

1 Crimes against Persons

Abduction	none
Assault with Intent to Do Great Bodily Harm	1..Fine or Sentence 1..Probation 1 yr. 1..Probation 2 yrs. 1..Probation 3 yrs. 1..Probation 3½ yrs. 1..30 days 1..1½-10 yrs. 1..15-30 yrs.
Assault with Intent to Kill and Murder	1..2½-10 yrs. 1..5-10 yrs. 1..1-15 yrs. 1..3-15 yrs. 1..5-15 yrs. 1..7½-22½ yrs.
Assault with Intent to Rape	none
Assault with Intent to Rob While Armed	1..Probation 1 yr. 1..Probation 2 yrs. 1..90 days 1..1½-3 yrs.
Assault with Intent to Rob While Not Armed	none
Felonious Assault	1..Probation 1 yr. 1..Probation 2 yrs. 1..90 days 1..1½-3 yrs.
Kidnapping	none
Manslaughter	1..7½-15 yrs.

Murder	1..Probation 5 yrs. and Fine or Sentence
	1..Probation 5 yrs.
	1..1½-15 yrs.
	1..2-15 yrs.
	3..3-15 yrs.
	1..5-15 yrs.
	2..7½-15 yrs.
	1..12-15 yrs.
	1..10-25 yrs.
	7..Life
Mayhem	1..Fine or Sentence
Negligent Homicide	4..Probation 2 yrs.
	1..Probation 3 yrs.
	1..9 mos.-5 yrs.
	1..5-10 yrs.
Extortion	none
2. <i>Crimes against Sobriety and Good Order</i>	
Drunk—Third Offense	1..6 mos.-2 yrs.
3. <i>Crimes against Public Policy</i>	
Violating Blue Sky Law	1..Probation 1 yr.
Violating Prohibition Law	5..Probation 1 yr.
	3..Probation 6 months
	1..Probation 2 yrs.
	1..Probation 1½ yrs. & Fine or Sentence
	11..Fine or Sentence
	1..6 mos.-1 yr.
Violating Gaming Law	1..Fine or Sentence
4. <i>Crimes against Administration and Government</i>	
Bribery	none
Perjury	none
Obstructing Justice	none
5. <i>Crimes against Property—Not Gainful</i>	
Arson	1..7½-10 yrs.
	1..5-10 yrs.
Malicious Destruction of Property	none
6. <i>Crimes against Children</i>	
Abandonment	none
Non Support—Third Offense	none
7. <i>Crimes against Public Health and Safety</i>	
Carrying Concealed Weapons	1..Probation 1 yr.
	1..1½-5 yrs.
Leaving Scene of Accident	none
Practicing Medicine without License	none
Practicing Optometry without License	none
Violating Drug Law	1..6 mos.-5 yrs.

Possession of Stench Bomb	1..Probation 3 yrs. 1..2-5 yrs.
Unlawful Possession of Gun with Intent to Use Unlawfully	none
8. Crimes against Sex Morality	
Accosting—Second Offense	1..Probation 6 months 1..Probation 2 yrs. 1..Fine or Sentence
Accosting—Third Offense	1..1-2 yrs.
Bawdy House Keeper	1..Probation 2 yrs. 1..6 mos.-1 yr.
Bigamy	1..Probation 3 yrs.
Crime against Nature (Sodomy)	1..6 mos.-5 yrs.
Gross Indecency	2..1-5 yrs. 1..3-5 yrs.
Indecent Liberties	1..6 mos.-10 yrs.
Keeping House of Ill Fame	1..6 mos.-1 yrs. 1..6 mos.-2 yrs. 1..6 mos.-5 yrs. 1..1-5 yrs.
Pandering	1..Probation 1 yr. 1..Probation 3 yrs. 1..1-10 yrs. 1..3-10 yrs.
Rape (Common Law)	1..Probation 2 yrs.
Statutory Rape	1..Probation 3 yrs. 1..Probation 1 yr. 1..Probation 2 yrs. 1..30 days 1..1½-5 yrs. 1..6 mos.-10 yrs. 4..1-10 yrs. 1..2½-10 yrs. 2..3-10 yrs. 1..5-10 yrs. 1..8-20 yrs. 1..Life
9. Crimes against Property—Gainful	
Attempted Breaking and Entering Busi- ness Place in Day Time	none
Attempted Breaking and Entering Busi- ness Place in Night Time	none
Attempted Breaking and Entering Dwel- ling in Day Time	none
Attempted Breaking and Entering Dwel- ling in Night Time	1..3-5 yrs.
Attempted Larceny from the Person	1..1½-3 yrs.

