No-Fault Auto Reparation in Florida: An Empirical Examination of Some of Its Effects

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NO-FAULT AUTO REPARATION IN FLORIDA:
AN EMPIRICAL EXAMINATION OF
SOME OF ITS EFFECTS

Joseph W. Little*

SUMMARY OF RESULTS

Any useful evaluation of the no-fault concept must test whether or not programs such as the Florida Automobile Reparations Reform Act accomplish the goals claimed for them before their enactments. Ordinarily, these goals will be to correct alleged deficiencies in the predecessor reparations systems. In a simple system in which everything else remained constant, testing whether success had been achieved would be easy. One would merely measure specified parameters before the reform measure was introduced and compare these baseline measurements to measurements made afterwards. In Florida of the early 1970's, however, nothing remained constant. The population was burgeoning as was the number of motor vehicles on the highways (rising from 5,360,302 registered vehicles in 1971 to 6,382,298 in 1973). Furthermore, this was a period of extreme inflation in the United States and Florida and of rapidly advancing medical costs, it was a period in which shortages of petroleum-based energy supplies first had tangible effects on the incidence of motor vehicle crashes, and it was a period that saw major revisions in Florida's court structure. In sum, no-fault was introduced into the midst of substantial general change, making it extremely difficult to establish baselines for comparative measurement. In such periods, comparisons must be made between what occurred under the no-fault plan and what would have occurred had the superseded system remained in effect. Thus, for example, in comparing insurance costs one must ask what the difference is between no-fault costs and costs as they would have been had there been no change, instead of asking what the difference is between no-fault costs and costs as they were before no-fault came into effect.

To evaluate Florida's no-fault system, five hypotheses were posited and tested for validity. These hypotheses and the inferences that may be drawn concerning them are summarized below. Before examining them, however, the reader may gain some perspective in evaluating their importance from the following remarks. The basic complaints about the third-party insurance-based tort reparation system concerned unnecessary costs, unfairness in allocation of benefits, inefficiency in disbursement of benefits,
and certain systemic defects, such as unnecessary congestion of court dockets. A crucial point in evaluating any reform movement is to acknowledge that none of these factors is independent of the others. For example, to reduce total costs, including amounts paid out in benefits, and to expand coverage for benefits may be inconsistent goals. On the other hand, to reduce the portion of the costs consumed within the system and to expand benefits may be quite consistent. It follows, therefore, that a no-fault revision should be carefully designed with predetermined goals in mind and should thereafter be evaluated on the basis of performance in achieving those goals.

The Florida Automobile Reparations Reform Act was designed to reduce the costs incurred in transferring money from insurance premium payers to beneficiaries and to expand coverage for personal injury benefits. It was also designed to produce more fairness in the allocation of benefits to injured victims, to eliminate delays in the receipt of benefits and to reduce the proportion of personal injuries that result in litigation. The Florida law also contained property damage no-fault provisions, which had parallel goals. Although the property damage provisions were invalidated by the Florida Supreme Court, sufficient experience had accrued to permit a report on that aspect of the law. To test how well these goals were achieved in the first two years of the new system's operation, data were gathered from sample populations to test the following hypotheses about the workings of no-fault. A brief summary of the conclusions of this study will be given for each one.

Hypothesis 1: That no-fault will reduce the amount of litigation arising out of automobile crashes in comparison to the tort system.

The Florida no-fault system utilizes a tort threshold that was intended to keep relatively minor personal injury cases out of the courts. Data from Alachua and Dade Counties from 1972 and 1973 suggest that the Florida system can reduce the frequency of personal injury litigation measurably. Nevertheless, insurance companies complain that the law is being abused by use of artifices to defeat thresholds, particularly in Dade County, with a resulting increase in the number of suits being filed. No data are available in this study nor are there any known to the author that quantify this phenomenon.

In contrast to the personal injury experience, insurance claims data suggest that property damage no-fault has had little effect on the frequency of law suits, mainly because claims involving only property damage always have been settled by negotiation with very little ensuing litigation. No marked change was seen.

Hypothesis 2: That the distribution of claims arising out of motor vehicle crashes between third-party and first-party modes will shift strongly toward first-party modes in a no-fault system.

The Florida no-fault law mandated that both first-party and third-party personal injury insurance and third-party property damage insurance be
carried by covered motorists. First-party property damage insurance remained optional. Experience under no-fault showed a very substantial shift from third-party to first-party claims for both personal injury and property damage coverages. Differences in costs between the two claim modes give importance to this otherwise modest finding. It appears clear that first-party personal injury payments are less inflated by nuisance value and that first-party claims cost less to process than third-party claims. Therefore, a third-party to first-party shift implies cost savings. However, no such difference in costs appeared in the property damage data.

Hypothesis 3: That the amount of time required for processing claims and receiving benefits will be shorter in a no-fault system as compared to a tort system.

The data suggest that the amount of time elapsing between dates of crashes and settlement dates of personal injury insurance claims was not noticeably affected by no-fault. Furthermore, as to those claims that wound up in court, no important diminution occurred in the amount of time elapsing between the dates suits were filed and the dates of settlement. Nevertheless, one may not properly infer that no benefit in speedier claims processing inured to personal injury victims. In fact, a marked diminution in the amount of time elapsing between crash dates and dates of receipt of first payments did occur, indicating that victims are more likely to receive some recovery earlier, when their needs may be greatest.

In contrast, the time required to settle property damage claims actually increased under no-fault and the time required to receive first payments did not diminish.

Hypothesis 4: That the allocation of benefits in accordance with ascertainable losses will be more equitable in a no-fault system than in a tort system.

Personal injury insurance claims data under no-fault show that more claims are settled in amounts much closer in value to verified medical losses than in the superseded tort system. This suggests that the nuisance value of relatively minor claims has been reduced, which arguably creates a more equitable settlement process so far as these claims are concerned. Whether severely injured victims are more adequately compensated under the no-fault system cannot be decided from the data available in this study.

In contrast to the personal injury experience, property damage insurers showed no tendency to pay insurance claims in amounts greater than verified damages under either no-fault or the superseded system. Therefore, with respect to property damage claims, no-fault property damage reparations appear to be no more equitable than was the tort system.

Hypothesis 5: That a no-fault system costs less to operate than a tort system.

This hypothesis is phrased as it is because, from a political point of view, costs and insurance rates are the factors that generate the most attention. Nevertheless, this hypothesis is ambiguous until one clearly specifies the goals sought by no-fault. Data obtained in this study suggest that three
changes occurred in connection with personal injury insurance rates and benefits in the sample populations in the first two years of no-fault: (1) the amount of premiums paid per registered vehicle diminished; (2) the amount of benefits paid per registered vehicle increased; and (3) the ratio of benefits to premiums increased. One may infer from these results that coverage for personal injury benefits was expanded and that the cost of processing claims was reduced. Different effects appeared in the property damage data: (1) the amount of premiums paid per vehicle increased; (2) the benefits paid per registered vehicle increased; and (3) the ratio of benefits to premiums also increased, but only slightly. Hence, although coverage for property damage benefits did expand, the expansion was not accompanied by important reductions in processing costs.

Of special interest to lawyers is the fact that the proportion of insurance claims that gave rise to litigation fell from about 9 percent in 1971 to about 2 percent in 1973. Lawyer participation in all personal injury settlements fell from involvement in about 25 percent of the claims in 1971 to about 11 percent in 1973; however, their participation in third-party claims actually increased from about 37 percent in 1971 to about 45 percent in 1973. A strong shift from third-party to first-party claims, which have a much lower lawyer involvement, accounted for the overall drop in lawyer participation.

In summary, the results of this study suggest that no-fault systems such as the Florida Reparations Reform Act can produce changes in the methods by which reparations are made to injured victims of motor vehicle crashes and in how much these benefits cost. Whether or not the changes detected in the sample populations studied herein are beneficial is, of course, for the political processes to determine. Whether or not one would want to rely upon the results of this study alone to predict that similar results would occur in other populations is a matter of judgment. At the very least, however, a methodology has been established that can be used in making more extended tests in Florida or elsewhere.

This article discusses certain aspects of reparations systems that can be described by statistical parameters, but it does not attempt to evaluate whether or not pervasive sociological changes may result from legal modifications of the concept of fault. It may be that any erosion of fault as a legal concept will result in a decline in individual responsibility. The fact that some members of the bar and some members of the medical profession allegedly regularly engage in conspiracies to defeat the $1,000 medical expense threshold of the Florida statute could be cited as evidence of such deterioration. Nevertheless, this writer doubts that a cause-and-effect relationship exists between no-fault and the corruption of professionals. It is more likely that the corruption of professionals helped to create the need for no-fault and that the abuse of no-fault, if it exists, is merely the reassertion of an underlying condition that has not been cured. No system should be evaluated solely on the basis of abuses perpetrated by those who are supposed to tend and nurture it. Sooner or later the professions must effectively police themselves and, if they do not do so, then the populace should through the law.
For convenience, the following report is divided into three parts. Part I presents some historical and background material that introduces the succeeding more technical discussion. Readers well-informed about no-fault may choose to skip this part. Part II contains data and analyses describing some of the effects of no-fault which were felt in the courts. Finally, part III contains similar information describing the effects of no-fault upon the operation of the motor vehicle insurance claim payment system.

I. HISTORY AND BACKGROUND

In the mid-1960's, no-fault automobile reparations became a topic of nationwide interest primarily through controversy stirred up by a proposal for a Basic Protection Plan for the Traffic Victim produced by Professors Robert Keeton of Harvard University and Jeffrey O'Connell of the University of Illinois. The Keeton-O'Connell plan proposed a new accommodation among tort law, third-party liability insurance, and first-party insurance. Tort liability for automobile crash claims is eliminated if the pain and suffering damages would not exceed $5,000 and other tort damages would not exceed $10,000, and compulsory first-party insurance for actual losses up to $10,000 is added. Presumably, the great numbers of costly tort claims whose value is less than these thresholds would be replaced by first-party claims in the exact amount of compensable damages. Unlike third-party tort actions, the first-party claims would be made against the insureds' own insurance companies.

Massachusetts became the first state to adopt a law based upon the Keeton-O'Connell plan when its no-fault statute took effect on January 1, 1971. Florida was the next to follow when the Florida Automobile Reparations Reform Act went into effect on the first day of the next calendar year. Since that time, twenty-one more states have enacted some variant of no-fault law, not all of which are patterned as closely after the Keeton-O'Connell plan as are the laws of Massachusetts and Florida.

The no-fault principle as it is embodied in any of these plans carries with it certain basic assumptions that give it legitimacy and preference over the

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1 R. KEETON & J. O'CONNELL, BASIC PROTECTION FOR THE TRAFFIC VICTIM (1965) [hereinafter cited as BASIC PROTECTION].
2 Id. at 9.
3 MASS. ANN. LAWS ch. 90, § 34A et seq. (1975).
5 As of September 1975, states may be placed in the no-fault categories as follows: Mandatory no-fault add-on to unchanged tort system: Delaware, Maryland, Oregon, and Texas. Optional no-fault add-on to unchanged tort system: Arkansas, Minnesota, South Dakota, and Virginia. No-fault with abrogation of tort liability up to thresholds: Colorado, Connecticut, Florida, Georgia, Hawaii, Kansas, Kentucky, Massachusetts, Michigan, New Jersey, New York, Nevada, Pennsylvania, and Utah. Saskatchewan would fit under the first of the three categories and Puerto Rico under the last.
6 Delaware, for example, enacted what is called an "add-on" no-fault provision. Under this plan no-fault insurance is added on to the existing system without eliminating tort liability. For a complete description of the system and an evaluation of its workings, see Clark & Waterson, "No-Fault" in Delaware, 6 RUTGERS-CAMDEN L.J. 225 (1974).
tort system. These assumptions include: (1) that the amount of litigation arising out of automobile crashes will be reduced; (2) that the distribution of personal injury claims arising out of motor vehicle crashes between third-party and first-party modes will shift strongly toward first-party modes in a no-fault system as compared to a tort system; (3) that the amount of time required for processing claims and receiving benefits will be shorter in a no-fault system as compared to a tort system; (4) that the allocation of benefits in accordance with ascertifiable losses will be more equitable in a no-fault system than in a tort system; and (5) that a no-fault system will cost less to operate than a tort system. The purpose of the study reported herein is to test whether the Florida law has produced these desired changes in the operation of Florida's automobile crash victim reparation system.

The reparations reform statute brought the following changes to Florida law. Owners and registrants of certain classes of motor vehicles, including especially passenger automobiles, are required to pay reparations to persons injured by a crash while occupying an insured vehicle without regard to who was at fault in causing the crash or injury. This obligation of car owners to make reparations to occupants is known as the Personal Injury Protection obligation (PIP obligation). The no-fault PIP obligation includes coverage for medical, hospital and other health-related expenses, and loss of earnings during disability up to a maximum aggregated PIP liability of $5,000. No-fault payment for funeral expenses up to $1,000 also is included. Florida law requires that these first-party obligations be secured by appropriate insurance policies or other approved security measures. The law also mandates that liability insurance coverage be provided. So long as PIP obligations are properly secured, owners, registrants, operators and occupants of insured vehicles are exempt from tort liability for the economic consequences of bodily injuries suffered by a person involved in a crash involving an insured vehicle up to the aggregated total of $5,000 in payable PIP benefits, unless aggregated PIP medical benefits exceed $1,000 or death of the claimant or his permanent injury ensues. Recovery for "pain, suffering, mental anguish, and inconvenience"
is abrogated unless one of the above three conditions prevails. These conditions are known as tort thresholds; if they are surpassed, the bar to tort liability is removed. The Florida law also included no-fault property damage provisions, which are discussed in part III B below.

In summary, the following situation prevails under Florida's no-fault law. A typical PIP claimant may recover up to $5,000 in no-fault benefits on a first-party insurance claim without regard to who was at fault in causing the injury. If the claim does not exceed a tort threshold, then PIP benefits are exclusive, with no remaining tort liability. If the claim exceeds a tort threshold, then the claimant is entitled both to collect PIP benefits as his expenses accrue and to bring suit in tort against an appropriate tort-feasor. If a tort recovery were obtained, the insurer who made the PIP payments would be entitled to reimbursement, theoretically leaving the successful tort claimant with a full tort recovery in addition to whatever benefits accrued from having had the use of PIP monies as expenses were incurred.

Briefly reviewing no-fault purposes, one may first say that no-fault PIP coverage and the personal injury tort exemption were intended to limit total recoveries to the amounts of proven PIP losses in cases where actual losses fell below the $1,000 threshold. The effect should be to eliminate

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15 Fla. Stat. Ann. § 627.737(2) (1974). As the law is enacted, the “pain and suffering” tort exemption-threshold section reads as follows:

In any action of tort brought against the owner, registrant, operator or occupant of a motor vehicle with respect to which security has been provided as required . . . or against any person or organization legally responsible for his acts or omissions, a plaintiff may recover damages in tort for pain, suffering, mental anguish, and inconvenience because of bodily injury, sickness, or disease arising out of the ownership, maintenance, operation, or use of such motor vehicle only in the event that the benefits which are payable for such injury . . . or which would be payable but for any exclusion deductible . . . exceeded one thousand dollars or the injury or disease consists in whole or in part of permanent disfigurement, a fracture to a weight-bearing bone, a compound comminuted, displaced or compressed fracture, loss of a body member, permanent injury within reasonable medical probability, permanent loss of a bodily function, or death. Any person who is entitled to receive free medical and surgical benefits shall be deemed in compliance with the requirements of this subsection upon a showing that the medical treatment received has an equivalent value of at least one thousand dollars. Any person receiving ordinary and necessary services normally performed by a nurse from a relative or a member of his household shall be entitled to include the reasonable value of such services in meeting the requirements of this subsection.

Id.

In Lasky v. State Farm Ins. Co., 296 So. 2d 9 (Fla. 1974), the Supreme Court of Florida invalidated all thresholds except $1,000 medical expenses, death, and permanent injury on grounds that the other classifications cannot reasonably be said to rest on a rational basis but are clearly arbitrary and unreasonable, and for that reason this provision . . . denies equal protection of the laws . . .

Id. at 21.


18 See generally Basic Protection, supra note 1.
the nuisance value of small claims and thereby have them settled at lower costs. Because in Florida a preponderance of pre-no-fault personal injury claims were settled for amounts under $1,000 (even as inflated in payments),\textsuperscript{10} substantial savings to consumers, presumably in the form of lowered premiums, should ensue. The savings should accrue both from reduced payments and from lessened administrative costs. In addition, the settlement of claims should be speeded up and fewer cases should make their way into the courts. Second, no-fault should favorably affect benefits received by victims whose injuries exceed the tort exemption threshold. PIP-covered victims would recover up to $5,000 whether or not they were at fault and whether or not the other party was at fault (subject to subrogation if a tort recovery is obtained subsequently). Severely injured victims, having the $5,000 PIP recovery to rely on, would be in a better bargaining position with respect to a liability defendant and, presumably, could increase the amount of recovery either through negotiation or trial. Crowded dockets supposedly had coerced needy victims to accept less than adequate settlements in many pre-no-fault cases involving severe injuries. (This latter point has never been documented in Florida and in fact may not have been prevalent in that state because its dockets move relatively quickly.) Thus, no-fault was supposed to bring faster and more equitable settlement of claims at a lower cost.

