

1000

1000

1000

1000

1000

3-22-91
MFL

125932



Center of the Earth

Courts That Succeed

Six Profiles of Successful Courts

By WILLIAM E. HEWITT
GEOFF GALLAS
BARRY MAHONEY

125932

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

National Center for State Courts

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

National Center for State Courts

©1990

National Center for State Courts
Williamsburg, Virginia 23187-8798
Publication Number R-120
ISBN 0-89656-102-X

Library of Congress Cataloging-in-Publication Data

Hewitt, William E.

Courts that succeed : six profiles of successful courts / by
William E. Hewitt, Geoff Gallas, Barry Mahoney.

p. cm. — (Publication / National Center for State Courts ;
no. R-120)

ISBN 0-89656-102-X (paperback)

1. Court congestion and delay—United States. 2. Court
administration—United States. I. Gallas, Geoff, 1946–

II. Mahoney, Barry. III. Title. IV. Series: Publication (National
Center for State Courts) ; R120.

KF8727.H49 1990

347.73'13—dc20

[347.30713]

90-42494

CIP

The research that is reflected by these six profiles was part of the demonstration courts element of the Large Court Capacity (LCC) Increase Program, which was supported by Grant Number 87-DD-CX-0002 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The demonstration courts portion of the LCC was funded in two phases. Phase I (\$87,948) and phase II (\$87,624) funding provided 100 percent of the costs for the demonstration courts. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following offices and bureaus: the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Contents

	Page
<i>Introduction and Acknowledgments</i>	v
PROFILES	
<i>Montgomery County Court of Common Pleas (Dayton)</i>	1
<i>Detroit Recorder's Court</i>	23
<i>Fairfax (Virginia) Circuit Court.</i>	45
<i>Maricopa County Superior Court (Phoenix)</i>	83
<i>Wayne County Circuit Court (Detroit)</i>	103
<i>Sedgwick County District Court (Wichita)</i>	127
<i>Appendices</i>	161

Introduction and Acknowledgments

Courts That Succeed profiles six metropolitan courts that share successful histories managing problems of delay. It is one component of an ambitious program undertaken by the National Center for State Courts (NCSC) and the Bureau of Justice Assistance (BJA). Called the Large Court Capacity Increase (LCC) Program,¹ the effort included two major projects: the Trial Court Performance Standards Project and the Caseflow Management Project.² In quite different ways, both projects seek to increase the capacity of the nation's largest state trial courts to provide efficient and fair adjudication of an increasing number of cases, many of them drug related.

As part of the LCC program, six courts agreed during 1988 and 1989 to become open houses for the study and exchange of practical information about how caseflow management theory is applied in courts on a day-to-day basis. The profiles were written to serve, literally, as visitor's guides for court officials whose interest in reducing and avoiding delay would lead them to visit other courts that shared their concerns. These profiles serve as armchair visitor's guides. They offer a sourcebook for ideas, encouragement, and perhaps even inspiration to court managers who face problems of delay in their courts. They may also interest lawyers and members of the public who are concerned about issues of litigation cost and delay.

This introduction has four objectives: (1) to place the demonstration court project and the profiles in the context of the developing tradition of research and action to improve the pace of litigation; (2) to explain why these six courts were selected for the demonstration court program; (3) to contrast and compare the six courts; and finally (4) to underscore our sense of the book's audience as those engaged in practical efforts to improve the nation's state courts.

Background and Theoretical Framework of the Demonstration Court Project

The demonstration court project is part of a tradition that is of relatively recent origins. It is anchored by *Caseflow Management in the Trial Court* (Solomon, 1973) and *Justice Delayed* (Church, et al., 1978). Three shared beliefs unify the writings in that tradition.

- Delay is case processing time beyond that which is necessary for a fair resolution of a case, and such delay has a negative effect on the quality of justice;
- Delay is a problem of major public importance and is perceived as such by the American public;
- While delay exists in many courts, it is not inevitable. It is avoidable through actions courts can take within their own authority, and where delay exists it can be reduced dramatically.³

Some of the literature in this tradition makes the analogy between delay and ill health.⁴ The authors of *Managing the Pace of Litigation* (Neubauer, et al., 1981) conclude with this observation:

Delay, then, can be a symptom of some severe maladies afflicting courts, ranging from lack of effective management controls to the *lack of desire* for such controls. Like some patients in our medical analogy, some courts fear that the proposed cures will be worse than the known problems. (p. 432, emphasis added)

That analogy has utility for *Courts That Succeed*. Paying attention to symptoms and evaluating their significance in context is an essential ingredient both in the administration of cures for disease and in a health maintenance program. In the demonstration courts, delay is seen as a disease to treat and prevent from recurring. But the demonstration courts also treat delay as a symptom of underlying problems: procedures that are failing, poor communication between court and lawyers or between prosecution and defense, goals that have become pro forma. The demonstration courts have management controls that routinely take their own temperature. In Detroit, for example, the temperature is taken regularly with finely calibrated instruments. In Fairfax, a hand-on-the-forehead technique sufficed in the past, but may not be enough today. But no matter how sophisticated the measuring devices, the demonstration courts evaluate symptoms of delay in the context of other factors. For example, courts that set out to "crash the docket" by disposing of old cases will find that their measures of average time to disposition will initially swing upward because a disproportionate number of "old" cases are disposed in a short time.

Similarly, reorganization of a court to achieve long-range goals may trigger symptoms suggesting problems. Although the symptoms need to be watched, they are to be understood as unavoidable side effects of an overall health maintenance program. Both phenomena occurred in Detroit courts at different periods. The temporary rises in the courts' temperature actually indicated improvements brought on by treatment.

The view that delay is both a disease that requires specific treatment and a symptom of unhealthy conditions fits with two assumptions underlying the idea of demonstration courts. The first assumption is that courts engaged in monitoring time to disposition are regularly monitoring their performance, which is a prerequisite for good health over the long term. The second, a more speculative assumption, is that those courts that take the symptom of delay seriously are probably paying attention to their health in other areas as well. For that reason, the demonstration courts were also used in the NCSC's Trial Court Performance Standards Project as test sites to determine the feasibility and utility of concrete *measures* of performance. If courts perform well in relation to Expedition and Timeliness—one of five major performance standard areas—it is assumed that they are also likely to perform well in the four other areas: Access to Justice; Equality, Fairness and Integrity; Independence and Accountability; and Public Trust and Confidence.⁵

Close observation of the six demonstration courts suggests that they succeed at something more profound and important than moving cases to disposition quickly. The demonstration courts view delay as a disease that interferes with their ability to carry out their mission. This is implicit in this book's organizing framework, which focuses on ten "common elements of successful programs" and is explicit in Neubauer's view: timely disposition of cases results from an overall organizational health maintenance program that can be mobilized when *any* of the court's missions and goals are threatened. Further, the explicit identification of "expedition and timeliness" as but *one* of several areas in which the health of a court is assessed should provide comfort to those who fear that emphasis on timely disposition of cases is at the expense of "doing justice."

What Is in the Profiles?

The authors of *Changing Times in Trial Courts* describe ten common elements of successful programs (shown in **Figure 1**). Based on research in 18 general jurisdiction trial courts, the elements offer perspective into what is, after all, an underdeveloped field of inquiry. The elements permit court managers to look at themselves and other courts in a way that highlights

Figure 1

**Common Elements of Successful Programs:
A Synergistic Relationship**



similarities and differences in how caseflow is managed. In short, they are a tool for learning and for self-diagnosis of a trial court's health.

The ten elements are interdependent and, except for leadership and goals, without an implied hierarchy. Leadership and goals are the hub of an eight-spoked wheel, signifying the centrality of these elements within the synergistic character of the whole.

Information about the ten elements provided a framework for research and the development of a training agenda during visits to the courts. It also unifies the six profiles. Moreover, because the courts' caseflow management systems did not spring up overnight, the profiles begin with a ten-year history of each court's caseflow management efforts. Each profile sketches in the jurisdiction, caseloads, workloads and resources, and organizational structure and describes the main case processing steps the court follows, including those that are externally imposed and those that the court created.

Why These Courts?

By 1987, the accumulation of data on case processing times that followed *Justice Delayed* made it possible to look at historical trends in a number of

metropolitan courts. NCSC staff sifted through the data produced by empirical studies comparing case processing times among these courts and found some that for a decade have appeared among the fastest courts. Qualitative information and the collective experience of NCSC staff members, consultants, and advisors were then brought to bear to answer three questions about the faster courts:

- Are the courts achieving speed in a way that enhances (rather than compromises) the quality of justice?
- Have the courts been actively engaged in efforts to control delay?
- Will the courts agree to help researchers and visitors from other courts understand what they do?

Using quantitative and qualitative data assembled in NCSC's 18-court study, *Changing Times in Trial Courts* (1988),⁶ the Montgomery County Court of Common Pleas (Dayton, Ohio), the Detroit Recorder's Court (Detroit, Michigan), and the Maricopa County Superior Court (Phoenix, Arizona) were asked to participate in 1987. The demonstration court program research and exchange visits began in 1988.

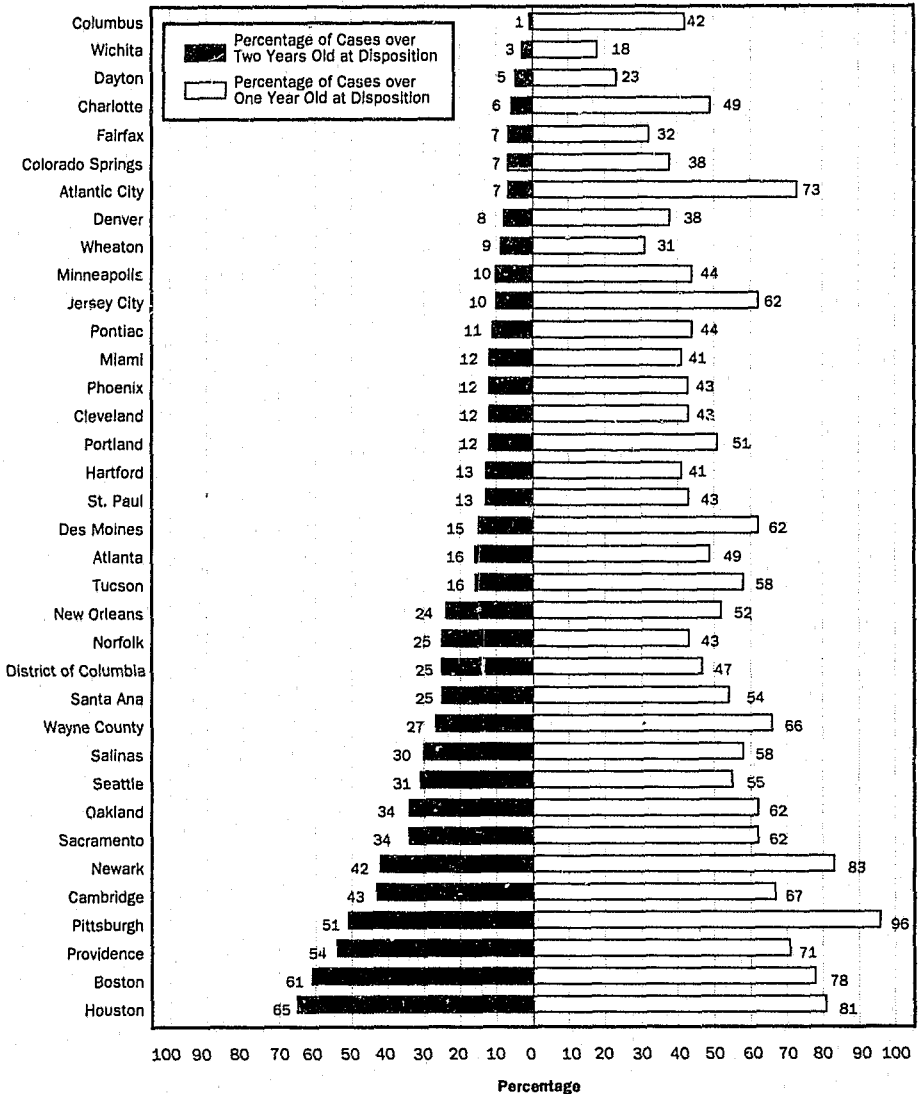
In 1989, after review of the most current and extensive quantitative information on comparative case processing times among courts—the data published in *Examining Court Delay: The Pace of Litigation in 26 Urban Trial Courts* (Goerd, 1989)—two more courts agreed to serve as demonstration sites: the Fairfax Circuit Court (Fairfax, Virginia) and the Sedgwick County District Court (Wichita, Kansas).

The sixth court included in these profiles—the Wayne County Circuit Court, in Detroit—was a latecomer. Although still a relatively slow court in 1987 (the study year for *Examining Court Delay*), research in the court jointly undertaken by the American Bar Association and the National Center for State Courts showed that many years of effort to dispose of civil cases more quickly in Wayne County had begun to succeed in a way that promises durable results. That success, which so clearly resulted from careful planning, patience, and persistence, attracted our interest. Wayne County Circuit Court became a striking example of the spirit of the demonstration court project.

In summary, these six courts are profiled because their formal participation in national delay reduction research and their involvement with a wide range of formal and informal judicial administration activities made it *possible* to recognize their successes, both in quantitative and qualitative terms. Their performance in disposing of cases can be compared to a meaningfully large group of other metropolitan courts. **Tables 1 and 2** show the comparisons.

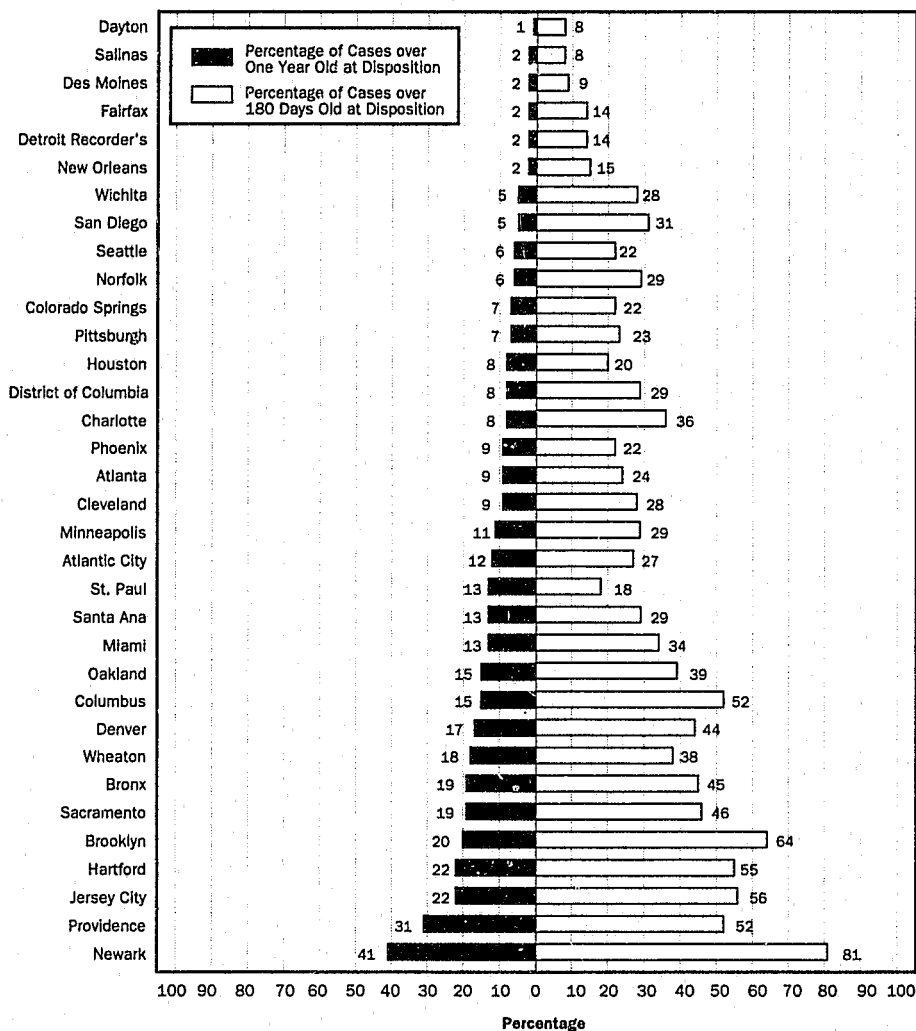
Table 1

Civil Cases

Comparison of Courts on Percentage of Civil Cases
Over ABA Standards in 1987*

* Courts that meet the ABA Standards would have no more than 10 percent of civil cases older than one year at disposition and none older than two years at disposition.

Table 2
Felony Cases
Comparison of Courts on Percentage of Felony Cases
Over ABA Standards in 1987*



* Courts that meet the ABA Standards would have no more than 2 percent of felony cases older than 180 days at disposition and none older than one year at disposition.

Practical Utility of the Demonstration Court Project for Court Managers

The remainder of this introduction speaks to the audience for whom *Courts That Succeed* is primarily directed—the judges and nonjudicial court managers who have a practical interest in the subject of delay. What they may gain from this book is some insight into how abstractions found in the literature—like “systems of accountability”—translate into a concrete practice in the complex environment of a few real courts. The way Dayton augments its judicial resources with visiting judges while integrating these visiting judges into an individual case assignment system is one such example.

While the 26 courts that participated in the 1988 national research on case processing times may represent a large number of courts for *research* purposes, there are well over 200 metropolitan general jurisdiction courts in the United States serving populations exceeding 200,000. And there are 2,353 general jurisdiction courts altogether. While we know that the few courts described here are successful and have valuable experiences to share, how much more is there to be offered by courts not yet heard from? Perhaps readers of these profiles, in addition to learning from them, will see what their courts have to offer to others.

Are These Courts Too Unique to Be of General Interest?

We believe that court managers will identify with circumstances and problems in these six courts and find ideas and techniques that can be useful for their court. The six courts are diverse in geographic location and in the size and character of the populations that they serve. They differ in the mix of cases heard by their judges, in the number of judges and nonjudicial staff at work in them, in their organizational structures, and in their systems of case assignment. Some of the courts are relatively affluent and enjoy new and spacious courthouses; others struggle for appropriations and work in crowded conditions. In these profiles there is something to be learned, therefore, about how delay can be avoided under a wide range of differing circumstances. **Table 3** summarizes four key characteristics that are often touchstones when courts look for shared experience and context.

Interpreting the Profiles—Variations on Themes

A highly structured approach to any inquiry imposes a sense of similarity that may mislead. Each court represents a complex organization differen-

Table 3
Comparison of Key Characteristics of the Courts

	1986 Population ^a	Calendaring System	Number of Judges
The Same Judges Hear Civil and Criminal Cases			
Dayton	566,000	Individual	9
Fairfax	710,000	Master	11
Judges Hear Civil Cases Only			
Detroit ^b (Wayne Circuit)	2,164,000	Individual and Master (changing)	29 ^c
Phoenix	1,900,00	Individual	26
Wichita	391,000	Master	9
Judges Hear Criminal Cases Only			
Detroit ^b (Recorder's Court)	2,164,000	Individual	34 ^c

^a From *County and City Data Book, 1988*, U.S. Bureau of the Census.

^b In Wayne County, Michigan, two courts are organizationally consolidated. The Third Judicial Circuit Court consists of 35 judges elected from all of Wayne County. The Recorder's Court for the City of Detroit consists of 29 judges, elected by voters in the city of Detroit. The circuit court judges handle all of the general civil cases in the county. In addition, a group of five circuit court judges sit in the Recorder's Court courthouse, working with the Recorder's Court judges to handle felony cases—both from the city of Detroit and the rest of Wayne County. The criminal assignments last for three months at a time; judges rotate into their duty once every 18 months.

^c Because there are always five Wayne County Circuit judges sitting in the Recorder's Court, the number of judges shown is the effective number of judges at any one time in the court. See (b), above, for the actual number of judges that sit permanently in each court.

tiated by both structural and human factors. Within the common framework established by the ten elements, the reader is cautioned to look for how each element is uniquely adapted or variously developed in each court. Moreover, every element described for each court is not always more robust in that court than in other courts that have had less success in managing delay. Of the eight elements in Figure 1, no single element seems necessary to success, nor are the ways in which each element is manifest in the courts necessarily similar. The strengths of these courts are found in adaptation and in the way some stronger elements compensate for others. Without leadership, however, the other elements may never develop or, if available, may not be used. Without goals, judges and staff lack a sense of direction, and the concept of accountability is essentially meaningless. Leadership and goals are core elements of the success of these action-oriented courts—the hub of the wheel.⁷

Two of the courts have rules that promote leadership stability. In Phoenix and Wichita, the chief judge is appointed and serves at the pleasure of the supreme court. More interestingly, however, stability of leadership is not required by any law or rule in the other courts—the presiding judge is selected by the other judges. Dayton has had only one presiding judge and one court administrator in the last ten years. There have been two presiding judges in ten years in the two Detroit courts and in Fairfax. In those courts, stability of leadership is, therefore, something that the judges of the courts themselves seem to demand. The most turnover among chief judges has occurred in Wichita, and—as the exception that illustrates the rule—there is evidence that during a succession of chief judges during a few years, the court's success in controlling delay was lowered. Beyond stability of leadership, the styles of the courts' leaders vary, as do the patterns of relationships between the chief judge and the other judges and staff. Striking examples of contrasts in leadership styles emerge from the profiles of Dayton, Fairfax, and Wichita.

All six courts were moving targets during the demonstration court project, as the profiles make clear. Judges and key personnel retire, new prosecutors and court clerks are elected, reorganizations and changes in laws occur. Like other courts, the six continually are threatened by gradual deterioration of previously workable systems due to caseload and other pressures. Demographic changes and long-term policy initiatives, such as the war on drugs, are key challenges. Therefore, while they were being visited for research and educational purposes during 1988 and 1989, the courts' cooperation with the project did not extend to keeping still to have their photographs taken. Between one visit and the next, one profile draft and the next, the courts changed.

The changes witnessed in the demonstration courts suggest a theme of the six profiles: caseload management is a dynamic process. If these courts are different from others, the difference is likely to be found in how they manage change. They examine the status quo to see if it needs fixing, and they examine change to see what effects it has on the court's existing values, goals, and procedures. They are not passive when change effects them adversely nor do they assume that the changes *they* plan to make will or should be received passively by others.

Thus, the leadership behind the management of caseload in the six demonstration courts does not end at the doors of the courtrooms and chambers. It extends out to the wider network that makes up the justice system. The courts' leaders contend in an activist and pragmatic manner with other agencies whose agendas are inconsistent from their own. Moreover, they do not accept conflict as a reason not to take action.

Instead, conflict is a phenomenon that has to be faced and, if possible, negotiated to a mutually satisfactory conclusion. Conflict is never, therefore, a reason to abandon the court's fundamental mission and goals.

Acknowledgments and a Note on the Writing

Each of the six profiles represents a compilation of the observations and reflections of several people. Because lead and contributing authors vary, the scope and style differs between, and even within, each profile.

Most of the contributing authors visited these courts repeatedly and worked with their judges and court staff. The authors include acknowledged veterans in the field of judicial administration like Maureen Solomon and Doug Somerlot. Others who contributed observations and notes from the field have names that are familiar to readers of the literature on delay reduction—Thomas Church and John Goerd. Still others who participated in the field visits and contributed notes are more usually engaged in the daily practice of caseload management: Diane Hatcher, the case assignment and caseload information specialist in the Montgomery County Court of Common Pleas in Dayton, Ohio; and George Gish, the court administrator in Detroit Recorder's Court, also known as a consultant who volunteers time to work with colleagues in other courts. The special cooperation and substantial contributions of trial court administrators Judith Cramer, Gordon Griller, Kent Batty, Louis Hentzen, Mark Zaffarano, and the judicial leaders who are described in the profiles were essential to the demonstration court project. Scores of court staff members and members of the bar helped us. Two deserve special thanks—Mike Planet, of Phoenix, and Mary Ann Rondeau, of Dayton. Our deep appreciation and gratitude extends to all of the judges and staff of the six courts for their patience, hospitality, and willingness to share their wealth of experience.

Finally, we wish to express special acknowledgment and thanks to Jay Marshall, the chief of the courts branch of the Bureau of Justice Assistance, U.S. Department of Justice. Grants from BJA provided funding for our work in the demonstration courts, and we very much appreciate Jay's support and encouragement.

May 1991

WILLIAM E. HEWITT
GEOFF GALLAS
BARRY MAHONEY

Notes

1. The original full project title was "The Large Trial Court Capacity Increase Program: Case Management Resource Project-Trial Court Performance Standards Project." National Center for State Courts, application submitted to the Bureau of Justice Assistance, U.S. Department of Justice, May 1, 1987, Grant Number 87-DD-CX-0002.

2. The Caseflow Management Project included four major components: (1) a database to collect and analyze time-to-disposition data on 26 urban trial courts; (2) technical assistance service to trial courts that were working to reduce delay; (3) identification of demonstration courts and dissemination of information about them through exchange visits among courts; and (4) seminars and publications in caseflow management.

3. See, e.g., Barry Mahoney, et al. (1988), *Changing Times in Trial Courts: Caseflow Management and Delay Reduction in Urban Trial Courts* (Williamsburg, Va.: National Center for State Courts) pp. 3-4; John Goerd, et al. (1989), *Examining Court Delay: The Pace of Litigation in 26 Urban Trial Courts, 1987* (Williamsburg, Va.: National Center for State Courts) pp. xiv, 101-02; and the commentary to ABA Standard 2.50. They are implicit throughout Maureen Solomon and Douglas K. Somerlot (1987), *Caseflow Management in the Trial Court: Now and for the Future* (Chicago: American Bar Association).

4. For example, Thomas W. Church, et al. (1978), *Justice Delayed: The Pace of Litigation in Urban Trial Courts* (Williamsburg, Va.: National Center for State Courts), at p. 18 referred to some of the courts in that study as "pathologically delayed." The authors of *Changing Times in Trial Courts* express skepticism about "one injection miracle cures" in a citation to a 1965 work, p. 197. David W. Neubauer, et al. (1981), *Managing the Pace of Justice: An Evaluation of LEAA's Court Delay Reduction Programs* (Washington, D.C.: Government Printing Office), at pp. 430-32 develops the analogy extensively.

5. See Commission on Trial Court Performance Standards (1989), *Tentative Trial Court Performance Standards with Commentary* (Williamsburg, Va.: National Center for State Courts). The work of the Commission on Trial Court Performance Standards is in progress and will conclude on July 31, 1990. Publication of the final *Trial Court Performance Standards with Commentary* is expected in late 1990.

6. *Changing Times in Trial Courts* combines quantitative research in 18 courts with extensive qualitative research in 9 of them. The qualitative studies give the reader a context within which to understand the quantitative research. *Managing the Pace of Justice* is similar to *Changing Times* in this regard, but it looks only at four courts. Consequently, it has more depth in data, while *Changing Times* has greater breadth of coverage.

7. See *Changing Times*, pp. 4, 211.

***Montgomery County Court
of Common Pleas***

Dayton, Ohio

By WILLIAM HEWITT
BARRY MAHONEY
LINDA RIDGE
ALICE LARKIN

Contents

	<i>Page</i>
Introduction	5
Caseflow Management in Dayton: Origins and Development, 1971-1988	6
The Dayton Court in 1988: An Overview of Its Workload, Resources, and Organization	13
Key Elements of Effective Caseflow Management in Dayton	15
Current Issues and Concerns	22

Montgomery County Court of Common Pleas

Introduction

The Montgomery County Court of Common Pleas, in Dayton, Ohio, is a 13-judge general jurisdiction trial court that serves a county of 571,000 people. The court's general division, which is the focus of attention here, consists of nine judges who handle civil cases, criminal cases (felonies only), and administrative agency appeals. The court receives its criminal cases from three county district courts and five municipal courts.

Set against a background of an Ohio Supreme Court initiative to monitor caseload in the trial courts, the Montgomery County court has a tradition of commitment to efficient and effective caseload management. During the past decade it has undertaken innovative programs aimed at improving both criminal and civil case processing. The programs have clearly been successful: by any measure, the Dayton court is in the top rank of urban trial courts in America in terms of the effectiveness with which it manages both its civil and criminal caseloads. It is an outstanding example of a court with an individual calendar system in which all of the judges have responsibility for both civil and criminal cases. The median time for disposition for felony cases is 42 days from the date an indictment is filed, and 90 percent of these are concluded in 123 days. Median time for civil cases is 168 days, and 90 percent are disposed within 515 days.

This profile presents an overview of criminal and civil caseload management in Dayton. It provides background on the development of the systems that are now in place, describes the current operations of these systems (with particular attention to key elements that make them effective), and discusses several key issues on which the court is currently focused.

Caseflow Management in Dayton: Origins and Development, 1971-1988

Like other trial courts in Ohio, the court in Dayton functions within a legal framework that changed dramatically following the adoption of a new judicial article to the state's constitution in 1968. The new constitutional provisions gave the Ohio Supreme Court general superintending authority over all courts in the state and vested it with broad rule-making authority. In 1971 the supreme court exercised that authority by promulgating the Rules of Superintendence, which created a new administrative system. Designed to address backlogs, delays, and inefficiency, the Rules provided for:

- all multijudge courts of common pleas to have an administrative judge in each division and a presiding judge for the entire court;
- the mandatory use of individual calendar systems;
- guidelines to limit continuances;
- in criminal cases, a six-month limit on the time from arraignment to trial;
- in civil cases, guidelines calling for personal injury cases to be completed within two years and most other cases within one year;
- a monthly reporting system focused on the number and age of cases pending on each judge's docket.

The Rules of Superintendence established the general framework for court administration within Ohio. In Dayton, the Rules had less of an effect than elsewhere, since the court had been operating on an individual calendar system since 1968, and the dockets of the individual judges were generally in good shape. However, the Rules did help focus the attention of both judges and lawyers on court delay and caseflow management. On the criminal side, the Ohio legislature's speedy trial act of 1973 gave defendants the right to be brought to trial within 90 days after arrest if in custody, or 270 days if on bail, and created additional pressure for expeditious criminal case processing.

The Criminal Case Management Program

In 1977 the Dayton court was invited to participate in a multijurisdiction felony case processing project conducted by the Whittier Justice Institute under the leadership of Dean Ernest Friesen. The Whittier team worked with judges and court staff to collect data on the time between key events in the arrest-to-disposition process, track the paper flow, and examine the existing process in light of a model based on the system then

functioning in Portland, Oregon. The information and analysis were presented to the court and to the newly formed criminal justice coordinating committee organized and chaired by the court's administrative judge, Carl D. Kessler.

The prospect of improved felony case processing was attractive to Judge Kessler and to other judges in the court's general division. Although they did not feel that the court had a significant problem of criminal case delay, they recognized that improved management of felony cases would enable them to devote more time and attention to their civil caseloads. The state of the civil docket was a matter of growing concern in the late 1970s, with some judges feeling that the 1973 Criminal Speedy Trial Act was requiring them to place too much emphasis on their criminal caseloads.

The decision to go ahead with a criminal case management plan was, at least in part, a recognition of the interrelationship between civil and criminal case processing.

As implemented in November 1978, the criminal case management plan called for a maximum of ten weeks from arrest to disposition, including no more than six weeks from indictment to disposition. While there have been some minor modifications over the past ten years, the basic features of the plan have remained essentially the same. They include the following.

- Early screening and continuous case control by both the prosecutor and the courts.
- Use of the arraignment on the indictment as a key control point for case management in the common pleas court.
- Early discovery, with packets containing key documents (e.g., police reports, witness statements, defendants' statements, lab reports) provided by prosecutor to defense counsel between indictment and arraignment.
- Early pretrial conferences between prosecutor and defense counsel, usually held a week after arraignment.
- A scheduling conference, conducted by the judges one to two weeks after the pretrial conference, to accept pleas or to establish dates for filing and hearing motions and for trial.
- Firm trial dates, with provisions made for back-up assistance if a judge has two or more trials ready to go on the same date.
- Acquisition and effective use of management information to monitor caseflow management effectiveness.

Figure 1 (p. 9) shows the steps in case processing required by Ohio law and Montgomery County's criminal case management plan. A more

detailed outline of the criminal caseload management system can be found in Appendix A1. When the system was first introduced, it reduced felony case processing times in the common pleas court on every measure. Median times from indictment to disposition, for example, dropped from 69 to 43 days. Between 1979 and 1983, the times slipped a bit, but after the court embarked upon a civil case management program in 1983, felony case processing times became as speedy as they had been just after the plan was first implemented in 1978. Table 1 (p.10) summarizes the available data on the court's felony case processing times over the 1979-87 period.

The Civil Case Management Program

In 1982, after four years of experience with the criminal case management plan, automation of the civil caseload began. The judges recognized that a computerized information system could facilitate better and more uniform case management. The needs of criminal attorneys had received much attention through implementation of the criminal case management plan, and court leaders felt that the civil bar needed some management assistance.

Consistent with its commitment to the principle of court control of cases, the court recognized that a computer system should be designed around a case management system. A three-judge committee was appointed to develop a civil case management plan that the computer system would support. The major objectives of the 1983 automation plan were to computerize data collection for the court's monthly *Supreme Court Caseload Report* and to establish on-line access to case status information, which would improve judges' case-monitoring ability. The judges' committee also examined civil case processing goals.

While no one in the court felt there were serious problems of delay, most recognized that some civil cases were taking longer than they should. Therefore, the judges' committee reviewed the court's experience with different types of civil cases and recommended a set of maximum time frames as follows.

Habeas corpus	60 days
Mortgage foreclosure	120 days
Administrative appeals	120 days
Injunction	150 days
Worker's compensation	180 days
Appropriation	180 days
Personal injury	270 days
Medical malpractice	360 days
All others	150 days

Figure 1
Criminal Case Processing

Montgomery County Court of Common Pleas General Division

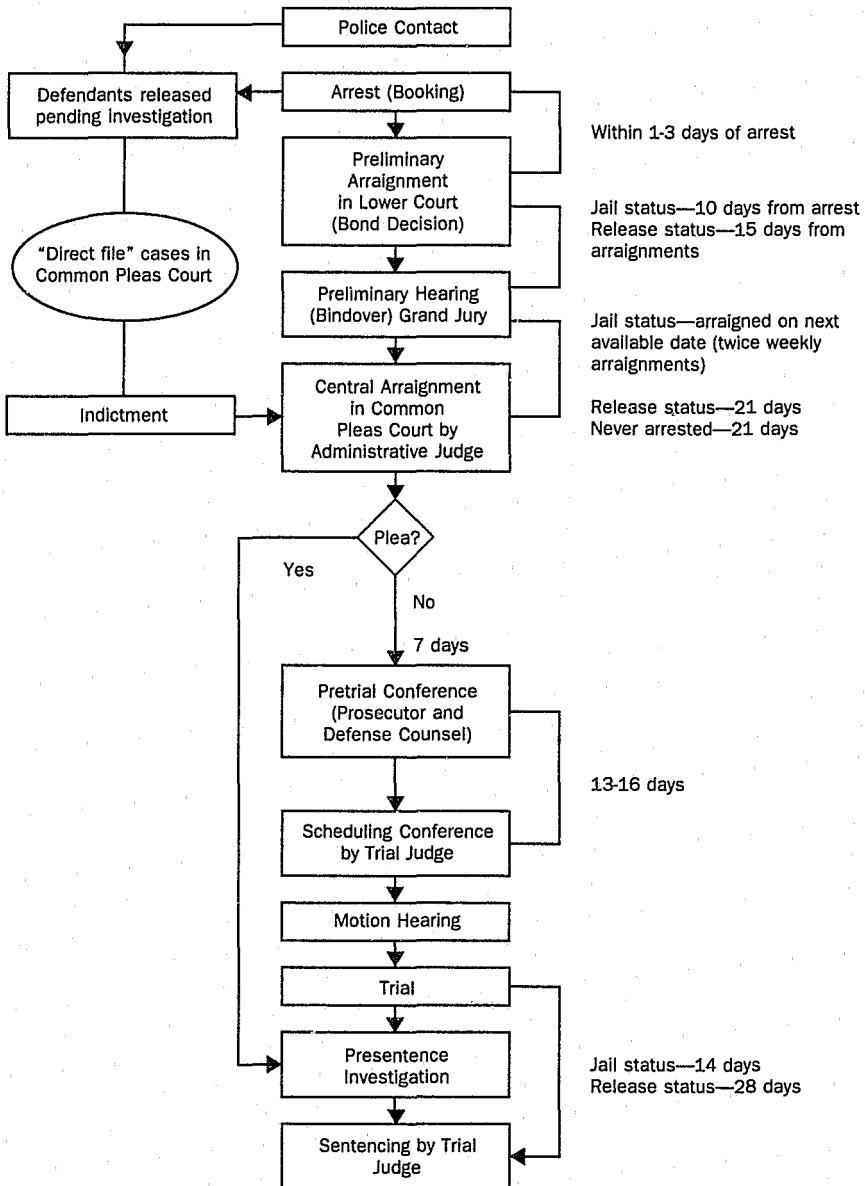


Table 1
Felony Case Processing Times in the
Montgomery County Court of Common Pleas
(Days)

	1979	1983	1985	1987
Total Processing Time				
Arrest to Disposition				
Median	—	88	61	55
Third Quartile	—	151	101	98
90th Percentile	—	226	190	169
Percentage of Cases Requiring Over 180 days		17	12	7.5
	1979	1983	1985	1987
Upper Court Processing Time				
Median	69	64	47	42
Third Quartile	104	119	85	73
90th Percentile	167	206	171	123
Percentage of Cases Requiring Over 150 days		17	13	5.5

The judges' committee recognized that "there may be exceptions due to the peculiarities of a given case" but believed that the recommended limits were reasonable for the period from filing to termination. All of the time limits were considerably shorter than those contemplated by the Ohio Rules of Superintendence.

The primary operating principles for the civil case management plan developed by the judges' committee and the court staff are the same as for the criminal plan: early and continuous control by the court. Once a complaint is filed, the court ensures that it is brought to a conclusion efficiently. In doing so, it takes advantage of the automated information system. Early case control is achieved by entering all civil cases filed with the clerk's office (which is *not* computerized) into the court's computerized civil case management system within a matter of minutes or hours. Continuous control is achieved through monitoring of service and answer, dismissal of cases when there is a failure to proceed, and an early case-scheduling conference held by the judges to establish a time for completing discovery and other case events (e.g., the trial date). The principles of early and continuous control (which are supported by the computer system) are

made effective by involving the attorneys in the selection of trial and other critical case event dates (thus reasonably accommodating their needs) and then expecting and delivering firm trial dates, just as had been done for criminal cases. **Figure 2** (p. 12) shows a simplified flow chart of civil case processing and case monitoring. Appendices A1 and A2 describe in greater detail which activities are performed by judges' staff, who monitor service and answer and notify attorneys of delays and consequences. While the process is controlled, it is also flexible so that attorneys who are responsive to notices from the court can be accommodated.

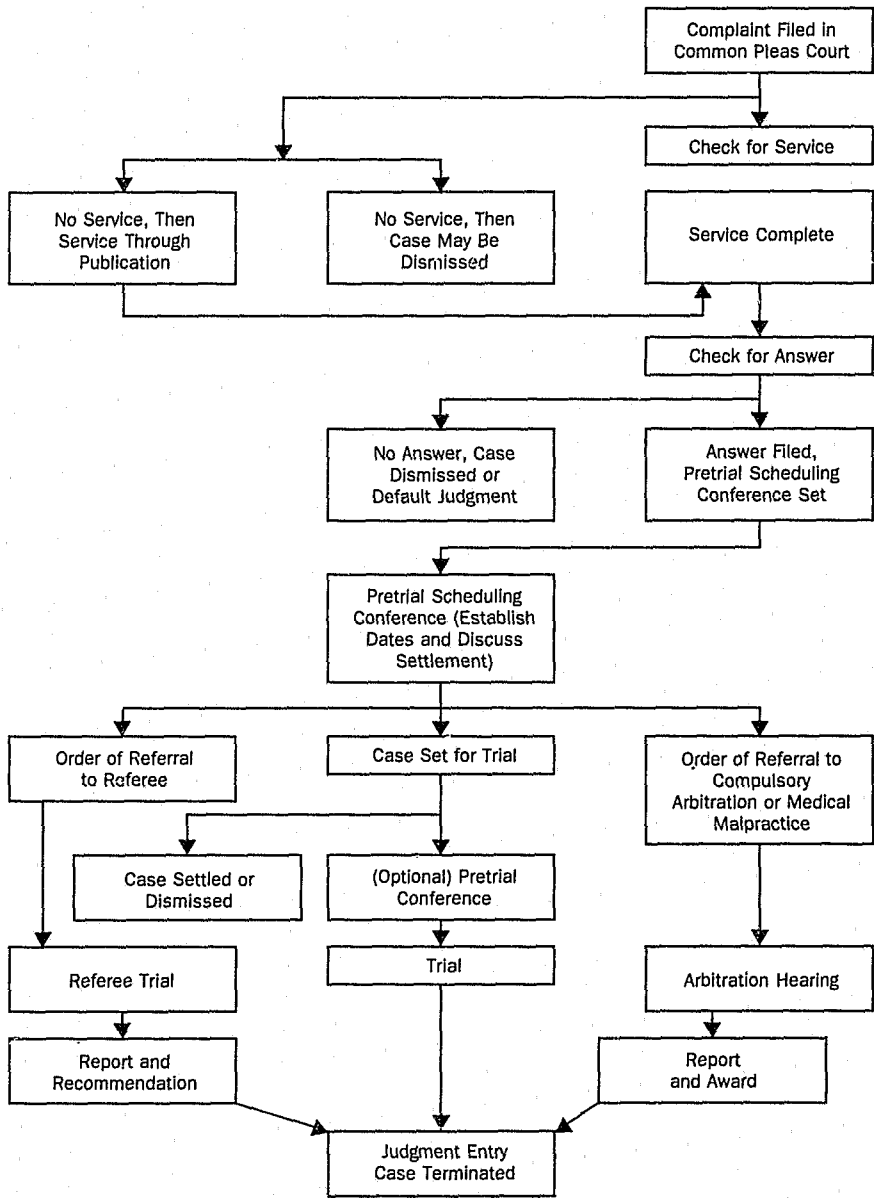
The court's civil case management program has been very effective. Despite a 17 percent increase in filings from 1983 to 1987, terminations have actually outpaced filings, and case processing times have become even speedier. **Table 2** summarizes the data.

Table 2
Civil Case Processing Times in the
Montgomery County Court of Common Pleas, 1983-87

	1983	1985	1987
Disposition Time for Torts			
Median	345	279	275
Third Quartile	504	445	413
90th Percentile	795	744	593
Percentage of Cases Requiring Over One Year	47	35	31
Percentage of Cases Requiring Over Two Years	14	11	4
Disposition Time for Nontorts			
Median	130	131	119
Third Quartile	290	253	252
90th Percentile	536	460	445
Percentage of Cases Requiring Over One Year	18	16	15
Percentage of Cases Requiring Over Two Years	5	4	3
Disposition Time for All Cases			
Median	178	178	168
Third Quartile	382	357	328
90th Percentile	636	628	515
Percentage of Cases Requiring Over One Year	26	24	21
Percentage of Cases Requiring Over Two Years	8	7	4

Figure 2
Steps Involved in Typical Civil Case

Montgomery County Court of Common Pleas General Division



The Dayton Court in 1988: An Overview of Its Workload, Resources, and Organization

Workload

Criminal Cases. There were 2,842 criminal cases filed in Dayton in 1988. This all-time high represents a whopping 28 percent increase over 1987 filings of 2,221. Criminal filings between 1972 and 1987 fluctuated between a low of 1,705 in 1978 and a high of 2,418 in 1982. **Table 3** shows the criminal caseload in Dayton from 1983 through 1988.