Attempted Larceny of Property	none
Attempted Unlawfully Driving Away Auto	none
Breaking and Entering Business Place in Day Time	1..45 days 3..2½-5 yrs.
Breaking and Entering Business Place in Night Time	2..Probation 2 yrs. 1..1½-15 yrs. 1..3-15 yrs.
Breaking and Entering Dwelling in Day Time	1..Suspended Sentence 1..6 mos.-1 yr. 1..3-5 yrs.
Breaking and Entering Dwelling in Night Time	1..6 mos.-5 yrs. 2..1-15 yrs.
Entering with Intent to Commit Larceny	1..90 days
Embezzlement	1..1-15 yrs.
Insufficient Funds	2..Probation 1 yr.
Larceny—Grand	none
Horse Stealing	none
Larceny by Conversion	1..9 mos.-5 yrs.
Larceny by Trick	none
Larceny from the Person	1..6 mos.-5 yrs. 1..1-5 yrs. 1..2½-7½ yrs.
Larceny from the Store	none
Larceny of Property	1..6 mos.-5 yrs. 1..1-5 yrs. 6..2½-5 yrs. 1..3-5 yrs.
Obtaining Money or Property under False Pretenses	2..Probation 2 yrs. 1..1-10 yrs.
Receiving Stolen Property	1..Probation 3 yrs.
Robbery Armed	1..Suspended Sentence 1..90 days 2..2½-5 yrs. 2..5-10 yrs. 1..6 mos.-15 yrs. 1..3-15 yrs. 5..7½-15 yrs. 2..10-15 yrs. 1..1-20 yrs. 2..5-20 yrs. 4..10-20 yrs. 1..10-25 yrs. 1..10-30 yrs.

	3..15-30 yrs.
	7..20-40 yrs.
	4..Life
Robbery Not Armed	2..Probation 6 months
	2..2½-5 yrs.
	1..1-10 yrs.
	2..5-15 yrs.
	1..7½-15 yrs.
Removing Contract Property	1..Probation, 3 yrs.
Removing Mortgaged Property	none
Unlawfully Driving Away Auto	1..Probation 6 months
	1..1-10 yrs.
	2..2-10 yrs.
	1..2½-10 yrs.
	3..3-10 yrs.
	1..5-10 yrs.
	1..5-15 yrs.
Uttering and Publishing	none
Violating Act 142, P. A. 1923	none
Taking Auto without Permission—No Intent to Steal	none

TABLE NO. 1

CONVICTIONS AND ACQUITTALS FOR CLASSES OF OFFENSE IN RELATION TO METHOD
OF TRIAL AND TYPE OF COUNSEL

Offenses Against	<i>Own Counsel</i>			<i>Appointed Counsel</i>		
	No. Con- victed	No. Acquitted	Total	No. Con- victed	No. Acquitted	Total
<i>Waiver of Jury Trials:</i>						
Property—Gainful	81	66	147	159	57	216
Property—Not Gainful ..	0	1	1	1	1	2
Children	5	0	5	8	2	10
Sex Morality	48	37	85	63	13	76
Public Health and Safety	32	26	58	12	11	23
Public Policy	82	126	208	11	8	19
Administration and Gov- ernment	3	4	7	0	1	1
Persons	32	33	65	26	3	29
Sobriety and Good Order	0	0	0	0	0	0
<i>Jury Trials:</i>						
Property—Gainful	94	80	174	106	47	153
Property—Not Gainful...	2	2	4	0	0	0
Children	0	0	0	0	1	1
Sex Morality	37	26	63	18	2	20
Public Health and Safety	5	7	12	3	2	5
Public Policy	24	27	51	0	5	5
Administration and Gov- ernment	0	3	3	0	0	0
Persons	46	51	97	32	13	45
Sobriety and Good Order	1	0	1	0	0	0