II. No-Fault Reparations in the Courts

One purpose of this study was to examine the effect of the Automobile Reparations Reform Act in the courts. It intended to assess the impact upon the court machinery itself and upon the citizen-consumers of court services. The experimental design called for only empirical data obtainable from court records of litigated cases. No attempt was made to evaluate budgets or other financial data or to engage in interviews with judges, clerks or other court personnel.

The typical sequence of events in a suit arising out of an automobile crash is: crash, filing suit, pleadings, trial, and judgment. The sequence can be interrupted and halted at any point by settlement. The duration of the time period between each step of the sequence is quite variable with no definite upper limit, except between crash and filing suit which is limited to four years for personal injury claims\textsuperscript{20} and three years for property damage claims arising before January 1, 1975,\textsuperscript{21} and four years thereafter.\textsuperscript{22} The other periods are apparently governed by the usual delays needed to develop the cases, delays for tactical reasons, and delays stemming from congestion in court calendars and inefficient administration. Advocates of no-fault reparations systems have argued that no-fault recoveries will remove cases from court dockets, thereby alleviating congestion and allowing

\textsuperscript{10} See Table 14 infra.
for speedier disposition of cases that are brought to court. Florida’s $1,000 medical expense threshold presumably would operate to achieve that result. This study was designed to determine two basic facts: (1) whether the number of automobile tort suits is reduced; and (2) whether measurable effects on the duration of the time periods between the stages of the cases can be discerned. Because the effects of congestion are not limited to automobile tort cases, a complete study would cover all types of cases appearing in the courts. Nevertheless, because of the resource limitations of this study, detailed examination of court records was limited to automobile tort cases.

Court records of suits filed in the years 1969 through 1973 were selected as the data sources for evaluation. Suits filed in 1971 and before represent the pre-no-fault sample, suits filed in 1972 represent the no-fault transition period, and suits filed in 1973 represent the stable no-fault period. In a sense, however, none of these samples is a pure reflector of the intended period. For example, some suits filed in 1971 represent crashes from an earlier time (up to four years earlier for personal injury claims) and some of them will remain in litigation well into the no-fault era. Similarly, suits filed in 1972 and 1973 will include holdover cases from the pre-no-fault era. Hence, all selected samples will be influenced to some extent by both pre-no-fault and post-no-fault factors.

During the period of this study several changes were made in Florida law that could independently affect the measurements being made, including a fundamental restructuring of Florida’s court system. Prior to January 1, 1973, Florida’s trial courts were comprised of circuit courts of general jurisdiction, county courts with jurisdiction limited to demands not exceeding $500 in value in cases at law, civil courts of record in counties of population 450,000 or more with jurisdiction not to exceed $5,000, and a miscellany of other subordinate courts. Preliminary records searches indicated that very few, if any, (none were found) tort claims arising out of automobile crashes, whether personal injury or property damage, were filed in the county court in Alachua County, the situs of the court records portion of this study. (Some Dade County data are also reported.) On January 1, 1973, a revised court structure became effective, abolishing all courts inferior to circuit courts except the county courts. Owing to the jurisdictional limits of the various courts, most personal injury litigation would be expected to fall within the circuit courts’ jurisdiction both before and after the change. Unfortunately, this is not entirely true in counties of 450,000 population or more because some unknown number of personal injury suits were filed in civil courts of record prior to their abolition on January 1, 1973. As a consequence, the analysis of Dade County court

23 FLA. CONST. ANN. art. V, § 6(3).
24 FLA. STAT. ANN. § 34.01(1) (1961).
27 FLA. CONST. art. V, § 1. S.J. Res. 52-D, 1971, adopted 1972, created the judiciary article to the Florida constitution.
Effects of No-Fault in Florida

filing practices was confounded, as shall be seen. Nevertheless, the changed court structure is believed to have had little effect on the principal portions of the study conducted in Alachua County, which never had a civil court of record. Although the jurisdiction of the county court in Alachua County was increased from $500 to $2,500 in 1973, that change appears to have had little if any impact upon filings of personal injury cases in circuit courts. The only feasible automobile crash personal injury jurisdiction of the county courts would be in suits exceeding a no-fault tort threshold (or exempted suits) and not exceeding $2,500 in the ad damnum claim. Presumably, such personal injury claimants would always demand a sum in excess of $2,500, thus forcing the case into circuit court. In contrast, the $2,500 jurisdiction of county courts is sufficient to satisfy many demands for property damages only. It also far exceeds the $550 threshold that governed property damage claims up to the time the Florida Supreme Court invalidated the property damage no-fault provisions. Since claims involving only property damage often would not exceed $2,500, one would expect most property damage claims to migrate to county courts. However, this study shows that relatively few claims for property damage only were ever filed in circuit courts. Prior to 1971, these claims made up about 3 percent of the tort filings in circuit court; in 1971 they rose to 7.5 percent; and in 1972 and 1973 they fell to around 5.0 percent. Furthermore, on July 11, 1973, the Florida Supreme Court, in Kluger v. White, invalidated the property damage tort exemption, thereby in effect removing the threshold entirely. While this decision restored the pre-no-fault litigation potential for claims involving only property damage, the increased county court jurisdictional amount should attract practically all such litigation away from the circuit courts where personal injury claims are litigated.

One additional modification of the law during the course of the study must be mentioned. In Lasky v. State Farm Insurance Co. the Florida Supreme Court invalidated certain portions of the no-fault personal injury threshold, leaving intact only a $1,000 threshold for medical expenses, permanent injury, and death. Because several thresholds were dispensed with (permanent disfigurement, a fracture to a weight bearing bone, a compound, comminuted, displaced or compressed fracture, loss of a body member, and permanent loss of a bodily function), one would expect Lasky to restrict further the number of suits being filed. The data requirements for testing such a restriction far exceed the capabilities of this study. More-

29 While it was not possible to make exhaustive studies of the county court cases, a sample of 1974 cases indicated only about 2 percent of the cases filed in that court involved automobile crashes and all of those cases involved only property damage. (5,453 cases were filed in 1974. In the sample of the last 300 filings, seven involved motor vehicle crashes.)
30 See text accompanying note 32 infra.
31 See Table C1 infra.
32 281 So. 2d 1 (Fla. 1973).
33 296 So. 2d 9 (Fla. 1974).
over, since *Lasky* was decided relatively early in the life of the new law, it seems unlikely that many cases were affected.

The court-based portion of this study supplies information to help test the following two of the several hypotheses set forth earlier:

Hypothesis 1: *That no-fault will reduce the amount of litigation arising out of automobile crashes in comparison to the tort system.*

and

Hypothesis 3: *That the amount of time required for processing claims and receiving benefits will be shorter in a no-fault system as compared to a tort system.*

For convenience the following court study is divided into two sections, one entitled Court Docket Study and the second entitled Court File Study. The docket study is limited to an examination of the number of cases being filed; the file study examines data from a large number of individual files. Information obtained from the docket study pertains mainly to Hypothesis 1; whereas the file study pertains mainly to Hypothesis 3. Information from the Insurance File Study is used to augment the court data as appropriate.

### A. Court Docket Study

The Court Docket Study includes an examination of court dockets for years 1969 through 1974 in the circuit courts of Alachua and Dade Counties. Alachua County contains about 125,000 people and is located in north central Florida. Dade County is the most populous county in the state, exceeding a million inhabitants, and lies in the southeastern tip of the peninsula. To an extent, therefore, these two courts represent small rural and large urban populations respectively. This is not a totally accurate representation, however, since Gainesville, the major north central Florida town with an urban population of about 100,000 people, is located in Alachua County. For that reason, the Alachua County courts may more precisely represent small city populations.

To a large extent, an examination of various data counts can reveal useful information about how the no-fault law is affecting the courts. Tables C1 and C2 present data from both Alachua and Dade Counties for the years 1969 through 1973. These data and statistics are explained in the following text.

**Row 1**, Civil Suits Filed, is a simple compilation of all civil suits of any description whatever filed during the study years. **Row 2**, Motor Vehicle Tort Suits Filed, is a compilation of all tort suits arising out of motor vehicle crashes filed during the study years. The information in Rows 1 and 2 was obtained from court records.

**Row 3**, Percentage of Motor Vehicle Tort Suits to the Total Number of Civil Suits, is computed by dividing the number of motor vehicle suits in

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35 The case was decided on April 17, 1974, two years and four months after the law went into effect. Rehearing was denied on May 28, 1974. 296 So. 2d at 9.

36 See part III infra.
<table>
<thead>
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<tbody>
<tr>
<td>2 Motor Vehicle Tort Suits Filed</td>
<td>—</td>
<td>1,190</td>
<td>1,376</td>
<td>1,563</td>
<td>1,684</td>
<td>1,943</td>
<td>2,257</td>
<td></td>
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<tr>
<td>3 Percent of Motor Vehicle Tort Suits to Total</td>
<td>—</td>
<td>8.8</td>
<td>8.2</td>
<td>10.0</td>
<td>7.2</td>
<td>3.7</td>
<td>5.5</td>
<td></td>
</tr>
<tr>
<td>4 Registered Passenger Vehicles</td>
<td>—</td>
<td>42,725</td>
<td>45,632</td>
<td>47,905</td>
<td>52,442</td>
<td>56,640</td>
<td>59,508</td>
<td>N.A.</td>
</tr>
<tr>
<td>5 Crashes Reported</td>
<td>2,950</td>
<td>3,421</td>
<td>3,759</td>
<td>4,018</td>
<td>4,408</td>
<td>4,943</td>
<td>4,484</td>
<td></td>
</tr>
<tr>
<td>6 Crashes Per 100 Registered Vehicles</td>
<td>6.9</td>
<td>7.5</td>
<td>7.8</td>
<td>7.6</td>
<td>7.8</td>
<td>8.3</td>
<td>—</td>
<td></td>
</tr>
<tr>
<td>7 Crashes Per 100 Suits Per 100</td>
<td>—</td>
<td>3.30</td>
<td>3.15</td>
<td>4.01</td>
<td>2.90</td>
<td>1.66</td>
<td>2.65</td>
<td></td>
</tr>
<tr>
<td>8 Expected Suits</td>
<td>—</td>
<td>103</td>
<td>116</td>
<td>125</td>
<td>136</td>
<td>151</td>
<td>152</td>
<td></td>
</tr>
<tr>
<td>9 Excess Suits (Actual Minus Expected)</td>
<td>—</td>
<td>+2</td>
<td>-3</td>
<td>+31</td>
<td>-14</td>
<td>-77</td>
<td>-27</td>
<td></td>
</tr>
<tr>
<td>10 Cumulative Excess 1971 &amp; After</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>+30</td>
<td>+16</td>
<td>-61</td>
<td>-88</td>
<td></td>
</tr>
<tr>
<td>11 Cumulative Expected Suits 1971 &amp; After</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>125</td>
<td>261</td>
<td>412</td>
<td>564</td>
<td></td>
</tr>
<tr>
<td>12 Percent Deviation From Expectations</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>+24.0</td>
<td>+6.1</td>
<td>-14.9</td>
<td>-15.6</td>
<td></td>
</tr>
</tbody>
</table>

[N.A. = Not Available]
<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Civil Suits Filed</td>
<td>—</td>
<td>6,821</td>
<td>8,352</td>
<td>8,620</td>
<td>8,210</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>2 Motor Vehicle Tort Suits Filed</td>
<td>—</td>
<td>3,806</td>
<td>4,660</td>
<td>4,827</td>
<td>4,280</td>
<td>5,518</td>
<td>7,390</td>
</tr>
<tr>
<td>3 Percent of Motor Vehicle Tort Suits to Total</td>
<td>—</td>
<td>55.8</td>
<td>55.0</td>
<td>56.0</td>
<td>52.1</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>4 Registered Passenger Vehicles</td>
<td>613,676</td>
<td>658,284</td>
<td>673,134</td>
<td>719,351</td>
<td>770,222</td>
<td>815,147</td>
<td>N.A.</td>
</tr>
<tr>
<td>5 Crashes Reported</td>
<td>52,762</td>
<td>52,179</td>
<td>56,474</td>
<td>56,170</td>
<td>59,170</td>
<td>65,475</td>
<td>57,852</td>
</tr>
<tr>
<td>6 Crashes Per 100 Registered Vehicles</td>
<td>8.6</td>
<td>7.8</td>
<td>8.4</td>
<td>7.8</td>
<td>7.7</td>
<td>8.0</td>
<td>N.A.</td>
</tr>
<tr>
<td>7 Suits Per 100 Crashes (Adjusted)</td>
<td>—</td>
<td>7.25</td>
<td>8.57</td>
<td>8.54</td>
<td>7.42</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
<tr>
<td>8 Expected Suits</td>
<td>—</td>
<td>4,150</td>
<td>4,297</td>
<td>4,455</td>
<td>4,562</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
<tr>
<td>9 Excess Suits (Actual Minus Expected)</td>
<td>—</td>
<td>-344</td>
<td>+363</td>
<td>+372</td>
<td>-282</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
<tr>
<td>10 Cumulative Excess 1971 &amp; After</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>+391</td>
<td>+109</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
<tr>
<td>11 Cumulative Expected Suits 1971 &amp; After</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>4,455</td>
<td>9,017</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
<tr>
<td>12 Percent Deviation From Expectations [N.A. = Not Available]</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>+8.8</td>
<td>+1.2</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
</tbody>
</table>
Row 2 by the total number of civil suits in Row 1. This ratio measures the relative burden placed on the courts by motor vehicle suits. Note that this relative burden varies only from about 10 percent to about 4 percent in Alachua County, but soars to over 50 percent in Dade County for years 1969 through 1972. The change in the number of Dade County suits reflects the court reorganization of 1973, abolishing the civil court of records and placing its cases in the circuit courts. Even with this discontinuity, comparison between Dade and Alachua County data give a hint that Dade County is a more litigious place. (If true, this could be the result of either litigation-minded plaintiffs or refractory defendants.)

Data in Rows 4 and 5, obtained from the Florida Department of Public Safety, indicate the number of registered passenger vehicles (Row 4) and the number of crashes reported (Row 5) in each county and each year. In a sense, these data represent gross litigation potential.

Row 6, Crashes Per 100 Registered Vehicles, is obtained by dividing the numbers of crashes (Row 5) by the numbers of registered passenger vehicles (Row 4). This parameter serves as a refined measure of litigation potential. Note that it is the most stable quantity in the table, varying only between a low of 6.9 in Alachua County and a high of 8.5 in Dade County over all the years in question.

Row 7, Suits Per 100 Crashes, is obtained by dividing the number of motor vehicle tort suits in a given year (Row 2) by the average of the number of crashes reported in the preceding and current years. The average number of crashes for the two years, rather than simply the number of crashes in the current year, was selected for this analysis because the median delay between suit and crash exceeded one-half year in all years except 1969. Thus, the number of suits filed in a given year is affected strongly by both the current and preceding year. To some extent, this parameter measures the litigiousness of the crash populations. Detected changes in it that are associated with the introduction of the no-fault law would suggest some connection between no-fault and the proclivity of crash victims to bring suit. The trends established in Row 7 suggest that some change may be in the making. Note also that the Dade County crash population appears to produce more than twice as much litigation per crash as does the Alachua County crash population.

Post-1971 trends in the number of motor vehicle suits (Row 2) and the number of suits per 100 crashes (Row 7) signal a reduction in the amount of litigation. This in turn suggests that no-fault does reduce litigation. On closer inspection, however, it is apparent that 1971 was itself an unusual year, particularly in Alachua County, in that the number of suits took a leap above the immediately preceding years. An explanation for this could be that uncertainties about the consequences of the impending no-fault law caused lawyers to file suits in the latter half of 1971 (the last pre-no-fault year) that ordinarily would not have been filed before 1972. Since the no-fault bill was passed in the 1971 spring session of the Florida Legislature (filed in the office of the Secretary of State on June 24, 1971), there was

enough time for lawyers to file pending cases ahead of the January 1, 1972, effective date of the new law. Consequently, the reduction in cases in 1972 and 1973 could indicate no more than that cases ordinarily expected to be filed then had been filed earlier. In an attempt to account for this early suit possibility, the parameters in Rows 8 through 12 were generated.