Table 3
Criminal Caseloads, 1983-87

	1983	1984	1985	1986	1987	1988
Pending at Start of Year	582	399	323	333	359	460
Filed/Reopened	2,246	1,918	1,840	1,978	2,221	2,842
Disposed	2,429	1,994	1,830	1,952	2,120	2,754
Pending at End of Year	399	323	333	359	460	548

While serious crimes make up about 13 percent of Dayton's criminal caseload, a very small percentage of criminal cases go to either bench or jury trial, as illustrated in **Table 4**.

Table 4
Criminal Caseload and Court Characteristics

	1983	1985	1987
Percentage of Murder, Rape, Robbery	12.6	16.0	13.4
Percentage of Cases Disposed by Trial			3.6
Percentage of Cases Disposed by Jury Trial	4.0	7.0	2.9

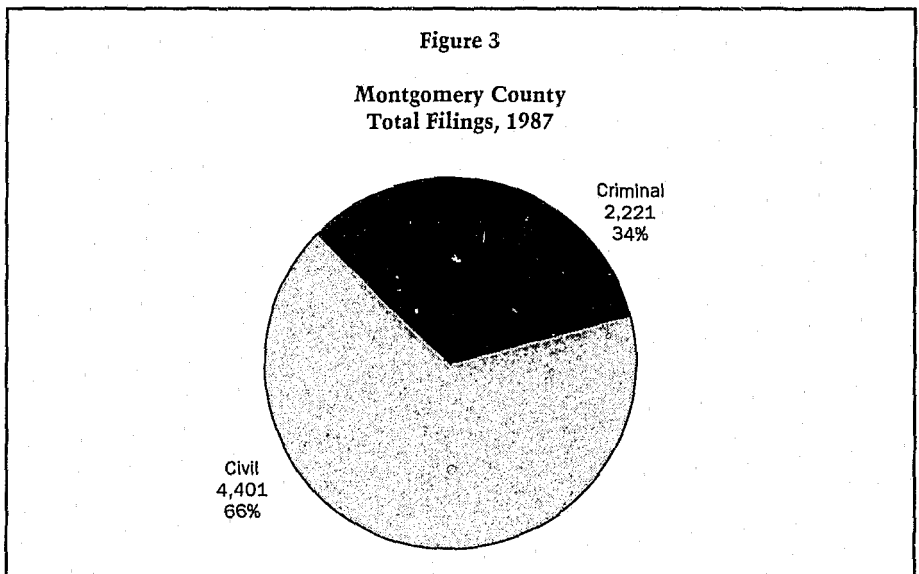
Civil Cases. The trend in civil filings since 1983 is shown in **Table 5**. There were 4,401 new civil cases filed in 1987, an all-time high in a civil case-filing trend that has steadily risen for nearly two decades. There was

Table 5
Civil Caseloads, 1983-88

	1983	1984	1985	1986	1987	1988
Pending at Start of Year	2,682	2,569	2,559	2,596	2,712	2,511
Filed/Reopened	3,749	3,721	3,973	4,117	4,401	5,052
Disposed	3,862	3,731	3,936	4,001	4,602	5,171
Pending at End of Year	2,569	2,559	2,596	2,712	2,511	2,392

another substantial increase in 1988, when 5,052 civil cases were filed. However, the court decreased the number of pending cases at the end of 1987 to below the 1983 level. The pending caseload was reduced still further in 1988. There were fewer cases pending at the end of 1988 than in 1983 despite the steady increases in filings. One explanation for this success lies in the restructuring of the civil case management system and implementation of case management procedures for the referee program during 1987. These measures were taken in response to increases in the pending caseload during 1986.

About 1 percent of Dayton's civil cases were disposed by jury trial in 1987. Figure 3 shows the civil and criminal caseload mix in Dayton.



Resources and Organization

There are nine full-time elected judges in the general division of the Montgomery County Common Pleas Court, which is one of four divisions. There is also a domestic division with two judges and probate and juvenile divisions with one judge. Judge Kessler is the presiding judge of the entire court and the administrative judge of the general division. The judicial resources of the court include two full-time referees who hear civil matters by consent of the parties and a visiting judge program that provides the general division with the equivalent of one full-time judge. The visiting judges sit in a courtroom dedicated to the program and permanently staffed by a bailiff and court reporter. Each judge is scheduled on a rotating basis to use the visiting judge to hear cases on his or her calendar. Thus, while accountability for the cases remains with the Dayton judge, periodically that judge can schedule twice the normal number of cases for trial.

The court administrator for the general division is Judith A. Cramer. She supervises an assignment office that assigns cases to judges, maintains the case management data, and prepares calendars and court statistics; a jury commission office; referee and arbitration program support; staff of the visiting judge program; and the court's business office. Also included among the court's programs are an adult probation service and an adult community corrections institution, the MonDay program. Figure 4 (p.16) is an overview of the organization and functional areas of the court.

Key Elements of Effective Caseflow Management in Dayton

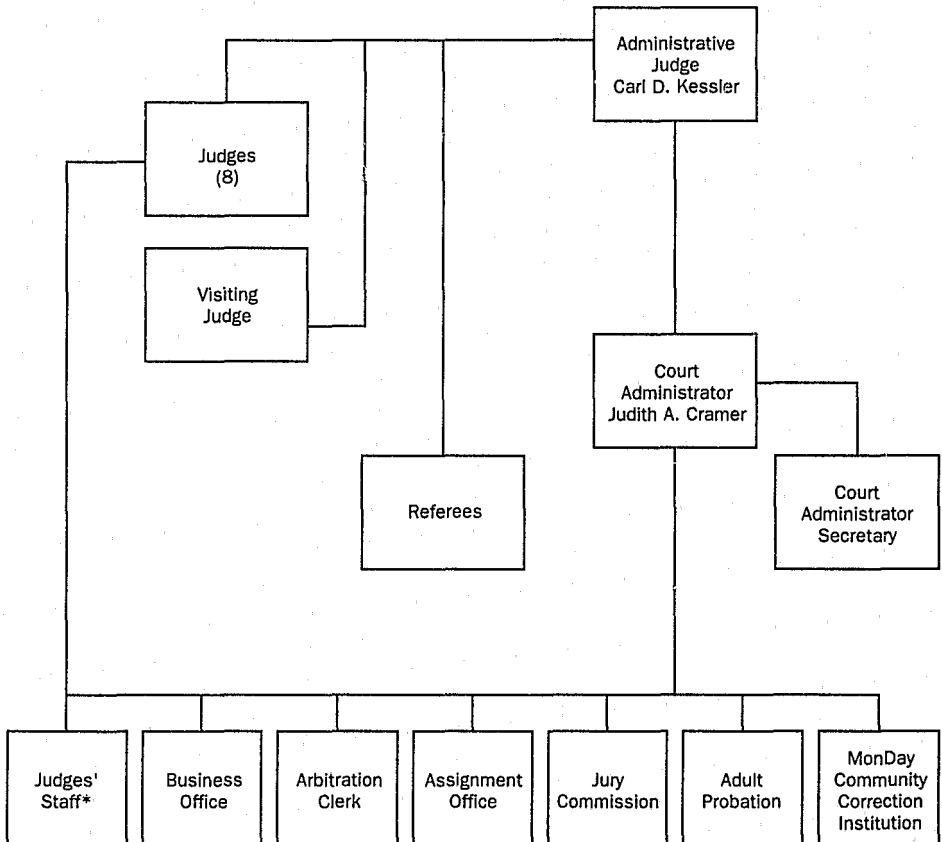
Leadership

The Montgomery County Court of Common Pleas and its general division have been fortunate to enjoy continuity of able leadership from the presiding judge and trial court administrator for many years.

The Ohio Constitution provides that a presiding judge of the common pleas court be elected by the other judges to serve "at their pleasure." The administrative judge is elected annually, but reelection is permitted under Ohio Supreme Court Rules. The same person may be the presiding and administrative judge. Ohio has a partisan system for electing judges, and in Dayton the respective parties exercise a significant degree of influence over the selection and retention of the leader. Judge Kessler has been retained in both positions since 1974. He has provided the court with the continuity of leadership that is so advantageous for stability and innovation.

Figure 4
Overview of Court Organization

Montgomery County Court of Common Pleas General Division



* Secretaries, Bailiffs, Court Reporters

Judge Kessler has a strong personality and is clearly in charge of this court, and effectively so. During his tenure, he has institutionalized the expectation that the court's leadership will be activist, outgoing, and committed to court control of its caseload. He has been as insistent on

adequate resources to accomplish the court's purposes as he has on restraint in its demands and careful management of what it has. The court is an integral and respected part of the county government. Judge Kessler emphasizes coordination, communication, and cooperation with other agencies, and he selected a court administrator with a contrasting but complementary style of realizing those objectives. When Judge Kessler must be combative, his court administrator will be conciliatory; when he is blunt, she will be tactful; when he is directive, she is responsive.

Judith Cramer has been the trial court administrator in Dayton since 1980. One mark of her success is that she is perceived locally as a manager who can be relied on to carry out the ideas and policy direction of the judges. She is known for a management style that emphasizes staff involvement, consensus building, and employee motivation through positive reinforcement. Her work in court administration extends outside of Dayton—she is active in the Ohio Association of Court Administration and is a past president of the National Association for Court Management. Ms. Cramer is nationally recognized as a leader in court administration and serves on the board of directors of the National Center for State Courts.

Together, Judge Kessler and Judy Cramer make a management team that exemplifies success at forging an effective executive component for the court. Evidence of this is apparent in a sustained record of sound case management and timely disposition of cases; in the management of court resources, which are adequate, but not lavish; in innovations in management, programs, and technology, which are carefully considered beforehand; and in the high level of morale and professionalism felt in the halls, offices, and courtrooms of this courthouse.

Goals

The existence of case processing goals, and the attention paid to them, are striking features of the Montgomery County general division. There have been explicit case processing goals set by the Ohio State Supreme Court Rules of Superintendence since 1971, and the Dayton court has established its own goals for civil cases that are more detailed and aggressive than the statewide standards. The court's expectations for firm trial dates and a low rate of continuances reflect implicit goals. Continuances in criminal cases are monitored, counted, and reported. Less explicitly, the court seeks to keep its general division pending caseload at about 300 cases per judge.

Not directly relevant to caseflow management goals, but indicative of the court's recognition of purposeful management, is the practice of

setting goals for each organizational unit of the court and, even, for each employee. These goals are an integral part of the employee evaluation process.

Information

The court has a computerized civil case management system. Its criminal case information is kept manually, but a computerized criminal system is under development. The court's caseload management information is derived from data required to provide the *Supreme Court Monthly Caseload Report*. One supplement to these data is a regular report of continuances in criminal cases, by judge and by attorney. The continuance reports, illustrated in Appendix C, help the court's judges keep track of which attorneys request continuances, for what reasons, and how often the requests are granted. The reports serve as regular reminders that the court seriously expects that events will take place as scheduled.

Among the very useful data kept by the Montgomery County case management system are numbers of pending cases and the age of cases since the time of filing. Judges regularly receive summary reports showing trends in the average time to disposition for their cases, and they can compare their performance with other judges. (These reports are not distributed publicly, however.) The system enables the court to track the number of cases that exceed the expected time to disposition, and the automated civil system allows the computer to list the pending caseload of each judge by order of age, with oldest cases at the top of the list for rapid identification.

Not content with a good status quo, the court is now using a second-generation civil system. The enhancements are aimed primarily at automating identification and response to cases that are not progressing in a timely fashion, as measured by completion of such things as notice, answer, and motion for default judgment. This makes the task of maintaining continuous control of cases on a firm schedule easier to accomplish. Use of the enhanced system was limited in 1988, but once fully operational for all judges it will provide a source for even more sophisticated case management data than the court has used in the past.

The court demonstrates that good information to support goal-driven case processing does not require a computer. Although criminal case information is just now being automated in Montgomery County, the court accurately reports average time to disposition for each judge's criminal caseload and produces the continuance reports previously mentioned.

Some of the regularly produced criminal case reports are listed below. Appendix B1 illustrates one of the reports. Comparable reports are available for civil cases.

- (1) Elapsed time reports:
 - Average time from arrest to trial, plea, or dismissal (by judge, monthly and annually)
 - Average time from arrest to sentencing (by judge, monthly and annually)
 - Average time from trial verdict or plea to sentencing (by judge, monthly and annually)
- (2) Trends in filing to disposition for each judge;
- (3) Individual judges caseload activity reports; and
- (4) Reports of continuances granted, by judge and by attorney.

Reports that are available from the enhanced civil system include lists of cases that have passed deadlines for interim events like notices, answers, and conferences.

Communications

Effective communication, both internally and externally, is one of the strongest assets this court has developed, and the investment has been worthwhile. Dissemination and discussion of case management information is but one form of the investment. Regular meetings held among court staff at various levels and among court staff and other agencies is another. Written policies, which are commonplace, and employee orientation, education, and evaluation systems contribute to clear communication of court goals and round out the portfolio. Judges' meetings are held monthly.

While the mechanics of communication often may be present in an organization, good communication itself may be missing because the substance of communications are superficial, avoiding controversy and tough issues. This is not what happens in Dayton's justice community, where court leaders believe that surfacing problems is a precondition for solving them. In Montgomery County, problem recognition and communication does not take a backseat to conflict avoidance.

Caseflow Management Procedures

The court has well-developed and well-documented case management procedures for civil and criminal cases. They are not complex and are models for other courts to consider. They have been summarized earlier and are presented in greater detail in Appendices A1 and A2. While the basic systems have been in place for many years, they are not static and taken for granted. The points we have already mentioned—the new computer capabilities and refined civil case management goals—demonstrate this. The work the court completed in 1987 on weak areas in its case management system—the referee and arbitration programs—is also evidence of continued vigilance and management response.

Judicial Responsibility and Commitment

The commitment of the judges of this court to court control of cases and timely case processing is evident. Lawyers, judges, and court staff all explicitly recognize that the court has case processing goals and that case management is a desirable prerogative. But evidence of commitment is not only found in the rhetoric of the judges, employees of the court, and the bar, it is also seen in the kinds of information the court keeps, in its automation plans, and in the work of committees of judges and staff. Most importantly, it shows up as *results* in the time to disposition data.

Accountability

The chain of command is clear in Montgomery County. As one NCSC interviewer in Dayton wrote, "The lines of authority are perceived as being quite clear by court staff. All court staff referred to the line of authority when asked what they would do if a serious problem arose." More importantly, all staff describe the line of authority in the same way. Judges, too, acknowledge their accountability for court control. Employees clearly understand *when* the chain of command needs to be invoked, as well as how to invoke it. Clearly stated goals, extensive written policies, monitoring techniques, and useful information provided to judges are material to the court's systems for accountability. They are woven together by meaningful employee evaluation, training, and motivation practices. The annual development of goals for each supervisor and unit, and all staff members, are part of the court's accountability system, as are an annual employee evaluation process and an employee recognition program.

Standards of accountability for judges in caseload management are well institutionalized in Ohio, along with a mechanism for assisting the trial judges and the administrative judge to maintain them (i.e., the *Supreme Court Monthly Caseload Report*). Much of what has been said already makes clear that this court uses the mechanisms and takes the standards seriously.

Administrative Staff Involvement

Administrative staff are major contributors to the success of caseload management in Montgomery County. The interplay between the staff in the central assignment office and in the judges' offices is one of the reasons the court has a successful caseload management system. Routine involvement of court staff in committees and working groups designed to document the nature and scope of problems, and contribute to new plans and solutions, is another reason. The Montgomery County court is proof

that having a central docket control program and a staff actively involved in case management and promotion of the court's goals need in no way interfere with or undermine the autonomy of the judges. To paraphrase remarks by Judge Kessler on the subject, court staff case management responsibilities in a well-managed court end at a line drawn by the administrative judge and watched over by the court administrator and the trial judges themselves. In Dayton, the line encompasses activities that produce timely, accurate, and complete information about the status of cases, both individually and in the aggregate. How far beyond that it extends in Dayton and in other courts varies with the needs of the court at any given time; the disposition of the trial judges; the skills, imagination, and reliability of the staff; and, finally, with how well accountability is maintained in the court.

Education and Training

The court operates an annual training program for lawyers in Montgomery County that includes indoctrination and information about the court's caseload management system. The court provides both an extensive orientation program for new employees and a wide variety of professional development and skills-training programs to help maintain and improve the capabilities of all staff members.

A tuition reimbursement program is available to employees who wish to continue their formal education by attending classes at colleges and universities in the area. These are important elements that contribute to strong communication and accountability.

Backlog Reduction/Inventory Control

Dayton's caseload management efforts did not arise out of a serious backlog or delay problem. Therefore, there is no experience with a specific backlog reduction program. What is important, however, is that the court keeps a watchful eye on its inventory of cases. It *regularly* monitors filing to disposition rates, size of the pending caseload, and average time to disposition. This has *prevented* the development of backlog problems in the face of increasing filings. While filings have gone up, pending caseloads and time to disposition have gone down.

The general division of the Montgomery County Court of Common Pleas has the potential to emerge as a court that discovers the limit where expeditious case processing intersects with preservation of high quality case resolution. All indications are that this limit has not yet been fully tested.

Current Issues and Concerns

The court is reexamining aspects of its criminal case management plan, in response to the dramatic increase in criminal filings and acute jail-overcrowding conditions. The system has been adequate to meet a stable caseload that hovered between 1,800 and 2,000 filings per year, but it is showing signs of recent strain from the increased workload and gradual changes in practices of the prosecutor's office and defense attorneys and corresponding compensations made by judges.

A marked increase in criminal cases that are initiated by direct indictments has created new case management problems that are being examined. Specific concerns are the need for earlier appointment of defense counsel, continuity of defense representation, and revitalization of the quality of pretrial procedures, including early prosecutorial screening and preindictment negotiations between the prosecutor and defense counsel.

Most important among current issues is the approaching retirement of Judge Kessler. In preparation for the change in leadership, the other judges of the court are increasingly being asked to participate in committees that address specific areas of administrative policy (e.g., automation, oversight of the referee program, continuing education). Meanwhile, Judge Kessler continues to direct efforts to further improve administrative practices and case management procedures in response to changing times.

Detroit Recorder's Court

Detroit, Michigan

By BARRY MAHONEY
WILLIAM HEWITT
ALICE LARKIN

Contents

	<i>Page</i>
Introduction	27
The 1976 Crash Program and Its Aftermath	28
Detroit Recorder's Court in 1988: An Overview of Its Workload, Resources, and Caseflow Management System	30
Key Elements of Effective Caseflow Management in Recorder's Court	36
Current Issues and Concerns	43

Detroit Recorder's Court

Introduction

In 1976 the Recorder's Court for the City of Detroit—the court that, at that time, handled all stages of all criminal proceedings instituted against persons charged with crimes committed in the nation's fifth-largest city—was in serious difficulty. Felony caseloads had been rising steadily for three years, total dispositions were decreasing (despite a 1973 increase from 13 to 20 in the number of judges on the court), and the number of the court's defendants held in the city jail had more than doubled in three years. On December 31, 1976, there were over 6,331 pending cases—a fourfold increase over the number pending at the end of 1973.

Within two years, the situation had been turned around completely—the result of a strikingly successful crash program to reduce the backlog and develop an effective caseload management system. The systems and procedures that were put in place during the 1976-78 crisis have been modified to some extent during the past ten years, but the basic approach to caseload management has been very consistent over the past decade.

The positive long-term effects of the program initiated during the 1976-78 period can be seen in a number of ways.

- Most cases reach disposition in less than two months from the date of the defendant's arrest.
- Only a small fraction of cases (about 14 percent) took more than 180 days to reach disposition in 1987.
- Trials are held in a relatively high percentage of cases, compared to other urban courts. In 1987 approximately 8 percent of the court's

dispositions were by jury verdict, and another 16 percent were by bench trial.

- Trial dates are firm. In 1987 less than 15 percent of the cases set for jury trial had to be rescheduled.
- Despite a marked increase in the volume of new filings, pending caseloads have been kept manageable.

What explains the court's success in maintaining an effective system over the 1978-88 period? Part of the answer lies in the concern of the court's leaders during the 1976-78 period to do more than simply crash the backlog. They took advantage of the crisis to design and put in place a comprehensive caseload management system—one with ambitious but achievable goals, ongoing collection and use of information relevant to the achievement of those goals, open communication among practitioners, and well-thought-through procedures for managing the court's business.

Dynamic and able leadership—both during the crisis and in the decade that followed—has been an important part of the story, but it is not the only part. There has also been an increase in judicial resources (although the court is by no means "overjudged" in comparison with other urban courts), a strong emphasis on effective use of nonjudicial (staff) resources, and a major investment in education and training for judges and staff and for lawyers practicing in the court.

This profile provides an overview of Detroit Recorder's Court, focusing particularly on key elements that contribute to its effectiveness in caseload management. Our primary concern is with the system as it currently operates, but in this court the history of how the current system developed is especially important. Not only has the history shaped current practices and attitudes in Detroit (no one wants to go back to the situation that existed in 1976), it also has important lessons for other courts that must address backlog as a threshold issue.

The 1976 Crash Program and Its Aftermath

Detroit Recorder's Court had switched from an individual calendar system to a central docket (master calendar) system in 1975, a move that proponents of the central docket system thought would help stem the growth in the pending caseload. During the year that followed, however, the situation grew progressively worse. The caseload continued to increase, delays worsened, and—perhaps the greatest concern—the size of the jail population increased to the point where some type of explosion seemed imminent.

During the fall of 1976, the Michigan Supreme Court decided to intervene. In effect, it placed the court in receivership, appointing a special judicial administrator, T. John Lesinski, to oversee a crash backlog and delay reduction program. Through the state's administrative office of courts, the supreme court also arranged for an infusion of state and federal funds—an estimated \$8 million in all—to support the cost of temporary additional judges, prosecuting attorneys, administrative and clerical staff, and security personnel for the crash program. The program formally began in January 1977 with two main goals:

- To reduce the number of Recorder's Court jail inmates from 1,226 to a maximum of 550 within six months; and
- To establish a new docket management system that would provide for a 90-day track from arraignment on the warrant (AOW) to trial.

The strategy was to address difficult cases—those involving defendants held in jail (many facing serious charges that would result in lengthy prison terms) and other cases lost in the system—while simultaneously changing the way new cases were handled. From the outset, the program was conceived not merely as a solution to a crisis but as an opportunity to think through and streamline the entire criminal justice process in Detroit.

For practical purposes, the court operated on a two-track system for about 18 months beginning in January 1977. One track was for the backlog cases (the older pending cases), the other for pending cases that had been filed relatively recently and for all cases that would be filed in the future. The backlog cases were handled mainly by visiting judges. The other cases were handled by Recorder's Court judges, working within a docket management system devised principally by Lesinski and by the court's chief judge, Samuel Gardner. Implementation of the program for handling new cases involved a number of changes, many of which have remained in place. They include the following.

- A docket control center, set up to collect and analyze information about activities in each courtroom, monitor progress, and to help identify problems in court performance.
- Creation of a system of executive judges, each of whom would have administrative responsibility for a cluster of courtrooms.
- A change from the central docket system to a modified individual calendar (or hybrid) system, in which cases would first be randomly assigned to one of the five executive judges for arraignment on the information (AOI) and thereafter (if no disposition was reached at the AOI) to one of the other judges in the cluster.

- Promulgation of a set of docket directives—rules to be followed by judges and clerks in scheduling cases for motion hearings, trials, and other events.
- Docket directives included a plea cut-off date policy coupled with a trial-scheduling policy, designed to ensure that trial dates were firm.

The results indicate that the program was strikingly successful. Seventeen months after the program began, the active pending caseload was down to 1,204 (from 6,331); the number of the court's jail cases was down to 580 (from 1,226); and the number of cases pending over six months from bindover had decreased from 418 to 237. The median time from bindover to disposition in newly filed cases dropped from 40 days to 19 days, and, more significantly, the disposition time for the 75th percentile case dropped from 170 to 60 days.

By 1979, the state-appointed special judicial administrator had left the court. The challenge, at that point, was for the court to consolidate and institutionalize the gains made during the crash program. In the ten years that have passed, that challenge has been met successfully, despite two major system changes—a 1983 Michigan Supreme Court opinion prohibiting judges from involvement in negotiations about sentences and the introduction of sentencing guidelines that decreased judges' discretion and seemed to provide greater incentives for defendants to take cases to trial. The court has also gone through a transition in leadership (its chief judge for ten years, Samuel Gardner, retired from the bench in 1987 and was succeeded by Chief Judge Dalton Roberson) and, as part of a merger with the Wayne County Circuit Court, Recorder's Court has taken on all felony cases originating in Wayne County outside the city of Detroit.

As Table 1 shows, case processing times stayed remarkably consistent in Detroit Recorder's Court during the 1983-87 period. The times shown in the table put the court in the top rank of urban trial courts in terms of the speed with which it deals with its caseload.

Detroit Recorder's Court in 1988: An Overview of Its Workload, Resources, and Caseflow Management System

Detroit Recorder's Court has a complement of 29 elected judges. Since January 1987, the court has also been handling cases originating in Wayne County outside the city of Detroit. To help handle the out-county caseload, five Wayne County Circuit Court judges are assigned to Detroit Recorder's Court at any one time to serve for three-month periods. A case can be handled by any of the 34 judges, regardless of whether it originated in Detroit or in suburban Wayne County.

Table 1
Case Processing Times in Detroit Recorder's Court, 1983-87

	1983	1985	1987
Total Processing Time (Complaint to Disposition)			
Median	69	58	71
75th Percentile	143	109	131
90th Percentile	234	183	212
Percentage of Cases Over 180 Days	14	10	14
Upper Court Processing Time (Filing of Information to Disposition)			
Median	43	31	39
75th Percentile	117	80	99
90th Percentile	202	141	178
Percentage of Cases Over 150 Days	17	8	14
Lower Court Processing Time (Complaint to Information)			
Median	21	21	23
75th Percentile	25	24	26
90th Percentile	36	34	35
Time from Disposition to Sentence			
Median	16	21	21
75th Percentile	21	29	27
90th Percentile	30	39	39

As the figures in Table 2 show, there has been a significant increase in case volume in the court over the past two years. The increase appears to result from two factors: (1) the addition of the cases originating in suburban Wayne County and (2) an upsurge in felony arrests, principally on charges of sale or possession of narcotics.

Before the merger, there were an average of 8.4 Wayne County Circuit Court judges and 29 Recorder's Court judges on the criminal docket. From 1986 to 1988, the total felony case workload in Wayne County increased by 24 percent and was being handled with 9 percent fewer judges. The number of new filings per judge increased from 326 in 1986 to 420 in 1987 and to 498 in 1988.

Table 2
Felony Case Volume in Wayne County, 1986-88

	1986	1987	1988
Bindovers—Cases Originating in Detroit	9,462	11,094	11,885
Bindovers—Cases Originating outside Detroit	3,148 ^a	3,197	3,747
Total Bindovers	12,610	14,291 ^b	15,632 ^b

^a Handled by circuit court.

^b Figures do not include welfare fraud cases.

By any measure, the Recorder's Court caseload includes a high percentage of cases involving serious charges. Table 3 presents a breakdown of casetypes, showing the most serious offense charged in cases involving Detroit defendants arraigned on the warrant during 1988.

The court's own data, as of January 25, 1989, shows a total pending caseload of 2,837 cases, or approximately 83.4 cases per judge. Of the total number of active pending cases, 159 (or 5 percent) had been pending for more than 180 days.

Table 3
Detroit Arraignments on the Warrant, 1988

	Number	Percent
Narcotics	4,780	33.0
Breaking and Entering	1,338	9.0
Carrying a Concealed Weapon	1,236	9.0
Receiving/Converting Stolen Property	1,007	7.0
Assault	856	6.0
Robbery (Armed)	618	4.0
Criminal Sexual Conduct	589	4.0
Homicide	616	4.0
Fugitive Escape	561	4.0
Auto Theft	548	4.0
Other	2,363	16.0
Total:	14,512	100.0%

While the January 1989 figures on pending cases are remarkably good in comparison with data from most other urban trial courts, they have caused concern in the leadership of the court. The size of the active pending caseload and the number of cases pending over 180 days are viewed as especially important indicators of overall court performance, and analysis of trend data indicates some slippage over the preceding two years. At one point, before the merger with the circuit court, the number of cases pending more than 180 days had dropped to a low of 12. To help address the problems, the court recently revised its organizational structure and case assignment system to increase productivity.

While retaining the basic case assignment system designed during the 1976-78 crisis period, the court modified it to create seven docket management teams of judges, each headed by an executive judge and including two to four other judges. As cases are bound over from one of the 22 district courts in Wayne County, which handle the preliminary stages of criminal cases, they are assigned by blind draw to one of the seven teams. Assignments are made randomly, but follow a formula designed to ensure that each team gets its proportionate share of the cases. Within the team, the case goes first to the executive judge, who conducts the arraignment on the information—usually within 21 days of the arrest and about 14 days after the bindover in district court.

Plea negotiations involving the prosecutor and the defense will typically take place before the arraignment on the information. This is possible because of three key features of the criminal justice system in Wayne County.

- **A Vertical System of Representation.** In cases involving indigent defendants, a lawyer is assigned to represent the defendant within 48 hours after arraignment on the warrant in district court, and the same lawyer continues to represent the defendant in Recorder's Court.
- **Discovery Is Exchanged Promptly.** Basic information about the prosecution case (police reports, witness statements, criminal records, and so forth) is made available to defense counsel at an early point—often before the bindover hearing and almost always before the arraignment on the information.
- **Early Screening of Cases by Experienced Prosecutors.** A senior prosecutor, responsible for supervising the work of all of the assistant prosecutors, is assigned to work with each team of judges, has reviewed the prosecution's file, and is prepared to discuss a possible

plea or other nontrial disposition at the time of the arraignment on the information (AOI).

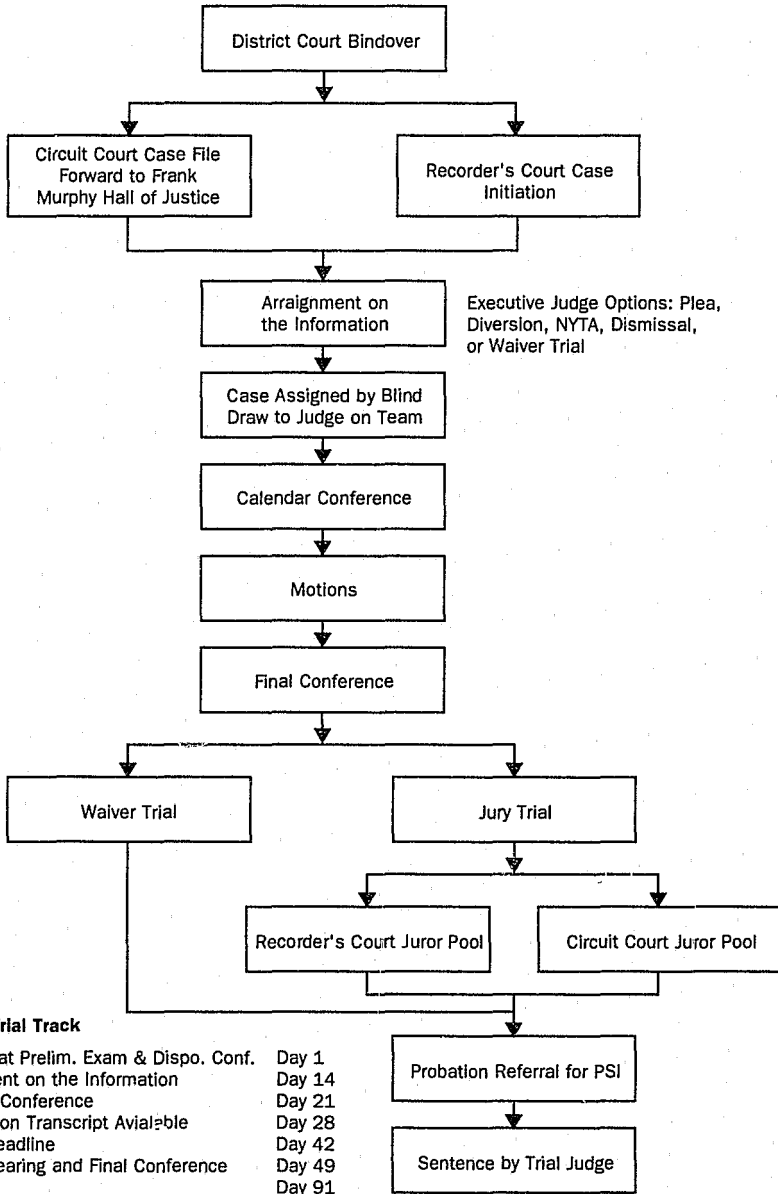
The system encourages negotiated dispositions at the time of the AOI. The executive judges generally have reputations as relatively lenient sentencers, and a plea at the AOI may be the best opportunity for a defendant to enter a plea to a lesser offense. If a plea or other negotiated disposition is not reached while the case is before the executive judge, the case is then assigned (again by blind draw) to one of the other judges on the team. Thereafter, that judge is responsible for the case for all purposes—including conducting conferences, hearing and deciding motions, holding trials, and (if the defendant has pleaded or been found guilty) imposing sentence.

As **Figure 1** illustrates, the system is designed to bring cases to resolution—by trial if necessary—within a maximum of 90 days of the arraignment on the information. Most cases are resolved in far less than 90 days (see Table 1). Less than a third take that long or longer. Once a case leaves the AOI courtroom and goes to one of the other judges on the team, there are three principal events.

- **Calendar Conference.** At this conference, ordinarily held on a Friday no more than seven days after the AOI, a schedule is established for future events in the case—completion of discovery, filing of motions, hearings on motions (including evidentiary hearings), final conference, and tentative trial dates.
- **Final Conference.** At this conference, usually scheduled for 28 days after the calendar conference, any remaining motions are resolved, witness lists are exchanged, and a firm trial date is set—ordinarily for a date within the next six weeks. Under the court's docket directives, this is supposed to be the last opportunity for a defendant to enter a plea to an offense less serious than the charge(s) in the information. Thereafter, except in extraordinary circumstances, the choice is between pleading "on the nose" and going to trial before a jury or a judge alone.
- **Trial.** Once a trial date is agreed upon, the expectation is that it will take place as scheduled. Because cases are not overset, the court almost always has the capacity to hold a scheduled trial. In fact, the trial rate is high—over 5 percent of 1988 dispositions were by jury trial and another 20 percent were by bench trial. Jury trials typically last 3 days; bench trials are generally a half-day or less.

Figure 1

**Wayne County Circuit Court and Detroit Recorder's Court
Combined Criminal Docket Management System**



Key Elements of Effective Caseflow Management in Recorder's Court

One of the most interesting characteristics of the court is its comprehensive approach to caseflow management. While the court has a number of outstanding features, there is no one aspect of its operations that can be singled out as most critical. It is a court that has paid attention to all of the areas that are essential for effective caseflow management.

Leadership

The court has been fortunate in having exceptionally able individuals in the two key leadership positions—chief judge and trial court administrator—for over ten years. During the past twelve years, there have been only two chief judges (Samuel Gardner, 1977-87, and Dalton Roberson, 1987-present), and only one court administrator (George Gish, 1979-present). While the personal styles of the two chief judges have been different, the working relationship between the court administrator and each chief judge has exemplified the concept of an executive team in a multijudge court. The chief judge has primary responsibility for external relations (for example, with the legislature, the bar, the prosecutor, the public defender, and the media) and for contacts with the judges. The court administrator (who is also the clerk of the court) supervises the staff, monitors the data produced by the court's information system, initiates special small-scale research projects focused on aspects of the court's operations, and negotiates with senior managers in other agencies. The chief judge and the court administrator meet every morning to deal with any problems affecting that day's work and frequently meet one or two other times during the day to address short-term or long-term problems. They have different (though somewhat overlapping) lines of communication with persons involved in the work of the court, and they share a great deal of information acquired through these channels. Both are involved in problem identification, policy development, and policy implementation.

Goals

The court has goals with respect to caseflow management, and everyone knows what they are. The principal goals are as follows.

- No case should take more than 180 days from arrest to disposition.
- Cases should ordinarily be set for trial within 90 days following arraignment on the information (i.e., a 90-day trial track).
- Trial dates should be firm. Once a trial date is set at the final pretrial conference, the trial should be held as scheduled, unless there are extraordinary circumstances.

To achieve these goals, the court has established time standards for the completion of interim events in the process and a detailed set of docket directives to be followed in all courtrooms. Examples of Docket Control Directives are exhibited in Appendices A3-A6.

Information

The court has an automated information system that produces most of its management reports, but it also uses some manually prepared reports. The reports are timely produced in understandable formats, and, most importantly, they are *used* for management purposes by those responsible for management. The information is closely linked to the court's goals—by using the MIS reports, court leaders can assess performance in relation to goals and can identify problem areas. Examples of frequently used reports include the following.

- The *Weekly Docket Status Report* is a one-page report that ranks the judges according to the total number of cases pending on their dockets, shows the number of cases in which trial dates have been set, and shows the date of the last scheduled trial. It provides a quick indicator of the state of every judge's docket (see Appendix B2).
- The *Trial Setting Efficiency Report* shows, for each judge and for the court as a whole, the number of trials set, the number (and percentage) of trials held, and the number of continuances granted at each stage in the process (e.g., final pretrial conference, trial) (see Appendix B3).
- The *Open Case List*, disseminated twice a week to each judge, lists all of the cases in order of the next action date on that judge's docket. For each case, the report shows the defendant's name, docket number, case age, defendant's fingerprint identification number, the charge(s), bail status, last action and date, and next action and date.
- The *Case Age Report by Judge*, issued monthly, lists cases that have been pending at least 90 days since the arraignment on the warrant, by age category (e.g., 90-179 days, 180-269 days, etc.). It facilitates the rapid identification of older cases, which are then flagged for attention by judges, court staff, and lawyers.
- The *Speedy Trial Report Summary* shows which judges have cases pending over 180 days, and the number pending (see Appendix B4).

A five-person docket control center, originally created during the crash program in 1977, serves as the nerve center for the collection, analysis, and dissemination of caseflow management information. The head of this unit, Susan Boynton, meets daily with the chief judge and court administrator to review the information reports, help identify problems,

predict trends, and devise solutions. Such thorough analysis of the docket enables the court to take a proactive rather than a reactive approach to caseload management.

Communications

The court's leaders place a great deal of emphasis on communications, both within the court and between the court and other institutions and with individual practitioners. Much is done informally—in meetings between the chief judge and the court administrator, meetings between the chief judge with individual judges and with the Wayne County prosecutor and defense bar leaders, and meetings between the court administrator and members of the court staff, prosecutor's office, or sheriff's department. There are also a number of larger, more formal meetings, including:

- Meetings of the executive judges committee.
- Meetings of the entire bench of the court, held once a month.
- Meetings with representatives of the police and prosecutor's offices held once a month to discuss problems and issues that cut across institutional lines. These meetings are particularly valuable in forming new court policies and procedures that can be designed to work for all criminal justice agencies involved.

The court administrator and docket control manager participate in all of these meetings.

Caseload Management Procedures

The basic caseload management system in the court is highly developed, is set out in writing (e.g., the docket directives), and is continuously reinforced and refined. In examining these procedures, it is important to note that they have been developed with input and cooperation from other agencies involved in the criminal justice process. In this connection, the roles of the 42 Wayne County police departments, the Wayne County prosecutor's office, the public defender, and the limited jurisdiction courts (22 district courts) are particularly important. Key features include the following.

- Police reports are well prepared and files are pulled together rapidly at the time of arrest for presentation to the prosecutor's office before initial filing. The packet provided by the police typically includes the police incident report, copies of any statements made by witnesses or the defendant, results of any field tests for controlled

substances found in the defendant's possession, and a copy of the defendant's criminal record.

- Senior prosecutors screen all cases before filing. While some cases may be overcharged, the prosecutor's office generally does a good job of filtering out weak or unsubstantiable charges before they are filed. Tentative sentencing guideline scores may be obtained at this time from the court's new defendant screening unit (see later section).
- Once felony cases are filed in the district court, events move rapidly. The defendant's initial appearance, arraignment on the warrant (AOW), ordinarily occurs within 24 hours of the arrest, at which time the defendant is formally advised of the charges and of the right to counsel, bail is set, and the case is scheduled for a preliminary examination within 12 days.
- If the defendant has requested a court-appointed lawyer and is determined indigent, a Recorder's Court judge will appoint a lawyer to represent him, either at or immediately following the first appearance in district court and within 24 hours of the request. (The order appointing the attorney is either hand delivered or phoned in, followed up with documentation). The same lawyer will represent the defendant until the conclusion of the case, whether it is resolved in the district court or goes to Recorder's Court.
- The preliminary examination is held in district court within 12 days of the first appearance. If it results in the defendant being bound over to appear in Recorder's Court, the AOI is set for 14 days after the preliminary exam. The transcript of the preliminary examination is ordered at this time; it should be available not more than two weeks following the AOI.
- The prosecutor's office follows an open-file discovery policy and makes discovery packets—containing the police report, witness statements, lab reports, etc.—available to the defense upon request. Full discovery is often available by the time of the preliminary hearing and almost always by the time of the AOI.
- When a case is bound over to Recorder's Court, the bindover documents are delivered to the court within 24 hours. This allows time to open the Recorder's Court file or enter essential data into the Recorder's Court computers and prepare the court sheets and calendars for the AOI date.
- A new unit, called the defendant screening unit, has evolved from the former release on recognizance (ROR) program. Using data from the charging instruments and the criminal history of the defendant, tentative sentencing guideline scores are calculated before the AOI

and are available to prosecutors and defense attorneys for use during pretrial settlement negotiations. The midpoint of the guideline score is used to determine bond recommendations and jail risk scores.

- The guideline score is also used to assign each to a differentiated case management (DCM) track. Fast one-day tracks have been established for welfare fraud and certain first-time offender drug cases while a 42-day track has been implemented for juvenile waiver cases. A DCM prosecutor has been hired in the cooperative court/prosecutor effort to help screen cases. As of early 1989, a computer program is being written to record up to ten factors that a survey of judges, prosecutors, and defense attorneys has indicated will predict the likelihood of a case proceeding to trial as well as the likelihood of conviction or acquittal.
- The AOI is held on the same day as a disposition conference—often as part of the same event. Both procedures are conducted by one of the executive judges, to whom the case is assigned by blind draw. Negotiations between the prosecutor and defense typically take place that day, and about 30 percent of the cases will result in a plea, dismissal, or placement of the defendant in a diversion program. If one of these events does not occur, the defense requests a jury or bench trial. If a jury trial is requested, the case is assigned by blind draw to one of the other judges in the team (bench trials are kept by the executive judge). Once a case is assigned to another judge by blind draw, it cannot be transferred back to the executive judge.
- If a case is not disposed of at the disposition conference held in conjunction with the AOI, the case is scheduled for a calendar conference before the blind-draw judge. At the calendar conference, which is held on the Friday following the AOI, the prosecutor's position on a charge reduction is placed on the record, and a schedule for future events (including deadlines for filing motions, a date for an evidentiary hearing on motions and/or a final pretrial conference, and a tentative trial date) is established. The calendar conference is a key control point, and in setting case schedules the judges are supposed to follow the docket directives. These directives call for the trial to be scheduled within 91 days following the preliminary exam—preferably earlier, and in any event not more than 150 days from the AOI.
- The final conference is conducted on the record, not less than five weeks before the scheduled trial date. By the time the conference is concluded, all pretrial motions will have been resolved, all witnesses

endorsed, exhibits marked, and the file examined to ensure that transcripts, forensic reports, and other documents are in proper order. This is the defendant's last opportunity to plead to a reduced charge. If there is no plea agreement or other resolution of the case at the final conference, the prosecutor withdraws all plea and sentence offers. The court then sets a trial date in consultation with the prosecutor and defense counsel. A final conference memorandum is then signed by all parties.