TABLE NO. 2

CONVICTIONS AND ACQUITTALS OF ORIGINAL CHARGES BY TYPE OF TRIAL AND TYPE OF ATTORNEY—RECORDER'S FELONY CHARGES

Offense	Waiver of Jury Trials				Jury Trials			
	No. Own Counsel		No. Appointed Counsel		No. Own Counsel		No. Appointed Counsel	
	Guilty	Not Guilty	Guilty	Not Guilty	Guilty	Not Guilty	Guilty	Not Guilty
<i>Crimes Against Persons</i>								
Abduction	0	1	0	0	0	0	0	0
Assault with Intent to do Great Bodily Harm.....	4	1	3	0	1	3	3	1
Assault with Intent to Kill and Murder	8	4	3	1	7	6	1	2
Assault with Intent to Rape	0	0	0	0	1	1	1	0
Assault with Intent to Rob—While Armed	0	4	4	0	5	1	2	2
Assault with Intent to Rob—While Not Armed.....	0	0	5	0	0	0	5	0
Attempted Suicide	0	0	0	0	0	0	0	0
Attempted Murder	0	0	0	0	0	0	0	0
Felonious Assault	17	20	10	2	4	10	4	3
Kidnapping	1	0	0	0	0	0	0	0
Manslaughter	0	0	0	0	1	1	1	0
Manslaughter (Involuntary)	0	0	0	0	0	0	0	0
Mayhem	0	0	0	0	1	0	0	0
Murder—1st degree	0	2	1	0	19	8	13	3
Murder—2nd degree	0	0	0	0	0	0	0	0
Negligent Homicide	1	1	0	0	7	21	2	2
Extortion (Threats to Extort)	1	0	0	0	0	0	0	0
Totals	32	33	26	3	46	51	32	13
<i>Crimes Against Sobriety and Good Order</i>								
Drunk—3rd Offense	0	0	0	0	1	0	0	0
<i>Crimes Against Public Policy</i>								
Violating Blue Sky Law... ..	1	0	0	0	1	0	0	0
Violating the Prohibition Law	61	114	11	7	22	22	0	5
Violating Gaming Law....	20	12	0	1	1	4	0	0
Distributing Obscene Literature	0	0	0	0	0	1	0	0
Totals	82	126	11	8	24	27	0	5
<i>Crimes Against Administration and Government</i>								
Bribery	1	4	0	0	0	1	0	0
Perjury	1	0	0	0	0	1	0	0
Obstructing Justice.....	1	0	0	0	0	1	0	0
Breaking or Escaping Prison	0	0	0	1	0	0	0	0
Conspiracy Against the State	0	0	0	0	0	0	0	0
Totals	3	4	0	1	0	3	0	0
<i>Crimes Against Property—Gainful</i>								
Att. Breaking and Entering Business Place, Day.....	1	0	6	0	0	0	0	2
Att. Breaking and Entering Business Place, Night....	1	0	1	0	0	2	1	3