Rows 8 through 12 can be explained as follows. If there were only a redistribution of law suits among years 1971 through 1973 and no real change in the numbers being filed, then the total number filed during those three years ought to be the same as the total number that would have occurred had the no-fault law not passed. If, on the other hand, a real decrease in the number of suits was experienced, then the total number of law suits filed during the three years ought to be less than the number that would have been projected upon continuation of past trends. The number of suits that would have been produced by such a continuation was estimated as follows. First, the number of suits per 100 crashes (as defined for Row 7 above) was computed for 1969 and 1970 and then the average for the two years was taken. This average is the parameter that establishes the assumed stable pre-no-fault trend. Next, this 1969-70 value was multiplied by the average of the number of crashes in the current and preceding years for each year after 1970 to obtain the expected number of suits shown in Row 8. Then, this expected number of suits was subtracted from the actual number of suits (Row 2) to produce a parameter called Excess Suits shown in Row 9. This parameter indicates the change in number of suits each year compared to the number that would have been expected based upon pre-no-fault experience. As can be seen, both Alachua County and Dade County experienced an anticipatory jump in 1971 and each experienced a sizeable decrease in 1972, the first year of the no-fault era. Note that fewer than the expected number of suits continued to be filed in Alachua County in 1973 and 1974, whereas the opposite trend appeared in Dade County. Unfortunately for this study, the Dade County Civil Court of Record formerly having jurisdiction of damage suits up to $5,000 was abolished effective January 1, 1973,38 throwing its cases into circuit court. Whether or not this transfer accounts for the reversal of expectations in the Dade County circuit courts in 1973 and 1974 cannot be told from available data.

The analysis may be extended to average out the effects of the anticipatory jump in suits as follows. First, the parameters Excess Suits (Row 9) and Expected Suits (Row 8) were accumulated over the years beginning with 1971 and placed in Rows 10 and 11 respectively. Next, the parameter Percent Deviation was computed by dividing accumulated excess suits by accumulated expected number of suits to produce a parameter measuring cumulative deviation from cumulative expectations. This parameter is displayed in Row 12. As can be seen, the 1971 anticipation in Alachua County was associated with about a one-fourth rise in suits over expectations. The total effect of this jump had not been erased by the end of the first no-fault year (1972), but by the end of the third no-fault year (1974), net long term

38 See notes 23-29 and accompanying text supra.
deviation appears to be stabilizing at about 15 percent fewer suits than would have been expected without no-fault. The Dade County data showed a similar pattern through 1972 but with a much less extreme jump in 1971. This perhaps suggests that the Dade County lawyers were at that time more sophisticated in their knowledge about the impending no-fault law than were Alachua County lawyers. As pointed out above, the Dade County data for 1973 and 1974 are not comparable to those of the earlier years because of the 1973 change in court structure.

Tables C1 and C2 and the textual explanation of them demonstrate the association between the introduction of no-fault and changes in the number of cases being filed in Alachua and Dade Counties. General comments may be helpful. First, lawyers in both areas seemed to anticipate the new law by filing suits in 1971 earlier than they ordinarily would have, presumably because of uncertainties about the effects of the new law on the right to sue.\(^3\) Data on time lapses between crash dates and suit dates corroborate this “speeding up” in 1971, which had the effect of increasing the number of motor vehicle tort suits filed in 1971 (Row 2), increasing the relative court burden imposed by them (Row 3), and increasing the number of suits per 100 crashes in Alachua County (Row 7). All of these effects were more strongly felt in Alachua County than in Dade County. In 1972 and 1973 the number of suits diminished rapidly (Row 3) in Alachua County, producing the opposite effect from that seen in 1971. While a reduction of suits occurred in Dade County in 1972, the effect of abolishing the civil court of record confounded the analysis thereafter. Because the effects in the latter two years could have been produced either by a real change in litigation practices or by delayed consequences of early suits in 1971, a routine for comparing the actual amount of litigation in 1972 and 1973 with the amount that would have been expected had the no-fault law not occurred was developed (Rows 8 through 12). This analysis suggests that the introduction of no-fault was associated with a genuine decrease in litigation culminating in about 15 percent fewer Alachua County suits in the aggregate for years 1971 through 1973 than would otherwise have been expected (Row 12).

That the number of motor vehicle tort suits appears to be diminishing compared to what would have been expected in the absence of the no-fault law also can be inferred from data obtained from insurance files. In a total sample of 1291 claims, the proportion of personal injury claims that was settled or otherwise disposed of without suit increased from 91.6 percent in 1971 to 94.8 percent in 1972 and to 96.6 percent in 1973. In a smaller sample of more serious claims, the respective percentages ranged from 93.8

\(^3\) Interestingly enough, the same phenomenon seemed not to occur or to be less pronounced with the introduction of Delaware’s no-fault law. Clark & Water-son, “No-Fault” in Delaware, 6 Rutgers-Camden L.J. 225, 232 (1974) (especially Table I). Two factors might account for the difference. One is that the Delaware statute of limitations is two years instead of Florida’s four, thereby reducing the opportunity for early filing. The other is that Delaware’s law does not have a tort exemption. Hence, there may have been less apprehension among members of the bar.
percent in 1971 to 95.0 percent in 1972 and to 93.5 percent in 1973. This principally reflects a marked supplanting of third-party claims with first-party claims that is clearly shown in the analysis of the insurance claim data. Of the much smaller numbers of more serious injuries that gave rise to third-party tort claims, the proportions that end up in suit actually increased. From the larger sample, the percentage of third-party insurance claims that resulted in suits rose from 10.7 percent in 1971 to 14.3 percent in 1972 and to 39.3 percent in 1973. In the smaller sample, suits in third-party insurance claims rose from 9.3 percent in 1971 to 23.3 percent in 1972 and to 32.7 percent in 1973. Because of the great decrease in third-party insurance claims, however, the actual number of suits decreased by about 50 percent, tending to corroborate the trends being established in the Alachua County circuit courts.40

This analysis suggests that no-fault does reduce the amount of litigation arising out of automobile crashes in comparison to the tort system. Quantifying the extent and importance of the change in terms of how effectively the courts are able to perform their functions would require a study extending over more years and data of a kind different from that available herein.

B. Court Files Study

The preceding section showed that the Florida no-fault law appears to be reducing the number of law suits stemming from motor vehicle crashes. In a sense, it concentrated upon the courts as an institution. This section attempts to measure some of the effects felt by the litigant-consumers of the services provided. In obtaining information for this part of the study, the court records of all of the closed suits arising out of motor vehicle litigation filed in the Alachua County circuit courts in the years 1969 through 1973 were individually examined.41

A preliminary question asked of the files was what causes of action are alleged in suits involving motor vehicle crashes. Presumably, most pre-no-fault suits would involve third-party actions of one kind or another and the data gave no surprises on this score. In each year a majority of the claimants alleged negligence as the cause of action, with only a sprinkling of survival and wrongful death actions. Of more significance is the fact that of 169 cases filed in Alachua County circuit courts in 1972 and 1973, only

40 A more positive statement cannot be made since a fairly sizeable number of insurance claims remained unsettled when the data gathering phase of this project was completed. While adjustments could be made for certain analyses in the insurance portion of this paper, the statistics presented here were computed on the unadjusted data.

41 A sample of suits filed in the Dade County circuit courts was also selected for examination. Sampling was necessary because of resource limitations. The sample selected was composed of all the suits assigned to one specific judge. This particular sample was selected because the judge's personal filing system was so organized as to facilitate greatly the research work. While such a sample has a potential for bias if the particular judge's trial practices were to vary importantly from the norm, nevertheless, having it available made it possible to obtain some measure of the Dade County situation. Unfortunately, due to this judge's death and other difficulties the 1973 data have not been obtained.
two were in the nature of suits against a no-fault insurer. Hence, it appears that no appreciable volume of contractual claims against no-fault carriers is springing up to replace the missing tort actions.

**Table C3**

**Distribution of Damage Allegations**

<table>
<thead>
<tr>
<th>ALACHUA COUNTY SUITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Numbers represent percentages of total claims filed.]</td>
</tr>
<tr>
<td>Personal Injury Only</td>
</tr>
<tr>
<td>Property Damage Only</td>
</tr>
<tr>
<td>Personal Injury &amp; Property Damage</td>
</tr>
<tr>
<td>Survival &amp; Wrongful Death</td>
</tr>
</tbody>
</table>

n= (93) (102) (147) (103) (62)

As was expected, most motor vehicle suits involved personal injuries either as the sole claim or in conjunction with a property damage claim. How the cases were distributed over various types is shown in Table C3. While the number of cases is too small to draw firm conclusions, it appears that a significant change has occurred in the proportion of suits that join claims for both personal injury and property damage (these decreasing from 44 percent in 1969 to 14.5 percent in 1973) and suits involving only property damage (jumping in 1971 and subsiding to about twice pre-1971 levels in 1972 and 1973). Although the reasons for these changes are not certain, the following explanation can be offered. Most claims joining personal injuries and property damage would involve occupants who were also the owners of the damaged car. Nonowners would not be asking for property damages and nonoccupants would not be asking for personal injury damages. In connection with crashes occurring after January 1, 1972, the tort threshold would cut out some injury claims, leaving only a property damage claim for which there has been no threshold since mid-1973. Furthermore, most property damage claims would drop out of the circuit courts because of the $2,500 jurisdictional minimum. The net effect of these changes could produce the varied distributions seen in the data. In any event, it is important to note that the cases involving only property damage do not constitute a major portion of the litigation. One ancillary observation that might be made is that the litigable issues in property damage cases normally would involve fault and not damages, whereas personal injury cases would be more likely to involve both fault and damages or damages only. Hence, claims involving only property damage are not likely to be as demanding of the courts' time and resources as are personal injury cases.

Because court files were found to be unreliable as sources of information about damages suffered and payments made, the speed of processing claims was the only direct impact on consumers that could be measured with some

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42 See Kluger v. White, 281 So. 2d 1 (Fla. 1973).
degree of confidence from data contained in the court files. The bar graphs in Figures C1 through C4 depict median values of relevant time lapses experienced in Alachua County lawsuits. The median value, the value for which one-half of the individual measurements are larger and one-half smaller, is less sensitive to extreme values than is the arithmetic average value (the mean). Because some cases filed in each year were still unsettled when data were last gathered, the median of the cases that are settled represents the true median of all the cases better than does the mean and therefore has been used as the pictorial parameter. Under each bar graph is placed the mean (in parentheses) and the number of cases in the sample. Medians and means are measured in days.

Figure C1
TIME ELAPSED: DATE OF CRASH TO DATE SUIT FILED

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Median (days)</td>
<td>147</td>
<td>265</td>
<td>200</td>
<td>230</td>
<td>337</td>
</tr>
<tr>
<td>Mean (days)</td>
<td>239</td>
<td>416</td>
<td>296</td>
<td>320</td>
<td>430</td>
</tr>
<tr>
<td>No. of cases</td>
<td>85</td>
<td>99</td>
<td>135</td>
<td>95</td>
<td>56</td>
</tr>
</tbody>
</table>

Figure C1 depicts the amount of time elapsing between the date of crash and the date suit was filed. The only upper constraint on this measurement is the four-year statute of limitations on negligence actions. Combining all the data from all years into one population showed that one-half of the motor vehicle crash suits were filed within about eight months and only 12 percent remain to be filed after two years. The bar graphs are inconclusive, but suggest a definite trend toward lengthening the median value of this delay beginning in 1971. Note that the apparent increase in delay between crash date and suit date occurred at the same time that a marked decrease in numbers of suits being filed occurred. Several factors could be at play.

43 See note 20 supra.
One is that the 1971 statistic was artificially shortened by early suit filing behavior in anticipation of the law's coming into effect. Another could be that no-fault is working as promised by weeding out minor cases that were always filed relatively quickly and leaving the more serious cases that litigants can now develop more slowly with the support of PIP benefits. Other than these inferential time lapse data, however, no data are available to substantiate that supposition.

Figure C2
TIME ELAPSED: SUIT DATE TO ANSWER DATE

Figure C2 depicts the amount of time lapsing between suit dates and answer dates; this remained practically constant across the years in question. Perhaps it is informative that the median and means of these values regularly exceed the maximum period of twenty days permitted by the Florida Rules of Civil Procedure. This suggests either that motions of one kind or the other are often interposed or that courts regularly extend this limit. If the latter is true, it also suggests that the workload of the courts might be lightened by extending the prescribed period to thirty days and then stringently adhering to it absent unusual circumstances.

The time lapses between crash dates and the dates that the trial began, and between suit dates and trial dates, were also measured. So many suits were settled prior to trial, however, that too few were left in the Alachua

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44 Fla. R. Civ. Pro. 1.140(a).
45 The filing of a proper motion suspends the answer date until ten days "after notice of the court's action." Id.
County samples to produce reliable statistics descriptive of these measurements.

Whether or not settlement practices were modified by the no-fault law also has some bearing on the effectiveness of the act. Table C4 depicts the distribution of the suits according to various time-of-settlement categories. Lumping all the suits from all study years into one sample shows that settlements fall into three main groups. Between 10 and 20 percent of the suits are settled after suit is filed and before an answer is made. About one-half are settled after answer but before a trial date is set and about 20 percent are settled after a trial date is set but before trial. Only about 10 percent actually go to trial and reach judgment. While there is some variability in the data across the years, no particularly meaningful trend is discerned unless it is that fewer cases after no-fault are settled prior to an answer having been filed. This would be consistent with the supposition that many nuisance value cases have been dropped out of court by no-fault, leaving a preponderance of more serious cases.

**Table C4**
**Time-of-Settlement Categories**
**Alachua County Suits**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Before Answer</td>
<td>17.6</td>
<td>14.9</td>
<td>14.3</td>
<td>12.1</td>
<td>9.7</td>
</tr>
<tr>
<td>Before Trial Date Set</td>
<td>53.8</td>
<td>47.5</td>
<td>39.5</td>
<td>57.9</td>
<td>59.7</td>
</tr>
<tr>
<td>After Trial Date Set</td>
<td>22.0</td>
<td>26.7</td>
<td>34.7</td>
<td>19.6</td>
<td>21.0</td>
</tr>
<tr>
<td>At Judgment</td>
<td>6.6</td>
<td>10.9</td>
<td>11.6</td>
<td>10.3</td>
<td>9.7</td>
</tr>
</tbody>
</table>

n= 
(91) (101) (147) (107) (62)

Once suit is filed, there appears to be no discernible change in the amount of time it takes to reach settlement through whatever processes are involved. Lumping all the data from all years into one population showed that about 50 percent of the cases were settled within nine months after suit was filed in the Alachua County courts and only 3.8 percent remained unsettled after two years in court. The bar graphs of Figure C3 show no important change over the years.

Figure C4 depicts the total amount of time lapsing in lawsuits between crash dates and settlement dates. Combining all the data from all years into one population showed that about 40 percent of the cases were settled by the end of one year in court and that about 27 percent remained unsettled at the end of two years. While there was some variation from year-to-year, no trend that could be attributed to no-fault appeared to be in the making.

How members of the Florida bar were accommodating to the tort exemption thresholds in pleading cases was a matter of incidental interest to the study. In Alachua County in 1972, the pleadings in about one-third of the cases to which the law applied contained clear allegations that thresholds had been surpassed. In two instances, defendants had pleaded
### Effects of No-Fault in Florida

#### Figure C3
**TIME ELAPSED: SUIT DATE TO SETTLEMENT DATE**

<table>
<thead>
<tr>
<th>Year</th>
<th>Median (days)</th>
<th>Mean (days)</th>
<th>No. of Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1969</td>
<td>198</td>
<td>297</td>
<td>86</td>
</tr>
<tr>
<td>1970</td>
<td>235</td>
<td>316</td>
<td>99</td>
</tr>
<tr>
<td>1971</td>
<td>192</td>
<td>236</td>
<td>136</td>
</tr>
<tr>
<td>1972</td>
<td>213</td>
<td>249</td>
<td>97</td>
</tr>
<tr>
<td>1973</td>
<td>215</td>
<td>246</td>
<td>58</td>
</tr>
</tbody>
</table>

#### Figure C4
**TIME ELAPSED: DATE OF CRASH TO DATE OF SETTLEMENT**

<table>
<thead>
<tr>
<th>Year</th>
<th>Median (days)</th>
<th>Mean (days)</th>
<th>No. of Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1969</td>
<td>394</td>
<td>525</td>
<td>87</td>
</tr>
<tr>
<td>1970</td>
<td>606</td>
<td>733</td>
<td>99</td>
</tr>
<tr>
<td>1971</td>
<td>427</td>
<td>530</td>
<td>135</td>
</tr>
<tr>
<td>1972</td>
<td>416</td>
<td>558</td>
<td>97</td>
</tr>
<tr>
<td>1973</td>
<td>521</td>
<td>659</td>
<td>58</td>
</tr>
</tbody>
</table>
thresholds as affirmative defenses, leading to amended complaints. By 1973 the incidence of affirmatively alleging the surpassing of thresholds had dropped to less than 10 percent, all of these being in amended complaints. The conclusion to be drawn from this seems to be that the thresholds are being treated as matters of affirmative defenses and therefore waivable if not pleaded in the answer. While there is no reported litigation on the issue, the correct rule would seem to be that the thresholds are matters that may be raised in defense at any time before judgment, or even on appeal if the courts were to treat them as pertaining to subject matter jurisdiction.

Another incidental aspect of Florida trial practice is that a liability insurance company may be named as a party defendant. This aspect of Florida's jurisprudence runs contrary to normal rules in tort cases and stems from a series of judicial innovations beginning with *Shingleton v. Bussey* in 1969 and carrying forward to *O'Hern v. Donald* in 1973. Stated in basic contract law nomenclature, these holdings classify injured crash victims as intended beneficiaries of liability insurance contracts, who, as such, have the right to sue liability insurance companies directly. *O'Hern* carried the development to the extent of stating flatly that proceeds obtained in suits brought against insurance companies for excess liability over policy limits (for tortiously refusing settlement within limits) are payable to the injured party, no matter in whose name the suit is brought.