- Adjournments (continuances) of a trial can be granted only by the chief judge.
- No guilty pleas (except to the original charge) are permitted on the trial date.
- Trial dates are firm, because trials are not overset, and last-minute guilty pleas to reduced charges are not accepted. To ensure that there are no last minute collapses, the courtroom clerk is required to check twice—once five days before trial and again on the day before the trial—with all of the parties (prosecutor, police officer in charge, defense counsel, sheriff's department, etc.) to verify that the case will proceed to trial as scheduled.
- To further reduce downtime and use the court's trial capacity effectively, up to seven short bench trials are scheduled each day on the chief judge's special trial docket. These trials are transferred to courtrooms that become available when trials do not proceed as scheduled.

The overall system is designed to implement the basic tenets of caseload management—early control, continuous control, short scheduling, reasonable accommodation of lawyers' schedules, true firm trial dates, etc. It works well.

Commitment

One measure of the effectiveness of the court's caseload management system is the docket consciousness of judges, prosecutors, and others. Virtually everyone in Recorder's Court is conscious of the state of the docket (and of any recent trends), a consciousness that is reinforced by the court's leaders through monthly meetings and frequent distribution of caseload information, such as that found in the *Weekly Docket Status Report*. As with any system, the degree of adherence to specific procedural directives varies across the court, but it is fair to say that there is a broad recognition—shared by judges, staff, and practicing lawyers on both the prosecution and defense sides—that the basic system is sound. That still

leaves room for differences of opinion about specific procedures, and a good deal of experimentation goes on within the framework of the basic system that has evolved since the days of the crash program.

Staff Involvement

One of the especially interesting aspects of the court is the extent to which nonjudicial personnel are involved effectively in caseload management. In the individual courtrooms, clerks play key roles in setting schedules and entering data into the computer and onto manually controlled records, following the docket directives issued by the chief judge. Staff in the docket control center are responsible for ensuring quality control of data entered by the courtroom clerks and other staff. Docket control staff also monitor court performance through ongoing analysis of the data generated by the manual and automated systems. The products of their labors are used—and valued—by the judges and the court's top leaders.

Education and Training

Education and training related to caseload management is an ongoing process in the court. Much of it takes place in meetings—for example, at the monthly judges meeting, where the status of the docket is invariably on the agenda and where particular policies are discussed. On the staff side, periodic meetings reinforce an on-the-job training program under which everyone in the clerk's office learns how to perform at least one other position besides their own. Written manuals are an important part of the training for both judges and staff. For the judges and courtroom clerks, the basic text is the docket directives—a set of memos setting forth the basic caseload management plan including detailed directions and sample forms for each stage of the process. For the staff, all of whom are trained in computer operations, the manual of operations is being computerized so that it can be easily updated and readily accessed by all staff members.

In addition to training its own judges and staff, the court also cosponsors an education program for practicing attorneys. Called the criminal advocacy program (CAP), it consists of a series of 8 to 12 half-day seminars each year that cover substantive criminal and constitutional law, procedural law, and the nuts and bolts of criminal practice in Wayne County. Funded by a 1 percent deduction from the fees paid to assigned counsel (a total of about \$60,000 per year), CAP is a valuable mechanism for reinforcing the court's goals and its basic approach to caseload management.

Mechanisms for Accountability

The combination of the court's organizational structure, clear goals, procedural guidelines, and a good information system means that mecha-

nisms exist to hold judges and staff accountable for their performance. The information system, which provides data on key performance indicators such as pending caseloads and trial date continuances, is a key factor. Analysis of the information enables the court's leaders to identify problem areas and to follow up with informal advice.

Backlog Reduction and Inventory Control

The court's leaders pay a great deal of attention to the size and age of the pending caseload, drawing on lessons that were learned very painfully during the 1976-78 crisis, when the pending caseload at one point exceeded 6,300 cases. Before the January 1987 consolidation with the circuit court, the target was a pending caseload of approximately 1,600. With a higher volume of incoming cases and more judges now available, that figure must inevitably rise somewhat. During most of the 1987-88 period, however, it rose to over 3,000 cases. Seeing it rise, the chief judge and the court administrator developed plans for tightening controls over caseload and docket management, including the reorganization of judge teams discussed above.

Current Issues and Concerns

As of the close of calendar year 1988, Detroit Recorder's Court finds itself facing major challenges in two key areas: (1) rising case volume, particularly with respect to drug-related offenses, and (2) jail crowding.

- **The Upsurge in Drug Cases.** Responding to the influx of crack cocaine, police began an intensive campaign against drug sellers in 1987. During late 1987 and throughout 1988, this produced a significant increase in the overall volume of felony case filings in the court and in the proportion of narcotics sale and possession cases in the court's caseload.
- **Jail Crowding.** As the new filings and pending caseload has increased, so has the pressure on jail facilities. This is not a new problem—indeed, it was jail overcrowding that precipitated the 1976-78 crash program—but the sharp rise in cases has made it an acute one. Detailed guidelines have been worked out governing what categories of persons will be admitted to the jail and who will be released to make room for new persons. The guidelines are the product of interagency problem-solving sessions involving Recorder's Court, the circuit court (the chief judge of the circuit court, Richard Kaufman, is also the judge in charge of the principal case dealing with jail conditions), the district courts, the sheriff's department, the

prosecutor's office, and the county executive's office. The jail population is monitored daily by the sheriff's office, and there is ongoing communication by jail administrators and the court administrator with a view to minimizing the time any defendant remains in pretrial detention.

In seeking to address these problems, Recorder's Court has some major advantages over most other urban courts: it has a history of addressing systemic problems successfully. There is a broadly shared recognition on the part of senior policymakers that criminal justice system resources—including judges, judge and staff time, courtrooms, and jail space—are scarce. Allocating such resources effectively requires systemwide planning, and Recorder's Court leaders have been initiators and active participants in the planning process.

The DCM program initiated by the court during 1989 should be a valuable tool for allocating resources effectively. The heart of the DCM program is effective early decision making, and it builds upon strengths that the court and other agencies involved in the criminal justice process in Wayne County have developed over the past decade. To make early decisions effectively, the decision makers need adequate information, and they need to have real-life experience in making rapid assessments of what is really involved in specific cases. In Wayne County, relevant information about a case (especially about the facts of the offense and the defendant's prior record) is assembled quickly, experienced assistant prosecutors supervise the charging and plea negotiation process, discovery is available at an early stage in the proceedings, and the court has developed a system to handle a large number of cases quite quickly while reserving adequate time (including trial time) for cases that involve genuine disputes about the facts and the case. Beyond that, the court's leaders know how to ask relevant questions about operations and about the impact of new procedures and have developed a capacity to acquire the necessary information and use it effectively.

Fairfax Circuit Court

Fairfax, Virginia

By WILLIAM HEWITT
CRAIG BOERSEMA
BRYAN LYNCH

Contents

	<i>Page</i>
Introduction	49
An Overview of Jurisdiction, Resources and Organization, and Workload of the Court	52
Caseflow Management in Fairfax County—Past Performance, Traditions, and Recent Innovations	59
Key Elements of Effective Caseflow Management in Fairfax	70
Current Issues	79
Notes	81

Fairfax Circuit Court

Introduction

The Fairfax Circuit Court, serving Virginia's Nineteenth Circuit, is in transition. Although it faces rapid demographic changes, a burgeoning and changing caseload, and an increasingly metropolitan and diverse bar, the court has preserved its tradition of expeditious case processing through innovations in management. The local legal culture in Fairfax—the norms, expectations, and relationships of practitioners in the court—is such that the court has enjoyed support for its efforts.

Until recently, the Fairfax Circuit Court maintained firm and speedy trial dates despite having a lawyer-controlled docket, partially because of a restrictive continuance policy. However, the court of late has had more civil filings than dispositions, and the number of pending cases has been mounting. The judges have taken steps to address this problem by exerting greater control over the caseload. The bar has supported them.

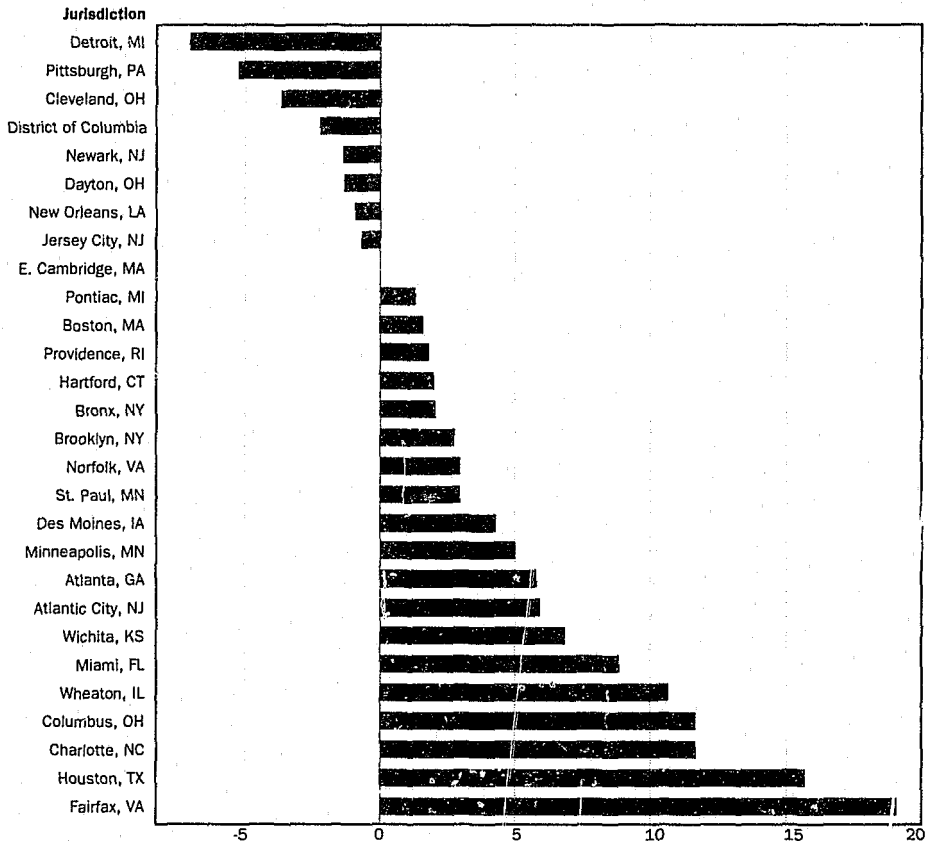
Although [the civil defense bar] were generally content with the attorneys controlling the trial date, we do realize the court's commitment to taking control of this situation before it becomes unmanageable.¹

In 1987 the Fairfax court was second fastest among 26 metropolitan courts in disposing of its felony criminal cases when measured from the date of indictment.² Ninety percent of its cases were disposed within 65 days of indictment, and half of them were disposed in less than 30 days.³ Moreover, only 2 percent of its felony criminal cases exceeded the ABA standard of disposing of all felony cases within one year of arrest. The same judges and support staff maintained the fifth-fastest civil case disposition pace among the 26 courts. Ninety percent of their cases are disposed in well under two years (611 days) from filing, and the median time is 275 days.

Such results are unusual. No other master calendar (central case assignment) court among the 26 urban trial courts in a recent study disposed of both criminal and civil cases so quickly.⁴ This record is particularly impressive given the socioeconomic changes that have occurred in Fairfax County in recent years.

Fairfax County has a wealthy and growing population. The county's per capita income ranked fourth in the nation in 1985. Its population increased by 19.3 percent (from 565,754 to 710,500) from 1980 to 1986, the 17th largest population increase of all counties in the nation for that period. **Figure 1** illustrates how this growth compares with 27 LCC courts outside the western states.

Figure 1
Percentage Change in Population
Comparing 28 Nonwestern Courts, 1980-86

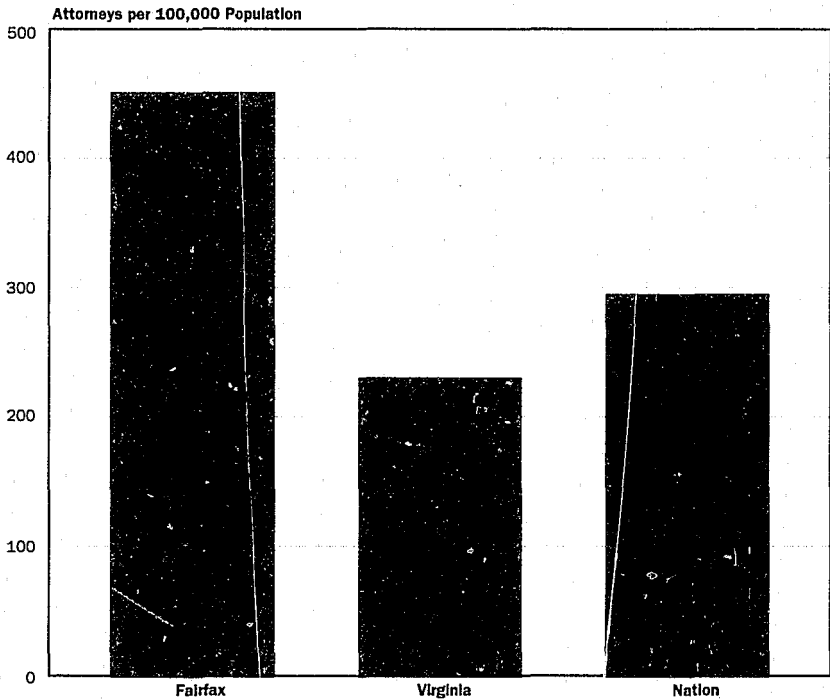


Source: *County and City Data Book, 1988*, U.S. Bureau of the Census.

Caseload has grown more rapidly than population. Between 1985 and 1989, the court's combined criminal and civil caseload rose by 37 percent. The composition of civil litigation has been affected by the influx and expansion of major corporations in the county. Not only has the population and caseload increased, but the numbers and composition of the county's lawyers have changed as have the character of the court's cases. The close-knit community of judges and lawyers that characterized the late 1970s and early 1980s has begun to unravel with the influx of "big city" lawyers to this suburb of the nation's capital. **Figure 2** shows the number of attorneys per capita in Fairfax County. While a number of these lawyers presumably practice in Washington, D.C., caseload figures suggest that many practice within the jurisdiction of the Fairfax Circuit Court.

In spite of these sharp increases in filings, the increasingly complex nature of the workload, and the influx of newcomers to the local bar, both

Figure 2
Comparison of Attorneys per Capita, 1989
Fairfax, State of Virginia, and Nation



Source: Virginia State Bar Association and American Bar Association.

criminal and civil case processing times improved between 1980 and 1987. By 1988 and early 1989, however, hard work by the judges and the local legal culture could not sustain the court's tradition. Local lawyers who were accustomed to obtaining a firm jury trial date within 90 days of making a request were assigned trial dates 6, 8, or even 10 months away. On 13 occasions in 1988, the court continued trial dates because its scheduling formula had failed—there were not enough judges available to hear the cases. While such occurrences are commonplace in some metropolitan courts, they were virtually unheard of in Fairfax County and were a source of grave concern. Some change in the case management system was necessary to maintain the expeditious case processing times of the past into the 1990s.

Coincidental with these warning signs, the court experienced a change in leadership. Judge Barnard F. Jennings, presiding judge for 13 years, retired and was replaced by Lewis H. Griffith in January 1988. With new leadership, the court's traditional practices were examined, and in 1988 and early 1989, the court moved cautiously on a new course. One of the court's first actions was to invite the National Center for State Courts to evaluate the court's caseflow management procedures.⁵ The court successfully campaigned for two new judgeships and instituted several initiatives to increase its overall organizational and management capacity and to shift its management of individual civil cases from late to early in the life of the case.

This profile describes the procedures and attitudes in Fairfax that have enabled the court to effectively manage the pace of civil and criminal litigation. It describes the new directions that will enable it to continue that tradition into the 1990s, the systems in place during the 1980s, and the new civil caseflow management system now being implemented.

An Overview of Jurisdiction, Resources and Organization, and Workload of the Court

Jurisdiction

The Nineteenth Judicial Circuit Court of Virginia serves a population of nearly 740,000 and includes Fairfax County and the city of Fairfax. Fairfax Circuit Court is a court of general jurisdiction, where the same judges hear a mix of civil cases, criminal cases, domestic relations cases, estate cases, and administrative agency appeals. It does not have separate and specialized departments. The court has exclusive jurisdiction over all civil complaints greater than \$7,000 and concurrent jurisdiction with the general district court (a court of limited jurisdiction) in matters where the

dollar amount in question ranges from \$1,000-7,000. Felony cases receive a preliminary hearing and go through a grand jury indictment process in the general district court before an indictment is filed in the circuit court. Misdemeanor cases are heard on appeal from the general district court. These civil and criminal appeals, as well as appeals from the juvenile and domestic relations courts, are heard de novo.

Resources and Organization

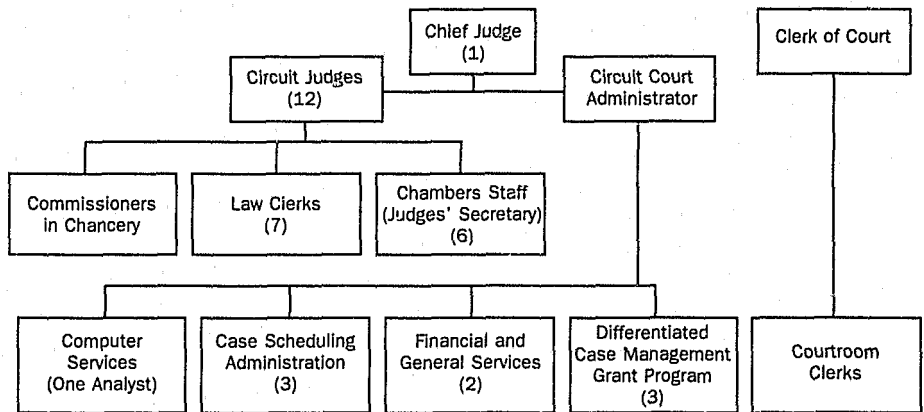
There are 13 full-time judges in the Fairfax Circuit Court. Judges are appointed by the state's general assembly for eight-year terms. The chief judge is elected by his peers for a two-year term. Reelection of the chief judge is permitted and has been the practice in Fairfax County.

Each circuit judge, in addition to other duties, serves as a calendar control judge for two-week periods on a rotating basis. The calendar control judge rules on continuance requests and handles or assigns emergency matters (e.g., temporary restraining orders). The judges receive help from "commissioners in chancery," who are lawyers appointed by the court to accept "decrees of reference" regarding uncontested divorces and matters incidental to them.⁶ Matters relating to equitable distribution, support, and custody during divorce are heard by the judges.

Before 1989, all of the court's support staff were employees of the elected clerk of court, including the circuit court administrator. Employees who reported to the circuit court administrator, including most employees involved in case scheduling and management, were found in the court services section of the clerk's office. Courtroom clerks were also in this group. The functionally close relationship between the chief judge and the circuit court administrator was not reflected in the court's official organizational structure. The interposition of the circuit clerk and his deputy between the circuit court administrator and the chief judge kept the circuit administrator from effectively monitoring operations and looking after the court's needs.

As a result of disagreements about budget and policy during 1988 between the judges and the clerk of court, the county created an independent office of circuit court administration. It was separately funded on July 1, 1989. The new department of judicial operations has a staff of 27. The activities of the administrative staff are directed by the circuit court administrator, who now reports officially to Chief Judge Griffith. Previously, lines of authority and accountability were blurred, limiting the judges' capacity to make the best use of their administrative staff. The new organizational structure (Figure 3) should help the chief judge and circuit court administrator to address the court's problems more efficiently and aggressively.

Figure 3
Fairfax Circuit Court Judicial Operations
(July 1, 1989)



Workload

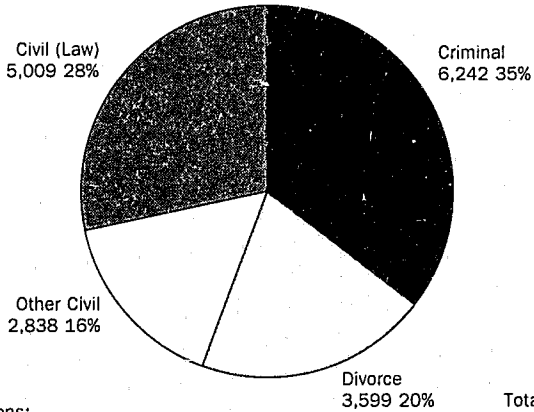
Overview. The composition of the court's workload in 1988 is shown in **Figure 4**. The court has a higher percentage of civil cases than is typical of metropolitan courts and enjoys a correspondingly light criminal caseload (**Figure 5**, which shows filings from 1987). Comparing Fairfax to Norfolk, the court in Virginia that is most similar to it in size, illustrates the caseload composition dramatically (**Figure 6**, p. 56).

Table 1 (p. 56) details the caseload increases in Fairfax between 1978 and 1988 by major casetypes. **Figure 7** (p. 57) illustrates the magnitude of the total increase for each in that period.

Criminal Cases. The criminal caseload per judge in the Fairfax Circuit Court is somewhat below the Virginia state average, and the court ranks 14th on this measure among the 26 criminal courts in the *Examining Court Delay* study.

There were 6,242 criminal cases filed in 1988. Criminal filings increased 13 percent during 1986 and 1987 and another 14 percent in 1987 and 1988. From 1986 to 1988, pending felony cases nearly doubled, and total pending criminal cases more than doubled. During the five years reported in **Table 2** (p. 58), pending criminal cases more than tripled, jumping from 756 to 2,348, with the greatest increase coming in the last two years. Drug sale cases made up 20 percent of Fairfax County's criminal caseload in 1987, a percentage exceeded only by Boston, Jersey City, Newark, the Bronx, and Oakland among the 26 courts in *Examining Court Delay*.

Figure 4
Fairfax Circuit Court Caseload Filings, 1988



Casetype definitions:

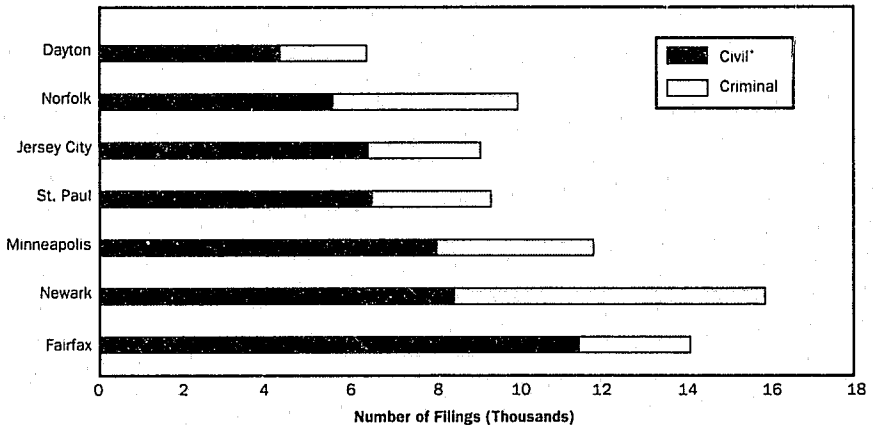
"Law" cases include tort, contract, and real property rights cases.

"Other Civil" cases include mental health, estate/probate, lower court appeals, administrative agency appeals, adoption, paternity, and contested support/custody cases.

"Divorce" cases include all types of marriage dissolution cases.

"Criminal" cases include all felonies from the time of the filing of indictment/information and misdemeanor appeals from the district court.

Figure 5
Civil/Criminal Caseload Composition
Selected Metropolitan Courts, 1987



* Civil cases include other civil and divorce cases.

Source: Goerd, 1989.

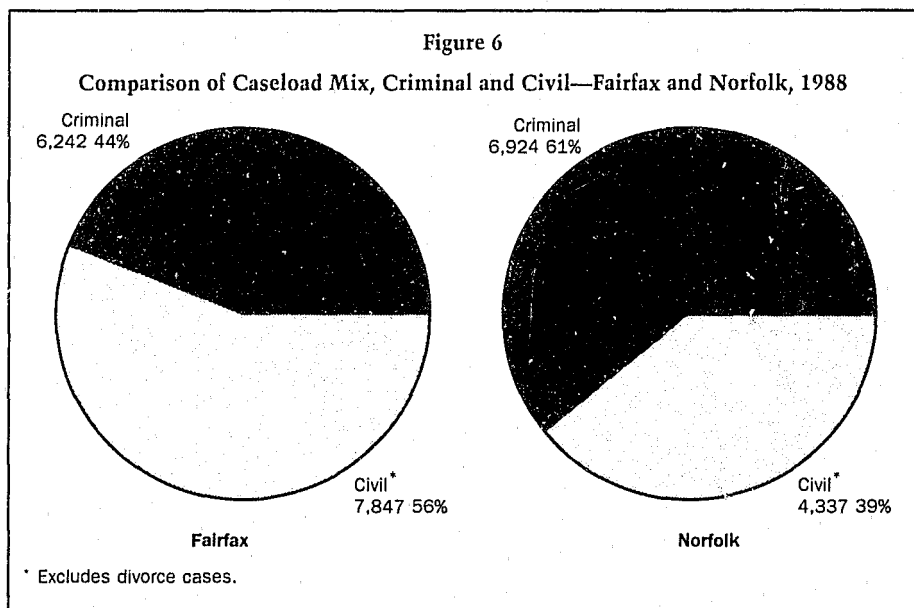
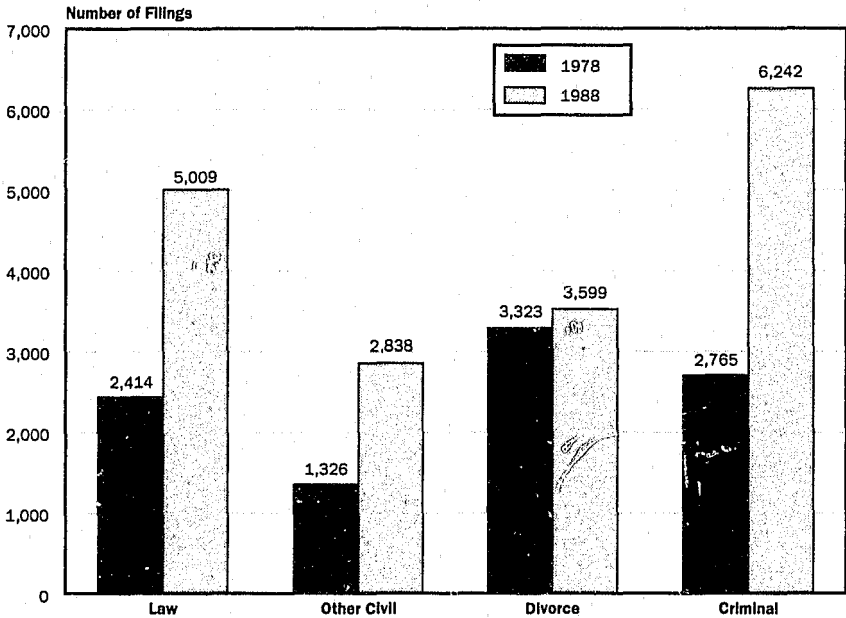


Table 1
Caseload Increases in Fairfax Circuit Court
by Major Casetype, 1978-88

Year	Civil (Law)	Divorce	Other Civil	Criminal	Total
1978	2,414	3,323	1,326	2,765	9,828
1979	2,902	3,428	1,536	2,771	10,637
1980	3,202	3,763	1,511	3,833	12,309
1981	3,094	4,230	1,625	4,830	13,779
1982	3,368	4,583	1,641	4,790	14,382
1983	3,380	4,572	3,296	4,994	16,242
1984	3,317	3,559	2,777	5,006	14,659
1985	3,568	3,567	2,866	4,554	14,555
1986	4,112	3,648	2,853	4,846	15,459
1987	4,597	3,777	2,895	5,463	16,732
1988	5,009	3,599	2,838	6,242	17,688
Percent Change	108	8	114	126	80

On average, 7 percent of Fairfax's criminal caseload is disposed by a jury trial. *Examining Court Delay* found that 15 percent of Fairfax's felony cases in 1987 were disposed by jury verdict. No court in the 26-court study

Figure 7
Caseload Increases in Fairfax Circuit Court, 1978-88



had a higher percentage. But because the court had the fastest median disposition time for jury trials (33 days from indictment to disposition), it maintained a very quick pace of criminal litigation.

Civil Cases. The civil caseload per judge is the highest of all Virginia circuit courts and ranked seventh among the 25 civil courts in *Examining Court Delay*. There were 11,446 civil cases filed in 1988. Filings increased 19 percent from 1984 to 1988 (Table 3, p. 58), and the increase was 29 percent if divorce cases are excluded. In 1988 the court discovered that civil case disposition was not being accurately recorded. While it is true that the pending caseload has been increasing, the official figures underreport dispositions and overreport the size of the pending caseload. The distinct drop in the pending caseload in 1988 is explained by a special program to "clear the docket" of cases in which final orders were entered but not recorded and by a special review of cases that had lingered in the system with no action by attorneys beyond the limits established by Virginia's two- and five-year purging rules. Table 4 (p. 59) shows that 2,184 cases were purged during 1988, up from 915 the previous year. About 4 percent of

Table 2
Criminal Caseloads, 1984-88

	Filed	Disposed	End Pending
1984			
Felony	3,175	3,259	500
Misdemeanor Appeals	1,831	1,814	256
Total Criminal	5,006	5,073	756
1985			
Felony	2,647	2,589	558
Misdemeanor Appeals	1,907	1,740	423
Total Criminal	4,554	4,329	981
1986			
Felony	2,818	2,852	524
Misdemeanor Appeals	2,028	1,905	546
Total Criminal	4,846	4,757	1,070
1987			
Felony	2,832	2,721	635
Misdemeanor Appeals	2,631	2,210	967
Total Criminal	5,463	4,931	1,602
1988			
Felony	3,283	2,980	938
Misdemeanor Appeals	2,959	2,516	1,410
Total Criminal	6,242	5,496	2,348

Table 3
Civil Caseloads, 1984-88*

	Filed	Disposed	End Pending
1984	9,653	9,068	10,403
1985	10,001	8,853	11,551
1986	10,613	10,708	11,456
1987	11,269	10,039	12,686
1988	11,446	12,401	11,731

*Includes law, divorce, and other civil cases.

Table 4
Comparison of Cases Purged
Because of Inactivity, 1987 and 1988

	Law		Divorce		Other Civil		Total	
	1987	1988	1987	1988	1987	1988	1987	1988
Purged After Two Years	337	649	318	519	219	423	874	1,591
Purged After Five Years	13	284	13	148	15	161	41	593
Total	350	933	331	667	234	584	915	2,184

Fairfax's civil cases were disposed by jury trial in 1988. Nine percent of the 1987 law cases studied in *Examining Court Delay* were disposed by jury trials. As in the criminal sample, Fairfax had the highest percentage of civil cases disposed by jury trial. The average jury trial rate among 23 LCC courts was 3 percent for civil cases.

Caseflow Management in Fairfax County— Past Performance, Traditions, and Recent Innovations

Case Processing Times

In 1980 an NCSC report described the pace of civil litigation in Fairfax County as moderate.⁷ The report compared the court's disposition times to the 16 courts studied in *Justice Delayed* and found them to be in the middle range.⁸ Criminal case processing times were moderately fast.⁹ By 1987, the pace of litigation in Fairfax had improved, and a comparison with the courts from *Examining Court Delay* showed it to be among the fastest. Moreover, it had made these gains while caseloads climbed and the number of judges remained constant.

Criminal Cases. Table 5 shows the improved criminal case processing times between 1980 and 1987. These data are from two samples of cases taken by NCSC as part of its ongoing studies of time to disposition in metropolitan courts. Data from the court for the most recent five-year period indicate that the age of cases at disposition has remained quite steady, except for a small decrease in 1988 in the percentage of cases concluded within 30 days. Table 6 summarizes the age of cases at disposition (sentence) for 1984 to 1988.

Table 5
Felony Case Processing Times in the Fairfax Circuit Court,
1980 and 1987 (Days)

	1980	1987
Days from indictment to trial disposition	(N=495)	(N=421)
Median	57	29
75th Percentile	72	49
Days from indictment to sentence disposition		
Median	109	67
75th Percentile	155	88

Table 6
Felony Case Age at Sentence Disposition in the Fairfax Circuit Court, 1984-88
(Percent of Cases)

Age of Concluded Cases (from indictment to sentence)	1984	1985	1986	1987	1988
Filed 0-30 Days Ago	15.7	21.1	12.9	15.0	9.3
Filed 31-150 Days Ago	56.0	53.1	60.9	55.3	63.3
Filed 151-270 Days Ago	9.9	7.8	9.0	9.7	10.0
Filed 270+ Days Ago	18.4	18.0	17.2	20.0	17.4
Total Disposed	3,259	2,589	2,852	2,721	2,980

Civil Cases. Table 7 shows that the median time from filing to disposition for law cases (tort, contract, and property) has remained quite stable and improved slightly during the period 1980 to 1987.¹⁰

Table 8 lists the age of law cases at disposition from 1984 to 1988. The effect of the court's special efforts in 1988 to review cases, correct data flaws, and weed out cases that had lingered beyond two and five years with no action taken can be seen in figures for 1988: 13.8 percent of cases disposed that year were more than five years old; of these, 284 (out of 784 total cases more than five years old) were purged because of the five-year rule. Only 13 cases were similarly purged in 1987. Otherwise the age of cases at disposition remained quite consistent.

Table 7
Case Processing Times in the Fairfax Circuit Court
for Law Cases, 1980 and 1987

	1980	1987
Days from filing to disposition	(N=493)	(N=476)
Median	292	275
75th Percentile	427	411

Table 8
Case Age at Disposition in the Fairfax Circuit Court
for Law Cases, 1984-88 (Percent of Cases)

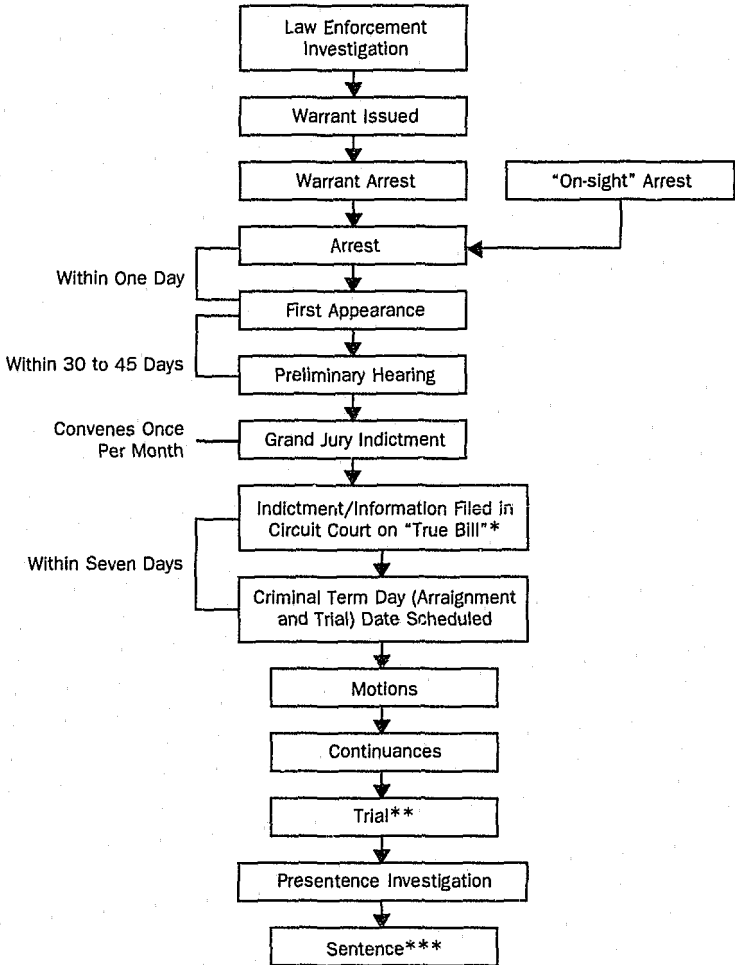
Age of Concluded Cases (from filing to disposition)	1984	1985	1986	1987	1988
Filed 0-12 Months Ago	56.9	66.2	62.6	64.8	53.0
Filed 13-24 Months Ago	16.2	17.3	18.4	17.8	14.4
Filed 25-36 Months Ago	2.9	3.7	3.3	6.6	9.8
Filed 37-48 Months Ago	8.1	1.7	0.8	1.4	3.2
Filed 49-60 Months Ago	6.7	7.3	8.9	5.5	5.8
Filed 60+ Months Ago	9.2	3.9	6.0	3.9	13.8
Total Disposed	3,201	2,974	3,469	3,723	5,158

Case Processing Systems

In this section, the court's traditional criminal and civil case processing procedures are discussed, and their strengths and weaknesses are noted. The new civil caseflow system is also described.

Procedure for Criminal Cases. Criminal cases begin when law enforcement officers obtain a warrant from a magistrate in the general district court (Figure 8). (Magistrates are salaried employees of the commonwealth of Virginia.)¹¹ A case is then filed in the district court. For anyone held in custody, a first appearance takes place the next day, when the bond originally set by the magistrate is reviewed by the district court judge, attorney appointment takes place, and the date of the preliminary hearing is set.

Figure 8
Criminal Case Processing in Fairfax County



Fairfax Circuit Court has no formal time standards. In fact, in 1987, the median time for selected time intervals were:

- * From arrest to indictment, 73 days.
- ** From arrest to trial (adjudication), 102 days.
- *** From arrest to sentencing, 140 days.

Preliminary hearings for persons arrested on a felony are required unless the hearing is waived. The district court holds preliminary hearings three days a week and, as of July 1989, hearings were being set 30 to 45 days from arrest. Criminal trials in the circuit court are heard Monday through Wednesday; Thursdays are devoted to misdemeanor appeals, and criminal motions are heard on Friday.

The district court's pretrial services agency interviews defendants before the court determines whether a defendant is indigent and entitled to appointed counsel or a public defender. The agency maintains the list of attorneys available for appointment in criminal cases, and attorneys are appointed on a rotating basis. The agency may bypass the rotation schedule in particular cases and handpick the defense lawyer.

The public defender's office takes all of the misdemeanor cases. Because it has two full-time investigators the office is also assigned the most serious felonies. The public defenders meet with clients promptly; in 95 percent of the cases, they see the client within one week of appointment. The assigned public defender keeps the case to final disposition.

The commonwealth attorney's office becomes familiar with the case between arraignment in the lower court and the preliminary hearing.¹² The office policy is to seek or accept a plea agreement in the district court only. Once a case is filed in the circuit court, plea reductions are contrary to policy. As a result, many charges filed originally as felonies in district court are disposed in the district court by reducing them to misdemeanors or actually dismissing cases (*nolle prosequere*). During 1987, 63 percent of felonies filed (2,925 out of 4,642) in the district court were actually bound over to the circuit court.¹³

After probable cause is established in the preliminary hearing, the defendant is bound over to a grand jury. The district court judge schedules a circuit court trial date for in-custody defendants after the bind-over.

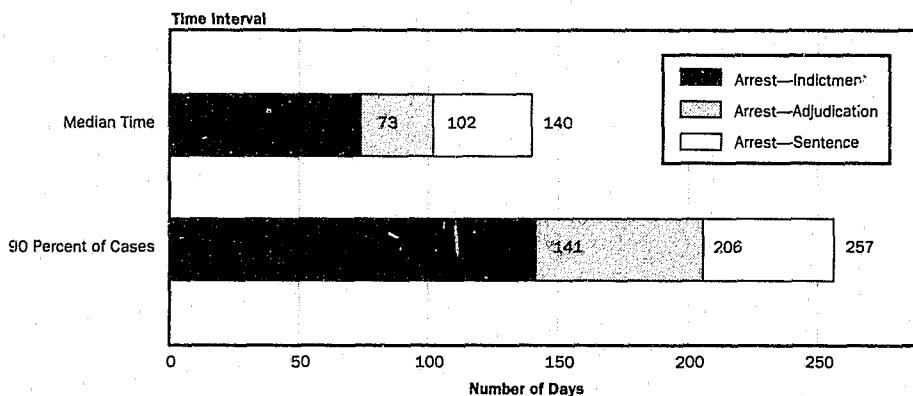
The grand jury is required by statute to meet once every odd-numbered month. By local court policy, there is an interim grand jury that meets on the even months. After the grand jury indicts a defendant, the indictment is filed in the circuit court. The court's criminal term is the period between the statutorily required grand jury days. In-custody criminal defendants are scheduled for trial sometime during the criminal term that follows their grand jury indictment. Arraignment for out-of-custody defendants is scheduled on criminal term day, which is the Tuesday after each grand jury day. All defendants are assigned a trial date at this time. Usually about 200 cases get scheduled on each term day. Between the arraignment and trial, motions may be made on motions day, which is held every Friday.

After trial, if the defendant is found guilty, the court sets a date for sentencing. Counsel may present arguments and testimony, evidence may be presented, and a presentence report is given. The appropriate sentence and probation are then set. The median time from indictment to sentence in 1987 was 67 days, while 90 percent of sentences were given within 116 days.

Strengths and Weaknesses of the Criminal Procedure. The strengths of the Fairfax criminal case processing system lead to the prompt adjudication of cases after indictment. A vertical system of prosecution has been maintained in the county at the insistence of the prosecuting attorney. The lawyer who screens the case initially will be the lawyer who tries the case. According to the prosecuting attorney, "If you're on the hook, you're more responsible. [By the charge you present at preliminary hearing] you are telling me that you can stand in front of a jury of twelve and get a conviction." This system leads to a high level of professional accountability. The system also accounts for the high rate of warrant charges, which are reduced from felonies to misdemeanors at the district court level, and the correspondingly high rate of guilty pleas in the circuit court.¹⁴

In 1987 the median time from indictment to adjudication was 29 days for felonies, and 90 percent were completed within 65 days. **Figure 9** shows the relative length of the intervals between key events. The system's weaknesses in terms of case processing times are found in the preindictment stages and in the stage between adjudication and sentencing. The median time from arrest to indictment was 73 days in 1987, and the next 40 percent of the cases took between 73 and 141 days. Between adjudication

Figure 9
Time Intervals for Key Events
Fairfax County Criminal Cases, 1987



and sentencing, the median time was 38 days, and 90 percent were sentenced within 51 days from adjudication.

Procedure for Civil Cases. Control of the pace of litigation in Fairfax was traditionally left to attorneys. After a civil case was filed in the court, no attention was paid to service nor to the progress of discovery. Attorneys filed a praecipe with the clerk's office when they wanted to have a trial date set. Once the praecipe was filed, the case was set on the next civil term day docket (which takes place on the fourth Monday of every odd month) and given a trial date. Attorneys could call the court the week before civil term day and have the civil trial staff assign a trial date.