Offense	<i>Waiver of Jury Trials</i>				<i>Jury Trials</i>			
	No. Own	No. Appointed			No. Own	No. Appointed		
	Counsel	Counsel			Counsel	Counsel		
	Not	Not	Not	Not	Not	Not	Not	Not
	Guilty	Guilty	Guilty	Guilty	Guilty	Guilty	Guilty	Guilty
Att. Breaking and Entering Dwelling, Day Time.....	0	0	0	0	0	0	0	0
Att. Breaking and Entering Dwelling, Night Time...	0	0	0	0	1	0	0	0
Attempted Unlawfully Driving Away Auto.....	0	0	1	0	0	0	0	0
Attempted Larceny of Property	0	0	2	0	1	0	1	0
Attempted Larceny from the Person	4	1	0	0	0	1	0	0
Attempted Grand Larceny.	0	0	0	0	0	0	0	0
Attempted Larceny by Trick	0	0	0	0	0	0	0	0
Attempted Robbery of Bank	0	0	0	0	0	0	0	0
Attempted Defraud. Bank.	0	0	0	0	0	0	0	0
Attempted Uttering and Publishing	0	0	0	0	0	0	0	0
Breaking and Entering Business Place, Day Time....	4	2	17	5	4	5	5	0
Breaking and Entering Business Place, Night Time..	3	2	20	7	4	2	7	4
Breaking and Entering Dwelling, Day Time.....	2	5	9	4	3	3	2	0
Breaking and Entering Dwelling, Night Time...	4	0	4	3	3	1	2	2
Burglary	0	0	0	0	0	0	0	0
Embezzlement	1	2	1	0	1	2	2	0
Entering with Intent to Commit Larceny	0	0	1	0	1	0	0	0
False Pretenses—Obtaining Money or Property under	4	4	0	1	3	5	0	0
Grand Larceny	0	0	1	0	0	1	0	0
Horse Stealing	0	0	1	0	0	0	0	0
Insufficient Funds—Issuing Check with	0	2	1	2	2	4	0	0
Larceny by Conversion....	6	8	2	2	1	1	1	0
Larceny by Trick.....	0	0	5	0	0	0	3	0
Larceny from Dwelling...	0	0	0	0	0	0	0	0
Larceny from the Person..	7	2	8	1	3	0	9	2
Larceny from Store.....	1	0	0	0	0	0	0	0
Larceny of Property.....	20	10	29	13	9	10	16	5
Receiving Stolen Property	0	1	0	0	1	1	0	0
Robbery While Armed....	1	8	11	3	38	32	33	11
Robbery While Not Armed	3	5	10	3	8	6	11	9
Removing Contract Property	3	6	0	0	1	0	0	1
Removing Mortgaged Property	0	0	1	0	0	0	0	0
Unlawfully Driving Away Auto	10	6	25	9	10	2	11	7
Uttering and Publishing...	2	1	2	4	0	1	2	0
Violating Act No. 142 P. A. 1923	2	1	0	0	0	1	0	0
Taking Auto without Permission—no intent to steal	2	0	1	0	0	0	0	1
Totals	81	66	159	57	94	80	106	47

Offense	Waiver of Jury Trials				Jury Trials			
	No. Own Counsel		No. Appointed Counsel		No. Own Counsel		No. Appointed Counsel	
	Not Guilty		Not Guilty		Not Guilty		Not Guilty	
	Guilty	Guilty	Guilty	Guilty	Guilty	Guilty	Guilty	Guilty
<i>Crimes Against Property—Not Gainful</i>								
Arson	0	0	0	1	2	1	0	0
Malicious Destruction of Property	1	1	0	0	0	1	0	0
Totals	1	1	0	1	2	2	0	0
<i>Crimes Against Children</i>								
Abandonment	4	0	6	2	0	0	0	1
Non Support—3rd Offense.	1	0	2	0	0	0	0	0
Enticing Female Child for Marriage	0	0	0	0	0	0	0	0
Non Payment of Alimony.	0	0	0	0	0	0	0	0
Totals	5	0	8	2	0	0	0	1
<i>Crimes Against Sex Morality</i>								
Accosting—2nd Offense....	5	10	16	9	3	1	3	0
Accosting—3rd Offense....	9	5	30	2	1	4	6	2
Attempted Rape	0	0	0	0	0	0	0	0
Att. Indecent Liberties with Female Minor Child....	0	0	0	0	0	0	0	0
Adultery	0	0	0	0	0	0	0	0
Bastardy	0	0	0	0	0	0	0	0
Bawdy House Keeper....	1	0	0	0	2	0	0	0
Bigamy	0	0	0	0	1	0	0	0
Bestiality	0	0	0	0	0	0	0	0
Crime Against Nature (Sodomy)	2	0	1	0	1	0	0	0
Gross Indecency	2	1	5	0	3	2	0	0
Incest	0	0	0	0	0	0	0	0
Indecent Exposure	0	0	0	0	0	0	0	0
Indecent Liberties with Female Minor Child	3	3	1	1	1	2	3	0
Keeping House of Ill-Fame	6	1	1	0	4	3	0	0
Lewd and Lascivious Co-habitation	0	0	0	0	0	0	0	0
Pandering	7	5	0	0	4	4	5	0
Rape (Common Law)....	2	0	1	1	2	1	0	0
Statutory Rape	11	12	8	0	15	9	1	1
Totals	48	37	63	13	37	26	18	3
<i>Crimes Against Public Health and Safety</i>								
Attempting to Wreck Train	0	0	0	0	0	0	0	0
Carrying Dynamite	0	0	0	0	0	0	0	0
Carrying Concealed Weapons	15	16	6	8	2	2	1	1
Having Burglary Tools in Possession	0	0	0	0	0	0	0	0
Leaving Scene of Accident.	2	0	0	0	0	1	0	0
Practicing Medicine without License	9	6	0	0	0	4	1	0
Practicing Optometry without License	0	1	0	0	0	0	0	0