Beginning with *Shingleton* in 1969, the frequency with which insurance companies were named as defendants in Alachua County suits advanced as follows: 28 percent (1969); 61 percent (1970); 72 percent (1971); 81 percent (1972); and 66 percent (1973). Because it is apparent on the face of these statistics that plaintiffs' lawyers have found joining insurers to be a useful trial practice, there is no simple explanation for the reduction in 1973. It could be as follows. Every crash population involves some number of insured and uninsured vehicles. No-fault thresholds bar suits in crashes involving many insured vehicles, but if a motorist is uninsured for any reason, he will not be protected by thresholds. Hence, the thresholds eliminate some portion of the population of insured defendants but eliminate none of the uninsured defendants. Consequently, a smaller proportion of

46 223 So. 2d 713 (Fla. 1969).
47 278 So. 2d 257 (Fla. 1973). It is worth noting that in conversation with the author, insurance company representatives generally expressed the belief that the *Shingleton* and *O'Hern* decisions were more damaging to their interests than was the enactment of the no-fault law.
48 278 So. 2d at 259.
49 Uninsured motorists would fall into two categories: those who are required to provide security under the Act and have not (Fla. Stat. Ann. § 627.733 (1974)), and those who are not required to provide security. The latter group includes most visitors from other states, owners of commercial vehicles, and owners of motorcycles. As to the former uninsured group, the Act explicitly states that there "shall be no immunity from tort liability." Fla. Stat. Ann. § 627.733(4) (1974). Owners in this group are also made personally liable for payment of PIP benefits. Id. As to the latter uninsured group, the tort exemption never applies. Fla. Stat. Ann. § 627.737(1) (1974). Those owners also are not liable for the payment of PIP benefits.
the suits remaining under the no-fault law involve insured defendants and proportionately fewer insurance companies are available to be joined.

III. NO-FAULT REPARATIONS IN THE INSURANCE CLAIMS SYSTEM

A. Personal Injury Claims

While a typical trial lawyer's conception of the automobile crash reparation system is likely to be influenced only by suits that come into the legal system for resolution, such a view is exceedingly narrow insofar as Florida experience goes both before and after the introduction of the Automobile Reparations Reform Act. Data from the insurance claim study show that about 75 percent of all insurance claims were settled without lawyer involvement in 1971, the last pre-no-fault year, and that this nonlawyer involvement advanced to about 85 percent in 1972 and to about 89 percent in 1973. While lawyer involvement per claim of all types fell off as indicated, the involvement of lawyers in bodily injury liability claims increased from 36.9 percent in 1971 to 45.7 percent in 1972 and 44.2 percent in 1973. Concomitantly, lawyer involvement in first-party claims decreased from 11.1 percent in 1971 to 8.6 percent in 1972 and to 5.8 percent in 1973. Because of a shift from third-party to first-party claims, overall lawyer involvement per claim diminished. Furthermore, the frequency of the filing of lawsuits also diminished—about 9.4 percent in 1971, to 3 percent in 1972 and to 2 percent in 1973.

Therefore, a complete picture of the operation of the reparation system is to be obtained from an examination of the insurance claims system and not merely from examining those few claims that arrive in lawyers' offices or the even fewer that wind up in court. To be totally comprehensive, one would need also to look at injuries for which no insurance claims are ever made, but such an undertaking was beyond the capabilities of this study.\(^{50}\)

In preparation for presenting various analyses, the data samples and sampling methodology will first be described. Two insurance companies allowed their settled claims files to be used as data sources for the study. In each case the companies left experimental design, file selection, and file examination entirely to the researchers. The general experimental design called for selecting a sample of crashes that occurred in 1971 (the last pre-no-fault year) to represent the pre-no-fault situation, a sample of crashes that occurred in 1972 (the first no-fault year) to represent the transition period, and a sample of crashes that occurred in 1973 to represent the stable no-fault period. One of the companies was a relatively large insurer in the state and the other relatively small. The project was not able to examine every claim made against either of the companies during the three year period. Accordingly, the following sampling procedure was developed.

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\(^{50}\) The Council on Law-Related Studies also sponsored a study of the Massachusetts no-fault law that may shed some light on the subject. The study by Professor Alan I. Widiss of the University of Iowa is to be published in 1975 or 1976.
From the smaller company, every claim file opened in respect to crashes that occurred during February and March for each of the three years was selected as part of the sample. For the larger company, every claim file opened in a single designated regional office in respect to crashes that occurred during the same two months was selected. Owing to the difference in size of the companies, the sizes of the two samples are about equal. Once a particular claim file was identified as a member of a study subsample, every individual claim within the file became a part of the study. For example, a single file could have one or more third-party personal injury claims, one or more first-party personal injury claims, and one or more property damage claims. Once the file was selected all the claims would be coded into the study.

Because crashes occurring in a two month period are used to represent a twelve-month phenomenon, how representative these samples are of the total crash population may be asked. Nothing known to the researcher suggests that February and March differ significantly from the remainder of the year. These particular months were selected with several goals in mind, one being to facilitate the completion of the study. The earlier in the respective years the crashes occurred, the sooner the claims would be settled and the sooner the results of this study would be available. A second reason was that these months are somewhat representative of the two seasons of Florida: the winter tourist season by the February data and the remainder of the year by the March data. A second question of representation arises because samples are used to represent the entire state's performance. On this point it should be observed that the state-wide sample is distributed among the counties in rough approximation to the population distribution.\(^{51}\) On the other hand, the regional sample is very strongly in-

\(^{51}\) Comparative distributions across the ten most populous Florida counties and the unscreened claims population are shown below:

<table>
<thead>
<tr>
<th>County</th>
<th>Percentage of Population Distribution by County (estimated 1974)(^1)</th>
<th>Percentage of Unscreened Claim Population by County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dade</td>
<td>17.1</td>
<td>5.0</td>
</tr>
<tr>
<td>Broward</td>
<td>10.0</td>
<td>2.2</td>
</tr>
<tr>
<td>Pinellas</td>
<td>7.9</td>
<td>1.5</td>
</tr>
<tr>
<td>Hillsborough</td>
<td>7.1</td>
<td>4.3</td>
</tr>
<tr>
<td>Duval</td>
<td>6.9</td>
<td>41.4</td>
</tr>
<tr>
<td>Palm Beach</td>
<td>5.6</td>
<td>2.0</td>
</tr>
<tr>
<td>Orange</td>
<td>5.1</td>
<td>3.4</td>
</tr>
<tr>
<td>Brevard</td>
<td>3.0</td>
<td>0.6</td>
</tr>
<tr>
<td>Escambia</td>
<td>2.7</td>
<td>1.4</td>
</tr>
<tr>
<td>Volusia</td>
<td>2.5</td>
<td>1.5</td>
</tr>
<tr>
<td></td>
<td><strong>68.0</strong></td>
<td><strong>63.3</strong></td>
</tr>
</tbody>
</table>


Although the unscreened claim population is strongly skewed toward the Jacksonville experience in Duval County and slightly toward the less populous counties,
fluenced by the population concentration in Jacksonville and Duval County. Analyses from this regional sample showed few marked differences between it and the state-wide sample, so one may infer that the regional sample is a fair reflection of state-wide experience. Unfortunately, not enough data are available to make extensive county-by-county comparisons. Consequently, the insurance claims files data do not reflect the unusual practices that are said to exist in Dade County.52

When initial analyses were made of the data collected in the samples described above, it was found that the percentage of personal injury claims was so small that the number needed to be augmented in order to have a sufficient sample to describe relatively serious crashes. Accordingly, new samples were drawn following the format described above, except that the time frame was extended to cover crashes occurring in the months of February through May in each of the three years and files were selected only if they contained at least one personal injury claim on which payments totalling $200 or more had been made. Once a closed file was selected under this modified procedure, all personal injury claims therein were coded, and all property damage claims were ignored. Hereinafter the original samples are referred to as the “unscreened” sample to indicate that there was no screening out of small claims, and the second samples are referred to as the “screened” samples to indicate that they are skewed toward more severe personal injury claims by the exclusion of many claims that were settled for amounts less than $200. Although separate analyses have been run on the data collected from each company, the data and statistics presented herein derive from samples created by merging the data from the two. This makes for economy in presentation and was done only after it was determined that the trends established in the merged samples do not differ in kind from the trends established in the individual samples. Reference will be made both to the unscreened and the screened samples as necessary and appropriate.

Several steps have been taken to eliminate data that would unnecessarily confound the comparisons between no-fault and pre-no-fault experiences. One such step was the removal from the analyses of cases to which the no-fault law did not apply in the 1972 and 1973 crashes or would not have applied had the law been in effect in the 1971 crashes. This removed claims involving occupants of out-of-state and commercial vehicles. Another step was to remove claims in which some payment for property damage was included in the personal injury payment. A third step was to remove claims in which more than one claimant was compensated in a single payment. Unless stated otherwise, all of the data and statistics represent samples that have been filtered in this way. While this study contains data from more

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it should be borne in mind that it is composed of two subpopulations, one drawn state-wide and the other mainly from the Jacksonville area. The component state-wide claim population is distributed much closer to the state-wide individual population and the trends established by analyzing that data alone corroborate the trends established in the unscreened population. Consequently, the unscreened claim population appears to be reasonably representative of the state-wide experience.

52 See discussion of Rows 3 and 7 of Tables C1 and C2 supra.
than 2,000 personal injury claims, the reader should be cautioned not to overgeneralize the results of the various analyses that will be presented. The study contains a great many variables, such as different crash years and different claim modes, and, since the data are subdivided for comparative analyses, the subsample sizes often become small. When this happens, the representative character of the results can be questioned. In order that the reader will be aware of the need for caution, subsample sizes are stated in all tables and figures. The nomenclature “n=xxx,” where “xxx” indicates the number of cases in the particular subsample, is used throughout.

The insurance claims data and analyses will now be used to test some of the hypotheses set forth earlier.

**Hypothesis 2:** That the distribution of personal injury claims arising out of motor vehicle crashes between third-party and first-party modes will shift strongly toward first-party modes in a no-fault system.

Given the revised structure of the Florida law, the question is not whether such a shift would occur but rather how large the shift would be. Data and statistics in Tables II through IV allow for a close estimation of the size of the shift. If uninsured motorists' claims are placed in the third-party category and the remaining unsettled cases are apportioned to third-party and first-party categories in the same proportions as the settled cases are apportioned, then the insurance data (Table II) show a transfer from about a 60 percent third-party to 40 percent first-party split in 1971 to about a 20 percent third-party to 80 percent first-party split in 1973.

**TABLE II**

<table>
<thead>
<tr>
<th></th>
<th>1971</th>
<th>1972</th>
<th>1973</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Personal Injury Claims</td>
<td>418</td>
<td>455</td>
<td>471</td>
</tr>
<tr>
<td>(100%)</td>
<td>(100%)</td>
<td>(100%)</td>
<td></td>
</tr>
<tr>
<td>Third-Party Claims</td>
<td>235</td>
<td>118</td>
<td>70</td>
</tr>
<tr>
<td>(56.2%)</td>
<td>(25.9%)</td>
<td>(14.8%)</td>
<td></td>
</tr>
<tr>
<td>First-Party Claims (Med. Pay, PIP)</td>
<td>164</td>
<td>323</td>
<td>326</td>
</tr>
<tr>
<td>(39.2%)</td>
<td>(70.9%)</td>
<td>(69.2%)</td>
<td></td>
</tr>
<tr>
<td>Uninsured Motorists &amp; Others</td>
<td>13</td>
<td>6</td>
<td>10</td>
</tr>
<tr>
<td>(3.1%)</td>
<td>(1.3%)</td>
<td>(2.1%)</td>
<td></td>
</tr>
<tr>
<td>Unsettled &amp; Unclassified</td>
<td>6</td>
<td>8</td>
<td>65</td>
</tr>
<tr>
<td>(1.4%)</td>
<td>(1.8%)</td>
<td>(13.8%)</td>
<td></td>
</tr>
</tbody>
</table>

Related to the change in distribution of claims is the effect that the no-fault law has had on the insurance-buying practices of the motoring populace. Assuming that the portion of the population that is involved in crashes is representative of the total insurance-buying population, one may examine these buying practices from data available in the insurance claims samples.
It should be borne in mind that these data exclude persons who fail to buy any insurance since they are not reflected as policy holders in the insurance files. Of the insurance policies against which claims in this study were filed during the three years, 0.2 percent had no bodily injury liability coverage, 49 percent had 10-20 coverage, about 11 percent had 25-50 coverage, 9 percent had 50-100 coverage, 12 percent had 100-300 coverage, 0.4 percent had 300-500 coverage, and about 19 percent fell into some other category. No important change was noted among the individual distributions for the three years of the study. In contrast, a marked difference in first-party insurance buying habits has occurred as the statistics in Table I2 show. The proportion of insurance buyers that chose not to purchase any first-party protection fell from 16.2 percent in 1971 to 2.1 percent in 1972 and to 2.4 percent in 1973. This change was expected since the no-fault law mandated the purchase of PIP first-party coverage for a large portion of the Florida motoring public. What may be noteworthy is that about 75 percent of the insured motorists purchased both PIP and medical payment coverage in 1972 and 1973, thus giving them first-party protection beyond that required under the law.

<table>
<thead>
<tr>
<th>Table I2</th>
</tr>
</thead>
<tbody>
<tr>
<td>DISTRIBUTION OF FIRST-PARTY INSURANCE COVERAGE</td>
</tr>
<tr>
<td>[Numbers represent percentages of total.]</td>
</tr>
<tr>
<td>1971</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>None</td>
</tr>
<tr>
<td>Med. Pay</td>
</tr>
<tr>
<td>PIP</td>
</tr>
<tr>
<td>PIP &amp; Med. Pay</td>
</tr>
<tr>
<td>n=</td>
</tr>
</tbody>
</table>

As is the case in most states, Florida law authorizes insurance companies to make insurance available at special rates to motorists "who are in good faith entitled to but who are unable to procure such insurance through ordinary methods." Drivers commonly fall into such an assigned risk plan because of a prior unlawful or dangerous driving experience. An examination of the data underlying Table I2 indicates that the proportion of drivers falling into the assigned risk category increased from just under 10 percent in 1971 to about 20 percent in 1972 and to slightly less than 18 percent in 1973. Although data in this study do not in themselves explain this increase, it may simply represent the decrease in numbers of motorists who were uninsured in 1971.

Perhaps a more useful way to gauge the shift in the distribution of claims from third-party to first-party modes is to examine the number of claims

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53 The meaning of the coverage categories is as follows. The first number indicates the amount of personal injury liability coverage (in thousands of dollars) provided in respect to a single injured person and the second number indicates the amount of personal injury liability coverage provided in respect to all injuries in a single crash. Thus, 10-20 coverage provides liability protection in an amount up to $10,000 for a single injury and up to a total of $20,000 in a single crash. Liability for claims exceeding those limits is uninsured.

per crash of the respective types. Because it was not feasible to trace claims from particular crashes, it was not possible to obtain a direct measure in this manner from these data. Nevertheless, a representative parameter was devised that allows for comparisons across years even though it does not give an absolute measure of claims per crash. This representative parameter is obtained by dividing the number of claims in each of the three unscreened files (Table II) by the number\textsuperscript{55} of motor vehicle crashes reported in the state in the three respective years.\textsuperscript{56} To avoid confusing these ratios with the actual number of claims per crash, the ratio computed for each year was normalized to the ratio computed for the 1971 data. The value of this is to allow the reader to concentrate on the changes occurring in the various parameters rather than to concentrate on size alone.\textsuperscript{57} If only closed claims are included in the calculations, the numbers shown under part A of Table 13 are generated. If the unsettled claims in Table II are allocated between first-party and third-party modes in the same proportions as settled claims in the 1972 sample are distributed, then the numbers in part B of Table 13 are generated. It can be seen from these statistics that the total number of personal injury claims per crash remained relatively stable, although a slight reduction occurred in 1973. Nevertheless, both parts A and B demonstrate a substantial shift from first-party to third-party claims, thus corroborating the results of Table II in a slightly different way.

\begin{table}[ht]
\centering
\caption{Ratios of Personal Injury Claims per Reported Crash}
\begin{tabular}{lccc}
\hline
 & 1971 & 1972 & 1973 \\
\hline
A. \textit{Closed Claims} \\
Total Claims per Crash & 1.00 & 0.99 & 0.76 \\
Third-Party Claims per Crash & 0.60 & 0.28 & 0.15 \\
First-Party Claims per Crash & 0.40 & 0.72 & 0.61 \\
\hline
B. \textit{All Claims} \\
Total Claims per Crash & 1.00 & 1.00 & 0.86 \\
Third-Party Claims per Crash & 0.60 & 0.28 & 0.19 \\
First-Party Claims per Crash & 0.40 & 0.72 & 0.67 \\
\hline
\end{tabular}
\end{table}

*The sixty-five unclosed claims were allocated between third-party and first-party modes in the same proportion as closed 1972 claims.

