



FOURTH JUDICIAL DISTRICT

*Felony Block Pilot  
Final Results*

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## *Executive Summary*

In the fall of 2005 the Fourth Judicial District bench voted to try a new procedure to process about one-third of the most serious felony cases. This project assigned a judge to a case at the first appearance who would exclusively handle the case until it was resolved. Blocking judges to handle a set of felony cases was recommended as the preferred case processing method by the National Center for State Courts and has been a topic of discussion among the Fourth District bench many different times over the past 15 years. This pilot began in January of 2006 and includes all pilot cases (felony cases that were not homicides, not first degree criminal sexual conduct offenses, not fugitive cases and not drug or property felonies) with a first appearance in 2006 and which were resolved by July 11, 2007 (at the implementation of a new information system – MNCIS). These cases are usually felonies against persons such as robbery, assault, strangulation, weapon offenses and criminal sexual conduct other than first degree.

**At the end of the analysis period for the Felony Blocking Pilot the results are mixed.** Goal one was met with some qualifications, goal two was not met for two of the three timing goals with some mitigating factors that contributed to this result, goal three was met with qualifications, and goals four and five were met.

**Goal 1 of holding meaningful Omnibus Hearings was met although with some qualifications.** Omnibus Hearings are averaging 24 days from when the cases had their first appearance, meeting the 28 day criteria. In addition, most judges and attorneys felt that this pilot allowed the attorneys to be better prepared or at least as prepared as before the pilot. Although this is the case, the majority of both judges and attorneys felt that this preparation has slipped over the course of the pilot's life.

**Goal 2 of meeting our goals for disposed cases was not met for two of the three timing goals. The final timing goal was met. These goals had been met and exceeded at the six month review and the nine month review but had slipped to pre-pilot timing by the end of the review.** Due to an inability to determine the appropriate number of judges necessary to handle this caseload initially and a 7% increase in felony cases, there was a need to modify the pilot by adding two more 'block' judges. This modification meant that over 40% of the cases in our study had more than one judge handling appearances, with seven percent having three judges during the course of their case. There were marked differences in the time it took to resolve a case when more than one judge was assigned. Since we did not have a clear method of determining how many judges were necessary prior to the start of the pilot, this slippage may be a function of not having the appropriate number of judges needed to handle this case load initially. Certainly, the attorneys involved in the pilot were consistent in their beliefs that we should assign even more judges than we currently have assigned.

**Goal 3 of reducing the percent of cases set for trial and when a trial was set to have a higher percentage that concluded with a trial verdict has been met, although with qualifications.** The percent of cases that had a trial set was quite a bit lower (30%) than prior to the pilot (55%) but has increasingly included a higher percent of cases at each of our snapshots: at our six month review it was only 13%, at the nine month review it was 19%. The percent of cases set for trial that ended in trial verdict has decreased over time: at six months it was 24% and at nine months it was 16%. Now, at the end of the analysis it is 13% which is still higher than the pre-pilot percentage of 9%.

**Goal 4 of whether or not the attorneys value the pilot was met.** We sent surveys out to 139 attorneys who had handled 6 or more cases of the blocked cases that were included in our sample. The response rate for attorneys was 44%. There were county attorneys (prosecutors) and both private and public defenders included in the responders. The vast majority of the attorneys believed that the blocking pilot was the way that these cases should be handled (59%) and that this method produced higher accountability than a master calendar format (52%). They felt better prepared (or similarly prepared) under the block system although they felt that this preparation had slipped a bit over the course of the pilot. The largest percentage answered that discovery had not changed in amount or speed but of those who felt it had changed under the blocking pilot, the majority of these attorneys believed it had improved on both accounts. Only 19% of the attorneys felt that we had the right number of judges assigned with most of them specifying that the bench needed to add at least two judges if not more.

**Goal 5 of improving trial preparation and maintaining job satisfaction for the judges was met.** Only one judge of the 12 felt that this was *not* the best method to handle these types of cases, with 92% believing this was the best method. The majority of the judges felt it was an interesting rotation but still needed some tweaking to handle the case load and nuances of the case load. The judges also felt that trial preparation was better under the blocking format although most of the judges felt this has slipped some over the course of the pilot. Most felt the quality of trials had not changed with the pilot. None of the judges answered that discovery was completed less often under the pilot but instead two-thirds thought it was *completed more often* under the block system and one-third thought it made no difference. In addition, three-quarters of the judges felt discovery was done *more quickly* under the block, one-quarter thought it made no difference and none of the judges thought it took longer under the block system. Over 80% of the judges felt this method of case processing increased attorney accountability with the other 20% believing it made no difference in accountability and no judges thinking it decreased accountability.

**Additional information:**

Most judicial staff who responded (83%) said that the felony block assignment was more work than a normal criminal assignment but the majority (55%) also felt that it was a more interesting rotation than the normal criminal rotation. The majority of the judicial staff felt that the training necessary to handle a blocked caseload was not adequate (55%) and should be increased when clerks first are assigned. They also thought that the idea of the clerks having monthly meetings was a good idea so that they could share ideas of case processing and protocols.

**In summary, attorneys mostly mentioned that the felony block pilot represented an effort to improve criminal case processing for the large number of serious felony cases and they appreciated the attempt. Many attorneys hope that the pilot continues although they were not shy about recommending improvements – with the main one being more judges should be added to the pilot. The judges were nearly unanimous (11 out of the 12) in their desire to have the pilot continue, although they also had some suggestions to fine tune the pilot.**

## ***Introduction***

In May of 2005, Chief Judge Lucy Wieland appointed a Criminal Assignment Committee<sup>1</sup> to review options for a new felony assignment system that would 'block' cases to a specific judge for the duration of the case. The cases that were being discussed for this pilot did not include felonies that were already blocked (homicides and first degree criminal sexual conduct), cases that belong to a specific specialty court (cases in Drug Court and Property Court), or fugitive cases. The pilot cases were originally known as Public Safety Facility (PSF) felonies – since these cases all have their first appearance at the Public Safety Facility. Later these cases were referred to as Felony Block cases. This pilot began January 1, 2006 and will continue through December 31, 2007. This final report is based on an analysis of cases that were handled in the first year of the pilot (2006); these cases were followed through until July 11, 2007 when the court migrated to a new information system. The Fourth Judicial bench will vote on the continuation of this pilot in the fall of 2007 leaving the administration time to adjust to any needed staffing changes.

## ***The Problem***

This became a topic of interest based on a number of measures of felony processing that indicated that Hennepin County had fallen short. The first measure that indicated a problem showed that we had not met the state guidelines, particularly at the 4 month and 6 month marks. These guidelines require that 90% of the felony cases be disposed of within 4 months, 97% within 6 months and 99% within 1 year. In the first six months of 2005, the respective numbers were 61% at 4 months, 81% at 6 months and 98% at 12 months.

The second measure indicated that our dispositions were being drawn out toward the end of the process and that our trial calendar had become a 'plea' calendar. In 2004, 55% of these felonies were set for trial even though only 9% of them ended in a trial verdict. This indicates that in 91% of the cases, attorneys needed to prepare for trial and judges had to be available for trial for felonies that were not tried. The committee decided to find a way to explore dispositions before trial with the judge who would try the case.

Finally, Omnibus Hearings are required within 28 days of first appearance in order to determine whether the case could be resolved without a trial. Prior to the Omnibus Hearing, discovery should be completed by attorneys, an offer should be made to the defendant and the defendant should be notified of additional offenses added by the prosecutor. We have generally not been complying with this rule both in terms of the timing of scheduling appearances and in terms of attorney readiness.

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<sup>1</sup> Committee members included: Judges Bruce Peterson (Chair), Phil Bush, Frank Connolly, Marilyn Kaman, Rob Lynn, Dan Mabley, George McGunnigle, Beryl Nord, Steve Aldrich, Alan Oleisky, Kathryn Quaintance, Steve Swanson and Chief Judge Lucy Wieland. Administrative staff included Pam Kilpela, Deb Kempf and Marcy Podkopaicz.

## *Pilot Goals*

- 1) Omnibus Hearings held within 28 days of first appearance, routine discovery is completed and necessary motions filed before the Omnibus Hearing. In addition, the hearing would arrange further hearings to address evidentiary issues, special discovery problems, and other motions.
- 2) Disposed timing statistics to improve to at least 80% at 4 months, 90% at 6 months and 99% at 12 months (at decision to start pilot these were 61%, 81% and 98%).
- 3) Percent of cases disposed earlier than scheduled trial date to improve significantly and fewer cases set for trial. At the decision to start the pilot, 55% of all of these felony cases were set for trial and 91% were disposed with no trial verdict.<sup>2</sup>
- 4) Survey of attorneys on value of project.
- 5) Survey of pilot judges on whether trial preparation of attorneys has improved and to assess the judges' job satisfaction.

## *Research Design and Data Elements*

Case processing data was extracted from the court information system active during the bulk of this project. This system is called Subject in Process (SIP). These data allowed us to examine hearings, activities, dispositions and timing of case processing which addresses the majority of the first three goals of this project. As the introduction mentioned we are analyzing cases that began in 2006 and may have still been handled in 2007. Specifically, cases that had a first appearance in 2006 (and had not had one previously) were included in our sample.

In addition, we developed a survey for attorneys and judges who have been part of the Felony Block Pilot. Twelve judges and 132 of the 195 attorneys who have been involved in the cases that are part of our study were sent a survey. We limited the attorneys to those who had handled 6 cases or more of our sample population. Judges and attorneys were asked to give their opinions about this blocking procedure pilot and whether it was a better method than rotating these cases through a master calendar as was done in the past. Forty-four percent of the attorneys responded to the survey and 100% of the judges responded. Both response rates are within acceptable levels. Sixty percent of the attorneys responding were public defenders, thirty-one percent were prosecutors and the remaining nine percent were from the private defense bar.

Finally, a survey was designed for the clerks of the judges handling these pilot cases to glean any other information about the processing of these cases and how it has

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<sup>2</sup> This was referred to in the planning document as a ratio of 1:1 - of the 1,194 cases that were set for a trial appearance 1,097 were disposed with no trial verdict – or 91%. This report will only refer to the percentage difference.

changed their jobs. This survey was sent to 16 different clerks and 9 responded for a response rate of 56%.

### ***The Blocking Process***

Estimates of the number of cases to be handled in this pilot were based on end of the year 2004 numbers. The 2004 numbers indicated that there were 2,161 cases that fit the criteria to be in the pilot which would mean each of the six judges would handle about 360 of these felony cases each year. Felony caseloads had not changed more than one or two percent for any of the previous 5 years. As it turned out, there was an increase in the number of felony cases as a whole, and the particular type of cases that were included in the Felony Block Pilot as well (about 7% higher than the 2004 numbers used for an estimate).

Six judges were originally designated as necessary for the blocking pilot. Estimating the number of needed judges was not an easy task because our current method for determining the number of judges necessary is the Judicial Weighted Caseload (WCL) which combines all felony cases other than homicides and first degree criminal sexual conduct in one category called 'Other Felony'. That means that motor vehicle thefts, as an example, are given the same weight (i.e., the average number of minutes per case it takes a judge to handle this type of case) as aggravated assault cases. We had no other method to estimate the amount of judge time necessary to handle about one-third of all felony cases. By late fall of 2006, it became clear that more judge time was necessary, and the bench agreed to add two new judges to the pilot at the beginning of 2007. Appendix A explains the process that was used to reallocate active cases from six judges to eight judges and to start 2007 with parity of caseloads.

Cases originate and are triaged out of the PSF with each pilot judge being assigned cases that have a first appearance during a particular week. Week one would be assigned to the first judge and that judge would have Omnibus Hearings for those cases three weeks later. The next time that the first judge would gain new cases would be after each of the other judges in the rotation had picked up a week's worth of cases in the pilot.

By the end of the first year, the six judges had dealt with 2,313 cases. Of these, nearly 91% had been disposed by July of 2007, 3% had been set for sentencing, 4% were set for trial and 2% were still pending (see Table 1). Table 2 shows the disposed cases by the judge(s) that were responsible for handling them. The final two caseloads (Judges Lynn/Mabley, and Judges Small/Pihlaja) include cases that originated with one of the other judges and were reallocated when we moved from six judges to eight judges. This is why these two judges have less total cases disposed than the remaining judges since they were assigned from the pending caseloads at the end of 2006. Judges Lynn and Small were interim judges until the permanent judges of Judge Mabley and Judge Pihlaja were free to take over these blocks of cases. These cases then would have had a total of 3 judges assigned throughout the 'life' of the case.

Table 1 Number of Cases and Percent by Process Point (First Appearance in 2006)					
	Process Point				Total
	Disposed	Set for Sentencing	Set for Trial	Pending	
Number of Cases	2,096	64	99	54	2,313
Row %	90.6%	2.8%	4.3%	2.3%	100.0%

Table 2 Number of Cases Disposed that were included in the Pilot First Appearance in 2006 and Disposed as of July 11, 2007 (MNCIS Implementation)		
Judge	Frequency	Percent
Judge McKinsey	331	15.8
Judge Sommerville	311	14.8
Judge Quaintance	311	14.8
Judges Swanson/Oleisky	412	19.7
Judges Daly/Wernick	309	14.7
Judge Sagstuen	272	13.0
Judges Lynn/Mabley	72	3.4
Judges Small/Pihlaja	78	3.7
Total	2,096	100.0

## *Results*

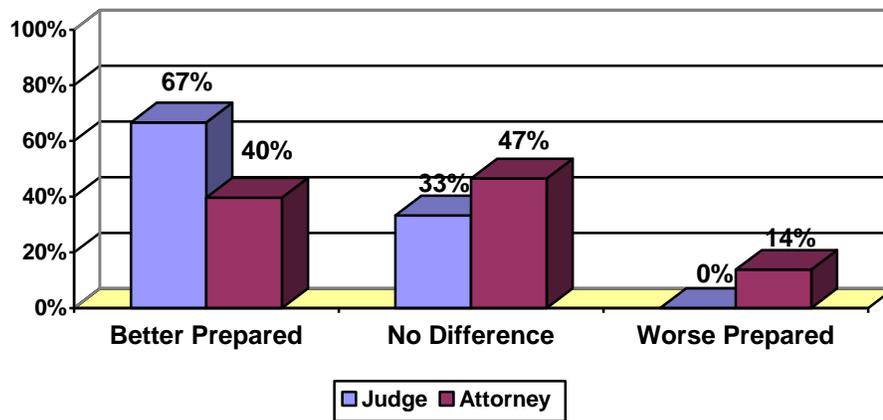
**Goal 1: Omnibus Hearings held within 28 days of first appearance, routine discovery is completed and necessary motions filed before the Omnibus Hearing.**

**Result: The average number of days from first appearance to the Omnibus Hearing was 24 days. This result is not surprising given that every judge who was assigned cases had Omnibus Hearings scheduled 3 weeks later for these new cases. In addition, most judges and attorneys felt that this pilot allowed the attorneys to be better prepared or at least as prepared as before the pilot.**

Table 3 Length of time from First Appearance to Omnibus Hearing	
Pilot Cases	Average time from First Appearance to Omnibus Hearing (in Days)

Part of the goal of conducting Omnibus Hearings is that the pretrial work of completing discovery and producing evidentiary issues that need resolving are completed at the front end of a case so that the case may move along to disposition more quickly. We asked the attorneys and judges if they believed that the attorneys were better prepared (discovery complete, motions completed, pleas taken earlier and fewer trial cases) or worse prepared under the new blocking system? There were 5 responses available: much better prepared, better prepared, about the same, worse prepared, and much worse prepared. To simplify the results we collapsed the positive responses (much better and better prepared) as well as the negative responses (much worse and worse prepared) in the graph below.

**Figure 1**  
**Do the Judges and Attorneys involved in the Pilot believe that the Attorneys are better prepared or worse prepared under the Pilot?**



(Better Prepared=Much better or better prepared, Worse Prepared=worse or much worse prepared)

The judges in the pilot responded positively (67%) or were neutral (33%) on this question with none of them agreeing that the attorneys were less prepared. The attorneys mostly felt that this pilot had not changed their preparation (47%) but a large percentage (40%) felt that under the pilot they were better prepared. Only 14% of the attorneys felt they were less prepared than before the pilot. Some representative comments that judges and attorneys offered about this question are listed below and the full extent of comments are listed in Appendices B and C:

**Examples of positive comments:**

*Attorneys:*

- 1) The block system has made the pre-trials more meaningful. By completing discovery earlier, both sides know the strength or weakness of the State’s case.
- 2) Under the old system, it was easier to get a case continued because there weren’t any judges available. Now we know that the judge is available every Monday. It is also important to have a good reputation with a judge that we continually appear in front of.

*Judges:*

- 1) It really depends on the attorney and the judge. Theoretically it is more embarrassing to show up unprepared to the same judge repeatedly. But some of the old timers are just checked out. With the newer attorneys, I think it starts them off with better habits.
- 2) I had many bad experiences on the trial calendars with unprepared lawyers. This is especially true for public defenders. Witnesses had not been put under subpoena. Legal issues were being raised at the last minute without any supporting legal authority. I remember very shoddy 'lawyering'. My experience with the block is better, especially with regard to having legal issues sorted out well before trial. I recognize that some lack of preparation will occur under the block system because lawyers are being forced to double book trials on Mondays and Tuesdays. Of course, some lawyers will never be prepared, regardless of the system.

**Example of negative comments:**

*Attorneys:*

- 1) County attorneys are not getting both discovery and offers to me well before the omnibus hearings. If that happened it would better facilitate the omnibus hearing. Otherwise the blocked 30 minute increments will never be enough time.
- 2) There is a slightly greater tendency not have the initial discovery by the omnibus hearing. Other than that no real differences.

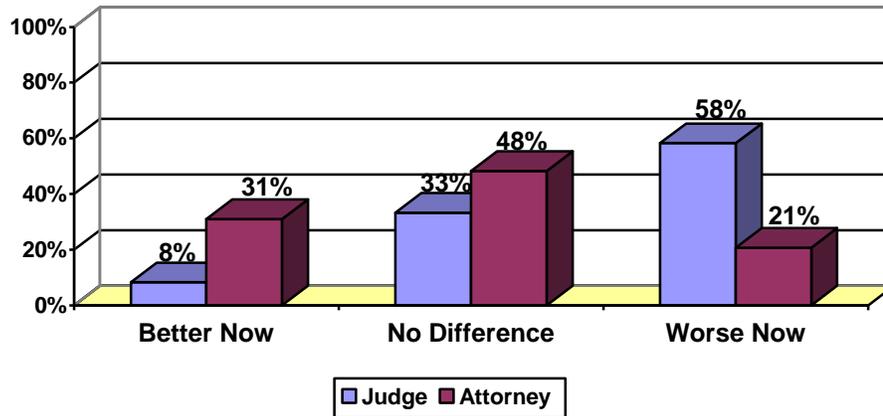
*Judges:*

- 1) Sadly, most practitioners continue to delay preparation until the last minute.
- 2) Things have decidedly slipped from the beginning of the block project. We're back to where we started in terms of preparation.

We also asked both attorneys and judges whether they thought that this preparation had indeed changed over the course of the pilot. The responses available were: much better now than when the pilot started, better than when it started, no difference, worse than when it started, and much worse than when it started.

**Figure 2**

**Do you think this preparation changed over the 1 ½ years of the pilot?**



(Better now=much better or better than when pilot started, Worse now=worse or much worse than when started)

The vast majority of the judges (58%) believed that this preparation has lessened since the beginning of the pilot with only 1/3 commenting there has been no change and 8% answering that the preparation is better than at the start of the pilot. Attorneys were more split in their opinions: 31% felt better prepared now than at the beginning of the pilot, 48% reported no difference and 21% believed that their preparation was worse towards the end of the pilot.

**Examples of positive comments:**

*Attorneys:*

- 1) Discovery is provided prior to omnibus hearing. Offers can be made ahead of the omnibus hearing allowing for more meaningful discussions on the day of the pretrial hearing.
- 2) We have gotten used to this system and the judges expect a certain amount of preparation. Judges are more likely to hold the attorneys responsible for case preparation (some judges more than others). We develop better relationships with the judges and want to come prepared or we look foolish.

