EVALUATION OF GRAND JURY CASES
IGNORED AND INDICTED WITHIN SIXTY DAYS:
RESOURCES USED BY THE CRIMINAL JUSTICE COMMUNITY

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ABSTRACT

The focus of this work is to examine cases presented to the grand jury in Hamilton County, Ohio in 2002, which were “ignored” or passed as “no true bill” when reported.¹ Specifically, defendants who had criminal cases that were ignored and ultimately had indictments brought against them within the next sixty days will be studied. These cases present potential problems regarding this use of resources for the local criminal justice community (jury commissioner staff, prosecutor’s staff, law enforcement officers, clerks’ office staff, court administrative staff & detention facility costs).

Each of the different criminal justice agencies mentioned above has provided some type of case processing information and/or staff costs associated with the cases ignored and subsequently indicted within sixty days. The jury commissioner reports a fixed amount of money each year in the paying of juror fees to members of the grand jury. The prosecutor has reported expenses associated with employee salary for members of the grand jury section of the intake division. Additionally, the prosecutor will provide a list of possible reasons cases are ignored by a grand jury and whether the ignored cases were re-presented to a subsequent grand jury.² The information supplied by the prosecutor was checked against the list of cases that were identified as indicted within sixty days of being ignored. Since the types of charges associated with these cases will also be known, this will provide an accurate breakdown of cases most likely to fit within the scenario of ignored and subsequently indicted within sixty days. Staff of the Cincinnati Police Department Court Control Unit reported the average number of police

¹ The status of a case being ignored is local terminology of those cases not indicted after presentment.
² Re-present is a term used locally to distinguish cases that have been presented to one grand jury, were ignored at this first presentment, and were subsequently presented again to a second grand jury on the same indicted charge.
officers/case presenters testifying per case in grand jury proceedings in 2002. The clerk’s office and court administration will both have information on how the reporting of these cases as they are ignored impact the data entry and query process in the present and historically. Lastly, a review of the local jail management records provided information on the amount of time defendants were incarcerated on the originally ignored cases.

The prosecutor’s office is the linchpin agency in the criminal justice system which maintains the most critical information necessary to the study of the grand jury process. This office controls the scheduling and presentment of cases before the grand jury, and, therefore, uses a great deal of discretion in decisions made whether to push for indictment or dismissal. Like any other criminal justice agency, the prosecutor’s office uses public funds to carry out their job duties. Again, like other criminal justice agencies, the prosecutor has a duty as a steward of public funds to see that the funds are spent in a manner as to promote efficiency and accountability. This duty of using effective case management procedures controls the spending of resources by this and other agencies processing cases from the grand jury. If cases are presented before necessary information (e.g. lab reports, witnesses,) is available, the prosecutor is intentionally or unintentionally abusing this stewardship duty. This paper looks at the criminal justice agency costs associated with decisions to present cases not ready for grand jury review and recommend improvements to case management practices to reduce delay and inefficiency.

Cases that are ignored by one grand jury, re-presented, and indicted by a subsequent grand jury duplicate the use resources from all of these criminal justice agencies. These cases ignored and subsequently indicted within sixty days also affect the case processing time of the
cases indicted after their first time presentment to the grand jury. Schedules for re-presentment of cases in the prosecutor's office affect the presentment schedules of these first time cases. Cases processed through the grand jury also influence the case management schedules for other agencies through the criminal justice system. Cases ignored and subsequently indicted within sixty days require new grand juries to be impaneled, additional testimony by officers/case presenters and witnesses, additional data input and inquiry and more incarceration days.
I. INTRODUCTION

This paper will first discuss the function/history of the grand jury, requirements of grand juries within the State of Ohio, and the local practices in Hamilton County in the formation of the grand jury and how reported cases affect the criminal case management process. The author will then report on some of the resources used on cases ignored and subsequently indicted within sixty days and potential patterns associated with the 295 cases identified for the calendar year 2002. The parameter of choosing cases ignored and subsequently indicted within sixty days as a data set was identified for a couple of opposing reasons. First, the author wanted a group of cases that was large enough to allow for the possibility that the cases indicated by the prosecutor as being representations would be large enough to allow for a meaningful analysis. Second, choosing anything longer than a sixty day window for a new case to be indicted would, it was surmised, allow for a disproportionate amount of cases to be merely indictments for defendants who are potentially committing a large number of crimes and not being represented.

The reporting of case/defendant identification information on the grand jury reports by the prosecutor allows for specific identification of offenders and tracking of future and past case history in the local Court Management System (CMS.) The identifiers (control numbers) to those defendants allowed for a specific query language (SQL) search of the CMS database, which provided the associated case information. This study reviewed 295 cases identified as ignored and subsequently indicted within sixty days providing information on race, sex, where the case was initiated and incarceration
days on ignored charges. An empirical evaluation of these cases was completed to first determine the impact on the available resources (employee time costs, percentage of overall costs, and direct costs) of the local criminal justice community for these ignored and subsequently indicted cases, and second, to see if certain patterns of reasons for representation associated with these 295 cases will reveal necessary changes in procedures to limit the waste of resources.

This study represents an attempt at focusing on a specific aspect of criminal case processing and whether improvements can be made in this process to minimize the use of resources across criminal justice agencies. This study of one agency’s procedures by another presents possible problems of information gathering related to “turf” control specific to autonomy and accountability. This study will, at the very least, present the issue of cases ignored and then indicted within a certain time period in a way that warrants further study from the prosecutor’s office. This would allow for tight control of data that, because of the nature of the grand jury process, needs to be studied more from within. It is apparent that even in this one instance, many of the processes and procedures of any one criminal justice agency affect the case management requirements of others.

In Hamilton County, Ohio, the prosecutor is the chief law enforcement officer of the county handling all felony cases in the local state courts of general jurisdiction. This mirrors the 2001 National trends reported by DeFrances of 2,341 prosecutors’ offices handling felony cases in state courts of general jurisdiction.3 The Prosecutor’s Office in Hamilton County uses the grand jury almost exclusively as the charging body in

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3 Carol J. DeFrances, Ph.D., Prosecutors In State Courts, 2001 – National Survey Of Prosecutors (Bureau of Justice Statistics – NCJ 193441, May 2002) 1.
obtaining indictments in felony criminal cases brought before the Court of Common Pleas. It is through the use of the grand jury as the charging mechanism for felony indictments that the prosecutor is fulfilling his duties as described by Charles J. Heffernan, Jr. that "as the chief law enforcement officer of his jurisdiction, the prosecutor bears ultimate responsibility for the quality of law enforcement in that jurisdiction. The duty is his to insure that the laws are fully and fairly enforced, that the interests of society are protected while the rights of the accused are safeguarded, and that a just disposition is reached by each prosecution brought by his office." At a cost of over half a million dollars in staff costs, the Grand Jury Section of the Prosecutor’s Office in Hamilton County, Ohio issued reports for 5,891 felony indictments for the calendar year 2002\(^4\), or 68% of all cases presented. Over the same time period, 2,818 cases, or 32% of cases presented, were reported out as “no true bill” or ignored. These two categories together represented 8,709 cases presented to the grand jury. Of these cases, 295 cases were ignored and subsequently indicted within sixty days by another grand jury. The resources used by other criminal justice agencies to process these cases which are initially ignored are not immediately apparent. This paper examines the use of resources used before, during, and after the deliberations of the grand jury by criminal justice agencies, in addition to the prosecutor, on the ignored and subsequently indicted cases and recommends changes in procedure of presentation to economize the use of these resources.


\(^5\) Figure provided by administrative staff of the Hamilton County Prosecutor’s Office upon review of 2002 budget.
Clearly, the process that leads to the reporting out of a case by the grand jury as either indicted or ignored is neither simple nor short. Of the 5,891 felony indictments in all of Hamilton County reported out from the grand jury in 2002, 3,267 cases originated from within the City of Cincinnati, representing 55% of cases. 1,868 cases originated within some other jurisdiction of the County, representing 32% of cases. These two groups of cases, representing 87% of the total indictments for the year, were processed through Municipal Court for initial appearance and were bound over to the grand jury and indicted. Lastly, 756 cases, or 13%, originated as direct hearings starting with presentment in the grand jury. At first glance, it seems amazing that almost one third of the cases reported out by the Hamilton County Grand Jury were ignored. The nature of the close working relationship between the prosecutor’s staff and the grand jurors would lead one to suspect a higher rate of indictment much closer to that in the federal system which indicts over 99% of case presented.\(^6\) While these “ignore” reports can happen for a variety of reasons (missing lab reports, witnesses not reporting for testimony, etc) and there is no judicial review as to why a grand jury chooses not to indict, the prosecutor does have the recourse of re-presenting the case to another grand jury. Instances where cases are ignored, and those same cases are indicted within sixty days, pose the question: Why bring the case before a grand jury if information necessary for its successful presentment is missing? This paper will attempt to answer that question.

Cases are presented before two full time grand juries in Hamilton County, which hear cases every working day of the calendar year. These cases are brought to the prosecutor’s office by bind-over from municipal court, law enforcement officers, and

from tips from citizens of the community. The cases are investigated, evidence is gathered, witnesses are assembled, and the prosecutor decides which cases are presented to the grand jury with a recommendation of charge for indictment based on applicable state law and the strength of the case in question. The grand jury reports on all cases indicating indictment (true bill) or ignore (no bill). At this point, these reported cases are processed into the case management procedures of the courts and into the operational procedures of other criminal justice agencies. Some of the more notable criminal justice agencies using resources either in the grand jury process or in the collection and retrieval of the reported data are listed as follows:

- **Jury Commissioner:** This office is responsible for the assembly of prospective jurors who may serve on the grand jury panel.

- **Court:** The criminal presiding judge for any particular month is responsible for administering the oath to jurors, charging jurors and resolving disputes of the selection process.

- **Prosecutor:** The grand jury section of this office uses a great deal of discretion in scheduling the presentment of cases in this office.

- **Law Enforcement Officers/Case Presenters:** Very often, the witnesses testifying before the grand jury are the officers/case presenters who may have witnessed the crime and made the subsequent arrest.

- **Clerk’s Office/Administrative Clerks of the Court:** These individuals complete much of the data entry work associated with the grand jury reports and query of historical data of defendants.
- **Detention Facilities:** Defendants held in the Criminal Justice Center on charges in Hamilton County at a rate of $65.00 per day.\(^7\)

An evaluation of cases ignored and subsequently indicted within sixty days would further the development of sound case management procedures in Hamilton County. The presentment of cases in the grand jury by the prosecutor, while an exclusive function of this office, not only uses resources of this and other agencies, but also starts the processes by which all of these agencies schedule, dispose of and report out statistics associated with these cases. An increase in the total number of cases processed by the courts would affect the rates of disposition for all other criminal cases as mandated by the "Time to Disposition Guidelines" established by The Supreme Court of Ohio.\(^8\) Factors associated with the cases ignored and subsequently indicted within sixty days would be identified and steps could be taken to minimize their effect on use of resources. Locally, improvements in the area of expanding public access to criminal justice information, reducing the amount of duplication of data entry and improving the time and quality of service in the disposition of cases has been accomplished with the creation of the local Court Management System (CMS) database in 1992. Originally the system was created to improve data collection and storage within the court. More criminal justice agencies, (clerk, public defender, jail management, pretrial services, and ultimately the prosecutor) have been added to the network and the use of shared data has continued to increase the amount of information accessible and decrease the amount of duplicate data entry. This shared network of data has both allowed and forced agencies to continuously review

\(^{7}\) Rates for incarceration of defendants supplied by Hamilton County Administrative Offices.

policy and procedures concerning case processing to better manage criminal cases within
the justice system. These evaluations have been conducted on parts of these agencies’
functions or their organizational procedures as a whole. An evaluation of the practice of
cases being ignored and subsequently indicted within sixty days will expose case specific
information that would allow for procedural change within the prosecutor’s office that
would reduce the frequency of cases that are ignored and subsequently indicted within
sixty days. A reduction in the number of cases having this phenomenon occur would then
reduce the amount of resources used by all agencies.