\textsuperscript{55} The data in Table II and Table I4 include all claims and not just those from crashes subject to the no-fault law. Later analyses apply only to the portion of the claims to which the no-fault law is applicable or would have been for 1971 data had the law been in effect.

\textsuperscript{56} Reported Florida crashes for years 1971 through 1973 were 249,227; 272,479; and 325,237 respectively. Figures obtained courtesy of the Florida Department of Highway Safety and Motor Vehicles.

\textsuperscript{57} For example, if numbers of claims in a three-year period were 1,150; 1,285; and 1,407, there appears to be a change but the size of the value tends to underplay it. If instead the data are normalized to the value of the first year by dividing each number by 1,150, then the series becomes 1, 1.12, and 1.22. The new series shows at a glance that the second and third years exceeded the first by 12 percent and 22 percent respectively. The normalizing technique is useful where the amount of change is important but the absolute sizes of measurements are not, as here.
In summary, it is apparent that Florida's no-fault law has led to a substantial shift away from third-party liability claims and to first-party contractual claims, at least in the population of claims in this study. If the costs of dispensing first-party money are indeed less than those of dispensing third-party money, as this study suggests, this shift should represent either a net gain to the beneficiaries or a net savings to premium payers or both.

Hypothesis 3: That the amount of time required for processing claims and receiving benefits will be shorter in a no-fault system as compared to a tort system.

Three parameters were generated to measure processing times. They are:

TC = Amount of time (in days) elapsing between the date of the crash and the date a claim was filed with the insurance company.

TF = Amount of time (in days) elapsing between the date a claim was filed and the date the first payments were made to the claimant.

TS = Amount of time (in days) elapsing between the date the claim was filed and the date the claim was settled.

In the figures are displayed three bars depicting each of the three parameters defined above. The first bar represents the population of third-party claims, the second bar represents the population of first-party claims, and the third bar represents the population of all the claims obtained by merging these two subpopulations. The median value is depicted by the bars because that statistic is less sensitive to uncertainties stemming from the unsettled cases than is the mean value. Means and numbers of cases in each sample are stated beneath the bars and data depicting both unscreened and screened population samples are presented. (It should be recalled that the unscreened sample purports to represent the population of all personal injury claims,
whereas the screened sample is skewed toward more serious injuries because a selected claim file had to have at least one claim for which payments of $200 or more were made. Third-party claims are those made under bodily injury liability coverage, whereas first-party claims are those made under medical payments and PIP coverages.)

No-fault has been associated with a slight diminution in the amount of time taken to file claims for both third-party and first-party modes in both the unscreened and screened populations. In general, the mean filing time

---

**Figure I2**

TS - TIME ELAPSED: PERSONAL INJURY CLAIM TO SETTLEMENT

Unscreened Sample

<table>
<thead>
<tr>
<th>Year</th>
<th>Median (days)</th>
<th>1st P</th>
<th>3d P</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>1971</td>
<td>69.4</td>
<td>44.5</td>
<td>58.0</td>
<td></td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Year</th>
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<th>1st P</th>
<th>3d P</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>1971</td>
<td>23.2</td>
<td>9.0</td>
<td>105.6</td>
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<table>
<thead>
<tr>
<th>Year</th>
<th>Median (days)</th>
<th>1st P</th>
<th>3d P</th>
<th>All</th>
</tr>
</thead>
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<tr>
<td>1972</td>
<td>139.8</td>
<td>54.8</td>
<td>57.5</td>
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<table>
<thead>
<tr>
<th>Year</th>
<th>Mean (days)</th>
<th>1st P</th>
<th>3d P</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972</td>
<td>177.8</td>
<td>87.5</td>
<td>190.0</td>
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<table>
<thead>
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<th>Median (days)</th>
<th>1st P</th>
<th>3d P</th>
<th>All</th>
</tr>
</thead>
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<tr>
<td>1973</td>
<td>173.0</td>
<td>56.5</td>
<td>60.0</td>
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<th>3d P</th>
<th>All</th>
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<td>206.4</td>
<td>92.3</td>
<td>103.7</td>
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</tbody>
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---

**Figure I3**

TS - TIME ELAPSED: PERSONAL INJURY CLAIM TO SETTLEMENT

Screened Sample

<table>
<thead>
<tr>
<th>Year</th>
<th>Median (days)</th>
<th>1st P</th>
<th>3d P</th>
<th>All</th>
</tr>
</thead>
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<tr>
<td>1971</td>
<td>101.5</td>
<td>82.5</td>
<td>94.5</td>
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<table>
<thead>
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<th>3d P</th>
<th>All</th>
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</thead>
<tbody>
<tr>
<td>1971</td>
<td>140.0</td>
<td>118.5</td>
<td>131.8</td>
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<table>
<thead>
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<th>3d P</th>
<th>All</th>
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<tr>
<td>1972</td>
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<td>85.5</td>
<td>96.1</td>
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<table>
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<th>3d P</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
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<th>3d P</th>
<th>All</th>
</tr>
</thead>
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<td>120.5</td>
<td>135.4</td>
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<table>
<thead>
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<th>Year</th>
<th>Mean (days)</th>
<th>1st P</th>
<th>3d P</th>
<th>All</th>
</tr>
</thead>
<tbody>
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<td>1973</td>
<td>212.4</td>
<td>151.7</td>
<td>191.1</td>
<td></td>
</tr>
</tbody>
</table>

No. of cases: 252, 181, 441

No. of cases: 48, 270, 324

No. of cases: 54, 238, 305
<table>
<thead>
<tr>
<th></th>
<th>Third-Party Claims</th>
<th>First-Party Claims</th>
<th>All Claims</th>
</tr>
</thead>
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<td></td>
<td></td>
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<td>1971</td>
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<td>6.2</td>
<td>6.8</td>
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<td><strong>Mean (days)</strong></td>
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<td></td>
</tr>
<tr>
<td>1971</td>
<td>13.2</td>
<td>10.8</td>
<td>14.2</td>
</tr>
<tr>
<td></td>
<td>(150)</td>
<td>(43)</td>
<td>(27)</td>
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<td><strong>B. Screened Sample</strong></td>
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</tr>
<tr>
<td><strong>Median (days)</strong></td>
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</tr>
<tr>
<td>1971</td>
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<td>11.0</td>
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<tr>
<td><strong>Mean (days)</strong></td>
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</tr>
<tr>
<td>1971</td>
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<td>9.7</td>
<td>26.1</td>
</tr>
<tr>
<td></td>
<td>(270)</td>
<td>(60)</td>
<td>(56)</td>
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</tbody>
</table>
is more than one week and less than two weeks, as is shown in Table I4A. One deviation from a rather uniform trend is to be seen in the 1973 screened sample, which suggests that an increase in time to file third-party claims occurred. A slight downward movement in time to file first-party claims is consistent with the no-fault law's requirement that legitimate PIP losses be paid as they accrue.\textsuperscript{58} Coupled with the shift from third-party to first-party claims, this provides some overall reduction in filing times.

Data in this study indicate that, in general, beneficiaries are receiving first payments slightly sooner after the filing of a claim than they were before the no-fault law became effective. Figure I2 shows that the delay in receiving a first payment diminished in both the first-party and all claims subpopulations of the unscreened population. The reverse trend is true for third-party claims; under no-fault it takes longer than before for liability claimants to receive the first payment. This, too, was consistent with expectations. The no-fault tort exemption shifted all of the minor third-party claims over to first-party modes, leaving only the more serious claims in the third-party mode. Since these claims are more costly to insurers, they are more likely to be disputed on various legal grounds. Accordingly, working out settlements takes longer on the average than before. It should be borne in mind, however, that these third-party claimants should now be receiving PIP benefits under first-party coverages while they are awaiting settlement of the third-party claims. (That the trends depicted in Figure I1 for the unscreened population also appeared in the screened population can be seen from data in Table I4B.)

\textbf{TABLE I4B}\n
\begin{center}
\begin{tabular}{lccc|ccc}
& \multicolumn{2}{c}{Third-Party Claims} & & \multicolumn{2}{c}{First-Party Claims} & \\
\hline
Third-Party Claims & & & & & & \\
Median (days) & 83.5 & 102.5 & 136.5 & 37.3 & 25.3 & 29.1 \\
Mean (days) & 117.2 & 145.9 & 133.9 & 68.0 & 44.4 & 50.0 \\
n & (248) & (47) & (52) & (177) & (257) & (231) \\
\hline
All Claims & & & & & & \\
Median (days) & 57.9 & 29.7 & 34.8 & \\
Mean (days) & 95.3 & 62.5 & 69.4 & \\
n & (431) & (309) & (295) & \\
\end{tabular}
\end{center}

Interestingly enough, the time taken to settle claims in all subpopulations increased between pre-no-fault 1971 and no-fault 1973. This phenomenon, depicted in Figures I2 and I3, shows that before no-fault was introduced the time taken to settle was substantially greater in the screened population than in the unscreened population. It was to be expected that third-party

\footnote{\textsuperscript{58} The no-fault law provides that “Benefits due from an insurer . . . shall be . . . due and payable as loss accrues, upon receipt of reasonable proof of such loss . . .” \textit{Fla. Stat. Ann.} § 627.736(4) (1974).}
settlement times would increase for the same reason that times to receive first payments on third-party claims increased, but the slight lengthening of settlement time in the first-party mode does seem unusual. It is perhaps explained by a more relaxed attitude about the need to settle on the part of first-party insurers, especially since the no-fault law gives first-party insurers a right of subrogation to third-party recoveries made by beneficiaries.  

Owing to the change in the pattern of claim modes, it is difficult to conclude from these analyses that claimants are better or worse off under no-fault than before with regard to speed of claims and processing. Nevertheless, on balance the speeding up of the receipt of first payments appears to be a favorable result for claimants.

Hypothesis 4: That the allocation of benefits in accordance with ascertainable losses will be more equitable in a no-fault system than in a tort system.

While it would be desirable to gauge the equity in the competing reparation systems, equity cannot be measured solely by statistics describing insurance payments made to injured victims. Such a determination would also require knowledge of the extent of harm done and the extent to which it had been ameliorated by the benefits received. Because knowledge about harm done and needs could not be obtained in this study, the following discussion must necessarily be restricted to benefit payments made.

Data and analyses are presented for both unscreened and screened subsamples and for first-party and third-party recovery modes. By observing the allocation of numbers of cases between the recovery modes, particularly in the unscreened subsample, the reader may note again the switch from the third-party to the first-party mode that already has been seen.

To facilitate the analyses, several new variables are defined as follows:

- **Verified Medical Expense** = Total amount of medical expense claimed as verified by documentation in the insurance claim file.
- **Total Personal Injury Payment** = Total amount of the payment made to the claimant in settlement of a claim as verified by documentation in the insurance claim file.
- **Extra Value** = The difference between the total payment made to the claimant and the verified medical expenses. It represents the amount by which the settlement exceeded verified medical expenses.
- **R** = The ratio obtained by dividing the Total Personal Injury Payment by Verified Medical Expenses. R shows the multiplier effect between these two parameters.

Total Personal Injury Payment measures the total amount of insurance payments being made to injured victims of motor vehicle crashes. Observ-
ing any changes in the distribution and size of this variable would allow one to make a determination as to whether the introduction of no-fault has been associated with any overall changes in patterns and sizes of payments. Verified Medical Expense represents ascertainable out-of-pocket losses associated with the injury. It was initially intended to include a variable to measure wage losses, but this quantity was not found to be regularly and reliably stated in insurance claim files. Insurers are more confident using medical costs as the gauge of the true value of a claim. Hence, Verified Medical Expense, representing documented medical expenses, is used as a gauge of injury severity. Extra Value, the difference between the two foregoing variables, in a sense represents the value of the claim in excess of the verified medical payments. If there is any nuisance value component in a total payment, it will show up in this variable. Note, however, that the mere existence of a positive Extra Value does not assure that the total payment exceeds some actual measure of true worth of the claim. Also included within it would be wage and other monetary losses plus whatever sum might represent the value of the pain, suffering and inconvenience experienced by the claimant. The fourth variable, R, represents a factor by which one would multiply Verified Medical Expenses to estimate the settlement worth of a personal injury claim.

### Table 14

**Percentage Distributions of Total Personal Injury Payments [Unscreened Population]**

<table>
<thead>
<tr>
<th></th>
<th>1971</th>
<th>1972</th>
<th>1973</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 to $500</td>
<td>64.8</td>
<td>63.7</td>
<td>70.2</td>
</tr>
<tr>
<td>$500 to $999</td>
<td>10.4</td>
<td>9.7</td>
<td>9.0</td>
</tr>
<tr>
<td>$1,000 to $2,000</td>
<td>14.8</td>
<td>10.0</td>
<td>5.1</td>
</tr>
<tr>
<td>$2,000 &amp; above</td>
<td>10.0</td>
<td>16.6</td>
<td>15.6</td>
</tr>
<tr>
<td>n =</td>
<td>(298)</td>
<td>(320)</td>
<td>(332)</td>
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</tbody>
</table>

The Total Personal Injury Payment distributions for the unscreened population are shown in Table 14. Associated with the no-fault years of 1972 and 1973 is a trend toward greater proportions of cases in the payment brackets of $500 and below and $2,000 and above. The intermediate brackets of $500 to $999 and $1,000 to $2,000 had proportionately fewer cases. The shift to greater payments for more serious injuries is clearly seen in the total payments distribution for the screened population (Table 15).

### Table 15

**Percentage Distributions of Total Personal Injury Payments [Screened Population]**

<table>
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<td>$0 to $500</td>
<td>41.9</td>
<td>38.4</td>
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<tr>
<td>$500 to $999</td>
<td>16.3</td>
<td>16.9</td>
<td>17.1</td>
</tr>
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<td>21.1</td>
<td>16.9</td>
<td>16.2</td>
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<tr>
<td>$2,000 &amp; above</td>
<td>20.7</td>
<td>27.7</td>
<td>37.9</td>
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<tr>
<td>n =</td>
<td>(473)</td>
<td>(354)</td>
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### Table I6
**Payment Data**
*Unscreened Population*

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<tr>
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<th>TOTPAY**</th>
<th>EXTRA VALUE</th>
<th>VERMED</th>
<th>TOTPAY</th>
<th>EXTRA VALUE</th>
<th>VERMED</th>
<th>TOTPAY</th>
<th>EXTRA VALUE</th>
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<td></td>
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<td></td>
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</tr>
<tr>
<td>Mean ($)</td>
<td>403</td>
<td>1321</td>
<td>1076</td>
<td>1297</td>
<td>3749</td>
<td>3223</td>
<td>1956</td>
<td>5444</td>
<td>4037</td>
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<tr>
<td>Median ($)</td>
<td>93</td>
<td>344</td>
<td>300</td>
<td>840</td>
<td>2125</td>
<td>2220</td>
<td>953</td>
<td>3800</td>
<td>3050</td>
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<tr>
<td>Cases</td>
<td>(120)</td>
<td>(151)</td>
<td>(120)</td>
<td>(35)</td>
<td>(43)</td>
<td>(35)</td>
<td>(21)</td>
<td>(27)</td>
<td>(20)</td>
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<td><strong>First-Party</strong></td>
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</tr>
<tr>
<td>Mean ($)</td>
<td>410</td>
<td>593</td>
<td>148</td>
<td>559</td>
<td>770</td>
<td>165</td>
<td>464</td>
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<td>128</td>
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<td>105</td>
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<td>640</td>
<td>1174</td>
<td>527</td>
<td>610</td>
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<td>Median ($)</td>
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<td>225</td>
<td>4</td>
<td>151</td>
<td>185</td>
<td>1</td>
<td>117</td>
<td>143</td>
<td>-5</td>
</tr>
<tr>
<td>Cases</td>
<td>(265)</td>
<td>(298)</td>
<td>(264)</td>
<td>(304)</td>
<td>(320)</td>
<td>(303)</td>
<td>(318)</td>
<td>(332)</td>
<td>(317)</td>
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*VERMED = Verified Medical Expense  
**TOTPAY = Total Personal Injury Payment*
<table>
<thead>
<tr>
<th></th>
<th>VERMED</th>
<th>TOTPAY**</th>
<th>EXTRA VALUE</th>
<th>VERMED</th>
<th>TOTPAY</th>
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<td>1973</td>
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<tr>
<td>Mean ($)</td>
<td>561</td>
<td>2495</td>
<td>1756</td>
<td>1407</td>
<td>5163</td>
<td>4100</td>
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<td>5760</td>
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<tr>
<td>Median ($)</td>
<td>235</td>
<td>835</td>
<td>625</td>
<td>680</td>
<td>1970</td>
<td>1198</td>
<td>1365</td>
<td>4950</td>
<td>3225</td>
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<td>Cases</td>
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<td>(240)</td>
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<td>(60)</td>
<td>(48)</td>
<td>(51)</td>
<td>(56)</td>
<td>(51)</td>
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<td><strong>First-Party</strong></td>
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<tr>
<td>Mean ($)</td>
<td>863</td>
<td>1224</td>
<td>238</td>
<td>1059</td>
<td>1444</td>
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<td>1181</td>
<td>1858</td>
<td>672</td>
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<td>Median ($)</td>
<td>423</td>
<td>498</td>
<td>0</td>
<td>484</td>
<td>570</td>
<td>0</td>
<td>545</td>
<td>850</td>
<td>13</td>
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<td>(194)</td>
<td>(187)</td>
<td>(279)</td>
<td>(289)</td>
<td>(278)</td>
<td>(236)</td>
<td>(241)</td>
<td>(236)</td>
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<td></td>
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<td></td>
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<td></td>
<td></td>
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<tr>
<td>Mean ($)</td>
<td>704</td>
<td>2083</td>
<td>1107</td>
<td>1109</td>
<td>2160</td>
<td>861</td>
<td>1391</td>
<td>2831</td>
<td>1427</td>
</tr>
<tr>
<td>Median ($)</td>
<td>302</td>
<td>710</td>
<td>125</td>
<td>508</td>
<td>673</td>
<td>4</td>
<td>673</td>
<td>1105</td>
<td>19</td>
</tr>
<tr>
<td>Cases</td>
<td>(432)</td>
<td>(473)</td>
<td>(432)</td>
<td>(329)</td>
<td>(355)</td>
<td>(328)</td>
<td>(297)</td>
<td>(310)</td>
<td>(297)</td>
</tr>
</tbody>
</table>

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*VERMED = Verified Medical Expense

**TOTPAY = Total Personal Injury Payment
Note particularly the increase in the proportion of claims paid in amounts over $2,000 in 1973. These trends represent the type of change that would correct overpayments to minor claims and underpayments to severe claims, and suggest that no-fault is indeed correcting these inequities. Nevertheless, that such an explanation accounts for the changes cannot be definitely asserted from these data. It can be said, however, that this re-distribution is associated with the shift from third-party claims.