*Judges:*

- 1) As a judge I enjoy being in charge of my own case load, cleaning up my own messes and not inheriting anyone else's. It is important to have consistent work ethic and some consistency of expectations among the judges doing the block. For example, if one judge is granting a lot of continuances and the others are not, it makes it harder.

**Examples of negative comments:**

*Attorneys:*

- 1) I used to be very certain to provide offers in advance of the omnibus hearing, but then it became apparent that defense attorneys were not relaying the offers before the appearances, so now I am less worried about whether or not I make an offer beforehand.
- 2) There are too many cases for one judge to handle. If we're keeping the blocking system we need at least two more judges in the rotation.

Judges:

- 1) The prosecutors need to make better charging decision such that they have it fully investigated before issuing a complaint.
- 2) I think one of the things that may be helpful is to have a judge assigned as the back up trial judge for a few of the judges on the block. When a block judge has more than one case ready for trial, one case can be referred to the back up judge.

Additionally, the judges felt mostly positively about discovery being completed more often and more quickly under the blocking pilot compared to before. Attorneys more often reported no change in these two elements (discovery being completed more often and more quickly), but about one-third reported a more positive view reflective of the judges' view (Appendix B has the full results).

**Goal 2: Disposed timing statistics to improve to at least 80% at 4 months, 90% at 6 months and 99% at 12 months (at decision to start pilot the percentages were at 61%, 81% and 98%).**

**Result 2: By the end of the pilot analysis, only the 12 month mark was still being met. Our 4 month and 6 month percentages had fallen to where they were prior to the pilot starting.**

**Table 4**  
**Age in Months from First Appearance to Disposition**  
**2006 Cases DISPOSED as of July 11, 2007 (MNCIS Implementation)**

Goals and Results	Age in Months from First Appearance*		
	4 Months or less (Cumulative %)	At 6 Months (Cumulative %)	At 12 Months (Cumulative %)
<b>Pilot Goals</b>	80%	90%	99%
<b>6 month Pilot Results</b>	<b>84%</b>	<b>97%</b>	<b>99%</b>
<b>9 month Pilot Results</b>	<b>80%</b>	<b>95%</b>	<b>99%</b>
<b>Final Results</b>	<b>61%</b>	<b>81%</b>	<b>99%</b>
<b>Prior to Pilot</b>	61%	81%	98%
<b>State Guidelines</b>	90%	97%	99%

\* Warrant time and mental incompetence time has not been removed from any of these categories but is assumed in the State Guidelines.

Table 4 shows the percent of cases that were resolved at the 4 month, 6 month and 12 month time period. All timing statistics were reached, and the 4 month and 6 month percentage exceeded our goals when looking at these cases after 6 months into the pilot and 9 months into the pilot. However, the final result of the pilot shows that the percentage of cases reaching disposition within the pilot goals was only reached at the 12

month mark. In addition, there is very little change in age of completed cases for the pilot cases compared to before we began the pilot.

This result seems to match the reality of the pilot toward the end of the first year when the six judges requested help handling the cases assigned to the pilot. This set of cases had entailed more work than the committee was able to plan for and in addition, the number of cases ended up being 8% higher than any of the previous 5 years.

By the end of the pilot period a total of 12 different judges had been involved in the pilot. Four of those judges both started and stayed with the pilot for the entire analysis period. This means that the cases disposed from these four judges saw only one judge throughout the history of the case. Two other judges picked up cases within the first year from two of the original judges and stayed with the pilot through the end of the analysis time period. For these cases, two judges handled their cases. Finally, a set of cases started with one of the original six judges, was transferred to one of the two additional judges at the first of 2007 and ended up with a third judge by the end of the analysis, meaning three judges handled the hearings necessary for this case.

Cases with the least number of judges handling them did better than those cases where there were multiple judges. The biggest differences occurred when cases had a total of three judges – these cases were quite a bit behind compared to those with a single judge or only two judges.

**Table 5**  
**Cumulative Percentage of Cases Resolved by the**  
**Number of Judges handling the Case**

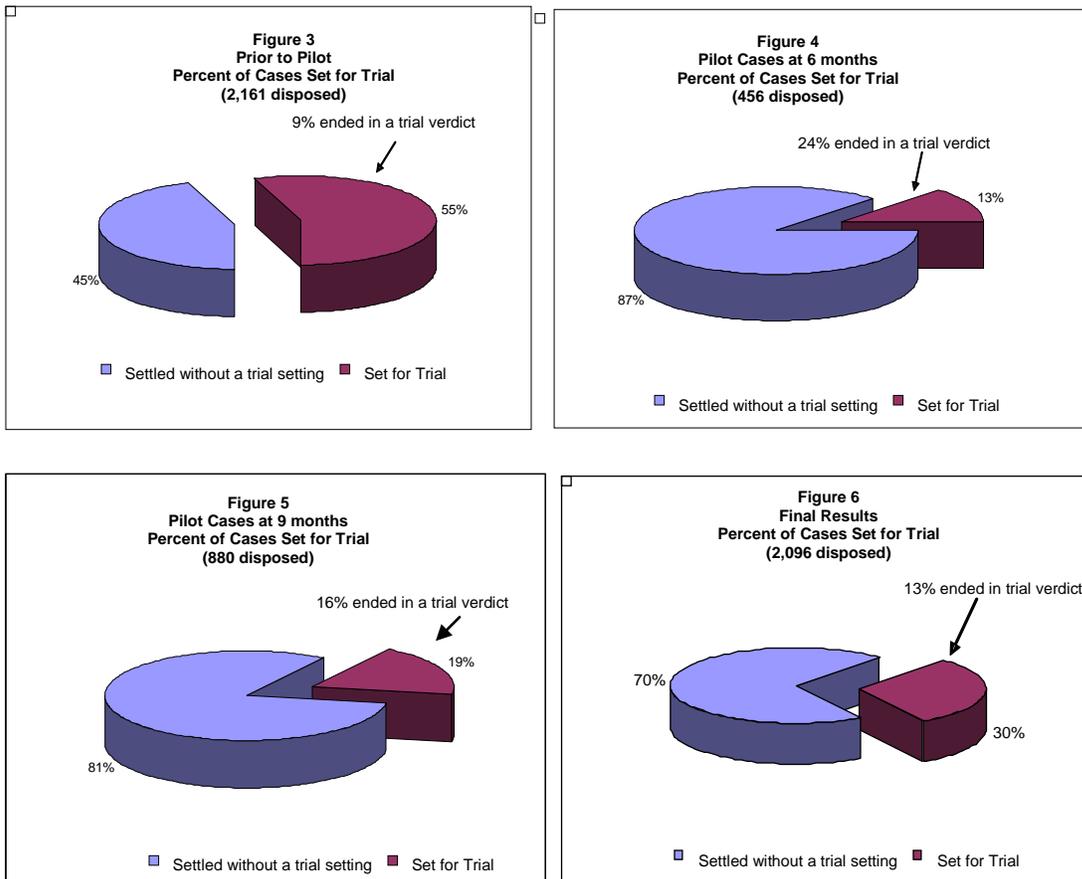
Number of Judges handling a case and Best/Worst results		Age in Months from First Appearance*		
		4 Months or less (Cumulative %)	At 6 Months (Cumulative %)	At 12 Months (Cumulative %)
<b>Pilot Goals</b>		<b>80%</b>	<b>90%</b>	<b>99%</b>
<b>Single Judge (58% of cases)</b>	<b>Best Results</b>	<b>70%</b>	<b>88%</b>	<b>99%</b>
	<b>Worst Results</b>	<b>53%</b>	<b>77%</b>	<b>98%</b>
<b>Two Judges (34% of cases)</b>	<b>Best Results</b>	<b>67%</b>	<b>85%</b>	<b>100%</b>
	<b>Worst Results</b>	<b>61%</b>	<b>80%</b>	<b>99%</b>
<b>Three Judges (7% of cases)</b>	<b>Best Results</b>	<b>27%</b>	<b>61%</b>	<b>97%</b>
	<b>Worst Results</b>	<b>24%</b>	<b>50%</b>	<b>96%</b>

\* Warrant time and mental incompetence time has not been removed from any of these categories but is assumed in the State Guidelines.

**Goal 3: Percent of cases disposed earlier than scheduled trial date to improve significantly, and fewer cases set for trial. At the decision to start the pilot, 55% of all of these felony cases were set for trial and 91% were disposed with no trial verdict.<sup>3</sup>**

**Result for Goal 3: At the final analysis, 30% of the Pilot cases were set for trial compared to 55% prior to the pilot. Of the cases set for trial under the pilot, 13% resulted in a trial verdict compared to 9% prior to the pilot. These final results are slightly less positive than the six month results or the nine months but still a bit better than prior to the pilot.**

**Visual Depiction of Trial Settings and Trial Verdicts at four different times**



Cases are being set for trial much less often since the pilot has been in place and of those that are set, a larger percentage result in a full trial. Although the number of cases set for trial has started to get larger, the percentage of cases that result in a trial

<sup>3</sup> This was referred to as a ratio of 1:1 in the original planning document; that is, of the 1,194 cases that were set for a trial appearance 1,097 were disposed with no trial verdict – or 91%.

verdict has decreased from 24% at six months, to 19% at nine months and finally to 13% at the end of the pilot.

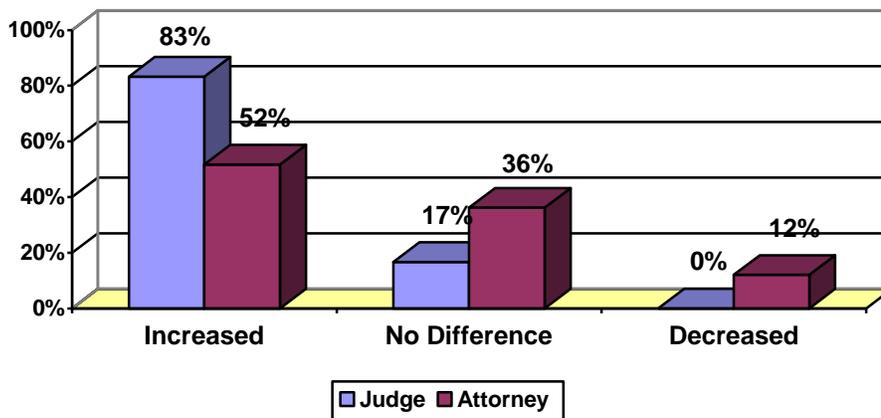
**Goal 4: Do the attorneys involved in this process find value in this Pilot?**

**Goal 5: Do the judges think that trial preparation has improved under the pilot and would they describe this felony block rotation as satisfying?**

**Result of Goal 4 and 5: Both judges and attorneys involved in the pilot are very positive about it – most feel it increased accountability for both judges and attorneys, most judges and a large percentage of attorneys felt that it improved trial preparation, most feel it did not change the quality of the trials, and the majority of both sets of respondents agreed that it is best method of handling these types of serious felony cases.**

As mentioned in the data section above, judges and attorneys involved in the processing of these cases were queried about their attitudes toward ‘blocking’ these types of cases to a particular judge early in the process and having that judge keep the case to resolution. One of the questions we asked both attorneys and judges dealt with increased or decreased accountability. Eighty-three percent of the judges felt it increased accountability with none of them believing it decreased accountability. Although less positive than the judges, 62% of the attorneys felt blocking these cases increased accountability, a little over 1/3 (36%) of the attorneys felt it did not affect accountability, and 12% felt it decreased accountability.

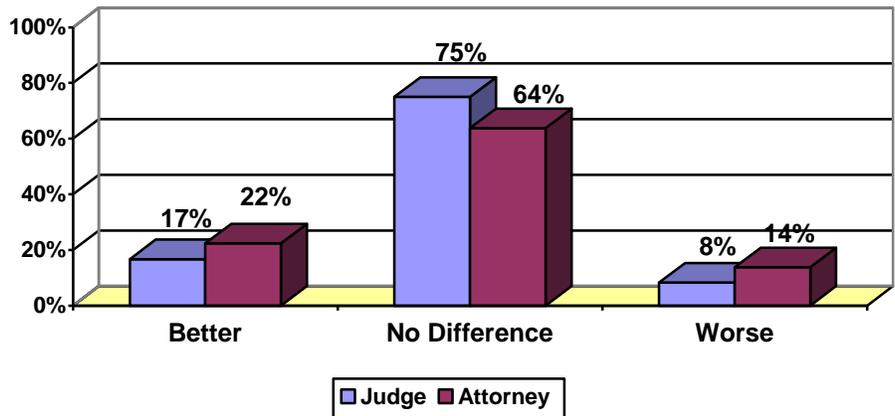
**Figure 7**  
**Do you think the Felony Blocking Pilot has increased or decreased accountability?**



(Increased=strongly increased or increased accountability, Decreased=decreased or strongly decreased accountability)

Although participants in the pilot felt it mostly increased accountability, they did not believe that the quality of the resulting trials had changed significantly. Three-quarters of the judges and nearly two-thirds of the attorneys responded that there were no differences in the quality of the trials during the pilot compared to prior to the pilot.

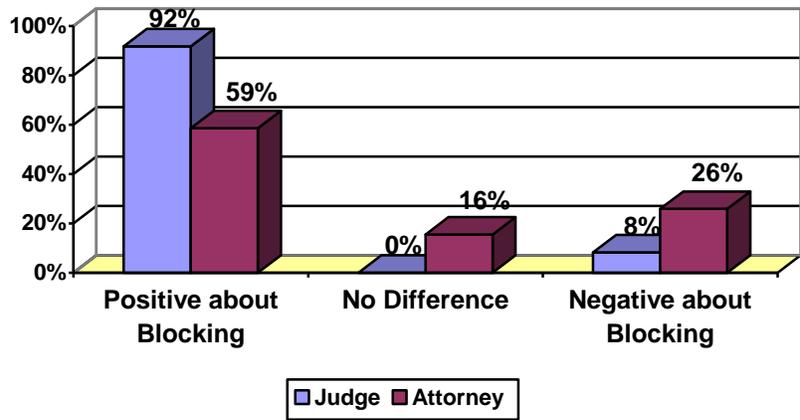
**Figure 8**  
**Has the quality of the trials been better under this pilot than before the pilot?**



(Better=much better or better, Worse=much worse or worse)

Over 90% of the judges involved in the pilot and nearly 60% of the attorneys who responded to the survey thought that ‘blocking’ cases to judges was the best method of handling serious felony cases. One judge (8%) did not agree that this was the best method while about one-quarter of the attorneys felt this wasn’t the best method.

**Figure 9**  
**What do you think about assigning these types of cases to a single judge to keep throughout the course of the case?**



(Positive=best method or good method, Negative= not good or worse method)

**Examples of Positive Comments:**

*Attorneys:*

- 1) Any other method introduces the element of judge shopping which slows down the process significantly. Having a known quantity from the beginning makes everyone responsible for their portion of the process throughout.

- 2) There is consistency throughout the process and you do not have to basically start over every time you end up with a different judge.

*Judges:*

- 1) It allows for the possibility of earlier plea bargaining and resolution, depending on the skill of the judge, than under a master calendar system when the parties might wait for a 'better' judge on the day of trial. It really comes down to the interest and skill of the judge in brokering deals.
- 2) These are serious cases that should have a consistent judge involved. If done right it should result in more efficient resolutions. Having a discreet group of judges for felonies also allows the court to set procedures for those cases that can be consistently enforced. Just having the (*felony block*) judges meet regularly to discuss the felony case management is beneficial. It improves each judge's performance and allows judges to set and enforce rules and policies more easily.

**Examples of Negative Comments:**

*Attorneys:*

- 1) Cases still don't resolve until the day of trial. Discovery is not provided before the omnibus hearing. It is nearly impossible for an out of custody client to actually have a trial, 3 or 4 continuances is normal. Never get the benefit of varying players in the negotiation process.
- 2) The volume of the cases is so high that clients are experiencing trial delays. Trial delays mean more time in custody and if out of custody, problems with keeping witnesses.

*Judges:*

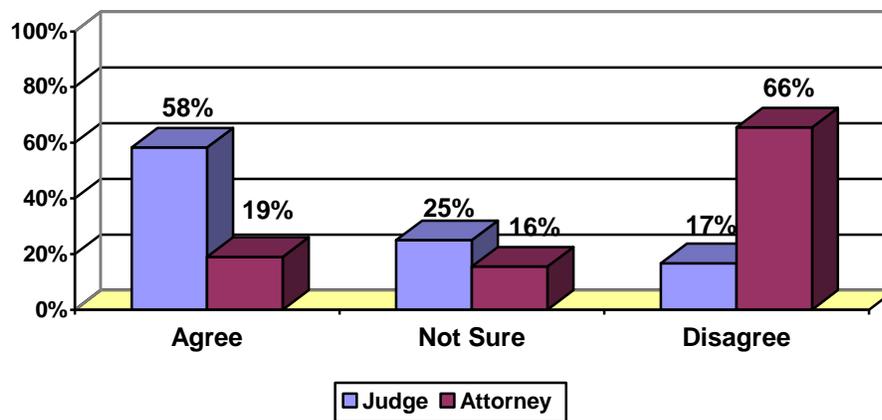
- 1) I believe the same end can be achieved – i.e., resolution at the earliest possible date – by carefully selecting the persons who do pre-trials. A large bench such as ours creates vast opportunities for flexibility that is hampered by blocking the cases to a single judge through trial. A substantial percentage of the cases involve charges in which it is possible that the victim or other witnesses will not show; and in such cases, the defendants are not willing and perhaps ill advised, to settle earlier than the time of trial. Frankly, most of the cases require little or no prep by the judge and could be easily tried by any judge who might be available. Under the block a number of cases are kicked due to the block judge being in another trial. It would be easier to put them on standby to a larger pool of judges as the block judge has a new batch of cases coming on each week.
- 2) A major negative is that it is difficult to give enough attention to other types of hearings when a case is in trial.

Since the subject of the appropriate number of judges and attorneys necessary to handle this caseload was so unclear in the planning process, we decided to ask the participants from each office if they felt that the number currently assigned was deemed appropriate. Very different views were expressed by the various partners. As shown in Figure 6, the judges mostly agreed that they had the correct number of judges (58%), with 25% choosing 'not sure', and 17% disagreeing that the court has the appropriate number of judges assigned to these felony cases. The majority of the attorneys, two-thirds, disagree that the court has assigned the right number of judges, while 16% said not sure and 19% agree with the current number of judges. The

defense attorneys felt more strongly than the prosecuting attorneys that the number of judges was not adequate (52% of prosecutors compared to 74% of public defenders and 67% of private defense attorneys).

The open-ended responses from attorneys were unanimous indicating that the number of judges should be increased. The majority of the suggestions were to increase the number of block judges by 2 more judges to a total of ten judges, but multiple attorneys felt that 4 more (12 total) or 8 more (16 total) judges would be the correct number. One or two people mentioned that there could be less new judges added if the court would allow other judges not on the block to handle trials for blocked cases.

**Figure 10**  
**Do you think that the number of judges that the court has assigned to the pilot is the right number (eight at this point)?**



(Agree=strongly agree or agree, Disagree=disagree or strongly disagree)

**Examples of Positive Comments:**

*Attorneys: NONE*

*Judges:*

- 1) I'm busy but not suffocating. The numbers seem about right.
- 2) I agree in general, as long as there is a way to handle those occasions where a judge ends up with more trials than he/she can manage in a given week. Most of the time the judges have managed this and the cases have somehow been disposed of. With out-of-custody cases there have been some times where a judge has had to continue a case so often it gets to a point of needing to find another trial judge. There has been some success with having the block judges back each other up so the cases have generally been handled within the eight judges. We have also used the trial calendar but rarely.

**Examples of Negative Comments:**

*Attorneys:*

- 1) Either need more judges or need the ability to assign trials to the trial calendar. Placing multiple trials on standby does not work.

