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**BJA DIFFERENTIATED CASE MANAGEMENT (DCM)  
DEMONSTRATION PROGRAM**

**OVERVIEW AND PROGRAM SUMMARIES**

February 1992

Caroline S. Cooper  
Maureen Solomon  
Holly Bakke  
Thomas Lane



**BUREAU OF JUSTICE ASSISTANCE  
U.S. Department of Justice**

144383

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*This project was supported by Grant Number 89-DD-CX-K023 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs coordinates the activities of the following program 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 author and do not necessarily represent the official position or policies of the Department of Justice.*

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**Prepared Under BJA Cooperative Agreement No. 89-DD-CX-K023**

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# **PART ONE: OVERVIEW OF BJA'S NATIONAL DIFFERENTIATED CASE MANAGEMENT DEMONSTRATION PROGRAM**

## **I. PROGRAM DESCRIPTION**

### **A. Background**

Differentiated Case Management (DCM) is a technique which courts can use to tailor the case management process -- and the allocation of judicial system resources -- to the characteristics of individual cases. The DCM concept is premised upon the assumption that not all cases are alike in terms of their processing needs. Some cases can be disposed of fairly expeditiously, with little or no discovery required; others require extensive "court" supervision over the pretrial process and/or trial. In addition, some cases, even if complex, may need to be resolved more promptly than others for reasons unrelated to their complexity (age or physical condition of one or more parties or witnesses; prosecutorial priorities, etc.). Inherent in the concept of DCM is the recognition also that many cases can proceed through the court system at a faster pace if appropriate pathways exist to allow simpler cases to bypass more complex cases filed earlier.

The fact that all cases are not the same and do not make the same demands upon court resources is a principal that everyone accepts intuitively but has not been broadly applied to case management. Although civil cases have been distinguished from criminal cases, and, within the criminal case classification, misdemeanors are distinguished from felonies, until recently, finer distinctions within a context of an overall case management philosophy have been rare. It was for the purpose of developing a case management framework which accommodated these finer distinctions that BJA's Differentiated Case Management Demonstration Program was launched.

In July 1987, the Bureau of Justice Assistance (BJA) of the U.S. Department of Justice instituted a demonstration program to pilot test the application of Differentiated Case Management (DCM) techniques to criminal and civil caseloads to assist state trial courts in accommodating the impact of increasing drug caseloads on the total court docket. BJA's DCM demonstration program focussed both on drug cases specifically as well as the general criminal and civil caseload to assure that the needs of the non-drug segment of the caseload were not sacrificed to the demands of the drug filings. At the time BJA instituted its DCM Demonstration Program, only one court in the country had introduced a DCM program -- the Superior Court in Bergen County, New Jersey -- which had adopted a pilot civil DCM program in March 1986 designed by the New Jersey Administrative Office of the Courts. No courts had yet applied DCM to criminal cases.

When BJA launched its DCM Demonstration program there was very little literature on DCM and virtually no operational experience, except for the Bergen County pilot program which has not yet published operational results or evaluative data. An initial task for BJA was, therefore, to develop a definition and framework for implementing criminal and civil DCM programs which could have general applicability to state trial courts and provide a foundation for their participation in the DCM demonstration program.

In January 1988, a Program Announcement of BJA's National Differentiated Case Management Program and Request for Proposals to Undertake Local Differentiated Case Management Projects was prepared and distributed to more than 600 state and local court administrative officers and judges. The Program Announcement was the first published document to provide a comprehensive description of the concept of Differentiated Case Management and a summary of general DCM program principals and critical elements which could be applied to the caseload process of general jurisdiction courts. In response to this Program Announcement, approximately twenty state courts submitted proposals for instituting DCM programs, reflecting local case processing concerns and priorities and geared to the organization, procedures and resources of the local justice system. An essential application requirement was the demonstrated commitment of the local prosecutor, indigent defense service provider and the bar to work with the court to develop the DCM program.

On the basis of this competition, BJA selected the following five demonstration courts, representing a cross-section of DCM approaches, jurisdictional environments and case processing systems, to receive start-up awards to implement DCM programs, with specific case focus as noted below:

- Camden County, New Jersey Superior Court: both criminal and civil cases;
- Pierce County (Tacoma), Washington Superior Court: drug cases initially; later expanded to Sexual Assault Cases and then to the rest of the criminal docket;
- The Recorder's Court for the City of Detroit, Michigan: criminal cases;
- Second Judicial Circuit Court, St. Joseph (Berrien County), Michigan: criminal cases
- Second Judicial District Court, St. Paul (Ramsey County), Minnesota: civil cases; subsequently expanded to drug cases and now being expanded to other criminal cases;

Although each of the DCM jurisdictions initially focussed its DCM program on only one segment of the caseload (e.g., criminal, civil, drug, etc.), each subsequently expanded (or is in the process of expanding) the DCM program to the entire criminal and civil docket.

#### **B. The Differentiated Case Management Concept: Historical Context**

DCM synthesizes the past three decades of development in the field now known as Caseload Management. As caseloads have increased and more judges and administrators have acknowledged the importance of active supervision of case progress, greater attention has turned to methods for reducing delay, making the courts more accessible to the public, and improving predictability and certainty in calendar management. In this process, many techniques have been developed, modified, and expanded upon. For the most part, these techniques tended initially to be "event-oriented". For example, the concept of the pretrial conference was developed as a method for narrowing issues, hopefully shortening trials, and providing an opportunity to advance settlement possibilities. Mandatory settlement conferences were also attempted. The focus of these early efforts was primarily on creating additional and more useful case events.

More recent research and developments have tended to focus equally (if not more) on control of time intervals between events and on methods to supervise, control and make these intervals more predictable. As part of this focus, emphasis has returned to the recognition that, while cases may be classified by broad definitions, each case is, in a real sense, unique; further, supervision of case progress in a way that minimizes and makes more predictable the time between case events calls for tailoring a disposition timetable to the characteristics of each case. These characteristics can be dictated by the inherent factors a case presents (i.e., offense and offender characteristics for a criminal case or the nature of claims presented by a civil case) as well as by additional factors relating to public policy (i.e., priorities relating to selective prosecution programs; domestic violence protection, etc.).

Thus, viewed in a broad perspective, the field of caseload management, over time, has shifted focus from case events, to supervising the time between events, and, now, to blending both to accommodate the characteristics of each case. Differentiated Case Management (DCM) seeks to achieve this blending.<sup>1</sup>

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<sup>1</sup> See Caroline Cooper, Tom Lane, Maureen Solomon, National Differentiated Case Management Program: Program Announcement, Request for Proposals to Undertake Local Differentiated Case Management Projects for the Bureau of Justice Assistance, U.S. Department of Justice. January 1988.

### C. Goal of BJA's DCM Demonstration Program

BJA's DCM Demonstration Program was designed to develop, implement and refine differentiated case management techniques for civil and criminal case processing in the demonstration courts which could, if successful, be adapted by other trial courts.

Although the specific operational characteristics of the DCM projects differ (see Section II below), they all applied fundamental DCM case management principles:

(1) early case screening (shortly after filing) and classification according to case processing complexity and priority;

(2) assignment of each case to appropriate "tracks" or "plans", each of which has special provisions regarding the applicable court "events" (pretrial conferences, discovery provisions and deadlines, etc.) and applicable timeframes for their occurrence;<sup>2</sup> and

(3) continuous monitoring of each case, with track reassignment if necessary, to assure that the case is processed in a manner consistent with the tasks and resources required.

In addition, a significant feature of the criminal DCM projects has been the modification of the arraignment proceeding to assure that it is a significant event in the adjudication process, with the possibility of plea entry at that point.

## II. SUMMARY OF THE DCM DEMONSTRATION PROJECTS

### A. Focus

Four of the DCM demonstration projects focus on expediting the criminal caseload in different ways:

- the Pierce County project focussed initially on drug cases and was expanded in June 1989 to include sexual assault cases as well. Since April 1990, the DCM system has been applied to all criminal cases and efforts are now underway to develop a DCM system for civil cases as well. Implementation of the DCM program has involved transfer of case management functions for criminal cases from the prosecutor to the newly established court administrator's

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<sup>2</sup> The number and characteristics of each "track" or "plan" has been determined by the local jurisdiction.

office. Three case processing "plans" are established: expedited, normal and complex. Dispositional timeframe standards range from 30 to 90 days, depending upon the specific track, or plan. A "special" category for very complicated sexual assault cases has been developed, the disposition of which is guided by the individual judge assigned.

- the Camden County project extends the concept of the Central Judicial Processing hearing (CJP) established some time ago for screening purposes in other New Jersey jurisdictions, and establishes a subsequent Pre-indictment Conference (PIC) for case review and possible disposition. Initially four tracks were established for cases not disposed of at the PIC conference: expedited, standard, complex, and a priority track geared to serious offenses which required expedited processing. The expedited and priority tracks have now been combined.
- the Berrien County criminal DCM project builds upon a civil DCM project instituted by the Court on its own initiative in 1988. Three tracks are established into which all criminal cases are assigned based on a number of factors reflecting the complexity of the case and its priority for disposition.
- Detroit's DCM project, unlike the other three criminal projects, is based on existing sentencing guideline provisions and is premised on the assumption that those cases with lesser guideline penalties are managerially less complex and should exit the system sooner. Five case categories, with additional subtracks, each with different case processing timeframes, have been established for case assignment according to applicable guideline characteristics.

Each of the two civil DCM projects establishes multiple tracks with differing provisions regarding pretrial discovery, court events and timeframes.

- the Camden County project, modelled after the earlier DCM project in Bergen County, New Jersey, establishes three tracks: standard and expedited tracks (which can be requested by the attorneys) and a complex track to which a case can be assigned only with the approval of the presiding Civil Judge. Special subtracks were subsequently established for certain types of cases, including medical malpractice, asbestos claims, PIP<sup>3</sup> claims, and other special case classes.

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<sup>3</sup> Personal Injury Protection coverage, of a no-fault nature, provided for automobile insurance claims by insurance carriers in some states.

- the Ramsey County project has developed three tracks, the dispositional timeframes for which are triggered by the filing of a Note of Issue (NOI)<sup>4</sup> 90 days after which a Joint at Issue Memorandum (JIM) is filed: (a) expedited, with disposition within 90 days of the NOI; (b) standard, with disposition within 305 days of the NOI; and (c) complex, with disposition within a maximum of two years of the NOI. For expedited cases, the only court "event" scheduled is the trial. For standard cases, a Joint Disposition Conference of the attorneys is scheduled 245 days after track assignment, a Judicial Settlement Conference held 30 days thereafter, and trial held within the next 30 days. Complex cases are assigned to an individual judge for a case management conference shortly after track assignment at which time a schedule for requisite subsequent events and applicable timetable is established.

## **B. DCM Demonstration Program Experience**

### **1. Preliminary Observations**

Looking back over the initial experience of the DCM demonstration projects, several common features emerge. First, the tremendous variation in the way the fundamental DCM concept has been applied to create effective differentiated case management programs. As the summaries demonstrate, jurisdictions are experimenting with a variety of criteria to isolate those factors that truly differentiate among cases in their respective justice systems. These factors necessarily differ among jurisdictions according to differences in judicial system structure, policy, statutes and practice.

Second, the various ways in which the early screening required for DCM cases can be performed. Case classification can be done by judges and court staff, by attorneys, or both, and can be done on the basis of overall case complexity (Pierce County, for example), relative sentencing guideline severity (Detroit, for example), or, potential amenability to early settlement discussions (i.e., Camden-criminal), to name just a few approaches.

Third, the adaptability of the DCM concept to both large jurisdictions, with case characteristics determined primarily through computer analysis (Detroit, for example), as well as small jurisdictions (Berrien County, Michigan, for example) where case characteristics can be reviewed with counsel by the Chief Judge.

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<sup>4</sup> In Minnesota, parties are not required to file initial pleadings with the Court so that, for the purposes of the DCM program in Ramsey County, the court's management of a case begins when the parties file a Note of Issue indicating their desire (not necessarily readiness) for trial.

Fourth, the importance of a judicious balance between adherence to DCM principles and flexibility in implementing procedures. The essence of all of the DCM programs has been (1) early case evaluation by both the Court and the attorneys, (2) the development of individualized case schedules for appropriate events which permit all parties a reasonable time to prepare -- i.e., not too soon but, also, no longer than necessary -- (3) establishment of event deadlines, and (4) adherence to all dates scheduled. Within this context, all of the participating jurisdictions have developed and implemented their operational plans, modifying them and fine-tuning them as experience dictated.

Fifth, the need for an effective DCM program to (a) involve all components of the adjudication process, working together under the Court's leadership, and (b) draw upon the principles of good caseload management. While no effective DCM program can be developed by only one component of the justice system in isolation of the others, it is essential that responsibility for managing and monitoring a DCM program be lodged with the Court.

Sixth, the importance of adequate information for day to day case management and monitoring. The DCM Demonstration Program experience has made it clear that much greater emphasis must be placed upon equipping courts with effective case management information systems that can support a DCM program specifically and good case management generally. Attempts to implement the DCM demonstration programs have made it more apparent than ever that many courts are not well served by their information systems. In order to provide the management differentiation and scheduling certainty central to the DCM concept, information regarding the daily status of the docket and the individual cases in it is essential to enable a court (1) to identify the status of the pending caseload and (2) to allocate the judicial and other resources necessary to efficiently handle it. The most serious problem the DCM demonstration projects encountered during the implementation process was the lack of effective information systems geared to producing the information needed to manage the DCM program. Efforts to adapt statewide court or county information systems proved cumbersome and, in the end, futile, so that most of the projects had no choice but to develop a supplemental PC-based system to provide the immediate and continual information required.

Seventh, the recognition that a DCM program requires certain fundamental resources to implement and operate: senior attorneys in the prosecutor and indigent defense offices in a position to screen and evaluate cases early, make meaningful plea offers, and determine subsequent "processing" tasks; judicial leadership to set the policies, framework and overall parameters of the DCM program; adequate judicial resources to provide requisite judicial supervision and conduct events as scheduled; court staff to screen cases, monitor case progress and deadlines and monitor the program; and an adequate information system to indicate, daily, the status of the caseload. Whether implementation of a DCM program in a given jurisdiction

requires additional resources depends upon the extent to which the basic prerequisites, summarized above, are present and can, if necessary, be reorganized to support the DCM program.

Finally, DCM is a dynamic concept as well as an operational system. The implementation of an effective DCM program requires continual awareness on the part of judges, attorneys, court staff and others involved in the caseload process of the differing characteristics of each case filed and how each case can be most efficiently and fairly resolved. The tracks which are characteristic of a DCM program are but the program's skeletal framework; their application and adaptation must be an on-going process.

## 2. Initial Impact

Although a formal assessment of the DCM Demonstration Program has been conducted by the National Center for State Courts, initial project operational information indicates that all of the DCM jurisdictions have experienced (1) a significant reduction in case processing time for cases included in the DCM system, and (2) increased court efficiency, evidenced by their capability to handle a greater number of cases in a shorter period of time with no corresponding increase in resources. Several of the jurisdictions implementing criminal DCM programs have also noted an actual reduction in the number of felony cases filed in the general jurisdiction court, compared with the number of felony complaints initiated in the limited jurisdiction court, which is attributed to the enhanced early case screening and settlement activities being conducted as a result of the DCM program. Numerous other benefits noted -- improved coordination among justice system agencies; reduction in pre-trial jail days used for detained defendants; better preparation of counsel, etc. -- the nature and degree of which vary among the jurisdictions and generally depend upon the characteristics of the caseload process prior to instituting the DCM program.

The experience of the criminal DCM programs is typified by Pierce County, where the drug caseload has increased approximately 50% during the first year of the DCM program, with 88% of the drug cases disposed of within 90 days compared with only 11% prior to the DCM program. Detroit, which had an over 30% increase in felony drug cases during the first two years of the DCM program, reduced the number of cases over 180 days old by almost 50% and decreased the pending inventory by 18%. The impact of the criminal DCM programs has also been reflected in other aspects of the case processing systems, including a reduction in the number of bench warrants issued and the number of pre-trial detention days in local jails.

The civil DCM programs have had similar experience. In St. Paul, for example, the pending caseload was reduced from 2008 to 680 (66%) within the first eight months of the DCM program. As of June 30, 1990, when



the DCM program had been underway for slightly more than two years, the ratio of case dispositions to case filings had increased from 70% to 105% and the percent of cases over 12 months old had decreased from 46% to 33%. In addition, more trials have been conducted since the program began which local officials attribute to the elimination of nonproductive scheduled events (events which were continued or which did not promote case disposition) so that judges now have more time to conduct trials. In Camden, the Court has been able to handle an approximate 80% increase in civil filings with no additional judicial resources. The Court has also not experienced any increase in motions despite the increase in case filings because court staff monitor the discovery process and address discovery problems as they occur.

### III. PURPOSE OF THIS REPORT

The program summaries presented in this report describe the principal operational characteristics and procedures of the six DCM demonstration courts (four criminal and two civil) launched with the support of the Bureau of Justice Assistance of the U.S. Department of Justice. The summaries follow a consistent format to provide a guideline for other jurisdictions interested in adapting the Differentiated Case Management (DCM) concept to their judicial process. A chart summarizing the comparative features of the demonstration projects and the names and addresses of contact individuals is provided in the Appendix.

A companion Implementation Guide has also been prepared which discusses the planning tasks and issues bearing on the development of a DCM program and the relative merits of alternative strategies. BJA has also prepared a Program Brief which summarizes the principal policy issues, critical program elements and performance indicators relevant to a DCM program.

This report presents but a snapshot of the experiences of the six BJA demonstration projects in implementing the DCM concept and in adapting it to their judicial process over a two-year period. Additional modifications and "fine-tuning" of the DCM concept will undoubtedly occur during the months ahead in these and other jurisdictions as they experiment with criteria and techniques for case differentiation. Although there is still much to learn about how DCM techniques can be applied most fairly and efficiently to the caseload process, it is clear that the DCM concept is an effective tool for improving caseload management and more efficiently utilizing justice system resources.

## **APPENDIX TO PART ONE**

### **Comparative Operational Features of the DCM Demonstration Programs**

A summary of the comparative features of the DCM operational plans in the demonstration jurisdictions is attached.

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Individuals interested in additional information regarding BJA's Differentiated Case Management Demonstration Program should contact:

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OPERATIONAL CHARACTERISTICS OF THE JURISDICTIONS  
PARTICIPATING IN BJA'S DCM/EDCM PROGRAM  
(REV. 10/30/89)

PART I. DCM JURISDICTIONS

I. Project Information - General

<u>Jurisdiction</u>	<u>Start-up Date</u>	<u>Contact</u>	<u>Cases Included</u>
Detroit/Wayne Co., Michigan - crim.	Phased-In Program: July 1, 1988 - Rev. Fee Sched. Oct. 1, 1988 - full implem.	George Gish Clerk/Court Administrator  The Recorder's Court for the City of Detroit Frank Murphy Hall of Justice 1441 St. Antoine Street Detroit, Michigan 48226-2384 Phone (313) 224-2506	All Felonies
Pierce County (Tacoma) Washington - Drug & Sex Asst. Cases	July 6, 1988 - Drug Cases June 1, 1989 - Sex. Asst. Cases	Beverly E. Bright Superior Court Administrator Pierce County Superior Court 930 Tacoma Avenue, S. Tacoma, Washington 98402 Phone (206) 591-3653	All Drug Cases and Felonies with a Drug Charge and Other Crim. Cases
Camden County, New Jersey Criminal	July 18, 1988	Hon. A. Donald Bigley Assignment Judge of the Superior Court, Camden County Hall of Justice, Suite 670 5th Street and Mickle Blvd. Camden, New Jersey 08103 Phone (609) 757-8183	All Indictable Offenses
Camden County, New Jersey Civil	September 1, 1988	Hon. A. Donald Bigley Assignment Judge of the Superior Court, Camden County Hall of Justice, Suite 670. 5th Street and Mickle Blvd. Camden, New Jersey 08103 Phone (609) 757-8103	All Civil-Law Cases Over \$5,000.00

I. Project Information - General [Continued]

<u>Jurisdiction</u>	<u>Start-up Date</u>	<u>Contact</u>	<u>Cases Included</u>
Ramsey County (St. Paul), Minnesota civil & some crim.	April 1, 1988 - civil June 1, 1988 - crack/cocaine (possession/distribution)	Suzanne Alliegro Judicial Administrator Second Judicial District Court 1001 Ramsey County Courthouse St. Paul, Minnesota 55101 Phone (612) 298-4374	All Civil Cases except: - Concil. Apps. - Unlawf. Dets. - Impl. Consent and crack/cocaine cases involving sale or possession with intent to sell. intent to sell
Berrien County (St. Joseph), Michigan criminal	Oct. 1, 1988	Hon. Ronald J. Taylor Chief Circuit Judge Second Judicial Circuit Court of Michigan Courthouse St. Joseph, Michigan 49085 Phone (616) 983-7111 Ex. 386	All Felonies

## II. Project Information - Operational

<u>Jurisdiction</u>	<u>Project Goals/Objectives</u>	<u>Calendaring System Used for DCM Cases</u>	<u>Arrangements for Handling Pending Case Inventory</u>
Detroit/Wayne Co. Michigan	<ol style="list-style-type: none"> <li>1. Red. lgth of trial tr. fr. 91 days</li> <li>2. Red. # of cases 180 days old from 173 to 50</li> <li>3. Red. pending caseload from 3,027 to 1,800</li> <li>4. Red. # of jail days used due to trial downtime, etc., from 72,390 to 30,000 or less</li> <li>5. Red. # of bench trial days sched but not held fr. 1,134 to 600/less</li> <li>6. Red. # of jury trial days sched but not held fr. 1,129 to 600/less</li> <li>7. Red. # of defendant docket days fr. 179,394 to 95,000 or less</li> <li>8. Red. # of defendant bond days from 107,000 to 56,000 or less</li> <li>9. Assign each incoming case to a DCM categ</li> <li>10. Monitor each case to dispos.</li> </ol>	Hybrid/individual (team approach)	will be handled parallel with DCM cases
Pierce County, Washington	<p><u>General:</u></p> <ul style="list-style-type: none"> <li>- transf respons. for cal. from DA to Court</li> <li>- promote speedy dispos of cases</li> <li>- make hearing and trial scheds more certain</li> <li>- eliminate continuances</li> <li>- reduce jail crowding</li> <li>- enhance ct. cal. control</li> <li>- implem. p.c. data base</li> <li>- expand proj. to other crim. cases</li> </ul> <p><u>Other: Time Goals:</u> <u>Drug Cases:</u> Exp Track: trial or plea 30 days after arrnt Mid: trial or plea 60-90 days after arrnt Compl: per scheduling order assuming waiver of speedy trial (could be up to 150 days)</p>	indiv (pre-trial matters) master (trial)	all drug cases filed before proj. start-up date heard to be handled in DCM court but DCM procedures don't apply

## II. Project Information - Operational [Continued]

<u>Jurisdiction</u>	<u>Project Goals/Objectives</u>	<u>Calendaring System Used for DCM Cases</u>	<u>Arrangements for Handling Pending Case Inventory</u>
Camden County, New Jersey - criminal	<u>General:</u> - test estab. of 3-track mgt sys. with time goals for each track - demonstr effectvns of DCM appl to civ and crim. caseloads at same time - ident drug cases and pred offenders  <u>Other:</u> Time Goals:	indiv.	proc. under old system
	Track: Pre-Ind    Post Ind    Total B1   J1    B1   J1    B1   J1  Exp.     50   40    60   60       110   100 Stand.   70   50   120   90       190   140 Compl. 120   90   180 150       300   240		
Camden County, New New Jersey - Civil	<u>General:</u> - test categrs of civ cases with spec case chars into limited no. of subtracks - test new mechms for early/active case mgt. thru DCM proceds - estab. and test time to dispos goals - demonst effectiveness of combined DCM program for civ and crim cases - define role of altern. disp. res.  <u>Other:</u> Time Goals:	pre-trial: indiv. trial: master	cases filed before 9/1/88 proc. under old system
	Exped.    Stand.    Complex  joint/disc. comp.    100 days    200 days    per indiv. disc/dispos            80 days    165 days    case mgt. total time to disp   180 days    365 days    other		

## II. Project Information - Operational [Continued]

<u>Jurisdiction</u>	<u>Project Goals/Objectives</u>	<u>Calendaring System Used for DCM Cases</u>	<u>Arrangements for Handling Pending Case Inventory</u>
Ramsey County (St. Paul), Minnesota	<u>General:</u> <ul style="list-style-type: none"> <li>- shift from atty. control to ct contr of case process</li> <li>- dev more accur case monit sys</li> <li>- dev more accur case assgnt sys</li> <li>- reduce continuance rates</li> <li>- fast track crack/coc cases inv. sale/poss. inv. sale/pos with int. to sell</li> </ul> <u>Other</u> <ul style="list-style-type: none"> <li>- disp of 90% of civ jury trs w/in 10 months of filing Note of Issue</li> <li>- disp of 90% of ct trials w/in 10 mos of filing Note of Issue</li> <li>- no cases beyond 2 years from Note of Issue to disposition</li> </ul> <u>Time Goals:</u> <ul style="list-style-type: none"> <li>- expedited: dispos. w/in 90 days of Jt Is Memo</li> <li>- standard: dispos. w/in 305 days of Note of Is</li> <li>- complex: dispos within max. of 2 yrs. of Note of Is</li> <li>- concl court apps: dispos w/in 60 days of filing</li> <li>- crack/cocaine pos. or pos. with int. to sell: 45 days from first appear.</li> </ul>	master	<p>compl. audit of all pending cases; initially, every case older than 9 mos. set for pre-trials; expanded to include all cases filed prior to 4/1/88 in which Note of Is filed; these cases are set for pretrial conf/trial along with DCM cases</p> <p>Review of all cases 6 mos. after filing; status conf. for cases with no action for long time periods.</p>
Berrien County (St. Joseph), Michigan	<u>General:</u> <ul style="list-style-type: none"> <li>- adapt cur civ DCM to criml cases</li> <li>- assure adequate resources to process high priority cases</li> <li>- improve case asgmt. system to permit greater empha. to drug cases &amp; offd's</li> <li>- improve utiliz. of jud. resour. &amp; flex. of judge time usage to assure availab. of trial time on assigned date</li> </ul>	indiv.	to be processed parallel with DCM cases

## II. Track Information

<u>Jurisdiction</u>	<u>Tracks Created and Criteria</u>	<u>Info. Used to Make Track Assgt.</u>	<u>Distinu Chars of Each Track</u>	<u>Pt. at which Track Asst Made</u>
Detroit/Wayne County, Genl Michigan	Genl tracks: (each tr also includes subtracks)			
	Track IA: Divers: First Offnds Only	sentencing guideline	Cases in each track will exit system at different times;	arraignment
	Track IB: 1st Offnds (Exc. Serious cases) (50%)		Struct. Sent. Prog. (ef. 1/25/89) provides that Tr.1 cases which qualify for prob. under S.G. exit sys. 1 day after arrgnt.	
	New fast track for drug cases Structd sent. progs. - 1st of drug offs.			
	Track II: all other 1st ofs w/no hist. of asslt and non-assltive/repeat offs. (35%)		Exit Dates: - Plea: 19 days - Waiver trial: 49 days - Jury trial: 84 days - Spec. fast trk for drug cases: 60 days - Struct.sent. prog.: 1 day	
	Track III: all homs, 2nd offdrs, recidiv. etc (15%)			
Pierce County (Tacoma), Washington	<u>Drug Cases:</u> (1) <u>Simple:</u> (0-30 days) - 28% - UPCS - no suppression issues or pre-trial motions - in custody - single defendant - simple drug analysis required - minor criminal sanctions involved  (2) <u>Normal:</u> - drug cases with stop/search issues - search warrant with small amount of drugs; no search/seizure issues - defendant has prior felony conviction - noncustody status	atty infor at arrgnt	(1) <u>Simple:</u> - arraignment within 1 day - pretrl conf and track assgt (10 days) - plea at pretrial/or w/in 30 days - trial date if nec w/in 60 days  (2) <u>Normal:</u> (60 - 120 days) - 62% - arraignment within one judicial day - pretrial conf. & track assgt (10 days) - (omnib. hrs/pretrial mots/disc cut off dates ent. on schedule order) - trail date (60 days)	



## II. Track Information [Continued]

<u>Jurisdiction</u>	<u>Tracks Created and Criteria</u>	<u>Info. Used to Make Track Assgt.</u>	<u>Disting Chars. of Each Track</u>	<u>Pt. at which Track Asst Made</u>
Pierce County (Cont) (Tacoma), Washington	<p>(3) <u>Complex</u> (60 - 150 days) - 10%</p> <ul style="list-style-type: none"> <li>- search warrants</li> <li>- multiple defendants</li> <li>- conspiracies</li> <li>- compl supprs issues or pretrl hearings involved</li> <li>- on-going rel investigs</li> <li>- amount of drugs requ. extens testing</li> <li>- serious potential prison sent</li> </ul> <p><u>Sexual Assault Cases</u></p> <p>(1) <u>Expedited</u> (Plan A) - n/a</p> <p>(2) <u>Simple</u> (Plan B) (30-120 days)</p> <ul style="list-style-type: none"> <li>- uncontested cases with</li> <li>-no suppression or pretrl mot.</li> <li>-in custody party</li> <li>-minor crim. sanctions</li> <li>-psych. eval. completed</li> </ul> <p>(3) <u>Normal</u> (Plan C) (60-150 days)</p> <ul style="list-style-type: none"> <li>- contested cases w/out complex med/disc. issues or expert w's;</li> <li>- uncontested cases requ. psych. eval.</li> <li>- def. has prior fel or sex offense convfcs.</li> <li>- out of custody</li> <li>- mult. defs.</li> <li>- phys. abuse/ast.</li> </ul> <p>(4) <u>Complex</u> (Plan D) (pre-assgnt capab.)</p> <ul style="list-style-type: none"> <li>- multi-def. contested</li> <li>- complex med/psych issues/exp. w's</li> <li>- numerous/complex pretr. motions</li> <li>- disc. of records involved</li> <li>- serious pot. prison sents.</li> </ul>	<p>atty. inf. at arrgt</p>	<p>(3) <u>Complex</u>:</p> <ul style="list-style-type: none"> <li>- arrgnt (w/in one day)</li> <li>- pretrial conf &amp; track assgt (10 days)</li> <li>- all other events on sched. order entered at pretrial hearing</li> </ul>	<p>arrgt.</p>

## II. Track Information [Continued]

<u>Jurisdiction</u>	<u>Tracks Created and Criteria</u>	<u>Info. Used to Make Track Assgt.</u>	<u>Disting Chars. of Each Track</u>	<u>Pt. at which Track Asst Made</u>
Camden County, New Jersey - criminal	<p>(1) <u>Expedited</u>:</p> <ul style="list-style-type: none"> <li>- cases with pres prob. sentence or PTI</li> <li>- cases warrant. prior. proces.</li> <li>- other cases by joint applic. of counsel</li> </ul> <p>(2) <u>Standard</u>:</p> <ul style="list-style-type: none"> <li>- defs. facing presumpt. jail terms on property crime drug pos. charges; minor drug distrib. to other crimes agst. person</li> </ul> <p>(3) <u>Complex</u>:</p> <ul style="list-style-type: none"> <li>- cases from spec prosec units: homic., arson, white collar crimes, sex crimes, narcs car crim/org. crime</li> </ul>	Dif. Crim. Case Mgt. tracking form	<ul style="list-style-type: none"> <li>- CJP (0-7 days)*-all tracks</li> <li>- PIC (no later than 21 days) exped. and stand. (same)</li> <li>- grand jury (25-40 days-e 39-60-s; 60-90- comp; <ul style="list-style-type: none"> <li>- arrgnt: 35-45-e; 45-75-s; 70-100-c;</li> </ul> </li> <li>- pretrial conf: (56-66-e; 75-105-s; 95-125-c;</li> <li>- trial: (75-90-e; 90-180-s; 180-270-c;</li> </ul>	at CJP/within 1 wk of CJP

\* track set for all cases except direct indictment offenses

## II. Track Information [Continued]

<u>Jurisdiction</u>	<u>Tracks Created and Criteria</u>	<u>Info. Used to Make Make Track Assgt.</u>	<u>Distingu Chars. of Each Track</u>	<u>Pt. at which Track Asst Made</u>
Camden County, New Jersey - criminal				
Camden County, New Jersey - civil	<p>(1) <u>Expedited:</u></p> <ul style="list-style-type: none"> <li>- commerc matters, arb., book accts, bills and notes, sim. contrs, liqu. dams, prerog. writs, mun, appeals, stat. acts to conf. arbi. award; PIP cases; proof cases - 21% antic. (20-25%)</li> </ul> <p>(2) <u>Standard:</u></p> <ul style="list-style-type: none"> <li>- all cases not expedited or complex 75% antic. (70-75%)</li> </ul> <p>(3) <u>Complex:</u></p> <ul style="list-style-type: none"> <li>- cases requ attent. of indiv. judge from outset (no. of parties; nature of claims or defs; factual diffic. of subjec matter etc. antic. 4% or less; Pres. Judge confirms/denies complex track assignment</li> </ul>	<p>Case Inf. State- ments of attys.</p>	<p>(1) Expedited: Disc: 100 days max. Interr: 50 ques. (no subparts) Depos: on leave of court</p> <p>(2) Standard: Disc: 200 days max. Inter: 50 ques max. Depos: for parties and experts only case sched. plan subm. jtly by attys.</p> <p>(3) Complex per judge's order and confs. w/attys.</p>	<p>Joinder</p>

## II. Track Information [Continued]

<u>Jurisdiction</u>	<u>Tracks Created and Criteria</u>	<u>Info. Used to Make Make Track Assgt.</u>	<u>Disting Chars. of Each Track</u>	<u>Pt. at which Track Asst Made</u>
Ramsey County (St. Paul), Minnesota	<u>Civil:</u>			
	(1) <u>Expedited</u> lim disc req; single issue; collections/enf. of contr where money dams. specified; shorter trial lengths - 10% antic. (30% actual)	Jt. Is. Memo. (1)	<u>Expedited:</u>  Note of Is/Jt. At Is Mem: 90 days Jt. At Is Mem/Trial: 60-90 days	Jt. Is. Memo
	(2) <u>Standard</u> - most cases which require more disc/ prep. time; most pers. inj. cases - 88% antic.	Jt. Is. Memo.	(2) <u>Standard</u> Note of Is/Jt At Is Mem: 90 days Jt At Is/Tr. Set: 90 days Tr. set/Jt. Disp Conf (JDC): 60 days Disp Conf/Pre-tr: 30 dys Addit. Events: order to show cause for fail to file Jt. Is. Memo or JDR/no show at JDC	Jt. Is. Memo.
	(3) <u>Complex</u> - mult. party cases; ext. disc. antic.; likely to req. num. motions; greater no. of exp. witnesses - 2% antic.	Jt. Is. Memo.	(3) <u>Complex</u> case assigned to indiv. judge when At Is. Is. Memo filed status conf. at 120 days all disc. and proceeds sched. by indiv. judge	Jt. Is. Memo. or Pet. to Ch. Judge
	<u>Drug Cases:</u> fast-track: simp. pos/dist. of crack-coc.: 45 days for disp.			
Berrien Co. (St. Joseph), Michigan - criminal	(1) <u>Expedited</u>	forms compl.	no. of events/time	pre-trial
	(2) <u>Standard</u>	by attys. at	for each track differ	conf. immed.
	(3) <u>Complex</u> - crit for track assgt based on factors rel to case compl and priority for processing	arrgt.	- exp.: 90 day max. - stand: 120 day max. - compl: 210 day max.	following arrgnt.

## IV. DCM Project Management Information

<u>Jurisdiction</u>	<u>Point at Which DCM Track Assgt Ends</u>	<u>Indiv. Making Track Assigt</u>	<u>Proceeds. for Rev/ Appeal of Track Decision</u>	<u>Management/Monitoring Procedures</u>
Detroit/Wayne County, Michigan - criminal	sentencing	Def. Scrng Unit	Docket Man in D.A.'s Of revs track assgnt and mons. case progr	Ct. admin. monitors system; progrs dev. to identif. non-compliance cases
Pierce County (Tacoma), Washington	plea/trial	D.A. and def. couns. with court concur.	attys. may dispute assgt when sched. order signed at court	crim. case manager will track cases manually
Camden County, New Jersey - criminal	disposition	DCM Prosec. Def. can req. change	Pres. Crim. Judge rules on track assgt disputes	Court DCM Coord. monitors
Camden County, New Jersey - civil	judgment/final order	Civ P.J. &/or. Civ. Case Mgr. upon recom. of tr. coord.	track coord. reviews request for reassgt; if attys disagree, court suggests appropri. track; if no agreemt, judge hears motion	Motions monitoring; computer reports; supervis. by ct. DCM staff
Ramsey County (St. Paul), Minnesota - civil/crim. (drug)	trial/dispos.	DCM Track Coord/cal. referee	Atty. can request rev. by DCM track coord/cal. referee	Case exception reports generated automatically
Berrien County (St. Joseph ) Michigan - criminal	trial/sent	Arrgt./pre-trial judge	trial judge can review tr. assgt. after orig. assgnt or on a subsequent applic. of counsel; event dates may also be modified within assgnd tracks as nec.	Developing reports on data system to monitor indiv. case status and overall operation of system; reviewed by ch. judge and court admin. routinely

## **PART TWO: SUMMARIES OF THE DCM DEMONSTRATION PROJECTS**

- I. Berrien County, (St. Joseph), Michigan - (criminal)**
- II. Camden County, New Jersey - (civil)**
- III. Camden County, New Jersey - (criminal)**
- IV. Wayne County (Detroit), Michigan - (criminal)**
- V. Pierce County (Tacoma), Washington - (criminal)**
- VI. Ramsey County (St. Paul), Minnesota - (civil)**



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**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**PROGRAM SUMMARY NO. 1<sup>1</sup>**

**Second Circuit Court  
Berrien County (St. Joseph), Michigan**

**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**Program Summary No. 1<sup>1</sup>**

**Second Circuit Court  
Berrien County (St. Joseph), Michigan**

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<sup>1</sup> Prepared Under BJA Cooperative Agreement No. 89-DD-CX-K023



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## I. INTRODUCTION

### A. BACKGROUND

#### 1. Project Summary

On October 1, 1988, the Second Circuit Court of Michigan, serving Berrien County, launched a Differentiated Case Management Program for all criminal cases filed after that date. BJA added the Berrien County project as a sixth project (fifth site) for its pilot DCM program after the initial four sites were selected, and therefore provided only limited funding for the project during its first year of operation. The criminal DCM program in Berrien County followed a civil DCM program that had been adopted earlier that year.

#### 2. Relevant Geographic and Demographic Factors

The Second Judicial Circuit Court, seated in St. Joseph, serves Berrien County whose population is approximately 180,000, with approximately 130,000 persons living in two metropolitan urban areas: St Joseph-Benton Harbor in the north (population: 95,000) and the Niles area in the South (population: 35,000). The County includes 45 miles of shoreline along Lake Michigan and is located 90 miles from Chicago and 200 miles from Detroit. As a result of its location and its proximity to Interstate 94 linking these two metropolitan areas, the county has experienced a significant increase in serious drug-related crime disproportionate to its population, ranking 8th highest in criminal case-load in the state although only 10th largest in population. The St. Joseph-Benton Harbor area also contains a pocket of high unemployment and urban decay, producing a very high crime rate per capita and attendant problems for the criminal justice system.

A very serious controlled substance abuse problem has existed in the county for several years, the product of the urban decay in the north and the convergence of the two major interstate highways (I-196 North and South and I-94 East and West -- the main link between Chicago and Detroit), resulting in large amounts of controlled substance transportation as well as substantial off-highway crime. As a result of the continuing profusion of hard drugs in the county, the Berrien County Sheriff's Department in 1975 established a "metro narcotics squad" to prosecute drug offenses on a county-wide basis across local jurisdictional lines. This squad is now funded by a special local millage adopted by the voters in 1986. This millage provides approximately \$600,000 annually for staffing and other expenses of the narcotics unit, including "buy money". The millage also provides funds for laboratory analyses for drug cases which are performed by Andrews University under contract with the County.

The work of this unit has had a significant impact on the court system, taxing both judicial and prosecutorial resources, although funding for those agencies to accommodate this impact has not significantly increased. The prosecutorial/court agencies have therefore attempted to develop more efficient methodologies for handling caseloads and allocating resources. The DCM program plays a major role in this effort.

### B. DESCRIPTION OF THE JUDICIAL SYSTEM

#### 1. Jurisdiction and Organization of the Berrien County Courts

The Berrien County Court System consists of three levels of courts. The Circuit Court, the court of general jurisdiction, has four judges and an annual case filing of approximately 4,000 cases. The Court's jurisdiction extends to all felony cases, civil cases in which the amount in controversy exceeds \$10,000, and specialized equity and domestic relations cases. The District Court, the court of limited jurisdiction, has five judges and handles preliminary hearings in felony cases, misdemeanor cases and civil cases under \$10,000. The Probate and Juvenile Court, with two judges, divides its responsibility between estate matters, mentally ill proceedings and juvenile delinquency and status matters. The County's criminal

justice system consists of some 24 local law enforcement agencies, including the Sheriff's Department, three State Police installations, and a number of local agencies.

2. Calendaring System and Support Staff

The Circuit Court, in which the DCM program operates, is served by four judges who handle a mix of criminal, civil and domestic relations matters through an individual assignment system. The Court staff consists of a court administrator, a DCM case manager, and four judicial administrative assistants.

3. Technological Capabilities

The Circuit Court has recently begun application of various technological innovations to court proceedings, including the use of video transcription of court proceedings for purposes of the court record and the filing of court documents by facsimile transmittal. Local officials are currently discussing the potential adaptation of these technological innovations to the DCM process in an effort to further expedite procedures developed under the DCM program, including the conduct of pretrial conferences and motion hearings by video-telephone.

4. Organization of the Prosecutor's Office and Indigent Defense Services

a. *Prosecutor's Office*

The Berrien County Prosecutor's Office is directed by Dennis Wiley, the elected Chief Prosecutor for the Second Judicial Circuit, and is staffed by fourteen attorneys, seven of whom are assigned to felony cases and seven assigned to misdemeanor cases; and a support staff of 16 persons. Since the early 1980's, the prosecutor's office has maintained an open file policy for discovery purposes.

b. *Indigent Defense Services*

Indigent defense services are provided by the firm of Hosbein and McDowell under contract with the Court. The firm has two offices in the County, and is staffed 7.5 FTE attorneys who handle all indigent defender cases, with conflict cases handled by additional private counsel under contract. The office also has eight support staff.

Felony cases involving indigent defendants are assigned to attorneys after arraignment in District Court (where the eligibility for indigent defense services is determined) and they continue with the case through disposition in Circuit Court. It is estimated that 85%-90% of the felony defendants appearing before the Circuit Court are indigent.

5. Circuit Court Caseload

Recent case filings in the Circuit Court have been as follows:

	<u>Criminal</u>	<u>Civil</u>	<u>Dom. Rels.</u>	<u>Other (appeals)</u>
1985	790	568	2,287	150
1986	782	630	2,295	157
1987	821	586	2,403	166
1988	921	596	2,327	143
1989	986 <sup>2</sup>	679	2,414	156

## II. DESCRIPTION OF THE DCM PROGRAM

### A. PROGRAM OBJECTIVES

The overall goal of Berrien County's DCM program has been to develop a system in which each criminal case can be evaluated immediately after arraignment to determine (a) its management complexity and consequent judicial supervision and time required for adjudication and (b) the priority which should be assigned for its disposition. The objectives of the program include:

- more expedited treatment referral and case disposition for drug offenders;
- more expeditious case processing, consistent with the substantive seriousness and procedural complexity of each case;
- more realistic case assignment and scheduling; and
- more efficient use of judicial system resources.

### B. PROGRAM DESCRIPTION

#### 1. General

Under the Berrien County Criminal DCM program, cases are assigned to one of three tracks according to the management complexity presented (e.g., number and complexity of pretrial motions, unusual legal issues presented, need for expert witnesses, special scheduling problems, etc.) and the priority assigned for case disposition (custody status of defendant, whether the offense was committed while on bond, parole or probation; whether multiple offenses are pending against the defendant; whether

---

<sup>2</sup> The "decrease" in criminal cases filed in the Circuit Court in 1989 actually reflects a decrease in the number of felony filings bound over from the District Court to the Circuit Court. This decrease is attributed to improved case information and screening at the initial District Court filing stage as a result of the DCM program. Actual felony filings in the District Court for the period increased. See Section IIIC3.

the defendant is an habitual offender; whether the charges involve a capital case, assault, delivery or possession with intent to deliver Schedule 1 or 2 controlled substances, etc.). The "complexity" and "priority" factors are noted on the Criminal Scheduling Analysis and Pre-Trial Memo (Appendix A) which is prepared by counsel and submitted to the Judge at time of Arraignment.

## 2. Tracks Created and Their Criteria

### a. *Tracks Established*

Berrien County judicial system officials have established the following three tracks for the criminal DCM program:

- Track A (the expedited track). These cases include all matters with high dispositional priority and relatively simple complexity. Track A cases include those of defendants in custody and/or those charged with drug offenses and habitual offenders. Track A cases have a dispositional time goal of 90 days maximum from Circuit Court arraignment to trial;

- Track B (the normal track). Track B cases include matters with moderate dispositional priority and low to moderate complexity. Track B cases have a maximum dispositional time goal of 150 days from arraignment to trial. Included among Track B cases are all cases not in either the "A" or "C" tracks -- about 50% of the criminal cases; and

- Track C (the complex track). Track C cases are those with low dispositional priority and/or relatively high management complexity and have a dispositional time goal of 210 days maximum from arraignment to trial. Track C cases include cases in which particular investigatory needs or witness problems dictate delays before trial, or involve very low-risk defendants on bond with low priority cases, (e.g., property crimes) where delay also permits the Court to fit the case into trial dates which may open up. Usually these cases involve short trials of 1 to 1/2 days maximum duration.

### b. *Criteria for Assessing Case Priority*

The following criteria apply to determine case priority:

#### - Low Priority characteristics

- defendant on bond
- charges do not involve medium or high priority offenses

#### - Medium Priority Characteristics

- habitual offender (one prior conviction)
- offense committed while on felony probation
- other assault and/or drug cases (except marijuana) involved
- defendant with multiple charges pending in transactions other than the case at bar

- High Priority Characteristics

- Charged offense

- Child CSC<sup>3</sup>
- Delivery or possession with intent to deliver Schedule 1 or 2 drugs
- assault offenses (including homicide) with maximum life sentence

- Habitual Offenders

- Offense committed while on
  - a. parole
  - b. probation
  - c. in jail
  - d. in corrections center
- Offenders with 2 or more prior felony convictions

c. *Criteria for Assessing Case Complexity*

- Low Complexity

police witnesses only  
simple motions (two or less)  
motions requiring evidence hearing less than 1/2 day  
less than six witnesses (total prosecution and defense)

- Medium Complexity

three or more simple motions  
expert witnesses necessary (excluding drug analyst)  
out-of-state witnesses  
motion(s) requiring evidence hearing of 1/2 day or longer

- High Complexity

psychiatric defense/competency to stand trial  
multiple motions involving complex legal issues  
extraordinary number of witnesses to be called  
defendant under interstate compact or in prison

d. *Track Assignment*

As noted above, the purpose of the DCM system is to assign each case to a track which reflects a balance between the degree of complexity, as expressed by the number and length of pretrial events and other necessary delays, required for their disposition and the "system's" desire for priority or expedited handling of the case, as determined by the Court and counsel. This balancing process is expressed by the following grid.

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<sup>3</sup>Criminal Sexual Conduct

### TRACK ASSIGNMENT GRID

		Complexity		
Priority		L	M	H
	L	B	C	C
	M	B	B	B
	H	A	A	B

The track ultimately assigned represents, therefore, an evaluation of each case in terms of factors relating to its priority and complexity -- all of which have been categorized by local justice system officials and which, of course, are subject to change from time to time due to policy changes or based upon further experience with the DCM system.

### 3. Track Assignment Process and Point at Which Track Assignment is Made

The track assignment is made immediately following arraignment in the Circuit Court and based on the information provided by counsel on the Criminal Scheduling Analysis Form (Appendix A). Following review of the case, a draft Pretrial Memorandum and Order (Appendix B) is prepared by the DCM Case Manager and submitted to the assigned trial judge, who confirms the tracking assignment and event and trial scheduling and then issues the final Pretrial Memorandum and Order (Appendix B)<sup>4, 5</sup>. To expedite submission of these Memos, the Court recently purchased a facsimile machine after obtaining special approval from the Michigan Supreme Court to permit acceptance of facsimile transmissions from counsel for official court purposes. The track designation continues through trial. Counsel have 10 days after issuance of the scheduling order to object to the schedule and recommend amendments. The trial judge retains authority to make scheduling changes within a track or to "re-track" a case, if necessary, to accommodate unforeseen complexities. A summary of the Track Assignment process is included in Appendix C.

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<sup>4</sup> The Pretrial Memorandum and Order combines two previous documents: the Pretrial Analysis Form and the Pretrial Order.

<sup>5</sup> When the project began, a special hearing was held the day of Arraignment at which the various case priority and complexity factors were discussed with counsel following which a track assignment was made by the judge assigned. While this procedure proved helpful in working through and explaining the DCM track assignment criteria when the program was in its early stages, the Court has eliminated the track assignment hearing in most cases in an effort to reduce court appearance time for the attorneys involved and is now relying on the Criminal Scheduling Analysis and Pre-Trial Memo, submitted at the time of Arraignment for the track determination decision. Track assignment hearings are now held only in cases in which the track determination is disputed.

4. Summary of the DCM Felony Caseflow Process

Following arrest on a felony charge, a defendant is arraigned in the District Court where a bond hearing and a preliminary examination conference are held. At the conference, a defendant has the opportunity to offer a plea; for those defendants who do not plea, a preliminary examination is conducted at which the testimony of key witnesses is obtained. Following the preliminary examination, the defendant can either be charged as a misdemeanor with the case proceeding in the District Court, or be bound over to the Circuit Court and arraigned on an information. In 1989, 50% (986 cases) of the 1,979 felony cases subject to preliminary examination in the District Court were bound over to the Circuit Court. This bindover rate reflected a trend over the preceding several years of increasing percentages of cases being bound over from the District Court which, however, is now beginning to be reversed as a result of the enhanced case information and screening performed at the District Court Stage. For those defendants bound over to the Circuit Court, an arraignment is held in seven days at which time the court informs the defendant of the charges, reviews his/her custody status, and assigns the case to the appropriate DCM track.

Below is a summary of the principal events in the DCM caseflow process:

All Cases

1. District Court bind over to Circuit Court and Circuit Court arraignment date set.
2.
  - a. Review and analysis of case before Circuit Court Arraignment by Prosecutor and Defense Counsel.
  - b. Completion of CSAF form (Appendix A) by Prosecutor and Defense Counsel and returned to DCM Case Manager at Arraignment (CSAF's may also be faxed by counsel to the Court.)
3. Circuit Court Arraignment and plea; if plea of not guilty entered, Trial Judge is selected (blind Draw or Computer)
4. Review of CSAF's by DCM Case Manager; completion of track recommendations, and preparation of Pretrial Memorandum and Order.
5.
  - a. Schedule of trial date with prosecutor's office and Circuit Court Assignment Clerk
  - b. Motion Filing Dates Set
6.
  - a. File Forwarded to Assigned Trial Judge
  - b. Review by Trial Judge - Final Track Determination
7. Scheduling/Pretrial Memorandum and Order Entered Setting Forth Event Dates (Proposed CSO to be computer generated during 1990)
8. Case Proceeds Through Track Process



### DCM Track Timeframes

Event	Track A	Track B	Track C
File Supplemental Charges	14 days	14 days	14 days
File Prelim Transcript	21 days	21 days	21 days
Naming Added Witnesses	40 days	75 days	90 days
Completion of Discovery	45 days	90 days	120 days
Plea Conference	50 days	100 days	130 days
File Procedural Motions	55 days	105 days	135 days
File Substantive Motions	60 days	125 days	150 days
Completion-Psych. Review	--	90 days	120 days
Status Conference	83 days	143 days	203 days
Trial Date	90 days	150 days	210 days

5. Project Start-up Date

The project began October 1, 1988.

6. Cases Included in the DCM Program

All felony cases filed in the Circuit Court following the October 1, 1988 project start-up date are included in the DCM program.

7. Provisions for Handling Pending Case Inventory

When the DCM program was implemented, pre-DCM pending cases were scheduled concurrently with the DCM cases, although the track timeframes and criteria did not apply.

8. Case Monitoring Performed

Each judge is responsible for monitoring the progress of the cases assigned to him/her and assuring that the scheduling order is complied with and that cases progress within the dispositional time goals associated with the applicable tracks. The Chief Judge reviews the status and progress of the criminal docket weekly as well as track assignments for individual cases periodically in order to assure consistency among the judges involved in track determinations. The DCM Case Manager reviews the Pretrial Memorandum and Order (Appendix A) to assess whether information received is assuring proper case tracking. Track assignment review on a case by case basis is also conducted by the trial judge during the life of the case. Modifications can be made to initially assigned tracks with reasons noted. Tracking criteria and overall system progress is reviewed by the Chief Judge and DCM Team (including prosecuting and defense attorneys) on a regular basis and modifications are made as necessary.

Case status information is maintained on a pc-based system developed by the Court

because of difficulties in modifying the county justice system to accommodate the needs of the DCM program. A sample case screen is included in Appendix D (3) and sample Arraignment and Trial Track Lists, which include arraignment date, track assignment and trial date, is provided in Appendix D (1 and 2).

### C. CHANGES REQUIRED TO IMPLEMENT THE DCM PROGRAM

#### 1. Rules

No formal rules were required to implement the DCM program in Berrien County. Requisite forms and procedures were adopted under the Court's internal management authority. To permit the filing of court documents by facsimile transmittal, the Michigan Supreme Court enacted has proposed MCR 2.402 (Appendix E).

#### 2. Procedures

The relatively smaller jurisdictional size of Berrien County has permitted judicial system officials to work closely together, informally, to design and implement much of the DCM program and to address problems as they arose.

#### 3. Other

##### a. *Within the Court*

Implementation of the DCM program has been accomplished through procedures designed to improve and expedite case screening, scheduling and monitoring. As the program has developed, these procedures have been streamlined wherever possible to minimize paperwork and appearance burdens on the court and other judicial system officials.

When the DCM program was first implemented, for example, a DCM tracking hearing was held on the same day of arraignment at which time counsel met with the Chief Judge to review the tracking criteria for each case and make appropriate track assignment. When the DCM Case Manager was hired after the program had been in operation for approximately six months, the procedure for track assignment was modified, with counsel submitting the Case Evaluation/Pre-trial Memo by fax machine to the DCM Case Manager in lieu of the track assignment hearing. The DCM case manager then evaluated the case, and made a track assignment recommendation to the chief judge. All parties appear to feel satisfied that this procedure is working well. Similarly, the formerly used Case Evaluation/Pre-Trial Form and Criminal Scheduling Order -- both prepared by the assigned judge -- have now been combined into one document: the Case Evaluation/Order. (Appendix B)

Recently, the Deputy Court Administrator position was eliminated, and responsibility for managing and monitoring DCM cases was lodged in a newly created position of DCM Case Manager. This person is now responsible for review of all case analysis forms, establishing proposed track assignment and pre-trial event scheduling, preparation of the pre-trial Memorandum/Order, and monitoring case events to disposition. The DCM Case Manager consults with counsel regarding disputed tracking and scheduling issues, maintains continuous control of case progress, and works closely with the Judicial Administrative Assistants to ensure compliance with schedules and goals.

In an effort to assure greater trial scheduling certainty, the Court began holding status conferences on the Friday preceding scheduled trial to determine whether a case scheduled would actually go to trial. These status conferences provide a "last chance" to plea as well as an opportunity to determine whether multiple cases scheduled for a judge's docket will likely go to trial and, if so, which case should be deemed the primary case and which a "back-up." If the primary case actually goes to trial, the

back-up case will be rescheduled for the next available trial date. Track A cases are given preference since they are high priority cases with defendants usually in jail.

To minimize the instances in which trial dates must be rescheduled, the Court is attempting to apply a "team" concept to its individual calendaring system whereby two judges are assigned criminal cases for two weeks at a time. This system allows for the judge whose cases fall through to take the back-up case of the other judge. It is estimated that this system can add up to six weeks of criminal trial time per judge per year.

b. *Within the Prosecutor's Office*

The principal change for the prosecutor's office associated with the DCM program has been the process by which cases are scheduled. Prior to the DCM program, cases were scheduled primarily according to the availability of acceptable trial dates. With implementation of the DCM program, the office has developed a system of priorities for prosecuting its caseload and determining how the office's resources can be best allocated. Cases are now screened internally according to (a) their relative priority for disposition, and (2) the complexity presented (required forensic evidence, etc.). The system appears to have resulted in more timely and orderly disposition of the caseload and the ability of the office to devote more resources to cases that require them.

To implement and monitor the DCM program, various forms for internal office use have been developed, and revised several times, as the program has progressed.

c. *Within the Public Defender's Office*

The principal impact which the DCM program has had on the office's operations has been its enhanced capability to obtain defendant information very shortly after arrest which has permitted defense attorneys to begin meaningful plea negotiations earlier and accounts, in large part, for the decrease in the number of cases being bound over from the District Court and the earlier dispositions of these and other cases. (See Section III C3 below). This has been accomplished by providing the office access to the Court's computer system. The office has assigned a staff member to be responsible for continuous access to the system, thereby obtaining immediate information on defendants arrested, their charges and prior records, which is then given to a staff attorney for analysis and prompt discussion with the defendant at the first interview.

d. *Within other agencies*

Although no data has been compiled, the expediting of the pretrial process, particularly for detained cases, has had a positive impact on the jail population.

### III. PROJECT EXPERIENCE TO DATE

#### A. CASE STATUS BY TRACK

##### 1. Track Assignments

A comparison of the anticipated track allocations when the DCM program began and actual track assignment experience as of June 30, 1990 is presented below.

	<u>Anticipated</u>	<u>Actual</u>
Track A	30%	(51%)
Track B	40-50%	(28%)
Track C	20-30%	(21%)

In addition, a number of cases are disposed of at the time of arraignment prior to track assignment (176 of 380 during January 1 - June 30, 1990).

##### 2. Methods of Disposition

Dispositions during the period were as follows:

	<u>Plea</u>	<u>Jury</u>	<u>Trial Bench</u>	<u>Remand to Dist. Ct.</u> <sup>6</sup>	<u>Nolle/ Disms.</u> <sup>7</sup>
Track A	51 (14%)	9 (2%)	1 (.7%)	2 (.5%)	24 ( 6%)
Track B	24 ( 6%)	7 (2%)	0	2 (.5%)	33 ( 9%)
Track C	19 ( 5%)	7 (2%)	0	5 (1%)	20 ( 5%)
	94 (25%)	23 (6%)	1 (.7%)	9 (2%)	77 (20%)
Disposed of Prior to Track Assignment	176 (46%)				

##### 3. Age of Cases at Disposition

During the January 1 - June 30, 1990 period, the age of cases at disposition was as follows:

	<u>Median/Longest Day</u>
Track A	69/ 78
Track B	119/133
Track C	150/173

<sup>6</sup> Cases in which agreement has been reached for plea to a lesser charge; in which Court has determined the need for a preliminary examination, etc.

<sup>7</sup> includes cases with companion charges

## **B. IMPLEMENTATION PROBLEMS AND ISSUES ADDRESSED**

### **1. Modifications in the Individual Calendaring System**

Some modifications were needed in the individual calendaring system to provide more flexibility for case scheduling and, particularly, to make maximum use of the three available courtrooms by the four Circuit Court judges. In addition, as noted above, the Court has tried to apply a "team" concept to case scheduling by encouraging judges to assist one another in serving as back-up judges to promote greater scheduling certainty.

### **2. Assuring that Counsel Adequately Complete Pre-Trial Memoranda**

A major problem encountered has been the frequency with which counsel do not adequately complete the Pre-Trial Memo upon which track determination is based. This problem is being currently addressed by proposed revision and simplification of these forms and more intensive training of staff and attorneys. A similar problem occurred when the special track assignment hearings were held. These hearings were attended by a representative from the prosecutor and indigent defense offices who handled all cases for their respective offices; frequently, however, these representatives were unfamiliar with specific aspects of the cases presented and not in a position to provide the information necessary for track assignment. This problem was addressed initially by requiring better preparation by the attending attorneys and the attendance of the attorney assigned when necessary, and, subsequently, by assigning the deputy court administrator to make track recommendations based on the attorneys' Criminal Scheduling Analyses (Appendix A) in lieu of the track assignment hearing altogether. (See Footnote 5)

### **3. Need for Adequate Staff to Manage and Monitor the Program**

Berrien County's DCM program has met with initial delay in implementation due to the lack of a deputy court administrator to manage the project and a senior applications programmer to perform necessary programming requests. Until recently, the program has been administered by the chief judge and the DCM Case Manager. The DCM Case Manager has taken over the day to day administration of the program, including track assignment and follow-up responsibilities, provision of management information (e.g., reports) to judges, and coordination of all counsel and parties involved. The prosecutor's office and circuit court have now hired a senior applications programmer to maintain and write new programs for the system. The BJA grant is funding one half of the salary of the programmer, with the remainder of the salary being funded through the prosecutor's general fund budget.

Subsequent years' funding for the project has been allocated primarily for personnel to provide the administrative capability to operate the project and for development of adequate computer capability to monitor the program and support necessary systemwide communication.

### **4. Need for Adequate Computer Capability**

The project has been hampered by inadequate computer capability to provide necessary management and monitoring reports, due in large part to the absence of staff dedicated to the project. Initially, it was thought that necessary information regarding the DCM cases could be "plugged in" after the project had become operational but court officials realize now that such a process is extremely time-consuming and not supportive of the project's day to day management needs. The hiring of the DCM case manager with extensive computer expertise, and the recent addition of the senior applications programmer, alleviated this problem and efforts are now underway to improve computer communication between the Court, the prosecutor and indigent defense service office.