Tables I6 through I9 summarize the four variables defined above as they have been computed for various populations. In these tables the designation All Claims is used to represent the population of claims produced by merging the first-party and third-party claims into a single population. Furthermore, the presentations in Tables I8 and I9, displaying the total payment-to-medical expense ratio [R] have further divided the claim populations into those for which Total Personal Injury Payment was less than $1,000 and those for which it was greater than $1,000 and have also presented R for the parent population produced by merging the first-party and third-party claim populations.

A perusal of Tables I6 and I7 clearly shows the switch from third-party to first-party recovery modes. It also shows increases in Verified Medical Payments, Total Personal Injury Payments and Extra Value between 1971 third-party claims and those of later years. This was an expected consequence of the tort threshold's removal of many claims from the third-party mode. The same general trend may be noted in the first-party payment data. In the first-party claims the increase in Total Personal Injury Payment is presumably attributable in part to general advances in the costs of medical services and supplies and in part to the fact that first-party PIP benefits under the no-fault law may include wage losses and the costs of ancillary services that were not ordinarily compensable under pre-no-fault

60 After Lasky v. State Farm Ins. Co., 296 So. 2d 9 (Fla. 1974), the remaining thresholds are: $1,000 or more in medical losses; death; and permanent injury. Presumably, the post-1971 third-party payments under $1,000 reflect permanent injuries.

61 It may be that the increase in the mean of the Verified Medical Expense variable represents the increase in basic costs of medical services. If so the screened population of the Verified Medical Expense data shows an increase in the ratio from 1 to 1.23 and to 1.37 for years 1971 to 1973 respectively.

62 Benefits payable under the no-fault law are:

(a) Medical benefits—All reasonable expenses for necessary medical, surgical, x-ray, dental and rehabilitative services, including prosthetic devices, and necessary ambulance, hospital, and nursing services. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing, in accordance with his religious beliefs.

(b) Disability benefits—One hundred percent of any loss of gross income and loss of earning capacity per individual, unless such benefits are deemed not includable in gross income for federal income tax purposes, in which event such benefits shall be limited to 85 percent, from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without
medical payments insurance coverages. The latter fact may also explain the increases in the Extra Value variable in the first-party populations. Note that while the mean value of this parameter is not zero in any first-party population, the median value of Verified Medical Expense is zero or close to it in all first-party populations. This indicates that a very large proportion of first-party claims is settled in the exact amount of verified medical payments. The same economy is not a characteristic of the third-party populations.

Comparisons among the values of the total payment-to-medical expense ratio [R], arrayed in Tables 18 and 19, highlight the relative economy of the first-party recovery mode. The tables show that the median of this variable is 1.0 or very near to it for every first-party subpopulation in both the unscreened and screened populations. This means that about one-half of all first-party claims is paid in amounts greater than the amount of verified medical payments and about one-half in amounts less. In contrast, the mean value of R for first-party began at about 1.0 for the 1971 pre-no-fault first-party claims and increased somewhat under no-fault. While this increase is seen both in the unscreened and screened populations (Tables I8 and I9 respectively), it is accentuated in the more seriously injured augmented population and in the claims of greater than $1,000 in the unscreened population. Presumably, this increase reflects the extended scope of losses covered under no-fault PIP insurance as compared with pre-no-fault medical payments insurance.

Even though wage losses and costs of certain other ancillary services are paid, no-fault PIP payments are not made for pain, suffering, and inconvenience. It is, of course, such quantities which are hard to prove and measure that give third-party claims their speculative value. One readily discerns this quality by comparing the sizes of the total payments-to-medical expense ratio [R] for third-party claims in Tables 18 and 19 to the sizes of R for first-party claims. The sizes of the median values of R for third-party claims are about four times those of their first-party counterparts and the mean values range from two to four times as large as the first-party mean values. These statistics suggest that a given injury, as measured by verified medical expenses, will be compensated from two to four times as much on the average under the third-party recovery mode as under the first-party mode.

These data and analyses have suggested that economy can be achieved by shifting personal injury claims from the third-party to the first-party mode, and that such a shift has occurred in Florida. The distribution of claims by total amounts paid (Table I4) also suggests that a greater percentage of claims now falls in each of the brackets of $500 and under, and $2,000 and above. If this indicates a trend away from overpayment of

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income for the benefit of his household. All disability benefits payable under this provision shall be paid not less than every two weeks.

(c) Funeral, burial or cremation benefits—Funeral, burial, or cremation expenses in an amount not to exceed one thousand dollars per individual.

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<tr>
<th></th>
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<tbody>
<tr>
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<tr>
<td>$1000 or</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>X</td>
<td>4.3</td>
<td>5.9</td>
<td>4.9</td>
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<td>1973 First &amp; Third Totaled</td>
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<td>Under $1000 or $1000</td>
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<td>Under $1000 or $1000</td>
<td>Under $1000 or $1000</td>
<td>Under $1000 or $1000</td>
</tr>
<tr>
<td></td>
<td>More</td>
<td>More</td>
<td>More</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>Combined</td>
<td>Combined</td>
</tr>
<tr>
<td>X 1.2</td>
<td>1.9</td>
<td>1.4</td>
<td>1.6</td>
</tr>
<tr>
<td>ME 1.0</td>
<td>1.0</td>
<td>1.0</td>
<td>1.0</td>
</tr>
<tr>
<td>n= (125)</td>
<td>(62)</td>
<td>(102)</td>
<td>(101)</td>
</tr>
<tr>
<td></td>
<td>(187)</td>
<td>(278)</td>
<td>(236)</td>
</tr>
<tr>
<td></td>
<td>First &amp; Third Totaled</td>
<td>First &amp; Third Totaled</td>
<td>First &amp; Third Totaled</td>
</tr>
<tr>
<td></td>
<td>Under $1000 or $1000</td>
<td>Under $1000 or $1000</td>
<td>Under $1000 or $1000</td>
</tr>
<tr>
<td></td>
<td>More</td>
<td>More</td>
<td>More</td>
</tr>
<tr>
<td></td>
<td>Combined</td>
<td>Combined</td>
<td>Combined</td>
</tr>
<tr>
<td>X 2.9</td>
<td>6.3</td>
<td>1.6</td>
<td>3.5</td>
</tr>
<tr>
<td>ME 1.0</td>
<td>3.2</td>
<td>1.3</td>
<td>2.0</td>
</tr>
<tr>
<td>n= (252)</td>
<td>(180)</td>
<td>(139)</td>
<td>(157)</td>
</tr>
<tr>
<td></td>
<td>(432)</td>
<td>(328)</td>
<td>(297)</td>
</tr>
</tbody>
</table>
minor claims and underpayment of severe claims, then no-fault is producing some of its promised equitable benefits. The general advance in the average size of the total payments-to-medical expense ratio [R] suggests that no-fault first-party claimants are being more adequately compensated for lost wages and ancillary services than were pre-no-fault first-party claimants. Presumably, little, if any, "nuisance value" has crept into these payments. At the same time, the mean value of R in the screened population dropped from 6.7 in 1971, to 4.9 in 1972, and then to 4.0 in 1973, suggesting that the relative magnitude of compensation for losses other than medical expenses is decreasing in third-party recoveries. Data in Table 17 show, however, that the absolute sizes of the mean values of both Verified Medical Expense and Total Personal Injury Payment have advanced markedly, giving a 1973 Extra Value of more than twice the 1971 value. Contrary to decreases seen in the size of R, this suggests that those claims which remain in the third-party mode are more adequately compensated than before.

Hypothesis 5: That a no-fault system will cost less to operate than a tort system.

Cost may be defined to mean several different things. One definition of cost might be the amount of money paid into the reparation system by purchasers of insurance policies; another might be the amount of money paid out to recipients of insurance settlements; and a third might be the ratio of the first two, representing a measure of the administrative cost efficiency of the transfer of money from premium payers to injured beneficiaries. Because each of these measures produces valuable information, all are used in the following analysis. To make meaningful year-to-year comparisons, the measurements have been normalized to some invariate quantity.

While the most cogent means of making comparisons would be on the basis of costs per motor vehicle crash, it is possible that the reported number of motor vehicle crashes per actual crash might itself vary as a consequence of the introduction of no-fault, thereby artificially skewing some parts of the analyses. Thus, to avoid possible error, the number of registered passenger motor vehicles has been used as the normalizing parameter in the analyses that follow. It may be noted that parallel computations using reported vehicle crashes were made, producing trends that are totally consistent with those seen in the data and statistics presented herein.

To make this analysis, three new parameters were defined: premium paid per vehicle; benefits paid per vehicle; and ratio of benefits to premiums [B/P ratio]. If information describing all premiums and benefits paid per year in the state were available, the parameter "premiums paid per vehicle" would be computed by summing all premiums paid under the no-

---

63 See note 57 and accompanying text supra.
64 See text accompanying note 53 supra.
65 According to the Florida Department of Highway Safety and Motor Vehicles, the total number of passenger vehicles registered in Florida for years 1971 through 1973 were respectively: 5,360,493; 5,933,501; and 6,382,298.
fault law (or paid in 1971 by motorists who would have been subject to the no-fault law had it been in effect that year) and dividing that sum by the number of vehicles registered to the motorists who paid the premiums. The trend in the premiums-paid parameter would establish whether the insurance costs per vehicle advanced or declined under the new law. The parameter "benefits paid per vehicle" would be computed similarly. Trends in the benefits-paid parameter would establish whether the no-fault law was associated with increasing or decreasing costs in terms of benefit payments. Finally, the benefits-to-premiums [B/P] ratio would be computed by dividing benefits by premiums. Trends in this parameter would indicate whether the reparations system was associated with greater or lesser efficiency in transferring money from premium payers to beneficiaries. A higher ratio would indicate the expenditure of proportionately less money in administrating the transfer.

Unfortunately, total amounts of benefits paid for the entire state of Florida are not available in this study. Nevertheless, data that are available may be used to estimate values for the parameters for each year in question. These estimates are made in the sections that follow. The reader should be aware that the samples from which the estimates are drawn are relatively small in some cases. For that reason the conclusions must be viewed as tentative and with caution.

**Premiums Paid**—In the absence of data describing the total amount of money paid for motor vehicle insurance by Florida motorists during the study years, a surrogate measure was devised as follows. First, profiles were developed for two motorists that would be assumed to be typical of the Florida motoring population insofar as their insurance costs were affected by the no-fault law. The selection of the profile criteria was judgmental and not empirical. Those criteria were stated as follows:

Driver A: Male; married; 35 years of age; one insured vehicle; no drivers under age 25; no prior crashes or convictions; 1970 Chevrolet Caprice, four-door, airconditioned and automatic transmission.

Driver B: Identical to A except for one at-fault crash creating $1,000 in personal injury liability during the preceding twelve months.

Second, because insurance prices vary from place to place, Jacksonville and Miami were selected as study areas under the assumption that they typified all areas of the state insofar as insurance costs were affected by the no-fault law. Third, an insurance package was specified as follows:

Liability: $10,000 per injury/$20,000 total personal injuries per crash/$10,000 property damage per crash.
Medical Payments: $1,000.
PIP: $5,000 (Applicable only in 1972 and 1973.)
Collision: $50 deductible and comprehensive.
Basic Property Protection: (Applicable only in 1972 and part of 1973 because of the invalidation of the property damage tort exemption in 1973.)

Next, prices that would have been charged to drivers fitting the stated
profiles in the two areas were obtained from the two participating insurance companies for each year from 1971 through 1973. Finally, the costs of the bodily injury insurance were averaged for the two companies, divided by the number of passenger motor vehicles registered in the state in each of the three study years, and normalized to 1971 costs. (Treating separately the data from the individual companies creates the same trends as are seen in the totaled data, so for economy in presentation, only the totaled data are used.) The normalized relative bodily injury insurance costs for Jacksonville and Miami are displayed in Table I10, showing identical decreasing trends in premium costs for 1971 through 1973.66

<table>
<thead>
<tr>
<th>Table I10</th>
<th>RATIO OF COST OF BODILY INJURY INSURANCE PACKAGES TO 1971 COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miami Area</td>
<td></td>
</tr>
<tr>
<td>Jacksonville Area</td>
<td>1971</td>
</tr>
<tr>
<td>Bodily Injury Insurance Cost</td>
<td>1</td>
</tr>
</tbody>
</table>

In summary, it appears from these data that the cost of bodily injury insurance per registered passenger vehicle diminished with the introduction of the no-fault law in Florida.67 It is perhaps noteworthy that this apparent reduction occurred during a period when the trends in number of claims per registered passenger vehicle68 and in the cost of medical services apparently were increasing.69 It should also be noted, as will be demonstrated in part III B, that the property damage insurance costs per registered vehicle also were increasing during this period.

Benefits Paid—While the total amount of money paid out in benefits

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66 The initial insurance rate reductions did not necessarily reflect any gain in economy. The no-fault law itself mandated an immediate 15 percent rate reduction "calculated as a percentage of the combined financial responsibility rate . . . in effect at the time of the filing of the new rates required herein." Fla. Stat. Ann. § 627.741(2)(a) (1974). The financial responsibility law requires only liability insurance ($10,000 per injury/$20,000 two or more injuries per crash/$5,000 property damage per crash). Fla. Stat. Ann. §§ 324.151(a), 324.021(7) (1968). Therefore, no overall rate reduction was necessarily forthcoming in a complete insurance package that includes first-party coverages as did the insurance packages used in this study. Financial responsibility limits were changed to $15,000/$30,000/$5,000, effective July 1, 1975. Ch. 73-180, §§ 1, 2, [1973] Fla. Laws Gen. 366, amending Fla. Stat. Ann. § 324.021 (1968). That change does not affect the data in this study.

67 Comparative 1974 and 1975 figures to those in Table I10 were respectively 1.04 and 1.09 for Miami and 0.96 and 1.00 for Jacksonville. As this paper is being prepared, Florida automobile insurance companies are seeking raises of about 20 percent. It should be observed, however, that this comes at a time when medical malpractice insurance costs are skyrocketing, and when Florida workmen's compensation insurance companies are seeking rate hikes, citing advancing medical costs as the reason. Gainesville Sun, Sept. 12, 1975, § B, col. 1.

68 See Table I12 infra.

69 See discussion of Table I13 infra.
during the study years is not available, a surrogate can be developed from the claims in the unscreened population, as follows. First, the claims for each year were divided into first-party and third-party categories to generate the distribution shown in Table II.70

| TABLE II |
|---|---|---|
| ADJUSTED CLAIMS DISTRIBUTIONS* | 1971 | 1972 | 1973 |
| Total Personal Injury Claims | 291 | 320 | 369 |
| Third-Party Claims | 153 | 44 | 33 |
| First-Party Claims | 138 | 276 | 336 |

*These represent claims to which the no-fault law applied in 1972 and 1973 or would have applied in 1971, include no property component, and involve a single claimant.

Next the figures in Table II were divided by the number of Florida passenger vehicles registered in each year71 to produce a surrogate number of claims per registered vehicle. Because resulting numbers may be used only for internal comparisons, they have been normalized to a common factor and presented in Table I12.