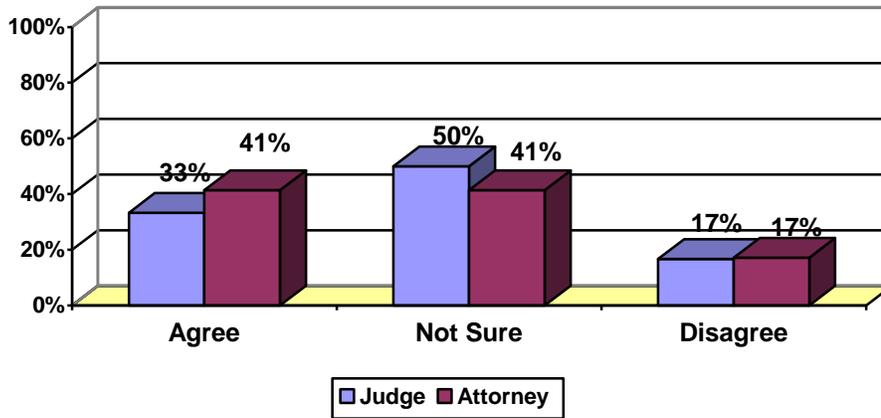
- 2) No- they are far too busy and it gets worse with each month since their caseload of sentencings and revocations and miscellaneous appearances increase the longer they are on the block.

*Judges:*

- 1) One or two more blocks are necessary to reduce delay and lighten the burden of the felony block judges.
- 2) The problem is getting the trials tried. There are not enough judges to handle all the omnibus hearings plus the trials that need to be tried.

Not only did we ask participants if they thought the court had adequately staffed the pilot but we also asked if each of the attorney’s offices were adequately staffed. Figure 7 below shows that the judges and the attorneys were in agreement about their lack of uniformity about the staffing of the County Attorney’s office. The majority of prosecution attorneys (57%) felt their office was adequately staffed with only 19% disagreeing with this idea and 24% responding that they were not sure. The majority of the defense attorneys answered not sure (51%), 16% disagree that the County Attorney’s office was adequately staffed, and about one-third agreed that they were.

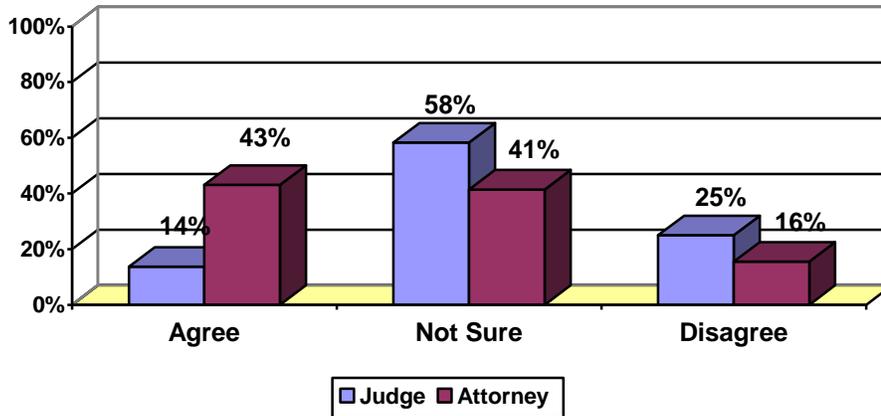
**Figure 11**  
**Do you think that the County Attorney has assigned enough attorneys to this pilot?**



(Agree=strongly agree or agree, Disagree=disagree or strongly disagree)

The judges were less positive about the public defender’s office staffing of this pilot, about one-fourth of the judges felt the staffing was not adequate, 58% were not sure and 14% thought the staffing was okay. While 41% of all attorneys combined answered ‘Not Sure’, the *majority* of the prosecutors and private defense attorneys answered not sure (52% and 83%) while only 26% of public defenders answered in that way. Over half of public defenders felt their staff was adequate for this pilot (52%) but only 38% of prosecutors and 17% of private defense attorneys thought the same way. Almost one-quarter of public defenders (23%) thought that they were not adequately staffed compared to 10% of prosecutors and no private defense attorneys.

**Figure 12**  
**Do you think that the Public Defender has assigned enough attorneys to this pilot?**



(Agree=strongly agree or agree, Disagree=disagree or strongly disagree)

### *Judicial Staff Survey Results*

Although none of the original goals included the work environment of the judicial clerks who help the judges run these case loads, we decided to ask them how this pilot might have affected their jobs. Most clerks who responded (83%) said that this assignment was more work than a normal criminal assignment, with the remaining clerks saying it is no different and none thinking it was less work. The comments indicated that the Omnibus week was particularly intense with the following weeks sometimes being more and sometimes not – depending on which cases settled.

The majority (55%) also felt that it was a more interesting rotation than the normal criminal rotation. The things that they liked best were the regular contact with the attorneys assigned to their rotation, they felt better able to communicate to the judge about the cases since they knew the cases more intimately, they frequently got to observe trials on the rotation, and the fast pace made the day go more quickly. One clerk mentioned that what he/she liked best was that if their judge was on this rotation, then they did not get scheduled to the suburban calendars!

The things they liked least included not updating their own cases in the court information system like they were used to doing before – they found it cumbersome to have to put the information from hearings onto forms that were then entered by the administrative clerks. They also mentioned that the type of cases this rotation handles could be monotonous and that they would welcome some homicide or criminal sexual conduct cases as well. They mentioned that the beginning of the pilot took a lot of time to figure out the work flow and that they had less time to do legal research and writing with this rotation. A few of the clerks mentioned that what they liked least was attorneys not showing up.

The majority of the clerks felt that the training necessary to handle a blocked caseload was not adequate (55%) and should be increased when clerks first are assigned. They also thought that the idea of the clerks having monthly meetings was a good idea so that they could share ideas of case processing and protocols.

### ***Additional Ideas for Improvement of the Felony Block Pilot***

In addition to the above questions, we asked both the judges and the attorneys what else the court could do to improve the processing of these types of cases, what else the County Attorney's Office could do and what else the Public Defender's Office could do to help handle these cases better. All responses can be viewed in the Appendices: B is for Judges and C is for the Attorneys.

#### **What can the Court do to improve the handling of these types of cases?**

##### **Topic areas for comments:**

##### *Attorneys:*

- ❖ More judges and better suited judges to this assignment
- ❖ Enforce rules/laws better
- ❖ Improve case management
- ❖ Get rid of block altogether

##### *Judges:*

- ❖ Too many cases/ add more judges
- ❖ Judges should handle their calendars more efficiently
- ❖ Suggestion for how the attorney's offices could assign attorneys

#### **What can the County Attorney's Office do to improve the handling of these types of cases? Topic areas for comments:**

##### *Attorneys:*

- ❖ Get discovery sooner
- ❖ Assign more attorneys/assign them more efficiently
- ❖ Follow the law better
- ❖ Make better offers/make offers earlier on in the process
- ❖ Be open to negotiation
- ❖ Get discovery sooner and make better and earlier offers
- ❖ Other comments

##### *Judges:*

- ❖ Get discovery completed sooner and make offers sooner
- ❖ Make offers before the day of trial
- ❖ Get additional attorneys or assign differently
- ❖ Other comments

**What can the Public Defender’s Office do to improve the handling of these types of cases? Topic areas for comments:**

*Attorneys:*

- ❖ Hire more attorneys or assign them more efficiently
- ❖ Be more timely and efficient in case management
- ❖ Meet with and communicate better with clients
- ❖ Train new attorneys better
- ❖ Other comments

*Judges:*

- ❖ Better case management – assign attorneys to the block
- ❖ Hire more attorneys
- ❖ Spend more time on files and with clients earlier in the process

Finally, we asked both sets of respondents involved in this pilot what else they could suggest to improve the processing of these cases. Below are the suggestions that we received from the attorneys involved and the judges involved in the Felony Block Pilot. Again, the full set of responses are located in Appendices B and C.

**What else do you want the court to know about your thoughts regarding the Felony Block Pilot? Topic areas for comments:**

*Attorneys:*

- ❖ Think it is a good method to handle these cases
- ❖ Think it is a bad method to handle these cases
- ❖ Bring in different judges/need right personalities on this assignment
- ❖ Scheduling ideas
- ❖ Other comments

*Judges:*

- ❖ Think it is a good method to handle these cases
- ❖ Need a teamwork attitude
- ❖ Think it is a bad method to handle these cases

## *Summary*

At the end of the analysis period for the Felony Blocking Pilot the results are mixed. Goal 1 was met with some qualifications, goal 2 was not met for two of the three timing goals and there are some mitigating factors that contributed to this result, goal 3 was met with qualifications, and goals 4 and 5 were met.

The first goal of holding meaningful Omnibus Hearings was met although with some qualifications. Omnibus Hearings are averaging 24 days from when the cases had their first appearance, meeting the 28 day criteria. In addition, most judges and attorneys felt that this pilot allowed the attorneys to be better prepared or at least as prepared as before the pilot. Although this is the case, the majority of both judges and attorneys felt that this preparation has slipped over the course of the pilot's life.

Goal two of meeting our proposed timing goals for disposed cases was not met for two of the three timing goals. The final timing goal was met. Due to an inability to determine the appropriate number of judges necessary to handle this caseload initially and a 7% increase in felony cases, we had to modify the pilot at the mid point. This modification meant that over 40% of the cases had more than one judge during the course of the case. There were marked differences for cases that had only one judge assigned throughout the life of the case compared to two or three judges assigned. Since we did not have a clear method of determining how many judges were necessary prior to the start of the pilot this result may be a function of never having figured out the appropriate number of judges needed to handle this case load. Certainly, the attorneys involved in the pilot were consistent in their beliefs that we should assign more judges than we currently have assigned.

The third goal of reducing the percent of cases set for trial has been met and when a trial has been set a higher percentage concluded with a trial, although with qualifications. The percent set for trial is quite a bit lower (30%) than prior to the pilot (55%) but has increasingly included a higher percent of cases at each of our snapshots: at 6 months (13%), at 9 months (19%) compared to the now 30%. The percent of cases set for trial that ended in trial verdict has decreased over time: at 6 months it was 24% of the 13% set for trial and at 9 months it was 16% of the 19% set for trial. Now, at the end of the analysis it is 13% of the 30%.

Goal 4 of whether or not the attorneys value the pilot was met. We sent surveys out to 139 attorneys who had handled 6 or more cases of the blocked cases that were included in our sample. The response rate for attorneys was 44%. There were county attorneys (prosecutors) and both private and public defenders included in the responders. The vast majority of the attorneys believed that the blocking pilot was the way that these cases should be handled and that this method produced higher accountability than a master calendar format. They felt better prepared (or similarly prepared) under the block system although they felt that this preparation had slipped a bit over the course of the pilot. The largest percentage answered that discovery had not changed in amount or speed but of those who felt it had changed under the blocking pilot, the majority of these attorneys believed it had improved on both accounts. Only 19% of the attorneys felt that we had the right number of judges assigned with most of them specifying that the bench needed to add at least two judges if not more.

The fifth goal of improving trial preparation and maintaining job satisfaction for the judges was met. Only one judge of the 12 felt that this was *not* the best method to handle these types of cases, with 92% believing this was the best method. The majority of the judges felt it was an interesting rotation but still needed some tweaking to handle the case load and nuances of the case load. The judges also felt that trial preparation was better under the blocking format although most of the judges felt this has slipped some over the course of the pilot. Most felt the quality of trials had not changed with the pilot. None of the judges answered that discovery was completed less often under the pilot: instead, two-thirds thought it was *completed more often* under the block system and one-third thought it made no difference. In addition, three-quarters of the judges felt discovery was done *more quickly* under the block, one-quarter thought it made no difference and none of the judges thought it took longer under the block system. Over 80% of the judges felt this method of case processing increased attorney accountability with the other 20% believing it made no difference in accountability and no judges thinking it decreased accountability.

Most judicial staff who responded (83%) said that the felony block assignment was more work than a normal criminal assignment but the majority (55%) also felt that it was a more interesting rotation than the normal criminal rotation. The majority of the judicial staff felt that the training necessary to handle a blocked caseload was not adequate (55%) and should be increased when clerks first are assigned. They also thought that the idea of the clerks having monthly meetings was a good idea so that they could share ideas of case processing and protocols.

In summary, attorneys mostly mentioned that the felony block pilot represented an effort to improve criminal case processing for the large number of serious felony cases and they appreciated the attempt. Many attorneys hope that the pilot continues although they were not shy about recommending improvements – with the main one being more judges should be added to the pilot. The judges were nearly unanimous (11 out of the 12) in their desire to have the pilot continue, although they also had some suggestions to fine tune the pilot.

## Appendix A Reallocation of Felony Block Cases

Transfer of Blocked Cases to include two new judges  
Purpose: To start all eight judges having a similar number of cases

As of the end of December 22, 2006 each of the current six judges' pending cases and cases set for trial would be summed as possible transfer cases. All cases assigned to the six judges will be now handled by eight judges. The six original judges will keep those cases that they have already disposed and those cases that are set for sentencing. In addition, each judge will keep cases with co-defendants or defendants with multiple cases and they may keep cases that they feel they have done a lot of settlement work on already. Below is the summary table (Table A-1) that includes case assignment through Friday December 22, 2006 when we had only six judges.

<b>Table A-1 Process Point by Judge – December 22, 2006 BEFORE THE TRANSFER</b>					
<b>Original Judge Assigned</b>	<b>Process Point</b>				<b>Total</b>
	<b>Disposed</b>	<b>Set for Sentencing</b>	<b>Set for Trial</b>	<b>Pending</b>	
<b>Judge McKinsey</b>	252	34	38	68	392
<b>Judge Sommerville</b>	229	17	58	90	394
<b>Judge Quaintance</b>	217	25	42	73	357
<b>Judge Swanson</b>	288	47	33	30	398
<b>Judge Daly</b>	227	23	62	38	350
<b>Judge Sagstuen</b>	180	42	78	89	389
<b>Total</b>	1,393	188	311	388	2,280

The cases that will be used to determine the number of cases to reallocate includes those from the 'set for trial' and 'pending' cases. The total number of cases pending is 887 which when divided by 8 means that seven judges will have 111 cases and one judge will have 110 (see Table A-2).

For the existing judges their case load will be composed of all of judges' current 'set for sentencing' cases and a random sample of cases from the 'set for trial' and 'pending' cases to account for their total. The new judges will inherit the previous judge's cases that were either set for trial or still pending. Table A-2 below shows the method of redistribution per judge.

**Table A-2 Redistribution of Felony Block Pilot Cases at the end of 2006  
Moving from six judges to eight judges\***

<b>Judge</b>	<b>Goal</b>	<b>Set for Sentencing</b>	<b>Selected to KEEP from Trial or Pending</b>	<b>Randomly selected from the remaining Set for Trial or Pending</b>	<b>Set for Sentencing, selected to KEEP and Random Sample from Set for Trial and Pending  Original Judge is KEEPING these</b>	<b>Cases removed from each existing Judge</b>	<b>Cases Redistributed to the New Judges</b>
<b>McKinsey</b>	<b>111</b>	34	20	57 of 87	34+20+57 =111	30	
<b>Sommerville</b>	<b>111</b>	17	16	78 of 132	17+16+78 =111	54	
<b>Quaintance</b>	<b>111</b>	25	27	59 of 88	25+27+59 =111	29	
<b>Swanson</b>	<b>110</b>	47	11	52 of 52	47+11+52 =110	0	
<b>Daly</b>	<b>111</b>	23	20	68 of 79	23+20+ 68=111	11	
<b>Sagstuen</b>	<b>111</b>	42	40	29 of 127	42+40+ 29=111	98	
<b>Lynn</b>	<b>111</b>	0	0				111
<b>Small</b>	<b>111</b>	0	0				111
<b>Total</b>	<b>887</b>	188	134			222	222

All judges are keeping their ‘set for sentencing’ cases. In addition, they were instructed to keep any of their cases with multiple defendants or where the defendant had multiple cases in front of that judge. This group is in the ‘Selected to KEEP from trial or pending’.

Below is the final distribution that took effect at the beginning of 2007 for each judge. Lists of were designed for the County Attorney’s Office and the Public Defenders Office on any of the cases that were reassigned.

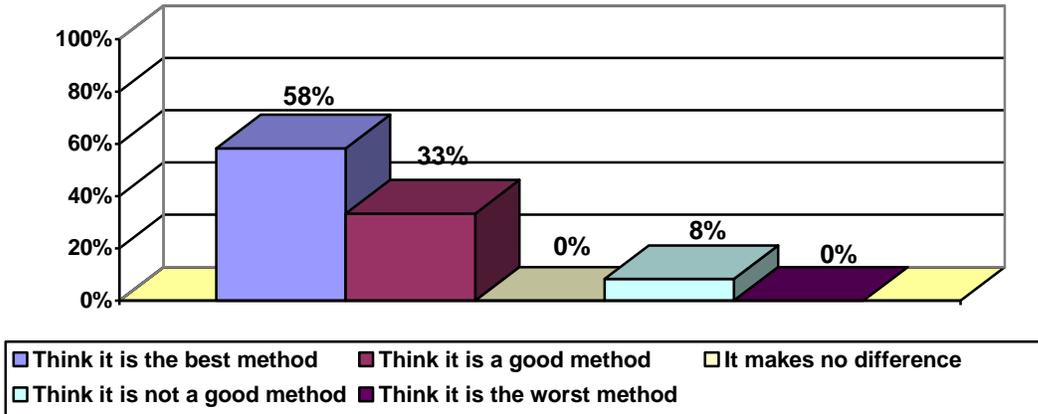
**Table A-3**  
**Felony Blocking Pilot Cases: Process Point by Judge - December 22, 2006**  
**AFTER THE TRANSFER**

<b>Judge</b>	<b>Process Point</b>				<b>Total</b>
	<b>Disposed</b>	<b>Set for Sentencing</b>	<b>Set for Trial</b>	<b>Pending</b>	
<b>McKinsey</b>	252	34	31	46	363
<b>Sommerville</b>	229	17	35	59	340
<b>Quaintance</b>	217	25	31	55	328
<b>Swanson</b>	288	47	33	30	398
<b>Daly</b>	227	23	56	32	338
<b>Sagstuen</b>	180	42	32	37	291
<b>Lynn</b>	0	0	46	65	111
<b>Small</b>	0	0	47	64	111
<b>Total</b>	1,393	188	311	388	2,280

## Appendix B Judge Opinions

### Felony Block Survey- Judges' Results

1. What do you think about assigning these types of cases to a single judge to keep throughout the course of the case?



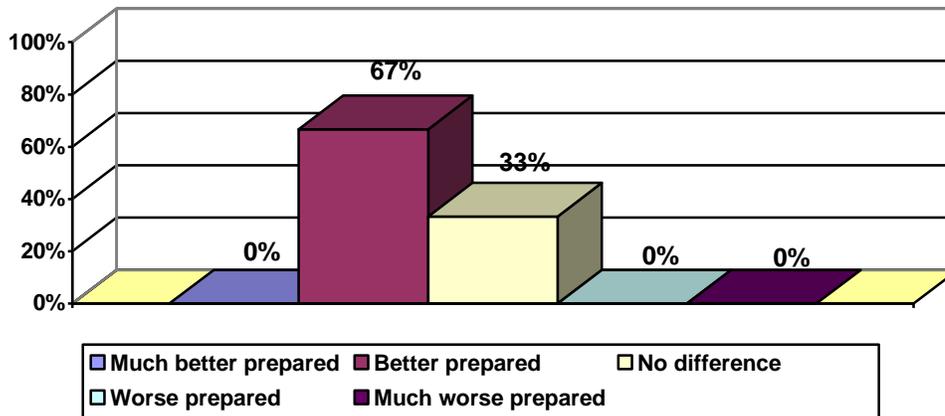
Average response from a scale of 1 to 5: **4.42**

Percent positive: **91.7%**

Percent neutral: **0%**

Percent negative: **8.3%**

2. Think back to the way the court processed these cases prior to the Felony Block Pilot. Do you think that attorneys are better prepared or worse prepared (discovery completed, motions completed, pleas taken earlier, and fewer trial cases) under the new system?