## C. INITIAL PROGRAM IMPACT

### 1. Case Processing

While the program is still in its formative stages and gathering quantitative impact measures, cases appear to be moving more quickly and all parties feel that cases have been moving in a more timely and orderly fashion. Cases in Tracks B and C are being disposed of within prescribed time limits. Some cases in Track A have exceeded the prescribed time limits slightly. It is anticipated that, as the deputy administrator begins to implement new procedures and provide corresponding management reports to system participants, judicial system officials will have regular feedback which depicts case processing activity and the efficiencies -- as well as delay points -- in the system.

### 2. Realistic Trial Schedules

The timeframes established by the program and the institution of a status conference prior to trial appear to be resulting in more realistic and firm trial schedules although more progress in this area is anticipated if greater flexibility can be achieved in the present individual calendaring system.

### 3. Reduction in Percentage of Cases Bound Over From District Court

Recent developments in the ongoing refinement of the DCM system have resulted in a marked decrease in the percentage of cases forwarded from the lower court for filing in the Circuit Court. Agreement has been achieved between the Court, prosecutor and defense bar to provide immediate access by the defense attorney to all information known to the Prosecutor. This exchange of information allows both a prompt assessment by both sides as to tracking determination, and also promotes early discussion of disposition proposals. The result of the new procedure is that substantially more cases are being disposed of at the District Court (lower court) level, thus reducing the number of cases actually reaching Circuit Court, and permitting the Court to focus more prompt attention to the more serious cases.

Statistically, the percentage of cases being sent to Circuit Court has dropped from a high of 46% at the beginning of the project, to approximately 38% in mid-1990. With the relatively constant rise in overall felony filings from 2,004 in 1988, to a projected 2,495 in 1990, these percentage reductions represent a real decrease in actual Circuit Court cases and a consequent increase in the capability of the Court to render prompt disposition of DCM targeted Drug and Serious assault cases, particularly.

## D. COMMENTS

The success of the existing Civil DCM program accounted in large part for the quick acceptance of the criminal DCM program and the minimal need for attorney and staff orientation and training. In addition, the informal and very close working relationships among local justice system officials in Berrien County permit frequent communication regarding program concerns and problems and frequent "tinkering" to make the system more useful and to address potential dysfunctions as they occur.

Efforts are now underway to develop local support for the program to permit its continuation when federal funding is no longer available.

## **APPENDICES**

- A. Criminal Scheduling Analysis and Pre-Trial Memo**
- B. Case Evaluation/Pre-Trial Order**
- C. Track Assignment Process**
- D. Sample Computer Reports**
  - (1) Sample Trial Date Track List**
  - (2) Open Case Listing**
  - (3) Sample Case Screen**
- E. Proposed MCR2.402 re Use of Communication Equipment**

BERRIEN COUNTY CIRCUIT COURT

Appendix A

CRIMINAL SCHEDULING ANALYSIS AND PRE-TRIAL MEMO

(To be prepared by Counsel)

THE PEOPLE OF THE STATE OF MICHIGAN

FILE NO. \_\_\_\_\_

VS.

CHARGE \_\_\_\_\_

ARRAIGNMENT DATE \_\_\_\_\_ ARRAIGNMENT JUDGE \_\_\_\_\_

PRIORITY FACTORS:

- ☐ HABITUAL ☐ ESCAPE ☐ CSC-Ch. ☐ CAPITAL CASE  
☐ VCSA, DEL. OR POSS. W/INT., SCHED. 1 OR 2  
☐ OTHER CSC ☐ OTHER ASSAULT ☐ OTHER VCSA (non-MJ)  
☐ MULTIPLE OFFENSES PENDING (LIST) \_\_\_\_\_

THIS OFFENSE COMMITTED WHILE:

- ☐ ON BOND ☐ ON PAROLE ☐ ON PROBATION ☐ IN JAIL ☐ CORR. CENT.  
☐ ESCAPE STATUS ☐ PRISON OR DETAINER (WHERE) \_\_\_\_\_

DEFENDANT STATUS: ☐ JAIL ☐ BOND ☐ OTHER \_\_\_\_\_

COMPLEXITY FACTORS:

CO-DEFENDANT(S) (LIST)	STATUS:	BOND	ATLG	TEST	PG	TR	RX.	CONSO
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

PRE-TRIAL MOTIONS - # & TYPE \_\_\_\_\_

TO BE FILED \_\_\_\_\_ ☐ EV. HRG. REQUESTED

UNUSUAL LEGAL ISSUES \_\_\_\_\_

EXPERT WIT. # & PROBS. \_\_\_\_\_

OUT-OF-STATE WIT. # & PROBS. \_\_\_\_\_

OTHER WIT. PROBS. \_\_\_\_\_

OTHER SCHED. PROBS. \_\_\_\_\_



OTHER FACTORS:

PLEA NEGOTIATION STATUS: ☐ COMPLETE, NO PLEA ☐ OFFERED TO PLEAD TO \_\_\_\_\_

☐ PLEA CUT OFF DATE NEEDED? ☐ PLEA CONF. NEEDED?

PRELIM. TRANSCRIPT: ☐ FILED ☐ NOT FILED DATE ORDERED FOR \_\_\_\_\_

RULE 14 NOTICES: ☐ FILED ☐ NOT FILED TO BE FILED \_\_\_\_\_

DEFENSE CLAIMS:

☐ ALIBI ☐ SELF DEFENSE ☐ OTHER (SPECIFY) \_\_\_\_\_

☐ INSANITY ☐ INCOMPETENCE MOTIONS TO BE FILED \_\_\_\_\_

ESTIMATED # OF DAYS FOR TRIAL \_\_\_\_\_

RECOMMENDED TRIAL TRACK ASSIGNMENT: ☐ A ☐ B ☐ C

OTHER POTENTIAL PROBLEMS NOT COVERED ABOVE WHICH MIGHT INTERFERE WITH TRIAL: \_\_\_\_\_

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Signed \_\_\_\_\_  
Pros./Def. Counsel

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF BERRIEN

Appendix

CASE EVALUATION / PRE-TRIAL ORDER

THE PEOPLE OF THE STATE OF MICHIGAN  
VS.

File No. \_\_\_\_\_

Charge \_\_\_\_\_

Prosecutor \_\_\_\_\_

Defense Counsel \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT STATUS: JAIL \_\_\_\_\_ BOND \_\_\_\_\_

1. Assigned Trial Judge \_\_\_\_\_

2. Plea Cut-Off Date \_\_\_\_\_

3. Preliminary Transcript Filed \_\_\_\_\_ To be filed by \_\_\_\_\_

4. Notices Filed \_\_\_\_\_ To be filed/amended by \_\_\_\_\_

Statements Filed \_\_\_\_\_ To be filed/amended by \_\_\_\_\_

5. Motions Type \_\_\_\_\_ P \_\_\_\_\_ D \_\_\_\_\_

To be filed/heard by \_\_\_\_\_ P \_\_\_\_\_ D \_\_\_\_\_

6. Defenses Alibi \_\_\_\_\_ Self Defense \_\_\_\_\_ Other (Specify) \_\_\_\_\_

Insanity \_\_\_\_\_ Motions to be filed/heard by \_\_\_\_\_

Incompetency \_\_\_\_\_ Motions to be filed/heard by \_\_\_\_\_

7. Counsel Plea Conference Date \_\_\_\_\_

8. Estimated Days for Trial \_\_\_\_\_ Recommended Trial Track \_\_\_\_\_

9. Status Conference Date/Time \_\_\_\_\_ Trial Date \_\_\_\_\_

10. Plea Status \_\_\_\_\_

11. Unusual Legal Issues \_\_\_\_\_

12. Comments \_\_\_\_\_

DCM PROJECT MANAGER

Counsel shall be deemed to acquiesce in the dates herein set forth, unless, within 10 days of receipt hereof they shall request extension thereof in writing with reasons stated. Copy of such request shall be provided to opposing counsel. Upon such request the assigned Judge shall decide same and advise counsel forthwith. Stipulations by counsel shall not be considered conclusive as to any change of the schedule herein set forth.

IT IS SO ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 199\_\_.

CIRCUIT JUDGE

WHITE: FILE

CANARY: COUNSEL

PINK: COUNSEL

GOLD: ADMINISTRATIVE ASSISTANT

COL-59 (Rev. 2/26/90)

SECOND JUDICIAL DISTRICT

BERRIEN COUNTY (ST. JOSEPH), MICHIGAN

PROCESS OF TRACK ASSIGNMENT

The mechanics of the assignment process are designed to accommodate maximum possible input to the trial Judge and his/her assignment clerk, who ultimately determine the chronology of the life of the case and set event deadlines in the form of a scheduling order. The process, in chronological order, proceeds as follows:

1. District Court bind over to Circuit Court and Circuit Court Arraignment date set.
2. Review and analysis of case before Circuit Court Arraignment by Prosecutor and Defense Counsel.
- 2a. Completion of CSAF (Attachment 1) by Prosecutor and Defense Counsel and returned to DCM Project Manager at arraignment. (CSAF's may also be faxed).
3. Circuit Court Arraignment and plea of not guilty. Selection of Trial Judge (Blind Draw or Computer)
4. Review of CSAF's by DCM Project Manager. Completion of Track recommendation (Case Evaluation /Pre-Trial Form - Attachment 2) by DCM Project Manager.
5. Schedule trial date with Prosecutor's Office Circuit Court Assignment Clerk.
- 5a. Motion/filing dates set.
6. File forwarded to Assigned Trial Judge.
- 6a. Review by Trial Judge - Final Track Determination.
7. Scheduling Order entered setting forth event dates. (Proposed - CSO (Attachment 3) to be computer generated in 1990)
8. Case proceeds through track process.
9. Status Conference held. Final opportunity for plea agreement. Case goes to trial.

Oct 18, 1989

 SECOND JUDICIAL DISTRICT  
 BERRIEN COUNTY, MICHIGAN  
 TRIAL DATE/TRACK

PAGE 1

CASE #	TRIAL DATE	TRACK	JUDGE ASSIGNED	PROSECUTOR	DEFENSE
893070FC		C	GRATHWOHL	PASULA	MCDOWELL
892835FH	11/16/89	A	GRATHWOHL	PASULA	IRVING
893178FC	11/21/89	A	GRATHWOHL	MILLER	JESSE
893200FH	01/09/90	A	GRATHWOHL	RUIS	ROBBINS
893227FH				PASULA	MCDOWELL
893179FC				MILLER	JESSE
892425FH	01/11/90	B	GRATHWOHL	CERESA	KATKOWSKY
892931FH	02/27/90	B	GRATHWOHL	MALONEY	RENFRO
892834FH		C	GRATHWOHL	PASULA	HOSBEIN
893163FH	03/08/90	B	GRATHWOHL	RUIS	RENFRO
893164FH				PASULA	JOHNSON, P
892925FH	03/15/90	C	GRATHWOHL	LEVY	MCCOY
893197FH	04/26/90	C	GRATHWOHL	RUIS	LANTIS

DOE, JOHN	ARR DATE	OFFENSE/ATTORNEY	LAST EVENT/NEXT EVENT
00096569 862672FH	08-29-86	CON SUB DEL SCHEDULE 4 AND MARIJ *MARIJUANA-SELL *MARIJUANA-SELL RENFRO, MICHAEL	(ST.) 09-08-86 EXAM * N/A BOUND OVER TO CC * N/A
00096569 862674FH	08-29-86	CON SUB DEL SCHEDULE 4 AND MARIJ RENFRO, MICHAEL	(ST.) 09-08-86 EXAM BOUND OVER TO CC
20020421 891034FH	03-30-89	R.C.S.P. IN EXCESS OF \$100 MCDOWELL, ROBERT U	(ST.) 03-31-89 EXAM BOUND OVER TO CC
00103832 893110FH	09-15-89	CONC WEAPON-PISTOL IN VEHICLE LUTZ, ROBERT	(ST.) 09-26-89 BOUND OVER TO CC BOUND OVER TO CC
10000911 893108FH	09-14-89	ROBBERY - UNARMED LUTZ, ROBERT	(ST.) 09-26-89 EXAM BOUND OVER TO CC
40002831 892889FH	06-28-89	R.C.S.P. IN EXCESS OF \$100 ATT RCSP 0/\$100 JESSE, JAMES K	(ST.) 09-01-89 SENTENCING (ST.) BOUND OVER TO CC
20020290 891005FH	03-20-89	B & E BLDG W/INT TO COMM LARC MCDOWELL, ROBERT U	(ST.) 03-29-89 EXAM BOUND OVER TO CC
20000057 841088FH	03-22-84	FALSE PRETENSES - OVER \$100 RENFRO, MICHAEL	(ST.) 06-12-84 REMAND TO DISTRICT COURT BOUND OVER TO CC
00103831 893085FH	09-15-89	LARCENY IN A BUILDING BERRIEN DEFENSE ASSOC.	(ST.) 09-22-89 EXAM BOUND OVER TO CC
20016888 882168FH	07-05-88	OPERATE UNDER THE INFLUENCE 3RD OFF RENFRO, MICHAEL	(ST.) 07-14-88 EXAM BOUND OVER TO CC
00103642 892831FH	08-21-89	CREDIT CARD-USE WITHOUT CONSENT IRVING, GARY	(ST.) 08-31-89 EXAM BOUND OVER TO CC
00103592 892923FH	08-14-89	CONC WEAPON-PISTOL IN VEHICLE KOBZA, JAMES J	(ST.) 09-07-89 EXAM BOUND OVER TO CC
00085866 890483FH	01-03-89	QUIL/UBAL 3RD OFFENSE QUIL/UBAL 2ND OFFENSE *RECKLESS DRIVING JESSE, JAMES K	(ST.) 02-07-89 EXAM (ST.) BOUND OVER TO CC * N/A
00103823 893081FH	09-14-89	LARCENY IN A BUILDING BERRIEN DEFENSE ASSOC.	(ST.) 09-22-89 EXAM BOUND OVER TO CC
40002775 891426FH	04-14-89	B & E VEHICLE TO STEAL PROP 0/\$5 JESSE, JAMES K	(ST.) 05-02-89 EXAM BOUND OVER TO CC

JSXX JSXXXXXX 07/12/89 JUSTICE REGISTER OF ACTIONS XX:XX XXXXXX  
 ALSUP, JACKIE ALLEN ATTY: \_\_\_\_\_ RVW: \_\_\_\_\_ JUDGE: \_\_\_\_\_  
 (A) ASSAULT WITH A DANGEROUS WEAPON DISPOSED  
 (B) POLICE OFFICER-RESIST AND OBSTRUCT CLOSED  
 ATT RESIST/OBSTRUCT POLICE  
 (C) NOT ISSUED

SEQ	DATE	CHG	ADDITIONAL INFORMATION	CD	ATTY/ AMOUNT	RECPT/ DATE	TIME	JD
01	022887	---	XXX DEFENDANT IN COURT	---	---	---	---	X
02	---	---	XXX DEFNDT ADV OF CONTENT OF C AND W	---	---	---	---	---
04	---	---	XXX DEF ADVISED OF RIGHTS (FELONY CASE)	---	---	---	---	---
03	---	---	XXX DEF DEMANDS PRELIMINARY EXAM	---	---	---	---	---
04	---	---	XXX DEF PETITIONED FOR CT APPT ATTY	---	---	---	---	---
05	---	---	XXX PETITION SUBMITTED TO JUDGE/MAG	---	---	---	---	---
06	---	---	XXX BOND SET AT	---	002500	---	---	---
07	---	---	XXX CASH OR SURETIES (NO 10%)	---	---	---	---	---
08	---	---	XXX COMMITTED IN LIEU OF BOND	---	---	---	---	---
09	---	---	XXX PRE-EXAM SET	---	---	030687	0130	XX
10	---	---	XXX EXAM SET	---	---	031087	0830	X
11	030287	---	XXX CT APPOINTS BERRIEN DEFENSE ASSOC	---	99999	---	---	---
12	030687	---	XXX DEFENDANT WITH ATTORNEY IN COURT	---	99999	---	---	---
13	---	---	XXX RIGHTS READ TO DEFENDANT	---	---	---	---	---
14	---	B	XXX PROSECUTOR AUTHORIZED REDUCTION	---	XXXXXXXX	XXXX	---	---

NEXT DATE: \_\_\_\_\_ CASE: \_\_\_\_\_

JSXX JSXXXXXX 07/10/89 JUSTICE REGISTER OF ACTIONS XX:XX XXXXXX  
 ALSUP, JACKIE ALLEN ATTY: \_\_\_\_\_ RVW: \_\_\_\_\_ JUDGE: \_\_\_\_\_  
 (A) ASSAULT WITH A DANGEROUS WEAPON DISP  
 (B) POLICE OFFICER-RESIST AND OBSTRUCT CLOSED  
 ATT RESIST/OBSTRUCT POLICE  
 (C) NOT ISSUED

SEQ	DATE	CHG	ADDITIONAL INFORMATION	CD	ATTY/ AMOUNT	RECPT/ DATE	TIME	JD
01	---	B	XXX ENTRD PLEA OF GUILTY LESSER OFFENSE	---	---	---	---	---
02	---	---	XXX PLEA ACCEPTED BY THE COURT	---	---	---	---	---
03	---	---	XXX COURT ORDERS PRESENTENCE INVEST	---	---	---	---	---
04	---	A	XXX NOLLE PROSEQUI AS TO COUNT	---	---	---	---	---
05	---	---	XXX BOND SET	---	01000.00	---	---	---
06	---	---	XXX 10% CASH BOND POSTED/MARGIE ALSUP	---	00100.00	0001781	---	---
07	030687	---	XXX SENTENCING SET	---	---	041087	1000	X
08	---	---	XXX JUDGE ASSIGNED	---	---	---	---	X
09	041087	---	XXX SENTENCED TO PAY FINE OF	---	00030.00	---	---	---
10	---	---	XXX COURT COSTS OF	---	00065.00	---	---	---
11	---	---	XXX OR SERVE ALTERNATE DAYS OF	---	00020.00	---	---	---
12	---	---	XXX TIMEPAY GRANTED	---	---	---	---	---
13	---	---	XXX FIRST PAYMENT DUE FORTHWITH	---	00050.00	050887	---	---
14	---	---	XXX PLACED ON PROBATION FOR	---	1YEAR	---	---	---

NEXT DATE: \_\_\_\_\_ CASE: \_\_\_\_\_

Order

Dorothy Comstock Riley  
Chief Justice

Charles L. Levin  
James H. Beekun  
Michael F. Cavanagh  
Patricia J. Boyle  
Dennis W. Archer  
Robert F. Griffin  
Associate Justices

dated: January 4, 1990

89-37

Proposed Amendment to  
MCR 2.402

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On order of the Court, this is to advise that the Court is considering whether to amend MCR 2.402. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford any interested person the opportunity to comment on the form or the merits of the proposal, the text of which is as follows:

[The present language is to be repealed and replaced by the following language unless otherwise indicated below:]

Rule 2.402 Use of Communication Equipment

- (A) Definition. "Voice communication equipment" means a conference telephone or other electronic device that permits all those appearing or participating to hear and speak to each other.
- (B) Use. A court may, on its own initiative or on the written request of a party, direct that voice communication equipment be used for a motion hearing, pretrial conference, or status conference. The court must give notice to the parties before directing on its own initiative that voice communication equipment be used. A party's written request must be made at least 7 days before the day on which the communication equipment is sought to be used, and a copy must be served on the other parties. The court may, with the consent of all parties, direct that the testimony of a witness be taken through voice communication equipment. A verbatim record of the proceeding must still be made. The judge or magistrate may administer the oath to a witness or affiant by voice communication equipment.
- (C) Burden of Expense. The cost for the use of the voice communication equipment is to be shared equally, unless the court otherwise directs.
- (D) Courts, by local administrative order, may permit the filing of 8-1/2" x 11" pleadings, motions, affidavits, opinions.

orders or other documents by the use of facsimile (FAX) communication equipment. Except as provided in MCR 2.002, a clerk shall not permit the filing of any document for which a filing fee is required unless the full amount of the filing fee has been paid or deposited in advance with the clerk. For purposes of MCR 2.114, a signature includes a signature transmitted by facsimile communication equipment. Documents intended to be filed in any court shall not be subject to more rapid deterioration than ordinary typewritten material on ordinary paper.

(E) The local administrative order shall establish for facsimile filing of documents, with the court by the public:

- (1) a reasonable fee, in addition to statutory filing fees, to be charged by the clerk, which may take into account the cost of equipment, paper, supplies, and telephone line charges;
- (2) a maximum number of pages which may be sent at one time for any document or documents;
- (3) the hours during which documents may be received; and
- (4) the method of giving notice to attorneys and litigants of the requirements in (1) through (3) above.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption in its present form. Timely comments will be substantively considered and your assistance is appreciated by the Court.

A copy of this order will be given to the secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on this proposal may be sent to the Supreme Court Clerk within 60 days after it is published in the Michigan Bar Journal. When filing a comment, please refer to our file number 89-37.

I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of Court.

January 4, 1990

Corbin R. Davis





School of Public Affairs

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**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**PROGRAM SUMMARY NO. 2<sup>1</sup>**

**Superior Court of Camden County  
Camden County, New Jersey (Civil)**

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<sup>1</sup> Prepared Under BJA Cooperative Agreement No. 89-DD-CX-0023

**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**PROGRAM SUMMARY NO. 2<sup>1</sup>**

**SUPERIOR COURT OF CAMDEN COUNTY  
CAMDEN COUNTY, NEW JERSEY (CIVIL)**

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<sup>1</sup> Prepared under BJA Cooperative Agreement No. 89-DD-CX-0023

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## I. INTRODUCTION

### A. Background

#### 1. Project Summary

The Civil DCM Program in Camden encompasses all civil matters filed in the Law Division of the Camden County Superior Court, e.g., all civil claims in excess of \$5,000.00. The initial design of the program was developed by the New Jersey Administrative Office of the Courts (AOC), building upon a New Jersey Supreme Court Committee recommendation that a Differentiated Case Management system be implemented as a fairer, faster and less expensive method for moving civil cases through the trial courts.<sup>2</sup>

The Camden civil DCM program was designed to expand the earlier civil DCM program in Bergen County by incorporating the use of subtracks within the standard track, test out new mechanisms for early and active case management, and incorporate the role of alternative dispute resolution programs in the DCM program.<sup>3</sup> The Camden DCM program is significantly different from the Bergen County DCM program, particularly in regard to its more active court monitoring of the pre-trial discovery process and the greater involvement of the track coordinators in the pre-trial process. In addition, unlike Bergen County, a Case Scheduling Order (CSO) (see Appendix D) is prepared for each case which sets the timetable for completing discovery tasks and conducting other pre-trial events. Compliance with the CSO, including the interim events prescribed, is closely monitored by the Court, with track coordinators working closely with attorneys during the pretrial process in an effort to resolve discovery and scheduling problems. The Camden program also differs from the Bergen program in its sparing use of the complex track, with the Court required to approve all requests for complex track assignments.

Under the Camden civil DCM program, three tracks have been established: Expedited, Standard and Complex, each with special applicable time and discovery requirements. (See Section II B below.) In January 1990, the Court, in conjunction with the Camden DCM Bar Implementation Committee, proposed to the New Jersey Supreme Court the addition of subtracks which modified the discovery period for certain types of cases in the expedited and standard tracks.

#### 2. Relevant Geographic and Demographic Factors

Camden County, with a population of approximately 450,000, is located in southern New Jersey and consists of 57 municipalities, the largest of which is the City of Camden. While Camden County is primarily a middle class suburban area, the City of Camden, located across the Delaware River from Philadelphia (where many Camden County residents work), is an economically depressed area with more than half of its population receiving public assistance. Efforts are under-way to redevelop the City of Camden, including its large shipyard industry, and to attract new industries. Many of the other Camden County municipalities are more affluent and include various electronics and aerospace industries and large manufacturers.

#### 3. The Camden County Bar

The Camden County Bar consists of approximately 1,650 attorneys, most of whom have multi-county practices.

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<sup>2</sup> In March 1986, the New Jersey Supreme Court authorized a pilot civil case project in Bergen County to test the concept of DCM. Based on the experience of the Bergen County project, the New Jersey AOC applied to participate in the BJA national pilot DCM program in February 1988 and, in September 1988, the New Jersey Supreme Court approved an expansion of the DCM program to Camden County and issued special rules for that program.

<sup>3</sup> The Camden County Superior Court introduced civil and criminal DCM programs simultaneously. (See also Program Summary No. 3.)

## B. Description of the Judicial System

### 1. Organization of the Camden Superior Court

The Camden Superior Court is a court of general jurisdiction, handling criminal, civil, juvenile and family matters. The Court is served by 22 full-time judges and one retired judge and organized in several divisions: Criminal (6 judges and one retired judge); Civil - Law (7 judges); Special Civil (for Landlord/Tenant; Small Claims and civil matters under \$ 5,000 -1 Judge); a Family Division (5 judges); a Tax Court (1 judge) and a General Equity Division (1 judge). In addition, the Assignment Judge, who is not assigned to a Division, performs general administrative and supervisory functions, caseflow monitoring, case scheduling, maintenance of the dismissal list, appointment of commissioners, etc. The judges rotate assignments every two to three years.

### 2. Civil Jurisdiction

The civil jurisdiction of the Camden County Superior Court is exercised by a Law Division, a Chancery Division and a Special Civil Division. The Law Division handles all civil cases in which the amount at issue is \$5,000 or more and civil commitments, forfeitures, and condemnations. The Special Civil Part handles Landlord/Tenant matters and cases in which the amount in controversy is under \$ 5,000. The Chancery Division handles general equity matters including foreclosures and contested probate cases.

### 3. Civil Cases Handled Under the DCM Program

The Civil DCM program in Camden applies to all cases filed in the Law Division after September 1, 1988. Law Division cases filed prior to that date have been handled under the pre-DCM system and scheduled simultaneously with the DCM cases. It is anticipated that, by late-1990, all pre-DCM cases will have been disposed of.

### 4. Court Caseload

Recent filings of the Camden County Superior Court consisted of the following:

	<u>1988<sup>4</sup></u>	<u>1989<sup>5</sup></u>	<u>1990<sup>6</sup></u>
Civil			
Law Division	6,729	12,270 <sup>7</sup>	13,314
Special Civil	24,105	24,737	25,948
Criminal	3,837	3,992	3,985 <sup>8</sup>
Probate (Contested)	176	206	213
Gen. Equity	440	468	464
Juv. Del.	8,339	8,865	10,414
Divorce	2,477	3,818	4,161
Other Family (Non div. suppt)	9,700	10,160	12,042
Dom. Viol	2,436	2,700	3,046
Fam. Cris. Pets.	154	122	59
Ch. Placement Rev.	626	699	711
Abuse/Neg.	141	106	104
Term. of Par. Rts	80	77	59
Adopts.	226	275	294
Other Fam.	13	309	781
Other (Post-conv rel & M.Ct.aps)	187	169	260
<b>TOTAL</b>	<b>59,666</b>	<b>68,974</b>	<b>75,855</b>

Civil case filings in 1989 increased approximately 80% over those in 1988 and an additional nine percent in 1990.

Approximately 1,000 - 1,100 complaints are filed in the Law Division each month, with the annual civil case filings breaking down approximately as follows:

Auto Negligence	45%
Contract	20 - 25%
Medical Malpr.	5%
Personal Injury	10 - 15%
Asbestos:	3 - 4%
Other	up to 17%

The Court has the state's second highest volume of asbestos case filings, primarily because of the shipyards and factories located within its jurisdiction.

##### 5. Civil Calendaring System and Support Staff

Prior to implementing the DCM program, a Master Calendaring System was used for civil

<sup>4</sup> July 1, 1987 - June 30, 1988.

<sup>5</sup> July 1, 1988 - June 30, 1989.

<sup>6</sup> July 1, 1989 - June 30, 1990.

<sup>7</sup> Beginning in July 1988, civil filings were counted at the time a complaint was filed; previously, filings were counted at the time an answer was filed.

<sup>8</sup> The actual number of accusations has increased substantially but, as a result of the Criminal DCM program, many cases are being disposed of prior to indictment and, therefore, not included in the Superior Court caseload.

case assignments. This system has been continued with the DCM program and cases are assigned to the Judges in the Civil Division based on applicable track and case type. Three judges serve as "pretrial judges" and hear all motions for most DCM cases; cases deemed "managed" cases<sup>9</sup>, are assigned to an individual judge for pretrial activity but follow a master calendar system for trial assignment.

The court personnel responsible for processing civil filings consist of: the Civil Presiding Judge, seven civil judges, a civil case manager, and a case management staff, including two track coordinators and two case analysts, an arbitration administrator, and 22 clerical support staff. The Presiding Civil Judge, who is designated by the Chief Justice of the State Supreme Court, has overall responsibility for the DCM program while the case manager performs daily operational duties that include staff supervision and case calendaring.

6. Alternative Dispute Resolution Programs

Following the completion of discovery, all auto negligence claims under \$ 15,000 and other personal injury claims under \$ 20,000 are referred to mandatory arbitration. In addition commercial claims may also be referred to an early settlement program at the option of the case manager. If the arbitration award is rejected, the rejecting party is required to pay \$ 150.00 and the case is then referred to a bar panel of two attorneys. At these sessions, plaintiff and defendant present their case and, at the conclusion of their presentations and review of relevant materials, a recommendation regarding settlement is made. Those cases not settled by the bar panel are referred to the presiding civil judge and, if the case remains at issue, is scheduled for trial within six to eight weeks.

## II. DESCRIPTION OF THE DCM CIVIL PROGRAM

### A. Program Objectives

As noted in Section I, the Camden DCM program has been designed to build upon the earlier experience of the civil DCM system in Bergen County and to test out a number of refinements in that program, most notably techniques for differentiating the process and management of different classes of cases and the appropriateness of subtracks for certain case types. Unlike the Bergen County project, the Supreme Court rules applicable to Camden also provided for different discovery activities as well as timeframes for the various tracks and, to assure compliance, the judges and the track coordinators have taken an active role in case management and monitoring.

### B. Program Description

#### 1. General

Pursuant to New Jersey Supreme Court Rules 4:9 et. seq. establishing the Camden DCM Civil Program (See Appendix G) the following three tracks were created, each with different discovery practice and timeframes: Expedited, Standard and Complex. In January 1990, the Court and the Camden DCM Bar Implementation Committee proposed to the Supreme Court the addition of subtracks extending the discovery period for certain types of cases assigned to the standard track and expedited tracks. (See Section 3b below.)

#### 2. Tracks Created

Under the Supreme Court's initial Rules for the Camden civil DCM program, the tracks

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<sup>9</sup> A "managed case" involves some degree of special judicial supervision but not sufficient to require assignment to the complex track.

included the following cases:

a. *Expedited*

- commercial matters excluding construction cases in which liquidated damages are sought, such as book accounts, collection of bills and notes, and actions involving secured transactions;
- actions to compel arbitration or to confirm, vacate or modify an arbitration award;
- actions to be tried exclusively on a record already made by a court or administrative agency, such as actions in lieu of prerogative writs; and
- actions to recover benefits pursuant to the New Jersey Automobile Reparation Reform Act.

b. *Standard*

- all cases not assigned to the expedited or complex tracks. Standard Track cases include but are not limited to: contract cases, personal injury and auto negligence matters.

c. *Complex*

- cases which, in the opinion of the Presiding Civil Judge, require the management of an individual judge from the outset, based on the number of parties; nature of claims or defenses; factual difficulty of the subject matter, etc.

3. DCM Track Characteristics

a. *General*

The Supreme Court Rules for the Camden DCM program also establish timeframes and permissible discovery activities for cases in each of the three tracks as follows:

(1) **Expedited**

Expedited track procedures focus on limiting the length and nature of discovery. A 100-day discovery period is provided, to run from the date the Assignment Scheduling Notice (ASN) is issued (generally immediately following the filing of the Answer). Interrogatories are limited to 50 single part questions and no depositions are permitted without leave of court. The goal for disposing of Expedited Track cases is 150 days following the filing of the Answer.

(2) **Standard**

Standard track procedures provide for a 200-day discovery period following the filing of the Answer. Interrogatories are limited to 50 single part questions and depositions<sup>10</sup>. The goal

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<sup>10</sup> Initially, only parties and expert witnesses could be deposed in standard track cases unless court approval was obtained. The Supreme Court subsequently amended the Rules to permit depositions of non-parties as well.



for disposing of Standard Track cases is 260 days following the filing of the Answer.

(3) **Complex**

There are no discovery limitations in complex cases. Rather, a schedule of pretrial events is developed by the judge in conference with the attorneys. The goal for disposing of Complex Track cases is 360 days following the filing of the Answer but the actual disposition timeframe in each case is determined by its preparation needs.

b. *Recommended Subtracks*

During the first eighteen months of the DCM program's operation, a number of changes in the initial track provisions were made, primarily in response to suggestions from the Bar. These changes included establishment of the following subtracks:

(1) **Within the Standard Track**

(a) Complicated/Standard for medical malpractice, products liability, construction accident cases with serious injury, and other cases which demonstrate comparable needs for judicial supervision. (discovery extended to 300 days with a management conference held within 150 days of track assignment and all cases assigned to an individual judge for management);

(b) Asbestos/Standard for all asbestos cases<sup>11</sup> (discovery extended to 330 days with a management conference held within 210 days of track assignment)

(2) **Within the Expedited Track**

(a) PIP/Expedited (discovery extended to 130 days and depositions of parties and experts permitted)

(b) Declaratory Judgment/Expedited (all cases assigned to a judge for management and a management conference held within 30 days of track assignment)

(c) Prerogative Writ/Expedited (all cases assigned to a judge for management and tracked at time of filing the complaint; a management conference held within 45 days of the complaint filing and a pretrial conference held within 60 days after the answer is filed)  
In addition, Criminal Based Forfeiture cases are managed by the Criminal Presiding Judge and not subject to the rules of any DCM track.

4. Track Assignment Process and Point at Which Track Assignment Is Made

Track assignment takes place at the time the Answer is filed. Each party files a Case Information Statement (CIS) (See Appendix A), at the time the initial pleadings (complaint and answer) are filed which provides descriptive information regarding the type of case and claims involved and indicates

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<sup>11</sup> The appropriate management of asbestos cases has been the subject of considerable attention in Camden. While under the DCM system, these cases have been assigned to the standard track, they have generally required significant judicial resources when multiple plaintiffs and/or defendants are involved. Frequently, one "case" can require a number of separate trials because of the multiple parties involved. In addition, even when one "trial" is appropriate, it generally requires separate "trials" on issues of liability, damages and punitive damages.

the party's requested track assignment. Originally, it was envisioned that the Civil Presiding Judge, along with the Civil Case Manager and the track coordinators, would determine the track designations. However, after discussion with the bar, it was agreed that the attorneys would select the track for their cases and, if reasonable, the selected track would be accepted by the Court.<sup>12</sup> The track coordinator therefore reviews the CIS forms submitted for each case and, in situations in which the parties have requested different tracks or the tracks requested are deemed inappropriate, the track coordinator will discuss the case further with counsel in an attempt to reach agreement on an appropriate track. If the matter cannot be resolved by the track coordinator, the matter is referred to the Civil Presiding Judge who has set aside a weekly hearing time for track dispute matters. Very few cases, however, have required such hearings.<sup>13</sup>

#### 5. Summary of the Civil DCM Process

Following track assignment, counsel are sent an Assignment and Scheduling Notice (ASN) (See Appendix B). The ASN indicates the track assignment, probable trial month, discovery cutoff date, and the name of the track coordinator and pretrial judge who will handle any motions or problems during the pretrial stage.

For Standard and Complex Track cases, a Case Scheduling Plan (CSP) (See Appendix C) and Order (See Appendix D) are prepared. For standard track cases, the CSP is prepared jointly by the attorneys shortly after receipt of the ASN and sets key discovery and event dates within the timeframes for the standard track, e.g., time for interrogatories, submission of expert reports, etc. The CSP is submitted to the Court and, if consistent with the DCM track requirements, provides the basis for a Case Scheduling Order (CSO) which the Court issues. If the attorneys do not file a CSP, the Court issues a computer-generated CSO for the case.

Initially, attorneys in approximately 50% of the cases were not filing CSP's. Upon further inquiry by the Bar, it was discovered that they did not file the CSP's generally because they were satisfied with the Court's computer-generated CSO. Many attorneys also feel that the discovery dates selected in the CSO are not significant because of the widespread lack of attorney compliance with them and the continued need to resort to motion practice for discovery assistance. The bar committee has therefore suggested several alternatives to the CSO: (a) a replacement form with minimal suggested scheduling dates, such as completion dates for all interrogatories, all expert discovery, etc., which would not give the appearance of being an enforceable discovery order, or (b) that the CSO not provide for discovery dates but, rather, have the ASN designate the date discovery ends, anticipated ADR date, etc. If attorneys submit a CSP with dates that do not comply with the DCM track requirements, court staff will generally discuss the matter with the attorneys in an attempt to resolve the problem. Generally, if the attorneys adhere to the applicable discovery completion date the Court will permit variation in completion of intermediate discovery events.

As the discovery period nears completion, the attorneys are asked to file a Trial Information Statement (TIS) (See Appendix E). The TIS is used to identify any remaining discovery problems, whether the matter is eligible for arbitration, and to obtain the attorneys' estimates regarding trial time, if expert witnesses are required, the dates of their availability, and the dates of the attorneys' availability. Thirty days before the end of the discovery period, attorneys receive a notice reminding them of the discovery end date and that a TIS is due. Non-receipt of a TIS is monitored by an overdue TIS report generated weekly by the computer. Cases for which no TIS is received are assumed to be ready and are scheduled for the next appropriate proceeding.

The Bar Committee feels that the TIS is of value in advising the Court as to whether a case

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<sup>12</sup> Requests for assignment to the Complex Track, however, will be approved only with the consent of the Presiding Civil Judge.

<sup>13</sup> Although when the program began it was anticipated that a significant number of cases might present difficulty in reaching a mutually agreeable track assignment, this has not proved true and, in fact, in most instances parties agree on the track assignment at the time the CIS forms are filed.

is ready, not ready, and, if not ready, why. As to indicating availability dates of witnesses, etc, the bar has suggested that this information is more meaningfully obtained after the ADR hearing.

At the close of the discovery period, eligible cases are referred for mandatory arbitration. If an arbitration award is rejected, the rejecting party is required to pay \$ 150.00 and the case is then referred to a bar panel. All civil cases which are not eligible for arbitration are also referred to bar panels for potential settlement. Approximately fifty percent of the civil cases referred to bar panels settle at that point. The remaining civil cases are then scheduled for conference with the presiding civil judge who schedules trial within six to eight weeks if no settlement is reached.

#### 6. Applicable DCM Events and Timeframes By Track

The events and maximum timeframes applicable to each track are summarized below:

Event	Expedited Track	Standard Track	Complex Track
Pl. files Compl.	Day 1	Day 1	Day 1
Pl. files CIS w/track rec.	Day 1	Day 1	Day 1
Service of Complaint	Day 11	Day 11	Day 11
Def. files Ans.	Day 31	Day 31	Day 31
Def. files CIS w/track rec.	Day 31	Day 31	Day 31
Track Assgt Made by tr. Coord. and Assgt. and Sched. Notice (ASN) sent to each counsel	Day 35	Day 35	Day 35
Parties file CSP <sup>14</sup>	Day 50	Day 50	Day 50
Discovery Completed	Day 130	Day 230	According to CSP provs.
CIS Completed by ea. atty.	Day 140	Day 240	According to CSP provs.
Assgt. to Mand. Arbitration/Bar Panels	Day 145	Day 245	According to CSP provs.
Trial Date Set Summed. after Bar Panel	Day 187	Day 287	According to CSP provs.
Trial <sup>15</sup>	Day 200	Day 300	According to CSP provs.

<sup>14</sup> Generally, local counsel file a joint CSP plan or rely on the court's computer-generated plan. Occasionally, only one counsel files a CSP or, if counsel are from out of the area, particularly out of state, the track coordinator contacts them if the CSP is not received to provide them the opportunity to file it before the computer-generated CSP is issued.

<sup>15</sup> The trial is scheduled by the judge following the bar panel and can be held as soon as the day following the bar panel or any time up to five weeks later.

7. Cases Included in the DCM Program

All cases filed in the Law Division of the Camden Superior Court (e.g., civil claims of \$ 5,000 and over) on September 1, 1988 or after are included in the Civil DCM program.

8. Provisions for Handling Pending Caseload

All civil cases filed prior to September 1, 1988 are handled according to the pre-DCM system and are subject to the monthly calendar call<sup>16</sup>. The maintenance of these two parallel case processing systems has been very difficult in view of their different management and monitoring requirements.

9. Provisions for Handling Amended Complaints, Third-Party Complaints, and "Dangling Defendants".

Under New Jersey Rule, a complaint can be amended and third parties can be joined by motion any time up to 30 days prior to the termination of the discovery period which is the last date for filing motions. Since implementing the DCM program, 10 - 15 % of the cases tracked have involved amended and third party complaints and complaints in which all defendants have not answered. These problems occur most frequently in asbestos, products liability, construction accidents and medical malpractice cases.

The bar committee has suggested that amended complaints and third party practice be freely permitted to encourage judicial economy in the long run so that the Court is not burdened with two or more cases to resolve a single controversy. The Court has therefore tried to accommodate amended complaints and third party practice within the DCM program by the use of modified CSO's permitting additional time to the new party that is less than the 200 day rule and is as close to the original CSO as reasonably possible.

At the present time, if an answer is filed between the 150th and 200th day, discovery is extended for the new defendant or third-party defendant for 60 to 90 days. If the answer to an amended complaint or answer to a third-party complaint is filed after that time, the track coordinator attempts to work out an acceptable discovery schedule. If that fails, the matter is referred to the pre-trial judge for setting a discovery schedule. The bar has maintained that this procedure works an unnecessary hardship on the amended or third party defendant and has suggested that, if an amended complaint or third party complaint is allowed, the case should be temporarily removed from the DCM system and discovery extended for 150 days from the date of tracking of the newly added or third party defendant. The bar's concerns may be allayed shortly since almost all of the cases in which the problem of third party and amended complaints occur would be assigned to the subtracks proposed and therefore subject to expanded discovery provisions.

In regard to the "dangling defendant", a determination must first be made as to whether the delay in filing the answer is deliberate, inadvertent, or merely the result of delay in transmittal. Under the Rules, any answer filed more than 30 days after the time for answering has expired must receive court approval. The bar has suggested that attorneys seeking to file a late answer send a letter to the pre-trial judge, with copies to all counsel, requesting approval. Unless the request is opposed, the pre-trial judge would rule on the application and amend the CSO as necessary to give the new party discovery within the parameters suggested for the amended defendant or third-party defendant. If the application for late filing is opposed, then the matter would be resolved by formal motion. If the judge grants the motion for late filing, he or she would also decide the discovery schedule and issue a new CSO. This procedure is currently in effect.

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<sup>16</sup> As noted earlier, it is anticipated that all pre-DCM cases will be disposed of during 1990.

10. Case Monitoring Performed

Each case is monitored for compliance with applicable DCM procedural and timeframe requirements and notices are sent by the Court to attorneys shortly before event deadlines. Track coordinators work closely with attorneys regarding discovery matters and the Civil Case Manager and Civil Presiding Judge are available regularly to resolve any problems that arise.

11. Project Start-Up Date

The Civil DCM program began on September 1, 1988.

C. Changes Required to Implement the DCM Program

1. General

The Camden Civil DCM project was established through special state Supreme Court Rules applicable only to Camden County. These Rules were prepared by the AOC and Supreme Court. Prior to implementing the DCM Rules, civil case process was governed by the New Jersey Court Rules which provided for a 150 days discovery period, beginning with service of the Complaint.

2. Specific Changes Instituted

a. Rule Changes

As noted above, prior to the start-up of the DCM program in Camden, the Supreme Court enacted special Rules applicable to civil case processing in Camden (See Appendix G) and the State Court Administrator's Office prepared necessary forms.

b. Organizational and Personnel Changes

Actual implementation of the Civil DCM program in Camden required a number of organizational and administrative changes within the Civil Law Division as well as the development of an on-going dialogue with the local Bar and periodic modifications in the program as necessary. To implement the program in the Court, four new positions were created: two track coordinators and two case analysts. The track coordinators hired were a law school graduate and a law school student. The case analysts were employees from the Camden County Clerk's Office who were experienced with case processing. The organizational hierarchy developed for the program consisted of the Assignment Judge, the Civil Presiding Judge, the Civil Case Manager and the newly hired track coordinators and case analysts, along with other clerical and support staff.

Initially the judges and staff were organized into four teams with each team consisting of a designated team pre-trial judge, a track coordinator, a case analyst, and clerical personnel responsible for handling the motions, orders, answers, dispositions and scheduling of all cases assigned to that team. The teams were established in the hope of increasing the team members' sense of pride in more efficient case processing and accountability. However, the team concept has since been modified because of transfers of clerical staff (who are subject to the supervision of the County Clerk's Office and not the Court) to non-court positions.

c. Monitoring and Management Functions Required

As noted above, implementation of the DCM program has required continuous case

management and monitoring by court staff and judges.

d. *Changes within the Clerk's Office*

The Clerk maintains the dismissal list for cases inactive more than six months and also performs required scheduling functions under the DCM program. Close coordination between court staff and the Clerk's Office has been essential.

e. *Changes Regarding Attorney Practice*

The case processing procedures and timeframes established under the DCM program have had a significant impact on local attorney practice, the extent of which has been often related to the size and organization of the law firm involved and the nature of its practice. The New Jersey Supreme Court will be undertaking an assessment of the impact of the DCM program on attorney practice shortly.

A number of attorneys have commented on the benefits of the program for certain types of cases, particularly those which can be expedited. Others have been concerned by the lack of flexibility of the standard track to accommodate more complex cases, such as certain product liability and asbestos claims and the perceived underuse of the complex track. It is anticipated that, with the establishment of the proposed subtracks, the remaining components of the DCM program will be sufficiently flexible to more adequately accommodate the full civil caseload handled by the Court.

f. *Court-Bar Communication*

Immediately prior to the enactment of the DCM Rules, the Assignment Judge asked the bar to designate a committee to work with the Court to address bar concerns and attempt to fine-tune the program to make it responsive to local legal needs. The bench-bar cooperation that developed was essential to overcoming bar concern at not having been involved in the initial design of the program and the applicable Rules, and the feeling of a number of attorneys that the DCM procedures were not necessary to achieve the goal of trial readiness within set timeframes. Particular criticism was directed to the limitations in discovery practice enacted under the Rules.

g. *Training Programs Conducted*

Almost from the inception of the DCM program, the Court has conducted an extensive training effort for judges, court personnel, attorneys and attorneys' staffs regarding the goals, rules and procedures of the DCM program. Regular meetings are held weekly and more often if needed with the Presiding Civil Judge, other Civil Judges, case manager, track coordinators, case analysts and others to review the problems of the week -- or day -- and to develop a consistent approach for interpreting DCM policy and rules. Regular bar seminars are held at which the Presiding Civil Judge and Civil Law Division staff explain the DCM program and answer questions from attorneys. Special transparencies, including a videotape, have been developed and used for these seminars and the Presiding Civil Judge has authored several articles on the DCM program for local bar publications. A handbook for attorneys along with informational pamphlets (See Appendix F) has been prepared by the State AOC and distributed to local bar members. In addition, the track coordinators have visited numerous law offices to gain insight into the impact of DCM requirements on attorney practice.

After the program had been in operation for approximately nine months, a ten minute videotape was produced in which the Presiding Civil Judge explained the goals, procedures and forms of the DCM program. The tape is available to persons unfamiliar with the DCM program.

### III. PROJECT EXPERIENCE TO DATE

#### A. Assignment of Cases to Tracks

From September 1, 1988 through May 31, 1990, 20,946 Civil Law complaints were filed, with answers filed in 9,985 (48%) of these cases which then were assigned to tracks as follows:

Expedited:	13.5% (originally anticipated to be 20 - 25%)
Standard:	84.5% (originally anticipated to be 70 - 75%)
Complex:	2% (originally anticipated to be 4%)

#### B. Initial Program Impact

##### 1. On Case Processing

##### a. *Completion of Discovery*

Since implementation of the DCM program, discovery is being completed within the timeframes provided by the Rules, so that subsequent events in the case process proceed as scheduled.

##### b. *Anticipated Trial Month*

Initially, the "anticipated trial month" was assigned at the time of tracking, based on the date of filing the complaint. Due to frequent delays between the filing of the complaint and the filing of the answer, these projected dates have not been accurate. For some cases the date is too soon; in others it is longer than needed. The "anticipated trial month" is now calculated to be two months after the discovery completion date. However, since the "anticipated trial month" is now triggered by the date on which an answer is filed, there is still considerable bar concern that it is unrealistic and this issue is still one of active Court-bar discussion. One alternative being considered is to focus initially on setting an anticipated ADR hearing date, rather than the trial date, since the ADR hearing is a significant event for purposes of case preparation and issues analysis, and to set a trial date only for cases which have not settled.

##### c. *Age of Disposed Cases By Track*

Although the present state AOC information system does not provide case age at disposition information, a recent sample of the age of cases at disposition indicated the following:

##### Complex Track Cases:

Average:	344 days
Median:	344 days

##### Standard:

Average:	305 days
Median:	335 days

##### Expedited:

Average:	272 days
Median:	270 days

d. *Rate of Case Dispositions*

During the first 16 months of the DCM program (September 1988 - December 31, 1989) the Court experienced an almost 50% increase in civil case filings. Nevertheless, its pending caseload has remained relatively constant with no additional judges added.

e. *Point At Which Cases Settle*

Cases appear to be settling earlier, particularly before referral to the mandatory arbitration and/or bar panels.

f. *Motions Practice*

The effect of the DCM program on motion practice and whether it has achieved the goal of minimizing pre-trial motion activity has been difficult to measure. Although the civil caseload has almost doubled since instituting the DCM program, the number of motions has remained constant and suggests that motion activity has, in fact, been reduced under the DCM program.

The DCM staff believes that the DCM program has reduced motion practice relating to discovery problems in light of the numerous conflicts which they are resolving informally. It still appears necessary to resort to motions to compel answers, or more specific answers, to interrogatories, depositions or medical examinations, and in situations where attorneys feel it is important to preserve a discovery problem for the record. In cases where pre-trial discovery motions are filed, the motions are immediately referred to the track coordinator for potential resolution before the responses to the motion are filed.

In addition to the track coordinator's attempt to promptly resolve, informally, discovery problems resulting in motions, several other changes in motions practice have been noted since instituting the DCM program. First, for those cases in which motions are filed, the motions appear to be filed earlier in the case process. Second, the number of dispositive motions appears to be increasing -- particularly motions for summary judgments.

g. *Scheduling Certainty*

Greater scheduling certainty appears to be resulting from the DCM program, particularly regarding interim events. Those situations in which scheduling certainty has not been achieved are primarily the result of a shortage of judges and the drains on the civil judge complement by the criminal and other dockets.

h. *Reduction in "Unnecessary" Events*

The DCM program has clearly resulted in reducing -- if not eliminating "unnecessary" events -- i.e., events which do not meaningfully contribute to case resolution. This has been achieved by strictly enforcing continuances as well as assuring that all court events that are scheduled (a) meaningfully contribute to case resolution and (b) are scheduled at an appropriate time to assure adequate preparation.

2. Attorney Cooperation

a. *Case Information Statements*

Ninety percent of the complaints filed are accompanied by the required Case



Information Statement (CIS) and 83% of the Answers include the CIS. Bar compliance with this phase of the DCM program is considered excellent in view of the numerous out-of-county and out-of-state attorneys practicing in Camden County.

b. *Case Scheduling Plans*

Of the 9,985 cases assigned to tracks through May 31, 1990, 6,935 scheduling orders were entered. Of these, 33% were the result of attorney negotiations and 3,009 (67%) were automated plans prepared by the Court in the absence of attorney submissions. These court-generated plans provided specific timeframes for completing various discovery tasks, so that overall discovery could be completed at the discovery end date. In some instances, attorneys submit proposed case scheduling orders with the proposed dates for completing some intermediate discovery tasks outside of the prescribed parameters for the DCM program. After consultation with the bar, the Court has agreed to accept these plans as long as the discovery schedule is reasonable and appears attainable by the discovery end date.

Initially, as noted above, the Court was concerned by the low rate of attorney submission of the Case Scheduling Plan (CSP) and a bar committee queried attorneys regarding the problem. As noted earlier, the results of this inquiry indicate that most of the attorneys who do not submit a CSP do not do so because they are satisfied with the automated CSP generated by the Court. While there has been some concern as to whether attorneys are complying with the various intermediate dates of the CSP, the Court appears to be willing to accept some modification as long as attorneys comply with the overall discovery completion date.

C. *Implementation Problems and Issues Addressed*

Many problems were anticipated prior to implementing the DCM program, such as frequent disputes over track assignment decisions, which never materialized; others, such as timely completion of certain DCM forms, developed which were not anticipated. It has therefore been extremely important for the Court and the bar to adhere to the overall DCM program elements while maintaining flexibility in adapting them to meet local legal needs. The most significant implementation problems addressed to date include the following.

1. Bar Opposition to the DCM Program

The Bar initially responded negatively to the DCM program, primarily because the DCM rules had been developed with little input from local court or bar officials. To address this problem, the Court immediately asked the bar to designate a committee to work with the Court in developing the implementation plan for the DCM program and working together to fine-tune and modify the program as needed. Since the DCM program was introduced, the Court and bar have worked closely together, with the Presiding Civil Judge and court staff meeting frequently with the bar and conducting training programs on DCM policies and procedures for attorneys and their office staff.

2. Court-Bar Tension Regarding Use of the Complex Track

A major area of court-bar tension has stemmed from the Court's view that very few cases should be assigned to the complex track, i.e., only cases which are managerially complex; many attorneys, however, feel that a case should be on the complex track if it requires complicated preparation.

During the course of DCM program implementation, however, it became apparent that, while some types of cases did not require more extensive judicial management, they did require more time to complete discovery. For this reason, the Court and Bar have agreed on the establishment of subtracks for certain types of cases which would permit more enlarged discovery periods and routine judicial conferences for certain case types and thereby make the DCM program appropriate for all case types without the need

for enlarging the complex track. (See Section II B above).

#### **D. Role of the Bar in the DCM Program Implementation**

The extensive effort of the bar to work with the Court to implement the DCM program and the ongoing cooperation which it has provided have been essential to making the DCM program possible. As noted above, the initial response to the DCM program by the local bar was negative, primarily due to their lack of involvement in designing the program, the special Supreme Court Rules putting it into effect and the sudden major changes which these rules had upon legal practice. The Presiding Civil Judge and local bar have therefore made a major effort to work together to refine the DCM program and to incorporate appropriate changes into the program to reflect attorney experience and concerns.

These changes have included: (1) the Supreme Court's approval of a change in the Rules to allow for the taking of depositions on nonparties in cases assigned to the standard track without court approval; (2) a change in the CSP to allow for separate dates for the depositions of fact and expert witnesses; (3) the Court's acceptance of a CSO which appears reasonable, even if it doesn't comply with the intermediate discovery timeframes provided by the Court's computer generated CSO; (4) track designation by attorneys rather than the Court as long as the designation is reasonable; (5) Court issuance of a 30 day reminder of the discovery completion date; and (6) proposed subtracks to provide for extended discovery timeframes for more "complex" cases.

#### **E. Role of the Administrative Office of the Courts**

The New Jersey Administrative Office of the Courts (AOC) has been closely involved in the design and implementation of the DCM program in Camden and has provided considerable staff, automation and other support for the program's operation. The initial proposal for BJA funding for the project was prepared by the AOC and an AOC staff member has served as liaison with the Court during the implementation period.

#### **F. Comments**

The success of the civil DCM program in Camden has been due primarily to the close and cooperative working relationship between the Court and the bar, the competence and commitment of the judges and staff involved in the program, and the willingness of both the Court and the bar to maintain flexibility in DCM program procedures while adhering to the overall DCM goals. The experience of the DCM civil program in Camden also highlights the important role which the local court and bar must play in initially designing and continually fine-tuning a DCM program.

The Civil DCM program in Camden is being monitored and refined daily. As noted above, a number of modifications in the program have been made since its inception in September 1988 and more are currently being considered.

Preliminary results suggest that since instituting the DCM program, cases are being disposed of in a shorter period of time, the number of motions due to discovery conflicts has been reduced, cases appear to be settling earlier, the number of unnecessary court events has been greatly curtailed, greater scheduling certainty is resulting, and more efficient use of judge time is being achieved. However, a thorough statistical evaluation of the program needs to be conducted. Many problems still need to be resolved, particularly relating to bar concerns regarding the need for certain intermediate discovery deadlines and forms. These are currently being discussed and both court and bar officials believe that the excellent court-bar relationship that has been established since the program was introduced will provide the framework for resolving these and other concerns as they arise.

## **APPENDICES**

- A. Case Information Statement (CIS)**
- B. Assignment Scheduling Notice (ASN)**
- C. Case Scheduling Plan (CSP)**
- D. Case Scheduling Order (CSO)**
- E. Trial Information Statement (TIS)**
- F. "Differentiated Case Management: Commonly Asked Questions and Answers"**
- G. Supreme Court Rules Establishing the Camden DCM Program**

## Case Information Statement (CIS)

## CIVIL CASE INFORMATION STATEMENT (CIS) Use for pleadings (not motions) under R. 4:5-1.

ATTORNEY NAME	TELEPHONE NUMBER ( )	COUNTY OF VENUE
FIRM NAME (If Applicable)	DOCKET NUMBER (When Available)	
OFFICE ADDRESS	DOCUMENT TYPE (e.g., Complaint, Answer with counterclaim)	
NAME AND STATUS OF PARTY (e.g., John Doe, Plaintiff)		
CAPTION	JURY DEMAND <input type="checkbox"/> Yes <input type="checkbox"/> No	
	CONSOLIDATION with another action anticipated? <input type="checkbox"/> Yes <input type="checkbox"/> No	
	(LAW OFFICE USE ONLY)	

THE INFORMATION PROVIDED BELOW CANNOT BE INTRODUCED INTO EVIDENCE

CIVIL CASE TYPES (Check Appropriate Type)		
<b>REAL PROPERTY</b> <input type="checkbox"/> 301 CONDEMNATION <input type="checkbox"/> 302 TENANCY  <b>TITLE 59</b> <input type="checkbox"/> 401 AUTO NEGLIGENCE <input type="checkbox"/> 402 OTHER TORT CLAIMS <input type="checkbox"/> 403 CONTRACT CLAIMS	<b>CONTRACTS</b> <input type="checkbox"/> 501 BILLS & NOTES <input type="checkbox"/> 502 BOOK ACCOUNT <input type="checkbox"/> 503 COMMERCIAL TRANSACTION <input type="checkbox"/> 504 CONSTRUCTION <input type="checkbox"/> 505 DIRECT ACTION AGAINST AN INSURANCE COMPANY <input type="checkbox"/> 506 PIP COVERAGE (N.J.S.A. 39:6A-1 et seq) <input type="checkbox"/> 507 SALES WARRANTY	<b>TORTS</b> <input type="checkbox"/> 601 ASBESTOS <input type="checkbox"/> 602 ASSAULT AND BATTERY <input type="checkbox"/> 603 AUTO NEGLIGENCE <input type="checkbox"/> 604 MEDICAL MALPRACTICE <input type="checkbox"/> 605 PERSONAL INJURY <input type="checkbox"/> 606 PRODUCTS LIABILITY <input type="checkbox"/> 607 PROFESSIONAL LIABILITY (NON-MEDICAL) <input type="checkbox"/> 608 TOXIC TORT
<input type="checkbox"/> 701 ACTIONS IN LIEU OF PREROGATIVE WRIT OTHER (specify) _____ <input type="checkbox"/> 399 REAL PROPERTY _____ <input type="checkbox"/> 599 CONTRACT _____ <input type="checkbox"/> 699 TORT _____ <input type="checkbox"/> 899 MISCELLANEOUS _____		

TRACK ASSIGNMENT REQUESTED:

☐ Expedited☐ Standard☐ ComplexBRIEFLY DESCRIBE WHY CASE IS  
COMPLEX or EXPEDITED (Use Separate  
Sheet if Additional Space is Required):

AMOUNT	TO DATE	ANTICIPATED
Amount of Medical Expenses .....		
Amount of Liquidated Damages ..... (e.g., Contract amounts, Lost wages, Property damage, etc.)		

Check if you are making a claim for the following:

☐ Punitive Damages☐ Other Non-Liquidated Damage

Non-monetary Relief Requested (e.g., Declaratory Judgments, etc.):

CAMDEN COUNTY SUPERIOR COURT  
HALL OF JUSTICE  
CAMDEN NJ 08101

ASSIGNMENT & SCHEDULING NOTICE  
-----

DATE: JANUARY 03, 1989  
RE: WARD VS HUBER  
DOCKET: CAM L - 198892 88

THE ABOVE CASE HAS BEEN ASSIGNED TO THE: STANDARD TRACK  
DISCOVERY IS 200 DAYS AND ENDS ON: JULY 25, 1989  
THE ANTICIPATED TRIAL ASSIGNMENT MONTH IS: NOVEMBER 1989  
THE PRETRIAL JUDGE ASSIGNED IS: HON. HURBERT H. TOMLIN  
THE CASE SCHEDULING PLAN IS DUE ON: FEBRUARY 1, 1989

SEE DCM RULE 4:9A-4 IF YOU BELIEVE THE TRACK ASSIGNED IS INAPPROPRIATE.  
ALL FURTHER CORRESPONDENCE, FILINGS OR PROBLEMS SHOULD BE DIRECTED TO YOUR  
CASE'S TRACK COORDINATOR: MEAGHAN M. ELLIS AT (609) 756-5118.