As mentioned earlier, the 295 cases in question in this paper will be compared to
cases indicted over the course of the year 2002. This will allow for a comparison of these
two groups to determine if there is a significant difference in the composition of the
defendants in relation to sex, race and whether the case originated from charges in
municipal court or from a direct hearing in grand jury. Information provided from the
prosecutor on the re-presentation of cases will give us an understanding of the rate at
which ignored cases that are subsequently indicted within this time period are actually
second attempts at indictment rather than new charges brought against defendants.
Examination of these two areas will provide some insight into changes that could help
reduce the duplication of data entry by agencies other than the prosecutor and reduce
redundancy of work as cases move through the CMS database.
II. REVIEW OF RELEVANT LITERATURE

Much has been researched and written on the history of the grand jury as it pertains to its contemporary use here in the United States today. Generally speaking, the grand jury is an arm of the court and serves a unique relationship with it. As a conceptual safeguard of society, the grand jury process is used for the indictment of those accused of crimes to stand trial. This potential indictment results from the review of information by five to twenty-three individuals, depending on the jurisdiction. A group of four to fourteen individuals, again depending on the jurisdiction, must vote in the affirmative for the indictment to happen. The court has the authority to bring about the existence of the grand jury whose make-up and areas of inquiry are generally set by state statute. The prosecutor, who is acting as the chief executive law enforcement agent, directs the presentation of cases to the grand jury. Questions as to the selection of jurors or the unwillingness of witnesses to testify may then come full circle back to the court for clarification. To understand the particular workings of the grand jury in Hamilton County, Ohio, today, a general understanding of the Function/History of the grand jury, Ohio Statutory Requirements outlined by Ohio Revised Code and the Ohio Rules of Criminal Procedure, and Local Practices/Case Management Procedures must be attained.

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A. FUNCTION/HISTORY

The grand jury is one of the more powerful, and at the same time, may not be one of the most very well understood aspects of our government. A grand jury is “a panel of ordinary citizens, which investigates criminal matters presented to it by the court, the prosecutor, or its own members.” 12 Shrouded in, its members sworn to secrecy, the grand jury issues no formal transcript of its proceedings. It speaks through public presentments or indictments, or with an indication of no charge, “no true bill” or ignore, listed on reports. How does the grand jury make these determinations? To establish the need to indict an individual, two questions need to be answered: (1) Has a crime been committed? (2) Is the person being investigated the one who committed it? 13 While the investigative responsibilities of today’s grand jury may have been assumed by the prosecutor over time, the principle role of the grand jury is still the determination of probable cause in felony cases. 14

1. Function

Prior to any action of the grand jury, the prosecutor must take into consideration not only the potential success of returning an indictment, but also the potential success of prosecuting before a petit jury. Both of these are based on the strength of the case. Since most contemporary grand juries do not conduct the investigative stage of the process, this work is left largely to the prosecutor’s office and staff. If it is determined that the case in question warrants presentation to the grand jury, the prosecutor must outline what he/she

12 Morrow, supra note 7, at 1.
13 Frankel, supra note 6, at 24.
believes to be a procedure for successful presentation. The latitude offered a grand jury in its ability to request information or testimony on a case is unparalleled in our legal system. The various sources providing this testimony may be doing so as opinions or hearsay. The evidence presented may have been illegally obtained and, therefore, would not be admissible in court at trial. This ability to have such a broad scope of probing for information offers the grand jury what Marvin E. Frankel calls “a right to everyman’s evidence. In the absence of some recognized privilege, it is permitted to compel the testimony of witnesses and the production of physical or documentary evidence without observing all the evidentiary and exclusionary rules that apply at trial. It may probe broadly and investigate on the basis of tips, hearsay, and speculation.” The presentation process, as described by Morrow, is non-adversarial and does not observe the evidentiary and procedural restrictions applicable in a criminal trial. In most jurisdictions there is no confrontation of witnesses, counsel for the accused, cross examination, or presentation of rebuttal evidence.

The prosecutor usually takes charge of a specific grand jury after the court, which has jurisdiction to do so, assembles it and has sworn in its members with an oath. While this oath differs from jurisdiction to jurisdiction, it is derived from one that has its origins as far back as the seventeenth century. At this point, the members of the grand jury have been charged with certain rights and responsibilities. The processes by which cases pass

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15 Frankel supra note 6, at 19.
16 Morrow, supra note 7, at 1.
through the grand jury are outlined in general by Timothy J. May and Stephen D. Harlen in the article, *The Grand Jury Of Tomorrow – New Life For An Archaic Institution.*

"After the general orientation, the actual work of the grand jury begins when prosecutors assigned to the investigation of specific criminal offenses formally presents specific matters to the grand jury. The prosecutor will outline the nature and scope of the investigation, which may include, among other things: the identity of the individual who has been arrested for the offense or the initial target or targets of the investigation; the documents and other types of subpoenas the prosecutor intends to use on behalf of the grand jury; the expected witnesses who will be called to testify; and the violations that may be part of the proposed indictment and the elements of such offenses. The grand jury ordinarily then assigns a number or a name to the investigation so that grand jurors can keep track of the progress of the specific case in their notes. The grand jury notes, which remain in the grand jury room at all times, are also used by individual grand jurors during their deliberations prior to the return of an indictment. When a witness enters the grand jury room, he or she is sworn in by the foreperson or the deputy foreperson. The witness is then questioned by the prosecutor, with questions and answers recorded stenographically by the court reporter. Following the completion of the prosecutors's questions, grand jurors may ask questions on their own, although the procedure for doing so can vary from case to case and from grand jury to grand jury. Depending on the witness and the nature of his or her testimony, prosecutors may encourage grand jurors to pose questions directly to the witnesses. At other times, prosecutors may first excuse the witness and then discuss with the grand jury the questions the grand jury may want to pose. At the conclusion of his or her presentation of the case, the prosecutor may summarize the evidence and review the elements for each of the violations to be considered by the grand jury. The prosecutor will then read the proposed indictment to the grand jurors. The prosecutor then leaves the room, and the grand jurors deliberate and vote on the proposed indictment."

While the goal of the grand jury is to determine if an individual should be indicted for a crime, this insulated and secret group must accomplish this goal while protecting the identity of witnesses, prevent individuals facing indictment from absconding, and maintaining the reputations of those found to be innocent. The power of the grand jury

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18 May, supra note 4, at 10-11.
19 May, supra note 4, at Overview 3.
is directly related to its ability to perform four specific actions while working towards its charged goal. First, the grand jury has the power to subpoena both the production of physical evidence and testimony of individuals needed. Second, the grand jury may bestow immunity from prosecution on a witness who indicates such testimony may in fact incriminate them in an offense. Third, and interrelated, the grand jury may direct that contempt proceedings be initiated against a witness that does not have a legal basis for withholding testimony. Lastly, the grand jury administrers an oath that requires truthful, sworn testimony under threat of perjury.²⁰

2. History

The history of the use of the grand jury process dates back to 12th century England. From the time of its inception until today, the grand jury has continued to serve two distinct purposes. First, it is the “shield” of the innocent protecting those falsely accused. Second, it is the “sword” of the government maintaining order under the rule of law by holding those who commit crimes responsible at trial.²¹ Under the rule of King Henry II, the “Grand Assize” brought together a group of locals, usually the gentry, for the purpose of providing evidence as it related to one or more of their fellow neighbors.²² The function of the early grand jury was much the same that it is today. Persons suspected of participating in criminal activity were identified and subsequently brought to trial. During the next four hundred years, the function of the grand jury retained its original accusatory functions and also was seen as a safeguard against unfounded or

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²² Frankel, supra note 6, at 6.
malicious accusations. This form of grand jury was brought to the colonies by the English and used initially in similar fashion of its practice in England. The first established use of a grand jury in the New World was in Massachusetts in 1635. Early grand juries here were used to protest specific abuses of power and to look out for the welfare of the communities and its members. The use of these grand juries spread quickly through the colonies. By 1683, all of the colonies had formed and were using some sort of grand jury system. Changes to some of the form and function of grand juries came about in the Revolutionary period of American history. The grand jury began to be used more and more as a way to voice opposition to British rule. First, members serving on the grand jury often chose not to indict persons charged of crimes that were viewed as actions taken against English rule. Second, they were used specifically as a mechanism to publish and dispense revolutionary propaganda. These actions would go on to help influence the writers of the Constitution. After ratification of the Constitution, conventions were held in various states to propose amendments of one form or another. Congress was presented some of these amendments in 1789 in original form or with changes that had been made by previous agreement or at the time of presentation. One of these was presented as part of a group of amendments submitted by James Madison containing the language “in all crimes punishable with loss of life or member,

23 Beale, supra note 14, at 1-2.
25 Clark, supra note 21, at 13.
26 Beale, supra note 20, at 1-11.
presentment or indictment by a grand jury shall be an essential preliminary.” After changes were made from its original form, this provision was ratified by Congress in 1791 and became the Fifth Amendment to the United States Constitution. As passed, it reads:

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a Grand Jury, except in cases arising in the land or Naval forces, or in the Militia, when in actual service in time of War or public danger.”

States that came into the Union through the early part of the nineteenth century continued to include this requirement in their constitutions. The United States Supreme Court in two decisions has not found the grand jury to be a requirement in states. In Reed vs. Ross, 468 U.S. 1, 16 n. 11(1984), the Court found that indictment by grand jury is not “essential to due process under the Fourteenth Amendment.” In the case of Hurtado vs. California, 110 U.S. 516 (1884), the Court held that the right to grand jury provided in the Fifth Amendment does not apply to the states. By the mid-1850’s, questions were being asked about the efficiency of such a practice in a society that had clearly changed over the years. Some jurisdictions began to allow the practice of presentations of an information on cases to run in conjunction with, or in replacement of, the grand jury. Today, only eighteen of the fifty states require that a grand jury must return an indictment for a person to be charged in “serious” criminal matters. While no state has abolished

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27 Beale, supra note 14, at 1-19.
28 U.S. Constitution, Article Five.
29 May, supra note 4, at Overview 5.
30 Beale, supra note 14, at 1-23.
31 Beale, supra note 14, at 1-3.
the use of the grand jury, reform movements since the 1850's have amended the
constitutions in some states to allow for the use of prosecution by means of information.\textsuperscript{32}
Debate will continue as to whether the grand jury, the information, or perhaps some new
form of prosecutorial accusation is the most efficient process while maintaining an
acceptable level of protection of individual rights to due process. It is clear that the grand
jury has proven itself a useful tool of law enforcement. Successful investigations and
prosecutions of cases in the past concerning drug trafficking, corruption of government
officials and organized crime are largely due to the use of the grand jury process.\textsuperscript{33}

The general function and history of the grand jury gives us an understanding of
the selection process and use of the grand jury. Each jurisdiction that continues to use this
process takes bits and pieces of these elements and combines them into local practice.
The State of Ohio is no different. Next, the requirements for use of the grand jury in Ohio
will be examined to gain a better understanding of the dynamics associated with
ignored/indicted cases in this study. Of particular interest is performance of the required
work and expense of resources needed to conduct the grand jury function by various
criminal justice agencies.

B. \textbf{OHIO STATUTORY REQUIREMENTS}

The Ohio Revised Code and the Rules Governing The Courts Of Ohio control the
use of the grand jury to obtain indictments in criminal cases within the State of Ohio.
Chapter 2939, Grand Juries, of the Ohio Revised Code covers the statutory requirements

\textsuperscript{32} Beale, supra note 14, at 1-21.
\textsuperscript{33} Morrow, supra note 7, at 1.
legislated within the state concerning the use of a grand jury. Criminal Rule 6, The Grand
Jury, spells out the requirements set by the Supreme Court of Ohio within the Rules
Governing The Courts Of Ohio. They are used in conjunction by all municipalities within
the State of Ohio to return an indictment for criminal activity against an individual or
entity. Each of these will be discussed to draw out the specifics of portions of the grand
jury process. It should be noted that as this is done, different and conflicting required
numbers of grand jurors needed for service and voting for indictment will be given.
Likewise, there will be generalizations of actions to be carried out, as in the charging of
the grand jury by the court. In the Local Practices/Case Management portion of this
section, these differences will be reconciled.