Cases were set for trial within about five months of the filing of the praecipe, but by July 1989 the time had increased to nine months and longer as a result of the rapidly growing caseload and more requests for trials.¹⁵ Thus, the court was not actively involved with the case between filing and trial setting, and then not again until the morning of the trial day when the case was assigned to a judge.¹⁶ (See **Figure 10**.) Routine motions are heard on motions day (Friday), and pretrial conferences are seldom held (only on request of attorneys).

After two years of inactivity, a case may be closed once the attorneys involved are notified, and after five years of inactivity, cases are purged without notice. Except for these two docket-purging rules, which are sanctioned by statute, there are no court-imposed procedures governing the pace of litigation.

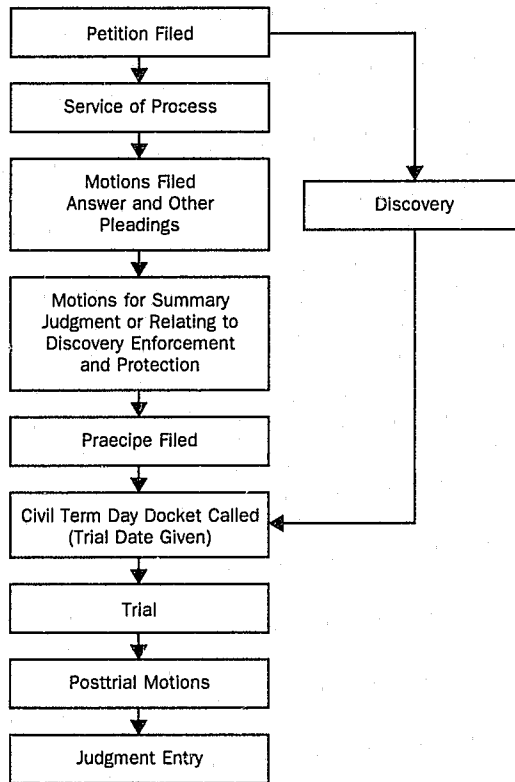
Civil trials take place Monday through Thursday. Trials are assigned on a master calendar system by the chief judge.

Divorce cases in Fairfax County require commissioners in chancery as well as judges. Commissioners in chancery hear matters relating to the grounds for divorce and prepare a report that sets out the facts for the record that are required by Virginia law. Traditionally, it has been the responsibility of the lawyers to obtain a "decree of reference" to a commissioner in chancery; thereafter, a "first meeting of the parties" had to be held before a commissioner can proceed with a hearing. In uncontested cases, judges can grant divorce without further hearings, once they have received and reviewed the commissioner's report and other documents from the attorneys. In contested cases, the court must schedule motions and trial hearings as it would for other civil cases.

The court's new differentiated civil case management system establishes early control and time standards in domestic relations cases, which define the responsibilities of the lawyers, the commissioners in chancery, and the judges. These are described below.

Strengths and Weaknesses of the Civil Procedure. The court has maintained its reasonably quick pace by increasing judicial responsibility

Figure 10
Fairfax County Civil Case Processing
(Old System)



and the commitment of individual judges. As a 1981 NCSC report on Fairfax County's civil litigation pace found, the burden of monitoring caseflow has fallen on the judges and their ability to handle the ever-increasing workload:

At the present time, they spend four days a week conducting trials, jury and nonjury, literally from dawn to dusk. They work very hard and have little time to do anything else. Motions hearings and criminal sentencing take up the final day, leaving them with virtually no chambers time apart from what they can squeeze in by coming to work early or staying late.¹⁷

Despite maintaining an enviable record, the court realized in 1988 that the system was in trouble. To correct the slowdown in the pace of civil litigation, the court needed to take control of case processing. Under the

direction of Chief Judge Griffith, Mark Zaffarano, the court administrator, created and staffed a four-judge delay reduction committee. The court received funding in 1989 from the State Justice Institute to implement a differentiated caseload management and delay reduction program. The funding allowed the circuit court to hire three staff members. This program, including the divorce-case processing system, is discussed below.

The New Caseload System. The new caseload system is structured around the ABA case processing time guidelines. A committee composed of members of the Fairfax bar helped the court develop the civil tracking system.

The new caseload system gives the court early and continuous control of civil cases. The court will have more control over the discovery process, hold a status conference by the 100th day, and have a settlement conference (see **Figure 11**). Simple civil cases will have discovery completion, a settlement conference, and trial dates scheduled on a master calendar system.

Complex civil cases will be assigned to a judge, and dates will be set on an individual calendar basis. In 1989 one-fifth of law cases (tort, contract, and property) were set on these two tracks. A full transition is expected by July 1, 1990.

The decision to control cases from filing and force the pace of litigation alters the court's relationship with the bar, which had been free to choose the pace of litigation in the past. The transition to more comprehensive control of civil cases, however, has been welcomed by most attorneys.

Attorneys in Fairfax allowed the court to control the pace of litigation because they too felt the burden of increasing caseloads and increasing caseload times, especially in the last two years. The tracking system, when fully implemented, will eliminate the need for a civil term day, and the interim case-monitoring events should help avoid clogged motions day dockets by reducing the need for discovery motions. Attorneys agree that relations between bench and bar improved during the last two years, as the court actively sought their input in developing the new civil caseload management system.

Finally, procedures governing the process for divorce cases have also been developed under Fairfax's new caseload management system (**Figure 12**). The Fairfax bar has worked actively with the court to develop this system. The court will now check the status of all domestic relations cases within 80 days of filing. It is expected that before that time attorneys will have obtained a decree of reference to a commissioner in chancery in uncontested cases. If not, the court will facilitate the action. At the status conference in contested cases, the court will appoint the commissioner in

Figure 11
Fairfax County Civil Case Processing (New System)

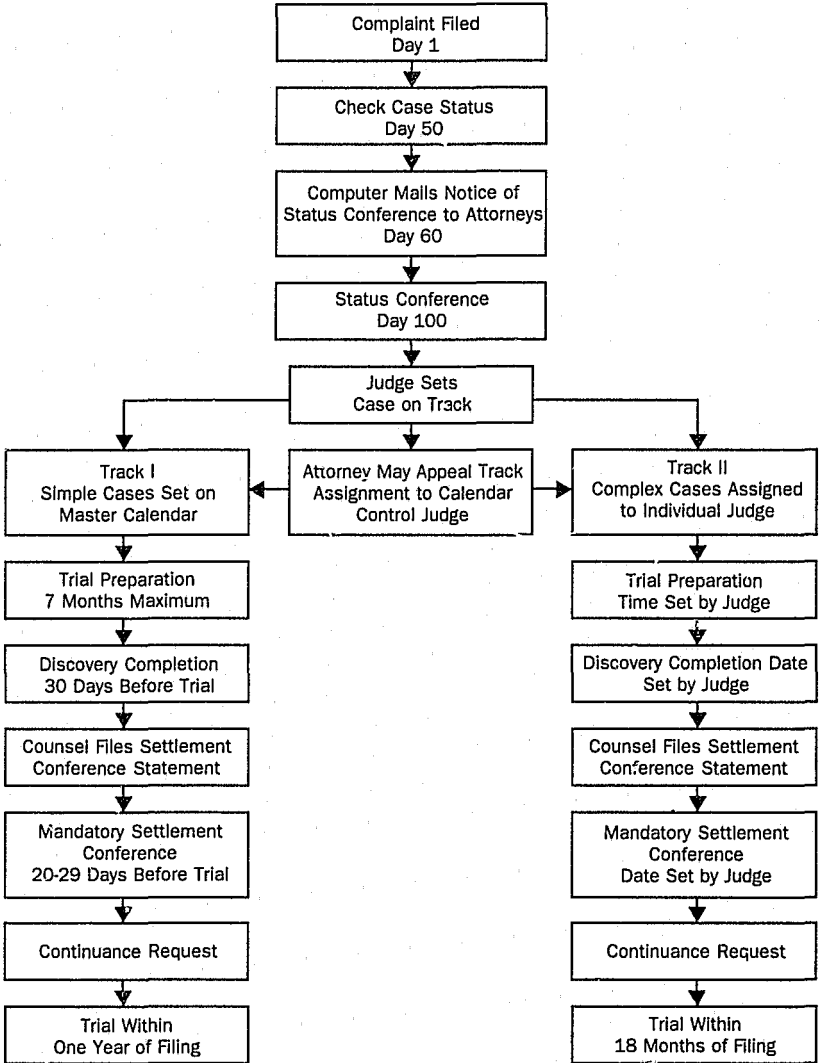
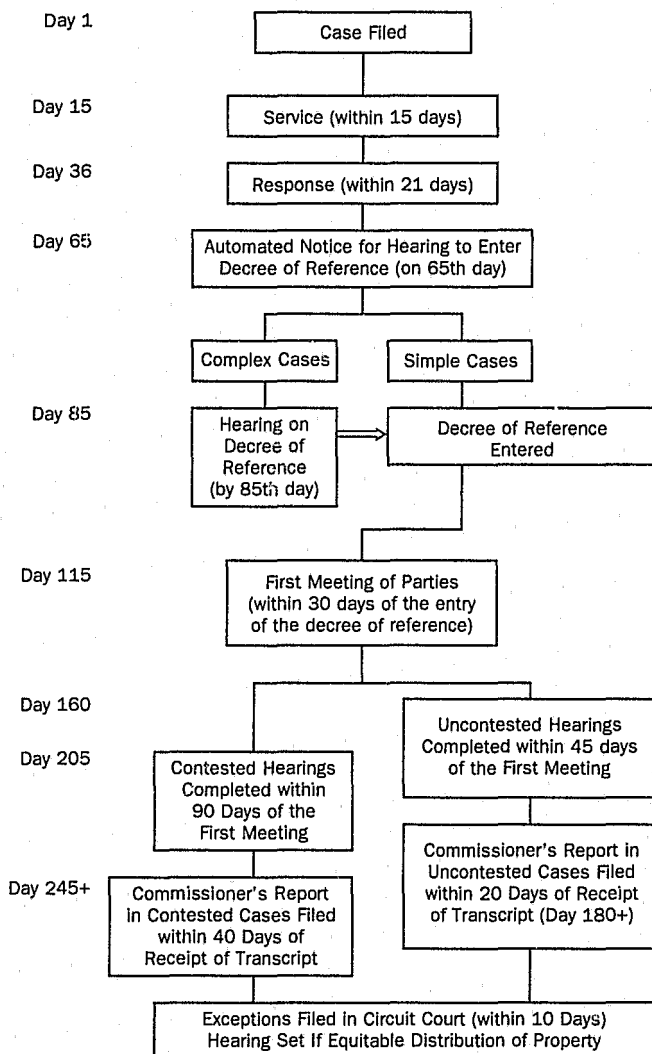


Figure 12
Flow of Divorce Cases in Fairfax Circuit Court



chancery and establish other key dates (see Figure 12). The court's goal is to dispose all divorce cases within either 12 or 18 months of filing the complaint (if case characteristics make the ABA's recommended 12-month standard inappropriate under Virginia law). Standards have been established by court order that govern the responsibilities of the commissioners in chancery.

Key Elements of Effective Caseflow Management in Fairfax

Leadership

Leadership stability is one of the valuable traditions in Fairfax County. By supreme court rule, the chief judge is elected by the other judges for a two-year term. Reelection is permitted. Judge Barnard F. Jennings served as chief judge from 1975 until 1988. Judge Jennings is described as having managed the court as its sole decision maker, soliciting little advice from other judges or administrative staff. During his tenure, the position of chief judge went from largely ceremonial to meaningful. He relied on a thorough personal knowledge of the Fairfax legal environment, and he "expected" that cases would move expeditiously. His policy of limiting continuances was well known.

With a few exceptions for criminal cases, caseflow management practices remained basically unchanged during the 13 years of Judge Jennings's administration. A study of the court in 1981 predicted that the "delicate balance" between the court and the attorneys that held the court's caseflow management traditions together was in danger from the pressure of the ever-increasing pending caseload.

The judges are able to keep up with the trial requests by working very hard. But some day in the not too distant future the judges are not going to be able to meet the demand for trials, disposition times will increase, continuances will increase, and the pace of litigation will begin to slow down. [Aikman, et al., p.10]

Chief Judge Lewis H. Griffith and circuit court administrator Mark Zaffarano inherited these circumstances in 1988. Chief Judge Griffith now carries advantages (and responsibilities) beyond the recognition and status that his once primarily ceremonial position enjoyed within the court's inner circle.¹⁸

Judge Griffith has served on the court since February 1979. When elected chief judge in 1988, he immediately opened up the management of the court to participation by colleagues and staff. He also asked the National Center for State Courts to evaluate the court's caseflow manage-

ment.¹⁹ In a short time, he acquired a reputation as a consensus builder ("he's willing to listen" was a common comment about Judge Griffith). At the same time, he is an action-oriented leader who sets goals and faces up to conflicts. Achieving budgetary independence from the clerk's office and direct administrative control over vital court functions, for example, was not accomplished without a struggle nor without publicity, as the following from the *Washington Post* attests:

One of the most hotly contested battles at Fairfax County Circuit Court these days is not being played out in a courtroom. It's chief judge v. clerk of the court, and at issue is who runs the place.²⁰

Judge Griffith's move to gain control of required management resources was not likely to succeed without the full support of the bench nor in the face of organized opposition from the bar or other county agency leaders. One local agency manager said of Judge Griffith, however, "he's public service oriented. [There have been] lots of changes, but he's not authoritarian; he's authoritative, willing to listen." A respected influential civil lawyer voiced similar sentiments: "Griffith gets his way 98 percent of the time, but he's approachable."

Mark Zaffarano, the circuit court administrator, has been with the court for nine years. He holds a master's degree in public administration specializing in courts from the University of Southern California. He is a candidate for a doctorate in public administration at George Mason University. He is also an active member of the National Association for Court Management. During most of the 1980s, the circuit court administrator's duties did not include monitoring, planning, and implementing caseload management strategy. Moreover, until July 1, 1989, the administrator was an employee of the circuit court clerk's office, and his responsibility for assisting the judges was as a subordinate to the clerk and the clerk's chief deputy. Under Chief Judge Griffith, however, the circuit court administrator helps plan and coordinate the court's initiatives to gain control of its caseload from the lawyers. Mr. Zaffarano is the author of the grant awarded to the court from the State Justice Institute to facilitate this transition.

The professionalism of Robert Horan, the county's prosecuting attorney, has made a major contribution to prompt criminal case disposition. Mr. Horan has been in office since the 1970s. It is at his insistence that a vertical system of prosecution has been maintained in the county and that initial charges reflect the best professional judgment of his lawyers about the merits of a case.

The public defender's office, directed by Dean Kidwell—formerly a lawyer with the prosecuting attorney's office—also follows a vertical representation system.²¹

Judge Griffith's management style also fosters leadership contributions from his colleagues on the bench. Two of the court's judges, for example, attended the ABA's televised caseload reduction seminar in Washington in 1988 and became moving forces behind the new caseload management system. They, along with several other judges, serve on committees to improve the court's technology, statistics, caseload management, and intercourt management capacity.

The clerk's office, under the direction of circuit court clerk Warren Barry, administers the Courts Public Access Network (CPAN). CPAN is an on-line information system for attorneys that contains court and land record information. The court received the 1988 Justice Achievement Award from the National Association for Court Management for the creation of CPAN.

Goals

With the new civil caseload system, civil cases are targeted for disposition within one year from the time a suit is filed; 18 months will be the limit for complex litigation. Time standards for interim events are also included. All time standards established are in accordance with ABA guidelines.

Goals for completion of interim events and final disposition are under development for domestic relations cases. The court published these goals in a decree that took effect on July 1, 1989, and the court established time standards that govern the responsibilities of the commissioners in chancery who adjudicate divorce.

These are recent developments. Explicit civil case processing goals did not exist in Fairfax county until 1988. Virginia statutes established goals for criminal case processing—150 days maximum for incarcerated defendants and 270 days for defendants not in custody. Implicit goals that have sustained the pace of criminal litigation include the prosecutor's goal that "cases should be charged as you intend to try them." The court sets all criminal trial dates within their term, i.e. within 60 days of the grand jury, which reflects an interim goal necessary for timely disposition.

No similar goals existed for civil cases until the court's initiatives in 1988 established its new civil caseload system. It is clear from the court's recent behavior, however, that one implicit goal has been deeply embedded in the consciousness of bench and bar alike—to maintain firm trial dates. This goal has shaped the court's practices and has two complementary aspects: a firm policy restricting attorney requests for continuances and a court guarantee to lawyers that all trials will be held on their scheduled dates.

When continuances are granted, they are controlled, counted, and analyzed. This information is vital to further reduce the number of continuances. The court's policies discourage requests in the first instance, and some requests are *not* granted. The establishment of firm trial dates, however, is sacred. As mentioned previously, that 13 trials had to be postponed by the court in 1988 created significant alarm at the court and contributed to the sense of urgency regarding the need for better management information and improved case management practices.

Caseflow Management Procedures

The court's caseflow management practices have been described above. Briefly, the most noteworthy strengths of the system are:

- Effective screening of cases and charges by the prosecutor's office.
- Prompt adjudication of cases after indictment.
- A high level of judicial responsibility and commitment of individual judges.
- Early differentiation and control of cases by the court under the new civil case management system.
- Time standards for law and chancery cases.
- A restrictive continuance policy.
- Firm trial dates.

Information

The clerk's office completes the monthly caseload reports for the court. Achieving control of caseload information, and producing information useful for managing caseflow, was one of the reasons underlying the court's move to manage its case-tracking system independently of the clerk's office. Discovery of "accounting errors" in data entry added some of the impetus for the court to keep a more watchful eye on its data.

The importance to the court of information about the age and status of its current caseload has recently been recognized. Before 1988, the compilation and use of data necessary for systematic monitoring and management of caseflow was not a priority. Like most courts, the information collected and published was limited to counts of filings and dispositions and computation of pending caseload figures.² These data are required by the state administrative office of the courts and are used primarily to take the pulse of judicial workloads. In addition, these are the basic data used for evaluating requests for new judges.

One set of data traditionally produced by the court does address case age and has some value as a measure of the pace of litigation. This is a

breakdown of the time from filing (civil cases) or indictment (criminal cases) to disposition. The court's report for 1988, for example, shows that 709 law cases disposed in 1988 (out of 5,158 total, or 13.7 percent) were more than five years old, and 1,682 cases (33 percent) took longer than two years to complete (the ABA calls for completion of 100 percent of all civil cases in two years).

Both the number of filings and dispositions and the age of disposed cases are necessary data, but they have clear limitations as management tools. They look backward at the court's past performance and do not include information about the current case inventory.²³

To better support the new caseload system of "early and continuous control," and to improve the quality of its caseload reports, the court has acquired staff and has started purchasing hardware and software that will allow it to take direct management control over its data and improve the quality of its reports. A data-processing specialist position has been funded, and PCs are installed throughout the court. The court is working with the clerk's office and the county data-processing authority to develop requirements for data to support case tracking and production of action notices or cases. Eventually, the court will be able to download and transfer data from the county clerk's case record system. Coding changes have been implemented to identify those cases that are in the new civil case management inventory.

While the long-term process of improving the court's automated information systems goes forward, the court has taken some steps to provide improved information for the short run. Reports are manually generated using existing automated data sources. Most noteworthy of the new initiatives is the regular production and monitoring of reports on the numbers and reasons for continuances. In a master calendar court, this is an invaluable diagnostic tool for the court and individual judges, which increases accountability in decision making by the calendar control judges. Data is also being manually collected on all of the cases assigned to the new civil case management system. These data will allow the court to manually produce inventories of cases by age. Court staff have prepared a report to analyze the elapsed time from the dates cases are settled until an order is entered. This report, unfortunately, is based only on past activity. It does not provide for each judge, the court administrator, and the chief judge a list of which cases are awaiting disposition orders nor the time which cases have been waiting.

Other reports that are produced by the court as aids to case management include (1) a list by judge of cases under advisement and for how long and (2) a quarterly list of cases that match the criteria for two- and five-year purging.

Communications

Interviews with judges, attorneys, and court employees have shown open communications to be a hallmark of the Fairfax court since the beginning of Judge Griffith's tenure as chief judge. Like leadership and judicial commitment to caseflow principles and values, this is one of the outstanding attributes of this court that contribute to its success.

Communication is a characteristic of Judge Griffith's leadership style that is frequently mentioned by those that work with him inside and outside of the court. Some of the court's structured methods of internal and external communication are described below. Most remarkable about this court, however, is the unusually high level of comradery and cooperation among judges. The judges keep abreast of case-related events and management issues, share ideas, and generally stay in touch with each other and the workings of the entire circuit court organization.

Formal meetings are regularly held in the court. They include a monthly judges' meeting, with a prepared agenda, that is normally attended by the circuit administrator and other court or agency personnel as needed, depending on the subject. It is characteristic of the cooperation among the judges, and between them and the chief judge, that important issues are not surfaced "out of the blue" by judges in their meetings. Groundwork is laid firsthand with the chief judge. There also are regular meetings of the court's several committees. The most active committee of late has been the caseflow management, or "steering" committee, which for a period of time met *daily*. This committee is expected to keep the chief judge "informed." The chief judge meets with the circuit court administrator and the court staff on a bimonthly basis, and he structures these as opportunities for two-way communication.

A requirement for success of a master assignment system is daily communication between the chief judge and the court's administrative staff about the state of the overall docket. More important still is prompt communication during the day between the judges, the chief judge, and administrative staff about the state of each judge's daily docket. This communication is exemplary in the Fairfax court. When trials go off, this fact is communicated promptly, and the chief judge is able to reach further into the list of cases that are ready. On motions day, the judges meet during their lunch break and discuss the progress of their respective dockets, and administrative staff stay in touch with the judges and move cases from the slower-moving calendars to those of judges whose calendars have moved more quickly.

Structured communications between bench and bar are maintained by the bar's circuit court committee and through a more formal vehicle for problem communication, a bench-bar committee consisting of two judges

and two attorneys. The chief judge is invited periodically to attend the bar's board of director's meetings. During the conceptual stages of the new caseload management system, the bar was immediately informed of the court's plans and kept abreast of developments, and their review and comment was actively encouraged. A formal docket control committee of the bar served as a conduit for these communications.

The chief judge participates in all formally scheduled meetings involving the court's working committees and outside agencies, thus increasing the opportunity for meaningful communication.

The court does not sponsor or participate in regular meetings of an interagency group that oversees the criminal caseload process. Communications about the criminal system take place primarily on an ad hoc basis between each agency as a need arises.

Judicial Responsibility and Commitment

This is another exemplary feature of the Fairfax court. The communication that is so essential to the court's master calendar system sustains, and is sustained by, each judge's confidence that colleagues are committed to delivering firm trial dates and completing each day's workload as scheduled. As one judge put it,

If I begin to suspect that other judges often go home after I have agreed to take some of their load, because my docket cleared early, I'm not likely to be so cooperative in the future. Our system would fall apart.

This confidence in mutual commitment has been a cornerstone of the court's past success in prompt case disposition. Hampered by low levels of administrative capacity and autonomy, limited automated information support, preindictment criminal-case processing stages that induce delay, and the traditions of lawyer-controlled civil caseload, the judges have preserved and promoted a local legal culture in which the bar as well as the bench value speedy case processing.

The commitment of each judge is visible to other judges and to the bar not only in practices that demonstrate the daily docket to be a courtwide responsibility, but also in the philosophical and practical support the judges have given to the policy and procedure reforms of 1988 and 1989. This commitment to delay reduction is also seen in Chief Judge Griffith's appointment of a delay reduction committee in 1988, which was composed of four judges who met informally over lunch three to four times a week for six months to develop the court's caseload management plan.

During the period of transition from a relatively small urban court with a closely knit bar to an environment characteristic of larger metropoli-

tan courts, the commitment of the judges to preserving its tradition of expeditious caseflow is a strength that sustains the court.

Administrative Staff Involvement

Historically, administrative staff serving the court in Fairfax County have been kept at arms length from the process of identifying caseflow problems and improving procedures, except within narrow confines of the specific tasks to which they have been assigned. This is unfortunate because administrative personnel who are aware of the court's goals, who help formulate caseflow procedure, who understand how and why caseflow information is being used, and who examine and evaluate outputs greatly contribute to the court's management capacity. They take greater care to see that data are recorded accurately, they can suggest new and more efficient ways to use information, and they can provide information to the court's leaders about procedures and policies that are not serving the court's goals.

Chief Judge Griffith has begun to involve the administrative staff in the court's caseflow management efforts. The circuit court administrator now works closely with the chief judge and the trial judges' committees on matters of policy, procedure, and interagency coordination. The court administrator, in turn, has created new opportunities for staff development. The chief judge meets regularly (bimonthly) with the circuit administrator and the court staff and invites comments and suggestions. Court staff have been used more of late by individual judges and committees to compile information from available sources, and they have been busy designing and developing of systems for improved recording and use of management information.

Education and Training

The circuit court and the bar have sponsored joint continuing legal education seminars. Some of these seminars have addressed case management practices and time standards for divorce cases, criminal case orientation for new attorneys practicing before the court, and legal procedures for handling drug trials before a jury in the circuit court. A special differentiated case management seminar was held in the spring of 1990 to familiarize attorneys with the procedures of the new caseflow management system, which applies to all civil cases as of July 1, 1990.

The judges and court administrator recognize the importance of educating and training all employees to enhance their ability to perform their jobs efficiently and effectively and to institutionalize court goals and procedures. Court staff have received specialized computer training from

a county-sponsored training program. In addition, the staff who are developing the civil caseflow system will be attending seminars conducted by the Institute for Court Management of the National Center for State Courts. Court employees are eligible for tuition reimbursement for work-related college courses, and joint training programs have been conducted with the juvenile and domestic relations district court. The circuit court and Fairfax County Bar Association recently sponsored a special program involving judges from England and Justice Sandra Day O'Connor, which included a special presentation concerning the court's differentiated case management program.

The circuit court judges have attended judicial seminars from the National Judicial College, the American Bar Association, the Virginia Bar, the Supreme Court of Virginia, and other legal-training organizations. Each year, the court prepares a special training and travel budget. Both the Commonwealth of Virginia and Fairfax County have been responsive to the training needs of the Fairfax judiciary.

Mechanisms for Accountability

Judges in Fairfax County receive a regular report of cases under advisement, and these are distributed and discussed at monthly judges' meetings. Since the fall of 1988, the court has tracked the number of continuances requested and granted during the period when each judge serves as the calendar control judge. The continuance reports include several different elements that can be very useful for analyzing the sources of continuance requests (prosecutor or defense; large civil firms vs. sole practitioners). Unfortunately, the reports are not consistently kept, and the information about who requests continuances is not included on reports from some calendar control judges. As the court moves into its new civil system, it will benefit from similar monitoring of the system's interim events.²⁴

Backlog

In 1988 and early 1987, the court became aware of a growing backlog. The backlog was manifest in its statistics—steadily increasing pending caseloads—and, of more concrete concern, in the fact that trial dates were being set farther and farther into the future. The court reacted in two ways. The first was the planning and implementation of the new civil caseflow system. The second was a careful review of all the pending cases identified in its quarterly reports as being more than two and five years old. One result of the latter effort was the identification of numerous cases that were

shown as pending but should not have been. They reflected the problem with the integrity of the court's statistical data and resulted in the efforts to improve data entry practices and keep a closer eye on reports. Another result was an initiative to notify attorneys of old cases, place the eligible ones on the two-year purge list, and enter orders of dismissal on the five-year-old cases that met the criteria for purging (no activity since being placed on the two-year list). These efforts to clean out the old cases put attorneys on notice that improved management practices were under way and set the stage for continuous control of cases.

Current Issues

As it enters the 1990s, the Fairfax Circuit Court faces technical and organizational challenges.

The court lacks automated support and management information it should have to support implementation of its new caseload management objectives and procedures. The court operates now without basic caseload management information—it has no regularly produced reports to monitor the age of cases in the pending caseload nor are there reports that measure trends in the age of cases at disposition. Without these, the court lacks both an important tool for controlling delay in individual cases and a measurement device to evaluate the effects of its caseload management procedures on the entire caseload over time. The court's efforts to improve the support it receives through automated data processing should focus on this need first. Developing automated support for processing the notices and forms the court uses in its caseload management procedures should then follow.

Three basic reports are fundamental and should be developed as soon as possible:

(1) Chronological listing of open cases based on the filing date of the current legal action (*not* based on the case number, which reflects only the date an action was originally filed.)²⁵ This capability is the cornerstone of an effective case management system. Nearly every other report and utility the court will use for case management depends on valid identification of "open" cases.

(2) A report that shows the age characteristics of cases *disposed* during selected time periods (months, years). The report will be most valuable if it computes the age of disposed cases in percentiles,

i.e., 25th, 50th, 75th, 90th. Computing the mean (average) age of disposed cases is helpful but does not provide as much information as a report that includes the median and the other percentiles.

(3) The same data described for analysis of the age of cases when they are disposed should be available for the cases that are *pending*. These data allow the court to detect problems as they develop.

Among the organizational issues facing the court are tensions created by the separation of the circuit court's administrative staff from the office of the circuit court clerk, and efforts to empower and involve administrative staff in the court's caseflow goals.

The character of the court's data on the interval between arrest and indictment suggests a need for structured review of the criminal caseflow process for this early stage of the criminal process. While the 1987 case disposition data show that very few cases exceed the ABA standards for disposing of 100 percent of criminal cases (or exceed the Virginia speedy trial rules), the median time to disposition is long, suggesting that some cases linger in the system longer than is necessary. When local jail space is being used, this results in additional strains on the county's resources. In some cases, defendants may be incarcerated without trial based on charges that will be lowered or dismissed at the indictment.

In some of the other courts that have much lower median processing times for the period of arrest to indictment—notably Montgomery County, Ohio, and the Detroit Recorder's Court—the presiding judge and trial court administrator lead interagency work groups that monitor the criminal caseflow process and adjust procedures when necessary after discussion and planning by each agency, including the public defender and criminal specialists in the private bar. This may be a strategy to consider implementing in Fairfax County in the 1990s.

Notes

1. Letter from local bar member to Chief Judge Griffith, dated March 1, 1989.

2. John Goerdt, et al. (1989), *Examining Court Delay: The Pace of Litigation in 26 Urban Trial Courts, 1987* (Williamsburg, Va.: National Center for State Courts). Hereinafter Goerdt, 1989.

3. When *arrest* to disposition is examined, Fairfax County ranks ninth in median time to disposition among the courts studied. This reflects delay in preindictment case processing. Fairfax County, like most metropolitan courts today, contends with delay in obtaining laboratory analysis results in drug cases. This may partially explain the relatively long preindictment stage for criminal cases [see Figure 9].

4. One other court—the Montgomery County, Ohio (Dayton), Court of Common Pleas—has a better combined performance, but judges there operate under an individual case assignment system. Goerdt, 1989.

5. See Robert W. Tobin and Timothy R. Murphy, "Overview and Evaluation of Caseflow Management for the Fairfax County Circuit Court, Fairfax, Virginia" (Williamsburg, Va.: National Center for State Courts, 1988).

6. A separate juvenile and domestic relations court has jurisdiction of all matters related to postdivorce problems—modifications of custody and visitation, and child support.

Alex Aikman, et al., "Assessing the Pace of Civil Litigation in the Fairfax County Circuit Court" (Williamsburg, Va.: National Center for State Courts, 1981).

8. Thomas W. Church, et al. (1978), *Justice Delayed: The Pace of Litigation in the Urban Trial Courts* (Williamsburg, Va.: National Center for State Courts).

9. Carlson, Alan "Sample of Fairfax County Superior Court [sic] 1980 Criminal Case Dispositions," memo to Alex Aikman (National Center for State Courts, September 27, 1981).

10. For reasons of comparability, these tables show law cases only. Previous case processing time studies have concentrated on these casetypes.

11. By agreement with the prosecuting attorney, no warrants are issued by magistrates directly upon a complaint from citizens when the complaint is felony class. Such complaints are first referred to law enforcement for investigation. If the complaint has merit, the police then apply for the warrant.

12. Understaffing in the prosecuting attorney's office allows very little early case review, and most cases are looked at only immediately before the preliminary hearing.

13. It is possible that the relatively low percentage of criminal cases in the Fairfax Circuit Court workload is partially explained by this screening effect. This type of "early disposition" means that fewer cases get filed in circuit court in the first place, but those that do get filed may take relatively longer than some other criminal courts that are fast from arrest to disposition.

14. The vertical representation system, however, creates some management problems, particularly since the prosecutor's office in Fairfax has a very small staff. Prosecutors must scramble between the courts (circuit, general district,

domestic relations, and juvenile) to take care of cases on those calendars, in addition to reviewing warrants and evaluating the merits of the cases. While this is all the more to the credit of the prosecutor's office, the prosecutor's office will also have to consider some management innovations to keep up with the workload.

15. Some court personnel and lawyers speculate that the rapid growth of the bar, and the influx of lawyers who had practiced where expeditious case processing was not the norm, has diluted traditions within the bar that kept lawyer-controlled dockets from becoming delayed, i.e., an expectation that most cases would be prepared and settlement explored in good faith before trial dates were requested and that discovery would generally proceed without a need to involve the court; confidence in early trial dates; and knowledge that the court would be prepared to hear all cases on the data set for trial.

16. Attorneys do communicate case status a few days before the scheduled trial date, and notify the docket clerk of cases that have settled.

17. Alex Aikman, et al., "Assessing the Pace of Civil Litigation in the Fairfax County Circuit Court" (National Center for State Courts, 1981) p.1.

18. Although compensated the same as other judge positions, more than one judge sought the position of chief judge when Judge Griffith was elected.

19. Tobin and Murphy, 1988.

20. "In Fairfax, Disorder in the Court—Chief Circuit Judge and Clerk Wage Turf War," *Washington Post*, March 13, 1989.

21. The court schedules only one trial per day for each public defender to avoid scheduling conflicts under this system. The public defender would prefer a more flexible policy, similar to what the court follows in scheduling criminal cases for the prosecutor. This would increase the capacity of the public defender's office to accept more cases.

22. The computer also runs counts of civil pleadings and orders processed by the court. This information may be useful to the clerk's office for monitoring workload trends but is of little use to the court in its present form.

23. Rates of filings and dispositions and the size of the pending caseload are useful to indicate chronic problems and trends. If the pending caseload steadily grows, the legal environment is not keeping abreast of the work. If filings suddenly show a marked increase over the normal disposition rates, a workload bulge and increase in disposition time is predictable if corrective action is not taken. But, ultimately, data about the age of disposed cases reveals only where the court has been. They are of limited value as an aid to management responses in the near term to prevent a steadily aging caseload. They tell the court nothing about what is happening to the cases that are currently open (How long have they been open? Why?) nor do such reports help the court identify cases that are closed in substance (or even in form) but which have not been properly closed out on the computerized accounting system.

24. Some attorneys predicted that the new system would suffer because judges would not "enforce" the scheduling orders just as they now are said to be "lax" about discovery.

25. Postjudgment action in criminal cases (e.g., probation violation matters) and in domestic relations cases (e.g., custody or support modifications) are examples of some cases that will be misrepresented on case age lists if a case number is used as a parameter for such lists. In designing the "case aging report," the court also needs to give some thought to events that may take a case out of the control of the trial court; e.g., stays during appeals and, perhaps, absconder status of criminals.

***Maricopa County
Superior Court***

Phoenix, Arizona

By MAUREEN SOLOMON
BARRY MAHONEY
MARLENE THORTON
ALICE LARKIN

Contents

	<i>Page</i>
Introduction	87
The Phoenix Fast-Track Program— Origins and Development, 1978-88	88
Key Elements of Effective Civil Caseflow Management in Phoenix	93
Current Issues and Concerns	100
Notes	102

Maricopa County Superior Court

Introduction

Excellence in civil case management has been an important goal of the Maricopa County Superior Court since the late 1970s, when the National Center for State Courts' study of the pace of litigation in urban trial courts showed a median time from filing to jury trial of approximately 20 months.¹ This was far from the slowest time to jury trial reported for urban courts; further, the median time from filing to disposition for tort cases was only about 10 months. Nevertheless, the court decided that improvement was possible. Since 1978, court leaders have been working closely with bar groups in Maricopa County to design, implement, and refine a new system of caseflow management—one in which the court takes greatly increased responsibility for the pace of civil litigation.

Development of what came to be known as the Phoenix fast-track program was really aimed more at delay *prevention* than delay *reduction*, since the court's civil case disposition times were relatively speedy compared to those of most other urban trial courts in the 1970s. But, with last-minute continuances becoming the norm and with forecasts of continuing increases in the volume of litigation, court and bar leaders felt that action was necessary to prevent future backlogs and lengthening delays in the disposition of civil cases.

As other studies have documented, the program proved to be highly successful.² The system designed in 1978 enabled the court to gain control of its caseload and, despite very large increases in case volume, to prevent the development of heavy backlogs and lengthy delays. The court exemplifies the proactive model of effective caseflow management. The chief presiding judge and the presiding civil judge, along with top administrative staff, monitor the caseload closely. When potential problems are detected, possible causes are investigated and remedies implemented. Caseflow

management issues appear on every agenda of the monthly civil judges' meetings and of the civil study (bench/bar) committee. Lines of communication and cooperation between the court and the organized bar are open and active. Bar participation in planning and problem solving has led to a sense of both pride in and ownership of the existing fast-track civil caseload management system.

What follows is an overview of civil caseload management in the Phoenix court. It provides background on the development of the fast-track system, describes the current operation of the court's caseload management system (with particular attention to key elements that make it effective), and discusses several issues that the court currently faces.

The Phoenix Fast-Track Program— Origins and Development, 1978-88

The Superior Court of Arizona in Maricopa County is a court of general jurisdiction, which serves a population of approximately two million. Judges are selected under a merit selection plan. The initial appointment by the governor is for a four-year term, unless a midterm vacancy is being filled. Thereafter, each judge must stand for retention by the voters every four years. The chief presiding judge of the court is appointed by the Arizona Supreme Court and serves at the pleasure of that court. The presiding judges of the various departments of the court are appointed by the chief presiding judge.

The court is organized into seven departments: general civil (cases involving claims of more than \$1,000), criminal, domestic relations, special assignment and appellate, probate and mental health, tax, and juvenile. The court has 55 judges, of whom 20 were assigned to the civil department in 1988. Assignments to the civil department are made by the court's chief presiding judge and are for two- to four-year terms.

The makeup of the civil department's caseload and the increase since 1976 is shown in **Table 1**, which categorizes filings by major casetype. Filings went up from 18,248 in 1976 to 33,947 in 1988, an 86 percent increase.

The Maricopa County Superior Court was one of the 21 urban trial courts that participated in the National Center for State Courts' groundbreaking *Justice Delayed* study in 1976-78. According to that study, 1976 case processing times in Phoenix were relatively speedy: for example, in median tort disposition time, the court ranked third, with 308 days between filing and disposition. But the median time to jury trial (607

Table 1
Civil Case Filings in Phoenix, 1976-87

Casetype	Number of Filings		Percent Increase
	1976	1988	
Tort Motor Vehicle	2,699	4,893	81
Tort Nonmotor Vehicle	1,492	1,984	32
Medical Malpractice	108	221	104
Contract	9,485	17,889	88
Eminent Domain	227	302	33
Lower Court Appeals	152	-0-	(100)
Unclassified Civil	4,085	8,658	111
Totals	18,248	33,947	86%

days) seemed longer than necessary, and both judges and lawyers were aware of a high rate of trial continuances.

The court's presiding judge in 1978 was Robert Broomfield, now a federal judge in Arizona. Judge Broomfield took the lead in developing a program to improve civil case management. During the fall of 1978, he arranged for National Center staff to collect additional data and interview judges handling civil cases to develop a comprehensive description of the civil litigation process. At the same time, he convened a special bench/bar committee that included leaders of the county bar association and the trial lawyers' associations. This group, the civil study committee, was asked to help plan and implement an experimental civil case management program.

Many bar leaders were skeptical. While critical of many aspects of the civil case processing system then in existence, they feared the potential impact of reform on their practices. However, after substantial study and debate, they concluded that if a new system could ensure reliable trial dates, they would support an experiment. From their perspective, a system that would enable trial lawyers to organize their schedules and plan witness availability with confidence in the trial date would be extremely beneficial.

Before 1978, civil case scheduling in Phoenix had been lawyer dominated. The court operated an individual calendar system, with cases randomly assigned to the judges handling civil cases at the time of filing. Case progress was not monitored or supervised by the court. Until a party (usually the plaintiff) filed a certificate of readiness signifying the desire for a trial date (and that discovery had been completed or would be completed

before the trial date), no court action occurred. Upon receipt of a readiness certificate, the judge's secretary would set the case for trial, usually three to six months in the future. While continuance practices varied from judge to judge, the general practice was to allow two or three continuances of a scheduled trial by stipulation of the lawyers. Civil trials would also be continued because the trial judge received (sometimes in the midst of a civil trial) a "last day" criminal trial—i.e., a criminal case in which the charges would be dismissed under the Arizona speedy trial rule unless a trial could be held.

The experimental program developed by the court and the civil study committee was not a wholesale abandonment of the existing system, but it made four important modifications. First, while retaining the certificate-of-readiness procedure, the committee converted it into a case management tool. On the theory that discovery could be completed within nine months after filing in most cases, the court required that in cases assigned to the four judges participating in the experimental program, the certificate of readiness must be filed within 270 days after filing the complaint. Failure to do so would result (with notice to the plaintiff's lawyer) in the case being placed on the inactive calendar with automatic dismissal to follow in 60 days, unless a certificate of readiness and motion to set for trial were received during those 60 days.

Second, the court committed itself to scheduling trials 30 to 90 days after the filing of the certificate. The number of trials scheduled for a given week was reduced to ensure that each would take place on the scheduled date. Third, a manual recordkeeping system was specially designed to enable the court to monitor compliance with the certificate-of-readiness procedure. Fourth, with the approval of the Arizona Supreme Court, the court developed a pool of pro tempore judges—practicing attorneys in Maricopa County—who could augment the court's permanently appointed judges when necessary, so that all cases set for trial could be tried on the scheduled date.

Implementation of a pilot program involving 4 of the court's 17 civil judges began in January 1979. The first year's results were striking. By comparison with the other 13 civil judges, the 4 judges involved in the pilot project had markedly reduced their pending caseloads. They also had a greater number of dispositions per judge per month, a higher trial rate, and a larger number of settlements per month. The judges participating in the pilot project were enthusiastic. So were the attorneys, who especially appreciated having to prepare a case for trial only once. The lawyers coined the term "fast-track" to describe the pilot system, a term that is still used.

In succeeding years, the fast-track program was expanded to include other judges, a few at a time. By 1983, all of the judges in the court's civil

division were operating under the new system. The current civil caseflow management system is basically the same as the original pilot project, although there have been refinements from time to time.

Upon initial examination, the effect of the Phoenix civil case management system on delay might seem slight. Table 2 shows that case processing times were consistent over the 1976-85 period, then slowed noticeably in 1987.

Even in 1987, however, civil case disposition times were remarkably good by comparison to other large urban courts.

- Fifty-six percent of all civil cases reached disposition within one year, and only 14 percent took over two years.
- Tort case processing time also was reasonably speedy, with only 16 percent taking over two years.