ATT: EDWARD C CURCIO  
CONSULE MARCERO LIVOLSI WOOD &  
SECOND LEVEL - TRIAD II  
284 STATE HIGHWAY 73  
PERLIN NJ 08009

Assignment Scheduling Notice (ASN)

<b>CASE SCHEDULING PLAN (CSP)</b>	DOCKET #																																	
ATTORNEY ( Name, Address, Telephone #)	CASE NAME																																	
ATTORNEY for:	V																																	
<p>The undersigned, and all parties concurring, agree to use diligent efforts to comply with this schedule and to promptly notify the court and all parties when compliance with any date appears unlikely.</p> <p>Supplying the court with dates for the case events marked by an asterisk (*) is optional. All of the following case events will appear, however, on the Case Scheduling Order. If a date is not supplied and the event is not found to be inapplicable, a date will be provided according to the court's case management guidelines.</p>																																		
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 20%; text-align: center;">DATE (If an Item is inapplicable to the case, insert N/A.)</th> </tr> </thead> <tbody> <tr> <td colspan="2">Interrogatories</td> </tr> <tr> <td>Plaintiff's (s') answers due:</td> <td>_____</td> </tr> <tr> <td>Defendant's (s') answers due:</td> <td>_____</td> </tr> <tr> <td>Depositions Complete By:</td> <td>_____</td> </tr> <tr> <td colspan="2">Liability Experts</td> </tr> <tr> <td>Plaintiff's (s') reports due:</td> <td>_____</td> </tr> <tr> <td>Defendant's (s') reports due:</td> <td>_____</td> </tr> <tr> <td colspan="2">Medical and/or Damages Experts</td> </tr> <tr> <td>Plaintiff's (s') reports due:</td> <td>_____</td> </tr> <tr> <td>Defendant's (s') reports due:</td> <td>_____</td> </tr> <tr> <td colspan="2">Final Date for Filing of Motions</td> </tr> <tr> <td>* To join additional parties:</td> <td>_____</td> </tr> <tr> <td>* To amend pleadings:</td> <td>_____</td> </tr> <tr> <td>* To file third party complaints:</td> <td>_____</td> </tr> <tr> <td>* Pertaining to discovery:</td> <td>_____</td> </tr> </tbody> </table>				DATE (If an Item is inapplicable to the case, insert N/A.)	Interrogatories		Plaintiff's (s') answers due:	_____	Defendant's (s') answers due:	_____	Depositions Complete By:	_____	Liability Experts		Plaintiff's (s') reports due:	_____	Defendant's (s') reports due:	_____	Medical and/or Damages Experts		Plaintiff's (s') reports due:	_____	Defendant's (s') reports due:	_____	Final Date for Filing of Motions		* To join additional parties:	_____	* To amend pleadings:	_____	* To file third party complaints:	_____	* Pertaining to discovery:	_____
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* To amend pleadings:	_____																																	
* To file third party complaints:	_____																																	
* Pertaining to discovery:	_____																																	
ATTORNEY (Signature)	DATE	Do all parties agree? <input type="checkbox"/> Yes <input type="checkbox"/> No																																
Agreed to by (List name of attorneys and parties represented):																																		

CAMDEN COUNTY SUPERIOR COURT  
HALL OF JUSTICE  
CAMDEN NJ 08101

CASE SCHEDULING ORDER

DATE: JANUARY 25, 1989  
DOCKET: L - 008 25 88

RE: HULKOWER VS CHATTERLEY S RESTAURANT & TAVERN

- ALL DISCOVERY COMPLETED
- 1) PLAINTIFF ANSWERS INTERROGATORIES
  - 2) DEFENDANT ANSWERS INTERROGATORIES
  - 3) ALL DEPOSITIONS COMPLETED BY
  - 4) PLAINTIFF EXPERT REPORTS-LIABILITY
  - 5) DEFENDANT EXPERT REPORTS-LIABILITY
  - 6) PLAINTIFF EXPERT RPTS-DAMAGE/MEDICAL
  - 7) DEFENDANT EXPERT RPTS-DAMAGE/MEDICAL
  - 8) MOTIONS TO JOIN ADDITIONAL PARTIES
  - 9) MOTIONS TO FILE AMENDED PLEADINGS
  - 10) MOTIONS TO FILE 3RD PARTY COMPLAINTS
  - 11) MOTIONS PERTAINING TO DISCOVERY

07/09/89  
01/02/89  
01/07/89  
06/09/89  
02/24/89  
03/10/89  
01/02/89  
02/28/89  
03/06/89  
03/06/89  
03/06/89  
06/14/89

THIS IS A TRUE COPY OF THE  
CASE SCHEDULING ORDER FILED  
WITH THE COURT AND SIGNED BY:  
HON. RUDOLPH J. ROSSETTI

IF COMPLIANCE WITH ANY DATE IS  
NOT POSSIBLE OR MAINTAINED  
YOUR TRACK COORDINATOR SHOULD  
BE NOTIFIED IMMEDIATELY:

SUZANNA E. ELLEFSEN  
(609) 756-5119

RATHELOTT AND LEVIN  
204 WHITE HORSE PIKE  
HADDON HEIGHTS NJ 08035

## TRIAL INFORMATION SHEET

DOCKET #

ATTORNEY (Name, Address, Telephone #)

CASE NAME

V

ATTORNEY for:

PRETRIAL JUDGE: Hon. \_\_\_\_\_

Is discovery complete? ( ) YES ( ) NO

If discovery is not complete:

Explain why: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_Remaining items: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Is the matter eligible for arbitration? ( ) YES ( ) NO

If ineligible, give reason (i.e., arbitration has already occurred, amount in dispute exceeds statutory limit, etc.): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimated number of trial days: \_\_\_\_\_ LIABILITY: \_\_\_\_\_ DAMAGES: \_\_\_\_\_

Unavailable Dates (during anticipated trial month): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_Reason (e.g., attorney, witness, expert on vacation, illness, etc.): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



APPENDIX F

"Differentiated Case Management:  
Commonly Asked Questions and Answers"

receive will assign a Monday date during the week you can expect to try your case.

Can I request DCM for pending cases, initially filed prior to September 1, 1988?

No. These cases are not eligible for DCM.

If I move for consolidation of a DCM case with a non-DCM case, will the earlier case be subject to DCM rules?

At the time the motion for consolidation is heard before the trial court, the court will determine whether, if consolidation is granted, the resulting litigation should comply with DCM rules, taking into consideration any prejudice to the earlier litigants.

If I have a case, initially begun in another county and venue was transferred to Camden County after September 1, 1988, are the DCM rules applicable to that case?

No. Cases filed prior to September 1, 1988, even if subsequently transferred to Camden County, are not subject to DCM rules.

# Differentiated Case Management

Commonly  
Asked  
Questions  
with  
Answers

November 1988

What is Differentiated Case Management (DCM)?

DCM is an approach to case processing which recognizes that all cases are not alike, that time and preparation requirements differ, and that early court supervision of the pace of litigation provides for a less costly, less time consuming and more equitable outcome.

What is the purpose of changing the civil case processing system to a DCM approach?

The purpose is to find a more efficient and equitable procedure for handling Law Division cases using judicial, attorney and court staff resources to better serve litigants and the public.

What cases fall under DCM pilot rules?

All law division civil cases filed in Camden County after September 1, 1988 (Docket # L-007339-88 and over). DCM is not operable for chancery cases (General Equity or Family Part) or for Special Civil Part.

What are the key elements of Camden's DCM project?

- Cooperation between attorneys to fix individual time schedules for discovery events and for motions and additional pleadings
- grouping of cases by track:
  - expedited
  - standard
  - complexso that an appropriate level of judicial attention can be maintained to move a case to disposition in a just and efficient manner
- early and continuous monitoring of case progress

How can I obtain copies of the Camden DCM Rules and Forms?

Copies are available at the County Clerk's office, Civil Counter, Camden County Hall of Justice. You may request that a copy of the Rules and forms be sent to you by mailing your

request to the Track Coordinator's office, County Clerk's office, along with a stamped, self-addressed envelope. These forms may be photocopied or installed in your word processor.

Does a Case Information Statement have to be filed with each complaint, each answer, third party complaint, etc.? What is its purpose?

Yes. R. 4:5-1(b) of the Camden DCM Rules requires that a CIS be attached as a cover sheet on each separately filed pleading. The CIS is used to track cases, to sort by case type and to better manage law division cases.

Must all the information requested on the CIS be provided?

Yes. The medical expense information is used to determine whether the case will be eligible for auto arbitration. If medical expenses in excess of \$2500 are anticipated, the amount of \$2500+ may be inserted to signify non-eligibility on the CIS.

Does the CIS have to be served on all parties along with the complaint, answer and other pleadings?

Yes. R. 4:10-1(b) requires that the CIS be served with every pleading.

Do I need a CIS for motions?

No.

Who determines what track a case will be placed on?

Attorney preferences for track designation will be utilized unless, in the judgment of the Civil Presiding Judge, the request represents a gross departure from the principles of DCM. Attorneys should designate an appropriate track on the CIS form filed with the pleadings. In the event that different tracks are chosen for the same

case, the attorneys will be contacted by the track coordinator in an effort to resolve the conflict. Any unresolved conflict between attorneys will be submitted to the Civil Presiding Judge for determination.

What type of cases should ordinarily fall within the expedited, standard, and complex tracks?

*Expedited*

- Book accounts
- Collection of bills and notes
- Commercial matters seeking liquidated damages
- Actions involving secured transactions
- Actions on a previously made record (municipal or administrative)
- PIP cases
- Proof hearings
- Actions to compel arbitration or to confirm, vacate, or modify an award

*Standard*

- Automobile negligence
- Cases not qualifying for expedited or complex treatment
- Personal injury and Property Damage claims
- Title 59 Tort or Contract claims
- Medical malpractice

*Complex*

- Cases which require a disproportionate expenditure of judicial and litigant resources because of the number of parties involved, the number and complexity of the issues raised, i.e. certain asbestos cases
- Securities litigation
- Class actions
- Major products liability
- Construction cases

Who should I contact with regard to track designation and discovery problems?

Contact the track coordinators:

Suzanna Ellefsen(609) 756-5119, 757-8164

Meaghan Ellis(609) 756-5118, 756-5123

When is a case first placed on a track?

After the filing of the first responsive pleading, an assignment and scheduling notice (ASN) will be sent to all parties advising as to track designation, the date for completion of discovery, the estimated month of trial, the date for filing the case scheduling plan, the name of the judge who will hear pre-trial motions, and the name and telephone number of the track coordinator assigned to your case.

How do I request a track reassignment?

Contact the track coordinator assigned to that case. Track reassignments may be appropriate if additional parties or issues are brought into the case.

What are the restrictions in the area of discovery?

*Expedited track*-100 day discovery period.

Discovery end date is computed from the date; the Assignment and Scheduling Notice is issued. No Case Scheduling Plan required. Interrogatories limited to 50 single part questions; no depositions. Lengthier interrogatories and/or depositions require leave of court.

*Standard*-200 day discovery period.

Interrogatories limited to 50 single part questions without leave of court. Depositions permitted only of parties, their agents, expert witnesses and treating physicians without leave of court.

*Complex*-Discovery parameters are determined by an individual judge assigned to that case.

Revised June 1, 1989

Underlined material represent changes and additions to the Bergen Pilot Rules that will be demonstrated in Camden County. portions in [brackets] show deletions.

1:6-2. Form of Motion; Hearing

(a) Generally. An application to the court for an order shall be by motion, or in special cases, by order to show cause. A motion, other than one made during a trial or hearing, shall be by notice of motion in writing unless the court permits it to be made orally. Every motion shall state the time and place when it is to be presented to the court, the grounds upon which it is made and the nature of the relief sought. Unless the motion is made in an action assigned to the complex track in the Law Division and is one in which oral argument is requested, it shall be accompanied by a proposed form of order in accordance with R. 3:1-4(a) or R. 4:42-1(c), as applicable [All filed motions shall be accompanied by a case information statement in the form prescribed by Appendix A to these Rules. The case information statement, which shall be served with the motion, shall not be admissible in evidence.] If the motion or response thereto relies on facts not of record or not subject of judicial notice, it shall be supported by affidavit made in compliance with R. 1:8-6. The motion shall be deemed uncontested unless responsive papers are timely filed and served stating with particularity the basis of the opposition to the relief sought.

(b) Civil Motions in Chancery Division and Specially Assigned Cases. Motions in actions pending in the Chancery Division, assigned to the complex track in the Law Division, or assigned to a pretrial [management] judge pursuant to R. 4:25-1(b) [(1)], shall be made directly to the judge assigned to the cause who shall determine the mode of scheduling of their disposition and may permit the making of motions by telephone.

Except as provided by R. 5:5-4, motions filed in causes pending in the Superior Court, the Superior Court, Chancery Division, Family part, shall be governed by this paragraph.

(c) Civil Discovery and Calendar Motions. Every motion in a civil case not governed by paragraph (b), involving any aspect of pretrial discovery or the calendar, shall be listed for disposition only if accompanied by a certification stating that the moving party has orally conferred or has made a specifically described good faith attempt to orally confer with the opposing party in order to resolve the issues raised by the motion by agreement or consent order and that such effort at resolution has been unsuccessful. The moving papers shall also set forth the date of management conference, pretrial conference or trial date, or state that no such dates have been fixed. Discovery and calendar motions shall be disposed of on the papers unless, on at least two days notice, the court specifically directs oral argument on its own motion or, in its discretion, on a party's request. A movant's request for oral argument shall be made either in his moving papers or reply; a respondent's request for oral argument shall be made in his answering papers. A request for oral argument shall state the reasons therefor. The court may permit discovery and calendar motions to be made orally by telephone. Except in special circumstances, motions relating to pretrial discovery shall be made within the time prescribed by R. 4:42-1 for completion of discovery.

(d) Civil Motions - Waiver of Argument. In respect of all motions in civil actions to which paragraphs (b) and (c) of this rule do not apply, the moving party may state in his notice of motion that he waives oral argument and consents to disposition on the papers. The motion shall be so disposed of unless the

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respondent in his answering papers or the movant in his reply papers requests oral argument or unless the court directs oral argument.

(e) Oral Argument.

(1) Tentative Decision. On all motions scheduled for oral argument pursuant to this Rule, the motion judge may tentatively decide the matter on the basis of the motion papers, posting his tentative decision and making it available to the attorneys on telephone inquiry prior to the scheduled motion date. Unless any attorney communicates to the court and all interested parties dissatisfaction with the tentative decision, the request for oral argument shall be deemed withdrawn and the tentative decision shall be memorialized by order. If any attorney communicates dissatisfaction with the tentative decision, the motion shall be orally argued as scheduled. The tentative decision practice herein prescribed shall be subject to the general supervision of the Assignment Judge.

(2) Mode. The court in civil matters, on its own motion or on a party's request, may direct argument of any motion by telephone conference without court appearance. A verbatim record shall be made of all such telephone arguments and the rulings thereon.

1:13-7. Dismissal of Inactive Civil Cases

(a) Three-Month Dismissal List--Law Division. Except as otherwise provided by Rule or court order, if within three months of filing of a complaint in a civil action in the Law Division no answer has been filed and plaintiff has neither requested the entry of a default nor taken any other action to prosecute the case, the complaint shall be subject to dismissal

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for want of prosecution in accordance with the provisions of paragraph (b) of this Rule.

(b) Six-Month Dismissal List--Law and Chancery Divisions:

Except in receivership and liquidation proceedings and except as otherwise provided by paragraph (a) of this Rule, other Rule or court order, whenever any civil action shall have been pending in any court for 6 months without a required proceeding having been taken therein, the clerk of the court, or in the Superior Court, the county clerk of the county in which the venue is laid, shall give to the parties or their attorneys written notice of a motion by the court to dismiss the same for want of prosecution. The notice shall advise that unless an affidavit is filed with the court at least 5 days prior to the return date explaining the delay and why the action should not be dismissed, the action will be dismissed without call. For purposes of this Rule, adjournments, extensions of time, and applications, motions or hearings in connection therewith, shall not be considered a proceeding taken. Unless otherwise ordered by the court, a dismissal under this Rule shall be without prejudice.

(c) Sixty-Day Dismissal List--Law Division (Special Civil Part). Whenever any civil action in the Law Division, Special Civil Part, shall have been filed but not served, and where no action shall have been taken within sixty (60) days of the return of the unserved summons, the clerk of the court, without motion or further order of the court, shall place the matter on the inactive list. The clerk shall then notify the plaintiff that the matter has been marked "dismissed subject to automatic restoration within one year" and that the matter shall be restored without motion or further order of the court upon service of the summons and complaint within (1) year of the date of the dismissal.

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4:5-1. Pleadings Allowed; Case Information Statement; Notice of Other Actions

(a) Allowable Proceedings. There shall be a complaint and an answer; an answer to a counterclaim, denominated as such; an answer to a cross-claim, if the answer contains a cross-claim, a third party complaint pursuant to R. 4:8; a third-party answer, if a third-party complaint is served; and a reply, if an affirmative defense is set forth in an answer and the pleader wished to allege any matter constituting an avoidance of the defense. No other pleading is allowed.

(b) Case Information Statement. Every [filed] pleading filed pursuant to R. 4:5-1(a) shall be accompanied by a case information statement in the form prescribed by Appendix A to these Rules. The case information statement, which shall be served with the pleading, shall not be admissible in evidence and shall not be deemed to constitute a jurisdictional requirement.

(c) Certification of Other Pleading Action. Each party shall include with the first pleading a certification as to whether the matter in controversy is the subject of any other action pending in any court or of a pending arbitration proceeding, or whether any other action or arbitration proceeding is contemplated; and, if so, the certification shall identify such actions and all parties thereto. Further, each party shall disclose in the certification the names of any other party who should be joined in the action. Each party shall have a continuing obligation during the course of the litigation to file and serve on all other parties and with the court an amended certification if there is a change in the facts stated in the original certification. The court may compel the joinder of parties in appropriate circumstances, either upon its own motion or that of a party.



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RULE 4:9A.      LAW DIVISION ACTIONS--ASSIGNMENT  
TO TRACKS

4:9A-1.      Tracks; Standards for Assignment

Every action filed in the Law Division shall be assigned, as prescribed by this Rule, to the complex track[s], the standard track, or the expedited track in accordance with the following criteria and giving due regard to attorney requests for track assignment made pursuant to R. 4:9A-2:

(a) Complex Track. An action shall ordinarily be assigned to the complex track for individual judicial management if it appears likely that the cause will require a disproportionate expenditure of court and litigant resources in its preparation for trial and trial by reason of the number of parties involved, the number of claims and defenses raised, the legal difficulty of the issues presented, the factual difficulty of the subject matter, or a combination of these or other factors..

(b) Standard Track. An action not qualifying for assignment to the complex track or expedited track shall be assigned to the standard track. All personal injury cases shall be presumptively assigned to the standard track.

(c) Expedited Track. An action shall ordinarily be assigned to the expedited track if it appears that by its nature, it can be promptly tried with minimal pretrial discovery and other pretrial proceedings. All actions in the following categories shall be assigned to the expedited track subject to re-assignment as herein provided:

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(1) commercial matters, excluding construction cases. in which liquidated damages are sought, such as book accounts, collection of bills and notes, and actions involving secured transactions;

(2) actions to compel arbitration or to confirm, vacate or modify an arbitration award;

(3) actions to be tried exclusively on a record already made by a court or administrative agency, such as actions in lieu of prerogative writs;

(4) actions to recover benefits pursuant to N.J.S.A. 39:6A-1 to -23 (New Jersey Automobile Reparation Reform Act),

(5) proof cases in which default has been entered and proceedings pursuant to R. 4:44 to approve settlements[; and].

After track assignment has been made, the special procedures prescribed by these Rules for each track governing such matters as discovery, motion practice, case management and pretrial conferences and orders, and the fixing of trial dates shall apply.

4:9A-2. Procedure for Track Assignment

Track assignment shall be made by the Civil Presiding Judge as soon as practicable after expiration of the time for the last permissible responsive pleading in respect of all originally named defendants. The Civil Presiding Judge may, in his discretion, advance or delay the time of the assignment. In no event, however, shall the track assignment precede the filing of the first responsive pleading in the case. If all attorneys agree as to the appropriate track assignment, the Civil Presiding Judge shall not designate a different track except for good cause and only after giving all attorneys the

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opportunity to object, either in writing or orally, to the proposed designation. If all attorneys do not agree, the designation shall be made by the Civil Presiding Judge. If it is not clear from an examination of the information provided which track assignment is most appropriate, the case shall be assigned to the track that affords the greater degree of management.

4:9A-3. [Notice of Track] Assignment and Scheduling Notice

Forthwith upon the making of the track assignment, the civil case manager shall send written notice thereof to all parties who have filed a[n answer] pleading in the action. If any party serves an [answer] initial pleading on plaintiff following the issuance of the [track a] Assignment and Scheduling [n]Notice, plaintiff shall forthwith furnish a copy thereof to each such [defendant] party. If the case has been assigned to the standard or expedited track, the notice shall state the date upon which discovery is required to be completed pursuant to R. 4:24-1, as well as the anticipated month and year of trial, if then determinable. The notice shall also advise that each party, including subsequently added parties, may apply for reassignment pursuant to R. 4:9A-4.

4:9A-4. Track Reassignment

An action may be reassigned to a track other than that specified in the [track a] Assignment and Scheduling [n]Notice on application of a party or on the court's own motion. The application may be made informally to the Civil Presiding Judge and shall state with specificity the reasons why the original track assignment is inappropriate. No formal motion for track reassignment is required unless the Civil Presiding Judge so directs.

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4:10-1.   Discovery Methods

Except as otherwise provided by R. 4:14-1(a) (depositions by right and by leave) and R. 5:5-1 (discovery in family actions), parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things; permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admissions. Unless the court orders otherwise under R. 4:10-B and except as otherwise provided by these Rules, the frequency of use of these methods is not limited.

4:10-4.   Sequence and Timing of Discovery

Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, available methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not, of itself, operate to delay any other party's discovery.

4:11-3.   Perpetuation of Testimony

R. 4:11-1 and R. 4:11-2 do not limit the court's power to entertain an action to perpetuate testimony or to enter an order in any pending action before or during trial for the taking of a deposition to perpetuate testimony. The order may, on a party's or the court's motion, require that the deposition be taken on an abbreviated schedule and videotaped in accordance with the applicable provisions of R. 4:14-9.

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4:14-1. When Depositions May Be Taken

(a) Depositions As of Right, By Leave. Except as may be otherwise provided by a case management order entered in the cause, every party to any action pending in the Chancery Division, General Equity, or assigned to the complex or standard track in the Law Division may, after commencement of the action, take the testimony of any person, including a party, by deposition upon oral examination. [If the action is assigned to the standard track in the Law Division, depositions without leave of court may be taken only of a party, an agent of the party as defined by R. 4:16-1(b), an expert witness, or treating physician.] If the action is assigned to the expedited track, no depositions shall be taken without leave of court. In no case may the deposition of a person confined in prison be taken except by leave of court on such terms as the court prescribed. The attendance of witnesses may be compelled by subpoena as provided by R. 4:17-7.

(b) Time of Taking Depositions. Except as otherwise provided by R. 4:14-9(a) or by a case management order, depositions may be taken at any time after commencement of the action and prior to the expiration of the discovery period prescribed by R. 4:24-1.

Note: Source -- Camden DCM Civil Rule 4:14-1 adopted August 4, 1988 to be effective September 1, 1988; paragraph (a) amended February 22, 1989 to be effective immediately; paragraph (a) amended May 8, 1989 to be effective immediately.

4:14-9. Videotaped Depositions

Videotaped depositions may be taken and used in accordance with the applicable provisions of these discovery rules subject to the following further requirements and conditions.

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(a) Time for Taking Videotaped Depositions. Except as otherwise provided by R. 4:11-3, the provisions of R. 4:14-1 shall apply to videotaped depositions except that such a deposition of a treating physician or expert witness that is intended for use in lieu of trial testimony shall not be noticed for taking until 30 days after a written report of that witness has been furnished to all parties. Any party desiring to take a discovery deposition of that witness shall do so within such 30 day period.

(b) Notice. Except as otherwise provided by R. 4:11-3, a party intending to videotape a deposition shall serve the notice required by R. 4:14-2(a) not less than 30 days prior to the date therein fixed for the taking of the deposition. The notice shall further state that the deposition is to be videotaped.

(c) ...no change

(d) ...no change

(e) ...no change

(f) ...no change

(g) ...no change

(h) ...no change

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4:15-1.    Serving Questions; Notice

After commencement of the action and except as otherwise provided by R. 4:14-1(a), any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoena as provided in R. 4:14-7. The depositions of a person confined in prison may be taken only by leave of court on such terms as the court prescribes. A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating:

(a) The name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; and

(b) The name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of R. 4:14-2(c).

Within 30 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 10 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 10 days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

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4 :17-1. Service, Scope of Interrogatories

Subject to the limitations prescribed by R. 4:17-6, any party may serve upon any other party written interrogatories relating to any matters which may be inquired into under R. 4:10-2. The interrogatories may include a request, at the propounder's expense, for a copy of any paper.

4:17-2. Time to Serve Interrogatories

In actions pending in the Chancery Division, General Equity, and actions assigned to the complex track in the Law Division, a party may, unless a case management order otherwise provides, serve interrogatories without leave of court at any time from the filing of that party's first pleading until 30 days after the expiration of the time allowed for service of the last permissible responsive pleading as to each defendant. In actions assigned to the standard and expedited tracks in the Law Division, interrogatories may be so served as of right until 30 days after the expiration of the time allowed for service of the last permissible responsive pleading. Thereafter, interrogatories may be served only by leave of court granted.

4:17-6. Limitation of Interrogatories

In actions pending in the Chancery Division, General Equity, and in actions assigned to the complex track in the Law Division, the number of interrogatories or of sets of interrogatories that may be served is not limited except as otherwise provided by a case management order or protective order. In actions assigned to the standard and expedited tracks in Law Division, each party shall be limited to one set of interrogatories. Where standard interrogatories for the cause of action or for a separable issue thereof are prescribed in an Appendix to these rules, the parties shall be limited to those questions,



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which may be supplemented in standard track actions by no more than 30 additional questions without subparts and, in expedited actions, by no more than 25 additional questions without subparts. If no standard interrogatories are prescribed, the parties shall be limited to 50 single-part questions. No additional or supplemental interrogatories or sets of interrogatories may be propounded in standard and expedited cases without leave of court granted on good cause shown.

4:24-1. Time of Completion; Exceptions

Unless [on motion and notice, and for good cause shown,] an order is entered enlarging the time herein prescribed for discovery, all proceedings referred to in R. 4:10-1 to R. 4:23-4, inclusive, except as hereafter provided, shall be completed as follows:

(a) In actions pending in the Chancery Division, General Equity, and in actions assigned to the complex track in the Law division, discovery shall be completed in accordance with the terms of the case management order or orders entered in the cause.

(b) In actions assigned to the standard track, discovery shall be completed within 200 days after the date of issuance of the [track a] Assignment and Scheduling [n] Notice prescribed by R. 4:9A-3. Said period shall be modified by the Civil Presiding Judge, if necessary for the accommodation of added or impleaded defendants.

(c) In actions assigned to the expedited track, discovery shall be completed within 100 days after the date of issuance of the [track a] Assignment and Scheduling [n] Notice prescribed by R. 4:9A-3.

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Excepted from the discovery periods herein prescribed are proceedings under R. 4:11 (depositions before action or pending appeal), R. 4:20 (impartial medical examinations), R. 4:21 (professional liability claims) and R. 4:22 (request for admissions).

RULE 4:25. Management and Pretrial Conferences; Case Scheduling Plan And Case Management Orders

4:25-1. Case Management Conferences; Case Scheduling and Case Management Orders

(a) General Equity And Complex Actions.

(1) Initial Case Management Conference. In actions pending in the Chancery Division, General Equity, and in actions assigned to the complex track in the Law Division, an initial case management conference, which may be conducted by telephone, shall be held within 30 days after expiration of the time for the last permissible responsive pleading, except that in actions assigned to the complex track in the Law Division the conference may be held within 30 days after the issuance of the Assignment and Scheduling Notice, or as soon thereafter as is practicable considering, among other factors, the number of parties, if any, added or impleaded. The attorneys responsible for the prosecution of the cause and its defense shall participate and the parties shall be available in person or by telephone. The court shall first determine whether an action assigned to the complex track requires individual management and, if it determines it does not, it shall re-assign the action to the appropriate track. If the court determines that the action has been properly assigned to the complex track, it shall enter a[n] case management order, following discussions with the representations by counsel, fixing a schedule and description

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for initial discovery; requiring other parties to be joined if necessary; narrowing the issues in dispute if possible; and scheduling a second conference to be held after the close of the initial discovery period.

(2) Interim Case Management Conferences; Pretrial Conferences. The court shall schedule such additional case management conferences as may be necessary for the purpose of expediting discovery; limiting the issues; directing pretrial disposition of particular issues by way of summary disposition, summary judgment, or pretrial evidential hearing; and otherwise assuring the expeditious preparation of the action for trial. A case management order shall be entered following each case management conference embodying the directives of the court. The final conference shall be the pretrial conference as provided for by R. 4:25-2, 3, 5, and 5A.

(b) Complex and Standard Cases. In actions assigned to either the complex track or standard track in the Law Division, the attorneys actually responsible for the prosecution of the cause and its defense shall make a good faith attempt, within 10 days after issuance of the Assignment and Scheduling Notice, to confer, either in person or by telephone, and to agree upon a case scheduling plan, the form of which shall be prescribed by the Administrative Director of the Courts. Each attorney shall sign and file a copy of the plan, serve copies, and mail a copy to the managing judge or designated pretrial judge within 20 days of the issuance of the Assignment and Scheduling Notice. In the absence of mutual agreement by the parties, the court may set dates for interim case events provided that the overall time limits for discovery shall not be abridged.

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(c) Standard and Expedited Cases. A case management conference may be scheduled in the discretion of the Civil Presiding Judge [pursuant to R. 4:36-2(c)(2)] in actions assigned to the standard and expedited tracks if it appears that discovery or other difficulties are delaying or may unduly delay trial. The case management conference shall be conducted by [a] the designated pretrial judge [designated by the Civil presiding Judge who shall, insofar as practicable, continue to preside over the matter for all pretrial purposes]. The conference, which may be conducted by telephone, shall be participated in by the attorneys actually responsible for the prosecution of the cause and its defense and the parties shall be available in person or by telephone. Following the conference a case management order shall be entered setting forth a discovery schedule, fixing a date for such additional case management conferences as may be required and fixing a firm trial date if then determinable. Further pretrial applications may be made to the pretrial judge by telephone provided, however, that all proceedings shall be recorded verbatim and all court directives shall be memorialized by written order.

4:25-2. Pretrial Conferences

(a) Actions to Be Pretried. Pretrial conferences shall be held in all contested actions in the Chancery Division, General Equity, in all actions assigned to the complex track in the Law Division, and in all medical malpractice actions. Pretrial conferences in other causes may be held in the discretion of the court either on its own motion or upon a party's written request. The request of a party for a pretrial conference shall include a statement of the facts and reasons supporting the request.

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(b) Pretrial Order. The court shall make a pretrial order to be dictated in open court upon the conclusion of the conference and signed forthwith by the judge and attorneys, which shall recite specifically:

(1) A concise descriptive statement of the nature of the action.

(2) The admissions or stipulations of the parties. (3) The factual and legal contentions of each party.

(4) A specification of the issues to be determined at the trial including all special evidence problems to be determined at trial.

(5) The disposition of issues, including evidence issues, as to which there is no reasonably arguable question.

(6) The identification of issues, if any, to be determined prior to trial by motion or evidential hearing and the fixing of a schedule therefor.

(7) A list of the exhibits marked in evidence by consent or by the terms of the order itself.

(8) A briefing schedule including specification of the issues to be briefed and the time and manner of filing and service.

(9) In multi-party litigation, the order of opening and closing.

(10) Any unusual factors requiring special attention.

(11) Any directives respecting discovery.

(12) The name of the member or associate of the firm or outside trial counsel who is to try the case for each party. No change in the designated trial counsel shall be made without leave of court if such change will interfere with the trial schedule. If the name of trial counsel is not specifically set forth, the court and opposing counsel shall have the right to expect any partner or associate to proceed with the scheduled trial of the case.

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(13) The trial date.

(14) The estimated length of trial.

4:25-3. Time of Conference; Notice

When the date of the pretrial conference has not been fixed by a case management order, the conference shall be scheduled to take place no less than 60 days prior to the anticipated trial date. The court shall provide the parties with at least 30 days notice by mail of the date of pretrial conference. The parties shall submit to the court and serve upon all other parties a pretrial memorandum, as prescribed by R. 4:25-5(b), at least 10 days prior to the date specified in the notice of pretrial conference or case management order unless the case management order otherwise provides.

4:25-4. Trial Information Statement, Designation of Trial Counsel

a) In all actions assigned to either the standard track or the expedited track in the Law Division, counsel shall, within ten days after the expiration date of discovery, file a trial information statement in the form prescribed by the Administrative Office of the Courts

b) [if no pretrial conference is held, counsel shall in writing, prior to the weekly call, notify the Assignment Judge, that a member or associate, or outside counsel is to try the case, and set forth the name specifically.] If it has not been filed earlier, the name of the member, associate or outside counsel who is to try the case must be set forth specifically on the trial information statement. No change in such designated counsel shall be made without leave of court if such change will interfere with the trial schedule. If the name

RULES FOR DIFFERENTIATED CASE MANAGEMENT  
(CAMDEN PROJECT)

of trial counsel is not specifically set forth on the trial information statement, the court and the opposing counsel shall have the right to expect any partner or associate to proceed with the trial of the case, when reached on the calendar.

Note: Source -- Camden DCM Civil Rule 4:25-4 adopted August 4, 1988 to be effective September 1, 1988; caption amended, paragraph (a) added, paragraph (b) added and text amended May 24, 1989, to be effective immediately.

4:25-5. Conference of Attorneys; Form of Pretrial Memoranda

(a) Conference. The attorneys shall confer before the date assigned for the pretrial conference to reach agreement upon as many matters as possible.

(b) Pretrial Memoranda. Pretrial memoranda shall include the 14 items enumerated in R. 4:25-2(b), set forth in the same sequence and with corresponding numbers, and the following additional items, numbered as indicated.

(15) The date the attorneys for the parties conferred and matters then agreed upon;

(16) A certification that all pretrial discovery has been completed or, in lieu thereof, a statement as to those matters of discovery remaining to be completed;

(17) A statement as to which parties, if any, have not been served and which parties, if any, have defaulted.

4:25-5A. Conduct of Pretrial Conference; Attendance

The pretrial conference may be held in court or by telephone. It shall be attended by the attorney who is to try the case if one is to be designated in the pretrial conference order pursuant to R. 4:25-2(b) (12).

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4:36-2. Trial Calendar

All civil actions shall be listed for trial without calendar call as follows:

(a) Actions pending in the Chancery Division, General Equity, and actions assigned to the complex track of the Law Division shall be tried on the date set forth in the pretrial order.

(b) Standard and Expedited Cases.

(1) Trial Notice. In every action assigned to the standard or expedited track in the Law Division, the civil case manager shall, after termination of the discovery period as stated in the [track a] Assignment and Scheduling [n] Notice or as modified by subsequent order, send each party a trial assignment notice fixing a firm trial date no sooner than 6 weeks following the date of the notice. Unless the trial date has been adjourned in accordance with this Rule, the action shall be deemed ready for trial on the assigned trial date and all counsel shall then appear prepared to proceed. If the case cannot be reached on the morning of the trial date, it will be marked ready and the attorneys, parties and witnesses will be released subject to recall on appropriate telephone notice. Prior to such release, however, a conference with the Civil Presiding Judge or designated trial judge shall be held. If the case is not reached by [Thursday] Friday of the week of the assigned trial date, [it will be accorded a priority trial date 6 weeks hence, or at the option of the parties and by their mutual agreement, it may be either accorded an earlier firm trial date or relisted for the following Monday] the court will establish a priority trial date, after consulting with all parties.



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(2) Adjournments; Conferences. Within 15 days after receipt of the trial assignment notice, counsel may request trial assignment for another day within [the same week] 10 days of the assigned trial date, and such requests shall be routinely granted if all counsel consent. An adjournment may also be requested within that 15-day period upon a statement of reasons why the case cannot be tried [during the week of the assignment trial date] on the assigned trial date or within ten days thereafter. A request for adjournment made after the 15-day period may be granted only in unforeseen circumstances. In granting a request for adjournment, the Civil presiding Judge may order a case management conference to be held pursuant to R. 4:25-1[(b)](c) if the reason for the request is based on a party's difficulty in completing discovery or any other reason suggesting the necessity for or appropriateness of a case management conference. The matter shall proceed thereafter as provided by the case management order entered upon completion of the conference.

(3) Notice of Trial Readiness. Notwithstanding the foregoing provisions, any attorney may file a notice of trial readiness or a request for a stated trial date with the civil case manager when the case is ready for trial irrespective of its age or complexity. The notice or request shall be served upon all other counsel, and if all counsel concur in writing with the terms of the notice or request within 10 days after service thereof, the matter shall be listed for trial in accordance with request.

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RULE 4:41. REFERENCES

4:41-1. Reference

The reference by a judge of the Superior Court for the hearing of a matter or for supervision of discovery shall be made to a master only upon approval by the Chief Justice except where the reference is for the taking of a deposition, or under extraordinary circumstances. A judge making a reference to a master shall submit to the Administrative Director of the Courts, with his regular weekly report, a special report as to the status of the matter referred.

4:41-2. Compensation

... no change

4:41-3. Powers

... no change

4:41-4. Proceedings

... no change

4:41-5. Report

... no change

RULES FOR DIFFERENTIATED CASE MANAGEMENT  
(CAMDEN PROJECT)

RULE 4:46.      SUMMARY JUDGMENT

4:46-1.      Time of Motion

A party seeking any affirmative relief, including a declaratory judgment may, at any time after the expiration of 20 days from the service of his pleading claiming such relief, or after service of a motion for summary judgment by the adverse party, move for a summary judgment or order in his favor upon all or any part thereof or as to any defense. A party against whom a claim for such affirmative relief is asserted may move at any time for a summary judgment or order in his favor as to all or any part thereof. Unless the court otherwise orders, a motion for summary judgment shall be served and filed not later than 28 days before the time specified for the return date; opposing affidavits, briefs, objections, and cross-motions, if any, shall be served and filed not later than 8 days before the return date; and answers or responses to opposing papers shall be served and filed not later than 4 days before the return date. Any motion for summary judgment must be made returnable prior to the date scheduled for trial.

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**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**PROGRAM SUMMARY NO. 3<sup>1</sup>**

**Superior Court of Camden County  
Camden County, New Jersey (Criminal)**

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<sup>1</sup> Prepared Under BJA Cooperative Agreement No. 89-DD-CX-0023

**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**Program Summary No. 3<sup>2</sup>**

**Superior Court of Camden County  
Camden County, New Jersey (Criminal)**

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## I. INTRODUCTION

### A. Background

#### 1. Project Summary

The Criminal DCM program in Camden extends to all indictable offenses filed in Camden County and was implemented on July 1, 1988 simultaneously with a civil DCM program.<sup>3</sup> Both of these DCM programs evolved from the work of the New Jersey Supreme Court Committee on Civil Case Management and Procedure which recommended Differentiated Case Management as a method for moving cases through the trial courts in a manner which was fairer, faster and less expensive than current practice.

The criminal DCM program in Camden builds upon the concept of the Central Judicial Processing (CJP) Court established several years earlier to perform early screening and disposition of indictable cases. The Camden DCM program, while utilizing the CJP hearing, also establishes a Pre-Indictment Conference (PIC) for further screening of cases which remain unresolved following the CJP.

#### 2. Relevant Geographic and Demographic Factors

Camden County is located in southern New Jersey and has a population of approximately 450,000. The County consists of 57 municipalities, the largest of which is the City of Camden located on the Delaware River across from Philadelphia. The City of Camden is an economically depressed area with more than half of its population receiving public assistance.

### B. Description of the Judicial System

#### 1. Jurisdiction and Organization of the Camden County Courts

There are 36 Municipal Courts in Camden County which have limited jurisdiction over civil matters and criminal jurisdiction extending to mis-demeanors and preliminary matters relating to felony cases. Municipal Courts set bail for defendants charged with less serious felonies; bail for defendants charged with murder, rape and other more serious felony offenses is set by the Superior Court. The Superior Court of Camden County is a court of general jurisdiction, handling criminal, civil, juvenile, probate and family matters. The Court is served by 22 fulltime judges and one retired judge and organized in the following divisions: Criminal (6 judges) and one retired judge; Civil -Law (7 judges); Special Civil (for Landlord/Tenant, Small Claims and civil matters under \$ 5,000 - 1 judge), a Family Division (5 judges); a Tax Court (1 judge) and a General Equity Division (1 judge). In addition, the Assignment Judge, not assigned to a Division, performs general administrative and supervisory functions, caseload monitoring, case scheduling, appointment of commissioners, etc. The judges rotate assignments every two to three years.

#### 2. Calendaring System and Support Staff

Criminal cases are handled on an individual calendar and assigned to a judge at the time of the Pre-Arrestment Conference in the Superior Court. Case schedules are determined by the dates noted on the Subpoena given to the Defendant at the time of the Pre-Arrestment Conference. (See Appendix C and Section IIB4 below). The trial date set at that time for each case is consistent with the time goals for the particular track. Each judge handles all of the events associated with his or her cases.

The Court's DCM staff consists of a DCM coordinator who provides management oversight for the DCM program; two probation officers, who compile defendant information, conduct interviews for

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<sup>3</sup> See Program Summary No. 2.

diversion programs and assist with the disposition of cases handled at the PIC hearing; and a clerk typist who handles clerical and recordkeeping functions directly related to the DCM program.

3. Organization of the Prosecutor's Office and Indigent Defense Services

a. *Prosecutor's Office*

The Prosecutor's Office is staffed by 40 attorneys. Special units are established for cases involving murder, sex offenses, arson, white collar crime, career criminals and drug distribution cases. All other cases are handled by a grand jury unit and assigned to a trial section after indictment for preparation, trial and sentencing. Six teams of two prosecutors and two public defenders are assigned to each criminal trial judge. To implement the DCM program, the Prosecutor's Office has assigned two senior attorneys: an attorney coordinator who has worked with the Court in designing and implementing the DCM program, and an assistant prosecutor involved with case screening, track assignment and representation at the PIC hearings. In addition, one investigator has been designated to conduct interviews at the CJP hearing and to prepare information for the PIC hearing.

b. *Indigent Defense Services*

Indigent defense services are provided by the Camden County Office of the Public Defender which has a staff of 19 attorneys and 31 additional support staff. The Office represents approximately 95% of the criminal defendants in Camden County. Indigent defense cases involving conflicts are assigned to the Gloucester County Public Defender's Office. In situations in which more than two co-defendants require indigent defense services, assignments are made to private counsel. Indigency determination is made by the Court's Criminal Case Management Office.

Teams of two prosecutors and two public defenders are assigned to each criminal trial judge. Public defenders are assigned cases on a rotational system after the CJP hearing to provide "vertical" representation through disposition. In most cases, the public defender representation determines judicial assignment and the team from which the prosecutor is assigned.

4. Court Caseload

The 1988 and 1989 filings of the Camden County Superior Court consisted of the following:



	1988 <sup>4</sup>	1989 <sup>5</sup>	1990 <sup>6</sup>
Civil			
Law Division	6,729	12,270 <sup>7</sup>	13,314
Special Civil	2 4,105	24,737	25,948
Criminal	3,837	3,992	3,985 <sup>8</sup>
Probate (Contested)	176	206	213
Gen. Equity	440	468	464
Juv. Del	8,339	8,865	10,414
Divorce	2,477	3,818	4,161
Other Fam. (non-div.sup.)	9,700	10,160	12,042
Dom. Viol	2,436	2,700	3,046
Fam. Cris. Pets.	154	122	59
Ch. Placement Rev.	626	699	711
Abuse/Neg.	141	106	104
Term. of Par. Rts	80	77	59
Adopts.	226	275	294
Other Fam.	13	309	781
Other (post-conv rel & Mun. Ct. Aps.)	187	169	260
TOTAL	59,666	68,974	75,855

## II. DESCRIPTION OF THE DCM PROGRAM

### A. Program Objectives

The following three objectives were established for Camden's Criminal DCM program:

- (1) to test the establishment of a three-track management system for criminal cases, with time goals associated with each track;
- (2) to determine the effectiveness of implementing a DCM program simultaneously for the criminal and civil dockets; and
- (3) to identify drug cases and predatory offenders for special, expedited processing.

Since the criminal DCM program has been implemented, special emphasis has been given to the Pre-Indictment Conference (PIC) proceeding, in large part because of the significant impact which the PIC has had on early case disposition. Efforts to fully achieve the initial program goals are, therefore, still underway.

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<sup>4</sup> July 1, 1987 - June 30, 1988.

<sup>5</sup> July 1, 1988 - June 30, 1989

<sup>6</sup> July 1, 1989 - June 30, 1990.

<sup>7</sup> Beginning in July 1988, civil filings were counted at the time a complaint was filed; previously, filings were counted at the time an answer was filed.

<sup>8</sup> The actual number of accusations has increased substantially but, as a result of the DCM program, many cases are being disposed of prior to indictment and, therefore, not included in the Superior Court caseload.

## B. Program Description

### 1. General

The criminal DCM program in Camden County was initially designed by the County's speedy trial committee established in 1981. In January 1989, a smaller group was organized from among the committee's members to address DCM issues specifically. This subcommittee consisted of the assignment judge, the presiding judge of the criminal division; a trial judge, the trial court administrator, the criminal case manager, the assistant prosecutor responsible for DCM coordination, the public defender, a representative of the private defense bar, and the court's DCM coordinator. The criminal DCM program is supervised by the presiding judge of the criminal division, assisted by the criminal case manager. Two case supervisors are responsible for assembling requisite defendant data, including police reports, arrest reports and criminal histories. Three tracks are created: expedited, standard or complex<sup>9</sup> to which cases are assigned by the prosecutor at the time of the CJP hearing.

### 2. Tracks Created and Their Criteria

The tracks created under Camden's Criminal DCM program differentiate the timeframes for case disposition but make no other differentiation regarding the pretrial process. While no track assignment criteria are formally prescribed, the prosecutor's track recommendation generally reflects the degree of complexity which the case presents, the defendant's record, and the seriousness of the offense, with the overall goal of the track assignment to establish a timeframe for case disposition consistent with the need for swift attention to certain cases or offenders while still recognizing the need for proper case preparation.

The following tracks have been created:

#### - Expedited:

Cases assigned to the expedited track are generally those in which (a) the case is relatively simple and can be easily disposed of, or (b) the crime and the offender merit priority processing, e.g., the offense is serious or the offender has an extensive criminal record. Often expedited cases involve incarcerated defendants although they can also involve non-custodial cases where disposition is easily attainable. Typical cases assigned to the expedited track include drug possession; welfare fraud; and some property crimes. The dispositional timeframes for expedited track cases are:

	<u>Bail</u>	<u>Jail</u>
Filing to indictment	50 days	40 days
Indictment to Disposition	<u>60 days</u>	<u>60 days</u>
Total	1 10 days	1 00 days

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<sup>9</sup> When the project began, four tracks were established: expedited, standard, complex, and priority. The priority track included cases which, although complex, warranted expedited processing for public policy reasons -- i.e., age or condition of a victim, prosecutorial priority for disposition, etc. The priority track was merged with the expedited track after the first year of program operation.

- Standard:

Cases assigned to the standard track are generally cases which the prosecutor feels (a) do not merit priority processing or (b) are more complex in nature due to the seriousness of the charge or the record of the defendant. Typical cases assigned to the standard track include minor drug distribution cases and certain crimes against persons. The time goals for standard cases are:

	<u>Bail</u>	<u>Jail</u>
Filing to Indictment	70 days	50 days
Indictment to Disposition	<u>120 days</u>	<u>90 days</u>
Total	190 days	140 days

- Complex:

Cases assigned to the complex track are generally those in which the charge is serious and/or the matter presents procedural complexities, including numerous pretrial motions, extensive forensic testimony, informants, etc. Rape and other sex crimes, homicides, conspiracy offenses, and cases involving career criminals generally fall under this category. The dispositional goals for these cases are:

	<u>Bail</u>	<u>Jail</u>
Filing to Indictment	120 days	90 days
Indictment to Disposition	<u>180 days</u>	<u>150 days</u>
Total	300 days	240 days

3. Track Assignment Process and Point at Which Track Assignment is Made

Track assignment occurs at the CJP hearing at which time the prosecutor assigns each felony case not disposed of to a DCM track. The prosecutor's track assignment is based on: (1) the nature of the offense, including applicable mandatory and presumptive sentencing provisions, and the defendant's prior record; (2) case complexity in terms of co-defendants and/or factors requiring motion activity; (3) the defendant's custody status; and (4) trial time availability of judges and attorneys. The track assignment is not made in consultation with defense counsel; however, defense counsel can object to the track assignment and request review of the assignment by the Presiding Criminal Judge. The Court also reserves the right to review, and if necessary, change, any track assignment on its own motion.

4. Summary of the DCM Felony Caseflow Process

a. Filing and Preliminary Screening

A criminal complaint is filed in the cognizant Municipal Court which sets bail for most offenses. Defendants charged with murder, manslaughter, kid-napping, and sexual assault offenses, however, must have their bail set by a Superior Court judge. Cases are screened by the prosecutor and defense counsel within three days of filing and, during this time, staff of the Criminal Case Manager's Office begin gathering data (police reports, criminal history information, etc.) on each defendant for use at the CJP hearing.

b. *CJP Hearing*

Defendants arrested for an indictable offense are served with a notice to appear at the CJP hearing at the time of arrest. For charges arising out of the City of Camden (which contributes approximately 47% of Camden County's criminal caseload) CJP screening takes place each Monday, Wednesday and Friday at the Camden Municipal Court. Suburban cases are scheduled in the appropriate suburban Municipal Court 7-10 days following arrest. The CJP Court in Camden is staffed by an assistant prosecutor with broad dispositional authority to screen cases and to downgrade them to lesser offenses, dismiss them, refer them for pretrial intervention (PTI) or to make a plea offer. A public defender is also present. The Superior Court's criminal case management staff prepares case files for all CJP cases, including the charging document, rap sheets, and other relevant available information as well as evaluates defendants' indigency applications.

Approximately 50% of the complaints filed are downgraded or otherwise disposed of at the CJP hearing and referred, as appropriate, to the appropriate Municipal Court for disposition. Track assignments are then made by the prosecutor for the remaining cases. As soon as a case is assigned to a track, it is again reviewed for possible referral to the PIC conference (see below). Those cases not disposed of at the PIC conference are referred to the Grand Jury. Upon indictment, an automated case scheduling plan is prepared noting the deadline dates for key events, including pretrial intervention (PTI) application date, motion filing date, discovery completion date and pretrial conference date. A subpoena with these dates is given to the Defendant at the Pre-Arrest Conference or mailed by the Criminal Case Manager's Office to his/her last address. (See Appendix C).

c. *Pre-Indictment (PIC) Conference*

Approximately half of the cases not disposed of at the CJP hearing are referred for the Pre-Indictment Conference (PIC), scheduled approximately three weeks after the CJP, on Tuesdays for further possible disposition. The PIC is a new event introduced in conjunction with the criminal DCM program. The PIC hearing is scheduled by the Prosecutor at the time of the CJP hearing for cases which the prosecutor determines have a potential for disposition, generally by plea, prior to indictment. Additional cases may be referred to PIC upon application of counsel. PIC hearings are conducted by Superior Court judges; however, NJS 2A:8-22 affords an option of conferring jurisdiction upon the presiding Municipal Court Judge to take guilty pleas and waivers of indictment to certain enumerated indictable offenses.

Track assignment is not a factor in selecting cases for referred to the PIC hearing and there are no established criteria upon which the prosecutor makes the PIC referral decision. Generally, the types of cases referred for a PIC hearing are:

- drug cases arising out of incidents within 1,000 feet of a school;
- drug cases involving possession with intent to distribute but where no state incarceration is sought;
- possession of drugs where PTI is precluded;
- potential mandatory jail cases involving a firearm where imposition of the full mandatory incarceration would be unjust;
- standard theft, weapons possession and other presumptive, noncustodial cases;
- borderline assault cases which might be plead to noncustodial or county time;
- burglaries of dwellings where the defendant's prior record is minor; and

- offenses against the person where the evidence is overwhelming, and early disposition may justify a lessening of the potential jail term.

d. *Post-Indictment Proceedings*

(1) **Referral to the Grand Jury**

Cases still unresolved after the PIC hearing are referred to the Grand Jury for indictment.

(2) **Pre-Arraignment Conference**

On August 1, 1990, the Court instituted a pre-arraignment conference for all cases approximately two-three weeks following indictment. At the pre-arraignment conference, the court verifies defendant information, including addresses, etc., determines whether the defendant is represented by counsel, encourages counsel to exchange discovery and file application for pre-trial intervention (PTI) program eligibility, if appropriate, and assigns a trial judge for the remaining proceedings. All parties are given scheduling information setting forth deadlines for completing discovery, motions, and applications for Pre-Trial Intervention (PTI) program referral. All parties are also given a subpoena (See Appendix C) for the arraignment, scheduled two to three weeks later and conducted by the judge assigned and at which time counsel discuss outstanding issues, motions and trial schedule. A schedule of all other events, including the trial, is also prepared at the time of the pre-arraignment hearing and subsequently monitored by the individual judge assigned.

(3) **Arraignment and Pretrial Conference**

Two to three weeks following the pre-arraignment conference, the arraignment is conducted by the judge assigned<sup>10</sup> which, since August 1, 1990, is now combined with the pretrial conference. The arraignment has, therefore, now become a more significant event, with the defendant able to enter a plea at this point if appropriate. A pre-trial conference memorandum and order is completed. If it appears that the original track designation at the CJP hearing is inappropriate, the trial judge assigned can also designate a new track at this time.

(4) **Subsequent Proceedings**

The trial judge assigned monitors the progress of each case through final disposition and determines whether any additional pretrial conferences, in addition to that conducted at the time of the arraignment, are necessary. Motions are heard before the judge assigned unless they involve suppression issues in which case they are heard before a special judge assigned to hear suppression motions.

e. *Summary of the DCM Felony Case Process*

Below is a summary of the DCM process in Camden County.

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<sup>10</sup> Previously, the arraignment was conducted by the presiding criminal judge and generally addressed the matters now handled at the pre-arraignment conference.

	Expedited	Standard	Complex
<b><u>EVENT</u></b>			
<b><u>Pre-Indictment</u></b>			
Complaint Filed	Day 1	Day 1	Day 1
CJP Hearing	Day 7	Day 7	Day 10
PIC Hearing <sup>11</sup>	Day 28	Day 28	Day 28
Referral to Grand Jury/ Grand Jury Indictment			
Jail Cases	Day 40	Day 50	Day 90
Bail Cases:	Day 50	Day 70	Day 120
<b><u>Post-Indictment</u></b>			
Pre-Arrestment Conf.	Day 18	Day 18	Day 18
Arrestment/ Pretrial	Day 36	Day 36	Day 36
Subseq. Pretrs. Based on Determination of Judge Assigned			
Trial			
Jail Cases	Day 60	Day 90	Day 150
Bail Cases	Day 60	Day 120	Day 180
<b><u>Total Time Goal:</u></b>			
<b><u>Filing/Disposition</u></b>			
Jail Cases	100 days	140 days	240 days
Bail Cases	110 days	190 days	300 days

**Project Start-up Date**

The Criminal DCM program in Camden begin July 1, 1988.

6. **Cases Included in the DCM Program**

All cases filed after July 1, 1988 involving indictable offenses are included in the DCM program.

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<sup>11</sup> For cases selected as appropriate by the prosecutor.

7. Provisions for Handling the Pending Case Inventory

Cases pending at the time the DCM program was implemented were handled on a parallel system, not subject to the DCM program procedures.

8. Case Monitoring Performed

Criminal caseload data is maintained in both pre-indictment and post-indictment inventories. The Superior Court and Prosecutor's Office share an automated management information system (PROMIS/GAVEL) which provides data on all cases from filing through disposition and sentencing. The PROMIS/GAVEL system also generates court calendars and notices to attorneys, defendants, and witnesses for all hearings. A monthly exception report is generated on age of cases, computed with excludable time for warrants or diversionary treatment.

Following arraignment, trial judges monitor their own cases through disposition and sentencing. The DCM coordinator utilizes the PROMIS/GAVEL system to monitor overall system performance for the criminal presiding judge. The criminal DCM coordinator also assists the criminal presiding judge in coordinating the individual calendars of the judges so that individual case disposition goals are not unnecessarily disrupted by unanticipated long trials or calendar underscheduling or overscheduling. Any problems in meeting case processing time goals identified by a trial judge are reported to the criminal presiding judge through the DCM criminal coordinator. The criminal presiding judge then reviews the case and takes appropriate action, including reassignment of the case to another judge if necessary.

C. Changes Required to Implement the DCM Program

1. General

a. *Rules/Procedures*

Implementation of Camden's criminal DCM program did not involve significant changes in procedure. Essentially, the DCM program has (1) added several new events: the Pre-Indictment Conference (PIC) and the Pre-Arraignment proceeding; (2) made the Arraignment proceeding more significant; and (3) established different dispositional timeframes for cases assigned to the three tracks established. All of these developments, however, have occurred within the overall framework of the statewide speedy trial goals. While no formal changes in the rules of criminal procedure were required to implement the DCM program, the New Jersey Supreme Court did issue an order amending the Camden County local delay reduction plan to incorporate the DCM program.

b. *Earlier and Increased Monitoring of Pretrial Case Process*

Implementation of the DCM program has resulted in earlier case screening by counsel and earlier Court involvement in the management of each criminal case. Within two to three weeks following indictment, an individual judge is assigned to each case, conducts a pre-arraignment conference and has set the schedule for all further case proceedings.

c. *Other*

Unlike other pilot DCM projects, the procedural changes and staff involved to implement the Camden criminal DCM program has been fairly restricted. Track assignment and selection of cases for the PIC hearing has been performed essentially by the assistant prosecutor assigned to the DCM program. Consequently, little emphasis has been placed upon the conduct of orientation and training

programs for judges, court staff, prosecutors and indigent defense bar which have characterized the other pilot criminal DCM programs. This task will be a priority if DCM program participation in Camden County is expanded.

2. Specific Changes Instituted

a. *Within the Court*

To implement the criminal DCM program, two probation officers and a clerk typist were hired; the functions of other staff were reassigned, including that of the DCM coordinator. Greatly enhanced case monitoring through the efforts of court staff, prosecutor, defense counsel and judges, is being performed, from the time of initial case filing. Substantial effort is being directed to achieve scheduling certainty to benefit the cases involved as well as minimize the waste of judicial and calendar resources unnecessarily tied up when cases are scheduled for events which do not occur.

b. *Within the Prosecutor's Office*

One assistant prosecutor and one investigator were hired to implement the DCM program. In addition, attorneys in the Case Screening Unit were assigned responsibility for track assignment of cases not disposed of at the CJP hearing and for conducting the PIC hearings. The major impact of the DCM program upon the prosecutor's office operations has been its increased focus upon case screening and disposition at the pre-indictment stage. Although increased resources have been needed for this purpose, the benefits derived appear substantial. Despite a significant increase in accusations since the program began, the number of cases actually referred for Grand Jury indictment has remained constant because of the increased number of dispositions achieved at the CJP and PIC stage. With these cases removed from the system, those cases which do need to be referred for Grand Jury indictment are being referred sooner, overall case disposition times appear to be decreasing, and the office is able to direct more resources to priority areas.

c. *Within the Public Defender's Office*

The major impact which Camden's DCM program has had upon public defender office operations has resulted from the introduction of the PIC hearing. On the one hand, the PIC hearing has resulted in earlier disposition of a substantial proportion of the caseload prior to indictment; on the other hand, the PIC hearing has placed a significant staffing burden on the office since, because of New Jersey's commitment to vertical defense representation, each attorney assigned to a case scheduled for a PIC hearing, must attend.

d. *Within Other Agencies*

The two aspects of justice system operations not discussed above which have been most significantly affected by the DCM program have been the jail and probation/pretrial supervisory functions.

Although no precise analysis of the impact of the DCM program on pretrial jail population has been conducted, it appears that significant reduction in pretrial processing time for detained defendants should result from the program and thereby result in a reduction in jail beds needed for pretrial purposes. In reality, many of the detained defendants who are subsequently sentenced remain in the local jail following disposition because of crowded conditions in the state prison facility. Although their status has shifted from "pretrial detainee" to "sentenced offender", the actual population of the jail does not appear to have been significantly affected.



In terms of probation and pretrial supervisory functions, the enhanced pace of pretrial case processing has resulted in greater demands for pretrial super-vision, reporting and probationary functions, the extent of which have not fully been assessed.

3. Comment

Many local officials comment upon the increased spirit of cooperation among the Court, the Prosecutor, Public Defender and Bar which has developed since implementing the DCM program and undoubtedly accounts for the program's accomplishments to date.

### III. PROJECT EXPERIENCE TO DATE

A. Case Assignment and Status By Track

As of September 30, 1989, pending criminal cases represented the following tracks:

Expedited:	187 (11%)
Standard:	1,371 (80%)
Complex:	<u>158 ( 9%)</u>
Total:	1,716 100%

B. Implementation Problems and Issues Addressed

The most serious implementation issue which Camden officials have en-counterred has been the lack of an adequate information system to provide necessary day to day feedback on the status of the caseload. This problem remains and significantly hampers the Court's ability to assess the impact of the DCM program generally and its specific management and screening efforts specifically.

C. Initial Program Impact

1. PIC Hearing Screening

As a result of the PIC hearing, an increasing number of felony cases are disposed of prior to indictment. For the period August 1, 1988 through May 31, 1990, 1,324 (54%) of the 2,437 cases referred to PIC were disposed of prior to indictment.

2. Age of Pending and Disposed Caseload

As of May 31, 1990, the median age of the active pending criminal cases, by track, was as follows:

Expedited	94 days
Standard	96 days
Complex	1 71 days

For cases disposed of during the period September 1, 1989 through May 31, 1990, median disposition times, by track, were as follows:

Expedited	83 days
Standard	1 09 days
Complex	1 75 days

### 3. Increased Focus on Pre-Disposition Activities

The increased screening and court monitoring activities prior to case disposition effected by the DCM program (i.e., the PIC hearing, pre-arraignment hearing, expanded arraignment proceeding, and court monitoring to expedite case progress) has resulted in substantial resource demands upon the court, prosecutor and public defender's office. These, however, are being offset by the more expeditious disposition of a larger number of cases, thereby freeing up the resources of these agencies to focus upon other functions.

### 4. Increased Rate of Case Dispositions Prior to Indictment

As a result of the intensive case screening activities at the pre-indictment stage, many cases are being disposed of prior to indictment which might otherwise have been referred to the Grand Jury. This is evidenced by the fact that, unlike other jurisdictions in the state, the number of Grand Jury indictments in Camden County has remained fairly constant despite the increase in accusations filed since the program began.