1. **Ohio Revised Code**

Ohio Revised Code 2939.02 states that a grand jury shall be made up of fifteen
individuals who meet the selection qualifications specified within Code Section
2313.42.\(^{34}\) To establish this list of fifteen, the commissioner of jurors is to draw a list of
twenty-five ballots of named persons, eligible to serve, and the first fifteen shall be the
grand jurors if they can be located and are not excused from the court for some legitimate
reason. The following are listed as acceptable challenges for any individual called as a
juror:

A) That he/she has been convicted of a crime which by law renders
   him/her disqualified to serve on a jury;

B) That he/she has an interest in the cause;

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\(^{34}\) Ohio Revised Code, Section 2913.42. The qualifications portion of this section goes on to describe status
of the individual relevant to being deemed a valid registered voter by the board of elections, or certified as
a holder of a valid drivers license by the registrar of motor vehicles.
C) That he/she has an action pending between him/her and either party;

D) That he/she formerly was a juror in the same cause;

E) That he/she is the employer, the employee, or the spouse, parent, son, or daughter of the employer or employee, counselor, agent, steward, or attorney of either party;

F) That he/she is subpoenaed in good faith as a witness in the cause;

G) That he/she is akin by consanguinity or affinity within the fourth degree, to either party, or to the attorney of either party;

H) That he/she or his/her spouse, parent, son or daughter is a party to another action then pending in any court in which an attorney in the cause then on trial is an attorney, either for or against him/her;

I) That he/she, not being a regular juror of the term, has already served as a talesman in the trial of any cause, in any court of record in the county within the preceding twelve months;

J) That he/she discloses by his/her answers that he/she cannot be a fair and impartial juror or will follow the law as given to him/her by the court.\textsuperscript{35}

The ballots are drawn from the yearly list made up for the juror selection process. This master list is to be renewed on the first Monday of August of each year.\textsuperscript{36} This section goes on to specify the manner in which this master list is completed. The Commissioner

\textsuperscript{35} Ohio Revised Code, Section 2313.42.
\textsuperscript{36} Ohio Revised Code, Section 2313.08.
of Jurors has the option of using information from the board of elections of all certified electors, or a list of individuals with qualified driver's licenses presented by the registrar of motor vehicles along with the list provided by the board of elections. A copy of this master list must be maintained and also filed with the clerk of courts of the county. While much of this work was historically done by hand tabulations, a revision in 1984 allowed for "Automation data processing procedures and visual display apparatus may be utilized in the selection of the names for the annual jury list, and in the actual compilation of the list." The financial compensation to an individual who serves on the grand jury is directed to be set by the county commissioners, but may not exceed $40.00 dollars per day. Ohio Revised Code Sections 2939.06 and 2939.07 speak towards the oath administered to the grand jury and the charge given to the grand jury respectively. The oath established by code is not contradicted by rule or local practice. The wording is statutorily set and followed throughout the State as follows:

"Do you solemnly swear or affirm that you will diligently inquire into and carefully deliberate all matters that shall come to your attention concerning this service; and, do you solemnly swear or affirm that you will keep secret all proceedings of the grand jury unless you are required in a court of justice to make disclosure; and do you solemnly swear or affirm that you will indict no person through malice, hatred, or ill will, and do you solemnly swear or affirm that you will not leave unindicted any person through fear, favor, or affection, or for any reward or hope thereof, and do you solemnly swear or affirm that in all of you deliberations you will present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding, as you shall answer unto God or under the penalties of perjury?"

The wording of the charge given by the court is not spelled out in the Code. It merely instructs a judge of the court of common pleas to charge the jurors as to their duties of

37 Ohio Revised Code, Section 2313.08 (C) – Revised 10/01/1984.
38 Ohio Revised Code, Section 2939.04.
39 Ohio Revised Code, Section 2939.06. This Section of the Code was revised in March of 2003 and is stated in its revised fashion.
service with instructions to pay careful attention to the secrecy of their service and an
explanation of the laws that may relate to the matters that might be brought to their
attention.40

An assembled grand jury has information on specific cases presented to them by
the prosecutor or an assistant. Either or both of these two individuals may be present with
the grand jurors at all times during the presentation portion of the case or to provide
advice on legal matters questioned by the jurors. No persons, including the prosecutors,
shall be present in the grand jury room as the jurors begin to express their opinions about
the case in question or vote for or against indictment.41 An indictment on a charge is
indicated to the court by the foreperson of the jury, but only if twelve of the fifteen
members of the jury agree.42 The list or report of indicted individuals and offenses
submitted to the court shall be filed with the clerk of the common pleas court on all cases
except those deemed secret and sealed by the court until the charged individual has been
apprehended.43 The last two sections of the Revised Code presented here relate directly to
the subject of ignored cases. When the grand jury presently in session has reported a case
as ignored, or not indicted, on an individual who is being held on such charges, the
foreperson is obligated to report this to the court to allow for the release of this person.44
This is unless:

(A) He/She (the defendant) was committed on such a charge after the
discharge of the grand jury;

40 Ohio Revised Code, Section 2939.07.
41 Ohio Revised Code, Sections 2939.10 & 2939.11.
42 Ohio Revised Code, Section 2939.20.
43 Ohio Revised Code, Section 2939.22.
44 Ohio Revised Code, Sections 2939.23.
(B) The transcript (report of the grand jury) has not been filed;

(C) There is not sufficient time at such term of court to investigate said cause;

(D) The grand jury, for good cause (defined by judge serving criminal judge of the month), continues the hearing of said charge until the next term of court;

(E) It appears to the court of common pleas that a witness for the state has been enticed or kept away, detained, or prevented from attending court by sickness or unavoidable accident.\footnote{Ohio Revised Code, Section 2939.24.}

2. **Rules Governing the Courts of Ohio**

Criminal Rule Number 6 of The Rules Governing the Courts of Ohio speaks towards the composition and use of a grand jury. This grand jury is to be made up of nine members, including the foreperson, and could have up to five alternate members if needed. The administrative judge of the court of common pleas is responsible for seeing that grand jurors are summoned for service “at such times as the public interest requires.”\footnote{Rules Governing The Courts Of Ohio, Criminal Rule 6(A).} There is a procedure in the rule that describes challenges that would be made during the selection process that were not done in a way as spelled out in the Ohio Revised Code Statute. These challenges, if made, can only be addressed before the jurors have taken an oath of service. There is no mention of what the procedures for selection of service must be except for this reference to the Ohio Revised Code. Likewise, there is no
description of any compensation for service by members of the grand jury or a
description of the oath and charge to be administered to the jurors.

Regarding the prosecutor’s role, Section “D” of Criminal Rule 6 is similar to the
Ohio Revised Code in describing who may be present at the grand jury. The rule is
different as it states that witnesses and/or interpreters may be present at the proceedings,
but is in agreement that no one may be with the grand jury when there are deliberations
or voting on cases.47 Criminal Rule 6 indicates that of the nine members voting on each
case, seven or more must agree for an indictment. The foreperson must then sign off on
the reported case(s) and see that the findings are reported back to a judge of the common
pleas court and filed with the clerk of the court.48 Under this section, the foreperson is
obligated to report to the court instances where seven or more grand jurors did not indict
a case when the defendant is either currently incarcerated or has been released on bail.

C. LOCAL PRACTICES/CASE MANAGEMENT PROCEDURES

This section of this study examines how the grand jury process is used
specifically in Hamilton County, Ohio. To better understand how the practice of re-
presentation affects agency resources within this system, each agency must first be
identified. This section focuses on the duties of the jury commissioner, the court, the
prosecutor, law enforcement officers/case presenters, the clerk of courts, court
administrative staff and corrections facilities. The author will describe the process for
each of these agencies and their use of resources.

47 Rules Governing The Courts Of Ohio, Criminal Rule 6(D).
48 Rules Governing The Courts Of Ohio, Criminal Rule 6(F).
The agency which initiates the selection process for a grand jury in Hamilton County, Ohio is the jury commissioner’s office. The chief deputy jury commissioner and his/her staff of three individuals are responsible for presenting lists of qualified candidates for service on petit juries for the court of common pleas (general, juvenile, and probate divisions) and the municipal court, as well as for the grand jury. For the grand jury, there must be enough candidates for service to provide for typically two grand juries running during the course of the entire year. Each of these grand juries serves for a three-week period. The first step in the selection process is to determine the list of eligible jurors. The jury commission office receives a list yearly from the board of elections in the county of registered voters. This list typically consists of over five hundred thousand people. This list is sent to Jury Systems Inc. of Encino, California, which randomly selects fifty thousand names listed in order of selection. The jury commissioner starts the new jury year with this list and continues to use it to complete the grand jury selection process through the entire year.\(^{49}\) Four weeks before the scheduled three weeks of service, summonses are sent out to 125 individuals on this list.\(^{50}\) On the initial date of scheduled service, individual names on the ordered list of 125 are checked against persons who showed up for service skipping those who did not appear or who were excused from service. This process continues until the jury commissioner has a list of 26 individuals. The remaining individuals assembled by the jury commissioner are held until this group passes any challenge of service and is sworn in. For the year 2002, the jury commission in Hamilton County reported that there were thirty-nine grand jury panels

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\(^{49}\) The Jury Commissioner provided this information to the Author.

\(^{50}\) See Appendix A.
sent to the Prosecutor’s Office. These thirty-nine panels were made up of four hundred and twenty-four individuals. Total fees for grand juror use for the year totaled $41,122.50.  

A judge of the court of common pleas is responsible for having the oath of service administered to the potential jurors and charging them as to their duties of service if there have been no challenges granted. The judge responsible for doing this is the criminal presiding judge serving for that month. In Hamilton County, the judges of the common pleas, general division, serve as presiding criminal judge on a rotating basis once every fifteen months. The first duty of the criminal presiding judge is to “Voir Dire”, or question, the potential jurors as to their ability to serve. Generally, this process consists of the following six statements/questions:

1. Grand jury service, unlike petit or trial jury service, requires your attendance every day, Monday-Friday, for three weeks. Your last day of service will be Friday (date).

2. Grand jury presentations generally begin at 9:00 a.m. and can last until approximately 4:00 p.m. These hours may vary. On some days grand jury may start at 8:30 a.m. You may also finish early.

3. Does anyone have a personal or professional conflict these next three weeks that would prevent you from serving on grand jury?

   Example: prepaid vacation, major surgery, and employment hardship.

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51 2002 Annual Report, Jury Commission, Hamilton County Court of Common Pleas
52 There are 16 judges currently on the court of common pleas bench for the general division. One of these judges serves specifically in the capacity of drug court judge and is not part of this rotation.
4. Does anyone feel they cannot follow the law as I have outlined to you and as you will be given by the prosecutors on each case?

5. Is anyone no longer a resident of Hamilton County?

6. Does anyone feel they cannot be fair and impartial grand juror for any reason?\textsuperscript{53}

The oath that is administered is as described previously on page 18 of this paper. The charge, to which there is no statutory or rule requirement for form or content, is as follow:

"Members of the Grand Jury:

You have been summoned here this morning to act as the grand jury in Hamilton County for the next three weeks. Your function will be to hear testimony and determine whether persons suspected of the commission of a crime should or should not be placed on trial. I am about to give you the principles of law, which are to govern you in the performance of your duties. It is mandatory that you follow these instructions.

The Constitution of Ohio provides that no person may be compelled to stand trial for a felony, which is any crime having a potential penalty greater than six months imprisonment or greater than a $1,000.00 fine, until and unless he/she has been indicted by a grand jury. This Constitutional provision was designed to stand as a barrier against unjust persecution by persons in authority. The grand jury should be the means, therefore, not only of bringing to trial those persons accused of a crime upon just grounds, but also to protect persons from unfound accusations, whether presented by legal officers or by others, who may be motivated by partisan passion or private enmity.

There is no public purpose to be served in indicting a person or persons, when it appears to you, that the evidence would be insufficient to sustain a conviction. It is essential that unjust or unfounded accusations not be made against anyone. On the other hand, it is equally important that indictments be returned against those appearing, upon an honest and impartial examination, to have probably committed a crime.

It is not your duty to decide the guilt or innocence of the accused. It is your duty to say whether or not there is sufficient evidence to warrant requiring an accused be placed upon trial. This is called probable cause.