It should be pointed out that the trends seen in Table I12 can only be asserted with confidence to represent the populations in Table II. In

| TABLE I12 |
|---|---|---|
| FREQUENCY OF CLAIMS PER REGISTERED PASSENGER VEHICLE | | |
| | 1971 | 1972 | 1973 |
| Total Personal Injury Claims | 1.00 | 1.01 | 1.11 |
| Third-Party Claims | 0.53 | 0.14 | 1.10 |
| First-Party Claims | 0.47 | 0.87 | 1.01 |

70 As shown in Table II there were six, eight, and sixty-five unsettled cases respectively in years 1971, 1972 and 1973. In order to minimize skewing the results, particularly in the 1973 data, an accounting had to be made of these cases both from the point of view of whether the no-fault law applied to them and from the point of view as to whether they were first-party or third-party claims. The 1971 and 1972 data showed that about 70 percent of the cases each year were under no-fault and the remainder were not. Hence, 70 percent of the unsettled cases for each year were arbitrarily assigned to augment the unscreened sample as shown in Table II. Next the newly assigned cases were allocated to first-party and third-party modes, as were the settled cases. The 1971 claims were distributed in accordance with the allocation of 1971 settled claims and the 1972 and 1973 claims were distributed in accordance with the allocation of 1972 settled claims. The 1973 unsettled claims were allocated according to 1972 allocations of settled claims in an attempt to avoid erroneous skewing away from third-party cases in 1973. The assumption was that 1973 unsettled cases were more likely to be third-party than first-party claims and that the 1972 and 1973 distributions should be nearly identical. Following this procedure, two unsettled cases were assigned to each settlement mode in the 1971 sample; one case to third-party and five to first-party in 1972; and six cases to third-party and thirty-nine to first-party in 1973. These numbers were incorporated into Table II.

71 See note 65 supra.
that population, the total number of claims per registered vehicle was rising from a relative value of 1.0 in 1971, to 1.01 in 1972, and to 1.11 in 1973. An increase, however, was to be expected since the percentage of insured motorists that carried first-party insurance had risen from 83.8 percent in 1971 to over 97 percent in 1972 and 1973. This, coupled with the fact that fault is not an issue in first-party recoveries, should have made more injured persons eligible for a recovery in the latter two years. Hence, the trends depicted in Table II2 are consistent with expectations.

The second and third rows of Table II2 show the division of the claims between first-party and third-party modes. The sum of the numbers in these columns equals the value in the first row for all personal injury claims. These data show that the relative frequency of third-party claims per registered vehicle decreased by a factor of four or five while the relative frequency of third-party claims per registered vehicle increased by a factor of slightly greater than two. Hence, Table II2 clearly shows the no-fault switchover from third-party to first-party claims.

By extending the data farther, surrogate relative measures for benefits paid per vehicle can be produced. These are obtained by multiplying the

<table>
<thead>
<tr>
<th>Year</th>
<th>Claims Per Vehicle</th>
<th>Mean TOTPAY*</th>
<th>Surrogate TOTPAY Claim Per Vehicle (A x B)</th>
<th>Surrogate TOTPAY Per Vehicle C(1) + C(2)</th>
<th>E. Ratio: Surrogate TOTPAY Per Vehicle to 1971 Figure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1971 Third-Party</td>
<td>0.53</td>
<td>1321</td>
<td>700(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1971 First-Party</td>
<td>0.47</td>
<td>593</td>
<td>279(2)</td>
<td>979</td>
<td>1.0</td>
</tr>
<tr>
<td>1972 Third-Party</td>
<td>0.14</td>
<td>3749</td>
<td>525(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1972 First-Party</td>
<td>0.87</td>
<td>770</td>
<td>670(2)</td>
<td>1195</td>
<td>1.22</td>
</tr>
<tr>
<td>1973 Third-Party</td>
<td>0.10</td>
<td>5444</td>
<td>544(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 First-Party</td>
<td>1.01</td>
<td>734</td>
<td>741(2)</td>
<td>1285</td>
<td>1.31</td>
</tr>
</tbody>
</table>

*TOTPAY = Total Personal Injury Payments
relative numbers of first-party and third-party claims per vehicle for each year (data from Table I11 placed in Column A of Table I13) by the mean values of total payments made to first-party and third-party claimants in the unscreened populations in the respective years (data from Table I6 placed in Column B of Table I12). This computation produces a surrogate total payment per claim type per registered vehicle for each year (Column C, Table I12). Adding the first-party and third-party figures produces a surrogate total payment per registered vehicle for each year (Column D, Table I13). Finally, normalized surrogate measures of benefits paid per crash are produced by dividing this final sum produced for each year by the 1971 sum (Column E, Table I13).

It can be concluded from data in the first row of Table I12 and in Column E of Table I13 that, for claims included in the unscreened populations in this study, the number of claims per registered vehicle increased by about 11 percent between 1971 and 1973, and that the amount of benefits paid per registered vehicle increased by about 31 percent during the same period. This suggests that more people are receiving benefits in greater amounts under no-fault, thereby creating a more costly system. Such a conclusion may be erroneous for two reasons. One is that the cost of medical services advanced markedly during the three year period. This increase can be estimated by dividing the 1973 Verified Medical Expense by the corresponding 1971 value which produces a ratio of 1.52. This indicates about a 50 percent increase in medical costs. Presumably increases would have occurred with or without no-fault. A second factor that suggests that no-fault may have held down total payments is the change in the value of the total payments-to-medical expense ratio [R] between 1971 and 1973. Data from the unscreened population in Table I8 show a drop from 2.9 in 1971 to 1.9 in 1973, representing a reduction of 34 percent.

For a complete analysis one needs to know what would have happened to the amount of money paid out in benefits had the no-fault law not been enacted. Such a finding would require examining the trends in a control population which was not affected by the no-fault law. While it would be possible to obtain a control non-no-fault sample from claims arising out of crashes involving commercial vehicles and out-of-state vehicles, not enough data from no-fault-exempt claims were obtained in this study to make valid comparisons. Nevertheless, one can generate a representative cost per vehicle measure for motorists exempted from the no-fault law by making several assumptions that allow use of the available data. Let it be assumed that without no-fault the 1971 distribution between first-party and third-party recovery modes would have held constant in succeeding years; that the number of claims per registered vehicle would not have increased; that medical costs would have increased; and that the value of the R would have held constant at 2.9. Calculations based upon these assumptions produce a non-no-fault 1973 representative total payments

72 See Table I6 supra.
per registered vehicle value of $1,385. Dividing this by the comparable 1971 quantity produces a normalized measure of 1.42, representing a 41 percent increase over 1971. Using this analysis, one can argue that the no-fault law, while paying benefits to about 11 percent more claimants, held the increase in total amount of payments in the unscreened sample to 31 percent, instead of the 41 percent increase that would have occurred otherwise.

Summary—Having derived these representative numbers for the premium costs (Table 110) and benefits paid (Table 113) per registered passenger vehicle, one may now arrange the premiums paid per vehicle, benefits paid per vehicle, and the benefits-to-premiums [B/P] ratios in a matrix, as below:

<table>
<thead>
<tr>
<th></th>
<th>1971</th>
<th>1972</th>
<th>1973</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premium Paid Per Registered Vehicle</td>
<td>1</td>
<td>0.88</td>
<td>0.85</td>
</tr>
<tr>
<td>Benefits Paid Per Registered Vehicle</td>
<td>1</td>
<td>1.22</td>
<td>1.31</td>
</tr>
<tr>
<td>B/P Ratio</td>
<td>1</td>
<td>1.39</td>
<td>1.56</td>
</tr>
</tbody>
</table>

With respect to the particular population of claims under study, several important inferences can be drawn from this matrix. First, the premium cost per registered vehicle decreased for the first two years of no-fault. Second, the benefits paid per registered vehicle increased. Finally, the benefits-to-premium ratio increased markedly during the same period. To these may be added the earlier finding that the number of claims per registered vehicle also increased, thereby spreading the benefits paid over a larger population of injured victims. To the extent that the sample population is representative of the entire state these findings reflect the performance of no-fault in Florida. They suggest that the hypothesis of more cost-effectiveness with no-fault should be accepted.

B. Property Damage Claims

Unlike the Keeton-O'Connell plan, other no-fault proposals, and the forerunner law in Massachusetts, the Florida Automobile Reparations Reform Act included property damage as well as personal injury within its no-fault provisions. Before the no-fault law was enacted, motor vehicle insurance purchasers had the options of purchasing contracts to cover third-party liability in respect to property damage caused to other people, to cover crash damage to the motorists' own motor vehicles regardless of fault, or to cover incidental damage. As an alternative the motorists could remain uninsured. The first-party coverage is commonly called "collision coverage" and typically is sold with deductibles of $50 and $100.

73 The 1971 quantity is 979. See Column D of Table 113 supra.
74 See Table 112 supra.
75 See BASIC PROTECTION, supra note 1.
76 See notes 2-5 supra.
77 See note 3 supra.
Under the Florida no-fault property damage law, Florida owners and registrants of passenger vehicles were required to purchase property damage liability insurance [PDL] and to exercise one of three options as to first-party property damage coverage: they could purchase collision coverage [COLL] that would pay regardless of fault; they could purchase a new basic property protection coverage [BPP] that would pay first-party benefits only if the loss was attributable to the fault of another no-fault insured driver; or they could choose not to purchase first-party property damage insurance. In all instances, including the last, a property damage tort exemption precluded the bringing of a tort claim against a no-fault insured third-party tortfeasor unless one of several property damage thresholds was surpassed. These thresholds were met when damages to the insured vehicle exceeded $550, the damaged vehicle was parked, the at-fault insured driver was engaged in "willful or wanton misconduct," or the at-fault vehicle was being operated without the consent of the owner. The structure of these thresholds left each motorist to provide protection for damage to his own vehicle when the total loss was less than $550, although actual self-protection was not required. Hence, if a motorist chose not to obtain one of the first-party property coverages and suffered damage of less than $550 to his motor vehicle through the fault of another no-fault insured driver, then the no-fault law left the motorist no right to recover in any mode. One year and seven months after the Automobile Reparations Reform Act had been in operation, the Florida Supreme Court invalidated the property damage provisions on the ground that the tort exemption as applied in the situation just described totally deprived motorists of the right to sue, without sufficient justification or acceptable alternative.

Fortunately for this study, the experimental design of the unscreened sample called for examining claims arising from crashes in the months of February and March of 1971, 1972, and 1973. This means that the last crash giving rise to a claim in this study occurred not later than three months and eleven days prior to the invalidation of the law. It will be shown that claims involving only property damage were typically filed and settled following a crash in a period of time much shorter than that. Consequently, it is believed that the data in this study fairly represent the no-fault property damage reparations system as it was operating up to the time of invalidation.

70 PDL insurance is required for covered motorists by virtue of their having to meet all the requirements of the Florida financial responsibility law, including the property damage portion. See note 66 supra.
84 Kluger v. White, 281 So. 2d 1 (Fla. 1973).
85 Kluger v. White was rendered on July 11, 1973. Id.
The property damage portion of this study was an integral part of the experimental design that already has been explained in detail in connection with personal injury claims. As mentioned previously, the property damage claim population comes from the same total claim population that produced the personal injury unscreened population. The number of property damage claims was great enough that no augmentation by the inclusion of crashes from additional months was necessary. The format of the presentation of data and statistics will follow that used in the personal injury claim section without repeating the explanation of procedures and assumptions detailed there. One slight difference is that in some presentations mean values have been used as the key statistic rather than median values. This was believed to be justifiable because so few property damage claims remained unsettled that no important effect on the final mean values would be felt. Two other points need to be made. One is that the property damage claims used in this study arose out of crashes that did not include a personal injury. The rationale for this is the assumption that the handling of property damage claims associated with personal injury crashes would generally be strongly influenced by the handling of the personal injury claims. The second point is that only claims that were covered by the no-fault law (or would have been in respect to 1971 crashes had the law been in effect that year) are included in the analyses.

**Hypothesis 1:** That no-fault will reduce the amount of litigation arising out of automobile crashes in comparison with a tort system.

It first should be noted that litigation involving only property damage was found not to be occurring in the circuit courts of Alachua and Dade Counties either before or after the implementation of the no-fault law. This in part reflects the jurisdictional hurdles of the circuit courts, but is entirely consistent with the premise that property damage claims themselves very infrequently result in lawsuits. The insurance claim data completely corroborate this assumption. As shown in Table D1, the proportion of claims settled without payment or by negotiation without suit always has been high: ranging from 97.4 percent in 1971 and 1972 to 99.4 percent in 1973. More detailed analysis showed that virtually the same distribution prevailed for both first-party and third-party claims. As a corollary, the data show

<table>
<thead>
<tr>
<th>TABLE D1</th>
<th>DISTRIBUTION OF PROPERTY DAMAGE SETTLEMENT MODES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>[Numbers represent percentage of total.]</td>
</tr>
<tr>
<td></td>
<td>1971</td>
</tr>
<tr>
<td>Closed Without Payment</td>
<td>4.1</td>
</tr>
<tr>
<td>Settled Before Suit Filed</td>
<td>93.3</td>
</tr>
<tr>
<td>Settled After Suit Filed</td>
<td>0.6</td>
</tr>
<tr>
<td>Settled at Judgment</td>
<td>0.6</td>
</tr>
<tr>
<td>Other</td>
<td>1.5</td>
</tr>
<tr>
<td>n=</td>
<td>(1172)</td>
</tr>
</tbody>
</table>
that the proportion of property damage insurance claims involving lawyers has always been small and apparently became smaller under no-fault. The percentage of claims in which lawyers apparently were not involved rose from 95.8 percent in 1971, to 97.8 percent in 1972, and to 98.7 percent in 1973.

In summary, these data and analyses suggest that property damage claims never have been burdensome sources of litigation and that the trend seems to be toward further limitation. Nevertheless, by comparison to the apparent changes occurring in personal injury claims, it may be concluded that the reduction in litigation caused by the no-fault property damage law was minimal.

Hypothesis 2: That the distribution of property damage claims arising out of motor vehicle crashes between third-party and first-party modes will shift strongly toward first-party modes in a no-fault system.

Preliminarily, the insurance claim data as summarized in Table D2 show that motorists covered by the no-fault law made marked changes in their first-party property damage insurance-buying practices while the law was in effect. Prior to no-fault, motorists had the choice of selecting some collision coverage or choosing to remain unprotected. The data in Column 1 of Table D2 show that 14.3 percent of those in the unscreened crash population had not bought first-party insurance in 1971 while 85.7 percent had bought some form of collision coverage. Note that even the 14.3 percent were not self-insurers as against damage caused by other at-fault motorists. In 1973 the distribution shifted to 1.6 percent uninsured, 17.1 percent Basic Personal Protection (BPP) and the remainder collision or collision and BPP, and in 1973 the distribution shifted again to only 1.1 percent uninsured, 12.0 percent BPP and the remainder in the other categories. Several observations can be made about these data. One is, of course, that most motorists were persuaded to purchase some sort of first-party property damage coverage. Secondly, the BPP buyers were in effect only half-insured, in that this coverage did not protect against damage caused by the owner or suffered without fault of anyone. Finally, a majority of the motorists were persuaded to purchase both BPP and collision coverages. While this had the effect of eliminating the collision deductible when

<table>
<thead>
<tr>
<th>Table D2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Distribution of First-Party Property Damage Insurance Coverages</strong></td>
</tr>
<tr>
<td>[Numbers represent percentages of total.]</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>None</td>
</tr>
<tr>
<td>COLL-$50 Deductible</td>
</tr>
<tr>
<td>COLL-Other Deductible</td>
</tr>
<tr>
<td>BPP</td>
</tr>
<tr>
<td>BPP &amp; COLL</td>
</tr>
<tr>
<td>n=</td>
</tr>
</tbody>
</table>
damage was done at the fault of another person and, perhaps, of adding certain elements to the recovery such as the rental cost of a replacement vehicle while repairs were being made, the end result appears to be substantial overlapping coverage.

Having reviewed the changes in the structure of the law and the pattern of insurance-buying practices, one would expect a strong shift from third-party to first-party recovery modes between 1971 and the succeeding years. The statistics in Table D3 show that this occurred. Third-party claims fell from just less than 50 percent of the total to less than 20 percent in both succeeding years. In sum, therefore, Hypothesis 2 can be accepted as correct.

<table>
<thead>
<tr>
<th>Table D3</th>
</tr>
</thead>
<tbody>
<tr>
<td>DISTRIBUTION OF PROPERTY DAMAGE CLAIMS BY TYPE</td>
</tr>
<tr>
<td>[Numbers represent percentage of total.]</td>
</tr>
<tr>
<td>1971</td>
</tr>
<tr>
<td>Property Damage Liability (PDL)</td>
</tr>
<tr>
<td>Collision (COLL)</td>
</tr>
<tr>
<td>Basic Property Protection (BPP)</td>
</tr>
<tr>
<td>n= (1178) (1464) (1344)</td>
</tr>
</tbody>
</table>

Hypothesis 3: *That the amount of time required for processing claims and receiving benefits will be shortened in a no-fault system as compared with a tort system.*

In testing this hypothesis the same three time measurements defined in the personal injury portion of the study were used. The findings are displayed in Figures D1 through D3. As in the personal injury graphs, the first bar represents the population of third-party claims (PDL), the second bar represents the population of first-party claims (COLL in 1971 and COLL plus BPP in 1972 and 1973), and the third bar represents the population of all the claims obtained by merging the two subpopulations. The bars represent median values. Mean values and numbers of cases are presented below each bar.