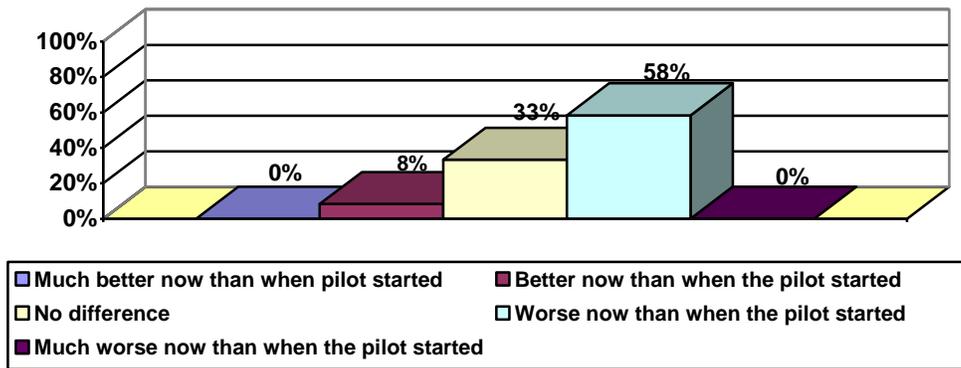
Average response from a scale of 1 to 5: **3.67**

Percent positive: **66.7%**

Percent neutral: **33.3%**

Percent negative: **0%**

3. Do you think this preparation changed over the 1 ½ years of the pilot?



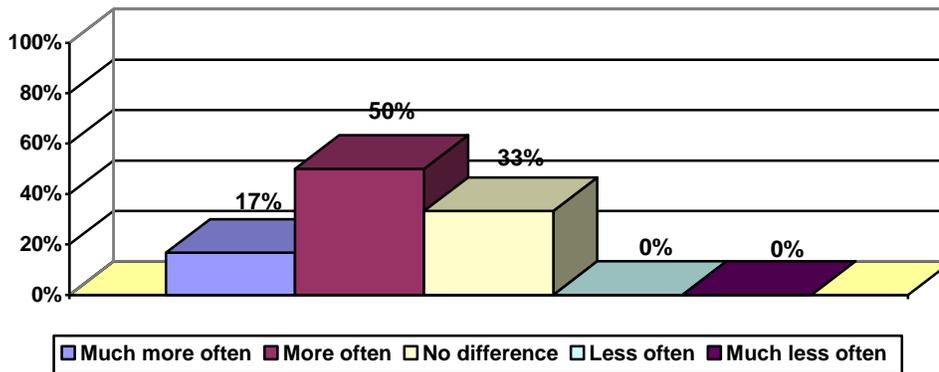
Average response from a scale of 1 to 5: **2.50**

Percent positive: **8.3%**

Percent neutral: **33.3%**

Percent negative: **58.3%**

4. Has discovery been completed more often under this pilot than prior to this pilot?



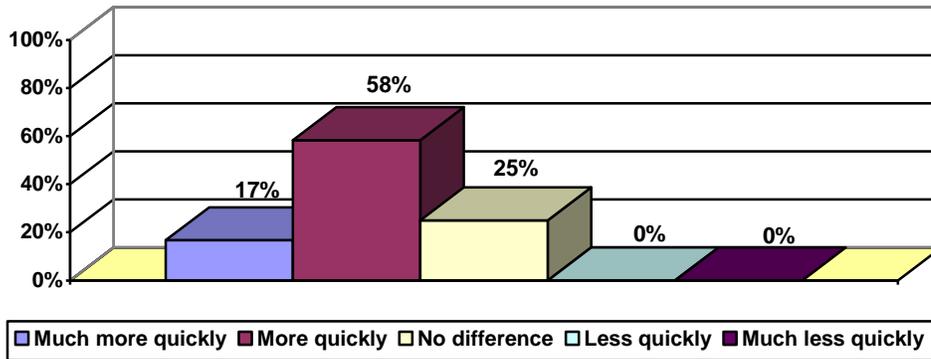
Average response from a scale of 1 to 5: **3.83**

Percent positive: **66.7%**

Percent neutral: **33.3%**

Percent negative: **0%**

5. Has discovery been completed more quickly under this pilot than prior to this pilot?



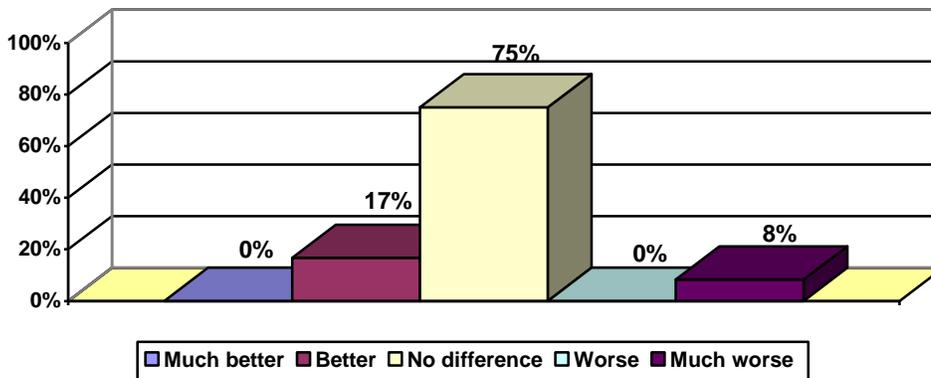
Average response from a scale of 1 to 5: **3.92**

Percent positive: **75.0%**

Percent neutral: **25.0%**

Percent negative: **0%**

6. Has the quality of the trials been better under this pilot than before the pilot?



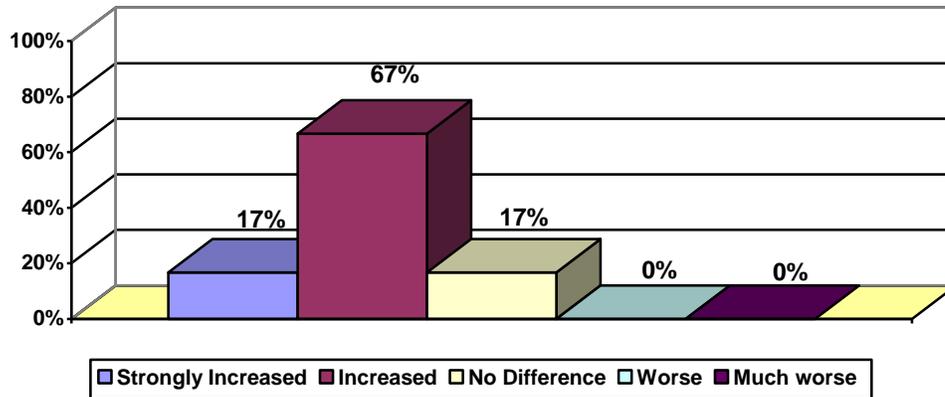
Average response from a scale of 1 to 5: **3.00**

Percent positive: **16.7%**

Percent neutral: **75.0%**

Percent negative: **8.3%**

7. Do you think the Felony Blocking Pilot has increased or decreased accountability?



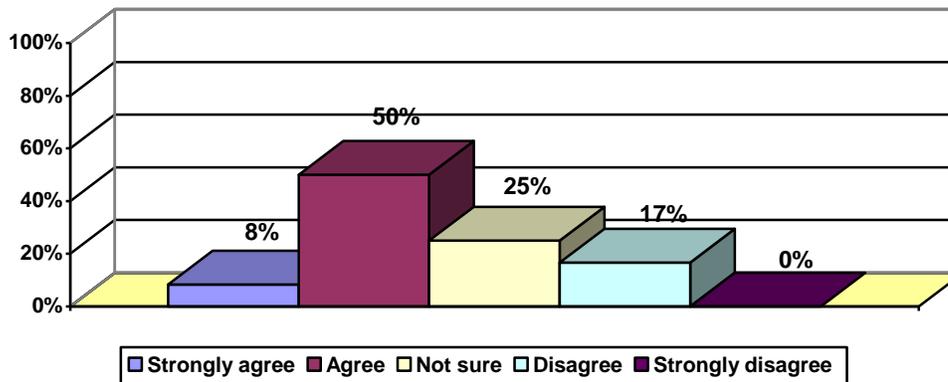
Average response from a scale of 1 to 5: **4.00**

Percent positive: **83.3%**

Percent neutral: **16.7%**

Percent negative: **0%**

8. Do you think that the number of judges that the court has assigned to the pilot is the right number (eight at this point)?



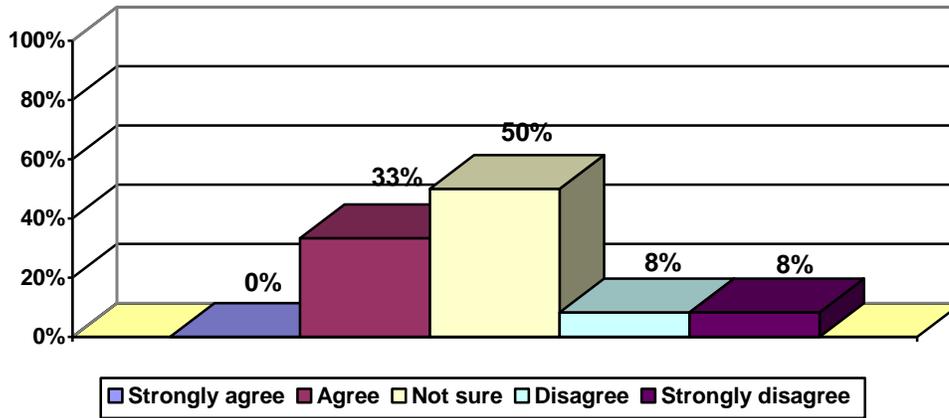
Average response from a scale of 1 to 5: **3.50**

Percent positive: **58.3%**

Percent neutral: **25.0%**

Percent negative: **16.7%**

9. Do you think that the County Attorney has assigned enough attorneys to this pilot?



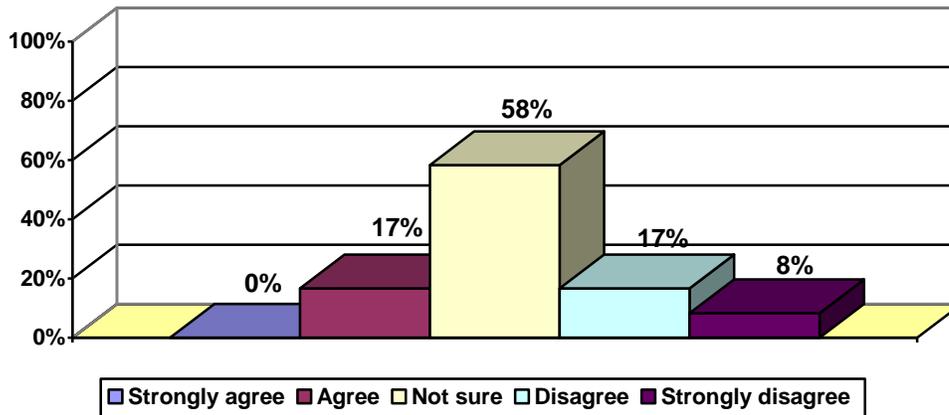
Average response from a scale of 1 to 5: **3.08**

Percent positive: **33.3%**

Percent neutral: **50.0%**

Percent negative: **16.7%**

10. Do you think that the Public Defender has assigned enough attorneys to this pilot?



Average response from a scale of 1 to 5: **2.83**

Percent positive: **16.7%**

Percent neutral: **58.3%**

Percent negative: **25.0%**

## **Appendix B-2 Judges Comments**

### **1. What do you think about assigning these types of cases to a single judge to keep throughout the course of the case?**

#### **Positive Comments:**

1. Accountability, consistency, hopefully fewer continuances, better knowledge of the issues. Also I know the lawyers better when I see them more often and know who to nag and who to leave alone to settle cases. Hopefully shorter time between arraignment and trial or resolution.
2. It provides consistency for each case
3. Eliminates judge shopping and helps bring cases to resolution quicker.
4. The judge has a stake in the outcome and the process. The lawyers know that they cannot try out their arguments on a new, more receptive judge at a later appearance.
5. Regardless of efficiency considerations, I believe that blocking cases results in a higher level of accountability for the lawyers and the judge and a better quality of litigation. Even if cases are not resolved earlier than the trial calendar system, issues can be spotted earlier and resolved in an orderly manner. I am requiring the lawyers to write memos when they raise legal issues. I think judges may be less apt to do that when they could just pass the case on to another judge. I may not have checked the box "best method" if I did not have the option of searching for another trial judge in the event I am double booked on trials. If I had to keep the case regardless of other judges' availability, I would have chosen "good method."
6. It allows for the possibility of earlier plea bargaining and resolution, depending on the skill of the judge, than under a master calendar system where the parties might wait for a "better" judge on the day of trial. It really comes down the interest and skill of the judge in brokering deals.
7. These are serious cases that should have a consistent judge involved. If done right it should result in more efficient resolutions. Having a discreet group of judges for felonies also allows the court to set procedures for those cases that can be consistently enforced. Just having the judges meet regularly to discuss the felony case management is beneficial. It improves each judges performance and allows judges to set and enforce rules and policies more easily.
8. This process allows the parties to know which Judge they will be dealing with from the outset with the benefits to all that flow from that knowledge.
9. Allows for better case management.
10. Accountability and consistency are best served by blocking cases.

#### **Negative Comments:**

11. I believe the same end can be achieved--i.e., resolution at earliest possible date--by carefully selecting the persons who do pre-trials. A large bench such as ours creates vast opportunities for flexibility that is hampered by blocking the cases to a single judge through trial. A substantial percentage of the cases involve charges in which it is possible that the victim or other witnesses will not show; and in such cases, the defendants are not willing, and perhaps ill advised, to settle earlier than the time of trial. Frankly, most of the cases require little or no prep by the judge and could be easily tried by any judge who might be available. Under the block a # of cases are kicked due to the block judge being in another trial. It would be easier to put them on standby to a larger pool of judges as the block judge has a new batch of cases coming on each week.

#### **Positive and Negative Comments:**

12. There is real value in knowing the case before it comes up for trial. I think that we are better able to reach an appropriate settlement with greater familiarity with the facts. A major negative is that it is difficult to give enough attention to other types of hearings when a case is in trial.

**2. Think back to the way the court processed these cases prior to the Felony Block Pilot. Do you think that attorneys are better prepared or worse prepared (discovery completed, motions completed, pleas taken earlier, and fewer trial cases) under the new system?**

**Positive Comments: None**

**Neutral Comments:**

1. I was not a Judge prior to the Felony Block Pilot so I don't know the answer to this.

**Negative Comments:**

2. Things have decidedly slipped from the beginning of the block project. We're back to where we started in terms of preparation.
3. Sadly, most practitioners continue to delay preparation until the last minute.

**Positive and Negative Comments:**

4. It really depends on the attorney and the judge. Theoretically it is more embarrassing to show up unprepared to the same judge repeatedly. But some old timers are just checked out. With the newer attorneys, I think it starts them off with better habits.
5. There may have initially been an improvement. However, as time marched on each lawyer acquired an increasingly large group of unresolved trials which necessitates multiple appearances in front of a number of judges that often have time conflicts. I believe the lawyers have been trying hard to keep up but have been overwhelmed.
6. I had many bad experiences on the trial calendars with unprepared lawyers. This is especially true for public defenders. Witnesses had not been put under subpoena. Legal issues were being raised at the last minute without any supporting legal authority. I remember very shoddy lawyering. My experience with the block is better, especially with regard to having legal issues sorted out well before trial. I recognize that some lack of preparation will occur under the block system because lawyers are being forced to double book trials on Mondays and Tuesdays. Of course, some lawyers will never be prepared, regardless of the system.
7. At the start of the block, the parties were much better prepared. I found that as the caseload grew, preparation fell off. This is natural. Still, the attorneys were better prepared than under the old PCPT system.
8. Initially the attorneys were much better prepared and that has slipped due to the attorneys and judges getting overwhelmed. The good thing about a block of judges is they can keep track of slippage and set standards as a group.
9. This has deteriorated over time. At the beginning they were better prepared, according to the protocol agreed to by the CA and PD. Now the preparedness has slipped.
10. The improvement is very slight because only a few attorneys are better prepared. These are the ones for whom the pilot works best.

**3. Do you think this preparation changed over the 1 ½ years of the pilot?**

**Please describe how preparation has changed:**

**Positive: None**

**Negative Comments:**

1. Previously answered. Increasing workload has resulted in less preparation.
2. Discovery not completed, offers not made prior to pretrial, defense attorneys had not conferred with clients.
3. Discovery is not the problem. Rather, analysis of the strength and weaknesses of the case before the OM, especially from the state's standpoint, continues to be a problem. Ideally, witnesses in witness-dependent cases would be viewed and interviewed before the complaint was issued, but at least before the OM.
4. Discovery is not being completed, and the defense lawyers don't have time to see their clients with the information

5. County Attorneys don't have discovery ready, tapes and transcripts. They don't consistently have offers out in time for the attorneys to talk with their clients. PDs have not read the discovery or talked to their clients prior to the OM. PD conflict cases are a problem. That office doesn't get the discovery to the conflict attorney. This lack of preparation has increased the number of OMs per case, as the first OM becomes ineffective.
6. Attorneys know they need to be ready at the Omnibus Hearing. But at times do not have discovery and that sets things back.

**Positive and Negative Comments:**

7. Prosecutors started out making offers and providing discovery before the OM. Defense attorneys started out discussing offers with client before the OM. Less so now in both instances.
8. Again, it depends on the attorney. Some have stayed with the initial requirements, some have slacked off noticeably.

**3. Do you think this preparation changed over the 1 ½ years of the pilot?**

**Neutral Comments:**

1. Since I have only been on the block for 6 months, my experience is limited and probably not relevant.
2. I checked "no difference" in the preceding question because I was not on the block when it started. I have no opinion on that question.

**Negative Comments:**

3. The prosecutors need to make better charging decisions such that they have it fully investigated before issuing a complaint.
4. Some cases aren't going to settle early, such as DV cases where the defense will try to wait the victim out, or gun cases where the state doesn't offer anything. For those cases there should not be multiple pre-trials and they should be set for trial.
5. I think one of the things that may be helpful is to have a Judge assigned as the back up trial Judge for a few of the Judges on the block. When a block Judge has more than one case ready for trial, one case can be referred to the back up Judge.

**Positive and Negative Comments:**

6. As a judge, I enjoy being in charge of my own case load, cleaning up my own messes and not inheriting anyone else's. It is important to have consistent work ethic and some consistency of expectations among the judges doing the block. For example, if one judge is granting a lot of continuances and the others are not, it make it harder.

**4. Has discovery been completed more often under this pilot than prior to this pilot?**

**Positive Comments:**

1. My assessment is that necessary discovery was done previously and is done today under the new program.
2. I checked no difference, but I really don't know. Intuitively, discovery will be more prompt under a block system because it is easier to hold the lawyers accountable.

**Neutral Comments:**

3. See prior answer. I was not a Judge prior to the pilot.

**Negative Comments:**

4. This has deteriorated over time. There has always been a problem with prompt production of Scales tapes, interview tapes, videotapes, etc.

**Positive and Negative Comments:**

5. This was great at the beginning. It has become problematic. The HCAO got 5 or so additional positions to solve the problem but there are still delays. Kamin and Cahill were key to the beginning of this effort. Neither are in those positions anymore and I think that has made a difference in the offices' accountability on the original agreements to tender offers and discovery and discuss offers with clients before the OM
6. This is much better than under the PTPC system, although the State should require more of the police agencies in terms of critical tapes that defense counsel must see before making a recommendation.
7. There has been improvement in the speed with which the State provides discovery, but there are still too many late disclosures.
8. But only slightly. Prosecutors still issue complaints before the investigation is complete - just like before the pilot.

**5. Has discovery been completed more quickly under this pilot than prior to this pilot?**

**Positive Comments:**

1. At least an expectation has been set.

**Neutral Comments:**

2. Same question?
3. same question?
4. See previous answer. (*Note- response to last question: "There has been improvement in the speed with which the State provides discovery, but there are still too many late disclosures."*)
5. Same as last answer. (*Note- response to last question: "I checked no difference, but I really don't know. Intuitively, discovery will be more prompt under a block system because it is easier to hold the lawyers accountable."*)

**Positive and Negative Comments:**

6. Again, the difference is only slight. As stated before, one of the reasons is that prosecutors do not complete the investigation until prompted to do so by defense attorneys at the OM. This delays discovery.
7. This was initially true though due to workload has probably slipped.