The oath, which has just been administered to you, contains some essential principles, which should govern you in your deliberations. It

\textsuperscript{53} Information provided by the Administrative Office of the Court of Common Pleas.
contains an appeal to your conscience you must keep secret what takes 
place in your presence in the grand jury. The purpose of this requirement 
is two-fold: first, you may have accusations brought before you which, 
after examination, you will find unfounded and ignore. If publicity were 
given to the fact that the grand jury had investigated a person, their 
reputation might be severely injured, even though they were entirely 
innocent. The second reason for the obligation of secrecy, as if it were 
possible for a person likely to be charged by the grand jury to learn of the 
investigation opportunity might be afforded for their escape. This 
obligation for secrecy continues even after your duty as grand jurors has 
been completed.

It is also your duty to keep rigidly in confidence, the counsel of the 
prosecuting attorney, his assistants, your fellow jurors, and yourselves, 
until and unless you are compelled by a court to reveal it. This duty of 
secrecy demands that you shall not communicate to any person what has 
been done or said in the grand jury room, either by the prosecuting 
attorney or his assistants, the witnesses, your fellow jurors, or yourselves.

Your oath also requires that you shall present no person through 
malice, hatred, or ill will. On the other hand, it is your duty to indict 
anyone who ought to be indicted, and you should not fail to indict such 
person from fear, friendship, or reward. You must present, as far as you 
are able, the absolute truth to the best of your ability and understanding. 
You must lay aside all feelings of prejudice, which might in any way 
interfere with the strict and impartial performance of your duty. No grand 
juror has the right to permit their judgment to be influenced or controlled 
by any religious, social, political, or personal feeling. Neither has any 
member of the grand jury the right to bring about the indictment of anyone 
for the purpose of gratifying their malice or the malice or hatred of any of 
his/her friend.

The prosecuting attorney and his assistants are constituted by law 
as the representatives of the State of Ohio in all criminal prosecutions. It is 
their duty to be present with the grand jury in its room to present the 
accusations, to give advice touching upon matter of law, which may be 
raised, and to examine the witnesses. It is your duty to follow the 
instructions of the prosecuting attorney on matters of law, unless you are 
instructed to the contrary by the court. You are, however, the sole judge of 
the facts and neither the prosecuting attorney nor any of his assistants has 
the right to influence you in your decision upon questions of fact.

In addition to the prosecuting attorney and witnesses, there will 
also be present in the grand jury room, a court reporter who will make a 
record of the testimony taken before you. While you are deliberating upon 
the action you will take, no one except members of the grand jury are to be 
permitted in the grand jury room.

You, as well as the prosecuting attorney, have the right to require 
the clerk of this court to issue subpoenas for witnesses to be brought 
before you to testify. You are also at liberty, at any time, to call for further
instructions from the court, although the instructions, which the prosecuting attorney and his assistants give you, will in all likelihood be sufficient.

At least 7 of 9 members of the grand jury must concur in the finding of any indictment, and, unless 7 of your number vote in favor of an indictment, or, to put it another way, if 3 or more of you vote against an indictment, then no indictment may be returned and the case must be ignored. It is also entirely appropriate to indict for misdemeanor offenses instead of felonies where the law, facts, and circumstances warrant.

I want to thank each of you in advance for taking time out of your busy lives to perform this important civic duty. I realize that each of you is making a personal sacrifice, but I believe you will find this experience to be one of the most interesting of your lives. Furthermore, at the end of your service you will have the rich satisfaction of having helped to make democracy work in that you will have helped to render justice among your fellow man.

You may now retire to the grand jury with the assistant prosecuting attorney and proceed to hear and decide the matters which the prosecutor is ready to present at this time.\[54\]

The twenty-six selected individuals are taken from the court to the prosecutor’s office for their three-week service. The jury commissioner may now excuse the remaining individuals that reported for grand jury duty that were not chosen and were not needed based upon challenges to the original twenty-six chosen. The judge serving as the criminal presiding judge for the month in question may have to swear in and administer the oath of service to one or two grand juries depending on the beginning and ending dates of the three weeks of service.

The prosecutor’s office in Hamilton County has thirteen staff members that concentrate the majority of their time to grand jury related work.\[55\] The prosecutor or an assistant escorts the twenty-six grand jurors to the office of the prosecutor. These twenty-six individuals will be separated into two groups, or separate grand juries, each consisting

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\[54\] Information provided by the Administrative Office of the Court of Common Pleas.

\[55\] Figure provided by administrative staff of the Hamilton County Prosecutor’s Office.
of eleven members. The four members of this group not used are excused from service
(or held as alternates for a particular grand jury). A state court grand jury requires twelve
of the fifteen grand juror members to vote for indictment. The prosecutor or his
assistants will now begin the presentment process to these two grand juries on the cases
in question.

The cases are presented to the jurors, questions are asked and answered, and the
jury is secluded to vote on the case in question. The eleven members of the grand jury are
reduced to a group of nine with the random selection of two individuals on each
presented case who are excused from voting. This process continues over the course of
the day with the grand jury reporting out its findings two to three times a day. These
reports are generated by staff of the Prosecutor’s Office using the locally used integrated
justice software in the CMS (Court Management System) database previously mentioned.
This form, PCTR100, identifies case specific information such as the case number,
defendant name, control number, charge, and whether the case was indicted or ignored. These reports are delivered to the presiding criminal judge of the month for signature,
copies are taken to the clerk of court office to be filed becoming public record, the
assignment commissioner’s office to have case scheduling entered, and the sheriff’s
department for needed movement of defendants.

The Cincinnati Police Department Court Control Unit schedules law enforcement
officers testifying before or providing information as case presenters to the grand jury.

56 Rottman, supra note 8, at 285
57 See Appendix B.
Witnesses will be summoned on some of these cases, and others will have information presented by officers or case presenters. A case presenter is a person that is neither the arresting officer on the case nor a witness who was at the scene of the offense or has specific knowledge of the crime taking place. This person, who is a paid employee of the prosecutor, is someone that has studied the facts of the case and can impart them to the grand jury. Arresting officers, or other officers at the scene of the offense, may also be called during the grand jury process. Officers are paid for the time they spend in the grand jury testifying. A subpoena directing the officer as to the case, date and time for this testimony is sent approximately one week prior to the scheduled date. The officer reports to the grand jury division of the prosecutor’s office at that scheduled time, provides testimony before the grand jurors at the direction of the prosecutor, and then reports back to the Court Control Unit to have paperwork completed on hours of service for payroll purposes. The Court Control Unit reports out daily the officers that attended grand jury. Each officer may have a subpoena for one or more cases to be presented that day.58

The clerk of courts office has two full-time staff whose duties include sorting the reports dropped off by the prosecutor’s staff and entering the case specific information into the CMS database. Both indicted and ignored cases are entered into the database. Indicted cases include those found to be felonies and misdemeanors by the reporting grand jury. In 2002, these represented 10,699 cases all requiring the clerical staff to initiate the cases and docket the case dispositions. The clerical staff must enter cases that are indicted by the grand jury for felony matters in a timely manner to assist other

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58 Information provided by the Cincinnati Police Department, Court Control Unit.
agencies as they prepare these cases for the first appearance in common pleas court at the weekly arraignment. Cases ignored by the grand jury must, also, be initiated since defendants who are incarcerated must be released after being processed through the sheriff's department with a separate copy of the grand jury report. The amount of personnel resources used by the clerk's clerical staff is dependent upon the order in which the information is processed. Typically, the prosecutor delivers grand jury reports to the clerk twice daily. All of the reports dropped off in a group have an indicted or ignored status for each separate charge of the case entered into the CMS database. In the multipurpose criminal case update screen, CMSG108, a grand jury disposition code of indicted (212), or ignored (227) is added to each charge in each case. For the cases that are ignored, the last step of this process is the attachment of the common pleas case number to the municipal case number in the case number update screen, CMSG107. There is a time added value of completing this step the day the grand jury reports are released since the data entered into the record is the CMS system date and time. Completing this process even one day later requires the clerk to backdate the date of the disposition.

The copies of the grand jury reports delivered to the assignment commissioner's office are used for judge assignment and case scheduling purposes. Typically, a week's worth of reports, from Monday to Friday of the previous week, is used in the Tuesday judge assignment/scheduling process. The control number displayed on the grand jury report is used locally as the universal identifier for an individual that has contact with any law enforcement agency within Hamilton County. The judge assignment process uses a
combination of program and manual checks of this control number to establish the need
for cases to be manually assigned (pushed), or randomly rolled to one of the sixteen
common pleas judges. This judge assignment procedure is done in compliance with both
Local Rules and Supreme Court of Ohio Rules of Superintendence.\textsuperscript{59} Cases are assigned
to judges of the common pleas bench when the defendant has a pending case before that
judge or they have been placed on active probation by that judge. When there is a
pending or probation status case before a judge, the defendant has what is locally referred
to as a "link" to that judge. Cases are randomly assigned to one of the judges of the bench
when there is no pending or probation case and, therefore, no link. When the defendant
on the grand jury report is the only individual listed on that one case, the program
language determines if the case should be assigned to a specific judge or randomly
assigned.\textsuperscript{60} When there are multiple defendants listed on the grand jury report, the control
number has to be manually queried in the system to establish pending or probation
criminal history and if there is a link to a judge.\textsuperscript{61} This query of data must also include
cases reported out as ignored by the grand jury not just in the year in question, but also
throughout the defendants' criminal history. This process is done on these ignored cases
because links to judges are maintained in the database based on inaccurate status
information on a very few random cases. In 2002, 385 cases, with 869 defendants of the
5,891 cases indicted had multiple defendants and, thus, had to be checked manually by
assignment commissioner staff.

\textsuperscript{59} Hamilton County, Court of Common Pleas, Local Rule 7 (B).
Supreme Court of Ohio, Rules of Superintendence 4 and 36.
\textsuperscript{60} See Appendix B, cases 1, 2, 4, and 6.
\textsuperscript{61} See Appendix B, case 5.
The sheriff operates the detention facility for the county. Inmates locked up on indicted offenses are housed in the justice center awaiting trial as are convicted individuals serving out a local sentence. A copy of the grand jury report is delivered to the sheriff at the same time the report is given to the clerk of courts. This fulfills the previously stated statutory requirement of the grand jury to report out on the cases that were ignored by the grand jury where the defendant is incarcerated. The defendant that is held only on the charge that was ultimately ignored must be released immediately. This use of resources by the Sheriff is a fixed cost applied to all inmates held in detention and is calculated for the amount of time that inmate is held relative to the processing of said inmates case. The cost of housing an inmate in the justice center in Hamilton County, Ohio averages $65.00 per person, per day.\textsuperscript{62}

The most critical component of this research is the survey provided to the prosecutor. The most important data element needed to make this study as beneficial as possible is the data concerning cases re-presented after being ignored initially. The initial search of the data for the year 2002 established the cases ignored (2,818) and the ones ignored and subsequently indicted within sixty days (295). A majority of these cases identified as re-presentments suggests flaws in the initial schedule of presentment before the first grand jury. For example, cases may be passed by the grand jury because lab reports were not completed in time to be included in the initial presentment process. Witnesses, whose testimony is crucial to the presentment of the case, are unavailable or cannot be located. The 295 cases in question have a definite impact on the detention costs for the sheriff. All but one of these defendants were locked up for some period of time.

\textsuperscript{62} Rates for incarceration of defendants supplied by Hamilton County Administrative Offices.
This detention time for defendants, whose cases are ultimately ignored, is another cost or use of resources expended for cases that will not initially be indicted but will possibly result in re-arrest, re-presentation and prosecution.