The system designed in 1978 and implemented in the decade that followed has enabled the court to identify active cases, take control of these cases and monitor their progress, provide trials on the scheduled date in a high proportion of cases, and (except for 1987) prevent substantial increases in the backlog and in time from filing to disposition. During most of this

Table 2

Civil Case Processing Times in Phoenix, 1976-87
(in days from filing)

	1976	1983	1985	1987
Tort Disposition Time				
Median	308	317	292	383
75th Percentile	471	478	420	587
90th Percentile	—	660	636	829
Percent Over One Year	—	45	41	56
Percent Over Two Years	7	6	6	16
Disposition Times for All Civil Cases				
Median	—	164	133	313
75th Percentile	—	405	400	471
90th Percentile	—	598	527	801
Percent Over One Year	—	32	30	44
Percent Over Two Years	—	5	6	14
Time to Jury Trial				
Median	607	690	634	915

period, the court has kept up with the increase in civil filings despite having only a small increase in the number of judges assigned to the civil department. There were 17 judges assigned to the civil department in 1976, and 19 to 20 were assigned to the department in 1987 and 1988. Some supplemental resources have been obtained through the use of pro tem judges and commissioners. In 1988 four pro tem judges assisted the department (mainly handling trials), and two commissioners handled defaults and uncontested matters. However, even assuming that the court had the equivalent of 26 judges (including the pro tems and commissioners), it is clear that the increase in judicial resources was markedly less than the increase in case volume.

The total number of civil cases pending at the beginning of 1985 was less than the number pending at the start of 1976—a reflection of the fact that the court's annual dispositions increased at a slightly greater rate than annual filings over this ten-year period. However, as Table 3 shows, dispositions did not keep pace with filings during the 1985-87 period. At the end of December 1987, the total pending inventory was more than 50 percent greater than it had been in January 1985. During 1988, dispositions exceeded filings by almost 6,000 cases, and the court reduced its pending caseload somewhat—though not to the 1985 level.

The civil caseload management system developed during the initial pilot project has remained essentially the same. The judges assigned to the civil department all operate on an individual calendar system, following procedures that provide for a presumptive 15-month trial track. Cases are randomly assigned to judges at the time of filing, and their progress is thereafter monitored by the civil department's central case management

Table 3
Data on Civil Case Filings, Terminations, and Pending Caseloads, 1983-88

	Pending Start of Year	Filed	Terminated	Pending End of Year
1983	21,666	26,101	27,632	20,135
1984	20,135	28,302	27,435	21,002
1985	21,002	33,146	32,870	21,278
1986	21,278	38,250	36,389	23,139
1987	23,139	44,973 *	35,540	32,572
1988	32,572	33,947	39,732	26,787

* Note: Approximately 9,000 cases were filed in December 1987. Some of this increase may be attributable to additional caseloads resulting from legislation abolishing joint and several liability.

office. Judges have responsibility for all cases assigned to them and become actively involved in case management when a certificate of readiness is filed, signifying that the case is ready to be set for trial.

During 1987-88, some judges experimented with a procedure under which they become involved at a much earlier stage. The case management office notifies these judges when 100 days have elapsed since the filing of the complaint, and the judges then instruct their staff to send a notice to counsel (known as a "100-day minute entry") requesting information about the status of the case. The notice asks whether the case is subject to compulsory arbitration, whether service has been completed and answers have been filed, whether a settlement has occurred or is imminent, and whether a pretrial conference would be helpful for scheduling and/or settlement purposes. Counsel are expected to reply within 20 days, and their responses give the judge an early look at the case, enabling them to make a rough assessment of the level of judicial involvement likely to be necessary. Approximately half of the Phoenix civil judges are using this approach.

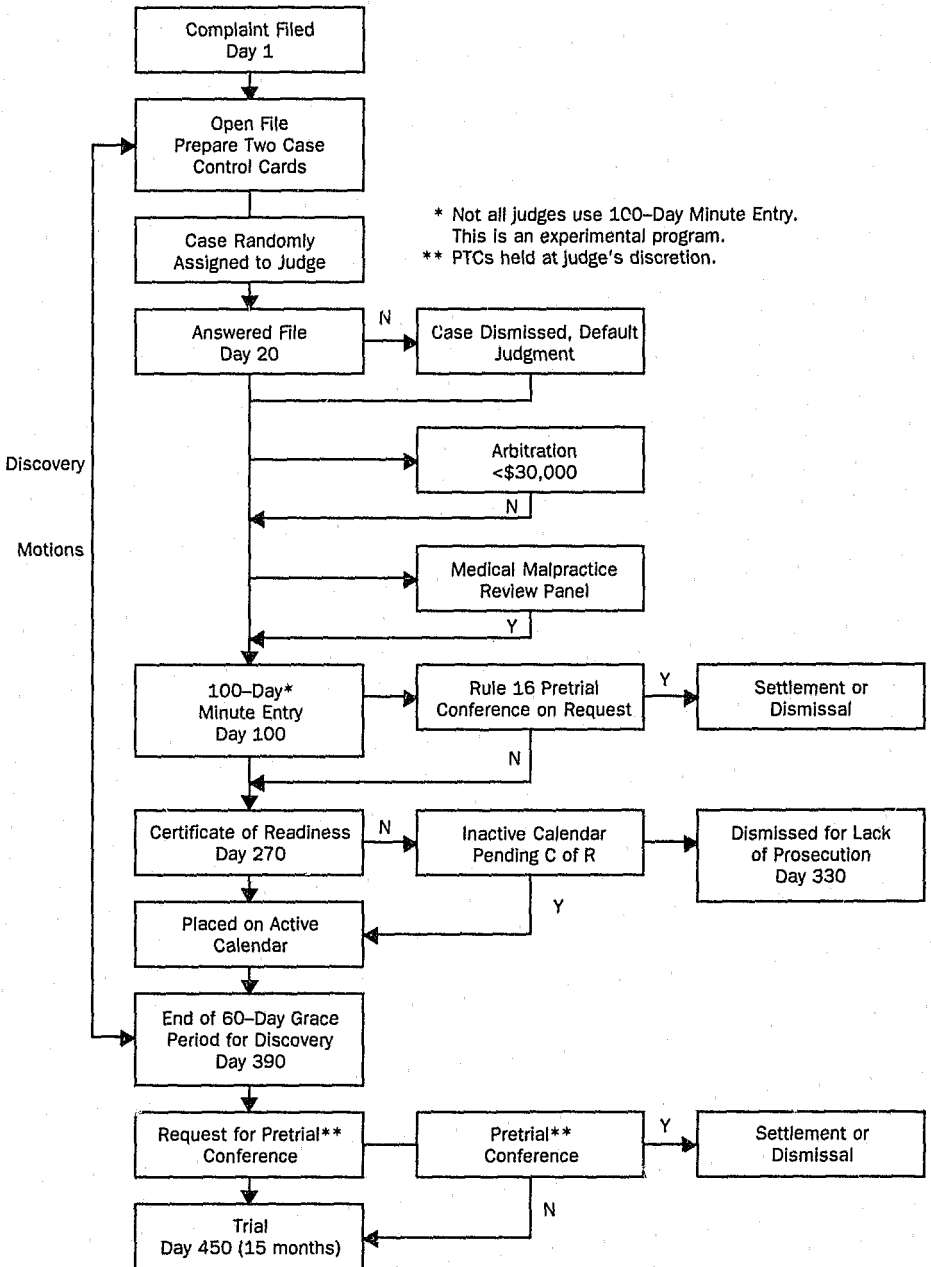
As **Figure 1** (p. 94) illustrates, the basic system in Phoenix is designed to put the burden on lawyers to substantially complete discovery within 270 days after a case is filed. There is a 60-day grace period built-in, so that the certificate of readiness does not have to be filed before the 330th day after filing, and some discovery can be completed in the 60 days after the certificate is filed. However, the basic expectation is that a trial will be held approximately 15 months after the original filing date. Continuances can be obtained, but requests for continuances are expected to be made in advance with a showing of good cause. Both judges and lawyers sense the importance of maintaining the integrity of a firm trial date, which is one of the court's strongest areas.

As caseloads have risen and case processing times have become slower during the 1986-88 period, the court's leaders have started to reexamine the system, focusing particularly on the possibility of closer case supervision (more contact with attorneys and more follow-up) during the 11-month period following the filing of the complaint and on the length of time allowed to a case.

Key Elements of Effective Civil Caseflow Management in Phoenix

The Phoenix court has taken a comprehensive approach to civil caseflow management. Its performance is outstanding with respect to virtually all of the areas that have been identified as essential for effective caseflow management.

FIGURE 1
Civil Caseflow in Phoenix



Leadership

There is a general expectation in Phoenix that the superior court's chief presiding judge will be a committed, activist leader who gives priority to caseload management. The current chief (B. Michael Dann), his associate chief (Fred Martone), and former chief (Robert Broomfield) all fit this description. All have been active and articulate proponents of an intervention model of caseload management. There is also an expectation that the court administrator will be an effective leader and manager concerned with the caseload system. The current administrator (Gordon Griller) and his predecessor (Gordon Allison) are nationally recognized leaders in court administration.

The court's leadership has placed increasing emphasis on developing an executive team in each department. In the civil department, the executive team consists of the civil presiding judge (Barry Schneider) and the judicial administrator (Michael Planet). The civil presiding judge has primary responsibility for contacts with the judges and the bar and communicates with them regularly concerning caseload management. The judicial administrator supervises the central case management office, monitors data produced by the court's information system, and initiates research projects on aspects of civil case management. The two meet regularly to assess the current status of the court's caseload and to identify and discuss caseload issues. Both pay close attention to caseload statistics, and both are advocates of strong caseload management. They are quick to address apparent problems and to propose change when the need arises.

Goals

There are no statewide time standards for case disposition in Arizona, but the Phoenix court has adopted its own goals with respect to case processing time, as follows:

	<u>Current Goals</u>	<u>Proposed Goals</u>
90% of cases completed within	18 months	12 months
98% of cases completed within	24 months	18 months
99% of cases completed within	36 months	24 months

In addition to these case processing time goals, the court places heavy emphasis on ensuring firm trial dates: a goal the bar vigorously advocates.

Information

The court's civil department does not have a computer. All caseload management information is produced manually by staff in the central case

management office, working primarily from 5" x 8" case control cards. Key reports include the following.

- The *Monthly Statistical Report* is a one-page report that summarizes aggregate data for the civil department—including filings, the number of pending cases (by category) at the start of the month, new filings during the month, transfers from one judge to another, terminations during the month, and the number of cases pending (under and over 18 months) at the end of the month. It also shows trials and hearings commenced and provides summary data on arbitration proceedings. It is based upon data for each of the civil judges.
- The *Active Calendar Status Report* is a one-page report that shows, for each judge, the status of cases in which a certificate of readiness has been filed—number pending at the start of the month, additions during the month, trials started, cases settled, and other changes, including transfers to other judges.
- The *Age of Cases Terminated Report* shows the median age of all civil cases terminated during the month and also indicates the age of the 75th, 90th, 98th, and 99th percentile cases.
- The *Transfer Report*, completed quarterly, shows the number of cases transferred from each judge to another judge and the number transferred to each judge from another judge. It indicates the extent to which judges use other judges as backups when they have potential trial date conflicts and the extent to which each judge serves as a backup for colleagues.
- The *Age of Pending Active Cases Report* shows the number of active pending cases at specific intervals measured from date of filing for each judge. It includes a trend analysis comparing this month's data to data in previous reports.
- The *Quarterly Report* contains a summary of the information in the monthly reports described above for the most recent quarter and the previous four quarters. It also includes a brief analysis.

The central case management office, which operates under the general oversight of the judicial administrator of the civil department, is the nerve center for collection and analysis of statistical data. The staff of this office has operational responsibilities (for example, monitoring the timely filing of the certificate of readiness). The case control cards the office maintains provide the basis for preparing the statistical reports. The physical case files are maintained separately, in the office of the clerk, who is an independently elected official.

Communications

Open communication throughout the court and between the court and the bar characterizes caseflow management in the Phoenix court. The judges in the civil department meet monthly, and each year they attend a one- or two-day retreat, where they share problems and discuss possible solutions. The civil study committee—the joint bench/bar committee initially established in 1978 to help plan the caseflow management pilot program—also meets monthly and provides a forum for candid feedback and exchange of information and ideas from an agenda prepared by judges at their internal meetings. The judicial administrator attends all of the meetings, prepares minutes, and plays an active role in policy development.

Caseflow Management Procedures

The court's basic caseflow management procedures have been set down in writing and are incorporated in local court rules. Key features include the following.

- **Court control of case progress.** Every civil complaint includes a cover sheet containing basic information about the case. This information is entered into a computer in the clerk's office. Two copies of a 5" x 8" case control card are generated—one for the civil department's central case management office and the other for the secretary of the judge to whom the case is assigned. The case control card is the basic tool used to track and monitor cases through disposition.
- **Individual calendar system.** Each case is assigned to a civil department judge at the time of initial filing. That judge is thereafter responsible for all aspects of the case until it is concluded.
- **Use of compulsory arbitration.** All cases involving \$30,000 or less are subject to compulsory arbitration. The progress of cases referred to arbitration is monitored by the court's central case management office. Parties can appeal an arbitrator's decision via trial de novo, but this right is seldom exercised.
- **Expeditious completion of discovery.** The certificate of readiness must be filed within 11 months of initial filing. It certifies that discovery will be completed within 60 days.
- **Firm trial dates.** Trial dates are set by the individual judges after the certificate of readiness is filed. While the court's policy is to set the trial for a date within 120 days of the filing of the certificate of readiness, the judges' actual trial-setting practices vary. Different

judges set between four and ten cases per week for trial, and cases are scheduled 60 to 180 days into the future. Many cases will, of course, settle before the trial date, but if the trial date is reached and a judge has two or more cases ready for trial, the court takes great pains to ensure that all of the cases can be tried.

- **Backup assistance.** Three sources of backup assistance have helped the court meet its commitment to providing firm trial dates: other civil department judges (if not already conducting a trial or other business), special assignment judges, and lawyers serving as pro tem judges. A case transfer coordinator, in the office of the chief presiding judge, arranges for transfers of scheduled trials among judges when necessary.
- **Strict continuance policy.** Although postponements of the first trial date are not uncommon, all requests for a continuance must be made in advance, with reasons, and are scrutinized by the trial judge. Multiple continuances of the trial date are rare.
- **Monitoring.** The court's central case management office is responsible for monitoring case progress up to the point of certification of readiness. When necessary, this office sends notices, and court orders are sent to attorneys. After readiness certification, the case goes on the judges' active calendar. Thereafter, the central unit tracks further events on the case control cards, but management of case progress is the responsibility of the judge. Key points in the process are the following:
 - At approximately 100 days after initial filing, the case management office notifies those judges experimenting with use of the 100-day minute entry that 100 days have elapsed. These judges (approximately half of the Phoenix civil judges) then direct their staff to send the notice to counsel requesting information on case status.
 - At approximately 270 days after initial filing, a notice is sent to any plaintiff's attorney who has not yet filed a certificate of readiness notifying the attorney that the case is being placed on the inactive calendar and may be dismissed for lack of prosecution in 60 days unless some form of action (entry of judgment, extension of time, or filing of the certificate of readiness) is taken.
 - At 330 days after filing, a notice of dismissal is sent to the parties unless a judgment or certificate of readiness has been filed or time to file has been extended by the judge.
 - In cases referred to arbitration, a notice of impending dismissal will be sent 120 days after the arbitrator has been appointed if no award

or judgment has been submitted, and a judgment of dismissal will be sent after 180 days in the absence of an award or judgment.

- Monitoring practices vary by individual judges with respect to cases on the "active" calendar (i.e., those in which a certificate of readiness has been filed), but many of the judges have their secretary contact the attorneys in cases set for trial in the following week to ascertain whether the case will proceed to trial and whether the pretrial statement has been filed.

Judicial Responsibility and Commitment

Not only does the philosophy of court responsibility for caseflow pervade the court, but the bar now *expects* the court to take responsibility for the expeditious handling of its caseload. Judges' policies with respect to trial setting and continuances vary somewhat, but there is an across-the-board commitment to court control of the calendar and to ensuring firm trial dates.

Administrative Staff Involvement

Administrative staff in the court play a major role in troubleshooting and policy development. Every court committee is staffed by a senior member of the court administrator's staff, and every major project involves staff as well as judges. The central case management office plays a pivotal role in monitoring case progress and in overall caseflow management. Judges' secretaries also have key roles in caseflow management, and the court has prepared a manual for them, which outlines the court's goals, policies, and procedures with respect to case processing and helps produce a more common approach to scheduling trials and other matters.

Education and Training

Education and training related to caseflow management is an ongoing process in Phoenix. Much of it takes place in meetings—for example, at the monthly meetings of the civil judges and of the civil study committee. Special orientation programs are held for all new judges and for any judges who rotate into a new division. Seminars on particular topics (e.g., negotiation skills, alternative dispute resolution techniques) are held periodically. All civil judges attend the civil department's annual retreat, and many judges attend courses conducted by the National Judicial College and the Institute for Court Management.

The court has also paid attention to training for its own staff and for the bar. Training sessions are held periodically for judges' secretaries. Senior members of the central staff are sent to ICM courses on caseflow

management and delay reduction. Special programs are conducted for bar groups to update them on revisions in procedures and refamiliarize the lawyers with the basic system and its rationale.

Mechanisms for Accountability

The combination of the court's organizational structure, clear goals, procedural guidelines, and an adequate information system means that mechanisms exist to hold judges and staff accountable for their performance. The information system needs improvement but can provide basic performance data. The presiding judge periodically meets with judges who seem to have difficulties or whose pending caseload is increasing.

Backlog Reduction/Inventory Control

The civil department's main focus, until recently, has been on its *active* pending caseload (i.e., cases in which a certificate of readiness has been filed). However, the steady rise in filings and the 1985-87 increase in the size of the total pending caseload have begun to focus attention on the entire caseload and on the possibility of a more activist role for the court at an earlier stage in the litigation process. After an experimental period, a number of judges have adopted the 100-day minute entry system, under which the court requests counsel to provide information on the status of the case. Many cases report settlement at this stage, and this reduces the size of the total pending caseload. As of the close of 1988, it appears that these efforts are paying dividends. Helped by the fall-off in 1989 filings, the court's pending caseload decreased by 5,270 cases (15 percent) during 1988.

Current Issues and Concerns

As of the close of calendar year 1988, the Civil Department of the Maricopa County Superior Court faces major challenges. Although case filings dropped off in 1988, after a record year in 1987, the volume of filings is much higher than it was a decade ago. Pending caseloads have increased over the decade (although they, too, decreased in 1988), and disposition times have been lengthening. The issue facing the court is one that a number of courts are increasingly having to address: "What is required for a court to sustain improvements over the long term, especially as caseloads increase?" The system that has worked well in Phoenix over the 1978-88 period may not be as effective in the future, especially if case volume continues to increase.

What new approaches should be considered? What issues must the court address successfully in the 1990s? Preliminary discussions and observations point to four areas.

- **Earlier intervention.** Should the court become actively involved in case management at an earlier point than the present 270th day? For example, should use of the 100-day minute entry system, or some variation, become courtwide policy? The experience of many courts suggests that intervention at an early point—after the answer is due, but before extensive discovery has been undertaken—can be helpful in resolving disputes expeditiously, with less cost to the litigants.
- **Closer supervision.** After the 270 days from the date of initial filing, cases in which a certificate of readiness has not been filed are placed on the judge's inactive calendar. They are supposed to be dismissed if a certificate is not filed within 60 days, but extensions of time can be granted upon request. This is an area that may need particular scrutiny, as judges' practices vary, and some cases remain on the inactive calendar for lengthy periods.
- **Information system development.** The county board of supervisors has allocated funds for automation of the court's civil case management system, but detailed systems development work has not yet begun. Particularly in view of the very large volume of cases handled by the court, automation should be a high priority. Court staff have visited other courts to learn about their automated systems and should be able to incorporate key features into a new system.
- **Linkage with other divisions of the court.** The civil department is part of a superior court that has several other departments. It has become increasingly evident that problems in one department have repercussions for the others, often draining resources away from the healthier departments. That is happening to some extent in Phoenix in 1988-89, as the court's leaders address problems of backlog and delay that have been building up in the criminal department for years. The civil department now has fewer backup judges available than in most of the last ten years, and the result is increased pressure on the judges' trial calendars. Improvement in criminal case processing should have positive effects on civil case processing.

Notes

1. Thomas W. Church, et al. (1978), *Justice Delayed: The Pace of Litigation in Urban Trial Courts* (Williamsburg, Va.: National Center for State Courts).

2. See, e.g., Larry L. Sipes, et al. (1980), *Managing to Reduce Delay* (Williamsburg, Va.: National Center for State Courts) pp. 6-12, 41-61; Barry Mahoney, et al. (1988), *Changing Times in Trial Courts* (Williamsburg, Va.: National Center for State Courts) pp. 122-133; Robert C. Broomfield (with Howard Schwartz), "Delay: How Kansas and Phoenix Are Making It Disappear," *Judges Journal*, vol. 23, no. 1 (winter 1984); Bonnie Dicus, "Phoenix Revisited," *State Court Journal*, vol. 10, no. 1 (winter 1986); Noel Fidel, "Why the Court Measures Delay from Commencement," *State Court Journal*, vol. 10, no. 3 (summer 1986).

Wayne County Circuit Court

Detroit, Michigan

By DOUGLAS K. SOMERLOT
MAUREEN SOLOMON
BARRY MAHONEY

This profile is an edited version of the article, "Straightening Out Delay in Civil Litigation," *Judges Journal*, vol. 28, no. 4 (fall 1989), and is reprinted with permission.

Contents

	<i>Page</i>
Background	<i>107</i>
Implementing the Program	<i>110</i>
Results to Date	<i>116</i>
What Has Made It Work?	<i>118</i>
Conclusion	<i>124</i>
Notes	<i>126</i>

Wayne County Circuit Court

Something important is happening in the Wayne County Circuit Court in Detroit, Michigan—something that deserves attention from everyone interested in the reduction of litigation cost and delay. In a program aimed at enabling the court to meet the ABA time standards for civil case disposition, the court has taken control of its caseload, reduced its pending case inventory, and is concluding all of its cases more quickly than at any time in the recent past.

The initial results of this barely three-year-old program have been dramatic. The pending civil caseload has been reduced by over 33 percent since January 1985, median time to disposition has dropped from 21 to 13 months, and the number of civil cases pending more than two years has been cut in half. For the first seven judges in a pilot program to convert to an individual calendar system, the results are even more striking: all have reduced their combined civil and domestic relations caseloads from over 1,300 cases in mid-1986 to less than 700 in mid-1989, and five of the seven have caseloads of less than 600 as of August 1989.

What has been going on in this high-volume urban trial court? What follows is an overview of changes that have taken place in the Wayne County Circuit Court over the past four years, focusing particularly on the development and implementation of the court's caseload management improvement program.

Background

The Wayne County Circuit Court has a long-standing history of delay in civil cases. The National Center's 1978 *Justice Delayed* study, which sampled data on 1976 dispositions, reported a median tort disposition time of 788 days, or about 26 months from filing. For the full range of general

civil cases, the median time was 24 months. For cases disposed of by jury trial, the median in 1976 was 41 months.¹ In 1984 the National Center initiated a follow-up study of case processing times. The initial data from 1983 dispositions, showed only a slight change: median tort disposition time was 24 months, median general civil case disposition time was 21 months, and the median time to jury trial was 37 months.² Though somewhat improved over 1976, Wayne County nevertheless ranked near the bottom of the 18 courts participating in the study on virtually every measure of case processing time.

The results were disappointing and frustrating to circuit court leaders who had been trying to address the problems of delay since the mid-1970s. Several new programs had been introduced, the court's management information system had been automated, and the court had pioneered a mediation/case evaluation program nationally recognized as a model among alternative dispute resolution programs.³ Nevertheless, the data were clear. Timely disposition of civil cases continued to elude the court.

To some observers and practitioners, including the court's then chief judge, Richard Dunn, and several of the other judges, one of the primary factors causing delay was the court's calendaring system. For many years, the court had operated a "hybrid" master calendar system. Under this system, cases were individually assigned at filing to a judge for motions and other pretrial matters but went to a central docket (master calendar) either 18 or 27 months after filing (depending on case complexity) to be scheduled for a mediation/case evaluation hearing and, if the cases were not resolved at mediation, for trial.⁴ Up to the mediation hearing, a judge ordinarily would have no involvement in a civil case unless a motion was filed requiring a ruling. The court's own rules allowed a 26-month period for completion of discovery.

Thus, the system was designed for relatively complex cases—the sort of cases for which the lengthy discovery period contemplated by the court's rules would be entirely appropriate—even though cases of this complexity made up only a small fraction of the total caseload. With no scheduled event deadlines or court supervision to encourage the parties to prepare or assess their cases until mediation, it was generally accepted that most cases would stay in the system at least until the mediation date loomed on the horizon.

The trial-scheduling system placed little emphasis on firm trial dates. Trials were scheduled for about 90 days after the mediation hearing, but the main focus of the first scheduled trial date was on settlement rather than trial. Every scheduled case was first sent to a settlement conference with one of two specially designated judges. A significant percentage settled at the conference, but many did not. Most cases that did not settle

were continued to a new trial date, usually six months in the future. Not infrequently, another continuance would occur because of an overset trial calendar. By about the third trial date, the case would receive priority for trial, and a continuance would be harder to obtain. Finally, when faced with the imminence of a trial, in most cases the lawyers, at last, would reach a settlement.

The process, with cases assigned on an individual calendar basis until the mediation hearing and handled thereafter under a master calendar, left no one at the court in charge of any case from start to finish. The main advantage of the individual calendar system—making individual judges responsible for management of their dockets—was lost since judges were not responsible for disposing the cases assigned to them. And although a master calendar system potentially can provide centralized case management, the combination of the two-year discovery period and the fact that the master calendar system did not really kick in until after the mediation hearing meant that there was no single focus of responsibility for case progress until after the mediation date at month 18 or 27.⁵

The structural and procedural factors contributing to delay in Wayne County were reinforced by the attitudes and expectations of both lawyers and judges. Attorneys expected cases to take a minimum of two years, recognized that the first trial date was not likely to be a true date, and acted accordingly. Judges, believing that attorneys preferred a lawyer-controlled calendaring system, were relatively lenient in granting continuances.⁶

Beginning in 1985, the court started a new delay reduction initiative, spurred by several factors. First, the National Center's data on 1983 disposition time indicated considerable room for improvement. Second, the American Bar Association adopted processing time standards that called for completion of 90 percent of all civil cases within one year, 98 percent within 18 months, and 100 percent within two years. It was clear that the court was falling far short of these standards. Third, the state's supreme court adopted a rule requiring discovery to be completed within 12 months in civil cases, unless the time was extended for good cause. This rule called for a more accelerated pretrial period than had theretofore existed in Wayne County.

The court's planning process, initiated by Chief Judge Dunn, court administrator Kent Batty, and Terry Kuykendall, the deputy administrator for trial services, involved a number of the judges, several key staff members (mainly in the court's trial services division), and representatives of the bar. Chief Judge Dunn created a bench-bar committee and invited key leaders in the bar to participate. While there was near-unanimity within this committee on the need to reduce delay, there was no clear consensus about the method to be used. Some of the attorneys were

particularly concerned about one of the main proposals under consideration—a change to an individual calendar system. This would, in effect, require them to become familiar with the scheduling practices of 35 different judges. Further, they feared that past bad experiences under the individual calendar systems of other counties might be replicated under this one. Considerable concern about trial date certainty was evident.

Chief Judge Dunn retired at the end of 1985, but development of a new approach to caseload management continued. The program that eventually developed had three main components: (1) an inventory of pending cases; (2) two special backlog reduction projects—visiting judges and “trial acceleration weeks”—designed to dispose of the oldest active cases identified through the inventory; and (3) a pilot project in which seven judges would handle cases on an individual calendar basis beginning in mid-1986.

Former Chief Judge Dunn originally had considered a one-step, courtwide conversion to the individual assignment system. However, recommendations by the court staff and ABA and National Center consultants, and a study of the successful implementation of a civil case delay reduction program in Maricopa County (Phoenix), Arizona, persuaded him and other court leaders to use a pilot project approach. Early in 1986 they commenced an individual calendar experiment that, at the outset, would involve 7 judges. By beginning with 7 judges, they could take an easily defined portion of the court’s total judicial complement (20 percent of the circuit court’s total of 35 judges). The other 28 judges would remain on the hybrid master calendar system during the first year of the experiment, with the understanding that use of the individual calendar system would be expanded if the pilot program were successful. The court’s new chief judge, Richard Kaufman, gave strong backing to the program.

Implementing the Program

The Pending Case Inventory

An accurate count of pending cases, updated regularly, is a key component of an effective caseload management system. Conducting a complete inventory of pending cases was a critical first step toward developing a modernized caseload management system in the Wayne County Circuit Court. For a number of years, two separate systems had been used to maintain the court’s records: a manual system operated by the clerk’s office and a computerized system operated by the court. The pending case counts of the two systems did not match. To identify the cases that needed attention (at least some of which would have to be tried), it was

necessary to consolidate the two systems and identify cases that were incorrectly being carried as active.

This examination alone resulted in formal disposition of a significant number of cases that had already been settled or abandoned. Some cases that had been carried as active were found to have been incorrectly coded in the computer; others were disposed of for lack of activity. This inventory of pending cases gave the court enough information—especially with respect to the cases over 30 months old, which would be the primary targets of an old-case backlog reduction program—to begin detailed planning of the backlog reduction efforts and the individual calendar experiment.

Equally important, conducting the inventory proved to be an effective joint undertaking by staff in the office of the clerk (an independently elected official) and the court administrator's office. Both organizations gained an appreciation of the expertise resident in the staff of the other. Clearly, it was possible to work together without a loss of identity, power, or turf. This success served as a model for later efforts and provided vital information about how the court's various systems worked together.

Reducing the Backlog of Old Cases

After completion of the records consolidation project, two special programs were instituted to dispose of the roughly 1,600 remaining active cases over 30 months old. One, known as the Trial Backlog Reduction Program, ran from April 1986 through April 1987. The heart of the program involved temporary assignment of a limited number of volunteer district court (limited jurisdiction) judges and Detroit Recorder's Court judges to try circuit court civil cases. Cases were screened for trial by central docket management staff and by a special settlement conference program run by District Judge James Garber, who was temporarily assigned to serve as a circuit court judge. The focus was on cases that were not overly complex and that had already been through at least one settlement conference. Cases not resolved at the settlement conference before Judge Garber were assigned for trial. Trial dates were firm: Judge Garber and his staff had located judges who would be available to try cases on specific dates, and attorneys whose cases did not reach disposition at the settlement conference soon found this out. Some cases went to trial, but appreciably more settled. In all, this program resulted in disposition of approximately 800 of the cases that were over 30 months old.⁷

The second prong of the old-case backlog reduction effort was a Trial Acceleration Week Program. During specially designated weeks, all circuit court judges not assigned to the criminal docket tried cases that were over 30 months old, had gone through at least one settlement conference, and

presumably were ready for trial. The trial acceleration weeks were scheduled at two-month intervals, beginning in July 1986 and running through March 1987. Only trials that would take five days or less were scheduled, and the judges suspended all other activities to hold the trials assigned to them. No judicial vacations were authorized during these weeks. During the five trial acceleration weeks, a total of 168 trial-ready cases reached disposition—an average of about one case per judge for each of these weeks.

From the outset, the old-case backlog reduction program was regarded as a short-term effort, aimed at disposing of "old dogs"—cases that were over 30 months old (including a substantial number that were 4 to 6 years old) that had resisted previous mediation and settlement efforts and that had been adjourned on trial dates in the past. By bringing these cases to disposition, the court cleared out a large block of troublesome cases, which had clogged its trial calendar, and reduced the backlog of supposedly trial-ready cases on the dockets of judges who would be switching to individual calendars. It also helped raise consciousness—both in the court and among members of the bar—about the age of pending cases. Perhaps most important, it manifested the court's own commitment to attacking delay.

The Individual Calendar Pilot Program

The individual calendar experiment was the centerpiece of the delay reduction initiative. It began on July 1, 1986, with seven judges participating. Initially, they focused on their own case inventories from the hybrid master calendar system. They would now be responsible for bringing all these cases to disposition. The average pending civil caseload for the seven phase I judges, as of July 1, 1986, was approximately 1,350 cases. Additionally, the phase I judges continued to be assigned their share of new cases. With the aid of their staffs (bailiff, courtroom clerk, secretary, court reporter, and in some instances, law clerk), the phase I individual calendar judges contacted the lawyers in the pending cases, ascertained the status of the cases, dismissed those in which an unreported settlement had occurred or which had been abandoned for some other reason, and set dates for mediation, pretrial conferences, and trials in the ones that remained active.

The decision to start by addressing the judges' pending caseloads had several advantages. The judges quickly discovered the characteristics of the pending cases, and the bar was provided an early opportunity to learn the court's intentions and new procedures. The judges had an opportunity to increase their comfort and skill with active court management of case progress, and the new techniques could be tested and refined before application to new cases, where court supervision would yield the greatest benefits.

On January 2, 1987, the seven pilot program judges began applying the new case management techniques to newly filed cases (known in the court as "Day Forward" cases) by following approaches designed to enable them to review the status of the case early on and set deadlines for future events. Over a year of detailed planning had gone into the procedures, forms, case processing tracks, and individual calendar plans before the phase I judges began handling new cases on an individual calendar basis. Initially, two plans were developed, plan C and plan H. After extensive committee meetings, staff analysis, and consultation with the bar, it was decided that experimentation with two slightly different approaches would be instructive without sacrificing the project's goals or principles. The two plans differed primarily with respect to the point in the caseload process at which active judicial management of cases began. While each case was monitored for service of the summons and filing of the answer, under plan C each case automatically was scheduled for a judicial status conference 119 days after filing. Under plan H, status conferences were scheduled at approximately 42 days after filing of the answer or 345 days after the complaint was filed, whichever occurred first.

Both plans established four tracks for civil cases, providing for a range of case complexities and the associated times required for preparation. Three of the tracks contained predetermined deadlines for completing certain activities—witness list exchange, discovery, mediation, and settlement conference. The periods could be altered by the judge to suit the requirements of individual cases. In the fourth track, reserved for complex litigation, no dates were predetermined, allowing the judge and counsel to develop a timetable at the status conference. (See **Figure 1.**)

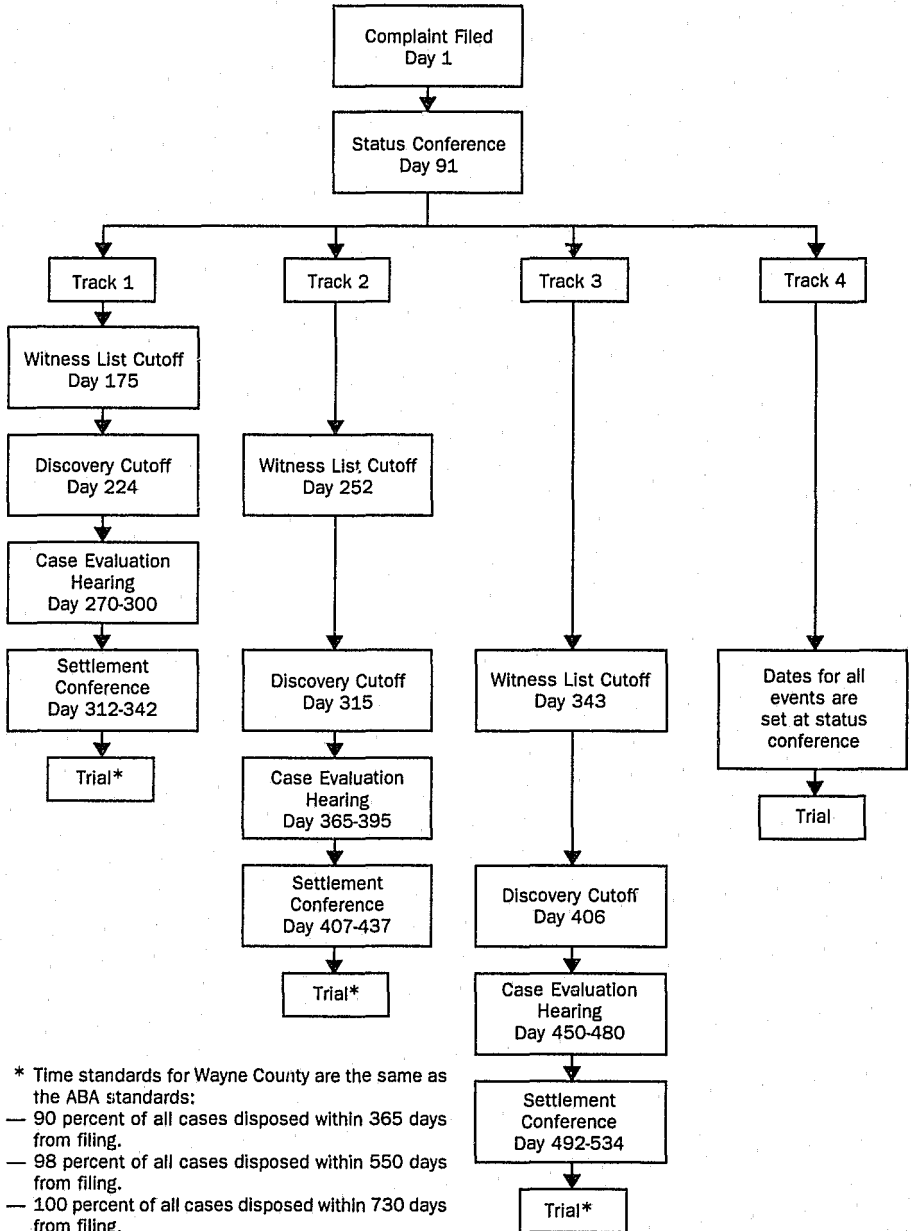
Both plan C and plan H contemplated that each judge would monitor compliance with the deadlines for their individual cases. Only that judge had the authority to grant extensions or adjournments of the dates assigned. This authority could be delegated only to members of the assigned judges' immediate staffs.

Expanding the Individual Calendar System

By the time the pilot program had been in operation nine months, it had already begun to show positive results. The pending caseloads of the seven pilot program judges were decreasing steadily, and—at least as important—the judges and their staffs were feeling good about working in the new system.

Early in 1987, the court designated a second group of seven judges for conversion to the individual calendar system. Phase II of the experiment began in October, preceded by orientation and training sessions. A year later, a third group of seven phase III judges switched to the individual calendar. Phase IV judges began in October 1989.

Figure 1
Caseflow in Wayne County's Civil Delay Reduction Program *



As the phase II, III, and IV judges embarked on individual calendars, the court followed the same approach as at the outset of phase I. Chief Judge Kaufman and trial court administrator Kent Batty familiarized the judges and their staffs with the procedures under the new system and with the management information reports and resources available through the court's trial services division. In July of each year, the court held a full-day training program for the judges and the staff members, using both outside faculty and some of the court's own judges and staff. The training sessions provided information on national developments in caseflow management and delay reduction, instruction on techniques for addressing the inventory of pending cases, and specific procedures for handling new cases.

The trial services division provides internal technical assistance. Deputy administrator Terry Kuykendall and top staff in this unit and in the clerk's office played key roles in the design and presentation of the initial training programs. The court's director of docket management, Sally Mamo, and deputy clerk Ron Mauer helped Kuykendall develop a procedures manual and design new management information reports that enabled each judge to monitor the status of his or her docket. During phase II, the trial services division also began monitoring the status of each judge's docket and the accuracy of staff data entry and recordkeeping practices. When problems were identified, the division's senior staff brought them to the attention of the judges and the judges' staffs and worked with them to address the problems. This form of hands-on technical assistance, provided by the court's own central staff, was appreciated by the judges and staff of the individual calendar courtrooms and has been effective in instituting early remedial action.

During the summer and fall of 1988, the court reviewed the first two years of the individual calendar experiment and consolidated plans C and H into a single, courtwide case management plan in October 1988. Initial judicial intervention occurs about 91 days after filing—earlier than in either of the former plans. The rationale is simple: by meeting with the lawyers early, the judge can assess the complexity of the case and the likelihood that it will actually go to trial and establish a preliminary schedule for completing of discovery and other case events. The judges concluded that an earlier conference would be beneficial for cases in which discovery would be required, could result in very early resolution of many cases in which little or no discovery is necessary, and would not be unduly time-consuming. In developing the consolidated plan, deadlines associated with tracks 1, 2, and 3 were modified slightly. The fourth track, for complex litigation, is still set by the judge in consultation with counsel at the initial status conference. **Chart 1** describes the timetables for monitored events under tracks 1, 2, and 3.

Chart 1
Timetable for Monitored Events

Event	Track 1	Track 2	Track 3
Witness List Cutoff	F + 175 days	F + 252 days	F + 343 days
Discovery Cutoff	F + 224 days	F + 315 days	F + 406 days
Mediation Month	F + 9 months	F + 12 months	F + 15 months
Settlement Conference	M + 42 days	M + 42 days	M + 42 days

F = File Date M = Mediation Date

Results to Date

Progress was evident from the beginning. The pending civil caseload for the court as a whole (excluding domestic cases) decreased about one-third from January 1986 to December 1988 (see **Table 1**). Equally significant is the nearly 50 percent decline in cases over two years old. This shows progress toward meeting the court's dispositional time standards.

That dispositions increased and pending cases decreased in the face of increased filings and reopenings strongly suggests that the delay reduction efforts are proving successful.

Data in **Table 2** reinforce this conclusion. These data, showing time from filing to disposition, were computed from samples of disposed cases drawn during the National Center's studies of case processing time in urban courts. The most recent figures (developed from a sample of cases that reached disposition during the first six months of 1989) show a substantial reduction in case processing time, both for the overall general

Table 1
Civil Caseloads

	1985	1986	1987	1988
Pending Start of Year	31,349	29,851	31,807	25,596
File/Reopened	20,506	27,900	29,748	29,291
Disposed	22,004	25,944	36,059	33,868
Pending End of Year	29,851	31,807	25,596	20,969
Pending Over Two Years (at Year End)	6,987	4,499	4,254	3,631

Table 2
Timetable for Monitored Events

	1976	1983	1985	1987	Jan.-June 1989
General Civil Cases					
Median	24 mos.	21 mos.	21 mos.	14 mos.	13 mos.
75th Percentile	—	36 mos.	31 mos.	26 mos.	22 mos.
90th Percentile	—	57 mos.	42 mos.	32 mos.	33 mos.
Tort Cases					
Median	26 mos.	24 mos.	21 mos.	18 mos.	15 mos.
75th Percentile	39 mos.	36 mos.	31 mos.	29 mos.	29 mos.
90th Percentile	—	57 mos.	40 mos.	33 mos.	35 mos.
Time to Jury Trial					
Median	41 mos.	37 mos.	43 mos.	37 mos.	33 mos.

civil caseload and for tort cases. The time to jury trial shows a continuing downward trend, which reflects the court's attention to disposition of older cases.

Because the statistics in Table 2 are calculated from disposed cases and the court's delay reduction program has focused on older cases, a steady but not spectacular decrease in the age of cases at disposition would be expected as the program disposes of the older cases and begins to reach newer ones. That seems to be the profile that emerges in these statistics.

Another way of assessing effectiveness in docket management is to look at the number and age of cases currently pending. The court's central docket management office periodically reports on the number and age of pending cases on the dockets of each individual calendar judge, analyzing the extent of adherence to the ABA time standards. Comparison of those reports for November 1987 and December 1988 shows that during 1988 both the phase I and the phase II judges brought their caseloads closer to the times called for by the standards (see Table 3).