**6. Has the quality of the trials been better under this pilot than before the pilot?**

**Neutral Comments:**

1. I did not do a lot of criminal trials before the block
2. See prior comments. (*Note: I was not a Judge prior to the Felony Block Pilot so I don't know the answer to this.*)
3. Same comment as before. (*Note: I checked no difference, but I really don't know. Intuitively, discovery will be more prompt under a block system because it is easier to hold the lawyers accountable.*)

**Negative Comments:**

4. It is very difficult to fit in other scheduled hearings around a trial

**Positive and Negative Comments:**

5. Theoretically, cases that are not plead out will be tried. Therefore, fewer cases will be tried and can be better prepared. Still, preparation is a function of caseload and time available. So, I did not see dramatic improvement in this area. It largely depended on the attorneys in a particular case.
6. Initially it was thought that there would be fewer trials but those that went would be those that should be tried. That seemed to be the case at first but many cases get set for trial and settle the

day or week of trial, and the state's offers are better on the day of trial. Some prosecutors are very good at valuing their cases and they settle cases early with reasonable offers. A few are unreasonable until they have to produce witnesses and spend a week in trial, then they give deals. That screws up the trial weeks and returns us to the prior situation where a trial doesn't really mean a trial.

## **7. Do you think the Felony Blocking Pilot has increased or decreased accountability?**

### **Positive Comments:**

1. The judges feel greater responsibility for case processing and outcomes.
2. It probably has increased accountability for the judges, but overall, there has been little change
3. I think the block has been a good opportunity for judges to learn and improve and/or display their case management skills. With regular reports it becomes clear who is managing their cases and whose are out of control. For the lawyers it is easier for the judges to tell who has a pattern of not showing up, not preparing, etc. The block judges communicate pretty regularly about problems and share ideas about managing problem lawyers.
4. Certainly for the judges.

### **Neutral Comments:**

5. See prior comments. (*Note: I was not a Judge prior to the pilot.*)

### **Negative Comments: None**

### **Positive and Negative Comments:**

6. I think everyone comes to the table more prepared except for those lawyers who will never come prepared.
7. Certainly for the block judges, it has increased accountability as their performance is measured and comparisons are easy to see and make. As to the attorneys and their offices, I doubt that accountability has changed much.
8. Accountability by and to whom? The judges probably have to be more accountable. However, this can also be an unreasonable burden that we are saddling on ourselves with questionable benefit. Also, the fact that out of custody trials are often kicked down the line may in fact make such defendants less accountable and diminish their, victims and other witnesses respect for the legal system.

## **8. Do you think that the number of judges that the court has assigned to the pilot is the right number (eight at this point)?**

### **Positive Comments:**

1. I'm busy but not suffocating. The numbers appear right.

### **Negative Comments:**

2. The problem is getting trials tried. There are not enough judges to handle all the OMs and hearings plus the trials that need to get tried
3. One or two more blocks are necessary to reduce delay and lighten the burden on the felony block judges.
4. Because I haven't seen the stats lately and talked to the judges, I don't know. At the time, I agreed that six were too few.
5. The distribution of cases is a little uneven. Perhaps when there is a change of blocks and PD teams there should be redistributed. The number of cases picked up on arraignment weeks can vary.
6. It is not the number of judges but the number of Public Defenders and Prosecutors available. They appear stressed out and going to too many courts being booked at the same time. A better system would be for them to be assigned to 2 or 3 judges rather than 8 block judges and in the case of the PD's not having to run to the PSF and misdemeanor courts.

**Positive and Negative Comments:**

7. I agree in general, as long as there is a way to handle those occasions where a judge ends up with more trials than he/she can manage in a given week. Most of the time the judges have managed this and the cases have somehow been disposed of. With out-of-custody cases there have been some times where a judge has had to continue a case so often it gets to a point of needing to find another trial judge. There has been success with having the block judges back each other up so the cases have generally been handled within the eight judges. We have also used the trial calendar but rarely.
8. I believe there are enough judges to handle the pre-trials though the # of judges available to try cases on random days is insufficient when tied to a block. Sometimes we have multiple matters going to trial necessitating continuing a number of trials, and other weeks all matters are resolved. In the former instances, the ability to resolve, resolvable matters is curtailed due to the fact that the lawyers and clients know you can only try one case at a time and they are interested in delay. This is particularly true for out of custody folks looking at the likelihood of a commit.
9. I think it could be done with fewer judges. We had one judge who was way behind the pack in disposing of cases. About half of his case load was taken away by the addition of two new judges and he is still substantially behind. Others were able to consistently dispose of cases in a timely manner.

**9. Do you think that the County Attorney has assigned enough attorneys to this pilot?**

**Positive Comments:**

1. Yes.

**Neutral Comments:**

2. Same answer. (*Note- previous answer: because I haven't seen the stats lately and talked to the judges, I don't know. At the time, I agreed that six were too few.*)

**Negative Comments:**

3. I believe that the attorneys are grossly overworked and being pushed from pillar to post. As a practical matter, however, the overall resources available may be insufficient.
4. Could be more, but it is having to go to so many judges (8) at one time and judges setting so many trials on Mondays that creates problems for the PD.
5. Both the CA's and the PD's are overworked -- too many places to be. It would be very helpful if specific prosecutors could work with specific judges (i.e., 8 "teams" like the PD's).
6. Because the judges are setting their trials on Mondays and Tuesdays for the most part, the County Attorneys and Public Defenders are double booking trials. I'd hate to be a lawyer and have to prepare for two trials, not knowing which one is going to go. But, the volume of lawyers necessary to solve that problem may be prohibitively expensive.
7. But I do think they should find a way to schedule their charging in order to better match up prosecutors to judges.

**10. Do you think that the Public Defender has assigned enough attorneys to this pilot?**

**Positive Comments: None**

**Neutral Comments:**

1. Same answer (*Note: because I haven't seen the stats lately and talked to the judges, I don't know. At the time, I agreed that six were too few.*)

**Negative Comments:**

2. There are not enough PD's, period.
3. Their problem is other assignments beside the block. i.e. PSF, Property Court, and misdemeanors. They have to be in too many places at one time.
4. The PDs have refused to change their assigning to allow attorneys to focus on felony cases so they end up running around between felony block cases and mandatory calendars at the PSF, etc. This causes scheduling headaches for all and allows a few attorneys to remain unaccountable, as they always say they are elsewhere when they should be in front of the block judge.
5. It would work better for all involved if the pd went to specialized teams.
6. Essentially the same problems as for county attorneys though probably even greater. I believe that the attorneys are grossly overworked and being pushed from pillar to post. As a practical matter, however, the overall resources available may be insufficient.
7. Same answer as before. *(Note: Because the judges are setting their trials on Mondays and Tuesdays for the most part, the County Attorneys and Public Defenders are double booking trials. I'd hate to be a lawyer and have to prepare for two trials, not knowing which one is going to go. But, the volume of lawyers necessary to solve that problem may be prohibitively expensive.)*

## **11. What can the court do to improve the handling of these types of cases?**

### **Too many cases/Add more judges:**

1. We need to make additional provisions for handling the volume of cases set for trial.
2. See prior comment about having a back up Judge
3. Handpick the judges who do pre-trials and go with a master calendar for trial.
4. Assign back-up trial judges to work one-to-one with specific block judges who are falling behind on trials for whatever reason. Working together, the potential for the back-up judge to undercut the block judge in plea negotiations would be eliminated. In other words, acceptance of a plea would always remain with the block judge, and thereby preserve the integrity of the system.

### **Judge handle calendar more efficiently:**

5. Make sure the judges assigned are good at handling large numbers of cases and are willing, if not eager to try some. This is an assignment that takes stamina and energy and requires strong decision making skills in order to make it workable.
6. Judges need to be committed to moving the cases -- e.g., putting cases on "standby" rather than continuing cases in trial weeks. This won't make the judge popular with attorneys, but it is important for accountability. Judges should be selected to do blocks who are willing to be firm with attorneys when necessary.
7. I think if the judges limit the number of hearings they allow to be set per case and deny unnecessary continuances and hold attorneys accountable for doing work on the case between hearings and, finally, just be willing to go to trial, which would go a long way to keeping the cases on track. A couple judges have simply not managed their cases and the results are obvious. The lawyers have complained about one judge's lack of control over the continuances and over the lawyers during trials. Attorneys do want limits set, even if they may be unhappy in a particular instance with a denial of their own request. The judges can't be afraid of trials or avoid them. Nothing settles a case like letting the attorneys know that trial is imminent and the jury is on the way up!

### **Attorney suggestions:**

8. Encourage the County attorney to look at assigning their attorneys to 2 or 3 judges and not all 8 plus homicide cases and other specially assigned cases. Also court should encourage more trials on days other than Mondays
9. Not much more than we are doing. So long as defense lawyers feel the best offer comes at trial, the bench has little leverage to advance the timing of that decision.

### **Don't know:**

10. I cannot say that any of the techniques I have tried have helped, and I am reluctant to offer advice, but eager for suggestions from others.

11. I can't think of anything.

## **12. What can the County Attorney's Office do to improve the handling of these types of cases?**

### **Get discovery completed sooner and make offers sooner**

1. There are some attorneys who have embraced the project and routinely review their cases and make offers in advance. One of the attorneys regularly appearing before me also sent copies of emailed offers to me, which is not required by our protocol but is helpful in my own preparation for pre-trials. The CA needs to work on their procedures to make all discovery available before pretrial.
2. Improve the process of getting discovery and plea offers out to the defense lawyers in a timely manner
3. They can get discovery out and send offers in a timely manner. They also should be willing to look realistically at how many trials their lawyers can actually do, and resolve cases accordingly. While they are entitled to take the gun cases seriously, for example, not all gun cases are equal.

### **Make offers before the day of trial:**

4. Realistically charge, and then realistically evaluate the case early on. As long as they play hardball at the pretrial, and then often give a far better deal at trial, little will settle early.
5. Stop making the offers better on the day of trial. Deal with the attorneys who overcharge and then deal at the last minute--they undermine the block. Don't put lawyers on this assignment who are not willing to go to trial (you can not stick to an offer if you are afraid of trial.) Training on trial skills for attorneys so they are not afraid of trial.
6. Don't offer better deals on the day of trial.

### **Get more attorneys or assign them differently**

7. Lower case loads, quicker, more complete discovery.
8. Obtain additional staffing resources from the County Board; lobby the Legislature to quit creating more felony level offenses; and be more selective in their charging.
9. In the best of all worlds, CAs routinely doing specially assigned cases would not handle block cases, thereby avoiding the horrendous scheduling problems involved in scheduling both types of cases for trial.
10. Encourage the County attorney to look at assigning their attorneys to 2 or 3 judges and not all 8 plus homicide cases and other specially assigned cases. Also court should encourage more trials on days other than Mondays.

### **Other:**

11. I don't know
12. Withhold charging until cases are completed investigated.

## **13. What can the Public Defender's Office do to improve the handling of these types of cases?**

### **Better case management/Assign attorneys to the block:**

1. Get some functional management. Some team leaders are excellent about filling in for lawyers and supporting them as well as providing accountability when they don't show up. Some supervisors practically encourage irresponsibility. It is unfair to the court and other lawyers but most importantly to the clients.
2. They could assign attorneys to the felony block so they do not have to cover other calendars. They could set up a system for judges to locate attorneys, and train attorneys on calendar management. Many PDs are great at being where they are supposed to be, prepared and ready to try or resolve their cases. Those lawyers work hard but they don't clutter up their calendars with unnecessary hearings. That office also needs interim management levels so that problems and issues get attended to. There is little or no management now. They have great new lawyers but they need guidance.

3. Again, see my prior comments (*Encourage the County attorney to look at assigning their attorneys to 2 or 3 judges and not all 8 plus homicide cases and other specially assigned cases. Also court should encourage more trials on days other than Mondays.*)
4. Same as above. (*In the best of all worlds, CAs routinely doing specially assigned cases would not handle block cases, thereby avoiding the horrendous scheduling problems involved in scheduling both types of cases for trial.*)

**Need for more attorneys**

5. Lower case loads.
6. The PDs are in a bit of a pickle as they are unable to control the workload. About all they can do is to obtain greater financial support and resources from the Legislature. The growing disparity in pay between County Attorneys and the State PDs in the long run is going to result in a very inexperienced cadre of PDs and a resulting tilt in favor of better paid and experienced prosecutors.
7. I think they are swamped, and don't have enough time to spend with their clients.

**Spend more time/have better communication with client:**

8. Spend enough time with the file and the client early on to realistically evaluate the case. Too often, this is only beginning to happen at the pretrial, and results in continued pretrials.
9. Per the protocol, PD needs to review discovery and communicate settlement offer to client before omnibus hearing.
10. Talk to their clients earlier and more often.

**Other:**

11. I don't know

**14. What else do you want the court to know about your thoughts regarding the Felony Block Pilot?**

**Think it is a good method:**

1. I believe it is worth continuing. It is worthwhile to meet regularly with the CA and PD offices, as well as to meet with our colleagues, as we have been doing.
2. I feel that OM/pre-trials are more effective under the block, since they are heard by the judge who will try the case.
3. I think it is worth continuing. Eventually I see all cases being handled this way.
4. I think the system has worked well from my prospective of the past 6 months.

**Need a teamwork attitude:**

5. There has been a degree of negativity among a few of the judges on the block that has interfered with its success. This is not an assignment for naysayer's and complainers.

**Think it is a bad method:**

6. I am not a proponent of the block. We are blessed with a large number of judges which is very conducive to using a master calendar system. However, we have cut away at the benefits of our size by creating what I believe is an excess number of boutique calendars or courts. At times serving as a block judge is akin to being tied to a waterwheel. Unlike the civil block, you have no period where you can take time off without pounding another nail in your body upon your return [i.e., civil judges often take their vacations on criminal time], let alone postponing hearings to later dates to the detriment of the defendants and attorneys.
7. Given the importance of resolving cases early in the process, and the need for extremely activist judges in plea bargaining to accomplish this, I doubt that the system can be successfully replicated across the bench over time. Or, the bench will end up with a felony division and a misdemeanor division (district and municipal courts), with all the attendant morale problems. No easy answers here, as the pilot has been successful in achieving many of the goals.

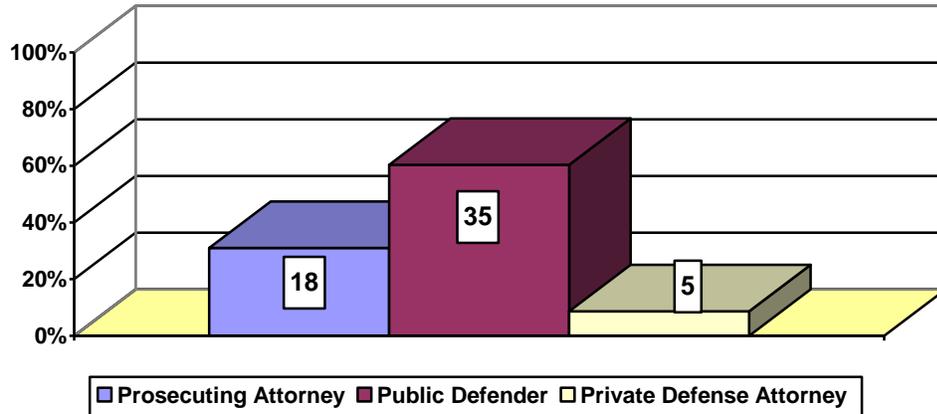
**Think it is a good method AND Need a teamwork attitude:**

8. I am a believer in blocking felony cases. The court has only limited power to "change the culture" so we must recognize that limitation and work more with, than against the lawyers, even if we cannot meet the kind of timelines we would like.
9. I think that we need to have a block system in some form to handle felonies. I think the pilot has shown that a block can work even with different judicial styles and philosophies, so long as the judge is willing to manage the number of hearings and to do trials when necessary. I think it can be a very satisfying assignment for a judge but does get wearing, so for some a couple years on the block is a good length. I think having the "safety valve" for trials that allows a judge to send a trial to a colleague under certain circumstances is necessary but there needs to be good communication and a clearing house, such as having the judge in charge of the block give that some oversight. The block judges have done a great job and deserve a lot of credit for the project.

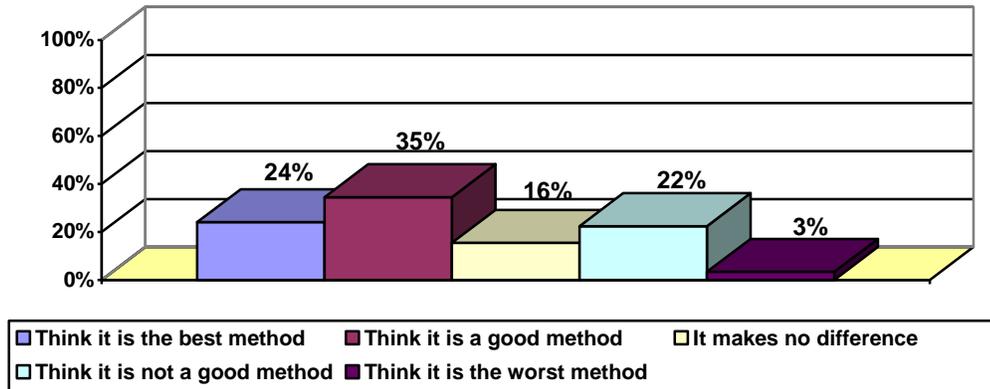
## Appendix C Attorney Opinions

### Felony Block Survey- Attorney Results

What type of Attorney are you?



1. What do you think about assigning these types of cases to a single judge to keep throughout the course of the case?



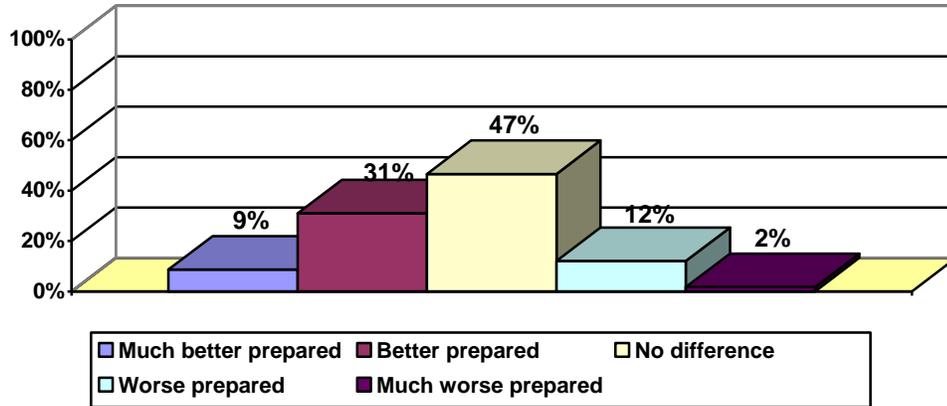
Average response from a scale of 1 to 5: **3.53**

Percent positive: 58.6%

Percent neutral: 15.5%

Percent negative: 25.9%

2. Think back to the way the court processed these cases prior to the Felony Block Pilot. Do you think that you are better prepared or worse prepared (discovery completed, motions completed, pleas taken earlier, and fewer trial cases) under the new system?