Most of the listed criminal justice agencies have employees in place to complete processes associated with cases returned by the grand jury regardless of whether they are ignored or indicted. These employees are completing case management duties required by their various agencies to guidelines relevant to each specific office. Each of these agencies is performing these case management requirements in a daily, weekly, monthly or yearly fashion. Expended resources will be given in relation to the percent of total cases these ignored and subsequently indicted within sixty days cases represent in relation to the total number of cases processed by that agency in 2002. The total number of cases processed by one agency may be higher or lower than another agency depending upon the work-related responsibilities of that particular agency. For example, where the clerk has to initiate all case numbers, indicted or ignored, that are reported out of grand jury for the year, manual background checks are completed by the assignment commissioner staff for multiple defendant cases. These checks represent only a small portion of the total number of cases. Other agencies, like the police, will be shown to expend a certain amount of resources on the average across the process as opposed to an amount per case. The sheriff's department expends resources on these cases at a fixed cost amount per case per day. This information about the use of resources from other agencies, combined with the rates and reasons for re-presentation of cases, provide the basis for recommendations to change procedures based upon established patterns.
The expenditure of resources by the jury commissioner, court, prosecutor, law enforcement/case presenter, clerk of courts staff, and assignment commissioner staff on ignored cases in 2002 is difficult to quantify. The processes of assembling a grand jury, presenting case information, testifying before said grand jury, completing data entry on dispositions from the grand jury reports, and completing background checks on defendants are inherently case processing requirements of these agencies. To fix an associated cost of these processes on the 295 cases in question as ignored and subsequently indicted within sixty days is even more difficult. The costs associated with the totality of these job processes are expended for the most part regardless of whether cases coming through the grand jury process are first time presentments or re-presentments. A grand jury must be assembled, reports must be filed and data must be entered on all cases. It must be assumed that a portion of the money spent by all of the agencies on staff and facilities could be considered resources spent on all cases processed. To call the use of these resources wasted is completely dependent on knowing why cases were ignored and if the cases were actually re-presented.

The presented review of the history of the grand jury, the grand jury process, Ohio statutory requirements, and local practice of use in Hamilton County sets the framework for looking at the cases in this study. In the next section, the author will explain the methodology and selection process of the cases ignored and subsequently indicted within sixty days. This paper will reveal some of the case demographics (race, sex) of defendants, costs, and resources specific to the cases ignored and subsequently indicted.
within sixty days. While no information on past research has been found on the relationship between race and sex of defendants ignored by grand juries, reporting this information will be beneficial in comparing rates associated with blacks/whites and males/females against arrest rates for these groups. This information is expected to allow for some conclusion to be drawn on the effect of race and sex of the defendants whose cases are ignored/indicted within sixty days while posing additional questions as to cause and effect in these cases. The two major areas of concentration will be in the form of staff time associated with case processing, and the direct costs of detaining criminal defendants. Finally, this author will report on the rates of re-presentments made by the prosecutor in cases that had been previously ignored. Reasons presented by the prosecutor relating to cases initially ignored will help identify changes in schedules and prosecutorial management of the un-indicted caseload in order to reduce or eliminate the number of cases ignored and subsequently indicted and reduce the amount of resources currently used on these cases.
III. METHODOLOGY

The 295 cases in this study were chosen because they met the selection criteria of cases found to be ignored and subsequently indicted within sixty days. Cases that fit these criteria were surmised to use additional resources within various criminal justice agencies that would have been better spent if the reasons for failure at first presentation would be corrected by the prosecutor. The study of cases ignored and subsequently indicted within sixty days in this paper is an empirical study of 295 cases filed in 2002. The study includes an evaluation of resources used by local criminal justice agencies to process these cases before and after the grand jury experience. First the race and sex of defendants in the study cases were compared against the total population of cases indicted for the year and against 2002 national arrest rates to see if the rates for these demographic groups were similar or different. While there was no literature that indicated that race and/or sex of the defendant contributed to the decision to recommend ignore (no bill) and later re-presentation and possibly indict, a difference in the rates for these two groups would indicate that the race and/or sex of the defendant should be considered a contributing factor to the rates of cases ignored and subsequently indicted within sixty days. If the number of re-presentments were obtained, race and sex on that group would also be compared to the yearly totals and the totals for the ignored and subsequently indicted within sixty-day group. The second aspect of this study examines the resources used by the jury commission, court, prosecutor, law enforcement officers, clerk of courts, court administrative staff, and the sheriff’s detention facility. Staff usage by the first six of these agencies and detention costs associated with incarcerated defendants prior to and
during the grand jury process on ignored and subsequently indicted cases both represent significant resources used in the processing of these cases. The third area of the study is an examination to reconcile the data regarding the cases known to be ignored and subsequently indicted within sixty days and information provided by the prosecutor specifying which cases were actual re-presentments of charges previously ignored and reasons why this was done. It is expected that this information will help identify changes in management and scheduling of un-indicted cases by the prosecutor that will both reduce their numbers and decrease the amount of resources used to process these cases by all agencies involved.

The cases that were ignored and subsequently indicted within sixty days first had to be identified. The local CMS (Court Management System) database is a shared integrated justice system network that allows for data to be entered by one or more agencies in the process, with appropriate security in place to retain confidential information, reducing costs associated with duplication of data entry. The database system allows for reports on information to be generated one of two different ways. First, report programs have been and continue to be programmed to allow for the retrieval of information as often as needed within different parameters of dates, case numbers, or filing code types, etc... The second way of generating information from the database is accomplished by programming a request of information with a group of variables not specifically associated with an established report. This SQL (specific query language) request was the method used to identify the 295 cases that matched the parameters of
ignored and subsequently indicted within sixty days.\textsuperscript{63} The information stored in the database allowed for the retrieval of information on these cases in this study for the descriptive factors of race and sex of the defendants, where the case was initiated and the number of days they were incarcerated. This portion of the data collection was conducted on site in August of 2003 for the cases in question for the year 2002. The courts data information staff are located in the courthouse serving both hardware and software support purposes on a daily basis.

The jury commission, court, prosecutor, law enforcement officers, clerk of courts and court administrative staff each use resources including staff time as a percentage of overall operation costs expended on ignored and subsequently indicted within sixty days cases. To determine the costs associated with ignore and subsequently indicted within sixty days cases, each of these agencies provided some form of report or cases processing time information associated with these resources. Other information was obtained from annual reports for the year 2002, timing observations of case entry or retrieval procedures, and weekly case processing reports. In addition to these data collection methods as predictors of overall case-processing costs, the prosecutor was given a specific data collection instrument for all of the 295 identified cases identified as ignored and subsequently indicted within sixty days.\textsuperscript{64} The information solicited in this survey instrument required a description of case processing time in grand jury, the number of officers or case presenters testifying, reasons for cases being ignored, and information on cases being re-presented to another grand jury after they had been ignored. While the

\textsuperscript{63} See Appendix C.

\textsuperscript{64} See Appendix D.
initial SQL search provided case numbers on ignored and subsequently indicted within sixty days, the data solicited from the prosecutor was intended to verify that the same charge had been re-presented to the grand jury as opposed to just being a new charge for that defendant within the sixty day time period. In September 2003, the data collection instrument for the prosecutor was developed and reviewed for its content with grand jury staff. The final version listed in this paper (see Appendix D) was produced for all 295 cases in the study and bound and delivered to the prosecutor in November 3, 2003.

As a pretest, the author sent the prosecutor questionnaire to court administrators from six of the largest metropolitan areas in the State of Ohio to request input on the scope of the survey.\textsuperscript{65} It was surmised that these metropolitan areas were of substantial size thus having a comparable number of cases within their respective jurisdictions, would be able to legitimately comment on the size and scope of the project. The only response received on the data collection instrument was favorable in relation to the questions being asked, but did question the process of compiling the information both in means of attaining the data and who would sort it. No change was made to the data collection instrument, and a copy was made for each of the 295 cases and sent to the grand jury division of the prosecutor’s office.

The 295 cases identified as ignored and subsequently indicted within sixty days were listed in order from smallest numerical control number to largest. This was done not for any numerical calculation, but as a point of reference. The list contained the following

\footnote{\textsuperscript{65} See Appendix E.}
information to identify defendants, cases, ignore/indict status and Ohio Revised Code charge numbers and descriptions. 

A) CTLNO – used locally as the universal identifier for each defendant. This control number allows for a closer look at each case for the defendant and said defendant’s incarceration history.

B) IGNORED – This is the date the initial case was ignored or “no billed” by the grand jury.

C) CASE (IGNORED) – The common pleas case number used to indicate the case that was ignored by the grand jury.

D) ORC IGN – Ohio Revised Code number for the case ignored.

E) ORC DESCRIPTION (IGN) – Description of the Ohio Revised Code number.

F) INDICTED - This is the date the subsequent case was indicted by the grand jury.

G) CASE (INDICTED) - The common pleas case number used to indicate the case that was indicted by the grand jury.

H) ORC IND - Ohio Revised Code number for the case indicted.

I) ORC DESCRIPTION (INDICTED) - Description of the Ohio Revised Code number.

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66 See Appendix F.
The dates specified on the initial SQL and the control numbers of the defendants were then used to seek addition data manually from the database on a case-by-case basis. The six fields identified below were added to the first SQL to develop the reports for analysis of all of the 295 cases.\(^{67}\)

1) \(D\) - Number of days between ignored and indicted cases.

2) \(#\) - Cases numbered from 1 to 295.

3) \(R\) - Race of the defendant.

4) \(S\) - Sex of the defendant.

5) \(LD\) – Number of days the defendant was detained on ignored cases.\(^{68}\)

6) \(C, c, DH\) – This signifies if the indicted case in question originated in the County outside the City of Cincinnati, within the City of Cincinnati, or as a direct hearing in grand jury, respectively.

The cost per case analysis was determined by calculating the resources used by the jury commission, court, prosecutor, law enforcement officers, clerks' personnel, court administrative staff, and detention facilities.

\(^{67}\) See Appendix G.

\(^{68}\) Defendants not shaded in this field on Appendix G were detained only on the ignored charge, while those shaded were detained on this and other charges and were only counted as detained on the ignored case for one day. Detention time of one day was established as a base amount for these defendants that were being held on additional charges. These defendants could be and were held further based upon these additional charges.
The jury commission costs indicated earlier in this paper of $41,122.50 was the costs associated with paying juror fees. The total number of cases reported out by the grand jury was 10,699. This calculates to a cost of $3.84 per case paid out to the each juror. Costs associated with this office could be calculated for the number of cases that were found to be re-presentments and indictments within sixty days of previously ignored cases. This cost would be a double use of resources much in the same way as it was for the other agencies that need to push these re-presented and indicted cases through the criminal justice system twice. The total (n) cases reported by the prosecutor's office as re-presentments of the group of 295 cases ignored and subsequently indicted within sixty days would therefore be computed in the following manner:

Total (n) cases ignored/re-presented X $3.84 per case X 2 (presented twice) =.

Resources used by the court in the processing of cases being ignored and subsequently indicted within sixty days are consistent whether the case to be heard by the grand jury is a re-presentation or a first time case. The presiding criminal judge of the month, whose duty it is to administer the charge and oath to the grand jury, completes this in addition to his/her duties as a member of the common pleas bench. The time taken out of the judge's daily schedule for administering the oath, charging the grand jurors, signing the reports of the grand jury and ruling on procedural questions would technically take place no matter if the prospective grand jurors were to hear cases being re-presented or presented for the first time.
Staffing costs provided to the author from the prosecutor’s office indicates that approximately $537,320.00 was spent in 2002 to pay salaries and benefits for 13 employees that spent the majority of their time on grand jury related work.\textsuperscript{69} The prosecutor’s office filed reports from the grand jury on 8,709 cases listed as felony indictments or ignored. At this rate, the prosecutor’s office spent $61.70 per case reported out by the grand jury. The prosecutor went on to report that the total (n) of the 295 cases in this study that were re-presented to another grand jury and subsequently indicted within sixty days. This would indicate that the office spent the following amount on staff costs:

\[ \text{Total (n) cases ignored/re-presented } \times \text{ $61.70 per case } \times 2 \text{ (presented twice)} = \]

The number of law enforcement officers/case presenters testifying before the grand jury is different depending upon the specific facts of the case. One case may need zero, one, or multiple officers/case presenters to provide information to the case. There is the potential that these officers/case presenters may need to be available on any day of the week since the prosecutor’s office in Hamilton County indicates that: “Both grand juries run all day, every day …”\textsuperscript{70} The average number of cases where officers/case presenters have provided testimony for a year 2002 is 3,931. The average number of officers/case presenters providing this testimony is 4,435 per year.\textsuperscript{71} Dividing the number of cases per year needing officers/case presenters into the number of officers/case presenters reporting for that year averages to 1.1 officers/case presenters giving testimony