## D. Summary

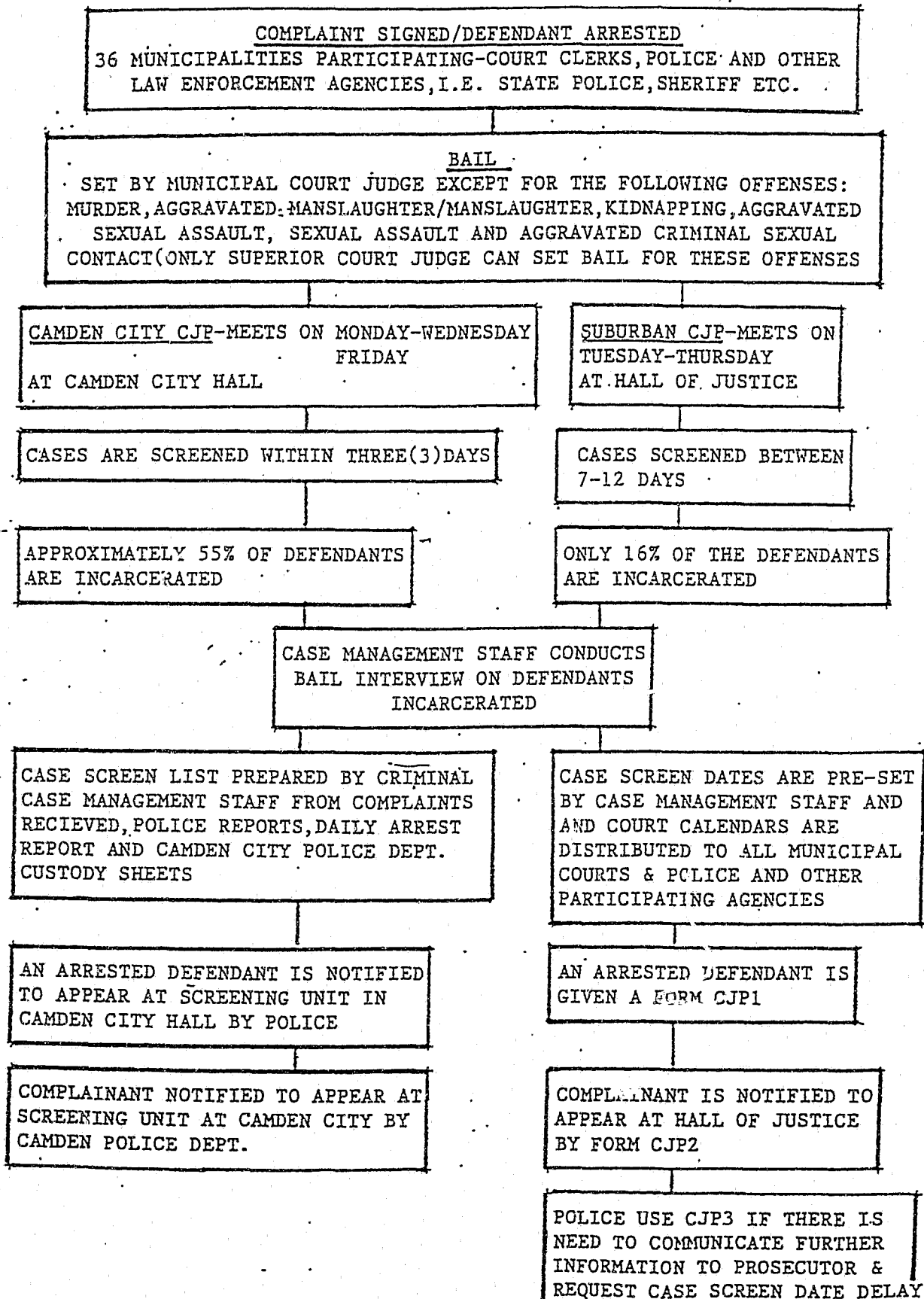
The criminal DCM program has introduced several new elements to Camden's case processing system: (1) early case management and screening prior to indictment through the PIC conference; (2) differentiation of processing times geared to the characteristics of the caseload; and (3) earlier and more active management of the caseload by the Court through the pre-arraignment conference, the enhanced function of the arraignment, and more active case monitoring by the individual judge assigned. The case screening activities undertaken at the pre-indictment stage has significantly reduced the number of cases which would otherwise have been referred to the Grand Jury for indictment and processing in the Superior Court as well as promoted more expeditious processing of those cases which are indicted.

## **Appendices**

- A. DCM Felony Case Process: Flow Chart**
- B. Sample Monitoring Reports**
  - (1) DCM Case Status Report: Pre-Indictment Bail Cases**
  - (2) DCM Case Status Report: Post Indictment Jail Cases**
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  - (4) Trial Judge Caseload Inventory**
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  - (6) DCM Monthly Case Status Report: Dispositions**
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CRIMINAL CASE MANAGEMENT  
CENTRAL JUDICIAL PROCESSING & DIFFERENTIATED CASE MANAGEMENT

FLOW CHART



CRIMINAL CASE MANAGEMENT

CASE MANAGEMENT STAFF GATHER  
POLICE REPORTS, COMPLAINTS AND  
PRIOR ARREST RECORD AND  
ASSEMBLE CASE SCREEN PACKAGE  
FOR PROSECUTOR AND DEFENSE

PUBLIC DEFENDER ELIGIBILITY DETERMINED  
BY CASE MANAGEMENT STAFF BY VIA  
APPLICATION AND STATE INDIGENCY GUIDELINES

DEFENDANT CAN APPLY FOR PRETRIAL INTERVENTION PROGRAM  
INTAKE INTERVIEW AND EVALUATION PERFORMED BY CASE  
MANAGEMENT STAFF

PROSECUTOR SCREENS CASES AND IS ASSISTED  
BY AN INVESTIGATOR-RECOMMENDATION MADE TO  
DEFENSE COUNSEL-PD INFORMS CLIENTS OF THEIR  
CASE SITUATION-DISCUSSES CASES WITH PROSECUTOR  
IF POSSIBLE CASES ARE DISPOSED OF VIA DOWNGRADE  
DISMISSAL, PLEA TO AN ACCUSATION, CONDITIONAL  
DISCHARGE ETC- PROSECUTOR PLACES CASES ON  
A TRACK IF THEY ARE NOT DISPOSED

DEFENDANT CASES NOT DISPOSED ARE REFERRED  
TO PROSECUTOR'S OFFICE FOR FURTHER ACTION

DEFENDANT APPEARS BEFORE DESIGNATED  
CAMDEN MUNICIPAL COURT JUDGE—

DEFENDANT APPEARS BEFORE  
MUNICIPAL COURT PRESIDING JUDGE  
WHO ALSO DISPOSES OF RELATED  
TRAFFIC TICKETS AND ORDINANCES

CRIMINAL CASE MANAGEMENT  
CENTRAL JUDICIAL PROCESSING & DIFFERENTIATED CASE MANAGEMENT

FLOW CHART (CONTINUED)

CASES NOT DISPOSED AT CJP  
WILL RECEIVE A TRACK DESIGNATION

TRACKS ARE SET BY PROSECUTOR AT CJP  
MAY BE ALTERED IF DEFENSE COUNSEL OBJECTS

EXPEDITED: I.E.DRUG POSS.  
WELFARE FRAUDS, SOME PROPERTY  
CRIMES ETC

STANDARD: I.E.MINOR DRUG  
DISTRIBUTION, SOME CRIMES  
AGAINST PERSONS ETC.

COMPLEX: SEX CRIMES  
CAREER CRIMINAL  
CASES

PRE-INDICTMENT CONFERENCES  
SCHEDULED THREE(3) WEEKS AFTER CJP ON TUESDAY  
UP TO 40 DEFENDANTS SCHEDULED PER SESSION  
PROSECUTOR WITH INPUT FROM DEFENSE COUNSEL  
AT CJP DETERMINES WHICH CASES SHOULD BE LISTED

AT CJP, A NOTICE(DCM1) IS MANUALLY FILLED OUT  
AND GIVEN TO THE DEFENDANT/DEFENSE ATTORNEY  
EVEN IF THE DEFENDANT FAILS TO APPEAR AT CJP  
PIC MAY STILL BE IN ORDER, IN THAT INSTANCE A  
NOTICE WILL BE MAILED TO THE DEFENDANT/DEFENSE COUNSEL

PROSECUTOR WHENEVER PRACTICAL WILL SCHEDULE CASES FOR GRAND JURY  
HEARING IF PIC IS UNPRODUCTIVE

AT PIC SEVERAL DISPOSITIONS MAY BE ACCOMPLISHED  
SUCH AS NEGOTIATIONS OF CHARGES FOR AN ACCUSATION  
DOWNGRADE ETC

PIC ARE BEFORE SUPERIOR COURT JUDGES  
HOWEVER, NJS2A:8-22 AFFORDS AN OPTION OF CONFERRING JURDISDICTION  
UPON THE PRESIDING MUNICIPAL COURT PRESIDING JUDGE  
TO TAKE GUILTY PLEAS & WAIVERS OF INDICTMENT TO  
CERTAIN ENUMERATED INDICTABLE CRIMES

FOR THOSE CASES NOT DISPOSED OF AT PIC NORMAL GRAND JURY  
PROCESS WILL ENSUE. WHEN CASE IS DISPOSED AT PIC THE PROSECUTOR  
WILL CANCEL GRAND JURY HEARING. IF GRAND JURY FAILS TO INDICT  
OR IF CASE IS CANCELLED, THE PROSECUTOR WILL NOTIFY DCM  
COORDINATOR AND DEFENSE COUNSEL IN THOSE CASES LISTED FOR  
ARRAIGNMENT

ARRAIGNMENT IS EXPECTED TO TAKE PLACE  
WITHIN TWENTY(20) DAYS OF PIC

CRIMINAL CASE MANAGEMENT

AT ARRAIGNMENT CASES ARE ASSIGNED TO TRIAL JUDGES  
WITH AN INDICATION OF MOTION FILING, PTI APPLICATION, PRE-  
TRIAL CONFERENCE, AND TRACK GOAL EXPIRATION DATES

PRE-TRIAL CONFERENCE  
ISSUE AND PLEA CONFERENCE. DISPOSITION PLAN ON CASES  
FOR TRIAL INCLUDING MOTIONS, TRIAL SCHEDULE, POSSIBLE  
PLEA RETRACTION.

TRIAL  
DISPOSITION OF CONTESTED CASES  
PRESENTENCE REPORTS AND SENTENCE

10/14/89  
COUNTY: CAM

DCM CASE STATUS REPORT PRE-INDICTMENT  
BAIL CASES  
INVESTIGATOR'S NAME: CALL, SUZANNE

PAGE: 6  
AS OF: 09/30/89

DEFENDANT NAME	CASE NUMBER	DEFENDANT NUMBER	CDR NUMBER	COMPLAINT DATE	SCHEDULE DATE	SCH PROC	OVER/UNDER GOAL	GOAL DAYS	TRACK
Doe, John	89001419	002	W758428	03/07/89			77	70	STANDARD
Smith, John	89000998	001	W809035	02/14/89	10/27/89	GH	159	70	STANDARD
Doe, Jane	89000424	002	W811482	01/13/89			201	60	NOT ASSIGNED

Pre-Indictment Bail Cases



APPENDIX B(2): DCM Case Status Report:  
Post Indictment Jail Cases

10/13/89  
COUNTY: CAM

DCM CASE STATUS REPORT POST-INDICTMENT  
JAIL CASES  
JUDGE'S NAME: GREENE, JOSEPH F

PAGE: 9  
AS OF: 09/30/89

DEFENDANT NAME	CASE NUMBER	DEFN NO	INDICTMENT NUMBER	COMPLAINT DATE	INDICT DATE	GOAL DATE	SCHEDULE DATE	SCH PROC	OVER/ UNDER	GOAL DAYS	TRACK
Doe, John	89000153	001	89-02-00589-1	12/30/88	02/27/89	05/19/89	10/30/89	TR	-25	140	STANDARD
Smith, John	89000012	001	89-06-01527-1	10/25/88	06/09/89	03/14/89	10/30/89	1R	201	140	STANDARD

10/13/89  
COUNTY: CAM

DCM CASE STATUS REPORT POST-INDICTMENT  
BAIL CASES  
JUDGE'S NAME: GREENE, JOSEPH F

AS OF: 09/30/89

DEFENDANT NAME	CASE NUMBER	DEFN NO	INDICTMENT NUMBER	COMPLAINT DATE	INDICT DATE	GOAL DATE	SCHEDULE DATE	SCH PROC	OVER/ UNDER	GOAL DAYS	TRACK
Smith, John	88000468	003	88-04-00727-I	01/14/88	04/06/88	07/12/88	10/30/89	PC	-38	180	NOT ASSIGNED
Doe, John	89000208	001	89-01-00117-I	01/11/89	01/11/89	11/07/89	10/30/89	TR	-37	300	COMPLEX
Smith, J.	89000423	001	89-04-01000-I	01/15/89	04/17/89	07/24/89	11/13/89	TR	56	190	STANDARD
Doe, J.	89000019	002	89-03-00841-I	12/27/88	03/29/89	07/05/89	1/89	TR	58	190	STANDARD
Smith, John	89000019	001	89-03-00841-I	12/27/88	03/29/89	07/05/89	89	TR	68	190	STANDARD
Doe, John	89000333	001	89-04-00921-I	01/03/89	04/10/89			TR	81	190	STANDARD
Smith, J.	88000128	001	89-03-00674-I	01/01/88	03/03/88			TR	402	180	NOT ASSIGNED

Post Indictment Bail Cases

APPENDIX B(4): Trial Judge Caseload Inventory

10/17/89

COUNTY: CAM

CRIMINAL CASE MANAGEMENT  
TRIAL JUDGE CASELOAD INVENTORY

PAGE: 1

AS OF: 09/30/89

JUDGE	SCHEDULED EVENTS			TRACKS					DCM				
	TRIALS	PRETR CONF	TOTAL	EXPED	STAND	COMPL	NOTRK	TOTAL	OVERGOAL TOTAL	BAIL	JAIL	WITHIN TOTAL	GOAL %
NO JUDGE ASSIGNED	0	11	11	1	16	3	1	21	10	6	4	11	52
DROZDOWSKI, RAYMOND	41	62	103	12	69	7	19	107	62	57	5	45	42
EYNON, DAVID G	71	42	113	13	81	7	13	114	69	51	18	45	39
FLUHARTY, E S	1	0	1	0	0	1	2	3	3	0	3	0	0
GREENE, JOSEPH F	67	58	125	13	89	12	17	131	61	50	11	70	53
MARIANO, JOHN B	76	72	148	15	100	18	30	163	82	76	5	81	49
NATAL, SAMUEL D	0	19	19	1	13	1	4	19	0	0	0	19	100
PALESE, D D	48	65	113	13	80	8	14	115		38	12	65	56
STEINBERG, ISAIAH J	4	0	4	0	1	2	2	4		3	2	0	0
WINGATE, LEON A	23	44	67	9	50	6	4			27	8	34	49
TOTALS	331	373	704	77	499					308	69	370	49

TRACKS

EXPED = EXPEDIT  
STAND = STANDAR  
COMPL = COMPLEX  
NOTRK = NO TRACK

10/21/89

DCM MONTHLY CASE STATUS REPORT  
JURISDICTION: CAMDEN COUNTY  
REPORTING PERIOD COVERED: MONTH ENDING 09/30/89

PAGE:

1

## CASE STATUS BY TRACK

EXPEDITED	STANDARD	COMPLEX	TOTAL
-----------	----------	---------	-------

## (1) PENDING INVENTORY

CASES ASSIGNED TO TRACKS AT START OF REPORTING PERIOD	122	1001	143	1346
NEW CASES ASSIGNED TO TRACKS DURING REPORTING PERIOD	65	290	15	370
TOTAL NUMBER OF CASES ASSIGNED TO TRACKS	187	1371	158	1716

## (2) AGE OF PENDING CASES

MEDIAN AGE (IN DAYS) BY TRACK	59	79	150	
AGE RANGE BY TRACK (IN DAYS)	1 - 420	1 - 3402	4 - 444	

## (3) NEXT EVENT SCHEDULED

NEXT SCHEDULED EVENT FOR CASES ALREADY ASSIGNED TO TRACKS				
GRAND JURY HEARING	30	223	5	258
PRETRIAL CONFERENCE	36	274	26	336
POST INDICT ARRAIGN	4	94	6	104
TRIAL	38	198	37	273

CASES FILED BUT NOT YET ASSIGNED TO TRACKS : 39

10/23/89

DCM MONTHLY CASE STATUS REPORT  
JURISDICTION: CAMDEN COUNTY  
REPORTING PERIOD COVERED: MONTH ENDING 09/30/89

PAGE:

3

## DISPOSITIONS

EXPEDITED	STANDARD	COMPLEX	TOTAL
-----------	----------	---------	-------

NO OF CASES DISPOSED OF  
DURING REPORTING PERIOD  
EVENT AT WHICH DISPOSITION OCCURRED

46	313	13	372
----	-----	----	-----

PLEA BARGAIN  
PRETRIAL CONFERENCE  
PRE-GJ INVESTIG  
ACCUS HEARING

21	82	0	103
15	75	9	99
6	65	2	73
4	53	2	59

AGE (IN DAYS) OF CASES AT DISPOSITION

MEDIAN AGE

AGE RANGE

85	92	165
1 - 351	1 - 556	58 - 413

Report: Dispositions

(SUBPOENA) SUPERIOR COURT, CAMDEN COUNTY, N.J. LAW DIVISION (Criminal)

You are hereby commanded to appear before the Superior Court of Camden County,  
at \_\_\_\_\_ M on \_\_\_\_\_, 19 \_\_\_\_ at the Hall of Justice in Camden, in a certain matter there  
pending against.

RE: IND. NO. \_\_\_\_\_ FOR \_\_\_\_\_ JUDGE \_\_\_\_\_ COURT ROOM \_\_\_\_\_  
STATE OF NEW JERSEY ss  
COUNTY OF CAMDEN

TO:

\_\_\_\_\_ 19 \_\_\_\_ Date Subpoena  
Issued  
Michael S. Keating, County Clerk

Upon receipt of this subpoena, please contact your attorney  
Sign the Process Server's Copy – Bring this subpoena with you.

Subpoenas are given to the defendant (or mailed to the defendant's  
latest address) at the P.A.I (Pre-Arraignment Interview).  
Subpoenas are also given out at S.T. (Status Conference) for all  
additional proceedings, such as trial and sentence.

Subpoena



**THE AMERICAN UNIVERSITY**  
WASHINGTON, D.C.

School of Public Affairs

Projects Office  
3615 Wisconsin Ave., N.W.  
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**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**PROGRAM SUMMARY NO. 4<sup>1</sup>**

**The Recorder's Court  
Detroit (Wayne County), Michigan (Criminal)**

**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**Program Summary No. 4<sup>1</sup>**

**The Recorder's Court  
Detroit (Wayne County), Michigan (criminal)**

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<sup>1</sup> Prepared Under BJA Cooperative Agreement No. 89-DD-CX-K023



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## I. INTRODUCTION

### A. Background

#### 1. Project Summary

The DCM program in Detroit/Wayne County, Michigan is premised upon the assumption that certain classes of cases (i.e., those which will be diverted, plea or require minimal or no discovery) should exit from the judicial system sooner than others which are expected to go to trial. Cases are differentiated on the basis of likely case outcome, as prescribed by the applicable sentencing guideline, and other factors relating to case strength (i.e., the presence of a confession, scientific evidence and eyewitness testimony, etc.). Implementation of the DCM program in Detroit has therefore focussed primarily upon developing a series of tracks for diversion cases (e.g., cases involving welfare fraud, first offenses, etc.) and/or expedited treatment (e.g., cases involving probation violators, escapees, jailed defendants, etc.) so that those cases remaining in the system are necessarily the more serious offenses warranting more extensive judicial, prosecutorial and defense resources.

#### 2. Relevant Geographic and Demographic Factors

Detroit is the sixth largest city in the country with a population of 1,200,000; the population of Wayne County is 2,300,000 persons. The economy is characterized by automobile manufacturing and related industries. The unemployment rate of the offender population has averaged about 85%, reflecting the increasing displacement of unskilled labor in industries which have become automated.

### B. Description of the Judicial System

#### 1. Wayne County Courts

Felony cases in Detroit/Wayne County are initiated in one of the 21 Wayne County District Courts, which have jurisdiction over misdemeanor cases and conduct preliminary examinations in felony matters. The Recorder's Court has jurisdiction over all felony cases in Detroit and, since 1987, in surrounding Wayne County as well. Civil matters involving claims under \$10,000 are handled by the District Court and civil matters in excess of \$10,000 are handled by the Third Judicial Circuit Court serving Wayne County. Juvenile, probate, civil commitments and related matters are handled by the Wayne County Probate Court. Each of these courts has the following judges and staff assigned:

District Court: 65 judges

Circuit Court: 35 judges

Probate Court: 9 judges

Recorder's Court: 29 full-time judges + 5 judges assigned from Wayne County Circuit Court on a 90-day rotational basis; one clerk/court administrator and 194 additional staff

2. Calendaring System and Support Staff

The Recorder's Court, in which the DCM program operates, is served by 34 judges. In conjunction with one of the early tasks of the DCM project, these judges were divided into seven docket management teams to improve workload distribution and to alleviate judge-shopping among attorneys. Cases are randomly assigned to each team and then distributed among the judges by the Executive Judge for each team. The dockets of the judges are periodically reviewed to identify potential caseflow problems and, where necessary, cases are reassigned among other judges on the team to balance caseflow responsibilities (See Appendices H and I). Overall management of the project is provided by Chief Judge Dalton Roberson and George Gish, Clerk/Court Administrator. Initial case and defendant information is gathered by the Defendant Screening Unit which also administers the Court's pre-trial service program (See Appendix A).

3. Organization of the Prosecutor's Office and Indigent Defense Services

a. *Office of the Prosecutor*

The Chief Prosecutor for Detroit/Wayne County is John O'Hair, who has served since his election in 1984. The prosecutor's office is staffed by 143 attorneys, with 43 trial attorneys assigned to felony matters, and six to a special Career Criminal Offender Unit which has been operating for a number of years. The office has assigned an experienced prosecutor with considerable authority for screening cases to serve as DCM Project liaison with the Court.

b. *Indigent Defense Services*

Indigent defense services are provided by the Legal Alternative Defense (LAD) Office and assigned counsel. Approximately 95% of the Court's caseload requires indigent defense representation, twenty-five percent of which is assigned, on a random basis, to the Legal Alternative Defense Office and the remaining seventy-five percent assigned by the Court to private counsel. The Legal Alternative Defense Office is staffed by 19 attorneys.

Attorneys are appointed for indigent defense cases the day following arraignment on the arrest warrant in District Court by the District Court judge. Attorneys providing indigent defense services are paid according to a flat fee schedule (See Appendix D(2)) which reflects the nature of the charge and the sentencing guideline assigned to the case. This fee schedule was revised when the DCM program was implemented, substituting a flat fee schedule in place of the previous system for hourly billing, and designed to provide greater attorney incentive to eliminate continuances and unnecessary "events". The revised fee schedule applies to all attorneys providing indigent defense service.

#### 4. Court Caseload

##### a. Case Filings

Recent felony case filings in the Recorder's Court have been:

	1986	1987 <sup>2</sup>	1988	1989
Detroit	8,370	9,842	11,895	13,549
Out-Co.	<u>3,148</u>	<u>3,188</u>	<u>3,747</u>	<u>3,549</u>
TOTAL	11,519 <sup>3</sup>	13,030 <sup>4</sup> (+13.1%)	15,632 <sup>5</sup> (+20%)	17,446 <sup>6</sup> (+11.6%)

Twelve percent of the cases filed in 1989 involved capital offenses.

##### b. Case Disposition Methods

For Calendar Year 1989, the Recorder's Court disposed of 19,083<sup>7</sup> cases by the following methods:

	Capital Offenses	Noncapital Offenses	Total
Trial			
Jury Verdict	466 (19%)	291 (1.9%)	757 (4%)
Nonjury Verdict	778 (33%)	2,466 (15.6%)	3,244 (18%)
Guilty Plea	771 (33%)	8,902 (56.4%)	9,673 (53%)
Removal/Transf	18 (1%)	34 (.1%)	52 (.2%)
Dism.	301 (13%)	2,031 (13.0%)	2,337 (12.8%)
Other Disps. <sup>8</sup>	24 <sup>9</sup> (1%)	2,065 <sup>10</sup> (13%)	2,089 <sup>11</sup> (12%)
TOTAL	2,358 (100%)	15,789 (100%)	18,147 (100%)

<sup>2</sup> Until 1987, the Recorder's Court handled felony criminal matters for Detroit only; criminal matters arising in the rest of Wayne County were handled by the Wayne County Circuit Court. Beginning in 1987, however, the Recorder's Court assumed jurisdiction over all felony criminal matters arising in Wayne County as well as the City of Detroit. To assist the Recorder's Court in handling this increased caseload, five judges from the Wayne County Circuit Court serve in the Recorder's Court on a rotational basis.

<sup>3</sup> excludes 1,092 welfare fraud cases

<sup>4</sup> excludes 1,256 welfare fraud cases

<sup>5</sup> excludes 1,073 welfare fraud cases

<sup>6</sup> excludes 500 welfare fraud cases

<sup>7</sup> excludes criminal appeals

<sup>8</sup> includes mental commitments, placements, etc.

<sup>9</sup> excludes 122 Bench Warrants issued during 1989.

<sup>10</sup> excludes 3,312 Bench Warrants issued in 1989.

<sup>11</sup> excludes 3,434 total bench warrants issued in 1989.

## II. DESCRIPTION OF THE DCM PROGRAM

### A. Program Objectives

The overall goal of Detroit's DCM program has been to reduce the "considerable slack" in the system, i.e., to achieve earlier case screening and earlier disposition of cases which are ready for disposition and, for those remaining cases, to reduce unnecessary delay between events. To achieve these goals, the following specific objectives were set:

- (1) to reduce the length of time from bind-over to trial from 101 days to 64 days;
- (2) to reduce the number of pending cases over 180 days old from 108 to 50;
- (3) to reduce the number of jail days used for pretrial defendants due to trial down time<sup>12</sup> from 72,390 to 30,000 or less;
- (4) to reduce the number of bench trial days lost<sup>13</sup> from 1,134 to 600 or less;
- (5) to reduce the number of jury trial days lost<sup>14</sup> from 1,129 to 600 or less;
- (6) to reduce the number of defendant docket days from 179,394 to 95,000 or less;
- (7) to reduce the number of defendant bond days from 107,004 to 56,000 or less (this objective was closely related to two ancillary problems: a high failure to appear rate as well as a high rate of new crime committed by those on bond)

In addition to these quantitative measures, the Court also projected various cost savings which could be realized by achieving these objectives (e.g., 72,390 jail days saved x \$60/day = \$4,343,000, etc.).

### B. PROGRAM DESCRIPTION

#### 1. General

The Court proposed to achieve the above-stated objectives by differentiating the management of cases according to the sentencing guidelines applicable. During the course of program implementation, a number of other factors were incorporated into the case differentiation process, particularly those relating to sanctioning guidelines (i.e., nature of the sentence), case strength and defendant characteristics. The Detroit DCM program presents several unique features not common to the other sites.

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<sup>12</sup> due to breakdowns in the trial schedule due to last minute pleas.

<sup>13</sup> see note 3.

<sup>14</sup> see note 3

First, the underlying premise of the program has been that the time and resources necessary to process a case are directly related to the seriousness of the charges and the potential sentence/sanction exposure. For the Detroit program, DCM "tracks" are really various exit paths for disposing of cases, the assumption being that certain cases with less sentence exposure can exit earlier from the system than those with greater sentence exposure. The issue of "complexity" was not initially addressed by Detroit's program per se but the DCM plan suggested that "complexity" was a function of these other two variables: nature of the charges and sentence exposure. After the program was implemented, other factors relating to case strength (i.e., existence of eye-witness testimony; relationship between victim and defendant; existence of a confession, etc.) were incorporated in the track assignment process.

Second, the Detroit program began with the hypothesis that the "track" designation could be calculated by computer from sentencing guideline information available at the time of case initiation. In other sites with smaller caseloads, the DCM programs were premised upon the track designation being made on a case by case basis by the attorneys and judges involved, based on various factors relating to case complexity and/or priority.

## 2. Tracks Created and Their Criteria

### a. *Tracks Initially Created*

The Detroit program initially proposed the following five tracks, based on sentencing guidelines classifications:

Category IA: diversion/first offender cases involving fraud, larceny and property destruction;

Category IB: breaking and entering, attempted burglary; controlled dangerous substance possession and possession with intent to distribute; fraud, arson, etc.;

Category II: crimes similar to those listed in Category IB but with guideline sentences requiring incarceration;

Category IIIA: very severe cases, including all homicides;

Category IIIB: repeat offenders and serious cases specially assigned by the prosecutor.

### b. *Additional Tracks Created After Program Implementation*

As the program developed, it became apparent that the sentencing guideline factors alone were not adequate to develop a differentiated case management program that would achieve the Court's objectives. Consequently, a number of additional special tracks have been established for certain classes of cases. These tracks include

- a special one day track for first time drug offenders (Structured Sentencing Program (SSP)):

Narcotics possession cases involving first offenders who are eligible for the expedited drug case management program are identified at the warrant request stage within hours following arrest. Under this program, a defendant can receive probation in return for a plea (See Appendix F). Eligible defendants are interviewed by court staff, the prosecutor, defense attorney and a probation officer

between 7:30 a.m. and 2:00 p.m. At 2:00 p.m., the Chief Judge of Recorders Court, acting simultaneously as a Magistrate, District Court Judge and Recorder's Court Judge, can arraign the defendant on the warrant, accept the waiver of preliminary exam, conduct the Arraignment on the Information, accept a plea and pass sentence at the same hearing. A defendant charged with a felony narcotics offense at 3:00 a.m., for example, can enter a plea and be sentenced by 2:00 p.m. the same day. Screening standards are high for inclusion in this program so that eligibility has been limited.

- a fast track for trial of jail cases

Although scheduling priority has always been given to jail cases, beginning in August 1989, a fast track for jail cases not assigned to other expedited tracks was formally implemented (See Appendix E). This track is resulting in jail cases, including drug cases, being heard by bench trial within 49 days of arraignment and by jury trial within 84 days. The program began with a review of all jail cases by the chief judge to ascertain the strength of the case (e.g., existence of a confession, scientific evidence, etc.) to determine whether a plea might be possible.

- a special track for welfare fraud cases:

Defendants in welfare fraud cases who qualify for diversion are identified at the time a warrant is requested. These cases are then placed on a special track which involves a brief hearing before the Chief Judge and a three year period of supervised probation during which the defendant pays restitution. At the end of the three year period and when the final restitution payment is made, the charges are dismissed. If the defendant violates the conditions of probation and fails to complete restitution, prosecution of the case resumes.

- a special track for probation violations

These cases are identified at the warrant stage and referred to the judge who originally imposed the sentence, with a hearing scheduled the following day. The case can be continued for up to a maximum of ten days to permit counsel to be assigned.

- a special track for prison escape cases

Cases involving escape from a state prison facility are identified at the warrant stage and scheduled promptly before the Chief Judge for disposition and sentence.

### 3. Track Assignment Process and Point at Which Track Assignment is Made

The initial track assignment is made by the Defendant Screening Unit at the time a warrant is requested based on the applicable sentencing guideline data for the case. Cases qualifying for entry into special tracks are identified at this time. The track designation continues through trial.

### 4. Summary of the DCM Felony Caseflow Process

Note: The standard procedure for processing felony arrests is summarized below; as described above, under the DCM program, expedited procedures apply at the point of arraignment for a number of special categories of cases and result in the disposition of a significant percentage of cases early in the process. (See Section IIIA4 below.)

The day following arrest on a felony charge, the defendant is arraigned on the arrest warrant in the District Court and a bond hearing is held. Within twelve days following (usually within seven to ten days), a preliminary examination is conducted which can result in one of several outcomes:



(a) dismissal or reduction of the charge to a misdemeanor in which case the matter is not referred to the Recorder's Court; 25% of the cases filed in the District Court in 1989 were disposed of by the time the preliminary examination was conducted and were therefore not referred to the Recorder's Court); or

(b) bind over of the defendant on an information to the Recorder's Court. (Approximately 74% of the felony cases filed in the District Court in 1989 were bound over to the Recorder's Court.)

For those cases bound over, the Defendant Screening Unit interviews the defendant and provides requisite information to the Recorder's Court judge assigned. An arraignment on the information is conducted by the executive judge for the team to which the case is assigned 14 days after the District Court preliminary examination; 34% of these cases in 1989 were disposed of by plea at the arraignment on the information. Those cases not disposed of at this point are reviewed by the executive judge and scheduled for a Calendar Conference the following Friday at which time the nature of any applicable pre-trial motions and other pre-trial events are discussed, and appropriate dates are set. An additional fourteen percent of the cases in 1989 were disposed of at the Pretrial Calendar Conference.

A final Pretrial conference is held 28 days later at which time the trial date is assigned if plea negotiations fail (See Appendix G). The final conference also represents the plea cut-off date. An additional four percent of the caseload in 1989 was disposed of at this final conference, leaving 22% of the cases for disposition by trial.

5. Project Start-up Date

The project has proceeded in phases. The initial phase of project activity began July 1, 1988 with the introduction of the revised flat fee schedule for indigent defense cases geared to the applicable sentencing guideline rather than the previous hourly basis. In October 1988, the newly established Defendant Screening Unit, replacing and expanding the activities of the previous Release on Recognizance Unit, became operational and provided the essential information necessary to make the track identification. Refinements in the initial tracking scheme and program procedures have been made almost continually since the program began as additional classes of cases are identified for special and/or expedited treatment and judicial system officials periodically assess program operations.

6. Cases Included in the DCM Program

All felony cases filed in the Recorder's Court following the July 1, 1988 project start-up date are included in the DCM program.

7. Provisions for Handling the Pending Case Inventory

The DCM cases have been handled and scheduled concurrently with those criminal cases already pending when the program began.

8. Case Monitoring Performed

Docket reviews are conducted within each of the seven docket management teams by the prosecutor's office and the court administrator regularly to identify cases presenting special processing problems. In addition, the Clerk/Court Administrator maintains management information which is collected routinely for monitoring purposes. Beginning in May 1990, the Chief Judge has taken over any docket over 90 days old (See Appendix I). The Court also collects extensive data relating to the potential impact of various aspects of the DCM program on the Court's current caseload as well as other justice agencies in

order to orient other local justice officials to the benefits which the program can achieve.<sup>15</sup>

### C. Changes Required to Implement the DCM Program

#### 1. General

Most of the changes in policy and procedure required to implement the DCM program were accomplished through docket directives issued by the Chief Judge in consultation with the bench. In addition, extensive and on-going communication and coordination with the prosecutor and the local bar has been essential to launch the program and perform the continuous modification and fine-tuning required. This has been accomplished through close communication (formal and informal) as well as regular meetings, training/orientation programs and other coordination efforts.

#### 2. Specific Changes Instituted

##### a. *Within the Court*

Implementation of the DCM program has required many modifications of existing procedures as well as the enhancement of the court's case screening and monitoring functions. These have included:

##### (1) Creation of the Defendant Screening Unit

The Defendant Screening Unit was created to replace and expand upon the activities of the former Release on Recognizance Unit. The Defendant Screening Unit provides the essential information to make the track determination, based on the sentencing guideline data and defendant interview (See Appendix A). The duties of the Defendant Screening Unit include, in addition to interviewing defendants prior to arraignment – a function previously performed by the ROR Unit – calculating sentencing guidelines; determining a jail risk score; identifying first offenders and scheduling them for an attorney interview and possible entry into the special one day track for first offenders; monitoring the jail population; and providing information to the probation department to be used for pre-sentence investigations.

##### (2) Creation of New Forms

Numerous forms were required to reflect the new case screening and monitoring procedures instituted under the DCM program. These forms have been continually revised in an effort to simplify and clarify procedures. Examples of these forms included in Appendix A and C are (1) the revised defendant interview form completed by the Defendant Screening Unit and (2) the early discovery package, pre-printed with a copy of the sentencing guideline grid and recently revised to include the chief judge's pre-printed signature.

##### (3) Expansion of the Case Information Base

To accommodate the extensive information needs required to manage and monitor the DCM program, additional elements of information about each case and defendant are now generated. This information is used for case management and monitoring as well as for planning purposes. For example, the additional data gathered relating to case and defendant characteristics has permitted the court to identify changes in volume, case type and defendant profiles coming into the system and to then plan proactively.

##### (4) Increased Case Management and Monitoring Functions

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<sup>15</sup> For example, the Court has issued reports projecting the impact of the DCM program procedures on jail bed days and case age at disposition.

Management reports produced from the extensive information base maintained for the DCM program are regularly distributed to judges and other justice system officials. Where problems are noted, appropriate action -- either internal or inter-agency -- is taken with the result that there appears to be an increased appreciation among court officials of the importance of information reports and their function in the case management process. For example, in May 1990, the Chief Judge's review of weekly docket status reports indicated that 12 dockets currently had trials scheduled beyond the 91 day time standard. Accordingly, the Chief Judge announced his intention to review each over-age case and to institute scheduling procedures to focus on the disposition of these cases. (See Appendix I)

**(5) Revised Fee Schedule for Attorneys Representing Indigent Defendants**

As Noted in Section IB3 above, the previous hourly billing procedure for attorneys representing indigent defendants was revised to reflect a flat fee schedule designed to support the expedited disposition procedures developed under the DCM program (See Appendix D). The new fee schedule was adopted after extensive research by the Court. In most cases, the new schedule provided attorneys with the same or slightly higher fees than the old; however, the new schedule encourages attorneys to provide essential legal services to defendants while, at the same time, serves as a disincentive for attorneys to seek continuances or perform "non-productive" functions.

**(6) Continual Modification and Refinement of Court Procedures**

Procedures to implement the DCM program are continually refined to promote smoother system operation. Some of these changes are significant (i.e., creation of new case tracks); others are minor (i.e., inclusion of the chief judge's pre-printed signature on the automated discovery order (See Appendix C (4)). All, however, are deemed important to the increased efficiency of the case disposition process.

**(7) Training Programs for Court Staff and Other Justice System Agencies**

Regular training programs, both for court staff and staff of other justice agencies, have been essential to assure adequate understanding of DCM program goals, policies and procedures as well as the role which the various justice agencies play in the program's operation. A special Criminal Advocacy program is conducted for all attorneys handling indigent defense cases and includes such topics as Sentencing Issues, Computing Good Time, Dealing with Miranda Issues, etc. One percent of the fees paid to attorneys providing indigent defense services is deducted to pay for the costs of the program. In addition, regular staff training programs are conducted to address such topics as procedural changes, information needs, etc.

**b. *Within the Prosecutor's Office***

Prosecutor Office staff have been working more closely with the Court since the program began in an effort to identify cases amenable to expedited treatment. Increasing focus is being given to the use of intermediate sanctions and the utility of sanctioning guidelines (See Appendix B) in the track assignment process.

**c. *Indigent Defense Service Provision***

As noted above, a revised fee schedule, developed by the court, was introduced to support the program's objectives of expedited case processing and early discovery. In most cases, the revised fee schedule has not effected the fees paid per case to the participating attorneys and, in some instances, attorneys appear to be handling more cases as a result of the expedited case disposition program. The court has been closely monitoring the fee vouchers to assure that billings are consistent with

instances, attorneys appear to be handling more cases as a result of the expedited case disposition program. The court has been closely monitoring the fee vouchers to assure that billings are consistent with the expedited procedures.

Training for participating attorneys on such topics as trial advocacy skills, plea negotiation techniques, and developing community resource referrals as well as publication of periodic resource manuals has been on-going.

d. *Within Other Agencies*

While the expedited program has increased the pace of presentence investigation<sup>16</sup> activity of the State Department of Probation, the extensive information obtained by the Defendant Screening Unit generally satisfies the information required by the Probation Department for the psi.

### III. PROJECT EXPERIENCE TO DATE

#### A. Case Processing

##### 1. Accommodating the Impact of Increased Case Volume

The DCM program in Detroit has been implemented during a period in which the case volume has been increasing dramatically. During the year prior to DCM program implementation, the Recorder's Court caseload had increased by 20% and, in the year following program implementation, increased an additional 13%, with an overall increase of 35% within the 2-year period. Despite these caseload surges, the productivity of the local judicial system, measured by case dispositions and pending inventory, has increased significantly since DCM program implementation without any additional resources.

##### 2. Trials Held

The number of trials conducted has increased by over 50% since DCM program implementation, as summarized in the following chart:

	1986		TOTAL	1987	1988	1989
	Cir Ct.	Rec. Ct.		(MERGED DOCKET)		
Jury	251	616	867	750	823	773
Waiver	<u>203</u>	<u>1942</u>	<u>2145</u>	<u>2254</u>	<u>3131</u>	<u>3450</u>
TOTAL	454	2558	3012	3004	3954	4223

##### 3. Pending Caseload

During the March 1988 through May 2, 1990 period, the pending caseload has decreased by 6.6%, from 3,136 to 2,929 despite the over 35% increase in case filings during the period. In addition, the average age of cases disposed of by trial has decreased by 10%, from 106 days to 95.5 days.

<sup>16</sup> Presentence investigations are required by statute for every criminal case.

	<u>March</u> <u>1988</u>	<u>May 2,</u> <u>1990</u>	<u>Change</u> <u>Since</u> <u>Mar. '88</u>	
Pending Cases	3136	2,929	(-207)	(-6.6%)
Pending Trials				
- Rec. Ct.	1093	1,082	(-11)	(-1%)
- Cir. Ct.	<u>263</u>	<u>294</u>	<u>(+31)</u>	<u>(+12%)</u>
Total	1356	1,376	(+20)	(+1%)
Length of Trial Track	106 days	95.5 days	(-10.5 days)	(-10%)
Cases on Speedy Trial Report <sup>17</sup>	173	133	(-40)	(-23%)

#### 4. Point at Which Cases Are Disposed

The impact of the early screening activities instituted under the DCM program is summarized in the following chart depicting the "fall out" stages in the criminal case disposition process before and after instituting the DCM program:

Case Processing Stage	Percentage of Cases Disposed			
	1987	1989		
	<u>%</u>	<u>Cum %</u>	<u>%</u>	<u>Cum %</u>
Arrgmnt on War./ Prelim. Exam.	2	2	26	26
Arrgmnt on Inf	39	41	34	60
Pretrl Cal Conf	7	48	14	74
Final Pretrl Conf	20	68	4	78
Trial	32	100	22	100

#### B. IMPLEMENTATION PROBLEMS AND ISSUES ADDRESSED

##### 1. Enhancement of Sentencing Guideline Data Needed to Address Impact of Sentencing Alternatives: Use of Sanctioning Guidelines

Although it was initially anticipated that the sentencing guidelines data would provide an adequate base for implementing the DCM program, it is now apparent that some modifications are needed to address sentencing alternatives since an incarceration sanction -- which is basic to the sentencing guidelines framework -- has very limited application in light of (a) current jail and prison crowding, and (b) the frequent use of non-incarcerative sanctions. Such modifications might also make plea negotiation more realistic. The use of sanctioning guidelines, focussing on applicable intermediate sanctions, is now being pursued. (See Appendix B).

<sup>17</sup> Cases over 180 days old.

2. Need for Attorney Orientation and Training

The need to provide formal orientation and training of the private bar became evident very early in the program and a series of mandatory training programs for attorneys handling indigent defense cases has been conducted as part of the Detroit/Wayne County Criminal Advocacy Program. As noted above, agenda items for these programs included an explanation of the revised fee schedule; an orientation to community treatment and counselling programs for potential pretrial and post conviction referral; and techniques for effective plea negotiation.

3. Prosecutorial Screening

The DCM program is premised upon early prosecutorial case screening to produce charging practices consistent with dispositional outcomes and to encourage meaningful plea negotiation. Such screening practices are essential to reducing the Court's very high percentage of dispositions reached through trial (almost 32% when the DCM program began). To date, the prosecutor has been reluctant to exercise the degree of charging flexibility necessary to fully effectuate the DCM program envisioned and there are competing community pressures to continue with aggressive prosecutorial policies as well as to process the Recorders Court caseload more expeditiously despite the fact that the adjudication of these cases often requires trials which result in dismissals or substantial charge reduction.

4. Need for Accurate Information Early In Case Process

Because the system has been significantly speeded up, having accurate information readily available early in the process has become essential. This need has placed considerable strain on the justice system. Numerous meetings have been held to streamline the criminal record and fingerprint process. Criminal history records and police investigation reports are now available when a warrant is requested although problems are still being experienced in narcotics cases regarding prison transfers which police officials are currently correcting with the cooperation of the prosecutor.

5. Significant Increase in Case Filings During Project Start-up Period

Case filings increased by 2,602 (21%) in 1988 and an additional 9% as of the first half of 1989, primarily due to the continuing upsurge in drug cases. New programs are difficult to implement in a near crisis environment. Despite this increase, the number of cases over 180 days old decreased and the number of dispositions for the period increased 31% compared with the comparable 1987 period.

6. Difficulty in Hiring DCM Prosecutor/DCM Coordinator

A major obstacle in fully implementing the DCM program was the difficulty in hiring a qualified prosecutor to provide coordination with the court. A full-time DCM prosecutor/coordinator has now been hired.

7. Substantial Effort Required to Establish Essential Elements of DCM Program

While the foundation for the DCM program existed when the program was proposed (e.g., the sentencing guidelines information), substantial effort

has been required to fully develop the essential program elements to assure adequate program support. Designing an entirely new Defendant Screening Unit, hiring and training staff, designing forms, revising the attorney fee schedules, realigning judges into docket management teams, re-working computer programs, orienting and training court staff, bar and other justice agency officials, conducting major research projects to obtain needed information, trying to hire the DCM prosecutor -- all of these tasks, while anticipated, proved to be far more demanding and extensive than originally envisioned.

#### C. INITIAL PROGRAM IMPACT

Although local officials are still in the process of refining the applicable DCM procedures and gathering evaluative information, some information is already available regarding the initial as well as potential impact of the project. First, the caseload of the Recorder's Court continues to increase dramatically: 70% since the program was proposed in January 1988. Nevertheless, productivity has increased 38%, measured by the number of cases disposed of per judge, since the DCM program was introduced. Second, the pending caseload has decreased from a high of nearly 3,200 cases to 2,560 cases as of July 1, 1990 and the number of cases over 180 days in age decreased from 173 to 115. Third, the diversion and expedited processing of increased classes of cases have resulted in a dramatic reduction in costs for indigent defense services and the workload and resource burdens relating to pre-trial supervision and probation functions.

The DCM program also appears to have reduced pressures on the jail. The number of jail bed days for detained defendants has clearly been reduced and there is no longer the need to consider early releases for jail detainees in order to comply with the jail population cap. A number of studies have also been conducted projecting the additional resource and time savings which can result regarding jail costs, indigent defense costs, prosecutorial time, and judge and support resources if the DCM program proposed is fully implemented. Lastly, although difficult to measure, the attitudes of many persons involved in the adjudication process are beginning to shift from acceptance of system delay and slack to a stricter case management and case differentiation philosophy.

#### D. COMMENTS

Planning and implementation of the DCM program for criminal cases in Wayne County has presented a number of unique factors not present at other DCM sites, most notably: an extremely high volume of cases, many of which are serious felonies; a court whose jurisdiction solely extends to criminal cases, thereby not permitting any flexibility in terms of judicial assignment and rotation; and a "local legal culture" in which the frequency of case disposition by trial is unusually high. The success of the DCM program has been due in large part to the commitment and creativity of the Court's leadership in developing procedures to manage this caseload, given these constraints, and its ability to utilize a broad array of case related information for management, monitoring and planning purposes.

## Appendices

- A. Defendant Screening Unit Forms
  - (1) Defendant Interview Form-Defendant Information
  - (2) Defendant Interview Form-Recommendation Information
  - (3) Risk Classification
  - (4) Computer Screen Capturing Defendant Interview Information
- B. Sanction Guidelines
- C. Early Discovery Packet
  - (1) Petition and Order for Court Appointed Attorney
  - (2) Investigator's Report
  - (3) AOW Report
  - (4) Order Granting Discovery (presigned by judge)
  - (5) Defendant's Criminal Record
- D. Revised Fee Schedule for Indigent Defense Counsel
  - (1) Joint Administrative Order Establishing Revised Fee Schedule for Indigent Defense Counsel
  - (2) Revised Fee Schedule
  - (3) Impact of Flat Fee Schedule: Preliminary Report
  - (4) Verification of Consultation Form
  - (5) Order and Certification of Jail Visit
- E. Fast Track for Jail Cases (Diagram)
- F. Structured Sentencing Program Forms
  - (1) Agreement
  - (2) Official Court Journal Worksheet
- G. Final Pre-Trial Conference Summary
- H. Sample Weekly Docket Status Report
- I. Chief Judge's Memorandum May 8, 1990 re Cases over 91 Days Old



APPENDIX A(1): Defendant Screening Unit  
Defendant Interview Form--Defendant  
Information

STATE OF MICHIGAN  
THIRD JUDICIAL CIRCUIT COURT  
☐ RECORDER'S COURT

DEFENDANT SCREENING UNIT  
INTERVIEW FORM

CASE NO. \_\_\_\_\_

TO: HONORABLE \_\_\_\_\_

DEFENDANT: \_\_\_\_\_ Alias \_\_\_\_\_

DOB/Place \_\_\_\_\_ ☐ SID \_\_\_\_\_ ☐ DPD Number \_\_\_\_\_

Charge \_\_\_\_\_ Soc. Sec. \_\_\_\_\_ Warrant Number \_\_\_\_\_

Pl. Agency \_\_\_\_\_ Present Bond: \_\_\_\_\_

RECOMMENDATION: \_\_\_\_\_

CONDITION(S): ☐ REPORTING \_\_\_\_\_ BY ☐ PHONE ☐ IN PERSON  
FREQUENCY \_\_\_\_\_

☐ DRUG MONITORING ☐ DRUG TREATMENT ☐ OTHER (SPECIFY) \_\_\_\_\_

REASON(S)\*: \_\_\_\_\_

I. CRIMINAL HISTORY

\_\_\_\_\_ HIGH SEVERITY FELONIES: \_\_\_\_\_

\_\_\_\_\_ LOW SEVERITY FELONIES: \_\_\_\_\_

\_\_\_\_\_ JUVENILE ADJUDICATIONS: \_\_\_\_\_

\_\_\_\_\_ MISDEMEANORS: \_\_\_\_\_

(NOTE CHARGES AND CONVICTION DATES. IF NONE, WRITE "O".)

☐ YES ☐ NO CURRENT PROBATION. ☐ YES ☐ NO CURRENT PAROLE.

CHARGE \_\_\_\_\_ SENTENCE \_\_\_\_\_

Ct. \_\_\_\_\_ P.O. \_\_\_\_\_

☐ YES ☐ NO ADDITIONAL PENDING CHARGES. SPECIFY: \_\_\_\_\_

II. APPEARANCE AND ESCAPE HISTORY

☐ YES ☐ NO CAPIAS(ES) HAVE BEEN ISSUED IN PAST CASES. IF YES, DEFENDANT'S CAPIAS  
HISTORY IS AS FOLLOWS:

OFFENSE \_\_\_\_\_ CAPIAS DATE \_\_\_\_\_

☐ YES ☐ NO DEFENDANT HAS ESCAPE HISTORY. ☐ JUVENILE ☐ ADULT

☐ YES ☐ NO CURRENTLY AN ESCAPEE

\*REQUIRED UNDER MCR 6.110E WHENEVER DEFENDANT WILL NOT BE RELEASED ON HIS OR HER  
OWN RECOGNIZANCE.

STATE OF MICHIGAN

☐ THIRD JUDICIAL CIRCUIT COURT  
☐ RECORDER'S COURT

DEFENDANT SCREENING UNIT  
INTERVIEW FORM

CASE NO. \_\_\_\_\_

TO: HONORABLE \_\_\_\_\_

DEFENDANT: \_\_\_\_\_ Alias \_\_\_\_\_

DOB/Place \_\_\_\_\_ ☐ SID \_\_\_\_\_ ☐ DPD Number \_\_\_\_\_

Charge \_\_\_\_\_ Soc. Sec. \_\_\_\_\_ Warrant Number \_\_\_\_\_

Poi. Agency \_\_\_\_\_ Present Bond: \_\_\_\_\_

III. PROBABILITY OF CONVICTION FACTORS

PEOPLE'S PROOFS MAY INCLUDE:

☐ YES ☐ NO EYE WITNESS TESTIMONY  
☐ YES ☐ NO DEFENDANT'S CONFESSION OR ADMISSION  
☐ YES ☐ NO SCIENTIFIC EVIDENCE, SPECIFY. \_\_\_\_\_

☐ YES ☐ NO OTHER PROOFS. SPECIFY. \_\_\_\_\_

IV. GUIDELINE SENTENCE IF CONVICTED OF CURRENT CHARGE

IF THE DEFENDANT IS CONVICTED AS CHARGED, THE SENTENCE RECOMMENDATION UNDER SENTENCING GUIDELINES WOULD BE \_\_\_\_\_ TO \_\_\_\_\_ MONTHS. MIDPOINT IS \_\_\_\_\_ MONTHS.

V. OTHER FACTORS

☐ YES ☐ NO COMMUNITY RESIDENCE

Address

With Whom

Phone

How Long

1. Current \_\_\_\_\_

2. Alternate \_\_\_\_\_

3. Prior \_\_\_\_\_

Return if released \_\_\_\_\_ Time in Metro Detroit \_\_\_\_\_

Other City/States of Residence \_\_\_\_\_

Community Reference \_\_\_\_\_ Phone Number \_\_\_\_\_

Name of Nearest Relative \_\_\_\_\_ Phone Number \_\_\_\_\_

☐ YES ☐ NO EMPLOYED, ☐ FULL TIME WHERE? \_\_\_\_\_

☐ PART TIME HOW LONG? \_\_\_\_\_

☐ YES ☐ NO SUBSTANCE ABUSE HISTORY. SPECIFY DRUG OF CHOICE AND FREQUENCY OF USE, INCLUDING ALCOHOL: \_\_\_\_\_

I.V. USER NOW ☐ YES ☐ NO. WITHIN PAST 10 YEARS ☐ YES ☐ NO

☐ POSITIVE ☐ NEGATIVE URINALYSIS RESULTS

☐ YES ☐ NO OTHERS, SPECIFY \_\_\_\_\_

THE DEFENDANT SCREENING UNIT

BY \_\_\_\_\_

APPROVED \_\_\_\_\_

White — File

Canary — Prosecutor's Office

STATE OF MICHIGAN  
☐ THIRD JUDICIAL CIRCUIT COURT  
☐ RECORDER'S COURT

DEFENDANT SCREENING UNIT  
INTERVIEW FORM

Docket Number \_\_\_\_\_

Warrant Number \_\_\_\_\_

TO: HONORABLE \_\_\_\_\_

DEFENDANT: \_\_\_\_\_

DOB/Place: \_\_\_\_\_ ☐ STD \_\_\_\_\_ ☐ DPD Number \_\_\_\_\_

Charge \_\_\_\_\_ PACC Code \_\_\_\_\_ Soc. Sec. \_\_\_\_\_

Police Agency \_\_\_\_\_ Present Bond: \_\_\_\_\_

I. RECOMMENDATION

RECOMMENDATION: \_\_\_\_\_

CONDITION(S): ☐ REPORTING \_\_\_\_\_ BY ☐ PHONE ☐ IN PERSON  
FREQUENCY

☐ DRUG MONITORING ☐ DRUG TREATMENT ☐ OTHER (SPECIFY) \_\_\_\_\_

REASON(S): \_\_\_\_\_

II. GUIDELINE SENTENCE IF CONVICTED OF CURRENT CHARGE

IF THE DEFENDANT IS CONVICTED AS CHARGED, THE SENTENCE RECOMMENDATION UNDER SENTENCING GUIDELINES WOULD BE \_\_\_\_\_ TO \_\_\_\_\_ MONTHS. MIDPOINT IS \_\_\_\_\_ MONTHS.

III. CRIMINAL HISTORY

\_\_\_\_\_ HIGH SEVERITY FELONIES: \_\_\_\_\_

\_\_\_\_\_ LOW SEVERITY FELONIES: \_\_\_\_\_

\_\_\_\_\_ JUVENILE ADJUDICATIONS: \_\_\_\_\_

\_\_\_\_\_ MISDEMEANORS: \_\_\_\_\_

☐ YES ☐ NO CURRENT PROBATION. ☐ YES ☐ NO CURRENT PAROLE.

CHARGE \_\_\_\_\_ SENTENCE \_\_\_\_\_

Ct. \_\_\_\_\_ P.O. \_\_\_\_\_

☐ YES ☐ NO ADDITIONAL PENDING CHARGES. SPECIFY: \_\_\_\_\_

IV. APPEARANCE AND ESCAPE HISTORY

☐ YES ☐ NO CAPIAS(ES) HAVE BEEN ISSUED IN PAST CASES. IF YES, DEFENDANT'S CAPIAS HISTORY IS AS FOLLOWS:

OFFENSE

CAPIAS DATE

☐ YES ☐ NO DEFENDANT HAS ESCAPE HISTORY. ☐ JUVENILE ☐ ADULT

☐ YES ☐ NO CURRENTLY AN ESCAPEE

**APPENDIX A(3): Defendant Screening Unit--  
Risk Classification**

<b>STATE OF MICHIGAN</b> <input type="checkbox"/> <b>THIRD JUDICIAL CIRCUIT COURT</b> <input type="checkbox"/> <b>RECORDER'S COURT</b>	<b>DEFENDANT SCREENING UNIT RISK CLASSIFICATION</b>	<hr/> Docket Number <hr/> Warrant Number <hr/>
--	---	--

DEFENDANT: \_\_\_\_\_ Alias \_\_\_\_\_

DOB/Place \_\_\_\_\_ ☐ SID \_\_\_\_\_ ☐ DPD Number \_\_\_\_\_

Charge \_\_\_\_\_ PACC Code \_\_\_\_\_ Soc. Sec. \_\_\_\_\_

Police Agency \_\_\_\_\_ Present Bond: \_\_\_\_\_

**CLASSIFICATION LEVEL**

SENTENCE GUIDELINE SCORE \_\_\_\_\_

RISK LEVEL ACCORDING TO GUIDELINE SCORE \_\_\_\_\_

SCORE	LEVEL
1 - 3	1
4 - 6	2
7 - 12	3
13 - 24	4
25 - 60	5
61 or higher	6

**Aggravating Factors**

FTA History (+1)

Escape History (+1)

Active Substance Abuser (+1)

Failed to Agree to or  
Comply With Conditional  
Release Requirements (+2) \_\_\_\_\_

**Mitigating Factor**

No Eyewitness Testimony,  
Confession, or Scientific  
Evidence (-1) \_\_\_\_\_

RISK CLASSIFICATION LEVEL \_\_\_\_\_

THE DEFENDANT SCREENING UNIT  
BY \_\_\_\_\_

APPROVED \_\_\_\_\_

DATE \_\_\_\_\_

Honorable: SMITH  
Defendant: JOHN DOE Alias: DOUGHBOY  
Birthdate: 1990-Jun-22 at DETROIT  
Charge: CONSPIRACY SUICIDE PACC: 7501111A  
Bond: 10000T  
State ID # 1234567  
DPD # 123456  
Soc.Sec. # 123456789  
Police Agency: SUICIDE

APPENDIX A(4): Defendant  
Screening Unit Forms--  
Computer Screen Capturing  
Defendant Interview Informat

RECOMMENDATION

Recommendation: 10000T  
Conditions: Y Reporting WEEKLY by PERSNM  
Drug Monitoring: Y Drug Treatment: Y  
Other: N

SENTENCE GUIDELINE

If the defendant is convicted as charged, the sentence recommendations under sentencing guidelines would be 120 to 180 months. The midpoint is 150 months.