Offense	Waiver of Jury Trials				Jury Trials			
	No. Own Counsel		No. Appointed Counsel		No. Own Counsel		No. Appointed Counsel	
	Not Guilty		Not Guilty		Not Guilty		Not Guilty	
	Guilty	Guilty	Guilty	Guilty	Guilty	Guilty	Guilty	Guilty
Practicing Law without License	0	0	0	0	0	0	0	0
Practicing Dentistry without License	0	0	0	0	0	0	0	0
Practicing Midwifery without License	0	0	0	0	0	0	0	0
Violating Drug Law.....	6	3	5	3	1	0	1	1
Possession of Stench Bomb	0	0	0	0	2	0	0	0
Unlawful Possession of Gun								
—Intent to use Unlawfully	0	0	1	0	0	0	0	0
Totals	32	26	12	11	5	7	3	2
Grand Totals	283	293	280	96	209	196	159	70

TABLE NO. 3

FREQUENCY DISTRIBUTION OF TIME ELAPSED FOR COMPLETION OF COMPLAINTS
BY TRIAL RECORDER'S COURT FELONY CHARGES

Time Interval in Days	Waiver of Jury Trials						Jury Trials					
	Guilty		Not Guilty		Total		Guilty		Not Guilty		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
1-5.99	1	.18	0	0	1	.11	0	0	0	0	0	0
6-10.99	32	5.68	15	3.85	47	4.83	6	1.63	8	3.00	14	2.21
11-15.99	81	14.39	46	11.83	127	13.34	37	10.05	23	8.64	60	9.46
16-20.99	128	22.73	40	10.28	168	17.96	55	14.94	29	10.90	84	13.25
21-25.99	55	9.76	17	4.37	72	7.26	54	14.67	25	9.40	79	12.45
26-30.99	31	5.50	21	5.40	52	5.36	39	10.59	15	5.69	54	8.36
31-35.99	34	6.04	23	5.91	57	5.80	32	8.70	25	9.40	57	9.00
36-40.99	26	4.62	12	3.10	38	3.99	22	5.97	17	6.39	39	6.15
41-45.99	32	5.68	19	4.88	51	5.25	16	4.37	15	5.69	31	4.84
46-50.99	19	3.38	13	3.34	32	3.36	16	4.37	16	6.12	32	5.08
51-55.99	13	2.29	26	6.68	39	4.09	7	1.90	9	3.38	16	2.65
56-60.99	14	2.49	17	4.37	31	3.26	16	4.37	17	6.39	33	5.21
61-65.99	14	2.49	14	3.60	28	2.94	9	2.44	7	2.63	16	2.65
66-70.99	7	1.24	16	4.11	23	2.43	7	1.90	11	4.13	18	2.82
71-75.99	11	1.95	7	1.80	18	1.89	8	2.17	12	4.51	20	3.15
76-80.99	5	.89	9	2.32	14	1.58	7	1.90	6	2.25	13	2.05
81-85.99	9	1.60	17	4.37	26	2.83	2	.54	3	1.12	5	.79
86-90.99	4	.71	9	2.32	13	1.47	4	1.09	1	.37	5	.79
91-95.99	8	1.42	12	3.10	20	2.10	3	.81	3	1.12	6	.94
96-100.99	7	1.24	6	1.54	13	1.47	4	1.09	5	1.88	9	1.40
101-105.99	3	.53	2	.51	5	.53	0	0	2	.75	2	.32
106-110.99	0	0	6	1.54	6	.63	2	.54	4	1.40	6	.94
111-115.99	1	.18	7	1.80	8	.84	0	0	1	.37	1	.15
116-120.99	4	.71	6	1.54	10	1.05	4	1.09	0	0	4	.63
121-125.99	0	0	4	1.03	4	.42	2	.54	0	0	2	.32
126-130.99	4	.71	5	1.28	9	.95	4	1.09	0	0	4	.63
131-135.99	0	0	0	0	0	0	1	.27	1	.37	2	.32
136-140.99	1	.18	2	.51	3	.32	1	.27	0	0	1	.15
141-145.99	3	.53	3	.77	6	.63	2	.54	3	1.12	5	.79
146-150.99	0	0	3	.77	3	.32	0	0	2	.75	2	.32
151-155.99	2	.36	0	0	2	.21	0	0	1	.37	1	.15