\textsuperscript{69} Figures provided by administrative staff of the Hamilton County Prosecutor’s Office.
\textsuperscript{70} \textit{Intake Division}, 5 Jan. 2004: Hamilton County Prosecutor, 7 Jan. 2004 \texttt{http://www.hcpros.org/divisions/intake/}.
\textsuperscript{71} Information provided by the Cincinnati Police Department, Court Control Unit.
per case and would need to be compensated for this presentation time. If all of the 295 cases in this study were ignored and subsequently indicted within sixty days, the grand jury division would expect to need 325 officers/case presenters to assist in the presentation of the prosecutors' cases if all of these cases needed an officer/case presenter testimony. The total (n) of the 295 cases in this study reported as cases re-presentments and indicted by the prosecutor did use total (n) $X 1.1$ officers/case presenters providing testimony to grand jury. Any of these cases found to be a re-presentation of a previously ignored and then indicted cases would be expected to be twice the use of resources necessary since the officer/case presenter testimony would be required both times. The total officer resources required to provide testimony for the re-presented cases in this study would be:

Total (n) cases re-presented $X 1.1$ average officers/case presenters per case $X$

($65.30^{73}$) 3 hour average salary for these officers$^{74} X 2 = $

Staffs of both the clerk of courts and the office of the court administrator have work functions previously described in this paper that must be completed on cases indicted or ignored by the grand jury. Like the court, both of these agencies have job-related procedures that are best described in a case management fashion. All cases reported out by the grand jury must have information added to the CMS network to journalize events and allow for query of historical data. Resources used on the total (n)

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72 Information provided by the Cincinnati Police Department, Court Control Unit.
73 This amount was computed by taking the average salary for Cincinnati Police Officers, dividing this into 26 pay periods for the year, dividing by 80 hours per pay period and multiplying this by 3 hours average reporting time by officers/case presenters to grand jury. ($45,270.00 / 26 / 80 X 3 = $65.30).
74 Information provided by the Cincinnati Police Department, Court Control Unit.
cases of the 295 cases in this study reported by the prosecutor as ignored and subsequently represented and indicted within sixty days is repetitive data entry aggravating the case management procedures of both these offices and increasing delay of case processing. These initial ignored cases are journalized in the database and must be taken into account when a future criminal history query is completed on this defendant. Conversely, data entry on these and any cases reported out by the grand jury must be completed. Data on cases, whether indicted or ignored, is used for future queries and checks on criminal history and judge links to defendants. The resources used by both the clerk and assignment commissioner office staff for these cases would be calculated as follows:

% Total (n) cases re-presented represent of total years reported cases (8,709) X 3 individuals completing work X (29,446.80\textsuperscript{75}) average salary for 3 positions X 2 =.

Costs for detention of defendants whose cases were ignored and subsequently indicted within sixty days is computed by taking the specific number of days associated with the total (n) of cases ignored + those for the cases indicted and multiplying this number by the previously established rate of $65.00 per defendant per day charge of incarceration.

Total (n) cases re-presented X specific numbers of days incarcerated for the ignored cases + the specific number of days incarcerated for the indicted cases X $65.00 per day =.

\textsuperscript{75} Average salary for three individuals (one assignment commissioner staff averaging $29,609.32 per year and 2 clerk staff averaging $29,365.50 per year) provided by the administrative office of the court administrator and the clerk’s office.
IV. FINDINGS

What were the characteristics of the cases in this study that were found to be indicative of the ignore/indict phenomena? The 295 cases identified as ignored and subsequently indicted within sixty days were first compared against all cases indicted within the year 2002 by race, sex, and whether the case originated from charges in municipal court or from a direct hearing in grand jury. Next, information on the 295 cases in this study provided by the prosecutor regarding the rates of cases being re-presented and indicted within sixty days provides the frequency of the phenomena and the reasons for it. Lastly, the costs per case analysis associated with some of the resources used by the jury commission, court, prosecutor, law enforcement officers, clerks’ personnel, court administrative staff, and detention facilities are provided. These cases use resources from various criminal justice agencies that would be better spent on a single presentment to the grand jury instead of multiple presentments based on poor case management procedures.

The information on the total number of male and female defendants in the two groups (indicted in 2002 & ignore/indicted within sixty days) was obtained from an SQL of the CMS database. For the total indictments for 2002: 4,858 defendants or 82.5% were male; 1,025, or 17% were female; and 8, or .5%, had a value of unknown or null. Of the group of 295 ignored/indicted within sixty days 266, or 90%, were males; and 29, or 10%, were females. The National rates of arrests in 2002, reported by the Federal Bureau of Investigation, indicate 77.0% of arrestees were male and 23% of arrestees were
female. This portion of the data indicates that the local rate of indictment for males was somewhat higher than the national arrest rates in 2002. The rate for males on cases that were ignored and subsequently indicted within sixty days was greater than either the rate of the total defendants indicted in 2002 or the national arrest rates for that year (Table 1). These findings are at the most an interesting observation of these cases. It would be improper to draw any conclusion based on this factor alone.

<table>
<thead>
<tr>
<th>Table 1</th>
<th>(2002 – Sex: Defendants Indicted, Ignored/Indicted Within 60 Days, and National Arrest Rates)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
</tr>
<tr>
<td>Indicted 2002</td>
<td>4,858 (82.5%)</td>
</tr>
<tr>
<td>Ignore/Indict 60 Days</td>
<td>266 (90%)</td>
</tr>
<tr>
<td>National Arrest Rates</td>
<td>(77.0%)</td>
</tr>
</tbody>
</table>

Data on the racial make-up of the two groups was also obtained. For the indicted cases in 2002: 3,935 defendants, or 67%, were identified as Black; 1,870 defendants, or 32%, were identified as White; and 86 defendants, or 1%, were identified as Asian/Hispanic/Unknown. The group of 295 ignored/indicted within sixty days defendants had 233, or 79% identified as black; and 62, or 21%, identified as white. The national rates of arrests in 2002, reported by the Federal Bureau of Investigation, indicate

70.7% of arrestees were white, and 26.9% of arrestees were black, and 2.4% were other. Disparity in the percentages of the race of defendants between those indicted in 2002 and the national rates for arrestees in that year may be due to the nature of the racial make-up of the city of Cincinnati. In the year 2000 census, Cincinnati had a population that was 53% white and 43% black. Defendants with cases ignored and subsequently indicted within sixty days were represented at a rate almost twice the percentage of the city population. Race seems to be a strong indicator of those that meet this scenario (Table 2). Again, as a single factor associated with cases ignored and subsequently indicted within sixty days, race of the defendant is an interesting but inconclusive observation.

<table>
<thead>
<tr>
<th></th>
<th>Black</th>
<th>White</th>
<th>Asian/Hispanic/Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Indicted 2002</strong></td>
<td>3,935 (67%)</td>
<td>1,870 (32%)</td>
<td>86 (1%)</td>
</tr>
<tr>
<td><strong>Ignore/Indict 60 Days</strong></td>
<td>233 (79%)</td>
<td>62 (21%)</td>
<td>0</td>
</tr>
<tr>
<td><strong>National Arrest Rates</strong></td>
<td>(26.9%)</td>
<td>(70.7%)</td>
<td>(2.4%)</td>
</tr>
</tbody>
</table>

These two variables of race and sex were combined to highlight the differences between the two groups of all defendants indicted in 2002 and those defendants who had cases ignored and subsequently indicted within sixty days. For all of the cases indicted in 2002: 555 defendants, or 9.5%, were Black-Females; 3,380 defendants, or 57.5%, were Black-Males; 450 defendants, or 7.5%, were White-Females; 1,420 defendants, or 24%, were White-Males; 20 defendants, or .5%, were Asian/Hispanic/Unknown-Females; and 58 defendants, or 1%, were Asian/Hispanic/Unknown-Males (Table 3). The 295 ignored/indicted within sixty days cases had the following breakdown: 19 defendants, or 6.5%, were Black-Females; 214 defendants, or 72.5%, were Black-Males; 10 defendants, or 3.5%, were White-Females; and 52 defendants, or 17.5%, were White-Males (Table 4).

Table 3
(Race/Sex of Defendants Indicted in 2002)

<table>
<thead>
<tr>
<th></th>
<th>Black</th>
<th>White</th>
<th>Asian/Hispanic/Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>3,380 (57.5%)</td>
<td>1,420 (24%)</td>
<td>58 (1%)</td>
</tr>
<tr>
<td>Female</td>
<td>555 (9.5%)</td>
<td>450 (7.5%)</td>
<td>20 (.5%)</td>
</tr>
</tbody>
</table>

Table 4
(Race/Sex of Defendants Ignored/Indicted Within 60 Days)

<table>
<thead>
<tr>
<th></th>
<th>Black</th>
<th>White</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>214 (72.5%)</td>
<td>52 (17.5%)</td>
</tr>
<tr>
<td>Female</td>
<td>19 (6.5%)</td>
<td>10 (3.5%)</td>
</tr>
</tbody>
</table>
These two factors combined indicate that black females, white males and white females were less likely to have cases ignored and subsequently indicted within sixty days compared to the rates for these groups of all indicted cases in 2002. Black Males, on the other hand, were more likely to be defendants in cases that were ignored and subsequently indicted within sixty days as compared to all defendants indicted in 2002.

Almost all of the 295 cases identified in this study (294 or 99.7%) were initiated as charges in municipal court and subsequently bound over to the grand jury process. Only one case was what is locally called a direct hearing initiated in the grand jury from information presented by local law enforcement. Cases indicted and ignored by the grand jury totaled 8,709 cases in 2002. Cases initiated in municipal court totaled 7,760 as ignored and indicted. This represented 89% of the cases reported by the grand jury in 2002. These cases were indicted 5,135 times, or at a rate of 66%, and 2,625 of these cases, or 34%, were ignored by the grand jury. Cases not initiated in municipal court, rather presented as direct hearings before the grand jury, totaled 949, or 11% of cases reported in 2002. 756 of these cases were indicted at a rate of 80%, and 193 of these cases, or 20%, were ignored by the grand jury. Of the 5,891 cases that were indicted within the entire year, 5,135 cases, or 87%, were initiated in municipal court. The remaining 756 cases, or 13%, were initiated as direct hearings. The first observation that can be made of the group of ignore/indict within sixty-day cases in this study is that they start as charges in municipal court almost exclusively and not as charges brought to the prosecutor from tips or observations as direct hearings. Of the 2,818 cases that were ignored during 2002, 2,625, or 93%, were cases initiated as charges in municipal court.
and 193 cases, or 7%, were cases that came about as direct hearings in grand jury. Upon discussions with staff of the prosecutor’s, municipal court and the clerk’s offices, it was surmised that this difference could indicate that direct hearing cases, as a group, were more likely to be complete with respect to evidence, and therefore, more successful at the time of presentment than cases originating as charges in municipal court (Table 5).

<table>
<thead>
<tr>
<th></th>
<th>Municipal Court</th>
<th>Direct Hearing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indicted 2002</td>
<td>5,135 (87%)</td>
<td>756 (13%)</td>
</tr>
<tr>
<td>Ignore/Indict 60 Days</td>
<td>294 (99.7%)</td>
<td>1 (.3%)</td>
</tr>
</tbody>
</table>

The author had many lengthy discussions with the prosecutor’s staff as to what could or could not be considered as reported data in each specific case in the study. Because of the inherent need for secrecy of defendants, officer/case presenters and witnesses, the prosecutor’s office was unable to provide any information that could be used to identify any of these groups. This mandatory need for secrecy meant that the prosecutor’s reporting ability would be limited to how many total cases were re-presented and indicted within sixty days, and the reasons why these cases were ignored the first time they were presented. Information on the total preparation time for cases was not available as cases were bound over on a particular date, but not necessarily acted upon by the office in a consistent measurable fashion. Likewise, information on the numbers of officers/case presenters providing testimony was not available as such information was
not documented in the case files. The documentation of this information by the prosecutor would have only helped the research in this study in a small fashion as most of this information would have been case specific and therefore secret. However, documentation of this information would help the prosecutor and could be used in any attempt to re-engineer procedures within this office in an effort to improve efficiency.

The prosecutor indicated that 122, or 41%, of the 295 cases in this study were represented and subsequently indicted within sixty days (Table 6). The remaining 173 cases, or 59%, would be considered new cases that were indicted within sixty days for these defendants.