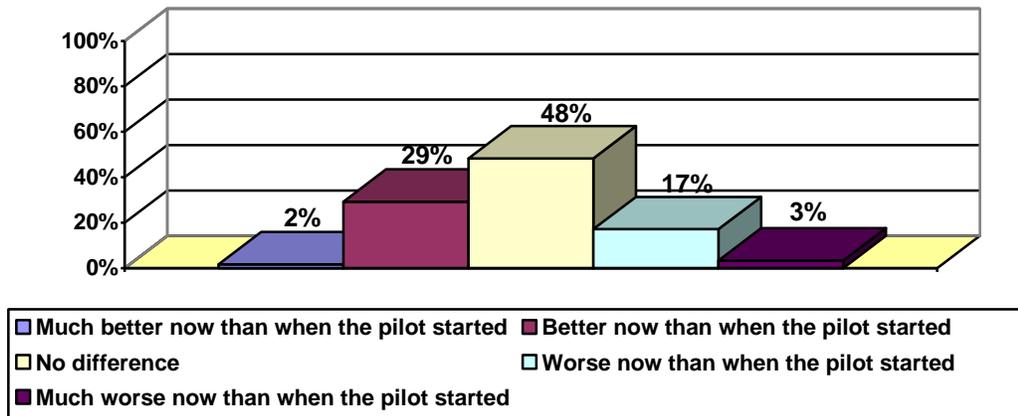
Average response from a scale of 1 to 5: **3.33**

Percent positive: 39.7%

Percent neutral: 46.6%

Percent negative: 13.8%

3. Do you think this preparation changed over the 1 ½ years of the pilot?



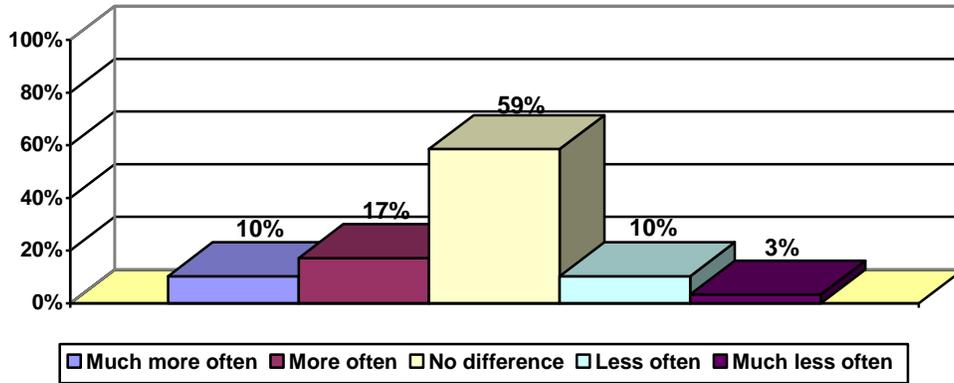
Average response from a scale of 1 to 5: **3.07**

Percent positive: 31.0%

Percent neutral: 48.3%

Percent negative: 20.7%

4. Have you been able to complete discovery more often under this pilot than prior to this pilot?



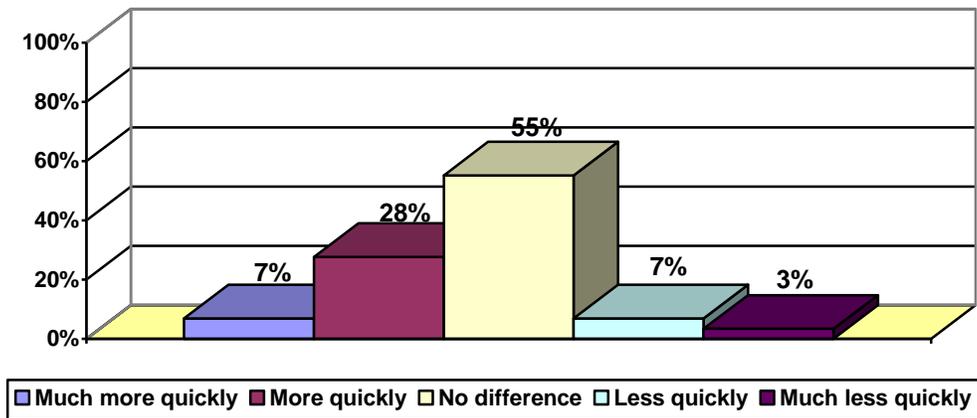
Average response from a scale of 1 to 5: **3.21**

Percent positive: 27.6%

Percent neutral: 58.6%

Percent negative: 13.8%

5. Have you been able to complete discovery more quickly under this pilot than prior to this pilot?



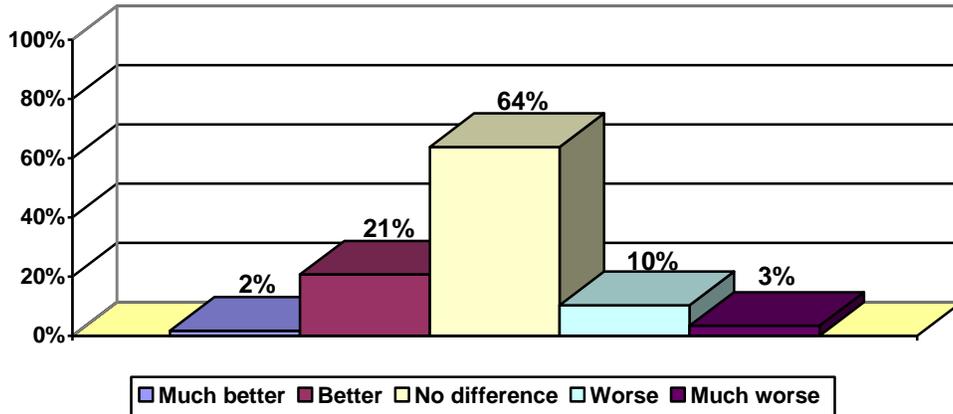
Average response from a scale of 1 to 5: **3.28**

Percent positive: 34.5%

Percent neutral: 55.2%

Percent negative: 10.3%

6. Has the quality of the trials been better under this pilot than before the pilot?



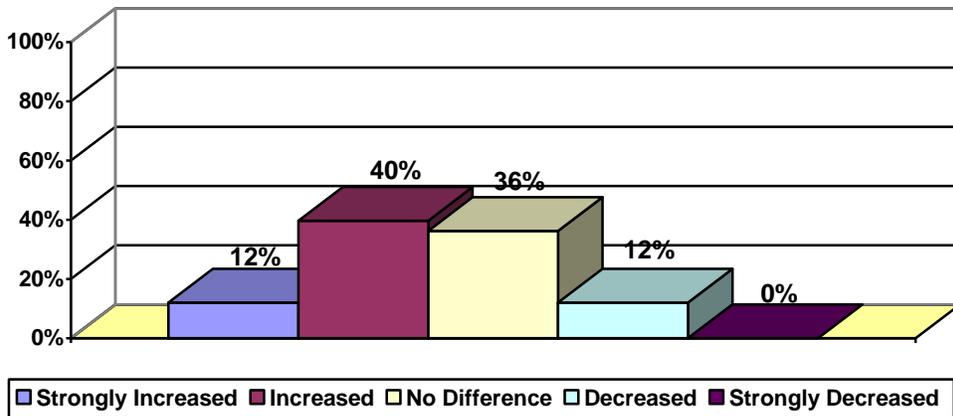
Average response from a scale of 1 to 5: **3.07**

Percent positive: 22.4%

Percent neutral: 63.8%

Percent negative: 13.8%

7. Do you think the Felony Blocking Pilot has increased or decreased accountability?



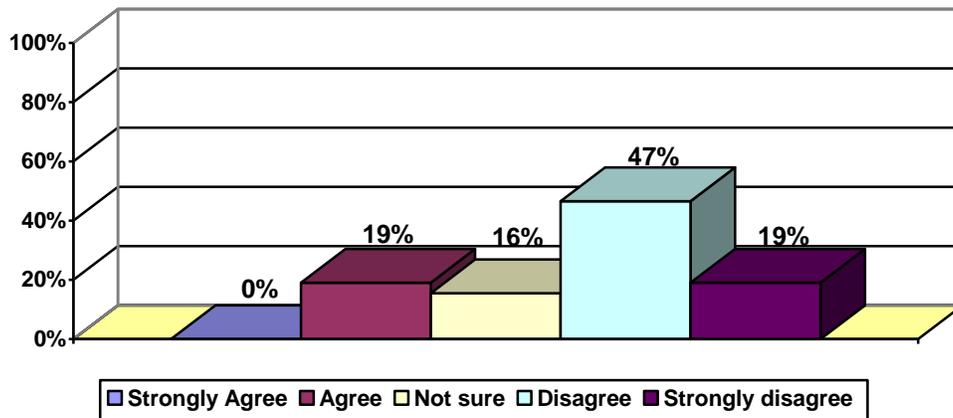
Average response from a scale of 1 to 5: **3.52**

Percent positive: 51.7%

Percent neutral: 36.2%

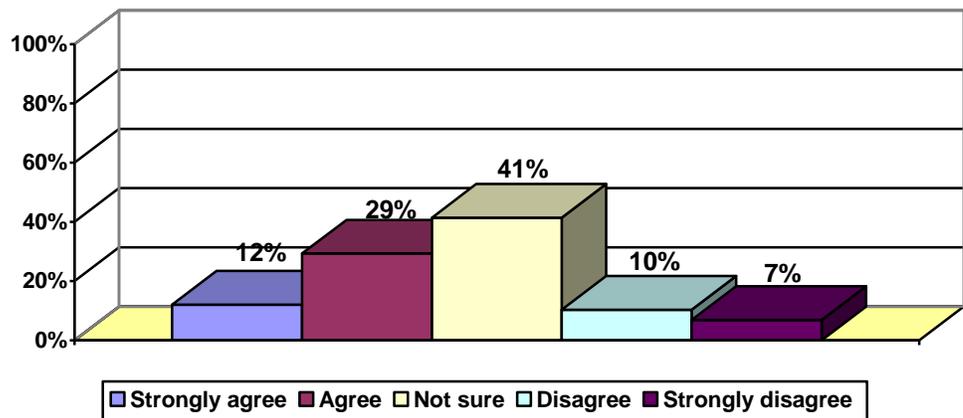
Percent negative: 12.1%

8. Do you think that the number of judges that the court has assigned to the pilot is the right number (eight at this point)?



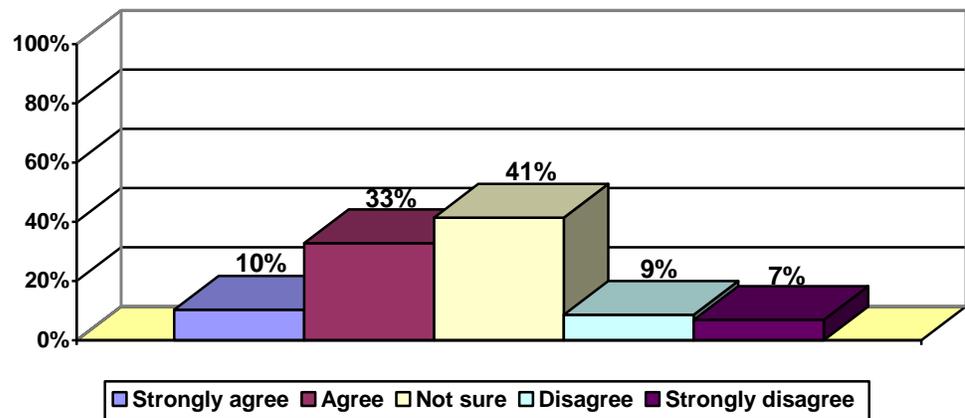
Average response from a scale of 1 to 5: **2.34**  
 Percent positive: 19.0%  
 Percent neutral: 15.5%  
 Percent negative: 65.5%

9. Do you think that the County Attorney's Office has assigned enough attorneys to this pilot?



Average response from a scale of 1 to 5: **3.29**  
 Percent positive: 41.4%  
 Percent neutral: 41.4%  
 Percent negative: 17.2%

10. Do you think that the Public Defender's Office has assigned enough attorneys to this pilot?



Average response from a scale of 1 to 5: **3.31**

Percent positive: 43.1%

Percent neutral: 41.4%

Percent negative: 15.5%

## Appendix C-2 Attorney Comments

***1. What do you think about assigning these types of cases to a single judge to keep throughout the course of the case? Why do you think that?***

### **Positive Comments**

1. A single judge keeps track of the offers and issues with a case and is in the best position to assist with settlement on the day of trial.
2. Any other method introduces the element of Judge shopping which slows down the process significantly. Having a known quantity from the beginning makes everyone responsible for their portion of the process throughout.
3. Assigning to single judge allows for all parties to be familiar with facts, Rasmussen issues, negotiation discussions, and relevant information re: accused.
4. At least in theory, I think it is a good idea because the judge then knows the case, the issues, the defendant, the attorneys - and sometimes that can help to resolve cases short of trial.
5. Familiarity with the facts of the case provides a sense of ownership and desire to come up with a just resolution
6. I feel like it helps to focus trial issues as well as weed out those cases not likely to be trials. It also gives all parties an investment in the outcome of negotiations.
7. Assuming, reasonable, neutral and detached judges. Promotes consistency in case. Provides incentive to get to bottom line early.
8. It eliminates judge shopping and the need to re-invent the wheel each time you appear before a different judge.
9. It prevents judge shopping and allows the judge who tries the case to become familiar with the case earlier on.

10. Other judges won't undercut the offers; more consistency; more efficient having one judge familiar with the case, and the parties don't have to explain the case to more than one judge.
11. Prevents Judge shopping
12. reduce forum shopping, make a judge feel responsible for the handling of a case
13. The assigned judge has a vested interest in making the bad cases go away earlier in the process since he or she will otherwise have the trial on their own calendar. The same is true for having the judge vested in the Rasmussen issues since the judge will make the ruling and then try the case.
14. The block system has given the judges a sense of ownership of the cases and holding the litigants accountable. In my experience, far more cases have settled at pretrial.
15. The judge is more invested in helping resolve differences between the parties in most cases at pretrial
16. There are some advantages and some disadvantages. I find the judges are more connected the case and are more likely to remember details than when we had mass PCPT calendars. This is particularly helpful when dealing with issues of bail, release, and bench warrants.
17. There is consistency throughout the process and you do not have to basically start over every time you end up with a different judge.

**Negative Comments:**

18. Cases still don't resolve until the day of trial. Discovery is not provided before the OM. It is nearly impossible for an out custody client to actually have a trial, 3 or 4 continuances is normal. Never get the benefit of varying players in the negotiation process.
19. Depending on the judicial officers history in handling certain types of cases, one party tends to take a position without an eye towards settling knowing that there is no chance of the case being handled by a judicial officer with a different view than the one blocked to.
20. Depending on which judge you are "blocked" to it could either be the best method or the worst method. Judges that are able to make affirmative decisions on cases will move the cases. Other judges have been stuck in a rut for a very long "blocked" five weeks and run their prior blocked cases into the next block and are perpetually setting too many cases on a single trial date. I have cases from the last rotation that are still unresolved and will pick up new cases next week.
21. Doesn't really save time, you end up with a trial date where the judge has many other trials set and no certainty that your will go or not. You end up preparing for nothing, and there is little you can do about it.
22. It's too much work for one Judge and the result is it's difficult to get a speedy trial for an in custody and almost impossible to get one for an out of custody. The Judges I've been in front of are doing the best they can but could each use another full time Judge. (which I realize is impractical)
23. It does not allow for as much scheduling flexibility. Also, the block judge personalities control the outcomes of cases subverting justice
24. It would be much better if there were at least 10 judges on the felony block. Due to the volume of cases that come through this county, the judges' caseloads are such that they end up scheduling numerous OM/PTs on the same day and at the same time. Their trial calendars usually have 3-6 trials on for a given day. Many of the trials that do not resolve are put on stand-by or rescheduled, thereby throwing everyone's schedules off.
25. Previously, the same judge would still usually keep the case all the way through, but our pool of judges was larger and I prefer that.
26. Some judges are personally ill-suited to the job. They need to be willing to hold the line and not knuckle under on the date of trial.
27. Some judges have their own rigid policies i.e. no departures ever on gun cases. If another judge is willing to consider a departure and settle the case, who benefits from keeping the case before the judge who won't even CONSIDER settlement? We will not just roll over and plead people to get it over with, so the case gets tried where it could have been settled by a different judge. Judges who won't even consider departures and who only wish to rubber stamp the sentencing demands of the prosecutor have no business being assigned to this sort of system.
28. The bottle necks just change location.
29. The cases still don't settle at pretrial because we still get better deals on the day of trial, it makes no difference.

30. The volume of the cases is so high that clients are experiencing trial delays. Trial delays mean more time in custody and if out of custody, problems with keeping witnesses.
31. Unfortunately it depends on which judge you are assigned to. Since the block judges are filled for trial dates, out of custody trials are taking much longer.

**Positive and Negative Comments:**

32. But, it does depend on the individual judge. The block method obviously cuts down on judge shopping, but clients are treated very differently depending on who the block judge is. There should also be more uniformity on how discovery violations and "block rules" violations are treated. I just had seven omnibus hearings in the last few days and I had an offer on one - and that came Friday afternoon on a Monday case.
33. I like appearing in front of only a few judges because each one is consistent in how s/he handles cases and trials. I don't like how hard it is to get out-of-custody cases to trial. Since they go to the bottom of the pile, some of mine have been continued 3-4 times. When the block first started, it was easy and clean in trying a case start to finish. But as the judges had more and more cases added, a trial now is much more piecemeal which really drags the process out too long. It's beginning to seem as inefficient as the old trial calendar system.
34. I think it has resulted in swifter proceedings and more consistencies in sentencing. It further has avoided having the trial court undercut the discussions that were held before the pretrial court. The only concern in some instances is that out of custody cases had to be continued multiple times to accommodate the trial court's trial scheduling of in custody cases. Perhaps, if there one continuance of an in custody case could be considered appropriate, but the bench may want to find an alternative trial judge who could be available to avoid having to continue out of custody cases two times or more. Overall, I think the block system is more preferable, more accountable, more timely and there is more consistency in sentencing.
35. In theory, I have no problem with it. However, the implementation has left much to be desired. The wide range of outcomes based upon the judge rather than the facts in the case, the temperament of some of the judges on the block, and the fact that some judges calendar's have become so clogs that defendant's cases are being delayed all raise serious questions about the effectiveness of this approach.
36. In theory, I think it is a good system. Institutional memory with regards to a case is probably in the best interests of all people. However, the problems arise when judges are backlogged with cases and trials and backed up along with them.
37. I think that there is more accountability for all parties under the block system. 6 of the 8 judges keep on top of the caseload and hold the parties accountable. Judge Quaintance lets parties know the week before trial the order in which the cases will be tried and the likelihood of settlement of the cases before ours. That is very helpful. The block also eliminates, to some degree, attempts to get a better resolution later in the case.
38. It is certainly good for scheduling purposes but can be really difficult when one judge has 8 felony pre-trials in one day, which then presents speedy trial issues in scheduling trials.
39. It is good to have one judge to go to on a case. Obviously, as a defense attorney, if I'm not crazy about the judge, and I pick up the case late in the game, I am stuck with that judge. Honestly, sometimes the judge didn't remember what was said from one appearance to the next, negotiation-wise.
40. It provides some accountability. But judges must hold prosecutors and defense lawyers to the rules.
41. More Judges with less cases is better than less judges with more cases.

**2. Think back to the way the court processed these cases prior to the Felony Block Pilot. Do you think that you are better prepared or worse prepared (discovery completed, motions completed, pleas taken earlier, and fewer trial cases) under the new system?**

**Positive Comments:**

1. discovery is faster,

2. I am not seeing much of a difference as to this issue. I still have a lot of trials set. I think discovery is being completed sooner.
3. I don't think I am setting fewer trials, but discovery and motions seem to be completed more efficiently.
4. It does help to have multiple cases w/ the same Judge from a scheduling aspect, and it has helped a little with the completion of discovery, but not much.
5. Making offers before the pretrial ensures I have reviewed the file before the appearance
6. The block system has made the pre-trials more meaningful. By completing discovery earlier, both sides know the strength or weakness of the State's case.
7. Under the old system, it was easier to get a case continued because there weren't any judges available. Now we know that the judge is available every Monday. It is also important to have a good reputation with a judge that we continually appear in front of.

**Neutral Comments:**

8. Didn't not work in the same division prior to the block.
9. I always tried to be prepared at pretrial.
10. I don't notice a reduction in the number of trials that I schedule and end up trying.