Time Interval in Days	<i>Waiver of Jury Trials</i>						<i>Jury Trials</i>					
	Guilty No.	Guilty %	Not Guilty No.	Not Guilty %	Total No.	Total %	Guilty No.	Guilty %	Not Guilty No.	Not Guilty %	Total No.	Total %
156-160.99	1	.18	0	0	1	.11	0	0	0	0	0	0
161-165.99	1	.18	2	.51	3	.32	0	0	0	0	0	0
166-170.99	1	.18	1	.26	2	.21	0	0	2	.75	2	.32
171-175.99	1	.18	3	.77	4	.42	1	.27	0	0	1	.15
176-180.99	1	.18	0	0	1	.11	0	0	0	0	0	0
181-185.99	0	0	2	.51	2	.21	3	.81	0	0	3	.47
186-190.99	1	.18	0	0	1	.11	1	.27	1	.37	2	.32
191-195.99	2	.36	0	0	2	.21	1	.27	0	0	1	.15
196-200.99	1	.18	0	0	1	.11	1	.27	1	.37	2	.32
201-205.99	2	.36	0	0	2	.21	0	0	0	0	0	0
206-210.99	0	0	0	0	0	0	0	0	0	0	0	0
211-215.99	0	0	0	0	0	0	0	0	0	0	0	0
216-220.99	0	0	0	0	0	0	0	0	0	0	0	0
221-225.99	0	0	0	0	0	0	0	0	0	0	0	0
226-230.99	1	.18	0	0	1	.11	0	0	0	0	0	0
231-235.99	0	0	0	0	0	0	1	.27	0	0	1	.15
236-240.99	0	0	0	0	0	0	0	0	1	.37	1	.15
241-245.99	0	0	0	0	0	0	0	0	0	0	0	0
246-250.99	0	0	0	0	0	0	0	0	0	0	0	0
251-255.99	0	0	0	0	0	0	0	0	0	0	0	0
256-260.99	0	0	1	.26	1	.11	0	0	0	0	0	0
261-265.99	0	0	0	0	0	0	0	0	0	0	0	0
266-270.99	0	0	0	0	0	0	0	0	0	0	0	0
271-275.99	0	0	0	0	0	0	0	0	0	0	0	0
276-280.99	1	.18	0	0	1	.11	0	0	0	0	0	0
281-285.99	0	0	1	.26	1	.11	0	0	0	0	0	0
286-290.99	0	0	0	0	0	0	0	0	0	0	0	0
291-295.99	1	.18	2	.51	3	.32	0	0	0	0	0	0
Totals	563	100.00	389	100.00	952	100.00	368	100.00	266	100.00	634	100.00
Median	24.59		46.54		31.78		30.10		38.34		33.28	

TABLE NO. 4.