<table>
<thead>
<tr>
<th>Total Cases</th>
<th>Cases Re-Presented Indicted</th>
<th>New Cases Indicted</th>
</tr>
</thead>
<tbody>
<tr>
<td>295 (100%)</td>
<td>122 (41%)</td>
<td>173 (59%)</td>
</tr>
</tbody>
</table>

The prosecutor then went on to provide reasons why these cases were ignored the first time they were presented to a grand jury. The 122 cases identified as re-presented and subsequently indicted within sixty days were done so for one of three reasons identified. First, 78 of these cases, or 64%, were identified as lacking laboratory reports needed to provide probable cause necessary for indictment. Second, 32, or 26%, of the 122 re-presented and subsequently indicted within sixty day cases were identified as lacking witnesses needed to provide the testimony necessary for indictment. The third group
identified consisted of cases listed as having “other” reasons for re-presentment. This group had 12 cases, or 10%, of the 122 identified as ignored and subsequently indicted within sixty days (Table 7). There was no way to break these numbers down by type of charge (drug cases, personal or property crimes) again due to the fact that the prosecutor provided these numbers only in aggregate and not in case specific form.

Table 7
(Cases Re-Presented: Total; Needing Lab Reports; Witness Appearance Needed; Other)

<table>
<thead>
<tr>
<th>Total Cases</th>
<th>Needing Lab Reports</th>
<th>Witness Appearance Needed</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>122 (100%)</td>
<td>78 (64%)</td>
<td>32 (26%)</td>
<td>12 (10%)</td>
</tr>
</tbody>
</table>

Criminal defendants held in Hamilton County, Ohio are housed in one of four facilities awaiting charges, having their case progress towards possible trial or serving local time on criminal convictions. The capacity for of all of these facilities is 2,100 and each defendant is held at an average cost of $65.00 per day. All of the defendants who had a case ignored as part of the 295 cases in this study were incarcerated for a period of time for that case except for one. Two distinct types of cases became apparent when compiling the amount of time each defendant was incarcerated. The first group consisted of those cases where the person incarcerated at the time the case was presented to the grand jury was being held on a specific charge. When the cases were ignored, the defendant was released from the custody of the sheriff. This represented 214, or 73%, of the defendants in this study. The average stay in detention for this group was 5.6 days per

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79 Rates for the incarceration of defendants and facility space supplied by Hamilton County Administrative Offices and Common Pleas Court Administration.
defendant. This group spent 1,198 days collectively locked-up in detention at a cost of $77,870.00. The second group consisted of defendants held in detention on at least one unrelated matter in addition to the ignored case in question. Because of this, only one day of detention was factored into the expense for their ignored case to establish a baseline amount of days incarcerated for this group. These defendants continued to be held in incarceration after the date their grand jury case was ignored indicating they were being held on unrelated charges. This happened in 81 cases at a cost of $5,265.00. Together, the two groups totaled 1,279 days of detention, with an average of 4.4 days per defendant, at a cost of $83,135.00 (Table 8).

<table>
<thead>
<tr>
<th>Incarcerated</th>
<th>Total Days</th>
<th>Average Days</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Charge</td>
<td>1,198</td>
<td>5.6</td>
<td>$77,870.00</td>
</tr>
<tr>
<td>Including Other Charges</td>
<td>81</td>
<td>1</td>
<td>$5,265.00</td>
</tr>
<tr>
<td>Both Groups</td>
<td>1,279</td>
<td>4.3</td>
<td>$83,135.00</td>
</tr>
</tbody>
</table>

The total cost of resources used is compiled by adding the computations provided in the methodology section of this paper for each of these criminal justice agencies. The following is a list of these computations and the sum value cost associated with the cases identified in this study as ignored and subsequently indicted within sixty days.
Jury Commissioner:

122 cases ignored/re-presented \( X \$3.84 \) per case \( X 2 \) (presented twice) = \$ 936.96

Court:

No additional costs since court would provide this function in any event = \$ 0.00

Prosecutor:

122 cases ignored/re-presented \( X \$61.70 \) per case \( X 2 \) (presented twice) = \$ 15,054.80

Law Enforcement Officers:

122 cases re-presented \( X \) 1.1 average officers/case presenters per case \( X \) salaries for these officers \( X 2 \) = \$ 17,562.52

Court Administrative Staff/Clerk Staff:

.02 \( X \) 3 individuals \( X \$29,446.80 \) \( X 2 \) = \$ 3,533.61

Detention Costs:

\( 4.3^{81} \) average days incarcerated per 122 cases ignored \( X \$65.00 \) per day + 4.3 average days incarcerated per 122 cases represented/indicted \( X \$65.00 \) per day = \$ 68,198.00

Together, the costs described above as use of resources on cases ignored and subsequently indicted within sixty days by various agencies in the criminal justice system have a total value of:

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80 While there is a duplication of effort by the presiding judge as to the swearing in of and administering the oath to a new group of grand jurors who will ultimately hear cases that are in actuality re-presentments of previously ignored cases, no grand jury hears only re-presentments. The judge would perform this work in any event and the costs associated with this function would be spent.

81 This number was calculated based on the average number of days incarcerated for all 295 of the cases ignored and indicted within sixty days in this study. Each specific case would need to be examined to determine the exact amount of days incarcerated indicated in the Jail Management System for both the ignored and the indicted cases. Because this case specific information was not provided by the prosecutor, the author used the above calculation.
<table>
<thead>
<tr>
<th>Category</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jury Commissioner:</td>
<td>$ 936.96</td>
</tr>
<tr>
<td>Court:</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>Prosecutor:</td>
<td>$ 15,054.80</td>
</tr>
<tr>
<td>Law Enforcement Officers:</td>
<td>$ 17,562.52</td>
</tr>
<tr>
<td>Court Administrative Staff/Clerk Staff:</td>
<td>$ 3,533.61</td>
</tr>
<tr>
<td><strong>Detention Costs:</strong></td>
<td><strong>$ 68,198.00</strong></td>
</tr>
<tr>
<td><strong>Total Cost Resources 122 Cases</strong></td>
<td><strong>$105,285.89</strong></td>
</tr>
<tr>
<td>Ignored/Re-presented/Indicted:</td>
<td></td>
</tr>
</tbody>
</table>
V. CONCLUSIONS

The prosecutor is the gatekeeper of the information produced in grand jury. The effective management of cases presented to the grand jury is his/her responsibility alone. Any mismanagement by this office not only affects the resources of this office, but also the resources of other criminal justice agencies that perform job related duties in the grand jury process. The grand jury process, specifically the inherent need to keep the process and deliberations secret, does not allow for as in-depth study as this author initially desired. This secrecy associated with the grand jury, primarily in relation to case specific information, has made the prosecutor’s office understandably reluctant and unable to provide any information that would compromise the integrity and anonymity of the defendant, whose case was not indicted, the officers/case presenters and witnesses testifying, or the members of the grand jury. Reporting of information relevant to represented cases in this study is critical in order to attempt to draw some conclusions based on exact resources used by various criminal justice agencies and recommendations for change in procedures. At the very least, knowing how many of the cases were represented; if not which ones, at least helped gauge the extent of this phenomena happening.

The cases identified as ignored and subsequently indicted within sixty days can only come about from one of two reasons. First, these cases may have had some flaw of processing (missing lab report, witness testimony, or other problems) that made them not ripe for presentment to the first grand jury that reported them as an ignored. These flaws
may have been corrected or not, but as these cases were re-presented to another grand jury, this second grand jury chose to indict. Second, the first case just failed on its merits and never rose to the level of confirming the probable cause necessary to attain indictment. The grand jury ignored these cases and it just so happened that this defendant was charged with the commission of another crime within sixty-days.

The 122 cases identified by the prosecutor’s office as ignored and subsequently indicted within sixty days do give us some indication as to the frequency of occurrence of this event. It would be expected that there are cases that also fit into this scenario that were ignored and subsequently indicted within a greater period of time. It is quite clear that the 122 cases identified as a group by the prosecutor as ignored and subsequently indicted within sixty days in this study is minuscule in comparison to either the total number of cases presented (8,709) or indicted (5,891) for the calendar year 2002. These 122 cases represent 1% and 2% of these two groups respectively. Calculations for total costs of work performed by the various agencies involved in the grand jury process for these cases is at best incomplete. No true cost per case analysis was possible, again, due to an inability to get case specific information on the 122 cases identified as ignored and subsequently indicted within sixty days.

The greatest value of this study is the extent to which it helps criminal justice agency employees and managers view the grand jury process as an event that impacts the case management processes of many agencies simultaneously. There is no call for the secrecy aspect of the grand jury process to be reduced or eliminated. Instead, the main
recommendation of this paper is that the prosecutor’s office continuously evaluates the reason or reasons why cases are ignored by the grand jury. A more complete study of the phenomena of cases failing presentment to the grand jury due to the reasons found in this study (missing lab reports, failure of witnesses to appear, other) would best be completed by the prosecutor’s office. These results could indicate the need for a differential schedule for case presentment to the grand jury based on charge type, witness testimony or physical evidence to be presented. This study helps managers of criminal justice agencies understand that we continue to work in an environment that lends itself more and more to greater integration of information sharing thus saving costs, yet maintaining appropriate levels of security. This concept was completely and accurately stated by Linda L. Walker when she states:

“...stakeholders are discovering that communication, cooperation, and collaboration among agencies are overriding issues of funding, hardware, software, data ownership, and the need for a universal personal identifier. As cases pass through the system, authorized information is augmented by the prosecutor’s system, the public defender’s system, social agencies, the courts, corrections, adult and juvenile probation, and other interested parties. Each entity controls the information that it adds to the data pool and also may control who is allowed to view their data. The benefits to the courts include a network backbone that is fundamental to the courts’ own case management systems and an ability to share data that will result in reductions in data redundancy and errors.”\textsuperscript{82}

The resources identified in this study are not meant to be exhaustive.

Dear Juror:
The enclosed jury summons requires your attendance at the date, time and place specified. If this summons is not honored, you can be ordered to show cause why you should not be held in contempt of court. The right to trial by jury is one of the cornerstones of the American legal procedure and a pillar of our government in which we as a citizen can take an active part. You should be proud to serve your government and I am sure you will find your experience rewarding and informative. If you have any questions or problems, call the JURY COMMISSION OFFICE at 946-JURY (946-5879).

Your pay as a juror will be $19.00 per day. The term of jury service in Hamilton County is three weeks. The hours are normally 8:30 A.M. to 4:00 P.M. Monday through Friday. Hours may vary according to a particular case or circumstances. There are no parking facilities provided but there are several commercial parking lots with varying prices in the general vicinity of the Courthouse. The Courthouse is a secure facility requiring visitors to pass through metal detectors upon entry.

Jury service is not voluntary but a civic duty imposed upon all citizens. As a juror, you will become an officer of the Court. You will be performing an important and vital role in the efficient and fair administration of justice. While it may require some adjustment of your normal schedule and routine to serve as a juror, the Judges of this Court hope that any inconvenience will be minimal and that you, in advance, for your sacrifice and effort.

Deaf Services: Hearing impaired jurors are encouraged to participate. American Sign Language interpreters will be provided at the Court's expense and may be requested by calling the Jury Commission at least (2) weeks in advance of your report date.

ADA: In accordance with the Americans with Disabilities Act of 1990, the Court Services agency provides auxiliary aids. Please call (946-5879) for reasonable accommodations.

☐ Check if this is a new address

Jury Commission Office
Hamilton County Courthouse
1000 Main Street, Room 455
Cincinnati, OH 45202
PLEASE ANSWER ALL QUESTIONS COMPLETELY, SIGN AND RETURN THIS QUESTIONNAIRE WITHIN SEVEN DAYS. SECTION 1. FAILURE TO RETURN THE QUESTIONNAIRE OR TO ANSWER THE QUESTIONNAIRE COMPLETELY AND HONESTLY COULD RESULT IN CONTEMPT OF COURT CHARGES.