The data in Table 3 further support the conclusion that an individual calendar operation system disposes of cases earlier. The reduction in case age at disposition shown by the National Center's 1987 and 1988 data cannot be attributed simply to the 1986 backlog reduction program and trial acceleration weeks.

The phase I and II judges have continued to reduce their pending caseloads while receiving their proportionate share of newly filed cases. As of August 1989, these judges carry a total pending inventory (civil plus domestic relations cases) of between 448 and 789 cases each. Based on the

Table 3
Time Standards Adherence Summary
Phase I and Phase II Individual Calendar Judges

Judge	November 1987 Percent of Caseload			December 1988 Percent of Caseload		
	12 Mos. or Under	18 Mos. or Under	2 Yrs. or Under	12 Mos. or Under	18 Mos. or Under	2 Yrs. or Under
* BATTANI	63	86	92	86	96	98
** BORMAN	54	77	85	90	97	99
* COLOMBO	57	82	91	87	94	95
* CONNOR	58	88	93	88	93	94
** GILLIS	57	83	88	74	91	94
* HAUSNER	67	88	91	85	91	93
** MIES	47	74	79	72	86	89
** MORCOM	44	73	83	62	78	86
** SIMMONS	47	71	80	62	78	83
* STACEY	72	94	98	92	99	99
* STEMPIEN	57	82	89	76	88	92
** STEPHENS	50	75	83	57	71	83
* WATTS	52	78	86	80	88	91
** WHITE	50	78	87	72	88	92

* Phase I individual calendar judge

** Phase II individual calendar judge

Note: Other figures for the court as a whole show 82 percent of the caseload at two years old or less, thus indicating that a greater proportion of cases remaining on the master calendar are over two years old.

past experience of the whole court and the continuing decline of the phase I judges' inventories (all currently at or below 664 cases), many of the judges eventually will reduce their total caseloads to between 400 and 500 cases. A major increase in case filings and reopenings could, of course, alter this projection.

What Has Made It Work?

To date, the delay reduction program in Wayne County is a clear success. How has a large urban court reversed long-standing problems of delay? A number of factors created an environment for an effective delay reduction program.

Introducing Change

Convincing judges, staff, and the local legal community to abandon past practices and embrace a radically different philosophy and approach to caseload management may be one of the most difficult undertakings a chief judge and court administrator can face. Nevertheless, the experience of the Wayne County Circuit Court shows it can be done.

An External Event. Experience shows that the impetus for change is often external to the organization. In this instance, according to court leaders, the National Center's 1985 report on case processing in 18 urban courts, which showed delays in civil case disposition in Wayne County, was a powerful impetus for change. However, without committed leadership inside the court, the status quo might have continued. Instead, the commitment to solving the delay problem was communicated clearly throughout the organization, and judicial and staff expertise was mobilized. During a period when continuity of leadership was fragile (the position of chief judge changed incumbents three times in early 1986), the court nevertheless exhibited what the court administrator has termed "a continuity in predisposition to action."

A Major Change. Converting to an individual assignment system involved a major change, not simply tinkering with the existing system. This bold step was a signal of the court's intention to pursue reforms with determination. The nature of the change was sufficient to provide a clear starting point for the new system. There was no way success or failure could be attributed to any aspect of the old system. Selection of an individual assignment system literally forced critical examination of the major elements of the court's operation: the computer system, every pending civil case, scheduling and continuance practices, judicial work habits, staff organization, tasks, and a myriad of other aspects of civil litigation in Wayne County. Undertaking a major overhaul required perseverance, which in turn helped sustain momentum.

Planning. Equally important is the level of planning that preceded implementation. No detail was left to chance. Many ideas, approaches, and procedures were discussed and discarded, some to be resurrected and reconsidered. Careful attention was given to logistical and administrative support to judges and staff. Follow-up and monitoring have been continuous on many aspects of program implementation and operation. In short, every possible effort was devoted to assuring that the process proceeded by design rather than accident. Nevertheless, the conversion was characterized by flexibility, as demonstrated in the decision to experiment with two calendar management plans.

Training. As each new group of individual calendar judges was designated, special training sessions were conducted. Each meeting was

attended by the selected judges, their staffs, the chief judge, the court administrator, the director of trial services, and leaders of the central docket management staff. Thereafter, central docket management staff members met regularly with each courtroom team. Both group and one-on-one training sessions were provided in such areas as calendar management, computer data entry, and use of management information reports. Courtroom staff were encouraged to consult with their counterparts in other pilot courtrooms. A great deal of attention was paid to the roles of the court's staff—both central staff and staff working with judges in the courtrooms—in making the new program work.

Incremental Implementation. The chances of success were maximized through incremental implementation—converting groups of seven judges at a time to the individual assignment system. It was possible to make ad hoc changes without major organizational upheaval. Further, the demonstration nature of the program shortened the overall learning curve for the organization and allowed skeptical judges and staff to observe and learn before participating. Equally important, early success in disposing of a significant number of cases demonstrated that improvement was possible.

National Recognition. Finally, from the beginning, the pilot project has been followed closely on the national level. Experience and progress were reported regularly in *Change Exchange*, the quarterly newsletter of the ABA Lawyers Conference Task Force on Reduction of Litigation Cost and Delay. Judges and administrative staff have been featured speakers at delay reduction workshops sponsored by the Institute for Court Management of the National Center for State Courts. Both the ABA and the National Center provided technical assistance and monitoring in 1988 and 1989, and program success to date has been shared with interested courts throughout the country.

Sustaining Change

The ultimate test of the individual assignment system in Wayne County will be time. How will the court sustain the evident improvements over the long term? The factors that fostered successful change will help ensure that success is sustained. But there are other forces at work in this court that should also help assure long-term success.

Leadership. The Wayne County Circuit Court has been, and is, blessed with leadership predisposed to action. The court's judicial and administrative leaders have had a vision of a well-functioning civil litigation process and have exercised their political and technical skills to develop support for changes. Their own commitment to the program is clear and is reinforced in numerous ways—for example, in statements at

meetings of judges and staff, through education and training programs held at the court, and in their dissemination of information on the size and age of judges' pending caseloads.

Additionally, an explicit objective of this leadership is building a cohesive case management team, led by the trial judge, in each individual calendar courtroom. Conversion to an individual assignment system placed different and increased responsibilities on judges, their staffs, central court administration, and the chief judge. But with the responsibility came the potential for greater job satisfaction and the sense of a job well done. It also created greater visibility for case management practices and results. Ownership of the program has developed in the courtroom teams.

The court's leaders also accorded recognition to phase I judges and staff by using them as trainers and mentors for judges subsequently assigned to individual calendars. Recognition of prior participants as experts with skill and knowledge to impart was an acknowledgment of their success and a source of pride for those selected.

Goals. The court's primary goal for the case management system is easy to understand: to meet the case processing time standards recommended by the ABA and the Michigan Caseload Management Committee—completion of 90 percent of civil cases within 12 months of filings; 98 percent within 18 months; and 100 percent with 24 months.

Information. The court's information system produces reports that help judges manage their caseloads and that enable them to measure progress toward goal achievement. Operationally, two of these reports are especially important. One lists each judge's active cases, oldest first, and shows the age and status of each case and the next scheduled event and date. The other is a one-page report issued monthly that shows, for each judge of the court, the total civil and domestic cases pending, the number of civil cases pending over two years, and the change (increase or decrease in total pending) since the preceding month. To help reinforce attention to caseload size, the court's leaders have put large graphs on the wall of the judges' conference room, tracking the month-to-month changes in the numbers of cases pending on each individual calendar judge's docket.

Communication. Communication within the court is excellent. During the program development process, intense effort was devoted to assuring the input of both judges and staff on system development and subsequent modifications. Furthermore, bar leaders were actively involved in the initial planning for the program, and their concerns were taken into account in the implementation process.

The court's docket review committee meets periodically to assess the status of the court's docket, review progress toward the goals, and discuss current or potential problems. Communication lines to the chief

judge and the trial court administrator are open, and the two consult with each other frequently each day on a wide variety of issues.

One set of issues that has been the subject of ongoing communication within the court has been how to balance the tensions between the desire of the individual judges (and their courtroom teams) for flexibility and the concern of the chief judge and central staff that there be a substantial degree of uniformity in procedures. In addressing these issues, the court has focused on such subjects as trial-setting policies and use of trailing dockets. The issues have not all been definitively resolved, but the discussions have helped narrow the range of practice.

The court's leaders have provided continuing feedback to courtroom teams on program performance. Through this regular communication and feedback, hard work has been rewarded by knowledge of performance. A sense of each individual's contribution to overall program and court success has been created.

Caseflow Management Procedures. Over the two and a half years since the individual calendar program started, the court gradually has moved toward exercising firmer control over its cases (even those remaining on the master calendar), exercising it at an earlier stage than ever before. While individual judges have latitude to follow different practices (for example, in conducting status conferences or in scheduling cases), there is general recognition of the need for consistent policies within the court. Practicing lawyers like the certainty and predictability provided by consistent policies, and such consistency enhances the capacity of the court's central staff to provide backup services to the judges. Policies aimed at achieving trial date certainty and avoiding continuances have been adopted courtwide.

Documentation of caseflow procedures in a procedures manual, which includes forms and instructions for court staff, has been a very significant step. This will help assure institutionalization of the individual calendar system and associated policies.

One key decision, made at an early point in the development of the program and adhered to ever since, was to provide no routinely available backup mechanism to handle trial date conflicts. Backup can be provided in truly extraordinary situations, but the basic approach has been to emphasize that each individual courtroom team is responsible for managing every case from filing to disposition. Since the team members perceive that no backup exists, they know that their success or failure in docket management depends on their own efforts and skills. The teams and the court's leadership came to an early understanding that success in reducing a pending caseload would not be punished by assigning a disproportionate

share of new cases or by transferring pending matters from less successful teams.

Judicial Commitment. In multijudge courts, the level of judicial understanding of and commitment to basic concepts of underlying effective case management usually encompasses a broad range. However, among the judges and staff in Wayne County Circuit Court there is a striking consistency in the view that court control and ongoing supervision of case progress is necessary and appropriate. This commitment has grown over time; most judges have become more committed to these concepts and associated techniques as they have experienced success in employing them.

Staff Involvement. From the beginning, and with growing acceptance, staff in the court's central trial services division have played a consultative role for pilot project judges and their staffs. In the early stages, intensive assistance was provided through special forms, procedures manuals, and revised coding for data entry as well as through staff training on docket management procedures. Development and analysis of special statistical reports enabled central staff to review indicators of docket performance and offer advice and aid where needed.

Courtroom staff in an individual calendar courtroom are much more active managing cases than they are in a master calendar system. In the Wayne County Circuit Court, the staff members of the courtroom teams understand their roles as critical to program success. And, as indicated earlier, their achievements are recognized in many ways, in particular through their involvement in staff training as new courtrooms are added to the program.

Education and Training. The training sessions conducted for each newly designated group of individual calendar judges and their staffs have been followed up through regular discussion of calendar management issues and problems at monthly judges' meetings and regular staff meetings. In several instances, staff in the trial services division have provided direct assistance to judges and staff that have encountered problems in implementation.

Mechanisms for Accountability. With clear goals in place and with a system that provides information on performance in relation to the goals, the court has two key ingredients of a viable system of accountability. The notion of accountability is further reinforced by the court's policy of minimizing backup help and emphasizing that each courtroom team is responsible for the success of its own docket. The court's docket review committee (composed of five experienced judges) sets interim goals for each phase of the individual calendar experiments, periodically reviews the

status of each judge's docket, and develops ways of helping judges and their staffs deal with different types of docket management problems when the goals are not met.

Backlog Reduction/Inventory Control. The court has already made enormous progress in reducing its pending caseload, and there is general agreement that further progress is possible. The importance placed on the size and age of the pending inventory of cases is reflected in the emphasis placed on the monthly report showing the number of cases pending and the number pending over two years. Having started with pending caseloads of over 1,300, the judges in the court are finding that their judicial workload is far more manageable (and more rewarding in terms of effective expenditure of time) when they can concentrate their energies on caseloads less than half that size.

Conclusion

While the results to date have been dramatically successful, the Detroit program still has some obstacles to overcome. The conversion to an individual calendar system is still in progress, and it will not be until 1990 that all cases will be handled on an individual calendar basis. During the past three years, lawyers involved in litigation in Wayne County have had to deal with a maximum of 21 individual calendar judges (the phase I, phase II, and phase III judges), plus the master calendar. As the system conversion continues, the number of judges scheduling status conferences, motion hearings, and trials will increase to 35, and the potential for conflicts in dates will increase correspondingly.

While scheduling conflicts can be anticipated and planned for, other problems are likely to arise unexpectedly and pose new challenges to the court. Nevertheless, the progress to date is remarkable. The model of a caseflow management system that is emerging in Wayne County Circuit Court—a model that gives judges handling individual calendars plenty of independence and discretion in managing their dockets, while at the same time providing for strong central leadership, centralized monitoring capacity, and centralized technical support services—is one that should be of interest to urban courts everywhere.

Researchers who have studied the introduction of delay reduction programs have identified several ingredients that are present in successful programs. The composition of these lists varies somewhat, but all of the commentators agree that it includes leadership, goals, commitment, time standards, use of management information, accountability systems, caseflow management procedures, and planning.⁹ The Wayne County Circuit

Court's experience to date validates these studies. However, the success of the Detroit program has greater significance than merely demonstrating the accuracy of a list of common elements.

Perhaps the most important thing about the Detroit experience is that it reinforces two central conclusions of two earlier multijurisdictional studies: First, trial court delay is not inevitable; second, where delay exists, it can be defeated by courts willing to invest the time, effort, and commitment necessary to confront the root causes, develop a comprehensive program to deal with the problems, and systematically implement the program.¹⁰

The process by which the Wayne County Circuit Court analyzed its operations, dealt with its short-term problems, and planned a long-range program to alter the environment that allowed the problems to develop is a model that can be transferred to other jurisdictions. The dedication of the court's leaders is also a model. The willingness of the court's judicial and administrative leaders to publicly commit to the risk of major change and to urge and cajole others to do the same is the hallmark of leadership in a collegial court.

Not only has the public benefited from this activity, but those who have been a part of the effort have benefited as well. The professional satisfaction derived from the success of the program is evident in the demeanor and attitude of all who have participated. Except through the skillful performance of day-to-day tasks, few have the opportunity to have a constructive effect on the quality of an institution that exists to serve the public. Wayne County Circuit Court's judges and staff can rightly feel that they have given something back to the justice system and to the people of Wayne County. By their example, they have demonstrated that judges and administrators in other courts can do the same.

Notes

1. Thomas W. Church, et al. (1978), *Justice Delayed: The Pace of Litigation in Urban Trial Courts* (Williamsburg, Va.: National Center for State Courts) p. 11.

2. Barry Mahoney, Larry L. Sipes, and Jeanne A. Ito (1985), *Implementing Delay Reduction and Delay Prevention Programs in Urban Trial Courts* (Williamsburg, Va.: National Center for State Courts) p. 8.

3. Kathy L. Shuart, Sandra Smith, and Michael D. Planet, "Settling Cases in Detroit: An Examination of Wayne County's Mediation Program," *Justice System Journal*, vol. 8, no. 3 (winter 1983) pp. 307-24.

4. *Ibid.*, p. 311. Sixteen months after filing, all cases were reviewed by an evaluator in the court's control staff. Those cases that appeared to involve less than \$10,000 in damages and in which discovery was expected to have been complete were scheduled for a mediation hearing in month 18. The remaining cases would be scheduled in month 25 for a hearing in month 27. Cases not resolved at mediation would go on the central docket for trial, but pretrial motions would still be handled by the judge to whom the case was originally assigned.

5. See Barry Mahoney, et al. (1988), *Changing Times in Trial Courts* (Williamsburg, Va.: National Center for State Courts) pp. 156-58.

6. For an interesting description and analysis of the attitudes and perceptions of judges and lawyers in Wayne County concerning continuance policies, see David R. Sherwood and Mark A. Clarke, "Toward an Understanding of Local Legal Cultures," *Justice System Journal*, vol. 6, no. 2 (summer 1981) pp. 200-217. Sherwood and Clarke, analyzing responses to a questionnaire survey of judges and lawyers in Wayne County, found that both groups felt that a lawyer-controlled calendar was undesirable. The judges, however, thought that lawyers preferred the lawyer-controlled system. The lawyers felt that the judges granted continuances rather readily, thus reinforcing lawyer domination of the system.

7. See Herbert D. Levitt, "A Simple Solution to Judicial Gridlock," *The Judges Journal*, vol. 27, no. 3 (summer 1988) pp. 32-36.

8. In this table, case processing times are measured from date of filing to date of disposition. The times are shown in months in the table; they have been converted from tables showing times in days in National Center research reports. See Church et al., *supra* note 1 (1976 data); Mahoney, Sipes, and Ito, *supra* note 2 (1983 data); Mahoney et al., *supra* note 5 (1985 data); John Goerdts, et al. (1989), *Examining Court Delay: The Pace of Litigation in 26 Urban Trial Courts, 1987* (Williamsburg, Va.: National Center for State Courts) (1987 data).

9. See, e.g., Maureen Solomon and Douglas K. Somerlot (1987), *Caseflow Management in the Trial Court: Now and for the Future* (Chicago: American Bar Association); Larry L. Sipes, et al. (1980), *Managing to Reduce Delay* (Williamsburg, Va.: National Center for State Courts); Ernest C. Friesen et al., "A Prescription to Control Delay," *Whittier Law Review*, vol. 2, no. 1 (1979) pp. 7, 42-60; Mahoney et al., *supra* note 1.

10. Church et al., *supra* note 1, pp. 1-19, 83-84; Mahoney et al., *supra* note 5, esp. pp. 6-40, 192-205.

***Sedgwick County
District Court***

Wichita, Kansas

By CRAIG BOERSEMA
 WILLIAM HEWITT
 BRIAN LYNCH

Contents

	<i>Page</i>
Introduction	131
Statewide Time Standards: History in Wichita	132
An Overview of Jurisdiction, Resources and Organization, and Workload	134
Caseflow Management in Sedgwick County—Past Performance, Traditions, and Recent Innovations	140
Key Elements of Effective Caseflow Management	147
Current Issues and Concerns	155
Notes	157

Sedgwick County District Court

Introduction

The 1980s saw civil caseload management in the 18th Judicial District Court, Sedgwick County, Kansas, come full-circle. Throughout the 1970s, it was a court known for expeditious civil case processing. That tradition was blemished by 1983, however, when for a variety of reasons over 37 percent of its pending civil cases were over one year old and 17 percent were over two years old; it took 895 days to complete 90 percent of its civil cases.¹ In addition, the median time to disposition for tort cases was 492 days, and 90 percent were completed after 1,073 days.² Since then, the court quickly and successfully restored its tradition of expeditious civil case processing.

In 1987 the Wichita court on several measures of civil case processing disposed of its cases faster than 25 other metropolitan courts in the National Center for State Courts' (NCSC) Large Trial Court Capacity Increase Program (LCC).³ Only 3 percent of its cases were over two years of age, ranking it first among the 26 courts surveyed. Moreover, only 18 percent of its cases were older than one year. Ninety percent of its civil cases were disposed in 457 days, and 75 percent were disposed within 282 days. These 90th and 75th percentile times were the fastest of the courts studied, and its median time to disposition (178 days) was the second quickest. This pace of litigation is very impressive considering that "Wichita disposed of 90 percent of its cases in the time it took the slowest five courts to dispose of 50 percent of their cases."⁴ Even among tort cases, which are some of the most complex (e.g., medical malpractice, product liability, toxic torts), Wichita proved to be the most expeditious court on all three time measures.⁵ This profile documents how the court quickly restored its civil case processing times and describes its current caseload management system.

Statewide Time Standards: History in Wichita

A statewide effort to attack the case delay problem is part of the reason for the court's improvement in civil case processing. Kansas unified its court system in 1977. The district court, city court, court of common pleas, county court, juvenile court, magistrates court, and probate court were unified into one district court divided into 31 judicial districts (Figure 1).⁶ In 1979 the state took over the funding of personnel costs of all nonjudicial district court employees.

Unification was favorable for statewide delay reduction initiatives. The previous fragmented court system made time standards, communications, and accountability difficult. The centralized system facilitated monitoring problems of delay in a meaningful way. Each of the Kansas Supreme Court's seven justices has regional administrative responsibility for trial courts. Under the unified court structure, the justices can communicate with district court administrative judges responsible for the local trial court system.

In late 1980, the Kansas Supreme Court Standards Committee set caseload guidelines and procedures for all courts in the state to follow. "The basic concept of case management is that the court, rather than the attorneys, should control the pace of litigation. It is the duty of the judge to run the court and not abdicate that responsibility to counsel."⁷ The statewide disposition time standards were 60 days in civil cases for \$5,000 or less in dispute and 180 days in civil cases over \$5,000 in dispute.

These standards were not mandated, but were to serve "as a guide for the disposition of cases, with the understanding that the system must have flexibility to accommodate the differences in the complexity of cases and the different problems arising in urban and rural judicial districts."⁸ As such, recommended times to disposition are median time standards.

District courts report monthly to the state's administrative office of the courts, which issues quarterly caseload and caseload reports for each county. The reports include the age of pending civil cases and a list of the oldest cases in the state. Courts are ranked across all 31 districts on caseload time, and the oldest cases are identified in each. The administrative judge, chief clerk, and court administrator in every judicial district receives the quarterly reports and "can readily see how well they fare in relation to the productivity of other judges."⁹ A competition among courts (counties) exists as each court tries to improve its caseload times and attempts to remove cases from the "oldest pending in the state" list. The administrative judges take these reports seriously and must explain to the state office why an old case is still pending. In addition, courts receive recognition from the State Judicial Conference for outstanding progress in

Figure 1
Structural Unification of the Kansas Courts, 1977*

Kansas Court System, pre-1977

SUPREME COURT
(7 justices) Jurisdiction:
 - Final appellate jurisdiction in civil and criminal matters
 - Original jurisdiction in matters involving appointment of the legislature, any suit in law or equity, quo warranto, mandamus, and habeas corpus.
 - Constitutional matters.
 - Exclusive jurisdiction over admission and discipline of attorneys.

DISTRICT COURT (29)
(63 judges) Jurisdiction:
 - Unlimited original civil jurisdiction except in certain probate cases.
 - Unlimited original criminal jurisdiction except in city ordinance violation cases.
 - No juvenile jurisdiction.
 - Appellate jurisdiction from lower courts.
 Jury trials.

PROBATE COURT (109)
(109 probate judges) Jurisdiction:
 - Probate, wills, settle estates, guardianships, committing the insane, and habeas corpus cases.

JUVENILE COURT (109)
(109 probate judges) Jurisdiction:
 - Exclusive jurisdiction over delinquent, miscreant, wayward, truant, dependent and neglected children, as well as juvenile traffic offenders.

COMMON PLEAS COURT
(4 judges) Jurisdiction:
 - Civil under \$3,000
 - Felony preliminaries, misdemeanors, traffic (Less than \$2,500 fine or one-year imprisonment).
 Jury trials.

MUNICIPAL COURT (384)
(356 judges) Jurisdiction:
 - City ordinance violations including traffic (less than one-year imprisonment).
 No Jury trials.

COUNTY COURT (93)
(probate judges serve) Jurisdiction:
 - Civil under \$1,000.
 - Felony preliminaries, misdemeanors, traffic (Less than \$2,500 fine or one-year imprisonment).
 Jury trials.

CITY COURT (8)
(8 Judges) Jurisdiction:
 - Civil under \$3,000.
 - Felony preliminaries, misdemeanors, traffic (Less than \$2,500 fine or one-year imprisonment).
 Jury trials.

MAGISTRATES COURT (5)
(5 magistrates) Jurisdiction:
 - Civil under \$3,000.
 - Felony preliminaries, misdemeanors, Traffic (Less than \$2,500 fine or one-year imprisonment).
 Jury trials.

Unified Kansas Court System
(January 10, 1977)

SUPREME COURT
(7 justices) Jurisdiction:
 - Exclusive appellate jurisdiction in Class A and B felonies and sentences with a maximum of life.
 - Exclusive original jurisdiction in any suit in law or equity, and any controversy relating to the apportionment of representation in the state legislature.
 - Exclusive appellate jurisdiction in cases where a statute of Kansas or the United States has been held unconstitutional.
 - Appellate jurisdiction by right of constitutional issues previously decided by the Court of Appeals.
 - Discretionary appellate jurisdiction over all decisions made by the Court of Appeals.

COURT OF APPEALS
(7 judges) Jurisdiction:
 - All appeals from the District Court except those reviewable by the District Court or in which direct appeal to the Supreme Court is possible.
 - Writs of Habeas Corpus.

DISTRICT COURT
(70 district, 64 associate district, and 76 district magistrate judges) Jurisdiction:
 - General original jurisdiction in all civil matters unless provided by law.
 - General original jurisdiction in all criminal matters unless provided by law.
 - Juvenile jurisdiction.
 - Appeals by District Magistrate judge cases may be heard by District and Associate District Judges.
 - Appeals from Municipal Court and Administrative Agencies.

MUNICIPAL COURT
(384 judges) Jurisdiction:
 - City ordinance violations (less than one-year imprisonment) including traffic.
 No jury trials.

Court of last resort

Court of general jurisdiction

Courts of limited jurisdiction

Court of last resort

Intermediate appellate court

Court of general jurisdiction

Court of limited jurisdiction

↑ Indicates route of appeal.

* Source: National Center for State Courts.

reducing case delay. Judges and courts are publicly accountable for the age of their case inventory, as annual reports are mailed to all judges, county commissions, legislators, schools, and the media.¹⁰

Through the mid-1980s, the changes implemented by the state did not have as dramatic an impact on Wichita as in the rest of Kansas.¹¹ Disposition times and pending caseloads rose in Wichita, while the rest of the state's jurisdictions significantly reduced both their delay and backlog. Wichita varied from the rest of the state because

prior to the start of the [statewide delay reduction] program, the Wichita court was already a "fast" court, as evidenced by the data on 1979 dispositions. However, it had no institutionalized system of caseflow management and very little in the way of regularly collected information that would be useful in ascertaining the extent to which there was a delay problem, identifying bottlenecks, and helping to manage the caseloads....

When the statewide program went into effect in 1980, it met with some initial resentment and resistance in Wichita. As one prominent attorney observed in a 1986 interview, "the [local] bar was not receptive to adoption of the new rules."¹²

One lawyer stated that the "good ol' boy" network that existed 8 to 10 years ago initially prevailed over the institution of statewide time standards. It was not until the state's time standards were accepted by the local legal community and the court that time standards for civil cases became institutionalized in Wichita.

Under the leadership of Administrative Judge Elliot Fry (1986-1987) and Administrative Judge Michael Corrigan (1987-present)¹³ the court took early control of the flow of civil cases, set up a system of scheduling cases, and eliminated old or inactive cases from its docket. This profile describes the court's current caseflow management system and shows how the court reduced its backlog and improved its civil case processing times.

An Overview of Jurisdiction, Resources and Organization, and Workload

Jurisdiction

Sedgewick County, the most populous county in the state, is located in south central Kansas. Its population increased 6.6 percent from 1980 to 1986. In 1986 Sedgewick County ranked as the nation's 122nd most populous county.¹⁴ Wichita is the county seat and has a population of nearly 280,000. Because several major airplane manufacturers are head-

quartered in Wichita, it is the site of an unusually high number of complex product liability cases.

The 18th Judicial District Court has exclusive jurisdiction over all civil, criminal, domestic relations, probate, and juvenile matters occurring in Sedgwick County, as well as small claims cases and all local ordinance and traffic violations issued by county law enforcement agencies. The Wichita Municipal Court hears local ordinance and traffic violations from Wichita. The district court has appellate jurisdiction over cases arising in municipal court and also reviews administrative actions as provided by statute.

Civil cases filed in district court are categorized into three types: regular action cases, which involve claims of more than \$5,000 and seek specific performance, unlimited damages, or other action or relief; limited action cases involve claims of \$5,000 or less and are filed under the code of civil procedure and are chiefly landlord-tenant suits; and small claims cases where the damage sought does not exceed \$1,000.

This profile focuses on the flow of regular action cases, with some attention given to limited action cases. Three-fourths of the regular actions handled by the civil department are tort, contract, or real property cases.¹⁵

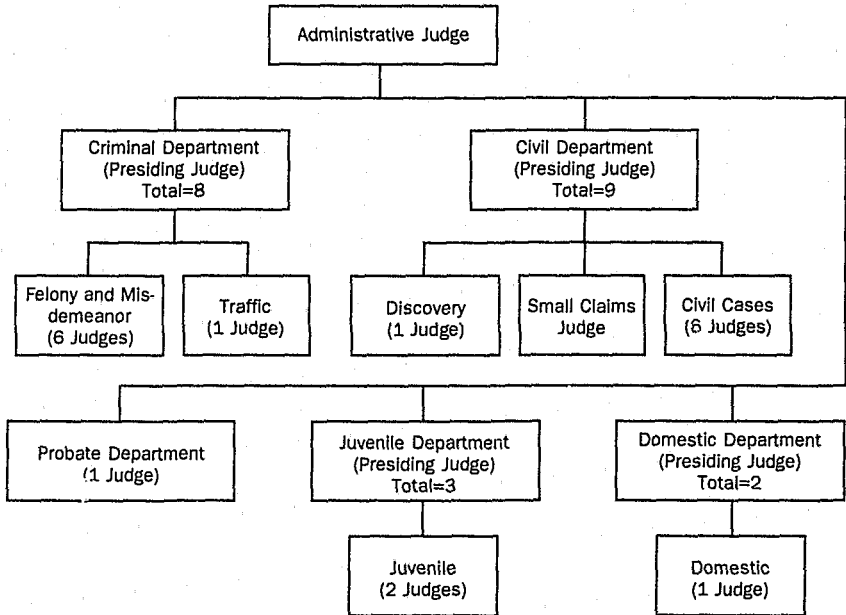
Organization and Resources

One feature of unification was the elevation of all associate judges to district judges.¹⁶ Sedgwick County currently has the greatest number of district judges—24. Its judges are elected in partisan elections for four-year terms.¹⁷ District judges also appoint the judges of Wichita's municipal court.

The administrative judge is appointed by the Kansas Supreme Court for a two-year term. The district court is divided into five departments headed by Administrative Judge Michael Corrigan, who assigns judges to each department (**Figure 2**). The departments are civil, criminal, domestic, probate, and juvenile. All of the departments, except probate, have a presiding judge who serves at the administrative judge's pleasure. Judges are assigned to each of the departments as needed and periodically rotate to other departments.¹⁸

The administrative judge hears no cases. Besides assigning judges to specialized divisions of the court, the administrative judge supervises the court's workload, its clerical and administrative functions, personnel matters, information compilation, fiscal matters, committee appointments, governmental liaison, and public relations. The court uses a central (master calendar) system¹⁹ for assigning cases for hearings and trials.²⁰ The administrative judge has ultimate responsibility for managing the central assignment system, which requires maintaining a master civil docket,

Figure 2
Judge Assignments in Sedgwick County, 1989
(Total Judges=24)



reviewing pending cases, reviewing continuance requests, and determining the appropriate phase of a case. Since 1987, however, most of these duties for civil cases are shared with or delegated to the civil presiding judge.

The civil department is composed of Presiding Judge Ron Rogg and eight trial judges (Figure 3). The duties of the presiding judge include supervising civil department assignments and dockets, scheduling jury trials on the master calendar system, conducting pretrial conferences, and hearing requests for continuances. A full-time discovery judge hears all discovery motions and schedules dates for discovery completion, pretrial conferences, and bench trials. The discovery judge usually serves a six-month term. There is a small claims judge as well as various clerks, managers, and administrative staff.

Workload

The court's total workload for fiscal year 1988 is shown in Figure 4. Since the court is a unified system, the district's 24 judges handle domestic relations cases, traffic cases, probate cases, mental health cases,

Figure 3
Civil Department Organization

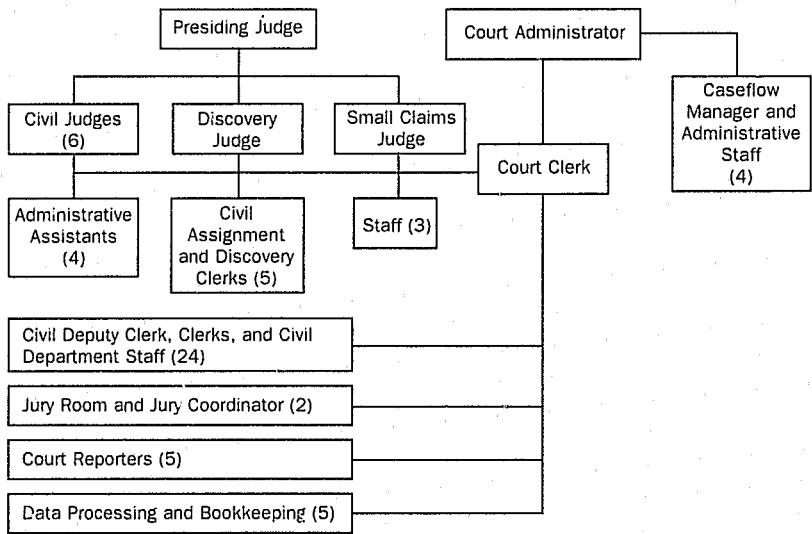
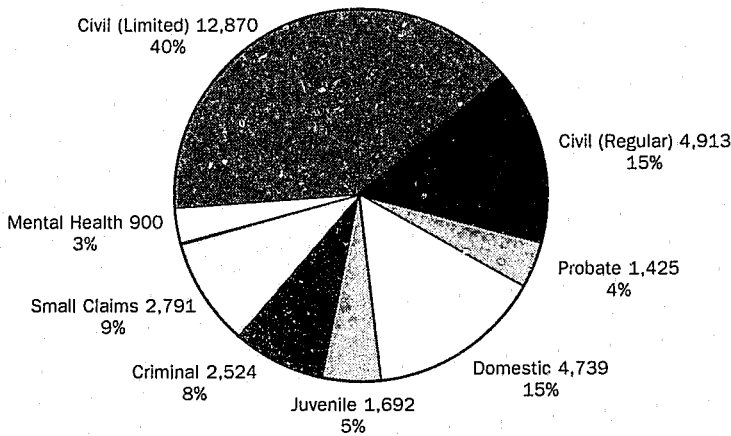


Figure 4
Sedgwick County District Court Filings, 1988



Total Filings = 31,854 (not including 31,976 traffic cases)

Source: Kansas Annual Report, 1988

criminal cases, and small claims cases. Civil cases comprised 55 percent of the court's filings (excluding traffic). There were 17,783 civil filings, including both regular and limited actions. Combined civil filings increased 42 percent between 1979 and 1988.

Compared to other urban courts, Wichita has a high percentage of civil cases in its caseload. If limited actions are included, the court had the highest ratio of civil filings to felony filings and the second highest number of civil filings per judge in the 26 urban trial courts studied by NCSC in 1987.²¹ Criminal cases in 1988 included 2,023 felony filings.

Table 1 shows the caseload for regular actions in Sedgwick County for the 1979-1989 fiscal years. Regular action filings increased 52 percent. Filings increased every year from 1983 until 1988 (39 percent), but decreased (1 percent) during the last reporting period. Regular actions disposed increased 39 percent during 1979-1989, and the clearance rate in 1989 was 106 percent. Regular actions pending also decreased 36 percent

Table 1
Civil (Regular Action) Caseloads, 1979-1989

Begin Year Ending June 30:	Pending*	End Filed	Disposed	Pending*
1979	N/A	3,199	2,780	2,050
1980	2,050	3,337	2,848	N/A
1981	N/A	3,175	2,909	2,683
1982	2,638	3,735	3,127	3,224
1983	3,224	3,524	3,743	2,916
1984	2,916	3,604	4,236	2,151
1985	2,151	4,076	3,883	2,301
1986	2,301	4,341	4,243	2,289
1987	2,289	4,732	4,820	2,128
1988	2,128	4,913	5,197	1,791
1989	1,791	4,866	5,163	1,510

N/A = Data are not available.

* Source is *Annual Report of the Courts of Kansas*, Office of Judicial Administration, for each respective reporting period. Due to "accounting" practices, begin pending plus filings, minus dispositions, do not add up to end pending. Court staff do not fully understand the differences but suggest that retrials and reopened cases may be the major cause.

during the same period, though the current pending caseload is less than half of what it was in 1982.

Civil case filings for 1984, 1986, and 1988 are presented in Table 2 for both limited and regular actions. Roughly two-fifths of regular actions are contract cases, one-fifth are tort cases, one-fifth are real property cases, and one-fifth are other types of civil cases. Contract cases, however, dominate limited actions. Nearly three-quarters of all limited actions concerned contracts, with the bulk of the remainder made up of real property cases. Besides an increase in other regular actions in 1988, very few trends appear that would suggest changes in the court's caseload composition since 1984.

About 2.5 percent of the 18th district's regular actions are disposed through jury trials annually. Less than 1 percent of limited actions, 7 out of 12,627 dispositions, went to a jury trial in 1988.

Table 2
Filings by Type of Civil Case, 1984, 1986, and 1988

1984	Regular Actions	Limited Actions	Total Civil
Contract	1,475(41%)	7,501(70%)	8,976(62%)
Tort	838(23%)	577(5%)	1,415(10%)
Property	515(14%)	2,287(21%)	2,802(20%)
Other	776(22%)	409(4%)	1,185(8%)
Total	3,604	10,774	14,378
1986	Regular Actions	Limited Actions	Total Civil
Contract	1,801(41%)	8,346(69%)	10,147(61%)
Tort	841(19%)	674(6%)	1,515(9%)
Property	854(20%)	2,772(23%)	3,626(22%)
Other	845(19%)	382(3%)	1,227(7%)
Total	4,341	12,174	16,515
1988	Regular Actions	Limited Actions	Total Civil
Contract	1,629(33%)	9,754(76%)	11,383(64%)
Tort	866(18%)	260(2%)	1,126(6%)
Property	1,105(23%)	2,606(20%)	3,711(21%)
Other	1,313(27%)	250(2%)	1,563(9%)
Total	4,913	12,870	17,783

Caseflow Management in Sedgwick County— Past Performance, Traditions, and Recent Innovations

Age of Pending and Time to Disposition

Table 3 shows the history of the district court in Wichita according to three measures of case processing. The two-year period 1982-83 saw dramatic peaks in the court's pending caseload, percentage of cases pending over 24 months, and in median tort time to disposition. In 1982 there were more regular actions pending (3,224) than at any other time, and 13.2 percent of those cases pending were older than 24 months. In 1983 the median time to disposition for torts was 492 days. Limited action cases also had some peaks: 4,958 cases were pending in 1983, and 7.6 percent of them were older than two years.

The dramatic upswing in pending cases, age of pending cases, and time to disposition from 1979 to 1983 was followed by an even more dramatic reduction in case processing measures from 1983 to 1988. By 1988, the court had reduced its backlog to 1,791 regular actions pending, only 2 percent of which were older than 24 months. Limited actions remained under control with no significant percentage of cases older than two years. The median time for torts was down to 215 days by 1987, almost half the median time of two years earlier, and the median time for all regular actions was 178 days. These reductions are even more remarkable in light of a 34 percent increase in regular actions filed during the same period (1983-87).

According to previous NCSC studies,²² 1987 times to disposition in Wichita have returned to the times of 1979 (Figure 5, p.142) and in some cases have become shorter. Although tort and regular action civil²³ disposition times increased dramatically from 1979 to 1983, the court has steadily reduced those disposition times in recent years. Tort disposition times in 1987 were even faster than those of 1979, while regular action civil cases were faster at the 90th percentile. In addition, Wichita's 1987 regular action median time to disposition (178 days) was slightly faster than the statewide median time goal of 180 days set for regular actions.

The age of cases at disposition also improved significantly from 1983 to 1987 (Figure 6, p.142). In 1987, 29 percent of tort cases took more than one year to dispose, down from 63 percent in 1983, and only 5 percent of torts disposed were over two years old. Eighteen percent of all regular action cases were over one year old in 1987, down from 37 percent four years earlier, and only 3 percent of regular action cases were older than two years. Age-at-disposition percentages for torts in 1987 were improved over 1979, while these percentages were nearly equal for all regular actions. Clearly, the Wichita court has taken control of civil case processing since 1983.

Table 3
Pending, Age of Pending, and Time to Disposition, 1979-88

Type of Case	End Pending	Percent Pending Over 24 Months Old*	Median Tort Time to Disposition**
1979			
Regular Actions	2,050	5.5%	290 Days
Limited Actions	2,325	0.0%	NA
1980			
Regular Actions	NA	8.0%	NA
Limited Actions	NA	0.3%	NA
1981			
Regular Actions	2,683	9.7%	NA
Limited Actions	3,919	2.0%	
1982			
Regular Actions	3,224	13.2%	NA
Limited Actions	4,317	0.2%	NA
1983			
Regular Actions	2,916	9.7%	492 Days
Limited Actions	4,958	7.6%	NA
1984			
Regular Actions	2,151	6.8%	NA
Limited Actions	2,168	0.3%	NA
1985			
Regular Actions	2,301	2.9%	411 Days
Limited Actions	2,228	0.0%	NA
1986			
Regular Actions	2,289	2.4%	NA
Limited Actions	2,468	0.0%	NA
1987			
Regular Actions	2,128	2.1%	215 Days
Limited Actions	2,523	0.0%	NA
1988			
Regular Actions	1,791	2.0%	NA
Limited Actions	2,718	0.0%	NA

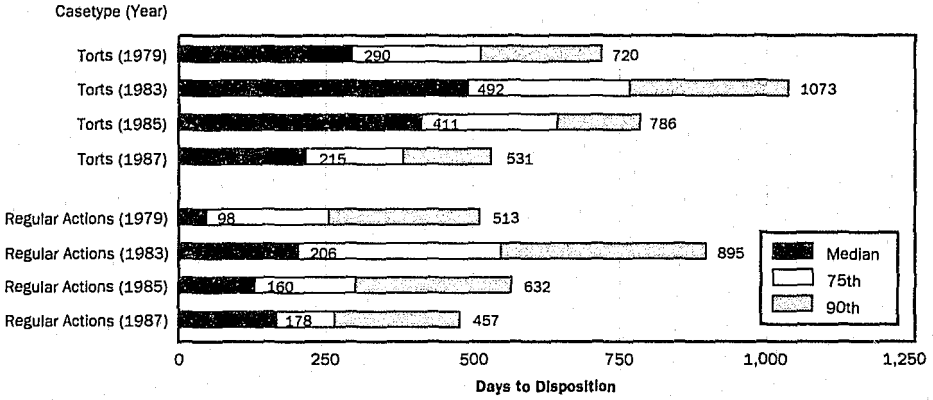
NA = Data are not available.

* Pending data are from Office of Judicial Administration, Kansas Annual Reports, for each of the respective years.