CRIMINAL HISTORY

SEVERITY	PACC CODE	DESCRIPTION
H	7501111A	AAAAAAAAAAAA
L	7501234	BBBBBBBBBBB

Current Probation: Y  
Current Parole: Y  
Parole charge: 7501234  
Parole sentence: 20 YEARS  
Court: RECORDERS  
Parole Officer: SMITH  
Pending charge: N

APPEARANCE AND ESCAPE HISTORY

Capiases have been issued: N  
Capiase Offence: Date: 1911-Nov-11  
Defendant has escape history: N as an  
Currently an escapee: N

THE DEFENDANT SCREENING UNIT  
BY: RICK  
1990-Jun-22  
APPROVED:  
1990-Jun-22

1119900622001  
Print date:  
1990-Jun-22

DEFENDANT SCREENING UNIT  
INTERVIEW FORM  
Prosecutor's # 123-75789  
34th District #  
Recorder Case #

Honorable: SMITH  
Defendant: JOHN DOE Alias: DOUGHBOY  
Birthdate: 1990-Jun-22 at DETROIT  
Charge: CONSPIRACY SUICIDE PACC: 7501111A  
Bond: 10000T  
State ID # 1234567  
DPD # 123456  
Soc.Sec. # 123456789  
Police Agency: SUICIDE

#### RESIDENCE

Community residence: Y  
Current address: Rent/Own: R  
Street: 12345 WOODWARD Live with: SPOUSE  
Street2: How long: 1YEAR  
City: DETROIT\ Time in Detroit: 30YEARS  
State: MI Zip:48123 Other Cities:  
Phone: 5555555 NONE

Alternate address: Prior address:  
Street: 12345 GRATIOT Street: 12345 GRATIOT  
Street2: Street2:  
City: DETROIT City: DETROIT  
State: MI Zip:48123 State: MI Zip:48123  
Phone: 5551234 Phone: 5551234

Return to: Spouse: JANE DOE  
Street: 12345 WOODWARD Street: 12345 WOODWARD  
Street2: Street2:  
City: DETROIT\ City: DETROIT\  
State: MI Zip:48123 State: MI Zip:48123  
Phone: 5555555 Phone: 5555555

Father: JOHN SR Mother: JANE  
Street: 12345 GRATIOT Street: 12345 GRATIOT  
Street2: Street2:  
City: DETROIT City: DETROIT  
State: MI Zip:48123 State: MI Zip:48123  
Phone: 5551234 Phone: 5551234

Community reference: DR SMITH  
Nearest Relative: FATHER  
Dependants:

Phone:  
Phone:

#### ECONOMIC

Employed: Y  
Full/Parttime: F  
Income: 10000 per A  
Education: GR12  
Debts: 5000  
Assets: 4000  
Desc: CAR

#### HEALTH

Health Problems:  
Substance abuse: Y  
Drug used: ALCOHOL  
Frequency: DAILY  
I.V. User: N  
Urinalysis: N  
Other: Y  
Desc: ULCER

THE DEFENDANT SCREENING UNIT  
BY: RICK  
1990-Jun-22  
APPROVED:  
1990-Jun-22

Computer Case #  
1119900522001  
Print date:  
1990-Jun-22

DEFENDANT SCREENING UNIT  
INTERVIEW FORM

Name: DOE, JOHN  
Prosecutor's # 12345678  
36th District #  
Recorder Case #

Honorable: SMITH  
Defendant: JOHN DOE Alias: DOUGHBOY  
Birthdate: 1990-Jun-22 at DETROIT  
Charge: CONSPIRACY SUICIDE PACC: 7501111A  
Bond: 10000T  
State ID # 1234567  
DPD # 123456  
Soc.Sec. # 123456789  
Police Agency: SUICIDE

CORRECTIONS AND COMMENTS

## SANCTION GUIDELINES

Attachment B

## COMBINED PRIOR RECORD AND OFFENSE SEVERITY POINTS

Statutory  
Maximum

	0	-10	11-20	21-30	31-40	41-50	51-60	61-70	71-80	81-90	91+
24	O-3 DIV		O-6 PR N U	O-9 PR C U	O-12 PR C U	O-12 PR C U	O-12 PR C U	6-12.	6-12	9-18	12-1
30	O-6 DIV		O-9 PR N U	O-12 PR N U	O-12 PR N U	O-12 PR N U	O-12 PR N U	6-18	6-18	9-18	12-1
36	O-6 DIV		O-9 PR N U	O-12 PR C U	O-12 PR C U	O-18 PR C U	O-18 PR C U E R	6-24	12-24	12-24	12-
42	O-6 DIV		O-9 PR N U	O-12 PR C U	O-12 PR C U	O-18 PR C U	O-18 PR C U E R	6-24	12-24	12-24	12-2
48	O-6 DIV		O-9 PR N U	O-12 PR C U	O-12 PR C U	O-24 PR C U E R	O-24 PR C U E R	6-24	12-32	12-32	12-3
60	O-6 PR YT N U		O-12 PR C U	O-12 PR C U E	O-12 PR C U E R	O-24 PR C U E R	O-36 PR C U E R	6-36	12-36	24-40	24-40
84	O-6 PR YT C U		O-12 PR C U	O-12 PR C U E R	O-12 PR C U E R	O-12 PR C U E R	O-36 PR C U E R I	6-36	12-36	24-40	30-43
120	O-9 PR YT C U		O-12 PR C U E R	O-12 PR C U E R U	O-24 PR C U E R I	O-36 PR C U E R I	O-48 PR C U E R I	12-48	24-60	36-60	42-8
168	O-12 PR YT C U E R		O-12 PR C U E R	O-24 PR C U E R I	O-48 PR C U E R I	12-60	24-84	24-84	24-84	36-96	60-9
180	O-24 PR YT C U E R		O-24 PR C U E R I	O-48 PR C U E R I	O-60 PR C U E R I	12-72	24-96	24-120	48-120	60-120	72-1
240	O-24 PR C U E R I		O-30 PR C U E R I	12-48	12-60	12-72	24-96	38-120	60-160	84-160	120-16
LIFE	O-36 PR C U E R I		12-48	24-144	48-180	60-240	96-240	98-300	120-300	144-300	168-30

DIV - Probation Diversion  
YT - Youthful Trainee Status  
PR - Probation

N - No reporting required.  
U - Urinalysis monitoring - for probationers with evidence of a drug problem.  
E - Electronic monitoring - for probationers with history of absconding or failing to appear.

C - Community Service  
R - Residential treatment - halfway house or therapeutic community for probationers needing structured program or drug treatment.  
I - Intensive supervision - for high risk probationers who may otherwise be sentenced to confinement.



STATE OF MICHIGAN

- ☐ Third Judicial Circuit Court  
☐ Recorder's Court

# PETITION AND ORDER FOR COURT APPOINTED ATTORNEY

District Court

Circuit/Proc.

Recorder's Court

Name, Address and Telephone No.

The People Of

☐ The State of Michigan☐

TELEPHONE NUMBER

O.I.C.

Telephone

Charge

VCSA

Maximum

Next hearing:

6/29/98 AM

Date

☒ Exam☐ AOI☐ PT☐ Trial

all amount: \$8,000-10%

In  
Custody ☒

Not

In  
Custody ☐

## PETITION

The defendant requests a court appointed attorney and submits the following information:

<b>1. Residence</b> <input type="checkbox"/> Rent <input type="checkbox"/> Own <input type="checkbox"/> Live with parents <input type="checkbox"/> Room/Board		<b>2. Marital Status</b> <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Dependents: _____ <input type="checkbox"/> Married <input type="checkbox"/> Separated <span style="float: right;">Number</span>	
<b>3. Employer Name and Address</b> Name _____ Address _____		<b>4. Length of Employment</b> Average Pay _____ Gross: \$ _____ Net: _____ <input type="checkbox"/> weekly <input type="checkbox"/> monthly <input type="checkbox"/> every two weeks	
<b>5. Other income and assets.</b> State monthly amount and source. (DSS, VA, rent, pensions, spouse, unemployment, etc.)		<b>6. Obligations*</b> Itemize monthly rent, installment payments, mortgage payments, child support, etc.	
<b>7. Reimbursement</b> I understand that I may be ordered to reimburse the court for all or part of my attorney and defense costs.			
<b>8. Verification</b> I declare under penalty of contempt of court that the above information is true to the best of my information, knowledge and belief. Date: 6-23-90 Signature: X John Doe			

\*Use reverse side for additional information/comments.

DISTRICT FELONY CASES (Felony Cases Only)

Judge's Signature

Bar #

Date

## ORDER

A Petition for Appointment of Counsel having been filed by the defendant and said Petition having been considered by the court, the court finds that the defendant is without means to secure counsel in said cause.

<b>9.</b> <u>Michael Bakalian</u> is appointed to represent the defendant. Attorney's Name Bar #	
THE DEFENDANT SHALL REIMBURSE THE COURT AT THE RATE OF _____	
<b>10.</b> <u>[Signature]</u> Judge's Signature	Bar # _____ Date _____

## APPEARANCE

hereby enter my appearance for the above-named defendant.

Print Name	Bar #
Address	962-4090 Telephone No.

IN CUSTODY		DEFENDANT'S NAME	ADDRESS WITH ZIP CODE	AGE	SEX	RACE	D.O.B.	IDENT. NO.
YES	NO							

<input checked="" type="checkbox"/>	<input type="checkbox"/>	1.	JOHN DOE	3515 GARLAND	5745	M	B	9-19-44
<input type="checkbox"/>	<input type="checkbox"/>	2.			36	90	6253	90922/06
<input type="checkbox"/>	<input type="checkbox"/>	3.						10759
<input type="checkbox"/>	<input type="checkbox"/>	4.						

OFFENSE (TO BE FILLED IN BY PROSECUTOR)

*C + I possession of Heroin & Cocaine & 50g Vial*  
*C + I possession of intent to deliver Cocaine & 50g Vial*

TIME	DATE OF OFFENSE	PLACE OF OFFENSE	DATE OF COMPLAINT	COURT FILE NUMBER	JACKET NUMBER
2:00	5-22-90	7/0 2506 GARLAND			90-2222

COMPLAINANT'S NAME	ADDRESS WITH ZIP CODE	SEX	AGE	D.O.B.	RACE	RELATION TO
P.O. BRIAN CARTER	15 PCT	P.O. CRAIG TURNER	15 PCT			

OTHER PENDING CHARGES

COMPLAINANT'S PHONE

PERSON TO SIGN

ASSISTANT PROSECUTING ATTORNEY

## INFORMATION AND BELIEF

Description of Offense and Investigation; include Date, Time and Circumstance of Arrest and Medical Attention administered to Officers, Defendants and Complainants. Continue on Page 2 if necessary.

ON THE ABOVE DATE AND TIME, COMPLAINANT P.O. CARTER ALONG WITH P.O. CRAIG TURNER SET-UP A SURVEILLANCE FOR NARCOTIC TRAFFICKING W/O 2506 MONTECLAIR. THE OFFICERS OBSERVED IN A 20 MINUTE TIME SPAN APPROX. 10 SUSPECTED NARCOTIC TRANSACTIONS WHERE DIFFERENT UNKNOWN PEOPLE WOULD APPROACH THE DEFENDANT (Doe) ON THE PORCH OF 2506 MONTECLAIR GIVE HIM CURRENCY AND RECEIVE SOMETHING FROM THE DEFENDANT FROM A BROWN PAPER BAG. BELIEVING NARCOTIC TRAFFIC TO BE TAKING PLACE THE OFFICERS APPROACHED THE DEFENDANT. DEFENDANT Doe OBSERVING THE OFFICERS JUMPED UP FROM HIS POSITION ON THE PORCH AND ATTEMPTED TO ENTER THE DWELLING DROPPING THE BROWN BAG AND ATTEMPTING TO CLOSE THE DOOR ON THE OFFICERS. P.O. CARTER RETRIEVED THE BAG AND PREVENTED THE DEFENDANT FROM CLOSING THE DOOR. UPON OBSERVING THAT THE BAG CONTAINED SUSPECTED NARCOTICS THE DEFENDANT WAS PLACED UNDER ARREST ADVISED OF HIS CONSTITUTIONAL RIGHTS AND CONVEYED TO THE 15 PCT. P.O. TURNER CONFISCATED FROM THE DEFENDANT JACKET POCKET A BUNDLE OF PINK COIN ENVELOPES WHICH CONTAINED SUSPECTED HEROIN.

## LIST OF EVIDENCE

E.T.#534836 - BROWN BAG W/vial CONTAINING SUSPECTED ROCKS OF COCAINE APPROX. 15.  
 43 PINK COIN ENVELOPES SUSPECTED HEROIN/STAMPED "LEAN ON ME"  
 534837 - 12 COIN ENVELOPES SUSPECTED COCAINE  
 736813 - \$135. CURRENCY FROM BROWN BAG. E.T.#736814 - \$135. FROM DEF'S PERSON  
 CONVEYED TO PPU BY P.O. TURNER CONTENTS OF E.T.#534837 - CONVEYED BY P.O. CARTER CONTENTS OF E.T.#534836. RECEIVED BY P.O. RICHARD PERTEZ WHO PERFORMED A PRELIM ANALYSIS OF THE SUBSTANCES AND FOUND THEM TO BE POSITIVE FOR HEROIN AND TO WGT. APPROX. 8.7g LSP#303328. AND POSITIVE FOR COCAINE AND HEROIN AND WGT. APPROX. 0.9g. and 32.0g. LSP#303329.

(SIGNATURE OF INVESTIGATING OFFICER)

REVIEWED AND  
APPROVED BY

(SIGNATURE OF COMMANDING OFFICER)

DISTRICT OR BUREAU

A . O . W . R E P O R T

JUDGE: ROBERSON, DALTON A  
OFFENDER: Doe, JOHN  
OFFENSE CHARGE: CON SUB<50G  
STATUORY MAXIMUM: 240  
A.O.W. DATE IS: 062290.

PROBATION OFFICER: RODRIGUEZ, ENRIQUE  
PROC. CASE NO.: 90922106-01  
GUIDELINES CRIME GROUP: DRUG  
L.P.D. NO.: 297335  
D36 CASE NO.: 90062538-01

PRIOR RECORD

VARIABLE	SCORE	DEFENDANT'S CRIMINAL RECORD CONSISTS OF THE FOLLOWING :
P.R.V. 1	00	DEFENDANT HAS NO PRIOR HIGH SEVERITY FELONY CONVICTIONS.
P.R.V. 2	25	DEFENDANT HAS 02 PRIOR LOW SEVERITY FELONY CONVICTIONS, INCLUDING, POS QUALONE , CRIME W WPN .
P.R.V. 3	00	DEFENDANT HAS NO PRIOR HIGH SEVERITY JUVENILE AJUDICATIONS.
P.R.V. 4	00	DEFENDANT HAS 0 OR 1 PRIOR LOW SEVERITY JUVENILE AJUDICATIONS.
P.R.V. 5	00	DEFENDANT HAS 00 PRIOR MISDEMEANOR CONVICTIONS.
P.R.V. 6	00	DEFENDANT HAS NO RELATIONSHIP TO CRIMINAL JUSTICE SYSTEM AT THE TIME OF INSTANT OFFENSE.
P.R.V. 7	00	DEFENDANT HAS NO SUBSEQUENT/CONCURRENT CONVICTIONS.
TOTAL P.R.V.	25	PRIOR RECORD LEVEL IS C.

OFFENSE  
VARIABLE

SCORE	THE OFFENSE OF CON SUB<50G CONSISTS OF THE FOLLOWING DETAILS:
O.V. 8	00 NO CONTINUING CRIMINAL BEHAVIOR AND/OR MEMBERSHIP IN AN ORGANIZED CRIMINAL GROUP.
O.V. 9	00 THE DEFENDANT WAS NOT A LEADER.
O.V. 15	10 THE CONTROLLED SUBSTANCE IS COCAINE, HEROIN OR A SCHEDULE 1 OR 2 NARCOTICS.
O.V. 16	15 THE SITUATION INVOLVES EITHER: SALE OR DELIVERY OF 11 GRAMS OR MORE OF A COMPOUND CONTAINING HEROIN OR COCAINE, OR POSSESSION OF SUBSTANCES OTHER THAN HERION HAVING SUCH DOLLAR VALUE, OR UNDER SUCH CIRCUMSTANCES AS TO INDICATE TRAFFICING.
O.V. 25	00 THERE WAS 0 OR 1 CONTEMPORANEOUS CRIMINAL ACTS.
TOTAL O.V.	25 OFFENSE SEVERITY LEVEL IS III.

GUIDELINES SENTENCE RECOMMENDATION: 012-060.

A . O . W . R E P O R T

STATE OF MICHIGAN <input type="checkbox"/> THIRD JUDICIAL CIRCUIT COURT <input checked="" type="checkbox"/> RECORDER'S COURT	ORDER GRANTING DISCOVERY	CASE No. <u>90-62538</u>
--	--------------------------------	-----------------------------

PEOPLE OF THE STATE OF MICHIGAN,

vs.

JOHN Doe

At a session of said Court held in the  
Frank Murphy Hall of Justice, on

June 25, 1990

PRESENT: HON. Terrance K. Boyle  
Judge

IT IS HEREBY ORDERED that defense counsel be allowed to examine, and/or be furnished copies of the following:

1. All statements known to the police and prosecutor of all endorsed witnesses;
2. All statements of the defendant(s), which statements are recorded or have been reduced to writing;
3. The Investigator's Report and all preliminary complaint reports (PCR's) concerning the above-captioned case;
4. The arrest and conviction record of the defendant(s);
5. All scientific and laboratory reports;
6. All corporeal and photographic lineup sheets.

In addition, defense counsel in the above-captioned case shall be permitted to view:

1. All photographs, diagrams, and/or other visual evidence which pertains to this case, and which are in custody of the police;
  2. All physical and/or tangible evidence in the custody of the police department which pertains to the instant case.
- ☒ Counsel in this case is assigned, due to the indigency of the defendant, and copies made under this Order shall be at Court expense.
- ☐ Counsel in this case is retained, and copies made under this Order shall be at defense expense.

The victim's address, employer or other personal identification excluded as part of this discovery order.

Approved as to form and content:

Thomas M. Kelly  
Assistant Prosecuting Attorney

HON. TERRANCE K. BOYLE  
Judge

Distribution:

White — File  
Yellow — Police Dept.  
Pink — Defense Attorney  
Goldenrod — Prosecutor

NAME <b>JOHN DOE</b> (B)	F.B.I. No. 251758L2 752171 M.S.B. No.	ALIAS APPENDIX C(5): Early Discovery Packet-- Defendant's Criminal Record
THIS RECORD FORWARDED TO OR RECEIVED BY _____		SIGNATURE AND/OR AGENCY OF PERSON REC _____

ON \_\_\_\_\_ BY \_\_\_\_\_  
DATE IDENTIFICATION-RECORD BUREAU  
gd 6-27-72

CONTRIBUTOR	NAME AND NUMBER	DATE	CHARGE AND DOCKET NUMBER	DISPOSITION
St Louis Mo	John Doe 108176	1-18-67	Stl u/\$50	Warr Refused
PD DET MICH	John Doe #297335	3-19-70	Traffic Warrant	4-6-70, \$89 Fine
"	"	11-13-70	Traffic Warrant	11-14-70, \$50 or 7 DHC
"	"	6-4-71	Misc Ord (Poss Narc Para) #L14719	6-4-71, \$50 or 5 D DHC
"	"	11-16-71	Viol St Narc Law (Sale Narc) #7110475	4-19-72, Conv: Un Use Narc, \$75 & 2 Probation last 60 I DHC
"	"	8-15-73	Viol Control Sub Act 73-6062	10-4-73, Conv: Att P Heroin, 1 to 2 yrs
"	"	9-26-73	Viol Control Sub Act 73-07559	10-4-73, Conv: Att P Heroin, 1 to 2 yrs
Dept of Corr Recep Center Jackson, Mich.	John Doe #A 136321	10-4-73 (sent)	1. Attempt Viol drug law 2. Attempt viol drug law (RC Detroit)	1. 1-2 yrs 2. 1-2 yrs  7-5-74, Paroled to Det Mi Until 3-25-
Det Mi	John Doe 297335	10-3-75	Viol Con Sub Act 7507577	5-31-77, Conv: Know Int Poss Heroin; 2 Prob & Enter Rubic Ctr until Medical Discharge

See Page #2

297335

**MASTER RECORD MUST BE LEFT IN FILE**

CONTRIBUTOR	NAME AND NUMBER	DATE	CHARGE AND DOCKET NUMBER	DISPOSITION
Det Mi	John Doe 297335	5-9-77	Viol Con Sub Act Poss Heroin 7702667	5-31-77, Conv: Att Poss Heroin; 2 Yrs Prob, Ent Rubican Addict Ctr
"	"	1-30-78	Viol Prob 7702667	1-31-78, Prob Terminat w/Out Improvement
"	"	1-30-78	Viol Prob 7507577	1-31-78, Prob Terminat w/out Improvement

CONTRIBUTOR	NAME AND NUMBER	DATE	CHARGE AND DOCKET NUMBER	DISPOSITION
Det Mi	John Doe 297335	5-9-77	Viol Con Sub Act Poss Heroin 7702667	5-31-77, Conv: Att Poss Heroin; 2 Yrs Prob, Ent Rubican Addict Ctr
"	"	1-30-78	Viol Prob 7702667	1-31-78, Prob Terminat w/Out Improvement
"	"	1-30-78	Viol Prob 7507577	1-31-78, Prob Terminat w/out Improvement
		7-13-82	Felony Warrant	Pending
		11-24-82	V.C.S.A	"
		6-22-90	Ve3A	

STATE OF MICHIGAN  
THIRD JUDICIAL CIRCUIT AND THE  
RECORDER'S COURT FOR THE CITY OF DETROIT

JOINT ADMINISTRATIVE ORDER  
1988-2

IT IS ORDERED:

The attached fee Schedule G representing fees for assigned counsel is adopted for all vouchers submitted after July 1, 1988. Joint Administrative Order 1988-1 including Schedule F is set aside and replaced by this Order and Schedule G.


Counsel appointed for indigent defendants may make no expenditure, other than for subpoena fees, for which he or she expects reimbursement except upon prior approval and order of the trial judge on motion for good cause shown.

In any case in which more than one criminal offense is charged, payment shall be made for only the charge carrying the greatest potential term of imprisonment.

Counsel is required to consult with the defendant prior to the preliminary exam. Consequently, if the defendant is in jail counsel must attach to the fee voucher evidence of a jail visit; and if the defendant is not in jail, counsel must attach to the fee voucher an executed form available from the office of the Circuit Court Administrator or Recorder's Court Administrator verifying that counsel has met with the defendant prior to the preliminary exam. Failure to attach this document to the voucher will result in a \$75.00 deduction from the appropriate fixed fee.

In all cases, counsel may petition the Chief Judge for the payment of extraordinary fees. All petitions for extraordinary fees must include an analysis of all assigned cases for the previous one year.

DATED: June 27, 1988

  
RICHARD C. KAUFMAN  
EXECUTIVE CHIEF JUDGE

SCHEDULE G - EFFECTIVE JULY 1, 1988  
(For vouchers submitted on or after above date)

I. CRIMINAL CASES IN THE TRIAL COURT

<u>OFFENSE CATEGORY</u>	<u>FIXED FEE</u>
24 MONTH MAX	\$475
36 MONTH MAX	500
48 MONTH MAX	525
60 MONTH MAX	550
84 MONTH MAX	75
120 MONTH MAX	500
168 MONTH MAX	625
180 MONTH MAX	650
240 MONTH MAX	675
LIFE (except MUR I & II)	750
MURDER II	1,000
MURDER I	1,400

The fixed fee rates in the above table will be paid in all cases, except under those circumstances listed below.

EXCEPTIONS

1. Multiple Cases with Same Defendant:  
     100% of fixed fee for case with most serious charge  
     50% of fixed fee for each other case
2. Case Dismissed at Exam Due to Complainant's Failure to Appear: \$100.00
3. Case Where Capias Warrant is Issued:  
     Before preliminary exam - 10% of fixed fee  
     After exam - 20%  
     After AOI - 30%  
     After final conference - 40%  
     After disposition, before sentence - 90%
4. Attorney Replaced by Retained Counsel:  
     After preliminary exam - 20% of fixed fee  
     After AOI - 30%  
     After final conference - 40%
5. Diversion: \$100.00  
     Before preliminary exam  
     After exam - paid as disposition
6. Probation Violation or Extradition Hearing: \$75.00
7. Welfare Fraud:  
     Diversion - for a grouping of 25 defendants \$1,000.00  
     Plea - for a grouping of 5 defendants \$1,000.00



APPENDIX D(3): Revised Fee Schedule for Indigent  
 Defense Counsel--Impact of Flat Fee Schedule:  
 PRELIMINARY REPORT Preliminary Report

Comparison of 956 cases scheduled for Jury Trial before July 1, 1988 with 221 cases scheduled for Jury Trial after July 1, 1988

	January 1988 - June 1988		July and August 1988	
	<u>APPOINTED</u>	<u>RETAINED</u>	<u>APPOINTED</u>	<u>RETAINED</u>
Jury Trial Held As Scheduled	298 (40.77)	89 (35.60)	45 (33.09)	26 (26.53)
Resulted in Waiver Trial	226 (30.92)	85 (34.00)	48 (35.29)	33 (33.67)
Resulted In Plea	62 (8.48)	18 (7.20)	9 (6.62)	12 (12.24)
Adjourned	65 (8.89)	27 (10.80)	19 (13.97)	16 (16.33)
Capias	39 (5.34)	24 (9.60)	4 (2.94)	5 (5.10)
Dismissed	38 (5.20)	7 (2.80)	11 (8.09)	6 (6.12)

#### RESULTS

1. Fewer Jury Trials involving an appointed attorney resulted in pleas after the Flat Fee Schedule was adopted (21.9% fewer), while the number of Jury Trials involving retained attorneys that resulted in pleas increased.
2. The percentage of cases scheduled for Jury Trials which resulted in Waiver Trials increased for appointed attorneys (+14%) and remained essentially the same for retained attorneys.
3. The number of Jury Trials held as scheduled decreased for appointed (-18.8%) and retained attorneys (-25.5%).
4. The capias rate decreased by nearly 50% for all cases while the adjournment rate increased by over 50%.

#### CONCLUSIONS

Jury Trials are not resulting in pleas but more are resulting in Waiver Trials. A lower percentage of cases scheduled for Jury Trials are resulting in Jury Trials but it is too early to cite the case for this change. More data must be analyzed before accurate conclusions can be drawn.

## II. ACTIVITY AT THE APPELLATE LEVEL

Non-frivolous Motion for New Trial Together with Memorandum of Law by Trial Counsel After a Jury or Non-jury Trial:	\$125.00
Transcript: Every 400 pages or major fraction thereof other than guilty plea cases	200.00
Guilty plea cases	100.00
Claim of Appeal Brief and All Proceedings: Other than guilty plea cases	500.00
Guilty plea cases	350.00
Visit to Prison Facilities: Wayne County facilities	75.00
Camp Pellston and all UP facilities	400.00
All others	200.00
Appeal to Higher Courts for Each One-half Day Spent in Trial Court:	75.00
Appearance at Habeas Corpus:	50.00

## III. MISCELLANEOUS ACTIVITY

Show-ups: Full day standby	200.00
Per hour	50.00
Psychiatric Cases in Which the Maximum Penalty is Life Imprisonment: Interview and written evaluation	300.00
Attendance in court	150.00
Other Experts: Interview and written evaluation	200.00
Attendance in court	150.00
Interpreters: Per day	150.00
Half day	75.00

## IV. PATERNITY CASE ACTIVITY

Preparation, Non-trial Court Appearance(s), Trials and All Other Trial Court Proceedings:	150.00
---	--------

## V. SPOUSE ABUSE CASES

Preparation, Non-trial Court Appearance(s), Trials and All Other Trial Court Proceedings:	150.00
---	--------

## VERIFICATION OF CONSULTATION

\_\_\_\_\_  
Docket Number

This will certify that \_\_\_\_\_

\_\_\_\_\_  
Attorney

consulted with \_\_\_\_\_

\_\_\_\_\_  
Defendant

at \_\_\_\_\_

Place

on \_\_\_\_\_

Date

Dated: \_\_\_\_\_

Attorney: \_\_\_\_\_

\_\_\_\_\_  
Defendant

## VERIFICATION OF CONSULTATION

\_\_\_\_\_  
Docket Number

This will certify that \_\_\_\_\_

\_\_\_\_\_  
Attorney

consulted with \_\_\_\_\_

\_\_\_\_\_  
Defendant

at \_\_\_\_\_

Place

on \_\_\_\_\_

Date

Dated: \_\_\_\_\_

Attorney: \_\_\_\_\_

\_\_\_\_\_  
Defendant

STATE OF MICHIGAN <input type="checkbox"/> Third Judicial Circuit Court <input type="checkbox"/> Recorder's Court	ORDER AND CERTIFICATION OF JAIL VISIT	CASE NO. _____
---	--	-------------------

THE PEOPLE OF THE STATE OF MICHIGAN

**Defendants**

## ORDER

IT IS ORDERED that \_\_\_\_\_

in the above cause, be allowed to visit the above named defendant(s) incarcerated in \_\_\_\_\_

Dated: \_\_\_\_\_

**Judge**

**CERTIFICATION OF JAIL OR PRISON VISIT**

This will certify that \_\_\_\_\_

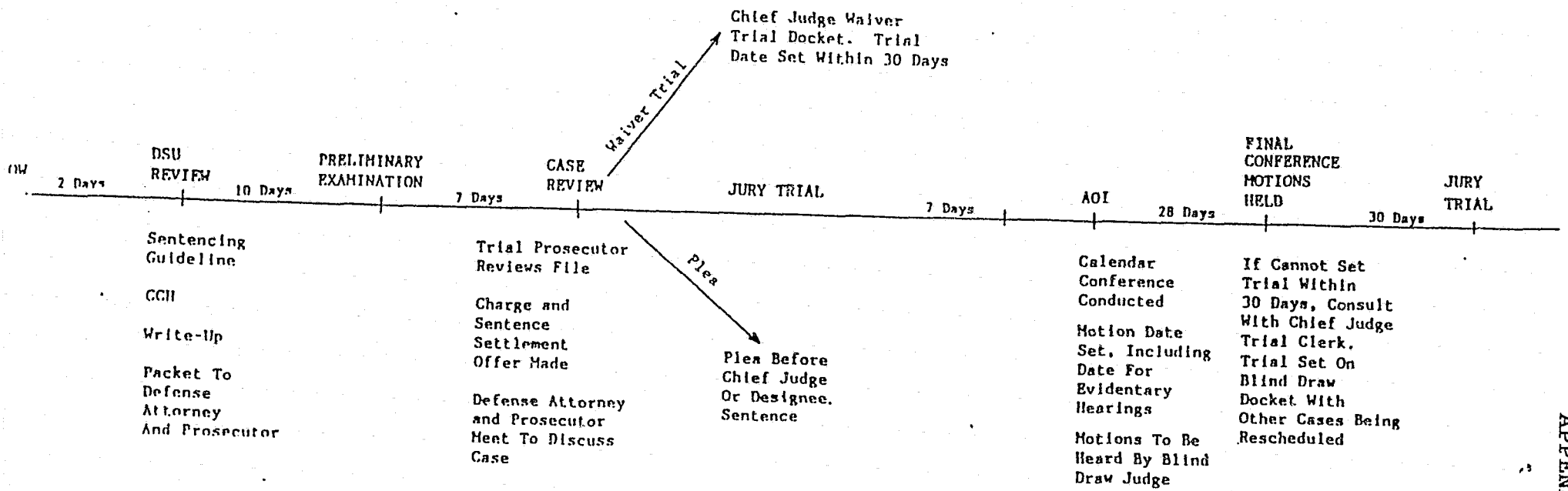
in the above cause, visited the above named defendant(s), Inmate # \_\_\_\_\_,

at \_\_\_\_\_ on \_\_\_\_\_  
(Institution) (Date)

**NOTE: CALL INSTITUTION WITHIN 5 DAYS PRIOR TO VISIT TO CONFIRM DEFENDANT'S AVAILABILITY FOR INTERVIEW.**

Dated: \_\_\_\_\_

Institution Officer



TRACKS

- 84 Days Jury Trial
- 49 Days Waiver Trial
- 19 Days Plea

People v \_\_\_\_\_

Case No. \_\_\_\_\_

STRUCTURED SENTENCE AGREEMENT

in consideration of an agreement of MCL 333.7411-sentencing (including absence of a felony record if terms and conditions are complied with) and the savings of time and involvement associated with the structured sentence program, the defendant agrees to plead guilty, as charged, to:

☒ Possession of \_\_\_\_\_, a 4-year felony, MCLA 333.7403 (2)(a)(v) .

☐ \_\_\_\_\_  
If defendant's plea of guilty is accepted, defendant's case shall thereafter be governed by MCL 333.7411, subject to the terms and conditions set forth below.

TERMS AND CONDITIONS;  
CONSEQUENCES OF VIOLATION

Each representation and undertaking set forth below is a condition of this agreement.

Defendant represents that:

- a) he or she has no prior felony convictions or juvenile adjudications of a felony nature;

and promises in good faith to:

- b) REFRAIN FROM ANY AND ALL FURTHER CRIMINAL ACTIVITY.  
c) Undergo screening and assessment, including periodic urinalysis, by a person designated by the court to determine whether the defendant would benefit from rehabilitative services, including alcohol or drug education and/or alcohol or drug treatment programs. If defendant's initial urinalysis reveals drug usage, the defendant shall attend a course of instruction or out-patient rehabilitation program as approved by the court on the medical, psychological and social effects of the misuse of drugs. The court may order the defendant to pay a fee for the instruction or program.  
d) Perform \_\_\_\_\_ hours of community service.  
e) Obtain a high school diploma or GED, or receive the equivalent vocational training.  
f) Seek and maintain employment, if defendant has completed his/her education.  
g) Report to the probation department as directed.

It is agreed by the undersigned that any motion against defendant alleging violation of one or more of the above conditions shall be heard without delay (including delay due to a new criminal charge, if any) and, if the sentencing judge determines the violation was committed, an adjudication of guilt upon the above charge shall be entered and sentence to A MINIMUM PRISON TERM OF NOT LESS THAN \_\_\_\_\_ MONTHS shall be imposed.

AGREED TO BY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Assistant Prosecuting Attorney

Attest: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Defendant



☐ THIRD JUDICIAL CIRCUIT COURT  
☐ RECORDER'S COURT

FINAL PRE-TRIAL  
 CONFERENCE SUMMARY

(5)

IV

THE PEOPLE OF THE STATE OF MICHIGAN

Date: \_\_\_\_\_

- vs -

APPENDIX G: Final Pre-Trial  
 Conference Summary

AKA: \_\_\_\_\_

SID: \_\_\_\_\_

ASSISTANT PROSECUTOR AND DEFENSE ATTORNEY

This form must be completed and presented to the Judge before the Final Pre-Trial Conference.

FINAL SETTLEMENT OFFER

The Prosecutor's Final Settlement Offer of

Charge	Sentence	Other (Specify)
is available until the Final Pre-Trial Conference is concluded. No settlement offers will be made after this date. The only disposition after the Final Pre-Trial Conference will be by plea of guilty as charged or trial.		

STIPULATIONS

The Prosecutor and Defense Counsel hereby agree to the following stipulations:

- ☐ Auto Theft Case: Auto Owner Waived.
- ☐ Narcotics Case: Chain Of Evidence Waived, and/or ☐ Chemist Waived.
- ☐ Parties Will Stipulate To The Testimony Of Witnesses Named In The Police Investigator's Report: ☐ Waive All Witnesses Named. \_\_\_\_\_
- ☐ Waive Only (Specify) \_\_\_\_\_
- ☐ Other, Including Exhibits (Specify) \_\_\_\_\_

TRIAL LENGTH AND DATE

The Prosecutor and Defense Counsel represent that all pretrial motions and discovery have been completed and that all required witnesses are available for trial.

Number of Witnesses: Prosecution \_\_\_\_\_ Defense \_\_\_\_\_  
 Type of Trial: Jury ☐ Waiver ☐  
 Estimated Length of Trial: 1/2 Day ☐ 1 Day ☐ Other ☐ \_\_\_\_\_  
 (Specify)

TRIAL WILL COMMENCE ON \_\_\_\_\_ AT \_\_\_\_\_  
 Date Time

SIGNATURES AND ACCEPTANCE OF NOTICE

Counsel for all parties accept notice of the trial date and waive all matters preliminary to trial except as entered on the record at the Final Conference.. Defense Counsel and the Assistant Prosecutor confirm their availability on the trial date. All parties are to sign below.

Counsel For Defense

Assistant Prosecuting Attorney

Defendant

Judge

Copies of signed form distributed and originals filed.

Court Clerk

Date

FINAL PRE-TRIAL CONFERENCE SUMMARY



## WEEKLY DOCKET STATUS REPORT

Report

2/21/90	2/28/90 (Tm)	Judges	Cases	Defts	PT	TR	Bad Date	Last TR Date
1	1	3 Jobes	20	23	13	10	2	4/2/90
2	2	6 Talbot	22	26	9	17	0	4/18/90
3	3	3 Torres	26	28	6	22	0	5/24/90
5	4	5 Strong	29	33	14	19	0	5/14/90
8	5	2 Thomas	30	37	22	15	0	5/7/90
4	6	5 Roberts	31	33	12	21	0	5/2/90
6	7	4 Heading	32	35	27	8	0	5/2/90
7	8	6 Silverman	33	38	19	19	0	6/18/90
9	9	4 Hood	34	37	22	15	0	5/14/90
10	10	5 Drain	34	41	15	26	0	5/7/90
13	11	3 Jasper	35	36	20	16	0	5/21/90
12	12	3 Boyle	39	43	18	25	0	6/18/90
11	13	5 Baxter	39	44	32	12	1	5/21/90
14	14	6 (302) Docket	45	52	19	33	0	5/29/90
15	15	4 Ford	52	62	36	26	3	7/2/90
16	16	2 Edwards	55	66	26	40	0	7/11/90
17	17	2 Moore	56	68	37	31	0	7/2/90
21	18	6 Jackson	58	65	24	41	5	5/24/90
19	19	7 Chylinski	60	72	28	44	0	8/23/90
22	20	2 (203) Docket	62	72	24	48	1	5/9/90
18	21	1 Massey Jones	63	80	37	43	1	7/18/90
20	22	1 Townsend	69	82	38	44	0	5/21/90
23	23	1 Crockett III	77	84	32	52	0	6/6/90
24	24	1 (202) Docket	88	100	41	59	0	5/30/90
25	25	7 (201) Docket	91	111	49	62	3	6/14/90
26	26	7 Shamo	116	133	67	66	0	9/24/90

Arraign on Info  
Cases Defts

Chief & Team Exec. Judges

75	83	5 Carnovale	37	48	20	28	32	4/17/90
45	55	1 Evans	64	67	26	41	4	5/9/90
32	35	3 Tennen (204)	184	205	112	93	1	4/26/90
52	60	7 Kerwin	82	90	21	69	17	5/31/90
36	37	6 O'Brien	236	250	56	194	11	7/3/90
45	51	2 Sapala	71	89	51	38	9	4/24/90

285 321

64

68

4 Roberson(Cf Jd) 188 209 69 140 242 6/21/90

349

389

As of 2/28/90 there were 2,507 cases and 2,848 defendants awaiting disposition. There were 1,417 defendants with cases set for trial.

Included are 12 defendants (12 cases) in the controlled docket status.

The Circuit Court  
for the Third Judicial Circuit of Michigan  
and

The Recorder's Court  
for the City of Detroit

1441 St. Antoine

Detroit, Michigan 48226-2384

DALTON A. ROBERSON  
EXECUTIVE CHIEF JUDGE

AREA CODE  
TELEPHONE 22

MEMORANDUM: May 8, 1990

TO: Recorder's Court Judges and  
Wayne County Circuit Court Judges

RE: TERMINATION OF SPIN-OFF DOCKET

The Chief Judges's Special Trial Docket is being terminated effective today. So many cases were being "spun-out" that the integrity of our individual calendar systems was being undermined.

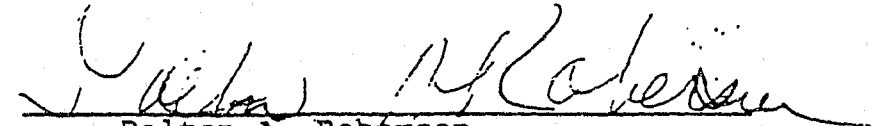
Now that we have fewer than 100 cases over 180 days in age and have many dockets on track, I will begin concentrating on the off-track dockets.

One of our primary goals has always been to have all of our trials on a 91 day track. We should now be able to achieve that goal. Accordingly, a procedure for reviewing off-track dockets will be implemented beginning the week of May 7, 1990. Under this procedure, no trial is to be set off-track.

As indicated on the May 2, 1990 Weekly Docket Status Report, 12 dockets currently have trials scheduled beyond our 91 day time standard. The Court Clerk/Docket Managers responsible for these off-track dockets will be instructed to bring their final conference files and refer all parties to me following the final conference. The CR6 of the off-track docket will be reviewed to determine if the docket can be rescheduled to accommodate the new cases. If it cannot, I will review every case on the docket, taking non-capital cases if necessary while leaving capital cases. The attached form will be used to notify clerks when to bring their final conference file(s) to my courtroom. I will begin with the dockets with the oldest cases and work forward. Staff, working with me, will continue scheduling off-track dockets until trials may be scheduled according to our 91 day track.

Recorder's Court Judges and Wayne County Circuit Court Judges  
May 8, 1990  
page 2

The cooperation of all judges and staff will be needed to maintain all cases on a 91 day track. Your support and assistance will be most appreciated.

  
Dalton A. Roberson  
Executive Chief Judge



**THE AMERICAN UNIVERSITY**  
WASHINGTON, D.C.

School of Public Affairs

Projects Office  
3615 Wisconsin Ave., N.W.  
Washington, D.C. 20016  
(202) 362-4183  
FAX: (202) 362-4867

**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**PROGRAM SUMMARY NO. 5<sup>1</sup>**

**Pierce County (Tacoma), Washington**

---

<sup>1</sup> Prepared under BJA Cooperative Agreement No. 89-DD-CX-K023.

**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**PROGRAM SUMMARY No. 5<sup>1</sup>**

**SUPERIOR COURT OF PIERCE COUNTY  
PIERCE COUNTY (TACOMA), WASHINGTON**

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<sup>1</sup> Prepared Under BJA Cooperative Agreement No. 89-DD-CX-K023

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## I. INTRODUCTION

### A. Background

#### 1. Project Summary

The DCM Program in Pierce County, Washington was launched on July 1, 1988 and focussed initially upon felony drug cases. "Drug" cases were defined as the following:

- cases involving only drug charges
- cases involving both drug and non-drug violations (regardless of whether the drug charges subsequently were dismissed) as long as the primary charge involved a drug offense;
- sentence violations involving a pre-DCM case drug conviction.

In July 1989, the DCM program was expanded to include sexual assault cases and, in April 1990, the rest of the criminal docket was incorporated into the DCM system. An essential component of the DCM program in Pierce County has been the transfer of case calendaring responsibilities for the DCM cases from the prosecutor to the newly established court administrator's office. Case calendaring responsibilities for the non-DCM cases remained with the prosecutor while the DCM program was being phased in.

#### 2. Relevant Geographic and Demographic Factors

The Pierce County Superior Court is located in Tacoma, a port city, with a population of approximately 547,700 and located thirty miles south of Seattle, on Puget Sound. The area has a substantial transient population and a large number of foreign-speaking persons (Spanish, Korean, Cambodian, in particular), making it necessary to secure interpreters for many court proceedings. The state mental institution is also located in the County accounting for a high number of mental commitment-related hearings.

### B. Description of the Judicial System

#### 1. Jurisdiction and Organization of the Pierce County Superior Court

The Pierce County Superior Court is served by 18 judges and five court commissioners. The court staff also consists of 8 court reporters. The court has jurisdiction over all felonies, civil matters over \$10,000, domestic relations, probate, guardianship, adoption, juvenile and civil commitments, and concurrent jurisdiction with the District Court over claims under \$ 10,000. When the DCM project was proposed in early 1988, the position of presiding judge rotated among the judges every three months. Shortly after the DCM program began, the judges voted to merge the position of presiding judge with that of the chairperson of the elected executive committee, thereby extending the term of the presiding judge to one year.

#### 2. Calendaring System and Support Staff

The Superior Court's DCM-related administrative staff includes the court administrator, a jury administrator, and a criminal case manager and assistant criminal case manager, both of whom work primarily with the DCM cases. Felony cases are filed directly in the Superior Court. The Superior Court case assignment system is a hybrid of individual and master calendars. All judges are assigned an equal share of civil cases after a Note of Issue is filed. Felony cases are processed in one of two criminal division courtrooms up to the point of trial readiness. At that time, they are assigned by the Court Administrator's Office to any available judge for trial. Criminal division II handles all cases involving drug charges; Criminal Division 1 handles all other felonies. A third Criminal Division will be added shortly. The responsibilities of the criminal division judges are to handle arraignments; pretrial conferences; omnibus hearings/motions (if

any); violation, review and restitution hearings; and sentencings on guilty pleas. Trial dates in criminal cases are assigned by the Court Administrator's office for the DCM cases.

3. Organization of the Prosecutor's Office and Indigent Defense Services

a. *Office of the Prosecuting Attorney*

Felonies are prosecuted by the elected Pierce County Prosecuting Attorney and his staff of thirty-two deputy prosecuting attorneys. Felony drug cases under the DCM program were initially processed by a five-member "drug team" of deputy prosecuting attorneys, subsequently expanded to eight-members, and supported by four staff members. Misdemeanor drug cases, handled by the District Court, are prosecuted by additional deputy prosecuting attorneys.

b. *Department of Assigned Counsel*

Indigent defense services are provided by the Department of Assigned Counsel (DAC) which uses a combination of private lawyers and DAC staff attorneys. It is estimated that this office defends at least 85-90% of the criminal cases handled by the Court. The office is staffed by 44 attorneys, 62 non-attorney staff and limited additional part-time support. Felony cases are handled by 15 attorneys, 3 of whom are primarily responsible for drug cases. Approximately 15% of the caseload present conflict situations and are assigned to private attorneys who handle the cases under the supervision of the DAC.

4. Court Caseload

The caseload handled by the Superior Court totalled 27,906 cases in CY 1988 and 29,112 cases in CY 1989, representing an increase of 17.3% between 1987 - 1988 and an additional four percent increase between 1988 - 1989. These cases break down as follows:

	<u>CY 1988</u>	<u>CY 1989</u>
Civil	16,478	16,582
Criminal (felony)	4,468	4,979
Juvenile		
Delinquency	1,496	1,519
Dependency	616	550
Probate/Guardsh.	1,824	1,856
Adoptions/Pat.	363	1,885
Mental Commitments	<u>2,661</u>	<u>2,534</u>
Total	27,906	29,112

Drug cases, the initial focus of the DCM system, have increased from about ten percent of the criminal caseload in 1985 (272 of 2,558 felony filings) to twenty-three percent in 1987 (830 of 3,595 felony filings), 27% in 1988 (1,195 of 4,468) and 35% in 1989 (1,768 of 4,979).



## II. Description of the DCM Program

### A. Program Objectives

The goals of the DCM program in Pierce County, stated at the time of the program design, were to promote the speedy disposition of drug cases and to reduce jail crowding. Objectives in support of these goals were (a) to transfer responsibility for calendar management and case scheduling from the District Attorney to the Court; (b) to provide firm, reliable trial dates; and (c) to significantly reduce the continuances of trials and other scheduled hearings.

### B. Program Description

#### 1. General

The underlying premise of the Pierce County DCM program has been to provide court control, certainty and consistency to the caseload process and to dispose of cases in a manner consistent with their processing requirements. As noted above, at the time the program was designed, continuances were a major problem; they were almost automatically obtained by the prosecutor or defense attorney, especially when they joined in the request. Under the DCM program, case progress and case scheduling became explicitly the responsibility of the Court. Accordingly, specific intermediate events were instituted to permit the Court to better monitor case progress and encourage meaningful pre-trial negotiation. In addition, the Court has required each continuance request to be submitted to the judge presiding over the proceeding who, upon inquiry, grants such requests only upon a showing of good cause. (See Appendix A). Stipulation by both sides is no longer sufficient.

#### 2. Tracks Created and their Criteria

Pierce County's DCM Program consists of four plans (tracks)<sup>2</sup>: A, B, C, and D. Plan D is used primarily for Sexual Assault (SAU) cases and very serious felonies. The tracks and their criteria were developed jointly by the Court, the Prosecuting Attorney and the Department of Assigned Counsel. Since the DCM program in Pierce County was phased in by case type, i.e., first applied to drug cases, then to SAU cases, etc., a description of track criteria is presented below in corresponding order.

##### a. *Drug Cases*

##### (1) Tracks Created

Criteria for track assignment and disposition time standards, including intermediate event deadlines, have been established for each of the three DCM tracks (plans) as follows:

Plan A: Plan A cases have no complex factors such as multiple defendants, suppression issues, etc. The disposition time standard for this Plan is a maximum of thirty days from arraignment to disposition.<sup>3</sup> Cases assigned to Plan A include cases involving the following:

---

<sup>2</sup> Local officials felt the term "track" offensive to the concept of quality and justice which the DCM program was designed to support and therefore chose the term "plan" to distinguish the case categories adopted for the DCM program.

<sup>3</sup> Plan A drug cases have recently averaged 36.13 days to disposition -- slightly exceeding the time disposition goal primarily because of a shortage of judges to accommodate the considerable recent increase in caseload. The planned addition of a third criminal division should alleviate this problem.

- a charge of unauthorized possessions of controlled substances with no suppression issues or pretrial motions involved
- an in custody defendant
- a single defendant
- a simple analysis of drugs
- minor criminal sanctions
- a defendant who has pled at the Pre-Trial Hearing
- a defendant for whom a plea date has been set

A typical case assigned to this Plan involves a single defendant, with one or two charges to which a guilty plea is considered likely.

Plan B: Plan B cases include cases in which a plea is not initially anticipated and which are more complex than Plan A cases, involving multiple defendants and/or more serious charges, and defendants with prior records; however, these cases do not involve complex motions or special proceedings. The disposition time standard for Plan B cases is a maximum of 120 days from arraignment to disposition.<sup>4</sup> Since the Washington State speedy trial statute requires disposition of felonies within 60 or 90 days, depending on custody status, Plan B cases which extend beyond these limits are those in which the defendant requests a waiver of the speedy trial requirement. Typical Plan B cases include:

- drug cases with stop/search issues;
- a search warrant with a small amount of drugs, no search/seizure issues or deliveries;
- a defendant who has prior felony convictions;
- an out of custody defendant

Plan C: Plan C is reserved for very complex cases such as those in which many or complicated motions are anticipated, multiple defendants are involved, conspiracy issues are relevant, or substantial sentences may be imposed. This category may also be used for cases involving informants. The disposition time standard established for this track is a maximum of 150 days from arraignment to disposition.<sup>5</sup> Typical Plan C cases would include cases

- involving search warrants
- multiple defendants
- conspiracy allegations
- ongoing related investigation(s)
- an amount of drugs which involve extensive testing
- a serious potential prison sentence

## (2) Initial Track Assignment Experience

As of April 1990, when the drug Case DCM program had been operating for 21 months, drug DCM case assignments and dispositions by Plan were as follows:

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<sup>4</sup> Plan B drug cases have recently averaged 62.53 days to disposition.

<sup>5</sup> Plan C drug cases have recently averaged 87.7 days to disposition.

Pending Caseload

Dispositions

Plan A	34%
Plan B	45%
Plan C	16%
Cases Not Assigned to Tracks:	5%

Plan A	52%
Plan B	39%
Plan C	9%

Twenty-one percent of these cases were disposed of within thirty days of arraignment; 90% of the cases were disposed of within 90 days of arraignment.

b. *Sexual Assault (SAU) Cases*

(1) **Tracks Created**

Because of the more protracted nature of sexual assault cases, they are not generally assigned to Plan "A" and a Plan "D" has been added to accommodate more complex cases which are assigned to individual judges. The full exchange of discovery in these cases has also posed some problems because the prosecutor is sometimes reluctant to release certain information regarding victims early in the process.

Given these factors, the following criteria for track assignment and disposition time standards, including intermediate event deadlines, have been established for each of the DCM tracks for SAU cases as follows<sup>6</sup>:

Plan B Plan B cases are considered "simple" cases to be adjudicated within 30 - 120 days<sup>7</sup> of arraignment. Plan B SAU cases include

- uncontested cases not involving suppression or discovery issues or pre-trial motions;
- uncontested cases proceeding pursuant to SSOSA<sup>8</sup> in which the offense is admitted and requisite psychological evaluation has been completed by an approved therapist;
- uncontested cases involving minor criminal sanctions
- in-custody uncontested cases

Plan C: Plan C cases are considered "normal" cases to be adjudicated within 60 -150 days of arraignment<sup>9</sup>. Included in Plan C are the following types of cases:

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<sup>6</sup> Sentencing guidelines for sexual offenders under Washington statute require a hearing to evaluate a defendant's treatment needs. These hearings, which are necessary as a prelude to mandating treatment as a part of a sentence, are often mandated by the court but need to be arranged and paid for by the defendant. The need to make these arrangements can add additional time to the processing of these cases and to determining how complex they may be. In addition, since a defendant not considered amenable to treatment may receive more extensive jail time, he/she may be less willing to consider pleading. These factors make it more difficult to categorize SAU cases early.

<sup>7</sup> excluding sentencing date. Plan B SAU cases have recently averaged 76.4 days to disposition.

<sup>8</sup> SSOSA cases are cases which fall under the statutory provisions for Special Sexual Offender Sentencing Alternatives

<sup>9</sup> Plan C SAU cases have recently averaged 66.7 days to disposition.

- contested cases without complex medical, discovery or other issues or requiring expert witnesses;
- uncontested cases requiring psychological evaluations or other expert data not previously completed;
- cases involving defendants with prior felony convictions or other prior sex offenses;
- defendants not in custody
- cases involving multiple defendants
- cases involving physical abuse/physical assault charges

Plan D: Complex SAU cases assigned to Plan D<sup>10</sup> involve:

- multiple defendant contested cases
- cases involving complex medical, psychological or similar issues requiring the need for expert witnesses;
- cases involving discovery of records;
- cases necessitating numerous extensive or complex pre-trial motions;
- cases involving serious potential prison sentences;
- cases involving custodial interference

## (2) Initial Track Assignment Experience

During the first six months of operation of the SAU-DCM program (July - December 1989), a total of 191 SAU cases were filed, with 86 cases disposed, 62 (72%) of which were disposed of in 90 days or less from time of arraignment. The age of SAU DCM cases at disposition for the period was as follows:

under 30 days	9 cases (10.5%)
31 - 60 days	28 cases (32.6%)
61-90 days	25 cases (29.0%)
over 91 days	<u>24 cases (27.9%)</u>
Total Cases Disposed	86 cases (100%)

As of January 1, 1990, 105 of the SAU cases were still pending and assigned to tracks as follows:

No Plan Yet Assigned:	16 (16%)
Plan A:	1 <sup>11</sup> ( 1%)
Plan B:	6 ( 6%)
Plan C:	69 (66%)
Plan D:	<u>13 (11%)</u>
Total Cases Pending	105 (100%)

## c. Other Felony Cases

### (1) Tracks Created

In April 1990, the remaining felony caseload was incorporated into the DCM system and applicable plans established. In developing the tracks for these criminal cases, two additional case

<sup>10</sup> Plan D SAU cases have recently averaged 88.4 days to disposition.

<sup>11</sup> Although it was anticipated SAU cases would not be normally amenable to Plan A assignment, exceptional situations warranting Plan A dispositions are identified from time to time.

categories were created: (1) Property Crimes and Fraud/Arson crimes, each of which can be classified into Plan A, B, or C; and (2) Robbery/Assault and Homicide cases, for which Plans B, C and D have been established. Applicable plans are discussed in greater detail below.

(a) Property Crimes

Plan A: Plan A cases are considered "simple", to be disposed of within 30 days and have the following criteria:

- defendant in custody
- uncontested case not involving suppression or discovery issues or pretrial motions
- auto theft cases in which the vehicle has been recovered with little or no damage
- first time offender and a case involving
  - (a) felony shoplifting
  - (b) auto theft
  - (c) fenced area burglary
- burglary in which defendant is arrested in or fleeing from a building
- burglary in which defendant is identified in latent prints;
- case in which victim is a relative or friend of defendant and does not desire to prosecute
- defendant has plea date set

Plan B: Plan B cases are "normal" cases, to be disposed of within 60-90 days. Criteria for Plan B assignment include:

- contested cases
- cases involving pretrial motions
- defendant has significant felony record
- case involves multiple defendants
- victim lives in Pierce County
- defendant is not in custody or has waived speedy trial rights

Plan C: Plan are considered complex, to be disposed of within 90-120 days. Criteria for Plan C assignment include:

- contested cases with numerous victims
- contested cases involving pretrial motions
- victims who are not Pierce County residents
- cases involving expert testimony
- defendant not in custody or who has waived speedy trial rights
- defendant who has a lengthy felony record involving out-of-state conviction(s)

(b) Fraud/Arson Cases

Plan A: Plan A cases are simple, to be disposed of within 30 days of arraignment and are assigned according to the following criteria:

- defendant in custody
- uncontested cases not involving suppression or discovery issues or pretrial motions
- forgery or malicious mischief cases where the crime is admitted and there is no property obtained or the amount of property or damage is not contested

- first time offender and a case involving:
  - (a) forgery, UIBC<sup>12</sup>
  - (b) malicious mischief without harassment
  - (c) reckless burning
  - (d) welfare fraud, employment security fraud
- defendant has agreed to plea

Plan B: Plan B cases are considered "normal", to be disposed of within 60-90 days. Criteria for Plan B assignment include:

- contested cases
- cases involving pretrial motions
- defendant with a significant felony record
- a case involving multiple defendants
- victims who live in Pierce County
- a defendant not in custody or who has signed a waiver of speedy trial rights

Plan C: Plan C cases are considered complex, to be disposed of within 90-120 days or to be pre-assigned and managed by a judge. Plan C assignment criteria include

- contested cases with numerous victims
- contested cases involving pretrial motions
- victims who are not Pierce County residents
- cases involving expert testimony
- a defendant not in custody or who has waived his/her speedy trial rights
- a defendant who has a lengthy felony record involving out-of-state conviction(s)
- arson involving fraud
- embezzlement or fraud cases involving a complicated scheme or commission over a long period of time
- government corruption cases

(c) Robbery/Assault Cases

Plan B: Plan B cases are considered "simple", to be adjudicated within 30-120 days of arraignment, excluding sentencing date, and include:

- cases without suppression or discovery issues or pre-trial motions;
- in-custody cases where culpability is uncontested;
- uncontested cases involving minor criminal sanctions;

Typical Plan B cases include: felony eluding; assault 3rd; escape, and willful failure to return to a work release program.

Plan C: Plan C cases are considered "normal", to be adjudicated within 60-150 days of arraignment, and include:

- contested cases without complex medical, discovery, or identity questions or need for expert witnesses;
- uncontested cases requiring psychological evaluations or other expert data not previously completed;

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<sup>12</sup> Unlawful Issuance of a Bank Check

- a defendant with a prior conviction(s) for a felony or other violent offense;
- a defendant not in custody
- a case with multiple defendants
- a physical assault with injuries
- a case with multiple counts, with significant prison time at issue

Typical examples of Plan C cases are robbery 2nd; assault 2nd; kidnapping 2nd or unlawful imprisonment; and some class A felonies.

Plan D: Plan D cases are considered complex and are pre-assigned to a judge for scheduling. Plan D cases include:

- cases involving class A felonies with multiple counts;
- multiple defendant contested cases
- cases involving complex medical or psychological issues and present the need for expert testimony
- cases involving discovery of records;
- cases involving numerous extensive or complex pretrial motions
- cases involving serious potential prison sentences
- cases requiring substantial criminal investigation;
- cases in which the victim is seriously injured and requires significant recovery time before testifying

Examples of Plan D cases are assault 1st; kidnapping 1st; and multiple counts of robbery 1st.

(d) Homicide Cases

Any homicide case can be pre-assigned to a judge for management and scheduling.

Plan B: Plan B cases are considered "normal" and to be disposed of within 30 -120 days. Criteria for Plan B assignment include:

- defendant in custody
- cases not involving suppression or discovery issues or pretrial motions
- no mental defenses
- cooperative and available witnesses
- no pending laboratory work needed
- single defendant

Plan C cases are considered "complex" and to be disposed of within 60-150 days. Criteria for Plan C assignment are:

- contested case involving pretrial motions
- case involving multiple defendants
- a defendant not in custody or who waives speedy trial rights
- mental defenses requiring examinations
- complex laboratory and/or expert evidence analysis required
- uncooperative witnesses and/or witnesses not readily available
- a charge which includes other felonies
- a special priority prosecution area (e.g., drug activity; gang activity, etc.)

Plan D cases, termed "intricate", are to be disposed of within 120 days or more. Criteria for Plan D assignment include

- multiple victims, multiple defendants
- aggravated murder charges
- death penalty case
- case involves expert testimony on matter of first impression or rare subject
- homicide is part of an elaborate scheme, with or without other crime as part.

## (2) Initial Track Experience

Since Pierce County has had less than three months experience with the inclusion of these criminal cases in the DCM program, there is insufficient data available at this point to document plan tracking experience.

### 3. Track Assignment Process and Point at which Track Assignment is Made

Preliminary determination of the appropriate DCM plan for each case is made by the attorneys prior to or at the pretrial hearing. As noted in Section IB5 above, the plan selected, along with the dates agreed to for future events and cleared with the court, are indicated on the Scheduling Conference Order (Appendix C) submitted to the judge who reviews the plan and schedule with the attorneys involved. The Scheduling Order is then signed, with modifications if appropriate, and governs all future events through trial.

### 4. Summary of the DCM Felony Caseflow Process

Potential DCM felony cases, which survive the initial screening and filing decision by the prosecuting attorney, are arraigned in the Superior Court within one day of filing; felonies are filed directly with the Superior Court. At arraignment, a date is set by the court for a pretrial hearing which is scheduled within ten days (See Appendix B). Immediately prior to the pretrial hearing, prosecuting and defense attorneys confer and fill out a Scheduling Conference Order (Appendix C). On this order, they indicate the DCM Plan (e.g., "track") they are requesting and proposed dates for subsequent hearings/events consistent with the specific scheduling requirements of the Plan requested. The dates are first cleared with the criminal case coordinator. At the pretrial conference, discovery is exchanged and the scheduling order is submitted to the judge for approval.<sup>13</sup> The judge may modify the Plan or the dates depending on his or her assessment of the case. Once agreement is reached, the judge, attorneys and the defendant sign the Scheduling Order and it becomes the order of the court setting the schedule for all future events. The Order is placed in the case file and copies given to all parties. Further notice of the assigned dates is waived and the dates are entered in the pc computer case tracking record by the Criminal Case Manager.

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<sup>13</sup>. Discovery for the sexual assault cases is required to be available at the time the pretrial hearing is held; in situations in which this is not possible, agreement is made on a discovery completion data as soon thereafter as possible.



The events and timeframes applicable to each Plan are as follows:

<u>Event</u>	<u>Plan A</u>	<u>Plan B</u>	<u>Plan C</u>	<u>Plan D</u>
Case Filed By Pros. Atty.	Day 1	Day 1	Day 1	Day 1
Arraignment	Day 2	Day 2	Day 2	Day 2
Exchange of Discovery	Day 10-15	Day 10-15	Day 10-15	Day 10-15
Attys. File Sched. Conf.Order <sup>14</sup>	Day 10-15	Day 10-15	Day 10-15	Day 10-Prop. 15
Pretrial Hrg	Day 10-15	Day 10-15	Day 10-15	Day 10-15
Omnibus Hrg.	-----	as sched.	as sched.	as sched.
Trial	Day 30	Day 60-120	Day 120-150	per court order

Sentencing generally occurs at time of plea or trial, particularly for simpler cases, unless a presentence investigation (psi) is deemed necessary.

#### 5. Project Start-Up Date.

The DCM program for drug cases began on July 1, 1988. On July 1, 1989 the DCM program was expanded to include sexual assault cases and, in April 1990, expanded to the rest of the felony docket.

