

AMERICAN FRIENDS SERVICE COMMITTEE
Pretrial Justice Program
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PRESENTATION OF MICHAEL J. LOWY

to

PITTSBURGH GOVERNMENT STUDY COMMISSION

I am Michael J. Lowy, Assistant Professor of Anthropology at the University of Pittsburgh. I am appearing here on behalf of the American Friends Service Committee--Pittsburgh Pretrial Justice Program. Since 1969 that committee has been trying to promote innovative changes in the area of pretrial justice. Most of our efforts to date have centered on the issue of bail. During this time we have studied various aspects of City Court. It is from this perspective that I address you today.

Having glanced at the various proposed governmental reorganizational plans we were surprised to find no mention of the judiciary in them. City Court is the only judicial institution wholly within the municipal structure and we believe it is within the jurisdiction of your committee to develop plans to give Pittsburgh Citizens the best pretrial justice system in the country.

We have been dismayed to read the recent attacks on City Court, some of which seem politically motivated,

We are not here to support either side because neither has focused on the important issues of reform of the pretrial justice system.

We are not unmoved by the POTENTIAL pressure which the mayor can bring to bear on an appointee who he has the power to fire, nor can we blind ourselves to the very real presence of administrative personnel, such as clerks and tip-staff, in the process of pretrial justice. We believe the following issues are even more important to the argument to abolish City Court.

1. Virtually all people arrested by the City Police are brought to the public safety building, are fingerprinted, photographed, and arraigned there. A preliminary hearing on the charges is scheduled not less than three nor more than ten days from arrest. All of these hearings are held at City Court. City Court is located on the mezzanine floor of the Public Safety Building. It would be hard to find a less hospitable or less accessible forum. Residents from North Side, Squirrel Hill, Homewood, Oakland, or Greenfield who must travel long distances, spend money for public transportation or parking and usually lose a days pay since hearings are held from 9-11 AM and 1-3 PM. Several difficulties arise from this situation:

a. Individuals also who might appear as witnesses are discouraged from appearing because of the hours and distance;

b. A major function of conflict resolution, that is education of the public including youngsters, is denied;

2. City Court is a large square room composed of about fifty moulded plastic chairs behind a guard rail which separates the spectators from the source of judicial activity. The Magistrates desk is an imposing structure considerably elevated. In the area between the desk and the guard rail the business of City Court takes place beyond the view and hearing of spectators. Although spectators are constantly warned against loud noise and disrespectful behavior members of the tipstaff, police, court clerks, bail bondsmen, and lawyers create a cacophony of laughter, imposing rituals and obscuring noise. In short, the impression conveyed to the product, ie. the accused and the victim, is one of total confusion. After all they have little to do with the pretrial justice process anyway. The physical space and furniture arrangement is not conducive to the settlement of conflict. Nor does it allow the uninitiated to feel relaxed and comfortable. Many of the accused and victims observed by student researchers have asked the students when a hearing was completed WHAT HAPPENED?

The fact that the City Court is located in the Public Safety Building which is inhabited primarily by police cannot help but have an intimidating effect on the users of City Court. The pressure which police can exert consciously or unconsciously on magistrates behavior is considerable.

4. City Court is organized to process as many cases as possible in the shortest time. One recent study we conducted of over 400 preliminary hearings of all types showed an average hearing lasts eleven minutes. A more restricted study by a member of our Committee showed the average length of hearing for assault and battery cases in City Court was five minutes. In this short time the magistrates read the charges to the accused, accepts a plea, hears the policeman read the arrest report and may listen to the accused cross examine the police officer. With the large number of cases and the short amount of time available the magistrates do not often use Rule of Criminal Procedure 121 which encourages them to seek a settlement of cases in which violence was not involved

These issues are not likely to be remedied given the present institution. Therefore we do not call for the reform of City Court; rather its abolition. We do not mean to do away with the preliminary hearing in the process of pretrial justice. There are 21 District Magistrates in the city who are qualified and already paid to perform this service.

When we talk about moving magistrates out of the Public Safety Building and abolishing City Court in favor of District Justices we are led to reconsider the concept of centralizing our pretrial justice system. When many of this nation's largest urban areas are moving to decentralize their criminal justice system we have been moving in the other direction. The old J.P. system was abolished primarily because of the opportunities for corruption. Institution of the present system of paid District Justices, elected by the communities they serve reduces this danger. At the same time these forums eliminate many of the abuses and difficulties present in City Court. Hours of hearing would be suited to the work schedules of the parties. The cost of transportation would be negligible. Wider participation by witnesses and the community in general would become a reality. The intimacy of the physical structure would promote settlement rather than harden the positions of the accused and the victim.

Administrative efficiency could be sacrificed for the greater satisfaction of the users. Cases which could not be settled in this manner could still be sent to the Grand Jury and the Court of Common Pleas.

As an example of the differences between District Magistrates and City Court in 1971 a member of our committee compared assault and battery cases handled in City Court and three District Justices offices. The D.J.'s spent considerably more time on their cases than City Court. The average hearing in an affluent community was 23 minutes. More important three quarters of assault and battery cases appearing in City Court were held for Grand Jury action. During the same period only 8% of those appearing before the D.J.s were held. The rest were settled in the office and the parties, when interviewed, appeared satisfied with the results.

The movement towards decentralization of our criminal justice system is growing. Members of the AFSC have been studying new programs in American cities which are carrying the concept of decentralization even further. For example, the Night Prosecutor Program in Columbus, Ohio places law students in police stations. Aggrieved parties are encouraged to lodge their complaints with the "night prosecutor." A hearing is held between the parties with the law student acting as a mediator searching for a settlement and taking into account the underlying issues. Underlying this program is the premise that "criminal" cases involving offenses against persons and property are usually associated with a breakdown in social relationships and are best solved not by breaking the relationship but by repairing them. Situations which today clog up our courts in Pittsburgh are resolved in Columbus Ohio by this process. Unsatisfied parties are free to pursue the case through the existing criminal justice process. In Columbus this happened in only 20 out of 1300 cases.

We are excited about this concept. However, we believe people other than law students should act in the role of mediator. Any citizen commanding the respect of both parties should be called upon to help repair the social relationship. In addition the police station is probably not the best place for such hearings to proceed. In Pittsburgh, dissatisfied parties would take their problems from the mediator to District Justices who would still try to resolve the conflict before resorting to the alternative of sending the case to the Grand Jury.

We feel the City of Pittsburgh should be in the forefront of this movement to decentralize the judicial process. We advocate the reallocation of the funds currently supporting City Court to establishing a night prosecutor program. coupled with returning the minor judiciary function to the Justices of the Peace.

March 8, 1973