** Tort time to disposition data are from Goerd, 1989, p 44.

Figure 5

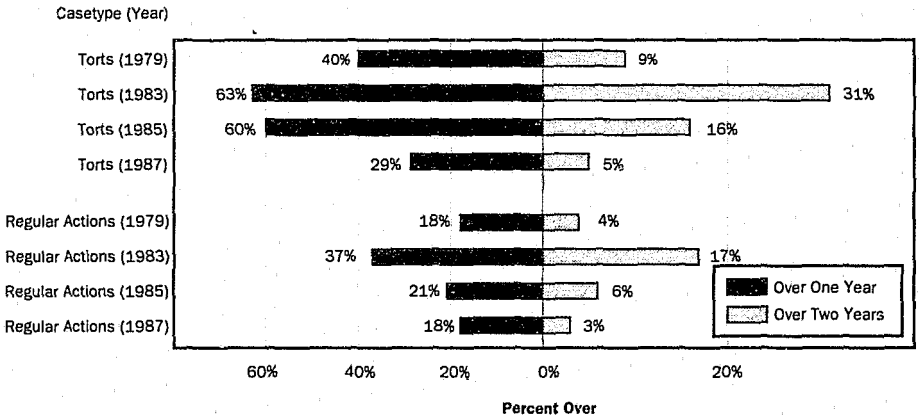
Sedgwick County District Court Trends in Times to Disposition, 1979-87



Sources: Mahoney, 1988 (for 1979, 1983 and 1985); Goerd, 1989 (for 1987).

Figure 6

Sedgwick County District Court Age of Cases at Disposition, 1979-87

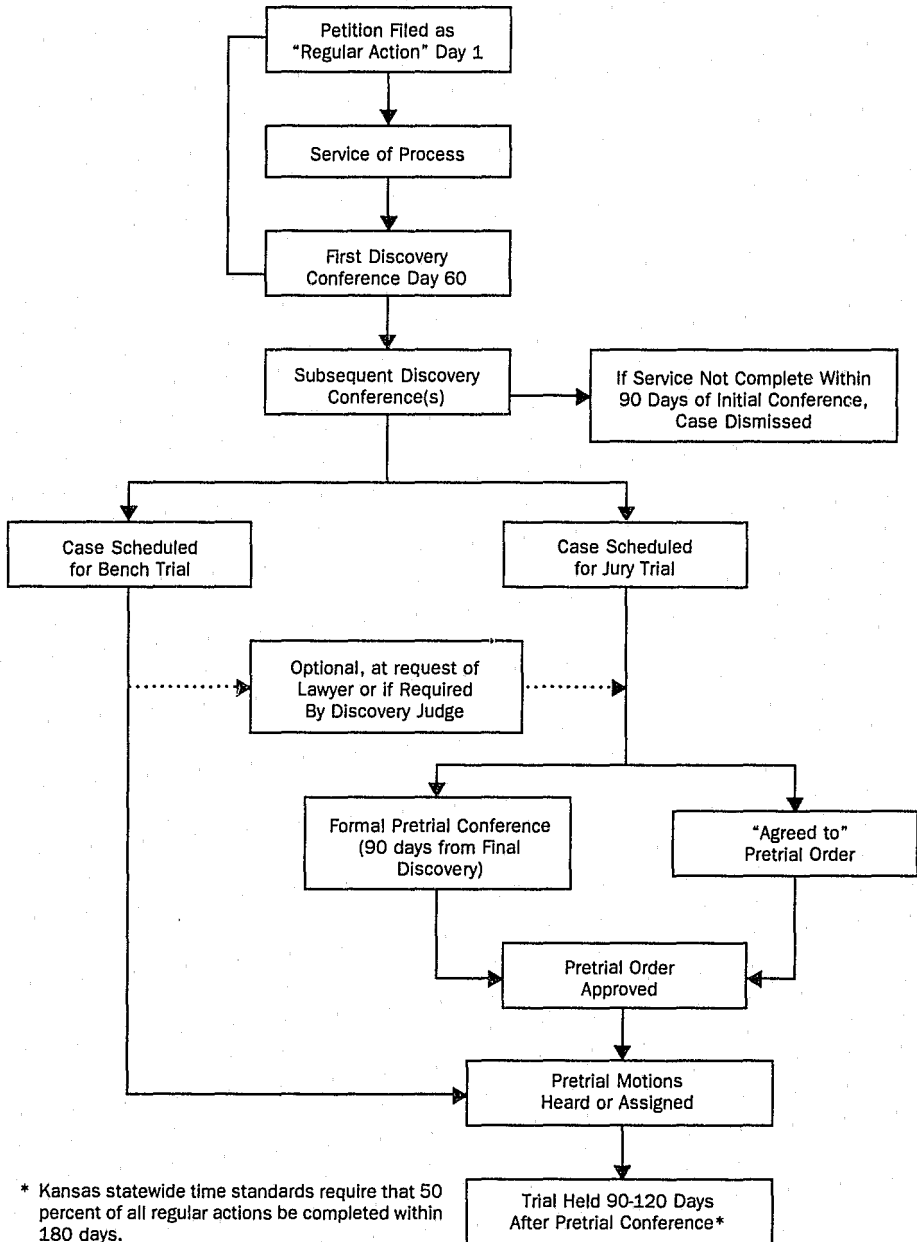


Sources: Mahoney, 1988 (for 1979, 1983, and 1985); Goerd, 1989 (for 1987).

Procedures in Civil Cases

The successful management of regular action (over \$5,000) civil cases in Sedgwick County begins with the discovery judge (Figure 7). According to Administrative Judge Corrigan, the discovery judge is the person "near the center of the wheel" that makes the system work. The

Figure 7
Case Processing Steps For "Regular Actions"



* Kansas statewide time standards require that 50 percent of all regular actions be completed within 180 days.

judge handles discovery full-time and schedules conferences throughout the day. These conferences accommodate lawyers: they are short (only 15 minutes), can be done by phone if necessary, and allow an associate or partner to appear if counsel is unable to attend.

The first discovery conference is scheduled 60 to 70 days after a petition is filed. A computer generates the discovery conference notice for counsel and adds the case to the discovery docket. If the plaintiff does not serve process, the scheduling of the discovery conference provides de facto notice of the lawsuit. If service is not completed by the first discovery conference, a continuance is granted to perfect service. The administrative judge will dismiss the case if the plaintiff fails to serve processes within 90 days of the initial discovery conference.²⁴

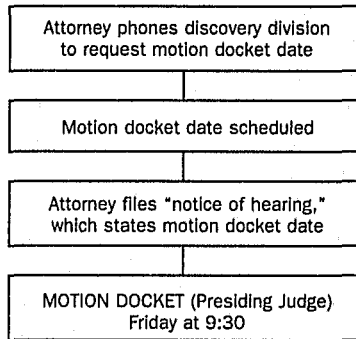
At the first discovery conference, the next discovery conference date, if necessary, is set within 30 to 60 days, as is a date for completing discovery. Though all jury trial cases go to a pretrial conference, bench trials do not unless counsel requests a pretrial conference or the discovery judge requires it. The discovery judge schedules a trial date for cases set for a bench trial and may set trial dates for complex jury trials. The presiding judge, however, schedules most jury trials during the pretrial conference. The discovery process is defined by a local court rule.

Cases designated for a jury trial at the discovery conference are set for a pretrial conference. There are two types of pretrial conferences: "agreed to" and "formal." In "agreed to" pretrial conferences, also called expedited list cases, counsel agree on the pretrial order before the conference, and the case is set on the court's "agreed to" pretrial docket. The trial date is set, and the presiding judge reviews and formally approves the order. A "formal" pretrial conference is held within 90 days of final discovery. The pretrial order is reviewed and agreed to by all parties during the conference. Once the pretrial order is approved, a trial date is set 90 to 120 days later. The pretrial conference process is defined by Local Rule 207.

Continuances are rarely granted and generally must be granted by Judge Corrigan or Judge Rogg. As evidence of the administrative judge's firmness about continuances, counsel, at least in one case, went to the Kansas Supreme Court and obtained a writ of mandamus requiring the court to grant a continuance.

The motions docket for regular actions is heard by the presiding judge every Friday beginning at 9:30 (**Figure 8**). Discovery division staff compile all motion dockets and generate them by computer. Motions that require a hearing are assigned by the presiding judge to another judge. Such cases are preassigned to judges two or three days ahead of the hearing to give them additional time to prepare. If an exceptional case has been permanently assigned to a judge (see footnote 20), the judge assigned to the case hears the motion.

Figure 8
Motion Docket for Regular Actions



Limited action cases (under \$5,000) are set on a different track than regular action cases (see **Figure 9**). Limited action cases bypass discovery and pretrial conferences and receive a trial date at docket call. The presiding judge calls the appearance docket for limited actions at 9:30 am the third Thursday after service is perfected. At docket call, the presiding judge may grant continuances, or judgments, or assign the case to trial (Local Rule 200).

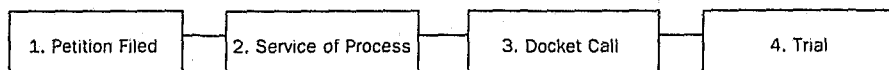
Most limited actions are bench trials involving simple matters such as collection. Limited action cases over a year old are put on the "Dead Dog Docket." These cases are assigned to an individual judge, given a trial date, and brought to trial. Trial clerks can grant continuances in limited action cases of up to 60 days, the civil casflow manager can grant continuances of up to 120 days, and the presiding judge is the only one who can grant continuances of over 120 days.

The strengths of Wichita's casflow management system center on controlling cases early and identifying and removing old cases from the docket. A casflow manager monitors the casflow system. Most importantly, the discovery judge and presiding judge are responsible for scheduling cases early and then moving them expeditiously to firm trial dates.

A complete discussion of the major factors in Wichita's successful civil casflow management system follows in the next section. The key elements of its case management system include:

- Median case processing goals adopted by the state in 1981 have been implemented by the court. Statewide civil time standards are 180 days from filing to disposition for regular actions and 60 days for limited actions.

Figure 9
Civil Case Processing Steps for Limited Actions



1. Petition is filed in clerk's office.
The plaintiff can complete service personally or arrange for the clerk's office to complete it.
 2. Service of process is perfected.
The docket call is automatically set for the third Thursday following perfection of service. Both parties are notified by the clerk's office.
 3. The docket is called (first appearance).
Parties can get the docket call continued for up to four weeks. At the docket call the trial is set, usually 5-6 weeks away, or the case is settled.
 4. The trial is held (almost all are bench trials).
Staff may continue cases involving the retrieval of money for up to 60 days after the docket call (staff may not continue cases, such as evictions, which are not for retrieval of money). The caseload manager can continue a case for up to 120 days from the docket call, and only the presiding judge can continue a case more than 120 days from the docket call.
- The administrative judge and presiding judge have provided leadership in achieving the state's median civil case processing goals.
 - There is accountability throughout the system. For example, civil judges are responsible to the presiding civil judge, who is accountable to the administrative judge, who is accountable to a regional supervising judge on the supreme court.
 - The court takes early and continuous control of civil cases through its discovery judge, who sets the date for the end of discovery and schedules the pretrial conference.
 - Caseload management information is collected and monthly reports are generated. Chief among these are reports that identify the oldest pending cases. The court then takes control of these cases and reduces its backlog.
 - Attention at all levels, from administrative staff to the supreme court, has been given to the pending caseload reports.
 - There are open lines of communication throughout the court. Relations between bench and bar are improving.
 - The court cooperates with the bar on caseload management. For example, a bench/bar civil practice committee developed the expedited pretrial conference technique previously described.

Key Elements of Effective Caseload Management

Leadership

The court has at least three levels of effective leadership. The first level is the state's supreme court, where a justice takes administrative responsibility for a region of trial courts. However, the fact that Sedgwick County is one of the fastest courts in the state can be attributed to the leadership found in the court itself.

The second level consists of the state's administrative judges. Mandated by Supreme Court Rule 107, the administrative judge position has been firmly established in Wichita for over 20 years and is a stabilizing force. Since unification in 1977, five administrative judges have served the 18th judicial circuit:

Howard C. Kline	(1968-1978)
B. Mack Bryant	(1979-1980)
James J. Noone	(1981-1985)
Elliot Fry	(1986-1987)
Michael Corrigan	(August 1987 to the present)

Judge Kline was Sedgwick County's first appointed, permanent administrative judge. He was a forceful personality who "was damn near always right" and "nearly worked himself to death." One long-time staff member characterized his management style as being diplomatic with judges—knowing when and when not to "hold people's feet to the fire." Widely respected and revered, he was known as "the ruler of Sedgwick County." Succeeding administrative judges were measured against Judge Kline.

Kline's next two successors, Judge Bryant and Judge Noone, took the position because they were the court's senior judge and felt obligated to serve. Preferring the use of committees and relying on the trial court administrator for personnel management, Judges Bryant and Noone both adopted rule-by-consensus. Both were well liked and personally respected but had less forceful personalities and were much less active than Judge Kline. Effective civil caseload management appeared to decline during their tenures. Increases in pending caseloads, age of pending cases, time to disposition, and age at disposition occurred during this period.

In contrast to Judges Bryant and Noone, the last two administrative judges *sought* the position of administrative judge. Judge Fry and Judge Corrigan marked a change in the supreme court's philosophy concerning

the assignment of administrative judges in Kansas. Rather than selecting the administrative judge on the basis of seniority, the supreme court considered management ability and willingness to lead. Though Judge Fry served only one year (he died in office), one of the court's former judges said that Judge Fry "had the potential to be as good as Howard Kline." Judge Fry was widely respected by his staff and peers in the court. He was deeply interested in caseload management and many feel he is responsible for initiating the court's recent control of its civil docket. He fostered a better relationship between the court and the bar through open communication.

The current administrative judge, Judge Corrigan, had served 22 years on the bench when he was appointed as administrative judge in 1987. Continuing the caseload initiatives of his predecessor, he has made civil case processing a top priority. It is Judge Corrigan who is given credit for finally implementing the supreme court's statewide time standards in Wichita. He is a hands-on leader who wants to know everything about how the court operates. He frequently scans his computer screen to find the court's oldest pending cases, cases that are ready for trial, or cases where discovery is complete. He notifies the discovery judge of outstanding cases requiring action. He has an inflexible policy against granting continuances.

The third leadership level is the civil presiding judge, Ron Rogg, who was a candidate for the administrative judge position in 1987. The presiding judge serves at the pleasure of the administrative judge. Before Judge Corrigan's administration, the presiding judge had fewer responsibilities and was not as engaged in caseload management as Judge Rogg. Lawyers controlled the civil docket. With the support of Judge Corrigan, however, the presiding judge has become essential to the civil caseload management system. Judge Rogg is credited with controlling the civil docket, managing judge workloads, making trial dates certain, and ensuring that pretrial conferences are meaningful. As a former district court judge remarked, Judge Rogg has the potential to be "Howard Kline, only better" because he is good with people.

Positions of leadership in Wichita also include the court's administrator and clerk. The court's nonjudicial staff are accountable to the court administrator. The current trial court administrator, Louis Hentzen, came to the position in 1986, after working in the court for 13 years. Although Hentzen currently has only peripheral involvement in caseload management, there is a caseload manager who reports directly to Hentzen and who routinely works with the administrative judge. Judge Rogg believes that Hentzen "has a lot of influence," and a prominent lawyer added that Hentzen is "highly regarded" by members of the local bar.

Clerk of court Marty Spangler has been with the court since 1969 and became clerk in 1984 after serving as the chief civil clerk and juvenile clerk. One of the reasons given for recent success in civil caseload times is the open communication between Spangler's staff and the rest of the court.

Goals

Recent studies by NCSC have documented the importance of disposition time goals for reducing court delay. A study of case processing times in 18 urban courts revealed that "five of the six courts that dealt most expeditiously with their civil caseloads in 1985 had some type of civil case processing time standards in place."²⁵ These five courts, including Wichita, were the only five courts to have formal time standards for filing to disposition times in civil cases. A study of delay in 26 urban trial courts revealed that there were two key factors of statistical significance "related to the pace of litigation for all civil cases: early court control and shorter case processing time goals. ... Disposition time goals were related to shorter 90th percentile processing times for all civil cases."²⁶

Case processing goals, however, are only successful when the local bench, policymakers, and bar accept and implement them. Though Kansas implemented statewide time standards in 1981, the assimilation of these goals by Wichita's local legal culture was gradual, and their effect was not felt by the court until a few years later. The disposition goals had little meaning until the legal community understood the benefits of expeditious case processing (or, conversely, when they experienced delay in civil case processing).

The Kansas time standards are median guidelines designed to give the system flexibility.²⁷ Since run-of-the-mill civil cases can be completed much more quickly than complex civil cases, median times set a standard for average cases that allows complex cases to fall outside the guidelines. Seven classes of cases have the following median time standards:

Type of Case	Recommended Time
Regular Action (Civil)	180 days
Limited Action (Civil)	60 days
Domestic Relations	120 days
Probate	365 days
Felony	120 days
Misdemeanor	60 days
Traffic	30 days

Caseflow Management Procedures

Caseflow management in Wichita revolves around early discovery, a full-time discovery judge who works closely with the civil presiding judge, firm trial dates, and a policy against granting continuances. The most important innovation has been the early discovery conference for civil cases, which is mandated by Supreme Court Rule 136 (adopted December 1980).²⁸ The court's principles and procedures are supported by caseflow management information, which allows the court to keep track of all pending cases. The court also takes action on lagging cases, using monthly printouts on cases older than two years and oldest pending on the docket. Continuances are rarely granted, and scheduled dates are firm. Judge Corrigan stated that no case becomes older than one year without having a date set for a pretrial conference and trial. In addition, the presiding judge assigns jury trial cases to a judge one month in advance to encourage early case preparation.

The court automatically dismisses cases that have had no action over a specific period of time. This is called an NID (notice of intended dismissal). An NID is issued when a limited action case has had no activity for 90 days or a regular action case has had no activity for 120 days. In June 1989, for example, 232 cases experienced no activity for the specified time periods. A notice was mailed to counsel advising them that their cases would be dismissed after 14 days unless they took action. After the deadline, 175 cases (75 percent) were dismissed.

Though moving cases through discovery is a strong characteristic of this court, the court's control and deadlines would hold little meaning without the cooperation of the local bar. The local bar initially was not receptive to the statewide time standards, and they resisted the court's efforts to control the pace of litigation in Wichita. Many attorneys still believe that they, not the court, are responsible for moving cases. Several attorneys stated that the court maintains the "appearance" of being tough in discovery, while they informally worked things out among themselves. An understanding exists among attorneys that discovery demands and requests should fit reasonably into each attorney's schedule. The fact remains, however, that the Wichita court brings the parties together early and sets deadlines. While the court accommodates attorneys to a degree during discovery, cases are not allowed to drift and trial dates are certain. As the discovery judge commented, the goal of the discovery conference is to "keep the lawyers busy and thinking about the case." As long as the court accomplishes this, it will achieve expeditious civil case processing.

Management Information

An information system that provides accurate and complete caseflow management information is an integral part of Wichita's successful

caseflow management program. In the late 1970s, Kansas developed a statewide information system to enable the office of judicial administration to monitor trial court caseloads. In 1980 the supreme court's statistical reporting committee developed "improved procedures for collecting and reporting the basic information required to manage trial court caseloads."²⁹ It developed a standardized set of forms for case management. This effort provided the impetus for a similar information system in Wichita.

The Kansas information system "allows courts to identify cases that are at variance with the time standards and ... provides a continuing evaluation of the system as a whole."³⁰ Once again, however, the system had to be tailored for the Wichita court before it could help the court control the docket. The Kansas information system has been increasingly utilized in Wichita for caseflow management, especially during Judge Corrigan's tenure.

A series of reports are generated at the end of each month. The standard reports include lists of data elements sorted according to items such as age of case or case number. A data-processing specialist creates reports from the county's data system. She checks data for accuracy and cleans up case records to preserve the data's integrity. The caseflow manager generates summaries of these reports both manually and through a PC.

Caseflow reports are primarily used by the administrative judge, the presiding judge, and the caseflow manager. These reports include:

- Oldest pending cases
- Cases over two years old
- Discovery conference orders
- Pretrial statements
- Pretrial questionnaire
- Pretrial conference order
- NID (notice of intended dismissal)
- Motions docket/calendar
- Bench trial list
- Jury trial docket
- First appearance docket (limited action cases)
- Juror panel roster

In 1988 the state department of social and rehabilitation service as well as the local title abstractors were given restricted access to the judicial computer data bank from their offices. Making this information available saves time for public and private agency employees as well as for the court's clerical staff.

Communications

Judges and staff use computers to communicate with each other. Judges can identify who is available for trial and make themselves available for trials by leaving messages on the computer. Staff also communicate with each other through computer mail.

Meetings among judges are held monthly for both the entire court (by Supreme Court Rule 107) and the civil department. In full-court meetings the judges might discuss nominations for municipal courts in Sedgwick County, a pay bill before the legislature, or an internal matter, such as problems with rotations. Full-court meetings emphasize information exchange rather than problem solving. In contrast, the purpose of the civil department's meetings is to review caseflow bottlenecks. Civil department judges discuss why cases are delayed and how improvements can be made in scheduling, judge availability, and continuance policies. In addition, both court clerks and court reporters hold regular meetings.

Judges are encouraged to serve on bar committees, and communication between bench and bar is open. Because of recent court initiatives to communicate with the bar, relations between the bench and bar seem to be improving. Many attributed Wichita's successes to this growing relationship, exemplified by the civil practice committee. Besides discussing problems between bench and bar, this committee has improved civil caseflow management. For example, it developed the "agreed upon" and "expedited list" distinction for cases in pretrial conferences. A complaints committee of bench/bar members hears complaints about judges or the caseflow process.

Many within the civil department remarked that Judge Rogg has encouraged open communication. "He wants to get in and learn the process, he wants to communicate. He makes you feel like a human being. I feel I can go to him and get something accomplished. He is open to new ideas."

Judicial Responsibility and Commitment

Judge Corrigan and Judge Rogg are committed to making civil cases flow through the court efficiently. Judge Corrigan is actively involved with the day-to-day operations of the court. He has concentrated on civil caseflow management since becoming administrative judge and has reduced the court's backlog, removing cases from the "oldest pending in the state list" and getting cases off the "older than two years list." During his tenure the bench/bar civil practice committee has helped the court revise its civil rules, including rules for discovery, pretrial conferences, and guidelines on professionalism in civil litigation.³¹ The committee completed work on the local rules in July 1988, and the new rules were endorsed by all Sedgwick County judges and became effective as of January 1989.

Judge Rogg presides over pretrial conferences and decides on the granting of most continuances. He genuinely enjoys being presiding judge. "I have a lot of faith," he said, "and [I] want to lead." The discovery judge stated that there is team spirit³² among the court's judges and satisfaction with the court's success in civil caseload management.

Regarding the court generally, one judge explained the cooperation among judges concerning delay reduction initiatives in this way. Early in a judge's career, the primary interest is in the law. These judges are most interested in learning rules and trying cases. After a number of years, judges become more interested in the court's system. These judges are more interested in making the court operate as efficiently as possible. The judge said that although this seems to apply to Wichita, the younger judges are cooperative and receptive to delay reduction initiatives, even if their primary interest is the law, because they are entering a court with an established commitment to civil caseload norms.

Administrative Staff Involvement

Administrative staff compile caseload information that the judges use to administer the court's civil docket. Court staff also monitor motions and the motions docket; monitor cases going to a pretrial conference and cases that get assigned to judges; compile discovery schedules and handle discovery orders; and obtain estimates on the length of future jury trials. Administrative staff have more responsibility in limited action civil cases, where they assign bench trial dates and even grant continuances.

There is a sense among the court staff that the system works because everyone is an integral part of the judicial process and completes their assigned tasks. Though administrative staff do not meet regularly, they help each other and exchange information. There are a number of informal meetings attended by appropriate staff: a supervisor's staff meeting, a bookkeeper's meeting, departmental meetings, and a computer user's group. Virtually all administrative staff said that they feel free to approach any of the judges with ideas or concerns.

Several staff members said that they were familiar with their own areas only and that only managers or supervisors knew what was happening in other areas of civil case processing. Staff realize that there is much about the court's operations they do not understand. They want more training to improve not just their current job skills but also their understanding of the entire civil case processing system.

Education and Training

Many of the court's judges and managers have received education and training in case management. Presiding judges go to a management

course once a year, and all of the state's trial judges attend training programs provided by the Kansas State Judicial Conference. Some of Wichita's judges have taken courses through the National Judicial College in Reno and the Institute for Court Management in Denver. Wichita's trial court administrator has completed the Institute for Court Management's Court Executive Development Program, a specialized educational program in court management that is equivalent to a master's degree in judicial administration.

Wichita's administrative staff desires more training and wants to know more about the court's civil case management system. The state provides some training opportunities through an annual court staff conference, and the state periodically provides programs, regional training, and technical assistance. While these programs are useful, they often do not relate directly to Sedgwick County's civil case processing system. In addition, some judges desired additional training in caseflow management.

Mechanisms for Accountability

Several mechanisms for accountability can be found throughout Wichita's case management system. For example, the bar is accountable to the court to meet scheduled dates. Judges are accountable to each other and to the public, who elects them every four years.³³ The presiding judge serves at the pleasure of the administrative judge who in turn is appointed by the supreme court. The court and the administrative judge are supervised by a member of the state's supreme court who has administrative responsibility for their region. The court is also responsible for its monthly reports to the state and must answer to its neighboring counties if its caseflow performance is not competitive.

Accountability is enhanced by the well-defined duties of the administrative judge and presiding judge. The administrative judge performs the duties specified by the Rules of the Supreme Court (Rule 107)³⁴ and the Kansas Statutes Annotated. The responsibilities of the presiding judge are defined in Local Rule 200. Lines of authority are well drawn. Judge Corrigan has delegated much of his authority to Judge Rogg, and they have run the court efficiently together since 1987.

Court managers and judges are accountable the state's office of judicial administration (OJA) for their delay reduction program. OJA issues quarterly reports, which assess the court's performance regarding the statewide delay reduction program, and holds each administrative judge responsible for their court's performance. These reports have linked time standards, statistics, and judicial performance, "thereby increasing the importance of all three for everyone concerned."³⁵ Time standards have been enforced through these various levels of accountability with the focus on eliminating old pending cases.

Backlog

After learning from the excesses of the early 1980s, monitoring backlog problems in the court has become a definite strength in Wichita.³⁶ Civil backlog problems are closely monitored by the state, the administrative judge, the presiding judge, the caseload manager, and other court staff. The court keeps close watch over the oldest pending cases and those that have not had any action. By the time a regular action is one year old, pretrial conference and trial dates are set. The court also uses a "Dead Dog Docket" to reduce backlogged limited action cases.

If any backlog exists in Wichita's civil department, it is among permanently assigned cases—complex civil cases that have been assigned to an individual judge, usually at the request of counsel. They are removed from the master calendar system and assigned to an individual judge who manages the case to completion. Both judges and lawyers cited these cases as being "bogged down" to such an extent that many lawyers were no longer requesting them. Since complex cases are more time-consuming by nature, it is a compliment to Wichita's master calendar system that counsel would prefer to have their complex cases go through the normal caseload rather than having them permanently assigned.

Current Issues and Concerns

There are some concerns that the court will need to address soon. For example, while the court's caseload information is very useful, it has some gaps that should be closed. There is little information available on the discovery process, patterns of continuances (e.g., number requested, granted, reasons for requests), or the number of trials by type and judge.

A second concern is that criminal caseload disposition times have not been as successful as civil. Since court resources may be absorbed by the criminal caseload process, continued success in civil case processing will depend on the court's control of its criminal docket.

Third, the trial court administrator has proven experience and skills in case processing, which are not being fully utilized. One former judge suggested that some of the caseload management activities of the administrative judge could be delegated to the trial court administrator.

Fourth, while administrative staff are very knowledgeable about their own positions, they are not as well informed about how their positions fit into the court's overall civil case processing system. One clerk stated that cross-training was a court goal at one time "but didn't get very far." The court could foster staff knowledge by cross-training or rotating more staff in and out of different positions and by putting more emphasis on staff education and training. Wichita's exemplary civil case processing

system will endure longer and improve when its staff understand their part in the entire caseflow process.

Finally, the speed with which cases flow through the system was called into question by some civil lawyers who claimed that the quality of justice in the court was being compromised. One lawyer said, "The conveyor belt is moving a little too quickly." Another complained that deadlines set at the discovery conference are "ridiculous" and "unrealistic." They complained about the court's firm policy against granting continuances.

Times to disposition, however, do not indicate a pace of litigation that would undermine the quality of justice in Wichita. Since the court's median time to disposition for regular actions (178 days) is close to the state's 180-day guideline, the court is not overzealous in light of the statewide time standards. The discontent expressed by some of the lawyers, therefore, may be a reflection of personal values. These views suggest that the Wichita bar's acceptance of a court-controlled civil docket and the statewide time standards is still not fully complete, and the court may need to improve understanding with the bar on these issues.

Notes

1. Barry Mahoney, et al. (1988), *Changing Times in Trial Courts* (Williamsburg, Va.: National Center for State Courts) (hereafter referred to as Mahoney, 1988) p. 176. "Civil" cases here refers to "regular actions" which are tort, contract, and property cases over \$5,000. Case processing times are for 1983.

2. Mahoney, 1988, p. 176.

3. John Goerdt et al., (1989), *Examining Court Delay* (Williamsburg, Va.: National Center for State Courts) (hereafter referred to as Goerdt, 1989). Times are measured from the filing of the petition to case disposition.

4. Goerdt, 1989, p. 12.

5. Its median tort time was 215 days, the 75th percentile time was 386 days, and the 90th percentile time was 531 days. Goerdt, 1989, p. 20.

6. This figure is from the National Court Statistics Project (1982), *State Court Caseload Statistics: Annual Report, 1977* (Williamsburg, Va.: National Center for State Courts) pp. 226-227.

7. Kansas Supreme Court (1988), *General Principles and Guidelines for the District Courts* Kansas Court Rules and Procedure, 230 Kansas, p. 698. In addition, the report declared, "An effective case management system requires that specific steps be taken to monitor and control the pace of litigation. Among these are the following:

(A) Early and continuous control of the court calendar by the judge;

(B) Identifying cases subject to alternative dispute resolution processes;

(C) Developing rational and effective trial-setting policies;

(D) Applying a firm continuance policy. Trial continuances should be few; good cause should be required, and all requests should be heard and resolved by a judge;

(E) Older cases should be emphasized and ordinarily given priority in trial settings;

(F) A useful and efficient information system should be available to identify cases that are at variance with the suggested time standards and to provide a continuing evaluation of the system as a whole."

8. Ibid., p. 698.

9. Howard Schwartz, "Oiling the Wheels of Justice," *State Court Journal*, vol. 8, no. 2 (spring 1984), p. 21.

10. Howard Schwartz and Robert C. Broomfield, "Delay: How Kansas and Phoenix Are Making It Disappear," *Judges Journal*, vol. 23, no. 1 (winter 1984). In addition, since district court judges stand for partisan election every four years in Sedgwick County, the issue of accountability is especially salient.

11. Mahoney, 1988, pp. 175-177.

12. Ibid., p. 177.

13. Judge Fry died in office on July 7, 1987, after just one year as administrative judge. Judge Corrigan was named by the supreme court to replace Judge Fry and has brought to fruition many of his predecessor's initiatives.

14. Of the 26 urban trial courts studied in the NCSC's LCC project, Sedgwick County has the fourth-smallest population. Goerdt, 1989, p. 6.

15. Other types of regular actions include personal property suits, tax appeals, habeas corpus actions, worker's compensation cases, small claims appeals, habitual violator cases, and other civil actions excluding domestic matters.

16. James R. James and David C. Steelman, "Judge and Courtroom Assignments for the 18th Judicial District Court in Sedgwick County (Wichita), Kansas." Technical Assistance Report (Williamsburg, Va.: National Center for State Courts, April 1988) p. 3. This report was requested by Administrative Judge Corrigan to address issues associated with the assignment of judges in the court.

17. The 18th Judicial District is one of 14 districts in Kansas where judges are popularly elected. Judges are appointed by the governor from names submitted by district nominating commissions in the 17 other districts, where they then stand for retention elections for four-year terms. See *State Court Organization, 1987* (Williamsburg, Va.: National Center for State Courts, 1988) p. 281.

18. For issues surrounding the assignment of judges in Sedgwick County, see James and Steelman.

19. The master calendar system was implemented in 1978. Before then the court utilized an individual calendaring system.

20. Some exceptionally complex cases are permanently assigned to an individual judge by either the administrative judge or the presiding judge. These cases are removed from the master calendar system, and the assigned judge is responsible for managing the case (i.e., discovery, motions, conferences, trial) to completion.

21. Goerdt, 1989, pp. 27 and 72. When total civil and felony filings are combined for 1987, the 26 courts had a mean of 69 percent civil cases. By comparison, Wichita had 91 percent civil cases when limited actions were included and 74 percent civil cases if only regular actions were included. Civil filings per judge came down dramatically when limited actions were eliminated.

22. Mahoney, 1988 and Goerdt, 1989.

23. Regular action data include tort data.

24. The monitoring of service is also a characteristic of the Montgomery County Court of Common Pleas (Dayton, Ohio). The Dayton court, which ranked along with Wichita as one of the two-fastest courts for civil case processing in Goerdt, 1989, also eventually dismisses cases if service is not completed.

25. Mahoney, 1988, p. 62-63.

26. Goerdt, 1989, p. 40.

27. The complete text regarding civil disposition time goals recommended by the Supreme Court Standards Committee is found in Appendix A.

28. Mahoney, 1988, p. 177.

29. Mahoney, 1988, p. 172.

30. Schwartz, p. 21.

31. The first of 15 guidelines developed by the committee is the following: "As a professional, a lawyer recognizes the importance of timely and cost effective disposition of litigation." See *Court Rules for the Eighteenth Judicial District of Kansas*, January 1989, p. 4.

32. *An Executive Summary of the Kansas Judicial Branch, 1987-1988 Fiscal Year* (Topeka: Office of Judicial Administration, 1988) p. 32.

33. With regards to team spirit, the discovery judge noted that her interview had to be completed by 5:00 that afternoon because she wanted to play for court's softball team, coached by Administrative Judge Corrigan, that evening.

34. The 24 judges in Sedgwick County are elected on a partisan ballot for four-year terms, both initially and in subsequent retention elections. Methods of selecting judges vary on whether they emphasize judicial accountability to the public or judicial independence. While gubernatorial and judicial nominating commission forms of appointment tend to emphasize judicial independence, electoral forms of selection tend to emphasize accountability to the public where judges are "delegates" of the people. See Charles H. Sheldon and Nicholas P. Lovrich, Jr., "Judicial Accountability vs. Responsibility: Balancing the Views of Voters and Judges," 65 *Judicature* 470 (May 1982).

35. Kansas Supreme Court, 1988. In addition to requiring monthly meetings of all judges within the district, the rule specifies administrative judge responsibilities regarding personnel matters, trial court case assignment, judge assignments, information compilation, fiscal matters, committees, liaison and public relations, and improvement in the functioning of the court.

36. Mahoney, 1988, p. 173.

Appendices

Contents

	<i>Page</i>
Appendix A—Illustrations of Caseflow Procedures to Support Time to Disposition Goals	165
A 1. Dayton Criminal Case Management System Outline	167
A 2. Dayton Civil Case Management Plan.	171
A 3. Detroit Docket Control Directive No. 88-2 <i>Procedures for a 91-Day Trial System</i>	176
A 4. Detroit Docket Control Directive No.88-6 <i>Verification of Trial Readiness</i>	181
A 5. Detroit Docket Control Directive No. 88-7 <i>Adjournment of Trial Date</i>	183
A 6. Detroit Docket Control Directive No. 88-8) <i>Pretrial Settlements on the Trial Date</i>	184
A 7. Fairfax: Advisory Memorandum to Lawyers Re: New Civil Case Time Standards and Procedure ...	185
A 8. Fairfax: Outline of Civil Caseflow Process	186
A 9. Fairfax: Schematic Diagram of Civil Case Management Program	188
A 10. Fairfax: Law Case Tracking Form	189
A 11. Kansas Supreme Court Rules Regarding Civil Time Standards	190
Appendix B—Illustrations of Information and Reports for Monitoring Caseflow Management Goals	193
B 1. Dayton: Average Time from Arrest to Trial, Plea or Dismissal by Judge	195
B 2. Detroit: Docket Status Report (excerpt)	196
B 3. Detroit: Trial Setting Efficiency Report	200

B 4.	Detroit: Speedy Trial Report	202
B 5.	Fairfax: Age of Criminal and Civil Cases (excerpt from Monthly Caseload Reports)	205
B 6.	Phoenix: Age of Cases Terminated Table (excerpt from Quarterly Report prepared by the Office of the Court Administrator)	206

Appendix C—Illustrations of Forms and Reports for Managing and Monitoring Continuances		207
C 1.	Dayton: Motions for Continuance	209
C 2.	Dayton: Judges Monthly Consolidated Continuance Report	210
C 3.	Dayton: Reason for Continuances: Individual Judge's Monthly Report	211
C 4.	Dayton: Attorneys Requesting Three or More Continuances: Monthly Consolidated Report	212
C 5.	Fairfax: Request for Continuance	213
C 6.	Fairfax: Continuance Analysis and Report	214

Appendix A

Illustrations of Caseflow Procedures to Support Time to Disposition Goals

Appendix A1

Dayton Criminal Case Management System Outline

1. Early Screening and Control by Courts and Prosecutors

- Preliminary arraignment (first appearance in lower court) within one to three days after arrest.
 - Defendants advised of charges and rights.
 - Bond set.
 - Preliminary hearing (bindover hearing) scheduled.
- Early prosecutor screening/grand jury action.
 - Experienced assistant prosecutors review felony charges within seven days after arrest; often take cases directly to grand jury.
 - Preliminary hearing (bindover hearing) held within 15 days of arrest for defendants on bail, 10 days for defendants in custody, if case not taken directly to grand jury.
 - If preliminary hearing is held and defendant bound over, case goes to grand jury within two weeks.
- Prompt arraignment on indictment in common pleas court.
 - All indicted defendants to be arraigned in a maximum of 21 days after grand jury indictment.
 - Common pleas court notified by prosecutor of anticipated indictment; case is given a number, assigned to one of the general division judges, and placed on the court's arraignment calendar.
- Arraignment in common pleas court used as key point for initiating case management by court.
 - Centralized arraignments held every Tuesday and Thursday before administrative judge.
 - Defendants advised of rights; if counsel not present, arraignment postponed until the next scheduled arraignment (two to five days).

- Defendant can enter guilty plea; if so, a presentence investigation by probation department is ordered and case is sent to assigned judge for sentencing on specific date approximately 28 days later.
- If defendant pleads not guilty, case is set for a pretrial conference in prosecutor's office within one week. At the same time, a scheduling conference before the assigned judge is set for a date within two weeks after the pretrial conference.

2. Early and Open Discovery; Structured Negotiation Process

- Prosecutors provide defense counsel with discovery packet (police reports, witness statements, defendant's statements, available lab reports) between arraignment and indictment.
 - by accepting packet, defense agrees to provide reciprocal discovery.
- Nature of the defense (e.g., alibi, mistaken identity, lack of criminal intent).
- Witness names and statements.
- At pretrial conference, supplemental reports provided; prosecutor and defense counsel discuss case facts and possible plea or other disposition.
- At scheduling conference, any remaining discovery problems are resolved and defendant has "last" opportunity to accept prosecutor's plea offer.
 - Scheduling conference is "plea cut-off date"—after the conference, defendant should be allowed to plead only to the original charges in the indictment.
 - If guilty plea is not entered at this time, dates are set for motion hearings and trial. Trial date is usually four to six weeks after scheduling conference.
 - Short (one- to two-week) continuance of scheduling conference may be allowed to enable discussion about possible dispositions (multiple continuances of the conference are rare).

3. Firm Trial Date

- Once a case is set for trial, it is expected to go to trial on scheduled date unless defendant pleads to the charges in the indictment.
- Trial date continuances rarely occur.
- Provisions made for "backup assistance" if a judge has two or more trials ready to go on a date.
 - Visiting judge system.
 - Help from another sitting judge.

4. Time Standards/Short Scheduling

- Maximum of four weeks from arrest to indictment.
- Maximum of six weeks from indictment to trial or other disposition.
 - One week from arraignment to PTC.
 - One to two weeks from PTC to scheduling conference.
 - Two to three weeks from scheduling conference to trial.
- Maximum of two to four weeks from plea or verdict to sentence.

5. Continuous Monitoring of Program Effectiveness

- Court staff regularly collect data on key indicators of effectiveness for each judge and for the court as a whole.
 - Number of pending cases.
 - Number of open cases more than 30 days *and* 60 days.
 - Age of cases at disposition.
 - Trial date continuances requested and granted, with indication of reasons.
- Caseload management information and possible problems discussed at monthly judges' meetings.

- Each judge (or a member of the judge's staff) regularly reviews dockets to identify older cases and other potential problems.
- Monthly docket status reports by each judge, required under Ohio Rules of Superintendence, providing structure and common format for monitoring caseloads.

Appendix A2

Dayton Civil Case Management Plan

Purpose

A long accepted truism in the law is: Justice delayed is justice denied. Still the time lapse between the filing and termination of civil litigation is not the sole criteria. Thorough discovery, clarification of issues, and legal research are all necessary and integral parts of preparation for trial, and to varying degrees are time consuming. The expeditious amalgamation of these processes is therefore the goal. To eliminate mechanical and procedural delays to achieve a prompt and fair disposition of civil cases are the reasons for the design and execution of a civil case management plan.

Tolerable Delays

Some delays are inherent in our system of resolving civil disputes. Experience indicates that time parameters are both feasible and desirable for the various types of actions. While there may be exceptions due to the peculiarities of a given case, the following limits appear reasonable for termination computed from the date of filing:

Habeas corpus	60 days
Mortgage foreclosure	120 days
Administrative appeals	120 days
Injunction	150 days
Worker's compensation	180 days
Appropriation	180 days
Personal injury	270 days
Medical malpractice	360 days
All others	150 days

Definitions

Schedule of events— Scheduling starts with the date of filing the complaint and continues sequentially.

Clerical Step— Performed by clerical/administrative personnel.

Judicial Step— Performed by the assigned judge or his/her personal staff.

Single Asterisk— Indicates a computer generated form.

Double Asterisk— Indicates an automatically computer-generated reminder dating from the last event designated with a double asterisk.

Clerical Step I

Computer checks case record for evidence of service 21 days after an action is filed.

A. If service is complete:

1. Cases are scheduled for Clerical Step II, except administrative agency appeals.

2. In all administrative appeals:

(a) All appeals from administrative officers or bodies (Chapter 119 and 2506, R.C.) shall *automatically be assigned a briefing schedule as follows:

- appellant's assignment of errors and brief due 40 days after the date notice of appeal was filed;
- appellee's answer brief due 60 days after notice of appeal filed; and
- appellant's reply brief due 70 days after that notice filed.

(b) **Notice sent to assigned judge 70 days after notice of appeal filed informing the judge the issue is ready for decision. **Each 30 days thereafter a *reminder is sent to the judge until the case is decided.

B. If on examination no return of service has been received then Clerical Step I is repeated.**

C. If service is incomplete, i.e., not all parties have been served:

1. Notice shall be served directing counsel for the plaintiff to complete service or voluntarily dismiss the action.*

2. **Fourteen days after this notice is served if no service has been obtained, or effort made to obtain service, then the action is dismissed*;

if service has been completed the case is scheduled for Clerical Step II.**

- D. If service is being accomplished by publication, 28 days after the last publication the case is scheduled for Clerical Step II.**

- E. If there is no service on any defendant:

1. Notice shall be served directing counsel for plaintiff to obtain service or voluntarily dismiss the action.
2. **Fourteen days after this notice is served if no service has been obtained or effort made to obtain service then the action is dismissed by the court.*

Clerical Step II

**This step assumes that service upon all defendants is complete. The clerical person reexamines the file 28 days after Clerical Step I has been completed.