**Negative Comments:**

11. But not by much. I still don't get discovery from the defense until trial has usually commenced. My cases are the type that don't settle (gun cases) and therefore I have many trial settings.
12. County attorneys are not getting both discovery AND offers to me well before the OM. If that happened it would better facilitate the OM. Otherwise the blocked 30 minute increments will NEVER be enough time.
13. Discovery in not completed earlier, yet we are expected to plead clients guilty almost immediately. Some judges issue boilerplate scheduling orders that have no basis in the actual state of ongoing discovery at the time the trial is set.
14. Discovery violations carry no consequences, offers presented are seldom worth considering, judges can't commit to anything without meddling (other than veiled sentencing threats towards clients.) Therefore, more cases get set for trial and are actually tried.
15. I'm setting significantly more trials. The motions and discovery issues are about the same.
16. I am still prepared for trial. There are still discovery problems. Pleas are still being taken at the last opportunity. I have more low level property and misdemeanor trials to do now that the blocked cases are off the regular "trial calendar". The lower level cases are not settling as easily as they used to since more judges are available to try them.
17. Initially, the county attorney's office was doing a better job of completing discovery. However, they quickly learned that this is no consequence for failing to provide timely discovery. The judges on the block have shown no desire to enforce the "discovery and offer before OM" requirement. Virtually every one of my cases is missing discovery of some kind, and I can think of no cases in the recent past in which I have received offers prior to the OM hearing to discuss with my client.
18. Issues that should be discussed at the OM are not being discussed because county attorneys are not appearing for their own cases - and are sending others without the power to negotiate, discuss, or resolve the cases. It makes the OM hearing useless, and so I think there has been little progress since the old system. If, as a PD, I were not to appear for an OM, I would be in much more 'trouble'. The rules, whatever they might be, need to be enforced equally.
19. My level of preparedness seems to be the same. However, it appears that under the block system - I am not receiving discovery prior to the OM. Discovery completion is not being enforced by the assigned judge either. More often than not - the OM is continued. This negatively affects my clients.
20. The county attorneys are implementing new, and improper restrictions on discovery, so this negates any benefit to the blocking process. And this system is producing no more pleas and no fewer trials.
21. There is a slightly greater tendency not to have the initial discovery by the OM Hearing. Other than that no real difference.
22. We rarely get meaningful offers far enough in advance to present to clients. When discovery is not completed by the OH there is no penalty

23. The block system has meant that I have set more cases for trial. Which in turn has made me more busy and less prepared.

**Positive and Negative Comments:**

24. Some block judges are meticulous about having OM's where they really ask questions about trial issues and discover. Some also insist on a chambers meetings the Friday before the trial Monday (KQ). Other judges do not (McKinsey) and so uniformity would be nice.
25. I believe that I am consistently prepared under both systems, so this makes this question difficult to answer. However, there are times when because of the quick turnaround in providing discovery, the defense counsel has not had an opportunity to review the discovery, especially, if the public defender has one attorney cover the PSF calendar and then, the case gets reassigned to a second public defender. At times, there does appear to be a delay in the public defender's ability to review the file with his/her client before the omnibus hearing, requiring a continuance. Otherwise, I think both sides are consistently prepared. Also, often times, at an omnibus hearing, there is an exchange of information from the defense counsel to the prosecution that the state would like to consider in formulating a resolution and at times, this may require a second pretrial, for the information provided by defense to be verified.
26. In the beginning of the program all parties, including the judge, were better prepared. Now, with prosecutors redacting so much discovery, and the number of continuances, it's about the same.

**3. Do you think this preparation changed over the 1 ½ years of the pilot?**

**If you think that the preparation has changed, please describe how preparation has changed:**

**Positive Comments:**

1. Discovery is provided prior to the OMPT. Offers can be made ahead of the OMPT allowing for more meaningful discussions on the day of the pretrial hearing.
2. Gets discovery to the client faster and resolves discovery issues faster therefore, resolving matters quickly
3. I think settlement offers are made earlier facilitated in part by probation preparing and providing the criminal record summaries, which are helpful in formulating a settlement offer.
4. More PD's are talking to in custody clients prior to OM which makes the calendars move faster.
5. Our office practices have improved in speed and efficiency.
6. We've gotten used to this system and the judges expect a certain amount of preparation. Judges are more likely to hold the attorneys responsible for case preparation (some judges more than others). We develop better relationships with the judges and want to come prepared or we look foolish.

**Negative Comments:**

7. Because this system mandates full discovery in a limited amount of time, paralegals have developed a system that provides all documents. As a prosecutor, I get all the discovery although, I get it after its sent out to the defense attorney. At the same time, I cannot access my file until discovery is complete, so I am less prepared to discuss the case at the OMPT. In short, Defense gets discovery priority which seems strange but has been the result. Defense seems more prepared, I feel less prepared during the initial process.
8. I used to be very certain to provide offers in advance of the OM, but then it became apparent that defense attorneys were not relaying the offers before the appearance, so now I am less worried about whether or not I make an offer beforehand.
9. In my experience, it seems as though defense attorneys are not as prepared at the onset and thus there are many more trials being set.
10. More and more cases. More difficult to keep up with discovery
11. The pilot initially intended for discovery to be complete before the OM. This is not happening. Offers are not being extended before the OM hearing, and the offers get better the closer to trial you get. The block was supposed to stop this from happening. In addition, the delay that is being

- built into the system because of scheduling problems is backing up cases and throwing too many of them together for prep time.
12. There is too many cases for one judge to handle. If we're keeping the blocking system, we need at least two more judges in the rotation.
  13. Virtually all of my cases are missing discovery prior to the OM and have to be continued, and in many cases I am only getting discovery as the trial date approaches
  14. See comments to last question. *(Note- Comments to last question were: Issues that should be discussed at the OM are not being discussed because county attorneys are not appearing for their own cases - and are sending others without the power to negotiate, discuss, or resolve the cases. It makes the OM hearing useless, and so I think there has been little progress since the old system. If, as a PD, I were not to appear for an OM, I would be in much more 'trouble'. The rules, whatever they might be, need to be enforced equally.)*

**Positive and Negative Comments:**

15. As the glut of trials accumulated it backed everything up. As the Judges got more and more busy it backed everything up. I think the Judges and their staffs are really putting forth a tremendous effort but it's beyond their ability to keep up with the present situation.
16. Discovery process has been accelerated and more complete earlier on from the prosecution standpoint. Discovery from the defense still is problematic - slow and often does not happen until or during trial. Judicial enforcement of defense discovery is sporadic or non existent.
17. I think it took some time to adjust to the new system and meet the discovery timelines prior to OM. I think that is on track now. I would like to get the criminal history summaries from probation a week in advance so there is actually time to make an offer and negotiate prior to the OM.
18. I understand the system better and the individual personalities better and thus can prepare better than when it first started. Still not as prepared as before the pilot program
19. When it first started, prosecutors were more diligent about trying to get discovery completed and trying to get an offer to me in time for me to talk to my client. Things have gotten much more lax as time as gone on.
20. When the pilot started judges were better about holding each side to goal of accomplishing something at the next hearing. Perhaps the new county attorney has not been educated well enough on the purpose for the block. But hearings need to be more productive. Adding two judges to the block was also needed.

**3. Do you think this preparation changed over the 1 ½ years of the pilot?**

**Other comments:**

**Positive Comments:**

1. Thanks for trying something new. In the end, this is probably a better system. Let's keep it working.
2. Now that we have the same judge for a year at a time, it is more important to be prepared than early in the pilot when we would have cases in front of three or four different judges.

**Negative Comments:**

3. I believe once we get stronger judges on the "blocked" rotation it may move cases a little more smoothly. Until that happens there will constantly be a back log of unresolved cases in the system.
4. I don't like the fact that public defender teams are assigned to the same judge for the entire year. I think there should be a different judge every time a team picks up new felony cases. The old system was better in terms of working with a variety of judges. Under the current system, all of are cases are assigned to the same judge for a year.

**Positive and Negative Comments:**

5. I believe that the block system has provided more accountability in sentencing, less continuances overall except when truly needed, and that hearings start in a more timely manner.

6. I like the block system in theory, but I don't think we should be in front of the same judge for most of the year.
7. I originally supported this idea and still believe in it. However, the defense still uses it to delay discovery while demanding everything and the sink from us. Also, slow bit-by-bit trials aren't efficient. I think this could be tweaked to be made better.
8. I strongly favor keeping the block system. However, it could be improved by having backup or "buddy" judges to try out of custody cases.
9. Perhaps in theory the blocking approach might work. However, I do not think the approach works with the current judges assigned.
10. The felony block has made little difference in helping resolve cases. Unfortunately, most parties are incapable of assessing their case or making a decision until the day of trial (including Judges). While I feel the felony block is overall a good way to handle felony cases, most attorneys have difficulty getting so many places. The problem is not the attorneys and the felony block. The problem is domestic court, property court, drug court, community court, serious traffic, dwi court, trial calendar, mental health court, judicial reviews, arraignments, the suburbs, etc. The blocked felony judge should handle all criminal matters pending against a defendant. Without consolidation, our system is hopelessly inefficient and frustrating. The felony is the most serious case. There is no logical reason why the block judge cannot handle everything else.
11. There have been some problems with congestion, but overall, I feel as the project has been a success.

#### **4. Have you been able to complete discovery more often under this pilot than prior to this pilot?**

##### **Positive Comments:**

1. I typically have discovery completed by the OM
2. Much of that has to do with internal procedures (paralegals do discovery sooner)
3. Prosecution has devoted more resources to the discovery process in the beginning of the case.
4. The county has been fairly consistent in getting to me the discovery. It again seems dependent on the individual county attorney and has little to do with the Block.

##### **Neutral Comments:**

5. Discovery is fluid. A criminal case is constantly changing.
6. We have a set process

##### **Negative Comments:**

7. Again, the new policies of the county attorney are slowing things up.
8. County attorneys are slow to get us disco under either system
9. Discovery is no better, and in some cases worse than prior to the block project. There is no appreciable difference between how quickly discovery arrives and how quickly cases resolve in the block system versus property/drug, which clearly indicates that blocking cases has had no positive impact
10. No one CA ever complies with the discovery rules or giving a fair reasonable offer before the OM. As PD's we are given a often rushed, boilerplate offer on the day of the OM and then are expected to have our client plead guilty in 10 minutes without having even close to all of the discovery. If the CA followed the rules and gave the discovery when requested and available, and gave offers that is a true offer, not just a number, the program would be better suited.
11. Prosecution is now violating discovery rules regularly in alleged name of "victims(sic) rights"
12. Some unnecessary discovery is being done in blanket fashion to cover all possible requests. I think in serious cases, more discovery need be done than in a run of the mill low level felony. This over reaction is costing big money and hassles for our paralegals.
13. The same 'games' are being played with respect to discovery, and judges are doing little to enforce the rules.
14. Three weeks is often not enough time to complete discovery

15. What is unfortunate about the new rules w/r/to discovery is I no longer have the discretion NOT to order all the tapes/DVDs/photos, etc. whereas in the past, if I knew a case was going to settle, I would not put my staff through the work of getting and copying evidence.

**Positive and Negative Comments:**

16. I guess the question is, "By when?" I don't have it before OH, but I do generally have everything by trial.
17. I say "more often" only because my office's staff works a lot harder to get things out faster, but discovery has never been a problem for me. I think the County Attorney's Office is spending a lot of time, however, duplicating tapes, etc. in cases that are easy pleas. That strikes me as a waste of resources. The defense attorneys are still just as likely to produce discovery on the day of trial and I find the bench tolerates it much as it did under the mass calendar system.
18. I still receive discovery the Friday before trial. Judges don't enforce the discovery by the OM.
19. I usually get written reports right away but the media affiliated with the reports (Scales tapes, Interviews with witnesses, Video, Photos) are another story. Also if I want to make arrangements to see any evidence before OM...It's almost impossible.
20. In cases where there are volumes of CDs, videotapes and paper, it is important to recognize that it takes time for county attorney staff to duplicate this evidence. To my knowledge, the bench has been understanding of these staff remands.
21. It started with much better discovery but we have fallen back to old habits and the judges don't do anything to enforce the discovery rules.
22. My discovery goes out faster--I still get less from the defense.
23. Again, prosecutors are now withholding discovery for any so-called gang cases; otherwise, there's been no change in the rate and level of discovery.

***5. Have you been able to complete discovery more quickly under this pilot than prior to this pilot?***

**Positive Comments:**

1. I don't think that has anything to do with the block though. It is just better organized now as part of this pilot. The procedure the CA is using now would work faster with or without the block.
2. I think the discovery process has been more quickly because of the changes made initially; that is, that the public defender staff would copy the file on the morning that the case is scheduled for a pretrial.

**Neutral Comments:**

3. Same as prior
4. Still dependent on the individual prosecutor.

**Negative Comments:**

5. Again this is from the prosecution perspective. Defense discovery has not changed at all. It is still not happening until trial.
6. I often spend hours tracking down CA for discovery. Most of the time, if the case goes to trial, the day before, and sometimes the day of, I then get the discovery I have been asking for...much of which is not good for my client. Being armed with the information, I would be better able to assist my clients in maybe taking a deal. EVERY TIME I do not get discovery the day of trial, I make a motion to dismiss, and each time I am laughed at. What does that teach the CA office to do??? Why would they give discovery when there is no consequence? If I was a CA I sure would not hand over everything knowing nothing would happen.
7. Less quickly in many violent crime felonies due to prosecutors withholding discovery information.
8. Prosecution now violating the Constitution in denying discovery
9. See quickly. See answer to previous question. *(Note- response to last question: Discovery is no better, and in some cases worse than prior to the block project. There is no appreciable difference between how quickly discovery arrives and how quickly cases resolve in the block system versus property/drug, which clearly indicates that blocking cases has had no positive impact)*

**Positive and Negative Comments:**

10. I feel the County Attorneys are more mindful of their obligations to provide discovery due to OM deadline but find it still frustrating to again, receive any taped media associated with the case.
11. Still get the police reports relatively easily - the rest depends upon the particular county attorney (and whether the judge is willing to enforce the rules).

## **6. Has the quality of the trials been better under this pilot than before the pilot?**

### **Positive Comments:**

1. I think it is better having those judges always. They will have backed up trials and then better able to help negotiating with the parties.
2. I think we have had less trials, but better trials
3. Judge are more familiar with the cases, and many issues get resolved sooner.
4. The quality of a trial is dependent on the players involved in the trial. While I think that the trials under the pilot project have been meaningful, I think that the pilot project does not impact the quality of the trial; rather, I think who the particular judge that is presiding impacts and attorneys involved impact the quality of the trial. I do think that the selection of the judges who have served as block judges has been excellent; so, in that sense, there have been quality judges who have presided over the trials under the pilot block system.

### **Neutral Comments:**

5. Depends upon the Judge.
6. I have had no trials under the block system. Only one from property.
7. It depends on the Judge
8. No experience prior to pilot
9. The quality of trials has much more to do with many other factors independent of the felony block. For example, the experience level of the prosecutor, defense attorney, and judge, play an important part in the quality of a given trial.

### **Negative Comments:**

10. Because there is less diversity of judges, I have been stuck with one judge for quite some time. I am less likely to upset this judge for fear of reprisal on a different case. I don't think that I have consciously done this, but maybe subconsciously. Also, the Judge learns my tendencies and does not always truly consider my motions because he or she has just experienced this motion on a previous case. I think JUSTICE has suffered.
11. Everyone seems more rushed. Since we are backed up all over the place, the trials seem sloppier and more hurried. Knowing that you have back to back trials in front of the same judge, who you may not agree with on a lot of issues, gets disheartening.
12. Familiarity breeds contempt. Feelings can carry over from one trial to the next if you are in front of the same Judicial Officer.
13. It's much harder to schedule trials with the block.
14. The tsunami of rookie public defenders has meant that fewer cases settle at the OMPT.

### **Positive and Negative Comments:**

15. I have had really bad experience with one judge on the block and will file on her from now on. On another I had a really good experience...same issues as before, but now limited choice for my client's trial options.
16. Judges do know more about the cases if they reach trial, though many judges on the block are so stressed/overloaded that they believe they 'do not have time' for trials.
17. The judges are better than a lot on the remainder of the bench, but their calendars are so full of appearances that the trials are often disjointed and we only have limited time during each trial day whereas another judge will have a clear calendar and can try the case more quickly.
18. The only note I would make is that there are probably more delays and interruptions because the block judges are in trial and still have to handle other appearances. I think they all do a good job at managing that for the most part though.
19. The specially assigned trials are fine; it is too difficult to get and out-of-custody case to trail in this system. Also, most judges have way too many interruptions to make the trial flow smoothly. Its

- not their fault, they just have too many other hearings that have to be jammed in when the trial is going on.
20. Yes at first but now not so much. Some judges are better than others in streamlining so we can go straight through the case.

## **7. Do you think the Felony Blocking Pilot has increased or decreased accountability?**

### **Positive Comments:**

1. For reasons stated below, when the same judge handles the omnibus hearing and the trial, the Judge does not undercut himself/herself. Once an offer is revoked, there is no offer at trial and the presiding trial judges have consistently respected that fact in sentencing.
2. For the attorneys there is accountability in the sense that there is no excuse to be late or unavailable and in the sense that we are held accountable by the judge for getting discovery done and making offers. Also, for defense counsel there is more accountability in the sense that they need to have discussions with their clients earlier on rather than waiting to see who the next judge will be in hopes the offer gets better. For judges, it is easier to know what to expect and there is more predictability in how they might handle a case and what kinds of straight pleas they take.
3. Judges do get a feel for whom is chronically unprepared. This has led to an increase in "sanctions" against the offending party because it affects the judge's entire block and the judge can see the pattern and not chalk it up to a one-time occurrence.
4. Somewhat.
5. There is maybe a little more accountability now that attorneys need to maintain their reputations with certain Judges.
6. Question is too vague. If you mean for the attorneys, then yes, because they are appearing constantly in front of the same judge and need to keep from pissing that particular judge off.

### **Neutral Comments/Unsure of question:**

7. Accountability by prosecutors? Defendants? Judges? Unsure what question refers to.
8. For whom and about what?
9. Whose accountability? Defense attorneys are not seeking accountability for their client, but fairness and adherence to the law.
10. Accountability to whom? I feel accountable to my client. The Block system does not change that.

### **Negative Comments:**

11. It's much easier to "play" the system when it's overloaded.
12. It has decreased accountability for the prosecutors. Some of them seem to be relying on the block judge to depart or make the deals for them. Again, scheduling is a nightmare. Having to balance my clients' right to a trial with how many days of a judge's time I can get this week is ridiculous. I often have to trade mandatory arraignment days because my court appearances before my assigned judge had to be continued, or put on standby for trial.
13. Unfortunately, Judges and prosecutors (and defendants for that matter) are no more ready to make decisions than previously.
14. When there is one "go to" judge, things can't slip through cracks.
15. Accountability for whom? I don't find that the prosecutors are held accountable for discovery violations but I think we are all where we are supposed to be more often.
16. The judges on the block do not seem to hold anyone accountable for anything.

### **Positive and Negative Comments:**

17. Initially I would say it increased accountability, but it no longer has that effect.
18. Obviously both attorneys are more visible to a particular judge so accountability is increased. Judicial accountability should also be increased. Not sure that it is.
19. Slightly--but it has not increased the defense delay.
20. When it started it increased, but it is falling behind.

21. While there is added pressure to plead clients guilty earlier in the proceedings, there seems to be no accountability for violating a client's demand for a speedy trial. If you don't plead guilty, be prepared to wait for your trial and expect it to be continued at least once on the day of trial.

## **8. Do you think that the number of judges that the court has assigned to the pilot is the right number (eight at this point)?**

**Positive Comments: NONE**

### **Negative Comments:**

1. As some of the judges are complaining about how full their calendars are, and I set cases last month for the end of October, there does not appear to be enough judges dedicated to the pilot.
2. Eight is better than six, ten would be better than eight. I understand money is a factor.
3. Either need more judges or need the ability to assign trials to the trial calendar. Placing multiple trials on standby does not work.
4. I think may need to be at least one other judge to preside over out of custody trials, so that they do not need to be continued more than once; or alternatively, out of custody cases, perhaps, could go back on that trial calendar that occurs every morning and be assigned out to trial.
5. I think there should be more. At least 4.
6. I would add a select group of backup judges for trials of out of custody cases that often seem to get bumped.
7. I would say maybe bump it up to 10.
8. If this blocked project is to continue I believe we may need more judges handling cases. Maybe judges should have a cap of cases. I have found that frustrated judges may want to clear their calendar for the day, agree to continue all cases, and then end up totally back logged on future dates.
9. If you have a block you should have more. It seems like every block judge has a backlog of cases awaiting trial.
10. It should be doubled.
11. More judges may be necessary. When trials are set - there is a backlog of matters. Standby for days or weeks occur – negatively impacting my calendar control. Many times my trials start to spill over into my mandatory calendar staffing.
12. More judges need to be assigned to the block system.
13. Need 2-4 more, I think. The judges seem stressed and overburdened for the most part.
14. need more judges for the number of cases coming through the system
15. Need more judges so you can have a limited number of trials set before any one judge on any given day
16. need to at least double the numbers of judges
17. Need two more at least.
18. No - they are far too busy and it gets worse with each month since their caseload of sentencings and revocations and misc. appearances increases the longer they are on the block.
19. No, there is still too much backlog when a judge is in trial and it runs into their OM week or they have previously set sentencing, etc. Also, because the calendar is so tight, there is a lot of pressure to speed through trial so as not to run into a second week. I don't mean to imply judges are forcing trials through; it's more a feeling in the back of my mind. It's also difficult when there are multiple trials set in front of one judge and more than one actually goes. You can't go on standby to the next week because of the OM schedules and out of custody cases tend to get bumped repeatedly for new trial dates.
20. Not all of the judges are as efficient in handling this caseload. 2 of the judges allow multiple continuances of both pretrial and trial dates. The other 6 are firm but do allow for exceptional circumstances.