#### 6. Cases Included in the DCM program

Initially, the DCM program focussed only on cases involving drug charges. Cases involving multiple charges were also assigned to the DCM program if one of the charges was a drug charge.<sup>15</sup> As noted above, in July 1989, the program was expanded to include cases involving sexual assault charges and, in April 1990, all felony cases were incorporated into the DCM program.

<sup>14</sup> The Scheduling Conference Order is prepared by the attorneys and includes their requested track assignment for the case and dates agreed to for remaining events consistent with the track timetable. The judge will honor the proposed Order if it complies with the DCM program guidelines regarding track assignment and applicable case processing timeframes; if it does not, the judge will discuss the matter with the attorneys and attempt to resolve any special problems the case presents. Generally, proposed scheduling orders have been consistent with the DCM program guidelines.

<sup>15</sup> As long as a case with multiple charges involves at least one drug charge, it remains with the DCM program even if the drug charge is subsequently dropped. When the DCM program was first introduced, a question was raised as to whether a case with multiple drug and non-drug charges could have the non-drug charges severed and therefore avoid the stringencies of the DCM program. The Court made it clear that severance in such instances would not be permitted.

7. Provisions for Handling Pending Pre-DCM and Non-DCM Felony Caseload

When the DCM program began, new felony drug cases were assigned to DCM tracks and to Criminal Division Two, the "DCM" courtroom. Pending drug cases filed before implementation of the DCM program were also assigned to this courtroom but DCM procedures were not applied. No changes in procedure or calendaring were instituted for the remaining criminal caseload. This same approach was used for the SAU cases and for the balance of the felony caseload when the program became fully operational. However, regardless of whether a case was "pre-DCM" or "post-DCM", strict policies were enforced regarding tighter scheduling dates and continuance requests.

8. Case Monitoring Performed

Monitoring deadlines and calendar production is accomplished by the Criminal Case manager using the case tracking record created when the Scheduling Conference Order is entered at the time of the pretrial conference. The PC-based tracking system allows direct inquiry of the status of any DCM case in the system, can respond to questions concerning the caseload as a whole, such as "how many cases are now 45 days old since arraignment?", is the basis of calendar production, and can be used to analyze continuance activity and trial-date certainty. A sample case screen is provided in Appendix D and a sample daily docket sheet generated by the system, which includes the case charge, age, track assignment and scheduled trial date, is included in Appendix E. Sample reports of pending and disposed cases by track and age are provided in Appendices F and G. Currently, the Court is using a stand-alone system which does not interface with the statewide computer system into which entries of case information are made by the Office of the Clerk of Court.

C. Changes Required to Implement the DCM Program

1. General

The DCM program was implemented in Pierce County primarily through Court resolution and relevant orders. Procedures within the Court and between the Court and the prosecuting attorney and Department of Assigned Counsel were adopted through mutual agreement and resolution. The support and commitment of these offices were documented by written letters of support prepared at the time Pierce County submitted its application to BJA for funding under the pilot program and these letters of commitment continue to serve as the interagency agreement to implement the DCM program. The DCM system has required new court forms consistent with the DCM procedures and comparable new forms for the prosecuting attorney and defense counsel. The principal new "event" introduced by the program is the pretrial conference which occurs ten days following arraignment.

2. Specific Changes Instituted

a. Within the Court

Unlike other pilot jurisdictions implementing DCM systems, implementation of the DCM program in Tacoma required the Court to take over the case calendaring function previously exercised by the Prosecuting Attorney. The DCM program therefore necessitated establishing -- not simply reorganizing -- the court's scheduling, management and monitoring functions over cases included in the DCM program. The most critical tasks required to perform this function were (1) development of appropriate policies, procedures and forms to be used by all judges and staff in the Court; (2) extending the rotating term of the Presiding Judge from three months to one year; (3) development of adequate automation capability to monitor and manage the system; (4) remodelling a courtroom to accommodate the cases initially assigned to the DCM program (5) hiring two additional staff to perform management, monitoring and data entry functions; (6) extensive and on-going judge and staff training regarding the operation of the DCM program, the role of the judges and court staff in its operation, and the role which the newly developed

forms played in the caseload process; (7) converting the job of presiding judge from criminal arraignment judge to a combination administrative and trial judge; and (8) developing a judge rotation system permitting all judges to serve in the two criminal pre-trial arraignment divisions.

b. *Within the Prosecuting Attorney's Office*

To implement the DCM program and to accommodate the increased drug filings, the prosecuting attorney's office hired one additional prosecuting attorney and one additional support staff. New forms were created to reflect the DCM process, and support staff and attorneys were trained in the use of these forms and the new DCM procedures. The office also relinquished responsibility for docket management of the DCM cases -- a function assumed by the court under the DCM program. This transfer of responsibility relieved the prosecuting attorney's office of considerable administrative functions although it then had to coordinate with the court in order to enter scheduling dates. The DCM system has resulted in some increase in paperwork for prosecuting attorneys and staff; however this has been offset by increased staff efficiency. The end result of the DCM program has been that the office (a) is able to concentrate on cases which are going to go to trial and dispose sooner of simpler cases and those which are going to plead; and (b) has been able to handle more cases without a corresponding increase in staff. The marked reduction in continuances and the court's enforcement of scheduled dates has meant that (a) cases don't have to be prepared numerous times; (b) notices to witnesses don't have to be sent repeatedly; and (c) there is less risk of witnesses moving away or not wanting to return to court after a "meaningless" appearance.

c. *Within the Public Defender's Office*

The major change in the Department of Assignment Counsel (DAC) resulting from the DCM program has been the institution of earlier case screening by senior attorneys in a position to make a realistic assessment of each case, accomplished in large part by the provision of early discovery provided by the prosecuting attorney. Because cases are assigned to the DAC at the time of arraignment, the attorney assigned is in a position to screen the case at that point and to assess its processing needs. In view of the case processing timetable established under the DCM program, DAC attorneys find the early screening beneficial so that they are in a position to know early on what resources they must apply to each case and thereby better manage their schedules.

Initially, the DAC established two-attorney teams to handle the DCM cases. Various administrative changes were also instituted to accommodate the DCM program, such as color-coding of files to correspond with track assignments.

d. *Within Other Agencies*

(1) **Sheriff and Jail**

On the one hand, the required pretrial conference, a "new" event established by the DCM program, has required extra prisoner transport services from the sheriff; on the other hand, since 35% of the cases are disposed of at this conference, it appears that, overall, prisoner transport services have been reduced from the level required pre-DCM. It also appears that the average period of pre-trial incarceration has declined significantly, with both cost and other savings resulting.

(2) **Probation**

The accelerated disposition timeframe for the DCM cases in Pierce County has required a parallel acceleration in preparation of presentence reports. This has presented problems as noted in Section III B5 below. The Court has attempted to develop guidelines to differentiate the need for psi's and the level of information required for different classes of cases. Parties frequently agree to stipulate

to the defendant's criminal history at the sentencing hearings, subject to subsequent verification within a stated period of time.

### III. PROJECT EXPERIENCE TO DATE

#### A. Case Status by Track

During the first quarter of 1990 (January 1 - April 5, 1989), at which time the DCM program for Drug and SAU cases was fully operational, the following resulted:

##### 1. Filings and Dispositions: Drug and SAU Cases

	No Plan Assigned <sup>16</sup>	Plan A	Plan B	Plan C	Plan D	Total
Filed	94	106	609	283	23	1,115
Disposed	0	92	385	189	8	674
Pending:						
Drug	78	14	219	42	0	353
SAU	<u>16</u>	<u>0</u>	<u>5</u>	<u>52</u>	<u>15</u>	<u>88</u>
Total	94	14	224	94	15	441

##### 2. Age of Pending Cases

	0-30	31-60	61-90	91 - on	Total
a. <u>Drug Cases</u>					
No Plan	76	2	0	0	78
Plan A	5	4	2	3	14
Plan B	117	57	21	24	219
Plan C	15	17	3	7	42
Total:	213	80	26	34	353

##### b. SAU Cases

No Plan	14	0	0	2	16
Plan B	1	3	0	1	5
Plan C	28	11	4	9	52
Plan D	1	4	1	9	15
Total	44	18	5	21	88

<sup>16</sup> "No plan" cases are cases in which no pretrial hearing has yet taken place and therefore no plan has been assigned as well as those few cases which were filed prior to the DCM program but are on bench warrant; while not subject to the forms and procedures of the DCM system, they are tracked, nevertheless, on the DCM data base for purposes of calendaring.

3. Age of Disposed Drug and SAU Cases at Disposition

	0-30	31-60	61-90	91 - on	Total
Plan A	43	25	18	6	92
Plan B	53	187	79	66	385
Plan C	11	66	43	69	189
Plan D	0	2	2	4	8
Total	107	280	142	145	674

B. **Implementation Problems and Issues Addressed**

1. Lack of Adequate Computer Support

When the program was planned, it was anticipated that the state-based SCOMIS system would provide the computer support necessary to manage and monitor the program. For a variety of reasons, this was not feasible and the Court therefore developed the pc-based information system described above which has been very valuable. However, the capacity of this system was reached after the first eighteen months of the program. A file server was added in January 1990 and a Local Area Network (LAN) installed at that time to permit multiple access to the data base by additional staff.

2. Pressures of Increased Case Volume

The increasing caseload of the court is placing enormous pressures on existing resources and the efficiencies resulting from the DCM program may not be adequate to counteract these pressures. Although additional docket days are now being scheduled to handle arraignments and other pretrial events and creation of a third criminal division within the Court is planned, the shortage of manpower and facilities to accommodate the increased caseload is becoming a very serious problem.

3. Continual Need to Educate Judges, Staff and Attorneys Regarding DCM Procedures

There is a continual need to educate judges and attorneys regarding the objectives and procedures of the DCM program as well as specific issues that arise. The inclusion of Sexual Assault cases in the program, for example, presented new factors to consider regarding tracking designation and pointed up potential modifications needed in the system to accommodate the different processing characteristics of these types of cases.

4. Delay in Obtaining Lab Reports

Considerable delay is occurring in the production of lab reports for adjudication purposes. This problem has not yet been resolved.

5. Difficulty in Promptly Obtaining Criminal History Information

Since standard pre-sentence reports are requiring 45 - 50 days for completion, criminal history records are being used for most cases. However, obtaining criminal history information has posed a significant problem, even with additional computer time being made available for this purpose, because of lack of staff to access this information. Since Pierce County handles a significant and increasing number of defendants with out-of-state records, the need for this information is becoming more acute. Moreover, since approximately 35% of the cases of pretrial detainees are disposed of at the pretrial conference (held

10 days after arraignment) the need to quickly obtain this information has become all the more pressing since introduction of the DCM program. Currently, except for defendants convicted of violent offenses, court sentencing orders contain stipulations that the sentences are conditional upon the truthfulness of the prior record disclosed by the defendant. Efforts are also underway to enhance the Court's pretrial screening capabilities.

#### **C. Initial Program Impact**

Much progress has been made toward achieving the initial objectives set for Pierce County's DCM program despite the dramatic increase in drug caseload which the County has experienced since the DCM program was implemented. Statistics developed by the court administrator indicate that 49% of the drug cases filed since beginning the DCM program were disposed of within thirty days of Superior Court arraignment and 88% within 90 days of arraignment. Comparative figures for case disposition time prior to the DCM project implementation indicate that only 8% of the drug cases reached disposition within thirty days and only 11% reached disposition within 90 days. In addition to the more expeditious and efficient processing of cases and the perceived reduction in pretrial detention days for defendants, the DCM program has also resulted in a significant decrease (estimated at 50%) in the number of bench warrants issued for non-custody defendants. The Prosecuting Attorney and the Department of Assigned Counsel have also found the system beneficial, noting that the resultant increase in staff efficiency has enabled them to dispose of more cases earlier and to focus more resources on serious cases. Most significantly, however, all involved with the Pierce County DCM program have commented on the benefits that have been derived from the closer coordination, more systematic planning and more cooperative spirit which the DCM program has fostered for all segments of the adjudication process. Efforts are now underway to develop and implement a DCM program for civil cases.

#### **D. Comments**

Pierce County justice officials have worked together closely since the DCM project was proposed to plan for and achieve its implementation. The program required an enormous effort on the part of many individuals and agencies, including construction of the initial "DCM" courtroom, the transfer of case calendaring functions from the prosecutor to the court, the institution of a case management capability in the court, expansion of the term of the presiding judge, development of a pc-based case tracking capability, among other tasks. Credit for the success of the program lies in its conceptual framework, the combination of flexibility and consistency with which it has been implemented, and the hard work and commitment of local judicial system officials to make the DCM program work. The importance of this last factor cannot be overestimated.

### **Appendices**

- A. Order for Trial Continuance
- B. Order to Appear for Pretrial Hearing
- C. Case Scheduling Conference Order
- D. Sample Case Computer Screen
- E. Sample Daily Docket Sheet
- F. Sample Pending Case Status Report
  - (1) Drug Cases
  - (2) SAU Cases
- G. Sample Disposed Case Report

A. Order for Trial Continuance  
IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON

Plaintiff,

NO. \_\_\_\_\_

vs.

ORDER FOR CONTINUANCE  
OF TRIAL DATE

Defendant(s).

I. BASIS

This matter came before the court upon motion of: \_\_\_\_\_

II. FINDINGS

☐ The defendant has shown good cause for a continuance in that:

☐ The (deputy) prosecuting attorney has established:

☐ that good cause exists and the defendant expressly consents to a continuance; or

☐ that the state's evidence is presently unavailable, the prosecution has exercised due diligence and reasonable grounds exist to believe that it will be available within a reasonable time; or

☐ lab; ☐ witness; ☐ other \_\_\_\_\_;

☐ that a continuance is required in the due administration of justice and the defendant will not be substantially prejudiced in the presentation of the defense.

☐ The court established that a continuance is required in the due administration of justice and the defendant will not be substantially prejudiced in the presentation of the defense.

The defendant (has) (has not) waived the right to a speedy trial.

III. ORDER

IT IS ORDERED that this case presently set for trial on: \_\_\_\_\_ is  
continued to: \_\_\_\_\_

DATED: \_\_\_\_\_

Presented by:

JUDGE

Deputy Prosecuting Attorney

Attorney for Defendant



B. Order to Appear for Pretrial Hearing

60 DAYS \_\_\_\_\_

90 DAYS \_\_\_\_\_

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON

Plaintiff,

NO. \_\_\_\_\_

vs.

ORDER TO APPEAR FOR  
PRE-TRIAL HEARING

Defendant(s).

The above named defendant is ordered to appear:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Room #: \_\_\_\_\_

County City-Building  
Tacoma, Washington 98402

At this time, your trial date and any other mandatory appearances will be set.

☐ Defendant will be represented by Department of Assigned Counsel (DAC);

☐ Defendant will hire own attorney who will appear on above date.

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

DATED: \_\_\_\_\_ JUDGE \_\_\_\_\_

COPY RECEIVED:

Defendant: \_\_\_\_\_ Date: \_\_\_\_\_

Attorney for Defendant: \_\_\_\_\_

Attorney for Plaintiff: \_\_\_\_\_

IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON

Plaintiff,

NO. \_\_\_\_\_

vs.

SCHEDULING CONFERENCE ORDER  
SETTING TRIAL DATE, OMNIBUS  
HEARING AND

Defendant(s).

The State and defendant having personally appeared before the court this date and the court having determined the case be classified for trial setting purposes under Differentiated Case Management (DCM) as:

A \_\_\_\_\_ (30 days), B \_\_\_\_\_ (60-120 days), or C \_\_\_\_\_ (60-150 days), \_\_\_\_\_ (other)

IT IS HEREBY ORDERED that:

1. The following court dates are set for the defendant(s):

<input type="checkbox"/> Omnibus hearing on:	_____	(Date)	_____	(Time)
<input type="checkbox"/> Trial on:	_____	(Date)	_____	(Time)
<input type="checkbox"/> _____ on:	_____	(Date)	_____	(Time)
<input type="checkbox"/> _____ on:	_____	(Date)	_____	(Time)
<input type="checkbox"/> _____ on:	_____	(Date)	_____	(Time)

2. The defendant(s) personally be present at these hearings and report to: ☐ Criminal Division 1, Room 1  
☐ Criminal Division 2, Room 2

Address: 5th Floor  
County-City Building  
Tacoma, Washington 98402

Estimated length of trial: \_\_\_\_\_ Estimated length of hearings: \_\_\_\_\_

ARRAIGNMENT DATE: \_\_\_\_\_;  
NUMBER OF DAYS BEFORE TRIAL: \_\_\_\_\_;  
WAIVER ATTACHED? ☐ Yes ☐ No

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

DATED: \_\_\_\_\_

COPY RECEIVED:

JUDGE

Defendant: \_\_\_\_\_ Date: \_\_\_\_\_

Attorney for Defendant: \_\_\_\_\_

Attorney for Plaintiff: \_\_\_\_\_

# D. Sample Case Computer Screen

Def Name: HUMPHREY, EDWIN ANDRIA Interpreter: N Custody: N  
 AKA:  
 Fingerprint ID:  
 Court: CD2 Track: C Speedy Trial Waiver:  
 Charge: MDCS No Charges: Disposed: Y  
 Amend Charge: Misd Charge:  
 Judge ID: Current Case Age: 76  
 1: 2: 3: 76 4:  
 Last Event: PLEA  
 Prosecutor: Defense: WOODS  
 BWI: Date: SR/Q: Days: 0  
 BWI2: Date: SR/Q: Days:  
 BWI3: Date: SR/Q: Days:  
 BWI4: Date: SR/Q: Days:  
 Total BWI Days: 0

DCM89.DTF Retrieved form 1 of -- Total Forms: 478 Page 1  
 Esc-Exit F1-How to update F6-Table F7-Search F8-Calc F10-Cont

COURT CALENDAR			
Next Sched Event: SENT		Sched Date: 6/6/89	
PRetrial....1: 1/31/89	PR2: 2/2/89	PR3: 2/8/89	PR4:
PRHeld: Y	PRContinuances: 2		Interval1: 26
OMnibus....1: 2/21/89	OM2:	OM3:	OM4:
OMHeld: Y	OMContinuances:		Interval2: 39
Motions.....A: 2/14/89	Mo2:	Mo3:	Mo4:
TypeA: BH	HeldA: Y	ContinuancesA: 1	Interval3: 32
Motions.....B:	Mo5:	Mo6:	Mo7:
TypeB:	HeldB: N	ContinuancesB:	Interval4:
NOTE:			
PLea.....1: 2/28/89	PL2: 3/13/89	PL3: 3/30/89	PL4:
PLHeld: Y	PLContinuances: 2		Interval5: 76
TRial.....1: 4/17/89	TR2:	TR3:	TR4:
TRHeld: N	TRContinuances: 1		Interval6: 94
SEntenced...1: 6/6/89	SE2:	SE3:	SE4:
SEHeld: N	SEContinuances:		Interval7:

DCM89.DTF Retrieved form 1 of -- Total Forms: 478 Page 2  
 Esc-Exit F1-How to update F6-Table F7-Search F8-Calc F10-Cont

DISPOSITION			
DDate: 3/30/89	DEvent: PLEA	DType: PLEA	DAge: 76
RDate:	REvent:	RType:	RAge:

Remarks:

Motions.....C: Mo8: Mo9: Mo10:  
 TypeC: HeldC: N ContinuancesC: Interval8:  
 Motions.....D: Mo11: Mo12: Mo13:  
 TypeD: HeldD: N ContinuancesD: Interval9:  
 Motions.....E: Mo14: Mo15: Mo16:  
 TypeE: HeldE: N ContinuancesE: Interval10:

DCM89.DTF Retrieved form 1 of -- Total Forms: 478 Page 3  
 Esc-Exit F1-How to update F6-Table F7-Search F8-Calc F10-Cont

CRIMINAL DOCKET - DIVISION 2  
MONDAY, JUNE 26, 1989

60 DAYS - AUGUST 23, 1989  
90 DAYS - SEPTEMBER 24, 1989

Sample Daily Docket Sheet

Court	Dpt	Def Name	Alias	Case No	IC	Int	Charge	Event	Case Age	Trk	Trial Date	DPA	Defense
CD2		DOE, JOHN		89-1-01663-1	Y	Y	UPCSKID(2)	PLEA	21	A	7/19/89	PC	SINKITT
CD2				89-1-01629-1	Y	Y	UPCSKID(2)	PLEA	22	A	7/26/89	PC	SINKITT
CD2		SMITH, JOHN		89-1-01616-0A	Y	Y	UDCS, UPCS KID	PLEA	26	B	7/24/89	PC	DICKINSON
CD2		DOE, J.		88-1-03355-4	Y	N	FEL POSS SHORT FIREARM	SENT					MICHELBAK
CD2		SMITH, J.		89-1-01830-8	N	N	UPCS	PRE-TRIAL	7				
CD2		DOE, JOHN		89-1-01826-0A	N	N	UPCS	PRE-TRIAL	8				
CD2		SMITH, JOHN		89-1-01789-1	N	N	CHILD RAPE 1ST DEGREE(2)	PRE-TRIAL	6				
CD2		DOE, J.		89-1-01800-6	N	N	UPCS	PRE-TRIAL	8				
CD2		SMITH, J.		89-1-01744-1B	N	N	UPCS	PLEA	14	A	8/30/89	PC	MCKERTHNEY
CD2		DOE, JOHN		89-1-01744-1A	N	N	UPCS	PLEA	14	A	8/30/89	PC	MCKERTHNEY
CD2		SMITH, JOHN		89-1-00933-3A	N	N	UPCSKID, UPCS	PLEA/TD	88	C	6/26/89	FL	HALSTEAD
CD2		DOE, J.		89-1-00749-7A	N	N	UPCSKID(2)	PLEA	98	B	9/11/89		MCKERTHNEY
CD2		SMITH, J.		89-1-01858-8	N	N	CHILD RAPE 2ND DEGREE(2)	PRE-TRIAL	6				
CD2		DOE, JOHN		89-1-01356-0	N	N	UPCS	PRE-TRIAL	-7				
CD2		SMITH, JOHN		89-1-00792-6	N	N	ATT UPCS	RMA	99	C	9/11/89	PC	MCKERTHNEY
CD2		DOE, J.		89-1-01747-6	N	N	UPCS	PLEA	14	A	8/30/89	PC	MCKERTHNEY
CD2		SMITH, J.		89-1-01857-0	N	N	CHILD MOLEST. THIRD DEG.	PRE-TRIAL	6				
CD2		DOE, JOHN		89-1-01812-0	Y	N	UPCSKID	PLEA	12	A	8/7/89	PC	TOFTS
CD2		SMITH, JOHN		89-1-01824-3	Y	N	UPCS	PRE-TRIAL	8				
CD2		DOE, J.		89-1-01616-0B	N	Y	UDCS, UPCS KID	PLEA	26	B	7/24/89	PC	HESLOP
		MI J.		89-1-01824-0B	N	N	UPCS	PRE-TRIAL	8				

F. Sample Pending Case  
Status Report  
(1) Drug Cases

PENDING CASE STATUS - 4/5/90

Track	Case No	Multi Def Code	Current Case Age	0-30	31-60	61-90	91-ON	Charge
	89-1-02715-3		1.00	1.00				UPCS
	89-1-03180-1		1.00	1.00				UPCSWID
	89-1-03463-08		14.00	14.00				UPCS(2)
	89-1-03519-9		1.00	1.00				UPCSWID
	90-1-00443-2		1.00	1.00				UDMILCS
	90-1-00471-8	27	57.00		57.00			UPCS
	90-1-00488-2		11.00	11.00				UPCS
	90-1-00544-7	74	1.00	1.00				UPCSWID
	90-1-00725-3		1.00	1.00				UPCS
	90-1-01006-8	56	3.00	3.00				UDCS
	90-1-01050-5		25.00	25.00				UDCS(5)
	90-1-01125-1		1.00	1.00				UPCS
	90-1-01126-9		1.00	1.00				UMCS
	90-1-01148-0		1.00	1.00				UPCS; UPICSWID
	90-1-01149-8		1.00	1.00				UPCS
	90-1-01150-1		1.00	1.00				UPCS
	90-1-01152-8		1.00	1.00				UPCS
	90-1-01173-1		1.00	1.00				UPCS
	90-1-01184-6	86	1.00	1.00				UMCS
	90-1-01190-1		1.00	1.00				UPCS
	90-1-01293-1	71	1.00	1.00				UPCS
	90-1-01294-0	71	1.00	1.00				UPCS
	90-1-01311-3		1.00	1.00				UPCSWID(2)
	90-1-01312-1		1.00	1.00				TMVWOP; UPICSWID
	90-1-01313-0		1.00	1.00				UPCS
	90-1-01314-8		1.00	1.00				UPCS
	90-1-01316-4		1.00	1.00				UPCS
	90-1-01320-2	72	1.00	1.00				ATT UPCS; UDMILCS; UPCS
	90-1-01321-1	72	41.00		41.00			ATT UPCS; UDMILCS; UPCS
	90-1-01327-0		1.00	1.00				UPCS
	90-1-01328-8	73	1.00	1.00				UPCS; UPCS
	90-1-01329-6	73	1.00	1.00				UPCS; UPCS
	90-1-01337-7		1.00	1.00				UPICSWID
	90-1-01339-3		1.00	1.00				UPCS
	90-1-01343-1		1.00	1.00				UPCS
	90-1-01349-1		1.00	1.00				UPCS
	90-1-01365-2		1.00	1.00				OAOCSEBDM
	90-1-01366-1		1.00	1.00				UPCSWID
	90-1-01367-9		1.00	1.00				UDCS
	90-1-01378-4		1.00	1.00				UPCS(2)
	90-1-01379-2		1.00	1.00				UPICSWID
	90-1-01390-3		1.00	1.00				UPCSWID
	90-1-01394-6		1.00	1.00				UPCS
	90-1-01395-4	75	1.00	1.00				UPICSWID
	90-1-01396-2	75	3.00	3.00				UPICSWID
	90-1-01397-1	75	1.00	1.00				UPICSWID(2)
	90-1-01401-2	76	1.00	1.00				UPCSWID
	90-1-01402-1	76	6.00	6.00				UPCSWID
	90-1-01404-7	77	1.00	1.00				UPCSWID
	90-1-01405-5	77	1.00	1.00				UPCSWID
	90-1-01408-0		3.00	3.00				UPCSWID
	90-1-01410-1		3.00	3.00				UDCS; UPCS
	90-1-01411-0	78	3.00	3.00				UDCS; UPCS
	90-1-01412-8	78	3.00	3.00				UDCS; UPCS
	90-1-01413-6	78	3.00	3.00				UDCS; UPCS
	90-1-01416-1		3.00	3.00				UDCS

PENDING CASE STATUS - 4/5/90

Track	Case No	Multi Def Code	Current Case Age	0-30	31-60	61-90	91-ON	Charge
	90-1-01418-7	79	3.00	3.00				UMCS
	90-1-01419-5		3.00	3.00				UPCS(2)
	90-1-01422-5		3.00	3.00				UPCS
	90-1-01428-4		1.00	1.00				UPCS(2)
	90-1-01437-3		1.00	1.00				UPCSWID
	90-1-01438-1		1.00	1.00				UPCSWID; UDCS
	90-1-01443-8		1.00	1.00				UPICSWID(2)
	90-1-01444-6	81	1.00	1.00				UPCSWID(2)
	90-1-01447-1		1.00	1.00				UDHILCS; UPICSWID(2)
	90-1-01448-9		1.00	1.00				UPCS
	90-1-01453-5		1.00	1.00				UDCS; UPCS
	90-1-01454-3		1.00	1.00				UPCS
	90-1-01455-1		1.00	1.00				UPCSWID
	90-1-01464-1	83	1.00	1.00				UPCSWID
	90-1-01465-9	83	1.00	1.00				UPCSWID
	90-1-01466-7	84	1.00	1.00				UPSF; UPCS
	90-1-01469-1		1.00	1.00				UPCS
	90-1-01472-1	81	1.00	1.00				UPCSWID(2)
	90-1-01475-6		1.00	1.00				UPCS
	90-1-01477-2		1.00	1.00				UPCS
	90-1-01479-9		1.00	1.00				UPCS
	90-1-1417-9	79	3.00	3.00				UMCS
Average:			3.21					
Count:	78			76	2	0	0	
A	89-1-03351-0		63.00			63.00		UPCS
	89-1-03726-4		56.00		56.00			UPCS, UPOFGOLOH
	89-1-04124-5A		99.00				99.00	UPCS, UUOB
	89-1-04124-5B		136.00				136.00	UUOB
	89-1-04124-5C		78.00			78.00		UPCSWID
	90-1-00042-9		114.00				114.00	UPICSWID
	90-1-00655-9	37	51.00		51.00			UPCSWID
	90-1-00658-3	37	51.00		51.00			UPCSWID
	90-1-00693-1		27.00	27.00				UPCSWID
	90-1-00695-8		38.00		38.00			UPCS
	90-1-01071-8		14.00	14.00				UPCSWID
	90-1-01080-7		15.00	15.00				UPCS
	90-1-01235-4		14.00	14.00				UPICSWID
	90-1-01240-1		14.00	14.00				UDCS
Average:			55.00					
Count:	14			5	4	2	3	
B	88-1-01715-0		14.00	14.00				UPCS
	88-1-02280-3		72.00			72.00		UMCS
	88-1-03744-4		102.00				102.00	UPCS
	89-1-00325-6		113.00				113.00	UPCS
	89-1-01095-1A		348.00				348.00	UPCSWID
	89-1-01095-1B		349.00				349.00	UPCSWID
	89-1-01095-1C		349.00				349.00	UPCSWID
	89-1-01291-1		121.00				121.00	UPCS
	89-1-02011-6		183.00				183.00	UPCS
	89-1-02033-7		167.00				167.00	UPCS
	89-1-02052-3		14.00	14.00				UPCSWID
	89-1-02052-5		271.00				271.00	UPCSWID

## PENDING CASE STATUS - 4/5/90

Track	Case No	Multi Def Code	Current Case Age	0-30	31-60	61-90	91-ON	Charge
B	90-1-01037-8	57	27.00	27.00				UPCSWID
	90-1-01039-4	58	14.00	14.00				UPCSWID
	90-1-01040-8	58	13.00	13.00				UPCSWID
	90-1-01046-7	59	14.00	14.00				UPCSWID
	90-1-01049-1	60	27.00	27.00				UPCSWID
	90-1-01059-9		26.00	26.00				UPCS
	90-1-01062-9	61	27.00	27.00				UPCSWID; UDCS
	90-1-01063-7	61	27.00	27.00				UPCSWID; UDCS
	90-1-01067-0	62	26.00	26.00				UPCS
	90-1-01068-8	62	26.00	26.00				UPCSWID(2)
	90-1-01069-6	62	26.00	26.00				UPCSWID(2)
	90-1-01083-1		11.00	11.00				UPCS
	90-1-01085-8		11.00	11.00				UPCS
	90-1-01087-4		11.00	11.00				UPCS
	90-1-01106-4	63	23.00	23.00				UPCSWID
	90-1-01108-1	70	16.00	16.00				UPCSWID
	90-1-01112-9		14.00	14.00				UPCS
	90-1-01115-3	64	14.00	14.00				UPCSWID
	90-1-01116-1	64	15.00	15.00				UPCSWID
	90-1-01117-0	64	14.00	14.00				UPCSWID
	90-1-01118-8	70	14.00	14.00				UDCS(2)
	90-1-01143-9		21.00	21.00				UPCS
	90-1-01189-7		12.00	12.00				UPCS
	90-1-01196-0		1.00	1.00				UPCSWID
	90-1-01199-4		11.00	11.00				UPCS
	90-1-01200-1	67	11.00	11.00				UPCSWID
	90-1-01201-0	67	11.00	11.00				UPCSWID
	90-1-01202-8		11.00	11.00				UPCS
	90-1-01206-1		11.00	11.00				UPCS; ATT ELUDE; UPSF
	90-1-01216-8		11.00	11.00				UPCSWID
	90-1-01226-5	69	11.00	11.00				UDOMILOCS
	90-1-01227-3	69	11.00	11.00				UDOMILOCS
	90-1-01228-1		11.00	11.00				UDCS
	90-1-01239-7		14.00	14.00				UPCSWID
	90-1-01246-0		13.00	13.00				UPCS
	90-1-01253-2		13.00	13.00				UPCS
	90-1-01275-3		13.00	13.00				UPCS
	90-1-01288-5		12.00	12.00				THVWOP; UPCS
	90-1-01292-3		12.00	12.00				UPCSWID(2)
Average:			45.37					
Count:	219			117	57	21	24	
C	88-1-02336-2B		503.00				503.00	UPCSWID(2)
	89-1-00643-1D		382.00				382.00	UDCS
	89-1-01219-9A		252.00				252.00	UMCS, UPCSWID
	89-1-02194-5A		246.00				246.00	UMCS
	89-1-02802-8B		217.00				217.00	UDCS(7), CDCS(2)
	89-1-03106-1		176.00				176.00	RAPE 2ND DEGREE
	89-1-03331-5		40.00		40.00			UPCSWID
	89-1-03370-6A		162.00				162.00	UPCSWID
	89-1-03395-1		49.00		49.00			UPCS
	89-1-03604-7		96.00				96.00	UPCSWID
	89-1-03981-0		45.00		45.00			RAPE 2ND DEGREE
	90-1-00110-7	9	74.00			74.00		UPCSWID
	90-1-00111-5	9	78.00			78.00		UPCSWID

PENDING CASE STATUS - 4/5/90

Track	Case No	Multi Def Code	Current Case Age	0-30	31-60	61-90	91-ON	Charge
C	90-1-00397-5		59.00		59.00			UPCSWID
	90-1-00403-3		37.00		37.00			UPCSWID; UPCS
	90-1-00497-1	30	38.00		38.00			UMCS; UPCS
	90-1-00582-0		14.00	14.00				UPCSWID; UPCS
	90-1-00588-9		54.00		54.00			UDCS
	90-1-00650-8	36	51.00		51.00			UPCSWID
	90-1-00651-6	36	51.00		51.00			UPCSWID
	90-1-00656-7	37	67.00			67.00		UPCSWID
	90-1-00736-9		30.00	30.00				UDCS
	90-1-00774-1	42	21.00	21.00				UPCSWID
	90-1-00787-3	43	41.00		41.00			UDCS(5);UPCSWID(2);PSP 2
	90-1-00788-1	43	41.00		41.00			UDCS(5)
	90-1-00789-0	43	34.00		34.00			UDCS(5)
	90-1-00796-2		40.00		40.00			UDCS(7)
	90-1-00802-1		40.00		40.00			UPCSWID; UDCS(6)
	90-1-00804-7		36.00		36.00			UDCS
	90-1-00811-0		32.00		32.00			UDCS(2); UPCS
	90-1-00818-7		36.00		36.00			UDCS(6)
	90-1-00821-7		9.00	9.00				UDCS
	90-1-00823-3		25.00	25.00				UDCS
	90-1-00873-0	47	13.00	13.00				UDCS(7)
	90-1-00874-8	47	14.00	14.00				UDCS(7)
	90-1-00875-6	47	13.00	13.00				UDCS(7)
	90-1-00876-4	47	14.00	14.00				UDCS(7)
	90-1-00975-2		32.00		32.00			UDCS(5)
	90-1-00984-1		30.00	30.00				UDCS(3)
	90-1-01081-5		18.00	18.00				UPCS
	90-1-01107-2	63	23.00	23.00				UPCSWID(2)
	90-1-01223-1	68	11.00	11.00				UMCS(3); UPCS
	90-1-01245-1		12.00	12.00				UDCS(5)
	90-1-01277-0		12.00	12.00				UDCS(3)
Average:			74.27					
Count:	44			15	18	3	8	
=====	=====	=====	=====	=====	=====	=====	=====	=====
Average:			40.07	11.72	44.19	74.58	177.43	
Count:	355			213	81	26	35	



Track	Case No	Multi Def Code	Current Case Age	0-30	31-60	61-90	91-ON	Charge
	89-1-01757-3		266.00				266.00	BURGLARY 1ST, RAPE 1ST
	89-1-02237-2		210.00				210.00	RAPE 2ND DEGREE
	89-1-02986-5		1.00	1.00				CH RAPE 1ST
	90-1-00366-5		1.00	1.00				ASSAULT 2ND DEGREE
	90-1-00934-5		1.00	1.00				CHILD RAPE FIRST(2)
	90-1-00993-1		1.00	1.00				
	90-1-01121-8		1.00	1.00				CH MOL 1ST DEGREE
	90-1-01123-4		1.00	1.00				CH MOL 1ST DEGREE
	90-1-01147-1		1.00	1.00				RAPE 2ND DEGREE
	90-1-01322-9		1.00	1.00				CH MOL 1ST; CH RAPE 1ST
	90-1-01326-1		1.00	1.00				RAPE 2ND DEGREE
	90-1-01385-7		1.00	1.00				RAPE 2ND DEGREE
	90-1-01415-2		3.00	3.00				CHILD RAPE 1ST DEGREE
	90-1-01421-7		3.00	3.00				BURGLARY 1ST DEGREE
	90-1-01500-1		1.00	1.00				CH RAPE 1ST; CH MOL 1ST
	90-1-1423-3		3.00	3.00				ASSAULT 2ND DEGREE
Average:			31.00					
Count:	16			14	0	0	2	
B	89-1-00846-9		139.00				139.00	STAT RAPE 2ND DEGREE
	90-1-00364-9		41.00		41.00			RAPE 2ND DEGREE
	90-1-00743-1		36.00		36.00			ASSAULT 2ND DEGREE
	90-1-00837-3		37.00		37.00			ASSAULT 2ND DEGREE
	90-1-01078-5		26.00	26.00				ASSAULT 2ND DEGREE(2)
Average:			55.80					
Count:	5			1	3	0	1	
C	88-1-01635-8		13.00	13.00				IND LIB(2); STAT RAPE 1ST
	88-1-02341-9		63.00			63.00		INDECENT LIBERTIES
	89-1-01669-5		238.00				238.00	CHILD MOLEST 1ST DEGREE
	89-1-02046-9		132.00				132.00	CHILD RAPE, 1ST DEGREE
	89-1-02670-0		148.00				148.00	PUBLIC INDECENCY
	89-1-03054-5		92.00				92.00	INCEST 1ST DEGREE(2)
	89-1-03554-7		128.00				128.00	IND LIBS, STAT RAPE 1ST
	89-1-03583-1		116.00				116.00	INCEST 2ND(3), INCEST 1ST
	89-1-03754-0		127.00				127.00	ROBBERY 1ST, RAPE 1ST
	89-1-03842-2		84.00			84.00		ST RAPE 1(2), IND LIBS*
	89-1-03947-0		22.00	22.00				ASSAULT 2ND DEGREE
	89-1-03956-9		113.00				113.00	CH RAPE 1, CH MOLEST 1(2)
	89-1-04046-0		48.00		48.00			ASSAULT 2ND DEGREE
	89-1-04102-4		56.00		56.00			INDECENT LIBERTIES
	90-1-00041-1		53.00		53.00			CHILD RAPE 1ST(3)
	90-1-00174-3		114.00				114.00	ROB1;KID1(2);BRG1;RAPE 1
	90-1-00181-6		56.00		56.00			RAPE OF CHILD 1ST DEGREE
	90-1-00206-5		73.00			73.00		STAT RAPE 1; CH MOL 1(2)*
	90-1-00267-7		69.00			69.00		RAPE 2ND, IND LIBERTIES
	90-1-00326-6	17	58.00		58.00			RAPE 2ND DEGREE
	90-1-00365-7		13.00	13.00				CHILD MOLESTATION 2ND
	90-1-00367-3		17.00	17.00				COMMUNICATION WITH MINOR
	90-1-00376-2		30.00	30.00				INDECENT LIBERTIES
	90-1-00453-0		42.00		42.00			ASSAULT 2ND DEGREE
	90-1-00543-9		58.00		58.00			CH RAPE 1ST; CH RAPE 2ND
	90-1-00567-6		52.00		52.00			ASSAULT 2ND DEGREE
	90-1-00586-2		42.00		42.00			ASSAULT 2ND DEGREE(2)

PENDING CASE STATUS - 4/5/90

Track	Case No	Multi Def Code	Current Case Age	0-30	31-60	61-90	91-ON	Charge
C	90-1-00593-5		55.00		55.00			CHILD RAPE 3RD DEGREE
	90-1-00739-3		13.00	13.00				STAT RAPE 2; CH RAPE 2ND;
	90-1-00754-7		9.00	9.00				RAPE 2ND DEGREE
	90-1-00769-5		40.00		40.00			BURGLARY 1ST, RAPE 1ST
	90-1-00791-1		13.00	13.00				CH MOL 1ST; ATT CH RAPE1;
	90-1-00808-0		23.00	23.00				CH RAPE 1ST; CH RAPE 2ND;
	90-1-00828-4		9.00	9.00				ASSAULT 2ND DEGREE
	90-1-00881-1		12.00	12.00				CHILD MOL 2ND DEGREE
	90-1-00932-9		12.00	12.00				CHILD MOL 1ST DEGREE
	90-1-00933-7		14.00	14.00				CH MOL 1ST
	90-1-00936-1		14.00	14.00				ASSAULT 2ND
	90-1-00948-5		11.00	11.00				CHILD RAPE 1ST DEGREE(2)
	90-1-00964-7		29.00	29.00				CH MOL 2ND; CH RAPE 2ND*
	90-1-01018-1		12.00	12.00				STAT RAPE 1; CH MOL(2)
	90-1-01019-0		14.00	14.00				CH MOL 1ST; ASSAULT 3RD*
	90-1-01020-3		15.00	15.00				ASSAULT 1ST DEGREE
	90-1-01060-2		14.00	14.00				RAPE 1ST DEGREE
	90-1-01064-5		14.00	14.00				INCEST 2ND DEGREE
	90-1-01075-1		14.00	14.00				MURDER 1ST DEGREE
	90-1-01079-3		11.00	11.00				INCEST 1ST DEGREE
	90-1-01146-3		12.00	12.00				RAPE 2ND DEGREE
	90-1-01164-1		18.00	18.00				RAPE 2ND DEGREE
	90-1-01218-4		11.00	11.00				ASSAULT 2ND DEGREE
	90-1-01220-6		16.00	16.00				CH MOL 1ST; ASSAULT 2ND
	90-1-01236-2		14.00	14.00				INCEST 2ND; INCEST 1ST
Average:			47.62					
Count:			52	28	11	4	9	
D	89-1-02263-1		204.00				204.00	CHILD RAPE 2ND DEGREE
	89-1-02610-6		34.00		34.00			CUST INTERFERENCE 1ST
	89-1-03031-6A		179.00				179.00	STAT RAPE 1ST DEGREE
	89-1-03031-6B		179.00				179.00	STAT RAPE 1ST DEGREE
	89-1-03118-5		168.00				168.00	CHILD RAPE 2ND DEGREE (3)
	89-1-03346-3		201.00				201.00	CHILD MOLESTATION 1ST(2)
	89-1-03367-6		141.00				141.00	CHILD MOLESTATION 1ST
	89-1-03824-4		106.00				106.00	CH MOL 1(2), SEX EXP(36)
	89-1-03945-3		99.00				99.00	CHILD MOLESTATION 1ST
	89-1-03960-7		117.00				117.00	RAPE 1ST DEGREE
	90-1-00299-5		72.00			72.00		MURDER 2ND DEGREE
	90-1-00323-1	20	56.00		56.00			RAPE 2ND DEGREE
	90-1-00325-8	20	45.00		45.00			RAPE 2ND DEGREE
	90-1-00373-8		50.00		50.00			MURDER 2ND DEGREE
	90-1-00374-6		14.00	14.00				CH MOL 1; CH RAPE 1(2)
Average:			111.00					
Count:			15	1	4	1	9	
=====								
Average:			55.86	10.89	47.72	72.20	153.19	
Count:			88	44	18	5	21	

## DISPOSED CASE DATA - 4/5/90

Track	Case No	Multi Def Code	Current Case Age	0-30	31-60	61-90	91-ON	Charge
A	81-1-00002-1		-2760.00	***				UDCS
	82-1-02243-0		82.00			82.00		UPCS
	86-1-01312-3		243.00				243.00	ASSAULT 2ND
	88-1-01737-1B		70.00			70.00		UDCS
	88-1-02336-2C		-356.00	***				UDCS(5)
	88-1-03745-2		41.00		41.00			UPCSWID(2)
	89-1-01060-9		-20.00	-20.00				UPCS(2)
	89-1-01202-4A		60.00		60.00			UPCS
	89-1-01289-0		37.00		37.00			UPCS
	89-1-01488-4		42.00		42.00			UPCS(2)
	89-1-01583-0		-122.00	***				UPCSWID(2)
	89-1-01630-5		188.00				188.00	UPCS
	89-1-01733-6		45.00		45.00			UPCS
	89-1-02016-7		50.00		50.00			UPCS
	89-1-02078-7A		136.00				136.00	UPCS
	89-1-02234-8B		22.00	22.00				UPICSWID
	89-1-02288-7		94.00				94.00	UPCSWID
	89-1-02435-9		19.00	19.00				UPCS
	89-1-02494-4A		69.00			69.00		UPCS, UPCSWID
	89-1-02717-0		76.00			76.00		UPCSWID(2)
	89-1-02791-9		13.00	13.00				UPCSWID
	89-1-02862-1		84.00			84.00		UDCS
	89-1-02911-3B		19.00	19.00				UPCS
	89-1-02911-3C		19.00	19.00				UPCS
	89-1-02914-8		89.00			89.00		UPCS
	89-1-02938-5		40.00		40.00			UPCS
	89-1-02942-3B		9.00	9.00				UPCSWID
	89-1-02968-7		15.00	15.00				UPCS
	89-1-03077-4A		12.00	12.00				UPCSWID(2)
	89-1-03141-0		76.00			76.00		UPCS
	89-1-03187-8		66.00			66.00		UPCS
	89-1-03211-4A		48.00		48.00			UMCS
	89-1-03234-3		-12.00	-12.00				UPCS
	89-1-03249-1		-14.00	-14.00				UPCS(2)
	89-1-03329-3		68.00			68.00		UPCS
	89-1-03334-0		141.00				141.00	UPCS
	89-1-03360-9		14.00	14.00				UPCS
	89-1-03436-2		37.00		37.00			UPCS
	89-1-03518-1		70.00			70.00		UPCS
	89-1-03520-2		15.00	15.00				UPCS
	89-1-03544-0		22.00	22.00				UPCS(2)
	89-1-03605-5C		25.00	25.00				UPCS
	89-1-03649-7		60.00		60.00			UPCS
	89-1-03674-8		88.00			88.00		UPCSWID
	89-1-03681-1		58.00		58.00			UPCS
	89-1-03732-9		58.00		58.00			UPCS
	89-1-03745-1		75.00			75.00		UPCS
	89-1-03789-2B		78.00			78.00		UPCS
	89-1-03801-5		73.00			73.00		UPCSWID
	89-1-03808-2		57.00		57.00			UPCS
	89-1-03816-3		86.00			86.00		UPCSWID
	89-1-03892-9		93.00				93.00	UPCSWID
	89-1-03902-0		17.00	17.00				UPCS
	89-1-03934-8		50.00		50.00			UPCS
	89-1-03968-2A		41.00		41.00			UPCSWID
	89-1-03970-4B		65.00			65.00		UPCSWID

## DISPOSED CASE DATA - 4/5/90

Track	Case No	Multi Def Code	Current Case Age	0-30	31-60	61-90	91-ON	Charge
A	89-1-04012-5A		51.00		51.00			UPCSWID, UPCS
	89-1-04012-5B		10.00	10.00				UPCSWID, UPCS
	89-1-04012-5D		51.00		51.00			UPCSWID, UPCS
	89-1-04048-6		58.00		58.00			UPCSWID
	89-1-04050-8		42.00		42.00			UPCS
	89-1-04051-6A		66.00			66.00		UMCS
	89-1-04051-6B		66.00			66.00		UMCS
	89-1-04070-2A		55.00		55.00			UPCSWID
	89-1-04070-2B		29.00	29.00				UPCSWID
	89-1-04123-7		42.00		42.00			UPCS
	90-1-00163-8	11	12.00	12.00				UMCS; THEFT 1ST DEGREE
	90-1-00170-1		28.00	28.00				UPCS
	90-1-00183-2		16.00	16.00				UDOMILOCS
	90-1-00194-8		20.00	20.00				UPCS
	90-1-00195-6		8.00	8.00				UPCSWID(2)
	90-1-00201-4		20.00	20.00				UPCS
	90-1-00202-2		16.00	16.00				UPCSWID
	90-1-00237-5		5.00	5.00				UPCSWID
	90-1-00283-9		31.00		31.00			PAT JUVENILE PROSTITUTE
	90-1-00284-7		58.00		58.00			UDOMILOCS
	90-1-00305-3		58.00		58.00			UPCSWID
	90-1-00309-6	15	57.00		57.00			UPCS
	90-1-00351-7	19	20.00	20.00				UPCS
	90-1-00447-5		29.00	29.00				UDCS
	90-1-00496-3	30	12.00	12.00				UMCS; UPCSWID
	90-1-00532-3	34	10.00	10.00				UDCS
	90-1-00719-9	40	12.00	12.00				UPCS
	90-1-00768-7		1.00	1.00				UPCS
	90-1-00783-1		19.00	19.00				UPCSWID; ASLT 2; POSS EXP
	90-1-00785-7		19.00	19.00				UUBDP
	90-1-00907-8		20.00	20.00				UPCSWID
	90-1-00910-8		20.00	20.00				UPCSWID
	90-1-00972-8	66	1.00	1.00				UPCS; UPCSWID
	90-1-01038-6	57	14.00	14.00				UPCSWID
	90-1-01134-0	65	16.00	16.00				UPCSWID
	90-1-01373-3		1.00	1.00				UDCS
Average:			8.30	12.40	49.08	74.83	149.17	
Count:	92			43	25	18	6	
B	86-1-02221-1		-790.00	***				UPCSWID
	87-1-01018-1		-355.00	***				UPCS
	88-1-00260-8		58.00		58.00			UPCS
	88-1-00715-4		254.00				254.00	UPCS, UPCSWID
	88-1-01184-4		-451.00	***				UPCS, ASSAULT 3RD DEGREE
	88-1-01717-6		-217.00	***				PROMOTING PROSTITUTION 1
	88-1-02307-9		79.00			79.00		UPCSWID
	88-1-02331-1		-486.00	***				UPCS
	88-1-02350-8		85.00			85.00		UPCS
	89-1-00102-2A		98.00				98.00	UPCS
	89-1-00102-2C		121.00				121.00	UPCS
	89-1-00102-2D		186.00				186.00	UPCS
	89-1-00257-6A		308.00				308.00	UDCS(3), UPCSWID
	89-1-00380-7		82.00			82.00		UPCSWID, UPCS(2)
	89-1-00398-0		58.00		58.00			UPCSWID
	89-1-00477-3A		65.00			65.00		UPCSWID

## DISPOSED CASE DATA - 4/5/90

Track	Case No	Multi Def Code	Current Case Age	0-30	31-60	61-90	91-ON	Charge
B	90-1-00534-0		58.00		58.00			UDCS
	90-1-00594-3		47.00		47.00			UPCSWID
	90-1-00611-7	35	52.00		52.00			UPCSWID
	90-1-00613-3		46.00		46.00			ASSAULT 2ND DEGREE
	90-1-00614-1		26.00	26.00				ASSAULT 2ND DEGREE
	90-1-00644-3		44.00		44.00			UPCS
	90-1-00682-6		38.00		38.00			UPCS
	90-1-00683-4		38.00		38.00			UPCS
	90-1-00720-2	40	35.00		35.00			UPCS
	90-1-00741-5		23.00	23.00				UPCS
	90-1-00746-6		27.00	27.00				UPCS
	90-1-00751-2		29.00	29.00				UDOMILCS
	90-1-00831-4		36.00		36.00			UPICSWID
	90-1-00838-1		20.00	20.00				UPICSWID
	90-1-00866-7		29.00	29.00				UPCS(2)
	90-1-00872-1	46	20.00	20.00				UPCSWID(2)
	90-1-00877-2	48	23.00	23.00				UMCS
	90-1-00878-1	48	27.00	27.00				UMCS
	90-1-00888-8		35.00		35.00			UPCS
	90-1-00890-0		29.00	29.00				UPCSWID(2)
	90-1-00962-1		31.00		31.00			UDCS PERSON UNDER 18
	90-1-00978-7		16.00	16.00				UPCSWID
	90-1-00982-5		16.00	16.00				UPCS
	90-1-00998-1		14.00	14.00				UPCSWID
	90-1-01003-3		20.00	20.00				UPCSWID
	90-1-01041-6		18.00	18.00				UDCS
	90-1-01084-0		16.00	16.00				UDCS
	90-1-01105-6	63	21.00	21.00				UPCSWID
	90-1-01138-2	65	14.00	14.00				UPCSWID
	90-1-01139-1	65	15.00	15.00				UPCSWID
	90-1-01140-4	65	21.00	21.00				UPCSWID
	90-1-01155-2		14.00	14.00				UPCS
	90-1-01222-2		14.00	14.00				UDCS
Average:			59.87	17.09	48.62	76.96	142.88	
Count:	385			53	187	79	66	
C	86-1-01746-3		-832.00	***				STAT RAPE 1ST DEGREE
	88-1-00813-4		53.00		53.00			STAT RAPE 1, STAT RAPE 2
	88-1-02026-6		56.00		56.00			CH MOL 1ST, IND LIBS(2)
	88-1-02178-5		84.00			84.00		RAPE 1ST DEGREE
	88-1-02211-1		135.00				135.00	UPCSWID
	88-1-02839-9		262.00				262.00	INDECENT LIBERTIES
	88-1-03805-0		244.00				244.00	UPCSWID, ASSAULT 2ND
	89-1-00500-1A		330.00				330.00	UPCSWID(2)
	89-1-00500-1B		330.00				330.00	UPCSWID(2)
	89-1-00670-9		84.00			84.00		STAT RAPE 2, IND LIBS
	89-1-00849-3A		116.00				116.00	UPCSWID(2)
	89-1-00861-2A		351.00				351.00	UMCS
	89-1-00861-2B		353.00				353.00	UMCS
	89-1-01075-7		27.00	27.00				UDCS(2)
	89-1-01147-8		192.00				192.00	UPCSWID, UPCS
	89-1-01219-9B		197.00				197.00	UMCS, UPCSWID
	89-1-01422-1		67.00			67.00		RAPE 2ND DEGREE
	89-1-01463-9		274.00				274.00	CHILD RAPE 3RD DEGREE
	89-1-01617-8		230.00				230.00	UPCS

## DISPOSED CASE DATA - 4/5/90

Track	Case No	Multi Def Code	Current Case Age	0-30	31-60	61-90	91-ON	Charge
C	90-1-00775-0	42	29.00	29.00				UPCSWID
	90-1-00826-8		29.00	29.00				RAPE 1ST DEGREE
Average:			91.56	21.18	49.89	75.37	164.77	
Count:	189			11	66	43	69	
D	88-1-01878-4		68.00			68.00		CUSTODY INTERFERENCE 1ST
	89-1-01896-1		185.00				185.00	CHILD RAPE 1ST DEGREE
	89-1-02057-4		42.00		42.00			ASSAULT 2ND DEGREE
	89-1-02142-28		197.00				197.00	CRIM MISTREATMENT 2ND
	89-1-03241-6		50.00		50.00			CHILD RAPE 1ST DEGREE
	89-1-03682-9		99.00				99.00	CHILD MOLESTATION 1ST
	89-1-03721-3		85.00			85.00		HOMICIDE BY ABUSE/MUR 2ND
	89-1-03757-4		93.00				93.00	MURDER 2ND DEGREE
Average:			102.38	0.00	46.00	76.50	143.50	
Count:	8			0	2	2	4	
=====	=====	=====	=====	=====	=====	=====	=====	=====
Average:			62.22	15.63	48.94	76.20	153.57	
Count:	674			107	280	142	145	



**THE AMERICAN UNIVERSITY**  
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**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**PROGRAM SUMMARY NO. 6<sup>1</sup>**

**Second Judicial District Court of Ramsey County  
Ramsey County (St. Paul), Minnesota**

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<sup>1</sup> Prepared under BJA Cooperative Agreement No. 89-DD-CX-0023.

**BUREAU OF JUSTICE ASSISTANCE PILOT  
DIFFERENTIATED CASE MANAGEMENT PROGRAM**

**PROGRAM SUMMARY NO. 6<sup>2</sup>**

**Second Judicial District Court of Ramsey County  
Ramsey County (St. Paul), Minnesota**

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## I. INTRODUCTION

### A. Background

#### 1. Project Summary

On April 1 1988, the Second Judicial District Court in Ramsey County, Minnesota implemented a Differentiated Case Management (DCM) program, applicable to all civil cases in which a Note of Issue was filed on or after April 1, 1988.<sup>3</sup> Under the DCM program three case tracks are created: expedited, standard and complex, each with separate time objectives and applicable intermediate events. In addition, a special fast-track has been created for Conciliation Court<sup>4</sup> appeals, administrative appeals from local government agencies, condemnation cases, and assessment appeals. Cases assigned to this fast-track are scheduled for trial immediately upon filing.

Simultaneous with the establishment of the DCM system, a comprehensive program was created for auditing the pending civil caseload and conducting settlement conferences for those cases which remained on the docket after the audit. The purpose of this audit was to obtain an accurate assessment of the volume and types of civil cases comprising the Court's existing backlog.

#### 2. Relevant Geographic and Demographic Factors

The Second Judicial District Court sits in the state capital, St. Paul, and, consequently, handles almost all cases in which the state is a party. Ramsey County, whose 1988 population was 472,683, is part of a multi-county metropolitan area including also Hennepin, Washington, Anoka, Dakota, Scott and Carver Counties. A large minority population resides in Ramsey County, primarily of southeast Asian extraction, resulting in the need for interpreters in many criminal cases.

#### 3. The Ramsey County Bar

Membership in the Ramsey County Bar Association totals 2,739 attorneys; membership in the neighboring Hennepin County (Minneapolis) County Bar Association totals 6,425. Most of the attorneys practicing in Ramsey County have multi-county practices in both the state and federal courts in the region. In addition, a large percentage of attorneys practicing in Ramsey County are from other counties in the region.

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<sup>3</sup> Under Minnesota rule, a complaint can be "filed" by simply serving it upon the Defendant. There is no requirement that the Complaint also be filed in Court. For the Court's purpose, the case becomes a "filing" upon the filing of any document in the Court (i.e., a motion, a discovery conference request, etc.) or when one of the parties files a Note of Issue with the Court. The Note of Issue can be filed at any time; there is no requirement that it be filed within any specific timeframe. Consequently, the date when a case originated can be years before the Note of Issue was filed. When the Note of Issue is filed, the party filing it certifies that the case is at issue, that all parties have been joined, and that the case is ready to be scheduled for trial. As a result of this Rule, cases may be much older than the date the Note of Issue was filed.

<sup>4</sup> equivalent to Small Claims; jurisdiction extends up to \$ 3,500.00.

## B. Description of the Judicial System

### 1. Organization of the Second Judicial District Court

The Second Judicial District Court is a unified court, having been merged by statute in 1987 with the St. Paul Municipal Court. Since the merger, all criminal and civil matters are filed in the District Court, including misdemeanor, traffic, conciliation (small claims) matters, etc. The Court is served by 24 judges.

Four of the judges are assigned to Special Courts as follows:

Probate:	1 judge
Juvenile:	1 judge
Family:	2 judges

The four judges in these Special Courts rotate at the direction of the Chief Judge. The remaining 20 judges share equally the rest of the civil and criminal docket.<sup>5</sup>

### 2. Civil Jurisdiction

The civil jurisdiction of the Second Judicial District Court extends to all civil matters, including the limited jurisdiction previously exercised by the Municipal Court prior to the 1987 merger.

### 3. Civil Cases Handled Under the DCM Program

The Civil DCM program in Ramsey County applies to all civil cases for which a Note of Issue was filed as of April 1, 1988 or after except for certain summary matters which are assigned immediately upon filing to the fast-track for disposition. These summary matters are primarily (1) unlawful detainer cases; (landlord/tenant disputes); (2) appeals from government agencies; (3) implied consent cases (appeals from traffic license suspensions); and (4) conciliation matters.

### 4. Court Caseload

The 1988 and 1989 filings of the Second Judicial District Court consisted of the following:

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<sup>5</sup> At the time of the merger of the Municipal and District Courts, a grandfather clause was enacted permitting each District to determine how the judges of the merged courts would be assigned. Judges on the District Court bench prior to the merger were given the option of not hearing cases which, prior to the merger, would have been filed in the Municipal Court. Some of the judges in Ramsey County abstained from Municipal Court cases; others agreed to handle them periodically; others handled these cases along with "District Court" cases. As of July 1, 1990, the grandfather clause has been abolished by statute.

	1988	1989
Criminal (felonies and gross misds.	3,214	3,963
Civil		
Major Civil	4,319	3,948
Un. dets and Imp. Cons.	5,047	5,366
Probate	2,018	2,095
Family	4,857	4,771
Juvenile	4,174	4,382
Misc. Civil (dflt judgments, trusts, etc.)	4,876	4,276
Summary matters (conc. cases, non- traf; traf mis; juv. traf)	284,485	270,361
Total	312,990	299,162

Approximately 360 civil cases are filed monthly, breaking down by major case type approximately as follows:

contract	40 %
personal injury	25 %
medical malpractice	5 %
prop. damage; minor settlements <sup>6</sup>	10 %
other civil (includes sexual harassment, employment discrimination, etc.)	20%
Total	100%

##### 5. Civil Calendaring System and Support Staff

Under the DCM program, civil calendaring functions in the District Court are handled by the Assignment Office under the overall supervision of the District Administrator.

The Assignment Office is staffed by 11 persons: five handle primarily civil matters; four handle primarily criminal matters and two are assigned receptionist duties. The civil staff includes: one civil case manager; three civil case clerks; and a civil case coordinator responsible for overseeing the office and a position established when the DCM program was adopted. Administration of the Civil Case Assignment Office is performed by the Deputy Court Administrator who also serves as Criminal and Civil Calendar Referee.

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<sup>6</sup> "Minor Settlements" are cases which have been settled without court intervention but need to have the settlement recorded in a court order.