- A. If all party defendants have filed an answer(s) then the case is examined to determine if a claim for medical malpractice is asserted.

1. If the claim is for medical malpractice then the case is immediately *ordered to arbitration.
2. In all other cases the clerk shall submit the file to the assigned judge with the request for instructions to:

(a) order mandatory arbitration,

(b) order to referee, or

(c) set for initial pretrial conference with the assigned judge.

The clerk shall continue monitoring the case at this stage until the assigned judge provides the instructions.

- B. If no answer has been filed and no extension has been granted within which to plead, the clerk shall send a "notice to counsel for plaintiff to proceed with a default judgment or to dismiss the action." ** At the end of 14 days, if neither action has been taken, an *entry dismissing the action shall be submitted to the assigned judge for appeal and filing.
- C. If an extension has been approved in which to plead, the action shall be **recycled for Clerical Step II at the end of the time as extended.
- D. All motions being taken to the assigned judge on the Monday following the week in which the motions are filed, a *notice on all motions will be sent to the assigned judge **14 days later that the motions are ready for decision. The clerk shall **recheck on a cycle of 14 days, with a *reminder to the judge each cycle until each motion is decided. As each motion is decided the action shall then be recycled to Clerical Step II.

Judicial Step I

At the initial pretrial conference the judge will determine the status of the case with reference to settlement.

- A. In each case that is reported settled at that time, counsel will be instructed to present a termination entry for approval within 14 days. The fact of settlement shall be transmitted to the clerk who shall **check at the end of that period for the filing of the termination entry. If the entry has not been filed a *notice shall be sent to counsel informing them that they have 14 days in which to present the termination entry. ** At the end of the period, if no such entry has been filed an *administrative dismissal entry shall be sent to the assigned judge for approval.
- B. In nonjury cases, the judge shall either assign the case for trial or order the case referred to a court commissioner. If the case is referred, it shall be assigned for a pretrial conference with the referee in the same manner as used by an assigned judge.

Regardless which route the nonjury case takes to trial assignment, the clerk shall check for a decision and/or judgement entry **30 days after the designed trial date. This cycle shall be **repeated at intervals of 30 days, with a reminder to the assigned judge or referee each cycle, until the judgement entry is journalized.

- C. In those cases in which a jury is demanded, but in which the amount in controversy is less than \$25,000 the case will either be ordered to arbitration or a trial date assigned.
- D. In all other cases a trial date shall be assigned and, where appropriate a pretrial order journalized.

Judicial Step II

- A. If a final pretrial conference is conducted and at that time the case is reported settled, the clerk shall be notified of that fact. The clerk shall **check at the end of 14 days for the filing of a termination entry and the procedure set forth in Judicial Step I (A) shall be followed.
- B. For those cases that proceed to trial the procedure set forth in Judicial Step I (A) shall apply commencing 14 days after the assigned trial date.

Conclusion

The efficiency and efficacy of this case management plan is absolutely dependent upon strict adherence to two fundamental rules that must be applied without exception:

First: All applications for the continuance of any scheduled event and any action taken on that application by the assigned judge must be in writing, and if the event to be continued is the trial, the application must be signed by the party seeking the delay, and then only when the delayed event is contemporaneously reassigned a fixed date.

Second: No event is complete until the next event is scheduled for a fixed date.

Appendix A3

Detroit Docket Control Directive No. 88-2

Date: March 30, 1988

Re: *Procedures for a 91-day Trial System*

A. Disposition Conference

1. Following the Arraignment on the Information, the floor executive judge will conduct a disposition conference. The attorney of record must appear at the disposition conference. The attorney of record and the floor prosecutor must hold a settlement conference prior to the disposition conference. Settlement agreement offers are to be discussed on the record at the disposition conference. The executive judge is authorized to dispose of cases in the following ways:
 - a. Nolo contendere or guilty plea,
 - b. Diversion referral,
 - c. Youthful trainee (HYTA) referral,
 - d. Dismissal; or
2. Assignment of the case by blind draw judge to a judge on the floor for calendar conference on the next available pretrial day, designated as Friday. If a written request for a Circuit or Recorder's Court judge was filed within seven days of the bind-over, the floor executive judge will transfer the case, when necessary, from the blind draw judge to the appropriate judge of original jurisdiction. In exchange, a comparable case will be transferred to the blind draw judge.
3. The floor executive judges are encouraged to limit trial activity to hearing waiver trials.
4. The floor executive judge will conduct pretrials and schedule the dockets of the Circuit Court judge on the floor.
 - a. Cases assigned by blind draw to the Circuit Court dockets will be placed on a Circuit Court pretrial docket for retention by the floor executive judges. The executive judges will conduct the calendar conferences and the final conferences. Motions will be scheduled for Fridays on the Circuit Court judges' dockets. If there are no

motions, cases may be scheduled for final conference at the conclusion of the disposition conference.

- b. If a case does not reach disposition before the executive judge, the executive court clerk will schedule the case for trial on the Circuit Court's docket.
5. Once a case has been assigned to a blind draw judge, the defendant may not return to the floor executive judge for either a waiver trial or other settlement.
6. If a defendant whose case settled before the floor executive judge acquires a new case, it will be assigned to the same floor for blind draw.
7. When the case is assigned by blind draw, the preliminary examination transcripts are to be ordered, if not done previously.

B. The Calendar Conference

1. At calendar conference, the court will consult with the defense counsel and assistant prosecutor to plan the progress of each case. Each calendar conference must be concluded *on the record* in the defendant's presence.
2. The summary statement of calendar conference is a checklist and record of matters discussed. At every calendar conference the court will ensure that the following occurs:
 - a. An opportunity is afforded to argue bond;
 - b. Motions for discovery are heard or waived;
 - c. The assistant prosecutor states for the record his office's position regarding negotiated charge reduction;
 - d. The defense counsel and defendant understand the prosecutor's position regarding plea negotiations;
 - e. The court, in consultation with counsel, sets the case's schedule of proceedings and dates for motion filing deadline, motion hearing, and *tentative trial week*.
3. The summary statement of calendar conference will be completed in full with the best information or estimate then available. Any

limitations on a time to accept a settlement agreement should be noted in the appropriate section on the report.

C. Motion Hearings

1. Only motions filed in a timely fashion will be heard on the date set for motions. Strict adherence to the deadline for filing motions is essential to ensure that defendants have full recourse to their procedural rights prior to the pretrial settlement negotiations cutoff.
2. Motions are to be argued at the final conference or on a date established prior to the final conference. Motions that could have been foreseen prior to the trial may not be argued after the final conference without the authorization of the chief judge.

D. Final Conference

1. The final conference will occur after all other matters preparatory to trial are concluded. No firm trial date shall be set prior to the conclusion of the final conference and the completion of the final conference memorandum. All pretrial matters must be completed with no matters being taken under advisement.
2. The final conference will occur no later than 28 days prior to the projected trial date. *The final conference must be conducted on the record and attended by the prosecutor, the defense counsel of record and the defendant.* If possible, the officer-in-charge will also attend. Other parties who may be required will be present by direction of the court.
3. At final conference, each court will make a proper record, prepare the final conference memorandum, and perform the following tasks:
 - a. Examine the file to ensure that the preliminary examination transcript as well as all necessary pleadings, appearances, and forensic or other reports are present and in good order.
 - b. Settle all matters raised at pretrial. Make a record of the motion cutoff date, rulings, and motions previously argued, and other matters timely raised.

- c. The prosecuting attorney shall attach to the information a list of all witnesses, and at final conference shall advise the court and the defendant *on the record* of witnesses who will be called at trial. The defendant or defense counsel shall advise the court and the prosecutor in writing of the need for assistance, if necessary, to locate or serve process upon a witness.
 - d. The officer-in-charge, if available, or the prosecuting attorney, as well as defense counsel, will be expected to know the location and availability of witnesses.
 - e. The prosecutor's position on pretrial settlement negotiations will be recorded.
 - f. The waiver of jury trial should be recorded at final conference whenever possible. This assists the court in scheduling trial length and more accurately determining the number of jurors needed.
 - g. To avoid adjournment of trial at a later date, the judge should inquire *on the record* whether or not the defendants are satisfied with their defense attorney.
4. To ensure that defendants fully understand their position and available options, the court will inform them *on the record* that court policy precludes settlement negotiations after final conference followed by the prosecutor's withdrawal *on the record* of all pretrial settlement offers.
 5. Counsel for all parties will participate with the court in selecting a firm trial date. As officers of the court, attorneys have the responsibility for advising the court of all conflicting commitments. If failure to do so results in an adjournment of trial, counsel may be held in contempt of court or otherwise sanctioned.

E. Trial Scheduling

1. Trial scheduling on the Circuit Court's dockets will assume that a Circuit Court judge will be present every working day except on Circuit Court's judges' Friday motion day in Circuit Court. No allowance is to be made for vacations or other leave. In case of emergency, the Circuit Court judges must call the Circuit Court's chief judge for a replacement. If a replacement judge is not assigned to cover a scheduled trial, the case is to be assigned to the Circuit

Court judge who was absent. If the case is not adjudicated during the time that judge is sitting on the criminal docket, the case remains the responsibility of that judge to adjudicate.

2. If a trial does not proceed or otherwise require the time scheduled, the court clerk is to obtain a replacement case by calling the chief judge's docket clerk.
3. If no replacement case is available, the court clerk is to complete a downtime explanation form. Copies of the completed form are to be distributed to the Recorder's Court chief judge, Circuit Court chief judge, Recorder's Court deputy court administrator, and docket control.
4. When scheduling trials, custody cases must be given priority over noncustody cases. Older cases have priority over more recent cases. Capital cases are to have priority over noncapital cases.

F. Off-Track Dockets

After all pretrial matters are completed and the final conference concluded, the clerk is to indicate on the final conference memorandum the number of days, if any, the projected trial date is beyond the 91-day limit. If the trial date is more than 40 days off track, i.e., more than 131 days in age, the case must be scheduled on the following Friday for a trial assignment conference before the chief judge. The chief judge will review the off-track docket and may remove other cases to schedule the new case or may retain the new case. Cases so retained will be placed on a special chief judge's trial docket for assignment as standby trials when trials on the individual dockets do not proceed as scheduled.

Appendix A4

Detroit Docket Control Directive No. 88-6

Date: March 30, 1988

Re: *Verification of Trial Readiness*

1. The court clerk is responsible for minimizing downtime due to the failure of trials to proceed as scheduled. The court clerk will make every effort to prevent avoidable adjournments and discover problems in time to allow for assignment of other work to their courtrooms.
2. At the stated lead time before the scheduled trial date, the court clerk will contact the following, at a minimum, in order to discover any problems arising after the final conference: the trial assistant prosecutor, the officer-in-charge, the defense counsel, the jail, and the defendant screening unit or bondsman, as appropriate.

Typical matters for discussion including the following:

- a. *Trial assistant prosecutor*: witness problems, conflicts in trial assignments, other problems that could delay start of trial.
 - b. *Officer-in-charge*: witness problems.
 - c. *Defense counsel*: witness problems, conflict in trial assignments, contact between counsel and the defendant, other problems such as motions that could delay start of trial and additional inquiry regarding the possibility of a waiver trial.
 - d. *The sheriff's department*: whether the defendant is in jail; if so, whether proper steps have been taken to bring the defendant or witnesses back in time for trial; whether the court order contains the prisoner's department of corrections number, aliases and date of birth, and the specific institution where the prisoner is located.
 - e. *The defendant screening unit or bondsman*: whether the defendant has reported as directed, whether they have contacted the defendant regarding the trial date to insure defendant's appearance.
3. The court clerk will ensure that the file is available and that the examination transcript, motion rulings and the like are present and in proper order. To ensure that all pending cases are noted on the file

and brought to the court's attention, the court clerk will cross-check all defendants on the file through the computer by fingerprint number.

4. The Verification of Trial Readiness should be forwarded to the appropriate party in a timely fashion. For jury trials, the trial readiness form is forwarded to the jury management office by 2:30 p.m. of the day preceding the trial. If there is an inability to meet this deadline, the jury management office must be contacted immediately. No jurors will be ordered unless a readiness form is submitted.

Appendix A5

Detroit Docket Control Directive No. 88-7

Date: March 30, 1988

Re: *Adjournment of Trial Date*

1. All requests for adjournment of trial date by the court, prosecutor, defense counsel, or any party involved must be forwarded immediately to the chief judge for *formal hearing* on the record. *Adjournments shall be granted only for the most compelling reasons and ONLY BY THE CHIEF JUDGE.*
2. The prosecutor's representations at final conference regarding availability of police and civilian witnesses must be taken seriously. Such representations provide grounds for dismissal rather than adjournment on trial day when problems have not been brought in a timely fashion.
3. If a trial adjournment is granted, an adjournment form, which includes the reason for adjournment, must be signed by the defense counsel, prosecutor, and chief judge. The reason for the adjournment must also be noted on the court sheet.

Appendix A6

Detroit Docket Control Directive No. 88-8

Date: March 30, 1988

Re: *Pretrial Settlements on the Trial Date*

1. It is against the policy of this court and the Wayne County prosecutor's office to offer a settlement to a reduced charge to any defendant who wishes to settle on the date of trial.
2. Dockets shall be scheduled so that every trial date given is valid, and the court will be available promptly at 9:00 am on the given date. The court is not to accept a settlement offer involving a reduced charge. Therefore, any discussion of a settlement on the trial date should be primarily between the defendant and defense counsel.
3. Such discussion should not unduly delay a scheduled trial by extending beyond 9:30 am. At that time, the judge should conclude discussion and begin trial. When a case settles on the trial date, no witnesses involved in the case shall be released until the case is adjudicated on the record.
4. *Any deviation from the above rule must be approved by the chief judge.*

Appendix A7

Fairfax Circuit Court Advisory Memorandum to Lawyers

Re: New Civil Time Standards and Procedures

To: Members of the Bar and Litigants:

The Fairfax County Circuit Court is implementing a Differentiated Civil Case Tracking Program (D.C.T.P.) for law cases. The program will begin on April 17, 1989. The purpose of the program is to cause more efficient processing of law cases. Most should be completed within one year of the date of filing or sooner if possible. We believe that the program will benefit the public, members of the Bar and the Court.

At the time a law case or first responsive pleading is filed, the attached Civil Case Information Form must be prepared and submitted to the civil intake clerk. Additional copies of the form can be obtained from the Civil Intake Section. Initially, twenty percent of all new law cases filed will be assigned to the program. Eventually, all law and chancery cases will be incorporated into the program. If a case is assigned to the program, approximately sixty days from the date of filing the suit a notice for a status conference (which will occur approximately one hundred days from the date of filing) will be mailed to the parties or their counsel. The conference may be scheduled sooner if all parties are in agreement. All Pre-Answer Motions that might be dispositive (e.g., demurrer, plea in bar, etc.) must be argued before the date of the status conference.

At the status conference, a judge will assign dates for: completion of discovery, identification of expert witnesses, exchange and submission of exhibits; exchange of names of witnesses; exchange and submission of jury instructions; settlement conference date; and a trial date. At the conclusion of the hearing, a status conference order will be entered and a copy issued to all parties. The attorney who tries the case need not be present but will be bound by the order signed by the attorney who is present at the status conference.

Appendix A8

Fairfax Outline of Civil Caseload Process

Caseload Description by Item

<i>Action by Attorney</i>	<i>Court & Attorney</i>	<i>Action by Court</i>
1. Suit is filed and case information form is completed.		1. Clerk's office to receive motion for judgment; assign case information on computer; assign to Track 1.
2.		2. Court will monitor and contact counsel.
A. Service of process is obtained.		
B. Service of process not requested.		
3. File all responsive pleadings, including an answer, and ensure that all dispositive motions related to such hearings (demurrer, plea in bar, etc.) are heard before the status conference date.		3. Court sends a Notice of Status Conference Hearing 60 days from the time of filing the motion for judgment and advises of responsive pleadings not yet heard.
	4. Status Conference	
	A. Appear at designated time (8:30 - 9:00)	
	B. Attorneys and judge sign pretrial status conference order (an associate may sign the order which will bind the trial attorney) containing:	
	1. Discovery cut-off dates to be agreed by all parties or set by the court. All discovery, without exception, shall cease 30 days prior to the trial date.	

Action by Attorney

Court & Attorney

Action by Court

2. Date for exchange of exhibits and for submission to the clerk of court.
3. Date for submission of proposed jury instructions.
4. Date may be set for settlement conference.
5. Trial date and whether jury or nonjury trial.

C. If judge approves admission to complex track, then chief judge will make the judicial assignment. The court will notify the attorneys which judge has been selected and this judge will set discovery completion dates and the trial date.

5. Settlement Conference
If a case is designated for settlement conference, judge will explore possibilities of settlement with attorneys and will identify key settlement issues.

6. Trial; attorneys must sign final order at the conclusion of trial; attorneys may use 21 day rule to request modification of wording of final order.

5. Settlement Conference
If settlement is reached, then judge enters final order; this optional conference shall be held no later than 20-29 days prior to trial.

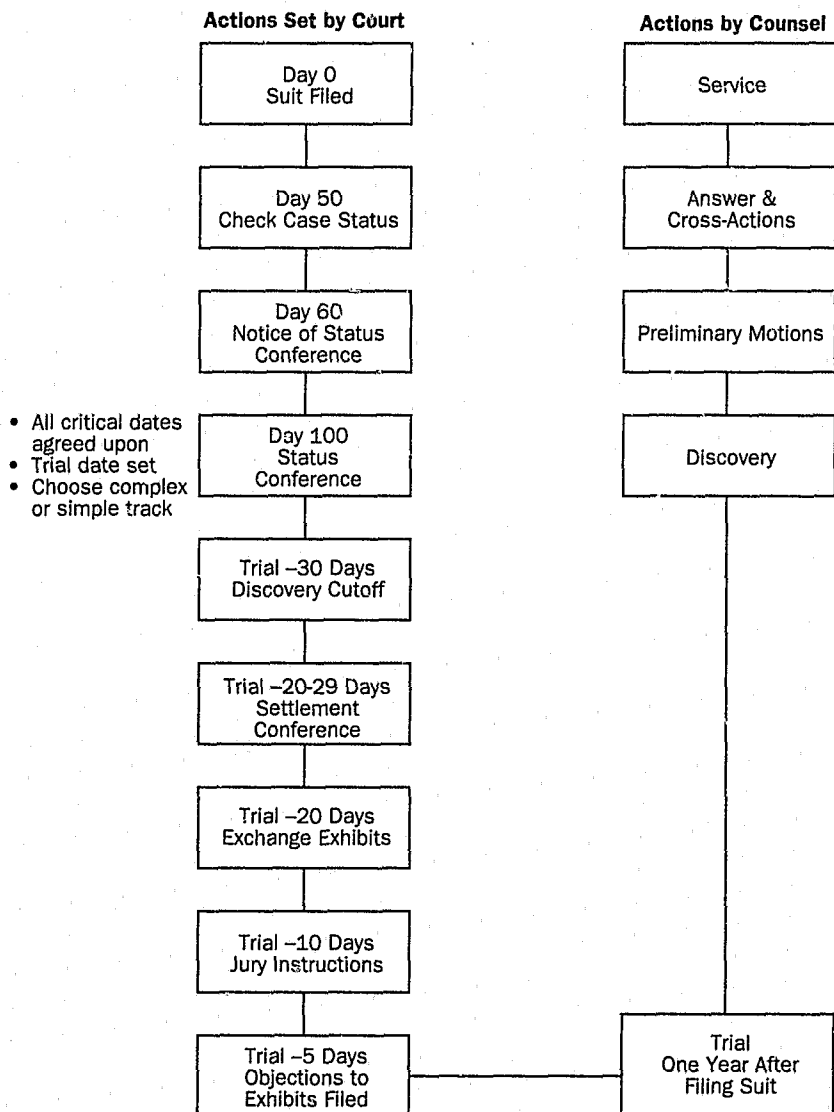
6. Trial; final order prepared by the court clerk and entered by the court.

7. Cases Under Advisement
Judges will issue opinions on cases taken under advisement within 60 days of hearing or trial.

8. All cases are to be disposed of within 12 months of filing; faster times will be available upon request.

Appendix A9

Fairfax Circuit Court—Civil Case Management Program



Appendix A10

Fairfax Law Case Tracking Form

Case Number: _____

Date Suit Filed: _____

Date Notice Sent (60 days): _____

Regular Status Conference (100 days)

Date set: _____

Continued date: _____

Discovery Cut-off

Date set: _____

Continued date: _____

Date of Status Conference Order: _____

Settlement Conference (no later than 20-29 days prior to trial)

Date set: _____

Continued date: _____

Trial

Jury or Non-jury: _____

Date set: _____

Continued date: _____

Final Order Entered (date): _____

Number of days from filing
to entry of final order: _____

Appendix A11

Kansas Supreme Court Rules Regarding Civil Time Standards

- (1) All Chapter 60 (regular actions) civil cases, except domestic relations cases, should ordinarily be set for an initial discovery conference not later than sixty (60) days after the petition is filed to explore prospects for settlement, a time schedule for completion of discovery, and the setting of a date for a pretrial conference and for trial;
- (2) Any civil case that has been pending for more than one hundred-eighty (180) days shall be of special concern to the trial judge and should ordinarily be given priority in all trial settings.
- (3) The trial judge to whom cases are assigned should be responsible for the disposition of those cases and should, so far as reasonably possible, bring them to trial or final disposition in conformity with the following median time standards:

Chapter 61 cases (limited civil actions, less than \$5,000)—to final disposition, within a median time of sixty (60) days from date of filing.

Chapter 60 cases (regular civil actions, more than \$5,000)—to final disposition, within a median time of one-hundred-eighty (180) days from date of filing ...

- (4) When a report of the judicial administrator shows that a civil case has been pending for more than two years, such case shall be given priority over all subsequently filed cases and the administrative judge should report the reason for delay in disposition to the departmental justice
- (5) In every judicial district in the state, there should be established a bench-bar committee composed of judges and lawyers to monitor the operation of the courts in the district, to develop programs for improvement of court services, and to formulate and carry on a continuing educational program to inform the citizens in the district about the functions and operations of the courts and the basic liberties and freedoms guaranteed by our form of government.

- (6) In the setting of cases for trial, a trial judge shall respect and accede to a prior prime or firm setting of a case in another court involving the same attorney or attorneys. Trial judges shall cooperate in resolving conflicts in trial settings as the interests of justice may require. In resolving conflicts in trial settings, jury cases should ordinarily take precedence over non-jury cases.

Appendix B

Illustrations of Information and Reports for Monitoring Caseflow Management Goals

Appendix B1

Criminal

Montgomery County Common Pleas Court

General District

Average Time From Arrest to Trial, Plea, or Dismissal
by Judge for Previous Months in 1988

Month	Judge									Court Average
	F	A	C	I	D	H	B	G	E	
January	79	49	50	83	76	77	76	79	96	74
February	80	86	57	94	69	70	61	46	114	75
March	56	87	83	86	39	78	85	69	115	75
April	66	56	51	45	37	68	61	68	76	59
May	65	48	75	69	69	47	70	34	57	59
June	55	64	63	44	67	103	55	63	72	65
July	72	48	65	64	33	56	46	40	73	55
August	48	58	58	53	51	57	35	49	64	53
Judge Average from 1-1-88 thru 9-30-88	65	57	61	67	55	70	59	58	79	63

Appendix B2

Detroit: Docket Status Report (excerpt)

[Frequency: Monthly
Source: Compiled Reports]

Distribution: Chief Judge, Executive Chief Judge, Bench and Courtroom Clerks, Court Administrators, Court Division Managers, Prosecutors

Information Reported: New case filings are analyzed by court, and a new report will categorize filings by charge category. Docket trends in pending cases, pending trials, old cases, dispositions and length of the future trial track are summarized and compared to prior years. Special studies are also included. This report is distributed at the monthly bench meeting and is accompanied by a brief oral presentation.]

MEMORANDUM

To: Dalton A. Roberson, Chief Judge
From: Susan Boynton, Docket Control Manager
Re: *Docket Status Report*

I. Analysis of Bind Over Rate

In 1988, there were 11,885 defendants bound over for trial in Recorder's Court (not including 846 welfare fraud cases), an increase of 2,043 defendants or 21 % compared to a year ago. Circuit Court bind overs (without 227 welfare fraud cases) have increased by 559 defendants or 18% from 1987.

The combined total increase without welfare fraud cases for both courts in 1988 is 2,602 defendants or 20%, mainly occurring in those charged with drug offenses.

**Comparison of Bind Over Volume
1987 and 1988**

	Rec. Crt		Circuit Court		Combined Total	
	1987	1988	1987	1988	1987	1988
Jan	752	902	247	301	999	1,203
Feb	649	994	256	223	905	1,217
March	784	998	285	386	1,069	1,384
April	642	945	256	290	898	1,235
May	677	801	209	302	886	1,103
June	861	949	242	267	1,103	1,216
July	768	852	221	298	989	1,150
Aug	1,002	1,002	259	289	1,261	1,291
Sept	911	1,123	346	378	1,257	1,501
Oct	761	1,179	293	377	1,054	1,556
Nov	835	1,058	240	364	1,075	1,422
Dec	1,200	1,082	334	272	1,534	1,354
Total	9,842 ¹	11,885 ²	3,188 ³	3,747 ⁴	13,030 ⁵	15,632 ⁶

¹ Excluded are 1,252 welfare fraud defendants.

² Excluded are 846 welfare fraud defendants.

³ Excluded are 4 welfare fraud defendants.

⁴ Excluded are 227 welfare fraud defendants.

⁵ Excluded are 1,256 welfare fraud defendants.

⁶ Excluded are 1,073 welfare fraud defendants.

II. Pending Defendants and Pending Trials have Increased

Pending defendants have increased by 64 or 2% while pending trials are up 192 or 16% over a year ago at this same time.

The length of the trial track extends 93 days in the future compared to 103 days in 1988. The number of cases over 180 days in age rose by 42 or 39% over last year.

	1988 Jan. 20	1989 Jan. 18	Number & % Change
<i>Pending Defendants</i>			
Recorder's	2,526	2,558	+32(1%)
Circuit	706	738	+32(5%)
Total	3,232	3,296	+64(2%)
<i>Pending Trials</i>			
Recorder's	999	1,152	+153(15%)
Circuit	232	271	+39(17%)
Total	1,231	1,423	+192(16%)
<i>*Length of Future Trial Track</i>	103 days	93 days	- 10(10%)
<i>Cases on Speedy Trial Report (December)</i>			
Recorder's	83	119	+36(43%)
Circuit	25	31	+6(24%)
Total	108	150	+42(39%)

*Length of Future Trial Track from January date.

III. Dispositions have Increased 31% in 1988

In 1988, dispositions have increased by 3,701 defendants or 31% over 1987. Pleas at Arraignment on the Information, total pleas and waiver trials showed the greatest percentage of increase.

When dispositions for December, 1987 and 1988 are compared, there is a 26 defendant or 11 % increase in waiver trials. Otherwise, the numbers for those months are quite similar.

January-December Dispositions Compared

	1988	1989	Number & % Change
Pleas	6,890	9,173	+2,283(33%)
(AOI Pleas)	(3,816)	(5,485)	+1,669(44%)
Dismissals	2,092	2,560	+468(22%)
Jury Trials	750	823	+73(10%)
Waiver Trials	2,254	3,131	+877(39%)
Total Trials	3,004	3,954	+950(32%)
Total Disposition	11,986	15,687	+3,701(31%)

December Dispositions Compared

	1988	1989	Number & % Change
Pleas	738	740	+2(.3%)
(AOI Pleas)	(426)	(438)	+12(3%)
Dismissals	181	164	-17(9%)
Jury Trials	51	55	+4(8%)
Waiver Trials	230	256	+26(11%)
Total Trials	281	311	+30(11%)
Total Dispositions	1,200	1,215	+15(1%)

IV. Trial Setting Efficiency Decreases

Of the 6,658 cases set for trial at final conference on individual dockets 3,204 or 48% were held by the judge who set the case. This result is a 3% decline from the previous year. Pleas after final conference and pleas on trial date increased 2% and 1% respectively. The percentage of trial adjournments after final conference and adjournments on trial date remained the same.

The 2% increased in cases that are transferred on trial date and the defendant pleads is probably a result of the Chief Judge's central docket in effect for approximately six months.

Summary

Although 2,602 or 20% more cases were filed in 1988 than in 1987, the docket has remained fairly stable due to a 31% increase in dispositions. The number of cases set for trial is 192 defendants higher than a year ago, but the future trial track has been shortened from the high in mid-March. The cases over 180 days in age shows a similar pattern. The increased percentage of pleas after final conference should be carefully monitored.

Appendix B3

Detroit: Trial Setting Efficiency Report

[Frequency: Monthly

Source: Manual Trial Calendars, Computer Inquiry

Distribution: Chief Judge, Executive Chief Judge, Bench and Courtroom Clerks, Court Administrators, Court Division Managers, Prosecutors

Information Reported: Results of each case set for trial at final conference are summarized with particular emphasis on the percentage of adjournments and pleas for each judge and the court.]

Trial Setting Efficiency Combined with Pleas & Adjournments on Trial Dates January-December, 1988

Judge	Trials Set		Trials Held		Pleas After FC		Pleas on TR Date		Adj After FC		Adj on TR Date	
Baxter	177	83	47%	21	12%	7	4%	16	9%	5	3%	
Boyle	99	54	55%	7	7%	6	6%	16	16%	12	12%	
Carnovale	352	259	74%	27	8%	26	7%	9	3%	8	2%	
Chylinski	116	57	49%	16	14%	11	9%	6	5%	4	3%	
Cahalan (Cooper)	309	121	39%	71	23%	41	13%	32	10%	24	8%	
Crockett III	197	103	52%	20	10%	7	4%	16	8%	9	5%	
Drain	120	73	61%	123	10%	9	8%	11	9%	5	4%	
Edwards	141	69	49%	22	16%	3	2%	9	6%	4	3%	
Evans	193	80	41%	25	13%	16	8%	28	15%	19	10%	
Ford	97	24	25%	6	6%	3	3%	22	23%	16	16%	
Heading	171	30	18%	7	4%	4	2%	26	15%	19	10%	
Hobson	168	67	40%	10	6%	9	5%	28	17%	19	11%	
Jackson	124	64	52%	15	12%	12	10%	29	23%	22	18%	
Jasper	302	170	56%	40	13%	22	7%	31	10%	21	7%	
Jobes	151	84	56%	16	11%	12	8%	10	7%	7	5%	
Kerwin	205	89	43%	11	5%	7	3%	37	18%	20	10%	
Massey	251	112	45%	14	6%	4	2%	41	16%	16	6%	
JonesMoore	144	52	36%	12	8%	6	4%	24	17%	11	8%	
O'Brien	238	137	58%	23	10%	20	8%	38	16%	9	4%	
Roberson (Cf Jd)	572	287	50%	101	18%	62	11%	72	13%	59	10%	

continued on next page

Judge	Trials Set	Trials Held	Pleas After FC	Pleas on TR Date	Adj After FC	Adj on TR Date
Roberts	207	91 44%	26 13%	11 5%	31 15%	18 9%
Sapala	239	150 63%	16 7%	8 3%	30 13%	14 6%
Shamo	153	60 39%	29 19%	17 11%	32 21%	24 16%
Silverman	87	46 63%	8 9%	4 5%	12 14%	4 5%
Strong	173	76 44%	24 14%	15 9%	22 13%	11 7%
Talbot	137	80 58%	21 15%	11 8%	12 9%	3 2%
Thomas	166	89 54%	17 10%	13 8%	9 5%	6 4%
Torres	150	55 37%	8 5%	2 1%	19 13%	11 7%
Townsend	250	174 70%	27 11%	18 7%	13 5%	5 2%
(201) Docket	160	84 53%	19 12%	11 7%	21 13%	6 4%
(202) Docket	196	71 36%	33 17%	24 12%	36 18%	30 15%
(203) Docket	192	76 40%	18 9%	18 9%	25 13%	16 8%
(204) Docket	208	69 33%	25 12%	13 6%	37 18%	19 9%
(302) Docket	213	68 32%	32 15%	8 4%	26 12%	18 8%
Jan-Dec, 1988	6658	3204 48%	779 12%	460 7%	826 12%	487 7%
Jan-Dec, 1987	5024	2580 51%	500 10%	289 6%	607 12%	333 7%
Jan-Dec, 1986	4014	2087 52%	394 10%	193 5%	437 11%	159 4%

Appendix B4

Detroit Speedy Trial Report

[Frequency: Monthly
Source: Case Age Report by Judge (CR-25), Computer Inquiry

Distribution: Chief Judge, Executive Chief Judge, Bench and Courtroom Clerks, Court Administrators, Court Division Managers, Prosecutors, State Court Administrative Office

Information Reported: Each case over 180 days in age is researched to explain the reason for delay. Case age, the major charge, jail status and all trial dates are also listed. Summary statistics are used to access the condition of the court's docket.]

MEMORANDUM

To: Herb Levitt, Regional Administrator
 From: Susan Boynton, Docket Control Manager
 Re: *Speedy Trial Report*

The Recorder's and Wayne Circuit Court Speedy Trial Report of December 16, 1988 (attached) lists 150 cases over 180 days in age, a decrease of 5 cases (3%) of the total reported for November. Cases that were mistrials, remanded from an appeal court or granted a new trial appear only after 180 days have elapsed since remand or mistrial.

Beginning in January 1983, age was calculated by subtracting time during which a case was inactive. Examples of such inactive periods are commitment for incompetency, interlocutory appeal, issuance of capias and placement in diversion or youthful trainee status. The case does not appear on the report during the inactive period. Beginning in June, 1984, cases were reported by blind draw judge (except where transferred to a judge who adjourned the trial).

1987	# Cases Reported	1988	# Cases Reported
January	29	January	144(22) *
February	24	February	160(26)
March	24	March	173(25)
April	32	April	184(24)
May	36(4) *	May	167(33)
June	36(13)	June	175(34)
July	53(11)	July	178(41)
August	76(20)	August	168 (36)
September	95(21)	September	156(30)
October	117(32)	October	159(29)
November	98(21)	November	155(36)
December	108(25)	December	150(31)

*Circuit Court cases included.

There are 8 defendants (down to 12 from November) reported in Section A who have been incarcerated over six months (1 Circuit Court defendant included).

cc: Dalton A. Roberson, *Chief Judge*
 George Gish, *Court Administrator/Clerk*
 Richard C. Kaufman, *Executive Chief Judge*
 K. Kent Batty, *Circuit Court Administrator*
 State Court Administrative Office
 John O'Hair, *Prosecuting Attorney*
 Terry Kuykendall, *Trial Services*
 Thomas Khalil, *Trials and Dispositions*

**Number of Cases on Speedy Trial Report & Percentage
of Total Cases by Judge, 1988**

	Jul	Aug	Sept	Oct	Nov	Dec	Year To Date
Baxter	1 1%	0 0%	0 0%	0 0%	0 0%	3 2%	4 .5%
Boyle	3 2%	4 2%	3 2%	2 1%	1 1%	1 1%	13 2%
Carnovale	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Chylinski	0 0%	0 0%	0 0%	1 1%	3 2%	4 3%	4 .5%
Cooper	0 0%	0 0%	0 0%	0 0%	2 1%	2 1%	2 0%
Crockett III	13 7%	11 7%	9 6%	8 5%	6 4%	6 4%	47 6%
Drain	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Edwards	4 2%	6 4%	1 1%	1 1%	1 1%	1 1%	13 2%
Evans	6 3%	6 4%	3 2%	6 4%	4 3%	3 2%	25 3%
Ford	15 8%	15 9%	12 8%	8 5%	12 8%	11 7%	62 8%
Heading	3 2%	4 2%	6 4%	8 5%	5 3%	4 3%	26 3%
Hobson	2 1%	0 0%	0 0%	0 0%	2 1%	2 1%	4 .5%
Jackson	2 1%	0 0%	1 1%	2 1%	1 1%	0 0%	7 1%
Jasper	1 1%	0 0%	1 1%	2 1%	1 1%	0 0%	5 1%
Jobes	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
Kerwin	9 5%	7 4%	5 3%	11 7%	7 5%	13 9%	39 5%
Massey Jones	11 6%	14 8%	10 6%	6 4%	10 6%	13 9%	51 6%
Moore	9 5%	6 4%	8 5%	9 6%	11 7%	6 4%	43 5%
O'Brien	3 2%	5 3%	7 4%	7 4%	6 4%	6 4%	28 3%
Roberson	11 6%	8 5%	6 4%	9 6%	11 7%	11 7%	45 5%
Roberts	11 6%	9 5%	9 6%	9 6%	7 5%	6 4%	45 5%
Sapala	4 2%	1 1%	2 1%	0 0%	6 4%	10 7%	11 1%
Shamo	19 11%	14 8%	15 10%	22 14%	19 12%	16 11%	89 11%
Silverman	1 1%	2 1%	2 1%	0 0%	6 4%	10 7%	11 1%
Strong	9 5%	11 7%	12 8%	9 6%	6 4%	5 3%	47 6%
Talbot	1 1%	0 0%	0 0%	0 0%	0 0%	0 0%	5 1%
Thomas	1 1%	5 3%	9 6%	3 2%	7 5%	5 3%	25 3%
Torres	2 1%	1 1%	1 1%	1 1%	0 0%	0 0%	5 1%
Townsend	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
201 Docket	4 2%	5 3%	4 3%	6 4%	9 6%	6 4%	28 3%
202 Docket	4 2%	3 2%	4 3%	7 4%	4 3%	6 4%	22 3%
203 Docket	14 8%	16 10%	7 4%	5 3%	5 3%	3 2%	47 6%
204 Docket	8 4%	9 5%	14 9%	13 8%	8 5%	5 3%	52 6%
302 Docket	7 4%	5 3%	4 3%	3 2%	1 1%	1 1%	20 2%
Total Cases	178	168	156	159	155	150	819

Appendix B5

Fairfax: Age of Criminal and Civil Cases (excerpt from Monthly Caseload Reports)

Monthly Caseload Report - Criminal Cases for Month of May

III. Age of Concluded Cases

	Class 1 & 2 Felony	Other Felony	Misdemeanor
Cases concluded within 30 days	10	10	34
Cases concluded that were filed:			
31-150 days ago	31	189	197
151-270 days ago	9	25	2
More than 270 days ago	9	28	9
Total Cases Concluded	59	262	242

Monthly Caseload Report - Civil Cases for Month of May

III. Age of Concluded Cases

	General District Appeals/ Removals	All Other Law	Divorce	All Other Equity	J & DR Appeals
Cases concluded which were filed:					
0-12 months ago	17	264	214	78	6
13-24 months ago	2	93	59	17	0
25-36 months ago	1	23	17	3	0
37-48 months ago	1	31	19	2	0
49-60 months ago	0	0	7	1	0
More than 60 months ago	0	14	36	5	0
Total Cases Concluded	21	425	352	106	6

Appendix B6

Phoenix: Age of Cases Terminated Table (excerpt from Quarterly Report prepared by the Office of the Court Administrator)

Table 6
Age of Civil Cases Terminated from Filing in Months

	Established Goals		1987 3rd	1987 4th	1988 1st	1988 2nd	1988 3rd	+/- % Change
	Interim	Final						
90th%	18	12	17.0	19.6	18.1	17.7	19.5	+10.2%
98th%	24	18	29.1	32.1	28.3	28.5	35.5	+24.6%
99th%	36	24	36.1	38.3	34.0	35.3	46.0	+30.3%

Table 13
Age of Criminal Cases Terminated in Days

90th	120	100	183	192	188	181	184	+1.66 %
99th	150	120	382	314	351	400	428	+7.0 %

Appendix C

Illustrations of Forms and Reports for Managing and Monitoring Continuances

Appendix C1

Dayton: Motions for Continuance

In the Common Pleas Court of Montgomery County, Ohio

THE STATE OF OHIO

CASE NO. _____

Plaintiff

MOTION FOR CONTINUANCE

vs.

Defendant

Now comes the Prosecuting Attorney _____ Defense Attorney _____
(check one) and moves the Court for a continuance in the within matter for
the following reasons:

Prosecuting Attorney
Defendant's Attorney

ENTRY

This matter came before the Court on the Motion of: Prosecuting
Attorney _____ Defendant's Attorney _____ (check one) for a continuance,
and upon due consideration of good cause, the Court hereby does grant said
continuance.

It is the further order of the Court that this matter be reset
from _____ to _____.

JUDGE

COPIES: Defendant's Attorney
Prosecutor
Assignment Judge

Appendix C2

Dayton: Judges Monthly Consolidated Continuance Report

Judge	Number of Continuances Granted
A	10
B	16
C	22
D	23
E	24
F	28
G	28
H	28
I	30
Total	209
Court Average	23

Appendix C3

Dayton: Reason for Continuances: Individual Judge's Monthly Report

Judge: A

Prosecuting Attorneys: _____

Continuances Requested by Prosecuting Attorney:	<u>1</u>
Continuances Requested by Defense Attorney:	<u>9</u>
Total Continuances by Plaintiff and Defendant's Attorneys:	<u>10</u>

Number of Continuances Granted

0
1
6
1
1
1
10

Reason for Continuance

Waiting Probation Report
Attorney Sick
Further Negotiations
Attorney Out of Town
For Prosecutor to File Appeal
Defendant has New Indictment

Total Continuances Granted

Appendix C4

Dayton: Attorneys Requesting Three or More Continuances: Monthly Consolidated Report

Criminal	
Attorney	Number of Continuances
ABC	9
DEF	8
GHI	7
JKL	6
MNO	5
PQR	4
STV	4
WXY	3
ZAB	3
DEC	3
FGH	3
KJI	3
NLM	3
QPO	3

Appendix C5

Fairfax: Request for Continuance

In the Circuit Court of Fairfax County Request for Continuance

Please Print. All information MUST be filled out.

Completed by Party Requesting Continuance.

Completed by Judge.

versus

Case No. _____

Criminal / and DR Law Chancery Fiduciary

Party Requesting Continuance: (please check as appropriate)

Atty. for Plaintiff _____ Atty. for Defendant _____

Atty. for Commonwealth _____ Other: _____

Objected to by opposing side: (check appropriate one) Yes _____ No _____

Reason for continuance _____

Name of Attorney(s) for Plaintiff/Commonwealth:

Please Print Name Signature

Name of Attorney(s) for Defendant:

Please Print Name Signature

To Be Completed By Calendar Control Judge:

Continuance Granted _____ Continuance Denied _____

Old Trial Date New Trial Date Judge Assigned Time Estimate

Set for: Trial _____ Motions _____ Other _____ Jury _____ No Jury _____

Judge Todays Date

Appendix C6

Fairfax: Continuance Analysis and Report

Calendar Control Judge: JLF

Dates: 5/12-23/89

1. Number of civil continuances requested: _____
2. Number of civil continuances granted: _____
3. Number of civil continuances denied: _____
4. Number of criminal continuances requested: _____
5. Number of criminal continuances granted: _____
6. Number of criminal continuances denied: _____
7. Number of criminal continuances requested
by the Commonwealth's Attorney's Office: _____
8. Number of criminal continuances requested
by the Public Defender's Office: _____
9. Total number of continuances requested: _____
10. How many of the civil continuances granted
were by other judges: _____
11. How many of the civil continuances denied
were by other judges: _____
12. How many of the criminal continuances
granted were by other judges: _____
13. How many of the criminal continuances
denied were by other judges: _____