21. not enough
22. Not enough
23. The calendar's are quite busy and sometimes things can't be scheduled promptly.
24. The judges are overbooking for trial and also imposing their own scheduling restrictions that make life difficult.
25. The judges seem to have pretty full calendars and for some this means harder to get a case to trial.
26. There are too many cases on each Judge's block now
27. There should be two more Judges added
28. Too few, by far
29. Trials are continuously continued due the back log.
30. We either need more judges for the block or other judges that can step in and handle all the appearances the block judges have during the trials. Block judges have too much to do and trials aren't as efficient.
31. Regardless of how many judges are assigned to the block system, there are only so many defenders and prosecutors. When we are backed up waiting for trials all over the building instead of one or two places, we are still blocked up. And when we go to change trial dates, we now have to coordinate with the judges schedule as well. It makes it much more difficult for things to be scheduled.

**Positive and Negative Comments:**

32. The ability to try in custody cases with the number of judges devoted is ok but the ability to try an out of custody case is compromised with this number of judges and results in a significant number of continuances.

***9. Do you think that the County Attorney's Office has assigned enough attorneys to this pilot?***

**Positive Comments:**

1. In light of our budget restrictions, I think the office is staffed as well as can be expected.

**Neutral Comments:**

2. It's no different than the non-block.
3. I haven't noticed any difference in their availability.
4. The entire violent crimes division is working the block. There are no more to assign.
5. They have assigned the resources that they have.
6. We have been understaffed and have not filed open positions for more than a year.

**Negative Comments:**

7. Not even close
8. The coverage problems are the same. When the CAO sends a substitute with no authority to negotiate nothing gets done.
9. There are not enough attorneys for the caseload.
10. They always seem to be scheduled in 3 places at once.

**Positive and Negative Comments:**

11. The CA's office seems over-taxed (from a citizen's perspective). From a PD's perspective they're fine.

***10. Do you think that the Public Defender's Office has assigned enough attorneys to this pilot?***

**Positive Comments:**

1. I believe the public defender does not have a group singled out to do these cases but rather has his entire adult court defender lawyers participate in the program. At least 50 public defenders do these block cases. many more than the prosecution.
2. I can't think of any specific issues in this area.

**Neutral Comments:**

3. Adult court PD's handle all types of cases. The pilot has not affected that process.
4. Hard to say if this is a problem. I have not had any cases put on standby because a PD is in another trial.
5. I don't have any information on this.
6. We have assigned the resources that we have. There are no other PD's to take these cases.
7. We get cases and we do them. As far as I know there are no attorneys assigned to the pilot, nor should there be. We get a client and we represent that client to the best of our abilities. I do think that we have a shortage of attorneys doing public defense work in general, but that has nothing to do with the block program. The block program may if anything exacerbate this problem.

**Negative Comments:**

8. need more PDs
9. No, we need more lawyers because our case loads are still too high.
10. Our case loads are still too large. There aren't enough of us. Same issue with CAs and judges.
11. The only problem is the number of lawyers with very little experience and/or client control.
12. The Public Defender's Office has staffing issues which go beyond the felony block system.
13. Their rookie attorneys should not start out on the block. They should be given progressively more difficult cases and structured training. Their seasoned attorneys should not be wasting their time on misdemeanors.
14. There's enough bodies but not enough effective, well trained, capable attorneys. The newer, less experienced, untrained PD's are gumming up the system and hurting their clients.
15. There are not enough public defenders for the caseload. County attorneys are constantly waiting for PDs to appear in Court or waiting for them because they have so many cases assigned at one time.
16. We're all assigned to the block. But of course we need many more attorneys to be hired and funded.
17. We don't have any extra attorneys to assign to anything. Everyone is already struggling with the ever increasing trend towards "boutique" courts and restrictive calendaring.
18. We need more attorneys. Caseloads are too high.

***11. What can the court do to improve the handling of these types of cases?***

**More judges/better suited judges:**

1. Again, maybe consider more judges on the block system and capping the number of cases from arraignment each are handling at a time.
2. Assign more judges and determine a way to bring out of custody cases to trial in a timely fashion.
3. Assign more judges and rotate the judges so that public defender teams get to work with more than one judge.
4. Be uniform in pre trial chambers meetings. Get more judges. One judge was so overbooked and took one day per week to go skiing, that she compromised our trial and rushed everything. The trial judges I've encountered seem incredibly overloaded with trials and it feels they are under tremendous stress, which is not a good emotion to have in a trial judge.
5. Have a back-up for the block judges on trial weeks to handle their OM's and sentencings so that the trials can move faster. The judges have too many other appearances to do a trial efficiently.
6. Make sure that all of the judges assigned want to be handling block cases and are willing to try cases.
7. More judges available for trial.
8. More judges over all and possible back up judges for trial.
9. Provide more judges.
10. Put in only those judges that can hold people accountable.

11. Put more judges on the block who have more time to handle trials.
12. See previous comments. We need judges who can just try cases uninterrupted.
13. There need to be more Judges available per day to handle the number of cases. Lawyers, from both sides, continue to be late, unavailable and unprepared, because they know if they show up on time they will have to wait anywhere up to a few hours to get in front of the Judge.
14. Assign Judges to the block who know how to settle cases (Oleisky, McKinsey, Daly, etc.) Stop assigning judges who are unfair and/or don't settle cases.

**Enforce rules/laws better:**

15. Actually look at cases individually (not all gun cases are created equally.)
16. Demand higher accountability, a real probable cause showing, for detaining someone, for issuing a complaint, etc.
17. enforce the rules as they should be enforced; stand up to either side when that side is in the wrong and be willing to make the difficult decisions.
18. Have the Judges remember that they are not part of the prosecution!
19. Hold the prosecution's feet to the fire, make them live up to the obligations for discovery.

**Improve case management:**

20. Apply the same rules to the defense as to our office. Few judges did before and if they do now, the defense files on them. Somehow, coverage of the judge's other hearings during trials needs to happen so there is a smoother trial process.
21. I think there should be less time spent in chambers discussions and the cases should be called on the record in open court. There is still too much time in chambers and it would be more efficient and accountable to the public, if there was less time in chambers and more time in the courtroom, so that the arguments made in chambers or concerns voiced in chambers could be placed on the record, and addressed by the court, once. There is too much duplication because the culture is to discuss every in chambers first.
22. Make it easier to go to trial. Not set cases only on Mondays. There are only so many Monday in the year, and by the time you factor in vacations, mandatory assignments, etc, there are even fewer. Too many of us have too many cases (4 or more) set every Monday. Its impossible to prepare for that many. If they all go away, then there's little to do in the week. That seems very unbalanced to me.
23. Please help advocate for more attorneys to be assigned to the block system. Please advocate for probation to provide the criminal record summaries earlier (right now they are not provided until the Friday before the OMs which makes it difficult to extend offers in a timely manner)
24. See previous comments. The felony judge needs to handle all matters. Judges need to help parties get to the bottom line. Judges must also remember that the toughest judge is the one who makes the tough decision, not the one who comes up with the biggest number.
25. Strong encourage/enforce that State provides discovery by the OM.
26. The court can improve the block system by holding unprepared and tardy lawyers accountable. If the state is required to do certain things in advance of pre-trials, defense attorneys should also be expected to review their discovery, meet with their clients, relay their offers, and notify the state of motions/issues in advance. By doing so, the court could dramatically decrease the number of trials that are set.
27. The individual judges vary greatly in how they preside over their calendars. Some are efficient, others are overwhelmed. This is totally relative. Why don't they get together and decide what works and what doesn't work? The attorneys should not have to constantly listen to judicial gripes about how they are drowning in cases. We all are. Figure out a way to achieve greater efficiency.
28. Treat them more seriously and not as annoyances that need to be pushed off on a few overworked judges.

**Get rid of block altogether:**

29. Get rid of the block system
30. Go back to the old system
31. The court needs to dismantle the criminal block system. It works well for civil matters, but volume of cases dictate another method.

32. Trash the block system and go back to the trial calendar call. At least when my case is ready to go to trial, there is more often a judge available.

**Multiple comments:**

33. Add several more judges or go back to the old system. Without more judges, trial dates have become meaningless. How can one judge have ten cases all set for trial on a Monday? Judges who participate in the block system must be willing to participate in settling cases. Settling cases does not mean simply threatening the defense with a harsh "trial tax," or refusing to say "no" to a prosecutor.
34. Pick judges that hold the county accountable for coming up with a meaningful offer before the OM. E-mailing me an offer of a "guidelines" sentence the night before the OM is not helpful. Pick judges that help settle cases.
35. Assign the "right" judges to the block. We need judges who are not afraid to try a case. We need judges who can think on their feet and move cases. Many of the current judges are not the judges who should be on this block. Additionally, allow cases to be assigned to the trial calendar strictly for a trial, and stop putting cases on standby or continuing them to another date. This just backlogs the system.
36. Order the prosecutors to stop disregarding Rule 9.01 and 9.03 and case law and start providing all required discovery. Get more judges on the block rotation.

**12. What can the County Attorney's Office do to improve the handling of these types of cases?**

**Get discovery sooner:**

1. Assure timely discovery and timely offers for case disposition.
2. Comply with discovery demands quickly. Less red tape with gang cases.
3. Follow the rules of discovery. More timely and complete discovery.
4. Increase the number of attorneys and reduce unnecessary discovery so the paralegals can help with trial prep.
5. provide ALL discovery prior to the "OM" hearing ... sending an email the day before the OM, offering guidelines on the top count is pretty worthless
6. Turn over all discovery as required by the rules.

**Assign more attorneys/assign them more efficiently:**

7. Assign more attorney's to the violent crimes division
8. Hire additional attorneys. We all have way too many cases and too many trials. It is getting impossible to set trial dates.
9. Staff a block revocation calendar. Work out a system to cover when others are in trial to avoid delays.
10. Provide more prosecutors.

**Follow law better:**

11. Be more reasonable. Eschew internal rules which impede the line attorneys from properly dispensing justice. The CA has all the discretion but is either unwilling or too afraid to use it.
12. County Attorney's office needs to promptly make disclosures, then things would move more smoothly.
13. Do a better job of reviewing cases for probable cause, whether it can be proved beyond a reasonable doubt and whether the evidence is admissible.
14. Follow the law with regard to discovery

**Make better offers/make offers earlier on:**

15. Assess the case and make a meaningful offer. I understand in certain cases that can't be done, but I've set so many cases for trial only to have the state make the offer they should have made at the OH
16. I think we are doing a fine job. We could probably get offers out better but the defense still isn't talking to clients beforehand.
17. Make better settlement offers based on the facts of the case and not office policy!

18. Offer legitimate reasons to settle cases (180 cap and a stay of imp is not an offer, it is a given.)  
Actually look at cases individually (not all gun cases are created equally.)
19. Make reasonable offers at the OM and have the attorney who appears at the OM have the authority to negotiate the case. Too often the charging attorney doesn't come to the OM. Most all cases don't settle until the day of trial. In their defense, some cases can't settle until the day of trial because they require victim input and the defense wants to know who will show up for trial.
20. Resolve the domestics at pretrial rather than dismissing or drastically changing the offer on the day of trial.

**Be open to negotiation:**

21. Be on time, be prepared and make the first Pre-trial be meaningful by not sending someone with a written offer that isn't subject to negotiation.
22. Give more freedom to negotiate on certain cases. Many CAs are backlogged due to "office policies" dictating how cases should be handled. Especially with gun cases.

**Other:**

23. I'm open to suggestions.
24. Go back to the old system
25. Management needs to let the lawyers exercise their profession judgment given the facts of each case.
26. Prosecutors should be given more discretion to handle no-person offenses e.g. fleeings. These clog up calendars
27. The County Attorney's Office has hired additional staff to keep up with the pace of immediately providing discovery to defense counsel. The office continues to hire additional staff for this very time consuming process.
28. Try investigating better, reviewing videos, etc. before charging. I have had several cases these past few months that were dismissed once the prosecutor looked at the videos that were misrepresented in police reports.
29. See above. *(Make it easier to go to trial. Not set cases only on Mondays. There are only so many Monday in the year, and by the time you factor in vacations, mandatory assignments, etc, there are even fewer. Too many of us have too many cases (4 or more) set every Monday. Its impossible to prepare for that many. If they all go away, then there's little to do in the week. That seems very unbalanced to me.)*

**Get discovery sooner AND Make better offers/make offers earlier on:**

30. Complete discovery in a timely fashion, provide offers in a timely fashion, especially for in-custody cases.
31. Make sure the attorneys read their files before the OM date, give all discovery needed, convey a "real" offer before the OM date so that time isn't wasted at an OM. Offers cannot be meaningfully conveyed without also going over with a client the evidence against him/her.
32. Provide the discovery before the OM and make reasonable offers. Often the CA makes no offer at the OM, we are forced to set a trial date, and then the offer becomes much more reasonable after the CA has actually looked at the discovery. Again, resolving the case the day of trial.
33. Review the files, provide discovery prior to OM and given meaningful offers.

**13. What can the Public Defender's Office do to improve the handling of these types of cases?**

**Hire more attorneys/Assign attorneys efficiently:**

1. get more attorneys so they are able to adequately prepare all of their cases.
2. Hire experienced attorneys. Assign experienced attorneys to handle felony cases.
3. Hire more attorneys and pay the existing attorneys better so that they don't have so many places to be at one time.
4. Hire more attorneys.
5. Hopefully obtain more lawyers to lessen the work load.
6. Probably have them assigned only to felonies rather than have them assigned in multiple places.

7. Provide more defense attorneys
8. They need more lawyers in the entire operation. If there weren't so many specialty calendars, they might not have to be in so many places at once.

**Be more timely/efficient in case management:**

9. Always be prepared at each appearance
10. Be on time and convey the offers beforehand.
11. Follow the rules. Quit asking for the nine hundred extra things which are irrelevant and only delay the process and permit them to say "I didn't get all the discovery". If they want tapes or CD's, then listen to them before the OM.
12. Prepare earlier for the case
13. show up on time!!!!

**Meet with and communicate better with clients:**

14. Communicate offers to clients before pretrial - communicate client response to offers prior to pretrial - timely defense discovery
15. Discuss the offers and the case with their clients prior to arriving at an OM. Cases almost never resolve at the first OM because the PD hasn't met with their clients.
16. Talk to clients before court and relay offers.
17. Visit clients before the OM, convey the offer and have meaningful discussions with the client before the OM about offers and all discovery.

**Train new attorneys:**

18. Give training to new Attorneys on how to settle a case. there are too many needless continuances
19. The Public Defender's Office has a significant number of new attorneys that are immediately assigned a very large caseload. I think the training of new attorneys in the public defender's office would well-serve their staff and it appears, that past training efforts have been eliminated.
20. Train your new lawyers.

**Hire more attorneys/Assign attorneys efficiently AND Train new attorneys:**

21. Train the new lawyers how to handle cases. Do something about the horrendous morale problem which reverberates throughout the system. But most importantly, GO TO DIVISIONS SO THAT A LAWYER ONLY NEEDS TO BE IN ONE PLACE AT ONE TIME!

**Other:**

22. Don't know.
23. Go back to the old system
24. It is not our responsibility to prosecute our clients.
25. Not sure.
26. Review files, make detailed discovery requests prior to OM.
27. Stop rolling over when prosecutors and judges violate the Constitution
28. There's nothing we can do. We can't force clients to plead guilty any earlier than they are ready, if they choose to plead guilty in the first place. We need time, in some cases, to investigate, receive discovery and develop a rapport with our clients before ANY settlement is possible. Some cases, as always, will need to be tried. And some cases will continue to be resolvable only on the day of trial. We don't "manage cases" ... we represent individual clients and cannot make cases go away all by ourselves.
29. See previous answers. *(Prosecutors should be given more discretion to handle non-person offenses e.g. fleeing. These clog up calendars. Their rookie attorneys should not start out on the block. They should be given progressively more difficult cases and structured training. Their seasoned attorneys should not be wasting their time on misdemeanors.)*

**14. What else do you want the court to know about your thoughts regarding the Felony Block Pilot?**

**Think it is a good method:**

1. Felony Block is a good idea. Right now, it is just another group of boutique courts.

2. I like it, in general. Ramsey County assigns cases in this manner and it provides consistency. For the counties who don't do this, you never know who you are going to get and scheduling cases are nightmares and the parties cooperate better with this one-judge accountability.
3. In general, I think it's a good idea, but a few changes (documented earlier) could go along way in making it better.
4. Overall, I think the felony block system works well. There is more accountability to the public; cases have moved faster through the system, cases seemed to be resolved because in part there is one judge to deal with and not multiple judges with totally different approaches to sentencing. I think the bench has demonstrated an excellent commitment to staffing this project, to selecting judges that are respective of the process and the players, selecting judges that are comfortable with making those tough sentencing decisions that assist in resolving cases.
5. Let's keep it going. It's much better than the previous system.
6. It is a work in progress but all in all, it is a good thing.
7. I think it is generally pretty good. Some Judges are so backed up that when they are in trial there is too much delay and waiting around.

**Think it is a bad method:**

8. Go back to the old system
9. I think it has further complicated an already complicated process.
10. It is unnecessary and has resulted in violations of the right to a speedy trial, even for in custody clients, on a level that was unheard of under the old trial calendar system. A few types of cases may benefit from special assignment ... the majority do not get handled any faster or better by blocking them. This system also forces more "blanket" removals of judges. Under the old system, a judge could be given a chance on a case or two and the attorney can assess the judge's performance. Now the filing decision has to be made immediately and on several cases at once.
11. Old system was more effective. We really just need good judges to resolve cases. There is quite a disparity in this currently. If you end up with some block judges, nothing gets resolved while others are great at it.

**Bring in different judges/Need right personality on bench:**

12. Choose judges for the assignment that are not afraid to make tough decisions. Request probation to make criminal record summaries for criminal sexual conduct 1<sup>st</sup> degree and murder cases that are specially assigned and have an actual OM date scheduled for specially assigned cases.
13. It can work, but only with a number of alterations, specifically, assign the right judges to the block. A number of the judges currently assigned are great, but others are not the right fit.

**Scheduling issues:**

14. Like all new changes it will take some time getting used to. I know that there has to be a better way to procedurally move these clients through the process. But am at a loss as to what steps are needed to facilitate this. One quarrel that I do have with the block system is that my OM weeks seem to always conflict with my trial weeks for my misdemeanor cases.
15. The assigning judge refusing to grant a continuance to a trial team when one lawyer had to have unexpected surgery is unbelievable. This was denied due to overloaded calendars and a misplaced belief that trials must take place at all cost with no continuances for any reason. This is wrong and unjust.
16. The only improvement is that I don't end up with a trial scheduled every day of the week, every day of the year. However, now I have trials set on Mondays where the judge has many other trials set the same day, with no way of knowing whether my case is going to go or not.

**Other:**

17. Appreciate the courage to take on some change and try to improve things.
18. The complaint I have is an old one and doesn't seem to carry any weight. It seems that the people who do the work day in and day out and know how to make things run better are never consulted. Maybe it's because the PD and the CAO send management people not real workers to these meetings.
19. The Judges should hold accountable the public defenders who are always late or never convey the offer to their client before the appearance.