CUMULATIVE PERCENTILES FOR ELAPSED TIME FOR COMPLETION OF COMPLAINT
BY TRIAL-RECORDER'S COURT FELONY CHARGES

Time Interval in Days	<i>Waiver of Jury Trials</i>			<i>Jury Trials</i>		
	Guilty %	Not Guilty %	Total %	Guilty %	Not Guilty %	Total %
1-5.99	.18	.....	.11	.....	.....	.....
6-10.99	5.86	3.85	4.94	1.63	3.00	2.21
11-15.99	20.25	15.68	18.28	11.68	11.64	11.67
16-20.99	42.98	25.96	36.24	26.62	22.54	24.92
21-25.99	52.74	30.33	43.50	41.29	31.94	37.37
26-30.99	58.24	35.73	48.86	51.88	37.63	45.73
31-35.99	64.28	41.64	54.66	60.58	47.03	54.73
36-40.99	68.90	44.74	58.65	66.55	53.42	60.88
41-45.99	74.58	49.62	63.90	70.92	59.11	65.72
46-50.99	77.96	52.96	67.26	75.29	65.23	70.80
51-55.99	80.25	59.64	71.35	77.19	68.61	73.45
56-60.99	82.74	64.01	74.61	81.56	75.00	78.66
61-65.99	85.23	67.71	77.55	84.00	77.63	81.31
66-70.99	86.47	71.72	79.98	85.90	81.76	84.13
71-75.99	88.42	73.62	81.87	88.07	86.27	87.28
76-80.99	89.31	75.84	83.45	89.97	88.52	89.33

Time Interval in Days	<i>Waiver of Jury Trials</i>			<i>Jury Trials</i>		
	Guilty %	Not Guilty %	Total %	Guilty %	Not Guilty %	Total %
81-85.99	90.91	80.21	86.28	90.51	89.64	90.12
86-90.99	91.62	82.53	87.75	91.60	90.01	90.91
91-95.99	93.04	85.63	89.95	92.41	91.13	91.83
96-100.99	94.28	87.17	91.32	93.50	93.01	93.25
101-105.99	94.81	87.68	91.85	....	93.76	93.57
106-110.99	....	89.42	92.48	94.04	95.16	94.51
111-115.99	94.99	91.02	93.32	....	95.53	94.66
116-120.99	95.70	92.56	94.37	95.13	....	95.29
121-125.99	....	93.59	94.79	95.67	....	95.61
126-130.99	96.41	94.87	95.74	96.76	....	96.24
131-135.99	....	....	....	97.03	95.90	96.56
136-140.99	96.59	95.38	96.06	97.30	....	96.71
141-145.99	97.12	96.15	96.69	97.84	97.02	97.50
146-150.99	....	96.92	97.01	....	97.77	97.83
151-155.99	97.48	....	97.22	....	98.14	97.97
156-160.99	97.66	....	97.33	....	....	....
161-165.99	97.84	97.43	97.65	....	....	....
166-170.99	98.02	97.69	97.86	....	98.89	98.29
171-175.99	98.20	98.46	98.28	98.11	....	98.44
176-180.99	98.38	....	98.39	....	....	....
181-185.99	....	98.97	98.60	98.92	....	98.91
186-190.99	98.56	....	98.71	99.19	99.26	99.23
191-195.99	98.92	....	98.92	99.46	....	99.38
196-200.99	99.10	....	99.03	99.73	99.65	99.70
201-205.99	99.46	....	99.24	....	....	....
206-210.99	....	....	....	....	....	....
211-215.99	....	....	....	....	....	....
216-220.99	....	....	....	....	....	....
221-225.99	....	....	....	....	....	....
226-230.99	99.64	....	99.35	....	....	....
231-235.99	....	....	....	100.00	....	99.85
236-240.99	....	....	....	....	100.00	100.00
241-245.99	....	....	....	....	....	....
246-250.99	....	....	....	....	....	....
251-255.99	....	....	....	....	....	....
256-260.99	....	99.23	99.46	....	....	....
261-265.99	....	....	....	....	....	....
266-270.99	....	....	....	....	....	....
271-275.99	....	....	....	....	....	....
276-280.99	99.82	....	99.57	....	....	....
281-285.99	....	99.49	99.68	....	....	....
286-290.99	....	....	....	....	....	....
291-295.99	100.00	100.00	100.00	....	....	....