Two assignment systems operate within the DCM program. Those cases deemed to be expedited and/or standard track cases are screened and supervised by the Civil Case Coordinator who also schedules applicable pretrial and trial dates on the civil master calendar in accordance with the applicable track time standards. Cases determined to be complex are immediately assigned to a judge for all further proceedings. The judge assigned to a complex case supervises case progress on his/her own individual calendar and sets and monitors deadlines in each case so assigned. Pretrial motions for expedited and standard track cases are scheduled on the "Special Term" calendar, which is handled by a different judge each week; non-dispositive motions for standard track cases can also be heard at the time of the pretrial conference (about one month before trial), if necessary.

Prior to implementing the DCM program, the Court used a master calendaring system, scheduling each case for trial after the Note of Issue was filed without any consideration of issues relating to case complexity or pretrial requirements. The cases were divided into two groups: those requesting jury trials, which were scheduled for trial approximately 18 months later, and those requesting court trials, scheduled approximately 12 months later. (See Section IIB3 below for trial scheduling timeframes under the DCM program.) No intermediate events were scheduled prior to instituting the DCM program.

#### 6. Alternative Dispute Resolution Programs

No formal alternative dispute resolution programs currently exist in Ramsey County except for family matters. Beginning in the Fall of 1990, a voluntary ADR program is planned.

## II. DESCRIPTION OF THE DCM CIVIL PROGRAM

### A. Program Objectives

The Court's overall goal in instituting the DCM program was to improve court control over the progress of civil cases. At the time the DCM program was implemented, the Court was confronting major backlog and delay problems with the civil caseload; 5,500 civil cases were pending at the time the DCM program was adopted, with the pending caseload increasing steadily. In addition to this backlog – and contributing to it – were continual problems relating to the Court's ability to maintain a credible trial calendar. Trial date continuances were numerous and common, with most cases continued several times before reaching disposition. At the time the DCM program was designed, the median time from the filing of the Note of Issue to disposition for cases requesting jury trial was 20 months; Ramsey County ranked highest in the state in terms of civil case disposition time.

In an effort to achieve the DCM program goal, the Court defined a number of related goals and measurable objectives, including:

- to shift control of case progress from attorneys to the court;
- to develop an effective system for court monitoring of case progress;
- to provide credible trial dates
- to reduce the rate of trial continuances
- to achieve earlier case dispositions;
- to establish time standards for civil case processing as follows:
  - 90% of civil cases to be disposed of within ten months of filing the Note of Issue;
  - 100% of civil cases to be disposed of within two years of Note of Issue;
  - to reduce the number and age of all pending cases

## B. Program Description

### 1. Summary of the DCM Caseflow Process

Under the DCM program, the court assumes control of case progress at the time a Note of Issue (See Appendix C) is filed, with track assignment made 90 days later when the Joint At Issue Memorandum is filed. No discovery or time limitations are associated with any of the tracks other than those naturally evolving out of the different dispositional timeframes applicable.

Essentially, the Note of Issue serves as a certification by counsel that a law suit is in progress and that they are ready to proceed with the court process leading to trial. As noted above, in Minnesota, unlike most other jurisdictions, attorneys are not required to file their pleadings with the Court until they file the Note of Issue. Thus, an action may be commenced substantially prior to the time it comes to the Court's attention.

After the Note of Issue is filed, the DCM rules require the filing of a Joint At-Issue Memorandum (JIM) (See Appendix D) within 90 days. On this form, the attorneys certify that all parties have been served, estimate the trial length, request trial by jury (if desired), indicate their preference for track assignment, and present a concise statement of the case, including the facts the plaintiff intends to prove and the legal basis for the claim. Failure to file the Joint At-Issue Memorandum results in a Show Cause Hearing. Final track determination is made by the court after reviewing the attorneys' request and the joint statement of the case on the JIM.

Those cases assigned to the expedited track are scheduled for trial within 90 days. Those cases assigned to the standard and modified standard tracks are scheduled for a Joint Disposition Conference (JDC), conducted by the Civil Case Coordinator or Calendar Referee, and trial within four months. Approximately two months before the trial date, a notice is issued for a pretrial conference which is held within the next 30 days. At the JDC, held approximately 60 days prior to trial, the parties identify the issues of law to be addressed, enter into stipulations, as appropriate, and present their respective positions for settlement. A JDC Report (See Appendix F) is due at the conclusion of the conference. Cases not settled at the JDC are scheduled for a judicial pretrial conference held 30 days prior to trial at which final settlement offers are made and final pretrial preparation discussed.

### 2. Tracks Created

#### a. *General*

Pursuant to the temporary rules adopted by the Court on March 9, 1988 (See Appendix A) and the Special Rules of Practice (Appendix B) adopted effective January 3, 1989, the following three tracks were created, each with different discovery practices and timeframes: Expedited, Standard and Complex. In 1989, the Court began using a "modified" standard track which set certain cases for trial one to two months earlier than customary for standard track cases.

While the Rules for the Ramsey County DCM program do not specifically delineate the criteria and procedures applicable to each track, the "Statement of Policy Pertaining to Calendar Matters" published as a preface to the Special Rules summarizes the overall framework for the DCM program.

\* The Judges of the Second Judicial District have embraced the concept of Differentiated Case Management (DCM) for all civil cases. DCM is a case management system by which judges and case management teams employ multiple tracks to accommodate the special procedural and managerial requirements of different case types. In the Second Judicial District, three case processing tracks have been developed: Expedited, Standard, and Complex. Based on the information contained in the Joint At-Issue Memorandum, which is set out in Rule 4 of our special rules, every case is analyzed and assigned to a case processing track. The simpler matters requiring less preparation

time and discovery will be assigned to the expedited track and will be given trial dates approximately 60 to 90 days after the filing of the Joint at-Issue Memorandum. Typical cases will be assigned to the standard track and can be expected to have a trial day certain approximately 10 months after the filing of a Note of Issue. More complicated matters will be assigned to an individual judge for complex case handling. . . .<sup>7</sup>

The Special Rules which follow specify the information to be provided by the parties which the Court then uses to make the track assignment. Actual creation of the tracks was accomplished by court officials. The tracks can be distinguished as follows:

*b. Specific Tracks Created*

**(1) Expedited**

Cases assigned to the expedited track have limited discovery requirements and generally involve a single issue which can be resolved by a brief trial. It was initially anticipated that 10% of the cases would be assigned to the expedited track; actual experience, however, has been that approximately 28% of the cases receive expedited treatment.

**(2) Standard**

Cases which require more discovery and preparation time, including some personal injury cases, are assigned to the standard track. Initially, it was anticipated that 85 - 90% of the caseload would be standard track cases; actual experience has been that only 50 % are assigned to the standard track.

**(3) Complex**

Cases assigned to the complex track involve multiple parties, require extensive discovery and numerous motions and witnesses. The Court projected that 2% of the cases would be complex; actual experience has been 1%.

**(4) Modified standard**

In mid-1989, a modified standard track was added to accommodate those cases which did not need the seven months of discovery provided under the standard track timeframe but, yet, could not be scheduled for trial within the expedited track timeline. Approximately 21% of the cases are assigned to this track.

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<sup>7</sup> See "Statement of Policy Pertaining to Calendar Matters", Special Rules of Practice, Second Judicial District of Minnesota, 1988.



### 3. DCM Track Characteristics

#### a. *Expedited*

The overall dispositional time goal for expedited cases is a maximum of 185 days from the filing of the Note of Issue, with 90 days maximum between the filing of the Note of Issue and the filing of the Joint at Issue Memorandum, followed by a maximum of an additional 90 days until trial. There are no intermediate events between assignment of the trial date and the trial itself, except for settlement, should it occur. Any party may request a pretrial conference which, upon such a request, is scheduled prior to trial.

#### b. *Standard*

The overall time dispositional goal for standard track cases is 305 days. Standard track cases are subject to a number of events not associated with the expedited track. These events, summarized below, are intended to encourage early attorney attention to the case, thus enhancing the possibility for early settlement, and (for those cases that do not settle) to help assure trial readiness on the first assigned date.

The principal initial events applicable to standard track cases are: (1) the Joint at Issue Memorandum, filed 90 days after the Note of Issue; and (2) a Joint Disposition Conference and report, held 120-150 days later (approximately 100 days after track assignment. At the JDC, attorneys are required to meet and confer to isolate the fundamental issues in the case, determine issues to which the parties will stipulate, discuss settlement potential, and compile a list of witnesses and exhibits. A report of the conference must be filed with the Court and failure to do so will result in an order for a show cause hearing. If the case is not settled, a pretrial conference is then held 30 days later, with the trial following within thirty days thereafter.

#### c. *Modified Standard*

The overall dispositional time goal for modified standard track cases is 220 days. Otherwise, cases assigned to the Modified Standard track proceed similarly to standard track cases.

#### d. *Complex Track*

The 2% of the civil cases which are deemed complex by the civil case coordinator are referred to the Chief Judge for review. If he/she concurs with the complex designation, the case is assigned to an individual judge at that point. The assigned judge schedules a case management conference shortly thereafter. At the conference, the judge and attorneys jointly set a disposition timetable to govern all further activity in the case. Additional pretrial proceedings are scheduled by the judge as needed. The court's time goal for disposing of complex cases is 730 days (two years) of the filing of the Note of Issue.

### 4. Track Assignment Process and Point at Which Track Assignment is Made

Track assignment takes place immediately after the Joint at Issue Memorandum (JIM) (see Appendix D) is filed – 90 days after the filing of the Note of Issue. The Civil Case Coordinator reviews each JIM and assigns it to an appropriate track. Cases determined to be complex by the Chief Judge are referred to the Deputy Court Administrator/Calendar Referee and immediately assigned to a judge for all further proceedings. Attorneys seeking to appeal or subsequently change the track assignment can request review by the Civil Case Coordinator or Deputy Court Administrator/Calendar Referee.

The first two years of program operation indicate very few requests for track changes. When they are made, it is usually by telephone request or by letter, and, primarily, because a third party

action has been commenced, an amended complaint has been filed adding additional issues, or an attorney has withdrawn or been substituted.

5. Applicable DCM Events and Timeframes by Track

The events and maximum timeframes applicable to each track are summarized below:

Event	Expedited Track	Standard Track	Modified Stand.Tr	Complex Track	Fast Track
Note of Issue	Day 1	Day 1	Day 1	Day 1	Day 1
Jt. at Is. Mem	Day 90	Day 90	Day 90	Day 90	n/a
Track Assgnt.	Day 95	Day 95	Day 95	Day 95	n/a
Case Mgt Conf.	n/a	n/a	n/a	Day 125	n/a
Jt. Disp Conf/Rept	n/a	Day 245	Day 180	n/a	n/a
Jud.Pre-Trial Conf.	n/a	Day 275	Day 240	n/a	n/a
Trial	Day 185	Day 305	Day 240	Day 730	Day 60

6. Cases Included in the DCM Program

All civil cases for which a Note of Issue has been filed as of April 1, 1988 or later are included in the DCM program.

7. Provision for Handling The Pending Caseload

All civil cases eligible for the DCM Program but with a Note of Issue filed prior to April 1, 1988, were designated as "old cases" and referred for a special audit and review. As a result of this audit, the "old cases" were either dismissed because they had been settled, etc., or scheduled for a settlement conference or trial. In scheduling the civil docket, top priority was given to the oldest ten percent of the civil cases. Secondary priority was then given to the DCM cases that were set for trial. Additional judicial resources obtained with the approval of the Minnesota Supreme Court, consisting of retired judges and "out-state" judges, were assigned periodically to assist with conducting settlement conferences and trials of the "old cases". As of July 1, 1990, about fifteen percent of the pending civil cases (in which a Note of Issue has been filed) are pre-DCM cases and assigned to individual judges to manage similarly to complex cases.

8. Provisions for Handling Amended Complaints, Third-Party Complaints and "Dangling Defendants"

Pleadings may be amended and additional parties joined any time up to trial, upon motion. Cases involving amended complaints and/or the joinder of additional parties are handled on an individual basis. Trial date continuance requests are handled by the Calendar Referee, with action depending upon the time at which the amendment/joinder occurs and the number of parties involved.

9. Case Monitoring Performed

Cases assigned to the expedited, standard or modified standard tracks are supervised by the Civil Case Manager who also schedules a trial date on the civil master calendar in accordance with the track time standards. Problems relating to meeting document deadlines are handled by one of the civil case clerks, who have the authority to make minor modifications in the deadline dates, if appropriate. Motion and discovery problems and other problems related to case progress, other than meeting document deadlines, are handled by the civil case coordinator unless the trial date is imminent or the case is assigned to the complex track; these cases are supervised primarily by the deputy court administrator who has been given authority by the Chief Judge to continue the date for a hearing or trial if necessary.

Regular monitoring of the civil docket is performed by the civil case coordinator through analysis of DCM statistical reports produced by the Court and statistical reports prepared by the State Administrative Office of the Courts (AOC). In addition, beginning in 1989, the Court has been scheduling status conferences, pursuant to Minnesota Civil Rule 16, for any case in which no Note of Issue has been filed or no significant activity has occurred for the past six - twelve months.

10. Project Start-Up Date

The Civil DCM program began on April 1, 1988.

C. Changes Required to Implement the DCM Program

1. General

The Ramsey County DCM project was established under Temporary Civil Rules adopted by the District Court shortly before program implementation, with permanent rules for the program adopted ten months later<sup>8</sup>. These local rules supplemented other existing local rules as well as the Minnesota Rules of Civil Procedure which, however, do not provide specific timeframes or events for civil case process. (See Appendix B(2)).

2. Specific Changes Instituted

a. Rule Changes

As noted above, prior to the start-up of the DCM program in Ramsey County, the Court enacted temporary rules which were subsequently superceded by permanent rules adopted by the Court. Additional amendments have since been made to streamline the DCM process and, where possible, reduce paperwork required by the attorneys. Sanctions have also been added against attorneys and parties for late filing of documents.

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<sup>8</sup> Local courts in Minnesota have rule-making authority.

*b. Organizational and Personnel Changes*

As a result of implementing the DCM program, two new staff positions (one permanent and one temporary) were created to handle the increase in clerical and management functions: Civil Case coordinator and a Civil Clerk. In addition, present staff were assigned new tasks and some functions were redistributed as a result of the new case management process. Included among these was the reassignment of the former Assignment Supervisor in the Assignment Office to handle criminal cases primarily, including supervision of the criminal clerks. Because all court documents are filed in the Civil Division, there has been a great need for closer coordination between the Assignment Office, which assumed responsibility for the DCM program, and the Civil Division. Although all of these changes were anticipated and were an intended consequence of implementing DCM, the extent of labor intensive tasks created by the program -- primarily relating to case monitoring -- was not expected.

*c. Administrative Changes*

Implementation of the DCM program in Ramsey County has resulted in many changes in the way administrative functions are performed. Since prior to the DCM program essentially no caseflow management procedures existed, the requirements of the DCM program and the new events established -- most notably the pretrial conference -- have required extensive management and administrative coordination as well as additional clerical functions relating to their scheduling and monitoring. In addition, monitoring compliance with the filing of the Joint at Issue Memoranda and the Joint Disposition Conference reports has required extensive staff effort.

*d. Calendaring Functions*

The basic structure of the court's calendaring system was not changed; however, the way in which cases were set for trial was changed to accommodate the DCM program and in an effort to ensure trial date certainty. In addition to the drastic reduction in trial settings, the trial setting responsibility shifted from the Civil Case Manager to the new Civil Case Coordinator.

*e. Monitoring and Management Functions Required*

As noted above, implementation of the DCM program has required continuous case management and monitoring by court staff and judges. Shortly before program implementation, the Court installed the Trial Court Information System (TCIS) developed by the Minnesota Supreme Court which permitted the more discrete case monitoring required by the DCM program. To supplement the TCIS capabilities; the court also utilized a pc-based program to perform the monitoring of DCM track requirements. Performing adequate case monitoring and management has been essential to the success of the DCM program and, at the same time, very information and labor intensive.

*f. Changes Regarding Attorney Practice*

The requirements of the DCM program have had a significant impact on the bar. Prior to the DCM program, there were no required pretrial events or deadlines. Since DCM implementation, attorneys must meet three times in addition to trial in preparation of their case : (1) to complete the Joint At-Issue Memorandum; (2) for the Joint Disposition Conference; and (3) for the pretrial conference. For some law firms, DCM document preparation requirements have added workload. Some firms indicate that they have absorbed this workload in the course of their normal case preparation. Others still say it is a "nuisance", particularly for small law firms that do not have a large paralegal staff. Several Rule Amendments have been enacted to reduce paperwork burdens, where possible, on attorneys; for example, the Joint-At-Issue Memoranda no longer require the listing of witnesses.

It is the view of Court officials that the screening and analysis requirements imposed on attorneys by the DCM program are those which should be performed in the course of case preparation and that the DCM program has resulted in the private bar becoming more organized and more

willing to begin evaluating cases at an early stage in the pretrial process. Regardless of the "paperwork" aspects of DCM, a number of attorneys (both plaintiff and defense) have commented that the benefits of trial date certainty and earlier case resolution produced by the program far outweigh any additional "paperwork" requirements.

*g. Court-Bar Communication*

The Court and the Ramsey County Bar have worked closely together in the initial design of the DCM program, preparation of requisite Rules, and Program implementation tasks. During the early period of program planning, the Bar Association designated its Rules and Procedures Committee to work with the Court on developing the new program. On-going meetings between the Court and Bar have highlighted the need for the Court to exercise control over the caseload as well as provided an opportunity for both bench and bar to address specific procedural problems as they occurred and to make modifications to the DCM program, as appropriate.

*h. Training Programs Conducted*

As soon as the DCM program was implemented, the Court launched an extensive training program for court staff, attorneys and attorney office staff regarding the goals and procedures for the DCM program. Special periodic programs have been conducted for the bar and for the local association of legal secretaries. Staff training has been on-going with staff also providing regular guidance to judges, clerks and attorneys regarding the DCM process and requirements.

### III. PROJECT EXPERIENCE TO DATE

**A. Assignment of Cases to Tracks**

Since the DCM program was implemented in April 1988, the relative assignment of cases to tracks has ranged approximately as follows:

Expedited	25 - 30%
Standard	50 - 55%
Modified Standard	20 - 25%
Complex	1 - 2 %

Note: The percentage of cases being tracked as expedited was higher than unanticipated. Previously, the court projected that approximately ten percent of the caseload would be expedited, rather than the 20 - 25% that is now being assigned. Cases being expedited are primarily contract and collection cases; while it was anticipated that this case type would be "expedited", it was not anticipated that this case type made up such a large proportion of the caseload. In addition, it was also not anticipated any personal injury cases and declaratory judgment cases would be "expedited"; however these cases are "expedited" if they have few witnesses, a short estimated trial length and completed discovery.

**B. Initial Program Impact**

**1. On Case Processing**

*a. Completion of Discovery*

Most of the expedited and modified standard track cases do not present problems with completing discovery. However, from time to time, problems occur with the more "complicated" standard cases involving, primarily, late disclosure of expert witnesses and delays in completing discovery

due to the filing of amended complaints and joinder of third parties. These cases are referred to the Civil Case Coordinator and Calendar Referee for resolution.

*b. Motion Practice*

The DCM program has had no measurable impact on motion practice. There may be some increase in motion activity because the Court is encouraging attorneys to schedule motions if another party is uncooperative in completing discovery in cases in which informal resolution is not successful. This is particularly true for cases involving out-of-county attorneys.

*c. Compliance with Track Timeframes*

During 1988 and 1989, the time goals established for each DCM track have been met. As of December 1989, the overall disposition time for all tracks has averaged 227 days. Standard track cases, with a disposition goal of 305 days, were disposed of in an average of 301 days. Expedited cases, with a dispositional goal of 185 days, were disposed of in an average of 172 days. The average disposition time for complex cases, whose maximum disposition time is 730 days, has been 446 days.

Prior to implementation of the DCM program, the median time to disposition for cases requesting jury trials was 20 months and for cases seeking bench trials 11.5 months from the date of filing the Note of Issue.

Although most cases follow the prescribed timeframes, there are instances in which an extension is granted to permit the parties to set up a meeting and prepare a document, or a motion to be set and heard prior to trial, or to allow for substitution of attorneys, etc. Most deviations from the timeframes occur with cases in the standard track where discovery problems are more common. The court has also had to extend timeframes slightly in some cases to respond to the condition of the calendar. For example, expedited track cases are sometimes set slightly beyond the 90-day timeframe from the filing of the Note of Issue and standard track cases are occasionally set beyond the ten month timeframe from the Note of Issue to accommodate the need to realistically set the trial calendar. Because of the limited number of trial judges available and the pressures of the criminal docket, the court has had, upon occasion, to extend timeframes one to two months, if necessary, to accommodate calendar limitations. However, unlike the pre-DCM process, any time extensions occur with the Court's direction and control.

*d. Pending Backlog: Size and Age<sup>9</sup>*

When the DCM program began on April 1 1988, the civil case backlog was 5,501 cases, of which 2,361 had a Note of Issue filed. The average age of these 2,361 cases as of January 1, 1988, was 16 months for cases requesting a jury trial and 12 months for cases requesting a bench trial. As of June 1, 1990, after the DCM program had been operating for twenty-six months, the total pending caseload had been reduced 40%, from 5,501 to 3,286; of these total pending cases, the number of pending cases in which a Note of Issue had been filed was reduced 67%, from 2,361 to 787 of which 15% are pre-DCM cases.

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<sup>9</sup> measured from time at which Note of Issue is filed.

Recent analysis of the age of DCM cases at disposition indicates the following:

Type of Case	Median	Average
Age of All DCM Cases at disposition	8 months	8.2 months
Cases Disposed of Prior to Track Assignment	2.9 months	3.2 months
Expedited Track Cases	6 months	6.6 months
Standard and Modified Standard Track Cases	9 months	9.3 months
Complex Track Cases	16.6 months	15.4 months

*e. Continuance Rate*<sup>10</sup>

Prior to the DCM program, the continuance rate was approximately 50%, with 15% due to judge unavailability and 35% at the request of one or more parties. As of December 1989, the total continuance rate has been reduced to 20%, with 5% due to judge unavailability and 15% at the request of attorney for reasons including scheduling conflicts evident upon the receipt of the trial notice.<sup>11</sup>

During the period of April 1989 - April 1990, the average number of continuance requests granted per month has been 26. A breakdown of these continuances by reason indicates the following:

- a scheduling conflict on the part of one or more parties: 15
- extension to permit additional discovery, filing of a summary judgment or other motion, attorney withdrawal or substitution, etc.: 9
- no available judge or calendar referee: 2

*f. Rate of Case Dispositions*

Prior to the DCM program, the Court's annual disposition rate was approximately 70% of the annual civil case filing rate (i.e., its "clearance" rate); as of December 1988, the clearance rate was 107% and, since December 1989, has remained at 105%. In addition to the increased number of case dispositions, the Court is also trying more cases -- a fact attributed to the greater trial certainty resulting from the DCM program.

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<sup>10</sup> Ratio of number of continuances to case settings.

<sup>11</sup> The trial notice is sent without prior consultation with attorneys regarding possible scheduling conflicts.

g. *Point at Which Cases Settle*

DCM cases are dropping out of the court system at an earlier point than pre-DCM cases. Of the standard track DCM dispositions that occurred in May through December 1989, 50 percent were disposed of prior to any judicial DCM involvement and all but 18 percent were disposed of prior to the trial date. Although case fall-out statistics for the pre-DCM period are not available at this time, it is the perception of the Court and the Bar that a majority of cases were not resolved until the eve or day of trial and therefore took far longer for disposition, particularly in view of the fact that cases did not come to trial until they were at least 18 months old. The calendar also appears to be far firmer.

Below is a summary of case dispositions at various stages in the DCM civil case process for two recent months (January and June 1990):

<u>Point of Settlement</u>	<u>January 1990</u>		<u>June 1990</u>	
	<u>%</u>	<u>Cum %</u>	<u>%</u>	<u>Cum %</u>
Note of Issue - Filing of Joint at Issue Memorandum	21%	21%	11%	11%
Joint at Issue Memo. - Joint Dispos. Conf.	14%	35%	16%	27%
Joint Dispos Conf. - Pretrial Conf.	33%	68%	25%	52%
Pretrial Conf. - Trial	14%	82%	35%	87%
Day of Trial	18%	100%	13%	100%

h. *Scheduling Certainty*

Trial date certainty has been substantially improved with the DCM program. Since the DCM program began, the number of trial continuances granted monthly because of lack of an available judge or referee has averaged no more than 1.5 monthly, with some months having no continuances. Continuances for other reasons requested by counsel average a maximum of 25 monthly and are granted only upon a showing of good cause. During the January - June 1990 period, the average number of continuances granted due to lack of an available judge was .5; continuances granted at the request of counsel because of discovery problems averaged 16 monthly; rescheduling because of attorney scheduling problems averaged 18 monthly.<sup>12</sup>

To achieve trial date certainty, trial calendar settings have been readjusted periodically, based on analysis of judge time availability, jury trial rates, and other factors affecting case dispositions. The trial calendar is continually monitored in order to readjust trial settings, if necessary, in order to maintain trial date credibility, reduce continuances granted by the Court because of judge unavailability, and gain integrity for the new DCM program.

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<sup>12</sup> This category of continuance request, classified under the "ten-day rule", can be made any time up to ten days after receipt of a trial date notice and primarily is due to attorneys having scheduling conflicts with the trial dates the court has assigned.



i. Accommodating the Additional "Events" Required

A major issue which the Court has had to address in implementing the DCM program has been the need to provide judicial and staff resources to handle the new pretrial "events" provided for under the DCM program. During the program's first year, retired and "out-state" judges were made available to conduct the audit of pending cases and conduct resulting settlement conferences and trials. In addition, the Civil Calendar Referee has handled minor civil matters, appeal from which is available to the Court. Savings in judicial time through use of the referee have been estimated at 2-3 judge days per week. As the program has developed, it also appears that the savings in judicial time resulting from the increased scheduling certainty offset, to some extent, the judicial time required to handle the additional DCM events.

2. Attorney Cooperation

When the DCM program was first implemented, there was some concern over attorney failure to submit the Joint at Issue Memorandum. A Show Cause Hearing was scheduled for all attorneys not in compliance; however, by the date of the hearing all attorneys had complied. However, attorney compliance with DCM document preparation has continued to be a problem and the court recently adopted rules to sanction attorneys and parties when a document is filed late. (See Appendix B(2)).

3. Other

a. Need for Civil Case Management Highlighted

Although criminal cases remain a scheduling priority, as a result of the DCM program there is a greater appreciation now of the need for the Court to monitor and manage civil cases as well.

b. Enhanced Community Image of the Court

The Court's image vis a vis public and other governmental agencies and the bar appears to have been greatly improved as a result of the actions it has taken to control and manage its docket.

c. Increased Support Staff Needed

The DCM system is much more labor intensive than the pre-DCM system. In addition to redefining existing staff positions, one additional staff person was hired to monitor case deadlines, handle newly required documents from attorneys and litigants and assist the public and attorneys with rule compliance. In addition, temporary part-time staff were hired to assist with the backlog reduction project, including case review, pending list audits, and settlement conference scheduling.

C. Implementation Problems and Issues Addressed

1. Lack of Computerized Support and Need to Develop Adequate Information System for DCM Case Management

One of the most serious problems which the Court encountered in implementing the DCM program has been the lack of an adequate information system to permit continuous monitoring and management of the system being implemented. At the time of program implementation, the Court was about to install the state TCIS system; however, as the DCM project developed it became apparent that TCIS required extensive modification to accommodate the needs of the DCM program. The Court therefore adapted a pc-based system, which had also been adapted by other pilot DCM sites, as an interim

measure. This pc-based system is still in use, primarily to generate management reports. Comprehensive management information reporting, however, continues to be a problem.

2. Need for Intensive Staff Monitoring Support

A second critical issue associated with the DCM program implementation has been the far greater need for staff support than had been anticipated. This has been primarily due to the need to monitor the additional pretrial events which the DCM program added to the civil case process as well as to monitor and process the associated paperwork.

3. Need to Develop Accurate Inventory of Pending Cases

In order to implement the DCM program, as designed, it was essential to conduct an inventory of the "old" cases which were not eligible for the DCM program. The audit proved to be a very labor intensive task because of the volume of cases for review and the fact that such an audit had never previously been conducted. The conduct of the inventory, which indicated that the Court had 5,500 cases pending, was extremely important to assessing the actual civil backlog of the Court. A substantial percentage of this pending caseload was subsequently dismissed because it was ascertained that the cases had already been settled or were otherwise moot. Those cases remaining on the docket were set for immediate pretrial conference or trial.

4. Assuring Sufficient Number of Judges to Handle the Civil Trial Calendar

A continuing problem in implementing the DCM program has been the need to assure that a sufficient number of judges are available to handle the civil trial calendar and the "new" events added to the pretrial process as well as conduct settlement conferences and trials of "old cases". In order to free up needed judicial time, pro tem referees and court reporters were hired to assist with calendars – both civil and criminal. The use of referees to handle uncontested aspects relating to proceedings involving summary matters has freed up an estimated 2-3 judge days per week. In addition, during the first year of DCM operation, the Court was able to secure assistance from outstate judges and retired judges. However, funds for these purposes have now been depleted and, in addition, the needs of the criminal calendar have placed additional burdens on judicial resources. Because of the lack of adequate judicial resources, continuances are higher than desirable and, in addition, timelines are sometimes extended beyond the goals for each track.

5. Developing Working Relationships Among Court Divisions

The DCM program has made it all the more important to establish good working relationships between the Civil Division, which is responsible for all civil case filings and docketing of orders, etc., and the Assignment Office which is responsible for overseeing the DCM process. Considerable effort has been made to increase coordination between Civil Division and Assignment Office activities.

6. Need for On-Going Training

The requirements of the DCM program have affected all aspects of court operations as well as attorney practice. Regular and on-going training of all involved, including attorney office staff, has been essential to implement and operate the program.

**D. Role of the Bar in the DCM Program**

Design and implementation of the DCM program in Ramsey County has represented a joint effort on the part of the Court and the Bar. The Court and Bar have worked closely in designing the DCM program, drafting the initial temporary rules and the subsequent permanent rules governing the program's operation. Regular and frequent meetings between bench and bar have permitted numerous issues relating to both program policy and procedure to be addressed as they occurred, with appropriate program modifications made as needed.

**E. Role of the Administrative Office of the Courts (AOC)**

The DCM program in Ramsey County has evolved primarily through local Court and Bar effort, with the support of the AOC primarily focussed upon trying to develop adequate computer system capability for the project and providing technical assistance as needed. The Chief Justice has been very supportive of the DCM program and the state Supreme Court's Local Rules Committee has recently proposed adaptation of many aspects of the Ramsey County DCM program statewide.

**F. Comments**

Although the formal evaluation of the DCM program in Ramsey County has not yet been completed, informal comments from both judges and attorneys indicate significant satisfaction with the program. The pending backlog, along with the age of cases at disposition has been considerably reduced, and the likelihood of a trial occurring on the first date scheduled dramatically increased. Most cases follow the prescribed timeframes unless extenuating circumstances occur (i.e., filing of a third party claim adding new issues; substitution/withdrawal of counsel, etc.). Admittedly, there have been instances when the court, due to a shortage of judicial resources, cannot meet a scheduled trial.

Comments from the Court and Bar suggest that the DCM program has, in addition to meeting the time goals established by the court, increased the quality of case processing through greater attention to the individual needs of each case, more active and on-going communication and coordination with the parties and attorneys, and through the establishment of predictable and credible pretrial and trial events. The success of the DCM program in Ramsey County appears to be due primarily to the cooperative effort of the Court and the Bar to develop and implement the program and the combination of consistency and flexibility with which it has operated.

Efforts are now underway to adapt DCM principles to the criminal calendar, particularly drug cases.

## **APPENDICES**

- A. Order Establishing Temporary Rule Regarding Implementation of New Civil Procedures. March 22, 1988.**
- B. Special Rules of Practice, Second Judicial District,  
    (1) Rules Adopted January 3, 1989.  
    (2) Amendments to Rules 1 and 4 Adopted October 11, 1989  
        Providing Sanctions for Non-Complying Attorneys**
- C. Civil DCM Caseflow Process Diagram.**
- D. Joint At-Issue Memorandum (JIM)  
    (1) JIM Form  
    (2) Completed JIM for Expedited Track Case  
    (3) Completed JIM for Modified Standard Track Case  
    (4) Completed JIM for Standard Track Case  
    (5) Completed JIM for Complex Track Case**
- E. Notice of Assignment to Complex Track**
- F. Joint Disposition Conference (JDC) Report  
    (1) JDC Report Form  
    (2) Sample Completed JDC Report**
- G. Sample Case Screen and Management Reports Produced by PC Information System**

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

ORDER ESTABLISHING TEMPORARY RULE  
REGARDING IMPLEMENTATION OF NEW  
CIVIL PROCEDURES

ORDER

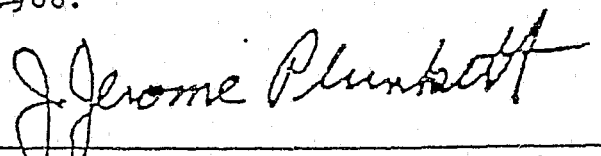
WHEREAS, the Second Judicial District has approved the concept of implementing a civil differentiated case management program; and

WHEREAS, the proposed time frame from the filing of the Note of Issue to disposition is ten months and makes it imperative that the Second Judicial District act as expeditiously as possible to begin the implementation and thereby avoid further delays in disposing civil cases; and

WHEREAS, the Second Judicial District recognizes the need to establish rules regarding the implementation of this case management program;

IT IS HEREBY ORDERED, that the attached rule entitled "Joint at Issue Memorandum" and accompanying form be adopted as a temporary rule of the Second Judicial District and apply to all cases filed on or after April 1, 1988 until permanent rules are adopted. Said rule will be numbered Rule 19 pending completion of the Special Rules of the Second Judicial District Court.

Dated this 22 day of March 1988.

  
J. Jerome Plunkett, Chief Judge  
Second Judicial District

NEW CIVIL CALENDAR TEMPORARY RULE

Rule 19. Joint at-Issue Memorandum

a. Within 90 days of the filing of the Note of Issue, the attorneys for the parties must meet, confer, and execute a joint at-issue memorandum setting forth a statement of the case and listing their agreements and disagreements. The Plaintiff shall initiate and schedule the meeting and shall be responsible for filing the joint at-issue memorandum within these time limits.

b. The joint at-issue memorandum shall contain the following information to the extent applicable:

1. a statement that all parties have been served, that the case is at issue, and that all parties have joined in the filing of the at-issue memorandum.
2. an estimated trial time.
3. whether a jury trial is requested, and if so, by which party.
4. counsels' opinion whether the case should be handled as expedited, standard, or complex track case (determination to be made by the Court).
5. a concise statement of the case indicating the facts that Plaintiff(s) intend to prove and the legal basis for all claims.
6. a concise statement of the case indicating the facts that Defendant(s) intend to prove and the legal basis for all defenses and counterclaims.
7. names and addresses of all witnesses known to the attorney or client who may be called at the trial by each party, including expert witnesses and the particular area of expertise each expert will be addressing.
8. Cases involving personal injury, a statement by each claimant, whether by complaint or counterclaim, setting forth the following:
  - a. a detailed description of claimed injuries, including claims of permanent injury. If permanent injuries are claimed, the name of the doctor or doctors who will so testify.

b. an itemized list of special damages to date including, but not limited to, auto vehicle damage and method of proof thereof; hospital bills, x-ray charges, and other doctor and medical bills to date; loss of earnings to date fully itemized.

c. whether parties will exchange medical reports. (See R.C.P. 35.04).

9. Cases involving vehicle accidents, a statement setting forth the following:

a. a description of vehicles and other instrumentalities involved with information as to ownership or other relevant facts.

b. name of insurance carriers involved, if any.

10. a statement acknowledging that discovery will be completed by the time of the Joint Disposition Conference (approximately six months from filing of this memorandum). Where feasible, provide a schedule for the taking of depositions, the obtaining of medical examinations, and other discovery procedures.

c. If after 90 days following the filing of the Note of Issue, no joint at-issue memorandum has been filed, the Court shall set the matter for a hearing. At the hearing, all trial counsel must be present or represented by someone completely familiar with the case. Counsel must explain to the Court why this rule has not been complied with. If the Court finds that any party has not proceeded with due diligence in preparing the case for trial and cooperating in efforts to meet and prepare this memorandum, the Court may impose sanction or take action as it deems appropriate.

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Rule 20. Setting of Cases for Trial and Scheduling of Joint Disposition Conference

If it appears from the joint at-issue memorandum that the case is not amenable to be set on the expedited or complex trial calendars, the case will be set on the standard case processing track. Trial dates for all civil cases will be set administratively for a day certain by the Assignment Office. At the same time that the Assignment Office notifies the parties of the trial date, a settlement conference will be scheduled not less than 30 days before the trial date.

Not less than 30 days before the settlement conference, a Joint Disposition Conference must be held between all parties' attorneys and/or unrepresented parties in the case. The parties will complete, sign and file, a Joint Disposition Conference Report in the form prescribed by the court. The plaintiff shall initiate and schedule the meeting and shall be responsible for filing the Joint Disposition Conference report within this time limit.

The Joint Disposition Conference Report must include the following:

1. An estimate of the length of time necessary for trial of the case.
2. A statement whether discovery has been completed as required by Rule 19 or as previously set by the court or a schedule setting forth the proposed discovery to be completed and the reasons why the discovery was not completed by the time of the Joint Disposition Conference.
3. A summary of the stipulations of fact or issues that have been resolved by the parties.
4. A statement indicating any unresolved substantive, evidentiary and procedural issues. Any memorandums of law or citations of authority upon which the parties will rely for their position on the unresolved issues must be filed with the court and served on opposing counsel 7 days before the settlement conference.
5. Counsel for each party shall prepare a list providing the names and addresses of all prospective witnesses. Only witnesses so listed shall be permitted to testify at the trial, except for good cause shown.
6. Counsel for each party shall prepare a list of all exhibits to be used as evidence at the trial, together with an indication of those agreed by the parties to be admissible and the grounds for objection to any not so agreed upon. Only exhibits so listed shall be offered in evidence at the trial, except for good cause shown.



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7. Counsel for each party shall advise opposing counsel of the depositions proposed to be offered in evidence, if any, and shall ascertain whether or not any of the opposing parties object to the receipt in evidence of any portion of such depositions. Counsel proposing to offer depositions at the time of trial shall prepare a list of such depositions to be offered in evidence and a statement of any objections identifying the objecting party and the grounds for the objection. Only depositions so listed shall be offered in evidence at the trial, except for good cause shown.

8. In jury cases, counsel for each party shall prepare and furnish to the Court, and serve upon opposing counsel at the Joint Disposition Conference.

If a Joint Disposition Conference Report is not filed, the Court shall set the matter for hearing. At the hearing, all counsel and any unrepresented parties must be present. Counsel must explain to the Court why this rule has not been complied with. If the Court finds that any plaintiff or defendant has not proceeded with due diligence in preparing a case or has failed to cooperate, the Court may impose sanctions or take any action which it feels appropriate.

#### Rule 21. Settlement Conference

4.

Approximately 30 days before trial, a settlement conference will be conducted by a judge to whom the case may be assigned for trial. All motions in limine shall have been submitted in writing with service completed at least three days before the settlement conference. Counsel who will actually try the case shall attend the settlement conference and bring with them either the party represented or someone else fully authorized by the party to settle the case and make admissions, unless the attorney is so authorized. Counsel shall be prepared to deal with all of the following:

1. all matters that were required to be included in the Joint Disposition Conference Report form;
2. any unusual evidentiary or legal issues anticipated in the trial;
3. all matters of fact believed by any party to be appropriate for stipulations;
4. the Plaintiff's demand in order to resolve the case, and the defendant's offer in order to settle the case.

At the settlement conference the Court may:

1. Rule as desired on the admissibility of all documentary evidence marked for identification and intended to be used at the trial.

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2. Discuss with Counsel the issues in the case with a view to further supplication.

3. Consider other matters that may aide in the disposition of the case, such as possible agreements as to admissions of fact including, but not limited to, agreements on foundation and admissibility of documents and exhibits.

4. Explore with Counsel the prospects of settlement.

Agreements reached and orders made both at the joint disposition conference and the settlement conference shall control the subsequent course of proceedings. Witnesses not named or exhibits not identified during the settlement conference shall not be presented at the trial except to prevent manifest injustice, unless the need for or identity of witnesses or exhibits is ascertained subsequent to the settlement conference. In the latter event, opposing counsel and the Court shall be notified immediately.

At the close of the settlement conference, the Court will issue a written order setting forth matters stipulated and ordered. No depositions, interrogatories, adverse examinations, or expert evaluations will be permitted after the settlement conference except by order of the Court.

SPECIAL RULES OF PRACTICE

SECOND JUDICIAL DISTRICT

Adopted Effective January 3, 1989

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## STATEMENT OF POLICY PERTAINING TO CALENDAR MATTERS

This statement applies to generally all civil and criminal cases.

**Differentiated Case Management.** The Judges of the Second Judicial District have embraced the concept of Differentiated Case Management (DCM) for all civil cases. DCM is a case management system by which judges and case management teams employ multiple tracks to accommodate the special procedural and managerial requirements of different case types.

In the Second Judicial District, three case processing tracks have been developed: Expedited, Standard, and Complex. Based on the information contained in the Joint At-Issue Memorandum, which is set out in Rule 4 of our special rules, every case is analyzed and assigned to a case processing track. The simpler matters requiring less preparation time and discovery will be assigned to the expedited track and will be given trial dates approximately 60 to 90 days after the filing of the Joint At-Issue Memorandum. Typical cases will be assigned to the standard track and can be expected to have a trial day certain approximately 10 months after the filing of a Note of Issue. More complicated matters will

be assigned to an individual judge for complex case handling.

The judges are committed to providing a trial date certain for all calendars. To assure that the integrity of the trial dates is maintained, the court will be monitoring the status of each case at several different points in the system. The failure to follow the procedural rules set forth for the Differentiated Case Management System may cause the court to impose sanctions or take other action the court deems necessary.

**Dispositions and Changes of Address.** It is essential to the efficient calendaring and assignment of cases that our Assignment Division be kept informed of developments which will affect the trial calendar. Therefore, counsel must notify that office of summary judgments, settlements, dismissals and anything else which will dispose of the case.

In addition, counsel are to notify the Assignment Division of any change of address and furnish a list of their cases pending on the Trial Calendar so that notices of trial will be sent to the proper address. (The Post Office forwards mail for only one year after the filing of a change of address.) Filing those items, judgment, or change of address in the Court Administrator's Office alone is not sufficient for this purpose.

## SPECIAL RULES OF PRACTICE

**Discovery and Witnesses.** Prior to the trial date, there will ordinarily have been adequate opportunity for all necessary discovery, for all third-party additions, for all amendments to pleadings, and for all other pretrial matters to have been completed. There should be no need to postpone the trial to complete such items.

Since the trial of a case affects many people, it would be unusual if a time could be found that would suit entirely the convenience of all who may be involved. This fact should indicate the advisability of taking appropriate depositions, the submission of interrogatories, or the taking of depositions upon written interrogatories.

We know that counsel frequently encounter problems with their medical experts. The time when it may be necessary to testify may not always be convenient for a particular doctor. While we desire to cooperate with the medical profession, such cooperation cannot be permitted to disrupt the orderly running of the calendar. While plaintiff's counsel cannot usually determine which doctor will be the attending physician, defendant's counsel have some voice in the selection of a doctor for an independent examination, and it would appear appropriate to advise the doctor at the time of selection that the doctor may be called to testify and approximately when. Counsel who insist upon using doctors who are too busy to testify or who are out of state when the case comes on for trial may have to get along without them or take their depositions in advance.

**Trial and Other Conflicts.** Some counsel feel that, because they expect to be called out for trial in another court or have another trial settling close in time to our settling, they have sufficient excuse to postpone the trial of a case in this county which has been set down for a day certain. While we desire to cooperate with other courts, our calendar is as important as the calendar of any other court. When counsel begin a suit or undertake the defense of a suit in this county, they must recognize that such action carries with it the obligation to be ready for trial. The mere assignment in another court has been held not to be a sufficient reason for continuance. See *West v. Hennessy*, 63 Minn. 378, 65 N.W. 639, and *Adamck v. Plano Manufacturing Co.*, 64 Minn. 304, 66 N.W. 981. A scheduled deposition is also not a valid basis for a postponement of a trial.

**Military Service.** We are aware of the requirements of the Soldiers and Sailors Civil Relief Act. However, a non-military party to litigation should not be unduly delayed or deprived of the opportunity to proceed with the case which the party has instituted or which the party is defending simply because another party is now in the military service. In some instances, the fact of military service of a party or a witness is only ascertained after the case has been set for trial. If you have a witness or

represent a party who is in the military service, it is essential that you keep in touch with the individual and know where he can be located.

If a party or witness serviceman is involved, every effort should be made to obtain a military leave for the purposes of the trial of the particular case or determine when the individual in service will be on leave and available. The Assignment Division can then set the case for a day certain at the time of the leave.

Depositions, interrogatories, depositions on written interrogatories and other pretrial devices should be employed as much as possible.

Where it is impossible to try a case at the scheduled time because of military service, the most satisfactory method of handling the situation is to secure a stipulation of counsel to this effect, together with agreement that the case is to be stricken from the calendar and is to be reinstated when counsel all agree that the case is ready for trial.

**Venue.** Cases appear on our civil calendars where it is apparent that Ramsey County is not the proper county for venue, and yet no demand or motion is made for a change of venue. While we recognize that we have jurisdiction in such cases, we are unaware of any logical basis to justify the resulting unnecessary additions to our calendars and expense to Ramsey County. When it is apparent that the venue is improper, such case will be dismissed without prejudice or, upon agreement of counsel, will be transferred to a county of proper venue.

**Joinder of Parties.** Occasionally, cases appear on our civil jury calendar in which all of the persons who could institute suit as plaintiffs in that lawsuit have not done so. The typical situation is an action by a wife or minor child for personal injuries where the derivative action is not brought in that case or in a separate action, although admittedly not abandoned. Under Rule 19 of the Minnesota Rules of Civil Procedure, such cases will be stricken from the calendar until such time as the companion case or cases are ready for trial and the cases will then be consolidated for trial.

**Advancement.** Only rarely are requests for the advancement of cases on the civil jury calendar granted. To single out any individual case or cases for advancement is to delay those cases in which notes of issue were filed earlier and in which the health, age or economic distress of the parties involved may be as great as or greater than that of the party who seeks advancements.

**Implementation.** It is the policy of this Court in connection with the foregoing statement to place the basic responsibility for its implementation and administration upon the Calendar Referee for the District Court. Except in very unusual circumstances, the referee's decision on calendar matters will be adhered to by the Court.

The foregoing statement of policy with regard to calendar matters was approved by the Judges of the District Court of the Second Judicial District at St. Paul, Minnesota, November 29, 1988, with all Rules to be effective January 3, 1989.

#### RULE 1. FILING OF PLEADINGS AND OTHER PAPERS

a. All parties shall file all their pleadings and other papers which have been served within ten (10) days after any party serves a Note of Issue. Pleadings and papers required by law to be served which are served thereafter shall be filed within ten (10) days after service. These ten (10) day limits for filing include weekends and holidays.

b. Pleadings and other papers which are required to be served will not be accepted for filing unless the necessary proof or affidavit of service is affixed to the original document.

c. All filed documents shall include the name, office address, telephone number and attorney identification number of the attorney.

d. The Notice of Taking Deposition shall be filed before any deposition is taken. Unless ordered by the court, depositions, interrogatories, requests to admit, and requests for production and answers and responses thereto, shall not be filed.

#### RULE 2. ADDITIONAL PARTIES

a. When an Order has been issued adding parties to an action, the moving party shall immediately serve a copy of the Order upon the additional parties and shall within ten (10) days, including weekends and holidays, notify the Assignment Division in writing of the names and addresses of the additional parties and, if known, their attorneys.

b. Any claimant who joins a Mechanics Lien action through an Answer or by Court Order shall immediately notify the Assignment Division in writing of the name and address of both the claimant and the claimant's attorney. If the joinder was by Court Order, the claimant shall send a copy of the Order to the Assignment Division within ten (10) days, including weekends and holidays.

#### RULE 3. PLACING MATTERS ON CALENDARS

a. No matter will be placed on any calendar for trial or for hearing, nor will it be heard or considered, if the pleadings or other papers required by law to be filed have not been filed as required by these rules.

b. A matter is placed on the trial calendar by serving and filing a Note of Issue. The Note of Issue shall include an estimate of the length of time necessary for trial of the case.

c. A Note of Issue shall be served and filed by the moving party when a third party has been joined and has served an answer.

d. Notes of Issue are not required in the following cases:

(1) Appeals from awards in condemnation cases instituted by government agencies.

(2) Reviews of Assessments under Minn.Stat. 429.081.

(3) Conciliation Court Removals.

e. The individual attorney responsible for trying the case shall be named on the Note of Issue. That attorney shall immediately notify the Assignment Division in writing of any change in trial responsibility.

f. Counsel are also to notify the Assignment Division, Room 1230 Courthouse, of any change in their address and furnish a list of their cases pending on the Court's Calendars so notices can be mailed to the correct address.

#### RULE 4. JOINT AT-ISSUE MEMORANDUM

a. Within 90 days of the filing of the Note of Issue, the attorneys for the parties must meet, confer, and execute a Joint At-Issue Memorandum setting forth a statement of the case and listing their agreements and disagreements. The Plaintiff shall initiate and schedule the meeting and shall be responsible for filing the Joint At-Issue Memorandum within these time limits.

b. The Joint At-Issue Memorandum shall contain the following information to the extent applicable:

(1) a statement that all parties have been served, that the case is at issue, and that all parties have joined in the filing of the At-Issue Memorandum.

(2) an estimated trial time.

(3) whether a jury trial is requested, and if so, by which party.

(4) counsels' opinion whether the case should be handled as expedited, standard, or complex track case (determination to be made by the Court).

(5) a concise statement of the case indicating the facts that Plaintiff(s) intend to prove and the legal basis for all claims.

(6) a concise statement of the case indicating the facts that Defendant(s) intend to prove and the legal basis for all defenses and counterclaims.

(7) names and addresses of all witnesses known to the attorney or client who may be called at the trial by each party, including expert witnesses and the particular area of expertise each expert will be addressing.

(8) cases involving personal injury, a statement by each claimant, whether by complaint or counterclaim, setting forth the following:

# Rule 4

## SPECIAL RULES OF PRACTICE

A. a detailed description of claimed injuries, including claims of permanent injury. If permanent injuries are claimed, the name of the doctor or doctors who will so testify.

B. an itemized list of special damages to date including, but not limited to, auto vehicle damage and method of proof thereof; hospital bills, x-ray charges, and other doctor and medical bills to date; loss of earnings to date fully itemized.

C. whether parties will exchange medical reports. (See R.C.P. 35.04).

(9) cases involving vehicle accidents, a statement setting forth the following:

A. a description of vehicles and other instrumentalities involved with information as to ownership or other relevant facts.

B. name of insurance carriers involved, if any.

(10) a statement acknowledging that discovery will be completed by the time of the Joint Disposition Conference (approximately six months from filing of this Memorandum). Where feasible, provide a schedule for the taking of depositions, the obtaining of medical examinations, and other discovery procedures. Please note that if the case is assigned to the expedited track, the trial date will be set 60-90 days from the filing of the Joint At-Issue Memorandum and discovery schedules must be adjusted accordingly.

c. If after 90 days following the filing of the Note of Issue, no Joint At-Issue Memorandum has been filed, the Court shall set the matter for a hearing. At the hearing, all trial counsel must be present or represented by someone completely familiar with the case. Counsel must explain to the Court why this rule has not been complied with. If the Court finds that any party has not proceeded with due diligence in preparing the case for trial and cooperating in efforts to meet and prepare this Memorandum, the Court may impose sanctions or take action as it deems appropriate. (See Form DCM-1).

### FORM DCM-1. JOINT AT-ISSUE MEMORANDUM

STATE OF MINNESOTA DISTRICT COURT  
COUNTY OF RAMSEY JUDICIAL DISTRICT  
SECOND  
CIVIL DIVISION  
FILE NO. \_\_\_\_\_

Plaintiff,

vs.

Defendant

### JOINT AT-ISSUE MEMORANDUM

1. All parties have been served with process. The case is at issue and all parties have joined in the filing of this At-Issue Memorandum.

2. Estimated trial time: \_\_\_\_\_ days \_\_\_\_\_ hours (estimates less than a day must be stated in hours).

3. Jury is requested by the \_\_\_\_\_ plaintiff \_\_\_\_\_ defendant. [If this is a change from a court to a jury request, then a \$30 fee must be paid when filing this document.]

4. Assignment to the \_\_\_\_\_ expedited \_\_\_\_\_ standard \_\_\_\_\_ complex track is requested. (If parties cannot agree, attach statement setting forth the reasons.)

5. Concise statement of the case including facts plaintiff(s) intend to prove and legal basis for claims:

6. Concise statement of the case indicating facts defendant(s) intend to prove and legal basis for defenses and counterclaims:

7. List the names and addresses of witnesses that either party expects to call. Indicate the party who expects to call the witness and whether the party intends to qualify that witness as an expert. (Attach additional sheets if necessary.)

Party	Name/Addresses of Witnesses	Please Indicate if Expert Witness
_____	_____	Yes
_____	_____	Yes
_____	_____	Yes
_____	_____	Yes
_____	_____	Yes
_____	_____	Yes

8. In claims involving personal injury, attach a statement by each claimant, whether by complaint or counterclaim, setting forth a detailed description of claimed injuries and an itemized list of special damages as required by the rule. Indicate whether parties will exchange medical reports.

9. In claims involving vehicle accidents, attach a statement describing the vehicles with information

to ownership and the name of insurance carriers, if any.

10. I understand that, if the case is assigned to the standard track, all discovery must be completed by the time of the Joint Disposition Conference (to be held approximately six months from the filing of this Memorandum). If the case is assigned to the expedited track, the trial date will be set 60-90 days from the filing of this Memorandum and discovery schedule must be adjusted accordingly.

Plaintiff _____	Defendant _____
Attorney _____	Attorney _____
Attorney Reg. # _____	Attorney Reg. # _____
Firm _____	Firm _____
Address _____	Address _____
Telephone _____	Telephone _____
Date _____	Date _____

Plaintiff _____	Defendant _____
Attorney _____	Attorney _____
Attorney Reg. # _____	Attorney Reg. # _____
Firm _____	Firm _____
Address _____	Address _____
Telephone _____	Telephone _____
Date _____	Date _____

(If more space is needed to add additional information or parties, attach a separate sheet typed in the same format.)

The undersigned counsel have met and conferred this \_\_\_\_ day of \_\_\_\_\_ and certify the foregoing is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

#### RULE 5. SETTING CASES FOR TRIAL AND SCHEDULING OF JOINT DISPOSITION CONFERENCE

If it appears from the Joint At-Issue Memorandum that the case is not amenable to be set on the expedited or complex trial calendars, the case will be set on the standard case processing track. Trial dates for all civil cases will be set administratively

for a day certain by the Assignment Division. At the same time that the Assignment Division notifies the parties of the trial date, the Assignment Division will also schedule a Joint Disposition Conference and a Pretrial Conference.

Approximately 30 days before the Pretrial Conference, a Joint Disposition Conference will be scheduled between all parties in the case at the place, date and time designated by the Court. At the scheduled conference, the parties will meet in person and complete, sign and file a Joint Disposition Conference Report in the form prescribed by the Court. If the parties meet, complete, sign and file a Joint Disposition Conference Report required by this Rule before the court scheduled conference, it shall be vacated.

The Joint Disposition Conference Report must include the following:

1. The length of time estimated for trial.
2. A statement of whether discovery has been completed, as required by Rule 4, or as previously set by the court, or a schedule setting forth the proposed discovery to be completed and the reasons why the discovery was not completed by the time of the Joint Disposition Conference.
3. A summary of the stipulations of fact or issues that have been agreed to by the parties.
4. A general statement indicating any known unresolved substantive issues. Any memoranda of law or citations to authority, upon which the parties will rely for their position on the unresolved issues, must be filed and served seven (7) days before the Pretrial Conference. The parties shall attempt to identify unresolved substantive issues but the failure to identify such issues shall not constitute a waiver of the right to raise such issues at a later date, except for good cause shown.
5. A list of each party's prospective witnesses, including each witness' name and address. Only witnesses so listed shall be permitted to testify at the trial, except for good cause shown.
6. A list of each party's exhibits to be used as evidence at the trial, together with an indication of those agreed by the parties to be admissible and the grounds for objection to any not so agreed upon. Only exhibits so listed shall be offered in evidence at the trial, except for good cause shown.
7. A list of the depositions each party proposes to offer in lieu of live testimony.

-8. In jury cases, each party shall prepare proposed special verdict forms.

If a Joint Disposition Conference is not held as scheduled or a report is not filed, the Court shall set the matter for hearing. At the hearing, each party must be present and explain to the Court why this



# Rule 5

# SPECIAL RULES OF PRACTICE

rule was not complied with. If the Court finds that any party has failed to proceed with due diligence in preparing a case or has failed to cooperate, the Court may impose sanctions or take any action which it feels appropriate. (See Form DCM-2).

## Form DCM-2. Joint Disposition Conference Report

STATE OF MINNESOTA DISTRICT COURT  
COUNTY OF RAMSEY JUDICIAL DISTRICT  
CIVIL DIVISION  
FILE NO. \_\_\_\_\_

Plaintiff,

vs.

## JOINT DISPOSITION CONFERENCE RE- PORT

Defendant.

A time, date and place will be set for a Joint Disposition Conference. During the Conference, you are expected to discuss the issues required by Rule 5 and complete this report form. You have the option to arrange your own in-person meeting time and place so long as the report form is filed by the conference time set by the Court. The failure to comply by meeting and filing this report will require a court appearance to show cause why the report has not been filed.

1. All parties are prepared for trial which is scheduled to begin on \_\_\_\_\_ and will take \_\_\_\_\_ court days. A jury is/is not requested.

2. As required by Rule 4, or as previously set by the court, all discovery has been completed. If discovery has not been completed, attach to this form information setting forth the discovery that remains to be completed, the reason it has not been completed as required, and the estimated time needed to complete discovery. Any additional discovery must be completed by the time of the judicial pre-trial conference.

3. The parties have stipulated to the following facts or issues: \_\_\_\_\_

4. The following facts are in dispute: \_\_\_\_\_

5. As to substantive issues, plaintiff contends as follows: \_\_\_\_\_

6. As to substantive issues, defendant contends as follows: \_\_\_\_\_

7. Attached is Plaintiff's addendum 1 containing the following items:

a. Plaintiff's list of witnesses with their names and addresses. Witnesses who Plaintiff intends to qualify as expert witnesses are indicated.

intends to introduce into evidence numbered as it is anticipated to be introduced in trial. All exhibits will be made available for inspection by opposing counsel. Exhibits not agreed to as admissible are noted and opposing party(ies) has indicated the grounds for objection to the receipt of the exhibit in evidence.

c. Plaintiff's description of depositions proposed to be offered in evidence in lieu of live testimony.

8. Attached is Defendant's addendum 1 containing the following items:

a. Defendant's list of witnesses with their names and addresses. Witnesses who Defendant intends to qualify as expert witnesses are indicated.

b. Defendant's list of all exhibits which Defendant intends to introduce into evidence numbered as it is anticipated they will be introduced in trial. All exhibits will be made available for inspection by opposing counsel. Exhibits not agreed to as admissible are noted and opposing party(ies) has indicated the grounds for objection to the receipt of the exhibit in evidence.

c. Defendant's description of depositions proposed to be offered in evidence in lieu of live testimony.

9. In jury cases, each party shall attach proposed special verdict forms.

Plaintiff _____	Defendant _____
Attorney _____	Attorney _____
Attorney Reg. # _____	Attorney Reg. # _____
Firm _____	Firm _____
Address _____	Address _____

Telephone _____	Telephone _____
Date _____	Date _____

Plaintiff _____	Defendant _____
Attorney _____	Attorney _____
Attorney Reg. # _____	Attorney Reg. # _____

Firm _____	Firm _____
Address _____	Address _____
Telephone _____	Telephone _____
Date _____	Date _____

(If more space is needed to add additional information or parties, attach a separate sheet typed in the same format.)

The undersigned counsel have met in-person and conferred this \_\_\_\_\_ day of \_\_\_\_\_ and certify the foregoing is true and correct.

Signature _____	Signature _____
Signature _____	Signature _____

### RULE 6. JUDICIAL PRETRIAL CONFERENCE

Approximately 30 days before trial, the Court will conduct a Pretrial Conference. All motions in limine must be filed and served at least seven (7) days before the Pretrial Conference. Responsive memoranda must be presented at the Pretrial Conference in order to be heard on the motion. Counsel who will actually try the case shall attend the Pretrial Conference and bring with them either the party represented or a person fully authorized by the party to settle the case and make admissions, unless leave of the court is granted. All parties shall be prepared to discuss all of the following:

1. All matters that were required to be included in the Joint Disposition Conference Report.
2. Any unusual evidentiary, substantive or procedural issues anticipated in the trial.
3. All factual matters believed by any party to be appropriate for stipulation.
4. The plaintiff's demand in order to resolve the case, and defendant's offer in order to settle the case.

At the Pretrial Conference the Court may:

1. Rule as desired on the admissibility of all documentary evidence marked for identification and intended to be used at the trial.
2. Discuss with parties the issues in the case with a view to further simplification.
3. Consider other matters that may aid in the disposition of the case, such as agreements as to admissions of fact including, but not limited to, agreements on foundation and admissibility of documents and exhibits.
4. Explore with the parties the prospects of settlement.

Agreements reached and orders made both at the Joint Disposition Conference and the Pretrial Conference shall control the subsequent course of proceedings. Witnesses not named and exhibits not identified during the Pretrial Conference shall not be allowed at the trial except for good cause shown. No depositions, interrogatories, adverse examinations, or expert evaluations will be permitted after the Pretrial Conference except by order of the pretrial judge.

Settlements reached at the Pretrial Conference will be placed on the record. At the close of the Pretrial Conference, if the case has not settled, the Court will issue a written order setting forth matters stipulated and ordered. The pretrial order will govern the conduct of the trial.