Print your name: ______________________________ How Long: ______________________________

Residence, area/section of town example: (Delhi Twp., Blue Ash, etc.) ______________ Age: ______ Gender: M F

Years of Residence in Hamilton County: ______ Place of Birth: ______________

Education Completed to: (Indicate completion by "X" or uncompleted by years attended) grade school __ high school __ college __ grad. stud __

Marital Status (circle one): married separated widow single divorced

Number of children: __________

If widowed, give late spouse's occupation and employer:

List living members of your family: DO NOT LIST NAMES

<table>
<thead>
<tr>
<th>Relationship</th>
<th>Age</th>
<th>Living with you</th>
<th>Occupation</th>
<th>Employer</th>
</tr>
</thead>
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<tr>
<td>(spouse-child)</td>
<td></td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

Have you served as a juror before? yes ___ no ___. If yes, when and where?

Have you ever been convicted of a State or Federal crime punishable by imprisonment for more than one year? yes ___ no ___. If yes, when, and have your rights been restored? yes ___ no ___

Have you, or any family member listed above, been sued or sued another person? yes ___ no ___. If yes, type of lawsuit: ____________________ date: ___________ and what court: ____________________

Have you or any member of your family been the victim of a crime? yes ___ no ___

Has a claim for personal injury ever been made by you or against you or your family, NOT involving a lawsuit? yes ___ no ___

Are you related to or a close friend of any law enforcement officer or prosecutor? yes ___ no ___

Do you drive an automobile? yes ___ no ___

Do you have any permanent physical or mental conditions which would prevent you from serving as a juror? yes ___ no ___. If yes, a doctor's certificate verifying your disability must be attached and mailed in an envelope with this summons.

If employed, does your employer compensate you while serving jury duty? yes ___ no ___. If no, a letter of verification from your employer must be attached and mailed in an envelope with this summons.

YOU MUST APPEAR ON THE DATE AND TIME SPECIFIED UNLESS A REQUEST FOR POSTPONEMENT HAS BEEN SUBMITTED IN WRITING AND APPROVAL GIVEN, NO LESS THAN 10 DAYS PRIOR TO YOUR SERVICE DATE.

IN ACCORDANCE WITH SENATE BILL 69, EFFECTIVE APRIL 16, 1998, THERE ARE NO LONGER ANY AUTOMATIC EXEMPTIONS.

Occupation: (If retired, please indicate) ______________

Employer: ______________ Business phone: ______________ Home phone: ______________

I SOLEMNLY AFFIRM THAT THE ABOVE RESPONSES ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Signature: __________________________ Date: __________________________

PLEASE FOLD AT PERFORATION BETWEEN SECTIONS 1 AND 2, SEAL, ADD POSTAGE AND RETURN TO THE JURY OFFICE

SECTION 2
<table>
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<tbody>
<tr>
<td>Judge: Beth A Myers</td>
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</tr>
<tr>
<td>Foreperson: John Doe</td>
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</table>

<table>
<thead>
<tr>
<th>Reference No.</th>
<th>Indicted/Ignored Charge(s)</th>
<th>Grand Jury</th>
<th>Date Issued</th>
<th>Page</th>
</tr>
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<tr>
<td>B 0215000</td>
<td>A</td>
<td>James Frank @ 2222 West Avenue, Cincinnati, OH 45202</td>
<td>2</td>
<td>07-07-2002</td>
</tr>
<tr>
<td>(AKA) UNKNOWN</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C/02/CRA/77777 /A</td>
<td>1</td>
<td>F4</td>
<td>2925-03A1</td>
<td></td>
</tr>
<tr>
<td>C/02/CRA/77778 /B</td>
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<td>2925-03A1</td>
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<tr>
<td>C/02/CRA/77779 /C</td>
<td>3</td>
<td>F4</td>
<td>2925-03A1</td>
<td></td>
</tr>
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</table>

| B 0215001 | A | Andrew Pierce @ 3425 Northeast Way, Cincinnati, OH 45242 |  |
| (AKA) UNKNOWN | | | | |
| C/02/CRA/77780 | 1 | F5 | 2923-13A3 |  |

| B 0211502 | A | Kyle Osborne @ 7345 Canary Ct., Loveland, OH 45140 |  |
| (AKA) UNKNOWN | | | | |
| C/02/CRA/77781 | IGN | 2919-25A | Domviol | |
| C/02/CRA/77782 | IGN | 2919-25A | Domviol | |

| B 0211503 | A | Mia Pack @ Unknown |  |
| (AKA) UNKNOWN | | | | |
| /02/CRA/77783 | 1 | F3 | 2925-03A1 | AggTraffDrg |

| B 0215004 | A | Marcus James @ 2957 Wistle Stop Lane, Dayton, OH 45411 |  |
| (AKA) Tater Salad | | | | |
| (B 0216001 ) | | | | |
| /02/CRA/77784 | IGN | 5743-112 | Trafcsavoidtax | |
| /02/CRB/77785 | IGN | 4301-58B | Liqsaleswithoutpermit | |
| /02/CRB/77786 | IGN | 4399-09 | Keepplaceliquor | |
| /02/CRB/77787 | IGN | 2925-11 | Drugabuse | |
| /02/CRA/77788 | 1 | F5 | 2925-02A1 | TrafCocaine |
| /02/CRA/77789 | 2 | F5 | 2925-11A | PossCocaine |

| B 0215004 | B | Brenda James @ 2957 Wistle Stop Lane, Dayton, OH 45411 |  |
| (AKA) UNKNOWN | | | | |
| /02/CRA/77790 | 3 | F5 | 2925-IIA | PossCocaine |

| B 0215005 | A | Mary Porter @ 2345 Joplin St., Apt 4, Covington, KY 44106 |  |
| (AKA) UNKNOWN | | | | |
| /02/CRA/77791 | 1 | F5 | 2925-I1A | PossHeroin |

| /02/CRA/77791 | 6 | | | |

61
Ignored then Indicted Defendants

Appendix C

Create the table

Create table jas_temp(
    Parent_case_id      number (12),
    Case_id             number (12),
    CASE_NUM_MAJOR      VARCHAR2(20),
    FINAL_CHARGE_PREFIX NUMBER(1),
    FINAL_CHARGE_SUFFIX NUMBER(2),
    FINAL_SECTION_NUMBER VARCHAR2(10),
    FINAL_SECTION_CODE  VARCHAR2(4),
    FINAL_SECTION_DESCRIPTION VARCHAR2(50),
    Ignored_On          date,
    Ctlno               number(08),
    Flagg               varchar2 (10))

/

Load the table

truncate table jas_temp
/

insert into jas_temp (Parent_case_id, Case_id, CASE_NUM_MAJOR, Ignored_On, Ctlno)
select c.parent_case_id, c.case_id, c.case_num_major, c.clerk_disposition_date_time, ol.control_number
from case c, offender_case_rel ocr, offender_list ol
where c.case_id != c.parent_case_id
and c.court_jurisdiction = 'CCR'
and c.clerk_disposition_cd = '7IG'
and c.CLERK_DISPOSITION_DATE_TIME > '12/31/2001/0000'
and c.CLERK_DISPOSITION_DATE_TIME < '1/1/2003/0000'
and ocr.parent_case_id = c.parent_case_id
and ol.offender_id = ocr.offender_id
and ol.alias_ind = 'Y'
order by ol.control_number, c.case_initiation_date
/
Ignored then Indicted Defendants

Get the sections

update jas_temp jt
set FINAL_section_number =
  (select final_section_number
   from case_criminal cc
where jt.case_id = cc.case_id)
/
commit
/

update jas_temp jt
set FINAL_section_code =
  (select final_section_code
   from case_criminal cc
where jt.case_id = cc.case_id)
/
commit
/

update jas_temp jt
set final_section_description =
  (select final_section_description
   from case_criminal cc
where jt.case_id = cc.case_id)
/
commit
Ignored then Indicted Defendants

create another table for the indicted matches.
DROP TABLE JAS_IND
/
Create table jas_ind{
  PARENT_CASE_ID NUMBER(12),
  CASE_ID NUMBER(12),
  CASE_NUM_MAJOR VARCHAR2(20),
  FINALSECTIONNUMBER VARCHAR2(10),
  FINALSECTIONCODE VARCHAR2(4),
  FINALSECTIONDESCRIPTION VARCHAR2(50),
  INDICTEDON DATE,
  CTLNO NUMBER(8),
  IGN_PARENT_CASE_ID NUMBER(12),
  FLAGG VARCHAR2(10))
/
COMMIT
/
insert into jas_ind(
    PARENT_CASE_ID,
    CASE_ID,
    CASE_NUM_MAJOR,
    INDICTED_ON,
    CTLNO,
    IGN_PARENT_CASE_ID
)
    select distinct
    c.PARENT_CASE_ID,
    c.CASE_ID,
    c.CASE_NUM_MAJOR,
    c.case_initiation_date,
    ol.Control_number,
    jt.parent_case_id
from
    jas_temp jt,
    offender_list ol,
    offender_case_rel ocr,
    case c,
    docket_entry_case_rel decr,
    docket_entry de
where ol.control_number = jt.ctlno
    and ol.alias_ind = 'Y'
    and ocr.offender_id = ol.offender_id
    and ocr.parent_case_id = jt.parent_case_id
    and c.case_id = ocr.parent_case_id
    and c.court_jurisdiction = 'CCR'
    and c.case_initiation_date > jt.ignored_on + 1
    and c.case_initiation_date < jt.ignored_on + 90
    and decr.parent_case_id = c.case_id
    and de.docket_id = decr.docket_id
    and de.docket_cd = '7IND'
/
commit
/
392 records created
set linesize 320
spool c:\data\spool.txt
select distinct
jt.ctlno "CTLNO",
to_char(jtignored_on,'MM/DD/YY') "IGNORED",
substr(jt.case_num_major,1,20) "CASE (IGNORED)",
jt.final_section_number "ORC_IGN",
SUBSTR(jt.final_section_description,1,30) "ORC DESCRIPTION (IGNORED)",
to_char(ji.indicted_on,'MM/DD/YY') "INDICTED",
substr(ji.case_num_major,1,20) "CASE (INDICTED)",
cc.final_section_number "ORC_IND",
SUBSTR(cc.final_section_description,1,30) "ORC DESCRIPTION (INDICTED)"
From jas_temp jt, jas_ind ji,
Case c, case_criminal cc
Where
Jt.parent_case_id = ji.IGN_PARENT_CASE_ID
And c.parent_case_id = ji.parent_case_id
And c.case_id != c.parent_case_id
And cc.case_id = c.case_id
/
spool off
Appendix D

Data Collection Instrument
Cases Ignored

Case #  B-020XXXX

Defendant  (Name)

Prosecutor information per case -

- What was the preparation time for this case?
  (the number of days from initiation in grand jury
to reporting by grand jury panel)  

- What was the reason the case was ignored?  

- How many law enforcement officers testified?  
or

- How many case presenters gave testimony on the case?  

- Was this case re-presented?  
  - Was there an indictment on the represented case?  
  - If yes or no, what was the new case #?
Appendix E

October 3, 2003

(Name)
Court Administrator
(Cuyahoga County, Franklin County, Lucas County, Mahoning County, Montgomery County & Summit County)

Dear (Name),

I am working on a Phase III project paper as a requirement for completion of a fellowship in court management with the National Center for State Courts, Court Executive Development Program. The topic of my Phase III paper concerns ignored (no billed) cases reported by the grand jury in Hamilton County, Ohio which are ultimately indicted within 60 days of being ignored. I am researching these cases to evaluate the effect this process has on other criminal justice agencies (clerk, court administration, jail population ...). I have included a data collection instrument that I will be forwarding to our prosecutor's office for each of the 290+ cases to be researched. As an attempt to make this instrument as valid as possible, I am asking for the input of administrators from across the state to comment on its content. Please review the form and feel free to comment on its content and return them in the envelope provided. Any help you can be would be greatly appreciated.

Thanks for your time and if you have any questions, give me a call at 513-946-5939.

Sincerely,

Henry S. Stacey
Assignment Commissioner
Hamilton County Common Pleas Court
<table>
<thead>
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<th>Unit</th>
<th>Value</th>
</tr>
</thead>
<tbody>
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<td>Unit 1</td>
<td>Value 1</td>
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<tr>
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<td>$2000</td>
</tr>
<tr>
<td>Alice</td>
<td>55667</td>
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</tr>
<tr>
<td>Bob</td>
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<td>$500</td>
</tr>
<tr>
<td>Charlie</td>
<td>00112</td>
<td>$3000</td>
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