An examination of Figures D1 through D3 reveals that no great speeding up of processing property damage claims occurred with the introduction of Florida's no-fault law. Looking at the bar for "all" claims in all three figures, one sees that while the time delay in filing a claim diminished from a median value of 7.6 days to a value of 5.0 days between 1971 and 1973, the time elapsed in making the first payment increased slightly from 6.3 days to 6.8 days, and the time elapsed in settling increased from 8.9 days to 12.4 days. The figures show that a major contribution to these increases came from the third-party claims, whereas the reduction for time of filing occurred in the first-party claims. The figures also suggest that a stabilized

86 See *FLORIDA NO-FAULT INSURANCE PRACTICE* 160 (Fla. Bar Continuing Legal Educ. 1972).
87 See part III A supra.
operation represented by the 1973 claims generally takes longer to process each claim than the transition operation in 1972.

An explanation for the marked increases in TF and TS for third-party claims is that the $550 threshold eliminated many of the minor claims from the third-party population leaving only the more costly claims that require more investigation and are more likely to be contested. Hence, it is not surprising that processing the remaining third-party claims takes longer than before. Why there should be an increase in time to settle first-
party claims is a little more complex. More detailed analyses showed that
the time to first payment and the time to settle collision claims actually
diminished slightly between 1971 and 1973. The increase, therefore, is due
to longer times taken to process BPP claims than COLL claims. To illus-
trate, the median values for TS were 8.7 and 11.2 days respectively for 1972
and 1973 BPP claims, whereas they were only 6.9 and 7.3 days for COLL
claims in the same two years. Presumably, processing BPP claims took
longer because of the necessity of determining that the damage was "caused
by the fault of another resulting from contact between the insured vehicle
and a vehicle with respect to which security" 88 was required under the no-
fault law. In contrast, benefits under collision coverage were payable with-
out respect to fault. Hence, it is apparent that the addition of an element of
fault in first-party coverages runs counter to the general goal of speeding
up payments and settlements.

In summary, these data do not suggest that the no-fault property damage
law brought any advantage to consumers when contrasted with the supers-
eded recovery modes. Therefore, Hypothesis 3 as it applies to property
damage claims apparently must be rejected.

Hypothesis 4: That the allocation of benefits in accordance with
ascertainable losses will be more equitable in a no-fault system
than in a tort system.

Paralleling the personal injury analyses, several new parameters are de-
defined as follows:

Verified Property Damage = Total amount of property damage
claimed as verified by documentation in the insurance claim
file.

---

Property Damage Payment = Total amount of payment made to the claimant in respect to the property damage claim as verified by documentation in the insurance claim file.

Extra Value = The difference between Property Damage Payment and Verified Property Damage.

RD = The ratio obtained by dividing Property Damage Payment by Verified Property Damage. It represents the multiplier effect between the amount of damage and insurance payments.

Verified Property Damage is a measure of actual property damage repair bills and estimates, and Property Damage Payment measures the amount of money paid in respect to the claims arising out of crashes. Extra Value and RD are both measures of the difference, if any, between damages and payments which might reflect either equities or nuisance value inherent in property damage claims. It is largely these latter measures that pertain to equity in the allocation of benefits.

Table D4 presents statistics representing these measures. Starting first with Verified Property Damage, there is a general increasing trend over the three years of the study. Using the COLL data as a guide, the value of the general increase can be estimated to be 22 percent. It should be noted that after 1971 third-party claims have the highest Verified Property Damage value, whereas in 1971 COLL claims were greater. This switch undoubtedly reflects the influence of the property damage thresholds that has already been discussed. Perhaps of more interest is the fact that BPP Verified Property Damage figures are substantially lower than COLL figures.

That a similar rising trend exists in Property Damage Payments is also shown by Table D4. Interestingly enough, the differences between COLL and BPP statistics diminish somewhat in this parameter. This is apparently accounted for by two factors. One is that most COLL policies carry a deductible with $50 being the most common amount. The effect of this factor shows up clearly in the median values of Extra Value for COLL claims. A second factor was the ruling that reimbursement for rental cars used while damaged vehicles were being repaired was an allowable item of BPP recovery. Although insurers were required to offer this coverage as an addition to normal collision coverages after 1972, rental reimbursement in the past was not included under collision policies. These two factors—less frequent use of deductibles in BPP coverages and rental reimbursement—apparently accounted for the narrowing of the difference between COLL and BPP Property Damage Payment statistics.

The effects of deductibles and rental reimbursement presumably account

---

80 See text accompanying notes 30-32 supra.
81 The Florida Insurance Commissioner had recommended that BPP policies be written to be paid from a first dollar of damage basis rather than with deductibles because of a small difference in consumer cost of the two. INSURANCE COMMISSIONER BULLETIN OF OCTOBER 8, 1971, reproduced in FLORIDA NO-FAULT INSURANCE PRACTICE, supra note 86, at 159. No such recommendation was made in respect to collision coverage. Apparently, insurance companies and buyers followed this advice.
81 FLORIDA NO-FAULT INSURANCE PRACTICE, supra note 86, at 159.
81 Id. at 160.
### Table D4

#### Property Damage Reparation Parameters

<table>
<thead>
<tr>
<th></th>
<th>1971</th>
<th></th>
<th>1972</th>
<th></th>
<th>1973</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Third-</td>
<td>COLL</td>
<td>BPP</td>
<td>ALL</td>
<td>Third-</td>
</tr>
<tr>
<td></td>
<td>Party</td>
<td></td>
<td></td>
<td></td>
<td>Party</td>
</tr>
<tr>
<td><strong>Median ($)</strong></td>
<td>198</td>
<td>318</td>
<td>N.A.</td>
<td>248</td>
<td>415</td>
</tr>
<tr>
<td><strong>Mean ($)</strong></td>
<td>309</td>
<td>479</td>
<td>N.A.</td>
<td>398</td>
<td>620</td>
</tr>
<tr>
<td><strong>n</strong></td>
<td>543</td>
<td>598</td>
<td>N.A.</td>
<td>1143</td>
<td>202</td>
</tr>
<tr>
<td><strong>Verified Property Damage</strong></td>
<td>1971</td>
<td>1972</td>
<td>1973</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Median ($)</strong></td>
<td>188</td>
<td>251</td>
<td>N.A.</td>
<td>215</td>
<td>360</td>
</tr>
<tr>
<td><strong>Mean ($)</strong></td>
<td>332</td>
<td>439</td>
<td>N.A.</td>
<td>383</td>
<td>575</td>
</tr>
<tr>
<td><strong>n</strong></td>
<td>556</td>
<td>619</td>
<td>N.A.</td>
<td>1178</td>
<td>212</td>
</tr>
<tr>
<td><strong>Property Damage Payments</strong></td>
<td>1971</td>
<td>1972</td>
<td>1973</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Median ($)</strong></td>
<td>1</td>
<td>-50</td>
<td>N.A.</td>
<td>-3</td>
<td>0</td>
</tr>
<tr>
<td><strong>Mean ($)</strong></td>
<td>17</td>
<td>-28</td>
<td>N.A.</td>
<td>-6</td>
<td>-15</td>
</tr>
<tr>
<td><strong>n</strong></td>
<td>541</td>
<td>598</td>
<td>N.A.</td>
<td>1141</td>
<td>201</td>
</tr>
<tr>
<td><strong>Extra Value</strong></td>
<td>1971</td>
<td>1972</td>
<td>1973</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Median</strong></td>
<td>1.0</td>
<td>0.86</td>
<td>N.A.</td>
<td>0.99</td>
<td>1.0</td>
</tr>
<tr>
<td><strong>Mean</strong></td>
<td>1.0</td>
<td>0.87</td>
<td>N.A.</td>
<td>0.95</td>
<td>0.97</td>
</tr>
<tr>
<td><strong>n</strong></td>
<td>541</td>
<td>598</td>
<td>N.A.</td>
<td>1141</td>
<td>201</td>
</tr>
<tr>
<td><strong>RD</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
for the differences in BPP and COLL Extra Values and RD’s statistics shown in Table D4. The Extra Value parameter and the RD parameter for both the third-party and “all” populations suggest that property damage claims typically carry little in the way of equity or nuisance value. Apparently, property damage losses are usually paid in the exact amount of the losses verified as having been sustained. Interestingly enough, the COLL population tends to undercompensate, presumably because of deductibles, and the BPP population seems to overcompensate, presumably because of the rental reimbursement feature. Combining these two populations with the third-party population produces a composite with slight undercompensation.

In summary, it appears that property damage claims have little in the way of either nuisance value or equities to create the speculative values and resulting system costs seen in personal injury claims. Consequently, it does not appear that a no-fault system in itself leads to a more equitable reparation system so far as property damage claims are concerned. Nevertheless, one factor not subjected to empirical testing in this study is worth mentioning. Under a pure fault system a motorist must purchase liability insurance that will protect him against damage done to vehicles owned by other motorists. Therefore, a person with an inexpensive vehicle must insure against possible damage to more expensive vehicles. However, a pure no-fault system, such as Florida’s was not, would require only that each motorist insure against damage to his own vehicle. Hence, owners of inexpensive vehicles would presumably pay less. Under a threshold plan, as Florida’s was, this advantage does not prevail.

Hypothesis 5: That a property damage no-fault system will cost less to operate than a tort system.

A parallel analysis to that used in testing this hypothesis for personal injury no-fault reparations will be employed without reviewing the logic in detail. The next two subsections will develop representative values to be inserted in a premium-benefits matrix analogous to Matrix A generated in the discussion of personal injury claims. That care must be taken in generalizing the results seen in the sample populations needs repeating. Nevertheless, it should be observed that the property damage claim samples are much larger than the personal injury claim samples, permitting somewhat greater confidence in the validity of the results.

Premiums Paid—In the absence of data describing the total dollars paid in property damage premiums, it was necessary to resort to the typical premium procedure described in connection with personal injury claims. Computed in accordance with that procedure, the normalized relative property damage insurance costs for Jacksonville and Miami are displayed in Table D5. Unlike personal injury insurance costs, some difference in effects on rates was felt by drivers with previously clean records as compared with drivers with a prior crash. Interestingly enough, the increase in

93 See part III A supra.
94 See note 57 and accompanying text supra.
rates of the prior "good" drivers was greater than the increase for prior "bad" drivers. Overall the increase ranged between 15 percent and 17 percent in the Miami area and 11 percent and 13 percent in the Jacksonville area. While data are not available to produce a true mean value, it will be assumed that a 14 percent increase typifies the motorists represented in the study populations.

**TABLE D5**

**RATIO OF COSTS OF PROPERTY DAMAGE INSURANCE PACKAGES TO 1971 COSTS**

_A. Previously Clean Record Driver_  
Miami Area  
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Jacksonville Area</td>
<td>1:15</td>
<td>1:15</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Relative Property Damage Insurance Costs</th>
<th>1</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Jacksonville Area</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1971</td>
<td>1:17</td>
<td>1:17</td>
<td></td>
</tr>
</tbody>
</table>

_B. Driver with Prior Crash_  
Miami Area  
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Jacksonville Area</td>
<td>1:11</td>
<td>1:11</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Relative Property Damage Insurance Costs</th>
<th>1</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Jacksonville Area</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1971</td>
<td>1:13</td>
<td>1:13</td>
<td></td>
</tr>
</tbody>
</table>

The data in Table D5 indicate that the costs of Florida's no-fault property damage reparation system increased as measured simply by premiums paid. This should be contrasted to the downward trend in personal injury insurance costs as depicted in Table I10. However, other factors should be considered. One such factor is simply that more drivers elected first-party coverages than before as was shown in Table D2. Such extended coverage naturally adds more costs to consumers but these increased costs should eventually be reflected in increased benefits. The next subsection discusses such benefits.

_Benefits Paid_—In accord with the procedure explained in detail in the personal injury section, calculations were made to produce representative benefits paid per vehicle in the unscreened property damage population. First, claims were allocated between first-party and third-party

95 After the no-fault property damage provisions were invalidated, the pre-no-fault insurance system supplanted it. Interestingly enough, property damage premiums fell in 1974 and readvanced in 1975. Parallel 1974 and 1975 figures for Table D4 are as follows: Part A: Miami, 1.06 and 1.11; Jacksonville, 0.99 and 1.04. Part B: Miami, 1.08 and 1.13; Jacksonville, 1.0 and 1.05.

96 See part III A supra.
Next, the number of claims in each category per year was divided by the number of registered vehicles in Florida for the respective years. Then the resulting dividends were normalized to the 1971 "all" claims statistic to produce the array of comparative frequencies of property damage claims per registered passenger vehicle shown in Table D6.

### Table D6

**Comparative Frequency of Property Damage Claims per Registered Passenger Vehicle**

<table>
<thead>
<tr>
<th></th>
<th>1971</th>
<th>1972</th>
<th>1973</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Property Damage Claims</td>
<td>1.00</td>
<td>1.13</td>
<td>1.01</td>
</tr>
<tr>
<td>Third-Party Claims</td>
<td>0.47</td>
<td>0.17</td>
<td>0.17</td>
</tr>
<tr>
<td>First-Party Claims</td>
<td>0.53</td>
<td>0.96</td>
<td>0.84</td>
</tr>
</tbody>
</table>

The statistics in Row 1 of Table D6 suggest a 13 percent rise in property damage claims per registered vehicle in the unscreened population in 1972 but with a return to the pre-no-fault frequency in 1973. Nevertheless, Rows 2 and 3 depict a substantial shift from third-party to first-party claims.

By combining claim frequency data from Table D6 and total property damage cost data derivable from information in Table D4, one may obtain the ratio of property damage benefits in 1972 and 1973 per crash per registered passenger vehicle to the comparable figure for 1971. The results are presented in Table D7. This analysis suggests that the payments per crash per registered vehicle in the unscreened claim population increased by 22 percent in 1972 over 1971, and by 24 percent in 1973 over 1971. With respect to benefits payments, therefore, the Florida no-fault property reparation system appears to have been more generous than the tort system.

As in the case of personal injury payments, a representative non-no-fault control can be generated by making certain assumptions. First, that in the absence of no-fault the third-party to first-party claim distribution would have continued as in 1971 and that increases in total property damage payments would have followed the trend set by the COLL claims in 1972 and 1973. Given these assumptions, a non-no-fault system would have seen Comparative Benefits declining to 0.96 in 1972 and then rising to 1.23 in 1973. Except for 1972, this very closely parallels the results depicted in Table D7.

**Summary**—Data from Tables D5 and D7 may now be arrayed by year to produce the first two rows of Matrix B below. The third row is computed by dividing the values of Row 2 by those of Row 1.

---

97 See Table D3. COLL and BPP claims must be combined to obtain the total number of first-party claims.

98 It was assumed that each closed claim file contained one claim for property damage only. Distributions between first and third-parties were made in accordance with the distributions of closed claims in each year.

99 See note 66 supra.
TABLE D7
RATIO: PROPERTY DAMAGE BENEFITS PAID IN 1971 AND 1972 PER CRASH PER REGISTERED PASSENGER VEHICLE TO 1971 FIGURE
[Numbers are in dollars.]

<table>
<thead>
<tr>
<th></th>
<th>A. Claims Per Vehicle</th>
<th>B. Mean PD* Pay Per Claim</th>
<th>C. Surrogate PD Pay/Claims Per Vehicle (A x B)</th>
<th>D. Surrogate PD Pay Per Vehicle C(1) + C(2)</th>
<th>E. Surrogate PD Pay Per Vehicle to 1971 Figure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1971 Third-Party 0.47</td>
<td>332</td>
<td>156(1)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1971 First-Party 0.53</td>
<td>439</td>
<td>233(12)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1971 Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>389</td>
</tr>
<tr>
<td>1972 Third-Party 0.17</td>
<td>575</td>
<td>98(1)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1972 First-Party 0.96</td>
<td>392</td>
<td>376(2)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1972 Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>474</td>
</tr>
<tr>
<td>1973 Third-Party 0.17</td>
<td>528</td>
<td>90(1)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 First-Party 0.84</td>
<td>465</td>
<td>391(2)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>481</td>
</tr>
</tbody>
</table>

*PD Pay—Property Damage Payment

MATRIX B

<table>
<thead>
<tr>
<th></th>
<th>1971</th>
<th>1972</th>
<th>1973</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Damage Premiums Paid Per Vehicle</td>
<td>1</td>
<td>1.14</td>
<td>1.14</td>
</tr>
<tr>
<td>Property Damage Benefits Paid Per Vehicle</td>
<td>1</td>
<td>1.22</td>
<td>1.24</td>
</tr>
<tr>
<td>B/P Ratio</td>
<td>1</td>
<td>1.07</td>
<td>1.09</td>
</tr>
</tbody>
</table>

The conclusion to be drawn from this information is that while both premiums and the size of property damage benefit payments increased under the Florida no-fault system, the benefits-to-premium [B/P] ratio also increased. This suggests that the no-fault system was somewhat more cost-efficient in transferring premiums paid to beneficiaries than was the superseded system.