### RULE 7. CALENDAR REFEREE

All calendar and scheduling problems are to be resolved through the Calendar Referee. No motions with respect to such problems will be heard by the Calendar Judge or a Judge at the time of trial unless relief has been sought beforehand through the Calendar Referee. That decision will not be modified or reversed except for extraordinary and compelling reasons.

### RULE 8. SPECIAL TERM

a. Days Held. Special Term will be held every day except Saturdays, Sundays, and holidays.

b. Length of Hearing. Any Special Term matter which will last longer than one-half day will be transferred to the Court Calendar for hearing. Only the matter noticed for Special Term is so transferred. Trial of the case on the merits will be placed upon the calendar according to the normal procedure under the R.C.P. and these rules.

c. Adherence to Time Schedule. Special Term matters are scheduled for hearing on a time certain basis. A matter may be stricken from the hearing calendar if counsel does not appear at the scheduled time. Oral argument may be waived by agreement of counsel and with the consent of the judge before whom the matter is scheduled.

d. Scheduling of Motions. The date and time for hearing all motions shall be obtained by the moving party from the Special Term Clerk. Only one case will be scheduled for hearing at any specific date and time. Additional motions (motions germane to the case, but not included in the subject matter of the noticed matter), not scheduled, will not be heard at the time scheduled for the original matter, but must be scheduled separately.

e. Telephone Conference. Hearing and argument may be by telephone conference call if all

## Rule 8

## SPECIAL RULES OF PRACTICE

counsel and the judge agree. It is the responsibility of counsel for the moving party to initiate such call at the time scheduled for the hearing.

### f. Motion Papers.

(1) All moving papers shall include the motion and notice of motion required by Rule 7.02 of the R.C.P. and shall be accompanied by a proposed order.

(2) Any party opposing a motion shall submit a proposed order.

(3) Parties may submit, in addition to the papers described in paragraphs (1) and (2) above, affidavits, memoranda, briefs or any other appropriate papers.

### g. Service and Filing; Requirements; Sanctions.

The Court shall strike from the calendar any motion for which the moving party has not served and filed papers in compliance with this rule. When a responding party, or a party making a reply, fails to comply with this rule, the Court may refuse to permit oral argument, may refuse to consider untimely papers, may allow reasonable costs and attorney's fees against such party or may take such other action as is deemed appropriate.

(1) *Dispositive Motions.* At least thirty (30) calendar days prior to the date of the scheduled hearing, a party making a dispositive motion which includes, but is not limited to, summary judgment, judgment on the pleadings or dismissal, shall serve, and shall file with the Court Administrator, all papers required by paragraph f(1) and any papers allowed by paragraph f(3).

(2) *Non-Dispositive Motions.* At least fourteen (14) calendar days prior to the date of the scheduled hearing, a party making a non-dispositive motion which includes, but is not limited to, discovery, third party practice, intervention or pleading amendment, shall serve, and shall file with the Court Administrator, all papers required by paragraph f(1) and any papers allowed by paragraph f(3).

(3) *All Responses.* At least seven (7) calendar days prior to the date of the scheduled hearing, a party opposing any motion shall serve, and shall file with the Court Administrator, the proposed order required by paragraph f(2) and any papers allowed by paragraph f(3).

(4) *All Reply Papers.* At least three (3) calendar days prior to the date of the scheduled hearing, a moving party shall serve, and shall file with the Court Administrator, any papers allowed by paragraph f(3) for the purpose of replying to a response to the motion. Reply is not required.

(5) *Application.* The requirements of Rule 8g govern all applications to the Court for an order except those made during a hearing or trial and those requests for extraordinary relief in the form

of an order to show cause, an application for a temporary restraining order or other such action.

### h. Discovery Motions: Prerequisites.

(1) No motion relating to any discovery matter will be heard unless the parties have conferred orally or in writing in an attempt to resolve their differences prior to the hearing. The moving party shall initiate such conference.

(2) At least three (3) calendar days prior to the date scheduled for the hearing, the moving party shall serve, and shall file with the Court Administrator, a statement that the parties have conferred and list the matters upon which the parties have been unable to agree.

(3) If the moving party fails to file the statement and list required by paragraph h(2), the motion will be stricken from the calendar by the Court. Further, if any party fails to participate in the conference, the Court will assess penalties or sanctions against the party unless special circumstances make assessment of such penalties or sanctions unfair or unjust.

i. *Dispositive Motions.* No dispositive motion, as defined in Rule 8g.(1) of this section will be heard after the case had been scheduled for trial on a date certain unless prior approval has been secured from the Calendar Referee.

### j. Injunctive Relief.

(1) No applications for temporary restraining orders against any city, county, state, or governmental agency will be granted without prior oral or written notice to the adverse party. The applications shall be accompanied by a written statement describing the manner of notice.

(2) Motions for temporary injunctions may be scheduled on the Special Term calendar for up to a one-half day hearing. If more time is needed, the hearing must be scheduled on the Court Calendar by the Assignment Supervisor.

## RULE 9. NOTICE OF SETTLEMENT OR OTHER DISPOSITIONS

a. *Notice.* When a matter is disposed of prior to the time set for hearing or trial, counsel shall immediately notify the Assignment Division or the Special Term Clerk.

b. *Minor Settlements.* Minor settlement orders should include a paragraph substantially as follows:

IT IS FURTHER ORDERED that the deposit shall remain with said financial institution until (date) at which time the minor shall reach eighteen (18) years of age, and time deposits should be established with a maturity date on or by that date. On the date of maturity the financial insti-

District Court. Except in very unusual circumstances, the referee's decision on calendar matters will be adhered to by the Court.

The foregoing statement of policy with regard to calendar matters was approved by the Judges of the District Court of the Second Judicial District at St. Paul, Minnesota, November 29, 1988, with all Rules to be effective January 3, 1989.

#### RULE 1: FILING OF PLEADINGS AND OTHER PAPERS

a. All parties shall file all their pleadings and other papers which have been served within ten (10) days after any party serves a Note of Issue. Pleadings and papers required by law to be served which are served thereafter shall be filed within ten (10) days after service. These ten (10) day limits for filing include weekends and holidays. An attorney or pro se party who fails to comply with these filing requirements shall pay a sanction fee of \$50.00 in order to file pleadings or other papers.

b. Pleadings and other papers which are required to be served will not be accepted for filing unless the necessary proof or affidavit of service is affixed to the original document.

c. All filed documents shall include the name, office address, telephone number and attorney identification number of the attorney.

d. The Notice of Taking Deposition shall be filed before any deposition is taken. Unless ordered by the court, depositions, interrogatories, requests to admit, and requests for production and answers and responses thereto, shall not be filed.

Amended October 11, 1989, effective January 1, 1990.

#### RULE 2. ADDITIONAL PARTIES

a. When an Order has been issued adding parties to an action, the moving party shall immediately serve a copy of the Order upon the additional parties and shall within ten (10) days, including weekends and holidays, notify the Assignment Division in writing of the names and addresses of the additional parties and, if known, their attorneys.

b. Any claimant who joins a Mechanics Lien action through an Answer or by Court Order shall immediately notify the Assignment Division in writing of the name and address of both the claimant and the claimant's attorney. If the joinder was by Court Order, the claimant shall send a copy of the Order to the Assignment Division within ten (10) days, including weekends and holidays.

#### RULE 3. PLACING MATTERS ON CALENDARS

a. No matter will be placed on any calendar for trial or for hearing, nor will it be heard or con-

sidered, if the pleadings or other papers required by law to be filed have not been filed as required by these rules.

b. A matter is placed on the trial calendar by serving and filing a Note of Issue. The Note of Issue shall include an estimate of the length of time necessary for trial of the case.

c. A Note of Issue shall be served and filed by the moving party when a third party has been joined and has served an answer.

d. Notes of Issue are not required in the following cases:

(1) Appeals from awards in condemnation cases instituted by government agencies.

(2) Reviews of Assessments under Minn.Stat. 429.081.

(3) Conciliation Court Removals.

(4) Petitions for Judicial Determination pursuant to Minn.Stat. 609.5314, Sub. 3.

e. The individual attorney responsible for trying the case shall be named on the Note of Issue. That attorney shall immediately notify the Assignment Division in writing of any change in trial responsibility.

f. Counsel are also to notify the Assignment Division, Room 1230 Courthouse, of any change in their address and furnish a list of their cases pending on the Court's Calendars so notices can be mailed to the correct address.

Amended October 11, 1989, effective January 1, 1990.

#### RULE 4. JOINT AT-ISSUE MEMORANDUM

a. Within 90 days of the filing of the Note of Issue, the attorneys for the parties must meet, confer, and execute a Joint At-Issue Memorandum setting forth a statement of the case and listing their agreements and disagreements. The Plaintiff shall initiate and schedule the meeting and shall be responsible for filing the Joint At-Issue Memorandum within these time limits.

b. The Joint At-Issue Memorandum shall contain the following information to the extent applicable:

(1) a statement that all parties have been served, that the case is at issue, and that all parties have joined in the filing of the At-Issue Memorandum.

(2) an estimated trial time.

(3) whether a jury trial is requested, and if so, by which party.

(4) counsels' opinion whether the case should be handled as expedited, standard, or complex track case (determination to be made by the Court).

(5) a concise statement of the case indicating the facts that Plaintiff(s) intend to prove and the legal basis for all claims.

(6) a concise statement of the case indicating the facts that Defendant(s) intend to prove and the legal basis for all defenses and counterclaims.

(7) cases involving personal injury, a statement by each claimant, whether by complaint or counterclaim, setting forth the following:

A. a detailed description of claimed injuries, including claims of permanent injury. If permanent injuries are claimed, the name of the doctor or doctors who will so testify.

B. an itemized list of special damages to date including, but not limited to, auto vehicle damage and method of proof thereof; hospital bills, x-ray charges, and other doctor and medical bills to date; loss of earnings to date fully itemized.

C. whether parties will exchange medical reports. (See R.C.P. 35.04).

(8) cases involving vehicle accidents, a statement setting forth the following:

A. a description of vehicles and other instrumentalities involved with information as to ownership or other relevant facts.

B. name of insurance carriers involved, if any.

(9) a statement acknowledging that discovery will be completed by the time of the Joint Disposition Conference (approximately six months from filing of this Memorandum). Where feasible, provide a schedule for the taking of depositions, the obtaining of medical examinations, and other discovery procedures. Please note that if the case is assigned to the expedited track, the trial date will be set 60-90 days from the filing of the Joint At-Issue Memorandum and discovery schedules must be adjusted accordingly.

c. If after 90 days following the filing of the Note of Issue, no Joint At-Issue Memorandum has been filed or a Memorandum has been submitted but rejected by the DCM coordinator for being incomplete, the Court shall set the matter for a hearing. At the hearing, all trial counsel must be present or represented by someone completely familiar with the case. Counsel must explain to the Court why this rule has not been complied with. If the Court finds that any party has not proceeded with due diligence in preparing the case for trial and cooperating in efforts to meet and prepare this Memorandum, the Court may impose sanctions or take action as it deems appropriate. The hearing will be vacated upon filing of a complete Joint At-Issue Memorandum one (1) full day prior to the hearing and payment of a \$50.00 sanction by each

of the attorneys of record or pro se party. (See Form DCM-1).

Amended October 11, 1989, effective January 1, 1990.

# FORM DCM-1. JOINT AT-ISSUE

## MEMORANDUM

STATE OF MINNESOTA DISTRICT COURT  
COUNTY OF RAMSEY SECOND  
JUDICIAL DISTRICT  
CIVIL DIVISION  
FILE NO. \_\_\_\_\_

Plaintiff,

vs.

Defendant

## JOINT AT-ISSUE MEMORANDUM

1. All parties have been served with process. The case is at issue and all parties have joined in the filing of this At-Issue Memorandum.

2. Estimated trial time: \_\_\_\_\_ days \_\_\_\_\_ hours (estimates less than a day must be stated in hours).

3. Jury is requested by the \_\_\_\_\_ plaintiff \_\_\_\_\_ defendant. [If this is a change from a court to a jury request, then a \$30 fee must be paid when filing this document.]

4. Assignment to the \_\_\_\_\_ expedited \_\_\_\_\_ standard \_\_\_\_\_ complex track is requested. (If parties cannot agree, attach statement setting for the reasons.)

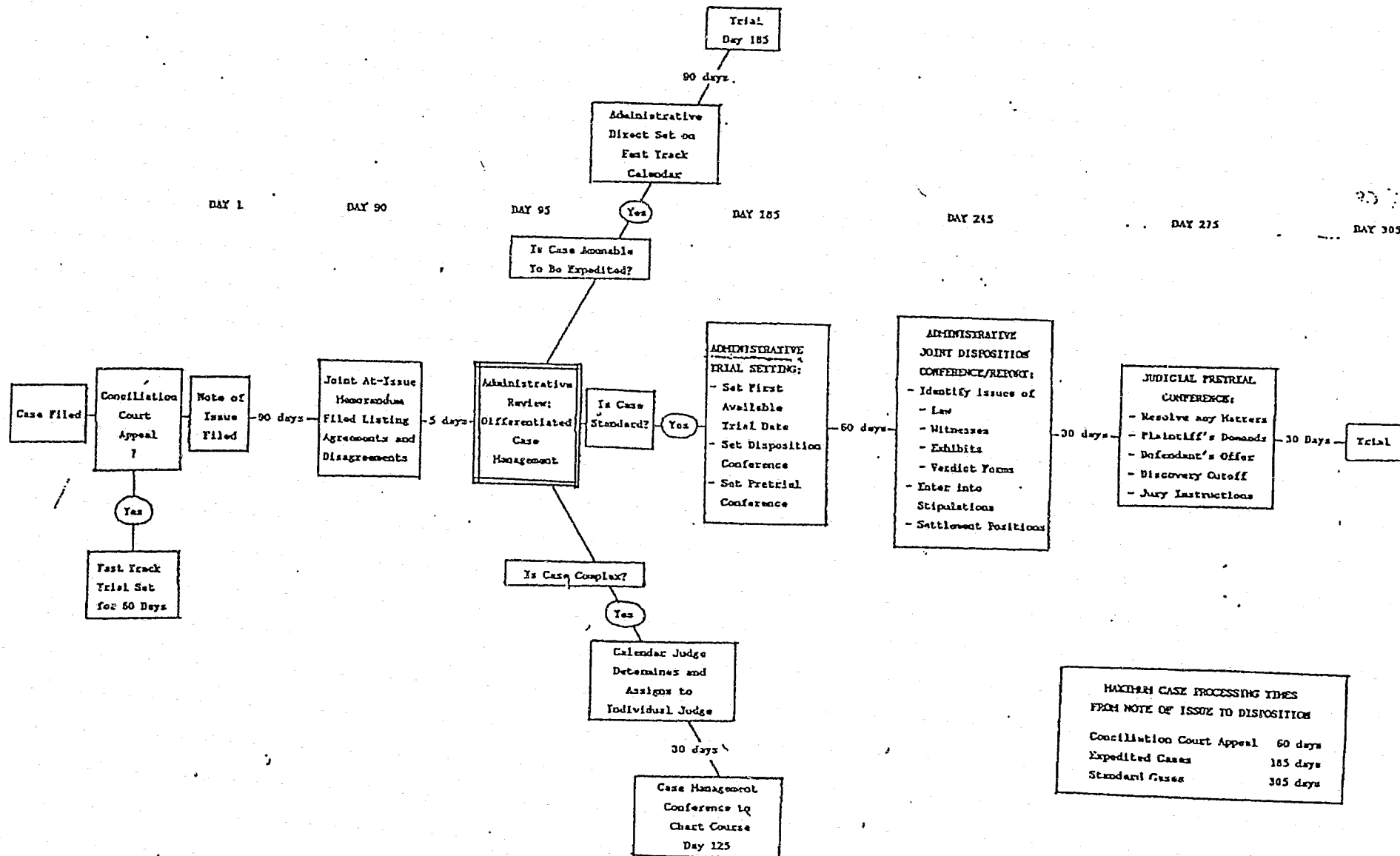
5. Concise statement of the case including facts plaintiff(s) intend to prove and legal basis for claims:

6. Concise statement of the case indicating facts defendant(s) intend to prove and legal basis for defenses and counterclaims:

7. List the names and addresses of witnesses that either party expects to call. Indicate the party who expects to call the witness and whether the

*Sanction*

SECOND JUDICIAL DISTRICT  
ST. PAUL, MN



STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT  
CIVIL DIVISION

FILE NO. \_\_\_\_\_

.....  
Plaintiff,

vs.

JOINT AT-ISSUE  
MEMORANDUM

Defendant.  
.....

1. All parties have been served with process. The case is at issue and all parties have joined in the filing of this At-Issue Memorandum.
2. Estimated trial time: \_\_\_\_\_ days \_\_\_\_\_ hours (estimates less than a day must be stated in hours.)
3. Jury is requested by the \_\_\_\_\_ plaintiff \_\_\_\_\_ defendant.  
(If this is a change from Court to Jury request, a \$30 fee must be paid when filing this document.)
4. Assignment to the \_\_\_\_\_ expedited \_\_\_\_\_ standard \_\_\_\_\_ complex track is requested.  
(If parties cannot agree, attach statement setting forth the reasons.)
5. Concise statement of the case including facts plaintiff(s) intends to prove and legal basis for claims:

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FILED

Completed JIM for  
Expedited Track Case

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

JUN 25 1990

SECOND JUDICIAL DISTRICT

J.E. GOŁKOWSKI  
COURT ADMINISTRATOR

Company, DAU Dec File No. C0-86-480176

a Maryland corporation,

Plaintiff,

JOINT AT-ISSUE  
MEMORANDUM

vs.

Trucking, Inc.,

Defendant.

1. All parties have been served with process. The case is at issue and all parties have joined in the filing of this At-Issue Memorandum.
2. Estimated trial time: 2 days.
3. Jury is requested by the defendant.
4. Assignment to the standard track is requested.
5. Concise statement of case including facts plaintiff intends to prove and legal basis for claims:

This is a collection claim for earned premiums owed to plaintiff under three insurance contracts with defendant. Plaintiff provided workers' compensation and employer's liability insurance coverage to defendant for the policy periods of July 1, 1982 through July 1, 1983 and July 1, 1983 through July 1, 1984. Pursuant to the terms of the insurance policies, plaintiff calculated final premiums under the policies based upon total remunerations paid to defendant's employees and other persons providing services to defendant and for whom no proof of workers' compensation coverage was provided. The total outstanding earned premium due and owing plaintiff under the policies is \$38,506, plus interest. Defendant has refused to pay such outstanding premiums.

6. Concise statement of case indicating facts defendant intends to prove and legal basis for defenses and counterclaims:



Defendant claims it owes nothing to plaintiff.  
Defendant paid its premiums for workers' compensation  
and liability coverage to the Chandler Insurance  
Agency, who presumably forwarded the premiums to the  
plaintiff. Secondly, defendant claims that the audit  
done by plaintiff was fatally flawed and ignored the  
facts.

7. Names and addresses of witnesses who may be called at  
trial:

Plaintiff

Milwaukee, Wisconsin

Inver Grove Heights, Minnesota

Inver Grove Heights, Minnesota

Individuals or representatives from entities  
identified as "truckmen" in premium audits, but for  
whom defendant claims premiums are not owing. (These  
witnesses will be further identified, as appropriate,  
following further discovery.)

Representatives of Insurance Agency.

Defendant

Inver Grove Heights, Minnesota

Inver Grove Heights, Minnesota

Individuals identified as "truckmen"

Representatives of Insurance Agency

8. In claims involving personal injury. . . .

Not applicable.

9. In claims involving vehicle accidents. . . .

Not applicable.

10. I understand that, if the case is assigned to the standard track, all discovery must be completed by the time of the Joint Disposition Conference.

Plaintiff:

Attorney:

Bridget M. Ahmann #16611X  
Faegre & Benson  
2200 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402  
612-336-3000

Defendant:

Attorney:

James J. O'Connor #80792  
190 Midtown Commons  
2334 University Avenue  
St. Paul, MN 55114  
612-645-0511

The undersigned counsel have met and conferred this 22nd day of June, 1990 and certify that the foregoing is true and correct.

  
\_\_\_\_\_  
Bridget M. Ahmann

  
\_\_\_\_\_  
James J. O'Connor

6799D

Plaintiff Chris Boyle  
Attorney for Plaintiffs  
Attorney Reg. # 15495 17239X  
Firm Appert, Griffel & Dorshow  
Address 1700 W. Hwy 36, #830  
St. Paul, Minnesota 55113  
Telephone 612/633-1039  
Date \_\_\_\_\_

Defendant John  
Cynthia  
Attorneys for Defendant Taylor  
Attorneys Reg. #'s 45883-JRH  
174981-CEC  
Firm Murnane, Conlin, White,  
Brandt & Hoffman  
Address 1800 Meritor Tower,  
St. Paul, Minnesota 55101  
Telephone 612/227-9411  
Date \_\_\_\_\_

Defendant Richard  
Attorney for Defendants McNeil & Scott  
Attorney Reg. # 92915  
Firm Stringer & Rohleder, Ltd.  
Address 1200 Norwest Center,  
St. Paul, Minnesota 55101  
Telephone 612/227-7784  
Date \_\_\_\_\_

The undersigned counsel have met and conferred this 19<sup>th</sup> day  
of June, 1990, and certify the foregoing is true  
and correct.

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

sfo/l.4

ADDENDUM

On June 6, 1988, Defendant M was operating a vehicle owned by Defendant S. He was proceeding east on Highway 36 when a vehicle operated by Defendant T suddenly began to swerve and stopped. Defendant M was unable to avoid rear-ending the T vehicle. Defendant M was, in turn, rear-ended by the operator of a vehicle not a party to this litigation. The Plaintiff was the driver of a vehicle rear-ended by Defendant T vehicle. Defendant M intends to prove that the negligence of Defendant T and the Plaintiff, or both of them, caused or contributed to the accident.

SPECIAL DAMAGES LIST

RE: R

DATE OF ACCIDENT: 6/4/88

OUR FILE: 15164

DATE OF PREPARATION: MAY 7, 1990

Physician or Facility

Total Incurred

Dr. Larry , D.C.  
Lexington Chiropractic Clinic  
1752 Lexington Avenue North  
Roseville, MN 55113

\$ 6,065.00

Dr. A. V.  
Pain Assessment and Rehab Center  
6200 Excelsior Boulevard  
St. Louis Park, MN 55416

\$ 255.00

Dr. John , D.C.  
1347 Larpenteur Avenue West  
St. Paul, MN 55113

\$ 954.00

Women's Workout World  
2480 Fairview Avenue North  
Roseville, MN 55113

\$ 167.48

TOTAL

\$ 7,441.48

FILED

APPENDIX D(5): Joint At-Issue  
Memorandum (JIM)  
Complete JIM for Complex  
Track Case

JUL 27 1989

CASE TYPE: WRONGFUL DEATH

STATE OF MINNESOTA DISTRICT COURT ADMINISTRATOR  
By J. E. GOCKOWSKI Deputy  
COUNTY OF RAMSEY

DISTRICT COURT

SECOND JUDICIAL DISTRICT

Court File No. C9-89-4488

Kathleen Z, trustee  
for the heirs and next of kin  
of Kirt, decedent,

Plaintiff,

v.

Brewery Company, an  
Arizona corporation, and Northern  
States Power Company, a Minnesota  
corporation,

Defendants,

and

Brewery Company, an  
Arizona Company,

Third-Party Plaintiff,

v.

A Rigging and Erecting  
Company,

Third-Party Defendant.

JOINT AT ISSUE  
MEMORANDUM

1. All parties have been served with process. The case is at issue and all parties have joined in the filing of this At-Issue Memorandum.

A Rigging & Erecting Company objects to the filing of a Joint At Issue Memorandum at this time. A was not joined in this case until May of 1989 and discovery has not been completed. In addition, the Note of Issue was also not served on A.

2. Estimated trial time: 10 days      hours (estimates less than a day must be stated in hours).
3. Jury is requested by the X plaintiff X defendant.
4. Assignment to the      expedited X standard      complex track is requested. (If parties cannot agree, attach statement setting forth the reasons).

A requests that this case be set on the complex track. This case is a complicated case involving many parties and significant damages. It also involves claims of contractual liability on the part of A . It is also believed that many experts will be called who will testify regarding complicated subjects.

5. Concise statement of the case including facts plaintiff(s) intend to prove and legal basis for claims:

On August 26, 1986, decedent Kirt was electrocuted while in the employment of the third party defendant, A Rigging and Erecting Co. (A ). A was hired by defendant and third party plaintiff, Brewery, Inc. ( Brewery) to move large steel beer vats (tanks) that had just arrived at the premises via railcar and semi-truck.

Kirt was on Brewery premises for the purpose of assisting in the unloading of storage tanks and was adjusting the outrigger pad on an A crane when the boom of the crane was raised by the crane operator and it came in contact with the high voltage electrical distribution line which was installed, owned and maintained by defendant Power Company (NSP). The NSP electrical distribution line was located on the parking lot on premises owned, operated and maintained by Stroh Brewery. The line was unmarked, uninsulated, carried 8,000 volts and was strung across the area from pole to pole in violation of state and federal clearance safety codes and in close and hazardous proximity to vehicles and equipment foreseeably operating in the area. NSP allowed trees and other foliage to grow excessively around the electrical lines and poles obscuring the lines and poles from view. NSP failed to bury the lines underground and failed to install circuit breaker protection systems, other electrical current relay, safety or warning devices. NSP negligently failed to inspect the lines and equipment at reasonable intervals.

Brewery caused the surface of the parking area to be raised with dirt and fill in order to extend the parking area under the wires causing insufficient clearance for vehicles and equipment operating in the area, and permitted the condition to remain, thereby creating a hazard to both persons and vehicles lawfully on the premises. Both NSP and Brewery negligently failed to provide warnings to decedent and others of the electrical lines and failed to have the lines raised, relocated or insulated.

Brewery failed to inspect and warn A and its employees of the extra hazardous condition existing on the premises created when the parking lot level was raised.

6. Concise statement of the case indicating facts defendant(s) intend to prove and legal basis for defenses and counterclaims:

DEFENDANT AND THIRD PARTY PLAINTIFF. BREWERY

Plaintiff's decedent, an employee of third-party defendant A Rigging and Erecting Company (A ) was electrocuted while he and his fellow employees were unloading steel tanks at or around the Brewery premises in St. Paul. Plaintiff brought this action against Brewery and Power Company (NSP), alleging negligence. Brewery and NSP both cross-claimed against the other, and Brewery brought a third-party action against A.

Brewery contends it has no liability for the electrocution accident in that it had no notice of a dangerous condition on or around the premises, it took no action which created a dangerous condition, and specifically, it had no legal responsibility regarding the electrical lines at issue.

Brewery also contends that NSP was negligent in failing to properly maintain the electrical power lines at issue and that such negligence caused or contributed to the accident. Brewery further contends that A and its employees were negligent in the following respects and that such negligence caused or contributed to the accident:

1. That the A employees improperly positioned the crane beneath and in the area of the power lines;
2. That the A employees failed to keep a proper lookout for the hazards in the area; and



3. That the A crane operator failed to keep a proper lookout for others in the area, thereby necessitating the crane's boom to be raised.

Finally, Brewery contends that plaintiff's decedent was negligent in failing to keep a proper lookout for hazards, including the obvious hazard of the crane coming in contact with the nearby power lines.

DEFENDANT

POWER COMPANY

The power lines of NSP were open and obvious to everyone in attendance on the date of the incident. This accident occurred when operators of heavy equipment negligently brought a portion of the equipment in contact with the uninsulated lines, thereby causing electricity to pass through the machine and to the point where plaintiff's decedent was working. The operator of the equipment that plaintiff's decedent was working with is the only party at fault in the happening of this accident. Plaintiff has recovered worker's compensation benefits and is without further cause of action.

THIRD PARTY DEFENDANT A. RIGGING AND ERECTING CO.

Discovery is continuing and at this point the facts that A intends to prove are unknown. At this point, A intends to prove that its employees were not negligent in causing the death of Kirt . His death was caused by his own negligence or the negligence of the defendants or other parties over whom A had no control. A further contends that pursuant to numerous contracts it is entitled to indemnity, costs, and attorney's fees from . It further claims that the alleged contract referred to in the Third Party Complaint of is not a contract, is vague, and has been superseded by subsequent contracts. A further claims that its liability is limited by the Minnesota Workers' Compensation Act.

7. List the names and addresses of witnesses that either party expects to call. Indicate the party who expects to call the witness and whether the party intends to qualify that witness as an expert. (Attach additional sheets if necessary.)

Party	Name/Addresses of Witnesses	Please Indicate if Expert Witness
Z	Kenneth /Blaine	_____ Yes
Z	Roland /Moundsview	_____ Yes
Z	Harlan /Brooklyn Center	_____ Yes
Z	Charles /Maplewood	_____ Yes
Z	Mitz /OSHA/St. Paul	_____ Yes
Z	Robert /St. Paul	_____ Yes
Z	Terry /St. Paul	_____ Yes
Z	Robert /St. Paul	_____ Yes
Z	Donald /St. Paul	_____ Yes
Z	Jim /Minneapolis	_____ Yes
Z	John P.A./St. Paul	_____X_____ Yes
Z	Robert P.E./Anoka	_____X_____ Yes
Z	Dennis /St Paul	_____ Yes
Z	Morris /St. Paul	_____ Yes
Z	Kathleen /Forest Lake	_____ Yes
Z	Alan /Minneapolis	_____X_____ Yes
Z	Dr. K R. / Gaithersberg, Maryland	_____X_____ Yes
Z	Dr. K. /St. Paul	_____X_____ Yes

NSP: NSP has not determined its expert witnesses as of this date. The only other witnesses to be called would be listed by plaintiff, co-defendant and third party defendant.

A Discovery is continuing. The names of A witnesses are not known at this point. A intends to call all witnesses listed by plaintiff and defendants that are not called.

8. In claims involving personal injury, attach a statement by each claimant, whether by complaint or counterclaim, setting forth a detailed description of claimed injuries and an itemized list of special damages as required by the rule. Indicate whether parties will exchange medical reports.

Dr.                      will testify as to the economic loss to the widow and children of the decedent, and the specific claim will be calculated and submitted prior to trial of this matter.

All parties will exchange medical and autopsy reports that are available in this matter.

9. In claims involving vehicle accidents, attach a statement describing the vehicles with information as to ownership and the name of insurance carriers, if any.

Not applicable

10. I understand that all discovery must be completed by the time of the Joint Disposition Conference to be held approximately six months from the filing of this Memorandum.

Armstrong objects to a discovery deadline. As indicated, Armstrong was recently joined in this matter and has not had the opportunity to engage in necessary discovery.

Plaintiff

Michael A. Kampmeyer #53405  
KAMPMEYER AND O'CONNOR  
1500 Capital Center  
386 No. Wabasha  
St. Paul, MN 55102  
(612) 222-5000

Defendant and Third Party  
Plaintiff,              Brewery  
Company

James Fitzmaurice #29804  
FAEGRE & BENSON  
2200 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402-3901  
(612) 921-2200

Defendant N              S              P  
C

W. Scott Herzog #44553  
MOSS & BARNETT  
1200 Pillsbury Center  
200 South Sixth Street  
Minneapolis, MN 55401  
(612) 347-0300

Third Party Defendant,  
Rigging and Erecting Company  
Donald W. Anderson #1855  
GILMORE, AAFEDT, FORDE,  
ANDERSON, & GRAY, P. A.  
Suite 3100  
1500 South Fifth Street  
Minneapolis, MN 5402  
(612) 339-8965

and

Michael D. Carr #166716  
LARSEN, HECK & KLIMEK  
7450 France Avenue South  
P.O. Box 1357  
Minneapolis, MN 55440  
(612) 830-1763

The undersigned counsel have met and conferred this  
27th day of July, 1989 and certify the foregoing is true and  
correct.

Dated: July 27, 1989

Dated: 7-27-89

Dated: 7-27-89

Dated: July 27, 1989

Dated: July 27, 1989

Michael A. Kampmeyer  
Michael A. Kampmeyer

James Fitzmaurice  
James Fitzmaurice for WFF.

W. Scott Herzog  
W. Scott Herzog

Donald W. Anderson  
Donald W. Anderson

Michael D. Carr  
Michael D. Carr

FILED

APPENDIX D(3): Joint At-Issue  
Memorandum (JIM)--Completed  
for Modified Standard  
Track Case

JUN 25 1990

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

J.E. GOCKOWSKI  
COURT ADMINISTRATOR

SECOND JUDICIAL DISTRICT

By Sac Dep. SUBJECT INDEX: PERSONAL INJURY

Kristie

FILE NO. C9-90-3489

Plaintiff,

vs.

JOINT AT-ISSUE  
MEMORANDUM

Sandra and  
Charles, individually,  
jointly and severally,

Defendants.

1. All parties have been served with process. The case is at issue and all parties have joined in the filing of this At-Issue Memorandum.
2. Estimated trial time: 3 days     hours (estimates less than a day must be stated in hours).
3. Jury trial is requested by the Plaintiff.
4. Assignment to the standard track is requested. (If parties cannot agree, attach statement setting forth the reasons.)
5. Concise statement of the case including facts plaintiff(s) intends to prove and legal basis for claims:

Plaintiff intends to show that the Defendant Charles, was a non-licensed driver at the time of the accident (10/4/86), that he negligently and carelessly operated the automobile he was driving so as to cause it to rear-end the automobile in which the Plaintiff was a passenger. In addition, Charles used the automobile he was driving with the express and implied permission of its owner, Sandra, who was a passenger in her car at the time of the accident.

As a direct result of this automobile accident, the Plaintiff suffered serious and permanent injuries, has incurred and will continue to incur in the future medical expenses, has incurred and will continue to incur in the future a loss of wages and loss of earning capacity, has endured great pain and suffering and will continue to do so in the future.

6. Concise statement of the case indicating facts defendant(s) intend to prove and legal basis for defenses and counterclaims:

STATE OF MINNESOTA

**FILED**

DISTRICT COURT

COUNTY OF RAMSEY

Court Administrator

SECOND JUDICIAL DISTRICT

JUN 26 1990

J.E. GOCKOWSKI

PERSONAL INJURY

By                      Deputy

Court File No. C1-90-6046

Mary

and Dan

Plaintiffs,

vs.

JOINT AT ISSUE  
MEMORANDUM

Jeff  
Carol

, Andy

and

Defendants.

1. All parties have been served with process. The case is at issue and all parties have joined in the filing of this At-Issue Memorandum.
2. Estimated trial time: 3 days (estimated less than a day must be stated in hours).
3. Jury is requested by the X plaintiff        defendant.
4. Assignment to the        expedited X standard        complex track is requested. (If parties cannot agree, attach statement setting forth the reasons.)
5. Concise statement of the case including facts plaintiff(s) intend to prove and legal basis for claims:  
  
Both Defendants negligently struck Plaintiff's vehicle from the rear causing permanent injuries to the Plaintiff.
6. Concise statement of the case indicating facts defendant Jeff T intends to prove and legal basis for defenses and counterclaims:

On June 6, 1988 defendant T was driving his vehicle eastbound on Highway 36 in the City of Maple Grove. Plaintiff was a passenger in a vehicle driven by Dan . The R vehicle came to a sudden stop and defendant T attempted to avoid plaintiff's vehicle but was unsuccessful. Defendant Andy M was driving a vehicle owned by defendant Carol S directly behind defendant Jeff T . The M vehicle negligently struck the T vehicle causing the T vehicle to again impact with the R vehicle.

Defendant T alleges that Dan R and defendant M were negligent in the operation of their vehicles and violated Sections of Minnesota Statute 169.

See Defendant's portion.

This accident occurred October 4, 1986. Plaintiff was a passenger in an automobile being driven by her sister. They were eastbound on Phalen Park Drive attempting to turn left into a parking lot. Defendants were traveling eastbound on Phalen Park Drive behind plaintiff's vehicle when defendants' vehicle collided with plaintiff's vehicle. Defendants contend that plaintiff was not injured as a result of this accident.

7. In claims involving personal injury, a statement by each claimant, whether by complaint or counterclaim, setting forth the following:

- (a) A detailed description of claimed injuries including claims of permanent injury. If permanent injuries are claimed, the name of the doctor or doctors who will so testify.

experiences sharp shooting pains into the left shoulder, has severe and disabling headaches, cervical muscle spasms, a mild ligamentous strain and loss of range of motion in her neck.

It is opinion that has suffered a 5% permanent partial disability, and it is our intention to have him testify to that fact.

- (b) An itemized list of special damages to date, including, but not limited to auto vehicle damage and method of proof thereof, hospital bills, x-ray charges, and other doctor and medical bills to date, loss of earnings to date, fully itemized.

Neuro Assoc. of St. Paul P.A.	1062.00
Gorman Clinic	294.50
St. Joseph's Hospital	100.00
St. Paul Radiology, P.A.	28.50
St. Johns Eastside Hospital	170.75
Spinal Care Center	1532.00
Coplin Physical Therapy Associates, Inc.	3758.00
Rx & Travel expenses	2067.92
TOTAL:	<u>\$9013.67</u>

Wage Loss: \$261.15.

- (c) Whether parties will be willing to exchange medical reports.

It is anticipated that the parties will stipulate to exchange medical reports.

8. In claims involving motor vehicle accidents, statements that enforce the following:

- (a) A description of the vehicles and other instrumentalities involved with information as to ownership or other relevant facts.

The Plaintiff, \_\_\_\_\_, was a passenger in an automobile being driven by \_\_\_\_\_.  
The owner of the \_\_\_\_\_ vehicle is \_\_\_\_\_. The automobile is a  
1987 Dodge Charger with Minnesota License Plate No. \_\_\_\_\_. The insurance company  
for the \_\_\_\_\_ vehicle was Western American.

The defendants' 1977 Ford Granada was owned by Sandra T. Berens and had Minnesota License Plate No. CWL 200. The insurance company for Ms. Berens is American Family.

9. I understand that all discovery must be completed by the time of the Joint Disposition Conference to be held approximately six months from the filing of this Memorandum.

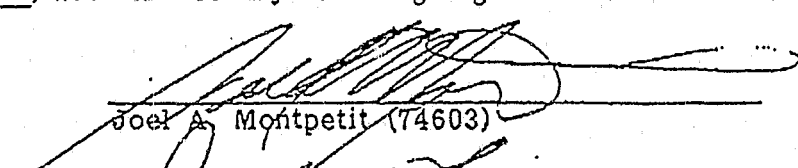
Plaintiff: \_\_\_\_\_

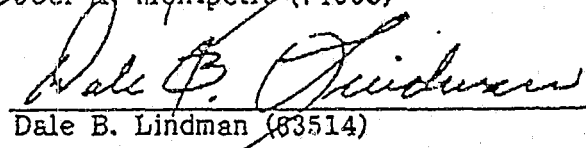
Defendant \_\_\_\_\_, individually,  
\_\_\_\_\_ jointly and severally

Attorney Joel A. Montpetit  
Attorney Reg. # 74603  
Firm: Montpetit, Freiling & Kranz  
Address: 211 Norwest Bank Building  
161 North Concord Exchange  
South St. Paul, Mn. 55075-1139  
Telephone: (612) 450-9000  
Date \_\_\_\_\_

Attorney Dale B. Lindman  
Attorney Reg. # 63514  
Firm: Mahoney, Dougherty and Mahoney  
Address 801 Park Avenue  
Minneapolis, Minnesota 55404  
Telephone (612) 339-5863  
Date \_\_\_\_\_

The undersigned counsel have met in person and conferred this 22nd day of  
June, 1990 and certify the foregoing is true and correct.

  
Joel A. Montpetit (74603)

  
Dale B. Lindman (63514)



Concise statement of the case indicating facts defendants,  
M and S intend to prove and legal basis  
for defenses and counterclaims:

See Addendum - M and S statement of the case.

7. Cases involving personal injury, a statement by each claimant, whether by complaint or counterclaim, setting forth the following:

A. A detailed description of claimed injuries, including claims of permanent injury. If permanent injuries are claimed, the name of the doctor or doctors who will so testify.

Permanent spine injury pursuant to Dr. Larry , D.C. and Dr. A. V.

B. An itemized of list special damages to date including, but not limited to, auto vehicle damage and method of proof thereof; hospital bills, x-ray charges and other doctor and medical bills to date; loss of earnings to date fully itemized.

See attached special damages list.

C. The parties will exchange medical reports.

8. Cases involving vehicle accident, a statement setting forth the following:

A. A description of vehicles and other instrumentalities involved with information as to ownership or other relevant facts.

B. Names of insurance carriers involved, if any.

Insurance Company, 1500 West  
Highway 36, St. Paul, Minnesota 55161.

Insurance Company, 4700 North  
Lexington Avenue, Shoreview, Minnesota 55126.

Insurance Company, 1500 West  
Highway 36, St. Paul, Minnesota 55126.

9. We understand that all discovery must be completed by the time of the Joint Disposition Conference to be held approximately six months from the filing of this Memorandum.

4. The following facts are in dispute:

5. As to substantive issues, plaintiff contends as follows:

6. As to substantive issue, defendant contends as follows:

7. Each party shall attach an addendum containing the following items:

- a) A list of witnesses with their name, address, employer, and occupation. Witnesses who a party intends to qualify as an expert witness and the area of expertise shall be indicted.
- b) A list of all exhibits which a party intends to offer into evidence. All exhibits shall be made available for inspection by opposing counsel.
- c) A description of depositions proposed to be offered in evidence in lieu of live testimony.

Plaintiff \_\_\_\_\_  
Attorney \_\_\_\_\_  
Attorney Reg. # \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Telephone \_\_\_\_\_  
Date \_\_\_\_\_

Defendant \_\_\_\_\_  
Attorney \_\_\_\_\_  
Attorney Reg. # \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Telephone \_\_\_\_\_  
Date \_\_\_\_\_

Plaintiff \_\_\_\_\_  
Attorney \_\_\_\_\_  
Attorney Reg. # \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Telephone \_\_\_\_\_  
Date \_\_\_\_\_

Defendant \_\_\_\_\_  
Attorney \_\_\_\_\_  
Attorney Reg. # \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Telephone \_\_\_\_\_  
Date \_\_\_\_\_

(If more space is needed to add additional information or parties, attach a separate sheet typed in the same format)

The undersigned counsel have met in person and conferred this \_\_\_\_\_ day of \_\_\_\_\_  
and certify the foregoing is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

APPENDIX E: Notice of Assignment to  
Complex Track

1560 BEAK AVE  
ST. PAUL MN 55109

1800 HIOWEST PLAZA  
MPLS MN 55402

Assignment to Complex Track

In Re: MARY X

ROBERT

Case Number: 62-C4-89-003703

You are hereby notified on this date, this case has  
been assigned to the Complex Track.

Lynae K.E. Olson  
Civil Case Coordinator

Dated August 11, 1989

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT  
CIVIL DIVISION

FILE NO. \_\_\_\_\_

.....

Plaintiff,

vs.

JOINT DISPOSITION  
CONFERENCE REPORT

Defendant.

.....

A time, date and place will be set for a Joint Disposition Conference. During this Conference, you are expected to discuss the issues required by Rule 5 and complete this report form. You have the option to arrange your own in-person meeting time and place so long as the report is filed by the conference date set by the Court. The failure to comply with Rule 5 will result in a sanction of \$50 (Fifty Dollars) per party and a court appearance to show cause why the report was not filed timely or was incomplete.

1. All parties are prepared for trial which is scheduled to begin on \_\_\_\_\_  
and will take \_\_\_\_\_ court days. A jury is \_\_\_\_\_ is not \_\_\_\_\_ requested.
2. As required by Rule 5, or as previously set by the Court, all discovery has been completed. If discovery has not been completed, attach to this form information setting forth the discovery that remains to be completed, the reason it has not been completed as required, and the estimated time needed to complete discovery. Any additional discovery must be completed by the time of the judicial pretrial conference.
3. The parties have stipulated to the following facts or issues:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FILED  
Court Administrator

APPENDIX F(2): Joint Disposition  
Conference (JDC) Report --  
Sample Completed JDC Report  
DISTRICT COURT

STATE OF MINNESOTA

COUNTY OF RAMSEY

JUL 3 0 1990

M.E. GOCKOWSKI

Deputy

SECOND JUDICIAL DISTRICT

Gary  
parents and natural guardians  
of Joseph , a minor, and  
Gary Gail  
individually,

File No. C3-89-002087  
Personal Injury

Plaintiffs,

JOINT DISPOSITION  
CONFERENCE REPORT

vs.

Hospitals,

Defendant.

A time, date and place will be set for a Joint Disposition Conference. During the Conference, you are expected to discuss the issues required by Rule 5 and complete this report form. You have the option to arrange your own in-person meeting time and place so long as the report form is filed by the conference time set by the Court. The failure to comply by meeting and filing his report will require a court appearance to show cause why the report has not been filed.

1. All parties are prepared for trial which is scheduled to begin on September 24, 1990, and will take 3-1/2 court days. A jury is requested.

2. As required by Rule 4, or as previously set by the court, all discovery has been completed. If discovery has not been completed, attach to this form information setting forth the discovery that remains to be completed, the reason it has not been completed as required, and the estimated time needed to

complete discovery. Any additional discovery must be completed by the time of the judicial pre-trial conference. See Attachment entitled "Discovery that Remains to be Completed."

3. The parties have stipulated to the following facts or issues: There was wire glass in the lite (i.e., the window in the entrance/exit door of the Adolescent Care Unit) and there was not plastic safety glazing material in the lite on January 13, 1987. Installation of plastic safety glazing material in the lite was feasible and defendant will not claim or introduce evidence that installation of plastic safety glazing material in the lite was not feasible (e.g., due to cost, building or fire code, engineering, ordinance or regulation considerations) nor that installation of plastic safety glazing material in the lite would adversely affect the function and purpose of the glazing material in the lite. Plaintiff will not introduce evidence of the installation of plastic safety glazing material in the lite after the incident.

Plaintiff agrees not to submit past medical expenses to the jury for an award. Defendant agrees not to request a collateral source deduction represented by past medical expense.

Defendant stipulates to foundation of Hospital policy, procedure, and training manuals and materials and plaintiff's medical records.

Plaintiff will limit its theories of negligence against defendant to those set forth in Plaintiffs' Answer to Defendant's Expert Interrogatory and plaintiff will not claim the staff of

the Adolescent Care Unit was negligent in providing professional services. Defendant stipulates that the staff of Defendant

Hospital's Adolescent Care Unit were advised and instructed by Defendant Hospital, prior to January 13, 1987, that plastic safety glazing material had been installed in the lite which Joseph broke on January 13, 1987.

4. The following facts are in dispute: Defendant's negligence, plaintiff's negligence, and the amount of damages.

Basic facts regarding Plaintiff Joseph admission to Hospitals, Inc. and the accident of January 13, 1987, are not in dispute. Specific accounts by the witnesses regarding plaintiff's activities and statements on January 13, 1987, the responses of the Hospitals, Inc. staff, the rules of the Unit, and the staff's response to the episode of Joseph Saba's "acting out" may be in dispute.

5. As to substantive issues, plaintiff contends as follows:

A. Defendant Hospital negligently failed to protect and safeguard Plaintiff Joseph, a patient in Defendant's Adolescent Care Unit, from the reasonably-foreseeable risk of self-inflicted injury by failing to have impact-resistant plastic safety glazing material in the lite which Joseph struck on January 13, 1987, by failing to warn Joseph that there was not impact-resistant plastic safety glazing material in the lite, and by failing to advise and instruct staff that there was not such material in the lite and/or advising or instructing the staff that such material was in the lite.



B. Plaintiff Joe                      duty to take reasonable care to avoid self-injury and any alleged negligence or fault of Joe is not subject to comparative fault nor properly submitted to the jury because Defendant                      Hospital had a duty to safeguard and protect patients in a closed psychiatric ward against the reasonably-foreseeable risk of self-inflicted injuries.

C. Defendant's negligence was the direct cause of Plaintiff Joseph                      injuries.

D. Plaintiffs suffered damages as a result of defendant's negligence.

6. As to substantive issues, defendant contends as follows:

A. Whether the hospital was negligent for not having plexiglass (instead of wire glass) installed in the entrance door window to the Adolescent Psychiatric Unit.

B. Whether the failure to have a plexiglass window was a proximate cause of the plaintiff's injury.

C. Damages.

7. Each party shall attach an addendum containing the following items:

- a. A list of witnesses with their name, address, employer, and occupation. Witnesses whom a party intends to qualify as expert witnesses and the area of expertise shall be indicated.
- b. A list of all exhibits which a party intends to offer into evidence. All exhibits shall be made available for inspection by opposing counsel.
- c. A description of depositions proposed to be offered in evidence in lieu of live testimony.

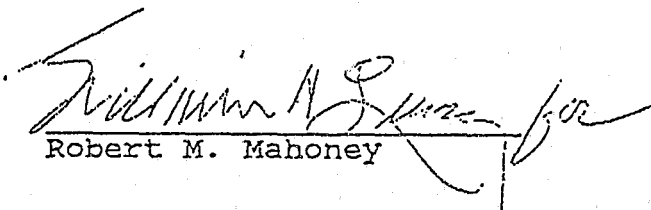
See attached Addendums of each party.

8. In jury cases, each party shall attach proposed special verdict forms. See attached proposed Special Verdict forms of each party.

Attorney for Plaintiff  
Atty ID No. 51226  
WOLD, JACOBS & JOHNSON, P.A.  
Barristers Trust Building  
247 Third Avenue South  
Minneapolis, MN 55415  
(612) 341-2525  
Dated: July 25, 1990

Attorney for Defendant  
Atty ID No. 66643  
GERAGHTY, O'LOUGHLIN & KENNEY  
1400 One Capital Center  
386 North Wabasha Street  
St. Paul, MN 55102-1308  
(612) 291-1177  
Dated: July 25, 1990

The undersigned counsel have met in-person and conferred this 25th day of July, 1990, and certify the foregoing is true and correct.

  
Robert M. Mahoney

  
Keith D. Johnson

## DISCOVERY THAT REMAINS TO BE COMPLETED

Defendant intends to obtain updated medical records and schedule an independent medical examination of plaintiff Joe Saba.

Plaintiff intends to call as a witness an architectural/ceramics and glass expert to testify regarding the impact resistance of the wired glass in the lite at the time of the incident, and the impact resistance of plastic safety glazing material, and that plastic safety glazing material would have withstood and resisted the impact to the lite done by Joseph Saba on January 13, 1987.

Plaintiff has previously requested, and defendant has agreed to allow, an inspection of the subject Adolescent Care Unit and inspection and copying of various architectural drawings, plans and specifications of the Unit.

This discovery has not been completed to date due to ongoing settlement discussions and attempted stipulations regarding issues relating to this discovery. This discovery will be completed by August 20, 1990.

PLAINTIFFS' ADDENDUM (continued)

B. List of Exhibits.

United Hospital Policy, Procedure and Training Manuals and Materials

Photos and Diagrams of the Adolescent Care Unit

Plaintiff Joe Saba's Medical Records

Medical Diagrams and Photographs of the Left Hand

Plans, Specifications and Drawings of the Adolescent Care Unit and its Glazing Materials

C. Depositions to be Offered in Evidence in Lieu of Live Testimony.

Video Tape Deposition of Mark C. Gregerson, M.D., presently scheduled for September 18, 1990, at 9:00 AM

PLAINTIFF'S ADDENDUM

A. List of Witnesses.

7201 York Avenue South - #908  
Edina, MN 55435

4346 6th Street NE  
Columbia Heights, MN 55421  
Employed by FMC Corp.

404 First Street South  
Montgomery, MN 56069

929 Goodrich - #12  
St. Paul, MN 55105  
Employed by Hospital  
as a Registered Nurse

20445 Jewel Avenue North  
Forest Lake, MN  
Employed by Hospital  
as a Registered Nurse

7321 Bryant Avenue South  
Richfield, MN  
Former Vice President of  
General Services for  
Hospital

Address Unknown  
Director of Facilities  
Management for Defendant  
Hospital

Dr. , M.D.  
Western Orthopaedic Surgery  
405 Meadowbrook Professional  
Bldg.  
St. Louis Park, MN 55426  
Expert Medical Witness  
Regarding Plaintiff Joe  
Injuries

Dr. , M.D.  
Department of Psychiatry  
Minnesota Security Hospital  
100 Freeman Drive  
St. Peter, MN 56082  
Expert Witness Regarding  
Joseph Condition,  
Defendant's negligence and  
Causation

17785 Iten Court North  
Lakeville, MN 55044

330 West Grandview  
Roseville, MN 55113

Architectural/Ceramics  
and Glass Expert (see  
"Discovery to be Completed")

Plaintiff Family  
Members/Friends to Testify  
Regarding Plaintiff's Physical  
Condition Before and After the  
Incident

Dr. , M.D.  
1900 Silver Lake Road  
New Brighton, MN  
Psychiatrist at  
Hospital

File No. C3-89-002087  
Personal Injury

parents and natural guardians  
of Joseph , a minor, and  
Gary and Gail ,  
individually,

Plaintiffs,

PLAINTIFF'S PROPOSED  
SPECIAL VERDICT

vs.

Hospitals,

Defendant.

We, the jury in the above-entitled action, for our Special Verdict, answer the questions submitted to us as follows:

1. Was defendant Hospital negligent in protecting and safeguarding plaintiff Joseph from the reasonably-foreseeable risk of self-inflicted injury?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. If your answer to Question No. 1 is "Yes," then answer this question: Was such negligence a direct cause of plaintiff Joseph injuries?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. What sum of money will fairly compensate Plaintiff Joseph for his damages resulting from the January 13, 1987, incident up to the date of this verdict for:

- a. Past pain, disability and disfigurement \$ \_\_\_\_\_
- b. Past embarrassment and emotional distress \$ \_\_\_\_\_

3. What sum of money will fairly compensate Plaintiff Joe  
for his damages resulting from the January 13, 1987,  
incident for future damages for:

- a. Future pain, disability and disfigurement \$ \_\_\_\_\_
- b. Future embarrassment and emotional distress \$ \_\_\_\_\_
- c. Future loss of earning capacity \$ \_\_\_\_\_
- d. Future medical expense \$ \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Foreperson

CONCURRING JURORS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ADDENDUM OF DEFENDANT  
HOSPITALS, INC.

7. WITNESSES

929 Goodrich Avenue, No. 12  
Saint Paul, Minnesota  
Employer: Hospitals  
Occupation: R.N.

4321 Bryant Avenue South  
Richfield, Minnesota  
Employer: Hospitals  
Occupation: General Services

Residence Address Unknown  
Employer: Hospitals  
Occupation: General Services

20445 Jewel Avenue North  
Forest Lake, Minnesota  
Employer: Hospitals  
Occupation: R.N.

Residence Address Unknown  
Employer: Hospitals  
Occupation: R.N.

Residence Address Unknown  
Employer: Hospitals  
Occupation: R.N.

Residence Address Unknown  
Employer: Hospitals  
Occupation: M.H.A.



Residence Address Unknown  
Employer: Hospitals  
Occupation: M.H.A.

Residence Address Unknown  
Employer: Hospitals  
Occupation: M.H.A.

, M.D.  
Central Medical Building  
Saint Paul, Minnesota  
Dr. is an expert in hand surgery and will be conducting IME of plaintiff.

, M.D.  
1900 Silver Lake Road  
New Brighton, Minnesota  
Dr. is an expert in psychiatry and was plaintiff's attending physician as of  
1/13/87

#### EXHIBITS

Records of Hospitals, Inc., Dr. Hospital, Dr.  
Mercy Medical Center, Dr. Scott, Dr. A. J.  
Hospital, Medical Center, school records and employment records.

#### DEPOSITIONS

None anticipated at this time.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

COURT FILE NO. C3-89-002087  
PERSONAL INJURY

and natural guardians of Joseph  
., a minor, and Gary . and  
Gail . individually,

Plaintiffs,

vs.

DEFENDANT'S PROPOSED  
SPECIAL VERDICT

Hospitals,

Defendant.

QUESTION 1: Was the defendant, Hospitals, negligent?

ANSWER:

Yes or No

If you answered "Yes" to Question 1, then answer Question 2.  
However, if you answered "No" to Question 1, then answer no  
further questions.

QUESTION 2: Was such negligence a direct cause of injury to  
Joseph ?

ANSWER:

Yes or No

If you answered "Yes" to Question 2, then answer Questions 3  
and 4. However, if you answered "No" to Question 2, then  
answer no further questions.

QUESTION 3: What sum of money will fairly and adequately  
compensate Joseph for damages up to the date  
of this verdict for:

a. Loss of earnings? \$ \_\_\_\_\_

b. Embarrassment and

QUESTION 4:

What sum of money will fairly and adequately compensate Joseph for such future damages as are reasonably certain to occur for:

- a. Loss of earnings? \$ \_\_\_\_\_
- b. Embarrassment and emotional distress \$ \_\_\_\_\_
- c. Pain, disability and disfigurement? \$ \_\_\_\_\_

DATED: \_\_\_\_\_.

\_\_\_\_\_  
FOREPERSON

- 
- 1. \_\_\_\_\_
  - 2. \_\_\_\_\_
  - 3. \_\_\_\_\_
  - 4. \_\_\_\_\_
  - 5. \_\_\_\_\_

THIS VERDICT WAS AGREED UPON AT THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_.M.,  
\_\_\_\_\_, 19\_\_.

XX

RAMSEY COUNTY DCM CASE TRACKING

CASE NO: CAPTION:

CASE TYPE:

DATE FILED: DATE NOI: NOI TO DISP:

XX

SCHEDULED ACTUAL

0.Pre-JIM

JIM: 1.JIM-A: Trk: / =

JIH: 2.JIH-A: Trk/Date: 00/01/89..08/31

JDR: 3.JDR-A:

JDC: 4.JDC-A:

JIH2: 5.JIH2-A: Report/Date:

PTR: 6.PTR-A: Time/Pending:

TRL: 7.TRL-A: Pend a:

DISPOSITION DATE: DISP. TYPE: Disp a: Disp/Trk:

Notes:

XX

XX

RAMTRK6.DTF Retrieve Spec Page 1 of 2

RAMSEY COUNTY CASE TRACKING

10/26/89

DISPOSED CASE REPORT By Event  
for Period 08/01/89 to 08/31/89

Trk	* Disp	DATE NOI	NOI/DISP	D/Trk	DISP/DATE	CASE NO
CPX	3	03/24/89	140.00	CPX	08/11/89	C6888567
Total:			140.00			
Average:			140.00			
Maximum:			140.00			
Minimum:			140.00			
-----						
T:			140.00			
AV:			140.00			
Ct:	1					
Hx:			140.00			
Mn:			140.00			
-----						
PRE	0	03/30/88	519.00	PRE	08/31/89	C485475519
PRE		07/25/89	21.00	PRE	08/15/89	C5895329
PRE		04/27/89	98.00	PRE	08/03/89	CX893575
PRE		05/05/89	105.00	PRE	08/18/89	C087481855
PRE		04/14/89	117.00	PRE	08/09/89	C8892327
PRE		05/22/89	91.00	PRE	08/21/89	C585470877
PRE		05/17/89	77.00	PRE	08/02/89	C9894216
Total:			1028.00			
Average:			146.86			
Maximum:			519.00			
Minimum:			21.00			
-----						
T:			1028.00			
AV:			146.86			
Ct:	7					
Hx:			519.00			
Mn:			21.00			
-----						
STD	1	11/18/88	269.00	STD	08/14/89	C1887276
STD		02/02/89	208.00	STD	08/29/89	C7891282
STD		03/16/89	139.00	STD	08/02/89	C9892997
STD		11/15/88	261.00	STD	08/03/89	CX882982
STD		06/06/89	71.00	STD	08/16/89	CX896377
STD		02/27/89	172.00	STD	08/18/89	C287489911
STD		10/10/88	324.00	STD	08/30/89	C3885559
STD		01/09/89	227.00	STD	08/24/89	C789200
STD		09/16/88	327.00	STD	08/09/89	C1884197
STD		08/24/88	357.00	STD	08/16/89	C7883877
STD		11/16/88	268.00	STD	08/11/89	C9886702
STD		02/03/89	200.00	STD	08/22/89	C588498922
STD		11/30/88	264.00	STD	08/21/89	C4887286
Total:			3087.00			
Average:			237.46			
Maximum:			357.00			
Minimum:			71.00			
-----						
STD	2	11/30/88	268.00	STD	08/25/89	C4887563
STD		12/23/88	248.00	STD	08/28/89	C9884657
STD		11/10/88	288.00	STD	08/25/89	CX87493950
STD		07/13/88	394.00	STD	08/11/89	C288496643
STD		10/03/88	319.00	STD	08/18/89	C7885273

RAMSEY COUNTY CASE TRACKING

10/26/89

DISPOSED CASE REPORT By Event

For Period 08/01/89 to 08/31/89

Trk	Disp @	DATE NOI	NOI/DISP	D/Trk	DISP/DATE	CASE NO
---	-----	-----	-----	-----	-----	-----
XPD	1	12/20/88	245.00	XPD	08/22/89	C287484949
XPD		01/23/89	200.00	XPD	08/11/89	C289878
XPD		03/20/89	134.00	XPD	08/01/89	C289699
XPD		01/12/89	201.00	XPD	08/01/89	C589437
XPD		08/08/88	373.00	XPD	08/16/89	C5883053

15  
Total: 2990.00  
Average: 199.33  
Maximum: 373.00  
Minimum: 134.00

XPD	4	04/03/89	149.00	XPD	08/30/89	C3891330
XPD		03/21/89	160.00	XPD	08/28/89	C4893104
XPD		02/15/89	183.00	XPD	08/17/89	C6891810
XPD		03/30/89	154.00	XPD	08/31/89	Cx892717
XPD		03/09/89	174.00	XPD	08/30/89	C0885261
XPD		01/23/89	220.00	XPD	08/31/89	C987487427
XPD		02/21/89	185.00	XPD	08/25/89	C587490406
XPD		01/06/89	224.00	XPD	08/18/89	C188496889
XPD		02/21/89	189.00	XPD	08/29/89	C6892052

4  
Total: 1638.00  
Average: 182.00  
Maximum: 224.00  
Minimum: 149.00

T:		4628.00
Av:		192.83
Ct:	24	
Mx:		373.00
Mn:		134.00

=====  
\*\*\*  
Total: 17692.00  
Average: 242.36  
Count: 73  
Maximum: 519.00  
Minimum: 21.00